



COMMUNITY DEVELOPMENT DEPARTMENT

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CITY COUNCIL STAFF REPORT

Agenda Date: March 5, 2024

Subject

Consider an appeal of the Planning Commission's decision to approve a sign exception to allow two wall signs for a single tenant (Shane Co) at an existing retail building (Application No(s): EXC-2022-004; Applicant/Appellant: Kevin Tallman, Shane Co.; Location: 19900 Stevens Creek Blvd.; APN: 369-05-044).

Recommended Actions

Conduct a public hearing and adopt Resolution No. 24-021 (Attachment A) upholding the appeal in part, approving an exception for one of the two requested wall signs along the east façade.

DISCUSSION

Project Data:

General Plan Designation:	Commercial / Office / Residential
Special Area:	Central Stevens Creek Sub-area of the Heart of the City Special Area
Master Plan/Conceptual Plan	Heart of the City Specific Plan
Zoning Designation:	P (CG, Res) Planned Development General Commercial, and Residential Intent
Property Area:	83,766 sq. ft.
Building Area:	28,813 sq. ft.
Project Consistency with	
General Plan:	Yes
Zoning:	Yes, with approval of exception
Environmental Assessment:	Categorically Exempt

Background

The property is located south of Stevens Creek Blvd, between S. Blaney and S. Portal Avenues, within the Central Stevens Creek sub-area of the Heart of the City Special Area, which serves as the main commercial corridor in the City. It is currently occupied by Keller Williams, Shane Co. Jewelers, and Dance Academy USA. The site is surrounded by other commercial and commercial office uses (Cort Furniture, Pacific Workplaces, Travigne retail) to the north, single family residences to the south, a condominium complex to the east, and commercial uses (formerly Arya Restaurant, a bank, and a gas station) to the west.

Shane Co. currently has one wall sign and one ground sign, as previously permitted under Municipal Code sections 19.104.140 and 19.104.160. Shane Co. intends to engage in exterior improvements, and after the improvements are completed, Shane Co. will reinstall the existing wall sign.

On September 28, 2023, at an Administrative Hearing, the Administrative Hearing Officer approved an Architectural and Site Approval (ASA-2023-004) for exterior improvements to the front and side facade of Shane Co.



Figure 1: Site aerial

Following the Architectural and Site Approval granted by the Administrative Hearing Officer, Kevin Tallman, representing Shane Co., applied for a Sign Exception to allow two additional wall signs for a total of three where, absent a Sign Exception, only one is allowed for a single tenant (Shane Co) at an existing retail building. If granted, the total signage would result in three wall signs and one space on an existing shared ground mounted sign.

On December 12, 2023, in accordance with the procedures outlined in Municipal Code 19.12.03 *Approval Authority*, the Planning Commission, acting as the approval body, conducted a public hearing at its regular meeting to review the Sign Exception. The Planning Commission with a 4-0 vote (Ayes: Scharf, Madhhipatla, Fung and Lindskog. Noes: None. Abstain: None. Absent: Mistry) approved the Sign Exception with modifications, limiting it to one unilluminated wall sign as a sign exception on the east facade at location 2, for a total of two wall signs. Resolution No. 2023-24 for the approval is attached (Attachment C).

On December 20, 2023, the applicants / appellant, representing Shane Co., appealed the Planning Commission's decision (Attachment B). The basis of the applicant's appeal is that the Planning Commission's decision did not consider the site's unique challenges that hinder its visibility for customers, which include the following:

1. The building is set further back from Stevens Creek Boulevard, obscured by mature street trees.
2. Design of the retail building has the front entrance along the east façade and not along Stevens Creek Boulevard. Further, the design of the building is more industrial/office than retail.

Council's review of the Planning Commission's determination is *de novo*. The Council may affirm or modify the Commission's decision based on evidence presented at the public hearing, including any evidence in the record.

Discussion

Sign Exception Request

As signage details were excluded from the prior Planning Entitlement, Staff reviews signage proposals at the time the applicant applies for a sign permit. Currently, Shane Co. has one wall sign on the north façade facing Stevens Creek Boulevard, as well as signage on the building's ground sign (see Figure 2).

The applicant is requesting a Sign Exception to allow a total of three wall signs where one is permitted. The existing permitted sign is referenced as the "North Façade." The two additional signs proposed are identified as Location 1 and Location 2. Figures 2 & 3 illustrate the existing signage and the proposed locations of the two new signs respectively.

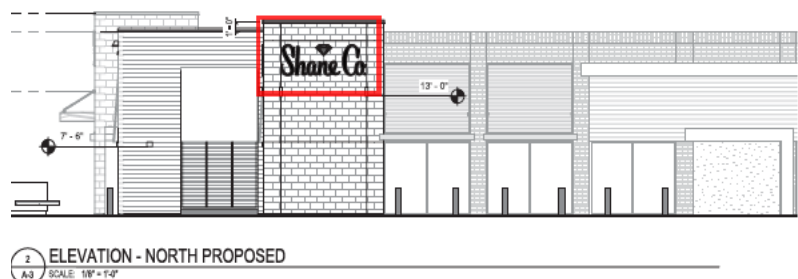


Figure 2 North (Stevens Creek Blvd) existing facade sign.



Figure 3 East facade proposed signs.

The applicant is proposing that all the signs be individual channel letters, with a black steel face and internally illuminated with LED lighting, giving a halo appearance. All signs proposed are within the 250-foot lambert illumination limit in the Municipal Code. Please refer to Attachments D & E for Plan Set and Sign Presentation.

Planning Commission

On December 12, 2023, the Planning Commission approved the Sign Exception with modifications, limiting it to one unlighted wall sign as a sign exception on the east facade at location 2, for a total of two wall signs. The Planning Commission denied the request for the approved wall sign at location 2 to be illuminated as it could cause a distraction to motorists along Stevens Creek Boulevard.

Staff Recommendation

Below in Table 1, the proposed signs are evaluated against the sign regulations for wall signs for commercial and industrial uses in Municipal Code section 19.104.140 (Permanent Wall Signs).

Table 1 Summary of regulations as it relates to each sign.

	Permitted	Proposed Wall Signs		
		North Facade	Location One	Location Two
Number of Wall Signs	<p>One sign per business with exterior frontage. One additional for:</p> <ul style="list-style-type: none"> - Businesses with no ground sign and adjacent to more than one street or shopping center driveway. - Sign directed to interior of project and not visible from any public right- of-way. - Single tenant building pad with more than 5,000 s.f. 	Permitted	<p>Although adjacent to a shopping center driveway, the business is ordinarily not permitted to have a second wall sign since they are utilizing space on an existing ground sign and thus would need an exception.</p>	<p>A single business is not permitted to have a third wall sign.</p>

The Municipal Code allows an additional wall sign for businesses in buildings that are adjacent to a driveway but do not have a ground sign. However, the applicant has a ground sign and thus requires an exception under Municipal Code section 19.104.290 to permit the installation of a second and/or third wall sign. Section 19.104.290 provides that a sign exception may be approved if the approval body makes each of the following findings:

A. That the literal enforcement of the provisions of this title will result in restrictions inconsistent with the spirit and intent of this title;

B. That the granting of the exception will not result in a condition which is materially detrimental to the public health, safety, or welfare; and

C. That the exception to be granted is one that will require the least modification of the prescribed regulations and the minimum variance that will accomplish the purpose.

As discussed below, staff believes that these findings can be made with respect to the first additional wall sign proposed by the applicant (Figure 3, Location 1). As the applicant has provided, and described in their presentation, the individual channel letters will be designed with a black steel face and internally illuminated with LED lighting, giving a halo appearance and allowing for visibility of the sign from Steven Creek Boulevard. The project is conditioned to meet code standards for intensity and hours of illumination. Accordingly, staff believes the findings in Section 19.104.290 can be made to allow for the installation of one illuminated sign.

However, Planning staff does not believe granting an exception for the second wall additional sign proposed on the east elevation (Figure 3, Location 2) meets the required findings because there is an existing ground sign and a wall sign at the North Façade already utilized by the business. Additionally, if the wall signs at Locations 1 and 2 are allowed as exceptions, the building would have a total of three wall signs located in prominent locations and one ground sign for signage. Allowing multiple wall signs along the east elevation exceeds the allowed number of wall signs permitted for a single business and is contrary to the intent and purpose of Municipal Code Chapter 19.104, which seeks to provide architectural and aesthetic harmony of signs as they relate to building design and quantity to allow for good visibility for the public and the needs of the business. The sign would be located 100 feet from the Stevens Creek Boulevard curb, would not face Stevens Creek Boulevard, and would not add value in visibility of the business. Therefore, staff does not recommend allowing an exception for the second wall sign at Location 2 proposed on the east elevation.

Cupertino Municipal Code Findings

The Cupertino Municipal Code includes findings for approval of various permits necessary to approve the proposed project. These finding provide a framework for making decisions and facilitating an orderly analysis of the review of a project. Listed below are the findings for the three permits sought by the applicant that the City must make in rendering a decision whether to grant an exception on this project. Council's review of the Planning Commission's determination is *de novo*, The Council may affirm

or modify the Commission's decision based on evidence presented at the public hearing, including any evidence in the record.

Sign Exception (CMC 19.104.290)

- A. That the literal enforcement of the provisions of this title will result in restrictions inconsistent with the spirit and intent of this title;
CMC 19.104 Signs has allowances for multiple wall signs on the different facades. Allowing an exception for a single wall sign along the east façade is consistent with the spirit and intent of the Ordinance. However, allowing a third wall sign, combined with a ground sign, is far above the maximum number of signage facing a busy thoroughfare such as Stevens Creek Boulevard and would allocate multiple signage to a single business. This is contrary to the intent and purpose of this Chapter to provide architectural and aesthetic harmony of signs as they relate to building design and surrounding landscaping as well as quantity which will allow for good visibility for the public and the needs of the business.
- B. That the granting of the exception will not result in a condition which is materially detrimental to the public health, safety, or welfare; and
The sizes and location of the signs will not result in situation that is materially detrimental to the public health, safety, or welfare to the community as the sizes of the signs and the proposed halo illuminated signage is well below the maximum standards ordained in the Municipal Code.
- C. That the exception to be granted is one that will require the least modification of the prescribed regulations and the minimum variance that will accomplish the purpose.
Allowing the two wall signs along the east façade is above the allowed number of wall signs. The exception would require a greater modification and variance to Municipal Code section 19.104 Signs than would typically be supported by staff. However, allowing a single wall sign along the east façade is within the limitations of the Municipal Code and is recommended to be approved by City Council.

The City Council has discretion to review the Planning Commission's decision and make findings regarding the applicability of the sign exception. The City Council's decision will be final unless reconsidered within 10 days of the decision.

Fiscal Impacts

The project will most likely generate fees for sign permits and inspections.

Sustainability Impacts

The proposed project would not conflict any goals or measures to reduce GHG emissions in the CAP.

California Environmental Quality Act

This project is categorically exempt from the requirements of the California Environmental Quality Act (CEQA) per Sections 15301 (existing facilities).

Prepared by: Gian Paolo Martire, Senior Planner

Reviewed by: Luke Connolly, Assistant Director of Community Development

Benjamin Fu, Director of Community Development

Christopher Jensen, City Attorney

Approved for Submission by: Pamela Wu, City Manager

ATTACHMENTS:

- A. Draft Resolution No. 24-021
- B. Appeal Form
- C. Planning Commission Resolution No. 2023-24
- D. Plan Set
- E. Customer Sign Presentation