

PLANNING COMMISSION STAFF REPORT

DATE: November 3, 2011 for **November 7, 2011 MEETING**

ITEM: V. B. – Planning Commission Public Hearing

FILE: **UP-10-11 / Guadalupe Torres (Applicant), Dave Schnayer, Commercial Real Estate Services for Kimco Realty Corporation (Owner) 518 Center Street.**
 Approve the operation of a retail gift shop selling toys and jewelry in the Rheem Shopping Center. Zoning: Community Commercial. APN: 255-160-012

I. Application Basics

A. Zoning Permits Required:

- Community Commercial Permitted Use, under MMC Section 8.36.020

B. CEQA Determination: Categorically exempt pursuant to Section 15301 of the CEQA Guidelines (Class 1, “Existing Facilities.”)

Table 1: Land Use Information

Location		Existing Use	Zoning District	General Plan Designation
Subject Property		Vacant Retail Store	Community Commercial	Rheem Park Specific Plan Area
Surrounding Properties	North	Royal Siam	Community Commercial	Rheem Park Specific Plan Area
	South	Vacant	Community Commercial	Rheem Park Specific Plan Area
	East	Mycra Pac	Community Commercial	Rheem Park Specific Plan Area
	West	Parking/Loading; Vacant/Open Space beyond	Community Commercial; Open Space beyond	Community Commercial; MOSO Open Space beyond

Table 2: Special Characteristics

Characteristic	Applies to Project?	Explanation
Scenic Corridor	Yes	The proposed use would be located within the Moraga Road Scenic Corridor. The use would not be visible from the scenic corridor since it is located in an enclosed building.
Sign	Yes	Any proposed signage would need to conform to the Uniform Signing Program for the Rheem Center and would be subject to staff approval (see condition #2 in resolution).

Figure 1: Site Plan



Table 3: Project Chronology

Date	Action
September 28, 2011	Application submitted
October 24, 2011	Application deemed complete
October 26, 2011	Public hearing notices mailed/posted
November 7, 2011	PC hearing
December 23, 2011	PSA deadline ¹

1. Project must be approved or denied within 60 days after being deemed complete if exempt from CEQA, or 60 days after adoption of a negative declaration, or 180 days after adoption of an EIR (Govt. Code Section 65950).

II. Project Setting

The project site is located in the Rheem Shopping Center which includes small, locally-owned retail stores, large, national discount stores, a drug store, restaurants, services,

offices, vacant retail spaces, and an off-street parking lot. The proposed use would be located within an existing 1,330 square foot vacant space. The space was formerly occupied by Urban Threads and the Framing Shop; both of which are permitted uses in the Community Commercial zoning district.

III. Project Description

The new shop, L Silhouettes Gift Shop, proposes to sell gifts, including toys and jewelry and offer gift wrapping services. Regular business hours would be 9:30 A.M. to 6:30 P.M., Monday through Sunday, and hours open to the public would be 10 A.M. to 6 P.M., Monday through Sunday. There would be two full time employees and two part time employees with no more than three employees working at any one time. The applicant expects the maximum number of customers to be served at any one time would be 20. Deliveries would be received 3 times per week during regular business hours. The shopping center was constructed prior to October 8, 1980, and the uses have not changed substantially during that time. Therefore, the existing parking can be found adequate pursuant to MMC Section 8.76.020 (Application to existing land uses.)

IV. Issues and Analysis

A. Findings Required:

The proposed use is permitted if the Planning Commission determines the use meets the following criteria pursuant to Moraga Municipal Code Section 8.36.020.B:

1. The use will not generate significant amounts of pedestrian and vehicular traffic that will foster the flow of traffic between the proposed use and uses across abutting streets *because the use is located in a self-contained shopping center, and there are no other retail businesses, residences, or other land uses across Rheem Boulevard or Moraga Road that may attract pedestrians or vehicular movement. In addition, the proposed use is not expected to generate additional vehicular trips to the shopping center. The new use could be expected to generate on-site pedestrian activity.*
2. The use is compatible in land use and traffic characteristics and design with other uses directly affected by the proposed use *because the project site is a retail shopping center, and the proposed use is a 1,330 square foot retail store which would sell products that are similar and complementary to existing stores and would occupy a small, vacant retail space.*
3. Any adverse characteristics of the use can be mitigated to the extent necessary to make the use compatible with neighboring uses *because no adverse characteristics are evident.*
4. The use will be within a building or space enclosed by approved fencing, landscaping, or other buildings *because no changes to the existing exterior*

elevations are proposed except for a new sign which shall conform to the Uniform Sign Program for the Rheem Center and be reviewed by staff.

5. The use will not generate noise levels in excess of fifty-five (55) dba during the daytime hours, or fifty (50) dba during the nighttime hours *because the use will be located within an existing, enclosed vacant retail space and will not include the operation of machinery or any other noise production.*
6. The use will not create an excessive public economic problem *because a retail use selling toys and jewelry does not generate the need for additional public services, and the proposed use may add to the Town's sales tax base.*
7. The use will not generate glare, electrical interference, odor, vibration, brilliant light, dust, smoke, fumes, or have other characteristics that are otherwise offensive to the sense to the extent that there is interference with the development or enjoyment of other properties in the vicinity *because all retail activities will be within an enclosed location, the use will not generate or produce odor, smoke or fumes, and no lighting is proposed.*
8. The hours of operation will not foster conditions detrimental to the neighborhood or Town *because the hours of operation are similar to the hours of other businesses in the area.*

B. General Plan Consistency:

General Plan Policy Analysis: The 2002 General Plan contains the following applicable policy:

1. Policy LU2.2–New Commercial Uses: Encourage new business and office uses that enhance existing uses, respond to local resident and business needs, employ local residents, and strengthen the character and attractiveness of the Town's commercial centers.

Staff Analysis: The proposed use would provide residents with an additional retail store. The proposed use would also add to the variety of existing retail uses at the Rheem Center and would add to the center's competitiveness as a retail center. The use may increase local shopping and may attract customers to other businesses. Furthermore, the occupancy of a vacant space with a compatible use would be an improvement to the entire commercial center.

V. Recommendation

Because of the project's consistency with the Zoning Ordinance and General Plan, and minimal impact on surrounding properties, Staff recommends that the Planning Commission:

- A. ADOPT Resolution No. XX-2011 to APPROVE UP-10-11 pursuant to Section 8.36.020-B. subject to Conditions of Approval (see Attachment A).

Attachments:

- A. Resolution
- B. Project Site Plan, received October 24, 2011
- C. Notice of Public Hearing

Staff Planner: Kelly Suronen, ksuronen@moraga.ca.us, (925) 888-7040

Reviewed by: Shawna Brekke-Read, Planning Director

ATTACHMENT A

RESOLUTION

BEFORE THE TOWN OF MORAGA PLANNING COMMISSION

In the Matter of:

To approve the operation of a retail gift shop)
selling toys and jewelry at 518 Center Street)
in the Rheem Shopping Center.)
_____)

Resolution No. XX-2011 PC

File No. UP-10-11

Date: November 7, 2011

Effective Date: November 17, 2011

WHEREAS, on September 28, 2011, Guadalupe Torres submitted a Community Commercial Permitted Use application to operate a gift shop at 518 Center Street; and

WHEREAS, the project is Categorically Exempt under Section 15301 of the California Environmental Quality Act (CEQA) Guidelines (Class 1, "Existing Facilities"); and

WHEREAS, a Public Hearing Notice for the project was posted at 329 Rheem Boulevard, the Moraga Library, 518 Center Street, and was mailed to property owners within 300 feet of the Rheem Shopping Center on October 28, 2011; and

WHEREAS, on November 7, 2011, the Planning Commission held a public hearing where testimony was heard from the applicant and interested parties; and

NOW, THEREFORE, BE IT RESOLVED, that the Planning Commission of the Town of Moraga hereby resolves to approve the operation of a retail gift shop at 518 Center Street and is subject to the following findings and conditions listed below:

CRITERIA NECESSARY TO DETERMINE USE IS PERMITTED AND TO APPROVE PERMITTED USE UNDER SECTION 8.36.020 OF THE MORAGA MUNICIPAL CODE:

1. The use will not generate significant amounts of pedestrian and vehicular traffic that will foster the flow of traffic between the proposed use and uses across abutting streets *because the use is located in a self-contained shopping center, and there are no other retail businesses, residences, or other land uses across Rheem Boulevard or Moraga Road that may attract pedestrians or vehicular movement.*
2. The use is compatible in land use and traffic characteristics and design with other uses directly affected by the proposed use *because the project site is a retail shopping center, and the proposed use is a 1,330 square foot retail store which would sell similar products and would occupy a small, vacant retail space.*
3. Any adverse characteristics of the use can be mitigated to the extent necessary to make the use compatible with neighboring uses *because no adverse characteristics are evident.*

4. The use will be within a building or space enclosed by approved fencing, landscaping, or other buildings *because no changes to the existing exterior elevations are proposed except for a new sign which shall conform to the Uniform Sign Program for the Rheem Center and be reviewed by staff.*
5. The use will not generate noise levels in excess of fifty-five (55) dba during the daytime hours, or fifty (50) dba during the nighttime hours *because the use will be located within an existing, enclosed vacant retail space and will not include the operation of machinery or any other noise production.*
6. The use will not create an excessive public economic problem *because a retail use selling toys and jewelry does not generate the need for additional public services, and the proposed use may add to the Town's sales tax base.*
7. The use will not generate glare, electrical interference, odor, vibration, brilliant light, dust, smoke, fumes, or have other characteristics that are otherwise offensive to the sense to the extent that there is interference with the development or enjoyment of other properties in the vicinity *because all retail activities will be within an enclosed location, the use will not generate or produce odor, smoke or fumes, and no lighting is proposed.*
8. The hours of operation will not foster conditions detrimental to the neighborhood or Town *because the hours of operation are similar to the hours of other businesses in the area.*

CONDITIONS OF APPROVAL:

1. Prior to the issuance of a building permit, Planning Department approval is required.
2. All tenant improvements shall comply with all relevant code requirements. Prior to the issuance of a permit, the Building Department and any other necessary agency shall review the proposed plans to confirm compliance with all relevant codes including but not limited to the California Building Code, Electrical Code, Mechanical Code, Plumbing Code, Fire Code and regulations regarding handicapped access.
3. Any building material used in connection with tenant improvements on the interior of the building that may be visible from the exterior of the building shall be coordinated with the overall color and architectural style of the building so that they complement one another and provide a coherent visual character.
4. Any proposed signage shall conform to the Uniform Signing Program for the Rheem Shopping Center (Resolution No. 49-81 PC). Prior to submittal for a building permit, all proposed signage shall be reviewed and approved by the Planning Department staff and shall be subject to the following:
 - a. Window signs shall not exceed 20% of the area of the window on which they are placed in accordance with Moraga Municipal Code (MMC) Section 8.88.090.
 - b. In accordance with Town of Moraga Design Guideline CC3.5, decorative product type signs, such as neon signs, shall be located no closer to an exterior window or open doorway than 6 feet.

- c. Exposed neon tubing, whether for signing or decoration, is not considered in good taste and is discouraged under Design Guideline CC3.7.
5. The following types of signs are prohibited under MMC Sections 8.88.240-A.8 and 8.88.360:
 - a. Signs consisting of moving or rotating parts, flashing lights such as, but not limited to, search or flood lights;
 - b. Signs which are inflatable;
 - c. A sign which is dilapidated, in disrepair or unsightly;
 - d. A sign which is: (1) portable, such as an "A-frame" sign; (2) attached to a fence; (3) painted on or attached to a vehicle which is parked for the purpose of advertising to the passing public; or (4) supported by exposed wires or cables.
 - e. A sign because of brilliant lighting, interferes with the comfortable or peaceful enjoyment of adjoining or surrounding property, or because of shape, design, intensity, color or reflected light, conflicts or interferes with traffic or public safety;
 - f. A sign that is flashing and/or animated.
6. Any proposed exterior modification to the building shall require consideration and approval by the Design Review Board prior to the modification.
7. The hours of operation shall not exceed 9:30 A.M. to 6:30 P.M., Sunday through Saturday. No deliveries shall be permitted between the hours of 7 P.M. to 7 A.M. daily. All deliveries of merchandise for the store shall be made at the rear of the building so as to not impede the flow of traffic within the shopping center.
8. The exterior of the building shall be monitored by store personnel during hours of operation to keep it free of litter. All storage of materials and sales displays shall be entirely within the building structure.
9. All trash and recycling shall be accommodated at the rear of the building.

PASSED AND ADOPTED by the Planning Commission of the Town of Moraga on November 7, 2011 by the following vote:

AYES:

NOES:

ABSTAIN:

ABSENT:

ATTEST:

Russell Driver, Chair

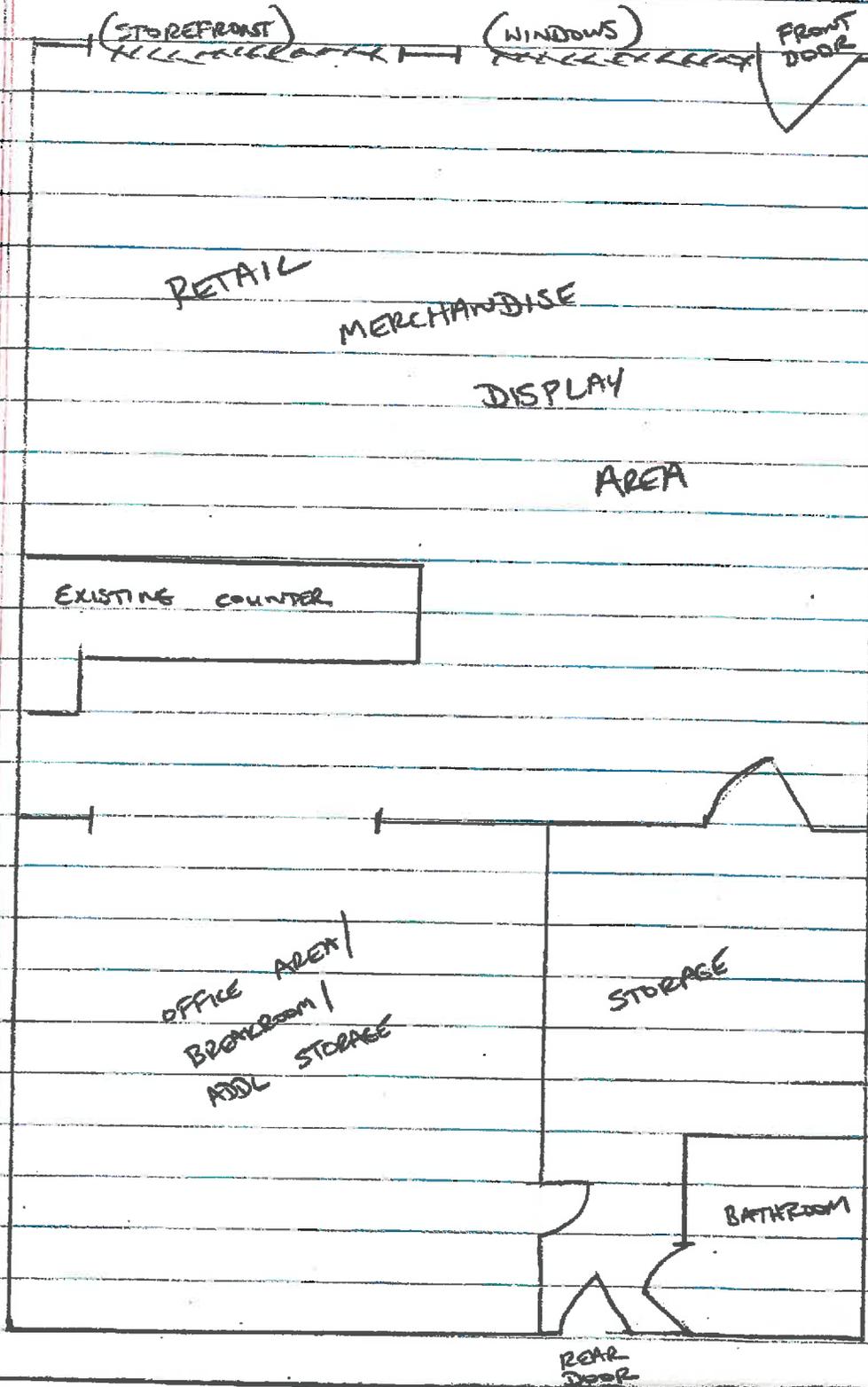
Shawna Brekke-Read, Planning Director

ATTACHMENT B

PROJECT FLOOR PLAN

APPROXIMATE FLOORPLAN OF SPACE 518 CENTER ST MOOREA

THIS SKETCH IS NOT TO SCALE



ATTACHMENT C

NOTICE OF PUBLIC HEARING



PLANNING COMMISSION

NOTICE OF PUBLIC HEARING

518 Center Street

File Number UP-10-11 to operate a new retail store including toys and jewelry, L Silhouettes Gift Shop, in the Rheem Shopping Center.

The Planning Commission of the Town of Moraga will hold a public hearing on the above matter, pursuant to Moraga Municipal Code Sections 8.12.060-070, on **Monday, November 7, 2011** at the Moraga Library Community Meeting Room, 1500 St. Mary's Road (wheelchair accessible). The meeting starts at 7:00 p.m.

PROJECT INFORMATION:

- 1,330 square feet of existing commercial floor area in the Rheem Shopping Center

PERMIT REQUIRED:

- Community Commercial Use Permit, under MMC Section 8.36.020

APPLICANT: Guadalupe Torres, 4015 Archery Way, El Sobrante, CA 94803

PROPERTY OWNER: Kimco Realty Corporation, 3333 New Hyde Park Rd, #100, New Hyde Park, NY 11042

ZONING DISTRICT: Community Commercial (CC)

ENVIRONMENTAL REVIEW STATUS: Categorically exempt under Section 15301 of the California Environmental Quality Act (CEQA) Guidelines (Class 1, "Existing Facilities.")

ATTACHMENTS: Vicinity map (All drawings are available for public review; see "Further Information" below).

PUBLIC COMMENT

Comments may be made verbally at the public hearing and in writing before the hearing. Those wishing to speak at the hearing are encouraged to submit a speaker card by 7:15 p.m. The Commission may limit the time granted to each speaker.

Written comments to the Commission are encouraged and should be directed to:

Planning Department
329 Rheem Boulevard
Moraga, CA 94556

Fax: (925) 376-5203
E-mail: planning@moraga.ca.us

To assure distribution to Commission members prior to the meeting, it is recommended to submit **correspondence by 12:00 noon, seven (7) days before the meeting.** 15 copies

