

- 2** **14-0535** **File #:** 2013-8029
Location: 523 E. Homestead Road (APNs: 309-44-003, 309-44-049, 309-44-050)
Proposed Project: Related applications on a 0.9-acre site:
 SPECIAL DEVELOPMENT PERMIT: to allow 7 single-family homes, and
 VESTING TENTATIVE MAP: to create 7 ownership lots.
Applicant / Owner: S&S Construction, LLC/Louis Mariani Trustee
Environmental Review: Mitigated Negative Declaration
Project Planner: Noren Caliva-Lepe, (408) 730-7659, ncaliva-lepe@sunnyvale.ca.gov

Noren Caliva-Lepe, Associate Planner, presented the staff report.

Comm. Harrison discussed with Ms. Caliva-Lepe removal of potential hazardous materials and the recommendations of the Phase I consultant. Comm. Harrison and Trudi Ryan, Planning Officer, discussed the General Plan policy requiring new developments to build to at least 75% of the maximum zoning density. Comm. Harrison confirmed with Ms. Ryan that the reduction in the number of units proposed from eight to seven would result in the applicant not making a contribution to the Below Market Rate (BMR) housing program.

Vice Chair Olevson and staff discussed the measurement of setbacks, and discussed with Ms. Caliva-Lepe the availability of parking on the proposed site and around the existing neighborhood.

Comm. Klein and Ms. Caliva-Lepe reviewed the Solid Waste Management Program and confirmed that trash trucks would have enough room to maneuver around. Comm. Klein also confirmed with Ms. Caliva-Lepe the square footage of impervious surface area and that it includes the private street.

Chair Melton discussed with Ms. Caliva-Lepe the result of potentially shifting the ingress and egress of the project from Canary Drive to Homestead Road. Chair Melton confirmed with Ms. Caliva-Lepe that if the Planning Commission required the addition of a unit the project would have to be redesigned and the environmental documents redone. Chair Melton and Ms. Caliva-Lepe discussed the number of parking spaces required for single-family homes, and the number of vehicle accidents on Canary and Homestead within the last ten years. Chair Melton and Ms. Ryan discussed rezoning studies to evaluate the appropriateness of designated zones for a site.

Comm. Klein and Ms. Ryan discussed factors that would warrant consideration of a traffic signal at Canary and Homestead.

Chair Melton opened the public hearing.

Stephen Stapley, CEO of S&S Construction, presented information about the proposed project.

Comm. Harrison discussed with Mr. Stapley his request to have, as an option, smooth stucco as a design feature.

Comm. Durham confirmed with Mr. Stapley that he intends to have buyers lined up before project completion so they might have a choice on the style of finish and color palette. Comm. Durham confirmed with Ms. Ryan that parking on Homestead is limited to evenings only.

Comm. Rheume discussed with James Haney, project architect, the type of windows that would be used, and confirmed that the applicant would be amenable to working with staff on the windows to ensure the use of high-quality material. Mr. Haney requested the removal of the Condition of Approval (COA) that requires a two foot distance between the entry eave and the adjacent eave.

Comm. Klein discussed the proposed features along the soundwall on Homestead with Mr. Haney. Ms. Caliva-Lepe added that climbing vine is required to soften the look of the wall.

Chair Melton and Mr. Stapley discussed the market research that was conducted and led to the decision that single-family homes were more appropriate than townhomes. Chair Melton confirmed with Mr. Haney that the decision to build five bedrooms per unit was based on the size of the home. In response to Chair Melton's inquiry, Mr. Stapley provided background information about S&S Construction.

Comm. Rheume further discussed with Mr. Haney his request to remove the COA regarding the distance between eaves. Ms. Ryan clarified that the staff recommendation is a requirement for the reduction of window sizes and not necessarily changes in roof height.

Tsing-Ping Chang, a Sunnyvale resident, said she represents 30 families living in the neighborhood around the project site, and asked the Commission to consider using Homestead for the sole entrance into the project.

Mary Depew, a Sunnyvale resident, requested the reevaluation of the validity of the

zoning of the project site, and discussed her concern for potential traffic and parking impacts and where construction trucks will park.

Martin Landzaat, a Sunnyvale resident, suggested a redesign of the project to come up with something better for this neighborhood.

Mr. Stapley addressed the traffic and architectural concerns of the neighbors and Mr. Haney said the limitation of design styles was in response to a comment to use one style.

Chair Melton closed the public hearing.

Comm. Harrison and Ms. Ryan discussed factors that may warrant the consideration of changing a site's zoning, and discussed the Green Building measures the applicant is considering.

Comm. Klein confirmed with Ms. Caliva-Lepe that the COA regarding the quality of the soundwall complies with the Citywide Design Guidelines, and discussed proposed landscaping along the wall. Comm. Klein discussed with Ms. Caliva-Lepe the COA requiring the applicant to submit a construction management plan that would review issues such as where construction crews would park and how construction noise would be mitigated. Ms. Ryan noted that the Planning Commission could add a COA to require a complaints coordinator with plans to specifically address construction staff.

Vice Chair Olevson confirmed with Ms. Ryan that a roundabout was not considered for traffic calming near the new exit.

Vice Chair Olevson moved to not approve the application. Chair Melton seconded.

Vice Chair Olevson said the architecture is adequate for the area and fits in with the homes to the north and east, and that his concern lay with item two of the Special Development Permit that states the proposed use does not impair the existing uses of adjacent properties. He said the adjacent properties already fill the street with on-street parking, primarily the duplexes to the immediate west of this project. He said taking away existing uses is a real negative, and that looking at the width of the street of the proposed project and the lack of potential on-street parking, which homes to the north and east use copiously, he thinks there will be too many single-family homes.

Chair Melton said he will be supporting the motion to decline the application. He

said he has been a Planning Commissioner for two years and cannot recall a residential development proposal that has generated so much public comment. He said he appreciates the comments the Commission has received, particularly the comment from the final speaker who said that we can do better on this project. He said he is experiencing great qualms about approving the project because there is an opportunity to do something better, and is concerned about insufficient internal parking as four and five bedroom units will create a higher demand for parking that may overflow onto Canary, which is already an impacted street. He said that while he understands the rationale for why the project was reduced to seven units, he is very uncomfortable with the fact that seven units would mean getting the project out of the BMR zone and losing half a million dollars in BMR funding. He said there is a great demand and need for affordable housing in the City and that his opinion is to conduct a zoning study to reevaluate the zoning of this property. He said he is not able to make a finding that the project is consistent with policy LT-4.4 to preserve and enhance the high quality and character of residential neighborhoods, and that this neighborhood is a great residential neighborhood with people who care about it and are engaged and want to make their neighborhood and Sunnyvale a great place to be.

Comm. Klein said he will not be supporting the motion and understands the issues brought up by the Chair and Vice Chair, but that we cannot do on the spot zoning and the property is zoned as is. He said one of the previous issues was the mixture of French and Spanish style architectures and that it has now been reduced to one style. He said he fully understands the issue of parking in the area, but that the property is zoned R-2 and the applicant is meeting single-family requirements without asking for variances from the zoning code. He said the other alternative is to put egress on Homestead but that there is no frontage parking there, and people would conceivably be parking on Canary anyway. He said the traffic analysis says Canary is the appropriate place for egress and he understands the effect on the neighborhood. He said he commends the neighbors for speaking, and said the City Council ultimately makes the decision to rezone a site. He said that one of his recommendations for a condition would be to have staff reevaluate the intersection to see if a traffic light is necessary, but that there is nothing here that suggests to him that the project should not move forward, except that it is not meeting the 75% minimum number of units required on the site, which he thinks is a good thing. He said the neighbors may not like the configuration and exit onto Canary, but that it is close to the corner and there is adequate parking as required by Sunnyvale law, so he is in support of the project and not the motion.

Comm. Durham said he will not be supporting the motion, and finds the project fits in with applicable zoning. He said regarding traffic getting off of Homestead and

onto Canary, drivers get breaks because there are two traffic lights on Bluejay and Blaney that allow left turns, and that he does not think the seven additional homes will increase traffic on Canary as most people coming from the project will be heading out onto Homestead. He said he is more concerned with people who may try to make a left onto Homestead but that there is a center turn lane that people can use. He said traffic seems to be reasonably safe based on collision reports from the Department of Public Safety, and that entry into the project will be the same number of spaces down and across from the second duplex and the density will be less than the properties on the west side. He said he suspects that a fair number of people who park on Canary are not using their interior parking spaces, and that it is not Sunnyvale's duty to pay for on-street parking when there are places on properties for parking. He said that while this project will increase the density, it will help transition from some of the other uses along the street, such as the daycare centers, and that he cannot imagine a better replacement for the corrugated metal shack that is on the property now. He said a lot of other areas in Sunnyvale are becoming even more dense than this area.

Comm. Rheume said he will not be supporting the motion, and that the applicant is meeting all of the requirements of the zone including the setbacks. He said during the study session the Commission had concerns, which the applicant addressed, including reducing the number of units from eleven, to nine and then to seven. He said the applicant has a right to develop the property, that it is a nice transition within the existing neighborhood and will be an enhancement to neighborhood when compared to the site's current state. He said that even if we would like to change the zoning of the site, he feels it is the Commission's responsibility to ensure the applicant is adhering to the current zoning which he thinks the applicant is doing.

The motion failed by the following vote:

YES: 2 - Chair Melton
Vice Chair Olevson

NO: 4 - Commissioner Durham
Commissioner Harrison
Commissioner Klein
Commissioner Rheume

ABSENT: 1 - Commissioner Simons

Comm. Harrison moved Alternative 2 to adopt the Mitigated Negative Declaration

and approve the Special Development Permit and Vesting Tentative Map with modified findings and conditions:

- 1) That buyers are allowed to choose the stucco texture they prefer; and
- 2) That the applicant pay the Below Market Rate fee they would have paid if they had proposed the required number of units.

Comm. Rheume seconded.

Kathryn Berry, Assistant City Attorney, said that the Sunnyvale Municipal Code clearly states that only projects with eight or more units would be subject to the BMR fee, which cannot be imposed upon the applicant, who would have to agree to pay. She said that the exact amount of the fee is unknown. Ms. Ryan clarified the requirements for approval of the BMR fee. Comm. Harrison withdrew the motion.

Comm. Klein moved Alternative 2 to adopt the Mitigated Negative Declaration and approve the Special Development Permit and Vesting Tentative Map with modified findings and conditions:

- (1) Add an option for smooth-textured stucco;
- (2) Add a Condition of Approval requiring a complaint coordinator for neighborhood issues;
- (3) Add a Condition of Approval requiring a designated parking area for construction vehicles; and
- (4) Suggest that staff do an appropriate traffic analysis for the intersection at Canary Drive and Homestead Road to determine whether a traffic signal is needed.

Comm. Durham seconded.

Comm. Klein said he commends the neighbors for coming out to speak and understands their concerns and that they care about their community. He said the Planning Commission is restricted by the current zoning and that it goes against policy to allow only seven units to be built here when there should be eight. He said he understands the issues with traffic and parking, and that hopefully staff will look at the intersection to see if a traffic signal is needed. He also said he understands traffic calming is already in place and a majority of traffic will not be going north, but will be going south toward Homestead, although it is still additional traffic in the neighborhood. He said he has an issue with being under the number of BMR units and that the rules of the City say fees cannot be imposed because of the fewer number of units. He said hopefully City Council will look more closely at it, and that the developer did reduce the number from nine to seven to achieve a better layout for the site with less impacts on the community. Comm. Klein said he

has concerns about the design and, generally, ongoing Spanish-style design in neighborhoods, of which the Commission has seen several projects with that form, and that when there are large conglomerations with that style of architecture they can all look too similar. He said hopefully the color and texture differences will liven up the architectural landscape, and that ultimately we have the zoning we have and the developer has rights to develop the R-2 zoning. He said the developer is meeting setback and other requirements, that the project should be good going forward, and that from a construction standpoint the rules in place, such as adding a complaint coordinator and dealing with parking issues may reduce the impact of the project. He said if there are issues the Planning Commission is one body and that neighbors have the opportunity to go to City Council.

Comm. Durham said he seconded the motion for the same reasoning he denied the previous motion in that the project is reasonable for its setting and fits the zoning. He said he may not like some of the design and color palette, but that having most houses turned inward will mitigate the sameness issue that is bothering others. He said there is enough variation in the rest of the neighborhood and thinks this project will help that corner, and that he does not think it will be too bad in terms of traffic input. He said he appreciates the comments from the public and that it is good to see people come out and speak for their neighborhoods.

Chair Melton said he will not be supporting motion and has no problem with the Mitigated Negative Declaration, but that he will be basing his no vote on policy LT4.4 for which he cannot make the recommended finding to preserve and enhance the high quality of a residential neighborhood.

The motion failed by the following vote:

YES: 3 - Commissioner Durham
Commissioner Rheame
Commissioner Klein

NO: 3 - Chair Melton
Vice Chair Olevson
Commissioner Harrison

ABSENT: 1 - Commissioner Simons

Chair Melton moved to continue the project to the Planning Commission meeting of June 9, 2014.

Vice Chair Olevson seconded.

Chair Melton said this has been an interesting public hearing and that the Commission has had a motion to deny the project which was unsuccessful, then a motion to approve the project which was also unsuccessful. He said one tried and true method when there is a three-to-three vote is to push the item out to the next meeting. He said the usual number of Commissioners is seven so it is impossible to have a three-to-three tie if there are no abstentions, and that the next best course of action is to push the item out to the next meeting to get the seventh Commissioner's vote.

Vice Chair Olevson said he echoes that it will take an odd number of votes so he will support pushing the item to the next available date.

Comm. Durham said he supports pushing the item to June 9, but that if it is kicked to June 23, he will not be in attendance.

MOTION: Chair Melton moved to continue the project to the Planning Commission meeting of June 9, 2014. Vice Chair Olevson seconded.

The motion carried by the following vote:

Yes: 6 - Chair Melton
Vice Chair Olevson
Commissioner Durham
Commissioner Harrison
Commissioner Klein
Commissioner Rheaume

No: 0

Absent: 1 - Commissioner Simons