



City of Sunnyvale

Meeting Minutes

Planning Commission

Monday, April 22, 2024

7:00 PM

Online and Bay Conference Room
(Room 145), City Hall,
456 W. Olive Ave.,
Sunnyvale, CA 94086

No Study Session | Public Hearing - 7:00 PM

NO STUDY SESSION

7 P.M. PLANNING COMMISSION MEETING

CALL TO ORDER

Chair Pyne called the meeting to order at 7:00 PM.

SALUTE TO THE FLAG

Chair Pyne led the salute to the flag.

ROLL CALL

Present: 7 - Chair Martin Pyne
Vice Chair Nathan Iglesias
Commissioner Galen Kim Davis
Commissioner Daniel Howard
Commissioner John Howe
Commissioner Michael Serrone
Commissioner Neela Shukla

ORAL COMMUNICATIONS

Chair Pyne announced that board and commission recruitment is underway for openings on the City's various boards and commissions. He provided some details on the application and interview process for these openings.

There were no public speakers for this agenda item.

CONSENT CALENDAR

There were no public speakers for this agenda item.

MOTION: Commissioner Howard moved and Commissioner Howe seconded the

Map with the recommended Conditions of Approval in Attachment 4.

PUBLIC HEARINGS/GENERAL BUSINESS

2. [24-0491](#) **Proposed Project:** Appeal of a decision by the Zoning Administrator denying a **VARIANCE** to legalize an existing 112 square foot detached accessory structure in the rear yard of a single-family property with a two-foot, five-inch side setback where four-foot minimum is required, and a two-foot, two-inch rear yard setback where ten-foot minimum is required.
- Location:** 160 South Pastoria Avenue (APN: 165-15-007)
- File #:** PLNG-2023-0642
- Zoning:** R-2 (Low Medium Density Residential)
- Applicant / Owner:** Scott McClennan (applicant) / Tracy and Scott McClennan (owner)
- Environmental Review:** Class 3 Categorical Exemption relieves this project from the California Environmental Quality Act (CEQA) provisions.
- Project Planner:** Robby Miller, 408-730-7429,
 rmillers@sunnyvale.ca.gov

Associate Planner Robby Miller presented the staff report with a slide presentation.

Commissioner Serrone acknowledged that the structure does not meet setback requirements and asked whether a permit for the structure would have been approved had it not included electricity. Associate Planner Miller clarified that accessory structures exceeding 8-foot in height trigger Planning review. Additionally, the structure does not meet side and rear setback requirements which trigger the Variance application.

Commissioner Serrone confirmed with Associate Planner Miller that a Variance would still be required if the applicant submitted a permit for the accessory structure before it had been built.

Commissioner Serrone confirmed with Associate Planner Miller that the unpermitted accessory structure was reported to the City's Neighborhood Preservation division. Principal Planner Julia Klein added that since these complaints are filed anonymously, staff is unable to provide additional details.

Commissioner Serrone asked about the applicant's options in the event the Planning Commission denies the appeal. Principal Planner Klein explained that the applicant may appeal the Planning Commission's decision to the City Council. If the City Council denies the appeal, the applicant may sue the City, remove the

unpermitted accessory structure, or convert the structure to an Accessory Dwelling Unit (ADU) that meets City requirements.

At Commissioner Serrone's request, Planning Officer Shaunn Mendrin explained why the rear setback requirement is ten feet.

Commissioner Serrone asked whether the shed in the rear yard of the lot behind the proposed project site is compliant. Associate Planner Miller answered that he did not find a permit for that structure.

Commissioner Serrone confirmed with Principal Planner Klein that it is uncertain whether the proposed project meets life and safety regulations as it was constructed without benefit of building permit and City inspection.

Commissioner Serrone confirmed with Principal Planner Klein that according to California Fire Code, habitable buildings and structures must be fire rated, so fire-proofing the fence would not be a viable option to address the Fire Code requirements for the detached accessory structure. Principal Planner Klein added that since the accessory structure is unpermitted, staff does not have the ability to verify whether it meets fire code requirements or is safe in general.

Chair Pyne asked whether the proposed project will need to be demolished if it is unable to comply with Condition of Approval BP-6 in the event the Variance is granted. Principal Planner Klein responded that it is difficult to answer this question since the structure's design is uncertain. She added that the applicant may be better able to provide a response to this question. Chair Pyne noted that if the structure does not comply with fire safety codes, Finding 2 could not be met.

Chair Pyne opened the Public Hearing.

Scott McClennan, property owner and applicant, presented additional images and information on the proposed project.

Chair Pyne asked Mr. McClennan whether the accessory structure has a fire-resistance rating according to the California Building Standards Code or whether it may be modified to attain this rating. Mr. McClennan responded that while he is unsure, he would take the proper steps to ensure that the structure complies with the California Building Standards Code and Condition of Approval BP-6.

Commissioner Serrone confirmed with Mr. McClennan that moving the accessory structure to a different location in his backyard would not be cost effective and may result in damaging the structure.

Vice Iglesias asked whether the height of the accessory structure may be reduced to meet the maximum height requirement of eight feet. Mr. McClennan responded that he has not found viable means to reduce the height of the structure and explained why.

Commissioner Shukla noted the importance of Building and Planning review of applications for accessory structures. Mr. McClennan explained why he did not submit an application for the accessory structure and stated that he is willing to go through the permitting process and necessary inspections now.

Commissioner Davis confirmed that Mr. McClennan reviewed a brochure pertaining to accessory structure requirements on the City's website prior to having his own structure built.

Planning Officer Mendrin stated that the "Work Not Requiring a Building Permit" brochure on the City's website notes that approval from the Planning Division may be required for one-story detached accessory structures depending on the location and height of the accessory structure. Mr. McClennan claimed that the link on this brochure to the "Accessory Structures" brochure was broken at the time he reviewed it.

Commissioner Howard asked whether the applicant's architect or contractor considered whether a permit would be needed for the subject accessory structure. Mr. McClennan explained his understanding that a permit would not be needed.

There were no public speakers for this agenda item.

Mr. McClennan presented additional information to support his case.

Commissioner Howe confirmed with Associate Planner Miller that there were four approved Variances within the vicinity of the subject accessory structure, and three of them were for ADUs. Commissioner Howe questioned whether those ADUs had a building permit, but research conducted by staff to date focused only on Variances in the area and not building permit history.

Commissioner Howe confirmed with Associate Planner Miller that the neighborhood definition considered in this instance included the blocks adjacent to the proposed project site's block as well as three additional blocks south of the proposed project site on both sides of the block face.

Commissioner Howe questioned the number of detached structures on properties surrounding 480 Lincoln Avenue. Mr. McClennan was uncertain about how many of these structures were granted a Variance and/or a building permit.

Chair Pyne closed the Public Hearing.

Commissioner Howe questioned whether the Variance for the accessory structure should be approved or denied and provided additional comments on the matter.

Commissioner Howard pointed out that the property on 480 Lincoln Avenue is not in the immediate vicinity of the subject accessory structure.

Commissioner Shukla emphasized the importance of obtaining City approval and required permits for all project types. She added that while she is empathetic to the applicant's case, the subject accessory structure may need to undergo changes to meet state law and City requirements for health and safety. Lastly, she stated that she is in support of denying the appeal.

Vice Chair Iglesias observed that nearly every parcel within the vicinity of the subject accessory structure has an accessory structure in the rear yard.

Commissioner Davis asked whether it would be possible for the Planning Commission to continue this item to a different date to allow staff additional time to research the permit history of accessory structures within the vicinity of the proposed project site. Planning Officer Mendrin advised that the Planning Commission should continue this item to a date certain and noted that staff generally researches the permit history of structures within the noticing radius of the proposed project site which is normally 300 feet.

Commissioner Serrone stated that the Planning Commission does not have the ability to overrule City requirements in the same way that the City Council does. Planning Officer Mendrin added that if the appeal is denied, the applicant may appeal the Planning Commission's decision to the City Council or the City Council may call the item up for review within fifteen days. Commissioner Serrone noted that

while he believes the appeal should be denied, he has no concerns with the subject accessory structure if it is fire resistant.

Chair Pyne stated that while the proposed project is subject to existing ordinances, a study issue to reevaluate such ordinances as they apply to similar properties on lots with an R-2 zoning designation would be worth considering.

Commissioner Howard commented that he is unable to make the Findings to support the requested Variance. He added that it is not in the City's interest to grant the Variance for the subject accessory structure since it is unable to serve as an independent living unit that would address the City's housing need. He agreed with Chair Pyne that a study issue to reevaluate applicable standards for accessory structures would be better than determining whether to grant Variances on a case-by-case basis. Lastly, Commissioner Howard confirmed his recommendation to deny the requested Variance.

MOTION: Commissioner Howard moved and Commissioner Shukla seconded the motion to recommend Alternative 1 – Deny the appeal and uphold the Zoning Administrator's decision to deny the Variance for the accessory structure based on the Recommended Findings for Denial in Attachment 2.

Vice Chair Iglesias stated that he may make the Findings to approve the requested Variance and explained his reasoning.

Commissioner Davis confirmed his support of the motion since he lacks the information necessary to approve the requested Variance. He also added that he is in support of continuing the item to a different date.

Commissioner Howe confirmed his agreement with Vice Chair Iglesias and confirmed that he is not in support of the motion.

Commissioner Serrone confirmed with Principal Planner Klein that an ADU does not require additional parking.

Commissioner Serrone noted that he is in favor of continuing the item to a different date so that staff has the opportunity to research and present additional information. He added that granting the requested Variance would be problematic and revealed that he would also like the City Council to consider this item.

Chair Pyne offered his thoughts on whether the proposed project meets the Findings for a Variance. He suggested that continuance of this item to a different date would be appropriate since he does not have sufficient evidence to grant the requested Variance.

Commissioner Howe advised that it would be acceptable to propose a substitute motion to continue the discussion on this item to a later date.

AMENDMENT TO SUBSTITUTE: Chair Pyne moved and Commissioner Howe seconded the motion to substitute the main motion with a motion to continue the discussion on Public Hearing Agenda Item 2 to Tuesday, May 28, 2024 and direct staff to do the following:

Provide the planning application and building permit history for: 1) accessory structures located on properties on both sides of South Pastoria Avenue, between West Evelyn Avenue and West McKinley Avenue, 2) accessory structures located in the vicinity of the proposed project site, and 3) Variances that were referenced by staff during the November 29, 2023 Zoning Administrator hearing.

FRIENDLY AMENDMENT: Commissioner Howe offered a friendly amendment to specify direction to staff:

Provide the planning application and building permit history for: 1) accessory structures located on properties within 300 feet of the proposed project site and 2) Variances that were referenced by staff during the November 29, 2023 Zoning Administrator hearing.

Chair Pyne accepted the friendly amendment.

Commissioner Howe explained that the continuance of this item will allow staff more time to conduct applicable research and the Planning Commission to make an informed decision once additional information is presented to them.

Commissioner Davis voiced his support of the substitute motion.

Commissioner Shukla stated her support of the substitute motion.

Commissioner Serrone confirmed his support of continuing this item to a later date.

The motion for a substitute motion carried with the following vote:

- Yes: 6 -** Chair Pyne
 Vice Chair Iglesias
 Commissioner Davis
 Commissioner Howe
 Commissioner Serrone
 Commissioner Shukla
- No: 1 -** Commissioner Howard

MOTION: Chair Pyne moved and Commissioner Howe seconded the motion to continue the discussion on Public Hearing Agenda Item 2 to Tuesday, May 28, 2024 and direct staff to do the following:

Provide the planning application and building permit history for: 1) accessory structures located on properties within 300 feet of the proposed project site and 2) Variances that were referenced by staff during the November 29, 2023 Zoning Administrator hearing.

The motion carried by the following vote:

- Yes: 6 -** Chair Pyne
 Vice Chair Iglesias
 Commissioner Davis
 Commissioner Howe
 Commissioner Serrone
 Commissioner Shukla
- No: 1 -** Commissioner Howard

- 3. [24-0464](#) **Proposed Project:** Related applications on a 45.6-acre site:
USE PERMIT: to demolish an existing recreation center, surface parking lot, and six-level parking structure to allow a new 592,567 square-foot research and development (R&D) building along Central Expressway; demolition of four buildings (928 East Arques Avenue, 242 Commercial Street, 230 Commercial Street, and 222 Commercial Street) to allow for a new seven-story parking structure along Commercial Street; demolition of one building at 930 East California Avenue to allow for the expansion of an existing PG&E electrical substation; and installation of associated site improvements around the proposed R&D building and parking structure. The site would retain four existing industrial/office/R&D buildings, including an office building (930 East Arques Avenue), Building 81 (974 East Arques Avenue), Building

85 (978 East Arques Avenue), and a central utility plant. The project includes merging seven existing lots to form a larger campus parcel, with one existing lot remaining at 222 Commercial Street.

VARIANCE: to exceed the maximum height limit and floor plate sizes specified in the Arques Campus Specific Plan.

Location: 974 East Arques Avenue (APNs: 205-36-006, -007 and -008); 928-930 East Arques Avenue (APN: 205-35-017); 222, 230 and 242 Commercial Street (APNs: 205-35-006, 007 and 008, respectively) and 930 East California Street (APN 205-35-003).

File #: PLNG-2023-0134

Zoning: M-S

Applicant / Owner: Applied Materials (Applicant/Owner)

Environmental Review: An addendum to the Arques Specific Plan EIR and the Land Use and Transportation Element (LUTE) Update EIR has been prepared pursuant to CEQA Guidelines Sections 15162 and 15164.

Project Planner: Cindy Hom, Associate Planner (408) 730-7411, chom@sunnyvale.ca.gov

Associate Planner Cindy Hom presented the staff report with a slide presentation.

Chair Pyne disclosed that he had met previously with the applicant and toured the existing building on the proposed project site.

Commissioner Howard confirmed with Principal Planner George Schroeder that the Arques Campus Specific Plan was not given priority over other specific plans for national security reasons. Commissioner Howard also confirmed with Principal Planner Schroeder that the basis of national security is not included as a finding for variances.

At Commissioner Serrone's request, Associate Planner Hom explained that the proposed project involves development of the remaining unbuilt square footage in the Arques Campus Specific Plan adopted in 1999. She added that the proposed project is consistent with the Environmental Impact Report (EIR) that was prepared for the adopted plan.

Commissioner Serrone confirmed with Associate Planner Hom that the proposed project's promenade and research and development (R&D) building will take the place of the Central Commons originally included in the Arques Campus Specific Plan.

Commissioner Serrone questioned the reasoning behind the seven stories and 75

feet maximum height limit and 50,000 square foot maximum floor plate allowance stipulated in the Arques Campus Specific Plan.

Commissioner Davis confirmed with Associate Planner Hom that the Central Arques Specific Plan is anticipated to be completed midyear 2025.

Commissioner Davis confirmed with Associate Planner Hom that the 18-foot dedication required for future Central Expressway improvements will consist of a 12-foot-wide auxiliary lane and a six-foot-wide sidewalk.

Commissioner Howe disclosed that he had a brief telephone conversation with a representative of the applicant.

Commissioner Shukla revealed that she has visited the proposed project site and viewed a presentation prepared by Applied Materials.

Chair Pyne confirmed with Associate Planner Hom that approval of the proposed project's permit will expire in two years and that the applicant may request a one-year extension before this expiration date.

Chair Pyne opened the Public Hearing.

Joe Pon, Vice President of Communications and Public Affairs at Applied Materials, presented additional images and information on the proposed project.

Mary Bradley, Sunnyvale resident and former Finance Director for the City, spoke in favor of the proposed project and the economic benefits the City will yield from it.

Marie Bernard, speaking in her personal capacity, commended Applied Materials and the proposed project.

German Guerrero, field representative for Carpenters Local 405, stated that the proposed project presents an opportunity to employ a responsible contractor who understands the importance of such labor standards as livable wages, local hire, healthcare coverage, and apprenticeship programs. Mr. Guerrero confirmed that the proposed project will be utilizing a responsible contractor.

Doug Bloch, speaking on behalf of Silicon Valley MEPS and UNITE HERE Local 19, advocated for the support of the proposed project since it serves as an opportunity

to create good paying union jobs for the local community.

Louise Auerhahn, speaking on behalf of Working Partnerships, shared her excitement for the proposed project and its potential to create good family-supporting career pathways for community members during its construction and operational phases.

Maria Hamilton requested that the proposed project meet the standards set forth by the Arques Campus Specific Plan and that any deviations or variances should not be approved since a new plan has not been adopted.

Joe Pon presented additional information about the proposed project.

Commissioner Howard confirmed with Mr. Pon that the proposed development is not a fabrication facility but rather a place where machinery for fabrication facilities is built.

Commissioner Davis disclosed that he also toured the existing building on the proposed project site.

Commissioner Davis asked for an estimated average number of customers that might be on site at any given time. Mr. Pon answered that the proposed project includes a dedicated space for these customers and provided examples of potential customers.

Commissioner Serrone confirmed with Mr. Pon that although one is not included in the proposed project plans, Applied Materials is open to establishing a bicycle and pedestrian bridge over Central Expressway as a benefit to the community and employees of Applied Materials.

Commissioner Shukla proposed the inclusion of a visitor center or a plaque to inform members of the public about Applied Materials. Mr. Pon responded that this may be considered at a later phase for the proposed project.

Vice Chair Iglesias confirmed with Mr. Pon that if the proposed variance to exceed the maximum height limit specified in the Arques Campus Specific Plan is not approved, the proposed project will need to be developed elsewhere outside of the City.

Chair Pyne closed the Public Hearing.

MOTION: Commissioner Howe moved and Commissioner Howard seconded the motion to recommend Alternative 1 – Make the required Findings to approve the addendum to the Arques Campus Specific Plan EIR and LUTE Update EIR and no additional environmental review is required pursuant to CEQA Guidelines Sections 15162 and 15164; and approve the Use Permit and Variance based on the Recommended Findings in Attachment 3 and Recommended Conditions of Approval in Attachment 4.

Commissioner Howe commended Applied Materials for its contributions to the City and asked that the proposed project's Transportation Demand Management (TDM) plan be reevaluated.

Commissioner Howard confirmed that he may make the Findings for the variances and spoke in support of updating the TDM plan.

Commissioner Serrone voiced his support of the motion and the proposed project and explained why.

Commissioner Davis confirmed his support of the motion and spoke in agreement with comments made by Commissioner Serrone.

Commissioner Shukla spoke in support of the motion and the requested variances. She also noted that the proposed project will be financially beneficial to the City and it will enhance the area's sophistication due to the materials it will use.

Vice Chair Iglesias shared his support for the motion and the proposed project.

Chair Pyne stated that he is in support of the motion, can make the Findings for the requested variances and use permit, and described the proposed project as a great boon to the community and the country.

The motion carried by the following vote:

At Commissioner Serrone's request, Senior Planner Jeyaprakash explained that Sites 2 and 3 are already suitable for residential use, but soil remediation is necessary for Site 1 since it is currently used as a gas station.

Commissioner Serrone confirmed with Senior Planner Jeyaprakash that an economic evaluation deemed a residential and mixed-use development to be feasible for Site 2.

Commissioner Serrone and Senior Planner Jeyaprakash discussed how current state laws permit residential developments on sites designated for Medium Density Residential or High Density Residential with a Mixed Use and Planned Development combining district.

At Commissioner Serrone's request, Principal Planner George Schroeder explained why townhomes are more financially feasible to develop than rental apartments.

Commissioner Serrone confirmed with Principal Planner Schroeder that the Commissioners may consider impacts to the City's General Fund when determining whether to rezone the subject site. Derek Braun, Principal at Strategic Economics, provided additional information on this subject.

Commissioner Serrone and Mr. Braun discussed the chart depicted on page 18 of Attachment 9 and the implications that Findings have on the City's retail spaces.

Commissioner Serrone confirmed the intended uses of Sites 1, 2, and 3 with Senior Planner Jeyaprakash.

Commissioner Davis questioned why developments of higher densities on smaller parcels are not being considered. Senior Planner Jeyaprakash responded that developments must meet City standards for such items as parking, zoning, setbacks, open space, and landscaping.

Commissioner Davis disclosed that he has been in continuous email communication with the applicant for the proposed project. He also mentioned that while he lives within 1,000 feet of the proposed project, the Fair Political Practices Commission (FPPC) ruled that his recusal is not required.

Commissioner Davis inquired about whether the proposed project will involve widening Wolfe Road. Senior Planner Jeyaprakash answered that this detail will be

reviewed at the development stage of the proposed project. Principal Planner Schroeder added that the South Wolfe Road expansion study contains additional information on improvements for Wolfe Road.

Chair Pyne confirmed with Senior Planner Jeyaprakash that the inclusion of Site 1 would increase the overall square footage on the proposed project site. Chair Pyne stated his support of increased retail on the site adjacent to the proposed project.

Chair Pyne opened the Public Hearing.

Amir Massih, applicant and President at 4Terra Investments, presented additional images and information on the proposed project.

Commissioner Howard questioned the types of businesses that might succeed in the designated commercial space on Site 1. Mr. Massih responded that a coffee shop might be one such business.

Commissioner Howe confirmed with Senior Planner Jeyaprakash that Butcher's Corner is designated for both retail and office use.

Mr. Massih addressed earlier concerns shared by Commissioner Serrone regarding soil contamination on the proposed project site.

Commissioner Davis commented that the inclusion of a daycare and/or preschool on the proposed project site might be beneficial.

Commissioner Serrone presented feasible strategies for integrating retail on the proposed project site. Mr. Massih assured the Commissioners that any project he proposes to the Commission would be the one developed. Mr. Massih also explained that retail spaces are currently not economically viable.

Chuck Fraleigh, Vice Chair of Livable Sunnyvale, noted that Livable Sunnyvale is in support of the proposed General Plan Amendment since it will provide the opportunity to build needed housing, especially affordable housing units, in the southern portion of the City. He added that the proposed project will make better use of the existing site.

Agnes Veith, Sunnyvale resident and Livable Sunnyvale member speaking on her own behalf, noted that Livable Sunnyvale sent a letter of support to the City Council

in September 2021. She also spoke in support of the General Plan Amendment and emphasized that the proposed development will provide needed housing.

Chair Pyne closed the Public Hearing.

At Commissioner Serrone's request, Senior Planner Jeyaprakash explained why a Planned Development combining district would be retained for Site 3 rather than proposed for Site 2.

MOTION: Commissioner Howard moved and Commissioner Howe seconded the motion to recommend that the City Council take the following actions related to the General Plan Amendment and Rezoning:

- a. Make the Findings required by CEQA (Attachment 3) and Adopt the Mitigated Negative Declaration (Attachment 10);
- b. Adopt a Resolution (Attachment 4) to Amend the General Plan Designation for the two parcels at 1313 South Wolfe Road from Commercial to Medium Density Residential;
- c. Make the Finding that the General Plan Amendment and Rezoning is deemed to be in the public interest (Attachment 3); and
- d. Introduce an Ordinance (Attachment 5) to Rezone 1313 South Wolfe Road (APN 309-10-026) from Neighborhood Commercial with a Planned Development Combining District (C-1/PD) to Medium Density Residential with a Mixed-Use Combining District (R-3/MU) and 1313 South Wolfe Road (APN 309-10-027) from C-1/PD to Medium Density Residential with a Planned Development Combining District (R-3/PD).

Chair Pyne confirmed with staff that the motion should be interpreted as including the stated modifications to CEQA Finding 4 in Attachment 3 and the language in Attachments 4 and 5 clarifying that the environmental mitigation measures will be incorporated into the future project.

Commissioner Howard stated that there is much to gain from this General Plan Amendment and rezoning and explained why.

Commissioner Howe commented that the proposed development is a nice change

since it will include for-sale housing.

Commissioner Davis voiced his support of the motion since the proposed project addresses the City's housing needs.

Commissioner Shukla spoke in support of the motion and the proposed project.

Chair Pyne stated that he is supportive of motion, shared his wish that the proposed project site could support a higher density, and noted his preference for the development of additional housing with potential retail space instead of a vacant lot that will be the alternative.

The motion carried by the following vote:

Yes: 7 - Chair Pyne
Vice Chair Iglesias
Commissioner Davis
Commissioner Howard
Commissioner Howe
Commissioner Serrone
Commissioner Shukla

No: 0

This recommendation will be forwarded to the City Council for consideration at the May 7, 2024 meeting.

STANDING ITEM: CONSIDERATION OF POTENTIAL STUDY ISSUES

None.

NON-AGENDA ITEMS AND COMMENTS

-Commissioner Comments

Commissioner Howard, in honor of Earth Day, announced news that the world may have reached peak carbon emissions either last year or this year. He added that while there is still work to be done, this is an indication of progress.

-Staff Comments

None.

ADJOURNMENT

Chair Pyne adjourned the meeting at 10:54 PM.