

**PUBLIC HEARINGS/GENERAL BUSINESS**

2.        [18-0724](#)        Consideration of Useable Open Space in Required Front Yards: Forward a Recommendation to the City Council to Introduce an Ordinance to Amend Section 19.37.100 (Usable Open Space Design Requirements) of Chapter 19.37 (Landscaping, Irrigation and Useable Open Space) and Section 19.12.160 (“O”) of Chapter 19.12 (Definitions) of the Sunnyvale Municipal Code, and Find that the Action is Exempt from CEQA Pursuant to CEQA Guidelines Section 15061(b)(3). (Study Issue)

Associate Planner Kelly Cha presented the staff report.

Vice Chair Simons asked staff if allowing up to 50% of the required front yard to

count toward the useable open space (UOS) requirement would limit the available space for large species trees. Associate Planner Cha explained that proposed projects would still have to meet the UOS dimensional requirements. Assistant Director Andrew Miner advised that changes to the UOS ordinance would not take precedence over the Planning Commission's ability to add landscaping requirements. Vice Chair Simons asked staff about including a landscaping recommendation for the benefit of the neighborhood. Senior Assistant City Attorney Rebecca Moon advised that the ordinance could be modified to capture this intent. Vice Chair Simons provided additional background about his intended recommendation.

Commissioner Olevson asked staff how the front yard would be practically divided to allow 50% to count towards the UOS. Assistant Director Miner stated that the UOS would have to be provided in the form of seating, a fenced area, or patios that would be available for use by the tenants or property owners. Assistant Director Miner stated that staff's intention is not to just divide the proportion of the front yard in half and that UOS, not only open space, would be required.

Commissioner Rheume noted his concern regarding less potential landscaping space in the front yard and the impact on the sense of place and curb appeal. Commissioner Rheume asked staff how site plans incorporate utilities. Assistant Director Miner stated that for most projects utilities are in the right-of-way and that the setback is greater than the sidewalk area to accommodate the utilities. Assistant Director Miner advised that utilities are handled as part of the Design Review process with oversight from the Department of Public Works (DPW).

Commissioner Howe asked staff how the updated ordinance would impact the ability to include large species trees in the front yard. Assistant Director Miner advised that it would not have an effect because at maximum, 50% of the required front yard could count towards the UOS requirement and large species trees require strategic placement. Assistant Director Miner commented that if an applicant requested a deviation or variance for the front setback than per the staff recommendation UOS would not be a permitted use in the required front yard.

Commissioner Howe commented on Palo Alto's use of an Architectural Review Board and asked staff how that affects approvals for UOS. Commissioner Howe asked staff how landscaping would be handled at a staff level if the UOS changes are implemented. Assistant Director Miner commented that staff can't speak to Palo Alto's process but that there is no required landscaping for staff-level reviewed

single-family home so the staff level process should not be impacted by any UOS ordinance changes.

Commissioner Harrison asked staff about the rationale for including the R-4 and R-5 zoning districts in the proposed draft ordinance. Assistant Director Miner advised that staff felt it was appropriate to address these zoning districts together and that UOS requirements apply to R-4 and R-5 developments. Assistant Director Miner commented on the increase in larger, higher density projects and the likelihood that UOS will increasingly become a factor in the development of these projects.

Commissioner Harrison commented on the existing UOS minimum area requirement of 200 square feet and on the potential to have the UOS divided into unusable components. Assistant Director Miner stated that the goal is to provide UOS design flexibility to benefit future owners, tenants and the community with oversight from staff and Planning Commission to ensure appropriate development. Commissioner Harrison stated that this may complicate the process even though staff is trying to provide clear guidelines. Assistant Director Miner discussed the merits of the staff recommended approach and noted that the Planning Commission could leave the ordinance as it exists.

Chair Howard opened the Public Hearing.

There were no public speakers for this item.

Chair Howard closed the Public Hearing.

Vice Chair Simons asked staff if the Planning Commission can make a motion that includes a recommendation where the specific language will be developed by Planning staff and the Office of the City Attorney (OCA) before the item is heard by the City Council. Senior Assistant City Attorney Moon commented that the Planning Commission can recommend adoption of the ordinance subject to the addition of that language.

MOTION: Vice Chair Simons moved and Commissioner Howe seconded the motion for Alternative 1 – Introduce an Ordinance to Amend Chapter 19.37 (Landscaping, Irrigation and Useable Open Space), including but not limited to (a) Medium, high and very high density multi-family residential zoning districts (R-3, R-4 and R-5), (b) Up to 50% of the required front yard may be counted toward the useable open space requirement, (c) Useable open space in the required front yard would not be

a permitted use for a project with a front yard setback deviation or Variance, and Section 19.12.160 ("O") of Chapter 19.12 (Definitions) of the Sunnyvale Municipal Code (Attachment 3 to this report), and Find that the Action is Exempt from CEQA Pursuant to CEQA Guidelines Section 15061(b)(3) as it has no potential for resulting in either a direct physical change in the environment, or a reasonably foreseeable indirect physical change in the environment.

Vice Chair Simons included a recommendation with the motion that the updated ordinance should not negate the need for genetically significantly sized trees to be implemented as needed to ensure the provision of an appropriate sense of place, pedestrian shading and/or noise reduction. Vice Chair Simons commented that the scale of landscaping should be proportionate to the size of the development and that staff will develop the final wording for this recommendation.

Commissioner Harrison stated that she will not be supporting the motion because it complicates the process and this change would add requirements to an uncommon problem.

Commissioner Weiss stated that she will not be supporting the motion and would prefer to leave the ordinance as it exists. Commissioner Weiss commented that this is not a pressing issue and that a change to an ordinance should address the majority of instances. Commissioner Weiss requested that one spelling of useable be used in the staff report before the City Council hearing for this item.

Vice Chair Simons commented on his understanding of the reasons not to support the motion but stated an opinion that over the long term the bigger issue would be an inadequate amount of landscaping for the density of development. Vice Chair Simons stated that this will be the first time a recommendation associates the scale of landscaping with the density of developments. Vice Chair Simons commented on the size of upcoming developments, the difficulty of procuring appropriately matched landscaping and the impact of landscaping on the look and feel of the City.

Commissioner Rheume noted his agreement that the recommended changes to the ordinance will complicate the process but stated that he will be supporting the motion. Commissioner Rheume commented on the need for landscaping that is scaled to the size of developments and the increase of higher density, larger projects within the City.

The motion carried by the following vote:

- Yes:** 5 - Chair Howard  
Commissioner Howe  
Commissioner Olevson  
Vice Chair Simons  
Commissioner Rheaume
- No:** 2 - Commissioner Weiss  
Commissioner Harrison

Assistant Director Miner stated that this item and Planning Commission recommendation goes to the City Council on February 26, 2019.