

29 July 2015

TO: Community Development Director

FR: Michael Howland, Sunnyvale resident

RE: Planning Application 2015-7399 (777 Sunnyvale-Saratoga Road Special Development Permit)

Dear Madam or Sir,

This letter serves as a formal request for appeal of the decision of the Zoning Administrator on Planning Application 2015-7399, granting a Special Development Permit to operate an approximately 11,600 square foot, vehicle-oriented grocer. This request conforms to the requirements of Section 19.98.070 (“Appeals and calls for review.”) of the Sunnyvale Municipal Code.

In this instance, a Special Development Permit was required pursuant to Sections 19.090.010 and 19.26.150 of the Municipal Code to develop a retail establishment over 10,000 square feet in the El Camino Ramon (“ECR”) Precise Zoning District.

We believe this proposed use could have a significant impact on localized air quality, and further study was necessary before a Special Development Permit could be granted.

The proposed establishment not only encourages but relies upon the queuing of vehicles—it is a “grocery drive-through” establishment. No similar uses currently exist in Sunnyvale, and therefore the potential impact on air quality as a result of queuing vehicles is as yet unknown.

The potential impact of queuing vehicles is particularly acute in this instance because the developer is requesting a deviation from the municipal code to allow for significantly less landscaping and tree coverage. (See Attachment 2 of the Agenda Packet, “Project Data Table”). This deviation is not mitigated in the Conditions of Approval (“COA”)—although trees may not be capped, the shading proportion is not mitigated through other means. (See Attachment 4 of the Agenda Packet, “Recommended Conditions of Approval”). This combination of significantly decreased tree coverage and planned queuing of vehicles will almost certainly have a significant impact on the local air quality. Given the novelty of this type of business and the significant departure from the requirements of the municipal code, this project should have received environmental review prior to the granting of this discretionary permit. See California Code of Regulations (“California Environmental Quality Act (“CEQA”) Guidelines”) § 15378 (definition of a “project” for purposes of CEQA). As this is a project for the purposes of CEQA, and none of the categorical or statutory exemptions available under CEQA apply, environmental review is both appropriate and required. See California Public Resources Code § 21083; CEQA Guidelines § 15031.

We also find discrepancies between the nature of the project and the recommended findings in Recommended Findings, Attachment Three of the Agenda Packet. For example, despite the fact that the project not only encourages but in fact requires the queuing of vehicles, the Recommended Findings state that the proposed project will “encourage pedestrian activity along this commercial portion of Sunnyvale-Saratoga Road.” This finding is not supported by substantial—or indeed, any—evidence in the record before the Zoning Administrator or made available to the public. There are no facts in the available public documents that suggest that a drive-through grocer will encourage pedestrian activity.

As a result of the foregoing and other such facts as may become available prior to the hearing before the Planning Commission, we respectfully request that the Planning Commission reverse the approval of the Zoning Administrator, and that appropriate environmental study (i.e., an Initial Study and, if appropriate, an Environmental Impact Report) be prepared be conducted prior to any subsequent application.

Please note that this request for an appeal to the Planning Commission includes the required fee of \$143. This fee is based on the City Council's Fiscal Year 2015/2016 Fee Resolution.

Thank you for your attention to this matter.

Best Regards,

A handwritten signature in black ink, appearing to read "Michael Howland", with a large, stylized flourish at the end.

Michael Howland

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