



City of Sunnyvale

Meeting Minutes - Final Planning Commission

Monday, March 11, 2019

6:00 PM

Council Chambers and West Conference
Room, City Hall, 456 W. Olive Ave.,
Sunnyvale, CA 94086

Special Meeting - Study Session - 6:00 PM | Special Meeting - Public Hearing 7:00 PM

6:00 PM STUDY SESSION

Call to Order in the West Conference Room

Roll Call

Study Session

- A. [19-0368](#) Overview of Block 18 CityLine Project (Macy's Building)
Project Planner:
David Hogan, (408) 730-7444, dhogan@sunnyvale.ca.gov

Public Comment on Study Session Agenda Item

Adjourn Study Session

7:00 PM PLANNING COMMISSION MEETING

CALL TO ORDER

Chair Howard called the meeting to order at 7:00 PM in the Council Chambers.

SALUTE TO THE FLAG

Chair Howard led the salute to the flag.

ROLL CALL

Location: 1142 Dahlia Court (commonly referred to as the Corn Palace)
- bound by Dahlia Drive, Toyon Avenue, Lily Avenue and
Lawrence Expressway.
(APN: 213-12-001)

File #: 2017-7451

Zoning: R-1.5/PD

Applicant / Owner: Trumark Homes/Francia Family Living Trust, Gabriel Francia, Trustee (applicant /owner)

Environmental Review: Adopt a resolution to make findings required by CEQA, certify the Environmental Impact Report (EIR), and adopt a Statement of Overriding Considerations and Mitigation Monitoring and Reporting Program

Project Planner: Shétal Divatia, (408) 730-7637,
sdivatia@sunnyvale.ca.gov

Senior Planner Shetal Divatia presented the staff report.

Kristen Stoner, representing Ascent Environmental, presented the Environmental Impact Report for the proposed project.

Commissioner Weiss confirmed with Ms. Stoner that the applicant is required to retain a qualified botanist to survey the site.

Commissioner Rheume asked staff why the floor area ratio (FAR) has been calculated with and without private streets. Assistant Director Andrew Miner answered that the City's practice is to include private streets in FAR calculations but that both calculations are included for informational purposes. Commissioner Rheume discussed with Assistant Director Miner other projects with a similar density and FAR calculation as the proposed project.

Commissioner Weiss asked staff if decreasing the size of the houses and adding more of them would eliminate the setback deviations. Assistant Director Miner stated that could result in an increase in FAR and that the proposed 60% FAR is like other projects throughout Sunnyvale.

Commissioner Harrison confirmed with Senior Planner Divatia that the proposed project is 90% of the density allowed.

Chair Howard asked staff what the options are for the site's development given that it should be built to a minimum of 75% density. Assistant Director Miner answered that the two acres dedicated to the proposed park should not be factored in to density calculations and that building to the 75% minimum as if the two acres were

available to the developer would be considered overbuilding given the zoning.

Commissioner Olevson disclosed that he met with the applicant about the proposed project. He asked staff if setback issues would improve if the developer did not dedicate two acres to the City for a park. Assistant Director Miner responded that more houses would be possible but setback issues could still be an issue if the developer chose to build the same product type.

Chair Howard confirmed with Senior Assistant City Attorney Rebecca Moon that the developer is only required to dedicate .725 acres to the City with the City to purchase the remaining acres.

Chair Howard stated that he believes the developer can build to the 75% minimum on the remaining six acres. Assistant Director Miner stated that more houses would most likely be possible if the lots and homes were reduced in size. He added that staff's main concern is housing sizes for the lots which appear to be contrary to the intent of the R-1.5 zoning district.

Chair Howard opened the Public Hearing.

Garrett Hinds, Director of Architecture with Trumark Homes, presented images and information about the proposed project. He introduced Jill Williams, Project Architect, with KTG Architects.

Michael Rexrand, Sunnyvale resident, stated his concern for his family's safety with the removal of the stop sign at Lily Avenue and White Oak Lane.

Mike Serrone, Sunnyvale resident, stated his wish that the proposed project provided more housing. He also proposed the idea of a community garden as part of the park to complement the proposed project's modern farmhouse architecture.

Richard Mehlinger, Sunnyvale resident, stated his preference for smaller homes at a higher density for the proposed project.

Ray Crump, Sunnyvale resident, stated his support for the proposed project and added that increasing its density is not in the interest of the existing neighborhood.

Michele Healy, representing Santa Clara Unified School District (SCUSD), stated that Trumark Homes has offered SCUSD \$150k that it will use to improve its

facilities.

Commissioner Simons suggested to Ms. Healy that SCUSD consider placing the money in a trust to encourage long-term donations.

Carl Blankenship, Sunnyvale resident, stated his concern that the proposed development would shade his solar panels and exacerbate the noise along Lawrence Expressway.

Commissioner Simons asked Mr. Blankenship if he is requesting a sound wall taller than the proposed eight feet and Mr. Blankenship responded that he just wants the Commission to consider noise mitigation in general.

Anita Clemetson, Sunnyvale resident, asked that the proposed eight-foot sound wall include and extend beyond her and Mr. Blankenship's houses and stated that she does not want an increase in the proposed project's density.

Mr. Hinds presented additional information about the project.

Commissioner Simons confirmed with Mr. Hinds that the proposed height of the sound wall is based on the noise mitigation study and staff's input and that the stretch can be built to look consistent. Commissioner Simons asked Mr. Hinds why some of the houses along the park do not face the park. Mr. Hinds stated that their design makes them feel as if they face the park. Commissioner Simons responded that the neighborhood would be safer if as many houses as possible faced the park.

Commissioner Weiss disclosed that she met with the applicant before the proposed project was heard at a Study Session and she confirmed with Mr. Hinds that the City is free to pursue its vision for the proposed park if it became the land owner.

Commissioner Rheume disclosed that he met with the applicant, thanked him for addressing the Commission's comments since the Study Session, and stated that a higher density is not appropriate for this proposed project and its established zoning. Commissioner Rheume confirmed with Mr. Hinds that the design plans accurately reflect the density and asked him why the FARs are not closer to the 60% staff suggests. Mr. Hinds answered that smaller backyards are a tradeoff for the nearby park.

Chair Howard closed the Public Hearing.

Commissioner Harrison confirmed with Assistant Director Miner that 10-foot and 15-foot rear setback deviations are less common deviation requests.

MOTION: Commissioner Harrison moved and Commissioner Rheaume seconded the motion for Alternatives 1 and 5 (Alternative 3 with conditions) - 1) Adopt a Resolution to Certify the Environmental Impact Report including the Errata in Attachment 7; make the Findings required by the California Environmental Quality Act; and adopt the Statement of Overriding Consideration and Mitigation Monitoring Report Program (included in Attachment 3 to the report); and, 3) Make the Findings for the Special Development Permit and Vesting Tentative Map, Deny the requested deviations for reduced setbacks and FAR, and Approve the Special Development Permit and Vesting Tentative Map (included in Attachment 4 to the report), subject to recommended Conditions of Approval in Attachment 5 of the report, which include a condition that the house plans and architecture be modified to eliminate or reduce lot coverage, setback and floor area ratio deviations, and to require that the modified house plans and architecture be approved by Planning Commission, with the following conditions:

- 1.) Specify that staff work with the developer to re-design the houses to increase the rear setbacks; and
- 2.) Specify that the sound wall will match the look and height, with a minimum of 8 feet in height, to the sound wall along Lawrence Expressway directly across from the proposed project.

Commissioner Harrison stated that she can make the findings and accept the front and side setback deviations, but she does not support the proposed 10-foot backyards.

Commissioner Simons stated that he will not support the motion because the front entrances to some the houses along the perimeter of the park do not face the park, increasing the potential for safety issues.

Commissioner Olevson stated that he will not to support the motion. He stated that the proposed park is a benefit to the City and that the Commission should therefore allow the setback deviations.

Commissioner Weiss stated that she likes the proposed project's architecture and stormwater management system but believes that it needs more, smaller homes,

affordable for the average person. She stated that she will not support the motion.

Chair Howard stated that he will not support the motion. He stated that the proposed project should meet the 75% minimum zoning density requirement and that the City Council should be the determining body given that the proposed project does not meet that requirement.

The motion carried by the following vote:

Yes: 2 - Commissioner Rheaume
Commissioner Harrison

No: 4 - Commissioner Weiss
Chair Howard
Commissioner Olevson
Vice Chair Simons

Absent: 1 - Commissioner Howe

MOTION: Commissioner Olevson moved and Commissioner Rheaume seconded the motion for Alternatives 1 and 4 - 1) Adopt a Resolution to Certify the Environmental Impact Report including the Errata in Attachment 7; make the Findings required by CEQA, and adopt the Statement of Overriding Consideration and Mitigation Monitoring Report Program in Attachment 3; and, 4) Make the Findings for the Special Development Permit and Vesting Tentative Map and Approve the Special Development Permit and Vesting Tentative Map (included in Attachment 4 to the report) subject to modified Conditions of Approval in Attachment 5, accepting the house plans as proposed and deleting condition PS-1 a) in Attachment 5.

Commissioner Rheaume stated that the requested deviations are acceptable given that the City would gain a public park.

The motion carried by the following vote:

Yes: 2 - Commissioner Olevson
Commissioner Rheaume

No: 4 - Commissioner Weiss
Chair Howard
Vice Chair Simons
Commissioner Harrison

Absent: 1 - Commissioner Howe

Commissioner Simons confirmed with Senior Assistant City Attorney Rebecca Moon that it is possible for the Commission to engage in an Informal Consideration discussion.

MOTION: Commissioner Simons moved and Commissioner Rheume seconded the motion to begin an Informal Consideration period.

The motion carried by the following vote:

Yes: 6 - Commissioner Weiss
Chair Howard
Commissioner Olevson
Vice Chair Simons
Commissioner Rheume
Commissioner Harrison

No: 0

Absent: 1 - Commissioner Howe

The Commissioners informally discussed the project, questioned staff, and by general consensus agreed to end the Informal Consideration period.

MOTION: Commissioner Simons moved and Commissioner Harrison seconded the motion for Alternatives 1 and an amended Alternative 3 - 1) Adopt a Resolution to Certify the Environmental Impact Report including the Errata in Attachment 7; make the Findings required by CEQA, and adopt the Statement of Overriding Consideration and Mitigation Monitoring Report Program in Attachment 3; and, an amended 3) Make the Findings for the Special Development Permit with deviations and Vesting Tentative Map, including deviations for reduced setbacks, lot coverage and FAR, and Approve the Special Development Permit and Vesting Tentative Map (included in Attachment 4 to the report), subject to recommended Conditions of

Approval in Attachment 5 of the report, and to require that the modified house plans and architecture be approved by Planning Commission with the following additional conditions:

1. Specify that the houses' rear setbacks be increased to an average of 15 feet;
2. Specify that the sound wall will match the look and height, with a minimum of 8 feet in height, to the sound wall along Lawrence Expressway directly across from the proposed project; and
3. Specify that the houses along the perimeter of the park are oriented so that their front entrances face the park.

Commissioner Simons stated that he would be pleased if the motion passes and the front entrances to the houses along the park are re-designed to face the park. He stated he can make the findings and that he intends to support the motion.

Commissioner Harrison stated that she likes the proposed project's architecture, its public park dedication, and its consideration for the potential homeowners' needs. She added that she appreciates the applicant's flexibility and staff's recommendation which resulted in the compromise to increase the houses' rear setbacks to an average of 15 feet.

Commissioner Olevson stated that he is pleased to support the motion.

Commissioner Rheaume stated that he can make the findings and intends to support the motion. He stated that the proposed project is a nice design and added that the proposed project is the best use of the land for the existing single family home neighborhood.

Assistant Director Miner confirmed with Commissioner Simons that the Commission would like to review and approve the design plan changes as stated in Alternative 3.

Commissioner Weiss stated that she supports Alternative 3 exactly as written in the staff report and that she will not support the motion.

Chair Howard stated that he still believes the proposed project should fulfill the 75% minimum zoning density requirement but is satisfied that the City Council can take action if it feels the policy has not been met. He thanked the Commissioners, the audience, the applicant, and the staff.

The motion carried by the following vote:

Yes: 4 - Commissioner Olevson
Vice Chair Simons
Commissioner Rheaume
Commissioner Harrison

No: 2 - Commissioner Weiss
Chair Howard

Absent: 1 - Commissioner Howe

Assistant Director Miner stated that this action is final unless appealed to or called up for review by the City Council within 15 days.

3. [18-1052](#) **Proposed Project:** **APPEAL** by the applicant of a decision by the Zoning Administrator to deny:
USE PERMIT to allow modification to a previously approved Use Permit (2012-7479 - Condition of Approval AT-1 and AT-7) to allow extended hours of operation (11:30 AM - 6:30 PM during school days and 8:30 AM-6:30 PM when students are on break) and outdoor play areas for the after-school educational enrichment facility, which with the proposed extended hours of operation would be considered a daycare use.
Location: 1025 The Dalles (APN:320-11-010)
File #: 2018-7519
Zoning: PF (Public Facility)
Applicant / Owner: Sunny Chinese Learning Center (applicant) / St. Luke Lutheran Church of Sunnyvale (owner)
Environmental Review: Class 1 CEQA Exemption (CEQA Guidelines Section 15301, Existing Facilities)
Project Planner: Shétal Divatia (408) 730-7637, sdivatia@sunnyvale.ca.gov

Senior Planner Shetal Divatia presented the staff report.

Commissioner Harrison confirmed with Senior Planner Divatia that the appellant is requesting to extend its hours and add outdoor play time and that State child care licensing requirements determine the required size of the outdoor play area. Senior Planner Divatia added that the center is a heritage school.

Commissioner Weiss confirmed that St. Luke Lutheran Church was built prior to the houses that currently surround it.

Camas Steinmetz, land use attorney representing the Sunny Chinese Learning Center appellant, presented images and information about the use permit application.

Commissioner Olevson confirmed with Ms. Steinmetz that the center has been in violation of the conditions of their status as an after school educational enrichment facility. He stated that he does not have confidence that the center will adhere to the conditions of the modified use permit is granted. Ms. Steinmetz stated that the center is committed to complying with conditions and has taken steps to ensure compliance.

Commissioner Weiss asked the appellant what state or national cultural or language association the Sunny Chinese Learning Center belongs to. Ms. Steinmetz stated that as a heritage school, Sunny Chinese Learning Center is exempt from obtaining a State child care license but that the City considers the center as daycare use with its use permit modification application. Commissioner Weiss asked the appellant how noise would be monitored. Ms. Steinmetz answered that the center plans to use noise monitoring devices that would prompt the center to bring the children inside if activated and that the noise study anticipates noise between 48 dBa and 50 dBa. Commissioner Weiss confirmed with Ms. Steinmetz that the classrooms are air conditioned and that it is not possible for less than 24 children at a time to have outdoor play.

Commissioner Harrison confirmed with Ms. Steinmetz and Assistant Director Andrew Miner that the center has applied to modify its use permit to daycare use as defined by the City.

Senior Assistant City Attorney Rebecca Moon clarified that a heritage school under State law is exempt from licensure as a child care center but that it could still be considered for child care use under the City's zoning codes.

Chair Howard confirmed with Ms. Steinmetz and Senior Assistant City Attorney Moon that the issue for consideration is the change in land use from an enrichment center to daycare use.

Chris Oliva, Sunnyvale resident, stated his concerns that the center has violated the conditions of its original use permit and requested that the Commissioners deny the use permit modification application.

Commissioner Harrison confirmed with Mr. Oliva that his main concerns are noise and traffic from the center and that he is unsure if it is possible to improve those issues.

Commissioner Simons asked Mr. Oliva if he would prefer a masonry wall separating the neighbors and the center. Mr. Oliva stated that the masonry wall that has been proposed would not be near his property and therefore would not help mitigate the noise he experiences.

Janet O'Rourke, Sunnyvale resident, stated that she is opposed to a masonry wall abutting her property but that she is open to tall, dense landscaping or a wall around the center's property.

Ms. Steinmetz and Lucy Liu, Sunny Chinese Learning Center staff member, presented additional images and information about the use permit application.

Commissioner Harrison asked the appellant what steps the center plans to take to mitigate noise. Ms. Liu stated that she is amenable to increasing the height of the existing wooden fence, allowing 30 minutes of outdoor play for 24 children at a time, and employing the use of noise monitors.

Ms. Liu added that the center is affiliated with the Chinese School Association in the United States. Commissioner Weiss thanked Ms. Liu for the information.

Chair Howard closed the Public Hearing.

Commissioner Rheume confirmed with Senior Planner Divatia that there is a church-sponsored day care center in operation at the same site and confirmed with Assistant Director Miner that all commercial child care facilities must obtain a City use permit. Commissioner Rheume asked staff how many businesses can operate at a church. Assistant Director Miner stated that over time the learning center's operations have evolved into daycare use.

Chair Howard confirmed with Senior Planner Divatia that there are 84 children enrolled in the Sunny Chinese Learning Center and approximately 36-48 children enrolled at Amazing Creations Preschool, both located at 1025 The Dalles Avenue. Chair Howard asked staff how one would determine if noise issues were coming from children at the Sunnyvale Chinese Learning Center or Amazing Creations Preschool, and Assistant Director Miner stated that it would be difficult to determine.

Chair Howard asked staff if there is a limit to how many children a daycare center may serve. Assistant Director Miner said that every facility is different and that it requires a discretionary staff decision. He clarified that the center is still allowed to conduct business as a after school learning center, but that staff recommends the center do so under the original approved use permit.

Commissioner Harrison confirmed with Assistant Director Miner that there are no restrictions against more than one child care center at a location but that staff accounts for issues such as noise and general compatibility in its discretionary decisions. Commissioner Harrison asked staff to confirm what conditions the appellant is agreeing to comply with. Senior Planner Divatia stated that the six foot wooden fence is existing.

Assistant Director Miner clarified that staff recommends denial of the appeal.

Commissioner Harrison asked Senior Assistant City Attorney Moon to confirm that the appellant is arguing that the use permit denial does not meet the findings that must be made. Senior Assistant City Attorney Moon stated that she does not agree with the appellant's argument; instead, without a standard, staff has discretion to make a fair decision based on the record and substantial evidence. Assistant Director Miner referenced the general plan policy findings that must be made and added that they require discretion.

Commissioner Harrison confirmed with Senior Planner Divatia that the noise study found that noise coming from the children would not be significant.

Commissioner Rheume confirmed with Assistant Director Miner that staff's recommendation is to deny the appeal.

Commissioner Weiss asked staff if it is possible to approve the modified use permit with provisions. Assistant Director Miner stated that it may not be the best course of action. Senior Assistant City Attorney Moon stated that the option is not helpful and would require the City to establish a record and begin legal proceedings if the center were not in compliance with conditions and refused to cease operations.

Chair Howard asked staff what the options are if the center is not in compliance with the conditions of the modified use permit if granted. Senior Assistant City Attorney Moon stated that the City would most likely undergo a lengthy code enforcement process with the business owner or pursue a legal proceeding to revoke the permit.

Chair Howard clarified with staff that the Commission can either make or not make the findings based on discretion and that staff's recommendation is to deny the appeal because the center has been in violation of the conditions of the original use permit. Senior Assistant City Attorney Moon stated that the center's code enforcement history is a significant piece of information but that the Commission must also determine if the appellant's proposal is compatible with the neighborhood and meets the City's policies.

MOTION: Commissioner Olevson moved and Commissioner Simons seconded the motion for Alternative 1 - Deny the Appeal and uphold the decision of the Zoning Administrator to deny the Use Permit.

Commissioner Olevson stated that he does not have confidence that the center would comply with the conditions of the modified use permit if granted based on its prior violations of the original use permit conditions. He added that he would need to see years of compliance with the existing use permit before granting the modified use permit.

Commissioner Simons stated that he cannot make the findings and agrees with Commissioner Olevson that the center should first demonstrate compliance. He stated that he is supportive of child care in general and that the best course of action is denial of the appeal based on past code enforcement issues.

Commissioner Rheume stated that he will support the motion, can make the findings to deny the appeal, and supports Commissioner Olevson and Commissioner Simons' statements. He added that he would require compliance with the existing permit before considering the modified use permit and added that two child care centers in the same location is not in the best interest of the neighborhood.

Commissioner Harrison stated that she will support the motion because she does not have enough information to make the findings and to determine if the facilities are adequate for daycare use and the surrounding neighborhood.

Commissioner Weiss stated that she intends to support the motion. She suggested that the appellant apply again after the center has determined what types of services it will provide and after it has demonstrated compliance with the conditions of its current use permit.

Chair Howard stated that he will oppose the motion but is disappointed that the center violated the conditions of its existing use permit. He also stated that it is important for the children to have outside play time and encouraged the center to work on meeting the current conditions of their use permit and re-applying for the modified use permit after it has demonstrated compliance.

The motion carried by the following vote:

Yes: 5 - Commissioner Weiss
Commissioner Olevson
Vice Chair Simons
Commissioner Rheaume
Commissioner Harrison

No: 1 - Chair Howard

Absent: 1 - Commissioner Howe

Assistant Director Miner stated that this action is final unless appealed to or called up for review by the City Council within 15 days.

4. [19-0217](#) Moffett Park Specific Plan Update Work Plan and Guiding Principles
Project Planner:
Michelle King, 408-730-7463, mking@sunnyvale.ca.gov

Commissioner Rheaume recused himself because of a financial conflict of interest.

Assistant Director Andrew Miner introduced Principal Planner Michelle King.

Principal Planner King presented the staff report.

Commissioner Simons confirmed with Principal Planner King that the Commission's previous suggestions as part of the General Plan Initiation review will be included in the work plan. He expressed the importance that the staff work in tandem with existing Public Works projects. Principal Planner King stated that some of the members of the Technical Advisory Committee are staff members from Public Works. Commissioner Simons stated his concern for pedestrian access at the Valley Transportation Authority (VTA) light rail stop in the southern region of Moffett Park. Principal Planner King answered that staff will address pedestrian issues and are working with VTA regarding the light rail system. She added that the Technical

Advisory Committee consists of members of relevant City departments and that the City will also work with regional and transportation planners such as Caltrain and VTA.

Commissioner Simons advised staff to work with the VTA Bicycle and Pedestrian Advisory Committee for community and user input. He added that he is the committee's Sunnyvale representative. Commissioner Simons stated that he would also like staff to work with the VTA to review the impacts of the VTA light rail prioritization in Sunnyvale.

Commissioner Olevson stated that he would like staff to study and report the effects of the plan on public safety and water services, particularly if the area becomes more residential. Assistant Director Miner stated that a water supply assessment study is part of the work plan and that staff can provide details about the source of the water and update the Commission on the progression of the plan.

Richard Mehlinger, Sunnyvale resident, stated his support for the plan and encouraged consulting with the Sunnyvale Bicycle and Pedestrian Advisory Commission, adding affordable housing, and connecting the light rail to downtown Sunnyvale.

Chair Howard closed the Public Hearing.

MOTION: Commissioner Simons moved and Commissioner Harrison seconded the motion for Alternative 2 - Approve the Guiding Principles and Work Plan with modifications as follows:

- 1.) Conduct outreach with the VTA Bicycle and Pedestrian Advisory Committee and the Sunnyvale Bicycle and Pedestrian Advisory Commission. The routes, including the Moffett Park to downtown route, should be reviewed in detail;
- 2.) Review the impacts of the VTA light rail prioritization;
- 3.) Work to facilitate the most direct pedestrian route to the Mary Avenue Overcrossing; and
- 4.) Study and report the effects of the plan on public safety and water services and develop a long-term plan if water restrictions are implemented.

Commissioner Harrison stated that the plan is good, thorough, and relevant to the needs of the area.

Chair Howard re-stated the motion and proposed conditions.

The motion carried by the following vote:

Yes: 5 - Commissioner Weiss
Chair Howard
Commissioner Olevson
Vice Chair Simons
Commissioner Harrison

No: 0

Absent: 1 - Commissioner Howe

Abstained: 1 - Commissioner Rheaume

Assistant Director Miner stated that this item goes to the City Council on April 9, 2019.

STANDING ITEM: CONSIDERATION OF POTENTIAL STUDY ISSUES

NON-AGENDA ITEMS AND COMMENTS

-Commissioner Comments

-Staff Comments

Assistant Director Andrew Miner stated that the City Council Study Session for the Downtown Specific Plan took place on March 5, 2019 and resulted in useful feedback. He added that the Lawrence Station Area Sense of Place Plan Special Meeting was on March 6, 2019 and had good turnout and good feedback.

ADJOURNMENT

Chair Howard adjourned the meeting at 11:19 PM.