

Holland & Knight

50 California Street, Suite 2800 | San Francisco, CA 94111 | T 415.743.6900 | F 415.743.6910
Holland & Knight LLP | www.hklaw.com

Genna Yarkin
+1 415-743-6990
Genna.Yarkin@hklaw.com

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Via E-mail (SBagley@sunnyvale.ca.gov)

Shila Bagley
Associate Planner
Community Development Department, City of
Sunnyvale
456 W. Olive Ave.
Sunnyvale, CA 94086

Re: Sunrise (2018-7971) Use Permit Application - Variance Justifications

Dear Shila:

This letter relays the Variance Justifications for two variances required for the Sunrise Use Permit Application 2018-7971, for (1) encroachment of the loading space into the 10-foot landscape buffer; and (2) construction of a wood fence instead of a masonry wall. Per the Planning Department's instructions, we plan to pay the \$1,850.60 variance fee by phone today, November 25, 2019.

Loading Location Encroaching on Landscape Buffer

1. Because of exceptional or extraordinary circumstances or conditions applicable to the property, or use, including size, shape, topography, location or surroundings, the strict application of the ordinance is found to deprive the property owner of privileges enjoyed by other properties in the vicinity and within the same zoning district.

The size and shape of the Property and its relation to surrounding residential uses are such that a compliant loading space location would be too close to adjacent homes or a street – the Property is surrounded by residences on three sides and the fourth side is a street frontage. The variance would allow the loading space to be relocated such that it encroaches into the 10-foot landscape buffer, eliminating the conflict with neighboring land uses. Granting the variance would allow development of the Property as permitted on other properties in the vicinity, while also ensuring the protection of neighbors' interests.

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2. The granting of the Variance will not be materially detrimental to the public welfare or injurious to the property, improvements, or uses within the immediate vicinity and within the same zoning district.

Granting the variance to relocate the loading space will have no increased impacts on property, improvements, or uses in the vicinity, and would in fact avoid such impacts, ensuring the least amount of disturbance to adjacent residential uses from loading. Because the Property is bordered by residences on three of its four sides, the relocation is necessary to minimize conflicts.

3. Upon granting of the Variance, the intent and purpose of the ordinance will still be served and the recipient of the Variance will not be granted special privileges not enjoyed by other surrounding property owners within the same zoning district.

The variance will ensure more privacy and fewer disturbances for neighbors. The Project provides a robust and attractive Landscaping Plan that is not significantly affected by granting this Variance. Granting the Variance will not grant special privileges unavailable to surrounding property owners, who may seek a similar Variance if warranted.

Wood Fence Rather Than Masonry Wall

1. Because of exceptional or extraordinary circumstances or conditions applicable to the property, or use, including size, shape, topography, location or surroundings, the strict application of the ordinance is found to deprive the property owner of privileges enjoyed by other properties in the vicinity and within the same zoning district.

The Sunnyvale Municipal Code requirement for an 8-foot masonry buffer wall between the Property and adjacent properties is intended to protect the privacy of neighbors. The material requirement, masonry, is infeasible in this location because the existing, mature trees on the adjacent properties (which aid in screening for the Project and any necessary replacements for which would take several years to reach maturation) have roots below the surface on the Property, where the required wall would be located. The foundations necessary to construct a masonry wall would harm the tree roots, damaging or potentially killing the trees. If the variance is not granted to construct the buffer out of a lighter, alternative material with posts that do not interfere with healthy root function, it would be infeasible to comply with the masonry wall requirement while also protecting the trees on the neighboring properties. This would deprive the owner of development privileges enjoyed by other properties in the vicinity and in the same zoning district.

2. The granting of the Variance will not be materially detrimental to the public welfare or injurious to the property, improvements, or uses within the immediate vicinity and within the same zoning district.

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Approval of a wooden fence with posts that do not interfere with healthy root functioning will have no increased impacts on property, improvements, or uses. It is an attractive, harmonious option that will ensure the same level of privacy and have no impact on public welfare. This option will in fact ensure preservation of the existing trees on adjacent properties. The support system that would be necessary for a masonry wall would interfere with the trees' roots and potentially damage or kill the trees. The wooden fence option, with posts at intervals that avoid tree roots, is safe for the trees while still ensuring the privacy of neighbors and an attractive buffer.

3. Upon granting of the Variance, the intent and purpose of the ordinance will still be served and the recipient of the Variance will not be granted special privileges not enjoyed by other surrounding property owners within the same zoning district.

The intent of the requirement, to ensure privacy for neighbors, will still be ensured by the construction of an attractive fence. Protecting the existing, mature trees will in fact further ensure appropriate screening. Granting the Variance will not grant special privileges unavailable to surrounding property owners, who may seek a similar Variance if warranted.

Sincerely yours,

HOLLAND & KNIGHT LLP

Genna Yarkin