



City of Sunnyvale

Meeting Minutes - Draft Planning Commission

Monday, November 28, 2016

6:30 PM

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

Special Meeting - Study Session - 6:30 PM | Special Meeting - Public Hearing 7 PM

6:30 P.M. STUDY SESSION

Call to Order in the West Conference Room

Roll Call

Study Session

A. [16-1118](#) File #: 2016-8001
Locations: Citywide
Project Description: Individual Lockable Storage Requirement
(Study Issue)
Project Planner: Kelly Cha, (408) 730-7408, kcha@sunnyvale.ca.gov

Public Comment on Study Session Agenda Items

Adjourn Study Session

7 P.M. PLANNING COMMISSION MEETING

CALL TO ORDER

Chair Harrison called the meeting to order at 7 p.m. in the Council Chambers.

SALUTE TO THE FLAG

Chair Harrison led the salute to the flag.

ROLL CALL

Present: 6 - Chair Sue Harrison
Vice Chair Ken Rheaume
Commissioner John Howe
Commissioner Russell Melton
Commissioner David Simons
Commissioner Carol Weiss

Absent: 1 - Commissioner Ken Olevson

Status of absence; Commissioner Olevson's absence is unexcused.

ORAL COMMUNICATIONS

None.

CONSENT CALENDAR

Commissioner Simons pulled the draft minutes from the Consent Calendar and requested to clarify on page 11 that trees are to provide privacy not only for the border sections between lots, but also between the buildings. Planning Officer Andrew Miner confirmed staff can make this change.

1. A [16-1113](#) Approve Planning Commission Meeting Minutes of November 14, 2016

MOTION: Commissioner Simons moved and Commissioner Howe seconded the motion to approve the draft minutes of November 14, 2016 as amended.

The motion carried by the following vote:

Yes: 6 - Chair Harrison
Vice Chair Rheaume
Commissioner Howe
Commissioner Melton
Commissioner Simons
Commissioner Weiss

No: 0

Absent: 1 - Commissioner Olevson

PUBLIC HEARINGS/GENERAL BUSINESS

2. [16-0850](#) **Proposed Project:** Forward Recommendations on related applications on five parcels totaling 5.49 acres at El Camino Real/Wolfe Road/Fremont Avenue:

REZONE: Introduction of an Ordinance to rezone one parcel from C-1/ECR to R-3/ECR,

SPECIAL DEVELOPMENT PERMIT: To allow 138 residential units (39 townhomes and 99 flats) and 6,934 square feet of retail/office use with surface and underground parking,

VESTING TENTATIVE MAP: To create 40 lots and one common lot, which includes 39 townhome lots and one lot for

condominium purposes (99 residential condominiums and one commercial condominium), and

CEQA: Adopt a Resolution to Certify the Environmental Impact Report, adopt a Statement of Overriding Considerations and Mitigation Monitoring and Reporting Program

File #: 2014-7373

Location: 871 and 895 E. Fremont Ave. (APNs: 211-25-011, 211-25-033, 211-25-034, 211-25-038 and 211-25-039)

Zoning: R-3/ECR and C-1/ECR

Applicant / Owner: De Anza Properties

Environmental Review: Environmental Impact Report

Senior Planner Noren Caliva-Lepe presented the staff report.

Commissioner Melton confirmed with Director of Public Works Manuel Pineda that the cumulative impact analysis should contemplate all future growth, reasonable and foreseeable, in the city. Commissioner Melton discussed pages 31 and 32 of the Hexagon report pertaining to approved and pending developments as well as intersection traffic volumes and asked staff how the data is obtained and analyzed, and why the cumulative impact analysis predicts a significant and unavoidable impact only at the Kingfisher and Fremont intersection. Principal Transportation Engineer/Planner Carol Shariat advised this analysis is a result of using cumulative project list and growth projection methods; the list method includes all pertinent projects from appendix D and the growth projection method is derived from the city travel demand model, which has an existing base year and a future 20 year projection.

Commissioner Melton commented that the date of the list in appendix D is 12/19/2014 and many recent projects are not included on this list, such as Lawrence Station Area Plan, Peery Park Plan and Lakeside Specific Plan. Commissioner Melton stated an opinion that traffic has gotten worse by greater than the largest predicted growth of 2.66% per year. Commissioner Melton asked staff if the outcome of the cumulative impact analysis would change if the analysis was rerun with an updated project list. Director of Public Works Pineda advised that the existing scenario and cumulative scenarios are all built upon each other to ensure consistency and that the City of Sunnyvale uses both the list and growth factor methods to produce the best available numbers. Director of Public Works Pineda discussed a recent analysis completed at the Fremont/Wolfe/El Camino Real intersection and that the numbers from this analysis align with the traffic report for this project. Director of Public Works Pineda noted what determines if you have an impact is whether or not a project adds enough traffic to exceed CEQA thresholds.

Commissioner Melton confirmed with Senior Planner Caliva-Lepe that it would take

several weeks to re-run the cumulative impact report in order to include an updated project list. Commissioner Melton confirmed with Director of Public Works Pineda that it would take months for Hexagon to rerun the traffic models to see if other intersections are impacted.

Commissioner Melton confirmed with Planning Officer Miner that the draft Statement of Overriding Considerations in attachment 5 as written for the significant and unavoidable traffic impact at the intersection of Kingfisher/Fremont is acceptable because of the provision of housing and the applicant's other commitments to community benefits. Commissioner Melton confirmed with Planning Officer Miner that if we assume the traffic analysis changes once it includes an updated project list, then potentially the Planning Commission could request an increase in the applicant's other commitments to community benefits. Planning Officer Miner noted that the EIR was completed according to law and therefore is a defensible document; Commissioner Melton agreed and noted his concern was that the pace of the development in Sunnyvale may exceed the capability of CEQA law.

Director of Public Works Pineda clarified that from a CEQA perspective the baseline numbers in the cumulative analysis already assume a level of congestion and that the analysis pertains to how much traffic a project will add and that re-running the analysis won't change that number.

Commissioner Melton noted that the intersection of Kingfisher/Fremont didn't have a baseline number available and Director of Public Works Pineda clarified this is an unsignalized intersection which is not included in baseline projections. Director of Public Works Pineda advised that in order for a project to have a significant and unavoidable impact it must increase the critical delay by four seconds and increase the critical V/C by 1%.

Vice Chair Rheaume commented that there are already existing delays at the Kingfisher/Fremont intersection and the current level of service is F during AM and PM hours.

Vice Chair Rheaume asked for staff's input on how the project can meet the General Plan LT 1.4 goal, which is to achieve an operating level of service of E or better. Director of Public Works Pineda advised the reason for the current level of service grade is the stop control intersection at Kingfisher/Fremont. Director of Public Works Pineda stated one theoretical solution is to install a signal but there are two tradeoffs - creating corridor issues and the possibility of cut through traffic, and when these tradeoffs are taken into consideration, the signal is not a solution.

Vice Chair Rheaume asked staff to confirm that while currently the intersection of El Camino Real and Wolfe has a level of service of E plus in PM hours, this should not drop below level of service E despite the impact of this project. Director of Public Works Pineda advised that the traffic report did analyze the amount of traffic at the El Camino Real and Wolfe intersection but from a CEQA perspective it wouldn't add enough traffic to meet the thresholds for significance.

Commissioner Weiss discussed with Director of Public Works Pineda about adding the operating signal during commute hours at the intersection of Kingfisher and Fremont but he explained that these hours were already analyzed in the traffic study. Commissioner Weiss confirmed with Director of Public Works Pineda that adding the signal would not necessarily increase safety at the intersection, despite the recent fatality on Fremont.

Commissioner Weiss confirmed with Senior Planner Caliva-Lepe that a parcel of land adjacent to Wolfe is owned by the City of Sunnyvale and asked for staff comments on how the project would achieve General Plan Policy EN 1.2 relating to maximizing recycled water use. Senior Planner Caliva-Lepe advised at this time recycled water is not currently available for residential projects; Planning Officer Andrew Miner confirmed that it may be feasible to add piping during construction of the project for future use.

Commissioner Weiss commented on the lack of use of cool roofs and pavements despite it being a City of Sunnyvale goal. Senior Planner Caliva-Lepe advised that the applicant is not required to use cool roofs and pavements as outlined in the green building checklist, but are allowed to use different methods to meet the Build it Green 110 points.

Commissioner Simons confirmed with Senior Planner Caliva-Lepe that the City of Sunnyvale had not recommended type of transit pass to meet the TDM mitigation method but that the applicant chose this from the available options.

Commissioner Simons commented that the EIR went into good detail about the trees being removed but was light on replacements as well as potential cultural or look and feel impacts. Senior Planner Caliva-Lepe advised all trees on the project site were taken in consideration; while orchard trees are exempt and certain trees are not significant in size, the remaining trees are subject to requirements. Senior Planner Caliva-Lepe also noted the mitigation measure requires that the applicant work with staff to ensure tree consistency standards and before the applicant can submit for a building permit they must present staff with a tree replacement plan.

Chair Harrison confirmed with Senior Planner Caliva-Lepe and Planning Officer Miner the location of the second oak grove. Chair Harrison asked for staff comments on the pending heritage tree study as it relates to the project. Senior Planner Caliva-Lepe advised that the three oak trees and the Valley Oak tree would be saved in this project and two oak trees would be removed. Senior Planner Caliva-Lepe stated that all six trees will be reviewed by the Heritage Preservation Commission on December 7, 2016 to determine if the trees meet the threshold for heritage designation and that the City Council will have that recommendation when they hear this item on December 13th.

Chair Harrison asked for staff's comment on the distance between building requirements and if the requested deviation is common. Senior Planner Caliva-Lepe advised that deviation is fairly common for town home developments and that having this distance between two apartments is beneficial because it avoids moving them closer to the street. Planning Officer Miner noted that because this is a corner edge, it's a different scenario which is mitigated by this deviation.

Commissioner Melton confirmed with staff that under the current zoning the maximum numbers of units allowed is 132 but with participation in the Green Building Program this can increase to 138 units, and the minimum number of units is 99. Commissioner Melton asked staff to define the maximum building height allowed, elaborate on the El Camino Real recent developments outlined in the recommended findings, and outline the proposed building heights. Senior Planner Caliva-Lepe advised that recent approved developments with similar heights referred to the hotel at the Summerwinds Nursery and the AC hotel, both measuring at 5 stories and 62 feet, that the Precise Plan for El Camino Real defines a maximum at 8 stories, 75 feet (Attachment 11) and that the tallest proposed building located on Fremont Avenue measures 7 stories, 74 feet while the proposed El Camino Real building varies between 4-5 stories and is 63 feet 4 inches at the maximum height.

Commissioner Melton confirmed with Senior Planner Caliva-Lepe that the application was submitted prior when the rental housing fee was adopted, and the fee is not required for the proposed project. Commissioner Melton asked what the fee would be if the application was subject to the requirement and Senior Planner Caliva-Lepe stated the fee would be approximately \$2.6 million. The applicant has offered a \$1.0 million dollar voluntary contribution to be used for affordable housing provisions in the City.

Commissioner Melton confirmed with Principal Transportation Engineer/Planner

Shariat that the applicant's fair share of Wolfe Road improvements would amount to \$260,000.00.

Commissioner Melton and Senior Planner Noren Caliva-Lepe discussed school districts and confirmed two items: after a project is approved and at the time the applicant pulls a building permit they must pay the school mitigation fee. This fee is established by each school district based on State limitations and is used to respond to changing school populations by providing needed capital to building new classroom facilities for new students generated from future residential growth. As a result, school impacts are not considered as CEQA impacts.

Commissioner Melton confirmed with Senior Planner Caliva-Lepe that adding an entrance to the project from El Camino Real would not be feasible because a right turn lane along El Camino Real is right along the project frontage. Hexagon Transportation Consultant Gary Black stated that the traffic would be on Fremont oriented towards Sunnyvale Saratoga Road, so a driveway on El Camino Real wouldn't reduce the Fremont level of impact to a level of insignificance.

Commissioner Melton confirmed with Hexagon Transportation Consultant Black that it would take at least two months to rerun the traffic analysis with an updated project list.

Chair Harrison opened the Public Hearing.

Applicant John Vidovich, representing DeAnza Properties, presented images and information about the proposed project.

Vice Chair Rheaume noted that this project includes 43 three-bedrooms, 18 four-bedrooms and in total 270 bedrooms and 197 parking spaces (unassigned and assigned). John Vidovich advised the project contained 326 parking spaces. Senior Planner Caliva-Lepe clarified the parking requirements for the project.

John Vidovich noted parking is critical and changes over time, so you can't predict future needs, but there is underground capacity to increase parking if that is the direction of the Planning Commission.

Commissioner Simons noted he had asked staff about the selection of TDM measures and discussed with John Vidovich a CalTrans pass vs. VTA ecopass, since the VTA has closer proximity. John Vidovich confirmed flexibility in the option chosen.

Commissioner Simons discussed with John Vidovich replacement trees and a requirement for native trees. John Vidovich stated the landscape architect felt certain trees were appropriate in certain areas and that trees which could be contained were needed near the townhomes but whatever trees grow best and benefit people visually and residentially would be acceptable.

Commissioner Weiss confirmed with John Vidovich that the public can use the cut through-on the site plan and that the path is designed to maximize pedestrian use.

Commissioner Weiss asked the applicant to describe the traffic calming strategy from the green building checklist on Page 3 of 7 in Attachment 9. Dahlin Group Architect Brett Bailey said he believed the island at the entrance might qualify for the traffic calming strategy. Senior Planner Caliva-Lepe added that standard practice when the applicant submits for a building permit is to complete a Greenpoint Rating Checklist. Dahlin Group Architect Bailey noted that the traffic calming strategy is more likely a reference to the landscape architect's design for the paths around the building (the bike path curves to reduce bike speeds) and the bicycle access from the garage to the public path.

Commissioner Weiss confirmed with John Vidovich that there would be EV chargers and that the project would use cool roofs and pavements. Commissioner Weiss confirmed with John Vidovich that the taller building would be appropriate for solar, especially because it hides the solar panels from the street view.

Commissioner Weiss thanked the applicant for their voluntary contribution towards affordable housing.

Chair Harrison confirmed with John Vidovich that the dental office would remain in place during the build.

Vice Chair Rheaume confirmed with John Vidovich that the townhouse parking was completely separate from the apartment parking.

Vice Chair Rheaume requested clarification of the parking requirements for the project, and Senior Planner Caliva-Lepe confirmed that the project exceeds the minimum parking requirement.

Don Haislet spoke in opposition to the proposed project.

Ann Hatcher, Sunnyvale resident, discussed her concerns with the entrance and traffic of the proposed project.

Bob Milkovich, Sunnyvale resident, spoke in support of the proposed project.

Peter Meier, Sunnyvale resident, spoke in support of the proposed project.

Denise Delange spoke in opposition to the proposed project.

Laura Babcock, Founder and Director of Sunnyvale Heritage Museum, spoke in support of the proposed project.

Sue Serrone, Sunnyvale resident and Sunnyvale Sustainable and Affordable Living Coalition (SSLAC) spokesperson, spoke in support of the proposed project.

Deborah Marks, representative of Sunnyvale Urban Forest Advocate (SUFA), spoke in support of saving the trees within the proposed project.

Dipa Mehta spoke in support of the proposed project.

Punit Minocha, Sunnyvale resident, spoke in support of the proposed project.

Ed Cramer spoke in opposition of the proposed project.

Galen Kim Davis, Sunnyvale resident, spoke in opposition of the proposed project.

Ritesh Patel, Sunnyvale resident, spoke in support of the proposed project.

Mary Brunkhorst spoke in opposition of the proposed project.

Nirav Mehta, property owner of the dental building at El Camino Real and Wolfe, spoke in support of the proposed project.

Nandita Shah spoke in support of the proposed project.

Liz Brockman spoke in opposition of the proposed project.

Holly Lofgren spoke in opposition of the proposed project.

John Cordes, Sunnyvale resident, spoke in opposition of the proposed project.

Amit Srivastara, Sunnyvale resident, discussed her concerns with the entrances and building height of the proposed project.

Paul Healy, Sunnyvale resident, discussed his concerns with the entrances and building height of the proposed project.

Mathew Matson, Sunnyvale resident, spoke in support of the proposed project.

Joseph Rogers, Sunnyvale resident, spoke in opposition of the proposed project.

Zachary Kaufman spoke in opposition of the proposed project.

David Wessel, Sunnyvale resident, spoke in support of the proposed project.

Mei-Ling Stefan discussed her concerns with increased traffic and decreased safety due to the proposed project.

Sang Park, Sunnyvale resident, discussed his concerns with decreased safety due to the proposed project.

Michael Goldman spoke in opposition of the proposed project based on several issues, including traffic. Mr. Goldman also suggested changing the future use to a public park.

Mike Serrone, Sunnyvale resident and Sunnyvale Sustainable and Affordable Living Coalition (SSLAC) spokesperson, spoke in support of the proposed project.

Susan Charbonneau, Sunnyvale resident, discussed her concerns with increased traffic and the building height of the proposed project.

Jean Batryn, Sunnyvale resident, discussed her concerns with level of service, potential cut through traffic, height of the proposed project and the accuracy of the traffic analysis.

Commissioner Melton confirmed with Director of Public Works Pineda that the Apple Two was included in the traffic analysis.

Sam Sudarsanam spoke in opposition of the proposed project.

Susan Luschas, Sunnyvale resident, discussed her concerns with the 0.37% student generation rate since there are indications that families are moving to areas specifically for the schools.

Alpana Shah spoke in support of the proposed project.

Ian Jacobi, Sunnyvale resident, discussed his concerns with street traffic and proximity of apartments to the proposed project.

Kathryn Tomaino spoke in support of the proposed project.

Lorraine Guerrera, Sunnyvale resident, spoke in opposition of the proposed project.

Andre Gueziec spoke in opposition of the proposed project.

Marissa Kacmarsky, Sunnyvale resident, discussed her concerns with decreased safety due to the proposed project.

Mary Depew, Sunnyvale resident, discussed her concerns with the reasonable addition of properties in the proposed project.

Eberhard Waiblinger, Sunnyvale resident, spoke in opposition of the proposed project.

Applicant John Vidovich provided additional comments about the proposed project.

Commissioner Melton confirmed with John Vidovich that images from the building's height would be captured by drone and made available prior to the item's hearing date with City Council.

Commissioner Simons discussed project materials with the John Vidovich and confirmed that water would be captured and reused on site. Commissioner Simons commented on the 15 foot space between the building and Fremont Avenue and confirmed with John Vidovich that larger species trees that will grow to 80-100 feet could be included in the landscape design. Commissioner Simons confirmed with John Vidovich that they would consider preparing now or in the future for irrigation via purple pipe usage, based on the recommendations of staff and the Planning Commission.

Commissioner Weiss commented that the project is a mixed use commercial development with 6,936 feet of office space and John Vidovich advised it's actually a larger space that contains a yoga room, business area and oversized gym. Commissioner Weiss confirmed with John Vidovich that the intention of the first floor is to bring people into the site.

Commissioner Weiss asked for the applicant's comments regarding concern about how a seven story apartment building would be in character on Fremont Avenue. John Vidovich advised that a seven story building would be novel but with the right design and open space, it would increase the character of the area.

Chair Harrison closed the public hearing.

Commissioner Howe confirmed with Senior Planner Caliva-Lepe that if the rental units are converted to condominium properties in the future the City of Sunnyvale would implement the affordable housing requirement at that time.

Commissioner Howe confirmed with Senior Planner Caliva-Lepe that the rental properties will be built with separately metered water and electricity so that they can be sold as condominiums in the future.

Vice Chair Rheaume asked staff to clarify Conditions of Approval PS-1.E – to modify the building design and increase the setbacks on the 5th and 6th floors. Senior Planner Caliva-Lepe advised that the setbacks pertain to only the 5th and 6th floors and that staff requests to continue to work with the applicant in order to determine the appropriate setback for these additional floors.

Commissioner Simons asked for staff input on the potential performance of adding just an ingress on El Camino Real; Director of Public Works Pineda advised this option was not explored because the driveway on Fremont provides access and safety concerns given the dedicated right turn lane from El Camino Real onto Wolfe Road.

Commissioner Simons asked for staff input on using a VTA ecopass instead of a CalTrans pass, considering the potential for children traveling to school. Senior Planner Caliva-Lepe advised that it was within the purview of the Planning Commission to request this change, noting that the closest CalTrain stop is less than a mile from the project and that a major VTA transit stop is near the corner of Wolfe and El Camino Real.

Chair Harrison asked for staff comments on the site distance evaluation and street parking on Fremont. Principal Transportation Engineer Planner Shariat advised that the recommended site distance required for safe stopping is 300 feet and that relative to the intersection, the project driveway would be located at a distance of 340 feet, which would meet the site distance requirements.

Chair Harrison confirmed with Director of Public Works Pineda that City staff made

the determination to omit an entrance and exit on El Camino Real.

Chair Harrison asked for staff comments on the dedication of right turn lanes on Wolfe Road, and Director of Public Works Pineda advised that a dedicated right turn lane was included in Alternative 3 chosen by City Council for the Wolfe Road Corridor Study and that adding a right turn lane has immediate traffic benefits. Principal Transportation Engineer/Planner Shariat commented that inclusion of the addition of the right turn lane improves the level of service on Wolfe Road by one letter grade.

Chair Harrison asked for staff comments on safe routes to school and what has been proposed for the Fremont Avenue area and Director of Public Works Pineda advised that there are no specific improvements for that location at this time but that the last improvements on Fremont Avenue two years ago included modified traffic lanes and improving bicycle lanes.

Chair Harrison confirmed with Senior Planner Caliva-Lepe that the general plan designation for the site is high density residential, which usually corresponds to R4, but that you can have R3 within that same general plan designation. Senior Planner Caliva-Lepe commented that in the earlier submittal from July 2014 that application did require a rezone to R4 but with the current plan modifications the zoning designation is R3.

Chair Harrison confirmed with Senior Planner Caliva-Lepe that because the El Camino Real Precise Plan allows taller buildings (up to 8 stories and 75 feet in height) the maximums for this project are different than for standard R3 zoning. Planning Officer Andrew Miner advised that the El Camino Real Precise Plan was adopted in 2007 and updated in 2009 or 2010.

Chair Harrison clarified with Senior Planner Caliva-Lepe that the City Council has the authority to decide if the trees in this project meet heritage designation and they will have the Heritage Preservation Commission's recommendation.

MOTION: Commissioner Melton moved and Commissioner Rheaume seconded the motion to recommend to City Council Alternative 2: do not certify the EIR and do not adopt the Statement of Overriding Considerations and Mitigation Monitoring Program and direct staff to re-run the cumulative impact analysis with an updated project list and an updated project list analysis.

Commissioner Melton commented that while the traffic analysis has been done in complete specification of CEQA laws, the concern is that CEQA is unable to keep

up with the high growth of the City of Sunnyvale. Commissioner Melton noted that the project list influences the results and should be updated to determine if there are significant and unavoidable impacts at intersections other than at Kingfisher/Fremont.

Commissioner Melton mentioned that an EIR does not require absolute perfection as long as the best attempt to provide the information is made.

Commissioner Melton and Planning Officer Miner discussed the list of projects considered in the traffic volumes analysis; Commissioner Melton clarified that staff should provide additional documentation that indicates the origin and rationale of the numbers included in the analysis, and to take the opportunity to update any data, if needed. Director of Public Works Pineda confirmed that the intersection traffic volumes are equivalent to the growth factors.

Commissioner Rheaume commented that it's important to refresh the numbers with an updated project list that encompasses the last two years.

Commissioner Howe commented that considering the Apple project was included and should have the single largest effect in the given area, the developer deserves a decision and the project should not have further delays.

Commissioner Simons requested inclusion of an analysis of closing Kingfisher; Commissioner Melton did not accept the request and recommended a separate second motion for this request.

Commissioner Weiss commented that more information is needed in order to reach a decision on the project, despite her affinity for the project, placement and design and she will support Commissioner Melton's motion.

Chair Harrison commented that she will not support the motion because absolute perfection is not required and the applicant deserves an answer tonight, as scheduled.

The motion tied by the following vote:

Yes: 3 - Vice Chair Rheaume
Commissioner Melton
Commissioner Weiss

No: 3 - Chair Harrison
Commissioner Howe
Commissioner Simons

Absent: 1 - Commissioner Olevson

Senior Assistant City Attorney Moon advised that if the Commissioners believe the EIR is legally adequate, it would be appropriate to certify the EIR without making the Statement of Overriding Considerations or approving the project.

Commissioner Howe recommended the Planning Commission come up with a motion that passes, so that something moves forward to the City Council in a timely fashion.

MOTION: Commissioner Simons moved to recommend to City Council Alternative 2: do not certify the EIR and do not adopt the Statement of Overriding Considerations and Mitigation Monitoring Program and direct staff as to where additional environmental analysis is required – including an analysis to measure the impacts of closing Kingfisher at some point south of Fremont. This motion was not seconded.

Chair Harrison and Commissioner Howe clarified with Senior Assistant City Attorney Moon that the Commissioners can recommend to City Council to certify the EIR but request additional information analyzing the traffic impacts in order to make the findings and recommend approval of the project to the City Council.

MOTION: Vice Chair Rheaume moved and Commissioner Howe seconded the motion to recommend to City Council Alternative 1: adopt a Resolution to Certify the EIR and make the findings required by CEQA.

Senior Assistant City Attorney Moon clarified with Vice Chair Rheaume that the motion only pertained to certifying the EIR and did not include adopting the Statement of Overriding Considerations.

Commissioner Howe clarified with Senior Assistant City Attorney Moon that in order to approve the project the Planning Commission would have to adopt the Statement of Overriding Considerations. Senior Assistant City Attorney Moon further clarified that the Planning Commission could recommend to City Council that additional information is needed outside of the EIR and approval could be conditional based on that information.

Commissioner Simons commented he planned to support the EIR but several items raised during the hearing concerned him, including the potential impact of a right hand ingress, the possibility of closing Kingfisher in order to mitigate the effects of cut through traffic, and the need for an updated project list. Chair Harrison advised that Commissioner Simons could make a separate motion.

The motion tied by the following vote:

Yes: 3 - Chair Harrison
Vice Chair Rheaume
Commissioner Howe

No: 3 - Commissioner Melton
Commissioner Simons
Commissioner Weiss

Absent: 1 - Commissioner Olevson

MOTION: Commissioner Howe moved to recommend to City Council Alternative 2: do not certify the EIR and do not adopt the Statement of Overriding Considerations and Mitigation Monitoring Program and direct staff as to where additional environmental analysis is required - request additional traffic analysis using a more current project list, look at the possibility of a right hand ingress into the project at El Camino Real and at a later date look at mitigating the traffic impacts on Kingfisher.

Planning Officer Miner commented that adding the right turn lane on El Camino Real would effectively force a redesign of the building.

Commissioner Howe clarified with Senior Assistant City Attorney Moon and Planning Officer Miner that the tentative two month time frame pertained only to updating the traffic analysis and that the recirculation of the EIR and additional analysis could take longer.

Commissioner Howe modified his motion in order to remove the analysis of the addition of an ingress and mitigation of traffic impacts on Kingfisher, moving to reconsider Commissioner Melton's original motion.

MOTION: Commissioner Howe moved and Commissioner Melton seconded the motion to recommend to City Council Alternative 2: do not certify the EIR and do not adopt the Statement of Overriding Considerations and Mitigation Monitoring Program and direct staff as to where additional environmental analysis is required - request additional traffic analysis using a more current project list and once the analysis is completed the project should come back to the Planning Commission.

The motion carried by the following vote:

Yes: 6 - Chair Harrison
Vice Chair Rheaume
Commissioner Howe
Commissioner Melton
Commissioner Simons
Commissioner Weiss

No: 0

Absent: 1 - Commissioner Olevson

Commissioner Melton clarified with Senior Assistant City Attorney Moon that because the recommendation is to not certify the EIR no further action should be taken on Alternatives 3-7.

MOTION: Commissioner Melton moved and Vice Chair Rheaume seconded the motion to recommend to City Council, should they disregard the Planning Commission recommendation and choose Alternative 1:

1. Limit the Fremont building height to 4 stories;
2. Implement an ingress/egress on El Camino Real;
3. Reduce the number of residential units closer to the minimum 99 units; and,
4. Provide drone views from the tallest windows on the Fremont Building (the applicant indicated he will have views available to present at the City Council hearing).

Commissioner Melton commented that the recommendation to City Council is to explore potential solutions, especially in regards to an ingress/egress on El Camino Real and a reduction in building height.

Vice Chair Rheaume commented that building height is of concern, that a level of service F at Kingfisher/Fremont is not acceptable and it is difficult to believe that level of service on El Camino Real and Wolfe will stay at E+. Vice Chair Rheaume noted that rerunning the traffic analysis will ensure all recent developments are included.

FRIENDLY AMENDMENT: Vice Chair Rheaume offered a friendly amendment to relocate and/or save the two additional Oak trees. Commissioner Melton accepted.

FRIENDLY AMENDMENTS: Commissioner Simons offered the following friendly amendments:

1. Consider providing VTA ecopasses instead of CalTrans passes;
2. Coordinate with Oakwood Silicon Valley regarding the potential ingress/egress;
3. Explore installation of infrastructure that will allow for future connection to

recycled water along Wolfe Road; and,

4. Plant large trees that are appropriate for the site and low-water use/native in front of the El Camino Real and Fremont Buildings and consider saving more trees. Commissioner Melton and Vice Chair Rheaume accepted.

The motion carried by the following vote:

Yes: 4 - Vice Chair Rheaume
Commissioner Melton
Commissioner Simons
Commissioner Weiss

No: 2 - Chair Harrison
Commissioner Howe

Absent: 1 - Commissioner Olevson

Chair Harrison confirmed with Planning Officer Miner that the recommendations of the Planning Commission will go to the City Council and staff will do their best to ensure all comments are adequately addressed.

3. [16-0941](#) **Proposed Project:** **REZONE:** Introduction of Ordinance to rezone 54 contiguous lots (53 single-family homes and a lot owned by the California Water Service) from R-0 (Low Density Residential) to R-0/S (Low Density Residential/Single-Story)
File #: 2016-7467
Location: Multiple properties bound by Panama Park on the west, Dartshire Way on the south, Mallard Way on the east and Carlisle Way on the north including Coventry and Cornwall Courts. 1403-1457 Mallard Way (APNs: 309-11-039 through 309-11-041, 309-11-053 to 309-11-055, and 309-11-022), 800-862 Carlisle Way (APNs: 309-11-036 through 309-11-038 and 309-12-013), 321-361 Dartshire Way (APNs: 309-11-023 through 309-11-025 and 309-12-029 through 309-12-032), 854-870 Cornwall Court (APNs: 309-11-042 through 309-11-052), 812-827 Coventry Court (APNs: 309-12-019 through 309-12-026), and 1402-1458 Kingfisher Way (APNs: 309-11-026 through 309-11-035, 309-12-014 through 309-12-018, and 309-12-027 through 309-12-028).
Zoning: R-0
Applicant / Owner: Paul Healy (plus multiple owners)
Environmental Review: The Ordinance being considered is categorically exempt from review pursuant to CEQA Guidelines Section 15305 (minor alteration in land use) and Section 15061(b)(3) (a general rule that CEQA only applies to projects that have the potential for causing a significant effect on the environment. Where it can be seen with certainty that there is no possibility that the action may have a significant effect on the environment, the activity is not

subject to CEQA).

Assistant Planner Aastha Vashist presented the staff report.

Commissioner Weiss verified with Assistant Planner Vashist that the California Water Service Company (Cal Water) responded to staff regarding the Rezone request after the staff report was completed, and that the owner of the property at 835 Dartshire was contacted.

Vice Chair Rheaume discussed with Senior Assistant City Attorney Rebecca Moon the finding of public interest as it relates to land use.

Commissioner Weiss verified with Planning Officer Andrew Miner that there is no conflict between Single Story Combining Districts (SSCD) and new State regulations on accessory dwelling units. Planning Officer Miner said under a SSCD homeowners could still build an accessory dwelling unit as long as the building remains under 17 feet in height.

Chair Harrison opened the Public Hearing.

Applicant Paul Healy provided information about the application.

Galen Kim Davis, Sunnyvale resident, spoke in support of the application.

Chris Wilson, representing Cal Water, said the use of the property owned by the company is not for residential purposes, and that the company objects to rezoning. He requested the Cal Water property be exempted from the Rezone, or that a planned development be put in place.

Sheau Voon Lee, Sunnyvale resident, spoke in support of the application.

Terry Grossman, Eichler homeowner, spoke in support of the application.

Mei-Ling Stefan, Sunnyvale resident, spoke in support of the application.

Susan Luschas, Sunnyvale resident, spoke in support of the application.

Eberhard Waiblinger, Sunnyvale resident, spoke in support of the application.

Holly Lofgren, Sunnyvale resident, spoke in support of the application.

Mr. Healy provided final comments about the proposed application and said he would like to see the Cal Water property kept within the proposed district and

suggested the company apply for a Variance for height for any water structure improvements.

Chair Harrison closed the Public Hearing.

Chair Harrison confirmed with staff that Cal Water could apply for a Use Permit for additional public utilities on their property and that it would not be subject to the height limit of an approved SSCD.

MOTION: Commissioner Howe moved and Commissioner Melton seconded the motion for Alternatives 1. Find the project exempt from the California Environmental Quality Act (CEQA) pursuant to CEQA Guidelines Sections 15305 and 15061(b)(3); and, 2. Introduce an Ordinance to Rezone 54 contiguous single family home lots from R-0 (Low Density Residential) to R-0/S (Low Density Residential/Single-Story).

Commissioner Melton said he can make the required findings and that he is tracking the discussion about the Cal Water property and is comfortable with where we are heading. He said he wishes the applicants all the best as they move forward to City Council.

Commissioner Weiss said the Housing Element includes policy A-1 which encourages diversity in the type, size, price and tenure of residential development, and that this Rezone request does not follow this policy. She said she does not want to see Sunnyvale become a gated community south of El Camino Real, and that she recognizes all procedures were followed, so with reluctance she supports the motion.

Commissioner Simons said he supports the motion and understands Commissioner Weiss' comment, but that this is not a motion dictating architectural look and feel except for the height of the house. He said you can build large homes with basements on these lots and that varying architecture is doable. He said these applications are mainly about privacy and he supports the intent of the single story overlay.

Chair Harrison said she is not supporting the motion and referred to the City Attorney's research on the interpretation of "public interest." She said she has heard arguments saying SSCDs limit development and depress property values, and opposing arguments saying allowing second stories depress single story property values. She said there is no definitive study showing whether SSCDs are a benefit to the entire public or a narrow benefit to a few people. She said she

understands the concerns over privacy but the Eichler Design Guidelines address every aspect of privacy and aesthetics, and that this SSCD would be redundant, limiting and not in the interest of Sunnyvale.

Vice Chair Rheaume said he is not supporting the motion and that the guidelines in place address the privacy issues.

The motion carried by the following vote:

Yes: 4 - Commissioner Howe
Commissioner Melton
Commissioner Simons
Commissioner Weiss

No: 2 - Chair Harrison
Vice Chair Rheaume

Absent: 1 - Commissioner Olevson

4. [16-1052](#) Forward a recommendation to the City Council to adopt an Urgency Interim Ordinance and to introduce an Ordinance to Amend Title 19 (Zoning) and Title 10 (Vehicles and Traffic) of the Sunnyvale Municipal Code related to Senate Bill 1069 and Assembly Bill 2299, and Find that the Action is Exempt from CEQA.

Associate Planner Kelly Cha presented the staff report.

Planning Officer Andrew Miner noted that there is support for Accessory Dwelling Units (ADU) providing additional housing in tight markets. He said State law goes beyond what is allowed in Sunnyvale but staff recommends proceeding with this Ordinance because not doing so means Sunnyvale falls under State law.

Senior Assistant City Attorney Rebecca Moon explained that staff had a short time to digest the complicated and confusing State legislation and this draft Ordinance is an attempt at interpretation and to capture what staff supports. She said the State Department of Housing and Community Development (HCD) sent draft guidance, which is much more aggressive in their interpretation of the legislation, and that if HCD determines our Ordinance is inconsistent, it could be deemed null and void, leaving the City with no regulation until Sunnyvale gets something on the books. She explained that when the legislation was enacted it intended to force cities to be as permissive as possible in allowing ADUs, and that because staff does not agree with everything the State is asking, staff is recommending adoption of an Ordinance we consider consistent and then to amend it next year, if needed.

Vice Chair Rheaume confirmed with Senior Assistant City Attorney Moon that the

Ordinance allows for half a single family home to be converted into an ADU, resulting in what could be considered a duplex, and clarified that staff is recommending to define “car share vehicle” in the parking requirements as a fixed, designated pick up or drop off location.

Commissioner Simons and staff discussed a possible timeline for review and cleanup of the Ordinance, and Planning Officer Miner noted that additional changes to the Ordinance regarding ADUs will be reviewed with the Housing Element and could potentially occur around mid-2017.

Commissioner Weiss verified with Senior Assistant City Attorney Moon that currently non-permitted ADUs would not be automatically grandfathered in, and that homeowners wanting to make an ADU legal would have to apply for a permit and meet City standards.

Chair Harrison discussed with Senior Assistant City Attorney Moon requirements for separate utility connections and billing for ADUs. Senior Assistant City Attorney Moon said the legislation broadly interprets utility hook ups and that it would need further discussion with the Finance Department to ensure compliance. Chair Harrison and Senior Assistant City Attorney Moon also discussed the recommended reduction in minimum lot size for ADUs, and Senior Assistant City Attorney Moon said the HCD cautioned against having a minimum lot size that is too restrictive. She said 8,500 square feet is a number staff produced to relax the standard. Planning Officer Miner added that staff is looking at reducing the minimum lot size for properties that are within a specific distance from transit.

Chair Harrison opened the Public Hearing.

Prayat Ranka, Sunnyvale resident owns a property 8,200 square feet in size and requested reducing the minimum lot size to 7,500-8,000 square feet to allow the construction of more ADUs.

Chair Harrison closed the Public Hearing.

Chair Harrison clarified with Planning Officer Miner that there was no guidance given by HCD on how much to reduce the minimum lot size by, and that staff came up with 8,500 square feet to comply with State law while not making a radical change as staff will be studying reductions to lot sizes soon. Chair Harrison clarified with Senior Assistant City Attorney Moon that the minimum lot size only applies to new construction and that an interior space conversion would have to be contained within an existing structure. Senior Assistant City Attorney Moon said one way to

prevent building an addition that could be converted into a duplex would be to have a deed restriction disallowing conversion for 10 years.

MOTION: Commissioner Simons moved and Commissioner Howe seconded the motion to recommend to City Council Alternative 1: Adopt an Urgency Interim Ordinance and Introduce an Ordinance to Amend Title 19 (Zoning) and Section 10.26.050 of the Sunnyvale Municipal Code to ensure consistency with Senate Bill 1069 and Assembly Bill 2299, as amended by staff.

The motion carried by the following vote:

Yes: 6 - Chair Harrison
Vice Chair Rheaume
Commissioner Howe
Commissioner Melton
Commissioner Simons
Commissioner Weiss

No: 0

Absent: 1 - Commissioner Olevson

STANDING ITEM: CONSIDERATION OF POTENTIAL STUDY ISSUES

None.

NON-AGENDA ITEMS AND COMMENTS

-Commissioner Comments

None.

-Staff Comments

Planning Officer Andrew Miner commented that there is a meeting on December 12th and that the December 5th Planning Commission meeting is the last extra meeting anticipated.

ADJOURNMENT

Chair Harrison adjourned the meeting at 12:44 AM.