



# City of Sunnyvale

## Meeting Minutes - Final Planning Commission

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Monday, August 28, 2017

7:00 PM

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

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

### 6 P.M. STUDY SESSION

#### Call to Order in the West Conference Room

#### Roll Call

#### Study Session

- A.      [17-0833](#)      **File #:** 2015-8110  
**Location:** 675 Almanor Ave. (APNs: 165-44-006 165-44-012)  
**Zoning:** PPSP/IEAC  
**Approved Project Modification:** To review increase in the size of the approved parking structure. This project was recommended for approval at the March 13th, 2017 Planning Commission meeting and approved at the April 18th, 2017 City Council meeting.  
**Applicant / Owner:** Chang Architecture/Almanor Ventures LLC  
**Environmental Review:** The project is exempt from additional CEQA review per CEQA Guidelines section 15168(c)(2) and (4) and Public Resources Code Section 21094(c). The project is within the scope of the Peery Park Specific Plan Program EIR as no new environmental impacts are anticipated and no new mitigation measures are required.  
**Project Planner:** Momoko Ishijima, (408) 730-7532, mishijima@sunnyvale.ca.gov
- B.      [17-0831](#)      **File #:** 2016-7173  
**Location:** 265 Sobrante Way (APN: 165-27-002)  
**Zoning:** PPSP/MIC (Peery Park Specific Plan/Mixed Industry Core)  
**Proposed Project:**  
**PEERY PARK PLAN REVIEW:** To allow redevelopment of a site with a new 4-story, 121,715 square foot office/R&D building with underground parking resulting in 80% Floor Area Ratio (FAR).  
**Applicant / Owner:** Sobrante Properties LLC (applicant and owner)  
**Project Planner:** Shetal Divatia, (408) 730-7637,

sdivatia@sunnyvale.ca.gov

**Public Comment on Study Session Agenda Items**

**Adjourn Study Session**

**7 P.M. PLANNING COMMISSION MEETING**

**CALL TO ORDER**

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

**SALUTE TO THE FLAG**

Chair Rheume led the salute to the flag.

**ROLL CALL**

- Present:** 4 - Commissioner Sue Harrison  
Chair Ken Rheume  
Commissioner John Howe  
Commissioner Ken Olevson

- Absent:** 3 - Commissioner Daniel Howard  
Commissioner David Simons  
Vice Chair Carol Weiss

Status of absence; Commissioner Weiss’s absence is excused.

Status of absence; Commissioner Howard’s absence is excused.

Status of absence; Commissioner Simons’s absence is excused.

**ORAL COMMUNICATIONS**

**CONSENT CALENDAR**

Commissioner Olevson commented that per his review, City staff reports meet the American Planning Association’s outline for well written and presented reports.

Commissioner Olevson thanked staff for their efforts.

Commissioner Howe moved and Commissioner Harrison seconded the motion to approve the Consent Calendar. The motion carried by the following vote:

**Yes:** 3 - Commissioner Harrison  
Commissioner Howe  
Commissioner Olevson

**No:** 0

**Absent:** 3 - Commissioner Howard  
Commissioner Simons  
Vice Chair Weiss

**Abstained:** 1 - Chair Rheume

1. A [17-0832](#) Approve Planning Commission Meeting Minutes of August 14, 2017

### **PUBLIC HEARINGS/GENERAL BUSINESS**

2. [17-0626](#) Single-Story Combining District Buffer Study: Forward a Recommendation to the City Council to Introduce an Ordinance to Rezone a 50-foot wide area along the rear (eastern) property lines of 696 Sheraton Drive (APN 202-09-020), 1158 Hollenbeck Avenue (APN 202-09-019), and 1160 Hollenbeck Avenue (APN 202-09-018), and a 20-foot wide area along the side (southern) property line of 1160 Hollenbeck Avenue (APN 202-09-018) from Low Density Residential Zoning District (R-1) to Low Density Residential Zoning District/Single-Story Combining District (R-1/S), and Find that the Action is Exempt from CEQA Pursuant to CEQA Guidelines Sections 15305 and 15061(b)(3).  
**Project Planner:** Kelly Cha, (408) 730-7408, kcha@sunnyvale.ca.gov

Associate Planner Kelly Cha presented the staff report.

Commissioner Howe confirmed with Planning Officer Andrew Miner the number of votes required for a motion to move forward for each item on the agenda.

Commissioner Harrison asked staff to outline the petition and survey results for the property owners along Torrington Drive. Associate Planner Cha provided the results for those properties.

Chair Rheume asked staff to clarify the difference between this item and the split zoning item heard at the August 14th, 2017 Planning Commission meeting. Associate Planner Cha advised that the split zoning Ordinance could enable split zoning but that it was not recommended by the Planning Commission. Associate

Planner Cha noted that this Single Story Combining District (SSCD) Buffer Study is being heard tonight per the direction of the City Council.

Chair Rheaume asked staff about preventive measures for split zoning. Planning Officer Miner stated that split zoning can be used within an SSCD or as a Planning tool to help ensure visibility for property owners. Chair Rheaume asked staff about City residential properties that utilize split zoning. Planning Officer Miner provided an estimate and details about the use of split zoning. Planning Officer Miner commented that the Office of the City Attorney recommended to include split zoning standards in Title 19 (Zoning) of Sunnyvale's Municipal Code (SMC). Chair Rheaume noted his concern that implementing split zoning could impact future property resales. Planning Officer Miner stated that the zoning district would remain R-1 (Low Density Residential) except in the areas with split zoning which would have an R-1/S designation (Low Density Residential/Single-Story Combining District).

Commissioner Harrison clarified the petition and survey results for the property owners along Hollenbeck Avenue with Associate Planner Cha.

Chair Rheaume opened the Public Hearing.

Peter Anning, Sunnyvale resident, spoke in support of staff's recommendation for rezoning and commented on the general decimation of Eichler neighborhoods in the Bay area.

Scott McIntosh, Sunnyvale resident, spoke in support of staff's recommendation for rezoning and commented on the potential benefits of rezoning the Fairbrae properties.

Commissioner Harrison discussed with Mr. McIntosh his comment that this item is in the public interest.

Andrea Georgelos, Sunnyvale resident, spoke in opposition of staff's recommendation for rezoning and requested that the Planning Commission recommend a 50-foot buffer for the side property. Ms. Georgelos noted her opposition to the SSCD designation and a previous request to be excluded from the SSCD.

Commissioner Harrison confirmed with Ms. Georgelos that she would still request

exclusion of her properties from the SSCD and that in her opinion, that would negate the need for a buffer.

Walter Huber spoke in opposition of staff's recommendation for rezoning and noted that he only supported the original SSCD application before the three properties were excluded.

Commissioner Harrison confirmed with Mr. Huber that he would request to not have the SSCD designation on his property.

Gabriela Zuniga spoke in opposition of staff's recommendation for rezoning and requested a rezone to an R-1 designation. Ms. Zuniga commented on split zoning's potential impact on property values.

Commissioner Harrison confirmed with Ms. Zuniga that the property owner of 699 Torrington Drive is present at the public hearing.

Pete Whitfield, Sunnyvale resident, spoke in opposition of staff's recommendation for rezoning.

Commissioner Harrison confirmed with Mr. Whitfield that he would request to not have the SSCD designation on his property.

Carol Ferioli-Moe spoke in opposition of staff's recommendation for rezoning and stated an opinion that an R-1 designation makes the most sense. Ms. Ferioli-Moe commented on the available tools for privacy and questioned the burden that split zoning would impose on the smallest property.

Shian Lee presented images and information about the proposed rezoning and spoke in opposition of staff's recommendation for rezoning.

Roger Teter, Sunnyvale resident, spoke in support of staff's recommendation for rezoning.

Chair Rheaume closed the Public Hearing.

Commissioner Harrison asked staff about an alternative solution such as removing properties from the SSCD designation. Planning Officer Miner advised that a minimum of 20 properties must be added or removed per the current Ordinance.

Planning Officer Miner stated that this minimum could be reviewed if the SSCD Study Issue is amended. Commissioner Harrison discussed the subdivision of lots and redevelopment potential with Planning Officer Miner.

Commissioner Olevson commented that regardless of the buffer distance, based on the line of sight drawings the line of sight from the second story is into the adjacent property. Commissioner Olevson noted that the Planning Commission has imposed landscaping in previous applications to mitigate this issue and asked staff why this was not considered. Associate Planner Cha advised that landscaping is not a requirement in the rear yard for single-family homes. Planning Officer Miner commented on the greater potential for interruption in the line of sight with a greater buffer distance and noted the additional options for screening opportunities.

Commissioner Harrison discussed the potential for high sill windows with Planning Officer Miner.

Commissioner Howe commented that four votes are required for the Planning Commission to move forward with a recommendation to the City Council. Commissioner Howe stated that the SSCD for the Fairbrae area was approved but that the exclusion of three properties has eliminated a clear solution. Commissioner Howe reiterated that less than 20 properties cannot currently be removed from the SSCD and commented on the difference between buffer distances.

MOTION: Commissioner Howe moved the staff recommendation for Alternatives 1, 3 and 6 –

1. Rezone 50 feet of the rear properties at 696 Sheraton Drive, 1158 Hollenbeck Avenue and 1160 Hollenbeck Avenue adjoining 675, 679, 683, and 682 Tiffany Court from Low Density Residential Zoning District (R-1) to Low Density Residential Zoning District/Single-Story Combining District (R-1/S);
  3. Rezone 20 feet of the side property of 1160 Hollenbeck Avenue adjoining 689, 695, and 699 Torrington Drive from Low Density Residential Zoning District (R-1) to Low Density Residential Zoning District/Single-Story Combining District (R-1/S);
- and,
6. Find that the Action is Exempt from CEQA Pursuant to CEQA Guidelines Sections 15305 and 15061(b)(3).

This motion failed for lack of a second.

MOTION: Commissioner Harrison moved and Commissioner Olevson seconded the motion for Alternatives 5 and 6 –

5. Do not rezone the three properties at 696 Sheraton Drive, 1158 Hollenbeck Avenue, and 1160 Hollenbeck Avenue, and make no changes to zoning district boundaries
6. Find that the Action is Exempt from CEQA Pursuant to CEQA Guidelines Sections 15305 and 15061(b)(3)

Commissioner Harrison commented that based on public opinion the entirety of the Fairbrae area doesn't want the SSCD designation and that the closest action the Planning Commission can take is to recommend that the three properties are not rezoned with split zoning. Commissioner Harrison stated an opinion that there are large properties with redevelopment potential to single-family homes. Commissioner Harrison noted that the combination of solar shading requirements, setbacks and Design Guidelines could prohibit a large second story development if split zoning were implemented. Commissioner Harrison stated that there may be future potential for a change in the entire block.

Commissioner Olevson stated an appreciation of the practical reasons outlined by Commissioner Harrison. Commissioner Olevson commented that the City has created an SSCD designation which allows residents in a contiguous area to create additional restrictions beyond the original zoning for their properties. Commissioner Olevson stated an opinion that now residents are looking to exert influence beyond that area and commented that land use should respect the rights of all owners. Commissioner Olevson stated an opinion that this is not a taking legally but that it is a taking practically. Commissioner Olevson stated that his recommendation to the City Council is that these properties not be rezoned.

Commissioner Howe asked staff to outline the number of lots that would legally exist if the three properties were split. Planning Officer Miner advised that the Fairbrae Swim and Racquet Club could be split into five lots, 1158 Hollenbeck Avenue into three lots and 1160 Hollenbeck Avenue into two lots.

Commissioner Howe commented on the potential for multiple lots and their adjacent nature to the rear of the existing Eichler homes. Commissioner Howe stated that the majority of Fairbrae residents agreed to the SSCD designation, that three properties were excluded and that now potentially ten lots could back up to the existing Eichler homes.

Chair Rheume stated that he will be supporting the motion and noted his agreement with the statements made by Commissioner Harrison and Commissioner Olevson. Chair Rheume commented that City Council approved the SSCD with the exclusion of three properties and that now additional zoning is being considered for those three properties. Chair Rheume stated an opinion that it would not be in the best public interest and that the existing guidelines sufficiently address privacy concerns. Chair Rheume commented that he doesn't personally support the SSCD and that additional zoning shouldn't be added.

Commissioner Howe stated an opinion that the majority of the Planning Commission should move forward with a recommendation and that he will reluctantly support the motion. Commissioner Howe stated an opinion that it is a taking despite that legally it is not a taking.

The motion carried by the following vote:

**Yes: 4 -** Commissioner Harrison  
Chair Rheume  
Commissioner Howe  
Commissioner Olevson

**No: 0**

**Absent: 3 -** Commissioner Howard  
Commissioner Simons  
Vice Chair Weiss

Planning Officer Miner advised that this item goes to the City Council on September 12th, 2017 along with the Split Zoning Ordinance.

3. [17-0818](#) Nomination of a Planning Commission Representative to the Climate Action Plan (CAP 2.0) Advisory Committee (CAC)

Environmental Services Department Regulatory Programs Division Manager Melody Tovar presented the staff report.

Chair Rheume opened the Public Hearing.

Chair Rheume closed the Public Hearing.

MOTION: Commissioner Howe moved and Commissioner Olevson seconded the



motion to nominate Commissioner Harrison to serve on the Climate Action Plan (CAP 2.0) Advisory Committee (CAC) –

The motion carried by the following vote:

**Yes:** 4 - Commissioner Harrison  
 Chair Rheaume  
 Commissioner Howe  
 Commissioner Olevson

**No:** 0

**Absent:** 3 - Commissioner Howard  
 Commissioner Simons  
 Vice Chair Weiss

- 4. [17-0706](#) **File #:** 2017-7290  
**Location:** 887 Spinosa Drive (APN:201-29-006)  
**Zoning:** R-0  
**Proposed Project:** **DESIGN REVIEW** to allow a 305 square feet first-floor addition and 492 square feet second-floor addition to an existing two-story single family residence resulting in 3,535 square feet floor area (3,068 square feet living area and 467 square feet garage) with 58.7 percent Floor Area Ratio (FAR).  
**Applicant / Owner:** Phan Architects (applicant) / Andrew Trung and Donabel Le (owner)  
**Environmental Review:** Class 1 Categorical Exemption relieves this project from the California Environmental Quality Act (CEQA) provisions that include minor additions to an existing single-family residence (CEQA Guidelines, Section 15301).  
**Project Planner:** Aastha Vashist, (408) 730-7458, avashist@sunnyvale.ca.gov

Assistant Planner Aastha Vashist presented the staff report.

Chair Rheaume opened the Public Hearing.

Phoi Phan, representing Phan Architects, presented information about the proposed project.

Andrew Le, applicant, presented information about the proposed project.

Phoi Phan, representing Phan Architects, presented additional information about the proposed project.

Chair Rheume closed the Public Hearing.

MOTION: Commissioner Olevson moved and Commissioner Harrison seconded the motion for Alternative 1– Approve the Design Review with the Conditions of Approval in Attachment 4.

Commissioner Olevson commented that it is unusual to have a project which meets the City’s Municipal Code and is attractive. Commissioner Olevson stated that the only reason for the public hearing is the project’s Floor Area Ratio (FAR). Commissioner Olevson commented that this will be a nice addition to the neighborhood and that he recommends approval for this project.

Commissioner Harrison stated that she can make the findings in regards to the design principles and commented that the updated floor plan is suitable for the present time.

Chair Rheume stated that he will be supporting the motion, can make the findings and noted that all the setbacks have been met. Chair Rheume noted his appreciation of the quality design, such as the window trim, and commented that this project will be a nice addition for the neighborhood.

The motion carried by the following vote:

**Yes: 4 -** Commissioner Harrison  
 Chair Rheume  
 Commissioner Howe  
 Commissioner Olevson

**No: 0**

**Absent: 3 -** Commissioner Howard  
 Commissioner Simons  
 Vice Chair Weiss

Planning Officer Miner stated this decision is final unless appealed to the City Council within 15 days or called up by the City Council within 15 days.

- 5.        [17-0707](#)        **File #:** 2017-7213  
    **Location:** 925 Amador Avenue (APN: 205-06-045)  
    **Zoning:** R-0

**Proposed Project:** DESIGN REVIEW to allow a 507 square feet first-floor addition and 470 square feet second-floor addition to an existing one-story single family residence resulting in 2,509 square feet floor area (2,084 square feet living area and 425 square feet garage) with 48.3 percent Floor Area Ratio (FAR). The existing 8 feet 10 inch high, 120 square feet detached accessory structure (shed) is proposed to be demolished.

**Applicant / Owner:** Jimmy Dinh's Drafting (applicant) / Trinh Thai And Trung Du (owner)

**Environmental Review:** Class 1 Categorical Exemption relieves this project from the California Environmental Quality Act (CEQA) provisions that include minor additions to an existing single-family residence (CEQA Section 15301).

**Project Planner:** Aastha Vashist, (408) 730-7458, avashist@sunnyvale.ca.gov

Assistant Planner Aastha Vashist presented the staff report.

Commissioner Harrison commented on Condition of Approval (COA) GC-2 and asked staff what permit is required for an Accessory Dwelling Unit (ADU) conversion and to confirm that it is not permissible to add two separate ADU's to an existing property. Assistant Planner Vashist provided details about the potential conversion to an ADU, noted there is no threshold for the lot size and stated that it would require a staff level Miscellaneous Plan Permit (MPP) with a deed restriction.

Commissioner Harrison noted the potential to add two ADU's based on the site plan and asked staff about the minimum square footage for an ADU. Assistant Planner Vashist clarified that only one ADU is allowed. Commissioner Harrison stated an opinion that the likelihood is that two ADU's will develop. Planning Officer Miner noted that the Planning Commission can clarify conversion of only one ADU as part of their motion. Commissioner Harrison asked about the permit requirements. Assistant Planner Vashist advised that the ADU's would have to adhere to the Building and Fire Codes. Planning Officer Miner commented that this adherence must be met for any new construction, regardless of an ADU conversion.

Chair Rheame opened the Public Hearing.

Trinh Thai And Trung Du presented information about the proposed project.

Commissioner Harrison asked the applicant if they would be amenable to sharing one wet bar between bedrooms and Ms. Thai confirmed. Commissioner Harrison commented that this would be a compromise that allows a potential future owner to

meet the City's ADU requirements.

Trinh Thai And Trung Du presented additional information about the proposed project.

Chair Rheume closed the Public Hearing.

MOTION: Commissioner Harrison moved and Chair Rheume seconded the motion for Alternative 2 – Approve the Design Review with modified conditions –

1. Modify COA GC-2 to permit only one wet bar for the upstairs area

Planning Officer Miner clarified the modification with Commissioner Harrison.

Commissioner Harrison stated that she can make the findings for the Design Review in regards to the lot's position and privacy. Commissioner Harrison noted her concern regarding the potential for multiple ADU's but stated that the modified COA will allow for only one ADU conversion.

Chair Rheume stated that he can make the findings and noted his agreement with Commissioner Harrison's concern regarding potential future conversion to multiple ADU's.

The motion failed by the following vote:

**Yes:** 2 - Commissioner Harrison  
Chair Rheume

**No:** 2 - Commissioner Howe  
Commissioner Olevson

**Absent:** 3 - Commissioner Howard  
Commissioner Simons  
Vice Chair Weiss

MOTION: Commissioner Olevson moved and Chair Rheume seconded the motion for Alternative 1 - Approve the Design Review with the Conditions of Approval in Attachment 4.

Commissioner Olevson noted his appreciation of the concern for conversion into multiple ADU's. Commissioner Olevson stated that staff has imposed an

enforcement mechanism with the required permit and that the City would be aware if the COA weren't met. Commissioner Olevson commented that the applicant has provided clear reasons for these changes and noted that these changes will be attractive for the neighborhood.

The motion carried by the following vote:

**Yes:** 3 - Commissioner Harrison  
Chair Rheaume  
Commissioner Olevson

**No:** 1 - Commissioner Howe

**Absent:** 3 - Commissioner Howard  
Commissioner Simons  
Vice Chair Weiss

Planning Officer Miner stated this decision is final unless appealed to the City Council within 15 days or called up by the City Council within 15 days.

6. [17-0716](#) Adopt ordinance amending Chapter 9.86 the Sunnyvale Municipal Code and amending various sections of Title 19 to update the existing prohibition against commercial marijuana activity in the City to expressly include non-medical marijuana, to reasonably regulate indoor personal cultivation of marijuana consistent with state law, and to prohibit outdoor personal cultivation of marijuana. Exempt from CEQA pursuant to CEQA Guidelines sections 15061(b)(3) and 15305.

Deputy Chief Carl Rushmeyer presented the staff report.

Commissioner Howe asked staff if marijuana could be grown inside an Eichler atrium without a roof. Planning Officer Miner advised that this item before the Planning Commission pertains only to the commercial distribution and personal cultivation as outlined in Title 19 of SMC. Deputy Chief Rushmeyer provided details about the requirements and the rationale for the ban. Commissioner Howe confirmed with Deputy Chief Rushmeyer that a locked atrium would meet the growing requirements.

Chair Rheaume opened the Public Hearing.

Chair Rheaume closed the Public Hearing.

MOTION: Commissioner Howe moved and Commissioner Olevson seconded the

motion for Alternative 1 – Find that the activity is exempt from environmental review pursuant to CEQA Guideline sections 15061 (b)(3) and 15305, and recommend that the City Council adopt an ordinance amending various sections of Title 19 to update the existing prohibition against commercial marijuana activity in the City to expressly include non-medical marijuana.

FRIENDLY AMENDMENT: Commissioner Olevson requested a clerical correction on page ten of the staff report from “licenses” to “licensees”. Commissioner Howe accepted the friendly amendment.

Commissioner Howe thanked staff for the report.

Commissioner Olevson commented that approval of this item will conform City law to State law.

The motion carried by the following vote:

**Yes:** 4 - Commissioner Harrison  
Chair Rheume  
Commissioner Howe  
Commissioner Olevson

**No:** 0

**Absent:** 3 - Commissioner Howard  
Commissioner Simons  
Vice Chair Weiss

Planning Officer Miner advised that this item goes to the City Council on September 26th, 2017.

### **STANDING ITEM: CONSIDERATION OF POTENTIAL STUDY ISSUES**

Chair Rheume opened the Public Hearing.

Chair Rheume closed the Public Hearing.

### **NON-AGENDA ITEMS AND COMMENTS**

**-Commissioner Comments**

**-Staff Comments**

Planning Officer Miner stated that the Fortinet General Plan Amendment Initiation (GPI) was continued to the City Council meeting of August 22, 2017 due to the length of the August 15th, 2017 City Council meeting. Planning Officer Miner advised that City Council did approve the Fortinet study per the Planning Commission and staff recommendations. Planning Officer Miner reiterated that the Downtown Specific Plan GPI's were also approved with recommendations and that staff will send that information to the Planning Commission.

### **ADJOURNMENT**

Chair Rheame adjourned the meeting at 8:44 PM.