



City of Sunnyvale

Notice and Agenda - Final Planning Commission

Monday, January 14, 2019

7:00 PM

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

Study Session Cancelled | Special Meeting - Public Hearing 7 PM

STUDY SESSION CANCELLED

7 P.M. PLANNING COMMISSION MEETING

CALL TO ORDER

Call to Order in the Council Chambers

SALUTE TO THE FLAG

ROLL CALL

ORAL COMMUNICATIONS

This category provides an opportunity for members of the public to address the commission on items not listed on the agenda and is limited to 15 minutes (may be extended or continued after the public hearings/general business section of the agenda at the discretion of the Chair) with a maximum of up to three minutes per speaker. Please note the Brown Act (Open Meeting Law) does not allow commissioners to take action on an item not listed on the agenda. If you wish to address the commission, please complete a speaker card and give it to the Recording Secretary. Individuals are limited to one appearance during this section.

CONSENT CALENDAR

1. A [18-1096](#) Approve Planning Commission Meeting Minutes of November 26, 2018

Recommendation: Approve Planning Commission Meeting Minutes of November 26, 2018 as submitted.

1. B [19-0022](#) Approve Planning Commission Meeting Minutes of December 10, 2018

Recommendation: Approve Planning Commission Meeting Minutes of December 10, 2018 as submitted.

1. C [19-0073](#)

REQUEST FOR CONTINUANCE TO JANUARY 28, 2019

Proposed Project: Related applications on a 3.54-acre site:

PEERY PARK PLAN REVIEW PERMIT AND TENTATIVE

PARCEL MAP: to redevelop three sites into an office development consisting of a new 121,719 square foot, four-story office building with a 4.5-level parking structure and associated site work and landscaping. The project will result in 80% FAR.

File #: 2018-7432

Location: 275 N Mathilda Ave (APN: 165-27-007 165-27-008 165-27-009)

Applicant/Owner: Irvine Company

Environmental Review: No additional review required as per CEQA Guidelines 15168(c)(2) and (4) - Peery Park Specific Plan Program Environmental Impact Report (EIR).

Staff Contact: Margaret Netto, (408) 730-7628, mnetto@sunnyvale.ca.gov

Recommendation: Continue to the Planning Commission Public Hearing of January 28, 2019.

PUBLIC HEARINGS/GENERAL BUSINESS

2. [18-0724](#)

Consideration of Useable Open Space in Required Front Yards: Forward a Recommendation to the City Council to Introduce an Ordinance to Amend Section 19.37.100 (Usable Open Space Design Requirements) of Chapter 19.37 (Landscaping, Irrigation and Useable Open Space) and Section 19.12.160 ("O") of Chapter 19.12 (Definitions) of the Sunnyvale Municipal Code, and Find that the Action is Exempt from CEQA Pursuant to CEQA Guidelines Section 15061(b) (3). (Study Issue)

Recommendation: Recommend to City Council Alternative 1: Introduce an Ordinance to Amend Chapter 19.37 (Landscaping, Irrigation and Useable Open Space), including but not limited to (a) Medium, high and very high density multi-family residential zoning districts (R-3, R-4 and R-5), (b) Up to 50% of the required front yard may be counted toward the useable open space requirement, (c) Useable open space in the required front yard would not be a permitted use for a project with a front yard setback deviation or Variance, and Section 19.12.160 ("O") of Chapter 19.12 (Definitions) of the Sunnyvale Municipal Code (Attachment 3 to this report), and Find that the Action is Exempt from CEQA Pursuant to CEQA Guidelines Section 15061(b)(3) as it has no potential for resulting in either a direct physical change in the environment, or a reasonably foreseeable indirect physical change in the environment.

STANDING ITEM: CONSIDERATION OF POTENTIAL STUDY ISSUES

NON-AGENDA ITEMS AND COMMENTS

-Commissioner Comments

-Staff Comments

ADJOURNMENT

Notice to the Public:

Any agenda related writings or documents distributed to members of the Planning Commission regarding any open session item on this agenda will be made available for public inspection in the Planning Division office located at 456 W. Olive Ave., Sunnyvale CA 94086 during normal business hours, and in the Council Chambers on the evening of the Planning Commission meeting pursuant to Government Code §54957.5.

Agenda information is available by contacting Katherine Hall at (408) 730-7440. Agendas and associated reports are also available at sunnyvaleca.legistar.com or at the Sunnyvale Public Library, 665 W. Olive Ave., 72 hours before the meeting.

Planning a presentation for a Planning Commission meeting?

To help you prepare and deliver your public comments, please review the "Making Public Comments During City Council or Planning Commission Meetings" document available on the City website.

PLEASE TAKE NOTICE that if you file a lawsuit challenging any final decision on any public hearing item listed in this agenda, the issues in the lawsuit may be limited to the issues which were raised at the public hearing or presented in writing to the City at or before the public hearing.

PLEASE TAKE FURTHER NOTICE that Code of Civil Procedure section 1094.6 imposes a 90-day deadline for the filing of any lawsuit challenging final action on an agenda item which is subject to Code of Civil Procedure section 1094.5.

Pursuant to the Americans with Disabilities Act, if you need special assistance in this meeting, please contact the Planning Division at (408) 730-7440. Notification of 48 hours prior to the meeting will enable the City to make reasonable arrangements to ensure accessibility to this meeting. (28 CFR 35.160 (b) (1))



City of Sunnyvale

Agenda Item 1.A

18-1096

Agenda Date: 1/14/2019

SUBJECT

Approve Planning Commission Meeting Minutes of November 26, 2018

RECOMMENDATION

Approve Planning Commission Meeting Minutes of November 26, 2018 as submitted.



City of Sunnyvale

Meeting Minutes - Draft Planning Commission

Monday, November 26, 2018

7:00 PM

Council Chambers, City Hall, 456 W. Olive
Ave., Sunnyvale, CA 94086

Study Session Cancelled | Special Meeting - Public Hearing 7 PM

STUDY SESSION CANCELLED

7 P.M. PLANNING COMMISSION MEETING

CALL TO ORDER

Chair Howard called the meeting to order at 7:01 PM in the Council Chambers.

SALUTE TO THE FLAG

Chair Howard led the salute to the flag.

ROLL CALL

Present: 7 - Commissioner Carol Weiss
Chair Daniel Howard
Commissioner John Howe
Commissioner Ken Olevson
Vice Chair David Simons
Commissioner Ken Rheaume
Commissioner Sue Harrison

ORAL COMMUNICATIONS

CONSENT CALENDAR

- 1. A** [18-1041](#) Approve the revised Planning Commission Meeting Minutes of October 22, 2018

Commissioner Harrison moved and Commissioner Weiss seconded the motion to approve the revised Planning Commission Meeting Minutes of October 22, 2018. The motion carried by the following vote:

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

No: 0

Abstained: 1 - Commissioner Howe

1. B [18-1040](#) Approve Planning Commission Meeting Minutes of November 12, 2018

Commissioner Howe moved and Vice Chair Simons seconded the motion to approve the Planning Commission Meeting Minutes of November 12, 2018. The motion carried by the following vote:

Yes: 5 - Commissioner Weiss
Chair Howard
Commissioner Howe
Vice Chair Simons
Commissioner Rheaume

No: 0

Abstained: 2 - Commissioner Olevson
Commissioner Harrison

PUBLIC HEARINGS/GENERAL BUSINESS

- 2.** [18-1035](#) **Proposed Project:**
 **PUBLIC COMMENTS ON THE DRAFT ENVIRONMENTAL
IMPACT REPORT** for a residential project on a 34.7-acre site
consisting of up to 1,074 residential units including 944 apartment
dwelling units and 130 townhome-style dwellings units, dedication
of a 6.5-acre public park and the eastward extension of Indian
Wells Avenue to connect with the Duane Avenue/Stewart Drive
Intersection.
Location: 1 AMD Place and 975 Stewart Drive
File #: 2016-8035
Zoning: Industrial Service/Industrial-to-Residential High Density Zoning
District (MS/ITRR4) Zoning District and Industrial
Service/Industrial-to-Residential Medium Density Zoning District
(MS/ITRR3)
Applicant/Owner: Irvine Company/1090 East Duane Avenue LLC
Project Planner: Gerri Caruso, (408) 730-7591,

gcaruso@sunnyvale.ca.gov

Principal Planner Gerri Caruso presented the staff report.

Pat Angell, representing Ascent Environmental Inc., presented images and information about the proposed project.

Chair Howard opened the Public Hearing.

Josué García, representing the Santa Clara County Residents for Responsible Development, spoke in support of the proposed project and commented on the traffic mitigation measures, affordable housing and public park.

Raju Dahal, Sunnyvale resident, spoke in support of the proposed project and commented on the benefits of the proposed public park and the addition of affordable housing.

Sergio Figueroa, Sunnyvale resident, spoke in support of the proposed project and commented that it will provide local jobs and school funding.

Hector Gomez spoke in support of the proposed project and commented on the benefits of the proposed public park and affordable housing for people employed in the City.

Glen Chambers, Sunnyvale resident, discussed his concerns with future site access for the proposed project in relation to shifting traffic patterns and existing intersection signal issues at Duane Avenue and Stewart Drive.

Jonathan Fishpow, Sunnyvale resident, spoke in support of the proposed project and commented on the need for housing in the City.

Zachary Kaufman commented on information not included in DEIR sections 3.5 and 4.9 and stated an opinion that the value of residential square footage from 2000 is of little to no value since it is adjusted for inflation.

Stephanie Ray spoke in support of the proposed project and commented on the need for housing in the northern part of the City. Ms. Ray advocated for the development of a bike lane from the proposed project to the Caltrain station.

Chair Howard closed the Public Hearing.

Commissioner Rheume asked staff how the traffic light issue, as mentioned during public comments, will be addressed. Mr. Angell advised that the DEIR contains a traffic analysis section for the intersection operations and impacts.

Commissioner Weiss asked staff why only 6% of the units will be reserved for very low-income households. Principal Planner Caruso advised that the number is not an environmental impact, that it is only included as a description of what the applicant is proposing and that 12.5% of the townhomes for ownership will be affordable units.

Commissioner Weiss asked about the methodology for collecting plot samples to identify hazardous materials. Mr. Angell provided information about the technical studies and noted that a cleanup program is underway with the San Francisco Bay Region Regional Water Quality Control Board.

Vice Chair Simons stated an opinion that the DEIR alternatives related to traffic impacts are not adequate. Vice Chair Simons commented on the traffic impacts associated with egress/ingress at the intersections of East Duane Avenue and San Rafael or San Simeon. Vice Chair Simons recommended the addition of a passive control traffic circle to potentially mitigate these traffic impacts.

Chair Howard closed the Public Hearing. No action was required nor taken.

3. [18-0889](#)

Proposed Project:

DESIGN REVIEW: to allow a 1,330-square foot addition (631 square feet at first floor and 699 square feet at second floor) to an existing one-story single-family home, resulting in a total gross floor area of 4,132 square feet (3,282 square feet of living area and 855 square feet 3-car garage) and 38% Floor Area Ratio (FAR).

VARIANCE: to allow a reduced front yard setback (14'-9") for a portion of the first floor where a minimum of 20 feet is required.

Location: 1498 Norman Drive (APNs: 313-14-049)

File #: 2018-7568

Zoning: R-1

Applicant / Owner: Juan Carlos Navarro (applicant) / Bino Jacob (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: Shila Behzadiaria, (408) 730-7456,
sbehzadiaria@sunnyvale.ca.gov

Assistant Planner Shila Behzadiaria presented the staff report.

Commissioner Weiss clarified with Assistant Planner Behzadiaria that the only requested variance is for the reduced front yard setback because the existing front setback is legal nonconforming.

Commissioner Weiss confirmed with Assistant Planner Behzadiaria that the Accessory Dwelling Unit (ADU) will have a separate entrance.

Commissioner Weiss discussed the proposed changes to the chain link fence with Assistant Planner Behzadiaria.

Commissioner Weiss asked staff if the current owner was involved with the previous actions on the site. Assistant Planner Behzadiaria advised that the applicant can provide this information.

Commissioner Harrison asked staff if the Department of Public Works (DPW) has provided comments regarding driveway access for the proposed project, given neighborhood safety concerns with the adjacent intersection. Assistant Planner Behzadiaria advised that DPW has not provided comments because the driveway is an existing structure.

Commissioner Harrison commented that the laundry is shown as part of the garage on the floor plan but as habitable space on the electrical plan. Assistant Planner Behzadiaria advised that floor plan shown in sheet A 1.3 was updated and that the electrical plan is outdated.

Commissioner Rheume confirmed with Assistant Planner Behzadiaria that the replacement for the chain link fence will extend to the stop sign and that a portion will be relocated to meet the public right-of-way and sidewalk easement requirements.

Commissioner Rheume noted his concern regarding previous Neighborhood Preservation complaints and asked staff about the removal of unpermitted accessory structures. Assistant Planner Behzadiaria stated that staff will check with Neighborhood Preservation to ensure that any cases are resolved.

Commissioner Rheume commented on his concerns about access to the existing garage. Commissioner Rheume confirmed with Assistant Planner Behzadaria that the existing fence which provides access to the garage will be removed.

Commissioner Rheume reiterated his concern regarding unpermitted accessory structures.

Commissioner Rheume confirmed with Assistant Planner Behzadaria that the ADU will be located on the second floor. Commissioner Rheume commented that the ADU living space will be right above the first-floor master bedroom.

Commissioner Olevson commented on his concerns with the stop sign and vision triangle issues at the intersection and asked staff how the vision triangle would be calculated given the lot shape. Principal Planner Gerri Caruso advised that the driveway and stop sign are existing conditions and that any exacerbating factors on the subject site such as landscaping can be mitigated. Principal Planner Caruso advised that DPW did not require relocation of the driveway and that the applicant is not responsible for potentially unsafe intersection conditions. Commissioner Olevson clarified with Principal Planner Caruso that staff would need to confer with DPW regarding shifting the moveable structures to lessen visibility impacts.

Commissioner Harrison commented that this intersection has repeatedly been identified as an issue in the Safe Routes to School program and that the neighborhood was previously informed that nothing could be done because it is on private property. Commissioner Harrison stated an opinion that it appears the issue is because it is on public property but that if the safety concerns can be mitigated then they should be.

Vice Chair Simons discussed the potential to implement vision triangle requirements for the portion of the proposed project's front yard that would impact the intersection with Principal Planner Caruso. Principal Planner Caruso stated that a Condition of Approval (COA) could not be added without a staff consultation with DPW because they have intersection design oversight.

Commissioner Rheume asked staff if the garage will be redeveloped or maintained. Assistant Planner Behzadaria explained that a portion of the garage towards the east of the property will be demolished and set back.

Chair Howard suggested that the shoulder which will be developed into a sidewalk could be designated as a no parking zone to remedy the vision triangle issues.

Commissioner Howe commented on the existing legal nonconforming front setback and asked staff how much of the downstairs will be remodeled. Assistant Planner Behzadiaria explained that only the exterior walls are considered for the new 50% construction regulation and that in this instance only the interior is being remodeled. Commissioner Howe asked staff if all non-conformance can be decreased to meet the 20-foot setback. Assistant Planner Behzadiaria advised that the front wall of the house is already within the 20-foot setback and that no changes have been proposed to the front wall.

Chair Howard opened the Public Hearing.

The applicant was not required to present information about the proposed project.

Commissioner Harrison commented that based on the site plan dimensions and the slope of the lot it appears that about eight feet of the existing garage is within the 20-foot setback. Juan Carlos, representing D-Cube Studio, advised that the existing garage does protrude into the 20-foot setback. Commissioner Harrison confirmed with Mr. Carlos that the vision triangle issue has not been discussed with staff.

Commissioner Rheume stated that based on an aerial view of the property it appears that the existing garage has additional structures on either side. Mr. Carlos stated that these are illegal additional structures that will be removed. Commissioner Rheume confirmed with Mr. Carlos that these are the only illegal accessory structures on the property.

Commissioner Rheume asked the applicant to explain the placement of the ADU. Mr. Carlos stated that the ADU will provide living space for additional family members and that the lot shape would not support an ADU on the ground floor. Commissioner Rheume commented on the oddity of the ADU location. Commissioner Rheume confirmed with Mr. Carlos that the owner not does currently live at the subject site but plans to live there.

Commissioner Rheume asked the owner how long he has owned the property. Bino Jacob, owner, advised that they have owned the property since 2001. Commissioner Rheume asked Mr. Jacob about the nature of the Neighborhood Preservation complaints. Mr. Jacob stated that the complaints were unfounded. Commissioner Rheume confirmed with Mr. Jacob his understanding that he would need to live in the house with the addition of the ADU.

Commissioner Weiss commented on the proposed project's size and asked the owner about energy efficient features to mitigate the proposed project's footprint. Mr. Carlos provided information about the insulation, cool roof and ADU materials. Commissioner Weiss confirmed with Mr. Carlos that they would agree to install energy efficient heating, air conditioning and ventilation systems. Commissioner Weiss confirmed with Mr. Carlos that all appliances will be Energy Star certified and that a tankless water heater will be used for the ADU. Commissioner Weiss confirmed with Mr. Carlos that programmable thermostat timers will be used and that EV chargers will be provided for both parking spaces.

Vice Chair Simons commented on the variance request and stated that if the third garage side wall was covered but not enclosed it would help improve the vision triangle. Mr. Carlos stated that this would not be a problem to make it a carport.

Commissioner Harrison asked staff about the process for creating a vision triangle. Assistant Planner Behzadaria advised that staff has drafted language for a COA to consider ways to increase safety along the street frontage by trimming vegetation, modifying the fence, or restricting street parking, subject to DPW review. Commissioner Harrison asked about modifying the garage wall. Principal Planner Caruso stated that to demolish a legal non-conforming structure is a grey area and that the COA would feasibly mitigate the situation. Senior Assistant City Attorney Rebecca Moon commented that currently available staff does not have the traffic expertise to advise if demolishing an existing structure would be an appropriate solution. Commissioner Harrison confirmed with Principal Planner Caruso that they would not know the outcome of the potential COA without conferring with DPW but that the goal would be to improve safety.

Commissioner Harrison confirmed with Mr. Jacob that he would agree to modify the right side of the garage into a carport if DPW confirms that this change would improve safety.

Commissioner Rheume confirmed with the applicant that to the right of the garage is an unpermitted component that will be removed. Commissioner Rheume stated an opinion that it does not appear that a carport will improve safety.

Commissioner Olevson commented that per City code, structures within any vision triangle are limited to 42 inches in height. Commissioner Olevson confirmed with Mr. Carlos that they would agree to a COA that prohibits vegetation over 42 inches

between the house or garage and the street, excluding existing trees.

Chair Howard closed the Public Hearing.

Commissioner Howe asked staff about the possibility of continuing this item, given the Permit Streamlining Act requirements. Senior Assistant City Attorney Moon advised that staff can check. Commissioner Howe suggested that if other Commissioners are interested then staff could check now. Vice Chair Simons noted his interest in this information.

Commissioner Rheume commented that the owner must occupy the home at all times with the addition of the ADU and asked staff what happens if the owner does not comply. Assistant Planner Behzadaria stated that prior to issuance of the Building permit, the property owner must sign and record a deed restriction that states that the property shall be owner-occupied from the date of recordation, if the ADU remains on the property. Assistant Planner Behzadaria advised that Neighborhood Preservation would investigate any non-compliance and that the owner would have to move back in or convert the ADU.

Chair Howard suggested that the vision triangle requirements could apply to the 20-foot front setback for the subject site given Commissioner Olevson's comments about the 42-inch height limitations.

Senior Assistant City Attorney Moon stated that the Permit Streamlining Act requires a decision on the project within 60 days from when the project is deemed complete but that the next Planning Commission agenda may not accommodate this item. Principal Planner Caruso advised that this item could be continued to the January 14th Planning Commission public hearing. Commissioner Howe stated that given the issues it seems pertinent to have a City expert attend the public hearing to explain the vision triangle requirements and how the proposed project would impact the vision triangle. Principal Planner Caruso advised that January 14th is actually outside of the 60-day window. Commissioner Howe suggested that DPW staff give a presentation at the next public hearing.

Vice Chair Simons commented that it is within the Planning Commission's purview to require modifications to a proposed project that is requesting a variance. Vice Chair Simons asked staff why modifying the garage to create a carport would not be allowed. Senior Assistant City Attorney Moon asked why modifying the garage would be requested if it is not related to safety concerns. Vice Chair Simons stated

that this could be related to the setback. Senior Assistant City Attorney Moon stated that it is an existing legal non-conforming structure and that there would not be a legal basis to remove this structure simply because other work is being done on the property.

Commissioner Weiss asked staff if a feasible solution would be for staff to return with feedback and/or DPW staff. Senior Assistant City Attorney Moon stated that it might be a solution since information regarding safety and potential mitigation measures is not currently available. Senior Assistant City Attorney Moon advised that staff could confer with the applicant to see if they are amenable with a continuation to January.

Principal Planner Caruso advised that the applicant would agree to continue this item to January.

MOTION: Vice Chair Simons moved and Commissioner Howe seconded the motion to continue this item to the Planning Commission hearing on January 14th, 2019 and stated that staff will provide information that was unavailable regarding the issues discussed during the public hearing.

FRIENDLY AMENDMENT: Commissioner Howe offered a friendly amendment to specify that site specific information including the vision triangle, but not limited to only that topic, will be presented at the January 14, 2019 Planning Commission hearing and that DPW and Transportation and Traffic Division staff will be invited to the hearing. Commissioner Simons accepted the friendly amendment.

Vice Chair Simons stated that continuing this item is the best way to potentially support the project and will allow for the necessary information to be obtained.

Commissioner Howe seconded Vice Chair Simons' comments.

Commissioner Rheume stated that he will be supporting the motion.

Commissioner Harrison stated that she will be supporting the motion.

FRIENDLY AMENDMENT: Commissioner Harrison offered a friendly amendment to specify that staff will present information at the January 14th, 2019 Planning Commission hearing about the proposed project's potential impact on the Safe Routes to School program. Commissioner Simons and Commissioner Howe

accepted the friendly amendment.

Chair Howard stated that he will not be supporting the motion because there is the potential to approve the project this evening with modified conditions but that a continuance seems like a reasonable action.

The motion carried by the following vote:

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

No: 1 - Chair Howard

Principal Planner Caruso stated that this item will be continued to the Planning Commission hearing on January 14th, 2019.

4. [18-1034](#)

Proposed Project:

TENTATIVE PARCEL MAP to subdivide one lot into two lots;
USE PERMIT to allow reduced lot area and lot width for a small lot subdivision; and
DESIGN REVIEW to construct two single-family homes on each lot with floor area ratio (FAR) of approximately 55%.

Location: 718 East Homestead Road (APN: 309-46-053)

File #: 2017-7950

Zoning: R-2

Applicant / Owner: Shawn Ghandchi (applicant) / 12561 Paseo Cerro Group (owner)

Environmental Review: Class 3 Categorical Exemption relieves this project from the California Environmental Quality Act (CEQA) (Section 15303(a)).

Project Planner: Noren Caliva-Lepe, (408) 730-7659,
ncaliva-lepe@sunnyvale.ca.gov

Senior Planner Noren Caliva-Lepe presented the staff report.

Vice Chair Simons commented on the lot sizes and asked staff to clarify the total landscaping square footage. Senior Planner Caliva-Lepe explained that the landscaping listed is for both proposed lots.

Vice Chair Simons noted his privacy concerns between the two homes due to the second-floor windows and asked staff if consideration was given for obscured glass. Senior Planner Caliva-Lepe stated that staff felt there was adequate separation to reduce the privacy impact but that the Planning Commission could add this as a Condition of Approval (COA). Senior Planner Caliva-Lepe explained that COA PS-1 applies to the second-floor windows.

Chair Howard opened the Public Hearing.

Aman Dulay, representing AKS Building Design, presented information about the proposed project.

Vice Chair Simons stated his appreciation for the design of the front steps and asked the applicant about safety issues. Ms. Dulay clarified that the rendering of the front steps is inaccurate and provided information about the design.

Vice Chair Simons confirmed information regarding the materials for the garage doors with Ms. Dulay.

Commissioner Rheume noted his appreciation for the unique design and asked the applicant about the driveway materials. Ms. Dulay stated that pervious materials will be used. Commissioner Rheume clarified with Ms. Dulay that the windows will be composite.

Commissioner Harrison asked the applicant if consideration was given for a duet design to allow for greater side yards. Ms. Dulay advised that the lot is deep enough to provide the look of a single-family home and that it will be easier for the owner to sell two single-family homes. Commissioner Harrison commented on the number of duet projects seen by the Planning Commission.

Commissioner Weiss asked the applicant about the proposed use for shiplap. Ms. Dulay stated that it is a terminology related to siding.

Chair Howard closed the Public Hearing.

MOTION: Commissioner Rheume moved and Commissioner Weiss seconded the motion for Alternative 1 – Approve the Tentative Parcel Map, Use Permit and Design Review subject to the findings in Attachment 3 and recommended conditions

of approval in Attachment 4.

Commissioner Rheume stated that he can make the findings for Policies LT-4.4, LT-7.3 and CC-1.3 and that no deviations have been requested. Commissioner Rheume stated that this will be a nice addition in an eclectic neighborhood. Commissioner Rheume noted his appreciation for the proposed project's design.

Commissioner Weiss stated that no deviations have been requested and that the proposed project meets the design standards and applicable Goals and Policies. Commissioner Weiss complimented the proposed project's architecture and commented that it will enhance the neighborhood.

Commissioner Harrison stated that she will be supporting the motion and noted her appreciation for the treatment of the garages.

Vice Chair Simons stated that he will be supporting the motion and can make the findings. Vice Chair Simons noted his concern for potential second-floor window privacy issues but stated that the future owners can resolve any issues. Vice Chair Simons recommended that if pervious concrete is used to break it into different squares for visual effect. Vice Chair Simons stated an opinion that this will be a very nice project with good architecture.

Commissioner Olevson stated that he will be supporting the motion and noted his agreement with staff's considerations for the Design Review. Commissioner Olevson stated that the Use Permit meets the objectives of the General Plan and will not impair the neighborhood. Commissioner Olevson stated that he could not make the findings to deny the Tentative Map.

Chair Howard stated that he will be supporting the motion. Chair Howard commented that a small lot subdivision at an R-2 density would probably generally be compatible with a single-family neighborhood.

The motion carried by the following vote:

Yes: 7 - Commissioner Weiss
Chair Howard
Commissioner Howe
Commissioner Olevson
Vice Chair Simons
Commissioner Rheume
Commissioner Harrison

No: 0

Principal Planner Caruso stated that this decision is final unless appealed to the City Council within 15 days or called up by the City Council within 15 days.

5. [18-0891](#) **Proposed Project:**
 SPECIAL DEVELOPMENT PERMIT: for the demolition of one existing single family residence and the construction of five new single family residences, and;
 TENTATIVE MAP: to subdivide a 0.8-acre lot into five lots.
Location: 18771 East Homestead Road (APNs: 313-41-070 and 313-41-071)
File #: 2017-7816
Zoning: R-0/PD - Low Density Residential / Planned Development
Applicant / Owner: Dutchints Development, LLC (applicant) / 18771 Homestead Road, LLC (owner)
Environmental Review: Mitigated Negative Declaration
Project Planner: Momoko Ishijima, (408) 730-7532, mishijima@sunnyvale.ca.gov

Commissioner Rheume recused himself due to a conflict of interest.

Associate Planner Momoko Ishijima presented the staff report.

Vice Chair Simons asked staff if there are planned changes to the flood maps to meet current flood reality. Associate Planner Ishijima stated that most of the flood maps are provided by the Federal Emergency Management Agency (FEMA) and that staff is not aware of any updates. Vice Chair Simons commented that the proposed project is near a canal and could be impacted by floods. Associate Planner Ishijima stated that the applicant contacted the Santa Clara Valley Water District and that no development changes were required.

Vice Chair Simons asked staff if pervious asphalt will be used for the driveway.

Associate Planner Ishijima advised that the applicant can provide this information.

Commissioner Weiss commented on the neighbor's interest in a fence and asked staff how this will be resolved and about privacy impacts. Associate Planner Ishijima advised that the applicant did not want their yard to be shaded and that the landscaping will be reviewed through the Building permit process. Commissioner Weiss clarified with Associate Planner Ishijima that the fence is existing.

Commissioner Weiss confirmed with Associate Planner Ishijima that the two homes on Homestead Road will utilize soundproof windows to meet the City's interior noise guidelines.

Chair Howard opened the Public Hearing.

Scott Stotler, representing Dutchints Development LLC, presented information about the proposed project.

Richard Mehlinger, speaking on his own behalf, spoke in support of the proposed project. Mr. Mehlinger complimented the architecture and noted that this project would increase housing in the City.

Volker Joehnk, Sunnyvale resident, discussed his concerns with the two-story nature of the proposed project and commented on the single-story nature of the adjacent Eichler neighborhood.

Mr. Stotler presented additional information about the proposed project.

Vice Chair Simons asked the applicant about the asphalt materials. Mr. Stotler advised that the driveway will mainly be concrete and that pervious asphalt could be used for the street but that it can cause issues for emergency vehicle loads. Vice Chair Simons commented that pervious asphalt is used by CalTrans highway. Mr. Stotler stated that they are open to discussing the use of pervious asphalt.

Chair Howard closed the Public Hearing.

MOTION: Commissioner Howe moved and Vice Chair Simons seconded the motion for Alternative 2 – Make the findings as required by CEQA in Attachment 3, adopt the Mitigated Negative Declaration, and approve the Special Development Permit and Tentative Map with the recommended findings in Attachment 3 and with

modified conditions – for staff to work with the applicant to implement pervious materials for the road, if feasible.

Commissioner Howe stated that he can make the findings and commented that five new houses will be constructed, which will help the housing crisis. Commissioner Howe commented on a similar scenario with a previous project where Eichler homes abutted the back of the development and stated that a row of single-story houses could be implemented with appropriate setbacks to mitigate privacy concerns. Commissioner Howe asked staff to work on the landscaping to meet the needs of the adjacent single family residences.

Vice Chair Simons noted his agreement with Commissioner Howe's comment that this is a similar situation as with a previous project. Vice Chair Simons commented that a two-story pair of homes along Homestead Road will fit in fine and that there will be a transition to Eichlers further down the street. Vice Chair Simons stated that issues raised during the study session were handled by the applicant. Vice Chair Simons stated that the modernish architecture is friendly and that the project will be a nice addition that has variations. Vice Chair Simons stated that he can make the findings.

Commissioner Harrison stated that she will be supporting the motion. Commissioner Harrison stated that the proposed project will integrate well with the adjacent Eichler neighborhood while maximizing the usable open space.

Commissioner Olevson stated that he will be supporting the motion. Commissioner Olevson stated that the criteria for the Special Development Permit and Design Review have been met, that the proposed project meets the General Plan guidelines, that it does not impair existing or future uses in the area and that no findings can be made to deny the Tentative Map. Commissioner Olevson commented that the applicant has done a good job with community outreach and in addressing the concerns raised during the study session.

Commissioner Weiss stated that she will be supporting the motion and noted her appreciation that the applicant addressed the neighbor's concerns. Commissioner Weiss commented that one driveway on Homestead Road is a good safety feature considering the number of bicyclists. Commissioner Weiss stated an opinion that the architecture is lovely and will fit in without imitating the Eichlers. Commissioner Weiss commented that the previous Single Story Combining District (SSCD) request for this neighborhood was denied so a second-story is possible. Commissioner

Weiss stated that she can make the findings related to CEQA, the Special Development Permit and the General Plan and that the proposed project meets the Single-Family Home Design Techniques.

Chair Howard stated that often with SSCD's the concern which is expressed is about the experience of the streetscape. Chair Howard suggested that a two-story home on Homestead Road will be different than if it was developed along Lorne Way. Chair Howard commented that five new homes in the City will be a great addition.

The motion carried by the following vote:

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

No: 0

Recused: 1 - Commissioner Rheaume

Principal Planner Caruso stated that this decision is final unless appealed to the City Council within 15 days or called up by the City Council within 15 days.

STANDING ITEM: CONSIDERATION OF POTENTIAL STUDY ISSUES

Principal Planner Amber Blizinski commented that staff included a note in the ADU study issue paper that all ADU items could be combined into one study issue and that staff would like feedback about this.

Chair Howard opened the public hearing.

Richard Mehlinger, speaking on his own behalf, spoke in support of all three proposed study issues. Mr. Mehlinger requested that the City determine how to encourage small lot single-family homes, duplexes and triplexes that fit with the neighborhoods and would reduce the housing shortage. Mr. Mehlinger noted that the City has had difficulty filling staff positions due to the high price of housing and that a workforce housing solution could help address that issue.

Zachary Kaufman asked the Planning Commission to be mindful that the first three concepts outlined in the staff paper for the “Evaluate Allowing Increased Density or Additional Units in Single-Family Zoning Districts” proposed study issue already negatively impact the residential character of existing neighborhoods, which is cited as the fourth concept.

Chair Howard closed the Public Hearing.

6. [18-1045](#) Potential Study Issue: Evaluate Increased Density or Additional Units in Single-Family Zoning Districts

Vice Chair Simons requested to modify the proposed study issue to greatly increase the zoning for areas near transit hubs. Vice Chair Simons provided additional background about his request. Chair Howard commented that the point of this proposed study issue is to make it more feasible for the City to densify at a pace that won't cause issues for residents. Chair Howard respectfully declined the proposed change.

Commissioner Harrison stated that the committees for the El Camino Real Corridor Specific Plan (ECR Plan) and the Land Use and Transportation Element (LUTE) discussed locations where higher density development could be implemented and that staff advised that areas close to mass transit are appropriate for higher density. Commissioner Harrison noted that the LUTE committee expressed interest in high density development around the Village Centers but that it was not included. Commissioner Harrison stated that she would support this study issue as it pertains to Village Centers but that it is unlikely that this study issue will be ranked.

This study issue was not co-sponsored.

7. [18-1044](#) Potential Study Issue: Promoting Workforce Housing for City Employees

Commissioner Weiss requested to modify the proposed study issue to include teachers who teach in Sunnyvale schools. Chair Howard discussed this request with Commissioner Weiss and Principal Planner Blizinski. Chair Howard accepted the modification to the proposed study issue.

Commissioner Weiss co-sponsored the proposed study issue.

8. [18-1043](#) Potential Study Issue: Incentivize Accessory Dwelling Units by Reducing/Removing Development Standards

Principal Planner Blizinski confirmed with Commissioner Harrison that she has no objection to combining the Accessory Dwelling Unit (ADU) study issues. Chair

Howard stated that this proposed ADU study issue will be combined with the “FAR Threshold Related to ADU” study issue.

NON-AGENDA ITEMS AND COMMENTS

-Commissioner Comments

-Staff Comments

Principal Planner Caruso provided an update that on November 13, 2018 the City Council approved an indefinite continuance for the General Plan Amendment Initiation (GPI) at 1050 W. Remington Ave and did not initiate the GPI for 400 – 840 W. California Ave., as was recommended by staff.

ADJOURNMENT

Chair Howard adjourned the meeting at 10:10 PM.



City of Sunnyvale

Agenda Item 1.B

19-0022

Agenda Date: 1/14/2019

SUBJECT

Approve Planning Commission Meeting Minutes of December 10, 2018

RECOMMENDATION

Approve Planning Commission Meeting Minutes of December 10, 2018 as submitted.



City of Sunnyvale

Meeting Minutes - Draft Planning Commission

Monday, December 10, 2018

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. [18-1086](#)

Proposed Project:

SPECIAL DEVELOPMENT PERMIT: to demolish two existing one-story residential units and construct two new two-story detached single family homes and associated improvements. Each home results in a gross floor area of 2,281 square feet (1,863 square feet of living area and 418 square feet garage) and 58% FAR on a 4,074-square foot lot.

TENTATIVE MAP: to subdivide an existing 8,147 sq. ft. lot to two lots.

Location: 421 East Washington Avenue (APN's: 209-04-034)

File #: 2017-8019

Zoning: R-2/PD

Applicant / Owner: LADC Consulting Inc. / Silver Maple Investments LLC

Project Planner: Cynthia Hom, (408) 730-7411,
chom@sunnyvale.ca.gov

Public Comment on Study Session Agenda Items

Adjourn Study Session

7 P.M. PLANNING COMMISSION MEETING

CALL TO ORDER

Chair Howard called the meeting to order at 7:04 PM in the Council Chambers.

SALUTE TO THE FLAG

Chair Howard led the salute to the flag.

ROLL CALL

Present: 7 - Commissioner Carol Weiss
Chair Daniel Howard
Commissioner John Howe
Commissioner Ken Olevson
Vice Chair David Simons
Commissioner Ken Rheaume
Commissioner Sue Harrison

ORAL COMMUNICATIONS

CONSENT CALENDAR

Vice Chair Simons requested to vote separately on the consent calendar items and to move the consent calendar vote to the end of the public hearing. There were no objections from Planning Commissioners.

PUBLIC HEARINGS/GENERAL BUSINESS

2. [18-0988](#) **Proposed Project**
 **PUBLIC COMMENTS ON THE DRAFT ENVIRONMENTAL
IMPACT REPORT** for the Corn Palace residential project on an
8.8-acre site consisting of 58 single-family homes and a 2-acre
public park. The proposed project requires a Tentative
Subdivision Map for 60 lots (58 homes, one private street and a
public park), and a Special Development Permit to construct the
single-family homes.
Location: 1142 Dahlia Avenue (APN: 213-12-001)
File #: 2017-7451
Zoning: R-1.5/PD
Applicant: Trumark Homes
Project Planner: Shétal Divatia, (408) 730-7637,
sdivatia@sunnyvale.ca.gov

Senior Planner Shetal Divatia presented the staff report. Kristen Stoner, representing Ascent Environmental, Inc., presented images and information about the proposed project.

Chair Howard opened the Public Hearing.

John Cordes, speaking on his own behalf, requested the implementation of solar panels and easier access for bicyclists between the proposed project and Lawrence Expressway.

Commissioner Harrison asked staff about the number of proposed housing units and commented on the study session feedback provided to the applicant. Senior Planner Divatia explained that the zoning could accommodate a higher number of housing units but that the applicant has proposed 58 units. Commissioner Harrison confirmed with Senior Planner Divatia that a different Environmental Impact Report (EIR) would be required if the project significantly changed.

Vice Chair Simons asked staff if the subject EIR could accommodate minor changes to the proposed project such as for pedestrian and bicycle access. Assistant Director Andrew Miner advised that the EIR analysis should be consistent if the number of housing units does not change and stated that any potential resulting traffic impacts would have to be analyzed.

Commissioner Weiss commented that the proposed project is in a seismically active area subject to liquefaction and requested the completion of an additional geotechnical feasibility study.

Commissioner Weiss asked staff about inclusion in the EIR of the proposed project's potential impact on migratory and wintering birds. Ms. Stoner stated that this information was included but that it will be reviewed for the final EIR and clarified if possible.

Commissioner Rheaume asked staff how many additional housing units would trigger the need for an additional EIR. Assistant Director Miner stated that staff cannot say with certainty the different impacts associated with adding or changing units. Commissioner Rheaume confirmed with Assistant Director Miner that the proposed project will present 58 units when it comes before the Planning Commission.

Senior Planner Divatia stated that 61 housing units would be the maximum based on the existing site zoning. Commissioner Harrison asked staff if the EIR could accommodate 61 units. Assistant Director Miner stated that staff cannot say with certainty what impact that change would have without conducting an analysis.

Chair Howard commented that an alternative EIR scenario could examine a build out to the maximum density as allowed by the zoning. Senior Assistant City Attorney Rebecca Moon explained that the intention of EIR alternatives is to reduce the environmental impacts of a proposed project. Chair Howard discussed increased density in relation to EIR alternatives with Assistant Director Miner. Senior Assistant City Attorney Moon noted that all comments and questions raised during the public hearing will be addressed in the final EIR.

Richard Mehlinger, speaking on his own behalf, commented on the proposed project's proximity to bus routes and the Lawrence Caltrain station and noted his concern regarding the proposed density. Mr. Mehlinger commented on the number of units that could be developed using the state density bonus and requested that the Planning Commission examine a higher density as part of the EIR review.

Chair Howard closed the Public Hearing. No action was required nor taken.

3. [18-0887](#)

Proposed Project:

PEERY PARK SPECIFIC PLAN CONDITIONAL USE

PERMIT: to consider a high school for 400 students (Summit School). The project includes interior and exterior improvements of an existing industrial building for an educational use, the installation of a tri-level mechanical lift parking structure in the rear serving 22 parking spaces, and a request for adjustment to the minimum parking requirements.

File #: 2017-7986

Location: 824 San Aleso Avenue (APN: 204-02-006)

Applicant / Owner: Artik Art & Architecture (applicant) / 824 San Aleso, LLC (owner)

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

Associate Planner Momoko Ishijima presented the staff report.

Commissioner Harrison asked staff about study issues related to Citywide parking minimums. Assistant Director Andrew Miner advised that a study was completed regarding maximum parking requirements and that currently there is a study issue regarding parking minimums that has not yet been ranked.

Commissioner Rheume discussed the mechanical parking lift with Assistant Director Miner. Assistant Director Miner stated that there are not currently any outdoor free standing mechanical parking lifts in the City. Commissioner Rheume noted his concern about approving this first instance given the adjacent single-family homes.

Commissioner Rheume commented that 100 parking spots are required per City code but that the Summit Public School Parking Study states that only 52 parking spots are needed. Commissioner Rheume asked staff about the difference between this school and other City schools. Assistant Director Miner advised that staff evaluated the proposed project based on City code, as they would any other high school in the city, and that staff recommended denial because the project did not meet the parking standard.

Vice Chair Simons clarified with Assistant Director Miner that the zoning code contains the noise requirements that would apply to the operations of the automated mechanical parking.

Vice Chair Simons commented on previous project requirements to stop invasive species from propagating to adjacent properties and asked staff about implementing these requirements. Associate Planner Ishijima explained that the applicant's intent was to select a fast-growing species for screening. Assistant Director Miner advised that the Planning Commission can ask the applicant if they considered other options.

Vice Chair Simons asked staff about the inclusion of pervious materials to Condition of Approval (COA) BP-13 to achieve the stormwater management plan requirements. Assistant Director Miner stated that the applicant can choose how they meet those requirements.

Vice Chair Simons discussed the potential to add a COA to require that the exterior changes as described in the staff report will match the proposed site plans with Assistant Director Miner.

Chair Howard asked staff for the Fremont High School parking ratio. Associate Planner Ishijima stated that school district high schools do not fall under the City's jurisdiction and that staff does not have this information. Chair Howard presented his findings regarding two parking ratio estimates for City high schools. Chair Howard asked staff why a public high school has not been built in north Sunnyvale.

Assistant Director Miner stated that school districts make the decisions on where and when high schools should be constructed.

Commissioner Howe confirmed with Assistant Director Miner that King's Academy High School was required to obtain a use permit. Commissioner Howe asked staff about the parking ratio for King's Academy. Associate Planner Ishijima stated that no variance was requested so they met the parking requirements as dictated by City code at that time.

Chair Howard provided an estimate for King's Academy parking ratio. Chair Howard commented that it appears that a charter high school is held to a higher standard than a school district high school due to City requirements. Chair Howard commented on urban development patterns and the associated placement of school facilities.

Chair Howard discussed required finding 1e. and asked staff about a future potential increase in bus service. Assistant Director Miner stated that what could happen can't be relied upon to make a finding and that there are other more applicable findings that the Planning Commission could make.

Chair Howard commented on the applicant's required Traffic Impact fee and fair share contribution and asked staff about the allocation of these fees. Lillian Tsang, Principal Transportation Engineer, provided information about the use of these fees for City improvements and Valley Transportation Authority (VTA) infrastructure improvements.

Chair Howard stated that the Environmental Impact Report (EIR) indicates substantial impacts to greenhouse gas emissions and asked staff if reducing parking would reduce the number of trips and thus reduce greenhouse gas emissions. Assistant Director Miner stated that a reduction in parking can't guarantee a reduction in trips and that parking should be consistent with City code and land use. Chair Howard noted his appreciation of the parking lot management plan and the staff recommended residential parking permit study.

Chair Howard confirmed with Assistant Director Miner that the COA do not require a closed campus and that the applicant would make that decision.

Chair Howard opened the Public Hearing.

Kevin Bock, representing Summit Public Schools, presented images and information about the proposed project.

Commissioner Weiss asked the applicant about the geographic distribution of potential students. Mr. Bock explained that approximately 40% of potential students would be Sunnyvale residents and that the proportion should increase based on their research of Summit School sites. Mr. Bock provided additional information to Commissioner Weiss about the geographical location of their students and advised that they have not considered a central school bus service.

Commissioner Weiss asked the applicant about their physical education facilities. Mr. Bock explained that their program does not include physical education and that they rent facilities for their afterschool sports programs. Commissioner Weiss clarified specifics about the outdoor area with Mr. Bock.

Commissioner Harrison confirmed with Mr. Bock that they would begin the school year with 400 students. Mr. Bock provided information about the parking permit requirements to Commissioner Harrison. Mr. Bock noted that there are preferences for students who live further away and that the parking permits are tied to the school year.

Commissioner Harrison confirmed with Mr. Bock that they plan to purchase the building.

Commissioner Harrison asked the applicant to describe the process they used to develop the Summit School Parking Study. Elizabeth Chau, representing Kimley Horn, provided information about the site surveys conducted during the peak AM and PM periods during a typical school week at Summit Public Schools. Ms. Chau clarified that there was no differentiation between staff and student parking. Commissioner Harrison confirmed with Ms. Chau that the schools were alerted about the upcoming parking study.

Commissioner Rheume asked the applicant how they determined that only half of the required City parking is needed. Ms. Chau commented on Summit Denali's transportation policy that encourages carpool, biking and alternative modes of transportation, which reduces the number of utilized vehicles. Ms. Chau outlined the differences between public and private school traffic and parking needs.

Commissioner Rheume asked the applicant about the number of teachers and

their use of the mechanical parking lift. Mr. Bock stated that there will be 25 teachers and an assignment plan for the lift. Commissioner Rheaume asked the applicant about enforcement of the offsite parking restrictions. Mr. Bock explained that they would investigate any complaints and that the faculty posted during pickup and drop-off can visually identify parking non-compliance. Commissioner Rheaume clarified with Mr. Bock that their current location at the St. Cyprian school site is not a viable long-term option.

Vice Chair Simons confirmed with Mr. Bock that they are amenable to add a COA that the look and feel of the building will match the site plan depictions.

Vice Chair Simons asked the applicant about additional texture besides stucco to enhance the flat walls. Mr. Bock advised that the architectural team can study possible modifications.

Vice Chair Simons asked the applicant about requiring containers for the planted bamboo or considering a less invasive species. Mr. Bock stated that they would consider an alternative species.

Commissioner Olevson asked the applicant if they have approached the City Council to request a change to City parking requirements. Mr. Bock stated that they have not and that their understanding is that the findings can be made for an adjustment to the parking requirements. Commissioner Olevson noted that it would be difficult to approve a parking adjustment of this requested magnitude.

Commissioner Olevson commented on his compliance concerns given Summit School's previous operations at another site that did not meet City code. Mr. Bock stated that they have worked hard to meet every COA and recommendation made by the City, Planning Commission, City Council and Planning staff for that site and that they are currently meeting those requirements.

Commissioner Harrison asked the applicant if staff or parents were informed in advance about the Kimley Horn parking study. Mr. Bock stated that only the school leadership teams were notified.

Commissioner Harrison asked the applicant about the adequacy of the allotted soil for the trees proposed to be planted in the parking lot. Gayatri Medury, representing Artik Art & Architecture, advised that the amount of allotted soil should be adequate.

Chair Howard asked the applicant about the number of proposed parking spaces given the suggested Kimley Horn parking ratio of .13 and how else parking spaces could be utilized. Mr. Bock explained that they worked closely with City staff to maximize the parking but that they could repurpose those parking spaces for outdoor activity use.

Chair Howard asked the applicant about the potential to have more students apply for parking permits than there are available parking spaces. Mr. Bock advised that they would utilize a lottery and that they have a robust carpooling system.

Chair Howard clarified with Mr. Bock that the nearest bus stop is approximately a third of a mile from the proposed project and not one mile.

Chair Howard commented on the parking study language regarding the use of alternative modes of transportation and asked the applicant about the specific statistics. Ms. Chau explained that they included qualitative observations based on the data counts. Chair Howard confirmed Kimley Horn's methodology used to calculate the parking ratio with Ms. Chau.

James Chen, Sunnyvale resident, spoke in support of the proposed project. Mr. Chen discussed the use of carpooling and alternative transportation and stated an opinion that the proposed project would not need the number of parking spaces required by City code.

Richard Mehlinger, speaking on his own behalf, spoke in support of the proposed project. Mr. Mehlinger commented on the applicant's plans to mitigate parking concerns, the underserved nature of north Sunnyvale and consideration for actions to facilitate bicycle and pedestrian transit in the adjacent neighborhoods.

Dwight Davis, Sunnyvale resident, spoke in opposition of the proposed project. Mr. Davis discussed his concerns with the proposed project's impact on traffic, parking and safety.

Ann Davis, Sunnyvale resident, spoke in opposition of the proposed project. Ms. Davis discussed her concerns with parking, screening, future seismic activity, the prior hazardous use at the site and the proposed project's impact on the adjacent two-story building.

Marius Evers, Sunnyvale resident, spoke in support of the proposed project and

stated an opinion that Summit Schools completes an unprecedented amount of outreach to promote carpooling.

Sue Johnson, Sunnyvale resident, spoke in support of the proposed project and commented on the lack of bicycle lanes along both sides of Borregas Avenue.

James Begole, Sunnyvale resident, spoke in support of the proposed project. Mr. Begole commented on the importance of alternative transportation and the transformation of the Summit Denali Weddell site.

Thomas Berry spoke in support of the proposed project and commented on the problem-solving skills that children develop who attend Summit Schools.

Michelle Cudzinovic, Sunnyvale resident, spoke in support of the proposed project. Ms. Cudzinovic commented on the importance of alternative transportation and how it improves quality of life.

Angela Hwang spoke in support of the proposed project and discussed the benefits of the personalized learning plans and flexibility that Summit Schools offers students.

Heather Chen, Sunnyvale resident, spoke in support of the proposed project. Ms. Chen commented on bicycling as alternative transportation and that the subject site is appropriate for a high school.

Tewfik Mourad spoke in opposition of the proposed project and discussed his concerns with the potential noise impacts.

Kevin Leal, Sunnyvale resident, spoke in support of the proposed project. Mr. Leal commented on the smooth coordination of pick up and drop offs as managed by faculty and parents and stated an opinion that it would be more appropriate to use an urban parking ratio.

Kimberly Leal, Sunnyvale resident, spoke in support of the proposed project. Ms. Leal commented on the unique nature of Summit Schools and stated an opinion that parking will not be an issue since many students do not drive.

Dalila Rojas spoke in support of the proposed project and discussed the use of alternative transportation as a means for school commutes.

Sharon McKnight discussed her concerns with the existing building structure, potential seismic hazards, lack of outdoor space, parking availability and traffic impacts.

Palmira Walker, Sunnyvale resident, spoke in opposition of the proposed project. Ms. Walker discussed her concerns with the proposed project's impact on traffic, the availability of bicycle lanes and the subject site's proximity to motels and hotels.

Valerie Soares discussed her concerns with the existing traffic, the proposed project's proximity to residential properties, and the availability of outdoor space for the students.

Nathan Yao spoke in support of the proposed project and commented on the benefits of the flexible learning plan offered by Summit Schools. Michael Yao spoke in support of the proposed project and commented on alternative transportation for commutes such as carpooling or bicycling. Catherine Liu spoke in support of the proposed project and commented on the need for a local school and the use of alternative transportation.

Don Breitbarth, Sunnyvale resident, discussed his concerns with access for emergency services, granting the requested variance and that consideration should be given to the staff recommendation.

Rocio Barrera, Sunnyvale resident, commented on the unaffordability of King's Academy and the positive impact that a school within walking distance would have on the north Sunnyvale community.

Bryan Wenter, representing Miller Starr Regalia on behalf of Summit Schools, presented additional information about the proposed project.

Commissioner Olevson asked the applicant what special land use circumstance justifies granting the parking deviation. Mr. Wenter provided information about the two most likely findings that can be made, as well as the applicant's willingness to implement a Parking Management Plan, provide yearly notice about parking requirements that includes a designated contact person, and conduct an additional parking study one year after the start of the school's operations.

Commissioner Weiss asked staff about the completion of a solar study for the

proposed parking structure. Assistant Director Miner advised that this was not required since the proposed structure would not shade more than 10% of any neighboring roof.

Commissioner Weiss asked staff if the San Aleso residents could initiate the process for residential only parking permits. Assistant Director Miner stated that staff did not recommend this because it places the burden on the neighborhood but that it is a possibility.

Commissioner Weiss confirmed with Assistant Director Miner that the proposed project would have to meet all Building Code seismic requirements as well as standards for the mitigation of hazardous waste.

Commissioner Weiss asked staff about potential noise abatement for the adjacent property owner. Assistant Director Miner commented that the school program would not encourage outdoor noise but that it would be difficult to mitigate general noise and that the adjacent residents may be impacted.

Commissioner Harrison commented that per City staff the use of the subject site is appropriate for this area of the Peery Park Specific Plan (PPSP). Assistant Director Miner noted that this is the only location in the PPSP that can support a school. Commissioner Harrison confirmed with Assistant Director Miner that the proposed project is consistent with what was anticipated in the PPSP EIR and that there would be no greater impacts with a school than with other uses at the subject site.

Commissioner Harrison asked staff when the Sunnyvale school parking standards were implemented. Assistant Director Miner stated that this is unknown but that current conditions couldn't have been anticipated when those standards were adopted. Assistant Director Miner acknowledged that the applicant has offered solutions and ideas but that staff must review the proposed project as they would any other school, which requires meeting City code requirements. Commissioner Harrison confirmed with Assistant Director Miner that the proposed project appears to meet parking requirements in some other cities.

Commissioner Rheame asked staff about public school parking policies and how they are enforced. Assistant Director Miner stated that public schools have their own parking standards but that per City code each use must manage its own parking.

Commissioner Rheume commented on City parking standards and that the Planning Commission must adhere to policy set by the City Council. Senior Assistant City Attorney Rebecca Moon stated that if the Planning Commission can make the findings then the code does allow for a parking adjustment.

Vice Chair Simons confirmed with Assistant Director Miner that if the Planning Commission supports the proposed project they would set a precedence for parking as a recommendation and that the decision is tied to the land use.

Chair Howard confirmed with Assistant Director Miner that if the parking adjustment is granted, those requirements would apply to any future site owners operating a school facility. Chair Howard asked staff what tools exist to enforce parking requirements. Assistant Director Miner stated that ultimately a revocation process would be the last resort if the COA were not met.

Commissioner Harrison confirmed with Assistant Director Miner that if the applicant suggested COA are implemented, they would apply to any future school operator at the site. Senior Assistant City Attorney Moon commented on the benefit of a one year review period and the possibility of revoking a Use Permit if necessary.

Vice Chair Simons asked staff if the review of the use permit would be one time or annually. Assistant Director Miner clarified that this was proposed as a one-time review.

Chair Howard commented on the required findings for an adjustment to the parking requirements and the different City parking standards. Chair Howard commented on his concerns regarding the lack of open space for the students and the concerns presented by residents about the parking structure.

Chair Howard closed the Public Hearing.

MOTION: Commissioner Harrison moved and Commissioner Weiss seconded the motion for Alternative 2 – Alternative 1 with modified Conditions of Approval –

1. The Use Permit will be reviewed after one year to evaluate the adequacy of the applicant's parking management plan.
2. A Condition of Approval will be added that specifies that at the beginning of each calendar year the applicant will provide the neighborhood with a contact person for any parking issues.

Commissioner Harrison stated that she can make required finding 1b. for the adjusted parking requirements. Commissioner Harrison commented on information provided by members of public about alternative methods of transportation to school, including carpooling, biking and walking, and stated that no public speaker at the hearing have children who drive to school. Commissioner Harrison stated an opinion that it appears that a parking management plan is already in place. Commissioner Harrison stated that she can make required finding 1f. for the adjusted parking requirements and stated that the unusual characteristic is that Summit Schools emphasizes active and collaborative transportation solutions.

Assistant Director Miner confirmed with Commissioner Harrison that a 1,000-foot notification for the neighbors is acceptable.

Commissioner Weiss stated that she can make the findings for the adjusted parking requirements and that the project is within the scope of the Peery Park Specific Plan (PPSP) EIR. Commissioner Weiss commented on the gap in educational services provided to north Sunnyvale. Commissioner Weiss stated that the parental involvement and commitment as demonstrated tonight is essential for the success of schools and students. Commissioner Weiss commented on the millennial trend of owning fewer cars and driving less and that this appears to be trending among high school students.

Commissioner Olevson stated that he will not be supporting the motion. Commissioner Olevson commented that making minor adjustments to the parking management plan would be appropriate but to rewrite the code to allow 70% of the required parking is inappropriate. Commissioner Olevson stated that the information provided regarding other cities was interesting but that the Planning Commission doesn't have the authority to change City code and that nothing in the land use makes this parcel unusual. Commissioner Olevson commented that Summit Denali is reputed to be a good neighbor and company but that doesn't change the land characteristics and thus there is no rationale to adjust the parking requirements.

Commissioner Rheume stated that he will not be supporting the motion. Commissioner Rheume commented on the importance of the Summit Denali mission and the need for a high school in north Sunnyvale but noted that the Planning Commission's authority solely pertains to land use and that they must adhere to City Council policies. Commissioner Rheume stated that he cannot make the findings that the subject site is so unique that it can only implement two-thirds of the City parking requirements.

FRIENDLY AMENDMENT: Vice Chair Simons offered a friendly amendment to specify that the landscaping for the parking structure will be of a height at or above that of the parking structure to provide adequate screening. Commissioner Harrison and Commissioner Weiss accepted the friendly amendment.

FRIENDLY AMENDMENT: Vice Chair Simons offered a friendly amendment to specify that the architectural details will match the graphics provided by the applicant and that texture will be added to the flat walls to provide architectural variation. Commissioner Harrison and Commissioner Weiss accepted the friendly amendment.

Vice Chair Simons stated that he will not be supporting the project. Vice Chair Simons commented that this is a land use decision and that historically there are public school traffic and parking problems. Vice Chair Simons stated that the applicable information is the use of the site and the parking requirements for a generic use. Vice Chair Simons commented on the different factors that do not support a high school in this location, such as the closure of Ferndale access to the neighborhood due to drug use and break ins. Vice Chair Simons stated that there are safety concerns for children who would access the school from Ahwanee Avenue. Vice Chair Simons stated an opinion that difficulties for schools have been caused by the City rezoning Public Facility lands and the school districts selling land. Vice Chair Simons stated his wish that the subject site could support Summit Denali if there was an increase in parking spaces, reinstatement of Ferndale access and if other issues were addressed.

Commissioner Howe stated an opinion that the project is not aligned with the General Plan objective to not impair the orderly development of or existing uses of adjacent properties. Commissioner Howe commented that the proposed project would be a significant intensification of the subject site that would have a large impact on the surrounding area. Commissioner Howe noted that the parcel was originally zoned Industrial and that this is a land use decision that will be tied permanently to the property. Commissioner Howe stated that he will not be supporting the motion.

Chair Howard stated that he will be supporting the motion. Chair Howard stated that he can make the findings that this is a desirable change in land use that will serve the community interest and can make the findings for the adjusted parking requirements because the parking management plan will be tied to the subject site.

Chair Howard suggested that the applicant advocate for a parking ratio that will meet their needs if this item is heard by the City Council.

The motion failed by the following vote:

Yes: 3 - Commissioner Weiss
Chair Howard
Commissioner Harrison

No: 4 - Commissioner Howe
Commissioner Olevson
Vice Chair Simons
Commissioner Rheame

MOTION: Vice Chair Simons moved and Commissioner Howe seconded the motion for Alternative 4 – Deny the Peery Park Specific Plan Conditional Use Permit and provide direction to staff and applicant on where changes should be made.

The motion carried by the following vote:

Yes: 4 - Commissioner Howe
Commissioner Olevson
Vice Chair Simons
Commissioner Rheame

No: 3 - Commissioner Weiss
Chair Howard
Commissioner Harrison

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

4. [18-0993](#)

Proposed Project:

DESIGN REVIEW Install one (1) new canister antenna mounted on a replacement pole with associated equipment between 7'0" and 18'0" A.G.L. on the pole. Within 300 ft. of a public park (Braly Park).

Location: On a replacement utility pole in the public right-of-way on the south side of Iris Ave. near 701 Jackpine Ct.

File #: 2018-7871

Zoning: R-0

Applicant: Verizon Wireless C/O The CBR Group

Owner: City of Sunnyvale Right-of-Way

Environmental Review: Class 3 Categorical Exemption relieves this project from the California Environmental Quality Act (CEQA) provisions that includes installation of small new equipment and facilities in small structures (CEQA Guidelines Section 15303).

Project Planner: Teresa Zarrin, (408) 730-7429, tzarrin@sunnyvale.ca.gov

Associate Planner Teresa Zarrin presented the staff report.

Chair Howard opened the Public Hearing.

Mark Peters, representing the CBR Group and Verizon Wireless (Verizon), presented images and information about the proposed project.

Rajat Mathur, representing Hammett and Edison, presented information about the proposed project.

Teague Soderman, Sunnyvale resident, spoke in opposition of the proposed project. Mr. Soderman discussed his concerns with the proposed project's impact on the value and aesthetics of his property, as well as the health implications of radiofrequency emissions.

Corrie Engelson, Sunnyvale resident, spoke in opposition of the proposed project. Ms. Engelson discussed her concerns with trimming the adjacent Cedar tree and asked the Planning Commission to consider an alternate site.

Mr. Peters and Mr. Mathur presented additional information regarding the proposed project.

Commissioner Rheume asked the applicant for information regarding an alternate site. Mr. Peters stated that this location is directly in front of a home and would not meet City guidelines. Mr. Peters provided information about an alternative design for the proposed project that would eliminate the need to trim the Cedar tree. Commissioner Rheume asked staff why the alternative site would not meet City guidelines. Assistant Director Miner advised that the preferred site has existing screening and does not affect any primary views.

Commissioner Harrison asked the applicant about the direction of the radiofrequency emissions. Mr. Mathur explained that at a height of 47 feet the directional is 360 degrees.

Chair Howard asked about the health of the Cedar tree that is proposed to be trimmed and if an arborist has examined it. Mr. Peters stated that an arborist has not conducted a review but that they would agree to add this as a Condition of Approval (COA). Assistant Director Miner provided information about the Cedar tree and advised that there is an alternative of using ground equipment. Chair Howard gathered public comments about this alternative. Mr. Peters provided information about the available distance between the pole, right-of-way and curb and stated that there should be sufficient space in the right-of-way to add a ground cabinet. Commissioner Rheaume asked staff about the possibility of utilizing site five. Senior Assistant City Attorney Rebecca Moon stated that a new application would be required in addition to re-noticing for that site.

Chair Howard closed the Public Hearing.

MOTION: Commissioner Howe moved and Commissioner Olevson seconded the motion for Alternative 2 – Approve the Design Review with modified conditions – staff will work with the applicant and the adjacent property owner to develop an alternative for the placement of the equipment, with staff to make the final decision.

Commissioner Howe stated that the Planning Commission does not have much discretion for wireless telecommunication facilities and that this is as much flexibility as can be provided.

Commissioner Olevson commented that the state of California has preempted all almost decision making regarding wireless telecommunications facilities except for aesthetics, which this motion includes.

The motion carried by the following vote:

Yes: 7 - Commissioner Weiss
Chair Howard
Commissioner Howe
Commissioner Olevson
Vice Chair Simons
Commissioner Rheaume
Commissioner Harrison

No: 0

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

5. [18-0852](#) **Proposed Project:** Amend Sunnyvale Municipal Code Chapter 19.44 to add sign code provisions for theaters on the second floor.
 Location: Citywide
 File #: 2018-7131
 Applicant / Owner: STC Venture LLC
 Environmental Review: The action being considered does not constitute a “project” within the meaning of the California Environmental Quality Act (“CEQA”) pursuant to CEQA Guidelines section 15378(a).
 Project Planner: Noren Caliva-Lepe, (408) 730-7659, ncaliva-lepe@sunnyvale.ca.gov

Senior Planner Noren Caliva-Lepe presented the staff report.

Vice Chair Simons asked staff if the City considered allowing art as a part of a sign to be exempt from the sign code and eligible for the art in private space requirements. Senior Planner Caliva-Lepe stated that current public art requirements stipulate that the content cannot include any commercial signage. Vice Chair Simons commented on the removal of architectural detail from art within the City and the disconnect between signage and location. Senior Planner Caliva-Lepe stated that the Planning Commission could direct staff to explore the option of allowing sign area to include public art. Assistant Director Andrew Miner advised that this cannot be included with the proposed project but that the Planning Commission can recommend this change to City Council for future consideration. Senior Planner Caliva-Lepe commented that the current proposed change to the sign code could allow for greater creativity in regards to non-traditional signage options.

Commissioner Weiss asked staff if amending the sign code will allow for traditional movie theater fin signs. Senior Planner Caliva-Lepe stated that amending the sign code will give the flexibility to explore that option.

Commissioner Weiss asked if the amendment will only apply to Downtown sub-block 5. Assistant Director Miner stated that the change would be limited for use by theaters on the second floor in a Regional Retail Business zone.

Commissioner Harrison commented on the potential increase of commercial area in Downtown or along El Camino Real and asked staff if there are other second-story entertainment uses where a sign code amendment might be appropriate. Senior Planner Caliva-Lepe commented on the unique signage needs of theaters and that this specific practice is consistent with requirements in other cities. Assistant

Director Miner commented that staff's intention was not to modify the sign code for all types of retail or commercial use and that theaters are often treated uniquely in city sign codes.

Commissioner Rheume asked staff about limitations at night for illuminated signs. Assistant Director Miner stated that the standards for signs that face residential areas will still apply. Senior Planner Caliva-Lepe advised that per City code wall signs on side or rear elevations within one hundred fifty feet from any residential zoning district may be illuminated only from 7 am to 10 pm. Commissioner Rheume confirmed with Senior Planner Caliva-Lepe that this will apply to second-story signage. Commissioner Rheume discussed potential signage visibility impacts with Assistant Director Miner.

Chair Howard opened the Public Hearing.

Josh Rupert, representing STC Venture LLC, presented images and information about the proposed project.

Richard Mehlinger, speaking on his own behalf, spoke in support of the proposed project and commented that it would be good to have a study issue that examines having more iconic signage throughout the City.

Chair Howard closed the Public Hearing.

MOTION: Commissioner Howe moved and Commissioner Rheume seconded the motion for Alternative 1 – Make the finding that the action being considered does not constitute a “project” within the meaning of the California Environmental Quality Act (“CEQA”) pursuant to CEQA Guidelines section 15378(a) and Introduce an Ordinance Amending Chapter 19.44 (Signs) of Title 19 (Zoning) of the Sunnyvale Municipal Code (Attachment 5 to this report).

The motion carried by the following vote:

Yes: 7 - Commissioner Weiss
Chair Howard
Commissioner Howe
Commissioner Olevson
Vice Chair Simons
Commissioner Rheume
Commissioner Harrison

No: 0

Assistant Director Miner stated that this item goes to the City Council on January 29, 2019.

CONSENT CALENDAR

1. A [18-1042](#) Approve the 2019 Planning Commission Annual Work Plan

Vice Chair Simons moved and Commissioner Howe seconded the motion to approve the 2019 Planning Commission Annual Work Plan with a recommendation to add the Planning Commissioners Academy and the Joint Meeting of City Council with Board and Commission Chairs and Vice Chairs.

The motion carried by the following vote:

Yes: 7 - Commissioner Weiss
 Chair Howard
 Commissioner Howe
 Commissioner Olevson
 Vice Chair Simons
 Commissioner Rheaume
 Commissioner Harrison

No: 0

1. B [18-1100](#) Annual Review of the Code of Ethics and Conduct for Elected and Appointed Officials

Vice Chair Simons moved and Commissioner Howe seconded the motion to approve the Annual Review of the Code of Ethics and Conduct for Elected and Appointed Officials (Code of Ethics) with a recommendation to shorten the document to no more than three pages and include an addendum of errata.

Vice Chair Simons stated an opinion that the Code of Ethics is likely not being read due to the length. Vice Chair Simons asked for consideration to trim the content and concentrate on the mission. Vice Chair Simons commented on the extremity of the content of the Code of Ethics in other cities.

Commissioner Harrison asked staff about decisions made based on the merit and substance of a proposed project. Senior Assistant City Attorney Rebecca Moon advised that this is part of the Code of Ethics and stated that every application

should be heard solely on the merits of that application.

The motion carried by the following vote:

Yes: 7 - Commissioner Weiss
Chair Howard
Commissioner Howe
Commissioner Olevson
Vice Chair Simons
Commissioner Rheaume
Commissioner Harrison

No: 0

STANDING ITEM: CONSIDERATION OF POTENTIAL STUDY ISSUES

Vice Chair Simons suggested a study issue that examines signage options for cultural art in the City, either in commercial areas or within a broader context. Assistant Director Miner stated that staff will complete a write up to present at a future Planning Commission hearing.

NON-AGENDA ITEMS AND COMMENTS

-Commissioner Comments

-Staff Comments

Assistant Director Miner stated that the Useable Open Space study issue was continued to the February 26, 2019 City Council hearing and that the City Council denied the General Plan Amendment Initiation for 400-840 W. California Avenue at the November 13, 2018 hearing, as recommended by staff. Assistant Director Miner stated that the Peery Park Plan Review Permit for 810-870 W. Maude Avenue and 470 Potrero Avenue was approved by the City Council at the December 4, 2018 hearing.

ADJOURNMENT

Chair Howard adjourned the meeting at 11:49 PM.



City of Sunnyvale

Agenda Item 1.C

19-0073

Agenda Date: 1/14/2019

REPORT TO PLANNING COMMISSION

SUBJECT

REQUEST FOR CONTINUANCE TO JANUARY 28, 2019

Proposed Project: Related applications on a 3.54-acre site:

PEERY PARK PLAN REVIEW PERMIT AND TENTATIVE PARCEL MAP: to redevelop three sites into an office development consisting of a new 121,719 square foot, four-story office building with a 4.5-level parking structure and associated site work and landscaping. The project will result in 80% FAR.

File #: 2018-7432

Location: 275 N Mathilda Ave (APN: 165-27-007 165-27-008 165-27-009)

Applicant/Owner: Irvine Company

Environmental Review: No additional review required as per CEQA Guidelines 15168(c)(2) and (4) - Peery Park Specific Plan Program Environmental Impact Report (EIR).

Staff Contact: Margaret Netto, (408) 730-7628, mnetto@sunnyvale.ca.gov

BACKGROUND

This item was scheduled and advertised for the Planning Commission Public Hearing of January 14, 2019. Staff is requesting a continuance to the January 28, 2019 Planning Commission meeting to allow additional time to discuss the right-of-way issue on N. Mathilda Avenue.

PUBLIC CONTACT

Public contact regarding this item was made through the following ways:

1. Posting the Agenda for Planning Commission on the City's official notice bulletin board outside City Hall and by making the agenda and report available at the Sunnyvale Public Library and on the City's website;
2. Publication in the Sun newspaper, at least 10 days prior to the hearing;
3. E-mail notification of the hearing dates sent to all interested parties and neighborhood associations; and
4. One Neighborhood outreach meeting was held on July 12, 2018 to discuss the project.

Public Contact: Staff has not received any comments from the public, beyond those received at the outreach meeting, at the time of publication.

The Planning Commission continuance to January 28, 2019 will serve as legal notification of the continuance of this item.

ALTERNATIVES

1. Open the Public Hearing and continue to the Planning Commission meeting of January 28, 2019.
2. Open the Public Hearing and continue to a Planning Commission meeting on a date

determined by the Planning Commission.

STAFF RECOMMENDATION

Continue to the Planning Commission Public Hearing of January 28, 2019.

Prepared by: Margaret Netto, Planner

Reviewed by: Andrew Miner, Assistant Director, Community Development



City of Sunnyvale

Agenda Item 2

18-0724

Agenda Date: 1/14/2019

REPORT TO PLANNING COMMISSION

SUBJECT

Consideration of Useable Open Space in Required Front Yards: Forward a Recommendation to the City Council to Introduce an Ordinance to Amend Section 19.37.100 (Usable Open Space Design Requirements) of Chapter 19.37 (Landscaping, Irrigation and Useable Open Space) and Section 19.12.160 ("O") of Chapter 19.12 (Definitions) of the Sunnyvale Municipal Code, and Find that the Action is Exempt from CEQA Pursuant to CEQA Guidelines Section 15061(b)(3). (Study Issue)

REPORT IN BRIEF

Since 2005, the Planning Commission has reviewed and approved nine development applications that included a request for a deviation to allow useable open space (UOS) in the required front yard. The Planning Commission sponsored a study issue (Attachment 2) to evaluate the existing UOS regulations and consider amendments that may allow UOS to be provided in the required front yard for multi-family residential development projects.

UOS is a requirement for all duplex and multi-family residential developments, and generally refers to open space that is intended for both active and passive activities. There are specific size and dimension requirements per unit for UOS within a development project. Although UOS may contribute towards the minimum landscaped area of the site, it is not currently allowed within the required front yard of a property.

Staff recommends that the Planning Commission make a recommendation to the City Council to: introduce an ordinance to amend Chapter 19.37 (Landscaping, Irrigation and Useable Open Space) and Section 19.12.160 ("O") of Chapter 19.12 (Definitions) of the Sunnyvale Municipal Code, and find that the action is exempt from CEQA pursuant to CEQA Guidelines Section 15061(b)(3). The recommendation would eliminate the requirement that prohibits UOS in required front yards for duplex and multi-family residential development projects. Removal of this regulation would provide applicants with clear development criteria for UOS and should not cause negative impacts on surrounding properties.

Although the study issue paper prepared for this item mentions the UOS guidelines for townhome projects, it can also be applied to larger projects. For taller projects (over three stories), it may be prudent to allow less of the setback area to be used for open space requirements because that area may be less attractive to be used by residents and functions more like landscaped area. Also, if a front yard setback deviation or Variance is requested for a project (effectively reducing the area between the front of a building and the property line), that area is even less likely to be available for use by residents and functions more like standard landscaped area. To address taller, high density projects and potential requests to reduce the front setback, staff recommends UOS requirements to be counted for only one-half of the required front setback for buildings over three stories.

The proposed draft ordinance language reflecting the staff recommendation can be found in Attachment 3.

BACKGROUND

When the UOS regulations were first introduced in 1975, the intent was to require developers to provide quality open space that could be used by the residents who live in multi-family residential development in-lieu of the typical single-family back yard space; and, therefore, help improve the quality of life for residents of multifamily developments. UOS has not been allowed (at least for calculation purposes) in the required front yard primarily to create a buffer between public spaces (streets, sidewalks) and the open space on the private residential property. The UOS requirements have not changed significantly since they were adopted, except minimum square footage requirements were added for the various zoning districts, and a requirement for private useable open space was added for High Density Residential (R-4 and R-5) zoning districts.

In 2012, after the Planning Commission had reviewed a development application proposal with a UOS deviation request in which an applicant proposed using the required front yard area to comply the UOS requirement, this study issue was sponsored to consider allowing UOS in the required front yard area under specific criteria and/or modifications to the development standards.

The study issue was ranked in the past several years; however, it “fell below the line” of study issues that the Community Development Department was able to conduct, until 2018.

The City Council is scheduled to consider this item on February 26, 2019.

EXISTING POLICY

Sunnyvale General Plan

Chapter 3: Land Use and Transportation Element

GOAL LT-4: An Attractive Community for Residents and Businesses - In combination with the City’s Community Design Sub-Element, ensure that all areas of the city are attractive and that the city’s image is enhanced by following policies and principles of good urban design while valued elements of the community fabric are preserved.

- Policy LT-4.1* Preserve and enhance an attractive community, with a positive image, a sense of place, landscaping, and a human scale.
- Policy LT-4.3* Enforce design review guidelines and zoning standards that ensure the mass and scale of new structures are compatible with adjacent structures, and also recognize the City’s vision of the future for transition areas such as neighborhood Village Centers and El Camino Real nodes.
- Policy LT-4.4* Avoid monotony and maintain visual interest in newly developing neighborhoods, and promote appropriate architectural diversity and variety. Encourage appropriate variations in lot sizes, setbacks, orientation of homes, and other site features.

Chapter 4: Community Character

Goal CC-2: Attractive Street Environment. Create an attractive street environment which will compliment private and public properties and be comfortable for residents and visitors.

Goal CC-3: Well-Designed Sites and Buildings. Private Development: Ensure that buildings and

related site improvements for private development are well designed and compatible with surrounding properties and districts.

Policy CC-3.2 Ensure site design is compatible with the natural and surrounding built environment.

Chapter 5: Housing Element

Policy HE-4.3 Require new development to build to at least 75 percent of the maximum zoning density, unless an exception is granted by the City Council.

Sunnyvale Municipal Code

Summaries of applicable Municipal Code chapters and sections are provided below. The specific language on the UOS regulations can be found in Attachment 4.

Chapter 19.12 (Definitions)

- Section 19.12.160 (“O”). “Open space, usable” means an outdoor or unenclosed area on the ground, or on a roof, balcony, deck, porch, pool area, patio or terrace or recreation building, when designed and accessible for outdoor living, recreation, pedestrian access or landscaping, but excluding parking facilities, driveways, utility, service or storage areas.

Chapter 19.37 (Landscaping, Irrigation, and Useable Open Space)

- Section 19.37.040 (Minimum Landscaped Area and Usable Open Space).
This Section provides required minimum size per unit for all types of open space, including UOS, for different zoning districts in the City.
- Section 19.37.100 (Usable Open Space Design Requirements)
This Section provides design criteria for UOS, which include function, location, minimum dimensions and size to be counted towards the required UOS, as well as private UOS requirements for R-4 and R-5.

ENVIRONMENTAL REVIEW

The action being considered does not constitute a “project” within the meaning of the California Environmental Quality Act (“CEQA”) pursuant to CEQA Guidelines Section 15061(b)(3) as it has no potential for resulting in either a direct physical change in the environment, or a reasonably foreseeable indirect physical change in the environment.

Projects that are subject to the requirements of the new regulations will be evaluated pursuant to CEQA on an individual basis.

DISCUSSION

Overview

When the UOS regulations were adopted in 1975, it was uncommon for housing projects to have primary entrances that fronted on the public street. At that time, entrances were usually accessed through common property or parking areas and the street elevation was often less activated. Residential development patterns have changed since the 1970’s, and priority has been placed on walkable/active streets. Due to this change in trend, the City has created design guidelines that emphasize activating streetscapes and providing public and private open space, which lends itself to providing primary entrances to residential units along street elevations.

In Sunnyvale, open space includes both the landscaped area and UOS on the property. The landscaped area generally refers to any open area planted with vegetation, usually used for screening or decoration, while UOS refers to open, unenclosed, or recreational areas or buildings used for active and passive open space activities. UOS in a development must meet the minimum size requirements, depending on the zoning district, and have a minimum dimension of 12 feet in any direction.

Currently, UOS is prohibited in required front yards without approval of a deviation in conjunction with a Special Development Permit, or a Variance request in conjunction with a Use Permit or Design Review application. The Planning Commission has approved deviations on development projects to allow UOS in the required front yard, and the common characteristics of those projects are further described below.

A general principle of zoning regulations is to consider code amendments if variances or other deviations in standards are frequently granted. The purpose of this study is to consider creating clear criteria for when UOS would be allowed in a required front yard which in turn would reduce the need for a deviation or Variance requests. The study also considers whether to allow UOS in front yard setbacks of buildings over three stories, and whether to allow UOS that do not meet the minimum standard front setback requirements. As a result of the study, staff is recommending the attached ordinance (Attachment 3) to amend the regulations.

Approved Projects with UOS Deviation

Staff reviewed projects that had approved deviations to allow UOS in the required front yard, and found the following common elements:

- Townhouse-style development projects with 10 or fewer units;
- Located in the Medium Density Residential (R-3) zoning district;
- Project proposed on a corner lot with two required front yards; and
- Parcels that are less than 25,000 square feet in size.

In addition to the projects described above with approved UOS deviations, some multi-family residential developments in the higher density zoning districts (R-4 or R-5) have submitted applications with requests to reduce the minimum UOS requirement per unit; however, these requests have been approved as concessions, in accordance with the State Density Bonus laws, and not with a deviation.

Applications with requests for deviations from the UOS allowances in the required front yard have been submitted for higher density properties, but most of those projects were modified prior to Planning Commission consideration of the application. In those cases, because the lots are usually larger, staff has encouraged the applicant to shift the building/s, and the deviation has been avoided with redesign of the site plan.

Other Jurisdictions

In addition to the research staff conducted on Sunnyvale projects, research was also conducted with nearby jurisdictions to understand if, and how, UOS is regulated. Staff found that both Palo Alto and Redwood City have UOS requirements for multi-family residential zoning districts. Redwood City prohibits UOS in required front yards, similar to Sunnyvale, while Palo Alto has more categorized UOS requirements, including the total UOS, common useable space, and private UOS for residential

developments. Additionally, Palo Alto has specific design criteria for UOS, similar to Sunnyvale, but includes no locational prohibitions. Other cities, Mountain View and Santa Clara, have general open space requirements, but do not specifically require UOS. A comparison of the nearby jurisdictions open space requirements can be found in Attachment 6.

Options

There are several options that can be considered to address this issue. Most address the original concern regarding how the UOS requirements relate to townhome projects, specifically those with two street frontages. But Sunnyvale is experiencing more high-density projects at taller heights, and the UOS standards are also important to consider for these projects. Below are different options to consider:

In addition to making no changes to the regulations, staff considered a number of permutations based on: zoning district, number of units, size of lot, frontage length, location (corner vs. mid-block), whether a project meets minimum setback, and, what portion of the UOS or setback area could be located in a setback area. The following paragraphs provide brief comments on each of these permutations.

A. Make no changes

This option would not change any of the current regulations or practices for UOS. Development applications would have UOS deviation requests considered on a case-by-case basis. The deviation request to allow UOS in required front yards has lessened and is not very common, and on most lots the UOS requirements can be achieved as currently regulated. The current deviation process allows the Planning Commission flexibility in considering deviation requests. The downside of this approach is that it does not provide applicants with clear guidance whether a project design meets the community expectations (through decisions of the Planning Commission or Council) until the public hearing for the project.

B. Allow UOS in required front yards in multi-family residentially-zoned areas (R-2, R-3, R-4, and R-5).

This option would eliminate the need for the deviation or Variance and authorizes the use of the required front setback (yard) as UOS, provided the area meets all the other dimensional requirements for UOS. This change would allow projects in multi-family residential developments to utilize the space between the residential building and the street, and could help to activate the streetscape. Active UOS uses such as play equipment (vs. passive uses such as seating, strolling) could be perceived by the public as cluttered and less safe for users. If useable open space is provided within the front yard setback there will be less and potentially smaller useable open space areas on the interior of a development. Under the current regulations UOS can be located between the building and the street, provided the UOS is behind the minimum setback.

If this option is chosen, staff recommends pairing it with additional options such as only a portion of the required front yard, smaller projects or corner projects.

C. Do not allow UOS in front yard setback areas that do not meet minimum setback

A drawback to allowing the UOS in the front setback area is when a request to reduce the front yard setback is included in the project. In cases where a deviation or variance request is included as part of the project, it is less likely that the front area is appropriate for UOS. The reduced setback tends to function less as useable open space and more as landscaping only.

D. Allow UOS in the required front yard only in the R-3 zoning district.

As shown in Attachment 5, the deviation approvals have been for projects in the R-3 zoning district, which tend to be smaller in size than R-4 or R-5 project sites and are usually developed with a townhouse style development that are 2-3 stories in height. This medium density development style lends itself to providing UOS on the ground level, typically in a back (or front) yard setting, like a single-family house. Additionally, because higher density development projects are typically built on larger sites, there is more room to design a project, and to comply with the UOS requirements. R-4 (high density) projects have a requirement for private useable open space which is typically satisfied with balconies on upper stories. To date, the Planning Commission (or City Council) have not considered requests for UOS in the front yard setback areas on R-4 and R-5 projects; however, these zoning districts are now seeing more applications. Limiting the change to R-3 projects would be consistent to past requests and could be seen to ensure that a balance of UOS and landscape buffer is provided.

E. UOS for projects higher density multi-family residential districts

Projects in R-4 and R-5 zoning areas which exceed three stories in height have an increased front yard setback requirement (i.e., additional setback is at least half of the building height above three stories). Including R-4 and R-5 zoning designations in the UOS amendments would allow the increased setback area to be used as UOS, provided there is no reduction in the required front yard setback.

F. Allow UOS in front yard setbacks for fewer than 10 units

Multifamily residential development projects with ten or more units are eligible for the State Density Bonus program, and can request a reduction of the minimum UOS requirements as a concession. However, residential development projects with fewer than ten units are not eligible for the State Density Bonus; and may have challenges meeting the UOS requirements and other provisions (including minimum density) without requesting the deviation. As shown in Attachment 5, past projects that have been granted the UOS deviation were development projects with fewer than ten units; another common trait seen in the UOS deviation approvals.

G. Allow UOS in the required front yards only on corner lots

Corner lots generally have constraints because they have two required front yards and are required to meet the minimum density requirement of at least 75% of the maximum density. As shown in Attachment 5, this is a common factor of those projects in which the UOS deviation has been allowed. This option does not differentiate between large or small properties; the previously approved deviations were all smaller developments.

H. Allow up to 50% of the required front yard to be used as UOS.

This option would pair with the ability to use the required front setback for UOS with restriction that only half (50%) of the area can be designated as useable open space. Limiting use of the front setback (for UOS) is similar to the existing rear yard regulations that allow structures closer to the rear property line subject to a limitation that no more than 25% of the required rear yard area is used. This approach provides applicants and decision-makers additional flexibility in designing projects and preserves a portion of the front setback area for less active/useable features.

Conclusion

Staff considered several items that led to the options as part of this study, including:

- Evaluation of existing regulations;
- Examination of the common patterns of past projects with UOS deviation approvals;
- Current development projects;
- Public input from residents and developers;
- Potential impacts that could arise from modifications to the current regulations; and
- Information from nearby jurisdictions on how open space is regulated.

Staff supports allowing UOS in the required front yard setback for the medium, high and very high density multi-family residential areas (R-3, R-4 and R-5), subject to some restrictions, described below. The change would provide flexibility to project design and give all parties an opportunity to provide superior design in exchange for activating street frontages. Staff does not, however, support code modifications allowing UOS in the required front yard setback if there is a requested variance or deviation from minimum setback. Combining a reduced setback with allowing UOS in that area removes landscape buffer areas to the front of projects.

Staff recommends the following alternative:

Amend the zoning code to allow UOS in the front yard setback to be allowed as follows:

- Applies to medium, high and very high density multi-family residential zoning districts (R-3, R-4 and R-5);
- Up to 50% of the required front yard may be counted toward the UOS requirement; and
- UOS would not be a permitted use for a project with a front yard setback deviation or Variance.

Other options can be considered to further restrict when the UOS in the front yard setback area, such as restricting it to only R-3-zoned properties, limit to three story and lower projects, limit to fewer than 10 unit projects, or for corner lots only; staff has determined expanding the regulations to all multi-family residential zoning districts along with the exclusion of allowing the use of UOS in those areas in conjunction with a front yard setback deviation or Variance will limit the inappropriate use of the regulation.

FISCAL IMPACT

The proposed amendments to the Sunnyvale Municipal Code associated with useable open space requirements would have no fiscal impacts.

PUBLIC CONTACT

Public contact regarding this item was made through the following ways:

1. Posting the Agenda for Planning Commission on the City's official notice bulletin board outside City Hall and by making the agenda and report available at the Sunnyvale Public Library and on the City's website;
2. Publication in the *Sun* newspaper, at least 10 days prior to the hearing;
3. E-mail notification of the hearing dates sent to all interested parties and neighborhood associations; and
4. Two community outreach meetings held to discuss the study issue on August 3, 2018 and August 6, 2018.

Staff has not received any comments from the public, beyond those discussed at the outreach meetings, at the time of report publication. An overview of the outreach meeting discussion is

provided below.

Planning Commission Study Session

A study session with the Planning Commission was held on July 23, 2018, six Planning Commissioners were in attendance.

The Planning Commission had the following comments on the study issue:

- That flexibility is preferred when considering projects with UOS deviation requests because each project has different circumstances that may or may not warrant the deviation;
- That the deviation may be most appropriate for small corner lots, due to the two required front yards, and design constraints;
- If UOS is allowed in the required front yard, it should be counted towards the common UOS and not the private UOS;
- Concern was raised that by allowing UOS in the required front yard a project may be pushed towards the back of the site and closer to adjacent development; and
- Allowing UOS in the required front yard may result in reduced open space and landscaped area within a development project.

Community Outreach Meetings

Staff conducted two community outreach meetings on August 3, 2018 in the morning and August 6, 2018 in the evening. A total of four people attended the meetings, two from the development community and two community members.

The community members expressed concerns that allowing active UOS in the required front yard could create safety concerns for drivers. They also felt that the required front yard currently creates a buffer between the public right-of-way and the development project and worried that UOS in that area may not be as aesthetically pleasing. One of the attendees, representing the development community, requested that if the standards were to be modified, they would like to see clear and easy to understand standards to avoid uncertainties. This attendee also remarked that they would like to see UOS allowed in the required front yard.

ALTERNATIVES

1. Introduce an Ordinance to Amend Chapter 19.37 (Landscaping, Irrigation and Useable Open Space), including but not limited to (a) Medium, high and very high density multi-family residential zoning districts (R-3, R-4 and R-5), (b) Up to 50% of the required front yard may be counted toward the useable open space requirement, (c) Useable open space in the required front yard would not be a permitted use for a project with a front yard setback deviation or Variance, and Section 19.12.160 ("O") of Chapter 19.12 (Definitions) of the Sunnyvale Municipal Code (Attachment 3 to this report), and Find that the Action is Exempt from CEQA Pursuant to CEQA Guidelines Section 15061(b)(3) as it has no potential for resulting in either a direct physical change in the environment, or a reasonably foreseeable indirect physical change in the environment.
2. Introduce an Ordinance with modifications to the staff recommendation, and Find that the Action is Exempt from CEQA Pursuant to CEQA Guidelines Section 15061(b)(3) as it has no potential for resulting in either a direct physical change in the environment, or a reasonably foreseeable indirect physical change in the environment.
3. Do not introduce an Ordinance and make no changes to the current standards of practice for

UOS requirements.

STAFF RECOMMENDATION

Recommend to City Council Alternative 1: Introduce an Ordinance to Amend Chapter 19.37 (Landscaping, Irrigation and Useable Open Space), including but not limited to (a) Medium, high and very high density multi-family residential zoning districts (R-3, R-4 and R-5), (b) Up to 50% of the required front yard may be counted toward the useable open space requirement, (c) Useable open space in the required front yard would not be a permitted use for a project with a front yard setback deviation or Variance, and Section 19.12.160 ("O") of Chapter 19.12 (Definitions) of the Sunnyvale Municipal Code (Attachment 3 to this report), and Find that the Action is Exempt from CEQA Pursuant to CEQA Guidelines Section 15061(b)(3) as it has no potential for resulting in either a direct physical change in the environment, or a reasonably foreseeable indirect physical change in the environment.

Staff recommends amending the requirement that prohibits front yard area to be counted towards the UOS requirement. The staff recommendation provides criteria on when to allow UOS in the required front yard in specified multi-family residential zoning districts (unless provided for through an area plan, such as Downtown Specific Plan). The new regulations would simplify the permitting process by eliminating the needs for deviations and additional calculations and provide clarity on when useable open space is appropriate in this area of the site.

Additionally, the staff recommendation would not adversely impact the City's efforts to maintain and preserve good street environment for residential neighborhoods, and would continue to provide adequate amenities for residents. The elimination of the location requirement that prohibits UOS in the required front yard would also ease the challenges in meeting minimum density requirements (especially for smaller projects).

Staff is not concerned that allowing UOS in the required front yard would result in a development being "pushed back" on a property, or sited closer to adjacent buildings than currently allowed because the project would still have to comply with other applicable development standards, including the minimum setback requirements.

Prepared by: Kelly Cha, Associate Planner

Reviewed by: Amber Blizinski, Principal Planner

Reviewed by: Andrew Miner, Assistant Director, Community Development

Reviewed by: Trudi Ryan, Director, Community Development

Reviewed by: Teri Silva, Assistant City Manager

Approved by: Kent Steffens, City Manager

ATTACHMENTS

1. Reserved for Report to Council
2. Study Issue Paper
3. Draft Ordinance
4. UOS Regulations from the Sunnyvale Municipal Code
5. Summary Table of Approved Projects with a UOS Deviation
6. Open Space and UOS Regulations from other Jurisdictions

ATTACHMENT 1

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City of Sunnyvale

Agenda Item

17-0910

Agenda Date: 2/16/2018

2018 COUNCIL STUDY ISSUE

NUMBER

CDD 13-02

TITLE Consideration of Usable Open Space in Required Front Yards

BACKGROUND

Lead Department: Community Development

Support Departments: Office of the City Manager
Office of the City Attorney

Sponsor(s): Planning Commission

History: 1 year ago: Ranked, Below the Line
2 years ago: Deferred

SCOPE OF THE STUDY

What precipitated this study?

Developers of small townhouse developments have requested and the Planning Commission has approved, through a Special Development Permit, the ability to count a portion of the required front yard area towards the minimum usable open space requirement. This practice is now relatively common; when the zoning regulations for usable open space were adopted townhouse developments that allowed access from the public street were not typical. Design guidelines adopted since then have put more emphasis on activating the streetscape with entries and private areas. The portions that have been credited toward required open space are the privately fenced yards in front of the townhouse units.

What are the key elements of the study?

Usable open space is required for multi-family residential projects in the City. Pursuant to Sunnyvale Municipal Code Section 19.37.100, landscaped areas in the required front yard cannot be counted towards usable open space. This study would review open space regulations and evaluate whether there are instances or criteria that would permit required front yard areas to be counted towards required usable open space and not be deemed a deviation from the Sunnyvale Municipal Code (SMC).

Estimated years to complete study: 1 year

FISCAL IMPACT

Cost to Conduct Study

Level of staff effort required (opportunity cost): Moderate

Funding Required for Non-Budgeted Costs: \$0

17-0910

Agenda Date: 2/16/2018

Cost to Implement Study Results

Minimal or no cost expected to implement.

EXPECTED PARTICIPATION IN THE PROCESS

Council-Approved Work Plan: No

Council Study Session: No

Reviewed by Boards/Commissions: Planning Commission

STAFF RECOMMENDATION

Support. This policy issue merits discussion at the 2018 Study Issues Workshop.

The study issue would develop clear criteria for allowing front yards to partially meet the open space requirements for residential projects (primarily townhouse projects). By providing specific zoning standards or guidelines that define the conditions and situations where the front yard can be counted toward required open space, it would streamline the review process. Staff had anticipated being able to complete this policy change as part of the zoning code retooling; however, the schedule for the retooling effort has fallen behind due to other workload items and staff availability. The retooling effort will recommence when sufficient staff time is available.

Prepared by: Trudi Ryan, Director, Community Development

Reviewed by: Teri Silva, Interim Assistant City Manager

Approved by: Kent Steffens, Interim City Manager

DRAFT 1/9/2019 dm

ORDINANCE NO. _____

**AN ORDINANCE OF THE CITY COUNCIL OF THE CITY
OF SUNNYVALE TO AMEND VARIOUS SECTIONS OF
TITLE 19 (ZONING) OF THE SUNNYVALE MUNICIPAL
CODE RELATING TO USEABLE OPEN SPACE**

WHEREAS, the City of Sunnyvale desires to amend certain sections of the Sunnyvale Municipal Code Title 19 Zoning relating to useable open space.

NOW, THEREFORE, THE CITY COUNCIL OF THE CITY OF SUNNYVALE DOES
ORDAIN AS FOLLOWS:

SECTION 1. Section 19.12.160 AMENDED. Section 19.12.160 of Chapter 19.12 (Definitions) of Title 19 (Zoning) of the Sunnyvale Municipal Code is hereby amended to read as follows:

Section 19.12.160. "O"

(1) – (4) [Text Unchanged]

(5) Open space, useable" means an outdoor or unenclosed area on the ground, or on a roof, balcony, deck, porch, pool area, patio or terrace or recreation building, when designed and accessible for outdoor living, recreation, pedestrian access or landscaping, but excluding parking facilities, driveways, utility, service or storage areas.

(6) – (9) [Text Unchanged]

SECTION 2. Section 19.37.100 AMENDED. Section 19.37.100 of Chapter 19.37 (Landscaping, Irrigation and Useable) of Title 19 (Zoning) of the Sunnyvale Municipal Code is hereby amended to read as follows:

Section 19.37.100. Useable open space design requirements.

(a) Function. Useable open space must be designed to be accessible to, and usable for outdoor living, recreation or utility use.

(b) Applicability. The provisions of this section shall apply to all new multi-family residential development in R-3, R-4, and R-5 zoning districts.

(cb) Location. Useable open space may not be located in any required front yard area for projects with a front yard setback variance or deviation. Otherwise, up to 50% of the required front yard area may be counted toward the useable open space requirement.

~~Useable open space may not be located in any required front yard area.~~

(ed) Minimum Useable Open Space Dimensions and Area. Each useable open space area shall have at least a twelve foot dimension in any direction and a minimum area of two hundred square feet except for:

(1) - (2) [Text Unchanged]

(~~de~~) Private Useable Open Space Required. In the R-4 and R-5 zoning districts, a minimum of eighty square feet per unit shall be designed as private useable open space.

SECTION 3. CEQA - EXEMPTION. The City Council finds, pursuant to Title 14 of the California Code of Regulations, Section 15061(b)(3), that this ordinance is exempt from the requirements of the California Environmental Quality Act (CEQA) in that it is not a Project which has the potential for causing a significant effect on the environment.

SECTION 4. CONSTITUTIONALITY; SEVERABILITY. If any section, subsection, sentence, clause or phrase of this ordinance is for any reason held to be invalid, such decision or decisions shall not affect the validity of the remaining portions of this ordinance. The City Council hereby declares that it would have passed this ordinance, and each section, subsection, sentence, clause and phrase thereof irrespective of the fact that any one or more sections, subsections, sentences, clauses or phrases be declared invalid.

SECTION 5. EFFECTIVE DATE. This ordinance shall be in full force and effect thirty (30) days from and after the date of its adoption.

SECTION 6. POSTING AND PUBLICATION. The City Clerk is directed to cause copies of this ordinance to be posted in three (3) prominent places in the City of Sunnyvale and to cause publication once in The Sun, the official publication of legal notices of the City of Sunnyvale, of a notice setting forth the date of adoption, the title of this ordinance, and a list of places where copies of this ordinance are posted, within fifteen (15) days after adoption of this ordinance.

Introduced at a regular meeting of the City Council held on _____, and adopted as an ordinance of the City of Sunnyvale at a regular meeting of the City Council held on _____, by the following vote:

AYES:

NOES:

ABSTAIN:

ABSENT:

RECUSAL:

ATTEST:

APPROVED:

City Clerk
Date of Attestation: _____

Mayor

(SEAL)

APPROVED AS TO FORM:

City Attorney

Sunnyvale Municipal Code[Up](#)[Previous](#)[Next](#)[Main](#)[Search](#)[Print](#)[Title 19. ZONING](#)[Article 4. GENERAL DEVELOPMENT STANDARDS](#)[Chapter 19.37. LANDSCAPING, IRRIGATION AND USEABLE OPEN SPACE](#)**19.37.040. Minimum landscaped area and usable open space.**

(a) **Minimum Landscaped Area.** Table [19.37.040](#) describes the minimum landscaped area and usable open space required by zoning district. In addition to the minimum landscaped area, areas not used for buildings, parking lot areas, driveways or pedestrian walkways shall be landscaped unless the review authority determines that landscaping is not necessary to achieve the purposes of this chapter. For projects not involving redevelopment of the entire site, the director of community development may allow less landscaped area than required by Table [19.37.040](#) if existing physical constraints on the site (such as structures, parking or circulation) limit the amount of landscaping that can be provided.

(b) **Landscaped Buffer Required.** A landscaped buffer is required for any property with a nonresidential use in a residential zoning district that abuts a residential use and for any use in a nonresidential zoning district which abuts a residential zoning district. Landscaped buffers must be designed to meet the following:

(1) **Width.** The buffer shall maintain a width of at least ten feet.

(2) **Landscaping.** The buffer shall include a planted screen of approved trees and shrubs which shall be placed along the length of the buffer at intervals not to exceed twenty feet; provided, however, that the approving body may grant exceptions as part of any discretionary permit when warranted by conditions on the property.

(3) **Wall Design.** The buffer shall include a decorative masonry wall six feet in height measured from the highest adjoining grade. When the adjacent nonresidential building is two stories or more in height, the decorative masonry wall shall be eight feet measured from the highest adjoining grade. Where a residential use is permitted in a nonresidential zoning district, the wall shall be required on the residential property, unless a wall already exists.

(c) **Landscaped Frontage Strip Required.** A fifteen-foot wide landscaped frontage strip is required for all properties except for single-family properties which have a frontage on a public street. The frontage strip is measured from the inside edge of the public sidewalk, or if no sidewalk exists, from the curb. Frontage strip landscaping may be crossed by walkways and access drives.

(d) **Usable Open Space Required.** Usable open space is required for all duplex and multifamily residential properties as described in Table [19.37.040](#). Usable open space areas that meet the definition of landscaping may contribute towards the minimum landscaped area of the site. Required usable open space shall meet the requirements of Section [19.37.100](#) (Usable open space design requirements).

(e) **Allowances and Limitations for Single-Family Uses and Single-Family Zoning Districts.**

(1) **Allowances for Single-Family Zoning Districts.** Yards are not required to be landscaped in single-family zoning districts; however, the provisions of this chapter apply if landscaping is provided and meets the criteria in Section [19.37.020](#) (Applicability).

(2) **Limitation on Paved Areas in the R-0 and R-1 Zoning Districts.** Not more than fifty percent of the required front yard of any lot within an R-0 or R-1 zoning district shall be paved with asphalt, concrete cement, or any other impervious surface, except as may be required to meet off-street parking and access requirements of Chapter [19.46](#).

Table [19.37.040](#)**Minimum Landscaped Area and Usable Open Space by Zoning District**

Zoning District	Usable Open Space	Other Landscaped Area	Parking Lot Landscaped Area	Total Landscaped Area
R-0	N/A	N/A	N/A	N/A

R-1	N/A	N/A	N/A	N/A
R-1.5	N/A	N/A	N/A	N/A
R-1.7/PD	N/A	N/A	N/A	N/A
R-2	500 sq. ft./unit ¹	850 sq. ft./unit	20% of the parking lot area	Total minimum landscaped area is the combination of the minimum parking lot landscaped area and other landscaped area. In no case shall this total be less than 20% of the lot area.
R-3	400 sq. ft./unit	425 sq. ft./unit		
R-4	380 sq. ft./unit	375 sq. ft./unit		
R-5	380 sq. ft./unit	375 sq. ft./unit		
C-1	N/A	12.5% of floor area		
C-2	N/A	12.5% of floor area		
C-3	N/A	12.5% of floor area		
C-4	N/A	12.5% of floor area		
O	N/A	10% of lot area		
P-F	N/A	10% of lot area		
M-S	N/A	10% of floor area		
M-3	N/A	10% of floor area		

¹ One thousand square feet of usable open space is required for a property with an accessory dwelling unit. (Ord. 3105-16 § 6; Ord. 3082-16 § 1; Ord. 2918-10 § 3).

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Sunnyvale Municipal Code[Up](#)[Previous](#)[Next](#)[Main](#)[Search](#)[Print](#)[Title 19. ZONING](#)[Article 4. GENERAL DEVELOPMENT STANDARDS](#)[Chapter 19.37. LANDSCAPING, IRRIGATION AND USEABLE OPEN SPACE](#)**19.37.100. Usable open space design requirements.**

- (a) Function. Usable open space must be designed to be accessible to, and usable for outdoor living, recreation or utility use.
- (b) Location. Usable open space may not be located in any required front yard area.
- (c) Minimum Usable Open Space Dimensions and Area. Each usable open space area shall have at least a twelve foot dimension in any direction and a minimum area of two hundred square feet except for:
- (1) Private balconies must have a minimum of seven feet in any direction and a minimum area of eighty square feet.
 - (2) Roofs, decks or porches must have a minimum of ten feet in any direction and a total of one hundred twenty square feet.
- (d) Private Usable Open Space Required. In the R-4 and R-5 zoning districts, a minimum of eighty square feet per unit shall be designed as private usable open space. (Ord. 3082-16 § 1; Ord. 2918-10 § 3).
-

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Permit#	Project Address	Project Description	Lot Size	Provided UOS	Reason for UOS Deviation
Projects in R-3 Zoning Districts					
2011-7829	411 and 425 North Fair Oaks and 599 Taylor Avenue	SDP: 8 townhomes	17,642 s.f.	385 s.f.	<ul style="list-style-type: none"> The lot is a small corner lot. Conflict between the minimum density (75% min. density requirement), access and parking requirements, and design and setback requirements.
2007-1106	1202-1204 Cortez Drive and 189-191 South Bernardo Avenue	SDP: 8 townhomes	17,434 s.f.	267 s.f.	<ul style="list-style-type: none"> Corner lot with two fronts Reduction in overall unit size needed to achieve modest increase in UOS If only one front yard is considered, then USO increases to 524 s.f.
2007-1107	185 South Bernardo Avenue	SDP: 8 townhomes	17,434 s.f.	267 s.f.	<ul style="list-style-type: none"> Corner lot with two fronts Reduction in overall unit size needed to achieve modest increase in UOS If only one front yard is considered, then USO increases to 524 s.f.
2014-7423	1071 Noriega Avenue	SDP: 10 townhomes (included rezoning to R-3/PD from R-3)	20,986 s.f.	254 s.f. and 73 s.f. of private balcony (80 s.f. min. for private useable open space)	<ul style="list-style-type: none"> Small corner lot Tension between minimum density requirement and site design requirements (ped/vehicular access, parking, setback, onsite stormwater management) One front yard considered for UOS, it increases to 425 s.f. even with half credits
2014-7770	845 Maria Lane	DR: 5 townhouse style condo units VAR: allow UOS in the required front yard	10,298 s.f.	441 s.f. (if front yard considered as UOS)	<ul style="list-style-type: none"> Corner lot Reduces the driveways cuts Provides a friendlier streetscape Creates a functional OS Consistent with the existing townhomes south on Maria Ln Allows useable open space in the required front yards, instead of the garages facing the street and useable open space located in the back.

Permit#	Project Address	Project Description	Lot Size	Provided UOS	Reason for UOS Deviation
Projects in R-4 Zoning Districts					
2008-1245	660 S Fair Oaks Avenue	SDP: 124 Senior housing units with underground parking (included rezoning to R-4/PD from R-4)	102,179 s.f. (2.34 acres)	170 s.f. (380 s.f. minimum), and 59 s.f. private useable open space (80 s.f. minimum)	<ul style="list-style-type: none"> Primarily one-bedroom unit; no families allowed to reside Two indoor community space area exceeding the minimum
2013-7112	620 E Maude Avenue	SDP: 117 unit affordable housing projects (Armory site)	99,489 s.f. (2.28 acres)	336 s.f. (380 s.f. minimum) – required front yards and private useable open space combined	<ul style="list-style-type: none"> State Density Bonus concession Proximity to a public park
2015-7772	460 Persian Drive	SDP: 66 unit affordable rental apartment building	57,645 s.f. (1.32 acres)	205 s.f. (380 s.f. minimum)	<ul style="list-style-type: none"> State Density Bonus concession Meets the minimum landscaped area Private useable open space access Active community space included Required community room exceeds the minimum Proximity to a public park
2016-8065	1139 Karlstad Drive	SDP: 250 unit residential apartment building with podium parking	216,675 s.f. (4.97 acres)	326 s.f. (380 s.f. minimum)	<ul style="list-style-type: none"> State Density Bonus concession Total landscaped area exceeds minimum Private useable open space access Substantial active community space within and outside the building Required community room exceeds the minimum

Open Space and UOS Regulations from Other Jurisdictions

City	Useable Open Space in Required Front Yards?	Notes on Useable Open Space
Cities with Specific Useable Open Space Regulations		
Palo Alto	Maybe	<ul style="list-style-type: none"> • Location at the Architectural Review Board's discretion • Design criteria for open space and useable open space
Redwood City	No	<ul style="list-style-type: none"> • Allowed in required side and rear yards • Not allowed in required parking areas and their driveways
Cities without Specific Useable Open Space Regulations		
Mountain View	Yes	<ul style="list-style-type: none"> • No specific requirements for Useable Open Space • Has Private Open Space requirement for certain zoning districts
Santa Clara	N/A	<ul style="list-style-type: none"> • No specific requirements for Useable Open Space • Allows open landscaped areas in the required front yards