



City of Sunnyvale

Notice and Agenda - Final Heritage Preservation Commission

Wednesday, December 4, 2019

7:00 PM

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

CALL TO ORDER

SALUTE TO THE FLAG

ROLL CALL

PRESENTATION

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

[19-1254](#)

Approve the Draft Heritage Preservation Commission Meeting Minutes
of July 10, 2019

PUBLIC HEARINGS/GENERAL BUSINESS

[19-1253](#)**Proposed Project:**

LANDMARK ALTERATION PERMIT: to repaint an existing building within the Murphy Station Heritage Landmark District, and install a privacy fence in the rear patio.

Location: 111 S. Murphy Avenue (APN: 209-06-077)

File #: 2019-7442

Zoning: Downtown Specific Plan Block 2

Applicant / Owner: Off the Rails (applicant) / Nicholas And Sueanne Gera Trustee & Et Al (owner)

Environmental Review: Categorical Exemption Class 1

Project Planner: Kelly Cha, (408) 730-7408, kcha@sunnyvale.ca.gov

[19-1255](#)

Discussion and Adoption of Final 2020 Work Plan

[19-1256](#)

Annual Review of the Code of Ethics and Conduct for Elected and Appointed Officials

STANDING ITEM: CONSIDERATION OF POTENTIAL STUDY ISSUES**NON-AGENDA ITEMS & COMMENTS**

-Commissioner Comments

INFORMATION ONLY REPORTS/ITEMS

ADJOURNMENT*Notice to the Public:*

Any agenda related writings or documents distributed to members of this meeting body regarding any item on this agenda will be made available for public inspection in the originating department or can be accessed through the Office of the City Clerk located at 603 All America Way, Sunnyvale, CA. during normal business hours and at the meeting location on the evening of the board or commission meeting, pursuant to Government Code §54957.5.

Agenda information is available by contacting Joey Mariano at (408) 730-7486. Agendas and associated reports are also available on the City's website at sunnyvale.ca.gov or at the Sunnyvale Public Library, 665 W. Olive Ave., Sunnyvale, 72 hours before the meeting.

Pursuant to the Americans with Disabilities Act, if you need special assistance in this meeting, please contact the Joey Mariano at (408) 730-7486. 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

19-1254

Agenda Date: 12/4/2019

SUBJECT

Approve the Draft Heritage Preservation Commission Meeting Minutes of July 10, 2019

RECOMMENDATION

Approve the Draft Heritage Preservation Commission Meeting Minutes of July 10, 2019, as submitted.



City of Sunnyvale

Meeting Minutes - Draft Heritage Preservation Commission

Wednesday, July 10, 2019

7:00 PM

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

CALL TO ORDER

Chair Hopkins called the meeting to order.

SALUTE TO THE FLAG

Chair Hopkins led the salute to the flag.

ROLL CALL

Chair Hopkins noted Commissioner Wu and Commissioner Caroompas absence excused.

Present: 5 - Chair Dixie Larsen
Vice Chair Melanie Holthaus
Commissioner Dawn Hopkins
Commissioner Shanna Gaudenti
Commissioner Mike Michitaka
Absent: 2 - Commissioner Steve Caroompas
Commissioner David Wu

PRESENTATION

None.

ORAL COMMUNICATIONS

None.

CONSENT CALENDAR

- 1.A.** [19-0722](#) Approve the Draft Heritage Preservation Commission Meeting Minutes of February 6, 2019

MOTION:

Commissioner Larsen moved and Commissioner Michitaka seconded to approve the Draft Heritage Preservation Commission Meeting Minutes of February 6, 2019, as submitted.

The motion carried as follows:

Yes: 4 - Chair Larsen
Commissioner Hopkins
Commissioner Gaudenti
Commissioner Michitaka

No: 0

Absent: 2 - Commissioner Caroompas
Commissioner Wu

Abstain: 1 - Vice Chair Holthaus

1.B. [19-0723](#) Approve the Draft Heritage Preservation Commission Meeting Minutes of June 5, 2019

Chair Hopkins moved to continue to approve the Draft Heritage Preservation Commission Meeting Minutes of June 5, 2019, as submitted to the next regular meeting due to the lack of attendance from the Commisisoners who were present at that meeting.

Yes: 5 - Chair Larsen
Vice Chair Holthaus
Commissioner Hopkins
Commissioner Gaudenti
Commissioner Michitaka

No: 0

Absent: 2 - Commissioner Caroompas
Commissioner Wu

PUBLIC HEARINGS/GENERAL BUSINESS

2. [19-0725](#) Selection of Chair and Vice Chair

Commissioner Michitaka nominated Vice Chair Larsen to serve as the Chair and she accepted.

Vote carried as follows:

Yes: 4 - Vice Chair Holthaus
Commissioner Hopkins
Commissioner Gaudenti
Commissioner Michitaka

No: 0

Absent: 2 - Commissioner Carroompas
Commissioner Wu

Abstain: 1 - Chair Larsen

Commissioner Michitaka nominated Commissioner Holthaus to serve as the Vice Chair and she accepted.

Vote carried as follows:

Yes: 4 - Chair Larsen
Commissioner Hopkins
Commissioner Gaudenti
Commissioner Michitaka

No: 0

Absent: 2 - Commissioner Carroompas
Commissioner Wu

Abstain: 1 - Vice Chair Holthaus

3. [19-0651](#) CONTINUED FROM JUNE 5, 2019: Updates to the Design Guidelines for the Murphy Station Heritage Landmark District: Forward a Recommendation to the City Council to Adopt a Resolution Updating the Design Guidelines for the Murphy Station Heritage Landmark District, and Find that the Action is Exempt from CEQA Pursuant to CEQA Guideline Sections 15308 and 15061(b)(3). (Study Issue)

Principal Planner Amber Blizinski presented the Updating the Design Guidelines for the Murphy Station Heritage Landmark District.

Commissioner Michitaka clarified with staff that the intent of the guidelines is to guide future development and modifications, and not as an enforcement tool to require immediate changes. Vice Chair Larsen complimented staff on the document and all of the hard work that went into it.

MOTION:

Commissioner Hopkins and Vice Chair Holthaus seconded to move staff's recommendation for Alternative 1: Forward a Recommendation to the City Council to Adopt a Resolution (Attachment 3 to the report) Updating the Design Guidelines for the Murphy Station Heritage Landmark District, and Find that the Action is Exempt from the California Environmental Quality Act (CEQA) pursuant to CEQA Guidelines Section 15308 and Section 15061(b)(3).

Motion Carried as follows:

Yes: 5 - Chair Larsen
Vice Chair Holthaus
Commissioner Hopkins
Commissioner Gaudenti
Commissioner Michitaka

No: 0

Absent: 2 - Commissioner Caroompas
Commissioner Wu

STANDING ITEM: CONSIDERATION OF POTENTIAL STUDY ISSUES

Commissioner Hopkins asked to clarify the timeline for the Plaque Program and Ms. Caliva-Lepe clarified that staff will bring the policy report to the Commission later this year. Ms. Caliva-Lepe noted that an implementation plan would be developed after approval of the program.

NON-AGENDA ITEMS & COMMENTS

None.

-Commissioner Comments

The Commission presented a thank you card to Ms. Caliva-Lepe for her service as the staff liaison to the Commission.

INFORMATION ONLY REPORTS/ITEMS

None.

ADJOURNMENT

Chair Larsen adjourned the meeting at 7:28 p.m.



City of Sunnyvale

Agenda Item

19-1253

Agenda Date: 12/4/2019

REPORT TO HERITAGE PRESERVATION COMMISSION

SUBJECT

Proposed Project:

LANDMARK ALTERATION PERMIT: to repaint an existing building within the Murphy Station Heritage Landmark District, and install a privacy fence in the rear patio.

Location: 111 S. Murphy Avenue (APN: 209-06-077)

File #: 2019-7442

Zoning: Downtown Specific Plan Block 2

Applicant / Owner: Off the Rails (applicant) / Nicholas And Sueanne Gera Trustee & Et Al (owner)

Environmental Review: Categorical Exemption Class 1

Project Planner: Kelly Cha, (408) 730-7408, kcha@sunnyvale.ca.gov

REPORT IN BRIEF

General Plan: Transit Mixed-Use

Existing Site Conditions: Restaurant

Surrounding Land Uses

North: Restaurant

South: Retail (Bookstore)

East: Restaurant

West: Surface Parking Lot

Issues: Consistency with the Design Guidelines for the Murphy Station Heritage Landmark District

Staff Recommendation: Approve the Landmark Alteration Permit with the recommended Conditions of Approval in Attachment 3.

BACKGROUND

The proposed project is to allow modifications to the exterior colors and install privacy fencing at the rear patio of the existing commercial building at 111 S. Murphy Avenue, located within the Murphy Station Heritage Landmark District and the Downtown Specific Plan (Block 2). The existing building is two stories and is currently occupied by Off the Rails Brewing Company. The primary building entry faces South Murphy Avenue and the rear entrance faces the City-owned surface parking lot on South Frances Street.

Sunnyvale Municipal Code Section 19.96.090 requires a Landmark Alteration Permit for substantial exterior modifications to buildings within a Local Landmark District, such as changes to exterior colors or materials. Minor modifications that are consistent with regulations and design guidelines, such as signs and awning replacements, can be approved through a staff-level permit.

Previous Actions on the Site

The first record of a Use Permit on this property was for approval of a print shop in 1984. . A Special

Development Permit was approved in 1994 (file # 7339) to allow outdoor music in the rear patio of the property. All other planning permit approvals were related to temporary signs, permanent signs, and outdoor seating on the sidewalk of Murphy Avenue. Numerous building permits have also been issued for interior improvements.

There is an active Neighborhood Preservation case associated with Off the Rails Brewing Company, related to the proposed project, new paint and a privacy fence in the rear patio.

EXISTING POLICY

General Plan Goals and Policies: The applicable goals and policies from the Community Character Chapter of the General Plan along with analysis are included as recommended findings in Attachment 2.

Applicable Design Guidelines: The City's Design Guidelines provide recommendations for site layout, architecture, and design. The project is subject to the Design Guidelines for the Murphy Station Heritage Landmark District. The following design guidelines from the Design Guidelines are applicable to the project:

Color:

- Consider the color of nearby buildings. Colors of adjacent buildings should complement one another. Maintain a balance of colors. For example, a minimum of three colors is recommended for use on building facades, with the third, and rare fourth, color used on accent items such as awnings, or doors and windows.

Rear Façades:

- Carry the architectural design or a similar architectural vocabulary from the front of the building to the rear of the building (e.g. entries, windows, architectural details, colors and materials).
- Encourage active use of rear areas, such as outdoor dining.
- Ensure rear uses are safe in relation to adjacent parking; make sure uses do not spill into parking areas.

ENVIRONMENTAL REVIEW

A Class 1 Categorical Exemption relieves this project from the California Environmental Quality Act (CEQA) provisions that include minor alterations and additions to an existing facility (CEQA Section 15301).

DISCUSSION

Exterior Paint: The proposed project includes modifications to the exterior color scheme of the two-story restaurant building. The existing colors are light yellow with a faded red on the window casing and wooden strip that runs along the top of the parapet. The proposed colors are light silvery white with a dark grey accent. As shown in the proposed elevations (Attachment 4), the proposed colors complement the existing black tiles on the bottom of the front façade.

A historical evaluation was prepared by Anthony Kirk on May 7, 2019 (Attachment 6) to assess the impact of the color change to the overall Landmark District. As stated in the report, the façades of neighboring properties on Murphy Avenue have multiple colors ranging from the cool, dark colors of Metro City to the pink and green of the Murphy Street Smoke Shop across the street, with the immediate neighbors of the project site generally with various shades of dark beige and yellow. The proposed color scheme is similar to the property across from the subject property, 140 S. Murphy

Avenue, which was approved for similar paint colors (light grey and dark grey accent) earlier this year by the Heritage Preservation Commission. The proposed light silvery white and dark grey combination adds to the eclectic colors of Murphy Avenue, and are compatible with the District.

Privacy Fence: The proposed project also includes different options for a privacy fence in the rear patio. The three proposed options can be found in Attachment 5 along with the applicant's project description letter. The applicant proposes either of the following options:

Option 1 - installing dark color mesh on the inside of the existing fence;

Option 2 - installing artificial grass on the inside of the existing fence; or

Option 3 - installing artificial grass on the outside of the existing fence (public parking lot side)

The existing patio has an open metal fence to delineate the private space from the public space, which includes a sidewalk and public surface parking lot for the District. For the project site, the Design Guidelines for Murphy Station Heritage Landmark District specifically recommends "[avoiding] elimination of rear seating area as it activates the back of the property and contributes positively to the District".

The applicant requests to cover the open metal fence with either of the above options to provide privacy for the outdoor seating area in the back of the property. This would create a physical barrier between the outdoor seating area and the public surface parking lot. The visual barrier of the outdoor seating area would essentially enclose the outdoor seating area completely and remove the element that contributed positively to the District.

The materials proposed for the privacy fence are also not compatible with the District. The dark mesh material is referenced in the building specific design guidelines section of the Design Guidelines for the Murphy Station Heritage Landmark District as an element that lacks design details or interest to engage the pedestrian. The artificial grass is also not a compatible material for the District. Therefore, staff recommends maintaining the existing open metal fence and not installing any of the privacy fence options as proposed (Condition #PS-1).

FISCAL IMPACT

No fiscal impacts other than normal fees and taxes are expected.

PUBLIC CONTACT

As of the date of staff report preparation, staff has received no public comments.

Notice of Public Hearing:

- Published in the *Sun* newspaper
- Posted on the site
- 320 notices mailed to property owners and residents within 300 feet of the project site

Staff Report:

- Posted on the City's website
- Provided at the Reference Section of the City's Public Library

Agenda:

- Posted on the City's website

- Posted on the City's official notice bulletin board

ALTERNATIVES

1. Approve the Landmark Alteration Permit with the recommended Conditions of Approval in Attachment 3.
2. Approve the Landmark Alteration Permit with modifications.
3. Deny the Landmark Alteration Permit.

STAFF RECOMMENDATION

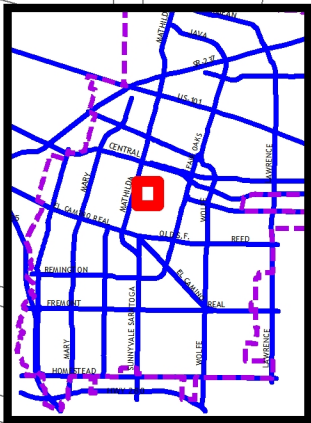
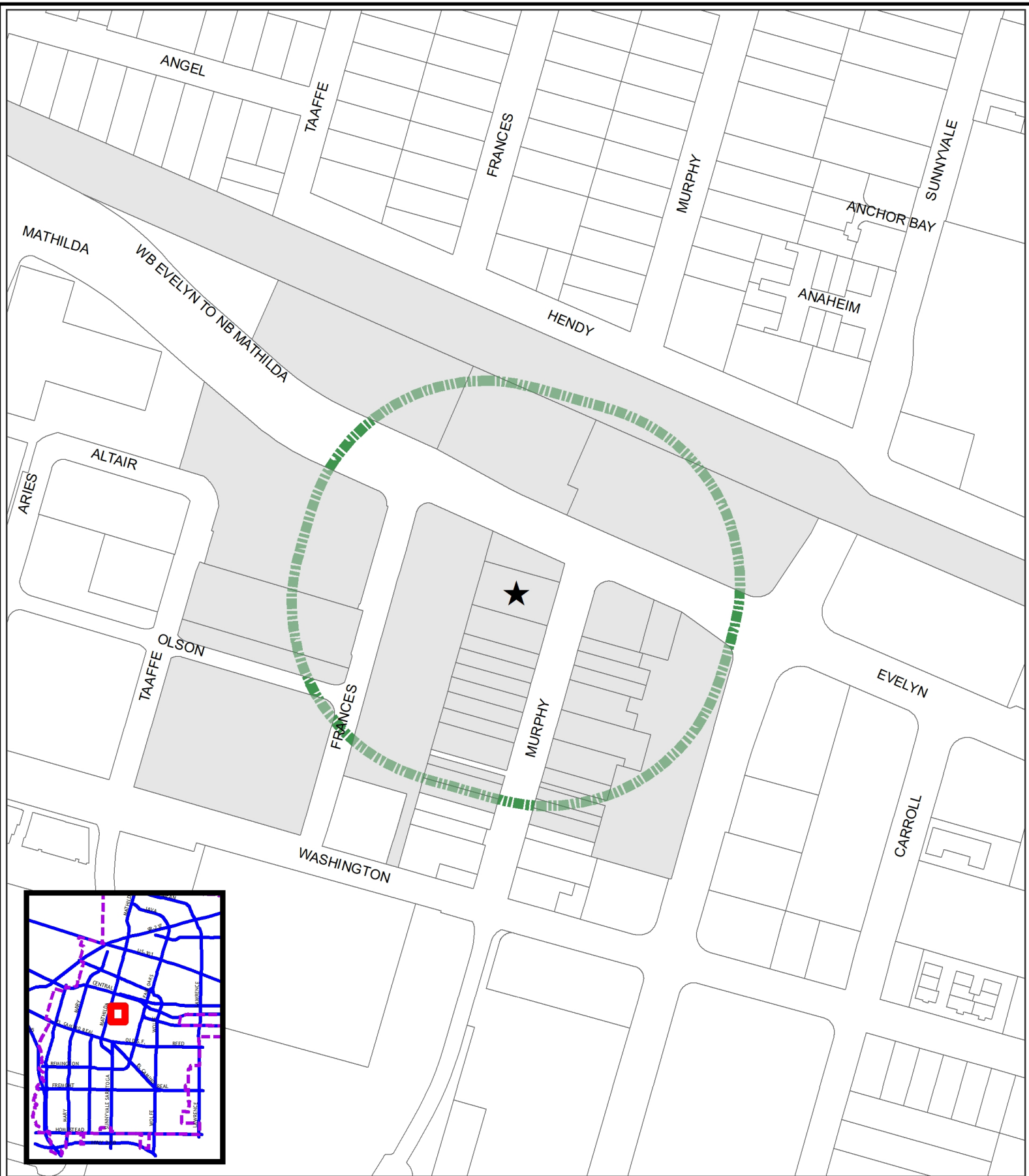
Alternative 1: Approve the Landmark Alteration Permit with the recommended Conditions of Approval in Attachment 3.

Prepared by: Kelly Cha, Associate Planner

Reviewed by: George Schroeder, Senior Planner

ATTACHMENTS

1. Vicinity and Noticing Map
2. Recommended Findings
3. Recommended Conditions of Approval
4. Architectural Plans
5. Applicant's Project Description Letter
6. Historical Evaluation Report prepared by Anthony Kirk



2019-7442
 111 S Murphy Ave (APN: 209-06-077)
 LANDMARK ALTERATION PERMIT
 300-ft Area

0 65 130 260 Feet



RECOMMENDED FINDINGS

Landmark Alteration Permit

In order to approve the Landmark Alteration Permit, the Heritage Preservation Commission must make the following findings:

1. The action proposed is consistent with the purposes of this chapter. **Finding Met.**

The proposed project is consistent with applicable sections of the Sunnyvale Municipal Code and the Design Guidelines for the Murphy Station Heritage Landmark District. The light and dark grey combination complements the existing black tiles on the front façade. The proposed color scheme adds to the eclectic colors of the Murphy Avenue and therefore respects the character of the Murphy Station Heritage Landmark District.

2. The action proposed will not be detrimental to a structure or feature of significance as a heritage resource. **Finding Met.**

The proposed color scheme for the building is compatible with Murphy Avenue. The approval is limited to changes in the paint color, as recommended, and all character-defining features of the building will remain unchanged. A historic evaluation report evaluated the color change and found the new colors to be consistent with the Landmark District and Murphy Avenue Design Guidelines. Therefore, the proposal will not be detrimental to the significant historical features of the building or Murphy Avenue.

RECOMMENDED
CONDITIONS OF APPROVAL AND
STANDARD DEVELOPMENT REQUIREMENTS
DECEMBER 4, 2019

Planning Application 2019-7442
111 S Murphy Avenue
Repaint of an existing building within the Murphy Station Heritage Landmark
District, and installation of a privacy fence in the rear patio.

The following Conditions of Approval [COA] and Standard Development Requirements [SDR] apply to the project referenced above. The COAs are specific conditions applicable to the proposed project. The SDRs are items which are codified or adopted by resolution and have been included for ease of reference, they may not be appealed or changed. The COAs and SDRs are grouped under specific headings that relate to the timing of required compliance. Additional language within a condition may further define the timing of required compliance. Applicable mitigation measures are noted with “Mitigation Measure” and placed in the applicable phase of the project.

In addition to complying with all applicable City, County, State and Federal Statutes, Codes, Ordinances, Resolutions and Regulations, Permittee expressly accepts and agrees to comply with the following Conditions of Approval and Standard Development Requirements of this Permit:

GC: THE FOLLOWING GENERAL CONDITIONS AND STANDARD DEVELOPMENT REQUIREMENTS SHALL APPLY TO THE APPROVED PROJECT.

GC-1. CONFORMANCE WITH APPROVED PLANNING APPLICATION:

All building permit drawings and subsequent construction and operation shall substantially conform with the approved planning application, including: drawings/plans, materials samples, building colors, and other items submitted as part of the approved application. Any proposed amendments to the approved plans or Conditions of Approval are subject to review and approval by the City. The Director of Community Development shall determine whether revisions are considered major or minor. Minor changes are subject to review and approval by the Director of Community Development. Major changes are subject to review at a public hearing. [COA] [PLANNING]

GC-2. ENTITLEMENTS—EXERCISE AND EXPIRATION:

The approved entitlements shall be null and void two years from the date of approval by the final review authority if the approval is not

exercised, unless a written request for an extension is received prior to the expiration date and is approved by the Director of Community Development. [SDR] (PLANNING)

GC-3. ENTITLEMENTS—DISCONTINUANCE AND EXPIRATION:

The entitlements shall expire if discontinued for a period of one year or more. [SDR] (PLANNING)

GC-4. INDEMNITY:

The applicant/developer shall defend, indemnify, and hold harmless the City, or any of its boards, commissions, agents, officers, and employees (collectively, "City") from any claim, action, or proceeding against the City to attack, set aside, void, or annul, the approval of the project when such claim, action, or proceeding is brought within the time period provided for in applicable state and/or local statutes. The City shall promptly notify the developer of any such claim, action or proceeding. The City shall have the option of coordinating the defense. Nothing contained in this condition shall prohibit the City from participating in a defense of any claim, action, or proceeding if the City bears its own attorney's fees and costs, and the City defends the action in good faith. [COA] [OFFICE OF THE CITY ATTORNEY]

GC-5. NOTICE OF FEES PROTEST:

As required by California Government Code Section 66020, the project applicant is hereby notified that the 90-day period has begun as of the date of the approval of this application, in which the applicant may protest any fees, dedications, reservations, or other exactions imposed by the city as part of the approval or as a condition of approval of this development. The fees, dedications, reservations, or other exactions are described in the approved plans, conditions of approval, and/or adopted city impact fee schedule. [SDR] [PLANNING / OCA]

<p>PS: THE FOLLOWING CONDITIONS SHALL BE MET PRIOR TO SUBMITTAL OF BUILDING PERMIT, AND/OR GRADING PERMIT.</p>

PS-1. REQUIRED REVISIONS TO PROJECT PLANS:

The plans shall be revised to address comments from the Heritage Preservation Commission including the following:

- a) Maintain the open metal fence and do not install any of the proposed privacy fence options as shown in Attachment 5 of the December 4, 2019 HPC staff report in the rear patio area. [COA] [PLANNING]

<p>BP: THE FOLLOWING CONDITIONS SHALL BE ADDRESSED ON THE CONSTRUCTION PLANS SUBMITTED FOR ANY DEMOLITION PERMIT,</p>
--

BUILDING PERMIT, GRADING PERMIT, AND/OR ENCROACHMENT PERMIT AND SHALL BE MET PRIOR TO THE ISSUANCE OF SAID PERMIT(S).

BP-1. CONDITIONS OF APPROVAL:

Final plans shall include all Conditions of Approval included as part of the approved application starting on sheet 2 of the plans. [COA] [PLANNING]

BP-2. RESPONSE TO CONDITIONS OF APPROVAL:

A written response indicating how each condition has or will be addressed shall accompany the building permit set of plans. [COA] [PLANNING]

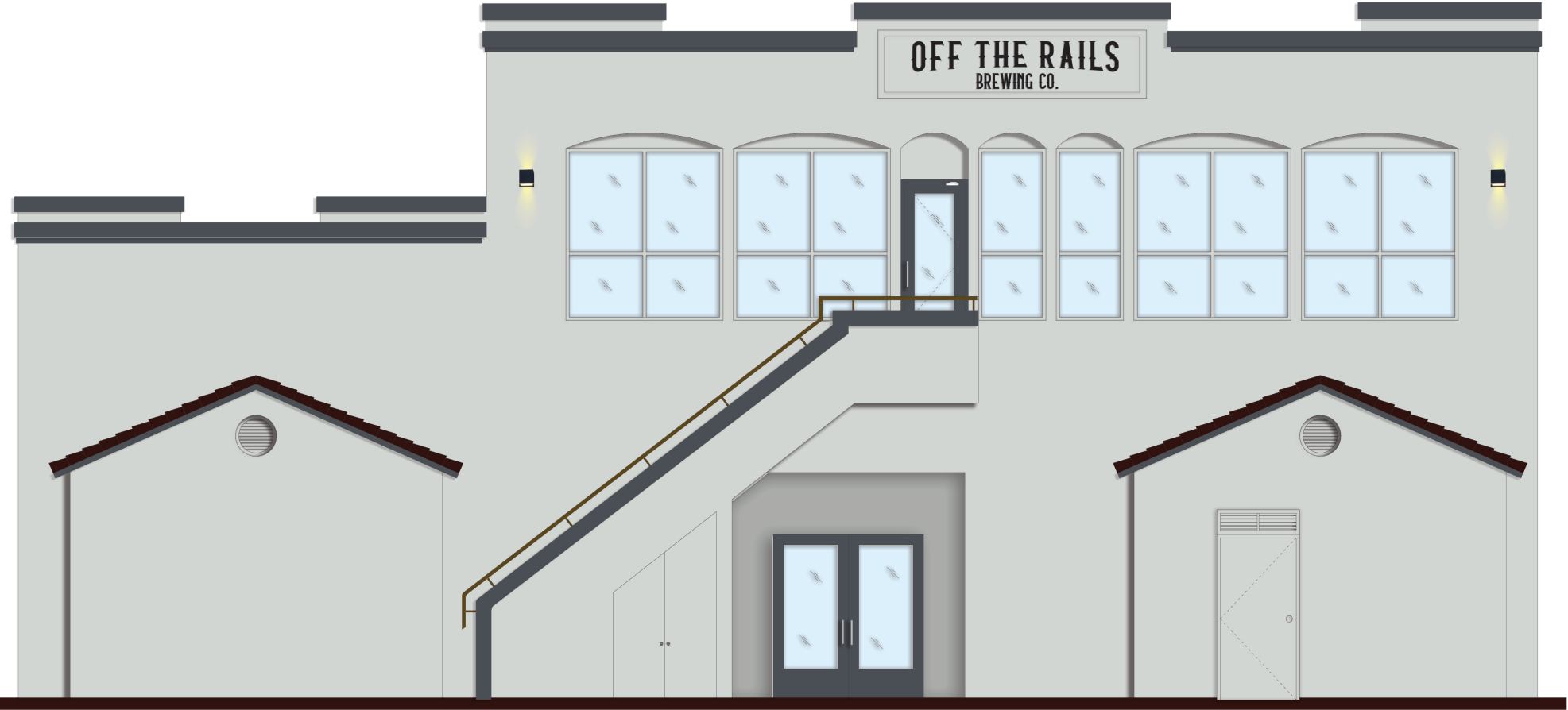
BP-3. BLUEPRINT FOR A CLEAN BAY:

The building permit plans shall include a "Blueprint for a Clean Bay" on one full sized sheet of the plans. [SDR] [PLANNING]

PROPOSED, FRONT



PROPOSED, REAR



Rear Elevation

PPU15-20

PPU26-11

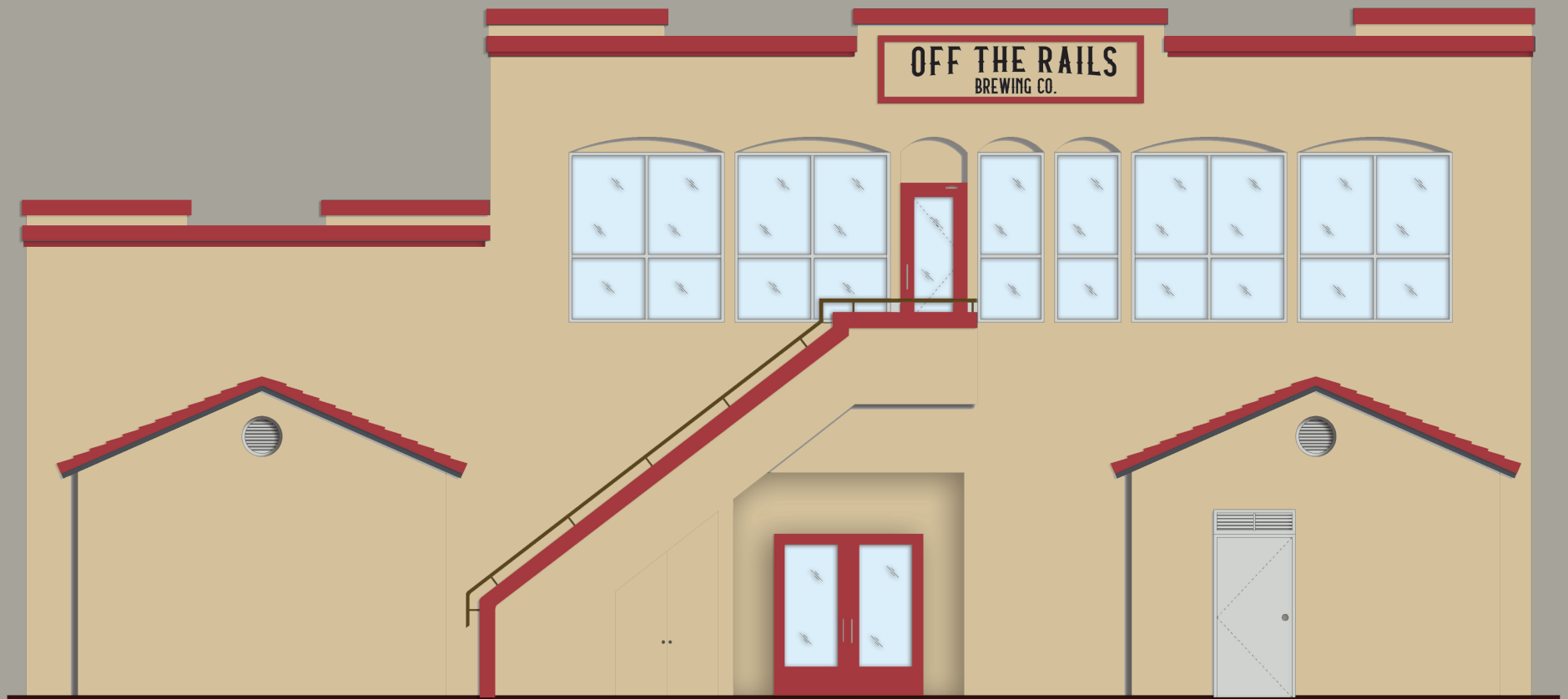
Poppy Seed ①

Platinum ①

EXISTING, FRONT



EXISTING, REAR



Rear Elevation



OFF THE RAILS BREWING CO
111 S Murphy Avenue
Sunnyvale CA 94086
Ph: 408 773 9500
www.offtherailsbrewing.com

To,
The Planning Department
City of Sunnyvale

Date: June 10, 2019

Sub: Addendum to existing permit application requesting additional consideration.

Sir/Ma'am

I have a permit application with the City of Sunnyvale for exterior painting of property at 111 S Murphy Avenue, Sunnyvale CA. Kindly consider this as an addendum to the existing application. The consideration being requested are as follows:

- The rear of the property stated above has a black metal fence with a view of the rear parking lot. Our guests, at numerous times have requested us to provide some sort of privacy and a view better than a big parking lot full of cars. Moreover, with cars moving in and out of parking spaces, it creates noise and sometimes a few guests gather outside to smoke or have brief conversations. All of these add to the overall noise level and creates disturbances for guests sitting inside the fenced area.
- We would like to offer some sort of privacy to create a more comforting environment for our guests. We are considering three options:
 - **Option 1**, have a black metal mesh on the inside of the fence, reference image attached.
 - **Option 2**, have an artificial green fence on the inside of the fence, reference image attached.
 - **Option 3**, have artificial green fence on the inside and outside, reference image attached.

Please let us know which options works in line with the new guidelines for Murphy Street.

- We would also like to mount two televisions on one of the inside walls of our patio space. I'm not sure if we need a permit for that, however, as it is in the patio pace I would like to apply for the permit, if any. I have attached an image with proposed sites for mounting the two televisions.

Kindly review the above in additional to the original permit request for outside painting, and let us know if you need any additional information.

Kindly contact Audrey Rider or Eryn Blankenship at 408 773 9500 if you need additional information. If you need to contact me by email, kindly email me at sdvedi@gmail.com

I look forward to your cooperation on this matter.

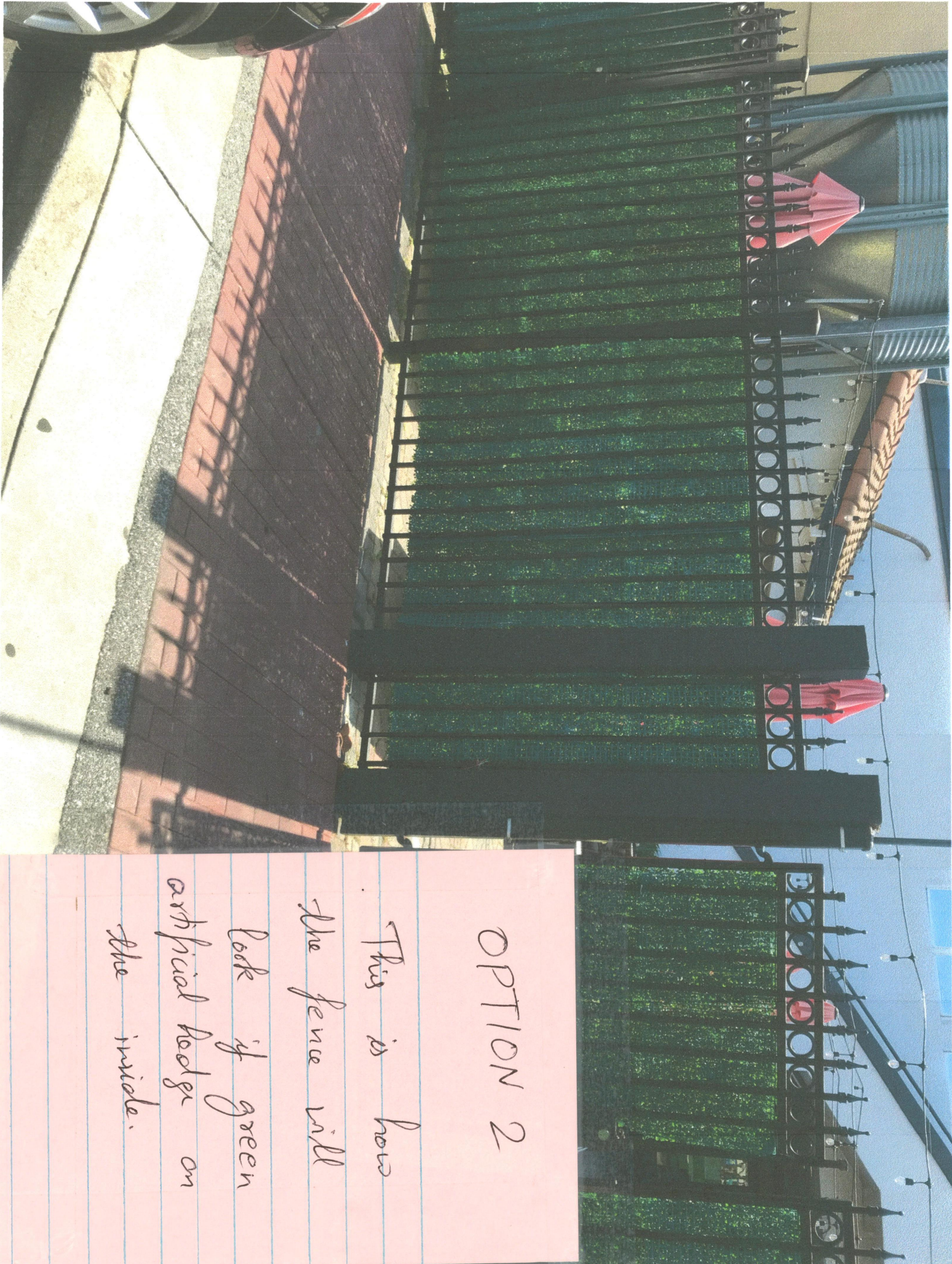
Sincerely,

Saurabh Dwivedi

OPTION 1.

This is how the
fence will look
with steel
mesh fence on
inside.





OPTION 2

This is how
the fence will
look if green
artificial hedges on
the inside.

OPTION 3

This is how
the fence will
look from outside
with green fence.





TV1

TV mounting sites.

TV2

Anthony Kirk, Ph.D.
420 Alberto Way, No. 13
Los Gatos, CA 95032
408-827-4959

7 May 2019

Noren Caliva-Lepe
Sunnyvale Planning and Building Department
456 West Olive Avenue
Sunnyvale, CA 94086

Dear Ms. Caliva-Lepe:

On 30 April of this year, I reviewed the colors that the owner of Off the Rails Brewing Company proposes to paint the façade of the building and inspected the colors of the adjoining buildings on South Murphy Avenue. South Murphy is a tree-shaded historical district with a collection of stores, offices, restaurants, and bars lining a one-block section of the street that runs between West Washington Avenue and West Evelyn Avenue.

Off the Rails Brewing Company is located at 111 South Murphy Avenue. It is currently painted a light yellow, with the second-story window casings and a wooden strip that runs along the top of the parapet painted a faded red. A black-tile base extends along the sidewalk. The neighbors on the west side of this section of South Murphy are Taverna, Bella Roma, Bookasaurus, and Leigh's favorite book to the south, and Thai Basil to the north. On the east side of the street are located Coffee & More, Istanbul, and Il Postale, all in a single three-story building at the north end of the street, and Satellite, Cequence, and Murphy Street Smoke Shop to the south. These buildings are painted in various shades of dark beige and yellow.

The Behr Paint Company colors that Off the Rails Brewing Company proposes to use are called Platinum (PPU26-11), a light silvery white, which will cover most of the façade, and Poppy Seed (PU15-20), a light black or very dark gray, which will be used as an accent color on the trim and will contrast handsomely with Platinum. The use of these colors, which are similar to those used along west side of the northern section of Murphy Avenue, are consistent with the guidelines for the Murphy Station Heritage Landmark district and will contribute to the overall character of the street.

Sincerely yours,



Anthony Kirk, Ph.D.



City of Sunnyvale

Agenda Item

19-1255

Agenda Date: 12/4/2019

Discussion and Adoption of Final 2020 Work Plan

2020 Master Work Plan

Heritage Preservation Commission Annual Calendar

MEETING DATE	AGENDA ITEM/ISSUE
January 8*	<ul style="list-style-type: none"> Rank Study Issues by January 31
February 5	<ul style="list-style-type: none"> Training – Office of Historic Preservation Webinar
March 4	<ul style="list-style-type: none"> <i>Meeting to be held only if needed</i> Study Issue Hearing: Exploring Options for Establishment of a Plaque Program for Heritage Resources
April 1	<ul style="list-style-type: none"> <i>Meeting to be held only if needed</i>
May 6	<ul style="list-style-type: none"> Review Recommended Budget
June 3	<ul style="list-style-type: none"> Recognition of Service
July 1	<ul style="list-style-type: none"> Selection of Chair and Vice Chair
August 5	<ul style="list-style-type: none"> <i>Meeting to be held only if needed</i>
September 2	<ul style="list-style-type: none"> <i>Meeting to be held only if needed</i>
October 7	<ul style="list-style-type: none"> Final month to Propose Study Issues (Due to City Manager by December 3)
November 4	<ul style="list-style-type: none"> Approve 2021 Master Work Plan
December 2	<ul style="list-style-type: none"> Final month to Approve 2021 Master Work Plan Final month for Annual Review of Code of Ethics and Conduct for Elected and Appointed Officials

*Special meeting due to City Observed Holiday

Additional items yet to be scheduled:

- Study Issues may be proposed at any meeting throughout the year
- Study Issues presentation dates will be added following approval by Council



City of Sunnyvale

Agenda Item

19-1256

Agenda Date: 12/4/2019

Annual Review of the Code of Ethics and Conduct for Elected and Appointed Officials



City of Sunnyvale

2019 Code of Ethics and Conduct for Elected and Appointed Officials

"Conduct is three-fourths of our life and its largest concern."

-- Matthew Arnold

Table of Contents

<u>Title</u>	<u>Page No.</u>
A. Ethics	3
B. Conduct	5
1. Elected and Appointed Officials' Conduct with One Another	5
2. Elected and Appointed Officials' Conduct with City Staff	7
3. Elected and Appointed Officials' Conduct with the Public	10
4. Council Conduct with Other Public Agencies	12
5. Council Conduct with Boards and Commissions	12
6. Conduct with the Media	13
C. Sanctions	14
D. Principles of Proper Conduct	16
E. Checklist for Monitoring Conduct	17
F. Glossary of Terms	17
G. Implementation	17
APPENDIX A - Model of Excellence Member Statement	19

For ease of reference in the Code of Ethics and Conduct, the term "member" refers to any member of the Sunnyvale City Council or the City's boards and commissions established by the City Charter, City Ordinance or Council policy.

Policy Purpose

The Sunnyvale City Council has adopted a Code of Ethics and Conduct for members of the City Council and the City's boards and commissions to assure public confidence in the integrity of local government and its effective and fair operation.

A. ETHICS

The citizens and businesses of Sunnyvale are entitled to have fair, ethical and accountable local government which has earned the public's full confidence for integrity. In keeping with the City of Sunnyvale Commitment to Excellence, the effective functioning of democratic government therefore requires that:

- public officials, both elected and appointed, comply with both the letter and spirit of the laws and policies affecting the operations of government;
- public officials be independent, impartial and fair in their judgment and actions;
- public office be used for the public good, not for personal gain; and
- public deliberations and processes be conducted openly, unless legally confidential, in an atmosphere of respect and civility.

To this end, the Sunnyvale City Council has adopted a Code of Ethics and Conduct for members of the City Council and of the City's boards and commissions to assure public confidence in the integrity of local government and its effective and fair operation. The Ethics section of the City's Code of Ethics and Conduct provides guidance on ethical issues and questions of right and wrong.

1. Act in the Public Interest. Recognizing that stewardship of the public interest must be their primary concern, members will work for the common good of the people of Sunnyvale and not for any private or personal interest, and they will assure fair and equal treatment of all persons, claims and transactions coming before the Sunnyvale City Council, boards and commissions.
2. Comply with both the spirit and the letter of the Law and City Policy. Members shall comply with the laws of the nation, the State of California and the City of Sunnyvale in the performance of their public duties. These laws include, but are not limited to: the United States and California constitutions; the Sunnyvale City Charter; laws pertaining to conflicts of interest, election campaigns, financial disclosures, employer responsibilities, and open processes of government; and City ordinances and policies.
3. Conduct of Members. The professional and personal conduct of members must be above reproach and avoid even the appearance of impropriety. Members shall refrain from abusive conduct, personal charges or verbal attacks upon the character or motives of other members of Council, boards and commissions, the staff or public.
4. Respect for Process. Members shall perform their duties in accordance with the processes and rules of order established by the City Council and board and commissions governing the deliberation of public policy issues, meaningful involvement of the public, and implementation of policy decisions of the City Council by City staff.

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5. Conduct of Public Meetings. Members shall prepare themselves for public issues; listen courteously and attentively to all public discussions before the body; and focus on the business at hand. They shall refrain from interrupting other speakers; making personal comments not germane to the business of the body; or otherwise interfering with the orderly conduct of meetings.
6. Decisions Based on Merit. Members shall base their decisions on the merits and substance of the matter at hand, rather than on unrelated considerations.
7. Communication. Members shall publicly disclose substantive information that is relevant to a matter under consideration by the Council or boards and commissions, which they may have received from sources outside of the public decision-making process.
8. Conflict of Interest. In order to assure their independence and impartiality on behalf of the common good, members shall not use their official positions to influence government decisions in which they have a material financial interest, or where they have an organizational responsibility or personal relationship which may give the appearance of a conflict of interest. In accordance with the law, members shall disclose investments, interests in real property, sources of income, and gifts; and they shall abstain from participating in deliberations and decision-making where conflicts may exist.
9. Gifts and Favors. Members shall not take any special advantage of services or opportunities for personal gain, by virtue of their public office, that are not available to the public in general. They shall refrain from accepting any gifts, favors or promises of future benefits which might compromise their independence of judgment or action or give the appearance of being compromised.
10. Confidential Information. Members shall respect the confidentiality of information concerning the property, personnel or affairs of the City. They shall neither disclose confidential information without proper legal authorization, nor use such information to advance their personal, financial or other private interests.
11. Use of Public Resources. Members shall not use public resources not available to the public in general, such as City staff time, equipment, supplies or facilities, for private gain or personal purposes.
12. Representation of Private Interests. In keeping with their role as stewards of the public interest, members of Council shall not appear on behalf of the private interests of third parties before the Council or any board, commission or proceeding of the City, nor shall members of boards and commissions appear before their own bodies or before the Council on behalf of the private interests of third parties on matters related to the areas of service of their bodies.
13. Advocacy. Members shall represent the official policies or positions of the City Council, board or commission to the best of their ability when designated as delegates for this purpose. When presenting their individual opinions and positions, members shall explicitly state they do not represent their body or the City of Sunnyvale, nor will they allow the inference that they do.

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Councilmembers and board and commission members have the right to endorse candidates for all Council seats or other elected offices. It is inappropriate to mention or display endorsements during Council meetings, board/commission meetings, or other official City meetings.

14. **Policy Role of Members.** Members shall respect and adhere to the council-manager structure of Sunnyvale City government as outlined by the Sunnyvale City Charter. In this structure, the City Council determines the policies of the City with the advice, information and analysis provided by the public, boards and commissions, and City staff. Except as provided by the City Charter, members therefore shall not interfere with the administrative functions of the City or the professional duties of City staff; nor shall they impair the ability of staff to implement Council policy decisions.
15. **Independence of boards and commissions.** Because of the value of the independent advice of boards and commissions to the public decision-making process, members of Council shall refrain from using their position to unduly influence the deliberations or outcomes of board and commission proceedings.
16. **Positive Work Place Environment.** Members shall support the maintenance of a positive and constructive work place environment for City employees and for citizens and businesses dealing with the City. Members shall recognize their special role in dealings with City employees to in no way create the perception of inappropriate direction to staff.

B. CONDUCT

The Conduct section of the City's Code of Ethics and Conduct is designed to describe the manner in which Councilmembers and board and commission members should treat one another, City staff, constituents, and others they come into contact with in representing the City of Sunnyvale. It reflects the work of a Council Policy and Protocol Subcommittee that was charged with defining more clearly the behavior, manners, and courtesies that are suitable for various occasions. The Subcommittee also considered a wide variety of policy changes and clarifications designed to make public meetings and the process of governance run more smoothly.

The constant and consistent theme through all of the conduct guidelines is "respect." Councilmembers experience huge workloads and tremendous stress in making decisions that could impact thousands of lives. Despite these pressures, elected and appointed officials are called upon to exhibit appropriate behavior at all times. Demonstrating respect for each individual through words and actions is the touchstone that can help guide Councilmembers and board and commission members to do the right thing in even the most difficult situations.

1. Elected and Appointed Officials' Conduct with One Another

"In life, courtesy and self-possession, and in the arts, style, are the sensible impressions of the free mind, for both arise out of a deliberate shaping of all things and from never being swept away, whatever the emotion, into confusion or dullness."

-- William Butler Yeats

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Elected and appointed officials are composed of individuals with a wide variety of backgrounds, personalities, values, opinions, and goals. Despite this diversity, all have chosen to serve in public office in order to preserve and protect the present and the future of the community. In all cases, this common goal should be acknowledged even though individuals may "agree to disagree" on contentious issues.

1(a). In Public Meetings

Use formal titles

Elected and appointed officials should refer to one another formally during public meetings, such as Mayor, Vice Mayor, Chair, Commissioner or Councilmember followed by the individual's last name.

Practice civility and decorum in discussions and debate

Difficult questions, tough challenges to a particular point of view, and criticism of ideas and information are legitimate elements of a free democracy in action. This does not allow, however, public officials to make belligerent, personal, impertinent, slanderous, threatening, abusive, or disparaging comments. No shouting or physical actions that could be construed as threatening will be tolerated.

Honor the role of the chair in maintaining order

It is the responsibility of the chair to keep the comments of members on track during public meetings. Members should honor efforts by the chair to focus discussion on current agenda items. If there is disagreement about the agenda or the chair's actions, those objections should be voiced politely and with reason, following procedures outlined in parliamentary procedure.

Avoid personal comments that could offend other members

If a member is personally offended by the remarks of another member, the offended member should make notes of the actual words used and call for a "point of personal privilege" that challenges the other member to justify or apologize for the language used. The chair will maintain control of this discussion.

Demonstrate effective problem-solving approaches

Members have a public stage to show how individuals with disparate points of view can find common ground and seek a compromise that benefits the community as a whole.

Outside of official board or commission meetings, individual board and commission members are not authorized to represent the City or their board or commission unless specifically designated by the Council or the board or commission to do so for a particular purpose. In private settings, board and commission members may communicate at any time and on any subject with individual members of the City Council, and may express to them individual viewpoints and opinions. In public, however, all members shall represent the official policies or positions of their board or commission, with the following exception. During a Council public hearing on any item addressed by the board or commission, any member may speak under standard time limits, but shall indicate whether their testimony represents an official position (majority opinion) or a minority opinion of the board/commission to which they belong. The chair shall represent the majority view of the board or commission, but may report on any minority views as well, including his or her own. When an official

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board or commission position differs from staff's recommendation on a particular policy issue, then at the Mayor's discretion additional time may be provided to the chair of the board or commission (or his/her designee) to explain the position of the board/commission or to rebut statements made by staff or the public. If new information is brought to light during a public hearing which was not shared previously with the board or commission, the Mayor may allow the board or commission chair to respond. If the Council deems the new information sufficient to warrant additional study, then by majority vote Council may remand the issue back to the board or commission for further study prior to taking other action itself.

Individual opinions and positions may be expressed by board and commission members regarding items that have not come before the particular board/commission to which they belong. When presenting their individual opinions and positions, members shall explicitly state they do not represent their body or the City of Sunnyvale, nor will they allow the inference that they do.

Although a board or commission may disagree with the final decision the Council makes, the board or commission shall not act in any manner contrary to the established policy adopted by the Council.

1(b). In Private Encounters

Continue respectful behavior in private

The same level of respect and consideration of differing points of view that is deemed appropriate for public discussions should be maintained in private conversations.

Be aware of the insecurity of written notes, voicemail messages, and E-mail

Technology allows words written or said without much forethought to be distributed wide and far. Would you feel comfortable to have this note faxed to others? How would you feel if this voicemail message were played on a speaker phone in a full office? What would happen if this E-mail message were forwarded to others? Written notes, voicemail messages and e-mail should be treated as potentially "public" communication.

Even private conversations can have a public presence

Elected and appointed officials are always on display – their actions, mannerisms, and language are monitored by people around them that they may not know. Lunch table conversations will be eavesdropped upon, parking lot debates will be watched, and casual comments between individuals before and after public meetings noted.

In private, board and commission members may communicate at any time and on any subject with the City Council, and may express to Council individual viewpoints and opinions.

2. Elected and Appointed Officials' Conduct with City Staff

"Never let a problem become an excuse."

-- Robert Schuller

Governance of a City relies on the cooperative efforts of elected officials, who set policy, appointed officials who advise the elected, and City staff who implements and administers the Council's

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policies. Therefore, every effort should be made to be cooperative and show mutual respect for the contributions made by each individual for the good of the community.

Treat all staff as professionals

Clear, honest communication that respects the abilities, experience, and dignity of each individual is expected. Poor behavior towards staff is not acceptable.

Member questions/inquiries to City staff

1. General. Council and board/commission communications with City staff should be limited to normal City business hours unless the circumstances warrant otherwise. Responses to Council questions posed outside of normal business hours should be expected no earlier than the next business day.
2. Routine Requests for Information and Inquiries. Members may contact staff directly for information made readily available to the general public on a regular basis (e.g., “What are the library’s hours of operation?” or “How does one reserve a tee time at the golf course?”). Under these circumstances staff shall treat the member no differently than they would the general public, and the member shall not use their elected status to secure preferential treatment. The city manager does not need to be advised of such contacts.
3. Non-Routine Requests for Readily Available Information. Members may also contact staff directly for easily retrievable information not routinely requested by the general public so long as it does not require staff to discuss the issue or express an opinion (e.g., “How many traffic lights are there in the City?” or “Under what circumstances does the City lower its flags to half mast?”).
4. Non-Routine Requests Requiring Special Effort. Any member request or inquiry that requires staff to compile information that is not readily available or easily retrievable and/or that requests staff to express an opinion (legal or otherwise) must be directed to the city manager, or to the city attorney, as appropriate (e.g., “How many Study Issues completed over the past five years have required 500 or more hours of staff time?”, or “What is the logic behind the City’s sign ordinances affecting businesses along El Camino Real?”). The city manager (or city attorney as appropriate) shall be responsible for distributing such requests to his/her staff for follow-up. Responses to such requests shall be copied to all Councilmembers (if originating from a Councilmember), relevant board or commission members (if originating from a board or commission member), the city manager, the city attorney as appropriate and affected department directors.
5. Meeting Requests. Any member request for a meeting with staff must be directed to the city manager or city attorney, as appropriate.
6. Public Safety Restrictions. Under certain circumstances, requests for information regarding operations or personnel of the Department of Public Safety may be legally restricted. Applicable statutes include: The Peace Officers’ Procedural Bill of Rights (California Government Code Section 3300, et seq.), Confidentiality of Peace Officer Records (California Penal Code Section 832.5-7), and a number of exceptions to the California Public Records Act, defined in Government Code Section 6254. Providing information in response to such requests could violate the law, and might also violate due process rights that have been defined for peace officers in the State of

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California. Accordingly, it shall be the policy of the City of Sunnyvale to strictly comply with all applicable legal authorities governing the release of Department of Public Safety information and records.

Do not disrupt City staff from their jobs

Elected and appointed officials should not disrupt City staff while they are in meetings, on the phone, or engrossed in performing their job functions in order to have their individual needs met. Do not attend City staff meetings unless requested by staff – even if the elected or appointed official does not say anything, his or her presence implies support, shows partiality, intimidates staff, and hampers staff's ability to do their job objectively.

Never publicly criticize an individual employee

Elected and appointed officials should never express concerns about the performance of a City employee in public, to the employee directly, or to the employee's manager. Comments about staff performance should only be made to the city manager through private correspondence or conversation. Comments about staff in the office of the city attorney should be made directly to the city attorney. Appointed officials should make their comments regarding staff to the city manager or the Mayor.

Do not get involved in administrative functions

Elected and appointed officials must not attempt to influence City staff on the making of appointments, awarding of contracts, selecting of consultants, processing of development applications, or granting of City licenses and permits. [See Code of Ethics] The Sunnyvale City Charter, Section 807, also contains information about the prohibition of Council interference in administrative functions.

Check with City staff on correspondence before taking action

Before sending correspondence, Councilmembers should check with City staff to see if an official City response has already been sent or is in progress. Board and commission members shall not send correspondence except as authorized under the City's policies governing volunteers. (Council Policy 7.2.19, Boards and Commissions.)

Limit requests for staff support

Routine secretarial support will be provided to all Councilmembers. The Council Executive Assistant opens all mail for Councilmembers, unless a Councilmember requests other arrangements. Mail addressed to the Mayor is reviewed first by the city manager who notes suggested action and/or follow-up items.

Requests for additional staff support – even in high priority or emergency situations – should be made to the city manager who is responsible for allocating City resources in order to maintain a professional, well-run City government.

Do not solicit political support from staff

Elected and appointed officials should not solicit any type of political support (financial contributions, display of posters or lawn signs, name on support list, etc.) from City staff. City staff may, as private

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citizens with constitutional rights, support political candidates but all such activities must be done away from the workplace.

3. Elected and Appointed Officials' Conduct with the Public

"If a man be gracious and courteous to strangers, it shows he is a citizen of the world, and that his heart is no island cut off from other lands, but a continent that joins to them."

-- Francis Bacon

3(a). In Public Meetings

Making the public feel welcome is an important part of the democratic process. No signs of partiality, prejudice or disrespect should be evident on the part of individual members toward an individual participating in a public forum. Every effort should be made to be fair and impartial in listening to public testimony.

Be welcoming to speakers and treat them with care and gentleness. While questions of clarification may be asked, the official's primary role during public testimony is to listen.

"I give many public presentations so standing up in front of a group and using a microphone is not new to me. But I found that speaking in front of Council was an entirely different experience. I was incredibly nervous and my voice was shaking. I think the reason was because the issue was so personal to me. The Council was going to take a vote that would affect my family's daily life and my home. I was feeling a lot of emotion. The way that Council treats people during public hearings can do a lot to make them relax or to push their emotions to a higher level of intensity."

Be fair and equitable in allocating public hearing time to individual speakers.

"The first thing the Mayor said to me was to be brief because the meeting was running late and the Council was eager to go home. That shouldn't be my problem. I'm sorry my item was at the end of the agenda and that there were a lot of speakers, but it is critically important to me and I should be allowed to say what I have to say and believe that the Council is listening to me."

The chair will determine and announce limits on speakers at the start of the public hearing process. Questions should not be asked for the express purpose of allowing one speaker to evade the time limit imposed on all others (e.g., "Was there something else you wanted to say?"). Generally, each speaker will be allocated three minutes with applicants and appellants or their designated representatives allowed ten. If many speakers are anticipated, the chair may shorten the time limit and/or ask speakers to limit themselves to new information and points of view not already covered by previous speakers.

No speaker will be turned away unless he or she exhibits inappropriate behavior. Each speaker may only speak once during the public hearing unless the chair requests additional clarification later in the process. After the close of the public hearing, no more public testimony will be accepted unless the chair reopens the public hearing for a limited and specific purpose.

Give the appearance of active listening

It is disconcerting to speakers to have members not look at them when they are speaking. It is fine to look down at documents or to make notes, but reading for a long period of time or gazing around the

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room gives the appearance of disinterest. Be aware of facial expressions, especially those that could be interpreted as "smirking," disbelief, anger or boredom.

Maintain an open mind

Members of the public deserve an opportunity to influence the thinking of elected and appointed officials. To express an opinion or pass judgment prior to the close of a public hearing casts doubt on a member's ability to conduct a fair review of the issue. This is particularly important when officials are serving in a quasi-judicial capacity.

Ask for clarification, but avoid debate and argument with the public

Only the chair – not individual members – can interrupt a speaker during a presentation. However, a member can ask the chair for a point of order if the speaker is off the topic or exhibiting behavior or language the member finds disturbing.

If speakers become flustered or defensive by questions, it is the responsibility of the chair to calm and focus the speaker and to maintain the order and decorum of the meeting. Questions by members to the public testifying should seek to clarify or expand information. It is never appropriate to belligerently challenge or belittle the speaker. Members' personal opinions or inclinations about upcoming votes should not be revealed until after the public hearing is closed.

No personal attacks of any kind, under any circumstance

Members should be aware that their body language and tone of voice, as well as the words they use, can appear to be intimidating or aggressive.

Follow parliamentary procedure in conducting public meetings

The city attorney serves as advisory parliamentarian for the City and is available to answer questions or interpret situations according to parliamentary procedures. The chair, subject to the appeal of the full Council or board/commission makes final rulings on parliamentary procedure.

3(b). In Unofficial Settings

Make no promises on behalf of the Council, board/commission or City

Members will frequently be asked to explain a Council or board/commission action or to give their opinion about an issue as they meet and talk with constituents in the community. It is appropriate to give a brief overview of City policy and to refer to City staff for further information. It is inappropriate to overtly or implicitly promise Council or board/commission action, or to promise City staff will do something specific (fix a pothole, remove a library book, plant new flowers in the median, etc.).

Make no personal comments about other members

It is acceptable to publicly disagree about an issue, but it is unacceptable to make derogatory comments about other members, their opinions and actions.

Remember that despite its impressive population figures, Sunnyvale is a small town at heart
Members are constantly being observed by the community every day that they serve in office. Their behaviors and comments serve as models for proper deportment in the City of Sunnyvale. Honesty

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and respect for the dignity of each individual should be reflected in every word and action taken by members, 24 hours a day, seven days a week. It is a serious and continuous responsibility.

4. Council Conduct with Other Public Agencies

"Always do right. This will gratify some people and astonish the rest."
-- Mark Twain

Be clear about representing the City or personal interests

When representing the City, the Councilmember must support and advocate the official City position on an issue, not a personal viewpoint. Outside of official board or commission meetings, board and commission members are not authorized to represent the City or their board or commission unless specifically designated by the Council or the board or commission to do so for a particular purpose.

When representing another organization whose position is different from the City, the Councilmember should withdraw from voting on the issue if it significantly impacts or is detrimental to the City's interest. Councilmembers should be clear about which organizations they represent and inform the Mayor and Council of their involvement.

Correspondence also should be equally clear about representation

City letterhead may be used when the Councilmember is representing the City and the City's official position. A copy of official correspondence should be given to the Council Executive Assistant to be filed in the Council Office as part of the permanent public record.

City letterhead should not be used for non-City business nor for correspondence representing a dissenting point of view from an official Council position.

5. Council Conduct with Boards and Commissions

"We rarely find that people have good sense unless they agree with us."
--Francois, Duc de La Rochefoucauld

The City has established several boards and commissions as a means of gathering more community input. Citizens who serve on boards and commissions become more involved in government and serve as advisors to the City Council. They are a valuable resource to the City's leadership and should be treated with appreciation and respect.

If attending a board or commission meeting, be careful to only express personal opinions

Councilmembers may attend any board or commission meeting, which are always open to any member of the public. However, they should be sensitive to the way their participation especially if it is on behalf of an individual, business or developer -- could be viewed as unfairly affecting the process. Any public comments by a Councilmember at a board or commission meeting should be clearly made as individual opinion and not a representation of the feelings of the entire City Council.

Limit contact with board and commission members to questions of clarification

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It is inappropriate for a Councilmember to contact a board or commission member to lobby on behalf of an individual, business, or developer, and vice versa. It is acceptable for Councilmembers to contact board or commission members in order to clarify a position taken by the board or commission.

Remember that boards and commissions serve the community, not individual Councilmembers

The City Council appoints individuals to serve on boards and commissions, and it is the responsibility of boards and commissions to follow policy established by the Council. But board and commission members do not report to individual Councilmembers, nor should Councilmembers feel they have the power or right to threaten board and commission members with removal if they disagree about an issue. Appointment and re-appointment to a board or commission should be based on such criteria as expertise, ability to work with staff and the public, and commitment to fulfilling official duties. A board or commission appointment should not be used as a political "reward."

Be respectful of diverse opinions

A primary role of boards and commissions is to represent many points of view in the community and to provide the Council with advice based on a full spectrum of concerns and perspectives. Councilmembers may have a closer working relationship with some individuals serving on boards and commissions, but must be fair and respectful of all citizens serving on boards and commissions.

Keep political support away from public forums

Board and commission members may offer political support to a Councilmember, but not in a public forum while conducting official duties. Conversely, Councilmembers may support board and commission members who are running for office, but not in an official forum in their capacity as a Councilmember.

6. Conduct with the Media

"Keep them well fed and never let them know that all you've got is a chair and a whip."

-- Lion Tamer School

Board and commission members are not authorized to represent the City outside of official board/commission meetings unless specifically authorized to do so.

Councilmembers are frequently contacted by the media for background and quotes.

The best advice for dealing with the media is to never go "off the record"

Most members of the media represent the highest levels of journalistic integrity and ethics, and can be trusted to keep their word. But one bad experience can be catastrophic. Words that are not said cannot be quoted.

The Mayor is the official spokesperson for the City on City positions.

The Mayor is the designated representative of the Council to present and speak on the official City position. If an individual Councilmember is contacted by the media, the Councilmember should be clear about whether their comments represent the official City position or a personal viewpoint.

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Choose words carefully and cautiously

Comments taken out of context can cause problems. Be especially cautious about humor, sardonic asides, sarcasm, or word play. It is never appropriate to use personal slurs or swear words when talking with the media.

C. SANCTIONS

*"You cannot have a proud and chivalrous spirit if your conduct is mean and paltry;
for whatever a man's actions are, such must be his spirit."
-- Demosthenes*

Model of Excellence

City Councilmembers, Board and Commission Members, and Council appointees who do not sign the Model of Excellence (Appendix A) shall be ineligible for intergovernmental assignments or Council subcommittees.

Ethics Training for Local Officials

City Councilmembers, Board and Commission Members, and Council appointees who are out of compliance with State- or City-mandated requirements for ethics training shall not represent the City on intergovernmental assignments or Council sub-committees, and may be subject to sanctions.

Public Disruption

Members of the public who do not follow proper conduct after a warning in a public hearing may be barred from further testimony at that meeting or removed from the Council Chambers.

Inappropriate Staff Behavior

Councilmembers should refer to the city manager any City staff or to the city attorney any City Attorney's staff who do not follow proper conduct in their dealings with Councilmembers, other City staff, or the public. These employees may be disciplined in accordance with standard City procedures for such actions. (Please refer to the section on Council Conduct with City Staff for more details on interaction with Staff.)

Councilmembers Behavior and Conduct

Compliance and Enforcement. The Sunnyvale Code of Ethics and Conduct expresses standards of ethical conduct expected for members of the Sunnyvale City Council, boards and commissions. Members themselves have the primary responsibility to assure that ethical standards are understood and met, and that the public can continue to have full confidence in the integrity of government. The chairs of boards and commissions and the Mayor and Council have the additional responsibility to intervene when actions of members that appear to be in violation of the Code of Ethics and Conduct are brought to their attention.

City Councilmembers who intentionally and repeatedly do not follow proper conduct may be reprimanded or formally censured by the Council, lose seniority or committee assignments (both within the City of Sunnyvale or with inter-government agencies) or have official travel restricted.

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Serious infractions of the Code of Ethics or Code of Conduct could lead to other sanctions as deemed appropriate by Council.

Councilmembers should point out to the offending Councilmember infractions of the Code of Ethics and Conduct. If the offenses continue, then the matter should be referred to the Mayor in private. If the Mayor is the individual whose actions are being challenged, then the matter should be referred to the Vice Mayor.

It is the responsibility of the Mayor to initiate action if a Councilmember's behavior may warrant sanction. If no action is taken by the Mayor, the alleged violation(s) can be brought up with the full Council in a public meeting.

Board and Commission Members Behavior and Conduct

Counseling, verbal reprimands and written warnings may be administered by the Mayor to board and commission members failing to comply with City policy. These lower levels of sanctions shall be kept private to the degree allowed by law. Copies of all written reprimands administered by the Mayor shall be distributed in memo format to the chair of the respective board or commission, the city clerk, the city attorney, the city manager, and the City Council. Written reprimands administered by the Mayor shall not be included in packets for public meetings and shall not be publicized except as required under the Public Records Act.

The City Council may impose sanctions on board and commission members whose conduct does not comply with the City's policies, up to and including removal from office. Any form of discipline imposed by Council shall be determined by a majority vote of at least a quorum of the Council at a noticed public meeting and such action shall be preceded by a Report to Council with supporting documentation. The Report to Council shall be distributed in accordance with normal procedures, including hard copies to numerous public facilities and posting online. Any Report to Council addressing alleged misconduct by a board or commission member shall be routed through the Office of the city attorney for review of whether any information is exempt from disclosure (subject to redaction) based on privacy interests authorized under the Public Records Act.

When deemed warranted, the Mayor or majority of Council may call for an investigation of board or commission member conduct. Should the city manager or city attorney believe an investigation is warranted, they shall confer with the Mayor or Council. The Mayor or Council shall ask the city manager and/or the city attorney to investigate the allegation and report the findings.

The results of any such investigation shall be provided to the full Council in the form of a Report to Council, and shall be placed on the agenda of a noticed public meeting as "Information Only". Any such report shall be made public and distributed in accordance with normal procedures (i.e., hard copies to numerous public locations and posted online). Any report to Council addressing the investigation of board and commission members shall be routed through the Office of the City Attorney for review of whether any information is exempt from disclosure (subject to redaction) based on privacy interests authorized under the Public Records Act.

It shall be the Mayor and/or the Council's responsibility to determine the next appropriate action. Any such action taken by Council (with the exception of "take no further action") shall be conducted at a noticed public hearing. These actions include, but are not limited to: discussing and counseling the

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individual on the violations; placing the matter on a future public hearing agenda to consider sanctions; forming a Council ad hoc subcommittee to review the allegation, the investigation and its findings, as well as to recommend sanction options for Council consideration.

Under the City Charter, the City Council also may remove members of boards and commissions from office. A violation of this Code of Ethics and Conduct shall not be considered a basis for challenging the validity of a Council, board or commission decision.

D. PRINCIPLES OF PROPER CONDUCT

Proper conduct IS ...

- Keeping promises
- Being dependable
- Building a solid reputation
- Participating and being available
- Demonstrating patience
- Showing empathy
- Holding onto ethical principles under stress
- Listening attentively
- Studying thoroughly
- Keeping integrity intact
- Overcoming discouragement
- Going above and beyond, time and time again
- Modeling a professional manner

Proper conduct IS NOT ...

- Showing antagonism or hostility
- Deliberately lying or misleading
- Speaking recklessly
- Spreading rumors
- Stirring up bad feelings, divisiveness
- Acting in a self-righteous manner

It all comes down to respect

Respect for one another as individuals ... respect for the validity of different opinions ... respect for the democratic process ... respect for the community that we serve.

E. CHECKLIST FOR MONITORING CONDUCT

- Will my decision/statement/action violate the trust, rights or good will of others?
- What are my interior motives and the spirit behind my actions?
- If I have to justify my conduct in public tomorrow, will I do so with pride or shame?
- How would my conduct be evaluated by people whose integrity and character I respect?

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- Even if my conduct is not illegal or unethical, is it done at someone else's painful expense? Will it destroy their trust in me? Will it harm their reputation?
- Is my conduct fair? Just? Morally right?
- If I were on the receiving end of my conduct, would I approve and agree, or would I take offense?
- Does my conduct give others reason to trust or distrust me?
- Am I willing to take an ethical stand when it is called for? Am I willing to make my ethical beliefs public in a way that makes it clear what I stand for?
- Do I exhibit the same conduct in my private life as I do in my public life?
- Can I take legitimate pride in the way I conduct myself and the example I set?
- Do I listen and understand the views of others?
- Do I question and confront different points of view in a constructive manner?
- Do I work to resolve differences and come to mutual agreement?
- Do I support others and show respect for their ideas?
- Will my conduct cause public embarrassment to someone else?

F. GLOSSARY OF TERMS

attitude	The manner in which one shows one's dispositions, opinions, and feelings
behavior	External appearance or action; manner of behaving; carriage of oneself
civility	Politeness, consideration, courtesy
conduct	The way one acts; personal behavior
courtesy	Politeness connected with kindness
decorum	Suitable; proper; good taste in behavior
manners	A way of acting; a style, method, or form; the way in which things are done
point of order	An interruption of a meeting to question whether rules or bylaws are being broken, such as the speaker has strayed from the motion currently under consideration
point of personal privilege	A challenge to a speaker to defend or apologize for comments that a fellow member considers offensive
propriety	Conforming to acceptable standards of behavior
protocol	The courtesies that are established as proper and correct
respect	The act of noticing with attention; holding in esteem; courteous regard

G. IMPLEMENTATION

As an expression of the standards of conduct for members expected by the City, the Sunnyvale Code of Ethics and Conduct is intended to be self-enforcing. It therefore becomes most effective when members are thoroughly familiar with it and embrace its provisions. For this reason, this document shall be included in the regular orientations for candidates for City Council, applicants to board and commissions, and newly elected and appointed officials. Members entering office shall sign a statement affirming they read and understood the City of Sunnyvale Code of Ethics and Conduct. In addition, the Code of Ethics and Conduct shall be annually reviewed by the City Council, boards and commissions, and the City Council shall consider recommendations from boards and commissions and update it as necessary.

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(Adopted: RTC 08-113 (4/8/08), Update: RTC 09-036 (2/3/09); Updated: RTC 09-047 (2/24/09); Approved with no changes: RTC 10-078 (3/23/10); Approved with no changes: RTC 11-058 (3/29/11); Approved with no changes: RTC 12-067 (3/20/2012); Updated: RTC 13-060 (3/19/13); Approved with no changes: RTC 14-0211 (3/18/14); RTC 15-0050 (3/24/15); RTC 16-0360 (4/5/16); RTC 17-0161 (3/28/17); RTC 18-0036 (1/9/18)

Lead Department: Office of the City Manager

APPENDIX A - Model of Excellence Member Statement

MODEL OF EXCELLENCE

Sunnyvale City Council, Boards and Commissions

MEMBER STATEMENT

As a member of the Sunnyvale City Council or of a Sunnyvale board or commission, I agree to uphold the Code of Ethics and Conduct for Elected and Appointed Officials adopted by the City and conduct myself by the following model of excellence. I will:

- Recognize the worth of individual members and appreciate their individual talents, perspectives and contributions;
- Help create an atmosphere of respect and civility where individual members, City staff and the public are free to express their ideas and work to their full potential;
- Conduct my personal and public affairs with honesty, integrity, fairness and respect for others;
- Respect the dignity and privacy of individuals and organizations;
- Keep the common good as my highest purpose and focus on achieving constructive solutions for the public benefit;
- Avoid and discourage conduct which is divisive or harmful to the best interests of Sunnyvale;
- Treat all people with whom I come in contact in the way I wish to be treated;

I affirm that I have read and understood the City of Sunnyvale Code of Ethics and Conduct for Elected and Appointed Officials.

Signature

Date

City Council Seat #____

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