

3 [15-0580](#)**File #:** 2014-7624**Location:** 1026 Lois Avenue (APN: 198-34-011)**Zoning:** R-0**Proposed Project:**

DESIGN REVIEW to allow construction of a new two-story home with a total floor area of 2,993 square feet (2,566 square feet living area and a 427-square foot garage) resulting in 49.8% floor area ratio (FAR) for review and approval by the Planning Commission.

Applicant / Owner: BO Design (applicant) / Haiyan Gong (owner)**Environmental Review:** A Class 1 Categorical Exemption relieves this project from California Environmental Quality Act provisions and City Guidelines.**Project Planner:** Shétal Divatia, (408) 730-7637,
sdivatia@sunnyvale.ca.gov

Gerri Caruso , Principal Planner, presented the staff report.

Chair Melton discussed with Trudi Ryan, Planning Officer, whether the City Council motion limits anything within Planning Commission purview tonight.

Comm. Harrison verified with Ms. Caruso that all findings have been met for this project, and confirmed that an air conditioner can be placed in the back if it meets setback requirements. Ms. Ryan added that the adjacent neighbor requested the unit be relocated due to potential noise concerns.

Vice Chair Olevson confirmed with Ms. Caruso that the homeowner would have to meet the noise standard of the Municipal Code with regard to placement of the air conditioner.

Comm. Klein clarified the noise ordinance with Ms. Caruso, and confirmed with Ms. Ryan when the staff report was available on the City webpage.

Chair Melton opened the public hearing.

Frank Gong, the project applicant, gave a presentation on the proposed project.

Comm. Simons discussed with Mr. Gong whether obscure glass was considered for use on the north window in the stairway.

Annie Shiau, a nearby Sunnyvale resident, discussed her opposition to the proposed project.

Robert Nuttall, a nearby Sunnyvale resident, discussed his opposition to the proposed project.

Lorraine Nishikawa, a nearby Sunnyvale resident, discussed her opposition to the proposed project.

Mary Perkins, a nearby Sunnyvale resident, discussed her opposition to the proposed project.

Ava Mokhber, a nearby Sunnyvale resident, discussed her opposition to the proposed project.

Paul Clark, a nearby Sunnyvale resident, discussed his opposition to the proposed project.

Chair Melton confirmed with Mr. Clark the location of his home and that the air conditioner would not be adjacent to his home.

Comm. Simons verified with Mr. Clark that the window in the stairway was not a concern of his.

Chair Melton called Ms. Mokhber back to the podium.

Comm. Simons confirmed with Ms. Mokhber that obscured glass address the concern about the window in the stairway, and Ms. Mokhber added that the structure and design of the home create an invasion of privacy.

Jeanne Waldmann, a nearby Sunnyvale resident, discussed her opposition to the proposed project.

Mr. Gong addressed the neighbors' concerns.

Chair Melton closed the public hearing.

Comm. Harrison and Ms. Ryan discussed a typical percentage of Floor Area Ratio (FAR) for a two-story home, and Comm. Harrison asked what the FAR of the home would be without the garage. Ms. Caruso said staff would calculate it and respond shortly.

Comm. Simons moved Alternative 2 to approve the Design Review with modified conditions:

- 1) Correct the project data table and change the height of the structure from 24'4" to 23'4";
- 2) The veneer brick on the home shall extend to meet the fence on the sides of the house;
- 3) The selection of box trees shall be long lived, large scale species;
- 4) The applicant has the option of adding the window on the north side of the stairwell if the glass is obscured;
- 5) The applicant has the option to place the HVAC condenser on the side yard and must meet noise requirements.

Comm. Durham seconded.

Comm. Simons said the main goal for the neighborhood is being consistent, that the City has gone through a process over ten years creating the Design Guidelines for situations similar to this in which homes were built to the maximum in Eichler and single-story neighborhoods. He said the characters of the homes were disruptive and applicants made changes like adding more plantings to regain privacy, and that in response to these conflicts the City created the single story overlay so neighborhoods could be restricted to single stories. He said the Design Guidelines were created to minimize bulk while allowing homeowners to expand their homes and stay in the City, and said he understands that individuals have issues with this particular design and that even though the applicant has come before the Planning Commission multiple times modifying every step of the way to better meet the Design Guidelines, the neighborhood does not feel comfortable with it. He said he heard a lot of discussion about restricting this particular project but nothing about how to restrict the neighborhood as a whole, and that it is not an issue of personality but is always about the use. He said if there is a character in a particular part of the City that should be the reason for asking the City for restrictions that would apply specifically to that neighborhood, and that for Eichlers a single story overlay was applied for that. He stated he cannot deny an applicant who made all the modifications to reduce the second story and then say it still does not meet the character of the neighborhood. He noted the concern about house sizes increasing, and said generally when people expand their homes they stay within the intent of the neighborhood. He said this neighborhood has a unique character with houses smaller and closer in size to one another, but that it has had the ability to add on second stories, which has been done in different parts and that those homes are now grandfathered in. He said many of them could not be developed today, and he recommends the neighbors consider what it is that is unique about the neighborhood and what it should look like. He said it is inappropriate to single out one project because of perceived incompatibility and that many things have been done to reduce the bulking of this house which is not

the same house that was originally brought before the Planning Commission.

Comm. Durham said he will be supporting the motion, that the applicant came up with good plan and fine tuned it a lot. He stated that he was not thrilled with the first plan, that a lot has been corrected and the size and mass has been dropped. He said the project falls well within all of the guidelines except the FAR, that he can support having the air conditioner on the side of the house if it meets noise standards which should not be problem because the neighbor could put up the same thing if installing a replacement unit. He noted that the the biggest drawback is the second floor and by comparing plans to the neighbors the second story will be 50 percent of one story higher than existing houses and if it is within all of the setbacks and the size for second story fits in the Design Guidelines and does not raise the roof too high, the view angles out from the neighbors will not be impeded.

Comm. Klein said he will be supporting the motion, that we are here to comply with the Design Guidelines and rules of the City, and that the FAR is just a threshold for Planning Commission review, not a limit as to what the homeowner can build. He noted that there are other two-story homes on Lois, that the applicant has worked to improve the privacy issues and the modifications of the motion will help to address those. He said the biggest issue that has been improved is the plate height, which is now similar down the street, and that he can support the motion and make the findings. He said when he denied the project the first time and approved it the second time he suggested the neighbors continue to look at doing a single story overlay district, which would mean going to the neighbors to get signatures and putting together money to put into law that only single story homes can be built in the area. He said he hopes the neighbors can work with the applicant and hopes the applicant reaches out, and that while he understands that the applicant is trying to build his dream home, it does collide with the neighborhood. He said the guidelines we follow give us the maximum size goals and the FAR from first to second story, that this design meets that and the applicant has tried to improve it with Council direction, therefore he is supporting the project.

Vice Chair Olevson said he will be supporting the motion, that when he saw the project the last time he did not support it, but he feels the applicant has come a great length to meet the intent and letter of various design criteria imposed on projects of this type. He said it is not the Commission's job to set policy as is done by the City Council, and in looking at the policy they have set this applicant has done a good job of meeting the criteria. He noted that the neighborhood is in transition with two-story homes coming in and around it, and that most people living in Sunnyvale do not realize what can happen in a given zoning area until it starts happening and it is too late. He encouraged neighbors to pursue the single story

overlay if they feel strongly enough before further changes occur, and that if a majority of neighbors do not support the change, the Design Guidelines and other policies in place now are ones we must live with.

Comm. Harrison said she will be supporting the motion, that she appreciates the impassioned view points of the public and the applicant, but that there is no way for her to not grant the applicant his desires because he has met every single rule. She said the neighbors asked how the Commissioners would feel if this were happening in their neighborhood, and that if it were her she would want to get approval for her project if she met every rule.

Chiar Melton said he will be supporting the motion, that this is the fourth public hearing on this project and that what he regrets the most is that he did not make himself clearer when the project came to the Planning Commission in the Spring and feedback was provided to the applicant. He said the Design Review was declined in October and then came back in March and was approved and he realizes he did not make it clear that even though the square footage remained largely the same it was the reallocation of square footage from the second to the first floor that was the tipping point for him. He echoed what the other Commissioners have said about the single story overlay and he does not know if anything would have been different if there was forward motion made on the single story overlay between public hearings, but that he sees all of the energy from the neighbors and hopes it can be used to plow forward on the signatures and dollars required for the single story overlay district. He said that is the legislative action you have to take to achieve the vision the neighbors are expressing to the Planning Commission. He said the applicant has been difficult, that Councilmember Davis expressed feelings he would agree with but that this is about following policy and the applicant has made many changes to the design, which started with something that absolutely did not pass but is a totally different project now. He said people may say the Planning Commission is coming to the wrong judgment but it is one that has to be made. He thanked the applicant for his passion, the neighbors for coming out to speak four times and thanked the City Council who spent three hours on a public hearing for this project.

MOTION: Comm. Simons moved Alternative 2 to approve the Design Review with modified conditions:

- 1) Correct the project data table and change the height of the structure from 24'4" to 23'4";
- 2) The veneer brick on the home shall extend to meet the fence on the sides of the house;
- 3) The selection of box trees shall be long lived, large scale species;

- 4) The applicant has the option of adding the window on the north side of the stairwell if the glass is obscured;
- 5) The applicant has the option to place the HVAC condenser on the side yard and must meet noise requirements.

Comm. Durham seconded. The motion carried by the following vote:

Yes: 6 - Chair Melton
Vice Chair Olevson
Commissioner Durham
Commissioner Harrison
Commissioner Klein
Commissioner Simons

No: 0

Absent: 1 - Commissioner Rheume