



City of Sunnyvale

Meeting Minutes - Draft Planning Commission

Monday, September 14, 2015

7:00 PM

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

7:00 P.M. PLANNING COMMISSION - STUDY SESSION - WEST CONFERENCE ROOM

- 1 [15-0842](#) **File #:** 2014-7416, 2014-7417
Location: 915 De Guigne Avenue, 936 East Duane Avenue and
surrounding area
Zoning: M-S (Industrial and Service) Proposed R-3/PD (Medium
Density
Residential/Planned Development)
Proposed Project:
 SPECIAL DEVELOPMENT PERMIT for demolition of an
 existing industrial office development (Spansion) and
 construction of 450 residential townhouse units.
Applicant / Owner: Watt Investments at Sunnyvale LLC
Environmental Review: An Environmental Impact Report is being
prepared as part of the development applications (anticipate release
in fall 2015). No environmental review is required at this time
Project Planner: Ryan Kuchenig, (408) 730-7431,
rkuchenig@sunnyvale.ca.gov

2 Public Comment on Study Session Agenda Item

3 Comments from the Chair

4 Adjourn Study Session

8:00 P.M. PLANNING COMMISSION - PUBLIC HEARING - COUNCIL CHAMBERS

CALL TO ORDER

Chair Melton called the meeting to order at 8:07 p.m.

SALUTE TO THE FLAG

Chair Melton led the salute to the flag.

ROLL CALL

Present: 4 - Chair Russell Melton
Vice Chair Sue Harrison
Commissioner Ken Rheaume
Commissioner David Simons
Absent: 2 - Commissioner Ken Olevson
Commissioner Larry Klein

PUBLIC ANNOUNCEMENTS/PUBLIC COMMENTS

None.

CONSENT CALENDAR

1.A [15-0843](#) Approval of the Draft Minutes of the Planning Commission
Meeting of August 24, 2015

Comm. Simons moved to approve the draft minutes. Vice Chair Harrison seconded.
The motion carried by the following vote:

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

No: 0

Absent: 2 - Commissioner Olevson
Commissioner Klein

PUBLIC HEARINGS/GENERAL BUSINESS

2 [15-0814](#)**File #:** 2015-7411**Location:** 1464 Ramon Drive (APN: 313-14-005)**Zoning:** R-1**Proposed Project:**

Appeal of a staff-level decision to deny an application for a Design Review to allow for modifications to a single-family home, including construction of tandem parking, a 963 square-foot addition (including 815 square-foot garage), and a 400 square-foot detached accessory structure.

Applicant / Owner: Tamir Reshef (applicant/owner)

Environmental Review: A Class 1 Categorical Exemption (modification to existing structures) relieves this project from California Environmental Quality Act provisions and City Guidelines.

Project Planner: Timothy Maier, (408) 730-7257,
tmaier@sunnyvale.ca.gov

Gerri Caruso, Principal Planner, presented the staff report.

Vice Chair Harrison confirmed with Ms. Caruso that a Design Review application was approved earlier this year for a project with a side-by-side garage, and then the applicant decided a tandem garage would work better.

Comm. Rheaume discussed with Ms. Caruso whether the staff recommendation of a two-car garage in the back of the property would require demolishing part of the existing home, and discussed options for placing the garage on the right or left sides of the home.

Comm. Simons asked whether the applicant and staff discussed an option for two offset single garages on the left side, to which Ms. Caruso responded that she did not see the option in the original project planner's notes but that the applicant could provide more information.

Chair Melton noted that most of the issues with this home are a result of it being situated diagonally, and confirmed with Ms. Caruso that the Raynor Park neighborhood was originally part of a County pocket and that the original developer designed a number of homes turned on the lot. Chair Melton asked if the applicant had to take down the existing garage and build a drive aisle so cars could access a garage in the back, would that constitute a significant structural modification. Ms. Caruso replied that staff is still figuring that out as the code is so new.

Chair Melton opened the public hearing.

Tamir Reshef, the project applicant, gave a presentation on the proposed project.

Comm. Simons and Mr. Reshef discussed whether an option was considered for a separate single parking area on the left side of the house. Comm. Simons clarified this option with staff and withdrew the suggestion.

Chair Melton confirmed with Mr. Reshef that the detached accessory unit would be used as an office, and that Mr. Reshef understood that if he decides to turn that into habitable space in the future he would need to come back to apply for another permit.

Martin McGrath, a nearby Sunnyvale resident, provided background information on the neighborhood and discussed his support of the proposed project.

Comm. Simons discussed with Mr. McGrath the additions and changes he made to his home. Trudi Ryan, Planning Officer, added that it may be that the City did not have the code requirement to bring parking up when Mr. McGrath remodeled his home.

Mr. Reshef provided additional comments on his project.

Comm. Rheume confirmed with Mr. Reshef that changes to two walls, the sewage, foundation, electrical, piping and air conditioning would be required to accomplish the side-by-side garage, and that a combination of the cost and the number of required changes has made the previously approved project more of an issue for him.

Chair Melton closed the public hearing.

Vice Chair Harrison discussed with Ms. Ryan the definition of the word "structural" in significant structural modification.

Comm. Rheume and Ms. Ryan discussed the impetus in changing the standard to allow the consideration of tandem parking in a single family residential neighborhood, and discussed the reason staff denied the previous application. Comm. Rheume verified with Ms. Ryan that if the Planning Commission determines that significant structural changes are required the appeal could be granted and it could inform future decisions.

Comm. Simons asked if there would be a smaller cost in modifying the home if tandem parking is authorized, to which Ms. Ryan responded that staff has no information regarding the cost. Comm. Simons and Ms. Caruso discussed potential

design options that lessen the possibility that a large renovation would need to be done.

Comm. Rheume moved Alternative 2 to grant the appeal and approve the project with tandem parking, subject to recommended conditions in Attachment 4.

Chair Melton seconded.

Comm. Rheume said significant structural changes are not just about dollars and walls, that without changing the electrical, foundation and sewage you do not have a livable home and all of these should be included in the definition of significant structural changes. He said putting a two car garage in the back sounds like an easy fix, but with remodels, whenever changes are made it is like opening Pandora's box and that with a home as old as this you may not know what you are getting into. He said he does not like granting Variances, but the overall goal of the policy for tandem parking is to remove cars from the street and put garages on properties. He said this project meets that goal with two covered and two uncovered parking spaces, and that overall the policy is being met.

Chair Melton said he has heard the phrases "opening a can of worms" and "Pandora's box" to describe this application, and that the phrase that comes to his mind is "a thread on a tapestry," and when you pull on that thread the whole thing unravels. He said the logic he uses to come to the conclusion that the applicant is facing a significant structural modification starts with the house being situated diagonally on the lot. He said he appreciates the background information the member of the public provided, and that what it looks like the applicant is doing with the additions to the house is trying to right the diagonal. He noted that the new master bathroom is on a parallel or perpendicular angle to the lot lines but makes it askew to the diagonal of the house, which is the extent to which the property owner has to go to in the first place because the house is on a diagonal. He said merely knocking out two walls does not constitute a significant structural change but that the changes do not stop there, and he believes knocking out two walls into the dining room would disavow the applicant to normal and proper use of the dining room. He said the applicant would then have to relocate the dining room but that the dining room by necessity would have to be by the kitchen, so now both the dining room and kitchen would need to be relocated and right there the tapestry has fallen apart and becomes a significant structural modification. He said tonight's discussion also included putting the detached garage in the back, which would constitute a significant structural modification because the applicant would have to demolish the garage on the left or apply for a Variance for a narrow drive aisle on the right, which is crossing a threshold of significance where he comes to the

conclusion that this is a significant structural modification, so he will be supporting the motion.

Comm. Simons said he is not sure any addition to this home will not be impacting the subsystems, and that when you do an addition you may have to redo major portions of the electrical and different things may collapse. He said the applicant will be redoing the sewer anyway, and that is not the main reason for saying this is not a financial limitation. He said the applicant can more cost effectively add a single car garage to the right side while doing an addition on the left, and that whether the garage is detached or partly connected to house, placing it there would greatly lower the cost. He said this design is not about cost, but about wanting to maximize the backyard and squaring off this tilted house to create a very unusually shaped garage. He noted that the main purpose for the parking requirement is to reduce on street parking demand, and that for homes with converted garages or a single car garage, the intent is to bring neighborhoods up to standards. Comm. Simons said this gets expensive no matter what the applicant does to achieve the square footage he is looking for, and while staff may think it is less expensive, it is apples and oranges and tough to know the cost until the plans and bids are in. He said right now costs are outrageous to do small home remodels and he would recommend waiting until another downturn, but that if the applicant cannot wait he suggested looking at other alternatives. He said tandem parking is problematic to begin with because of disuse and the far end oftentimes becoming storage, so he will be voting against the appeal.

Vice Chair Harrison said she will be voting against the motion, and that she has to go with the letter of the code regarding significant structural modifications. She said she cannot see that changing one wall as a significant structural modification is any different than what the applicant is proposing. She said if the proposal is a tandem garage that would impact the structure of the existing building you would also be reinforcing the foundation of the existing building and changing all of the systems, including the entire wiring and HVAC, and she cannot make the finding that this creates a significant structural modification.

MOTION: Comm. Rheume moved Alternative 2 to grant the appeal and approve the project with tandem parking, subject to recommended conditions in Attachment 4.

Chair Melton seconded. The motion failed by the following vote:

Yes: 2 - Chair Melton
Commissioner Rheume

No: 2 - Vice Chair Harrison
Commissioner Simons

Absent: 2 - Commissioner Olevson
Commissioner Klein

Ms. Ryan said the Planning Commission can continue the hearing to a date when there are more Commissioners, and that if the Planning Commission cannot agree on a continuance, the appeal is in effect not approved and would be the end of options for the applicant. She said it may be preferable for the applicant to have an opportunity to have another hearing when there are more Commissioners.

Chair Melton confirmed with Ms. Ryan that if the appeal is not granted it would, in effect, be denied, and confirmed that the continuance would be to a date certain and options include September 28 or October 12.

Comm. Simons discussed with Ms. Ryan the frequency with which there have been even numbered Planning Commissioners and continued an item because of the lack of a motion passing.

Vice Chair Harrison moved Alternative 1 to deny the appeal and uphold the decision of staff to deny the Design Review that includes tandem parking.

Comm. Simons seconded.

Vice Chair Harrison said this project as proposed does not meet the criteria for significant structural modifications and there are alternative ways to achieve what the applicant wants that will involve less structural modifications that the applicant could explore with staff. She added that she cannot make the findings.

Comm. Simons said there is at least one change that has not been discussed with staff that could be advantageous to the applicant beyond his proposal that would meet the parking requirement and provide more usable space.

MOTION: Vice Chair Harrison moved Alternative 1 to deny the appeal and uphold the decision of staff to deny the Design Review that includes tandem parking.

Comm. Simons seconded. The motion failed by the following vote:

Yes: 2 - Vice Chair Harrison
Commissioner Simons

No: 2 - Chair Melton
Commissioner Rheaume

Absent: 2 - Commissioner Olevson
Commissioner Klein

Ms. Ryan said if a continuance is considered the Planning Commission could give direction to staff to explore certain alternative designs and coming back with a staff report that would provide more information.

Vice Chair Harrison moved for a continuance, and requested staff investigate with the applicant several alternatives that would meet the applicant's needs and the code requirements with regard to a two-car garage with a side-by-side configuration, two covered off street parking spaces, one being a split garage with one on the left and one on the right, and an alternate being a detached garage in the rear with a 10-foot drive aisle and an attached nine foot nonhabitable studio space.

Comm. Simons seconded and reiterated Vice Chair Harrison's motion.

Chair Melton clarified with Vice Chair Harrison that the continuance would be to a date certain, which would be October 12.

Vice Chair Harrison said any other modifications to the plan that would meet the zoning code and the applicant's needs should also be considered.

FINAL MOTION: Vice Chair Harrison moved for a continuance, and requested staff investigate with the applicant several alternatives that would meet the applicant's needs and the code requirements with regard to a two-car garage with a side-by-side configuration, two covered off street parking spaces, one being a split garage with one on the left and one on the right, and an alternate being a detached garage in the rear with a 10-foot drive aisle and an attached nine foot nonhabitable studio space.

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

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

No: 0

Absent: 2 - Commissioner Olevson
Commissioner Klein

3 [15-0824](#)**File #:** 2015-7399**Location:** 777 Sunnyvale-Saratoga Road (APN: 201-36-002)**Zoning:** C-2/ECR**Proposed Project:** Appeal of a decision by the Zoning Administrator to conditionally allow a:

SPECIAL DEVELOPMENT PERMIT to allow an approximately 11,600 square foot new commercial building (grocery store) on an existing commercial site. The project replaces a portion (approx. 7,599 s.f.) of the Orchard Supply Hardware building and storage area.

Appellant / Applicant / Owner: Michael Howland / Ware Malcomb (applicant) / Mardit Properties, LP (owner)**Environmental Review:** A Categorical Exemption Class 1 (building additions less than 10,000 s.f.) relieves this project from CEQA provisions.**Project Planner:** Ryan Kuchenig, (408) 730-7431, rkuchenig@sunnyvale.ca.gov

Ryan Kuchenig, Senior Planner, stated that since the staff report was published a letter was submitted by the appellant raising additional concerns with the environmental determination, and that staff feels it is prudent to conduct further environmental review and prepare an initial study. He said staff is recommending a continuance of the public hearing indefinitely until an initial study is completed at which time a new public hearing date will be set and notices sent out to the public.

Chair Melton said it would be helpful for staff to provide language for a motion to continue this item, but that the Commission will still hold the public hearing.

Chair Melton opened the public hearing.

Mark Wolfe, Land Use and Environmental Lawyer representing the project appellant, said he supports the staff proposal to come back when the initial study is conducted.

Roger Bernstein, with Oppidan, a development company, and representing the applicant, provided background information about the project and addressed the concerns the appellant has. He said the project should be categorically exempt from California Environmental Quality Act (CEQA) analysis requirements.

Mr. Wolfe said this may be a good project for the City, but that it is not categorically exempt and said an analysis must be done because the project would be a new use at the site.

Comm. Simons confirmed with Ms. Ryan that the use table of the zoning code contains retail uses with further differentiation. Ms. Ryan noted that requirements differentiate between general retail and services, and warehouse retail bulky merchandise. Comm. Simons discussed with Mr. Wolfe whether the proposed project would constitute a different use at the site.

Chair Melton requested that Comm. Simons and Mr. Wolfe conclude their discussion.

Drew Johnson, with Oppidan, reiterated that this project does qualify for an exemption.

Chair Melton closed the public hearing.

Comm. Simons discussed with Ms. Ryan the reasoning behind staff changing the recommendation, and confirmed that the site will still be accessible from both frontage streets as it exists now. Comm. Simons also confirmed with Ms. Ryan that closing off access to the site would require discretionary review, and that if the proposed project did not function it could be turned into another retail use.

Vice Chair Harrison discussed with Ms. Ryan the type of analysis that would be conducted for the project if continued, and confirmed that the original determination was due to the proposed additional square footage being less than 10,000, which may be exempt from further CEQA review.

Chair Melton verified with Rebecca Moon, Senior Assistant City Attorney, that the City Attorney's Office supports the recommendation to complete an initial study.

Mr. Kuchenig recommended a new Alternative to continue this item indefinitely until further environmental review is completed and an initial study prepared.

Chair Melton verified with Ms. Ryan that this item would return to the Planning Commission if continued.

MOTION: Vice Chair Harrison moved to continue this item indefinitely to have staff prepare an initial study, renote the application and return it to the Planning Commission for a decision.

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

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

No: 0

Absent: 2 - Commissioner Olevson
Commissioner Klein

- 4 [15-0569](#) **File #:** 2015-7264
Location: 755-777 East Evelyn Avenue (APNs: 209-01-018, -023, -024)
Zoning: M-3/ITR/R-3/PD (General Industrial/Industrial-to-Residential/Medium Density Residential/Planned Development)
Proposed Project: Related applications on a 2.05-acre site:
 SPECIAL DEVELOPMENT PERMIT to allow the demolition of two industrial buildings totaling 32,168 square feet and the construction of 42 townhome units;
 VESTING TENTATIVE MAP to create 42 townhome lots and one common lot; and;
 VARIANCE to allow the project to impair solar access on 30% of carport roof area on the adjacent apartment property to the east on the afternoon of the Winter Solstice (December 21st, shortest day of the year) when up to 10% is allowed.
Applicant / Owners: Classic Communities (applicant/owner)
Environmental Review: Mitigated Negative Declaration
Project Planner: George Schroeder, (408) 730-7443, gschroeder@sunnyvale.ca.gov

George Schroeder, Associate Planner, presented the staff report.

Chair Melton opened the public hearing.

Jim Pollart with Classic Communities, and Terresa Oehrlein with Bassenian Lagoni Architects, presented information about the proposed project.

Comm. Simons discussed with Ms. Oehrlein differentiating more between building color schemes. Comm. Simons commented on the addition of the second floor arched windows, and discussed the extended eaves with Ms. Oehrlein.

Chair Melton discussed with Tim Costello, with Tetritech, the mitigation of hazardous materials with a vapor barrier, and confirmed with Mr. Pollart that one would be installed.

Chair Melton closed the public hearing.

Comm. Rheume moved Alternative 2 to adopt the Mitigated Negative Declaration and approve the Special Development Permit, Variance, and Vesting Tentative Map with the modified condition to include the applicant's proposal for the arched window feature.

Comm. Simons seconded.

Comm. Rheume thanked the applicant for the presentation, and said we have seen this design by Maude Avenue and it is a very nice, quality design. He said he appreciates that the applicant listened to what the Commission said and came back with the arched windows, which will add to the project. He noted that this is an irregularly shaped lot and there were some constraints to stay away from variations and that he can make the findings. He said this project is a good investment in the community that is providing much needed housing and promotes home ownership.

Comm. Simons offered a friendly amendment to recommend that staff and the applicant explore differentiating between the two sets of building color schemes.

Comm. Rheume accepted.

Comm. Simons offered a friendly amendment to recommend the applicant explore replacing the camphor trees in the plan with larger, native trees that may require less water and are longer lived.

Comm. Rheume accepted.

Ms. Ryan clarified the friendly amendments with Comm. Simons.

Comm. Simons said he is excited about the architectural improvements, that the Planning Commission may have asked for more but the applicant has brought back a number of modifications in keeping with what we have been interested in seeing such as more differentiated architecture. He said the applicant has incorporated a number of recommendations that have been nice to see, and that compared to where the project started it is much improved. He gave compliments to the applicant and said he will be supporting the motion.

Chair Melton said he will be supporting the motion and can make the findings. He said this project has a nice, high quality design, he likes the Below Market Rate units and that sometimes when we get a lengthy list of deviations he worries that we may be squeezing too much into it, but that this is an odd shaped parcel the applicant is working with. He noted that the applicant also has the 75 percent minimum density requirement that requires them to squeeze it in there in the first place. He said the requested Variances and deviations are minor and there is an overall purpose being achieved here.

Vice Chair Harrison said the Variances and deviations are very minor, specifically the Variance regarding solar shading. She said half an hour on a carport already

shaded by trees is no big stretch for a Variance and that she appreciates the attention to the architectural details. She said from a street level where a pedestrian might say to a friend "I have the red door," that is what they will use rather than "I have light brown or dark brown roof," and that there is enough variation.

MOTION: Comm. Rheaume moved Alternative 2 to adopt the Mitigated Negative Declaration and approve the Special Development Permit, Variance, and Vesting Tentative Map with modified conditions:

- 1) To include the applicant's proposal for the arched window feature;
- 2) Recommend that staff and the applicant explore differentiating between the two sets of building colors; and,
- 3) Recommend the applicant explore replacing the camphor trees in the plan with larger, native trees that may require less water and are longer lived.

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

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

No: 0

Absent: 2 - Commissioner Olevson
Commissioner Klein

- 5 [15-0422](#) Introduce an Ordinance Amending Title 19 (Zoning) of the Sunnyvale Municipal Code as it pertains to Title 9 (Massage Establishments); find CEQA Exemption per Guideline 15061(b)(3).
Staff Contact: Elaine Ketell, (408) 730-7234, eketell@sunnyvale.ca.gov

Elaine Ketell, Management Analyst for the Department of Public Safety, presented the staff report.

Chair Melton verified with Rebecca Moon, Senior Assistant City Attorney, that the vote must be four-to-zero to recommend changes to the zoning code.

Comm. Simons discussed with Ms. Moon restrictions in State law with regard to what cities can require of massage facilities.

Chair Melton opened the public hearing, and upon seeing no speakers for this item, closed the public hearing.

Comm. Rheume moved to recommend to City Council Alternative 1 to introduce an ordinance amending Title 19 (Zoning), sections 19.12.140, 19.18.030, and 19.60.010 of the Sunnyvale Municipal Code, and find that the project is exempt from CEQA pursuant to CEQA Guidelines Section 15061(b)(3).

Comm. Simons seconded.

Comm. Rheume had no further comment.

Comm. Simons said anyone who participated in this year's Planning Commissioners Academy conference and discussed the changes in State policy were likely surprised by the discussion and that this has been thankfully devoid of that discussion. He added that he will be supporting the motion.

Chair Melton said he will be supporting the motion and reiterated the requirement for a four-to-zero vote for the Commission to make a recommendation.

MOTION: Comm. Rheume moved to recommend to City Council Alternative 1 to introduce an ordinance amending Title 19 (Zoning), sections 19.12.140, 19.18.030, and 19.60.010 of the Sunnyvale Municipal Code, and find that the project is exempt from CEQA pursuant to CEQA Guidelines Section 15061(b)(3).

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

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

No: 0

Absent: 2 - Commissioner Olevson
Commissioner Klein

STANDING ITEM: CONSIDERATION OF POTENTIAL STUDY ISSUES

None.

NON-AGENDA ITEMS AND COMMENTS

-Commissioner Comments

None.

-Staff Comments

Ms. Ryan announced that there is one seat vacant on the Planning Commission and that there is ongoing application for seats on the City's Boards and Commissions. She discussed Planning-related City Council items and Planning Division staff vacancies.

INFORMATION ONLY ITEMS

None.

ADJOURNMENT

With no further business Chair Melton adjourned the Planning Commission meeting at 10:49 p.m.