

3 [15-0869](#) **File #:** 2014-7633
Location: 861 E. El Camino Real (APN: 211-16-021)
Zoning: C-2/ECR (Highway Business/Precise Plan for El Camino Real)
Proposed Project: Consideration of an application on a 1.59-acre site:
 SPECIAL DEVELOPMENT PERMIT to redevelop a vacant nursery with a 3,000 square foot building into a 162-room, five-story hotel with underground parking.
 VARIANCE to allow solar shading to exceed the maximum 10% on an adjacent commercial building and a **DESIGN REVIEW PERMIT** to allow new construction.
Applicant / Owner: Phillip Stewart /Sunnyvale Hospitality LLC
Environmental Review: Mitigated Negative Declaration
Project Planner: Margaret Netto, (408) 730-7628, mnetto@sunnyvale.ca.gov

Gerri Caruso, Principal Planner, presented the staff report.

Trudi Ryan, Planning Officer, noted that in attendance to answer questions are Carol Shariat, Principal Transportation Engineer with the City's Traffic and Transportation Division, and Gary Black, President of Hexagon Transportation Consultants, who conducted the Transportation Impact Analysis (TIA).

Comm. Rheume discussed with Ms. Caruso the number of floors that the building would need to be reduced by so as to not require a Variance, and he confirmed with Ms. Caruso the location of building entrances and that the applicant has addressed the architectural concerns staff had. Comm. Rheume discussed with Ms. Shariat whether the traffic at the Wolfe Road and El Camino Real intersection is operating at an acceptable level. Mr. Black explained the intersection grading system of the TIA, and Comm. Rheume confirmed with Mr. Black that the study took into consideration all projects that were approved at the time of the study and that the Apple Campus building in Cupertino was considered in the cumulative analysis. Comm. Rheume confirmed with Mr. Black that the General Plan considers an E rating acceptable for this intersection.

Comm. Klein discussed with Mr. Black whether it is feasible to have exiting vehicles from the subject property make right and left turns across north and south bound Wolfe where traffic often backs up, and noted that the number of Class I and Class II bicycle parking spots was omitted in the Conditions of Approval (COA). Ms. Caruso said staff would fill that information in.

Vice Chair Harrison confirmed with Ms. Ryan the height limits of the C-2 zoning

district and the Precise Plan for El Camino Real and how long they have been applicable to this and similar properties on El Camino. Vice Chair Harrison confirmed with Ms. Caruso the percentage of shading the building would create during the March and September equinoxes.

Comm. Olevson discussed with Ms. Caruso why staff recommended approval of the solar Variance to shade 100 percent of the adjacent building. He confirmed with Ms. Shariat the length of time it is expected to take to get through traffic signals operating at levels of service (LOS) E and F, and that the project will generate less than 100 net new trips and would receive trip credits for the former nursery site.

Comm. Simons noted that hotels and motels have the lowest traffic impact of any use, and confirmed with Ms. Ryan that the Building Code requires the provision of wiring for electric car charging stations but that they do not have to be installed. He confirmed with Ms. Caruso that the Planning Commission could provide specific direction on the color of building ornamentation and the landscaping. Comm. Simons verified with Ms. Caruso that asphalt would be used for the driving area, and that the signs for the building would be approved with a separate permit.

Chair Melton reiterated the potential difficulty of exiting the proposed project via a left turn onto north bound Wolfe, and stated that he appreciates the additional solar renderings provided by the applicant. He noted that he went to Golfland to understand how the height of the proposed building would impact the adjacent building, and discussed with Ms. Caruso the comparative heights of the proposed hotel versus nearby buildings.

Ms. Caruso clarified that the applicant is estimated to pay \$950,000 in Transient Occupancy Taxes (TOT) annually, rather than the \$95,000 outlined in the report.

Chair Melton opened the public hearing.

Philip Stewart, the project applicant's representative, gave a presentation on the proposed project and addressed several of the Commissioners' questions.

Comm. Simons confirmed with Mr. Stewart that he is amenable to adjusting the landscape plan and that the bicycle racks would be the color indicated in the plans. He also confirmed with Mr. Stewart that he is amenable to using a thicker stone veneer, and verified the number of charging stations that will be provided. Comm. Simons and Mr. Stewart discussed the signage on the tower facing the neighborhood, and confirmed that it would be a challenge to use pervious asphalt for the parking lot because it sits over the parking garage.

Vice Chair Harrison discussed with Mr. Stewart options that were considered for placement of the hotel building on the lot that would shade less of the Golfland arcade building, and discussed the option of having the hotel building stepped down on one side and built up on the other.

Comm. Rheaume commented on the applicant potentially attempting to squeeze a building in that will not fit on the lot, and discussed with Mr. Stewart whether purchase of the property to the south was pursued. He also confirmed with Mr. Stewart the location of vehicle and pedestrian entrances, and Comm. Rheaume stated that the pedestrian entrance looks like a side entrance. He and Mr. Stewart discussed the challenges of building on a small site.

Comm. Klein verified with Mr. Stewart that the hotel building would shade 25 percent of the adjacent building at 3:00 p.m. on the autumnal and vernal equinoxes, and that there will be eight bicycle parking spots. In response to Comm. Klein's request, Mr. Stewart displayed the shadow study diagrams showing the estimated building shading during the equinoxes and solstices. Comm. Klein discussed with Dave Gates, Landscape Architect, the types of trees shown in the diagram and proposed for the site.

Chair Melton verified with Kelly Heil, the subject property owner, that purchase of the properties to the north and south was attempted but unsuccessful.

Carol Eyring, a member of public, recommended that the Commission deny the Variance for solar shading.

Robert Kenney, owner of Golfland, provided a history of Golfland and said he planned on putting solar panels on the roof of Golfland, but that a Variance for solar shading for the adjacent property would take that opportunity away.

Comm. Simons discussed with Mr. Kenney whether he would be open to having solar panels for his property's use placed on an adjacent building of equivalent square footage.

Vice Chair Harrison and Mr. Kenney discussed potentially putting solar panels over the Golfland parking lot. Mr. Kenney added that he cannot get out of the parking lot onto Wolfe Road during peak evening hours.

Ratnendra Pandey, a Sunnyvale resident, discussed his concerns with increased traffic in this area.

Jason Kenney, son of the owner of Golfland, said the hotel would shade Golfland and recommended the Commission deny the Variance.

Zachary Kaufman, a member of the public, said there is no justification to grant a Variance.

Stan Hendryx, a Sunnyvale resident, recommended the Commission deny the Variance and keep the shading to 10 percent or less.

Michael Graff, a Sunnyvale resident, discussed his opposition to the Variance and his concerns with development in Sunnyvale.

Catherine Burt, a Sunnyvale resident, discussed her opposition to the proposed hotel and development in Sunnyvale, and her concerns with increased traffic.

Michael Zuccato, a Sunnyvale resident and business owner, discussed his opposition to development in Sunnyvale, and his concern with increased traffic.

Martin Landzaat, a Sunnyvale resident, said the initial study underestimates the impact of the hotel on Golfland, that ongoing construction next door would reduce its patronage and that there is not enough information to grant a Variance.

Todd Eyring, a member of the public, said the solar analysis is not accurate, that Golfland needs solar ability and recommended denial of the Variance.

Eric Angel, a Sunnyvale resident, said he is not against the development but believes it needs to be done responsibly. He added he would not go to Golfland if it is shaded.

Kim, a member of the public, discussed her concerns with the project and said regarding the traffic study an LOS rating of E is an F.

Judi Richards, a Sunnyvale resident, discussed her concern with traffic on Wolfe and El Camino and her opposition to the proposed project.

Brent Dickson, a Sunnyvale resident, discussed his concerns with traffic on Wolfe and El Camino and said we do not need a hotel in this location. Chair Melton commented on there having been a symbiotic harmony between Golfland and the former nursery, and asked if Mr. Dickson could recommend a better use of the land than a hotel, to which Mr. Dickson responded that he had no good answer.

Michael Long, a Mountain View resident, discussed his concerns with traffic at Wolfe and El Camino and said a hotel will not fit on this site.

Roger Burney, a Sunnyvale resident, said the hotel may be a good use, but he would not want it to impact Golfland, and discussed his concerns with the architecture of the proposed building.

Larry Alba, a Sunnyvale resident, discussed his opposition to the proposed project and said the hotel is too big.

Pauline Lewis, a Sunnyvale resident, discussed her opposition to development in the City and to the shading of Golfland.

Mr. Stewart addressed the neighbors' concerns, confirmed that there will be 149 parking spaces and said the community will benefit from the hotel.

Comm. Simons and Mr. Stewart discussed a similar situation he had experienced in the past with solar access, and confirmed that he has not had to place solar panels over covered parking to provide an adjacent property with solar access.

Vice Chair Harrison discussed with Mr. Stewart a solution to HVAC intake being affected by the restaurants to the south of the subject site, and confirmed that the windows used will have a high rating class to mitigate noise. Vice Chair Harrison verified with Mr. Stewart the number of days per year and length of time per day that the adjacent building would be shaded more than ten percent.

Chair Melton closed the public hearing.

Comm. Rheume confirmed with Ms. Shariat that the TIA took into consideration the Apple project at the corner of Wolfe and Homestead Road in the future conditions section, and that the intersection at Wolfe and El Camino is currently operating at LOS D and is projected to operate at LOS E in the future conditions section.

Vice Chair Harrison and Ms. Ryan discussed whether there have been other projects where a Variance was granted to shade more than ten percent of an adjacent building.

Comm. Simons and Ms. Ryan discussed whether there have been other projects with requirements to build another structure for solar access on site, and the

challenges of requiring an applicant to offer to build a structure for solar access for an adjacent property.

Chair Melton clarified with Ms. Caruso the objectives of granting a Variance, and verified that Golfland is in the same zoning district and vicinity as the subject site. Chair Melton commented on a finding regarding the project being injurious to property improvement or uses and confirmed with Ms. Caruso that the Planning Commission has the discretion to consider the entire lot rather than just the adjacent building with regard to this finding.

Comm. Klein commented on never previously seeing protection of a future development as reasoning for granting a Variance, and Ms. Caruso responded that a future use does not have to be protected, and that if Golfland was redeveloped in the future it likely would not be a one or two-story building.

Comm. Rheume moved Alternative 3 to adopt the Mitigated Negative Declaration and deny the Special Development Permit and Variance.

Vice Chair Harrison seconded.

Comm. Rheume thanked the applicant and staff for working hard on this project, and said this has been an emotional review. He also thanked the members of the public for coming out and showing their support of Golfland. He said he cannot make the findings for granting the Variance and how it will be impacting Golfland and the immediate vicinity, nor can he make the findings for the Variance for solar going from 10 to 100 percent. He said when we are trying too hard to figure out how many days or hours the shading may occur it is time to go back to the drawing board to come up with a better plan. He said we are all in agreement that traffic is an issue, and that we may be trying to shoehorn too big of a project into this space. He said ideally the property owner could buy the property to the south and put a desirable, landmark piece of property there, which likely will not happen. He said he hopes the Commission can step back and look at what we may be approving, and that he cannot make the findings for a huge solar Variance or that this project meets the objectives of the Precise Plan for El Camino Real.

Vice Chair Harrison said Golfland is an institution for her family as well, but that she does not have a concern regarding this project being proposed at five stories. She said the building meets the rules with regard to El Camino which have been in place for more than 26 years, and that while she cannot address the various concerns stated about the character of the City and the issue of more hotel buildings in general as all of those things are allowed uses and encouraged by the

existing General Plan. She said there are established rules of counting traffic, that it has been found this project will not negatively impact traffic and that hotels may be the least traffic generating uses that could be built there, so she does not object to the project based on that. She said this is a very specialized location with a narrow lot and she could not find shading the adjacent building three hours a day for 50 days a year is really onerous, and noted that for 300 days a year there is no shading. She said the applicant has been extremely responsive to all of the Planning Commission requests about architecture and public access from El Camino Real which will benefit Golfland and the City. Vice Chair Harrison said she is concerned that this project does not meet the letter of the law regarding a maximum of 10 percent shading on the building roof during the winter solstice and may be setting precedence for allowing that. She said she cannot make that finding about the Variance, but supports adopting the Negative Declaration. She said she hopes the applicant can redesign the property so that it meets their needs and the rules of the City and does not produce more than 10 percent shading of Golfland's arcade building during the winter solstice.

Comm. Klein said he is supporting the motion and thanked everyone for coming out and for sending the numerous emails he received demonstrating their passionate interest about this property. He said this project comes down to the request for the Variance, and that this property is in an odd corner and oddly spread out. He said combining it with the property to the south would be better, but that the traffic impact of a larger project there might be even greater with a larger mixed use property. He said this is an important transportation node, and that ultimately this project comes down to the Variance, which is a request far above what we have seen for solar shading. He said Golfland has been there for many years and he does not know if or when it will be redeveloped, and that he applauds the fact that it is a family owned and centric business. He said what the Planning Commission needs to focus on are the current rules and buildings on that property, and requesting a Variance for something outside of the rules of the City is impossible in his mind. He said traffic is worsening around the City and will continue to do so once the Apple and Central and Wolfe projects are constructed, and that this hotel would not add significantly to that traffic. He said he still has questions regarding the left turn lane going north, and that having a right turn only out of the property onto Wolfe seems a more viable solution. He said a hotel is a reasonable project there, that the biggest issues are the height of the building, the shading of and affects on the property to the north, therefore he cannot support granting the Variance.

Comm. Simons said this is an interesting project because it is on an odd lot and because of the placement of it in the Precise Plan. He said he will be voting against

the motion because he does not like Variances in general, but that the solar requirement is relatively new. He said in thinking about what is possible in terms of mitigation and what may be a benefit to the property owner next to this hotel would be having a structure for solar of equivalent size to their building placed wherever they would like in the parking lot. He said there have been times he visited Golfland in the summer when he had a great time except for getting into the toaster at the end of the day, so shading the parking lot would be beneficial. He said the other issues of this project could be changed and mitigated, and that an offer to the applicant of not doing the construction on the parking lot next to the hotel would require coming back with a plan of ten percent or less shading on the adjacent building.

Comm. Olevson said he is reminded by Comm. Klein that Variances are for extraordinary circumstances, and that the Planning Commission is required to implement policies set by City Council, who has provided direction in the Precise Plan for El Camino Real, the General Plan, zoning and in criteria for any Variance to hard and fast rules. He said he likes the building of this project, but he is surprised the solar shading issue did not come up in any previous discussion. He said although the solar shading requirement is new to the City and State it is a very real requirement, and that any mitigation that may impact the neighboring property but that says approving a project on one property that the adjacent property owner would have to accept is not in the our realm of authority. He said the comment heard late in the session about how many days or hours of shading there will be is not a hard and fast fact that is meant to be used to proceed. He said because there are no extraordinary circumstances he does not see a need to approve a project that negatively impacts the neighbors and does not meet the criteria for adopting a Variance, so he will be voting with the motion against approving the Variance.

Chair Melton said he is supporting the motion, and thanked the applicant for working hard with staff to come forth with a good project. He also thanked the members of the public for coming out to share their thoughts with the Planning Commission. He noted that study sessions are for looking informally at a project prior to the public hearing to provide the applicant with feedback and that after two study sessions for this project, the applicant has done a good job responding to our comments. He said even though he is voting with the motion, there are a lot of positive things this proposed use can bring to the City, including the TOT. He said the City does need hotels and a goal would be achieved on that, that the architecture is okay and that traffic could be mitigated or that users of this site would learn how to deal with the traffic on Wolfe by using the El Camino Real exit and going to Maria to make a loop around to bypass the need to take Wolfe. He said other uses are more intense than a hotel, and that an ideal situation he does

not see transpiring is having the three lots of this area parcelized into one and the City ending up with something nice and similar to the Cherry Orchard property. He said there may be a lot of opposition to that concept because Golfland is so beloved in the community, but that for those members of the public who oppose this project, their victory may be short-lived because the applicant has been listening and understands that the trip wire for this project is the solar Variance. He said the applicant may redesign the project to make sure there is zero solar impact on the existing adjacent building, they may raise the height of the building somewhere else or move the building around because it is their land and they have the right to do something within the laws of the City. He said they will not turn it back into a nursery, and he is fearful that the public may not like the new version which may have taller areas or more solar impact on the nearby greenery to avoid the impact on the building.

MOTION: Comm. Rheaume moved Alternative 3 to adopt the Mitigated Negative Declaration and deny the Special Development Permit and Variance.

Vice Chair Harrison seconded. The motion carried by the following vote:

Yes: 5 - Chair Melton
Vice Chair Harrison
Commissioner Olevson
Commissioner Klein
Commissioner Rheaume

No: 1 - Commissioner Simons