
mishijima@sunnyvale.ca.gov

4 [16-0454](#)

File #: 2015-7530 and 2015-7936

Location: 521 E. Weddell Drive (APN: 110-14-196), 531 E. Weddell Drive (APN: 110-14-186), 539 E. Weddell Drive (APN: 110-14-158), 1010 Morse Ave. (APN: 110-14-202), Hetch Hetchy ROW (APN: 110-14-202)

Proposed Project:

GENERAL PLAN AMENDMENT: Proposed land use designation change (Alternative 1) from Industrial to School or (Alternative 2) from Industrial to Commercial Neighborhood on three parcels (521, 531, and 539 E. Weddell Drive), and from Industrial-to-Residential/Medium-to-High Density to Park on one parcel (1010 Morse Ave. - Seven Seas Park), and from Industrial to Park on one parcel (Hetch Hetchy ROW);

REZONING from MS-POA (Industrial and Service/Places of Assembly) to PF (Public Facilities) zoning or from MS-POA(Industrial and Service/Places of Assembly) to C1 (Neighborhood Business) on three parcels (521, 531 and 539 E. Weddell Drive), and from MS-ITR-R3-PD (Industrial and Service - Industrial to Residential/Medium Density Residential/Planned Development) to PF (Public Facilities) zoning on one parcel (1010 Morse Ave. - Seven Seas Park), and MS (Industrial and Service) to PF (Public Facilities) zoning on one parcel (Hetch Hetchy ROW);

USE PERMIT for the use of an existing building (539 E. Weddell Dr.) for a public charter middle school of up to 400 students.

Applicant / Owner: Sunnyvale International Church and Summit School (applicants) / Sunnyvale International Church (owner - 521 and 539 E. Weddell Drive), 1st Morning Light Chinese Christian Church (owner - 531 E. Weddell Drive), City of Sunnyvale (owner - 1010 Morse Ave.), and City and County of San Francisco (San Francisco Public Utilities Commission - Hetch Hetchy ROW).

Environmental Review: Negative Declaration

Project Planner: Momoko Ishijima, (408) 730-7532, mishijima@sunnyvale.ca.gov

Chair Melton noted that staff recommended rescinding a prior Planning Commission action on this application. He said he had a discussion with staff and recommended to the Planning Commission discussion of Alternative 1 to rescind the prior action first and separate from other motions when the time comes to make a motion.

Planning Officer Andrew Miner provided background information on the application and its previous consideration by the Planning Commission. He explained that staff returned to the Planning Commission for a second consideration of the application

because the Commission asked for an analysis of the change in zoning to a commercial designation. He also explained that staff requests the Planning Commission rescind their previous action because there are additional documents to review that were not previously available.

Associate Planner Momoko Ishijima provided information on the application.

Commissioner Olevson confirmed with Principal Transportation Engineer Carol Shariat that the south driveway is ingress only and the east driveway is egress only. Commissioner Olevson and Michael Mowry, from Kimley Horn and Associates, discussed the difference in number of peak morning and afternoon vehicle trips, and confirmed that the TIA does not consider off ramp degradation because there is typically less delay.

Commissioner Klein and Planning Officer Miner discussed staff concern with the viability of neighborhood retail uses in the area, and clarified with Associate Planner Ishijima that the total number of parking spaces is based on the number of classrooms. He also confirmed with staff that after the two modular classrooms are removed, if the applicant wants to use that space for other activities it would require returning to staff for review. Commissioner Klein discussed with Planning Officer Miner the staff recommendation to rezone the site to PF, and clarified that a commercial designation would require a General Plan Amendment, which could not be acted upon tonight. Commissioner Klein referred to other projects along Weddell requiring an EIR and discussed with Planning Officer Miner why a Negative Declaration is appropriate for this application. Commissioner Klein discussed with Senior Assistant City Attorney Rebecca Moon the analysis in the approval process for a school that looks at existing hazardous conditions in the area surrounding the school.

Commissioner Weiss confirmed with Mr. Mowry that the project trip distribution is based on the subject address. She confirmed with Associate Planner Ishijima that delivery trucks would use the same driveways as parents picking up and dropping off students, but that deliveries would not overlap with those times. Commissioner Weiss said delivery times may need to be adjusted to prevent disturbing nearby residences.

Commissioner Simons discussed with Planning Officer Miner whether the City offered to pay for the EIR for a commercial designation and discussed which zoning designation is most compatible for these sites. Commissioner Simons commented on potentially rezoning for a particular user rather than a particular use. Commissioner Simons discussed with staff the reasoning behind requiring an EIR

for the housing development across the street from the subject site while a Negative Declaration is adequate for this application.

Vice Chair Harrison inquired about the age of the onsite buildings.

Chair Melton opened the Public Hearing.

Sunnyvale International Church Pastor Jorge Marsal provided information about the application and Principal of Summit Denali School Kevin Bock provided information about the school.

Vice Chair Harrison discussed with Mr. Bock and Director of Real Estate for Summit Public Schools Norman LoPatin the requirements of the school to lease the buildings.

Commissioner Olevson commented on the school's history of noncompliance with Sunnyvale codes and confirmed with Mr. Bock that the school is committed to abiding by any restrictions of the Use Permit.

Commissioner Weiss confirmed with Mr. Bock that the school is chartered through the Santa Clara County Office of Education, that students from within the County could attend this school and confirmed that the current percentage of students who would attend and live in Sunnyvale is approximately 40 percent. Commissioner Weiss also confirmed with Mr. Bock that the school will not use loudspeakers or bells to signal the change of a period, and that if the Use Permit is approved for grades six through eight at this location Summit Public Schools will continue to look for a permanent location for a high school. Commissioner Weiss confirmed with Mr. Bock that the second floor is a science lab and there are no plans for a nursery.

Josie Jewett, resident of Morse Avenue, spoke in support of Summit Denali School and the Use Permit application.

Parent of Summit Denali student, Steven Johnson, speaking on his behalf, spoke in support of Summit Denali School.

Ralph Merrem, parent of two Summit Denali students, spoke in support of Summit Denali School.

Heather Chen, Sunnyvale resident and parent of two Summit Denali students, spoke in support of Summit Denali School.

Geoff Ainscow, resident of Devonshire Way, spoke in support of Summit Denali School and the Use Permit application.

Sherri Taylor, parent of a Summit Denali student, spoke in support of Summit Denali School.

Cathy Giblin, parent of a Summit Denali student, spoke in support of Summit Denali School and the Use Permit application.

Joyce Loewy, Sunnyvale resident, discussed her concern with existing traffic that may be exacerbated by approval of the Use Permit. She requested traffic calming measures if the application is approved.

Elizabeth Padilla, Sunnyvale resident, discussed her concern with increased traffic in the area and the health risks of building a school near a freeway.

Sayed Sadat, Sunnyvale resident, speaking on his and his neighbors' behalf, discussed his concern with traffic and requested the Commission consider commercial zoning for the site to require an EIR and TDM plan.

Property Owner Jorge Marsal added that all of the church's parking is contained on his property.

Applicant Kevin Bock provided additional comments about the application and requested approval of the Use Permit.

Vice Chair Harrison inquired if the applicant is amenable to a COA requiring the applicant pay for a traffic study two years after the school reaches full occupancy, to which Mr. Bock responded that he could not answer that question and said the school is willing to work with traffic consultants specifically for schools to ensure minimizing the impact to the neighborhood.

Commissioner Weiss confirmed with Mr. Bock that the existing building has an HVAC system. Mr. Bock said he is uncertain about the air filtration requirements of that HVAC system.

Chair Melton closed the Public Hearing.

MOTION: Chair Melton moved and Vice Chair Harrison seconded the motion for Alternative 1: Rescind the motion regarding General Plan and Zoning passed by the Planning Commission at the February 22, 2016 meeting regarding this project.

Chair Melton said a motion to rescind a previous action is unprecedented, but that he trusts the process and that this application has returned to the Planning Commission because additional information is now available that was not previously. He noted that the same or a different action on the remaining motions can be taken on this application after the previous action is rescinded.

Vice Chair Harrison said she is persuaded by the owner of the Sunnyvale International Church property that the church is there for the long haul and that the church is not interested in making a commercial establishment on the property. She agreed with the concept that churches and schools remain in one location for a long period of time, and said C-1 zoning would not be appropriate for this site.

Commissioner Simons said he will not be supporting the motion, and said many uses have been discussed for this site except a zoning designation of PF. He noted that he was on the Planning Commission when the property was given an ITR designation which allowed for many different uses, and that the site probably does need to be rezoned, but that we should not be taking a short term look at it. He said if an EIR is required, the City should consider paying for its preparation.

Commissioner Olevson clarified that the motion is to rescind all previous action taken by the Planning Commission on this application.

The motion carried by the following vote:

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

No: 2 - Commissioner Olevson
Commissioner Simons

MOTION: Vice Chair Harrison moved Alternatives 2, 3, 4 and 6; 2) Make the required findings and adopt the Negative Declaration; 3) Adopt a resolution amending the General Plan land use designation from Industrial to School for 521, 531 and 539 E. Weddell Drive and from Industrial to Park for 1010 Morse Avenue and make no changes to the SFPUC Hetch Hetchy property; 4) Introduce an ordinance to rezone 521, 531 and 539 E. Weddell Drive from MS-POA to PF and 1010 Morse Ave. from MS-ITR-R3-PD to PF; and 6) Approve the Use Permit with modifications:

a) Two years after occupancy the applicant pay for a traffic study to determine if any improvements are needed in the roadway to accommodate the school traffic.

Chair Melton confirmed with Planning Officer Miner that the Planning Commission has the prerogative to require an applicant to pay for a traffic study.

Commissioner Rheaume seconded the motion.

Vice Chair Harrison said the expert testimony that a Negative Declaration is appropriate for this use based on the use of an existing building and that the traffic impacts anticipated were determined using standardized calculations. She said the General Plan use designation has been debated, and that based on the applicant's statement they will remain there long term and are not considering future commercial zoning. She said the proposed zoning designations seem appropriate for the existing use and for a cohesive neighborhood, and that the TIA was thorough and made many requirements of the applicant to provide a safer street for students and the neighborhood, including the erection of various safety signs and the employ of a crossing guard at a busy intersection. She said she is happy to hear a parent say their child takes public transportation and would be safer on light rail going to a traffic signal with a crossing guard. She said vehicle speeds in the surrounding area will be mitigated and that a narrow street does not mean it is less safe if you can get people to drive slowly. She said there may be an increased traffic load in two years when the school is occupied with students and the modification is a way to show the community that the school is interested in the long term health of the community.

Commissioner Rheaume said his support of the motion is predicated on Vice Chair Harrison's modification requiring a traffic study in two years and that the biggest concern is traffic. He said he would like to see what future traffic patterns will look like once the two big projects across Fair Oaks are occupied and functioning.

FRIENDLY AMENDMENT: Commissioner Simons offered a friendly amendment to recommend that the interior air quality of the school meet the same level as neighboring housing units. Vice Chair Harrison said she cannot accept because the application concerns an existing building, that a new building is built substantially different than an existing one and that even with same the filters two buildings would not have the same air quality. She added that the new building is closer to the freeway than this property.

FRIENDLY AMENDMENT: Commissioner Simons offered a friendly amendment to require sound levels to be reduced to normal school sound levels from the exterior. Vice Chair Harrison said she could accept that because it is a limited scope renovation. Planning Officer Miner said the City has general noise standards that

are required to be met by all. Commissioner Simons changed his friendly recommendation to test the noise level of the school in two years, along with the traffic study, to determine the impact of interior noise on the neighborhood. Vice Chair Harrison accepted.

FRIENDLY AMENDMENT: Commissioner Simons offered a friendly amendment to require that if traffic counts exceed what is expected at the two year mark, the school will mitigate traffic down to the projection in the traffic report. Vice Chair Harrison confirmed with staff that this modification is feasible, and that implementation of a TDM program could be a mitigation measure and recommendation of the future traffic analysis. Vice Chair Harrison discussed the wording of the modification, and Commissioner Simons commented on never seeing the City implement a TDM program after a development has been built. Vice Chair Harrison denied the friendly amendment.

Commissioner Simons said he cannot support allowing a user with a sensitive population to not meet air quality requirements and that he would not want any kids to be unnecessarily exposed to pollutants. He said he understands space is difficult to find, but that air quality standards need to be met and that the neighborhood will not get any help out of this project. He said we will have signs and a few strips on the street to slow traffic but that those mitigations do not get to the real problem of reducing single occupancy vehicle trips to drop off children. He said he would like to see coordination to minimize this impact and that making it a requirement would be good for the neighborhood and school to minimize the number of cars going in and out of the property. He said he is supportive of the school, but that we should not support bad planning. He added that this is the wrong zoning, that we are not doing any mitigation and that none will be done after the school is functioning, so he will not be supporting this motion.

Commissioner Olevson said that while he likes the idea of allowing the church to have the nursery and preschool they want, he cannot support the Use Permit because he has not heard assurance from the applicant that the school will adhere to the COAs. He said he is persuaded by the actual onsite count by a potentially biased observer that car counts during pick up and drop off times are higher than the national average statistics used in the traffic study and that there will be much more of an impact on this neighborhood than the report suggests.

Commissioner Klein said it is always good that we separate the consideration of rezoning from that of the Use Permit and that he has issues when trying to merge them because we are making a recommendation to City Council. He said we made a recommendation for C-1 zoning two months ago and he wishes it went through

so they could get Council feedback. He noted that only one property owner has come out to speak and is communicating on the issue of rezoning their property, and he disclosed that he toured the school and met with neighbors to talk about the issues. He said he understands that the applicant wants to protect and educate the children, but that the two reports assume students will only be exposed 180 days and that this is a year round school so that exposure is likely to be more than 180 days. Commissioner Klein said there are questions about the adequacy of the evaluation, and that with nearby projects many mitigation measures were required to deal with air quality and noise. He said the children will be outside and thus exposed because 101 is only separated from the school by a chain link fence and that there are many issues with this site that can only be truly evaluated by an EIR. He said he understands that we are only considering a Negative Declaration and that the issues are considered low impact but that two approved projects for apartment buildings on Weddell and Fair Oaks were also low impact only after mitigation measures were put in place. He said with all these issues remaining he cannot support the motion.

Commissioner Weiss said she appreciates the difficulty of finding a suitable site for a school in this valley and appreciates all that Summit Denali School does for its students, but that she does not feel that the concerns raised have been adequately addressed. She said she is referring to the health and safety of students and the capacity of the road systems and will not be supporting this motion.

FRIENDLY AMENDMENT: Chair Melton offered a friendly amendment to require that interior air quality be tested in two years and if it is found to be noncomplaint with relevant law the applicant will mitigate it. Vice Chair Harrison and Commissioner Rheume accepted.

FRIENDLY AMENDMENT: Chair Melton offered a friendly amendment to measure traffic in two years and if it is in excess of the prediction made in the traffic study a TDM program or some other traffic mitigation program deemed appropriate by experts in the Sunnyvale Traffic Division will be implemented. Vice Chair Harrison and Commissioner Rheume accepted.

Chair Melton said he looks at the P-F versus C-1 zoning and he sees lots of traffic and mitigation on that road either way. He said the potential commercial zoning may not have a high likelihood of success but that it would have a greater environmental impact. He said his trust in the property owner and church is high and barely ameliorates the applicant's reprehensible behavior.

The motion failed by the following vote:

Yes: 3 - Chair Melton
Vice Chair Harrison
Commissioner Rheaume

No: 4 - Commissioner Olevson
Commissioner Klein
Commissioner Simons
Commissioner Weiss

Planning Officer Miner said the Planning Commission could take each Alternative individually or together. Senior Assistant City Attorney Moon noted that the motion failed because of the school component and that other actions need to be taken on the park and Hetch Hetchy parcels.

Chair Melton clarified the required actions with staff.

MOTION: Commissioner Simons moved and Commissioner Olevson seconded the motion to recommend to City Council: Adopt the Negative Declaration and resolution amending the General Plan land use designation from Industrial to Park for 1010 Morse Avenue and make no changes to the SFPUC Hetch Hetchy property; and, deny the requests for General Plan Amendment and Rezoning for 521, 531, and 539 E. Weddell Drive and recommend that the properties be considered with a General Plan designation of Commercial and a C-1 zoning with a direction to staff to come back with the necessary environmental review.

Commissioner Simons said he hopes this can be done as expeditiously as possible, that there are multiple land owners and this is a leftover from the transition area that used to be all industrial. He said this is appropriate direction to the City on the appropriate zoning and that it is consistent with the users as is and potentially in the future.

Commissioner Olevson had no comments.

Planning Officer Miner announced that the Planning Commission also has to take action on the Use Permit.

The motion carried by the following vote:

Yes: 5 - Commissioner Olevson
Commissioner Klein
Commissioner Rheaume
Commissioner Simons
Commissioner Weiss

No: 2 - Chair Melton
Vice Chair Harrison

MOTION: Commissioner Olevson moved and Commissioner Simons seconded the motion to recommend to City Council denial of the Use Permit.

The motion carried by the following vote:

Yes: 4 - Commissioner Olevson
Commissioner Klein
Commissioner Simons
Commissioner Weiss

No: 3 - Chair Melton
Vice Chair Harrison
Commissioner Rheaume

Planning Officer Miner noted that this recommendation will be forwarded to City Council for consideration at the Tuesday, May 17, 2016 meeting.

STANDING ITEM: CONSIDERATION OF POTENTIAL STUDY ISSUES

NON-AGENDA ITEMS AND COMMENTS

-Commissioner Comments

-Staff Comments

ADJOURNMENT