

## Chair and Members of the Planning Commission,

I am writing to you regarding the wave of single story combining district (SSCD) petitions that is sweeping our Fairbrae neighborhood. As a resident of Fairbrae, I am deeply concerned with this development.

### 1. The Process

The process by which SSCD petition signatures are collected and the SSCD is ultimately passed is itself deeply flawed and undemocratic. A cornerstone of our democracy is a concept of a secret ballot – it prevents tyranny of the majority rule by providing the minority with rights of free speech without coercion and intimidation. In the case of SSCD petition, however, local activists collect the signatures door-to-door – at times, by applying peer pressure tactics. After the initial signatures are collected, the residents of the affected (and surrounding) neighborhood have no opportunity to express their honest opinion without a fear of becoming neighborhood pariah. In almost every other instance of the political process, a signature on the petition means support for bringing the issue to the debate and eventual vote – not an automatic vote for the subject of the petition. Under the pressure of the neighborhood, many people choose to just sign the petition in order to avoid conflicting with their neighbors, whom they see daily and with who's children their kids go to school.

The Planning Commission should evaluate and recommend to City Council alternatives to the current SSCD process. At a minimum, Sunnyvale should follow a process similar to the one in Los Altos – where the last step (after the City Council votes to support the petition) is a ballot mailed to every affected property owner. The property owners can then vote in the privacy of their own home and without fear of reprisal – and only if the super-majority votes for the SSCD, the re-zoning happens.

Further, for such a significant restriction of property rights, a mere 55% is a very low bar to pass. Palo Alto sets the bar at 70%; Los Altos at 67%. My belief is that even if there is only one vote against the SSCD, it is unfair to abridge their property rights (in the absence of any demonstrated public benefit) without some form of compensation. The notion of just compensation for forfeiture of property rights is so foundational to our society, that it is codified in the last sentence of the 5<sup>th</sup> Amendment to the US Constitution.

## 2. Long Term Impact

Today, the impact of the SSCDs is not clearly understood by anyone. Both the supporters and the opponents of the SSCD do so based on their personal fears and biases. While this is a natural way for people to react, fear and knee-jerk reactions are poor way to manage public policy. I would like to request that the Planning Commission forward the study issue to the City Council to investigate the long-term impact of the SSCDs. Some of the questions I would like to see addressed are:

- Long-term impact on property values in the SSCD neighborhood and surrounding neighborhoods.
- Long-term impact on property tax revenues to the City.
- Long term impact on the vibrancy of the neighborhood – percentage of owner-occupied vs rental, number of remodels, number of home sales.
- Long-term impact on diversity within the neighborhood.

Once such study is conducted, we all can have factual basis for the discussion.

The city has an overall development plan. It is carefully thought out and well balanced. The SSCDs, however, are done in an *ad-hoc* fashion – any neighborhood can spontaneously decide to re-zone itself. But is this the right way forward for the city and what are the long-term impacts of such patchwork of re-zonings?

## 3. SSCD Motivation

The stated goal of the SSCD is protection of privacy. However, *prima facie*, the SSCD does very little to protect privacy. A 17' house with a 5' basement - as allowed by the SSCD rules - has first floor level at 6' above grade – that is only 3' below the floor level of a well-designed second story. Someone standing in that tall single story house would easily be able to see into their neighbors' yards and windows. Privacy is not a function of one or two story construction, but rather how well thought-out is the project. Indeed, the two-story house we are currently building on our property has not impacted privacy of any of our neighbors (based on their own statements) and has improved the privacy of two most immediate neighbors. At best, the SSCD

can hope to impact privacy by simply discouraging any remodel (by making it un-attractive or un-economical).

Regardless of the original motivation behind SSCD, I fear the real impact may be far more damaging to the fabric of our city. We live in a multi-cultural society. Some cultures (in particular, many of the Asian cultures) value large families living together. Additionally, today's economic realities often force children to live under their parents' roof for longer or many elderly parents living with their grown children. All of these families require a larger house – exactly the kind that is being restricted by the SSCD. The real impact of SSCD on our neighborhood is not control of what kinds of houses are built in the neighborhood, but rather what kinds of people live here.

It is all eerily similar to the ordinance passed in Manassas (Fairfax County, Virginia) in 2005. That ordinance redefined the term “family” in a very thinly veiled attempt to drive out Latinos from the neighborhood. Needless to say, that ordinance was struck down – but not until many Latino families were forced to move out. I sincerely hope that Sunnyvale is not moving in that direction.

#### 4. Fairness to the Rest of Sunnyvale

One of the long-term impacts of SSCD may be reduction of property tax revenues to the city. This seems logical – at the very least, the single-story houses are smaller than larger two-story ones, which would suggest lower property tax revenues. That is without accounting for the potentially lower desirability and, therefore, lower fluidity and lower transaction prices in the neighborhoods affected by SSCD. This is, of course, only a conjecture – a long-term study would be able to answer this question definitively.

If the SSCD does indeed results in reduction of property tax revenues to the city, then SSCD petitioners are clearly asking for the rest of the city to subsidize their ultra low density zoning. The rest of Sunnyvale residents will end up paying a higher proportion of the property tax revenues necessary to operate our schools, parks, and public safety. There is nothing inherently wrong with such subsidy – but, since it impacts the rest of the city, it would only be fair to let everyone in Sunnyvale vote on each particular SSCD – not just residents of a particular neighborhood, who want the benefit without paying their fair share. Alternatively, an additional property tax scheme may

be devised, to be levied on those who desire the SSCD – to compensate the city for the lost property tax revenues.

## 5. Architectural Vibrancy

I would like to finish this letter on a purely personal note. Eichler preservation is not the explicit goal of the SSCD, but it is clearly one of the forces that motivate the movement. I feel that the desire to preserve Eichlers at all costs is a bad thing for our city as a whole. Eichlers are beautiful and interesting homes - but they were cheaply made as an affordable housing of the sixties. A designed lifespan of an Eichler is about 50 years. Today, most of them are older than that - and falling apart. Lets project this desire to preserve Eichlers into the next 200 years - while all other buildings will be replace by something different (that we cannot even imagine today), will Fairbrae be covered with 250 year old Eichlers? Architecture is a living art. It is sad to see that any kind of architectural artistic exploration in our neighborhood has to be rigidly constrained to a particular narrow interpretation of an idea that was avant-garde in the sixties.

## 6. Conclusion

I would like to request that the Planning Commission do the following:

1. Evaluate and implement a more democratic process for SSCD.
2. Forward a study issue to the City Council regarding long-term impact of SSCDs.
3. Clearly articulate how SSCDs fit into the long-term vision for Sunnyvale.
4. Hold all current SSCD petitions pending resolution of the items above.

I love Sunnyvale. I have been a resident here for 20 years. My children were born here and are going to local public schools. Having recently dealt with the Planning Commission for my own project, I have full confidence that the Commission will evaluate all options and come up with the best course of action. I am looking forward to living many more years in our beautiful, vibrant, and multi-cultural city.

*Alik Eliashberg*

[REDACTED]

*Sunnyvale, CA*

Dear Planning Commissioners,

There are several applications that are currently under the consideration for re-zoning parts of Sunnyvale into single story overlay regions. I am troubled by the process that is set in place for re-zoning. I would like you to consider putting the current applications for re-zoning on hold, and forwarding a recommendation to the City Council for studies on how the process can be improved, and on the economic implications of these re-zonings for the city of Sunnyvale.

My husband and I recently received approval for our plans to build a new two-story house in Fairbrae. We have followed every rule and every guideline on the books, and have agreed to every concession that was asked of us by our immediate neighbors. At the end of the design process not one neighbor had a privacy concern for themselves. Indeed, the new plan preserves our neighbors' privacy better than the current house. A few residents of Fairbrae have strong dislike of new homes that are different in any way, than what has been already designed in the Fairbrae tract in the 60s. The re-zoning application process for several of these regions was born out of the disagreement with the city's planning approval of our project. The process of collecting signatures for re-zoning turned into a very personal door-to-door negative campaign against our family. We were presented as the boogeyman, the likes of which the residents must protect themselves against in the future. Our private lives have been intruded upon in an unprecedented and an uncivil manner. Outlandish rumors were spread, and the city's process was turned into a tool of harassment and bullying of our family.

I would like to offer a few suggestions on how the process can be improved:

1. It would be better if the information about re-zoning is collected by an impartial party (planning department?) via a mail-in questionnaire.
2. The timing of distribution of such questionnaire may be restricted to a certain time of the year, or once in several years, so as not to coincide with any particular application for home renovation.
3. In order to avoid a contentious process of back and forth re-zonings often, a time limit should be put in place, after the expiration of which, the residents can decide on whether to renew their SSO, or automatically let it lapse back into an R-1 zone.
4. A mail-in ballot should be distributed by the city, so that each household can vote in the privacy of their home, and without a fear of becoming a pariah in the neighborhood for going against a majority's opinion.
5. The cost of applying for re-zoning should also be brought in line with the actual costs, since it is very labor intensive for the staff of the planning department, whose resources are already stretched by the many public and residential projects that are submitted for review.

There is also a question of the broader impact on the city. The creation of SSO regions fundamentally restricts expansion of square footage while making new construction more difficult and less economically feasible - essentially creating many super-low density residential areas. The Bay Area is facing a housing crisis. Creating an ad-hoc patchwork of super-low density regions, thereby restricting

the number of multigenerational families and families with more than one or two kids is not desirable. I believe it is discriminatory, exclusionary, and it goes counter to the goal of creating a vibrant community.

We have a current situation where on one side there is a fear of change – which is driving these SSO applications. On the opposing side of the SSO issue, there is a fear of diminishing property values and anger of not being able to expand, as some families have planned to do. Fear or emotion alone should not guide long term policy decisions. The economic impact of these re-zonings should be studied.

Possible questions that need answering are the following:

1. A zoning change of residential areas is usually adopted in order to create a public benefit. Who is benefitting? Is the whole community of Sunnyvale benefitting? Is there a cost to such benefits? Was the harm that the current zoning created proven? Is this harm substantial enough for the majority to take away minority's (current or future occupants of SSO regions) opportunity to expand or substantially change their homes?
2. Will restricting the square footage affect the tax base collected by the city for schools, police, fire protection, and social services, as compared with R-1 neighborhoods?
3. Will the city require a reassessment, or a different tax rate be applied for living in these regions?
4. Will the property values be affected, and the property tax rate be lowered, or increased?
5. Will the demographic make-up of the city be affected?
6. Will large businesses be deterred, or attracted to the city, where there are bigger issues with finding housing for the employees, as compared to other cities?
7. What is the general plan for Sunnyvale going to be in the future? If super-low density regions are desired, where should they be located?

Our personal experience suggests that the current process can be made safer for those few homeowners who decide to substantially renovate their homes at any given time. However, the process of re-zoning is bigger than one family and one project. The City Council may be interested in broader implications of this process for the city. The study on the economic and demographic impact may be very useful, when planning for the future of Sunnyvale. Please recommend these, or similar studies done for the City Council's review, and put the current process for re-zoning on hold.

Thank you very much for considering this issue in depth.

Respectfully,

Lena Govberg

From: Eran Dor

[REDACTED]  
Sunnyvale, CA  
94087

To: City of Sunnyvale, Planning commission

Ref: SSCD petitions on the agenda for 09/12/2016

Honorable Planning Commission,

Next week a rezoning request for the neighborhood my family lives in will come before the commission for a hearing.

Lately more and more of these rezoning requests from R-1 to R-1S have been coming up in Sunnyvale and also surrounding cities.

I have conducted a short case study about the property values on 2 Palo Alto neighborhoods:

1. Greer Park – SSCD was approved
2. Royal Manor – SSCD was requested and later rejected

To de-clutter the data that I have collected we can divide the residence types into a 3 types:

1. Large lots, ~8000sqft and above – most of Greer Park has large lots
2. Medium lots, ~7000-8000 – many of these lots in Royal Manor
3. Small lots, ~7000sqft and smaller

The size of the house on the lot also plays a role, but this is much more obvious than lot sizes – properties with larger livable space are valued higher than those with less livable space.

The properties under petition 2016-7523 (contrary to the ones under 2016-7431) fall mostly under medium lots category with medium sized livable space.

The property value trend seen for Palo Alto Greer Park was very simple, the property values did not really change because of the SSCD.

For Royal Manor the situation was quite different (all data from [www.zillow.com](http://www.zillow.com), details can be provided):

1. When the SSCD petition came up for discussion for the Royal Manor neighborhood the property value immediately dropped for medium lots
2. During the discussions the property value of these homes stayed about \$250K lower than similar homes in Palo Alto.
3. Once the SSCD petition was rejected / revoked the property values of these homes bounced back again and almost recovered
4. During the same timeframe, the value of the larger lots went up

From analyzing the trends and understanding the rules of setbacks for livable space one can conclude easily that these trends are dominated by the potential a certain property has, namely:

1. If the lot is large, there is plenty of space to add livable space while maintaining a fair sized backyard.
2. If the lot is medium, there is no real way to expand on the ground level while maintaining a good sized backyard.

Without an SSCD, every house can be expanded sideways or with the help of a 2<sup>nd</sup> floor, all the options are open.

Following the rationale above the medium sized lots practically lose their potential of being considered attractive properties once an SSCD is enforced since an expansion on the ground floor is a worse tradeoff with respect to large lots.

I have raised the question about property values in the community meeting held Thursday 09/05/2016 in the Sunnyvale Community Center Ballroom, but it seems that the city has no data on the property values of properties that are affected by an SSCD. Further I understand that no study was done by the city of Sunnyvale to understand the actual tradeoffs an SSCD creates generally (Economy, Demographics, etc.) and property values in particular.

The fact that no data is available about the tradeoffs we are facing here is a very big concern to me since I find it impossible for me (or for any other property owner) to make an informed decision whether to support the SSCD or not without have an understanding of what this actually means in terms of what the neighborhood will actually be like once an SSCD is approved.

Further, another item that I would like the Planning Commission to take into account is that the main sponsors of petition 2016-7523 and 2016-7431 have larger lots and larger livable space than many of the other properties in the area (8287sqft/1835sqft and 8025sqft/1948sqft respectively, data from [www.zillow.com](http://www.zillow.com)).

My request is to put the SSCD requests that the Planning Commission has on its agenda on hold and ask for adequate research that enable the property owners make informed decision rather than decisions based on feelings alone.

In addition, following the short case study above I would like to ask the Planning Commission to prevent property owners with larger lots to make use of the SSCD process to add value to their property at the cost of their neighbors.

Sincerely

Eran Dor

Sep 6, 2016

Dear Members of the Sunnyvale Planning Commission,

We wish to express our opposition to the SSO proposal currently under discussion for our neighborhood. Our family has lived at [REDACTED] for six years and does not have any plans to add a second story. But we are saddened by and opposed to the unnecessary assault on individual property rights represented by the proposal and process.

**Existing regulations are sufficient to protect our neighborhood**

We understand that in a neighborhood or community, zoning and other laws are necessary to keep one neighbor's choices about his or her property from unduly harming other neighbors property value or neighborhood experience. However, as members of an Eichler Neighborhood, we already have an abundance of general Sunnyvale zoning laws to comply with as well as the Eichler Guidelines. In our opinion, these guidelines are sufficient to protect both us and our neighbors from poor decisions with regard to remodels or other modifications, and explicitly include guidelines for second stories. Ironically, there is evidence from nearby cities that SSO zones depress property rights by eliminating the option value associated with upward development freedoms.

**The SSO aggressively vetoes projects before they are even proposed**

The stated objective of the SSO is to prevent second stories. This is not an unreasonable objective in a neighborhood of glass houses. But the implementation is overly broad and anonymous. Citizens are able to pre-emptively veto all proposals before such proposals are even contemplated by the homeowners, let alone designed and brought for planning review.

**The SSO structure allows the preferences of neighbors who are not actually affected by a proposal to drown out the voices of those who are**

The SSO provides a mechanism for a large group of unaffected neighbors to drown the voices of the handful of directly affected neighbors whose opinions should be weighed more heavily any building proposal with privacy issues. If we want to build a second story and can secure the approval of our immediately adjacent neighbors through landscape and architectural concessions, why not let us build? Why should 25 or 50 other neighbors, none of whom is close enough to be impacted by a project, drown out the preferences of the landowner who has found a way to improve his or her property with the blessing of all those neighbors who are directly impacted?

In summary, the SSO represses the rights of property owners without sufficient due process or benefit incremental to our existing zoning regulations. We appeal to the better judgment of the planning commission and city council to reject this misguided effort.

Paul and Amy Bankhead

Dear Members of the Sunnyvale Planning Commission,

Our family resides in a two-story Eichler at [REDACTED], purchased in 1984. We can attest to the fact that the neighborhood was always a friendly place. But now emotions have been stirred up by a single two-story project which was recently approved. This process demonstrated the city's ability to address specific concerns of immediate neighbors through a formal, established and orderly process. We strongly object to the proposed SSO for many reasons, some of which are listed below.

### **Issue #1 Privacy**

Windows of a two-story house have privacy implications for a very limited number of the immediate neighbors. An arduous approval process that is already in place for any new construction/remodel guarantees a fair hearing for affected neighbors. Other "concerned" residents of the neighborhood have no standing, except moral support to the involved parties, in respect to the specific project's privacy issue.

Section 3.3 of the Eichler Guidelines specifically focuses on the privacy issue. City of Sunnyvale demonstrated that its approval process is a fair and sufficient mechanism to address privacy concerns. SSO is not a proper tool to deal with such disputes.

### **Issue #2 Architectural integrity**

Sunnyvale Eichler Guidelines clearly state that a two-story construction is not contradictory to the Eichler style. Joseph Eichler and his architects who worked with him employed harmonious variety in the original design. Through the years Eichler home's residents made changes, reflecting modern needs and trends, while keeping up with the spirit of the original design. Examples are:

- Aluminum-and glass garage doors
- Variety of wooden fence designs, e.g. horizontal-plank fences,
- Variety of landscaping (e.g. "desert-like" landscaping)
- Newly re-built houses that blend in the neighborhood (e.g. one on Sheraton Dr.)

SSO contradicts the Eichler's vision of dynamism and vitality. And, again, City of Sunnyvale has demonstrated full competence to assure architectural integrity through implementing the Eichler Guidelines and thorough review of design through the approval process.

SSO proposal demonstrates distrust in the skills of the professional architects, taste and decency of our neighbors, and city staff's diligence.

### **Issue #3 Future owners**

20 years ago neighborhood looked differently. Landscaping was mostly grass lawns. There were no solar panels on the roofs. Things clearly changed.

Children who inherit our homes might have different needs, tastes and financial situation. The approval of SSO will affect their life and the lives of their families. Do we have a legitimate reason to make a decision for them? We think not.

#### **Issue #4 Petition process**

In the current process a signature on a petition replaces a secret ballot. This denies an expression of a freely given and informed opinion, making the process undemocratic, considering the petition is signed:

- Under pressure by a friendly neighbor often requesting to sign on a spot.
- In absence of any explanation that signing constitutes the "final vote".
- With reasoning provided only by one side's advocates. This is contrary to a traditional process where both sides can present their arguments and each side can offer a rebuttal.
- In absence of an independent analysis about possible implications for each owner (e.g. provided by the city)

The process denies an opportunity to object to the petition in private. Opposition can be expressed either by **public** refusal to sign, **public** letter to the Planning Commission, or **publicly** speaking at the hearing. Many residents may feel uncomfortable to show public opposition to the issue.

A similar process was thoroughly criticized in Palo Alto SSO procedures, according to Mercury News on May 5, 2016 and in several Palo Alto Weekly articles. Los Altos, on the other hand, implemented a process where a petition is followed by a secret mail-in-ballot.

Based on our concerns we expressed above, we request the Commission to review an existing process and to put all current petitions on hold pending the review of the rezoning process.

Respectfully,

Julia Filippova and Gene Manheim

██████████, Sunnyvale, CA 94087

September 6, 2016

Dear Members of the Planning Commission,

We are 12-year homeowners and residents of Fairbrae Addition, and we do not support the SSCD process as it is currently implemented.

We would like to implore the Planning Commission to consider tabling all pending applications for SSCDs, and to consider forwarding a request for a Study Issue to the City Council.

We would like the Study Issue to address the long-term impact of the SSCD on neighborhoods in all aspects (how the make-up of the community will change, how property tax revenue might change, how property values might change) and how the SSCD regulations can be written to ensure that no property owner within an SSCD bears a disproportionate restriction on the right to enjoy his or her property.

Apart from that request, we'd like to elaborate on a few of our objections to the SSCD:

The SSCD results in a disproportionate restriction on owners with smaller lots. The city's set-back requirements for R-0/1 makes the only possible first-story addition a strip along one side of a home, or a strip along the back of a home. In either case, the strip is few to 10 feet in width, given the typical Eichler floor plan and position on its lot. It's not possible to construct a pleasant room (extra bedroom, home office, guest bedroom) within those parameters. Thus, the SSCD effectively eliminates the possibility to expand small-lot homes at all. It's completely understandable that in a neighborhood with 9,000 sq ft or larger lots, it would be nice to keep the homes all at one story and everybody would have plenty of room to spread out into the yard. But the Eichler neighborhoods in Sunnyvale are not so generous nor consistent in lot sizing.

The city already has a robust process in place to address neighborhood concerns about home construction or additions. The city has had comprehensive Eichler Design Guidelines in place for many years. They address many concerns that might arise in any new home construction or additions. Any homeowners wishing to construct a second-story addition will have to go through a public comment process. Any privacy issues for immediate neighbors can, and have been, successfully addressed through this existing process.

The SSCD will perpetuate a gap between the needs of today's families and what Sunnyvale's housing stock has to offer.

Neighborhoods such as Fairbrae Addition continue to attract a diverse set of people from all over the county, state, country and the world. This makes for a great environment to raise a family. However, children are separated geographically from grandparents or other family from far away. Visits become problematic, though, since the existing homes may *not* offer a spare bedroom.

In many families, both parents are employed. But, thanks to modern communications, sometimes those parents can work from home. This benefits the children of our community, when their parents are more available to them, and when parents are able to "duck out" to

volunteer at school or in community programs such as Sunnyvale Youth Basketball or Cub Scouts. But the existing homes may *not* offer an office space for the working parent.

Of course, anyone who purchased a home in Fairbrae Addition or similar neighborhood in the last twenty years would be well aware of these issues. But, zoning requirements at the time of purchase made it conceivable that as family needs and resources change over time, the home could be reconfigured to meet those changing needs. The SSCD eliminates this possibility for some owners, especially those on smaller lots.

In summary, we believe that families have serious and legitimate reasons to wish to expand their living quarters; homes were purchased with the right to enjoy that possibility; some properties lend themselves better to single-story expansions than others; the existing SSCD regulations unfairly and disproportionately impair the ability of some homeowners to enjoy the full use of their properties; the process put forth in Sunnyvale Municipal Code Title 19, Article 3, Chapter 19.26 allows a majority to infringe the rights of a minority; no clear public good for Sunnyvale has been articulated or demonstrated as an outcome of an SSCD.

We close by imploring again for a Study Issue in order to bring forth and publicly debate, with appropriate gravity, seriousness, and inclusiveness of all affected parties, what we are actually undertaking with the implementation of an SSCD, in all respects.

Sincerely,

Nathan Gardner  
Andrea Georgelos

[REDACTED]

*Sunnyvale*