

4. [16-0772](#) Proposed Project: Introduction of Ordinance to REZONE 37 contiguous single family home lots from R-1 (Low Density Residential) to R-1/S (Low Density Residential/Single-Story)
File #: 2016-7523
Location: 576-598 West Remington Drive (APNs: 202-01-001 through 202-01-007), 575-595 Rockport Drive (APNs: 202-01-016 through 202-01-024), 585-595 Templeton Court (APNs: 202-01-025 through 202-01-028 and 202-08-035), 1104-1132 Spinosa Drive (APNs: 202-01-029 through 202-01-033, and 202-08-032 through 202-08-034), 1126-1138 Strawberry Court (APNs: 202-08-036 through 202-08-040), 1143-1153 Tangerine Way (APNs: 202-08-041 through 202-08-043)
Zoning: R-1
Applicant / Owner: Stephen Meier (plus multiple owners)
Environmental Review: The Ordinance being considered is categorically exempt from review pursuant to CEQA Guidelines Section 15305 (minor alteration in land use) and Section 15061(b)(3) (a general rule that CEQA only applies to projects that have the potential for causing a significant effect on the environment. Where it can be seen with certainty that there is no possibility that the action may have a significant effect on the environment, the activity is not subject to CEQA).
Project Planner: Aastha Vashist, (408) 730-7458, avashist@sunnyvale.ca.gov

Assistant Planner Aastha Vashist presented the staff report.

Chair Harrison opened the Public Hearing.

Applicant Stephen Meier provided information about the project application.

Lowell Gass, Fairbrae neighborhood resident, discussed his opposition to the application, said the 55 percent threshold is too low and property owners should have the right to build a second story.

Gene Manheim, Sunnyvale resident, discussed his opposition to the application and suggested expediting the study issue on the application process while putting on hold all future single-story overlay applications.

Alik Eliashberg, Sunnyvale resident, suggested the City holistically study the impact of single-story overlays to better inform residents' decisions.

Lena Govberg, Sunnyvale resident, discussed her opposition to the application and suggested the process be revised and include a sunset clause.

Eran Dor, Sunnyvale resident, discussed his opposition to the application and said it creates the risk of decreasing property values and is not in the public interest.

Nathan Gardner, Torrington Drive resident, urged the Planning Commission to recommend that future applications are set aside until a study issue is completed.

Paul Bankhead, Tangerine Way resident, spoke in opposition to the application and said single-story overlays restrict property rights and that the Eichler Design Guidelines contain protections for privacy. He said a group of unaffected neighbors outweigh the voices of direct neighbors affected by projects.

Kristen Robins, Sunnyvale resident, said it is important to preserve the character of Eichler homes and encouraged the approval of the application.

Julia Filippova, Sunnyvale resident, spoke in opposition to the application and said privacy concerns can be addressed by other means.

Nancy Lane, Sunnyvale resident, spoke in support of the application and said two-story homes create valid privacy concerns for Eichler homeowners.

Applicant Stephen Meier provided additional information about the application and addressed several concerns of neighbors.

Chair Harrison closed the Public Hearing.

MOTION: Commissioner Melton moved and Commissioner Klein seconded the motion to recommend to City Council Alternatives:

- 1) Find the project exempt from CEQA pursuant to CEQA Guidelines Sections 15305 and 15061(b)(3); and,
- 2) Introduce an Ordinance to Rezone 37 contiguous single family home lots from R-1 (Low Density Residential) to R-1/S (Low Density Residential/Single-Story).

Commissioner Melton said the Planning Commission enforces the policy of the City, ensures rules are followed and the application is in good order, and then focuses on whether findings can be made. He noted that people interpret public interest differently, that if somebody was applying for the entire City to be converted to have a single-story overlay it would not be in the public interest, but that this

application is for a small subset of houses in a certain neighborhood and, given that, he finds that it is in the public interest to rezone these homes. He said very interesting questions have been raised about impacts and the worthiness of the policy and process that need to be investigated, and noted the original version of the single-story overlay district had a sunset policy that was removed by City Council. He added that he looks at the merits of each application on its own, and he believes this is not an instance of confirmation bias in his decision.

Commissioner Klein said these neighbors are going through the appropriate process to protect the qualities of their neighborhood with a smaller percentage of support than seen on the previous agenda item, but with more than the City requires. He said the application is for a set of single-story homes, that there were qualifications of paying fees and looking at how many two-story homes are in the neighborhood, and that the policy may be reevaluated.

Vice Chair Rheume said he is not supporting the motion and that while the job of the Planning Commission is to enforce City policy, one of those policies is to determine whether a rezone application is in the best interest of the public. He said the more we discuss it the less it seems to be in the best interest of the public, and that because Sunnyvale is continually changing, the definition of 'best interest' continually changes. He said there may be needed changes to the process but that determining whether an application is in the best interest of the public does not need to change and he cannot make that finding.

Commissioner Weiss said she will not be supporting the motion and cannot make the findings because all of the rules were not followed. She said the process depends on integrity and honesty, that all Planning Commissioners were present when we voted on the 1169 Sesame project and there are items here presented as truths that we all know are not so. She said it makes her wonder about what else was presented to neighbors to convince them to sign the petition, and that approving this application jeopardizes the whole process.

Commissioner Olevson said he will be supporting the motion, and noted that the Planning Commission consists of volunteer citizens ensuring applicants follow the policies and procedures of the City. He said in this case the policy is a single-story overlay that has a specific process to be approved, which the applicants have followed. He added that the process could be substantially improved to better protect homeowners who are negatively affected by it.

Commissioner Simons said he supports the motion, and said there was a reference to policies in other cities and that with one in particular the process involved those

who wanted to do an addition getting their neighbor's approval. He said one problem with that is that one neighbor may allow a second story next to their home and then be denied when they wanted to add a small bedroom by that same neighbor, and that we want to remove those emotional factors and make it measurable with rules. He said it was a good idea to come up with second story guidelines but that the amount of effort to specify every possible thing people might want to do for their second story was too difficult. He said it is unfortunate that the discussion has gone in an unreasonable direction and he does not buy into the idea that second stories should be allowed because it is a property right. He said these are relatively large lots that will allow the construction of large homes or additions on just a single story, and that this may be an alert to Eichler homeowners about the conflict between them and people wanting to build density for the justification of getting extra housing. He said you can add a lot of square footage to homes and that will not turn them into multi-family homes and that this neighborhood will remain single family. He said he hopes the same mistakes made previously do not occur now due to inexperience.

Chair Harrison said she is not supporting the motion because it is not in the public interest. She said approval of this application requires different criteria than an Environmental Impact Report, and that there are no facts on whether the public will be positively or negatively affected by this situation. She said we do not know the resale values of homes in this situation, what future market conditions will be like, the affect on the maintenance of the properties or the desireability of the neighborhood. She said she understands that a majority of people living here now like it the way it is, but that without a sunset provision we do not know what effect this will have on this tract or the City.

The motion carried by the following vote:

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

No: 3 - Chair Harrison
Vice Chair Rheume
Commissioner Weiss