



City of Sunnyvale

Meeting Minutes - Final

Planning Commission

Monday, November 7, 2016

6:00 PM

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

Special Meeting- Study Session-6 PM | Public Hearing 7 PM

6 P.M. STUDY SESSION

Call to Order in the West Conference Room

Roll Call

Study Session

- A.** [16-1045](#) **File #:** 2013-7609
Locations: 615 N. Mathilda Ave. and related sites. (APN's: 165-43-014 165-43-023 165-43-024 165-43-025 165-43-026 165-43-027 165-43-028 165-43-029)
Zoning: PPSP/IEF
Proposed Project: **PEERY PARK DESIGN REVIEW** to redevelop 8 parcels by combining the site into one 7.5 acre site and construct two new 4-story office R&D buildings with a total of 330,668 s.f. (includes 13,988 s.f. amenities area) resulting in 100% FAR, and serviced by a new 5-level parking garage. The project is located in Peery Park Specific Plan area.
Environmental Review: Complies with PPSP Program EIR
Applicant / Owner: J.P. DiNapoli Companies, Inc. / Sequoia Del Ray LLC
Project Planner: Shetal Divatia, (408) 730-7637, sdivatia@sunnyvale.ca.gov
- B.** [16-1047](#) **File #:** 2015-7302
Locations: 221 N. Mathilda Ave. (APN: 165-27-010)
Zoning: PPSP-IE
Proposed Project: **PEERY PARK PLAN REVIEW PERMIT** to allow redevelopment of a 4.3-acre site (former Mellow's Nursery) into a three-story office/R&D building with a four-level parking structure with partial sub-grade parking, resulting in 145,516 square feet of floor area (80% FAR). The project includes a request for a Resource Alteration Permit for modifications to a Heritage Resource.
Environmental Review: No additional review required as per CEQA

Guidelines section 15168(c)(2) and (4) - Peery Park Specific Plan
Program EIR.

Applicant / Owner: Spear Street Capital / 221 N Mathilda Llc

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

Public Comment on Study Session Agenda Items

Adjourn Study Session

7 P.M. PLANNING COMMISSION MEETING

CALL TO ORDER

Vice Chair Rheaume called the meeting to order in Council Chambers.

SALUTE TO THE FLAG

Vice Chair Rheaume led the salute to the flag.

ROLL CALL

Present: 6 - Vice Chair Ken Rheaume
Commissioner John Howe
Commissioner Russell Melton
Commissioner Ken Olevson
Commissioner David Simons
Commissioner Carol Weiss

Absent: 1 - Chair Sue Harrison

ORAL COMMUNICATIONS

None.

CONSENT CALENDAR

Commissioner Howe noted that he was not presented for the previous meeting and would abstain from the vote to approve the Consent Calendar.

Vice Chair Rheaume welcomed John Howe to the Planning Commission.

MOTION: Commissioner Melton moved and Commissioner Weiss seconded the motion to approve the Consent Calendar.

The motion carried by the following vote:

Yes: 5 - Vice Chair Rheaume
 Commissioner Melton
 Commissioner Olevson
 Commissioner Simons
 Commissioner Weiss

No: 0

Absent: 1 - Chair Harrison

Abstained: 1 - Commissioner Howe

1.A [16-1048](#) Approve Planning Commission Meeting Minutes of October 24, 2016

PUBLIC HEARINGS/GENERAL BUSINESS

- 2.** [16-0940](#) **Proposed Project:** **REZONE:** Introduction of an Ordinance to rezone 62 contiguous lots (61 single-family homes and a private swim club) from R-1 (Low Density Residential) to R-1/S (Low Density Residential/Single Story Combining District)
File #: 2016-7489
Location: Multiple properties bound by Hollenbeck Avenue on the west, Torrington Drive on the south, Spinosa Drive on the east and Sheraton Drive on the north and including Tiffany Court, Templeton Court and South Sage Court.
 613-699 Torrington Drive (Assessor Parcel Numbers 202-09-001 through 202-09-017), 1160-1158 Hollenbeck Avenue (202-09-018 through 202-09-019), 696 Sheraton Drive (202-09-020), 674-683 Tiffany Court (202-09-021 through 202-09-026), 1130 -1150 Royal Ann Drive (202-09-027 through 202-09-032), 1127-1145 S. Sage Ct. (202-09-033 through 209-02-042), 602-654 Sheraton Drive (202-09-042 through 202-09-050) and 604-633 Templeton Court (202-09-051 through 202-09-062).
Zoning: R-1
Applicant /Owner: Erik Peterson (plus multiple owners)
Environmental Review: The ordinance being considered is categorically exempt from review pursuant to CEQA Guidelines Section 15305 (minor alterations in land use) and Section 15061(b)(3) (a general rule that CEQA only applies to projects that have the potential for causing 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).

Principal Planner Gerri Caruso presented the staff report.

Commissioner Melton confirmed with Principal Planner Caruso that the three large

lots recommended for exclusion from this application would not be precluded from a future single-story combining district (SSCD) application, and confirmed the length of the property line for lot 19.

Commissioner Simons and Principal Planner Caruso discussed additional housing options for future development of infill sites and the origin of concerns about the SSCD application process.

Vice Chair Rheume opened the Public Hearing.

Applicant Erik Peterson presented additional information about the SSCD application.

Suzanne Shea, Sunnyvale resident, spoke in support of the application.

Commissioner Melton confirmed with Ms. Shea the location of her home.

Patrick Shea, Sunnyvale resident, spoke in support of the application.

Susan Charbonneau, Sunnyvale resident, spoke in support of the application.

Mark Kliss spoke in support of the application.

Mark Schertler, Sunnyvale resident, spoke in opposition to inclusion of Fairbrae in the SSCD.

Commissioner Howe confirmed with Principal Planner Caruso that if Fairbrae is included in the SSCD any tennis lights erected would be limited to 17 feet in height.

Roger Teter, Tiffany Court resident, spoke in support of the application.

Mei-Ling Stefan, Sunnyvale resident, spoke in support of the application.

Claudio Mandelli, Sunnyvale resident, spoke in support of the application.

Galen Davis, Sunnyvale resident, spoke in support of the application.

Scott McIntosh, Tiffany Court resident, spoke in support of the application.

Shian Lee, Hollenbeck Avenue resident, spoke in opposition to the application.

Commissioner Melton confirmed with Mr. Lee the location of his property within the proposed SSCD boundaries and that his property is one of those recommended by staff for exclusion from the application.

Ralph Grundler, Templeton Court resident, spoke in support of the application.

Vice Chair Rheume discussed with Mr. Grundler his reasoning for suggesting that the mailers sent out to neighbors be discarded as part of the process.

Commissioner Weiss clarified with Mr. Grundler that staff, and not the Planning Commission, has proposed a change of the SSCD boundary.

Stephen Meier, Sunnyvale resident, spoke in support of the application.

Peter Anning, Sunnyvale resident, spoke in support of the application.

Triston Lawrence, Sunnyvale resident, spoke in support of the application.

Walter Huber, Sunnyvale resident, spoke in support of the application.

Gabriela Zuniga, Torrington Avenue resident, spoke in support of the application.

Joni Lindenstruth, Sunnyvale resident, spoke in support of the application.

Applicant Peterson provided final comments and addressed concerns about the proposed SSCD.

Vice Chair Rheume closed the Public Hearing.

Commissioner Howe verified with Planning Officer Andrew Miner that if the swim club is included in the SSCD legal nonconforming elements, such as the lights and solar water heater, could be replaced as long as they do not increase the nonconformity. He also confirmed with Principal Planner Caruso that the Variance application process is available for the hot water heater that exceeds height limitations.

Commissioner Weiss confirmed with Principal Planner Caruso that the Planning

Commission could include in their recommendation a buffer zone along the yards contiguous to the Eichler homes. Planning Officer Miner provided history on a previously heard project that had a buffer zone.

MOTION: Commissioner Melton moved and Commissioner Howe seconded the motion for Alternative 1: Find the project exempt from CEQA pursuant to CEQA Guidelines Sections 15305 and 15061(b)(3) and find that the zoning amendment (rezoning) is deemed to be in the public interest and introduce an ordinance (as set forth in Attachment 6) to rezone 62 contiguous single family home lots from R-1 (Low Density Residential) to R-1/S (Low Density Residential/Single-Story) pursuant to the Applicant's proposal.

Commissioner Melton said he understands how staff arrived at the recommendation, and that some anxiety may have been caused when staff tried to send out follow-up surveys because it is a new part of the process, which staff is attempting to improve. He said he understands that concerns with the staff recommendation to exclude three parcels, although he is coming to a different conclusion. He said completing and paying for the application does not guarantee that staff, the Planning Commission or City Council will agree with an application, and that public policy and land use require a lot of contemplation. He thanked the members of the public for coming out to speak, and said what compels him to make the motion for Alternative 1 is the original policy requiring a contiguous group of parcels within an original tract with clearly defined boundaries. He said Alternative 2 veers away from that intent and was particularly difficult to accept because it would have created a peninsula of properties. He said he finds that it is in the public interest to rezone these properties all as one.

Commissioner Howe said the Eichler community is unique, that Sunnyvale has had a number of issues where the privacy of Eichler homes had to be protected and these three parcels fit into that. He said accessory living units will be considered in the future, that privacy should be preserved for the future and that he finds approval of the application to be in the public interest.

Commissioner Olevson said he will not be supporting the motion and fully respects the desire for Eichler homeowners to maintain the privacy of their backyards, but that trying to extend the boundary beyond Eichlers to other properties, some of which predate current Eichler ownership, is inappropriate. He said he supports the non-Eichler homeowners who want to be excluded from the district and who prefer to maintain the flexibility to fully develop their properties in the future.

Commissioner Simons said the increase in SSCD applications is caused by very good economic times and pressures to build nice, executive homes with two stories. He said the intent of the SSCD was to encourage Eichler homeowners to maintain the look and feel of their home's architecture and neighborhoods. He said Alternative 1 is most important because the Planning Commission has denied many projects in the past because they seemed like spot zoning and because it is in keeping with past zoning intentions to keep homes contiguous. He said he does not see a limit to development of the non-Eichler homes in the future and that the same amount of square footage could be achieved with in other ways such as a basement. He said breaking the larger lots up into smaller ones would be desirable and would afford the development rights people demand, and that excluding these three properties from the district would be a mistake.

Commissioner Weiss thanked staff for modifying part of the process to make it fairer to all parties by taking over confirmation of participant status. She noted that this is the fifth SSCD application considered this year and that four more are pending, and said one must ask how wide ranging this trend can become without infringing upon other homeowners' rights. She said everyone can claim a right to privacy regardless of whether they own an Eichler home, that she is uncomfortable making non-Eichler homes held captive in this way, which ignores current and future needs of Sunnyvale. She said these are potential sites for infill development along a bus route, which is an aim of the Land Use and Transportation Element (LUTE). She added that she might support a motion that includes a requirement for a buffer zone, but without it she will not support the motion.

Vice Chair Rheame said he will not support the motion and thanked staff for trying to improve this process. He said he cannot make the finding that this application is in the best interest of the City and the public, and that he sees other ways to address privacy issues aside from implementing a SSCD. He added that these applications are starting to infringe on other homeowners' rights.

The motion failed by the following vote:

Yes: 3 - Commissioner Howe
Commissioner Melton
Commissioner Simons

No: 3 - Vice Chair Rheame
Commissioner Olevson
Commissioner Weiss

Absent: 1 - Chair Harrison

Planning Officer Miner noted that a Rezone application needs to have a majority vote to be sent forward to City Council and discussed options for moving this item forward.

Commissioners Howe and Weiss discussed with Planning Officer Miner the option to add to the motion a buffer zone.

Senior Assistant City Attorney Rebecca Moon said a recommendation including a buffer zone could go to City Council for their direction to staff or for a final decision.

Commissioner Simons confirmed with Planning Officer Miner that the three properties could be rezoned as a Planned Development with the condition that maintains restrictions for future development.

Commissioner Melton verified with Planning Officer Miner that this item is scheduled for consideration by City Council on December 6 and that City Council would only consider it if a motion is carried by the Planning Commission. Commissioner Melton referenced a request from City Council that the different Commissions render their judgment based on the merits of an application and leave the policy to City Council, and said he has had a long standing concern about the required finding of public interest because it is the broadest finding for a very narrow application and it becomes easy to wander and talk about the merits of the policy. He added that this application did follow all of the requirements of the process.

Commissioner Howe said a majority of the Planning Commission believes the 59 homes should be considered for the SSCD and that there is a legitimate concern for the homes backing up to the other three parcels. He said it is better to send a recommendation to City Council for their decision and to allow time for staff to provide additional information to Council.

MOTION: Commissioner Howe moved and Commissioner Olevson seconded the motion for Alternative 2: Find the project exempt from CEQA pursuant to CEQA Guidelines Sections 15305 and 15061(b)(3) and find that the zoning amendment (rezoning) is deemed to be in the public interest and introduce an ordinance (as set forth in Attachment 7) to rezone 59 contiguous single family home lots from R-1 (Low Density Residential) to R-1/S (Low Density Residential/Single-Story) pursuant to staff's proposed modification and to consider methods of including a buffer on the three excluded lots to address privacy concerns.

Commissioner Melton said he thinks it is important to move this application on to City Council.

The motion carried by the following vote:

Yes: 5 - Commissioner Howe
Commissioner Melton
Commissioner Olevson
Commissioner Simons
Commissioner Weiss

No: 1 - Vice Chair Rheaume

Absent: 1 - Chair Harrison

3. [16-1032](#) **File #:** 2013-7608
Location: 696 N. Mathilda Avenue and 380 San Aleso Avenue (APNs: 201-01-003, 004)
Proposed Project: Application for a one-acre site:
PEERY PARK CONDITIONAL USE PERMIT and PEERY PARK PLAN REVIEW PERMIT: To allow redevelopment by combining two parcels, and constructing a new 4,326 square foot restaurant with drive-through (McDonalds).
Applicant / Owner: J.P. DiNapoli Companies, Inc. / Sequoia Del Ray LLC
Zoning: Peery Park Specific Plan - Mixed Commercial Edge (PPSP/MCE)
Environmental Review: The project is exempt from additional CEQA review per CEQA Guidelines section 15168(c)(2) and (4). The project is within the scope of the Peery Park Specific Plan Program EIR as no new environmental impacts are anticipated and no new mitigation measures are required.

Project Planner Shetal Divatia presented the staff report.

Commissioner Melton verified that the Recommended Findings mistakenly refer to Water Infrastructure and Sense of Place Fees that are not applicable to this project.

Commissioner Weiss and Planning Officer Andrew Miner discussed whether mitigation measures will be considered to minimize greenhouse gas emissions from the drive-thru.

Vice Chair Rheaume opened the Public Hearing.

Peter Larko with J.P. DiNapoli Companies, Inc. and Robert Preece with Core State's Group provided additional information about the proposed project.

Commissioner Weiss confirmed with Mr. Preece that pedestrians would have to walk across the drive-thru to enter McDonald's and discussed whether additional safety measures are necessary.

Commissioner Melton and Mr. Preece discussed which materials, and their quality, will be used specifically to achieve McDonald's brand.

Commissioner Simons discussed with Mr. Preece whether any other types of architecture were considered for this building.

John Cordes, SNAIL Neighborhood resident, discussed his concerns with the proposed project.

Kirstin Sims, SNAIL Neighborhood resident, discussed her concerns with the proposed project.

Ann Davis, Sunnyvale resident, discussed her concerns with the proposed project.

Mr. Larko and Mr. Preece addressed the residents' concerns.

Vice Chair Rheume closed the Public Hearing.

MOTION: Commissioner Olevson moved and Commissioner Howe seconded the motion for Alternative 1: Make the required Findings to approve the CEQA determination and approve the Peery Park Conditional Use Permit and Peery Park Plan Review Permit subject to PPSP Mitigation Monitoring and Reporting Program in Attachment 6 and recommended conditions of approval noted in Attachment 4, with the corrections and adjustments provided by staff.

Commissioner Olevson said this project is an upgrade to an existing business and meets all of the requirements of the new Peery Park Specific Plan (PPSP). He said he has no concerns that approving the project would not be in the public interest.

FRIENDLY AMENDMENT: Commissioner Simons offered a friendly amendment for City staff to work with the applicant to add large species native trees to the frontage.

Commissioners Olevson and Howe accepted.

Commissioner Simons noted that this project is impacted by the PPSP, but that the Gateway Plan which preceeded it often gets ignored completely. He said the aim of that plan was to make the Mathilda approach from Highway 101 a destination with class A office space and signature architecture. He said City Council oftentimes has been expedient over the years to vary from it because of economic times, and that he likes the original concept. He said the only thing he dislikes about this project is the architecture, and that while he understands that McDonald's desires a specific look he does not think this building is representative of the goal of the Gateway Plan for the City.

Commissioner Melton said he can make the required findings and will be supporting the motion. He said this project will be an upgrade to the current usage and thanked the members of the public for sharing their concerns. He said it strikes him that a major corporation like McDonald's will have access to the technology to mitigate noise and odors and that he likes the friendly amendment to the motion.

Vice Chair Rheume said he supports the motion, can make the findings, likes that no Variances were requested and that the building meets setback requirements. He said he likes the addition of taller trees to block the views of taller buildings in the SNAIL neighborhood.

The motion carried by the following vote:

Yes: 5 - Vice Chair Rheume
Commissioner Howe
Commissioner Melton
Commissioner Olevson
Commissioner Weiss

No: 1 - Commissioner Simons

Absent: 1 - Chair Harrison

4. [16-0965](#) **File #:** 2015-7624
Location: 767 Mathilda Avenue (APNs: 165-43-021)
Proposed Project: Related applications on a 3.44-acre site:
**PEERY PARK CONDITIONAL USE PERMIT and PEERY
PARK PLAN REVIEW PERMIT:** to allow redevelopment of an
industrial site to a 6-story, 238 room hotel with surface parking.
Applicant / Owner: Architectural Dimensions (applicant) / Sinogap LLC
(owner)

Environmental Review: The project does not require additional CEQA review per CEQA Guidelines Section 15168(c)(2) and (4). The project is within the scope of the Peery Park Specific Plan (PPSP) Program EIR as there are no new anticipated environmental impacts and no new mitigation measures required.

Project Planner Margaret Netto presented the staff report and noted that in the California Environmental Quality Act (CEQA) checklist all public service impact items should be checked to reflect that they meet the Peery Park Specific Plan (PPSP) Environmental Impact Report (EIR). She also said Condition of Approval (COA) and BP-9c refers to a shopping center and should reflect a hotel use, that underlining in Attachment 5 will be cleaned up and that the Water Infrastructure Fee should be \$6.90 per square foot.

Vice Chair Rheume opened the Public Hearing.

Corry Oakes and Steve Pieters with OTO Development and Jim Heilbronner with Architectural Dimensions provided additional information about the proposed project.

Commissioner Howe confirmed with Mr. Heilbronner that the proposed 3,000 square feet of meeting space can be all in one area or broken up.

Commissioner Melton discussed with Mr. Pieters whether consideration was given to consolidating the subject parcel with the adjacent parcel.

Commissioner Weiss discussed with Paul Reed, Landscape Architect, the possibility of adding more water efficient landscaping to achieve the 20 percent water reduction goal. Commissioner Weiss confirmed with Mr. Heilbronner that the project will also include participation in the pilot shuttle program, and discussed whether an airport shuttle is feasible. They also confirmed the location of the proposed fire pits.

John Cordes, SNAIL Neighborhood resident, spoke in support of the proposed project and discussed his concern with the loss of over-the-air signals.

Ann Davis, Sunnyvale resident, discussed her concerns with the proposed project and suggested additional landscaping along the east side of Mathilda.

Mr. Heilbronner addressed the concerns of residents.

Commissioner Howe verified with Planning Officer Andrew Miner maximum height

allowed by zoning and the height the Planning Commission may be approving for this building.

Commissioner Weiss discussed with Planning Officer Miner whether a request can be sent to City Council to develop a policy concerning television signals and Planning Officer Miner provided background information about telecommunication signals.

Commissioner Melton confirmed with Project Planner Netto that this project would not be considered by City Council unless there is a call for review or an appeal.

Vice Chair Rheume closed the Public Hearing.

MOTION: Commissioner Simons moved and Commissioner Olevson seconded the motion for Alternative 1: Make the required Findings to approve the CEQA determination, impose the Sense of Place and Water Infrastructure Fees, and approve the Peery Park Conditional Use Permit and Peery Park Plan Review Permit with the Conditions in Attachment 4 and an added recommendation to for staff to work with the applicant on placing larger species trees on the street front and, if feasible, larger native species trees.

Commissioner Simons said this project has gone through multiple iterations and has been improving, and that the look is consistent from all directions. He commended the applicant and said it is a bit of a stretch to say the architecture is like an Eichler home but that it has elements of modernist design. He said he likes that some of the big blocks of bold color originally in front have been focused on the entryway and that he would like to see consideration given to improving the landscaping in the front. He added that he can make the findings.

Commissioner Olevson said he supports the motion, can make the findings and that the project has evolved nicely. He said the applicant has done an outstanding job of making this a structure that provides a positive view of Sunnyvale when entering from Mathilda.

Commissioner Melton said he supports the motion and can make the findings. He said we have seen this project several times in study sessions and it keeps moving forward and will be a nice project. He said the only lamentable aspect of the project is the inability to aggregate two adjacent parcels, and he requested the applicant remain open to the idea of parcelization. He thanked the members of the public for

coming out to speak, and said with regard to the television signal blockage issue that it is always great to study complex issues and that this issue may become a potential study issue.

Commissioner Weiss said she is supporting the motion and looks forward to seeing the public art and eating in what will be a fine restaurant.

Vice Chair Rheaume thanked the applicant for the changes made to the project and said it will be a great improvement from what is currently there.

The motion carried by the following vote:

Yes: 6 - Vice Chair Rheaume
Commissioner Howe
Commissioner Melton
Commissioner Olevson
Commissioner Simons
Commissioner Weiss

No: 0

Absent: 1 - Chair Harrison

STANDING ITEM: CONSIDERATION OF POTENTIAL STUDY ISSUES

None.

NON-AGENDA ITEMS AND COMMENTS

-Commissioner Comments

Commissioner Melton confirmed with Planning Officer Miner that there are scheduled dates for the Planning Commission and City Council to consider the Butcher's Corner EIR.

Commissioner Howe thanked the Planning Commission and staff for welcoming him to the Planning Commission.

Vice Chair Rheaume said he is glad to have Commissioner Howe on the Planning Commission.

-Staff Comments

Planning Officer Miner welcomed Commissioner Howe, and discussed recently heard and upcoming Planning-related City Council items. He also announced a

special Planning Commission meeting in December.

ADJOURNMENT

Vice Chair Rheaume adjourned the meeting at 10:12 p.m.