



# City of Sunnyvale

## Agenda Item

17-0758

Agenda Date: 9/11/2017

### REPORT TO PLANNING COMMISSION

#### SUBJECT

File #: 2017-7565

**Location:** 1666-1698 Swallow Drive (Assessor Parcel Number 313-41-010 thru 012, 313-41-027 and 028), 1104-1121 Lorne Way (APNs 313-41-013 thru 026), 1103-1111 Homestead Road (APNs 313-41-005 thru 009) and 18771 East Homestead Road (APNs 313-41-070 and 071).

**Zoning:** R-0 and R-0/PD for 18771 Homestead Road

**Proposed Project: REZONE** Introduction of Ordinance to **REZONE** 24 contiguous single family home lots from R-0 (Low Density Residential) to R-0/S (Low Density Residential/Single-Story) and one single family home lot (with 2 assessor parcels) from R-0/PD (Low Density Residential/Planned Development) to R-0/S/PD (Low Density Residential/Single-Story) (25 lots total)

**Applicant / Owner:** Craig Milito (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:** Shétal Divatia (408) 730-7637, sdivatia@sunnyvale.ca.gov

#### REPORT IN BRIEF

**General Plan:** Residential Low Density

**Existing Site Conditions:** A cohesive residential neighborhood block consisting of 25 single story homes.

#### **Surrounding Land Uses**

North: Single family homes

South: Office (across Homestead Road in Santa Clara)

East: Single family homes (across Calabazas Creek)

West: Single family homes (across Swallow Drive)

**Issues:** Preservation of a single-family neighborhood of predominantly single-story Eichler homes, appropriate rezone boundary.

**Staff Recommendation:** Planning Commission recommend to City Council: find the project exempt from CEQA; and deny the request to introduce an ordinance to rezone 24 contiguous single family home lots and one single family home lot (with 2 assessor parcel numbers) (25 lots total).

#### BACKGROUND

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The application was signed by 16 property owners (64 percent) of the 25-lot project area. As indicated on the vicinity and noticing map (Attachment 2), the project area includes multiple properties on Lorne Way (14 lots), Homestead Road (six lots) and Swallow Drive (five lots). The proposed boundary includes two tracts: the Fairpark Addition Tract with 19 lots developed with Eichler homes, and five lots on Swallow Drive that were created as part of the La Linda Meadows Tract (134 lot subdivision). The larger lot at 18771 East Homestead Road, west of Calabazas Creek, is not part of either tract. This larger lot is considered one legal lot under a single ownership, but is assessed as two lots with two assessor parcel numbers for property tax purposes.

The 19 Eichler homes in the Fairpark Addition tract are designated as an Eichler Neighborhood in the City's Eichler Design Guidelines. The five lots on Swallow Drive and the one larger lot at 18771 Homestead Road have one-story Ranch style homes. A list of all the properties included in the proposed rezoning district is in Attachment 3.

The request is to impose a single-story zoning designation on the 25 properties in order to limit the existing and new single family homes in the project area to one story and 45 percent Floor Area Ratio (FAR). Other site development standards and density of the R-0 zoning district would remain the same.

This application represents the fifteenth (15th) single-story combining district application to be considered by the City since the enabling zoning code changes became effective January 1, 2001. Attachment 5 is a list of approved and proposed single-story districts in the City. Another Single-Story Rezoning application (Primewood Eichler Neighborhood) is also being considered by Planning Commission and City Council at the same hearings.

The City Council is scheduled to consider this item on October 17, 2017.

### **EXISTING POLICY**

#### **Sunnyvale Municipal Code Section 19.26.200**

The intent of the Council's action creating the single-story combining district was to "modify the site development regulations of the R-0, R-1, and R-2 residential zoning districts to preserve and maintain single-family neighborhoods of predominantly single-story character." Sunnyvale Municipal Code (SMC) Section 19.26.200(b) states that the single-story combining district may be established at the discretion of the City Council to combine with the R-0, R-1 or R-2 zoning districts. Submittal of the minimum application requirements does not guarantee nor imply an automatic approval. The Planning Commission holds a hearing on each rezoning and makes a recommendation to the City Council. The City Council may approve a zoning amendment upon finding that the amendment, as proposed, changed or modified is deemed to be in the public interest.

Members of the public have questioned whether the current application process is sufficient to assure that residents understand the implications of single-story zoning. There was a suggestion that a more rigorous application process, such as an independent poll of property owners by staff, would better validate interest by property owners in the proposed zoning district. Based on the feedback, the administrative process was modified and staff sends out a separate request to all affected property owners to indicate their interest or opposition to the rezoning request. Staff mailed a letter to each property owner asking for confirmation of their perspective of the application; as of September 1, 2017, results of the polling are:

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- 9 support the rezoning
- 5 oppose the rezoning
- 1 neutral on the rezoning
- 10 no reply

There have also been requests to analyze the effect of single-story rezoning on the citywide housing stock and property values. The single-story combining district was created in 2000 as part of a larger study to consider changes to single-family home design criteria and development standards. Staff conducted a study session for the Planning Commission about the history and current project review process. Due to the number of single-story applications submitted in 2016 and after hearing comments made by the public at the study session, the Planning Commission ranked a study issue for consideration in 2017 to relook at the process and to determine what factors should be considered as part of determining “in the public interest.” City Council selected and ranked this study issue for 2017 (number 3 of 5 for CDD); however, it ranked below the line for 2017.

If adopted, the single-story combining district will remain in effect unless district owners initiate a similar application process to request that it be removed.

### **ENVIRONMENTAL REVIEW**

The action being considered is categorically exempt from review under the California Environmental Quality Act (CEQA) pursuant to CEQA Guidelines Section 15305 as it is a minor alteration in land use in an area with an average slope of less than 20% and will not result in any changes in land use or density. In addition, the Ordinance is exempt under the 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. (CEQA Guidelines Section 15061(b)(3)).

### **DISCUSSION**

The action under consideration is a rezoning to add a single-story combining district to an existing R-0 and R-0/PD single-family neighborhood. The following items must be met to consider an application for a Single-Story combining district:

1. The zoning for the underlying district must be R-0, R-1 or R-2. **Criteria met**
2. The application must be signed by at least 55 percent of the property owners in the proposed district. **Criteria met (64%)**
3. The proposed district must be clearly delineated in the application and must consist of at least 20 homes. **Criteria met (25 homes)**
4. At least 75 percent of the homes in the proposed district must be one-story. **Criteria met (100%)**
5. To the extent feasible, the proposed district shall follow a recognizable feature such as a street, stream, or tract boundary. **Not met**

By using the City’s GIS system and County Assessor information, staff has confirmed that 16 (64 percent) of the property owners have joined this application.

Staff has determined the project meets several, but not all criteria, of Sunnyvale Municipal Code Section 19.26.200(d)(2) which states that to the extent feasible, the proposed district shall follow a

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recognizable feature such as a street, stream, or tract boundary. In this case:

1. The east side of the proposed boundary area is the Calabazas Creek, which meets the criteria.
2. The 14 properties along Lorne Way were a part of 19 lot subdivision created through Tract No. 5171 (the Fairpark Addition), and are developed with Eichler homes, and these meet the criteria.
3. The five properties on the south side of the proposed rezoning area created as part of the Fairpark Addition tract and bounded by Homestead Road, are developed with Eichler homes and meet the criteria.
4. The west side of the rezoning area includes five of the 134 lots created through Tract No. 1829 (La Linda Meadows), and are developed with one-story Ranch styled homes on Swallow Drive. These lots partially meet the street feature criteria, but not the tract boundary criteria.
5. The 1.24-acre lot on Homestead adjacent to Calabazas Creek was not part of any development tract, is zoned R-0/PD, and includes one home built in 1949. This lot meets the street and creek boundary criteria, but not the tract boundary criteria.

In addition to the “recognizable feature” criteria, the application includes other elements for consideration. These include:

1. All 14 homes along Lorne Way signed the application for the rezoning request. Only one Swallow Drive homeowner and one Homestead Road owner signed the SSCD rezoning application out of the ten homes in those areas. The owner of the larger lot on 18771 East Homestead Road did not sign the application.
2. As part of the polling done by staff of all affected properties (as of September 1, 2017), four of the five Swallow Drive homeowners opposed the rezoning request to include their properties. One of the Homestead Road homeowners opposed the request and one stated a neutral position. The owner of the 18771 East Homestead Road property did not respond to the staff polling letter.

The 18771 East Homestead Road property is currently zoned R-0/PD. This 1.24-acre property has the potential to be divided into seven lots, and the PD combining district requires discretionary review as part of an application to develop the site. This review required under the PD zoning will consider the impact of development on the adjacent properties and can be used to protect the privacy of the neighboring Eichler homes through appropriate height limitations.

3. The SSCD rezoning request would provide a clear and complete single-story neighborhood consisting of Eichler homes along Lorne Way, but that area includes only 14 properties, less than required 20 properties by SMC Section 19.26.200. Including all homes in the Fairpark Addition tract, including the Eichler homes on Homestead, results in a more complete area, but it includes only 19 properties (and only one of the five homeowners along Homestead Road supports the request). The application is able to meet the minimum 20 lots for a SSCD by including the larger property at 18771 East Homestead Road and the five non-Eichler homes along Swallow Drive. Only one property owner in the group of properties on Swallow supports the SSCD. In addition, the proposal splits the block of homes on Swallow Drive, which are not Eichlers and are part of a different tract. The home at 1666 Swallow Drive (within the proposed overlay) is next to an existing 2-story home that would be outside the overlay. Moreover, the homes on Swallow Drive are located along the side of the neighboring Eichler homes, not directly to the rear. This configuration may mitigate some privacy concerns because a 2-story addition can be more easily designed to avoid a direct view into the

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backyard. Two of the five homes do not share a backyard fence with the neighboring Eichlers, but are only connected to the side and front yards.

The large lot at 18771 East Homestead Road may be the impetus for the SSCD because the property is available for sale and can be redeveloped to result in up to seven homes where one exists today (two Preliminary Review applications have been filed for five home projects to date, but no formal application has been filed). The property is not, however, a part of the Fairpark Addition Tract, and the property owner did not sign the application to be a part of the request. Also, the property is already subject to a PD combining district which will allow the City to ensure that any future development does not visually intrude on the privacy of the adjoining Eichler homes.

In taking all aspects into consideration, the following options are available (see Attachment 4 that includes a map showing the options discussed below):

Option 1 Application Request: Rezone all the 25 lots as proposed: Boundary would include 19 Eichler and six non-Eichler homes. This option raises the following issues:

- Preserves and maintains the predominantly single-story character of the neighborhood leading into and including Lorne Way.
- Includes all Eichler homes in the original Fairpark Addition tract.
- Includes five non-Eichler homes on Swallow Drive and the large lot at 18177 East Homestead, which are not part of the Fairpark Addition tract.
- Includes the five Eichler homes along Homestead Road, which do not contribute to the Eichler appearance of the Lorne Way streetscape. Only one of these five property owners support the SSCD application.
- Of the five non-Eichler homes on Swallow Drive, the SSCD application is supported by only one property owner.

Option 2: Rezone all 19 Fairpark Addition properties and the larger lot at 18771 East Homestead and exclude the five lots on Swallow Drive for a total of 20 lots. This means that all future development of 18771 East Homestead Road will be limited to single story. As an alternative, 18771 East Homestead Road could be split-zoned to create a 20-foot single-story buffer along the north and west sides of the lot. These options raise the following issues:

- Includes the minimum 20 lots required by the Zoning Code to rezone property to the S-Combining District.
- Preserves and maintains the predominantly single-story character on Lorne Way.
- Does not impact the five non-Eichler properties on Swallow Drive which are not part of the Lorne Way neighborhood streetscape or Fairpark Addition tract.
- Includes five Eichler properties on Homestead Road that are part of the original Fairpark Addition tract.
- Using split-zoning to creating a 20-foot single story buffer on 18771 East Homestead Road (large lot) would protect the neighboring Eichler homes while allowing the possibility for 2-story development on the majority of the large lot. However, split-zoning is unnecessary because the existing PD overlay can already be used to achieve the same result.
- Omitting 18771 East Homestead Road from the SSCD would reduce the required number of lots below 20.

Option 3: Rezone all 19 Fairpark Addition tract properties and five of the La Linda Meadows tract properties on Swallow Drive and exclude 18771 East Homestead Road. This option raises the following issues:

- Preserves and maintains the predominantly single-story character leading into and on Lorne Way.
- Includes the five non-Eichler homes on Swallow Drive, which are not part of the Fairpark Addition tract and the Lorne Way streetscape. Only one of the five property owners on Swallow Drive supports the SSCD.
- Splits the block of non-Eichler homes on Swallow Drive.
- Includes the five Eichler homes on Homestead Road, which do not contribute towards the Lorne Way streetscape.
- The existing PD overlay can be used to ensure future design compatibility if 18771 East Homestead Road is redeveloped.

Option 4: Deny the application. This option raises the following issues:

- Although staff studied rezoning only the 14 Eichler lots on Lorne Way to protect a cohesive Eichler streetscape, the Municipal Code requires a minimum of 20 lots for an SSCD. In order to change this requirement, the City Council would have to direct staff to come back with a proposed amendment to the ordinance. Lowering the minimum required lots would govern all future SSCD applications, potentially resulting in additional applications from smaller groups of neighbors.
- The 19 Eichler homes in the Fairpark Addition tract will continue to be subject to the Eichler Design Guidelines. Although the Eichler Design Guidelines do not prohibit 2-story additions, the Guidelines can be used to ensure that all such additions are respectful of the unique privacy needs of Eichler homes.
- Future two-story additions/redevelopment of the five non-Eichler lots on Swallow Drive will continue to be subject to Single Family Home Design Techniques. Since all the homes on Swallow Drive are located along the side of the Eichler lots, not directly to the rear, staff believes that the Single Family Home Design Techniques can be used successfully to ensure that any 2nd-story additions do not have a direct view into the rear glass walls of the neighboring Eichlers.
- Allows redevelopment of the larger parcel through PD zoning which can be used to ensure future design compatibility if the large site is redeveloped, including height limitations on any structures nearest to the Eichler homes, consistent with existing policies for preservation of residents' privacy.

Staff recommends Option 4 - deny the request. Although the application contains the required 20 lots, staff considers it problematic due to other considerations.

The most appropriate and logical SSCD for this neighborhood would include only the Eichler homes in the Fairpark Addition tract, which includes only 19 properties. The purpose of a single story combining district as noted in SMC Section 19.26.200 is to preserve and maintain single-family neighborhoods of predominantly single-story character. The Fairpark Addition properties developed with Eichler homes meet that standard. However, including other properties from a separate tract merely to meet the minimum number of properties is not in keeping with the intent of the SSCD, especially when the majority of the owners of those properties oppose the SSCD. At the same time,

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any redevelopment of the large lot at 18771 East Homestead Road will be subject to the existing PD overlay and will require a Special Development Permit. This process will involve discretionary review and will provide opportunities to limit building heights as part of the review and approval process. This will allow the Eichler neighborhood to preserve its streetscape and ensure that future development of 18771 East Homestead Road is respectful of the adjacent Eichler homes.

Another option might be to include the properties in the Fairpark Addition tract plus the larger property at 18771 East Homestead Road, but split zone the larger property to add a 20-foot single-story buffer zone; however, split-zoning is unnecessary because the lot is already subject to a PD overlay that can achieve the same result.

If adopted, the proposed 25-lot district would protect the visual character of the predominantly single-story neighborhood, but not necessarily privacy. Several lots within the proposed district are immediately adjacent to residential lots that are not included in the proposed district. These adjacent homes can potentially have a second floor and can affect the privacy of the one-story homes in the single story combining district. There are already 2-story homes on Swallow Drive and Swift Court that adjoin the proposed SSCD.

A letter was sent to the property owners in the proposed district providing them with a detailed outline of the new development limits for a single-story district and explaining that if adopted the new development standards shall only be applicable to properties located within the district and not the adjacent properties outside the proposed district (Attachment 7). The following development regulations will apply:

#### Single Story Limit

- There will be a limit of one habitable floor (story). Habitable areas are interiors conditioned for human occupancy (e.g. meet standards for heat, insulation, light and minimum ceiling heights).
- Lofts, mezzanines and similar areas will be prohibited as well as attics that meet habitable standards.
- The one-story limit will apply to all proposed structures on the property, including detached structures such as garages, accessory living units, etc.

#### Building Height Limit

- The maximum building height will be 17 feet (currently 30 feet).

#### Maximum Gross Floor Area

- The maximum floor area ratio (FAR) of each home will be 45 percent, the same for any one-story home in the R-0 zoning district.
- No future home additions beyond 45 percent FAR will be permitted unless a Variance is granted.
- A basement is not considered a story unless it extends more than two feet above the ground; it would then be counted towards the floor area limit.

#### Legal Non-Conforming Homes

- Existing legally constructed homes that exceed 45 percent FAR, 17 feet in height, or that have existing 2-story homes will be considered legal and non-conforming if the properties are

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rezoned.

- Legal non-conforming homes can be maintained and repaired subject to City building permits provided the non-conformity is not increased.

#### Neighborhood Density

- The proposed single-story rezoning boundary is an R-0 single-family zone where only one dwelling units is allowed per lot. The new zoning designation will be R-0/S. The area will remain a single-family area with only one dwelling unit allowed on each lot. Accessory dwelling units are allowed on lots over 8,500 square feet, and must also meet the single-story limitation.

#### Eichler Design Guidelines

The boundary proposed for rezoning by the applicant includes 19 properties with Eichler homes and are subject to the Eichler Design Guidelines adopted by the City Council in 2009. The Guidelines are used in support of the zoning code and provide guidance when absolute standards are inappropriate. The Guidelines focus on design issues, compatibility, and privacy concerns and still allow creativity and individuality in architectural expression. Residential design review decisions in Eichler neighborhoods must be compatible with the Guidelines.

#### Single Family Home Design Techniques

The boundary proposed for rezoning by the applicant includes seven properties that are not developed with Eichler homes and are not subject to Eichler Design Guidelines. Development on these non-Eichler properties will be guided by the Single Family Home Design Techniques that addresses neighborhood compatibility, scale, bulk, architectural style, character, parking and landscaping. These guidelines are utilized citywide for single family homes in non-Eichler neighborhoods.

#### **FISCAL IMPACT**

There is no development related to this application. No fiscal impacts other than normal fees and taxes associated with owning a single-family home are expected.

#### **PUBLIC CONTACT**

Public contact was made through the following;

- A hearing notice was placed in the Sunnyvale SUN newspaper.
- The Planning Commission agenda was posted on the City's official-notice bulletin board and the City's website.
- The agenda and staff report were made available on the City's website and in the Office of the City Clerk.
- 115 notices were sent to the project area and surrounding property owners.
- The blocks within the proposed district were posted with hearing notices.

An information packet that included a summary outlining the restrictions of the single-story combining district was sent to the property owners in the proposed district. This summary also explained that if adopted the new development standards shall only be applicable to properties located within the district and not on the adjacent properties outside the proposed district. This summary is also intended to help property owners gain a complete understanding of the proposal prior to them filling

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in the survey. This summary is also intended to be helpful to those property owners who are not able to attend the neighborhood meeting (Attachment 7). The results of the Survey are noted in the Existing Policy section of this report.

A neighborhood meeting was held for this project on August 31, 2017 at the Sunnyvale Community Center at which four people attended.

### **ALTERNATIVES**

Recommend to City Council:

1. Find the project exempt from CEQA pursuant to CEQA Guidelines Sections 15305 and 15061 (b)(3).
2. Introduce an Ordinance (Attachment 6 of this report) to Rezone 24 contiguous single family home lots from R-0 (Low Density Residential) to R-0/S (Low Density Residential/Single Story), and one lot (with 2 assessor parcel numbers) from R-0/PD (Low Density Residential / Planned Development) to R-0/S/PD (Low Density Residential/Single Story/ Planned Development) (25 lots total).
3. Introduce an Ordinance to create an SSCD with modified boundaries.
4. Deny the rezone.

### **STAFF RECOMMENDATION**

Recommend to City Council: Alternatives 1 and 4: 1. Find the project exempt from the California Environmental Quality Act (CEQA) pursuant to CEQA Guidelines Section 15305 and 15061(b)(3); and, 4. Deny the rezone.

Prepared by: Shétal Divatia, Senior Planner  
Reviewed by: Gerri Caruso, Principal Planner  
Reviewed by: Andrew Miner, Planning Officer  
Reviewed by: Trudi Ryan, Director of Community Development  
Reviewed by: Kent Steffens, Assistant City Manager  
Approved by: Deanna J. Santana, City Manager

### **ATTACHMENTS**

1. *Not Used*
2. Vicinity and Noticing Map
3. List of addresses and APNs within the proposed district
4. Rezoning Boundary Options
5. List of approved and pending SSCD applications
6. Draft Ordinance
7. Letter from City to property owners in proposed district
8. Public Comments Received