



City of Sunnyvale

Meeting Minutes - Draft Planning Commission

Monday, June 24, 2019

6:00 PM

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

Special Meeting - Study Session - 6:00 PM | Special Meeting - Public Hearing - 7:00 PM

6:00 PM STUDY SESSION

1 Call to Order in the West Conference Room

2 Roll Call

3 Study Session

A. [19-0683](#)

Proposed Project: Related applications on a 6.01-acre site:
MAJOR MOFFETT PARK DESIGN REVIEW PERMIT: to
construct a new four-story 123,595 s.f. office building and
associated site improvements resulting in a 47% FAR
Location: 1389 Moffett Park Drive (APN: 110-37-002)
File #: 2018-8050
Zoning: MPI (Moffett Park Industrial)
Applicant / Owner: RMW Architecture & Interiors (applicant) / WP
Carey & Harvest Properties, Inc. (owner)
Environmental Review: Negative Declaration
Project Planner: Ryan Kuchenig, 408-730-7431,
rkuchenig@sunnyvale.ca.gov

B. [19-0684](#)

Proposed Project:
PEERY PARK PLAN REVIEW PERMIT to consider
architectural modifications to a previously approved project
(Phase 1 & Phase 2 of the Catalyst Office Park)
Location: 684-686 W. Maude Avenue & 810-870 W. Maude Avenue &
470 Potrero Ave (APNs: 165-28-014, 165-28-015, 165-28-016,
65-30-001, 011, & 012)
Files #: 2015-8126 & 2017-7066
Zoning: PPSP (Peery Park Specific Plan)
Applicant / Owner: Harvest Properties, Inc.
Project Planner: Ryan Kuchenig, 408-730-7431,

rkuchenig@sunnyvale.ca.gov

4 Public Comment on Study Session Agenda Items

5 Adjourn Study Session

7:00 PM PLANNING COMMISSION MEETING

CALL TO ORDER

Chair Howard called the meeting to order at 7:05 PM in the Council Chambers.

SALUTE TO THE FLAG

Chair Howard led the salute to the flag.

ROLL CALL

Present: 7 - Commissioner Carol Weiss
Chair Daniel Howard
Commissioner John Howe
Commissioner Ken Olevson
Vice Chair David Simons
Commissioner Ken Rheaume
Commissioner Sue Harrison

ORAL COMMUNICATIONS

Commissioner Howe congratulated Vice Chair Simons and Commissioner Weiss on their re-appointment to the Planning Commission for another term.

CONSENT CALENDAR

Vice Chair Simons suggested a minor modification to the meeting minutes previously approved by staff.

Commissioner Howe moved and Commissioner Weiss seconded the motion to approve the Consent Calendar with minor modification as proposed by Vice Chair Simons and approved by staff.

The motion carried by the following vote:

Yes: 7 - Commissioner Weiss
Chair Howard
Commissioner Howe
Commissioner Olevson
Vice Chair Simons
Commissioner Rheaume
Commissioner Harrison

No: 0

1.A [19-0689](#) Approve Planning Commission Meeting Minutes of June 10, 2019

PUBLIC HEARINGS/GENERAL BUSINESS

- 2.** [19-0384](#) Updates to the Design Criteria for Wireless Telecommunication Facilities in the Public Right-of-Way: Forward a Recommendation to the City Council to Adopt a Resolution Updating the Design Criteria for Processing Wireless Communication Facilities in the Public Right-of-Way, and Find that the Action is Exempt from CEQA Pursuant to CEQA Guideline Section 15061(b) (3), and 15378(b).

Assistant Director Andrew Miner introduced the agenda item and stated that it represents staff's effort to improve upon the existing design guidelines.

Associate Planner Mary Jeyaprakash presented the staff report.

Vice Chair Simons stated that the Commission has required landscaping, decoration, and reductions in equipment to minimize the aesthetic impact of wireless telecommunication facilities and asked how these mitigation measures would be implemented in the context of the proposed guidelines. Assistant Director Miner responded that staff will continue to work with applicants on the design and location of equipment and gather feedback from the surrounding neighbors, but that those efforts are not detailed in the proposed guidelines. Rather, he stated that an important goal of the proposed guidelines is to create a more objective design criteria by clarifying terminology and establishing definitions. He added that location requirements for the facilities would not change. Vice Chair Simons confirmed with Assistant Director Miner that neighbors can still appeal the proposed projects and that the Commission may still review these types of projects as each is different and every situation cannot be captured in the proposed guidelines.

Assistant Director Miner stated that an attorney representing Verizon Wireless submitted a letter regarding the proposed guidelines after the agenda was posted.

Vice Chair Simons stated Verizon Wireless's interest in establishing exclusively objective criteria and asked staff if the Commission would still be able to implement the previously mentioned mitigation measures given the shift toward more objective standards. Senior Assistant City Attorney Rebecca Moon stated that the City has the ability to regulate aesthetics but that the Federal Communications Commission (FCC) requires the City to have objective standards for regulating aesthetics, accomplished by defining the standards and then applying them to each project.

Vice Chair Simons asked if the proposed objective criteria would have inhibited the Commission's previous mitigation measures for more aesthetically pleasing equipment designs. Senior Assistant City Attorney Moon stated that the City needs to be objective and define appropriate aesthetic design. Vice Chair Simons stated his concern that some applicants may not have the equipment that conforms to the definition of aesthetically pleasing. Senior Assistant City Attorney Moon stated that the FCC is promoting a policy that encourages small cell deployment and the perception is that local regulations are impeding the initiative; therefore, the FCC is placing more restrictions on municipalities. She added that the bollards added to the previous project was a rare example of a safety concern and that she believes we cannot make an applicant install and maintain landscaping. Vice Chair Simons and Assistant Director Miner stated that private property owners have had the option of installing and maintaining landscaping for the equipment on their property.

Senior Assistant City Attorney Moon clarified that the proposed guidelines pertain to just those facilities located in the public right-of-way and that the City has more control over the design on City-owned facilities. Assistant Director Miner stated that the proposed guidelines are as objective as possible and clearly define the City's expectations, such as by defining the least intrusive feasible location and the smallest size antenna technically feasible. Vice Chair Simons stated his concern that mitigation efforts would not be possible with the objective standards. He confirmed with Assistant Director Miner that the proposed guidelines would still allow the Commission to handle review rare instances where additional mitigation efforts might be needed and that staff would continue to work with the applicant prior to approval to try and avoid the need for mitigation efforts.

Senior Assistant City Attorney Moon stated that the goal of the objective criteria is for the applicant to understand the City's expectations up front and then choose a least intrusive feasible design that most closely meets the criteria. She added that the Commissioners must apply the design guidelines with appeals.

Commissioner Weiss asked staff if other providers have access to City-owned poles other than AT&T. Assistant Director Miner responded that AT&T is the only provider with a current agreement but that Verizon Wireless has demonstrated interest in an agreement. He added that there are only two possible design options for City-owned poles which leaves less discretion to the applicant.

Commissioner Weiss asked which government entity regulates radio frequency (RF) emissions. Assistant Director Miner stated that the Environmental Protection Agency creates the RF emissions standards, the FCC implements and enforces them, and each carrier is aware of the standards that must be met. He added that the City asks for reports from the carriers demonstrating that they meet the established RF emissions standards and that by law the City cannot establish its own standards. Commissioner Weiss asked if staff ever work with carriers to further confirm that they meet the RF emissions standards. Assistant Director Miner responded that in some cases, staff has asked carriers to measure RF emissions prior to and after equipment installation.

Commissioner Weiss stated her suggestion to add the term great room to the definition of primary view based on the layout of many Sunnyvale homes.

Commissioner Olevson asked why the City does not require automatic undergrounding of equipment like the City of Palo Alto. Assistant Director Miner stated that the undergrounding is typically restricted to downtown Palo Alto, that the City of Palo Alto recently amended its standards to not require undergrounding in every instance, and that it is a utility provider and therefore has more discretion on the design of equipment on its poles. He stated that staff has studied the feasibility of undergrounding and determined that there is not adequate space for vaulting for those poles located in the public right-of-way, but that it may be possible in the future for downtown Sunnyvale. He added that undergrounding is difficult for carriers and some have forgone proposed projects that required it.

Commissioner Harrison asked staff why the ten projects listed in the staff report were withdrawn. Associated Planner Jeyaprakash stated that they were paused or withdrawn because they did not meet various design criteria. Assistant Director Miner stated an example of a proposed project that the applicant placed on hold to research an agreement with the City that would solve its coverage issues in consideration of a neighbor who had serious health concerns regarding the proposed project.

Commissioner Harrison asked staff about the addition of new overhead lines. Senior Assistant City Attorney Moon stated that none of the requirements in the proposed guidelines are blanket requirements. Assistant Director Miner clarified that proposed projects without new overhead lines would be reviewed at the staff level and those with new overhead lines would require review by the Planning Commission. He disagreed with the communication from the attorney that states that carriers are restricted by PG&E from receiving power; rather, power is available and the logistics must be coordinated.

Commissioner Harrison asked staff to explain how the City can establish the objective criteria and concurrently claim that it is not limited to reviewing proposed projects based solely on that objective criteria. Senior Assistant City Attorney Moon stated that the telecommunication industry argues that local jurisdictions cannot regulate aesthetics but it is her legal opinion that the City does have the ability. She stated that the City must be objective with its criteria but that it must be flexible enough to allow for small cell installations, for if the objective standards are infeasible for carriers and prevents small cell installations, then that would be a violation of federal law. Assistant Director Miner stated that the proposed guidelines are based on recently adopted FCC standards and staff's experience with the carriers. He stated that the proposed guidelines attempt to create as much clarity and authority at the staff level so that proposed projects are not unnecessarily reviewed by the Commission.

Commissioner Harrison asked how staff intends to define the smallest design and least intrusive feasible as equipment shapes and sizes change over time. Assistant Director Miner stated that the proposed guidelines would be adopted by a resolution and would not become part of the zoning code, partly to adapt to changes that may take place.

Commissioner Harrison stated that she is in favor of the smallest size and least intrusive feasible language and stated the attorney's argument that those concepts are not objective. Senior Assistant City Attorney Moon stated her opinion that the criteria is objective and that the City does not have the ability to dictate certain equipment because staff does not have the expertise, the carriers are different, and the technology is constantly changing. Assistant Director Miner stated that staff has tried to define least intrusive feasible as much as possible from a non-RF engineering perspective, keeping in mind carriers' needs and staff's responsibility to protect the neighborhoods and educate the community about the process.

Commissioner Harrison asked staff to comment on the attorney's claim that prohibiting a wireless telecommunication facility within 300 feet of another one restrains Verizon Wireless's ability to do business. Senior Assistant City Attorney Moon stated that if a carrier demonstrates that it needs a pole to improve its coverage needs and that it has exhausted all options to find another pole not within 300 feet of another one, then it is possible that the installation could be reviewed by the Commission. Assistant Director Miner stated that the requirement attempts to prevent the installation of successive equipment down residential streets. He stated that the proposed guidelines could be changed to specify that proposed projects located within 300 feet of another installation be reviewed by the Planning Commission but added that the request would most likely be rare if City poles were to become available to carriers.

Chair Howard opened the Public Hearing.

Corrie Engelson stated her concern with the oversaturation of installations in neighborhoods and her interest in the proposed guidelines preventing installations within 300 feet of any other type of installation. She also stated her preference for landscaping to obscure views of equipment and suggested that some homeowners may be amenable to paying for equipment undergrounding.

Teague Soderman, Sunnyvale resident, stated that the definition of primary view should include home offices, that installations should not be within the primary view of properties on both sides of the street, and that heritage and heritage-sized trees located next to installations should be protected.

Commissioner Howe confirmed with Assistant Director Miner that the proposed guidelines state that installations are prohibited from being within 300 feet of other installations in the public right-of-way. Associated Planner Jeyaprakash stated that the emissions report submitted by applicants includes a cumulative measure of any emissions picked up from other installations.

Ginbar Ketema, representing Verizon Wireless, thanked staff for taking their feedback into consideration with the final draft of the proposed guidelines and stated the company's interest in a concrete set of objective standards for design criteria.

Commissioner Harrison asked Ms. Ketema her opinion for how the City can improve the proposed design guidelines to better define equipment dimensions that minimize

the negative visual impact, considering that some equipment may have less volume but more negative visual impact. Ms. Ketema stated that a master license agreement with the City would limit the design options but that there would still be a need for the proposed design guidelines for installations on non-City-owned structures. Commissioner Harrison confirmed with Ms. Ketema that Verizon Wireless strives to produce and install equipment that is the least visually impactful. Ms. Ketema stated that the phrase least intrusive feasible is subjective to her and hard to identify because equipment is constantly changing.

Vice Chair Simons asked Ms. Ketema if it would be useful to include a stipulation in the proposed guidelines that equipment be upgraded if there is a less intrusive design available. Ms. Ketema stated that it would be reasonable.

Chair Howard closed the Public Hearing.

Vice Chair Simons clarified for Senior Assistant City Attorney Moon that there has been a process for carriers to re-apply during which time the City could require new or modified equipment if less intrusive options were available. Senior Assistant City Attorney Moon stated that the ordinance reads that the City would have to initiate a permit revocation process to enforce the equipment upgrade, permit revocations usually taking place only in egregious situations. Vice Chair Simons asked staff under what circumstances could upgraded equipment be installed. Senior Assistant City Attorney Moon stated that it is difficult to require modifications after permit issuance. Vice Chair Simons confirmed with Assistant Director Miner that staff review hardware upgrade applications. Assistant Director Miner stated that requiring upgraded equipment after the initial installation is too big a burden for the carriers and that upgrading would not take place very often as equipment will most likely not drastically reduce in size soon. Assistant Director Miner clarified for Vice Chair Simons that the requirement for carriers to re-apply every two years pertains to installations located anywhere in the city.

MOTION: Commissioner Howe moved and Vice Chair Simons seconded the motion for Alternative 1 - Forward a Recommendation to the City Council to Adopt a Resolution (Attachment 2 to the report) to Update the design criteria for Processing wireless telecommunication facilities in the Public Right-of-Way, and Find that the Action is Exempt from CEQA Pursuant to CEQA Guidelines Section 15061(b)(3) and 15378(b).

Commissioner Howe stated that he would be reluctant to have a wireless

telecommunication facility in his neighborhood, but the City does not have much discretion on the subject due to federal law.

Vice Chair Simons stated that he is unsure how to define least intrusive feasible and is therefore not comfortable recommending changes to the proposed guidelines.

Assistant Director Miner confirmed with Commissioner Howe that the motion is exactly the staff recommendation.

Vice Chair Simons stated his preference that all installations be as aesthetically pleasing as possible throughout the city and added that downtown has different needs that may require an aesthetic different than the rest of the city. He stated his frustration with the review process for wireless telecommunication facilities, his belief that the city benefits from small cell installations, his desire for least intrusive designs, and his perception that there would be less authority to improve the aesthetics of installations if the proposed guidelines were adopted. He added that he will support the motion.

FRIENDLY AMENDMENT: Commissioner Harrison offered a friendly amendment to specify that a proposed wireless telecommunication facility in the public right-of-way within 300 feet of another wireless telecommunication facility in the public right-of-way be reviewed by the Commission.

Commissioner Harrison clarified her friendly amendment and stated that it is in response to the attorney's letter that claims that not allowing an installation in the public right-of-way within 300 feet of another installation in the public right-of-way violates federal law and would not be prohibitive if the Commission were to review in these instances.

Chair Howard confirmed with Assistant Director Miner that the proposed guidelines prohibit installations in the public right-of-way from being located within 300 feet of each other with no option for Commission review.

Commissioner Howe confirmed with Assistant Director Miner that the 30 sites under review that were listed for the Commission are not located within 300 feet of each other.

Commissioner Howe and Vice Chair Simons accepted the friendly amendment.

Commissioner Harrison stated that she will support the motion and added that the proposed guidelines are not arbitrarily subjective but are descriptions of objective criteria.

Chair Howard stated that he will support the motion and thanked Associate Planner Jeyaprakash and staff for their diligence on the issue. He stated that the proposed guidelines appear to conform to the latest federal laws and regulations and balances the concerns of the Sunnyvale and telecommunication communities. He also thanked Commissioner Harrison for the addition of the friendly amendment.

Chair Howard summarized the motion.

The motion carried by the following vote:

Yes: 7 - Commissioner Weiss
Chair Howard
Commissioner Howe
Commissioner Olevson
Vice Chair Simons
Commissioner Rheaume
Commissioner Harrison

No: 0

Assistant Director Miner stated that this recommendation will be forwarded to the City Council for consideration at the Tuesday, July 16, 2019 meeting.

3. [19-0686](#) Review of Existing Landscaping at Bright Horizons at 1010 Sunnyvale-Saratoga Road

Assistant Director Andrew Miner stated that the discussion is in response to the concern some of the Commissioners have demonstrated over the size of the boulders outside of the site. He added that no action is needed and it is an opportunity for staff and the Commission to discuss and share feedback.

Associate Planner Momoko Ishijima presented the staff report.

Assistant Director Miner stated that the applicant is amenable to adjusting the boulders and that he believes the resulting boulder size happened because of different interpretations of the requirement.

Vice Chair Simons stated that the Commission was presented with images of geometric blocks during the review process and not boulders, that there were specifications required for the dimensions, and that they were to be of a certain standard to withstand vehicle impact.

Commissioner Howe confirmed with staff that the project was completed in February, most likely prior to the first discussion on the boulder size. Commissioner Howe agreed with Vice Chair Simons that there was an image presented during the review process of objects more significant than the boulders. He confirmed with staff that there is an emergency exit out of the building leads to the street and that the speed limit on Sunnyvale-Saratoga Road is 40 mph. He stated his impression that the intended objects would protect the children inside from potential vehicle collisions. Assistant Director Miner agreed with Commissioner Howe that the flatter boulders would not serve the intended purpose. Commissioner Howe stated his belief that the applicant did not meet the requirements, the importance of protecting the children at the site, and concluded that he would not have approved the project with the present boulders. Assistant Director Miner stated that the boulders are located at the corner in front of the building which is where the traffic collisions would occur and that the children do not spend most of their time in that corner of the building. Commissioner Howe clarified that he agrees that the boulders are correctly placed on the corner but disagrees with their smaller size. He confirmed with Assistant Director Miner that he would like more, larger boulders in place. Assistant Director Miner stated that he will research objective criteria that relate to vehicle barriers and present the findings to the Commission.

Vice Chair Simons stated that he will share with staff requirements for vehicle barriers.

Commissioner Olevson stated that he also believes that the boulders were not what was presented during the review process and expected that they were going to be somewhat spherical and at least 4 feet in diameter and more than 2.5 feet above ground. He added that everyone in the building should be protected and that everything should be done to ensure that the boulders provide the necessary protection, including placing them far enough above ground to be effective. Assistant Director Miner stated that the site plans indicated that a quarter to one-third of the boulders would be submerged in the ground.

Commissioner Weiss stated that the boulders should be closer together to prevent

passage through them and that the site could easily be targeted because of its lack of safety and security measures.

Commissioner Harrison stated her interest in reviewing the objective standards for vehicle barriers. Assistant Director Miner stated that staff will research the standards and continue to work with the applicant.

Chair Howard opened the Public Hearing.

There were no public speakers for this item.

Chair Howard closed the Public Hearing.

Chair Howard stated that the burden should not be on applicants to protect their structures and occupants from vehicle impacts; instead, every street in the city should be designed with a safety-first approach consistent with the City's Vision Zero effort. He suggested that the Department of Public Works consider reducing the speed limit in this area and implement any other measures that may complement the purpose of the boulders. He added that transportation safety should be a priority and be handled systematically at the city level.

4. [19-0685](#) Recommendation to the Council Subcommittee on Board and Commission Bylaws to Amend Section 2.A.(IX) of Council Policy 7.2.19 to Formally Change the Planning Commission Meeting Time to 7:00 PM

Assistant Director Andrew Miner presented a brief overview of the item.

Chair Howard opened the Public Hearing.

There were no public speakers for this item.

Chair Howard closed the Public Hearing.

MOTION: Commissioner Harrison moved and Vice Chair Simons seconded the motion to formally recommend that the Council Subcommittee on Board and Commission Bylaws amend Section 2.A.(IX) of Council Policy 7.2.19 to modify the start time of the Planning Commission to 7:00 PM.

Commissioner Harrison stated that a start time of 7:00 PM has worked for the Commission.

Chair Howard stated that he would prefer an 8:00 PM start time so that he could put his kids to bed but that a 7:00 PM start time is reasonable.

The motion carried by the following vote:

Yes: 7 - Commissioner Weiss
Chair Howard
Commissioner Howe
Commissioner Olevson
Vice Chair Simons
Commissioner Rheaume
Commissioner Harrison

No: 0

Assistant Director Miner stated that this recommendation will be forwarded to the Council Subcommittee on Board and Commission Bylaws for City Council consideration.

STANDING ITEM: CONSIDERATION OF POTENTIAL STUDY ISSUES

NON-AGENDA ITEMS AND COMMENTS

-Commissioner Comments

-Staff Comments

Assistant Director Andrew Miner congratulated Vice Chair Simons and Commissioner Weiss on their appointment by the City Council to the Planning Commission for another 4-year term and stated that board and commission members were sworn in on June 18, 2019. He stated that the City Council will consider the proposed budget at the June 25, 2019 meeting which will include the Commission's budget recommendations.

ADJOURNMENT

Chair Howard adjourned the meeting at 9:14 PM.