



# City of Sunnyvale

## Meeting Minutes - Final Planning Commission

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Monday, September 28, 2020

6:00 PM

Telepresence Meeting: City Web Stream |  
Comcast Channel 15

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**Special Meeting - Study Session - 6:00 PM | Public Hearing - 7:30 PM**

### TELECONFERENCE NOTICE

#### **6:00 PM STUDY SESSION**

**Call to Order**

**Roll Call**

**Study Session**

**A.      [20-0856](#)**

**Proposed Project:**

**SPECIAL DEVELOPMENT PERMIT AND TENTATIVE MAP:**

for a 142-foot tall twelve-story mixed-use building with approximately 30,000 square feet retail/restaurant space and 481 dwelling units, two levels of underground parking and site improvements including Redwood Square.

**Location:** 200 South Taaffe Street (APN: 209-35-023)

**File #:** 2020-7262

**Zoning:** DSP-18

**Applicant / Owner:** STC Venture LLC (applicant/owner)

**Environmental Review:** The proposed project is exempt pursuant to CEQA Guidelines Section 15183-Project Consistent with a Community Plan and was previously evaluated in the Downtown Specific Plan EIR (SCH # 2018052020) which was Certified by the City Council on August 11, 2020.

**Project Planner:** Shaunn Mendrin, (408) 730-7431,  
smendrin@sunnyvale.ca.gov

**Adjourn Study Session**

#### **7:30 PM PLANNING COMMISSION MEETING**

#### **CALL TO ORDER**

Chair Howard called the meeting to order at 7:49 PM.

**ROLL CALL**

**Present:** 5 - Chair Daniel Howard  
Vice Chair David Simons  
Commissioner John Howe  
Commissioner Ken Olevson  
Commissioner Ken Rheaume  
**Absent:** 2 - Commissioner Sue Harrison  
Commissioner Carol Weiss

Commissioner Weiss and Commissioner Harrison's absences are excused.

**ORAL COMMUNICATIONS**

**CONSENT CALENDAR**

MOTION: Commissioner Howe moved and Commissioner Rheaume seconded the motion to approve the Consent Calendar.

The motion carried by the following vote:

**Yes:** 4 - Chair Howard  
Vice Chair Simons  
Commissioner Howe  
Commissioner Olevson

**No:** 0

**Absent:** 2 - Commissioner Harrison  
Commissioner Weiss

**Abstained:** 1 - Commissioner Rheaume

1. [20-0858](#) Approve Planning Commission Meeting Minutes of September 14, 2020

**PUBLIC HEARINGS/GENERAL BUSINESS**

2. [20-0857](#) **Proposed Project:** Appeal of a decision by the Director of Community Development denying a Tree Removal Permit for one Redwood Tree located in the rear yard of Unit 41 in a Mobile Home Park.  
**Location:** 1050 Borregas Avenue (APN:110-13-062)  
**File #:** 2020-7376  
**Zoning:** RMH  
**Applicant / Owner:** Ryan Jasinsky (applicant) / Staedler Lands LLC

Etal (owner)

**Environmental Review:** A Class 4 Categorical Exemption relieves this project from California Quality Act provisions and City Guidelines.

**Project Planner:** Betty Avila, (408) 730-7419, bavila@sunnyvale.ca.gov

Assistant Planner Betty Avila presented the staff report with a slide presentation.

Ryan Jasinsky, appellant and Director of Property Management for Brandenburg, Staedler & Moore, presented information about the appeal.

Commissioner Rheume asked Mr. Jasinsky what prompted the Tree Removal Permit application. Mr. Jasinsky stated that there is a water leak that needs to be more fully explored and answered for Commissioner Rheume that the property was built in 1973.

Chair Howard asked Mr. Jasinsky if PG&E examined the gas line and provided information on the feasibility of relocating it. Mr. Jasinsky stated that PG&E would not get involved because as a mobile home community, they are responsible for all utilities.

Vice Chair Simons confirmed with Mr. Jasinsky that the water and gas lines are 18 inches away from the tree trunk. Vice Chair Simons stated that tree roots will grow towards sewer and water line leaks. He recommended that if the Commission denies the appeal, to install long, continuous sections of lines to reduce leaks at pipe joints, pulling a new line through if possible, and avoid cutting the Redwood tree roots on one side. Blaine Boccignone, appellant's arborist with Arborwell, stated his concern that the outer part of the trunk is 18 inches from the gas and water lines and the root plate is directly above them, adding that Redwood roots can grow three to six feet deep and the tree can pose the risk of wrapping around the gas line and crushing it. Mr. Boccignone further remarked that digging out the gas line and dealing with a potential leak with the Redwood in place would be difficult and may result in the tree's necessary removal. Vice Chair Simons stated that most utility lines are re-pulled and not dug out and that tree roots do not grow towards gas lines.

Chair Howard asked the appellant team the age of the Redwood tree with the assumption that it existed before the mobile home community was built. Mr. Jasinsky stated that the community was built in 1973 and Mr. Boccignone stated that it is possible that the tree is the same age as the community.

Commissioner Rheume asked Joseph Gonsalves, Public Works Supervisor and

City Arborist, the age of the Redwood tree and if it is a threat to the gas line. Supervisor Gonsalves responded that the tree is approximately 75 to 80 years old and does not pose a risk to the gas line because Redwood trees have thin root systems in an urban forest environment, tree roots avoid gas lines but grow towards water leaks, and gas and water lines are typically placed in different trenches. Commissioner Rheume asked Supervisor Gonsalves to comment on staff's statement that the tree is an asset to the community. Supervisor Gonsalves answered that it is a big, beautiful tree and Redwood trees are symbolic of Sunnyvale. Supervisor Gonsalves responded to Commissioner Rheume that it would be approximately 60 to 70 percent warmer in the area if the tree were to be removed and that the tree is valued at approximately \$50,000 to \$70,000 according to the International Society of Arboriculture standards. Commissioner Rheume asked about the penalty for removing the tree without a permit. Assistant Director Andrew Miner stated that the zoning code specifies a penalty of between \$10,000 and \$50,000.

Mr. Jasinsky added that the community's gas and water lines are buried in the same trench and restated their concern for the tree's roots reaching the gas line.

Chair Howard opened the Public Hearing.

Doris Maez, Sunnyvale resident, expressed concern for the age of the water line pipes and stated that the appellant would continue to experience issues if the tree were replaced.

Mr. Boccignone provided additional information about the appeal.

Chair Howard closed the Public Hearing.

MOTION: Commissioner Rheume moved and Commissioner Olevson seconded the motion for Alternative 1 - Deny the appeal and uphold the decision of the Director of Community Development to deny the Tree Removal Permit.

Commissioner Rheume stated that he cannot make the findings and that an 80-year-old tree is irreplaceable. He appreciated the appellant's presentation but cited Supervisor Gonsalves's position that the tree roots are not threatening the gas line, adding that it is more likely that the water line needs replacement due to its age. He urged the Commissioners to support the motion.

Commissioner Olevson stated that he cannot make the findings. He commented that although he can appreciate the appellant's expected costs to repair or replace the water line, utility line maintenance is a responsibility of housing property managers and he cannot support removing the tree because the alternative of maintenance would be costly.

Chair Howard stated that he will support the motion and cannot make the findings.

The motion carried by the following vote:

**Yes:** 5 - Chair Howard  
Vice Chair Simons  
Commissioner Howe  
Commissioner Olevson  
Commissioner Rheume

**No:** 0

**Absent:** 2 - Commissioner Harrison  
Commissioner Weiss

Principal Planner Noren Caliva-Lepe stated that this decision is final.

3.      [20-0854](#)      **Proposed Project:** Appeal of a decision by the Director of Community Development denying a Tree Removal Permit for two Redwood trees located in the front yard of single-family home.  
**Location:** 1590 Lewiston Drive (APN:323-23-027)  
**File #:** 2020-7438  
**Zoning:** R-1  
**Applicant / Owner:** Joseph B. Didone (applicant) / Verna Didone  
Trustee (owner)  
**Environmental Review:** A Class 4 Categorical Exemption relieves this project from California Quality Act provisions and City Guidelines.  
**Project Planner:** Betty Avila, (408) 730-7419, bavila@sunnyvale.ca.gov

Assistant Planner Betty Avila presented the staff report with a slide presentation.

Commissioner Rheume asked Public Works Supervisor and City Arborist Joseph Gonsalves the age and value of the two trees and how much warmer it would be in the area if they were removed. Supervisor Gonsalves stated that they are approximately 60 to 75 years old, are valued at approximately \$20,000 to \$60,000

depending on their integrity, and if removed could result in an increase in heat in the area by up to 80 percent considering the shade they currently provide. He added that the two trees are healthy and tree number three is leaning because of root decay and a root cap that is unhealthy.

Chair Howard opened the Public Hearing.

Joseph Didone, appellant, presented information about the appeal.

Vice Chair Simons stated that he lives in the same neighborhood as Mr. Didone with the same landscaping layout and types of trees on approximately the same size property and recommended trimming the trees up more. He commented that their neighborhood's original sewer lines were made of tar paper which will require replacement, recommended continuous sewer pipes, advised not to kill the roots while the trees are healthy, and emphasized that root intrusion only takes place when there is an underground water leak. Vice Chair Simons offered to help Mr. Didone with any of the issues he is experiencing.

Commissioner Olevson asked Mr. Didone if he considered trimming the lower branches of trees one and two to provide more light to plant below them. Mr. Didone responded that it is possible but that he is also struggling with balls of roots that are protruding from the ground. He further remarked that he is concerned about the time and maintenance required to remove the Redwood branches that fall onto his roof.

Chair Howard opened the Public Hearing.

Ann Finnie, Mr. Didone's neighbor, stated her opinion that all three trees should be removed because removing tree three will damage the root system and structural integrity of the other two trees.

Mr. Didone provided additional information about the appeal.

Chair Howard closed the Public Hearing.

MOTION: Commissioner Rheaume moved and Commissioner Olevson seconded the motion for Alternative 1 - Deny the appeal and uphold the decision of the Director of Community Development to deny the Tree Removal Permit for trees #1 and #2.

Commissioner Rheume stated that he cannot make the findings, does not believe that Redwood trees easily fall over, and struggles with the idea of removing beautiful, old trees. He added that the trees are assets to the neighborhood and should not be blamed for necessary maintenance, further remarking that Mr. Didone can create a nice landscape with ferns instead of grass below the trees. He urged the Commissioners to support the motion.

Commissioner Olevson stated that he cannot make the findings to support granting the removal of trees numbers one and two. He stated that removing them would be premature as Mr. Didone can act upon Supervisor Gonsalves's suggestion to trim the trees to provide more light which could allow plantings below the tree and possibly solve part of the issue.

Vice Chair Simons restated his offer to help the appellant and recommended that Mr. Didone remove the pami pebble on his property, regularly maintain his concrete, and choose from many different landscaping options available aside from Kentucky bluegrass. He added his support for the motion.

Chair Howard stated that he will support the motion and that he is sympathetic to Mr. Didone because he has a tree in his front yard that destroyed his sewer line and has Redwood trees in his backyard. He stated that he cannot make the findings and that the removal is not warranted because of maintenance issues but hoped that the discussion provides Mr. Didone some guidance for improving the issues related to his Redwood trees.

The motion carried by the following vote:

**Yes:** 5 - Chair Howard  
Vice Chair Simons  
Commissioner Howe  
Commissioner Olevson  
Commissioner Rheume

**No:** 0

**Absent:** 2 - Commissioner Harrison  
Commissioner Weiss

Principal Planner Noren Caliva-Lepe stated that this decision is final.

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4. [20-0844](#) Arts Commission Recommendation that the City Council (1) Approve the Master Plan for Public Art; and (2) Introduce an Ordinance Amending Municipal Code Chapter 19.52 (Art in Private Development) to Increase the Percent for Art Requirement from 1% to 1.5%, Implementing Option 2A of the Public Art Master Plan.

Planning Commission Recommendation that the City Council Introduce an Ordinance Amending Municipal Code Chapter 19.52 (Art in Private Development) to Increase the Percent for Art Requirement from 1% to 1.5%, Implementing Option 2A of the Public Art Master Plan.

Damon Sparacino, Superintendent of Community Services, presented the staff report with a slide presentation.

Commissioner Olevson asked why staff recommends increasing the requirement by half a percentage point considering there has been a rise in developer costs. Superintendent Sparacino answered that the ordinance aligns with the spending trends on art in private development between 2013 and 2019 and that the cost and scale of art and developments have contributed to the increase in spending. He stated that the increase would also incentivize developers to choose the in-lieu fee option which could help finance the Public Art Fund. Commissioner Olevson asked staff to confirm if during 2013 to 2019 most developers that required public art spent less than 1.5 percent on it. Kristin Dance, Community Services Coordinator, and Superintendent Sparacino clarified that 18 of the 26 projects requiring public art opted to place it on-site and 10 of the 18 projects spent above 1.5 percent. Trenton Hill, Community Services Manager, added that 8 of the 26 projects that did not place art on-site chose the 1.1 percent in-lieu option and paid into the Public Art Fund.

Chair Howard asked if staff considered an in-lieu fee of one percent and an on-site requirement of 1.1 percent or slightly higher to incentivize developers to contribute to the Public Art Fund. Superintendent Sparacino stated that both the Arts Commission and the City Council chose Option 2A in the Master Plan for Public Art which would increase the on-site art requirement percentage to 1.5 percent while maintaining the current in-lieu fee option of 1.1 percent, instead of Option 2B. Chair Howard confirmed with Community Services Coordinator Dance that non-residential projects over two acres are subject to art requirements and that a smaller percentage would be required of mixed-use residential and retail projects.

Vice Chair Simons asked if staff discussed modifying the two acre threshold considering that there is less land available and development is denser.



Superintendent Sparacino responded that staff and the consultant did not discuss or make any recommendations on the two acre threshold and added that staff will review the Master Plan for Public Art annually and consider changes to it every ten years. Vice Chair Simons shared two images of building murals as examples of unconventional ways to provide art in private development. He emphasized that architecture and landscaping can be focal points themselves and that there are different forms of art to explore which is important considering that there are not many projects that require art and choose the on-site public art option. Community Services Coordinator Dance stated that every project is different and she and her team constantly work with developers for unique art but acknowledged that there are limitations. She added that the smaller in-lieu fee percentage compared to the art requirement percentage would enable the City to provide art to the community in a different way than what could be done in private development. Superintendent Sparacino further remarked that developers that wanted to provide art on-site could pay into the Public Art Fund whatever portion of the 1.5 percent they could not meet. Assistant Director Andrew Miner shared the idea that the trigger for the art in private development requirement for denser projects could be reduced to one acre if the in-lieu fee is paid.

Chair Howard asked if art in private development is required for mixed-use developments where housing is above retail. Community Services Coordinator Dance stated that the ordinance would only apply to the retail portion and excludes housing developments or the portion of housing in a mixed-use development, unless the City Council directs otherwise.

Chair Howard opened the Public Hearing.

There were no public speakers for this agenda item.

Chair Howard closed the Public Hearing.

MOTION: Commissioner Olevson moved and Commissioner Rheaume seconded the motion for Alternative 1 - Recommend to Introduce an ordinance amending Sunnyvale Municipal Code Chapter 19.52 (Art in Private Development) to increase the percent for art requirement from 1% to 1.5%, implementing Option 2A of the Master Plan.

Commissioner Olevson stated that the ordinance accurately captures the Arts Commission's recommendation making it easy for him to support staff's

recommendation.

Chair Howard stated that he will support the motion, that he initially had concerns about the percentage increases, and that he appreciates Commissioner Olevson's efforts to fully understand the objective.

Vice Chair Simons stated that he will support the motion and that the two acre threshold should be explored sooner to incorporate denser projects that are being developed on smaller pieces of land. He added that he is fine with the percentage increases. He commented on his concern that during an Arts Commission meeting staff needed to discuss his ability to comment as a member of the public and that the Arts Commission is able to effectively run its meetings as he experienced more staff than Commissioners present at an Arts Commission meeting.

The motion carried by the following vote:

**Yes:** 5 - Chair Howard  
Vice Chair Simons  
Commissioner Howe  
Commissioner Olevson  
Commissioner Rheume

**No:** 0

**Absent:** 2 - Commissioner Harrison  
Commissioner Weiss

Superintendent Sparacino stated that this recommendation will be forwarded to the City Council for consideration at the Tuesday, October 27, 2020 meeting.

#### **STANDING ITEM: CONSIDERATION OF POTENTIAL STUDY ISSUES**

Chair Howard stated that he submitted a potential study issue for staff to review.

#### **NON-AGENDA ITEMS AND COMMENTS**

##### **-Commissioner Comments**

Vice Chair Simons asked how he can discuss forming a potential study issue with other Commissioners. Assistant Director Andrew Miner stated that staff can agendaize the topic for a future meeting. Senior Assistant City Attorney Rebecca Moon stated that Vice Chair Simons can discuss the topic with other Commissioners

if it is not a serial meeting and no more than three Commissioners participate in the discussion.

**-Staff Comments**

Assistant Director Andrew Miner stated that on September 15, 2020 the City Council denied the General Plan Amendment Initiation for 1313 S. Wolfe Road that the Commission recommended denial of on August 10, 2020, with the applicant able to re-apply in two years. On September 15, 2020 the City Council also adopted a resolution extending temporary outdoor business activities to more uses. He further remarked that City Council will hold a Study Session on September 29, 2020 that will outline the path forward for the Moffett Park Specific Plan Update.

**ADJOURNMENT**

Chair Howard adjourned the meeting at 9:43 PM.