



City of Sunnyvale

Excerpt Meeting Minutes - Final

Planning Commission

Monday, July 12, 2021

6:00 PM

Telepresence Meeting: City Web Stream |
Comcast Channel 15 | AT&T Channel 99

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

7 P.M. PLANNING COMMISSION MEETING

CALL TO ORDER

Pursuant to Section 3 of Executive Order N-29-20 (March 17, 2020) and Section 42 of Executive Order N-08-21 (June 11, 2021), issued by Governor Newsom, the meeting was conducted telephonically.

Chair Howard called the meeting to order at 7:00 p.m.

ROLL CALL

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

PUBLIC HEARINGS/GENERAL BUSINESS

2. [21-0715](#) **Proposed Project:** Related applications on a 2.77-acre site:
 SPECIAL DEVELOPMENT PERMIT to redevelop a portion (easterly portion) of an existing shopping center (Fremont Corners) into a mixed-use development with 8,094 square feet of commercial space and 50, 4-story townhome-style condominiums with associated parking and site improvements including common open space.
 TENTATIVE MAP to subdivide the lot into 6 lots and 50 condominiums.
Location: 166 E. Fremont Ave. (APN: 309-01-006)
File #: 2020-7525
Zoning: C-1/PD (Neighborhood Commercial/Planned Development)
Applicant/Owner: The True Life Companies/Fremont Corners Inc et al

(applicant/owner)

Environmental Review: Class 32 Categorical Exemption (Infill Development)

Project Planner: Shétal Divatia, (408) 730-7637,
sdivatia@sunnyvale.ca.gov

Commissioner Pyne, a member of Livable Sunnyvale, confirmed that he did not participate in Livable Sunnyvale's meeting regarding the proposed project.

Chair Howard, a member of Livable Sunnyvale, announced that he has not attended a Livable Sunnyvale meeting in the past year and a half.

Commissioner Weiss, a member of Livable Sunnyvale, disclosed that she did not participate in Livable Sunnyvale's meeting regarding the proposed project as well.

Commissioner Howe recused himself due to the proximity of his home to the proposed project.

Senior Planner Shétal Divatia presented the staff report with a slide presentation.

Commissioner Weiss questioned the cost reduction associated with California's Density Bonus Law for not undergrounding utilities. Assistant Director Andrew Miner stated that the cost of undergrounding utilities is usually anywhere between \$500 and \$1000 per linear foot.

Commissioner Weiss asked staff to clarify whether the proposed project complies with the with the LUTE requirement for a Village Center Precise Plan. Principal Planner Noren Caliva-Lepe confirmed that while the proposed project will not require a precise plan for the Village Center, it will be located within the mixed-use designation of the Village Center and comply with the goals of the LUTE Village Center for density, requested commercial FAR, and vibrancy.

Vice Chair Simons asked whether the Planning Commission has authority to request modifications to the proposed project in exchange for the concessions to the applicant granted by California's Density Bonus Law. Senior Assistant City Attorney Rebecca Moon stated that the applicant is entitled to these concessions and that a quid pro quo exchange between the Planning Commission and the applicant is not required.

Vice Chair Simons and Assistant Director Miner discussed how and why this proposed project meets the maximum density criteria of 18 units per acre set forth

by City Council.

Senior Planner Divatia stated that the new utilities in question are service drops which include new electrical conduits and new power phone lines in response to Commissioner Harrison's inquiry about which new utilities will be undergrounded.

Commissioner Harrison mentioned a letter from the public requesting the building of a 12-foot masonry fence between the single-family homes and the proposed project. Assistant Director Miner advised that the City's code allows for a fence that is a maximum of eight feet in height and that a fence greater than eight feet tall would require a use permit application from the applicant. Thus, it would not be permissible to approve a fence greater than eight feet as proposed by the member of the public.

Commissioner Harrison explored the possibility of designating the proposed project's seventy-four surface parking spaces for both commercial and resident use. Senior Planner Divatia explained that a parking management plan will ensure that parking is available for both commercial and residential users.

Commissioner Rheume revealed that he met with the applicant prior to the study session.

Regarding PL-7 on pages five and six of Attachment 6, Commissioner Pyne asked about how the commercial rather than the residential space would be impacted with the mandated use of full-size parking spaces. Senior Planner Divatia assured Commissioner Pyne that his question would be addressed by the applicant's presentation.

Chair Howard explored the possibility of the Planning Commission denying the proposed project on the basis that the proposed fence is not at least eight feet in height. Assistant Director Miner and Senior Assistant City Attorney Moon countered that since the proposed project meets objective standards and is being granted waivers and concessions, there would be no grounds to deny the project based on fence height alone.

Applicant Leah Beniston from The True Life Companies presented the project including additional images and information.

Commissioner Harrison probed the applicant about her thoughts on the use of an

eight-foot masonry fence between the proposed project and the surrounding residences. Applicant Beniston stated that she is not inclined to use a masonry fence because it requires larger footings than the posts for a wooden fence, disturbs the surrounding trees more, and, in her opinion, has a less residential feel.

Commissioner Weiss and Applicant Beniston deliberated upon both the width of the garages and the availability of 220V chargers within each unit. Applicant Beniston stated that the garages are approximately 10 feet wide and 38 feet deep to accommodate the larger vans in use by those in the American with Disabilities Act (ADA) units. At Commissioner Pyne's request, Applicant Beniston confirmed that she would be willing to add 220V chargers within each unit as a Recommended Condition of Approval.

Commissioner Weiss expressed concern about the impact that the commercial dining operation hours would have on Building 1 of the proposed project's residential area. Applicant Beniston guaranteed that no bars would exist in that portion of the commercial space and that no late-night activities will take place.

Vice Chair Simons stressed the importance of a cool roof design that possesses higher reflectivity and heat emission. When asked by Vice Chair Simons whether or not it would be an issue to use a roof of Solar Reflective Index (SRI) twenty or greater, Applicant Beniston conceded that she would be open to the inclusion of such a roof in her proposed project as long as its cost is less than or equivalent to the cost of the roof currently proposed.

Vice Chair Simons noted that the trees listed in the proposed project are ones that rely upon large amounts of water for survival. In return, Applicant Beniston stated that she would be willing to consider a water-conservative native tree palette for the proposed project's accent trees.

Vice Chair Simons and Applicant Beniston conversed about the different materials that may be used for the proposed project's fence.

Chair Howard opened the Public Hearing.

Richard Mehlinger, Chair of Livable Sunnyvale, expressed his pride at endorsing this proposed project which will meet the City's severe housing need. He shared his satisfaction at the proposed project's inclusion of private and public bike lane and parking, Electric Vehicle (EV) charging spaces, and its close proximity to jobs which

may reduce traffic in that area. However, he urged the Planning Commission to reexamine parameters in place for parking, building aesthetics, and the use of drought-tolerant landscaping to improve the City's standards.

Mike Serrone, a member of Livable Sunnyvale, echoed the same sentiments as Richard Mehlinger as he believes the proposed project will improve the current Fremont Corners site.

Kelsey Banes, a member of Livable Sunnyvale and pro-housing advocacy organization YIMBY Action, agreed with comments made by both Richard Mehlinger and Mike Serrone. She encouraged the Planning Commission to support this proposed project due to its ability to create homes and a walkable neighborhood in a currently underutilized location. She also expressed hopefulness for a continued conversation surrounding the City's objective standards and whether they truly serve the Sunnyvale community.

Marissa, a Sunnyvale resident, voiced her concerns with the noise, traffic, and light that the proposed project's high density will yield. While she believes that the existing buildings on Fremont Corners need to be renovated, she does not believe that this proposed project is the way to achieve this goal. At the very least, she stated that she would love to see more trees inserted in place of residential units.

Kat, a Sunnyvale resident, stated that she is strongly in favor of the proposed project as its for-sale units will meet the great housing demand in the area.

Sam Liu, a Sunnyvale resident, articulated his opposition against pile driving as a construction method due to the intolerable noise, vibration, and air pollution that it generates. Since these factors will negatively affect the surrounding residents who may currently be working from home, he advocated for alternative construction methods to be used and the enforcement of construction hours that do not conflict with the work schedules of neighboring residents.

Bill Lazar communicated that the proposed project appears to be a good compromise to meet the area's housing need. Not only this, but he suggested that digging underneath existing tree roots will preserve these trees and utilizing an eight-foot fence will encourage privacy. Ultimately, he believes that the proposed project will be an improvement from the current development in existence at Fremont Corners.

Sue Serrone conveyed her disappointment with the proposed project because its appearance is not in harmony with surrounding developments, including Fremont High School. She emphasized the importance of outlining objective standards for the Village Center Plan to remedy this issue since two thirds of the proposed project have yet to be approved.

Margaret Lawson offered commentary that mirrored that of Sue Serrone's.

Maharajapuram Balakrishnan weighed in on the negative effects on traffic and noise pollution that this proposed project will have due to its high density.

Ruthie, a Sunnyvale resident, shared in Maharajapuram Balakrishnan's concerns regarding noise pollution and traffic. She stated that a young girl was killed by oncoming traffic at the intersection of Bobwhite Avenue and Fremont Avenue, and she has almost been hit as well. Ruthie advocated for the consideration of the community's input with regards to these factors.

Amitha Rajanna, a Sunnyvale resident, revealed that many people accessing the existing developments on and around Fremont Corners often park in her neighborhood. She discussed her concerns with the potential increase in traffic, noise pollution, and overcrowding in schools that may come with the creation of new commercial and residential properties.

Chair Howard closed the Public Comments.

Applicant Beniston addressed the public's concerns regarding the proposed project's negative impact on noise pollution and traffic. First, she confirmed that the construction method of pile driving will not be used in the development of the proposed project. Then, she mentioned that a traffic and trip generation analysis revealed a reduction in traffic trips. She admitted that while the construction of the proposed project will increase noise in the area, this is only a temporary. Furthermore, she assured the signage used for the proposed project site will be both interesting and decorative.

Applicant Beniston also noted that the proposed project site will incorporate a playground, tables with umbrellas, different play surfaces, and a community garden. These amenities will be made available to the public as well.

Applicant Beniston discussed portions of Attachment 4 that she was either in

support of or in disagreement with. For example, she requested that GC-7, GC-8, GC-9, and EP-2 include modified language such as, “improvements contiguous with [the proposed project’s] property lines.” Despite her personal preferences, she agreed to comply with the six-foot masonry wall described in PS-1. According to Applicant Beniston, PS-3 should be eliminated as this project has been found to be California Environmental Quality Act (CEQA) exempt. She also recommended amending BP-36 so that it indicates the utilization of undergrounding only new utilities. Lastly, Applicant Beniston requested that the fees mentioned in TM-6 remain the same as those in effect at the time of the propose project’s first submittal as per SB 330.

Commissioner Harrison proposed the use of an eight-foot wooden fence in place of a six-foot masonry fence as this is what Applicant Beniston preferred.

Vice Chair Simons established that Applicant Beniston agreed to the inclusion of two additional Recommended Conditions of Approval: one for the use of a native tree palette for the proposed project’s accent trees and another for the use of a roof with a better Solar Reflective Index rating as long as it is lesser than or equal to the cost of the current proposed roof.

Principal Planner Caliva-Lepe confirmed Applicant Beniston’s request to modify GC-7, GC-8, GC-9, and EP-2. With regards to PS-1, she stated that a six-foot tall masonry fence, rather than a wooden fence, is consistent with the City’s code, and may not be modified. She confirmed that PS-3 may be struck from the Recommended Conditions of Approval, and BP-36 may be modified to reflect what is noted in Senior Planner Divatia’s slide presentation. Principal Planner Caliva-Lepe stated that, per SB 330, the TM-6 fees would be frozen at the rate they were when the proposed project was initially submitted.

Chair Howard closed the Public Hearing.

MOTION: Vice Chair Simons moved and Commissioner Harrison seconded the motion to approve Alternative 2 - Make the Findings to approve the California Environmental Quality Act (CEQA) determination that the project is categorically exempt from further environmental review pursuant to CEQA Guidelines Section 15332 as noted in Attachment 5 to the report, and approve the Special Development Permit and Tentative Map subject to the findings in Attachment 3 to the report and modified Conditions of Approval.

The modified Conditions of Approval are as follows:

- 1.) Note that Section F must be added to Recommended Condition of Approval PS-1 and should read as follows: "The applicant shall work with staff to select pre-wiring residential garages to allow at least 220 volt capability."
- 2.) Note that Recommended Condition of Approval DC-9 must be added according to the correction in the staff presentation and should read as follows: "Best Management Practices – Noise: All recommendations noted in the Environmental Noise Study prepared by Salter Associates in July 2020, must be implemented."
- 3.) Note that Recommended Condition of Approval AT-1 should read as follows: "HOURS OF OPERATION – COMMERCIAL USE" instead of "HOURS OF OPERATION – COMMERICAL USE".
- 4.) Note that The True Life Companies/Fremont Corners Inc et al must work with staff to select appropriate native tree species for accent trees.
- 5.) Note that Section E must be added to Recommended Condition of Approval PS-1 and should read as follows: "The applicant shall work with staff to select a cool roof design for all buildings with SRI (Solar Reflective Index) of 20 or greater. "
- 6.) Remove Recommended Condition of Approval PS-3 regarding sanitary sewer analysis.
- 7.) Modify Recommended Condition of Approval BP-36 to read as follows: "All new utilities shall be undergrounded per Sunnyvale Municipal Code Chapter 19.38.095."
- 8.) Modify Recommended Condition of Approval TM-6 so that the fees mentioned are frozen at the March 2020 preliminary submittal date to maintain compliance with SB 330.
- 9.) Modify Recommended Conditions of Approval GC-8, GC-9 and EP-2 to include the language "contiguous to property line".
- 10.) Specify that the perimeter wall along the east and south property lines must be as described in Section B of Recommended Condition of Approval PS-1.
- 11.) Modify Recommended Condition of Approval GC-6 to read as follows: "For the

subject project, that equals 6.25 Below Market Rate (BMR) units with 6 BMR units for sale and payment of a fractional in-lieu fee of 0.25 units in compliance with the BMR requirements set forth in SMC 19.67 and the BMR Program Guidelines.”

12.) Modify Recommended Condition of Approval BP-21 to read as follows: “Pole heights including the base shall not exceed 8 feet on the periphery of the project near residential uses, and 18 feet in other portions of the site.”

Vice Chair Simons revealed that while he is delighted that the proposed project is providing for-sale opportunities, its architecture is lacking aesthetically, it is not pedestrian-oriented, and the Planning Commission could offer only limited ways to improve it that would be beneficial to the applicant. Ultimately, however, he voiced his support of the proposed project.

Commissioner Harrison stated that the proposed project contrasts with what was planned for the original Village Center concept. Despite this, she recognized the need for greater housing production. As a result, she confirmed her support for the proposed project.

Chair Howard voiced his support of the proposed project. He praised the teamwork that took place between staff and the applicant to arrive at an agreed-upon set of Recommended Conditions of Approval, and he expressed interest and curiosity at the outcome of the proposed project.

Commissioner Weiss admitted that prior to the enactment of SB 330, she would not have supported the proposed project for environmental, architectural, aesthetic, accessibility, and neighborhood compatibility reasons. Since this option is not available to her, she stated her support of the project against her better judgment.

The motion carried by the following vote:

Yes: 6 - Chair Howard
Commissioner Simons
Commissioner Harrison
Vice Chair Pyne
Commissioner Rheaume
Commissioner Weiss

No: 0

Recused: 1 - Commissioner Howe

This decision is final unless appealed or called up for review by the City Council by July 27, 2021.