



City of Sunnyvale

Meeting Minutes - Final Planning Commission

Wednesday, May 27, 2015

7:00 PM

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

Special Meeting Day due to the City's Observance of Memorial Day

7:00 P.M. PLANNING COMMISSION - STUDY SESSION - WEST CONFERENCE ROOM

- 1 [15-0554](#) **File #:** 2015-7108
Location: 1130 Prunelle Ct. (APN: 202-12-029)
Zoning: R-1 (Low Density Residential) Zoning District
Proposed Project:
 SPECIAL DEVELOPMENT PERMIT for demolition of one
 existing single family home and construction of four
 single-family homes on four separate lots;
 REZONE from R1 to R-1/PD; and,
 PARCEL MAP to subdivide one lot into four lots.
Applicant / Owners: California Communities, LLC
Environmental Review: TBD
Project Planner: Ryan Kuchenig, (408) 730-7431,
 rkuchenig@sunnyvale.ca.gov

- 2 **Public Comment on Study Session Agenda Items**
3 **Comments from the Chair**
4 **Adjourn Study Session**

8:00 P.M. PLANNING COMMISSION - PUBLIC HEARING - COUNCIL CHAMBERS

CALL TO ORDER

Chair Melton called the meeting to order at 8:00 p.m.

SALUTE TO THE FLAG

Chair Melton led the salute to the flag.

ROLL CALL

Present: 6 - Chair Russell Melton
Vice Chair Ken Olevson
Commissioner Ralph Durham
Commissioner Sue Harrison
Commissioner Larry Klein
Commissioner Ken Rheaume
Absent: 1 - Commissioner David Simons

PUBLIC ANNOUNCEMENTS/PUBLIC COMMENTS

None.

CONSENT CALENDAR

1.A [15-0551](#) Approval of the Draft Minutes of the Planning Commission Meeting of April 27, 2015

Comm. Durham moved to approve the draft minutes. Comm. Klein seconded. The motion carried by the following vote:

Yes: 5 - Chair Melton
Vice Chair Olevson
Commissioner Durham
Commissioner Klein
Commissioner Rheaume

No: 0

Absent: 1 - Commissioner Simons

Abstained: 1 - Commissioner Harrison

PUBLIC HEARINGS/GENERAL BUSINESS

2

[15-0553](#)**File #:** 2015-7099**Location:** 945 Lantana Drive (APN: 213-22-041)**Zoning:** R0**Proposed Project:**

DESIGN REVIEW: To allow a 324 sq. ft. first and second story addition to an existing 2,676 sq. ft. single-family residence (including garage) that was destroyed by a fire. Will result in 2,577 sq. ft. of living area and a 423 sq. ft. garage (3,000 sq. ft. total) and 50% FAR.

Applicant / Owner: Daniel and Robin Scheiderer**Environmental Review:** Categorical Exemption**Project Planner:** George Schroeder, (408) 730-7443,
gschroeder@sunnyvale.ca.gov

George Schroeder, Associate Planner, presented the staff report.

Vice Chair Olevson discussed with Mr. Schroeder the location of the meandering sidewalk discussed in Condition of Approval (COA) BP-10, and Vice Chair Olevson commented on COA GC-4 listing suggestions rather than requirements. Mr. Schroeder explained that they were carried over from initial review comments and could be removed.

Chair Melton opened the public hearing.

Robin Scheiderer and Dan Scheiderer, the project applicants, gave a presentation on the proposed project, and requested that the wording be changed in COA PS-1 to not require the porch to have an open roof. Ms. Scheiderer also requested that the final color and materials be approved tonight, and the removal of COAs BP-5 regarding a certified professional for a landscaping plan, BP-9 requiring a sprinkler system and BP-10 regarding the meandering sidewalk.

Lorin Nielson, the project engineer, discussed architectural features of the project, addressed Commissioner concerns and further explained the requests to change or remove several COAs.

Comm. Harrison discussed with Mr. Nielson how the applicants would stay within the maximum allowable lot coverage if their request to modify COA PS-1 is approved. Trudi Ryan, Planning Officer, interjected that staff can work with the applicants on the numbers and said the Planning Commission could provide direction. Comm. Harrison confirmed with Mr. Nielson that the one-foot six-inch separation between the existing ceiling height and the floor height of the second story is reflected in the current elevations.

Comm. Durham confirmed with Mr. Nielson that the proposed additional height would only be for the area of the house where the second story is, and confirmed that the driveway is flat enough to run sidewalk extensions.

Comm. Rheaume verified with Mr. Nielson that the foot and a half space for the heating ducts is not proposed additional space, but is a rebuild of what was previously there.

Vice Chair Olevson confirmed with Ms. Scheiderer that the rebuild would have to go down to the existing foundation and that they would not be saving the existing superstructure. Vice Chair Olevsons also discussed with Mr. Nielson strengthening the existing foundation and bringing it up to code.

Chair Melton clarified with Ms. Scheiderer the request to remove the COA to provide a sprinkler system, and confirmed that there was no system for the previous house.

Ms. Scheiderer provided final comments regarding the project.

Chair Melton closed the public hearing.

Comm. Rheaume verified with Mr. Schroeder that if the proposed project was not adding square footage, it would not require a public hearing.

Comm. Harrison further discussed with Mr. Schroeder the Fire Prevention Division requirement to include a sprinkler system, and Ms. Ryan explained that if the project was for a new home it would require a sprinkler system and that when the application went through the Planning process, the Fire Prevention Division treated it as new home rather than a rebuild. Comm. Harrison confirmed with Ms. Ryan that rebuild plans do not require a discretionary permit, and that the application is before the Planning Commission because of the proposed addition. Comm. Harrison also confirmed with Mr. Schroeder that a landscape plan from a certified professional is required if the landscaping area being modified is 2,500 square feet or larger and that this project does not trigger that requirement.

Comm. Klein further discussed with Ms. Ryan the issue of the meandering sidewalk, and Ms. Ryan explained that the Planning Commission could make the COA conditional pending discussion with the Department of Public Works.

Chair Melton confirmed with Ms. Ryan that the Planning Commission could add language to the COAs that would direct staff to work with the applicant.

Comm. Klein moved Alternative 2 to approve the Design Review with modified conditions:

- 1) Remove the requirement to have a certified professional prepare a landscape plan;
- 2) Modify PS-1a to have Planning staff review the plans to meet the 40 percent maximum lot coverage to maintain the maximum 50 percent solid roof between the back patio cover and the front porch;
- 3) Modify PS-2 to have the final exterior building materials and color scheme subject to review and approval by the Director of Community Development; and,
- 4) The developer may work with staff to see if the intent of BP-10 can be achieved without removing the curb ramp.

Comm. Rheume seconded and offered a friendly amendment to remove BP-9 to provide the sprinkler system.

Comm. Klein declined.

Ms. Ryan recommended removing all of BP-5 regarding the landscape plan. Comms. Klein and Rheume accepted this change.

Ms. Ryan suggested that the language to modify PS-1a state "lot coverage shall not exceed 40% of the lot area or the previously permitted square footage prior to destruction of the house due to fire damage, whichever is greater."

Comms. Klein and Rheume accepted this change.

Comm. Klein said he feels for the applicants' family as they have gone through a tragic condition, and that dealing with the damage and insurance becomes an ongoing trauma when one is hoping to simply move back home and get one's life back in order. He said he was able to make the findings, that the project fits within the community well and he understands that the applicant would like to move home as quickly as possible. He said he also understands the request to remove the requirement for the sprinkler system, but that although this is a rebuild of a home with proposed additions, if we consider how this home was destroyed to begin with the sprinkler system becomes very important. He said he understands that it will add to cost of the home, but that if it was in place initially it may have prevented the damage. He said adding to the second story bathroom with a design that is not imposing is positive, will help the family and will look good. He added that he thinks things can be done for the meandering sidewalk to prevent the costs the applicant

is incurring, that the project is good and he hopes the new home meets the applicants' expansion requirements.

Comm. Rheume said he is sorry for loss of the home, and that he sees that it is about the applicant rebuilding a home and trying to do so without new conditions. He said he believes that the project meets the single family design guidelines and setbacks, and that the applicant is rebuilding in Sunnyvale and adding landscaping that will be drought tolerant. He explained that he cannot support the motion because he sees this project as a rebuild that is adding square footage that does not trigger the requirements for sprinklers. He said that to the applicant the cost may be more important than the risk of another fire, and that the sprinkler system should fall into the same category as some of the modifications made, such as not requiring a certified professional to review the landscaping because this is an existing and not a brand new home. He added that it seems as though we are just adding the condition without looking at the circumstances of this specific situation.

Comm. Durham said he can make the findings for approval of this project, which will be a good improvement to the neighborhood and that it will be great to have the family back into a house that will improve their lifestyle. He said it surprises him that the sprinkler system is such an issue, that basically this is a new house and the code says that we need sprinklers in it. He said the applicants lost a home due to a fire that may have been controlled by a sprinkler system, and that he would be inclined to not support the project if the system was not required.

Vice Chair Olevson offered a friendly amendment to eliminate GC-4 regarding security recommendations because he sees no enforcement mechanism.

Comms. Klein and Rheume accepted.

Vice Chair Olevson said he feels for the applicants and will be supporting the motion. He noted that this home sat vacant for a long time, and that the neighbor's home which was damaged by presumably the same fire is well along in their construction process. He said he can hear the frustration in the applicants' presentation about navigating the hoops to get this home rebuilt, and that he supports what the applicant is trying to do and the amendments to COAs. He added that he concurs with staff that findings have been met.

Comm. Harrison said she will be supporting the motion, and that the sprinkler system falls into the same category as the structural improvements. She said if the house was being built today it would need the foundation and sprinklers it will be getting. She added that she is sorry for the applicants' loss and hopes they enjoy

their new home.

Chair Melton said he will be supporting the motion, and noted that the Planning Commission has spent a lot of time talking about the sprinkler system and at the beginning of the debate he was on the fence. He said he was interested in hearing Comm. Durham's thoughts because Comm. Durham does insurance and risk mitigation for a living, and he was highly persuaded by his comments on the sprinkler system, although he understands all view points. He thanked the applicant for rebuilding in Sunnyvale, for being very knowledgeable of the process and digging deeply into the COAs, which is a testament to the care, interest and high quality attempting to be achieved in the design while being handcuffed by the insurance company from a financial standpoint. He added that the applicant may not get everything they want in the COAs, and that he is looking forward to the project coming to fruition.

MOTION: Comm. Klein moved Alternative 2 to approve the Design Review with modified conditions:

- 1) Remove Condition of Approval BP-5 regarding requirement for a certified professional to prepare landscape plan;
- 2) Modify PS-1a to state lot coverage shall not exceed 40% of the lot area or the previously permitted square footage prior to destruction of the house due to fire damage, whichever is greater;
- 3) Modify PS-2, final exterior building materials and color scheme are subject to review and approval by the Director of Community Development;
- 4) The applicant may work with Public Works Department staff on whether the intent of condition BP-10c can be achieved without removing the existing driveway approach; and,
- 5) Remove Condition of Approval GC-4 as these are recommendations and not requirements for security.

Comm. Rheume seconded. The motion carried by the following vote:

Yes: 5 - Chair Melton
Vice Chair Olevson
Commissioner Durham
Commissioner Harrison
Commissioner Klein

No: 1 - Commissioner Rheume

Absent: 1 - Commissioner Simons

- 3 [15-0206](#) Introduce an Ordinance and Two Resolutions to Approve Two New Affordable Housing Impact Fees: Housing Impact Fee for Nonresidential Development and Housing Impact Fee for Rental Housing

Ernie DeFrenchi, Affordable Housing Manager, presented the staff report.

Comm. Harrison confirmed with Mr. DeFrenchi that the reduced fee for less than eight units has not yet been suggested to the City Council, and confirmed with Trudi Ryan, Planning Officer, that there are about ten projects that have been submitted but are incomplete that would fall under the grandfathering provision if deemed complete prior to the effective date. Comm. Harrison clarified with Mr. DeFrenchi and Suzanne Ise, Housing Officer, that existing structures that have been vacant for no more than 12 months or sites with buildings that have been demolished within the 12 months prior would be exempt from these fees.

Comm. Klein verified with Mr. DeFrenchi that a developer providing low or very-low income rental housing would have to sell the units to the same income category if converted to ownership units, and confirmed that staff negotiates with the developer on the selection of onsite low and very-low income units.

Vice Chair Olevson and Ms. Ise discussed the reasoning behind listing convalescent hospitals as exempt use types, and discussed how the recommendation was determined to exempt rental projects of four or fewer units. Vice Chair Olevson and Ms. Ise also discussed whether it is more economical for a developer to build a Below Market Rate (BMR) unit versus paying the in-lieu fee, and that staff estimates rental impact fees could generate revenues of approximately \$3 million per year. Ms. Ise added that staff expects many developers to opt to provide units on-site rather than pay the fees.

Comm. Durham and Ms. Ise discussed whether the fee for rental units might encourage developers to build ownership rather than rental units and if it could potentially price people out of ownership units as it is cheaper to rent.

Chair Melton and Ms. Ise discussed the trend of increasing rents over the last couple of years.

Chair Melton opened the public hearing.

Matt Lewis, with Mid-Pen Housing, discussed his support of approving the Draft Ordinance and Fee Resolutions.

Chair Melton discussed with Mr. Lewis the housing stability program offered by Mid-Pen Housing.

Chair Melton closed the public hearing.

Comm. Harrison moved to recommend to City Council Alternative 1 to approve the Draft Ordinance and Fee Resolutions.

Comm. Klein seconded.

Comm. Harrison said the ordinance is well thought out and the study was thorough. She said she understands the desire to reduce the fee for between four and eight units, but that she is glad there is a fee for between that number of units because the need for affordable housing is very great. She added that she wished the process moved more quickly so the recently approved projects could have been captured.

Comm. Klein said he will be supporting the motion, that this ordinance is something that has in the works for a while and the sooner it goes into place the better. He said applying the fee to rental projects of four to seven units makes sense, and that he has been pushing for BMR fees for purchased homes to be looked at with a greater percentage or for developments with fewer units. He said this is a way to help the overall housing issue within the City, and that by applying it to the smaller rental unit properties will help with the problem, but that the biggest impact will be applying the fees to the commercial projects, of which we have many. He noted that if we had approved this some time ago we might at least have the funds to try to create some solutions for these housing problems, and said he looks forward to this item going to City Council for approval and being put into law as soon as possible.

Vice Chair Olevson said he will not be supporting the motion for philosophical reasons, and that we are encouraging people to live and work in Sunnyvale and have asked businesses to contribute to BMR housing because it will be bringing people in and those people will need services. He said now we are saying that if you want to live close to businesses we are going to charge you more because you want to fulfill what Sunnyvale is promoting which is to live near work. He said it does not make sense to increase the cost of housing for the very people who will be living in that housing, that he does not see the logic and it is counterproductive to everything else we are doing in the City.

Chair Melton said he will be supporting the motion, and thanked staff for

shepherding this project. He noted that we are getting close to the City Council making their final decision, and that he likes that staff added a two-tier fee structure that is dependent upon the number of units, which shows that nice intellectual work went into this project. He thanked the speaker from Mid-Pen and noted that Mid-Pen is close to finishing its project on the former armory site, and its extensive waiting list is a good example of the critical situation of housing in Sunnyvale, especially for lower income people who work in Sunnyvale or work nearby and want to live here. He said implementing a program to alleviate the housing problem is an important thing to do, and added that when the Planning Commission previously reviewed the BMR program he stated that he believed, and continues to believe, in the market forces of supply and demand but that sometimes you have to override those forces for the public good with well crafted public policy, which is what we have here.

MOTION: Comm. Harrison moved to recommend to City Council Alternative 1 to approve the Draft Ordinance and Fee Resolutions establishing the Housing Impact Fees for Nonresidential Development and Housing Impact Fee for Rental Housing, as provided in Attachments 1, 2, and 3.

Comm. Klein seconded. The motion carried by the following vote:

Yes: 5 - Chair Melton
Commissioner Durham
Commissioner Harrison
Commissioner Klein
Commissioner Rheaume

No: 1 - Vice Chair Olevson

Absent: 1 - Commissioner Simons

4 [15-0566](#) Review Planning Program Budget and Fees for FY 2015-16

Trudi Ryan, Planning Officer, presented the recommended Planning Program Budget and Fees for fiscal year (FY) 2015-2016.

Vice Chair Olevson discussed with Ms. Ryan the number of work hours budgeted for staff and confirmed that the number stated in the staff report does not include the hours for paid leave categories. Vice Chair Olevson also discussed with Ms. Ryan the rationale for increasing the Tree Removal Permit (TRP) in-lieu fees, and whether allowing developers to pay for the services of City staff represents a conflict of interest. Vice Chair Olevson confirmed with Ms. Ryan the number of building inspectors.

Comm. Durham verified with Ms. Ryan the definition of policy work as discussed in the staff report, and discussed whether having funding for policy work covered by construction related fees (General Plan Maintenance) from building permits could potentially raise volatility for that funding.

Chair Melton discussed with Ms. Ryan the current staffing level and whether the proposed budget will provide the staff required to complete upcoming work. Chair Melton noted that he attended the budget workshop.

Chair Melton opened the public hearing and upon seeing no speakers for this item, closed the public hearing.

MOTION: Vice Chair Olevson moved to recommend to City Council approval of the budget as proposed.

Comm. Harrison seconded. The motion carried by the following vote:

Yes: 6 - Chair Melton
 Vice Chair Olevson
 Commissioner Durham
 Commissioner Harrison
 Commissioner Klein
 Commissioner Rheaume

No: 0

Absent: 1 - Commissioner Simons

5 [15-0552](#) Standing Item: Potential Study Issues for 2016

None.

NON-AGENDA ITEMS AND COMMENTS**-Commissioner Comments**

Comm. Durham announced that June will be his final month of duty on the Planning Commission and that he will be moving to Germany. He thanked staff for all of the hard work they do and the Commissioners for the work and care they take in dealing with these issues for the good of the public. He thanked the City Councilmembers for appointing him to the Planning Commission, and said he has been glad that he could participate.

Chair Melton said that it has been a pleasure working with Comm. Durham who's wisdom and expertise have been very valuable and he looks forward to a more formal farewell next month. He congratulated Comm. Simons for his reappointment to the Planning Commission, announced the upcoming opening on the Planning Commission and explained how those interested can apply. He asked if staff could comment on the recent town center ruling and the City Council action on the Lois project.

-Staff Comments

Rebecca Moon, Senior Assistant City Attorney, discussed the litigation between the former developer of the downtown and the bank.

Ms. Ryan discussed Planning related City Council items, and noted that the project on Lois Avenue was referred back to the Planning Commission with direction on the design. She said staff is working with the applicant on how to accommodate the direction and will reschedule a Planning Commission public hearing for this item, and she added that any decision made will still be appealable.

INFORMATION ONLY ITEMS

[15-0575](#)

Review Revised Council Policy 7.2.19

No comments.

ADJOURNMENT

With no further business Chair Melton adjourned the Planning Commission meeting at 9:53 p.m.