



# City of Sunnyvale

## Meeting Minutes - Final Planning Commission

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Monday, July 13, 2015

6:30 PM

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

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### **SPECIAL STUDY SESSION START TIME 6:30 P.M. - PLANNING COMMISSION - WEST CONFERENCE ROOM**

*Both Study Session items were held in the Council Chambers to allow room for all in attendance.*

- 1      [15-0700](#)      **File #:** 2014-7614  
**Location:** 915 De Guigne Avenue, 936 East Duane Avenue and  
surrounding area  
**Zoning:** M-S (Industrial and Service) Proposed R-3/PD (Medium  
Density  
Residential/Planned Development)  
**Proposed Project:**  
Overview of **DRAFT ENVIRONMENTAL IMPACT REPORT** for  
Residential Project and East Sunnyvale Sense of Place Plan  
**Project Planner:** Ryan Kuchenig, (408) 730-7431,  
rkuchenig@sunnyvale.ca.gov

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

**2**      [15-0694](#)**File #:** 2014-7373**Location:** 871 E. Fremont Ave. (Butcher Property)**Project Description:**

Staff will provide an update on the status and the process for considering the Butcher property annexation and development applications. Separate public hearings will be scheduled in the future to consider the proposed annexation, development applications, and Environmental Impact Report.

No written staff report will be prepared for the Planning Commission Study Session. No action will be taken by the Planning Commission.

**Applicant / Owner:** De Anza Properties

**Environmental Review:** An Environmental Impact Report is being prepared as part of the development applications (anticipate release in fall 2015). No environmental review is required at this time.

**Project Webpage:** ButchersCorner.InSunnyvale.com

**Staff Contact:** Noren Caliva-Lepe, (408) 730-7659,  
ncaliva-lepe@sunnyvale.ca.gov

**Note:** Study Session may be held in the Council Chambers

**3 Public Comments on Study Session Agenda Items****4 Comments from the Chair****5 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 Sue Harrison  
Commissioner Larry Klein  
Commissioner Ken Rheaume  
Commissioner David Simons

**PUBLIC ANNOUNCEMENTS/PUBLIC COMMENTS**

None.

**CONSENT CALENDAR**

- 1.A**      [15-0693](#)      Approval of the Draft Minutes of the Planning Commission Meeting of June 22, 2015

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

**Yes:** 5 -    Chair Melton  
                 Vice Chair Olevson  
                 Commissioner Harrison  
                 Commissioner Klein  
                 Commissioner Simons

**No:** 0

**Abstained:** 1 -    Commissioner Rheaume

- 1.B**      [15-0696](#)      Introduction of an Ordinance to Amend Sunnyvale Municipal Code Chapters 19.12 (Definitions), 19.22 (Industrial Zoning Districts), 19.29 (Moffett Park Specific Plan District) and 19.98 (General Procedures) to include Modifications based on the Appropriate Locations for Child Care Centers Study Issue (CDD 15-11); and Approval of Location Guidelines for Commercial Child Care.

**Staff Contact:** Stephanie Skangos, (408) 730-7411,  
sskangos@sunnyvale.ca.gov

**Staff Recommendation:** Continuance to 7/27/15. The study will be re-advertised with an updated project description.

Gerri Caruso, Principal Planner, announced that this item will be continued indefinitely and the item will be re-noticed.

Comm. Klein moved to approve the continuance of this item. Comm. Harrison seconded. The motion carried by the following vote:

**Yes:** 5 -    Chair Melton  
                 Vice Chair Olevson  
                 Commissioner Harrison  
                 Commissioner Klein  
                 Commissioner Simons

**No:** 0

**Abstained:** 1 - Commissioner Rheaume

**PUBLIC HEARINGS/GENERAL BUSINESS**

**2**      [15-0666](#)**File #:** 2015-7266**Location:** 825 Tamarack Lane (APN: 213-29-053)**Zoning:** R0**Proposed Project:**

**DESIGN REVIEW:** To allow a new two-story single-family home resulting in 3,117 square feet (2,717 square feet of living area and a 400 square-foot two-car garage) and 56% floor area ratio. The existing 1,374 square foot one-story single-family home will be demolished.

**Applicant / Owner:** Arsen Avagyan**Environmental Review:** Categorical Exemption, Class 3**Project Planner:** George Schroeder, (408) 730-7443,  
gschroeder@sunnyvale.ca.gov

George Schroeder, Associate Planner, presented the staff report.

Comm. Klein confirmed with Mr. Schroeder that an extra 175 square feet of high volume ceiling above the dining area that was previously not calculated into the Floor Area Ratio (FAR) reported in the staff report brings the FAR closer to 60 percent, and that the additional square footage does not decrease the lot coverage. Comm. Klein verified with Mr. Schroeder that the new second to first floor area ratio is 69 percent, and discussed why the right side second story 8.9 foot setback where ten feet is required is not a deviation. Comm. Klein also confirmed with Mr. Schroeder that the tree removal, which will be accomplished by a Tree Removal Permit does not affect this development.

Comm. Rheaume verified with Mr. Schroeder the new FAR and the new first to second floor area ratio. Comm. Rheaume also confirmed with Mr. Schroeder that there is no Planned Development overlay for two recently remodeled homes on Tamarack, and clarified Alternative 1 with Mr. Schroeder.

Vice Chair Olevson discussed with Ms. Caruso the difficulty of approving or denying the project when various, important elements of the Conditions of Approval (COA) are incomplete.

Comm. Simons discussed with Ms. Caruso whether a continuance of the project with direction would be an acceptable alternative, and Ms. Caruso suggested speaking to the applicant about the option.

Chair Melton discussed with Mr. Schroeder how the Single-Family Home Design Techniques could help offset the the rear left exterior side of the house that appears to be a two story wall, and Chair Melton commented on his alarm at the massiveness of the project and said he is struggling with the FARs.

Chair Melton opened the public hearing.

Arsen Avagyan, the project applicant, gave a presentation on the proposed project and submitted a petition signed by neighbors who support the project to the Commission.

No members of the public were present to discuss the project.

Mr. Avagyan addressed several of the Commissioners' concerns.

Comm. Simons confirmed with Mr. Avagyan that he is open to a continuance, and Mr. Avagyan said he would like to hear the underlying thinking behind it.

Comm. Rheume discussed with Mr. Avagyan whether he is amenable to the staff recommendation, and Mr. Avagyan asked the Commission to consider not disadvantaging smaller lots. Comm. Rheume noted that he thinks the staff proposal is fair, and discussed with Mr. Avagyan why he is proposing a large FAR.

Chair Melton closed the public hearing.

Comm. Rheume verified with Mr. Schroeder that without including the high volume area in the calculations the FAR of the project would be 56 percent and the second to first floor area ratio would be 61 percent.

Comm. Harrison clarified with Mr. Schroeder the rule about what is to be counted of a high volume area in the FAR, and confirmed that Building officials pointed out that the grading of the project does not meet the building code.

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

- 1) Incorporate staff recommended design modifications; and
- 2) The project will return to the Planning Commission if the final, revised project is over 45 percent FAR.

Comm. Simons seconded.

Comm. Harrison said she appreciates the applicant's attention to the Planning Commission minutes and statements, but that she cannot follow the logic of putting the same size house that would meet rules on larger lot onto smaller lot. She said she trusts that the applicant can find a solution that will meet the 50 percent FAR

and the 50 percent second to first floor area ratio, and that she hopes the applicant understands that the second floor at 50 percent is above the guidelines for a house in a single story neighborhood.

Comm. Simons offered a friendly amendment to ensure that any stone front veneer wrap around the sides to meet the fencing.

Comm. Harrison accepted.

Comm. Simons offered a friendly amendment to have staff work with the applicant to use the Single-Family Home Design Techniques to break up the flat, two-story wall.

Comm. Harrison replied that reducing the the second story should accomplish this. Comm. Simons withdrew the amendment.

Chair Melton clarified the motion and staff recommendation with Ms. Caruso.

Vice Chair Olevson said he will not be supporting the motion, and that while he recognizes that this house is similar to others in this neighborhood in transition, there are too many moving parts in the proposal. He noted that City Council sets the policy of including over 15 foot ceiling heights in the second floor and adding that to the calculation, which may not have been done in past but is part of the process now. He said that the Commission has varied from the hard and fast FAR and first to second floor area ratio when it seemed to fit because there was an unusual lot size, and that while he appreciates the applicant researching prior Planning Commission decisions, the numbers are actually higher than originally reported. He said because so much is changing and the massing is too much, and because we are looking at roofline changes and grading changes, the basic things we evaluate to see if the project fits, it is not ready for the Planning Commission.

Comm. Rheume further clarified the motion with Ms. Caruso.

Chair Melton reiterated that the motion is to approve the Design Review with modified conditions.

Comm. Rheume said he struggles with supporting the motion as there are a lot of open questions about the project. He said he appreciates the applicant's due diligence watching prior meetings, and that while the Commission has approved projects that go slightly beyond the FAR threshold this project is so far above it. He said he cannot make the findings to support the original proposal, but that it is not

what is currently proposed, so he will be supporting the motion. He added that the applicant has an opportunity to put together a nice plan.

Chair Melton said he will not be supporting the motion, and that he is aligned philosophically with Vice Chair Olevson with regard to the project having a lot going on and that we are contemplating substantial changes. He said when looking at the enlarged site plans he found himself staring at a couple schematics showing the second story to the first story floor area ratio, and that while he understands there may be multiple methodologies to calculating it, this thing is 70 percent and too massive. He said the FAR is also too big and he would support a motion to continue the project to a date certain, and provide verbal direction to staff that the FAR needs to be smaller, the second story to first story floor area ratio needs to be much smaller and to provide very specific direction about how to handle the two story block by the right rear of the property by the living room. He said we have to use some design technique like a setback, fake eave line or some line to delineate the second floor from the first floor.

Comm. Klein clarified the motion with Rebecca Moon, Senior Assistant City Attorney.

Comm. Klein said he will not be supporting the motion and thinks it is important for the project to come back in front of the Planning Commission whether by continuance or denial. He said the applicant needs to come back and reapply, and that with the number of changes required on the project it only makes sense for us to ultimately see how it fits in. He said he trusts staff on trying to improve the project but that we are looking at the massing and multiple changes which may or may not alleviate some of the issues that the Commission has.

Comm. Rheume said he will change his vote, that there are too many outstanding issues and he would prefer to resolve them via a continuance so there is a clear direction of where we and the applicant are going.

Comm. Harrison withdrew her motion.

Chair Melton confirmed with Ms. Moon that Comm. Harrison can withdraw the motion with permission of the Chair.

Chair Melton verified with Comm. Harrison that she is withdrawing the motion.

Comm. Simons confirmed with Ms. Caruso that if the project is not continued to a date certain it would need to be re-noticed, and that a denial could be appealed



within 15 days and taken to City Council.

MOTION: Comm. Simons noted that it would be difficult to come up with a date certain for a continuance, and moved Alternative 3 to deny the Design Review and provide direction to staff and the applicant where changes should be made.

Vice Chair Olevson seconded.

Comm. Simons had no further comment.

Vice Chair Olevson said the motion adequately says there ought to be more work where we are presented with final numbers and not things in process.

Comm. Harrison said she will be supporting the motion because believes whole-heartedly in the staff recommendation regarding the FAR and the second story to first story floor area ratio.

Chair Melton said he will be supporting the motion and looks forward to seeing the applicant back at the Planning Commission. He said the applicant is on the right track but what he is asking for is just too big and we are not able to support it. He suggested the applicant recalibrate his expectations and come up with something smaller that will better fit into the neighborhood and to work with staff. He said he is comfortable with an FAR of 50 percent or less, that we have to taper down second floor to first floor FAR to 50 percent or 48 or 49 percent and that he does not know what to say about calculating the second floor to first floor ratio. He also said we have to tackle the wall and does not know if the applicant will do an actual setback to create a roofline with shingles or an artificial line or fake gutter, but that it absolutely must be addressed. He added that if the decision is to deny the project, the applicant has the right to appeal and take it to the City Council.

FINAL MOTION: Comm. Simons moved Alternative 3 to deny the Design Review and provide direction to staff and the applicant where changes should be made.

Vice Chair Olevson seconded. The motion carried by the following vote:

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

**No:** 0

**3**      [15-0692](#)      **Standing Item:** Potential Study Issues for 2016

None.

**4**      [15-0703](#)      **Selection of Chair**

Gerri Caruso, Principal Planner, described the process of selecting a new chair.

Vice Chair Olevson thanked Chair Melton for his professionalism at the dais, and nominated Larry Klein for Chair.

Comm. Klein accepted.

Comm. Simons nominated Russell Melton.

Comm. Melton accepted.

Comm. Klein thanked Vice Chair Olevson for his nomination, and said the first time he was nominated for Chair was during a similar situation in which he had not been Vice Chair before. He said he appreciates the opportunity, that this is an important position that requires running meetings and making sure the evening runs as smoothly as possible and he thinks he can do a good job.

Comm. Melton said there is a precedent in the Planning Commission that we change the Chair once a year, and that he has also seen precedences set on other Commissions where a Chair will go for another year, and he wanted to address the precedent of the current Chair potentially staying for another year. He said he wanted to give a full hearted compliment to Comm. Klein and noted that over a year ago when there was much transition on the Planning Commission he had a conversation with former Councilmember and Planning Commissioner Chris Moylan who said Larry Klein is one of the best Planning Commissioners he has seen, and he agrees 100 percent. He said we know that on the calendar we have a ton of upcoming work and we will be very busy for the next 12 months and short staffed for several, so voting for him to remain Chair is a vote for continuity, experience and the notion that we need the Planning Commissioners where they are now. He noted that the Chair does not often have ability to make motions, and thanked everyone for their consideration and Comm. Simons for his nomination.

The nomination of Larry Klein as Chair of the Planning Commission resulted in the following vote:

**Yes:** 3 - Vice Chair Olevson  
Commissioner Klein  
Commissioner Rheaume

**No:** 0

**Abstained:** 3 - Chair Melton  
Commissioner Harrison  
Commissioner Simons

The nomination of Russell Melton as Chair of Planning Commission resulted in the following vote:

**Yes:** 4 - Chair Melton  
Commissioner Harrison  
Commissioner Rheaume  
Commissioner Simons

**No:** 0

**Abstained:** 2 - Vice Chair Olevson  
Commissioner Klein

**5**      [15-0704](#)      **Selection of Vice Chair**

Comm. Simons nominated Larry Klein for Vice Chair of the Planning Commission.

Comm. Klein did not accept.

Comm. Klein nominated Sue Harrison.

Comm. Harrison accepted.

Chair Melton thanked Ken Olevson for being a phenomenal Vice Chair, and nominated Ken Rheaume.

Comm. Rheaume did not accept.

The nomination of Sue Harrison for Vice Chair of the Planning Commission resulted in the following vote:

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

**No: 0**

**6      [15-0705](#)      Selection of Seats**

Ms. Caruso explained that the order of the selection of seats would be determined by seniority.

Selection of seats resulted in the following arrangement (from left to right facing the dais from the speaker's podium):

Comm. Rheaume  
Comm. Klein  
Vice Chair Harrison  
Chair Melton  
Comm. Simons  
Comm. Olevson  
Vacant

**NON-AGENDA ITEMS AND COMMENTS**

**-Commissioner Comments**

None.

**-Staff Comments**

Ms. Caruso noted that the Design Review project on Lois Avenue recently heard by the Planning Commission was appealed by a neighbor and will go back to the City Council on August 25, 2015.

Ms. Caruso also discussed recently heard and upcoming Planning-related City Council items.

**INFORMATION ONLY ITEMS**

None.

**ADJOURNMENT**

With no further business Chair Melton adjourned the Planning Commission meeting at 9:23 p.m.