



City of Sunnyvale

Meeting Minutes - Final Planning Commission

Monday, January 11, 2016

7:00 PM

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

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

[16-0027](#)

FILE #: 2015-7624

Location: 767 N Mathilda Ave (APN: 165-43-021)

Zoning: MS/FAR100

Proposed Project: Special Development Permit to allow
Redevelopment of an industrial site to a 6-story, 238-room hotel with
surface parking. Proposed hotel Hilton Garden Inn.

Applicant / Owner: Architectural Dimensions / Sinogap LLC

Environmental Review: Mitigated Negative Declaration

Staff Contact: Margaret Netto, 730-7628,
mnetto@sunnyvale.ca.gov

[16-0028](#)

FILE #: 2011-7759

Location: 1240 Crossman Drive (APN's: 110-36-007, -008, and -020)

Zoning: MPT

Proposed Project: Expansion of the Netapp campus (Site 2) utilizing
the green building bonus to enable 80% FAR for a total of 554,082
square feet, including two four-story buildings (12 & 14), and a
five-level parking garage. The two existing buildings (10 & 11) to
remain, totaling 332,970 square feet net to the new floor area.

Applicant / Owner: Network Appliance Inc.

Environmental Review: Mitigated Negative Declaration

Staff Contact: Ryan Kuchenig, (408) 730-7431,
rkuchenig@sunnyvale.ca.gov

Public Comment on Study Session Agenda Items

Comments from the Chair

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: 7 - Chair Russell Melton
Vice Chair Sue Harrison
Commissioner Ken Olevson
Commissioner Larry Klein
Commissioner Ken Rheaume
Commissioner David Simons
Commissioner Carol Weiss

ORAL COMMUNICATIONS

Stan Hendryx, member of the public, commented regarding fair housing.

CONSENT CALENDAR

1.A. [16-0025](#) Approval of the Draft Minutes of the Planning Commission Meeting of December 14, 2015

Comm. Klein clarified his proposed Study Issue was to look at requirements and numbers for EV Charging Stations on new developments and City property, as well as ways to encourage existing sites to offer electric car charging stations

Comm. Klein moved to approve the Draft Minutes of December 14, 2016 as amended. Comm. Simons seconded. The motion carried by the following vote:

Yes: 6 - Chair Melton
Commissioner Olevson
Commissioner Klein
Commissioner Rheaume
Commissioner Simons
Commissioner Weiss

No: 0

Abstained: 1 - Vice Chair Harrison

1.B. [16-0049](#) **File #:** 2015-7539
Location: 845 W Maude Ave. (APN: 165-41-001)
Proposed Project: Consideration of an application for a 1.66-acre site:

USE PERMIT to allow construction of a 39,233 square foot four-story office/R&D building resulting in approximately 55% Floor Area Ratio.

Applicant / Owner: Peery-Arrillaga / Wizardly Holdings LLC

Environmental Review: Mitigated Negative Declaration

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

Comm. Klein moved to approve Item 1.B. on the Consent Calendar. Comm. Simons seconded. The Motion carried by the following vote:

Yes: 7 - Chair Melton
Vice Chair Harrison
Commissioner Olevson
Commissioner Klein
Commissioner Rheume
Commissioner Simons
Commissioner Weiss

No: 0

PUBLIC HEARINGS/GENERAL BUSINESS

2. [15-1108](#) **File #:** 2015-7736
Location: 701, 711, 717, 729, E. Evelyn Avenue (APNs 209-01-009, -010, -011, -012, -013, -014, -029)
Zoning: M-3/ITR/R-3/PD (General Industrial/Industrial-to-Residential/Medium Density Residential/Planned Development)
Proposed Project: Related applications on an 11.41-acre site:
 SPECIAL DEVELOPMENT PERMIT: To allow a modification to the previously-approved Special Development Permit (2014-7656) for a 204-townhome unit development to add a 0.37-acre parcel and 11 additional units at 711 E. Evelyn Avenue, including extending the previously-approved Variance for concierge trash service to the modified area. The modified overall project would total 11.41 acres and 215 townhome units.
 VESTING TENTATIVE MAP: To allow a modification to the previously-approved Vesting Tentative Map (2014-7656) to include the 711 E. Evelyn Avenue parcel in the project and add an additional lot, two common area parcels, and 11 condominium units; and reconfigure the location of six previously-approved lots and 27 condominium units on and around the included parcel.
Applicant / Owner: D.R. Horton (applicant)/D.R. Horton Bay, Inc., Sunnyvale Welding and Fabrication Co., William G. Peterson Trustee Et al. (owners)

Environmental Review: Mitigated Negative Declaration
Project Planner: George Schroeder, (408) 730-7443,
gschroeder@sunnyvale.ca.gov

George Schroeder presented the staff report.

Comm. Simons asked staff about the 11 units located within the Santa Clara and Sunnyvale school districts. Mr. Schroeder clarified the 11 extra units is in the southern part of the parcel, with some located in each school district due to the boundary line going through the site.

Comm. Weiss asked if an inter-district transfer could be applied to Sunnyvale School District in order for all the children to attend the same school, as it would help with carpooling and schedules.

Comm. Olevson discussed setbacks and deviations. Mr. Schroeder clarified.

Comm. Klein asked about school district boundaries, mentioning that the school districts do not usually comment on other developments. He asked what happens to the homes that are within more than one school district. Mr. Miner replied that staff is not aware how the school district address that situation. Comm. Klein asked if the concierge trash service has options for special pick-up service days. Mr. Schroeder replied that the applicant may want to address this during his presentation.

Chair Melton commented that this is the first time that he has heard from a school district in not having enough room. Mr. Schroeder responded that the school district may have not been aware that there are only an extra 11 units added, instead of the 215 mentioned in their letter. Chair Melton asked about the usage of hard-shell containers instead of bags. Chair Melton asked to clarify the service provider for the concierge trash service provider, and if the provider is the same provider for the Watt Investments development on DeGuigne. Mr. Schroeder noted the company proposed in providing concierge trash is American Trash Management.

Comm. Weiss noted that if the Santa Clara Unified School District has concerns with the district lines, that the school board could change the boundaries in order to have one school district for the development. She then asked how far the nearby electrical towers are from the homes. Mr. Schroeder responded about 80 feet.

Chair Melton opened the public hearing.

Eric Keller, D.R. Horton Bay, presented his proposal.

Comm. Klein asked the applicant about the concierge trash service, and alternative pick up days.

Chair Melton asked Mr. Keller about his concern regarding using containers instead of plastic bags. Mr. Keller responded noted that it would be difficult from a management perspective to use containers (totes) instead of bags.

Vice Chair Harrison noted that she visited a development that uses concierge trash service. She said that tickets were given for special trash pick-ups.

Comm. Simons asked about the potential changes in trash and recycling needs, and if it would be a problem if they conditioned the trash service to accommodate future recycling needs, such as compost. Mr. Keller noted that they are currently addressing recycling changes in Alameda County and it would not be a problem to add a condition to address future recycling requirements.

James Freeman, member of the public, is curious about the possibility of a traffic light for the development to get in and out of Evelyn Avenue.

Stan Hendryx, member of the public, noted that the City is going to start using compost containers.

Mr. Keller said that a deterrent from using hard containers is that the garages are not designed to store them.

Chair Melton closed the public hearing.

Chair Melton asked staff if a traffic light is included in the proposal to enter and exit the development.

Mr. Schroeder responded that, due to the size of the development, a traffic light is not required according to the Traffic Division and a Traffic Impact Analysis (TIA) was not required; however, the applicant is paying their share of Traffic Impact Fees (TIF).

Comm. Weiss asked staff if the City has a policy about adding retail uses in the area. Mr. Miner noted that the property was zoned Industrial to Residential, noting retail uses in the general area; however, there are no a retail uses immediately adjacent to the site.

MOTION:

Comm. Rheume moved Alternative 1; Adopt the Mitigated Negative Declaration and approve the Special Development Permit including deviations for average front yard setback and distance between buildings and Vesting Tentative Map with the attached conditions. Comm. Simons seconded.

Comm. Rheume noted that acquiring the additional property as previously discussed and additional housing to the City makes it a better project overall.

Comm. Simons requested friendly amendments; to have the applicant work with the school districts in order to have students enrolled in one district, and to have the concierge trash service compatible with future changes in trash and recycling needs. Comm. Rheume agreed with the friendly amendments.

Comm. Simons noted that he favored the initial open-space rather than adding the 11 additional units. He noted his general concern, not particular to this project, with the cumulative traffic impacts with new developments, noting that he would like to mitigate speed, pedestrian and bicycle safety. Further, he said he would like to see smaller projects trigger traffic safety mitigation. He noted his support for this project.

Comm. Klein asked for a friendly amendment, for staff to work with the Traffic Division to evaluate traffic calming conditions along Evelyn Ave. between Fair Oaks Ave. and Wolfe Rd. Comm. Rheume and Simons agreed with the amendment to the motion. He noted that having all units be in a single school district is positive and acknowledged the developer for adding the additional site. He noted his support to the motion.

Comm. Olevson mentioned that this project was previously approved without the 11 extra units. The applicant went out of his way to acquire the extra property in order for the project to look nicer for the City. He could make the findings that it meets the general plan and is compatible with the neighborhood, and noted his support to the motion.

Vice Chair Harrison will support the motion, looking forward to see the concierge trash service.

Comm. Weiss will support the motion, stating she is glad the additional housing includes affordable units.

Chair Melton mentioned he supports the motion and could make the findings, noting the City and residents will have a better development by the applicant

adding the additional parcel. He asked staff to reach out to Mr. Freeman regarding his traffic concerns.

Melissa Tronquet, Assistant City Attorney, mentioned the friendly amendment related to the school district boundary, that the City could encourage the applicant to talk to the school districts, however the City does not have jurisdiction over school district boundaries and the Commission could not condition the project based on changing the school district boundaries.

Comm. Simons clarified that his motion was to request the applicant and the City to work with the school district.

FINAL MOTION:

Comm. Rheume moved Alternative 2; Adopt the Mitigated Negative Declaration and approve the Special Development Permit and Vesting Tentative Map with modified conditions (friendly amendment);

- 1) Encourage the developer and the city to work together with the school districts to have students enrolled in one district,
- 2) Waste management onsite shall be compatible with all future changes in solid waste management, and
- 3) Request for staff to work with the Traffic Division to evaluate traffic calming conditions along Evelyn Ave. between Fair Oaks Ave. and Wolfe Rd.

Comm. Simons seconded. Motion carried by the following vote:

Yes: 7 - Chair Melton
Vice Chair Harrison
Commissioner Olevson
Commissioner Klein
Commissioner Rheume
Commissioner Simons
Commissioner Weiss

No: 0

3. [16-0039](#) **File #:** 2015-7717
 Location: 897 Markham Ter. (APN: 165-46-068)
 Zoning: R-1.7/PD (Low Medium Density Residential / Planned
 Development) Zoning District
 Proposed Project:

SPECIAL DEVELOPMENT PERMIT for a first floor addition of 164 square feet to the rear of an existing two-story home, resulting in 2,189 square feet (1,781 square foot living area and 408 square foot garage) and 55.8% Floor Area Ratio (FAR).

Applicant / Owners: Loching Keng Trustee

Environmental Review: Categorically Exempt Class 1

Project Planner: Noren Caliva-Lepe, (408) 730-7659,
ncaliva-lepe@sunnyvale.ca.gov

Andrew Miner, Principal Planner presented the staff report.

Comm. Rheume clarified that the addition does not include a bathroom and asked if it is similar to the previous addition on the same development. Mr. Miner responded that this proposal is different from the last application in that the entire wall is being extended, and confirmed that an additional bathroom is not included. Comm. Rheume then asked if any of the previous 11 proposals in the planned development were denied. Mr. Miner said no.

Chair Melton opened the public hearing.

Loching Keng, applicant, with Grace Keng, daughter, presented their proposal, stated that the addition downstairs is a bedroom for her mother. She stated that she has 8 letters of support from her immediate neighbors.

Vice Chair Harrison asked if the applicant has incorporated "aging in place" to their design.

Comm. Weiss mentioned there are improvements the applicant can include to make the bathroom and room compliant to the American with Disabilities Act (ADA).

Ms. Keng noted that they have incorporated their design for future additions to accommodate their mother's needs. She noted that she would like to start the building permit process.

Chair Melton closed the public hearing.

Comm. Klein clarified the project table with staff on Attachment 2, stating a 23% encroachment. Comm. Klein noted that it seems to be more than that since the entire rear wall is moving. Mr. Miner clarified that 25% is the maximum encroachment.

MOTION:

Comm. Rheaume moved Alternative 1: Approve the Special Development Permit With the Conditions of Approval in Attachment 4. Vice Chair Harrison seconded.

Comm. Rheaume can make the findings, noting the only deviation is the Floor Area Ratio, which is lower than the previous proposal that was recently approved two weeks ago. He noted that the addition is on the first floor, there are no visual impacts to the front of the property, no privacy issues, and would like to see people able to stay in their homes.

Vice Chair Harrison agreed with Comm. Rheaume's comments.

Comm. Olevson will support the motion and could make the findings. He noted that the Floor Area Ratio exceeds the original 50% when the development was first constructed; however, it does not exceed the maximum lot coverage, noting that it is not visible from the public and the adjacent neighbors showed their support.

Comm. Simons stated that these applications are land use decisions, and not about what the applicant needs or wants. He noted that this planned development with specific architecture and design. He said that he will not support the motion due to the loss of the open space, the shallow backyard. He noted that the addition could be accomplished without the encroachment.

Comm. Weiss will support the motion, making the findings. She said its important to keep the stability of the neighborhood. She said the Floor Area Ratio has been changed since the development was built, and now that open areas in homes are now being counted as living space, the home is not as big as it seems.

Comm. Klein will not be supporting the motion, and though he applauds the applicant's investment to their homes, he is not in agreement with the encroachment into the backyard. He discussed floor area ratios and lot coverages, and that a home not in a planned development asking for a 60% Floor Area Ratio would not be approved. He does not think they need to encourage more of these changes. He said that the density was a lot larger than the rest of the City when the development was first developed, and because of that, they have been given

Chair Melton said he could make the findings and will support the motion.

Motion carried by the following vote:

- Yes: 5 -** Chair Melton
Vice Chair Harrison
Commissioner Olevson
Commissioner Rheume
Commissioner Weiss
- No: 2 -** Commissioner Klein
Commissioner Simons

4. [16-0033](#) Adopt an urgency ordinance amending Sunnyvale Municipal Code Chapter 9.86 and Title 19 to expressly prohibit medical marijuana cultivation, commercial activity, distribution, and delivery; exempt from CEQA pursuant to CEQA Guidelines section 15061(b)(3).

Melissa Tronquet, Assistant City Attorney, presented the report. She noted that Sunnyvale Municipal Code (SMC) Chapter 9.8.6 currently prohibits medical marijuana distribution facilities, which is re-iterated in SMC Title 19 zoning code. She stated that Governor Brown approved the Medical Marijuana Regulation and Safety Act in 2015, and includes two provisions that affect local authority; 1) Cities must have land use regulating marijuana and 2) specific ordinances must be in place to allow or not allow delivery of marijuana. She noted that staff recommended to explicitly prohibit the cultivation and delivery of marijuana. She noted that the decision in this proposal applies only to the changes to the zoning table in SMC 19.62. She said that the public will have an opportunity to make comments to the substance of the changes in the February 9 City Council Hearing.

Comm. Olevson recognized that the ordinance is outside their purview, but asked staff why it is an urgency measure. Ms. Tronquet responded that the March 1 deadline is from the state.

Comm. Weiss asked how it applies to an individual who cultivates for personal use.

Vice Chair Harrison asked if it would be illegal for someone with a medical marijuana card to drive in the City. Ms. Tronquet replied that one could pick up marijuana in another city and take it to their home in Sunnyvale for personal use.

Chair Melton asked staff to clarify the changes on the table in Title 19. Ms. Tronquet clarified the changes, such as the distribution, cultivation, commercial activity, delivery, transport, etc. will explicitly be prohibited by the City.

MOTION:

Comm. Klein moved Alternative 1: Recommend that the City Council adopt an

ordinance amending Title 19 (Zoning), Section 19.62.010 and Tables 19.24.030, 19.28.080, 19.18.030, 19.20.030, 19.29.050, and 19.22.030, of the Sunnyvale Municipal Code relating to an express prohibition on medical marijuana cultivation, commercial activity, distribution, delivery and other activities and find that the project is exempt from CEQA pursuant to CEQA Guidelines section 15061(b)(3). Vice Chair Harrison seconded.

Comm. Klein said that this a fairly easy decision as far as making a recommendation to the City Council, which allows the City to preserve local rights by putting policies in place before the March 1 deadline from the state. This streamlines the Municipal Code.

Vice Chair Harrison said that it clarifies the intent and is consistent with state law.

Comm. Olevson will support the motion; however, his intent of his support is about the City being able to set its own regulations.

Comm. Simons understands local control desires. He said that if medical marijuana becomes nationally legal, the product would be highly taxed which will bring tax dollars to the City. He noted that he will be abstaining.

Comm. Weiss will be supporting the motion, stating that marijuana uses water and electricity intensively.

Chair Melton noted his support to the motion, giving Sunnyvale local jurisdiction to the subject matter.

Motion carried by the following vote:

Yes: 6 - Chair Melton
Vice Chair Harrison
Commissioner Olevson
Commissioner Klein
Commissioner Rheume
Commissioner Weiss

No: 0

Abstained: 1 - Commissioner Simons

STANDING ITEM: CONSIDERATION OF POTENTIAL STUDY ISSUES

Comm. Simons presented a proposed study issue regarding special development permits that include housing.

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

Vice Chair Harrison asked staff if there was a neighborhood village in the Evelyn ITR area. Mr. Miner noted a shopping center on Fair Oaks Rd. and Evelyn Ave., but is unsure if its considered a village. Comm. Harrison discussed the benefits of neighborhood villages.

-Staff Comments

Mr. Miner noted that the January 5 City Council Hearing approved the conversion impact report for Nick's Trailer Park on El Camino Real and Henderson Ave, and that the applicant may start discussion with staff reagarding their proposal.

INFORMATION ONLY ITEMS

None.

ADJOURNMENT

Chair Melton adjourned the meeting at 9:49 p.m.