



City of Sunnyvale

Meeting Minutes - Final Planning Commission

Monday, May 9, 2016

7:00 PM

Council Chambers, City Hall, 456 W. Olive
Ave., Sunnyvale, CA 94086

7 P.M. STUDY SESSION

1 Call to Order in the Council Chambers

2 Roll Call

3 Study Session

A [16-0461](#) Overview of Status of Town Center Project and Proposed Special
Development Permit Amendments

B [16-0476](#) Brief Overview of CEQA Review

4 Public Comment on Study Session Agenda Items

5 Adjourn Study Session

8 P.M. PLANNING COMMISSION MEETING

CALL TO ORDER

Chair Melton called the meeting to order in the Council Chambers.

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

CONSENT CALENDAR

MOTION: Commissioner Klein moved and Vice Chair Harrison seconded the motion to approve the Consent Calendar.

The motion carried by the following vote:

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

No: 0

- 1.A** [16-0459](#) Approve Planning Commission Meeting Minutes of April 11, 2016
- 1.B** [16-0460](#) Approve Planning Commission Meeting Minutes of April 25, 2016
- 1.C** [16-0464](#) **File #:** 2015-8009
Location: 319 W Duane Avenue (APN: 204-26-011)
Zoning: R0
Proposed Project:
 DESIGN REVIEW: To allow a 1,039 square foot addition (413 sq. ft. at first floor and 626 sq. ft. for a new second floor addition) resulting in a total of 2,549 sq. ft. (2,149 sq. ft. living space, 400 sq. ft. garage) residence at 49% Floor Area Ratio (FAR). Proposal also includes modification to an existing 6-foot tall non-conforming fence located in the required front yard.
Applicant / Owner: Hammerschmidt Construction / Nora Grasham
Environmental Review: Categorical Exemption Class 3 (a) that includes construction of single family residence in a residential zone.
Project Planner: Shétal Divatia, Planner, (408) 730-7637, sdivatia@sunnyvale.ca.gov
NOTE: *Consideration of this item has been continued to the special Planning Commission meeting of Monday, May 16, 2016.*

PUBLIC HEARINGS/GENERAL BUSINESS

- 2** [16-0451](#) **File #:** 2014-7373
Location: 871 E. Fremont Ave. (Butcher Property)
Zoning: R-3/ECR (Medium Density Residential/Precise Plan for El Camino Real)
Proposed Project:

PUBLIC COMMENTS ON THE DRAFT ENVIRONMENTAL IMPACT REPORT for a mixed-use project on a 5.1-acre site, consisting of 153 residential units and 6,936 square feet of office/retail use.

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

Senior Planner Noren Caliva-Lepe provided information about the proposed project and the purpose of the DEIR. She said this Public Hearing is for members of the public and the Planning Commission to provide comments on the adequacy of the DEIR and that no decision will be made on the EIR or project.

Chair Melton noted that any questions asked by the public or the Commission will be responded to in the Final EIR.

Chair Melton opened the Public Hearing.

Mei-Ling Stefan, Sunnyvale resident, said the EIR does not adequately address aesthetic issues, that the proposed project and its appearance do not meet the Precise Plan for El Camino Real (PPECR) design guidelines and is not sensitive to neighboring projects in terms of scale. She noted that the PPECR provides guidelines for a size transition between larger and smaller buildings and that there will be three-story townhouses with a sharp transition to five- and seven-story buildings. She said the EIR does not adequately examine the loss of natural resources, that there will be a loss of five acres for recharging ground water and no plan for rain water capture and reuse, or for a graywater system for landscaping. She said the negative impacts on traffic and circulation are not accurately assessed as the Level of Service (LOS) at Fremont and Kingfisher has a grade of F when peak hour traffic data are used; whereas the El Camino Real and Wolfe intersection has a grade of D to E+ because average traffic data are used.

Mike Serrone, Sunnyvale resident, said there is no affordable housing included as part of the proposed project, and that while there may be mitigation fees, this is an excellent location for affordable housing as it is along transportation routes. He said the PPECR clearly defines this area as a key transit node going in all directions and is an excellent location for a station or other transportation facilities and it is not clear that was considered. He noted that a hotel was recently approved nearby, and said it seems individual projects are considered in isolation and not coming out of a plan to implement pedestrian walkways or transportation hubs for the area. He said the LinkedIn building set a model for poorly designed developments in terms of what it does for the community, which is nothing, and that the building comes right up to the sidewalk. He said it has created lot of resentment for the community and he would hate to see another very visible structure with a small setback that

communicates the idea that a development has nothing to do with the community it is in. He said he is amazed that aesthetics were not considered and he hopes consideration is given for the aesthetics of this development.

Sue Serrone, Sunnyvale resident, said the provision and foreseeable implementation of the 2007 PPECR and the Grand Boulevard Initiative are not in conflict with this development, but that she requests the Commission examine the setback on the El Camino side, which appears to be ten feet from the street. She said this conflicts with the direction of previous plans to provide walkable, bikeable and multimodal street situations, and she is concerned that the extension of bike lanes on El Camino will conflict with the narrow sidewalk located close to the proposed building. She said a public benefit mitigation may be in order, such as a protected bike lane or a healthier setback from the sidewalk. She said she supports increased density at this node and that zoning from R-4 to R-5 is appropriate with the wide street and commercial services on three sides. She referred to a document submitted by Karen Warner and Associates, prepared for the update to the PPECR, that noted over 350 residential units are planned or under construction on El Camino and none have requested a density bonus, that there is currently no residential density limit on commercially zoned sites, and that establishing residential density for this corridor or for the nodes and enabling the use of a density bonus program could incentivize the inclusion of affordable units and market rate development along this corridor.

Phil Gibson, Sunnyvale resident, questioned the objectivity of the EIR because it is written as if there is no impact on the neighborhood. He said the description of the neighborhood trees in the the report are described as ranging from 75 to 80 feet in height but that most trees appear to be 60 feet tall. He noted that the proposed five-story and the seven-story buildings will be massive and two-to-three times as tall as anything in the area. He said the written average household size and projected number of new students attending Stocklmeir Elementary School are unrealistic, that current Stocklmeir students will be affected and that 150 more cars will be racing through the neighborhood.

Ritesh Patel, Sunnyvale resident, said he appreciates that this project will have significantly less of an impact than something like a mall on traffic, pollution and other problems he or his neighbors will have to deal with. He said while a project like this will bring with it a lot of homes it will also bring a lot of tax revenue to the City.

Kirt Mulji, an employee working in Sunnyvale, said the project does not seem to have much of an impact on traffic, and that the developer is making great strides to

protect the environment, including the older trees, which the project would be built around.

Holly Lofgren, Sunnyvale resident, noted that aesthetics were not studied in the DEIR and disagrees with the statement that the seven-story building would not block the view of the mountains. She said this project is not a Transit Oriented Development (TOD), that the expected large bottleneck at the intersection, which will degrade to LOS F, should warrant an analysis of emergency access, which was not performed. She said the area of controversy is misstated and that vehicular safety was erroneously not mentioned. She noted that U-turns and lane changing anticipated on Fremont were key objections to the project from the outset and were dismissed. She noted that the project will be accessed from a single driveway on E. Fremont Avenue, that she has requested information regarding the standard distance between driveways and she does not understand why this is not a major circulation safety concern. She said regarding the Cumulative Conditions section, she does not believe the result stating the proposed project would result in a less than significant impact at the Wolfe and E. Fremont intersection. She said the Landbank project was not included in the analysis of traffic and we can expect back and forth traffic on Wolfe, and she noted that other items were not addressed, including the wide sidewalks, the project's proximity to a two-story dwelling and the appalling architecture.

Ed Cramer, HOA president of the Tapadera Condos on Kingfisher Terrace, said the proposed project does not conform to the integrity or compatibility of the neighborhood, that it is too tall and should remain zoned R-3. He said Kingfisher Terrace was not mentioned in the DEIR and he is concerned that residents will not be able to pull out of the complex because it will be adjacent to the traffic from the project. He said he is also concerned with the noise, dirt and pollution during construction and questions how those issues will be resolved.

Matthew Maxson, Sunnyvale resident, noted that part of this plan is to provide a dedicated right turn lane off of Wolfe onto Fremont and that it would offer great relief to some of the traffic safety issues there. He said this is a modest medium density project and that he believes any minor findings in the EIR will be mitigated by the developer.

Zachary Kaufman, Sunnyvale resident, said the ratio of the number of bedrooms to the number of parking spaces is imbalanced and that the DEIR does not address visitor parking. He said the report does not mention how the average household size was calculated and that he does not believe it will be near 2.61 persons. He said the aesthetics section characterizes this site as previously developed, which

he says is incorrect because it was determined to be an agricultural site which means aesthetics should be discussed, as should sight lines.

Yogesh Rane, a mortgage broker in the area, said the biggest issue for many first time home buyers is affordable housing in the area, and that seeing this amount of inventory coming on the market in the next few years will stabilize valuations and will allow more people to consider buying in Sunnyvale. He said it is nice to see that there will be a less than significant impact on traffic and the conservation of nesting habitats for birds and bats.

Peter Wright said the related projects section makes no mention of the projects on Homestead and Wolfe, of Gateway on Lawrence or The Hamptons project at Wolfe and 280. He said the aesthetics section describes the area as two- to three-stories and that the proposed project is two times taller than nearby buildings. He said the setback on Fremont appears to be less than that on El Camino for the same building and that it should be the same if not greater. He mentioned that it would be helpful to include better mockups of the buildings to see how they would look onsite. He noted that water would be conveyed to the City's existing drain system on Fremont and that the Santa Clara Valley Water District determined that sites west of Butchers Corner and north of El Camino are flood prone, so it could have an impact on adjacent neighbors and should be discussed in the EIR. He said onsite recreation is oriented to adults and teenagers, that the report does not mention the project's impact on City parks, the nearest of which for small children being one mile away. He said the EIR does not include additional trips for basic recreation, and that new developments tend to have more children around the same age, meaning the project will have a greater impact on the schools than discussed in the EIR. He said most parents drive their children to school due to distance, that during the peak morning time the number of residents leaving is listed as 60, but that there will be 95 new students needing rides, for which the traffic planning and analysis should account. He said if a dedicated bike lane on El Camino is in the street and a traffic lane must be removed it should be included in the report.

Piyush Kothaxy said the EIR is comprehensive, that he is glad this site is not going to be used for an office building or commercial development and he likes the idea of a dedicated right turn lane. He said we need housing like this near office buildings which will shorten commutes.

Anupama Dwivedi, resident of Blair Avenue, said the dedicated right turn lane will help alleviate traffic and that this is the right density for El Camino.

Heather Morse, Sunnyvale resident, said the project is beautiful and in a good location, and that she likes that the corner will have a park-like setting. She said the project provides a major traffic improvement by widening El Camino, that the housing is the perfect density and is glad that the developer is able to save the 200 year oak tree.

Jessica Morse, Sunnyvale resident, said the project is a positive addition to Sunnyvale which needs more housing and that having another turning lane can minimize traffic accidents.

Denise DeLange, Sunnyvale resident, encouraged others who want to address the DEIR to do so in writing.

Mary Brunkhorst, Sunnyvale resident, said she is concerned with the proposal to remove 245 of the 246 trees onsite and said replacing them does not replace the tree canopy or their history and that 50 more protected trees are healthy enough for preservation, particularly those on the corner of the site. She said there should be additional project design alternatives with smaller buildings or different building locations to allow preservation of the trees, and that she is confused by the assumption in the report that the project meets the requirements of the PPECR and can use the associated zoning. She said the plan encourages mixed use with access to commercial services from adjacent residential neighborhoods, but that this project does not have access from El Camino. She said the project faces Fremont and should be turned around so it is seen as part of the neighborhood on a residential street surrounded by buildings two- to three-stories high.

Nirav Mehta, owner of the Building at Wolfe and Fremont, said the only way to alleviate the traffic problem at the Wolfe-El Camino-Fremont intersection is with the corner plot alternative that provides an additional lane at no cost to the City, its tax payers and businesses. He noted that the EIR fails to highlight the traffic relief that would result from the additional lane.

Manisha Shah, Sunnyvale resident, said the plan should be altered, that the buildings should be staggered and there should be several access points to the project from El Camino.

Dipa Mehta said the DEIR determined that the project will have a less than significant impact with mitigations on all of the major issues, and that the addition of a right turn lane will improve the traffic at an intersection that is F rated.

Ashish Gupta, owner of a business in Sunnyvale, said more housing is needed to

accommodate growing businesses in Sunnyvale.

Devang Shah, employee of a business in Sunnyvale, said we should continue increasing housing density to support growing businesses and increase tax revenues. He added that many of the issues presented in the EIR are negative issues, and suggested it also evaluate the positives and how the project can help the City.

Nandita Shah said projects like this provide much needed housing and will make Sunnyvale richer in terms of talent, diversity and tax revenue. She said only two-to-three percent of impacts were significant and that other impacts have measures to mitigate them.

Bong Joon Jang, owner of a business in Sunnyvale, said the dedicated right turn lane from Wolfe onto Fremont will help alleviate daily traffic jams and increase vehicle safety.

Dhruvi Mehta, owner of a business in Sunnyvale, spoke in support of the project.

Sarmistha Patnaik spoke in support of the project.

Eleanor Field, Sunnyvale resident, said increased housing in the area has increased the population of Stocklmeir Elementary so that students have to get in by lottery, and that there is no safe way to get to Fremont High School. She said there is no public transportation on Fremont, and that with several big projects on Wolfe there will be a huge increase in traffic. She added that fire engines will not be able to get in and out of the site.

Peter Meier said Sunnyvale needs the extra housing to support local businesses, that the added turn lane will help with traffic and that this is a sensible sized project for this site.

Vice Chair Harrison said not enough adequate alternatives were studied with regard to the environmentally preferred corner lot site plan. She said there are no EIR defined scenic vistas in Sunnyvale and that a grove of mature oak trees may not be defined as a significant biological or cultural asset in EIR terms, but that the trees mirroring each other from the proposed project site to the City right-of-way across Wolfe better represent our history and culture. She said they are a visual landmark and gateway as required by the PPECR, which encourages a consistent landscape theme. She requested an alternative be studied that retains the mature grove and redistributes the buildings with the corner lot site plan.

Commissioner Olevson said he would like to see the EIR better explain the use of averages, specifically the number of people per dwelling unit. He questions whether the baseline used by the EIR is based on Silicon Valley averages or national averages. He said in this valley we have a much higher density per bedroom, and he would like the EIR to better explain where the data came from so we can evaluate whether it is adequate at the approval stage.

Commissioner Simons said he assumes that there is not a linear ratio for the numbers for traffic and pollution contribution if a single occupancy vehicle reduction requirement is added. He asked if a reduction was imposed for traffic, would the impact be linear, if there is a step function or if there are different amounts at peak times that reduce the traffic level. He asked what the mitigation for safety is for maintaining a bike lane when cars turning right from the dedicated lane cross over the bike lane.

Commissioner Weiss asked if the project will follow the 2016 Building and Energy Efficiency Standards going into effect on January 1, or if it will be bound by prior standards. She said she is concerned by the increase in pervious surfaces and would like to see how water runoff will be prevented or captured and directed to landscaping addressed in the EIR. She said she does not understand why the emergency access is from Fremont and said it could be shown more clearly and justified. She said she would like to see more project alternatives with scaled down size and bulk, and that she would like to see the trees referred to as a heritage orchard rather than a remnant to potentially save more. She said only 7,000 square feet will be dedicated to commercial retail and she would like to see how this space will be best used in a mixed use concept.

Commissioner Klein said under the Cumulative Impact Analysis section the project listing should encompass other large, well known projects nearby, including Central and Wolfe, the Apple campus on Homestead and the Wolfe and El Camino hotel. He said he would like to see an evaluation of an alternative with an exit onto El Camino from the project in order for the project to be considered part of the PPECR and to help alleviate traffic issues on Fremont. He said he would also like to see an alternative that would conceivably increase the retail along El Camino and Wolfe to provide more walkability for the existing residents near the site.

Chair Melton said the following developments should be included in table 4-1 and in the Cumulative Impact Analysis section of the EIR: 803 W. El Camino Real, 1080 Steward Drive, 1111 W. El Camino Real, 1205 W. El Camino Real, 1313 S. Wolfe Road, 598 W. El Camino Real, 725 S. Fair Oaks, 777 Sunnyvale-Saratoga Road,

850 E. El Camino Real, 830 E. El Camino Real, 861 E. El Camino Real, 970 W. El Camino Real and 1008 E. El Camino Real. He said on page 4.1-17 under Aesthetics the following language should be added, "Notwithstanding the requirements of SB-743, for the sake of completeness, the FEIR includes computerized renderings of how the completed project would appear, in its final form, to an average height adult looking at and towards the project from the following five locations: 1,000 feet to the west standing on E. Fremont Ave.; 1,000 feet to the east standing on El Camino Real; 1,000 feet to the south standing on S. Wolfe Road; 1,000 feet to the north standing on S. Wolfe Road; and, 1,000 feet to the south standing on Kingfisher Way. He said on page 4.3-6 in the discussion about the orchard trees the final sentence of the paragraph currently says the trees were not included in the Preliminary Tree Report because of their original function for agricultural use. He requested the authors of the EIR add a footnote that cites the specific California law which exempted the orchard trees from having to be included in the Preliminary Tree Report, and to add the following sentence, "Notwithstanding the foregoing, for the sake of completeness, the Preliminary Tree Report has been re-prepared in its entirety for the purposes of this FEIR, which such Preliminary Tree Report now includes an analysis of the previously excluded orchard trees, and which such revised Preliminary Tree Report is attached to this FEIR." Chair Melton said in section 4.8 on page five, the authors describe a disconnect between the zoning as R-3 and the General Plan zoning district associated with this parcel R-4. He requested the authors add the following language, "To better help decision makers understand whether this disconnect between the zoning designation and the General Plan designation is uncommon or commonplace, the following table in this FEIR identifies all residentially-zoned parcels in the City of Sunnyvale where the zoning designation is disconnected from the zoning district designated by the General Plan to each such parcel." He said in section 4.10 on page 14 at the conclusion of the discussion on Cupertino Union School District he would like the following language to be added, "Notwithstanding the foregoing, on July 6, 2015 the District stated its opposition to the planned project, as shown in Appendix I."

Senior Planner Caliva-Lepe noted that the end of the DEIR public comment period is May 23, 2016.

Chair Melton closed this agenda item.

- 3** [16-0338](#) **File #:** 2015-8086
Location: 568 South Frances Street (APN: 209-30-020)
Zoning: R0-HH (Low Density Residential / Heritage Housing)
Proposed Project:
Appeal by the applicant of a decision by the Zoning Administrator to approve a **VARIANCE** with conditions to

modify the roof style of the detached garage to a flat roof and reduce the height to be no higher than the proposed wall height.

Applicant / Owner: Efrat's Design Studio (applicant) / Efrat and Lior Barak (owners)

Environmental Review: Class 1 Categorical Exemption

Project Planner: Momoko Ishijima, (408) 730-7532,
mishijima@sunnyvale.ca.gov

Commissioner Klein recused himself from consideration of this item because he lives within 500 feet of the subject address.

Associate Planner Momoko Ishijima presented the staff report.

Commissioner Simons confirmed with Associate Planner Ishijima that the staff recommendation includes a Variance and that findings can be made with that one modification.

Vice Chair Harrison discussed with staff the reasons the Zoning Administrator could not make finding number 2 if the garage roof was pitched.

Commissioner Rheume confirmed with Associate Planner Ishijima that the proposed garage height would be two inches taller than the existing garage.

Commissioner Olevson clarified the proposed garage height with Associate Planner Ishijima.

Commissioner Weiss confirmed with Associate Planner Ishijima that a shading study was not done because the garage is a one-story structure, and they discussed the shade the redwood tree casts.

Chair Melton confirmed with Associate Planner Ishijima that the Heritage Preservation Commission approved a Resource Alteration Permit in November. Chair Melton also confirmed with Associate Planner Ishijima that materials and forms as they relate to the Variance for the detached garage are within the purview of the Planning Commission. Chair Melton confirmed with Associate Planner Ishijima that the Zoning Administrator added a condition to lower the roof of the garage in order to make the findings for the Variance.

Chair Melton opened the Public Hearing.

Applicant Lior Barak provided information about the application and appeal.

Assana Fard, neighbor adjacent to the subject site, discussed her concern with the potential additional shading of her property and spoke in opposition to the appeal.

Commissioner Simons clarified with Ms. Fard her opposition to granting the Variance.

Steven Hoffman, neighbor behind the subject site, discussed his concern with the garage obstructing the view from his property and spoke in opposition to the appeal.

Stan Hendryx, nearby neighbor, noted that all detached garages in the heritage district have pitched roofs and spoke in support of the appeal.

Applicants Erfat and Lior Barak provided additional comments regarding the Variance application.

Vice Chair Harrison clarified with Associate Planner Ishijima the height of the proposed garage.

Commissioner Rheume discussed with Planning Officer Miner the history of the Variance application and confirmed that it is within the purview of the Planning Commission to make the findings, including whether the project is in keeping with the Heritage Preservation Commission decision.

Vice Chair Harrison noted that the majority of a pitched roof would be shorter than 11'6" and only the center of the roof would be two inches taller. Planning Officer Miner noted that height is measured to the tallest point.

MOTION: Commissioner Rheume moved Alternative 4: Approve the Appeal and approve the Variance.

Chair Melton clarified with Planning Officer Miner that to achieve the decision Commissioner Rheume wants he would have to move for Alternative 5 and remove Condition of Approval PS-1.

FINAL MOTION: Commissioner Rheume moved and Vice Chair Harrison seconded the motion for Alternative 5: Approve the Appeal and approve the Variance with modified conditions:

1) Remove Condition of Approval PS-1 regarding roof style.

Commissioner Rheume said he can make the findings for the appeal if he looks

specifically at Design Guideline 3.1.4. He said he commends the neighbors for their passion about their neighborhood, privacy and sunshine, but he cannot see two inches making a difference. He said the heritage district is a unique and beautiful neighborhood and he wishes more houses had the garage in the back instead of at the street. He added that the nice design of the garage will be a great addition to the neighborhood and the City.

Vice Chair Harrison said the neighbors will be less impacted by the pitched roof with regard to shading, that she can make the findings with regard to the setback Variance because it is a condition of the neighborhood. She said matching the garage style to that of the home seems to be the optimum solution, and that the majority of garages in the neighborhood have matched roof and house styles, which was the intent of the Heritage Preservation Commission. She said she can make the findings for the Variance and hopes the neighbors will enjoy more sunshine.

Commissioner Simons said unless one has an unusual lot shape, granting a Variance for a standard rectangular lot is wrong, but he can support rebuilding a dilapidated structure and replacing it in a heritage district. He said he thinks zoning for the heritage districts needs to be modified so we do not see Variance requests, and that maintenance and rebuilding in a modest way should not be considered a Variance.

FRIENDLY AMENDMENT: Commissioner Simons offered a friendly amendment to reduce the garage by two inches, keeping it conforming for height. Commissioner Rheume declined the friendly amendment.

Commissioner Simons said he understands that the roof will be sloping from the peak going back and he is less concerned about having some kind of higher level of aesthetic on the back. He said he will support the motion but that he does not like granting Variances. He added that this is a rectangular lot and questioned how we do this so we are not handing out administrative Variances.

Commissioner Weiss said she found only two garages with a flat roof in the neighborhood, and that behind the subject site is commercial property which she does not give the same amount of weight to as a family home. She said the project will vastly improve the appearance of the street because you can see the dilapidated structure from the street and she is concerned that not allowing this Variance will discourage people who want to improve a property in the future and their choice may be to let a structure rot rather than go through many hoops for approval.

Commissioner Olevson said Variances should be considered with great skepticism and noted that the current structure is legal nonconforming. He said we are also looking at a policy of maintaining heritage trees and the oak tree on the site looks like one we would want to keep. He said the trade off is to not do a decent job on making the garage and home similar in architecture or doing something to the tree which we do not want. He said in trying to balance the equities of this and knowing the neighborhood has similar homes, granting the Variance is the best alternative for this neighborhood and the City.

Chair Melton said he can make the findings, and that the houses in this neighborhood have heritage architecture harkening back to the early days of the City. He said the first thing he notices when looking at the home is the gorgeous oak tree and the second thing he notices is the dilapidated garage. He said this motion strikes a balance in taking care of both things, and that it will be an improvement that will hopefully be viewed as an addition and benefit to the entire residential area and to the City.

The motion carried by the following vote:

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

No: 0

Recused: 1 - Commissioner Klein

Planning Officer Miner announced that this decision is final unless appealed to, or called up for review by the City Council within 15 days.

- 4** [16-0454](#) **File #:** 2015-7530 and 2015-7936
Location: 521 E. Weddell Drive (APN: 110-14-196), 531 E. Weddell Drive (APN: 110-14-186), 539 E. Weddell Drive (APN: 110-14-158), 1010 Morse Ave. (APN: 110-14-202), Hetch Hetchy ROW (APN: 110-14-202)
Proposed Project:
GENERAL PLAN AMENDMENT: Proposed land use designation change (Alternative 1) from Industrial to School or (Alternative 2) from Industrial to Commercial Neighborhood on three parcels (521, 531, and 539 E. Weddell Drive), and from Industrial-to-Residential/Medium-to-High Density to Park on one parcel (1010 Morse Ave. - Seven Seas Park), and from

Industrial to Park on one parcel (Hetch Hetchy ROW);
REZONING from MS-POA (Industrial and Service/Places of Assembly) to PF (Public Facilities) zoning or from MS-POA(Industrial and Service/Places of Assembly) to C1 (Neighborhood Business) on three parcels (521, 531 and 539 E. Weddell Drive), and from MS-ITR-R3-PD (Industrial and Service - Industrial to Residential/Medium Density Residential/Planned Development) to PF (Public Facilities) zoning on one parcel (1010 Morse Ave. - Seven Seas Park), and MS (Industrial and Service) to PF (Public Facilities) zoning on one parcel (Hetch Hetchy ROW);
USE PERMIT for the use of an existing building (539 E. Weddell Dr.) for a public charter middle school of up to 400 students.

Applicant / Owner: Sunnyvale International Church and Summit School (applicants) / Sunnyvale International Church (owner - 521 and 539 E. Weddell Drive), 1st Morning Light Chinese Christian Church (owner - 531 E. Weddell Drive), City of Sunnyvale (owner - 1010 Morse Ave.), and City and County of San Francisco (San Francisco Public Utilities Commission - Hetch Hetchy ROW).

Environmental Review: Negative Declaration

Project Planner: Momoko Ishijima, (408) 730-7532, mishijima@sunnyvale.ca.gov

Chair Melton noted that staff recommended rescinding a prior Planning Commission action on this application. He said he had a discussion with staff and recommended to the Planning Commission discussion of Alternative 1 to rescind the prior action first and separate from other motions when the time comes to make a motion.

Planning Officer Andrew Miner provided background information on the application and its previous consideration by the Planning Commission. He explained that staff returned to the Planning Commission for a second consideration of the application because the Commission asked for an analysis of the change in zoning to a commercial designation. He also explained that staff requests the Planning Commission rescind their previous action because there are additional documents to review that were not previously available.

Associate Planner Momoko Ishijima provided information on the application.

Commissioner Olevson confirmed with Principal Transportation Engineer Carol Shariat that the south driveway is ingress only and the east driveway is egress only. Commissioner Olevson and Michael Mowry, from Kimley Horn and Associates, discussed the difference in number of peak morning and afternoon vehicle trips, and confirmed that the TIA does not consider off ramp degradation because there

is typically less delay.

Commissioner Klein and Planning Officer Miner discussed staff concern with the viability of neighborhood retail uses in the area, and clarified with Associate Planner Ishijima that the total number of parking spaces is based on the number of classrooms. He also confirmed with staff that after the two modular classrooms are removed, if the applicant wants to use that space for other activities it would require returning to staff for review. Commissioner Klein discussed with Planning Officer Miner the staff recommendation to rezone the site to PF, and clarified that a commercial designation would require a General Plan Amendment, which could not be acted upon tonight. Commissioner Klein referred to other projects along Weddell requiring an EIR and discussed with Planning Officer Miner why a Negative Declaration is appropriate for this application. Commissioner Klein discussed with Senior Assistant City Attorney Rebecca Moon the analysis in the approval process for a school that looks at existing hazardous conditions in the area surrounding the school.

Commissioner Weiss confirmed with Mr. Mowry that the project trip distribution is based on the subject address. She confirmed with Associate Planner Ishijima that delivery trucks would use the same driveways as parents picking up and dropping off students, but that deliveries would not overlap with those times. Commissioner Weiss said delivery times may need to be adjusted to prevent disturbing nearby residences.

Commissioner Simons discussed with Planning Officer Miner whether the City offered to pay for the EIR for a commercial designation and discussed which zoning designation is most compatible for these sites. Commissioner Simons commented on potentially rezoning for a particular user rather than a particular use. Commissioner Simons discussed with staff the reasoning behind requiring an EIR for the housing development across the street from the subject site while a Negative Declaration is adequate for this application.

Vice Chair Harrison inquired about the age of the onsite buildings.

Chair Melton opened the Public Hearing.

Sunnyvale International Church Pastor Jorge Marsal provided information about the application and Principal of Summit Denali School Kevin Bock provided information about the school.

Vice Chair Harrison discussed with Mr. Bock and Director of Real Estate for

Summit Public Schools Norman LoPatin the requirements of the school to lease the buildings.

Commissioner Olevson commented on the school's history of noncompliance with Sunnyvale codes and confirmed with Mr. Bock that the school is committed to abiding by any restrictions of the Use Permit.

Commissioner Weiss confirmed with Mr. Bock that the school is chartered through the Santa Clara County Office of Education, that students from within the County could attend this school and confirmed that the current percentage of students who would attend and live in Sunnyvale is approximately 40 percent. Commissioner Weiss also confirmed with Mr. Bock that the school will not use loudspeakers or bells to signal the change of a period, and that if the Use Permit is approved for grades six through eight at this location Summit Public Schools will continue to look for a permanent location for a high school. Commissioner Weiss confirmed with Mr. Bock that the second floor is a science lab and there are no plans for a nursery.

Josie Jewett, resident of Morse Avenue, spoke in support of Summit Denali School and the Use Permit application.

Parent of Summit Denali student, Steven Johnson, speaking on his behalf, spoke in support of Summit Denali School.

Ralph Merrem, parent of two Summit Denali students, spoke in support of Summit Denali School.

Heather Chen, Sunnyvale resident and parent of two Summit Denali students, spoke in support of Summit Denali School.

Geoff Ainscow, resident of Devonshire Way, spoke in support of Summit Denali School and the Use Permit application.

Sherri Taylor, parent of a Summit Denali student, spoke in support of Summit Denali School.

Cathy Giblin, parent of a Summit Denali student, spoke in support of Summit Denali School and the Use Permit application.

Joyce Loewy, Sunnyvale resident, discussed her concern with existing traffic that may be exacerbated by approval of the Use Permit. She requested traffic calming measures if the application is approved.

Elizabeth Padilla, Sunnyvale resident, discussed her concern with increased traffic in the area and the health risks of building a school near a freeway.

Sayed Sadat, Sunnyvale resident, speaking on his and his neighbors' behalf, discussed his concern with traffic and requested the Commission consider commercial zoning for the site to require an EIR and TDM plan.

Property Owner Jorge Marsal added that all of the church's parking is contained on his property.

Applicant Kevin Bock provided additional comments about the application and requested approval of the Use Permit.

Vice Chair Harrison inquired if the applicant is amenable to a COA requiring the applicant pay for a traffic study two years after the school reaches full occupancy, to which Mr. Bock responded that he could not answer that question and said the school is willing to work with traffic consultants specifically for schools to ensure minimizing the impact to the neighborhood.

Commissioner Weiss confirmed with Mr. Bock that the existing building has an HVAC system. Mr. Bock said he is uncertain about the air filtration requirements of that HVAC system.

Chair Melton closed the Public Hearing.

MOTION: Chair Melton moved and Vice Chair Harrison seconded the motion for Alternative 1: Rescind the motion regarding General Plan and Zoning passed by the Planning Commission at the February 22, 2016 meeting regarding this project.

Chair Melton said a motion to rescind a previous action is unprecedented, but that he trusts the process and that this application has returned to the Planning Commission because additional information is now available that was not previously. He noted that the same or a different action on the remaining motions can be taken on this application after the previous action is rescinded.

Vice Chair Harrison said she is persuaded by the owner of the Sunnyvale International Church property that the church is there for the long haul and that the church is not interested in making a commercial establishment on the property. She agreed with the concept that churches and schools remain in one location for a long period of time, and said C-1 zoning would not be appropriate for this site.

Commissioner Simons said he will not be supporting the motion, and said many uses have been discussed for this site except a zoning designation of PF. He noted that he was on the Planning Commission when the property was given an ITR designation which allowed for many different uses, and that the site probably does need to be rezoned, but that we should not be taking a short term look at it. He said if an EIR is required, the City should consider paying for its preparation.

Commissioner Olevson clarified that the motion is to rescind all previous action taken by the Planning Commission on this application.

The motion carried by the following vote:

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

MOTION: Vice Chair Harrison moved Alternatives 2, 3, 4 and 6; 2) Make the required findings and adopt the Negative Declaration; 3) Adopt a resolution amending the General Plan land use designation from Industrial to School for 521, 531 and 539 E. Weddell Drive and from Industrial to Park for 1010 Morse Avenue and make no changes to the SFPUC Hetch Hetchy property; 4) Introduce an ordinance to rezone 521, 531 and 539 E. Weddell Drive from MS-POA to PF and 1010 Morse Ave. from MS-ITR-R3-PD to PF; and 6) Approve the Use Permit with modifications:

a) Two years after occupancy the applicant pay for a traffic study to determine if any improvements are needed in the roadway to accommodate the school traffic.

Chair Melton confirmed with Planning Officer Miner that the Planning Commission has the prerogative to require an applicant to pay for a traffic study.

Commissioner Rheume seconded the motion.

Vice Chair Harrison said the expert testimony that a Negative Declaration is appropriate for this use based on the use of an existing building and that the traffic impacts anticipated were determined using standardized calculations. She said the General Plan use designation has been debated, and that based on the applicant's statement they will remain there long term and are not considering future commercial zoning. She said the proposed zoning designations seem appropriate

for the existing use and for a cohesive neighborhood, and that the TIA was thorough and made many requirements of the applicant to provide a safer street for students and the neighborhood, including the erection of various safety signs and the employ of a crossing guard at a busy intersection. She said she is happy to hear a parent say their child takes public transportation and would be safer on light rail going to a traffic signal with a crossing guard. She said vehicle speeds in the surrounding area will be mitigated and that a narrow street does not mean it is less safe if you can get people to drive slowly. She said there may be an increased traffic load in two years when the school is occupied with students and the modification is a way to show the community that the school is interested in the long term health of the community.

Commissioner Rheume said his support of the motion is predicated on Vice Chair Harrison's modification requiring a traffic study in two years and that the biggest concern is traffic. He said he would like to see what future traffic patterns will look like once the two big projects across Fair Oaks are occupied and functioning.

FRIENDLY AMENDMENT: Commissioner Simons offered a friendly amendment to recommend that the interior air quality of the school meet the same level as neighboring housing units. Vice Chair Harrison said she cannot accept because the application concerns an existing building, that a new building is built substantially different than an existing one and that even with same the filters two buildings would not have the same air quality. She added that the new building is closer to the freeway than this property.

FRIENDLY AMENDMENT: Commissioner Simons offered a friendly amendment to require sound levels to be reduced to normal school sound levels from the exterior. Vice Chair Harrison said she could accept that because it is a limited scope renovation. Planning Officer Miner said the City has general noise standards that are required to be met by all. Commissioner Simons changed his friendly recommendation to test the noise level of the school in two years, along with the traffic study, to determine the impact of interior noise on the neighborhood. Vice Chair Harrison accepted.

FRIENDLY AMENDMENT: Commissioner Simons offered a friendly amendment to require that if traffic counts exceed what is expected at the two year mark, the school will mitigate traffic down to the projection in the traffic report. Vice Chair Harrison confirmed with staff that this modification is feasible, and that implementation of a TDM program could be a mitigation measure and recommendation of the future traffic analysis. Vice Chair Harrison discussed the wording of the modification, and Commissioner Simons commented on never

seeing the City implement a TDM program after a development has been built. Vice Chair Harrison denied the friendly amendment.

Commissioner Simons said he cannot support allowing a user with a sensitive population to not meet air quality requirements and that he would not want any kids to be unnecessarily exposed to pollutants. He said he understands space is difficult to find, but that air quality standards need to be met and that the neighborhood will not get any help out of this project. He said we will have signs and a few strips on the street to slow traffic but that those mitigations do not get to the real problem of reducing single occupancy vehicle trips to drop off children. He said he would like to see coordination to minimize this impact and that making it a requirement would be good for the neighborhood and school to minimize the number of cars going in and out of the property. He said he is supportive of the school, but that we should not support bad planning. He added that this is the wrong zoning, that we are not doing any mitigation and that none will be done after the school is functioning, so he will not be supporting this motion.

Commissioner Olevson said that while he likes the idea of allowing the church to have the nursery and preschool they want, he cannot support the Use Permit because he has not heard assurance from the applicant that the school will adhere to the COAs. He said he is persuaded by the actual onsite count by a potentially biased observer that car counts during pick up and drop off times are higher than the national average statistics used in the traffic study and that there will be much more of an impact on this neighborhood than the report suggests.

Commissioner Klein said it is always good that we separate the consideration of rezoning from that of the Use Permit and that he has issues when trying to merge them because we are making a recommendation to City Council. He said we made a recommendation for C-1 zoning two months ago and he wishes it went through so they could get Council feedback. He noted that only one property owner has come out to speak and is communicating on the issue of rezoning their property, and he disclosed that he toured the school and met with neighbors to talk about the issues. He said he understands that the applicant wants to protect and educate the children, but that the two reports assume students will only be exposed 180 days and that this is a year round school so that exposure is likely to be more than 180 days. Commissioner Klein said there are questions about the adequacy of the evaluation, and that with nearby projects many mitigation measures were required to deal with air quality and noise. He said the children will be outside and thus exposed because 101 is only separated from the school by a chain link fence and that there are many issues with this site that can only be truly evaluated by an EIR. He said he understands that we are only considering a Negative Declaration and

that the issues are considered low impact but that two approved projects for apartment buildings on Weddell and Fair Oaks were also low impact only after mitigation measures were put in place. He said with all these issues remaining he cannot support the motion.

Commissioner Weiss said she appreciates the difficulty of finding a suitable site for a school in this valley and appreciates all that Summit Denali School does for its students, but that she does not feel that the concerns raised have been adequately addressed. She said she is referring to the health and safety of students and the capacity of the road systems and will not be supporting this motion.

FRIENDLY AMENDMENT: Chair Melton offered a friendly amendment to require that interior air quality be tested in two years and if it is found to be noncomplaint with relevant law the applicant will mitigate it. Vice Chair Harrison and Commissioner Rheume accepted.

FRIENDLY AMENDMENT: Chair Melton offered a friendly amendment to measure traffic in two years and if it is in excess of the prediction made in the traffic study a TDM program or some other traffic mitigation program deemed appropriate by experts in the Sunnyvale Traffic Division will be implemented. Vice Chair Harrison and Commissioner Rheume accepted.

Chair Melton said he looks at the P-F versus C-1 zoning and he sees lots of traffic and mitigation on that road either way. He said the potential commercial zoning may not have a high likelihood of success but that it would have a greater environmental impact. He said his trust in the property owner and church is high and that it barely ameliorates what he thinks is applicant's reprehensible land-use behavior on the Mercury Drive site.

The motion failed by the following vote:

Yes: 3 - Chair Melton
Vice Chair Harrison
Commissioner Rheume

No: 4 - Commissioner Olevson
Commissioner Klein
Commissioner Simons
Commissioner Weiss

Planning Officer Miner said the Planning Commission could take each Alternative individually or together. Senior Assistant City Attorney Moon noted that the motion failed because of the school component and that other actions need to be taken on the park and Hetch Hetchy parcels.

Chair Melton clarified the required actions with staff.

MOTION: Commissioner Simons moved and Commissioner Olevson seconded the motion to recommend to City Council: Adopt the Negative Declaration and resolution amending the General Plan land use designation from Industrial to Park for 1010 Morse Avenue and make no changes to the SFPUC Hetch Hetchy property; and, deny the requests for General Plan Amendment and Rezoning for 521, 531, and 539 E. Weddell Drive and recommend that the properties be considered with a General Plan designation of Commercial and a C-1 zoning with a direction to staff to come back with the necessary environmental review.

Commissioner Simons said he hopes this can be done as expeditiously as possible, that there are multiple land owners and this is a leftover from the transition area that used to be all industrial. He said this is appropriate direction to the City on the appropriate zoning and that it is consistent with the users as is and potentially in the future.

Commissioner Olevson had no comments.

Planning Officer Miner announced that the Planning Commission also has to take action on the Use Permit.

The motion carried by the following vote:

Yes: 5 - Commissioner Olevson
Commissioner Klein
Commissioner Rheaume
Commissioner Simons
Commissioner Weiss

No: 2 - Chair Melton
Vice Chair Harrison

MOTION: Commissioner Olevson moved and Commissioner Simons seconded the motion to recommend to City Council denial of the Use Permit.

The motion carried by the following vote:

Yes: 4 - Commissioner Olevson
Commissioner Klein
Commissioner Simons
Commissioner Weiss

No: 3 - Chair Melton
Vice Chair Harrison
Commissioner Rheaume

Planning Officer Miner noted that this recommendation will be forwarded to City Council for consideration at the Tuesday, May 17, 2016 meeting.

STANDING ITEM: CONSIDERATION OF POTENTIAL STUDY ISSUES

None.

NON-AGENDA ITEMS AND COMMENTS

-Commissioner Comments

None.

-Staff Comments

Planning Officer Miner announced that on May 3 the City Council took action on the DSP Amendment Initiation at 160 Aries Way and accepted the Planning Commission recommendation but did not increase the residential density limit.

ADJOURNMENT

Chair Melton adjourned the meeting at 12:56 a.m.