



City of Sunnyvale

Meeting Minutes - Final Planning Commission

Monday, October 2, 2017

6:30 PM

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

Special Meeting - Study Session - 6:30 PM | Special Meeting - Public Hearing 7 PM

6:30 P.M. STUDY SESSION

Call to Order in the West Conference Room

Roll Call

Study Session

A. [17-0953](#)

File #: 2017-7633

Location: 1010 Sunnyvale Saratoga Road (APN: 211-21-032)

Zoning: C1/PD

Proposed Project:

SPECIAL DEVELOPMENT PERMIT: to allow development of
an 18,600-square foot commercial building to be used for a child
care and preschool for up to 240 children.

Applicant / Owner: DPM Property Management, Inc. / William A
Antonioli Trustee

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

Public Comment on Study Session Agenda Items

Adjourn Study Session

7 P.M. PLANNING COMMISSION MEETING

CALL TO ORDER

Vice Chair Weiss called the meeting to order at 7:02 PM in the Council Chambers.

SALUTE TO THE FLAG

Vice Chair Weiss led the salute to the flag.

ROLL CALL

Present: 6 - Vice Chair Carol Weiss
Commissioner Sue Harrison
Commissioner Daniel Howard
Commissioner John Howe
Commissioner Ken Olevson
Commissioner David Simons
Absent: 1 - Chair Ken Rheume

Status of absence; Chair Rheume's absence is excused.

ORAL COMMUNICATIONS

CONSENT CALENDAR

Commissioner Harrison moved and Commissioner Simons seconded the motion to approve the Consent Calendar. The motion carried by the following vote:

Yes: 5 - Vice Chair Weiss
Commissioner Harrison
Commissioner Howard
Commissioner Olevson
Commissioner Simons

No: 0

Absent: 1 - Chair Rheume

Abstained: 1 - Commissioner Howe

1. A [17-0933](#) Approve Planning Commission Meeting Minutes of September 11, 2017

PUBLIC HEARINGS/GENERAL BUSINESS

2. [17-0922](#) **File #:** 2015-7144
Location: 584 Crawford Drive (APN: 201-33-042)
Zoning: R-0
Proposed Project: Appeal of a decision by the Zoning Administrator to deny the following:
DESIGN REVIEW for a 1,142 sq. ft. one-story addition to an existing 1,227 sq. ft. one-story single-family home (2,369 sq. ft. living area and 1,205 sq. ft. garage), resulting in 3,574 sq. ft. and 36% FAR. The project includes attaching the existing garage to the home and a minor architectural modification to the existing front porch.
VARIANCE to allow a 12-foot, 4-inch combined side yard setback when

15 feet is required.

Applicant / Appellant / Owner: Bob Fuselier

Environmental Review: Class 1 Categorical Exemption relieves this project from the California Environmental Quality Act (CEQA) provisions that include minor additions to an existing-single family residence (CEQA Guidelines Section 15301).

Project Planner: George Schroeder, (408) 730-7443,
gschroeder@sunnyvale.ca.gov

Senior Planner George Schroeder presented the staff report.

Commissioner Harrison verified with Senior Planner Schroeder that the garage is considered a residential nonconforming building the same as a dwelling.

Commissioner Harrison clarified with Senior Planner Schroeder that if there is a five-foot clearance between the garage and dwelling it needs to be maintained at all points between the two structures.

Commissioner Olevson commented on the annexation of this property and the neighborhood modifications that do not meet the current code, per the appellant's comments. Commissioner Olevson asked staff if those modifications were made prior to the current code. Senior Planner Schroeder provided information regarding the combined side setback requirement and noted that staff did not find any record of approvals for variances in the neighborhood.

Commissioner Olevson commented on the appellant's allegation of a three-story home being built in the neighborhood. Commissioner Olevson confirmed with Senior Planner Schroeder that only two-story homes are permitted in this neighborhood.

Commissioner Howard asked staff about the rationale for side setbacks. Senior Planner Schroeder provided details about aesthetics related to viewing distance. Planning Officer Andrew Miner commented that side setbacks also mitigate privacy issues.

Vice Chair Weiss noted that the agenda recommendation for this item is to make minor architectural modifications but commented that moving the addition 2 feet 8-inches is not a minor change. Planning Officer Miner clarified that the reference to the minor modifications pertains to the Design Review and that the distance requirement pertains to the Variance.

Vice Chair Weiss opened the Public Hearing.

Appellant and owners Bob Fuselier and Lisa Orlando presented images and information about the proposed project.

Commissioner Simons commented that if the Planning Commission approves this variance request it would set precedence and that setback requirements are rules. Commissioner Simons commented on the difficulty of obtaining approval for a variance request.

Commissioner Howe confirmed with Senior Planner Schroeder that staff did not complete a site visit to review the adjacent structure. Commissioner Howe confirmed with Senior Planner Schroeder that a principal structure cannot be located within one foot of an adjacent property but that certain accessory structures can be within that distance. Senior Planner Schroeder provided additional details about eaves and previous neighborhood approvals. Commissioner Howe asked staff about the reason for the setback revision in 2009. Planning Officer Miner advised that the City Council added a requirement for combined setback as a percentage of lot width and that this was a concern for staff to track and evaluate standards before and after the revision.

Commissioner Harrison commented that a survey can accurately determine the property line, which may not align with the fence line. Commissioner Harrison confirmed with Mr. Fuselier that an official survey had not been completed.

Commissioner Weiss confirmed with Mr. Fuselier that they have been living in this house since 2005.

Commissioner Weiss discussed the location, ownership and potential retention of landscaping with Mr. Fuselier and Ms. Orlando.

Mr. Fuselier and Ms. Orlando presented additional information about the proposed project.

Commissioner Simons commented on the cost of construction in the Bay area, the resulting burden for residents and his goal to be fair and consistent to all applicants.

Vice Chair Weiss closed the Public Hearing.

Commissioner Howard asked staff about the tree removal process and if a tree

removal could be considered a hardship. Planning Officer Miner provided details about the tree removal process and alternatives to avoid tree removals.

Commissioner Howard asked staff if retention of the tree could be used as an argument for the variance request. Planning Officer Miner advised that the findings for a variance are state mandated and that all three findings must be met to grant a variance. Planning Officer Miner commented on the specifics of those findings and the applicability for this application. Planning Officer Miner stated that continuing the line of a house was previously allowed but that its removal from the code indicates an intention to disallow that practice.

Commissioner Harrison asked staff about the rationale for the five-foot distance requirement between the non-conforming garage and the proposed addition with regards to the combined side setback. Planning Officer Miner advised that one staff recommendation would be to create a five-foot distance between the garage and the main house so that the garage does not count towards the combined side setback.

Commissioner Howe asked staff about the use of the garage as an Accessory Dwelling Unit (ADU). Planning Officer Miner stated that it would be a conversion ADU but that it would still have to meet the development and setback standards outlined in the zoning code. Planning Officer advised that only one ADU is permitted per property.

MOTION: Commissioner Olevson moved and Commissioner Simons seconded the motion for Alternative 1 – Deny the appeal and affirm the Zoning Administrator's determination to deny the Design Review permit and Variance.

Commissioner Olevson stated his appreciation of the cost of construction in the City but commented that the argument presented by the appellant is that the Planning Commission should accept the Santa Clara County rules in place before the property was annexed. Commissioner Olevson commented that the Planning Commission's authority is to look at policy and ordinance established as law by the City Council. Commissioner Olevson noted that the Planning Commission has purview to make minor changes but that setbacks are rules. Commissioner Olevson commented that the financial hardship for the appellant doesn't affect land use planning.

Commissioner Simons noted his agreement with the statements made by Commissioner Olevson. Commissioner Simons commented on the cost of

construction and associated difficulties in making home modifications.

Commissioner Simons stated that the Planning Commission should be fair to all applicants and apply the same setback requirements. Commissioner Simons stated that exceptions could cause unintended future consequences. Commissioner Simons commented on undesirable architecture that uses long buildings with one flat wall. Commissioner Simons stated that he will be supporting the motion.

Commissioner Harrison stated that she will be supporting the motion and noted an understanding of the appellant's concern. Commissioner Harrison stated that she cannot make the findings for the Variance. Commissioner Harrison stated her hope that the architect can find a solution that meets the setback requirements and the appellant's needs.

Commissioner Howe stated that he will be voting against the motion because there are exceptional circumstances with this application.

Vice Chair Weiss stated that she will be voting against the motion. Vice Chair Weiss stated that the appellant inherited a non-conforming property and that implementing the required combined side setback will not make a difference visually. Vice Chair Weiss commented on respecting the zoning code but noted an opinion that it would be extreme in this scenario.

Commissioner Howard stated that he will be supporting the motion and that he cannot make the finding for an undue hardship based on the existing alternative options. Commissioner Howard commented that granting exceptions creates precedence for additional future exceptions. Commissioner Howard noted that the zoning code would have to be changed to be more lenient for all applicants.

The motion carried by the following vote:

Yes: 4 - Commissioner Harrison
Commissioner Howard
Commissioner Olevson
Commissioner Simons

No: 2 - Vice Chair Weiss
Commissioner Howe

Absent: 1 - Chair Rheaume

Planning Officer Miner stated this decision is final unless appealed to the City Council within 15 days or called up by the City Council within 15 days.

3. [17-0845](#) Recommend that City Council adopt an ordinance to amend Sunnyvale Municipal Code Sections 19.92.050 and 19.92.060 (votes required for Planning Commission recommendations) and an ordinance to amend Section 19.38.040 (individual lockable storage space for multiple-family residential) and find that the actions do not require environmental review pursuant to CEQA Guidelines Section 15061(b)(3).

Senior Assistant City Attorney Rebecca Moon presented the staff report.

Commissioner Olevson suggested updating the wording in Attachment 2, Section (c) of 19.92.050 and 19.38.050 from “tie vote” to “of less than a majority of the members” in the event of a 3 – 2 vote. Senior Assistant City Attorney Moon confirmed that staff will reword the Ordinance to address that situation.

Commissioner Olevson asked staff about replacing the word “may” in Attachment 3, Section 1 (f) with the word “shall”. Senior Assistant City Attorney Moon confirmed that staff will make this change.

Commissioner Howard complimented Commissioner Olevson for his attention to detail.

Commissioner Simons confirmed with Planning Officer Andrew Miner that a two-car garage did not require further definition.

Commissioner Weiss asked staff if the implication for a two-car garage used as lockable storage space is that cars are permitted to be parked in the driveway or on the property. Planning Officer Miner provided details about the minimum dimensions for lockable storage space and clarified that the garage must be maintained as part of the required parking.

Vice Chair Weiss opened the Public Hearing.

Vice Chair Weiss closed the Public Hearing.

MOTION: Commissioner Olevson moved and Commissioner Howe seconded the motion for Alternatives 1 and 2, with clerical modifications as discussed –
1. Make the finding that the action is exempt from CEQA pursuant to CEQA Guidelines Section 15061(b)(3) and introduce an ordinance (Attachment 2) to adopt

the proposed amendments to Sunnyvale Municipal Code Sections 19.92.050 and 19.92.060 (votes required for Planning Commission to recommend General Plan and zoning amendments).

2. Make the finding that the action is exempt from CEQA pursuant to CEQA Guidelines Section 15061(b)(3) and introduce an ordinance (Attachment 3) to adopt the proposed amendments to Sunnyvale Municipal Code Section 19.38.040 (individual lockable storage space for multiple family residential).

Commissioner Olevson stated that there are no major changes for this item and it is simply cleaning up the code. Commissioner Olevson stated that the Planning Commission should recommend these changes to the City Council and lessen any confusion with the code.

Commissioner Howe asked the Planning Commission to support the motion.

Commissioner Harrison stated her appreciation of this change so that items can continue to move forward regardless of full attendance at a Planning Commission meeting. Commissioner Harrison stated that she will be supporting the motion.

The motion carried by the following vote:

Yes: 6 - Vice Chair Weiss
Commissioner Harrison
Commissioner Howard
Commissioner Howe
Commissioner Olevson
Commissioner Simons

No: 0

Absent: 1 - Chair Rheaume

Planning Officer Miner advised that this item goes to the City Council on November 7th, 2017.

STANDING ITEM: CONSIDERATION OF POTENTIAL STUDY ISSUES

Vice Chair Weiss opened the Public Hearing.

Vice Chair Weiss closed the Public Hearing.

Planning Officer Miner stated that staff will bring all Planning Commission Study Issue papers to the October 9th, 2017 Planning Commission meeting for a vote. Planning Officer Miner noted that the papers which are sponsored by the Planning Commission will officially be ranked later in the year.

NON-AGENDA ITEMS AND COMMENTS

-Commissioner Comments

-Staff Comments

Planning Officer Miner advised that the second hearing for the Split Zoning Ordinance and Single Story Combining District Buffer Study took place at the September 26th, 2017 City Council meeting and provided details about the outcome for the Single Story Combining District Buffer Study. Planning Officer Miner stated that there was an appeal for the proposed hotel at 550 W. El Camino Real but that it was withdrawn by the appellant.

ADJOURNMENT

Vice Chair Weiss adjourned the meeting at 8:21 PM.