



City of Sunnyvale

Meeting Minutes - Final Planning Commission

Monday, September 9, 2019

7:00 PM

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

Study Session Cancelled | Public Hearing - 7:00 PM

STUDY SESSION CANCELLED

7:00 PM PLANNING COMMISSION MEETING

CALL TO ORDER

Chair Howard called the meeting to order at 7:00 PM in the Council Chambers.

SALUTE TO THE FLAG

Chair Howard led the salute to the flag.

ROLL CALL

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

Commissioner Weiss's absence is excused.

ORAL COMMUNICATIONS

CONSENT CALENDAR

MOTION: Commissioner Howe moved and Commissioner Harrison seconded the motion to approve the Consent Calendar.

The motion carried by the following vote:

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

No: 0

Absent: 1 - Commissioner Weiss

- 1.A [19-0936](#) Approve Planning Commission Meeting Minutes of August 12, 2019
- 1.B [19-0937](#) Approve Planning Commission Meeting Minutes of August 26, 2019

PUBLIC HEARINGS/GENERAL BUSINESS

- 2. [19-0916](#) **CONTINUED FROM AUGUST 26, 2019**

Proposed Project:

DESIGN REVIEW: To construct a first-story addition of 688 square feet of living area and 557 square feet of covered patio in the rear of an existing one-story, single-family residence resulting in 3,674 square feet (2,297 square feet living area, 418 square feet existing accessory dwelling unit, 557 square feet covered patio in the rear, and 402 square feet garage) and 44.4% floor area ratio (FAR).

Location: 1713 Heron Ave. (APN: 316-04-008)

File #: 2019-7198

Zoning: R-0 (Low Density Residential)

Applicant / Owner: Prashant Jain (applicant-owner)

Environmental Review: A Class 1 (e) (1) Categorical Exemption relieves this project from the California Environmental Quality Act (CEQA) provisions.

Project Planner: Teresa Zarrin, (408) 730-7429, tzarrin@sunnyvale.ca.gov

Associate Planner Teresa Zarrin presented the staff report.

Commissioner Rheume confirmed with Associate Planner Zarrin that the covered patio is included in the overall square footage of the house and asked staff what the applicant would need to do if it were decided to enclose the porch in the future. Principal Planner Noren Caliva-Lepe stated that a separate staff level permit would be required. Commissioner Rheume asked Associate Planner Zarrin what part of the hardscape in the front yard would be reduced. Associate Planner Zarrin

responded that the walkway to the front door and the smaller driveway would be replaced with permeable pavers that meet the C.3 Stormwater Handbook requirements.

Vice Chair Simons asked staff what types of materials would make up the final hardscape. Associate Planner Zarrin stated that the driveway would remain impervious pavers and explained the standards for pervious paves according to the C.3 Stormwater Handbook. Vice Chair Simons stated his concern that the Commission has historically required materials that are not pervious according to these standards. Associate Planner Zarrin and Principal Planner Caliva-Lepe stated that staff uses the C.3 Stormwater Handbook as a guide since the Commission has expressed interest in defining pervious specifications and that the standard has been in effect since at least 2013. Principal Planner Caliva-Lepe added that the Santa Clara Valley Urban Runoff Pollution Prevention Program (SCVURPPP) supports the C.3 Stormwater Handbook and that staff has started applying the design specification when needed to reduce front yard paving to no more than 50%.

Chair Howard opened the Public Hearing.

Commissioner Harrison asked applicant Prashant Jain if he considered a coffered ceiling in the great room instead of a ten-foot plate height. Mr. Jain answered that his options were a nine-foot plate height with a ten-foot coffered ceiling, or a ten-foot plate height edged with soffits, and he chose the latter. Commissioner Harrison confirmed with Mr. Jain that he prefers the ten-foot plate height due to expenses, but stated that he would be willing to make changes if the Commission were to find that the proposed project is not compatible with the neighborhood that way.

Chair Howard closed the Public Hearing.

MOTION: Commissioner Harrison moved for Alternative 3 - Deny the Design Review and provide direction to staff and the applicant where changes should be made. She stated that she cannot make the finding that the proposed project meets the scale, bulk, and character of the neighborhood because of the ten-foot plate height. The motion failed due to lack of a second.

MOTION: Vice Chair Simons moved and Commissioner Olevson seconded the motion for Alternative 1 - Approve the Design Review with the Conditions of Approval in Attachment 4.

Vice Chair Simons stated that he can make the findings and expressed his hope that the impervious and pervious materials standards applied to this proposed project can be applied to others for consistency.

Commissioner Olevson stated that he can make the findings and that the proposed project fits well within the neighborhood. He urged the Commission to support the motion.

Commissioner Rheume stated that he can make the findings and will support the motion. He added that he does not believe the ten-foot plate height is intrusive because it is at the back of the proposed project.

The motion carried by the following vote:

- Yes:** 5 - Chair Howard
 Commissioner Howe
 Commissioner Olevson
 Commissioner Rheume
 Vice Chair Simons
- No:** 1 - Commissioner Harrison
- Absent:** 1 - Commissioner Weiss

Principal Planner Caliva-Lepe stated that this decision is final unless appealed or called up for review by the City Council within 15 days.

- 3. [19-0915](#) **CONTINUED FROM AUGUST 26, 2019**
Proposed Project:
DESIGN REVIEW: To demolish an existing home and construct a new one-story single-family home, resulting in 3,839 square feet (3,400 square feet living area and 439 square feet garage) and 44.4% floor area ratio (FAR).
Location: 1015 Havre Ct. (APN: 320-12-016)
File #: 2019-7238
Zoning: R-1 (Low Density Residential)
Applicant / Owner: TDH Design, Tri Hong (applicant) / Long Kai and Yunling Cai (owner)
Environmental Review: A Class 3 Categorical Exemption relieves this project from California Environmental Quality Act (CEQA) provisions.
Project Planner: Teresa Zarrin, (408) 730-7429,

tzarrin@sunnyvale.ca.gov

Associate Planner Teresa Zarrin presented the staff report.

Vice Chair Simons confirmed with Associate Planner Zarrin that a garage door with a slight arch like the images he provided is possible, the rock veneer would extend around the sides of the house and end at the back at a natural transition point, and there is a landscaping plan that proposes one new tree. He also confirmed with Associate Planner Zarrin and Principal Planner Noren Caliva-Lepe that the applicant can address veneer thickness and how many types of pavers are planned.

Commissioner Rheume stated that the fourth bedroom appears to be an Accessory Dwelling Unit (ADU) because there is an exit door to the exterior. Associate Planner Zarrin stated that it is not an ADU because it only consists of a bedroom and a bathroom. Commissioner Rheume confirmed with Associate Planner Zarrin that the applicant never proposed a tile roof and stated his concern that the design is a mix of architectural styles, not of adequate quality, and does not look Mediterranean as described.

Commissioner Harrison confirmed with Associate Planner Zarrin that the applicant has only submitted plans for a ten-foot plate height.

Chair Howard opened the Public Hearing.

Larry Kai, homeowner, and Tri Hong, representing TDH Design, presented images and information about the proposed project.

Commissioner Rheume asked about the height of the stone veneer. Mr. Hong answered that the height would be approximately four inches and could be made of cobblestone. Commissioner Rheume confirmed with Mr. Hong that he would prefer the proposed project to be more authentically Mediterranean, but Mr. Hong stated that he envisions a brownish roof instead of a reddish roof. Commissioner Rheume asked Mr. Hong if he is amenable to a curved garage door. Mr. Hong responded that he is open to it but would prefer one with a more dramatic arch.

Vice Chair Simons confirmed with Mr. Hong that they can install a variegated roof using reds and browns, that all the pavers would be of the same material, and that the stone veneer would wrap around the house to the ends of the fence. Vice Chair Simons stated his preference that the hardware be consistent with Mediterranean architectural style and Mr. Hong stated that he prefers that it be simple to blend in

better with the neighborhood. Together they agreed that a garage door with a more pronounced arch would be appropriate for the proposed project.

Commissioner Olevson asked the applicant why there is a gate near the bedroom on the eastern side of the property if the room would not be rented. Mr. Kai responded that that bedroom gives he and his wife's parents access to the outside and they do not intend to rent it. Commissioner Olevson confirmed with Mr. Kai that they can remove the opening on the gate near that bedroom.

Chair Howard confirmed with Principal Planner Caliva-Lepe that ADUs are factored into overall Floor Area Ratio (FAR) calculations.

Anindya Poddar, Sunnyvale resident, stated his opposition to the proposed project with concerns about the overall size and the height of the roof that might shade his sunroom.

Vani Verma, Sunnyvale resident, presented an image and stated her opposition to the proposed project because its size is not compatible with the neighborhood and commented that staff should review each neighborhood and property as a whole and not automatically approve proposed projects that are less than 45% FAR.

Vice Chair Simons stated that all neighbors would be subject to any restrictions on size. Ms. Verma stated her concern that the 45% FAR threshold would result in very large homes in her neighborhood. Vice Chair Simons added that 45% FAR is the established proportion and that the City must apply consistent standards across proposed projects.

Kristina Irwin, Sunnyvale resident, thanked the applicants for keeping the proposed project a single story and stated that the neutral roof color should remain to better blend in with the surrounding homes.

Ani Vaidya, Sunnyvale resident, spoke in opposition to the proposed project's size and scale that is uncharacteristic of the neighborhood.

Diana Tillinghast, Sunnyvale resident, welcomed the proposed project's Mediterranean architectural style and stated that architectural variety is good and can also achieve neighborhood compatibility.

Dennis Hui, Sunnyvale resident, stated his interest in enough landscaping

screening to provide privacy for his property and concern about excessive construction noise.

Mr. Kai presented additional images and information about the proposed project.

Commissioner Harrison asked Mr. Kai and Mr. Hong if they explored lowering the roof height. Mr. Kai responded that they changed the plans to a single-story house and then further reduced the roof by two feet and Mr. Hong responded that they also reduced the pitch from 5:12 to 4:12 and added a flat portion to the roof. Commissioner Harrison confirmed with Mr. Hong that it is possible to expand the flatter portion of the roof which would lower the ridge height by one foot.

Chair Howard closed the Public Hearing.

Commissioner Rheume confirmed with Principal Planner Caliva-Lepe that staff has not received a single-story overlay application for this neighborhood.

Principal Planner Caliva-Lepe stated the allowable construction hours per the Sunnyvale Municipal Code (SMC) and that people can call Neighborhood Preservation or the Building Division to report issues with construction.

FORMAL AMENDMENT: Commissioner Harrison moved and Commissioner Howe seconded the motion to offer a formal amendment to specify that the roof peak be lowered one foot, enlarging the flat portion of the roof to reduce the scale and bulk of the house.

The motion carried by the following vote:

Yes: 3 - Commissioner Howe
Commissioner Harrison
Commissioner Rheume

No: 3 - Chair Howard
Commissioner Olevson
Vice Chair Simons

Absent: 1 - Commissioner Weiss

MOTION: Commissioner Rheume moved and Vice Chair Simons seconded the motion for Alternative 2 - Approve the Design Review with the following modified

conditions:

- 1.) Applicant to conduct a full solar analysis to examine the impact of the proposed project on the neighbor at 1011 Havre Court;
- 2.) Select a garage door with an arch appropriate for the house;
- 3.) Install a barrel tile roof, variegated in color to match the house;
- 4.) Wrap the stone veneer around the sides of the house to the gates;
- 5.) Remove the gate on the front eastern side of the property; and
- 6.) Staff is the final decision maker for the specified conditions above.

FRIENDLY AMENDMENT: Vice Chair Simons offered a friendly amendment to specify that the applicant use a cobblestone veneer, the backyard landscaping include privacy screening, two of the new trees be appropriately placed and genetically large at maturity, and the hardware colors are consistent with Mediterranean architectural style. Commissioner Rheume accepted the friendly amendment.

Commissioner Rheume stated that he can make the findings, commented that the Commission's role is to enforce City policy, and added that the proposed project would be an improvement to the neighborhood.

Vice Chair Simons stated that he can make the findings and clarified that the variegated roof he recommends is muted using red, brown, and possibly black with patina. He stated that the Commission's role is also to improve the city which is done by reviewing architecture and landscaping in addition to other aspects and commented that he intends to support the motion.

Commissioner Olevson stated that he will support the motion and that the proposed project has met all the criteria in the data table and all the requirements of the SMC. He added that he is looking forward to seeing the proposed project constructed.

Commissioner Harrison stated that she appreciates the work the applicant and homeowner have done to be more compatible with the neighborhood but will not support the motion because of the size and bulk of the proposed project and because she believes the proposed roof is more appropriate than a barrel tile roof. She added that she does not have an issue with the FAR because the proposed project meets the requirements for setbacks and percentage of lot coverage and reminded the applicant that the two new trees required as a Condition of Approval should be large trees.

Chair Howard stated that the proposed project is representative of how family demands have changed over time and that he liked Ms. Tillinghast's comments that architectural variety within a neighborhood is good. He added that he will support the motion.

The motion carried by the following vote:

Yes: 5 - Chair Howard
Commissioner Howe
Commissioner Olevson
Commissioner Rheaume
Vice Chair Simons

No: 1 - Commissioner Harrison

Absent: 1 - Commissioner Weiss

Principal Planner Caliva-Lepe stated that this decision is final unless appealed or called up for review by the City Council within 15 days.

4. [19-0931](#) Introduce an Ordinance to add Chapter 19.77 ("Inclusionary Below Market Rate Rental Housing") to Title 19 ("Zoning") of the Sunnyvale Municipal Code to create an Inclusionary Rental Housing Program, and adopt a Resolution to amend the Master Fee Schedule and create a Rental Housing In-Lieu Fee.

Housing Officer Jenny Carloni presented the staff report.

Vice Chair Simons asked Housing Officer Carloni if the in-lieu fees would fund affordable housing-only developments or fund affordable housing within existing developments. Housing Officer Carloni answered that as opposed to the inclusionary requirement, the housing mitigation funds are awarded to non-profit developers who build affordable housing-only developments. Vice Chair Simons stated his interest in combining affordable housing and non-affordable housing units within developments as much as possible.

Commissioner Olevson stated his concern that the in-lieu fee would raise the cost of building in Sunnyvale. Housing Officer Carloni responded that development has not slowed since the ordinance was created in 1980 and that neighboring cities enact similar programs. Commissioner Olevson stated that private right of action has been overused by the legal profession and asked staff why it is included in Section

19.77.120(c) of the proposed ordinance. Senior Assistant City Attorney Rebecca Moon stated that it is a common provision in housing-related ordinances and allows people to exercise their rights without the City incurring enforcement costs and added that she is not familiar with the abuse of that provision.

Chair Howard confirmed with Housing Officer Carloni that the in-lieu fee is a one-time fee collected prior to building permit issuance, is calculated based on the habitable square footage of the entire development, and developers must dedicate 15% of the total units to affordable housing if they don't pay the in-lieu fee. Chair Howard asked Housing Officer Carloni what in-lieu fee the 2015 nexus study recommended. Housing Officer Carloni stated that it recommended a fee closer to \$50 per habitable square foot. He also asked how the proposed ordinance and in-lieu fee relate to Section 8 housing. Housing Officer Carloni responded that they do not have an impact on Section 8 which is administered by the County and that the vouchers would continue to be accepted by participating landlords. Chair Howard confirmed with Housing Officer Carloni that the Housing Division works with developers to ensure that below market rate units are evenly dispersed throughout the development, equally sized, renovated on the same schedule, and to the same quality as non-affordable housing units.

Commissioner Rheume confirmed with Housing Officer Carloni that the Option 2 in-lieu fee gives the City 25% of what is needed to build one housing unit. Commissioner Rheume asked what option gives developers the most flexibility and Housing Officer Carloni stated that Section 19.77.100 of the proposed ordinance addresses alternative compliance options, including an open-ended option. He confirmed with Housing Officer Carloni that neighboring cities have had existing inclusionary rental housing ordinances but began enforcing them in 2017.

Commissioner Harrison confirmed with Housing Officer Carloni that the existing housing mitigation fee would be replaced by the proposed in-lieu fee once all of the proposed projects in the pipeline have paid their housing mitigation fees but that all commercial developments will remain subject to it. Commissioner Harrison confirmed with Housing Officer Carloni that the program is anticipated to take effect on November 8, 2019 and together they discussed the status of larger proposed housing projects that might not be deemed complete by that date. Principal Planner Noren Caliva-Lepe stated that the Planning Division has been notifying the developer community of the proposed ordinance and in-lieu fee.

Commissioner Olevson confirmed with Housing Officer Carloni that the in-lieu fee is

based on the habitable square footage of an entire development and that Tables 2 and 3 in the staff report break down the in-lieu fee per square foot and per unit, respectively.

Chair Howard confirmed the alternative recommendations with Housing Officer Carloni.

Chair Howard opened the Public Hearing.

Travis Duncan, representing Sares Regis, stated his support for the staff recommendation and requested that the Commission grandfather in the CityLine development into the existing ordinance given the time and work it has taken to amend the Downtown Specific Plan.

Commissioner Howe stated his belief that grandfathering CityLine in to the existing ordinance is a policy decision better made by the City Council. Mr. Duncan responded that he would appreciate the Commission's recommendation to the City Council.

Brennan Robins, Sunnyvale resident and representative of Greenbelt Alliance, spoke in support of a strong inclusionary housing ordinance and an in-lieu fee that reflects the actual cost of building affordable housing.

Dennis Martin, representing BIA Bay Area, requested that the Commission recommend conducting market rate housing feasibility studies so that the cost of housing does not increase and suggested flexible alternatives for developers.

Commissioner Harrison confirmed with Mr. Martin that a weighted average of 80% would allow developers to produce moderate rate units and more feasibly build lower rate units and that reductions in parking standards promote project feasibility.

Vice Chair Simons confirmed with Mr. Martin that the development community supports separating parking requirement from unit requirements.

Commissioner Rheume asked Mr. Martin if it would be feasible for developers to provide a 60% weighted average if the suggested incentives are available to them. Mr. Martin responded that this would be possible for developers if the City provides enough of the right type of incentives and added that there are too many variables to estimate by how much developers' costs would rise with the in-lieu fees.

Chair Howard closed the Public Hearing.

Commissioner Howe confirmed with Housing Officer Carloni how the in-lieu fees are calculated.

Commissioner Rheume confirmed with Senior Assistant City Attorney Moon that it is within the Commission's purview to recommend to the City Council that it grandfather in CityLine into the existing ordinance.

Vice Chair Simons asked Housing Officer Carloni if it would be possible for staff to define what percentage of below market rate units would qualify neighborhoods and developments as predominantly below market rate in order to avoid them being perceived as dedicated only to below market rate. Housing Officer Carloni stated that it is difficult for most to distinguish affordable housing developments from market rate developments and that the demand for affordable housing is great. Vice Chair Simons stated that he is looking towards the future and for ways to improve inclusionary housing. Housing Officer Carloni added that there is a Housing Element policy that aims to distribute affordable housing throughout the community and that affordable housing-only developments can better offer needed services to residents.

Commissioner Harrison asked how the proposed ordinance and the Housing Element are related and Housing Officer Carloni stated that non-profit developers have access to unique funding sources that market rate developers find advantageous. Commissioner Harrison confirmed with Housing Officer Carloni that the alternative and open-ended compliance plans are viable for developers and that incentives and concessions would still be available to them as part of State density bonuses. Commissioner Harrison asked if CityLine would be subject to the proposed ordinance and in-lieu fee given that it is currently in negotiations with the City. Principal Planner Michelle King responded that it is possible that the intent of the proposed ordinance could be applied to the development agreement negotiated.

Commissioner Howe asked staff what the cost difference would be for CityLine if it were subject to the existing ordinance versus the proposed ordinance. Housing Officer Carloni stated that the staff recommended impact fee is a few dollars more than the existing impact fee and developers' costs might therefore rise by approximately ten percent.

Chair Howard stated that he appreciates Vice Chair Simons's comments championing combining market rate and below market rate units within developments and asked Housing Officer Carloni how operating costs are met for affordable housing-only developments. She responded that the non-profit developers have a variety of funding sources to meet their operating needs and that the housing mitigation funds could be diverted towards operational needs for a limited time if the City Council approves. Chair Howard stated the years it might take for a developer to recoup costs from the in-lieu fee and added that \$30 is a conservative fee considering the nexus study proposal and what the City might have collected in the 1980s.

MOTION: Commissioner Howe moved and Commissioner Harrison seconded the motion for Alternative 4 - Approve a Resolution to amend the Master Fee Schedule and create a new Small Rental Project In-Lieu Fee of \$12.50 per habitable square foot and a new Large Rental Project In-Lieu Fee of \$25.00 per habitable square foot, adjusted annually as part of the City Fee Schedule [Attachment 4 to the report] and Alternative 2 - Introduce an ordinance to add Chapter 19.77 ["Below Market Rate Rental Housing"] to Title 19 ["Zoning"] of the Sunnyvale Municipal Code to create Inclusionary Rental Housing Requirements, with the following modifications:

- 1.) Recommend to the City Council that it explores the possibility of grandfathering in CityLine into the existing ordinance due to the length of time they have been in process.

Commissioner Howe stated that there should be inclusionary housing in Sunnyvale, that this approach is a reasonable way to obtain low and very low income units, and that the City Council should consider giving CityLine some relief from the proposed ordinance because it is higher than the existing ordinance and because of the long, slow history of the development in downtown.

Commissioner Rheaume stated that it would be ideal to have affordable housing and market rate units in every development but that non-profit developers are crucial to getting the affordable housing needed as everything is ultimately dependent on developers' costs. He added that he will support the motion.

Vice Chair Simons stated that the rate of development has caused housing costs to rise significantly in Silicon Valley and that the proposed ordinance and in-lieu fee would not solve the problem. He commented that he would like to see zoning

changes to increase density near mass transit and stated that he will not support the motion.

Chair Howard stated that he appreciates Vice Chair Simons's comment regarding increasing density and that Sunnyvale is making progress toward changing zoning to increase density. Chair Howard stated that the free market does not provide adequate housing for people with lower incomes and therefore inclusionary housing is a good strategy. He added that while he does not like that developers can avoid providing affordable housing by paying an in-lieu fee, he believes the fee is not high enough. He also commented that he believes that City Council will appropriately address CityLine's obligations in the developer agreement.

Principal Planner Caliva-Lepe confirmed the motion with Commissioner Howe.

The motion carried by the following vote:

Yes: 3 - Commissioner Howe
Commissioner Harrison
Commissioner Rheame

No: 3 - Chair Howard
Commissioner Olevson
Vice Chair Simons

Absent: 1 - Commissioner Weiss

Commissioner Olevson stated that his concerns are the in-lieu fee that would raise developer costs when land is already so expensive and the private right of action reference in the proposed ordinance that easily allows individuals to sue developers.

Vice Chair Simons asked staff if the private right of action reference is optional in the proposed ordinance and if it is possible for the City to address individuals' impending litigation. Senior Assistant City Attorney Moon stated that it is a common provision in modern housing ordinances and that it is useful as the City cannot always enforce all the laws on its own because of available resources. She added that she is not aware of private right of action abuse in the context of this type of ordinance and that she believes it would be an unlikely occurrence.

Commissioner Olevson stated that he foresees attorneys abusing it and therefore

cannot support the provision.

MOTION: Vice Chair Simons moved and Commissioner Harrison seconded the motion for Alternative 5 - Approve a Resolution to amend the Master Fee Schedule at a different amount than in Alternative 4 to \$13.75 per habitable square foot for the Small Rental Project In-Lieu Fee and \$27.50 per habitable square foot for the Large Rental Project In-Lieu Fee and Alternative 2 - Introduce an ordinance to add Chapter 19.77 ["Below Market Rate Rental Housing"] to Title 19 ["Zoning"] of the Sunnyvale Municipal Code to create Inclusionary Rental Housing Requirements, with the following modifications:

- 1.) Explore the possibility of removing the private right of action reference in Section 19.77.120(c) of the proposed ordinance to reduce frivolous civil action; and
- 2.) Give consideration for the impacts of the proposed ordinance on CityLine.

Commissioner Harrison stated that she believes the Commission should make a recommendation to the City Council in the affirmative and that the motion is a good compromise.

Chair Howard stated that he prefers a \$30 in-lieu fee but that he would be satisfied if the motion passed.

The motion carried by the following vote:

Yes: 3 - Commissioner Harrison
Commissioner Rheume
Vice Chair Simons

No: 3 - Chair Howard
Commissioner Howe
Commissioner Olevson

Absent: 1 - Commissioner Weiss

Commissioner Howe stated that he does not want the in-lieu fee to go up and that there is already an adjustment for inflation. He confirmed with Senior Assistant City Attorney Moon that the private right of action provision can probably be rewritten to state that the City must provide a prospective plaintiff a Notice of Right to Sue before a lawsuit could be filed against a developer.

Commissioner Howe confirmed with Commissioner Olevson that he is familiar with Notice of Right to Sue.

Commissioner Olevson stated that he would be more comfortable with the proposed ordinance rewritten to replace the private right of action provision with a Notice of Right to Sue provision.

MOTION: Commissioner Howe moved and Commissioner Olevson seconded the motion for Alternative 4 - Approve a Resolution to amend the Master Fee Schedule and create a new Small Rental Project In-Lieu Fee of \$12.50 per habitable square foot and a new Large Rental Project In-Lieu Fee of \$25.00 per habitable square foot, adjusted annually as part of the City Fee Schedule [Attachment 4 to the report] and Alternative 2 - Introduce an ordinance to add Chapter 19.77 [“Below Market Rate Rental Housing”] to Title 19 [“Zoning”] of the Sunnyvale Municipal Code to create Inclusionary Rental Housing Requirements, with the following modifications:

- 1.) Recommend to the City Council that it explores the possibility of grandfathering in CityLine into the existing ordinance due to the length of time it has been in the process; and
- 2.) Amend Section 19.77.120(c) of the proposed ordinance that addresses private right of action to specify that the City must provide a prospective plaintiff a Notice of Right to Sue before a lawsuit could be filed against a developer.

The motion carried by the following vote:

Yes: 4 - Commissioner Howe
 Commissioner Harrison
 Commissioner Olevson
 Commissioner Rheame

No: 2 - Chair Howard
 Vice Chair Simons

Absent: 1 - Commissioner Weiss

Principal Planner Noren Caliva-Lepe stated that this recommendation will be forwarded to the City Council for consideration at the September 24, 2019 meeting.

5. [19-0761](#) CONTINUED FROM AUGUST 12, 2019 AND AUGUST 26, 2019.
Proposed Project:

MAJOR MOFFETT PARK DESIGN REVIEW PERMIT: to construct a new four-story 123,595 s.f. office building and associated site improvements resulting in a 47% FAR

Location: 1389 Moffett Park Drive (APN: 110-37-002)

File #: 2018-8050

Zoning: MP-I (Moffett Park Industrial)

Applicant / Owner: RMW Architecture & Interiors (applicant) / WP Carey & Harvest Properties, Inc. (owner)

Environmental Review: Mitigated Negative Declaration

Project Planner: Ryan Kuchenig, 408-730-7431, rkuchenig@sunnyvale.ca.gov

Senior Planner Ryan Kuchenig presented the staff report and noted minor modifications to it.

Vice Chair Simons stated that tree size is important in addition to the quantity of trees. He confirmed with Senior Planner Kuchenig that the sizes of the trees required are based on where they will be located on the property and Senior Planner Kuchenig stated that the Commission can recommend modifying the landscaping plan to further specify a number or percentage of different tree types.

Commissioner Rheume stated that shade trees are needed outside the front of the building if people are anticipated to sit in that area and that the proposed grass can appear messy-looking over time. He confirmed with Senior Planner Kuchenig that the applicant can address both topics and that the plan distributed is the final proposed version.

Commissioner Olevson stated that it should be determined whether the hardwood exterior would age naturally or be treated with linseed oil. Senior Planner Kuchenig stated that the applicant plans to speak about the direction for wood maintenance and that the Commission can include a Condition of Approval with specifications for maintenance if needed.

Chair Howard asked staff about the path along Caribbean Drive. Senior Planner Kuchenig responded that it is a public path for pedestrians and bicycles that meanders to preserve mature trees. Chair Howard asked if the path is located between the curb and the street and Senior Planner Kuchenig stated that he would confirm.

Chair Howard opened the Public Hearing.

Preston O'Connell, Partner representing owner Harvest Properties, and Russ Nichols, Principal Architect representing applicant RMW Architecture & Interiors, presented images and information about the proposed project.

Vice Chair Simons asked if the applicant has considered the fact that Redbud trees are shorter-living and prone to leaning in windy areas. The landscape architect stated that the Redbud trees could be located on the leeward side of the building and Vice Chair Simons stated that they could be in the parking lot since they grow aggressively and can be considered temporary. Vice Chair Simons recommended faster-growing trees like Valley Oak, Incense Cedar, and American Elm. The landscape architect stated that the proposed project needs to meet shading requirements within a certain timeframe and that the Redbud trees would not provide significant shade. Vice Chair Simons stated his concern that trees with larger crowns would eventually be removed if the parking lot were to be redeveloped.

Commissioner Olevson asked the applicant how the hardwood would be maintained. Mr. Nichols stated that wood and wood-like composite materials with some durable and some requiring more maintenance would be used for a natural, rich feel and that their longevity would be preserved. Commissioner Olevson confirmed with Mr. Nichols that RMW Architecture and staff would agree on the final design.

Commissioner Rheume asked the applicant to explain how the vines would be used and what trees would be used on the roof to provide shade. Mr. Nichols stated that there would be plants at the ground level and the vines would only have to travel two stories up a trellis wall. The landscape architect stated that they would plant a dense collection of shade trees that are compatible with the weight and soil depth limits of the roof. Commissioner Rheume asked if there is a grass that could be used that looks less messy. The landscape architect responded that the concept was to connect the site to the wetlands but that there are a variety of grasses that could be used that are neater-looking and that the plan is to mix hearty shrubs and perennials with grasses.

Commissioner Howard closed the Public Hearing.

MOTION: Vice Chair Simons moved and Commissioner Rheume seconded the motion to make the findings in Attachment 3, adopt the Mitigated Negative Declaration, and approve Alternative 2 - Approve the Major Moffett Park Design

Review Permit with the recommended Conditions of Approval in Attachment 4 with the following modifications:

- 1.) Plant the longer living, largest species trees away from the parking areas;
- 2.) Use faster-growing, larger canopy trees in the parking lot;
- 3.) Explore material options, possibly glass screening, to be installed to reduce the impact of wind in open space areas. The applicant is encouraged to explore alternative methods for shielding wind;
- 4.) Use trees moderate in size at maturity on the roof;
- 5.) Use a wood-like, durable composite material in place of the wood that is exposed to the exterior in the current plans. Staff should determine the material for the other wood furnishings on the building;
- 6.) Consider using Valley Oak, Incense Cedar, and American Elm trees or other tree types in place of the planned Redbud trees; and
- 7.) Accept the corrections to the Conditions of Approval in Attachment 4 as noted by staff.

Vice Chair Simons stated that he appreciates the non-continuous vine wall and the opportunity to have reviewed the proposed project multiple times and see improvements in the architecture with each review. He commented that he is concerned with wind and adequate shade for the site and that trees large at maturity would solve the issue. He added that he is pleased with most of the tree selection and that he will support the motion.

Commissioner Rheaume stated that he likes the proposed project's shape, design, and use of wood and appreciates the forward-thinking plans for the property's potential future. He added that he will support the motion and hopes the rest of the Commission can as well.

Commissioner Harrison stated that she will support the motion and appreciates the consideration for the site's future and the berm and steps architectural elements.

Commissioner Olevson stated that he can make the findings and will support the motion. He commended the applicant and owner on the good current and long-range planning that was done for the site and commented that the proposed project would be an attractive property at the entrance to Moffett Park.

Chair Howard stated that he will support the motion and commented that he would prefer that the proposed project use actual wood instead of wood-like composite

material.

The motion carried by the following vote:

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

No: 0

Absent: 1 - Commissioner Weiss

Principal Planner Noren Caliva-Lepe stated that this decision is final unless appealed or called up for review by the City Council within 15 days.

STANDING ITEM: CONSIDERATION OF POTENTIAL STUDY ISSUES

6. [19-0938](#) Planning Commission Proposed Study Issues, Calendar Year: 2020

NON-AGENDA ITEMS AND COMMENTS

-Commissioner Comments

-Staff Comments

Principal Planner Noren Caliva-Lepe stated that on August 27, 2019 the City Council approved the General Plan Amendment Initiation request for 828 Morse Avenue and 560 E. Ahwanee Avenue with a requirement that a Development Agreement be prepared to addresses tenant displacement and protections. She added that as a result of that hearing, staff updated the public hearing notices to state in six different languages that translation services are available. Principal Planner Caliva-Lepe stated that City Council also approved the new Civic Center schematic design that the Commission reviewed at a study session on July 22, 2019 and approved the Commission's change in public hearing start time to 7:00 PM.

ADJOURNMENT

Chair Howard adjourned the meeting at 11:16 PM.