



# City of Sunnyvale

## Meeting Minutes - Final Planning Commission

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Monday, October 14, 2019

7:00 PM

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

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**Study Session Canceled | Public Hearing - 7:00 PM**

### **STUDY SESSION CANCELED**

### **7:00 PM PLANNING COMMISSION MEETING**

#### **CALL TO ORDER**

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

#### **SALUTE TO THE FLAG**

Vice Chair Simons led the salute to the flag.

#### **ROLL CALL**

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

Chair Howard's absence is excused.

#### **ORAL COMMUNICATIONS**

#### **CONSENT CALENDAR**

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

The motion carried by the following vote:

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

**No: 0**

**Absent: 1 -** Chair Howard

**1.A      [19-1081](#)      APPLICATION WITHDRAWN**

**Proposed Project:** Appeal of a decision by the Director of Community Development denying a Tree Removal Permit for a Coast Redwood tree in the front yard.

**Location:** 965 West Maude Avenue (APNs: 165-39-001)

**File #:** 2019-7582

**Zoning:** PPSP-IE (Peery Park Specific Plan-Innovative Edge)

**Applicant / Owner:** Medallion Landscape (applicant) / Mozart-Mckee Limited Partnership (owner)

**Environmental Review:** A Class 1 Categorical Exemption relieves this project from California Environmental Quality Act provisions and City Guidelines

**Project Planner:** Shila Bagley, 408-730-7456,  
sbagley@sunnyvale.ca.gov

**PUBLIC HEARINGS/GENERAL BUSINESS**

- 2.      [19-0968](#)      Proposed Project:** Related applications on a 5.35-acre site:
- USE PERMIT:** to allow demolition of 130 apartment units and the construction of 128 condominium units (net loss of two units);
- VESTING TENTATIVE MAP:** to subdivide one parcel into 19 parcels.
- Location:** 925 South Wolfe Road (APN: 211-14-034)
- File #:** 2019-7142
- Zoning:** R-3 - Medium Density Residential
- Applicant / Owner:** SummerHill Homes (applicant) / Peppertree Square LLC (owner)
- Environmental Review:** The project is consistent with the Land Use and Transportation Element (LUTE) of the City's General Plan and no additional environmental review is required pursuant to CEQA Guidelines Section 15183 and Public Resources Code Section 21083.3.
- Project Planner:** Momoko Ishijima, 408-730-7532,  
mishijima@sunnyvale.ca.gov

Senior Planner Momoko Ishijima presented the staff report and noted minor modifications to it.

Commissioner Weiss asked why the buildings on the north side of the property are almost 35 feet tall when the Sunnyvale Municipal Code (SMC) requires buildings to be a maximum of 30 feet tall when within 75 feet of single family homes. Senior Planner Ishijima explained that the proposed project could increase building heights by five feet as an incentive under the Green Building Program. Commissioner Weiss asked staff if the Commission can require a Condition of Approval to specify that all the proposed Below Market Rate (BMR) units be located on the site. Assistant Director Andrew Miner stated that they are all proposed to be on site and that the City Council must approve any request for an alternative location.

Commissioner Howe asked staff if one of the buildings would be 39 feet tall. Assistant Director Miner stated that buildings 34 feet and 39 feet tall are proposed for the site with the Green Building Program incentive and that the tallest building would not be closest to the single family homes. Commissioner Howe confirmed with Assistant Director Miner that the applicant must pursue a General Plan amendment or take advantage of a State density bonus to offer more units on site.

Senior Assistant City Attorney Rebecca Moon stated that the City Council considers a developer's request to forgo providing affordable housing units and pay an in-lieu fee. She explained that the Commission can recommend denial of this request if the City Council considers it.

Commissioner Harrison confirmed with Senior Planner Ishijima that the driveway on the north side offers pedestrian access to South Wolfe Road.

Commissioner Rheaume discussed the number of bedrooms currently on the site and how many proposed, and confirmed with Senior Planner Ishijima that there is the potential for a net gain of 168 bedrooms and that the proposed project maximizes density at 24 units per acre for R-3 zoning. Commissioner Rheaume asked why staff is concerned with the loss of smaller, more affordable rental units considering that more bedrooms are proposed. Assistant Director Miner stated that only units are considered when density is evaluated and that staff is sensitive to the fact that the existing site offers valuable smaller, more affordable rental units versus the proposed project's larger, mostly market rate townhome units.

Vice Chair Simons asked staff if there are any restrictions concerning entities that

purchase properties and then rent them to employees. Senior Assistant City Attorney Moon stated that the City does not have any regulations concerning how many properties an investor can own or rent but that the City regulates short-term rentals. Vice Chair Simons confirmed with Senior Planner Ishijima that it is possible to require that the hardscape materials be similar in look and durability to the proposed site improvements and furniture. Assistant Director Miner stated that the Commission must apply objective standards as defined in City policy and therefore should ask the applicant if they would be amenable to the requirement.

Commissioner Howe confirmed with Assistant Director Miner that the Commission can assess the proposed project based on the material boards submitted for review.

Vice Chair Simons opened the Public Hearing.

Kevin Ebrahimi, Senior Vice President, and Justin Hu, Associate Development Manager, both representing SummerHill Homes, presented images and information about the proposed project.

Commissioner Weiss asked the applicant why units are still for lease at the existing site. Mr. Ebrahimi stated that all new tenants are provided with an expected timeline for required vacancy and acknowledges in writing that there is a current application for redevelopment. Commissioner Weiss asked the applicant if their assurance to provide the BMR units is documented. Mr. Ebrahimi stated that a Condition of Approval states that they must enter into a BMR Developer Agreement that would specify the details of the provision and that it is their intention for every BMR unit to be on site. Senior Assistant City Attorney Moon added that they must petition the City Council to pay an in-lieu fee instead. Mr. Ebrahimi stated in response to Commissioner Weiss's questions that the Americans with Disabilities Act (ADA) units would be constructed consistent with the law and reviewed by the Building Division and that the mailboxes are in a centralized location as required by the United States Postal Service. She thanked Mr. Ebrahimi for increasing the proposed number of units on site which the Commission previously recommended.

Commissioner Harrison asked the applicant to describe their experience relocating Oak trees the size of those proposed for relocation. Mr. Ebrahimi responded that they work with an arborist and other contractors to appraise a tree's suitability for relocation and that they have been successful in relocating trees of that size. Commissioner Harrison asked if the units would be equipped with heat pump water heaters. Mr. Ebrahimi answered that smaller-sized, efficient, wall-mounted

recirculating water heaters would be provided.

Commissioner Rheume thanked the applicant for their improvements since the Study Session and asked about the square footage and rental rates of the existing units. Mr. Ebrahimi stated that apartments range from approximately 570 to 700 square feet and \$1,800 to \$2,700 per month. Commissioner Rheume confirmed with Mr. Ebrahimi that the number of bedrooms for the BMR units would be proportional to the proposal for the rest of the development and that sometimes the site plans show examples of materials that would be used in case the desired material is not available during the construction phase. Commissioner Rheume confirmed with the applicant that they are amenable to using at least two colors for the windows, dark brown and almond.

Vice Chair Simons and Senior Assistant City Attorney Moon confirmed with Mr. Ebrahimi that all buildings would be fully electric and that they are agreeable to a Condition of Approval that requires it.

Commissioner Howe confirmed with Mr. Ebrahimi that if the City Council were to consider the proposed project for any reason, they are amenable to a potential Commission recommendation that all the BMR units be located on site.

Vice Chair Simons commented that the landscape plan proposes trees that are shorter-lived not in scale with the building heights and asked the applicant if they could modify their tree selection. Roman De Soto, representing R3 Studios, landscape architects, stated that they plan to provide trees with a good balance of native trees and that tolerate more shade. Mr. De Soto explained that the Redbud trees are ideal for a variety of different conditions. He continued that each type of tree is chosen based a variety of different factors, adding that they can review their proposed tree selection for potential revision.

Commissioner Weiss confirmed with Mr. Ebrahimi that the landscape plan proposes adding trees along the northern property line so that there is a solid landscaping buffer between the property and the nearby single family homes.

Christina Lara, resident of the existing property, expressed her concern for the displacement of the current residents despite the offer of relocation assistance.

Mike Serrone, representing Livable Sunnyvale, expressed his dissatisfaction with the lower number of units proposed compared to the existing site and the potential

for resident displacement. He suggested that the applicant increase relocation assistance and decrease the proposed number of parking spaces to add more units.

Richard Mehlinger, Chair of the Bicycle and Pedestrian Advisory Commission speaking on his own behalf, urged the applicant to consider adding more BMR units, reduce the proposed parking, and bolster the planned relocation assistance.

Zachary Kaufman, Sunnyvale resident, stated that he supports the number of proposed parking spaces and expressed his concerns that there are no noticing signs about the proposed redevelopment on Gary Avenue and that the nearby single family home residents may not want a landscaping screen along the northern property line.

John Pak, Sunnyvale resident, stated his concerns about dust and potential traffic issues on South Wolfe Road during the construction phase.

Senior Planner Ishijima responded that there is a Condition of Approval that addresses dust abatement. Assistant Director Miner stated that the Bay Area Air Quality Management District also has requirements that the applicant would need to meet and that the Department of Public Works would work with the applicant to provide proper access to the site and ensure adequate traffic flow. Vice Chair Simons and Assistant Director Miner encouraged Mr. Pak to contact staff with any construction issues.

Jae Kim, representing the Homeowners Association (HOA) on the south side of Bellomo Avenue, stated his interest in protecting the privacy of the HOA from the proposed project.

Senior Planner Ishijima stated that there is 47 feet of setback planned for part of the southern property line and that new trees would also be added to that side of the property.

Angie Williams, Sunnyvale resident, expressed her concern for the potential loss of more rental units in Sunnyvale, the potential for traffic issues on South Wolfe Road that might affect first responders, and her interest in keeping her rent stable and the neighborhood quiet.

Maria Hamilton, Sunnyvale resident, stated her opposition to the proposed project and hopes for the applicant to increase the number of overall units to at least 130,

increase relocation assistance, and allow the existing residents the opportunity to purchase the new units.

Fred Weinhaus, resident of the existing property, stated his disappointment with the loss of more rental units in Sunnyvale and explained his challenge to find a new apartment for the same amount of money.

Mr. Ebrahimi presented additional information about the proposed project.

Commissioner Harrison asked Mr. Ebrahimi to explain the reason behind the proposed number of parking spaces and he responded that they are providing the minimum amount required.

Vice Chair Simons asked Mr. Ebrahimi about the possibility of using durable materials to prevent wood decay. Mr. Ebrahimi stated that they use durable materials that look like wood when they are available.

Vice Chair Simons closed the Public Hearing.

MOTION: Commissioner Howe moved and Commissioner Rheame seconded the motion for Alternative 2 – Make the findings required to approve the California Environmental Quality Act determination that the project is consistent with the Land Use and Transportation Element of the City's General Plan and no additional environmental review is required as noted in the checklist in Attachment 5, approve the Use Permit and Vesting Tentative Map based on the findings in Attachment 3, and modify the conditions of approval as follows:

1. Modify Condition of Approval BP-19 to require all buildings to be electric with no natural gas hookups on the property; and
2. Modify Condition of Approval BP-23 to state that the developer must work with Tract 9548 HOA to relocate and underground the existing utility pole. If an agreement on location is not reached between the developer and Tract 9548 HOA after the developer's diligent efforts, the Department of Public Works will provide the final direction on the pole location.

FRIENDLY AMENDMENT: Commissioner Rheame offered a friendly amendment to specify that the windows consist of at least two colors, dark brown and almond, to achieve the look presented in the renderings. Commissioner Howe accepted the friendly amendment.

FRIENDLY AMENDMENT: Vice Chair Simons offered a friendly amendment to specify that amenity structures be made of durable materials to prevent wood rot and that tree canopy heights be increased without interfering with the buildings, both with staff's final approval. Commissioner Howe and Commissioner Rheaume accepted the friendly amendment.

Assistant Director Miner advised the Commission to ask the applicant if they are agreeable to the proposed set of conditions as they are not standard Conditions of Approval.

Vice Chair Simons opened the Public Hearing.

Vice Chair Simons and Senior Assistant City Attorney Moon confirmed with Mr. Ebrahimi that they are agreeable to all the proposed conditions.

Vice Chair Simons closed the Public Hearing.

Assistant Director Miner summarized the motion.

Commissioner Howe stated that the Commission recommends to the City Council that all the BMR units should be located on the property.

Commissioner Howe stated that he is pleased with the number of units planned for the development which has increased since the Study Session but that he wishes there were 130 or more units proposed. He commented that the proposed project is good and praised the relocation assistance the applicant volunteered and the all electric approach for the buildings. He added that it is unfortunate that the community would be losing irreplaceable relatively affordable housing with more units in favor of townhomes with less units.

Commissioner Olevson stated that he will support the motion and commended the applicant for the absence of deviations and for increasing the number of units since the original proposal. He stated that it is good for the community and for the city that the proposed project meets all the requirements of the SMC and while it may be dissatisfactory to the current residents, it does promote the goal of more homeownership opportunities within Sunnyvale.

Commissioner Rheaume stated that he can make the findings and will support the



motion. He added that the proposed project promotes homeownership in Sunnyvale and thanked the applicant for increasing the number of units, particularly two bedroom units, since the Study Session and for presenting a quality design and relocation assistance package. He wished the current residents luck with relocating and stated that he hopes they can find a better opportunity for the same amount of money.

Commissioner Harrison stated that she can make the necessary findings. She stated that she is impressed that the developer fit 128 units on the site while meeting all the requirements and that even though the proposed project is less units than the existing development, it would increase housing availability and by design would decrease vehicle miles traveled. She acknowledged how difficult relocation would be for the current residents and added that the proposed project meets all the City's objective criteria.

Commissioner Weiss stated that she understands the current residents' concerns and thanked them for their remarks. She commented that she is driven to support the motion considering the California Housing Accountability Act, the absence of deviations, and the fact that she can make the findings.

Vice Chair Simons stated that he can make the necessary findings and will support the motion. He stated that it was a difficult decision for him to make because of issues that were not discussed, such as the fact that the density would eliminate the current recreational, open space areas. He also added his concern for the landscaping plan to include more native, longer-living trees that provide more shade.

The motion carried by the following vote:

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

**No: 0**

**Absent: 1 -** Chair Howard

Assistant Director Miner 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**

#### **3. [19-1073](#) Planning Commission Proposed Study Issues, Calendar Year: 2020**

Assistant Director Andrew Miner stated any study issue ideas proposed moving forward would be considered for calendar year 2021.

### **NON-AGENDA ITEMS AND COMMENTS**

#### **-Commissioner Comments**

#### **-Staff Comments**

Assistant Director Andrew Miner stated the City Council considered the Inclusionary Rental Housing proposal on September 24, 2019 and on October 8, 2019 it adopted an ordinance to establish the Inclusionary Rental Housing Program and adopted a resolution to amend the Master Fee Schedule to create a rental housing in-lieu fee. Also on October 8, 2019 the Planning Division and Traffic and Transportation Division presented at a City Council Study Session regarding the City's required transition to Level of Service (LOS) to a Vehicle Miles Traveled (VMT) standard. He added that a Study Session will be held to discuss the State housing bills and how staff intends to modify the Sunnyvale Municipal Code in order to strengthen the City's authority despite the legislative changes.

Commissioner Harrison confirmed with Senior Assistant City Attorney Rebecca Moon that LOS and VMT refer to congestion and actual driving, respectively, and that VMT is a more favorable lens for infill projects. Assistant Director Miner stated that the City aims for higher density in transit locations and that VMT helps to achieve that goal. Commissioner Harrison asked staff if there is the possibility of using cell phone data as a fact-based tool to better understand how people actually travel. Assistant Director Miner stated that staff is currently focused on developing the VMT standards.

Commissioner Olevson stated his concern for the stringent nature of the impending State housing bills and the authority that would be taken away from local jurisdictions. Assistant Director Miner commented that staff is focused on preserving as much of the City's authority as possible and establishing objective standards for applicants.

Vice Chair Simons stated that he has heard arguments that California's sprawl is a result of failing to set urban boundaries such as Oregon has done and that VMT is now used as an effort to eliminate incentives for sprawl.

**ADJOURNMENT**

Vice Chair Simons adjourned the meeting at 9:05 PM.