



# City of Sunnyvale

## Meeting Minutes - Final Planning Commission

---

Monday, December 9, 2019

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 | Public Hearing - 7:00 PM

### **6:30 PM STUDY SESSION**

#### **1 Call to Order in the West Conference Room**

#### **2 Roll Call**

#### **3 Study Session**

- A.**      [19-1141](#)      **Proposed Project:**    Add 158 units in 3 new buildings to an existing 766  
-unit apartment complex.  
**Location:** 655 S. Fair Oaks Avenue  
**File #:** 2019-7418  
**Zoning:** R-4/PD (High-Density Residential/Planned Development)  
**Applicant / Owner:** Prometheus Real Estate Group (applicant) / 655 S.  
Fair Oaks et al. (owner)  
**Project Planner:** Margaret Netto, 408-730-7628,  
mnetto@sunnyvale.ca.gov

#### **4 Public Comment on Study Session Agenda Items**

#### **5 Adjourn Study Session**

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

#### **CALL TO ORDER**

Chair Howard called the meeting to order at 7:07 PM in the Council Chambers.

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

Chair Howard led the salute to the flag.

#### **ROLL CALL**

**Present:** 7 - Chair Daniel Howard  
Commissioner John Howe  
Commissioner Sue Harrison  
Commissioner Ken Olevson  
Commissioner Ken Rheaume  
Vice Chair David Simons  
Commissioner Carol Weiss

## **ORAL COMMUNICATIONS**

### **CONSENT CALENDAR**

**1.A**     [19-1261](#)     Approve Planning Commission Meeting Minutes of November 25, 2019

Vice Chair Simons requested to pull Items 1.A and 1.B from the Consent Calendar and stated that the third Condition of Approval on page five should more directly instruct the applicant and staff to work together to select colored concrete for the front yards. Assistant Director Andrew Miner stated that staff can review the recording and make the requested change if necessary.

MOTION: Vice Chair Simons moved and Commissioner Howe seconded the motion to approve Item 1.A with a minor modification to specify that the 505 East McKinley Avenue applicant must work with staff to select colored concrete for the front yards.

The motion carried by the following vote:

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

**No:** 0

**Abstained:** 1 - Commissioner Weiss

**1.B**     [19-1263](#)     Annual Review of the Code of Ethics and Conduct for Elected and Appointed Officials

Vice Chair Simons stated his opinion that many of the rules are not related to conduct and ethics and his belief that the City should instead frame these goals as values and then discipline elected and appointed officials when necessary.

Assistant Director Andrew Miner assured Vice Chair Simons that his comments will be captured in the meeting minutes for the City Council's review.

MOTION: The Commissioners acknowledged that they have reviewed Item 1.B.

The Commissioners agreed to consider Item 3 first in the interest of the families with young children present.

### **PUBLIC HEARINGS/GENERAL BUSINESS**

3.        [19-1209](#)        **Proposed Project:**    Appeal of a decision by the Zoning Administrator to approve a Special Development Permit to allow a childcare center providing preschool for 120 children within an existing 6,920 square foot building.  
**Location:** 755 S. Bernardo Avenue (APN:198-16-006)  
**File #:** 2019-7502  
**Zoning:** C-2/PD  
**Applicant / Owner:** JY International Education LLC (applicant) / Atul S and Kusum A Sheth Trustee (owner)  
**Environmental Review:** The Class 1, 3, and 32 Categorical Exemptions relieves this project from the requirements of CEQA.  
**Project Planner:** Cindy Hom, 408-730-7411, chom@sunnyvale.ca.gov

Associate Planner Cindy Hom presented the staff report and introduced Principal Transportation Engineer/Planner Lillian Tsang and a representative from traffic consultant AECOM.

Assistant Director Andrew Miner noted that the staff report should be corrected to reflect the proposed project's zoning as C-1/PD, Neighborhood Business/Planned Development.

Chair Howard clarified with Associate Planner Hom that the item for consideration is an appeal brought forward by appellants Allen Yu and John Leding.

Commissioner Weiss clarified with Associate Planner Hom that an existing Recommended Condition of Approval increases the fencing around the outdoor play areas from four feet to six feet.

Commissioner Olevson asked staff why the proposed project was not exempt from the California Environmental Quality Act (CEQA) the first time the Zoning Administrator considered it. Senior Assistant City Attorney Rebecca Moon stated that the play area in the original plan was closer to the residential properties to the

west, and a noise study concluded that it would cause a significant unavoidable noise impact, adding that the applicant then relocated the play area resulting in the proposed project's exemption from CEQA the second time the Zoning Administrator considered it. Commission Olevson also asked staff why traffic patterns were not analyzed as if the proposed project were intended for an elementary school. Associate Planner Hom and Assistant Director Miner stated that it was studied as a child care center because preschool age children would attend.

Chair Howard opened the Public Hearing.

Allen Yu, co-appellant, presented images and information about the proposed project.

Commissioner Rheume confirmed with Mr. Yu that he owns the property at 660 South Bernardo Avenue, that the applicant is a tenant at that location, and that he is a co-appellant with John Leding representing First Orthodox Presbyterian Church.

Vice Chair Simons asked staff if AECOM's report presents average speeds at different times of the day and stated that he believes speed may be of concern for the intersection at Brookfield and South Bernardo Avenues. Principal Transportation Engineer/Planner Tsang responded that the report analyzes intersection-level operations and speed was not studied. She added that a collision took place at that intersection between a vehicle and a pedestrian in 2017 but that speed and sight line were not contributing factors. Mr. Yu clarified that he believes sight line is more of an issue at that intersection than speed and noted his concern that both AECOM and his traffic engineer conclude that the necessary line of sight is not currently met.

Chair Howard asked staff if the Vision Zero or Active Transportation Plans would affect the site in any way. Principal Transportation Engineer/Planner Tsang responded that the Active Transportation Plan is studying buffered bicycle lanes near the site which Chair Howard stated may naturally reduce vehicle speeds and create better driveway access.

Dr. Atul Sheth, owner of the 755 South Bernardo Avenue property, presented information about the proposed project.

Commissioner Weiss asked Dr. Sheth if it would better accommodate working parents to open the center before 7:30 AM. Dr. Sheth responded that it might be better but that the schedule works for the applicant's location at 660 South Bernardo

Avenue and that it was set to respect the nearby residents. He added that the applicant might transport children to and from the property in a larger vehicle which would reduce traffic. Commissioner Weiss asked Dr. Sheth if it would be better for vehicles to enter and exit the property using different driveways on South Bernardo Avenue to alleviate the line of vision issue at the intersection. Dr. Sheth stated that in consultation with his architect, they propose an entrance and exit on Brookfield Avenue using the same large driveway to avoid affecting traffic on South Bernardo Avenue, adding that the line of vision is not a problem for the entrance and exit on Brookfield Avenue.

Commissioner Harrison confirmed with Dr. Sheth that the applicant, JY International Education LLC, is a tenant at the appellant Mr. Yu's property at 660 South Bernardo Avenue and is seeking to expand the business to Mr. Sheth's property at 755 South Bernardo Avenue.

Chair Howard confirmed with Dr. Sheth that he is the 755 South Bernardo Avenue property owner speaking on the applicant's behalf.

Vice Chair Simons asked Dr. Sheth if he would be amenable to working with staff to select and plant native trees for the property. Dr. Sheth responded that he would appreciate staff's guidance.

Zhaohui Fu, Sunnyvale resident, spoke in support of the proposed project and stated that the nearby power lines and gas station would not pose a significant danger to the attending children. Mr. Fu repeated for Commissioner Harrison his statement that there is no conclusive evidence that power lines are harmful and further remarked that Cumberland Elementary is directly under the same power lines.

Adrian Woolley, parent of a child attending the applicant's current location, stated the need for child care in the area, that traffic is not an issue at the after-school location, and that there is no scientific evidence that power lines are harmful.

Ji Zhang, speaking on the applicant's behalf, spoke about the importance of the program's focus on Chinese culture and the convenient location which reduces vehicle miles traveled (VMT).

Zheng Gao commented that traffic would not be an issue for the proposed location and that he would not endanger his children if he believed the nearby power lines

and gas station posed any risk.

James Li, Sunnyvale resident, stated that traffic is not problematic for the after-school location and that cautious driving is always imperative and spoke in support of the services the program provides to the community.

James Ohannesian, speaking on behalf of First Orthodox Presbyterian Church, stated his concern that the church's opportunities for parking agreements with various property owners have diminished through the years.

Commissioner Harrison asked Mr. Ohannesian what the church plans to do if Dr. Sheth were to terminate its month-to-month parking agreement at his 660 South Bernardo Avenue property. Mr. Ohannesian responded that there are limited opportunities and that the church has not pursued any alternatives as it is relying on the City to secure its parking.

Commissioner Rheaume asked staff about the parking requirements for the First Orthodox Presbyterian Church. Senior Assistant City Attorney Moon stated that the meeting minutes related to the church's 1963 permitted addition included a condition that specified that the church must provide proof that it can meet its parking requirements and it provided an agreement with the Cherry Chase Shopping Center. She stated that staff does not have any record that provides permanent entitlement for church parking and the City cannot force a private property owner to provide the church with parking. Commissioner Rheaume confirmed with Assistant Director Miner that moving forward staff would likely not recommend that applicants meet their parking requirements by leasing parking from other property owners.

Vice Chair Simons asked staff to comment on this as a potentially unresolved parking matter. Assistant Director Miner responded that off-site parking agreements can unfortunately prove short-lived as areas, property owners, and interests change and confirmed that staff has recently begun requesting that applicants fulfill their parking requirements on site.

Chair Howard summarized the history of how the church has fulfilled its parking requirements and confirmed with Assistant Director Miner that the burden is on the church and not the City to secure its needed parking.

John Leding, co-appellant representing First Orthodox Presbyterian Church, asked for the Commission's help with facilitating a permanent parking agreement between

Dr. Sheth and the church.

Commissioner Harrison asked Mr. Leding if the church has approached Dr. Sheth to discuss a long-term parking agreement. Mr. Leding answered that the church has spoken to him about the proposed project overall but not specifically about parking.

Commissioner Howe confirmed with Senior Assistant City Attorney Moon that the Commission is not considering a parking agreement for any of the properties being discussed.

Bin Ni, Sunnyvale resident, stated his satisfaction with the JingYing International Chinese School and stated his beliefs that its expansion is necessary given its current capacity and that its proposed additional location would be safer transportation-wise.

Calvin Goligher yielded his time.

Ali Nasouti, owner of the gas station at Brookfield and South Bernardo Avenues, spoke in support of the proposed project and stated the compliance measures he undertakes to ensure the safety of his operation.

Chair Howard asked Mr. Nasouti if his property has any excess parking that may be available for the First Orthodox Presbyterian Church. Mr. Nasouti stated that there is an easement near his property that could potentially provide at least ten parking spaces.

Juan Gao, parent of children attending JingYing International Chinese School, stated that Mr. Yu's issues with the proposed location are not valid concerns and that the child care center should not be denied based on the church's parking difficulties.

Eleanor Hansen, Sunnyvale resident, explained the traffic issues around the proposed project and stated that the location is not ideal given the current illegal activity in the building's parking lot.

Tan Yan, parent of a child attending JingYing International Chinese School, stated that traffic for the current location is staggered throughout the day, that the proposed child care center is important to nearby families, and that parents are the best judges of their children's safety.

Calvin Goligher, pastor of First Orthodox Presbyterian Church, mentioned a communication he sent to staff that outlines his ideas for improving South Bernardo Avenue for bicyclists.

Dr. Sheth provided additional information about the proposed project.

Commissioner Harrison asked Qiang Wang, representing applicant JY International Education LLC, if he ever discussed parking, traffic flow, hazardous chemicals, or proximity to the power lines and gas station with Mr. Yu at the time that he established his location at 660 South Bernardo Avenue. Mr. Wang stated that his business only generates traffic during evening pick up time at that location.

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

Commissioner Weiss stated that the church's parking expectations are not the same as an actual contract and asked Mr. Yu if the appellants have contacted the Cherry Chase Shopping Center property owner to explore a possible parking agreement. Mr. Yu replied that he did not know but would work to find parking opportunities, urging the Commissioners to assist the church in establishing a permanent solution. Commissioner Weiss commented that child care is an important service that the City supports as outlined in the Council Policy Manual.

Commissioner Harrison asked Mr. Yu how the organizations he contacted responded regarding potential gas station emissions on the after-school children versus the child care center children. Mr. Yu stated that he contacted the Environmental Protection Agency and the California Health and Human Services Agency who were concerned with the length of the child care center's hours. Commissioner Harrison asked Mr. Yu if the after-school site and child care center are equidistant to the nearby gas station and Mr. Yu responded that the after-school site is three times as far from the gas station.

Chair Howard closed the Public Hearing.

Commissioner Harrison asked staff if the potential hazards discussed do not pose a significant enough danger to prevent the property from operating as a child care center. Senior Assistant City Attorney Moon stated that staff cite three different exemptions from CEQA that apply to the child care center and that staff firmly believes that the location does not present any greater, unusual danger for that use



compared to anywhere else in the city. Commissioner Harrison confirmed with Principal Transportation Engineer/Planner Tsang that it is staff's opinion that the proposed traffic flow to and from the site on Brookfield Avenue is adequate for a child care center for the proposed number of children and does not pose any risk to visitors of the site or traffic on South Bernardo Avenue. Principal Transportation Engineer/Planner Tsang stated that staff also recommends use of the driveway on Brookfield Avenue for ease of circulation within the parking lot.

Chair Howard asked staff when the City must transition to a VMT model and if this proposed project increases or decreases VMT. Principal Transportation Engineer/Planner Tsang stated that the shift will take place beginning July 1, 2020 and that VMT was not studied for this proposed project.

MOTION: Commissioner Howe moved and Commissioner Rheume seconded the motion for Alternative 1 – Deny the appeal and affirm the Zoning Administrator's approval of the Special Development Permit subject to the recommended Conditions of Approval in Attachment 6.

Commissioner Howe stated that staff did a wonderful job helping to improve the proposed project since the Zoning Administrator denied it. He noted that the community needs the child care center, it is not dangerous to the neighborhood, the parking issue is not relevant to the Commission's decision, and that the right thing to do is to approve the proposed project since it has been acceptably redesigned and improved.

Commissioner Rheume stated that he will support the motion and can make the findings, recognizing the changes the applicant made since the first Zoning Administrator decision. He complimented Dr. Sheth for his compelling presentation and encouraged First Orthodox Presbyterian Church to work with Dr. Sheth to resolve the parking matter since the issue is irrelevant to the child care center. He acknowledged the need for child care in the city and urged the Commissioners to support the motion.

Commissioner Harrison stated that she can make the findings and commented that she understands the parking issue from the church's historical perspective, encouraging the church to speak with Dr. Sheth. She added that she relies on staff and AECOM's expertise that the proposed project's location would not be dangerous for those travelling on Brookfield and South Bernardo Avenues or for the children who would attend the child care center.

Commissioner Olevson stated that he will support the motion and defers to staff and AECOM's thoroughly researched conclusions that the proposed project is exempt from CEQA and that the Brookfield and South Bernardo Avenues intersection is safe and defers to the federal and City regulations pertaining to electromagnetic field radiation and hazardous materials emissions. Commissioner Olevson further remarked that the church's parking issue is a civil matter and therefore not within the Commission's purview. He stated that the Commission must follow the relevant rules and regulations established by those qualified despite other arguments that were presented against them.

FRIENDLY AMENDMENT: Vice Chair Simons offered a friendly amendment to specify that the applicant must work with staff to select trees for the proposed project that are appropriate in size, native, and shade maximizing considering their placement and the building height restrictions. Commissioner Howe and Commissioner Rheume accepted the friendly amendment.

Vice Chair Simons stated that he will support the motion and appreciates the community's involvement. He applauded the applicant for their patience and improvement of the proposed project.

Commissioner Weiss commented that she will support the motion and can make the findings, stating that the proposed project does not request any variances, is supported by the General Plan, has worked to mitigate noise impacts by relocating the playground, and is perfectly located in a residential area near an elementary school. She urged the appellant and the First Orthodox Presbyterian Church to contact nearby property owners to find a solution to the parking issue which she is confident can be resolved.

Chair Howard summarized the motion and stated that he will support it. He stated his agreement with all the Commissioners' previous statements, specifying that the parking issue must be resolved separately from this decision, that the child care center would be an asset to the city, and that it would reduce VMT for the community. He added that the parking lot would be larger than that of his child's preschool and that his own after-school care was next to a gas station.

The motion carried by the following vote:

**Yes: 7 -** Chair Howard  
Commissioner Howe  
Commissioner Harrison  
Commissioner Olevson  
Commissioner Rheaume  
Vice Chair Simons  
Commissioner Weiss

**No: 0**

Assistant Director Miner stated that this action is final unless appealed or called up for review by the City Council within 15 days.

Chair Howard called a five minute recess.

2.      [19-0989](#)      **Proposed Project:**    Related applications on a 2.3-acre site:  
                                 **USE PERMIT** to demolish two existing religious institution buildings (Trinity United Methodist Church) and construct a two to three-story assisted living facility for elderly with 120 beds.  
                                 **VARIANCE** to allow a truck loading space within the required 10-foot landscape buffer, and an 8-foot tall perimeter wood fence in lieu of a masonry wall.  
**Location:** 581-583 Fremont Avenue (APNs: 211-31-018 and 211-31-019)  
**File #:** 2019-7214  
**Zoning:** Public Facility (PF)  
**Applicant / Owner:** Sunrise Senior Living (applicant) / St Johns Evangelical Lutheran and Trinity United Methodist Church (owners)  
**Environmental Review:** A Class 32 Exemption relieves this project from the California Environmental Quality Act (CEQA) provisions.  
**Project Planner:** Shila Bagley, 408-730-7456, sbagley@sunnyvale.ca.gov

Chair Howard called the meeting to order at 9:37 PM in the Council Chambers.

Associate Planner Shila Bagley presented the staff report and noted minor modifications to it.

Commissioner Howe asked staff when the site was rezoned to the Public Facility zoning district and how it is possible that a Use Permit could be granted to a private business in that zone. Assistant Director Andrew Miner stated that the zoning

change took place in either 2007 or 2008 and that a discretionary Use Permit could be granted because the use meets the definition of a rest home, as described in the zoning code. Commissioner Howe asked for further clarification about how an assisted living facility is not considered a residential use when people would live there. Assistant Director Miner responded that an assisted living facility is not a purely residential use because resident care is involved.

Vice Chair Simons asked staff to comment on his noticing that the window color matches the building's body color in the renderings but that the colors are depicted as dramatically different on the materials boards. Associate Planner Bagley stated that the window colors can be customized and Vice Chair Simons stated that the colors available for customization are not what he expected.

Chair Howard opened the Public Hearing.

Jerry Liang, Senior Vice President of Development representing applicant Sunrise Senior Living, and Tina Bagheri, Executive Director representing Sunrise of Sunnyvale on South Knickerbocker Drive, presented images and information about the proposed project.

Commissioner Weiss confirmed with Mr. Liang and Ms. Bagheri that the facility can work on noise mitigation for the emergency vehicles responding to the site and that the fire access road can accommodate more than one vehicle at a time.

Commissioner Weiss asked if the roof depicted in the renderings is a cool roof. Thomas Concialdi, representing HPI Architecture, stated that the perimeter would be a mansard roof and the rest would be a cool roof. Commissioner Weiss asked why trees 27, 28, and 29 are planned for removal since they would shade the courtyard. Mr. Liang stated that they must excavate underneath the area of the building to provide underground parking but that part of the courtyard would be shaded by overhanging portions of the building.

Vice Chair Simons stated his concern that thin asphalt shingles can appear to lack dimension and quality. Mr. Concialdi stated that they do not plan to use the sample alternate on the materials board; they plan to use the slate concrete tile choice instead. Vice Chair Simons stated that he prefers a darker window exterior color with a lighter building body color as depicted in the renderings, specifying his desire for an off-white body color for the part of the building that is not stone with matching exterior windows and frames. Mr. Concialdi responded that they can explore alternatives to select a darker exterior window color. Vice Chair Simons confirmed

with Mr. Concialdi that the renderings may have a gray-green appearance because of printing and confirmed with Mr. Liang that they can work with staff to choose trees for the proposed project that are native and long living. Mr. Liang added that they have worked with the City arborist since the Study Session on tree selection to preserve the larger, existing trees on the eastern side of the property.

Patti Selan, Vice President of the Board of Directors representing the Sunset Oaks Homeowners Association, stated that she believes the assisted living facility does not meet the definition of a Public Facility and would prefer the site belong to a religious organization for the community gatherings it would offer. She also stated her concern that the proposed project would be too tall and the fire access road too close to their property.

Carol Wilser, member of St. John's Lutheran Church, clarified the difference between an assisted living facility and a retirement community and stated that the proposed project is the best use of the site compared to the large churches that applied.

Walter Wilser noted the importance of the community garden and urged the Commissioners to approve the proposed project's 3-story design that would allow the garden to continue operating.

Sharon Bricker, member of St. John's Lutheran Church, spoke in support of the proposed project, stating that providing for the elderly and supporting the community garden is part of the church's mission.

Jay Parr yielded his time but stated his support for the proposed project.

Linda Baginski was not present but her representative stated her support for the proposed project.

Bob McGowan, member of Trinity United Methodist Church, stated the church's support for the proposed project and added that the alternative was a church with an occupant load of 400 people that would create a large amount of traffic.

Terry Deveau, listing agent for the sale of the property, stated that Sunrise of Sunnyvale is the best use of the land and that the other group of buyers were large religious organizations that would have a higher impact, acknowledging that other assisted living facilities expressed interest in the property.

Sam Liu, resident of Bobwhite Avenue, stated that noise from responding emergency vehicles and an increase in traffic would negatively affect the nearby residents, adding that he does not believe the proposed project should be exempt from the California Environmental Quality Act.

Vincent Lau, resident living near the property, stated concerns for his privacy with the 3-story design and for an increase in traffic in the area that would make it more difficult for emergency vehicles to access the site.

Mr. Liang presented additional information about the proposed project.

Vice Chair Simons asked Mr. Liang to explain the process the public must follow to use the site. Mr. Liang and Ms. Bagheri answered that the public must contact the Executive Director or Activities Coordinator at any Sunrise Senior Living site to facilitate the process. Vice Chair Simons confirmed with Mr. Liang that they are willing to work with staff to select a wooden fence that helps mitigate noise from emergency vehicles.

Chair Howard asked Ms. Bagheri if there are any requirements that interested parties must meet or fees that are involved to use the facility. Ms. Bagheri responded that the facility can be used free of charge and that those interested must work with the Executive Director or Activities Coordinator, adding that most of the organizations attending her location are well known.

Chair Howard closed the Public Hearing.

Commissioner Rheume asked staff about the future of the community garden. Senior Assistant City Attorney Rebecca Moon stated that a Recommended Condition of Approval requires the community garden to be made available to the public for the life of the proposed project and the applicant would be in violation of the Use Permit and subject to enforcement action if it were not maintained.

Commissioner Weiss brought attention to the proposed construction management plan to assuage Mr. Liu's concerns about the construction effects.

Vice Chair Simons confirmed with Assistant Director Miner that it is possible to install a sound-attenuating wooden fence similar to the type of fence used with the Corn Palace project, ensuring that it protects the existing trees. Vice Chair Simons

asked staff if it would be helpful to ask the applicant to provide signage in the lobby directing the public to contact the Activities Coordinator to use the facility.

Chair Howard asked staff about the size of church that could be potentially built on the property, stating his interest in analyzing all the site's possibilities. Assistant Director Miner recalled that staff received a pre-application from a large church that concerned staff for parking and traffic reasons. He added that by nature Public Facilities often require more parking and create more traffic, particularly during events. Chair Howard confirmed with Assistant Director Miner that neighbors may be satisfied to know that the community events at the site would most likely be small and that they might be mostly concerned with the noise from responding emergency vehicles.

Commissioner Olevson confirmed with Assistant Director Miner that the Santa Clara County Assessor would collect all appropriate taxes from the sale of the property.

Chair Howard asked staff if the City would collect any revenue from the sale of the property to a business as opposed to a non-profit organization. Senior Assistant City Attorney Moon stated that the County and school districts receive the bulk of property taxes collected.

MOTION: Vice Chair Simons moved and Commissioner Rheume seconded the motion for Alternative 2 - Approve the Use Permit and Variance based on the findings in Attachment 3 and the following modified conditions of approval:

1. Exterior window colors must be slightly darker than the matching body color as depicted in the renderings and the exterior molding must be the same color as the window frames as depicted in the renderings;
2. Install a sound attenuating-rated wooden fence;
3. Applicant and staff must work together to select trees that are native and as large as possible to provide shade as appropriate for their site placement; and
4. Install and maintain a visible sign in the building lobby identifying the Activities Coordinator with his or her phone number and email address to facilitate the public's use of the space.

Vice Chair Simons added that Andersen Sandstone color would work for the exterior molding and window frames but that the applicant and staff can work together to determine another possible color. He stated that he does not agree that the assisted living facility is the best use of a Public Facility-designated site, hoping that the site

would be granted to a religious organization and adding that the purpose of Public Facility zoning is so that community members do not have to travel far to visit a religious institution. He further remarked that placing restrictions on Public Facilities is extremely important and stated his concern for people being able to use it as a Public Facility. He noted his reservations about supporting the proposed project but believes the proposed conditions will help improve it.

Commissioner Rheume stated that he can make the findings and will support the motion and thanked staff for the thorough report and presentation and recognized the applicant for the improvements since the Study Session. He stated his opinion that the applicant is a better fit for the neighborhood rather than a large church and added that the Sandstone color would be satisfactory for the exterior window molding and framing but that the applicant and staff are welcome to work together on alternatives, urging the Commissioners to also support the motion.

Commissioner Howe clarified that he supports assisted living centers and similar facilities and stated that he was involved in the decision to zone religious institutions as Public Facilities and never expected for an assisted living facility to be built in a Public Facility zone. He commented that it is a poor proposed project that would be injurious to the single-family neighborhood with the plan for 81% Floor Area Ratio and large underground parking. He stated his displeasure that at the existing Sunrise of Sunnyvale an electrical box impedes the sidewalk that the Commission required the installation of to facilitate the mobility of those with wheelchairs and walkers. He questioned who would maintain the proposed sound-attenuating fence, adding that the facility can be built without a variance, that there is nothing unique about the proposed project, and that he will not support it.

Commissioner Harrison stated that she will support the motion, that the requested variance to allow for truck loading is acceptable since it would provide a continuous sidewalk, and that the requested variance to install a wooden fence instead of a masonry fence is a good compromise since the goal is to preserve the existing trees. She commented that she understands Commissioner Howe's concern that the proposed project may change the nature of the neighborhood but determined that if a rest home is an acceptable Public Facility use, then an assisted living facility is the modern equivalent of a rest home and therefore acceptable.

Commissioner Weiss stated that the facility would be in a good location equidistant between two hospitals, that the General Plan promotes assisted living and housing that supports the aging population, and that the use is compatible with what is



allowed in the Public Facility zone. She stated she can support the two requested variances and that she is pleased that the community garden will continue. She concluded that the facility would be very important to Sunnyvale's senior population and would prove to be important to the larger community, adding that she supports the motion.

**FRIENDLY AMENDMENT:** Chair Howard offered a friendly amendment to specify that the motion include the Recommended Conditions of Approval in Attachment 4. Vice Chair Simons and Commissioner Rheaume accepted the friendly amendment.

Chair Howard summarized the motion and stated that it is a good proposed project overall but that he will not support it. He specified that he shares Vice Chair Simons and Commissioner Howe's concerns that the facility may not be the best use of Public Facility zoning even though it could be the best conceivable option for the site. He concluded that he hopes his vote would be considered if the proposed project were appealed or called up for review by the City Council.

The motion carried by the following vote:

**Yes: 4 -** Commissioner Harrison  
Commissioner Olevson  
Commissioner Rheaume  
Commissioner Weiss

**No: 3 -** Chair Howard  
Commissioner Howe  
Vice Chair Simons

Assistant Director Miner stated that this action is final unless appealed or called up for review by the City Council within 15 days.

#### **STANDING ITEM: CONSIDERATION OF POTENTIAL STUDY ISSUES**

4. [19-1262](#) Planning Commission Proposed Study Issues, Calendar Year: 2020

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

##### **-Commissioner Comments**

Commissioner Harrison asked staff for the status of the proposed project at Norman Drive and Marion Way. Assistant Director Andrew Miner responded that staff are no

longer able to request a sidewalk easement to continue the sidewalk beyond the property because the applicant changed their plans. He stated that it is staff's long-term goal to fix the sidewalk for safety purposes. Commissioner Harrison asked if the applicant still plans to build an Accessory Dwelling Unit and Assistant Director Miner stated that if so, the process would be easier for the applicant because of the new State law.

**-Staff Comments**

Assistant Director Andrew Miner thanked the Commissioners who will be attending the Special Meeting on December 16, 2019 and mentioned that on December 10, 2019 the City Council will consider the proposed urgency ordinance regarding changes to Accessory Dwelling Units which would go into effect immediately if passed. He added that staff are still working through aspects of other housing bills the State recently passed.

**ADJOURNMENT**

Chair Howard adjourned the meeting at 11:09 PM.