



# City of Sunnyvale

## Agenda Item-No Attachments (PDF)

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File #: 15-0706, Version: 1

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### REPORT TO COUNCIL

#### **SUBJECT**

**File #:** 2014-7624

**Location:** 1026 Lois Avenue (APN: 198-34-011)

**Zoning:** R-0

**Proposed Project:**

**Appeal by a neighbor of a Planning Commission Decision approving a Design Review** to allow construction of a new two-story home with a total floor area of 2,993 square feet (2,566 square feet living area and a 427-square foot garage) resulting in 49.8 percent floor area ratio (FAR).

**Applicant / Owner:** BO Design (applicant) / Haiyan Gong (owner)

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

**Project Planner:** Shétal Divatia, (408) 730-7637, [sdivatia@sunnyvale.ca.gov](mailto:sdivatia@sunnyvale.ca.gov)  
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#### **REPORT IN BRIEF**

**General Plan:** Residential Low Density

**Existing Site Conditions:** Single-family residence

**Surrounding Land Uses**

**North:** Single-family residence

**South:** Single-family residence

**East:** Single-family residence

**West:** Single-family residence

**Issues:** Neighborhood compatibility, Floor Area Ratio.

**Staff Recommendation:** Approve the Design Review subject to recommended Conditions of Approval.

#### **BACKGROUND**

A Design Review for a two-story home at 49.8% FAR at this site was considered and approved by the Planning Commission on June 22, 2015 (PC Meeting Minutes - Attachment 9). This decision is being appealed to City Council by neighbor Iztok Marjanovic (Appeal Letter - Attachment 10). An appeal of a previous design was considered by City Council at its May 12, 2015 public hearing (CC Meeting Minutes - Attachment 8). The Council referred this item back to the Planning Commission with a list of design issues to address.

The table below provides the history of this project:

Project	Hearing Body	Date	Decision
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Design Review for new two-story home with 50% FAR	Planning Commission	10/13/2014	Denied
2 <sup>nd</sup> Design Review for two-story home with 49.8% FAR	Planning Commission	3/9/2015	Approved subject to Conditions of Approval
Project Appealed by Neighbor	City Council	5/12/2015	Refer back to Planning Commission with a list of issues to look at and address
Modified Project - 3 <sup>rd</sup> Design Review for two-story home with 49.8% FAR	Planning Commission	6/22/2015	Approved subject to Conditions of Approval
Project Appealed by Neighbor	City Council	8/25/2015	Pending

The issues noted by City Council at its May 12, 2015 public hearing include:

1. Height of the first and second stories and clarity of Condition of Approval PS-2 (height of first-story eaves);
2. Height of the first floor kitchen window, how it relates to sight lines and whether or not a taller fence might be appropriate;
3. Location of the air conditioners; and
4. Design of second story stairwell element.

In response to the above noted issues and other comments expressed at the public hearings, the applicant modified, clarified and resubmitted their plans for Planning Commission's consideration (Project Plans - Attachment 12).

**Proposed Project Description:** The applicant proposes to demolish the existing single-story home (with a one car garage) and construct a new two-story home (including a two-car garage), resulting in a total of 2,993 square feet and approximately 50% Floor Area Ratio (FAR). A Design Review is required for construction of a new home to evaluate compliance with development standards and with the Single Family Home Design Techniques. The Planning Commission is required to review applications exceeding 45% FAR or 3,600 square feet. The proposed 49.8% FAR translates to 293 square feet of floor area is above the 45% FAR threshold. See Attachment 1 for vicinity and noticing map, Attachment 2 for the project Data Table and Attachment 12 for proposed plans.

## **APPEAL**

The appellant objects to the Planning Commission decision approving the project, subject to conditions of approval (Appeal Letter - Attachment 10). The letter notes that the proposed project at 50% FAR is not compatible with the existing neighborhood and does not meet Sunnyvale Design Guidelines - Single Family Home Design Techniques. The letter cites an article in the Palo Alto Weekly regarding design compatibility in Palo Alto's Eichler neighborhoods. The appeal letter requests the City Council to "*execute the required care in design of new construction to avoid overwhelming the neighborhood with structures that are at great odds with the scale and bulk of existing nearby homes and to minimize their impact on the livability of their immediate neighbors.*"

Following are staff comments on the issues noted in the appeal:

*Sunnyvale Design Guideline 2.2.2 - Respect the scale, bulk and character of homes in the adjacent neighborhood*

- The appeal notes that the proposed home at 50% FAR exceeds the generous 45% per R-0 zoning and doubles the prevailing FAR in the neighborhood (average FAR is 25.56%).

Staff Comment: 45% FAR is a threshold and projects exceeding that level require approval by Planning Commission to address issues of bulk and mass. The Design Guidelines allow appropriately designed two-story structures in predominantly single story neighborhoods such as this by stating “*For new second stories in predominantly one-story neighborhoods, the second floor area should not exceeds 35% of the first floor area (including the garage area)*”. The project, with 35 percent second floor area of the first floor area, is consistent with this guideline. The appeal letter notes an average FAR for the neighborhood at 25.56% and that of the adjacent home is at 24% FAR whereby the proposed project doubles this FAR: Comparative FARs of the existing residential neighborhood and the proposed project should take into account that a majority of the homes in this neighborhood are legal non-conforming as they are served by one-car or no garages and do not conform with the R-0 zoning district’s parking requirements. The proposed project includes a 427-square foot, two-car garage which accounts for 7% of the proposed 49.8% FAR.

- The appeal notes that the proposed home is a 2-3 progression leap of prevailing neighborhood FAR and disrespects scale, bulk and character of the neighborhood.

Staff Comment: although the neighborhood is predominantly single story with one-car garages at an average 25% FAR, there are other two-story homes with higher FARs. Some of the two-story homes were built prior to adoption of the Single-Family Home Design Techniques. On May 12, the City Council voted to allow the proposed two-story dwelling subject to referral back to the Planning Commission for further design refinements.

*Sunnyvale Design Guideline 2.2.3 - Design homes to respect their immediate neighbors*

- The appeal notes that there are three rear yard facing windows that affect the privacy of those neighbors.

Staff Comment: two of the three windows are high sill windows located in the bathroom and stairwell of the new home with potential of minimal visual intrusion on neighboring properties. Additionally, all three windows are setback 31-51 feet away from the rear property line and exceed Sunnyvale’s minimum 20 foot rear yard setback requirement.

- The appeal notes that the second story element of the proposed homes impacts the rights of the nearby property owners to fully enjoy their properties.

Staff Comment: The Sunnyvale zoning code does not preclude a second story element in this neighborhood and the proposed second story meets and/or exceeds second story setbacks, and includes design features that minimize privacy impacts on the neighboring properties. Some change in privacy is possible in zoning districts allowing two story homes.

*Sunnyvale Design Guideline 2.2.7 - Preserve mature landscaping*

- The appeal notes that the project removes a protected tree and that the replacement required and proposed with two 36-inch box trees is “pale in comparison to the value of the tree lost.”

Staff Comment: Staff has examined options to save the protected tree while meeting building setback and the 2-car garage and 2-car driveway code requirement and found that in the best case scenario the tree’s health would be compromised due to its proximity to the structure. The applicant’s arborist has noted that the subject tree has been topped and is not in good health and recommends removal (Arborists Report - Attachment 11). Staff finds that two 36-inch box replacement trees, with one tree to be planted in the front yard, adequately meets tree replacement requirement.

#### *Palo Alto Weekly Article*

- The appeal letter also includes an article from the Palo Alto Weekly - “The Eichler Uprising” and urges the City’s elected officials to act in the best interest of their constituency. The article reports on concerns of Palo Alto neighbors regarding construction of a proposed dwelling in an Eichler neighborhood, and discusses tools available to address neighborhood compatibility such as single-story overlays, petitions and appeals. It also notes that Sunnyvale and Cupertino have specific Eichler design guidelines for their Eichler (or Eichler-style) neighborhoods, including increased setbacks for second stories to address privacy concerns. The article concludes that there is a need for Palo Alto to address neighborhood concerns.

Staff Comment: The home that is the subject of this appeal is not located in an Eichler or Eichler-style neighborhood. Sunnyvale has a single-story combining district available to neighborhoods which seek to keep homes at one story. An application must be signed by a minimum of 55% of the property owners in a proposed district.

### **EXISTING POLICY**

**Single Family Home Design Techniques:** The City’s Single Family Home Design Techniques (2003) provide guidelines for site planning, architecture, and other design elements related to neighborhood compatibility. These guidelines are referenced in the discussion and analysis below.

### **ENVIRONMENTAL REVIEW**

A Class 1 Categorical Exemption (Guideline 15303(a)) relieves this project from California Environmental Quality Act (CEQA) provisions and City CEQA Guidelines. This exemption applies to construction of a single-family dwelling.

### **DISCUSSION**

**Development Standards:** The proposed project complies with all applicable development standards including setbacks and parking, as set forth in the Sunnyvale Municipal Code (SMC). The following items are noted for clarification:

- Site Layout. The proposed home would be located near the center of the property meeting all setback requirements. A two-car garage with driveway provides access at the right side of the property’s frontage.
- Parking/Circulation. The project would provide the required four on-site parking spaces (two enclosed spaces in the garage and two unenclosed spaces in the driveway) that meet the size and dimensional requirements to comply with current parking standards.

- Landscaping and Tree Preservation. The applicant proposes to retain the majority of the site's existing landscaping. One protected tree and three smaller sized trees are proposed to be removed in conjunction with this project. The protected tree in the front yard (in fair health as noted by an arborist) is proposed to be removed, as it is very close to the new structure and its health and structure will be compromised. Planning Commission is requiring that two 36-inch box size replacement trees be planted on the site with one tree in the front yard and the driveway to be constructed with pervious material. These design features are included in the modified site plan and reflected in revised Condition of Approval PS-1.
- Solar Access. SMC 19.56.020 states that no permit may be issued for any construction which would interfere with solar access by shading more than 10 percent of the roof of any structure on a nearby property on December 21. The project plans demonstrate that the shading would comply with this requirement.

**Site Plan and Architecture:** The existing home at the site can be categorized as a typical ranch-styled home with a recessed entryway, stucco façade, and hip roof design with composition shingle roofing. The majority of homes in the immediate neighborhood have a similar architectural style and use of materials. The proposed home is a more contemporary version of the ranch architectural design with use of hip roof form, window trims and stucco finish (Attachment 12 - Site and Architectural Plans). The front elevation includes an entry feature and a stone base along the entire frontage. The height of the entry feature is about four inches higher than the adjacent roof eaves. Proposed plate height for the first floor is nine feet and eight feet for the second story. Side elevations include clerestory windows and the rear elevation includes two second floor bedroom windows overlooking the rear yard and a clerestory window on the stairwell.

Modifications from Previous Proposal: The proposed plans have been modified from the design considered by City Council on May 12, 2015 and are the same as those considered by the Planning Commission at the June 22, 2015 public hearing. The modifications were intended to address Planning Commission and City Council's suggestions and to respond to other concerns expressed at Planning Commission and City Council hearings to improve the project's neighborhood compatibility.

The modifications and clarifications are as follows:

- Plate Heights and Eave heights. First floor plate height of 9 feet resulting in an overall height of the structure of 23'-4";
- Air Conditioners. Relocated air conditioners from the side yard to the rear yard;
- Stairwell. Modified the design of the stairwell including:
  - Lowered the wall height and reduced the size of the stairwell extension which increases the second story side yard setback to 13'-9" (from 10'-7" feet);
  - Redesigned roof form above stairwell to a shed roof resulting in a lower roof form at the stairwell; and
  - Removal of a stairwell window in the side yard and reduced window size on either side of the stairwell by replacing with clerestory windows (as compared to three regular sized windows in the earlier proposal).
- Replacement Trees. Located the two required 36"-box replacement trees (one in the front yard and one in the rear yard)
- Garage Door. Changed garage door design style for improved compatibility with ranch architectural style (change proposed by applicant).

### **Response to City Council Directives:**

1. Height of the first and second story and clarity of Condition of Approval PS-2 (height of first-story eaves): The plans reflect a first floor plate height of nine feet and the second floor plate height of eight feet. Condition of Approval PS-2 has been deleted and a new condition (BP-6) has been added to reflect the maximum floor plate and eave heights. Staff finds that this direction has been addressed.
2. Height of the first floor kitchen window, how it relates to sight lines and whether or not a taller fence might be appropriate: - The applicant has provided a section drawing (Sheet A-6 - Attachment 12) to illustrate first floor window placement of the proposed structure with respect to existing windows on the neighboring properties on either side. The kitchen window placement shown in the section would not be in direct line of sight of the neighboring property at 1030 Lois Avenue. This section illustrates a six foot tall person's sight lines from the kitchen window would be blocked by the existing 7'-10" fence between the properties thereby maintaining privacy. Staff finds that this concern has been addressed.
3. Location of the air conditioners: The previous proposal located the air conditioners in the side yard, within 7 feet of the neighboring property's windows. The units have been moved to the rear yard on the left side of the house. The air conditioners meet setback requirements and will be required to conform to Sunnyvale's noise regulations (Noise level cannot exceed 50dBA at the property lines at night or 60 dBA during daytime hours). Staff finds that the revised location provides better separation between the units and living areas of the adjacent house. The applicant should select an air conditioning unit that will meet the city's noise regulations.
4. Design of second story stairwell element: Examine other possibilities to reduce second story roof height above stairwell. The project has been modified to reduce the roof height of the stair well element as noted in the elevations (Sheet A-3 - Attachment 12). This modification with the shed roof has reduced the height of the stairwell edge by approximately a foot and a half. Staff finds that the redesign provides a noticeable reduction in the appearance of bulk and addresses the design concerns.

Staff finds that the other modifications to the project (design of the garage door and the siting of replacement trees) also address concerns expressed at prior public hearings.

### **FISCAL IMPACT**

No fiscal impacts other than normal fees and taxes are expected.

### **PUBLIC CONTACT**

Public contact was made by posting the Council agenda on the City's official-notice bulletin board outside City Hall, at the Sunnyvale Senior Center, Community Center and Department of Public Safety; and by making the agenda and report available at the Sunnyvale Public Library, the Office of the City Clerk and on the City's website. Additionally, 99 notices were mailed to property owners and residents within 300 feet of the project site.

### **FINDINGS AND GENERAL PLAN GOALS**

Staff is able to make the Findings located in Attachment 4.

## **ALTERNATIVES**

1. Deny the Appeal and uphold the Decision of the Planning Commission to Approve the Design Review, subject to recommended Conditions of Approval (Attachment 5 to the report).
2. Grant the Appeal and approve the project with modified Conditions of Approval.
3. Grant the Appeal and Deny the Design Review.

## **STAFF RECOMMENDATION**

Alternative 1: Deny the Appeal and uphold the Decision of the Planning Commission to Approve the Design Review, subject to recommended Conditions of Approval (Attachment 5 to the report).

Prepared by: Shétal Divatia, Senior Planner

Reviewed by: Trudi Ryan, Planning Officer

Reviewed by: Hanson Hom, Director, Community Development

Reviewed by: Kent, Steffens, Assistant City Manager

Approved by: Deanna J. Santana, City Manager

## **ATTACHMENTS**

1. Site, Vicinity and Noticing Map
2. Project Data Table
3. Floor Area Ratio Table
4. Recommended Findings
5. Recommended Conditions of Approval
6. Planning Commission Minutes of 10/13/2014
7. Planning Commission Minutes of 3/9/2015
8. City Council Minutes of 5/12/2015
9. Planning Commission Minutes of 6/22/15
10. Appeal Letter
11. Arborist's Report
12. Site and Architectural Plans