



File #: 18-0677, Version: 1

### REPORT TO CITY COUNCIL

#### SUBJECT

**File #:** 2017-7379

**Location:** 311 South Mathilda Avenue (APN: 165-13-050)

**Proposed Project:** Appeal by the Residents of Charles Street 300/400 Block of a decision by the Planning Commission to conditionally approve:

**SPECIAL DEVELOPMENT PERMIT** to redevelop a commercial site (Denny's) into a five-story mixed-use building consisting of 4,860 square feet of restaurant floor area (Denny's) and 75 residential units (rental apartments) utilizing the State Density Bonus and City's Green Building Incentive for density bonus.

**VESTING TENTATIVE MAP** to create 75 residential condominium units and 1 commercial condominium unit.

**Zoning:** DSP15 - Downtown Specific Plan Block 15

**Applicant / Owner:** Lane Partners (applicant) / C B Development 5no Five Inc (owner)

**Environmental Review:** Mitigated Negative Declaration

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

#### SUMMARY OF COMMISSION ACTION

This Special Development Permit and Vesting Tentative Map were considered by the Planning Commission on June 25, 2018. (see Attachment 11 for report). Minutes of the Planning Commission public hearing can be found in Attachment 12. The Planning Commission approved the project on a 6 -0 vote (Howe absent) with the following amendments to the conditions of approval:

1. Clarify the process for a potential future conversion to condominiums (see discussion below);
2. Specify the process for converting BMR rental units to BMR ownership units and include the legally required percentage of BMR units in each instance; (**Modified Condition of Approval BP-9**);
3. Indicate that no artificial turf will be allowed (**Added as Condition of Approval PS-3** );

In addition, the Planning Commission recommended that staff work with the applicant on the following:

- A. Review increasing the ceiling height of first floor, including the potential for an overall building height;
- B. Ensure building signage does not conflict with tree locations;
- C. Provide a gate at the trash enclosure entrance;
- D. Add a tree south of the driveway along Mathilda Avenue;
- E. Consider street calming measures for Charles Street (**Added as COA BP- d) and COA AT-17, subject to Developer paying for the studies and potential improvements, up to \$50,000**).

**Future Conversion To Condominiums:** staff has determined that the process for a potential future

conversion to condominiums is adequately outlined in COA GC-7. The condition references Sunnyvale Municipal Code (SMC) Chapter 19.70, entitled "Conversion of Rental Housing to Community Housing Projects." Any future conversions to condominiums would be required to comply with the requirements of this Chapter. In addition, the process for converting BMR rental units to BMR ownership units, staff determination is that COAs GC-7, GC-8, and BP-9 adequately outline the process with its reference to SMC Chapter 19.67, entitled "Below Market Rate Ownership Housing and the Below Market Rate (BMR) Development Agreement." Any future conversions to condominiums would be required to comply with the requirements of this Chapter and the BMR Development Agreement. COA BP-9 has been modified to specifically include that "six (6) of the units shall be for Very Low Income units and three (3) units shall be for Moderate Income units" to assure that the six (6) VLI units (11% of the total number of units) provided by applying the 35% California State Density Bonus Law would be offered as VLI units at the time of the conversion. COA PS-3 has been added to indicate that no artificial turf shall be implemented in the project (Attachment 4).

Other aspects of the Planning Commission recommendation will be considered during staff review of the final design.

### **APPEAL**

On July 9, 2018, the Residents of Charles Street 300/400 Block appealed the Planning Commission decision. The letter of appeal is included as Attachment 13 and includes three (3) reasons for the appeal:

1. The design of the entrances to the apartment units on Charles Street presented to the Planning Commission are different from the design shared with the community;
2. The new design of the entrances to the apartment units on Charles Street will increase the amount of traffic flowing through Charles Street and would like traffic calming measures to be implemented and expedited for the 300/400 blocks of Charles Street; and
3. The new design of the entrances to the apartment units on Charles Street will encourage the new tenants of the building to park on Charles Street. The reduction of parking for Denny's from the current 75 to 42 parking spaces will aggravate the parking situation and would like the resident permit parking process to be expedited.

### **STAFF COMMENTS ON APPEAL**

#### Design of apartments

The project design did not include stoops along Charles Street when the project was presented at the community meeting. Subsequently, the Planning Commission reviewed the project at a Study Session on February 26, 2018, and provided feedback recommending stoops for the units on Charles Street to allow the project to integrate with the neighborhood. The modified design conforms with the Downtown Specific Plan - General Design Guidelines for Site Design and Organization:

*A.6 Provide direct entrances or stoops to street-level residential units such as porch, platform or staircase, to create an intimate streetscape (Attachment 3).* However, the applicant has stated in the Response to the Appeal Letter (Attachment 14), that the stairways/entry points to the four units can be removed so that there is no direct connection from the units to Charles Street.

#### Traffic Calming

A Traffic Impact Analysis (TIA) was prepared for this project by Wood Rodgers, Inc. dated May, 2018 (Attachment 15). The TIA also included analysis of traffic from the potential affordable housing

development on the south side of DSP Block 15 and concluded that the traffic impact at all intersections studied would be considered less than significant. This study included analysis of potential impacts on Charles Street. The TIA also analyzed on-site parking and concluded that the residential and commercial parking provided as part of the project exceeds the requirements, with 82 residential parking spaces where minimum 51 parking spaces are required, and 47 restaurant parking spaces where minimum 45 parking spaces are required.

On February 28, 2018, staff met with the applicant and one of the appellants, to discuss: traffic calming on Charles Street; concerns related to the reduction of existing parking spaces for Denny's; and, increasing on-street parking. The Department of Public Works Division of Transportation and Traffic (DOTAT) provided information on Council Policy related to traffic calming and followed up with information on the application processes for both traffic calming and permit parking. As of July 2018, the appellants have collected neighborhood signatures and submitted petitions for traffic calming and permit parking. These petitions are in a queue among other neighborhoods' "warrant studies requests". The exact schedule for the requested traffic calming and parking permit analysis is not known; it could occur prior to construction of the project. However, the neighborhood concern appears to be for traffic and parking issues that may occur after the project is constructed. Considering that concern, it would be more appropriate to conduct the traffic calming and parking permit analysis 6-12 months after the project is occupied. The analysis may or may not yield any recommendations from traffic calming or parking permits, but the timing of the analysis would better fit the concerns of traffic and parking issues due to the project. DOTAT staff can commit to completing the traffic calming and parking permit analysis in the 6-12 month timeframe after the project is completed. The applicant has stated in the Response to the Appeal Letter (Attachment 14), that they are willing to pay for the studies for traffic calming and permit parking on Charles Street.

### Conclusion

1. Staff supports the Planning Commission recommendation to maintain the stoops for the four apartment units facing Charles Street. The limited number of units will minimize the impact, but will provide a simple connection for future project residents with the neighborhood.
2. DOTAT staff will wait to process the traffic calming application and determine if traffic calming is warranted until 6-12 months after the project is constructed.
3. DOTAT staff will wait to process the permit parking application and determine if permit parking is warranted along Charles Street until 6-12 months after the project is constructed.

### 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. Courtesy notices regarding the Council meeting were mailed to property owners and tenants within 2,000 feet of the project as shown in Attachment 1.

### ALTERNATIVES

1. Deny the appeal and affirm the Planning Commission's determination to adopt the Mitigated Negative Declaration, and affirm the approval of the Special Development Permit and Vesting Tentative Map subject to the revised recommended conditions of approval in Attachment 4, and direct that the request for traffic calming and permit parking be reviewed 6-12 months after project completion.
2. Deny the appeal and affirm the Planning Commission's determination to adopt the Mitigated

Negative Declaration, and, affirm the approval of the Special Development Permit and Vesting Tentative Map subject to modified conditions of approval in Attachment 4.

3. Grant the appeal and reverse the Planning Commission's determination to adopt the Mitigated Negative Declaration; and, deny the Special Development Permit and Vesting Tentative Map.
4. Continue the public hearing to a date certain if Council finds that more information is needed before deciding.

## STAFF RECOMMENDATION

Alternative 1: Deny the appeal and affirm the Planning Commission's determination to adopt the Mitigated Negative Declaration, and affirm the approval of the Special Development Permit and Vesting Tentative Map subject to the revised recommended conditions of approval in Attachment 4 of the report, and direct that the request for traffic calming and permit parking be reviewed 6-12 months after project completion.

Staff supports the Planning Commission action for the project and recommends denial of the appeal with inclusion of the revised conditions of approval, including traffic calming and permit parking analysis 6-12 months after occupancy of the building. The project meets all development criteria except front setbacks, building stories/height, total site landscaping, and distances to recycling and solid waste enclosures, which staff finds reasonable.

### State Density Bonus Concessions:

The project is using the state density bonus law provisions that affords this project two development incentives or concessions (building height and total landscaping).

- The height and stories have been combined and reinterpreted as a single deviation (which is different from the analysis in the Report to Planning Commission).
- The landscaping is challenging to provide on this site, which requires less height on Charles Street. The proposed design respects that height limit, which results in a larger footprint, thus reducing site landscaping. The site provides more than twice the amount of usable open space.

### Deviations

- Although the setback on Charles is technically less than the minimum due to an existing wider right-of-way for the parcel; however, the building will be a similar distance from the curb as other properties along Charles.
- The deviation of distance to the recycling and solid waste chutes has been addressed with a closer drop-off location available to residents; property management will need to regularly monitor this room and relocate the waste to the main enclosures on the first floor. A single location for solid waste and recycling was considered the better solution for this site to minimize conflicts with external circulation.

The project site is in the Downtown Specific Plan Area, and is zoned for high density residential and commercial mixed-use developments. The proposed project retains the long-standing commercial restaurant onsite and proposes to redevelop the site with a variation of housing sizes and types including six (6) very low income housing units. The proposed use attains the objectives and purposes of the General Plan of the City of Sunnyvale and the Downtown Specific Plan by providing a transit and pedestrian oriented mixed-use development that supports the diversified uses of the Downtown while providing a lower profile interface to the residential neighborhood on Charles Street.

Prepared by: Momoko Ishijima, Associate Planner  
Reviewed by: Andrew Miner, Assistant Director of Community Development  
Reviewed by: Chip Taylor, Director of Public Works Department  
Reviewed by: Trudi Ryan, Director of Community Development  
Reviewed by: Teri Silva, Assistant City Manager  
Approved by: Kent Steffens, City Manager

## **ATTACHMENTS**

### **Attachments for Report to Planning Commission**

1. Noticing and Vicinity Map
2. Project Data Table
3. Recommended Findings
4. Recommended Conditions of Approval
5. Mitigated Negative Declaration
6. Site and Architectural Plans
7. Applicant Project Description
8. Green Point Rated Checklist
9. Transportation Demand Management Plan
10. Letters from Neighbors

### **Additional Attachments for Report to Council**

11. Planning Commission Report of June 25, 2018 (*without attachments*)
12. Planning Commission Minutes of June 25, 2018
13. Appeal Letter
14. Response to the Appeal Letter from the Applicant
15. Traffic Impact Analysis by Wood Rodgers, dated May 2018