



**COMMUNITY DEVELOPMENT DEPARTMENT  
OFFICE MEMORANDUM**

DATE: **May 20, 2010**

TO: **Mayor and Members of the City Council**

FROM: *for* **Hanson Hom, Community Development Director** *Hanson Hom*

THROUGH: **Gary Luebbers, City Manager** *Gary Luebbers*

RE: **Opportunity for Council to appeal decisions of the Planning Commission of May 10, 2010. (The May 12, 2010 Administrative Hearing was canceled as there were no items scheduled.)**

---

Attached is the "Appeal Report" which is presented in the form of Draft Minutes from the Planning Commission Hearing. The Planning Commission draft minutes note items that may be appealed and the final appeal date. **Staff reports and the Planning Commission meeting videos are available on the City's web site. One set of reports and draft minutes will be placed in a binder in the Council Office.**

Council should specify the reason for an appeal and indicate any appealed items on which it wishes to have expanded notification.

Attachments: A. Planning Commission Action Summary



**DRAFT MINUTES  
SUNNYVALE PLANNING COMMISSION  
May 10, 2010**

456 West Olive Avenue, Sunnyvale, CA 94086

**The Study Session regularly scheduled for 7:00 p.m. is canceled.**

**8:00 PM – Public Hearing – Council Chambers**

The Planning Commission met in regular session with Chair Chang presiding.

**CALL TO ORDER/SALUTE TO THE FLAG**

**ROLL CALL**

Members Present: Chair Bo Chang; Vice Chair Nick Travis; Commissioner Charles Hungerford; Commissioner Dianne McKenna; Commissioner Harriet Rowe; and Commissioner Brandon Sulser.

Member Absent: Commissioner Larry Klein (excused absence).

Staff Present: Trudi Ryan, Planning Officer; Kathryn Berry, Senior Assistant City Attorney; Gerri Caruso, Principal Planner; and Debbie Gorman, Recording Secretary.

**SCHEDULED PRESENTATION** - None

**PUBLIC ANNOUNCEMENTS/CITIZENS TO BE HEARD**

Speakers are limited to three (3) minutes. If you wish to address the Planning Commission, please complete a speaker's card and give it to the Recording Secretary. If your subject is not on the agenda, you will be recognized at this time; but the Brown Act (Open Meeting Law) does not allow action by Planning Commission Members. If you wish to speak to a subject listed on the agenda, you will be recognized at the time the item is being considered by the Planning Commission.

**APPROVAL OF MINUTES of April 26, 2010**

**Comm. Hungerford moved to approve the minutes of April 26, 2010. Comm. Rowe seconded. Motion carried 6-0, with Comm. Klein absent.**

**PUBLIC HEARINGS/GENERAL BUSINESS**

1. **2008-0294:** Appeal by the applicant of the conditions imposed by the Director of Community Development in approving a Miscellaneous Plan Permit for a fence in the front yard at **1190 Silverlake Drive**. (APN:110-23-088) SB

**ACTION: Comm. McKenna made a motion on 2008-0294 to grant the appeal and approve the MPP (Miscellaneous Plan Permit) with modified conditions: to add a condition that the fence be made to conform to the fence rules when the two adjacent properties are no longer under single ownership. Comm. Hungerford seconded. Motion carried 5-1, with Comm. Rowe dissenting and Comm. Klein absent.**

**APPEAL OPTIONS: This action is final.**

2. **2010-7074:** Appeal of a decision by the Director of the Community Development Department denying a tree removal permit to remove one Western Cedar tree in the rear yard of a site located at **305 N. Bayview Avenue**. (APN: 204-41-019) RK

**ACTION: Comm. Rowe made a motion on 2010-7074 to grant the appeal and approve the Tree Removal Permit subject to the conditions in Attachment B. Vice Chair Travis seconded. Motion carried 5-1, with Comm. Sulser dissenting and Comm. Klein absent.**

**APPEAL OPTIONS: This action is final.**

3. **2010-7178:** Special Development Permit to construct a 391 square foot addition to the rear of an existing single-family home within a planned development resulting in 52.4% Floor Area Ratio (FAR) for a site located at **851 Stella Court**. (APN: 201-34-068) RK

**ACTION: Comm. Hungerford made a motion on 2010-7178 to approve the Design Review with the conditions in Attachment B. Comm. Sulser seconded. Motion carried 6-0, with Comm. Klein absent.**

**APPEAL OPTIONS: This action is final unless appealed to the City Council no later than May 25, 2010.**

4. **2009-0400:** Amend the Zoning Code for Consistency with the Precise Plan for El Camino Real and Recent Streamlining Efforts RZ

**ACTION:** Comm. Sulser made a motion on 2009-0400 to recommend to City Council to adopt the Negative Declaration in Attachment B, introduce the proposed ordinance in Attachment A, and repeal Council Policy 1.1.11 (Attachment C, Planned Development (PD) Combining District Use Guidelines) as it is incorporated into the proposed ordinance. Comm. Rowe seconded. Motion carried 6-0, with Comm. Klein absent.

**APPEAL OPTIONS:** This recommendation will be forwarded to City Council and is scheduled to be considered at the May 25, 2010 City Council meeting.

#### NON-AGENDA ITEMS AND COMMENTS

- COMMISSIONERS ORAL COMMENTS

**Comm. Rowe** discussed on-site project posting notices with staff, specifically regarding a recent appeal of a neighbor who said the posting notice for a Design Review project was only posted for one day. **Comm. Rowe** asked what the City does if a posting notice for a project disappears from a site. **Kathryn Berry**, Senior Assistant City Attorney said that under State law the noticing for this type of project requires that the City send a first class mailed notice to any resident within 300 feet and that the City has adopted additional noticing practices including newspaper notices. Ms. Berry said that legally the City has more than complied. **Trudi Ryan**, Planning Officer, said that staff recently began asking applicants for Design Reviews that go to public hearing to provide evidence that a notice is posted. **Chair Chang** discussed with staff whether there is a legal recourse for removing a posted notice. Ms. Berry said there are many ways a notice can be removed and there would need to be some proof of intent for removing the sign.

**Comm. McKenna** asked staff about the status of the Palo Alto Medical Foundation (PAMF) project. Ms. Berry said the Planning Commission and City Council approved the project and a neighbor and resident sued the City alleging three CEQA (California Environmental Quality Act) violations. Ms. Berry said PAMF has retained counsel, as this is private project, and the briefs are about ready to be filed. Ms. Berry commented that the Mary Avenue Extension project is also up on appeal, and briefs have been filed.

- STAFF ORAL COMMENTS

**City Council Meeting Report**

**Ms. Ryan**, Planning Officer, commented about Planning related items considered at the April 27, 2010 City Council meeting and Planning related items to be considered at the May 11, 2010 meeting.

**Other Staff Oral Report**

**Ms. Berry** discussed a recent case regarding a family suing a school district over the district's policy of the flag salute. The school district said it was optional for the children to participate in the salute. The Court of Appeals determined that the use of words "under God" was an expression of an opinion, with Ms. Berry saying it is still legal to say the flag salute in the City chambers.

**Comm. Sulser** discussed with Ms. Ryan that the May 11, 2010 Council meeting would include a joint meeting of the City Council and the Redevelopment Agency regarding the downtown redevelopment.

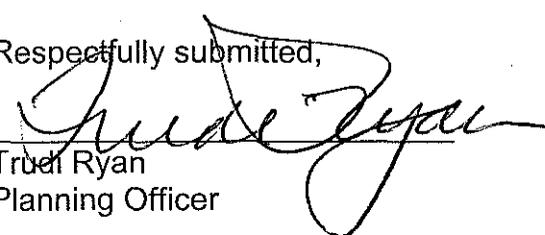
**Comm. Hungerford** added that the staff report and the proposed Amended and Restated Disposition, Development, and Owner Participation Agreement (ARDDOPA) are located on the City website.

**INFORMATION ONLY ITEMS**

**ADJOURNMENT**

With no further business, the Commission meeting was adjourned at 10:26 p.m.

Respectfully submitted,

  
Trudi Ryan  
Planning Officer