



**APPROVED MINUTES
SUNNYVALE PLANNING COMMISSION
September 23, 2013
456 W. Olive Avenue, Sunnyvale, CA 94086**

7:00 PM - Study Session – West Conference Room

- 1. File #:** 2013 - 7448
Location: 433 N. Mathilda Avenue (APN: 165-28-013)
Proposed Project MAJOR USE PERMIT to allow two new office buildings resulting in 213,236 square feet and a floor area ratio of 53%.
Applicant/Owner Christensen Holdings LP
Environmental Review: Mitigated Negative Declaration
Staff Contact Steve Flint, (408) 730-7532, sflint@sunnyvale.ca.gov
Note: Item rescheduled from September 9, 2013 study session.
(20 minutes)

- 2. File #:** 2013 - 7645
Location: 617 E. Arques Avenue (APN: 205-30-009)
Proposed Project SPECIAL DEVELOPMENT PERMIT for redevelopment of a 4.06 acre site (7 parcels) with 88 attached townhouse units.
Applicant/Owner Summerhill Homes
Environmental Review: Categorically Exempt Class 3
Staff Contact Ryan Kuchenig, (408) 730-7431, rkuchenig@sunnyvale.ca.gov
(25 minutes)

- 3. Public Comment on** (5 minutes)
Study Session Agenda
Items

- 4. Comments from the** (5 minutes)
Chair

- 5. Adjourn Study Session** Note: Study Session will reconvene after the Public Hearing

Any agenda related writings or documents distributed to members of the Planning Commission regarding any open session item on this agenda will be made available for public inspection in the Planning Division office located at 456 W. Olive Ave., Sunnyvale CA 94086 during normal business hours, and in the Council Chambers on the evening of the Planning Commission meeting pursuant to Government Code §54957.5.

8:00 PM - Public Hearing – Council Chambers

CALL TO ORDER

SALUTE TO THE FLAG

ROLL CALL

Members Present: Chair Maria Dohadwala; Vice Chair Russell W. Melton
Commissioner Gustav Larsson; Commissioner Bo Chang; Commissioner Glenn
Hendricks; and Commissioner Ken Olevson.

Members Absent: None.

Staff Present: Trudi Ryan, Planning Officer; Kathryn Berry, Senior Assistant City
Attorney; Gerri Caruso, Principal Planner; Amber El-Hajj, Senior Planner; and
Recording Secretaries, Cristina Pfeffer and Joey Mariano.

SCHEDULED PRESENTATION - None.

PUBLIC ANNOUNCEMENTS/PUBLIC COMMENTS

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 or
you may orally make a request to speak. 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.

Vice Chair Melton announced that recruitment is under way for seats on the Heritage
Preservation, Housing and Human Services and Planning Commissions. Applications
are due Friday, September 27, 2013.

CONSENT CALENDAR

1.A. Approval of Minutes: September 9, 2013

1.B FILE #: 2013-7510
Location: 1479 Barton Dr. (APN: 320-06-039)
Proposed Project: DESIGN REVIEW to allow a first and second story addition of 1,781 square feet to an existing one-story single-family home resulting in 3,727 square feet and 29.4% floor area ratio.
Applicant / Owner: Michelle Miner Design / Corey and Rebecca Williams
Environmental Review: Categorically Exempt Class 1
Staff Contact: Elise Lieberman, (408) 730-7443, elieberman@sunnyvale.ca.gov
Note: Staff recommends approval.

ACTION: Vice Chair Melton moved to approve the items on the Consent Calendar. Comm. Larsson seconded. Motion carried, 6-0.

PUBLIC HEARINGS/GENERAL BUSINESS

- 2. FILE #:** 2013-7140
Location: Citywide
Proposed Project: Large Family Child Care (Study Issue): A study to review land use options for possible changes to the processing and regulation of new Large Family Child Care Homes.
Environmental Review: Exempt from CEQA, Guideline 15061(b)(3)
Staff Contact: Amber El-Hajj, (408) 730-2723, Ael-hajj@sunnyvale.ca.gov
Note: This item is scheduled to be considered by City Council on October 22, 2013.

Amber El-Hajj, Senior Planner, presented the staff report.

Comm. Hendricks confirmed with Ms. El-Hajj that Large Family Child Care Homes (LFCCH) in operation have received very few complaints from neighbors, and that new rules created by the proposed ordinance would not be retroactive for existing LFCCHs. Comm. Hendricks discussed with Ms. El-Hajj that the potential 300 foot distance requirement between LFCCHs is an attempt to eliminate double processing, creating the same process for all applicants.

Comm. Olevson confirmed with staff that Neighborhood Preservation would enforce LFCCH noncompliance, and discussed with Ms. El-Hajj the reasons staff did not recommend option B. In response to Comm. Olevson's concerns about the availability of appeal options, **Trudi Ryan**, Planning Officer, explained that applicants could apply for a variance as with other zoning standards.

Comm. Larsson discussed with staff the possibility of making permits time-limited as the requirements implemented may evolve over time.

Vice Chair Melton confirmed with staff that a small family child care home could operate within the 300 foot distance of a LFCCH. Vice Chair Melton discussed with staff the possibility of restricting LFCCH attendance to children living within the surrounding neighborhood.

Comm. Hendricks and Ms. El-Hajj discussed how the proposed operational standards could reduce concerns and the number of complaints received about new LFCCHs. Ms. El-Hajj described the application process with the proposed standards. Comm. Hendricks and staff discussed the possibility and difficulties with issuing provisional permits to applicants while notifying neighbors to ensure time for public comment on the application.

Chair Dohadwala and staff discussed how the option containing no requirement for a public hearing is an attempt at creating consistency in the process. Chair Dohadwala said that she is concerned that the 300 foot distance requirement will reduce the

number of child care centers in the future. Ms. El-Hajj explained that the number of centers has remained consistent in the last 20 years and that there is no rush of new applications for LFCCHs. Chair Dohadwala and Ms. El-Hajj discussed Good Neighbor policies.

Comm. Olevson asked staff about potential effects of adopting option A without public noticing or hearings and issuing fixed-term permits, which after 4-5 years would need formal review to discuss any complaints and operational issues. **Kathryn Berry**, Senior Assistant City Attorney, noted that a public hearing review process would require a greatly increased amount of work for staff to demonstrate that the LFCCHs are creating a nuisance and that the Planning Commission would likely have to review 40-50 permits per year. Staff discussed with Comm. Olevson other options available to child care providers who may want to apply for a LFCCH within the potential 300 foot distance requirement.

Chair Dohadwala opened the public hearing.

Chair Dohadwala said it would be helpful to receive public input on this issue.

Chair Dohadwala closed the public hearing.

Comm. Larsson discussed with Ms. Ryan examples of findings to be made for variance approvals, and confirmed with staff that no conditions could be added to an individual LFCCH if the non-discretionary approach is used. Comm. Larsson and staff discussed examples of operations standards used in other cities.

Comm. Hendricks moved for Alternative 2 to adopt Option A with modifications: require a public hearing for applications for Large Family Child Care Homes (LFCCH) located within 300 feet of other LFCCHs; and review operational standards every five years. Comm. Larsson seconded.

Comm. Hendricks thanked the public for waiting through the discussion for their items, and said he likes the idea of operational standards and a new measure of consistency in the application process.

Comm. Larsson said adding operational standards is very important and is glad the motion includes the possibility of a public hearing and a waiver. He said he does not want to have a hard and fast limit for homeowners who may want to have a LFCCH that is a little bit too close to another. He said he thinks maintaining flexibility is important.

Comm. Olevson said he will be supporting the motion because it combines the best of everything heard tonight.

Vice Chair Melton said he will not be supporting the motion even though he understands the rationale from the Commissioners. He said he thinks staff nailed it with option one which discusses option A and the blanket prohibition of LFCCHs within 300 feet of one another. He said he is comfortable with this because he looks at the turnover rate of daycare centers and that a small center can wait for a large one nearby

to close to apply. He said he likes the consistency of the staff proposal and everybody operating under one set of rules. He said confusion arises with notification of a new LFCCH, and the public and the Planning Commission have to be reminded that the Commission can only look at the concentration of centers, and not whether it is wise for a new LFCCH to go in. He said this is not addressed in the motion and because he thinks there is a better recommendation to make to City Council, he will not be supporting the motion.

Motion carried, 5-1 with Vice Chair Melton dissenting.

ACTION: Comm. Hendricks moved for Alternative 2 to adopt Option A with modifications: require a public hearing for applications for Large Family Child Care Homes (LFCCH) located within 300 feet of other LFCCHs; and review operational standards every five years. Comm. Larsson seconded. Motion carried, 5-1 with Vice Chair Melton dissenting.

APPEAL OPTIONS: This recommendation will be forwarded to City Council for consideration at the October 22, 2013 meeting.

- 3. FILE #:** **2012-7772**
- Location:** West side of South Mathilda Avenue for Blocks 14, 15, and 16 of the Downtown Specific Plan (between Washington Avenue and Olive Avenue).
- Proposed Project:** **SPECIFIC PLAN AMENDMENT STUDY** to consider elimination of the required frontage road in the Downtown Specific Plan.
- Environmental Review:** Addendum to the 2003 Downtown Specific Plan Environmental Impact Report (EIR)
- Staff Contact:** Gerri Caruso, (408) 730-7591, gcaruso@sunnyvale.ca.gov
- Note:** This item is scheduled to be considered by City Council on October 8, 2013.

Gerri Caruso, Principal Planner, presented the staff report.

Comm. Hendricks discussed with staff the possibility and impacts of installing a median to physically separate bike lanes from vehicle lanes on Mathilda if the frontage road is eliminated from the Downtown Specific Plan (DSP).

Comm. Olevson confirmed with Ms. Caruso that only the two cross sections in the staff report were analyzed, and discussed the rationale and flexibility of the requirement for a 5-10 foot setback. **Comm. Olevson** and **Trudi Ryan**, Planning Officer, discussed the notion of the Complete Streets Program.

Chair Dohadwala discussed the option of having a five foot minimum and 18 foot average setback option, and said that she likes the option of not having a frontage road.

Chair Dohadwala opened the public hearing.

Jonathan Fearn, with Summerhill Apartment Communities, said he lends his support to the staff recommendation for the acceptance of the Specific Plan amendment.

Kevin Jackson, Commissioner on the Bicycle and Pedestrian Advisory Commission (BPAC), speaking for himself, said the proposed modification is an improvement for cyclists and pedestrians, and that it should have gone to the BPAC first for review. He said he hopes the Planning Commission will include BPAC review as a suggestion in its advice to the City Council. He said he fully supports the staff recommendation to approve alternative one. **Vice Chair Melton** discussed with Mr. Jackson the problems with installing a barrier for a bike lane on Mathilda.

Comm. Hendricks discussed with Mr. Jackson the importance of BPAC review of this item. Mr. Jackson said he would appreciate greater visibility of the BPAC and the opportunity to discuss the item with staff. **Comm. Hendricks** asked staff if it is possible to ensure notification of all BPAC members to allow them to speak at the Council meeting on this item. Ms. Ryan said she would need to take the suggestion to the BPAC staff liaison and the director of the Public Works Department as it is their decision to bring items to the BPAC.

David Simons, representative of Sunnyvale on the Valley Transportation Authority (VTA) Bicycle and Pedestrian Advisory Committee, recommended pedestrian improvements that are consistent with Pedestrian Design Guidelines. He also recommended Sunnyvale BPAC review the item before it goes to Council.

Comm. Hendricks asked staff if the recommendation conforms to VTA guidelines. Ms. Ryan said the final design is not in place but that recommendations for pedestrian space generally align with VTA guidelines.

Kenneth Randazzo, a Sunnyvale resident living on the 16th block of Mathilda, asked how changes in the Specific Plan would affect him and ownership of his property. Chair Dohadwala and staff explained that only when property owners in the area decide to sell or develop their properties will they be required to do so in accordance with the changes in the plan. Chair Dohadwala said he would be notified when developments occur in the area.

Chair Dohadwala closed the public hearing.

Comm. Larsson moved for Alternative one to adopt the Downtown Specific Plan (DSP) EIR addendum and Resolution amending the DSP to eliminate the requirement for a frontage road, adding a revised Mathilda Avenue cross section and updating related sections of the DSP to reflect the new plan. Vice Chair Melton seconded.

Comm. Larsson said he thinks that the proposal to eliminate the carriage road will improve the pedestrian experience along Mathilda. He said he was concerned that a carriage road would create more space for automobiles and less room for landscaping. He said the proposal allows wider sidewalks, more landscaping and room for bike lanes, which is good for everyone. He said that the carriage road idea was not done for mitigation or safety reasons, but was a design choice made earlier. He said community needs have evolved since then, including the heightened importance of bike lanes, which demonstrates the importance of updating plans as community needs change. He said that overall this is an improvement to the Downtown Specific Plan.

Comm. Olevson said he would be supporting the motion, not because he likes the design better, but because the existing downtown plan would become a safety nightmare as every intersection would have a crossover with people getting on and off of Mathilda onto the frontage road, increasing the potential of hitting cyclists. He said it is a major improvement on the safety issue. He said the recommendation appears to provide better flow for cars and cyclists, and gives pedestrians adequate area to walk. He said he supports it as an improvement over the existing plan.

Comm. Hendricks said he will be supporting the motion and thinks the recommendation will make the street look better, will create better flow and is the right plan for cars, pedestrians and cyclists.

Vice Chair Melton said what he knows about carriage roads is limited to his experience with one along Oregon Expressway in Palo Alto, of which he has never been a fan. He said he was most concerned with safety issues. He said at Olive, Iowa and Washington there would be a non-standard carriage road suddenly intersecting with Mathilda and he does not see how that would be achievable. He said it could take decades to achieve, presenting a financial risk to the city, and that he would like to echo what Councilmember Davis said about it being a good idea to separate policy from project application.

Chair Dohadwala said she will not be supporting the motion. She said we need good communities and better homes in our city, and that population and density increases are inevitable. She said we see proposals near trains and highways and assume residents will buy these properties knowing what is in for them. She said she is potentially affecting three blocks of residential homes that could be buffered from noise and pollution. She said she likes the proposal, but would like to see a minimum setback of 5 feet and an average setback of 18 feet, and that the additional area could be used as a buffer with landscaping.

ACTION: Comm. Larsson moved for Alternative 1 to adopt the Downtown Specific Plan (DSP) EIR addendum and Resolution amending the DSP to eliminate the requirement for a frontage road, adding a revised Mathilda Avenue cross section and updating related sections of the DSP to reflect the new plan. Vice Chair Melton seconded. Motion carried, 5-1 with Chair Dohadwala dissenting.

APPEAL OPTIONS: This recommendation will be forwarded to City Council for consideration at the October 8, 2013 meeting.

Comm. Hendricks said he would prefer to receive input from the BPAC on matters dealing with bike lanes and pedestrian access to ensure things do not get overlooked, and confirmed with Ms. Ryan that she will speak with staff that support the BPAC.

4. **FILE #:** 2013-7522
Location: 435 Toyama Drive (APN 110-14-057)
Proposed Project: **SPECIAL DEVELOPMENT PERMIT** to allow 18 Townhouse units, and **TENTATIVE MAP** for 18 Townhouse units and one Common Lot in an M-S/ITR/R-3/PD Zone
Applicant/Owner: Classic Communities
Environmental Review: Categorical Exemption
Staff Contact: David Hogan, (408) 730-7659, dhogan@sunnyvale.ca.gov
Note: This item was continued from the August 26, 2013 Planning Commission meeting.

Gerri Caruso, Principal Planner, gave the staff report.

Vice Chair Melton discussed with Ms. Caruso the possibility of redesigning the edge of buildings 8-10 and 15-17 to reduce the protrusion into the required setback space. Ms. Caruso suggested speaking with the applicant.

Comm. Hendricks discussed with **Trudi Ryan**, Planning Officer, the rationale for including in the report a comparison of deviations between two neighboring projects of Classic Communities. **Comm. Hendricks** said it would be helpful in the future to highlight on the plans the location of deviations.

Chair Dohadwala opened the public hearing.

Adam Kates, with Classic Communities Inc., described the proposed project within the context of trends in the job and housing markets and proximity to transit and discussed how it, along with other Classic Communities developments, is reshaping the Fair Oaks neighborhood. He said because there has not been much community concern regarding the project, it is a reflection of confidence in Classic Communities and their ability to design projects consistent with the ideal vision of the neighborhood. He said they are proposing 17 units where 21 are allowed, and that they have addressed the issues brought up in the study session with site and building modifications. He said the project is as close to full conformance as feasible for a medium-density townhome development. He said the front porches on units 11 and 15 encroach one foot into the front setback area, which they are amenable to reducing. He said the stairwells of units along the perimeter protrude into the side and rear yard setbacks by four feet, which they cannot reduce. He said there are two onsite building-to-building setback deviations of one foot each between buildings perpendicular to one another that will not impact the livability of the units, and that there is a solar shading deviation that will not impact future solar access by the adjoining property owner. He said the project complements the Tasman-Fair Oaks neighborhood.

Comm. Hendricks confirmed with Mr. Kates that BMR units will be constructed on site, and Mr. Kates said they would build two units and pay an in-lieu fee for the fractional.

Chair Dohadwala closed the public hearing.

Comm. Hendricks moved for **Alternative 1** to approve the **Special Development Permit and Vesting Tentative Map** subject to the **Conditions of Approval**. **Comm. Larsson** seconded.

Comm. Hendricks said they had been through the study session and a discussion about architecture, and the developer returned with changes that addressed those issues. He said the real question comes down to the several deviations they are looking for, one of which is on the street front which he is not worried about. He said the other deviations on back side are acceptable because a majority of the building meets the setback requirement. He said the developer is putting together a nice project that is good for both the neighborhood and community, and he likes that the BMR units will be onsite. He said he thinks this is a good development to continue.

Comm. Larsson said he likes the architecture chosen for the project, which adds variety to the community, and that the colors are more interesting. He said he was initially concerned about the side yard setbacks because they are the backyards for some units, but he understands that they are just small projections into that area. He said the aerial photo shows that there is no creation of crowding against existing buildings. He said he had asked during the study session why they proposed a U-shaped drive because he felt it was pushing the buildings out to the edge, but they explained that a single drive in the middle would not allow a fire or trash truck to turn around. He said given the dimensions of site they did a good job of balancing the different constraints and requirements to create the project.

Comm. Olevson said he can make the findings that staff recommended, that the project has improved substantially since the study session and, acknowledging that, it should be approved.

Vice Chair Melton said he would be supporting the motion. He said that Councilmember Moylan often mentions during public hearings that one of the jobs of the Planning Commission is to work with applicants to snip away at the edges of a project to come up with the best project possible. He thanked the applicant for working with staff and the Planning Commission to make the changes discussed in the study session. He said he is okay with the setback and solar deviations because he can make the findings recommended by staff. He said he can see the overall public benefit of the project and is looking forward to seeing it come to fruition.

Chair Dohadwala said she will be supporting the motion and can make the findings. She said the study session was helpful and the applicant listened carefully, of which she is appreciative. She said she is happy that they have come up with a superior project, and that every time Classic Communities proposes a project, the push has not been to build as many units as possible. She said she likes what the applicant brings to the community.

ACTION: Comm. Hendricks moved for Alternative 1 to approve the Special Development Permit and Vesting Tentative Map subject to the Conditions of Approval. Comm. Larsson seconded. Motion carried, 6-0.

APPEAL OPTIONS: This action is final unless appealed to the City Council no later than October 8, 2013.

5. **FILE #:** **2013-7642**
Location: **955 Stewart Dr. (APN: 205-22-027 & 029)**
Proposed Project: **SPECIAL DEVELOPMENT PERMIT (SDP)** to allow 16 multi-family apartment homes on a vacant parcel and modifications to the conditions of approval for the previous SDP (#2012-7381, Stewart Village I) for 955 Stewart.
Applicant / Owner: Irvine Company
Environmental Review: Mitigated Negative Declaration
Staff Contact: Shaunn Mendrin, (408) 730-7429, smendrin@sunnyvale.ca.gov

Trudi Ryan, Planning Officer, presented the staff report.

Comm. Larsson and Ms. Ryan discussed the justification for placing housing atop a previously contaminated site that was not acceptable for park dedication, and discussed mitigation efforts such as a vapor barrier.

Comm. Hendricks confirmed with Ms. Ryan that the purpose of reviewing the project is not to determine whether or not a park should be placed upon the previously contaminated site. He said he dislikes when after having reviewed a project, it returns to the Planning Commission with changes, such as the removal of the park, which he thinks completed the project. Ms. Ryan explained the history and thinking behind the height standards, and said that staff thinks the three-story building fits in with the neighborhood.

Vice Chair Melton clarified with staff the requested height deviation and height limits in R-3 Zoning Districts.

Chair Dohadwala said that when Phases I and II were considered Vice Chair Melton was not on the Planning Commission yet, and confirmed with staff that townhouses are allowed taller heights. Chair Dohadwala asked staff about what mitigation efforts will be used for construction of the building over the previously contaminated site. Ms. Ryan explained the use of vapor barriers in the buildings and why they would not be useful in a park. **Kathryn Berry**, Senior Assistant City Attorney, discussed the City's rationale for forgoing the construction of a park on the site, and explained City and regulatory agency standards for environmental screening levels and how they determine what can be constructed over a particular site. Chair Dohadwala confirmed with Ms. Ryan that the City conducted specific studies on the condition of the property that was initially to be dedicated for a park. Chair Dohadwala confirmed with staff that mitigation efforts were the same throughout the three phases.

Comm. Hendricks suggested having a study session to talk about mitigation efforts as they apply across the city.

Chair Dohadwala opened the public hearing.

Greg Jasso, Stewart Village Project Manager with the Irvine Company, provided illustrations and presented information about Phase III of the Stewart Village project. He said they are happy to discuss the site environmental conditions, and said that in response to the City's decision to take park in-lieu fees rather than build a park, the Irvine Co. proposed to build a 16 unit building with architecture previously approved by the Planning Commission. He said they will construct amenities and improvements in Swegles Park in exchange for a reduction of the in-lieu fee.

Tim Mustard, with TCA, presented an overview of the revised plan with illustrations of the entire site. He noted that there are minor differences in building typology between the Phase III building and the buildings of the previous phases. He said they had an opportunity to make the existing park more usable with additions such as the tot lot, swings and additional landscaping.

Kerry Williams, Vice President of Entitlements and Public Affairs representing Irvine Company, said the park was part of their initial vision for the site. She said Irvine Co. worked with the Regional Water Quality Control Board (RWQCB) who issued them a no-further-action letter stating the entire site was safe for residential, commercial and park use. Ms. Williams described the differences in standards between residential, commercial and park sites.

Comm. Hendricks asked Ms. Williams what the rationale was for designing a building with three stories at 39 feet. Ms. Williams said it was the only rational way to build the project if they were not dedicating the site to a park. She said they would still be getting the benefit of open space with the existing park and would be adding needed amenities to it. She said the three-story product made the most sense and blends well with the rest of the site.

Vice Chair Melton clarified that he was on the Planning Commission when Irvine Co. presented Phase I of the project and missed the meeting when they presented Phase II. He confirmed with Ms. Williams that there would be a one-to-one reduction of the park in-lieu fees in exchange for the added amenities to Swegles Park. Vice Chair Melton said he does not think the project transitions smoothly to the final phase three-story building. Ms. Williams said reducing the building height and number of stories would require a massive redesign of the entire 0.6 acre site.

Mr. Mustard said the three-story walk up is far from the adjacent parcel, and that the driveway, parking and landscape create a 45-50 foot buffer between the three-story building and the park.

Ms. Williams compared the building heights between the Stewart Drive and Fusion projects and said everyone has their own taste.

Comm. Hendricks confirmed with the applicant that the height of the two-story building on Indian Wells is 26-27 feet.

Chair Dohadwala confirmed with Ms. Williams that Irvine Co. is not required to construct vapor barriers, and Ms. Williams said they would be installing a passive ventilation system for precautionary purposes.

Andrey Kuorlin, a Sunnyvale resident who lives across the street from the proposed project, said he is extremely disappointed that the park would not be constructed. He said they were not notified about the change in the decision and now it is too late to say anything about it. He suggested exploring more options to bring more greenery to the neighborhood and suggested being more proactive about notifying the community.

Ms. Williams commented on the timing of the park standards and project design. She said she thinks it would be beneficial in the future to have more dialogue about standards for accepting parks because it will be challenging to find any park site in the city without some historic use that affects it.

Vice Chair Melton asked the applicant if any part of Phase I or II had to be redesigned because of the decision to forgo building a park. Mr. Jasso said there were not many large changes, but that the curb alignment in Phase I needed to be changed and that there were impacts to the improvement plans.

Ms. Berry said that City standards have not changed, and that it takes time to sample and test for contaminants and make decisions about land use.

Chair Dohadwala closed the public hearing.

Chair Dohadwala asked what the City is looking for beyond Water District standards Ms. Berry said the RWCQB has not developed standards for parks yet; hence the City developed its own. Ms. Ryan suggested having a study session on the standards for parks.

Comm. Olevson said he commends the City for taking an ultra-cautious approach.

Comm. Hendricks moved for Alternative 1 to adopt the Mitigated Negative Declaration and approve the Special Development Permit (SDP) with modified conditions for SDP 2012-7381. Comm. Larsson seconded.

Comm. Hendricks said he can make the findings and understands what the applicant is trying to do. He said he will take the park improvements and leave it up to the applicant, the Parks Division and City Council to decide if they will accelerate the use of funds for improvements. He said the real question on the table is, given that this portion of land is not going to be used for Type A use, what we do with it now. He said he might prefer lower building heights, but thinks it is consistent with other aspects of the project.

Comm. Larsson said he thinks the park improvements are wonderful and hopes they go forward. He said they are not part of what he is considering and that this is the third time they have seen a portion of the project. He said it is unfortunate that they are not getting the park extension, but he understands the circumstances and that the applicant

worked hard to come up with something compatible with the rest of the project. He said the building does not face Indian Wells so it is not in the same category as the two-story duplexes. He said given the need for fire department access and the size of the piece, it makes sense, and that he hopes the motion will receive support.

Comm. Olevson said he will be supporting the motion and was persuaded by staff comments that all three phases should be considered one project. He said the architecture of the final phase is consistent with the others. He said that even though the applicant is squeezing more units on a small chunk of land, he can make the findings.

Comm. Chang said he will be supporting the motion. He said he wanted to commend staff for being overly-cautious and commends the applicant for rising to the occasion when a curve ball was thrown at them. He said he is disappointed that we will not be getting the park, but that there will be great additions to Swegles Park. He said it is necessary to implement all mitigation to protect the buildings so residents can enjoy a good project and so they can take care of the housing needs in Sunnyvale.

Vice Chair Melton said he will not be supporting the motion. He said this phase works well with the rest of the project, and wanted to thank the member of the public for speaking and asking good questions. He said they spent a lot of time talking about the park and contamination with was not in the purview of Planning Commission discussion. He thanked staff for helping make things clear, and said that he is stuck on the building height deviation and is basing his decision on policy. He said he cannot make the finding that requires new developments to be compatible with the neighborhood, nor the finding that proposed use will not impair the orderly development or existing use of adjacent properties as there will be a new three-story building next to a park and the two-story development in Phase I. He said the motion will prevail, that his decision is policy-based and looks forward to seeing the project come to fruition.

Chair Dohadwala said she will be supporting the motion. She said she commends Irvine Co. for Phases I and II, that the Cherry Orchard development was done by them and looks forward to another wonderful project in the community.

ACTION: Comm. Hendricks moved for Alternative 1 to adopt the Mitigated Negative Declaration and approve the Special Development Permit (SDP) with modified conditions for SDP 2012-7381. Comm. Larsson seconded. Motion carried, 5-1 with Vice Chair Melton dissenting.

APPEAL OPTIONS: This action is final unless appealed to the City Council no later than October 8, 2013.

**6. Standing Item
Note:**

Potential Study Issues

Final opportunity for Planning Commission to suggest study issues for 2014.

Comm. Larsson said this may not be a potential study issue, but as the Commission talked about notification of neighborhoods previously, he suggests that there be an option for notification of developments in the Peery Park district on the City's e-notify webpage.

Chair Dohadwala said she would like to suggest a study that looks into Floor Area Ratios (FAR) for multifamily units. Ms. Ryan said City Council has already requested such a study.

No new study issues were added to the potential study issue list for 2014.

NON-AGENDA ITEMS AND COMMENTS

- COMMISSIONERS ORAL COMMENTS – None.
- STAFF ORAL COMMENTS

City Council Meeting Report

Trudi Ryan, Planning Officer, said that the City Council will be having a study session on the Moffett Place project on Tuesday, September 24, 2013, and invited the Planning Commissioners to attend. Ms. Ryan also discussed other Planning related items that will be considered by City Council.

INFORMATION ONLY ITEMS – None.

ADJOURNMENT

With no further business, the Planning Commission meeting adjourned at 11:48 p.m.