



CITY OF SUNNYVALE ADMINISTRATIVE HEARING

MINUTES

Wednesday, March 31, 2008

2008-0183: Application for related proposals located at **795 Nisqually Drive** (near Lewiston Drive) in an R-1 (Low Density Residential) Zoning District. (APN: 323-23-006);

- **Use Permit** to allow two accessory utility buildings to be located between the face of the house and public street;
- **Variance** to allow a side yard setback of 1' and 2' 6" where a 6' minimum is required.

In attendance: Bernice Peterson, Applicant; Kevin Robins; Neighbor; Gerri Caruso, Administrative Hearing Officer; Noren Caliva, Project Planner; Luis Uribe, Staff Office Assistant.

Ms. Gerri Caruso, Administrative Hearing Officer, on behalf of the Director of Community Development, explained the format that would be observed during the public hearing.

Ms. Caruso announced the subject application.

Noren Caliva, Project Planner, stated that the project originated as a Neighborhood Preservation complaint, in which two accessory utility buildings (shade structures) were under construction without appropriate permits. The purpose of the structures is to provide shade for two rhododendrons until the existing adjacent trees are mature enough to provide shade. The rhododendrons are between 7' and 9' in height, and the proposed height for the shade structures would provide approximately 1' of clearance for the shrubs to grow. In total, the proposed shade structures would be 103 square feet in size. The subject property is a pie-shaped lot, and the shade structures are located within a fenced area within the required side yard setback, in front of the existing home. Sunnyvale Municipal Code (SMC) section 19.40.020 requires that a Use Permit be obtained for accessory utility buildings located between the face of the building and a public street.

Additionally, SMC section 19.40.040 requires that accessory utility buildings meet the side yard setbacks of the Zoning district, and be at least 5' from the home. The proposed project would result in substandard side yard setbacks for both shade structures, and a substandard distance to the home for one of the structures.

Ms. Caruso opened the public hearing.

Bernice Peterson, Applicant, received and reviewed a copy of the staff report. Mr. Peterson stated that she had a tree removed last year that provided shade for other vegetation that requires shade. She had a handyman create some type of covering to shade the plants. The applicant stated that all of her neighbors were okay with the structure except for one. She also stated that she is very proud of her landscaping and

feels that the neighborhood benefits from it. Ms. Caruso stated that the structure is visible from the street.

Kevin Robins, Neighbor, submitted pictures taken of the structure. Mr. Robins stated that the structure she is proposing will be placed partially on his side of the property line, based on the plans. He also mentioned that the applicant could have allowed the tree to stay in place to provide shade even though her only problem with the tree was regarding maintenance. He also stated that the type of vegetation she has can be easily transplanted. Mr. Robins also said that the existing structure does not meet the required one foot set back as the structure is much closer to the home. He also wanted to know that since the structures are temporary why did the applicant pour concrete for the posts. He also mentioned that you can see the structure from their property.

Ms. Peterson stated that the drawings are accurate and that no part of the structure will be on her neighbor's property. She also mentioned that she tries to take care of her landscaping and that this structure is temporary.

Ms. Caruso closed the public hearing.

Ms. Caruso denied the application due to the inability to make the findings.

Ms. Caruso stated that the decision is final unless appealed to the Planning Commission with payment of the appeal fee within the 15-day appeal period.

The meeting was adjourned at 3:35 p.m.

Minutes approved by:

Gerri Caruso

Principal Planner