PLANNING COMMISSION MINUTES OF APRIL 28, 2008

2007-1322: Application for related properties located at **1320 Norman Drive** (at Bryant Way) in an R-1 (Low Density Residential) Zoning District. (APN: 313-02-022) RK;

- **Design Review** to allow a new 6,554 square foot one-story home and accessory living unit where 4,050 square feet may be allowed without Planning Commission review,
- **Variance** from Sunnyvale Municipal Code Section 19.34.060 to allow encroachment into the required 40-foot corner vision triangle.

Gerri Caruso, Principal Planner, presented the staff report. She said staff is recommending approval of the Design Review and denial of the Variance and is recommending a condition to redesign the layout to meet the vision triangle requirement. Ms. Caruso commented that staff received an e-mail from a Sunnyvale resident after the report was completed advising of concerns regarding the project. She said copies of the e-mail have been provided to the Commissioners on the dais tonight.

Chair Sulser opened the public hearing.

Robert and Lily Yin, applicants, said they are applying for this project to provide a larger home to accommodate the needs of their daughter. Mr. Yin said that their daughter requires a power wheel chair to be mobile. **Michael Ma,** architect for the project, said they started this project about nine months ago. He said this project is on a double lot with a double corner, and the owner's requirement is for this home to be barrier free, or a disabled accessible home, inside and outside. He said the owner would like a one-story house. Mr. Ma said they started working with Planning staff and after many modifications that the proposed plan is the best plan considering all the factors. He said he wants to use different components and materials, and windows to break up mass, which make the design more interesting. Mr. Yin provided copies of several documents on dais including the applicant's reasons for justifying the Variance for the corner vision triangle. He said that the Sunnyvale Department of Public Works has determined that the alley to the rear of the site should be treated as a street requiring a 40 foot corner vision triangle. He said the existing vision triangle is 17 feet and they are proposing a 21 foot vision triangle, which would improve the existing condition. He said he has seen other corners that have smaller vision triangles so there must be some mitigating circumstances that allow a smaller vision triangle. Mr. Yin showed a display describing the street radius and said they believe there is justification to deviate from the 40 foot requirement. He said they

think it is unfair to burden them with this corner as the seven other corners in this area do not meet code requirements. He explained the diagram provided showing the eight corners and said that all eight corners violate the vision triangle and these corners were grandfathered in. Mr. Yin said if Public Works is concerned about safety along the alleys that perhaps there should be stop signs or streetlights installed and maintenance provided to this alley. He said this alley is not being treated like a street or utilized like a street.

Vice Chair Rowe asked the applicant if the swimming pool illustrated in the drawing exists now. Mr. Yin said no and that his daughter goes elsewhere for her water therapy. He said they would like her to be able to work in the water at home.

Mr. Yin said it is their job as parents to provide and advocate for the well-being of their daughter. He said he hopes they have adequately expressed their point to convince the Commission to approve their request. He said they are reasonable people and are asking for a partial exemption from the requirement for the Norman/alley vision triangle. Mr. Yin said their proposal complies with the Norman/Bryant vision triangle. He said this Variance situation is a classic case of public welfare versus property rights and he would like to see a win-win situation.

Chair Sulser closed the public hearing.

Comm. Babcock asked staff if city guidelines differentiate between streets and alleys. **Trudi Ryan**, Planning Officer, said there is no differentiation and that the guidelines address driveway vision triangles and public right-of-way vision triangles. Comm. Babcock asked if a bicycle path would be considered a public right-of-way. Ms. Ryan said she was not sure. Comm. Babcock said that the Commission approved a housing development about a year ago on Mary Avenue that had alley ways and asked if those alley ways were subject to the vision triangle requirements. Ms. Ryan said that the development had a private drive versus a public street and she does not think this development has 40 foot vision triangles. Comm. Babcock asked if private streets have to meet the 40 foot vision triangle. Ms. Ryan said no as the code does not address private drives. Comm. Babcock asked if the City ever looks at requiring less footage in the vision triangle. Ms. Ryan said the projects where corner vision triangle variances have been allowed have generally been approved where traffic signals control all four corners of an intersection, which provides an extra level of safety. Comm. Babcock commented that bushes in this particular alley are more of a vision problem than are the buildings. Ms. Ryan said the landscaping should be

trimmed and staff can follow-up with the property owners regarding the landscaping.

Vice Chair Rowe asked staff if this area used to be county land and are the existing vision triangles grandfathered in. Ms. Ryan said she does not know whether this property was annexed 25 to 30 years ago as some of this area was. Ms. Ryan said the existing corner vision triangles could have existed prior to the city or county codes, however she does not know for sure. Vice Chair Rowe said Mr. Yin mentioned several properties in this area that do not meet the corner vision triangle. She asked if other applications to rebuild were received on those properties, would they be asked to meet the required vision triangle. Ms. Ryan said yes.

Comm. Hungerford asked about the ramifications if the variance is denied. Staff mentioned several options including reducing the square footage on the corner in question, redesigning, using the proposed swimming pool area for part of the house, or possibly relocating one of the bedrooms.

Comm. Simons added that possibly the in-law unit and the bedroom could be moved towards the east.

Vice Chair Rowe asked about the e-mail that was provided on dais this evening. She said that the e-mailer is concerned about the proposed home being turned into an assisted living home. Staff clarified that any single family home that is licensed by the state for six or fewer residents is allowed by right. Staff said any amount more than that six would require a public hearing. Vice Chair Rowe asked about the proposed accessory living unit and whether it could be rented out after a certain number of years. Staff said that a deed restriction must be recorded on the property for the first 20 years and then one of the units must be owner-occupied and the other unit could be rented. Vice Chair Rowe said that the e-mailer was concerned about the house looking like it is one wall. Ms. Ryan said that on the Bryant side there is a recess for one room's length on either side of the front door and on the Norman side of property the garage is recessed about 10 to 15 feet from other wall areas. Vice Chair Rowe asked if the e-mailer should not worry about the proposed home being turned into smaller rental units. Ms. Ryan said that this sight could not be turned into numerous rental units.

Comm. Babcock moved for Alternative 1, to approve the Design Review and deny the Variance with the attached conditions. Comm. Klein seconded the motion.

Comm. Babcock said she feels for the homeowner for getting stuck with two vision triangles on one property. She said one good thing is that the applicant has a large piece of property. She said she applauds the applicant for coming in with a large house on a large piece of property and that the size of house is appropriate. Comm. Babcock said she thinks an appropriate design can be determined for this property and she thinks it would be setting precedent if the Commission made an exception for one house on an alley. She said the Commission has to be consistent in applying the rules and regulations.

Comm. Klein said he would second the motion and that he applauds the applicant for proposing a single story house. He said if any other home in this area were developed that similar conditions would have to be met. He said the vision triangle rule would apply to others. He said he feels there are design options for the layout of the building on this lot that would allow the corner vision triangle requirement to be met.

Comm. Simons said he would be supporting the motion. He said land use decisions must be based on what is appropriate and consistent with the rules. He said in the past he had one modification where he was the minority. He said this is a large home proposed and he thinks the requirements can be met without much difficulty. Comm. Simons expressed his admiration to the applicant for finding a large lot for a large home.

Vice Chair Rowe said she would be supporting the motion. She said she noticed the alley being used by the retailers and said the Commission does not know the future retail needs. She said she saw many cars using the alley during her site visit and said the vision triangle may be needed more in the future.

Chair Sulser said he would be supporting the motion. He said this is a bit of a heartbreaking situation and he recognizes the need for turning room for the wheelchair and other equipment needed for their daughter. He said that the Commission has to be able to make the findings to approve the Variance, three findings, and staff was not able to find two out of three findings. He said he cannot make finding number 2 and that is why he is supporting this motion.

ACTION: Comm. Babcock made a motion on 2007-1322 to approve the Design Review and deny the Variance with the attached conditions. Comm. Klein seconded. Motion carried unanimously, 7-0.

APPEAL OPTIONS: This action is final unless appealed to the City Council no later than May 13, 2008.