

PLANNING COMMISSION MEETING OF FEBRUARY 9, 2009

2008-1245 – Mid-Peninsula Housing Coalition [Applicant] **Santa Clara County** [Owner] **City of Sunnyvale** [Lessee]: Applications for related proposals for a 2.6 acre site located at **660 S. Fair Oaks Avenue** (at Garland Ave) in an R-4 (High-Density Residential) Zoning District. (Mitigated Negative Declaration) (APN: 211-02-022) GC;

- **Rezone** from R-4 (High Density Residential) Zoning District to R-4/PD (High Density Residential/Planned Development) Zoning District;
- **Special Development Permit** to allow 124 senior housing units with underground parking.

Gerri Caruso, Principal Planner, presented the staff report. She said staff is recommending that the Commission recommend to the City Council approval of the rezoning of the project to R-4/PD and to approve the Special Development Permit with the required deviations to approve the 124 Senior Housing units subject to the findings and conditions of approval in the staff report. Ms. Caruso noted that the Commission was provided a petition from the nearby residents. She noted in Attachment D, page 5 that two generators are shown on the plans which is an error, as there is only one generator proposed which is located on the south side of the project. **Trudi Ryan**, Planning Office, noted that the City's Housing Officer, **Suzanne Ise**, and the Director of Community Development, **Hanson Hom**, are present this evening and available to answer questions.

Comm. Sulser discussed with staff the proposed deviations including the parking deviation. Staff said the proposed parking should be adequate. Comm. Sulser said it seems by making one deviation that we make another deviation worse. Ms. Ryan said that based on research for senior housing that staff was not persuaded that the numbers in the code are reflective of the parking needs and the proposed parking would be adequate and then the lockable storage deviation can be eliminated. Comm. Sulser confirmed with staff that parking is something the Commission can give out as a deviation through the Planned Development.

Comm. Hungerford confirmed with staff that the senior housing would be rentals and asked about the management. Ms. Caruso said that Mid-Peninsula Housing Coalition would own the project, and the manager would be on-site and knowledgeable of senior living issues. Comm. Hungerford asked about the qualifications for living in the units in regards to density bonuses for the development referring to page 6 of the report. Staff confirmed that the applicant would have to meet the requirements for low, and very low income for the City to grant the density bonus. Mr. Hom discussed additional restrictions based on the

type of financing for this project. He said that generally all units would be for low or very low income confirming that would help govern who could rent these units adding that monitoring would be done to make sure tenants continue to meet the income requirements. Comm. Hungerford confirmed with staff that the requirement for income levels and who could rent these units would be included in several documents and confirmed with staff that this could also be addressed in the conditions of approval. Comm. Hungerford discussed with staff the City's authority over the garage confirming that the Commission could contribute some suggestions or recommendations towards the garage and if Council agrees with those recommendations that they could be worked into the development agreement. Ms. Ryan said that there are very few constraints on the County regarding the garage and the County does not have to follow the City zoning code. Comm. Hungerford and staff discussed the agreements in place between the County, the City and Mid-Peninsula Housing Coalition. **Kathryn Berry**, Assistant Senior City Attorney, said that state law says that local agencies do not have any authority over County or State facilities if they are going to conduct an activity that is within their jurisdiction. Ms. Berry said that our zoning codes do not apply to the County. Ms. Berry said because the City has an agreement and is providing some funding that the City has flexibility to negotiate. Mr. Hom added that the City is using funds to construct the garage and the City does have some design and review authority over the plans for the garage.

Comm. Klein discussed with staff the noise and location of the generator. Ms. Ryan said that this generator would be an emergency generator tested once a month and due to the infrequency of the use that the operational noise is not part of the regular noise. Ms. Ryan said that staff practice is to identify ways to reduce the noise. Comm. Klein discussed possible mitigations regarding the proposed decibels of the generator and distances from sidewalks and residences. Ms. Caruso said the generator would be in an enclosure and additional analysis would need to be done to modify doors and windows nearby to meet the City code standards. Comm. Klein discussed with staff the garage and the number of parking spaces commenting he is having difficulty with the massing of this garage. Ms. Caruso discussed the garage and commented about areas where additional landscaping could be included. Comm. Klein and staff discussed that the EIR Attachment C page 28, shows that the residential to the East is only five feet away from the garage area and where landscaping could occur is very narrow. Comm. Klein discussed with staff the proposed eight-foot masonry wall on the North side. Comm. Klein commented that an eight-foot wall does not mitigate much for a four-story building. Ms. Caruso said the eight-foot wall was recommended as a sound barrier and that the applicant would prefer to make the first floor solid than provide the fence.

Chair Rowe discussed with staff the easement. Ms. Ryan commented that the easement has been in place for many years and there are utilities under the easement. Chair Rowe said that she sees 11 deviations proposed and it appears the City has no control over any of the deviations. Chair Rowe asked about the percentage of compact parking spaces in the garage and how the County has a higher percentage of spaces than Sunnyvale prefers. Staff commented that the number of parking spaces could change due to the number of deviations being requested and if the Commission finds the deviations not acceptable that recommendations can be provided to the Council. Chair Rowe and staff discussed that the density proposed is allowed under the standard R-4 zoning, granting the density bonus because it is affordable senior housing and the Planned Development is needed for the deviations. Chair Rowe asked about the number of existing parking spaces with Mr. Hom saying that the number of parking spaces in the garage replaces the existing surface parking being lost due to the proposed senior housing project. Chair Rowe discussed with staff the existing and proposed landscaping. Chair Rowe discussed with staff that there are two large proposed community rooms and an outdoor podium garden space for the use of the residents. Ms. Ryan said that the management of the housing facility would control the use of the community rooms. Chair Rowe and staff discussed the landscaping and the use of tall trees. Chair Rowe asked about the setbacks and confirmed with staff that the Commission cannot do anything about the setbacks as the garage is County property. Ms. Caruso said that the Commission could recommend in the development agreement that staff pursue increasing the setbacks. Chair Rowe discussed with staff a previous neighborhood outreach meeting.

Comm. Hungerford clarified with staff that there are 210 parking spaces in the County garage and asked staff what the parking requirement would be for a parking garage for a clinic if a non-County developer were proposing the garage. Staff said they would figure that out.

Comm. McKenna commented further about the parking and said that the requirements for senior parking would be less. She said that there is a great need for the low income senior housing in this community and she is glad to see the City working with the Mid-Peninsula Housing Coalition.

Chair Rowe asked how many existing surface parking spaces are currently on site with Mr. Hom confirming there are 210.

Comm. Klein asked staff about Attachment H, the shadow study. Ms. Caruso explained the attachment and said the illustrations show the times and dates of shadowing throughout the day of the shadow from the garage going up the condominium wall.

Ms. Ryan said that the parking requirement for a medical clinic would be one space for 200 square feet, which would be 225 spaces, therefore the garage provides slightly fewer spaces than what the City would require.

Chair Rowe opened the public hearing.

Alok Lathai, applicant and project manager at Mid-Peninsula Housing Coalition explained who their organization is and some of their recent projects. He explained the current condition of the senior housing shortage along the Peninsula. He said the allocation of Section 8 vouchers is extremely unique and rarely occurs. He said given the multiple site challenges of the project, his organization believes that this proposed project is the best solution for developing high-density affordable housing on this site and said they seek the Commission's recommendation for City Council approval. He said this is an amazing site for senior housing due to the many nearby resources. Mr. Lathai introduced **Louis Bishop**, architect with Jon Worden Architects in Healdsburg. Mr. Bishop said that they concentrated on the major elements that make this project worthwhile. He said those are to keep the circulation of the project centered in the areas away from the condominiums in the middle of the site, and to make access to the apartment units in the same location so that all the cars come in through the Fair Oaks Avenue driveway. He said the driveway comes into a turn-around that directs the cars into either the parking garage for the seniors or to the parking garage of the County. He said they have also tried to find ways to mitigate the bulk of the garage requirements including landscaping. He said the podium and the senior housing are designed to gather the sun on the south side of the project. He said they have provided an alternative color scheme to consider, additional articulation vertically, and have raised the bases of the podium. Mr. Lathai said that the generator is a standby generator that would be tested one hour a month. Mr. Lathai said that they considered many options for the location of the generator and that the County was opposed to all locations except the proposed location. Mr. Lathai explained other mitigation to help with the location of the generator, including noise and particulate matter mitigation.

Comm. Klein asked Mr. Lathai to further comment about the mitigations for the generator. Mr. Lathai said the two issues related to the generator are air quality and noise. He explained the testing and that with the filter they are able to allow the additional hours of testing that the County required. Mr. Bishop discussed the noise at the enclosure and said that the noise of this generator is better than the minimum requirement. Comm. Klein asked the applicant about the air conditioning units and shielding them from view. Mr. Bishop said there is a parapet around each unit and the equipment cannot be seen. Mr. Bishop said there are individual units for each housing unit, and that they are small and quiet.

Comm. Hungerford asked about the traffic flow and what the issues might be if the employees of the clinic parked under housing units to reduce the size of the high-rise garage. Mr. Bishop said the primary concern would be the mixing of public and private use. Mr. Lathai said that would create big problems with the financing. Mr. Hom said this idea was discussed with the County and they were not receptive to a shared parking situation.

Chair Rowe asked if the renters would be notified of the testing time of the generator. Mr. Lathai said they would pass the information on to the renters. Chair Rowe discussed the wall around the generator with Mr. Bishop saying the wall is four feet high.

Connie Stanley, a Sunnyvale resident, said she lives nearby, and that their neighborhood just went through two years of the clinic being built which was an inconvenience. She said she hopes if this project goes through that something can be done to mitigate the problems during construction for the neighbors.

Ben Glickman, a Sunnyvale resident, said he has several concerns about the parking garage. He said the Commission does have some control over this project as the only reason the garage is getting built is due to the senior housing. He said this is a 40-foot tall parking garage and there is nothing that can be done to mask the massiveness. He suggested the project be rearranged and put the housing next to the housing. He said his other issue is traffic and if the driveway is on Fair Oaks then his issues are addressed.

Comm. McKenna clarified that Mr. Glickman that he would rather have the height of the housing structure next to his residence rather than the height of the parking structure next to the housing, even though they are the same height. Mr. Glickman said yes as it would be more aesthetically pleasing for the existing residents.

Helga Cimlar, a Sunnyvale resident, said she has lived in this neighborhood for 34 years and this is a very disturbing project for them. She said they have lived with the noise of the clinic construction and now they are looking into a four-story garage. She agrees with Mr. Glickman that she would rather look into a housing project than a garage and she is very concerned about the impact to her property value. She said she hopes something can be done to make changes to the plans.

Lloyd Finch, a Sunnyvale resident, said he is not opposed to senior housing. He said that he cannot believe that the City is even considering this parking garage. He said this is a negative impact, and he would like to see the senior housing

built, but find a compromise for the garage. He said he would like to see the County work with the City of Sunnyvale. He also said he would like to see Garland Avenue closed as Garland used to be a quiet street. He said the clinic went in and now there is traffic. He said he would like Garland Avenue to be a short cul-de-sac street, with no entrance or exit to the clinic. He said let the senior housing and the parking garage use the proposed Fair Oaks driveway.

Darryl Alford, a Sunnyvale resident, said excellent questions have been asked and that he appreciates the Commission hearing the concerns. He asked that the Commission give serious consideration to the concerns of the community as he feels the County is not considering the nearby community. He said most of the neighbors are okay with the senior housing, but it comes with a garage.

San Ja, a Sunnyvale resident, who lives nearby said this project will make his property feel closed in and he is concerned about the negative impact to his property value. He said they have lived in a construction zone for two years. He also pointed out that often during construction the heavy equipment causes vibration which he feels could damage his home internally.

Mr. Lathai addressed several of residents' concerns. He said that construction workers are not to park on the street and there will be staging on site. He said there will be no pile driving in this project so vibration should not be a problem. He said that the housing and the parking garage locations cannot be flipped explaining the problems with access to the clinic and how the County would view this. He said this would make Emergency Vehicle Access difficult. Mr. Bishop discussed the treatment of the North section of the garage. He said they would like to close the bottom level garage and provide some landscaping rather than build a wall. Mr. Lathai commented about the traffic flow, stating that one of the benefits of the site plan is that the entrance of the clinic is oriented to parking garage and some of the traffic would be relieved off of Garland. Mr. Lathai discussed some of the financing of the project.

Comm. Hungerford discussed with Mr. Bishop a little more detail regarding the garage, discussing the color schemes, architecture and the side that faces the housing.

Comm. Klein asked about the look of the garage from the East. Mr. Lathai said that on the East side the garage has been moved over five feet and off the property line to help with the large massing. Comm. Klein asked about the back wall with staff confirming that in the conditions and in the Negative Declaration the back wall is solid.

Comm. McKenna said that she has heard that the height of the parking structure is 40 feet. Mr. Bishop said the residential is about 43 feet to top of the parapet and a little taller at the two elevator shafts and the two stairways. Comm. McKenna said she had not thought about flipping the buildings which seems to be beneficial. Mr. Bishop said to flip the project would bridge the easements already in place and affect circulation. Mr. Lathai said the City traffic engineer does not want primary access directly off of Fair Oaks. Mr. Hom said there was early discussion with the County about where they would prefer to have the structure and that the County prefers Garland as the primary access. Comm. McKenna asked what could be done to alleviate construction problems as this neighborhood has already had two years of development. Mr. Lathai said that he would communicate with the residents that he is the project manager and be available to help with the neighbor's concerns. Ms. Caruso recommended that the Commission could add a Construction Management Plan to the conditions prior to releasing building permits, and the Plan could include addressing parking on Garland.

Chair Rowe asked what the hours of the clinic are with Mr. Lathai stating that the main hours are 8:30 a.m. to 5:00 p.m. Monday through Saturday.

Chair Rowe closed the public hearing.

Comm. Klein said he is getting different figures from the public, the applicant and the staff report regarding the distance of the garage from nearby residences. He referred to Attachment C, page 28 of the report and clarified with staff that the figures in the staff report are correct based on what she measured using a scale on the site plans.

Chair Rowe clarified with staff that the Planning Commission could make suggestions to the City Council with staff confirming that this could be done however the Commission wishes to make them.

Comm. McKenna moved for Alternative 2, to recommend to Council to adopt the Mitigated Negative Declaration and introduce an Ordinance to Rezone 660 S. Fair Oaks Avenue from R-4 to R-4/PD and approve the Special Development Permit with modified conditions; that there be the addition of a Construction Management Plan which would include parking and traffic use of Garland Avenue both during and after construction. Comm. Travis seconded the motion.

Comm. McKenna said in looking at the need for the project that this project is worthwhile. The attempt at accomplishing many different goals despite

complications has resulted in a good project. She said she thinks there are some design considerations and would comment about those after the motion.

Comm. McKenna offered as a **suggestion that the Commission ask the City of Sunnyvale, County of Santa Clara, and Mid-Peninsula Housing Coalition to consider slightly depressing the garage if possible so not to end up with a massive structure.**

Comm. Travis said that he thinks that Sunnyvale has a significant need for affordable senior housing. He said there are very few places in Sunnyvale where there are a clinic and other resources available. He said he understands there are some design concerns, visual impacts and parking, and said that this is an appropriate location for this type of project.

Comm. Sulser said that he thinks this is a must-needed project and the location is the appropriate place for the project based on the amenities in the neighborhood. He said the site does have substantial constraints and he would not be comfortable with all the deviations requested without the constraints. He said in terms of the housing development, architecture and site planning that this is a good project. He said he has real concerns with the parking garage and hopes the County will agree to make some changes on the garage.

Comm. Hungerford offered a **Friendly Amendment to add a condition that the applicant agree to rent at least 20% of the units at an affordable rate for very low income seniors and 10% for low income seniors as defined by the HUD (Housing and Urban Development) Section 8 program income limits** as the Municipal Code allows a 40% density bonus for 100% senior projects, referring to page 6 of the report. **The Friendly Amendment was acceptable to the maker of the motion.** He said he thinks the affordable housing component is a good idea; however the garage is a terrible idea. He said it is difficult for him to vote for the motion without knowing what would happen with the garage. He said he is not sure the housing development is worth the garage as it is affecting residents in this area.

Chair Rowe and the Commissioners decided they would discuss the suggestions and then take the vote. Ms. Ryan said the Commission can have in one motion recommendations for the Special Development Permit and rezoning and add a set of recommendations for the design of the garage.

Comm. Hungerford suggested that the garage needs to be much smaller, not more that two stories above grade with possibly underground or shared parking. **Comm. McKenna** agreed that the level of the garage need to be lowered and that maybe a three-story garage, with only two stories above

ground. **Chair Rowe and Comm. Klein discussed the architecture and absence of fencing by the stairwell on the North side of the garage with Chair Rowe suggesting that the Eastern side of the garage be looked at considering the addition of a trellis with vegetation to address the aesthetics. Comm. Klein suggested that fencing on the North side of the garage be added as protection from overflow into the northern property. Comm. Klein provided a recommendation to increase the Eastern setback as the current setback is barely adequate.** Comm. McKenna commented that if there is a problem **getting some additional footage for the setback that you can articulate the building to get more space, to plant larger trees.** Comm. Klein suggested that more **variety on the façade be considered** and that **moving the generator to a different location on site, possibly closer to the garage** would make more sense. Chair Rowe suggested that the compact parking spaces be looked at. Ms. Ryan said the percent of compact spaces is part of the development and said that Chair Rowe might to include a condition in the Special Development Permit as the number of compact spaces in the staff report relate to the senior housing. **Chair Rowe suggested that the traffic situation on Garland be reconsidered. Comm. Klein suggested that the appropriate number of class 2 enclosed bike racks be added to the parking structure.**

Chair Rowe offered a Friendly Amendment that the proposal for 35% compact parking spaces be reconsidered to a percentage closer to 10% which is what Sunnyvale usually recommends. The Friendly Amendment was acceptable to the maker and the seconder of the motion.

Comm. Hungerford clarified that his suggestion for the parking garage is that the parking garage would have a ground floor which would be street level parking and then there would be one floor above that and if the applicant needs more floors then the parking garage could go underground which would make the garage about 25 feet high.

Comm. Klein said he would not be supporting the motion. He said this is a difficult site and there is a definite need for this housing in Sunnyvale. He said this is a great location for the housing, but the requirements cause the parking structure. He said if the Commission is providing a recommendation to Council to approve the project with suggestions on the garage then the Commission is not giving enough force to the things that need to change. He said the developer has made changes, and there are conditions of approval, there are mitigations, but the parking structure is still five feet away of the property line to the East. He said having a parking structure five feet away is a problem. He said he understands the work that has gone into this, but unless the parking is mitigated he cannot in good conscience agree to the project.

Comm. Hungerford said if the City approves the project and the County says no to making changes in the garage then he could not support the project. He asked staff if it is possible to make the design requirements a part of the condition of approval and if the County rejects them then the City would recommend the project not be approved. Mr. Hom said that the City would likely meet with the County to go over the concerns of the Commission to see whether the County would rethink the program requirements for the garage. Mr. Hom said that staff would report the results of the County meeting to the City Council when they consider this project and also would present the Planning Commission recommendations and outline the degree that the County is open to any recommendations. He said ultimately it would be up to the City Council to decide whether they would be willing to fund any enhancements to the garage as the cost for the enhancements would be the City's responsibility. Comm. Hungerford and staff discussed that the Planning Commission could recommend that the Council not fund the project if the County does not agree to the modifications to the garage as a land use concern for the site. Ms. Ryan said the Planning Commission does not have funding recommendation authority.

Comm. McKenna further discussed the situation between the City and the County with Mr. Hom stating that he thinks the County has very specific preferences about the garage. Mr. Hom said that he thinks the County has concerns about below grade parking. Mr. Hom said the City has already allocated about \$5.6 million for the garage and if the County agreed to the enhancements then the Council would have to consider allocating additional funds.

Chair Rowe said this is a difficult decision as the affordable housing is needed and this is an excellent place for the housing due to the clinic, but the garage is problematic. She said the residents of Cherrywood have been good neighbors in Sunnyvale for many years and they keep their development in good shape and now we may put this parking garage across from them. She said she will not be supporting the motion as she thinks her no vote might encourage the County to be willing to take a look at working with the City and making some changes to the garage.

Comm. Hungerford offered a Friendly Amendment that the County take into consideration the design requirements and if they are not willing to reconsider that the City not favor the project. Ms. Ryan clarified that Comm. Hungerford was suggesting three parts: one is the application for rezoning and Special Development Permit, the second is recommendations for the design of the garage, and the third is the recommendation that if the design considerations for

the garage cannot be met that the project not go forward. The Friendly Amendment was not acceptable to the maker or seconder of the motion.

Vice Chair Chang said that this is a hard decision. He said the nearby residents have endured two years of construction and they are being asked again to sacrifice for a couple of years so a four-story parking garage can shadow the community. He said the Commission has put together a list of recommendations to put into the motion that will be addressed to the City Council and hopefully be conveyed to the County to see what can be done. He said Sunnyvale does need affordable senior housing, and unfortunately to get the housing we need to accommodate the parking. He said the recommendations here are the best the Commission can do right now. He said he would be supporting the motion. He said he would like to see the feedback from the County.

Mr. Hom confirmed with the Commission that the garage enhancements suggested are that the garage would be a maximum two-level garage above ground with one surface level and one above ground level with possibly two levels below ground to meet the 210 parking spaces. Mr. Hom confirmed that the Commission supports the staff recommendation to install a wall along the North elevation and asked if the Commission is requiring that a wall be installed along the East elevation and along the East wall. He confirmed that the Commission wanted to have vine planting or insets in the garage so larger trees could be planted if the setback is not adjustable, with the preference being to move the setback to create a larger setback than the proposed five feet. He asked if one of the staff recommendations is to have a solid wall along the East elevation for noise mitigation with flexibility for small architectural openings or did the Commission just want the wall just solid. Comm. Klein said that staff's recommendation is a solid wall and the Commission's recommendation is to breakup the solid wall with insets or some openings. Comm. McKenna commented that if the County would not agree to two garage floors below ground that she would encourage as much negotiating even if it meant three floors above ground and one floor below grade. Mr. Hom said there was a comment about Fair Oaks access in relation to downgrading the use of Garland Avenue as access and said that this could be discussed with the County.

ACTION: Comm. McKenna made a motion on 2008-1245 to recommend to City Council to adopt the Mitigated Negative Declaration and introduce an Ordinance to Rezone 660 S. Fair Oaks Avenue from R-4 to R-4/PD and approve the Special Development Permit with modified conditions: that there be the addition of a Construction Management Plan which would include parking and traffic use of Garland Avenue both during and after the construction; to add a condition that the applicant agree to rent at least 20% of the units at an affordable rate for very low income seniors and 10%

for low income seniors as defined by the HUD Section 8 program income limits; and that the proposal for 35% compact parking spaces be reconsidered to a percentage closer to 10%.

The Commission provided suggestions to Council that: the garage be visually smaller above ground, with no more than two stories above grade with possibly underground or shared parking; that the Eastern side of the garage be considered for the addition of a trellis with vegetation to address the aesthetics; that fencing on the North side of the garage be considered as protection from overflow into the northern property; to increase the Eastern setback as the current setback is barely adequate; articulating the building, if possible, to achieve more space to plant larger trees; that more variety on the façade be considered; to move the generator to a different location on site possibly closer to the garage; that the center driveway be considered for traffic flow for the clinic; and that the appropriate number of Class 2 enclosed bike racks be added to the parking structure.

Comm. Travis seconded. Motion carried unanimously, 4-3, with Chair Rowe, Comm. Hungerford and Comm. Klein dissenting.

APPEAL OPTIONS: This recommendation will be forwarded to City Council for consideration at the March 3, 2009 meeting.