

Planning Commission Minutes of September 28, 2009**2009-0666 Updates to the Sunnyvale Municipal Code Title 19 (Zoning) to Streamline Processes – DO**

Diana O'Dell, Senior Planner, presented the staff report. She said that a version of the ordinance was provided on the dais this evening that should be easier to read with less strikethroughs and includes further clarification in the language. She said there were no policy modifications made to the streamlining changes originally proposed. She said that staff is proposing requiring that as part of the streamlining of telecommunications that certain enhancements be made to reviewing telecommunication permits. She said part of the requirement is that every two years a telecommunications provider provides reports to the City certifying that it meets the requirements for noise and RF (Radio Frequency) emissions. Staff said there are extra document copies of this change available tonight for the public.

Comm. Klein discussed proposed changes to the sign regulations with staff including that the sign regulations would be moved out of the definitions section, and discussed the reasoning for the number of commercial flags allowed. **Comm. Klein** discussed with staff fences in front yards and changing the height allowance, not requiring a permit, from three feet to four feet. **Trudi Ryan**, Planning Officer, said the fences would still have to meet the vision triangle requirements and no changes are being proposed to the vision triangle. **Ms. Ryan** said that the requiring open fences could be considered. **Comm. McKenna** confirmed with **Comm. Klein** that at a previous Study Session he wanted to see a greater setback requirement if the fence was taller. **Comm. Klein** asked staff about removal of the language "electromagnetic waves" in section 19.54.130. **Kathryn Berry**, Senior Assistant City Attorney, said there is controversy regarding electromagnetic waves, whether they are harmful, and the Federal government has done studies confirming that the waves are not harmful, resulting in local governments not being allowed to regulate this concern. **Ms. Berry** said that adding the requirement for RF emission testing will reveal what is being emitted.

Comm. Rowe discussed with staff banners on fences including the size and how long they can be displayed. Staff is proposing to allow a cumulative total of 90 days per year from the current 60 days. **Comm. Rowe** discussed with staff commercial flags and real estate signs. **Comm. Rowe** discussed with staff why a six foot fence would be allowed in a front yard and the type of permit that would be required for various height fences.

Comm. Klein asked staff about the frequency restrictions and times for various time restrictions. **Ms. Ryan** said that the hours in the ordinance would be

corrected to say “between the hours of 12:01 a.m. and 12:00 midnight on Saturday, Sunday and federal holidays. Comm. Klein asked if there is anywhere in the code that talks about the nuisance affect of electromagnetic interference. Ms. Ryan said there is not a specific place that addresses this issue. Comm. Klein asked about signs in the public right-of-way with staff saying that issue would be included in the Title 10 section.

Comm. Rowe asked about fences and whether they would need to be see through or solid, with staff saying that they are not suggesting one or the other.

Comm. McKenna asked if the City, Council, or the law have a priority order for energy systems. **Andrew Miner**, Principal Planner said emergency communication devices would be the highest priority. Comm. McKenna suggested that the City might want to take a look at energy systems and determine what the City would like to promote or what the City’s priority should be.

Chair Chang opened the public hearing.

Michael Flores, a Sunnyvale resident, commented that he thinks it is preferable to allow up to four foot fences with an open fence of consistent height in the vision triangle, especially if a resident has dogs. He discussed EMF (Electromagnetic Frequency) and said that electromagnetic interference from windmills, solar, etc. should be covered under the FCC (Federal Communications Commission) rules.

Chair Chang closed the public hearing.

Comm. Klein moved for Alternative 2 to recommend to City Council to adopt the Negative Declaration (Attachment C) and make modifications to the ordinance in Attachment B: to modify the times and days in 19.44.120 (c) 5 to read “between the hours of 12:01 a.m. and 12:00 midnight on Saturday, Sunday and federal holidays”; to modify 19.48.025 that the maximum front yard fence height allowed be 3-foot at the property line, and 4-foot permitted with a 2-foot setback from the property line; to direct staff to further study electromagnetic interference to possibly add the subject in the code. Comm. McKenna seconded the motion.

Ms. Berry asked Comm. Klein if the motion includes the addition of the language “and RF emissions” to 19.54.120 paragraph (a) numeral (i) and the changes provided on the dais by staff. Comm. Klein and the seconder agreed that these changes are included in the motion.

Comm. Klein said these changes should make things simpler for staff and the Planning Commission, codifying some of the common variations or deviations requested. He said that this is mostly code clean up, sign issues, and fence issues. He thanked the citizens for their input.

Comm. McKenna said that these changes relax the code where it is appropriate and adds flexibility for residents, and cleans up areas that need cleaning up.

Chair Chang said he would be supporting the motion and that the changes would make it easier for citizens to get projects done in these challenging economic times.

Chair Rowe thanked Comm. Klein for including the two foot setback on the four foot fences. She said the only issue she has with the document is the higher front fence in the front yard, however she will be supporting the motion as she supports all the other changes.

ACTION: Comm. Klein made a motion on 2009-0666 to recommend to City Council to adopt the Negative Declaration (Attachment C) and make modifications to the ordinance in Attachment B: to modify the times and days in 19.44.120 (c) 5 to read “between the hours of 12:01 a.m. and 12:00 midnight on Saturday, Sunday and federal holidays”; to modify 19.48.025 that the maximum front yard fence height allowed be 3-foot at the property line, and 4-foot permitted with a 2-foot setback from the property line; to add the language “and RF emissions” to 19.54.120 (a) (i); to include the changes provided on the dais by staff in Attachment B. Comm. McKenna seconded. Motion carried, 6-0, with Vice Chair Travis absent.

APPEAL OPTIONS: This recommendation will be forwarded to City Council and is scheduled to be considered at the October 27, 2009 Council meeting.