

**PLANNING COMMISSION MINUTES OF MARCH 22, 2010**

**2009-0911:** Special Development Permit for an approximate 700 square foot one and two story addition to an existing home for an approximate total of 2,406 square feet and 44% Floor Area Ratio for a site located at **532 Fern Ridge Court** (APN: 323-31-008) SM

**Shaunn Mendrin**, Senior Planner, presented the staff report. He said letters from neighbors that were received after the report was completed were provided to the Commission tonight. Mr. Mendrin said staff recommends approval of the Special Development Permit and Design Review subject to the conditions in Attachment B.

**Comm. Klein** asked staff to clarify the City's roof shading rules and to explain shading calculations in Attachment C with staff complying. Comm. Klein further discussed with staff shading, solar access, the shadow analysis, and the project data table in the report. Comm. Klein discussed with staff whether there are any homes with second stories in this sub division, with staff explaining there are some models with a loft area, and no second story additions have been approved since the subdivision was originally built, noting additions in adjacent developments.

**Comm. Rowe** asked staff to explain what a clerestory window is. **Trudi Ryan**, Planning Officer, said the bottom edge of a clerestory window would be above eye level. Comm. Rowe asked about a proposed window on the east side of the property with staff suggesting this question be asked of the applicant. Comm. Rowe referred to an email from a member of the public dated March 19, 2010 and discussed the Bahl Patio homes and privacy with staff.

**Chair Chang** opened the public hearing.

**Rafael Saavedra**, applicant, said that he and his family enjoy living in this neighborhood and in this house, and that they would do as much as they could to keep the character of the house. The applicant presented a PowerPoint explaining that the main two goals are to add to the living space and make the house more energy efficient. He introduced **Luis Osorio** to assist in the technical details of the presentation. Mr. Osorio said that the applicant understands that the house has architectural value and that they have worked hard to design an energy-efficient home while preserving the character of the original design. Mr. Osorio said they believe there is no significant impact to the adjacent properties, that they want to conserve the existing open space, and that the building would be consistent with the green building code and energy efficient. He discussed the design, and that regarding the second story issue, that the code has no limitation in the height and that the proposed design meets the intent of the zoning standards. He said there are other two story homes in the neighborhood and they are not proposing anything that is not within keeping with the neighborhood.

**Comm. Rowe** referred to Attachment C, page 5 and discussed with Mr. Osorio several of the height measurements.

**Comm. Sulser** asked Mr. Osorio about insulating windows, and revamping the existing house with green building standards.

**Linda Sabin**, a Sunnyvale resident, spoke in opposition of the project. She said she is an adjacent neighbor and is concerned with maintaining the integrity and privacy of the Bahl Patio homes. She said she appreciates the attempt to keep the look of the Bahl Patio homes, however she is concerned about the long atrium window proposed which would look into her yard, and the precedence that approving this project would set.

**Mark Sabin**, a Sunnyvale resident, spoke in opposition to the project. He said he shares the concerns of his wife, Linda, and said the full length window would look down into their master bedroom and bathroom. He said he thinks the applicant has done a good job trying to maintain the integrity of the design. He said his other concern is that the Bahl Patio homes as they were built are very close to the median priced housing cost in Sunnyvale. He said the precedence of approving this project could affect the diverse housing stock in Sunnyvale which needs to be preserved. He said his main reason for purchasing his home was the privacy.

**Comm. McKenna** asked Mr. Sabin if the full length window were eliminated would he be able to support this project. Mr. Sabin said it would mitigate a problem for him personally, but holistically he is concerned about losing the diverse mix of housing by building a second story on this house.

**Lloyd Webb**, a Sunnyvale resident, spoke in opposition of the project. He said he lives in this subdivision and of the 62 homes in this development that none of them are two-story. He said these homes are built very close together. He discussed previous projects for requests of a second-story addition and said these were not approved by the City. He said he has seen other neighborhoods change over the years and he is shocked with some of the changes. He said he supports the energy-efficient efforts, however he would like the Bahl Patio home styles to be preserved.

**Jewel Savadelis**, a Sunnyvale resident, spoke in support of the project. She said she approves of the proposal and encouraged the Commission to approve the project. She said she believes the permitting process should be applied consistently and that on the borders of this subdivision are houses that have second stories. She said Don Bahl built several two-story houses on Yukon Drive, and mentioned addresses of examples of additions to Bahl Patio homes in other areas. She said sensibly designed additions enhance property values and would be an asset to the neighborhood.

**Kerri Webb**, a Sunnyvale resident, spoke in opposition of the project. She asked the Commission to preserve the award-winning architecture of their neighborhood and allow them to keep light and privacy in their homes. She presented a Power Point showing the view from the roof of her Bahl Patio home discussing how the homes are tightly fit onto the lots. She showed examples of what the addition height would look like and how it would affect her front, side and backyard. She said the applicant's lot is slightly bigger and she does not oppose some addition to the home. She said she appreciates Mr. Sabin's comment about the housing stock and said that the two-story homes around the subdivision were built before the subdivision. She said she is also concerned about the precedence approving this project would set.

**Jim Mekis**, a Sunnyvale resident, spoke in opposition to the project, acknowledging the applicant made improvements to the plans since he first viewed them. He said the second story would loom over his house darkening the interior of his home and shading every side window, which the shading guidelines do not address. He said he is concerned about the precedence this would set, reading a quote from Comm. Hungerford from minutes of a 2006 Planning Commission meeting regarding a similar project that was denied. The quote included that the finding for consistency could not be made and if the design of the home is altered that it begins to affect the character of the community and opens a Pandora's Box.

**Gary Jochims**, a Sunnyvale resident, spoke in opposition to the proposed project. He said when he purchased his home he was assured by the City that this subdivision is a PUD (Planned Unit Development) so he knew the exterior and envelope of the building would be stagnate. He said he specializes in design and remodeling of Bahl Patio homes and said he always stays within the envelope and encourages homeowners to use every square foot of the existing space. He said in the past even small additions have been difficult to get approved and now it is shocking that a whole second story might be able to be added. He said as proposed this design does not meet the minimum perception of bulk and explained other problems regarding energy and insulation. He asked members in the audience that are opposed to the project to stand, with a group of people standing in opposition of the project.

**Comm. Rowe** discussed with Mr. Jochims PUDs and CC&Rs (Covenants, Conditions and Restrictions) and whether either would prohibit this type of design. Mr. Jochims said both the PUD and the CC&Rs prohibit this type of second story addition. Comm. Rowe asked staff to comment. Ms. Ryan said the City is not bound by the CC&Rs and is bound by the City rules, and the Special Development Permit (SDP) that was issued. Ms. Ryan said she did not see any specific prohibition of second-stories in the documents. **Kathryn Berry**, Senior Assistant City Attorney, added that the project data table lists the restrictions or limits reflected in the SDP that was recorded and there is also a reference to deed restrictions, which she does not have a copy of this deed, however sometimes a deed will have restrictions that apply to every single property. Ms.

Berry said the main thing is that any alterations to the side and front yard deviations require Planning Commission approval.

**Brian Rainie**, a Sunnyvale resident, spoke in opposition of this project. He said he is concerned about the precedence set by approving this project and he would like to see a document produced addressing this issue. He said this is the third time he has attended Planning Commission to express concerns regarding Bahl Patio home additions. He said it is not easy to redesign or build these homes and make them match the original.

**Mr. Saavedra** said they are committed to protecting privacy of the neighbors and themselves, and to keeping the character of the Bahl homes, while improving the quality of life of their family. He said in regard to precedence that by creating a blanket “no” would make these houses eventually disappear. He said there are ways to improve the neighborhood and he feels there is too much focus on setting precedence.

**Chair Chang closed the public hearing.**

**Comm. Rowe** discussed with staff the height and widths with the addition.

**Comm. Hungerford moved to deny the Special Development Permit and Design. Comm. Klein seconded the motion.**

**Comm. Hungerford** said it is difficult to make this type of decision, however he thinks putting a second story on a Bahl Patio home is inconsistent with the design of the Bahl Patio neighborhood. He said the second story disrupts the design and intrudes on the life enjoyment of the neighbors. He said his fundamental reason for denying the application is that he does not think this application respects the scale, bulk and character of the homes in the adjacent neighborhood, which is a required finding. He said his second reason is to be consistent with previous Planning Commission decisions, and the third is that there are other ways to make this home “greener” than building a second story.

**Comm. Klein** said he would be supporting the motion, as he was not able to make the findings. He said he thinks it is critical to reinforce the prevailing home orientation of this neighborhood. He discussed the visual impact of the second story and said with a zero lot line, any second story blocks the neighbor’s view. He commended the applicant for trying to architecturally fit with the neighborhood, however he said there are other options for an addition that would not affect the neighbor’s privacy and the neighborhood.

**Comm. McKenna** said she would be supporting the motion and she agrees with both commissioners have said. She said in Sunnyvale there are some architectural designs

in neighborhoods that do not lend themselves to modification and need to be protected. She said a second story is difficult in this neighborhood and she is concerned about setting precedence. She said she appreciates the pictures provided by Kerri Webb which helped show what kind of an impact this addition would be on the neighborhood.

**Comm. Rowe** said one of her first tests under fire as a Planning Commissioner four years ago was a Bahl Patio home addition. The architecture proposed was good, however the public pointed out that these lots are different, small, and that the houses are designed to take advantage of as much of the lot as possible. She said she looked at city code and thinks this proposal would be a concern to her if she lived next door. She said the applicant has tried to answer some of the problems, however she agrees this could set a precedence.

**Comm. Sulser** said he would be supporting the motion to stay consistent with previous similar decisions.

**Chair Chang** said he would be supporting the motion. He said the design of the Bahl Patio home with the zero lot line makes it difficult to design a home upwards.

**ACTION: Comm. Hungerford made a motion on 2009-0911 to deny the Special Development Permit and Design. Comm. Klein seconded. Motion carried 6-0, with Vice Chair Travis absent.**

**APPEAL OPTIONS: This action is final unless appealed to City Council no later than April 6, 2010.**