



**APPROVED MINUTES
SUNNYVALE PLANNING COMMISSION
March 12, 2012
456 W. Olive Avenue, Sunnyvale, CA 94086**

7:00 PM – Study Session – West Conference Room

1. **File #:** 2010-7147
Location: City-wide
Subject: Retooling the Zoning Code – Permit Types and Procedures
Staff Contact: Rosemarie Zulueta, (408) 730-7437
rzulueta@ci.sunnyvale.ca.us
Notes: (45 minutes)

2. **Public Comment** on Study Session Agenda Items (5 minutes)

3. **Comments** from the Chair (5 minutes)

8:00 PM - Public Hearing – Council Chambers

The Planning Commission met in regular session with Chair Hendricks presiding.

CALL TO ORDER/SALUTE TO THE FLAG

ROLL CALL

Members Present: Chair Glenn Hendricks; Vice Chair Gustav Larsson; Commissioner Bo Chang; Commissioner Maria Dohadwala; Commissioner Arcadi Kolchak; Commissioner Brandon Sulser; and Commissioner Nick Travis.

Staff Present: Trudi Ryan, Planning Officer; Kathryn Berry, Senior Assistant City Attorney; and Recording Secretary, Debbie Gorman.

SCHEDULED PRESENTATION - None

PUBLIC ANNOUNCEMENTS/PUBLIC COMMENTS

Speakers are limited to three (3) minutes. If you wish to address the Planning Commission, please complete a speaker's card and give it to the Recording Secretary or you may orally make a request to speak. If your subject is not on the agenda, you will be recognized at this time; but the Brown Act (Open Meeting Law) does not allow action by Planning Commission Members. If you wish to speak to a subject listed on the agenda, you will be recognized at the time the item is being considered by the Planning Commission.

CONSENT CALENDAR

1.A. APPROVAL OF MINUTES of February 29, 2012.

ACTION: Vice Chair Larsson moved to approve the consent calendar. Comm. Dohadwala seconded. Motion carried 6-0, with Comm. Chang abstaining.

PUBLIC HEARINGS/GENERAL BUSINESS

2. **File #:** 2012-7039
Location: 877 Markham Ter. (APN: 165-46-063)
Proposed Project: Special Development Permit for a 309 square foot first floor addition to an existing two story home resulting in a total of 2,279 square feet and a 57% Floor Area Ratio.
Environmental Review: Categorically Exempt Class 1
Staff Contact: Shaunn Mendrin, 408-730-7429
smendrin@ci.sunnyvale.ca.us

Trudi Ryan, Planning Officer, presented the staff report.

Chair Hendricks opened the public hearing.

James O'Brien and Marine Donovan, applicants, said as the family is growing up, more space is needed in the home. Mr. O'Brien said, even with the higher Floor Area Ratio (FAR), the lot has ample yard and landscaping for the area. He said they appreciate the Commission's time and consideration.

Chair Hendricks closed the public hearing.

Vice Chair Larsson confirmed with staff that the proposed project does not exceed the permitted lot coverage.

Comm. Chang moved for Alternative 1, to approve the Special Development Permit with the attached conditions. Comm. Travis seconded the motion.

Comm. Chang commended the applicant for working with the staff to come up with a good project. He said the design and use of space are good, and he looks forward to seeing the project completed.

Comm. Travis said he was able to make the findings and commended the applicant for working with staff to find a workable situation for a tight lot.

Vice Chair Larsson said he would be supporting the motion. He said he was concerned about the height of the second story and the backyard having an overbuilt feel, however, after looking at the area and the project, he thinks there is enough room to alleviate his concern.

Chair Hendricks said he would be supporting the motion as he can make the findings.

Comm. Dohadwala said she would be supporting the motion. She said if this were a Design Review she would express concern about the roof lines with the flat roof coming into a sloping roof. She said she can make the findings for the Special Development Permit and the addition and bulk is not visible from the front of the house.

ACTION: Comm. Chang made a motion on 2012-7039 to approve the Special Development Permit with the attached conditions. Comm. Travis seconded. Motion carried 7-0.

APPEAL OPTIONS: This action is final unless appealed to the City Council no later than March 27, 2012.

3. **File #:** 2012-7045
Location: 1372 Cordilleras Ave. (APN: 323-08-053)
Proposed Project: Use Permit to allow a large family day care within 300 feet of another large family day care.
Applicant/ Owner: French American Kids / Sholeh Hashemi
Environmental Review: Categorically Exempt Class 1
Staff Contact: Noren Caliva, 408-730-7637 ncaliva@ci.sunnyvale.ca.us

Trudi Ryan, Planning Officer, presented the staff report. She said two additional letters of opposition for allowing the day care were received and have provided to the Commission this evening.

Comm. Chang discussed with staff the zoning ordinance regarding Large Family Day Care (LFDC) with staff explaining that any LFDC within 300 feet of another one would need a waiver to be allowed.

Chair Hendricks opened the public hearing.

Cecile Coignoux-Aram, representing the applicant **Sholeh Hashemi**, explained that the day care currently is unable to accommodate siblings of children enrolled. She said the number of children allowed is a ratio based on the age of enrolled children, which currently limits this day care from six to eight children. She said the LFDC designation would allow a maximum of 14 children, however they probably would not have that many. She said that the neighbors may be concerned about the noise level and explained the daily schedule of inside and outside activities. She said there probably would not be impact on traffic as most of the additional children would be older siblings and would arrive and depart in the same vehicle as children already attending the day care.

Vice Chair Larsson confirmed with the applicant that the age ratio of children allowed is a State requirement.

Comm. Dohadwala asked if the applicant provides any handouts for direction to parents on the best way to drop off and pick up children to help mitigate traffic and parking issues. Ms. Coignoux-Aram explained how drop off and pick up currently works and said something could be provided.

Comm. Kolchak commented that if this LFDC is allowed that in the future it is possible traffic would be impacted. He asked if the applicant has plans to mitigate potential traffic impacts. Ms. Coignoux-Aram said she is not sure that she does not know what the future impact might be.

Chair Hendricks said a neighbor expressed concern in an email about children from the day care looking over the four-foot high fence into their yard. Ms. Coignoux-Aram said that she thinks the fences in the backyard are higher than four feet and the current children are only 3 1/2 years old. Chair Hendricks commented to the applicant that if 14 children are allowed that the maximum impact would be 14 trips for drop off and 14 trips for pick up.

Ms. Ryan clarified that the maximum number of trips would be 12 each way as the LFDC allows 12 children and an additional two children of the owner or an employee.

Comm. Kolchak confirmed with staff that the LFDC would allow 14 children, however two of the 14 would have to be the owner's or an employee's children and those two children would not generate traffic trips.

Grant Jasmin, a neighbor, said he measured the fence between his yard and the existing day care yard and the fence is four feet high. He commented that the presenter tonight is not the homeowner or the applicant. He said traffic, parking, and noise are already affected by the small family day care and doubling the number of children would increase impacts.

Comm. Chang asked staff about the enrollment in the other nearby day cares.

Comm. Dohadwala asked staff to address the concern of Mr. Jasmin about the applicant not being the presenter. Ms. Ryan said it is common for an applicant to have a spokesperson and applicants often have someone else represent them.

Barbara Dwyer, a neighbor, said she lives behind the other LFDC that is within 300 feet of the proposed project. She said day cares are businesses that do not belong in residential neighborhoods. She said she constantly hears children screaming, that fruit, food and toys have been thrown over the fence, and the large play equipment towers over the fence. She said day cares are not required to sound proof, or provide landscaping. She said she can no longer enjoy her backyard due to the LFDC behind her and that she intentionally purchased her home away from parks, schools and businesses to avoid these impacts. She said it is wrong to have LFDC in residential neighborhoods. Ms. Dwyer said she is not impacted by traffic from the LFDC behind her; however, she knows there are problems elsewhere with traffic and parking from day cares.

Ms. Coignoux-Aram clarified that she is the mother of one of the children at the day care. She said the fence issue can be resolved. She explained that this day care is not the typical type of day care where the children are outside all day as there is a set schedule and discipline. She said she understands the issues raised. She said there is a need for this day care to keep the French language in their children's lives, and that the children are well behaved and are learning. She said she hopes the Commission approves the Use Permit.

Vice Chair Larsson asked that applicant about the ages of the currently enrolled children. Ms. Coignoux-Aram said that currently the children's ages range from 18 months and 4 years of age.

Chair Hendricks closed the public hearing.

Vice Chair Larsson asked staff about the fence issue and whether a condition could be added to increase the height of the fence in the rear yard. Ms. Ryan said yes and added that clarification about the existing fence height may be needed as the fence height can be different on different sides of the fence.

Chair Hendricks asked staff what recourse a neighbor has if there is excessive noise from a day care. Ms. Ryan said it is a difficult situation, as the noise requirements do not include children. Ms. Ryan said a neighbor could talk to their neighbor or possibly obtain mediation services.

Comm. Kolchak asked staff about the recourse a neighbor might have for speeding and parking problems. Ms. Ryan said the City's Neighborhood Preservation division could be contacted. Ms. Ryan said it is a good idea for the day care providers to remind the parents about traffic, parking and dropping off and picking up their children.

Comm. Dohadwala moved for Alternative 3, to deny the Use Permit. Comm. Kolchak seconded the motion.

Comm. Dohadwala said that this was a very difficult decision as she is a parent and understands the need for good day care. She said residents often choose a neighborhood expecting it to be a quiet neighborhood. She said allowing some day cares that do not disrupt a community are good; however, too many LFDCs allowed in an area can negatively affect the community.

Comm. Kolchak said he understands what the applicant is trying to do and he thinks it is great. He said the neighbors have come out to share their concerns about the application. He said it is important to preserve the neighborhood and make it safe and comfortable all throughout the day, keeping the noise and traffic down. He said letters of concern and the speakers this evening are evidence that there is an issue with this application. He said he appreciates the public providing the input.

Vice Chair Larsson said would be opposing the motion. He thanked the public for providing feedback. He said is not convinced this project or day care with the few additional cars would impact the neighborhood. He said regarding the noise that he thinks the applicant would work with the neighbors and that he thinks day cares in neighborhoods are important.

Comm. Sulser said he would be opposing the motion. He said overall he thinks this is a zoning question, and he cannot make the findings that there is an overage of LFDCs in the neighborhood.

Comm. Chang said he would be supporting the motion. He said this application is a waiver if there is another day care within 300 feet. He said, after the review of this application he thinks there is a large number of LFDCs in a concentrated area.

Comm. Travis said he would be supporting the motion. He said he found that there is an LFDC concentration in this area and he thinks this day care should remain the current size.

Chair Hendricks said he would not be supporting the motion. He thanked the speakers for coming and providing input. He said if he had a compelling reason to deny this, it would be regarding noise. He said it is a challenge for the City to determine the appropriate places for day cares and the neighbors need to work together on the issues.

ACTION: Comm. Dohadwala made a motion on 2012-7045 to deny the Use Permit. Comm. Kolchak seconded. Motion carried 4-3, with Chair Hendricks, Vice Chair Larsson and Comm. Sulser dissenting.

APPEAL OPTIONS: This action is final unless appealed to the City Council no later than March 27, 2012.

Ms. Ryan said the City has an ongoing study about appropriate locations for Commercial Day Cares and that the Planning Commission and City Council would be reviewing this study later in 2012.

4. **File #:** **2012-7008**
Location: **879 S. Wolfe Rd.** (APN: 211-13-056)
Proposed Project: Appeal of a decision by the Director of Community Development denying a Miscellaneous Plan Permit for a 5 foot 9 inch tall fence in the front yard.
Environmental Review: Categorically Exempt Class 11
Staff Contact: Diana O'Dell, 408-730-7257
dodell@ci.sunnyvale.ca.us

Trudi Ryan, Planning Officer, presented the staff report.

Comm. Chang discussed with staff that the fence was rebuilt in 1994/95.

Chair Hendricks discussed with staff condition GC-6 and that sometime in the future whoever owns the house will need to obtain a new permit if they want to replace the fence.

Chair Hendricks opened the public hearing.

Michael and Lillianna Earley, appellants, said the house was built by Ms. Earley's father in 1967 and the original fence built at that time. Ms. Earley said it is a Spanish style house and it was remodeled in 1995 with the fence coming down at that time. Mr. Earley said he did not realize he needed a permit when he rebuilt it and said it is shorter than the original fence and matches the architecture of house. Ms. Earley said they have no problem complying with the conditions of approval suggested by Ms. Ryan. She said they used to have greenery; however, it was pulled out to be more water wise.

Chair Hendricks closed the public hearing.

Vice Chair Larsson moved for Alternative 3, to grant the appeal of a Miscellaneous Plan Permit with recommended Conditions GC-1 through GC-6 in Attachment A. Comm. Chang seconded the motion.

Vice Chair Larsson said he can make the findings and the addition of landscaping would be a positive addition. He said he is glad the existing design of the fence has openings and that in the future any replacement fence would require a permit.

Comm. Chang said he would be supporting the motion. He said he thinks the conditions of approval take care of the issues. He said he thinks the fence is well done and well-kept.

Comm. Sulser said he would be supporting the motion. He said he does not like granting fence appeals. He said he is voting to grant this appeal as he thinks the design of the fence and the busyness of the street are factors that convince him to approve the motion.

Comm. Kolchak said he would be supporting the motion as he can make the findings. He said he likes the openings in the fence and that the added greenery will also help.

ACTION: Vice Chair Larsson made a motion on 2012-7008 to grant the appeal of a Miscellaneous Plan Permit with recommended Conditions GC-1 through GC-6 in Attachment A. Comm. Chang seconded. Motion carried 7-0.

APPEAL OPTIONS: This action is final.

5. Standing Item: Potential Study Issues

Ms. Ryan said that at the February 29, 2012 Planning Commission meeting there was an idea for a potential Study Issue discussed. Ms. Ryan said the forms for the potential Study Issue review would be provided at the March 26, 2012 meeting.

No potential Study Issues for 2013 were proposed.

NON-AGENDA ITEMS AND COMMENTS

- COMMISSIONERS ORAL COMMENTS
- STAFF ORAL COMMENTS

City Council Meeting Report

Trudi Ryan, Planning Officer, discussed recent and upcoming community outreach meetings regarding the Land Use and Transportation Element (LUTE) and the Climate Action Plan (CAP). She said staff and Horizon 2035 committee members are available to provide a presentation about the LUTE and CAP at meetings for any interested groups. She said drafts copies of the LUTE and the CAP are available for viewing at: Horizon2035.insunnyvale.com

Other Staff Oral Report

INFORMATION ONLY ITEMS

ADJOURNMENT

With no further business, the Commission meeting adjourned 8:59 p.m.

Respectfully submitted,

Trudi Ryan
Planning Officer