



**APPROVED MINUTES  
SUNNYVALE PLANNING COMMISSION  
April 23, 2012  
456 W. Olive Avenue, Sunnyvale, CA 94086**

**7:00 PM - Study Session – West Conference Room**

1. **File #:** 2012-7170  
**Location:** 660-666 W El Camino Real (APN: 201-22-011 & 202-23-029)  
**Proposed Project:**
  - Special Development Permit to allow a mixed use project consisting of a 145-room hotel and 103 residential townhouse units.
  - Vesting Tentative Map to create 103 lots and 3 common lots.**Applicant / Owner:** SummerHill Homes / Dorothy Miller Family LP  
**Environmental Review:** Mitigated Negative Declaration  
**Staff Contact:** Ryan Kuchenig, (408) 730-7431  
[rkuchenig@ci.sunnyvale.ca.us](mailto:rkuchenig@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 April 9, 2012.**

**ACTIONS: Vice Chair Larsson moved to approve the consent calendar. Comm. Kolchak seconded. Motion carried 4-0, with Comm. Chang, Comm. Dohadwala, and Comm. Travis abstaining.**

**PUBLIC HEARINGS/GENERAL BUSINESS**

2. **File #:** 2012-7147  
**Location:** 610 Dorset Way (APN: 309-16-037)  
**Proposed Project:** Design Review for a 336 square foot one-story addition to existing two-story home resulting in 3,596 square feet and a 54.4% floor area ratio in an R-0 (Low-Density Residential) Zoning District.  
**Environmental Review:** Categorically Exempt Class 1  
**Staff Contact:** Elise Lieberman, 408-730-7412, [elieberman@ci.sunnyvale.ca.us](mailto:elieberman@ci.sunnyvale.ca.us)

Trudi Ryan, Planning Officer, presented the staff report.

**Chair Hendricks opened the public hearing.**

**Seema Batavia**, applicant, said she and her husband enjoy living in Sunnyvale, that they have a large extended family and would like to add the proposed addition so the family can have a comfortable place to gather. She asked that the Commission approve the Design Review.

**Chair Hendricks closed the public hearing.**

**Comm. Travis moved for Alternative 1, to approve the Design Review with the conditions in Attachment B. Comm. Kolchak seconded the motion.**

**Comm. Travis** said he was able to make the findings and that the Floor Area Ratio does not seem to be out of place for the neighborhood.

**Comm. Kolchak** said he was able to make the findings and echoes the comments of Comm. Travis. He said he likes the design, as it is simple and not out of place for the neighborhood. He said the addition is in the rear yard and only one story so it should be barely visible from the street or nearby properties.

**Vice Chair Larsson** said he would be supporting the motion. He said the rear yard single-story addition does not change the massing of the home or impact the character of the community.

**Chair Hendricks** said he would be supporting the motion and he was glad to see a condition included to address the vision triangle component. He said this is a unique house in the neighborhood and the small addition in the back yard should not be visible to the neighbors.

**ACTION: Comm. Travis made a motion on 2012-7147 to approve the Design Review with the conditions in Attachment B. Comm. Kolchak seconded. Motion carried 7-0.**

**APPEAL OPTIONS: This action is final unless appealed to the City Council no later than May 8, 2012.**

3. **File #:** 2012-7034  
**Location:** 317 Hiddenlake Dr. (APN: 110-21-046)  
**Proposed Project:** Appeal of a decision of the Zoning Administrator to deny a Variance from SMC 19.46.060(a)(5) to allow partial conversion of a garage to living space. The conversion results in one covered parking space where two is required in an R-0 (Low Density Residential) zoning district.  
**Environmental Review:** Categorically Exempt Class 1  
**Staff Contact:** Diana O'Dell, 408-730-7257, [dodell@ci.sunnyvale.ca.us](mailto:dodell@ci.sunnyvale.ca.us)

**Trudi Ryan**, Planning Officer, presented the staff report.

**Vice Chair Larsson** discussed with staff the many garage conversions in the neighborhood with staff saying that until the 1980s it was legal to convert garages, with building permits, without replacing parking. Staff said since the 1980s all garage conversions, must have a permit and replace the parking.

**Chair Hendricks** referred to the findings in Attachment A and asked staff about conditions that an applicant might be granted a Variance for a garage conversion. Ms. Ryan discussed the neighborhood situation agreeing there are many garage conversions and that she does not have the data regarding all of the garage conversions. Ms. Ryan discussed possible situations that Variances might be granted including, narrow or substandard-sized lots. She said staff thinks there is enough room on this property to add the office elsewhere, acknowledging the applicant has already spent time and money on the existing office. Chair Hendricks discussed Finding 3 and staff said in this case, the applicant is not trying to remove a parking space, he is trying to add an office, and staff thinks there are other options without removing parking. Chair Hendricks asked about a secondary fire access with staff saying the applicant may want to address this question.

**Kathryn Berry**, Senior Assistant City Attorney, added that in general planning situations that the Planning Commission may be able to make the findings after hearing from the public. She said the staff is constrained and the Planning Commission has more discretion, yet the Planning Commission needs to be consistent.

**Chair Hendricks** discussed with staff when parking and garage conversion rules and policies were last studied by staff.

**Vice Chair Larsson** confirmed with staff that if the applicant were allowed the conversion, they would have one parking space in the garage and may need to provide one replacement parking space.

**Comm. Dohadwala** asked how old is the conversion and was it permitted. Ms. Ryan said it is not permitted and Comm. Dohadwala could confirm when the conversion occurred with the applicant.

**Chair Hendricks opened the public hearing.**

**Jay Krusemark**, applicant, said he converted about 1/3 of his garage to office space about six years ago. He said he used the left side of garage for office space and that there is a window for secondary access on the right side. He said there are many converted garages in the neighborhood and his conversion cannot be seen from the outside, acknowledging there was a complaint. He said he applied to add a second covered parking space, however the application was denied as it resulted in too much cement in the front of the house so he decided to apply for a Variance. Mr. Krusemark said he does not feel he is applying for a special privilege since so many of the homes in the area have converted garages. He commented that two homes nearby him that have converted garages have so many people that live in them during the week that there is no street parking. He said he was willing to put in a carport, though he does not care for it aesthetically.

**Martin Landzaat**, a Sunnyvale resident, spoke in support of granting the appeal. He said most people do not even use their garages for parking and the applicant should be allowed to use his garage however he would like to. He said it seems the Planning Commission grants Variance and exceptions to large developers, however for individual citizens the rules seem unbendable. He encouraged the Commission to bend the rules for the applicant.

**Mr. Krusemark** said he needs office space as he does a lot of work out of his house. He said for him it was best financially to add an office in the garage. He said even if he tears it out he will have set up his office in the garage. He said he agrees that many people do not park in their garages.

**Vice Chair Larsson** discussed with the applicant the layout of the lot and other possibilities for building an office or parking elsewhere on the lot, without determining any new options. The options discussed did not meet City code and resulted in visual impacts or significant costs.

**Chair Hendricks** confirmed with staff and clarified to the applicant that if this Variance were approved there would be a condition requiring a building permit to make sure the structure is up to code. Mr. Krusemark said he has family that work in construction that helped build the office and there should not be a problem meeting building code requirements.

**Comm. Dohadwala** asked the applicant if his family that helped build the office advised him that he would need permits. He said no.

**Chair Hendricks closed the public hearing.**

**Chair Hendricks** expressed his concern about the difficulty of this decision and how moving forward to grant this type of Variance could potentially set precedence. He said at the same time, it appears many others in this neighborhood have garage conversions.

**Comm. Dohadwala** said she has a problem with setting precedence that might suggest it is okay to construct a project first and apply for a permit after the work is already completed. Comm. Dohadwala discussed with staff what the probable outcome of this application if the applicant had applied for the garage conversion before construction. Ms. Ryan said the fact that

money has already been spent is a dilemma, however it sounds like the Commission might want to continue this item to another date, if the applicant is interested, and explore other options.

**Chair Hendricks** discussed with staff potential options.

**Comm. Travis** said, from a devil's advocate standpoint, that he thinks that the neighborhood has already set a precedent that garages can be used for other uses and the applicant is looking to be included in this precedent.

**Comm. Dohadwala** commented that the code is designed to keep neighborhoods from deteriorating and too much paved area, or a reduction of parking reduces the livability of the neighborhood. She said she would encourage others to use garages for parking. She said if the whole neighborhood deviates from the code, in the end, the home prices could be reduced affecting the whole community.

**Chair Hendricks** said he was trying to not use the word precedent as he does not think the Commission is setting precedence, however he is struggling with the continuation of the situation and giving more authority to the existing situation.

**Vice Chair Larsson** said he agrees this is a hard decision as there is not a lot of flexibility in the code as Variances are not easy to grant. He said when developers come before the Commission, we hold them to the parking requirements. He said he does not like the option of putting a carport in front of the living room window. He said he would be more open to three uncovered parking spaces in the front.

**Chair Hendricks** commented that what is making this interesting to decide is the consistency factor. He said whatever way the Commission decides, if someone is before the Commission in the future are we going to be able to provide a consistent decision.

**Comm. Kolchak** said the Commission would deal with future projects on a case by case basis and that each situation would have different considerations involved.

**Comm. Travis moved for Alternative 2 to grant the appeal and approve the Variance with the recommended Conditions in Attachment A. Chair Hendricks seconded the motion.** Chair Hendricks discussed a possible Friendly Amendment regarding expanding the driveway so it could support three cars. Staff commented that if the Friendly Amendment is acceptable that the Commission would be granting two different Variances instead of the original Variance. Chair Hendricks withdrew his Friendly Amendment.

**Comm. Travis** said Variances are supposed to be hard to obtain. He said he can make the Findings: Finding 2, that the project is not materially detrimental; Finding 3 that the applicant is not being granted a special privilege; and Finding 1, which is a little trickier that this is an "exceptional or extraordinary circumstance" justifying this Finding based on the size and shape of the driveway.

**Ms. Ryan** said she recommends **the motion include a condition requiring a building permit for the existing conversion. The maker and seconder agreed that the motion would include a requirement for a building permit.**

**Chair Hendricks** said he agrees with Comm. Travis and that he can make the same findings. He said some of the suggested options seem to make the approval worse. He said the Variance goes with to the property and not the applicant.

**Vice Chair Larsson** asked for a clarification of the motion, with Comm. Travis confirming that the motion is Alternative 2 with the addition of a condition requiring a building permit for the existing structure. Vice Chair Larsson said he would not be supporting the motion as he was not able to make Findings 1 and 3. He said the fact that there are similar conversions in neighborhood is not enough for him. He said the code changes over time and there are reasons for the code and for having the parking requirement. He said he is interested in preserving four parking spaces.

**Comm. Sulser** said he would not be supporting the motion. He said he is able to make Finding 2 and 3 and cannot make Finding 1.

**Comm. Dohadwala** said she would not be supporting the motion. She said she agrees there are many conversions in the neighborhood, however the code is in place to follow and maybe there needs to be a garage study. She said she could not make Findings 1 and 3.

**Comm. Chang** said that he would not be supporting the motion as he cannot make the findings for the Variance.

**Comm. Kolchak** said he would not be supporting the motion. He said he cannot make Finding 1 and he thinks there are other venues that can be explored that do not result in more Variance issues.

**The motion failed 2-5, with Comm. Kolchak, Comm. Dohadwala, Comm. Chang, Vice Chair Larsson and Comm. Sulser dissenting.**

**Vice Chair Larsson** discussed with staff landscaping and options to soften the driveway. Vice Chair Larsson said he does not want to tell the applicant what to do and would like to continue this item to a future hearing to allow time to explore options. Ms. Berry confirmed that continuing the item to explore different options is a good solution, however you may want to talk to the applicant and see whether he would prefer a continuance over a denial. Ms. Ryan said the public hearing could be reopened to see what applicant prefers.

**Chair Hendricks reopened the public hearing.**

**Mr. Krusemark** discussed the concerns about the parking spaces and commented that many residents park on the streets. He said he would be open to having this item continued to explore options.

**Vice Chair Larsson** asked staff how much time is needed to work with the applicant. Ms. Ryan suggested two months, which would be June 25, 2012. Mr. Krusemark asked if something could be set up that if he were to sell the house that he would remove it before it was sold. Ms. Ryan noted that it has been done before.

**Chair Hendricks** closed the public hearing.

**Vice Chair Larsson** moved to continue this item to the Planning Commission meeting of June 25, 2012 to allow time for the applicant to work with staff to explore other options for this project. **Comm. Kolchak** seconded the motion.

**Comm. Dohadwala** said she would not support the motion, as she would not be able to make the Findings.

**Comm. Sulser** said he would not be supporting the motion and would rather give the applicant a straight denial at this time.

**Comm. Chang** said he would not be supporting the motion.

**Chair Hendricks** said he would be supporting the motion.

**ACTION: Vice Chair Larsson** made a motion on 2011-7034 to continue this item to the Planning Commission meeting of June 25, 2012 to allow time for the applicant to work with staff to explore other options for this project. **Comm. Kolchak** seconded. Motion carried 4-3, with **Comm. Chang, Comm. Dohadwala, and Comm. Sulser** dissenting.

**APPEAL OPTIONS: This action** serves as legal notification of the continuance of this item to the Planning Commission meeting of June 25, 2012.

**5. Standing Item: Potential Study Issues**

**Comm. Kolchak** said, related to the previous project, that he would suggest a potential study issue regarding the use of garages and garage conversions. The Commission and staff discussed that the study could include: the review of single-family homes parking requirements, both city-wide or for specific areas; whether different standards are appropriate for different areas and whether there are different levels of needs; the review of general parking requirements for single-family homes and whether the needs vary in different parts of the community; a review of what areas have required variances for garage conversions; whether there should be flexibility on covered or uncovered parking spaces; and criteria for flexibility to possibly reduce the need for variances. **Trudi Ryan**, Planning Officer, said staff would put together a study issue paper that the Planning Commission can consider at a future meeting. Vice Chair Larsson noted that when garage conversions have come before the Planning Commission that the Commission has been divided and struggled with how to handle the application. **Comm. Dohadwala** said she likes the proposal and hopes it would provide clarity and direction for Variances.

**Ms. Ryan** explained two potential study issue papers were provided to the Commission this evening. She said the first is regarding appropriate locations for bicycle parking.

**Comm. Dohadwala** said she suggested the potential study issue regarding appropriate locations for bicycle parking and would want this to be a positive type of regulating to encourage and support people to bike. Vice Chair Larsson referred to the staff comments in the paper and wondered whether this study would be for the public right-of-way, which might be more appropriate for the Bicycle and Pedestrian Advisory Committee (BPAC) to review, or private development. **Comm. Dohadwala** said she thinks it should be both. **Ms. Ryan** confirmed with **Comm. Dohadwala** that the potential study issue summary should include making additional requirements for bicycle parking areas. **Comm. Sulser** asked how this study would compare to our current bicycle parking standards. **Ms. Ryan** said in developments, staff generally refers to VTA (Valley Transportation Authority) parking guidelines and further discussed other bicycle related standards. Chair **Hendricks** commented that if this is to be a study that he would like to be sure that both Planning Commission and the BPAC be involved and respond.

**Comm. Dohadwala made a motion to sponsor a study issue for appropriate locations for bicycle parking. Vice Chair Larsson seconded the motion.**

**Comm. Dohadwala** said she wants to support bicycle riding in the community.

**ACTION: Comm. Dohadwala made a motion to sponsor a study issue regarding appropriate locations for bicycle parking. Vice Chair Larsson seconded. Motion carried 7-0.**

**Ms. Ryan** said the second potential study issue is the consideration of useable open space in required front yards.

**Comm. Chang** originally suggested this item and said the current code does not consider the required front yards for multi-family residential projects as useable open space. He said his intent would be to see if developers might be given credit for this front yard space as useable open space. Comm. Sulser clarified with Comm. Chang that he would like to see a possible partial credit or percentage given to developers. Comm. Dohadwala said she likes the proposed study and discussed with staff the balance of density and useable open space in medium-density and high-density residential developments.

**Comm. Chang** moved to sponsor a study issue regarding the consideration of useable open space in required front yards. Comm. Sulser seconded the motion. Comm. Chang said he would like to make sure the percentage or partial credit be included and he thinks this would be an incentive for developers to include more green space area in developments working with the City for a good quality life for our residents.

**ACTION: Comm. Chang made a motion to sponsor a study issue regarding the consideration of useable open space in required front yards. Comm. Sulser seconded. Motion carried, 7-0.**

## **NON-AGENDA ITEMS AND COMMENTS**

- COMMISSIONERS ORAL COMMENTS

**Vice Chair Larsson** commented that he recently attended the National Conference of the American Planning Association. He discussed the sessions saying it was a great conference and a good opportunity to meet many other Planners and Planning Commissioners.

- STAFF ORAL COMMENTS

**Trudi Ryan**, Planning Officer, announced that American Planning Association Northern California Chapter would be offering a training workshop for Planning Commissioners on Saturday, May 5, 2012 in San Jose.

### **City Council Meeting Report**

**Ms. Ryan** discussed Planning related items to be considered by City Council at their April 24, 2012 meeting including a Joint Study Session with the Planning Commission and City Council regarding Project Approval Process and Decision Authority for Land Use Applications. She said the Study Session would begin at 5:45 p.m. and be located in the West Conference Room.

**Ms. Ryan** announced that the second regular Planning Commission meeting in May falls on Memorial Day and that the meeting will either be rescheduled to May 30<sup>th</sup> or may be canceled if there are no items for consideration.

**Other Staff Oral Report**

**INFORMATION ONLY ITEMS**

**ADJOURNMENT**

With no further business, the Commission meeting adjourned 9:36 p.m.

Respectfully submitted,

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Trudi Ryan  
Planning Officer