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

7:00 PM - Study Session – West Conference Room

1.	**File #:**	**2012-7450**
	Location:	**1101 N. Fair Oaks Avenue**
	Proposed Project:	Special Development Permit for a New 97 Residential Unit Project and Rezone to R-4 and Green Building Density Bonus.
	Environmental Review:	Mitigated Negative Declaration
	Staff Contact:	Shaunn Mendrin, (408) 730-7429 smendrin@ci.sunnyvale.ca.us
	Notes:	*(20 minutes)*
2.	**File #:**	**2012-7111**
	Location:	**City-wide**
	Proposed Project:	Pedestrian Plan for ITR 6 (N. Fair Oaks/Wolfe Road Area)
	Staff Contact:	Shaunn Mendrin, (408) 730-7429 smendrin@ci.sunnyvale.ca.us
	Notes:	*(25 minutes)*
3.	**Public Comment** on Study Session Agenda Items	*(5 minutes)*
4.	**Comments** from the Chair	*(5 minutes)*
5.	**Adjourn Study Session**	

8:00 PM - Public Hearing – Council Chambers

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

CALL TO ORDER/SALUTE TO THE FLAG

ROLL CALL

Members Present: Chair Gustav Larsson; Vice Chair Maria Dohadwala; Commissioner Glenn Hendricks; Commissioner Russell W. Melton; and Commissioner Brandon Sulser.

Members Absent: Commissioner Bo Chang (excused) and Commissioner Arcadi Kolchak (excused).

Staff Present: Gerri Caruso, Principal Planner; Kathryn Berry, Senior Assistant City Attorney; Nancy Steward, Superintendent of Community Services; Diana O'Dell, Senior Planner; 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 July 9, 2012.

ACTION: Vice Chair Dohadwala moved to approve the consent calendar. Comm. Hendricks seconded. Motion carried, 5-0, with Comm. Chang and Comm. Kolchak absent.

PUBLIC HEARINGS/GENERAL BUSINESS

2.	**File #:**	**2012-7367**
	Location:	**947 Blair Ave.** (APN: 201-19-016)
	Proposed Project:	Design Review for a first and second-story addition of 1,315 square feet to an existing one-story single-family home resulting in 2,949 square feet and approximately 50% Floor Area Ratio.
	Environmental Review:	Categorically Exempt Class 1
	Staff Contact:	Mariya Hodge, 408-730-7659, mhodge@ci.sunnyvale.ca.us

Gerri Caruso, Principal Planner, presented the staff report.

Comm. Hendricks confirmed with staff that no Variance is being requested and that the Planning Commission is reviewing the application as the Floor Area Ratio (FAR) exceeds the FAR for staff level review.

Comm. Larsson opened the public hearing.

David Baker, with AVA Construction representing the homeowners, said they agree with all the conditions of approval in the staff report and would appreciate the Planning Commission's approval.

Comm. Hendricks discussed with staff why this application is subject the green building requirements for new homes as opposed to the requirements for a remodel. Ms. Caruso discussed the reasons including the extent of removing the walls and the raising of the plate height. Mr. Baker confirmed that the walls must be taken down and rebuilt. Ms. Caruso said the number of green points required for new home construction is increased versus the number required for a remodel.

Comm. Melton asked Mr. Baker about the possibility of trimming 10% off the square footage so the home would conform better to the neighborhood. Mr. Baker said the proposal meets the design requirements for the customer and reducing the square footage would compromise their dream home.

Chair Larsson asked staff whether there are any design guidelines for garage doors and confirmed with Mr. Baker that the garage door could include a decorative element.

Chair Larsson closed the public hearing.

Comm. Hendricks moved for Alternative 1, to approve the Design Review with the attached conditions. Comm. Sulser seconded the motion.

Comm. Hendricks said he thinks this is a good project and is designed within the City guidelines. He said he can make the findings and that the home will fit well in the neighborhood. He said the applicant is not asking for anything that is not available to other homeowners.

Comm. Sulser said he could make the findings. He said the Planning Commission is reviewing this project due to the monster home ordinance and said that he does not think the proposed 50% FAR is a grotesque scale for the neighborhood.

Comm. Melton said he would be supporting the motion. He said it took him a little longer to make findings 2.2.2 and 2.2.3. He said he saw other homes in the neighborhood that he does not think followed the same guidelines, as the second-story transition impacts are greater. He said he applauds staff and the applicant for working together. He said he is thinks the design techniques help address impacts to the adjacent of neighbors.

Chair Larsson said he would be supporting the motion as he can make the findings. He said the privacy of the neighbors is important and has been addressed, that the applicant is following the design guidelines, and the home is compatible with the neighborhood. He said the 45% FAR is a review threshold, and the 50% FAR is acceptable in many parts of the city.

ACTION: Comm. Hendricks made a motion on 2012-7367 to approve the Design Review with the attached conditions. Comm. Sulser seconded. Motion carried, 5-0, with Comm. Chang and Comm. Kolchak absent.

APPEAL OPTIONS: This action is final unless appealed to City Council no later than August 7, 2012.

3.	**Location:**	**City-wide**
	Proposed Project:	Review Effectiveness of Existing Art in Private Development In-Lieu Fee Option – Study Issue
	Staff Contact:	Nancy Steward, 408-730-7342 nsteward@ci.sunnyvale.ca.us
	Notes:	*This item is scheduled to be considered by City Council on August 14, 2012.*

Nancy Bolgard Steward, Superintendent of Community Services, presented the staff report.

Comm. Hendricks referred to a letter provided on the dais from the Moffett Park Business Group confirming with staff that this group is not in support of staff recommendation Alternative 2 regarding a .1% additional fee for developers exercising the in-lieu option. Comm. Hendricks discussed the recommended alternatives in the report with Superintendent Steward.

Comm. Melton discussed with Superintendent Steward the limited number of people showing up for outreach meetings and the outreach meeting with the Moffett Park Business Group. Comm. Melton discussed with staff the recommended Alternative 1, which would allow more flexibility to developers to pay in-lieu fees. Staff said they do not know whether developers would choose to pay the in-lieu fee or provide art. Comm. Melton referred to page 5 of the report and provided a summary of the proposed flexibility to be allowed for developers to either provide artwork versus paying in-lieu fees, and related legal aspects. **Kathryn Berry**, Senior Assistant City Attorney, further discussed the legal aspects including nexus studies and fee mitigations. **Diana O'Dell**, Senior Planner, added that the proposed in-lieu fee is not being classified as a mitigation fee, but would be a cash equivalent option for developments. Comm. Melton asked staff if, hypothetically, the in-lieu fees could be used towards providing an art museum. Superintendent Steward said this question came up recently and has been posed to the City Attorney's office, however a formal opinion has not yet been provided. Superintendent Steward said this question comes up every few years and discussed the previous outcomes to the question.

Comm. Sulser discussed with staff Attachment G regarding in-lieu fees in other cities, confirming that these are the only cities that responded to the survey, which does not include many of our neighboring cities.

Vice Chair Dohadwala discussed with Superintendent Steward the 1% fee. Ms. O'Dell said the 1% fee information is included in the zoning ordinance with Superintendent Steward referring to Attachment C, page 2, Chapter 19.52.030 of the proposed ordinance. Vice Chair Dohadwala asked if there are projects for public art waiting to be funded. Superintendent Steward said yes and discussed projects and funding.

Comm. Hendricks referred to page 10 of the report and clarified with staff that the in-lieu fees could go towards art anywhere in the City and not just in the project zone.

Chair Larsson discussed with staff the decision makers for whether art has to be provided. Staff discussed the process for various scenarios related to providing art. Chair Larsson asked

if there is there flexibility to collect and use in-lieu fees in private development areas. Superintendent Steward said no, that the way the use of in-lieu fees is currently envisioned, that would not be an option as the in-lieu fees become public money.

Comm. Hendricks discussed with staff if the Planning Commission would have the flexibility to require art from possibly a mixed-use project even if the size or scale of the project did not require it. Superintendent Steward said the Planning Commission could request it, but could not require it. Staff said if that is desired the regulation would need to be rewritten to include residential development. Comm. Hendricks said that in the future the City might want to look at this with Superintendent Steward saying she could include the issue in her tickler file and that the Commission might want to suggest a study issue.

Chair Larsson confirmed with staff that including residential now would be outside the scope of this study issue.

Chair Larsson opened the public hearing.

Pat Castillo, a member of the public, said speaking as a resident only, she would like to ask the Planning Commission to heartily support the changes proposed in the ordinance. She discussed some of the history from the 1990's of this issue. She said she knows money is tight; however it is also important that we have art. She discussed the importance of the use of a variety of art. She said she has no problem adding the additional percentage to deal with maintenance and hopes the Commission supports the staff report.

Comm. Melton asked Ms. Castillo to comment about staff recommendation Alternative 1, explaining why and how he is struggling with the recommendation. Ms. Castillo commented on Comm. Melton's question.

Chair Larsson closed the public hearing.

Comm. Melton discussed with staff the involvement of the Arts Commission, which provides final approval for private art with staff saying that the decision can be appealed to Council.

Chair Larsson discussed with staff the criteria the Art Commission uses in making their decisions, with staff saying it is very specific.

Vice Chair Dohadwala discussed with staff the various mechanisms of funding for public arts.

Chair Larsson commented about the accounting of funds collected recently, and confirmed with staff that not much has been spent. He said with the proposed changes the City could collect in-lieu fees but not spend them. He said it seems like the Master Plan is the answer to this concern with Superintendent Steward confirming, yes, that it is an important tool and would help set criteria and priorities for spending the in-lieu fees including the type of art, location.

Comm. Hendricks moved to recommend to City Council Alternatives 1, 2 and 3 as shown in the report. Comm. Sulser seconded.

Chair Hendricks said he is happy to make this motion. He said he thinks this is great. He said a lot of the proposed clean-up, and the other part is regarding in-lieu fees. He discussed a couple of recent projects and art related to the projects. He said he likes the flexibility in the changes and hopes that developers do not just start paying the in-lieu fees as a default. He said the intent is to still have art on sites and hopefully the Planning Commission can encourage developers to provide the art. He said he still has some question on the .1% maintenance fee.

Comm. Sulser said most of the proposed changes are common sense. He said he likes the in-lieu fee option and that it potentially makes more public art available. He said this could allow art to be redistributed to other parts of Sunnyvale. He said he also does not want to see every developer choose to pay the in-lieu fee.

Comm. Melton requested of the maker of the motion that the motion be split into two separate motions. He said he would like Alternative 3 to be one motion and then a second or even a third motion to vote on the alternatives separately. Comm. Hendricks asked why, with Comm. Melton explaining that it would allow him to more precisely register his recommendation. Chair Larsson suggested he could offer a Friendly Amendment. Comm. Melton offered a Friendly Amendment to amend the motion to speak solely to Alternative 3. He said he still has reservations about Alternative 1 and 2 and has no reservations about Alternative 3. The maker of the motion did not accept the Friendly Amendment, and said however, he would recommend that the Commission vote against his motion if they would prefer to separate the Alternatives. Comm. Melton said he understood. Chair Larsson suggested to Comm. Melton that a formal amendment could be offered. Comm. Melton said he would rather have his comments provided for the record and proceed with a vote. Comm. Melton commented that he likes the original purpose of art in private development with the humanizing of the corporate developments, and would like it to continue. He said he echoes Comm. Hendricks and Comm. Sulser's concern about the developers preferring to pay the in-lieu fees and no longer providing the art. He said he would not be supporting the motion.

Chair Larsson said he would be supporting the motion. He said he shares the concern that developers may go for the in-lieu option and we would not have the art in private development we would like. He said that for him the key is the Master Plan that sets out a vision for what we would like to do with art in the City. He said if we receive too much money, the City could stop excepting the in-lieu fees. He commented that he is not sure if the Master Plan is the appropriate place to talk about the balance of public or corporate art.

Comm. Hendricks acknowledged the concerns of Comm. Melton. He said he thinks there is mitigation. He said most of the affected projects would come before the Planning Commission, and the Commission would have an opportunity to talk to the developers. He said if we see a pattern we can ask staff to look at. He commented that he has seen projects that the art does not fit appropriately.

Vice Chair Dohadwala said she would be supporting the motion. She said she agrees with Comm. Melton that we may suddenly see less art in corporate areas. She discussed Moffett Park and said she thinks the developers would keep the 1%. She says she likes that staff has some flexibility. She said she would like to explore other avenues for funding for public art. Vice

Chair Dohadwala said she would like money dedicated towards particular public projects. Superintendent Steward commented that the kind of tool to dedicate to projects is not in place right now, however if the modification is approved the next step would be to develop the tool to prioritize where we want to use these funds.

ACTION: Comm. Hendricks made a motion to recommend to City Council Alternatives 1, 2 and 3 as shown in the report on pages 13 and 14: Alternative 1 regarding allowing property owners to make an in-lieu contribution to the City's Public Art fund, instead of placing art on site, even when there is an appropriate location for art; Alternative 2 regarding adopting an additional 1/10th of a percent fee for developers exercising the in-lieu fee option; and Alternative 3 regarding approving amendments to Council Policy 6.4.4., Art in Public Construction including recommendations to staff. Comm. Sulser seconded. Motion carried, 4-1, with Comm. Melton dissenting and Comm. Chang and Comm. Kolchak absent.

APPEAL OPTIONS: This recommendation will be forwarded to City Council for consideration at their August 14, 2012 meeting.

4. Standing Item: Potential Study Issues

Comm. Hendricks thanked staff for writing up the study issue item regarding accommodating wireless telecommunication facilities in taller buildings.

Chair Hendricks made a motion to add a study issue to the list of potential study issues for 2013 regarding accommodating wireless telecommunication facilities in taller buildings. Comm. Melton seconded the motion.

Chair Hendricks said this study would consider requiring taller buildings to include in the architecture, plans to pre-ready buildings for wireless communications facilities.

Comm. Melton said he is pleased to second this potential study issue as he thinks the Commission will talk about this a lot in the future.

Chair Larsson asked staff if the proposed study issue would be broad enough to consider the right place for this information as the write-up provided by staff mentions that the zoning code might not be the best place. **Gerri Caruso**, Principal Planner, said that after the study it would be determined the best place to include this information and that the zoning code can be restrictive.

ACTION: Comm. Hendricks made a motion to add a study issue to the list of potential study issues for 2013 regarding accommodating wireless telecommunication facilities in taller buildings. Comm. Melton seconded. Motion carried, 5-0, with Comm. Chang and Comm. Kolchak absent.

Comm. Melton suggested a potential study issue to consider a concept of encouraging parcelization along El Camino Real (ECR). He discussed what led to the idea and said parcelization is the combining of smaller properties to come up with a larger site to support something more than what could be allowed on the smaller site alone. He said this could be a creative ownership structure. He said a common theme regarding ownership on ECR seems to be that everyone would like more property along ECR, however no one wants to sell. He said he would like to see some type of consortium and see what resources could be brought to encourage parcelization. Ms. Caruso said staff would write-up the issue for the Planning Commission to consider.

Comm. Hendricks suggested a potential study issue to consider art in-lieu fees for commercial/residential mixed-use projects. Ms. Caruso said staff would prepare a write-up to consider.

NON-AGENDA ITEMS AND COMMENTS

- COMMISSIONERS ORAL COMMENTS

  Comm. Melton commented that the City of Mountain View recently approved a Chick-fil-A application for a site on El Camino Real.

- STAFF ORAL COMMENTS

  City Council Meeting Report

  Gerri Caruso, Principal Planner, discussed Planning related items considered by City Council at their July 17, 2012 meeting.

  Other Staff Oral Report – *none*

INFORMATION ONLY ITEMS

ADJOURNMENT

With no further business, the Commission meeting adjourned 9:25 p.m.

Respectfully submitted,

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Gerri Caruso
Principal Planner