



**APPROVED MINUTES
SUNNYVALE PLANNING COMMISSION
January 28, 2013
456 W. Olive Avenue, Sunnyvale, CA 94086**

7:00 PM - Study Session – West Conference Room

- 1. Policy Project Updates** Update on policy studies, including Peery Park Project and the Comprehensive Land Use Plan (CLUP) for Moffett Federal Airfield
Staff Contacts: Amber El-Hajj, (408) 730-2723,
 ael-hajj@sunnyvale.ca.gov
Notes: (25 minutes)
- 2. Training** Findings (continuation of 12/10/12 Training)
Staff Contacts: Trudi Ryan, (408) 730-7435,
 tryan@sunnyvale.ca.gov
 Kathryn Berry, (408) 730-7467,
 kberry@sunnyvale.ca.gov
Notes: (20 minutes)
- 3. Public Comment on** (5 minutes)
Study Session Agenda
Items
- 4. Comments from the Chair** (5 minutes)
- 5. Adjourn Study Session**

8:00 PM - Public Hearing – Council Chambers

CALL TO ORDER

SALUTE TO THE FLAG

ROLL CALL

Members Present: Chair Gustav Larsson; Vice Chair Maria Dohadwala; Commissioner Bo Chang; Commissioner Glenn Hendricks; Commissioner Arcadi Kolchak; Commissioner Russell W. Melton; and Commissioner Ken Olevson.

Members Absent: None.

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

Any agenda related writings or documents distributed to members of the Planning Commission regarding any open session item on this agenda will be made available for public inspection in the Planning Division office located at 456 W. Olive Ave., Sunnyvale CA 94086 during normal business hours, and in the Council Chambers on the evening of the Planning Commission meeting pursuant to Government Code §54957.5.

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: December 10, 2012

ACTION: Comm. Hendricks moved to approve the Consent Calendar. Comm. Chang seconded. Motion carried, 7-0.

PUBLIC HEARINGS/GENERAL BUSINESS

- 2. File #:** 2012-7951
Location: 1583 Goldfinch Way (APN: 309-33-056)
Proposed Project: Design Review for a new two story home resulting in approximately 3,366 square feet and 50% floor area ratio.
Environmental Review: Categorically Exempt Class 3
Staff Contact: Shaunn Mendrin, (408) 730-7429, smendrin@sunnyvale.ca.gov

Trudi Ryan, Planning Officer, presented the staff report. Ms. Ryan said since the report was written staff heard from two neighbors with concerns about privacy issues regarding the balcony and that the Commission may want to consider adding a condition regarding the balcony.

Comm. Hendricks asked staff about the balcony and related concerns and discussed if the Commission modified the conditions whether the project would need to be re-reviewed by the Commission or whether the Commission could provide guidance allowing staff to do the review.

Comm. Melton asked staff about the windows and privacy issues as mentioned by a neighbor. Ms. Ryan referred to Attachment C, page 5, discussing the windows and said that the proposed windows are consistent with other homes in the neighborhood. Comm. Melton discussed with staff the proposed interior staircase.

Chair Larsson asked about the proposed chimney with staff saying wood burning fireplaces are allowed subject to regulations.

Chair Larsson opened the public hearing.

Daryl Harris with RH Associates Architects, representing the applicant, discussed the concerns regarding the balcony related to the neighbors. He said that the window sills are raised as were the neighbor's window sills. He said the proposed balcony sides would be solid for privacy. He said the balcony would probably be minimally used as is it is small and off the Master bedroom and that it is 30 feet from the property line. Mr. Harris said it was not required that landscaping be provided, however they could provide a tree or shrubs at the rear property line in the southwest corner to address privacy concerns. He commented that the majority of the rear yard faces only about 2/3 of the neighbor's yard.

Comm. Melton asked Mr. Harris about the location of the balcony. Mr. Harris said that the proposed location allows for the greatest setback other than on the front of the house.

Comm. Hendricks discussed with the applicant whether there are other homes in the neighborhood that have balconies and the viability of the building without the balcony. Mr. Harris said there would need to be adequate egress for the Master bedroom and the balcony location provides the best place for that. Comm. Hendricks discussed the orientation of the houses and the possibility of using opaque glass for the windows. Mr. Harris said the proposed windows are clear.

Albert Yang, speaking on behalf of his parents who are neighbors, discussed his concerns about privacy related to the balcony. He said if the neighbors are on the balcony that most of their yard is in view and even if the neighbor rarely uses the balcony, they can still go out and overlook their yard longer than they would with there were window only. He discussed concerns

about the windows and whether there could be less, smaller or opaque windows. He said when his family went through the design review process that they were required to raise the windows and make them opaque and thinks that the applicant should be asked to do the same.

Comm. Kolchak clarified with Mr. Yang that his privacy concerns would be addressed if the balcony was not usable.

Comm. Olevson said he noticed on his site visit that this neighborhood is mostly two-story and it seems like a fact of life with infill projects, that two-story homes look back down on neighbors' yards. Mr. Yang responded that most people would not stand at a window and stare down, however a balcony allows someone to sit and look longer than you might do with a window. He said when they built their home they were required to address the privacy concerns and they would just like to see the same requirements here.

Chair Larsson discussed with Mr. Yang and staff privacy impacts, the window locations in relation to the rear and side yards, and that the windows on the east and west are raised and the windows facing the rear yard were not raised. Mr. Yang said it looks like one of the west windows is adjacent to their upstairs and requested that the window be adjusted. Chair Larsson asked about a possible line-of-sight study from the balcony or rear window into the neighbor's yard. Staff said this could be pursued with the applicant, or the Commission could give direction to staff to work with the applicant and neighbors regarding the line-of-sight and privacy.

Mr. Harris said he was available to answer questions.

Comm. Melton discussed the findings and said there is a sentence in the Single-Family Design Techniques under section 2.2.3 that says, "New development should avoid privacy, noise, light and visual conflicts with adjacent uses to the maximum degree possible." Comm. Melton said it might be useful to pursue the line-of- site study. Mr. Harris said it could be produced however he was not sure whether it would be valuable and that he thought the best mitigation might be trees or shrubs to mitigate viewing of the neighbor's yard which could be included in the landscape plan.

Vice Chair Dohadwala discussed that she would like to see a line-of-sight study from the balcony and said she agrees that the landscape could mitigate the privacy issues. Vice Chair Dohadwala discussed raised windows and commented that the use of the balcony versus the window is two very different things.

Comm. Olevson said he was glad to see the building proposed on the lot, that he likes the amount of setback and agrees that the line-of-sight is not an issue. He commended the applicant on the design as proposed and on the amount of light it would let in. Comm. Olevson asked if the doors are functional on the balcony, with Mr. Harris saying yes as they would be used for egress, and if the door was not allowed that the window would need to be used for egress.

Chair Larsson closed the public hearing.

Comm. Melton asked staff about possibly adding a condition regarding a line-of-sight study and delegating the review to staff. Ms. Ryan said the Commission should provide general direction about the amount of view allowable based on the line-of-sight study. Comm. Melton said he could almost make the finding with a line-of-sight study.

Comm. Kolchak commented that this is really about use, as the use of a balcony is very different than the use of a window.

Comm. Hendricks moved for Alternative 2, to approve the Design Review with modified conditions: to add to the conditions that the applicant work with staff to provide a landscaping and fence plan that shields the view to the adjacent property from the deck and the window of bedroom four. Comm. Olevson seconded the motion.

Comm. Hendricks said he is not thinking about requiring a line-of-sight study. He said he thinks putting up the landscaping shield with a fence with lattice is good. He said it will be nice to see the lots in this neighborhood completed. He said he agrees with Comm. Kolchak that the balcony versus the window is more of a usage issue. He said he could make the findings and that moving ahead with the appropriate landscaping will provide the appropriate shielding for privacy.

Comm. Olevson said architecturally he thinks it would be counterproductive to redesign the project. He thinks appropriate landscaping will provide privacy for the neighbors. He said this home has a great view to the west and north and landscaping is a way to handle privacy issue.

Comm. Melton asked for clarification on the motion about the modification. Comm. Hendricks and staff said that the modification is that the applicant work with staff to provide a landscaping plan in combination with the fence that would be used to shield the view to the adjacent property from the balcony and the window of bedroom four and that a line-of-sight study is not required.

Comm. Kolchak said he would be supporting the motion as he can make the findings and that he thinks the landscaping barrier will provide privacy for the neighbors.

Chair Larsson asked if the landscaping and fence plan are intended is to block the view into the rear yard with staff confirming it would also shield the first floor windows.

Comm. Melton said he could make the findings and he would be supporting the motion. He said he appreciates Mr. Yang's comments. He said it is the existence of the balcony that makes an impact and that he looks forward to seeing this project come to fruition.

Chair Larsson said he would be supporting the motion and that he appreciates Mr. Yang's input and the letter from Ms. Lee. He said he understands the concerns of the view into the yard and first floor windows. He said he is still concerned about the second story however he thinks the view is a fact of life in a two-story neighborhood. He said the location of the deck is tucked away in the architecture and he does not think a line-of-sight study would provide significant information. He said this is a lot with the rear yard facing the side yard of another lot. Chair Larsson said the balcony is a different use however he does not think removing the balcony would change the privacy concerns as the view from the windows in the balcony area would still exist.

Vice Chair Dohadwala said she would be supporting the motion. She said if the situation were two backyards facing each other that she would not like the balcony and said the owners of the proposed house have bigger windows which would be more a privacy issue for them.

ACTION: Comm. Hendricks made a motion on 2012-7951 to approve the Design Review with modified conditions: to add to the conditions that the applicant work with staff to provide a landscaping and fence plan that shields the view to the adjacent property from the deck and the window of bedroom four. Comm. Olevson seconded. Motion carried 7-0.

APPEAL OPTIONS: This action is final unless appealed to the City Council no later than February 12, 2012.

3. **File #:** 2012-7564
Location: 1243 W. El Camino Real (APN: 161-22-007)
Proposed Project: Appeal of a decision by the Director of Community Development to deny a Miscellaneous Plan Permit for a free-standing Automatic Teller Machine (ATM) kiosk within the parking lot of a shopping center (Los Cedros Center).
Applicant/Owner: Martin Family Properties /Joseph A Bondi Trustee & et al
Environmental Review: Categorically Exempt
Staff Contact: Ryan Kuchenig, (408) 730-7431, rkuchenig@sunnyvale.ca.gov

Comm. Hendricks disclosed that he has had a lot of dealings with financial institutions in his career and that he has spoken with the City Attorney and confirmed that reviewing this project would not be considered a conflict of interest.

Trudi Ryan, Planning Officer, presented the staff report.

Comm. Kolchak asked staff if there are any regulations where this type of kiosk could be located. Ms. Ryan noted that Sunnyvale does not have any other kiosks like this. Comm. Kolchak asked about other Bank of America sites in the area and staff was not sure of their locations.

Comm. Melton discussed three concerns of staff including the Public Safety concerns, setting a precedence, and aesthetics of the standalone building. Ms. Ryan said the decision to deny the project was based on aesthetics; however the other items were taken into consideration. Comm. Melton asked about "pad" buildings. Ms. Ryan said pad buildings are usually bigger and the proposed standalone building is not a typical pad building.

Comm. Hendricks further discussed pad buildings with staff. Comm. Hendricks referred to the findings on page 3 of the report and asked how much latitude the Commission has with finding LT-2.1d that says "Require that commercial activities be conducted primarily within a building." Ms. Ryan said nothing is hard and fast on this finding. Comm. Hendricks said staff suggested that possibly the ATM could be moved closer to BevMo with staff saying it could be an addition on the building with staff commenting. Comm. Hendricks discussed with staff freestanding structures in parking lots including trash enclosures.

Chair Larsson opened the public hearing.

Charmi Deepak, representing the applicant, addressed staff's three concerns. She discussed the aesthetics, the location, and landscaping of the proposed kiosk and said it would not impair any customer movement versus attaching it to an existing building. She said it is a good looking kiosk. She said they think the aesthetic requirements are met and that they did not receive any specifics as to why the kiosk is not to be allowed. She discussed security and said this type of kiosk has been used in many cities, that is well lit and they do provide cameras. Ms. Deepak said a pedestrian pathway would run from El Camino Real (ECR) to the kiosk so it is well connected.

Comm. Olevson said staff had suggested that the kiosk would be more aesthetically pleasing if it were adjacent to another building and asked Ms. Deepak if there are any conditions preventing that. Ms. Deepak discussed the possibility of moving the ATM closer to BevMo and some of the possible impacts including removal of existing trees, loss of parking stalls, and being able to make the kiosk match BevMo.

Chair Larsson asked staff about the parking requirement for this parking lot. Ms. Ryan said the parking regulations were recently updated so with the new regulations the loss of a couple of stalls would result in adequate parking.

Comm. Melton asked if Bank of America was the bank that uses the blue neon lighting. Ms. Deepak said no.

Comm. Hendricks discussed and confirmed with the applicant that the kiosk is ADA (Americans with Disability Act) compliant and there would be access from the City sidewalk.

Vice Chair Dohadwala commented that this is a very small structure to be freestanding and that it is almost like signage. Vice Chair Dohadwala asked staff about the visibility of the kiosk from ECR and signage. Ms. Ryan said the signage would have to be reviewed and meet the requirements of the master sign program for this shopping center. Vice Chair Dohadwala asked the applicant about the business sense for this use? Ms. Deepak said that this is the direction the large financial institutions are going and it is a convenience to customers.

Ms. Ryan discussed that the parking code has been modified twice since this shopping center was constructed and the original requirement was 150 spaces, and is now 106 spaces.

Ms. Deepak said she thinks approving this use would be good for the community. She said the location meets the requirements and with the additional landscaping and more public access and lighting to a dark parking lot that she thinks they are meeting the requirements.

Comm. Hendricks asked staff if the Commission approves this kiosk, with it being the first of its kind in Sunnyvale, could they include language to help prevent setting a precedent with possibly an evaluation period as a test case or pilot project. Ms. Ryan said the Commission could do that.

Comm. Melton moved for **Alternative 1 to deny the appeal of a Miscellaneous Plan Permit and uphold the decision of the Director of Community Development to deny the requested location of the free-standing ATM kiosk. Vice Chair Dohadwala seconded the motion.**

Comm. Melton said he is not as concerned about security, or setting a precedent with this project, however he would like to avoid the blue neon lighting some banks use. He said primarily the project does not fit the Precise Plan for ECR 4.1.4.c "avoid pad buildings along street frontages", the Land Use and Transportation Element LT-2.1d., or the Design Guideline 4.2.1. He said, as proposed, this project does not fit into the Sunnyvale ECR context.

Vice Chair Dohadwala said she seconded the motion as she is aesthetically concerned about the kiosk as it is small and could make the area look cluttered even if the kiosk is nicely done.

Comm. Hendricks said he would not be supporting the motion as there are other businesses in the City that are not in buildings even with finding LT-2.1d. He said he is not worried about the signage or the connectivity with ECR as ATMs should be where people walk. He said he does not have a problem with this aesthetically and thinks it will be adequately taken care of for reasons of security.

Comm. Kolchak asked staff if the Commission supports the denial of the appeal what options the applicant has. Ms. Ryan said the applicant could submit a new application. Comm. Kolchak said there is more flexibility in the parking lot now since the parking regulations have decreased the parking requirements from 150 to 106 spaces so the location could be changed. He said he

could not make the findings so he would be supporting the motion and that the applicant can further explore this project with some changes.

Chair Larsson said he would be supporting the motion and that this was a tough call. He said he thinks the security would be fine, that matching BevMo would be difficult; however he thinks the kiosk would be better in a different location.

ACTION: Comm. Melton made a motion on 2012-7564 to deny the appeal of a Miscellaneous Plan Permit and uphold the decision of the Director of Community Development to deny the requested location of the free-standing ATM kiosk. Vice Chair Dohadwala seconded. Motion carried 6-1, with Comm. Hendricks dissenting.

APPEAL OPTIONS: This action is final.

NON-AGENDA ITEMS AND COMMENTS

- COMMISSIONERS ORAL COMMENTS

Comm. Melton discussed with staff when the Balanced Growth Profile document would be updated for 2012. Comm. Melton asked staff about a recent Santa Clara Valley Water District (SCVWD) meeting and the possibility of having a representative attend a Planning Commission meeting. **Trudi Ryan**, Planning Officer, said staff would check further into the request and discuss it with the Chair.

- STAFF ORAL COMMENTS

City Council Meeting Report

Ms. Ryan discussed Planning-related items considered at recent City Council meetings and Study Sessions.

INFORMATION ONLY ITEMS

None.

ADJOURNMENT

With no further business, the Commission meeting adjourned 9:40 p.m.

Respectfully submitted,

Trudi Ryan
Planning Officer