



**APPROVED MINUTES  
SUNNYVALE PLANNING COMMISSION  
May 29, 2013  
456 W. Olive Avenue, Sunnyvale, CA 94086**

**No Study Session**

**SPECIAL START TIME – 7:00 PM  
Public Hearing – Council Chambers**

**CALL TO ORDER**

**SALUTE TO THE FLAG**

**ROLL CALL**

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

Members Absent: Vice Chair Maria Dohadwala.

Staff Present: Trudi Ryan, Planning Officer; Kathryn Berry, Senior Assistant City Attorney; Rebecca Moon, Assistant City Attorney; Andrew Miner, Principal Planner; and Deborah Gorman and Terilyn Anderson, Recording Secretaries.

**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: May 13, 2013**

**ACTION: Comm. Hendricks moved to approve the Consent Calendar with a modification to the minutes, changing Comm. Chang's unexcused absence of May 13, 2013 to an excused absence. Comm. Kolchak seconded. Motion carried, 3-0 with Chair Larsson, Comm. Chang and Comm. Melton abstaining, and Vice Chair Dohadwala absent.**

*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.*

**PUBLIC HEARINGS/GENERAL BUSINESS**

2. **File #:** 2012-7986  
**Location:** 726 San Miguel Ave. (APN: 205-14-030)  
**Proposed Project:** Design Review to allow a new two-story single-family home resulting in 2,967 square feet and 56.6% Floor Area Ratio.  
**Environmental Review:** Categorically Exempt Class 3  
**Staff Contact:** Shaunn Mendrin, (408) 730-7429, [smendrin@sunnyvale.ca.gov](mailto:smendrin@sunnyvale.ca.gov)  
**Note:** *Continued from April 22, 2013 and May 13, 2013.*

Trudi Ryan, Planning Officer, presented the staff report.

**Comm. Melton** said he regrets he had to miss the May 13, 2013 meeting. He said he thinks that for the applicant to reduce the Floor Area Ratio (FAR) to the 52% that the square footage of the project would need to be reduced by about 80 square feet. He said the more difficult issue is reducing the second floor square footage to 35% of the first floor square footage. Comm. Melton discussed with staff the Single Family Home Design Techniques, their origin and that these are guidelines rather than requirements. Ms. Ryan said the techniques were added in response to neighborhood concerns on home size and design. Comm. Melton discussed the definition of should and neighborhood as listed in the design techniques.

**Comm. Hendricks** summarized the Planning Commission actions for this project from the April 22, 2013 and May 13, 2013 meetings. Ms. Ryan said that there may be differing Commissioner expectations on the reduction of the FAR or square footage and the primary concern for staff is the second floor to first floor square footage ratio.

**Chair Larsson opened the public hearing.**

Designer **Jeannie Aiassa**, representing the applicant, said that the Single Family Home Design Techniques are guidelines and this project meets the requirements except the FAR. She commented that the zoning is legal non-conforming and the addition would encourage others in the neighborhood to upgrade their homes. She said the site has a school across the street and the neighbors are supportive of the project. **Jasbir Tatla**, applicant, said that they discussed the project with Ms. Ryan and Shaunn Mendrin, Senior Planner, last week to prepare for tonight's meeting. He said the design techniques are guidelines, and asked that Commission to approve the project. He provided documents of support from four neighbors.

**Comm. Melton** commented that he is struggling with the size of the second story to the size of the first story and discussed options including moving a bedroom to the first floor. Ms. Aiassa said that moving the bedroom would result in a lot coverage issue. Mr. Tatla said they would move a bedroom to the first floor if required.

**Chair Larsson** confirmed with staff that a Variance would be required for exceeded the lot coverage.

**Jasbir Tatla** said they have been working on this application for five months, are trying to reinvest in the community and said that other houses nearby have a higher second story to first story square footage ratio. He said this is their third attempt with the Planning Commission and no one as opposed the project.

**Chair Larsson closed the public hearing.**

**Comm. Melton** discussed with staff their recent meeting with the applicant and that staff advised the applicant about points they might like to make. She said staff supports the guidelines; however the Commission has the discretion to approve something else. Comm. Melton discussed with staff the option of moving a bedroom to the first floor.

**Comm. Hendricks** moved Alternative 3 to approve the Design Review with modified findings and modified conditions with the modification being to remove condition PS-1 in Attachment B. Chair Larsson and staff confirmed with Comm. Hendricks that the modification would remove all of PS-1. Comm. Kolchak seconded the motion.

**Comm. Hendricks** said this is the same motion he made on May 13, 2013 and he does not think moving a bedroom to the first floor is a viable option. He said the real issue was the solar component which was corrected. He said there are unique things about this lot that makes approval acceptable. He said he can make the findings.

**Comm. Kolchak** said he echoes Comm. Hendricks' comments. He said lot size is unique, the applicant has worked with staff, that the proposal has been posted for a long time with no complaints and he thinks this project could encourage remodeling of other homes in the neighborhood.

**Comm. Melton** said he would not be supporting the motion. He said the project could benefit and lead to more redevelopment in the neighborhood; however FAR needs to be reduced. He said he does not find the policy or guidelines murky, the second to first story ratio is too high and he is not able to make the findings. He said he does not want this home to be an example of what not to do for a second story addition. He said he cannot make finding 2.2.2.

**Comm. Chang** said he would not be supporting the motion as he does not think the proposal meets the guidelines and he cannot make the findings.

**Comm. Olevson** said he would not be supporting the motion. He said he thinks the second story is too massive and is out of character. He said he thinks the issue to be addressed is the relative size of the second story to the first story.

**Chair Larsson** said he would not be supporting the motion and his concern is the second to first floor square footage ratio which he is not comfortable with.

**The motion failed 2-4 with Comm. Melton, Comm. Chang, Comm. Larsson, and Comm. Olevson dissenting.**

**Comm. Melton moved to deny the Design Review. Comm. Chang seconded the motion.**

**Comm. Hendricks** said that he would not be supporting the motion.

**ACTION: Comm. Melton made a motion on 2012-7986 to deny the Design Review. Comm. Chang seconded. Motion carried 4-2, with Comm. Hendricks and Comm. Kolchak dissenting and Vice Chair Dohadwala absent.**

**APPEAL OPTIONS: This action is final unless appealed to City Council no later than June 13, 2013.**

3. **File #:** 2013-7035  
**Location:** 1010 S. Wolfe Rd. (APN: 213-47-009)  
**Proposed Project:** Use Permit to allow a new 85-foot tall monopole and associated improvements for a wireless telecommunications facility at Sunken Gardens Golf Course.  
**Applicant/Owner:** Ridge Communications, Inc. for Verizon Wireless / City of Sunnyvale  
**Environmental Review:** Negative Declaration  
**Staff Contact:** Gerri Caruso, (408) 730-7591, [gcaruso@sunnyvale.ca.gov](mailto:gcaruso@sunnyvale.ca.gov)  
**Note:** *Continued from May 13, 2013.*

**Chair Larsson** recused himself saying his employer sells telecommunication equipment to the applicant. He said Comm. Hendricks would serve as Chair for this item. Chair Larsson left the Council Chambers.

**Comm. Chang** disclosed that his office is located near the entrance to the Golf Course, however not within a range of conflict.

**Andrew Miner**, Principal Planner, presented the staff report.

**Comm. Kolchak** discussed with staff the reason for the location including that proposed site is as far away from residents as possible.

**Comm. Olevson** discussed with staff the noise study and the (Radio Frequency) RF levels. Staff said that if the applicant does not meet the standards for noise or RF that the levels would have to be corrected and brought into compliance.

**Comm. Hendricks** further discussed with staff noise regulations and that a Certificate of Occupancy would not be issued if they do not meet the regulations. Comm. Hendricks asked about the slim-line monopole versus a tree type pole and that the Commission's only purview is the aesthetics. Staff discussed the two types of poles and said in this case the slim line pole seemed to be the best solution. Comm. Hendricks discussed the selected location of the pole with staff in relation to coverage. Mr. Miner commented that the applicant would be rebuilding the Parks Department golf ball washing facility as part of the equipment shelter, and that there would be a loss of four parking spaces. Comm. Hendricks discussed details of the project with staff. Comm. Hendricks asked why the lease money earned would go the Parks and Recreation rather than the General Fund with Planning staff saying that they are not involved with the lease portion of the project.

**Comm. Hendricks opened the public hearing.**

**Clarence Chavis**, applicant with Verizon Wireless, discussed the equipment and that they would be replacing the golf ball washing facility with a slightly larger building which is why some of the parking spaces will be removed. He said Verizon is also proposing to add a provision for a roll-up generator. Mr. Chavis said representatives from the companies that provided the RF and noise studies are available to answer questions.

**Comm. Chang** asked about the noise levels from the generator. Mr. Chavis said the generator is about 200 feet from residences and should meet the noise standards.

**Comm. Kolchak** asked Mr. Chavis about the noise levels and whether they would impact the golfing experience. Mr. Chavis said the noise should not impact those at the driving range.

**Comm. Hendricks** discussed noise levels with the applicant and that the noise levels are based on the equipment that will be in use all the time. Comm. Hendricks confirmed with Mr. Chavis that the generators would be brought on site for emergencies and said there is not enough room for a permanent generator on the site.

**Comm. Olevson** confirmed with Mr. Chavis that the equipment would continue to run for several hours after an outage without a generator.

**Comm. Hendricks** discussed with Mr. Chavis the selection of the location and that they were trying to put the facility away from residences.

**Phil Stewart**, a Sunnyvale resident, provided a PowerPoint presentation outlining concerns about Excessive Power Levels, said that the Safety Exclusion Zone is inadequate, and discussed a new approach providing coverage with Distributed Micro Cells. He said that the vendors' literature says no one can challenge the FCC (Federal Communication Commission) however he provided other approaches to minimizing risks. He said cell towers pose health risks especially for small children. He said because of the health risks of this project that he encourages the Commission to reject the proposal.

**Comm. Hendricks** confirmed with Mr. Stewart that he lives adjacent to the golf course and can clearly see the proposed site from his home. Comm. Hendricks asked staff about the Commission's purview. **Kathryn Berry**, Senior Assistant City Attorney, discussed that this issue is frustrating for public agencies, as neighbors do not want to have these facilities near their homes due to the perception that they are dangerous for children. She said some Cities have challenged the FCC laws, however cities are stuck with the rulings and can only reject an application on the basis of aesthetics. Ms. Berry commented that in the past the location of the poles have been moved to help appease citizen concerns and said the facilities must meet the noise level standards.

**Mr. Stewart** commented that many cities have successfully rejected applications. He offered how a cell tower company could challenge a City's rejection.

**Comm. Kolchak** asked staff about micro cell use. Mr. Miner said it is a pending study to look other options and that the study should go back to City Council soon. He said the biggest concern is locating coverage in residential areas. Mr. Stewart added that Palo Alto is under contract for 80 of the micro cells.

**Brad Beadell**, a Sunnyvale resident, said he can see the proposed site from his home. He said his concerns are about echoing noise and the parabolic nature of Sunken Gardens. He said possible health risks are also a concern, however his biggest concern is noise. Comm. Melton confirmed with Mr. Beadell that he is a neighbor of Mr. Stewart.

**Sharon Stewart**, a Sunnyvale resident, said that this cell tower will be an eyesore in the middle of the golf course and a detriment to the health of those nearby. She said the Parks Division will benefit from this installation by receiving a new facility and lease monies. She said she opposes the project based on the aesthetics, noise, and potential health risks and feels like the Parks Division has forced this project with little opportunity for the public to rebut. She said at a previous meeting the Verizon representative did not know how many Verizon sites were in the City.

**Comm. Hendricks** asked Ms. Stewart what her recommendation would be. She said she would like to not have the facility at the golf course at all and that it is a big ugly pole.

**Mr. Chavis** introduced **Lynn Bruno** with Hammet and Edison, the company that provided the RF study. She discussed the computer modeling and the RF public standards. She said this project is 200 times below the standard outside the building and 150 times below the standard inside the building. She described the standard which is based on about 60 years of research regarding electromagnetic affect. She said they build a large standard of error into the calculations and that they would come out after the fact to check the RF levels. **Mr. Chavis** introduced **Kevin McManus** with EBI Consulting, the company that provided the noise study. He discussed the noise modeling study saying it is a predictive approach and that the facility will not be able to operate without meeting the standards. **Mr. Chavis** added that Verizon has 12 sites in Sunnyvale.

**Comm. Melton** asked **Mr. McManus** about **Mr. Beadell's** comments regarding the amphitheater type topography and how it affects sound. **Mr. McManus** discussed the noise modeling. **Comm. Melton** said it sounds like the modeling does not take into account the elevations. **Mr. McManus** said the topography is not site specific however the modeling is conservative. **Comm. Melton** asked about the noisiness in human terms. **Mr. McManus** said it would be between 39 to 42 decibels, that the equipment is enclosed in a building and that there would be barriers, buildings and distance between the pole and neighbors.

**Mr. Miner** commented that there is noise from the permanent installation and then noise from the generator. He said the Commission may want to add a condition of approval that the generator only be used in times of emergency and that testing would only be done during the daytime.

**Comm. Hendricks** closed the public hearing.

**Comm. Melton** moved for **Alternative 2, to adopt the Negative Declaration and approve the Use Permit with modified conditions, to modify conditions to include that the generator may only be used for emergency purposes. Comm. Olevson** seconded the motion.

**Comm. Melton** thanked the members of the public for their input. He said he understands and sympathizes that this could be perceived as an eyesore; however he thinks this is the best option. He said he appreciates that the Parks and Recreation Commission took a shot at this reviewing this project before Planning Commission and said that he does not think there is a conflict of interest. He said he appreciates the public comments. He said he is comfortable with the Negative Declaration and can make the findings.

**Comm. Olevson** said he is persuaded by Ms. Berry that the Planning Commission has no latitude on the poles other than aesthetics. He said he appreciates the controversy however some things are outside of the Commission purview. He said he can make the findings and he thinks the RF and noise modeling are appropriate.

**Comm. Hendricks** said he would be supporting the motion. He said he Planning Commission has reviewed multiple cell towers and the radiation issue has come up before. He said usually the concern about lease money is that it is being paid to non-City properties and speakers ask why the City does not locate towers on City property. He

discussed the aesthetics and location selection and said he thinks the slim-line pole and location make sense and less impact to homes. He said generally he likes a tree style pole, but in this case he thinks the slim-line pole is less visually disruptive. He thanked the speakers for providing input and said unfortunately the concerns discussed are not within the Commission's purview.

**Comm. Kolchak** said he would be supporting the motion and that he thinks less is more in this case.

**Comm. Hendricks** commented that if anyone wants to see a Palm Tree cell tower, that there is one located at the Ramada Inn off of Highway 101 in Sunnyvale.

**ACTION: Comm. Melton made a motion on 2013-7035 to adopt the Negative Declaration and approve the Use Permit with modified conditions: to modify the conditions to include that the generator may only be used for emergency purposes. Comm. Olevson seconded. Motion carried 5-0, with Chair Larsson recusing himself and Vice Chair Dohadwala absent.**

**APPEAL OPTIONS: This action is final unless appealed to City Council no later than June 13, 2013.**

**Comm. Hendricks** asked staff if there is anything that can be done to encourage the carriers to come the table to talk about micro cells. Mr. Miner said he thinks that the carriers will probably get together within the next couple months. Comm. Hendricks asked if he could sponsor a study issue related to regular cell towers versus micro cells. Ms. Ryan said he would need to wait until Public Hearing item six to bring up potential study issues.

**Chair Larsson** returned to the Council Chambers and presided over the remainder of the meeting.

**Location:** 822 Pear Ave. (APN: 201-13-026)  
**Proposed Project:** Appeal of a decision by the Director of Community Development denying a Tree Removal Permit for a redwood tree located in the southwest corner of the front yard.  
**Environmental Review:** Categorically Exempt  
**Staff Contact:** Elise Lieberman, (408) 730-7443, [elieberman@sunnyvale.ca.gov](mailto:elieberman@sunnyvale.ca.gov)

**Comm. Kolchak** disclosed that he met with the appellant.

**Trudi Ryan**, Planning Officer, presented the staff report. Ms. Ryan provided two corrections to the report that in Attachment C in the first sentence that it should say “staff was able to make *none* of the three required findings,” instead of one. She said in Attachment D the in-lieu fee should be \$251.00.

**Comm. Melton** discussed with staff Attachment C, finding 2 regarding the definition of a potential hazard. Comm. Melton referred to Attachments F and G and discussed the letters from the appellant and the neighbor specifically about the legal liability for any damage the tree might cause. Ms. Ryan discussed the question about liability and normal potential hazard. Comm. Melton asked about a possible study issue to determine whether redwood trees should be allowed to be planted in Sunnyvale. Ms. Ryan said there are many redwood trees in Sunnyvale and staff does not have any information to suggest that redwood trees are inappropriate Citywide.

**Comm. Kolchak** discussed the findings with staff regarding restricting the owner’s ability to enjoy their property and asked if this would apply if the neighbor’s ability to enjoy their property. Ms. Ryan referred to finding 3 and added that the finding also includes the neighbor’s property being restricted.

**Chair Larsson opened the public hearing.**

**Gerald and Barbara Burch**, appellants, discussed the redwood tree and effects of the roots on the sidewalk, and the lifting of the sidewalk as the tree sways side to side. Mr. Burch said the tree drops a lot of debris on the neighbors shed. He said what City staff has said to remedy the situation would cost thousands of dollars and after the efforts, would not stop the tree roots from expanding. He said they were told they must use a certified arborist and if the tree were damaged, that they could be fined. He discussed research about redwood trees and said most articles recommend not planting a redwood tree on a small residential lot. He said this tree is causing the problems on both his and his neighbor’s property. He said he agrees the tree is in good shape however they have been carefully taking care of the tree since it was planted and it has cost them thousands of dollars. He said during stormy weather his neighbors do not use the side of their home that is close to the tree for fear of it falling. Mr. Burch said the tree is healthy however he would like to eliminate the threat of further damage and they would all sleep better knowing the tree would not fall on their homes.

**Comm. Melton** referred to the letters in Attachment F and G, and discussed with Mr. Burch a tree removal request for an oak tree six years ago and at that time the City arborist said the redwood tree was too large to remove without a permit. Comm. Melton confirmed with Mr. Burch that he has talked to three arborists over the years that said the tree would eventually have to come down due to the proximity to the houses. Mr. Burch discussed the tree at length and said he feels he is in a no-win situation.

**Comm. Olevson** commented that this is a great street for trees and said looking at the Burch's property that the redwood tree looks out of place. Mr. Burch said they made a mistake 20 years ago when they planted it even though it was included on the plans of their professional landscaper. Comm. Olevson confirmed with the Mr. Burch that the redwood tree does not seem to be causing problems for the oak. Mr. Burch said the tree shoots roots out and they are trying to be proactive and prevent any further damage.

**Comm. Hendricks** discussed with staff the use of certified arborists and incorrect trimming that could kill a tree. Comm. Hendricks asked if the applicant could provide something in writing from a certified arborist that might support removing the tree. Mr. Burch confirmed that his waterline has been broken twice in about five years.

**Karen Kenton**, a Sunnyvale resident and neighbor of the Burches expressed her concern about the tree. She said she appreciates the City's laws however they are concerned about their safety. She said this is an opportunity for special consideration and a simple denial would remove the risk for property damage from the tree, and property devaluation for multiple homes due to root extension beyond property line. She asked that the Commission approve the appeal to allow the tree removal.

**Comm. Melton** confirmed with Ms. Kenton that she lives kitty-corner from 822 Pear Avenue. Ms. Kenton said many times when the trees are blowing she wonders whether the tree will fall on her house or whether they will have issues from the tree.

**Youngjoon Lee**, a Sunnyvale resident and next door neighbor, said his family lives in fear during stormy weather of the tree falling on their house due to the shallow root system and instability. He said the tree makes them unable to use a portion of their house. He said the tree sways and the shallow roots move the ground. Mr. Lee said Sunnyvale has a reputation for reasonable government and he asked for compassion for his family. He said Mr. Burch will plant a replacement tree, and he would be willing to donate trees to the City.

**Comm. Hendricks** confirmed with Mr. Lee that the tree was not in his neighbor's yard when the Lee family moved in in 1986.

**Darl Spencer**, a Sunnyvale resident and neighbor of the Burches, discussed the surface root system of the tree and the possible damage that the tree could cause to the two house foundations, water lines, and sewer lines. He said if the tree were to topple it could hit multiple houses and cause injury. He said Mr. Burch has spent over \$10,000 to care for the tree and could continue to spend a lot of money and in time the tree would have to come down. He said he recommends the Planning Commission allow the tree to be removed and be replaced.

**Comm. Hendricks** discussed with Mr. Spencer what suggestion he might have on how the City might phrase a finding to allow this tree removal. Mr. Spencer suggested requiring a permit to plant a redwood tree.

**Mr. Burch** provided closing comments discussing the lifting of the sidewalk, the size of the roots and said that he imagines that within three years that he would not be surprised to see cracked foundations. He said he is offering a reasonable solution, his neighbors would sleep better and it would save him a lot of money over time. He said the tree is the problem and he would like to work together to make this better for everyone. Ms. Burch said she hopes the Planning Commission will consider their request as the tree issues are difficult for our neighbors and ourselves and the tree is expensive to

maintain and scary. Mr. Burch said the cost of protective pruning would be more money than it would be to remove the tree. He said he feels bad for his neighbor.

**Chair Larsson** said he understands the concerns about safety however we do have many redwoods in residential neighborhoods that do not seem to fall down in storms. Chair Larsson asked Mr. Burch what he thinks is unusual about their situation. Mr. Birch discussed the root system, ground saturation due to a leak this year and cracked pipes.

**Chair Larsson closed the public hearing.**

**Ms. Ryan** commented that finding 3 includes that a tree has outgrown its useful landscape value due to its inappropriate species, size and location relative to the existing structures on the property.

**Comm. Melton moved for Alternative 3 to grant the appeal and approve the Tree Removal Permit with modified conditions: to modify the condition of approval to read that the in-lieu fee is \$251.00. Comm. Kolchak seconded the motion.**

**Comm. Melton** said this is a beautiful house and neighborhood and that this is a gorgeous tree. He said the Burches have done a tremendous amount of research. He said he was persuaded by the neighbors' comments and that he can make finding 2 as he thinks the tree is a potential hazard, and finding 3.

**Comm. Kolchak** said he can make finding 2 and agrees with Comm. Melton's comments. He said based on the discussion he believes the tree represents a potential hazard. He said he can make finding 3 as the neighbor lives with fear of the tree falling due to the instability of the root system and the tree has outgrown its useful landscape value.

**Comm. Hendricks** said he would be supporting the motion for a different reason. He said he can make finding 2 as it is a definitive recurring hazard due to the water line which has broken twice. He said the appellant brought a lot of different elements for discussion.

**Comm. Olevson** said he would be supporting the motion. He said he can make finding 2 and he does not think removing the tree would be a loss for the neighborhood. He said he thinks the equities in this case support granting the appeal.

**Comm. Chang** said he would be supporting the motion.

**Chair Larsson** said he would not be supporting motion. He said he is unable to make finding 2, as he does not feel this is a clear hazard at this point. He said Sunnyvale has large redwoods throughout the City and without more concrete guidance he cannot approve the removal.

**ACTION: Comm. Melton made a motion on 2013-7285 to grant the appeal and approve the Tree Removal Permit with modified conditions: to modify the condition of approval to read that the in-lieu fee is \$251.00. Comm. Kolchak seconded. Motion carried 5-1, with Chair Larsson dissenting and Vice Chair Dohadwala absent.**

**APPEAL OPTIONS: This action is final.**

5. **FILE #:** 2011-7070  
**Location:** City-Wide  
**Proposed Project:** Comprehensive update to the Sunnyvale Municipal Code chapter regarding signs  
**Environmental Review:** Negative Declaration  
**Staff Contact:** Andrew Miner, (408) 730-7707, [aminers@sunnyvale.ca.gov](mailto:aminers@sunnyvale.ca.gov)

**Kathryn Berry**, Senior Assistant City Attorney, introduced Rebecca Moon, Assistant City Attorney who has worked closely on this study with Planning staff.

**Andrew Miner**, Principal Planner, presented the staff report. He provided several clarifications regarding the sign code proposed ordinance.

**Comm. Melton** discussed with staff signage for smaller businesses that are set back from the street and difficult to see. Staff commented that under the current ordinance many properties are not taking full advantage of what they are allowed and could have more ground signs on their property. Staff discussed a content neutral concept and the first amendment and discussed limitations the City has in what can be regulated. Staff discussed copy height restriction, and the discretion the property owners and businesses have. Comm. Melton asked further about signage for small businesses. Mr. Miner discussed options for the smaller businesses including canopy and A-frame signs. **Trudi Ryan**, Planning Officer, said there is still a tenant landlord relationship that can affect signage. She noted that the City can set parameters. Comm. Melton asked about the Negative Declaration referred to on page 10. Staff said it would be included with the final report to City Council on June 25, 2013 confirming that there were no significant impacts that would result from the sign code revisions.

**Comm. Hendricks** discussed with staff the purpose and definition of signs. Mr. Miner discussed the first amendment rights for commercial and non-commercial signs, and the placement of political signs can be placed anywhere. He said the research for this study shows that the City can only regulate size and where signs can be located. Comm. Hendricks asked if the motion could include removing sections of the ordinance with staff saying, yes. Comm. Hendricks discussed with staff Electronic Message Centers (EMC), that the Commission could recommend whether or not to allow these digital displays, and that video on the displays would not be allowed. Staff said the duration of the sign messages on the EMC are currently listed at a minimum hold time of 30 seconds. Comm. Hendricks asked about the sign regulations not applying to government signs. **Rebecca Moon**, Assistant City Attorney, discussed that that government and school district signs are both exempt from the regulations. Ms. Ryan commented that the City does not have to follow the zoning and sign code regulations though they try to. Ms. Moon discussed other examples of signage that the City may use that is not allowed for others, such as off-site commercial advertising for City events. Comm. Hendricks discussed logos in relation to signs with staff. Mr. Miner said the logo is not subject to the copy height. Comm. Hendricks discussed residential signs for residential businesses with staff, which is a new portion of the ordinance.

**Comm. Olevson** discussed with staff item G on page 6 of the report discussing possible changes to the sign code and the use of the word "consider." Comm. Olevson referred to page 7 of report regarding the copy height being 6 inches, with staff confirming that Attachment C should be corrected from 8 to 6 inches.

**Chair Larsson** discussed with staff how the City found out about the need to revise the ordinance in regards to first amendment rights. Mr. Miner said when staff started reviewing the ordinance it was found there was a need for many changes to bring code up to standard and to protect the City from being sued. Ms. Moon said that the City needs to stay away from regulating the content of what can go on a sign, that the size and frame of the sign can be regulated and that it will be up to the business and property owner as to the content. Chair Larsson discussed with staff EMCs, brightness standards, and that if an EMC is not operating properly that it should revert to a black screen.

**Comm. Hendricks** referred to page 6 of the report and discussed with staff innovative signs, and building wraps for Block 18 of Downtown.

**Comm. Melton** said he had wondered about the building wraps also.

**Chair Larsson opened the public hearing.**

**Steve Pavlina**, a commercial and multi-family residential property owner in Sunnyvale, thanked the City for redoing the sign ordinance. He referred to Attachment C and said he does not agree with the unlimited wall signs for commercial signs. He said generally signs do not make or break the business and adding more signs is not necessarily better. He said it is important to see the address.

**Mr. Miner** added that an email was received from Tap Merrick, a City resident, which expressed frustration about being able to find addresses on signs. Mr. Miner said the address requirements for buildings are in the fire code and that is why they are not addressed in this ordinance.

**Chair Larsson** said the addresses are originally for fire safety; however the numbers are used by others and asked if they could possibly be larger. Ms. Ryan reviewed the history of addresses on ground signs starting with encouraging addresses to be located on the top of signs, to more recently requiring them to be at a certain level with a minimum height of 6 inches.

**Chair Larsson closed the public hearing.**

**Comm. Hendricks** said the Commission needs to focus on what the purpose of the sign is. He said signs should make businesses identifiable. Ms. Moon said staff consulted with the top California expert in sign law, and after much review decided that Sunnyvale should try to stay away from regulating content of signs to the extent possible. She said our goal was to make our ordinance as defensible as possible. Comm. Hendricks asked if there could be a best practices supplemental guide. Ms. Moon said they talked about that and it seems better to steer the owners as staff works with businesses. Mr. Miner said that staff has thought there could also be outreach efforts to help businesses make their signs more effective. Comm. Hendricks asked about Mr. Pavlina's opposition to unlimited wall signs in commercial areas confirming with staff that the signs would still have to fit other sign regulations.

**Comm. Melton moved for Alternative 1 to recommend to City Council to introduce an ordinance to amend the sign regulations in Chapter 19.44 and relating sections of Title 19 (Zoning) of the Sunnyvale Municipal Code (Attachment B). Comm. Chang seconded the motion.**

**Comm. Melton** said he appreciates the process that staff has completed and he knows that this update will benefit businesses. He said there was a robust community outreach, with study sessions, and a review of best practices.

**Comm. Hendricks** offered a Friendly Amendment to remove the allowance of building wraps. Comm. Melton said no. Comm. Hendricks asked about removing the EMCs.

**Comm. Hendricks offered a Friendly Amendment that the Electronic Message Center signs have a hold time of two minutes rather than 30 seconds. The Friendly Amendment was acceptable to the maker and seconder of the motion.**

**Comm. Chang** said that this code should help businesses express themselves in a more orderly fashion and provide equal opportunity for everyone to show their business. He said the ordinance is a work in progress and can continue to be honed to address any issues.

**Comm. Olevson** said he would be supporting the motion. He said he wanted to take note of the extensive amount of effort that went in to make sure the City did not get into problems. He said the City would be looking at function and not the content of the signs.

**Comm. Kolchak** said he would be supporting the motion. He said he thinks this document is comprehensive and covers a lot of necessary aspects. He said these changes should aid and assist local businesses.

**Chair Larsson** said he would be supporting the motion. He said he is a little uncomfortable going from 30 seconds to 2 minutes on the EMC. He said he was impressed with the extensive outreach and the purposes for signs as listed in the report. He said this was a very thorough job.

**Comm. Hendricks** thanked staff and said he enjoyed the multiple study sessions. He said he thinks this will be easy to use and is clear to read. He said he does not know if he will support the motion as he does not like the EMCs and would like to have held off on the digital piece. He said everything else in the document is great.

**ACTION: Comm. Melton made a motion on 2011-7070 to recommend to City Council to introduce an ordinance to amend the sign regulations in Chapter 19.44 and relating sections of Title 19 (Zoning) of the Sunnyvale Municipal Code (Attachment B) with modification, that Electronic Message Center signs have a hold time of two minutes, rather than 30 seconds. Comm. Chang seconded. Motion carried 5-1, with Comm. Hendricks dissenting and Vice Chair Dohadwala absent.**

**APPEAL OPTIONS: This recommendation will be provided to the City Council for consideration at the June 25, 2013 meeting.**

**6. Subject: Review Planning Program Budget and Fees**

**Trudi Ryan**, Planning Officer, discussed the budget documents.

**Comm. Olevson** commented about the performance indicators. He asked staff about the Building plan checks discussing the possible need to hire more Planning staff.

**Comm. Hendricks** asked staff if there would be money for Planning Commission training. Ms. Ryan said there is budget to cover three or four commissioners to attend the annual Planning conference depending on travel costs and that if more commissioners would like to attend that staff could discuss the possibility with the City Manager. Comm. Hendricks discussed with staff budget details with staff commenting that the operating budget is looked at closely every two years and there is minimal difference between the 2012-13 and 2013-14 budgets. Ms. Ryan said there may be potential to add staff hours as the past few months have been busier.

**Chair Larsson** opened and closed the public hearing.

**Comm. Chang** moved to recommend to City Council the approval of the Planning Budget. **Comm. Hendricks** seconded the motion.

**ACTION: Comm. Chang** made a motion to recommend to City Council the approval of the Planning Budget. **Comm. Hendricks** seconded. Motion carried 6-0, with Vice Chair Dohadwala absent.

**APPEAL OPTIONS: This recommendation** will be provided to the City Council for consideration at the June 11, 2013 meeting.

**7. Standing Item Potential Study Issues**

**Comm. Hendricks** discussed with staff the possibility of a study issue to look at potential zoning and other regulations related to traditional cell phone towers versus the use of micro cells. Andrew Miner, Principal Planner, commented that staff cannot tell or direct carriers how to build their network. Mr. Miner said there is a study issue entitled “Telecommunication Facilities in the Public Right-of-Way” already in progress. Comm. Hendricks confirmed with staff that if a carrier wanted to install micro cells that our current regulations would allow it. Comm. Hendricks said he would table this suggestion for now since there is already a related study.

**NON-AGENDA ITEMS AND COMMENTS**

- COMMISSIONERS ORAL COMMENTS
- STAFF ORAL COMMENTS

**City Council Meeting Report**

**Trudi Ryan**, Planning Officer, discussed Planning related items recently considered by City Council.

**Ms. Ryan** discussed staffing changes in the Planning Division noting that this is Debbie Gorman’s last Planning Commission meeting as she will be supporting the Community Development Director. She introduced Terilyn Anderson who will be assisting with Planning Commission until Debbie’s position is filled.

**Kathryn Berry**, Senior Assistant City Attorney, commented about recent U.S. Supreme Court litigation regarding cell towers.

**Chair Larsson** thanked Debbie Gorman, the recording secretary, for her years of service as she is transferring to her new position within the City.

**INFORMATION ONLY ITEMS** – None.

**ADJOURNMENT**

With no further business, the Commission meeting adjourned 11:15 p.m.

Respectfully submitted,

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Trudi Ryan  
Planning Officer