SANTA CLARA CITY PLANNING COMMISSION
MEETING MINUTES
2603 Santa Clara Drive
Thursday, December 12, 2019

Present: Leina Mathis, Chair
James Call
Jason Lindsey
Mark Weston
Curtis Whitehead

Staff: Corey Bundy, Community Development Director
Bob Nicholson, City Planner
Matt Ence, City Attorney
Selena Nez, Planning Commission Secretary

Excused: Mark Hendrickson
Marv Wilson

1. Call to Order.

Chair Leina Mathis called the meeting to order at 5:30 p.m.

2. Opening Ceremony.

James Call led the Pledge of Allegiance and offered the invocation.

3. Communications and Appearances.

A. General Citizen Communication.

There were no citizen comments.

4. Working Agenda:

A. Public Hearings.

1. Public Hearing to Receive Input to Consider a Zone Change Request from Residential R-1-10 to Historic District/Mixed-Use Zone on 0.26 Acres for Property located at 2812 Santa Clara Drive. Susan Morris, Applicant.

City Planner, Bob Nicholson presented the staff report and stated that the applicant current run a child learning business out of her home under a Home Occupation business license. The business is called Colorful Kids Creative Academy and there are typically 3 to 5 children aged 3 to 6 years of age enrolled in the program. It runs three days per week for four hours per day. The applicant hopes to increase enrollment to approximately 6 to 8 students and place a small monument sign in the front yard. The present home occupation license in an R-1-10 zone limits a sign to just 12” x
12”, whereas the Historic District/Mixed Use Zone would allow for a larger sign. The applicant, Susan Morris is not proposing any changes or additions to the home at this time, only a change in use. There are three parking spaces along the driveway. The Code states that they should be hard-surfaced or surfaced in a manner acceptable to the Planning Commission. In the Historic District, hard surfacing other than concrete or asphalt has been allowed. The requested Historic District/Mixed Use Zone is consistent with the City’s General Plan, which shows this portion of Santa Clara Drive as a future Neighborhood Commercial area. Earlier in the evening, the Heritage Commission met and recommended approval of the request.

Commissioner Weston asked if the Heritage Commission had any comments about the surfacing. Mr. Nicholson reported that they did not because it has always been left to the Planning Commission, which has allowed pavers, road base, gravel and grass. The parking area is currently pea gravel, which is probably too small and is becoming a bit worn and thin, so it likely needs to be re-done.

Chair Mathis opened the public hearing.

Herb Basso gave his address as 2490 Vineyard Drive and stated that when his opened his restaurant, the Heritage Commission had just become active and they discussed trying to keep a softer landscape downtown, because too much asphalt and concrete could cause it to lose its historic feel. Mr. Basso stated that gravel is a good surface option as long as it is framed in and kept tidy.

Susan Morris, who resides at 2812 Santa Clara Drive, shared her proposal for surface finishing. She stated that in the Technical Review Committee (“TRC”) meeting, there was discussion about making the parking spaces of a nice-sized gravel in a color that is complimentary to the overall landscape, and putting in either concrete or wood pavers.

Community Development Director, Corey Bundy suggested there be parking bumpers to designate where the three parking spaces will be. Commissioner Weston agreed that parking bumpers would help show where each spot is.

Commissioner Lindsey asked if 2812 Santa Clara Drive is also used as a residence. Ms. Morris confirmed that it is.

Commissioner Whitehead asked if three cars will fit in the parking area, since it measures 30’ x 10’. Commissioner Lindsey stated that three cars should fit if they are parked at an angle. Mr. Bundy added that there should be no problem with a gravel surface, as long as it is maintained so as not to track onto the driveway and onto Santa Clara Drive.

There were no further public comments. The public hearing was closed.

2. Public Hearing to Receive Input to Consider a Zone Change Request from Residential R-1-10 to Historic District/Mixed-Use Zone on 0.43 Acres for Property Located at 3177 Santa Clara Drive. Fran and Howard Meldrum, Applicants; Melodie Hayes, Representing.

Community Development Director, Corey Bundy presented the staff report and stated that the applicants, Fran and Howard Meldrum, are requesting to use an existing one-bedroom apartment
attached to the rear of their existing home at 3177 Santa Clara Drive for short-term nightly rentals. No new construction is proposed. There is an existing fire hydrant within approximately 416 feet of the dwelling, which will meet the requirement of having a fire hydrant within 600 feet of the property. In the Historic District/Mixed Use Zone, short-term rentals are listed as a Conditional Use and require a Conditional Use Permit.

In the Historic District/Mixed Use Zone, the main requirements for short-term rentals are to have one parking space for every bedroom, with a minimum of two parking spaces for short-term rental units and that owners or property managers obtain a residential business license from the City. In the Historic District/Mixed Use zone, no specific amenities are required. The site plan shows a one-bedroom rental unit with spaces for two-car parking with a concrete surface. This zone change request is consistent with the City General Plan, which designates frontage along Santa Clara Drive as Neighborhood Commercial or Mixed-Use.

The application was reviewed by the Heritage Commission. The apartment is on the second floor, and the spiral staircase is the ingress and egress to the apartment. The Heritage Commission asked that the trailer and truck be removed, that a hard surface path to the unit be installed, and that a legal commercial stairway be installed to the unit, as spiral staircases are usually for private use and not commercial use.

Melodie Hayes was present representing the applicants, Mr. and Mrs. Meldrum, and provided a history of the property. In 2016, Mr. and Mrs. Meldrum applied for a building permit for the detached shop, which is now their home. It came to light that there was never a building permit issued. They had to pursue a variance because it is too close to the west side of the property line. They ultimately obtained a variance to convert the shop and the detached garage. They then applied for the building permit and were required to create a minor subdivision, which is the reason flag lot is the way it is. They would now like to convert the one-bedroom apartment into a vacation rental. Ms. Hayes reported that the truck and trailer were moved to the side of the house. The materials behind the woodshed will be moved and they were in process of bringing the wall into compliance with the landscape plan. Ms. Hayes reported that the Meldrums’ daughter had been living in the apartment, paying rent to her parents, but she moved out in August. Since then, the apartment has been vacant. Ms. Hayes indicated that it is a fully furnished one-bedroom apartment and the Lease Agreement will stipulate no smoking and no drinking. She also expressed confidence that they can meet all of the requirements but asked about the spiral staircase.

Chair Mathis asked why the Meldrums want to rent out the apartment as a vacation rental, as opposed to an Accessory Dwelling Unit (“ADU”).

Ms. Hayes stated that vacation rentals tend to be the most profitable. She added that Mr. and Mrs. Meldrum live in their home, and since Fran is a 24-hour caretaker for Lanyle Brown, who lives at 3173 Santa Clara Drive. If renters need to come through main house, Mrs. Meldrum is usually home and can let them in. Ms. Hayes also stated that they can install gravel or pavers for the walkway if desired by the Commission.

With regard to the spiral staircase, Ms. Hayes stated that in May 2016, Mr. and Mrs. Meldrum applied for the building permit, which they received in November 2016. The spiral staircase was allowed as part of the building permit. She stated that if the spiral staircase was the only thing holding up the process, they would look into the options for switching it out. Mr. Bundy explained
that the Building Code specifies a home must have ingress/egress and the spiral staircase does not meet the requirements for the main ingress/egress; it can only be used as a secondary.

Commissioner Call stated that it may seem like a hassle to switch the staircase, but there is a significant difference between the Meldrums’ daughter using it versus the public. For the public, the spiral staircase could be considered a liability.

Chair Mathis opened the public hearing. There were no public comments. The public hearing was closed.

Commissioner Call asked Mr. Bundy what the City was requesting in terms of the walkway. Mr. Bundy described the recommendations from the Heritage Commission.

3. **Public Hearing to Consider Revised Site Plan, Building Elevation Drawings, and a Conditional Use Permit for a Mixed-Use Project in the Current Planned Development Commercial Zone located at SE Corner of Santa Clara Drive and Lava Flow Drive for the Heritage Point Project. West Davis, Applicant.**

Mr. Nicholson presented the staff report and stated that the property is owned by State Trust Lands, located on the south side of Santa Clara Drive west of County Lane, extending to Lava Flow Drive. It consists of 2.1 acres south along Lava Flow on the west side, the piece on the corner of Lava Flow and Santa Clara Drive, and the piece of property by the day care center on Country Lane. Mr. Nicholson explained that the residential project between Lava Flow Drive almost to Country Lane is the only piece being considered with the remainder for future development. The project has frontage on Lava Flow Drive and Santa Clara Drive. It is already zoned Planned Development Commercial, and the site plan and building elevations are under consideration, as there have been significant changes since their previous submittal. A Conditional Use Permit is also being considered, as the request is for a Mixed-Use project. The previous submittal showed the units as three stories separated by seven feet. In the new plan, the density decreased to a total of 55 units in configurations of duplexes to six-plexes, with a modern Swiss look, and pitched and tiled roofs at varying angles. A six-foot semi-private wall around Lava Flow Drive and Santa Clara Drive is proposed. Three feet would consist of a masonry wall with three feet of wrought iron above that.

Mr. Nicholson explained that the overall density consists of 55 units on about five acres of residential land, which translates to 11 units per acre for the residential portion and would trigger the density bonus provisions. The entire parcel is 6.9 acres, so the density over the entire parcel is about eight units per acre. No development on the west side of Lava Flow Drive was being considered tonight, but public streets are proposed, which is a significant change from the previous version that included private streets. Mr. Nicholson stated that the project meets the minimum pavement width for public streets, which is 29 feet of asphalt width, and a curb and gutter on each side. One needed change that was communicated to the consultants was that a sidewalk must be on both sides of the interior loops street per City Code. Mr. Nicholson stated that because Lava Flow Drive leads to the schools, and traffic backs up considerably during peak hours in the morning and when school lets out, it was recommended that the driveway access be moved further south to line up with future access on the west side. Because short-term rentals are being requested for all 55 units, amenities are required.
In their letter, the applicants indicated that the amenities would include clubhouse with a pool, a
courtyard area, an open recreation area, a sport court, barbecue facilities under a pavilion, and extra
parking per code requirements. Mr. Nicholson noted that seven RV parking spaces are shown on
the site plan. The zoning code requires that the project contain recreation facilities consistent with
the size of the project or as recommended by the Planning Commission. Paradise Village has often
been referred to as a guide for amenities and Mr. Nicholson stated that the amenities are
comparable, given the size of the project. The zoning code allows for on-street parking and tandem
parking to meet the requirements of a self-contained project where all units are approved for nightly
rentals.

The issues under consideration for the Planning Commission are approval of the Conditional Use
Permit for this Mixed-Use project and whether the amenity package is consistent with the size of
the project. Each unit has a two-car garage, plus a 20-foot setback, so there would be potential
parking in the driveways, in addition to the garages. The landscape plan shows sycamore trees and
a number of other trees and shrubs along Santa Clara Drive and a number of other trees and shrubs.
Mr. Nicholson considered this to be a significant improvement over the previous plan.

The applicant, Wes Davis stated that some changes they have made include increasing the amount
of commercial as well as residential, decreasing the density, lowering the elevations on all of the
buildings, widening streets, and including RV parking. He shared that the rendering they are
working on now will address the issues Mr. Nicholson discussed.

Commissioner Lindsey asked about the size of the units and how Mr. Davis felt about moving the
access road further south. Mr. Davis stated that each unit is 1,600 to 1,800 square feet, and they are
already making the adjustment to the access road, in addition to adding the sidewalks.

Commissioner Call asked Mr. Davis if he felt that the pool would be large enough to accommodate
people in 55 units. Mr. Davis stated that there would be room to grow the pool if needed.

Commissioner Lindsey asked Mr. Davis about the commercial parcel. Mr. Davis explained that it
will be built as demand dictates and no construction would be done until it is known exactly what
type of use will be there. He added that it will be made to look as clean and sharp as possible.

Chair Mathis asked if the wall on both Santa Clara and Lava Flow would extend around the corner.
Mr. Davis stated that it would end on the residential side because typically commercial likes to have
visibility, especially on a frontage road. As far as landscaping, Mr. Davis stated that it would be
disturbed as little as possible so that it would stay natural-looking.

Commissioner Lindsey inquired as to how deep the driveways would be, and whether there would
be one owner or if the units would be sold. Mr. Davis explained that the driveways will be 20 feet
deep. The plan is to sell the units so that they are under one Homeowners’ Association (“HOA”),
and they would be jointly managed.

Chair Mathis opened the public hearing.

Jeff Makena reported that he lives on Riesling Avenue, about a block away from the proposed
project. He stated that the applicant, Austin Anderson was instrumental in meeting with the
neighbors in order to get input. He noted that the neighbors were as surprised as the Planning
Commission about the last meeting, but they are pleased for the most part with the new plan. Mr. Makena emphasized that the property is a gem and is the gateway to Santa Clara. He liked that the developers have included sycamore trees to make it consistent and that they have incorporated modern Swiss décor. His concern was that commercial development is planned, but it is unknown how many years the area might sit vacant. Mr. Makena was also concerned about where the parking will be for the proposed commercial development. He asked how the seven RV lots will be managed and noted that seven RV lots for 55 units seemed sparse. He asked Mr. Anderson to clarify whether the amenities for the project would satisfy development on the other side of the road and if there would be any landscaping between the fence and Santa Clara Drive.

Mr. Anderson clarified that the amenities would only be for this project and there would be landscaping the entire way, including the commercial.

Troy Johnson gave his address as 2176 Arrowhead Trail and stated that he was present representing his family farm just south of the proposed development. He wanted to make sure it is understood that the intention and use of the family property will remain unchanged even after his mother passes. Since his property is a farm, he did not think six feet would be a tall enough wall. There are smells, sounds, dust, and flies, so he suggested eight feet might be better. Mr. Johnson also stated that he would like to have something in effect that specifies that the farm would continue without any trouble even after his mother dies.

Mr. Bundy stated that Mr. Johnson’s family property and farm are grandfathered in as long as animals are actively kept there and are not removed for more than one year. Mr. Johnson understood that he has that legal right, but wanted it to be understood that his family property will continue to be a farm for the long term.

Wes Whitehead, who resides at 2190 West Arrowhead Trail, shared his concerns about parking for the RVs. Specifically, he stated that one of the parking spots for the RV is in the corner and is a partial triangle, so if someone parks there the wrong way, they will take up extra parking space. He asked who would determine who uses the parking spaces, and where people who come during busy weekends, such as Memorial Day or Labor Day, would park their four-wheelers and boats. Mr. Whitehead noted that his own trailer with the pick-up that sits in front of it requires 40 feet of parking space.

Charlie Miller gave his address as 2200 Arrowhead Trail and was pleased with the changes made to the plan. He also shared his concern that Lamy’s Restaurant will be turned into an overflow parking lot. He hoped to see some of the commercial property on the opposite side of the street designated for overflow parking, for the same reasons. He was concerned about the parking stalls being large enough to park a truck and trailer. On a busy weekend, cars can easily go around the corner and plug up Arrowhead Trail, which is a narrow street. Mr. Miller commented that he would also like to see the south masonry-only wall extended from six feet to eight feet. He stated that the property between where he lives and this project is owned by Southwest Behavioral Health. He has been the caretaker of it since Southwest Behavioral Health bought it and he does not want to see the area turned into overflow parking.

Mimi Makena gave her address as 645 Riesling Avenue and expressed concern that there are hundreds of children walking up and down Lava Flow Drive every day when school starts and ends. As the road narrows, there are no traditional sidewalks on either side so if many people end up
parking on Lava Flow Drive and Arrowhead Trail, there will be nowhere for the children to walk. There may be sidewalks on Lava Flow Drive up to the stop sign, but behind that, there are not.

Ruth Miller gave her address as 2200 Arrowhead Trail and stated that she drives these roads multiple times per day and is concerned about how drivers are going to turn off of Santa Clara Drive into the subdivision without getting T-boned. She wondered if they will have traffic lights at that stop, because the street is very busy. She also was concerned about previous comments about parking.

There were no further public comments. The public hearing was closed.

B. General Business.

1. Recommend to City Council a Zone Change Request from Residential R-1-10 to Historic District/Mixed-Use Zone on 0.26 Acres for Property located at 2812 Santa Clara Drive. Susan Morris, Applicant.

Commissioner Lindsey moved to recommend approval of the requested zone change from Residential R-1-10 to Historic District/Mixed Use at the property at 2812 Santa Clara Drive with the condition that Ms. Morris put in three parking bumpers. Commissioner Weston seconded the motion. The motion passed with the unanimous consent of the Commission.

2. Recommendation to the City Council a Zone Change Request from Residential R-1-10 to Historic District/Mixed-Use Zone on 0.43 Acres for the Property located at 3177 Santa Clara Drive. Fran and Howard Meldrum, Applicants; Melodie Hayes, Representing.

Commissioner Call moved to recommend to the City Council a zone change from Residential R-1-10 to Historic District/Mixed Use for the Meldrum property located at 3177 Santa Clara Drive, with the stipulation that they meet the following four recommendations from the Heritage Commission:

1. Remove the trailer;
2. Remove the truck;
3. Put in a hard surface path to the unit; and
4. Install a regular commercial stairway to access the apartment (10-inch run, seven-inch rise).

Commissioner Whitehead seconded the motion. The motion passed with the unanimous consent of the Commission.

Chair Mathis noted that the matter will go to City Council on January 8, 2020.
3. **Recommendation to City Council to Consider a Revised Site Plan, Building Elevation Drawings, and a Conditional Use Permit for a Mixed-Use Project Including Nightly Rentals in the Proposed Project in the Current Planned Development Commercial Zone located at SE Corner of Santa Clara Drive and Lava Flow Drive for the Heritage Point Project. Wes Davis, Applicant.**

Mr. Nicholson acknowledged concerns about parking and stated that one solution was to determine what the demand will be. Since the corner commercial piece will not be built for some time, overflow parking could be placed there if the need arises. By the time development starts, more will be known about what the true demand for parking is. Mr. Nicholson also stated that he thinks the plan makes the case to qualify for the density bonus provisions. He explained that the four qualifications for the density bonus provisions are:

1. Building design and materials (roof height and variation, high quality building materials, etc.);
2. Site design;
3. Landscaping; and
4. Project amenities.

Commissioner Call asked how many units per acre would be permitted assuming there was no bonus. Mr. Nicholson explained that in the commercial zone the ordinance does not specify, which the Commission plans to address in the coming year. He stated that currently, they refer back to the Planned Development Residential Zone standards, which is usually eight units per acre, or 12 units per acre under the density bonus. Under the Affordable Housing Plan the City has been working on and the Planning Commission approved the previous night, in a commercial center or in a commercial zone in a Mixed-Use Zone, the City would consider increasing the density or other options to encourage more affordable units. It was discussed whether to have a flexible density, as determined by the Planning Commission and approved by the City Council, or a hard cap, which right under the current density bonus is 12. Under the affordable housing requirement, in the coming year some zoning provisions will be put in place to implement the strategies that the City has adopted.

Commissioner Call asked how much these units would sell for. Mr. Anderson responded that they do not have an exact figure yet, but they will be priced in the range of $300,000 and up.

Chair Mathis asked if people will be able to park on the street. Mr. Bundy explained that since they will be public streets and with standard street widths, street parking would be allowed. Mr. Anderson added that parking will not be restricted outside of the development, and residents will have the same right as anyone else to park on City streets.

Mr. Nicholson asked if overflow parking could be provided on the corner commercial area. Mr. Anderson indicated that that would be no problem. Commissioner Call noted that it would be a temporary solution to some extent, because if the additional parking turned out to be necessary, the HOA would own the residential area, but those commercial portions would be separate.
Mr. Nicholson stated that they have two acres on the west side, so a portion of that could be used to accommodate overflow parking. The east side of the project also has an area labeled “proposed commercial,” which could accommodate additional parking. He noted that it will take a couple of years to learn the true need for parking.

Commissioner Weston commented that the proposed plan actually seems to have more parking than Paradise Village has based on the number of occupants; however, in Paradise Village, over eight to 10 weekends per year Lava Flow Drive becomes one-way only, and is packed. He asked if the City could post “No Parking” signs on Lava Flow Drive during those weekends and provide enforcement.

Commissioner Call liked Commissioner Weston’s idea of flagging the area as no parking, but noted that the units on the proposed project are half the size of the ones in Paradise Village, so not as much parking should be needed. He asked Mr. Nicholson what he had seen on the site plan that merited the density bonus. Mr. Nicholson explained that the basic building design and materials, as well as the variation of the roof, seemed to meet the requirements for the density bonus.

Mr. Anderson explained that the cream look would be stucco, the wood look would be hardy board, and there would be brick as well. The exposed wood truss look on the gable would also give it some character. The design of the back of the houses has movement since they will be visible. Mr. Anderson explained that for the light poles in front of the homes, a photocell would be used to light the garage at night. Since they are public streets, there would probably be some streetlights installed, as well. Once the project is approved, they will address the size of the pool with the engineers and pool company to make sure it is appropriate. He noted that parking is tough because it is uncertain how much parking is needed. He thought they went above and beyond with the seven RV parking spots. He agreed that maybe some parking should be placed on the 2.2 acre parcel.

Chair Mathis asked City Attorney Matt Ence if enough units are sold so that the HOA takes possession of the property, what would happen to the Planned Development commercial site if it is not developed. Mr. Ence explained that the site would remain as-is. The preliminary plat addresses the ability to sell the units into individual ownership because they are separate units. It also address the issue of how to split the residential from the commercial. The preliminary plat would include those definitions, so the commercial site would not be part of the residential HOA.

Mr. Bundy stated, in reference to the earlier suggestion to put up “no parking” signs on Lava Flow Drive during busy weekends, that that cannot be done because it is a City street, and all City streets have to be treated the same. He also stated that staff has looked at the entrances to the project and the suggestion to move one entrance down was so that it would meet City standards.

Chair Mathis stated that in Washington Fields, there were a lot of issues over homes going in adjacent to what had previously been farmland. She asked if some type of legal disclosure could be included on the plat for this property that specifies that it is understood that by purchasing a property within this plat, you are purchasing a home adjacent to a farm. Mr. Ence explained that there are several options. The seller could be required to sign an acknowledgement that is recorded on the property. He did not think the City had ever had that as a requirement of development. He added that legally, he was not overly concerned about it and explained that when a use such as a farm already exists and a potential purchasers knows it exists when they buy a home adjacent to it,
legally they do not have any right to stop it. However, Mr. Ence did recognize the concern about protecting the existing use. He did not think an eight-foot wall would make any more of a difference than a six-foot wall in terms of dealing with potential odors or flies.

Commissioner Lindsey asked about what type of landscaping would be put in on the City side and who would be responsible for it. Mr. Anderson stated that the developers would be responsible for all of the landscaping. He commented that there would be landscaping on both sides of the fence, including on the City side.

Commissioner Lindsey asked what their process was for discussing this project with the neighbors. Mr. Anderson indicated that he has known Mr. Makena for a long time and went to a neighborhood meeting with him to discuss the plans. He was surprised to find that it was not the plan he had expected. Afterwards, a new architect, Dennis Patton, was hired, and Mr. Anderson stated that the new plan was what he had envisioned all along. He added that he showed the new design to Mr. Makena but asked him not to share it until tonight.

Parking issues were discussed. Mr. Nicholson stated that residents can also leave reviews. If there are a lot of negative reviews that mention parking issues, the developers could address the issue.

Commissioner Weston moved to recommend approval to the City Council to consider the revised site plan and building elevation drawings subject to the adjustment for the street access and sidewalks on both sides of the interior streets. Commissioner Lindsey seconded the motion. The motion passed with the unanimous consent of the Council.

Commissioner Lindsey moved to approve the Conditional Use permit as a Mixed-Use and approve the nightly rental provision under the PDR Zone, both subject to the site plan renderings provided. Commissioner Call seconded the motion. The motion passed with the unanimous consent of the Council.

4. **Consideration of a Conditional Use Permit Request for Nightly Rental at 3177 Santa Clara Drive (see item 2 above). Fran and Howard Meldrum, Applicants; Melodie Hayes, Representing.**

Commissioner Weston moved to approve the Conditional Use Permit Request for Nightly Rental for the Fran and Howard Meldrum property located at 3177 Santa Clara Drive, as per the application. Commissioner Call seconded the motion. The motion passed with the unanimous consent of the Commission.

5. **Appoint a New Planning Commission Chairman and Vice Chairman.**

Commissioner Call nominated Commissioner Weston to serve as Chair of the Planning Commission and Jason Lindsey to serve as Vice Chair. Commissioner Whitehead seconded the motion. The motion passed with the unanimous consent of the Commission.
6. Request Approval of Amended Site Plan Regarding Setbacks on Jim’s RV. Doug Rogers, Representing.

Mr. Bundy presented the staff report and stated that the proposal came before the Planning Commission on July 11, 2019. At that time, there was discussion about the wall along Arrowhead Trail and the Commission’s preference that the wall be split. There was also discussion about an eight-foot setback and trees. Mr. Bundy reported that Jim’s RV gave up seven feet on the east end and 13 feet on the west end of the rear of his lot for the road dedication on Arrowhead Trail. The City needs the property to meet City standards to develop the roadway. The road dedication created a hardship on Jim’s RV and an issue with RVs entering the back of the building. To remedy the situation, staff agreed to move the first wall one foot behind the sidewalk, move the second wall two feet back from the first, and move a chain link fence two feet back from the top side of the wall. Since trees were no longer feasible in the small area, the property owner agreed to plant shrubs that will hang down over the wall. Mr. Bundy reported that staff contacted the Planning Commission Chair regarding the modifications and agreed that the changes did not need to be brought back to the Commission. Staff moved forward with the modifications.

Mr. Bundy shared photographs of the retaining wall and noted that the posts located at the top of the wall were a mistake by the concrete installer that will be moved back two feet. He also pointed out that the front tree planter is currently in place and showed the elevation and gravel located behind the retaining wall as well as piping for the planters that will provide drainage. Mr. Bundy showed plantings in the stacked walls at Pioneer Park and other examples of greenery planted in walls. He stated that staff believed this look could be achieved to make up for the trees that were originally planned.

Mr. Bundy reported that the walls were engineered and installed per the engineering plans. The purpose of this item was to address the Commission’s concerns that they never approved the reduced setback. He explained that either the City Council or the Planning Commission approved the change with Public Works Director, Jack Taylor’s recommendation and staff allowed the wall to be moved based on that approval. Mr. Bundy explained that staff is requesting the Commission’s approval on the setback as completed.

Commissioner Call clarified that the Commission is being asked to approve the setback, which was completed previously based on an understanding that formal approval was given. It was noted that although that approval cannot be found in the minutes. He also clarified that approval would be provided with the exception of the poles being moved back, the plantings being installed, and the correction to the coloring of the wall. Mr. Bundy confirmed that the request is accurate and added that an additional conduit was installed in the wall at the request of a neighbor for Christmas lighting. The only other request the developer had was to move the building closer to the street since the two-foot planter prohibits RVs from accessing the back entrance. Mr. Bundy confirmed with Mr. Taylor that moving the building should not be an issue.

Mr. Ence reported that he asked that the item be brought back to the Commission after meeting with the neighbor and discussing his concerns. He reported that the concerns were valid and mainly about procedure, and the request was to have the Planning Commission approve it as built. If the request is not approved, a discussion would need to take place about what needs to be removed and what needs to be re-installed.
Commissioner Lindsey recalled the discussion about a planter between the sidewalk and the wall, the front planter being changed from 6 feet to 8 feet, and splitting the retaining wall but did not recall discussing the planter being removed. Mr. Bundy explained that the trees were not able to be planted between the wall and the sidewalk because of the reduced space and potential issues with the roots breaking up the sidewalk. Commissioner Lindsey stated that if staff approved it, it should remain as built. A discussion was held on whether the Commission would have approved the modifications if they had been presented since the Commission had previously approved the split wall and the other modifications except the landscaping and reduction of the landscaping strip.

Commissioner Weston commented that the decision is simple because the Planning Commission approved the modifications and staff made the modifications as approved. Staff clarified that it was not built as the Commission originally approved but the modifications were authorized per the approval Mr. Taylor received. Mr. Bundy stated that staff would find the minutes that specify when and how the approval was provided.

Mr. Bundy described the coloring changes that need to be made to the wall. Commissioner Lindsey asked if the Commission should approve the modifications with the specific color corrections. Mr. Bundy recommended including the coloring in the motion along with the plantings that need to be installed and approve the work as built with the exception of the wall color and plants staggered on both levels as approved by staff.

Eric Olmstead, attorney for Mr. and Mrs. Phillips, outlined several concerns his clients have including the lack of transparency, the lack of documentation regarding approval of the modifications, and the Commission taking action to approve modifications after the fact. Mr. and Mrs. Phillips also had concerns about the lack of opportunity to participate in the process, the wall being moved, the discrepancy in the space between the two retaining walls, potential engineering issues with the space differential, and potential drainage issues. They were also concerned that they have not received a site plan or landscaping plan and believe the height of the wall on the southeast side of the property may exceed the maximum height of the fencing. Mr. and Mrs. Phillips also believe the footing was constructed too high on the second wall and may not have proper depth for frost.

Mr. Olmstead also identified issues with how the concrete was poured for the walls and encouraged the Commission to get confirmation that there are no engineering defects. Mr. Phillips made formal requests for information and did not receive any responses other than Mr. Taylor’s letter. Mr. Olmstead requested that the Commission table the item until a Landscaping Plan is provided and an engineer can confirm that the project meets engineering standards and specifications. The Phillips were interested in working out the issues but wanted to be included in the process. They would also like to see what the coloring of the wall will look like, whether the change will consist of paint or concrete, and how the coloring will be maintained and enforced in the future.

Doug Rogers, the contractor who performed the work, stated that the engineering of the wall was reviewed by the City and that he and Mr. Bundy discussed obtaining certification from the engineer that the modifications are satisfactory. He also confirmed that the plans were redrawn, re-engineered, and submitted to the City. Mr. Rogers stated that a contractor from Preston Excavating claimed that they were instructed by Mr. Taylor to excavate 1.5 feet between the two walls.
Mr. Rogers responded to the concerns outlined by Mr. Olmstead and confirmed that the elevation is correct and has been constructed according to the plans, proper irrigation has been installed through the use of PVC piping, and paint was not used on the wall. He added that Mrs. Phillips chose the color of the wall during a visit. Mr. Rogers had with her and she selected the current color on the wall but unfortunately, it did not come out dark enough. Per Mr. Taylor’s request, Mr. Rogers contacted Scott Welch with the concrete company to see what can be done to match the color. Mr. Welch was currently in the process of getting the stain and paint materials to make the correction. To resolve the RV access issue, an agreement was made with Mr. Bundy’s assistance to move the building up four feet and the planter up two feet. Mr. Rogers contacted Jason Smith to get a letter from Rosenberg Associates stating that the engineering of the wall is acceptable. Mr. Smith indicated that it would not be a problem. He assured the Commission that all of the work that has been completed to date has been approved by the City, and he was ready to start on the foundation.

Chair Mathis asked Mr. Ence how the Commission should proceed. Mr. Ence stated that the Commission can modify the previous approval of the site plan or table the item until the minutes are found. Commissioner Call asked if the minutes are permanently lost or whether more time is needed to look for them. Mr. Bundy replied that staff has searched the minutes and audio recordings from the Planning Commission Meeting but still needs to review the City Council’s audio recordings from regular and working meetings since October. Commissioner Lindsey asked Mr. Ence if it would be better to wait until the minutes are found. Mr. Ence stated that it is an option but the delay would put the owner and contractor in a position to decide whether to proceed or wait at their own risk. Commissioner Lindsey asked if discussion tonight with Mr. Phillips would be appropriate to determine what he needs to resolve the issues. Mr. Olmstead stated that his clients are willing to negotiate tonight but they need to see the landscaping plans and have economic issues that need to be resolved.

The Commission discussed the economic cost of tabling the item and whether there is any potential liability with continuing the work in the meantime. They also discussed how to proceed and whether to take any action tonight. They concluded that it was unlikely that the wall will need to be demolished and rebuilt. Mr. Ence stated that it is important to get approval from the engineers on the construction since there are discrepancies between the plans and what was built. Mr. Rogers assured the Commission that he would have the stated approval from the engineer the following day.

Bob Nicholson and Mr. Roberts discussed the plans for the landscaping, the reason for the tree removal, and who inspects the work upon completion. Mr. Rogers stated that Mr. Taylor and Mr. Bundy inspect the work and he has plans that have been signed. Mr. Ence asked if the plans are the same that were submitted before. He was confused since Mr. Rogers had made contradictory statements about the plans being consistent with what was built and plans being approved as built. Mr. Rogers offered to review the plans with Mr. Ence.

Commissioner Whitehead asked if the structure can be approved as built with the condition that everything is compliant. Mr. Ence recommended that conditions on structural items only be made upon engineer approval. He explained that conditions related to landscaping or other non-structural items can be worked out between staff and the contractor. The Commission discussed whether they would have approved what was built if the plans represented what is there now. They also discussed the building and recalled accepting Jim’s RV as a conforming use building per the commercial zoning ordinance. Commissioner Lindsey recalled discussing the planter in front of the
lot but did not recall discussing the back lot. He commented that if he had been shown a plan backing the wall one foot away from the sidewalk, he would have approved it because it is a conforming use.

Mr. Ence recommended that staff work out the issues and confirmed that there is nothing in the ordinance that states that an amendment to an approved plat has to come back before the Commission. Commissioner Call asked Mr. Bundy if he would typically stop construction or keep building in this situation. Mr. Bundy stated that the building permits for the building and one of the retaining walls have been issued and the work should proceed. He would also confirm with the engineer that what was built is what the engineer had in mind when he designed the walls knowing there would be a planter in between. He noted that the discrepancy is the spacing between the two walls.

The Commission was in favor of taking no action and directed Mr. Bundy to work with the property owners on the landscaping and color of the wall. Mr. Ence agreed with the Commission’s decision to take no action.

5. **Discussion Items**

There were no discussion items.

6. **Approval of Minutes**

A. **Request Approval of November 13, 2019, Regular Meeting Minutes.**

Commissioner Lindsey moved to approve the minutes of November 13, 2019. Commissioner Weston seconded the motion. The motion passed with the unanimous consent of the Commission.

7. **Adjournment.**

Commissioner Weston moved to adjourn. Commissioner Call seconded the motion. The motion passed with the unanimous consent of the Commission.

The Planning Commission Meeting adjourned at approximately 8:59 p.m.

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Corey Bundy
Community Development Director

Approved: January 9, 2020