



CITY of YORBA LINDA

PLANNING COMMISSION MEETING MINUTES

March 12, 2025, 6:30 p.m.
Council Chambers
4845 Casa Loma Avenue

Commissioners Present: Behura, Bernstein, Goldfarb, Chavez Marquez, Masterson

Staff Present: Choi, Dominguez, Farnsworth, Garcia

1. **CALL TO ORDER**

The Yorba Linda Planning Commission convened at 6:30 p.m. in the Council Chambers at 4845 Casa Loma Avenue, Yorba Linda, California.

Note: No new items will be considered after 11:00 p.m.

2. **PLEDGE OF ALLEGIANCE**

Led by Commissioner Goldfarb.

3. **ROLL CALL**

4. **APPROVAL OF THE MINUTES**

4.1 Approval of the February 12, 2025 Planning Commission Meeting Minutes

Moved by Masterson

Seconded by Goldfarb

The Planning Commission approved the February 12, 2025 Planning Commission meeting minutes as mailed.

AYES (4): Bernstein, Goldfarb, Chavez Marquez, and Masterson

ABSENT (1): Behura

CARRIED (4 to 0)

5. PUBLIC COMMENTS

Behura joined the meeting at 6:34 pm.

6. WAIVE READING IN FULL OF ALL RESOLUTIONS ON THE AGENDA

Approval of reading by title all resolutions on the agenda and declare that said titles which appear on the public agenda shall be determined to have been read by title and further reading waived.

Moved by Masterson

Seconded by Goldfarb

Approved waiving readings in full of all resolutions.

AYES (5): Behura, Bernstein, Goldfarb, Chavez Marquez, and Masterson

CARRIED (5 to 0)

7. PUBLIC HEARINGS

7.1 TENTATIVE PARCEL MAP 2023-119 - KIM

Eva Choi, Senior Planner, explained the request is to subdivide 0.868-acres of land into two parcels for single-family purposes. The property is located north of Hillcrest Circle and west of Prospect Avenue and is zoned RS (Residential Suburban). The parcel is irregular in shape and measured approximately 69.12' wide fronting Prospect Avenue and extends approximately 165' long running parallel with the El Cajon Trail. The property is currently improved with a single-family residence, a detached garage and storage structures located in the rear yard. The applicant intends to maintain all existing improvement on the westerly portion of the property, the future Parcel 1, and create a new parcel on the easterly portion (Parcel 2) for the future construction of a new single-family residence. The proposed subdivide would provide a density of 2.3 dwelling unit per acre,

within the maximum density of 3 dwelling unit per acre prescribed by the General Plan.

Staff has determined that the parcel map complies with density and development standards in the General Plan and the Zoning Code. The project currently takes access from Prospect Avenue via a driveway and will continue to use this existing driveway. A new driveway dedicated for Parcel 2 will take access from Prospect Avenue. The City Engineer has reviewed the proposed new driveway access and has not expressed any concerns.

The footprint of the new residence shown on Parcel 2 is merely for reference to demonstrate the new driveway access for the future residence. The project is conditioned to comply with all zoning standards; and the future residence on Parcel 2 is subject to Design Review or Conditional Use Permit approval by the Planning Commission.

Staff recommends that the Planning Commission adopt a resolution approving Tentative Parcel Map 2023-119 subject to the attached conditions of approval.

Commission Behura asked why there is a footprint if it is just being subdivided, and will they have to adhere to this footprint once the site is developed?

Ms. Choi responded it was requested by engineering for site drainage. The footprint is provided as reference. The Commission's decision affects the driveway access.

Chair Bernstein asked if anything has been built on this property to date.

Ms. Choi stated the property maintains a single-family home, a detached 2 car garage and a large accessory structure along the southern portion of the property which will remain.

Commissioner Goldfarb asked what can be placed on the new lot line.

Ms. Choi stated that staff has not received a formal application for future development on parcel 2; the building footprint is provided as a reference for where the driveway will be located. Future development will be subject to Planning Commission approval through a design review or a conditional use permit if the applicant wants a two-story home.

Commissioner Chavez-Marquez asked how the lot frontage will be handled when there is a secondary home behind it and who will maintain the driveway.

Ms. Choi stated due to the shared driveway, the frontage may be reduced, and a recording of a reciprocal driveway easement will be required or a driveway easement from parcel 1 to parcel 2 which will reduce the street frontage. The reduction will not result in the property having less than the minimum lot width of 80 feet for the zoning district.

Chair Bernstein invited the applicant to step forward and asked if he agreed with all the conditions of approval.

Mr. Kim stated he agreed with all the conditions of approval.

Chair Bernstein opened the public hearing.

Deana Risinger resides on Prospect and Hillcrest adjacent to the property. She submitted a letter from the Siemers. She does not object to the division of the property; however, she is concerned about the setbacks, losing the view that she has enjoyed for 35 years, her property value and is concerned about having a two-story home and garage. All the homes on Hillcrest are single story homes and she does not want to lose her privacy. The current red garage is huge and was built within 5 feet of her neighbor's back wall.

Laura Katsis lives on Hillcrest. She has concerns about the bright red garage that is five feet from her back wall, has no roadway leading to it and is not accessible to cars. It is 14 feet tall next to a six-foot fence and that is all she sees every day. She has concerns about the trail and its safety from the additional traffic. She is afraid they will not build in good faith and have a structure that does not fit in with the neighborhood.

Bruce Anderson resides off the horse trail, two houses in. He has heard there are plans for a two-story house and garage and he prefers that it remains a one-story home.

Christina Klein is the third house on the south side. She can see the big red barn from her property; it is an eyesore to the neighborhood. The current driveway exists for these properties, as well as a third house that is behind this property. She stated there is a business being conducted out of the home on parcel 1 and the barn is a warehouse. She's concerned that the new home will be an extension of the business.

Danny Marrett represents the church that is the back property that Ms. Klein was talking about. They own the property, as well as the church, and another property on the south side. This is the first they've heard that there was going to be a hearing on the property and the long driveway is the main entry into their property. Nobody seems to know if the driveway belongs to

the church or to the property owner. He ordered a title report today to find out who owns the driveway; therefore, they would like more time to review the findings.

Sylvester Babinski resides on Hillcrest Circle south of the church property. He has concerns about the aesthetics of the neighborhood and a two-story home. The crossing is used by school children and visibility from the existing driveway is already compromised by southbound traffic on Prospect due to the undeveloped curb set. The barn is extremely visible from his property. He never heard anything about the project until he received the public notice.

Michelle Rose stated there are always cars and trucks parked there and it makes it difficult to get out of her own street turning out of Hillcrest Circle onto Prospect Avenue.

Seeing no other speakers, the public hearing was closed.

Commissioner Behura asked staff to confirm that all properties received noticed. Google maps shows this property as a construction business. How was the barn permitted and for what purpose?

Ms. Choi stated notices were sent out in February and it has a home occupation that is permitted by code. The barn was permitted as an accessory structure/workshop and inspected by building staff in 2023; it is 998 square feet and 14 feet tall which is under the 1,000 square feet size and 15 feet height threshold that is required by code. This structure is allowed to be used for storage of household items or recreational vehicles, but not for storing business inventory.

Commissioner Behura asked if the extra traffic is coming from a business on that property and he would like to know the true nature of the business. He encouraged the residents to speak to Tony Wang, City's Traffic Engineer, to resolve some of the site issues on the street.

Commissioner Chavez-Marquez asked how many properties have access to the easement?

Ms. Choi stated the church property owner came to the planning counter advising staff that there is an existing easement which allows the church property to utilize the driveway to access their property in the back. Historically, the property at the very end has been using the driveway. The easement did not show up on the applicant's title report and is not shown

on the map. The applicant is unaware of such an easement, so it is possible that it has been being used, but not legally recorded.

Commissioner Goldfarb confirmed that the driveway is the only access to the church property. Ms. Choi stated yes.

Nate Farnsworth, Community Development Director, clarified that the church recently acquired this home and an access was created from the church on the west side to access this home to the east. Historically, this home utilized access from Prospect Avenue and he believes there is access from the east and the west side of the church property.

Commissioner Chavez-Marquez stated he is concerned that everyone is traversing that easement. He asked if there are deliveries or more activities that the city does not know about with the business operation.

Director Farnsworth clarified the church purchased the property and is utilizing it as a residential structure. The zoning and approved uses are for residential purposes; they would have to request a conditional use permit for any use modification. To the best of his knowledge, there have not been any complaints to the code enforcement division regarding illegal operation of a business at this location, therefore staff will address whether the business is operating in compliance with their home occupation permit.

Chris Dominguez, Planning Manager, added the home occupation permit's intention is to retain the residential character by limiting it so there should be no customers and deliveries going to the property.

Commissioner Behura asked if there must be an official code enforcement complaint or can he request staff to review the property?

Director Farnsworth stated the Planning Commission can request that code enforcement investigate the nature of the business.

Chair Pro Tem Masterson stated he understands the concerns of the residents; however, the Commission is only looking at dividing the parcel map into two. All the other items are out of their purview at this time, and he urged the residents to reach out to the owner; they can paint it a different color. The church property has been there for a long time, and he asked if staff can impose a condition to ensure that the church has access to this road?

Ms. Sanders, City Attorney, explained that the Commission does not have to impose a condition if the church has a legal right to use that easement. Imposing a condition that would create a legal right is a bit broad for

consideration of a tentative parcel map. If the access is an issue, then the Commission may want to consider a continuance so staff can review the rights of the church to use that easement.

Director Farnsworth added there is access to the home from the west and historically there has been access from the east. Staff does not know how the church plans to utilize the parcel and he has concerns if there are plans for the church to utilize this property for religious purposes he is reluctant to provide access the easement.

Commissioner Chavez-Marquez asked where is the access to the west?

Director Farnsworth stated at one point they were either going to install a gate or had discussions about installing one from the west side of the property.

Tranda, Administrator for the church, stated they had a conversation with KC Kim yesterday; they are not for or against the division and he stated they did not receive any public notices. The property was purchased about two years ago and the only access was through the easement in the front. There is 50 feet between this property and the church property, so they opened the fence so they wouldn't have to use the easement. Currently, there is a family living in the house and they're not quite sure what they will do with the property; however, they plan to open a school and church in the front buildings in September and there will be a fence between this property and the main property because the family cannot be part of the school grounds. They will have to use the easement to use the parking lot.

Commissioner Chavez-Marquez clarified that the residential property will be made as such.

Mr. Tranda stated they are not sure; they are still looking at options. They originally purchased that property for a parking lot but weren't pleased with that idea so they purchased another property between the school and the church on Rose Drive. They plan on demolishing that property and designing a parking lot for the church and the school.

Director Farnsworth suggested that he follow up with Ms. Choi to verify their address so they received the public notices in the future.

Mr. Marrett added this parcel has a private APN with direct access to Prospect; the gate that was installed is for service purposes. If they sell the property how will future owners exit the property?

Bruce Anderson stated a gate was created on the west side where they could leave the residence and go out to Rose Drive. He asked for a definition of a home office permit.

Commissioner Goldfarb asked where the easement is located. He asked if the project is approved, is there a possibility that getting access through that driveway by way of an easement change or are the rights the same.

Chair Pro Tem Masterson stated the lot is not landlocked; they can always go from the church. The Commission cannot put a legal requirement on someone else.

Miss Sanders clarified they are addressing any consequences or potential issues that can arise because of the subdivision. To the extent that the easement does or does not already exist and it's not being impacted by the subdivision, which is beyond the discretion of the Commission for this approval. If the subdivision was removing access or changing existing access then there would be an opportunity to impose a condition. Otherwise, it is the same status as it would be with or without the subdivision, then that is left to the property owners to determine through legal avenues for establishing an easement.

Chair Bernstein clarified they don't have to do anything about it because tonight they are determining whether it is legal to subdivide the property.

Miss Sanders added the subdivision is not interfering with the current driveway.

Chair Bernstein stated the question is whether this piece of property is following the regulations to be subdivided. There are traffic, code enforcement, and business issues that are not the purview of the Planning Commission; however, the city has staff that can address all those issues.

Moved by Masterson
Seconded by Behura

The Planning Commission adopted **Resolution No. 5627** approving the project, subject to the attached conditions of approval.

AYES (5): Behura, Bernstein, Goldfarb, Chavez Marquez, and Masterson

CARRIED (5 to 0)

7.2 CONDITIONAL USE PERMIT 2024-21 - YEE

Alexis Garcia, Assistant Planner provided a visual presentation for a conditional use permit for a new 5,385 square foot, two-story single-family dwelling with a 175 square foot second story deck and a 1,010 square foot attached garage. The prior residence was demolished in 2014 and subdivided a single lot into three separate parcels.

There is a total of 17 second story windows across all four elevations, as well as the deck which includes 1 sliding glass door on the rear of the property. There are 7 proposed windows along the north elevation with no privacy concerns given that the view shed looks on to the driveway, the front yard setback and the street beyond. There are 5 windows along the western elevation with no privacy impacts given that it overlooks 2 vacant parcels.

There are 7 windows along the eastern elevation which have potential privacy impacts; however, the proposed design includes a variety of clear story windows or windows that do not have access from interior views. A tree located on the east façade will minimize direct views and potential privacy impacts to the easterly property. Staff feel there will be minimal privacy impacts and are supportive of the overall design. There are return walls on either side of the second story deck, further minimizing the direct views into the adjacent properties with a setback of 80 feet from the rear property line.

The architectural design fits in well because there is no specific design theme in the neighborhood. One property owner on the eastern portion expressed some concerns; however, after he saw the plans, he felt the massing of the dwelling would not directly interfere with their privacy. Staff spoke to a second property owner adjacent to the eastern property line who had privacy, dwelling mass, and parking concerns. That neighbor is in attendance of the meeting and will provide comment.

Staff recommends approval of the project subject to the conditions of approval.

Commissioner Behura asked if there are any outstanding issues from the neighbors.

Mr. Garcia stated none, except for the second neighbor, is in attendance to discuss background on the property.

Chair Bernstein asked if the garage will be a separate building and is there a proposed additional dwelling unit.

Mr. Garcia stated it will be attached to the home and there is no ADU proposed at this time.

Chair Bernstein asked if an ADU would affect lot coverage?

Mr. Garcia responded that state law allows an ADU of approximately 800 square feet which cannot be denied by staff in terms of lot coverage.

Chair Bernstein invited the applicant to step forward and asked if they agreed with all the conditions of approval.

Winnie Yee approached and stated they agreed with all conditions of approval.

Commissioner Chavez-Marquez asked to have the designer speak to the design and talk about the aesthetics and how it fits in with the overall fabric of the community.

Mehrdad Mohammadi, Project Architect stated there is no dominant architectural design in that neighborhood. They have chosen a modern farmhouse style with a pitched roof, with a one-story garage in front of the home to limit the massing of the project.

Chair Bernstein opened the public hearing.

Megan Teran resides on Malcolm Lane and expressed concerns about the size of the home for the neighborhood because it is a narrow private street that is not in optimum condition for the construction vehicles. They want to make sure that they are within all the setbacks. She asked if the city places notices on fences because they were only notified of the project two weeks ago.

Director Farnsworth stated some cities will place a public notice on the project site; however, Yorba Linda does not do that. The city sends out first class mail public hearing notices to all property owners within a 300 foot of the subject property and publishes in the newspaper 10 days in advance of the meeting.

Michael Knapp resides on Malcolm Lane directly east of project. When he stands in his driveway, all he will see the roof of the garage. He is an avid gardener, and his backyard will be under surveillance from that upper story. He added he sometimes sunbaths in a risqué fashion. Mr. Yee built property directly across the street and placed this massive 5-bedroom 2-story house on the lot that does not fit in the neighborhood.

He wants to make sure the grading, elevation and drainage issues are taken into consideration because that property is 6 inches above his. He would like a stipulation included so that if any damage occurs to his fence during the construction, it is immediately addressed and repaired within 30 days. He hopes they retain the oak trees because they help with their privacy concerns. He also expressed concerns with the construction noise, radio, sitting out after hours and drinking.

Chair Bernstein closed the public hearing and asked staff if Mr. Knapp's concerns have been addressed in the conditions of approval, as well as possible specific damage to his fence.

Mr. Garcia stated several conditions have been imposed by the engineering department and other conditions have been added for the construction component regarding noise requirements.

Director Farnsworth stated they do not have a standard condition of approval regarding repairing damage to a fence during construction within a certain time frame. The condition could be added per the commission's request.

Chair Bernstein asked if the height of the lot and drainage were considered.

Mr. Garcia responded the building submittal will be routed to the engineering department who will review any potential drainage issues during building plan-check.

Director Farnsworth added it was submitted to the engineering department at the preliminary level.

Mr. Garcia added that the Engineering Department included condition 7 was added requiring that prior to a grading permit that the site drainage be designed to convey flows to an acceptable drainage system or outlet to the street to prevent drainage off site.

Chair Pro Tem Masterson inquired if the applicant asked for any variances. He opined that once the home across the street was built, it changes the dynamics of the street and he is in support of this project.

Mr. Garcia stated the request meets the development standards and no variances or administrative adjustments are required at this time.

Commissioner Behura opined that he is in favor of the project and feels they should speak with the street division if the road is in poor condition.

Commissioner Chavez Marquez asked if this is a second home.

Ms. Yee stated for dad owns the property and this will be her home; the other home was supposed to be for her brother, but for personal reasons they decided not to move in therefore it is currently a rental.

Chair Bernstein opined that the front elevation integrates well with the other family home across the street, it meets all the development standards for the city, and he supports the project.

Moved by Behura
Seconded by Goldfarb

The Planning Commission adopted **Resolution No. 5628** approving the project, subject to the attached conditions of approval.

AYES (5): Behura, Bernstein, Goldfarb, Chavez Marquez, and Masterson

CARRIED (5 to 0)

7.3 CONDITIONAL USE PERMIT 2023-44 & DESIGN REVIEW 2023-09 – T-MOBILE

Alexis Garcia, Assistant Planner explained this application was submitted by T-Mobile to establish and operate co located transceiver facility between T-Mobile and Dish on the southwest portion of the shopping center. The structure will match the existing shopping center material, aesthetics, color, and overall design as there is already an existing facility along the northwestern portion of the shopping center.

This structure height will be increased by 7 feet 5 inches from the existing top peak. The co-located facility between T-Mobile and Dish are individually proposing 6 antennas for a total of 12. The structure itself is 41 feet by 30 feet which is open on the top; however, it will appear as an enclosed addition from the street below.

Initially there were 2 separate proposals for the rooftop mounted facilities which would have resulted in three structures total. In an effort to minimize the visual impact staff thought it would be better to co-locate the facility. Staff is supportive of the design given there is a large number of trees with enough distance from the street. The applicants have made an effort to provide the best screening possible.

Commissioner Behura asked if there could be any long-term health impacts from the facilities and is concerned with employees who work there every day.

Mr. Garcia stated that the concern comes up quite often. It is a sensitive topic; however, there are findings that a city can make in terms of stealthing and design; However, they are required to facilitate the approval of cell site facilities. As far as health implications that may arise, they require each carrier to provide their own radio frequency study and staff finds that emission from the street level is far below half of the maximum allowed by state law. It is a minuscule percentage of what is allowed.

Staff and commission discussed the slope of the roof, visibility of the access door, air conditioning equipment, screening, size of facilities due to future expansion plans.

Chair Bernstein received several emails from community members stating a perceived danger to adding the equipment, especially for children who frequent the center. He asked what it means when emissions increase as you get closer to the building.

Mr. Garcia stated worst case scenario would be for people who provide maintenance to the facility who would be exposed to the frequency because they are on the roof; there are many safety measures that go before the project is approved and there are added conditions of approval that require signage to provide warnings of a potential impact that are perceived from a prolonged exposure. As for the employees who work at the center, the findings of this study indicated the exposure would be no more than exposure you would get from a cell phone or a microwave at the pedestrian level.

Chair Bernstein invited the T-Mobile and Dish Wireless representatives to approach and ask if they agreed with all the conditions of approval.

Madison LaScalza from T-Mobile and Brian De La Rey with Dish Wireless agreed with the conditions.

Commissioner Chavez Marquez asked if there is backup power and if it would be possible to match some of the existing architectural features currently there such as rafter tails and rich cap that complements the existing facility.

Ms. LaScalza from T-Mobile stated they have battery back up and are willing to match the aesthetics. Mr. De La Rey with Dish stated they don't have plans to put a backup battery were generated here at this facility because the generator must be at a certain noise level. As for the size they must make sure their frequencies do not cross.

Commissioner Behura asked if they increase the equipment in the future will it increase the level of emissions?

Mr. De La Rey stated no and he explained how the horizontal plane and pitch work. Antennas regulates the emissions and they could increase the bandwidth but it would not the magnitude strength.

Chair Bernstein opened the public hearing, seeing no one approached, the hearing was closed.

Moved by Masterson

Seconded by Behura

The Planning Commission adopted **Resolution No. 5629** and by minute motion approving the project with conditions.

AYES (5): Behura, Bernstein, Goldfarb, Chavez Marquez, and Masterson

CARRIED (5 to 0)

7.4 **CONDITIONAL USE PERMIT 2023-42 & DESIGN REVIEW 2023-08 – DISH WIRELESS**

Moved by Masterson

Seconded by Behura

The Planning Commission adopted **Resolution No. 5630** and by minute motion approving the project with conditions.

AYES (5): Behura, Bernstein, Goldfarb, Chavez Marquez, and Masterson

CARRIED (5 to 0)

8. NEW BUSINESS

8.1 **APPEAL OF ACCESSORY DWELLING UNIT 2024-34 - DAVILA**

Eva Choi, Senior Planner, explained the appeal request is on behalf of the applicant due to planning staff's denial of an accessory dwelling unit (ADU).

Ms. Choi provided a brief background of state laws related to additional dwelling units and the city's adopted local ordinance. The state limits local agencies' ability to review or impose arbitrary or unreasonable limitations on the development of ADU projects. Cities are allowed to adopt local

standards such as unit size, required parking spaces or impact fees. The local government must allow an ADU of at least 850 square feet or up to 1,000 square feet for ADU's with more than one bedroom. Yorba Linda adopted an ordinance which limits the unit size in relationship to the lot size. This applicant is requesting to construct a 1,196 square foot ADU on a 10,600 square foot interior lot, which is less than the 15,000 square feet that the ordinance requires to construct an ADU exceeding 1000 square feet. Because the ADU does not meet the local ordinance as adopted by City Council in 2017, staff submitted a denial letter to the applicant. Staff is requesting that the Planning Commission determines that the appeal to construct a 1,196 square foot ADU on the property does not conform to the standards and criteria codified in the municipal code.

Chair Bernstein invited the appellant to step forward.

Cindy Davila, property owner, approached and stated she bought the home in 1986 and she wants to build a garage so her husband can fix Volkswagens. The plans are cohesive and look like the front house. She pointed out that none of the neighbors are at the hearing to oppose the request and the ADU meets all the requirements from the state, which is under 1,200 square feet, but the City of Yorba Linda limits it to 1,000; a difference of 196 square feet. The ADU will be for her grandchildren and there is no intention of turning it into a rental. Her home is only 600 square feet; adding a 1,200 square foot ADU is still under 1,800 square feet on the property which is nothing under Yorba Linda standards. She is improving the property, and nobody is opposing the project.

Chair Bernstein asked if the Commission had questions for the appellant; there were none. He opened the public hearing.

Cameron Davila, son of the property owner, explained it is difficult for young families to find stable, affordable housing; with the average home price being \$1.4 million. He went to city staff in April and was not met with much enthusiasm; however, given the State's support on the issue they moved forward and submitted plans on September 24th. He never received any response from the city saying they received it or working on it. In October he followed up and received a response to submit the plans in person which he did on October 28th. Government Code Section 66317, subsection A, requires Yorba Linda to submit an approval or denial within 60 days, if not the application will be deemed approved. Yorba Linda Municipal Code Section 18.20.820 has the same 60-day requirement and the denial letter was not issued until January 26, 2025; 120 days from when they submitted

the application. The Government Code Section also indicates that the total area for a detached ADU shall not exceed 1,200 square feet; theirs is 4 square-foot under.

Ms. Davila echoed her husband's comments.

Kent Brush spoke in support of the Davila's who believed they were following the rules as far as the State is concerned. The project fits into the neighborhood very well and hopes the Commission will support the request as it is a minimal ask.

Seeing no other speakers, the public hearing was closed.

Chair Pro Tem Masterson asked if this request would be in front of the Commission if it was under 1,000 square feet. Director Farnsworth stated an ADU under 1,000 square feet is permitted under state and local laws.

Chair Bernstein asked if there is an ordinance on the size of the ADU versus the existing home. Director Farnsworth stated no.

Commissioner Behura asked if a variance can be granted in this instance. Director Farnsworth stated no.

Commissioner Goldfarb asked if they have the authority to give a variance? What if they just stated the big house is the accessory unit and the little house is the main house?

Miss Sanders responded since the variance was not part of the agenda noticed, the applicant would have to come back with the application for a variance which could then be heard by the Commission. There are findings in the code that must be made to issue a variance; some relate to the unique feature of the underlying lot that justifies the variance.

Director Farnsworth stated he sympathizes with and understands the concerns that the applicant has proposed. They have walked through different scenarios of what could be done and to date there has been a disagreement between staff and the applicant over the interpretation of State laws, which is why staff denied the application. There are other alternatives that might be able to get them there or close to what they're trying to accomplish.

Commissioner Goldfarb asked what would happen if they tore the main house down and built a larger home.

Mr. Farnsworth explained the main dwelling would be required to comply with development standards for that zone. There are a number of different

scenarios and planning staff cannot design their project, but they can help them accomplish what it is that they are trying to do.

Commissioner Chavez-Marquez asked about the other two structures on the property?

Ms. Choi stated the parcel that is above the subject property has an existing single-family home in the front and a residential unit in the back which was developed in the 40's or 50's prior to the incorporation of the city.

Chair Bernstein asked staff to clarify the timelines that were missed.

Directive Farnsworth stated the formal application submittal did not occur until October 28th and that's when the timeline started for the review of the application. The September submittal was an informal one. Within 30 days of the formal submittal, they provided an incomplete letter to the applicant that stops the clock on the 30 days for them to respond to the incomplete comments. There was no resubmittal of the application after the incomplete letter was sent out; there was a back and forth about the interpretation of the state law. Staff realized they were not close to a resolution so to move forward and expedite the process, staff denied the application to allow the applicant the opportunity to appeal and advance with their due process.

Commissioner Chavez-Marquez asked if there is a possibility to reduce the ADU size and add an addition to the existing home to equate something similar?

Mr. Farnsworth stated he cannot design the project; however, they are happy to meet with the applicant. There are development standards they must comply with for the main structure. Staff is more than happy to work with the applicant and help them get there.

Commissioner Behura sympathizes with the family, but feelings must be removed to be fair with everybody. Given that there are opportunities available, he asked the applicant to modify the project and work with staff.

Director Farnsworth stated at this point the application has been denied on the grounds that it does not comply with state law. If the Planning Commission upholds the denial it does not preclude the applicant from coming back with a modification or a new submitted application that does comply with local regulations and state laws.

Ms. Sanders stated the nature of the appeal is considering the staff's decision; however, the Commission can provide directions to staff to reach out to the applicant to find something that complies with the city's code. The

Commission is to make their decision on the appeal and directs staff with whatever they decide to do.

Director Farnsworth stated he does not want the applicant to appeal to the City Council where they are bound by the same restrictions of the local and state laws. He recommended withdrawing the application and resubmitting a new one and work with staff.

Commissioner Goldfarb stated that even if they come back, they are bound to 1,000 square feet. He asked what actions would resume the clock after they received the incomplete notice.

Director Farnsworth stated he is not saying that and there are ways to move forward with what they are trying to accomplish, but there are certain steps they must go through to do that and staff would be more than happy to explain that to the applicant.

Ms. Sanders explained the 60-day approval or denial timeframe for an ADU application runs from the time the city receives a complete application. In this situation where the city determined the application was incomplete, that 60-day clock technically would not have started until the documents deeming the application complete have been submitted to the city. Staff denied the application to move things along because they reached a point of stasis where staff did not feel the application was going to be supplemented, so that staff could deem it complete; hence the disapproval to allow the applicant to appeal. The 60-day period starts at the time the application is complete.

Commissioner Goldfarb asked what if the determination of incomplete length was wrong and does the Commission have the power to determine if it was or wasn't complete?

Chair Bernstein asked if the applicant could withdraw the application and return with an ADU with a conditional use permit to make it the size they want; is that something the Commission can grant?

Director Farnsworth responded they could not come back with a conditional use permit. They need to resubmit their ADU application. There is a way for them to potentially get an ADU that is greater than 1,000 square feet and staff can explain it to them as it is a multi-step and creative process to get to it. State law allows an accessory structure of any size to be converted into an ADU. If there is an accessory structure on the site that could be converted to an ADU; it may not be the cheapest but it is an option. They would have to build an accessory structure first then convert it into an ADU.

Staff would have to review the development standards to see if an ADU of that size could be converted at that location. He cannot design it on the fly but he believes there are ways to move forward and accomplish what they're trying to do.

Chair Bernstein clarified there is not a pathway forward for them to build this size ADU because it transgresses the ordinance.

Commissioner Behura asked if the applicant should withdraw then resubmit the application.

Director Farnsworth stated he is uncomfortable with giving advice to the applicant about whether they should or should not withdraw their appeal application; it is within their rights to go through the due process. Whether they withdraw it or not, they can return with a new ADU application and staff will help them with a configuration that helps them accomplish their goals.

Chair Bernstein opined that it is sad that they can't come up with a way to approve a project for someone who wants to build something that is reasonable on this side in an eclectic neighborhood. He understands they need fairness in the community but fails in this instance it is not producing a fair outcome.

Commissioner Behura felt that it would have been best for them if they would have gotten it approved it feels there is a path for them to get to it.

Chair Pro Tem Masterson feels for the applicant but there are municipal codes and laws that they need to follow. Most people do not want ADU's in their community. Even though it is only 196 feet exceeding the city's allowance; it equates to a 20% variance. The city sent an incomplete letter with comments; however, there was no initiation for a formal response. The city cannot give them any assurances without a complete application.

Director Farnsworth proposed continuing the item to a future date and direct staff to sit down with the applicant and talk through other alternatives which would give the applicant the assurance of knowing what they can and cannot do with some other alternatives before they have to make a decision as to whether or not they want to withdraw the application, appealed the application to the City Council or accept the planning commission's decision. If the applicant is amenable to it, it would give staff the ability to grant some assurance to the applicant over what their options look like even though it delays the ability for them to appeal it to the City Council.

Miss Sanders stated the Commission has the authority to continue the item; they just cannot impose additional conditions or provide additional approvals. If they feel they cannot take action, the item can be continued. If continued, the approval or denial could be continued a future meeting or date certain.

Mr. Farnsworth added this item needs to be upheld or denied.

Commissioner Goldfarb commented that they could continue without prejudice against everybody's rights. They could still withdraw, appeal it, discuss the timeliness issue, or submit a whole new one or withdraw it; all would be on the table.

Miss Sanders explained they would still be able to withdraw it; however, they would not be able to appeal it because the Planning Commission's action would not have occurred yet. Once the Planning Commission takes action, that action can be appealed to the City Council and once the City Council takes action then there is the ability to challenge it in court, if desired. None of it would go away, it would be postponed pending the Planning Commission's action.

Commissioner Chavez-Marquez stated he agrees with a continuance to give the applicant an opportunity to meet with staff and find a solution.

Chair Bernstein asked Ms. Davila if she was amenable to a continuation.

Ms. Davila agreed to a continuance.

Moved by Chavez Marquez

Seconded by Behura

The Planning Commission continued the item to a date certain of April 9, 2025.

AYES (5): Behura, Bernstein, Goldfarb, Chavez Marquez, and Masterson

CARRIED (5 to 0)

9. OLD BUSINESS

10. DIRECTOR'S REPORT

Director Farnsworth reminded the Commissioners to submit their Form 700 to the City Clerk by April 1, 2025. Ethics and harassment prevention training also needs to be completed.

11. COMMISSIONER COMMENTS

Commissioner Behura stated he is worried about providing variances to one resident and not the other.

Chair Bernstein agreed with commissioner Behura.

12. CORRESPONDENCE RECEIVED

Emails received by the commissioners.

13. ADJOURNMENT

9:34 p.m.

The next Planning Commission meeting is scheduled for April 9, 2025, beginning at 6:30 p.m.

NATE FARNSWORTH

DIRECTOR OF COMMUNITY DEVELOPMENT