



DATE: May 20, 2015

AGENDA ITEM # 2

TO: Design Review Commission
FROM: David Kornfield, Planning Services Manager
SUBJECT: 15-SC-10 – 1075 Golden Way

RECOMMENDATION:

Consider reconsideration of a conditional approval of application 15-SC-10

BACKGROUND

On May 6, 2015 the Design Review Commission considered and approved the subject project 3-1, with Commissioner Meadows opposed, with conditions to:

- Allow removal of tree Nos. 1, 2, 3 and 6;
- Incorporate an architectural feature on the garage such as a trellis to minimize its bulk; and
- Lower the second story wall plate to eight feet and the first story plate height to nine feet.

On May 7th, the applicant approached staff with concerns about the Commission's action and requested reconsideration. In accordance with the City Council Norms and Procedures (Section 11.8) a member of the public may request a reconsideration of an action within three days of the action. A request for reconsideration at a subsequent meeting such as this must be supported by two Commissioners to be added to the agenda for official action. If the request is granted, then the item will be added to the next agenda and will be structured such that if the Commission votes to reconsider the item, then the reconsideration will occur immediately following the approval of the request for reconsideration.

DISCUSSION

Although, to date, the applicant has not provided a written basis, staff understands their concerns as twofold:

1. They were only partially in accord with the Commission's conditions of approval; and
2. They felt that they had to use a majority of their presentation time to clarify the proposed tree removals, an assumed consequence of staff inadvertently omitting the arborist report from the staff report.

PUBLIC NOTIFICATION

None

ENVIRONMENTAL REVIEW

Exempt

Cc: Scott Stotler, Designer and Applicant
Richard and Maria Tsoi, Property Owners

Attachments:

A. Section 11.8 of the City Council Norms and Procedures, dated February 10, 2015

ATTACHMENT A

respectful of the speakers and shall not enter into a debate with any member of the public.

- F. Upon conclusion of the Public Comment section for any item, the Mayor may provide Council members and/or staff with an opportunity to respond to statements made by the public.
- G. All Council members shall listen to all public discussion as part of the Council's community responsibility. Individual Council members should remain open-minded to informational comments made by the public.
- H. The Mayor has the right to ask a member of the public to step down if over the allotted time or comments are irrelevant.

11.7 Motions. It will be the practice of the City Council for the Mayor to provide Council members an opportunity to ask questions of staff, comment on, and discuss any agenda item in order to help form a consensus before a motion is offered. After such discussion, the Mayor or any Council member may make a motion. Before the motion can be considered or discussed, it must be seconded. Once a motion has been properly made and seconded, the Mayor shall open the matter to full discussion offering the first opportunity to speak to the moving party, and thereafter, to any Council member recognized by the Mayor. Customarily, the Mayor will take the floor after all other Council members have been given the opportunity to speak.

If a motion clearly contains divisible parts, any Council member may request the Mayor or moving party divide the motion into separate motions to provide Council members an opportunity for more specific consideration.

Tie Votes: Tie votes shall be lost motions. When all Council members are present, a tie vote on whether to grant an appeal from official action shall be considered a denial of such appeal, unless the Council takes other action to further consider the matter.

If a tie vote results at a time when less than all members of the Council, who may legally participate in the matter, are present, the matter shall be automatically continued to the agenda of the next regular meeting of the Council, unless otherwise ordered by the Council.

11.8 Reconsideration.

A. Request for Reconsideration.

1. Request by a member of the public.

Any member of the public may request that a member of the City Council that voted in the majority request reconsideration. In order for that member of Council to take action, such request must be received no later than 5:00 p.m. on the third day following the decision. The requestor should specify in writing the reason for the request to reconsider.

2. Request by a member of the City Council.

Only a member of the City Council who voted on the prevailing side may request reconsideration. The request may be made at the same meeting or 24 hours in advance of the posting of the agenda for the next regular meeting. Meeting agenda

postings are governed by the Open Government Policy or Brown Act, whichever requires the most notice.

3. The City Council member making the request should state orally or in writing the reason for the request, without dwelling on the specific details or setting forth various arguments.

B. Motion to Reconsider Any Council Action.

1. Reconsideration at the same meeting.

A motion to reconsider an action taken by the City Council may be made at the same meeting at which the action was taken (including an adjourned or continued meeting).

A motion to reconsider an action taken by the City Council may be made only by a Council member who voted on the prevailing side, but may be seconded by any Council member and is debatable.

The motion must be approved by a majority of the entire City Council.

2. Reconsideration at a subsequent meeting.

Requests for reconsideration not made at the same meeting must be made by a member of the prevailing party 24 hours prior to the posting of the next regular meeting agenda. If the request is supported by any two (2) other Council members, then it shall be added to the agenda. A request added to an agenda shall be structured in a manner that the reconsideration may take place immediately following approval of the request for reconsideration.

At the time such motion for reconsideration is heard, testimony shall be limited to the facts giving rise to the motion.

C. Effect of Approval of Motion.

Upon approval of a motion to reconsider, and at such time as the matter is heard, the City Council shall only consider any new evidence or facts not presented previously with regard to the item or a claim of error in applying the facts.

If the motion to reconsider is made and approved at the same meeting at which the initial action was taken and all interested persons (including applicants, owners, supporters and opponents) are still present, the matter may be reconsidered at that meeting or at the next regular meeting or intervening special meeting (subject to the discretion of the maker of the motion) and no further public notice is required.

If the motion to reconsider is made and approved at the same meeting at which the initial action was taken but all interested persons are not still present, or if the motion is made and approved at the next regular meeting or intervening special meeting, the item shall be scheduled for consideration at the earliest feasible City Council meeting and shall be re-noticed in accordance with the Government Code, the City Municipal Code and

the *Council Norms and Procedures*. The Clerk shall provide notice to all interested parties as soon as possible when a matter becomes the subject of a motion to reconsider.

11.9 Discussion.

- A. The discussion and deliberations at meetings of the City Council are to secure the mature judgment of Council members on proposals submitted for decision. This purpose is best served by the exchange of thought through discussion and debate.

To the extent possible, Council members should disclose any ex parte communication prior to discussion on an item.

Discussion and deliberation are regulated by these rules in order to assure every member a reasonable and equal opportunity to be heard.

- B. Obtaining the Floor for Discussion.

After the Council has commented on an issue, and a motion has been stated to the Council and seconded, any member of the Council has a right to discuss it after obtaining the floor. The member obtains the floor by seeking recognition from the Mayor. A member who has been recognized should limit his/her time to 3 minutes.

- C. Speaking More Than Once.

To encourage the full participation of all members of the Council, no member or members shall be permitted to monopolize the discussion of the question. If a Council member has already spoken, other Council members wishing to speak shall then be recognized. No Council member shall be allowed to speak a second time until after all other Council members have had an opportunity to speak.

- D. Relevancy of Discussion.

All discussion must be relevant to the issue before the City Council. A Council member is given the floor only for the purpose of discussing the pending question; discussion which departs is out of order. Council members shall avoid repetition and strive to move the discussion along.

A motion, its nature, or consequences, may be attacked vigorously. It is never permissible to attack the motives, character, or personality of a member either directly or by innuendo or implication. It is the duty of the Mayor to instantly rule out of order any Council member who engages in personal attacks. It is the motion, not its proposer, that is subject to debate.

Arguments, for or against a measure, should be stated as concisely as possible.

It is the responsibility of each Council member to maintain an open mind on all issues during discussion and deliberation.

It is not necessary for all City Council members to speak or give their viewpoints if another Council member has already addressed their concerns.