

(Staff Recommended/Planning Commission Approved)
CITY COUNCIL
CONDITIONS OF APPROVAL AND STANDARD DEVELOPMENT
REQUIREMENTS
August 9, 2022

Planning Application 2021-7161
102 E Fremont Avenue,
1310 S Sunnyvale-Saratoga Road

SPECIAL DEVELOPMENT PERMIT to redevelop a portion (westerly portion) of an existing shopping center (Fremont Corners) into a mixed-use development with 3,384 square feet of commercial space and 35, 4-story townhome-style condominiums with associated parking and site improvements including common open space.

TENTATIVE MAP to subdivide the lot into 5 lots and 35 condominiums.

The following Conditions of Approval [COA] and Standard Development Requirements [SDR] apply to the project referenced above. The COAs are specific conditions applicable to the proposed project. The SDRs are items which are codified or adopted by resolution and have been included for ease of reference, they may not be appealed or changed. The COAs and SDRs are grouped under specific headings that relate to the timing of required compliance. Additional language within a condition may further define the timing of required compliance. Applicable mitigation measures are noted with "Mitigation Measure" and placed in the applicable phase of the project.

In addition to complying with all applicable City, County, State and Federal Statutes, Codes, Ordinances, Resolutions and Regulations, Permittee expressly accepts and agrees to comply with the following Conditions of Approval and Standard Development Requirements of this Permit:

GC: THE FOLLOWING GENERAL CONDITIONS AND STANDARD DEVELOPMENT REQUIREMENTS SHALL APPLY TO THE APPROVED PROJECT.

- GC-1. CONFORMANCE WITH APPROVED PLANNING APPLICATION:
All building permit drawings and subsequent construction and operation shall substantially conform with the approved planning application, including: drawings/plans, materials samples, building colors, and other items submitted as part of the approved application. Any proposed amendments to the approved plans or Conditions of Approval are subject

to review and approval by the City. The Director of Community Development shall determine whether revisions are considered major or minor. Minor changes are subject to review and approval by the Director of Community Development. Major changes are subject to review at a public hearing. [COA] [PLANNING]

GC-2. ENTITLEMENTS—EXERCISE AND EXPIRATION:

The approved entitlements shall be null and void two years from the date of approval by the final review authority if the approval is not exercised, unless a written request for an extension is received prior to the expiration date and is approved by the Director of Community Development. [SDR] (PLANNING)

GC-3. ENTITLEMENTS—DISCONTINUANCE AND EXPIRATION:

The entitlements shall expire if discontinued for a period of one year or more. [SDR] (PLANNING)

GC-4. INDEMNITY:

The applicant/developer shall defend, indemnify, and hold harmless the City, or any of its boards, commissions, agents, officers, and employees (collectively, "City") from any claim, action, or proceeding against the City to attack, set aside, void, or annul, the approval of the project when such claim, action, or proceeding is brought within the time period provided for in applicable state and/or local statutes. The City shall promptly notify the developer of any such claim, action or proceeding. The City shall have the option of coordinating the defense. Nothing contained in this condition shall prohibit the City from participating in a defense of any claim, action, or proceeding if the City bears its own attorney's fees and costs, and the City defends the action in good faith. [COA] [OFFICE OF THE CITY ATTORNEY]

GC-5. NOTICE OF FEES PROTEST:

As required by California Government Code Section 66020, the project applicant is hereby notified that the 90-day period has begun as of the date of the approval of this application, in which the applicant may protest any fees, dedications, reservations, or other exactions imposed by the city as part of the approval or as a condition of approval of this development. The fees, dedications, reservations, or other exactions are described in the approved plans, conditions of approval, and/or adopted city impact fee schedule. [SDR] [PLANNING / OCA]

GC-6. BMR OWNERSHIP HOUSING COMPLIANCE:

This project is subject to the City's Below Market Rate (BMR) Housing requirements as set forth in Sunnyvale Municipal Code Chapter 19.67 and the BMR Program Guidelines, both as may be amended. Developer

shall enter into a BMR Developer Agreement in a form provided by the City, to be recorded against the property before issuance of building permits or recordation of a final map, whichever occurs first. When dwelling units in the project are made available for sale, the project shall provide 12.5% of the total units in the project for sale as BMR homeownership units. For the subject project, that equals 4.2 Below Market Rate (BMR) units with 4 BMR units for sale and payment of a fractional in-lieu fee of 0.37 units in compliance with the BMR requirements set forth in SMC 19.67 and the BMR Program Guidelines. [SDR][HOUSING and PLANNING COMMISSION]

GC-7. STORMWATER MANAGEMENT PLAN:

Project is subject to Provision C3, of the Municipal Regional Stormwater Permit Order No. R2-2009-0074, as determined by a completed “Stormwater Management Plan Data Form”, and therefore must submit a Stormwater Management Plan as per SMC 12.60.140 prior to issuance of the building permit. [SDR] [PLANNING]

GC-8. PUBLIC IMPROVEMENTS:

The developer is required to install, per Sunnyvale Municipal Code Sections 18.08, all public improvements, which may include but not be limited to, curb & gutter, sidewalks, driveway approaches, street pavements, utility connections, meters/vaults, trees and landscaping, striping, etc.

All public improvements shall be designed and constructed in accordance with current City design standards, standard details and specifications, and Americans with Disabilities Act (ADA) requirements where applicable, unless otherwise approved by the Department of Public Works.

The developer is required to complete the installation of all public improvements and other improvements deemed necessary by the Public Works Department, prior to occupancy of the first building, or to the satisfaction of the Department of Public Works. [COA] [PUBLIC WORKS]

GC-9. OFF-SITE IMPROVEMENT PLANS:

Submit off-site improvement plans separate from the Building on-site improvement plans as the off-site improvement plans are approved through a Public Works Encroachment Permit process. Offsite improvement plans shall reflect public improvements as approved on the Minor Planning Permit. [SDR] [PUBLIC WORKS]

GC-10. ENCROACHMENT PERMIT:

Prior to any work in the public right-of-way, obtain an encroachment permit with insurance requirements for all public improvements including a traffic control plan per the latest California Manual on Uniform Traffic

Control Devices (MUTCD) standards to be reviewed and approved by the Department of Public Works. [COA] [PUBLIC WORKS]

GC-11. FINAL MAP RECORDATION:

This project is subject to, and contingent upon the approval of a tentative map and recordation of a Final Map. The submittal, approval and recordation of the Final Map shall be in accordance with the provisions of the California Subdivision Map Act and Sunnyvale Municipal Code Title 18 Subdivision requirements. All existing and proposed property lines, easements, dedications shown on the tentative map are subject to City's technical review and approval during the final map process prior to any grading or building permit. Final map must conform to the tentative map which is approved through the Minor Planning Permit process.

[COA] [PUBLIC WORKS]

GC-12. COMMON OPEN SPACE:

A Public Access Easement shall be provided for the proposed publicly accessible common open space (Central/Paseo Open Space) and as proposed shall be maintained by the Homeowners Association (HOA).

[COA] [PLANNING]

GC-13. LIMITATION ON COMMERCIAL USES:

Future tenants of the commercial building are limited to retail, personal service, office, take-out restaurant, and other uses that generate no more than 4 parking spaces per 1,000 square feet, unless the property owner can show proof of one of the following:

- a) Cross parking easement/agreement with the two adjacent properties to the east and the mix of uses within the three properties comply with the shopping center definition in SMC 19.12 and shopping center parking requirements in SMC 19.46.110.
- b) Off-site parking agreement for conveniently located parking.

[COA] [PLANNING]

PS: THE FOLLOWING CONDITIONS SHALL BE MET PRIOR TO SUBMITTAL OF BUILDING PERMIT, AND/OR GRADING PERMIT.

PS-1. REQUIRED REVISIONS/ADDITIONS TO PROJECT PLANS:

The project plans (architectural, civil, landscaping, tentative map, etc.) must be revised to reflect staff's recommended site plan in Attachment 9 of the staff report, subject to review and approval by the Director of Community Development through a Miscellaneous Plan Permit:

- a) Modify site layout to eliminate the driveway facing Fremont Avenue and locate and commercial building closer to Fremont Avenue

- b) Modify parking layout to convert two compact parking spaces to four motorcycle parking spaces (dimension 4 feet by 8 feet).
- c) Submit a detailed landscaping plan with fast-growing, evergreen screening trees along the south property lines. Tree spacing must be at least every 20 feet and must consider the location of existing overhead lines along a portion of the south property to maximize privacy screening to adjacent neighbors.
- d) Provide a Transportation Demand Management Plan (TDM) for the residential project to meet City requirements.
- e) The applicant shall work with staff to select a cool roof design for all buildings with SRI (Solar Reflective Index) of 20 or greater.
- f) The applicant shall work with staff to include pre-wiring residential garages to allow at least 220-volt capability.
- g) Use diamond or triangular shaped landscape pockets between proposed parking spaces to provide a few additional opportunities for trees in the parking areas.

[COA] [PLANNING] (*UPDATED AS PART OF STAFF ORAL PRESENTATION TO PLANNING COMMISSION*)

PS-2. EXTERIOR MATERIALS REVIEW:

Final exterior building materials and color scheme are subject to review and approval by the Director of Community Development prior to submittal of a building permit. [COA] [PLANNING]

PS-3. SEWER ANALYSIS

Prior to the approval of the Miscellaneous Plan Permit and if the proposed sewer lateral connecting to the sewer main line is on Sunnyvale-Saratoga Road, submit a focused sanitary sewer analysis, to be reviewed and approved by the City, identifying the overall project impact to the City's existing sanitary sewer main(s). This includes, but is not limited to, the following:

- a) A detailed estimate of water consumption in gallons per day or estimate of sanitary sewer discharge in gallons per day; and
- b) Any incremental impact that will result from the new project in comparison to the existing sewer capacity of the immediate downstream mainline as needed, and allocation of wastewater discharge from the project site to each of the proposed laterals. Any deficiencies in the existing system in the immediate vicinity of the project will need to be addressed and resolved at the expense of the developer as part of the off-site improvement plans. Sewer flow monitoring data may be required as needed. Any mitigation improvements needed shall be incorporated in the first plan check submittal.

- c) Any previously submitted sanitary sewer analysis may be rendered invalid if utility connections change as part of the Minor Planning Permit. [COA] [PUBLIC WORKS]

BP: THE FOLLOWING CONDITIONS SHALL BE ADDRESSED ON THE CONSTRUCTION PLANS SUBMITTED FOR ANY DEMOLITION PERMIT, BUILDING PERMIT, GRADING PERMIT, AND/OR ENCROACHMENT PERMIT AND SHALL BE MET PRIOR TO THE ISSUANCE OF SAID PERMIT(S).

- BP-1. CONDITIONS OF APPROVAL:
Final plans shall include all Conditions of Approval included as part of the approved application starting on sheet 2 of the plans. [COA] [PLANNING]
- BP-2. RESPONSE TO CONDITIONS OF APPROVAL:
A written response indicating how each condition has or will be addressed shall accompany the building permit set of plans. [COA] [PLANNING]
- BP-3. NOTICE OF CONDITIONS OF APPROVAL:
A Notice of Conditions of Approval shall be filed in the official records of the County of Santa Clara and provide proof of such recordation to the City prior to issuance of any City permit, allowed use of the property, or Final Map, as applicable. The Notice of Conditions of Approval shall be prepared by the Planning Division and shall include a description of the subject property, the Planning Application number, attached conditions of approval and any accompanying subdivision or parcel map, including book and page and recorded document number, if any, and be signed and notarized by each property owner of record.

For purposes of determining the record owner of the property, the applicant shall provide the City with evidence in the form of a report from a title insurance company indicating that the recordowner(s) are the person(s) who have signed the Notice of Conditions of Approval. [COA] [PLANNING]
- BP-4. BLUEPRINT FOR A CLEAN BAY:
The building permit plans shall include a "Blueprint for a Clean Bay" on one full sized sheet of the plans. [SDR] [PLANNING]
- BP-5. RECYCLING AND SOLID WASTE ENCLOSURE:
The building permit plans shall include details for the installation of a recycling and solid waste enclosure. The required solid waste and recycling enclosure shall:

- a) Match the design, materials and color of the main building;
- b) Be of masonry construction'
- c) Be screened from view;
- d) All gates, lids and doors shall be closed at all times;
- e) Shall not conflict with delivery/receiving areas;
- f) Shall be consistent with approved Solid Waste and Recycling Management Program
- g) Solid Waste and recycling diversion systems shall be incorporated into the facilities and tenant improvements. [COA] [PLANNING/ENVIRONMENTAL SERVICES]

BP-6. RECYCLING AND SOLID WASTE CONTAINER:

All recycling and solid waste containers shall be metal or State Fire Marshall listed non-metallic. The building permit plans shall provide details illustrating compliance with this condition. [COA] [PLANNING]

BP-7. SOLID WASTE DISPOSAL PLAN:

A detailed recycling and solid waste disposal plan shall be submitted for review and approval by the Director of Community Development prior to issuance of building permit. [COA] [PLANNING]

BP-8. ROOF EQUIPMENT:

Roof vents, pipes and flues shall be combined and/or collected together on slopes of roof or behind parapets out of public view as per Title 19 of the Sunnyvale Municipal Code and shall be painted to match the roof. [COA] [PLANNING]

BP-9. FEES AND BONDS:

The following fees and bonds shall be paid in full prior to issuance of building permit at the fee rate in effect on March 5, 2021.

- a) PARK IN-LIEU - Pay Park In-lieu fees estimated at \$1,838,667.60, prior to approval of the Final Map or Parcel Map. (SMC 18.10). [SDR] [PLANNING] *[PLANNING COMMISSION CORRECTION]*

BP-10. EXHAUST AND OPENINGS:

For commercial uses, no exhaust fans, doors, windows, or openings, of any kind shall be placed on the wall to the rear or where residential use is to the rear/side of the proposed building, except as may be required by the City, nor shall any machines or fans be placed on the roof of the building which exhaust dust or odors. The building permit plans shall clearly indicate the location of all exhaust equipment, doors and window and shall be subject to review and approval by the Planning Director. [COA] [PLANNING] *[APPLICANT SUGGESTED CHANGE]*

BP-11. BMR DEVELOPER AGREEMENT:

Before issuance of building permits for the project, the developer shall enter into a Development Agreement with the City to establish the method by which the development will comply with the applicable BMR requirements. The form of the Developer Agreement will be provided by the City, with tables regarding unit characteristics and timing of completion to be completed by the Developer, and is subject to the approval of the Community Development Director or his/her designee, consistent with the SMC. The completed Developer Agreement must be executed by both parties and recorded against the property, and will run with the land. In the event that any Below Market Rate dwelling unit(s) or any portion thereof in the development is destroyed by fire or other cause, all insurance proceeds therefrom shall be used to rebuild such units, which will remain subject to the terms of the Developer Agreement and the BMR requirements. Grantee hereby covenants to cause the City of Sunnyvale to be named an additional insured party to all fire and casualty insurance policies pertaining to said assisted units. [SDR] [HOUSING/BMR Program Guidelines]

BP-12. LANDSCAPE PLAN:

Landscape and irrigation plans shall be prepared by a certified professional, and shall comply with Sunnyvale Municipal Code Chapter 19.37 requirements. Landscape and irrigation plans are subject to review and approval by the Director of Community Development through the submittal of a Miscellaneous Plan Permit (MPP). The landscape plan shall include the following elements:

- a) Include and integrate the two trees that are proposed to be saved in the landscape plan.
- b) All areas not required for parking, driveways or structures shall be landscaped.
- c) Deciduous trees shall be provided along the southern exposures for passive solar heating purposes.
- d) Appropriate tree species as recommended by PG&E for trees near overhead utility lines.
- e) Ten percent (10%) shall be 24-inch box size or larger and no tree shall be less than 15-gallon size.
- f) Ground cover shall be planted so as to ensure full coverage eighteen months after installation. [SDR] [PLANNING]

BP-13. LANDSCAPE MAINTENANCE PLAN:

Prepare a landscape maintenance plan subject to review and approval by the Director of Community Development prior to issuance of building permit. [COA] [PLANNING]

BP-14. TREE PROTECTION PLAN:

Prior to issuance of a Demolition Permit, a Grading Permit or a Building Permit, whichever occurs first, obtain approval of a tree protection plan from the Director of Community Development. Two copies are required to be submitted for review. The tree protection plan shall include measures noted in Title 19 of the Sunnyvale Municipal Code and at a minimum:

- a) An inventory shall be taken of all existing trees on the plan including the valuation of all 'protected trees' by a certified arborist, using the latest version of the "Guide for Plant Appraisal" published by the International Society of Arboriculture (ISA).
- b) All existing (non-orchard) trees on the plans, showing size and varieties, and clearly specify which are to be retained.
- c) Provide fencing around the drip line of the trees that are to be saved and ensure that no construction debris or equipment is stored within the fenced area during the course of demolition and construction.
- d) The tree protection plan shall be installed prior to issuance of any Building or Grading Permits, subject to the on-site inspection and approval by the City Arborist and shall be maintained in place during the duration of construction and shall be added to any subsequent building permit plans. [COA] [PLANNING/CITY ARBORIST]

BP-15. STORMWATER MANAGEMENT CALCULATIONS:

Submit two copies of the City of Sunnyvale Impervious Surface Calculation worksheet prior to issuance of a Building Permit. [COA] [PLANNING]

BP-16. STORMWATER MANAGEMENT PLAN:

Submit two copies of a Stormwater Management Plan subject to review and approval by Director of Community Development and third party certification, pursuant to SMC 12.60, prior to issuance of building permit. [COA] [PLANNING/PUBLIC WORKS]

BP-17. STORM WATER MANAGEMENT PLAN THIRD PARTY CERTIFICATION:

Third party certification of the Storm Water Management Plan is required per the following guidance: City of Sunnyvale – Storm Water Quality BMP Applicant Guidance Manual for New and Redevelopment Projects - Addendum: Section 3.1.2 Certification of Design Criteria Third-Party Certification of Storm Water Management Plan Requirements. The third-party certification shall be provided prior to building permit issuance. [SDR] [PLANNING/PUBLIC WORKS]

BP-18. BEST MANAGEMENT PRACTICES - STORMWATER:

The project shall comply with the following source control measures as outlined in the BMP Guidance Manual and SMC 12.60.220. Best management practices shall be identified on the building permit set of plans and shall be subject to review and approval by the Director of Public Works:

- a) Storm drain stenciling. The stencil is available from the City's Environmental Division Public Outreach Program, which may be reached by calling (408) 730-7738.
- b) Landscaping that minimizes irrigation and runoff, promotes surface infiltration where possible, minimizes the use of pesticides and fertilizers, and incorporates appropriate sustainable landscaping practices and programs such as Bay-Friendly Landscaping.
- c) Appropriate covers, drains, and storage precautions for outdoor material storage areas, loading docks, repair/maintenance bays, and fueling areas.
- d) Covered trash, food waste, and compactor enclosures.
- e) Plumbing of the following discharges to the sanitary sewer, subject to the local sanitary sewer agency's authority and standards:
 - i) Discharges from indoor floor mat/equipment/hood filter wash racks or covered outdoor wash racks for restaurants.
 - ii) Dumpster drips from covered trash and food compactor enclosures.
 - iii) Discharges from outdoor covered wash areas for vehicles, equipment, and accessories.
 - iv) Swimming pool water, spa/hot tub, water feature and fountain discharges if discharge to onsite vegetated areas is not a feasible option.
 - v) Fire sprinkler test water, if discharge to onsite vegetated areas is not a feasible option. [SDR] [PLANNING]

BP-19. EXTERIOR LIGHTING PLAN:

Prior to issuance of a Building Permit submit an exterior lighting plan, including fixture and pole designs, for review and approval by the Director of Community Development. Driveway and parking area lights shall include the following:

- a) Sodium vapor (or illumination with an equivalent energy savings).
- b) Pole heights to be uniform and compatible with the areas, including the adjacent residential areas. Light standards shall not exceed 18 feet on the interior of the project and 8 feet in height on the periphery of the project near residential uses.
- c) Provide photocells for on/off control of all security and area lights.

- d) All exterior security lights shall be equipped with vandal resistant covers.
- e) Wall packs shall not extend above the roof of the building.
- f) Lights shall have shields to prevent glare onto adjacent residential properties. [COA] [PLANNING]

BP-20. PHOTOMETRIC PLAN:

Prior to issuance of a Building Permit submit a contour photometric plan for approval by the Director of Community Development. The plan shall meet the specifications noted in the Standard Development Requirements. [COA] [PLANNING]

BP-21. LIGHTING POLE HEIGHTS:

Pole heights including the base shall not to exceed 8 feet on the periphery of the project near residential uses, and 18, feet in other portions of the site. [COA] [PLANNING and PLANNING COMMISSION]

BP-22. LIGHTING SPACING:

Installation of lights at a minimum of 50 feet intervals along all private streets. [COA] [PLANNING]

BP-23. PARKING MANAGEMENT PLAN (RESIDENTIAL MULTI-FAMILY):

A Parking Management Plan is subject to review and approval by the Director of Community Development prior to issuance of a building permit. The Parking Management Plan shall include the following:

- a) A clear definition of “guest” as proposed by the property manager/homeowner’s association and subject to review and approval by the Director of Community Development.
- b) The property manager/homeowner’s association may specify that 25% to 75% of unassigned spaces be reserved for guest use.
- c) Clearly indicate that unassigned spaces cannot be rented or reserved for a specific resident and will be available for parking on a first come, first serve basis without a fee or charge.
- d) Residents/tenants shall use their assigned parking spaces prior to using unassigned parking spaces.
- e) Prohibit residents/tenants from parking RV’s, trailers, or boats in unassigned/garage spaces.
- f) Notify potential residents that number of parking spaces provided for each unit on-site as per the approved plans. [PLANNING] [COA]

BP-24. PARKING MANAGEMENT PLAN (NONRESIDENTIAL):

A Parking Management Plan shall be submitted for review and approval by the Director of Community Development prior to issuance of a

building permit. The Parking Management Plan shall include the following:

- a) Employee parking locations shall be away from the building, in parking spaces that are the least used.
- b) Specify the location and term of short-term parking.
- c) Allow the use of valet parking when appropriate on sites with limited parking.
- d) Employees shall be required to park on the site.
- e) Provide adequate signage to direct traffic and pedestrians [COA] [PLANNING]

BP-25. COMPACT SPACES:

Specify compact parking spaces on the Building Permit plans. All such areas shall be clearly marked prior to occupancy, in accordance with Title 19 of the Sunnyvale Municipal Code. [SDR] [PLANNING]

BP-26. PARKING LOT STRIPING:

Parking spaces should be marked in the following manner to encourage careful parking and increase usability of spaces.

- a) Double lines, one foot apart (as measured from the center) and four inches wide should mark the sides of each space.
- b) Lines should be 16 feet long, with a rounded radius end. [COA] [PLANNING]

BP-27. BICYCLE SPACES – COMMERCIAL USE:

Provide one Class I (secured) and three Class II (racks) per SMC 19.46.150 and Citywide Design Guidelines, as approved by the Director of Community Development. Clearly indicate the location and the number of bicycle parking spaces on the Building Permit plans. [COA] [PLANNING]

BP-28. GREEN BUILDING – RESIDENTIAL USE:

The plans submitted for building permits shall demonstrate the project achieves a minimum of 90 points on the Green Point Rated checklist. The project plans shall be accompanied with a letter from the project's Green Point Rater verifying the project is designed to achieve the required points and provide Build It Green Certification prior to Occupancy. [COA] [PLANNING] [BUILDING]

BP-29. CONSTRUCTION MANAGEMENT PLAN:

The project applicant shall implement a Construction Management Plan (CMP) to minimize impacts of construction on surrounding residential uses to the extent possible. The CMP shall be subject to review and approval by the Director of Community Development prior

to issuance of a demolition permit, grading permit, or building permit. The CMP shall identify measures to minimize the impacts of construction including the following:

- a) Measures to control noise by limiting construction hours to those allowed by the SMC, avoiding sensitive early morning and evening hours, notifying residents prior to major construction activities, and appropriately scheduling use of noise-generating equipment.
- b) Use 'quiet' models of air compressors and other stationary noise sources where such technology exists.
- c) Equip all internal combustion engine-driven equipment with mufflers, which are in good condition and appropriate for the equipment.
- d) Locate all stationary noise-generating equipment, such as air compressors and portable power generators, as far away as possible from residences or other noise-sensitive land uses.
- e) Locate staging areas and construction material areas as far away as possible from residences or noise-sensitive land uses.
- f) Route all construction traffic to and from the project site via designated truck routes where possible. Prohibit construction-related heavy truck traffic in residential areas where feasible. Obtain approval of proposed construction vehicle truck routes from the Department of Public Works.
- g) Manage construction parking so that neighbors are not impacted by construction vehicles. When the site permits, all construction parking shall be on-site and not on the public streets.
- h) Prohibit unnecessary idling of internal combustion engine-driven equipment and vehicles.
- i) Notify all adjacent business, residents, and noise-sensitive land uses of the construction schedule in writing. Notify nearby residences of significant upcoming construction activities at appropriate stages in the project using mailing or door hangers.
- j) Designate a "disturbance coordinator" who would be responsible for responding to any local complaints about construction noise. The disturbance coordinator will determine the cause of the noise complaint and will require that reasonable measures warranted to correct the problem be implemented. Conspicuously post a telephone number for the disturbance coordinator at the construction site and include it in the notice sent to neighbors regarding the construction schedule.
- k) Best practices identified in the technical studies provided must be incorporated into the CMP and all related construction documents.
[COA] [PLANNING]

- BP-30. DEMOLITION/CONSTRUCTION/RECYCLING WASTE REPORT FORM:
To mitigate the impacts of large projects on local waste disposal and recycling levels, demolition waste weights/volumes, construction weights/volumes, and recycling weights/volumes are to be reported to the City, per City's "waste & recycling reporting form" (electronic copy available) or a similar chart approved by the City. As part of the project's construction specifications, the developer shall track the type, quantity, and disposition of materials generated, and forward a complete report to the Department of Environmental Services, Solid Waste Division both periodically and at project completion. [COA] [ENVIRONMENTAL SERVICES]
- BP-31. SOLID WASTE DISPOSAL AND RECYCLING DESIGN PLAN:
A detailed solid waste disposal and recycling design plan shall be submitted for review and approval by the Director of Community Development prior to issuance of building permit. The solid waste disposal plan and building permit plans shall demonstrate compliance with current City requirements and guidelines for residential/multi-family projects. [COA] [PLANNING/ENVIRONMENTAL SERVICES]
- BP-32. SOLID WASTE AND RECYCLING ENCLOSURE:
Solid waste and recycling enclosure shall be located adjacent to the retail building and near the northerly drive aisle from Sunnyvale-Saratoga Road, per the approved Miscellaneous Planning Permit.
- The building permit plans shall include details for the installation of recycling and solid waste enclosures that are consistent with SMC 19.38.030. The solid waste disposal and recycling facilities within the enclosure area or within buildings shall be designed with adequate size, space and clearance based upon City's latest guidelines. The required enclosures shall:
- a) Match the design, materials and color of the main building;
 - b) Be of masonry construction;
 - c) Be screened from view;
 - d) All gates, lids and doors shall be closed at all times;
 - e) Shall not conflict with delivery/receiving areas;
 - f) Shall be consistent with the approved Solid Waste and Recycling Management Plan;
 - g) Solid waste and recycling diversion systems shall be incorporated into the facilities and tenant improvements. [COA] [PLANNING/ENVIRONMENTAL SERVICES]

- BP-33. **STORMWATER MANAGEMENT PLAN:**
Submit two copies of a Stormwater Management Plan subject to review and approval by Director of Community Development, pursuant to SMC 12.60, prior to issuance of building permit. The Stormwater Management Plan shall include as updated Stormwater Management Data Form. [COA] [PLANNING/ENVIRONMENTAL SERVICES]
- BP-34. **STORMWATER MANAGEMENT PLAN THIRD-PARTY CERTIFICATION:**
Third-party certification of the Stormwater Management Plan is required per the following guidance: City of Sunnyvale – Stormwater Quality BMP Applicant Guidance Manual for New and Redevelopment Projects – Addendum: Section 3.1.2 Certification of Design Criteria Third-Party Certification of Stormwater Management Plan Requirements. The third-party certification shall be provided prior to building permit issuance. [SDR] [PLANNING/ENVIRONMENTAL SERVICES]
- BP-35. **CONSTRUCTION MATERIAL AND STAGING:**
All construction related materials, equipment, and construction workers parking need to be managed on-site and not located in the public right-of-ways or public easements. [COA] [PUBLIC WORKS]
- BP-36. **UNDERGROUND UTILITIES:**
All new utilities shall be undergrounded per Sunnyvale Municipal Code Chapter 19.38.095. [COA] [PLANNING/PUBLIC WORKS]
- BP-37. **CROSS-LOT PROHIBITION**
Cross-lot access and cross-lot drainage without any existing or new appropriate easement such as Egress and Ingress Easement or private agreement between two properties is prohibited. Sheets TM02 of Tentative Subdivision Map for Condominium Purposes, TM05 of Pedestrian and Vehicular Circulation Plan, TM07 of Preliminary Fire Access Plan, etc. dated 02/22/22 are subject to change during the plan check process. [COA] [FIRE]
- BP-38. **FIRE SAFETY:**
Provide single backflow connection on Fremont Ave with FDC within 50 ft of public hydrant to serve entire site with separate risers for each building that currently show as backflow preventers. [COA] [FIRE]

EP: THE FOLLOWING CONDITIONS SHALL BE ADDRESSED AS PART OF AN ENCROACHMENT PERMIT APPLICATION.

- EP-1. **COMPLETE OFF-SITE IMPROVEMENT PLAN SET:**
A complete plan check set applicable to the project, which may include

street improvement plans, streetscape plans, signing/striping plans, erosion control plans, and traffic control plans shall be submitted as part of the first off-site improvement plans, including on-site and off-site engineering cost estimate and the initial Engineering and Inspection plan review fee. Joint trench plans may be submitted at a later date. No partial sets are allowed unless otherwise approved by the Department of Public Works. Sheets TM01 to TM10 dated 12/17/2021 are subject to change during plan check process. See Improvement Plan Checklist and Improvement Plan Submittal Checklist at the following 2 links:

<https://sunnyvale.ca.gov/civicax/filebank/blobdload.aspx?BlobID=24002>

<https://sunnyvale.ca.gov/civicax/filebank/blobdload.aspx?BlobID=23625> [COA] [PUBLIC WORKS]

]

EP-2. UPGRADE OF EXISTING PUBLIC IMPROVEMENTS:

As part of the off-site improvement plan review and approval, any existing public improvements to be re-used by the project, which are not in accordance with current City standards and are not specifically identified in the herein project conditions (such as sign, posts, etc.), shall be upgraded to current City standards and as required by the Department of Public Works. [COA] [PUBLIC WORKS]

EP-3. BENCHMARKS:

The improvement plans shall be prepared by using City's latest benchmarks (NAVD88) available on City's website <https://sunnyvale.ca.gov/civicax/filebank/blobdload.aspx?BlobID=23803> Plans based on NGVD29 will not be accepted. [COA] [PUBLIC WORKS]

EP-4. UTILITY CONNECTION:

This project requires connection to all City utilities or private utilities operating under a City or State franchise which provide adequate levels of service. [COA] [PUBLIC WORKS]

EP-5. UTILITY CONNECTION TO THE MAIN:

All sanitary sewer laterals connecting to the existing main line shall be at a new sanitary sewer manhole. All storm drain laterals connecting to the main shall be at a new storm drain manhole, except where a pipe to pipe connection is permitted if the mainline is 36" or larger, or a junction structure is permitted where the point of connection is within close vicinity of an existing down-stream manhole. Pursuant to City design standards, any new and retrofitted manholes require Sewpercoat, Mainstay or Sancon calcium aluminate cementitious mortar coating of the interior. [SDR] [PUBLIC WORKS]

- EP-6. POTHOLING OF EXISTING UTILITIES:
Concurrent with the initial submittal of off-site improvement plans, obtain an encroachment permit for potholing purposes to locate existing dry utilities. Use pothole information to identify possible conflict between the proposed location of City trees and existing utilities, proposed joint trench, and proposed connection of gravity utilities. Potholing is to take place in a timely manner so that this does not hold up the review of the improvement plans. [COA] [PUBLIC WORKS]
- EP-7. EXISTING UTILITY ABANDONMENT/RELOCATION:
Developer is responsible for research on all existing utility lines to ensure that there are no conflicts with the project. All existing utility lines (public or private) and/or their appurtenances not serving the project and/or have conflicts with the project, shall be capped, abandoned, removed, relocated and/or disposed of to the satisfaction of the City. Existing public facilities within the street right-of-way shall be abandoned per City's Abandonment Notes and procedures, including abandonment by other utility owners. [COA] [PUBLIC WORKS]
- EP-8. MODIFICATIONS TO EXISTING PUBLIC UTILITIES:
Developer is required to pay for all changes or modifications to existing City utilities, streets and other public utilities within or adjacent to the project site, including but not limited to utility facilities/conduits/vaults relocation due to grade change in the sidewalk area, caused by the development. [COA] [PUBLIC WORKS]
- EP-9. DRY UTILITIES:
Submit dry utility plans and/or joint trench plans (PG&E, telephone, cable TV, fiber optic, etc.) to the Public Works Department for review and approval prior to the issuance of any permits for utility work within any public right-of-way or public utility easements. Separate encroachment permits shall be required for various dry utility construction. [SDR] [PUBLIC WORKS]
- EP-10. WET UTILITIES:
All wet utilities (water, sanitary sewer, storm drain) on private property shall be privately owned and maintained. The fire and domestic water systems shall be privately owned and maintained beyond the meter. [COA] [PUBLIC WORKS]
- EP-11. RE-USE OF EXISTING CITY UTILITY SERVICE LINES:
The re-use of existing City water service lines is not allowed. Re-use of existing City sanitary sewer and storm drain service lines and appurtenances are subject to City's review and approval. Developer's contractor shall expose the existing facilities during construction for

City's evaluation or provide video footage of the existing pipe condition. Developer's contractor shall replace any deficient facilities as deemed necessary by the Department of Public Works. Utilities shall be substantially in same location as shown on the approved utility sheets of the Miscellaneous Planning Permit. [COA] [PUBLIC WORKS]

EP-12. PUBLIC FIRE HYDRANTS:

Remove and replace the existing fire hydrant barrel along the entire project frontage with current City standard Clow-Rich 865. New fire hydrant locations shall be per current City standard detail 2B and 2B-2. Public fire hydrant shall be maintained free and clear of all trees, vines, shrubs, bushes, ivy, etc. for a minimum of three feet. [COA] [PUBLIC WORKS/PUBLIC SAFETY-FIRE PROTECTION]

EP-13. SEWER MANHOLE:

Install new sewer manhole at the street right-of-way lines for all existing and proposed sanitary sewer laterals to be used for the project. [SDR] [PUBLIC WORKS]

EP-14. SANITARY SEWER VIDEO:

The contractor shall make a video copy of the interior of the new sanitary sewer lateral installed prior to it is put into service. [COA] [PUBLIC WORKS]

EP-15. SANITARY SEWER AND STORM DRAIN TRIBUTARY PATTERN:

This project is required to follow the existing sanitary sewer and storm drain tributary pattern. Any deviations would require additional analysis and subject to approval by the Public Works Department as part of the off-site improvement plan review process. This project shall not cause any negative impact on the drainage pattern for adjacent properties. [COA] [PUBLIC WORKS]

EP-16. STORM DRAIN DESIGN

Provide storm drain hydrology and hydraulic calculations based upon a 10-year storm event to justify the size of the storm drain lateral flowing full. The new storm drain lateral shall be 12 inches and the main line shall be minimum 15 inches diameter in the public right-of-way.

EP-17. CATCH BASIN TRASH CAPTURE DEVICES:

Pursuant to SMC 12.60.130, install full trash capture devices on the project site, prior to connecting to the City's storm drain collection system, the developer shall be responsible for perpetual maintenance of those trash capture devices. All storm drain inlet facilities located in the public right-of-way shall be stenciled and/or have a badge that read "NO DUMPING" as supplied by the Environmental Services Department.[COA]

[PLANNING/ENVIRONMENTAL SERVICES/PUBLIC WORKS]

EP-18. UTILITY METER/VAULT:

No existing or new utility meters or vaults shall be located within the new driveway approach. All existing or new utility vaults serving the project site shall be located on-site and not within the public utility easement, if any. [COA] [PUBLIC WORKS]

EP-19. DRIVEWAY APPROACHES:

Remove existing driveway approaches and install new driveway approaches along the project frontage to comply with Americans with Disabilities Act (ADA) requirements and City standard detail 6C-4 and specifications. All unused driveway approaches shall be replaced with new curbs, gutters, and sidewalks per current City standards. [SDR] [PUBLIC WORKS]

EP-20. PUBLIC ACCESS POINTS:

This site will not have an access point connection to the Fremont Avenue frontage. Close and remove existing driveway access along Fremont Avenue. Refer to Streetscape Improvements condition of approval. All appropriate sheets dated 12/17/2021 are subject to change during plan check process. [COA] [PUBLIC WORKS]

EP-21. STREETSCAPE IMPROVEMENTS:

Along the project frontage on Sunnyvale-Saratoga Avenue, remove existing concrete curb, gutter and sidewalk and install new concrete curb and 1' gutter per current City standards. Install an attached 10-foot-wide sidewalk with 4'x5' tree wells (not including 6-inch curb).

Along the project frontage on E. Fremont Avenue, remove existing concrete curb, gutter and sidewalk and install new concrete curb and 1' gutter per current City standards. Install an attached 10-foot-wide sidewalk with 4'x5' tree wells (not including 6-inch curb).

The perpetual maintenance of sidewalk improvements along the project frontages shall be the sole responsibility of the property owner. [SDR] [PUBLIC WORKS]

EP-22. DECORATIVE PAVEMENT:

No proposed decorative pavement and vertical curb pertaining to on-site development shall be located within the City right-of-way. [COA] [PUBLIC WORKS] [APPLICANT SUGGESTED CHANGE]

EP-23. SIGNING AND STRIPING PLANS:

Submit a signing and striping plan in accordance with the latest edition of the CA MUTCD to City for review and approval by the Public Works

Department. [COA] [PUBLIC WORKS]

EP-24. TRAFFIC CONTROL PLAN:

Submit a traffic control plan with the off-site improvement plans for review and approval. Per the City's Temporary Traffic Control Checklist, the traffic control plan shall include a summary of the traffic control types, dates, times and blocks affected. All construction related materials, equipment, and construction workers parking need to be stored on-site and the public streets need to be kept free and clear of construction debris. [COA] [PUBLIC WORKS]

EP-25. PAVEMENT RESTORATION:

Along the project frontage on Sunnyvale Saratoga Avenue, developer shall be responsible to install Type III slurry seal from lip of gutter to the edge of the bike lane. Also, the developer shall install Type III slurry seal at minimum 10 feet on both sides of the proposed lateral utility trench.

Along the project frontage on E. Fremont Avenue, developer shall be responsible to grind minimum 2.5 inches and install minimum 2.5 inches rubberized hot mixed asphalt (R-HMA) from lip of gutter to the edge of the bike lane. Also, developer shall be responsible to grind minimum 2.5 inches and install minimum 2.5 inches rubberized hot mixed asphalt (R-HMA) at minimum 10 feet on both sides of the proposed lateral utility trenches. [COA] [PUBLIC WORKS]

EP-26. CITY STREET TREES:

The developer shall install required street trees in proposed 4'x5' treewells within the public right-of-way along the East Fremont Avenue and Sunnyvale-Saratoga project frontages as follows: [Tree species to be provided by the City at later date or during off-site improvement plan check process]. Street trees shall be included in the detailed landscape and irrigation plan subject to review and approval by the Department of Public Works prior to issuance of encroachment permit. New street trees shall be 24-inch box size or 15-gallon size spaced approximately 35 feet apart. No street trees are to be planted within 10' of a sanitary sewer lateral and within any existing or proposed Public Utility Easement. It is required to install a new irrigation line for the City street trees. All landscape and irrigation systems, located in the public right-of-way shall be connected to the water system metered to the property owner. [SDR] [PUBLIC WORKS]

EP-27. PROTECTION OF EXISTING TREES:

No utility trench shall be allowed within 15' radius of an existing mature tree. Boring, air spade or other excavation method as approved by the City Arborist shall be considered to protect existing mature tree. Consult with the City Arborist prior to adjusting locations of utility lines. [SDR] [PUBLIC WORKS]

EP-28. DAMAGE TO EXISTING PUBLIC IMPROVEMENTS:

Developer shall be responsible to rectify any damage to the existing public improvements fronting and adjacent to the project site as a result of project construction, to City's satisfaction by the Public Works Department. All existing traffic detector loops and conduits shall be protected in place during construction. Any damaged detector loops shall be replaced within 7 days at the expense of the developer. [COA] [PUBLIC WORKS]

EP-29. APPROVAL FROM OTHER AGENCIES:

This project requires approval letter and "will serve" letter from the Calwater for the proposed domestic, fire, irrigation water. Developer shall install domestic water service facilities per Calwater's requirements. Off-site improvement plan will not be signed off by the City until developer has obtained a permit / plan approval from Calwater. [COA] [PUBLIC WORKS]

EP-30. RECORD DRAWINGS:

Stamped and signed hard copy record drawings of the off-site improvements (including off-site street, sewer, water, storm drain and landscaping plans) shall be submitted to the City prior to encroachment permit sign-off. In addition, streetlight record drawings shall be in AutoCAD format. Developer shall pay the record drawing fee. [COA] [PUBLIC WORKS]

TM: THE FOLLOWING CONDITIONS SHALL BE MET PRIOR TO THE APPROVAL OF THE FINAL MAP OR PARCEL MAP.

TM-1. FINAL MAP COMPLIANCE WITH TENTATIVE MAP: The final map shall be substantially the same as the tentative map. Any alteration of the tentative map after the tentative map is approved is subject to additional approval by the City and may require a public hearing. [COA] [PLANNING/PUBLIC WORKS]

TM-2. TITLE 18 AND SUBDIVISION MAP ACT:

The submittal, approval and recordation of the final map shall be in accordance with the provision of the California Subdivision Map Act and Sunnyvale Municipal Code Title 18 Subdivision requirements. [COA] [PUBLIC WORKS]

TM-3. RESERVATION/ABANDONMENT OF EASEMENTS:

Reservation of new of existing public/private utility easement(s), public street dedication in form of easement along the Sunnyvale Saratoga Road and E. Fremont Avenue project frontages, ingress/egress easement(s) necessary for the project shall be delineated on the map or recorded concurrently with the map with a separate instrument. (SMC 18.16.010 (c), Subdivision Map Act §66475 and §66499.20-1/2 for public easements)

Quitclaim deed is required for abandonment of private easements prior to map recordation. All easements shall be kept open and free from buildings and structures of any kind except those appurtenances associated with the defined easements. [COA] [PUBLIC WORKS]

TM-4. EMERGENCY VEHICLE ACCESS EASEMENT

This project requires a minimum 26'-wide dedication of an emergency vehicle ingress and egress easement on and over private roadways. [COA] [PUBLIC SAFETY/PUBLIC WORKS]

TM-5. UTILITY COMPANY APPROVAL:

Obtain map approval letters from the utility companies in regards to any existing or new easements associated with their facilities. [COA] [PUBLIC WORKS]

TM-6. PUBLIC WORKS DEVELOPMENT FEES:

The developer shall pay all applicable Public Works development fees associated with the project, including but not limited to, utility frontage and/or connection fees and off-site improvement plan check and inspection fees, prior to map recordation or any permit issuance, whichever occurs first. The exact fee amount shall be determined based upon the fee rate at the time of fee payment unless otherwise limited by the SB 330 Preliminary Application date of March 2, 2021. [COA] [PUBLIC WORKS] [APPLICANT SUGGESTED CHANGE]

TM-7. SUBDIVISION IMPROVEMENT AGREEMENT AND IMPROVEMENT SECURITIES:

The developer shall execute a subdivision improvement agreement and provide improvement securities and/or cash deposit(s) for all proposed public improvements prior to map recordation or any permit issuance, whichever occurs first. Provide an itemized engineer's estimate for all off-site public improvements for the entire project for determination of security amount. [COA] [PUBLIC WORKS]

TM-8. COVENANTS, CONDITIONS AND RESTRICTIONS (CC&Rs):

Any proposed deeds, covenants, conditions, restrictions and by-laws relating to the subdivision are subject to review and approval by the City. The CC&R's shall include the following provisions:

- a) All public/private easements pertaining to the project shall be identified and/or defined and made aware to the homeowners in the CC&R's.
- b) The Homeowners Association shall maintain parkstrip landscaping and sidewalk improvements in perpetuity along the public street fronting the project site. (SMC 13.08.370 and 13.08.380)

- c) The developer shall maintain all private utilities and landscaping for a period of three years following installation of such improvements or until the improvements are transferred to a Homeowners Association, following sale of at least 75% of the units, whichever comes first. (Subdivision Improvement Agreement)
- d) Homeowners are prohibited from modifying drainage facilities and/or flow patterns of their lots without first obtaining permission from the City.
- e) There shall be provisions of post construction Best Management Practices in the CC&R's in regards to the storm water management. (SMC 12.60.200)
[COA] [PUBLIC WORKS/PLANNING/CITY ATTORNEY]

TM-9. PUBLIC/PRIVATE STREETS:

All streets, both public and private, shall be shown on the Final Map. Street names shall be approved by the Director of Community Development. Private streets shall be designated as "Terrace". [COA] [PUBLIC WORKS] (SMC 18.12.190)

TM-10. CONDITIONS, COVENANTS AND RESTRICTIONS (CC&Rs) (DRAFT REVIEW):

Any proposed deeds, covenants, restrictions and by-laws relating to the subdivision are subject to review and approval by the Director of Community Development and the City Attorney. Four (4) sets of the CC&Rs including all information required below shall be submitted to the Engineering Division of the Public Works Department for routing. In addition to requirements as may be specified elsewhere, the CC&R's shall include the following provisions:

- a) Membership in and support of an association controlling and maintaining all common facilities shall be mandatory for all property owners within the development.
- b) The owners association shall obtain approval from the Director of Community Development prior to any modification of the CC&R's pertaining to or specifying the City.
- c) The developer shall maintain all private utilities and landscaping for a period of three (3) years following installation of such improvements or until the improvements are transferred to a owners association, following sale of at least 75% of the units, whichever comes first.
- d) The Standard Development Requirements and Conditions of Approval included as part of the approved Planning Application, Permit # 2021-7161, and associated map shall be incorporated into the CC&Rs as an exhibit or attachment. The included map shall clearly indicate all public/private easements as disclosure for

property owners. The CC&Rs shall include a list of all attachments and/or exhibits. [APPLICANT SUGGESTED CORRECTION].

- e) The CC&Rs shall contain language for Best Management Practices “Agreement to Maintain” pursuant to Sunnyvale Municipal Code 12.60.200.
- f) The CC&Rs shall contain the following provisions:
 - i. The owners association shall maintain parkstrip landscaping in perpetuity along the public street fronting the project site.
 - ii. Property owners are prohibited from modifying drainage facilities and/or flow patterns unless reviewed and approval granted from the Public Works Department.
- g) The CC&Rs shall contain the following language:
 - i. “Right to Remedy Failure to Maintain Common Area. In the event that there is a failure to maintain the Common Area so that owners, lessees, and their guests suffer, or will suffer, substantial diminution in the enjoyment, use, or property value of their Project, thereby impairing the health, safety and welfare of the residents in the Project, the City, by and through its duly authorized officers and employees, will have the right to enter upon the subject Property, and to commence and complete such work as is necessary to maintain said Common Area. The City will enter and repair only if, after giving the Association and Owners written notice of the failure to maintain the Common Area, they do not commence correction of such conditions in no more than thirty (30) days from the giving of the notice and proceed diligently to completion. All expenses incurred by the City shall be paid within thirty (30) days of written demand. Upon a failure to pay within said thirty (30) days, the City will have the right to impose a lien for the proportionate share of such costs against each lot in the Project.
 - ii. It is understood that by the provisions hereof, the City is not required to take any affirmative action, and any action undertaken by the City will be that which, in its sole discretion, it deems reasonable to protect the public health, safety and general welfare, and to enforce it and the regulations and ordinances and other laws.
 - iii. It is understood that action or inaction by the City, under the provisions hereof, will not constitute a waiver or relinquishment of any of its rights to seek redress for the violation of any of the provisions of these restrictions or any of the rules, regulations and ordinances of the City, or of other laws by way of a suit in law or equity in a court of competent

jurisdiction or by other action.

- iv. It is further understood that the remedies available to the City by the provision of this section or by reason of any other provisions of law will be cumulative and not exclusive of the maintenance of any other remedy. In this connection, it is understood and agreed that the failure to maintain the Common Area will be deemed to be a public nuisance and the City will have the right to abate said condition, assess the costs thereof, and cause the collection of said assessments to be made on the tax roll in the manner provided by appropriate provisions of the Sunnyvale Municipal Code or any other applicable law.
- v. No Waiver. No failure of the City of Sunnyvale to enforce any of the covenants or restrictions contained herein will in any event render them ineffective.
- vi. Hold Harmless. Declarant, Owners, and each successor in interest of Declarant and said Owners, hereby agree to save, defend and hold the City of Sunnyvale harmless from any and all liability for inverse condemnation which may result from, or be based upon, City's approval of the Development of the subject Property."
- vii. All public/private easements pertaining to the project shall be identified and/or defined and made aware to the homeowners in the CC&R's.
- viii. The Homeowners Association shall maintain parkstrip landscaping, and sidewalk in perpetuity along the publicstreet fronting the project site. (SMC 13.08.370 and 13.08.380)
- ix. The developer shall maintain all private utilities and landscaping for a period of three years following installation of such improvements or until the improvements are transferred to a Homeowners Association, following sale of at least 75% of the units, whichever comes first. (Subdivision Improvement Agreement)
- x. Homeowners are prohibited from modifying drainage facilities and/or flow patterns of their lots without first obtaining permission from the City.
- xi. There shall be provisions of post construction Best Management Practices in the CC&R's in regards to the storm water management. (SMC 12.60.200)
- xii. The Homeowners Association shall maintain the central/paseo open space and keep it accessible to public in perpetuity.

[COA] [PUBLIC WORKS/PLANNING/CITY ATTORNEY]

TM-11. HOA CREATION:

The developer/Owner shall create a Homeowner's Association that comports with the state law requirements for Common Interest Developments. Covenants, conditions and restrictions (CC&Rs) relating to the development are subject to review for consistency with the Conditions of Approval by the City Attorney and Director of Community Development prior to approval of the Final Map. The Conditions of Approval shall be attached as an exhibit to the CC&Rs created for this subdivision. [COA] [PLANNING]

TM-12. HOA TRANSFER:

At the time the homeowners association is transferred from the developer to the individual property owners (typically at election of board members or officers), the developer shall schedule a meeting between the board members or officers, the City of Sunnyvale and the developer to review the Conditions of Approval of the development and other applicable City requirements. [COA] [PLANNING]

PF: THE FOLLOWING CONDITIONS SHALL BE ADDRESSED ON THE CONSTRUCTION PLANS AND/OR SHALL BE MET PRIOR TO RELEASE OF UTILITIES OR ISSUANCE OF A CERTIFICATE OF OCCUPANCY.

PF-1. LANDSCAPING AND IRRIGATION:

All landscaping and irrigation as contained in the approved building permit plan shall be installed prior to occupancy. [COA] [PLANNING]

PF-2. COMPACT SPACES:

All such areas shall be clearly marked prior to occupancy, as indicated on the approved building permit plans. [COA] [PLANNING]

PF-3. PARKING LOT STRIPING:

All parking lot striping, carpool and compact spaces shall be striped as per the approved plans and Public Works standards. [COA] (PLANNING/ENGINEERING)

PF-4. CONDITIONS, COVENANTS AND RESTRICTIONS (CC&RS)
(RECORDATION):

The Developer/Owner shall submit a copy of the recorded CC&Rs and a letter from the Developer/Owner either indicating that the recorded CC&Rs are in conformance with the approved draft CC&Rs or summary of changes shall be provided to the Director of Community Development prior to release of utilities or certificate of occupancy. [COA] [PUBLIC WORKS/PLANNING/CITY ATTORNEY]

PF-5. HOA ESTABLISHMENT:

The developer shall submit to the Planning Division the names, addresses and telephone numbers of the officers of the homeowners association, or similar committee, at the time the organization is granted autonomy. Until such information is supplied, the developer shall remain a Responsible Person for purposes of maintaining all common property. The chairperson, secretary or principal officer of any committee or association shall notify the City of any change in officers and provide the names, addresses and telephone numbers of the new officers within thirty (30) days after the change becomes effective. [COA] [PLANNING] [APPLICANT SUGGESTED CHANGE]

PF-6. IRRIGATION METERS:

For commercial projects, to ensure appropriate sewer billing (water used for irrigation may not be billed for sewer), the developer may provide separate (irrigation and other) intake meters. Such meters could be installed prior to occupancy of the building. [COA] [PLANNING]

PF-7. BMR COMPLETION 60-DAY ADVANCE NOTICE:

The Developer/Owner must provide a written "Notice of Intent to Sell" to the Affordable Housing Manager for each BMR unit(s) to be provided in the development at least sixty (60) days (but no more than ninety days) prior to the request for a certificate of occupancy or receipt of a DRE report for the unit, whichever is later. Upon receipt of this Notice, the Housing Division will inform the developer of the current maximum BMR sales price applicable to the unit, based on number of bedrooms, as published in the BMR Program Guidelines and updated annually. The developer must also request and pass a site inspection by the Affordable Housing Manager to verify that the BMR units have been completed in compliance with the BMR Development Agreement. [COA] [HOUSING]

PF-8. COMPLETION OF PUBLIC IMPROVEMENTS:

Developer shall complete all required public improvements as required and in accordance with City approved plans, prior to any building occupancy. [COA] [PUBLIC WORKS]

DC: THE FOLLOWING CONDITIONS SHALL BE COMPLIED WITH AT ALL TIMES DURING THE CONSTRUCTION PHASE OF THE PROJECT.

DC-1. BLUEPRINT FOR A CLEAN BAY:

The project shall be in compliance with stormwater best management practices for general construction activity until the project is completed

and either final occupancy has been granted. [SDR] [PLANNING]

DC-2. TREE PROTECTION:

All tree protection shall be maintained, as indicated in the tree protection plan, until construction has been completed and the installation of landscaping has begun. [COA] [PLANNING]

DC-3. CLIMATE ACTION PLAN – OFF ROAD EQUIPMENT REQUIREMENT:

2.1: Idling times will be minimized either by shutting equipment off when not in use or reducing the maximum idling time to 5 minutes (as required by the California airborne toxics control measure Title 13, Section 2485 of California Code of Regulations [CCR]), or less. Clear signage will be provided at all access points to remind construction workers of idling restrictions.

OR

2.2: Construction equipment must be maintained per manufacturer's specifications.

OR

2.3: Planning and Building staff will work with project applicants to limit GHG emissions from construction equipment by selecting one of the following measures, at a minimum, as appropriate to the construction project:

- a) Substitute electrified or hybrid equipment for diesel- and gasoline-powered equipment where practical.
- b) Use alternatively fueled construction equipment on-site, where feasible, such as compressed natural gas (CNG), liquefied natural gas (LNG), propane, or biodiesel.
- c) Avoid the use of on-site generators by connecting to grid electricity or utilizing solar-powered equipment.
- d) Limit heavy-duty equipment idling time to a period of 3 minutes or less, exceeding CARB regulation minimum requirements of 5 minutes. [COA] [PLANNING]

DC-4. DUST CONTROL:

At all times, the Bay Area Air Quality Management District's CEQA Guidelines and "Basic Construction Mitigation Measures Recommended for All Proposed Projects", shall be implemented. [COA] [PLANNING]

DC-5. BEST MANAGEMENT PRACTICES – BIOLOGICAL RESOURCES:

All recommendations noted in the Biological Constraints Assessment report prepared by FirstCarbon Solutions, dated February 9, 2021, must be implemented. including the following:

- a) To the extent feasible, construction activities (or at least the commencement of such activities) should be scheduled to avoid the nesting season. If construction activities are scheduled to take place outside the nesting season, all impacts on nesting birds protected under the MBTA and California Fish and Game Code will be avoided. The nesting season for most birds in Santa Clara County extends from February 1 through August 31.
- b) If it is not possible to schedule construction activities between September 1 and January 31 then preconstruction surveys for nesting birds should be conducted by a qualified ornithologist to ensure that no nests will be disturbed during project implementation. The surveys be conducted no more than seven days prior to the initiation of construction activities. During this survey, the ornithologist will inspect all trees and other potential nesting habitats (e.g., trees, shrubs, grasslands, buildings) in and immediately adjacent to the impact areas for nests.
- c) If an active nest is found sufficiently close to work areas to be disturbed by these activities, the ornithologist will determine the extent of a construction-free buffer zone to be established around the nest (typically 300 ft for raptors and 100 ft for other species), to ensure that no nests of species protected by the MBTA and California Fish and Game Code will be disturbed during project implementation
- d) If construction activities will not be initiated until after the start of the nesting season, all potential nesting substrates (e.g., bushes, trees, grasses, and other vegetation) that are scheduled to be removed by the project may be removed prior to the start of the nesting season (e.g., prior to February 1). This will preclude the initiation of nests in this vegetation, and prevent the potential delay of the project due to the presence of active nests in these substrates.
- e) Prior to the issuance of any building permits, the project applicant will demonstrate to the satisfaction of the City Community Development Director that the proposed building design incorporates appropriate design features included in the City's Bird Safe Building Design Guidelines. [COA] [PLANNING]

DC-6. BEST MANAGEMENT PRACTICES – HISTORIC RESOURCES:

All recommendations noted in the Cultural Resource Investigation Study prepared by PaleoWest Archeology dated December 16, 2020, must be implemented. [COA] [PLANNING]; including the following:

- a) A qualified archaeologist conduct further archival and field study to identify archaeological resources, including a good faith effort to identify archaeological deposits that may show no indications on the

surface. Field study may include, but is not limited to, pedestrian survey, hand auger sampling, shovel test units, or geoarchaeological analyses as well as other common methods used to identify the presence of archaeological resources. Please refer to the list of consultants who meet the Secretary of Interior's Standards at <http://www.chrisinfo.org>.

- b) If archaeological resources are encountered during construction, work shall be temporarily halted in the vicinity of the discovered materials and workers shall not alter the materials and their context until a qualified professional archaeologist has evaluated the situation and provided appropriate recommendations. Project personnel shall not collect cultural resources. Native American resources include chert or obsidian flakes, projectile points, mortars, and pestles; and dark friable soil containing shell and bone dietary debris, heat-affected rock, or human burials. Historic-period resources include stone or adobe foundations or walls; structures and remains with square nails; and refuse deposits or bottle dumps, often located in old wells or privies.
- c) Any identified cultural resources shall be recorded on DPR 523 historic resource recordation forms.

Halt all ground-disturbing activities when unusual amounts of shell or bone, isolated artifacts, or other similar features are discovered. Retain an archaeologist to determine the significance of the discovery. Mitigation of discovered significant cultural resources shall be consistent with Public Resources Code Section 21083.2 to ensure protection of the resource – Land Use and Transportation Element EIR -T-1.10f [COA] [PLANNING]

- DC-7. BEST MANAGEMENT PRACTICES – HAZARDOUS MATERIALS:
All recommendations noted in the Draft Site Closure Report (Phase I & II Summary). Study prepared by RMD Environmental Solutions Inc., dated January 19, 2022, must be implemented. [COA] [PLANNING]
- DC-8. BEST MANAGEMENT PRACTICES – GEOTECHNICAL HAZARDS AND MEASURES:
All recommendations noted in the Geotechnical Investigation report prepared by Cornerstone Earth Group, dated March 22, 2018, must be implemented. [COA] [PLANNING]
- DC-9. BEST MANAGEMENT PRACTICES – NOISE:
All recommendations noted in the Environmental Noise Study prepared by SalterAssociates in December 7, 2020, must be implemented. [COA] [PLANNING]

AT: THE FOLLOWING CONDITIONS SHALL BE COMPLIED WITH AT ALL TIMES THAT THE USE PERMITTED BY THIS PLANNING APPLICATION OCCUPIES THE PREMISES.

- AT-1. HOURS OF OPERATION –COMMERCIAL USE:
The use permitted as part of this application shall comply with the following hours of operation at all times:
a) The hours of operation are limited to 6:00 a.m. to midnight for standard hours of operation, excluding short duration sales events which may have extended hours. Hours extending beyond midnight shall require approval of the Director of Community Development through a Miscellaneous Plan Permit. [COA] [PLANNING and PLANNING COMMISSION]
- AT-2. DELIVERY HOURS:
Delivery hours for the approved use shall comply with SMC 19.42.030:
a) Delivery hours are limited to daytime (period from 7:00 a.m. to 10:00 p.m. daily) only.
b) Nighttime delivery (period from 10 p.m. to 7:00 a.m. daily) is prohibited. [SDR] [PLANNING]
- AT-3. SOLID WASTE RECYCLING MANAGEMENT:
Waste and recycling services for residential uses shall be maintained under a master account held by the applicant, owner or landlord. The account holder will be responsible for ensuring adequate services and that all locations, private sidewalks and streets are kept free of litter and stains. Requirements shall be specified in the approved documents and be submitted for approval by the City. [COA] [ENVIRONMENTAL SERVICES]
- AT-4. RECYCLING AND SOLID WASTE:
All exterior recycling and solid waste shall be confined to approved receptacles and enclosures. [COA] [PLANNING]
- AT-5. LOUDSPEAKERS PROHIBITED:
Out-of-door loudspeakers shall be prohibited at all times. [COA] [PLANNING]
- AT-6. EXTERIOR EQUIPMENT:
All unenclosed materials, equipment and/or supplies of any kind shall be maintained within approved enclosure area. Any stacked or stored

items shall not exceed the height of the enclosure. Individual air conditioning units shall be screened with architecture or landscaping features. [COA] [PLANNING]

- AT-7. LANDSCAPE MAINTENANCE:
All landscaping shall be installed in accordance with the approved landscape plan and shall thereafter be maintained in a neat, clean, and healthful condition. Trees shall be allowed to grow to the full genetic height and habit (trees shall not be topped). Trees shall be maintained using standard arboriculture practices. [COA] [PLANNING]
- AT-8. PARKING MANAGEMENT
On-site parking management shall conform with the approved parking management plan. [COA] [PLANNING]
- AT-9. PARKING:
On-site parking management shall conform with the approved parking management plan. The project is required to maintain the approved parking spaces (98 for automobile + 4 motorcycle for a total of 102 spaces) for automobile parking purposes only and is prohibited from being converted to any other use. [COA] [PLANNING]
- AT-10. PARKING LOT MAINTENANCE:
The parking lot shall be maintained in accordance with the approved plans and as follows:
- a) Clearly mark all employee, customer, and compact spaces. This shall be specified on the Building Permit plans and completed prior to occupancy.
 - b) Maintain all parking lot striping and marking.
 - c) Assure that adequate lighting is available in parking lots to keep them safe and desirable for the use.
 - d) Require signs to direct vehicles to additional parking spaces on-site, as needed.
 - e) Clearly mark all commercial and residential use spaces and compact spaces, as per approved plans. [COA] [PLANNING]
- AT-11. UNENCLOSED STORAGE (PROHIBITED):
Unenclosed storage of any kind shall be prohibited on the premises. [COA] [PLANNING]
- AT-12. ON-SITE PARKING:
On-site parking for both residents, guests and commercial business employees and patrons shall be maintained at all times in accordance with approved plans. [COA] [PLANNING]

AT-13. PARKING LOT MAINTENANCE:

The parking lot shall be maintained as follows:

- a) Garage and carport spaces shall be maintained at all times so as to allow for parking of vehicles.
- b) Clearly mark all assigned, guest, and compact spaces. This shall be specified on the Building Permit plans and completed prior to occupancy.
- c) Maintain all parking lot striping and marking.
- d) Maintain parking lot lighting and exterior lighting to ensure that the parking lot is maintained in a safe and desirable manner for residents and/or patrons. [COA] [PLANNING]

AT-14. RECREATIONAL VEHICLE STORAGE PROHIBITED:

Unenclosed storage of any vehicle intended for recreation purposes, including land conveyances, vessels and aircraft, but excluding attached camper bodies and motor homes not exceeding 18 feet in length, shall be prohibited on the premises. [COA] [PLANNING]

AT-15. HOA REVIEW AND APPROVAL:

In common interest developments, any future applications to the City for physical modifications on commonly owned property shall require consent of the board of directors of the homeowners association, or similar committee; applications for physical modifications on privately owned property shall require the individual property owner's signature. Individual property owners submitting an application for physical modifications on private property shall comply with any approval processes outlined as such in the conditions, covenants & restrictions (CC&Rs) of their respective development. [COA] [PLANNING][APPLICANT SUGGESTED CHANGE]

AT-16. HOA RESPONSIBILITIES:

The chairperson, secretary or principal officer of any committee or association shall notify the Planning Division and the Neighborhood and Community Resources Division of any change in officers and provide the names, addresses and telephone numbers of the new officers within thirty (30) days after the change becomes effective. [COA] [PLANNING DIVISION/NEIGHBORHOOD AND COMMUNITY RESOURCES DIVISION]

AT-17. BMP MAINTENANCE:

The project applicant, owner, landlord, or HOA, must properly maintain any structural or treatment control best management practices to be implemented in the project, as described in the approved Stormwater Management Plan and indicated on the approved building permit plans.

[SDR] [PLANNING]

AT-18. BMP RIGHT OF ENTRY:

The project applicant, owner, landlord, or HOA, shall provide access to the extent allowable by law for representatives of city, the local vector control district, and the Regional Water Quality Control Board, strictly for the purposes of verification of proper operation and maintenance for the storm water treatment best management practices contained in the approved Storm Water Management Plan.[SDR] [PLANNING]

AT-19. COMMERCIAL LEASE AGREEMENT :

The commercial lease agreement must note the use restriction per GC-13 related to the available parking for the commercial use. [COA] [PLANNING].

END OF CONDITIONS OF APPROVAL