

**2021-7161**

**102 E Fremont Ave, 1310 S Sunnyvale-Saratoga Rd**  
**RECOMMENDED FINDINGS (updated)**

**CEQA Determination**

---

The Planning Commission hereby makes the following findings based on the Environment Checklist for the 102 E. Fremont Mixed Use Development Project prepared by Ascent Environmental, dated April 2022 (“Environmental Checklist”):

1. Public Resources Code Section 21094.5 (Senate Bill [SB] 226), along with its implementing regulations (Section 15183.3 and Appendices M and N of the State CEQA Guidelines) (infill streamlining provisions), provides a streamlined CEQA process for projects that qualify as infill development.
2. In order to qualify for coverage under these infill streamlining provisions, a project site must either be in an urban area that has been previously developed or have qualifying urban development, defined as one or a combination of residential, commercial, public institutional, transit or transportation passenger facility, or retail use on at least 75 percent of the site perimeter.
3. The CEQA Guidelines, in Appendix M, include a set of performance standards, as required by SB 226, that a qualifying project must satisfy in order to be eligible for the infill streamlining process.
4. If a project meets the Appendix M performance standards, the lead agency may prepare an environmental checklist based on CEQA Guidelines Appendix N. The Appendix N Infill Environmental Checklist is a tool to evaluate a development project and provide substantial evidence of its eligibility to use the infill streamlining process. The Infill Environmental Checklist also assists the lead agency in identifying and summarizing project-specific effects and how those effects are or are not addressed in a prior programmatic-level document or by uniformly applicable development policies:
  - a. Once the lead agency has determined that a particular physical impact may occur as a result of an infill project, then the checklist answers must indicate whether that impact has already been analyzed in a prior EIR. If the effect of the infill project is not more significant than what has already been analyzed, that effect of the infill project is not subject to CEQA. The brief explanation accompanying this determination should include page and section references to the portions of the prior EIR containing the analysis of that effect. The brief explanation shall also indicate whether the prior EIR included any mitigation measures to substantially lessen that effect and whether those measures have been incorporated into the infill project.
5. For purposes of the Environmental Checklist, “uniformly applicable development policies or standards” include policies and standards adopted or enacted by the City or by regional or state agencies that reduce one or more adverse environmental impacts. Such policies and standards can include, without

**2021-7161**

**102 E Fremont Ave, 1310 S Sunnyvale-Saratoga Rd**

limitation, local and state building codes, design guidelines, impact fee programs, traffic impact fees, policies for the reduction of greenhouse gases contained in adopted land use plans, policies, or regulations, and ordinances for the protection of trees or historic resources (see State CEQA Guidelines Section 15183.3[f][7]).

6. For this Project, the Environmental Checklist identifies uniformly applicable development standards, such as measures set forth in a city's code or general plan, to substantially mitigate effects of the Project. All general plan policies identified herein as applicable to the Project would be implemented through Project design or conditions of approval.
7. The Environmental Checklist confirms that the Project qualifies for infill streamlining and provides documentation showing that the impacts of the Project fall within the impacts evaluated in prior EIRs, in this case, the City of Sunnyvale Land Use and Transportation Element (LUTE) Update Environmental Impact Report (EIR), or can be substantially mitigated by uniformly applicable development policies or standards.
8. Additionally, because the LUTE EIR analyzed anticipated growth in Sunnyvale, including development of the project site with a mix of residential and commercial uses, the Environmental Checklist identifies potential environmental impacts that qualify for streamlined review under Section 15183 of the CEQA Guidelines. Section 15183 states that, where a project is consistent with the use and density established for a property under an existing general plan for which a city has already certified an EIR, additional environmental review is not required "except as might be necessary to examine whether there are project-specific significant effects which are peculiar to the project or its site." If such requirements are met, the examination of environmental effects is limited to those which the agency determines:
  - a. Are peculiar to the project or the parcel on which the project would be located,
  - b. Were not analyzed as significant effects in a prior EIR on the zoning action, general plan, or community plan with which the project is consistent,
  - c. Are potentially significant off-site impacts and cumulative impacts which were not discussed in the prior EIR prepared for the general plan, community plan or zoning action, or
  - d. Are previously identified significant effects which, as a result of substantial new information which was not known at the time the EIR was certified, are determined to have a more severe adverse impact than discussed in the prior EIR.
9. Consistent with the requirements of State CEQA Guidelines Section 15183, the Environmental Checklist determines that the Project would not result in significant impacts peculiar to the Project or Project site or any significant

**2021-7161**

**102 E Fremont Ave, 1310 S Sunnyvale-Saratoga Rd**

impacts that were not analyzed or discussed in the LUTE EIR and/or are substantially mitigated by the imposition of uniformly applied development policies or standards. Additionally, the Project would not result in any potentially significant off-site or cumulative impacts that were not discussed in the LUTE EIR. Also, there are no significant effects that substantial new information shows would be more severe than discussed in the LUTE EIR. Thus, the City may rely upon the analysis in the certified LUTE EIR, and no further CEQA review is required.

10. Accordingly, the Planning Commission finds that no additional EIR needs to be prepared for the Project.
11. The Department of Community Development, Planning Division, is the custodian of the records of the proceedings on which this decision is based. The records are located at Sunnyvale City Hall, 456 West Olive Ave., Sunnyvale, CA 94086.

Staff Analysis: Finding is met. Refer to CEQA checklist in Attachment 6 and LUTE EIR documents noted in Attachment 10.

**2021-7161**  
**102 E Fremont Ave, 1310 S Sunnyvale-Saratoga Rd**

**Special Development Permit**

In order to approve the Special Development Permit, the Planning Commission must be able to make at least one of the following findings:

1. The proposed use attains the objectives and purposes of the General Plan of the City of Sunnyvale. (Finding met.)

The project site is located in a Village Mixed Use (VMU) site that is specifically identified as a site to be redeveloped to become the focus of activity and future transformative change for the nearby neighbors. Sites with the VMU designation allow an average residential density of 18 units per acre, a minimum of 10% floor area for commercial use and up to four stories in height. The proposed project includes a residential density of 19.4 units per acre and 4.2% floor area of commercial use. The applicant seeks a waiver for the residential and commercial densities prescribed by the General Plan (discussed in the Development Standards section of the report). The surrounding neighborhood predominantly consists of commercial, multi-family and single-family homes. The project, as conditioned with the commercial building facing Fremont Avenue, generally meets the goals and policies of the General Plan by providing a distinctive focal element and conveniently located retail at this Village Center. The commercial building facing the street provides an active street frontage, a community gathering area along with 35 ownership housing units. The site is within close proximity of transit, commercial, and employment areas.

Key goals, objectives, and policies from the General Plan are listed below:

**LAND USE AND TRANSPORTATION ELEMENT**

Features and amenities of a Village Center include the following:

- Supportive of a lifestyle without a private automobile
- Neighborhood-serving or community-serving commercial core
- Pedestrian-oriented design: active ground-floor uses and generous outdoor spaces
- Activated by mixed use (commercial with residential)
- Easily accessed by pedestrian and bicycle networks
- Regular transit service
- Reduced need for parking
- Unique design guidelines to address form n Neighborhood gathering spaces (e.g., plazas, coffee shops, community gardens, taverns)

From LUTE page 3-89

LAND USE CATEGORY	VILLAGE MIXED-USE
DESCRIPTION	Allows neighborhood-serving commercial uses integrated with residential uses, typically located near arterial intersections or major collector streets providing pedestrian and bicycle connections. Promotes residential

**2021-7161**  
**102 E Fremont Ave, 1310 S Sunnyvale-Saratoga Rd**

	uses concentrated near street corners above commercial uses and buffers between higher-intensity development and adjacent lower-density neighborhoods.
DENSITY/INTENSITY	Commercial—FAR: minimum = 10% , typical maximum = 25% Specific densities and intensities determined by Specific Plan or Area Plan
TYPICAL ZONING DISTRICTS	(MU-V) Mixed-use Village (LSP) Lakeside Specific Plan (very high density residential with hotel)

**GOAL LT-3 -AN EFFECTIVE MULTIMODAL TRANSPORTATION SYSTEM**

POLICY LT-3.1 - Use land use planning, including mixed and higher-intensity uses, to support alternatives to the single-occupant automobile such as walking and bicycling and to attract and support high investment transit such as light rail, buses, and commuter rail.

- LT-3.1b - Establish reduced parking requirements for transit, corridor, and village mixed-use developments and for developments with comprehensive TDM programs that are consistent with the City’s established goals.

POLICY LT-4.3 - Enforce design review guidelines and zoning standards that ensure the mass and scale of new structures are compatible with adjacent structures, and also recognize the city’s vision of the future for transition areas such as neighborhood village centers and El Camino Real Nodes.

POLICY LT-3.2 Refine land use patterns and the transportation network so they work together to protect sensitive uses and provide convenient transportation options throughout the planning area.

- LT-3.2b Require needed street right-of-way dedications and improvements as development occurs. Any additional right-of-way beyond that required by the roadway classification should be used for alternative mode amenities, such as bus pullouts or medians, wider bike lanes, or walkways.

POLICY LT-3.8 Prioritize safe accommodation for all transportation users over non-transport uses. As City streets are public spaces dedicated to the movement of vehicles, bicycles, and pedestrians, facilities that meet minimum appropriate safety standards for transport uses shall be considered before non-transport uses are considered.

POLICY LT-3.14 Require roadway and signal improvements for development projects to improve multimodal transportation system efficiency.

POLICY LT-3.18 Facilitate safe and orderly traffic flow and promote school pedestrian and bicycle safety.

2021-7161

**102 E Fremont Ave, 1310 S Sunnyvale-Saratoga Rd**

POLICY LT-3.22 Provide safe access to city streets for all modes of transportation. Safety considerations of all transport modes shall take priority over capacity considerations of any one transport mode.

- LT-3.22b Evaluate bicycle and pedestrian retrofit projects based on the merits of each project in the context of engineering and planning criteria.
- LT-3.22c Minimize driveway curb cuts, and require coordinated access.

**GOAL LT-5 - SUPPORT THE DEVELOPMENT OF VILLAGE CENTERS THAT CREATE AN IDENTIFY AND “SENSE OF PLACE” FOR RESIDENTIAL NEIGHBORHOODS, PROVIDE NEIGHBORHOOD GATHERING PLACES, AND ALLOW A VIBRANT MIX OF PUBLIC, COMMERCIAL, AND RESIDENTIAL ACTIVITIES.** Through development review and other permitting processes, ensure adequate protection is provided to residential neighborhoods when new uses and development projects are considered.

POLICY LT-5.1 - Strengthen the image that the community is composed of cohesive residential neighborhoods, each with its own individual character and village center; allow change and reinvestment that reinforces positive neighborhood concepts and standards such as walkability, positive architectural character, site design, and proximity to supporting uses.

POLICY LT-5.1 f - Seek opportunities to create distinctive landmark features or focal elements at Village Centers and at points of entry or gateways into neighborhoods from the Village Centers.

- LT-5.1c - Allow mixed-use development at appropriate Village Centers while preserving sufficient commercial zoning to serve neighborhood retail and service needs.
- LT-5.1d - Provide public gathering places with appropriate amenities for residents, such as Village Centers and neighborhood and community parks.
- LT-5.2a - Enhance existing residential neighborhoods by retaining and creating Village Centers with safe and convenient pedestrian and bicycle access.
- LT-5.2d - Require amenities in new development and Village Centers that serve the needs of residents.
- LT-5.3b - Where an opportunity arises, consider integrating or colocating a Village Center with a neighborhood park or open space.

POLICY LT-7.3 - Encourage the development of housing options with the goal that the majority of housing is owner-occupied.

- LT-11.3a - Encourage conveniently located retail, restaurant, and other supportive land uses near business areas

**GOAL LT-13 PROTECTED, MAINTAINED, AND ENHANCED COMMERCIAL AREAS, SHOPPING CENTERS, AND BUSINESS DISTRICT.**

**2021-7161**  
**102 E Fremont Ave, 1310 S Sunnyvale-Saratoga Rd**

POLICY 13.1 - Identify valuable physical characteristics and business aspects and protect the uniqueness and integrity of all business areas and districts.

- LT-13.3b Require that commercial activities near or adjacent to residential uses be conducted with minimally invasive exterior activity.
- LT-13.4d Develop a toolkit that addresses the pedestrian focus of shopping areas by encouraging pedestrian-oriented architecture that addresses the street (e.g., uniform setbacks, continuous building façades, building articulation, and appropriate signage)

**GOAL LT-1 COORDINATED REGIONAL AND LOCAL PLANNING.** Protect the quality of life, the natural environment, and property investment, preserve home rule, secure fair share of funding, and provide leadership in the region.

- LT-1.2a - Promote transit-oriented and mixed-use development near transit centers such as Lawrence Station, Downtown, and El Camino Real and in neighborhood villages

**HOUSING ELEMENT**

**GOAL HE-1 ADEQUATE HOUSING** - Assist in the provision of adequate housing to meet the diverse needs of Sunnyvale's households of all income levels.

POLICY HE-1.1 - Encourage diversity in the type, size, price and tenure of residential development in Sunnyvale, including single-family homes, townhomes, apartments, mixed use housing, transit-oriented development, and live-work housing.

**GOAL HE-4 ADEQUATE HOUSING SITES** - Provide adequate sites for the development of new housing through appropriate land use and zoning to address the diverse needs of Sunnyvale's residents and workforce.

POLICY HE-4.3 - Require new development to build at least 75% of the maximum zoning density, unless an exception is granted by the City Council.

2. The proposed use ensures that the general appearance of proposed structures, or the uses to be made of the property to which the application refers, will not impair either the orderly development of, or the existing uses being made of, adjacent properties. (Finding met.)

The proposed project, as conditioned with the retail building on Fremont Avenue and removal of one driveway, complies with several C-1 zoning standards, such as lot coverage, total landscaping, and solar access. The applicant proposes nine waivers, one concession, and reduced parking as allowed by the State Density Bonus Law. The project also generally complies with applicable design guidelines, by providing an architectural design that includes high quality colors and materials, appropriate massing, and is generally compatible with the surrounding residential and commercial uses and character. Residential building heights are four stories towards the rear of the site and generally taper down to three stories along the project frontage and rear property line. This provides for a more gradual transition to the

**2021-7161**

**102 E Fremont Ave, 1310 S Sunnyvale-Saratoga Rd**

adjacent residential properties to the south. In addition, the proposed residential buildings are set back approximately 74 feet to 84 feet away from the adjacent residential properties to the east and south. The transition of height and ample setbacks help to reduce potential visual and privacy impacts. As conditioned, the project will include screening trees on the south property lines to reduce the visual and privacy impacts on the residential neighbors on the south side of the project site.

Staff notes that the proposed layout with three driveways is a health and safety risk. Frequent driveways increase the potential for conflicts, which in turn leads to a higher number of collisions than locations with less frequent driveways. In addition, the analysis found that most of the collisions in this intersection occurred due to the conflicts between vehicles and bicyclists or pedestrians at a driveway, or due to vehicles slowing down/stopping near a driveway. Removal of one driveway is warranted to help reduce the health and safety impacts at this intersection. The Principal Transportation Engineer notes that this recommendation is supported by the City's adopted policies, including LUTE, Complete Streets Policy, and Vision Zero Plan, as well as guidelines set forth by the Federal Highway Administration (FHWA) and American Association of State Highway and Transportation Officials (AASHTO). The Vision Zero Plan provides a toolbox to reduce and eliminate fatal and serious accidents by removing/consolidating multiple driveways. This safety concern is the leading factor for staff to recommend that the project remove at least one of the three driveways to help increase safety.

Staff recommended site plan with the relocated commercial building removes a driveway on Fremont Avenue ([Attachment 4- Condition of Approval \(Recommended Site Layout\) PS -1](#)); and a second set of Conditions of Approval that allows the building layout as proposed but requires removal of the second driveway (adjacent to the gas station) on Sunnyvale-Saratoga Avenue ([Attachment 5- Condition of Approval \(Proposed Site Layout w/modified circulation\) - PS-1](#)).

**City-Wide Design Guidelines**

Guideline	Proposed Project
BD-2.2. Adjacent buildings should be compatible in height and scale.	Met
BD-2.5. Step back upper stories of building three stories or taller from public roads and adjacent low scale development to reduce the bulk impact.	Met
BD-3.10. Repeat design and decorative building elements in all elevations and the roof, not just in the front facade.	Met
BD-3.18. Consider privacy in placement of windows on adjacent structures in residential areas. Stagger windows, use high, frosted, or no windows where privacy is a concern.	Met

**2021-7161**  
**102 E Fremont Ave, 1310 S Sunnyvale-Saratoga Rd**

<p>BD-4.3. Long horizontal roof lines are not acceptable. Interrupt roof line by architectural treatment and features. In nonindustrial areas, the maximum allowable unbroken roof line is 30 feet. Exceptions may be permitted only where a specific architectural style offers other types of roof forms and roof articulation.</p>	<p>Met</p>
<p>LA-1.7. Install a minimum of one tree for every 300 sq. ft. of landscaping. Minimum tree size is 15-gallon. Certain percentage of trees should be specimen size.</p>	<p>Met</p>
<p>LA-1.8. All shrubs should be a minimum of 5 gallons. One-gallon size shrubs may be used for accent planting and ground cover.</p>	<p>Met</p>
<p>LA-2.1. Provide a minimum of a 15 ft. wide landscape strip along the public street side of all developments, except for single family residences. Landscape strips of more than 15 ft. are strongly encouraged to enhance the public streetscape. <i>Staff Comment: The applicant is applying the waiver allowed by State Law to allow 8 feet 4 inch-wide landscaped strip along Fremont Avenue and 8 to 9 feet-wide landscape strip along the Sunnyvale-Saratoga Road frontage. The recommended site plan locates the commercial building closer to Fremont Avenue which could include outdoor patio seating (similar to the approved easterly portion of the shopping center) which would provide for an enhanced street presence and activity as envisioned for Village Center projects in the General Plan.</i></p>	<p>Not Met</p>
<p>LA-2.2. Provide a minimum of a 4 ft. wide landscape strip along the sides and rear of all projects.</p>	<p>Met</p>

**2021-7161**  
**102 E Fremont Ave, 1310 S Sunnyvale-Saratoga Rd**

## **Tentative Map**

---

In order to approve the Tentative Map, the proposed subdivision must be consistent with the general plan. Staff finds that the Tentative Map is in conformance with the General Plan. However, if any of the following findings can be made, the Tentative Map shall be denied. Staff was not able to make any of the following findings and recommends approval of the Tentative Map.

1. That the subdivision is not consistent with the General Plan.
2. That the design or improvement of the proposed subdivision is not consistent with the General Plan.
3. That the site is not physically suitable for the proposed type of development.
4. That the site is not physically suitable for the proposed density of development.
5. That the design of the subdivision or proposed improvements is likely to cause substantial environmental damage or substantially and avoidably
6. injure fish or wildlife or their habitat.
7. That the design of the subdivision or type of improvements is likely to cause serious public health problems.
8. That the design of the subdivision or the type of improvements will conflict with easements, acquired by the public at large, for access through or use of property within the proposed subdivision.
9. That the map fails to meet or perform one or more requirements or conditions imposed by the "Subdivision Map Act" or by the Municipal Code.

Staff was not able to make any of the findings (1-8), and recommends approval of the Tentative Map.