

## RECOMMENDED FINDINGS

### CEQA FINDINGS FOR PROJECTS CONSISTENT WITH CEQA GUIDELINES SECTION 15183 and 15168

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The Planning Commission hereby makes the following findings based on the Environmental Checklist for the 898 East Fremont Avenue Gas Station Project (the "Project") prepared by David J. Powers & Associates, Inc., dated April 2024. ("Environmental Checklist"):

#### A. CEQA Guidelines Section 15183

1. The Planning Commission has independently reviewed the programmatic Draft and Final Environmental Impact Reports for the Land Use and Transportation Element ("LUTE") of the Sunnyvale General Plan, State Clearinghouse #2012032003 (the "LUTE EIR")
2. The LUTE EIR identified measures to mitigate, to the extent feasible, the significant adverse project and cumulative impacts associated with the buildout anticipated by the LUTE. In addition, the LUTE EIR identified significant and unavoidable impacts with regard to the following topics: air quality, cultural resources, noise, and transportation.
3. On April 11, 2017, the City Council made Findings, adopted a Statement of Overriding Considerations and a Mitigation Monitoring and Reporting Program, certified the LUTE EIR and adopted the LUTE.
4. In addition to serving as the environmental document for the adoption of the LUTE, the LUTE EIR was intended by the City to serve as the basis for compliance with CEQA for projects that are consistent with the development density established by the LUTE in accordance with Public Resources Code Section 21083.3 and Section 15183 of the CEQA Guidelines. CEQA Guidelines Section 15183 provides 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 previously 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." CEQA Guidelines Section 15183 further provides that if an environmental effect of a project is not peculiar to the parcel or the project, has been addressed as a significant impact in the EIR, or can be substantially mitigated by the imposition of uniformly applied development standards or policies, then an additional EIR need not be prepared on the basis of that effect.
5. The City has analyzed the proposed Project to determine if the Project meets the criteria for streamlined environmental review under Public Resources Code Section 21083.3 and Section 15183 of the CEQA Guidelines.

6. The LUTE contains a number of goals, policies, and implementing actions that affirm the General Plan's vision for sustainable development, including Policy LT-2.1 (sustainable practices for the design, construction, maintenance, operation, and deconstruction of buildings), LT-2.1b (encourage green features), LT-2.1c (establish incentives that encourage green building practices beyond mandated requirements), and LT-2.7 (provide residents and businesses with opportunities to develop private renewable energy facilities).
7. The Project would meet the City's Green Building Program requirements. Additionally, the project would comply with the State's Building Energy Efficiency Standards, which set standards for heating, cooling, solar, battery storage, water savings, lighting, and building envelopes that would ensure that the building energy consumption would not be wasteful, inefficient, or unnecessary.
8. The environmental checklist prepared for the Project concludes that the project would not result in significant impacts peculiar to the Project or Project site or any significant 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.
9. Based on the environmental checklist for the Project and other information in the record, and after a duly noticed public hearing, the City finds as follows:
  - a. The Project is consistent with the Land Use and Transportation Element (LUTE) of the City's General Plan.
  - b. The conditions of approval for the Project require the Project to undertake feasible mitigation measures required by the LUTE EIR and applicable to the Project.
  - c. With application of mitigation measures and/or uniformly applied development standards and policies, the Project would result in no (1) peculiar or specific impacts, (2) impacts not analyzed in the LUTE EIR, or (3) significant off-site impacts and cumulative impacts not discussed in the LUTE EIR, and (4) there is no substantial new information indicating that an impact would be more severe than discussed in the LUTE EIR.
  - d. The Project will have no environmental effects that:

- i. are peculiar to the Project or the parcel on which the Project is located;
- ii. were not analyzed as significant effects in the LUTE EIR;
- iii. are potentially significant off-site impacts or cumulative impacts which were not discussed in the LUTE EIR; or
- iv. are previously identified significant effects which, as a result of substantially 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 LUTE EIR.

e. Accordingly, the City finds that no additional EIR needs to be prepared for the Project.

10. 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 Avenue, Sunnyvale, CA 94086.

**B. CEQA Guidelines Section 15168**

- A. The Planning Commission has independently reviewed the programmatic Draft and Final Environmental Impact Reports for the Land Use and Transportation Element (“LUTE”) of the Sunnyvale General Plan, State Clearinghouse #2012032003 (the “LUTE EIR”)
- B. The LUTE EIR identified measures to mitigate, to the extent feasible, the significant adverse project and cumulative impacts associated with the buildout anticipated by the LUTE. In addition, the LUTE EIR identified significant and unavoidable impacts with regard to the following topics: air quality, cultural resources, noise, and transportation.
- C. On April 11, 2017, the City Council made Findings, adopted a Statement of Overriding Considerations and a Mitigation Monitoring and Reporting Program, certified the LUTE EIR and adopted the LUTE.

In addition to serving as the environmental document for the adoption of the LUTE, the LUTE EIR was intended by the City to serve as the basis for compliance with CEQA for projects that are consistent with the development density established by the LUTE in accordance with Public Resources Code Section 21083 and CEQA Guidelines Section 15168. CEQA Guidelines Section 15168(c)(2) specifies “if the agency finds that pursuant to Section 15162, no new effects could occur or no new mitigation measures would be required, the agency can approve the activity as being within the scope of the project covered by the program EIR, and no new environmental document would be required.”

Section 15168(c)(3) further specifies that “an agency shall incorporate feasible mitigation measures and alternatives developed in the program EIR into subsequent actions in the program.” Section 15168(c)(4) specifies that “where the subsequent activities involve site specific operations, the agency should use a written checklist or similar device to document the evaluation of the site and the activity to determine whether the environmental effects of the operation were covered in the program EIR.”

- C. The City has analyzed the proposed Project to determine if the Project meets the criteria for streamlined environmental review under Public Resources Code Section 21083.3 and Section 15183 of the CEQA Guidelines.
- D. The LUTE contains a number of goals, policies, and implementing actions that affirm the General Plan’s vision for sustainable development, including Policy LT-2.1 (sustainable practices for the design, construction, maintenance, operation, and deconstruction of buildings), LT-2.1b (encourage green features), LT-2.1c (establish incentives that encourage green building practices beyond mandated requirements), and LT-2.7 (provide residents and businesses with opportunities to develop private renewable energy facilities).
- E. The Project would meet the City’s Green Building Program requirements. Additionally, the project would comply with the State’s Building Energy Efficiency Standards, which set standards for heating, cooling, solar, battery storage, water savings, lighting, and building envelopes that would ensure that the building energy consumption would not be wasteful, inefficient, or unnecessary.
- F. The environmental checklist prepared for the Project concludes that the project would not result in significant impacts peculiar to the Project or Project site or any significant 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.
- G. Based on the environmental checklist for the Project and other information in the record, and after a duly noticed public hearing, the City finds as follows:
  - a. The Project is consistent with the Land Use and Transportation Element (LUTE) of the City’s General Plan.

- b. The conditions of approval for the Project require the Project to undertake feasible mitigation measures required by the LUTE EIR and applicable to the Project.
  - c. With application of mitigation measures and/or uniformly applied development standards and policies, the Project would result in no (1) peculiar or specific impacts, (2) impacts not analyzed in the LUTE EIR, or (3) significant off-site impacts and cumulative impacts not discussed in the LUTE EIR, and (4) there is no substantial new information indicating that an impact would be more severe than discussed in the LUTE EIR.
  - d. The Project will have no environmental effects that:
    - i. are peculiar to the Project or the parcel on which the Project is located;
    - ii. were not analyzed as significant effects in the LUTE EIR;
    - iii. are potentially significant off-site impacts or cumulative impacts which were not discussed in the LUTE EIR; or
    - iv. are previously identified significant effects which, as a result of substantially 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 LUTE EIR.
  - e. Accordingly, the City finds that no additional EIR needs to be prepared for the Project.
- H. 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 Avenue, Sunnyvale, CA 94086.

Staff Analysis: Finding is met. Refer to CEQA checklist in Attachment 7.

## **Special Development Permit**

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Goals and Policies that relate to this project are:

### **Land Use and Transportation Element (LUTE)**

*GOAL LT-4: An attractive community for residents and businesses*

*GOAL LT-11: Supportive economic development environment*

*Facilitate an economic development environment that supports a wide variety of businesses and promotes a strong economy within existing environmental, social, fiscal, and land use constraints.*

*POLICY LT-11.2 Support a full spectrum of conveniently located commercial, mixed-use, public, and quasi-public uses that add to the positive image of the community.*

*POLICY LT-11.3 Promote business opportunities and business retention in Sunnyvale.*

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

*GOAL LT-12: A balanced economic base*

*Develop a balanced economic base that can resist downturns of any one industry and provides revenue for city services.*

*POLICY LT-12.4 Attract and retain a diversity of commercial enterprises and industrial uses to sustain and bolster the local economy and provide a range of job opportunities.*

*POLICY LT-12.4a Promote a variety of commercial, retail, and industrial uses, including neighborhood shopping, general business, office, clean technology, and industrial/ research and development.*

*POLICY LT-12.4c Encourage independent local businesses.*

*POLICY LT-12.9 Consider the importance of tax generation (retail, hotel, auto, and business-to-business uses) to support the fiscal health of the community and to fund municipal services.*

*GOAL LT-13: Protected, maintained, and enhanced commercial areas, shopping centers, and business districts.*

*POLICY LT-13.4 Support a full spectrum of conveniently located commercial uses and shopping centers that add to the positive image of the community.*

### **NON-RESIDENTIAL DESIGN GUIDELINES**

*2.A4. Non-residential buildings should have a street presence. Locate buildings as close to the setback lines as possible.*

*2.B8. In non-residential buildings maintain visually interesting activities at the street level by placing active facades with windows and openings on the street side to promote pedestrian activities.*

- 2.C5. *Buildings should have three distinct components: base; middle; and, top. Define each component by horizontal and vertical articulation. Façade articulation may consist of changes in the wall plane, use of openings and projections, and material and color variations. Exceptions may be permitted only where a specific architectural style offers other types of building form and façade articulations, as determined by the planning staff.*
- 2.C7. *Utilize landscaping around the perimeter of new buildings to enhance buildings, not to cover an unacceptable design.*
- 2.C9. *Include decorative building elements in the design of all buildings. Add more interest to buildings by incorporating changes in wall plane and height, arcades, porticos, trellises, porches, balconies, dormers, windows, opening, etc.*
- 2.C10. *Repeat design and decorative building elements in all elevations and the roof, not just in the front façade.*
- 2.C13. *Define building entries by use of human scale architectural elements such as arches, posts, awnings, etc. Orient main entries toward public streets.*
- 2.D3. *Long horizontal roof lines are not acceptable. Interrupt roof line by architectural treatment and features. In non-industrial 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.*
- 2.D4. *Vary roof levels and forms on a large building to create diversity and to decrease the apparent scale of the building.*
- 2.D7. *Include architectural elements such as projecting cornices in design of flat roofs to define the edge of the roof. Depending on architectural style, industrial buildings are encouraged to use these elements to enhance roof edges.*
- 2.E1. *Develop a comprehensive material and color scheme for each project to tie in the various parts of the project. Choose a variety of colors and materials to add interest to buildings.*
- 2.E2. *Avoid large expanse of smooth surfaces such as concrete or glass. Use materials with a sense of scale and texture. For industrial areas, high-quality metal may be used as exterior siding or in large expanses. Break up large expanses of smooth material with expansion joints, reveals, or changes in texture and color.*
- 2.E3. *Avoid large expanse of highly reflective surfaces and mirror glass exterior walls to prevent heat and glare impacts on the adjacent public streets and properties.*
- 2.E4. *Choose high quality materials and paint to prevent degradation and for ease of maintenance.*
- 3.B4. *Landscaped islands are encouraged to break up long rows of parking spaces and reduce the visual width of parking aisles. One island for every 10 spaces is suggested as a minimum.*
- 3.B9. *Lighting.*
  - a. *Brightness. Lighting must provide a minimum average of 0.5 foot candles.*
  - b. *Energy efficiency. High energy- efficient lighting, including LED lighting is encouraged. Lights which interfere with color recognition, such as sodium vapor is discouraged.*
  - c. *Pole Height. Light poles are limited to 8 feet in height for pedestrian and residential areas. Light poles may extend up to 16 feet in height in other areas. Light poles must not exceed the height of the main building.*

*d. Shielding. Shield light sources to prevent any glare or direct illumination on public streets or adjacent properties.*

- 3.C.9. Provide a minimum of one tree for every 7 parking stalls. Always combine trees with shrubs or ground cover in islands. Trees with deep roots should be selected to avoid damaging the pavement.*
- 3.D1. Bicycle parking areas should be lit at night throughout the year to increase safety. Special consideration should be used when deciding on the placement of lighting especially near residential areas.*
- 3.D2. To protect bicycles from theft and vandalism racks should not be obscured by landscaping fences or other obstructions. They should be in view of passing pedestrians or vendors.*
- 3.D3. Bicycle parking racks should be conveniently located close to a building entrance and should be clearly visible from the entrance and its approaches. Signs should be posted to direct bicyclists to the bike parking if this is not possible.*
- 3.D4. Protection from the weather should be provided for a portion of the rack parking. The ground surface area where the rack is situated should be an all-weather and drainable material. Consideration should be given to the material and how slippery it may become when wet.*
- 4.A6. Choose a variety of plant material with different textures and colors. Use water-wise plant material, as specified in the Landscape regulations.*
- 4.A7. 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.*
- 4.A11. Install permanent irrigation system in all required landscaped areas except in single family and duplex residences.*
- 4.A12. Install street trees along street side of projects according to the Department of Public Works requirements. In industrial areas, combine street trees with on-site trees to provide a double row of trees where possible.*
- 4.B3. Provide a minimum of 10 ft. wide landscape strip, plus a decorative masonry wall at least 6 ft. high, between all non-residential development and abutting residential uses.*
- 5.F2. Trash enclosures should be conveniently accessible by collection trucks. Access driveways should be a minimum of 16 ft. in width.*
- 5.F3. Enclosures should not be located in setback, landscaped or parking areas.*
- 5.F4. Provide adequate turnaround areas for collection trucks on non-through streets.*
- 5.F5. Provide a concrete pad in front of and within enclosures to prevent damage to pavement.*
- 5.F7. Trash enclosures must screen trash containers on all 4 sides. The height of enclosures should fully screen the containers and should be a minimum of 6 ft. high.*
- 5.F9. The style, material, and color of enclosures should be similar to those of the main structure.*
- 5.F10. Enclosures should be made of masonry and match the main building in finish and color in Commercial Zones. Residential enclosures may be wood, painted to match the main building.*
- 5.F11. Steel enclosure gates in commercial areas and wood enclosure gates in residential zones are required as a minimum standard.*

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

The proposed project furthers the goals and objectives of the General Plan by offering conveniently located commercial spaces. It will enhance the existing condition of the site and blend with the character of neighboring properties. Additionally, the project includes on-site and off-site improvements, such as landscaping and sidewalk improvements.

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 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 the orderly development or existing uses of the adjacent properties. The site improvements, including a new commercial building, parking, landscaping, and trash facility, would enhance the property's and immediate neighborhood's appearance. The convenience store and takeout restaurant would serve the adjacent neighborhood.

**Required finding for automobile service stations that sell beer and wine per SMC 19.98.020(h)**

For automobile service stations that sell beer and wine pursuant to state license, the applicant shall submit an application including all of the information in subsection (g), and shall obtain a use permit or special development permit and the director of community development shall make all of the following findings:

- (1) The proposed site must be five hundred feet from a use selling off-site sales of alcohol, unless findings can be made that the additional sales:

- (A) Will not adversely affect the peace, health, safety, morals or welfare of the persons residing or working in the surrounding areas; and

- (B) Will not impair the value of property of other persons located in the vicinity of the area; and

- (C) Will not be detrimental to public health, safety or welfare;

- (D) The proposed site will not exceed a concentration of more than four businesses with off-site sales of alcohol within a one-thousand-foot radius, unless the findings in subsection (h)(1) above can be made.

- (2) The proposed site shall not be located closer than five hundred feet from any child care center, public park, social service agency, residential care facility, residential service facility or public school, unless the findings in subsection (h)(1) can be made.

***Finding met.***

Due to the concentration of other establishments that also sell alcohol within the vicinity, a finding of public convenience is required to allow for the ABC license. The Department of Public Safety reviewed the proposed application and found no concerns. Based on staff's analysis, the following findings can be made:

- The project is consistent with the General Plan in that it provides retail and services to residents and businesses that is conveniently located on a major arterial.
- The project is consistent with the purpose and intent of the C-1 zoning district which is reserved for the construction, use and occupancy of commercial buildings providing retail commercial shopping and service facilities to the adjacent neighborhood residential areas. The gas station and convenience store provide a neighborhood service to adjacent residents and businesses. The sale of beer and wine in conjunction with a gas service station is permitted with a Use Permit.
- Generally, staff notes that the proposed hours of operations would not cause disruption or impact the quiet and peaceful enjoyment of the neighborhood.