



City of Sunnyvale

Agenda Item 2

20-0610

Agenda Date: 6/16/2020

REPORT TO PLANNING COMMISSION

SUBJECT

CONTINUED FROM JUNE 2, 2020

Proposed Project:

USE PERMIT for a new six-story hotel with 128 rooms.

Location: 1296 Lawrence Station Road (APN: 104-33-012)

File #: 2017-8060

Zoning: Industrial and Service (M-S)

Applicant / Owner: Baywood Hotels (applicant) / Sunnyvale Holdings LLC (owner)

Environmental Review: The project is consistent with the Land Use and Transportation Element (LUTE) of the City's General Plan and no additional environmental review is required pursuant to CEQA Guidelines Section 15183 and Public Resources Code Section 21083.3.

Project Planner: Kelly Cha, (408) 730-7408, kcha@sunnyvale.ca.gov

REPORT IN BRIEF

General Plan: Industrial

Existing Site Conditions: Vacant One-Story Light Industrial/Office Building

Surrounding Land Uses

North: State Route 237

South: One-Story Light Industrial/Office Building

East: One-Story Light Industrial/Office Building

West: Four-Story Multi-family Residential Building

Issues: Architectural Design

Staff Recommendation: Alternative 1: Make the findings required to approve the CEQA determination that the project is consistent with the City's General Plan and no additional environmental review is required as noted in the checklist in Attachment 5, and approve the Use Permit based on the findings in Attachment 3, and recommended conditions of approval in Attachment 4.

BACKGROUND

The Planning Commission continued this item on June 2, 2020 to June 16, 2020 to provide the applicant time to review and respond to a comment letter received on the day of the hearing.

Description of Proposed Project

The project site is 1.1 acres in size and is currently developed with a one-story light industrial/office building. The site is located at the corner of Lawrence Station Road and Old Mountain View-Alviso Road, and shares driveway access from both streets with three immediately abutting parcels. Highway 237 is located north across Old Mountain View-Alviso Road.

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The project includes demolition of the existing building and construction of a new six-story hotel with 128 rooms and attached two-level parking structure. A Use Permit is required for a hotel use in the Industrial and Service (M-S) zoning district. The project includes a parking adjustment and has submitted a parking analysis that demonstrates a lower parking ratio. The project also includes an additional 10 feet in building height as a voluntary incentive through the Sunnyvale's Green Building Program.

See Attachment 1 for a map of the vicinity and mailing area for notices and Attachment 2 for the Data Table of the project. There are no active Neighborhood Preservation cases on this property.

Previous Actions on the Site

A Tentative Map was approved in 1979 and allowed subdivision of the office complex into four different parcels. In addition to this Tentative Map, there are no planning permits other than minor permits related to rooftop screening waiver and tree removal.

EXISTING POLICY

General Plan Goals and Policies: Key goals and policies from the General Plan Land Use and Transportation Element and Community Character which pertain to the proposed project are provided in Attachment 3.

Applicable Design Guidelines: The City's design guidelines provide recommendations for site layout, architecture, and design. The Citywide and Bird Safe Design Guidelines have been applied to the project in the discussion and analysis noted in this report.

Bird Safety Building Design Guidelines

The project site is located more 300 feet away from the closest body of water, which is the bay front and east channel, and is not adjacent to a landscaped area, open space or park larger than 1 acre in size. Therefore, policies in Option 2 are applicable to this project.

Although the proposed hotel building has curtainwall towers at both ends of the L-shaped building, the curtainwall utilizes tinted blue glass and has aluminum frame that prevents a large expanse of glass. The tinted blue glass not only provides energy efficiency but also decreases transparency of the glass used on the curtainwalls. In addition, no glass materials are proposed on the rooftop garden on top of the parking structure. Policies related to lighting will be addressed during the building permit stage when the lighting plan is submitted. All the policies will be applied to ensure the project's compliance with the Bird Safety Building Design Guidelines.

ENVIRONMENTAL REVIEW

The project is consistent with the City's General Plan and no additional environmental review is required pursuant to CEQA Guidelines Section 15183 and Public Resources Code Section 21083.3 (see Attachment 5). Under Section 15183 of the CEQA Guidelines, projects that are consistent with the development density established by existing zoning or general plan policies for which an environmental impact report (EIR) was certified do not require additional environmental review, except as might be necessary to examine whether there are project-specific significant effects which are peculiar to the project or its site. The consistency checklist prepared for the project (Attachment 5) demonstrates that all the project's significant impacts were either studied in the EIR that was adopted for the City's Land Use and Transportation Element (LUTE) or can be substantially mitigated by uniformly applied development policies or standards.

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On the day of the previously scheduled hearing, the City received a comment letter from Michael Lozeau, the attorney for the Laborers International Union of North America (LiUNA), Local Union 270, dated June 5, 2020 (“Lozeau letter,” Attachment 11). As a preliminary issue, the letter notes that the Planning Commission cannot make the necessary CEQA findings under CEQA Guidelines Section 15183 because the LUTE EIR was not attached to the staff report and could not be located on the City’s webpage. The LUTE environmental documents have now been added to the City’s General Plan webpage and are available for review by the Planning Commission and members of the public at the following link, <https://sunnyvale.ca.gov/government/codes/plan.htm> or by contacting the Planning Division to request a copy at planning@sunnyvale.ca.gov <mailto:planning@sunnyvale.ca.gov>.

The Lozeau letter further argues that the project should not be approved without additional CEQA review because the LUTE did not address the effects of formaldehyde on indoor air quality or the significant impacts of bird strikes on the hotel’s glass windows and other features. A response from the applicant is included as Attachment 12. The City Attorney’s Office has also reviewed the comment letter and disagrees with the commenter’s position regarding the application of CEQA Guidelines Section 15183. The purpose of Section 15183 is to streamline environmental review of projects that are consistent with an existing general plan for which an EIR was certified. Under Section 15183(c), an additional EIR does not need be prepared to address project-specific impacts as long as those impacts:

- (1) are not “peculiar” to the project, or
- (2) were addressed as significant effects in the prior EIR, or
- (3) can be “substantially mitigated by the imposition of uniformly applied development policies or standards.”

Section 15183(f) further provides that an effect of the project is not “peculiar” to the project if it can be mitigated by uniformly applied development policies or standards that may be found within other planning documents or ordinances.

In this case, although the LUTE EIR did not discuss formaldehyde as an indoor air contaminant, it did identify the potential that future development could result in new sources of indoor toxic air contaminants (TACs) and imposes mitigation measures, such as indoor air filtration systems, to address any health or cancer risks that are identified by the Bay Area Air Quality Management District (BAAQMD) (LUTE Mitigation Measure 3.5.6). As noted in the applicant’s response to the Lozeau letter (Attachment 12), the project will be required to comply with BAAQMD regulations, as incorporated through the City’s adoption of CalGreen Building Code, that will substantially mitigate the potential health effects associated with formaldehyde air contamination.

Section 3.9.4 of the LUTE specifically addressed the potential for bird collisions with buildings and found that this impact would be less than significant with implementation of the City’s Bird Safe Design Guidelines, which were adopted in 2014. The Bird Safe Design Guidelines require developers to minimize reflective surfaces and glass walls, reduce nighttime lighting, discourage the placement of large water features, and avoid landscape design that places tall landscaping next to reflective surfaces. Therefore, the impact of development on birds was directly addressed in the EIR and can also be substantially mitigated by application of the Bird Safe Design Guidelines. Therefore, under Section 15183, this issue does not require additional environmental review.

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DISCUSSION

Use: The project includes demolition of the existing one-story light industrial/office building and construction of a new six-story hotel with 128 rooms. Guest amenities include two meeting rooms totaling approximately 2,000 square feet, a fitness center, outdoor balcony and roof garden. Food and beverage service is limited to continental breakfast for hotel guests only.

Site Layout: The proposed hotel building is L-shaped and is sited towards the street frontages. Existing driveway locations will be maintained and are shared with the adjacent parcels. New sidewalks will be installed along both street frontages will provide a pedestrian connection to the new hotel building.

The main pedestrian building entrance faces Lawrence Station Road. A covered guest drop-off area is provided behind the lobby with signage to properly direct vehicles. Parking is enclosed within the first and second floors of the building, with a ramp leading to the second floor behind the guest drop-off area. Minimal surface parking is also provided towards the back of the site.

Architecture: The architectural style is considered Contemporary and is distinctive from other buildings in the vicinity. The building utilizes a variety of materials, such as stone tiles, gray, white and lime-colored painted stucco, variegated blue metal panels, and tinted blue glass. Metal awnings and louvers help to provide material breaks along the building. As conditioned by staff, windows will be recessed at least 3 inches from the wall to reduce wall mass (Condition BP-5). The details and specifications of these materials can be found in Attachment 9.

The application of wall materials and window pattern is primary oriented horizontally. Vertical elements have also been incorporated, such as a curtainwall (glass) tower and aluminum wall paneling tower at the building corners. The first-floor materials and architectural projections help to create a strong building base with a pronounced building entry. The upper floors contain wall plane and material changes that help to add visual interest and reduce mass. Similar wall treatment continues up to create a well-defined top of building.

Parking is mostly not visible from the street frontages and is attached to the hotel building at the rear. The same architectural language is continued along the parking structure façade. Natural building materials are more prominent in the rear facades where they face the existing one-story light industrial/office buildings, and includes wood paneling and green walls.

Staff and the City's architectural consultant, Larry Cannon, have worked with the applicant on the architectural design for over a year. The resulting architectural design complies with the Citywide Design Guidelines and will add positively to the neighborhood.

Development Standards

The project complies with the applicable development standards in the Municipal Code, such as lot coverage, setbacks, and landscaping. The Project Data Table in Attachment 2 summarizes the project's compliance with code standards. As with many hotel sites in Sunnyvale, a parking adjustment is being requested to allow reduced parking.

Floor Area Ratio and Lot Coverage: The proposed hotel building is approximately 105,553 square feet in size, which includes the two levels of covered parking. The City does not apply floor area ratio (FAR) standards to hotels. The lot coverage is 44.3%, which is consistent with the 45% maximum

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allowed.

Height: The building is six stories and 82 feet in height, as measured from the top of the curb. A maximum of 75 feet is permitted in the M-S zoning district. The applicant is utilizing the voluntary incentive program as part of the City's Green Building requirements to achieve an additional 10 feet of height (up to 85 feet). The project is designed as LEED Gold Level, will be certified by the US Green Building Council (USGBC), and is an all-electric building without any gas line connections.

The site is located within a 100-year flood hazard Zone (AE), which requires the first floor to be raised approximately 2.5 feet from the finished grade. In order to accommodate this requirement, the project includes ramps and stairs for pedestrian access points.

Staff finds that the building height is appropriate for this setting, as the building is sited towards the street frontages and primarily faces Highway 237. The hotel building is located diagonally from the four-story mixed-use building across Lawrence Station Road and will have minimal views to the residential units. Setbacks adjacent to the existing one-story office buildings exceed minimum requirements and help to provide visual relief from adjacent parcels.

Setbacks: The project meets all required setbacks for the M-S zoning district, including the increased front yard setback requirement of 35 feet for any industrial lots that fronts a public street with a right-of-way width of 86 feet or more. The right-of-way width of Lawrence Station Road is 86 feet.

Parking and Circulation: Sunnyvale Municipal Code (SMC) 19.46.100 requires a minimum of 0.80 parking spaces per hotel room, which results in a minimum of 103 required parking spaces. The project provides the following in terms of parking:

Total Parking	80
On Surface	20
In Structure	60
First Floor	18
Second Floor with Mechanical Lifts	42
Total Bicycle Parking	8
Class I (Bike Rack)	6
Class II (Bike Locker)	2

The applicant requests a parking adjustment per SMC 19.46.130 and has submitted a draft Parking Management Plan prepared by TJKM (Attachment 8). The parking consultant reviewed similar hotel developments in the vicinity and determined that a lower parking rate of 0.6 parking spaces per hotel room would be appropriate for this location.

The draft Parking Management Plan also includes valet services for customers. Incorporating valet parking allows for the feasible use of the mechanical stacked parking on the second level of the parking structure. The hotel proposes to have a shuttle service for the customers and connect their guests to destinations like the San Jose International Airport, Sunnyvale downtown, Lawrence Caltrain station, as well as Reamwood Light Rail station. The preliminary parking lot striping plan

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shows compliance with parking lot design requirements. As conditioned, a final parking lot striping plan demonstrating conformance to SMC 19.46 and Citywide Design Guidelines would be reviewed by staff prior to approval of a building permit.

Landscaping: A preliminary landscape plan has been submitted which indicates compliance with the Municipal Code standards for water efficient landscaping. The Project is designed with approximately 27% of the lot area landscaped, which complies with 20% minimum landscaping requirement. In addition to ground-floor landscaping, a roof garden is provided.

SMC Section 19.37.070 states that at least 50% of the parking area must be shaded within 15 years after establishment of the lot. The preliminary landscape plan demonstrates compliance with the shading requirements by providing 88% within 15 years (3,612 square feet of shading for the open parking areas of 4,070 square feet).

Tree Preservation: An arborist report was prepared by Kurt Fouts Arborist Consultant, dated September 2, 2017. A total of 15 trees were surveyed, including one protected tree immediately outside of the project site. There are eight trees that are considered protected under SMC Chapter 19.94 and are primarily located along the project frontage. A protected tree is defined as having a trunk size of at least 38 inches in circumference, as measured 4.5 feet from the ground. All eight protected trees will be preserved, which is a positive element of this project. In order to accommodate and preserve these Coast Redwood and Tulip trees, a meandering sidewalk will be installed along the project frontage.

The project proposes to remove seven non-protected trees on the project site, which will conflict with the building location and site improvements. The landscaping plan includes 14 new 24-inch box trees.

Easements and Utilities: All utilities are required to be placed underground and easements are required to be kept clear of any structures. Easement dedication will be required for the area where a new meandering sidewalk is proposed (Condition of Approval #PS-2) and the property owner would be responsible for maintaining the sidewalk improvements along the project frontage perpetually.

Stormwater Management: The Municipal Permit for stormwater discharge requires all treatment be achieved through Low Impact Development (LID) measures such as infiltration, harvesting use and biofiltration and limits the use of mechanical treatment. A preliminary Stormwater Management Plan (SWMP) has been provided, which demonstrates compliance with LID requirements by incorporating infiltration basin into the landscaped area. A third-party certification of a final SWMP is required prior to issuance of building permits.

Expected Impacts on the Surroundings: Staff finds that the proposed project is compatible with the mix of uses found in this neighborhood and will not detrimentally impact neighboring residents and tenants. The building has been thoughtfully designed to comply with applicable design guidelines and development standards. The requested parking adjustment is reasonable and is consistent with other hotel developments within the City.

FISCAL IMPACT

The proposed project is anticipated to have a positive fiscal impact on the City in the long term. The estimated transient occupancy tax ranges from \$613,200.00 to \$1,022,000.00 based on the

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anticipated nightly rate of \$150-\$250 per night.

The transportation impact fee for this project is estimated to be \$176,005.14 and the housing impact fee to be \$908,590.00. These impact fees must be paid prior to issuance of a building permit. The amount is subject to fees in place at the time of payment.

PUBLIC CONTACT

Community Outreach Meeting

The applicant held a community outreach meeting on January 29, 2020 at the Radisson Hotel at 1300 Chesapeake Terrace in Sunnyvale. The meeting was attended by two community members. One of two attendees was a property owner of an abutting property and was supportive of the proposed hotel development. No residents within the mixed-use building across Lawrence Station Road were in attendance.

Planning Commission Study Session

Staff presented the project to the Planning Commission at its Study Session on August 12, 2019. The Planning Commission comments were generally supportive of the architectural style and the use at this site, but demonstrated their concerns over quality of materials, window recess depth, and pedestrian ramp design especially along Old Mountain View-Alviso Road. The applicant revised the project design to incorporate the Planning Commission's feedback by changing the materials for the tower elements of the hotel building with metal panels, switching the curtain wall materials with more recess, and replacing the ramp on Old Mountain View-Alviso Road to match with the front entrance ramp on Lawrence Station Road.

Public Comments

As previously discussed, staff received one comment letter from Michael Lozeau, the attorney for the Laborers International Union of North America (LIUNA) (Attachment 11). The CEQA issues raised by the commenter are discussed above under "Environmental Review." The commenter also argues that the Planning Commission should defer a decision on the project until the Covid-19 emergency is lifted because the public's inability to directly address the Commission during public comment is a violation of the Brown Act. Beginning with the meeting on June 15, the Planning Commission will be using the Zoom platform instead of the 8x8 platform that was previously used. Members of the public will be able to join the video meeting via Zoom and directly interact with the Commission during public comment.

Staff have worked closely with the City Attorney's office to ensure that the City's handling of public comment during remote meetings complies with Governor Newsom's Executive Order N-29-20 of March 17, 2020. The Governor has broad powers granted by the California Emergency Services Act (California Government Code Section 8571) to suspend regulatory and procedural statutes during a declared state of emergency. The Governor's stay-at-home orders, along with similar (and more restrictive) orders issued by the Santa Clara County Public health officer (who also serves as the City of Sunnyvale's health officer pursuant to Sunnyvale Municipal Code Section 2.20.010) has made it impossible for public agencies to hold public meetings in person, or to comply with the provisions of the Brown Act that require the City to have in-person public comment during teleconference meetings (Gov. Code Section 54953(b).) If the Governor had not lifted the Brown Act's restrictions on teleconference meetings, local government would have come to halt, because City Council approval is required for a wide variety of essential government functions including those necessary for the City's COVID-19 response, such as adopting emergency ordinances, ratifying emergency orders,

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and approving contracts over fiscal thresholds. Furthermore, halting public hearings on development projects during the state of emergency could be interpreted as a de facto moratorium on development, which could violate other provisions of law.

According to the federal district court for the Eastern District of California in *Givens v. Newsom* (May 8, 2020), “it is uncontroverted that the State’s stay at home order bears a real and substantial relation to public health.” The court ruled that the Governor’s restrictions on the constitutionally-protected rights of free speech, assembly, religion, petitioning, and due process, were within the Governor’s emergency powers and not more burdensome than necessary to prevent spread of COVID-19 infection. Similarly, in a concurring opinion in *South Bay United Pentacostal Church v. Newsom* (May 29, 2020), U.S. Supreme Court Chief Justice Roberts noted that public officials have “broad latitude” to safeguard public health during an emergency and as long as they do not exceed those broad limits, “they should not be subject to second-guessing by an unelected federal judiciary”.

The Governor’s Executive Order N-29-20 waives requirements of the Brown Act that require the physical presence of officials, staff, or members of the public. Instead, the order states that the public must be given the opportunity “to observe and address the meeting telephonically or otherwise electronically.” By contrast, under the Brown Act, the public must have an opportunity to “directly address” the legislative body (Gov. Code Section 54954.3). The meaning of “directly address” is not defined in the Brown Act but it is commonly understood to mean that members of the public will be physically present and can get up and speak to the legislative body. These two aspects of public comment (physical presence and speaking in a live setting) were modified by the Governor’s emergency order. The word “directly” does not appear in the Governor’s order. The wording of the order also left it up to each agency to craft appropriate procedures for receiving and communicating telephonic and electronic comments. The order does not require agencies to use Zoom or any other specific platform or technology. The City of Sunnyvale has provided several ways for the public to observe and address the meeting, including watching on KSUN and webcast, and submitting public comments by email or voicemail before and during the public comment period for each agenda item. These procedures were narrowly tailored to allow members of the public to communicate with the members of the legislative body while also meeting the compelling public health interest in stopping the spread of the COVID 19 virus. On the Zoom platform, the public will be able to join the meeting and make their comments in real time, which should address the commenter’s concerns.

Notice of Public Hearings

- Published in the Sun newspaper
- Posted at the site
- 1,069 notices were mailed to property owners and tenants within 2,000 feet of the project as shown in Attachment 1

Staff Report

- Posted on the City of Sunnyvale’s website

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- Posted on the City’s official notice bulletin board
- Posted on the City of Sunnyvale’s website

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ALTERNATIVES

1. Make the findings required to approve the CEQA determination that the project is consistent with the City's General Plan and no additional environmental review is required as noted in the checklist in Attachment 5, and approve the Use Permit based on the findings in Attachment 3, and recommended conditions of approval in Attachment 4.
2. Make the findings required to approve the CEQA determination that the project is consistent with the Land Use and Transportation Element (LUTE) of the City's General Plan and no additional environmental review is required as noted in the checklist in Attachment 5, and approve the Use Permit based on the findings in Attachment 3, and modified conditions of approval.
3. Do not make the required findings and direct staff where changes should be made.
4. Deny the project.

STAFF RECOMMENDATION

Alternative 1: Make the findings required to approve the CEQA determination that the project is consistent with the City's General Plan and no additional environmental review is required as noted in the checklist in Attachment 5, and approve the Use Permit based on the findings in Attachment 3, and recommended conditions of approval in Attachment 4.

Prepared by: Kelly Cha, Associate Planner

Reviewed by: Noren Caliva-Lepe, Principal Planner

Reviewed by: Andrew Miner, Assistant Director, Community Development

ATTACHMENTS

1. Noticing and Vicinity Map
2. Project Data Table
3. Recommended Findings
4. Recommended Conditions of Approval
5. CEQA Consistency with the Land Use and Transportation Element (LUTE) EIR
6. LUTE Mitigation and Monitoring Reporting Program
7. Project Site and Architectural Plans
8. Draft Parking Management Plan
9. Materials Specification Matrix
10. Preliminary LEED Checklist
11. LIUNA Comment Letter, dated June 2, 2020
12. Applicant's Response Letter, dated June 5, 2020
13. Draft Planning Commission Meeting Minutes of June 2, 2020

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