

RECOMMENDED FINDINGS

CALIFORNIA ENVIRONMENTAL QUALITY ACT (CEQA) CLASS 32 CATEGORICAL EXEMPTION ANALYSIS

CEQA Guidelines Section 15332, known as the “Class 32 Infill Exemption”, exempts projects from further CEQA review if the five criteria below are met. The following is staff’s analysis:

1. The project is consistent with the applicable general plan designation and all applicable general plan policies as well as with applicable zoning designation and regulations.

The General Plan land use designation for the project site is High Density Residential (25 to 36 dwelling units per acre), and the zoning designation is R-4/PD – High Density Residential/Planned Development combining district. The General Plan contains goals and policies to allow for residential uses. The High-Density Residential provides for densities consistent with the development of apartments and condominiums. A Special Development Permit approval is required for new construction of multi-family developments because the site is in a Planned Development combining district.

The project proposes to demolish the existing single-family home and construct eight townhome-style ownership residential units, where 13 units are the maximum allowed per Sunnyvale Municipal Code (SMC) Table 19.30.040. The proposal is in substantial conformance with General Plan Policy HE-4.3 that requires new development to build to at least 75 percent of the maximum zoning density.

Each townhouse unit will have three bedrooms and an attached two-car garage. There will be four uncovered parking spaces, a common open space area, and mailboxes. The project also includes on and off-site improvements including landscaping and sidewalk improvements.

The project generally conforms with the prescribed development standards in the General Plan and Municipal Code, and requests deviations from the front yard setback and usable open space requirements. The applicant is requesting to pay the in-lieu fee for the required 1.2 Below Market Rate (BMR) units in accordance with the City’s Inclusionary BMR Ownership Housing Program, Chapter 19.67 of the SMC. The request to pay an in-lieu fee is subject to recommendation by the Housing and Human Services Commission and final approval by the City Council.

2. The proposed development occurs within city limits on a project site of no more than 5 acres substantially surrounded by urban uses.

The 0.40-acre project site is located within City limits at the southeast corner of Old San Francisco Road and Cezanne Drive. The site is surrounded on the east and south sides by a two-story senior housing development. To the west and across Cezanne Drive is a shopping center and to the north and across Old San Francisco Road are medical offices. The project site would be served by existing utilities.

3. The project site has no value as habitat for endangered, rare, or threatened species.

The site is currently developed with a single-family house, accessory structure, pool, basketball court and landscaping. The surrounding areas have been heavily modified by urbanization and do not provide suitable habitat for endangered, rare, or threatened species. The City of Sunnyvale is not located within the Santa Clara Valley Habitat Conservation (SCVHC) plan area. The project site is not adjacent to riparian corridors nor includes tall buildings that would increase risks to birds. A biological constraint analysis for the site was prepared by Live Oak Associates, Inc. (LOA) on December 2, 2020. The analysis confirmed that there are no records of special status species known to occur on the property. Additionally, habitats onsite were found to be generally unsuitable for most special status species known to occur in the region.

As conditioned upon approval of the project, the applicant will incorporate standard construction best management practices and will conduct focused pre-construction surveys before any construction activities. The applicant will also take reasonable measures that would avoid impacts to these species if they are found onsite prior to construction.

An Arborist Report was also prepared by Advanced Tree Care on September 9, 2022. There are five protected trees onsite proposed for removal because of poor health and conflict with the proposed development. SMC Chapter 19.94 defines a protected tree as having a trunk size of at least 38 inches in circumference, as measured 4.5 feet from the ground. Protected size trees are required to be replaced per the City's Tree Replacement Policy. Recommendations for tree protection during construction and replacement tree planting will be included as part of the standard conditions of approval.

4. Approval of the project would not result in any significant effects related to traffic, noise, air quality, or water quality.

- **TRAFFIC:** Per Council Policy 1.2.8 Transportation Analysis Policy, Vehicles Miles Traveled (VMT) is used to identify potential transportation impacts of a proposed land use project to comply with California Environmental Quality Act (CEQA). The project is not exempt from VMT analysis. However, the project will not trigger a transportation-related impact per CEQA as the site is in a location where the VMT is at least 15% below the Countywide Average Residential VMT/Capita threshold.
- **NOISE:** A Noise Assessment Study was prepared by H. Stanton Shelly, Acoustical Consultant, dated September 2, 2022. The study concludes that noise from the project operation (traffic) is not expected to significantly increase, would have a less than significant impact, and would continue to meet Sunnyvale noise standards. The study notes that the project construction can produce higher levels of noise for the neighboring properties temporarily and provides measures

that will be adopted by the contractor to reduce noise impacts to the neighbors. Recommendations for standard measures for the reduction of construction noise and vibration will be incorporated as conditions of approval.

- **AIR QUALITY:** The Bay Area Air Quality Management District (BAAQMD) developed screening criteria to provide lead agencies and project applicants with a conservative indication of whether a proposed project could result in potentially significant air quality impacts. If all the screening criteria are met by a proposed project, then the lead agency or applicant would not need to perform a detailed air quality assessment of their project's air pollutant emissions. These conservative screening levels are generally representative of new development on greenfield sites without any form of mitigation measures taken into consideration. The proposed eight-unit residential development is below the screening criteria for Operational-Related Criteria Air Pollutant and Precursor Screening Level Sizes and, therefore, no further analysis is needed.

Furthermore, the project would not include any development beyond that assumed and analyzed in the LUTE EIR. The project proposes to demolish an existing single-family home and construct eight-townhome style condominium units, which is within the residential density analyzed in the LUTE EIR. Therefore, the findings of the certified LUTE EIR concerning consistency with air quality plans remain valid and no further analysis is required.

Standard conditions required in the LUTE EIR require construction projects to implement BAAQMD's basic construction mitigation measures, which include the following dust control measures:

- a) All exposed surfaces (e.g., parking areas, staging areas, soil piles, graded areas, and unpaved access roads) shall be watered two times per day;
 - b) All haul trucks transporting soil, sand, or other loose material off-site shall be covered;
 - c) All visible mud or dirt track-out onto adjacent public roads shall be removed using wet power vacuum street sweepers at least once per day. The use of dry power sweeping is prohibited;
 - d) All vehicle speeds on unpaved roads shall be limited to 15 mph;
 - e) All roadways, driveways, and sidewalks to be paved shall be completed as soon as possible. Building pads shall be laid as soon as possible after grading unless seeding or soil binders are used; and;
 - f) Post a publicly visible sign with the telephone number and person to contact at the Lead Agency regarding dust complaints. This person shall respond and take corrective action within 48 hours.
- **WATER QUALITY:** Stormwater management is required by the Federal Government through the National Pollutant Discharge Elimination System (NPDES) program. The City of Sunnyvale complies with the NPDES requirement

through participation in the Santa Clara Valley Urban Runoff Pollution Prevention Program (SCVURPPP). Projects are subject to SMC Chapter 12.60. Compliance with these existing stormwater regulations and the City's Standard Requirements and Conditions of Approval would ensure that the project would not result in significant effects relating to water quality, consistent with the requirements of the Class 32 exemption under CEQA Guidelines Section 153332(d). The project does not propose any uses that would create unusual or intensive water contamination; the project will comply with all local, state, and federal regulations, best management practices, and will work with the City to ensure the appropriate services and infrastructure are in place to serve the project.

5. The site can be adequately served by all required utilities and public services.

The project site is in a developed area with adequate utilities and services, such as water, sewer, and solid waste. Public services are also adequately provided, such as police and fire. All required utilities and public services will continue to be provided after the completion of the proposed project.

Further, none of the exceptions to use of this exemption applies (CEQA Guidelines Section 15300.2)

- a. *Location: Classes 3, 4, 5, 6, and 11 are qualified by consideration of where the project is to be located – a project that is ordinarily insignificant in its impact on the environment may in a particularly sensitive environment be significant. Therefore, these classes are considered to apply to all instances, except where the project may impact on an environmental resource of hazardous or critical concern where designated, precisely mapped, and officially adopted pursuant to law by federal, state, or local agencies.*
 - The project site is not located in an area of sensitive or critical concern.
- b. *Cumulative Impact: All exemptions for these classes are inapplicable when the cumulative impact of successive projects of the same type in the same place, over time is significant.*
 - There is no evidence of a potential significant cumulative impact because successive projects of the same type in the same place have not been approved and are not currently proposed.
- c. *Significant Effect: A categorical exemption shall not be used for an activity where there is a reasonable possibility that the activity will have a significant effect on the environment due to unusual circumstances.*
 - There is no evidence of unusual circumstances. The project is of the size and type contemplated by the General Plan. It is surrounded by developed uses and is developed itself. It is not located within a sensitive resource area.

- d. *Scenic Highways: A categorical exemption shall not be used for a project which may result in damage to scenic resources, including but not limited to, trees, historic buildings, rock outcroppings, or similar resources, within a highway officially designated as a state scenic highway. This does not apply to improvements which are required as mitigation by an adopted negative declaration or certified EIR.*
- The project site is not within a highway designated as a state scenic highway.
- e. *Hazardous Waste Sites: A categorical exemption shall not be used for a project located on a site which is included on any list compiled pursuant to Section 65962.5 of the government Code.*
- The project site is not located on a site which is included on any list compiled pursuant to Section 65962.4 of the Government Code.
<https://calepa.ca.gov/sitecleanup/corteselist/section-65962-5c/>
- f. *Historical Resources: A categorical exemption shall not be used for a project which may cause a substantial adverse change in the significance of a historical resource.*
- The project site is not identified as a historical resource. Historic resource evaluation by Tim Kelley Consulting Llc dated August 2023, confirmed that the project site is not identified as a historic resource and ineligible for listing in California Register of Historic Places (CRHP), National Register of Historic Places (NRHP) and local inventory.

Special Development Permit

Goals and Policies that relate to this project are:

LAND USE AND TRANSPORTATION ELEMENT

- *GOAL LT-7: Diverse housing opportunities*
- *POLICY LT-7.3 Encourage the development of housing options with the goal that the majority of housing is owner-occupied.*

HOUSING ELEMENT

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

HIGH DENSITY RESIDENTIAL DESIGN GUIDELINES

- *HD-4.15 Step back portions of upper floors to reduce the visual bulk of structures.*
- *HD-5.8 Provide trim at door and window openings unless the window frames are recessed at least two inches from the building face.*
- *HD-3.1 Usable, easily accessible and centrally located common open space is expected in all multifamily residential developments.*
- *HD-3.1a All dwelling units within a project shall be provided with usable private open space. Ground floor private patios and decks are best when elevated above adjacent walkways to minimize privacy intrusions.*
- *HD-4.2 Individual stoop entries are strongly encouraged for ground floor units at the project's perimeter - especially along any public street front or public walkway.*
- *HD-4.3 Limit blank walls along streets and pedestrian ways to no greater than 20 linear feet without being interrupted by a window or primary entry.*

1. The proposed project 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 providing eight ownership units. The proposal substantially complies with General Plan policy HE-4.3 requiring new development to build at least 75 percent of the maximum zoning density. Per Sunnyvale Municipal Code (SMC) Table 19.30.040, the maximum 13 residential units are allowed for the 17,612 square-foot site.

The applicant requests to pay the in-lieu fee for the required 1.2 Below Market Rate (BMR) units to meet the City's BMR ordinance requirements, subject to final approval by the City Council.

The project would enhance the existing condition of the site and be consistent with the character of neighboring properties. The project also includes on and off-site improvements, including landscaping and sidewalk improvements. The project provides adequate parking onsite. A common open space area is provided on the southeast side of the property, and private open space for each unit is provided through first-floor patios. There is also substantial new tree planting in larger box sizes along the site periphery. There are adequate measures to reduce construction-related noise impacts on the neighborhood. The applicant will also address any contaminated soils and groundwater should they be discovered. The project is consistent with the applicable High-Density Residential Design Guidelines.

2. The proposed project 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 development has been designed to complement the adjacent neighborhood through appropriate site design, landscaping, and lighting. The requested deviations for the reduced front yard setback and usable open space are reasonable and not anticipated to negatively affect adjacent properties. The project design incorporates Contemporary architectural elements, including siding, standing metal seam roofs, and steel entry doors. The project design will enhance the streetscape. The project also complies with applicable High-Density Residential Design guidelines by incorporating high-quality colors and materials and appropriate massing.

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 injure fish or wildlife or their habitat.
6. That the design of the subdivision or type of improvements is likely to cause serious public health problems.
7. 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.
8. 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.