

## RESPONSE TO COUNCIL QUESTIONS RE: 7/25/17 CITY COUNCIL AGENDA

### Agenda Item #: 3

#### **Title: Adopt a Resolution Confirming the Report and Assessment List for Unpaid Administrative Citations to be Placed on the FY 2017/18 County of Santa Clara Property Tax Roll and Find that the Action is Exempt from CEQA**

Council Question: In the resolution, why is it when a single property in Exhibit A has multiple citations, that property frequently has different values for "Balance at meeting 7/25/17" and "Balance for Tax Roll 11/1/17"? Shouldn't all of the balances for any one property be the same in those columns?

Staff Response: Each row in the attachment represents an individual citation. The "Balance for Tax Roll" column is different than the amount due at the meeting because it includes the continued accrual of the late payment penalty of 10% per month (established by Council Resolution No. 109-02) from July 25 (meeting date) to November 1, 2017 (the due date of the first installment of property taxes), plus the County's administrative fee of 1%. If a property owner chooses to pay at the meeting, or prior to the placement of the citations on the tax roll, they would pay a prorated amount that is in between the balance at the meeting and the balance for the tax roll.

### Agenda Item #: 4

#### **Title: Proposed Project: Related Rezoning and Special Development Permit Applications for a 2.05 Acre Site on E. El Camino Real and Poplar Avenue**

Council Question: Were there any requirements to generate LOS (line-of-sight) views from the surrounding residential neighborhood?

Staff Response: Sheet A2 of Attachment 8 shows a site section/line-of-sight that includes existing and proposed screening trees and the landscape buffer areas on both properties. The drone views were required to address neighbors' concerns about privacy (future residents' views of their properties).

Council Question: Also, if I'm reading the design map correctly, it looks to me like the southern edge of the 5-story building is maybe some 60' from the northern edge of the adjacent single-family homes. Is that correct? If not, what's the shortest distance from one of the SFH structures to the nearest proposed building?

Staff Response:

Proposed 5-story Main Building to existing townhouses (to the south)

- Ground level – at least 67 feet 2 inches to property line
- Upper floors – at least 75 feet 6 inches (see Sheet A2 of Attachment 8)
- Townhomes vary in distance from the shared property line
  - Ranging from approximately 12 feet at the east end to 38 feet at the west end, resulting in a range of 87 feet 6 inches to 113 feet 5 inches between the townhome buildings and the proposed main building

Proposed 5-story Main Building to single-family home on Poplar

- 20 feet to property line + 53 feet to home itself (total 73 feet) (see Sheet L4 of Attachment 8)

Proposed 3-story Poplar Flats to single-family home on Poplar

- 10 feet to property line + ~10 feet to home itself (total ~ 20 feet) (see Sheet L4 of Attachment 8)

Council Question: The recommended findings on page 4 of Attachment 4 say "finding not met" for both findings. Should that be "finding met"?

Staff Response: Correct, it should say "finding met" for both findings for the Special Development Permit and for the Tentative Map. A copy of the Revised Findings is attached. This project went through several design iterations (and public hearing continuances) before staff was able to support the design and make the required findings to recommend approval for the project and inadvertently neglected to update the findings page.

Council Question: The applicant is proposing that a certain percentage of the rental housing be affordable. If the city can't require inclusionary rental housing, how can we restrict the units for 55 years in the COAs (GC-16)? Was a requirement for retail/commercial to be added on the site looked along the frontage on El Camino? We are evaluating the El Camino Specific Plan, and this change is a potential decrease in Retail along El Camino, correct?

Staff Response: The applicant has voluntarily included affordable units on this project, which can be included in the conditions of approval. In this case, the residential use is only allowed with approval of Use Permit (or specifically a Special Development Permit, a form of Use Permit). The affordable component of the project may provide justification for the Council for allowing the residential use.

The main site (former Nick's Trailer Park) is zoned Highway Commercial/Precise Plan for El Camino Real (C-2/ECR). The primary uses contemplated for the zoning district are retail/commercial. Originally staff informed the applicant of the requirement for retail, based on 25% FAR it would be about 20,000 square feet; however, as the site was traditionally residential and as the project evolved and included affordable units, staff was able to make the findings and is not recommending retail be required. The active area on the ground floor frontage (bike lounge, fitness center, leasing office) is recommended to mimic the activity associated with a retail use. If there is demand in the future, a portion of the space could be converted to retail.

Staff included the 55-year requirement with the applicant's voluntary agreement since the applicant will be applying for tax credits for this project and the 55-year affordability restriction (and the very low income limit) is a condition of that funding source as well.

Council Question: What are the current income cutoffs for eligibility for "affordable housing?"

Staff Response: There are several affordable housing programs in developments in Sunnyvale, including for-sale and rental only. Affordable in the public-sector context typically means income-restricted. Generally, in California it also means affordable to lower and moderate income households (at or below 120% of area median). In most other states (except for other hot-market areas), it typically just means affordable to

lower-income households, because market-rate housing costs are typically affordable to moderate-income households.

BMR is term specific to those units the City required, as a condition of the zoning, to be affordable; rental BMRs were no longer required in new developments after the 2009 “Palmer” decision. In Palmer, the California Supreme Court held that BMR programs, as applied to rental housing, conflict with the requirements of the Costa-Hawkins Rental Housing Act and are preempted by the Act, making the programs invalid. The Costa-Hawkins Rental Housing Act ([Civ. Code § 1954.50](#)) protects landlords’ right to set the initial rent at the beginning of a tenancy. There are also voluntary provision of units under different programs, which are discussed further under the questions/responses.

In regards to the current income cutoffs for eligibility for affordable housing, it depends on which program. The income limits for the City’s BMR and ARU programs are shown on this table on the website (copied below):

<https://sunnyvale.ca.gov/civicax/filebank/blobdload.aspx?BlobID=22877>

AREA MEDIAN INCOME AS DETERMINED BY HCD: \$113,300								
To qualify for an <b>Affordable Rental Unit (ARU)</b> in density bonus rental properties, your household's combined gross annual income cannot exceed the maximum <b>very-low-income limit (50%)</b> for your household size, as established by HCD.								
To qualify for the Housing Division's <b>BMR Rental program</b> , your household's combined gross annual income cannot exceed the maximum <b>low-income limit (80%)</b> for your household size, as established by HCD.								
To qualify for the Housing Division's <b>BMR Home Ownership</b> or <b>First-Time Homebuyer Loan programs</b> , your household's combined gross annual income cannot exceed the maximum <b>moderate-income limit (120%)</b> for your household size as established by HCD.								
Maximum Income by Household Size:								
<b>Income Category</b>	<b>Number of Persons in Household</b>							
	<b>1</b>	<b>2</b>	<b>3</b>	<b>4</b>	<b>5</b>	<b>6</b>	<b>7</b>	<b>8</b>
Very Low (50%)	\$ 41,800	\$ 47,800	\$ 53,750	\$ 59,700	\$ 64,500	\$ 69,300	\$ 74,050	\$ 78,850
Low (80%)	\$ 59,400	\$ 67,900	\$ 76,400	\$ 84,900	\$ 91,650	\$ 98,450	\$ 105,250	\$ 112,050
Moderate (120%)	\$ 95,150	\$ 108,750	\$ 122,350	\$ 135,950	\$ 146,850	\$ 157,700	\$ 168,600	\$ 179,450
<i>*Median</i>	\$ 79,300	\$ 90,650	\$ 101,950	\$ 113,300	\$ 122,350	\$ 131,450	\$ 140,500	\$ 149,550
Programs under these income limits include: Affordable Rental Units (ARUs) (very low, 50% AMI), BMR Rental Housing (low, 80% AMI), BMR Home Ownership (moderate, 120%), and First-Time Homebuyer Loans funded with City funds (moderate, 120%).								
<i>*Median is provided for reference only. No programs use the median income limit.</i>								

The percentage numbers in the table above are the higher end of the range (Very low is available for households at 30% - 50%; Low is 50% - 70%, etc.).

Income limits vary by project for subsidized affordable units. Staff does not publish all of those on the website, but applicants can inquire with each property to learn more about the applicable limits. In general, most of those units are available to households at the very low income level, which is also shown above. For an example, a household of four at the very low income level can have an income no higher than \$59,700. That is the

gross, pre-tax income of all adults in the household. For the Atria project, the Very Low (50% AMI) income limit will apply to all the affordable units.

Extremely low income households (<30% AMI) are most often living in units with “project based vouchers” or “tenant based vouchers” which allows the project operator to collect rents based on HUD fair market rent limits, and the resident pays a much lower (subsidized) rent.

Council Question: When some new "affordable" apts. become available as in Atria Apts., (should it be approved) are people eligible for those apartments from the same waiting lists as existing apartments or is a new waiting list established for each apt. complex?

Staff Response: All rental properties with affordable units generate and maintain their own waiting lists. Because the Atria project will be applying for tax credits, the property management must comply with both City and California Tax Credit Allocation Committee (CTCAC) rules for marketing, tenant selection, leasing, and ongoing management. Both parties require fair housing outreach. Typically, local outreach and marketing will generate a large number of applications which are then screened for eligibility, and then a lottery is done to select from among the certified eligible applicants.

Council Question: Do Sunnyvale residents get any advantage or reserved allocation for available "affordable" apartments?

Staff Response: The City requires the property management to give priority to eligible applicants who live or work in Sunnyvale, unless one of the project's other public agency funding sources (typically the Housing Authority) prohibits it because they are providing additional subsidies to the units. Fair housing law precludes the City from providing a preference only to current Sunnyvale residents, therefore it is provided equally to those who either live or work (as their primary source of income) in the City.

Council Question: How many people are currently on waiting lists for "affordable" apts. in Sunnyvale?

Staff Response: This information is not known, as each site maintains its own list and many people are on multiple lists. In any case, most properties with affordable units report receiving ten times or more as many applications as they have units available.

Council Question: Roughly how long is the typical wait to get an "affordable" apt?

Staff Response: This information is not known as the wait times vary considerably by project based on the number of affordable units in the project, the amount of turnover in the project, and the relative desirability of the project location, schools, etc. In general, the wait times are multiple years for subsidized affordable units such as the type proposed at Atria.

Council Question: Do we know that the former residents of the trailer park were all relocated with housing?

Staff Response: Yes, all former residents of Nick's Trailer Court were relocated to other housing.

Council Question: Do the former residents of the trailer park have any priority consideration in the BMR apts. planned for the Atria Apts.?

Staff Response: Yes, the Municipal Code Chapter 19.72 requires that the property owner provide first right of refusal to rent any of the new units in the project to any former tenants of the mobile home park. They are also required to provide priority to rent any of the BMR units in the project to those former tenants of the park who provided notice in writing to the City that they wished to pursue that priority status. Staff has received two notices from former tenants of Nick's that they are interested in that priority. In order to receive priority for the new affordable units at Atria, they will need to meet the income limits and also any other eligibility requirements imposed by CTCAC on those units.

Council Question: How many below market rent (BMR) housing units are there in Sunnyvale?

Staff Response: The following table shows all income restricted affordable units as of June 30, 2017:

<b>BMR homes (owner-occupied)</b>	<b>366</b>
<b>BMR rental units</b>	<b>171</b>
<b>Density Bonus Affordable Rental Units (ARUs)</b>	<b>38</b>
<b>Subsidized Affordable Rental Units</b>	<b>1,478</b>
<b>TOTAL</b>	<b>2,053</b>

The affordable units at Atria would fit into the category of subsidized affordable units, as the applicant is planning to apply for 4% tax credits to subsidize the 22 affordable units proposed in that project.

Council Question: How long does an apt. building like Atria have to keep designated BMR units below market rate before it can change the status to market rate?

Staff Response: Fifty-five years. This is the length of affordability included in the project's conditions of approval and also what the California Tax Credit Allocation Committee (CTCAC) will require as a condition of awarding tax credits to the project.

Council Question: What is the city web page for those who want to apply for BMR housing?

Staff Response: This link has information on BMR home buyer and rental units, as well as other types of affordable rental units:

<https://sunnyvale.ca.gov/property/housing/default.htm> . For rental units, applicants must apply directly to the property management office of the rental property where they are interested in renting a unit. More information on rental units is also on the affordable rental housing GIS map:

<http://cityofsunnyvale.maps.arcgis.com/apps/MapTour/index.html?appid=88b8d0e64dc543ba90a8be9f773216e0> .

Information about the BMR home buyer program and how to apply is on this page: <https://sunnyvale.ca.gov/property/housing/buyer.htm> .

Council Question: Everyone is calling BMR housing "affordable" but that doesn't make sense to me. A \$10M mansion is affordable to the people living in it. What is the official term for below market rate housing?

Staff Response: Each type of affordable housing program (BMR program) has its own definition of what affordability level it serves. For example, the City's BMR Home Buyer Program is affordable to Lower and Moderate income households (those at or below 120% of area median income or AMI). There is no official lower income limit for that program, but most buyers who qualify are between 70% AMI and 120% AMI). The City's BMR Rental Program is affordable to Low income households (those between 50% - 80% AMI). The "density bonus" affordable rental units (ARUs) are affordable to Very Low income households (between 30% - 50% AMI). Subsidized rental units are affordable to Lower income households (0% to 80% AMI), but most of these units are restricted to Very Low income households (between 30% to 50% AMI). However, in any type of rental unit, households with a rental voucher, such as a federal Section 8 or TBRA voucher often have incomes even lower than the restricted level.

#### **Agenda Item #: 5**

#### **Title: Council Direction on Civic Center Master Plan Alternatives for Public Safety Building Improvements and City Hall Annex Building Renovations**

Council Question: Staff is proposing a 11K sq. ft. addition to the Public Safety Building, when the estimated need was 12K square feet? Or does this addition fully suffice for all long term needs of Public Safety for the City Center site?

Staff Response: In the feasibility study program the need of an additional 12,000 square feet assumed a full renovation of the existing building, or a new building totaling 57,000 square feet. The addition does not meet all the needs in Public Safety, but could meet numerous high-priority needs. A full renovation would also have created opportunities to utilize space more efficiently in the existing building, keeping the total building need smaller.

A couple of examples of needs that would not be met in the proposed addition and partial renovation follow. The current dispatch area would not be changing at all with the partial renovation. Based on discussions with DPS, the existing dispatch area is adequate today. In the future, if 9-1-1 call volume increases and we need to add dispatchers, the current space would have limitations. If we built a new building, the dispatch area would be enlarged for future growth. Another need is to expand the secured parking area. In the proposed addition and partial renovation, no changes are proposed to the secure parking area. This need simply goes unmet. Another need is expanded evidence storage. The 57,000-square foot building program assumed there will be an off-site evidence storage warehouse. This is being looked at as part of the Corporation Yard Renovation study but decisions about it have not been made yet.

Council Question: We are proposing doing the DPS renovations in Phase 1. Is Phase 2 now ONLY the Library renovations?

Staff Response: If a significant investment is made in the Public Safety Building as part of Phase 1, the Library would become a logical Phase 2 project. However, in the longer term, Public Safety would still have unmet facility needs.

Council Question: Regarding the public safety building recommendation, if I'm understanding it, staff is recommending additions and renovations totaling \$18.2 million in order to increase space and meet some needs. But the report also mentions that this just addresses some of the most critical needs for the near-term, and that long-term needs are not addressed by this. This implies that staff's recommendation is a stopgap measure to get us off a few years before a larger fix can be attempted. Does staff have a sense of how far off any future effort would be, if we go with staff's recommendation? Does it make any sense to place that on hold and pursue a more robust fix, such as through bond financing or some other mechanism? Spending \$18.2 million without really fixing the problems seems a bit short-sighted, as compared to soliciting a \$50m bond from the voters to do a more comprehensive fix (in addition to the \$18.2m).

Staff Response: Staff does not have a good sense of how much longer the Public Safety Building would last with the renovation and addition since it would depend on staffing levels and varies by function. For example: adding Public Safety Officers can be accommodated with additional lockers and space for patrol cars, while adding detectives or neighborhood preservation staff requires more office space. Trying to project future staffing levels in each unit would be very challenging. Public Safety will continue to operate as efficiently as possible with the facilities they have. There's not an easy way to define a point in time when a larger project must be undertaken.

In considering how much functionality is added with an 11,000-square foot addition, there are a couple of important considerations in how that space will be used. More specifically, where the Emergency Operations Center and Fire Prevention staff are located. Either/or both functions could be included in City Hall leaving more room in the Public Safety Building Addition for other Public Safety needs. Note that this would impact the final size and cost of City Hall.

Given the uncertainty about when and if there would be community support for a bond measure, staff feels it is prudent to include improvements for Public Safety as part of Phase 1 of the Civic Center and to consider a more comprehensive solution, such as a full building replacement, as a future phase.

Attachment

### **Adoption of Mitigated Negative Declaration**

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In order to adopt the Mitigated Negative Declaration, the City Council must make the following findings per the California Environmental Quality Act (CEQA) Guidelines Section 15074.

1. The Mitigated Negative Declaration was prepared and circulated for public review in accordance with the requirements of CEQA.
2. The City Council has read and considered the Mitigated Negative Declaration and finds on the basis of the whole record before it, including the Initial Study and any comments received, that there is no substantial evidence that the proposed Project will have a significant effect on the environment.
3. The Mitigated Negative Declaration reflects the City Council's independent judgment and analysis.
4. The mitigation measures listed in the Mitigated Negative Declaration have been incorporated as conditions of approval of the Project, including a program for reporting and monitoring the measures required to mitigate or avoid significant environmental effects.
5. 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.



## **Rezone**

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The amendment to the general plan and zoning designation, as proposed is deemed to be in the public interest. (*Finding met.*)

The proposed C-2/ECR designation for the property at 1314-1320 Poplar Ave. is consistent with the General Plan land use designation. The proposed residential use meets the City's goals of locating higher density, transit-oriented housing along a major transit corridor and providing additional rental and affordable housing opportunities. For these reasons, staff can make the required finding.

## **Special Development Permit**

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### General Plan Goals and Policies

The following are key goals and policies from the General Plan pertaining to the proposed project:

- *Action Statement LT-2.1c.* Require appropriate buffers, edges and transition areas between dissimilar neighborhoods and land uses.
- **Goal LT-3.** Appropriate Mix of Housing – Ensure ownership and rental housing options in terms of style, sizes and density that are appropriate and contribute positively to the surrounding area.
- Policy LT-3.4. Determine appropriate density for housing based on site planning opportunities and proximity to services.
  - *LT-3.4a.* Locate higher-density housing with easy access to transportation corridors, rail transit stations, bus transit corridor stops, commercial services and jobs.
  - *LT-3.4b* Locate lower-density housing in proximity to existing lower density housing.
- Policy LT-4.1. Protect the integrity of the City's neighborhoods; whether residential, industrial or commercial.
  - *LT-4.1a.* Limit the intrusion of incompatible uses and inappropriate development into city neighborhoods.
- Policy LT-4.2. Require new development to be compatible with the neighborhood, adjacent land uses and transportation system.
- 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-4.2. Continue to direct new residential development into specific plan areas, near transit, and close to employment and activity centers.

### Precise Plan for El Camino Real

The following are key goals and policies from the Precise Plan pertaining to the proposed project:

- **Goal 3.2.2.** To maintain and enhance the retail sales tax revenue generated for the City.

- **Goal 3.2.5.** To ensure that properties are developed and operated in such a manner as to minimize their negative impacts upon adjacent residential areas.
- **Goal 3.2.7.** To require quality site design, architecture and landscaping which incorporate sustainable design principles.
- **Goal 3.2.8.** To encourage development which supports the use of public transit.

In order to approve the Special Development Permit, the City Council must make one of the following two findings:

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

By providing additional housing with a larger percentage of affordable rental units and its proximity to transit, the project meets many of the City's existing and emerging goals and policies. Staff has worked extensively with the applicant to design the project to meet the City's policies and design guidelines that aim to limit visual impacts and privacy intrusions to adjacent lower density homes. The proposed buildings are designed to include appropriate massing and height transitions to limit privacy and visual impacts to adjacent lower density homes.

Although the proposed use would not directly provide additional commercial uses on the El Camino Real corridor, additional housing directly adjacent to existing businesses (and within walking distance to many other restaurants and services) would help contribute to the economic vitality of the corridor. The ground floor amenity space at the El Camino Real frontage, which includes a fitness facility and bike lounge, is designed to achieve the Precise Plan goals of an active, pedestrian-oriented environment.

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.**)

As proposed and conditioned, the Mission-style architecture, detailed enhancements and massing articulation will contribute positively to the El Camino Real streetscape. The site layout, landscaping and portions of the proposed buildings closest to the adjacent lower density homes have been thoughtfully designed to minimize visual impacts and limit direct views onto the adjacent properties.

## **Tentative Map**

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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.

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 findings 1 and 2 above, and therefore recommends **approval** of the Tentative Parcel Map.