

RECOMMENDED FINDINGS

CALIFORNIA ENVIRONMENTAL QUALITY ACT (CEQA) FINDINGS FOR PROJECTS CONSISTENT WITH THE LAND USE AND TRANSPORTATION ELEMENT (LUTE) ENVIRONMENTAL IMPACT REPORT (EIR)

The Planning Commission hereby makes the following findings:

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 transportation, air quality, cultural resources, and noise.
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. These sections provide 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 designates the Project Site as "Industrial". This designation authorizes a base density of 35% floor area ratio (FAR) with a greater density considered by incorporation of sustainable features or by Use Permit (LUTE page 3-91).
7. 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), and LT-2.1c (establish incentives that encourage green building practices beyond mandated requirements).

8. The project proposes to meet CALGreen Mandatory Measures and to achieve LEED Gold Level with verification by a LEED Accredited Professional (AP).
9. Section 15183(f) of the CEQA Guidelines provides that an effect of the project on the environment shall not be considered “peculiar” to the project for purposes of Section 15183 if the effect can be substantially mitigated by the imposition of uniformly applied development standards or policies.
10. Based on the environmental checklist for the Project and other information in the record, and after 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. 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 signification 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.
 - d. Accordingly, the City finds that no additional EIR needs to be prepared for the Project.
11. The Department of Community Development, Planning Division, is the custodian of the records of the proceedings on which this decision is based. The records are located at Sunnyvale City Hall, 456 West Olive Ave., Sunnyvale, CA 94086.

Use Permit

Goals and Policies that relate to this project are:

Land Use and Transportation Element Policy LT-4.2 - *Encourage nodes of interest and activity, public open spaces, well-planned development, mixed-use projects, signature commercial uses, and buildings and other desirable uses, locations, and physical attractions.*

Land Use and Transportation Element 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.*

Land Use and Transportation Element Policy LT-11.3 – *Promote business opportunities and business retention in Sunnyvale.*

Land Use and Transportation Element Policy LT-12.4 – *Attract and retain diversity of commercial enterprises and industrial uses to sustain and bolster the local economy and provide a range of job opportunities.*

Land Use and Transportation Element 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.*

Community Characters Policy LT-3.3 - *Place a priority on quality architecture and site design, which will enhance the image of Sunnyvale and create a vital and attractive environment for businesses, residents and visitors, and be reasonably balanced with the need for economic development to assure Sunnyvale's economic prosperity.*

Citywide Design Guidelines Policy SD-2.1 – *Locate site components such as structures, parking, driveways, walkways, landscaping, and open space to maximize visual appeal and functional efficiency. In multi-building complexes, a distinct visual link should be established among various buildings by using architectural or site design elements such as courtyards, plazas, landscaping and walkways to unify the project.*

Citywide Design Guidelines Policy BD-2.8 – *In non-residential buildings maintain visually interesting activities at the street level by placing active facades with windows and opens on the street side to promote pedestrian activities.*

Citywide Design Guidelines Policy BD-3.1 – *Maintain diversity and individuality in style but be compatible with the character of the neighborhood.*

Citywide Design Guidelines Policy LA-1.4 – *Properly landscape all area not covered by structures, driveways, and parking.*

Citywide Design Guidelines Policy LA-1.6 – *Choose a variety of plant materials with different textures and colors. Use water wise plant material as specified in the Landscape regulations.*

Bird Safe Building Design Guidelines – *The project site is located more than 300 feet away from the closest body of water 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..*

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

This finding can be made for the project as conditioned. The development of a hotel would diversity of uses within the immediate neighborhood, which already has various administrative offices, research and development offices, and commercial uses and a multi-family residential development. The proposed hotel project allows for economic growth, which can be accommodated without significant impact on the existing infrastructure and roadway systems. It is anticipated to have a positive fiscal impact on the City and would supply much needed hotel rooms and services within Sunnyvale, especially for the Moffett Park Specific Plan area in close proximity, as well as adjacent City of Santa Clara. The project is also generally consistent with the Citywide Design Guidelines and Bird Safe Building Design Guidelines.

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 hotel will improve the character of the site, surrounding neighborhood, and community by adding a new use and services with a six-story contemporary building and streetscape improvements. The proposed project, as conditioned, uses architecture and high-quality building materials with an appropriate site design, landscaping and parking. The proposed building is sited appropriately on the site and does not interfere access of other immediately abutting properties with one-story office buildings. The proposed design and intensification of the site supports office and research and development uses in close proximity, including the Moffett Park Specific Plan area which is located further north, as well as other commercial and institutional uses in immediate vicinity in a manner that that does not impair the orderly development or use of those properties.

Variance

1. Because of exceptional or extraordinary circumstances or conditions applicable to the property, or use, including size, shape, topography, location or surroundings, the strict application of the ordinance is found to deprive the property owner or privileges enjoyed by other properties in the vicinity and within the same zoning district. ***Finding Met.***

Sunnyvale Municipal Code (SMC) Section 19.46.120(g) states that at least 50% of the parking area should be shaded by trees within 15 years at its maturity, and up to 25% of the minimum 50% shading requirement may be met with a solar energy system instead of trees if chosen. The purpose of the parking lot shading requirement is to mitigate the heat island effect from conventional asphalt pavement surfaces that absorb the excess heat in the daytime and increase temperatures.

The proposed project provides 14.5% of the parking area on the surface shaded by trees. The site is a corner lot with landscaping berms fronting Oakmead Parkway and Lakeside Drive. The landscaped berms are 15 feet deep along Oakmead Parkway and almost 20 feet deep along Lakeside Drive, totaling approximately 4,593 square feet. The landscaped berms cover over 11% of the project site and further reduce the developable area for the project site. All landscaped berms are restricted from any new structures or trees because of the Public Utilities Easements (PUEs) covering them. Because of the restrictions imposed by PUEs, no new trees can be planted to increase the parking area shading, and no replacement trees with a larger canopy can be made on the landscaped berms to provide more shading for the site. The applicant would have to provide a substantial area to be landscaped to support planting new larger canopy trees to meet the minimum shading requirement, and it would make the development of the proposed project infeasible because the available land area for the hotel building would be significantly reduced. Additionally, almost 86% of the provided parking area is in the below-ground parking structure, and the parking area on the surface is limited. Therefore, staff finds that the strict application of the ordinance is found to deprive the property owner or privileges enjoyed by other properties in the vicinity and within the same zoning district.

2. The granting of the Variance will not be materially detrimental to the public welfare or injurious to the property, improvements or uses within the immediate vicinity and within the same zoning district. ***Finding Met.***

The applicant proposes using a cool pavement seal coat product called CoolSeal in the entire surface area of the project site, including the parking area and drive aisle, to mitigate the heat island effect. CoolSeal is a high-performance asphalt-based seal coat designed to achieve low surface temperatures through its lighter color and reflectivity. In addition, it is a sustainable option because it could also reduce the temperature of stormwater runoff, improve water quality, increase nighttime visibility, and provide energy savings. The proposed project can earn up to three LEED points by installing this cool pavement seal coat. The entire parking

area surface will be applied with the cool pavement seal coat. Application of the cool pavement seal coat would achieve the goal of the parking area shading requirement and reduce the temperature of conventional asphalt pavement. Therefore, granting of the Variance will not be materially detrimental to the public welfare or injurious to the property, improvements or uses within the immediate vicinity and within the same zoning district.

3. Upon granting of the Variance, the intent and purpose of the ordinance will still be served and the recipient of the Variance will not be granted special privileges not enjoyed by other surrounding property owners within the same zoning district.
Finding Met.

The applicant proposes using a cool pavement seal coat product called CoolSeal in the entire surface area of the project site, including the parking area and drive aisle, to mitigate the heat island effect. CoolSeal is a high-performance asphalt-based seal coat designed to achieve low surface temperatures through its lighter color and reflectivity. It may reduce surface temperature by 10 to 25 degrees Fahrenheit, and the EPA specifies that reflective pavements can help mitigate the heat island effect. It also meets LEED and EPA requirements of 33% reflectivity and does not produce glare for drivers or pedestrians. Therefore, the intent and purpose of the ordinance will still be served and no special privileges not enjoyed by other surrounding property owners within the same zoning district upon granting of the Variance. In addition, a similar deviation was approved with the cool pavement material previously at 1390 Borregas Avenue (Planning Permit #2019-7071).