

RESOLUTION NO. ____-15

**A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF
SUNNYVALE CERTIFYING THE ENVIRONMENTAL IMPACT
REPORT, MAKING FINDINGS REQUIRED BY THE CALIFORNIA
ENVIRONMENTAL QUALITY ACT, ADOPTING THE MITIGATION
AND MONITORING REPORTING PROGRAM, AND STATING
OVERRIDING CONSIDERATIONS IN THE APPROVAL OF THE 915
DEGUIGNE RESIDENTIAL PROJECT**

WHEREAS, the California Environmental Quality Act (Public Resources Code Sections 21000 *et seq.*, ("CEQA") and the Guidelines for Implementation of the California Environmental Quality Act (14 California Code of Regulations, Sections 15000 *et seq.*) (the "CEQA Guidelines") requires local agencies to consider environmental consequences of projects for which they have discretionary authority; and

WHEREAS, a Draft Environmental Impact Report ("DEIR") and Final Environmental Impact Report ("FEIR", collectively, the "EIR") has been prepared for and by the City of Sunnyvale for the 915 DeGuigne Residential Project ("the Project") pursuant to CEQA and the CEQA Guidelines; and

WHEREAS, the EIR addresses the environmental impacts of the Project, which is further described in Sections VI of Exhibit A attached hereto; and

WHEREAS, in conformance with CEQA, the City has issued notices, held public hearings, and taken other actions as described in Section IV of Exhibit A attached hereto; and

WHEREAS, the EIR is incorporated by this reference in this Resolution, and consists of those documents referenced in Section IV of Exhibit A attached hereto; and

WHEREAS, by motion adopted on October 26, 2015, the Sunnyvale Planning Commission recommended to the City Council the certification of the EIR; and

WHEREAS, a public hearing was held by the City Council on _____, 2015, regarding the Project and the EIR, following notice duly and regularly given as required by law, and all interested persons expressing a desire to comment thereon or object thereto were heard, and the EIR was considered; and

WHEREAS, by this Resolution, the City Council, as the lead agency under CEQA for preparing the EIR and the entity responsible for approving the Project, desires to comply with the requirements of CEQA and the CEQA Guidelines for consideration, certification, and use of the EIR in connection with the approval of the Project.

NOW, THEREFORE, BE IT RESOLVED by the City Council of the City of Sunnyvale as follows:

1. The City Council hereby finds and certifies that the EIR has been completed in compliance with CEQA and the CEQA Guidelines; that the EIR adequately addresses the environmental issues of the Project; that the EIR was presented to the City Council; that the City Council has reviewed and considered the information contained in the EIR prior to approving the Project; and that the EIR reflects the independent judgment and analysis of the City Council.

2. The City Council hereby identifies the significant effects, adopts the mitigation measures, adopts the monitoring Mitigation Monitoring and Reporting Plan to be implemented for each mitigation measure, makes the findings, and adopts a statement of overriding considerations set forth in detail in the attached Exhibit A, which is incorporated in this Resolution by this reference. The statements, findings and determinations set forth in Exhibit A are based on the above certified EIR and other information available to the City Council , and are made in compliance with Sections 15091, 15092, 15093, and 15096 of the CEQA Guidelines and Sections 21081 and 21081.6 of CEQA.

Adopted as a Resolution of the City of Sunnyvale at a regular meeting of the City Council held on _____, 2015, by the following vote:

AYES:

NOES:

ABSTAIN:

ABSENT:

RECUSAL:

ATTEST:

APPROVED:

City Clerk
(SEAL)

Mayor

APPROVED AS TO FORM:

City Attorney

EXHIBIT A

CITY OF SUNNYVALE

915 DEGUIGNE AVENUE RESIDENTIAL PROJECT

**SIGNIFICANT ENVIRONMENTAL EFFECTS, FINDINGS OF FACT,
MITIGATION MEASURES, MONITORING PROGRAM, AND
STATEMENT OF OVERRIDING CONSIDERATIONS**

I. PURPOSE OF THE FINDINGS

The purpose of these findings is to satisfy the requirement of Public Resources Code Section 21000, et seq., and Sections 15091, 15092, 15093 and 15097 of the CEQA Guidelines, 14 Cal. Code Regs. Sections 15000, et seq., associated with approval of the 915 DeGuigne Residential Project and associated approvals (Rezone from M-S (Industrial and Service) to R3/PD (Medium Density Residential) and PF (Public Facilities)), General Plan Amendment (from Industrial to Residential Medium Density (up to 27 du/acre) and Public Facilities), Special Development Permit and Vesting Tentative Map). These findings provide the written analysis and conclusions of the City Council regarding the 915 DeGuigne Residential Project. They are divided into general sections, each of which is further divided into subsections. Each addresses a particular impact topic and/or requirement of law. At times, these findings refer to materials in the administrative record, which is available for review in the City's Planning Division.

II. PROJECT OBJECTIVES

Pursuant to CEQA Guidelines Section 15124, the EIR must identify the objectives sought by the proposed project. As noted in Section 1.3 of the Draft Environmental Impact Report for the Project, the specific project objectives of the project proponent are to:

- Redevelop the site into a unique, high quality, urban-infill, master-planned residential neighborhood in this area of the City.
- Accommodate expected population and employment growth within the City by providing much needed residential ownership opportunities for existing and future residents of the City.
- Provide opportunities for up to 680 future homeowners (of which up to 85 will be below market rate and the remaining will be market rate) in a location that is accessible to Downtown Sunnyvale, employment centers, schools, and various modes of public transit.

- Provide higher density housing types to help meet market demand in the City for a wider range of housing types and pricing.
- Create a transition in density from the existing single-family residential neighborhoods to the north to the existing higher density rental apartments to the north and west.
- Create a well-designed residential neighborhood with public gathering spaces hosting a variety of community activities.
- Create a public park and active recreation spaces as an integral part of the community to offer a broad range of recreational experiences, social interaction, and cultural opportunities.
- Provide key pedestrian and bicycle connections to surrounding residential neighborhoods to encourage social connections and discourage use of the automobile.
- Develop a project that utilizes “Green Technology” and sustainable elements.

In addition, the City has developed the following primary project objectives:

- Provide development that meets the City’s regional housing needs consistent with the City’s Housing Element of the General Plan and related policies.
- Provide development that locates housing near jobs to support the City and regional goal of reducing vehicle miles traveled, encouraging transit use and discouraging reliance on single-occupant automobiles for commuters.
- Protect the character and scale of existing single-family residential neighborhoods by allowing for urban-infill development that is compatible with the scale and character of existing neighborhoods.
- Ensure compatibility with existing, neighboring office and industrial activities.
- Improve the connectivity and the aesthetic character of this neighborhood by requiring pedestrian-oriented, bicycle-oriented and landscape frontage improvements consistent with a Sense of Place Plan developed for this neighborhood and for the surrounding residential neighborhoods.

III. PROJECT DESCRIPTION

The 25.2-acre project site is comprised of two parcels (APNs 205-21-001 and -002) located at 915 DeGuigne Drive and 936 Duane Avenue in the City of Sunnyvale. For the purposes of this analysis, the parcel at 915 DeGuigne Drive is referred to as Parcel 1 and the other parcel is referred to as Parcel 2. The two parcels combined are referred to as the project site.

Parcel 1 is 24.4 acres and is currently developed with 471,000 square feet of office/manufacturing facilities in three buildings, one of which is occupied (the occupied space totals 265,343 square feet with 495 employees). The site is accessed by three driveways on E. Duane Avenue and three driveways on DeGuigne Drive. Parcel 2 is 0.8 acres and is currently developed with a 12,000 square foot industrial office building that is currently occupied by approximately 75 employees and is accessed by one driveway on E. Duane Avenue and one driveway on DeGuigne Drive.

As proposed, the project would demolish all the existing industrial buildings on the project site to allow for construction of up to 450 attached townhouses (18.5 dwelling units per acre) and a public park. The townhouses would be located on Parcel 1 and the park would be located on Parcel 2. The townhouses would range from two to four bedrooms. The two bedroom units would have a one-car attached garage, and the three and four bedroom units would have an attached two-car garage. Additional resident and visitor parking (313 spaces) would be provided along the internal access roads. The buildings would all be three stories with building heights of 35 to 40 feet as measured from the top of the nearest public curb. The site would be accessed by three ingress/egress driveways on DeGuigne Drive. There would be no automobile site access from East Duane Avenue.

A complete description of the project is contained in Draft EIR Section 2.0R, Project Description.

IV. THE CEQA PROCESS

A draft and a final Environmental Impact Report (collectively, the “EIR”) has been prepared for and by the City in accordance with the California Environmental Quality Act (“CEQA”, Public Resources Code Sec 21000 et seq.), and the State CEQA Guidelines (14 Cal. Code of Regulations, Sections 15000 et seq.) in connection with the Project. The EIR for the Project consists of the following:

- A. Draft Environmental Impact Report (“DEIR”), issued July 1, 2015;
- B. All appendices to the DEIR;

- C. Final Environmental Impact Report (“FEIR”), issued October 23, 2015, containing all written comments and responses on the DEIR, refinements and clarifications to the DEIR, the mitigation monitoring and reporting program, and technical appendices;
- D. All of the comments and staff responses entered into the record orally and in writing, as well as accompanying technical memoranda or evidence entered into the record.

In conformance with CEQA, the City has taken the following actions in relation to the EIR:

- A. On November 3, 2014, a Notice of Preparation (NOP) was distributed to appropriate agencies and parties for the purpose of obtaining written comments from the agencies and parties regarding the scope and content of environmental information and analysis which they wanted addressed in the EIR.
- B. On November 20, 2014, the City held a scoping meeting with interested parties for the purpose of receiving comments on the scope of the EIR.
- C. A Draft Environmental Impact Report (DEIR) was prepared for the Project and was circulated for public review and comment from July 1, 2015, through August 14, 2015. The DEIR was submitted to the State Clearinghouse for review on July 1, 2015 (State Clearinghouse No. 2014112001). Also on this date, notice of the availability of the DEIR was provided to appropriate agencies and the general public via a Notice of Completion sent to the State Clearinghouse and via mailed notice to all interested parties, and to persons living within 2,000 feet of the Project site.
- D. On August 10, 2015, the City of Sunnyvale Planning Commission held a public hearing to receive oral comment on the DEIR.
- E. On August 14, 2015, all comments received on the DEIR during the public comment period were responded to and included in a Final EIR, made available for public review on October 23, 2015.
- F. Pursuant to CEQA Guidelines §15088(b), a written response was provided to each public agency on comments made by that public agency at least 10 days prior to the date of this certification.
- G. On October 26, 2015, the Planning Commission conducted a duly and properly noticed public hearing on the Project and the EIR, and recommended that the City Council certify the EIR and approve the Project.
- H. The Project and the EIR came before the City Council on November 17, 2015, at a duly and properly noticed public hearing. On this date, the City Council adopted the following

findings, Mitigation Monitoring and Reporting Program, and Statement of Overriding Considerations.

V. FINDINGS ARE DETERMINATIVE

The City Council certifies that the EIR has been completed in compliance with CEQA and that it was presented to, and reviewed and considered by, the City Council prior to acting on the Project. In so certifying, the City Council recognizes that there may be differences in and among the different sources of information and opinions offered in the documents and testimony that make up the EIR and the administrative record; that experts disagree; and that the City Council must base its decision and these findings on the substantial evidence in the record that it finds most compelling. Therefore, by these findings, the City Council ratifies, clarifies, and/or makes insignificant modifications to the EIR and resolves that these findings shall control and are determinative of the significant impacts of the Project.

The mitigation measures proposed in the EIR are adopted in this Exhibit A, substantially in the form proposed in the EIR, with such clarifications and non-substantive modifications as the City Council has deemed appropriate to implement the mitigation measures. Further, the mitigation measures adopted in this Exhibit A are expressly incorporated into the Project pursuant to the adopted conditions of approval.

The findings and determinations in this Exhibit A are to be considered as an integrated whole and, whether or not any subdivision of this Exhibit A fails to cross-reference or incorporate by reference any other subdivision of this Exhibit A, that any finding or determination required or permitted to be made shall be deemed made if it appears in any portion of this document. All of the text included in this document constitutes findings and determinations, whether or not any particular caption sentence or clause includes a statement to that effect.

Each finding herein is based on the entire record. The omission of any relevant fact from the summary discussions below is not an indication that a particular finding is not based in part on the omitted fact.

Many of the mitigation measures imposed or adopted pursuant to this Exhibit A to mitigate the environmental impacts identified in the administrative record may have the effect of mitigating multiple impacts (e.g., conditions imposed primarily to mitigate traffic impacts may also secondarily mitigate air quality impacts, etc.). The City Council has not attempted to exhaustively cross-reference all potential impacts mitigated by the imposition of a particular mitigation measure; however, such failure to cross-reference shall not be construed as a limitation on the potential scope or effect of any such mitigation measure.

Reference numbers to impacts, mitigation measures, and page numbers in the following sections are to the page numbers used in the EIR, as specified.

VI. IMPACTS, MITIGATION MEASURES AND FINDINGS

In conformance with Section 15091 of the State CEQA Guidelines, this section of the findings lists each significant environmental effect of the project listed in the EIR; describes those mitigation measures recommended in the EIR; and, as required by Section 15091(a), finds that either: the adopted mitigation measures have substantially lessened the significant effect; the adopted mitigation measures, though implemented, do not substantially lessen the significant effect; the mitigation measures cannot be adopted and implemented because they are the responsibility of another public agency; or that specific considerations make infeasible the mitigation measures identified in the EIR.

All feasible mitigation measures listed below have been incorporated into the Mitigation Monitoring and Reporting Program (“MMRP”), further described in Section X, below. Compliance with the MMRP is a condition of approval of the Project, and the construction of the Project will incorporate all conditions contained in the MMRP.

1. Air Quality

1.1 Impact. Construction of the maximum build out/corner mixed-use development scenario could have a significant, temporary impact on nearby sensitive receptors.

Mitigation. A Health Risk Analysis shall be completed for the maximum build out/corner mixed-use development scenario prior to issuance of any demolition or grading permits for the project. The analysis shall be based on project specific construction data. If emissions are calculated to be above the BAAQMD thresholds, mitigation measures will be required to reduce emissions below BAAQMD thresholds during all phases of construction. Measures may include, but are not limited to:

- Use of newer or retrofitted construction equipment that has lower emissions rates than standard equipment;
- Use of alternative fuel equipment;
- Modification of construction techniques to avoid use of diesel-powered equipment; and
- Phasing of construction activities.

Finding. Implementation of the above FEIR mitigation measure will reduce on-site diesel exhaust emissions to a **less than significant** level.

2. Noise

2.1 Impact. Future residences on the project site located along Duane Avenue could be exposed to interior noise levels in excess of acceptable City standards.

Mitigation. Consistent with Title 24 requirements, a design-level acoustical analysis shall be completed by the project developer for new residential uses where exterior noise levels would exceed 60 dBA Ldn. The analysis shall meet the following noise reduction requirements:

- Interior average noise levels shall be reduced to 45 dBA Ldn or lower to meet the local standard.
- Building sound insulation requirements would need to include the provision of forced-air mechanical ventilation for all new units exposed to exterior noise levels greater than 60 dBA Ldn, so that windows could be kept closed at the occupant's discretion to control noise.
- Special building construction techniques (e.g., sound-rated windows and building facade treatments) may be required for new residential uses adjacent to East Duane Avenue. These treatments include, but are not limited to, sound rated windows and doors, sound rated wall constructions, and acoustical caulking.

The specific determination of what treatments would be necessary shall be completed on a unit-by-unit basis during the final building design. Results of the analysis, including the description of the necessary noise control treatments, shall be submitted to the City along with the building plans and approved prior to issuance of building permits.

Finding. Implementation of the above FEIR mitigation measure will reduce on-site noise impacts to a **less than significant** level.

2.2 Impact. Students at the adjacent school could be exposed to interior and exterior noise levels in excess of acceptable City standards during construction.

Mitigation. The project shall implement the following mitigation measures to reduce impacts related to construction noise:

MM NOI 2-1: Construct solid plywood fences (minimum eight feet in height) or erect noise control blanket barriers between the construction site and adjacent classrooms, school playgrounds, or sensitive interior spaces to reduce noise levels to the extent feasible.

MM NOI 2-2: Equip all internal combustion engine driven equipment with intake and exhaust mufflers that are in good condition and appropriate for the equipment.

MM NOI 2-3: Locate stationary noise generating equipment as far as possible from adjacent school receivers.

MM NOI 2-4: Acoustically shield stationary equipment located near existing school receivers.

MM NOI 2-5: Utilize "quiet" air compressors and other stationery noise sources where technology exists.

MM NOI 2-6: The contractor shall prepare a detailed construction plan identifying the schedule for major noise-generating construction activities. The construction plan shall identify a procedure for coordination with adjacent residential land uses and the school so that construction activities can be scheduled to minimize noise disturbance.

MM NOI 2-7: Designate a "disturbance coordinator" who would be responsible for responding to any complaints about construction noise. The disturbance coordinator will determine the cause of the noise complaint (e.g., bad muffler, etc.) and will require that reasonable measures be implemented to correct the problem.

Finding. The implementation of the above FEIR mitigation measures will reduce significant construction noise impacts to a **less than significant** level.

3. Hydrology and Water Quality

3.1 Impact. If the final site plan of the maximum build out/corner mixed-use development scenario has a total impervious surface area greater than the existing conditions, the project could have a significant impact on the existing storm drainage system.

Mitigation. The project developer shall design the project to reduce directly connected impervious areas to ensure the flood design storm flows are maintained at or under the existing project flows.

Finding. The implementation of the above FEIR mitigation measure will reduce significant water quality impacts to a **less than significant** level.

4. **Biological Resources**

- 4.1 Impact.** Implementation of the proposed development project or any future development under the proposed General Plan Amendments could result in the loss of fertile eggs, nesting raptors, or any activities resulting in nest abandonment.

Mitigation. The following project specific mitigation measures will be implemented:

MM BIO 1-1: Construction shall be scheduled to avoid the nesting season to the extent feasible. The nesting season for most birds, including most raptors, in the San Francisco Bay area extends from February 1 through August 31.

MM BIO 1-2: If it is not possible to schedule demolition and construction between September and January, then pre-construction surveys for nesting birds shall be completed by a qualified ornithologist to ensure that no nests will be disturbed during project implementation. This survey shall be completed no more than 14 days prior to the initiation of grading, tree removal, or other demolition or construction activities during the early part of the breeding season (February through April) and no more than 30 days prior to the initiation of these activities during the late part of the breeding season (May through August).

During this survey, the ornithologist will inspect all trees and other possible nesting habitats (e.g., grasslands and buildings) within and immediately adjacent to the impact areas for nests. If an active nest is found sufficiently close to work areas to be disturbed by construction, the ornithologist, in consultation with CDFW, will determine the extent of a construction-free buffer zone to be established around the nest, typically 250 feet, to ensure that nests of bird species protected by the MBTA or State Code will not be disturbed during project construction.

MM BIO 1-3: A final report of nesting birds, including any protection measures, shall be submitted to the Director of Community Development prior to the issuance of grading permits.

Finding. The implementation of the above FEIR mitigation measures will reduce the identified impacts to birds to a **less than significant** level.

5. Hazards and Hazardous Materials

5.1 Impact. Even with implementation the proposed contamination remediation plan, redevelopment of the site with residential land uses could have a significant impact to future residents of the project site.

Mitigation. In addition to the Hazardous Materials Mitigation Program proposed by the project, the following project-specific measures have been included to further reduce hazardous materials impacts.

MM HAZ-1.1: The Water Board is the lead regulatory agency responsible for directing the cleanup; the US EPA is the support regulatory agency. The project applicant and subsequent property owners shall cooperate with the Water Board, US EPA, and the responsible parties for the on-going remediation/monitoring activities at the site. The site shall be developed in a manner that will allow access to the site for continued remediation and monitoring activities by the responsible parties.

MM HAZ-1.2: The project applicant or future site developer shall comply with the PPA. The PPA requires project developer to record a “new Covenant and Environmental Restriction on Property (Deed Restriction) in accordance with the requirements of California Civil Code Section 1471. The new deed restriction will prohibit extraction of groundwater for purposes other than monitoring and remediation and will require that activities that disturb the soil beneath the project site, such as grading, excavation or removal, shall be in accordance with the SMP.

MM HAZ-1.3: Groundwater monitoring wells, extraction wells, conveyance piping, and grout walls are located on-site. Construction measures shall be implemented to protect these features during construction. The Water Board shall be notified in writing of construction activities in these areas and, at a minimum, these areas shall be cordoned off using delineators and caution tape, or similar materials by the general contractor. Upon completion of construction activities, the monitoring and extraction wells and associated piping shall be inspected by a qualified environmental professional to determine if they have been damaged. If these on-site features require decommissioning, the project developer shall obtain the written approval by the Water Board; permits also may be required. The project developer’s request to modify the groundwater remedy and monitoring infrastructure shall be submitted to the Water Board for their review and written approval. The Water Board’s written approval shall be submitted to the City.

MM HAZ-1.4: The project developer shall provide the Water Board’s written approval of the Vapor Intrusion Investigation Work Plan and the VMP to the City.

MM HAZ-1.5: The spray-applied vapor barrier membrane shall include a warranty of 30 years. In addition, the project developer shall provide financial assurances of adequate funds for long-term operation and maintenance if required by the VMP.

MM HAZ-1.6: Trichlorobenzene (TCB) isomers 1,2,4-trichlorobenzene and 1,2,3-trichlorobenzene were detected in a soil sample collected from a depth of approximately 8.5 feet within the PAD C excavation backfill at concentrations of 57 and 18 mg/kg, respectively. These concentrations exceed the residential RSL. The project developer shall obtain written Water Board approval to leave impacted (concentrations exceeding the lower of the then-current Water Board or US EPA residential screening levels) soil beneath residences. A deed restriction or land use covenant shall detail the location of these soils. This document shall include a map of these impacted soils; shall restrict future excavation in these areas; and shall require future excavation be conducted in these areas only upon written approval by the Water Board and in accordance with the SMP.

MM HAZ-1.7: During construction activities, undocumented fill in former UST pits located beneath residential structures and in the park shall be removed and replaced as engineered fill. If an organic vapor meter detects vapors greater than background levels, discrete soil samples shall be collected of stockpiled soil and analyzed for contaminants of potential concern at a frequency of one sample per every 250 cubic yards (cy) for the first 1,000 cy and one sample every 500 cy thereafter. If concentrations of contaminants of potential concern are detected exceeding the lower of the then current Water Board or US EPA residential screening levels, this soil shall be appropriately disposed off-site and confirmation samples shall be collected in the excavation (one per each sidewall and two at the base of the excavation, and in areas of stained or odorous soil). If contaminant concentrations in the confirmation samples exceed residential screening levels, written approval shall be obtained from the Water Board to leave impacted soil in-place. Alternatively, this soil shall be remediated to the lower of the then-current Water Board or US EPA residential screening levels. If this soil is left in-place, a deed restriction or land use covenant shall detail the location of these soils. This document shall include a map of these impacted soils; shall restrict future excavation in these areas; and shall require future excavation be conducted in these areas only upon written approval by the Water Board and in accordance with the SMP.

MM HAZ-1.8: Upon demolition of the existing building on Parcel 2, the project developer shall perform a geophysical survey to locate buried metallic debris indicative of a UST or fuel transfer piping. If encountered, these structures

shall be removed under permit from the local CUPA; confirmation sample shall be collected per the requirements of the CUPA. If confirmation samples exceed residential screening levels, this soil shall be remediated to the lower of the then-current Water Board or US EPA residential screening levels. Any remaining ground water monitoring wells shall be properly destroyed under permit and in accordance with Santa Clara Valley Water District's requirements.

MM HAZ-1.9: A Water Board approved Soil Management Plan (SMP) has been prepared by an Environmental Professional to establish management practices for handling contaminated soil, soil vapor, ground water or other materials. The project developer shall comply with the provisions of the SMP. The project developer's Environmental Professional shall assist in the implementation of the SMP and shall perform full-time observation services during demolition, excavation, grading and trenching activities. In addition to these requirements, the following protocols shall be established:

- Prior to the start of any construction activity that involves below ground work (e.g., mass grading, foundation construction, excavating or utility trenching), information regarding Site risk management procedures (e.g., a copy of the SMP) shall be provided to the Contractors for their review, and each Contractor shall provide such information to its Subcontractors.
- Protocols and procedures shall be prepared to protect the ground water remedy, including the slurry walls at the former Pad C excavation, which may appear similar to Site native soils.
- During the removal of the buildings' slabs, sumps and underground waste water piping, an Environmental Professional shall be present on-Site on a full time basis to observe soil conditions, to monitor vapors with a hand held meter, and to determine if additional soil sampling should be performed. Daily Field Reports (DFRs) shall be prepared by the Environmental Professional documenting: 1) the day's activities; 2) vapor monitoring; 3) perimeter air monitoring; 4) soil and ground water sampling and associated analytical testing; 5) the source and quality of imported soil; 6) the installation of the vapor barrier system; and 7) variances with the SMP. Photographs shall be taken by the Environmental Professional to help document information entered in the DFR. When a photograph is taken, the following information shall be written in the daily field report: 1) Time, date, location, and, if appropriate, weather conditions; 2) Description of the subject photographed; and 3) Name of person taking the photograph.
- Perimeter air monitoring shall be conducted at the site during any activity that significantly disturbs site soil (e.g., mass grading, foundation construction, excavating or utility trenching) to document the effectiveness of dust control measures. Real time monitoring of total dust

(<10 µm diameter) shall be conducted daily throughout the duration of the project during activities that may significantly disturb impacted soil. The monitoring shall be performed using three DataRAM PDR-1000 particulate monitors, or equivalent. These meters log the detected airborne dust concentrations. The particulate meters shall be monitored by the Environmental Professional to evaluate if excessive dust is migrating off-site. On a daily basis, or more frequently if warranted by Site conditions, the differences between the average upwind dust concentration and the average downwind concentration shall be compared to the ambient air quality standard of 150 µg/m³ (8-hour average) for respirable dust. If this standard is exceeded, increased dust control measures shall be implemented.

- If excavation dewatering is required, protocols shall be prepared to evaluate water quality and discharge/disposal alternatives; the pumped water shall not be used for on-site dust control or any other on-Site use. If long-term dewatering is required, the means and methods to extract, treat and dispose ground water also shall be presented to the Water Board for their written approval; this written approval shall be submitted to the City.
- Decontamination procedures shall be established and implemented by the Contractor to reduce the potential for construction equipment and vehicles to release contaminated soil onto public roadways or other off-Site transfer. During any construction activity that involves below ground work (e.g., mass grading, foundation construction, excavating or utility trenching), daily street sweeping of the public roadway entrances/streets shall be performed.
- Procedures shall be developed to evaluate and document the quality of any soil imported to the site. Soil containing chemicals exceeding residential (unrestricted use) screening levels or typical background concentrations of metals shall not be accepted. Adequate documentation shall be required so it can be verified that the fill source is appropriate for the site by the Environmental Professional. The documentation shall include detailed information on previous land use of the fill source, any environmental site assessments performed and the findings, and the results of any analytical testing performed. If no documentation is available or the documentation is inadequate, or if no analytical testing has been performed, samples of the potential fill material shall be collected and analyzed per the protocols established by DTSC. The analyses performed shall be based on the fill source and knowledge of the previous land use. The sample frequency for potential fill material shall be in accordance with that outlined in the technical document titled, "Information Advisory on Clean Imported Fill Material" (DTSC, October 2001).
- Appropriate measures shall be implemented to reduce soil vapor and

ground water migration through trench backfill and utility conduits. Such measures shall include placement of low-permeability backfill “plugs” at specified intervals on-site and at all locations where the utility trenches extend off-site. In addition, utility conduits that are placed below ground water shall be installed with water-tight fittings to reduce the potential for ground water to migrate into the conduits.

- Because the site is known to have pollutants with the potential for mobilization, the Civil Engineer shall design the bottom and sides of the vegetated swales and water features (if incorporated into the building design) to be lined with a minimum 10-mil heavy duty plastic to help prevent Site infiltration.

MM HAZ-1.10: Upon completion of construction activities, the Environmental Professional shall prepare a report documenting compliance with the SMP; it shall contain a summary of: 1) vapor monitoring; 2) perimeter air monitoring; 3) soil and ground water sampling and associated analytical testing; 4) the sources, quantity and quality of imported soils; 5) the installation of the vapor barrier system; and 6) variances to the SMP. This report shall be submitted to the Water Board and US EPA. Written approval of the completion report by the Water Board shall be provided to the City.

MM HAZ-1.11: Some components encountered as part of the building demolition waste stream may contain hazardous materials. Universal wastes, lubrication fluids and CFCs and HCFC’s shall be removed before structural demolition begins. Materials that may result in possible risk to human health and the environment when improperly managed include lamps, thermostats, and light switches containing mercury; batteries from exit signs, emergency lights, and smoke alarms; lighting ballasts which contain PCBs; and lead pipes and roof vent flashings. Demolition waste such as fluorescent lamps, PCB ballasts, lead acid batteries, mercury thermostats, and lead flashings have special case-by-case requirements for generation, storage, transportation, and disposal. Before disposing of any demolition waste, the project developer and the demolition contractor shall determine if the waste is hazardous and shall ensure proper disposal of waste materials.

MM HAZ-1.12: Significant quantities of asphalt concrete (AC) grindings, aggregate base (AB), and Portland Cement Concrete (PCC) will be generated during demolition activities. AC/AB grindings shall not be reused beneath building areas.

MM HAZ-1.13: The HASP will include: (i) provisions for vapor sampling in trenches to ensure a safe atmosphere for workers, and (ii) identification of conditions where a respirator may be required to protect against VOCs.

MM HAZ-1.14: The SMP includes a map that identifies the areas where VOCs have been observed in soil and/or groundwater. In those areas, VOC monitoring will be required during excavation and trenching. The HASP will include action levels for VOCs that are detected by field instruments (a photoionization detector or PID) during work.

Finding. The implementation of the above FEIR mitigation measures will reduce the significant hazardous materials impact to a **less than significant** level.

6. Cultural Resources

6.1 Impact. Future development on the project site could impact as yet unrecorded subsurface cultural resources.

Mitigation. The following project-specific measures have been included in the project to reduce cultural resources impacts.

MM CUL 1-1: Prior to the initiation of any ground disturbing activities or issuance of grading permits for the southwest corner of Parcel 1, a qualified professional archaeologist shall undertake a presence/absence testing program to identify the horizontal and vertical extent of any potential buried archaeological deposits associated with CA-SC1-9 or other as yet unknown cultural resources at this location within the project site. The boundaries of the area to be tested within southwest corner of Parcel 1 shall be determined by the archaeologist based on available records for site CA-SC1-9.

Once the testing program is complete, the results shall be presented in a *Presence/Absence Testing Report* commensurate with the findings and submitted to the City for review. Any recommendations for treatment of a significant resource shall be presented in the report.

MM CUL 1-2: Prior to the initiation of any construction that has the potential for ground-disturbing activities within the project site, the project proponent shall inform all construction personnel of the potential for exposing subsurface cultural resources and to recognize possible buried cultural resources. Personnel shall be informed of the procedures that will be followed upon the discovery or suspected discovery of archaeological materials, including Native American remains and their treatment.

MM CUL 1-3: Archaeological monitoring on a full-time basis by a Professional Archaeologist shall be undertaken during any subsurface construction that disturbs native sediments within and within a radius of 100 feet to CA-SCI-9. The archaeologist shall maintain a log of his/her observations and complete a *Monitoring Closure Report* at the completion of monitoring detailing any observations.

MM CUL 1-4: Archaeological monitoring on a less-than-full time basis with the frequency and duration to be determined by a Professional Archaeologist shall be undertaken during any subsurface construction that disturbs native sediments within the East Sunnyvale ITR parcel. The archaeologist shall maintain a log of his/her observations and complete a *Monitoring Closure Report* at the completion of monitoring detailing any observations.

MM CUL 1-5: Excavation contracts for development shall contain provisions for stop-work in the vicinity of an archaeological find in the event of the exposure of significant cultural resources during subsurface construction. In addition, the contract documents shall recognize the need to implement any mitigation conditions required by permitting and regulatory agencies. In general, the appropriate construction conditions should be included within the *General Conditions* section of any contract that has the potential for ground disturbing operations.

MM CUL 1-6: If any unanticipated prehistoric or significant historic era cultural materials including Native American burials are exposed during construction grading and/or excavation, operations should stop within a minimum of 50 feet of the find to avoid altering the cultural materials and their context and a qualified Professional Archaeologist retained for identification, evaluation and further recommendations. The Community Development Director of the City of Sunnyvale shall be notified of the discovery. Construction work shall not begin again within the find area until the archaeologist has been allowed to examine the cultural materials, assess their significance, and offer proposals for any additional exploratory measures deemed necessary for the further evaluation of, and/or mitigation of adverse impacts to, any potential historical resources or unique archaeological resources that have been exposed. If the discovery is determined to be a unique archaeological or historical resource under the criteria of the *California Register of Historical Resources* after review and evaluation by a Professional Archaeologist, and if avoidance of the resource is not possible, the Professional Archaeologist shall develop plans for treatment of the find(s) and mitigation of impacts acceptable to the City of Sunnyvale. The treatment plan shall be designed to result in the extraction of sufficient non-redundant

archaeological data to address important regional research considerations. The project proponent shall make every effort to insure that the treatment program is completed. The work shall be performed by the archaeologist, and shall result in a detailed technical report that shall be filed with the California Historical Resources Information System, Northwest Information Center. Construction in the immediate vicinity of the find shall not recommence until treatment has been completed.

If human remains are discovered, they shall be handled in accordance with State law including immediate notification of the Santa Clara County Medical Examiner.

Finding. The implementation of the above FEIR mitigation measures will reduce the significant cultural resources impact to a **less than significant** level.

7. Utilities and Service Systems

7.1 Impact. If the final site plan of the maximum build out/corner mixed-use development project has a total impervious surface area greater than the existing conditions, the project could have a significant impact on the capacity of the existing storm drainage system.

Mitigation. The project developer shall design the project to reduce directly connected impervious areas to ensure the flood design storm flows are maintained at or under the existing project flows.

Finding. The implementation of the above FEIR mitigation measure will reduce the significant utility impact to a **less than significant** level.

8. Cumulative Impacts

8.1 Impact. Implementation of the proposed project would result in a degradation of LOS under cumulative conditions at the Fair Oaks Avenue/Duane Avenue intersection.

Mitigation. No mitigation was identified for the cumulative impact at the Fair Oaks Avenue/Duane Avenue intersection.

Finding. Redevelopment of the project site under the proposed project would result in a cumulatively considerable impact to the Fair Oaks Avenue/Duane Avenue intersection. There are no feasible mitigation measures to reduce the identified impacts to the Fair Oaks Avenue/Duane Avenue intersection due to the

road diet that is approved for Duane Avenue. This impact would remain **Significant and Unavoidable**.

- 8.2 Impact.** Under cumulative conditions, implementation of the maximum build out project would result in a degradation of LOS at the Fair Oaks Avenue/Duane Avenue intersection.

Mitigation. No mitigation was identified for the cumulative impact at the Fair Oaks Avenue/Duane Avenue intersection.

Finding. Redevelopment of the project site under the maximum build out project would result in a cumulatively considerable impact to the Fair Oaks Avenue/Duane Avenue intersection. There are no feasible mitigation measures to reduce the identified impacts to the Fair Oaks Avenue/Duane Avenue intersection due to the road diet that is approved for Duane Avenue. This impact would remain **significant and unavoidable**.

- 8.3 Impact.** Under cumulative conditions, implementation of the maximum build out project would trigger a signal warrant at the Wolfe Road/Maude Avenue intersection.

Mitigation. If the maximum build out/corner mixed use development scenario is implemented, the project developer will be required to install traffic signals at the Wolfe Road/Maude Avenue intersections. Signalization of the intersection would be required prior to the issuance of occupancy permits for the residences.

Finding. With implementation of the identified mitigation measure in the FEIR, the maximum build out/corner mixed use development scenario would have a **less than significant** cumulative impact on the Wolfe Road/Maude Avenue intersection.

- 8.4 Impact.** Under cumulative conditions, implementation of the maximum build out project would result in a degradation of LOS at the Lawrence Expressway/Duane Avenue intersection.

Mitigation. If the maximum build out/corner mixed use development scenario is implemented, the project developer will be required to restripe the eastbound approach to be three left-turn lanes, one through lane, and one right turn lane at the Lawrence Expressway/Duane Avenue intersection. This mitigation measure could not be implemented without the approval of Santa Clara County. Restriping of the intersection would be required prior to the issuance of occupancy permits for the residences.

Finding. The City of Sunnyvale, as the Lead Agency, cannot implement the identified mitigation measure without approval of Santa Clara County. Thus, it is not certain that the identified mitigation measure could be implemented. This impact is, therefore, **significant and unavoidable**.

VII. SUMMARY OF SIGNIFICANT UNAVOIDABLE ADVERSE EFFECTS

With respect to the foregoing findings and in recognition of those facts that are included in the record, the City has determined that the proposed project and the maximum build out/mixed use development scenario will result in significant unmitigated impacts to cumulative traffic.

1. Redevelopment of the project site under both the proposed project and the maximum build out/mixed use development scenario would result in a cumulatively considerable impact to the Fair Oaks Avenue/Duane Avenue intersection. There are no feasible mitigation measures to reduce the identified impacts to the Fair Oaks Avenue/Duane Avenue intersection due to the road diet that is approved for Duane Avenue.
2. Under cumulative conditions, implementation of the maximum build out project would result in a degradation of LOS at the Lawrence Expressway/Duane Avenue intersection. The City of Sunnyvale, as the Lead Agency, cannot implement the identified mitigation measure without approval of Santa Clara County. Thus, it is not certain that the identified mitigation measure could be implemented.

VIII. PROJECT ALTERNATIVES

A. Legal Requirements

Section 15126.6(a) of the State CEQA Guidelines requires that an environmental impact report include a “reasonable range of alternatives to the project, or to the location of the project, which would avoid or substantially lessen any significant effects of the project.” Based on the analysis in the EIR, the Project would be expected to result in significant and unavoidable impacts to Traffic and Noise. The EIR alternatives were designed to avoid or reduce these significant unavoidable impacts, while attaining at least some of the proposed objectives of the Project. The City Council has reviewed the significant impacts associated with the reasonable range of alternatives as compared to the Project, and in evaluating the alternatives has also considered each alternative’s feasibility, taking into account a range of economic, environmental, social, legal, and other factors. In evaluating the alternatives, the City Council has also considered the important factors listed in the Statement of Overriding Considerations listed in Section IX below.

Public Resources Code Section 21081(a)(3) provides that when approving a project for which an environmental impact report has been prepared, a public agency may find that specific economic,

legal, social, technological, or other considerations, including considerations for the provision of employment opportunities for highly trained workers, make infeasible the mitigation measures or alternatives identified in the environmental impact report and, pursuant to Section 21081(b) with respect to significant effects which were subject to a finding under paragraph (3) of subdivision (a), the public agency finds that specific overriding economic, legal, social, technological, or other benefits of the project outweigh the significant effects on the environment as more fully set forth in Article IX below.

A. No Project Alternative

- 1. Description.** Since the project site is currently developed with existing industrial buildings, the “No Project” Alternative would be the re-occupation of these buildings or their continued vacancy. Based on the current General Plan and zoning designation, the site could also be redeveloped with a building or buildings that total up to approximately 478,000 square feet.
- 2. Comparison to the Proposed Project.** The No Build – No Project Alternative would avoid all of the significant project level and cumulative impacts.

If the site were redeveloped at full density with new industrial buildings, the No Project Alternative would result in greater construction emissions than either the proposed project or the maximum build out/corner mixed use scenario. Both the proposed project and the maximum build out/corner mixed use scenario include the use of Tier 3 construction equipment which would reduce overall emissions compared to standard equipment. This alternative is not assumed to use Tier 3 equipment and, therefore, would result in greater construction emissions.

No residences would be constructed on the project site under this alternative, so no new residences would be exposed to interior noise levels in excess of acceptable City standards nor would they be potentially exposed to hazards or hazardous materials. As a result, the significant noise and hazardous materials impact under the project and the maximum build out/corner mixed use scenario would be avoided.

The area of impervious surface area cannot be known without a specific site plan. Nevertheless, consistent with the requirements of the maximum build out/corner mixed use development scenario, any development under this alternative would be required to design the project to reduce directly connected impervious areas to ensure the flood design storm flows are maintained at or under the existing project flows. As a result, this alternative would have a less than significant impact on the storm drainage system.

Because there would be development under this alternative, the significant impact with regard to biological resources and cultural resources under the project and the maximum build out/corner mixed use scenario would not be avoided.

This alternative would result in an additional 7,000 square feet of R&D development on-site compared to the current conditions. Under existing conditions, full occupancy of the existing buildings would result in approximately 3,820 daily trips with 575 AM Peak Hour and 504 PM Peak Hour trips. Full occupancy of the project site under existing conditions would result in more daily and peak hour trips than the proposed project, but less than the maximum build out/corner mixed use scenario. This alternative would result in an additional nine AM Peak Hour and eight PM Peak Hour trips, compared to the current conditions. Even with the net increase in peak hour trips, this alternative would still generate fewer peak hour trips than the maximum build out/corner mixed use scenario, which had no project level traffic impacts.

3. **Finding.** Implementation of this alternative could avoid the significant impacts related to noise, hazards and hazardous materials caused by the project or the maximum build out/corner mixed use development scenario. Significant impacts related to air quality, hydrology, biological resources, cultural resources, and traffic would be similar to the impacts caused by the project or the maximum build out/corner mixed use development scenario. In addition, this alternative could avoid the significant unavoidable transportation impacts identified in this EIR. This alternative does not, however, meet the majority of the project objectives.

B. Mixed-Use Development Alternative

1. **Description.** The mixed-use development alternative would consist of a General Plan Amendment and rezoning to allow for office and residential on-site. The basic building design and orientation for the residences would be the same as the project, and the project would still include all identified green building design measures. This alternative would, however, construct office buildings along the Duane Avenue frontage. The City has defined this alternative as an FAR of 0.35 for the office and a residential density of one unit per 1,800 square feet. This equates to a maximum of 384,199 square feet of retail/office and up to 609 residential units.

Under this alternative, the commercial buildings would be a minimum of two-stories tall to provide adequate noise shielding from Duane Avenue. The commercial component would be constructed along the entire Duane Avenue frontage and extend back 200 feet into the property. This would allow a

maximum of 458 multi-family (apartment) residences to be constructed on the remainder of the site. To maintain for-sale townhouses on-site, however, the total residential unit count would be reduced to 281 units. Open space would be provided consistent with City requirements.

2. **Comparison to the Proposed Project.** No residences would be constructed along Duane Avenue under this alternative, so no residences would be exposed to interior noise levels in excess of acceptable City standards. Therefore, the significant noise impact under the project and the maximum build out/corner mixed use scenario would be avoided. This alternative would have comparable construction impacts compared to the proposed project, including air quality, noise, cultural resources, and biological resources.

As proposed, 281 residences would be constructed on the project site under alternative, so future residents would be potentially exposed to hazards or hazardous materials. Therefore, the significant hazards and hazardous materials impact under the project and the maximum build out/corner mixed use scenario would not be avoided.

The area of impervious surface area cannot be known without a specific site plan. Nevertheless, consistent with the requirements of the maximum build out/corner mixed use development scenario, any development under this alternative would be required to design the project to reduce directly connected impervious areas to ensure the flood design storm flows are maintained at or under the existing project flows. As a result, this alternative would have a less than significant impact on the storm drainage system.

The placement of commercial uses along Duane Avenue would increase traffic compared to a strictly residential land use. At the maximum allowable development, office uses would generate 4,235 daily trips, with 599 AM Peak Hour trips and 572 PM Peak Hour trips. The residential component would generate 1,633 daily trips, with 124 AM Peak Hour and 146 PM Peak Hour trips. Not assuming any reductions for internal trips, the mixed-use alternative would generate 4,248 net new daily trips, with 474 net AM Peak Hour and 480 net PM Peak Hour trips.

To ensure no new transportation impacts, compared to either project scenario, the mixed-use alternative would be comprised of 145,000 square feet of office space and 281 for-sale residential units. At this development density, the mixed-use alternative would generate 3,232 daily trips (1,612 net new trips), with 350 AM Peak Hour (101 net) and 362 PM Peak Hour (124 net) trips. Air quality emissions

and noise generated by the increase in traffic trips would be equivalent to the maximum build out/corner mixed use development scenario.

3. **Finding.** This alternative would avoid the noise impact from Duane Avenue, and provide more jobs and services within walking distance of existing housing. This alternative would, however, substantially reduce the density of for-sale housing that could be placed on the site, which does not meet the City's and project applicant's objectives to the same extent as the project or the maximum build out/corner mixed use development scenario. The residential uses could include apartments as opposed to townhouses, but that would also be inconsistent with the City's goal of providing more for-sale housing, as outlined in the General Plan.

Implementation of this alternative would avoid the significant noise impact identified in this EIR but most other impacts would be comparable to the proposed project or the maximum build out/corner mixed use development scenario. In addition, this alternative does not meet the project objectives to the same extent as the project or the maximum build out/corner mixed use development scenario. This is the environmentally superior alternative.

C. **Commercial/Office Development Alternative**

1. **Description.** In an effort to avoid the significant noise and hazardous materials impacts that would result from residential development on the project site but still redevelop approximately 25.2 acres of underutilized land within Sunnyvale, this alternative evaluates a commercial development on the site. Under the commercial development alternative, the site could be developed as a new office campus, a mix of office and retail, or a large retail center.
2. **Comparison to the Proposed Project.** No residences would be constructed on-site under this alternative, so no residences would be exposed to interior noise levels in excess of acceptable City standards or be potentially exposed to hazards or hazardous materials. Therefore, the significant noise and hazardous materials impact under the project and the maximum build out/corner mixed use scenario would be avoided. This alternative would have comparable construction impacts compared to the proposed project, including air quality, noise, cultural resources, and biological resources.

The area of impervious surface area cannot be known without a specific site plan. Nevertheless, consistent with the requirements of the maximum build out/corner mixed use development scenario, any development under this alternative would be required to design the project to reduce directly connected impervious areas to

ensure the flood design storm flows are maintained at or under the existing project flows. As a result, this alternative would have a less than significant impact on the storm drainage system.

With any of these three scenarios, the number of traffic trips would be higher than a strictly residential project. The directionality of the trips may, however, change. While the average delay at local intersections would likely increase above the maximum build out/corner mixed use scenario, it would be less than under cumulative conditions.

3. **Finding.** This alternative would avoid the noise and hazardous materials impacts of the project, and provide more jobs and services within walking distance of existing housing. This alternative would not, however, provide for new housing within Sunnyvale, which is inconsistent with the City's and project applicant's objectives and the General Plan.

Implementation of this alternative would avoid the significant noise and hazardous materials impacts identified in this EIR but does not meet any of the project objectives related to housing.

D. **Reduced Density Alternative**

1. **Description.** Under the reduced density alternative, the project would still propose a General Plan Amendment and rezoning to allow for residential development on-site. The basic building design and orientation for the residences would be the same as the project, and would still include all identified green building design measures that are part of the proposed project. This alternative assumes a density of 9.5 dwelling unit per acre, which would allow 239 units on-site, a net reduction of 211 units compared to the proposed project.
2. **Comparison to the Proposed Project.** This alternative contains less development and, therefore, involves less construction than the proposed project or the maximum build-out/corner mixed use development scenario. Accordingly, this alternative would not result in the temporary significant impact with regard to air quality that could occur during construction of the maximum build-out / corner mixed use scenario. Construction impacts related to noise, cultural resources, and biological resources would be the same as the proposed project.

Although this alternative would construct residences along Duane Avenue, fewer residences would be exposed to interior noise levels in excess of acceptable City standards. Therefore, the significant noise impact under the project and the maximum build out/corner mixed use scenario would be reduced, although not to

a less than significant level prior to mitigation. Future residents would still be potentially exposed to hazards or hazardous materials. Therefore, the significant hazards and hazardous materials impact under the project and the maximum build out/corner mixed use scenario would not be avoided.

This alternative would result in similar amounts of new impervious surface area as the project. Although there would be an increase to impervious surface area as compared to existing conditions, Alternative E would result in a smaller impact with regard to hydrology on the existing storm drainage system than the maximum build out/corner mixed use scenario. Therefore, the significant impact would be avoided.

The elimination of 211 residential units in this alternative as compared to the project would reduce the number of daily trips to and from the project site. Under cumulative plus project conditions, the reduced density alternative would avoid the project's significant impact and would result in an LOS D- at the Fair Oaks Avenue/Duane Avenue intersection.

3. **Finding.** The reduced density alternative would generally meet most of the project objectives, but would result in fewer for sale residential units than the proposed project and would not meet the City's share of the regional housing needs to the same extent as the proposed project.

Implementation of this alternative would avoid the significant cumulative traffic impact identified in this EIR and meets the overall objectives of the project.

E. Mixed Project Alternative

1. **Description.** The EIR addresses two development scenarios, the proposed project (450 residences and a park) and the maximum build out/corner mixed use development scenario (678 residential and 7,000 square feet of retail). The mixed project alternative evaluates the combined development of 450 residences on Parcel 1 and 19 residential units and 7,000 square feet of retail on Parcel 2.

The mixed project alternative would consist of a General Plan Amendment and rezoning to allow for residential on-site. The building design and orientation for the residences on Parcel 1 under this alternative would be the same as the project, and this alternative would include all identified green building design measures that are proposed as part of the project. Parcel 2 would be constructed consistent with the development parameters outlined previously in this EIR.

2. **Comparison to the Proposed Project.** This alternative contains more development and, therefore, involves more construction than the proposed project, but less development and construction than the maximum build-out/corner mixed use development scenario. Accordingly, this alternative would not result in the temporary significant impact with regard to air quality that could occur during construction of the maximum build-out/corner mixed use scenario, although impacts may be increase compared to the project. Other construction related impacts including noise, cultural resources, and biological resources would be the same as the proposed project.

This alternative would include residences along Duane Avenue to the same extent as the project, and these residences would be exposed to interior noise levels in excess of acceptable City standards. Therefore, the significant noise impact under the project and the maximum build out/corner mixed use scenario would remain. Future residents would still be potentially exposed to hazards or hazardous materials. Therefore, the significant hazards and hazardous materials impact under the project and the maximum build out/corner mixed use scenario would not be avoided.

This alternative would result in more impervious surface area than the proposed project, but less than the maximum build out/corner mixed use development scenario. Consistent with the requirements of the maximum build out/corner mixed use development scenario, development under this alternative would be required to design the project to reduce directly connected impervious areas to ensure the flood design storm flows are maintained at or under the existing project flows. As a result, this alternative would have a less than significant impact on the storm drainage system.

The mixed project alternative would increase traffic compared to the proposed project. The proposed project would result in a net decrease of 15 trips in the AM Peak Hour and a net increase of 32 trips in the PM Peak Hour. When combined with the mixed-use development on Parcel 2, net AM Peak Hour trips would increase by seven (still below the current AM Peak Hour trips generated by the site) and net PM Peak Hour trips would increase by 26. Because the maximum build out/corner mixed use development scenario would have a less than significant project level traffic impact, the mixed project alternative, which would generate substantially less PM Peak Hour trips, would also have a less than significant project level traffic impact. The cumulative traffic impact would, however, be the same as the proposed project.

3. **Finding.** This alternative would not avoid the noise impact from Duane Avenue or the cumulative traffic impact of the project, although it would provide more

housing than the proposed project, and would provide more jobs and services within walking distance of existing housing. While this alternative would reduce the overall amount of open space proposed by the project, it meets all but one of the project objectives to the same or a greater extent than the project.

Impacts would be comparable to the proposed project. Furthermore, this alternative meets the overall objectives of the project.

IX. STATEMENT OF OVERRIDING CONSIDERATIONS

The City Council of the City of Sunnyvale adopts and makes the following Statement of Overriding Considerations regarding the significant, unavoidable impacts of the Project and the anticipated benefits of the Project.

The Council has carefully balanced the benefits of the Project against any adverse impacts identified in the EIR that could not be feasibly mitigated to a level of insignificance. Notwithstanding the identification and analysis of impacts that are identified in the EIR as being significant and which have not been eliminated, lessened or mitigated to a level of insignificance, the Council, acting pursuant to CEQA Guidelines Section 15092 and 15093, hereby determines that significant effects on the environment found to be unavoidable in Section VII above (degradation of the level of service under cumulative conditions at the intersections of Fair Oaks Avenue/Duane Avenue and Lawrence Expressway/Duane Avenue), is acceptable due to overriding concerns described herein. Based on the objectives identified in the proposed Project and EIR, the Council has determined that the Project should be approved, and the unmitigated environmental impacts attributable to the Project are outweighed by the following specific environmental, economic, fiscal, social, housing and other overriding considerations, each one being a separate and independent basis upon which to approve the Project. Substantial evidence in the record demonstrates the City would derive the benefits listed below from adoption and implementation of the Project.

With regard to the impact on the Lawrence Expressway/Duane Avenue intersection, the City cannot require or control implementation of mitigation measures because they are within the responsibility and jurisdiction of another public agency. Public Resources Code § 21081(a)(2). Therefore, this impact will remain significant and unavoidable notwithstanding adoption of feasible mitigation measures. Because the City cannot require mitigation measures that are within the responsibility and jurisdiction of other public agencies to be adopted or implemented by those agencies, it is hereby determined that any remaining significant and unavoidable adverse impacts are acceptable for the reasons specified below. Public Resources Code § 21081(a)(3).

- A. The Project incorporates all feasible mitigation measures to reduce potential environmental impacts to the greatest extent feasible. No feasible mitigation measures or alternatives have been identified to mitigate the significant and unavoidable adverse effects of the Project.

- B. The City Council finds that the development of the site with a residential use consisting of 450 townhouse units and a supporting public park is consistent with the policies of the City of Sunnyvale's General Plan and Housing Element. The development will create much needed housing to meet the housing needs of the City and will include below market rate ownership units to meet the City's affordable housing goals.
- C. The adoption of the East Sunnyvale Sense of Place Plan will ensure that as the area transitions from an industrial to residential environment, it will include public improvements to improve pedestrian and bicycle circulation and safety. A Sense of Place Fee will be adopted to assist in implementing the improvements contained in the Plan.
- D. The proposed Project would increase the number of residents in the East Sunnyvale area and support the existing and proposed commercial retail uses in the area.
- E. The proposed Project would replace older industrial buildings that are difficult to repurpose and re-tenant for an economically viable use. Additionally, the property is not considered a prime industrial site, and redevelopment for an industrial use could create potential land use compatibility impacts due to its immediate vicinity to residential uses and schools.
- F. The proposed Project would provide traffic impact fees that may be applied to fund improvements to Lawrence Expressway and other City transportation projects.
- G. The project will provide a fully improved 0.8-acre public park to serve existing and future residents in the East Sunnyvale neighborhood and will include an additional contribution of park dedication in-lieu fees to fund future parkland acquisition and planned park and recreational improvements in the City. The project will also include private parks and trails within the development that will be accessible to the general public.

The above statements of overriding considerations are consistent with, and substantially advance, the following goals and policies of the City's General Plan:

Policy LT-4.1: Protect the integrity of the City's neighborhoods; whether residential, industrial or commercial.

Action Statement LT-4.1a Limit the intrusion of incompatible uses and inappropriate development into city neighborhoods.

Action Statement LT-4.1c Use density to transition between land use, and to buffer between sensitive uses and less compatible uses.

Policy LT-4.2: Require new development to be compatible with the neighborhood, adjacent land uses, and the transportation system.

Policy LT-4.4: Preserve and enhance the high quality character of residential neighborhoods.

Policy LT-5.9: Appropriate accommodations for motor vehicles, bicycles, and pedestrians shall be determined for City streets to increase the use of bicycles for transportation and to enhance the safety and efficiency of the overall street network for bicyclists, pedestrians, and motor vehicles.

Policy LT-5.10: All modes of transportation shall have safe access to City streets.

Policy LT-5.11: The City should consider enhancing standards for pedestrian facilities.

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.

Based on the detailed findings made above, the City Council hereby finds that economic and social considerations outweigh the remaining environmental effects of approval and implementation of the Project, and the City Council hereby concludes that the Project should be approved.

X. MITIGATION MONITORING AND REPORTING PROGRAM

The Mitigation Monitoring and Reporting Program (“MMRP”) sets forth specific monitoring actions, timing requirements and monitoring/verification entities for each mitigation measure adopted in this Exhibit A, in compliance with Public Resources Code Section 21081.6(a)(1) and CEQA Guidelines Section 15097. The City Council hereby adopts the MMRP and determines that compliance with the MMRP is a condition of approval of the Project.

XI. THE RECORD

The environmental analysis provided in the EIR and these findings are based on and are supported by the following documents, materials and other evidence, which constitute the administrative record for the approval of the Project:

A. All application materials for the Project and supporting documents submitted by the applicant, including but not limited to those materials constituting the Project and listed in Section III of this Exhibit A.

B. The NOP, comments received on the NOP and all other public notices issued by the City in relation to the EIR (e.g., Notice of Availability).

C. The Draft EIR, the Final EIR, all appendices to any part of the EIR, all technical materials cited in any part of the EIR, comment letters, oral testimony, responses to comments, as well as all of the comments and staff responses entered into the record orally and in writing between July 1, 2015, and November 17, 2015.

D. All non-draft and/or non-confidential reports and memoranda prepared by the City and consultants related to the EIR, its analysis and findings.

E. Minutes and transcripts of the discussions regarding the Project and/or Project components at public hearings or scoping meetings held by the Planning Commission and the City Council.

G. Staff reports associated with Planning Commission and Council Meetings on the Project and supporting technical memoranda and any letters or other material submitted into the record by any party.

H. Matters of common knowledge to the City Council which they consider, such as the Sunnyvale General Plan, any other applicable specific plans or other similar plans, and the Sunnyvale Municipal Code.

XII. LOCATION AND CUSTODIAN OF RECORDS

The documents and other materials that constitute the record of proceedings on which the Council findings regarding the mitigation measures and statement of overriding considerations are based are located and in the custody of the Community Development Department, 456 West Olive Avenue, Sunnyvale, California 94086. The location and custodian of these documents is provided in compliance with Public Resources Code Section 21081.6(a)(2) and CEQA Guidelines Section 15091(e).

XIII. FILING NOTICE OF DETERMINATION

The Council hereby directs the Planning Division to file a Notice of Determination regarding the approval of the Project within five business days of adoption of this resolution.

ADOPTED this ____ day of _____ 2015, by the following vote:

AYES:

NOES:

ABSENT:

Jim Griffith
Mayor

ATTEST:

City Clerk