

March 18, 2016

Hanson Hom and Noren Caliva-Lepe
City of Sunnyvale
456 W. Olive Street
City of Sunnyvale

Re: Special Development Permit Modifications for Sunnyvale Town Center

Dear Mr. Hom and Ms. Caliva-Lepe:

On December 10, 2015, the City Council, sitting as the Successor Agency to the Sunnyvale Redevelopment Agency, approved a joint team, consisting of Sares Regis Group of Northern California, LLC, Hunter Properties, Inc., and an institutional investor advised by J.P. Morgan Asset Management to take on the responsibilities of Developer with respect to the Sunnyvale Town Center pursuant to the 2010 Amended Disposition and Development and Owner Participation Agreement (the "ADDOPA").

In order to realize the long-awaited vision for the Sunnyvale Town Center, the approved development team hereby respectfully submits this application for certain targeted amendments to the Special Development Permits governing development of the Sunnyvale Town Center, which we believe are necessary to be able to meet market conditions and current realities. The current owner of the property, REDUS SVTC, LLC, joins in these requests. If the City approves the requests, the development team anticipates closing on the purchase of the Sunnyvale Town Center and expeditiously proceeding with the development.

We believe these changes will facilitate ongoing revitalization of downtown Sunnyvale and allow the ultimate goals for this property to be realized: a vibrant mixed-use development that provides quality housing, office, retail and entertainment uses. Once developed, this property will activate the downtown area and provide a positive economic impact to the City and neighboring business and property owners alike.

To that end, this development application will leave in place all existing entitlements, subject to the following substantive changes:

- allowing residential portions of the property to be occupied with either rental or ownership housing, thereby removing barriers to the timely occupancy of this property;
- updating implementation requirements (including impact fee payments) to reflect the current status of the project approvals and the dissolution of redevelopment in California;
- maintaining the City's review of project design / architectural features while enabling market-driven refinements to respond to tenant needs, through a streamlined process,

namely by emphasizing that final architectural plans will be subject to review and approval by the Planning Commission while minor details in architectural design may be approved by the Director of Community Development;

- facilitating the rapid removal of the half-built steel structures surrounding Redwood Square, replacing them with parking within all or a portion of the building areas of the demolished steel structures, and planting sod and temporary landscaping within Redwood Square that will create a safe and clean condition on the property. To be clear, such installations are not intended to replace the previously approved / ultimate landscape plan for Redwood Square. Rather, they will provide immediate relief to neighbors from the current blight while the longer term vision for Sunnyvale Town Center can be formulated in cooperation with the City and neighboring property owners;
- confirming that a broad range of retail uses will be allowed in the mixed-use buildings, consistent in all cases with the Sunnyvale Municipal Code and the Downtown Specific Plan. These uses will provide the desired activation of streets within the project site while facilitating the occupancy of these retail spaces with viable businesses and services necessary to support the residential uses above;
- updating the BMR program to reflect the modification allowing both “for-sale” and rental housing; and
- ensuring that sufficient infrastructure is provided for each phase of the project as they become open for public access in a manner consistent with prior approvals.

Importantly, this development application will not modify the height, type or intensity of uses allowed within the entire project pursuant to the existing Special Development Permits and the Downtown Specific Plan. Thus, this development continues to allow 292 housing units, approximately 315,000 square feet of office space, approximately 634,000 square feet of commercial development (not counting the existing Macy’s and Target stores), and a hotel of approximately 150,000 square feet and 200 hotel rooms.

This letter highlights the key changes requested by this application, and the supporting justifications for these changes. We would be happy to provide further detail as the City’s review of this project continues.

Allowance for Rental or For-Sale Housing

The Downtown Specific Plan and its implementing ordinances do not distinguish between rental and for-sale housing. The Specific Plan simply provides for residential development. In addition, the Program Environmental Impact Report initially prepared for the Downtown Improvement Program Update and the later-prepared mitigated negative declaration and addenda that analyzed the project-specific impacts of the Sunnyvale Town Center refer generally to housing units, without distinguishing between for-sale and rental units. Similarly, Chapter 19.28 of the Sunnyvale Municipal Code, which regulates the permitted

uses within the Downtown Specific Plan, allows all “Multiple-family dwellings” (both for-sale and for-rent) with a special development permit. Thus, the foundational planning documents governing the development of the Sunnyvale Town Center allow—without distinction—both ownership and rental housing.

As more specifically applied to this Property, the enhanced flexibility to allow rental or for-sale housing is critical to revitalizing and maintaining the Sunnyvale Town Center because the configuration of the Sunnyvale Town Center creates unique considerations relative to the form of professional ownership and management of the property.

First, the residences are located in a mixed-use, master planned area with common area maintenance and cost-sharing obligations, particularly where the housing sits atop retail locations. In this unique and complicated context, having a professionally managed residential and retail asset under common ownership is a more efficient and practical model for success, as compared to the less certain working relationship that would necessarily exist when hundreds of disparate homeowners (even when they are organized under a homeowners association) must interact with a larger institutional retail owner. This lack of coordination would be more likely to lead to conflicts, and would be less likely to lead to effective management of the residential components of the project. Second, during the interim period before the Sunnyvale Town Center is completed, financing, completing construction, and leasing the retail and residential units will be faster when one owner controls all aspects of the mixed use buildings. Thus, allowing all buildings to be used as rental units will expedite completion and occupancy of the Sunnyvale Town Center.

Third, we emphasize that this condition will not eliminate the City’s review of project architecture, or its ability to maintain the high quality design standards adopted by the City and imposed by the existing conditions of approval.

Finally, we understand that the City generally desires a balance between for-sale and rental housing. In light of this goal, we emphasize that the proposed change to allow for rental housing will not preclude the development of for-sale housing. Rather, it will ensure that City standards do not impose barriers to the successful construction and occupancy of the Sunnyvale Town Center. As recognized by the City’s Housing Element, the City has witnessed various short-term periods where more for-sale or more rental housing is produced, and where existing rental housing has been converted to for-sale units. At the current time, we think there is more of a market for rental housing in this location and the approvals should permit the project to meet market conditions. This condition will thus allow the Sunnyvale Town Center to be successful as the market continues to evolve from time to time.

Confirming Allowable Ground Floor Uses

This application seeks to clarify the range of the retail uses allowed within certain portions of the ground floor areas of Residential Buildings D, E and F and other ground floor areas of the Sunnyvale Town Center. In particular, this special development permit would confirm that a variety of commercial, restaurant, business office, or recreational uses that involve the sale or display of goods, services, activities, food, and/or merchandise or that will otherwise activate the pedestrian experience will be allowed in any of these ground floor areas. These uses could include, without limitation, leasing offices, lobbies / club rooms and recreational facilities, provided that these uses are open to members of the general public or patrons / residents / prospective residents of buildings in addition to the building in which the retail use is located.

The requested condition would also clarify that food-service and prepared food establishments within supermarkets would not count against the limit on restaurant space that can be built within the Sunnyvale Town Center in order to ensure that the project can attract a first-class grocery store to downtown Sunnyvale. Beyond this change, the limitation on restaurant space will remain in full force and effect.

Each of these uses is fully consistent with the uses allowed by the Downtown Specific Plan and the implementing provisions of the Municipal Code, including Section 19.28.070. Block 18 specifically allows, among other uses:

- a wide variety of office uses as a permitted use (Table 19.28.070, Item 3.K—ground floor administrative, professional, medical, and research and development);
- personal service shops such as barber and beauty shops (Table 19.28.070, Item 3.L);
- retail businesses, including food-service establishments, restaurants and retail services such as laundry, repair shops (Table 19.28.070, Items 3.Q-T);
- retail commercial uses incidental to and in combination with residential uses (Table 19.28.070, Item 4.K);
- recreational and athletic facilities (Table 19.28.070, Item 2.D); and
- entertainment establishments (Table 19.28.070, Item 2.H).

Leasing offices, lobbies / club rooms and recreational facilities fit within the description of retail commercial uses incidental to and in combination with residential uses. Club rooms and athletic facilities also can be allowed as recreational and athletic facilities. Thus, as a threshold matter, each of the proposed uses is allowed by the governing provisions of the City Municipal Code.

We believe these municipal code and specific plan provisions govern development within Block 18, but want to make sure that the special development permit is clear about what is

permitted. Moreover, this special development permit should not be viewed in isolation. Block 18 is in the process of being reintegrated into the downtown street grid after decades of use as a traditional shopping center. As a result, it is governed by reciprocal easement agreements, the ADDOPA, various parking leases and operating agreements and an Integrated Project Agreement providing that the Sunnyvale Town Center would be operated as an integrated mixed-use project with shared structural elements. As recognized in these other agreements, the City and the former Redevelopment Agency view the retail, residential, commercial and office portions of the property as an integrated whole, with each portion of the project furthering the successful implementation of the remaining portions of the project. For example, Retail Facilities defined in Section 5.01(a) of the applicable reciprocal easement agreement expressly include office uses, and uses incidental to office. Clarifying with more specificity in the special development permit the range of permitted retail uses allowable in the ground floor retail areas is consistent with this historical practice and distinguishes Block 18 from all other portions of downtown Sunnyvale.

We also recognize that one of the key goals of the Downtown Specific Plan Commercial Core is creating a lively street life on all primary streets. To ensure this goal is achieved, we propose binding conditions requiring that:

1. these uses must be open to members of the general public or patrons, residents, or prospective residents of buildings in addition to the building in which the retail use is located; and
2. a Miscellaneous Plan Permit be required for ground floor rental office or active residential use locations greater than 1,000 square feet provided that such MPP shall not be used to restrict the allowed locations of these uses if (a) the architecture of the improvement will result in an attractive pedestrian environment and (b) the use will satisfy the public use requirement as set forth above.

Facilitating the Timely Removal of the Steel Structures Encircling Sunnyvale's Heritage Redwood Trees

In addition to revitalizing the Town Center Project, this development application will facilitate the timely removal of the half-built steel structures that have blocked views of the heritage Redwood Trees, interfered with access to local businesses, and sent the wrong message about downtown Sunnyvale's burgeoning economic growth and future outlook.

To that end, these amendments will provide for the rapid demolition of the steel skeleton and the installation of planting, sod and parking for the benefit of local businesses. However, because the long-term plan for this area will ultimately involve new construction in the area known as Redwood Square, it would be wasteful to require the interim condition of Redwood Square to equal the permanent design of the area provided by the Project Approvals. Accordingly, certain condition modifications are needed to ensure that the

interim landscaped condition of this area will be well maintained and a demonstrable improvement over current conditions, without requiring a wasteful and uneconomic expenditure of resources on the temporary design of Redwood Square.

Clarification of Impact Fee Payment Requirements

Beyond the substantive modifications set forth above, the changes in market conditions and the dissolution of redevelopment in California have necessarily impacted the proposed project. As a result, the precise phasing of the project has evolved, and the Successor Agency to the Sunnyvale Redevelopment Agency has requested that the developer give up significant financial contributions that had previously been guaranteed to the Project Developer as consideration for constructing parking structures that benefit the entire downtown. In light of the Agency's requested elimination of payments otherwise owed to the Project Developer, it is vital that the payment of impact fees, building permit fees, and timing of public improvements be reviewed.

In all cases, the requirements of the Sunnyvale Municipal Code and measures required to mitigate environmental impacts will be fully satisfied. However, given the new market realities, where flexibility as to the timing/phasing of certain payments or implementation of certain improvements is otherwise allowed, these conditions seek to ensure that the Project Developer does not overpay, or over-mitigate its impacts.

These Condition Modifications Have Been Fully Analyzed by CEQA and No Further Review Is Required

The California Environmental Quality Act ("CEQA") provides that where an Environmental Impact Report ("EIR") has been prepared for a project "no subsequent or supplemental environmental impact report shall be required" unless there are changes in the project which require revisions to the EIR, changes to the circumstances under which the project is being undertaken, or "new information, which was not known and could not have been known at the time the Environmental Impact Report was certified as complete." (CEQA Section 21166). It is also important to note that Section 15162 of the CEQA Guidelines further limits the circumstances in which a new environmental document must be prepared by stating that the new information must be something "which was not known and could not have been known with the exercise of reasonable diligence" at the time the EIR was prepared.

Consistent with these statutory provisions, in 2003, the City of Sunnyvale certified an Environmental Impact Report for the Downtown Sunnyvale Improvement Program that analyzed the types and intensity of development permitted in the greater downtown area and within Block 18 in particular. As part of the City's subsequent consideration of site-specific special development permits, the City prepared two Addenda to the Final EIR to, first,

increase the number of housing units and office space that could be permitted within Block 18 under the Downtown Specific Plan and, second, further increase the amount of office space allocated to Block 18 and to add the option to build a 200-room hotel to the Block 18 Downtown Specific Plan allocations.

Beyond the Addenda prepared to analyze and discuss the impacts of amendments to the Downtown Specific Plan, the City conducted site-specific review as part of a 2004 Mitigated Negative Declaration that adopted site-specific mitigation measures and identified relevant mitigation measures from the EIR that should be applied to development approvals within Block 18.


For each of the other applicable special development permits approved for the Property, no separate CEQA document was prepared because the City concluded that the impacts had already been fully analyzed by the earlier EIR and mitigated negative declaration in accordance with the terms of CEQA Section 21166 and Section 15162 of the CEQA Guidelines.

The present proposal is merely a modification of conditions to an existing project that has already been analyzed under CEQA and the project, as amended, remains entirely consistent with the scope of development previously analyzed under the CEQA documents described above. In accordance with the principles enunciated by Section 21166, where CEQA has been initially satisfied through the preparation of an EIR, CEQA favors “the policy of finality” rather than ongoing review. Thus, any finding of new impact necessary to justify further environmental review must be based on substantial evidence in the light of the whole record (rather than the fair argument standard). We are unaware of any information justifying further environmental review and, accordingly, we respectfully submit that the City should analyze the condition modifications without requiring further environmental review.

Conclusion

The development team combines the unmatched resources, experience and expertise of Sares Regis Group of Northern California, LLC, Hunter Properties, Inc., and an institutional investor advised by J.P. Morgan Asset Management. This development team is committed to the long-term success of the Sunnyvale Town Center and the surrounding areas of the City’s burgeoning downtown, and we look forward to working with the City to bring this long-awaited vision to fruition.

Sincerely,

A handwritten signature in blue ink, appearing to read "DNP", followed by a long horizontal flourish.

David NP Hopkins, Sares Regis Group of Northern California