

DRAFT 11/10/16 *QJM*

RESOLUTION NO. _____

**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
BUTCHER'S CORNER APARTMENTS 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 Butcher's Corner Apartments Project ("the Project") pursuant to CEQA and the CEQA Guidelines (State Clearinghouse #2015032085); 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 November 28, 2016, 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 December 13, 2016, 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 by the City Council at a regular meeting held on _____, by the following vote:

AYES:

NOES:

ABSTAIN:

ABSENT:

RECUSAL:

ATTEST:

APPROVED:

City Clerk
(SEAL)

Mayor

APPROVED AS TO FORM:

City Attorney

CITY OF SUNNYVALE
BUTCHER'S CORNER 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 Butcher's Corner Project ("Project") and associated approvals: 1) Special Development Permit; and 2) Vesting Tentative Map. These findings provide the written analysis and conclusions of the City Council regarding the Butcher's Corner 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 Project. As shown in Section 3.2, Project Objectives, of Chapter 3, Project Description, of the Draft Environmental Impact Report for the Project, the specific project objectives of the project proponent are to:

- Provide a wide variety of housing options in the City of Sunnyvale, including for-sale and rental residences of various sizes.
- Provide an architecturally-distinctive project with high quality materials that will contribute positively to the El Camino Real corridor.
- Provide townhome residences along the western edge with a similar scale and architectural character to the adjacent properties with two-story roof lines facing the west edge to respect the neighboring two-story buildings.
- Provide amenities that promote the overall well-being and health of the project's residents and visitors, including an outdoor pool and spa, outdoor dining and fireplace, seating areas and an athletic club.
- Provide adequate open space and landscaping to comply with the City's standards that will enhance the overall community.
- Provide an orchard within the overall landscape as a reminder of the agricultural heritage of the Sunnyvale community.

- Provide for alternative forms of transportation such as low-emissions vehicles, electric vehicles and bicycles. The design of the project encourages exploration of the site and its outdoor spaces and features on foot.
- Provide adequate pedestrian access to the future development along the El Camino Real corridor.
- Provide a pedestrian scale particularly along the El Camino Real, Wolfe Road and Fremont Avenue frontages with architectural massing, architectural features, landscaping, low walls, planters and open space. The architectural design will encourage pedestrian activity around the project boundary.

III. PROJECT DESCRIPTION

The 5.23-acre Project site is comprised of four parcels (Assessor Parcel Number [APN] 211-25-011, -034, -038, and -039) located at 871 East Fremont Avenue in the City of Sunnyvale. The four parcels combined are referred to as the project site. The Project site is developed with two single-family homes, one of which is currently occupied, and associated accessory structures accessible from East Fremont Avenue. The topography of the Project site is generally flat and ornamental landscaping, including 84 landscape trees and 161 remnant orchard trees, are located on the Project site.

As part of the environmental review process, the City prepared four project alternatives in the EIR. Chapter 5 of the DEIR and Chapter 5 of the FEIR analyzed these alternatives, their potential environmental impacts, and their ability to achieve project objectives established for the proposed project. The alternatives included the following:

- No Project Alternative
- Existing R-3 Zoning Alternative
- Corner Lot Site Plan Alternative
- Revised Site Plan Alternative

Since the Revised Site Plan Alternative would be developed on the same project site with less development, reduced building height, preservation of more protected trees and would demolish the existing medical offices at the East Fremont Avenue and South Wolfe Road, which would increase the pervious surface, eliminate the vehicular trips to the medical offices, and accommodate potential roadway improvements (i.e., an additional right turn lane on South Wolfe Road), the environmental impacts of the Revised Site Plan Alternative are generally less than those the DEIR identified for the proposed project. The DEIR determined that the proposed Project would result in significant-but-mitigable impacts related to air quality, biological resources, cultural resources, and noise, and one significant-and-unavoidable impacts related to transportation and circulation. Under the Revised Site Plan Alternative, these impacts caused by the Project would be incrementally less than the proposed Project, but generally comparable. The demand to public services and utility providers, and vehicular trips associated with the existing

medical offices would be eliminated under this alternative, which would result in slightly reduced traffic related impacts when compared to the Project. Under the Revised Site Plan Alternative, the proposed Project's significant and unavoidable traffic impact at the Kingfisher Way and East Fremont Avenue intersection under Existing, Background, and Cumulative conditions, would not be reduced to a less than significant level. Likewise, the Revised Site Plan Alternative would result in the same significant and unavoidable impact on traffic, with the impact being incrementally less than the proposed Project. For these reasons, and because the Revised Site Plan Alternative better reflects multiple interests and community concerns, it is the Project recommended for approval. The Revised Site Plan Alternative is herein referred to as the Revised Project.

As proposed, the Revised Project would demolish the existing residential buildings, and remove all of the trees that are currently on the project site with the exception of the one mature native coast live oak tree in the central portion of the project site and three coast live oak trees at the corner of El Camino Real and Wolfe Road, to allow for construction of up to 138 residential units in two apartment buildings and eighteen townhome buildings (27 units per acre). Parking includes a total of 348 spaces that would be located in the underground garages beneath apartment buildings, in fully enclosed 2-car garages for the townhomes, at-grade for non-residential (office or retail) uses. The Project site would be accessed by two ingress/egress driveways on Fremont Avenue, with one restricted to emergency vehicles only. There would be no automobile access from El Camino Real.

The proposed Fremont (Building A) and El Camino (Building B) apartment buildings would be located on the eastern portion of the project site with the south wall of the Fremont Building adjacent to East Fremont Avenue and the El Camino Building fronting East El Camino Real. The proposed townhomes would be on the western portion of the project site. An outdoor courtyard area would include a pool and spa, turf, a garden seating area, trees and landscaping, and a BBQ/fireplace area would be located at the corner of East Fremont Avenue and South Wolfe Road allowing for more outdoor common space and additional landscaping. A lawn with a 2-foot wall and 5-foot pool wall enclosure would surround the outdoor courtyard creating a natural separation between the common area and the adjacent roadway intersection. The outdoor courtyard area and lawn allows for additional pervious surfaces, an orchard planting, and the preservation of three coast live oak trees, would accommodate potential roadway improvements that the City is contemplating as part of their study along the Wolfe Road corridor in the vicinity of the project site.

The Fremont Building includes an above-ground building footprint of 18,338 square feet over three levels of subterranean parking. This building includes 53 apartment units with one-, two-, three-, and four-bedroom units. The height of the Fremont Building would range from approximately 63 feet to 74 feet (six to seven stories), with architectural projections that reach a maximum height of approximately 83 feet.

The El Camino Building includes an above-ground building footprint of 25,587 square feet over two levels of subterranean parking. This building includes 46 apartment units with two-, three-, and four-bedroom units. The height of the main roof of the El Camino Building ranges between approximately 52 feet and 63 feet above the curb (four to five stories), with architectural projections that reach a maximum height of approximately 73 feet. The El Camino Building also includes 6,988 square feet of space for an athletic club, featuring both an exercise room and a yoga room, and administration offices, for private use by residents only, and 6,934 square feet of non-residential (office or retail) on the first floor.

The proposed three-story townhomes include a combination of triplexes and duplexes in five building types consisting of 39 townhome units within eighteen buildings. Each townhome includes a private patio and two-car garage that is accessible from the on-site driveway located at the back of each building.

A complete description of the project is contained in Section 5.1, Master Responses, under Master Response 9, Revised Site Plan Alternative, of Chapter 5, Responses to Comments, of the Final Environmental Impact Report.

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 (SCH #2015032085). The EIR for the Project consists of the following:

- A. Draft Environmental Impact Report (“DEIR”), issued May 23, 2016;
- B. All appendices to the DEIR;
- C. Final Environmental Impact Report (“FEIR”), issued October 13, 2016, 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 March 26, 2015 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 April 23, 2015 the City held a scoping meeting with interested parties for the purpose of receiving comments on the scope of the EIR.
- C. A DEIR was prepared for the Project and was circulated for public review and comment from April 8, 2016 through May 23, 2016. The DEIR was submitted to the State Clearinghouse for review on April 8, 2016 (State Clearinghouse No. 2015032085). 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, neighborhood associations within the vicinity, and to persons living within 2,000 feet of the Project site.
- D. On May 9, 2016, the City of Sunnyvale Planning Commission held a public hearing to receive oral comment on the DEIR.
- E. On May 23, 2016, 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 13, 2016.
- F. Pursuant to CEQA Guidelines Section 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 November 28, 2016, 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 December 13, 2016, 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 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

AQ-2 **Impact.** Uncontrolled fugitive dust composed of coarse inhalable particulate matter (PM₁₀) and fine inhalable particulate matter (PM_{2.5}) downwind of actively disturbed areas during construction could possibly exceed state standards without implementation of Bay Area Air Quality Management District’s (BAAQMD) Best Management Practices (BMPs).

Mitigation. The project's construction contractor shall comply with the following BAAQMD Best Management Practices for reducing construction emissions of PM₁₀ and PM_{2.5}:

- Water all active construction areas at least twice daily, or as often as needed to control dust emissions. Watering should be sufficient to prevent airborne dust from leaving the site. Increased watering frequency may be necessary whenever wind speeds exceed 15 miles per hour. Reclaimed water should be used whenever possible.
- Pave, apply water twice daily or as often as necessary to control dust, or apply (non-toxic) soil stabilizers on all unpaved access roads, parking areas, and staging areas at construction sites.
- Cover all trucks hauling soil, sand, and other loose materials or require all trucks to maintain at least 2 feet of freeboard (i.e., the minimum required space between the top of the load and the top of the trailer).
- Sweep daily with water sweepers (using reclaimed water if possible), or as often as needed, all paved access roads, parking areas, and staging areas at the construction site to control dust.
- Sweep public streets daily (with water sweepers using reclaimed water if possible) in the vicinity of the project site, or as often as needed, to keep streets free of visible soil material.
- Hydroseed or apply non-toxic soil stabilizers to inactive construction areas.
- Enclose, cover, water twice daily, or apply non-toxic soil binders to exposed stockpiles (e.g., dirt, sand, etc.).
- Limit vehicle traffic speeds on unpaved roads to 15 mph.
- Replant vegetation in disturbed areas as quickly as possible.
- Install sandbags or other erosion control measures to prevent silt runoff from public roadways.

Finding. Implementation of the above FEIR mitigation measure will reduce uncontrolled fugitive dust composed of PM₁₀ and PM_{2.5} to a **less-than-significant** level.

- AQ-4** **Impact.** Criteria air pollutant emissions associated with buildout of the Project could cumulatively contribute to air quality impacts in the Air Basin.

Mitigation. Implement Mitigation Measures AQ-2 and AQ-5.

Finding. Implementation of the above FEIR mitigation measure will reduce the cumulative contribution of criteria air pollutants to a **less-than-significant** level.

- AQ-5** **Impact.** During construction, the Project could expose off-site sensitive receptors to substantial concentrations of Toxic Air Contaminants (TACs) and PM_{2.5}.

Mitigation. During construction, the construction contractor shall use construction equipment fitted with Level 3 Diesel Particulate Filters (DPF) and engines that meet the United States Environmental Protection Agency (EPA) Certified Tier 3 emissions standards for equipment of 50 horsepower or more. The construction contractor shall maintain a list of all operating equipment in use on the project site for verification by the City of Sunnyvale Building Division official or their designee. The construction equipment list shall state the makes, models, and number of construction equipment onsite. Equipment shall properly service and maintain construction equipment in accordance with the manufacturer's recommendations. The construction contractor shall also ensure that all nonessential idling of construction equipment is restricted to five minutes or less in compliance with CARB Rule 2449. Prior to issuance of any construction permit, the construction contractor shall ensure that all construction plans submitted to the City of Sunnyvale Planning Division and/or Building Division clearly show the requirement for Level 3 DPF and EPA Tier 3 or higher emissions standards for construction equipment over 50 horsepower.

Finding. Implementation of the above FEIR mitigation measure will reduce the exposure of off-site sensitive receptors to substantial concentrations of TACs and PM_{2.5} to a **less-than-significant** level.

- AQ-7** **Impact.** Implementation of the project would cumulatively contribute to air quality impacts in the San Francisco Bay Area Air Basin (SFBAAB).

Mitigation. Implement Mitigation Measures AQ-2 and AQ-5.

Finding. Implementation of the above FEIR mitigation measure will reduce the cumulative contribution of criteria air pollutants to a **less-than-significant** level.

2. Biological Resources

BIO-1a **Impact.** Proposed development could result in inadvertent loss of bird nests in active use, which would conflict with the federal Migratory Bird Treaty Act (MBTA) and California Department of Fish and Wildlife (CDFW) code if adequate controls and preconstruction surveys are not implemented.

Mitigation. Ensure Avoidance of Bird Nests in Active Use. Tree removal, landscape grubbing/grading initiation, and building demolition shall be performed in compliance with the Migratory Bird Treaty Act and relevant sections of the California Fish and Game Code to avoid loss of nests in active use. This shall be accomplished by scheduling building demolition, tree removal and landscape grubbing/grading initiation outside of the bird nesting season (which occurs from February 1 to August 31) to avoid possible impacts on nesting birds if new nests are established in the future. Alternatively, if building demolition, tree removal and landscape grubbing/grading initiation cannot be scheduled during the non-nesting season (September 1 to January 31), a pre-construction nesting survey shall be conducted. The pre-construction nesting survey shall include the following:

- A qualified biologist (Biologist) shall conduct a pre-construction nesting bird (both passerine and raptor) survey within seven calendar days prior to tree removal, landscape grubbing, and/or building demolition.
- If no nesting birds or active nests are observed, no further action is required and tree removal, landscape grubbing/grading initiation, and building demolition shall occur within seven calendar days of the survey.
- Another nest survey shall be conducted if more than seven calendar days elapse between the initial nest search and the beginning of tree removal, landscape grubbing, and building demolition.
- If any active nests are encountered, the Biologist shall determine an appropriate disturbance-free buffer zone to be established around the nest location(s) until the young have fledged. Buffer zones vary depending on the species (i.e., typically 75 to 100 feet for passersines and 300 feet for raptors) and other factors such as ongoing disturbance in the vicinity of the nest location. If necessary, the dimensions of the buffer zone shall be determined in consultation with the California Department of Fish and Wildlife.
- Orange construction fencing, flagging, or other marking system shall be installed to delineate the buffer zone around the nest location(s) within which no construction-related equipment or operations shall be permitted. Continued use of existing facilities such as surface parking and site maintenance may

continue within this buffer zone.

- No restrictions on grading or construction activities outside the prescribed buffer zone are required once the zone has been identified and delineated in the field and workers have been properly trained to avoid the buffer zone area.
- Construction activities shall be restricted from the buffer zone until the Biologist has determined that young birds have fledged and the buffer zone is no longer needed.
- A survey report of findings verifying that any young have fledged shall be submitted by the Biologist for review and approval by the City of Sunnyvale prior to initiation of any tree removal, landscape grubbing, building demolition, and other construction activities within the buffer zone. Following written approval by the City, tree removal, and construction within the nest-buffer zone may proceed.

Finding. Implementation of the above FEIR mitigation measure will reduce impacts to nesting birds during construction to a **less-than-significant** level.

BIO-1b

Impact. Proposed building demolition and tree removal associated with project implementation could result in the direct loss of or temporary construction disturbance to roosting bats.

Mitigation. Ensure Avoidance of Roosting Bats. Measures shall be taken to avoid possible loss of bats during project construction. This shall be accomplished using the following provisions:

- Existing buildings shall preferably be demolished between February 15 to April 15 or from August 15 to October 15 to minimize the likelihood of removal during the winter roosting period when bats are less active and more difficult to detect, and the critical pupping period (April 16 to August 14) when young cannot disperse.
- Buildings shall be surveyed by a qualified bat biologist (Biologist) no more than two weeks before demolition to avoid “take” of any bats that may have begun to use the structures for day-roosting.
- If the pre-demolition survey reveals bats or bat roosting activity, all doors and windows shall be opened and left open continually until demolition. Additional recommendations may be made by the qualified bat biologist following the pre-demolition survey, including monitoring of demolition and other measures to avoid take of individual bats.
- A tree roost habitat assessment shall be conducted by the Biologist for trees to be removed as part of the project. The habitat assessment shall be conducted no more than two weeks prior to tree removal and vegetation clearing. Additional detailed measures may be required based on the results of the habitat assessment if evidence of bat roosting is observed. This may include

supervision of tree removal by a qualified bat biologist, and systematic removal of select trees and major limbs to encourage dispersal and avoid “take” of individual bats.

- A survey report verifying findings shall be submitted by the Biologist for review and approval by the City of Sunnyvale prior to initiation of any tree removal and building demolition. Following written approval by the City, tree removal and building demolition may proceed after verification that no bat roosting activity is present, or that trees will be removed and buildings demolished according to the recommendations made by the Biologist.

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

BIO-2

Impact. Proposed development would result in removal of trees regulated under City ordinance, and possible damage to other trees unless adequate controls are implemented, and would conflict with the intent of the City’s Tree Preservation regulations.

Mitigation. Tree Protection and Replacement. The project shall comply with Sunnyvale Tree Preservation regulations, Chapter 19.94 of the Sunnyvale Municipal Code, and a Tree Preservation and Replacement Program (Program) should be developed with input from a certified arborist and implemented to provide for adequate protection and replacement of protected trees possibly affected by proposed improvements. If permitted, an appropriate in-lieu fee should be paid to the City of Sunnyvale for “protected trees” removed by the project, where avoidance and/or relocation is determined to be infeasible and sufficient land area is not available on-site for adequate replacement. The Program shall include the following provisions:

- Pursuant to the requirements of Section 19.94.120 of the Tree Preservation regulations, adequate measures shall be defined to protect all trees to be preserved during construction. These measures shall include implementation of all feasible recommendations made in the Preliminary Tree Report (HortScience, 2015), installation of temporary construction fencing at the perimeter of the protected area, restrictions on construction within the fenced areas unless approved as a condition of the application and performed under the supervision of the certified arborist, and prohibition on parking or storing of vehicles and other construction equipment within the protected area.
- All grading, improvement plans, and construction plans prepared for building permits shall clearly indicate trees proposed to be removed, altered, or otherwise affected by development construction. The tree information on grading and development plans shall indicate the number, size, species, assigned tree number and location of the dripline of all trees on the property

that are to be retained/preserved.

- As the large valley oak (Tree #106) is preserved as part of the project, appropriate restrictions shall be implemented to protect and improve conditions for this tree, and to minimize the risk to future visitors and residents from falling limbs. All recommendations made in the Preliminary Tree Report shall be followed with regard to construction and development setbacks from this tree. This shall include the structural stabilization necessary to minimize further damage and risk of major limbs tearing and falling from this mature tree, as well as corrective pruning to address past damage. All of which shall be overseen by a certified arborist and implemented as part of project construction.
- Details on relocation of any protected trees shall be defined as part of the Program. This Program shall include procedures for root system excavation, tree protection during relocation, planting bed preparation, short-term irrigation and monitoring, and compensatory mitigation if severely damaged during relocation or if lost following planting. Of particular concern is the possible preservation or relocation of a number of non-native Canary Island date palms (Trees #101, 105, 124, 127, and 137) which were identified in the Preliminary Tree Report as being in good to excellent condition, and having a high suitability for preservation. These trees could be incorporated into the Project either in their existing locations or through careful relocation, or they could be sold to a tree exaction/preservation company for use at another development, as an option for consideration under the Tree Preservation regulations.

Finding. Implementation of the above FEIR mitigation measure will reduce impacts to trees regulated under the City ordinance to a **less-than-significant** level.

3. Cultural Resources

CULT-2 Impact. Construction of the Project would have the potential to cause a significant impact to an unknown archaeological resource pursuant to CEQA Guidelines Section 15064.5.

Mitigation. If any prehistoric or historic subsurface cultural resources are discovered during ground-disturbing activities, all work within 50 feet of the resources shall be halted and a qualified archaeologist shall be consulted to assess the significance of the find according to CEQA Guidelines Section 15064.5. If any find is determined to be significant, representatives from the City and the archaeologist would meet to determine the appropriate avoidance measures or other appropriate mitigation. All significant cultural materials recovered shall be,

as necessary and at the discretion of the consulting archaeologist, subject to scientific analysis, professional museum curation, and documentation according to current professional standards. In considering any suggested mitigation proposed by the consulting archaeologist to mitigate impacts to historical resources or unique archaeological resources, the City shall determine whether avoidance is necessary and feasible in light of factors such as the nature of the find, Project design, costs, and other considerations. If avoidance is infeasible, other appropriate measures (e.g., data recovery) would be instituted. Work may proceed on other parts of the project site while mitigation for historical resources or unique archaeological resources is being carried out.

Finding. Implementation of the above FEIR mitigation measure will reduce impacts to unknown archeological resources to a **less-than-significant** level.

CULT-3 **Impact.** Construction of the Project would have the potential to directly or indirectly affect an unknown unique paleontological resource or site, or unique geologic feature.

Mitigation. In the event that fossils or fossil-bearing deposits are discovered during construction, excavations within 50 feet of the find shall be temporarily halted or diverted. The contractor shall notify a qualified paleontologist to examine the discovery. The paleontologist shall document the discovery as needed, in accordance with Society of Vertebrate Paleontology standards (Society of Vertebrate Paleontology 1995), evaluate the potential resource, and assess the significance of the finding under the criteria set forth in CEQA Guidelines Section 15064.5. The paleontologist shall notify the appropriate agencies to determine procedures that would be followed before construction is allowed to resume at the location of the find. If the project proponent determines that avoidance is not feasible, the paleontologist shall prepare an excavation plan for mitigating the effect of the project based on the qualities that make the resource important. The plan shall be submitted to the City for review and approval prior to implementation.

Finding. Implementation of the above FEIR mitigation measure will reduce impacts to unknown unique paleontological resource or site, or unique geologic feature to a **less-than-significant** level.

CULT-5 **Impact.** Construction of the Project would have the potential to cause a significant impact to an unknown Tribal Cultural Resources (TCR) as defined in Public Resources Code 21074.

Mitigation. Implement Mitigation Measures CULT-5.

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

4. Noise

NOISE-1a Impact. The Project's non-residential component within the El Camino Building may be exposed to elevated noise levels.

Mitigation. Consistent with General Plan requirements, a design-level acoustical analysis shall be completed by the project applicant for office/retail uses where exterior noise levels would exceed 70 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.
- Special building construction techniques (e.g., sound-rated windows and building facade treatments) may be required for the office/retail uses. 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 during the final building design. Results of the analysis, including the description of the necessary noise control treatments, shall be submitted to the City of Sunnyvale Planning Division, along with the building plans, for verification 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.

NOISE-1b Impact. Development of the Project's residential units may be exposed to interior noise levels in excess of the 45 dBA CNEL Title 24 requirements adopted by the City per SMC Chapter 16.16.

Mitigation. Consistent with Title 24 requirements adopted by the City per SMC Chapter 16.16 and General Plan requirements, a design-level acoustical analysis shall be completed by the project applicant 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. 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 of Sunnyvale Planning Division, along with the building plans, for verification prior to issuance of building permits.

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

NOISE-4 Impact. Construction activities related to development of the Project may result in substantial construction-related noise impacts to nearby off-site noise-sensitive receptors.

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

Mitigation Measure NOISE-4a: Prior to the issuance of construction permits, the construction manager shall prepare a construction noise management plan (CNMP) for the purpose of reducing construction-related noise impacts. The CNMP shall be submitted to the City of Sunnyvale Planning Division for verification and shall include, but are not limited to the following best management practices:

- Construct solid plywood fences (minimum 12 feet in height) or erect noise control blanket barriers between the construction site and the adjacent residences to the west and northwest of the project site.
- Equip all internal combustion engine driven equipment with intake and exhaust mufflers that are in good condition and appropriate for the equipment.
- Locate stationary noise generating equipment as far as possible from the adjacent residential land uses to the west.
- Acoustically shield stationary equipment near the existing residential receivers.
- Utilize "quiet" air compressors and other stationary noise sources where technology exists.
- Restrict the hours of construction to 7 a.m. and 6 p.m. Monday through Friday and between 8 a.m. and 5 p.m. on Saturday to be consistent with the City of Sunnyvale Noise regulations Section 16.08.30, Hours of construction - Time

and noise limitations. Additionally, trucking operations and construction staging shall be restricted to these hours of operation.

- Post signage around the project area boundary that provides a noise complaint call-in number for residents.
- Designate a "disturbance coordinator" who would be responsible for responding to any complaints regarding construction noise. The disturbance coordinator shall determine the cause of the noise complaint (e.g., bad muffler, etc.) and shall require that reasonable measures be implemented to correct the problem.

Mitigation Measure NOISE-4b. During construction, the construction manager shall ensure that the measures to reduce construction noise as identified in the CNMP are implemented.

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

5. Transportation and Circulation

TRANS-1. Impact. The Project would contribute to unacceptable operation at the intersection of Kingfisher Way and East Fremont Avenue (#5) under Existing, Background, and Cumulative conditions.

Mitigation. No mitigation was identified for the impact at the Kingfisher Way and East Fremont Avenue (#5) under Existing, Background, and Cumulative conditions.

Finding. The signal warrant analysis shows that during the AM peak hour, the peak-hour volume signal warrant would be satisfied under all scenarios, both with and without the project traffic. During the PM peak hour, the signal warrant would not be satisfied under any scenarios. Because the intersection would operate worse than the acceptable level of service and satisfy the California Manual on Uniform Traffic Control Devices (CA MUTCD) peak-hour volume signal warrant, the project's impact on traffic operations is considered significant at the intersection. While the intersection meets the CA MUTCD peak hour signal warrant, installation of a traffic signal could affect through movement progression on the East Fremont Avenue corridor and may potentially cause additional congestion. Thus, installation of a signal to mitigate this impact is not recommended at this location, and no other mitigation is feasible.

While for the purpose of this analysis a significant and unavoidable impact has been identified for this intersection, site observations indicated that there was no

difficulty for the northbound traffic to make left turns or right turns out of Kingfisher Way. This is because the upstream and downstream signals on Fremont Avenue at Fieldfair Drive/Rembrandt Drive and South Wolfe Road provided sufficient gaps in eastbound and westbound traffic flows for the northbound traffic to make turns. Additionally, the median on Fremont Avenue provided opportunities for the left-turning vehicles to make two-stage left-turns, which reduced vehicle wait time on Kingfisher Way.

It should be noted that the City has recently completed a study along the Wolfe Road corridor in the vicinity of this project. Project applicant will be required to make a fair-share contribution towards these improvements identified in the study. Nevertheless, this impact would remain **Significant and Unavoidable**.

TRANS-4 Impact. The Project, in combination with past, present, and reasonably foreseeable projects, would result in additional cumulatively considerable impacts.

Mitigation. As stated under TRANS-1, there are no mitigation measures available to reduce the Project's contribution to unacceptable operation at the intersection of Kingfisher Way and East Fremont Avenue (#5) under Existing, Background and Cumulative conditions.

Finding. As stated under TRANS-1, installation of a traffic signal could reduce this impacts, but could also affect through movement progression on the East Fremont Avenue corridor and may potentially cause additional congestion. This impact would remain **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 Project will result in significant unmitigated impacts to cumulative traffic.

1. Redevelopment of the project site under the Project would result in a cumulatively considerable impact to the Kingfisher Way and East Fremont Avenue (#5) intersection. There are no feasible mitigation measures to reduce the identified impacts to the Kingfisher Way and East Fremont Avenue (#5) because the recommended installation of a traffic signal could affect through movement progression on the East Fremont Avenue corridor and may potentially cause additional congestion.

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 Circulation. 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 two existing residential dwelling units, the “No Project” Alternative would be taking no action or not improving the site and the site would remain in its current condition.
- 2. Comparison to the Proposed Project.** The No Build – No Project Alternative would avoid all of the significant-but-mitigable and significant and unavoidable project level and cumulative impacts.
- 3. Finding.** Implementation of this alternative could avoid the significant-but-mitigable impacts related to air quality, biological resources, cultural resources, and noise, and significant and unavoidable impacts related to transportation and circulation caused by the Project. This alternative would not result in any new development or improvements, the policies of the General Plan or Precise Plan would not be carried out. Thus, meeting the land use objectives under the No Project Alternative would be greater when compared to the Project. However, the inconsistency itself does not necessarily equate with a physical impact on the environment. Under the No Project Alternative, no new development would occur

and the project site would remain “substandard” according to the Precise Plan. Furthermore, this alternative does not meet any of the project objectives.

B. Existing R-3 Zoning Alternative

1. **Description.** The intent of this alternative is to describe the comparable impacts of development on the site without the Zoning Amendment proposed under the Project. The Existing R-3 Alternative would be essentially the same as the Project, but this alternative assumes that development on the project site would occur as permitting under the existing R-3 (Medium Density Residential) residential district and ECR (Precise Plan for El Camino Real) combining district (R-3/ECR). Based on the R-3 zoning district, a maximum of 123 units (24 dwelling unit per acre [du/ac]) are permitted. This represents 30 fewer dwelling units than the Project (153 units to 123 units). All other aspects of the Project would be the same.
2. **Comparison to the Proposed Project.** Residential and non-residential uses (office or retail) would be constructed with the same site plan as the Project, but with fewer residential units. Fewer residential units would generate less population; therefore, impacts to public services would also be less. Therefore, the significant-but-mitigable impacts related to air quality, biological resources, cultural resources, and noise, and significant-and-unavoidable impacts related to transportation and circulation caused by the Project would be less but comparable under this alternative.
3. **Finding.** Development under this alternative would result in less residential development than that of the Project (123 units compared to 153 units). Accordingly, this alternative would slightly reduce impacts from the Project and would not require a Zoning Amendment. This alternative would generally meet all of the project objectives including the following: higher density of development on a relatively underdeveloped site; would increase the attractiveness of the El Camino corridor by providing a mixed-use building along the corridor; and would provide a pedestrian-scale environment particularly along the El Camino Real, Wolfe Road and Fremont Avenue frontages with architectural massing, architectural features, landscaping, low walls, planters and open space. However, as described in the EIR, because this site is a recognized in multiple local and regional planning documents (e.g., Sunnyvale General Plan, El Camino Precise Plan, *Plan Bay Area*) as a site that can accommodate high density housing near transit as a tool to reduce vehicle miles traveled (VMT) and subsequently reduce local and regional traffic congestion, air quality, and GHG emissions, the reduction of 30 units under this alternative would not fully achieve the same potential to reduce VMT as that of the Project.

C. Corner Lot Site Plan Alternative

1. **Description.** The Corner Lot Site Plan Alternative would be similar to the Project in terms of proposed square footage, number of units, and overall site layout; however, the Corner Lot Site Plan Alternative would incorporate use of the parcel that is currently developed existing offices at the corner of East Fremont Avenue and South Wolfe Road. Under this alternative, these offices would be demolished; therefore, this alternative would eliminate the additional demand to public services and utilities service providers, and vehicular trips from operation of the medical offices. This alternative would result in the corner parcel being used as open space and would include a pool and spa, turf, garden seating area, additional trees and landscaping, and a BBQ/fireplace area for the proposed apartment buildings. The inclusion of the corner parcel would allow the project to increase pervious surfaces that would lessen hydrology and drainage impacts, and would accommodate potential roadway improvements that the City is contemplating as part of their study along the Wolfe Road corridor in the vicinity of the project. Specifically, under this alternative, an additional right turn lane on South Wolfe Road could be accommodated.
2. **Comparison to the Proposed Project.** Residential and non-residential uses (office or retail) would be constructed within the same general site plan as the Project, but would expand the open space and outdoor recreation area associated with the apartment component. Therefore, the significant-but-mitigable impacts related to air quality, biological resources, cultural resources, and noise, and significant-and-unavoidable impacts related to transportation and circulation caused by the Project would be comparable under this alternative. The demand to public services and utility providers, and vehicular trips associated with the existing medical offices would be eliminated under this alternative, which would result in slightly reduced traffic related impacts when compared to the Project.
3. **Finding.** Development under this alternative would result the same level of residential and non-residential (office and retail) development as the Project, but would eliminate demand and vehicular trips from the existing medical offices. Accordingly, this alternative would slightly reduce impacts, but generally would result in comparable impacts to those of the Project. This alternative would meet all of the project objectives as well.

D. Revised Site Plan Alternative

1. **Description.** The Revised Site Plan Alternative would be similar to the Project in terms of the non-residential square footage and overall site layout. However,

under the Revised Site Plan Alternative the total number of dwelling units would be reduced by 15 units (153 units to 138 units), the apartment building heights are reduced by 11 feet in some locations, but the maximum height potential is similar to the Project. The El Camino Building footprint would be reduced, which would allow for additional orchard planting and the preservation of three coast live oak trees that are identified for removal under the Project. Furthermore, like the Corner Lot Alternative described above, the corner parcel would be incorporated to function as an outdoor recreational space for residents and would include a pool and spa, turf, garden seating area, additional trees and landscaping, and a BBQ/fireplace area for the proposed apartment buildings. The incorporation of the corner lot would accommodate potential roadway improvements (i.e., an additional right turn lane on South Wolfe Road) that the City is contemplating as part of their study along the Wolfe Road corridor in the vicinity of the project site. Because the medical offices would be demolished, this alternative would eliminate the additional demand to public services and utilities service providers, and vehicular trips from operation of the medical offices. The inclusion of the corner parcel, as well as the reduced footprint of the El Camino Building, would allow the project to increase pervious surfaces that would lessen hydrology and drainage impacts.

2. **Comparison to the Proposed Project.** Residential and non-residential uses (office or retail) would be constructed within the same general site plan as the Project, but would expand the open space and outdoor recreation area associated with the apartment component and the residential units would be reduced by 15 units. Therefore, the significant-but-mitigable impacts related to air quality, biological resources, cultural resources, and noise, and significant-and-unavoidable impacts related to transportation and circulation caused by the Project would be slightly less, but generally comparable under this alternative. The demand to public services and utility providers, and vehicular trips associated with the existing medical offices would be eliminated under this alternative, which would result in slightly reduced traffic related impacts when compared to the Project. This is the environmentally superior alternative.
3. **Finding.** Development under this alternative would result in less intense development than that of the Project with a reduction of 15 units (153 units compared to 138 units), modified building heights that are reduced by 11-feet in some locations, and modified building footprints that would allow for the preservation of more trees protected under the SMC. This alternative would also eliminate the additional demand to public services and utilities service providers, and vehicular trips from operation of the medical offices. Accordingly, this alternative would slightly reduce impacts from the Project. This alternative would generally meet all of the project objectives including the following: higher density

of development on a relatively underdeveloped site; would increase the attractiveness of the El Camino corridor by providing a mixed-use building along the corridor; and would provide a pedestrian-scale environment particularly along the El Camino Real, Wolfe Road and Fremont Avenue frontages with architectural massing, architectural features, landscaping, low walls, planters and open space. However, as described in the EIR, because this site is a recognized in multiple local and regional planning documents (e.g., Sunnyvale General Plan, El Camino Precise Plan, *Plan Bay Area*) as a site that can accommodate high density housing near transit as a tool to reduce vehicle miles traveled (VMT) and subsequently reduce local and regional traffic congestion, air quality, and GHG emissions, the reduction of 15 units under this alternative would not fully achieve the same potential to reduce VMT as that 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 unacceptable operation at the intersection of Kingfisher Way and East Fremont Avenue under Existing, Background, and Cumulative conditions, is acceptable due to overriding concerns described herein. Based on the objectives identified in the Project and EIR, the Council has determined that the Project should be approved, and the unmitigated environmental impact 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 Kingfisher Way and East Fremont Avenue intersection, while the intersection meets the CA MUTCD peak hour signal warrant, installation of a traffic signal could affect through movement progression on the East Fremont Avenue corridor and may potentially cause additional congestion. Therefore, this impact will remain significant and unavoidable notwithstanding adoption of feasible mitigation measures. Because the recommended mitigation measure would result in secondary significant impacts on East Fremont Avenue, 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 proposed Revised 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 single significant and unavoidable adverse effect of the Revised Project.
- B. The City Council finds that the development of the site with a residential use consisting of 138 residential dwelling units and 6,934 square feet of retail/office is consistent with the policies of the City of Sunnyvale's General Plan's Housing Element and the Precise Plan for El Camino Real. 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 proposed Revised Project would redevelop the site that is described in the Precise Plan for El Camino Real as "substandard" area in need of redevelopment or renovation with a mixed-use project that includes architectural design feature that promote a pedestrian scale particularly along the El Camino Real, Wolfe Road and Fremont Avenue frontages with architectural massing, architectural features, landscaping, low walls, planters and open space. The architectural design will encourage pedestrian activity around the project boundary.
- D. The proposed Revised Project is consistent with the Grand Boulevard Initiative given the main goal is to support planning and implementation efforts that transform the El Camino Real Corridor into a place for residents to work, live, shop, and play.
- E. The proposed Revised Project would increase the number of residents in the El Camino Real corridor to support the existing and proposed commercial retail uses in the area.
- F. The proposed Revised Project would increase the variety of housing options in the City of Sunnyvale, including for-sale and rental residences of various sizes.
- G. The proposed Revised Project recognizes the importance of linking land use and transportation planning and includes high-density development near transit.
- H. The proposed Revised Project concentrates growth in existing urbanized areas as infill development and thereby results in fewer impacts from the construction of new infrastructure.
- I. The proposed Revised Project is consistent with key regional planning documents and regulations including *Plan Bay Area*, which is the Bay Area's Regional Transportation Plan (RTP)/Sustainable Community Strategy (SCS), the City-endorsed VTA *Community Design and Transportation (CDT) Program Cores, Corridors and Station Areas Framework*, which shows VTA and local jurisdiction priorities for supporting concentrated development in the County, and Senate Bill 375, the Sustainable Communities and Climate Protection Act.
- J. The proposed Revised Project allows for a mixed-use development in a transit priority area with connecting streets configured to facilitate walking and biking to promote mass transit use thereby reducing local and regional Vehicles Miles Traveled (VMT), which

translates into air quality and greenhouse gas emissions benefits and increases in resources and energy efficiency, as recognized by California Department of Transportation (Caltrans), Santa Clara Valley Transportation Authority, Metropolitan Transportation Commission (MTC) and Association of Bay Area Governments (ABAG). The Project site is identified as within the *Plan Bay Area's* "Sunnyvale El Camino Real Mixed-Use Corridor Priority Development Area" and the VTA's transit priority "Corridor".

- K. The City has recently completed a study along the Wolfe Road corridor in the vicinity of this project. The Project applicant will be required to make a fair-share contribution towards these improvements identified in the study.

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-1.7 Contribute to efforts to minimize region-wide average trip length and single-occupant vehicle trips. Locate higher intensity land uses and developments so that they have easy access to transit services.

Policy LT-2.1 Recognize that the City is composed of residential, industrial and commercial neighborhoods, each with its own individual character; and allow change consistent with reinforcing positive neighborhood values.

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

Policy LT-4.13b Support convenient neighborhood commercial services that reduce automobile dependency and contribute positively to neighborhood character.

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

Policy CC-3.1 Place a priority on quality architecture and site design which will enhance the image of Sunnyvale and create a vital and attractive environment for businesses, residents, and visitors, and be reasonably balanced with the need for economic development to assure Sunnyvale's economic prosperity.

Policy CC-3.2 Ensure site design is compatible with the natural and surrounding built environment.

Policy HE-1.1 Encourage diversity in the type, size, price and tenure of residential development in Sunnyvale, including single-family homes, townhomes, apartments, mixed-use housing, transit-oriented development and live-work housing.

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

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 March 26, 2015, and December 13, 2016.
- 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.