



City of Sunnyvale

Agenda Item

16-0850

Agenda Date: 11/28/2016

REPORT TO PLANNING COMMISSION

SUBJECT

Proposed Project: Forward Recommendations on related applications on five parcels totaling 5.49 acres at El Camino Real/Wolfe Road/Fremont Avenue:

REZONE: Introduction of an Ordinance to rezone one parcel from C-1/ECR to R-3/ECR,

SPECIAL DEVELOPMENT PERMIT: To allow 138 residential units (39 townhomes and 99 flats) and 6,934 square feet of retail/office use with surface and underground parking,

VESTING TENTATIVE MAP: To create 40 lots and one common lot, which includes 39 townhome lots and one lot for condominium purposes (99 residential condominiums and one commercial condominium), and

CEQA: Adopt a Resolution to Certify the Environmental Impact Report, adopt a Statement of Overriding Considerations and Mitigation Monitoring and Reporting Program

File #: 2014-7373

Location: 871 and 895 E. Fremont Ave. (APNs: 211-25-011, 211-25-033, 211-25-034, 211-25-038 and 211-25-039)

Zoning: R-3/ECR and C-1/ECR

Applicant / Owner: De Anza Properties

Environmental Review: Environmental Impact Report

Project Planner: Noren Caliva-Lepe, (408) 730-7659, ncaliva-lepe@sunnyvale.ca.gov

REPORT IN BRIEF

General Plan: Residential High Density (27-45 units per acre)

Existing Site Conditions: Former orchard containing two homes; and an existing medical office building

Surrounding Land Uses

North: Multi-family residential and commercial uses

South: Multi-family residential and commercial uses

East: City-owned landscaped parcel and commercial uses

West: Multi-family residential

Issues: Environmental impacts, neighborhood compatibility, aesthetics, trees

Staff Recommendation: Recommend to City Council to Certify the Environmental Impact Report, Make the Findings Required by CEQA and Adopt the Statement of Overriding Considerations and Mitigation Monitoring Program; Introduce an Ordinance to Rezone 895 E. Fremont Avenue to R-

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3/ECR; and Approve Special Development Permit and Vesting Tentative Map with conditions.

BACKGROUND

Site Conditions

There are two properties included in this application. The largest is commonly referred to as the “Butcher property”, and is comprised of four parcels totaling approximately five acres and includes two homes, several accessory structures and was previously used for agricultural purposes. The property was approved by the City Council to be annexed to the City of Sunnyvale on October 13, 2015. The current general plan designation of the site is Residential High Density (up to 45 dwelling units per acre) and the zoning designation is R-3/ECR (Medium Density Residential/Precise Plan for El Camino Real), which allows up to 24 units per acre.

The other property included in the application is adjacent to the Butcher property at the southeast corner of the site (895 E. Fremont Avenue). This property is less than half an acre in size and is currently developed with a 5,600 square foot two-story medical office building, surface parking and landscaping. The property is commonly referred to as the “corner office property”. The Zoning designation of the property is C-1/ECR (Neighborhood Commercial/Precise Plan for El Camino Real), which generally includes shopping centers and uses that serve adjacent residential neighborhoods. The property also currently contains a roof-mounted wireless telecommunication facility (T-Mobile).

Application History

De Anza Properties purchased the Butcher property in 2013. Originally the application included only the Butcher property; below is a summary of the development applications:

- June 2013 - Preliminary Review (PR) concept plan submitted to redevelop the Butcher property for 196 units and 45,000 square feet of commercial use, with the tallest building being eight stories and 92 feet in height. At a City Council Study Session held on September 13, 2013, the City Council confirmed that the requirement to provide a minimum of 20% of the lot area for commercial use did not apply to sites zoned residential (Sunnyvale Municipal Code (SMC) Section 19.26.170).
- January 2014 - Second PR concept plan was submitted for 160 residential units and no commercial use, with the tallest building at seven stories or approximately 75 feet in height.
- July 2014 - Formal application submitted for 153 residential units (39 townhomes plus 114 apartment units) and 6,936 square feet of retail/office use. The project included 3-story townhomes on the west side, a five-story apartment building facing El Camino Real (referred to as “El Camino building”) containing the retail/office on the ground floor, and a seven-story apartment building facing Fremont Avenue (referred to as “Fremont building”). Based on the density proposed of 30 units an acre, the project required a Rezone to R- 4/ECR (High Density Residential/Precise Plan for El Camino Real, up to 36 units per acre).
- July 2016 - The application was refined to include the corner office property and consists of 138 residential units (39 townhomes and 99 apartment units) and 6,934 square feet of retail/office use on the ground floor of the El Camino apartment building. The office property would become part of the common open space for residents of the development. The existing dental office tenant would be relocated into the ground floor tenant space of the development. With the addition of the office property and reduction in residential units, rezoning is no longer required for the Butcher

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property and the existing zoning designation of R-3/ECR would remain. Rezoning of the corner office property is required from C-1/ECR to R-3/ECR.

Description of Proposed Project

The project was modified to respond to concerns raised during the course of the application and community outreach process. Below are key differences between the July 2014 project plans and the current July 2016 project plans:

- Inclusion of the corner office property as private common open space,
- Reduction of 15 residential units (13 units reduced from the El Camino building and two units reduced from the Fremont building),
- Reduction of height for portions of the apartment buildings (one floor removed from the corner portion of the El Camino building and one floor removed from a portion of the front elevation on the apartment building facing Fremont Avenue), and
- Preservation of additional trees (three corner Live Oak trees).

The project includes the following applications:

- **Rezone** - With inclusion of the corner office property into the project application, the net lot size (minus street dedications) is approximately 5.49 acres. To accommodate the requested 138 units for the project site, the applicant proposes to maintain the existing R-3/ECR zoning of the Butcher property and rezone the corner office property from C-1/ECR to R-3/ECR. The R-3 designation allows up to about 24 units per acre, or 132 units total on the project site. The applicant proposes to utilize the City's Green Building Incentive Program to obtain a 5% density bonus, or six additional units.
- **Special Development Permit** - A Special Development Permit (SDP) is required for site and architectural review. A SDP also allows for consideration of deviations from specific development standards in exchange for superior design, environmental preservation or public benefit. The applicant is requesting deviations from the minimum front setback requirement along El Camino Real and distance between buildings. Discussion on the requested deviations can be found later in the report.
- **Vesting Tentative Map** - A Tentative Map is required for the creation of ownership lots and future condominiums. A Vesting Tentative Map (VTM) vests the developer's right to build the project for the life of the map and secures the approved project against future code changes that might otherwise affect the project. The VTM is valid only in conjunction with the approved site plan and conditions of approval. The map includes 39 townhome ownership lots, one common lot containing primarily circulation areas, plus one lot is proposed for the El Camino and Fremont buildings for future condominium purposes. At this time, the applicant has expressed interest in renting the 99 units within the El Camino and Fremont buildings, but would like to reserve the right to convert the rental units into ownership condominiums in the future.

See Attachment 1 for a map of the vicinity and mailing area for notices and Attachment 11 for the Data Table of the project. Attachment 3 contains findings for the requested Rezone, SDP, and VTM.

Public Hearing Schedule

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The project also includes the preparation of an Environmental Impact Report. Several community members expressed concerns that the entire project and EIR have been scheduled for the same Planning Commission and City Council public hearings (anticipating that the EIR would be considered prior to the development proposals). The City Council policy is to schedule hearings on all related applications and environmental review as a package, unless there is also a request to amend the General Plan. In those cases the public hearings on the environmental review, general plan amendment and rezone are held prior to project level public hearings and decisions. There is no General Plan amendment requested with these related applications.

EXISTING POLICY

General Plan Designation: The General Plan designation for all of the parcels is Residential High Density (27-45 units per acre). The zoning designation that would be most consistent with the General Plan is R-4 (up to 36 units per acre). The R-3 zoning (up to 24 units per acre) is also considered consistent with the General Plan designation. The City Council has the discretion to consider the R-3 zoning based on the overall merits of the project and general consistency with relevant goals and policies. See Attachment 3 for required findings.

General Plan Goals and Policies: The General Plan is the primary policy plan that guides the physical development of the City. Key goals and policies from General Plan pertaining to the proposed project are provided below and further discussed in Attachment 3.

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-1.3 Ensure that new development is compatible with the character of special districts and residential neighborhoods.

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

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density, unless an exception is granted by the City Council.

Precise Plan for El Camino Real: The current Precise Plan for El Camino Real was adopted by the City Council in 2007, and contains a vision, design guidelines and goals to guide development off properties located within the plan area (parcels containing the ECR zoning combining district). Key guidelines and goals are also noted in Attachment 3. The City is currently updating the plan and anticipates public hearings to consider the plan by the end of 2017.

Applicable Design Guidelines: The Precise Plan for El Camino Real and the Citywide Design Guidelines provide recommendations for site layout, architecture, and design. These guidelines are referenced in the discussion and analysis below.

ENVIRONMENTAL REVIEW

Purpose

The California Environmental Quality Act (CEQA) requires that all state and local government agencies consider the environmental consequences of projects for which they have discretionary authority. An Environmental Impact Report (EIR) has been prepared by PlaceWorks, an environmental consultant managed by the City, in compliance with CEQA provisions. An EIR is an informational document used as part of the decision-making process. It is not the purpose of the EIR to recommend either approval or denial of a project.

A copy of the full EIR and technical appendices can be found on the project webpage at ButchersCorner.inSunnyvale.com <<http://ButchersCorner.inSunnyvale.com>>.

Milestones

The EIR process began in early 2015, with the release of the Notice of Preparation on March 26, 2016, which signals the City's intent to begin the EIR process. The scope of the EIR was based on the originally submitted September 2014 project plans. A scoping meeting was held on April 23, 2015 to provide an opportunity for public agencies and members of the public to provide direction on the issues to be addressed in the EIR. Subsequently, the Draft EIR was prepared and released for public review. During the review process, a Planning Commission public hearing was held on May 9, 2016 to accept comments on the adequacy of the Draft EIR. In addition to the oral comments received at the Planning Commission public hearing, staff also received 93 letters from members of the public, a letter from the California Department of Transportation, and a letter from Santa Clara Valley Transportation Authority (VTA). While the Final EIR was being prepared, the applicant submitted revised plans for the currently-proposed project (the July 2016 proposal). The Final EIR was prepared to respond to comments received on the Draft EIR and to address the impacts of the revised plans. Below are the key milestones in the EIR process:

Milestone:	Dates:
Notice of Preparation (30-day public review)	March 26, 2015 - April 27, 2015
EIR Scoping Meeting	April 23, 2015
Notice of Availability (45-day public review)	April 8, 2016 - May 23, 2016
Planning Commission Draft EIR public hearing	May 9, 2016
Notice of Availability of the Final EIR	November 9, 2016

Alternatives Analysis

The EIR analyzed alternatives to the proposed project that are designed to reduce the significant environmental impacts of the proposed project and feasibly attain the proposed project objectives. The following is a summary of the alternatives analyzed and conclusions:

- **No Project Alternative** - Under this alternative, the existing project site would remain in its current condition as an orchard and two houses. The EIR concluded that this alternative would have the fewest environmental impacts.
- **Existing R-3 Zoning Alternative** - As previously noted, the corner office building was not a part of the originally submitted project that the EIR was scoped with. This alternative would preserve the existing R-3 zoning designation of the Butcher property, contain fewer units, and maintain the general site layout and building forms. This alternative would minimally reduce impacts from construction noise and demand on public service providers.
- **Corner Lot Site Plan Alternative** - This alternative would maintain the original R-4 density proposed and site layout and building forms, but would also include the demolition of the corner office building and conversion into private open space. Removal of the corner office building would allow additional land area along the Wolfe Road frontage to be dedicated to the City to potentially accommodate a dedicated right-turn lane from Wolfe Road to Fremont Avenue, which is currently being studied by the City. If the Wolfe Road improvement is approved, the applicant would be required to make a fair-share contribution. This alternative would result in slightly reduced impacts related to greenhouse gas emissions and hydrology and water quality.
- **Revised Site Plan Alternative** - The Revised Site Plan Alternative (based on the July 2016 design) was introduced in the Final EIR in order to provide a comparative analysis of the revised project to the original projected. This alternative is a combination of the Existing R-3 Zoning Alternative (reduced units) and the Corner Site Plan Alternative (conversion of the corner office building parcel into private open space). Similarly, the Wolfe Road improvements could be accommodated under this alternative. This alternative would result in slightly reduced impacts related to greenhouse gas emissions, hydrology and water quality, noise, public services, transportation and circulation, and utilities and service systems.

CEQA Guidelines state that an EIR must identify an environmentally superior alternative. Based on the analysis, the environmentally superior alternative is the No Project Alternative because this alternative would result in the fewest environmental impacts. CEQA Guidelines continue that if the No Project Alternative is the environmentally superior alternative, the EIR must also identify an environmentally superior alternative among the other alternatives. Given this requirement, the Revised Site Plan Alternative would be considered the environmentally superior alternative.

Significant and Unavoidable Impacts

A significant and unavoidable impact is an impact that cannot be mitigated to a less-than-significant level if the project is implemented as proposed. The EIR identified the following impact as significant and unavoidable:

- **Transportation (Kingfisher/Fremont)** - The EIR found that the project would contribute to unacceptable operation at the unsignalized intersection of Kingfisher Way and E. Fremont Avenue under existing, background, and cumulative conditions. Impacts at unsignalized intersections are considered significant if the LOS with the project trips result in Level of Service (LOS) E or F and if the intersection satisfies the California Manual on Uniform Traffic Control Devices (CA MUTCD) peak-hour volume signal warrant. The table below shows expected LOS

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and delays during the peak hours of 7 a.m. to 9 a.m. (AM) and 4 p.m. to 6 p.m. (PM):

	Existing	Existing + Project	Background + Project	Cumulative + Project
AM	F (60 sec delay)	F (92.9 sec delay)	F (92.9 sec delay)	F (286.3 sec delay)
PM	F (67.9 sec delay)	F (93.7 sec delay)	F (93.7 sec delay)	F (337.6 sec delay)

As shown on the table, the existing intersection operates at LOS F with delays in the AM and PM peak of about one minute. Under each scenario, further delays would occur. The longest delay would occur under the Cumulative plus Project scenario with an over four-minute delay in the AM peak and over five-minute delay during the PM peak.

Installation of a traffic signal at this intersection was considered; however, the EIR found that a new signal could affect traffic progression along the E. Fremont Avenue corridor and may potentially cause additional congestion. Therefore, the EIR found that installation of a signal to mitigate this impact is not recommended and no other mitigation is feasible. Therefore, the impact is significant and unavoidable.

Analysis identified a significant and unavoidable impact 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 S. 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.

Mitigable Impacts

The EIR identified that the following impacts can be reduced to a less-than-significant level, with implementation of the mitigation measures:

- **Air Quality** - Incorporate measures to reduce impacts of fugitive dust (Particulate Matter, or PM, 10 and 2.5), criteria pollutant emissions, Toxic Air Contaminants and PM-2.5, and cumulative impacts in the San Francisco Bay Area Air Basin.
- **Biological Resources** - Include measures to ensure avoidance of nesting birds, roosting bats, and adequate protection and replacement of protected trees (including protections needed for Valley Oak Tree #106).
- **Cultural Resources** - Incorporate techniques to reduce impacts to an unknown archeological resource, affect an unknown unique paleontological resource or site, or unique geological feature, and to an unknown Tribal Cultural Resource.
- **Noise** - Reduce interior noise levels within the retail/office tenant space and residential units, and project-related construction noise.

A Mitigation Monitoring and Reporting Program (MMRP) containing mitigation measures, and identifying the party responsible for implementation, timing for implementation and party responsible

for monitoring and monitoring frequency is included in Attachment 4.

Other Key Issues

The following issues below were raised by members of the public during the EIR process, but found not to have a significant impact or not CEQA-related. While an issue may not be CEQA-related, it may be used by the City in its evaluation of the merits of the project and determination of the project's consistency with policies and guidelines.

- **El Camino/Wolfe Traffic** - The E. El Camino Real and S. Wolfe Road intersection currently operates with LOS D in the AM peak and E+ in the PM peak. Impacts are considered significant if LOS drops below LOS E with project trips added. While the project will result in further delays in this intersection, at no time does the LOS drop below LOS E; therefore, the impact on this intersection is less than significant. The City acknowledges that this intersection is one of the most congested in the City, and the Department of Public Works will continue to monitor the intersection through implementation of the Wolfe Road Corridor Traffic Improvement Study. In addition, the project's Conditions of Approval require the applicant to pay a fair share contribution (proportional to the project's impacts) towards improvements identified in the Wolfe Corridor Study.
- **Overcrowded Public Schools** - Based on student generation rates established by Cupertino Unified School District (CUSF) and Fremont Union High School District (FUHSD), the project could generate 57 new elementary and middle school students and 38 new high school students. It is acknowledged that both school districts are experiencing overcrowding at the assigned attendance areas, however, managing school population and the determination for a new of physically altered school facility is outside the jurisdiction of the City. According to State law (Government Code Section 65995(3)(h)), the payment of school impact fees is "deemed to be full and complete mitigation" for impacts from new residential projects. As population continues to grow, the City will continue to work with the school districts on planning efforts.
- **Heritage Trees** - In June 2016, the Heritage Preservation Commission authorized staff to study the potential nomination of six trees on the Butcher Property for listing as Heritage Trees. Staff received several comments in the EIR that the designation of Heritage Trees was not adequately analyzed in the EIR. According to the EIR, the trees were not considered heritage resources, and according to CEQA Guidelines Section 15125(a), information available at the time of the NOP is applied to the baseline conditions under which impacts are measured. At the time of the NOP issuance in March 2015, no cultural resources were designated on the property and there were no pending studies to examine the nomination of Heritage Trees. Therefore, it is outside of the purview of the EIR. However, the City Council has discretion to nominate resources. See later discussion on the possible nomination of Heritage Trees.
- **Aesthetics** - Several comments were received regarding aesthetic impacts associated with the proposed building heights, mass and architecture. As noted in the EIR, the property is within a transit priority area and aesthetic impacts of the infill project cannot be considered significant impacts on the environment (Senate Bill 743). While aesthetic impacts are not considered to be significant per CEQA, the City retains full discretion to evaluate aesthetics in the overall review of a project's merits.

Staff Comments on EIR

Staff has determined that the FEIR, consisting of the Draft EIR, comments received on the Draft EIR, response to the comments, and a list of persons and public agencies commenting on the Draft EIR,

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meets the requirements of CEQA both in content and format. While the project results in a significant and unavoidable impact, the City has the authority to decide if the benefits of the project outweigh the impacts. Staff finds that the provision of additional housing, and the economic, environmental, and social benefits of the project outweigh the significant and unavoidable transportation impacts on the Fremont/Kingfisher intersection, and has included a Statement of Overriding Considerations in Attachment 5. Certification of the EIR means only that the EIR is an adequate environmental document. A separate action is required to approve or deny the project. Certification of the EIR and adoption of the Statement of Overriding Considerations, however, is required before the project can be approved. As previously noted, non-CEQA related issues, such as aesthetics, can be considered as part of the overall merits of the project.

Should it be determined that the EIR is not adequate, the Planning Commission or City Council may state those areas of discussion where the document is deficient and recommend that additional analysis be prepared prior to certification. Any changes to the mitigation measures in the EIR may affect the accompanying determination of significance. The deletion or alteration of a mitigation measure may result in a determination of a significant unavoidable impact where a less-than-significant impact was determined as originally mitigated. If a changed mitigation measure creates a significant unavoidable impact, a Statement of Overriding Considerations will be required and a new hearing will have to be conducted. No project related actions can be taken until the FEIR is certified.

DISCUSSION

Development Standards

Site Layout: The proposed project includes demolition of the existing homes on the Butcher property and the two-story office building on the corner office property. The applicant proposes to construct a mixed-use project consisting of 138 residential units and 6,934 square feet of ground-floor retail/office space.

The project includes 39 three-story townhomes within 18 buildings, located along the western portion (approximately half) of the site. Each townhome unit contains three to five bedrooms and a two-car garage. Private yards are also provided for each townhome unit.

The eastern portion of the site contains the remaining 99 apartment units within the El Camino and Fremont buildings, office space in the building on El Camino Real, and the community open space and activity areas. The El Camino building contains 46 units, with two to four bedrooms each. The retail/office tenant space is located on the ground floor, facing El Camino Real. The leasing office and private amenity areas, such as fitness rooms, are along located along the El Camino Real ground floor. The Fremont building contains 53 units, with one to four bedrooms each. Parking for the apartment units and retail/office use will be located on three levels of underground parking beneath the buildings. Common open space is located at the corner of E. Fremont Avenue and S. Wolfe Road, which includes landscaped areas, a swimming pool and an accessory structure containing bathrooms and pool equipment.

Setbacks: Minimum setback requirements are proposed along the project perimeter. The project complies with minimum 20-foot rear yard setbacks bordering the west property lines (adjacent to Tapadero condos and Oakwood apartments). The rear setback areas function as the private rear yards for the townhome units, which helps to reduce visual and privacy impacts to the adjacent properties.

Properties within the ECR combining district are permitted with a zero front setback for non-residential uses and a minimum of 15-foot front setback for residential uses. Front setbacks are measured from the back of the new public sidewalk. The townhome units facing Fremont Avenue comply by providing just over 15 feet front setback. The Fremont building also complies by providing 15 feet. The retail/office portion of the El Camino building is setback approximately eight feet where zero is permitted. The residential units directly on top of the retail/office area are also setback approximately eight feet where 15 feet minimum is required, for which approval of a deviation is requested. The remaining front setback for the building on El Camino Real complies with setbacks greater than 15 feet.

Distance between Buildings: The minimum distance required between the three-story townhome buildings is 26 feet. Where townhome buildings are located side-by-side, the distance between buildings ranges from almost seven feet to approximately 11 feet. Where front elevations or garage elevations face each other, the distance requirement is met.

The minimum distance required between the apartment buildings is 38 feet. The apartment buildings are sited roughly perpendicular to each other. At the closest point, the distance between buildings is just over 24 feet, which requires a deviation.

Staff supports the requested deviation in order to concentrate mass towards the center of the site and open up more land for open space and required circulation areas. In addition, areas that are deficient are minimally visible from the street frontages and are generally concentrated towards the middle of the site.

Building Height/Stories: The maximum height permitted in the ECR combining district is 75 feet (eight stories) to the main roof. Architectural features, mechanical equipment, and elevator shafts are permitted to exceed the height limit by an additional 25 feet. The three-story townhome buildings range in height from almost 36 feet along the west property line and Fremont Avenue street frontage to approximately 39 feet interior to the site.

The El Camino building ranges in height from approximately 52 feet (four stories) along at the Wolfe Road corner and 63 feet (five stories) along the west property line. The Fremont building also ranges in height from approximately 63 feet (six stories) for the first 46 feet of the building, and steps up to 74 feet (seven stories). All buildings comply with the maximum height standards. More discussion of this issue is provided under the Neighborhood Compatibility section of the report.

Vehicular Circulation and Parking: Vehicular access to the site is provided by a two-way driveway facing Fremont Avenue. The drive aisle is configured in a circular manner, to allow for direct access into to the underground parking garage and into the townhome portion of the site. An additional driveway along the west side is planned for emergency access only.

The proposed project includes 183 assigned residential (two enclosed garage spaces for each townhome and at least one assigned for each apartment unit), 137 unassigned residential, and 28 retail/office spaces, for a total of 348 parking spaces. Approximately one-third of the assigned parking spaces are tandem and are assigned to the same unit. The table below demonstrates compliance with parking requirements contained in SMC 19.46.060:

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	Required	Proposed
Assigned Residential	177 (2 per townhome plus 1 per apartment unit)	183 (2 per townhome plus 1.06 per apartment unit)
Unassigned Residential	121 (0.89 per unit)	137 (0.99 per unit)
Retail/Office Use	28 (4 per 1,000 sq ft)	28 (4 per 1,000 sq ft)
Total	326	348

The proposed project exceeds the minimum parking requirements by 22 spaces. The additional on-site parking helps to alleviate demand for street parking, which is restricted along the entire set of project frontages. As a standard requirement for similar developments, a Parking Management Plan is be required to ensure efficient use of parking spaces and to consider the ability to share parking between the unassigned residential, guest, and retail/office spaces (see Condition of Approval PS-7 in Attachment 4).

Bicycle Parking: SMC Section 19.46.150 requires a minimum of 35 secured bicycle parking spaces for the residential uses plus two spaces for the office/retail use, for a total of 37 bicycle parking spaces. The townhome garages count as one bicycle parking space each.

The proposed project contains 39 bicycle spaces within the townhome garages plus 47 spaces within the underground parking garage, for a total of 86 bicycle parking spaces. Therefore, the bicycle parking spaces provided exceeds the minimum required.

Transportation Demand Management: As a condition of approval, the project is subject to the recently-adopted Multi-Family Residential Transportation Demand Management (TDM) requirements. Based on the proposed density, a minimum of 10 points from the adopted TDM Strategies is required. The project location (less than a half-mile from a major transit stop and less than a quarter-mile from a shopping center with at least three tenants) totals 8 points. The applicant has committed to offering each unit in the development with discounted Caltrain transit passes for the first 10 years following project completion, which achieves the additional 2 points needed (see Condition of Approval BP-26 in Attachment 4).

Lockable Storage: SMC Section 19.38.040 requires a minimum of 300 cubic feet of lockable storage space per unit. The townhome garages satisfy the lockable storage requirements for the townhome units. The El Camino building satisfies the remaining lockable storage requirement by providing storage areas within the underground parking levels.

Trash and Recycling Access: The applicant has worked closely with the Sunnyvale Solid Waste Coordinator to ensure sufficient trash and recycling capacity and access. Each townhome unit includes a minimum 450 square-foot garage, which provides sufficient area for storage of trash carts. The carts will be staged along the private drive aisle during collection times. The apartment buildings contain trash chutes on each floor, with receptacles located in the underground parking garage. Property management will transfer the bins from the parking garage to a masonry trash enclosure located along the main drive aisle during collection times. All trash collection will occur on-site.

Landscaping and Usable Open Space: SMC Section 19.37.040 requires a minimum of 425 square feet of landscaping per unit, or 58,650 square feet for the site. The project provides 65,727 square

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feet of total landscaped area, which exceeds the minimum landscaping requirement.

In addition, a minimum of 400 square feet of usable open space is required per unit, or 55,200 square feet minimum for the site. Each townhome unit contains private yard areas and paseos between several of the buildings. In addition, the common open space area at the corner of Wolfe Road and Fremont Avenue provides a sizable area for outdoor recreation. In total, 55,493 square feet of usable open space is provided. The apartment units also contain balconies. Although many of the balconies do not meet the minimum dimensions to be considered useable open space, the balconies provide an additional private amenity for the apartment residents.

Outdoor Noise: The General Plan Noise element policy states that projects should attempt to achieve noise levels within common backyards and common recreational areas not to exceed 60 dBA. A noise level of 65 dBA is considered to be conditionally acceptable and is common for residential projects along major roadways. The General Plan acknowledges that a change of one dBA generally cannot be heard and that a change of three dBA is a just noticeable difference.

A noise study was prepared by RGD Acoustics, which found that the noise environment is primarily dominated by roadway noise (Attachment 10). The study found that noise levels within the private rear yards of the townhome units would range between 60 dBA and 65 dBA with fences that are at least six feet in height. Therefore, the proposed 6-foot tall masonry fences enclosing the rear yards of the townhomes achieve the acceptable noise level.

The common open space area is proposed to be enclosed with a five-foot tall masonry fence, which results in 67 dBA. To achieve a noise level of 65 dBA, the fence would need to be increased to eight feet in height. In staff's opinion, an eight-foot tall fence would create a more walled-off appearance at the corner than a five-foot tall fence and a two dBA reduction would barely be audible. Therefore, staff finds the five-foot tall fence and resulting 67 dBA to be acceptable (see Condition of Approval PS-1.d) in Attachment 4). The proposed shrubs and trees planted between the fence and public sidewalk will help to soften the appearance from the street.

Tree Preservation: An arborist report was prepared by HortScience, which assessed a total of 161 orchard trees and 92 non-orchard trees.

Summary of Trees

Total Existing Trees	253
Orchard Trees (exempt from Tree Preservation requirements)	161
Non-Orchard Trees	92
Protected Trees	45
Applicant Proposed Tree Preservation	4
Staff Recommended Additional Trees for Preservation	2
Proposed Replacement Trees (24-inch and 36-inch)	250

The study found 45 of the trees to be "protected" (all orchard trees are exempt from the tree preservation ordinance). SMC Section 19.94.030 defines protected trees as having a trunk size of 38

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inches in circumference, as measured 4.5 feet from the ground. Protected trees on this site primarily consist of California peppers, Canary Island date palms, Coast redwoods, Coast live oaks, and Valley oaks. Most of the protected trees are located interior to the site, including a 300-year old Valley oak (tree #106) that is in fair condition. A grove of five Coast live oaks (trees #119-123 and 126) are located at the corner of El Camino Real and Wolfe Road, which are in fair to good condition and are a noticeable feature of that corner of the site. In addition, a grove of four Coast live oak trees are located on the corner office property, with two in moderate condition (trees #116 and 118) and two in poor condition (trees #186 and 187).

Of the 45 protected trees, the proposed project includes removal of 39 trees due to poor health or conflicts with the location of buildings or infrastructure. The applicant proposes to preserve four protected trees, including the large Valley oak (tree #106) and three of the corner Coast live oaks (trees #119-121). Staff recommends that the applicant also preserve Coast live oak trees #116 and 118. These trees could be incorporated into the common open space area, either in their current location or relocated (see Condition of Approval PS-3.b) in Attachment 4). As conditioned by staff, a total of six protected trees would be preserved.

The 39 protected trees for removal are subject to the City's Tree Replacement Standards. The applicant proposes to plant 250 24-inch and 36-inch box trees, including a new grove of olive trees near the corner of El Camino Real and Wolfe Road. As a standard condition of approval, a final landscaping plan is required through a separate staff-level permit prior to building permit submittal. The final landscaping plan must also include a detailed tree protection and relocation plan, subject to review and approval by the City Arborist (see Condition of Approval PS-5 in Attachment 4).

Solar Access: SMC Section 19.56.020 states that new multi-story buildings cannot shade more than 10% of adjacent rooftops throughout the solar cycle. A solar study has been prepared demonstrating that the proposed buildings will not shade any adjacent rooftops during the most impacted (shortest) day of the year, on December 21st at 9 a.m. and 3 p.m. Therefore the project complies with solar access requirements.

Right-of-Way Improvements: The project is subject to providing street dedication along El Camino Real and Wolfe Road for road improvements including bike lanes along El Camino Real and Wolfe Road and a right-turn lane along Wolfe Road. As required for properties along El Camino Real, a minimum 15-foot pedestrian realm will be provided, which will consist of a 12-foot wide sidewalk and tree wells, plus more than 3 feet of landscaping beyond the sidewalk. New sidewalks will also be installed along the other street frontages, including a 10-foot sidewalk with tree wells on Wolfe Road and 6-foot wide sidewalk with a 4-foot wide planter strips on Fremont Avenue. Street trees and street lights will also be installed per City standards (see Condition of Approval EP-24 and EP-25 in Attachment 4).

Green Building Requirements: A minimum of 80 points on the GreenPoint Rated checklist is required for new multi-family residential construction in accordance with the City's Green Building Program. To obtain a 5% density bonus, or 6 units for this project, a minimum of 110 points is required. A GreenPoint Rated Checklist was prepared with 111 points targeted. In addition, a minimum of LEED Silver is required for the office/retail tenant space. A LEED Checklist was submitted demonstrating that the project can achieve LEED Silver level. Therefore, the project as designed meets the green building requirements (see Attachment 9 for green building checklists).

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Below Market Rate Housing: At this time, only the 39 townhome units are proposed for individual ownership. SMC Chapter 19.67 contains below market rate (BMR) housing requirements for ownership units. Options to comply with BMR requirements include (1) providing 12.5% of the units as BMR (four BMR units) and paying the remaining fractional difference of 0.88 units, or rounding up to five BMR units, or (2) paying an in-lieu fee equivalent to 7% of the contract sales price of all units in the development. The in-lieu fee option requires discretionary approval by the City Council. The applicant has expressed interest in pursuing the in-lieu fee option. If the applicant wishes to move forward with the request, a separate City Council public hearing will be required in the future (see Condition of Approval 9 in Attachment 4).

The 99 units within the El Camino and Fremont buildings are currently proposed as rental units. These units are exempt from the new rental housing impact fee requirements because a complete application was made prior to the effective date of the rental housing impact requirements. In addition, State law prohibits the City from requiring BMR units for rental projects. Future conversion of the rental units into ownership units will be subject to the BMR requirements contained in SMC Chapter 19.67 (see Condition of Approval 8 in Attachment 4).

Architecture and Design

The proposed architectural design of the townhome buildings is considered contemporary, with modern elements. Exterior materials on the townhome units primarily consist of smooth stucco painted in gray or off-white and applied in a gridded pattern with differing wall planes. Brown horizontal siding is applied as an accent material primarily on the upper floors. Window shapes and sizes vary throughout, which adds visual interest to the elevations. Roof forms also vary, consisting of traditional gables, flat, and asymmetric forms. A composition shingle material will be applied to the roof, with different tones of gray. Accent red and orange colors have been applied to doors and decorative trellises have been added over the entry features, which helps to create a sense of arrival.

The El Camino building has also been designed as contemporary. The building is approximately 330 feet wide along the El Camino Real frontage, and ranges in height from four stories at the corner to five stories interior to the site. The centered entry lobby is recessed back approximately 25 feet, which creates a visual break in the building. Exterior materials primarily consist of smooth plaster painted in gray, off-white, and earth-colored tones. Horizontal siding is tile has been applied as accent materials beneath windows and in several recessed walls sections. Stone and brick have also been included at the building base. The corner part of the building along El Camino and Wolfe includes a rounded element and a stone accent that spans the height of the building and creates visual interest from the street. Gridded windows are proposed with larger openings on the ground floor facing El Camino Real, which helps to create a more traditional storefront feel. Balconies have been provided for many of the units, either as balcony projections with wrought-iron railings or as balcony features incorporated into the building walls. A thick cornice cap has been added to the top of the building.

The Fremont building has a similar architectural design as the El Camino building, with a different mass. The building is approximately 85 feet wide along the Fremont Avenue frontage, and ranges in height from six stories for the first 50 feet of the building and steps up to seven stories interior to the site. Exterior materials and color are similar to the El Camino building, but includes darker gray tones and a gray-colored tile base. Windows and balconies also have a consistent theme as the El Camino building. The entry lobby is located along the side elevation, not facing Fremont Avenue. While entry features are typically encouraged along the street frontage, the base material, floor to ceiling

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windows and metal awnings along the first floor helps to create a pedestrian-scale design.

The amenity building within the common open space area is designed as Spanish-style, with off-white stucco and barrel-tile roofing. Decorative molding elements have been added to the gabled ends. The entry feature faces interior to the site and the rear and side of the building faces the El Camino Real and Wolfe Road street frontages. As conditioned by staff, the north elevation facing El Camino Real must be redesigned to include a false entry feature to add visual interest (see Condition of Approval PS-1.a) in Attachment 4). The proposed grove of olive trees planted in front of the building will help to unify the architectural theme with the landscaping.

Staff also recommends that windows for the townhomes and apartment buildings be recessed back at least 3 inches from the main wall. In addition, window glazing along the first floor facing El Camino Real must be kept clear and unobscured (see Condition of Approval PS-1 in Attachment 4). As conditioned, the proposed architecture is consistent with the Precise Plan for El Camino Real design guidelines (see findings in Attachment 3).

Neighborhood Compatibility

Architecture and Mass: The architectural design of the two apartment residential buildings is consistent with other recently approved projects within major street corridors. The design is most similar to the mixed-use project approved on the northwest corner of El Camino Real and Pastoria Avenue, for the expansion of the Grand Hotel with four-stories of residential facing El Camino Real and two-story homes facing Olive Avenue (same developer and architect). That architectural design is also similar to the five-story Hampton Inn hotel approved across the street from the Butcher property on El Camino Real.

Context studies and perspective drawings are contained in Attachment 7. Staff finds that the townhomes located along the west property line create an appropriate massing transition from the adjacent two-story Tapadero condos and three and one-half story Oakwood apartment buildings. The proposed massing of the El Camino building is consistent with recently-approved projects, as described above.

The tallest buildings currently along Fremont Avenue are the Cupertino Villas condo development across the street from the project site, which are three stories on top of partially submerged parking with heights of approximately 45 feet facing Fremont Avenue. A Fremont Avenue cross section drawing is provided in Attachment 8. The proposed Fremont building will be approximately 18 to 29 feet taller. The recessed sixth floor of the proposed Fremont building provides necessary transition and helps to reduce the visual mass along the street frontage. In addition, the Fremont building is sited with the narrowest part of the building facing the street and the majority of the mass concentrated interior to the site. As previously noted, the proposed height is consistent with the height limit for nodes in the Precise Plan for El Camino Real. Staff acknowledges that the Fremont building would be the tallest along Fremont Avenue. As shown on the context studies, the Fremont building would also be visible from the neighboring single-family neighborhood south of Fremont Avenue.

Throughout the review of this application, staff expressed concerns about the height of the Fremont building and its compatibility with the neighborhoods to the south and to the west along Fremont Avenue. The building was redesigned to address the concern by stepping back the top floor. Step

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backs of additional floors could increase the compatibility with the lower scale developments in the vicinity. A condition of approval (PS-1.e)) has been added to modify the building design to increase the setbacks on the fifth and sixth floors.

Privacy: The most potentially affected neighbors are the adjacent residents living in the Tapadero condos to the west. The townhomes abutting the subject site's west property line have been designed with 20-foot rear setbacks. In addition, most of the mass of the townhomes are two-stories facing the Tapadero condos, with the third floors set back more than 40 feet away from the property line. The applicant proposes to plant 36-inch box Coast live oak trees within the rear yards of the townhome units facing the Tapadero condos, which will also help to reduce privacy impacts. As shown on the context studies and Fremont Avenue cross section drawing, privacy impacts to the adjacent single-family neighborhood south of Fremont Avenue are minimal.

Affordable Housing: The 39 townhouse units of this project are subject to the City's inclusionary housing requirements (12.5% of the units). As noted above, the rental units are exempt from inclusionary requirements until such time as they may be converted to ownership units. This application was submitted and determine complete prior to the effective date of the rental project housing mitigation fees regulations. The challenge for the community is rising rents and that available tools to affect affordability are limited. More residential development in the regions would take some of the pressure off the low occupancy rates that fuel higher rents, however it takes time for these units to come on-line. Due to the strong City Council desire and increasing community interest in affordable housing, staff explored with the developer, voluntary provision of affordable apartments units. The developer indicated he would provide \$1,000,000 voluntary affordable housing fees and declined the option to provide units on-site. Condition of Approval GC-18. reflects this contribution.

PENDING HERITAGE TREE STUDY

On June 1, 2016, the Heritage Preservation Commission (HPC) authorized staff to study the potential nomination of six trees on the Butcher Property for listing as Heritage Trees. These trees include the Valley oak (tree #106) at the center of the site and the corner grove of five Coast live oaks (trees #119-123 and 126). At the time of the HPC hearing, only the Valley oak tree was proposed for preservation. The project was later revised to include preservation of three of the five Coast live oaks.

While the pending study creates some uncertainty for the proposed project at this time, staff acknowledges that the project has been pending for over two years and that the property owner may move forward with the application while the Heritage tree designation continues to be evaluated. The EIR did not conclude that the trees on site (except the large Valley oak being preserved) had heritage value because they were planted by the Butcher family and the loss of those trees was not considered a significant impact. The HPC requested the trees be studied based on the heritage value on a "view or vista," and not the heritage value of the trees themselves.

Staff is currently evaluating the process and criteria for designation as Heritage trees and expects to hold a HPC public hearing on December 7, 2016. HPC's recommendation for designation would be considered by the City Council, along with the final decision on this project, on December 13, 2016.

FISCAL IMPACT

The project is subject to a transportation impact fee, currently estimated at approximated \$204,096. Payment of a park dedication in-lieu fee is also required, which is expected to be almost \$6.9 million.

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(based on adopted fair market value of \$129 per square feet). The project is not subject to a Housing Impact Fee (for rental residential uses) since the application was deemed complete prior to the effective date of the fee requirement. The project is also subject to school impact fees, as established by the school districts. The project will also pay a fair share contribution for improvements identified in the Wolfe Road Corridor Traffic Improvement Study.

PUBLIC CONTACT

EIR Comments

See discussion in Environmental Review section of this report. As previously noted, comments and responses are incorporated into the Final EIR.

Neighborhood Outreach Meeting

As part of the formal application process, the applicant held an outreach meeting at the Sunnyvale Community Center on October 29, 2015. The meeting was attended by almost 100 residents, including several City Councilmembers and Planning Commissioners. Comments received at the outreach meeting were consistent with the comments received during the EIR process, including concerns with traffic, parking, height, privacy, solar, loss of trees, overcrowding of public schools and architectural compatibility.

Planning Commission Study Sessions

The first Planning Commission Study Session for the formal application was held on July 13, 2015. At the meeting, staff provided an overview of the September 2014 project plans (without the corner office property). The meeting was attended by approximately 60 residents. Staff held a second Planning Commission Study Session on July 11, 2016 to provide a brief update on the status of the EIR and to allow the applicants to introduce the revised project concept (reduced density with the corner office property as open space). Copies of the Study Session presentations and meeting summaries are found on the project webpage at [ButchersCorner.inSunnyvale.com](http://www.ButchersCorner.inSunnyvale.com) <<http://www.ButchersCorner.inSunnyvale.com>>

Other Comments received from the Public

In addition to the comments received on the EIR, staff has received six comment letters on the project at the time of the report preparation, which are included in Attachment 12.

Notice of Public Hearings

- Published in the Sun newspaper
- Posted on the project site
- 2,100 notices were mailed to property owners and tenants within 2,000 feet of the project site
- SunnyArts, Braly Corners, Ponderosa, Stratford Gardens, Gavello Glen, Wisteria Terrace, Raynor Park, Birdland and Ortega Park neighborhood associations
- Project interested parties list

Staff Report

- Posted on the City of Sunnyvale's web site
- Provided at the Reference Section of the City of Sunnyvale's Public Library

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- Posted on the City's official notice bulletin board

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- City of Sunnyvale's web site

ALTERNATIVES**Recommend to City Council:**

1. Adopt a Resolution to Certify the Environmental Impact Report (EIR), make the findings required by CEQA, and adopt a Statement of Overriding Considerations and Mitigation Monitoring Program (Attachment 5).
2. Do not certify the EIR and do not adopt the Statement of Overriding Considerations and Mitigation Monitoring Program and direct staff as to where additional environmental analysis is required.
3. Introduce an ordinance to Rezone 895 E. Fremont Avenue to R-3/ECR (Attachment 6)
4. Do not introduce an ordinance to Rezone 895 E. Fremont Avenue to R-3/ECR.
5. Approve the Special Development Permit and Tentative Parcel Map with the findings in Attachment 3 and conditions of approval in Attachment 4.
6. Approve the Special Development Permit and Tentative Parcel Map with modified conditions of approval.
7. Deny the Special Development Permit and Tentative Parcel Map.

STAFF RECOMMENDATION

Recommend to City Council Alternatives 1, 3 and 5: 1) Adopt a Resolution to Certify the Environmental Impact Report (EIR), make the findings required by CEQA, and adopt a Statement of Overriding Considerations and Mitigation Monitoring Program (Attachment 5 in the report); 3) Introduce an ordinance to Rezone 895 E. Fremont Avenue to R-3/ECR (Attachment 6 in the report); and 5) Approve the Special Development Permit and Tentative Parcel Map with the findings in Attachment 3 and conditions of approval in Attachment 4 of the report.

Staff has worked extensively with the applicant to address community concerns on density, site planning, height, architecture and tree preservation. The project, as proposed, is consistent with the General Plan residential use designation and within the height limits established by the Precise Plan for El Camino Real and the ECR zoning district.

Prepared by: Noren Caliva-Lepe, Senior Planner

Reviewed by: Andrew Miner, Planning Officer

Reviewed by: Trudi Ryan, Community Development Director

Reviewed by: Kent Steffens, Assistant City Manager

Approved by: Deanna J. Santana, City Manager

ATTACHMENTS

1. Not Used (for use with Report to Council)
2. Noticing and Vicinity Map
3. Recommended Project Findings
4. Recommended Conditions of Approval including the Mitigation Monitoring and Reporting Program
5. Resolution Certifying EIR, Making Findings and Statement of Overriding Considerations and Mitigation Monitoring and Reporting Program (MMRP)

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6. Ordinance to Rezone 895 E. Fremont Avenue
7. Project Plans
8. Fremont Avenue Cross Section
9. Green Building Checklists
10. Exterior Noise Study
11. Project Data Table
12. Comment Letters (non-EIR)