

2014-7373 871 E. Fremont Ave.

**RECOMMENDED
CONDITIONS OF APPROVAL AND
STANDARD DEVELOPMENT REQUIREMENTS
NOVEMBER 28, 2016**

**Planning Application 2014-7373
871 E. Fremont Ave.**

(APNs: 211-25-011, 211-25-033, 211-25-034, 211-25-038 and 211-25-039)
Redevelopment of a 5.49-acre site with 138 residential units (39 townhomes and 99 apartments) plus 6,934 square feet of retail/office use with surface and underground parking. Project involves Rezoning of 895 E. Fremont Ave. from C-1/ECR to R-3/ECR and preparation of an Environmental Impact Report (EIR).

The following Conditions of Approval [COA] and Standard Development Requirements [SDR] apply to the project referenced above. The COAs are specific conditions applicable to the proposed project. The SDRs are items which are codified or adopted by resolution and have been included for ease of reference, they may not be appealed or changed. The COAs and SDRs are grouped under specific headings that relate to the timing of required compliance. Additional language within a condition may further define the timing of required compliance. Applicable mitigation measures are noted with "Mitigation Measure" and placed in the applicable phase of the project.

In addition to complying with all applicable City, County, State and Federal Statutes, Codes, Ordinances, Resolutions and Regulations, Permittee expressly accepts and agrees to comply with the following Conditions of Approval and Standard Development Requirements of this Permit:

<p>GC: THE FOLLOWING GENERAL CONDITIONS AND STANDARD DEVELOPMENT REQUIREMENTS SHALL APPLY TO THE APPROVED PROJECT.</p>

GC-1. CONFORMANCE WITH APPROVED PLANNING APPLICATION:

All building permit drawings and subsequent construction and operation shall substantially conform with the approved planning application, including: drawings/plans, materials samples, building colors, and other items submitted as part of the approved application. Any proposed amendments to the approved plans or Conditions of Approval are subject to review and approval by the City. The Director of Community Development shall determine whether revisions are considered major or minor. Minor changes are subject to review and approval by the Director of Community Development. Major changes are subject to review at a public hearing. [COA] [PLANNING]

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- GC-2. **USE EXPIRATION:**
The approved Use Permit shall expire if the use is discontinued for a period of one year or more. [SDR] (PLANNING)
- GC-3. **PERMIT EXPIRATION:**
The permit shall be null and void two years from the date of approval by the final review authority at a public hearing if the approval is not exercised, unless a written request for an extension is received prior to expiration date and is approved by the Director of Community Development. [SDR] [PLANNING]
- GC-4. **INDEMNITY:**
The applicant/developer shall defend, indemnify, and hold harmless the City, or any of its boards, commissions, agents, officers, and employees (collectively, "City") from any claim, action, or proceeding against the City to attack, set aside, void, or annul, the approval of the project when such claim, action, or proceeding is brought within the time period provided for in applicable state and/or local statutes. The City shall promptly notify the developer of any such claim, action or proceeding. The City shall have the option of coordinating the defense. Nothing contained in this condition shall prohibit the City from participating in a defense of any claim, action, or proceeding if the City bears its own attorney's fees and costs, and the City defends the action in good faith. [COA] [OFFICE OF THE CITY ATTORNEY]
- GC-5. **NOTICE OF FEES PROTEST:**
As required by California Government Code Section 66020, the project applicant is hereby notified that the 90-day period has begun as of the date of the approval of this application, in which the applicant may protest any fees, dedications, reservations, or other exactions imposed by the city as part of the approval or as a condition of approval of this development. The fees, dedications, reservations, or other exactions are described in the approved plans, conditions of approval, and/or adopted city impact fee schedule. [SDR] [PLANNING / OCA]
- GC-6. **EXISTING WIRELESS TELECOMMUNICATION FACILITY:**
SMC 19.54.070 prohibits wireless telecommunication facilities on residential properties. The existing wireless telecommunication provider must be removed prior to occupancy. [COA] [PLANNING]
- GC-7. **ON-SITE AMENITIES:**
Swimming pools, pool equipment structures, play equipment and other accessory structures, except as otherwise subject to Planning Commission review, may be allowed by the Director of Community

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- Development subject to approval of design, location and colors. [COA] [PLANNING]
- GC-8. BMR OWNERSHIP HOUSING COMPLIANCE:
This project is subject to the City's Below Market Rate (BMR) Housing requirements as set forth in Sunnyvale Municipal Code Chapter 19.67 and the BMR Program Guidelines, both as may be amended. Developer shall enter into a BMR Developer Agreement in a form provided by the City, to be recorded against the property before issuance of building permits or recordation of a final map, whichever occurs first. When dwelling units in the project are made available for sale, the project shall provide 12.5% of the total units in the project for sale as BMR homeownership units. For the subject project (39 townhomes), that equals 4 Below Market Rate dwelling units for sale and payment of a fractional in-lieu fee of 0.88 units in compliance with the BMR requirements set forth in SMC 19.67 and the BMR Program Guidelines, or rounded up to 5 Below Market Rate dwelling units. For any project or portion of a project where Developer intends to rent rather than sell dwelling units that are identified as condominiums on a vesting tentative map (99 flats), the sale of BMR units included in that project or portion thereof may be deferred until Developer offers for sale one or more market rate units in that project/portion thereof, so long as Developer has recorded a BMR Developer Agreement against the property which clearly identifies the required 12.5% of the units in the project or portion of the project intended for rental as BMR dwelling units. For the subject project, the BMR requirement equals 12 BMR dwelling units for sale and payment of a fractional in-lieu fee of 0.38 units in the project/portion thereof intended for rental]. [SDR][HOUSING]
- GC-9. BMR ALTERNATIVE MEANS:
Per SMC 19.67.090, the applicant may pursue alternative means to satisfy BMR requirement, subject to approval by the City Council. [SDR][HOUSING]
- GC-10. RECREATION FACILITIES:
The recreation facilities (common open space area, swimming pool and accessory structures) shall be installed in connection with the first phase and included on the building permit plans for the first phase. [COA] [PLANNING]
- GC-11. STORMWATER MANAGEMENT PLAN:
Project is subject to Provision C3, of the Municipal Regional Stormwater Permit Order No. R2-2009-0074, as determined by a completed "Stormwater Management Plan Data Form", and therefore must submit a Stormwater Management Plan as per SMC 12.60.140 prior to issuance of the building permit. [SDR] [PLANNING]

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GC-12. ENVIRONMENTAL MITIGATION MEASURES:

The project shall comply with all mitigation measures required in the project Environmental Impact Report prepared by PlaceWorks. The Mitigation Monitoring and Reporting Program (MMRP) has been included in the Conditions of Approval as Exhibit 1. The applicant shall be responsible for addressing all required mitigations. [COA] [PLANNING/PUBLIC WORKS]

GC-13. PUBLIC IMPROVEMENTS:

Developer shall install public improvements as required by Sunnyvale Municipal Code Sections 18.08, including but not limited to, curb & gutter, sidewalks, driveway approaches, curb ramps, street pavements, utility extensions and connections, meters/vaults, trees and landscaping, traffic signs, striping, street lights, etc. All public improvements shall be designed and constructed in accordance with current City design standards, standard details and specifications, and Americans with Disabilities Act (ADA) requirements where applicable, unless otherwise approved by the Department of Public Works. The site development plan including sheets C-2.0, 2.1, 3.0, 4.0 & 4.1 dated 7/19/16 and is subject to change during the plan check process.

The developer is required to complete the installation of all public improvements and other improvements deemed necessary by the Public Works Department, prior to occupancy of the first building, or to the satisfaction of the Public Works Department.

Vision triangles shall be provided at all driveways. Throat lengths shall be at least 50 feet in length. [COA] [PUBLIC WORKS]

GC-14. OFF-SITE CONSTRUCTION PHASING PLAN:

If the developer desires to phase the off-site improvement construction without completing the entire frontage improvements associated with the first building occupancy, a construction phasing plan for off-site improvements shall be submitted for review and approval by the department of public works prior to first building permit issuance.

The developer shall prepare a detailed offsite construction phasing plan for the subject project specifically for El Camino Real and Wolfe Road. The plan shall be subject to review and approval by the Department of Public Works prior to issuance of the encroachment permit. The plan shall have both exhibits and narratives that include, but not limited to, construction truck route, public vehicle access,

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- pedestrian access, construction staging, employee parking, limits of work and timeline for each of the phases. [COA] [PUBLIC WORKS]
- GC-15. OFF-SITE IMPROVEMENT PLANS:
Submit off-site improvement plans separate from the building on-site improvement plans as the off-site improvement plans are approved through a public works encroachment permit process. [SDR] [PUBLIC WORKS]
- GC-16. ENCROACHMENT PERMIT:
Prior to any work in the public right-of-way or easement area, obtain an encroachment permit with insurance requirements for all public improvements including a traffic control plan per the latest California Manual on Uniform Traffic Control Devices (MUTCD) standards to be reviewed and approved by the Department of Public Works. Work and traffic control in the State right of way for El Camino Real is subject to an encroachment permit from Caltrans. All construction related materials, equipment, and construction worker parking need to be contained on site and the public streets kept free and clear of construction debris. [COA] [PUBLIC WORKS]
- GC-17. RECORDATION OF FINAL AND/OR PARCEL MAPS:
This project is subject to, and contingent upon recordation of a final map and/or parcel map. The submittal, approval and recordation of the final map and/or parcel map(s) shall be in accordance with the provisions of the California Subdivision Map Act and Sunnyvale Municipal Code Title 18 Subdivision requirements. A final Map and/or parcel map(s) shall be recorded prior to any grading or building permit issuance of any building located on that certain lot as shown on the corresponding map. [COA] [PUBLIC WORKS]
- ~~GC-18. VOLUNTARY AFFORDABLE HOUSING FEE:
The applicant has volunteered a community benefit of \$1,000,000 for affordable housing projects in the City of Sunnyvale. This contribution shall be paid, on a pro-rata basis, prior to sale of each of the townhouse units. Condition removed due to recommended condition PS-1 f) to redesign Fremont Building height.~~

PS: THE FOLLOWING CONDITIONS SHALL BE MET PRIOR TO SUBMITTAL OF BUILDING PERMIT, AND/OR GRADING PERMIT.
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- PS-1. REQUIRED REVISIONS TO PROJECT PLANS:
The plans shall be revised to address the following, and are subject to review and approval by the Director of Community Development prior to submittal of related building permit:

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- a) The north elevation of the common open space amenity building must be redesigned to include a false entry feature to add visual interest.
 - b) All windows for the townhomes and apartment buildings must be recessed back at least 3 inches from the main wall.
 - c) Window glazing along the first floor facing El Camino Real must be keep clear and unobscured.
 - d) The fence around the common open space area must be increased to 5 feet in height and must comply with design requirements contained in the project noise study, prepared by RGD Acoustics, to achieve an outdoor noise environment of no more than 67 dBA. [COA] [PLANNING]
 - e) ~~The fifth and sixth floors of the south elevation of the Fremont building shall include interim setbacks to minimize the visual height along Fremont Avenue.~~
 - f) The Fremont building shall be reduced by one full floor with up to five levels allowed closest to Fremont Avenue and the sixth floor setback approximately 60 feet from the lower floors.
 - g) The buildings on El Camino Real shall be modified to include materials, textures and other design elements to reduce the mass.

PS-2. EXTERIOR MATERIALS REVIEW:

Final exterior building materials and color scheme are subject to review and approval by the Planning Commission/Director of Community Development prior to submittal of a building permit. [COA] [PLANNING]

PS-3. FINAL LANDSCAPE PLAN:

Landscape and irrigation plans shall be prepared by a certified professional, and shall comply with Sunnyvale Municipal Code Chapter 19.37 requirements. Landscape and irrigation plans are subject to review and approval by the Director of Community Development through the submittal of a staff-level permit. The landscape plan shall include the following elements:

- a) Tree #106, 119, 120, and 121 must be protected and incorporated into the project design
- b) Tree #116 and 118 must be protected or relocated into the common open space area.
- c) All areas not required for parking, driveways or structures shall be landscaped.
- d) Provide trees at minimum 30 feet intervals alongside and rear property lines, except where mature trees are located immediately adjoining on neighboring property.

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- e) Any “protected trees”, (as defined in SMC 19.94) approved for removal is subject to the City’s Tree Replacement Standards.
 - f) Ground cover shall be planted so as to ensure full coverage eighteen months after installation.
 - g) Decorative paving as required by the Director of Community Development to distinguish entry driveways, building entries, pedestrian paths and common areas. [COA] [PLANNING]
- PS-4. PRE-APPROVED WATER-EFFICIENT LANDSCAPE PLANS:
The developer must install all common and front yard landscaping and irrigation per approved water-efficient landscape plans, and must submit (also applicable to rear yard landscaping) a Landscaping Certificate of Completion, Irrigation Audit Report and Irrigation Schedule, and Landscaping Maintenance Schedule. Regarding private rear yard landscaping, future homeowners must decide to either:
- a) Have the developer install the landscaping per plans (developer to provide plans to homeowner at no charge),
 - b) Select their own landscape professional to install landscaping per plans, or
 - c) Submit an alternative water-efficient landscape plan for staff approval. [COA] [PLANNING]
- PS-5. TREE PROTECTION PLAN:
Submit a Tree Protection Plan for review and approve by the Director of Community Development and City Arborist, through a separate staff-level permit. The tree protection plan shall include measures noted in Title 19 of the Sunnyvale Municipal Code and at a minimum:
- a) An inventory shall be taken of all existing trees on the plan including the valuation of all ‘protected trees’ by a certified arborist, using the latest version of the “Guide for Plant Appraisal” published by the International Society of Arboriculture (ISA).
 - b) All existing (non-orchard) trees on the plans, showing size and varieties, and clearly specify which are to be retained.
 - c) Provide fencing around the drip line of the trees that are to be saved and ensure that no construction debris or equipment is stored within the fenced area during the course of demolition and construction.
 - d) Incorporate all relevant Mitigation Measures identified in the project Environmental Impact Report (EIR).
 - e) The tree protection plan shall be installed prior to issuance of any Building or Grading Permits, subject to the on-site inspection and approval by the City Arborist and shall be maintained in place during the duration of construction and shall be added to any

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subsequent building permit plans. [COA] [PLANNING/CITY ARBORIST]

PS-6. PARKING AND CIRCULATION PLAN:

Submit a final parking and circulation plan, subject to review and approval by the Director of Community Development through a separate staff-level permit, prior to submittal of a building permit. [COA] [PLANNING]

PS-7. PARKING MANAGEMENT PLAN:

A Parking Management Plan is subject to review and approval by the Director of Community Development through a separate staff-level permit, prior to submittal of a building permit. The Parking Management Plan shall include the following:

- a) Clearly indicate assigned residential, unassigned residential, office/retail only, and shared parking spaces.
- b) Include provisions for each type of parking space indicated above, including hours of shared use.
- c) Show location of all gated entries to ensure sufficient access into unassigned and shared parking spaces.
- d) A clear definition of “guest” as proposed by the property manager/homeowner’s association and subject to review and approval by the Director of Community Development.
- e) The property manager/homeowner’s association may specify that 25% to 75% of unassigned spaces be reserved for guest use.
- f) Clearly indicate that the property manager/homeowner’s association shall not rent unassigned spaces, except that a nominal fee may be charged for parking management.
- g) Tenants shall use their assigned parking spaces prior to using unassigned parking spaces.
- h) Prohibit tenants from parking RV’s, trailers, or boats in assigned spaces.
- i) Notify potential residents that number of parking spaces provided for each unit on-site as per the approved plans.
- j) Employee parking locations shall be away from the building entries, in parking spaces that are the least used.
- k) Employees shall be required to park on the site.
- l) Provide adequate signage to direct traffic and pedestrians. [PLANNING] [COA]

PS-8. WATER HYDRAULIC MODELING:

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Domestic and fire protection water supply for the development is to be provided by California Water Service. Prior to first off-site improvement plan check submittal, developer shall demonstrate through hydraulic modeling analysis conducted with California Water Service that the water main which is servicing the proposed project meets various City design guidelines and other statutory requirements for fire flows in terms of pipe size, demands, pressure and velocity.

Upgrade of the existing California Water Service water main by the developer may be required as determined by California Water Service. [COA] [ENVIRONMENTAL SERVICES/PUBLIC WORKS]

PS-9. SANITARY SEWER ANALYSIS:

The 5/12/15 preliminary sanitary sewer discharge analysis provided by JMH Weiss indicates that the Project is estimated to discharge approximately 1.5% of the capacity of the existing 21" diameter pipe on Fremont Avenue. Based on this estimate, the Project is not required to provide sanitary sewer main improvements or upsizing. However, this analysis is to be confirmed by a report showing actual flow measurements, calculations and hydraulic model runs demonstrating sufficient capacity actually exists prior to first off-site plan check submittal. This supplemental sanitary sewer analysis is to be reviewed and approved by the City. Any significant deficiencies in the existing system in the immediate vicinity of the project will need to be addressed and resolved at the expense of the developer as part of the off-site improvement plans. [COA] [PUBLIC WORKS]

PS-10. STREETLIGHTS:

Prior to first off-site plan check submittal, the developer shall provide a photometric analysis based upon LED fixtures for Fremont Avenue, Wolfe Road and El Camino Real so as to determine that the street lighting meets current City's Roadway Lighting Design Criteria. Roadway, sidewalk and crosswalk illuminance values shall be calculated separately from each other.

The roadway and sidewalk illuminance values required to be met for Fremont Avenue and Wolfe Road are:

1. Minimum Average Illuminance ≥ 1.0 fc
2. Uniformity Ratio (Avg/Min) ≤ 4.0
3. Max/Min ratio ≤ 20

Marked crosswalks at street intersection should have a minimum average illuminance value ≥ 2.2 fc

The roadway and sidewalk illuminance values required to be met for El Camino Real are:

1. Minimum Average Illuminance ≥ 1.6 fc

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2. Uniformity Ratio (Avg/Min) ≤ 3
 3. Max/Min ratio ≤ 20

Marked crosswalks at street intersection should have a minimum average illuminance value ≥ 2.2 fc

The limits of the photometric analysis shall be for the entire segment required with all streetlights being LED fixtures on both sides of the street (or on one side of the street or median based upon existing pattern). The photometric analysis shall identify if existing streetlights would need to be relocated and/or new streetlights would need to be installed for the entire street block.

The developer shall upgrade all existing streetlight fixtures along the Fremont Avenue, Wolfe Road and El Camino Real project frontage and medians to LED fixtures. All LED fixtures shall be of the same make and model as determined from the photometric analysis (LED fixtures shall be manufactured by GE, Phillips, or approved equal and meet the current City of Sunnyvale LED roadway lighting specifications). Developer shall also relocate existing streetlights or install new ones and upgrade conduit and conductor along the project frontage and side streets based upon City approved photometric analysis, unless otherwise directed by the City.

If the photometric analysis shows the need to relocate or install new street lights, the developer will be responsible to also replace all existing streetlight conduits, wires and pull boxes with new ones along the entire project frontage per City's current standards.

For photometric analysis: LLF factor to be used is 0.95. The LED fixture should have an efficiency of at least 90 lumens/watt and should have the International Dark-Sky Association (IDA) fixture seal of approval (FSA) and be on their IDA-Approved™ Products list. Along with the photometric analysis the developer shall provide cut sheets for proposed fixture, ies files used to perform analysis, test results from certified independent lab, and electronic copy of the photometric analysis in AGi32 format. All LED fixtures shall have a 10 year warranty.

Obtain PG&E's approval for new service pedestal, if required, prior to Encroachment Permit issuance by Public Works Department. [COA]
[PUBLIC WORKS]

BP: THE FOLLOWING CONDITIONS SHALL BE ADDRESSED ON THE CONSTRUCTION PLANS SUBMITTED FOR BUILDING

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**SUPERSTRUCTURE PERMIT AND/OR SHALL BE MET PRIOR TO THE
ISSUANCE OF SAID PERMIT.**

BP-1. CONDITIONS OF APPROVAL:

Final plans shall include all Conditions of Approval included as part of the approved application starting on sheet 2 of the plans. [COA] [PLANNING]

BP-2. RESPONSE TO CONDITIONS OF APPROVAL:

A written response indicating how each condition has or will be addressed shall accompany the building permit set of plans. [COA] [PLANNING]

BP-3. NOTICE OF CONDITIONS OF APPROVAL:

A Notice of Conditions of Approval shall be filed in the official records of the County of Santa Clara and provide proof of such recordation to the City prior to issuance of any City permit, allowed use of the property, or Final Map, as applicable. The Notice of Conditions of Approval shall be prepared by the Planning Division and shall include a description of the subject property, the Planning Application number, attached conditions of approval and any accompanying subdivision or parcel map, including book and page and recorded document number, if any, and be signed and notarized by each property owner of record.

For purposes of determining the record owner of the property, the applicant shall provide the City with evidence in the form of a report from a title insurance company indicating that the record owner(s) are the person(s) who have signed the Notice of Conditions of Approval. [COA] [PLANNING]

BP-4. BLUEPRINT FOR A CLEAN BAY:

The building permit plans shall include a "Blueprint for a Clean Bay" on one full sized sheet of the plans. [SDR] [PLANNING]

BP-5. RECYCLING AND SOLID WASTE ENCLOSURE:

The building permit plans shall include details for the installation of recycling and solid waste enclosures that are consistent with SMC 19.38.030. The solid waste disposal and recycling facilities within the enclosure area or within buildings shall be designed with adequate size, space and clearance based upon City's latest guidelines. The required enclosures shall:

- a) Match the design, materials and color of the main building;
- b) Be of masonry construction;

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- c) Be screened from view;
 - d) All gates, lids and doors shall be closed at all times;
 - e) Shall not conflict with delivery/receiving areas;
 - f) Shall be consistent with the approved Solid Waste and Recycling Management Plan;
 - g) Solid waste and recycling diversion systems shall be incorporated into the facilities and tenant improvements. [COA] [PLANNING/ENVIRONMENTAL SERVICES]
- BP-6. RECYCLING AND SOLID WASTE CONTAINER:
All recycling and solid waste containers shall be metal or State Fire Marshall listed non-metallic. The building permit plans shall provide details illustrating compliance with this condition. [COA] [PLANNING]
- BP-7. SOLID WASTE DISPOSAL PLAN AND RECYCLING DESIGN PLAN:
A detailed solid waste disposal and recycling design plan shall be submitted for review and approval by the Director of Community Development prior to issuance of building permit. The solid waste disposal plan and building permit plans shall demonstrate compliance with current City requirements and guidelines for non-residential projects. [COA] [PLANNING/ENVIRONMENTAL SERVICES]
- BP-8. ROOF EQUIPMENT:
Roof vents, pipes and flues shall be combined and/or collected together on slopes of roof or behind parapets out of public view as per Title 19 of the Sunnyvale Municipal Code and shall be painted to match the roof. [COA] [PLANNING]
- BP-9. FEES AND BONDS:
The following fees and bonds shall be paid in full prior to issuance of building permit.
- a) TRANSPORTATION IMPACT FEE - Pay Traffic Impact fee for the net new trips resulting from the proposed project, estimated at \$204,096.16, prior to issuance of a Building Permit. (SMC 3.50). [SDR] [PLANNING]
 - b) PARK IN-LIEU - Pay Park In-lieu fees estimated at \$6,877,949.76 (based on \$129 per square foot fair market value of land), prior to approval of the Final Map or Parcel Map. (SMC 18.10). [SDR] [PLANNING]
 - c) ART IN PRIVATE DEVELOPMENT - Pay Art in Private Development bond, prior to issuance of a Building Permit. [SDR] [PLANNING]
 - d) ART IN PRIVATE DEVELOPMENT BOND - A bond, letter of credit, cash deposit or other similar security instrument for 1% of the construction valuation of the office/retail tenant space (6,934 square feet) will be required prior to issuance of a building permit. The bond will not be released until completion and installation of

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the artwork requirement including related landscaping, lighting, base work and commemorative plaque. [PLANNING] [SDR]

BP-10. WOLFE ROAD CORRIDOR TRAFFIC IMPROVEMENTS:

The project shall pay its fair share contribution towards improvements identified along the Wolfe Road corridor discussed in the Wolfe Road Corridor Traffic Improvement Study. [COA] [PLANNING/PUBLIC WORKS]

BP-11. MECHANICAL EQUIPMENT (EXTERIOR):

Detailed plans showing the locations of individual exterior mechanical equipment/air conditioning units shall be submitted and subject to review and approval by the Director of Community Development prior to issuance of building permits. Proposed locations shall have minimal visual and minimal noise impacts to neighbors and ensure adequate usable open space. Individual exterior mechanical equipment/air conditioning units shall be screened with architecture or landscaping features. [PLANNING] [COA]

BP-12. ART IN PRIVATE DEVELOPMENT REVIEW:

An Art in Private Development application shall be submitted to the Director of Community Development subject to review and approval by the Arts Commission, prior to issuance of a Building Permit. The application shall provide public visible artwork along El Camino Real and Wolfe Road. [COA] [PLANNING]

BP-13. BMR DEVELOPMENT AGREEMENT:

Before issuance of building permits or recordation of a final map for the project, whichever occurs first, the developer shall enter into a Development Agreement with the City to establish the method by which the development will comply with the applicable BMR requirements. The form of the Developer Agreement will be provided by the City, with tables regarding unit characteristics and timing of completion to be completed by the Developer, and is subject to the approval of the Community Development Director or his/her designee, consistent with the SMC. The completed Developer Agreement must be executed by both parties and recorded against the property, and will run with the land.

In the event that any Below Market Rate dwelling unit(s) or any portion thereof in the development is destroyed by fire or other cause, all insurance proceeds therefrom shall be used to rebuild such units, which will remain subject to the terms of the Developer Agreement

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- and the BMR requirements. Grantee hereby covenants to cause the City of Sunnyvale to be named an additional insured party to all fire and casualty insurance policies pertaining to said assisted units. [SDR] [HOUSING/BMR Program Guidelines]
- BP-14. **LANDSCAPE MAINTENANCE PLAN:**
Prepare a landscape maintenance plan subject to review and approval by the Director of Community Development prior to issuance of building permit. [COA] [PLANNING]
- BP-15. **STORMWATER MANAGEMENT CALCULATIONS:**
Submit two copies of the City of Sunnyvale Impervious Surface Calculation and Special Projects worksheets prior to issuance of a Building Permit. [COA] [PLANNING]
- BP-16. **STORMWATER MANAGEMENT PLAN:**
Submit two copies of a Stormwater Management Plan subject to review and approval by Director of Community Development and third party certification, pursuant to SMC 12.60, prior to issuance of building permit. [COA] [PLANNING/ENVIRONMENTAL SERVICES]
- BP-17. **STORM WATER MANAGEMENT PLAN THIRD PARTY CERTIFICATION:**
Third party certification of the Storm Water Management Plan is required per the following guidance: City of Sunnyvale – Storm Water Quality BMP Applicant Guidance Manual for New and Redevelopment Projects - Addendum: Section 3.1.2 Certification of Design Criteria Third-Party Certification of Storm Water Management Plan Requirements. The third party certification shall be provided prior to building permit issuance. [SDR] [PLANNING/ENVIRONMENTAL SERVICES]
- BP-18. **BEST MANAGEMENT PRACTICES - STORMWATER:**
The project shall comply with the following source control measures as outlined in the BMP Guidance Manual and SMC 12.60.220. Best management practices shall be identified on the building permit set of plans and shall be subject to review and approval by the Director of Public Works:
- a) Storm drain stenciling. The stencil is available from the City's Environmental Division Public Outreach Program, which may be reached by calling (408) 730-7738.
 - b) Landscaping that minimizes irrigation and runoff, promotes surface infiltration where possible, minimizes the use of pesticides and fertilizers, and incorporates appropriate sustainable landscaping practices and programs such as Bay-Friendly Landscaping.

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- c) Appropriate covers, drains, and storage precautions for outdoor material storage areas, loading docks, repair/maintenance bays, and fueling areas.
 - d) Covered trash, food waste, and compactor enclosures.
 - e) Plumbing of the following discharges to the sanitary sewer, subject to the local sanitary sewer agency's authority and standards:
 - i) Discharges from indoor floor mat/equipment/hood filter wash racks or covered outdoor wash racks for restaurants.
 - ii) Dumpster drips from covered trash and food compactor enclosures.
 - iii) Discharges from outdoor covered wash areas for vehicles, equipment, and accessories.
 - iv) Swimming pool water, spa/hot tub, water feature and fountain discharges if discharge to onsite vegetated areas is not a feasible option.
 - v) Fire sprinkler test water, if discharge to onsite vegetated areas is not a feasible option. [SDR] [PLANNING]
- BP-19. CITY STREET TREES:
The landscape plan shall including street trees and shall be submitted for review and approval by the City Arborist prior to issuance of building permit. [COA] [ENGINEERING/CITY ARBORIST]
- BP-20. CITY STREET TREES (SUBDIVISION):
At the expense of the subdivider, City staff shall install required street trees of a species determined by the Public Works Department. Obtain approval of a detailed landscape and irrigation plan from the Director of Community Development (SMC 19.37) prior to issuance of a Building Permit. [SDR] [PLANNING/PUBLIC WORKS]
- BP-21. EXTERIOR LIGHTING PLAN:
Prior to issuance of a Building Permit submit an exterior lighting plan, including fixture and pole designs, for review and approval by the Director of Community Development. Driveway and parking area lights shall include the following:
- a) Sodium vapor (or illumination with an equivalent energy savings).
 - b) Pole heights to be uniform and compatible with the areas, including the adjacent residential areas. Light standards shall not exceed 18 feet on the interior of the project and 8 feet in height on the periphery of the project near residential uses.
 - c) Provide photocells for on/off control of all security and area lights.
 - d) All exterior security lights shall be equipped with vandal resistant covers.

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- e) Wall packs shall not extend above the roof of the building.
 - f) Lights shall have shields to prevent glare onto adjacent residential properties. [COA] [PLANNING]
- BP-22. PHOTOMETRIC PLAN:
Prior to issuance of a Building Permit submit a contour photometric plan for approval by the Director of Community Development. The plan shall meet the specifications noted in the Standard Development Requirements. [COA] [PLANNING]
- BP-23. LIGHTING SPACING:
Installation of lights at a minimum of 50 feet intervals along all private streets. [COA] [PLANNING]
- BP-24. BICYCLE SPACES:
Provide (NUMBER OF SPACES) OF (SELECT ONE: Class I/Class II) bicycle parking spaces (per VTA Bicycle Technical Guidelines) as approved by the Director of Community Development. [COA] [PLANNING]
- BP-25. GREEN BUILDING:
The plans submitted for building permits must demonstrate that the residential portion of the project achieves a minimum of 110 points (incentive to increase density by 5%) on the GreenPoint Rated checklist, or the minimum points required effective at the time of building permit submittal (verified by a Green Point Rater). The office/commercial tenant space must achieve a minimum of LEED Silver on the LEED checklist, or the minimum points required effective at the time of building permit submittal (verified by a LEED AP). [COA] [PLANNING]
- BP-26. RESIDENTIAL TRANSPORTATION DEMAND MANAGEMENT (TDM) PROGRAM:
The project is subject to residential TDM program requirements, and must achieve a minimum of 10 points. Verification of compliance is subject to approval by the Director of Community Development prior to occupancy and shall be demonstrated (when applicable) on building permit plans. The Director may require the TDM program manager to send to annual confirmation that transit passes, if part of the program, have been provided to residents. [COA] [PLANNING]
- BP-27. SOLAR ASSISTED HOT WATER:
Solar-assisted hot water shall be provided for all swimming pools and spas and provide 70% of hot water needs for summer months. [SDR] [PLANNING]

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- BP-27 DEMOLITION/CONSTRUCTION/RECYCLING WASTE REPORT FORM:
To mitigate the impacts of large projects on local waste disposal and recycling levels, demolition waste weights/volumes, construction weights/volumes, and recycling weights/volumes are to be reported to the City, per City's "waste & recycling reporting form" (electronic copy available) or a similar chart approved by the City. As part of the project's construction specifications, the developer shall track the type, quantity, and disposition of materials generated, and forward a complete report to the Department of Environmental Services, Solid Waste Division both periodically and at project completion [COA][ENVIRONMENTAL SERVICES]
- BP-28. CONSTRUCTION MATERIAL AND STAGING:
All construction related materials, equipment, and construction workers parking need to be managed on-site and not located in any public right-of-ways or public easements. [COA] [PUBLIC WORKS]
- BP-29. UNDERGROUND UTILITIES
All utilities along property frontage, to and within the project shall be underground per SMC 19.38.095. [COA] [PLANNING/PUBLIC WORKS]
- BP-30. FINAL AND/OR PARCEL MAP:
This project is subject to, and contingent upon recordation of one or more record maps to remove the existing property line and create new lots. The submittal, approval and recordation of the final and/or parcel map(s) shall be in accordance with the provisions of the California Subdivision Map Act and Sunnyvale Municipal Code Title 18 Subdivision requirements. Parcel map(s) shall be recorded prior to any grading or building permit issuance of any building located on that certain lot as shown on the corresponding parcel map. [COA] [PUBLIC WORKS]
- BP-31. BUILDING PERMIT ISSUANCE: Prior to building permit issuance, the existing private and utility easements shall be quitclaimed on the final and/or parcel map. [COA] [PLANNING/PUBLIC WORKS]

EP: THE FOLLOWING CONDITIONS SHALL BE ADDRESSED AS PART OF AN ENCROACHMENT PERMIT APPLICATION.

- EP-1. EL CAMINO REAL PRECISE PLAN:
This project is in the El Camino Real Precise Plan area, therefore, the developer shall comply with any and all applicable design

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- requirements as identified in the ECRPP or as amended and approved by the City. [COA] [PUBLIC WORKS]
- EP-2. **COMPLETE OFF-SITE IMPROVEMENT PLAN SET:**
A complete plan check set applicable to the project, including street improvement plans, streetscape plans, streetlight plans, signing/striping plans, and traffic control plans shall be submitted as part of the first off-site improvement plans, including on-site and off-site engineering cost estimates. Joint trench plans may be submitted at a later date. No partial sets are allowed unless otherwise approved by the Department of Public Works. [COA] [PUBLIC WORKS]
- EP-3. **BENCHMARKS:**
The improvement plans shall be prepared by using City's latest benchmarks (NAVD88) available on City's website <http://sunnyvale.ca.gov/Departments/PublicWorks/BenchMarks,RecordDrawings.aspx>. Plans based on NAVD 29 will be not be accepted. [COA] [PUBLIC WORKS]
- EP-4. **UPGRADE OF EXISTING IMPROVEMENTS:**
As part of the off-site improvement plan review and approval, any existing public improvements to be re-used by the project, which are not in accordance with current City standards and or judged by the City to be obsolete or lacking in function or capacity and are not specifically identified in the herein project conditions (such as sewer laterals, fire hydrant service lines, backflow preventers, sign posts, etc.), shall be upgraded to current City standards and as required by the Department of Public Works. [COA] [PUBLIC WORKS]
- EP-5. **UTILITY CONNECTION:**
This project requires connection to all City utilities or private utilities operating under a City or State franchise which provide adequate levels of service. [COA] [PUBLIC WORKS]
- EP-6. **UTILITY CONNECTION TO THE MAIN:**
All sanitary sewer laterals connecting to the existing main line shall be at a new sanitary sewer manhole. All storm drain laterals connecting to the main shall be at a new storm drain manhole, except where a pipe to pipe connection is permitted if the mainline is 36" or larger, or a junction structure is permitted where the point of connection is within close vicinity of an existing down-stream manhole. Pursuant to City design standards, any new and retrofitted manholes require Sewpercoat, Mainstay or Sancon calcium aluminate cementitious mortar coating of the interior. [SDR] [PUBLIC WORKS]

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- EP-7. EXISTING UTILITY ABANDONMENT:
Developer is responsible for research on all existing utility lines to ensure that there are no conflicts with the project. All existing utility lines (public or private) and/or their appurtenances not serving the project and/or have conflicts with the project, shall be capped, abandoned, removed, relocated and/or disposed of to the satisfaction of the City. Existing public facilities within the street right-of-way shall be abandoned per City's Abandonment Notes and procedures, including abandonment by other utility owners. [COA] [PUBLIC WORKS]
- EP-8. MODIFICATIONS TO EXISTING PUBLIC UTILITIES:
Developer is required to pay for all changes or modifications to existing city utilities, streets and other public utilities within or adjacent to the project site, including but not limited to utility facilities/conduits/vaults relocation due to grade change in the sidewalk area, caused by the development. [COA] [PUBLIC WORKS]
- EP-9. DRY UTILITIES:
Submit dry utility plans and/or joint trench plans (PG&E, telephone, cable TV, fiber optic, etc.) to the Public Works Department for review and approval prior to issuance of any permits for utility work within any public right-of-way or public utility easements. Separate encroachment permits shall be required for various dry utility construction. [SDR] [PUBLIC WORKS]
- EP-10. WET UTILITIES:
All wet utilities (water, sanitary sewer, storm drain) on private property shall be privately owned and maintained. The fire and domestic water systems shall be privately owned and maintained beyond the meter. [COA] [PUBLIC WORKS]
- EP-11. RE-USE OF EXISTING CITY UTILITY SERVICE LINES:
The re-use of existing City water service lines is not allowed. Re-use of existing City sanitary sewer and storm drain service lines and appurtenances is subject to City's review and approval. Developer's contractor shall expose the existing facilities during construction for City's evaluation or provide video footage of the existing pipe condition. Developer's contractor shall replace any deficient facilities as deemed necessary by Public Works Department. Sheet C3.0 of Preliminary Grading and Utility Plan dated 07/15/16 and VTM Sheet C3.0 are subject to change during plan check process. [COA] [PUBLIC WORKS]
- EP-12: SEPARATE AND INDEPENDENT UTILITY SERVICE LINE:
Each building shall have separate and independent utility service lines tapped to the main. [COA] [PUBLIC WORKS]

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- EP-13. **SEPARATE DOMESTIC/FIRE PROTECTION SERVICE LINE:**
Provide separate fire and domestic service lines to each building in accordance with California Water Service requirements. [COA] [PUBLIC WORKS/PUBLIC SAFETY-FIRE PREVENTION]
- EP-14. **PUBLIC FIRE HYDRANTS:**
Remove and replace the existing fire hydrants and service laterals, valves, etc. connected to City water mains along frontage streets in accordance with current City standard Clow-Rich 75 or 865 (8" LINES USE CLOW 75, 10" AND LARGER USE CLOW 865). New fire hydrant location shall be per current City standard detail 2B and 2B-2 and located in accordance with direction of Sunnyvale Fire Safety. Public fire hydrant shall be maintained free and clear of all trees, vines, shrubs, bushes, ivy, etc. for a minimum of three feet. [COA] [PUBLIC WORKS/PUBLIC SAFETY-FIRE PROTECTION]
- EP-15. **WATER METER:**
Water metering shall be in accordance with California Water Service standards. City policy calls for each residential unit to have its own individual water meter. [SDR] [PUBLIC WORKS]
- EP-16. **SANITARY SEWER AND STORM DRAIN MANHOLES:**
Install new sanitary sewer and storm drain manholes at the street right-of-way lines for all existing and proposed sanitary sewer laterals to be used for the project. [SDR] [PUBLIC WORKS]
- EP-17. **SANITARY SEWER VIDEO:**
The contractor shall make a video copy of the interior of the new sanitary sewer mainline installed prior to being put into service. Any waste water pipelines proposed for re-use must be inspected by TV system and confirmed as viable by the City. [COA] [PUBLIC WORKS]
- EP-18. **SANITARY SEWER AND STORM DRAIN TRIBUTARY PATTERN:**
This project is required to follow the existing sanitary sewer and storm drain tributary pattern. Any deviations would require additional analysis and be subject to approval by the Department of Public Works as part of the off-site improvement plan review process. This project shall not cause any negative impact on the drainage pattern for adjacent properties. [COA] [PUBLIC WORKS]
- EP-19. **STORM DRAIN DESIGN**
The project's storm water system shall include pipe sizes and slopes and on-site retention consistent with storm water modeling report by Balance Hydrologics dated 12/23/15.

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- EP-20. CATCH BASIN TRASH CAPTURE DEVICES AND BADGE/STENCILING:
Pursuant to SMC 12.60.130, install full trash capture devices on each of the project site, prior to connecting to the City's storm drain collection system. The developer shall be responsible for perpetual maintenance of those trash capture devices. All storm drain inlet facilities located in the public right-of-way shall be stenciled and/or have a badge that read "NO DUMPING" as supplied by the Environmental Services Department.
[COA] [PLANNING/ENVIRONMENTAL SERVICES]
- EP-21. UTILITY METER/VAULT:
No existing or new utility meters or vaults shall be located within the new driveway approach areas. All existing or new utility vaults serving the project site shall be located on-site and not within the public utility easement, if any. [COA] [PUBLIC WORKS]
- EP-22. DRIVEWAY APPROACHES:
Remove existing driveway approaches and install new driveway approaches along the project frontage to comply with Americans with Disabilities Act (ADA) requirements and per city standard details and specifications. All unused existing driveway approaches shall be replaced with new curb, gutter and sidewalk. [COA] [PUBLIC WORKS]
- EP-23. CURB RAMPS:
Remove and replace all existing curb ramps and install new curb ramps at street corners fronting project site and on corners opposite those on project frontage, or as deemed necessary by the Department of Public Works. [COA] [PUBLIC WORKS]
- EP-24. STREETSCAPE IMPROVEMENTS:
Dedications and improvements within pedestrian realm along El Camino Real frontage shall be consistent with El Camino Real Precise Plan and cross-section plans approved by the City dated September 17, 2014. Sidewalks shall be 12' in width with 4' x 5' tree wells. Streetscape improvements on Wolfe Road shall include 4' x 5' tree wells within 10' wide sidewalks. Streetscape improvements on Fremont Avenue shall include a 6' wide sidewalk and a 4' wide planter strip to be maintained by the project. Provide new curb, gutter, sidewalk, pavement, street landscaping, and relocate utilities as needed. Conforms with existing sidewalk outside project frontage shall conform with applicable ADA standards. [COA] [PUBLIC WORKS]
- EP-25. STREET IMPROVEMENTS:
Street improvements for El Camino Real and Wolfe Road shall be designed and built in accordance with the Preliminary Lane

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Configuration illustration prepared by JMH Weiss, Inc. and approved by the City 9/17/15. Green bike lanes shall be installed along the eastbound approach of the El Camino Real and Wolfe Road intersection.

Street improvements along Fremont Avenue are to include new curb and gutter, new ten-foot wide sidewalk with a four-foot wide park strip. An additional 3' of public access easement shall be dedicated to the City. Developer shall modify median island opening to align with project driveway for passenger vehicles, fire trucks, delivery trucks and garbage trucks making a 90 degree left turn from eastbound Fremont Avenue. Include turning template with the improvement plan submittal.

Future projects on Wolfe Road planned by others include installation of a recycled water transmission main by Santa Clara Valley Water District, undergrounding of overhead utilities by PGE and the City, and intersection/signal improvements by Caltrans. Street improvement requirements by the City for this development may be deferred or waived depending upon timing and details of the work of these other projects. [COA] [PUBLIC WORKS]

EP-26. STREET PAVEMENT:

Grind 2" of existing asphalt concrete from gutter to median gutter/street centerline on Wolfe Road along the project frontage (or as deemed necessary) and overlay with 2" of new asphalt concrete, unless otherwise approved by the Department of Public Works with alternatives. Install Type III slurry seal on Fremont Avenue along project frontage from lip of gutter to median curb or street centerline. Street pavement along El Camino Real shall be evaluated at the time improvement plans are submitted to determine the extent and limits of pavement removal and replacement as required by Caltrans. [SDR] [PUBLIC WORKS]

EP-27. TRAFFIC SIGNALS:

Developer shall modify any signal equipment such as poles, loop detectors, conduit, conductors, etc. to current City and Caltrans design standards due to shifting of sidewalk and widening of El Camino Real and Wolfe Road at intersections of Wolfe Road / El Camino Real and Wolfe Road / Fremont Avenue. [SDR] [PUBLIC WORKS]

EP-28. SIGNING AND STRIPING PLANS:

Submit a signing and striping plan in accordance with the latest edition of the CA MUTCD to City for review and approval by the Public Works Department. [SDR] [PUBLIC WORKS]

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EP-29. TRAFFIC CONTROL PLAN:

Submit a traffic control plan with the off-site improvement plans for review and approval. All construction related materials, equipment, and construction workers parking need to be stored on-site and the public streets need to be kept free and clear of construction debris. [COA] [PUBLIC WORKS]

EP-30. CITY STREET TREES:

The developer shall install required street trees along the project frontage as determined by the City Arborist. Street trees and frontage landscaping shall be included in the detailed landscape and irrigation plan subject to review and approval by the Department of Public Works prior to issuance of encroachment permit. New street trees shall be 24-inch box size or 15 gallon size. The city tree spacing should be approximately 35 feet apart. A continuous root barrier shall be installed along the parkstrip area. No trees are to be planted within 10' of a sanitary sewer lateral. Tree wells shall be constructed per City Downtown Standard Details. [SDR] [PUBLIC WORKS]

EP-31. PROTECTION OF EXISTING TREES:

No utility trench shall be allowed within 15' radius of an existing mature tree. Boring, air spade or other excavation method as approved by the City Arborist shall be considered to protect existing mature tree. Consult with the City Arborist prior to adjusting locations of utility lines. [SDR] [PUBLIC WORKS]

EP-32. DAMAGE TO EXISTING PUBLIC IMPROVEMENTS:

Developer shall be responsible to rectify any damage to the existing public improvements fronting and adjacent to the project site as a result of project construction to City's satisfaction by the Department of Public Works. All existing traffic detector loops and conduits shall be protected in place during construction. Any damaged detector loops shall be replaced within 7 days at the expense of the developer. [COA] [PUBLIC WORKS]

EP-33. RECORD DRAWINGS:

Record drawings (including street, sewer, water, storm drain and off-site landscaping plans) shall be submitted to the City prior to encroachment permit sign-off. [COA] [PUBLIC WORKS]

EP-34. COORDINATION WITH OTHER AGENCIES:

(1) CALTRANS: An encroachment permit from the California Department of Transportation (Caltrans) is required for improvements along El Camino Real. Submit improvement plans and traffic control plan to Caltrans for review and approval.

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(2) Valley Transportation Agency (VTA): Developer shall notify VTA of the proposed plans to determine if any VTA improvements are necessary and if any VTA lines will be impacted during construction. Developer shall work with VTA directly and all VTA improvements shall be shown on the offsite improvement plans. VTA contact is Service & Operations Planning (408) 321-7072.

(3) California Water Service (CWS): The project is located within service area of the California Water Service. All water services shall be in accordance with adopted CWS standards. Upgrade existing CWS facilities as required by CWS. [COA] [PUBLIC WORKS]

PM: THE FOLLOWING CONDITIONS SHALL BE MET PRIOR TO THE APPROVAL OF THE FINAL MAP OR PARCEL MAP.

PM-1. TITLE 18 AND SUBDIVISION MAP ACT:

The submittal, approval and recordation of the final and/or parcel map shall be in accordance with the provisions of the California Subdivision Map Act and Sunnyvale Municipal Code Title 18 subdivision requirements. [COA] [PUBLIC WORKS]

PM-2. RESERVATION, ABANDONMENT AND/OR DEDICATION OF EASEMENTS:

Pedestrian, public street, and public access easements public along public street frontage are required in accordance with current City policy. Dedications of such easements shall be accomplished on the parcel and/or final map or by separate document. [COA] [PUBLIC WORKS]

Reservation of new and/or abandonment of existing public/private utility easement(s), ingress/egress easement(s) necessary for the project site shall be delineated on the map or recorded concurrently with the map with a separate instrument, unless otherwise approved by the Department of Public Works. Quitclaim deed is required for abandonment of private easements prior to map recordation. All easements shall be kept open and free from buildings and structures of any kind except those appurtenances associated with the defined easements. [COA] [PUBLIC WORKS]

PM-3. UTILITY COMPANY APPROVAL:

Obtain approval letters from various utility companies for the parcel and/or final map in regards to any existing or new easements associated with the project. [COA] [PUBLIC WORKS]

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- PM-4. **EMERGENCY VEHICLE ACCESS EASEMENT:**
Developer shall dedicate a minimum 26'-wide emergency vehicle ingress-egress easement as required by Fire Safety and as shown on Sheet C1.1 of the project Vesting Tentative Map. [COA][PUBLIC SAFETY/PUBLIC WORKS]
- PM-5. **PUBLIC WORKS DEVELOPMENT FEES:**
Developer shall pay all applicable Public Works development fees associated with the project, including but not limited to, utility frontage and/or connection fees, off-site improvement plan check and inspection fees, prior to map recordation or any permit issuance, whichever occurs first. The exact fee amount shall be determined based upon the fee rate at the time of fee payment. [COA] [PUBLIC WORKS]
- PM-6. **SUBDIVISION AGREEMENT AND IMPROVEMENT SECURITIES:**
Developer shall execute a Subdivision Agreement and provide improvement securities and/or cash deposit(s) for all proposed public improvements prior to final and/or parcel map recordation or any permit issuance, whichever occurs first. [COA] [PUBLIC WORKS]
- PM-7. **OFF-SITE IMPROVEMENT COST ESTIMATE:**
Provide an itemized engineer's estimate for all off-site public improvements for the entire project with breakdowns corresponding to each construction phases (in accordance with City approved phasing plan). [COA] [PUBLIC WORKS]
- PM-8. **CONDITIONS, COVENANTS AND RESTRICTIONS (CC&R'S) (DRAFT REVIEW):**
Any proposed deeds, covenants, restrictions and by-laws relating to the subdivision are subject to review and approval by the Director of Community Development and the City Attorney. Four (4) sets of the CC&Rs including all information required below shall be submitted to the Engineering Division of the Public Works Department for routing. In addition to requirements as may be specified elsewhere, the CC&R's shall include the following provisions:
- a) Membership in and support of an association controlling and maintaining all common facilities shall be mandatory for all property owners within the development.
 - b) The owners association shall obtain approval from the Director of Community Development prior to any modification of the CC&R's pertaining to or specifying the City.

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- c) All public/private easements pertaining to the project shall be identified and/or defined and made aware to the homeowners in the CC&R's.
 - d) The developer shall maintain all private utilities and landscaping for a period of three (3) years following installation of such improvements or until the improvements are transferred to a owners association, following sale of at least 75% of the units, whichever comes first (Subdivision Agreement).
 - d) The Standard Development Requirements and Conditions of Approval included as part of the approved Planning Application, Permit # 2014-7373, and associated map shall be incorporated into the CC&Rs as an exhibit or attachment. The included map shall clearly indicate all public/private easements as disclosure for property owners. The CC&Rs shall include a list of all attachments and/or exhibits.
 - e) The CC&Rs shall contain language for Best Management Practices "Agreement to Maintain" pursuant to Sunnyvale Municipal Code 12.60.200.
 - f) The CC&Rs shall contain the following provisions:
 - i) The owners association shall maintain parkstrip landscaping in perpetuity along the public street fronting the project site.
 - ii) Property owners are prohibited from modifying drainage facilities and/or flow patterns of their lots without first obtaining approval from the Public Works Department.
 - g. The CC&Rs shall contain the following language:
 - i) "Right to Remedy Failure to Maintain Common Area. In the event that there is a failure to maintain the Common Area so that owners, lessees, and their guests suffer, or will suffer, substantial diminution in the enjoyment, use, or property value of their Project, thereby impairing the health, safety and welfare of the residents in the Project, the City, by and through its duly authorized officers and employees, will have the right to enter upon the subject Property, and to commence and complete such work as is necessary to maintain said Common Area. The City will enter and repair only if, after giving the Association and Owners written notice of the failure to maintain the Common Area, they do not commence correction of such conditions in no more than thirty (30) days from the giving of the notice and proceed diligently to completion. All expenses incurred by the City shall be paid within thirty (30) days of written demand. Upon a failure to pay within said thirty (30) days, the City will have the right to impose a lien for the proportionate share of such costs against each lot in the Project.

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- iii) It is understood that by the provisions hereof, the City is not required to take any affirmative action, and any action undertaken by the City will be that which, in its sole discretion, it deems reasonable to protect the public health, safety and general welfare, and to enforce it and the regulations and ordinances and other laws.
 - iv) It is understood that action or inaction by the City, under the provisions hereof, will not constitute a waiver or relinquishment of any of its rights to seek redress for the violation of any of the provisions of these restrictions or any of the rules, regulations and ordinances of the City, or of other laws by way of a suit in law or equity in a court of competent jurisdiction or by other action.
 - v) It is further understood that the remedies available to the City by the provision of this section or by reason of any other provisions of law will be cumulative and not exclusive of the maintenance of any other remedy. In this connection, it is understood and agreed that the failure to maintain the Common Area will be deemed to be a public nuisance and the City will have the right to abate said condition, assess the costs thereof, and cause the collection of said assessments to be made on the tax roll in the manner provided by appropriate provisions of the Sunnyvale Municipal Code or any other applicable law.
 - vi) No Waiver. No failure of the City of Sunnyvale to enforce any of the covenants or restrictions contained herein will in any event render them ineffective.
 - vii) Hold Harmless. Declarant, Owners, and each successor in interest of Declarant and said Owners, hereby agree to save, defend and hold the City of Sunnyvale harmless from any and all liability for inverse condemnation which may result from, or be based upon, City's approval of the Development of the subject Property." [COA] [PUBLIC WORKS/PLANNING/CITY ATTORNEY]

PM-9. FINAL MAP COMPLIANCE WITH VESTING TENTATIVE MAP:

The final map shall be substantially the same as the vesting tentative map. Any alteration of the vesting tentative map after the vesting tentative map is approved is subject to additional review and approval by the City and may require a public hearing. Any existing buildings shall be demolished prior to final map recordation. [COA] [PLANNING/PUBLIC WORKS]

PM-10. PEDESTRIAN REALM EASEMENT:

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This project requires a 15' wide pedestrian realm easement along El Camino Real for public purposes. Thirteen feet of the pedestrian realm will be public street easement. An additional conveyance to create an additional 2' for the pedestrian realm is required. All easements shall be kept open and free from buildings and structures of any kind except those appurtenances associated with the defined easements. The property owner shall be responsible for the maintenance of all improvements within the easement area including but not limited to maintenance and repair of landscaping, irrigation and sidewalk improvements. [COA] [PLANNING/PUBLIC WORKS]

PM-11. HOA CREATION:

The developer/Owner shall create a Homeowner's Association that comports with the state law requirements for Common Interest Developments. Covenants, conditions and restrictions (CC&Rs) relating to the development are subject to review for consistency with the Conditions of Approval by the City Attorney and Director of Community Development prior to approval of the Final Map. The Conditions of Approval shall be attached as an exhibit to the CC&Rs created for this subdivision. [COA] [PLANNING]

PM-12. HOA TRANSFER:

At the time the homeowners association is transferred from the developer to the individual property owners (typically at election of board members or officers), the developer shall schedule a meeting between the board members or officers, the City of Sunnyvale and the developer to review the Conditions of Approval of the development and other applicable City requirements. [COA] [PLANNING]

PM-13. NEW STREET NAMING:

The name of the private streets shall be in accordance with the official Street Name System, as selected by the Community Development Department. [COA] [PLANNING]

<p>PF: THE FOLLOWING CONDITIONS SHALL BE ADDRESSED ON THE CONSTRUCTION PLANS AND/OR SHALL BE MET PRIOR TO RELEASE OF UTILITIES OR ISSUANCE OF A CERTIFICATE OF OCCUPANCY.</p>
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PF-1. NEW PUBLIC EASEMENTS LOCATED ON-SITE:

Any new easements required for public use purpose shall be either shown on the recorded parcel and/or final map or on a separate recorded Easement Deed deemed necessary by the Department of Public Works prior to any building occupancy. [COA] [PUBLIC WORKS]

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- PF-2. **PARKING LOT STRIPING:**
All parking lot striping, guest spaces, and compact spaces shall be striped as per the approved building permit plans and Public Works standards prior to occupancy. [COA] [PLANNING/PUBLIC WORKS]
- PF-3. **COMPLETION OF PUBLIC IMPROVEMENTS:**
Developer shall complete all required public improvements in accordance with City approved plans, prior to any building occupancy or in accordance with a phased occupancy plan approved by the City Community Development and Public Works Departments. [COA] [PUBLIC WORKS]
- PF-4. **CONDITIONS, COVENANTS AND RESTRICTIONS (CC&RS) (RECORDATION):**
The Developer/Owner shall submit a copy of the recorded CC&Rs and a letter from the Developer/Owner either indicating that the recorded CC&Rs are in conformance with the approved draft CC&Rs or summary of changes shall be provided to the Director of Community Development prior to release if utilities or certificate of occupancy. [COA] [PUBLIC WORKS/PLANNING/CITY ATTORNEY]
- PF-5. **HOA ESTABLISHMENT:**
The developer shall submit to the Planning Division the names, addresses and telephone numbers of the officers of the homeowners association, architectural review committee or similar committee, at the time the organization is granted autonomy. Until such information is supplied, the developer shall remain a Responsible Person for purposes of maintaining all common property. The chairperson, secretary or principal officer of any committee or association shall notify the City of any change in officers and provide the names, addresses and telephone numbers of the new officers within thirty (30) days after the change becomes effective. [COA] [PLANNING]
- PF-6. **IRRIGATION METERS:**
For commercial and industrial projects, to ensure appropriate sewer billing (water used for irrigation may not be billed for sewer), the developer may provide separate (irrigation and other) intake meters. Such meters could be installed prior to occupancy of the building. [COA] [PLANNING]
- PF-7. **BMR COMPLETION 60-DAY ADVANCE NOTICE:**
The Developer/Owner must provide a written "Notice of Intent to Sell" to the Affordable Housing Manager for each BMR unit(s) to be provided in the development at least sixty (60) days (but no more than ninety (90) days) prior to the request for a certificate of occupancy or

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receipt of a DRE report for the unit, whichever is later. Upon receipt of this Notice, the Housing Division will inform the developer of the current maximum BMR sales price applicable to the unit, based on number of bedrooms, as published in the BMR Program Guidelines and updated annually. The developer must also request and pass a site inspection by the Affordable Housing Manager to verify that the BMR units have been completed in compliance with the BMR Development Agreement. [COA] [HOUSING]

PF-8. LANDSCAPING AND IRRIGATION:

All landscaping and irrigation as contained in the approved building permit plan shall be installed prior to occupancy. [COA] [PLANNING]

PF-9. PARKING LOT STRIPING:

All parking lot striping, carpool and compact spaces shall be striped as per the approved plans and Public Works standards. [COA] [PLANNING/ENGINEERING]

<p>DC: THE FOLLOWING CONDITIONS SHALL BE COMPLIED WITH AT ALL TIMES DURING THE CONSTRUCTION PHASE OF THE PROJECT.</p>
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DC-2. BLUEPRINT FOR A CLEAN BAY:

The project shall be in compliance with stormwater best management practices for general construction activity until the project is completed and either final occupancy has been granted. [SDR] [PLANNING]

DC-3. TREE PROTECTION:

All tree protection shall be maintained, as indicated in the tree protection plan, until construction has been completed and the installation of landscaping has begun. [COA] [PLANNING]

DC-3. CLIMATE ACTION PLAN – OFF ROAD EQUIPMENT REQUIREMENT:

OR 2.1: Idling times will be minimized either by shutting equipment off when not in use or reducing the maximum idling time to 5 minutes (as required by the California airborne toxics control measure Title 13, Section 2485 of California Code of Regulations [CCR]), or less. Clear signage will be provided at all access points to remind construction workers of idling restrictions.

OR 2.2: Construction equipment must be maintained per manufacturer's specifications.

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OR 2.3: Planning and Building staff will work with project applicants to limit GHG emissions from construction equipment by selecting one of the following measures, at a minimum, as appropriate to the construction project:

- a) Substitute electrified or hybrid equipment for diesel- and gasoline-powered equipment where practical.
- b) Use alternatively fueled construction equipment on-site, where feasible, such as compressed natural gas (CNG), liquefied natural gas (LNG), propane, or biodiesel.
- c) Avoid the use of on-site generators by connecting to grid electricity or utilizing solar-powered equipment.
- d) Limit heavy-duty equipment idling time to a period of 3 minutes or less, exceeding CARB regulation minimum requirements of 5 minutes. [COA] [PLANNING]

DC-4. DUST CONTROL:

At all times, the Bay Area Air Quality Management District's CEQA Guidelines and "Basic Construction Mitigation Measures Recommended for All Proposed Projects", shall be implemented. [COA] [PLANNING]

<p>AT: THE FOLLOWING CONDITIONS SHALL BE COMPLIED WITH AT ALL TIMES THAT THE USE PERMITTED BY THIS PLANNING APPLICATION OCCUPIES THE PREMISES.</p>

AT-1. DELIVERY HOURS:

Delivery hours for the approved use shall comply with SMC 19.42.030:

- a) Delivery hours are limited to daytime (period from 7:00 a.m. to 10:00 p.m. daily) only.
- b) Nighttime delivery (period from 10 p.m. to 7:00 a.m. daily) is prohibited. [SDR] [PLANNING]

AT-2. EXTERIOR EQUIPMENT:

All unenclosed materials, equipment and/or supplies of any kind shall be maintained within approved enclosure area. Any stacked or stored items shall not exceed the height of the enclosure. Individual air conditioning units shall be screened with architecture or landscaping features. [COA] [PLANNING]

AT-3. LANDSCAPE MAINTENANCE:

All landscaping shall be installed in accordance with the approved landscape plan and shall thereafter be maintained in a neat, clean, and healthful condition. Trees shall be allowed to grow to the full

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-
- genetic height and habit (trees shall not be topped). Trees shall be maintained using standard arboriculture practices. [COA] [PLANNING]
- AT-4. RESIDENTIAL TDM PROGRAM:
The project must comply with the residential TDM program requirements.
- AT-5. PARKING MANAGEMENT:
On-site parking management shall conform with the approved parking management plan. [COA] [PLANNING]
- AT-6. PARKING LOT MAINTENANCE:
The parking lot shall be maintained in accordance with the approved plans and as follows:
- a) Clearly mark all employee, customer, and compact spaces. This shall be specified on the Building Permit plans and completed prior to occupancy.
 - b) Maintain all parking lot striping and marking.
 - c) Assure that adequate lighting is available in parking lots to keep them safe and desirable for the use.
 - d) Require signs to direct vehicles to additional parking spaces on-site, as needed.
 - e) Clearly mark all compact spaces as per approved plans. [COA] [PLANNING]
- AT-7. PARKING LOT MAINTENANCE:
The parking lot shall be maintained as follows:
- a) Garage and carport spaces shall be maintained at all times so as to allow for parking of vehicles.
 - b) Clearly mark all assigned, guest, and compact spaces. This shall be specified on the Building Permit plans and completed prior to occupancy.
 - c) Maintain all parking lot striping and marking.
 - d) Maintain parking lot lighting and exterior lighting to ensure that the parking lot is maintained in a safe and desirable manner for residents and/or patrons. [COA] [PLANNING]
- AT-8. RECREATIONAL VEHICLE STORAGE PROHIBITED:
Unenclosed storage of any vehicle intended for recreation purposes, including land conveyances, vessels and aircraft, but excluding attached camper bodies and motor homes not exceeding 18 feet in length, shall be prohibited on the premises. [COA] [PLANNING]

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AT-9. HOA REVIEW AND APPROVAL:

In common interest developments, any future applications to the City for physical modifications on commonly owned property shall require consent of the board of directors of the homeowners association, architectural review committee or similar committee; applications for physical modifications on privately owned property shall require the individual property owner's signature. Individual property owners submitting an application for physical modifications on private property shall comply with any approval processes outlined as such in the conditions, covenants & restrictions (CC&Rs) of their respective development. [COA] [PLANNING]

AT-10. HOA RESPONSIBILITIES:

The chairperson, secretary or principal officer of any committee or association shall notify the Planning Division and the Neighborhood and Community Resources Division of any change in officers and provide the names, addresses and telephone numbers of the new officers within thirty (30) days after the change becomes effective. [COA] [PLANNING DIVISION/NEIGHBORHOOD AND COMMUNITY RESOURCES DIVISION]

AT-11. TRASH CART STORAGE AND STAGING:

The trash carts for the townhome units must be stored inside the private garages during non-pick-up times. The carts must be staged as shown on the approved site plan during pick-up times. At no time should trash carts be placed in the public right-of-way. [SDR] [PLANNING]

AT-12. RECYCLING AND SOLID WASTE:

All exterior recycling and solid waste shall be confined to approved receptacles and enclosures. [COA] [PLANNING]

AT-13. BMP MAINTENANCE:

The project applicant, owner, landlord, or HOA, must properly maintain any structural or treatment control best management practices to be implemented in the project, as described in the approved Stormwater Management Plan and indicated on the approved building permit plans. [SDR] [PLANNING]

AT-14. BMP RIGHT OF ENTRY:

The project applicant, owner, landlord, or HOA, shall provide access to the extent allowable by law for representatives of city, the local vector control district, and the Regional Water Quality Control Board, strictly for the purposes of verification of proper operation and maintenance for the storm water treatment best management

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practices contained in the approved Storm Water Management Plan.
[SDR] [PLANNING]

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EXHIBIT 1

Mitigation Monitoring and Reporting Program

871 E. Fremont Avenue
Butcher's Corner
(2014-7373)
SCH# 2015032085



2014-7373 871 E. Fremont Ave.**TABLE 6-1 BUTCHER'S CORNER PROJECT MITIGATION MONITORING OR REPORTING PROGRAM**

Mitigation Measures	Party Responsible for Implementation	Implementation Timing	Agency Responsible for Monitoring	Monitoring Action	Monitoring Frequency
AIR QUALITY					
AQ-2: The project's construction contractor shall comply with the following BAAQMD Best Management Practices for reducing construction emissions of PM10 and PM2.5: <ul style="list-style-type: none"> 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 two (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. 	Project applicant/property owner	During project construction	City of Sunnyvale Department of Community Development	Plan review and approval	During routine construction site inspections
AQ-4: Implement Mitigation Measure AQ-2 and AQ-5					

2014-7373 871 E. Fremont Ave.**TABLE 6-1 BUTCHER'S CORNER PROJECT MITIGATION MONITORING OR REPORTING PROGRAM**

Mitigation Measures	Party Responsible for Implementation	Implementation Timing	Agency Responsible for Monitoring	Monitoring Action	Monitoring Frequency
AQ-5: 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.	Project applicant/property owner	Prior to the issuance of building permits and during project construction	City of Sunnyvale Department of Community Development	Plan review and approval	During routine construction site inspections
AQ-7: Implement Mitigation Measure AQ-2 And AQ-5. (See Above)					
BIOLOGICAL RESOURCES					
BIO-1a: Ensure Avoidance of Bird Nests in Active Use. 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:	Project applicant/property owner	Prior to construction	City of Sunnyvale Department of Community Development	Plan review and approval, and throughout timeframes outlined in the mitigation measure as necessary	Prior to construction and during seasonal timeframes outlined in the mitigation measure

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TABLE 6-1 BUTCHER'S CORNER PROJECT MITIGATION MONITORING OR REPORTING PROGRAM

Mitigation Measures	Party Responsible for Implementation	Implementation Timing	Agency Responsible for Monitoring	Monitoring Action	Monitoring Frequency
<ul style="list-style-type: none"> ▪ 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 passerines 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, 					

2014-7373 871 E. Fremont Ave.**TABLE 6-1 BUTCHER'S CORNER PROJECT MITIGATION MONITORING OR REPORTING PROGRAM**

Mitigation Measures	Party Responsible for Implementation	Implementation Timing	Agency Responsible for Monitoring	Monitoring Action	Monitoring Frequency
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.					
<p>BIO-1b: 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:</p> <ul style="list-style-type: none"> 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 	Project applicant/property owner	Prior to construction	City of Sunnyvale Department of Community Development	Plan review and approval, and throughout timeframes outlined in the mitigation measure as necessary	Prior to construction and during seasonal timeframes outlined in the mitigation measure

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TABLE 6-1 BUTCHER'S CORNER PROJECT MITIGATION MONITORING OR REPORTING PROGRAM

Mitigation Measures	Party Responsible for Implementation	Implementation Timing	Agency Responsible for Monitoring	Monitoring Action	Monitoring Frequency
recommendations made by the Biologist.					

2014-7373 871 E. Fremont Ave.**TABLE 6-1 BUTCHER'S CORNER PROJECT MITIGATION MONITORING OR REPORTING PROGRAM**

Mitigation Measures	Party Responsible for Implementation	Implementation Timing	Agency Responsible for Monitoring	Monitoring Action	Monitoring Frequency
<p>BIO-2: 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. The Program shall comply with the Sunnyvale Tree Replacement Standards. If permitted, in-lieu fees consistent with the Sunnyvale Tree Replacement Standards 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, in accordance with Sunnyvale Municipal Code 19.94.080(b). The Program shall include the following provisions:</p> <ul style="list-style-type: none"> ▪ 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 	Project applicant/property owner	Review and approval of a separate staff-level Planning permit prior to the submittal of a building permit	<p>City of Sunnyvale Community Development Department</p> <p>City of Sunnyvale Department of Public Works (City Arborist)</p>	Plan review and approval	Once for preparation of Tree preservation and Replacement Program

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Mitigation Measures	Party Responsible for Implementation	Implementation Timing	Agency Responsible for Monitoring	Monitoring Action	Monitoring Frequency
<p>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.</p> <ul style="list-style-type: none"> 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 proposed 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. 					
CULTURAL RESOURCES					
CULT-2: 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	Project applicant/property owner	During construction	City of Sunnyvale Community Development Department	Initiated after a find is made during construction	During routine construction site inspections that would be initiated after a find is made during construction

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Mitigation Measures	Party Responsible for Implementation	Implementation Timing	Agency Responsible for Monitoring	Monitoring Action	Monitoring Frequency
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, proposed 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.					
CULT-3: 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.	Project applicant/property owner	During construction	City of Sunnyvale Community Development Department	Initiated after a find is made during construction	During routine construction site inspections initiated after a find is made during construction
CULT-5: Implement Mitigation Measure CULT-2. (See above)					
NOISE					
NOISE-1a: 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:	Project applicant/property owner	Prior to the issuance of construction permits	City of Sunnyvale Community Development Department	Plan review and approval	Once for preparation of a design-level acoustical analysis for office/retail uses
<ul style="list-style-type: none"> 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 					

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Mitigation Measures	Party Responsible for Implementation	Implementation Timing	Agency Responsible for Monitoring	Monitoring Action	Monitoring Frequency
<p>uses. These treatments include, but are not limited to, sound rated windows and doors, sound rated wall constructions, and acoustical caulking.</p> <p>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.</p>					
<p>NOISE-1b: 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:</p> <ul style="list-style-type: none"> 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. <p>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.</p>	Project applicant/property owner	Prior to the issuance of construction permits	City of Sunnyvale Community Development Department	Plan review and approval	Once for preparation of a design-level acoustical analysis for residential uses

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Mitigation Measures	Party Responsible for Implementation	Implementation Timing	Agency Responsible for Monitoring	Monitoring Action	Monitoring Frequency
<p>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:</p> <ul style="list-style-type: none"> 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 7:00 a.m. and 6:00 p.m. Monday through Friday and between 8:00 a.m. and 5:00 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. 	Project applicant/property owner	Prior to the issuance of construction permits	City of Sunnyvale Community Development Department	Plan review and approval	Once for preparation of a construction noise management plan (CNMP)
<p>NOISE-4b: During construction, the construction manager shall ensure that the measures to reduce construction noise as identified in the CNMP are implemented.</p>	Project applicant/property owner	During construction	City of Sunnyvale Community Development	Plan review and approval	During routine construction site inspections

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TABLE 6-1 BUTCHER'S CORNER PROJECT MITIGATION MONITORING OR REPORTING PROGRAM

Mitigation Measures	Party Responsible for Implementation	Implementation Timing	Agency Responsible for Monitoring Department	Monitoring Action	Monitoring Frequency
