



City of Sunnyvale

Agenda Item

17-0642
Agenda Date: 7/24/2017

REPORT TO PLANNING COMMISSION

SUBJECT

File #: 2017-7382

Locations: 893-909 Kifer Road (APN 205-42-011), 905 Kifer Road (APN 205-42-009) 917 Kifer Road (APN 205-42-008), 133-135 Commercial Street and 919-921 Kifer Road (APN 205-42-007), 155 Commercial Street (APN 205-42-006), 165 Commercial Street (APN 205-42-010), 167-171 Commercial Street (APN 205-42-012), 181 Commercial Street (APN 205-42-003), 183 Commercial Street (APN 205-42-004), 193 Commercial Street (APN 205-42-002), No address (APN 205-42-001)

Proposed Project: General Plan Amendment Initiation: to consider a 100% FAR combining district on 11 parcels in the M-S zoning district totaling 17.85 acres.

Applicant / Owner: ARC TEC, Inc. (applicant) / Fortinet (owner)

Environmental Review: The project is exempt from the California Environmental Quality Act (CEQA) pursuant to CEQA Guidelines Section 15378 (a).

Project Planner: George Schroeder, (408) 730-7443, gschroeder@sunnyvale.ca.gov

BACKGROUND

General Plan Amendment Initiation (GPI) requests are heard on a quarterly basis through a recommendation from the Planning Commission and then action by the City Council. The process for considering a General Plan Amendment (GPA) begins with a written request from a property owner or applicant. If the Council approves the GPI, a formal application for a GPA can be filed by the property owner/applicant. The current City Council practice is to consider the GPA before the specific project application.

Staff received the GPI request from the applicant on May 10, 2017. The applicant is requesting an industrial-intensification designation in the General Plan to allow for development of up to 100 percent floor area ratio (FAR) for 11 contiguous parcels where a master-planned office campus is envisioned (see Attachment 2 for the applicant's GPI request letter). Fortinet would be the intended tenant, and according to the applicant, the General Plan designation and subsequent rezoning would allow the company to grow and stay headquartered in the City. Fortinet was founded in 2000 and provides network and content security across information technology infrastructure.

The City Council is scheduled to consider this item on August 15, 2017.

EXISTING POLICY

SUNNYVALE GENERAL PLAN:

The General Plan is the primary policy plan that guides the physical development of the City. When used together with a larger body of City Council policies, it provides direction for decision-making on

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City services and resources. The recently adopted Land Use and Transportation Element (LUTE) within the General Plan created an integrated set of policies to guide land use, development, and transportation choices with a horizon year of 2035. The LUTE anticipates that the proposed project area would experience minor infill, improvements, and redevelopment up to 35 percent FAR through 2035. The LUTE has several policies to improve the jobs-to-housing ratio, promote business retention and expansion, and ensure coordinated development with community benefits.

Regional Participation

Policy 3: Contribute to a healthy jobs-to-housing ratio in the region by considering jobs, housing, transportation, and quality of life as inseparable when making planning decisions that affect any of these components.

Effective Integration of Transportation and Land Use Planning

Policy 22: Require large employers to develop and maintain transportation demand management programs to reduce the number of vehicle trips generated by their employees.

Open Space, Parks, and Wetlands

Policy 70: Ensure that the planned availability of open space in both the city and region is adequate.

Action 4: Integrate useable open spaces and plazas into commercial and office developments.

Supportive Economic Development Environment

Policy 74: Provide existing businesses with opportunities to grow in Sunnyvale and provide opportunities to expand into new technologies.

Policy 76: Promote business opportunities and business retention in Sunnyvale.

A Balanced Economic Base

Policy 82: Attract and retain a diversity of commercial enterprises and industrial uses to sustain and bolster the local economy and provide a range of job opportunities.

Policy 83: Encourage land uses that generate revenue while preserving a balance with other community needs, such as housing.

Protected Commercial Districts

Policy 95: Require high design standards for office, industrial, and research and development (R&D) buildings in all business districts.

Action 2: Maintain and review, as needed, criteria for superior quality architecture, landscaping, and site development for office, industrial, and R&D projects that request to develop beyond standard floor area ratio limits.

Policy 96: Maintain areas of Class B and C buildings to support all types of businesses and provide a complete community.

Specialized Plans and Zoning Tools

Policy 97: Prepare specific area plans and special zoning tools (including, but not limited to specific plans, precise plans, design guidelines, specialized zoning, and sense of place plans) to guide change in areas that need special attention.

Community Benefits

Policy 104: Ensure that development projects provide appropriate improvements or resources to meet the City's future infrastructure and facility needs, and provide development incentives that result in community benefits and enhance the quality of life for residents and workers.

Action 3: Include a discussion of community benefits in area plans and specific plans that defines the City's priorities and outlines and implementation program.

General Plan Land Use Map

The entire area has a General Plan designation of Industrial and is zoned M-S (Industrial and Service). The General Plan designation provides for research and development, manufacturing, office, and heavy industrial uses. Attachment 6 is a General Plan land use map of the vicinity.

COUNCIL POLICY 1.1.13 - Review Criteria for Projects Greater than 35% FAR:

This policy establishes criteria to evaluate the merits of Use Permit applications that exceed the baseline FAR in industrial zoning districts. The review criteria consist of: community character; environmental (traffic and air quality); site design and architectural; and an optional category of economic and fiscal factors.

ZONING STANDARDS

The M-S zoning district allows a maximum FAR of 35 percent, with building heights up to 75 feet and eight stories. An additional 10 percent FAR can be earned by exceeding the minimum standards in the City's Green Building program. Requests for FAR beyond 45 percent require a Use Permit with Planning Commission and City Council review, and are subject to the review criteria for higher intensity industrial development.

There are certain industrial areas in the City that are designated for more intensive development (up to 100 percent FAR). Properties zoned M-S/100% are allowed an additional 25 feet in height for a maximum of 100 feet and eight stories (not including rooftop equipment and elevator shafts). Transportation Demand Management (TDM) programs are also required for projects in designated high-intensity industrial zoning districts.

DEVELOPMENT POOL

The City maintains a limited amount of available office/industrial square footage (Citywide development pool) that may be applied to higher FAR projects that provide community benefits. The square footage given to a specific project is subtracted from the citywide development pool. There is no formal Council policy on whether the development pool should be adjusted if there are zoning changes to higher FARs. However, one example of how the City has previously addressed this issue is the site at Central Expressway and Wolfe Road, which was rezoned in 2014. In that case, the additional development potential approved was deducted from the development pool. The current balance of the pool is 1.94M square feet.

ENVIRONMENTAL REVIEW

The decision to initiate a General Plan study does not require environmental review under the California Environmental Quality Act (CEQA) because the mere initiation of a study does not constitute a project with the meaning of CEQA pursuant to CEQA Guidelines section 15378 (a) as it has no potential for resulting in either a direct physical change in the environment, or a reasonably foreseeable indirect physical change in the environment. If initiated, the proposed GPA and

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associated Rezoning (RZ) would be subject to the provisions of CEQA. If the applicant proceeds with the project concept as currently envisioned, preliminary analysis suggests that a Mitigated Negative Declaration may be appropriate, which will include a traffic analysis and other technical studies. If significant impacts are identified during the study, then an environmental impact report (EIR) may be required.

DISCUSSION

The requested study area is bound by Central Expressway to the north; Kifer Road to the south; Commercial Street to the east; and generally, by San Lazaro Avenue to the west (Wolfe Road is a block west of San Lazaro Avenue). There are seven parcels between San Lazaro Avenue and the requested boundary for the study area. See Attachment 4 for the applicant's conceptual site plan.

The total GPI request area is 17.85 acres or 777,457 square feet. Except for the Moose Lodge (a place of assembly use), the existing land uses in the area are industrial, with the largest use being the Fortinet headquarters. There is approximately 290,000 square feet building area in nine existing buildings, per County records.

The GPI request area is surrounded by industrial uses. The Lawrence Station Area Plan (LSAP) boundary and the City of Santa Clara border are located 0.2 miles to the east. Industrial uses are currently located within the portions of the LSAP and City of Santa Clara that are near the GPI request area. The Central and Wolfe office project (100 percent FAR) and Arques Site Specific Plan (up to 73 percent FAR) are located to the north across Central Expressway. The nearest residential uses are single-family homes on Bartlett Avenue 0.3 miles to the west. There are also multifamily residential uses 0.4 miles to the south at Wolfe Road and Evelyn Avenue. See Attachment 3 for an aerial vicinity map of the area.

The GPI request area is located one mile from the Lawrence Caltrain station and 1.4 miles from the Sunnyvale Caltrain station. Although not considered within walking distance, these major transit sites are conveniently located for potential new commuters with rides to transit or who may bicycle the distance.

Conceptual Proposal

The applicant, representing Fortinet, Inc., is requesting that the City consider a study to enable rezoning the proposed study area from M-S to M-S/FAR 100% and facilitate a master-planned office campus project that would be built in three phases. A conceptual project proposal was submitted with the GPI application to illustrate the request (Attachment 4). The actual project would require separate permit consideration if the GPI is initiated and a GPA and Rezoning are ultimately approved.

The conceptual proposal consists of the following elements:

- Demolition of all existing buildings and associated structures (including the Fortinet headquarters building), except the 10,000-square foot Moose Lodge building, which would remain;
- Construction of four, five-story office buildings totaling 766,000 square feet (height in feet not yet specified). A total of approximately 486,000 net new square feet would be requested;
- Construction of a six-level, above-ground parking structure (height in feet not yet specified);
- Amenity space (details not yet specified), which would count towards FAR if located in separate buildings; and

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- New surface parking, landscaping, and site improvements.

The Moose Lodge at 905 Kifer Road was established by Use Permit in 1972 and is a legal nonconforming use because community-serving place of assembly uses are currently prohibited in M-S zoning districts. The Moose Lodge would remain within the existing industrial building and would not expand in size or operational intensity as part of the conceptual proposal. Section 19.50.060 of the Sunnyvale Municipal Code (SMC) permits legal nonconforming uses to continue if no enlargement of the area, space or volume occupied by the use occurs. Therefore, an intensification of the FAR permitted would not increase the nonconformity of the existing building, because it would have no physical effect on the existing building or expansion of the use. Parking details for the Moose Lodge have yet to be provided.

Recent Examples of Projects with 100 Percent or Greater FAR

The applicant notes that the proposed density is similar to the nearby Central and Wolfe office campus, which is currently under construction. That property was rezoned from M-S to M-S/FAR 100% based on the site's existing industrial designation, proximity to arterial roadways, and sufficient distance away from single-family residential and other sensitive land uses. The City also approved a rezoning from M-S/FAR 55% and 75% to M-S/FAR 100% for the office campus at the northwest corner of Mathilda and Maude Avenues in 2012 because of the site's gateway location, and because of how the project met the City's objectives of encouraging Class A office development while being able to provide traffic mitigation measures and public improvements. That campus is now in the Peery Park Specific Plan (PPSP) with a different zoning designation.

All properties within the PPSP can be considered for 100 percent FAR if specified community benefits are provided and approved by the Planning Commission or City Council. Properties along the west side of Mathilda Avenue between Maude Avenue and US-101 can be considered for up to 120 percent FAR with City Council approval. Since the adoption of the PPSP in 2016, four office projects have been approved for 100 percent FAR or greater.

Proposed General Plan Amendment and Rezoning

If initiated by the City Council, subsequent GPA and RZ applications would be required to consider the 100 percent FAR. The recently adopted LUTE did not identify the proposed study area as an industrial intensification area; therefore, the General Plan would need to be amended to reflect the change. The Changing Conditions Map contained in the LUTE (Attachment 5) identifies the study area as where enhancement is to occur over the next 20 years. This enhancement would entail minor infill, improvements and redevelopment where urban form may change, but would still be consistent with the current character. The LUTE categorizes industrial intensification sites as "transform" areas where major redevelopment would occur with significant changes to urban form and character, including FAR. The subsequent GPA request would designate the study area as a "Transform - Office/Industrial" character of change area in the LUTE.

The Rezone would be needed to amend the existing M-S zoning designation to M-S/FAR 100% to be consistent with a General Plan change. Appropriate studies would be completed as part of the application. A recommendation hearing would be conducted by the Planning Commission and the final determination would be made by the City Council. The following finding is required to approve a future GPA and RZ:

The City Council may approve a General Plan or zoning amendment upon finding that the

amendment, as proposed, changed or modified is deemed to be in the public interest.

To study the applicant's proposal, the City would analyze the potential benefits of increasing the allowable floor area or retaining similar existing land uses. The study would analyze traffic and transportation implications and other environmental impacts, as well as potential visual impacts associated with increased building heights and massing. The City would also review the appropriateness of the proposed boundary for the industrial intensification area. The applicant would be responsible for the costs of all studies as part of the GPA/RZ review process.

Staff suggested the GPA process for this potential development because of the programmatic nature of the request. The request affects several properties and was not contemplated with the recently adopted LUTE. The applicant could apply for a Use Permit for higher FAR without changing the General Plan and Zoning, but the application would still require review by the Planning Commission and City Council. The differences in the processes are as follows:

- A GPA/RZ requires conceptual-level design details. If a GPA is approved, a subsequent application with specific project design features would be submitted for Planning Commission and possibly City Council consideration;
- A Use Permit application to exceed 35 percent Floor Area Ratio (FAR) would be subject to the specific review criteria for projects over 35 percent FAR as specified in Council Policy 1.1.13;
- The City does not have the discretion to specify the boundary of a study area with a Use Permit application, but may do so for a GPA/RZ; and
- Use Permits expire if not exercised within two years, whereas GPAs and RZs do not expire.

Recent Development Activity in the Vicinity

As noted earlier in the report, the GPI request area is located within proximity to the LSAP boundary (see Attachment 3). The City recently approved a project within the LSAP to construct two new four-story office buildings and associated parking structures resulting in 80% FAR for Intuitive Surgical's campus on Kifer Road. At the same time, the City approved a mixed-use, 520-unit residential and 7,000 square foot retail project for Greystar, which is immediately east of the Intuitive Surgical campus. The Greystar project involves a new north-south public road, which would eventually connect Kifer Road to Sonora Court with access to the Lawrence Caltrain station. The roadway would most likely connect to Sonora Court through the parcel at 1159 Sonora Court, but this has not been confirmed. Both projects were consistent with the LSAP and were developed in concert with the plan.

Potential Expanded Study Area Option

The proposed Fortinet area entails more than half the area between Wolfe Road and the private park adjacent to the Texas Instruments campus, and Central Expressway and Kifer Road. Given the changing nature of real estate in Sunnyvale, it is possible that future requests will be made for the other properties in the area, or an interest to protect some lighter industrial uses from future land use changes. Expanding the study area to include the entire area described above (see Attachment 3 to see a map of the area) could provide better guidance of how to plan the area. If that option is chosen, a new Specific Plan would provide the best direction for Fortinet, future projects, and decision-makers reviewing the projects.

An expanded study area would help ensure a coordinated review of traffic and environmental impacts, provision of community benefits, sense of place and infrastructure improvements, and

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support for retention and expansion of existing businesses. Housing opportunities could also be considered. The LUTE suggests preparation of specific plans to guide change in areas that need special attention.

The recently adopted PPSP is an example of a comprehensive plan for a larger industrial area that includes a community benefits program, provisions for open space, and requirements to fund transportation improvements. The PPSP encourages a range of workplace types and expansion opportunities to ensure the continued success of existing businesses in the area. The PPSP also rezoned industrial sites that were found suitable to accommodate residential uses, which is consistent with the City's goals to improve the jobs-housing ratio. Potential residential uses within this study area would be close to new residential uses in the LSAP, major transit, and employment opportunities in the greater area.

FISCAL IMPACT

There are no fiscal impacts associated with initiating a General Plan Amendment study. All fees and costs for development processing, related special studies and CEQA analysis would be covered by the applicant.

PUBLIC CONTACT

Public contact was made through posting the agenda on the City's official-notice bulletin board and on the City's website and the agenda and report were made available in the Reference Section of the City Library. Notices were sent to all property owners and tenants within 2,000 feet of the site (2,611 notices) (Attachment 7); email messages with notices were sent to the SNAIL, Lowlanders, and Heritage District neighborhood associations. Voicemail messages were received from an anonymous caller with concerns about expansion and gentrification in the neighborhood. Another call was received from a neighboring property owner supporting the industrial intensification and inclusion of their property in an expanded study area, which would be within the boundaries of staff's recommended study area described in Alternative 3.

ALTERNATIVES

Recommend to City Council:

1. Do not initiate a General Plan Amendment study and leave the current zoning designation as M-S. An applicant could apply for a Use Permit for the City to consider a FAR greater than 35% for a specific development project.
2. Initiate a General Plan Amendment study to consider identifying the 11 parcels within the GPI request area as an industrial intensification site in the General Plan to allow 100 percent FAR.
3. Initiate a General Plan Amendment study of a larger study area (bounded by Central Expressway to the north, the Kifer Road to the south, the private park to the east, and Wolfe Road to the west) as an industrial intensification site in the General Plan to allow 100 percent FAR with the preparation of a Specific, Area, or Precise Plan.

STAFF RECOMMENDATION

Alternative 3: Recommend to the City Council to initiate a General Plan Amendment study of a larger study area (bounded by Central Expressway to the north, the Kifer Road to the south, the private park to the east, and Wolfe Road to the west) as an industrial intensification site in the General Plan to allow 100 percent FAR with the preparation of a Specific, Area, or Precise Plan.

Staff finds that a larger GPI study area is a more thorough approach to planning for this area. A

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Specific Plan could provide a thorough study of the types of uses and intensities, a holistic view of traffic impacts and area improvements and sense of place additions. It is possible the area will experience more redevelopment interest in the future, and doing a study of the larger area would provide a broader approach rather than taking projects on a piecemeal basis. A specialized plan could also consider a range of uses different than allowed in the M-S zoning district (e.g. community serving places of assembly). All studies required for a general plan amendment or preparation of a specialized plan would be paid for by the applicant.

Prepared by: George Schroeder, Senior Planner

Reviewed by: Rosemarie Zulueta, Acting Principal Planner

Reviewed by: Andrew Miner, Planning Officer

Reviewed by: Trudi Ryan, Director of Community Development

Reviewed by: Kent Steffens, Assistant City Manager

Approved by: Deanna J. Santana, City Manager

ATTACHMENTS

1. *Not Used, Reserved for Report to Council*
2. Applicant's GPI Request Letter and Fortinet Company Information
3. Aerial Vicinity Map
4. Applicant's Conceptual Development Plan
5. LUTE Changing Conditions Map
6. General Plan Land Use Map of vicinity
7. Noticing Map