

## RECOMMENDED FINDINGS

### **CEQA Determination**

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**The project is Categorical Exempt from further environmental review pursuant to Section 15332, Class 32 (Infill Development Project) of the California Environmental Quality Act (CEQA):**

The Planning Commission hereby makes the following findings.

1. *The project is consistent with the applicable general plan designation and all applicable general plan policies as well as applicable zoning designations and regulations.*

**Staff Analysis:**

The Sunnyvale General Plan and Zoning designates the site as a Village Center Mixed Use site that allows for Medium Density Residential (average density of 18 du/ac) and 10% Floor Area Ratio (FAR) for commercial uses. Townhomes, apartments, and condominiums are typical within this residential designation. The Sunnyvale General Plan – Land Use and Transportation Element encourages redevelopment of older shopping centers such as the subject site with mixed use development to provide close-in services and residential diversity in existing residential areas. The project proposes 8,094 square feet of commercial (6.7% FAR) and a 50-unit townhome style condominium development (18.09 du/ac). The project generally complies with the prescribed development standards in the General Plan and Zoning, and requests nine waivers and one incentive/concession from development standards, and reduced parking granted by the Density Bonus Law (Government Code 65915 - 65918). The proposed development is considered compatible with the surrounding residential and commercial uses and neighborhood character.

2. *The proposed development occurs within the city limits, on a project site that is no more than 5 acres and surrounded by urban uses.*

**Staff Analysis:**

The project site is within the City limits and is located on a 2.7-acre site. The project site is within a developed, urban area of Sunnyvale and is surrounded by other residential and commercial buildings.

3. *The project site has no value as habitat for endangered, rare, or threatened species.*

**Staff Analysis:**  
The project site is urbanized with existing improvements and buildings and is not an active habitat for known special status biological resources or wildlife. The Biological Study was prepared by FirstCarbon Solutions, in July 2020. The study concludes that it the site is unlikely to support special-status plant or wildlife species; however the ornamental trees and the existing buildings present within the site and immediate vicinity may support both non-special status and special-status nest birds and bats. The Study recommends a pre-construction surveys to establish their presence or absence prior to removal of their habitat.

An Arborist Report dated May 2020 was prepared by HortScience for the project. The report surveyed a total of 31 on-site trees, of which 23 trees are deemed “protected” under SMC Chapter 19.94. A protected tree is defined as having a trunk size of at least 38 inches in circumference, as measured 4.5 feet from the ground. The proposed project includes removal of 16 trees, 9 are protected trees, of which 6 trees are in fair condition and 2 trees are in poor condition and 1 tree is in good condition. A majority of the trees proposed to being removed are in conflict with the location of the proposed buildings. Project proposes to plant 181 24-inch box sized trees.

The existing trees and buildings can be habitat for nesting birds and bat habitat. The City of Sunnyvale is required to comply with all local, state and federal regulations pertaining species and habitat protection. In addition, Sunnyvale’s standard conditions of approval

4. *Approval of the project would not result in any significant effects related to traffic, noise, air quality, or water quality.*

Staff Analysis:

Standard Requirements and Conditions of Approval are adopted as requirements of an individual project when it is approved by the City and are designed to avoid or substantially reduce a project’s environmental effects with respect to the following:

#### Traffic

##### *Residential Land Use*

The proposed residential land use component of the project is **not exempted** from VMT Analysis. However, per the *Residential VMT Heat Map for Countywide VMT Average* (Attachment 11 of RTC 20-0640), the project is located in the area where the average VMT/capita is 15% below the Countywide VMT Baseline Average, therefore the residential component of the project does not trigger any transportation related impacts per CEQA. Therefore, a VMT analysis is **not required**.

##### *Commercial/Retail Land Use*

The proposed commercial/retail component of the project **is exempted** from VMT Analysis under 2.B Neighborhood-Serving Retail/Service Development, as the proposed commercial/retail component meets the following criteria:

- Neighborhood serving retail – the proposed project consists of a sit-down restaurant and general retail
- Commercial Retail that has a square footage less than 100,000 SF – the proposed commercial and retail is 26,000 SF

Therefore, a VMT analysis is not required and no impact is expected.

#### Noise

An Environmental Noise Study for the project was prepared by Salter Associates Inc., in July 2020. The study concludes that noise from project operation (mechanical equipment and traffic) is not expected to significantly increase noise to the surrounding properties. The study notes that project construction can produce

higher levels of noise for the neighboring properties and provides measures that will be adopted by the contractor to reduce noise impact on the neighbors. These standard measures are consistent with the City's LUTE standard conditions of approval (see below). The assessment concludes the project operation would not result in a significant increase and the site will continue to meet Sunnyvale standards. The Study recommends that depending on the final placement of the mechanical equipment on the commercial building, noise levels can vary at the property line and that an acoustical engineer should review the design as it is developed to confirm noise levels and determine if additional noise-reducing measures are required. Staff has included this requirement as a Condition of Approval to be addressed prior to issuance of a Building Permit.

The project would generate temporary noise during construction that shall be included in the Construction Management Plan (CMP), a standard requirement to address noise and construction impacts. The following LUTE standard conditions would apply to the project if approved.

#### Air Quality

The Bay Area Air Quality Management District (BAAQMD) developed screening criteria to provide lead agencies and project applicants with a conservative indication of whether a proposed project could result in potentially significant air quality impacts. If all of the screening criteria are met by a proposed project, then the lead agency or applicant would not need to perform a detailed air quality assessment of their project's air pollutant emissions. These conservative screening levels are generally representative of new development on greenfield sites without any form of mitigation measures taken into consideration. For projects that are mixed-use, infill, and/or proximate to transit service and local services, emissions would be less than the greenfield type project that these screening criteria are based on. The proposed 50-unit residential development is below the screening criteria for Operational-Related Criteria Air Pollutant and Precursor Screening Level Sizes and therefore no further analysis is needed.

Furthermore, the project would not include any development beyond that assumed and analyzed in the LUTE EIR. The project proposes to remove 10,500 square feet of commercial space and construct 50-townhome style condominium units, which is within the residential density analyzed in the LUTE EIR. Therefore, the findings of the certified LUTE EIR concerning consistency with air quality plans remain valid and no further analysis is required.

Standard conditions required in the LUTE EIR require construction projects to implement BAAQMD's basic construction mitigation measures, which include the following dust control measures.

#### Water Quality

Stormwater management is required by the Federal Government through the National Pollutant Discharge Elimination System (NPDES) program. The City of Sunnyvale complies with the NPDES requirement through participation in the Santa

Clara Valley Urban Runoff Pollution Prevention Program (SCVURPPP). Projects are subject to Sunnyvale Municipal Code (SMC) Section 12.60. Compliance with these existing stormwater regulations and the City's Standard Requirements and Conditions of Approval would ensure that the project would not result in significant effects relating to water quality, consistent with the requirement of the Class 32 exemption under CEQA Guidelines Section 153332(d).

5. The site can be adequately served by all required utilities and public services.

Staff Analysis

The project site is already served by all required utilities, such as water, sewer and solid waste. Public services are also adequately provided, such as police and fire. All required utilities and public services will continue to be provided after completion of the proposed project.

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## **Special Development Permit**

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In order to approve the Special Development Permit, the Planning Commission must be able to make at least one of the following findings:

1. The proposed use attains the objectives and purposes of the General Plan of the City of Sunnyvale. (*Finding met.*)

The project site is located in a Village Mixed Use (VMU) site that is specifically identified as a site to be redeveloped to become the focus of activity and future transformative change for the nearby neighbors. Sites with the VMU designation allow an average residential density of 18 units per acre, a minimum of 10% floor area for commercial use and up to four stories in height. The proposed project includes a residential density of 18.09 units per acre and 6.7% floor area of commercial use. The applicant seeks a waiver for the residential and commercial densities prescribed by the General Plan (discussed in the Development Standards section of the report).

The surrounding neighborhood predominantly consists of townhomes, a fourplex and single-family homes. The proposed project generally meets the goals and policies of the General Plan as listed above by redeveloping the site with commercial use serving the neighborhood, a community gathering area and providing 50 ownership housing units. The site is within close proximity of transit, commercial, and employment areas. The project, as conditioned, would redevelop the site and include site improvements including parking, enhanced architectural character, landscaping and site amenities consistent with other recent multi-family residential developments in the vicinity.

Key goals, objectives, and policies from the General Plan are listed below:

### **LAND USE AND TRANSPORTATION**

- Action LT-1.2a - Promote transit-oriented and mixed-use development near transit centers such as Lawrence Station, Downtown, and El Camino Real and in neighborhood villages

### **GOAL LT-3** An Effective Multimodal Transportation System

**POLICY LT-3.1** - Use land use planning, including mixed and higher-intensity uses, to support alternatives to the single-occupant automobile such as walking and bicycling and to attract and support high investment transit such as light rail, buses, and commuter rail.

- Action LT-3.1b Establish reduced parking requirements for transit, corridor, and village mixed-use developments and for developments with comprehensive TDM programs that are consistent with the City's established goals.

**POLICY LT-4.3** - Enforce design review guidelines and zoning standards that ensure the mass and scale of new structures are compatible with adjacent structures, and also recognize the city's vision of the future for transition areas such as neighborhood village centers and El Camino Real Nodes.

**GOAL LT-5** – Support the development of Village Centers that create an identify and “sense of place” for residential neighborhoods, provide neighborhood gathering places, and allow a vibrant mix of public, commercial, and residential activities. Through development review and other permitting processes, ensure adequate protection is provided to residential neighborhoods when new uses and development projects are considered.

**POLICY LT-5.1** – Strengthen the image that the community is composed of cohesive residential neighborhoods, each with its own individual character and village center; allow change and reinvestment that reinforces positive neighborhood concepts and standards such as walkability, positive architectural character, site design, and proximity to supporting uses.

- Action LT-5.1c - Allow mixed-use development at appropriate Village Centers while preserving sufficient commercial zoning to serve neighborhood retail and service needs.
- Action LT-5.1d - Provide public gathering places with appropriate amenities for residents, such as Village Centers and neighborhood and community parks.
- Action LT-5.2a - Enhance existing residential neighborhoods by retaining and creating Village Centers with safe and convenient pedestrian and bicycle access.
- Action LT-5.2d - Require amenities in new development and Village Centers that serve the needs of residents.
- Action LT-5.3b - Where an opportunity arises, consider integrating or co-locating a Village Center with a neighborhood park or open space.

**POLICY LT-7.3** - Encourage the development of housing options with the goal that the majority of housing is owner-occupied.

## **HOUSING**

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

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

2. The proposed use ensures that the general appearance of proposed structures, or the uses to be made of the property to which the application refers, will not impair either the orderly development of, or the existing uses being made of, adjacent properties. (Finding met.)

The proposed project complies with several C-1 zoning standards, such as lot coverage, , total landscaping, and solar access. The applicant proposes nine waivers, one concession, and reduced parking as allowed by the State Density Bonus Law. The project also generally complies with applicable design guidelines, by providing an architectural design that includes high quality colors and materials, appropriate massing, and is generally compatible with the surrounding residential and commercial uses and character. Residential building heights are four stories towards the front of the site and generally taper down to three stories along the project frontage and rear property line. This provides for a more gradual transition to the adjacent residential properties to the south. In addition, the proposed residential buildings are set back approximately 74 feet to 84 feet away from the adjacent residential properties to the east and south. The transition of height and ample setbacks help to reduce potential visual and privacy impacts. As conditioned, a 6-foot tall decorative masonry wall is to be built and help to further reduce impacts.

The following Design Guidelines are applicable to the project. The proposed project meets with most of the guidelines. In cases where the guidelines are not met, staff finds that the adjustments made to design meet the intent of the guidelines.

#### City-Wide Design Guidelines

Guideline	Proposed Project
BD-2.2. Adjacent buildings should be compatible in height and scale. <i>Staff Comment: While there may be privacy and visual impacts associated with a three to four-story buildings located adjacent to a single-family neighborhood, the project has been designed to minimize those impacts. The proposed buildings exceed side and rear yard setbacks shared with its residential neighbors. Two of the three residential buildings located in the rear portion of the site step down to three-stories to minimize the visual impact of the project's mass and bulk.</i>	Intent Met
BD-2.5. Step back upper stories of building three stories or taller from public roads and adjacent low scale development to reduce the bulk impact.	Met
BD-3.10. Repeat design and decorative building elements in all elevations and the roof, not just in the front facade.	Met

<p>BD-3.18. Consider privacy in placement of windows on adjacent structures in residential areas. Stagger windows, use high, frosted, or no windows where privacy is a concern. <i>Staff Comment: Although the project will include windows and balconies overlooking the residential neighbors on the east side of the property the buildings are setback more than the minimum required and will be separated by an 8-foot tall masonry wall to help minimize the visual and privacy impact.</i></p>	<p>Intent Met</p>
<p>BD-4.3. Long horizontal roof lines are not acceptable. Interrupt roof line by architectural treatment and features. In nonindustrial areas, the maximum allowable unbroken roof line is 30 feet. Exceptions may be permitted only where a specific architectural style offers other types of roof forms and roof articulation</p>	<p>Met</p>
<p>LA-1.7. Install a minimum of one tree for every 300 sq. ft. of landscaping. Minimum tree size is 15-gallon. Certain percentage of trees should be specimen size.</p>	<p>Met</p>
<p>LA-1.8. All shrubs should be a minimum of 5 gallons. One-gallon size shrubs may be used for accent planting and ground cover.</p>	<p>Met</p>
<p>LA-2.1. Provide a minimum of a 15 ft. wide landscape strip along the public street side of all developments, except for single family residences. Landscape strips of more than 15 ft. are strongly encouraged to enhance the public streetscape. <i>Staff Comment: The applicant is applying the waiver allowed by State Law to allow a 10'-9" wide landscaped strip along Fremont Avenue. The existing commercial buildings will be re-oriented to an activated frontage on Fremont Avenue with outdoor patio seating for enhanced street presence and activity as envisioned for Village Center projects in the General Plan.</i></p>	<p>Waiver requested</p>



### **Tentative Map**

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In order to approve the Vesting Tentative Map, the proposed subdivision must be consistent with the General Plan. Staff finds that the Vesting Tentative Map is in conformance with the General Plan. However, if any of the following findings can be made, the Vesting Tentative Map shall be denied.

1. That the subdivision is not consistent with the General Plan.
2. That the design or improvement of the proposed subdivision is not consistent with the General Plan.
3. That the site is not physically suitable for the proposed type of development.
4. That the site is not physically suitable for the proposed density of development.
5. That the design of the subdivision or proposed improvements is likely to cause substantial environmental damage or substantially and avoidably
6. injure fish or wildlife or their habitat.
7. That the design of the subdivision or type of improvements is likely to cause serious public health problems.
8. That the design of the subdivision or the type of improvements will conflict with easements, acquired by the public at large, for access through or use of property within the proposed subdivision.
9. That the map fails to meet or perform one or more requirements or conditions imposed by the "Subdivision Map Act" or by the Municipal Code.

Staff was not able to make any of the following findings and recommends approval of the Tentative Map.