



City of Sunnyvale

Agenda Item-No Attachments (PDF)

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REPORT TO COUNCIL

SUBJECT

File #: 2014-7416 and 2014-7417

Location: 915 DeGuigne Drive and 936 E. Duane Avenue (APNs: 205-21-001 and 2015-21-002)

Proposed Project:

General Plan Amendment to change from Industrial to Medium Density Residential for 915 DeGuigne Drive and from Industrial to Public Facility: Park for 936 E. Duane Avenue;

Rezoning from M-S to R-3/PD for 915 DeGuigne Drive and M-S to PF for 936 E. Duane Avenue; and

East Sunnyvale Sense of Place Plan

Environmental Review: **Environmental Impact Report.**

Applicant/Owner: Watt Investments at Sunnyvale, LLC

Project Planner: Ryan Kuchenig (408) 730-7431, rkuchenig@sunnyvale.ca.gov

REPORT IN BRIEF

Current General Plan: Industrial (915 De Guigne Drive & 936 E. Duane Avenue)

Proposed General Plan: Residential Medium Density (915 De Guigne Drive); Public Facility: Park (936 E. Duane Avenue)

Existing Zoning:

- 915 De Guigne Drive: M-S (Industrial and Service)
- 936 E. Duane Avenue: M-S (Industrial and Service)

Proposed Zoning:

- 915 De Guigne Drive: R-3/PD (Medium Density Residential / Planned Development)
- 936 E. Duane Avenue: PF (Public Facility)

Existing Site Conditions: Vacant / Industrial Light Manufacturing

Surrounding Land Uses

North: Single Family Residential (across Duane Avenue)

South: Industrial

East: Industrial & Multi-Family Townhomes (across DeGuigne Avenue)

West: Schools: including Kings Academy and Rainbow Montessori

Issues: Land Use Compatibility, Density

Staff Recommendation: Certify the Environmental Impact Report, Make the Findings Required by CEQA and Adopt a Statement of Overriding Considerations and Mitigation Monitoring Program, Amend the General Plan to Medium Density Residential and Public Facility: Park, Introduce an Ordinance to Rezone the site to R-3/PD and Public Facility, and Adopt the East Sunnyvale Sense of Place Plan.

PROJECT DESCRIPTION

This report provides an overview of an Environmental Impact Report (EIR) that was prepared for

related applications for 915 De Guigne Drive (former Spansion site) and 936 East Duane Avenue (former Sandis site) and the East Sunnyvale area (Sense of Place Plan). The Special Development Permit and Tentative Map applications for the site will be considered separately, at a later date, if the EIR is certified and the General Plan and Zoning Amendments are approved. For purposes of the EIR document, a description of the proposed development is also provided, although project approval of the development is not being considered with this RTC.

The Sense of Place Plan for the East Sunnyvale area (Attachment 11) was prepared for the City by Callander Associates; their fees were paid for by the applicant. The applicant also paid for a Fiscal Impact Analysis prepared for the City by Seifel Consulting Inc. as background information for consideration of the change in land use.

The project site was previously analyzed as part of the environmental analysis prepared in support of the East Sunnyvale Industrial to Residential Project in 2007. The intent of the East Sunnyvale ITR Project was to approve General Plan Amendments and rezonings on 14 parcels totaling approximately 130 acres. The General Plan and zoning land use designation changes were proposed to allow for the conversion and redevelopment of these parcels with residential land uses. Council approved about half of the area to allow for residential uses.

While the project site was analyzed as part of the East Sunnyvale ITR Project, the project site was not included in the final project approval. The project site is currently designated Industry in the General Plan and zoned M-S (Industrial and Service). Because the project site was not part of the final approval, and the East Sunnyvale ITR Project Final EIR was completed eight years ago, the new environmental impact analysis is considered a standalone EIR and not a Supplemental EIR. The analysis utilizes information in the East Sunnyvale ITR Project Final EIR to the extent feasible.

Overview of Project, Site and Environmental Document

The proposed project includes demolition of the existing industrial buildings on the combined 25.2 acre site, formerly occupied by Spansion (24.4 acres) and Sandis (0.8 acre), and development of 450 three-story townhouses with on-site amenities and a public park. The resulting density of the site would be 18.5 dwelling units per acre. Proposed communal open space areas include an approximately 0.55-acre privately owned and operated park, which the applicant is offering for general public use, located near the center of the site. The project would include a landscaped multi-use trail/public access easement from East Duane Avenue to the private park and two small playgrounds located within the project. Public trails would also be located along the perimeters of the site. A 0.8-acre public park would be situated on the former Sandis site and would be primarily passive open space with seating areas and walking paths.

The project site is considered a Superfund Site by the Environmental Protection Agency (EPA), due to the combination of soil and groundwater contamination on the site resulting from previous activities on and nearby the site. Advanced Micro Devices (AMD) is currently responsible for the required environmental clean-up, which is regulated by the California Regional Water Quality Control Board (RWQCB) and the EPA. The project site was formerly an AMD semiconductor research and fabrication facility from 1974 until 2003. In 2003, AMD transferred ownership to Spansion and since June 2015, the site has remained vacant.

The proposed project has included an extensive hazardous materials mitigation program, due to the previous land uses on the project site and known groundwater contamination from nearby sites that

have migrated to the site. The project includes a Pesticide Mitigation Plan, Vapor Mitigation Plan, and plan for removal of underground storage tanks and groundwater monitoring wells. The applicant has obtained approval a Soil Management Plan (SMP) from RWQCB. As part of the SMP, a Health and Safety Plan (HASP) is to be prepared to address safety and health hazards associated with all aspects of project construction in regards to worker safety to addresses soil handling during construction activities.

The EIR analyzes two primary scenarios of development on the project site including the applicant's current proposal for 450 attached townhomes and a public park. As directed by the City Council, a maximum build out/mixed-use development scenario is also evaluated. This scenario includes the maximum number of units (659 units) that would be allowed under the proposed Residential Medium Density General Plan category for the former Spansion site and up to 7,000 square feet of retail and 19 housing units in place of the public park on the former Sandis site. A total of 678 housing units on the entire project site would be constructed under this scenario.

Description of Project Analyzed for the EIR

The EIR provides analysis for the following applicant proposals:

1. A General Plan Amendment for 915 DeGuigne Drive from Industry to Medium Density Residential and 936 E. Duane Avenue from Industry to Public Facility: Park;
2. Rezoning for 915 DeGuigne Drive from Industrial and Service (M-S) to Medium Density Residential/ Planned Development (R-3/PD) and 936 E. Duane Avenue from Industrial and Service (M-S) to Public Facilities (PF);
3. Special Development Permit for the development of 450 three-story townhouse style units
4. Development of a 0.8 acre public park;
5. Vesting Tentative Map
6. East Sunnyvale Sense of Place Plan

BACKGROUND

In 2007, the City Council considered General Plan Amendments to allow Industrial-to-Residential (ITR) conversion for the area bounded by Lawrence Expressway, Wolfe Road, Stewart Drive, and East Duane Avenue. An Environmental Impact Report was prepared considering a range of densities and land uses for the full study area. At the time, Spansion expressed concerns regarding additional residential development in the area close to their operations. Ultimately, the City Council decided not to change the General Plan land use designation for the Spansion site and for several other industrial sites, reducing the adopted ITR area to approximately 73 acres.

In 2010, a General Plan Initiation Study was requested by Spansion, and approved, to consider a General Plan change for the subject site from Industry (IND) to Industrial-to-Residential Medium Density (ITRMED) in order to allow redevelopment of the existing site with housing. Subsequently, a General Plan Amendment and Rezoning application were filed by a residential developer in 2011, but ultimately withdrawn. The current applicant, Watt Investments, LLC submitted a General Plan Initiation request which was approved by Council in May, 2014. Formal applications for General Plan Amendment, Rezoning and Special Development Permit were filed in May 2014.

EXISTING POLICY

Policy LT-4.1: Protect the integrity of the City's neighborhoods; whether residential, industrial or commercial.

Action Statement LT-4.1a Limit the intrusion of incompatible uses and inappropriate development into city neighborhoods.

Action Statement LT-4.1c Use density to transition between land use, and to buffer between sensitive uses and less compatible uses.

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

Policy LT-4.4: Preserve and enhance the high quality character of residential neighborhoods.

Policy LT-5.9: Appropriate accommodations for motor vehicles, bicycles, and pedestrians shall be determined for City streets to increase the use of bicycles for transportation and to enhance the safety and efficiency of the overall street network for bicyclists, pedestrians, and motor vehicles.

Policy LT-5.10: All modes of transportation shall have safe access to City streets.

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

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-4.2: Continue to direct new residential development into specific plan areas, near transit, and close to employment and activity centers.

ENVIRONMENTAL REVIEW

The California Environmental Quality Act (CEQA) requires that all state and local government agencies consider the environmental consequences of projects for which they have discretionary authority. An Environmental Impact Report (EIR) has been prepared in compliance with California Environmental Quality Act provisions and City Guidelines. This EIR will use information from the *East Sunnyvale ITR Project Final EIR* (State Clearinghouse Number 2006102138) to the extent feasible.

The EIR is an informational document that describes the significant environmental effect of the project, identifies possible ways to minimize the significance of the effects and discusses reasonable alternatives to the project to avoid, reduce or minimize environmental impacts. The purpose of this review is to determine if the analysis in the EIR is adequate. It is not the purpose of the EIR to recommend either approval or denial of the project.

The EIR under consideration at this public hearing includes the Draft EIR (DEIR) document and the Final EIR (FEIR) document (which incorporates the DEIR by reference). The FEIR includes the comments written and received during the 45-day public review period (and oral comments received at the Planning Commission public hearing), responses to the comments, and any clarifications or corrections to the DEIR. Comments received from the public are fully addressed in the FEIR

document and summarized later in this report.

As proposed, the project would demolish all the existing industrial buildings on the project site to allow for construction of up to 450 attached townhouses (18.5 dwelling units per acre) on the former Spansion site and a public park on the former Sandis site. This EIR also analyzes a General Plan maximum build-out (maximum 27 units per acre) scenario that could construct up to 678 residential units and 7,000 square feet of retail space.

On November 3, 2014, a Notice of Preparation for the EIR was prepared and mailed to neighboring cities, the State, and other public agencies, and surrounding property owners and residents requesting their input on the scoping of the EIR. The Notice of Preparation and letters responding to the Notice of Preparation are found in Appendix A of the DEIR. The DEIR can be accessed at [EastSunnyvale.inSunnyvale.com](http://eastsonnyvale.inSunnyvale.com) <<http://eastsonnyvale.inSunnyvale.com>>

| Milestone | Dates |
|---|---------------------------------|
| Notice of Preparation | November 3, 2014 |
| EIR Scoping Meeting | November 20, 2014 |
| Notice of Availability of DEIR (Required 45-day public review period) | July 1, 2015 to August 14, 2015 |
| Planning Commission Public Hearing for Comments on DEIR | August 10, 2015 |
| Final EIR minimum 10-day public review | October 23, 2015 |
| Planning Commission Public Hearing (recommendation to City Council) | October 26, 2015 |
| City Council Public Hearing (Certification of EIR) | November 17, 2015 |

Areas of potential impact analyzed in the EIR include the following:

| | | | | |
|--------------------------|---------------------|-------------|----------------------|-----------------------|
| Land Use | Transportation | Air Quality | Biological Resources | Hazards and |
| Geology and Soils | | | Hazardous Materials | Public Facilities and |
| | | | Services | |
| Greenhouse Gas Emissions | Noise | Visual | Cultural Resources | Energy |
| and Aesthetics | Hydrology and Water | | Service Systems | Utilities and |
| Quality | | | | |

Scoping Meeting on the Environmental Impact Statement

A scoping meeting is required under CEQA for public agencies; members of the general public were also invited. The scoping meeting is intended to allow the community to provide direction on the issues to be addressed in the EIR. This meeting was held on November 20, 2014 in the City Council Chambers. Six members of the public attended the scoping meeting.

Notice of Availability of DEIR

The DEIR was issued for public review and comment on July 1, 2015. The DEIR was mailed to appropriate agencies and neighborhood groups. Copies were placed at the Sunnyvale Library, the One-Stop Permit Center and the Community Center. Notices of availability were mailed to property owners within 1,000 feet of the project area. During the 45-day review period that followed, public agencies and members of the public submitted written comments on the DEIR. The public review

period and comment period closed on August 14, 2015.

Three letters were received from public agencies and five letters were received from the general public during the review period. One member of the public, including two Planning Commissioners commented on the DEIR during the public hearing on August 10, 2015.

Potential Significant Impacts Identified in the EIR

The EIR determined that the project would or could potentially cause significant impacts in these areas:

- Air Quality
- Traffic and Transportation
- Noise
- Hydrology and Water Quality
- Biological Resources
- Hazards and Hazardous Materials
- Cultural Resources
- Utilities and Service Systems

Most significant impacts of the proposed project would be reduced to a less than significant level with the implementation of mitigation measures identified in the EIR. These mitigation measures would be incorporated into the Conditions of Approval for the Special Development Permit and Vesting Tentative Map of the project. The EIR also includes analysis of cumulative impacts. As defined by CEQA, cumulative impacts refer to two or more individual effects, which when combined, are considerable or which compound or increase other environmental impacts.

Significant and Unavoidable Impacts

A significant unavoidable impact is an impact that cannot be mitigated to a less than significant level if the project is implemented as it is proposed. As stated in the EIR, under the maximum build out/corner mixed use development scenario, redevelopment of the project site would result in a cumulatively considerable impact to the Lawrence Expressway/Duane Avenue intersection. A project to restripe the traffic lanes on Duane Avenue leading to the Lawrence Expressway will be required by the developer. However this improvement affects Lawrence Expressway which is a Santa Clara County road, The City of Sunnyvale, as the lead agency, cannot implement this improvement without approval of Santa Clara County; therefore, it is not certain that the identified mitigation measure could be implemented.

As stated in the EIR for both development scenarios, redevelopment of the project site would also result in a cumulatively considerable impact to the Fair Oaks Avenue/Duane Avenue intersection. There are no feasible mitigation measures to reduce the identified impacts to the Fair Oaks Avenue/Duane Avenue intersection due to the road diet that is approved for Duane Avenue. The road diet design was approved in 2014 for E. Duane Avenue to allow for bicycle lanes, as part of the outcome of the City's 2008 street space allocation policy. After a public outreach process and study of several alternatives, the City Council approved a road diet that reduced the existing four travel lanes to two automobile travel lanes, buffered bike lanes in each direction, a center two-way left turn lane, on-street parking restriction on the south side of the street, and parking restrictions within 20 feet of a controlled intersection. This road diet has recently begun construction. The City has decided to implement a number of transportation improvements to benefit bicyclists and pedestrians, in

exchange for a lower level of service for automobile travel.

Key Topics

Traffic

A transportation impact analysis (TIA) was prepared as part of the DEIR. Impacts described in Section 4.2 of the Draft EIR were based on the net increase of trips for the proposed project as well as the maximum build-out scenario. The existing roadwork consists of regional and local access. Regional access to the project site is provided via US Highway 101. Local access to the project site is provided through several arterials including: E. Arques Avenue, Central Expressway, DeGuigne Drive/Commercial Street, Duane Avenue/Oakmead Parkway, Fair Oaks Avenue, Lawrence Expressway, E. Maude Avenue, Stewart Drive, and N. Wolfe Road. The TIA also examined impacts to existing transit service as well as pedestrian and bicycle facilities. Existing intersection operations are analyzed based on the Santa Clara Valley Transportation Agency (VTA) TIA guidelines in terms of existing conditions, background conditions, existing plus project conditions, and background plus project conditions to determine if the level of service (LOS) of the local intersections in the project area would be adversely affected by the proposed project generated traffic. Freeway segment analysis is also conducted.

There are no significant unavoidable traffic impacts that would result from the proposed project and maximum build out development scenarios; however, with inclusion of cumulative traffic related to future growth and development in the region, two significant unavoidable impacts would occur which are discussed above. In addition, the maximum build out/corner mixed-use development scenario would result in a cumulative significant impact at the Wolfe Road/Maude Avenue intersection, but it can be reduced to a less than significant level with the implementation of mitigation.

Air Quality

Air quality impacts were measured based on the traffic trips resulting from a project, project operations, and the extent and duration of construction. There is no significant impact related to the proposed project; however, the Draft EIR points out that construction under the maximum build out scenario could have a significant, temporary impact on nearby sensitive receptors. As a required mitigation, a Health Risk Analysis would be completed prior to issuance of any demolition or grading permits for the project. If emissions are calculated to be above the BAAQMD thresholds, mitigation measures will be required to reduce emissions below BAAQMD thresholds during all phases of construction. Measures may include, but are not limited to:

- Use of newer or retrofitted construction equipment that has lower emissions rates than standard equipment;
- Use of alternative fuel equipment;
- Modification of construction techniques to avoid use of diesel-powered equipment; and
- Phasing of construction activities.

Noise

The noise impacts are based primarily on the exposure of sensitive receptors to unacceptable noise levels and increases in ambient noise levels.

The analysis indicates that two significant impacts would be anticipated under both the proposed

project and maximum build out scenarios. The expected interior noise level of new units closest to E. Duane would exceed City standards. Mitigation can be provided to reduce noise levels through construction techniques for windows and doors. The analysis also indicates that students at the adjacent school could be exposed to interior and exterior noise levels in excess of acceptable City standards during construction. Mitigation includes the use of specific equipment based on their location on the site. Prior to construction, a construction management plan is required to be provided that details the schedule for major noise-generating construction activities as well as a procedure to coordinate between adjacent residential and school uses.

Hydrology and Water Quality

Hydrology impacts are based on changes in water quality, exposure of persons/buildings to flooding, and interference with groundwater. Since there is no conceptual plan for the maximum build-out scenario, there could be an impact to storm drainage systems if the impervious surface area exceeds existing conditions. The EIR has provided several measures based on BMPs recognized by the RWQCB, to reduce construction-related water quality impacts. With implementation of these measures, the impacts will be brought down to a less than significant level.

Biological Resources

Biological impacts are based on the disturbance and/or loss of habitat and wildlife from a project. An evaluation of the existing landscaping, including a number of significant trees based on the City's definition of a protected tree was conducted. A significant impact was determined for the proposed project or any future project under the proposed General Plan Amendment due to the potential "loss of fertile eggs, nesting raptors, or any activities resulting in nest abandonment." This issue is less than significant with mitigation.

Several tree protection measures and replacement requirements are to be included as mitigation and would be implemented as Condition of Approval for the project's development permit. Further clarification was provided in the Final EIR regarding the number of trees removed and required replacement. Additionally, there are several specific mitigation measures, consistent with the East Sunnyvale ITR Project Final EIR that would be implemented during construction to avoid abandonment of raptor and other protected migratory birds nests.

Hazards and Hazardous Materials

Historic land uses on-site and up-gradient of the project site have resulted in site wide pesticide contamination, localized soil contamination, groundwater contamination, and soil vapor. The project includes an extensive hazardous materials mitigation program to remediate on-site contamination. The planned remediation includes a Pesticide Mitigation Plan to handle and/or remove contaminated soils from the project site. A Vapor Mitigation Plan is included for soil vapor sampling to evaluate the concentrations of volatile organic compounds (VOCs). Throughout the site, passive vapor barriers are proposed beneath all residential buildings. All known underground storage tanks (USTs) have been removed; however, if undocumented USTs are encountered, they will be removed, disposed of, and closed consistent with the City of Sunnyvale's public safety standards. The project proponent has a RWQCB approved Soil Management Plan (SMP) which addresses soil handling during construction activities. In addition to the Hazardous Materials Mitigation Program proposed by the project, there are several project-specific measures that are required to further reduce hazardous materials impacts. These measures are listed in the Draft EIR and MMRP.

Cultural Resources

Cultural resources impacts are based on the disturbance of subsurface resources and/or the loss of historic structures resulting from a project. The study examines prehistoric and historic resources including whether historic buildings are disturbed. The analysis notes that there are no known resources found on the site through previous development or soil borings/testing on-site, however there is one recorded deposit in proximity to the project site. The study includes mitigation measures to ensure proper documentation and recordation of any unknown subsurface cultural materials, should they be discovered during any ground disturbing activities.

Utilities and Service System

Utilities and service system impacts are primarily based on the ability of existing infrastructure and/or a service provider to support a proposed development, in light of existing and planned growth. Water supply was also evaluated and determined to be less water required than the current industrial use.

The analysis indicates that the proposed project would not have a significant impact on the existing storm drainage system. Since no conceptual plan for the maximum build-out has been considered, it is not possible to determine how impervious surface for this scenario would compare to the existing conditions. If the impervious surface is greater than existing conditions, the impact would be considered significant but could be mitigated through appropriate site design to ensure storm flow is maintained under existing conditions.

Impact on Schools

New residential development also raises neighborhood concerns about the impacts on public schools. Residential development is going to generate more students than industrial development. The projected student population for the proposed project would be 99 Sunnyvale School District students and 45 Fremont Union High School District students. For the maximum build-out scenario, 149 Sunnyvale School District and 68 Fremont Union High School students are projected. Both residential and industrial/office developments would pay one-time school impact fees at the building permit stage. State law has determined that payment of school district imposed mitigation fees mitigates impacts to a level of less than significant. Property tax revenue to the school districts would increase through redevelopment by any private user and any time the site is improved or sold. Community members have raised concerns about the cumulative increase in students from developments that could collectively be more significant. Sunnyvale staff meets regularly with the school district staffs and their consultants to share information on potential growth and change. This information can assist the schools in planning for potential long-term changes in student population. Fremont Unified High School District noted that the "Measure K Bond program includes the construction of additional classrooms and other facilities that would increase the educational capacity of Fremont High School and prevent overcrowding." This response is in the FEIR.

EIR Mitigation Monitoring

A mitigation monitoring and reporting program for significant impacts is required by CEQA to ensure implementation of all mitigation measures. A monitoring program identifies the mitigation measure, who is responsible for implementation, monitoring schedule and who is responsible to do the monitoring for each site. All of the monitoring responsibilities for the General Plan Amendment and related two developments will be handled by the City of Sunnyvale through its Community Development, Public Works, and Public Safety Departments. The Mitigation Monitoring and Reporting Program can be found in Attachment 10 to this report and will be incorporated into the Recommended Conditions of Approval under the Environmental Mitigation Measures section of

future Special Development Permits associated with the two sites.

Alternatives

CEQA also requires the consideration of Project Alternatives as a way to reduce the impacts of the project. The CEQA Guidelines specify that an EIR identify alternatives that “would feasibly attain the most basic objectives of the project but would avoid or substantially lessen many of the significant environmental effects of the project.” Section 6 of the DEIR provides further analysis of the alternatives. This section of the DEIR considers the following six alternatives, which are described in more detail in the Draft EIR:

- No Project Alternative - No build: The existing buildings could be re-occupied by another industrial user or could remain vacant for the foreseeable future.
- No Project Alternative - Build Out Under Existing Land Use Designations: Assumes that the project site is redeveloped to its maximum capacity under the current general plan designation and zoning classification.
- Mixed Use Development Alternative: Would consist of a General Plan Amendment and rezoning to allow for office and residential on-site.
- Commercial/Office Development Alternative: The site could be developed as a new office campus, a mix of office and retail, or a large retail center.
- Reduced Density Alternative: In an effort to avoid the significant cumulative traffic impact at the Fair Oaks Avenue/Duane Avenue intersection that would result from the proposed project, but still redevelop the site for housing, evaluates a reduced housing density alternative.
- Mixed Project Alternative: Evaluates the combined development of 450 residences on 915 DeGuigne Drive and 19 residential units and 7,000 square feet of retail on E. Duane Avenue.

The CEQA Guidelines state that an EIR shall identify an environmentally superior alternative. Based on the analysis, the environmentally superior alternative is the Mixed-Use Development Alternative because the project’s significant noise impact would be avoided, due to the potential location of commercial uses (instead of residential) along E. Duane Avenue. The alternative would also reduce water consumption, wastewater and solid waste generation, and it would have less of a traffic impact than the Commercial Development Alternative. While this alternative would not avoid the hazardous materials impacts to future residents, these impacts can be reduced to a less than significant level through the proposed mitigation plan.

The Mixed-Use Development Alternative would achieve most of the objectives of the proposed project.

This alternative would, however, substantially reduce the density of for-sale housing that could be placed on the site, which does not meet the City’s goals for affordable and increased ownership housing and project applicant’s objectives to the same extent as the project or the maximum build out/corner mixed use development scenario. The residential uses could include apartments as opposed to townhouses, but that would also be inconsistent with the City’s goal of providing more for-sale housing, as outlined in the General Plan.

Significant New Information

Testimony is sometimes received during the public review process relating to “significant new information.” For the purpose of an EIR, new information is considered “significant” when the

following would apply:

- A substantial environmental impact resulting from the project is identified;
- A substantial increase in the severity of an environmental impact is identified;
- A new feasible project alternative or mitigation measure is identified which the project proponent refuses to adopt; and
- The Draft EIR is so fundamentally and basically inadequate and conclusory in nature that the public comment of the draft was, in effect, meaningless.

To date, no significant new information has been received from the public or other public agencies.

Comments on the Draft EIR

Staff received three comments from public agencies regarding the Draft EIR and five comments from the general public. These comments with responses are included in the Final EIR.

Each of the public agencies, the California Department of Transportation (Caltrans), Santa Clara Valley Transportation Authority (VTA), and County of Santa Clara Roads and Airports Department provided comments regarding the TIA. Clarifications were provided regarding the scope, data, and mitigation required for the project. Comments from the public include concerns with traffic, pedestrian safety, schools, and the loss of existing trees on the site. Additional concerns were raised about the impact to public services such as emergency response times.

Determination of Adequacy

The “rule of reason standard” is applied to judicial review of EIR contents. This standard requires that an EIR show that an agency has made an objective, good-faith attempt at full disclosure. The scope of judicial review does not extend to correctness of an EIR’s conclusion, but only the EIR’s sufficiency as an informative document for decision-makers and the public. Legal adequacy is characterized by:

- All required contents must be included;
- Objective, good-faith effort at full disclosure;
- Absolute perfection is not required;
- Exhaustive treatment of issues is not required;
- Minor technical defects are not necessarily fatal; and
- Disagreement among experts is acceptable.

Environmental Review Staff Comments: Staff believes that the proposed FEIR, consisting of the Draft EIR (incorporated by reference), comments received on the Draft EIR, response to those comments, and a list of persons and public agencies commenting on the Draft EIR, meets the requirements of CEQA both in content and format. The Draft and Final EIR documents and technical appendices can be viewed online at EastSunnyvale.inSunnyvale.com <<http://eastsunnyvale.insunnyvale.com>>. Should it be determined that the EIR is not adequate, the Planning Commission or City Council may state those areas of discussion where the document is deficient and recommend that additional analysis be prepared prior to certification.

Any changes to the mitigation measures in the EIR may affect the accompanying determination of significance. The deletion or alteration of a mitigation measure may result in a determination of a significant unavoidable impact where a less than significant impact was determined as originally mitigated. If a mitigation measure is changed that creates a significant unavoidable impact, a Statement of Overriding Considerations will be required and a new hearing will have to be conducted.

No project related actions shall be taken until the FEIR is certified. As noted earlier, certification of the EIR does not approve or deny any element of the project or related development proposals.

Environmental Public Contact: All public notification procedures for the EIR were followed. The Notice of Preparation (NOP) of the EIR, responses to the NOP and the *notice for the public scoping meeting are included in Appendix A*. The EIR was distributed to the State Clearinghouse and other required and adjacent agencies on July 1, 2015 for a required 45-day public review period. A Notice of Availability of the EIR was sent to property owners within 1000 feet of the project area on July 1, 2015. A public hearing on the Draft EIR was held with the Planning Commission on August 10, 2015.

DISCUSSION

The site is part of an area that has been designated Industrial since the first General Plan was adopted in 1955. Prior to its use for industrial operations the area was used for agriculture. As described earlier, this site was part of the East Sunnyvale Industrial to Residential study in 2007. Three of four properties in the East Sunnyvale area have received zoning approvals to redevelop at medium density residential. The remaining East Sunnyvale ITR site is the 30 acre AMD headquarters at One AMD Place. In 2012, the Horizon 2035 Committee recommended that the update to the Land Use and Transportation element allow the East Sunnyvale area to expand to the original East Sunnyvale study area at medium to high densities. In May 2014, the City Council authorized the study of a General Plan Amendment from industrial to medium density residential use (14-27 dwellings units per acre) of the subject site.

The City has amended the general plan map from industrial to residential on a number of occasions since the 1980s when the Council identified a need for additional housing opportunities near jobs. Some of these amendments were identified by the City and others, as is the case for the subject site, are property owner requested. The evaluation process is the same: does the City desire the property to stay industrial to meet general plan goals for a healthy and diverse economy; is the site physically suitable for residential uses; and are the adjacent uses (and general plan designations) compatible with residential use and at what density. The Community Vision of the General Plan includes the Balanced Growth Profile which is updated annually as a tool for the community to use in evaluating growth and development in the community. Information on these questions is presented below under Industrial, Research and Development and Office use; Environmental Context; and, Relationship to Surrounding area and Balanced Growth Profile

Industrial, Research and Development and Office use

The City has approximately 2200 acres of property with industrial General Plan and zoning designations. The subject site is one of only a few industrial parcels in the City greater than 20 acres and the site also has an electrical sub-station which supported the prior manufacturing use. These two factors make the site potentially desirable for large manufacturing processes and corporate campuses. Based on the long duration that the property had been on the market the Council did not require the preparation of a market analysis to determine interest in industrial or office uses.

Fiscal Analysis

The City retained Seifel Consulting (Seifel) to analyze fiscal impacts of the development (as proposed by Watt) to the City General Fund, Sunnyvale School District and Fremont Union High School District (See Attachment 12). As part of this process, the City requested that four land use alternatives be evaluated to compare the fiscal implications of various land use options for

redevelopment of the property:

- **Scenario One** - Existing entitlement, which would allow the development of new Research & Development (R&D)/light industrial under existing zoning.
- **Scenario Two** - New Class A office, which would reflect a prior land use on a portion of the site and is currently being developed on similar properties throughout Sunnyvale.
- **Scenario Three** - Maximum Buildout/Mixed Use Development - New 678-unit residential community with retail (at General Plan maximum), which was studied as one of the project alternatives in the EIR.
- **Scenario Four** - Proposed Project - New 450-unit residential community with park, as proposed by Watt.

Of the four scenarios evaluated, all but one (Scenario Three) project annual General Fund revenues to be higher than annual General Fund expenditures at project buildout, thus allowing for a positive net fiscal impact to the City General Fund. The greatest net positive impact to the City General Fund would be under Scenario One (existing entitlement) which assumes the capture of business sales tax; note that there is no guarantee of business sale tax. The smallest positive impact would be under Scenario Four (applicant's proposal). Scenario Three projects net negative impact to the City General Fund.

Relationship to Surrounding area

Surrounding properties have various General Plan designations including Schools, Low Density Residential, Medium Density Residential, Neighborhood Commercial, and Industrial. To the southwest along Stewart Drive is an approximately 11-acre area which was designated General Business in 2007 to provide commercial services for residents of the ITR area. The proposed land use of Residential Medium Density is the same as the Fusion development to the east of the site. E. Duane Avenue provides a good buffer between densities with single-family residential (north of Duane) and townhouses to the south. Residential uses and schools typically have few land use conflicts, although some neighbors may not be prepared for outdoor school activities, particularly with a high school which may have more evening events.

The General Plan notes that the nearby San Miguel neighborhood is underserved by open space (GP Figure 3-5, see Attachment 8). Additionally, General Plan (Key Initiative #2, p. 3-38) places priority on developing new open space in the existing East Sunnyvale ITR area located immediately east of the proposed study area. Fair Oaks Park is located within ¼ mile to the west of the subject property, although access is not direct. The General Plan contains the following policies regarding park dedication:

Policy LT-6.14 In applying the Park Dedication requirements for new development, place a priority on acquiring land over in-lieu payment, particularly when the development is in areas identified as underserved and/or when the land is of sufficient size or can be combined with other land dedication to form larger Mini Parks or Neighborhood Parks.

Policy LT-8.9 Refrain from engaging in the development of open space and/or recreational facilities without prior assurance that ongoing maintenance needs will be addressed.

Policy LT-8.11 Support the acquisition of existing open space within the City limits as long as

financially feasible.

Policy LT-8.13 Mitigate as feasible the open space need in areas identified as underserved through the acquisition of new parkland and/or the addition of amenities in order to bring sites in line with Design and Development Guidelines.

In response for the desire a public park to serve the project and neighborhood residents, the applicant purchased the former Sandis site at the corner of E. Duane Avenue and De Guigne Drive. The applicant proposes to dedicate this 0.8-acre site to the City for a public park. This parkland dedication would partially satisfy the City's park dedication requirements, which is 4.05 acres for the proposed project. The applicant proposes to satisfy the remaining park dedication requirement with in-lieu fees that would total approximately \$13.6 million under the City's existing ordinance and fee schedule. Additionally, the applicant proposes to improve the park, which would be a contribution over and above the required in-lieu fees. This agreement would be added as a requirement to the Tentative Map and Special Development Permit applications to be considered later, if the General Plan and zoning are amended. Preliminary plans for the site layout have been provided to City staff; however, final review of the park design will be considered by the Parks and Recreation Commission after consideration of project entitlements.

Balanced Growth Profile

The City has a Balanced Growth Profile (BGP) that tracks the changes to seven indicators; it is updated at least annually. Attachment 13 shows the BGP including residential units and industrial/commercial/office square footage approved and not constructed projects, as well as pending projects scheduled for public hearings, through 2014.

The Balance Growth Profile was prepared as a tool to evaluate land use and related changes in the community. The concept is to check whether development is occurring in a "balanced" manner and to use the data to inform major land use decisions, such as General Plan Amendments. Sunnyvale has experienced a high rate of economic prosperity and development interest in the past few years. Although a number of projects have been approved, the relative rate of growth in the main land use areas is similar. Major investments such as transportation facilities and park improvements are in various stages of design and implementation, and traffic impact fees are collected from projects to fund these improvements. New residential development creates additional demands on open space and parks. As indicated above, the applicant is proposing to dedicate a 0.8-acre parcel for a public park.

Summary of General Plan Amendment

The site is valuable as an industrial site; however, staff finds that residential use is more compatible with the neighboring school and residential uses. Medium Density Residential uses have been compatible with lower density residential uses and in industrial areas transitioning to residential. The 24.4 acre site would not meet the City's standard for park land dedication. Staff recommends the General Plan Amendment of Residential Medium Density for the former Spansion site. Also, staff considers a designation of Public Facilities: Park for the former Sandis site to be an appropriate designation to support an expanded residential use in the East Sunnyvale area. Based on a preliminary review, the site meets the City's standards for parkland dedication.

Rezoning

The applicant has requested R-3/PD zoning of the property. The General Plan land use designation

of Medium Density Residential has a companion zoning district of R-3 (Medium Density Residential). R-3 allows up to 24 dwelling units per acre (before any allowable density bonuses for green building construction or affordable housing). A General Plan designation of Public Facility: Park for the smaller parcel could be accompanied by a zoning district of Public Facilities (PF) or R-3. The latter designation allows other future use of the property if the site cannot meet all of the City's park land dedication standards to accept it as a public park.

The Planned Development (PD) Combining District designation does not change the permitted density of a site. The purpose of the PD combining district is to “provide modifications, additions and limitations to other zoning districts to meet special conditions and situations concerning properties within such zoning districts that cannot otherwise be handled satisfactorily. This district is also intended to provide opportunities for creative development approaches and standards that will achieve superior community design, environmental preservation and public benefit” PD zoning requires approval of a Special Development Permit to redevelop a property (which would be considered separately if the General Plan and zoning are amended).

Staff recommends R-3/PD and PF zoning (as shown in Attachment 6 and 7)

East Sunnyvale Sense of Place Plan

As directed by the City Council action as part of the General Plan Initiation in April of 2014, staff contracted with a consultant to prepare a Sense of Place Plan (Attachment 11) for an expanded East Sunnyvale area (approx. 130 acres). The purpose of the Sense of Place Plan is to provide guidelines and a design document for future improvements to transit, pedestrian, bicycle and automobile circulation. The City has adopted similar plan documents such as the Fair Oaks Junction Plan and Tasman Crossing Plan. This particular study area is bounded by East Duane Avenue on the north and east, Stewart Drive on the south, and North Wolfe Road, Fair Oaks Park, and the Kings Academy School on the west. The Fair Oaks Junction Area Sense of Place Plan lies to the southwest of East Sunnyvale.

The plan functions as a policy document to ensure improvements to the area are implemented. As stated in the Sense of Place Plan, specific goals include:

- Enhance the quality of life for existing and future residents by encouraging and supporting a vibrant streetlife through wayfinding signage, seating areas, access nodes, and the addition of destinations and neighborhood-scale amenities.
- Encourage non-vehicular modes of travel by making those options (pedestrian, bicycle, transit) more comfortable through circulation, landscaping, lighting, and streetscape improvements.
- Enhance the neighborhood character and identity by providing entry monuments to define the limits of the neighborhood, providing pedestrian-scale thematic lighting, and beautifying the streetscape through landscaped parkway strips.

A community workshop was held in November 2014 to solicit input from nearby residents. The workshop allowed the public to weigh in on the established goals of the plan as well as provide feedback on current circulation patterns and traffic issues in the area. Concerns with pedestrian and bicycle safety were noted as well as locations where public access is limited. The East Sunnyvale Sense of Place plan is included in Attachment 11 and has been on the project's website since July 2015 (EastSunnyvale.inSunnyvale.com).

Chapter 3 (Page 15) of the Sense of Place plan provides more details for the planned public and private improvements to the area. Some of these public improvements include:

- Construct missing sidewalks,
- Increase sidewalk widths,
- Increasing buffers between pedestrians and vehicles
- Improve pedestrian safety and comfort by narrowing wide street crossings to reduce the vehicular exposure and time in the roadway.
- Provide enhanced intersection treatments
- Improve bike lane visibility with green colored lanes on major streets such as E. Duane Avenue),
- Maintain or improve on the existing Class II bikeway design.
- Provide bike racks at destinations such as parks, community institutions, and other public gathering areas.
- Improve pedestrian crossings on E. Duane
- Connect future improvements to Fair Oaks Park and the SCVWD East Channel Trail.

Private improvements include:

- Provide pedestrian/bicycle connections from the project site to E. Duane Avenue between San Miguel Avenue and De Guigne Drive.
- Design private streets and driveways within developments for pedestrian use with walkways that connect to the adjacent public street. Construct driveways to be flush with and a continuation of the sidewalk.
- Provide bicycle and pedestrian facilities in retail and residential uses, including bicycle racks near building entrances and gathering areas, and pedestrian access from the street.
- Require land dedications or public access easements to accommodate the provision of public pedestrian and bicycle paths along the property lines or through a development as illustrated on Figure 10.
- Require that public multi-use pathways and trails be landscaped with lighting to encourage use as a comfortable and safe recreational amenity.
- Provide unique area signs and bicycle parking at key locations.

These improvements will be considered as parcels within the plan area develop and as funding becomes available. Specifically, the proposed project will include several improvements described in the Sense of Place Plan. These improvements will be described in more detail as part of the analysis of the Special Development Permit of the project that will be considered at a later date.

Primarily, improvements will be funded and constructed by developers as part of the development process. When development applications are submitted for projects within the plan area, City staff will review the proposal and assure that it is consistent with the access improvements and design guidelines described in this document. City staff will then recommend that Conditions of Approval, consistent with the Plan, be applied to the approval of Planning Applications and Building Permits.

Implementation and Funding

The City of Sunnyvale will also apply for grants through the programs listed in the Grant Funding/Incentive Opportunities section of the Plan, and others as appropriate, to fund improvements

in the public right of way. Grant application priority will be given to intersection and streetscape projects where no pedestrian access currently exists or where pedestrian safety issues are present. Priority should be given to those elements that enhance safety if it does not resulting in funding conflicts.

In addition, a Sense of Place fee will be applied to redevelopment projects on a per unit basis for residential developments and a per square foot basis for non-residential developments. These funds will be used for common improvements such as pedestrian crossings, wayfinding markers and other elements identified in the plan as well as matching funds for grants. Implementation of other plan elements such as the pedestrian signals may be funded by gas tax funds and other transportation mitigation funds. The Sense of Place fee is calculated based on the estimated costs for the improvements and a pro-rated share of benefit for developments within the East Sunnyvale Sense of Place area. A Sense of Place fee, specific to East Sunnyvale, will be presented to City Council as a Resolution.

Maintenance may be funded through a special maintenance district. If maintenance is determined by the City to be a constraining factor during the design phase, it is possible some plan elements will require adjustment.

In addition to the proposed application for 450 units, approximately 600 residential units have already been constructed in the area. The area could support approximately 1,600 total units. Because the prior land use was industrial, there are gaps and inconsistencies in pedestrian facilities, with lack of sidewalks on several industrial parcels, missing or non-ADA compliant crosswalks, and varying conditions where sidewalks do exist. Some have landscaped buffer strips, some have tree wells in pavement, and some lack a landscape strip. Certain locations also lack bike lanes or could be upgraded to meet current standards.

PUBLIC CONTACT

Public contact was made by posting the Council agenda on the City's official-notice bulletin board outside City Hall, at the Sunnyvale Senior Center, Community Center and Department of Public Safety; and by making the agenda and report available at the Sunnyvale Public Library, the Office of the City Clerk and on the City's website.

Neighborhood Outreach Meeting

The applicant conducted an outreach meeting on September 17, 2014. The meeting notification radius is depicted in Attachment 1, which includes all properties located a minimum of 1,000 feet from the edge of the site. About 23 members of the public attended. The applicant has also attended a San Miguel Neighborhood association meeting to discuss the project. At this meeting, the applicant made a presentation on the proposed project and answered questions from those in attendance.

City Council Study Session

On March 3, 2015, the City Council conducted a study session on the proposed project. An overview of project was provided, including the General Plan policies, environmental review, park dedication, fiscal analysis, and Sense of Place plan. Questions and discussion mostly related to the size of the proposed park, planned public improvements, and certain traffic impact and planned mitigation for existing hazardous materials conditions.

Planning Commission Public Hearing on the Draft EIR

The Planning Commission conducted a public hearing on the DEIR on August 10, 2015. At this meeting, members of the public and the Planning Commission had the opportunity to provide comments on the analysis and results of the EIR. One member of the public spoke at the hearing and expressed concerns regarding the number of trees planned to be removed. Additional information has been provided in the FEIR for clarification.

Planning Commission Public Hearing on the Final EIR, GPA & Rezone

A public hearing was held with the Planning Commission on October 26, 2015. Two members of the public spoke with primary concerns related to traffic and safety along East Duane Avenue. One of the speakers presented a letter, included in Attachment 14, which includes concerns with construction dust that would result from the project. There was further discussion from the Planning Commission related to the approved road diet for East Duane Avenue and the community outreach that had previously taken place for the road diet. Staff notes that the review of the road diet that took place in 2013 included public hearings with the Bicycle and Pedestrian Advisory Commission (July, 2013) and City Council (September, 2013). Additional discussion related to the traffic impacts noted in the EIR.

ALTERNATIVES

1. Certify the Environmental Impact Report, make the findings required by CEQA and adopt a Statement of Overriding Considerations and Mitigation Monitoring Program (Attachments 2, 3 and 10).
2. Adopt a resolution amending the General Plan land use designation from Industrial to Residential Medium Density for 915 De Guigne Drive and from Industrial to Public Facility: Park for 936 E. Duane Avenue (Attachments 4 and 5).
3. Introduce an Ordinance to rezone 915 De Guigne from M-S to R-3/PD and 936 E. Duane Avenue from M-S to PF (Attachments 6 and 7).
4. Adopt the East Sunnyvale Sense of Place Plan.
5. Determine that additional environmental review is required and direct staff on what is required.
6. Deny the requests for General Plan Amendment and Rezoning.

STAFF RECOMMENDATION

Alternatives 1, 2, 3 and 4: 1) Certify the Environmental Impact Report, make the findings required by CEQA and adopt a Statement of Overriding Considerations and Mitigation Monitoring Program; 2) Adopt a resolution amending the General Plan land use designation from Industrial to Residential Medium Density for 915 De Guigne Drive and from Industrial to Public Facility: Park for 936 E. Duane Avenue; 3) Introduce an ordinance to rezone 915 De Guigne from M-S to R-3/PD and 936 E. Duane Avenue from M-S to PF; and 4) Adopt the East Sunnyvale Sense of Place Plan.

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Reviewed by: Kent Steffens, Assistant City Manager

Approved by: Deanna J. Santana, City Manager

ATTACHMENTS

1. Vicinity Map
2. Recommended Findings
3. Resolution Certifying EIR, Making Findings & Statement of Overriding Considerations
4. General Plan Amendment Resolution: 915 DeGuigne
5. General Plan Amendment Resolution: 936 E. Duane

6. Rezoning Ordinance: 915 DeGuigne
7. Rezoning Ordinance: 936 E. Duane
8. General Plan Figure 3-5 - Park and School Field Service and
Open Space Gap Areas
9. Final Environmental Impact Report
10. Mitigation Monitoring and Reporting Program
11. East Sunnyvale Sense of Place Plan
12. Fiscal Impact Analysis
13. Balanced Growth Profile
14. Letter from the Public Provided at the Planning Commission Hearing
15. Planning Commission Minutes, October 26, 2015