



City of Sunnyvale

Agenda Item-No Attachments (PDF)

File #: 16-1132, Version: 1

REPORT TO COUNCIL

SUBJECT

Proposed Project: Related Actions on related applications on five parcels, commonly referred to as Butcher's Corner, totaling 5.49 acres at El Camino Real/ Wolfe Road/Fremont Avenue:

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

HERITAGE RESOURCE DESIGNATION: Consideration Heritage Resource designation for six trees on the former Butcher Property (871 E. Fremont Avenue)

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

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

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

File #: 2014-7373

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

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

Applicant / Owner: De Anza Properties

Environmental Review: Environmental Impact Report

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

SUMMARY OF PLANNING COMMISSION ACTION

The Environmental Impact Report (EIR), Rezoning, Special Development Permit and Vesting Tentative Map project were considered by the Planning Commission on November 28, 2016 (see Attachment 1, Report to Planning Commission). A total of 41 members of the public spoke on the item, with 14 in support and 26 in opposition. Those in support primarily cited benefits related to the additional housing, public improvements associated with the project, and the applicant's \$1,000,000 voluntary contribution to the City's affordable housing program. Residents who spoke in opposition expressed concerns regarding adequacy of the EIR with respect to traffic, school overcrowding, privacy, neighborhood compatibility (massing and height), safety, parking, aesthetics and tree preservation (see draft minutes in Attachment 13).

The Planning Commission voted 4-2 (one absent) to recommend Alternative 2, do not certify the EIR and do not adopt the Statement of Overriding Considerations and Mitigation Monitoring Program. The Planning Commission recommended additional traffic analysis. By not recommending certification of the EIR, the Planning Commission recommendation on the proposed Rezone, Special Development Permit, and Vesting Tentative Map was a de facto denial. Under the California Environmental Quality Act (CEQA), a project cannot be approved unless the environmental review is complete and is found to fully comply with the requirements of CEQA.

ADDITIONAL TRAFFIC ANALYSIS

Section 15125 of the CEQA Guidelines requires public agencies to conduct environmental analysis based on the physical environmental conditions in the vicinity of the project as they exist at the time of Notice of Preparation (NOP) of the EIR. In this case, the NOP was issued in March 2015.

As traffic and growth have the potential to change over time, the Traffic Impact Analysis (TIA) analyzes multiple scenarios including a cumulative scenario, which was discussed at length at the Planning Commission hearing. The Cumulative Scenario is based on projections that assume levels of growth further into the future (ten years for this TIA).

According to the Valley Transportation Authority (VTA) guidelines for preparation of TIAs, which the City follows, cumulative growth can be either analyzed by estimating trips generated by other proposed development projects in the area ("list method") or by applying a growth factor to the existing and background traffic ("growth factor method"). This approach is consistent with CEQA Guidelines Section 15130, which outlines both the "list method" and the "projections method" for analyzing cumulative impacts.

Although some jurisdictions only use one approach, Sunnyvale is more conservative and combines both the list and growth factor methods. First, a list of past, present and reasonably anticipated future projects was applied. This list is included in Appendix D of the traffic study, dated December 2014, which aligns with the NOP date. Second, an annual growth rate derived from the City's traffic model (based on General Plan land use densities) is used to capture other projects that may come forward in the next 10 years. The growth rates used in the traffic study ranged from 0.5% to 2.66%, depending on the type of roadway. Thus, over ten years, volumes were escalated between 5% and 26.6%. By applying both the list and growth projection methods to the cumulative impact analysis, traffic data produced is sufficient to cover any new projects that were not included in the cumulative list between the NOP period and release of the EIR.

The Planning Commission expressed concerns about basing decisions on potentially outdated traffic information. Therefore, the Planning Commission recommended staff to reexamine cumulative traffic impacts based on a more current project list in order to determine if the traffic volumes growth used in the traffic analysis sufficiently accounts for development projects proposed since December 2014.

While staff finds that the traffic analysis complies with CEQA and is consistent with the City's standard methodology for preparing TIAs, the Planning Commission and City Council have the authority to request additional traffic analysis. Based on the Planning Commission's concerns, staff directed the City's CEQA consultant to review an updated list of cumulative projects dated November 30, 2016 to determine if that would have changed the outcome of the TIA and to review the City's growth factor. Staff and the consultant team have reviewed the updated cumulative projects list and determined that the traffic falls within the TIA's growth assumptions. The growth factor used for the Butcher's Corner TIA is actually higher than is currently the standard used by the City to evaluate other projects. Therefore, even using the new cumulative project list does not change the significance of the impacts on Levels of Service under cumulative conditions.

Staff also reviewed the traffic at El Camino Real/Wolfe Road intersection over the last 10 years and have determined the growth factors in the TIA are higher than the average changes seen over that period. Though the volumes over the ten year period have fluctuated, the volumes have remained

with a consistent range. Therefore, the findings of the TIA have not changed as a result of applying the City's updated cumulative project list. It is important to note that a project's impact is based on the amount of traffic it adds to an intersection, so even if the baseline is slightly increased it will not be sufficient to trigger an environmental impact under the California Environmental Quality Act.

PLANNING COMMISSION COMMENTS ON PROPOSED PROJECT

The Planning Commission also provided several project-related comments to the City Council for consideration. The following are Planning Commission's comments that the applicant is willing to accommodate:

- Provide drone views from the tallest windows on the Fremont Building (applicant has indicated he will have views available to present at the City Council hearing);
- Provide discounted VTA passes for the first ten years, instead of Caltrain passes in order to fulfill residential Transportation Demand Management (TDM) requirement;
- Plant large trees, that are appropriate for the site and low-water use/native, in front of the El Camino and Fremont Buildings ;
- Explore installation of infrastructure that will allow for future connection to recycled water being installed along Wolfe Road.

Staff Comment on Recycled Water: The water provider to the site is Cal Water. The recycled water line currently being installed under Wolfe Road is owned by the Santa Clara Valley Water District (SCVWD). Therefore, use of recycled water on this site would require approval by Cal Water and SCVWD. Based on limited information available to staff at this time, it appears that recycled water usage on residential projects may be limited to landscaped irrigation.

The following are additional Planning Commission comments that would require significant re-design of the project:

- Limit building height to 4 stories on the Fremont Building;
- Reduce the number of residential units, closer to the minimum 99 units, rather than the maximum 138 (with green building incentive);
- Explore ingress/egress on El Camino Real;
- Consider a joint driveway with the adjacent Oakwood Apartments;
- Consider saving more trees; and
- Modify the El Camino Building in order to save the two additional Oak trees.

Staff Comment on Density, Height and Architectural Features: To accommodate the Planning Commission's comments regarding reduced height, density and tree preservation, the applicant estimates that approximately 44 units would be removed, thereby reducing the total number of units from 138 units to 94 units.

As noted in the Planning Commission staff report, the Butcher property is currently zoned R-3/ECR (Medium Density/Precise Plan for El Camino Real), which allows a density of about 24 units per acre. The corner office property is currently zoned C-1/ECR (Neighborhood Commercial/Precise Plan for El Camino Real) and does not have a prescribed residential density, although residential uses may be considered through the Special Development Permit process. General Plan Policy HE-4.3 states:

Require new development to build to at least 75 percent of the maximum zoning density, unless an exception is granted by the City Council.

The maximum height permitted in the ECR combining district is 75 feet (eight stories) to the main roof. More detail on the project heights is included in the Report to Planning Commission (Attachment 1), page 10 of 19.

The allowable density and maximum height are basic zoning rights associated with redevelopment of the property. Any limitation to these zoning standards needs to be justified based on tension or conflict with other adopted regulations or City policy. The following table demonstrates the minimum and maximum number of units per zoning and the total units allowed with the green building density bonus incentive for the former Butcher property and the corner office building site and the total site. It also includes information on maximum height.

SUMMARY OF ZONING STANDARDS

	Butcher Property	Corner Office	TOTAL
ZONING DENSITY			
Lot Area (square feet)	222,083	16,988	239,071
Maximum Units C-1/ECR	--	not specified	
R-3/ECR Zoning: Maximum Units	123	9	132
Minimum Units (75% of zoning max.)	92	7	99
+5% Density bonus for Green	129	9	138
ZONING MAXIMUM HEIGHT			
R-3/ECR	75 (8 stories)		
C-1/ECR		75 (8 stories)	

If the City Council agrees with the Planning Commission's density comments, the current zoning of the Butcher property could accommodate the reduced density without rezoning the corner office property. The inclusion of the office property with the Butcher property redevelopment allows for a larger open space facility for the development and for full right-of-way dedication needs along Wolfe Road.

In response to the community concern with height staff has explored, with the applicant, a reduction in the Fremont apartment building by removing a full floor. This redesign would result in a five story element along Fremont with a 60 foot setback to the sixth floor and a reduction of the project by eight units for a total of 130 units. The applicant would accept this redesign feature of the project and in exchange would no longer include the voluntary additional funding for affordable housing. Staff has included this modification as a recommended condition of approval.

Also, due to feedback on the appearance along El Camino Real, staff and the applicant further discussed the design of the buildings on El Camino Real. Condition of Approval PS-1 g. has been added to require modifications the design details of this building to further reduce the massive appearance.

Staff Comment on Driveway Access: Precise Plan for El Camino Real Design Guideline 4.1.3.g.

notes that curb cuts should be minimized and encourages the use of shared access with adjacent uses where feasible.

While a new driveway along El Camino Real could help to alleviate vehicle traffic along Fremont Avenue, staff's professional judgment is that a new driveway would be spaced too closely to the intersection of El Camino Real and Wolfe Road and could pose a safety hazard. Therefore, staff does not recommend a new driveway to be installed along El Camino Real. The Planning Commission's recommendation to share driveway access through the adjacent Oakwood Apartments directly west of the site could require not only significant re-design of the Butcher property, but could also result in the loss of parking spaces and large trees on the adjacent property. Additional analysis would also be required to ensure that the adjacent driveway could accommodate the additional vehicles from the Butcher property, and the owner of the Oakwood Apartments property would need to concur with the joint use.

SUMMARY OF HERITAGE PRESERVATION COMMISSION ACTION

As noted in the Planning Commission staff report (Attachment 1), there is also a study to consider Heritage Resource designation of six oak trees on the Butcher property. The Heritage Preservation Commission considered Heritage Resource designation of six trees at their meeting of December 7, 2016. A copy of the Report to the Heritage Preservation Commission is Attachment 14. The Heritage Preservation Commission voted 5-1 to recommend designation of all six trees as Heritage Resources. Draft minutes of that hearing were not available at the time of this report preparation and will be added (Attachment 15) prior to the City Council Hearing.

For the reasons explained in the Report to the Heritage Preservation Commission, staff does not find that the six oak trees warrant designation as Heritage Resources.

PUBLIC CONTACT

Staff followed standard noticing procedures noted in the November 28, 2016 Planning Commission report (see Attachment 1). In addition to the comments received on the Draft EIR, numerous comment letters on the project have been received from members of the public (Attachment 12).

ALTERNATIVES

CEQA-Environmental

1. Adopt a Resolution to Certify the Environmental Impact Report (EIR), make the findings required by CEQA, and adopt a Statement of Overriding Considerations and Mitigation Monitoring Program (Attachment 5).
2. Do not certify the EIR and do not adopt the Statement of Overriding Considerations and Mitigation Monitoring Program and direct staff as to where additional environmental analysis is required.

Heritage Resource Nomination

3. Approve a Heritage Resource designation of one or more of the considered trees (Valley Oak and Coast Live Oaks).
4. Disapprove Heritage Resource designation for all of the considered trees.

Rezoning

5. Introduce an ordinance to Rezone 895 E. Fremont Avenue to R-3/ECR (Attachment 6)

6. Do not introduce an ordinance to Rezone 895 E. Fremont Avenue to R-3/ECR.

Special Development Permit and Tentative Map

7. Approve the Special Development Permit and Tentative Parcel Map with the findings in Attachment 3 and conditions of approval in Attachment 4.
8. Approve the Special Development Permit and Tentative Parcel Map with the findings in Attachment 3 and additional modified conditions of approval in Attachment 4.
9. Deny the Special Development Permit and Tentative Parcel Map.

STAFF RECOMMENDATION

Alternatives 1, 4, 5 and 7: 1) Adopt a Resolution to Certify the Environmental Impact Report (EIR), make the findings required by CEQA, and adopt a Statement of Overriding Considerations and Mitigation Monitoring Program (Attachment 5 in the report); 4) Disapprove Heritage Resource designation for all of the considered trees; 5) Introduce an ordinance to Rezone 895 E. Fremont Avenue to R-3/ECR (Attachment 6 in the report); and 7) Approve the Special Development Permit and Tentative Parcel Map with the findings in Attachment 3 and conditions of approval in Attachment 4 in the report.

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

Prepared by: Noren Caliva-Lepe, Senior Planner

Reviewed by: Andrew Miner, Planning Officer

Reviewed by: Trudi Ryan, Community Development Director

Reviewed by: Kent Steffens, Assistant City Manager

Approved by: Deanna J. Santana, City Manager

ATTACHMENTS

1. **Planning Commission Report, November 28, 2016** (*without attachments*)
2. Noticing and Vicinity Map
3. Recommended Project Findings
4. **Recommended Conditions of Approval including the Mitigation Monitoring and Reporting Program** (*updated for City Council*)
5. Resolution Certifying EIR, Making Findings and Statement of Overriding Considerations and Mitigation Monitoring and Reporting Program (MMRP)
6. Ordinance to Rezone 895 E. Fremont Avenue
7. Project Plans
8. Fremont Avenue Cross Section
9. Green Building Checklists
10. Exterior Noise Study
11. Project Data Table
12. **Comment Letters** (non-EIR)(*updated for City Council*)

Additional Attachments for Report to Council

13. **Excerpt of Planning Commission Draft Minutes, November 28, 2016**

- 14. Heritage Preservation Commission Report, December 7, 2016**
- 15. Excerpt of the Heritage Preservation Commission Draft Minutes, December 7, 2016**