



File #: 18-1055, Version: 1

REPORT TO PLANNING COMMISSION

SUBJECT

Proposed Project: Related applications on an 8.8-acre site:

SPECIAL DEVELOPMENT PERMIT: To construct 58 single-family homes, including requests to deviate from setback and FAR requirements/standards.

TENTATIVE MAP: To subdivide one parcel into 61 lots including 58 single family lots, a private street, a remainder common lot, and lot for a 2-acre public park.

Location: 1142 Dahlia Court (commonly referred to as the Corn Palace) - bound by Dahlia Drive, Toyon Avenue, Lily Avenue and Lawrence Expressway.
(APN: 213-12-001)

File #: 2017-7451

Zoning: R-1.5/PD

Applicant / Owner: Trumark Homes/Francia Family Living Trust, Gabriel Francia, Trustee
(applicant /owner)

Environmental Review: Adopt a resolution to make findings required by CEQA, certify the Environmental Impact Report (EIR), and adopt a Statement of Overriding Considerations and Mitigation Monitoring and Reporting Program

Project Planner: Shétal Divatia, (408) 730-7637, sdivatia@sunnyvale.ca.gov

REPORT IN BRIEF

Existing Site Conditions: Vacant land, a vacated produce stand and associated parking, three dwelling units and three outbuildings.

Surrounding Land Uses

North: Single family homes across Dahlia Drive and Dahlia Court

South: Single family homes across Lily Avenue

East: Single family homes across Lawrence Expressway in the City of Santa Clara

West: Single family homes across Toyon Avenue

Issues: Loss of a potential Heritage Resource (family-owned farmland), traffic, Floor Area Ratio (house size), setbacks, and potential construction noise.

Staff Recommendation:

- a. Adopt a Resolution to Certify the Environmental Impact Report;
- b. Make the Findings required by the California Environmental Quality Act; and,
- c. Adopt the Statement of Overriding Consideration and Mitigation Monitoring Report Program.
- d. Make the Findings for the Special Development Permit, and Vesting Map, and;
- e. Deny the requested deviations for reduced setbacks and Floor Area Ratio, and;
- f. Approve the Special Development Permit and Vesting Tentative Map subject to recommended Conditions of Approval in Attachment 5, including a condition that the

house plans and architecture be modified to reduce house size and eliminate or reduce setback deviations to achieve a lower FAR, and a requirement that these modifications be approved by Planning Commission.

Description of Proposed Project

The project would develop the 8.8-acre farmland site (commonly called the Corn Palace) with 58 single family homes, and provide two acres for a public park. The project would demolish existing structures and remove trees at the site. The project would widen the adjacent public streets and complete the associated improvements to meet city standards. The project also includes construction of an 8-foot tall masonry wall on its east property line along Lawrence Expressway.

The proposal includes subdivision of the property, described below under Vesting Tentative Map. The Vesting Tentative Map would allow the creation of 61 lots where there is currently one lot. The map includes a lot for the 2-acre public park (Lot A), a remainder frontage lot near Dahlia Drive (Lot B), and a lot for the private street (Lot C) and 58 single-family home lots. A Vesting Tentative Map allows the developer, who needs discretionary approvals to complete a long-term development project as approved, regardless of any intervening changes in local regulations.

The project does not include the design and development of the public park - that will be completed later and is not a part of this application for the subdivision and homes.

BACKGROUND

Existing Site Conditions

The original Corn Palace farmland included two large lots. The lot on the west was developed in 2011 with 51 single family homes with the Low Density General Plan designation (zoned R-0). The subject 8.8-acre site at 1142 Dahlia Drive is the eastern half of the farmland, has a Low-Medium General Plan density and is zoned R- 1.5/PD. Although historically used as farmland, it is not currently being cultivated. The surrounding uses are single-family homes, at a lower density to the proposed project.

Existing Site Conditions: Mature Trees

There are 28 trees onsite, of which 16 trees are considered protected trees (trunk circumference of 38 inches or greater) under the Sunnyvale Municipal Code Chapter 19.94 (Tree Preservation). Four protected trees (walnut trees) along the Lily Avenue frontage are in poor condition due to lack of irrigation and maintenance. The palm tree (also a protected tree) located near the produce stand (and potential future park) is in good condition. The other 11 trees are located around the existing home on the northeast portion of the site and are generally in good to fair health, but their age and/or species makes them unsuitable for relocation. All the trees on the site are proposed to be removed. The four walnut trees on Lilly Avenue will be removed to allow for street widening and installation of sidewalks. The palm tree near the Corn Palace produce stand is noted be in good health and could be saved if its location is outside of the new roadway and sidewalk areas.

General Plan Designation

The site has a General Plan designation of Low-Medium Density Residential (7-14 du/ac).

Lawrence Station Area Plan (LSAP)

Although the site is shown as connected to the 318-acre Lawrence Station Area Plan, the property was not included in any development standards and was expected to be regulated by the non-LSAP

zoning standards. It was included within the half-mile radius from the Caltrain station. The existing single-family residential area (including the Corn Palace site) south of Reed Avenue was intended to retain its existing single-family residential character.

Zoning

The project site is zoned R-1.5/PD (Low Medium Density Residential/Planned Development) that allows up to 10 dwelling units per acre. The proposed project, at nine dwelling units per acre, meets the prescribed density for this zone and is not seeking rezoning. This zoning district was specially created to allow small lot single-family homes, with smaller house sizes.

Previous Actions on the Site

- The site is referenced in the Lawrence Station Area Plan that was adopted in 2016. The project site is in the southern portion of the area plan that designates the site to retain single-family residential character.
- The site was one of two sites that the City Council approved for the tentative cancellation of the Williamson Act Contract in 1990 (Resolution No. 124-90). A proposal to redevelop the site was approved in 1990 but expired. The other site on the west was developed with 51 single family homes in 2012.

EXISTING POLICY

General Plan Goals and Policies

The following chapters contain goals and policies of the General Plan which pertain to the proposed project. Specific goals and policies are noted in the Findings (Attachment 4).

- Land Use and Transportation Element
- Community Character Chapter
- Housing Element

Applicable Design Guidelines

The City has a collection of Design Guidelines that are based on General Plan goals and policies and are intended to enhance the image of the City, preserve the existing character of the community, and achieve a higher overall design quality. The project is subject to:

- Single-Family Home Design Techniques and,
- Citywide Design Guidelines.

City Green Building Program

The City's Green Building Program for new residential development requires the project to be:

- Minimum - CALGreen Mandatory Measures and GreenPoint rated checklist with 80 points with verification by a Green Point Rater.
- Voluntary Incentives - Increased lot coverage by 5% by achieving 110 points.

WILLIAMSON ACT CONTRACT

The Williamson Act enables local governments to enter into contracts with private landowners for the purpose of restricting specific parcels of land to agricultural or related open space use. In return, landowners receive property tax assessments which are much lower than normal because they are based upon farming and open space uses as opposed to full market value. The project site is currently under the Williamson Act Contract with the City. In 1990, at the request of the property

owners, the City Council approved the tentative cancellation of the Williamson Act Contract (Resolution No. 124-90), which remains in effect today. There is no expiration date on a tentative cancellation action. The State Department of Conservation indicates that there is no further action required by the City. Once the property owners or contract holder receives a certificate of tentative cancellation from the City, all the conditions, including a cancellation fee payment, must be fulfilled before a final cancellation can be approved.

The property owner will notify the City when they have satisfied the conditions and contingencies stated in the certificate of tentative cancellation, including the cancellation fee currently estimated at \$3,000,000 (12.5% of land valuation) that needs to be paid to the State Lands Commission. Within 30-days of receipt of the notice, and upon a determination that the conditions and contingencies have been satisfied, the City Clerk will execute a certificate of cancellation of contract, which will finalize the contract cancellation (Government Code section 51283.4(b)).

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.

Although the project site is not on Sunnyvale's Heritage Resource list, an evaluation noted that the site could be a potential Heritage Resource as it is associated with the agricultural history of Sunnyvale and Santa Clara County and is one of very few remaining agricultural lands in Sunnyvale. As proposed, the project would permanently cease the activity of farming and demolish the existing structures resulting in a loss of a family-owned farmland that is associated with Sunnyvale's agricultural past. An Initial Study for the proposed project indicated that the project may have an adverse significant impact on a potential Heritage Resource and therefore would require a focused Environmental Impact Report (EIR).

An EIR has been prepared in compliance with California Environmental Quality Act provisions and City Guidelines. 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 Mitigation Measures have been incorporated into Conditions of Approval (Attachment 5).

The purpose of this review is to determine if the analysis in the EIR is adequate. It is not the purpose of the EIR itself to recommend either approval or denial of the project. It is one action needed for project consideration. 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.

On April 13, 2018, 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:

<https://sunnyvale.ca.gov/business/projects/cornpalace.htm>

Following are milestone dates and actions related to the EIR:

Milestone	Date
Notice of Preparation (NOP)	April 13, 2018
EIR Scoping Meeting	May 10, 2018
Notice of Availability (Required 45-day public review period of DEIR)	November 2, 2018 - December 17, 2018
Heritage Preservation Commission Public Hearing on DEIR	December 5, 2018
Planning Commission Public Hearing for Comments on DEIR	December 10, 2018
Final EIR minimum 10-day review	March 2, 2019 - March 11, 2019
Planning Commission Public Hearing to Certify the FEIR	March 11, 2019

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

- Aesthetics
- Air Quality
- Archeological, Historic, and Tribal Cultural Resources
- Biological Resources
- Energy
- Hazards and Hazardous Material Greenhouse Gas Emissions and Climate Change
- Transportation and Circulation
- Green House Gas Emissions
- Noise and Vibration

Areas/resources **not** considered to be significantly impacted by the project and **not** requiring a detailed discussion and analysis are as follows:

- Agricultural and Forest Resources
- Geology and Soils
- Hydrology and Water Quality
- Land Use and Planning
- Mineral Resources
- Population and Housing
- Public Services and Utilities
- Recreation

Scoping Meeting and Public Review of the Environmental Impact Report

A scoping meeting is required under the California Environmental Quality Act (CEQA) for public agencies; members of the 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 May 10, 2018 in the City Council Chambers. Several members of the public made comments at the scoping meeting that was attended by approximately 25 neighbors. Nine members of the public and

three agencies submitted letters and emails regarding the Notice of Preparation

The DEIR was issued for public review and comment on November 2, 2018. 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 (November 2 to December 17, 2018), public agencies and members of the public submitted written comments on the DEIR. The public review period and comment period closed on December 17, 2018. Three letters were received from public agencies and 60 letters were received from the public during this review period. The Heritage Preservation Commission and the Planning Commission also commented on the DEIR during their public hearings on December 5, 2018 and December 10, 2018 respectively.

Summary of Impacts

Overview of Impacts: There are four levels of impacts identified in the EIR:

- Less than significant
- Potentially Significant
- Significant before Mitigation
- Significant unavoidable

If an impact is shown to be significant and unavoidable, then the decision-making body certifying the EIR, in this case the Planning Commission, must adopt a statement of overriding considerations or the project must be revised so that there are no environmental impacts that cannot be mitigated. A statement of overriding considerations indicates that the ultimate benefits of the project outweigh the environmental impacts.

Significant and Unavoidable Impacts Identified in the EIR

The EIR determined that the project would or could potentially cause significant and unavoidable impacts to the following:

- **Historic Resources.** The Corn Palace farm appears eligible for listing on the California Register of Historic Resources based on its association with Sunnyvale's agricultural past. The dwellings, buildings, and outbuildings are not individually eligible because they have no connection to local or state history, and are of common construction and materials with no notable or special features. However, loss of the agricultural site itself cannot be fully mitigated by the proposed mitigation measures, which include preparation of a historic resource evaluation report, photographic preservation, and creation of an interpretive display at the proposed park.
- **Construction Noise.** The construction of the project will expose nearby noise-sensitive receptors to temporary noise and vibration. These impacts will be partially but not fully mitigated by standard noise-reduction measures.

Errata to the Draft EIR

After preparation of the Final EIR, staff discovered that Section 2.3.2 of the Draft EIR erroneously identifies "Potential Impacts to Unique Archeological Resources" as significant and unavoidable. As discussed in Section 4.3-2 of the EIR, these impacts are less than significant with mitigation. In

addition, staff discovered that in Table 2.1, the column “Significance after Mitigation” was left blank for Impacts 4.3-2 (Unique Archeological Resources), 4.6-2 (Exposure to On-Site Hazardous Materials), and 4.9-1 (Construction Noise). These clerical errors do not change the analysis, conclusions, or mitigation measures in the EIR. An errata page is attached as Exhibit 7 and will be made a part of the Final EIR.

Mitigation Measures

Most identified 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 (Attachment 6) and the Mitigation Monitoring and Reporting Program (MMRP- Attachment 8). These mitigation measures are incorporated into the Conditions of Approval for the Special Development Permit and Vesting Tentative Map of the project (Attachment 5).

Below is a summary of the impacts and mitigation measures - for details, refer to DEIR and MMRP (Attachments 6 and 8)

- **Air Quality**
 - Impact: Short-Term Construction -Generated Emissions of Reactive Organic Gases (ROG), Oxides of Nitrogen (NO_{x4},) Particulate Matter (PM₁₀ and PM₂₅)
 - Mitigation Measures: Follow BAAQMD’s Basic Construction Mitigation Measures and eight other specific measures noted in the MMRP

- **Archeological, Historic, and Tribal Cultural Resources**
 - Impact: Demolition of existing structures that appear to eligible for CRHR and local listing and the potential resource would no longer exist.
 - Mitigation Measure: Document historic buildings before removal: Written History of the evaluation report to be reproduced on archival bond paper; Photographs (digital) be taken of the dwelling units and the Corn Palace
 - Mitigation Measure: Create an interpretive Program, Exhibit, or Display that is displayed at a location that is accessible to the public
 - Mitigation Measure: Upon discovery of subsurface archeological features, halt ground disturbing activity.

- **Biological Resources**
 - Impact: Disturbance to or loss of Special Status Plant Species (Congdon’s Tarplant) or Habitat
 - Mitigation Measures: Prior to any work/demolition work, the applicant to survey the site for plant species, and if found outside of building footprint of the project, preserve it; or if it must be removed, consult with California Department of Fish and Wildlife (CDFW) for appropriate mitigation measures.
 - Impact: Disturbance to or loss of Burrowing Owl
 - Mitigation Measures: Prior to and during grading work, the applicant to retain a qualified biologist to conduct focused breeding and non-breeding surveys in the area of suitable Burrowing Owl habitat, and if an active burrow is found during nonbreeding season the applicant shall consult with CDFW for appropriate mitigation measures, and if a burrow is found during the breeding season, the burrow shall not be disturbed and a protective buffer be provided unless a qualified

- biologist verifies that it is not needed.
- **Impact:** Disturbance to White-Tailed Kite, nesting raptors and other birds
 - **Mitigation Measures:** Before start of demolition/construction work, the applicant shall remove trees only during nonbreeding season; or if trees are to be removed during other times of the year, a qualified biologist will be conduct survey to identify active nests, and if they are found the biologist will consult with CDFW regarding appropriate buffer zones, young having fledged the nests and monitoring of the nests during construction activities.
- **Impact:** Consistency with Sunnyvale's Tree Preservation Ordinance - Removal of protected on-site trees
 - **Mitigation Measure:** Prior to any tree removal, the applicant to provide a detailed arborist report to ensure that existing trees cannot be saved through project modification or be relocated; saved trees to be protected with appropriate protection measures during construction.
- **Hazard and Hazardous Materials**
 - **Impact:** Create potential human health hazards from exposure to existing on-site hazardous materials
 - **Mitigation Measures:** Applicant to direct that all activities listed in the Feasibility Study/Remedial Action Work Plan (FSRAWP) are completed before start of construction. Activities include pre-sampling surveys, obtain appropriate permits, preparation of health risk assessment to be approved by Santa Clara County's Department of Environmental Health (DEH), pre-fieldwork activities, and several remedial actions. Refer to DEIR and MMRP for details.
- **Transportation and Circulation**
 - **Impact:** Construction related impacts on traffic
 - **Mitigation Measures:** Prior to start of any work, the applicant shall prepare a temporary traffic control plan (TTC) to satisfy City requirements.
- **Greenhouse Gas Emissions**
 - **Impacts:** Project-generated GHG Emissions
 - **Mitigation Measures:** Implement project features to be consistent with a future qualified Climate Action Plan or implement all feasible on-site greenhouse gas reduction measures and purchase carbon offsets.
- **Construction Noise**
 - **Impact:** Short term construction generated noise levels associated with the project construction
 - **Mitigation Measure:** Implement Construction-Noise Reduction Measures

Statement of Overriding Consideration

The Planning Commission's approval of the proposed project would result in certain environmental impacts that cannot be substantially lessened or avoided. While mitigation measures would reduce these impacts, they would remain significant and unavoidable.

Section 15093 of the CEQA Guidelines requires the decision-making agency to balance the

economic, legal, social, technological, or other benefits of the proposed project against its significant and unavoidable environmental impacts. Adoption of the project requires that the Planning Commission must state in writing the reasons in support of its action based on the Final EIR and the information in the record. The Statement of Overriding Considerations, is supported by substantial evidence in the record. The Statement of Overriding Consideration and CEQA Findings are in Attachment 3.

The Statement of Overriding Considerations in Attachment 3 includes a list of factors and policies that support the public benefits of the project. These include the City's critical need for additional housing, the fact that the site is already zoned residential and is identified in the City's Housing Element as a suitable site for residential development, the importance of residential infill development near Caltrain stations, and the creation of the 2-acre public park that will preserve open space and reduce the need for nearby residents to drive elsewhere for recreation.

EIR Mitigation Monitoring

A Mitigation Monitoring and Reporting Program (MMRP) 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 the monitoring responsibilities for the project will be handled by the City of Sunnyvale through its Community Development, Public Works, and Public Safety Departments. The MMRP can be found in Attachment 8 to this report and will be incorporated into the Recommended Conditions of Approval under the Environmental Mitigation Measures section of Special Development Permit and Vesting Tentative Map.

EIR Alternatives

CEQA also requires the consideration of Project Alternatives 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 5 of the DEIR provides further analysis of the alternatives. This section of the DEIR considers the following three alternatives.

CEQA Alternative 1: No Project, No Development: CEQA requires analysis of the "no project" alternative. Under this alternative, the site would remain vacant and undeveloped. This alternative would result in no significant impact on the environment; however, it would not meet any of the project objectives.

CEQA Alternative 2: No Project, General Plan Buildout: The project site is zoned residential and designated for residential development under the City's General Plan. Therefore, it is reasonable to assume that if the current project was not built, another project would be built that is consistent with the site's General Plan and zoning designation. The proposed park is also assumed as part of this other project based on policies related to parks and open space for the project site. This alternative would result in similar significant impacts as the proposed project.

CEQA Alternative 3: Retain Farm Stand with Reduced Density: Alternative 3 would retain the Corn Palace Farm Stand structure with the associated parking area incorporated into the design of the proposed public park. The proposed park would be extended by 0.2 acres to include this area and therefore reduce the number of homes by 2 for a total of 56 homes where 58 are being proposed. This alternative would result in reduced significant impacts on Historic Resources, Energy,

Transportation and Circulation, and Greenhouse Gas Emissions and result in similar impacts of the proposed project on the Aesthetics, Air Quality, Biological Resources, Hazards and Hazardous Materials, and Noise and Vibration areas/resources. However, the Farm Stand has no independent historic value, and the impact of the project on the historic value of the larger farm site would remain significant and unavoidable. Preservation of the Farm Stand does not meet the City's objectives and design criteria for a park feature, community building, or historical exhibit. The City would need to negotiate with the applicant to purchase additional land and would incur additional costs for that purchase as well as costs to upgrade and maintain the Farm Stand in order to make it suitable for public use. Therefore, Alternative 3 is considered to be infeasible.

Each of the above noted alternatives are described in more detail in the Draft EIR (Attachment 6).

Adoption Process if an Alternative is Selected

If the Planning Commission selects any of the alternatives, all have reduced impacts and no further environmental review is required.

Environmentally Superior Alternative

The CEQA Guidelines state that an EIR shall identify an environmentally superior alternative other than the "no project" alternative. Based on the analysis, the environmentally superior alternative is CEQA Alternative 3. With Alternative 3, impacts to historic, energy, transportation and circulation, and greenhouse gases would be reduced when compared to the proposed project. Because this alternative would result in reduced environmental impact than the proposed project, it would be considered environmentally superior. This alternative could also meet the project's objectives, although it would result in loss of 2 dwelling units. However, Alternative 3 would not avoid significant unavoidable impacts for the loss of historic resources and construction noise, and is considered infeasible for the reasons discussed above.

Significant New Information

Testimony is sometimes received during the public review process relating to "significant new information." For 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.

As of the end of the comment period on the DEIR, no significant new information has been received from the public or other public agencies.

Comments on the Draft EIR

Following is a summary of the comments received:

- State Agencies- One comment from California Native American Heritage Commission
- Local Agencies - Two comments from Santa Clara Unified School District
- Commissions - 12 comments made at the Heritage Preservation Commission and 14 comments made at the Planning Commission public hearings. public hearing meeting,
- Individuals - 60 comments received

Written comments from the public include concerns regarding increased density from the current proposed density, increased traffic and construction issues. These comments are also addressed in the Final EIR.

These comments with responses are included in the Final EIR (Response to Comments - Attachment 6)

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 - 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 November 2, 2018 for a required 45-day public review period. A Notice of Availability of the EIR was sent to property owners within 1,000 feet of the project area on November 2, 2018. A public hearing on the Draft EIR was held with the Heritage Preservation Commission on December 5, 2018 and with the Planning Commission on December 10, 2018.

Environmental Review Recommendation

Staff finds 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

<https://sunnyvale.ca.gov/business/projects/cornpalace.htm>

Should it be determined that the EIR is not adequate, the Planning Commission 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 must 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.

DISCUSSION

R-1.5 zoning district

The subject property has a base zoning of R-1.5, which was specifically created in 1989 to provide smaller lots (minimum 4,200 s.f., approximately 10 dwelling units per acre) with small homes as a more affordable single-family home option. As such, there is a 50% FAR maximum for this zoning district. There are four developments that have been developed in this zoning district. They are:

- 4 homes on White Pine Terrace developed in 1990 - Average FAR at 54%, home size ranges from 2,847 to 2,552 (this project was developed prior to the 50% FAR maximum for R-1.5).
- 59 homes on Cherrywood Drive developed in 1993 - Average FAR at 48%, home size ranges from 2,226- 3,300 s.f.
- 23 homes on Avoset Terrace developed in 1993 - Average FAR at 54%; home size ranges from 2,437- 2,839 s.f.
- 24 homes on Townsend Terrace developed in 1997 - Average FAR at 45%; house size ranges from 1,946 - 2,433 s.f.

The R-1.5 allows for single-family home development at a higher density than the surrounding R-0 zoning district (minimum lot size of 6,000 square feet, approximately 7 dwelling units per acre). Maximum lot coverage is also the same in R-1.5 and R-0 (40%). The R-1.5 zoning district has a maximum floor area ratio (FAR) of 50% whereas R-0 allows higher FARs if approved by the Planning Commission through Design Review Process.

Planned Development (PD) Combining District

The Planned Development combining district requires approval of a Special Development Permit (SDP) in order to develop the site. The purpose of the PD combining district, is stated in the Municipal Code Section 19.26.020:

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, such as, but not limited to:

- (1) *Facilitating development or redevelopment of a site to improve the neighborhood;*
- (2) *Allowing a proposed use that is compatible with the neighborhood but requires deviations from development standards for a successful project;*
- (3) *Facilitating desirable development of properties at significant intersections; or*
- (4) *Allowing development and creation of lots that are less than the minimum size required in the base zoning district.*

Many infill sites have the PD combining district. To approve a SDP, the decision maker must find at least one of the following:

- (a) *Attain the objectives and purposes of the general plan, specific plan, precise*

plan, or other specialized plan of the city of Sunnyvale; or

(b) Ensure 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.

Careful site planning and consideration of architecture and materials is needed for an infill neighborhood of a higher density to be compatible with existing land uses. In this case the applicant has proposed homes that are between the size of the newer single-family homes (former Corn Palace site to the west) and the older single-family homes in the neighborhood. Site planning features and roadway locations can help a project integrate into the neighborhood.

Special Development Permit

The proposed project is located in the R-1.5/PD zoning district and therefore requires a Special Development Permit. The project includes demolition of existing onsite buildings and development of 58 homes along with associated improvements including widening of existing public streets that account for approximately 0.7 acres and provision of parkland for a 2-acre public park. Deviations from the R-1.5 zoning standards can be considered through the Special Development Permit review process, providing the required finding is made. This application includes requested deviations to lot size, setbacks, lot coverage and floor area ratio.

The following sections are discussed in Sections A-N below. Development standards and requested code deviations for the proposed project are discussed through-out these sections.

- A. Site layout (including lot sizes and dimensions, setbacks,)
- B. Architecture (including architectural character, housing size, floor area ratio and lot coverage, and building height)
- C. Parking
- D. Street improvements
- E. Landscaping and Open Space
- F. Traffic and Circulation
- G. Stormwater Management
- H. Solar Access
- I. Trash and Recycling Facilities
- J. Green Building
- K. Below Market Rate Housing
- L. Park Dedication and Public Park
- M. Public and Private Street Improvements
- N. Hazardous Materials

A. Site Layout

The project includes development of 58 single-family homes and provision of a 2-acre site for a public park. The public park was chosen on the corner of Lily and Toyon Avenues as it is planned to be a neighborhood park that serves the larger neighborhood and not just the proposed project. The proposed layout indicates 12 homes facing Toyon Avenue and the remainder 46 homes will be served by a loop road (private street). A portion of this loop road faces the public park and includes 17 parallel parking spaces as guest parking for the residences. The loop road aligns with Vinemapple Avenue and ends on Dahlia Court. The proposed homes and driveways are located outside of the 40-foot corner vision triangles.

Lot Sizes and Dimensions

The R-1.5 zoning district requires a minimum lot size of 4,200 square feet. The proposed lot sizes, not including the private street, range from 3,288 to 4,883 square feet with an average lot size of 3,744 square feet. The average lot size, including the private street, is 4,583 square feet. Through the Special Development Permit deviations to the minimum lot size are permitted provided the overall density does not exceed that permitted by the underlying zoning district (in this case R-1.5). This project, as designed, would provide lots for 58 single-family homes. If the minimum lot size were required and the same private street configuration was used, there would be approximately 51 lots. If the goal is to provide additional housing units, the Planning Commission may wish to consider the private street toward the average lot size. Deviation on lot size is identified in the PD Combining District purpose statement.

In the R-1.5 zoning district, the minimum required lot width for an interior lot is 42 feet and for a corner lot it is 47 feet. The proposed lot width for a typical interior lot is 48 feet and the corner lot is 55 feet and meets the minimum lot width requirements. All the proposed lots exceed the minimum lot width dimensions.

Setbacks:

Although R-1.5 zoned lots may be smaller, the code-required setbacks are the same as those for the R-0 zoning district; whereas the R-0 zoning district has a 6,000 square foot minimum requirement. The project includes several setback deviation requests - primarily due to the relatively large homes proposed. The applicant has stated the deviation requests stem from other constraints such as providing a 2-acre public park and because the applicant is providing what they consider is a marketable home. The applicant has proposed a project that uses minimum and reduced setbacks as compared to the required setback. For purposes of setbacks, the project can be divided into three main categories:

- Homes on Toyon Avenue (12 homes/approximately 20% of total)
- Homes on private street without on-street parking bays (30 homes/ approximately 52% of total)
- Homes on private street with on-street parking bays (16 homes/ approximately 28% of total)

Attachment 11 illustrates the required setbacks for the R-1.5 zoning district and typical setbacks associated with this proposal.

Front Setbacks

- First story: The homes facing Toyon Avenue have a first story setback of 10 feet while the two homes located at the corners of Toyon Avenue/Dahlia Drive and Dahlia Drive/private street have larger setbacks that range from 22 feet to 28 feet. The homes on the private street have front yard setbacks ranging from 3 feet to 9 feet. The required first story setback is a minimum of 20 feet.
 - On-Street Parking Bays: The project uses a street parking concept similar to another small lot neighborhood on Riordan and Reston Terraces (off of Alberta Avenue) that created a neighborhood and pedestrian friendly private loop road with reduced front setbacks with on-street parking bays. In the proposed project, the eight parking bays reduce the front yard setbacks by about 6 feet, resulting in as narrow as 3 feet deep front yards. Homes without parking bays have front setbacks ranging from 22 to 9 feet.

- Second Story: The homes on Toyon Avenue have a second story setbacks ranging from 14-19 feet; while the home on the corner of Toyon Avenue/Dahlia Drive has a larger setback of 27 feet. The second story setbacks of the homes on the private street range from 14 feet to 8 feet. The code requires a minimum second story setback of 25 feet.

Side Setbacks

- First story: The applicant's approach is to provide most homes with the minimum required 4-foot setback on both sides. As per the code's combined sideyard setback, requirement, the second side of the 4-foot setback home would need to be at 8 feet for a total of 12 feet, where 4 feet is proposed for a total of eight feet. The homes on the corners have larger reducible front yard (street sideyard) setbacks that range from 5 feet to 10 feet. The proposed home (on lot 58), adjacent to the existing single-family home on Dahlia Court is setback 6 feet from the property line where a minimum of 4 is required (this setback is the same as the R-0 zoning district of the adjacent home).
- Second Story: The proposed second story sideyard setbacks typically range from 4 feet to 9 feet 6 inches where 7 feet to 11 feet is required. The corner homes with the reducible front yards are setback 5 to 10 feet from Dahlia Drive. The home on lot 58, adjacent to the existing single-family home, is setback at 6 feet where a minimum of 7 feet is required. If the site plans for the individual lots and building architecture are approved, staff recommends a Condition of Approval that the second story setback for Lot 58, on the side shared with the neighboring property (on the north) meet the minimum requirement.
- Combined Side Setbacks: Sunnyvale's development code also requires a minimum combined sideyard setback by adding the two sides of each home to result in a minimum of 12 feet for the first story and 18 feet for the second story. The proposed combined setbacks for the first and second stories range from 8 feet to 18 and do not meet the combined sideyard setback requirements except for the two homes located the corners of Dahlia Drive/Toyon Avenue and Dahlia Drive/private street (lots 12 and 13).

Rear Setbacks

The proposed homes have first and second story rear setbacks ranging from 10 feet to 20 feet where a minimum of 20 feet is required by code, although most homes have a 10-foot setback. Homes with rear yards facing Lawrence Expressway have a 12.5-foot setback. Building encroachments into the required rear setback are allowed for one-story structures, provided there is at least 10 feet and no more than 25% of the rear yard is covered.

Setback Deviations - Summary:

The project is seeking deviations from the setback requirements. The applicant contends that current lifestyles drive the housing market, which supports small backyards and greater living floor areas as compared to the traditional larger back yards. If the house size is reduced the rear yards could be increased to at least 15 feet deep as compared to the typical 10-foot rear yards proposed. Staff is concerned about these minimal setbacks and yards and recommends increased rear yard setbacks to at least 15 feet. The size of the homes is contributing to the project not meeting required setbacks. House size is further discussed below, under Architecture..

B. Architecture

The proposed architecture for the two-story homes can be categorized as agrarian/modern farmhouse style architecture. This style intends to pay homage to the sites historic use as a farm. This style is known for its warmth and simplicity, characterized by natural textures and materials like wood or galvanized steel. The overall design style can be classified as simple yet elegant. This style of architecture includes the following design elements:

- Simple forms - form follows functions, practical and ease of construction;
- Roofs - metal roofs simple gable, hip and shed roof forms; dissimilar roof materials, high-pitched roofs;
- Exterior Finish - Practical, humble and honed materials such as horizontal lap siding and cement fiber siding, board and batten siding, stone veneer;
- Porches - Front/back or wrap around with wood columns, floors and ceiling; provides a transition space between indoors and outdoors;
- Windows and doors - inset door and windows, regularly placed and shaped multi-paned windows, vertically oriented windows with dividing lights, decorative wood trim;
- Trim, accent and details - porch, covered entries with square posts, corbels, kickers details, box bay and tails details, enhanced sills, wood trellis over entries and windows, vintage farmhouse style exterior lighting fixtures; and,
- Colors - extensive use of white color, high contrast wall and trim colors, bold accent colors.

The project has four plan types and each plan type has two exterior styles making a total of eight styles of facades and elevations within the project. All eight styles include a mix of the above design elements. These styles include the use of metal roofing (at the first story level), brackets, trim around doors and windows, vertically oriented windows, multi-paned windows and doors, and siding. Side and rear elevations also include second story offsets and changes in material and windows. Homes on Toyon Avenue have a mix of all the eight styles. The four homes (Plan 2) that have their side elevations facing Dahlia Drive have additional details and change in planes that face Dahlia Drive. The proposed roof materials include concrete flat slate, composition shingles and metal roofing. The garage doors have panels and would be painted in varying colors.

Staff notes that the proposed architectural design of the homes could include an extended porch element as compared to proposed smaller entry ways, especially for the homes that face public streets. Additionally, staff recommends further improvement and refinement to the proposed architecture of the homes as noted in Condition of Approval PS 1.

Proposed House Size - Floor Area Ratio - Lot Coverage

The proposal includes four plan types. All the proposed homes include a 400-square foot garage. The average house size is approximately 3,300 square feet with 2,900 square feet of living area. For purposes of Floor Area Ratio (FAR) the front porch is exempt from the calculation to result in an average house size of 3,232 square feet.

Plan Types	Square Footage	Includes
Plan 1 12 homes	3,152 s.f.	4 bedrooms 4.5 baths
	3,829 s.f. w/ basement option	+ bonus room 1 bedroom & bath

Plan 2 4 homes	3,123 s.	4 bedrooms 4 baths
	4,063 s.f. w/basement option	+bonus room 1 bedroom & bath
Plan 3 21 homes	3, 263 s.f.	4 bedrooms 4.5 baths
	4,160 s.f. w/basement option	+bonus room 1 bedroom & bath
Plan 4 21 homes	3,465 s.f.	4 bedrooms 4.5 baths
	4,601 s.f. w/basement option	+bonus room, 1 bedroom & bath

The maximum floor area ratio in the R-1.5 zoning district is 50%; public streets are excluded in the calculation of FAR. Private streets are typically not included in R-1.5 zoning district FAR calculations, however multi-family zoning districts developed with single-family homes have included the entire site in the FAR calculation. There is no maximum FAR in multi-family zoning districts (e.g. R-2, R-3, R-4). The average FAR of the proposed single-family lots (excluding the private street) is 83% FAR; if the private street is included in the calculation, this project would have 69% FAR, which also exceeds the 50% FAR maximum for this zoning district.

The project also includes requested deviations to lot coverage for the individual lots. Only two of the lots meet the 40% maximum lot coverage.

	Calculated without private street area	Calculated including private street area	Allowed R-1.5
Actual lot size range: 3,226 - 4,883 s.f.			
Average lot size	3,816 s.f.	4,584 s.f.	4,200 s.f. min
Average FAR	83%	69%	50% max.
Average Lot Coverage	48%	40%	40% max

The FAR and lot coverage could be lowered by reducing the size of the homes. A small single-family house on a small lot is the goal of this zoning district. Reducing the home size would also assist in addressing other setback deviations. The following is a comparison between the homes built in 2013 on the adjoining portion of the corn palace site and the proposed project:

Building Height/Stories

The proposed homes are two stories, with a basement option. The basement building area is not counted towards Floor Area Ratio since more than one half the area is located below ground. The height of the homes is approximately 30 feet tall and meets the maximum height allowed for this zone. This height is similar to the height of the two-story homes on Toyon and Torrey Avenues, built in 2013.

Architecture - Summary

Staff cannot support the project with the high FAR and numerous setback and lot coverage deviations. Staff has included a Condition of Approval to reduce house size and eliminate or reduce

setback deviations to achieve a lower FAR, subject to approval by the Planning Commission. Minor deviations may be acceptable.

C. Parking

The project consists of 58 single-family homes that require a total of 4 on-site parking spaces per unit with two covered spaces (garages) and two unenclosed spaces (driveway). The project meets the off-street parking requirement with a total of 232 spaces.

Additionally, to address limited on-street parking, the project is required to provide an additional 0.4 parking spaces per dwelling unit, that results in a total of 24 on-street parking spaces. The project provides a total of 29 on-street spaces of which 17 spaces occur along the private street as parallel spaces along the park's frontage and as bay spaces along the private street. The project's frontage along the public streets (Toyon Avenue and Dahlia Drive) can accommodate 12 on-street parking spaces. Staff finds that the nine parallel spaces provided on the private street adjacent to the park are very tight and would be difficult to use. Staff recommends removing three of these parallel parking spaces in this area for a total of 26 unassigned on-street parking spaces, which is still more than the 24 spaces required.

D. Street Improvements

The proposed streetscape completes the public half streets on Toyon Avenue and Dahlia Drive in a manner that is compatible with the existing street pattern and streetscapes including sidewalks, curbs, street lights and trees. Toyon Avenue will include the landscaped/stormwater treatment bulbs found on the opposite side of the street. The private street as a loop road ending in the cul-de-sac is not a common layout pattern. As required, the project includes planting of street trees along the public streets and planting of trees along the private street in the front yards to be maintained by the Home Owner's Association (HOA). The project also includes stormwater management system that includes Silva Cells and bio-retention areas in the public right-of-way and along private street and front yards which shall all be maintained by the HOA.

E. Landscaping and Useable Open Space

The proposal includes a conceptual landscape plan. The plan indicates street tree plantings along Toyon Avenue and Dahlia Drive, and for the private street, street tree plantings occur in the front yards of the homes and will be maintained by the HOA. Each of lots will include landscaping to be installed by the developer in the front yards and the backyards landscaping will be installed by the individual home owners. The applicant notes that all front-yard and common area landscaping shall be maintained by the HOA. As per the zoning code, installation of more than 500 square feet of landscaping per lot would need to conform with Sunnyvale's landscaping requirements for water efficient landscaping.

The R-1.5 zoning district does not have a prescribed amount of landscaping or useable open space as it is considered a single-family home zone that would have adequate yards and open space, if all setbacks were observed. If an R-1.5 lot were 50 feet wide, the rear yard area would be 20 x 50 feet for a total of 1,000 s.f.; with allowable projections into the rear yard the site would have at least 750 s.f. of back yard area. For comparison, the R-2 zoning district, which has a density slightly higher than the R-1.5 zoning district, has a requirement for an average of 500 s.f. of usable open space per unit. The proposed homes would have about 480 to 600-square foot rear yards. The applicant has stated that the homes are geared toward today's market which prefers smaller backyards.

Single-family design guidelines prescribe that at least 50% of the front yards be of permeable material such as landscaping and permeable paving. Staff has added a condition of approval to require the permeable materials be used in the front yards, to the extent feasible. These materials could include permeable pavers or similar options.

Of the existing on-site 28 trees, 16 trees meet the protected tree size criteria (tree trunk greater than 38 inches in circumference). One of the existing trees, a date palm tree that is located near the fruit stand, with a 32-inch trunk circumference, is a non-protected tree, but could be saved if it is outside of the new right-of-way and could be incorporated in the new public park. The arborist study notes that the tree is about 35 feet tall and is in good health. The remaining 27 trees are proposed to be removed as they are either very old, in poor health or are located within or close to the proposed building footprints, or are of a species (avocado tree) that is not suitable for relocation

The project includes planting of street trees along its three public frontages and will also include trees along the private street. The new plantings will include at least 16 trees of 36-inch box sized trees.

Additionally, it is anticipated that the public park will also include tree plantings.

F. Traffic and Circulation

A detailed analysis of the project's impact on the existing roadway is included in the EIR (Chapter 4.7); following is a summary of the study and expected traffic impact from the project.

Traffic Study - The proposed project is expected to generate 50 AM and 64 PM peak hour trips. The public park is expected to create 9 AM peak and 7 PM peak hour trips. This trip generation does not meet Valley Transportation Authority's (VTA) threshold to require a Traffic Impact Assessment (TIA), and so the project was required to provide a Transportation Operation Analysis (TOA) to evaluate street operations in the vicinity of the site. This traffic study was also included in the EIR, which analyzes impacts based on CEQA thresholds.

The analysis considered a total of 629 net new daily trips generated by the new homes and the public park. Project trip distribution was determined based on existing traffic volumes and travel patterns, engineering judgment, and discussion with the City staff. This projected peak hour trip distribution shows that 50% of trips to and from the site will occur on Lawrence Expressway, while the other 50% occurs in the east-west direction streets including Reed Avenue/Monroe Avenue, Lilly Avenue/Cabrillo Avenue, and El Camino Real. The analysis studied traffic volumes and intersection congestion Level of Service (LOS) and the project's impact on 11 intersections for the following four scenarios:

- Existing Conditions
- Existing Plus Project Conditions
- Background Conditions
- Background Plus Project Conditions

Based on thresholds for impact, the project is not expected to adversely impact the 11 intersections and their LOS standards.

Off-site Queuing - Queuing deficiency is not considered a CEQA related impact. The City 's

Transportation and Traffic Division does not consider this queuing impact to trigger safety impacts. The result of the traffic analysis showed that traffic generated by the project results in the lengthening queues by 25 feet or more under the Existing Plus Project and Background plus Project Conditions at the following two intersections:

- Reed Avenue/Timberpine Avenue (northbound Left-Through-Right lane, AM and PM Peak period)
- Reed Avenue-Monroe Street/Lawrence Expressway (eastbound left, AM peak-period)

Recommended Traffic Related Improvements:

Reed Avenue/Timberpine Avenue: Timberpine Avenue is already constructed to ultimate build-out conditions and no additional northbound storage space is available. The project will be required to contribute towards the Intelligent Transportation System (ITS) projects through Sunnyvale's Traffic Impact Fee which is intended to improve queuing issues city-wide.

Reed Avenue-Monroe Street/Lawrence Expressway: Adding the required storage space to accommodate the additional storage length can be achieved by restriping the eastbound approach of this intersection to include dual 675-foot turn pockets (for a combined storage length of 1,350 feet) and extending the existing median about 500 feet to the west. However, the left-turn pocket extension is not feasible due to site constraints (proximity of the adjacent intersection). This type of improvement could occur in the long-term, when Santa Clara County constructs its Lawrence Expressway Grade Separation Project. The project is required to make a fair-share contribution of \$70,000 to the City, that will be allocated to future roadway improvement project(s) which may include the Lawrence Expressway Grade Separation Project.

Construction Traffic: Construction may include disruptions to the transportation network near the site, including the possibility of temporary lane closures, street closures, sidewalk closures, and bikeway closures. Heavy vehicles will access the site and may need to be staged for construction. These impacts can be potentially significant and would need to be mitigated by a Construction Management Plan which would include a Temporary Traffic Control Plan (TTC). The plan will include several requirements to ensure that the project construction has the least possible impacts on the neighborhood. For details, refer to Attachment 6 and 8 - EIR, MMRP.

G. Stormwater Management

The City complies with stormwater management requirements through participation in the Santa Clara Valley Urban Runoff Pollution Prevention Program (SCVURPPP). The stormwater management goals are achieved by incorporating Best Management Practices into the project design. Stormwater runoff is typically reduced using 100% Low Impact Development (LID) treatment measures such as rain harvesting and infiltration.

A preliminary stormwater management plan was submitted by the applicant to provide treatment to the entire development site. The project includes bio-retention areas located in the blubs along the public streets and Silva Cells throughout the site. These areas will be maintained by the HOA. A third-party expert will review the final plan prior to submitting Building permit applications.

H. Solar Access

Solar access means the absence of shadows blocking or reducing exposure to the sun to an extent

greater than 10% daily during the hours between 9 a.m. to 3 p.m. on December 21st throughout any solar cycle. Sunnyvale code limits this shadowing onto neighboring structure's roofs and/or active solar panels. It notes that applications for new construction above the first level of any structure shall include a solar shading analysis by a qualified professional. The proposed project includes 2-story homes with the same roof heights and are not expected to cast a shadow on their neighbors second story roofs within the project. However, one of the project homes (on lot 58) is adjacent to an existing two-story home on Dahlia Court with active solar panels and the plans show that a maximum of 6.6% of the roof and 20% of the active solar collectors are expected to be shaded at 9 a.m. on December 21st which has the greatest shadow. As per code, the 20% shading of the active solar cells required additional analysis which calculates the extent of the proposed structure to show a cumulative shadowing effect of less than 10% total over the course of the 365-day solar cycle. This further analysis demonstrates that the proposed home would cast a cumulative average of 4.3% shading of the solar cells. The project meets Sunnyvale code.

I. Trash and Recycling Facilities

The proposed homes will utilize the City's standard garbage and recycling carts provided for single family homes. The carts will be stored in the sideyards or garages. The containers will be placed along the street curbs for pickup by the City's garbage service.

J. Green Building

The project will be required to meet the CalGreen Mandatory measures and GreenPoint Rated Checklist indicating that the project will achieve the required minimum 80 points.

K. Below Market Rate Housing

At least twelve and one-half percent of the total number of ownership housing units or single-family lots in a project shall be developed as Below Market Rate (BMR) ownership housing. In calculating the number of BMR units required, any fraction of a whole number shall be satisfied by either developing one additional BMR unit or by paying an in-lieu fee. For the proposed 58 units, the BMR requirement is 7.25 units. The applicant may provide 8 BMR units or provide 7 units and pay the fee for the additional 0.25 units. Requests to pay a housing mitigation fee in lieu of providing the BMR units is subject to approval by the City Council and is not a part of the consideration of a Special Development Permit application.

L. Park Dedication and Public Park

As per Sunnyvale Municipal Code Chapter 18.10, the proposed project is required to dedicate land or pay a park in-lieu fee. For the 2-acre public park provided at the site, the applicant is required to dedicate a total of 0.725 acres (545 s.f. of land per unit) and the remainder 1.275 acres will be purchased by the City from the property owner for \$8,035,634. On February 5, 2019, the City Council conditionally approved a purchase and sale agreement contingent on the approval of the project and certification of the EIR (RTC No. 18-1093). The City Council's approval of the purchase and sale agreement does not commit the Planning Commission (or the City Council if appealed or called up by 2 councilmembers) to approve the project.

The park is envisioned as a neighborhood park. Its design and program will be developed by the City in accordance with the Parks and Golf Division's Park Design Guideline Analysis. The park will be designed and developed by the City at a later time; no specific time line has been identified at this time.

M. Public and Private Street Improvements

The project is required to complete the three adjoining half streets on its periphery. This includes dedication of land (total of 0.7 acres) and installation of sidewalks, curbs, ramps, stormwater drainage system, street lights and landscaping including street trees. Lily Avenue and Dahlia Drive's right-of-way (ROW) will be 62 feet wide and Toyon Avenue will be 58 feet wide. Toyon Avenue will include bulb-outs similar to those found on the opposite side of the street. These bulb-outs contain bio-retention areas as part of the stormwater drainage system for this development. The applicant is required to dedicate land to allow the three public streets adjoining the site to be completed to City standards. These public streets will include a 4 foot to 4-foot 6-inch-wide landscaping strip and 6-foot -wide sidewalks.

The private street will have a 37-foot ROW with 24-foot wide roadway, and a 4-foot wide sidewalk on one side of the street while the other side would include parallel parking bays. Trees along this street will be planted behind the sidewalk on private property and will be maintained by the HOA.

The abandoned portion of Lily Avenue, east of White Oak Drive and west of Lawrence Expressway will be modified such that there is a turn from Lily Avenue to White Oak Drive, and the existing pedestrian access from White Oak Drive to Lawrence Expressway is maintained. New sidewalk, curb and details will be installed and completed as per City standards.

N. Hazardous Materials

The historic use of the site for agricultural purposes has resulted in soil contamination from the use of pesticides and the old on-site structures have the potential to contain asbestos and lead based paint. The site is listed as a Cleanup Program Site by the State Water Resources Control Board and the Department of Toxic Substances Control. Any development at the site requires removal of the contamination through appropriate mitigation measures. The site shall be cleaned up to be suitable for residential and park use. A detailed discussion on this subject is included in the EIR (Chapter 4.6).

Vesting Tentative Map

The project subdivides the one lot into 61 lots as follows:

- 58 single-family lots, (average lot size: 3,744 s.f. without private street, 4,583 s.f. with private street)
- Private street lot (1 acre) and a remainder common lot along Dahlia Drive frontage (0.04 ac.)
- Two-acre lot for a public park.

The vesting tentative map allows the developer to vest an approved subdivision irrespective of subsequent changes that could occur in development regulations in the future. If a Special Development Permit is approved, including approval of deviations to lot size, the Vesting Tentative Map could be approved, provided the required findings for approval of a Tentative Map are made (included in Attachment 4). Conditions of approval for the Vesting Tentative Map are noted in Attachment 5.

FISCAL IMPACT

In addition to normal fees and taxes the following fees are required of the project:

Transportation Impact Fee

The project is required to pay a Transportation Impact Fee (TIF) on the total amount of new development with credit given for the two dwelling units that have occupied the site. The fee is estimated at \$174,384 under the City's existing ordinance and current fee schedule. The applicant will pay the fee in place at the time the building permits are issued.

Applicant is meeting its park dedication requirement by dedicating 0.725 acres of land. Therefore, no additional park dedication fees are required. The City will use \$8,035,634 of park dedication funds to acquire an additional 1.275 acres of land to create the 2-acre public park.

Other revenue: The project would generate increased property tax revenue from the increase in the assessed land value, and new residents would generate new sales tax from retail expenditures in the city. This increase in revenue would offset the cost of new City services needed by these new residents.

PUBLIC CONTACT

EIR

- Notice of Preparation, April 13, 2018
- EIR Scoping Meeting, May 10, 2018
- Notice of Availability, November 2, 2018
- Heritage Preservation Commission hearing on DEIR, December 5, 2018
- Planning Commission hearing for DEIR, December 10, 2018

Notice of Public Hearing

- Published in the *Sun* newspaper
- Posted on the site
- 992 notices mailed to property owners and residents within 2,000 feet of the project site
- Notices were mailed to the Ponderosa Park Neighborhood Association and interested parties

Staff Report

- Posted on the City's website
- Provided at the Reference Section of the City's Public Library
- Made available at the City's One Stop Permit Center

Agenda

- Posted on the City's official notice bulletin board
- Posted on the City's website

Public Contact: Other than comments on the DEIR, staff has not received any correspondence or phone calls from neighbors at the time of writing of this report.

Outreach Meetings

A neighborhood outreach meeting was held by the applicant at Ponderosa Park recreation building on October 7, 2018. Approximately 50 members of the public attended. The applicant described the project and shared the proposed site and architectural plans. Comments from the public included

existing road safety, local traffic, construction phasing, the public park and its design and amenities, sound wall between site and Lawrence Expressway, new home price and size. Increased traffic and speeding vehicles was prime concern. There were positive comments on the provision of a new public park.

Planning Commission Study Sessions

A study session was held with the Planning Commission on September 24, 2018. Site and architectural plans were reviewed. The Commission commented on the architecture being of poor quality, the project should be at a higher housing density than that proposed, and the Commissioners were supportive of the public park. Two members of the public also commented on this project and advocated higher housing density, and incorporation of solar panels in the house design.

Subsequent to the Study Session, the applicant has made changes to the architecture with an agrarian theme (modern farmhouse), and has incorporated design elements, details and materials related to this style of architecture. The applicant has not increased the number of homes proposed; thereby not changing the density of the project.

The density of the proposed project is consistent with the existing zoning and General Plan designation. State law requires local agencies to approve residential projects that are consistent with objective, written standards and criteria as they existed at the time the application was deemed complete (Government Code Section 65589.5). This law was enacted to prevent local agencies from using zoning and General Plan amendments to block residential projects during the approval process.

ALTERNATIVES

ENVIRONMENTAL IMPACT REPORT

1. Adopt a Resolution to Certify the Environmental Impact Report including the Errata in Attachment 7; make the Findings required by CEQA, and adopt the Statement of Overriding Consideration and Mitigation Monitoring Report Program in Attachment 3.
2. Do not certify the Environmental Impact Report and direct staff as to where additional environmental analysis is required.

SPECIAL DEVELOPMENT PERMIT AND VESTING TENTATIVE MAP

3. Make the Findings for the Special Development Permit and Vesting Tentative Map, Deny the requested deviations for reduced setbacks, lot coverage and FAR, and Approve the Special Development Permit and Vesting Tentative Map (included in Attachment 4 to the report), subject to recommended Conditions of Approval in Attachment 5 of the report, which include a condition that the house plans and architecture be modified to reduce house size and eliminate or reduce lot coverage, setback and floor area ratio deviations, and to require that the modified house plans and architecture be approved by Planning Commission.
4. Make the Findings for the Special Development Permit and Vesting Tentative Map and Approve the Special Development Permit and Vesting Tentative Map (included in Attachment 4 to the report) subject to modified Conditions of Approval in Attachment 5, accepting the house plans as proposed and **deleting** condition PS-1 a) in Attachment 5.
5. Alternative 3 or 4 with modifications
6. Do not approve the Special Development Permit and Vesting Tentative Map

STAFF RECOMMENDATION

Alternatives 1 and 3: 1) Adopt a Resolution to Certify the Environmental Impact Report including the Errata in Attachment 7; make the Findings required by the California Environmental Quality Act; and adopt the Statement of Overriding Consideration and Mitigation Monitoring Report Program (included in Attachment 3 to the report); and, 3) Make the Findings for the Special Development Permit and Vesting Tentative Map, Deny the requested deviations for reduced setbacks and FAR, and Approve the Special Development Permit and Vesting Tentative Map (included in Attachment 4 to the report), subject to recommended Conditions of Approval in Attachment 5 of the report, which include a condition that the house plans and architecture be modified to eliminate or reduce lot coverage, setback and floor area ratio deviations, and to require that the modified house plans and architecture be approved by Planning Commission, and to require that the modified house plans and architecture be approved by Planning Commission.

Staff has found that the EIR complies with the requirements of the California Environmental Quality Act (CEQA) and recommends that the EIR be certified.

Regarding the Special Development Permit, staff is recommending approval of the general site layout, including the deviation from minimum lot size. Staff finds that the smaller lot sizes are justified as this development is an opportunity to acquire public park area and the smaller lot sizes are consistent with the general plan density for the site. The smaller lots enable the development of a slightly larger number of housing units which is more consistent with the buildout number envisioned for the site.

Staff finds the general architectural character and design vocabulary of the homes consistent with the City design guidelines; however, staff finds that the houses are too large for the lots and that there are too many deviations in side yard and rear yard setbacks. Staff recommends that the house sizes (and architecture) be reduced and setbacks increased, subject to Planning Commission for approval. Planning Commission may wish to provide direction on average FAR for the revised architecture. If a 50% floor area ratio (FAR) is applied to the entire site (excluding public street dedications and future public park dedication) the average home sizes, including a two-car garage, would be 2,292 square feet. The zoning requirement for a 50% FAR maximum was established when none of the single-family zoning districts were subject to BMR requirements; since 2008 all for-sale residential development is subject to the requirement that 12.5% of the units be reserved for BMRs (or alternate compliance as approved by the City Council).

The Vesting Tentative Map would allow the subdivision of the property consistent with the site plan in the Special Development Permit. The developer could work on final map requirements while pursuing revisions to the house sizes.

Prepared by: Shétal Divatia, Senior Planner

Reviewed by: Gerri Caruso, Principal Planner

Reviewed by: Andrew Miner, Assistant Director of Community Development

Reviewed by: Trudi Ryan, Director of Community Development

Approved by: Kent Steffens, City Manager

ATTACHMENTS

1. Site, Vicinity and Public Notice Mailing Map
2. Project Data Tables
3. Resolution, Findings and Statement of Overriding Considerations
4. Findings for Approval of SDP and Tentative Map
5. Recommended Conditions of Approval
6. [Link <https://sunnyvale.ca.gov/business/projects/cornpalace.htm>](https://sunnyvale.ca.gov/business/projects/cornpalace.htm) to Final EIR (includes Draft EIR and Response to Comments)
7. Errata to the Draft EIR
8. Mitigation Monitoring and Reporting Program
9. Letter from Applicant
10. Letter(s) from Neighbor(s)
11. Illustration of R-1.5 and Proposed Lot Sizes and Setbacks
12. Proposed Site and Architectural Plans and Tentative Map