2.4 RESPONSES TO INDIVIDUAL WRITTEN COMMENTS RECEIVED

Fourteen (14) letters, memoranda, and e-mails were received by the City during and after the Draft EIR public review period. Three of these letters and e-mails were received by the City after the close of the Draft EIR public review period. The following section includes verbatim copies of each letter, memorandum, and e-mail received, each followed by the written response of the EIR preparers to substantive comments in the letter, memo, or e-mail pertaining to the content and adequacy of the Draft EIR. The comments and responses are correlated by code numbers added to the margins of each letter, memo, and e-mail.

1

Department of Toxic Substances Control

Edwin F. Lowry, Director
700 Heinz Avenue, Suite 200
Berkeley, California 94710-2721

Vinston H. Hickox
Agency Secretary
California Environmental
Protection Agency

Gray Davis
Governor

RECEIVED
APR 23 2003
PLANNING DIVISION

April 21, 2003

Ms. Diana O'Dell
City of Sunnyvale
456 West Olive Avenue
P.O. Box 3707
Sunnyvale, California 94088-3707

Dear Ms. O'Dell:

Thank you for the opportunity to comment on the Sunnyvale Downtown Improvement Program Update (SCH # 1988110816) Draft Environmental Impact Report (EIR). As you may be aware, the California Department of Toxic Substances Control (DTSC) oversees the cleanup of sites where hazardous substances have been released pursuant to the California Health and Safety Code, Division 20, Chapter 6.8. As a Responsible Agency, DTSC is submitting comments to ensure that the environmental documentation prepared for this project to address the California Environmental Quality Act (CEQA) adequately addresses any remediation of hazardous substance releases that may be necessary.

The proposed project involves approximately 165 acres in downtown Sunnyvale, and is comprised of a number of planning and improvement actions. These actions include adoption of a proposed Downtown Design Plan, rezoning of three acres of existing residential land to reduce buildout potential, and amendments to the Sunnyvale Downtown Redevelopment Plan. DTSC has the following comments on the Draft EIR:

1) *Section 13, Hazardous Materials, Pages 13-11,13-12.* This section notes that as a first step in mitigating potential health hazards at project sites, developers would need to determine whether a site has a record of hazardous materials discharge into soils or into surface or groundwater. In addition to investigating for a "record" of hazardous waste discharge, the first step of the soil contamination mitigation measures should include investigating for other evidence of hazardous materials releases such as waste management practices, chemical usage, observations of stressed vegetation, etc., and should not necessarily be limited to documented releases of hazardous materials. 1.01

2) *Section 13, Hazardous Materials, Soil Contamination, Pages 13-11, 13-12.* Under soil mitigation measures Steps 2 and 3, there is an implication that the amount of 1.02

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1

characterization will be dependent on the future land use. A Phase II investigation is to be performed if "extensive soil contact would accompany the intended use of the site." Basing cleanup levels on future use is appropriate, but it is not appropriate to have the amount of characterization dependent on it. Whether the future use is residential or commercial, a contaminated site has to be adequately characterized to determine the appropriate cleanup actions and to ensure workers are adequately protected during redevelopment.

3) *Section 13, Hazardous Materials, Soil Contamination, Page 13-11.* The last sentence under Step 2 of the soil mitigation measures indicates that if no human contact is anticipated, then no further mitigation is necessary. This statement may not necessarily be true. The covering of contaminated soil with buildings and pavement and putting deed restrictions in place are mitigation measures. 1.03

4) *Section 13, Hazardous Materials, Soil Contamination, Page 13-12.* It would be appropriate to include DTSC among the listed agencies under Step 3 of the soil contamination mitigation measures since DTSC is responsible for enforcing sections of the California Health and Safety Code and has regulations that pertain to releases of hazardous substances to soil and the associated health and safety risks. 1.04

5) *Section 13, Hazardous Materials, Potential Asbestos and PCB Exposure, Pages 13-12,13-13.* The buildings proposed for demolition or renovation as part of this project may have been built prior to 1980. If this is the case, lead-based paint may be present on the surfaces of the existing buildings. The identification and disposal of lead-based paints that may be present on buildings should be taken into consideration. Lead-based paint that becomes separated from building debris may require handling and disposal as a hazardous waste. 1.05

DTSC can assist your agency in overseeing characterization and cleanup activities through our Voluntary Cleanup Program. A fact sheet describing this program is enclosed. We are aware that projects such as this one are typically on a compressed schedule, and in an effort to use the available review time efficiently, we request that DTSC be included in any meetings where issues relevant to our statutory authority are discussed. 1.06

Please contact Homayune Atiqee of my staff at (510) 540-3838 if you have any questions or would like to schedule a meeting. Thank you in advance for your cooperation in this matter.

Sincerely,

Barbara J. Cook, P.E., Chief
Northern California - Coastal Cleanup
Operations Branch

Enclosures

cc: without enclosures

Governor's Office of Planning and Research
State Clearinghouse
P.O. Box 3044
Sacramento, California 95812-3044

Guenther Moskat
CEQA Tracking Center
Department of Toxic Substances Control
P.O. Box 806
Sacramento, California 95812-0806

1. Barbara J. Cook, P.E., Chief, Northern California–Coastal Cleanup, Operations Branch, State Department of Toxic Substances Control; April 21, 2003

Comment 1.01: Hazardous Materials: Referring to chapter 13 (Hazardous Materials), site investigation of possible past hazardous materials discharge(s) should not be limited to *documented* releases; first steps should include investigation of on-site waste management practices, chemical usage, stressed vegetation, etc.

Response: Comment acknowledged. "Step 1" on pages 13-11 and 13-12--which states in part, "Investigate the site...and...characterize the site according to the nature and extent of...contamination that is present"--does not refer solely to "documented releases." Step 1 inherently includes the procedures recommended in the comment.

Comment 1.02: Hazardous Materials: Soil mitigation measures (pages 13-11 and 13-12) imply "that the amount of characterization will be dependent on the future land use." Regardless of future use, a contaminated site must be adequately characterized and cleaned up.

Response: Comment acknowledged. The characterization of a site is included in "Step 1" of soil mitigation, as quoted above in response 1.01.

Comment 1.03: Hazardous Materials: Even if no human contact with contaminated soil is anticipated, additional mitigation (e.g., covering soil with buildings/pavement, deed restrictions) may be required.

Response: The last sentence on EIR page 13-11("Step 2") states, "If no human contact is anticipated, then no *further* [italics added] mitigation is necessary." Mitigation described earlier in Step 2 (e.g., covering with buildings or paving, industrial cleanup levels) still would apply.

Comment 1.04: Hazardous Materials: Department of Toxic Substances Control (DTSC) should be included as a regulatory agency for soil contamination cleanup ("Step 3," page 13-12).

Response: Comment acknowledged. The text on page 13-12 ("Step 3"), in section 3 herein (Revisions to the Draft EIR), has been revised to include DTSC.

Comment 1.05: Hazardous Materials: Lead-based paint should be considered in chapter 13 (Hazardous Materials) discussion.

Response: Comment acknowledged. Please see associated revisions to subsections 13.1.4 and 13.3.2, including pages 13-6, 13-7, 13-12, and 13-13 in section 3 herein (Revisions to the Draft EIR), in response to this comment.

Comment 1.06: Hazardous Materials: Offer of DTSC assistance to City in overseeing future characterization and cleanup activities.

Response: Comment acknowledged. The City is aware and appreciative of the availability of DTSC assistance in overseeing future hazardous materials characterizations and cleanup activities in the Downtown Improvement Program Update project area.

2

ARTHUR G. SCHWARTZ - Retired Consulting Engineer

e-mail: arts9@att.net

1119 Smyrna Court
Sunnyvale, CA 94087
408-245-6367

May 5, 2003

Dianne O'Dell
Community Development Department
City of Sunnyvale

Re: Comments on EIR for the Downtown Improvement Program Update

This report will serve as my testimony in any formal hearing that might be held during the period of May 9 to June 26, 2003 as I will be out of town during that period. If anyone has any questions during that time, I will be checking my emails so they can contact me by that means. And I apologize for the late delivery of these comments but I've had many things that interfered with my working on it.

I have not covered every part of the EIR rather limiting my comments and discussion to certain outstanding examples of either errors or omissions.

Copies of this report are being hand delivered to Robert Paternoster, Mayor Julia Miller, the Friends of Sunnyvale and an extra copy is provided to you for Wagstaff and Associates.

Conclusion

It is my considered opinion that this EIR is seriously deficient and falls far short of CEQA requirements. Were the errors to be corrected and the omissions taken care of, the result would be a greater number of significant impacts and far fewer successful mitigation measures. 2.01

I would ask staff to require the consultants to make the necessary corrections and unless this is carried out, I would ask City Council to decline to certify the EIR.

Arthur G. Schwartz

2

COMMENTS ON THE SUMMARY

5.1 Visual Impact

The description of visual impact relies strictly on man-made installations and ignores distant vistas, the sky, clouds, stars, etc. The impact analysis refers only to the Mathilda corridor as seen in views in line with the street. Nowhere is there any discussion of the views as seen cross-wise to the street. These views are especially disturbing to local residents and probably to many downtown shoppers and workers. 2.02

To architects and urban planners, tall buildings provide a visual benefit. To local residents and many visitors, tall buildings block vistas, are not suitable for a suburban city and thus cannot be mitigated with setbacks and architectural elements. And simply following City zoning and design policies that citizens disagree with does not in and of itself mitigate anything.

When these aspects are taken into consideration, it is difficult if not impossible to mitigate the significant visual impact of 100 foot tall buildings.

5.2 Light and Glare

2.03

The city policy and the authors ignore the impact of interior office lighting through floor to ceiling windows in 100 foot tall buildings that are left on at all hours (night shift employees and cleaning crews). This is a significant light impact as the lights shine into nearby residential neighborhoods and obscure views of the sky and stars. The definition of glare limiting it to external lighting omits this significant impact as does the mitigation describing limiting external building light to above the fifth floor. This ignores the impact on nearby residences which are mostly one and two stories. It is doubtful that this significant impact can be mitigated within the limited area available in downtown Sunnyvale.

7.1 and 7.2 Traffic Congestion

2.04

Freeway impacts will not be mitigated unless the State and County free up funds to carry out these improvements and the projects have sufficiently high priority. Should the County Deficiency Studies lead to offsetting improvements that can be built, while they may mitigate County-wide impacts, they will not mitigate the local significant impacts.

7.3 Intersection LOS Mitigation

To say that signal cycle modifications can mitigate intersection traffic impacts ignores two factors. 2.05

First, any signal changes involving El Camino Real requires approval of CalTrans. While CalTrans has been more cooperative in recent years, there is no assurance that they will approve any suggested modifications nor carry out the work. And even if they do, it can take months to years for CalTrans to carry out the work.

Second, while LOS can be improved in the heavy traffic direction, it does so at the expense of increased wait times in the cross-direction. Already, Remington and Talisman have cross-direction wait times exceeding the 60 seconds of LOS F. Nowhere does the impact analysis discuss this serious problem for local residents. 2.06

Again it is doubtful that these mitigation measures will result in lowering what is a significant impact.

2

9.1 Potential Exposure to Project-Related Noise

Unfortunately acoustic engineers have historically ignored the problems with A-weighted noise measurements. 2.07

The authors state that this weighting was developed to account for the sensitivity of the human ear to respond to various frequencies. While this is true to some degree, the sensitivity the original developers referred to is the sensitivity to damage to the ear. The A-weighted data has been successfully used for decades to prevent hearing loss in industrial facilities.

An example of what people are subjected to today are very low frequencies, often generated by so-called subwoofers or boom-boxes. Some other sources are HVAC systems, compressors, refrigeration systems, heavy trucks and pickups and other vehicles equipped with off-road tires. None of these low frequency sounds which can be extremely annoying are detected by A-weighted measuring instruments.

What compounds the problem is that large window panes typical of California houses can act as a natural amplifier. (I have personally experienced this effect in my Eichler home with its floor to ceiling windows as much as 6 feet wide and 10 feet high. I can often hear extreme low frequency noise generated as far as three blocks away inside my home that are totally undetectable when I step outside.

Because of the lack of any discussion of these effects, I cannot comment on the reliability of the impact analysis. Furthermore, the idea that "quiet zones" can eliminate noise ignores reality. Signs announcing such areas are often not installed, are not installed in sufficient quantity or are simply ignored. 2.08

Mitigating noise cannot be achieved by simply passing an ordinance or regulation.

9.2 Construction Noise

Mitigation (1) Limiting hours of construction may eliminate the noise exposure of many residents, it does not do so for those who sleep during the day such as those who work night shift, elderly people who often sleep late or take daytime naps and those who are ill and are confined to their homes. 2.09

Other mitigation measures depend on contractors and subcontractors rigidly following the stated noise reduction techniques. Whether such measures are followed depends on the quality of the employees and their supervisors and also by how much funding is available to the contractors. Since contractor selection is usually based on low bid such is not usually the case. 2.10

Thus there is no assurance that this significant impact may or may not be mitigated.

10.2 Long Term Regional Emission Increases

The mitigation of this significant impact depends on a long list of alternative transportation modes, the success of which has proven less than that required to meet even current needs. What's more, it is not a list of specific projects but a list of policies which may or may not be followed even if adopted and if adopted my not be applicable to the degree required to make a difference. For instance the physical improvements suggested on Page 2-23 are qualified by the words "where practical", "should include", etc. Then the TDM programs are limited to those occupants of 10,000 sq. ft. or more thus omitting from the program the majority workers in Sunnyvale who are employed by small, not large, businesses. 2.11

2

As to alternative transportation modes, it is doubtful that the local population will adopt these modes to the degree required to have much effect on this impact. And despite words to the contrary, the local agency, city, county and state officials are quick to drop off-road bicycle paths from projects (such as highway 85) when budget crunches surface. Unless bicycle paths and lanes are wider and continuous across the entire city and adjoining cities they will have little effect on regional emission rates. 2.12

Recently, the state caved in to the automobile manufacturing lobby and dropped the requirements for electric vehicles. Now GM is recalling all their electric vehicles and will destroy them. The federal government is also loathe to improve emission and fuel performance on pickups and SUVs which now make up over half of all new registrations in California. I see nothing on the horizon which would reverse this deplorable situation. 2.13

The long list of mitigation measures in this section of the EIR are not likely to be adopted to the extent required to lower this impact to less than significant. Any other conclusion seems to me to be wishful thinking.

Table 2.4 Alternative Comparison

2.14

While much of this table is based on analyses that do not lend themselves to numerical data, some of the table is based on such data, such as traffic and air pollution emissions, and the comparisons should show the relative impacts with hard data not just words. Also in spite of measurable reduction in office and retail space and thus reduced employment and traffic, noise and air quality or shown as the same for all five alternatives. This is clearly not correct. Alternative 4 would have lower impacts in these areas than the others.

OMISSION OF MICROCLIMATE IMPACTS

2.15

Totally missing from the EIR is any discussion or analysis of microclimate effects result from a concentration of tall buildings. Such buildings are known to induce wind velocity and swirling patterns that do not exist with shorter buildings. Additional effects will result from lengthened shadows and increased shadow periods during the daylight hours. Such effects will be particularly pronounced during winter months.

Sunnyvale is known far and wide for its mild climate with more hours of sun than most other peninsula communities. All this could change in the downtown and nearby residential neighborhoods as a result of vastly increased building heights. This would be a potentially significant impact that would be mitigated only by reducing allowable building heights as proposed in Alternative 4.

REDEVELOPMENT AND EMINENT DOMAIN

(This discussion relates to the South of Iowa area.)

2.16

3.9.2 Overview of Proposed Redevelopment Plan Amendments

This section clearly states that the Redevelopment Agency's eminent domain authority which expired in 1998 would be extended for 12 years. While it is stated that there are no current plans to use this authority, it would not sought if the staff and council did not feel it would be needed in future years. Subparagraph (e) describes the use of eminent domain to preserve and rehabilitate existing structures. Subparagraph (f)(1) describes other redevelopment activities including property assembly, disposition and relocation.

2

4.1.2 Existing Project Area Land Uses and Districts

Subparagraph (f) describes the South of Iowa Avenue District and makes particular mention of the Taafe/Frances Heritage Housing District 2.17

Table 4.1 shows that the entire Heritage Housing District is included in the proposed expanded Downtown Improvement Program. along with the other blocks south of Iowa between Mathilda and Carroll St.

4.2.1 Sunnyvale General Plan

Policy N1.1 calls for protection of neighborhoods. Policy N1.1.1 calls for limiting the intrusion of incompatible uses and inappropriate development into neighborhoods. Policy N1.2 requires new development to be compatible with the neighborhood.

4.3.2 Proposed Land Use Changes 2.18

Subparagraph (8) admits that while the South of Olive area is included in the expanded project area, no specific land use changes are proposed for this area.

4.3.4 Impacts and Mitigation Measures

Subparagraph (f) states that project-facilitated future development in the south of Olive area would be expected to maintain the existing residential character thus leading to less than significant impact. If this were true there would be no need to include this area within the Downtown Program nor the eminent domain boundaries. To assure a less than significant impact, mitigation should consist of maintaining the existing Downtown Program boundaries in this area.

Subparagraph (g) lists a number of reasons why intensification of land use involving 100 ft. tall buildings would have a less than significant impact. The reasoning used here is true only if you accept the fact that urbanization of the City is acceptable to the citizens. I doubt this urbanization is acceptable. 2.19

AESTHETICS

5.3.3 Impacts relating to the Mathilda corridor justify a less than significant impact as a result of mitigation measures that simply follow the provisions of the 2002 Downtown Design Plan. The impact analyses in EIRs is supposed to independently evaluate the impacts not simply accept guidelines written by the same agency that prepared the project which is the subject of the EIR. 2.20

Similar questions arise regarding simple acceptance that visual gateways and visual corridors require tall buildings. Such reasoning is subjective in that many citizens regard tall buildings as intrusive and over-powering and that no amount of architectural elements, set-backs, etc. can mitigate this impact. To call such buildings a beneficial impact is even more of a stretch.

Throughout this section there is no evaluation of the loss of views of distant hills and sky (clouds, sun, moon and stars) especially during early morning and late evening hours. Consultants seem to feel that buildings are the only visual element that needs to be evaluated as though nature does not exist.

No evaluation of the light originating within the tall buildings was prepared, nor the glare from reflection of the sun off the large windows of modern buildings (such as the Mozart buildings). Such reflected glare is significant impact and cannot easily be mitigated (and has not been mitigated at all with the Mozart buildings). 2.21

2

8.6.4 Parks and recreation analysis shows that per capita area of parks has been falling in recent years due to population growth. The analysis goes on to state that park dedication fees from developers could provide added park facilities and improvements. Since little undeveloped land exists in the downtown area, it is not reasonable to conclude that such fees will mitigate the lack of adequate park space in this area. 2.22

Furthermore, no evaluation is carried out of the beneficial impact of the 4+ acre plaza and green included in Alternative 4. This would contribute important added area to the park facilities, especially as compared to the much smaller plaza. This is especially true because the proposed Evelyn avenue location of the Downtown Program would be much less desirable due to noise from trains and frequent bus traffic. The more protected location of the alternative plaza/green would be far more park-like. More space would be available for a stage, children's play and other facilities. This is a serious omission. 2.23

2. Arthur G. Schwartz, Retired Consulting Engineer, 1119 Smyrna Court, Sunnyvale; May 5, 2003

Comment 2.01: General: "EIR is seriously deficient and falls far short of CEQA requirements.."

Response: The EIR authors disagree with this comment. The Draft EIR and this Final EIR have been formulated to closely comply with all applicable CEQA statutes and guidelines pertaining to environmental documentation process, content, specificity, detail, and adequacy standards (i.e., articles 5, 6, and 10 of the Guidelines for Implementation of the California Environmental Quality Act). The EIR has been prepared to provide an objective assessment in full compliance with CEQA regarding fair argument and substantial evidence (i.e., facts, fact-related reasonable assumptions, and expert opinion) (CEQA Guidelines sections 15064 and 14384). For additional information related to this comment, please see EIR sections 1.2 (Program EIR Approach and Assumptions) and 1.3 (EIR Scope–Significant Issues and Concerns).

Comment 2.02: Aesthetics: Visual impact analysis refers only to the Mathilda corridor, with no discussion of "crosswise" perspective to the street. "Simply following City zoning and design policies that citizens disagree with does not in and of itself mitigate anything."

Response: Please see response to similar comment PIM.02.

Comment 2.03: Aesthetics: Draft EIR light and glare analysis and City policy ignore impact of interior office lighting on nearby residential neighborhoods.

Response: Please see response to similar comment PIM.04.

Comment 2.04: Transportation and Parking: Impacts on freeways will not be mitigated unless the state and County make funds available and give such projects high priority.

Response: Please see response to similar comment PIM.05.

Comment 2.05: Transportation and Parking: Traffic signal changes on El Camino Real requires Caltrans approval, which is not guaranteed.

Response: Please see response to similar comment PIM.06.

Comment 2.06: Transportation and Parking: Intersection improvements increase wait times for cross/through traffic.

Response: Intersection analysis is done according to level of service standards included in the Sunnyvale General Plan. These standards, which are typical and widely accepted for evaluation of intersection operations, take into account overall intersection delay versus individual movement delays. It is true that cross traffic will have longer wait times.

This change, while perhaps not desirable to cross traffic motorists, is not considered a significant environmental impact.

Comment 2.07: Noise: A-weighted noise measurements do not detect all noises (e.g., very low frequencies).

Response: The A-weighted noise level is the accepted method of measuring environmental noise as it relates to human hearing. This method is commonly used by acoustical specialists for projects of this type. State and local guidelines applicable to this project are in terms of A-weighted noise levels. Also, in response to concerns similar to those raised by this commenter, the City in 1995 re-evaluated whether use of a scale other than the A-weighted scale was warranted in evaluating ongoing operation noise, and determined that the A-weighted scale was appropriate, but that expanded conditions should also be applied under special conditions "such as a steady, audible tone such as a whine, screech or hum, or speech," require that the A-weighted sound level threshold be lowered to 45 dBA.

Comment 2.08: Noise: "Quiet zones" cannot eliminate noise.

Response: Quiet areas would be designed to minimize or eliminate traffic noise and meet the City's exterior noise standard through site layout or barriers.

Comment 2.09: Noise: Limiting construction to daytime hours does not help those who sleep during the day.

Response: The commenter is correct that this measure in itself does not mitigate the noise exposure for those who sleep during daytime hours. That particular measure is designed to mitigate the impact for the majority of people. Additional noise reduction measures included in *Mitigation 9-2* are designed to reduce noise levels during hours of construction.

Comment 2.10: Noise: Contractors may not follow construction noise reduction techniques identified in EIR.

Response: A "noise disturbance coordinator" to identify and correct noise problems experienced during project construction has been included in *Mitigation 9-2* as one way to help the City monitor construction sites and minimize noise. Also, please see EIR chapter 19 (Mitigation Monitoring) for a description of how mitigation measures would be implemented and monitored.

Comment 2.11: Air Quality: Mitigation measures for long-term regional air emissions increases are inadequate (e.g., unsuccessful transportation modes; policies, not specific projects).

Response: Please see response to similar comment PIM.07. Qualifiers such as "where practical" are included in *Mitigation 10-2* (for long-term regional air emissions increases). Because, as a program EIR (see EIR section 1.2), this document does not identify detailed, site-specific development proposals. Also, the 10,000-square-foot requirement for transportation demand management (TDM) measures is based on a critical mass of approximately 25 on-site employees (as identified in *Mitigation 10-2*), a situation in which a small business generally could be expected to implement and fund such measures.

Comment 2.12: Air Quality: It is doubtful that local population will adopt alternative transportation modes "to the degree required to have much effect." Bicycle paths need to be wider and continuous.

Response: Please refer to EIR subsection 7.2.3 (City of Sunnyvale Bike Plan), whose implementation the proposed project would help facilitate. A person's *choice* to ride a bike is a personal preference, not an environmental issue subject to the CEQA requirements for this EIR.

Comment 2.13: Air Quality: Comment pertaining to government lack of initiative in requiring electric vehicles, improved emissions, and better fuel performance.

Response: The comment refers to a perceived ineffectiveness of state and federal policy. Similar to response 2.12, a person's *choice* to drive an electric vehicle is a personal preference, not an environmental issue subject to the CEQA requirements for this EIR.

Comment 2.14: Alternatives: Comparison of alternatives should include "hard data, not just words." Depicting noise and air quality impacts in Table 2.4 as the same for all five alternatives is not correct.

Response: Please see response to similar comment PIM.08.

Comment 2.15: Air Quality: Draft EIR contains no discussion of microclimate effects of tall buildings, including wind velocity, swirling effects, and shadows.

Response: Please see response to similar comment PIM.09.

Comment 2.16: Project Description: Sunnyvale Redevelopment Agency would not propose an extension of eminent domain authority as part of the project unless the Agency intended to use that authority.

Response: EIR subsection 3.9.2 (Overview of Proposed Redevelopment Plan Amendments) accurately describes the Sunnyvale Redevelopment Agency's authority and intent regarding the use of eminent domain.

Comment 2.17: Land Use: Summary of Draft EIR text in chapter 4 (Land Use) pertaining to South of Iowa Avenue District, Taaffe/Frances Heritage Housing District, and General Plan land use policy.

Response: Comment acknowledged. The comment appears to cite specific Draft EIR text with no related comment.

Comment 2.18: Project Description: If no changes are intended for the South of Olive District, why is the district included in the project area?

Response: Please refer to EIR subsections 3.9.4 (Anticipated Specific Redevelopment Activities) and 4.3.2(8) (Proposed Land Use Changes–South of Olive Area). The redevelopment project area (including the South of Olive area) and associated proposed Redevelopment Plan amendments are included in the Downtown Improvement Program Update. Therefore, the South of Olive area could benefit from redevelopment activities–e.g., street improvements (resurfacing, realignments), streetscape improvements (widening sidewalks, landscaping, decorative street light poles), infrastructure improvements (water, storm drainage), and implementation of historic district development standards–all of which are expected to be facilitated by the Improvement Program Update.

The comments here regarding Policy N1-1 mix up General Plan stated "Policies" and "Action Statements," but are nevertheless generally acknowledged. These cited "Policies" and "Action Statements" are listed on DEIR page 4-8.

Comment 2.19: Land Use: Intensification of land use, as described in EIR subsection 4.3.4 (land use impacts and mitigation measures) would result in "less-than-significant" impacts only if "urbanization" of Sunnyvale is acceptable to its citizens.

Response: "Urbanization" of Sunnyvale, including the Downtown, is specifically provided for in the City's adopted City of Sunnyvale General Plan. With regard to the character and intensity of such urbanization, which this comment appears to allude to, the desired character of this urbanization, including maximum permissible building heights at various downtown locations, is also already established in the City-adopted City of Sunnyvale General Plan, 1993 Sunnyvale Downtown Specific Plan, Sunnyvale Zoning Code (Sunnyvale Municipal Code Title 19). The proposed project does call for an increase in maximum building height limits currently set forth in the General Plan, 1993 Specific Plan and Zoning Code for subdistricts 18a and 20. The project would increase the maximum building height limit from 30 feet to a revised maximum of 100 feet in subdistrict 18a, and from a current maximum of 55 feet to a revised maximum of 100 feet in subdistrict 20 (see Table 18.2). However, the proposed project also calls for a decrease in maximum building height limits currently set forth in the General Plan, 1993 Specific Plan, and Zoning Code for subdistricts 1a, 4, 5, 6, 13, 13a, 14, 15, 16, and 17. For subdistrict 1a, the maximum building height limit would be reduced from 125 feet to 100 feet; for subdistricts 4, 5, and 6, the maximum building height would be reduced from 50 feet to 40

feet; and for subdistricts 13, 13a, 14, 15, 16, and 17, the maximum building height would be reduced from 50 feet to 30-50 feet.

Comment 2.20: Aesthetics: Visual analysis should not "simply accept guidelines written by the same agency that prepared the project" (e.g., regarding Mathilda corridor, visual gateways, visual corridors).

Response: The comment suggests that it is incorrect to apply guidelines written by the lead agency ("the same agency that prepared the project which is the subject of the EIR") rather than "independently evaluating" the project impacts. The CEQA Guidelines are clear in indicating that locally-adopted policies, standards and regulations are a proper and important factor in determining the significance of environmental impacts. CEQA Guidelines section 15125 under Article 9, "Contents of Environmental Impact Reports," subsection (d), states that "the EIR shall discuss any inconsistencies between the proposed project and applicable general plans and regional plans." Also, the new Appendix G of the post-1998 CEQA Guidelines, an updated and improved Initial Study Checklist, references local policies, laws and regulations pertaining to environmental factors as key impact and mitigation criteria. As common practice, the new Appendix G Initial Study Checklist is now used to determine thresholds of significance, and reflects the most recent thinking by environmental professionals regarding the kinds of environmental issues that agencies should generally address in environmental documents.[1]

The impact conclusions and mitigation measures set forth in the Draft EIR are based on the independent judgments of the EIR authors. The EIR authors have independently determined that the pertinent design guidelines currently included in the City-adopted 1993 Downtown Specific Plan for tall buildings in the North of Washington District (subdistrict 1) should be revised to also apply to tall buildings on Mathilda south of Washington Avenue (subdistricts 13, 18a, and 20), including those already-adopted Specific Plan guidelines pertaining to roof treatment, building materials, colors, and other architectural details. The EIR authors applied their extensive professional experience in urban design, urban planning, and specific plan formulation to evaluate the adequacy of the existing adopted Specific Plan guidelines for the north of Washington area, and determined that their expanded application to areas south of Washington would serve to effectively mitigate the potentially adverse aesthetic impacts of the proposed building height and land use changes along the Mathilda corridor.

Similarly, the EIR authors have independently determined that the various provisions and recommendations set forth in the April 2002 *Downtown Design Plan*, a document which was also independently prepared by a group of qualified urban design and architectural professionals (ELS), pertaining to street character, urban design, building setbacks/build-

[1]Remy et al., Guide to the California Environmental Quality Act (CEQA), 1999 (Tenth) Edition, page 179.

to requirements, and design guidelines for the Mathilda Avenue District, if adopted as actual City-imposed standards and guidelines, would serve to effectively mitigate potential Mathilda Avenue corridor aesthetic impacts.

With respect to the aesthetic effect of tall buildings at visual gateways and visual corridors, the EIR authors have sought to minimize the subjectivity of such judgements by properly relying on, and maintaining consistency with, current, City-adopted policies and guidelines regarding this and other aesthetic issues, as listed on DEIR pages 5-6 through 5-11. For example, the following adopted Sunnyvale General Plan policies were considered:

- *Utilize adopted City design guidelines to achieve compatible architecture and scale for renovation and new development in Sunnyvale's neighborhoods.* (Action Statement N1.2.2, p. 171)

- *Permit more intense commercial and office development in the downtown, given its central location and accessibility to transit.* (Policy N1.12)

- *Continue to encourage infill development or redevelopment which is compatible with the use, density, setbacks, height and, where possible, the predominant building style and size of the surrounding district or neighborhood.* (Action Statement A.2c, p. 95)

- *Strengthen the downtown as the visual as well as functional focus of Sunnyvale.* (Action Statement A.3f, p. 96)

- *Encourage distinctive projects at major nodes which have a coherent spatial relationship and create dynamic spaces at these intersections.* (Action Statement A.3h, p. 96)

- *Avoid tall buildings which create a tunnel effect, and where necessary step the building back above the second level or stagger setbacks on the street.* (Action Statement C.4j, p. 102)

- *Ensure that buildings are appropriate to their context and designed to be compatible with surrounding properties and special districts.* (Policy C.5, p. 103)

- *Avoid buildings which do not have a similar scale or height as surrounding properties, except at gateways or for landmark structures.* (Action Statement C.5c, p. 103)

Regarding the important concern expressed regarding potential "loss of views of distant hills and sky (cloud, sun, moon, and stars)," the Downtown Design Plan provisions have been specifically formulated to preserve such views from most public rights-of-way. However, some private properties may experience a disruption in current views, a fact

which warrants full consideration by City decision-makers in their deliberations on the proposed project. The proposal would increase maximum building heights in three specific subdistricts (13, 18a and 20) and would reduce maximum building heights within a number of other subdistricts (1a, 4, 5, 6, 13a, and 17). No existing City-adopted policies, guidelines or standards with respect to protection of views towards hills and sky would be violated by the project changes. The downtown and surrounding residential neighborhoods are generally flat--i.e., generally share the same elevation. Depending on the location of the vantage point, any building or other structure in these areas in excess of one story in height would disrupt through views of distant hills. The reasonable goal is to provide view corridors through downtown and other low-lying urban areas, towards the hills. This goal is adequately achieved by the proposed project, as explained on DEIR pages 5-17 and 5-18.

Comment 2.21: Aesthetics: Draft EIR does not address light from tall buildings or glare from large windows.

Response: Please see response to similar comment PIM.04.

Comment 2.22: Public Services and Utilities--Parks: "Since little undeveloped land exists in the downtown area, it is not reasonable to conclude that such [park] fees will mitigate the lack of adequate park space in the area."

Response: EIR subsection 8.6.4 (Parks and Recreation–Impacts and Mitigation Measures) accurately describes potential impacts, and City requirements for mitigating those impacts, on parks and recreation, including the potential for setting aside open space in future residential developments, additional land and improvements at nearby Murphy Park, and employee recreational and exercise amenities (e.g., work-out rooms) at future office developments.

Comment 2.23: Alternatives: Draft EIR does not evaluate the beneficial impact of approximately four-acre plaza and green included in Alternative 4 (Multi-Use Alternative); "[t]his is a serious omission."

Response: The alternatives analysis (EIR chapter 18) discusses the aesthetic qualities of the Town Plaza and Green (page 18-25). The Alternative 4 site plan (Figure 18.1) shows no equipment, structures, or recreational facilities on the plaza/green, nor did the description provided by the proponent indicate otherwise; therefore, use of the plaza/green for active recreation was not assumed. Nevertheless, the EIR concludes (page 18-26, "e. Public Services and Utilities"), "This alternative would result in less demand for increased public services [including parks and recreation], since new development in the Specific Plan area would be reduced." The conclusion remains valid; no "serious omission" has occurred.

Alternative 4 is ultimately considered infeasible for the very reason that the comment is promoting the alternative: the proposed Town Plaza and Green would require large-scale demolition of existing downtown Sunnyvale (EIR page 18-30).

3

Comments to the EIR. By Leonita Pistor, Sunnyvale Resident, 13 May, 2003.
leonitapistor@yahoo.com

The city planners should ask themselves what is the risk of the redevelopment going wrong, and is the town willing to take that risk? This is purposefully questioned as "is the town willing to take that risk", because the residents will be living with the results long after the town council have received their kudos for the redevelopment bull dozer. 3.01

Will there be an assessment of the cost of a bad rehab…?

Several changes to the downtown plan have been made, which do indicate that elements are listening to residents, and are striving for the common good to make the city resident oriented, not solely business serving.

The EIR does not adequately seem to address the change in character of the downtown, nor where the center of the town should be. Will it really all be a cyber connected internet world? Well just a couple days ago, although Sunnyvale community class registration could be done by phone, by fax, by internet or by mail, cancellation had to be done in person. Where is Sunnyvale's CENTER? Somehow, the Plan should address WALKING distance between services delivered by the town. The EIR did not do that as well. 3.02

Does the employment estimate take into account the current economic down turn in it's projection of population, households, persons per household, total jobs, total employed residents, and ratio of jobs/household? 3.03

Section 6 is "Population, Housing, and Employment." Somewhere suggested in the numbers of para 6.1.3 is that if the number of jobs per household goes up, then all is well for the populace. Let's think about the numbers. In 2000 there are 2.5 people per household and there are 2.35 jobs per household. That means nearly everyone is working all the time. Almost everyone has a job. Seems good huh? Now think about this. In 2020, there will be 2.48 persons per household and 2.61 jobs. That means everyone is working more than one job. Or maybe it means that everyone needs to work more than one job to pay off medical bills, and high housing cost bills, and childcare bills. Think of a family of three. That means that both parents NEED to work more than full time to make ends meet. This is bad overall for a future educated consciencious populace. 3.04

The EIR mentions the removal of the hotel. The lack of a hotel within "walking distance" of the train station is not like the "European style" towns that residents envision. If there actually is going to be business downtown – office, retail, living, there will be a need for housing guests and visitors. Yes the people can be in a variety of hotels on Lawrence, Mathilda, El Camino Real, but though these locations are "minutes" away by car, a 3+ mile walk is prohibitive. There are still tourist elements that would welcome staying in a "small town" hotel. The Pacific Inn might not be a national chain, and therefore has tougher times attracting the corporate customers, but it is definitely quaint. The downtown hotel can be a positive discriminator in favor of Sunnyvale. 3.05

3.

Concerning the section in Chapter 5, Aesthetics, Impacts on District-Specific Visual Characteristics or Features. (1) Town Center Mall District (subdistrict 18). It is concluded that there will be a "beneficial visual impact." I would like to know if that is weighed against the cost of the project, and weighed against the merits of other plans. 3.06

Currently the downtown Sunnyvale has several very negative visual aspects, from the billowy black plastic covering chain link fences, to torn up mostly vacant cement parking lots, to empty storefronts. Therefore, many possibilities will offer a visual improvement. However, is it not the responsibility of the city council to be public (not business) servants? Business will most certainly push for options that are most profitable to them. It is the city council who has the moral obligation to the tax paying, rent paying, mortgage paying, bill paying residents to seek a solution that will benefit the populace. 3.07

What does that mean? It means building a community where people have the chance to serendipitously meet on the street. Does the city of Sunnyvale see itself as a hub of small energetic neighborhoods and neighborhood centers, or is it a schmear of homogenous consumers who all shop for the same generic mode du jour in bulk quantities, and drive for the couple few miles between the megastores?

The current downtown plan does not address the width of buildings along the sidewalk. "Block long" structures have a negative impact on pedestrians. For example, the one-block square parking lots are monopolistic, and monolithic. With a block long structure, people cannot stop at small independent shops in between. There is a "dead space" along the parking structure for pedestrians. I think buildings should be no longer than 1/4 block wide, with space between the buildings for alleyways. 3.08

Why are people all so happy about squirreling away their meager earnings after expenses to go on a European whirlwind 1-week trip? The old buildings, the promenades, the beautiful cities, the sun-drenched street cafes, the centrally located hotel, the metro trains, the flower boxes in the windows, the quaint shops. Sunnyvale downtown has the chance to have that too. What the Seven-Day-Tourists don't see is that there's a Child Welfare center in that ornate stone building, and a mini-library outpost between the flower shop and the coffee shop, and the one-screen theater play the latest acclaimed movie next to the hat shop, a medical clinic is upstairs from the posh designer suit boutique. There's a post office next to the bank, a pharmacy and mini grocery store. All these human-friendly goodies are serving the inhabitants, but transparent to the tourists. In other words, rich pedestrians can LIVE in a European city, can live very, very well, and median income inhabitants can live with self respect. Even a new modern building in the midst of old buildings work well. This is because with real city infill, the landlord to the left and the landlord to the right won't budge, so the futuristic design building in the middle still offers the same amount of pedestrian services as its historic neighbors.

So how will narrower buildings improve the quality of life for residents? It will break up the monotony of concrete, and will give pedestrians a chance to stop and see and be seen. Diversity is the spice of life? Huge stores are difficult for small business owners to fill. Therefore only large chains would tend to occupy down town. And large chains are

corporate, and homogenous throughout the nation. This will not make Sunnyvale unique. It will however provide captive consumers.

Concerning 2) North of Washington District (subdistricts 1 and 1a plus additional areas). This was only compared to the Mozart buildings, saying that it would have a "less-than-significant adverse visual impacts." This goes on the assumption that people like the Mozart buildings. It basically says that if the Mozart buildings are ok, then these other buildings will be ok. Well – many many people do not like the Mozart buildings and were aghast when they saw the real scope. The Mozart buildings obviously didn't win any seriously competitive architecture contests, huh. 3.09

The EIR does not address the negative visual and psychological impact of vacant building with huge for-rent/for lease signs. This is a likelihood given the economic downturn, and the large vacancy rate of established business park areas. 3.10

Where in Section 4 does the EIR address the traffic along Fair Oaks. If Moffet Business park will really take off, and Mathilda is jammed, Fair Oaks and Lawrence Expy are alternatives. 3.11

Concerning Section 7
Pedestrian, Bicycle, and Transit Impacts. The impacts of the project on local pedestrian, bicycle, and transit activity are described below.

Pedestrian Impacts. Pedestrian access will be provided by existing sidewalks, crosswalks, and pedestrian signals at the signalized intersections. Pedestrian conditions will also be improved if project (Design Plan) recommended pedestrian facility modifications are implemented (widened sidewalks, etc.). Therefore, additional pedestrian traffic due to the proposed project is expected to have a less-than-significant impact.

Mitigation. No significant impacts have been identified; no mitigation is required. 3.12
The above statement that a less-than-significant impact assumes that the current level of pedestrianism is the desired state. In reality, increased pedestrianism and reduced automobile usage is the desired state. It is difficult for pedestrians to cross Mathilda (e.g. to go from the town center to the city hall). The increased traffic will make this even more difficult. If there really will be more residents downtown, the people and children will want to cross Mathilda to get to Washington Park. What a shame it would be to drive. Think of the father/mother/care giver with the antsy toddler (or two) on a blazing hot July afternoon, waiting at the cross walk to get to the pool at Washington Park, now waiting extra long because of the increased traffic on Mathilda. The question should be, will the proposed project deter or encourage pedestrianism. What alternatives would produce a better result? As a metric, does the plan have walking distance between services? Alternatively this can be asked, what is the distance between key sites, and is that still walkable (2 minutes, 5 minutes, 10 minutes… etc). Walkable does not mean as the crow flies. Walkable for children should also be a metric. Widened sidewalks only make sense when there's a place to walk from, and to.

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Bicycle Impacts. Bicycle access will be provided by the existing bicycle facilities. In addition, a new bicycle lane has been planned and funded for Evelyn Avenue between Bernardo Avenue and Sunnyvale Avenue. The proposed project (Downtown Design Plan) also recommends additional bicycle facilities to be provided on streets in the vicinity of the project area. Additional bicycle traffic due to the proposed project is therefore expected to have a less-than-significant impact. 3.13

Mitigation. No significant impacts have been identified; no mitigation is required.
The EIR assumes that the current state of bicycle access in the downtown area is desirable. In reality, Mathilda is very, very scary to ride a bike on. It is desirable to have more bike access on Mathilda, to get people over to Moffet Park, to get them all around. The impact of the Plan with its increase traffic, and cars going in and out of driveways, will further deter cyclists. The goal here should not be to have Sunnyvale cyclists who just drive their bikes up to Skyline on a Sunday afternoon. The goal here should be to have everyday cyclists, who say, it's 5 minutes by bike to the mini-grocery to get a loaf and bread and bag of oranges, and the post office is right on the way.

What about a tunnel under or an overpass over Mathilda?

Bicycles going east west should have at least one (preferrably two) well defined crossing besides Evelyn (good and quiet) and El Camino. That's quite a long detour, and suitable for the weekender, but a deterrent for the everyday user.

Transit Impacts. All the transit routes serving the project area have sufficient capacity to accommodate additional transit riders generated by the proposed project. Project-related effects on transit service would therefore represent a less-than-significant impact. 3.14

Mitigation. No significant impacts have been identified; no mitigation is required.
The EIR assumes that the current level and routes of transit are desirable. Will the current Plan cause enough traffic to block a possible north south train route to Moffet from Cupertino? Will development block a connection to Bart around the Bay? Increased rider-ship, better routing for multi use is desirable. How will the Plan be better for multi-use, increased ridership?

The EIR does not mention the Greyhound bus depot. This has almost non-stop service to San Francisco, and is less expensive than the Cal Train. If advertised correctly, this could be a positive discriminator in favor of Sunnyvale.

Parking. less-than-significant.
The EIR said there was "less-than-significant" impact. Again lost opportunity should be considered, and the fact that right now, the down town is in a bad shape, so that almost any change could be construed as an improvement. However, to lump all the several hundred parking spaces in a leviathan shadowy structure, is not an optimal plan, although it does make the raios look good. 3.15

Mitigation steps to avoid "great wall of china syndrome" would be to have the bulk of parking in the rear, and have store fronts on the sidewalks. Also mitigating features would be to intersperse shorter garages with commercial buildings. Large parking lots are also not nice to walk through. Users and proprietors eventually notice this, and some

Comment 5.05: General: "What alternative energy sources have been and are being implemented?"

Response: The CEQA Environmental Checklist Form (appendix G of the CEQA Guidelines), which identifies environmental factors of potential concern to be addressed in CEQA documents, does not contain an issue area pertaining to "alternative energy sources." The City of Sunnyvale may wish to consider this issue as a matter of City policy; however, the issue is not germane to EIR content or adequacy.

Comment 5.06: Transportation and Parking: Comments regarding safety concerns at existing parking garages.

Response: The comments refer to perceived existing conditions and do not pertain to the environmental analysis of the proposed project. EIR chapter 7 (Transportation and Parking), section 7.1 (Setting), describes the existing transportation system serving downtown Sunnyvale in accordance with City and County criteria for traffic impact analyses.

Comment 5.07: Hazardous Materials: Will "mildew problem" in Mozart garage be remedied and how?

Response: Please see response to similar comment PIM.18.

Comment 5.08: Air Quality: Comment regarding "microclimate changes from the large buildings."

Response: Please see response to similar comment PIM.09.

Comment 5.09: Aesthetics: Comment regarding safe and effective placement of sidewalk trees.

Response: The comment includes suggestions and questions primarily regarding the current (1993) Downtown Specific Plan and proposed (2002) Downtown Design Plan which does not pertain to the content or adequacy of the Draft EIR, but is now in the record for consideration by the City decision makers in their future deliberations on the proposed Downtown Improvement Program Update project.

Comment 5.10: Land Use: Comment regarding the train station as "an example of poor planning."

Response: The comment questions the ability of City staff to administer a "sensible plan for the Town Center," based on past planning decisions in the City of Sunnyvale. The comment does not pertain to the content or adequacy of the Draft EIR, but is now in the record for consideration by City decision-makers in their future deliberations on the proposed Downtown Improvement Program Update project.

Comment 5.11: Miscellaneous: List of various "Heritage District Neighborhood issues that pertain to the downtown."

Response: The various, miscellaneous issues listed fall into one or more of the following categories: (1) non-specific comments referring to perceived existing conditions in Sunnyvale; (2) comments not pertaining to EIR content or adequacy; (3) citywide policy concerns; and (4) issues already adequately addressed in the Draft EIR. For issues listed which contain a reference to a CEQA-defined environmental issue (e.g., dust, noise, bicycle routes, etc.), please refer to the corresponding chapter in the EIR (e.g., air quality, noise, transportation and parking, etc.).

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Post-It® Fax Note 7671	Date MAY 16 '03	# of pages ▶ 2
To ROBERT PATERNOSTER	From A. MALONEY	
Co./Dept. COMM. DEV.	Co.	
Phone #	Phone # 415-557-4764	
Fax # 730 7715	Fax # -4701	

cc TRUDI RYAN
DIANA O'DELL

Robert Paternoster
Director of Community Development
City of Sunnyvale
456 W. Olive Ave.
Sunnyvale, CA 94086

May 16, 2003

Re: Comments on EIR for Urban Design Plan (UDP)

Dear Mr. Paternoster,

My comments concerning the EIR have to do with the analysis of the Alternative #4 design that was submitted by the "Friends of Sunnyvale." 6.01

Thank you for the efforts of your planning staff, in particular Diane O'Dell, and to Ray Pendro of Wagstaff and Associates, for the analysis of Alternative #4.

However, I do believe an important part of the analysis for Alternative #4 was overlooked. The EIR focused on the comparison of raw numbers of housing units and square footages for retail and office space, i.e. *quantities,* and not the *qualities* of the overall design.

Alternative #4 not only addresses the concerns of the City, business community, property owners and developers, *but also the public.* Alternative #4 takes the fundamental approach that the current problem with the downtown is the lack of a rational system of through streets, that the future success of downtown is actually based upon.

Why? Because downtowns are successful when they provide a simple and straightforward pattern of traffic circulation, be it pedestrian or vehicular. If you want to encourage people to come wander the streets and enjoy the experience, you must give them a simple way to get around and see it all.

I believe the street system is the single most important design element in this early stage of design development. The EIR does hardly mention it.

The other three alternative designs have only one traffic flow pattern (which starts at Mathilda and McKinley and terminates at the new "open" mall) with one weak link to Murphy St. via a narrow angled walkway and an unattractive extension of Murphy St. If this is the only traffic flow "system" in our new downtown, then I believe it will not be sufficient or successful.

The EIR needs to evaluate and describe how the fundamental flaw of our downtown was the elimination of the street grid and how it destroyed a system of rational pedestrian and

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vehicular traffic flows. The TownCenter Mall destroyed the street grid system by building a "fortress" dead center in the downtown.

Alternative #4's main design feature, not mentioned in the EIR, is the opening of the street grid, as much as feasibly possible, to establish a viable system of traffic flows. This alternative opens McKinley through from Mathilda to Sunnyvale Ave; opens Taaffe through to Evelyn; opens Murphy through to McKinley; and opens up two new pedestrian only streets, named "Lincoln Mall" which is parallel to McKinley and runs all the way from Mathilda to Sunnyvale, and "Taaffe Mall" from Mathilda to Taaffe St. These new "streets" make good business sense because they open up the downtown for more ground floor retail frontage.

Another feature of Alternative #4 which was not mentioned in comparison to the other three alternatives was the new centrally located 3.75 acre "Town Plaza and Green" which became possible by the new street grid. I believe it only makes sense for the new *4.5 million square feet* buildout of downtown to include *as a main feature* this modest amount of new public open space. 6.02

Also, by way of comparison, I would like the EIR to point out that Alternative #4 provides all these important design features (the street grid, open space, and lower building heights) in only 18% less total buildout square footage than the proposed alternatives #2 and #3. 6.03

If the EIR is able to evaluate the "quality" *and* "quantity," of each design, then I think the EIR has value. Otherwise, I'm afraid it does not. In this respect, I ask that the EIR address these concerns in depth.

Sincerely,

Andrew J. Maloney
537 S. Taaffe St.

cc: members "Friends of Sunnyvale"

6. Andrew J. Maloney, 537 S. Taaffe Street, Sunnyvale; May 16, 2003

Comment 6.01: Alternatives: Alternative 4 designed to create "a rational system of through streets" to open the street grid.

Response: The comment addresses the "quality of the overall design" of Alternative 4 (Multi-Use Alternative) as fundamentally based on "a rational system of through streets." As described in the introduction to EIR chapter 18 (Alternatives to the Proposed Project), CEQA "requires that EIRs contain an analysis of alternatives to the proposed project that would reduce or eliminate environmental impacts." Therefore, in order to adequately and effectively compare alternatives to the proposed project, the alternatives analysis must evaluate the comparative environmental impacts of the alternatives and the proposed project based on the same *environmental issues included in the CEQA Guidelines Environmental Checklist Form* and evaluated throughout the EIR in individual chapters (e.g., land use, aesthetics, population, etc.–see EIR section 1.3, EIR Scope–Significant Issues and Concerns).

As presented by the citizens group that formulated Alternative 4, "a rational system of through streets" (which is not an identified CEQA environmental issue) could directly or indirectly pertain to several environmental issues as defined by the CEQA Guidelines (e.g., land use, aesthetics, transportation and parking). As required by CEQA, the EIR authors have evaluated Alternative 4 according to CEQA-defined environmental issues. EIR chapter 18 includes that comparative evaluation in accordance with section 15126.6 of the CEQA Guidelines.

Comment 6.02: Alternatives: Unlike project and other alternatives, Alternative 4 includes a Town Plaza and Green.

Response: Please see responses 2.23 (regarding description and analysis of the Town Plaza and Green) and 6.01 (regarding alternatives analysis). Draft EIR chapter 18 (Alternatives to the Proposed Project) specifically describes the "Town Plaza and Green" as a primary feature of Alternative 4 (see EIR pages 18-2, 18-21, 18-23, and 18-25). As well, Figure 18.1 (Alternative 4: Multi-Use Alternative) illustrates and labels the Town Plaza and Green as literally the central feature of the alternative.

Comment 6.03: Alternatives: Alternative 4 provides street grid, open space, and lower building heights while providing only 18 percent less square footage than other alternatives.

Response: Comment acknowledged; calculations derived from Table 18.3 (Alternatives Comparison: Estimated Total Building Floor Area) indicate that Alternative 4 would result in a range of approximately 7 percent less total square footage than Alternative 3 (Modified Land Use) and up to 19 percent less square footage than the proposed project.

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5/16/03

Planning Division
Attn: Diana O'Dell, Associate Planner

Diana,

I would like to comment on the underlying assumption of the Draft Environmental Impact Report (EIR) and the EIR terminology. The study notes a number of significant issues and concerns that are critical to the community, and on a many of these issues the report simply classifies these concerns as "unavoidable." I want to remind the planning department that the unavoidable environmental impacts identified on the report as **ARE** avoidable. The City of Sunnyvale should choose to **limit the scope of the project** so that the adverse environmental impacts are reduced until the critical issues to the community are at less-than-significant levels. 7.01

My greatest concern for the project and this EIR is the topic of increased traffic volumes in and around the project area, and extending throughout the community. On my street on E. McKinley east of Sunnyvale Ave. the study reports an increase in traffic volume of 14-60%! Other nearby street segments are higher. I have a hard time swallowing the report's conclusion that there will be a *less-than-significant impact* on neighborhood street segments. 7.02

The 1993 Sunnyvale Downtown Specific Plan recommended that the city maintain **level D as the lowest acceptable service level** for intersections in the downtown (Policy P.LUC-12, p.5). The new EIR shows many, many critical intersections throughout the community will be degraded to service levels of E, E+, and F! 7.03

Apparently, the city is changing the rules for what is acceptable. Why are we planning for greater traffic and congestion that in 1993 we determined to be unacceptable? What has changed to make us aspire to a lower quality of life in Sunnyvale?

I am also concerned that this study was undertaken during the most significant economic downturn that this area has experienced. With even a modest economic recovery, there would be significantly higher impacts reported. 7.04

Another issue of great concern are the many topics that are discussed in the report that result in a recommendation that "no mitigation is required." For example, section 8 documents that the Sunnyvale School District has reported that "all public elementary and middle schools serving the area of downtown Sunnyvale are presently at, or over, the design capacity of the schools." The study goes on to describe the need to accommodate 300 more K-12 students (roughly the equivalent of one new elementary school), but sites section 65995(3)(h) of the CA Government Code where the payment of some developer fees is enough to cover the full and complete mitigation of this problem. Therefore, for this EIR study, school impacts would be considered "less-than-significant" and that no mitigation is required. 7.05

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There will be a significant school capacity problem for the City of Sunnyvale, but because there is a specific code section that addresses developer fees, this critical issue is not addressed in the EIR. The report describes potential *voluntary* agreements with the school districts to fund improvements. This is incomplete and unacceptable.

The school capacity problem will not go away. How will the School District deal with it? Will the city have to find a new property and build a new school? Will the city evict the Challenger school and re-open Hollenbeck, or re-open De Anza, or get rid of the senior center across from Washington Park? Certainly the school boundaries will have to change – this will be very unpopular with citizens.

There are many other issues in the EIR that should concern Planning and Community Development. Some of them are documented in the report as Significant Issues and Concerns, but much of the report underestimates the overall impact on our community. 7.06

In summary, I would like to note that I believe that redevelopment and revitalization of the downtown is a good thing, and a worthy goal. **But I believe that the scope of this project is far too large and is not in the best interests of the City of Sunnyvale.** Maximizing the profits of developers should not be a planning goal for the City of Sunnyvale -- having a quality downtown that the city can be proud of, and having a quality project that is not achieved at the expense of the quality of life for the residents of Sunnyvale should be the goal for our downtown revitalization.

Thank you for your consideration.

Sincerely,

Ben Mahoney

Ben Mahoney
397 E. McKinley Ave.

7. Ben Mahoney, 397 E. McKinley Avenue, Sunnyvale; May 16, 2003

Comment 7.01: General. Draft EIR identified "unavoidable" environmental impacts are "avoidable" if the City limits scope of proposed project.

Response: The comment expresses a general concern for the overall scope of the project by reference to "unavoidable" environmental impacts identified in the EIR. The comment does not call into question the EIR's content or adequacy; no response is required.

Comment 7.02: Transportation and Parking. "[H]ave a hard time swallowing the report's conclusion that there will be a *less-than-significant [traffic] impact* on neighborhood street segments."

Response: Traffic increases on neighborhood streets with peak hour volumes below 500 vehicles may be noticed by residents, however it is not considered an environmental impact from the standpoint of quantifiable roadway capacity or safety. For the study street segments listed in Table 7.16, the existing plus project increment volumes present the percentage increase anticipated for residential streets in the area. The anticipated existing plus project volumes are well below typical residential street volumes. Therefore, the project is considered to result in a less than significant impact on study neighborhood street segments. The potential nevertheless exists for residents on some project study streets to perceive an increase in traffic volumes from the project, however.

Comment 7.03: Transportation and Parking. Draft EIR identifies many intersections operating at traffic level of service (LOS) E, E+, and F, but 1993 Specific Plan recommended LOS D as lowest acceptable service level.

Response: The City of Sunnyvale level of service policy, revised after VTA adoption of its Congestion Management Program, was originally established in 1991, and is:

- Level of Service E or better for Congestion Management Agency (CMA) designated "Regionally Significant" intersections, and
- Level of Service D or better for all other signalized City intersections.

The proposed project with mitigation maintains City intersection levels of service within current City level of service standards. No level of service policy changes are included in the proposed project.

Comment 7.04: Transportation and Parking. Traffic study was undertaken during economic downturn; with even modest economic recovery, future impacts would be "significantly higher" than reported in Draft EIR.

Response: Traffic projections were made using the City's transportation demand model, which was calibrated to the base year of 1998. The model forecasts assumed growth to

buildout under the currently adopted General Plan. The model is therefore not sensitive to economic impacts on transportation demand.

Comment 7.05: Public Services and Utilities. Impacts on schools would be significant. Developer fees would not mitigate. *Voluntary* agreements with school districts to fund improvements is an "incomplete and unacceptable" solution.

Response: As explained in Draft EIR subsection 8.5.3 (Schools–Impacts and Mitigation Measures, page 8-18), "Pursuant to section 65995(3) (h) of the California Government Code (Senate Bill 50, chaptered August 27, 1998), the payment of statutory fees...'is deemed to be full and complete mitigation of the impacts of any legislative or adjudicative act, or both, involving, but not limited to, the planning, use, or development of real property, or any change in governmental organization or reorganization....'" Recognizing that such fees may not cover the costs of all necessary school facility improvements, the EIR recommends development agreements between future project applicants and the school district(s); however, such agreements would be *voluntary* because they currently cannot be mandated under California law.

Comment 7.06: General. Much of the Draft EIR "underestimates the overall impact on our community," including on quality of life.

Response: Comment focuses primarily on the merits of the proposed project. Regarding impact evaluation under CEQA, please see response to similar comment 2.01.

Also, please note that, in keeping with CEQA Guidelines section 15064.7 (Thresholds of Significance), each topical chapter of the Draft EIR includes a listing of the "Significance Criteria" (thresholds of significance) applied by the EIR authors in determining the significance of environmental effects and the effectiveness of associated mitigation measures, and in ensuring that environmental impacts are not "underestimated" (see subsections 4.3.1, 5.3.1, 6.3.1, 7.3.1, 8.3.1, 9.3.1, 10.3.1, 11.3.1, 12.3.1, 13.3.1, 14.3.1 and 15.3.1). These listed thresholds of significance represent quantitative, or performance levels for particular environmental topics. Nonconformance with these performance levels is normally considered to represent a significant impact, and compliance is normally considered to mean a less than significant impact. These listed significance criteria have been formulated based on the California Governor's Office of Planning and Research Technical Advice Series report, *Thresholds of Significance: Criteria for Defining Environmental Significance* (September 1994) and as recommended in this report, *CEQA Guidelines* Appendix G, the CEQA-recommended Environmental Checklist form.

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Water District

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File: 29204
Sunnyvale East Outfall

May 15, 2003

Ms. Diana O'Dell
Associate Planner
Planning Division
City of Sunnyvale
456 West Olive Avenue
Sunnyvale, CA 94086

Subject: Draft Environmental Impact Report for the Sunnyvale Downtown Improvement Program Update

Dear Ms. O'Dell:

The Santa Clara Valley Water District (District) staff has reviewed the subject document, received on April 25, 2003.

The proposed project consists of revitalizing the City's 125-acre Downtown Design Plan Area, and three adjacent areas that amount to a total of approximately 150 acres, bounded generally by the CalTrain tracks/Evelyn Avenue, Bayview Avenue, Carroll Avenue, El Camino Real, and Charles Street.

Following are our comments on the subject document:

Section 11.1.1—Areawide Drainage and Hydrology 8.01

The Draft Environmental Impact Report (DEIR) refers to the flood protection facilities as "flood control lines" and "flood control drainages" throughout the document. It would be more accurate to consistently refer to these as flood protection facilities.

The last sentence of the section, "Most of the flood . . . occurrences," is misleading and should be deleted.

Section 11.1.6—Local Drainage and Hydrology 8.02

The following information should be included in this section.

Under current conditions, Sunnyvale East and West Channels do not provide protection in the event of a 100-year flood. The District has identified the need for improvements on Sunnyvale East Channel from Guadalupe Slough to Highway 280 and on Sunnyvale

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West Channel from Guadalupe Slough to Highway 101 and has identified these capital projects for construction by the year 2016 in the "Clean, Safe Creeks, and Natural Flood Protection" Plan.

The DEIR compares the build-out permitted by the proposed project to the existing conditions, as required by California Environmental Quality Act Guidelines section 15126a and results in the intensification of the land use and therefore increase in the impervious surfaces. The proposed project would result in significant drainage and water quality impacts which must be mitigated on a project-by-project basis because each project would be required to minimize both the volume and velocity of surface runoff through the proper design of subsurface drains, on-site detention, appropriate grading and construction best management practices, and landscaping programs. The District encourages the incorporation of these mitigation measures to prevent the increased runoff from entering into District flood protection channels. An assessment of cumulative runoff impact of the development of the subject area as it relates to the watershed should be performed and provided for our review. 8.03

Section 11.1.5—Groundwater Quality and Groundwater Related Issues

This section contains incorrect information regarding the groundwater basin underlying Sunnyvale. More current information on the groundwater basin can be found in the District's Groundwater Management Plan and the 2001 Groundwater Conditions Report, available on the District's website at www.valleywater.org. Specifically, we have the following comments:

- Table 11.1 identifies beneficial uses for South San Francisco Bay listed in the San Francisco Bay Regional Water Quality Control Board's 1995 Basin Plan. A similar table should be included to identify beneficial uses for groundwater within the region. 8.04
- The depth to water range given (10 to 1,010 feet) is not accurate. Depth to water measurements range from less than zero (for flowing artesian wells) to an average of 50 to 60 feet below ground surface in recent years. 8.05
- The basin storage capacity is given as 3 million acre-feet. The District's operational storage capacity for the entire Santa Clara Valley Subbasin is 350,000 acre-feet. This storage volume accounts for maintaining water levels above levels at which land subsidence will recommence. 8.06
- The statement "these aquifers are slowly becoming contaminated" is inaccurate. Water quality in the confined, drinking water aquifer in the Sunnyvale area is generally very good and meets water quality objectives for all beneficial uses. 8.07
- The DEIR lists agricultural practices, waste disposal sites, industrial land uses near creeks with high percolation, naturally occurring mercury, herbicide and pesticide use, recharge of aquifers with high salt content water, and overdraft 8.08

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which has increased saltwater intrusion as causes of groundwater contamination. Data from the District's Groundwater Quality Monitoring program does not indicate ongoing groundwater degradation from any of these listed causes in the confined, drinking water aquifer in the Sunnyvale area.

- The DEIR states that erosion, sedimentation, and urban runoff pollutants have a "potentially significant impact." To protect surface water and groundwater resources from degradation, we agree strongly with the implementation of mitigation measure 11-1, which requires applicants for future project-facilitated discretionary development to comply with all current state, regional, and city water quality provisions, and adopted Regional Water Quality Control Board regulations where required. 8.09

Section 11.2.2—Santa Clara Valley Water District and Santa Clara Valley Urban Runoff Pollution Prevention Program (SCVURPPP)

- The first sentence of the second paragraph on page 11-9 states, "In the northern Santa Clara Valley, storm drains flow directly to local creeks and San Francisco bay, with no treatment necessitating the SCVURPPP," which does not make sense. Please explain. 8.10

- The fourth sentence of the second paragraph on page 11-9 states, "Under the SCVURPPP, property owners and contractors share ultimate responsibility for the activities that occur on a construction site," which is not true. The City of Sunnyvale participates in SCVURPPP for its own permit compliance. No contractor or property owner is associated with SCVURPPP. Property owners and contractors within the city of Sunnyvale are constrained by municipal ordinances and codes and protocols. Therefore, the sentence should be revised in the Final Environmental Impact Report to reflect the change. 8.11

- The second sentence of the third paragraph on page 11-9 should be deleted since the purpose for the infiltration promoted by the National Pollutant Discharge Elimination System permit has nothing to do with providing additional groundwater inputs. 8.12

- The fourth paragraph states that the District is responsible for reducing or eliminating flooding. Several typical solutions are listed. It should be noted that the District does not implement floodplain zoning as this is a land use decision made by the city. The reduction or elimination of flooding is a role of the District yet the responsibility is shared with the District and the local municipality. Solutions such as floodplain zoning and flood proofing are administered through the City. Alternatives to structural measures need to be considered in land use planning so that structural measures which are typically less environmentally compatible and require less land area do not become the only viable or remaining solution. 8.13

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Thank you for allowing us the opportunity to comment on DEIR for the subject project. If you have any questions or comments, you can call me at (408) 265-2607, extension 2731.

Sincerely,

Usha Chatwani

Usha Chatwani, P.E.
Associate Civil Engineer
Community projects Review Unit

cc: S. Williams, W. Wadlow, J. Fiedler, B. Goldie, S. Tippets, Jennie Micko, U. Chatwani, M. Dargis, D. Jacques, R. Narsim, V. Reymers, L. Jaimes, File (2)
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