



Council Meeting: September 18, 2012

SUBJECT: 2012-7532: Introduction of an Ordinance to Amend the Zoning Code for Development over 70% Floor Area Ratio (FAR) to add Requirements for Housing Mitigation and Transportation Demand Management; and Adoption of a Resolution for Modification to the Green Building Program

REPORT IN BRIEF

The attached ordinance and resolution are a follow up to City Council direction from June 2012. The report includes a review of the history and applicability of three development standards for high Floor Area Ratio (FAR) buildings: housing mitigation, transportation demand management and green buildings.

The Sustainability Commission reviewed this item on August 20 and offered comments to the City Council to support greater green building requirements for a broader range of zoning districts. Planning Commission reviewed this item on August 27 and voted to support the staff recommendation.

Staff recommends that City Council introduce an ordinance to require Transportation Demand Management (TDM) plans and Housing Mitigation for industrial development greater than 70% FAR in the MS-100% (Industrial and Service-100% FAR) zoning district and approve a resolution amending the Green Building Tables for the same industrial development greater than 70% FAR.

BACKGROUND

On June 19, 2012 the City Council rezoned property at the corner of Maude and Mathilda Avenues to 100% FAR and approved a Design Review application for a 99.8% FAR Class A office complex. As part of that decision, Council directed staff to return with modifications to the zoning code and Green Building Program relating to development in the Industrial Intensification areas. The Council action directed staff to address requirements for housing mitigation, TDM requirements and level of green building compliance.

EXISTING POLICY

GENERAL PLAN

Community Vision

III. Environmental Sustainability: To promote environmental sustainability and remediation in the planning and development of the City, in the

design and operation of public and private buildings, in the transportation system, in the use of potable water and in the recycling of waste.

- VI. Affordable Housing Options: To provide a variety of housing options by style, size, density and tenure, so all segments of the population may find appropriate high-quality housing in Sunnyvale that is affordable to them.
- X. Robust Economy: To retain, attract and support strong and innovative businesses, which provide quality jobs for the City's workforce, tax revenue to support public services, and a positive reputation for Sunnyvale as a center of creativity and productivity.

Housing and Community Revitalization

Policy HE-1.4 Continue to require office and industrial development to mitigate the demand for affordable housing.

Land Use & Transportation

Policy LT-1.7 Contribute to efforts to minimize region-wide average trip length and single-occupant vehicle trips.

Policy LT-1.9 Support flexible and appropriate alternative transportation modes and transportation system management measures that reduce reliance on the automobile and serve changing regional and City wide land use and transportation needs.

OTHER STANDARDS

Industrial Intensification Sites

In 1993 the City completed a study called the Futures Study. Council action on the Futures Study included an amendment to the General Plan and rezoning of several areas of the City to industrial intensification sites, including properties along Mathilda Avenue between Maude Avenue and U.S. Highway 101. The zoning for the industrial intensification areas allowed FARs of 50%, 55%, 70% or 100%, without the need for a Use Permit. Other industrially zoned properties required a Use Permit to exceed 35% FAR. In June 2012 the Council approved a rezoning of the 14-acre industrial intensification property at the northwest corner of Mathilda Avenue and Maude Avenue from 55% FAR and 70% FAR to 100% FAR.

Housing Mitigation

Section 19.22.035 of the Zoning Code requires housing mitigation for every square foot of industrial development that exceeds base zoning (the amount

allowed without a Use Permit). Although other forms of mitigation are available, most projects pay a fee. Fee amounts are adjusted annually.

Green Building Program

In 2009 the Council amended the zoning code to create a mandatory Green Building Program which set minimum levels of green development and provided incentives for developments with higher levels of green. Non-residential development was updated in September 2011 and the residential and public facilities development was updated in April 2012.

Transportation Demand Management

By zoning code, projects in Moffett Park and other industrial zones using the green building incentives are required to implement TDM programs. Also, TDM programs are typically required for projects requiring a Use Permit for higher FARs. TDM is not currently required for the Industrial Intensification sites along Mathilda Avenue.

DISCUSSION

In January 2012 staff received an application to redevelop several properties in the industrial intensification area at the corner of Mathilda Avenue and Maude Avenue. The application included a request to rezone the properties to MS-100% FAR. As part of the staff evaluation of the application it was noted that had the request been for a Use Permit to exceed the allowable FAR (55% and 70% for the subject properties), the zoning code requirements for housing mitigation and conditions of approval for a TDM program and higher levels of green building could have been imposed on the project. Staff had recommended a rezoning action rather than a Use Permit as rezoning would make a stronger policy statement about desired development for the 14-acre area. In June 2012, the City Council rezoned the site to 100% FAR and directed staff to return to the Council for consideration of amendments to the requirements for higher FAR sites.

Housing Mitigation: In 1985 the Council adopted a housing mitigation policy which required high FAR projects to mitigate the impacts of larger R&D and office development on affordable housing, typically by paying a housing mitigation fee. From 1985 to 2003 housing mitigation was Council Policy, but not a code requirement, and could only be required through a discretionary permit (e.g. Use Permit).

The Futures Study, completed in 1993, identified two industrially zoned areas as Industrial Intensification areas (Java Drive in Moffett Park and Mathilda Avenue south of U.S. Highway 101). The zoning would allow, by right, Class A Office development at higher FARs than standard industrial zoning. The Council wanted the higher FAR zoning as a technique to encourage this desired

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land use type in Sunnyvale and they accepted that these high FAR Futures Industrial Intensification properties would not be subject to the housing mitigation policy.

In 2003 a nexus study was prepared and the housing mitigation fee was updated and incorporated into the zoning code. The housing mitigation regulations required that, essentially, all non-Futures Intensification sites are subject to housing mitigation for development greater than 35% FAR. For example, the industrial intensification sites on Mathilda Avenue would only be subject to housing mitigation if a Use Permit was approved to exceed the base FAR (i.e. 55%, 70% or 100%)—and only for the square footage above the base.

Also during 2003 the Moffett Park Specific Plan was being considered. When the Moffett Park Specific Plan was adopted, the properties along Java Drive zoned in the Futures Study for industrial intensification of 50% FAR retained the exemption from housing mitigation, up to 50% FAR.

In 1993, Class A office development was almost non-existent in Sunnyvale. The original action on the Futures Study exempted the sites from housing mitigation to encourage their redevelopment. Since then, Class A office has taken hold in the Sunnyvale market. Based on the most recent experience with office developers, staff finds that the exemption from housing mitigation is no longer needed to incentivize office development along Mathilda Avenue. Many businesses and office developers have indicated a willingness to mitigate the impacts on affordable housing, provided it is implemented fairly.

Based on the success of Class A office, staff finds that imposing housing mitigation on development greater than 70% would not be a deterrent to redevelopment of these sites on Mathilda Avenue, and will put these sites on a par with the highest FARs that can be developed in Moffett Park or through approval of a Use Permit. Staff recommends introducing an ordinance to amend the zoning code (Attachment A) to require housing mitigation for developments over 70% FAR in the MS-100% FAR zoning district.

Transportation Demand Management: In prescribed circumstances in Moffett Park and through the green building incentive, or through approval of a Use Permit for higher FAR, a TDM program is imposed or required. For the Futures sites on Mathilda Avenue there is no mandatory TDM requirement; it is wholly up to the tenant on whether they wish to have a TDM program. A TDM requirement is more important for higher zoning FAR (e.g. greater than 70% FAR) than other types of uses given the likely large number of employees at the property. TDM programs have become commonplace for large offices. Large businesses will run their own transportation programs or partner with transportation agencies to assure their employees have reliable transportation.

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In some parts of the community, businesses will share shuttles and vans to assist their employees' alternative transportation efforts. In the Moffett Park area the businesses and property owners have formed the Moffett Park Business Group (MPBG). Developers are accepting that TDM programs have become the norm and are an important tool in helping maintain lower single-occupant vehicle trips and in supporting public transportation.

Council directed staff to return with a zoning code amendment to require a TDM program for the Futures sites developed with more than 70% FAR. Staff further recommends a minimum TDM goal of 20% total and 25% peak hour trip reductions (Attachment A).

Green Building Requirements: A comprehensive Green Building Program was adopted in 2009 with an expectation that green building standards would increase over time. The current green building requirement for a new building greater than 5,000 s.f. is LEED (Leadership in Energy and Environmental Design) Silver (Checklist).

The program includes an incentive program that rewards a 10% FAR bonus if a development achieves a LEED Gold (certified through the U.S. Green Building Council—USGBC) level. Projects in the MP-TOD (Moffett Park-Transit Oriented Development) zoning district in Moffett Park may develop greater than 70% FAR with the 10% density bonus and are required to achieve LEED Gold (also certified through USGBC). Currently the Futures sites on N. Mathilda Avenue are required to meet LEED Silver (Checklist) unless they request a 10% FAR incentive which would require LEED Gold (Certified).

Developers have indicated to staff that LEED Silver is a frequent minimum in their developments and, depending on the location of the project, achieving the LEED Gold standard may be easily attained. When LEED was first required in Moffett Park in 2003 businesses were unsure of the cost or time implications. Now, the tenants are requesting this level of environmental and energy design. The Green Building Program could be modified to have a more aggressive requirement, such as LEED Gold (certified through USGBC), for all buildings above a specified threshold (i.e. FAR or square footage).

Council directed staff to return with an adjustment to the Green Building Tables for high FAR developments (outside of Moffett Park). Staff recommends LEED Gold (Certified) for any project over 70% FAR in the MS-100% FAR zoning district. Moffett Park projects greater than 70% FAR are already required to achieve LEED Gold and this threshold would put all office developments greater than 70% FAR throughout the City at the same level. The table in Attachment B shows the proposed revisions to the non-residential construction table.

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A more comprehensive review and update to the entire set of Green Building Tables is scheduled for October 2013. This interim update is to assure that appropriate green building standards are in place for expected new development in the Industrial Intensification area.

FISCAL IMPACT

There is no direct fiscal impact to the City by implementing these Zoning Code and Green Building Program changes. If the Council modifies the requirement for housing mitigation, housing mitigation fee revenues could be up to \$5 million if the 100% FAR area is built to the maximum allowed.

PUBLIC CONTACT

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

Owners of the Industrial Intensification 70% and 100% FAR sites were notified and an outreach meeting was held on August 20, 2012. None of the owners (or their representatives) attended the meeting or have contacted staff.

The Sustainability Commission reviewed this item at their August 20, 2012 meeting. The Commission took no formal action, but provided the following comments:

- Use, not zoning district, should determine LEED and TDM standards. For example, large office projects in the O (Office) or DSP (Downtown Specific Plan) should be subject to the same standards as projects in M-S and M-3 (General Industrial).
- As LEED Gold is becoming more common, Sunnyvale should begin to think about the next steps. Platinum is not feasible for some projects, but other ideas should be considered.
- Certification through the U.S. Green Building Council (USGBC) is important and Gold Certified is good.

The Commission also discussed TDM, and what kinds of measures can be implemented for projects that are a distance away from transit (see Attachment C, Draft Sustainability Commission Minutes).

Staff agrees in concept with the Sustainability Commission that other large projects should be subject to these higher green building and TDM standards; however, it is extremely unlikely that buildings in the Office zoning district

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would exceed 70% FAR given other development standards (particularly the two-story height limit). The downtown is an area where higher FAR projects could be considered in the future. During the next comprehensive update to the Green Building Program (scheduled for October 2013), higher green building standards can be considered for any additional office or residential developments that may be approved for the downtown.

The Planning Commission reviewed this item at their meeting on August 27, 2012. The Planning Commission voted 5-0 to support the staff recommendation indicating that it “made sense” to take these actions (see Attachment D, Draft Planning Commission Minutes).

ENVIRONMENTAL REVIEW

A Class 8 Categorical Exemption relieves this project from California Environmental Quality Act provisions and City Guidelines. Class 8 pertains to actions to protect the environment.

ALTERNATIVES

1. Introduce an ordinance (Attachment A) to amend Title 19 (Zoning) to require development in the industrial intensification areas that achieve an FAR greater than 70% to:
 - a. Implement a transportation demand management program that achieves 25% peak hour trip reductions and 20% total daily trip reductions.
 - b. Comply with housing mitigation for all square footage greater than 70% FAR.
2. Approve a resolution (Attachment B) to amend the Green Building Program for industrial developments greater than 70% FAR.
3. Introduce the ordinance and resolution in Alternatives 1 and 2 with modifications.
4. Do not make any modifications to the zoning code or Green Building Program.

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RECOMMENDATION

Recommend to City Council: Alternatives 1 and 2. These alternatives implement the direction provided by the City Council on June 19, 2012. These modifications to City codes and policy subject higher intensity developments to similar standards as are required for projects subject to Use Permits and for development greater than 70% in the Moffett Park Specific Plan area.

Reviewed by:

Hanson Hom, Director, Community Development
Prepared by: Trudi Ryan, Planning Officer

Approved by:

Gary M. Luebbers
City Manager

Attachments

- A. Draft Ordinance to modify Title 19 (Zoning) requiring TDM and housing mitigation fees for projects over 70% FAR in the industrial intensification areas.
- B. Resolution amending the Green Building Program for industrial buildings greater than 70% FAR.
- C. Draft Sustainability Commission Minutes of August 20, 2012
- D. Draft Planning Commission Minutes of August 27, 2012

ORDINANCE NO. _____-12

**AN ORDINANCE OF THE CITY COUNCIL OF THE CITY
OF SUNNYVALE TO AMEND SECTION 19.22.035 OF
TITLE 19 (ZONING) OF THE SUNNYVALE MUNICIPAL
CODE**

SECTION 1. SECTION 19.22.035 AMENDED. Section 19.22.035 of Chapter 19.22 (Industrial Zoning Districts) of Title 19 (Zoning) of the Sunnyvale Municipal Code is hereby amended to read as follows:

~~19.22.035. — Housing mitigation program for high intensity industrial developments which exceed specified floor area ratios.~~

~~———— (a) — Requirements. Developers of high intensity industrial development are required to mitigate the demand for affordable housing created by the development. For purposes of this section, “high intensity industrial development” is defined as all development projects in industrial zoning districts which require a use permit to exceed specified threshold floor area ratios, as set forth in Table 19.32.020 of this code. Housing mitigation fees paid pursuant to this section shall be placed in the city’s housing fund and shall be used to support the provision of affordable housing within the city, including, but not limited to, funding the creation or acquisition of new units, providing assistance to potential home buyers, and assisting with the maintenance and rehabilitation of existing units.~~

~~———— (b) — Housing Mitigation Fee. A housing mitigation fee is hereby imposed on all developers of high intensity industrial development projects that result in the creation of new floor area.~~

~~———— (c) — Calculation of Housing Mitigation Fee. The housing mitigation fee shall be imposed on a per square foot basis for all new gross floor area which exceeds the amounts specified in Table 19.32.020. The fee amount shall be calculated as follows: (Gross square footage of entire project minus the square footage allowed in Table 19.32.020) X (Applicable Fee) = Housing Mitigation Payment. In calculating the floor area, the following uses/facilities may be subtracted from the gross square footage:~~

~~———— (1) — Recreational facilities such as gyms, showers, indoor pools, locker rooms;~~

~~———— (2) — Cafeterias;~~

~~———— (3) — Architectural design features not utilized for occupancy or storage;~~

~~———— (4) — Atria;~~

~~———— (5) — Auditoriums or other special presentation rooms not easily converted to work area;~~

~~———— (6) — Childcare facilities;~~

~~———— (7) — Hazardous materials storage.~~

~~———— (d) — The amount of the fee shall be as set forth in the city’s master fee resolution.~~

~~———— (e) — In calculating the payment due, the director of community development shall use the fee in effect by resolution of the city council at the time~~

~~of the issuance of the building permit. The housing mitigation payment must be paid prior to issuance of the first grading or building permit for a project. A developer may pay all or a portion of the fee owed at any time prior to issuance of the building permit, at the rate in effect at the time payment is made. Any grading or building permit issued prior to payment shall be null and void. For phased projects, the amount due shall be paid on a pro rata basis across the entire square footage of the approved development, and each portion shall be paid prior to the issuance of any grading or building permit for each phase.~~

~~(f) As an alternative to payment of the housing mitigation fee, a developer may submit a request to mitigate the impacts of such development through the construction of residential units on an appropriate housing site, the dedication of land or provision of other resources. Such requests may be granted by the director of community development if it is determined that such alternative will further affordable housing opportunities in the city to an equal or greater extent than payment of the housing mitigation fee.~~

~~(g) An adjustment, reduction or waiver of the fee required by this section may be granted at the time the use permit is issued under the following circumstances:~~

~~(1) Upon the remodeling of a building to add square footage, the appropriate housing mitigation fee shall be paid only on the additional square footage.~~

~~(2) If the development project is in whole or part a replacement for space previously on the site, but vacated or demolished in the twelve months prior to the filing of the application for a use permit for the new construction or remodel, credit shall be given for the space vacated or demolished at the rate applicable to the prior use of the space.~~

~~(3) If, upon evaluation of facts presented by the developer, the director of community development finds that there is an absence of any reasonable relationship or nexus between the impact of the development and the need for housing, the project shall be eligible for a conditional waiver of the fees. The burden of proof shall be on the applicant. If a waiver is granted, a "Notice of Conditional Waiver of Housing Mitigation Fee" shall be recorded in the Santa Clara County Office of the Recorder. If a subsequent change in the use or structure of the building occurs which triggers the need for housing, the waiver granted shall be deemed revoked, and housing mitigation payment shall be calculated and due at that time.~~

19.22.035 Requirements for High-Intensity Industrial Development

(a) **Purpose.** The purpose of this section is to mitigate the housing and traffic impacts of high-intensity industrial developments, including the demand for affordable housing created by additional jobs.

(b) **Applicability.** This section applies to high intensity industrial developments in the M-S or M-3 Zoning District. High-intensity industrial developments means any project that creates new floor area exceeding floor area ratio (FAR) thresholds defined in Table 19.32.020 (Building Height, Lot Coverage and Floor Area Ratio) or exceeding 70% FAR in industrial intensification areas defined in Section 19.32.070 (Floor Area Ratio (FAR)).

(c) **Housing Mitigation Fee.** High-intensity industrial developments are subject to a housing mitigation fee.

(1) **Use of Housing Mitigation Fees.** Housing mitigation fees are placed in the City's Housing Fund and used to support the provision of affordable housing within the city. The provision of housing may include funding the creation or acquisition of new units, providing assistance to potential home buyers, and assisting with the maintenance and rehabilitation of existing units.

(2) **Calculation of Fee.** The amount of the fee is set by the City Fee Resolution and is imposed on a per square foot basis for new gross floor area exceeding specified FAR thresholds. For calculation purposes, the floor area allowed is 70% FAR for industrial intensification sites or the FAR limitation in Table 19.32.020 (Building Height, Lot Coverage and Floor Area Ratio) for all other industrial sites. The fee amount is calculated as follows:

(Gross floor area) – (Floor area allowed) multiplied by (per square foot fee) equals (total housing mitigation fee).

(3) **Exemptions to Gross Floor Area.** The following areas are exempt from the gross floor area used in housing mitigation fee calculations:

(A) Recreational facilities such as gyms, showers, indoor pools, locker rooms;

(B) Cafeterias, auditoriums, atria or other special presentation rooms not easily converted to work area;

(C) Architectural design features not utilized for occupancy or storage;

(D) Childcare facilities;

(E) Hazardous materials storage; and

(F) Existing structures that were vacated or demolished no more than 12 months prior to the filing date of the development application.

(4) **Timing of Payment.** Housing mitigation fees shall be paid prior to issuance of the first grading or building permit for the project. A developer may pay all or a portion of the fee owed at any time prior to issuance of the building permit, at the rate in effect at the time payment is made. For phased projects, the amount due shall be paid on a pro rata basis across the entire square footage of the approved development, and each portion shall be paid prior to the issuance of any grading or building permit for each phase.

(5) **Alternative to Payment.** As an alternative to payment of the housing mitigation fee, a developer may request to mitigate the housing impacts through construction of residential units on an appropriate housing site, the dedication of land or the provision of other resources. The Director may approve this request if the proposed alternative furthers affordable housing opportunities in the city to an equal or greater extent than payment of the housing mitigation fee.

(6) **Adjustments to Mitigation Fee.** An adjustment, reduction or waiver of the required housing mitigation fee may be granted at the time the development application is approved under the following circumstances:

(A) **Additions to Existing High FAR Buildings.** For projects adding square footage to existing structures exceeding FAR thresholds, housing mitigation fees shall be paid only on the additional square footage.

(B) **Absence of Nexus.** The approving body may waive housing mitigation fees for projects that have no nexus between development impact and housing need. The applicant bears the burden of proof for this finding. If subsequent use or structure changes occur that trigger the need for housing, the waiver is revoked and housing mitigation payment shall be calculated and due at

that time. Notice of this waiver, with the condition regarding subsequent use changes, shall be recorded with the County of Santa Clara.

(d) **Transportation Demand Management Plan.**

(1) **Standard M-S and M-3 Floor Area Ratios.** Projects requiring a Use Permit for floor area ratio may be required to submit a transportation demand management (TDM) plan, at the determination of the approving body.

(2) **Industrial Intensification Areas.** Projects greater than 70% in the industrial intensification areas described in Section 19.32.070 (Floor Area Ratio (FAR)) are required to submit a TDM plan for the entire project site. The TDM plan shall demonstrate that vehicle-trip rates for the project do not exceed the projected trip generation of a 70% FAR project.

(3) **Green Building Incentives.** TDM plans may also be required for projects to use green building incentives, as described in Chapter 19.39 (Green Building Regulations).

SECTION 2. EXEMPTION FROM CEQA. The City Council finds, pursuant to Title 14 of the California Code of Regulations, Section 15061(b)(3), that this ordinance is exempt from the requirements of the California Environmental Quality Act (CEQA) in that it is not a Project which has the potential for causing a significant effect on the environment.

SECTION 3. CONSTITUTIONALITY; SEVERABILITY. If any section, subsection, sentence, clause or phrase of this ordinance is for any reason held to be invalid by a court of competent jurisdiction, such decision shall not affect the validity of the remaining portions of this ordinance. The City Council declares that it would have adopted this ordinance and each section, subsection, sentence, clause and phrase thereof irrespective of the fact that any one or more section, subsection, sentence, clause or phrase be declared invalid.

SECTION 4. EFFECTIVE DATE. This ordinance shall be in full force and effect 30 days from and after the date of its adoption.

SECTION 5. POSTING AND PUBLICATION. The City Clerk is directed to cause copies of this ordinance to be posted in three (3) prominent places in the City of Sunnyvale and to cause publication once in *The Sun*, the official newspaper for publication of legal notices of the City of Sunnyvale, of a notice setting forth the date of adoption, the title of this ordinance, and a list of places where copies of this ordinance are posted, within 15 days after adoption of this ordinance.

Introduced at a regular meeting of the City Council held on _____, 2012, and adopted as an ordinance of the City of Sunnyvale at a regular meeting of the City Council held on _____, 2012, by the following vote:

AYES:
NOES:
ABSTAIN:
ABSENT:

ATTEST:

APPROVED:

City Clerk
Date of Attestation: _____

Mayor

(SEAL)

APPROVED AS TO FORM AND LEGALITY:

Michael D. Martello, Interim City Attorney

RESOLUTION NO. ____-12

**RESOLUTION OF THE CITY COUNCIL OF THE CITY OF
SUNNYVALE TO UPDATE AND ADOPT THE GREEN
BUILDING TABLES FOR INDUSTRIAL DEVELOPMENTS
GREATER THAN 70% FAR**

WHEREAS, on August 27, 2008, the City Council directed staff to develop sustainable building guidelines for new construction, remodels and additions to buildings in the City; and

WHEREAS, on March 24, 2009, the City Council adopted Resolution 368-09, the Green Building Tables, which included a phased approach to full implementation of green building intent for building construction throughout the City; and

WHEREAS, the Green Building Tables were to be reviewed by the City Council after approximately 18 months to provide information on effectiveness of the policies and opportunity to refine its impacts; and

WHEREAS, on September 13, 2011, the City Council adopted Resolution 497-11 whereby Green Building tables were reviewed and revised to increase and clarify the requirements for non-residential development and provide minor updates to the Residential verification requirements; and

WHEREAS, on April 24, 2012, the City Council adopted Resolution 530-12 whereby the Green Building tables were again reviewed and revised to provide increased requirements for non-residential, residential and multi-family construction and alterations, and new requirements for public facilities; and

WHEREAS, the Green Building Tables attached hereto as Exhibit "A" will be an integral part of shaping an improved future for development of non-residential projects for new construction, tenant improvements and major alterations within the City of Sunnyvale, meeting the City's goals of sustainability.

NOW, THEREFORE, BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF SUNNYVALE THAT the City Council of the City of Sunnyvale adopts the Green Building Tables attached hereto as "Exhibit A" and directs staff to apply the requirements listed in the Green Building Tables to all building construction (as appropriate) in the City of Sunnyvale. These updated tables become effective October 1, 2012.

Adopted by the City Council at a regular meeting held on _____, 2012, by the following vote:

AYES:
NOES:
ABSTAIN:
ABSENT:

ATTEST:

City Clerk
(SEAL)

Mayor

APPROVED AS TO FORM AND LEGALITY:

Michael D. Martello, Interim City Attorney

Non-Residential Projects

NON-RESIDENTIAL			
Type of Project	Minimum Standard	Verification/Review Requirement	Voluntary Incentives
New Construction and Initial Tenant Improvements			
≤ 5,000 s.f.	CALGreen Mandatory Measures	Verified/Reviewed by City Staff	--
> 5,000 s.f. * (excluding Moffett Park Specific Plan area) see note for projects >70% FAR	CALGreen Mandatory Measures and LEED Checklist with Silver Level	Verification by LEED AP	Achieve LEED Gold Level with USGBC certification and the project can increase: 10% FAR OR 10 ft. height.
Moffett Park Specific Plan > 5,000 s.f.	CALGreen Mandatory Measures and LEED Checklist with Silver Level	Verification by LEED AP	Achieve LEED Checklist Gold Level and the project can increase: 15% FAR (MP-I) 20% FAR (MP-TOD) Achieve LEED Gold Level with USGBC certification and the project can increase: 10% FAR additional
Major Alterations (structural, mechanical, plumbing, and electrical alterations)			
5,000 - 50,000 s.f.	LEED Checklist: no minimum points required	Verified/Reviewed by City Staff	--
> 50,000 s.f.	LEED Checklist: Certified Level	Verification by LEED AP	--

* In MS-100% FAR zoned properties, any development over 70% FAR is required to achieve a LEED Gold rating with certification by the USGBC and no further incentives apply.



MINUTES

SUNNYVALE SUSTAINABILITY COMMISSION AUGUST 20, 2012

The Sustainability Commission met in regular session in the Annex Conference Room at 7:00 p.m. with Chair Harrison presiding.

The meeting was called to order at 7:02 p.m.

ROLL CALL

Commission Members Present:

Commission Chair Sue Harrison
Commission Vice Chair Amit Srivastava
Commissioner Barbara Fukumoto
Commissioner Gerry Glaser
Commissioner Dan Hafeman

Commission Members Absent:

Commissioner Joe Green-Heffern (Excused)

Council Liaison: Councilmember Jim Davis (Present)

Staff Present: John Stufflebean, Director of Environmental Services
Melody Tovar, Regulatory Programs Division Manager
Dustin Clark, Sustainability Coordinator, Staff Liaison
Diana O'Dell, Senior Planner

SCHEDULED PRESENTATION

PUBLIC ANNOUNCEMENTS

Chair Harrison opened the public hearing to public announcements.

There were no announcements.

Chair Harrison closed the public hearing.

CONSENT CALENDAR

1.A. Approval of draft minutes of Sustainability Commission meeting of July 26, 2012.

Commissioner Srivastava moved and Commissioner Glaser seconded a motion to approve the meeting minutes from April 16 with minor changes. Commissioner Fukumoto requested the minutes reflect her comments regarding her attendance at a parking seminar and that the notes would be provided to Commissioners.

VOTE: 4-0-1 (Vote to approve was unanimous; Commissioner Green-Heffern absent; Commissioner Hafeman abstained)

PUBLIC COMMENTS

Chair Harrison opened the public hearing to public comments.

There were no comments.

Chair Harrison closed the public hearing.

PUBLIC HEARINGS/GENERAL BUSINESS

1. ACTION: 2012-7532: Zoning Code Amendments for Development over 70% FAR: New Requirements for Housing Mitigation and Transportation Demand Management; and Modification to the Green Building Program

Diana O'Dell, Senior Planner, presented a draft staff report to the Commission for comments. The staff report addressed a proposed project in the vicinity of Mathilda Avenue that has prompted the Planning Department to consider zoning code amendments that modify the current green building program. Commissioners provided comments that will be reflected in the staff report to Council.

Chair Harrison opened the public hearing to public comments.

There were no comments.

Chair Harrison closed the public hearing.

2. ACTION: CCA Subcommittee Vacancy

The Commission selected a new member of the CCA subcommittee as a result of a vacancy on the Commission.

Chair Harrison opened the public hearing to public comments.

There were no comments.

Chair Harrison closed the public hearing.

Commissioner Glaser moved and Commissioner Harrison seconded a motion to appoint Commissioner Fukumoto as a member of the Sustainability Commission CCA Subcommittee.

VOTE 4-0-1 (Vote was unanimous; Commissioner Green-Heffern absent; Commissioner Fukumoto abstained)

3. ACTION: Proposal of Study Issues

Commissioner Hafeman initiated a discussion on a study issue regarding the development of a sustainability rating for public and private projects. Commissioner Hafeman commented that the sustainability rating would act as a decision making tool for evaluating projects or policies with multiple alternatives. An example provided was considerations for future plans for a library, which may have multiple alternatives. A sustainability rating would allow decision makers to weigh alternatives based on the sustainability rating in conjunction with other factors, such as cost.

Commissioner Hafeman made a motion to recommend a study issue that would look at attaching a sustainability rating based on metrics, to a project (public or private), to assist decision making where there are multiple alternatives. Commissioner Harrison seconded the motion.

VOTE 5-0 (Vote was unanimous; Commissioner Green-Heffern absent)

NON-AGENDA ITEMS AND COMMENTS

Commissioner Oral Comments

Commissioner Glaser commented that he attended the Green Energy Summit hosted in part by County Supervisor Cortese. Commissioner Glaser met with Supervisor Cortese's assistant Steve Blomquist as the Supervisor is interested in Community Choice Aggregation.

Commissioner Glaser attended TIE (The Indus Entrepreneurs) Energy - Electric Avenue: EVs charge into \$200B market event. The event looked at the new product announcements in the EV (electric vehicle) space, along with the global trends and opportunities. Commissioner Glaser commented that one of the messages he took from the event is that the City can be active and show leadership by going with EV.

Commissioner Glaser commented on the light fixtures installed in the downtown area or Mathilda. Commissioner Glaser commented on how absurd they look and also heard similar comments from an out of town visitor that compared the area to Disneyland. Commissioner Glaser wonders who was responsible for approving that design element.

Commissioner Fukumoto commented on the Local Government Commissions Ecodistricts seminar. The seminar was sponsored by the Portland Sustainability Institute. Commissioner Fukumoto will provide the powerpoint and her notes on the event to the Commission.

Commissioner Fukumoto commented that the State of California has come out with a report compiling numerous studies about California and climate change.

Commissioner Srivastava commented that he attended a meeting held by Oceanic Data. Commissioner Srivastava commented that Oceanic Data is making the case that the ocean temperature rise was a lot more conservative by IBCC than what the actual temperature rise is and that IBCC made very conservative estimates.

Commissioner Harrison commented that she attended Lawrence Station Area Plan Citizen Advisory Group meeting. Commissioner Harrison commented that the 11 member group was provided with three different development scenarios. Commissioner Harrison commented that all of the group members, each with their own diverse viewpoint, voted in favor of the mixed-use development format.

Commissioner Fukumoto informed the Commission of upcoming meetings and events. The event information will be sent to Commissioners and posted on the Sustainability Events Calendar.

Staff Comments

Sustainability Coordinator Clark announced that the CCA subcommittee would be meeting on Wednesday, August 22 at 4:00 p.m. in the West Conference Room.

Sustainability Coordinator Clark announced that the Fall BAWSCA Landscape Education Series gets underway in September. The City will be hosting 4 classes highlighting California Natives, water efficient irrigation and edible gardening. The classes will be held at the Senior Center September 22, October 6, October 13 and November 10. All classes are free and go from 10:00 a.m. to 1:00 p.m.

INFORMATION ONLY ITEMS

ADJOURNMENT

The meeting adjourned at 9:30 p.m.

Respectfully submitted,

Dustin Clark, Environmental Sustainability Coordinator

Reviewed by: John Stufflebean, Director of Environmental Services
Melody Tovar, Regulatory Programs Division Manager

EXCERPT OF DRAFT PLANNING COMMISSION MINUTES

4. **File #:** 2012-7532
Location: City-wide
Proposed Project: Zoning Code Amendments for Development over 70% FAR in Industrial Intensification Sites: New Requirements for Housing Mitigation and Transportation Demand Management; and, Modification to the Green Building Program.
Environmental Review: Categorically Exempt Class 8
Staff Contact: Trudi Ryan, 408-730-7435
tryan@ci.sunnyvale.ca.us
Notes: *This item is scheduled to be considered by City Council on September 18, 2012.*

Trudi Ryan, Planning Officer, presented the staff report.

Comm. Hendricks said that this draft report was recently reviewed by the Sustainability Commission and discussed with staff their comments. Comm. Hendricks asked staff if there is language that should be added to the proposed documents to make sure no gap exists in the requirements for development between 70% and 100% FAR (Floor Area Ratio). Ms. Ryan commented on the standards for buildings in the downtown, Moffett Park and Peery Park areas. She said there are not many other places in the City that would have the high FAR and still be able to provide the required parking. Comm. Hendricks discussed the public outreach, confirming with staff that to do everything proposed in the report that the motion would be to recommend Alternatives 1 and 2.

Comm. Chang discussed with staff the Peery Park and Moffett Park areas related to green building standards. Staff said that Peery Park does not have specific green building incentives other than the City-wide incentives and the Moffett Park area has different graduated incentives available based on the level of green building.

Chair Larsson discussed with staff Transportation Demand Management (TDM) programs. Ms. Ryan explained that the projects that have TDMs implemented are required to file an annual report in January identifying their level of achievement. Ms. Ryan discussed how success has been measured over the years and said staff is working to standardize the reporting process and procedures for correcting unsuccessful TDM programs. She said each of the TDM programs has a penalty clause for not meeting the goals and the penalty is more expensive than the cost to run the TDM program. Comm. Larsson asked if there are rough estimates about meeting targets. Ms. Ryan said most TDM requirements are met and there are some who are exceeding their requirements.

Chair Larsson opened and closed the public hearing.

Comm. Chang moved for Alternative 1 and 2 to recommend to City Council Alternatives 1 and 2. 1- Introduce an ordinance (Attachment A) to amend Title 19 (Zoning) to require development in the industrial intensification areas that achieve an FAR greater than 70% to: a. Implement a transportation demand management program that achieves 25% peak hour trip reductions and 20% total daily trip reductions. b. Comply with housing mitigation for all square footage greater than 70% FAR. 2- Approve a resolution

(Attachment B) to amend the Green Building Program for specified industrial developments greater than 70% FAR. Comm. Hendricks seconded the motion.

Comm. Chang said this is a recommendation to City Council to review the intensification areas where there is zoning that bypassed some of the mitigating fees. He said with these changes that the City should be able to catch some of the larger developments in the future.

Comm. Hendricks said this is an easy decision and it closes a gap in the code.

Chair Larsson said he would be supporting the motion. He said the changes seem to be straightforward and bring many benefits to the community.

ACTION: Comm. Chang made a motion on 2012-7532 to recommend to City Council Alternatives 1 and 2. 1- Introduce an ordinance (Attachment A) to amend Title 19 (Zoning) to require development in the industrial intensification areas that achieve an FAR greater than 70% to: a. Implement a transportation demand management program that achieves 25% peak hour trip reductions and 20% total daily trip reductions. b. Comply with housing mitigation for all square footage greater than 70% FAR. 2- Approve a resolution (Attachment B) to amend the Green Building Program for specified industrial developments greater than 70% FAR. Comm. Hendricks seconded. Motion carried, 5-0, with Comm. Kolchak and Comm. Sulser absent.

APPEAL OPTIONS: This recommendation will be provided to City Council and is scheduled to be considered at the Council meeting on September 18, 2012.