



DATE: June 10 ,2014

CATEGORY: Public Hearing

DEPT.: Community Development

TITLE: **2600 Marine Way – Intuit**

RECOMMENDATION

1. Adopt a Resolution Certifying the 2600 Marine Way Office Project Final Environmental Impact Report and Adopting CEQA Findings, Including a Statement of Overriding Considerations, Mitigation Measures, and a Mitigation Monitoring Program, to be read in title only, further reading waived (Attachment 1 to the Council report).
2. Introduce an Ordinance Amending the Zoning Map for the Properties Located at 2600/2660/2698 Marine Way, 2591/2599 Garcia Avenue, 2618/2634/2636 Bayshore Parkway, and 2551 to 2601 Casey Avenue from the ML Zoning District to the P Zoning District, to be read in title only, further reading waived, and set a second reading for June 24, 2014 (Attachment 2 to the Council report).
3. Adopt a Resolution Conditionally Approving a Planned Community Permit for Two Office Buildings with a Floor Area Ratio of 1.0, Resulting in Approximately 364,000 Square Feet of Office Development and Two New Parking Structures, and a Heritage Tree Removal Permit for the Removal of 40 Heritage Trees at 2600/2660/2698 Marine Way, 2591/2599 Garcia Avenue, 2618/2634/2636 Bayshore Parkway, and 2551 to 2601 Casey Avenue, to be read in title only, further reading waived (Attachment 3 to the Council report).
4. Introduce an Ordinance Approving a Development Agreement for 2600/2660/2698 Marine Way, 2591/2599 Garcia Avenue, 2618/2634/2636 Bayshore Parkway, and 2551 to 2601 Casey Avenue, to be read in title only, further reading waived, and set a second reading for June 24, 2014 (Attachment 4 to the Council report).

BACKGROUND

In July 2012, the City Council adopted the 2030 General Plan. The General Plan established the vision for the North Bayshore as an area “that continues its role as a major high-technology employment center, and emerges as a model of innovative and sustainable development that protects and stewards biological habitat and open space within the Change Area and North Bayshore as a whole.” As part of this vision, the goals and policies for this area promote a mix of complementary land uses and open space resources and the development and contribution of an efficient multi-modal transportation system. A majority of the North Bayshore Change Area and the project site has a land-use designation of High-Intensity Office, which allows projects to have a 0.35 FAR with the potential to go up to 1.0 FAR.

In adopting the General Plan, Council stated that any higher-intensity proposals in the North Bayshore Change Area would not be approved until after the Shoreline Transportation Study and North Bayshore Precise Plan are complete to ensure developments include the necessary and appropriate mobility and infrastructure improvements that will be identified as part of the Precise Plan. At the same time, Council also acknowledged that two proposals for increased intensity had been conceived before the adoption of the General Plan (this proposal by Intuit and one by Google at the Charleston East Site) and adopted a resolution allowing these two projects to proceed prior to adoption of the Precise Plan.

Project Site Location and Characteristics

The project site includes 10 properties totaling 9.62 acres owned by Intuit and is generally bounded between Bayshore Parkway, Marine Way, Casey Avenue, and the existing Intuit campus. It is surrounded by office and light-industrial uses on all sides. The parcels are currently developed with 10 detached office and light-industrial buildings, which would be demolished, along with pavement, landscaping, and other site improvements.

Project Description

The applicant is requesting to change the zoning designation of the project site from the



Location Map

ML Zoning District to the P Zoning District, and the construction of two 4-story, 1.0 FAR office buildings and two parking structures. The application also includes the removal of 40 Heritage trees and a request for a seven-year Development Agreement (see Attachment 4—Ordinance Approving a Development Agreement, and Attachment 5—Project Plans). The 10 properties that comprise the project are generally grouped into three sites, which are summarized below:

- Marine Way Site: Consists of three parcels totaling 4.26 acres on the north side of Garcia Avenue, east of Marine Way. Intuit proposes a 185,400 square foot, four-story office building and six-level parking structure to replace three 1-story office buildings totaling 54,750 square feet and surface parking lots.
- Bayshore Site: Consists of six parcels totaling 4.23 acres, separated from the Marine Way site by Garcia Avenue. Intuit proposes a 178,600 square foot, four-story office building and a three-level parking structure to replace five 1-story and 2-story office/industrial buildings totaling 63,380 square feet, and surface parking lots. A cell tower and its associated equipment enclosure are also currently located in a parking lot on-site and would be replaced with a new stealth facility on the roof of the new building under a separate application.
- Casey Site: Consists of one parcel totaling 1.31 acres on the southeast corner of Casey Avenue and Marine Way. Intuit proposes the demolition of the two existing office buildings totaling 14,656 square feet and to use the site as an interim construction parking lot. When the new buildings on the Marine Way and Bayshore sites are completed, Intuit proposes to landscape the site and use it as a private outdoor recreation facility.

Previous Meetings

Study Sessions

The Environmental Planning Commission (EPC) reviewed the project at two Study Sessions on February 6, 2013 (see Attachment 6—[February 6, 2013 EPC Study Session Report](#)) and October 2, 2013 (see Attachment 7—[October 2, 2013 EPC Study Session Report](#)). The following is a summary of the EPC's comments from these Study Sessions:

- Recognized Intuit's participation in the General Plan process, commitment to using the General Plan as a guide to develop their plans, and responsiveness to City comments;

- Supportive of the project design and innovative architectural approach, the applicant's commitment to LEED Platinum-designed buildings, and the low and wide design approach to respect the views and ecology of the area;
- Supportive of the western facade of the Marine Way building without a break in the continuous glass facade on the second and third floors as recommended by the Development Review Committee (DRC);
- Supportive of the Transportation Demand Management (TDM) plan proposed by Intuit and their participation as a founding member and participant of the Transportation Management Association (TMA); and
- Recommended that the project contribute funds towards transportation or ecological improvement projects that will be identified as part of the North Bayshore Precise Plan.

Council also reviewed the project at two Study Sessions on April 23, 2013 (see Attachment 8 – [April 23, 2013 City Council Study Session Staff Report](#)) and October 22, 2013 (see Attachment 9 – [October 22, 2013 City Council Staff Report](#)). Council concurred with the comments and direction given by the EPC and requested no additional changes.

Development Review Committee

The project was reviewed by the DRC and recommended approval of the project with direction to provide additional articulation on the second and third floors of the western facade of the Marine Way building. At the Council Study Session on October 22, 2013, this design issue was raised. A majority of the Councilmembers directed staff to not require the applicant to implement the DRC's recommended Marine Way facade changes, and allow the building to move forward as designed.

EPC Public Hearing

The EPC held a public hearing on May 21, 2014 where they unanimously recommended approval of the project and Environmental Impact Report (EIR) (see Attachment 10 – [May 21, 2014 EPC Public Hearing Staff Report](#), and Attachment 11 – EPC Summary Minutes). The EPC discussed whether enough public benefits are proposed by the applicant to justify the 1.0 FAR. The EPC concluded that the project's combined design, sustainability elements, sensitivity to the local wildlife, TDM plan, community benefits, and transportation improvements were sufficient to support a 1.0 FAR. No one from the public spoke on the item at the public hearing.

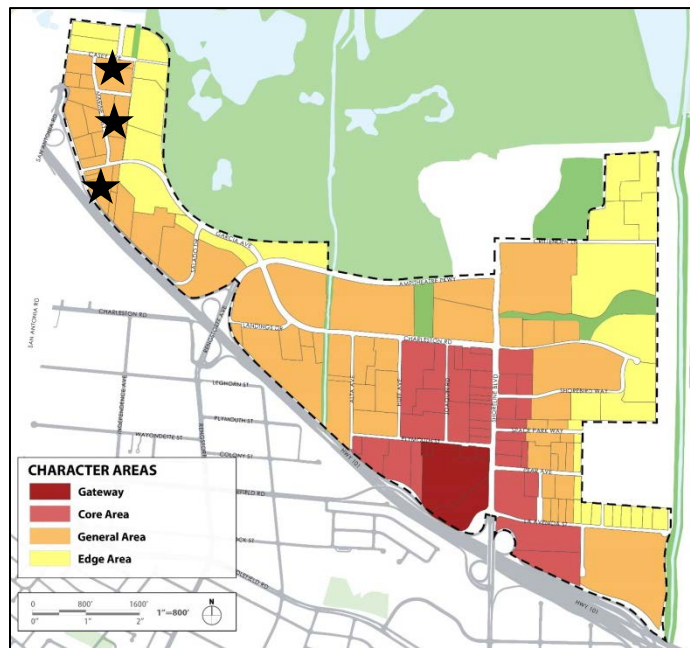
ANALYSIS

Zoning Map Amendment

The project includes a request to rezone the project site from the ML Zoning District to the P Zoning District (see Attachment 2 – Ordinance Amending the Zoning Map). The P District designation allows the City the flexibility to design the zoning requirements around the proposed project and to consider a project with an FAR above the 0.35 FAR allowed in the ML District prior to the adoption of the North Bayshore Precise Plan. The project sites will eventually be incorporated into the adopted North Bayshore Precise Plan Area.

General Plan, North Bayshore Precise Plan Planning Effort, and Development Project

Intuit used the General Plan as a guide in the design of their project, as well as the work done to date on the North Bayshore Precise Plan. The General Plan provides the flexibility for up to a 1.0 FAR and maximum building heights up to eight stories. The Plan does not anticipate 1.0 FAR development or eight-story buildings on every site in the North Bayshore. Thus far, the North Bayshore Precise Plan area has been generally organized into four different Character Areas: Gateway, Core, General, and Edge. The “Character Areas Map” shows the approximate location of each Character Area. Sites closer to sensitive areas, such as creeks and Shoreline at Mountain View Park (Shoreline Park), sit within the “Edge Character Area,” and will likely see limits on intensity and height to reduce impacts to wildlife and emphasize the natural setting. The project site is between 500’ and 1,000’ from Shoreline Park and is located in the “General” Character Area, which is envisioned to have heights ranging from three to six stories. The proposed four-story office buildings are within the height range envisioned for the General Character Area.



Character Areas Map

The General Plan supports development intensities over 0.35 FAR, and up to 1.0 FAR in the North Bayshore Area if the project provides a sustainable development; innovative site, architectural, and landscape design; and significantly reduces vehicle trips through the promotion and incorporation of alternate transportation options. At this point in the process, the General Character Area of the Precise Plan is anticipated to allow a FAR up to 1.0.

Sustainability

Intuit is proposing LEED Platinum-designed buildings which would include sustainable building and site features, including, but not limited to, significant amounts of roof-mounted photovoltaic panels to generate energy for the sites, native and drought-tolerant plantings with specific plant types that support the native wildlife, planted terraces and roofs, and use of recycled water both inside the building and for the landscaping.

Due to the site's location near the Bay, the applicant hired an ornithologist from H.T. Harvey & Associates to advise on the project. In consultation with the project ornithologist, Intuit has incorporated many bird-safe building design features into the building and site design, including: internal and external lighting designs that minimize the overall lighting intensities and the direction of the lighting; windows with "frit" patterns which are designed to break up the extensive glazed areas and allow birds to perceive the glass as an obstruction to be avoided; landscaping designs which include plant species that provide food and nesting resources to native birds common to the vicinity; appropriate food-waste handling plan to minimize the attraction of nuisance and predatory wildlife; and an ongoing bird strike monitoring plan which will monitor any bird collisions with the buildings and retrofit any identified hot spots.

Project Design

Intuit has used the Form and Character guidance of the General Plan to inform their design. The proposed project is in conformance with the draft development standards and design guidelines under consideration for the North Bayshore Precise Plan. The following is an overview of the proposed building locations, setbacks, building heights, and landscaping:

Setbacks

The Marine Way site proposes a four-story, 62' tall office building with one floor of underground parking below the building. A six-level, 44.5' tall, freestanding parking garage with one and one-half levels below grade, is proposed closer to the corner of Marine Way and Coast Avenue. The setback of the office building from Marine Way varies due to the building and site shape, but the closest setback is at 35', with an average setback of approximately 50'. The fourth floor of the building is set back from the main facade approximately 30' and terraces are provided at every level. The parking garage is set back 20' from Coast Avenue and Marine Way. The proposed setbacks are consistent with the existing ML District setback requirements, which are an average of 30', with a minimum of 20', as well as the draft standards under consideration for the North Bayshore Precise Plan. The DRC and staff believe that the proposed setbacks are adequate for the proposed heights and configuration of the buildings.



View of the Marine Building from Marine Way



View of the Bayshore Building from Garcia Avenue

The Bayshore site proposes a new four-story, 64' tall office building and three floors of structured parking. The 25' tall attached parking garage is slightly skewed from the office portion of the building and is located closer to the Bayshore Parkway/Garcia Avenue corner. The setback of the building from Garcia Avenue varies due to the building shape and site configuration, but the closest setback is at 35', with an average of approximately 60', and the parking garage is set back 30' from Bayshore Parkway. The fourth floor of the building is set back from the main facade 20' and terraces are provided on the second and fourth levels. The

proposed setbacks are consistent with the existing ML District setback requirements, which are an average of 30', with a minimum of 20', as well as the draft standards under consideration for the North Bayshore Precise Plan. The DRC and staff believe that the proposed setbacks for the Bayshore site are also adequate for the proposed heights and configuration of the buildings.

Building Footprint and Heights

The building designs respond to the unique site shapes and utilize a modern design and an innovative building approach that is designed to suit Intuit's needs. The design is different than other office buildings being proposed in the East Whisman area, which are speculative office buildings built by owners who will lease the buildings to private companies. The building design for the type of development in the East Whisman area has a more predictable building type with smaller floor plates and a greater number of stories. The proposed Intuit buildings are much shorter in comparison and cover more of the site. This type of building responds to the Intuit office culture which prefers adaptive work spaces with fewer floors. Staff believes this approach to building design is appropriate in this setting because the shorter buildings have less impact on views of the mountains and the Bay and reduce impacts to wildlife.

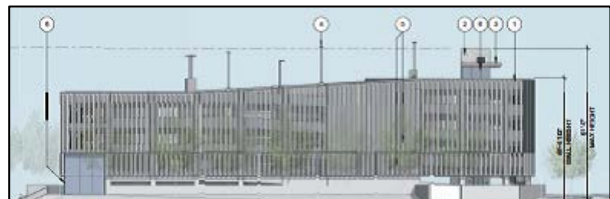


View of the Marine Building from Intuit Campus

Intuit has made many modifications to the project plans based on EPC, City Council, and DRC direction. One significant change was to the Marine Way parking structure which was lowered from 61' to 44.5' by adding a partial second level of underground parking and removing the trellis-mounted photovoltaic panels from the roof (as shown in the elevations below).



Previous Garage Elevation



Revised Garage Elevation

Landscaping

The proposed project landscaping has been designed with native plant types found along the San Francisco Bay shoreline. The concept maintains and reinforces the continuity of the landscape framework established with the comprehensive landscape renovations recently undertaken on the adjacent Intuit campus. The landscape will define communal spaces, articulate pedestrian circulation, and mark building entries to the proposed project. The landscape will include naturalized wetland biofiltration areas, natural planted areas, and green roofs. The use of undulating grading within the planted areas will create a variety of opportunities for the encouragement of salt marsh and grassland species. Low bioretention swales will simulate ephemeral wetland habitat, while upper sloped areas simulate adjacent grassland habitat. Usage of appropriate native and adapted plant species will support and encourage the continued development of biodiversity within these zones, for the present and future, through the creation of plant-based habitats which also provide foraging and pollinating opportunities for various wildlife species.

New sidewalks and street trees will be provided along the project street frontages to create a street tree canopy. The landscape areas along the street frontages consist of stands of existing Heritage trees and new infill trees that alternate with bioretention zones to capture and treat building and site paving runoff as well as create a substantial tree canopy.

Heritage Tree Removal

Demolition of the existing buildings and construction of the proposed project would result in the removal of 40 Heritage trees on-site. A majority of the trees proposed for removal are due to the location of the trees in the proposed building footprint or in the area necessary for the excavation of the underground garages. Thirty-five (35) Heritage trees are proposed to be retained on-site and 137 trees are proposed to be planted.

As part of the queue-lane improvements to the Shoreline Boulevard/Charleston Road and Rengstorff Avenue/Garcia Avenue intersections, median island modifications will necessitate the removal of 11 existing street trees (8 trees in the Shoreline Boulevard/Charleston Road median island and 3 trees in the Rengstorff Avenue/Garcia Avenue median). The applicant will be required to replace these trees with new trees either in the tree canopy gaps of the subject medians or in the public realm in the vicinity.

Transportation

Shoreline Transportation Study

In 2013, Council held two Study Sessions on the Shoreline Transportation Study (STS) and provided staff with direction on the transportation options and expectations to be studied and included as part of the North Bayshore Precise Plan. Council provided staff with mode-share targets for the Precise Plan, including a 45 percent single-occupancy vehicle (SOV) mode-share target. In 2013, the STS found that the SOV rate for the North Bayshore Area was approximately 61 percent. A 2014 SOV survey was done for the North Bayshore Precise Plan and found that the current SOV rate is approximately 57 percent. For an individual project to get to the 45 percent SOV rate, a 35 percent TDM plan is necessary as well as the recommended area-wide infrastructure improvements which would increase the use of other transit modes. This approach to achieving the 45 percent SOV rate was accepted by Council at the Study Session on October 22, 2013.

Intuit's TDM Plan

Intuit has a TDM plan for their existing campus. Intuit hired Fehr & Peers traffic consultants to prepare an enhanced TDM plan to achieve a 35 percent reduction in peak-period vehicle trips as measured from the average vehicle trip rate per square foot established by the Institute of Transportation Engineers (ITE) Trip Generation Manual for a single-tenant office building land use. The TDM plan will be applied to the new buildings as well as the existing buildings that make up the Intuit campus.

In order to achieve a 35 percent reduction in peak-period trips, Intuit proposes the following list of TDM measures:

- Transit Pass Program
- Shuttles/Shuttle Loading Area
- TMA Member
- TDM Website
- Branding
- Priority Parking
- Carpool/Vanpool Matching
- Car Sharing
- Secure Bicycle Storage
- On-Site Transportation Coordinator
- Guaranteed Ride Home Program
- Vanpool Subscription
- Information Kiosk
- One-Way Car Share
- On-Site Bicycle Maintenance and Repair
- Bicycle Infrastructure
- Individualized Marketing
- Showers/Changing Facilities
- Bicycle Share Program
- Commute Rewards
- Telecommute Program

To ensure the long-term effectiveness of their TDM plan and its ability to provide a 35 percent peak-period trip reduction, a monitoring program will be established. Failure to meet the established trip reduction requirement would result in corrective actions to bring the trip reduction back to 35 percent as well as fines.

Parking

Limiting parking supply is a TDM measure referenced in the 2030 General Plan. The STS also found that 6 percent to 7 percent of commuter traffic (from the home to the workplace) in the City is on bicycle. Intuit proposes approximately twice the amount of required bicycle parking beyond the City's minimum ordinance requirements as well as other bicycle incentive facilities such as a bicycle share program and an on-site bicycle maintenance and repair facility. Since the project will reduce peak-hour trips to the site by 35 percent, provide a shuttle service, and encourage bicycle usage, the EPC supported establishing a maximum parking ratio of one space for every 333 square feet of gross floor area, which results in 556 parking spaces for the Marine Way site and 535 parking spaces for the Bayshore site (for a project total of 1,091 spaces). This is a 10 percent reduction from the minimum Zoning Ordinance requirement of one space for every 300 square feet of gross floor area.

Traffic Results

A Traffic Impact Analysis (TIA) was prepared for the project which estimates project trips based on the ITE Trip Generation Manual trip generation rate for a single-tenant office building land use and the TDM program for the project. Existing traffic counts were taken at 11 intersections around the project during both peak hours and added to the projected trips for approved, "but not yet built" and "not occupied" developments in the area. The 11 studied intersections around the project site all currently operate at an acceptable level of service (LOS D or better).

The results of the traffic study found that the project would result in a net increase of 348 a.m. peak-hour trips and 335 p.m. peak-hour trips and that all the studied intersections would continue to operate at an acceptable level of service. An incremental increase in travel delay was noted based on the increase in trips, but none that would not push any of the intersections below the level of service threshold established by the City. Most of the North Bayshore Area existing traffic impacts are associated with the eastern side of the area closer to North Shoreline Boulevard. Based on the trip distribution analysis in the TIA, a majority of Intuit employees are anticipated to use San Antonio Road and Rengstorff Avenue and would likely not contribute to the traffic congestion associated with North Shoreline Boulevard.

Freeway segments in the vicinity of the project on Highway 101 and Highway 85 were also analyzed for potential project impacts. Seven Highway 101 and one Highway 85 freeway segments are already operating at an unacceptable level of service (LOS F) during the a.m. and p.m. peak hours. The traffic study found that the project would add more than 1 percent of freeway capacity on the following two freeway segments in the a.m. peak hour, which is considered a significant impact under the California Environmental Quality Act (CEQA):

- Highway 101 northbound between Highway 85 and Shoreline Boulevard; and
- Highway 101 northbound between Shoreline Boulevard and Rengstorff Avenue.

The mitigation for freeway impacts is typically the provision of additional freeway capacity which is typically considered beyond the scope of an individual project due to the inability of a single project or city to acquire right-of-way for freeway widening and improvements. Therefore, the project would result in a significant unavoidable impact which requires the adoption of a Statement of Overriding Considerations as part of the EIR for the project, which is discussed under the Environmental Review section of this report.

The TIA also includes a queuing analysis for three intersections: San Antonio Road/Bayshore Parkway, Rengstorff Avenue/Garcia Avenue, and Shoreline Boulevard/Charleston Road. All three intersections have been found to have a deficient queuing capacity based on current conditions without the project. The applicant will modify these intersections to provide sufficient queuing capacity to the extent feasible as part of this project. The modifications to the three intersections generally include modifications to existing island medians and/or striping modifications to extend turn queue lanes.

Development Agreement

To allow for flexibility in the timing and phasing of this project, Intuit is requesting approval of a Development Agreement (DA) (see Attachment 4 – Ordinance Approving a Development Agreement). After discussion with staff, the requested term for the DA is seven years and the applicant is proposing a \$175,000 public benefit fee, which can be used for improvements anywhere in the City, as directed by Council. The extended development approval time is being requested by the applicant because the Bayshore site is encumbered with long-term leases that would otherwise exceed the City's standard approval and permit extension period (which is a total of four years). The applicant would also like to use the Casey site as an interim construction parking lot while the Bayshore and Marine Way sites are under construction and ultimately use the

site as a private outdoor recreation facility. Construction of the entire project and use of the Casey site as an interim construction parking lot is also anticipated to exceed the City's standard four-year approval and permit extension period.

The Zoning Code requires that the DA be reviewed by the Zoning Administrator at an Administrative Zoning Hearing and a recommendation forwarded to Council. The Zoning Administrator reviewed the draft DA at the Administrative Zoning Hearing on May 28, 2014 and recommended approval to Council. No one from the public spoke on the item at the public hearing.

Community Benefits

The City Council included a public benefits requirement in the 2030 General Plan for projects between 1.85 FAR and 3.0 FAR along the El Camino Real Corridor. There is no explicit public benefits requirement for other Change Areas in the 2030 General Plan. Subsequent to adoption of the General Plan, Council has stated an expectation that public benefits be provided for projects that exceed the old General Plan and zoning limits and precede a new Precise Plan.

The North Bayshore Precise Plan is anticipated to require community benefits for projects that want to achieve a 1.0 FAR. Since the Precise Plan is still under development and a future public benefit requirement is not known at this time, Intuit has proposed the following items as public benefits for the project. These items are separate from the \$175,000 fee offered for the extension in the DA.

- Off-site turn-lane queuing improvements to three intersections in the North Bayshore Area at: San Antonio Road/Bayshore Parkway; Rengstorff Avenue/Garcia Avenue; and Shoreline Boulevard/Charleston Road – valued at \$409,000;
- Off-site installation of an upgraded pedestrian/bike crossing on Garcia Avenue in the vicinity of the project. This crossing is in addition to the project-related crossing shown on the project plans between the Bayshore and Marine Way sites and is located further east along Garcia Avenue – valued at \$141,000;
- Payment of off-site improvement fees in anticipation of the City's adoption of a development impact fee ordinance for the Precise Plan area at a rate of \$10 per net new square foot which can be used for future transportation and ecological improvement projects or studies in the North Bayshore Area. Such payment shall be due at the time the first building permit is issued.

Upon adoption of an ordinance establishing a rate for the North Bayshore fees later this year, if the rate exceeds \$10 per net new square foot, then the applicant shall pay the City additional fees for any approved buildings based on a formula whereby the net new square footage for the building is multiplied by the difference between \$10 and the lesser of the rate established by the ordinance, or \$15 per net new square foot. This additional payment shall be made within 30 days of the effective date of the ordinance. If the rate is less than \$10 per net new square foot, then the applicant shall be entitled to a credit against future impact fees to be assessed for subsequent buildings using the same formula—valued at \$2.3 million (\$10 per net new square foot) to \$3.5 million (\$15 per net new square foot);

- Application of a 35 percent TDM plan to all the Intuit buildings on the existing campus;
- Allowing local nonprofit organizations the opportunity to utilize certain designated meeting spaces within the Marine Way and Bayshore buildings up to eight times per year during off-hours at no charge; and
- Continuation of Intuit's Taxpayer Assistance Program.

The proposed conditions of approval for the project allow the credit of the off-site turn-lane queuing improvements and off-site pedestrian/bike crossing (for a total of approximately \$550,000) from the \$2.3 million to \$3.5 million that will be paid for the North Bayshore fee. Staff is supportive of this credit in exchange for these transportation improvements being done in the near term as part of the first phase of Intuit's development, which is anticipated to be during 2014 and 2015.

As a comparison, the 1.0 FAR project at 625 Clyde Avenue was approved with the condition that the applicant, TMG, provide a T Zone contribution of \$950,000 for public improvements or studies in the East Whisman area and additional off-site transportation improvements valued at \$365,000. On a per-square-foot basis, the Clyde Avenue office project was required to pay approximately \$5 per net new square foot for community benefits.

ENVIRONMENTAL REVIEW

EIRs provide information regarding the potential significant environmental impacts of a proposed project and how to mitigate them to local decision-makers and the general public. The 2600 Marine Way office project Draft EIR provides the environmental review appropriate for the project in accordance with CEQA Guidelines.

Prior to approving the 2600 Marine Way office project, the City Council must decide whether to certify the EIR. According to CEQA Guidelines, certification consists of three separate steps. The Council must conclude that: (1) the document has been completed in compliance with CEQA; (2) the Council has reviewed and considered the information contained in the Final EIR prior to approving the project; and (3) the Final EIR reflects Council's independent judgment and analysis.

Draft EIR

In accordance with CEQA Guidelines, a Notice of Preparation (NOP) was circulated to the public and responsible agencies for input regarding the analysis in the EIR. The Draft EIR was circulated for public review for a 45-day comment period which commenced on March 7, 2014 and ended on April 21, 2014. Staff received three comment letters on the Draft EIR from the California Department of Toxic Substances Control, California Department of Transportation (Caltrans), and the Santa Clara Valley Transportation Authority (VTA).

Final EIR

Copies of the comment letters, response to comments, and EIR text revisions, which together with the Draft EIR comprise the Final EIR, were made available to the public on May 14, 2014. A response to each of the three comment letters and appropriate text revisions are included in the Final EIR, which is attached to this report (see Attachment 1—Resolution Certifying EIR with Statement of Overriding Considerations and Mitigation Monitoring Plan).

Significant Unavoidable Impacts

The Draft EIR includes mitigation measures that will reduce most potential environmental impacts from the project to less-than-significant levels with incorporation of the project-specific mitigation measures. However, the project would result in significant freeway segment impacts to two Highway 101 northbound freeway segments in the a.m. peak hour, which this project alone cannot mitigate to a less-than-significant level.

This significant unavoidable impact will require the adoption of a Statement of Overriding Considerations by the City Council at the time the Final EIR is certified. A Statement of Overriding Considerations demonstrates that the benefits of a project outweigh the significant unavoidable impacts. The benefits of the project have been included in the attached "Findings of Fact and Statement of Overriding Considerations"

(see Attachment 1—Resolution Certifying EIR with Statement of Overriding Considerations and Mitigation Monitoring Plan). Council adopted a Statement of Overriding Considerations for significant unavoidable freeway segment impacts when certifying the General Plan EIR as well as the 625 Clyde Avenue project EIR.

Staff is currently exploring opportunities for the City to help address regional transportation issues, such as freeway traffic impacts. One option would involve working with surrounding cities, the VTA, and Caltrans to determine how cities could participate in a regional strategy to fund transportation improvements through a regional transportation impact fee. A second option could include adopting a City-wide transportation impact fee.

FISCAL IMPACT

The City's share of the County of Santa Clara property taxes is currently approximately \$67,000 per year. If the site were redeveloped with the proposed project, the City would receive approximately \$291,000 in property tax revenue per year.

The project is subject to the City's Below-Market-Rate (BMR) Ordinance, specifically the nonresidential (commercial) Housing Impact Fee. Payment of the required BMR In-Lieu Fee on the net new square footage would result in an estimated payment to the City of \$2.26 million.

The applicant will pay \$0.42 per net new square foot as reimbursement for a proportional share of the funds expended for the preparation of the North Bayshore Precise Plan and associated EIR, which results in a payment of \$97,109 for this project. All future development in the North Bayshore Precise Plan area will be required to pay a proportional share of planning costs, based on 3.4 million net new square feet for the area.

CONCLUSION

The EPC found that the project was consistent with the General Plan and North Bayshore Change Area policies. The EPC supported the project design, the wildlife-sensitive building design, TDM plan, and off-site improvements. The EPC unanimously recommended approval of the EIR, Statement of Overriding Considerations, zone change, and development project, and the Zoning Administrator recommended approval of the DA.

ALTERNATIVES

1. Do not adopt the EIR, finding that it is not adequate (if this alternative is followed, the rezoning and project cannot be approved).
2. Adopt the EIR, but do not adopt the P District rezoning, finding that the proposed site is not physically suitable for the 1.0 FAR (if this alternative is followed, the project cannot be approved).
3. Adopt the EIR, zone change, and project but with modified P District standards, such as enhanced public benefit requirements (such as a contribution to the VTA or Caltrans).
4. Adopt the EIR, zone change, and project, but with modified conditions of approval.
5. Refer the project back to the EPC for reconsideration of topics related to the EIR, zone change, or development project.

PUBLIC NOTICING

The meeting agenda and Council report were posted on the City website and announced on cable television Channel 26. All property owners within a 300' radius and other interested stakeholders were notified for this meeting.

Prepared by:

Stephanie Williams
Senior Planner

Gerry Beaudin
Zoning Administrator

Approved by:

Randal Tsuda
Community Development Director

Daniel H. Rich
City Manager

SW-GB/7/CAM
818-06-10-14CR-E

- Attachments:
1. Resolution Certifying EIR with Statement of Overriding Considerations and Mitigation Monitoring Plan
 2. Ordinance Amending the Zoning Map
 3. Resolution Conditionally Approving a Planned Community Permit
 4. Ordinance Approving a Development Agreement
 5. Project Plans
 6. [February 6, 2013 EPC Study Session Report](#)
 7. [October 2, 2013 EPC Study Session Report](#)
 8. [April 23, 2013 City Council Study Session Staff Report](#)
 9. [October 22, 2013 City Council Staff Report](#)
 10. [May 21, 2014 EPC Public Hearing Staff Report](#)
 11. EPC Summary Minutes