



**MINUTES
FREMONT ZONING ADMINISTRATOR
SPECIAL MEETING OF SEPTEMBER 9, 2020**

This meeting was conducted utilizing the teleconferencing software, Zoom, and is consistent with State of California Executive Order N-29-20 dated March 17, 2020, regarding the COVID-19 pandemic.

CALL TO ORDER: Zoning Administrator Clifford Nguyen called the meeting to order at 3:00 p.m.

PRESENT: Zoning Administrator Clifford Nguyen
David Wage, Senior Planner
James Willis, Associate Planner
Mark Hungerford, Associate Planner
Hang Zhou, Planner II
Trish Cordova, Recording Clerk

CONSENT CALENDAR

THE ZONING ADMINISTRATOR MOVED ITEMS 1 AND 3 TO THE CONSENT CALENDAR AND TOOK THE FOLLOWING ACTION:

Item 1. **LEIGHTON BUSINESS CENTER PARKING GARAGE – 39350 Civic Center Drive – (PLN2018-00165)** – To consider a Discretionary Design Review Permit for the construction of a new three-story parking structure at the Leighton Business Center located at 39350 Civic Center Drive in the Central Community Plan Area, and to consider a categorical exemption from the requirements of the California Environmental Quality Act (CEQA) per CEQA Guidelines Section 15303, New construction or conversion of small structures and per CEQA Guidelines Section 15332, Infill development.

FOUND THAT THE PROJECT AS SHOWN IN EXHIBIT “A” IS EXEMPT FROM THE REQUIREMENTS OF CEQA, FOR REASONS ENUMERATED IN THE STAFF REPORT ABOVE;

AND

FOUND THE PROJECT IS IN CONFORMANCE WITH THE RELEVANT PROVISIONS CONTAINED IN THE CITY’S GENERAL PLAN, INCLUDING THE DESIGNATED GOALS AND POLICES SET FORTH IN THE LAND USE ELEMENT OF THE GENERAL PLAN AS ENUMERATED IN THE STAFF REPORT;

AND

FOUND THAT PLN2018-00165, A DISCRETIONARY DESIGN REVIEW PERMIT FOR A NEW CONSTRUCTION PARKING STRUCTURE, IS IN CONFORMANCE WITH THE RELEVANT PROVISIONS CONTAINED IN THE CITY'S EXISTING GENERAL PLAN AS WELL AS RELEVANT CITY DEVELOPMENT POLICIES;

AND

APPROVED PLN2018-00165, AS SHOWN ON EXHIBIT "A," SUBJECT TO FINDINGS AND CONDITIONS OF APPROVAL IN EXHIBIT "B."

- Item 3. **ZOLLER HOUSE IMPROVEMENT – 793 Old Canyon Road – (PLN2020-00155)** – To consider a Zoning Administrator Permit to allow a 6-foot tall front-yard fence where otherwise a fence height of no greater than four feet would be allowed on property located at 793 Old Canyon Road in the Niles Community Plan Area, and to consider an exemption from the California Environmental Quality Act (CEQA) per CEQA Guidelines Section 15303(e), New Construction or Conversion of Small Structures.

FOUND THAT THE PROJECT IS CATEGORICALLY EXEMPT FROM THE CALIFORNIA ENVIRONMENTAL QUALITY ACT (CEQA) PER CEQA GUIDELINES SECTION 15303(E), NEW CONSTRUCTION OR CONVERSION OF SMALL STRUCTURES BECAUSE THE CONSTRUCTION OF THIS SMALL ACCESSORY (APPURTENANT) STRUCTURE, A FENCE, IS OF A SIZE AND IN A LOCATION THAT WOULD HAVE AN INSIGNIFICANT IMPACT ON THE ENVIRONMENT;

AND

FOUND THAT PLN2020-00155, A ZONING ADMINISTRATOR PERMIT, AS SHOWN IN EXHIBIT "A", FOR AN EXCEPTION FROM THE RESIDENTIAL FENCE HEIGHT LIMITATIONS, IS IN CONFORMANCE WITH THE RELEVANT PROVISIONS CONTAINED IN THE CITY'S EXISTING GENERAL PLAN;

AND

APPROVED PLN2020-00155, AS SHOWN ON EXHIBIT "A", SUBJECT TO THE FINDINGS AND CONDITIONS IN EXHIBIT "B".

PUBLIC HEARING ITEMS

- Item 2. **DUAL BRANDED WARM SPRINGS MARRIOTT HOTEL – 44870 South Grimmer Boulevard – (PLN2020-00140)** – To consider a Discretionary Design Review Permit and Modification of Zoning Standards to allow a seven-story, 394 room, 267,084 square-foot hotel building, associated parking garage and a bar and lounge, and to consider an exemption from the requirements of the California Environmental Quality Act (CEQA) pursuant to CEQA Guidelines Section 15332, Infill Development Projects, and a finding that no further environmental review is required pursuant to the CEQA Guidelines Section 15183 as the Project is consistent with the Warm Springs/South Fremont Community Plan for which a Final

Environmental Impact Report (SCH#2013032062) was previously prepared and certified.

Senior Planner David Wage introduced the item.

Zoning Administrator Clifford Nguyen opened the public hearing.

Michael Lozeau, Partner at Lozeau Drury LLP, referenced his letter submitted on September 9, 2020 prior to the meeting that raised concerns about the scale of the project being greater than what was approved in the Old Warm Springs Boulevard South Master Plan (Master Plan) and suggested the Master Plan should be amended. In addition, the letter raised concerns about construction workers potential exposure to formaldehyde found in construction materials.

Senior Planner David Wage responded to the concerns regarding conformance with the Master Plan noting that the Warm Springs South Fremont Community Plan includes standards with minimum intensities for development and that stated purposed of the Master Plan in the Fremont Municipal Code is to demonstrate how the area covered by the Master Plan will achieve the minimum building intensities in the Warm Springs/South Fremont Community Plan over time. The proposed project would be consistent with the standards in the Warm Springs /South Fremont Community Plan and minimum intensities established in the Master Plan and therefore an amendment to the Master Plan is not required.

Mr. Wage also responded to concerns related to the potential for construction workers being exposed to formaldehyde and the project exceeding Bay Area Air Quality Management District (BAAQMD) standards for Toxic Air Contaminants (TAC) exposure. Mr. Wage explained that the Warm Springs/ Fremont Community Plan Environmental Impact Report (EIR) and associated air quality technical study analyzed the impacts of the project and that a subsequent and more focused air quality technical study was completed for the Old Warm Springs Boulevard South Master Plan. The completed studies used BAAQMD standards and found there would not be unmitigated significant impacts related to TAC.

Mr. Wage stated that formaldehyde exposure and worker safety would be regulated through Occupational Safety and Health Administration (OSHA) requirements. In addition, the City has adopted the 2019 Green Building Code, which sets limits on the amount of formaldehyde used in construction materials. This development standard would address concerns related to formaldehyde exposure.

Mr. Wage concluded that the staff believes the BAAQMD standards for the air quality analysis were appropriately applied in the analysis for the project and that there is no new information which would change the conclusions of the CEQA analysis for the project and there would not be a significant CEQA impact.

Zoning Administrator Nguyen asked the applicant to work with staff on modifying the color scheme of the exterior insulation and finish systems (EIFS) materials to enhance and further articulate the building façade. In addition, the applicant was also asked to work with staff to further architecturally enhance the corner element at the intersection of Old Warm Springs Boulevard and South Grimmer Boulevard. Finally, the applicant was asked to consider and work with staff on a different species of tree other than flowering pear in front of the building along South Grimmer Boulevard area. The applicant’s representative, **Kurt Jensen** of Jensen Design Architects, agreed.

Zoning Administrator Nguyen closed the public hearing and took the following action on Item 2:

HELD PUBLIC HEARING;

AND

FOUND THAT THE PROJECT IS CATEGORICALLY EXEMPT FROM THE CALIFORNIA ENVIRONMENTAL QUALITY ACT (CEQA) UNDER CEQA GUIDELINES SECTION 15332, IN-FILL DEVELOPMENT PROJECTS, FOR REASONS ENUMERATED IN THE STAFF REPORT ABOVE AND ALSO THAT NO FURTHER ENVIRONMENTAL REVIEW IS REQUIRED PURSUANT TO CEQA GUIDELINES SECTION 15183 AS THE PROJECT IS CONSISTENT WITH THE DEVELOPMENT INTENSITY ESTABLISHED BY THE WARM SPRING SOUTH FREMONT COMMUNITY PLAN FOR WHICH AN FEIR (SCH#2010082260) WAS PREVIOUSLY PREPARED AND CERTIFIED;

AND

APPROVED THE DISCRETIONARY DESIGN REVIEW PERMIT AND MODIFICATION OF ZONING STANDARDS RELATED TO BULK AND MASSING AND STREET WALL REQUIREMENTS, AS DEPICTED IN EXHIBIT “B,” BASED ON FINDINGS AND CONDITIONS OF APPROVAL AS SHOWN IN EXHIBIT “C.”

Item 2 was approved with the following additional condition of approval:

1. The applicant shall work with staff on:
 - a. Modifying the color scheme of the EIFS materials to enhance and further articulate the building façade; and
 - b. Further architecturally enhancing the corner element at the intersection of Old Warm Springs Boulevard and South Grimmer Boulevard; and
 - c. Considering a different species of tree other than flowering pear in front of the building along South Grimmer Boulevard.

Item 4. **FACEBOOK FREMONT BRIGHT HORIZONS CHILDCARE – 7601 Dumbarton Circle – (PLN2020-00200)** – To consider a Zoning Administrator Permit to allow the establishment of a new childcare facility accommodating up to 350 children within an existing 52,416-square-foot building located in the

Ardenwood Technology Park Planned District (P-2015-23) of the North Fremont Community Plan Area, and to consider an exemption from the requirements of the California Environmental Quality Act (CEQA) pursuant to CEQA Guidelines Section 15332, Infill Development Projects, and a finding that no further environmental review is required pursuant to CEQA Guidelines Section 15183, Projects Consistent with a Community Plan, General Plan or Zoning, as the project is consistent with the Ardenwood Technology Park Final Environmental Impact Report (SCH#2015052052) that was previously prepared and certified.

Associate Planner Mark Hungerford introduced the item.

Zoning Administrator Clifford Nguyen opened the public hearing.

Andy Boyatzis, Project Manager at Facebook, briefly spoke to the project and responded to questions and recommendations from the Zoning Administrator. Mr. Boyatzis agreed to work with staff to explore ways to soften the appearance of the proposed outdoor activity area's perimeter fencing.

Zoning Administrator Nguyen took the following action on Item 4:

HELD PUBLIC HEARING;

AND

FOUND THAT THE PROJECT IS CATEGORICALLY EXEMPT FROM THE CALIFORNIA ENVIRONMENTAL QUALITY ACT (CEQA) UNDER CEQA GUIDELINES SECTION 15332, INFILL DEVELOPMENT PROJECTS, BECAUSE THE PROPOSED CHILDCARE FACILITY WOULD BE ESTABLISHED WITHIN AN EXISTING BUILDING AND DEVELOPMENT OF THE OUTDOOR ACTIVITY AREA IS CONSISTENT WITH IN-FILL DEVELOPMENT CRITERIA, AND AS A SEPARATE AND INDEPENDENT BASIS, EXEMPT FROM FURTHER ENVIRONMENTAL REVIEW PURSUANT TO CEQA GUIDELINES SECTION 15183, PROJECTS CONSISTENT WITH A COMMUNITY PLAN, GENERAL PLAN OR ZONING, AS THE PROJECT IS CONSISTENT WITH THE ARDENWOOD TECHNOLOGY PARK FINAL ENVIRONMENTAL IMPACT REPORT (SCH#2015052052) THAT WAS PREVIOUSLY PREPARED AND CERTIFIED;

AND

FOUND THAT PLN2020-00200, A ZONING ADMINISTRATOR PERMIT FOR A CHILDCARE FACILITY, IS IN CONFORMANCE WITH THE RELEVANT PROVISIONS CONTAINED IN THE CITY'S EXISTING GENERAL PLAN;

AND

APPROVED PLN2020-00200, AS SHOWN ON EXHIBIT "A," SUBJECT TO FINDINGS AND CONDITIONS OF APPROVAL IN EXHIBIT "B;"

AND

APPROVED THE PROPOSED REMOVAL 22 PRIVATE PROTECTED TREES AND THE PLANTING OF 45 NEW TREES, INCLUDING 23 MITIGATION

TREES, PURSUANT TO THE CITY'S TREE PRESERVATION ORDINANCE,
BASED UPON FINDINGS IN EXHIBIT "B."

Item 4 was approved with the following additional condition of approval:

1. The applicant shall work with staff on incorporating additional landscaping or other visual interest features, as feasible, along the outside edge of the proposed outdoor activity area's perimeter fencing.

ADJOURNMENT

Meeting adjourned at 3:30 p.m.

APPROVED BY:

A handwritten signature in black ink, appearing to read 'Clifford Nguyen', with a long, sweeping horizontal stroke extending to the right.

Clifford Nguyen
Zoning Administrator