



**MINUTES
FREMONT ZONING ADMINISTRATOR
REGULAR MEETING OF AUGUST 5, 2019**

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

PRESENT: Kristie Wheeler, Zoning Administrator
Bronwen Lacey, Senior Deputy City Attorney
David Wage, Senior Planner
Terry Wong, Associate Planner

CONSENT CALENDAR None

PUBLIC HEARING ITEMS

Item 1. **LE BLANC – 34479 Fremont Boulevard – PLN2016-00343** – To consider a Discretionary Design Review Permit and Vesting Tentative Parcel Map No.10491 to facilitate the development of four condominium residences on a 12,915-square-foot (0.30 acre) site located in the North Fremont Community Plan Area, and to consider a categorical exemption from the California Environmental Quality Act (CEQA) per CEQA Guidelines Section 15332, In-Fill Development Projects.

The public hearing was opened.

Alice Cavette, Fremont resident, commented that she supports the project, as it is similar to Lotus Commons project that she also supported, but did not like the location of the front door for Home C at the back of the project site near guest parking. She also suggested that the floor plan for Home A be flipped such that the master bedroom would have access to the proposed second story balcony rather than the two “kids” bedrooms and would benefit from less noise from Fremont Boulevard.

The public hearing was closed.

Zoning Administrator Wheeler stated that the proposed project on a small in-fill site would provide architecture compatible with the eclectic mix of architecture in the area. She said her biggest concern is the landscape plan, which lacks detail and does not appear to have been updated to reflect the current site plan. To address this concern, she added conditions of approval (Conditions of Approval F-1 through F-10)

requiring details regarding planting materials, fencing materials and hardscape for review and approval of the City Landscape Architect.

Zoning Administrator Wheeler commented that she does not support the use of stamped concrete and added a condition of approval (Condition of Approval A-7) prohibiting stamped concrete and requiring pavers in its place where noted on the project plans.

Zoning Administrator Wheeler noted that the building elevations do not specify a garage door type and although Condition of Approval A-6 calls for high quality wood or wood clad doors, she was not sure that wood is an appropriate material given the architecture but a high quality garage door material will be required. Condition of Approval was revised to reflect this. She also noted that there were some duplicate conditions of approval that would be deleted.

The Zoning Administrator took the following action on Item 1:

HELD PUBLIC HEARING;

AND

FOUND THE PROJECT IS CATEGORICALLY EXEMPT FROM THE REQUIREMENTS OF THE CALIFORNIA ENVIRONMENTAL QUALITY ACT (CEQA) PER CEQA GUIDELINES SECTION 15332, INFILL DEVELOPMENT PROJECTS;

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 CHAPTER AND HOUSING ELEMENT OF THE GENERAL PLAN AS ENUMERATED IN THE STAFF REPORT;

AND

FOUND THAT THE PROPOSED SUBDIVISION AS SHOWN IN EXHIBIT "A" IS CONSISTENT WITH THE GOALS, POLICIES AND IMPLEMENTATION ACTIONS OF THE CITY OF FREMONT'S GENERAL PLAN. GOVERNMENT CODE SECTION 66474 AND FMC SECTION 17.20.200 PROVIDE THAT A VESTING TENTATIVE PARCEL MAP APPLICATION MUST BE DENIED IF CERTAIN SPECIFIED FINDINGS ARE MADE. NONE OF THOSE FINDINGS CAN BE MADE IN THIS INSTANCE AS SET FORTH IN THIS STAFF REPORT AND EXHIBIT "B;"

AND

APPROVED THE DISCRETIONARY DESIGN REVIEW PERMIT TO ALLOW DEVELOPMENT OF FOUR CONDOMINIUM RESIDENCES AS DEPICTED IN EXHIBIT "A," BASED ON FINDINGS CONTAINED IN FMC SECTIONS 18.235.060, AND SUBJECT TO CONDITIONS OF APPROVAL SET FORTH IN EXHIBIT "B;"

AND

APPROVED VESTING TENTATIVE PARCEL MAP NO. 10491 AS SHOWN IN EXHIBIT “A,” BASED UPON THE FINDINGS AND SUBJECT TO THE CONDITIONS OF APPROVAL SET FORTH IN EXHIBIT “B.”

Item 1 was approved based on findings and subject to conditions, including revised conditions of approval as noted above.

Item 2. **CHALLENGE PRESCHOOL – 41386 Fremont Boulevard – PLN2019-00257 –**

To consider a Zoning Administrator Permit to allow the establishment of a child daycare facility for up to 48 children, and to consider a categorical exemption from the California Environmental Quality Act (CEQA) per CEQA Guidelines Section 15301, Existing Facilities.

The public hearing was opened and there were no public speakers.

The Zoning Administrator 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 15301, EXISTING FACILITIES BECAUSE THE PROPOSED CHILD DAYCARE FACILITY IS WITHIN THE TYPICAL RANGE OF LAND USE INTENSITIES THAT CAN BE ACCOMMODATED WITHIN THE SUBJECT BUILDING;

AND

FOUND THAT PLN2019-00257, A CONDITIONAL USE PERMIT FOR A CHILD DAYCARE FACILITY, IS IN CONFORMANCE WITH THE RELEVANT PROVISIONS CONTAINED IN THE CITY'S EXISTING GENERAL PLAN;

AND

APPROVED PLN2019-00257 AS SHOWN ON EXHIBIT “A,” SUBJECT TO FINDINGS AND CONDITIONS OF APPROVAL IN EXHIBIT “B.”

Item 2 was approved based on findings and subject to conditions.

Item 3. **BAYROCK APARTMENTS – 39150, 39158, 39170 and 39176 Fremont Boulevard – PLN2019-00170 –**

To consider a Discretionary Design Review Permit to allow development of a five-story mixed-use building with 248 market rate apartment units, a six-story parking garage and 5,625 square-foot of ground-floor commercial space, 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, as the project is consistent with the density established by the Downtown Community Plan for which a Final Supplemental Environmental Impact Report (SCH#2010072001) was previously prepared and certified.

The public hearing was opened.

Stuart Gruendl, Bayrock Multifamily, LLC, presented the proposed project on behalf of the applicant.

Isaiah Stackhouse, Trachtenberg Architects, walked through the project plans and pointed out some of the key features.

Alice Cavette, Fremont resident, thought the project applicant should voluntarily provide affordable units in the project. She also thought the appearance of the parking garage from the Gaslight Square property should be improved. Ms. Cavette commented that there is no parking being provided for the Gaslight Square property or future commercial uses in the Bayrock project. She expressed concern that Gaslight Square is getting pushed out and suggested that either the parking garage be setback or provide all shared parking on the ground level.

Mark Zehring, Fremont resident, said that he understood that the Locale at State Street project was having trouble leasing their commercial space due to lack of parking. He thought there should be time limited parking, parking meters and/or City parking provided in Downtown.

Brenda Files, Fremont resident, expressed her concern with parking. She said that BART is overcrowded and traffic will not disappear. She also asked about the City's Green Building requirements and pointed out that the City of Berkeley recently adopted high Green Building standards.

Mr. Gruendl responded to comments from the public and said that they had prepared a traffic and parking study and the project would provide adequate parking. Given the project's location close to transit, shopping and services, he said parking would be secondary. He also said that the commercial tenant spaces would be provided parking for their employees in the parking garage. Mr. Gruendl pointed out that the payment of affordable housing fees would provide funding for affordable housing that could be built elsewhere in the City.

Zoning Administrator Wheeler asked if the applicant would like to address the parking concern raised by the adjacent property owner as presented in three letters attached to the staff report. She indicated that she intended to address the concerns in her remarks and wanted to give the applicant an opportunity to speak prior to closing the public hearing. When no one came forward, Zoning Administrator Wheeler closed the public hearing.

Zoning Administrator Wheeler said that she thought the proposal is an important project given that it would be located at the corner of Fremont Boulevard and Capitol Avenue and the gateway to Downtown. She commented that the project would provide rental housing that includes smaller units that would be more affordable by design and amenities to meet the needs of young professionals. She also thought the

modern architecture and design would be compatible with the adjacent Locale at State Street project.

Zoning Administrator Wheeler responded to public comments about density and affordability by pointing out that while the project would be more dense than other projects in Downtown, the units would be significantly smaller and overall building massing would be similar. She also said that although no deed restricted affordable units would be provided, almost 80 percent of the units would be less than 700 square feet, which makes them more affordable.

Zoning Administrator Wheeler commented that there would be ample amenity space provided to residents to recreate; the project site is close to transit, shopping and services; commercial space would be provided along Capitol Avenue frontage and when combined with the adjacent Fremont Bank project would create a strong commercial frontage; and parking would exceed the minimum parking requirement.

Regarding the unresolved parking issue with the adjacent Gaslight Square property, Zoning Administrator Wheeler said that in order to make the required finding that the project would not unreasonably interfere with the use and enjoyment of adjacent development, she would add a condition of approval requiring a minimum of 19 spaces within the parking garage to be shared with Gaslight Square. She said that this is based on a parking requirement for Gaslight Square under previous parking standards of approximately 80 spaces. Gaslight Square currently has 42 spaces leaving a 38-space deficiency under previous parking standards and she thought it was reasonable that the two parties split the difference. She read the condition of approval as follows:

Plans submitted for a building permit shall designate a minimum of 19 parking spaces within the parking garage to be shared with Gaslight Square. Prior to occupancy and use of the parking garage, a shared parking agreement shall be recorded.

Zoning Administrator Wheeler responded to the applicant's letter dated August 2, 2019, wherein he pointed out the Housing Accountability Act requires code compliant projects to be approved. She said the Housing Accountability Act does not prohibit conditioning a project approval provided that the condition does not reduce density or otherwise make the project infeasible.

Ryan Patterson, Bayrock Multifamily, LLC, asked if an equal amount of shared parking would be required on the Gaslight Square property.

Senior Deputy City Attorney Bronwen Lacey responded that the Gaslight Square property owner was not present nor was a project before the Zoning Administrator concerning Gaslight Square so such a requirement would not be possible.

Zoning Administrator Wheeler also clarified that the requirement for shared parking within the parking garage is meant to offset the loss of shared parking currently enjoyed by the adjacent property.

Teresa Colwell, Real Estate Strategies & Solutions, Inc. representing Fremont Bank, commented that Fremont Bank is paying \$30,000 per parking space in the garage and was adamantly opposed to the requirement that Fremont Bank share parking.

Zoning Administrator Wheeler stated that the requirement is not being placed on Fremont Bank but on the proposed project and the parking garage.

The Zoning Administrator took the following action on Item 3:

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 DENSITY AND INTENSITY ESTABLISHED BY THE DOWNTOWN COMMUNITY PLAN FOR WHICH AN FEIR (SCH#2010082260) WAS PREVIOUSLY PREPARED AND CERTIFIED;

AND

APPROVED THE DISCRETIONARY DESIGN REVIEW PERMIT, AS DEPICTED ON ENCLOSURE EXHIBIT "A," BASED ON FINDINGS AND CONDITIONS OF APPROVAL AS SHOWN IN EXHIBIT "B;"

AND

APPROVED THE PROPOSED REMOVAL AND MITIGATION FOR 23 PROTECTED TREES PURSUANT TO THE CITY'S TREE PRESERVATION ORDINANCE, BASED UPON FINDINGS AND CONDITIONS IN EXHIBIT "G."

Item 3 was approved based on findings and subject to conditions, including the additional condition of approval noted above.

ADJOURNMENT

Meeting adjourned at 4:00 p.m.

APPROVED BY:



Kristie Wheeler
Zoning Administrator