

**CITY OF SAN MATEO
RESOLUTION NO. ____ (2022)**

**RESOLUTION APPROVING A SPECIAL USE PERMIT FOR OFF-SITE CONSTRUCTION STAGING FOR
A PROPERTY LOCATED AT S. FREMONT STREET AND E. 3rd AVE (APN 033163170); AND
DETERMINE THE PROJECT QUALIFIES FOR A CATEGORICAL EXEMPTION FROM FURTHER
ENVIRONMENTAL REVIEW UNDER CLASS 4, SECTION 15304 THE CALIFORNIA
ENVIRONMENTAL QUALITY ACT (CEQA)
(PA-2021-073, S. FREMONT ST. VACANT LOT, SUP)**

WHEREAS, Regan Catanzaro of Fremont Terrace Associates (herein referred to as the “Applicant”) submitted a planning application PA-2021-073 with the Planning Division for a Special Use Permit for off-site construction staging for a property located at S. Fremont Street and E. 3rd Avenue (APN: 033163170) (collectively referred to as “Project”) in the City of San Mateo (“City”); and

WHEREAS, the San Mateo City Charter and Municipal Code Section 27.74.020 authorizes the City Council to take final action on Special Use Permits for “other nondesignated uses which the Planning Commission concludes are so similar to any specifically allowed use in the (R4-D) district as to be virtually identical thereto in terms of impact and land use”; and

WHEREAS, approval of the applicant’s proposal is considered a “Project” for purposes of the California Environmental Quality Act, Pub. Resources Code §21000, et seq. (“CEQA”); and

WHEREAS, the City finds that the Project is categorically exempt from CEQA under Section 15304; and

WHEREAS, the City finds the Project consistent with the applicable policies of the General Plan and other applicable policies;

WHEREAS, the Planning Commission held a public hearing for the Project on July 26, 2022, duly noticed, at which all public comments were considered; and,

WHEREAS, all applicable Conditions of Approval have been attached as Exhibit A.

NOW, THEREFORE BE IT RESOLVED, BY THE PLANNING COMMISSION OF THE CITY OF SAN MATEO, CALIFORNIA AS FOLLOWS:

1. The Planning Commission finds on the basis of the whole record before it that the Project will not have a significant effect on the environment and is therefore categorically exempt from the provisions of CEQA under CEQA Class 4, Section 15304 as “minor temporary use of land,” because it consists of temporary placement of construction materials and worker parking, and involves negligible or no permanent effects on the environment; and,

BE IT FURTHER RESOLVED, BY THE PLANNING COMMISSION OF THE CITY OF SAN MATEO, CALIFORNIA AS FOLLOWS:

1. The Project conforms to applicable policies of the Land Use, Circulation, Conservation and Open Space, and Noise Elements of the City’s General Plan.
 - a. The Project conforms to Policy LU 8.9 of the Land Use Element in that all construction activities shall adhere to best management practices to prevent pollution and protect public health, and have been included as conditions of approval, consistent with the City’s Storm Water Management and Discharge Control Rules and Regulations (Municipal Code Section 7.39).
 - b. In conformance with Policies C4.5 and C4.7 of the Circulation Element, the Project is required to restore roadways that are damaged by the Project’s construction activities. This includes roadways located within the Project’s general vicinity or along the designated haul route. The Project shall implement a Pedestrian Traffic Management Plan to ensure pedestrian safety and flow, when major deliveries, detours and land closures occur.
 - c. Policy C/OS 6.3 of the Conservation and Open Space Element requires protection of all heritage (Protected) trees during construction activity. The Project shall provide a Tree Protection Verification Letter demonstrating that all tree protection measures are properly implemented prior to utilizing the site for construction staging and parking.
 - d. The Project conforms to Policy N2.1 in that construction work hours, noise measures and monitoring have been included as conditions of approval, in accordance with Municipal Code Section 23.06.061.

NOW, THEREFORE, BE IT RESOLVED THAT THE PLANNING COMMISSION OF THE CITY OF SAN MATEO, DOES HEREBY RECOMMEND APPROVAL OF THE SPECIAL USE PERMIT FOR S. FREMONT STREET BASED UPON THE FOLLOWING FINDINGS FOR APPROVAL AND THE CONDITIONS OF APPROVAL INCLUDED IN EXHIBIT A TO THIS RESOLUTION:

1. The Special Use Permit (Municipal Code Section 27.74.020) application to allow construction staging off-site at S. Fremont Street and associated Conditions of Approval are approved based on the following findings:
 - a. The proposed use of construction staging off-site for the active construction project is similar to the R1 District allowed use of temporary buildings for construction purposes for a period not to exceed the duration of construction. A condition of approval has been integrated that requires all temporary construction storage materials and temporary structures to be removed no later than the final inspection of the related construction project (200 S. Fremont Street, PA-2015-048).
 - b. The proposed use will not adversely affect the general health, safety and/or welfare of the community nor will it cause injury or disturbance to adjacent property by traffic or by excessive noise, smoke, odor, noxious gas, dust, glare, heat, fumes or industrial waste given that the use and operations of the site are required to be in compliance with all applicable Building Codes, Fire Codes, and the Municipal Code. The Project will also be subject to conditions of approval at all times during the construction of the related project pertaining to noise, dust control, and construction work hours.

EXHIBIT A

CITY OF SAN MATEO PLANNING APPLICATION

CONDITIONS OF APPROVAL

PA-2021-073, S. FREMONT ST. VACANT LOT, SUP

PARCEL # 033163170

AS APPROVED BY THE PLANNING COMMISSION ON _____

The following conditions of approval apply to the project referenced above. The conditions of approval are grouped under specific headings that relate to the timing of required compliance. Additional language within a condition may further define the timing of required compliance. Types of Building permits include Demolition, Shoring/Excavation, Foundation, and Superstructure.

The following conditions shall be satisfied prior to issuance of a DEMOLITION PERMIT, BUILDING PERMIT FOR SHORING OR FOUNDATION, or SITE DEVELOPMENT PERMIT, whichever is issued first, or prior to the deadline specified in that condition.

Planning Division (PA)

- 1 CONDITIONS OF APPROVAL – This complete list of Conditions of Approval shall be reproduced onto the second sheet of all building permit plan sets. (PLANNING)
- 2 PAYMENT OF OUTSTANDING PLANNING APPLICATION FEES – The applicant shall pay all outstanding planning application fees. (PLANNING)

Building Division (PA)

- 3 APPLICABLE BUILDING STANDARDS AND LOCAL CODES – All building permit plans shall demonstrate compliance with the applicable California Building Standards Codes and local amendments as adopted by the Building Division at the time of filing the building permit application. (BUILDING)

Parks and Recreation Department (PA)

- 4 CLEAN UP TREE #19 - As indicated by the Project arborist, remove or replace the netting and straw wattle from the trunk of tree #19 because the wattle had been present for months. The pile of soil in the critical root zone for this tree shall be removed avoiding any damage to the tree trunk, branches, and roots. Include photos of the cleanup in the Tree Protection Verification Letter. (CDD ARBORIST)
- 5 TREE PROTECTION VERIFICATION LETTER – To verify that all tree protection measures are properly implemented and readjusted (see tree #19), the applicant shall submit a tree protection verification letter prepared by the project arborist to

the Building Division that includes photographs showing the tree protection installed. The letter shall also include a schedule of future inspections by the Project Arborist. The verification letter is subject to the review and satisfaction of the Community Development Director, or his/her designee. (CDD ARBORIST)

Public Works Department (PA)

6 ENCROACHMENT PERMITS, BONDS, AND INSURANCE – The applicant shall obtain an encroachment permit, posting the required bonds and insurance, and provide a one (1) year warranty for all work to be done in the City's right of way or easements prior to any work being done. (PUBLIC WORKS)

7 STORMWATER POLLUTION PREVENTION PERMIT – The applicant shall obtain a Stormwater Pollution Prevention (STOPPP) Construction permit, paying the required fees and posting the required cash deposit, for all work associated with the stormwater pollution prevention program in accordance with San Mateo Municipal Code Chapter 7.39.170. The fee amount will be based upon the City Council resolution in effect at the time the Special Use Permit is approved. (PUBLIC WORKS)

8 TRAFFIC CONTROL & SITE LOGISTICS PLANS – The applicant shall submit traffic control plans for any impact to the right-of-way for each phase of operation, including pedestrian and bicycle detour plans as applicable. The traffic control plan shall comply with the most recent version of the California Manual of Uniform Traffic Control Devices (CA MUTCD) and the City's Traffic Control Plan Requirements.

The applicant shall also submit a site logistics plan for each phase of operation. The plan, at a minimum, shall include estimated timeframes for implementation, duration, construction operations. (PUBLIC WORKS)

The following conditions shall be satisfied prior to issuance of a BUILDING PERMIT FOR THE SUPERSTRUCTURE.

Public Works Department (PA)

9 PUBLIC IMPROVEMENTS – An Encroachment Permit shall be required for all public improvements in the public right-of-way or easements. All public improvements shall be completed prior to the Certificate of Occupancy of the 200 S. Fremont Street project (PA-2015-048).

The developer shall repair or replace all existing improvements not designated for

removal and all new improvements that are damaged or removed because of developer's operations. Developer shall request a walk-through with the Public Works Construction Inspector before the start of construction to verify existing conditions.

The applicant shall have improvement plans prepared for all work in the public right of way or easements by a licensed civil engineer, whose signed engineer's stamp shall appear on the plans. The improvement plans shall be included in the encroachment permit submittal and substantially conform to the approved planning application. Any changes to the improvements shall be approved by the Director of Public Works or designee at their sole discretion. All design assumptions and criteria shall be submitted. Project specifications shall be included for review.

All work shown on the improvement plans shall be inspected and approved by Public Works.

Quantities for items below are provided only to determine minimum bonding requirements for the encroachment permit. The building permit plans for the superstructure shall show the following public improvements in the public right of way:

(A) SIDEWALK – The applicant shall replace to existing City standards sidewalk on South Fremont Street from the Northern property line going South for approximately twenty (20) feet. Sidewalk replacement shall be constructed per City Standard Drawing 3-1-141A. At the time the planning application was filed, a minimum of one hundred-eighty (180) square feet of sidewalk will need to be replaced.

(PUBLIC WORKS)

The following conditions shall be met prior to RELEASE OF UTILITIES, FINAL INSPECTION, ISSUANCE OF A TEMPORARY CERTIFICATE OF OCCUPANCY, or ISSUANCE OF A CERTIFICATE OF OCCUPANCY, whichever occurs first.

Planning Division (PA)

10 OFF-SITE CONSTRUCTION STAGING – The applicant shall return the adjacent lot intended for off-site construction staging (APN: 033163170) to a vacant lot in accordance with Municipal Code Chapter 7.48 prior to scheduling of the Planning Final inspection for the 200 S. Fremont Street project (PA-2015-048). The applicant shall remove all construction materials associated with the 200 S. Fremont Street project, including but not limited to all construction equipment, structures, and stockpile soil. (PLANNING)

- 11 PLANNING FINAL INSPECTION – Upon completion of all construction and landscaping, the applicant shall request the Project Planner conduct a Planning Final inspection for verification of compliance with all outstanding conditions of approval. The applicant shall contact the Project Planner to schedule each inspection a minimum of 72 hours in advance of the requested inspection. (PLANNING)

Public Works Department (PA)

- 12 RESTORATION OF ROADWAY – Due to the anticipated project's truck traffic, the applicant shall grind and overlay with 2.5 inches of asphalt concrete of the roadways anticipated to be damaged as a result of construction activities within the general area of the project or along the designated haul route. If the street abutting the property has been classified as being in a failed condition or a Pavement Condition Index (PCI) of 50 or below, the applicant shall reconstruct the street. Limits of the roadway repair shall be on South Fremont Street along the project frontage for half the width of the roadway, subject to the review and approval of the Director of Public Works or designee. (PUBLIC WORKS)

The following conditions shall be complied with AT ALL TIMES DURING THE CONSTRUCTION PHASE OF THE PROJECT.

Building Division (PA)

- 13 CONSTRUCTION WORK HOURS – Construction shall occur only between the hours of 7:00 a.m. and 7:00 p.m. on Monday through Friday, between 9:00 a.m. and 5:00 p.m. on Saturday, and between 12:00 noon and 4:00 p.m. on Sundays and holidays. These hours do not apply to construction that takes place inside a completely enclosed building and does not exceed the exterior ambient noise level as measured 10 feet from the exterior property lines. The applicant shall conform to the construction work hours to control traffic congestion, noise, and dust unless an exemption is granted in accordance with Municipal Code Section 23.06.061. (BUILDING)

Parks and Recreation Department (PA)

- 14 PROJECT ARBORIST INSPECTIONS – The Project Arborist shall submit a report to the Building Division within five business days after each of his/her inspection documenting the condition of trees, protection measures changes or adjustments, and/or any damages to Protected trees. (CDD ARBORIST)

- 15 TREE PROTECTION MEASURES – All approved tree protection measures shall remain in place and be properly maintained during all phases of construction. The applicant or contractor shall notify the Project Arborist in advance when construction operations are to be performed within the Tree Protection Zone of protected trees. (e.g. trenching, excavation, grade changes, etc.) Adjustment of Tree Protection Measures requires approval from the City Arborist. (CDD ARBORIST)

Public Works Department (PA)

- 16 BEST MANAGEMENT PRACTICES (BMP) – The applicant shall perform all construction activities in accordance with the City’s Storm Water Management and Discharge Control Rules and Regulations (SMMC 7.39), and the San Mateo Countywide Water Pollution Prevention Plan (SMCWPPP) by reference. Detailed information can be located at: <https://www.flowstobay.org/preventing-stormwater-pollution/with-new-redevelopment/construction-best-practices/> (PUBLIC WORKS)
- 17 CONSTRUCTION WORKER PARKING – The applicant shall abide by a construction-parking plan that minimizes the effect of construction worker parking in the neighborhood and shall include an estimate of the number of workers that will be present on the site during the various phases of construction and indicate where sufficient off-street parking will be utilized and identify any locations for off-site material deliveries. Said plan shall be approved by the Director of Public Works or designee prior to issuance of City permits and shall be complied with at all times during construction. Failure to enforce the parking plan may result in suspension of the City permits. (PUBLIC WORKS)
- 18 HOLIDAY CONSTRUCTION MORATORIUM – Due to concerns for businesses within the vicinity of Hillsdale Mall and within the Downtown area during the holiday season (Monday prior to Thanksgiving to January 1), there shall be no construction activities within the right-of-way which would create lane closures, eliminate parking, create pedestrian detours, or other activities that may create a major disturbance as determined by the Director of Public Works or designee. Exceptions to this condition shall be made in writing to the Public Works Director or designee. For purposes of this condition, the limits of the Downtown area shall be defined as: between El Camino Real on the west and Delaware Street on the east, Tilton Avenue on the north, and Fifth Avenue on the south. The prohibition shall also include the 3rd and 4th Avenue corridors between Delaware Street and U.S. 101. (PUBLIC WORKS)

19 MATERIAL HAULING – For material delivery vehicles equal to, or larger than two-axle, six-tire single unit truck (SU) size or larger as defined by FHWA Standards, the applicant shall submit a truck hauling route that conforms to City of San Mateo Municipal Code Chapter 11.28.040 for the approval of the Director of Public Works or designee. The project sponsor shall require contractors to prohibit trucks from using “compression release engine brakes” on residential streets. The haul route for this project shall be: US 101 North/South to East 3rd Avenue to South Fremont Street to Site; Site to South Fremont Street to East 4th Avenue to US 101 North/South, or as approved by the Director of Public Works or designee. A letter from the applicant confirming the intention to use this hauling route shall be submitted to the Department of Public Works, and approved, prior to the issuance of any City permits. All material hauling activities including but not limited to, adherence to the approved route, hours of operation, staging of materials, dust control and street maintenance shall be the responsibility of the applicant. All storage and office trailers shall be kept off the public right-of-way. Tracking of dirt onto City streets and walks will not be allowed. Entry and exit from the site will use rock or rumble strips to prevent tracking. The applicant shall provide an approved method of cleaning tires and trimming loads on site. Any job related dirt and/or debris that impacts the public right of way shall be removed immediately. No wash down of dirt into storm drains is allowed. Use of a sweeper is permissible as long as it operates dry (no water used, only vacuum). All material hauling activities shall be done in accordance with applicable City ordinances and conditions of approval. Violation of such may be cause for suspension of work. (PUBLIC WORKS)

20 PUBLIC WORKS CONSTRUCTION ACTIVITIES – The following provision to control traffic congestion, noise, and dust shall be followed during site excavation, grading and construction:

(A) Construction activities related to the issuance of any Public Works permit shall be restricted to the weekday between 7:00 a.m. and 7:00 p.m. Please note, however, that no work shall be allowed to take place within the City right-of-way after 5:00 p.m. In addition, no work being done under the issuance of a Public Works encroachment permit may be performed on the weekend unless prior approvals have been granted by Public Works. Earth haul and materials delivery to and from the site, including truck arrivals and departures to and from the site, will be prohibited between the weekday hours of 4:00 p.m. 5:30 p.m. Signs outlining these restrictions shall be posted at conspicuous locations on site. The signs shall be per the City Standard Drawing for posting construction hours. The sign shall be kept free of graffiti at all times. Contact the Public Works Department to obtain sample City Standard sign outlining hours of operation.

The allowed hours of Public Works construction activities may be waived or modified through an exemption, for limited periods, if the Director of Public Works or designee finds that:

(i) The following criteria are met:

(a) Permitting extended hours of construction will decrease the total time needed to complete the project thus mitigating the total amount of noise associated with the project as a whole; or

(b) Permitting extended hours of construction are required to accommodate design or engineering requirements, such as a large concrete pour. Such a need would be determined by the project's design engineer and require approval of the Director of Public Works or designee.

(c) An emergency situation exists where the construction work is necessary to correct an unsafe or dangerous condition resulting in obvious and eminent peril to public health and safety. If such a condition exists, the City may waive any of the remaining requirements outlined below.

(ii) The exemption will not conflict with any other condition of approval required by the City to mitigate significant impacts.

(iii) The contractor or owner of the property will notify residential and commercial occupants of property adjacent to the construction site of the hours of construction activity which may impact the area. This notification shall be provided three days prior to the start of the extended construction activity.

(iv) The approved hours of construction activity will be posted at the construction site in a place and manner that can be easily viewed by any interested member of the public.

The Director of Public Works or designee may revoke the exemption at any time if the contractor or owner of the property fails to abide by the conditions of exemption or if it is determined that the peace, comfort and tranquility of the occupants of adjacent residential or commercial properties are impaired because of the location and nature of the construction. The waiver application shall be submitted to the Public Works Construction Inspector ten (10) working days prior to the requested date of waiver.

(B) All construction vehicles shall be properly maintained and equipped with exhaust

mufflers that meet State standards.

(C) Newly disturbed soil surfaces shall be watered down regularly by a water trucks or by other approved method maintained on site during all grading operations. Construction grading activity shall be discontinued in wind conditions that in the opinion of the Public Works Construction Inspector cause excessive neighborhood dust problems. Wash down of dirt and debris into storm drain systems will not be allowed.

(D) Construction activities shall be scheduled so that paving and foundation placement begin immediately upon completion of grading operation.

(E) All aggregate materials transported to and from the site shall be covered in accordance with Section 23114 of the California Vehicle Code during transit to and from the site.

(F) Prior to issuance of any permit, the applicant shall submit any applicable pedestrian or traffic detour plans, to the satisfaction of the Director of Public Works or designee, for any lane or sidewalk closures. The detour plan shall comply with Part 6, Temporary Traffic Control, of the State of California Manual of Uniform Traffic Control Devices (MUTCD), 2012, and standard construction practices. (PUBLIC WORKS)

The following conditions shall be complied with AT ALL TIMES that the project permitted by this planning application occupies the premises.

Planning Division (PA)

21 APPROVED PLANNING APPLICATIONS CONFORMANCE AT ALL TIMES – All physical improvements, uses, and operational requirements authorized by the approved planning application shall, at all times that the use permitted by this planning application and planning application PA-2015-048 occupies the premises, substantially conform with the approved planning applications. This includes but is not limited to plans, materials, project description, and other items submitted as part of the approved planning applications. Any proposed modifications to the approved planning applications shall be reviewed and approved by the Community Development Director, or his/her designee, prior to construction of the proposed modifications. The Community Development Director, or his/her designee shall determine whether the proposed modifications substantially conform with the approved planning applications, or whether a planning application modification is required to be submitted to permit the proposed modifications, as required by Municipal Code Section 27.08.080 Modifications. (PLANNING)

City Attorney (PA)

22 INDEMNIFICATION – The applicant will defend, indemnify, and hold harmless the City of San Mateo, its elected and appointed officials, employees, and agents from and against any costs, claims, or liabilities arising out of the approval of this planning application, including, without limitation, any award of attorney fees that might result from third party challenge. If applicant is required to defend the City, the City shall retain the right to select the counsel who shall defend the City. (CITY ATTORNEY)

23 PENALTY – In accordance with San Mateo Municipal Code section 27.02.210- Violations of Planning Application Conditions, any violation of any of the conditions of approval is unlawful and will subject the applicant to the penalties set forth in Chapter 1.04-General Penalty of the San Mateo Municipal Code as well as any other available legal remedies. (CITY ATTORNEY)