



CITY OF SAN MATEO

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Agenda Report

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TO: City Council
FROM: Drew Corbett, City Manager
PREPARED BY: Community Development Department
MEETING DATE: January 19, 2021

SUBJECT:

CONTINUED FROM JANUARY 4, 2021 MEETING: Appeal Hearing for 1, 2, 3 Waters Park Drive Residential Project – Appeal of Planning Commission Decision PA-2020-043 (Modification of PA-2018-013)

RECOMMENDATION:

Adopt a Resolution to deny the appeal and uphold the Planning Commission decision approving a Site Plan and Architectural Review - Planning Application Modification located at 1, 2, 3 Waters Park Drive.

BACKGROUND:

On February 19, 2019, the City Council approved Planning Application (PA) 2018-013 to allow for the demolition of office buildings and development of 190 residential units at 1, 2, and 3 Waters Park Drive. The adopted Conditions of Approval for PA-2018-013 require that any proposed modifications to the project substantially conform to the approved application. Any proposed project modifications deemed by staff to not be in substantial conformance require a PA modification approved by the Planning Commission. In December 2019, the applicant submitted building permit plans that included substantial design changes necessitating a modification to the approved PA-2018-013. The applicant was then directed to file a Planning Application Modification to amend the approved PA. Some building permits have already been issued, such as the demolition, grading, shoring and excavation, fence, and select single-family residence permits, and work is proceeding on site in accordance with the issued permits.

On October 27, 2020, the Planning Commission approved the proposed modifications through PA-2020-043. The changes include building exterior changes and site plan changes. More information about the proposed changes are included in the Planning Commission agenda report as [Attachment 2](#). Additional California Environmental Quality Act (CEQA) review was not required for the modifications pursuant to CEQA Guidelines Section 15162, because the proposed modifications to the site and building exterior design did not change the conclusions of the Initial Study/Mitigated Negative Declaration, which was certified by the City Council in February 19, 2019.

On November 6, 2020, a neighboring resident, Laurianna Ceja Diaz (the appellant), filed an appeal of the Planning Commission decision. The appeal form is included as [Attachment 3](#). The appellant cited “increased impacts to the community and the environment due to design changes, height increases, changes to garbage facilities, replacement of a town home with a single family home, a reduction of bike racks and related impacts on traffic; and increases to the FAR,” as well as CEQA and the impacts of novel coronavirus COVID-19, as reasons for the appeal or particular areas of concern.

If the approved Planning Commission decision is upheld, the applicant would be allowed to resume the building permit application process with the proposed modifications.

Project Description

The proposed project (PA-2020-043) consists of modifications to PA-2018-013, including design changes to the townhouse

buildings, the removal of a townhome unit, and an additional dwelling unit on lot 28 adjacent to the approved freestanding units. The units swap is to accommodate the relocation of the trash enclosure away from the existing neighboring properties. The trash enclosure relocation was approved with the original PA. The total number of dwelling units would remain the same at 190 total units. The total number of parking spaces would also remain the same at 425 total parking spaces. Additional exterior changes include alterations to the building exterior materials; massing; window and door size and configuration; and eaves and awning. The floor area would increase from 434,466 square feet to 435,725 square feet, which is allowed as an incentive request in accordance with State Density Bonus Law (see [Attachment 4](#)). The originally approved 19 below-market-rate units would remain. The October 27, 2020 Planning Commission Agenda Report, factual data sheet, and project plans are included as [Attachments 2, 5, and 6](#) respectively.

PLANNING COMMISSION:

At the October 27, 2020 Planning Commission public hearing, the Planning Commission considered the proposed project modifications. Seven members of the public spoke. The appellant, Laurianna Ceja Diaz, described the quality-of-life impacts to her children and property due to the noise, dust, vibrations, and rodents from the construction site. Other members of the public expressed concerns primarily relating to noise, vibration, dust, rodents, and potential property damage.

After discussion, the Planning Commission made a recommendation for staff to work with the developer, contractor, and neighbors to mitigate the issues immediately. The Planning Commission then passed a motion to approve PA-2020-043, approving the modifications to PA-2018-013. The meeting minutes are included as [Attachment 7](#).

PUBLIC COMMENTS:

Public comments are contained in [Attachment 13](#). Since the submittal of this Planning Application Modification on September 1, 2020, staff has received numerous correspondence from neighboring residents expressing concerns about the project. The appellant, Laurianna Ceja Diaz, spoke at the October 27, 2020 Planning Commission meeting and has also submitted written correspondence. Public comments from other neighboring residents are also included and pertain largely to ongoing construction activities.

CITY RESPONSE TO NEIGHBOR CONCERNS:

The City has undertaken multiple efforts to address the neighbors' concerns with respect to the construction activities at the project site. These efforts include, but are not limited to, increasing Building Division inspections to 2-3 times per week in order to ensure ongoing compliance with Conditions of Approval and Mitigation Measures; daily inspections from the Public Works Department to ensure compliance with stormwater control requirements; coordinating inspections with the Bay Area Air Quality Management District and San Mateo County Vector Control to ensure compliance with dust and vector control requirements; working with Pulte to implement additional measures to reduce noise and shaking and increase communications with neighbors; and participating in a meeting with neighbors and Pulte in order to help clarify roles and responsibilities. A more detailed list can be found in [Attachment 8](#).

APPEAL:

The appellant has stated *"the project and the associated changes are detrimental to the community. The project has increased impacts to the community and the environment due to design changes, height increases, changes to garbage facilities, replacement of a town home with a single family home, a reduction of bike racks and related impacts on traffic; and increases to the FAR. In addition, this project must be reviewed in light of COVID-19 and changes to the way people live and work in our community."* Below is a summary of staff's response.

- **Design Changes:** Many of the design modifications were triggered by the need to meet California Building Code requirements and included changes to the proposed materials, window and door locations, and awnings. The design changes are compatible with the existing project design and were approved by the Commission. The appellant has not expressed specific concerns regarding how she believes the design changes increase neighborhood impacts. Staff has not identified potential additional impacts which would result from the design changes.

- **Height Increases:** The subject buildings would not be increased in height. The 5-6 unit townhomes would be reduced in height from 31'-9" to 30'-7", the 9 unit townhomes would be reduced in height from 44'-0" to 43'-5", and the proposed 12-unit townhomes would be reduced in height from 44'-0" to 42'-3 ¼". Nonetheless, both the entitled and proposed building heights are within the maximum height limit of 45', which is allowed per the General Plan.
- **Changes to Garbage Facilities:** The relocation of the trash enclosure away from neighboring residences was approved with the original Planning Application in 2019. The plans associated with PA-2020-043 show the relocated enclosure; however, since the relocation had already been approved, it is not part of the current application.
- **Replacement of a Townhome with a Single-Family Home:** The trash enclosure relocation away from neighbors was proposed in order to reduce potential neighbor impacts from garbage, and encroaches into the space of one of the originally approved townhome units. The addition of a dwelling unit at lot 28 would replace the lost townhome while maintaining the originally approved 190 units. The total number of lots (38) would also remain the same as approved in the Vesting Tentative Map. The appellant has not expressed specific concerns regarding how she believes the unit swap would increase neighborhood impacts. Staff has not identified potential additional impacts that would result from the unit swap.
- **Reduction of Bike Racks and Related Impacts on Traffic:** The project would not result in a reduction in number of bike racks. The original Planning Application approved 285 bicycle parking spaces, and the modification proposes 292 bicycle parking spaces.
- **Floor Area Ratio (FAR):** The maximum allowable floor area is 411,942 square feet, and the floor area would increase from 434,466 square feet to 435,725 square feet, for a total added square footage of 1,259 square feet. This additional square footage is allowed as an Incentive request in accordance with State Density Bonus Law (see [Attachment 4](#)). The appellant has not expressed specific concerns regarding how she believes the added square footage would increase neighborhood impacts. Staff has not identified potential additional impacts that would result from the added space.
- **COVID-19 Changes:** The appellant has stated that *"this project must be reviewed in light of COVID-19 and changes to the way people live and work in our community."* The advent of COVID-19 does not conflict with the request to allow the project, PA-2020-043, which consists primarily of exterior building modifications, a one-for-one unit swap, and a site plan change at lot 28.

The appellant has also stated several concerns related to the need for further environmental review required by the California Environmental Quality Act (CEQA). The appellant statements and staff responses are below:

- *"The City must conduct additional CEQA review because it is conducting an additional discretionary approval. (Guidelines, Sect. 15162(c))."* Section 15162 of the CEQA Guidelines (Guidelines) ([Attachment 9](#)) requires additional review in certain situations, mainly when there are substantial changes to the project or project circumstances, or when substantial new information about the project comes to light, and these changes or new information impact the conclusions in the original CEQA document. In this case, staff reviewed the proposed exterior building changes, unit swap, and site plan change at lot 28 against the factors requiring additional environmental review outlined in the guidelines and did not identify any new significant environmental impacts. The trip count will change slightly as a result of the replacement of one townhome with an additional freestanding residence. The trip count will change by 5 additional daily trips resulting in a new total of 1,150 daily trips, which is still less than the previous count of 1,305 daily trips for the former office use and is not a significant impact.
- *"In addition, COVID-19 has created a substantial change and increase in the significant environmental effects created by the project compared to what was previously studied. (Sect. 15162(a))."* The appellant is referring to a result of COVID, rather than a result of the proposed project modifications. The specific project modifications

under review (exterior building changes, a unit swap, and site plan change at lot 28) do not constitute a substantial change to, or increase in, the environmental effects created by the project. The IS/MND's analysis of the project's construction and operational impacts to surrounding residences was based on an understanding that they would be occupied during the daytime by some residents, and the fact that more residents are staying home temporarily to work remotely or for in-home instruction does not fundamentally change the IS/MND's conclusions given the magnitude of disclosed impacts were not based on the number of residents expected to be at surrounding or nearby homes, but rather on the magnitude of the project's impacts (i.e. the sound produced or the emissions generated and not the number of adjacent/nearby residents exposed), and the need for any mitigation identified in the IS/MND arises based on any occupancy, and would be equally effective for any occupancy.

- *“Construction and demolition has caused more severe significant impacts on the surrounding homes than was considered previously. (Sect. 15162(a)(3)(B).) Project proponents have refused to adopt mitigation measures that would reduce the significant effects on the environment. (Sect. 15162(a)(3)(D).)”* The appeal does not specify which “more severe” significant impacts she is concerned about. Required project mitigation measures have been adopted and implemented for this project, and this is confirmed through City inspections. Public Works staff is currently inspecting the site daily and Building Inspection staff is inspecting at least 2-3 times per week. To the extent this claim is based on more residents occupying homes during weekday hours due to the COVID shelter order, this issue was addressed in the prior response above.
- *“The City must conduct a full EIR. However, at a minimum, the City should revise the initial study and recirculate the MND, prepare a subsequent MND, or prepare an addendum to the MND. There is a fair argument that the project will have a significant effect on the environment, therefore, the City must conduct an EIR. A project with both positive and adverse effects does not escape environmental review.”* The project under consideration here is the PA-2020-043, which is limited to exterior building changes, a unit swap, and site plan change at lot 28. These proposed modifications to the project design do not change the conclusions in the Initial Study/Mitigated Negative Declaration (IS/MND), certified by the City Council in 2019. Nor do the project changes result in significant environmental impacts. No substantial evidence has been provided supporting a fair argument that the requested minor changes (exterior building changes, a unit swap, and site plan changes) would result in new or substantially more severe impacts. Therefore, the project modifications do not require additional CEQA review.

ENVIRONMENTAL DETERMINATION:

The City prepared an IS/MND for the project as originally proposed, which was certified by the City Council in 2019 and is included as [Attachment 10](#). As stated above, the proposed modifications to the building exteriors and site design (replacing one townhome/flat with a freestanding single family residence) do not change any of the conclusions in the IS/MND or implicate any of the factors in CEQA Guidelines Section 15162, Subsequent EIRs and Negative Declarations. Therefore, the original IS/MND adequately analyzes the environmental impacts of the project, both as originally approved and as modified, and no additional CEQA review is required.

STAFF RECOMMENDATION ANALYSIS:

Staff recommends that the City Council deny the appeal and uphold the Planning Commission decision approving PA-2020-043 for modifications to PA-2018-013 and relying upon the IS/MND prepared for the project as originally proposed, as no increased impacts that would result from the proposed modifications have been identified and the need for further CEQA review has not been demonstrated. The proposed project would continue to meet the Multi-Family Design Guidelines, General Plan, and Municipal Code requirements. The resolution in [Attachment 1](#) contains additional details.

BUDGET IMPACT:

This is a private development project that would not impact City funding. Positive city property tax revenue would be generated by construction of the new residential project since the assessed value will likely be higher than that of the previous buildings.

NOTICE PROVIDED

In accordance with Government Code section 65091 and the City's Municipal Code noticing requirements, this item was

noticed to the following parties ten days in advance of the City Council meeting:

- Property owners, residential tenants and business tenants within 1,000 feet of the project site;
- The City's "900 List", which contains nearly 100 Homeowner Associations, Neighborhood Associations, local utilities, media, and other organizations interested in citywide planning projects;
- The interested parties list which includes interested individuals who contacted the City and requested to be added to the project notification list.

ATTACHMENTS

Att 1 – Proposed Resolution with Conditions of Approval
Att 2 – Planning Commission Agenda Report (October 27, 2020)
Att 3 – Appeal Form to the City Council
Att 4 – Density Bonus Request Letter
Att 5 – Project Data Sheet
Att 6 – Project Plans
Att 7 – Planning Commission Meeting Minutes (October 27, 2020)
Att 8 – City Response to Neighbor Concerns
Att 9 – CEQA Guidelines, Section 15162
Att 10 – Initial Study/Mitigated Negative Declaration (November 2018)
Att 11 – City Council Agenda Report (February 19, 2019)
Att 12 – Applicant Response to Appeal
Att 13 – Public Comments
Att 14 – Public Comments received after January 4, 2021

STAFF CONTACT

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