

MEMORANDUM

TO: Honorable Mayor and Members of the City Council

FROM: Michele Beal Bagneris, City Attorney *MBB*
Theresa E. Fuentes, Assistant City Attorney

DATE: August 22, 2019

RE: Consideration of Motion to Renew (253 S. Los Robles Ave.)

This memorandum provides guidance on how a Motion to Renew may be considered under Robert's Rules of Order, specifically as applicable to consideration of Affordable Housing Concession Permit No. 11869 at 253 S. Los Robles Avenue.

BACKGROUND

At the City Council meeting on July 22, 2019, the City Council considered a call for review of the Board of Zoning Appeal's decision to approve Affordable Housing Concession Permit No. 11869 at 253 S. Los Robles Avenue and related environmental review approval. A motion to reject staff's recommendation (to adopt the environmental review and approve the permit) and require preparation of an environmental impact report failed on a 4-4 vote. A second motion to approve staff's recommendation as amended also failed on a 4-4 vote. As a result of the lack of action taken by the City Council, the environmental review and permit were denied.

The Planning and Community Development Department discussed modifications to the underlying project with the developer that would address the concerns raised by the public and Council. The Council may consider such modifications through a Motion to Renew.

DISCUSSION

A Motion to Renew is appropriate under a narrow set of circumstances. The Council meetings are governed by Robert's Rules of Order. Under Robert's Rules, "renewal of a motion" means proposing substantially the same motion after it has been disposed of in some way without having been adopted. In other words, if a motion has been approved, it may not be the subject of a motion to renew. In addition, renewal of a motion is not permitted at the same session in which the motion is still under consideration, since there are other procedures to be used in that situation (i.e., a motion for reconsideration). Further, a renewal motion that would undo a final decision that has been acted or relied upon would not be appropriate. Examples of that situation would include the awarding of a contract where the contract has been executed and relied upon, and permits that have been issued and are vested (except if a condition of the permit has been violated).

In the present circumstances regarding 253 S. Los Robles Ave., no motion of the Council was adopted on July 22, 2019. As a result, no permits were issued and there has not been any reliance on any approvals, and the matter may thus be considered in a Motion to Renew.

The procedure to be followed would be for Council to consider placing on a future agenda renewal of the July 22, 2019 motion regarding the Board of Zoning Appeal's decision on Affordable Housing Concession Permit No. 11869 without considering the merits of the project modifications. If Council votes to place the Motion for Renewal on a future agenda, the matter (including consideration of the project modifications) will be re-noticed as a public hearing since affordable housing concession permits are conducted as public hearings. If the Council does not vote to place the Motion for Renewal on a future agenda, then the Council's prior action (failure to adopt any motion) stands, and is in effect a denial of the environmental review and permit.

Attached is a substantially similar memo from our office dated December 7, 2009, when the City Council utilized a Motion to Renew to consider a motion that had failed at a prior meeting (November 2, 2009) regarding design matters at the Raymond Renaissance project.

MEMORANDUM

TO: Honorable Mayor and Members of the City Council

FROM: Michele Beal Bagneris, City Attorney *MBB*

DATE: December 7, 2009

RE: City Council Agenda Item No. 7.B.2 - Consideration of Motion to Renew

This memorandum addresses the process related to a Motion to Renew with respect to the Raymond Renaissance project that was considered by the City Council on November 2, 2009.

BACKGROUND

At the City Council meeting on November 2, 2009, the City Council conducted a public hearing regarding the call for review of a decision by the Design Commission, Minor Changes to an Approved Project: Substitute Material/Finish on Cornice, 125 North Raymond Avenue (Raymond Renaissance Project). A motion was made to approve the City Manager's recommendation to, among other items, approve the applicant's request for changes to the previously approved design with the additional condition that, "As an alternate to recoating or cladding the roofline cornice, staff shall work with the applicant on aesthetic enhancements to the project." The motion failed with a vote of 4 ayes, 1 no, and 1 abstention; 2 council members were absent. Council member Robinson, who was absent, has requested consideration of a Motion to Renew the motion that did not pass.

EXECUTIVE SUMMARY

A renewal motion is appropriate in a narrow set of circumstances and is much more the procedural exception than the rule. Under the authorities governing the conduct of City Council meetings, a Motion to Renew is procedurally appropriate with respect to the issue posed on the Raymond Renaissance Project. If and only if, such a Motion to Renew receives 5 or more affirmative votes tonight, can the Council then consider a motion which is the same as, or substantially similar to, the motion that failed at the November 2nd meeting. If the same or substantially similar motion is made and passes, that will be the decision of the City Council; if the motion fails, either by no vote, or by lack of sufficient votes to pass, the decision of the Design Commission would remain as the decision in the matter.

12/07/2009

7.B.2.

DISCUSSION

Section 503 of the City Charter requires that rules for the conduct of City Council proceedings be established by ordinance. The relevant provision in the Pasadena Municipal Code is Article I (City Council and its Adjunct Responsibilities), Chapter 2.05 (City Council), Section 2.05.120 (Rules for the conduct of its meetings). That section sets forth general standards of conduct for meetings, penalties for violations of those standards, and requires that the Council adopt further rules as necessary for the conduct of its proceedings.

On December 7, 1987, the City Council passed Resolution No. 5893, A Resolution of the Board of Directors of the City of Pasadena Establishing Rules for the Conduct of its Meetings, Proceedings, and Business. The Rules govern how Council meetings shall be conducted, but do not address the narrow question of when a vote of Council on an agenda item is "final" and can no longer be acted upon. However, Rule 5 provides, "In all matters not otherwise provided for herein, the proceedings for the Board of Directors shall be governed under 'Robert's Rules of Order,' most current edition." Nothing in the Municipal Code or City Charter speaks to reconsideration or renewal of motions; hence, the proper guidance in determining the propriety of a renewal motion is found in Resolution No. 5893 and Robert's Rules of Order.

Under Robert's Rules, "renewal of a motion" means proposing substantially the same motion after it has been disposed of in some way without having been adopted. In other words, if a motion has been approved, it may not be the subject of a renewal motion. In addition, renewal of a motion is not permitted at the same session in which the motion is still under consideration, since there are other procedures more properly used in that situation (i.e., a motion for reconsideration). Further, a renewal motion that would undo a final decision that has been acted or relied upon would not be appropriate. Examples include the awarding of a contract where the contract has been executed and relied upon, permits that have been issued and are vested (except if a condition of the permit has been violated), and the like.

In the present circumstances, a letter has been sent to the applicants informing them of the result of the Council's November 2, 2009 vote. However, it does not appear that there has been reliance on a council decision or other action which would prevent consideration of a motion to renew. Also, while the applicant might arguably have a basis to object to the renewal motion on the basis of due process or fair procedure, it appears they have assented to the renewal motion.

A search of case law did not uncover any relevant case authority. This is not surprising as a renewal motion is appropriate only in a narrow set of circumstances and is much more the procedural exception than the rule. Accordingly, there is no case law guidance that would suggest a motion related to the Raymond Renaissance project is not appropriate procedurally.


0000073821C031



OFFICE OF THE CITY CLERK

MEMORANDUM - CITY OF PASADENA

TO: Mayor and City Council

FROM: Latasha Reese, Assistant City Clerk 

DATE: August 15, 2019

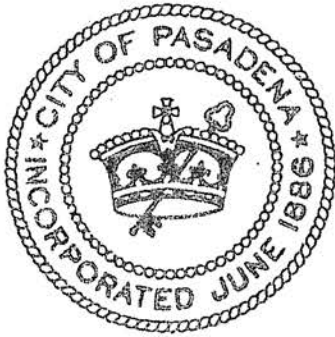
RE: Agenda Item No. 14 - Consideration of Future Agenda Item: Renewal of July 22, 2019 Motion Regarding Board of Zoning Appeal's Decision on Affordable Housing Concession Permit No. 11869 Located at 253 South Los Robles Avenue

Attached, for your information, is the agenda report from the July 22, 2019 City Council meeting regarding the above matter.

~~-8-19-2019-~~
~~-Item 14--~~

08/26/2019

Item 14



Agenda Report

July 22, 2019

TO: Honorable Mayor and City Council

FROM: Planning & Community Development Department

SUBJECT: CALL FOR REVIEW OF BOARD OF ZONING APPEAL'S DECISION ON AFFORDABLE HOUSING CONCESSION PERMIT #11869 LOCATED AT 253 S. LOS ROBLES AVENUE

RECOMMENDATION:

It is recommended that the City Council:

1. Adopt the Environmental Determination that the proposed project is exempt from environmental review pursuant to the guidelines of the California Environmental Quality Act (Public Resources Code §21080(b)(9); Administrative Code, Title 14, Chapter 3, §15332, Class 32, In-Fill Development Projects) and that there are no features that distinguish this project from others in the exempt class. Therefore, there are no unusual circumstances; and
2. Uphold the Board of Zoning Appeal's decision and approve Affordable Housing Concession Permit #11869.

EXECUTIVE SUMMARY:

On November 7, 2018, the Hearing Officer considered, at its regularly noticed public hearing, Affordable Housing Concession Permit (AHCP) #11869. The request was to increase the maximum allowable floor area ratio (FAR) from 2.25 to 2.65 and to increase the maximum allowed height from 60 feet (75 feet when height averaging is applied) to 80 feet to facilitate the construction of a new 94,165 square-foot, six-story, 92-unit, multi-family residential building (including eight "very low income" units), with 131 parking spaces in a three-level subterranean parking garage.

Staff's recommendation to the Hearing Officer was to approve AHCP #11869. Specifically, staff found that as conditioned, it was not expected that the development resulting from the requested concession would result in any adverse negative impacts to the neighboring uses. It was demonstrated that the concessions result in the identifiable and actual cost reduction to provide for affordable housing costs. It was also

shown that the project would not have a specific adverse impact on health or safety, or on the physical environment, and would not have an adverse impact on a property listed on the California Register of Historic Places. At the conclusion of the meeting, and after hearing public testimony, the Hearing Officer approved Affordable Housing Concession Permit #11869 (Attachment C).

On November 15, 2018, Madison Heights Neighborhood Association submitted an appeal application (Attachment D) to the Board of Zoning Appeals citing disagreements with the decision of the Hearing Officer. On February 6, 2019, the Board of Zoning Appeals conducted a public hearing on this item and voted to continue the hearing to a date uncertain. The continued hearing was held on April 3, 2019, during which the Board voted (3-0) to approve AHCP #11869.

On April 8, 2019, Mayor Tornek submitted a request for a call for review of the Board's decision. On April 29, the City Council voted to approve the call for review. The hearing before the City Council is a de novo hearing where the Council has no obligation to honor the prior decision and has the authority to make an entirely different decision. Staff recommends that the City Council uphold the Board of Zoning Appeals' April 3, 2019 decision, approving Affordable Housing Concession Permit #11869 based on the findings in Attachment A.

BACKGROUND:

The applicant, Zhuang & Zhong Los Robles, LLC, has submitted an Affordable Housing Concession Permit application requesting two affordable housing concessions to facilitate construction of a new 94,165 square-foot, six-story, 92-unit, multi-family residential (condominium) building (including eight "very low income" units), with 131 parking spaces in a three-level subterranean parking garage. The 35,502 square-foot irregularly-shaped site is improved with a 43,544 square-foot, two-story office building that is currently vacant and a 9,160 square-foot parking lot. The project proposes demolition of on-site improvements prior to construction. Multi-family residential development is a permitted use by right in the CD-2 zoning district.

The maximum number of residential dwelling units allowed for the project site is 71 units. In order to attain additional residential units, a density bonus is being requested. The density bonus section of the Zoning Code (Section 17.43.040) allows an increase in the number of units permitted on the site without discretionary approval, provided a specified percentage of the units are designated as affordable units. Per the Zoning Code, the percentage of density bonus increase afforded to the project is dependent on the number of units that are dedicated as affordable. The applicant is proposing that eight of the units be dedicated to very low income households. By dedicating eight of the allowed base units (71 units) for very low-income households, the applicant is eligible for a 35% density bonus; granting them the ability to build up to 96 total residential units. The applicant has opted to build 92 total units.

Consistent with California State Law (Section 65915), the Zoning Code permits a project that is utilizing a density bonus increase to request concessions, or deviations, from an applicable development standard, provided the concessions are necessary for the provision of the affordable units. Per Section 17.43.050 of the Zoning Code, this request is processed through the Affordable Housing Concession Permit process. The concessions requested in this application are for the following:

- i. To allow the proposed building to exceed the maximum allowed floor area ratio. Pursuant to Section 17.30.040 (Figure 3-9) of the City of Pasadena Zoning Code, the maximum allowed floor area ratio is 2.25 for the site. The applicant is requesting to increase the floor area ratio to 2.65; and
- ii. To allow the proposed building to exceed the maximum allowed height. Pursuant to Section 17.30.040 (Figure 3-8) of the City of Pasadena Zoning Code, the maximum building height allowed for the site is 60 feet (75 feet when height averaging is applied). The applicant is requesting a maximum building height of 80 feet.

With the exception of the requested concessions, the project complies with all other applicable development standards, as required by the City's Zoning Code, including but not limited to setbacks, parking (applying State Density Bonus Law standard for parking), and open space. Final review of the project's compliance with the applicable development standards will occur during the plan check process, prior to the issuance of a Building Permit. Additionally, on June 13, 2017, the Design Commission reviewed the proposed project through the Preliminary Design Consultation Process. Furthermore, the project will require Concept and Final Design Review approval.

Hearing Officer Public Hearing

The Affordable Housing Concession Permit was presented to the Hearing Officer at a public hearing on November 7, 2018. Staff's recommendation to the Hearing Officer was to approve Affordable Housing Concession Permit #11869, given that the proposed building would comply with all applicable Zoning Code development standards and the required findings to increase the FAR and height could be made.

At the hearing, the applicant presented the project and three speakers spoke in opposition to the project. Five letters of opposition were received and incorporated into the public record. The concerns raised by speakers at the public hearing included, but were not limited to:

- Proposed building is too tall;
- Cumulative traffic impacts should be considered;
- Project is inconsistent with the General Plan;
- CEQA exemption is not appropriate due to impacts to a historic resource;
- Project will have significant impacts on traffic, noise, and air quality.

At the conclusion of public testimony, the Hearing Officer approved Affordable Housing Concession Permit #11869. This decision was based on the findings and the conditions of approval in Attachment C (Decision Letter) to this report. Furthermore, the Hearing Officer has provided an addendum with justification for the approval of the Affordable Housing Concession Permit (Attachment E).

Board of Zoning Appeal's Public Hearing

On November 15, 2018, Madison Heights Neighborhood Association submitted an appeal application (Attachment D) to the Board of Zoning Appeals citing disagreements with the decision of the Hearing Officer. The appellant is a neighborhood association, the northernmost boundary of which is approximately 0.4 miles south of the project site. The appellant cited the following issues as the basis for their appeal of the Hearing Officer's decision:

- Incorrect CEQA determination;
- The required findings cannot be made;
- Project is inconsistent with the City's General Plan;
- Significant errors and omissions in the record;
- Hearing Officer failed to consider evidence;
- Lack of substantial evidence; and
- Hearing Officer's decision is arbitrary and capricious.

On February 6, 2019, the Board of Zoning Appeals conducted a public hearing on this item. A response to each of the appellant's concerns was provided to the Board of Zoning appeals as a component of the February 6, 2019 Board of Zoning Appeals staff report. Staff's responses to the appeal of the Hearing Officer's decision are included as Attachment G. At the conclusion of that meeting, the Board voted to continue the hearing to a date uncertain. In response to public testimony regarding numerical errors in the financial analysis associated with the request for concessions, the Board requested that the City's consultant, Keyser Marston Associates (KMA), review the data in the financial analysis, correct any numerical errors, and confirm that the developer's proposal continues to meet the requirements imposed by the City's Density Bonus Ordinance as well as the California Government Code, Section 65915 (Density Bonus) to qualify for the concessions in order to facilitate the construction of eight very-low income residential units.

Per the Board's request, KMA revisited the financial analysis, corrected numerical errors, revised the analysis to reflect the City's recently updated in-lieu fees, and updated the findings accordingly. The revised financial analysis, included as Attachment H, was provided to the Board of Zoning Appeals prior to the continued hearing on April 3, 2019. The analysis shows that the net cost to provide eight very-low income units is estimated at \$4,469,000. Comparatively, the proposed density bonus and the FAR and height concessions generate a net cost of \$5,578,000. Thus, the effective cost to provide eight very-low income units is approximately \$1,109,000. In their revised analysis, KMA concludes that the Developer's proposal continues to meet the

requirements imposed by the City's Density Bonus Ordinance as well as the California Government Code, Section 65915 (Density Bonus) to qualify for the concessions in order to facilitate the construction of eight very-low income residential units. On April 3, 2019, at the continued public hearing, the Board of Zoning Appeals voted (3-0) to approve AHCP #11869. The Board of Zoning Appeals' Decision Letter is included as Attachment F.

On April 8, 2019, Mayor Tornek submitted a request for a call for review of the Board's decision. On April 29, the City Council voted to approve the call for review.

ANALYSIS:

Affordable Housing Concession Permit: To increase the maximum permitted FAR and building height

Pursuant to California Government Code Section 65915, the City shall grant the concession(s) requested by the applicant unless the City makes a written finding, based upon substantial evidence, of any of the following:

1. The concession or incentive does not result in identifiable and actual cost reductions, consistent with subdivision (k), to provide for affordable housing costs, as defined in Section 50052.5 of the Health and Safety Code, or for rents for the targeted units to be set as specified in subdivision (c).
2. The concession or incentive would have a specific, adverse impact, as defined in paragraph (2) of subdivision (d) of Section 65589.5, upon public health and safety or the physical environment or on any real property that is listed in the California Register of Historical Resources and for which there is no feasible method to satisfactorily mitigate or avoid the specific, adverse impact without rendering the development unaffordable to low-income and moderate-income households.
3. The concession or incentive would be contrary to state or federal law.

As described below, there is no evidence in the record of any of the above.

Financial Analysis

To assess the project for the first finding, the City forwarded the project's financial information to its financial consultant, Keyser Marston Associates (KMA) for analysis. KMA reviewed and prepared a density bonus analysis that analyzed the following development scenarios:

1. Base Case Scenario – 71 market-rate condominium units with 97 parking spaces in a two-level subterranean garage, in compliance with all current zoning requirements; and

2. Proposed Project Scenario (the project) – 92 residential units with 131 parking spaces in a three-level subterranean garage, plus two concessions to allow an increase in building height and FAR.

The analysis shows that the net cost to provide eight very-low income units is estimated at \$4,469,000. Comparatively, the proposed density bonus and the FAR and height concessions generate a net cost of \$5,578,000. Thus, the effective cost to provide eight very-low income units is approximately \$1,109,000. In their analysis, KMA concludes that the Developer's proposal meets the requirements imposed by the City's Density Bonus Ordinance as well as the California Government Code, Section 65915 (Density Bonus) to qualify for the concessions in order to facilitate the construction of six very-low income residential units.

Project Impacts

In addition, the review must verify that there will be no adverse impact on public health, public safety, or the physical environment, and would not have an adverse impact on a property that is listed in the California Register of Historical Resources.

- **Traffic Impact Analysis**

The Department of Transportation (DOT) determined that a Traffic Impact Analysis was required for this project. The study evaluated the effect the project would have on existing neighborhood traffic volumes along access and neighborhood collector street segments and intersections within the vicinity of the project, and evaluated the existing Pedestrian Environmental Quality Index (PEQI) and Bicycle Environmental Quality Index (BEQI) along key corridors within the vicinity of the project.

In addition, because the project proposes more than 50 residential units, DOT also conducted a separate analysis (referred to as the CEQA Evaluation) of the City's five vehicular and multimodal performance measures that assess accessibility of different modes of travel when evaluating a project's impact, as well as the project's transportation impact to its community using adopted transportation performance measures that relate to vehicle miles traveled (VMT), vehicle trips (VT), proximity and quality of the bicycle network, proximity and quality of the transit network, and pedestrian accessibility. The Traffic CEQA Evaluation is included in Attachment I.

The analyses determined that the project is not expected to exceed adopted street segment and intersection caps; and that the project does not cause a significant impact. Furthermore, the pedestrian environment received an indicator score of "average." No conditions of approval are required when the score is "average" or higher. The bicycle environment received an indicator score of "low". For this reason, the Department of Transportation has included Conditions of Approval intended to improve the bicycle environment. The analyses determined that the project's incremental VMT per capita change does not exceed the adopted threshold of significance under the VMT per capita of 22.6. Therefore, the project does not cause any significant impacts as it relates

to VMT. Additionally, the project's incremental VT per capita does not exceed the adopted threshold of significance under the VT per capita of 2.8. Thus, the project does not cause any significant impacts as it relates to VT. It was also determined that the project increases the service population access to transit and maintains the service population access to bike facilities. Therefore, the project does not cause a significant impact on the existing bicycle network or access to transit facilities.

As such, as it relates to vehicular traffic, there will be no adverse impact on public health, public safety, or the physical environment and the proposal complies with the requirements needed to make the findings to be granted a concession.

- Noise and Vibration Analysis

A Noise and Vibration Analysis was prepared by ESA for the project site. The Noise and Vibration Analysis is included in Attachment I. The purpose of the report was to determine potential noise and vibration impacts as they relate to the proposed construction activities (short term impacts) and noise impacts as they relate to the operational characteristics (long term impacts) of the use. The project will incorporate, and the analysis assumes, implementation of general industry standard best practices to minimize noise and vibration impacts. In its analysis, ESA concluded that during the construction period, maximum construction noise levels would not exceed the City's Noise Ordinance thresholds of 85 weighted decibels (dBA) at 100 feet. Additionally, ESA concluded that vibration generated by the project's construction equipment would not be expected to generate strongly perceptible levels of vibration at the nearest uses and would result in less than significant impacts related to vibration annoyance and structural damage. Therefore, no adverse short term noise or vibrations impacts associated with construction would occur from the project.

Long term operational impacts of the project would be generated by mechanical equipment (heating, ventilation and air conditioning units), maintenance of the site and vehicles entering and leaving the property. The threshold of significance for operational noise, established in the City's Noise Ordinance, prohibits the making of noise that exceeds the ambient noise levels at the property line of any property by more than 5 dBA. It was determined that the operational characteristics (long term impacts) of the use would not exceed the ambient noise levels at the property lines by more than 5 dBA. Per the noise analysis, the proposed development would increase the ambient noise levels a negligible amount above existing conditions. The existing traffic-related ambient noise level ranges from 67.2 to 68.9 dBA. Project-related traffic would result in increases no greater than 0.1 dBA. As such, the nature of the features related with the operational characteristics of the use would not increase the existing ambient noise level by 5 dBA. Therefore, no adverse long term noise impacts would occur from the project and no mitigation is required.

Cumulative construction impacts could occur when multiple construction projects are occurring simultaneously with the proposed project. There are two approved projects adjacent to the project site to the north and south pending construction. The 245 South

Los Robles Avenue project would be a 131-unit mixed-use building to the north of the proposed project and the 399 East Del Mar Boulevard project would be a 55-unit multi-family residential building to the south of the proposed project. Concurrent noise impacts could occur if the projects were being constructed on overlapping schedules, therefore ESA analyzed cumulative Noise and Vibration impacts as it would relate to the construction of all three potential projects. The City's noise threshold for construction is 85 dBA at 100 feet for each piece of equipment. As a conservative approach for the cumulative construction noise analysis, the threshold of 85 dBA at 100 feet was applied to the aggregate noise from concurrent construction activities for the proposed project and the two adjacent projects (i.e., multiple pieces of construction equipment operating simultaneously on separate but adjacent sites). Conservatively assuming all three related projects each contribute 75 dBA during concurrent construction phases, the combined noise level would be approximately 80 dBA at 100 feet, which would be less than the 85 dBA at 100 feet threshold.

Operational cumulative noise impacts would occur primarily as a result of increased traffic on local roadways due to operation of the project and cumulative projects, as traffic is the greatest source of operational noise in the project area. Per ESA's analysis, with the proposed project, the cumulative traffic noise level increase would be much less than 3 dBA and, therefore, cumulative traffic noise impacts would be less than significant. The analysis also concluded that cumulative stationary source noise impacts related to stationary noise sources (i.e., fixed mechanical equipment, parking structure, and loading dock), would be less than significant.

Per ESA's analysis, ground-borne vibration generated by man-made activities attenuates rapidly with distance from the source of the vibration. Man-made vibration issues are therefore usually confined to short distances from the source (i.e., 50 feet or less). Due to the rapid attenuation characteristics of ground-borne vibration, there is no expected potential for cumulative construction- or operational-period impacts with respect to ground-borne vibration from related projects. Therefore, cumulative vibration impacts would be less than significant.

At the April 3, 2019 Board of Zoning Appeals hearing, project opponents questioned the selection of roadway segments on which noise evaluations were based. Staff clarified that, per industry standards, noise evaluations (and traffic evaluations) are based on roadway segments identified as "neighborhood collectors" because these smaller roadways experience the greatest impact from development projects, and impacts on these roadways segments demonstrate the worst-case scenario. To further substantiate the conclusion that there will be no significant adverse impact as it relates to traffic noise, ESA prepared a Technical Memorandum (Attachment K) that expands upon the operational traffic noise analysis for the project by analyzing additional roadway segments in the project vicinity for the following scenarios: existing; existing plus project; and existing plus project plus related projects. This expanded analysis incorporates traffic data supplied from the City's Department of Transportation and includes portions of Los Robles Avenue (from Colorado Boulevard to south of California Boulevard), Del Mar Boulevard (east and west of Los Robles Avenue), and California

Boulevard (east and west of Los Robles Avenue). The technical memorandum also provides an expanded analysis of the project's conformance with applicable and relevant goals, policies, objectives, and standards of the City's General Plan Noise Element and Land Use Element.

The analysis in the Technical Memorandum (Attachment K) concludes that operation of the project would not result in a substantial increase in project-related traffic noise levels over existing traffic noise levels. The increase in noise level would be 0.1 dBA CNEL, which would be less than the significance threshold of a 5 dBA CNEL increase or the most stringent significance threshold of a 3 dBA CNEL increase to or within the "normally unacceptable" community noise and land use noise compatibility category. A noise level increase of 0.1 dBA is not perceptible by human hearing. In a controlled laboratory environment, a change in sound level of 1 dBA is "barely perceptible." In a non-controlled environment, such as in a typical suburban or urban environment, a change in sound level of 3 dBA is "just perceptible," a change in sound level of 5 dBA is "clearly noticeable," and a change in 10 dBA is perceived as a doubling of sound volume. Therefore, as project-related traffic would result in a maximum noise level increase of 0.1 dBA, which would not be a perceptible change, project-related traffic noise would be less than significant.

The analysis in the Technical Memorandum (Attachment K) also concludes that when considering cumulative related projects, the project plus related projects would generate an increase in roadway noise levels much less than 1 dBA. The maximum noise level increase would be 0.2 dBA CNEL, which would be less than the significance threshold of a 5 dBA CNEL increase or the most stringent significance threshold of a 3 dBA CNEL increase to or within the "normally unacceptable" community noise and land use noise compatibility category. Therefore, as project-related traffic, when added to cumulative related projects, would result in a maximum noise level increase of 0.2 dBA, which would not be a perceptible change, cumulative Project-related traffic noise would be less than significant.

Based on the conclusions of the multiple technical analyses described above, as it relates to noise and vibration, there would be no adverse impact on public health, public safety, or the physical environment and the proposal complies with the requirements needed to make the findings to be granted a concession.

- Air Quality and Greenhouse Gas Emissions Analysis

Air Quality and Greenhouse Gas (GHG) Emissions Analyses for the project site were prepared by ESA. The Air Quality Analysis is included in Attachment I and the Greenhouse Gas Analysis is included as Attachment J.

The purpose of the Air Quality Technical Report was to determine if the project would conflict with an applicable air quality plan, violate an air quality standard or threshold, result in a cumulatively net increase of criteria pollutant emissions, or expose sensitive receptors to substantial pollutant concentrations, create objectionable odors affecting a

substantial number of people. In its analysis, ESA concluded that the project would not conflict with or obstruct implementation of the SCAQMD 2016 Air Quality Management Plan, and air quality impacts from construction and operation of the project would be below SCAQMD air quality thresholds. Sensitive receptors near the project site would not be exposed to substantial pollutant concentrations. Therefore, the impacts would be less than significant. Additionally, the project would not produce objectionable odors that constitute a public nuisance.

Recognizing that there are approved projects directly to the north and south of the project site, ESA also analyzed cumulative air quality impacts (construction and operational). Per SCAQMD, only projects that exceed the project-specific significance thresholds are cumulatively considerable. Projects that do not exceed the project-specific thresholds are generally not considered to be cumulatively significant. The report showed that the proposed project would not exceed construction-related or operational thresholds related to air quality impacts. Environmental documents prepared for 399 East Del Mar Boulevard and 245 South Los Robles Avenue concluded that air quality impacts related to each would be less than significant. Therefore, based on the SCAQMD cumulative impact evaluation methodology, cumulative impacts related to the three projects would be less than significant.

The Greenhouse Gas Emissions Analysis concluded that the project would substantially comply with or exceed the GHG reduction actions and strategies outlined in the City of Pasadena Climate Action Plan and Green Building Code. The project would incorporate characteristics that would achieve reductions in vehicle miles traveled (VMT), as it is sited in a location that is well-served by multi-modal transportation choices. As such, the project would be consistent with regional plans to reduce VMT and associated GHG emissions. The project's GHG efficiency would be below the GHG efficiency threshold provided in the Climate Action Plan, and will therefore comply.

Per ESA's analysis, the project would have no impacts or would have less than significant impacts for all Project-related air quality and greenhouse gas emissions. As such, as it relates to air quality and greenhouse gas emissions, there would be no adverse impact on public health, public safety, or the physical environment and the proposal complies with the requirements needed to make the findings to be granted a concession.

- Historic Resources

There are no known or identified historic resources on the subject site. Therefore, as it relates to historic resources, there would be no adverse impact on a property listed on the California Register of Historic Places and the proposal complies with the requirements needed to make the findings to be granted a concession.

At the prior hearings, project opponents argued that the existing office building on the property is an eligible historic resource. Based on this claim, the opponents argued that staff's determination that the project is categorically exempt from CEQA is incorrect

because, pursuant to the CEQA Guidelines, a categorical exemption shall not be used for a project which may cause a substantial adverse change in the significance of an historical resource.

The City's Design and Historic Preservation staff evaluated the subject site and existing building upon initial receipt of the application and determined that the building is not an eligible historic resource. Furthermore, the Class 32 Exemption Report prepared by ESA, also concluded that the building is not eligible on the federal, state, or local levels. To further substantiate this determination, and in response to the appeal of the Hearing Officer's decision, the applicant hired consultant Sapphos Environmental to study the eligibility of the building as a historic resource. The Sapphos report (available as part of the project file for public review) also concluded that the building is not eligible as a historic resource on the federal, state or local levels. This report was reviewed by the City's Design and Historic Preservation staff, who concurred with the findings of the report.

Subsequent to the decision of the Board of Zoning Appeals, and in response to the opponents' claims, ESA prepared an extensive Historic Resource Assessment and CEQA Impacts Analysis (Attachment L). The commercial building situated on the subject property was evaluated under the following historical and architectural themes: Corporate Modernism: Late Modernism (1969-1990). Based on the analysis presented in the Assessment, including the subject property's historical association, architectural style, and property type, ESA concluded that the subject property is not individually significant under the applicable federal, state, and local criteria nor is it eligible as a contributor to a potential historic district. Therefore, the property is not considered a historical resource pursuant to CEQA.

The assessment concluded that the commercial building currently located at 253 South Los Robles does not have sufficient architectural merit, historical significance, or integrity to qualify as a historical resource under CEQA. It does not meet the eligibility criteria for listing in the National Register of Historic Places (National Register), California Register of Historical Resources (California Register), or any of Pasadena's criteria for designation of historic resources. Therefore, since the subject building is ineligible as a historical resource, the project would have no direct impact to historical resources on the project site. In addition, the project site is not located in a historic district and the project would have no impact on a historic district. Furthermore, the proposed project would not alter any historical resources or materially impair the eligibility of any historical resources in the surrounding vicinity. Redevelopment of the project site and surrounding parcels in the 1970s-1980s removed the earlier low-scale residential improvements formerly located there and constructed the existing large-scale commercial and multi-family improvements and associated parking lot. The scale and massing of the proposed project is compatible with the current built environment and would not substantially change the overall character of the existing setting. The proposed project would not materially impair the eligibility of any historical resources in the project vicinity, and thus would have no adverse impact on historical resources.

- State and Federal Laws

The requested concession will be granted consistent with the procedures and requirements established by California Government Code Sections 65915 (Density Bonuses and Other Incentives) and will not be contrary to any federal laws.

Based on the analysis above, staff believes that the three required findings to approve the requested Affordable Housing Concession Permit can be made.

Tree Protection Ordinance:

A tree inventory was submitted for the project site. The inventory indicates there are eight trees existing on and around the site, only three of which are protected under the City's Tree Protection Ordinance. Two of the three protected trees are street trees; the third protected tree (a Canary Pine) is located on-site, near the northeast corner of the existing building. The project proposes to remove one of the eight trees: the protected on-site Canary Pine. A Private Tree Removal Permit will be processed concurrent with Design Review and pursuant to the Conditions of Approval provided as Attachment B.

General Plan Consistency:

The proposed project is consistent with policies of the General Plan related to sustainable growth, housing affordability, and Central District vitality. By proposing new infill development on an underutilized commercial property in the Central District, the project is consistent with Policy 1.2 (Targeted Growth), the goal of which is to target growth and new construction in infill areas and away from Pasadena's residential neighborhoods and open spaces. By proposing a multi-family residential project inclusive of 92 residential units, with a mix of market rate and very low-income residential units, the project is consistent with: Policy 2.1 (Housing Choices), and Policy 21.1 (Adequate and Affordable Housing), which encourage providing opportunities for a full range of housing affordability levels; as well as Policy 21.2 (Equitable Distribution of Affordable Housing), which encourages the equitable distribution of affordable housing throughout the City, consistent with the goals of the Housing Element. By proposing development in the Central District and within a half a mile of the Del Mar Metro Gold Line station, the project is consistent with: Policy 31.1 (Focus Growth), which encourages development in the Central District and in proximity to Metro Gold Line stations to support economic vitality; and Policy 31.3 (Del Mar, Memorial Park, and Lake Transit Villages), which encourages concentration of higher intensity, multi-family housing development near these Metro Gold Line stations, supporting Metro Gold Line ridership. For the reasons provided herein, the proposed project is consistent with the goals and policies of the City's General Plan.

ENVIRONMENTAL ANALYSIS:

This project has been determined to be exempt from environmental review pursuant to the guidelines of the CEQA Public Resources Code §21080(b)(9); Administrative Code,

Title 14, Chapter 3, §15332, Class 32, In-Fill Development Projects. Section 15332 specifically exempts from environmental review in-fill development where: 1) the project is consistent with the applicable general plan designation and all applicable general plan policies as well as with applicable zoning designation and regulations; 2) the proposed development occurs within city limits on a project site of no more than five acres substantially surrounded by urban uses; 3) the project site has no value as habitat for endangered, rare or threatened species; 4) approval of the project would not result in any significant effects relating to traffic, noise, air quality, or water quality; 5) the site can be adequately served by all required utilities and public services; and 6) there are no features that distinguish this project from others in the exempt class; therefore, there are no unusual circumstances.

In this case, the project meets the minimum requirements to qualify as an in-fill project under CEQA. The project is consistent with the General Plan designation and policies as discussed above; the multi-family residential project is a use that is permitted by right within the CD-2 zoning district; and the project complies with the applicable development standards, with the exception of the requested concessions. The project site is approximately 35,502 square feet (less than five acres) and surrounded by other commercial and residential uses. The project site has been previously developed and graded, and currently contains a two-story office building and a surface parking lot; therefore it does not contain habitat for endangered, rare or threatened species. A CEQA-focused traffic impact analysis, noise analysis, and an air quality/greenhouse gas emissions analysis were prepared for the project, which determined that there would be no project-related or cumulative impacts. The project site is located in an urban area where utilities and public services can be adequately served. Furthermore, there are no unusual circumstances (i.e. impacts on historic resources) that distinguish this project from others in the exempt class.

CONCLUSION:

It is staff's assessment, based on the analysis above, that the findings necessary for approving the Affordable Housing Concession Permit can be made in the affirmative (Attachment A). As conditioned, the project would not result in any adverse impacts to neighboring uses. The financial analysis demonstrates that the concessions are required in order for the designated units to be affordable. Additional project analyses demonstrate that the project would not have a specific adverse impact on health or safety, or on the physical environment, and would not have an adverse impact on a property listed on the California Register of Historic Places. Therefore, staff recommends that the City Council approve the application with the findings in Attachment A and the Conditions of Approval in Attachment B.

FISCAL IMPACT:

There is no fiscal impact as a result of this action and will not have any indirect or support cost requirements.

Respectfully submitted,



DAVID M. REYES
Director of Planning & Community
Development

Prepared by:



Talyn Mirzakhani
Zoning Administrator

Approved by:



STEVE MERMELL
City Manager

NICHOLAS G. RODRIGUEZ
Assistant City Manager

Attachments: (13)

- Attachment A – Recommended Specific Findings
- Attachment B – Recommended Conditions of Approval
- Attachment C – Hearing Officer Decision Letter (dated November 9, 2018)
- Attachment D – Appeal Application (November 15, 2018)
- Attachment E – Hearing Officer Addendum
- Attachment F – April 3, 2019 Board of Zoning Appeals Decision Letter
- Attachment G – Excerpt from February 6, 2019 BoZA Staff Report (Response to Appeal)
- Attachment H – Keyser Marston Financial Analysis
- Attachment I – Class 32 Exemption Report
- Attachment J – Greenhouse Gas Analysis
- Attachment K – Technical Memorandum - Traffic Noise Analysis
- Attachment L – Historical Resource Assessment and CEQA Impacts Analysis
- Attachment M – Project Plans