

Agenda Report

February 10, 2020

TO: Honorable Mayor and City Council
FROM: Planning & Community Development Department
**SUBJECT: AFFORDABLE HOUSING CONCESSION PERMIT #11869
LOCATED AT 253 S. LOS ROBLES AVENUE**

RECOMMENDATION:

It is recommended that the City Council conduct a quasi-judicial appeal hearing and take the following action:

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:

The proposed multi-family project associated with Affordable Housing Concession Permit #11869 has undergone modifications in response to issues raised during the Call for Review public hearing on July 22, 2019. The modifications include reductions in height, density and floor area ratio (FAR).

As a result, the applicant is requesting an Affordable Housing Concession Permit to facilitate the construction of a new 91,217 square-foot, five to six-story, 90-unit, multi-family residential building (including eight "very low income" units), with associated parking in a three-level subterranean parking garage. The project includes demolition of an existing 43,544 square-foot office building on site. The revised project requires two affordable housing concessions:

- i. A concession to exceed the maximum allowed FAR (requesting 2.57 where Code maximum is 2.25); and
- ii. A concession to exceed the maximum allowed height (requesting 75 feet where Code maximum is 60 feet or 75 feet with height averaging).

Staff recommends that the City Council approve Affordable Housing Concession Permit #11869, as modified by the applicant in November 2019, based on the findings in Attachment A.

BACKGROUND:

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 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. At the conclusion of the meeting, and after hearing public testimony, the Hearing Officer approved the project.

On November 15, 2018, Madison Heights Neighborhood Association submitted an appeal application 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. On July 22, 2019, the City Council considered a Call for Review of AHCP#11869. At the close of the public hearing, Council took no action on the CEQA determination for the project; thereby, rendering the project disapproved.

In August 2019, the applicant expressed interest in amending the project to address the Council’s concerns regarding height and massing. On August 26, 2019, the City Council voted in favor of a consideration of a motion to renew a decision on AHCP #11869, granting the applicant an opportunity to propose modifications to the project. In November 2019, the applicant submitted plans demonstrating modifications to the original project. The modified plans are included as Attachment F.

DISCUSSION:

The original project considered by the City Council included a request for 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 requested concessions included: (1) an increase in the maximum allowable FAR from 2.25 to 2.65; and (2) an increase in the maximum allowed height from 60 feet (75 feet when height averaging is applied) to 80 feet. The project included demolition of on-site improvements prior to construction. Concerns raised at the July 22, 2019 public hearing focused on the project’s height and massing.

The revised project continues to include a request for two affordable housing concessions (FAR and height). The concessions would facilitate the construction of a 91,217 square-foot, five- to six-story (64’ – 75’ tall), multi-family residential project consisting of 90 dwelling units (including eight “very low-income” units), and three levels of subterranean parking. The applicant has proposed the following modifications:

- A reduction in the total number of units from 92 to 90 (the number of “very low income units remains unchanged at eight)
- A reduction in the gross floor area from 94,165 square feet to 91,217 square feet;
- A reduction in FAR from 2.65 to 2.57;
- A reduction in the height of the southerly half of the building from 80’ to 64’ (reduced from six stories to five); and
- A reduction in the height of the northerly side of the building from 80’ to 75’.

The applicant has made significant and meaningful adjustments to the plans associated with the project in response to the concerns raised by the Council and community, including adjustments to the overall height and massing. The revised project is more respectful of the transition between the residential zoning district to the south and the Central District to the north and responds well to its surrounding context in terms of height. Through the required Design Review process, the massing of the building will continue to be refined to achieve the goals of the relevant design guidelines.

Pursuant to Zoning Code Section 17.72.070.B.2.c (Processing and Action on Appeals or Calls for Review – Action on appeals or calls for review – Consideration of submitted application, plans, and materials), the City Council may consider changes to the original submittal to address objections of the review authority without requiring submittal of a new application. In this case, the revised plans and materials do not differ substantially from the materials submitted for the original decision by the Hearing Officer, and subsequently, the Board of Zoning Appeals and City Council. The revised project incorporates reductions in building height, floor area, and unit count, while maintaining the same footprint. The project continues to provide the required open spaces in the form of a courtyard and roof garden. Additionally, the project is designed to comply with all applicable provisions in the Zoning Code, with the exception of the requested concessions for FAR (2.57) and building height (75’).

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 discussed in the July 22, 2019 City Council staff report (Attachment C), staff concluded that there was no evidence in the record that the original concessions requested for FAR (2.65) and height (80'): (1) would not result in identifiable and actual cost reductions; (2) would have a specific, adverse impact (as defined in State law); or (3) would be contrary to state or federal law. Staff has evaluated the revised project, with concession requests for FAR (2.57) and height (75'), and once again concludes that there is not sufficient evidence in the record for the City to reject the FAR and height concessions associated with the revised project. To support this conclusion, memorandums discussing financial characteristics and applicability of the California Environmental Quality Act (CEQA) Class 32 In-Fill exemption are included as Attachments D and E, respectively. The memorandums supplement the technical analyses provided as part of the July 22, 2019 City Council staff report. Additionally, as indicated in Attachment G, DOT has received and evaluated a letter from Madison Heights Neighborhood Association, which included a "Traffic Engineering Review" prepared by Prism Engineering, and has confirmed that there is no resulting change to the Department's determination of 'no CEQA-related traffic impacts' and confirmed that the project does not exceed established outside-of-CEQA caps that could trigger additional conditions of approval.

CONCLUSION:


It is staff's assessment that the modifications proposed by the applicant address the concerns raised during the Call for Review public hearing. The changes have resulted in a project more compatible in scale with the residential zoning district to the south of the project site.

Staff has also determined that there is no evidence in the record demonstrating that the concessions do not result in identifiable and actual cost reductions to provide for affordable housing costs or that the concessions would have any specific adverse impacts (as defined by State Law) on public health, safety, or the physical environment or on any real property that is listed in the California Register of Historical Resources. The requested concessions would be granted consistent with the procedures and requirements established by California Government Code Section 65915 (Density Bonuses and Other Incentives) and would not be contrary to any state or federal laws. Furthermore, the proposed revisions do not warrant a different CEQA determination. Therefore, staff recommends that the City Council approve the Affordable Housing Concession Permit, as modified by the applicant in November 2019, 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,



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Development

Prepared by:



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Approved by:



STEVE MERMELL
City Manager

Attachments: (6)

- Attachment A – Recommended Specific Findings
- Attachment B – Recommended Conditions of Approval
- Attachment C – City Council Staff Report dated July 22, 2019
- Attachment D – Financial Analysis Memorandum
- Attachment E – CEQA Memorandum
- Attachment F – Revised Project Plans
- Attachment G – Memorandum from DOT in Response to Correspondence Received