

# Agenda Report

September 18, 2023

**TO:** Honorable Mayor and City Council

**FROM:** Planning & Community Development Department

**SUBJECT: QUASI-JUDICIAL ACTION: APPEAL OF THE DESIGN COMMISSION'S APPROVAL OF AN APPLICATION FOR CONCEPT DESIGN REVIEW (DHP2022-00248) FOR A NEW THREE- TO FIVE-STORY MIXED-USE PROJECT INCLUDING 14,346 SQUARE FEET OF OFFICE SPACE, 263 RESIDENTIAL UNITS, SUBTERRANEAN PARKING AND 4,033-SQUARE-FEET OF PUBLICLY ACCESSIBLE OPEN SPACE AT 740-790 EAST GREEN STREET**

## **RECOMMENDATION:**

Staff recommends that the City Council:

1. Adopt the Mitigated Negative Declaration and Mitigation Monitoring Reporting Program (Attachments E1-E4);
2. Approve a Private Tree Removal to allow the removal of a 21.5" DBH *Ulmus parvifolia* (Chinese Elm) and a 30.6" DBH *Ficus macrocarpa* 'Nitida' (Indian laurel fig) tree;
3. Find that the project will comply with the purposes of design review, the design-related goals and policies of the Land Use Element of the General Plan, and the Design Guidelines in the Central District Specific Plan (Attachment A); and,
4. Deny the appeal and approve the application for Concept Design Review subject to the conditions in Attachment B, which shall be further reviewed by the Design Commission during Final Design Review.

## **BACKGROUND:**

On June 22, 2022, the applicant, Stanford Pasadena, LLC, care of Daniel Taban, submitted an application for Concept Design Review for a new 254,152 square-foot mixed-use project on a 2.33-acre site located at 740-790 E. Green Street. The proposal is for a new three to five story development in two buildings consisting of 14,346

square-feet of ground floor office space, 263 residential dwelling units (including 41 affordable units), subterranean parking and 4,033 square-feet of publicly accessible open space. The project was approved by the Design Commission on June 13, 2023.

On June 23, 2023, the appellant, Lozeau Drury LLP, representing the Supporters Alliance for Environmental Responsibility (“SAFER”), filed an appeal application citing disagreements with the CEQA Initial Study/Mitigated Negative Declaration (the California Environmental Quality Act document). See Attachment C for the full appeal documentation and appellant’s arguments in support of the appeal.

**REQUIRED APPROVALS:**

The proposed project meets the standards of the Zoning Code and requires an entitlement for Design Review only; no other entitlements are required. Originally a Planned Development (PD) application was submitted for the project in 2018 but given changes in State law that allow additional density that application was no longer needed, and the applicant withdrew the application. As part of the Design Review, the Design Commission reviews the project for adherence to adopted design guidelines. Modifications to the buildings can be required related to articulation, modulation, or other design-related standards. However, the square footage, maximum height and density cannot be modified. As this is an appeal of a Design Review application, the City Council’s review is also limited to the project’s adherence to applicable design guidelines only.

Design Review is a three-phase process starting with Preliminary Review, followed by Concept and then Final Design Review. Each phase builds upon the other as the applicant must respond to comments provided during the previous phase of review. Preliminary Design Review is informational only, Concept Design Review requires a public hearing, certification of the CEQA document and if approved, grants the entitlement. Final Design Review focuses on items such as colors, materials, and final details.

As part of the Design Review conducted, staff and the Design Commission reviewed the project as it relates to a number of design guidelines/policies that are contained in the Land Use Element of the General Plan and the Private Realm Design Guidelines of the Central District Specific Plan. Adherence to these standards is the basis for the findings for approval in Attachment A. The full analysis of this work is contained in the staff report for the Concept Design Approval of June 13, 2023 (Attachment D). The CEQA document was also certified (Attachment E). The Design Commission reviewed and unanimously approved the application and CEQA document (6-0 with one member absent and two abstaining) on June 13, 2023, at a noticed public hearing (Attachment F). For additional information, the project plans are provided in Attachment G and a link to the Private Realm Design Guidelines can be found in Attachment H.

### **APPEAL ANALYSIS:**

The appeal received is based on the CEQA document. It is the appellant's assertion that the CEQA review conducted and the resulting Initial Study and Mitigated Negative Declaration (IS/MND) that was adopted for the project is inadequate in three specific areas, which are enumerated and evaluated in this report.

Dudek, an environmental consulting firm under contract to the City, prepared the Initial Study (IS) for the project, which concluded that there will be less than significant impacts on the environment with the incorporation of mitigation measures; a Mitigated Negative Declaration (MND) was therefore prepared. The MND included mitigation measures to reduce possible impacts on Cultural Resources, Geology and Soils, Hazards and Hazardous Materials, Noise, Transportation, and Tribal Cultural Resources to less-than-significant levels (Attachments E1-E4). The draft IS/MND was circulated for public review from December 1, 2020 to January 13, 2021. The project was subsequently refined in response to comments and to lessen impacts. The final IS/MND reflects the changes to the project. No new potentially significant effects were identified and no new mitigation measures were necessary.

#### **Appellants' Argument #1:**

*There is Substantial Evidence that the Project will have a Significant Health Risk Impact from Indoor Air Emissions.*

The appellant attests that a fair argument can be made that the proposed project would result in a significant environmental impact related to indoor air quality. Specifically, the appellant argues that the project has the potential to emit formaldehyde into the air within the interior of the new buildings, which would result in significant cancer risks to future residents. This same comment was submitted during the public review process for the IS/MND and Responses to Comments 2-4 and 2-5 were provided. Indoor air quality is not subject to review under CEQA, and further, the required air quality analysis that was conducted as required by CEQA concludes that the project will not result in significant impacts related to air quality (Attachment E1). In summary, the response to this appeal comment that is provided in the IS/MND states the following, which remains applicable:

*Discussion of impacts on indoor air quality is not specified or required by the State California Environmental Quality Act (CEQA) Guidelines or California's air district guidelines. California air districts base their thresholds of significance for CEQA purposes on the levels that scientific and factual data demonstrate that the air basin can accommodate without affecting the attainment date for the state and federal ambient air quality standards (AAQS). The AAQS is based on maximum pollutant levels in outdoor air that would not harm the public's health. Furthermore, building materials are required to reduce exposure to toxic substances through compliance with the U.S. Environmental Protection Agency and the California Air Resources Board (CARB) regulations, such as 40 CFR*

*Part 770, Formaldehyde Emission Standards for Composite Wood Products. The regulations typically apply to manufacturers, distributors, importers, fabricators, and retailers of the products. All building materials used for the Project would be required to comply with the applicable federal and state standards.*

Appellants' Argument #2:

*The MND fails to establish a baseline for hazardous substances and its conclusion that the project will not have a significant impact related to hazardous substances is not supported by substantial evidence.*

The appellant argues that the project site has the potential to contain hazardous substances in the soil as a result of past land uses. This same comment was submitted during the public review process for the IS/MND and Responses to Comments 2-6 and 2-7 were provided and determined that the hazards/hazardous materials analysis conducted for the project is adequate (Attachment E1). The project underwent a Phase I Environmental Site Assessment (ESA) and Vapor Intrusion Risk Assessment as part of the IS/MND, which did not result in any hazardous materials being identified on the site in the areas tested. Because not all of the soil on the site was tested (which is standard practice when no hazardous materials are found in a Phase I ESA), the IS/MND includes Mitigation Measure (MM) HAZ-1 to ensure that appropriate measures and actions are taken during construction of the project to identify, collect and dispose of any hazardous materials that may be encountered and to minimize and protect individuals from potential exposure to hazardous materials. Refer to page 162 of Attachment E1 for the complete mitigation measure.

Appellants' Argument #3:

*The MND's Greenhouse Gas Analysis is based on unsupported assumptions.*

The appellant states that the assumption that the project's compliance with 2019 Building Standards, resulting in a 30% reduction estimate in greenhouse gas emissions compared to the 2016 Building standards, is not supported by substantial evidence. The argument further states the proposed project is mixed-use and the 30% reduction estimate is based on non-residential uses only. This same comment was submitted during the public review process for the IS/MND and Response to Comment 2-8 was provided and determined that the greenhouse gas analysis conducted for the project is adequate (Attachment E1).

The IS/MND thoroughly reviewed and discussed the potential for greenhouse gas emissions as a result of the mixed-use project based on established best practices for such analyses. The Greenhouse Gas Analysis was completed when 2016 Building Standards were in place and the draft IS/MND determined that any impacts would be less-than-significant. The final IS/MND, which was completed in 2020, further clarified that the project would be subject to the newer 2019 Building Standards, which has more

stringent requirements to reduce greenhouse gas emissions.

Further, the California Energy Commission (CEC) concluded the 2019 Building Standards for non-residential projects would generate 30% less greenhouse gas emissions compared to the 2016 standards. This reference is contained in the MND as a general example of how reductions are achieved and is not necessary or relied upon for this project. To conclude, an extensive greenhouse gas analysis was conducted for this project, was completed in full compliance with CEQA and concluded any impacts were less than significant.

**GENERAL PLAN CONSISTENCY:**

The project site has a General Plan designation of Medium Mixed-Use and 87 du/acre. The proposed project will develop a new mixed-use project that is consistent with the Land Use Element and 2021-2029 Housing Element of the General Plan.

This includes Guiding Principle 1 of the Land Use Element: *“Growth will be targeted to serve community needs and enhance the quality of life. Higher density development will be directed away from residential neighborhoods and into the Central District, Transit Villages, and Neighborhood Villages. These areas will have a diverse housing stock, job opportunities, exciting districts with commercial and recreational uses, and transit opportunities. New development will build upon Pasadena’s tradition of strong sense of place, great neighborhoods, gardens, plazas, parks, and trees.”*

Further, the project is consistent with Goal 2 (Land Use Diversity) and several supporting policies (2.1 [Housing Choices], 2.3 [Commercial Businesses], 2.4 [Job Choices], 2.5 [Mixed Use], 2.6 [Transit-Related Land Uses]. The project provides a mix of uses that would meet the needs of residents and businesses. The proposed ground floor office uses would serve local and regional needs, would provide job opportunities, and capture local spending and the economic value induced by the presence of transit corridors and stations. In addition, the project has been determined to be consistent with the adopted Design Guidelines of the General Plan and of the Central District Specific Plan.

The project will also be consistent with the City’s Housing Element Goals, and Policies. For example, the project will contribute to neighborhood and housing diversity (Policies HE1.1 and HE2.1); will be of high quality and excellent design through use of materials and colors, building treatments, landscaping, open space, parking, and environmentally sensitive and sustainable building design (Policy HE 1.3); will ensure residents have ready access to both public and private open space (Policy HE 1.6) and will provide new residential development in the Central District (Policy HE2.2).

**ENVIRONMENTAL ANALYSIS:**

Following a detailed environmental analysis conducted by Dudek, an IS/MND and Mitigation Monitoring and Reporting Program has been prepared for this project and is

included in Attachment E. The project has been analyzed and potentially significant impacts related to Cultural Resources, Geology and Soils, Hazards and Hazardous Materials, Noise, Transportation and Cultural Resources have been reduced to less-than-significant levels.

**CONCLUSION:**

Staff recommends that the City Council uphold the decision of the Design Commission to adopt the MND and Mitigation Monitoring and Reporting Program and that the City Council deny the appeal and uphold the Design Commission decision to approve the Concept Design Review application subject to the findings in Attachment A and the recommended conditions of approval in Attachment B. Staff and the Design Commission conducted a thorough analysis of the project through Preliminary and Concept Design Review.

If the project is approved, the next step in the process is Final Design Review. At the Final Design Review stage, emphasis and focus is placed on construction details, finishes, materials, landscaping, and consistency of the project with the design approved during Concept Design Review and compliance with adopted conditions of approval.

**FISCAL IMPACT:**

There is no fiscal impact as a result of this action.

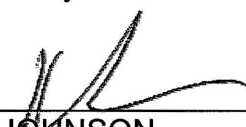
Respectfully submitted,

  
JENNIFER PAIGE, AICP  
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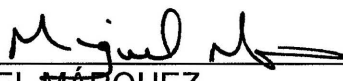
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Attachments (11):

- A. Findings of Consistency with Design Review and Tree Removal Findings
- B. Recommended Conditions of Approval
- C. Request for Appeal Application
- D. Concept Design Review Staff Report for the June 13, 2023 Design Commission Hearing (without attachments)
- E1. IS/MND – Public Comments, Responses to Comments, MMRP & Final IS
- E2. IS/MND – Air Quality, Cultural Resources, Energy & Geotech Technical Studies
- E3. IS/MND – Hazardous Materials Technical Study
- E4. IS/MND – Noise, 2020 Traffic, Utility, 2023 Traffic & Tree Technical Studies
- F. Concept Design Review Decision Letter dated June 14, 2023 (with Attachments)
- G. Development Plans
- H. Weblink to the Central District Specific Plan Private Realm Design Guidelines