



**MINUTES
FREMONT ZONING ADMINISTRATOR
REGULAR MEETING OF DECEMBER 12, 2023**

CALL TO ORDER: **Acting Zoning Administrator David Wage** called the meeting to order at 3:00 p.m.

PRESENT: Acting Zoning Administrator David Wage
Mark Hungerford, Senior Planner
Kim Salazar, Recording Clerk

**PUBLIC/ORAL
COMMUNICATION** None

PUBLIC HEARING ITEMS

Item 1. **FREMONT HUB MIXED-USE – 39150 Argonaut Way – (PLN2022-00487)** – To consider a Discretionary Design Review Permit to allow a proposed mixed-use development consisting of a freestanding 13,000-square-foot retail-pharmacy building with a drive-through lane and a six-story mixed-use building containing 314 apartment units and 14,157 square feet of retail-commercial space at 39150 Argonaut Way in the Central Community Plan Area, and to consider an exemption from the requirements of the California Environmental Quality Act (CEQA) pursuant to CEQA Guidelines Section 15183, as the project is consistent with the density established by the General Plan, for which an Environmental Impact Report (EIR) (SCH#2010082060) was previously prepared and certified, and CEQA Guidelines Sections 15162 and 15164, as none of the circumstances requiring preparation of a subsequent or supplemental EIR have occurred.

Senior Planner Mark Hungerford briefly spoke to the item. Since the public hearing notices were distributed, City staff received one email stating opposition to the project, and one phone message, also, stating opposition to the project. Additionally, a written challenge was received from Adams Broadwell Joseph and Cardozo (a law firm) asserting that the City’s CEQA conclusions were incorrect.

Acting Zoning Administrator David Wage opened the public hearing for this item.

Bryan Wenter, with Miller Starr Regalia (a law firm) representing the applicant (Kimco), spoke in response to the letter from Adams Broadwell Joseph and Cardozo. **Michael Strahs**, representing Kimco Realty, and his team were available for questions.

Joseph and Jan Valenti, Fremont residents, spoke in opposition of the project on the grounds of overcrowding, traffic, and safety.

Ariana Abedifard, representing East Bay Residents for Responsible Development, spoke in opposition of the project claiming that it does not comply with CEQA requirements, and on the grounds of environmental impacts.

Shawn Olyaie, representing Hub Valero (gas station), spoke in favor of the project.

Hoda Makar, Fremont resident, expressed concern over increased traffic and safety.

Acting Zoning Administrator David Wage closed the public hearing for this item, and took the following action on Item 1:

HELD PUBLIC HEARING;

AND

FOUND THAT NO FURTHER ENVIRONMENTAL REVIEW IS REQUIRED FOR THE PROJECT PURSUANT TO CEQA GUIDELINES SECTION 15183, AS THE PROJECT IS CONSISTENT WITH THE DENSITY ESTABLISHED BY THE GENERAL PLAN, FOR WHICH AN ENVIRONMENTAL IMPACT REPORT (EIR) (SCH#2010082060) WAS PREVIOUSLY PREPARED AND CERTIFIED, AND CEQA GUIDELINES SECTIONS 15162 AND 15164, AS NONE OF THE CIRCUMSTANCES REQUIRING PREPARATION OF A SUBSEQUENT OR SUPPLEMENTAL EIR HAVE OCCURRED;

AND

FOUND THE REQUESTED DISCRETIONARY DESIGN REVIEW PERMIT CONSISTENT WITH THE CITY'S GENERAL PLAN AND THAT THE PROPOSED SITE IS PHYSICALLY SUITABLE FOR THE TYPE, DENSITY, AND INTENSITY OF THE PROPOSED USE, WOULD BE COMPATIBLE WITH DEVELOPMENT IN THE VICINITY, AND WOULD NOT BE DETRIMENTAL TO THE PUBLIC HEALTH, SAFETY, OR WELFARE OF PERSONS OR PROPERTY IN THE VICINITY AS ENUMERATED WITHIN THE STAFF REPORT;

AND

APPROVED PLN2022-00487, AS SHOWN IN EXHIBIT "A," SUBJECT TO THE FINDINGS AND CONDITIONS CONTAINED IN EXHIBIT "B".

Item 1 was approved based on finding and subject to conditions.

Acting Zoning Administrator David Wage stated that if anyone sought to appeal this decision to the Planning Commission, pursuant to Fremont Municipal Code (FMC) Chapter 18.300, that appeals must be received no later than 5:00 p.m. on Friday, December 22, 2023, which is the tenth calendar day following this approval action. In accordance with FMC, failure to file a timely appeal may preclude any interested party from raising any issues in court. Appeals to the Planning Commission must be accompanied by an \$1,800 appeal deposit and letter that sets forth: (a) the action being appealed; (b) the facts and basis for the appeal; and (c) the relief or action sought.

Item 2. **GATEWAY PLAZA APARTMENTS – 39160 Paseo Padre Parkway – (PLN2023-00198)** – To consider a Discretionary Design Review Permit to allow a proposed five-story, 206-unit apartment building within the Gateway Plaza Shopping Center at 36190 Paseo Padre Parkway in the Central Community Plan Area, and to consider an exemption from the requirements of the California Environmental Quality Act (CEQA) pursuant to CEQA Guidelines Section 15332, Infill Development Projects, and a finding that no further environmental review is required pursuant to CEQA Guidelines Section 15183, as the project is consistent with the density established by the General Plan, for which an Environmental Impact Report (EIR) (SCH#2010082060) was previously prepared and certified, and CEQA Guidelines Sections 15162 and 15164, as none of the circumstances requiring preparation of a subsequent or supplemental EIR have occurred.

Senior Planner Mark Hungerford briefly spoke to the item. Since the public hearing notices were distributed, City staff received one phone call in opposition to the project. Additionally, a written challenge was received from Adams Broadwell Joseph and Cardozo asserting that the project’s CEQA conclusions were incorrect.

Acting Zoning Administrator David Wage opened the public hearing for this item.

Bryan Wenter, with Miller Starr Regalia representing the applicant (Kimco), briefly spoke to the conformity of the project. **Michael Strahs**, representing Kimco Realty, and his team were available for questions.

Rick Franco, representing East Bay Residents for Responsible Development, spoke in opposition of the project claiming that it does not comply with CEQA requirements, and on the grounds of environmental impacts.

Jim Griffin, Fremont resident and business owner, expressed concerns related to construction activity and increased parking for construction workers.

Senior Planner Mark Hungerford confirmed that a construction staging, and management plan was part of the Conditions of Approval for this item.

Acting Zoning Administrator David Wage closed the public hearing for this item and took the following action on Item 2:

HELD PUBLIC HEARING;

AND

FOUND THE PROJECT EXEMPT FROM THE REQUIREMENTS OF THE CALIFORNIA ENVIRONMENTAL QUALITY ACT (CEQA) PURSUANT TO CEQA GUIDELINES SECTION 15332, INFILL DEVELOPMENT PROJECTS, AND THAT NO FURTHER ENVIRONMENTAL REVIEW IS REQUIRED PURSUANT TO CEQA GUIDELINES SECTION 15183, AS THE PROJECT IS CONSISTENT WITH THE DENSITY ESTABLISHED BY THE GENERAL PLAN,

FOR WHICH AN ENVIRONMENTAL IMPACT REPORT (EIR) (SCH#2010082060) WAS PREVIOUSLY PREPARED AND CERTIFIED, AND CEQA GUIDELINES SECTIONS 15162 AND 15164, AS NONE OF THE CIRCUMSTANCES REQUIRING PREPARATION OF A SUBSEQUENT OR SUPPLEMENTAL EIR HAVE OCCURRED;

AND

FOUND THE REQUESTED DISCRETIONARY DESIGN REVIEW PERMIT CONSISTENT WITH THE CITY'S GENERAL PLAN AND THAT THE PROPOSED SITE IS PHYSICALLY SUITABLE FOR THE TYPE, DENSITY, AND INTENSITY OF THE PROPOSED USE, WOULD BE COMPATIBLE WITH DEVELOPMENT IN THE VICINITY, AND WOULD NOT BE DETRIMENTAL TO THE PUBLIC HEALTH, SAFETY, OR WELFARE OF PERSONS OR PROPERTY IN THE VICINITY AS ENUMERATED WITHIN THE STAFF REPORT;

AND

APPROVED PLN2023-00198, AS SHOWN IN EXHIBIT "A," SUBJECT TO THE FINDINGS AND CONDITIONS CONTAINED IN EXHIBIT "B".

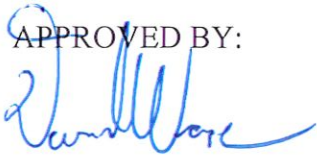
Item 2 was approved based on finding and subject to conditions.

Acting Zoning Administrator David Wage stated that if anyone sought to appeal this decision to the Planning Commission, pursuant to Fremont Municipal Code (FMC) Chapter 18.300, that appeals must be received no later than 5:00 p.m. on Friday, December 22, 2023, which is the tenth calendar day following this approval action. In accordance with FMC, failure to file a timely appeal may preclude any interested party from raising any issues in court. Appeals to the Planning Commission must be accompanied by an \$1,800 appeal deposit and letter that sets forth: (a) the action being appealed; (b) the facts and basis for the appeal; and (c) the relief or action sought.

ADJOURNMENT

Meeting adjourned at 3:44 p.m.

APPROVED BY:



David Wage
Acting Zoning Administrator