



AGENDA REPORT SUMMARY

Meeting Date: April 26, 2022

Subject: **376 First Street:** Consider Adoption of a Resolution Making Findings, Adopting a Categorical Exemption Under The California Environmental Quality Act, and Approving the Design Review, and Subdivision Applications for a Fifteen-Unit Multiple Family Project at 376 First Street (S. Golden)

Prepared by: Steve Golden, Interim Planning Services Manager

Reviewed by: Laura Simpson, Interim Community Development Dir

Approved by: Gabriel Engeland, City Manager

Attachment(s):

1. Resolution No. 2022-XX
2. Planning Commission Meeting Minutes, February 17, 2022 (Excerpt)
3. Planning Commission Agenda Report, February 17, 2022
4. Public Correspondence
5. Project Design Plans

Initiated by:

Ismail Jan Unlu, Property Owner and Applicant

Previous Council Consideration:

None

Fiscal Impact:

There is no negative fiscal impact to the City for this project. Payment of Traffic Impact, Park In-lieu Fee and Public Art In-lieu Fee will be required to be paid per Municipal Code requirements.

Environmental Review:

This project is recommended to be categorically exempt from environmental review under Section 15332 (Class 32) of the California Environmental Quality Act ("CEQA") because it is an in-fill development on a site in an urban setting that is under five-acres in size that is substantially surrounded by urban uses and does not contain significant natural habitat for endangered species (in that the project site is already developed with urban uses). The development proposal is consistent with the General Plan and Zoning Ordinance, as set forth in this staff report does not result in any significant effects related to traffic, noise, air or water quality, and is adequately served by all required utilities and public services, and none of the exceptions stated in CEQA

Reviewed By:

City Manager

City Attorney

Finance Director

GE

JH

JE



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Guidelines Section 15300.2 to applicability of the exemption are present. More detailed information regarding the Class 32 exemption is contained in Attachment B of the Planning Commission Agenda Report (Attachment 3).

Policy Question(s) for Council Consideration:

- Is the proposal of three income restricted units at the moderate rate level (20% affordable) in exchange for concessions to increase the building height and a reduction in the required landscaping area in the front yard area, and development waivers to extend the building's elevator beyond the allowable height exception in the zoning ordinance, an encroachment into the horizontal and vertical clear space required for installing mechanical parking lifts, and an encroachment into the front setback area, and a parking requirement alteration consistent with State Law and the City's Affordable Housing Ordinance?
- Does the proposal meet the required findings for design review and subdivision per the Los Altos Municipal Code?

Summary:

- The Project includes the demolition of a one-story 3,600 square-foot commercial building and construction of a new four-story multiple-family building with 15 condominium units, one level of underground parking with 23 parking spaces using mechanical parking lifts, 12 bicycle parking spaces, and a common useable rooftop area. The Applicant will dedicate a one-foot wide public ingress/egress easement to increase the width of the sidewalk and install a public sidewalk along the frontage of First Street that will conform to city standards.
- The Applicant is offering three affordable units at the Moderate income level in exchange for two "off-menu" concessions to allow for increased height and for a reduction in the required 60% soft surfaces (landscaping) in the front yard. The applicant also requests development waivers to extend the building's elevator height beyond the allowable height exception in the zoning ordinance, an encroachment into the horizontal and vertical clear space required for installing mechanical parking lifts, and an encroachment into the front setback area. A reduction in parking requirements pursuant to State Density Bonus allowances is also requested.
- A tentative parcel map and design review approval is required for the project.
- The Complete Streets Commission and the Planning Commission have reviewed the proposal at public meetings and recommend approval of the project.

Staff Recommendation:

Approve tentative parcel map application TM19-0004 and design review permit application D19-0009 to construct a 15 unit four-story multiple-family residential condominium development project subject to the findings and conditions contained in the draft resolution (Attachment 1).



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Purpose

To review and consider a request for a tentative parcel map and design review permit to allow for the construction of a 15 unit four-story multiple-family residential condominium development project.

Background

Site Setting

This is a development proposal that includes Design Review and Subdivision Tentative Map applications for a new 15 unit four-story multiple-family residential building on a 0.20-acre (8,670 square foot) parcel at 376 First Street. The project site is designated as Downtown Commercial in the General Plan and zoned Commercial Downtown/Multiple Family (CD/R3). The existing site, which is located on the southwest side of First Street between Whitney and Lyell Streets, includes a 3,600 square foot one-story commercial building that is used as a restaurant. The remaining portion of the lot is covered with surface parking and minimal landscaping. The current site obtains access to First Street from two driveways abutting the side property lines. An asphalt walkway exists along the entire lot frontage, but doesn't conform to a standard public sidewalk. A 15-foot wide parcel owned by the County of Santa Clara abuts the property to the rear and is adjacent to the Foothill Expressway right-of-way.

The Planning Commission Agenda Report contains the project's technical details and primary site development standards (Attachment 3).

SB330 & Housing Accountability Act

Development project applications submitted after January 1, 2020 are subject to SB-330, the Housing Crisis Act of 2019. The application was submitted on December 18, 2019; therefore, the project is not considered an SB330 project, but it is subject to the Housing Accountability Act, Government Code Section 65589.5 ("HAA"). As such, because the Project complies with applicable objective standards, it cannot be denied, approved at a lower density, or conditioned in a manner that reduces density, unless the City Council makes a finding of a specific, adverse health or safety impact that cannot be lessened or avoided through conditions of approval. Staff is not aware of circumstances that would support such a finding.

Complete Streets Commission

On December 1, 2021, the Complete Streets Commission (CSC) held a public meeting to consider the Project. Pursuant to Section 14.78.090 of the Zoning Code, an application for City Council design review shall be subject to a multimodal transportation review and recommendation to the Planning Commission and City Council by the Complete Streets Commission as part of the approval process in order to assess potential project impacts to various modes of transportation



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such as but not limited to bicycle, pedestrian, parking, traffic impacts on public streets, and/or public transportation. The CSC members expressed the following concerns regarding the project:

- The use of mechanical lift systems including backup power requirements and other maintenance activities, and resident acceptance/use of mechanical systems;
- Queuing of cars on the street at driveway entrance. Requested 18 feet between the garage door and the face of the curb and a maximum garage door opening time of 15 seconds to reduce vehicle and pedestrian conflicts;
- Visibility at the top and bottom of ramp for on-coming cars and pedestrians at street level;
- Not enough bike parking spaces for all residents and the inclusion of electrical power to the Class I parking area; and
- Concern regarding the number of vehicle parking spaces and potential spillover onto First Street and other parking areas (however, commission was made aware of the reduced number of parking spaces required imposed by State Housing Density Bonus regulations).

Following the discussion, the CSC voted 4-3 to recommend approval of the Project to the Planning Commission and City Council. The CSC agenda report is contained in Attachment E of the Planning Commission agenda report (Attachment 3). The Applicant has revised the design plans, adding two additional Class I bicycle parking spaces (12 total spaces) and electrical outlets in the bike storage room for e-bike charging.

Story Pole Installation

Pursuant to the City Council Policy, the Applicant installed story poles per the approved plans as verified by the Applicant's civil engineer/surveyor on January 24, 2022, as found in the certification letter included in Attachment F of the Planning Commission agenda report (Attachment 3).

Planning Commission

On February 17, 2022, the Planning Commission held a public hearing to consider the proposed project including the tentative parcel map and design review applications. The Commission voted unanimously to recommend approval of the subdivision with conditions to modify the design as follows:

- Provide a horizontal break from the second story finished floor to the roof feature and the same at the stair tower;
- Visually break up the vertical elevator overrun at roof deck; and
- Add different exterior materials to soften and break up the vertical massing.

The applicant's efforts to address these concerns are addressed later in this report.



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The Planning Commission meeting minutes and agenda report are included as Attachments 2 and 3.

Discussion/Analysis

The Applicant proposes to demolish the existing building and construct a four-story building with 15 for sale residential condominium units, one level of underground parking with 23 parking spaces including electric vehicle charging, 12 bicycle parking spaces with power outlets for electric bicycle charging, and a common useable rooftop area (Project). The existing driveway located at the northern project boundary will provide access to the underground garage. The Project will install a public sidewalk along First Street that will conform to City standards. The Applicant is offering three affordable units at the moderate-income level (20% of base density); therefore, the Project is eligible for up to two development concessions per State Density Bonus Law and Section 14.28.040 of the Multiple Family Affordable Housing Ordinance. The Applicant is requesting “off-menu” concessions to increase the building height and a reduction in the required landscaping area in the front yard area. The Applicant is also requesting development waivers to extend the building’s elevator beyond the allowable height exception in the zoning ordinance, an encroachment into the horizontal and vertical clear space required for installing mechanical parking lifts, and an encroachment into the front setback area. Additionally, the applicant is requesting a reduced number of parking spaces pursuant to the State Density Bonus and Affordable Housing Ordinance.

General Plan Conformance

The proposed Resolution (Attachment 2) and Planning Commission agenda report (Attachment 3) provides findings and details how the proposed project conforms to the General Plan. This includes the project’s conformance with the goals and policies for the Downtown designated Special Land Use Area in the Land Use Element, Community Design & Historic Resources Element, Economic Development Element and Housing Element. Furthermore, the proposed project supports the overall goals of the Downtown Vision Plan, since it seeks to redevelop the site and provide for more intense residential density, which is anticipated and encouraged in the Downtown. As discussed in other sections of this report and the Planning Commission Report, the Project proposes affordable housing, improvements to the pedestrian environment, Class II bicycle parking at the streetscape, which is consistent with the Downtown Vision Plan and First Street Corridor objectives, and the height of the proposed building is consistent with other approved buildings on First Street.

Zoning District and Other Development Standards

Objective Development Standards

The proposed Project is within the CD/R3 Zoning District. As detailed in the Planning Commission Agenda Report (Attachment 3), the Project is consistent with applicable objective development standards if requested concessions and waivers are granted. The front yard setback



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at the ground story is 11 feet, but the upper stories (2nd-4th) have an 8.4-foot setback, whereas ten feet is required. The front setback is being measured from the property line, however, a one-foot pedestrian access easement along the front of the property will be added to the existing street width consistent with other recent approved projects along First Street to functionally increase the sidewalk width. The 8.4-foot front yard setback does not comply with the Zoning District standards; however the applicant requests a development waiver pursuant to Density Bonus Law (see further discussion below).

Pursuant to Section 14.52.060 of the Municipal Code, the Project is required to provide a minimum 60% of softscape surfaces (plant material) within the front and rear landscaped yard areas. The Applicant is providing approximately 60% of the rear yard area with softscape surfaces, however the front yard has only approximately 20% of the yard area landscaped. The Applicant is requesting a development concession pursuant to State Density Bonus Law and the Affordable Housing Ordinance to reduce the amount of landscaping required as discussed in the Density Bonus Report submitted by the Applicant (Attachment F in the Planning Commission Agenda Report). According to the report, a substantial increase in the setback would be necessary in order to provide the required the amount of landscaping and to accommodate other elements such as the trash staging area, walkways, and the underground garage ramp. Staff also notes that on other similar projects along First Street, utility features and clearance requirements from utility services can also conflict with landscaping.

Pursuant to the CD/R3 Zoning District, the maximum allowable building height is 35 feet. Section 14.66.230 of the Zoning Code defines building height as the measurement from the grade to the top of the roof deck for a flat roof and the measurement from the grade to the height of the midpoint between the top plate and ridge for a gable roof. Staff has provided a variety of building height measurements according to this definition in the table within the Planning Commission Agenda Report. The Zoning Code doesn't address trellis features proposed on top of a main building structure as a separate accessory structure; therefore, staff determined that the top of the trellis feature should be considered the top roof deck. The measurement from grade to the top of the trellis feature is 55.1 feet. This exceeds the maximum building of 35 feet; however, the Applicant requests to utilize a second development concession pursuant to State Density Bonus Law and the Affordable Housing Ordinance to increase the allowable height (further discussed below).

When considering the trellis feature as the height of the building as outlined above, the stairwell feature is 0.4 feet taller and the elevator override is 6.6 feet taller than the height of the building whereas a 12-foot height exception is allowed (Section 14.66.240(F) of the Municipal Code). The Applicant's Density Bonus Report includes a development waiver request for an elevator height in excess of the height exception, however the report assumes the building height measurement to the main roof deck at 46.7 feet in height is applicable. In addition, height exceptions are also allowed for mechanical equipment required to operate and maintain the building pursuant to



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Section 14.66.240(E) and for photovoltaic panels up to 12 feet in height.¹ The roof deck plan shows mechanical equipment such as condensers and photovoltaic panels.

CD/R3 District Design Controls

As discussed further in the Planning Commission Agenda Report (Attachment 3), the final set of design plans was accepted prior to Ordinance 2021-478 (Design Controls that effectively adopted objective design standards) went into effect and therefore is subject to Ordinance 10-346, which was the effective district design controls at that time. Below is a summary of how the project addresses the Design Controls and are further detailed in the resolution (Attachment 1).

- In terms of size and bulk, the building is divided into smaller elements using building articulation with vertical building wall planes being recessed or projected as well as balcony bays being recessed with some balcony elements projecting outward. The articulation provides for visual interest and breaks up the building into 20-25 foot wide sections;
- The first floor is recessed and has a greater front yard setback than the upper stories which creates a horizontal element that separates the first floor from the upper floors;
- The primary access to the building is along the front with direct access to the public sidewalk. The front entry is recessed and designed at a human scale. The front façade, entries, and pedestrian scaled features contributes to the streetscape environment of the Downtown;
- The Project includes landscape features at the street level and enhances the pedestrian environment by constructing a public sidewalk that is wider than the minimum required;
- A significant portion of the front façade includes window glazing and/or entrances;
- On-site parking improvements and parking spaces are provided that exceed the requirements of the State Density Bonus Laws; and
- The rooftop mechanical equipment is screened from public view and from adjacent building located at the same level.

However, in their review and approval of the proposed project, the Planning Commission recommended specific design changes for the Applicant to incorporate into the design in order to

¹ Rooftop mechanical equipment is limited to 4% of the overall rooftop area, whereas photovoltaic panels are excluded from this limitation.



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make positive design findings to address some of the design control elements found above. Those recommendations can be found in the Background – Planning Commission section above.

The Applicant has revised the design and incorporated the following design changes to the building exterior to address the Planning Commission’s concerns as follows. The Applicant has noted to staff that where feasible, the below revisions have been reflected in elevation plans and renderings in the design plans (Attachment 5) except the photo simulations

- Revised the East Elevation (First Street Elevation) to add more horizontality to the gabled bays by adding additional trim around the fourth story windows and a white-wash gray stain color to the wood siding between the windows (Sheet A.13). The Applicant suggests this change to mitigate the height of the gable bays and create a smaller scale by separating the second and third floors from the fourth floor.
- Revised the West Elevation by increasing the width of the kitchen windows in the middle stucco wall to reduce the amount of plaster on the façade (Sheet A.14).
- Revised the South Elevation by increasing the amount of wood siding on the stair tower and by reintroducing the white-wash gray stain color to the siding in this location to mitigate the perception of bulk. The Applicant suggests the interplay of the natural cedar color and the white-wash gray cedar will have an elegant appearance and give the stair tower a unique character and tie it to the bold sliding shutter details on the fourth floor. The portions of the stair tower that are plaster have also been revised to a lighter gray color. The width of the white plaster adjacent to the light gray elements was widened to further soften and relax the façade. The windows at the SW corner have also been increased in size (Sheet A.16).
- An awning detail above the elevator doors on the rooftop was added. The awning will protect the doors at the terrace level and define the rooftop access arrival point and scale down the tower height at the terrace level.

Parking

With regards to parking, the project is eligible for parking reduction provisions pursuant to State Density Bonus Laws. The Applicant proposes a total of 23 parking spaces in one level of underground parking accessed from a driveway directly from First Street, whereas 19 spaces are required per the State Density Bonus Laws. The Planning Commission Agenda Report (Attachment 3) provides more detail for the required parking requirement calculation. Three of the 23 spaces including an accessible parking space are standard at-grade parking stalls and 20 parking spaces are proposed to be on a mechanical parking puzzle lift. The mechanical lift system is comprised of a three-level system with one level designed in a sub-grade area. The Zoning Code requires that parking spaces be a minimum of nine feet in width and 18 feet in length, clear of any encroachments from pillars or structural elements. Since the mechanical lift system encroaches into this clear space, the Applicant is requesting a development waiver pursuant to Chapter 14.28 Multiple-Family Affordable Housing, consistent with State Density Bonus Law to enable the



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installation of the parking lift system. This is a similar requested development waiver that other recent projects have pursued including the mixed-use project at 389 First Street and the multiple family project at 425 First Street to install mechanical parking lifts.

Design Review

To approve the project as proposed by the applicant, the City Council must make positive design review findings as outlined in Section 14.78.060 of the Municipal Code. These design review findings are summarized as follows:

- The project meets the goals, policies and objectives of the General Plan and complies with any Zoning Code design criteria for the CD/R3 District;
- The project has architectural integrity and an appropriate relationship with other structures in the immediate area in terms of height, bulk and design;
- The horizontal and vertical building mass is articulated to relate to the human scale; it has variation and depth of building elevations to avoid large blank walls; and the residential elements that signal habitation such as entrances, stairs, porches, bays and balconies;
- The exterior materials that convey high quality, integrity, permanence and durability, and materials are used effectively to define building elements such as base, body, parapets, bays, arcades and structural elements; and the materials, finishes, and colors have been used in a manner that serves to reduce the perceived appearance of height, bulk and mass, and are harmonious with other structures in the immediate area;
- The landscaping is generous and inviting, the landscape and hardscape complements the building and is well integrated with the building architecture and surrounding streetscape, and the landscape includes substantial street tree canopy;
- Any signage is appropriately designed to complement the building architecture;
- Mechanical equipment is screened from public view and the screening is designed to be consistent with the building architecture in form, material and detailing; and
- Service, trash and utility areas are screened from public view, or are enclosed in structures that are consistent with the building architecture in materials and detailing.

As discussed previously, the Planning Commission recommended specific design changes for the Applicant to incorporate into the design in order to make positive design findings. Those recommendations can be found in the Background – Planning Commission section above. To address those recommendations, the Applicant has made changes to the design plans that are described in the section Zoning District and Other Development Standards - CD/R3 District Design Controls found above.

With the incorporation of the Planning Commission’s recommendations and further design changes by the Applicant, overall, as evidenced in the discussion in the Planning Commission



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Agenda Report and as further supported by the findings contained in Exhibit A of the resolution (Attachment 1), the project appears to meet the City's required design review findings.

Affordable Housing – Density Bonus, Development Incentives and Waivers, and Reduced Parking

The CD/R3 Zoning District does not establish a maximum density. The Applicant created a theoretical “base” project using an average unit size and designed a theoretical project that fit within the setbacks and building height requirements (Attachment F of the Planning Commission Agenda Report, Attachment 3). The theoretical base project resulted in a 12-unit project. The Applicant is offering three moderate rate income restricted affordable units or 25 percent of the Project's units which entitles the developer to a density bonus of 20 percent or 2.4 units pursuant (15 units total) to State Density Bonus Law and the Multiple Family Affordable Housing Ordinance.² The three moderate rate income restricted units also complies with the minimum requirements stipulated in Chapter 14.28 Multiple-Family Affordable Housing for development projects greater than ten units which states that the project must provide at least 15 percent affordable with the majority being moderate. The 15-unit project consists of eight one-bedroom units and seven two-bedroom units and the Applicant proposes the moderate rate units to be 2 one-bedroom units and 1 one-bedroom unit consistent with the requirement of offering a similar ratio of affordable units.

Since the Project is providing at least twenty percent of its units restricted at the moderate-income level, it qualifies for two concessions per State Density Bonus Law and Chapter 14.28 Multiple Family Affordable Housing. The Applicant is seeking: 1) a height concession to allow the Project to exceed the maximum height limit of 35 feet by 20.1 feet for a total building height of 55.1 feet, which would be considered “off-menu”; and 2) a reduction to the 60% required landscaping area in the front yard to 20%.

Under state law and city ordinance, the City must grant the requested concessions unless it can make specific negative findings. Since the project is requesting “off-menu” incentives, one of the following findings would need to be made to deny the requests:

- The concession or incentive would have a specific, adverse impact 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;
- The concession or incentive does not result in identifiable and actual cost reductions, consistent with the definition of “concession” or “incentive,” to provide for affordable

² The Project was accepted prior to the adoption of Ordinance 2022-485 that is now effective, which amended inclusionary affordable housing requirements.



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housing costs, as defined in Health & Safety Section 50052.5, or for rents for the targeted units to be set as specified in subsection (I); or

- The concession or incentive would be contrary to state or federal law.

The Applicant is also seeking three development waivers that are needed to construct the Project and do not require use of an incentive or concession. The Applicant requests: 1) to extend the height of building's elevator beyond the allowable height in the zoning ordinance; 2) an encroachment into the 18 feet by nine-foot horizontal clearance and seven-foot vertical clearance for parking space required pursuant to Section 14.74.200.A for installing mechanical parking lifts; and 3) a front yard setback of 8.4 feet, whereas 10 feet is required.

Pursuant to state law and city ordinance, the City must grant a requested waiver or development standard reduction unless it can make one or more the following findings:

- The waiver or reduced development standard would not have the effect of physically precluding the construction of a development meeting the criteria of this section at the densities or with the incentives permitted under this section.
- The waiver or reduced development standard would have a specific, adverse impact upon health, safety, or the physical environment, and for which there is no feasible method to satisfactorily mitigate or avoid the specific adverse impact.
- The waiver or reduced development standard would have an adverse impact on any real property that is listed in the California Register of Historical Resources.
- The waiver or reduced development standard would be contrary to state or federal law.

In support of the request regarding the development concessions and waivers, the Applicant has included information in their Density Bonus Report, which is included in Attachment F of the Planning Commission Agenda Report (Attachment 3).

Also, as described in the Zoning section above, the Project is eligible for the alternative parking standards specified in Section 14.28.040(G) of the Zoning Code and State Density Bonus Law. Based on these standards, the project is required to provide one parking space for each one-bedroom unit and 1.5 parking spaces for each two-bedroom unit, which results in a minimum of 19 required on-site parking spaces. The Project is providing a total of 23 parking spaces in one underground parking level that exceeds the minimum parking spaces provided.

Density Bonus Findings

Based on the information provided above and further detailed in the Applicant's Density Bonus Report, the Project is eligible for two development concessions, development waivers, and alternative parking ratios pursuant to State Density Bonus Laws and the Multiple Family Affordable Housing Ordinance and staff has determined that none of the findings to deny the



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requests outlined above can be made. The draft resolution contains findings consistent with the above information.

Subdivision

The project includes a Tentative Map to create one lot for further subdivision with a condominium plan. The recording of a subsequent condominium plan would further allow for division of the air space for the 15 residential units as well as assign below grade parking spaces and other common areas. As outlined in the draft Resolution (Attachment 1), positive findings can be made that the subdivision is in compliance with the General Plan, is physically suitable for this type and density of development, is not likely to cause substantial environmental damage or substantially and avoidably injure fish or wildlife or their habitat, is not injurious to public health and safety, and provides proper access easements for ingress, egress, public utilities and public services.

Soil Vapor Contamination

A specific condition of approval is contained in the draft resolution to address potential soil and soil vapor contamination that may impact the subject site (Condition #9). The site itself is not the origin of the chemical(s) of concern, however the abutting site at 392 First Street has an “Active” regulatory cleanup site status and has recently come under Local Oversight registered with the County of Santa Clara Department of Environmental Health. Elevated levels of tetrachloroethylene (PCE) among other volatile organic compounds (VOCs) that were collected in soil vapor samples above maximum exposure levels for residential and commercial use were detected in the soil of the subject site. The condition will require that the property owner seek Local Oversight since the city doesn’t have expertise or regulatory oversight to determine the need for site controls, soil management and disposal, and other protection for construction workers and future residents. This is not considered an issue under the California Environmental Quality Act (CEQA) because the project is not creating the environmental impact, rather the existing environmental concern is impacting the project.

Options

- 1) Approve Resolution No. 2022-XX

Advantages: The project will replace an underdeveloped commercial property with a high-quality multiple-family development that helps the City meet its goals for producing new housing units, both affordable and market rate, and is supportive of the goals of the Downtown Vision Plan.

Disadvantages: The amount of commercial office space along First Street will be reduced in size.

- 2) Do not approve Resolution No. 2020-XX



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Advantages: The existing commercial building on the site will be maintained

Disadvantages: The City will not make any progress on achieving its goals for the production of new housing units and implementation of the Downtown Vision Plan. The non-conforming sidewalk along the frontage of the project will not be replaced with a standard city sidewalk.

Recommendation

The staff recommends Option 1.