



CITY COUNCIL AGENDA STATEMENT



May 26, 2020

File ID: 20-0188

TITLE

CONSIDERATION OF APPROVING THE REVISED PROJECT DESIGN FOR THE THIRD & K PROJECT BY CASA 795 LLC AND ASSOCIATED STREET ENCROACHMENT MAINTENANCE AGREEMENT

A. RESOLUTION OF THE CITY COUNCIL OF THE CITY OF CHULA VISTA APPROVING STAFF'S DETERMINATION THAT THE PROPOSED PROJECT SUBSTANTIALLY CONFORMS TO THE VISTA DEL MAR PROJECT APPROVED BY CITY COUNCIL ON AUGUST 16, 2016

B. RESOLUTION OF THE CITY COUNCIL OF THE CITY OF CHULA VISTA APPROVING THE GRANT OF AN ENCROACHMENT PERMIT TO ALLOW THE CONSTRUCTION AND MAINTENANCE OF A SUBSURFACE BUILDING ENCROACHMENT 3.5 FEET BELOW STREET LEVEL ENCROACHING 10 FEET WITHIN THE CITY RIGHT OF WAY OF K STREET, AND AN ENCROACHMENT MAINTENANCE AGREEMENT THEREFOR

RECOMMENDED ACTION

Council conduct the public hearing and adopt the resolutions.

SUMMARY

The Vista Del Mar residential condominium project located at the northeast corner of Third Avenue and K Street was approved by City Council on August 16, 2016 by Resolution No. 2016-177 (File ID No. 16-0372). The Council action was challenged in San Diego Superior Court and Council's approval was upheld. The Superior Court's decision was then appealed to the Fourth District Court of Appeals of California and on February 6, 2019 the City's approval of the project was upheld. The applicant then proceeded to apply for and obtain a final map and permits for grading, public improvements and began construction.

The property owner then sold the project to CASA 795 LLC (James Pieri, Managing Member and Applicant) who is proposing to convert the project into a senior citizen rental housing development with 11% on-site very low income, affordable units (Project). As a result of this change and in order to provide the affordable housing, the new owner has proposed design changes to the project that staff have determined to be in substantial conformance with the original approval based on current California housing laws. One of these changes, a modification to the below grade parking structure, requires City Council approval of an encroachment permit and maintenance agreement pursuant to Chapter 12.28 of the Chula Vista Municipal Code (CVMC). The project is also subject to the consolidated permit processing provisions pursuant to CVMC Section 19.14.050.C. Under the consolidated review process, the City Council is reviewing and acting on the substantial conformance review and the Encroachment Maintenance Agreement.

ENVIRONMENTAL REVIEW

The Development Services Director has reviewed the proposed Project for compliance with the California Environmental Quality Act (CEQA) and has determined that the proposed Project was adequately covered in the previously adopted Urban Core Specific Plan (UCSP) Final Environmental Impact Report and Mitigation Monitoring and Reporting Program FEIR 06-01, certified by the Chula Vista City Council in May 2007 and the addendum to UCSP FEIR 06-01 adopted by City Council on August 16, 2016.

In addition, in accordance with California Government Code Section 65457 (a), the proposed residential development project is being undertaken to implement and is consistent with the UCSP, and the environmental impact report (FEIR 06-01) was certified in May 2007 (after January 1, 1980). As a result, the proposed project is exempt from the requirements of Division 13 (commencing with Section 21000) of the Public Resources Code (California Environmental Quality Act).

BOARD/COMMISSION/COMMITTEE RECOMMENDATION

N/A

DISCUSSION

Location and Existing Site Characteristics

The site for the proposed Project is in the C1 Third Avenue South District of the UCSP. This District consists of several blocks of Third Avenue frontage that are located between I and L Streets. The District has an area of approximately 53 acres. It consists primarily of professional offices north of J Street, and a mix of retail and professional office uses south of J Street. Among these office and retail uses are six sites, that include, a residential development mixed with commercial fronting on Third Avenue including one single-family home, small and mid-size condominium complexes, and a senior housing complex that contains 75 residential units. Behind these frontage developments are single-family homes (east of Third Avenue along Church Avenue) and multi-family complexes (west of Third Avenue).

The Site for the proposed Project consists of one assessor's parcel (573-371-25-00) with a total area of 45,738 square-feet (1.05 acres). The Site is currently a flat vacant site with an L-shape form, and fronts along Third Avenue, K Street and backs onto Church Avenue. The Site is in the fully urbanized area of the City that is part of the Urban Core. The Site is surrounded by a variety of commercial retail, restaurant and office uses along Third Avenue; across K Street from the Site is a bank; and to the north and east across Church Avenue are single-family homes.

Following is a review of the proposed substantial conformance and encroachment agreement.

Substantial Conformance

The revisions to the proposed project were in response to the previously approved project owner's inability to finance construction. The new owners, through this proposed change to a senior citizen housing development, the increased density from 71 to 142 units, and the development standard concessions afforded by State density bonus law have made the project viable.

This requested revision qualifies for State Density Bonus provisions under California Government Code (CGC) § 65915 and CVMC Chapter 19.90 that promote affordable housing through the use of density bonus, incentives or concessions, waivers or reductions to development standards, and/or reduced parking ratios. Pursuant to the State Density Bonus Law and CVMC Chapter 19.90, the Applicant will provide 16 affordable rental units for very low-income households and therefore, is requesting a waiver from the floor area ratio

standards of the UCSP and use of the specified parking ratios in the CGC. The basis for reviewing this change through substantial conformance review is a result of the application of CGC. All the proposed project changes are the result of concessions requested by the applicant in order to deliver the project providing affordable housing. Per CGC § 65915(j)(1), the granting of a concession or incentive shall not require or be interpreted to require a general plan amendment, local coastal plan amendment, zoning change, study, or other discretionary approval.

In addition, the entirety of the action must also be found to be consistent with the Housing Accountability Act. Although the City Council retains discretion to act on the Project, that discretion must be consistent with the Housing Accountability Act (the “HAA” or “Act”) found in CGC § 65589.5. The HAA applies to all housing development projects, whether affordable, market rate, or mixed use. The HAA restricts a city’s ability to deny, reduce the density of, or make infeasible housing developments that are consistent with objective general plan, zoning, subdivision, and design review standards. The burden of proof is placed on the City to justify such actions based upon the following:

Written and specific findings that the project would have “the specific, adverse impacts” defined as “a significant, quantifiable, direct, and unavoidable impact, based on objective, identified written public health or safety standards, policies, or conditions as they existed on the date the application was deemed complete” to public health and safety as supported by a preponderance of the evidence on the record; and such action is necessary to mitigate such specific and adverse impacts (CGC § 65589.5(j)).

Because the Project requires a Council action to approve the encroachment for the below grade parking structure under the public right-of-way, the substantial conformance determination (normally made at staff level) has been consolidated into one action pursuant to CVMC Section 19.14.050.C. Below is the substantial conformance analysis for the development standards; architecture and site design; and transportation aspects of the proposed project revisions.

Development Standards

The Project consists of revisions to the design of the originally approved Vista Del Mar mixed use residential condominium project. The revisions maintain the approved maximum 5 story mixed use residential development with a conversion of the residential units to a senior citizen housing complex with 11% of the units being reserved for residents with very low-income levels. The proposed revisions include an increase in residential units from 71 condominiums to 142 apartments and an increase in floor area from 91,345 square feet to 128,865 square feet. The adopted UCSP is a form-based code and has no provisions for maximum density, so the only development limitations are the development standards. Table 1 below shows the USCP C-1 Third Avenue South Neighborhood Transition Combining District development standards with a comparison of the approved Vista Del Mar project and the proposed project as revised.

TABLE 1

| Development Standard | C-1 District | Approved Project | Proposed Project |
|---|---|--|---|
| Building Height | 60 ft. Max. + Architectural Features ⁽¹⁾ | 34 - 60 feet - No Architectural Features | 53 – 60 feet + 3.5 and 12.75 feet Architectural Features ⁽¹⁾ |
| Building Setbacks: Front: North Side: | 10 feet 0 feet; 10 feet | 10 feet 0 feet; 13 feet | 10 feet 5 feet; 25 feet |

TABLE 1

| Development Standard | C-1 District | Approved Project | Proposed Project |
|---------------------------------------|---|--|--|
| South Side: Rear (East): | 10 feet 10 feet and 0 feet along street | 10 feet 10 feet and 5 feet along street | 10 feet 58 feet and 6 feet along street |
| Building Floor Area Ratio (FAR): | Base: 1.0 (45,738 sq. ft.) Incentive bonus: 0.5 (22,869 sq. ft.) Dev. Exception: Allowed w/findings | Base: 1.0 Incentive bonus: 0.5 Dev. Exception: 0.5 (22,738 sq. ft.) ⁽²⁾ | Base: 1.0 Incentive bonus: 0.5 Dev. Concession: 0.82 (37,389 sq. ft.) ⁽³⁾ |
| Parking Required/ Parking Proposed | Depends on unit type and bedroom Mix | 128 spaces /142 spaces | 90 spaces ⁽⁴⁾ /142 spaces |
| Open Space | No amount required by C1 District regulations. | 17,646 sq. ft. | 15,029 sq. ft. |
| Landscaping | 15% Min (Landscape manual = 6,861 sq. ft.) | 19% (8,500 sq. ft.) | 24% (11,138 sq. ft.) |

Table 1 Footnotes:

- (1) The UCSP development regulation building height is measured from finish grade to top of roof, not including parapets or other architectural features. The proposed project has an elevator tower that extends 12.75 feet above the 60-foot height limit and loft projections to support solar panels that extend 3.5 feet above the 60-foot height limit and are considered architectural features.
- (2) The UCSP allows exceptions to be made to development regulations including FAR. City Council approved the original Vista Del Mar project with a 0.5 FAR development exception above the base plus the base and incentive bonus granted automatically by the UCSP.
- (3) The proposed project, being a senior citizen housing development and providing 11% very low-income restricted units is granted automatic concessions to local development standards by California Government Code (GC) Section 65915. Per the GC “development standard” includes a site or construction condition, including, but not limited to a height limitation a setback requirement, a floor area ratio an onsite open-space requirement, or a parking ratio that applies to a residential development pursuant to any ordinance, general plan element, specific plan, charter, or other local condition, law, policy, resolution, or regulation.
- (4) The proposed project is providing 11% very low-income restricted units and is located within ½ mile of a major transit stop. As a result the parking standard is established by California Government Code (CGC) Section 65915. Per the CGC the parking ratio for the proposed project is 0.5 spaces per bedroom (179 bedrooms x 0.5 = 90 parking spaces). This ratio per the CGC includes handicapped and guest parking. The project, therefore, has a surplus of 52 parking spaces.

The revised Project maintains a mix of one- and two-bedroom units ranging from studios (28) from 235-468 square feet in size; one-bedroom units (81) from 278-812 square feet in size; and two-bedroom units (35) at 812 square feet in size. The previously approved Vista Del Mar condominium project had larger one-bedroom units (31) averaging 730 square feet in size and two-bedroom units averaging 1,150 square feet in size. The proposed Project maintains similar amenity spaces with a 1,046-square-foot residential fitness center, 912-square-feet of lobby and elevator space, and 275 square-feet of commercial space. In addition, there is a 405-square foot yoga room, 920-square foot multi-purpose room, 280-square foot area with meeting rooms, 1,408-square foot activity room, 265-square foot leasing office, and an 828-square foot roof deck multi-purpose room. The revised project has more than 1,000 square feet additional amenity space.

The Project also includes the construction of 142 parking spaces (subterranean) where the Vista Del Mar project had both at-grade and above-grade structured parking. Like the previously approved condominium

project, the proposed project provides open space in the form of balconies in most units and a large outside landscaped open space. The approved Vista Del Mar project provided its open space on a second-floor terrace of the building that was located at the 10-foot minimum setback line directly adjacent to the single-family properties along the rear of the development. In the revised Project, this outdoor terrace has been eliminated and replaced by a ground level landscaped area, thereby eliminating one of the more controversial aspects of the previously approved project. A six-foot high concrete decorative wall will still be constructed along the northern and eastern property edges of the residential properties adjacent to the Project Site.

Project Architecture and Site Design

The proposed Project's architecture and site design is like the previously approved Vista Del Mar project in that it is contemporary and provides an urban face to development within the C1 Corridor area, while maintaining an architectural design consistency with the surrounding neighborhood styles. The revised Project at this important corner of the Third Avenue District also creates a people activated, urban corner that contributes to the City's goal of "Complete Streets" and enhances the public realm through improved streetscape design and individual building character. (A complete street is a safe, accessible, and convenient street for all users regardless of transportation mode, age, or physical ability. Complete streets adequately provide for bicyclists, pedestrians, transit riders, and motorists. Complete streets promote healthy communities and reductions in traffic congestion by offering viable alternatives to driving.)

The clean, contemporary lines of the revised building are punctuated by both projecting and recessed vertical and horizontal elements, which are highlighted in an accent color and that break up the roof line. Balconies are both recessed into and project out from the building wall providing shadow and articulation to the building façade.

Like the previously approved project, the street level of the revised building includes full height storefront windows with clear, non-reflective glass. The base of the building is still softened by raised planters. The planters and solid walls at street level will be concrete with a textured finish. Building entries along Third Avenue and at the corner plaza will be marked by overhead marquees and signs to reduce the scale of the building to human scale. On K Street the proposed garage entrance will be in a similar location as the previously approved project.

Transportation Analysis

A traffic analysis was conducted by Linscott Law and Greenspan to determine if the revised Project's traffic generation was in substantial conformance to the previously approved Vista Del Mar condominiums.

Based on their analysis, the original project generated 690 average daily trips (ADT) with 56 AM peak hour trips (14 in and 42 out) and 68 PM peak hour trips (47 in and 21 out). While the proposed Project increases the number of multi-family residential units, the units would be age restricted and based on empirically derived regional trip rates, these units generate trips at a lower rate than the previously approved condominium units. As a result, the analysis concluded that the revised senior/affordable Project would generate 676 ADT with 37 AM peak hour trips (16 in and 21 out) and 48 PM peak hour trips (28 in and 20 out). Because the proposed Project would generate fewer trips on both a daily and peak hour basis, the conclusion of the analysis is the revised Projects traffic generation is in substantial conformance

to the previously approved project.

Encroachment Agreement

For the Project to reduce construction costs, increase the number of units, and deliver 11% very low-income affordable units, a revision to the design of the parking plan was required. The redesign focused on maximizing parking on one level to eliminate structured parking. As a result, a 10-foot encroachment of the below grade parking structure is proposed under K Street along the entire K Street frontage to provide an economic and efficient single level parking plan that will accommodate the Project's proposed 142 spaces. Because of the larger curb to property line distance in this area (20 feet as opposed to 10 feet typical) and the depth of the structure below grade, this encroachment will not interfere with the City's ability to continue to provide the modes of transportation and pedestrian uses of the right-of-way found elsewhere in the City. In order to accommodate this proposal, Council must approve an Encroachment Permit with the accompanying Encroachment Maintenance Agreement (Attachment No. 2).

Conclusion

To facilitate and materially assist the housing industry in providing adequate and affordable shelter for all economic segments of the community and to provide a balance of housing opportunities for very low-income, low-income, and senior households, the City adopted CVMC Chapter 19.90 – Affordable Housing Incentives, consistent with State Density Bonus Law. Should an applicant agree to construct housing units to be restricted for occupancy by senior citizen and very-low households as set forth in CVMC 19.90.040, upon the request of the applicant, the City shall make incentives and waivers available, in accordance with CVMC 19.90.050 and CGC, and parking ratios in accordance with the CGC. For the Project to reduce construction costs, increase the number of units, and deliver 11% very low-income affordable units, a concession to the floor area ratio standard is necessary and, therefore, consistent with State Density Bonus Law.

The revised Project complies with all other standards of the UCSP, is consistent in design with the prior project approval, and thus is also consistent with the City of Chula Vista General Plan. All conditions of the previously approved project remain applicable and in force for the revised Project. The encroachment agreement for the underground parking structure provides for the property owner's maintenance responsibility of the facility and liability to protect the City in the future. Staff, therefore, recommends approval of the substantial conformance review and encroachment permit and maintenance agreement.

DECISION-MAKER CONFLICT

Staff has reviewed the property holdings of the City Council members and has found no property holdings within 1,000 feet of the boundaries of the property which is the subject of this action. Consequently, this item does not present a disqualifying real property-related financial conflict of interest under California Code of Regulations Title 2, section 18702.2(a)(7) or (8), for purposes of the Political Reform Act (Cal. Gov't Code §87100, *et seq.*).

Staff is not independently aware, and has not been informed by any City Council member, of any other fact that may constitute a basis for a decision-maker conflict of interest in this matter.

CURRENT-YEAR FISCAL IMPACT

The processing of the proposed project is paid for by the project applicant.

ONGOING FISCAL IMPACT

The cost of future processing of individual construction permits will be paid for by project applicants.

ATTACHMENTS

Attachment 1 – Locator Map

Attachment 2 – Encroachment Agreement

Staff Contact: Kelly Broughton, Development Services Director