



Legislation Text

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RESOLUTION of the City of San Leandro City Council Affirming the Board of Zoning Adjustments Decision to Approve a Conditional Use Permit, Parking Exception and Site Plan Review and Finding No Additional Review is Required under the California Environmental Quality Act (CEQA) Pursuant to Public Resources Code Section 21094.5 and CEQA Guidelines Section 15183.3 for the Callan & East 14th Street Project Application and Denying the Appeals by East Bay Residents for Responsible Development and Laborers International Union of North America, Local 304, Case Number PLN18-0036

WHEREAS, 14th and Callan Street Developer LLC (“Applicant”) proposes to construct a ±286,204 square foot building 74’8” in height, consisting of a 23,189 square foot grocery/retail space, 5,660 square feet of non-grocery retail space, a two-story parking structure with 70 parking spaces at the ground level, an additional 216 parking spaces on the second floor with adequate clearance for parking stackers, and 196 residential apartment units on three stories consisting of approximately 127,743 square feet, with an additional 5,893 square feet of amenity space servicing the units (“Project”); and

WHEREAS, the Project site is comprised of four parcels totaling 1.6 acres located in downtown San Leandro on a city block bounded by E. 14th St. to the west, Chumalia St. to the north, Hyde St. to the east and Callan Ave. to the south, APNs 77-447-14-6, 77-447-15-6, 77-447-14-7, and 77-447-7-1 (“Property”); and

WHEREAS, the Property is zoned DA-1(S), Downtown Area 1 Special Review Overlay District, in the City’s Zoning Code and has a General Plan designation of Downtown Mixed Use; and

WHEREAS, the Property is further identified in the adopted Downtown San Leandro Transit-Oriented Development Strategy (“TOD Strategy”), located with Special Policy Area 3; and

WHEREAS, the City Council of the City of San Leandro adopted Resolution No. 2016-027 on February 16, 2016 authorizing the execution of a Purchase and Sale Agreement for the sale of the City-owned parking lot located at 1188 E. 14th St. to advance overall development of the subject Property in accord with the adopted TOD Strategy; and

WHEREAS, the Project, located within the designated Downtown San Leandro Priority Development Area (PDA), was evaluated and found to be consistent with the development strategies identified in Plan Bay Area 2040, including meeting primary objectives to provide adequate housing and reduce greenhouse gas (GHG) emissions by focusing growth and development in communities along the existing transportation networks; and

WHEREAS, on September 19, 2016, the City Council approved a comprehensive citywide General Plan Update and Zoning Code amendments, which included a new vision for San Leandro, including Downtown San Leandro. The General Plan Update Final Environmental Impact Report

(FEIR) (State Clearinghouse No. 2001092001) which was prepared for the General Plan Update and Zoning Code amendments and associated actions, analyzed the development intensities on a citywide impact level and adopted a Mitigation Monitoring and Reporting Program for the San Leandro General Plan Update and Zoning Code amendments; and

WHEREAS, on September 4, 2007, the City Council adopted Resolution No. 2007-111 and certified the Final Environmental Impact Report (FEIR) (State Clearinghouse No. 2006052102) for the Downtown San Leandro Transit-Oriented Development Strategy, which was prepared to identify 39 opportunity sites, representing approximately 88 acres, where development could occur in the City over the next 25 or so years (to 2030); and

WHEREAS, pursuant to and in accordance with the provisions of the California Environmental Quality Act (Public Resources Code Section 21000 et seq.; herein referred to as "CEQA"), the State of California Guidelines for the Implementation of the California Environmental Quality Act (commencing with Section 15000 of Title 14 of the California Code of Regulations; herein referred to as the "CEQA Guidelines"), the City is the "lead agency" for the preparation and consideration of environmental documents for the Project; and

WHEREAS, in conformance with CEQA, including Public Resources Code Section 21094.5, and the CEQA Guidelines, including Section 15183.3 and CEQA Guidelines Appendix M, which establish eligibility requirements for projects to qualify as infill projects for streamlining procedures provided in CEQA Guidelines Section 15183.3, the City prepared an Infill Checklist for the Project to evaluate the environmental impacts of the Project. The Infill Checklist reviews the analysis in prior EIRs certified by the City to determine if the Project would result in new project specific effects or a substantial increase in the severity of significant impacts identified in prior EIRs, and whether uniformly applicable development policies would substantially mitigate these impacts; and

WHEREAS, the Infill Checklist prepared for the Project tiers off the 2035 General Plan Update Environmental Impact Report (2016). This prior EIR was prepared as part of enacting the City's General Plan Update and Zoning Code amendments that implemented the Downtown Transit-Oriented Development (TOD) Strategy. The Infill Checklist demonstrates that any significant effects of the Callan & East 14th Street Project were analyzed in the prior EIRs or would be substantially mitigated by the City's uniformly applicable development policies (UADPs). The Infill Checklist also incorporates information from the Downtown TOD EIR (2007), which also qualifies as a prior EIR. Therefore, pursuant to Public Resources Code Section 21094.5, no additional environmental review is required under CEQA for the Project as an infill project; and

WHEREAS, the Board of Zoning Adjustments held a duly noticed public hearing regarding the proposed Project on May 6, 2021, at which time all interested parties had the opportunity to be heard; and

WHEREAS, the Board of Zoning Adjustments approved the Project on May 6, 2021, as further set forth in attached Resolution No. 2021-002 (Attachment 1, incorporated herein by reference) subject to the Conditions of Approval for the Project (further set forth in Exhibit B of Resolution No. 2021-002), and found that pursuant to Public Resources Code Section 21094.5 and CEQA Guidelines Section 15183.3, no additional environmental review is required for the Project under CEQA as an infill project, and the Board of Zoning Adjustments made Findings of Fact and

Determinations for Approval of the Project, as further set forth in Resolution No. 2021-002 (Exhibit A of Resolution No. 2021-002); and

WHEREAS, East Bay Residents for Responsible Development (“East Bay Residents”) and Laborers International Union of North America, Local 304 (“Laborers International”) each filed a timely appeal of the Board of Zoning Adjustments’ decision to the City Council on May 20, 2021, respectively, which appeals are incorporated herein by reference; and

WHEREAS, a staff report, dated July 6, 2021 and incorporated herein by reference, described and analyzed the Infill Checklist, the Project, the Board of Zoning Adjustments’ approvals, and the appeal; and

WHEREAS, the staff report recommended that the City Council affirm the Board of Zoning Adjustments’ decision. The staff report also described and analyzed a June 21, 2021 letter from Trinity Consultants, prepared on behalf of the Applicant discussing the comments raised in each of the appeals. None of the comments received in the appeals results in substantial revisions requiring the need to prepare additional environmental documentation, including an infill environmental impact report; and

WHEREAS, the City Council reviewed the staff report, the Infill Checklist, the Project, the June 21, 2021 letter from Trinity Consultants, the Board of Zoning Adjustments’ approval in Resolution No. 2021-002, and the appeal, at a noticed public hearing on July 6, 2021 at which time all interested parties had the opportunity to be heard; and

WHEREAS, the City Council finds that the staff report and standards for approval reflect the City’s independent judgment and analysis of the Project; and

WHEREAS, the City Council finds that the evidence in the record constitutes substantial evidence to support the actions taken and the Project does satisfy the requisite Findings of Fact necessary for approval as further explained in the staff report and attachments, and that the Findings of Fact associated with this Resolution, as identified in “Exhibit A” attached to this Resolution, are supported by substantial evidence in the record, including testimony received at the public hearing, the staff presentations, the staff report and all materials in the project files. There is no substantial evidence, nor are there other facts, that negate the findings made in this Resolution. This City Council expressly declares that it considered all evidence presented and reached these Findings after due consideration of all evidence presented to it; and

WHEREAS, the City’s General Plan, Downtown Transit Oriented Development Strategy, Downtown Design Guidelines, Zoning Code, and Plan Bay Area 2040 are incorporated herein by reference, and are available for review at City Hall by appointment during normal business hours and on the City’s website; and

WHEREAS, the record of proceedings for the Project includes, but is not limited to, the Project application and related materials, reports, and photo simulations; the Infill Checklist; technical reports prepared in connection with the Project and Infill Checklist; the Board of Zoning Adjustments staff report and resolutions; City Council staff report; and other related project and environmental documents. The documents and materials constituting the record of proceedings, including all of the

documents incorporated herein by reference, are available for review in the Planning Services Division at the City of San Leandro City Hall, 835 East 14th Street, San Leandro, California 94577, by appointment during normal business hours. The location and custodian of the draft Infill Checklist and other documents that constitute the record of proceedings for the Project is the City of San Leandro Planning Services Division, attn: Andrew J. Mogensen, AICP, Planning Manager.

NOW, THEREFORE, the CITY OF SAN LEANDRO CITY COUNCIL RESOLVES THAT:

A. The foregoing recitals are true and correct and made a part of this resolution.

B. The City Council thoroughly reviewed the Infill Checklist and the evidence received to date and pursuant to the Findings of Fact associated with this Resolution, as identified in “Exhibit A” attached to this Resolution, finds and determines that no additional environmental review is required under CEQA for the Project as an infill project under CEQA Guidelines Section 15183.3, and that City staff is authorized to file with the Clerk of the County of Alameda a Notice of Determination in accordance with Section 15183.3 of the State CEQA Guidelines; and

BE IT FURTHER RESOLVED as follows based on the whole of the record, the City Council of the City of San Leandro does hereby make the following findings and determinations regarding the Project:

A. The City Council of the City of San Leandro does hereby affirm the Board of Zoning Adjustments decisions in Resolution No. 2021-002 making the necessary findings and determinations required by City of San Leandro Zoning Code Sections 3.16.124, 5.08.124 and 5.12.124 to approve the Conditional Use Permit, Site Plan Review and Parking Exception for the mixed use development at 1188 E. 14th St., as further explained in the staff report, Infill Checklist and findings of fact for approval as set forth in “Exhibit A” attached hereto and incorporated herein by this reference. In affirming the Infill Checklist decision, the City Council hereby adds to and updates the CEQA Environmental Review findings of Resolution No. 2021-002 as follows:

Based upon a thorough review of the Project and the Infill Checklist, including the appeals, the comments received to date, the staff report and the record as a whole, the City Council does find and determine as follows:

1. That the Project qualifies for streamlining pursuant to CEQA Guidelines Section 15183.3, an Infill Checklist was prepared in compliance with the requirements of CEQA and the CEQA Guidelines, and serves as the appropriate environmental documentation for the proposed Project, based on the following findings:

a. The proposed Project is located on an infill site, and is a Transit Priority Project in that it (i) contains approximately 154,121 square feet of residential use, which is 53 percent of the total building square-footage proposed for the Project, which is 286,204 square feet; (ii) provides a density of 123 dwelling units per acre; and (iii) is within a Transit Priority Area one-half mile of a major transit stop or high-quality transit corridor included in a regional transportation plan, which includes the San Leandro BART station as well as a number of bus stations;

b. The Project is consistent with the general use designation, density, building intensity, and

applicable policies specified for the project area in San Francisco Bay Area's Sustainable Communities Strategy, the Plan Bay Area 2040, as described in detail in Chapter 2.1 of the Infill Checklist. Specifically, the Project is consistent with key land use targets identified in Plan Bay Area 2040 as the Project is a transit-oriented, high density mixed-use retail and residential project located within the Alameda County Urban Growth Boundary;

c. The Project has incorporated all feasible mitigation measures, performance standards, or criteria set forth by the City in prior EIRs and adopted in findings made pursuant to California Public Resources Code (PRC) Section 21081, which are incorporated herein by reference. In addition, the Infill Checklist identifies relevant City Standard Conditions of Approval (SCAs) which function as uniformly applicable development policies (UADPs) that will substantially mitigate environmental effects. These SCAs and UADPs are adopted as requirements of individual projects when approved by the City and they will be imposed on the Project;

d. In addition, the Project meets the criteria and performance standards for an "infill project" under PRC Section 21094.5 and CEQA Guidelines section 15183.3 and Appendix M that allows the use of an Infill Project Checklist under CEQA Guidelines Appendix N as the basis for an Infill Checklist (CEQA Guidelines section 15183.3(d)1) and ((2)(A)). The discussion and findings related to the proposed Project as an "infill project" in Section 2.1 of the Infill Checklist are incorporated herein.

2. All potentially significant or significant project and cumulative effects required to be identified in the Infill Checklist have been identified and analyzed, including those effects that have been analyzed in the City's prior EIRs, consistent with the standards in the Infill Project Checklist;

3. That it has carefully reviewed and considered the information contained in the Infill Checklist (including any comments received on the Project) prior to acting upon the Infill Checklist and Project;

4. That the 2021 Appendix N Infill Checklist for the Project identifies General Plan policies and/or actions that would apply to the development of the project and have been determined in the General Plan EIR to substantially mitigate environmental effects. It also identifies UADPs that would substantially mitigate environmental impacts that were either not analyzed in the General Plan EIR or that are more significant (i.e., substantially more severe) than previously analyzed. Consistent with the requirements of CEQA Guidelines section 15183.3, the Infill Checklist determined that the project would not result in any significant impacts that are substantially more severe than anticipated in the General Plan EIR that cannot be substantially mitigated by uniformly applicable development policies or standards. The Infill Checklist also determined that, for impacts not analyzed in the General Plan EIR, the project would result in no impact or no impact that cannot be substantially mitigated by uniformly applicable development policies or standards. There are no significant effects that new information shows would be substantially more severe than anticipated by the General Plan EIR. Therefore, pursuant to CEQA Guidelines section 15183.3, no further CEQA review is required.

5. Based upon the record as a whole before it (including, but not limited, the Infill Project Checklist and any comments received) and with the implementation of the mitigation measures contained in prior EIRs, UADPs, and Conditions of Approval, the City Council finds the Project will not substantially increase the severity of significant impacts identified in the City's prior EIRs, nor will it result in new specific effects related to environmental effects which would cause substantial adverse effects on the environment, and that the Infill Checklist reflects the independent judgment and

analysis of the City Council.

B. The City Council hereby affirms the Board of Zoning Adjustments decision to approve Conditional Use Permit, Site Plan Review, and Parking Exception PLN18-0036 allowing a mixed-use development project at 1188 E. 14th St. subject to the Conditions of Approval, as further set forth in "Exhibit B" attached hereto and incorporated herein by this reference.

BE IT FURTHER RESOLVED that the City Council determines there was no prejudice to the Board of Zoning Adjustments for the reasons stated in the staff report.

BE IT FURTHER RESOLVED that the City Council hereby denies the appeal filed by East Bay Residents and denies the appeal filed by Laborers International on all grounds.