



City of Arts & Innovation

City Council Memorandum

TO: HONORABLE MAYOR AND CITY COUNCIL DATE: NOVEMBER 16, 2021
FROM: COMMUNITY & ECONOMIC DEVELOPMENT WARD: 1
DEPARTMENT

SUBJECT: P19-0563 CERTIFICATE OF APPROPRIATENESS - AN APPEAL BY GREENS EHRENBERG, LLC OF THE CULTURAL HERITAGE BOARD'S FAILURE TO APPROVE ENVIRONMENTAL DETERMINATION AND CERTIFICATE OF APPROPRIATENESS FOR THE CONSTRUCTION OF A HOTEL AND ADAPTIVE REUSE OF THE HISTORIC FORMER CENTRAL FIRE STATION INTO OFFICE, LANDMARK, WITHIN THE MISSION INN AND SEVENTH STREET HISTORIC DISTRICTS; AND P19- 0560 CONDITIONAL USE PERMIT, P19-0561 VARIANCE, P19-0562 VARIANCE - AN APPEAL BY LOUZEAU DRURY, ON BEHALF OF SUPPORTERS ALLIANCE FOR ENVIRONMENTAL RESPONSIBILITY (SAFER), OF THE PLANNING COMMISSION'S APPROVAL OF ENVIRONMENTAL DETERMINATION, CONDITIONAL USE PERMIT, AND VARIANCES FOR THE CONSTRUCTION OF A HOTEL AND ADAPTIVE REUSE OF THE FORMER CENTRAL FIRE STATION INTO OFFICE - LOCATED AT 3420-3482 MISSION INN AVENUE, SITUATED ON THE SOUTH SIDE OF MISSION INN AVENUE BETWEEN LEMON AND LIME STREETS

ISSUES:

An Appeal by Greens Ehrenberg, LLC, of a denial by the Cultural Heritage Board (CHB) for environmental determination and a Certificate of Appropriateness for the construction of a hotel and the adaptive reuse of the former Central Fire Station into office space, located in the Mission Inn Historic District; and an Appeal by Louzeau Drury, on behalf of Supporters Alliance for Environmental Responsibility (SAFER), of the Planning Commission's approval of the environmental determination, Conditional Use Permit, and Variances for the construction of a hotel, located at 3420 – 3482 Mission Inn Avenue, situated on the south side of Mission Inn Avenue between Lemon and Lime Streets, in the DSP – RC – Downtown Specific Plan Raincross District.

RECOMMENDATIONS:

That the City Council:

1. Determine the Certificate of Appropriateness for the proposed project is exempt from the California Environmental Quality Act (CEQA) pursuant to Sections 15331 (Historic Resource Restoration/Rehabilitation) and 15332 (In-Fill Development Projects), as it constitutes an in-fill and rehabilitation project, consistent with the Secretary of the Interior's Standards for the Treatment of Historic Properties;

2. Uphold the appeal by Greens Ehrenberg, LLC and approve Planning Case P19-0563 Certificate of Appropriateness, based on the findings outlined in the Cultural Heritage Board staff report and subject to the recommended conditions of approval;
3. Uphold the Planning Commission's determination that the project is exempt from the California Environmental Quality Act (CEQA) pursuant to Section 15332 (In-Fill Development Projects) of the CEQA Guidelines, as the project will not have a significant effect on the environment; and
4. Deny the appeal by Louzeau Drury, on behalf of Supporters Alliance for Environmental Responsibility (SAFER) and uphold the City Planning Commission's approval of Planning Cases P19-0560 (Conditional Use Permit), P19-0561 (Variance), and P19-0562 (Variance), based on the findings outlined in the staff report and subject to the conditions of approval.

BACKGROUND:

On August 17, 2021, the City Council received extensive comment letters in opposition of the proposed dual branded AC and Residence Inn Hotel by Marriott Hotel, and adaptive reuse of the historic former Central Fire Station to offices, and the associated environmental determinations. In order to allow the applicant and staff adequate time to review and address the comment letters, the City Council unanimously approved a continuance to October 12, 2021 (Attachment 2). A subsequent request by the applicant to continue the project to November 16, 2021 was approved by the City Council (Attachments 3 and 4).

DISCUSSION:

The following has occurred after the issuance of the City Council Memorandum dated August 17, 2021:

- **Project Modifications**

The applicant has made further modifications to the floor area configuration of the hotel building at the northwest corner of Mission Inn Avenue and Lemon Street, across the First Congregational Church (FCC), to address concerns from the Land Use, Sustainability and Resilience Committee related to the massing and visibility of the FCC bell tower. The modifications include expansion of the roof deck from 620 square feet to 2,850 square feet. To accommodate the larger roof deck, guest rooms were relocated and reconfigured throughout the 2nd and 8th floors. The overall building area will not change, and the number of guest rooms will remain at 226 (Attachment 5).

In addition, the Traffic Impact Analysis was updated to clarify that no mitigation was necessary, and a heading was updated in the version dated May 1, 2020. The underlying analysis and conclusion remain the same. The outdated copy was inadvertently provided to Planning Commission, the correct copy is being provided to City Council. This has no impact on the environmental analysis or conclusions (Attachment 5).

- **Response to Comment Letters**

After the publication of the City Council Memorandum and prior to the City Council hearing on August 17, 2021, Staff received 29 new comment letters and the applicant's prepared responses to comments (Attachments 6 and 7). On October 14, 2021, the applicant provided a supplemental response to comments to further address concerns raised regarding the project (Attachment 8). In summary, the comment letters did not include any additional information that

has not already been addressed in the Land Use, Sustainability, and Resilience Committee, Planning Commission and Cultural Heritage Board staff reports, with the exception of the comments addressed in the Public Comments section below.

- Variances

The applicant has provided supplemental Variance justification findings substantiating the requested Variances (Attachment 8):

1. To allow the proposed hotel building to encroach 14-feet into the 15-foot front yard setback along Mission Inn Avenue; and
2. To allow 144 parking spaces to serve the hotel use, where 226 parking spaces are required by the City's Municipal Code.

It should be noted that as part of the recently approved and adopted Housing Element, the Downtown Specific Plan was amended to expand the permitted uses in some Districts, and to modify some development standards, including the parking requirement for hotels located in the Raincross and Justice Center Districts. The parking requirement for hotels were amended to park at a ratio of 1 parking space per 2 guest rooms. Implementation of this new parking ratio requires the proposed hotel use to provide 113 parking spaces, where 144 parking spaces are proposed. Therefore, a Variance for a reduced number of parking spaces for this project is no longer needed.

PUBLIC COMMENTS

After the August 17, 2021, City Council meeting, the applicant prepared responses to the 29 comment letters (Attachments 7 and 8). In addition, below is a summary of the comments and Staff's responses:

1. Comment: The project does not qualify for the Class 32 infill exemption, because it requires variances.

Response: The project qualifies for the California Environmental Quality Act Class 32 In-Fill Exemption. The Downtown Specific Plan allows for Variances to be granted to deviate from the development standards (Section 5.3.6). Additionally, the request for Variances does not negate review under the Class 32 exemption. In *Wollmer v. City of Berkeley*, the Court held that the city properly applied the Class 32 exemption even though the project proponent sought variances for height, setbacks, and other issues.

2. Comment: The project does not qualify for the Class 31 or Class 32 exemption because of its impacts.

Response: Consistent with the requirements of the Class 32 In-Fill Exemption, an exemption checklist along with project specific technical studies were prepared for the project and determined no impacts to traffic, noise, air quality, or water quality would occur. Supplemental technical memorandums have been prepared addressing comments related to noise and historical resources substantiating the original findings that the project qualifies for the Class 31 - Historical Resources Restoration/Rehabilitation Class 32 – In-fill Development exemptions.

3. Comment: The project does not qualify for Class 31 exemption as it consists of new

construction within a historic district.

Response: The Class 31 exemption is applicable when the project is found to be consistent with the Secretary of the Interior's Standards. These standards can be applied to projects that consist of an addition to an individual historic structure, as well as a project located within an historic district. The Standards for Rehabilitation allow for new construction and suggest that the new construction be differentiated, yet compatible, and undertaken in such a manner that, if removed in the future, the essential form and integrity of the historic property or district would be unimpaired. When applying these standards to an in-fill project within an historic district, the project is analyzed for compatibility and differentiation with the District on the whole, not the individual buildings within the District. As discussed in previous staff reports, staff finds the project consistent with the Secretary of the Interior's Standards; therefore, the Class 31 exemption is applicable.

4. Comment: The findings do not contain any evidence to support issuance of a Conditional Use Permit.

Response: The necessary findings in support of the Conditional Use Permit were made in the Planning Commission Staff Report. In summary, the project site has been designed to create an urban-scale project that will benefit from the proximity to restaurant or entertainment options, consistent with the purpose, goals, and design policies of the Raincross District of the Downtown Specific Plan. The proposed hotel is an infill development project compatible with surrounding commercial, office, residential and civic land uses in building height and floor area ratio.

The proposed floor area ratio (FAR) and building height promote a density that will contribute to the sense of community and space in the downtown area. Design features and building siting provide a strong street presence and human interaction at the pedestrian level. Edge conditions along Mission Inn Avenue, Lime Street and Lemon Street have also been designed to create a sense of place and provide a strong pedestrian interface. The overall site design, building height, massing, and FAR are consistent with similar developments in the Raincross District of the Downtown Specific Plan. The proposed project will preserve and revitalize the historic Central Fire Station façade and contribute to the historic fabric of Downtown Riverside. The proposed project will not have substantial adverse effects on the surrounding properties or uses.

5. Comment: A Conditional Use Permit (CUP) cannot lawfully be used to grant variances from height or floor area ratio requirements.

Response: The Downtown Specific Plan permits a floor area ratio over 3.0 and up to 4.5 and a building height over 60 feet and up to 100 feet, subject to the granting of a CUP. As the project proposes a floor area ratio of 3.73 and a building height of 93 feet-4 inches, the applicant is requesting a Conditional Use Permit.

Conditional Use Permits are required where certain uses, due to the nature of use, intensity, or size, require special review to determine if the use proposed, or the location of that use, is compatible with surrounding uses, or through the imposition of development and use conditions, can be made compatible with surrounding uses.

Based upon the above, the CUP is required to assess the compatibility of the proposed project with surrounding uses. The Use Permit does not act as a Variance as the project is not requesting to deviate from the allowed maximum floor-area-ratio or the building height.

6. Comment: The findings do not address the height or floor area ratio exceptions being sought.

Response: Findings for the CUP, which address the use, floor-area-ratio and building height can be found in the Planning Commission staff report. Refer to response of comment #5 above.

7. Comment: Despite the RFQ's requirement for "collective and concurrent" development, the Project applicant acknowledges in its July 29, 2021, Project Narrative that: "There is no timeline associated to any interior improvements...inside the fire station, and those will be handled on a separate permitting process." (Project Narrative, p. 4.) The applicant's statement in this regard is in direct contravention of the RFQ.

Response: In April of 2020, the City Council approved the Second Amendment to the Purchase and Sale Agreement (Second Amendment) with the Greens Group, which revised Section 1.3.2 of the Original Purchase and Sale Agreement (Original PSA) to "clarify that the concept of development, construction and rehabilitation of the Historic Downtown Fire Station No. 1 shall only apply to the development, construction, and rehabilitation of the façade of the Fire Station." The Second Amendment further clarified Section 1.3.2 of the Original PSA by adding that the Greens Group must "identify a tenant/user for the Fire Station within one (1) year of the AC/Residence Inn's opening and Buyer also agrees to complete construction of tenant improvements and have obtained a Certificate of Occupancy for the identified user/tenant within two (2) years of the AC/Residence Inn's opening." The applicant is required to comply with the provisions of the approved PSA and its revisions.

8. Comment: The applicant's proposal to reuse the historic Fire Station at some unspecified point in the future conflicts with the Purchase & Sale Agreement ("PSA"). In Section 1.3.2, the parties acknowledge that "the Properties must be developed concurrently and cannot be constructed, rehabilitated or developed independently." That section goes on to say that if the Project applicant/Buyer should fail to develop the Properties concurrently, "the Sellers shall have the ability to terminate this Agreement and seek all available remedies under the law as well as those set out in Sections 6 and 7."

Response: See response to comment # 7 above. The applicant is required to comply with the provisions of the approved PSA and its revisions.

9. Comment: Moreover, Section 1.3 of the PSA expresses Buyer's intent to adaptively reuse the historic Fire Station as a hotel lobby for a 161-room hotel. The applicant is not intending to use the historic Fire Station as a hotel lobby, but instead is proposing to develop two hotels (containing 226 rooms) with two lobbies on the small site. Section 2.4 states that the Parties had agreed to the conceptual project depicted in Exhibit D to the PSA. The conceptual project bears no resemblance to the Project proposed for approval. The City Council cannot lawfully approve the Project as proposed without amending the PSA.

Response: In December 2018, the City Council approved the First Amendment to the Purchase and Sale Agreement (First Amendment). The First Amendment modified Section 1.3 of the Original PSA by removing the Hilton Hotel requirement and allowing for "development of an upscale Marriott AC Hotel (or a similar hotel franchise that is acceptable to the City) on the Authority property, which shall include, at a minimum, 7 stories, 140 rooms, and a second level pool deck with ample seating and fire pit amenities or such lower number of rooms that are approved as part of the City's design review process and is acceptable to Buyer." Subsequently, in April of 2020, the City Council approved a Second Amendment to further modify Section 1.3 of the Original PSA by "deleting the words Marriott AC Hotel and

inserting the phrase dual brand AC/Residence Inn by Marriott in its place.” Therefore, the project is in compliance with the provisions of the approved PSA and its revisions.

10. Comment: The RFQ also stated that the Project was expected to “exemplify exceptional architecture that compliments the surrounding buildings” and “must be consistent with... design standards and guidelines of the Mission Inn Historic [District] . . .” Moreover, the RFQ stated that the Project “must be consistent with the City’s parking requirements” and “must allow for ample parking to meet city codes...” The Project conflicts with both of these mandates by not conforming to the size, scale, and massing of surrounding buildings and by falling short of City parking requirements by 82 spaces.

Response: As noted in the CUP Findings of the Planning Commission staff report, the proposed hotel is an infill development compatible and consistent with surrounding commercial, office, residential and civic land uses within the Mission Inn Historic District. Additionally, a Historic Resource Evaluation Assessment Report, prepared by George Taylor Loudon, concluded that the project is consistent with the standards and guidelines of the Mission Inn Historic District and the Downtown Specific Plan Design Guidelines. With recent changes to the parking requirements for hotels in the Raincross District of the Downtown Specific Plan, the project meets the minimum required number of parking spaces and a Variance is no longer needed.

11. Comment: It is neither fair nor equitable to those who submitted proposals in response to the RFQ to materially change the terms of the RFQ after it has been awarded to allow the successful bidder to develop a project substantially different than the one described in the RFQ.

Response: The proposed development is consistent with the provisions of the approved amendments to the Purchase and Sale Agreement.

12. Comment: Only the façade of the former fire station is proposed to be retained.

Response: The proposal does not include the demolition of the former fire station, nor will any portion of the proposed hotel project be built on top or over the former fire station. Consistent with the RFP, the interior of the former fire station will be repurposed to office use.

13. Comment: Character-defining features (elements) in the interior of the former fire station will be altered, thereby creating impacts to the historic structure.

Response: Proposed interior modifications of the historic fire station include the installation of a wall and door on the first floor for an elevator vestibule. No other interior modifications are proposed at this time. An evaluation of the fire station in 2008 identified interior character-defining features of the fire station which included original uses in their original spaces; spatial arrangement and floor plan; the fireman’s poles that lead from the second story to the apparatus room; and characteristic features of the maintenance room (such as the undercarriage access pit and an I-beam used to remove engines). As the original use is not a visual characteristic, it was incorrectly identified and cannot be considered a character-defining feature. The proposed project will have no impacts to interior character-defining features based on the proposed modifications. Additionally, the Secretary of the Interior Standards allows for minimal changes to character-defining features to facilitate a change of use.

14. Comment: Lack of Notice.

Response: The Planning Division noticed the Planning Commission hearing consistent with State and City requirements. A public notice was advertised in the Press Enterprise and individual notices were sent to property owners within 300-feet of the project site. In addition, a notice was sent to adjacent property owners regarding the Cultural Heritage Board. Proper notices were given for both the Planning Commission and Cultural Heritage Board meetings.

15. Comment: Construction of subterranean parking within proximity to historic buildings.

Response: The project provided a vibration analysis, which concluded that vibration resulting from caisson drilling will have no impacts on surrounding historic buildings. Vibrations were determined to be less than known thresholds that would cause damage to unreinforced masonry buildings; therefore, no impacts were identified.

16. Comment: The Historic Resource Evaluation Assessment Report by George Taylor Loudon makes references to a mitigation program; therefore, the project cannot be exempted from CEQA.

Response: References to a mitigation program in the report by Loudon relates to general repairs and maintenance of the historic Fire Station. Under CEQA, mitigation is intended to lessen potential impacts. As no impacts to the historical resource have been identified, the repair and maintenance discussed in the report do not constitute mitigation as defined by CEQA. Additionally, repairs and maintenance of an historic structure is consistent with the Secretary of the Interior Standards. Therefore, a mitigation program is not required for implementation of the project.

17. Comment: Add a condition of approval requiring the project to enter into an agreement with the First Congregational Church (Church) to allow for Sunday morning parking for church services.

Response: The request to share parking with the Church would be a private agreement between the Church and the developer. The project is not required to share parking with other uses in the immediate area.

18. Comment: Include a condition of approval that the developer work with the church and historic preservation experts to alter the architectural style of the project to better reflect not only the fire station, but also the First Congregational Church, the Mission Inn, and the Municipal Auditorium.

Response: The Secretary of the Interior Standards for Rehabilitation do not specify architectural style as a component of compatibility; therefore, architectural references to specific structures in the historic district are not necessary for the project to be compatible with the Districts. Additionally, as discussed in the August 18, 2021 City Council Appeal Staff Report, the Mission Inn and Seventh Street Historic Districts include a wide variety of architectural styles and it would be inappropriate to specify that the proposed project be compatible with the Mission Revival or Spanish Colonial Revival styles of architecture, which are only two of the many styles present in the Districts.

19. Comment: COVID-19 pandemic affected traffic in many areas of California, and there is no discussion in the traffic report or in the Technical Report regarding this effect.

Response: Traffic counts were collected in January 2020, prior to shutdowns related to the COVID-19 pandemic and while schools were still in session.

STRATEGIC PLAN ALIGNMENT:

This item contributes to **Strategic Priority 3 – Economic Opportunity (Goal 3.3 – Cultivate a business climate that welcomes innovation, entrepreneurship and investment and Goal 3.4 - Collaborate with key partners to implement policies and programs that promote local business growth and ensure equitable opportunities for all).**

This item aligns with each of the Cross-Cutting Threads as follows:

1. Community Trust: The proposed project was reviewed at public meetings held by the City Planning Commission, Cultural Heritage Board, and Land Use, Sustainability, and Resilience Committee.
2. Equity: The proposed project will provide a service available to all residents and visitors of the City.
3. Fiscal Responsibility: All project costs are borne by the applicant and will increase Transient Occupancy Tax revenue to the City when the hotel is open for business.
4. Innovation: The proposed project responds to the need for additional lodging in the Downtown area due to new tourist growth.
5. Sustainability and Resiliency: The proposed project will result in the adaptive reuse of the Central Fire Station and all new construction will meet the most up-to-date building Codes.

FISCAL IMPACT:

There is no fiscal impact related to this action as all project costs are borne by the applicant.

Prepared by: David Welch, Community & Economic Development Director

Certified as to

availability of funds: Edward Enriquez, Chief Financial Officer/City Treasurer

Approved by: Rafael Guzman, Assistant City Manager

Approved as to form: Phaedra A. Norton, City Attorney

Attachments:

1. City Council Memorandum – August 17, 2021
2. City Council Minutes August 17, 2021
3. City Council Memorandum (Continuance) – October 12, 2021
4. City Council Minutes - October 12, 2021
5. Revised Project Plans and Renderings and Updated Traffic Impact Analysis May 1, 2020
6. Public Comment Letters
7. Greens AC Marriott Response to Comments - August 17, 2021
8. Greens AC Marriott Response to Comments Memo and Revised Project Description - October 14, 2021
9. Presentation