



DATE: October 1, 2019

CATEGORY: Items Initiated by Council

DEPT.: Public Works

TITLE: **Reconsideration of Sobrato
Condition No. 190, 1255 Pear Avenue**

RECOMMENDATION

Reconsider the motion on Item 7.2 from September 10, 2019 regarding Condition No. 190 of the Sobrato project on Pear Avenue.

BACKGROUND

On October 23, 2018, the City Council, among other actions, approved a Planned Community Permit, a Development Review Permit, and a Tentative Subdivision Map for a mixed-use development consisting of an approximately 231,000 square foot office building and 635 residential units at 1255 Pear Avenue.

On September 10, 2019, the Council discussed amending Condition No. 190 of that project related to allowing a building permit prior to completion of specified transportation improvements (see Attachment 1).

After reviewing the meeting recording, there was confusion over the intent of the motion, and on September 23, 2019, Councilmember Clark asked for reconsideration, which was granted for the item to be discussed again when the minutes from that meeting were presented to Council, which is this October 1, 2019 agenda.

DISCUSSION

The staff recommendation on September 10, 2019 was to allow granting of a building permit when the Highway 101 off-ramp was complete or August 30, 2020, whichever is sooner, for reasons stated in the Council report. Council was not comfortable with the recommendation, and there was considerable discussion at the meeting about under what conditions Sobrato would be allowed to get a building permit if the transportation improvements were not completed. At approximately four hours and 40 minutes into the meeting, the discussion moved toward a conclusion and a motion. Council moved

on to Item 8, Council, Staff/Committee Reports, while staff drafted the language for the condition language to be voted upon. The following is an excerpt of the draft minutes of that discussion:

MOTION – M/S – Clark/Hicks – To:

Adopt a Resolution Amending Exhibit A of Resolution No. 18259 to Amend Condition No. 190 of the Planned Community Permit and Development Review Permit (PL-2017-380) for 1255 Pear Avenue to: (1) Allow Building Permits to Be Issued Prior to Completion of the Plymouth/Space Park Realignment and Shoreline/Highway 101 Off Ramp Realignment; and (2) Not Allow Occupancy of the Office Building Until the Off Ramp Realignment is Complete or August 31, 2022, Whichever is Sooner, read in title only, further reading waived.

Mayor Matichak disclosed she met with the applicant.

Applicant Tim Steele, The Sobrato Organization, responded to Council questions.

Following discussion, Councilmember Clark amended the motion:

Adopt a Resolution Amending Exhibit A of Resolution No. 18259 to Amend Condition No. 190 of the Planned Community Permit and Development Review Permit (PL-2017-380) for 1255 Pear Avenue to: (1) Allow Building Permits to Be Issued Prior to Completion of the Plymouth/Space Park Realignment and Shoreline/Highway 101 Off Ramp Realignment; and (2) Not allow occupancy of the office building until phase one of the residential project is complete and phase two is underway, and either 1) the off-ramp realignment is complete or 2) August 31, 2022 if the trip cap is not currently in violation as defined it with two consecutive violations in a row, assuming the off-ramp isn't completed. If the off-ramp is complete, then we don't have to worry about that. If they do want to occupy in a violation condition on August 31, 2022 then they would need to fund a congestion pricing study up to a maximum of \$1 million or make a similar-value contribution to the City's Transportation Impact Fund for the North Bayshore Area.

Councilmember Hicks accepted the amendment.

At 11:44 p.m., Council proceeded with Item 8, Council, Staff/Committee Reports, while staff drafted condition language based on the amended motion.

At 11:49 p.m., City Attorney Chopra stated the condition language based on the amended motion:

Adopt a Resolution Amending Exhibit A of Resolution No. 18259 to Amend Condition No. 190 of the Planned Community Permit and Development Review Permit (PL-2017-380) for 1255 Pear Avenue to: (1) Allow Building Permits to Be Issued Prior to Completion of the Plymouth/Space Park Realignment and Shoreline/Highway 101 Off Ramp Realignment; and (2) Not Allow Occupancy of the Office Building Until Phase One of the Residential Component of the Project is Complete and Phase Two of the Residential Component of the Project has Initiated Construction. If occupancy occurs prior to the completion of the off-ramp realignment and the trip-cap is exceeded after two consecutive monitoring events, then the applicant must fund a congestion pricing study up to \$1 million or make an equivalent contribution to the City for transportation improvements.

Councilmember Clark concurred with the language as read and clarified that the condition is if the trip cap is violated two consecutive times even prior to occupancy.

The motion as amended carried by the following roll call vote:

Yes: 6 – Councilmember Clark, Councilmember Hicks, Councilmember Kamei, Councilmember Ramirez, Vice Mayor Abe-Koga, Mayor Matichak

No: 1 – Councilmember McAlister

As noted in the amended motion above, Councilmember Clark stated: “If the off-ramp is complete, then we don’t have to worry about that.” That content was not captured in the language read in the second part above. So the question is: What was the intent of the motion, and were all Councilmembers clear on it?

Councilmember Clark indicated after the meeting his intent was that if the off-ramp was complete, Sobrato would not have to be under construction with Phase II of the residential project. Others clearly indicated during the discussion that that was the expectation regardless of if the off-ramp was completed. Staff recommends Council have a brief discussion and either confirm the action as stated, which says Sobrato must be under construction on Phase II before they can occupy the office building, or adopt a revised motion that clarifies this issue.

FISCAL IMPACT – No direct impact from this report.

ALTERNATIVES

1. Take no action and maintain the action as approved.
2. Modify and adopt a motion allowing occupancy prior to Phase II construction being under way if the Highway 101 off-ramp is completed.
3. Provide other direction.

PUBLIC NOTICING – Agenda posting.

Prepared by:

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Public Works Director

Krishan Chopra
City Attorney

Approved by:

Daniel H. Rich
City Manager

MF-KC/KB/6/CAM
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Attachment: 1. September 10, 2019 Council Report