

Exhibit B



CITY OF FRESNO

May 29, 2024

Jennifer Clark, Director
Planning and Development Department
2600 Fresno Street
Fresno, CA 93721

Re: 7056 North Prospect Avenue – Development Permit Application #P21-00989

We understand that as Planning and Development Department Director, you approved Development Permit Application #P21-00989 on March 25, 2024, which proposed an 82-unit market-rate apartment complex at 7056 North Prospect Avenue. The City of Fresno (City) received eight appeals of that decision, which was then heard by the Planning Commission on May 15, 2024. The Planning Commission overturned the Director’s approval of the permit.

Decisions of the Planning Commission may be appealed by the district Councilmember and/or the Mayor. On May 22, 2024, we received a request from the applicant seeking an appeal of the Planning Commission’s determination, which would allow the matter to be reviewed by the City Council. Further, the applicant suggested the action taken by the Planning Commission may have violated the California Housing Accountability Act. Subsequently, on May 23, 2024, a second request for appeal was provided by several members of the Greenfield Coalition, also suggesting the Planning Commission’s action may have violated state law, and the City would be in a “vulnerable position to defending such an action.”

Additionally, we received countless phone calls, e-mails and letters from concerned residents and households in the Prospect Avenue neighborhood. Many of the residents expressing concern were not in opposition to housing in this area and recognized that Fresno is in the midst of a housing crisis. They were, however, concerned with understandable items such as traffic congestion, parking, and the four-story height of one section of the proposed complex. It was reported that some of the neighborhood concerns were addressed, such as removal of windows facing adjacent housing, but many remain unsatisfied with the applicant’s unwillingness to meet and further discuss the community concerns.

When considering the pleas to both appeal and not appeal this decision, as elected officials we must take into account both the responsibility to protect the City’s financial interests, as well as act in the best interest of our residents, and not lose the trust of our community.

It is with this in mind; we have heavily considered the following items:

1. The City Attorney’s Office has advised that the findings made by the Planning Commission fall short of the required criteria to deny the project. As a result, the City has been placed at substantial risk of litigation that will likely result in substantial fines and the courts approving the project as it stands proposed today by the developer.
2. It is logical to presume that if the Planning Commission’s decision is not appealed, the applicant could litigate, and has a strong likelihood of winning, resulting in the proposed development being approved as is.

3. In addition to the time and resources involved in litigation, there are also fines for violating the Housing Accountability Act. These fees range from a minimum of \$10,000 to \$50,000 per unit. This could equate to a City fine between \$820,000 - \$4.1 million.
4. Nearby residents continue to express opposition to elements of the proposed multi-family housing development, concerns ranging from traffic congestion, parking, and the four-story height of one section of the proposed complex.
5. Insufficient community dialogue has been reported by residents, indicating the applicant refused to meet with the community to discuss concerns. It is clear the community desires an opportunity to meet with the applicant.
6. Last, and certainly not least, it is our understanding that should the applicant apply for a new housing development, the 3.7 acre lot allows density for up to 111 units. Should a new application include a percentage of units reserved for affordable housing, the City would have no other option but to approve within a 90-day time period. Depending on income levels and unit counts proposed under this potential scenario, density bonuses can also be applied which range from 20-40 additional units. As part of the density bonus program, which could allow up to 151 units, additional parking reductions plus other concessions like height, setbacks and landscaping can also be made.

Therefore, it is with considerable thought and deliberation that we have come to a decision we hope will honor the concerns raised by residents, that will provide quality housing for Fresno residents, and that will not put the City at unnecessary financial risk.

In this instance, we are confident a “do nothing” posture would be an even greater disservice to all involved. We are advised by the City Attorney that doing nothing by foregoing our appeal rights will result in great risk to the City. Doing nothing would create delays in housing production and potential litigation, all with a high likelihood the courts would eventually uphold the development as proposed in the long run, costing the City millions, and ultimately putting this decision in the hands of the court system versus the City Council.

Of even greater concern is the risk of losing the trust of the community. We are sympathetic to those who live in close proximity, and understand the residents desire an opportunity to discuss the proposed project with the applicant. By doing nothing, we believe the residents would ultimately be unsatisfied with the final outcome, and the needs of the community outweigh all other considerations.

Therefore, we are exercising our authority to appeal the Planning Commission’s determination related to Development Permit Application #P21-00989. The appeal will protect our right to bring this item to Council for further review in a reasonable period of time. During this time, we encourage the applicant to come to the table with neighboring residents in productive dialogue around the concerns raised, including but not limited to parking, the height of the proposed building, and traffic congestion.

Sincerely,



Jerry P. Dyer
Mayor



Mike Karbassi
Council Vice President, District 2