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**Special Council Meeting**  
**August 31, 2022**

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**FRESNO CITY COUNCIL**



**Supplemental Packet**

**ITEM(S)**

**Open Session (ID 22-1395)**

RESOLUTION - Finding good cause and public benefit for extension of the South Fulton Street mixed use residential rental project pursuant to Fresno Municipal Code Section 4-204 relating to disposition of real property (Requires five affirmative votes) (City Action)

**Contents of Supplement:**

Updated Staff Report

**Item(s)**

**Supplemental Information:**

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JOINT MEETING OF THE CITY COUNCIL, CITY IN ITS CAPACITY AS HOUSING SUCCESSOR TO THE REDEVELOPMENT AGENCY OF THE CITY OF FRESNO, AND THE FRESNO REVITALIZATION CORPORATION:

**DATE:** August 31, 2022

**FROM:** Marlene Murphey, Executive Director

**SUBJECT**

RESOLUTION – Finding good cause and public benefit for extension of the South Fulton Street mixed use residential rental project pursuant to Fresno Municipal Code Section 4-204 relating to disposition of real property (Requires five affirmative votes) (City Action)

**RECOMMENDATION**

Consider the Resolution finding good cause and public benefit for extension of the South Fulton Street mixed use residential project pursuant to Fresno Municipal Code (FMC) section 4-204 regarding real property disposition.

**EXECUTIVE SUMMARY**

On August 18, 2022, the Council approved a second amendment authorizing an extension to the Amended and Restated Disposition and Development Agreement for The Park at South Fulton Street project. However, FMC Section 4-204(d) mandates that no agreement for the disposition of real property shall be extended more than once. In order to vary from that provision, and for the extension to be legally valid, a supermajority of at least five votes of Council will need to make specific findings of good cause and public benefit pursuant to FMC Section 4-204(e), as set forth in the attached resolution. The Developers have advised they have initiated a change in ownership in which Mehmet Noyan and Jeff Isenstadt are the remaining sole members in Noyan Frazier Capital LP and its general partner TMJ Capital Inc. and that once the ownership change has been completed they will provide documentation.

**BACKGROUND**

Pursuant to FMC section 4-204 the Council, by a super majority of at least 5 votes, will need to make findings of good cause and clear and convincing benefits to the public to extend the agreement.

A resolution is attached hereto with the Project's good cause findings and benefits to the public for the Council's consideration which includes the following:

The Project is a mixed-use, mixed income residential development that will provide 99 residential units with twenty units restricted to households earning 50% or less of average medium income (AMI) covenanted for 55 years

The Project will attractively intensify development with 99 units in a four- story building, with on-site parking and 4,500 square feet of ground floor retail fronting the recently reconstructed Fulton Street

The Project benefits the community with Affordable Housing and Sustainable Community loan and grant awards totaling \$5,738,730 for affordable housing and related transportation infrastructure

The Project benefits the community through additional funding and in-kind contributions of \$4,280,164 from various sources including Measure C and the San Joaquin Valley Air Pollution Control District

The Project generates a total commitment of \$10,018,894 obtained through competitive process

The Project has cleared two blighted buildings from the Project site; performed level one and level two environmental assessments and conducted geo-technical soil reports in preparation for construction

Progress has been made to secure conditional Zone Clearance approval in December 2021 and Developer has completed revised entitlement drawings in preparation for construction drawings

Delays were caused by issues raised by flood control district requiring revised entitlement drawings to resolve issues and avoid alteration to the federally funded Fulton Street infrastructure improvements

The Project advances downtown development and helps the community address its housing crisis.

## **ENVIRONMENTAL FINDINGS**

Zone Clearance Application No. P21-04764 originally proposed to construct a four-story, 66-unit multi-family, mixed-use building at the subject property totaling ± 0.78 acres. The California Environmental Quality Act (Public Resource Code Section 21000 et seq.) permits a public agency to determine whether a particular project is exempt from CEQA. Zone Clearance Application No. P21-04764 was approved by the Planning and Development Director on December 22, 2021, and a determination of an Article 18, Statutory Exemptions, Section 15268 of the CEQA Guidelines was made and Environmental Assessment No. P21-04764 was completed for this project on December 22, 2021.

Pursuant to Article 18, Statutory Exemptions, Section 15268 of the State CEQA Guidelines [Public Resources Code 21080(b)(1)], ministerial projects are exempt from the requirements of CEQA. The determination of what is “ministerial” can most appropriately be made by a particular public agency involved based upon its analysis of its own laws, and each public agency should make such determination either as a part of its implementing regulations or on a case-by-case basis. Per Article 49, Planning Authorities, Section 15-4907, Summary of Primary Planning Permits and Actions, of the Fresno Municipal Code (FMC), development of one-single family home, duplex, or qualifying Downtown housing which complies with all provisions of the Fresno Development Code requires a Zone Clearance, which is considered a ministerial permit in the City of Fresno.

Article 51, Zone Clearance, Section 15-5102(D), Downtown Housing, of the FMC establishes criteria for qualifying Downtown housing which shall require a Zone

Clearance. Section 15-5102(D) states that:

1. *Downtown projects which meet all of the following criteria shall require a Zone Clearance to confirm that their construction is permitted as a matter of right and that such a project is being proposed in a manner which is compliant with, and without any deviations from, all applicable development standards prior to securing a Building Permit:*
  - a. *Located within a DT District;*
  - b. *A minimum of 16 total dwelling units in the project;*
  - c. *A residential density of no less than 20 du/ac;*
  - d. *Residential uses must occupy 50% or more of the total floor area; and*
  - e. *No historic resources or potential historic resources are located on the site.*
2. *Downtown projects which do not meet the threshold for a Zone Clearance shall be required to secure a Development Permit.*

The proposed project now proposes 99 residential units (increase of 33 units). The increase in residential units does not result in changes or increases in overall building height, square footage of the building footprint, or floor area ratio. In addition, the increase in residential units does not result in a reduction in residential density below 20 dwelling units per acre (change increases residential density); nor does it reduce the ratio of residential uses below 50% of the total floor area (change increases residential ratio). As revised, the project still meets the above criteria, is consistent with the general, community, and specific plan designation of Downtown Core planned land use and conforms to all applicable policies, and therefore is considered a ministerial action under the Fresno Municipal Code; thus, the project is Statutorily Exempt under CEQA Guidelines. Therefore, the project as revised (99 total residential units) is not expected to have a significant effect on the environment and no further environmental assessments will be needed. As such, a statutory exemption, as noted above, is appropriate for the 99-unit residential mixed-use project.

## **LOCAL PREFERENCE**

N/A

## **FISCAL IMPACT**

The Project leverages state and local funding sources that together represent a significant downtown investment in both affordable and market rate housing with emphasis on intensification and transit-oriented development. The funding stream includes AHSC grant and loan awards totaling \$5,738,730 for affordable housing and related transportation infrastructure. The AHSC awards helped to subsequently leverage an additional \$4,280,164 for a combined total of \$10,018,894 in affordable housing related funds. The additional funds consist of: \$1,889,511 San Joaquin Air Pollution Control District; \$1,159,298 HSA; \$736,085 Measure C; and, \$495,270 City. Other sources contributing to the total Project cost of \$32,162,588 include 4% tax

credits (\$694,763); Developer equity (\$1,948,931) and conventional financing (\$19,500,000).

**ATTACHMENTS:**

Resolution