

**CITY OF MONTEBELLO****CITY COUNCIL AGENDA STAFF REPORT**

TO: Honorable Mayor and Members of the City Council

FROM: René Bobadilla, P.E., City Manager

BY: Joseph Palombi, Director of Planning and Community Development
Arnold M. Alvarez-Glasman, City Attorney

SUBJECT: **Adopt Resolution No. 21-38 of the Montebello City Council relating to the Findings and Decision on the Review of a Planning Commission decision of denial General Plan Amendment, Zone Change, Density Overlay Zone, Height Overlay Zone, Planned Development District, Parking Management Plan, and Site Plan Review (Case No. "PC-2020-0018-GPA-ZC-PDD-PMP"); Vesting Tentative Tract Map ("VTTM") No. 83239; Development Agreement ("DA No. 02-20"); and Mitigated Negative Declaration ("MND") and Mitigation Monitoring Reporting Program ("ENV No. 113-20-MND") to allow the construction of a total of 31 residential dwelling units and related amenities for the property located at 301 Jacmar Drive**

DATE: May 12, 2021

RECOMMENDATIONS:

It is recommended that the City Council take the following action:

- 1) Adopt Resolution No. 21-38 attached with this report which will uphold the decision of the Montebello Planning Commission and finalize the findings and decision of the City Council denying the Applicant's, Brandywine Acquisition Group, LLC, request seeking approval of General Plan Amendment, Zone Change, Density Overlay Zone, Height Overlay Zone, Planned Development District, Parking Management Plan, and Site Plan Review (Case No. "PC-2020-0018-GPA-ZC-PDD-PMP"); Vesting Tentative Tract Map ("VTTM") No. 83239; Development Agreement ("DA No. 02-20"); and Mitigated Negative Declaration ("MND") and Mitigation Monitoring Reporting Program ("ENV No. 113-20-MND") to allow the construction of a total of 31 residential dwelling units and related amenities for the property located at 301 Jacmar Drive (the "Project"); and
- 2) Take such additional, related, action that may be desirable.

Adoption of Resolution relating to the Findings and Decision on the Review of a Planning Commission decision of denial of General Plan Amendment, Zone Change, Density Overlay Zone, Height Overlay Zone, Planned Development District, Parking Management Plan, and Site Plan Review (Case No. “PC-2020-0018-GPA-ZC-PDD-PMP”); Vesting Tentative Tract Map (“VTTM”) No. 83239; Development Agreement (“DA No. 02-20”); and Mitigated Negative Declaration (“MND”) and Mitigation Monitoring Reporting Program (“ENV No. 113-20-MND”) to allow the construction of a total of 31 residential dwelling units and related amenities for the property located at 301 Jacmar Drive

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FISCAL IMPACT

There is no fiscal impact regardless of which action recommended above is taken by the City Council.

BACKGROUND

Brandywine Holdings Group, LLC submitted various applications to the City in an effort to allow for the construction of a total of 31 residential dwelling units and related amenities at the property located at 301 Jacmar Drive (the “Project”). On December 1, 2020, the Planning Commission conducted a duly noticed public hearing and subsequently continued the item to December 15, 2020 to allow more time to review the project. The Planning Commission conducted a continued public hearing on December 15, 2020 to further consider the Project, at which time the item was continued to January 5, 2021. The Planning Commission conducted a continued public hearing on January 5, 2021 and voted to recommend denial to the City Council to deny the Project.

Upon review, on February 24, 2021 the City Council continued the public hearing March 10, 2021. The City Council of the City of Montebello conducted a public hearing on March 10, 2021, wherein public testimony was received by the Applicant, parties in support of the proposed Project and parties in opposition to the proposed Project. In addition, there were numerous written statements, petitions, letters and other documents presented to the City Council at the public hearing which were reviewed and accepted by the City Council as part of the evidence considered in making their decision and findings. At the close of the public hearing, the City Council continued this matter to April 14, 2021.

On April 14, 2021 the City Council further considered this matter, and at such time made the preliminary determination to deny the Project and deny the various applications for entitlements contained herein as submitted by the Applicant and further directed staff to prepare this Resolution consistent with the preliminary determination and findings expressed.

The attached Resolution memorializes the direction of the City Council with findings and a decision consistent with the Council’s direction provided at the April 14, 2021 City Council meeting.

Adoption of Resolution relating to the Findings and Decision on the Review of a Planning Commission decision of denial of General Plan Amendment, Zone Change, Density Overlay Zone, Height Overlay Zone, Planned Development District, Parking Management Plan, and Site Plan Review (Case No. “PC-2020-0018-GPA-ZC-PDD-PMP”); Vesting Tentative Tract Map (“VTTM”) No. 83239; Development Agreement (“DA No. 02-20”); and Mitigated Negative Declaration (“MND”) and Mitigation Monitoring Reporting Program (“ENV No. 113-20-MND”) to allow the construction of a total of 31 residential dwelling units and related amenities for the property located at 301 Jacmar Drive

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DISCUSSION:

The Project, if approved, would permit the construction of a total of 31 residential dwelling units and related amenities for the property located at 301 Jacmar Drive. This matter was presented to the Planning Commission and after numerous public hearings, the Planning Commission on January 5, 2021 voted to deny the various applications for entitlements associated with the project.

Due to the nature of the applications and requested entitlements, a review and hearing was required to be conducted by the City Council. Similar to the decision of the Planning Commission, after conducting the Public Hearing, the City Council expressed General Plan consistency insufficiencies, the inability to make findings as required by the Montebello Municipal Code (“MMC”) for compliance with the requirements necessary for approval of the various entitlements and inadequacies in the CEQA analysis. The City Council expressed the intended direction, but not final action, to deny the Applicant’s applications. The City Council directed the City staff and City Attorney to prepare the requisite Resolution for City Council consideration which would result in the denial of the Applicant’s requested CUP modification and to uphold the decision of the Planning Commission.

SUMMARY:

The public hearing was closed at the March 10, 2021 City Council meeting. While after the completion of the Public Hearing, additional public comment was provided by the Applicant, those in support and those in opposition to the Project, both verbal and in writing, no additional evidence has been presented or considered by the City Council. Staff is requesting the City Council review the attached Resolution to determine its consistency with the City Council determinations and direction provided after the close of the March 10, 2021 public hearing.

If the City Council determines that the Resolution expresses the findings and decision of the City Council, it is appropriate for the City Council to adopt the attached Resolution.

By adopting the Resolution, the City Council, after reviewing all staff reports, planning commission reports, environmental reports, all written and oral evidence and presentation and all other documents which are part of the record in this matter, would be approving its findings and rendering its decision denying the Applicant’s request for approval of the Project. In addition, by denying the proposed Project, the City Council

Adoption of Resolution relating to the Findings and Decision on the Review of a Planning Commission decision of denial of General Plan Amendment, Zone Change, Density Overlay Zone, Height Overlay Zone, Planned Development District, Parking Management Plan, and Site Plan Review (Case No. “PC-2020-0018-GPA-ZC-PDD-PMP”); Vesting Tentative Tract Map (“VTTM”) No. 83239; Development Agreement (“DA No. 02-20”); and Mitigated Negative Declaration (“MND”) and Mitigation Monitoring Reporting Program (“ENV No. 113-20-MND”) to allow the construction of a total of 31 residential dwelling units and related amenities for the property located at 301 Jacmar Drive

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would be upholding the decision of the Planning Commission.

ATTACHMENT:

- A. Attachment A – Resolution No. 21-38 of the City Council of the City of Montebello denying: a General Plan Amendment, Zone Change, Density Overlay Zone, Height Overlay Zone, Planned Development District, Parking Management Plan, and Site Plan Review (Case No. “PC-2020-0018-GPA-ZC-PDD-PMP”); Vesting Tentative Tract Map (“VTTM”) No. 83239; Development Agreement (“DA No. 02-20”); and Mitigated Negative Declaration (“MND”) and Mitigation Monitoring Reporting Program (“ENV No. 113-20-MND”) to allow the construction of a total of 31 residential dwelling units and related amenities for the property located at 301 Jacmar Drive

RESOLUTION NO. 21-38

RESOLUTION OF THE CITY COUNCIL OF THE CITY OF MONTEBELLO DENYING: A GENERAL PLAN AMENDMENT, ZONE CHANGE, DENSITY OVERLAY ZONE, HEIGHT OVERLAY ZONE, PLANNED DEVELOPMENT DISTRICT, A PARKING MANAGEMENT PLAN, SITE PLAN REVIEW (CASE NO. PC-2020-0018-GPA-ZC-PDD-PMP”), A VESTING TENTATIVE TRACT MAP (“VTTM”) NO. 83239; A DEVELOPMENT AGREEMENT (“DA NO. 02-20”); AND ADOPTION OF THE MITIGATED NEGATIVE DECLARATION AND MITIGATION MONITORING REPORTING PROGRAM (“ENV NO. 113-20-MND”) FOR THE CONSTRUCTION OF A TOTAL OF 31 RESIDENTIAL DWELLING UNITS AND RELATED AMENITIES FOR THE PROPERTY LOCATED AT 301 JACMAR DRIVE, AND UPHOLDING THE DECISION OF THE MONTEBELLO PLANNING COMMISSION

WHEREAS, the City of Montebello (“City”) received an application from Brandywine Acquisition Group LLC (the “Applicant”) for the proposed General Plan Amendment, Zone Change, Density Overlay Zone, Height Overlay Zone, Planned Development District, Parking Management Plan, and Site Plan Review (Case No. “PC-2020-0018-GPA-ZC-PDD-PMP”); Vesting Tentative Tract Map (“VTTM”) No. 83239; Development Agreement (“DA No. 02-20”); and Mitigated Negative Declaration (“MND”) and Mitigation Monitoring Reporting Program (“ENV No. 113-20-MND”) to allow the construction of a total of 31 residential dwelling units and related amenities for the property located at 301 Jacmar Drive (“Project”); and

WHEREAS, this Resolution, shall supersede any existing resolution associated with the Case Nos. PC-2020-0018-GPA-ZC-PDD-PMP, VTTM No. 83239; DA No. 02-20; and ENV No. 113-20-MND; and

WHEREAS, a General Plan Amendment per Montebello Municipal Code (“MMC”) Chapter 17.76, would be required to modify the General Plan Land Use designation from Low Density Residential to Medium Density Residential; and

WHEREAS, a Zone Change per MMC Chapter 17.76, would be required to modify the zoning from Low Density Residential to Medium Density Residential from R-1 (Single-Family Residential) to R-3 (Multiple-Family Residential); and

WHEREAS, a Density Overlay per MMC Chapter 17.48, would be required to allow for 22.5 dwelling units per acre; and

WHEREAS, a Height Overlay per MMC Chapter 17.48 would be required to allow additional development standards for the enhanced residential project; and

WHEREAS, a Planned Development District per MMC Chapter 17.38 would be required to permit an increase the allowable height from 29 feet to 39 feet; and

WHEREAS, a Tandem Parking Approval via a Parking Management Plan per MMC Sections 17.52.280 and 17.52.310 would be required to allow tandem parking at the existing site; and

WHEREAS, a Site Plan Review would have been required and approved per MMC Chapter 17.74; and

WHEREAS, a Vesting Tentative Tract Map (“VTTM No. 83239”) is required for approval per MMC Chapter 16.24 and Subdivision Map Act (Government Code Section 66410 *et seq.*); and

WHEREAS, an Initial Study, and Mitigated Negative Declaration and Mitigation Monitoring Program Reporting Program (“ENV No. 113-20-MND”) were prepared in accordance with the requirements of CEQA, which analyzed the potential environmental impacts of the Project and found that the Project does not have the potential, and will not, result in any significant environmental impacts, and incorporated herein by this reference; and

WHEREAS, a Notice of Intent to adopt the Mitigated Negative Declaration and Mitigation Monitoring Program Reporting Program was prepared and posted at the Los Angeles County Clerk’s Office on October 29, 2020, notifying the public of the public review period through November 19, 2020, and the Notice of Intent was further published and posted as required by law; and

WHEREAS, the Planning Commission conducted a duly noticed public hearing on December 1, 2020 to consider the Project and subsequently continued the item to December 15 to allow more time to review the project.; and

WHEREAS, the Planning Commission conducted a continued public hearing on December 15, 2020 to further consider the Project, at which time the item was continued to January 5, 2021; and

WHEREAS, the Planning Commission conducted a continued public hearing on January 5, 2021 and voted to recommend denial to the City Council to deny the Project; and

WHEREAS, upon the required review by the City Council, on February 24, 2021 the City Council continued the public hearing March 10, 2021; and

WHEREAS, the City Council of the City of Montebello conducted a public hearing on March 10, 2021, wherein public testimony was received by the Applicant, parties in support of the proposed Project and parties in opposition to the proposed Project. In addition, there were numerous written statements, petitions, letters and other documents presented to the City Council at the public hearing which were reviewed and accepted by the City Council as part of the evidence considered in making their decision and findings.

At the close of the public hearing, the City Council continued this matter to April 14, 2021; and

WHEREAS, on April 14, 2021 the City Council further considered this matter, and at such time made the preliminary determination to deny the Project and deny the various applications for entitlements contained herein as submitted by the Applicant and further directed staff to prepare this Resolution consistent with the preliminary determination and findings expressed; and

WHEREAS, after review and consideration of all staff agenda reports, the environmental analysis prepared, the Applicant's presentation and request for modification to the Project, oral testimony from those in support of the Applicant's request and those opposed to the proposed Project, and evaluation of all written communications, reports and documents from all parties, the City Council, as set forth in the findings expressed below, hereby denies the Applicant's request for the proposed Project and all entitlements required for approval for the Project and upholds the decision of the Montebello City Planning Commission; and

WHEREAS, this Resolution, upon adoption, shall constitute the announcement of findings and decision of the City Council pursuant to Montebello Municipal Code (MMC) §17.78.090 and denies any and of the applications submitted and processed for the Project, including but not limited to: the proposed General Plan Amendment, Zone Change, Density Overlay Zone, Height Overlay Zone, Planned Development District, Parking Management Plan, and Site Plan Review (Case No. "PC-2020-0018-GPA-ZC-PDD-PMP"); Vesting Tentative Tract Map ("VTTM") No. 83239; Development Agreement ("DA No. 02-20"); and Mitigated Negative Declaration ("MND") and Mitigation Monitoring Reporting Program ("ENV No. 113-20-MND") to allow the construction of a total of 31 residential dwelling units and related amenities for the property located at 301 Jacmar Drive; and

WHEREAS, all other legal prerequisites to the adoption of this resolution have occurred.

NOW, THEREFORE, the City Council of the City of Montebello hereby finds, declares, and resolves as follows:

SECTION 1. The foregoing recitals are true and correct and are hereby incorporated as substantive findings in this Resolution.

SECTION 2. The City Council, after consideration of the staff presentation, reports, discussion, oral testimony and evidence presented hereby denies the General Plan Amendment, Zone Change, Density Overlay Zone, Height Overlay Zone, Planned Development District, Parking Management Plan, and Site Plan Review (Case No. "PC-2020-0018-GPA-ZC-PDD-PMP") and Vesting Tentative Tract Map ("VTTM") No. 83239. The City Council's decision is based on the following findings:

A. *General Plan Amendment/Zone Change (MMC Chapters 17.48, 17.46, and 17.76)*

1. The proposed Zone Change is not consistent with the objectives and policies of the General Plan;

The City's policy, with respect to density along major commercial corridors, is to permit a wide range in multiple family density from R-2 (Medium Density) to R-4 (Very High Density). However, the proposed Project property is situated sufficiently distanced from a major commercial corridor and is within an area adjacent to R-1 Zone properties. Therefore, the General Plan Amendment and Zone Change would not be consistent with the intent of the General Plan and would negatively impact the intended single family residential of the surrounding neighborhood.

2. The proposed Zone Change is detrimental and against the public interest and convenience; and

The Project is currently zoned for Low Density and Single-Family Residential. If granted approval, this 1.38-acre property would be transformed from a parcel with one (1) single-family residence to a development with 31 residential units. There was testimony from a significant number of residents located adjacent to or nearby the proposed Project who expressed their view that the Project would increase traffic, create visual hardships upon adjacent properties due to the 35 foot height potential of the residential units, negatively impact the air quality due to the added traffic and vehicle trips generated by residents and visitors of the Project and negatively impact property values due to the high density nature of the project. Lastly, the Project is not necessary to advance the public interest and convenience and is adverse to the goals and policies of the City in providing proper residential growth and development within the City. Based upon the verbal and written testimony presented, the proposed Zone Change will create problems harmful to the public health, safety and general welfare.

B. *Planned Development District (MMC Chapter 17.38)*

1. The City Council finds the proposed PD Project is not in compliance with Chapter 17.38 of the Zoning Code;

The Project of 31 units will not meet the minimum requirements for residential uses with common and private open space and transforms the 1.38 acres site from a unique single-family property with significant and desired open space to a high-density, 31 unit multi-family development with 22.5 dwelling units per acre. This Project would require significant exemptions from City standards to proceed and the City Council finds is not in the best interest of the neighborhood and adjacent residents to approve the project.

2. The proposed PD is not consistent with the subdivision regulations, with the

general intent of the zoning regulations, with the General Plan, and with any applicable specific plan;

The Project is not consistent with the general intent of City's zoning regulations and General Plan. This is demonstrated by the necessity of the Applicant to seek numerous exemptions or adjustments to the City's Zoning Code standards by having to request a Planned Development, General Plan Amendment, Zone Change from R-1 (Single-Family Residential) to R-3 (Multiple-Family Residential) along with a Density Overlay & Height Overlay Zone for 31 residential dwelling units, a Parking Management Plan, and a Vesting Tentative Tract Map for new construction for the purpose of keeping in line with the intent of the General Plan and the applicable specific plan.

3. The proposed PD is not compatible with present and future development of the property within the immediate vicinity;

The Subject Site is adjacent to existing residential R-1 (Single-Family Residential) with these R-1 (Single-Family Residential) uses to the west, north and east. The Project, if approved, would have negative impacts upon the quiet and peaceful nature of those existing R-1 zoned properties and would be incompatible with adjacent uses.

4. The proposed PD will adversely affect the general peace, health, safety, and welfare;

The current Subject Site is developed with a single-family residence. By allowing the Project, the new construction would result in 31 new residential units, increasing the potential new residents in this 1.38 acre site by at least 50 to potentially 100 or more additional persons in this R-1 Zoned property. Such high density use within an area primary zoned with R-1 uses would have an adverse impact to the general peace, health, safety and welfare of the adjacent neighborhood and those families residing within the general vicinity of the Project.

5. The permitted uses and development standards adopted as part of the PD will be detrimental to present and potential surrounding uses and will not have a beneficial effect which could not have been adequately achieved under the pre-existing zoning district;

The Project would remove the existing single-family, residential development and construct 31 townhomes and condominiums. The City Council finds the Project would not have a beneficial effect upon the current R-1 (single family) zoned uses. The Project would have a detrimental impact upon the quite enjoyment of the residents that exist.

6. The proposed on-site street and thoroughfares are not adequate in size to accommodate the traffic volume generated by the proposed PD, and

increased densities will generate traffic in such amounts as to overload the street network outside the PD boundary;

It is clear that the traffic impacts will significantly increase by adding an additional 31 residential units. This substantial addition of vehicle use throughout the primarily R-1 Zone neighborhood will overload the current conditions and infrastructure within the area.

7. The exceptions from the development standards of the Zoning Code, if any, are warranted by the design and amenities of the proposal and are in accord with the adopted policies of the Planning Commission and the City Council;

The requested exceptions to existing development standards are inconsistent with the City's current policies and R-1 Zone criteria. The numerous exceptions only benefit the Applicant and do not address the needs of existing properties and residents.

8. The existing or proposed utility services and facilities are adequate for the proposed population densities and nonresidential uses; and

There is not sufficient evidence before the City Council to make this finding in favor of the Applicant.

9. The proposed design of the buildings and structures are not situated to minimize impacting the privacy of existing abutting residential uses.

Based on the site layout, the privacy of neighboring properties will be substantially impacted. The increased height impacts of up to 39 feet in height of the proposed Project, will remove the existing privacy conditions of the adjacent single family residential uses, thus reducing or eliminating the quiet enjoyment rights of current property owners.

- C. Tandem Parking Approval via a Parking Management Plan (MMC Sections 17.52.280 and 17.52.310)

As a result of the findings and determination denying the General Plan Amendment/Zone Change and Planned Development request, the City Council denies the Tandem Parking Approval via a Parking Management Plan.

- D. Vesting Tentative Tract Map (MMC Chapter 16.24)

As a result of the findings and determination denying the General Plan Amendment/Zone Change and Planned Development request, the City Council denies the Vesting Tentative Tract Map.

- E. Site Plan Review (MMC Chapter 17.74)

As a result of the findings and determination denying the General Plan Amendment/Zone Change and Planned Development request, the City Council denies making the required finding for Site Plan Review approval.

SECTION 3. In accordance with CEQA Guidelines, an initial study was prepared to determine whether the Project may have a significant effect on the environment. Upon review of the Mitigated Negative Declaration prepared as part of this Project's application, which was circulated for a period of not less than 20 days pursuant to CEQA Guidelines Section 15015(b), the City Council on the basis of the entire record before it, the City Council disapproves the CEQA analysis findings that the Mitigated Negative Declaration and Mitigated Monitoring and Reporting Program ("ENV No. 113-20-MND") adequately address the environmental impacts created by the proposed Project. The City Council finds that the cumulative effects of the Project will have the potential to significantly impact or degrade the quality of the environment. The impacts of this Project would significantly and negatively impact the environment in one or more of the following areas: traffic, noise, air quality, greenhouse gas emissions, hazardous materials and water quality.

SECTION 4. For the foregoing reasons the City Council finds and determines (1) the proposed Project is not consistent with the City's General Plan, (2) fails to meet the required findings set forth in the MMC, and (3) failed to properly and adequately study, analyze and address the significant environmental impacts the proposed Project would create. The decision of the City Council is to deny approval of the proposed General Plan Amendment, Zone Change, Density Overlay Zone, Height Overlay Zone, Planned Development District, Parking Management Plan, and Site Plan Review (Case No. "PC-2020-0018-GPA-ZC-PDD-PMP"); Vesting Tentative Tract Map ("VTTM") No. 83239; Development Agreement ("DA No. 02-20"); and Mitigated Negative Declaration ("MND") and Mitigation Monitoring Reporting Program ("ENV No. 113-20-MND") to allow the construction of a total of 31 residential dwelling units and related amenities for the property located at 301 Jacmar Drive as filed and submitted by the Applicant, Brandywine Acquisition Group LLC.

SECTION 5. By adopting this Resolution the City Council is announcing its findings and decision as required by MMC §17.78.090. The City Clerk shall give written notice of this decision to the Applicant as required by MMC §17.78.110 and to the Planning Commission as required by MMC §17.78.120. This action and decision of the City Council shall be final as set forth in MMC §17.78.100.

SECTION 6. This Resolution shall become effective immediately upon its adoption by the City Council and the City Clerk shall certify to the adoption of this Resolution.

PASSED AND ADOPTED this 12th day of May 2021 by the City Council.

Kimberly A. Cobos-Cawthorne, Mayor

ATTEST:

APPROVED AS TO FORM:

Christopher Jimenez, City Clerk

Arnold M. Alvarez-Glasman, City Attorney

STATE OF CALIFORNIA)
COUNTY OF LOS ANGELES) SS:
CITY OF MONTEBELLO)

I, Christopher Jimenez, City Clerk of the City of Montebello, County of Los Angeles, State of California, hereby certify that the foregoing Resolution No. 21-38 was passed and adopted by the City Council of the City of Montebello, signed by the Mayor and attested by the City Clerk at a regular meeting of said Council held on the 12th day of May 2021 and that said Resolution was adopted by the following vote, to-wit:

- AYES:
- NOES:
- ABSTAIN:
- ABSENT:

The undersigned, City Clerk of the City of Montebello, does hereby attest and certify that the foregoing Resolution is a true, full and correct copy of a resolution duly adopted at a meeting of said City which was duly convened and held on the date stated thereon, and that said document has not been amended, modified, repealed or rescinded since its date of adoption and is in full force and effect as of the date hereof.

DATE: _____

Christopher Jimenez, City Clerk