



Notice of Exemption

**ENDORSED
FILED
ALAMEDA COUNTY**

Date: April 17, 2024

APR 17 2024

To:

Office of Planning and Research
P.O. Box 3044
Sacramento, CA 95812-3044

Alameda County Clerk-Recorder's Office
1106 Madison Street
Oakland, CA 94607

From:

City of Fremont, Planning Division
39550 Liberty Street
Fremont, CA 94537
Contact: Mark Hungerford
Phone: (510)-494-4541

MELISSA WILK County Clerk
By  Deputy

Subject: Filing of a Notice of Exemption Pursuant to CEQA Guidelines Section 15062

Project Title: Fremont Hub Mixed-Use Appeal (PLN2024-00128)

Project Appellant: East Bay Residents for Responsible Development, c/o Ariana Abedifard (Adams Broadwell Joseph & Cardozo)

Project Applicant: Mark Rickards and Michael Strahs (Kimco Realty)

Project Location (include county): 39150 Argonaut Way, Fremont, Alameda County

Project Description: A Discretionary Design Review Permit to allow a proposed mixed-use development consisting of a freestanding 13,000-square-foot retail-pharmacy building with a drive-through lane and a six-story mixed-use building containing 314 apartment units and 14,157 square feet of retail-commercial space at 39150 Argonaut Way in the Central Community Plan Area, and to consider an exemption from the requirements of the California Environmental Quality Act (CEQA) pursuant to CEQA Guidelines Section 15183, as the project is consistent with the density established by the General Plan, for which an Environmental Impact Report (EIR) (SCH#2010082060) was previously prepared and certified, and CEQA Guidelines Sections 15162 and 15164, as none of the circumstances requiring preparation of a subsequent or supplemental EIR have occurred.

The project (filed as PLN2022-00487) was approved by the City of Fremont Zoning Administrator on December 12, 2023 and appealed by the Appellant on December 21, 2023. The Planning Commission denied the Appeal and upheld the Zoning Administrator's decision to approve the project on February 22, 2024. An Appeal of the Planning Commission's decision was filed by the Appellant on March 1, 2024. The City Council denied the second Appeal, upholding the Planning Commission's approval, on April 16, 2024.

Name of Public Agency Approving Project: City of Fremont

Exempt Status (check one):

- Ministerial (Public Resources Code Section 21080(b)(1); CEQA Guidelines Section 15268)
- Declared Emergency (Public Resources Code Section 21080(b)(3); CEQA Guidelines Section 15269(a))
- Emergency Project (Public Resources Code Section 21080(b)(4); CEQA Guidelines Section 15269(b)(c))
- Categorical Exemption. State type and CEQA Guidelines section number

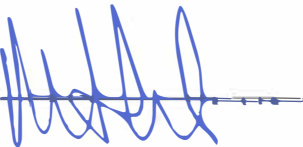
- Special Situations. State CEQA Guidelines section number: 15183, Projects Consistent with the General Plan, as an EIR (SCH# 2010082060) was previously prepared and certified; 15162 and 15164, as none of the circumstances requiring preparation of a subsequent or supplemental EIR have occurred.
- Statutory Exemptions. State CEQA Guidelines section number:

Reasons why project is exempt:

The City Center Community Plan was adopted by the Fremont City Council in May 2015. The Community Plan implements the General Plan, which was last comprehensively updated in December 2011 in a process that included preparation and certification of an EIR. As described within the report and detailed in the accompanying CEQA Environmental Consistency Checklist (Informational Item No. 1), the project is consistent with the City Center Community Plan and the applicable standards of the City Center District. As such, the project requires no further environmental review in accordance with CEQA Guidelines Section 15183.

Additionally, the project has been found to not trigger subsequent documentation under CEQA Guidelines Sections 15162 as no substantial changes are proposed in the project that would require revisions to the General Plan Update EIR, nor have substantial changes occurred with respect to the circumstances under which the proposed project would be undertaken require revisions to the General Plan Update EIR, nor has new information of substantial importance been identified that would indicate the project would have any new or more significant effects or require new or additional mitigation than what was included in the General Plan Update EIR. The programmatic mitigation measures from the General Plan Update EIR and/or the standard development requirements contained within FMC Chapter 18.218 adequately address the potential environmental effects of the project. The project is thus within the scope of the General Plan Update EIR and no further CEQA documentation is required. The prepared checklist serves as an addendum, in accordance with CEQA Guidelines Section 15164, to the previously certified EIR. Each of the foregoing provides, without limitation, on a separate and independent basis for the no further environmental review finding. Following the Appeal filing, staff commissioned CEQA consultant Lamphier-Gregory to prepare a response letter that addresses the specific claims made in the Appellant's CEQA challenge letter. The response letter establishes that project impacts under CEQA were properly disclosed in the CEQA Environmental Consistency Checklist, and that the City's use of CEQA streamlining in accordance with CEQA Guidelines Section 15183 and no additional CEQA analysis pursuant to CEQA Guidelines Sections 15162 and 15164 were appropriate for the project.

Each of the foregoing provides, without limitation, separate and independent basis for the no further environmental review finding.

Signature (Lead Agency):  Title: Senior Planner

Authority cited: Sections 21083 and 21110, Public Resources Code.
Reference: Sections 21108, 21152, and 21152.1, Public Resources Code.