



# Notice of Exemption

Date: April 17, 2024

**To:**

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

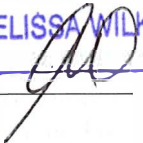
Alameda County Clerk-Recorder's Office  
1106 Madison Street  
Oakland, CA 94607

**From:**

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

**ENDORSED  
FILED  
ALAMEDA COUNTY**

**APR 17 2024**

MELISSA WILK, County Clerk  
By  Deputy

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

**Project Title:** Gateway Plaza Apartments Appeal (PLN2024-00129)

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

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

**Project Location (include county):** 39160 Paseo Padre Parkway, Fremont, Alameda County

**Project Description:** A Discretionary Design Review Permit to allow a proposed five-story, 206-unit apartment building within the Gateway Plaza Shopping Center at 36190 Paseo Padre Parkway 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 15332, Infill Development Projects, and a finding that no further environmental review is required 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 PLN2023-00198) 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: 15332, Infill Exemption.

- 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:**

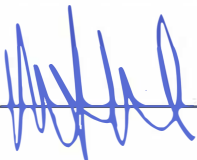
The project is exempt from the requirements of CEQA pursuant to a Class 32 Infill Exemption, as the project is consistent with the General Plan and Zoning Ordinance; would occur within the city limits on a site no greater than five acres substantially surrounded by urban uses; would occur on a site that has no habitat value for endangered, rare or threatened species; would not result in significant effects relating to traffic, noise, air quality and water quality; and is on a site adequately served by utilities and public services.

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 Environmental Impact Report (EIR). As described within this report and detailed in the accompanying CEQA Environmental Consistency Checklist, 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 and 15164 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 challenge letter. The response letter establishes that the project is consistent with the General Plan, that potential project impacts on the environment 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. Additionally, the response letter further establishes project qualification for the Class 32 Infill Exemption. 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.