

City of Burlingame

Design Review Amendment

Address: 920 Bayswater Avenue (main project address)
(includes 908 Bayswater Avenue and 108-124 Myrtle Road)

Meeting Date: August 12, 2019

Request: Design Review Amendment for changes to a previously approved application for Mitigated Negative Declaration, Lot Merger, Design Review, Conditional Use Permit for Multifamily Residential, and Density Bonus Incentive for a new 128-unit Apartment Development.

Applicant: Fore Property Company, Mark Pilarczyk

Property Owner: 920 Bayswater Venture LLC

Architect: Withee Malcolm Architects, LLP- Dirk Thelen

APN: 7 parcels: 029-235-160, 170, 180, 190, 200, 210, 220

General Plan: Myrtle Road Mixed Use Area/ Anita Road Residential Area

Zoning: MMU (Myrtle Mixed Use) / R-3 (Anita Road Overlay)

Lot Area: 1.26 acres
(53,012 SF combined lots)

Background: An application for a Mitigated Negative Declaration, Lot Merger, Design Review, Conditional Use Permit for Multifamily Residential, and Density Bonus Incentive for a New 128-Unit Apartment Development, zoned R-3 and MMU, was approved by the Planning Commission on August 13, 2018 (see attached August 13, 2018 Planning Commission Minutes). A building permit has not yet been issued for this project.

Approval of the project included an added condition that required the applicant to return to the Planning Commission with an FYI for review of the type and style of windows to be used for the project prior to building permit issuance. The applicant submitted information about the windows and in addition included information regarding several architectural items that the Commission identified during the action meeting (but were not required FYIs) on August 13, 2018.

The following items were reviewed as an FYI, under Director's Report, at the November 13, 2018 Planning Commission meeting:

- Window Style and Detail;
- Porch Gable/Column Design; and
- Parapet/Railing Material at Ground Level Patios.

The Planning Commission did not approve the FYI at the November 13, 2018 meeting and requested that the project be scheduled as a regular action item on a future agenda for further review of the proposed windows. The Commission reviewed the proposed windows on November 26, 2018 and continued the item with a request for additional information on the windows, their noise ratings and CEQA requirements, and information on windows of similarly approved projects.

The project returned to the Planning Commission for review at the December 10, 2018 meeting with the requested information. The Commission approved the requested changes, including vinyl framed windows (Milgard Tuscan) with an added condition that the applicant return to the Planning Commission for an FYI with a letter prepared by an acoustical engineer regarding the noise impacts to potential residents of the proposed project and the sound rating required for the windows to comply with Building Code requirements.

Current Request: A building permit was submitted for this project on February 6, 2019 and is currently under review. A request for early demolition of the existing buildings on the project site has been granted; the demolition permit will likely be issued by the date of this scheduled hearing. A building permit for construction of the project is estimated to be issued in early Fall.

During the review of the building permit application staff noted minor changes to each of the facades; many of these were determined to be within the scope of what could be approved by staff. However, a few of the proposed changes were more substantial in nature. Therefore, staff determined that given the cumulative changes proposed the Planning Commission should review these items as an FYI.

The Planning Commission reviewed these changes on July 8, 2019 and called the project up for review, noting that the plans were small and difficult to read, floor plans were not provided, and concerns with changes to the elevator tower (see attached July 8, 2019 Planning Commission Minutes).

The applicant has provided a larger set of plans with each of the proposed changes bubbled and numbered to correspond to a written detail that is provided in a summary letter, date stamped July 24, 2019. The approved (entitled) building elevations are provided on each sheet, with the proposed changes to the specific elevation directly above the "entitled" elevation; a floor plan is also provided for reference. In summary, the changes to the project are a result of details incorporated for the final construction drawings to comply with building and structural requirements, while retaining the overall integrity of the architectural design approved by the Planning Commission. The prominent change that is the subject of this review is the extension of the elevator penthouse. The elevator hoist-way overrun increased due to specific requirements by the elevator manufacturer because the elevator provides rooftop accessibility and the size is required per the elevator shop drawings (provided with the plans). The two dimensional drawings cannot detail the angles from which the majority of the penthouse will be viewed and can be misleading.

The current review also includes compliance with a condition of approval that was added to the project as a result of the Planning Commission approving the vinyl framed windows (Milgard Tuscany) at the December 10, 2018 meeting. The Commission required that the applicant provide a letter prepared by an acoustical engineer regarding the noise impacts to potential residents of the proposed project and the sound rating required for the (vinyl) windows to comply with the Building Code. Therefore, with the attached letter provided as requested, staff has now removed this condition.

The changes between the entitlement approval and the building permit review are primarily the result of building and structural requirements related to the preparation of construction drawings, which is typical on a project of this size. Staff notes that this application was originally submitted as a 140-unit project and was an entirely different design concept, with all trees on site to be removed. After months of working with the neighborhood and on a redesign, the project was resubmitted with a completely different architectural style, which included preserving half of the existing trees and reducing the project by twelve (12) units. The resubmittal was accompanied by a support letter from some of the neighbors that had originally opposed the project.

Environmental Review: On July 10, 2017 the Planning Commission held an Environmental Scoping meeting where staff requested the Planning Commission to provide comments on any potential environmental effects to be considered in the CEQA document. An Initial Study/Mitigated Negative Declaration (IS/MND) for the project was prepared and determine that there were no environmental impacts that were identified that could not be mitigated to less than significant levels. The public review period occurred from Friday June 8 to Thursday June 28, 2018 and five (5) comment letters were received. Responses to these comments were prepared and were included as part of the administrative record. The Planning Commission approved the Mitigated Negative Declaration on August 13, 2018.

Summary of Previously Approved Project: The project site is located at the northeast corner of Bayswater Avenue and Myrtle Road. The site is composed of 7 separate parcels, including 908 and 920 Bayswater Avenue and 108 -124 Myrtle Road. The largest of the 7 parcels, 920 Bayswater Avenue, is located on the corner of Myrtle Road and Bayswater Avenue and contains an automobile repair garage, while 908 Bayswater Avenue, 124 and 127 Myrtle Road all contain single family dwellings, and 108 and 116 Myrtle Road contain apartment buildings. All of the parcels, except for 908 Bayswater Avenue, are located in the MMU (Myrtle Road

Mixed Use) zoning district where 908 Bayswater Avenue is zoned R-3, with the Anita Road Residential Overlay. All of the properties are located within the boundaries of the Downtown Specific Plan. The site is surrounded by a variety of uses including, auto storage, auto sales, multifamily residential, and single family residential.

The proposed project includes merging the 7 parcels, demolishing all of the existing structures on all of the parcels and constructing a new, 4-story 128-unit apartment development. There will be two-levels of below grade parking that will provide a total of 183 spaces, where a minimum of 170 parking spaces are required. The below grade parking will be accessed from a two-way driveway along Myrtle Road. The proposed development will be broken up with setbacks and building breaks to reduce the massing along the street and to provide spacing between the main buildings so that they appears as 3 separate structures.

The R-3 zoned portion, along Bayswater Avenue, has a smaller, three (3) story building with slightly different architectural details so that it provides a transition to the adjacent neighborhood to the east. The main portion of the development will be 4-stories (45') plus a roof top deck above, the building location the R-3 portion (along Bayswater Ave) would be 3-stories (39').

The new apartment development will contain 29 studio units, 54 one-bedroom units, 3 one-bedroom units with a den, 33 two-bedroom units and nine three-bedroom units. Studio units will range from 519 SF – 530 SF, one-bedrooms will range from 696-987 SF, two-bedrooms will range from 904 SF – 1,225 SF, and the three-bedroom units will range from 1,236 SF – 1,310 SF. The total gross floor area will be approximately 130,160 SF, though neither zoning district (MMU/R-3) regulates floor area ratio.

Code section 25.34.030 requires a Conditional Use Permit for multifamily residential uses in the MMU zoning district, and an average maximum unit size of one thousand two hundred fifty (1,250) square feet; the average unit size for the proposed development is 853 SF. Apartment projects are not required to provide common open space or private open space, as is required for condominium developments only. However, common space for residents and visitors, includes approximately a combined total of 12,500 SF of courtyard area and a 4,000 SF roof deck area. Other amenities on-site include an enclosed entry and lobby area with a 1,060 SF community room and a 1,300 SF gym provided on the ground floor. In addition, some units will have decks or balconies provided for open space. The following applications were approved for this project in August 2018:

- Design Review for construction of a new four-story, 128-unit apartment building with below-grade parking (C.S. 25.28.045 (R-3 portion), C.S. 25.34.045 (MMU portion) and Chapter 5 of the Downtown Specific Plan);
- Lot Combination (7 parcels into 1) (C.S. 26.04);
- Conditional Use Permit for Multifamily Residential in the Myrtle Road Mixed Use (MMU) Zone (C.S. 25.34.030(a)); and
- Density Bonus Incentive (C.S. 25.63.0401(a) and (C.S. 25.63.040(c)(1)).

Lot Area: 5,000 SF - R-3

48,012 SF MMU, combined 55,012 SF (combined)

PROPOSED PROJECT – ENTIRE SITE (53,012 SF)		
Land Use:	128 apartment units ^{1 & 2}	Multifamily residential - permitted use in R-3 zone C.S, 25.28.020(B). Multifamily residential - Conditional Uses in MMU zone per C.S. 25.34.030(a)

Building Height:	45' ²	45'-0" maximum/ CUP required to exceed 35'-0"
Rooftop Projections:	1,410 SF 4.4% (10' above 45' max height limit allowed for 5% of roof area)	31,810 SF roof top area 5% or 1,590 SF can project up 10' above 45' height
Off-Street Parking:	183 Total 91 spaces on the lower level 88 spaces on upper level	Studio – 1 sp x 29 = 29 1 bdrm – 1 sp x 57 = 57 2 bdrm – 2 spaces x 33 = 66 <u>3bdrm – 2 spaces x 9 = 18</u> Total = 170 spaces (based on CS 25.63.040(a) – density bonus)
Clear Back-up Space/Aisle Width:	24'-0"	24'-0" or all spaces can be exited in three maneuvers or less
Parking Space Dimensions:	All parking spaces meet minimum dimension requirements	9' x 20' covered spaces
Driveway Width:	2 - 12'-0" driveways	Parking areas with more than 30 vehicle spaces shall have two 12'-0" wide driveways or one 18' driveway
R-3 PORTION ALONG BAYSWATER AVENUE (APPROX. 5,000SF)		
	PROPOSED	ALLOWED/REQUIRED
Front (1st flr): (2nd flr): (3rd flr):	15'-0" (all floors)*	15' or block average whichever is greater
Left Side (1st flr): (2nd flr): (3rd flr):	0* 0* 0*	N/A because parcels will be merged- zoning is still split R-3 and MMU
Right Side (1st flr): (2nd flr): (3rd flr):	9'-6" 9'-6" 9'-6"	5'-0" 6'-0" 7'-0"
Rear (1st flr): (2nd flr): (3rd flr):	20'-0" 20'-0" 20'-0"	20'-0" 20'-0" 20'-0"
Lot Coverage:	2,395 SF 47.9%	2,500 SF 50%
Front Setback Landscaping:	452 SF 60%	452 SF 60%

MMU PORTION (48,012 SF)		
	PROPOSED	ALLOWED/REQUIRED
Front:	10'-0" all floors)	10'
Left Side (1st flr): (2nd flr): (3rd flr): (4th flr):	4'-2" 2'-4" 2'-4" 1'-1"	None required
Right Side (1st flr): (2nd flr): (3rd flr): (4th flr):	10'-3" 10'-3" 10'-3" 10'-3"	7'-0" 8'-0" 9'-0" 10'-0" Abuts residential therefore must comply with R-3 standards (C.S. 25.28.075) per C.S. 25.34.060(d)
Rear (1st flr): (2nd flr): (3rd flr): (4th flr):	20'-0" 20'-0" 20'-0" 20'-0"	20'-0" 20'-0" 20'-0" 20'-0"
Lot Coverage:	32,045 SF 65.6 %	36,009 SF 75%
Front Setback Landscaping:	994 SF 88.9%	112 SF 10% of front setback

¹ Conditional Use Permit required for multifamily residential in the MMU zone, 128-units proposed, C.S. 25.34.030(a).

² Exercising C.S. 25.63.040 (c)(1) *Development concessions and incentives*, which allows a height up to forty-six (46) feet without a Conditional Use Permit.

Staff Comments: Staff notes that State of California Government Code Section 65589.5 (Housing Accountability Act – HAA) limits the ability of municipalities to deny a multifamily residential project that complies with applicable, objective general plan, zoning, and subdivision standards and criteria. While the HAA was passed in 1982, it was reformed and strengthened in 2017 in response to the State's critical housing shortage and affordability crisis. In summary, there are very specific criteria required for denials of housing projects, specifically the HAA reform states that a housing development project shall be deemed consistent, compliant, and in conformity with an applicable plan, program, policy, ordinance, standard, requirement, or other similar provision if there is substantial evidence that would allow a reasonable person to conclude that the housing development project is consistent, compliant, or in conformity. The HAA limits local jurisdictions' authority by requiring developments comply with all "applicable, objective general plan, zoning, and subdivision standards and criteria." Local governments may not disapprove (or reduce the size of) these types of projects unless they find that the project would have an unavoidable impact on public health or safety that cannot be mitigated in any way other than rejecting the project or reducing its size. Specifically the "objective general plan and zoning standards" rule prohibits a city from rejecting projects for arbitrary reasons like "it does not fit with

the neighborhood character," unless "neighborhood character" has been defined previously in the design guidelines or zoning code in some way, e.g. "all buildings on the block must have a Spanish tile roof." ¹

Findings for Multiple-Family Residential Design Review: The criteria for design review in mixed use districts is detailed in Code Section 25.57.030 (g) and requires the proposed project to be reviewed by the Planning Commission for the following considerations:

- (1) Support of the pattern of diverse architectural styles that characterize the city's commercial, industrial and mixed use areas; and
- (2) Respect and promotion of pedestrian activity by placement of buildings to maximize commercial use of the street frontage, off-street public spaces, and by locating parking so that it does not dominate street frontages; and
- (3) On visually prominent and gateway sites, whether the design fits the site and is compatible with the surrounding development; and
- (4) Compatibility of the architecture with the mass, bulk, scale, and existing materials of existing development and compatibility with transitions where changes in land use occur nearby; and
- (5) Architectural design consistency by using a single architectural style on the site that is consistent among primary elements of the structure, restores or retains existing or significant original architectural features, and is compatible in mass and bulk with other structures in the immediate area; and
- (6) Provision of site features such as fencing, landscaping, and pedestrian circulation that enriches the existing opportunities of the commercial neighborhood.

Suggested Findings for Design Review: That the 128-unit apartment development in a craftsman style architectural, including the proposed changes to the building facades, supports the pattern of diverse architectural styles that characterize this transitional zone and alludes to the vernacular styles found in the nearby residential neighborhood. The proposed project is four-stories and has been massed to fit the project site which is visually prominent and serves as a gateway site between the downtown area and the adjacent multi-family and single family neighborhood. The project has a fourth floor that is tucked beneath the gables which helps the new building blend with the other nearby residential buildings in design and scale. The placement of the project on the site and the design respects and promotes pedestrian activity with an open plaza area located at the corner of Bayswater Avenue and Myrtle Road; this is also where the leasing office is located that includes an open storefront feel with plate glass windows, inviting to pedestrians. The project has been designed with only one entrance to the 183 off-street parking spaces that are all located below grade so that it does not dominate street frontages and it is located farthest away from the corner along the north end of the property on Myrtle Road. The ground floor units have been designed to have patios with wooden railing along both Bayswater Avenue and Myrtle Road that bring the pedestrian feeling to the street and will promote ground floor activities on this corner development.

The R-3 portion of the property along Bayswater Avenue is a separate building, which helps break up the massing and reduces the height to three stories to provide a transition between the four story buildings on the corner and Myrtle Road side and the abutting multi-family buildings along Bayswater Avenue and Anita Road that are two and three-stories in height.

¹ https://en.wikipedia.org/wiki/California_Housing_Accountability_Act

The proposed materials and architectural features on the craftsman style building include stucco, gables with composition shingle roofing material, cement fiber horizontal siding and wood railings and columns that complement and blend with the existing development found in this transitional area between the downtown and the Lyon Hoag residential neighborhood. The project includes retention of eight of the existing trees on-site with three Ginkgo Biloba trees along Bayswater Avenue and along Myrtle Road there will be 14 new crimson spire oaks planted that will enhance the existing streetscape. For the reasons above the project may be found to be compatible with the requirements of the City's six design review criteria.

Planning Commission Action: The Planning Commission should hold a public hearing. Affirmative action should be by resolution and include findings for Design Review Amendment for changes to the previously approved application. The reasons for any action should be clearly stated for the record. Please note that the conditions below include mitigation measures taken from the IS/MND (shown in *italics*). At the public hearing the following mitigation measures and conditions should be considered:

1. that the project shall be built as shown on the plans submitted to the Planning Division date stamped July 12, 2018, sheets 01 through 30, sheets C1 through C11 and sheets L1 through L5, elevations dated October 23, 2018; with revised elevations (all) sheets A300a, A300b, A300c, and A300d date stamped July 24, 2019;
2. that prior to issuance of a building permit for construction of the project, the project construction plans shall be modified to include a cover sheet listing all conditions of approval adopted by the Planning Commission, or City Council on appeal; which shall remain a part of all sets of approved plans throughout the construction process. Compliance with all conditions of approval is required; the conditions of approval shall not be modified or changed without the approval of the Planning Commission, or City Council on appeal;
3. that any changes to the size or envelope of the building, which would include expanding the footprint or floor area of the structure, replacing or relocating windows or changing the roof height or pitch, shall be subject to Planning Commission review (FYI or amendment to be determined by Planning staff);
4. that prior to issuance of a building permit for the project, the applicant shall pay the first half of the public facilities impact fee in the amount of \$293,962.25, made payable to the City of Burlingame and submitted to the Planning Division;
5. that prior to scheduling the final framing inspection, the applicant shall pay the second half of the public facilities impact fee in the amount of \$293,962.25, made payable to the City of Burlingame and submitted to the Planning Division;
6. that the project shall include thirteen (13) affordable units for a 30-year term; the applicant shall enter into an agreement for the administration of the renting or leasing of the affordable units at least 120 days before the final inspection;
7. that the required affordable dwelling units shall be constructed concurrently with market-rate units;
8. that the thirteen (13) moderate income restricted affordable units shall remain restricted and affordable to the designated income group for a minimum period of thirty (30) years (or a longer period of time if required by the construction or mortgage financing assistance program, mortgage insurance program, or rental subsidy program);

9. that the thirteen (13) restricted affordable units shall be built on-site and be dispersed within the development. The number of bedrooms of the restricted affordable units shall be equivalent to the bedroom mix and average sizes of the non-restricted units in the development; except that the applicant may include a higher proportion of restricted affordable units with more bedrooms. The design and construction of the affordable dwelling units shall be consistent with the design, unit layout, and construction of the total project development in terms of appearance, exterior construction materials, and unit layout;
10. that following the appeal period the applicant shall enter into a regulatory agreement with the City; the terms of this agreement shall be approved as to form by the City Attorney's Office, and reviewed and revised as appropriate by the reviewing City official; this agreement will be a form provided by the City, and will include the following terms:
 - (a) The affordability of very low, lower, and moderate income housing shall be assured in a manner consistent with Government Code Section 65915(c)(1);
 - (b) An equity sharing agreement pursuant to Government Code Section 65915(c)(2);
 - (c) The location, dwelling unit sizes, rental cost, and number of bedrooms of the affordable units;
 - (d) A description of any bonuses and incentives, if any, provided by the City; and
 - (e) Any other terms as required to ensure implementation and compliance with this section, and the applicable sections of the density bonus law;
11. that the above noted regulatory agreement regarding the thirteen (13) restricted affordable units shall be binding on all future owners and successors in interest; the agreement required by this Zoning Code Section 25.63.0820 is hereby a condition of all development approvals and shall be fully executed and recorded prior to the issuance of any building or construction permit for the proposed project;
12. that the conditions of the Building Division's September 19, 2017, June 29, 2017, April 7, 2017 and February 1, 2017 memos; the Parks Division's November 1, 2017, June 28, 2017 May 23, 2017, April 17, 2017 and February 13, 2017 memos; the Engineering Division's May 24, 2017, April 7, 2017 and March 2, 2017 memos; the Fire Department's October 19, 2017, July 16, 2017 and February 9, 2017 memos, and the Stormwater Division's May 23, 2017, April 20, 2017 and February 9, 2017 memos shall be met;
13. that the project shall be constructed in accordance with the April 26, 2018 "Request for Alternate Materials or Methods of Construction" agreement between Fore Property Company and Central County Fire Department which requires the following: a) the project to have a sprinkler system installed under the NFPA 13 to include attic protection; b) all stairwells shall be positively pressured and shall extend to the roof through enclosures; c) standpipe outlets shall be provided at the intermediate landings of all stairwells, including outlets on the roof;
14. that during construction, the applicant shall provide fencing (with a fabric screen or mesh) around the project site to ensure that all construction equipment, materials and debris is kept on site;
15. that storage of construction materials and equipment on the street or in the public right-of-way shall be prohibited;
16. that if construction is done during the wet season (October 1 through April 30), that prior to October 1 the developer shall implement a winterization program to minimize the potential for erosion and polluted runoff by inspecting, maintaining and cleaning all soil erosion and sediment control prior to, during, and immediately after each storm even; stabilizing disturbed soils throughout temporary or permanent seeding, mulching matting, or tarping; rocking unpaved vehicle access to limit

- dispersion of mud onto public right-of-way; covering/tarping stored construction materials, fuels and other chemicals;
17. that trash enclosures and dumpster areas shall be covered and protected from roof and surface drainage and that if water cannot be diverted from these areas, a self-contained drainage system shall be provided that discharges to an interceptor;
 18. that this project shall comply with the state-mandated water conservation program, and a complete Irrigation Water Management and Conservation Plan together with complete landscape and irrigation plans shall be provided at the time of building permit application;
 19. that all site catch basins and drainage inlets flowing to the bay shall be stenciled. All catch basins shall be protected during construction to prevent debris from entering;
 20. that this proposal shall comply with all the requirements of the Tree Protection and Reforestation Ordinance adopted by the City of Burlingame in 1993 and enforced by the Parks Department; complete landscape and irrigation plans shall be submitted at the time of building permit application and the street trees will be protected during construction as required by the City Arborist;
 21. that project approvals shall be conditioned upon installation of an emergency generator to power the sump pump system; and the sump pump shall be redundant in all mechanical and electrical aspects (i.e., dual pumps, controls, level sensors, etc.). Emergency generators shall be housed so that they meet the City's noise requirement;
 22. that prior to issuance of a building permit, the applicant shall prepare and submit to the Department of Public Works – Engineering Division a sanitary sewer analysis that assesses the impact of this project to determine if the additional sewage flows can be accommodated by the existing sewer line. If the analysis results in a determination that the existing sewer line requires upgrading, the applicant shall perform the necessary upgrades as determined by the Engineering Division;
 23. that a Protected Tree Removal Permit shall be required from the City of Burlingame Parks Division to remove any existing protected size trees on the subject property and that the project shall comply with the Tree Protection and Reforestation Ordinance adopted by the City of Burlingame and enforced by the Parks Department; complete landscape and irrigation plans shall be submitted at the time of building permit application and the street trees will be protected during construction as required by the City Arborist;
 24. that the applicant shall coordinate with the City of Burlingame Parks Division regarding the planting of at least two (2) new Ginkgo Boloba trees along Bayswater Avenue and fourteen (14) new Crimson Spire Oak street trees along Myrtle Road;
 25. that eight (8) of the existing sixteen (16) trees shall remain on site, as shown on the plans date stamped July 12, 2018, sheet L3, shall not be removed or damaged, and the applicant shall have an arborist's report prepared which documents how each tree on the site should be protected during construction; this report shall be reviewed and approved by the City Arborist and the contractor shall call for the Arborist to inspect the protection measures installed before a building permit shall be issued;
 26. that if any existing tree on the site dies within five years of the final inspection of the project, it shall be replaced with a new, 36-inch box tree with a species determined to be appropriate by the City Arborist; new trees shall be replaced in the same location unless it is determined by the City Arborist that the location should be adjusted based on the site conditions;

27. that the project shall comply with the Construction and Demolition Debris Recycling Ordinance which requires affected demolition, new construction and alteration projects to submit a Waste Reduction plan and meet recycling requirements; any partial or full demolition of a structure, interior or exterior, shall require a demolition permit;
28. that demolition or removal of the existing structures and any grading or earth moving on the site shall not occur until a building permit has been issued and such site work shall be required to comply with all the regulations of the Bay Area Air Quality Management District;
29. that the applicant shall comply with Ordinance 1503, the City of Burlingame Storm Water Management and Discharge Control Ordinance;
30. that the project shall meet all the requirements of the California Building and Uniform Fire Codes, 2016 Edition, as amended by the City of Burlingame;
31. that this project shall comply with Ordinance No. 1477, Exterior Illumination Ordinance;
32. that construction access routes shall be limited in order to prevent the tracking of dirt onto the public right-of-way, clean off-site paved areas and sidewalks using dry sweeping methods;

The following five (5) conditions shall be met during the Building Inspection process prior to the inspections noted in each condition:

33. that prior to scheduling the foundation inspection a licensed surveyor shall locate the property corners, set the building envelope;
34. that prior to underfloor frame inspection the surveyor shall certify the first floor elevation (30.2') of the new structure(s) and the various surveys shall be accepted by the Building Division;
35. that prior to scheduling the framing inspection, the project architect, engineer or other licensed professional shall provide architectural certification that the architectural details such as window locations and bays are built as shown on the approved plans; if there is no licensed professional involved in the project, the property owner or contractor shall provide the certification under penalty of perjury. Certifications shall be submitted to the Building Division;
36. that prior to final inspection, Planning Division staff will inspect and note compliance of the architectural details (trim materials, window type, etc.) to verify that the project has been built according to the approved Planning and Building plans;
37. that the maximum elevation to the top roof shall not exceed elevation 68.7' and 74.9', respectively, as measured from the average elevation at the top of the curb along Bayswater Avenue (29.47') for a maximum height not to exceed 46' to the top of the parapet; the garage lower finished floor elevation shall be elevation 9.2', garage upper finished floor elevation shall be 19.2'; the top of each floor and final roof ridge shall be surveyed by a licensed surveyor who shall provide certification of that height to the Building Division; Should any framing exceed the stated elevation at any point it shall be removed or adjusted so that the final height of the structure with roof shall not exceed the maximum height shown on the approved plans;

Mitigation Measures from Initial Study*Aesthetics*

38. the project developer shall install low-profile, low-intensity lighting directed downward to minimize light and glare. Exterior lighting shall be low mounted, downward casting, and shielded. In general, the light footprint shall not extend beyond the periphery the property. Implementation of exterior lighting fixtures on all buildings shall also comply with the standard California Building Code (Title 24, Building Energy Efficiency Standards) to reduce the lateral spreading of light to surrounding uses, consistent with Burlingame Municipal Code Section 18.16.030 that requires that all new exterior lighting for residential developments be designed and located so that the cone of light and/or glare from the light element is kept entirely on the property or below the top of any fence, edge or wall. In addition, lighting fixtures would not be located more than nine feet above adjacent grade or required landing; walls or portions of walls would not be floodlit; and only shielded light fixtures which focus light downward would be used, except for illuminated street numbers required by the fire department;

Biological Resources

39. If construction activities commence during the nesting/breeding season of native bird species potentially nesting near the site (typically February 1 through August 31 in the project region), a pre-construction survey for nesting birds shall be conducted by a qualified biologist within two weeks prior to the commencement of construction activities. If active nests are found in areas that could be directly affected by construction and would be subject to prolonged construction-related noise, a no-disturbance buffer zone shall be created around active nests during the breeding season or until a qualified biologist determines that all young have fledged. The avoidance buffer size shall be 300 feet for raptor species and 150 feet for all other bird species. The size of the buffer zones and types of construction activities restricted within buffers will be determined by a qualified biologist by taking into account factors such as the following:
- Noise and human disturbance levels at the construction site at the time of the survey and the noise and disturbance expected during the construction activity;
 - Distance and amount of vegetation or other screening between the construction site and the nest; and
 - Sensitivity of individual nesting species and behaviors of the nesting birds;

Cultural Resources

40. in the event Native American or other archaeological resources are encountered during construction, work shall be halted within 100 feet of the discovered materials and workers shall avoid altering the materials and their context until a qualified professional archaeologist has evaluated the situation and provided appropriate recommendations. If an archaeological site is encountered in any stage of development, a qualified archeologist will be consulted to determine whether the resource qualifies as an historical resource or a unique archaeological resource. In the event that it does qualify, the archaeologist will prepare a research design and archaeological data recovery plan to be implemented prior to or during site construction. The archaeologist shall also prepare a written report of the finding, file it with the appropriate agency, and arrange for curation of recovered materials;
41. a discovery of a paleontological specimen during any phase of the project shall result in a work stoppage in the vicinity of the find until it can be evaluated by a professional paleontologist. Should loss or damage be detected, additional protective measures or further action (e.g., resource removal), as determined by a professional paleontologist, shall be implemented to mitigate the impact;

42. *in the event that human remains are discovered during project construction, there shall be no further excavation or disturbance of the site or any nearby area reasonably suspected to overlie adjacent human remains. The county coroner shall be informed to evaluate the nature of the remains. If the remains are determined to be of Native American origin, the Lead Agency shall work with the Native American Heritage Commission and the applicant to develop an agreement for treating or disposing of the human remains;*

Geology and Soils

43. *project design and construction shall adhere to Title 18, Chapter 18.28 of the Burlingame Municipal Code, and demonstrate compliance with all design standards applicable to the California Building Code Zone 4 would ensure maximum practicable protection available to users of the buildings and associated infrastructure;*
44. *project design and construction, including excavation activities, shall comply with Chapter 33 of the CBC, which specifies the safety requirement to be fulfilled for site work. This would include prevention of subsidence and pavement or foundations caused by dewatering;*
45. *the applicant shall prepare a monitoring program to determine the effects of construction on nearby improvements, including the monitoring of cracking and vertical movement of adjacent structures, and nearby streets, sidewalks, utilities, and other improvements. As necessary, inclinometers or other instrumentation shall be installed as part of the shoring system to closely monitor lateral movement. The program shall include a pre-construction survey including photographs and installation of monitoring points for existing site improvements;*

Hazards and Hazardous Materials

46. *the contractor shall comply with Title 8, California Code of Regulations/Occupational Safety and Health Administration (OSHA) requirements that cover construction work where an employee may be exposed to lead. This includes the proper removal and disposal of peeling paint, and appropriate sampling of painted building surfaces for lead prior to disturbance of the paint and disposal of the paint or painted materials;*
47. *the applicant shall contract a Certified Asbestos Consultant to conduct an asbestos survey prior to disturbing potential asbestos containing building materials and following the Consultant's recommendations for proper handling and disposal;*
48. *the applicant shall prepare, and submit, a Soils Management Plan (SMP)/Environmental Management Plan to the San Mateo County Health Department for approval, prior to the issuance of a building permit. The SMP/Environmental Management Plan shall address the possibility of encountering subsurface contaminants, including groundwater, during construction activities, and the relevant measures for identifying, handling, and disposing of subsurface contaminants. The SMP/Environmental Management Plan shall be submitted and approved by the San Mateo County Health Department prior to issuance of a building permit;*
49. *the contractor shall ensure the appropriate handling, storing, and sampling of any soil to be removed from the subject property, as per the SMP, so as to eliminate potential health and safety risks to the public, including construction workers;*
50. *in the event that groundwater, or other subsurface contaminants, are encountered during excavation, grading, or any other demolition/construction activities at the project site, the contractor shall ensure*

that the procedure for evaluating, handling, storing, testing, and disposing of contaminated groundwater is implemented, as per the SMP (see Mitigation Measure HAZ-3);

51. workers handling demolition and renovation activities at the project site will be trained in the safe handling and disposal of any containments with which they are handling or disposing of on the project site;

Noise

52. outdoor mechanical equipment shall be located, hooded, and/or shielded in a manner that limits exposure to adjacent residences prior to building occupancy. Typically, the shielding of HVAC units reduces noise levels to no greater than 55 dBA Leq at 50 feet from the source;

53. **Construction-Related Noise Reduction Measures.** The applicant shall apply the following measures during construction of the project.

- **Mufflers.** Construction equipment shall be properly maintained and all internal combustion engine driven machinery with intake and exhaust mufflers and engine shrouds, as applicable, shall be in good condition and appropriate for the equipment. During construction, all equipment, fixed or mobile, shall be operated with closed engine doors and shall be equipped with properly operating and maintained mufflers, consistent with manufacturers' standards.
- **Electrical Power.** Electrical power, rather than diesel equipment, shall be used to run compressors and similar power tools and to power any temporary structures, such as construction trailers or caretaker facilities.
- **Equipment Staging.** All stationary equipment shall be staged as far away from adjacent multi-family residential development as feasible.
- **Equipment Idling.** Construction vehicles and equipment shall not be left idling for longer than five minutes when not in use.
- **Workers' Radios.** All noise from workers' radios shall be controlled to a point that they are not audible at sensitive receptors near construction activity.
- **Smart Back-up Alarms.** Mobile construction equipment shall have smart back-up alarms that automatically adjust the sound level of the alarm in response to ambient noise levels. Alternatively, back-up alarms shall be disabled and replaced with human spotters to ensure safety when mobile construction equipment is moving in reverse.
- **Disturbance Coordinator.** The applicant shall designate a disturbance coordinator who shall be responsible for responding to any local complaints about construction noise. The noise disturbance coordinator shall determine the cause of the noise complaint (e.g., starting too early, bad muffler) and shall require that reasonable measures warranted to correct the problem be implemented. A telephone number for the disturbance coordinator shall be conspicuously posted at the construction site.
- **Additional Noise Attenuation Techniques.** During the demolition, site preparation, grading, and building phases of construction, temporary sound barriers rated to Sound Transmission Class 20 or higher shall be installed and maintained facing the north and northwestern boundaries of the project site. Temporary sound barriers shall block line of sight between noise-generating construction equipment and adjacent residential windows and shall be placed as close to the source equipment as feasible;

Utilities and Service Systems

54. the project sponsor shall coordinate with the City Engineer to improve the public sanitary sewer infrastructure. Prior to issuance of a building permit, project sponsors shall develop a plan to facilitate sanitary sewer improvements. The plan shall include a schedule for implementing sanitary sewer upgrades that would occur within the development site and/or contribution of a fair share fee toward

those improvements, as determined by the City Engineer. The plan shall be reviewed by the City Engineer; and

55. *prior to issuance of a building permit, development plans for projects proposed in the Plan Area, shall be reviewed by the Fire Marshal to determine if fire flow requirements would be met given the requirements of the proposed project, and the size of the existing water main(s). If the Fire Marshal determines improvements are needed for fire protection services, the project sponsor shall be required to provide a plan to supply adequate water supply for fire suppression to the project site, consistent with the Fire Marshal's requirements. The plan shall be reviewed by the Fire Marshal. The project sponsor shall be responsible for implementation of the plan including installation of new water mains, and/or incorporation of fire water storage tanks and booster pumps into the building design, or other measures as determined by the Fire Marshal.*

Catherine Keylon, Senior Planner

c. Fore Property Company – Mark Pilarczyk, applicant

Attachments:

Planning Commission Minutes, November 26, 2018

Planning Commission Minutes, December 10, 2018

Planning Commission Minutes, July 8, 2019

Summary of Architectural Revisions, dated July 24, 2019

Environmental Noise Study (Acoustical Engineer) – Charles M. Salter Associates, dated April 16, 2019

Letter from Acoustical Engineer- Review of Drawings for Code Compliance - Charles M. Salter Associates, dated April 17, 2019

Proposed Resolution

Notice of Public Hearing – Mailed August 2, 2019

Area Map