

SUBJECT: 38 Upper Fremont – “PUBLIC COMMENTS”

Comments to the Planning Commission for the hearing scheduled on September 15th, Agenda item #2, ED18-082.

We have the following comments regarding the hearing for an Environmental and Design Review (EDR) permit to consider a new hillside home with a “Pit Stacker car parking” proposal (term used on the plans) for the vacant lot at 38 Upper Fremont Drive:

The Planning Department is deferring information required for the approval process to the Building Department for approval later, out of public view. We believe the following information is necessary for the Planning Commission, as the decision making body, to make a fully-informed decision along with the opportunity for the public to participate in an open public hearing and transparent review process.

1. We think the following items should be included in the application and made available to the Planning Commission and the public *BEFORE* the hearing:

a). Geotechnical Investigation Report.

A report consistent with the Geotechnical Matrix in the General Plan appendices to assess such hazards as potential seismic hazards, liquefaction, landsliding, mudsliding, erosion, sedimentation and settlement and hazardous soils conditions to determine the optimum location for structures, to advise of special structural requirements and to evaluate the feasibility and desirability of a proposed facility in a specific location.

WENA requested a “thorough safety and feasibility study be conducted prior to any approval of this untested parking system” beginning with a letter dated April 30, 2019, when the applicant first proposed this pit stacker parking plan.

In subsequent comment letters dated August 16, 2019, December 2, 2019, and August 17, 2020, WENA has repeatedly requested a “thorough safety and feasibility study” be done prior to approval. Another letter submitted by Victoria DeWitt on August 17, 2020, asks why a geotechnical investigation report isn’t being required per the General Plan Safety Element S-4 and the Planning department’s own guidelines.

General Plan Safety Element **S-5. Minimize Potential Effects of Geological Hazards**, says “The City will only approve new development in areas of identified hazard if such hazard can be appropriately mitigated.” How can you approve this project without knowing what the hazards are?

On page 3-5 of the staff report, “**S-4. Geotechnical Review.** Continue to require geotechnical investigations for development proposals as set forth in the City’s Geotechnical Review Matrix...” Staff comments include the following:

“However, there are certain topic areas that trigger technical studies that are costly and often result in delays in the process. Where possible, staff has attempted to reduce or eliminate the need for site-specific technical reports, which would reduce applicant cost and processing time.”

We have the following comments: 1) The applicant has had since April 30, 2019, to address the feasibility of his proposal for a “pit-stacker car parking” plan; 2) Staff expresses the willingness to reduce applicant cost by reducing or eliminating site-specific technical reports, at whose expense?

General Plan Safety Element **S-3 Use of Hazard Maps in Development Review** stipulates that the review of slope stability is provided at the time development is proposed, not after the project is approved. How can you assess the safety and feasibility of the parking solution without a geotechnical investigation report. This information should be available during public review so that neighbors can assess the potential risk to their properties and express those concerns. How can you make a decision about the proposed parking solution without knowing whether it is even feasible. What looks good on paper, may not be feasible due to slope stability and excessive grading requirements. We don’t think you can make the findings necessary to approve an environmental and design review permit without this information, especially items A, C, and D of 14.25.090 (see below).

14.25.090 - Findings.

The community development director, zoning administrator or planning commission may approve an application for an environmental and design review permit. The following findings must be made by the hearing body:

- A. That the project design is in accord with the general plan, the objectives of the zoning ordinance and the purposes of this chapter;
- B. That the project design is consistent with all applicable site, architecture and landscaping design criteria and guidelines for the district in which the site is located;
- C. That the project design minimizes adverse environmental impacts; and
- D. That the project design will not be detrimental to the public health, safety or welfare, nor materially injurious to properties or improvements in the vicinity.

b). Grading Plan:

How can you understand the magnitude and extent of grading, excavation and off-loading of dirt required for the proposed “pit stacker car parking” without a grading plan? Careless grading often results in extensive slope cuts with highly visible scars, unstable slopes, increased erosion and a degradation of the visual hillside character, per the Hillside Design Guidelines (HDG).

c). Landscape Plan:

A completed Landscape Plan should be included in the plans in order to give neighboring residents an opportunity to review and comment on it during the public hearing. Residents should be allowed to participate in determining whether the proposed landscaping adequately addresses privacy issues or other issues of importance to neighboring property owners. The approval of the landscape plan is not a function of the Building Department.

As part of the design review, 4 new trees were recommended (pg 3, Landscaping). On page 3-3, the staff report indicates that 3 new replacement trees (Madrones) will be placed on-site. On page 3-6, the staff report says that these 3 replacement trees will be Western Redbud and Western Dogwood. We need a Landscape Plan to clear up the confusion. The Landscape Plan should show what species, what size, and where the trees will be placed on the property.

d). **Vehicle stacking system specifications:**

The Planning Department is referring the specifications for the vehicle stacking system to the Building Department to review and approve. Shouldn't this be part of the plans submitted to the Planning Commission for approval? The specifications for the stacking system may require modifications to the size or depth of the garage which could change the design or feasibility of the project. This information should be available to the Planning Commission for consideration at a public hearing rather than provided later to the Building Department, out of the public's view.

2. **Conditions of approval**

a). Proposed conditions of approval (pg 4 of the draft resolution), #1 states that plans submitted for a building permit shall be in "substantial" conformance to the approved plans, with regard to building techniques, materials, elevations, and overall project appearance. This sentence should be eliminated from the conditions of approval.

The plans submitted to the Building department for a building permit have to be identical to what was approved as part of the Environmental and Design Review permit (per 14.25.190 B) except where the code allows the Planning Director or Zoning Administrator to approve minor changes (per 14.25.160). To insure that construction plans do not differ from approved plans, the community development director or *designated* staff shall *review* construction drawings, final plans and other similar documents for compliance with the *environmental* and *design review* permit, prior to issuance of a building permit. (per 14.25.190. A.)

The Building Official doesn't have the authority to approve ANY changes in the plans approved as part of an Environmental and Design Review permit. Furthermore, per "14.25.080, Conditions of approval, C. The building materials and colors as presented for approval shall be the same as required for the issuance of a building permit. Any future changes in materials or color shall be subject to *review* by the *design review* board and approval of an administrative *environmental* and *design review* permit".

b). During construction, a fire hose MUST be hooked up to a water source and be immediately available for use during all phases of construction until an occupancy permit is granted. This hose should be tested frequently, at least weekly, to insure it functions properly and can be used without delay. Several years ago, a fire was started at a construction site on Terrace Avenue from a spark caused by cutting rebar. Since then, the City has required a source of water during new construction on this hillside.

c). Development of the Construction Management Plan (CMP) should involve input and agreement from residents in the area. Notification should include all residents on the designated construction/delivery route.

d). Concrete delivery. A condition of approval needs to stipulate how concrete will be pumped to the site. Apparently, neighbors from Espalda Ct have refused permission for the applicant to use their property (see email/letters received and attached to the staff report) so how does the applicant intend to pump concrete to the site?

e). The condition of City streets (Marquard, Fremont and Upper Fremont) should be documented and repaired for damage caused by the construction. Permission to use Trost (a private street) will have to be arranged with the property owner. Use of other private property to maneuver construction equipment will need to be arranged ahead of time.

f). As a condition of approval, merger of lots 14, 15, and 16 (APN 012-041-48) into a single lot should occur prior to issuance of a building permit, per lot consolidation requirement, see 14.16.230. Note: an Assessor's Parcel Number (APN) is not evidence of merger.

g). Doesn't the proposed pit stacker car parking require a Use Permit? Isn't this proposal a departure from the Hillside Design Guideline guest parking requirements and qualifies as an Exception to the property development standards on hillsides?

3. Additional comments:

a). Story Pole Plan

We would like story poles erected to provide neighbors a sense of the mass and location of the building before Planning Commission approval.

b). Ridgeline development

In 2008, a prior owner of this property, submitted plans for a residence that was found to be within 100 feet of the ridgeline and would require an Exception.

On several comment letters submitted by WENA beginning in January, 2019, we asked for verification that the proposed building was NOT within 100 feet of the ridgeline, as required by the Hillside Design Guidelines. We have not received a response, it is not mentioned in this report, and we would appreciate planning staff responding to our question.

c). Staff reference to General Plan Policy C-29C. Innovative Off-Street Parking.

If you look at this policy in context, I think you would agree that it is addressing parking solutions for larger developments, particularly in the downtown district. This policy cites resources as the Parking Services Fund which primarily serves the downtown.

d). Design Review.

We were not allowed to participate in or submit comments prior to the private design review of this project so design comments submitted in the WENA letter were not considered as part of the design review process. As such, we are asking that the Planning Commission consider those comments relating to hillside design in this hearing and also consider that the Hillside Design Guidelines discourage the use of large gable ends on downhill elevations (pg 51, HDG).

Respectfully submitted,

Victoria DeWitt, Fremont Rd
Fred Cushing and Michael Smith, Upper Fremont
Michael and Lori Davis, Upper Fremont
Rena Harel, Upper Fremont

From: Lisa Fait [REDACTED]
Date: September 15, 2020 at 12:05:45 PM PDT
To: Alicia Giudice <Alicia.Giudice@cityofsanrafael.org>
Subject: 38 Upper Fremont comments and questions

Hi Alicia,

I'm a San Rafael resident on Espalda Court and here's my comments/questions about building a house at 38 Upper Fremont:

Due to Upper Fremont being too narrow for emergency vehicles, when there is an incident, vehicles park on Espalda Court and the responders walk up a private driveway to cut through to Upper Fremont. In the 15 years I've lived here, we've had fire trucks and ambulances on Espalda 3-5x/year going to Upper Fremont.

1. How were any houses ever permitted to be built on a road too small for emergency vehicles?
2. With the road situation, why would we ever allow another house to be built?
3. How will construction vehicles access the property? One neighbor told me they planned to also come up via Espalda Ct but there's no way for heavy materials to be transported that way and homeowners wouldn't grant permission to use their driveways.

Thank you,
Lisa Fait