

RESPONSE TO CEQA COMMENTS – REVISED INITIAL STUDY

FREMONT/MARQUARD RESIDENTIAL PROJECT

Prepared September 22, 2021

The following public comments were provided on the Re-circulated Revised Initial Study/Mitigated Negative Declaration for the Fremont/Marquard Residential Project available for public review between August 14, 2021 and September 3, 2021.

Comments provided by: Victoria DeWitt, 40 Fremont Road, dated September 3, 2021.

A. PREVIOUS CITY APPLICATIONS

1. Comment – First Bullet Point:

- “• The City of San Rafael issued a Certificate of Compliance for lot 8, APN 012-043-12, or what is now referred to as 52 Fremont ~~both lots~~ in 2006. The Certificate of Compliance was signed on June 27, 2006, recorded on August 8, 2006. (document #: 2006-0049887).”

Response:

The commenter suggested that additional information, not pertinent to the evaluation of environmental impacts of the current project be added to the Initial Study. While the actual date of recordation is not relevant to the impacts of the current project on the environment, the correct date will be added to the Final Initial Study/Mitigated Negative Declaration.

2. Comment – Second Bullet Point:

- “• On November 30, 2007, a previous property owner submitted applications for Environmental and Design Review Permits for each lot. The project consisted of a new three bedroom, two and half bath single family residence with a two-car garage on each of the existing lots. Both homes met all zoning requirements, including the natural state, height limit, setbacks, plus 2 off-street guest parking spaces each, and a firetruck turnaround. Both homes were compatible in size to surrounding homes, with 2,205 sq' living space for 54 and 1,532 sq' living space for 52. Both new residences were proposed to be located adjacent to Fremont Road. This project would have removed the existing structures located at 52/54 Fremont Road. These applications were withdrawn by the applicant on March 24, 2009.”

Response:

The commenter suggested that additional information, not pertinent to the evaluation of environmental impacts, be added concerning a previous land use application. The previous application is not relevant to the impacts of the current project on the environment. No changes are required to the Final Initial Study/Mitigated Negative Declaration.

B. SETTING AND BACKGROUND – GENERAL COMMENT

Comment:

“Note: The property address for the house and garage is 54 Fremont Rd. There has never been a separate address number assigned to the garage. After the certificate of compliance was issued in 2006, the lot with the garage was referred to as 52 to indicate the proposed plans for a new house but the plans were never approved. It is my understanding that only the Building Official can assign house numbers and that isn’t done until a house is built. While you can refer to the lot as 52, I think it’s incorrect to say an address has been assigned to this lot and, in fact, if these plans are approved as submitted, there will be no number assigned and no such address as 52 Fremont.”

Responses:

The commenter suggested that the address for 52 Fremont (for the parcel containing the existing garage) is not a valid address and should not be used. The status of the address “52 Fremont” is not relevant to the impacts of the project on the environment. No changes are required to the Final Initial Study/Mitigated Negative Declaration.

C. PROJECT DESCRIPTION

1. Comment:

“The new Fremont Road structure will consist of approximately a 1,554 square foot single-family square, a 1,104 square foot accessory dwelling unit located underneath the main unit, and a 240 square foot carport.”

Responses:

The commenter noted that the term “carport” should not have been included in the Project Description. Staff agrees with the commenter since the carport was removed from the Project and should not be included in the project description. The commenter also noted that Elevation 1 and Elevation 2 mistakenly shows a screened-back carport over part of the existing driveway. The phrase mentioning the carport will be deleted and the elevations showing a carport will be replaced with the correct elevations in the Final Initial Study. No substantive changes to the assessment of environmental impacts in the Final Initial Study/Mitigated Negative Declaration are required.

2. Comment:

“The approval of the ADU is ministerial and allowed by right. State law allows jurisdictions to prohibit ADUs based on public safety issues, such as where streets are too narrow (travel lanes <14’), with maneuvering difficulty, excessive turning radius, and/or lack of turnaround for an emergency vehicle as determined by the Fire Chief.”

Response:

In absence of a local ADU ordinance that complies with State Law, a jurisdiction may not prohibit the construction of an ADU that meets the development standards as provided in State Law (Government Code §65862.2(a)(4)). The City does not have a compliant ADU ordinance. In absence of a local ADU ordinance that complies with the provisions of State law, local jurisdictions may not prohibit the construction of an ADU that meet state law. No Changes are required to the Final Initial Study/Mitigated Negative Declaration.

D. SECTION IX HAZARDS AND HAZARDOUS MATERIALS, Item f. *“Impair implementation of or physically interfere with an adopted emergency response plan or emergency evacuation plan.”*

Comment:

“The applicant is proposing adding an 1,100 sq’ ADU to the existing house at 54 Fremont, thereby adding a 2nd living unit or household, without adding any parking. The width of Fremont Road averages less than 10 feet (not including the street gutter) and is as narrow as 9 feet in some places, and just under 12 in others, with a substandard turnaround between house #45 and #57, which is frequently used for parking. Fremont Road is essentially a one-lane, two-way, city maintained street, which dead-ends at a private single-car garage. As you can imagine, it is difficult to impossible to turn a vehicle around at the end of Fremont, let alone maneuver any Fire Apparatus or Emergency Vehicles.

Adding an additional living unit without added parking on a narrow city street without parking can result in road blockages and delayed emergency access or evacuation when parked cars block access. During a house fire on Upper Fremont, the Fire Truck parked at the bottom of Fremont Road because it couldn’t make the hair-pin turn leading uphill, where this ADU is proposed. Adding another living unit where emergency access is difficult puts a family and those around them at increased risk. State law allows Cities to deny ADUs where public health and safety are at risk, such as on Fremont Road.”

Response:

Comment noted. As previously stated, the ADU is allowed by right. The comment does not alter the analysis in the Initial Study regarding emergency access or the proposed mitigation to reduce any impacts to a less than significant level. No Changes are required to the Final Initial Study/Mitigated Negative Declaration.

E. MISCELLANEOUS COMMENT

Comment:

“The City has recently adopted a new General Plan 2040 which may require updating any references in this document to be compatible with the new General Plan document. Under Source References, the prior General Plan 2020 is referenced and should be updated to the current General Plan 2040.”

Response:

The commenter suggested that the document should reference the 2040 General Plan rather than the 2020 General Plan. The 2040 General Plan was adopted on August 2, 2021, immediately before the release of the Revised Initial Study/Mitigated Negative Declaration. References to the 2020 General Plan will be replaced with the appropriate references to the 2040 General Plan in the Final Initial Study/Mitigated Negative Declaration.

F. COMMENT ON THE SUMMARY PROJECT DISCRPTION ON THE NOTICE OF INTENT (NOT PART OF THE INITIAL STUDY)

Comment:

“~~One lot is currently~~ The property was developed with a single-family residence and detached one-car garage on the combined lots.”

Response:

The commenter suggested alternate language to summary description of the project on the Notice of Intent. The comment does not refer to the Initial Study and no changes to the Initial Study are requested by the commenter.

Revisions to Initial Study/Mitigated Negative Declaration

This section presents specific changes to the IS/MND that are being made in response to comments received. In no case do these revisions result in a greater number of impacts or impacts of a greater severity than those set forth in the IS/MND. Added text is indicated with underlined text. Removed text is indicated in ~~strikeout~~ text.

Page 4 – Description of Project, Previous City Applications. The first bullet point is modified as follows:

- “• The City of San Rafael issued a Certificate of Compliance for both lots in 2006. The Certificate of Compliance confirmed that both lots had been legally created and were therefore individually developable. The Certificate of Compliance was recorded on ~~June 27,~~ August 8, 2006. There were no special City conditions or requirements placed on its recordation.”

Page 5 – Description of Project, Project Description. First sentence of the third paragraph is modified as follows:

“The new Fremont Road structure will consist of approximately a 1,554 square foot single-family square and, ~~a~~ 1,104 square foot accessory dwelling unit located underneath the main unit, ~~and a 240 square foot carport.~~”

Pages 9 and 10 – Elevations, Fremont Road Residence Elevation. The exhibits have been updated to reflect the current project. The changes include the elimination of the previously proposed carport structure and the addition of railings for main residential unit rooftop patio.

Page 15 – Aesthetics, Item a: *Have a substantial adverse effect on a scenic vista?* The discussion is modified as follows to update references to the 2040 General Plan:

“**Less Than Significant Impact:** A scenic vista is characterized as a panoramic view of attractive or impressive natural scenery. The scenic quality, sensitivity level, and view access are important considerations when evaluating potential impacts to a scenic vista. 2040 General Plan (**General Plan**) ~~Goal CD-6. Hillside and Bay – Policy CDP-1.5 (Views)~~ calls for the protection of views to the greatest extent possible. in hillside areas through the implementation of Hillside Design Guidelines through the design review process. The Hillside Design Guidelines are ~~fur-~~ **ther also** implemented by Chapter 14.12 (Hillside Development Overlay District) of the Municipal Code contains special scenic-oriented development provisions for sites located within 100 vertical and horizontal feet of the crest of an identified ridge line. The project site is an urban infill development in the West End Neighborhood of San Rafael. It is located on the lower slopes more than 100 feet vertically and horizontally of a visually significant ridgeline. The project is located in a canyon on the north side of the ridge and is not visible from distant locations because of the topography, trees, and existing structures. The site will only be visible when driving up Marquard Avenue and from nearby properties. The project site is also located well below the ridgeline. Therefore, any impact will be less than significant.”

Page 17 – Air Quality, Item a: *Conflict with or obstruct implementation of the applicable air quality plan?* The second paragraph of the discussion is modified to read as follows:

“The significance thresholds contained in the 2017 CEQA Air Quality Guidelines are applied to this project. For projects, the determination of a significant cumulative air quality impact should be based on the consistency of the project with the Bay Area's most recently adopted Clean Air Plan. A project would be consistent with the 2010 Clean Air Plan if the project does not exceed the growth assumptions in the plan. The primary method of determining consistency with the 2010 Clean Air Plan growth assumptions is consistency with the General Plan land use designation(s) and zoning district(s) for the site. The Clean Air Plan assumptions for projected air emissions and pollutants based on the land use and development projection assumptions in the San Rafael General Plan 2020–~~(General Plan)~~. The project is consistent with the adopted General Plan which allows development of a single-family residence and ADU on each single-family zoned lot. **No land use changes were made to the project site with the adoption of the 2040 General Plan.** Therefore, the project is consistent with the Air Quality Management Plan and no significant impacts are anticipated and no mitigation is necessary.”

Page 48 – References. Reference Number 1 is updated to refer to the 2040 General Plan and to provide the correct url for the 2040 General Plan.