

Planning Commission

August 22, 2019

Proposal:	Thornton Villas Map Extension - 3900 Thornton Avenue - PLN2019-00362 - To consider a two-year time extension for a previously approved Vesting Tentative Tract Map, Discretionary Design Review Permit and Conditional Use Permit to allow construction of a new four-story, mixed-use development containing a podium garage and four commercial condominium units totaling 7,124 square feet on the ground floor and 54 residential condominium units on the upper three floors on a vacant 1.05-acre parcel in the Centerville Community Plan Area, and to consider an exemption from the requirements of the California Environmental Quality Act (CEQA) per CEQA Guidelines Section 15332, In-Fill Development Projects.
Recommendation:	Approve based on findings and subject to conditions
Location:	3900 Thornton Avenue; APN 501 142603600
Area:	1.05 acres
People:	Chunbo Zhang, Thornton Villa, LLC, Applicant/Owner Spencer Shafsky, Staff Planner, (510) 494-4452, sshafsky@fremont.gov
General Plan:	Commercial – Town Center
Zoning:	TC-P(TOD) (Town Center – Pedestrian within Transit-Oriented Development Overlay District)

EXECUTIVE SUMMARY

On August 24, 2017, the Planning Commission approved Vesting Tentative Tract Map No. 8383, a Discretionary Design Review Permit, and a Conditional Use Permit for the Thornton Villas project (previously known as the "3900 Thornton Avenue" project) (PLN2017-00035). The Thornton Villas project (Project) is a four-story, mixed-use development containing a podium garage and four commercial condominium units totaling 7,124 square feet on the ground floor and 54 residential condominium units on the three upper floors on a vacant 1.05-acre parcel located in the Centerville Community Plan Area.

Vesting Tentative Tract Map No. 8383 and the Project's Discretionary Design Review Permit and Conditional Use Permit entitlements are valid for a period of two years and are set to expire on August 24, 2019. The applicant is requesting a two-year time extension to allow for additional time to either secure suitable financing for the project or seek partnerships in development of the project. No revisions to the approved Project are proposed at this time. Staff recommends that the Planning Commission approve the proposed two-year extension of Project approvals to August 24, 2021, in accordance with the Subdivision Map Act and Titles 17 (Subdivision Ordinance) and 18 (Planning and Zoning) of the City of Fremont Municipal Code.

BACKGROUND AND PREVIOUS ACTIONS

The project site is currently vacant. The property was originally developed with a commercial building that was constructed in 1953 and occupied by an automotive service garage for the original Central Chevrolet when the dealership was located directly across Thornton Avenue from the site. After Central Chevrolet relocated adjacent to the Interstate 880/Thornton Avenue interchange in the mid-1960s, the building then housed the L&O Machine Shop until approximately 2007. The building was eventually demolished with permits in 2009. Prior to the Planning Commission's August 24, 2017 approval of the Project, there was no history of land use entitlements associated with the site.

Vesting Tentative Tract Map No. 8383 and the Project's Discretionary Design Review Permit and Conditional Use Permit entitlements are set to expire on August 24, 2019. The applicant's June 13, 2019, filing of the time extension request is consistent with time extension procedures specified under Fremont Municipal Code (FMC) Section 17.20.100(b), requiring formal filing at least 40 days before the approval is due to expire.

PROCEDURE FOR TONIGHT'S HEARING

The Planning Commission is charged with the following:

1. Approve a two-year time extension to Project entitlements, which consist of Vesting Tentative Tract Map No. 8383, a Discretionary Design Review Permit, and a Conditional Use Permit, in accordance with the Subdivision Map Act and Titles 17 (Subdivision Ordinance) and 18 (Planning and Zoning) of the City of Fremont Municipal Code, subject to the findings and original conditions provided in Exhibit "A."

PROJECT DESCRIPTION

Pursuant to FMC Sections 17.20.100(b) and 18.330.030(b), the applicant is requesting a two-year time extension of Vesting Tentative Tract Map No. 8383, Discretionary Design Review Permit, and Conditional Use Permit approvals to allow for additional time to either secure suitable financing for the Project or seek partnerships in development of the project. No revisions to the approved Vesting Tentative Tract Map or Project are proposed at this time (see Informational Item 1).

The approved Project consists of three floors of residential units atop a single-level parking garage and four commercial condominium units totaling 7,124 square feet. The Project's unit mix consists of 15 one-bedroom units ranging in size from 860-922 square feet and 39 two-bedroom units ranging in size 885-1,187 square feet. The site would contain 67 total parking spaces, which would be shared by the commercial tenants, residents, and their guests, and another five on-street parking spaces would be provided along the project's Post Street frontage. Proposed amenities include a covered open-air patio for outdoor seating at the corner of the building facing the intersection, decorative paving at the storefront and driveway entrances, a ground-floor leasing office and residential lobby inside the main entrance along Post Street, and a landscaped common outdoor courtyard for the residents with patio furniture, outdoor kitchen and exercise equipment on the second level. Each residential unit would be assigned one covered parking space, and all units would have a private balcony. Personal storage spaces and secured bicycle parking facilities would also be provided for each unit within the ground floor of the building behind the commercial spaces.

The applicant has proposed to satisfy the requirements of the City's Affordable Housing Ordinance (AHO) through the payment of affordable housing fees. The final fee amount would be calculated based on the individual home square footages with the fee in effect at

the time of issuance of building permits.

PROJECT ANALYSIS

A complete analysis of the Project was provided in a staff report to the Planning Commission dated August 24, 2017 (see Informational Item 2). With regard to the proposed Vesting Tentative Tract Map time extension, Government Code Sections 66498.1(b) and (c) state that when a local agency approves or conditionally approves a Vesting Tentative Map, that approval shall confer a vested right to proceed with development in substantial compliance with the ordinances, policies, and standards in effect at the time the Vesting Tentative Map is approved or conditionally approved. The City may deny or condition a time extension only if it determines any of the following:

1. A failure to do so would place the residents of the subdivision or the immediate community, or both, in a condition dangerous to their health or safety, or both.
2. The condition or denial is required in order to comply with State or Federal law.

Analysis: The proposed time extension based upon previously-reviewed and approved findings and conditions would not place residents of the subdivision or the immediate community in a condition dangerous to their health or safety, and the Project would comply with State and Federal law. Therefore, staff recommends that the Planning Commission approve the time extension without changes to the original conditions of approval.

With regard to the proposed Discretionary Design Review Permit and Conditional Use Permit time extensions, FMC Section 18.330.030 establishes the time limits for discretionary approvals, including design review permits and conditional use permits, and provides that at any time prior to expiration of a permit, the applicant may submit a written request for an extension of the permit for up to 24 months from the expiration date of the initial approval. The Planning Commission may grant the proposed time extension request if it finds that "conditions of the site and in the vicinity and those general plan, community or specific plan, zoning, and adopted City policies applicable to the site are substantially the same as when the permit was originally approved."

Analysis: The applicant has submitted the extension request prior to the expiration of the original approval and the conditions of the site and in the vicinity and those general plan, community or specific plan, zoning and adopted City policies are substantially the same as when the permit was originally approved.

CITY FEES

This project would be subject to citywide Development Impact Fees. These fees include fees for fire protection, park facilities, park land in lieu, capital facilities and traffic impact. All applicable fees would be calculated and paid at the fee rates in effect at the time of building permit issuance. The applicant may elect to defer payment in accordance with the City's Impact Fee Deferral Program.

ENVIRONMENTAL REVIEW

This project is categorically exempt from the requirements of the California Environmental Quality Act (CEQA) per CEQA Guidelines Section 15332, Infill Development Projects, which exempts in-fill development when the project would be consistent with the General Plan and Zoning Ordinance; proposed development would occur on a site no greater than five acres

substantially surrounded by urban uses; the site has no habitat value for endangered, rare or threatened species; approval would not result in significant effects relating to traffic, noise, air quality and water quality; and the site is adequately served by utilities and public services.

No further environmental review is required for the time extension request given that no changes to the approved Project are proposed, conditions on the Project site remain unchanged from the date of approval, and the plan designations and adopted City regulations and policies for the Project site are substantially the same as when the permit was originally approved.

PUBLIC NOTICE AND COMMENT

Public hearing notification is applicable. Notices were mailed to owners and occupants of property within 300 feet of the site. The notices to owners and occupants were mailed on July 9, 2019. A Public Hearing Notice was published by *The Tri City Voice* on August 6, 2019.

RECOMMENDATION

1. Hold public hearing.
2. Find that the proposed project is exempt from the requirements of the California Environmental Quality Act (CEQA) per CEQA Guidelines Section 15332, In-Fill Development Projects.
3. Approve a two-year time extension to Vesting Tentative Tract Map No. 8383, Discretionary Design Review Permit, and Conditional Use Permit approvals subject to the original findings and conditions.

ENCLOSURES

- Exhibit A - Findings and Conditions
- Informational 1 - Project Plans & Vesting Tentative Tract Map
- Informational 2 - Planning Commission Staff Report of August 24, 2017