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Commission Recommends Denial of Tall Condo Project

By Cathy Tyson



Simulated view from Dewing Avenue of proposed KB Home Town Center III project. Provided

Looks like the gravel parking lot behind Panda Express is going to stay there - at least for now. At last week's Planning Commission meeting the applicant, KB Home, had a public hearing on its proposed five-story, 74-unit condominium project called Town Center III.

For a variety of reasons, Planning Commissioners couldn't support the project as is. Their primary concerns were the reconfigured fifth story and circulation in and out of the parking area. While all Commissioners agreed that multi-family housing at this site is the best use of the parcel with its proximity to BART, many believe that this proposed structure is still too high, measuring 71 feet tall at its apex.

KB Home Senior Vice President Ray Panek recapped the project's journey as it went through several Design Review sessions and was scaled back in response to concerns about height and mass. Originally the project had 81 condominium units, this last version had shrunk to 74 with high quality finishes and more parking stalls than required. "We worked with the Design Review Commission to understand what is approvable," said Panek, summarizing KB Home's position.

While there are several documents governing this contentious parcel, City Attorney Mala Subramanian, who unfortunately had a conflict and couldn't be in attendance, prepared a letter outlining the City's legal responsibilities, given its convoluted history with a Settlement Agreement, Development Agreement and Process Agreement.

Senior Planner Christine Sinnette summed up the situation in a staff report, "What this means is that this current project is to be reviewed based on the 1974-2002 General Plan which does not establish a height limit for development in the Downtown, 1998 Zoning Ordinance (through Ord. 468) which does not require grading or tree permits, and 1986 BART Block Specific Plan (BBSP) which established a three-story maximum height limit."

Not all of the Planning Commissioners saw eye to eye on the governing documents. Commissioner Tom Chastain said he was not clear on the sense of direction from the city attorney, but Commissioner Patty Curtain-Tinley said, "I don't think we can legally deny this project." She explained that the Development Agreement ties their (Planning Commission) hands, and in her opinion, the Commissioners need to make findings in context of both the Development Agreement and Settlement Agreement.

Four of the six commissioners voted in favor of denying the application, so the Planning Commission will forward a recommendation of denial to the City Council. "We believe we have a viable project and are committed to working with the City Council," said Director of Corporate Communications for KB Home, Craig LeMessurier.

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