AGENDA

SPECIAL CITY COUNCIL MEETING *(not televised)*
Tuesday, June 18, 2019 – 6:15 p.m.
Hillside Conference Room

REGULAR CITY COUNCIL MEETING
Tuesday, June 18, 2019 – 7:00 p.m.
City Council Chambers

Meeting Location:
El Cerrito City Hall
10890 San Pablo Avenue, El Cerrito

Rochelle Pardue-Okimoto – Mayor

Mayor Pro Tem Greg Lyman
Councilmember Paul Fadelli
Councilmember Janet Abelson
Councilmember Gabriel Quinto

6:15 PM ROLL CALL - CONVENE SPECIAL CITY COUNCIL MEETING

1. ORAL COMMUNICATIONS FROM THE PUBLIC
All persons wishing to speak should sign up with the City Clerk. Remarks are typically limited to 3 minutes per person and to items on the special meeting agenda only.

2. COMMISSION INTERVIEWS, STATUS AND APPOINTMENTS

Action Proposed: Conduct interviews of candidates for City Boards and Commissions. Interviews may result in an announcement of appointment at the regular meeting.
Contact: Holly M. Charléty, City Clerk, City Management

4. ADJOURN SPECIAL CITY COUNCIL MEETING

7:00 PM ROLL CALL – CONVENE REGULAR CITY COUNCIL MEETING

1. PLEDGE OF ALLEGIANCE TO THE FLAG OR OBSERVATION OF MOMENT OF SILENCE – *Councilmember Abelson*

2. COUNCIL/STAFF COMMUNICATIONS

Reports of closed session, commission appointments and informational reports on matters of general interest which are announced by the City Council and staff.

3. ORAL COMMUNICATIONS FROM THE PUBLIC

All persons wishing to speak should sign up with the City Clerk. Remarks are typically limited to 3 minutes per person. The Mayor may reduce the time limit per speaker depending upon the number of speakers. Kindly state your name and city of residence for the record. Comments regarding non-agenda, presentation and consent calendar items will be heard first. Comments related to items appearing on the Public Hearing or Policy Matter portions of the Agenda are taken up at the time the City Council deliberates each action item. Individuals wishing to comment on any closed session scheduled after the regular meeting may do so during this public comment period or after formal announcement of the closed session.

4. ADOPTION OF THE CONSENT CALENDAR

All items on the consent calendar shall be acted upon in one motion, unless a member of the City Council or staff request separate consideration.

A. Approval of Minutes

Action Proposed: Pass a motion to approve the minutes for the meeting of May 7, 2019.
Contact: Holly M. Charléty, City Clerk, City Management

B. Processing Contract for Recyclable Materials

Action Proposed: Adopt a resolution authorizing the City Manager to execute a contract with Napa Recycling and Waste Services, LLC in an amount not to exceed $108,000 annually and a contingency amount not to exceed $43,000 annually for comingled recyclable material processing services.
Contact: Maria Sanders, Operations & Environmental Services Division Manager; Yvetteh Ortiz, Public Works Director/City Engineer, Public Works Department

C. Amendments to City Classification Plan

Action Proposed: Adopt a resolution amending the City's Classification Plan to 1) Establish the classification of Neighborhood Preservation Officer and establish the salary range as recommended; 2) Authorize the addition of one (1) Neighborhood Preservation Officer position in the Community Development Department, and 3) Authorize the deletion of one (1) Building Inspector I position in the Community Development Department

Contact: Kristen Cunningham, Human Resources Manager, City Management

5. PRESENTATIONS

A. Contra Costa County Mosquito & Vector Control District (CCCMVCD) Presentation on the Role of the Trustee Appointment Made by the City of El Cerrito (Currently Vacant)

Action Proposed: Receive and file
Contact: Nola Woods, Public Affairs Director, CCCMVCD

B. West Contra Costa Unified School District (WCCUSD) Update on Transition to Trustee Area Elections

Action Proposed: Receive and file
Contact: Marcus Walton, Communications Director, WCCUSD

C. Contra Costa County Library Commission (CCCLC) Update

Action Proposed: Receive and file
Contact: Michael Fisher, Commissioner, CCCLC

6. PUBLIC HEARINGS

A. Ordinance to Amend Chapter 13.28 of the El Cerrito Municipal Code, Trees and Shrubs *Notice published on 6/8/2019, Exempt from CEQA (CEQA Guidelines §15308)*

Action Proposed: Conduct a public hearing and upon conclusion introduce by title and waive any further reading of an Ordinance amending Chapter 13.28 – Trees and Shrubs of the El Cerrito Municipal Code.
Contact: Will Provost, Public Works Analyst; Stephen Prée, Environmental Programs Manager/City Arborist; Maria Sanders, Operations + Environmental Services Division Manager; Yvetteh Ortiz, Public Works Director/City Engineer, Public Works Department

B. An appeal of the Planning Commission's approval of Tier II Design Review, pursuant to the San Pablo Avenue Specific Plan for a project located at 11965 San Pablo Avenue *Notice published on 6/8/2019*

Action Proposed: Conduct a public hearing and upon conclusion, adopt a resolution denying the appeal and upholding the Planning Commission's approval of Tier II Design Review, pursuant to the San Pablo Avenue Specific Plan for a project which includes 144 new dwelling units, located at 11965 San Pablo Avenue.
Contact: Sean Moss, Acting Planning Manager; Melanie Mintz, Community Development Director, Community Development Department

7. POLICY MATTERS

A. Management/Confidential Employee Resolution

Action Proposed: Adopt a resolution modifying salaries, benefits, and conditions of employment for Management and Confidential Employees.
Contact: Kristen Cunningham, Human Resources Manager, City Management

8. CITY COUNCIL LOCAL & REGIONAL LIAISON ASSIGNMENTS

Mayor and City Council communications regarding local and regional liaison assignments and committee reports.

9. ADJOURN REGULAR CITY COUNCIL MEETING

The next regularly scheduled City Council meeting is Tuesday, July 16, 2019 at 7:00 p.m. in the City Council Chambers, 10890 San Pablo Avenue, El Cerrito.

The City of El Cerrito serves, leads and supports our diverse community by providing exemplary and innovative services, public places and infrastructure, ensuring public safety and creating an economically and environmentally sustainable future.

- Copies of the agenda bills and other written documentation relating to items of business referred to on the agenda are on file and available for public inspection in the Office of the City Clerk, at the El Cerrito Library and posted on the City's website at www.el-cerrito.org prior to the meeting.
- In compliance with the Americans with Disabilities Act, if you need special assistance to participate in this meeting, please contact the City Clerk, (510) 215-4305. Notification 48 hours prior to the meeting will enable the City to make reasonable arrangements to ensure accessibility to this meeting. (28 CFR 35.102-35.104 ADA Title I).
- ***The Deadline for agenda items and communications*** is eight days prior to the next meeting by 12 noon, City Clerk's Office, 10890 San Pablo Avenue, El Cerrito, CA. Tel: 215–4305 Fax: 215–4379, email cityclerk@ci.el-cerrito.ca.us
- IF YOU CHALLENGE A DECISION OF THE CITY COUNCIL IN COURT, YOU MAY BE LIMITED TO RAISING ONLY THOSE ISSUES YOU OR SOMEONE ELSE RAISED AT THE COUNCIL MEETING. ACTIONS CHALLENGING CITY COUNCIL DECISIONS SHALL BE SUBJECT TO THE TIME LIMITATIONS CONTAINED IN CODE OF CIVIL PROCEDURE SECTION 1094.6.
- The City Council believes that late night meetings deter public participation, can affect the Council's decision-making ability, and can be a burden to staff. City Council Meetings shall be adjourned by 10:30 p.m., unless extended to a specific time determined by a majority of the Council.

Special City Council Meeting – 6:15 p.m.
June 18, 2019
Agenda Item No. 2

Date: June 18, 2019

To: Honorable Mayor and Members of the City Council

From: Holly M. Charléty, City Clerk

Subject: Commission Interviews

ACTION REQUESTED

Staff requests that City Council conduct interviews and, at the conclusion of interviews, confer with staff regarding the ongoing recruitments, any remaining vacancies, and the scheduling of further special meetings to conduct interviews (if applicable). Council may decide to make appointments at the conclusion of the meeting.

INTERVIEW SCHEDULE

June 18, 2019		
6:15 p.m.	Blake Washington	Arts & Culture Commission Parks & Recreation Commission
6:30 p.m.	Rochelle Morrissey	Parks & Recreation Commission

BACKGROUND

Staff continues to publicize board, commission and committee vacancies as they occur. Vacancies are published on the City's website and in the West County Times, and posted at City Hall, the Community Center and Library. Staff is also utilizing social media outlets to increase awareness and opportunities for citizens to participate by attending meetings and/or serving on a board, commission or committee.

Interviews that have been conducted by Council and are still pending a decision are as follows:

Bill Nichols	Arts and Culture Commission	Interviewed June 4, 2019
Avis Codron	Parks & Recreation Commission	Interviewed June 4, 2019
Buddy Akacic	Arts and Culture Commission	Interviewed June 4, 2019

Attachments:

1. Commission Vacancies/Application Status
2. Application(s) on file with the City Clerk's Office

Commission Vacancies/Application Status

Advisory Body (Current Vacancies) Pending Applicants	Arts & Culture Commission (1)	CC Mosquito & Vector Control (1)	Committee on Aging (2)	Crime Prev. Committee (9)	Economic Dev. Committee (6)	Park and Rec. Commission (1)	Planning Commission (0)	Urban Forest Committee (9)	Date Application Received	Notes/Status	Council Interview Date	Appointment Notes
Buddy Akacic	X		AM						3/12/2019		6/4/2019 6:30	
Richard Aslin					AM		X		5/16/2019			
Liz Block			AM		AM				12/21/2018			
Avis Codron						X			4/15/2019		6/4/2019 6:15	
George Fruehan					AM				12/13/2018	Interviewed for Streets, not appointed		
Daniel Hamilton							X		12/18/2018	Application rec'd after last Planning interviews (5/7 appointed to EQC)		
Rochelle Morrissey						X			5/20/2019		6/18/19 6:30	
Bill Nichols	X								4/22/2019		6/4/2019 6:00	
Sajuti Rahman							X		10/16/2018	2/6/19 – expressed interest in next Planning vacancy		
Susan Russell								AM	4/15/2019			
Bradley Scheick					AM				4/5/2019			
Peter Schott					AM				5/4/2019			
Frederick Shaw			AM	AM					4/22/2019			
Blake S. Washington	X					X			5/23/2019		6/18/19 6:15	
Walter M. Williams III				AM					3/25/2019	Interviewed for HRC, not appointed		
Jonathan Zazove					AM				12/3/2018			

AM = Attending Meetings

THE CITY OF
EL CERRITO
OFFICE OF THE CITY CLERK

June 18, 2019
Special City Council Meeting

Agenda Item No. 2

Attachment 2 Applications

are available for review in hardcopy format at the following locations:

Office of the City Clerk
10890 San Pablo Avenue
El Cerrito
(510) 215-4305

and

The El Cerrito Library
El Cerrito
6510 Stockton Avenue

CITY HALL 10890 San Pablo Avenue, El Cerrito, CA 94523-3034
Telephone (510) 215-4305 | Fax (510) 215-4319 | http://www.el-cerrito.org

EL CERRITO CITY COUNCIL DRAFT MINUTES

REGULAR CITY COUNCIL MEETING
Tuesday, May 7, 2019 – 7:00 p.m.
City Council Chambers

Meeting Location
El Cerrito City Hall
10890 San Pablo Avenue, El Cerrito

7:00 PM **ROLL CALL - CONVENE REGULAR CITY COUNCIL MEETING**
Mayor Pardue-Okimoto called the meeting to order at 7:06 p.m.
Present: Mayor Pardue-Okimoto; Councilmembers Abelson, Fadelli, Lyman, and Quinto.

1. PLEDGE OF ALLEGIANCE TO THE FLAG OR OBSERVATION OF MOMENT OF SILENCE – *Councilmember Fadelli*

2. COUNCIL/STAFF COMMUNICATIONS

Damien Carrion, Fire Prevention Officer, provided an update on the department's efforts in keeping El Cerrito fire safe.

Councilmember Quinto reported attendance at League of CA Cities Legislation Day, hosted API Caucus luncheon, spoke at the West County Unified School District Board meeting, attended at Hazardous Materials Committee, and participated in CERT training.

Councilmember Abelson reported attendance at Fire Badge ceremony, volunteer appreciation dinner, and participated as a judge for the Why Plan Policy Summit.

Councilmember Fadelli reported attendance at Hillside Festival, League of CA Cities bocce tournament, opening of new art exhibit for Urban Nostalgia, Fire Badge ceremony, Fire education session, ribbon cutting of 10639 San Pablo Ave; announced appointment by Supervisor Gioia as substitute disaster coordinator in the county by Gioia; announce Bike to Work day May 9th and fix-it clinic on Saturday.

Councilmember Lyman announced new business owner of Ball Chiropractic and ribbon cutting on Saturday, reported efforts with regional representatives for support on grants submitted to work on fuel breaks.

Mayor Pardue-Okimoto reported attendance at the Hillside Festival, Fire Badge ceremony, Contra Costa Mayors Conference, and West County Mayors and Supervisors meeting.

3. ORAL COMMUNICATIONS FROM THE PUBLIC

Howdy Goudey announced the Environmental Quality Committee Fixit clinic this Saturday at the community center. Shared attendance at recycling market meeting and need for investment in programs to reduce waste generation.

Fred Bialy spoke in support of stopping the use of round up by the city and expressed concern about its use and link to health, financial risk around potential litigation, and ecological concerns.

Toby Blomé spoke on concern regarding the use of round up by the city, long term consequences of chemicals, and asked council to consider putting on agenda to make El Cerrito a glyphosate free city.

Robin Mitchell reviewed recent report on status of planet and ecosystem, and contributing factors such as plastic as a pollutant, and the need to reduce use of single use plastic and use of compostable items.

Susan Duncan thanked the Fire Department for their work, spoke on last meeting's discussion on goals, lack of discussion regarding fire prevention, and use of measure V funds. Requested council to send letter of support of AB38.

Paul Duncan spoke on the Marin County Grand Jury Report and parallels to the city, hope to inspire devoting more resources to fire prevention.

Scott Perry shared Make El Cerrito Fire Safety formation and efforts regarding fire safety to date, spoke on PGE protocols and strategy to respond and reduce liability.

Ed Crowley questioned why the 500 block on Bonnie drive and why is that street not on the list for street repairs.

Tom Schrey spoke in support of making the hills firesafe and reducing the fire load.

Sherry Drobner reviewed a survey circulating about the councilmembers, and concern about offensive nature of the questions related to tenant protections. Stated that data compiled should be looked at with relative skepticism.

Kate Bolton-Schmukler spoke regarding appreciation on efforts to protect tenants.

4. ADOPTION OF THE CONSENT CALENDAR

Moved/Seconded: Councilmembers Lyman/Quinto **Action:** Passed a motion to approve the consent calendar, recognizing the revised proclamation for item 4A in recognition of Cheryl Morse, and extending appreciation to all city clerks past and present. **Ayes:** Mayor Pardue-Okimoto; Councilmembers Abelson, Fadelli, Lyman, and Quinto **Noes:** None

A. 50th Annual Municipal Clerks Week Proclamation

Action Proposed: Pass a motion to approve a proclamation recognizing the week of May 5 through May 11, 2019 as Municipal Clerks Week in the City of El Cerrito.
Contact: Holly M. Charléty, City Clerk, City Management

Action: Approved supplemental proclamation

B. Bike to Work Day Proclamation

Action Proposed: Pass a motion to approve a proclamation declaring May 9, 2019 at Bike to Work day in the City of El Cerrito.
Contact: Jennifer Peat, Management Assistant, Community Development Department

Action: Approved proclamation

C. National Public Works Week Proclamation

Action Proposed: Pass a motion to approve a proclamation designating May 19 through May 25, 2019 as National Public Works Week in the City of El Cerrito.
Contact: Precilla Mandujano, Management Assistant, Public Works Department

Action: Approved proclamation

Jeff Levin accepted the proclamation as Policy Director on behalf of East Bay Housing Organizations.

D. Affordable Housing Week Proclamation

Action Proposed: Pass a motion to approve a proclamation designating May 9 through May 19, 2019 as the 23rd Annual East Bay Affordable Housing Week: "Affordable Homes for All".
Contact: Aissia Ashoori, Management Analyst II, Community Development Department

Action: Approved proclamation

E. Asian Pacific American Month Proclamation

Action Proposed: Pass a motion to approve a proclamation declaring the Month of May 2019 as Asian Pacific American Heritage Month in El Cerrito.
Contact: Kristen Cunningham, Human Resources Manager, City Management

Action: Approved proclamation

F. Jewish American Heritage Month Proclamation

Action Proposed: Pass a motion to approve a proclamation declaring the Month of May 2019 as Jewish American Heritage Month in the City of El Cerrito.
Contact: Kristen Cunningham, Human Resources Manager, City Management

Action: Approved proclamation

G. 70th Anniversary of Rotary Club Proclamation

Action Proposed: Pass a motion to approve a proclamation recognizing the 70th anniversary of the El Cerrito Rotary Club and proclaiming May 7, 2019 as Rotary Club Day in El Cerrito.
Contact: Holly M. Charléty, City Clerk, City Management

Action: Approved proclamation

H. Approval of Minutes

Action Proposed: Pass a motion to approve the minutes for the meetings of April 2, 2019, and April 16, 2019.
Contact: Holly M. Charléty, City Clerk, City Management

Action: Approved minutes

I. 2019 Patch Paving Project, City Project No. C3027.21A

Action Proposed: Adopt a resolution approving plans and specifications for the 2019 Patch Paving Project, City Project No. C3027.21A (Project); accepting the two bids submitted for the Project; authorizing the City Manager to execute a contract in the amount of $162,431 with Paving Construction Services, Inc. and to approve change orders in an amount not to exceed $32,500 for construction of the Project; and amending the Fiscal Year (FY) 2018-19 Adopted Budget and Annual Program of Maintenance and Improvement pursuant to the Measure A to appropriate an additional $74,000 in the Measure A Street Improvement Fund for the Project.
Contact: Yvetteh Ortiz, Public Works Director/City Engineer, Public Works Department

Action: Adopted Resolution 2019-30

J. Environmental Quality Committee Appointment of Daniel Hamilton

Action Proposed: Pass a motion to approve an Environmental Quality Committee recommendation to appoint Daniel Hamilton to the Environmental Quality Committee, effective May 7, 2019.
Contact: Will Provost, Environmental Analyst; Maria Sanders, Operations + Environmental Services Manager; Yvetteh Ortiz, Public Works Director/City Engineer, Public Works Department

Action: Approved appointment

5. PRESENTATIONS - None

6. PUBLIC HEARINGS - None

7. POLICY MATTERS

A. Rent Registry Ordinance *Notice published on 4/27/2019*

Action: Introduce by title and waive any further reading of an Ordinance of the City of El Cerrito Amending Title 10 of the El Cerrito Municipal Code to Add Chapter 10.100, "Rent Registry" to Require That Property Owners Register Rents for and Provide Other Information Regarding Residential Rental Properties with the City Annually.
Contact: Aissia Ashoori, Affordable Housing Analyst; Melanie Mintz, Community Development Director, Community Development Department

Presentation and Discussion: Aissia Ashoori, Affordable Housing Analyst, provided an overview of the rent registry ordinance proposed and answered questions raised by members of the council including recovery costs, applicability to types of units, staffing needs, timing for implementation and report back of data collected, privacy of data collected and what is protected under law, optional platform for tenants to disclose information in addition to landlords, how disclosed data would be presented to protect unique identifiers, and efforts to increase the number of registered rentals.

Public Comments:

Elizabeth Thorsnes expressed concern about violating privacy of tenants, questioned the need of some of the information requested, offered alternate option of a survey.

Howdy Goudey spoke in support of adoption, expressed need for stated intention of a higher compliance rate to reduce annual fee and increase business license revenue, need for process to allow tenants to verify information provided by landlord, consider providing aggregated data online to allow for access without fielding individual requests.

Robin Mitchell agree that information should be collected and shared that City of San Jose provides their data online.

Ed Crowley spoke on the high cost and offered services to complete the work.

Jeffrey Wright shared concern on perception, focusing on the right topics of municipal government, and that there has not been a problem shown.

Karina Ioffee stated there is a crisis in the community, people being priced out of the community, and renters treated as second class citizens.

Peter Pan spoke on associated costs of program, effect on the consumer, and opposition.

Rhovy Lyn Antonio with CA Apartment association expressed opposition to rent registry, disagreement on method of obtaining data, confidentiality, and protection from disclosure.

Jeff Levin with East Bay Housing Organizations, spoke in support and stall because of lack of data. Encourage staff to be more aggressive in identifying those not in compliance with business license, section 8 language, and disclosure of data collected.

Nicholas Galloro spoke in support of a registry, feels a large number are not reporting rental units, need a report back to disclose how many are now in compliance, and tenants should be able to know if their unit is legally registered.

Nathan Duram-Hammer with East Bay Rental Housing Association expressed this is an invasion of privacy and constitutional rights, expensive expansion of bureaucratic system, fees will go up and rents will increase.

Norma Labat spoke in opposition because it threatens generational property owned, vowed to parents that property would be protected but this will threaten her property.

Anna worked hard to purchase property, policy will only aide bad tenants, spoke about American economy and that policy will make rental market worse.

Eva Chow commented on effect on property owners not putting properties on the rental market because of the bureaucracy, will backfire and remove rentals from the market.

Council Discussion: Staff responded to comments and questions by members regarding the proprietary section of the resolution, disclosure of data, protection against subpoena, reports produced and public records disclosure guidelines.

Moved/Seconded: Councilmembers Lyman/Fadelli **Action:** Passed a motion to introduce the ordinance by tile and waive further reading; and approve the ordinance incorporating revisions to subsection 10.100.030 H2 to clarify the number of rental units in a building would only be expressed as a range if requested; that the types of reports described are the only records that would be released under a public records request; add a statement that the city would not disclose data from the database that would identify the rent for a specific rental unit; and add a statement that the city will not collect names or data about individuals. **Ayes:** Mayor Pardue-Okimoto; Councilmembers Abelson, Fadelli, and Lyman **Noes:** Councilmember Quinto

B. Just Cause for Eviction Ordinance *Notice published on 4/27/2019*

Action Proposed: Introduce by title and waive any further reading of an Ordinance Amending Title 10 of the El Cerrito Municipal Code Chapter to Add Chapter 10.300, "Just Cause for Eviction and Prohibition on Harassment of Tenants" Related to Termination of Tenancy and Other Tenant Protections
Contact: Aissia Ashoori, Affordable Housing Analyst; Melanie Mintz, Community Development Director, Community Development Department

Presentation and Discussion: Aissia Ashoori, Affordable Housing Analyst, provided an overview of the just cause for eviction ordinance proposed and answered questions raised by members of the council regarding role of Eden Council for Hope and Opportunity (ECHO), basis and models used for creating list for just cause, applicability to expired leases, clause stating not obligated to enforce, but has the right to; proving breach of contract; overlap of ordinance with state law and standard lease language; concern about added costs; and concern about using ECHO for both landlord and tenant guidance.

Public Comments:

Peter Pan stated additional housing created will be reduced by introduction of ordinances tonight as mom and pop aging landlords cannot support this.

Lisa Lau asked for no votes, expressed when dealing with bad tenants is least confrontational to let the lease expire, this will force landlords to pursue eviction which will hurt the tenants long term.

Claude Zamanian spoke regarding the amount of fees eventually being passed on to tenants, celebrating affordable housing tonight but not discussing to make housing more affordable.

Ilona Clark with United Richmond Housing Providers spoke about redundancy with state law, effect nullifies leases and makes every lease termination into an expensive process. Paves the way for full rent control, exemptions will be rolled back. Landlords and tenants need to work together.

Howdy Goudey spoke in support of protection, but feels does not cover enough units, why is the protection only being given to 1/3 of renters, shouldn't exempt for new construction.

Robin Mitchell being a landlord is a business and should be treated as such, and businesses have fees involved. Cannot claim that El Cerrito is affordable, should cover all property types.

Vincent Lau shared a need to increase rent based on economy, passing this will create lifelong tenancy for a bad tenant, stated he provides a good unit and should be able to take back if they want.

Ed Crowley stated property owners want long term tenants, and don't terminate for no reason, challenge is that violation of lease has a 3-day cure and can be repeated.

Ronnie Polonsky spoke about a neighbor requesting aide in getting groceries and loss job of job, was charged $200 as a penalty and rent recently raised. Sited recent circumstances for terminations of various renters, accept just cause as a first step.

Nicholas Galloro spoke in support of just cause but limited by only 1/3 of units. Sited circumstances of rent increases of tenants, and due process necessary to ensure people's rights are validated.

Jeffrey Wright concerned about ability of tenant to force a landlord at the end of lease into renting in perpetuity to the tenant, compared rent controls in neighboring cities, and focus on municipal government.

Patricia Wilson shared she sold properties owned in Richmond after rent controls implemented and experience with tenants, and there are better ways to do this, didn't want to raise rents, wanted partners in renters.

Rhovy Lyn Antonio with CA Apartment Association spoke in opposition. Stated there is no state law that a fixed term lease expires into month to month. Shared this forces landlord to go to court every time they want to get their unit back, staff alternative in minimum lease terms would list just cause reasons.

Jeff Levin with East Bay Housing Organization spoke in support of just cause, it's about tenant protections and preserving diversity of El Cerrito. Would like to see it cover all units, commented on specifics on right to withdrawal units from rental market.

Nathan Duram-Hammer with East Bay Rental Housing Association commented that property owners are not in the business of evicting tenants, generally avoided at all costs. Policy forces eviction and trips to court, one bad tenant can put a provider underwater, just cause protects the actions of bad tenants, and rent restrictions equals rent increases.

Eva Chow spoke regarding available units on the market under $2000 available in El Cerrito and Albany.

Moved/Seconded: Councilmembers Abelson/Quinto **Action:** Passed a motion to extend the meeting by 30 minutes to 11:00 p.m. **Ayes:** Mayor Pardue-Okimoto; Councilmembers Abelson, Fadelli, Lyman, and Quinto **Noes:** None

Tyra Wright stated providing housing is a business and there are fees associated with a business, but a contract is a contract, and this ordinance proposes mandating the extension of a lease indefinitely. Expiration of a lease is a reason for just cause.

Sherry Drobner asked the council to speak with tenants in the city, shared what has been shared with her in doing so, and support of just cause.

Norma Labat shared research on Zillow for recent homes sold because of just cause.

Council Discussion: Staff responded to comments and questions regarding eviction notices for listed causes, other reasons for terminating are prohibited, clarification that an adopted ordinance can be repealed, removal of units from market, and definitions of a unit.

Moved/Seconded: Councilmembers Abelson/Quinto **Action:** Passed a motion to extend the meeting by 30 minutes to 11:30 **Ayes:** Mayor Pardue-Okimoto; Councilmembers Abelson, Fadelli, Lyman, and Quinto **Noes:** None

Moved/Seconded: Councilmembers Lyman/Fadelli **Action:** Passed a motion to introduce by title and waive any further reading of the Ordinance proposed. **Ayes:** Mayor Pardue-Okimoto; Councilmembers Fadelli and Lyman **Noes:** Abelson and Quinto

C. Tenant Protections Taskforce

Action: Discuss and consider adopting a resolution for the formation of a Tenant Protection Taskforce.

Contact: Aissia Ashoori, Affordable Housing Analyst; Melanie Mintz, Community Development Director, Community Development Department

Presentation and Discussion: Aissia Ashoori, Affordable Housing Analyst provided an overview of the proposed Tenant Protection Taskforce and answered questions raised by members of the council regarding selection options for selection of members.

Moved/Seconded: Councilmembers Abelson/Lyman **Action:** Passed a motion to extend the meeting by 30 minutes to 12:00 **Ayes:** Mayor Pardue-Okimoto; Councilmembers Abelson, Fadelli, Lyman, and Quinto **Noes:** None

Public Comments:

Howdy Goudey requested council consider including a third category of homeowners who are not landlords or tenants for impartial aspect. Consider all pillar B strategies as the reference to responsibility and scope of discussion.

Robin Mitchell expressed that an even number of members would not work, adding a third as homeowner will help. Should also represent different unit types, with no limitation on number of meetings.

Nicholas Gallon stated an equal number doesn't make sense based on the imbalance of tenants versus landlords.

Rhovy Lyn Antonio with CA Apartment Association stated with creation of task force, homeowners should have a seat at the table. Create a fair process if you are going to create more regulation.

Peter Pan spoke of need for members to not have recently moved to the city, volunteered for the task force.

Jeff Levin with East Bay Housing Organizations suggested scope expand to include all options presented in the tenant protection toolbox offered in August, add 1 to 3 neutral homeowners on the task force, and range of both owners and tenants.

Moved/Seconded: Councilmembers Lyman/Abelson **Action:** Passed a motion to continue the item to policy items on May 21. **Ayes:** Mayor Pardue-Okimoto; Councilmembers Abelson, Fadelli, Lyman, and Quinto **Noes:** None

8. CITY COUNCIL LOCAL & REGIONAL LIAISON ASSIGNMENTS

Councilmember Abelson reported that Contra Costa Transit Authority is looking at expanding projects.

Councilmember Fadelli reported Bates Fields JPA two cities have not paid into the reconstruction of the field, and increased cost for restroom renovations.

9. ADJOURN REGULAR CITY COUNCIL MEETING

The meeting adjourned at 11:30 p.m.

_____

Rochelle Pardue-Okimoto, Mayor

This is to certify that the foregoing is a true and correct copy of the minutes of the regular City Council meeting of May 7, 2019 as approved by the El Cerrito City Council.

_____

Holly M. Charléty, MMC, City Clerk

AGENDA BILL

Agenda Item No. 4(B)

Date: June 18, 2018

To: El Cerrito City Council

From: Maria Sanders, Operations & Environmental Services Division Manager
Yvetteh Ortiz, Public Works Director/City Engineer

Subject: Processing Contract for Recyclable Materials

ACTION REQUESTED

Adopt a resolution authorizing the City Manager to execute a contract with Napa Recycling and Waste Services, LLC in an amount not to exceed $108,000 annually and a contingency amount not to exceed $43,000 annually for comingled recyclable material processing services.

BACKGROUND

The City of El Cerrito operates the City's recycling programs, including the curbside recycling collection for El Cerrito residents and businesses, and the daily operations and recycling services at the Recycling + Environmental Resource Center.

As previously reported to the City Council on June 4, 2019, the Chinese government has been placing increasingly tight restrictions on the amount, type, and quality of recyclable materials that Chinese importers can accept. Since April 2018, these restrictions have caused dramatic changes in the market for recyclable materials and precipitated similar policies instituted by other countries that typically import recyclable material. These Chinese policies, also known as the "National Sword", have dramatically curtailed the demand for recycled materials, turning the economics of processing recyclables from a net revenue generating activity (wherein the revenues from the sale of recyclables exceeded the expenses to process the materials) to a net expense (wherein the cost of processing exceeds the revenue from the sale of recyclable materials). As a result, single-stream curbside recyclables are now commanding little or no compensation; and domestic recycling processors are now shifting to a model of charging for accepting materials.

The City has been in contract since 2013 with California Waste Solutions (CWS) for the processing of the comingled recyclable material the City collects through its curbside program. CWS is a recycling hauler and materials processor located in Oakland. The original contract, which expired in December 2018 and is now month-to-month, stipulated that the City would receive $52 per ton of material delivered to the CWS facility. Even as the market weakened over the years, CWS was able to honor the contract price until enactment of the National Sword. In April 2018, CWS requested and was granted relief from the obligation to pay the City $52 per ton, given the extraordinary market conditions and the alternative being termination of the contract. As a result, recycling revenue from the City's curbside materials dropped from an average

of $200,000 to no revenue, as reflected in the Adopted Fiscal Year 2018-19 Budget. At that time, staff was working with CWS to amend its agreement to build in safeguards for the City to receive value when the market recovered. However, as the recycling marketplace continued to deteriorate, this amendment process led to limited success, as CWS provided a revenue sharing scale which included a larger than anticipated cost for processing the materials. They also informed the City in late March that they would need to charge the City a processing fee as soon as possible.

ANALYSIS

The City thus expanded its process and requested proposals from other recyclable material processors (also known as Resource Recovery Facilities) in the region within reasonable distance from El Cerrito, which are listed below in Table A. This was a procurement for services that was not amenable to a formal Request for Proposals process, given the time constraints and the changing revenue model for processing of recyclable materials due to the unpredictable market conditions. Thus, staff requested and received permission from the City Manager to undertake a negotiated, informal process to soliciting proposals. Three of seven processors declined to participate, either because their process was incompatible with processing comingled materials or because they were at capacity and could not receive additional materials. The City received four proposals, including that from CWS.

Table A: Resource Recovery Facilities – Proposal Status

Processor	Location	Status
Alameda County Industries (ACI)	San Leandro	No proposal; at capacity
Berkeley Recycling Center	Berkeley	No proposal; can only take dual-stream material
California Waste Solutions (CWS)	Oakland	Proposed
Mt. Diablo Resource Recovery (MDRR)	Pittsburg	Proposed
Napa Recycling & Waste Services (NRWS)	American Canyon	Proposed
Republic Services – West County Resource Recovery	Richmond	Proposed
Waste Management – Davis St. Resource Recovery	San Leandro	No proposal; at capacity

Each processor proposed slightly different cost models, but all included a Base Cost per ton for processing the materials, as listed in Table B. Both Napa Recycling and Waste Services (NRWS) and Republic Services provided a straight Base Cost per ton with no revenue sharing (Revenue Split) with the City for the value of the materials. Both Mt. Diablo and CWS provided revenue sharing models for the value of the materials delivered. Mt. Diablo provided a high Base Cost and a Revenue Split of 75% on the value of the material, bringing the total cost per ton to $110 for this upcoming fiscal year

(July 2019 through June 2020). This would be fixed for a year and renegotiated upon annual renewal of the contract. In contrast, CWS proposed a low Base Cost and an indexed mechanism for payment *from or to* the City that tracks changes in the value of recyclable material on a quarterly basis. This model is meant to share the risk and rewards of a long-term contract in a highly volatile recycling market. By providing a low Base Cost for processing materials, but a variable "Revenue Split," CWS would either receive additional payment for processing during a down market or would pay the City for the value of the materials during a good market. However, under current and foreseeable market conditions the "Revenue Split" proposed would require additional payments from the City, bringing the total cost per ton to $151 in this coming quarter (July through September 2019). This cost would be readjusted to market conditions throughout the term of the contract on a quarterly basis. Under very positive market conditions, the City could receive payments up to $32 per ton.

At a Base Cost to the City of $25 per ton, NRWS provided by far the best pricing per ton, even without a Revenue Split. This price would be fixed for one year and renegotiated upon annual renewal of the contract. The NRWS facility is one of the farthest from the City, being about 30 miles from El Cerrito. In order to compare the true costs to the City to deliver material a greater distance than the current CWS facility in Oakland, staff added the annual operational costs (such as fuel, tolls, and probable overtime for drivers needing to drive a longer distance) to the proposed cost for all proposals. This analysis is included in Table B. Even with the greater operational costs included, NRWS's low Base Cost continues to offer the most competitive price.

Table B: Proposed Processing Costs and Concomitant Operational Costs

	CWS	MDRR	NRWS	Republic
Processing Costs Per Ton				
Base Cost to City	$48.00	$193.18	$25.00	$140.00
Revenue Split **	$103.00	$ (84.13)	$0.00	$0.00
Contamination Charge	$0.00	$1.06	$0.00	$0.00
Cost/Ton	$151.00	$110.11	$25.00	$140.00
Annual Tons Processed	4,300	4,300	4,300	4,300
Subtotal Annual Cost	**$649,300**	**$473,484**	**$107,500**	**$602,000**
Annual Operational Costs				
Transportation (fuel, tolls)	$13,545	$52,676	$53,868	$11,288
Driver Overtime	$0	$35,794	$35,794	$0
Subtotal	**$13,545**	**$88,470**	**$89,663**	**$11,288**
Grand Total Annual Costs	**$662,845**	**$561,954**	**$197,163**	**$613,288**
Total Cost per Ton	$154	$131	$46	$143

** Payment (to) or from City

NRWS is a locally-owned Bay Area full-service hauling and recycling processing company. NRWS is the exclusive hauler of recycling, compost and trash in the City of Napa, and operates the City of Napa's Materials Diversion Facility (MDF) under a long-term agreement with the City of Napa (currently through 2031).

NRWS has a long history of experience running recycling and composting operations, most notably at the Napa MDF. The MDF is a regional recycling and composting facility that recently underwent a significant upgrade to the single-stream sorting operation. These upgrades enable the facility to process additional material, deal with the increasingly complicated and changing material stream, and prepare cleaner materials to market.

NRWS accepts all the same materials as El Cerrito's current curbside program, excepting plastic bags and other plastic films. Most notably, they are the only processor to also accept single-use plastic clamshells (e.g. strawberry and take-out containers) and tubs (e.g. yogurt containers). In addition, NRWS also accepts paper milk cartons and aseptic containers (such as shelf-stable soymilk and chicken broth containers).

Due to NRWS providing the best overall pricing, their long-term contract with the City of Napa to operate their MDF, and the comprehensiveness of the materials accepted, staff recommends entering into a contract with NRWS to process the City's commingled recyclable material. While the contract term is for only one year, there are options to annually renew, including renegotiation of any new fee adjustments. To protect the City from unpredictable increases upon renewal, any adjustment to the processing cost would be based in part on the percentage change in the recycling markets (as verified through an agreed upon index). If approved, staff will then work with NRWS to educate the public on materials accepted in the City's program and how these materials should be prepared for the bin in order to reduce contamination in our recycling stream.

STRATEGIC PLAN CONSIDERATIONS

Entering into a contract with NRWS to process the City's curbside material is crucial to maintaining dependable solid waste services in the City and will help fulfill the following City of El Cerrito Strategic Plan goals and objectives:

- Goal A: Deliver Exemplary Government Services by ensuring the City's solid waste programs, including its recycling services, are delivered in a continuous and dependable manner.

- Goal B: Achieve long-term financial sustainability by ensuring the lowest possible cost for processing of recyclable material.

- Goal F: Foster environmental sustainability by continuing to invest in the City's recycling programs and serving El Cerrito citizens as they continue to divert waste from the landfill.

ENVIRONMENTAL CONSIDERATIONS

All jurisdictions in California are required by law to provide recycling services for its residents and businesses through mandates established by AB 989 and AB 341. Recent legislation, SB 1383, mandates higher recycling (as well as organics recycling) compliance rates by the year 2022. Reliable and proper disposal, processing, and diversion of solid waste is necessary to protect the health and welfare of the community and environment. Contracting with NRWS for processing of the City's curbside material will ensure continuity of the City's recycling programs, while also responding to the dramatic downturn in the recycling markets precipitated by the Chinese "National Sword" policies.

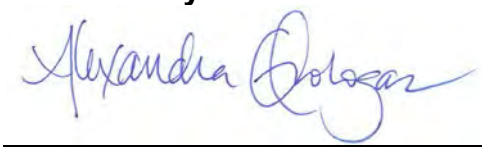
FINANCIAL CONSIDERATIONS

Funding for the additional costs to process the City's loose commingled recyclable materials, including contract costs and additional costs associated with operational changes, has been incorporated into the Integrated Waste Management (IWM) Fee adjustment effective July 1, 2019, as authorized by the City Council on June 4, 2019 through Resolution 2019-35. At that time, City Council authorized $324,000 for the upcoming Fiscal Year 2019-20 to cover new materials processing costs and concomitant operational costs. Processing and operational costs associated with contracting with NRWS is projected to be $197,000 for this upcoming Fiscal Year. Staff is recommending adding to the NRWS contract an additional $43,000 in contingency to cover additional tonnage of materials delivered to their facility. Staff is reserving the additional unencumbered $84,000 in processing funds for secondary contracts for processing materials collected at the Recycling Center that are more efficaciously processed at facilities closer to El Cerrito. These funds will need to be appropriated in the IWM Fund as part of the approved Fiscal Year 2019-20 mid-year budget amendment in 2020.

LEGAL CONSIDERATIONS

The City Attorney has reviewed the Agreement for Processing Recyclable Materials (Attachment 2) and affirms its legality.

Reviewed by:



Alexandra Orologas
Assistant City Manager

Attachments:

1. Resolution
2. Agreement for Processing Recyclable Materials from the City of El Cerrito

RESOLUTION 2019-XX

RESOLUTION OF THE CITY COUNCIL OF THE CITY OF EL CERRITO AUTHORIZING THE CITY MANAGER TO EXECUTE A CONTRACT WITH NAPA RECYCLING AND WASTE SERVICES, LLC. IN THE AMOUNT NOT TO EXCEED $108,000 ANNUALLY AND A CONTINGENCY AMOUNT NOT TO EXCEED $43,000 ANNUALLY FOR COMINGLED RECYCLABLE MATERIAL PROCESSING SERVICES

WHEREAS, the City of El Cerrito provides Integrated Waste Management Services for residents and businesses in its jurisdiction, including curbside collection of recyclable materials, and operation of the El Cerrito Recycling + Environmental Resource Center; and

WHEREAS, major shifts in the recyclable materials marketplace arising from China's "National Sword" policy have changed the economics of processing recyclables from a net revenue generating activity to a net expense, wherein the cost of processing exceeds the revenue from the sale of recyclable materials; and

WHEREAS, the City uses a third-party vendor, California Waste Solutions (CWS), to process (namely to sort, bale, market, and transport) comingled recyclable material collected within its jurisdiction; and in March, 2019 the City was informed by CWS that all material delivered to its facility will be charged a per ton fee; and

WHEREAS, the City desires the most competitive pricing for the processing of its comingled material, but given the time constraints and the changing revenue model for processing of recyclable materials due to unpredictable market conditions, the procurement process was not amenable to a formal Request for Proposals process, the City undertook a negotiated, informal process to solicit proposals; and

WHEREAS, the City solicited proposals from seven regionally accessible recycling facilities, and received proposals from four facilities, all of which provided proposals whereby the City would incur a cost per ton of recyclable material processed, and Napa Recycling and Waste Services (NRWS) provided the lowest price of $25.00 per ton, which is approximately four times less than the next lowest proposed price; and

WHEREAS, the annual amount of recyclable material collected by the City and processed at $25.00 per ton by NRWS will amount to approximately $108,000 per year; and it is prudent to allocate a contingency amount of $43,000 to support additional costs due to potential increases in recyclable material delivered to the NRWS facility; and

WHEREAS, to protect the City from unpredictable increases upon renewal, any adjustment to the processing cost would be based in part on the percentage change in the recycling markets (as verified through an agreed upon index); and

WHEREAS, NRWS has a long history of operating recycling and other waste diversion operations, including the City of Napa's Materials Diversion Facility, which is under long term agreement with the City of Napa (currently through 2031); and

WHEREAS, the funding for the additional costs to process the City's loose commingled recyclable materials has been incorporated into the Integrated Waste Management (IWM) Fee adjustment effective July 1, 2019, as authorized by the City Council on June 4, 2019 through Resolution 2019-35; and such funds will need to be appropriated in the IWM Fund as part of the approved Fiscal Year 2019-20 mid-year budget amendment in 2020; and

NOW THEREFORE, BE IT RESOLVED by the City Council of the City of El Cerrito that it hereby authorizes the City Manager to execute an agreement in the amount not to exceed $108,000 with Napa Recycling and Waste Services (NRWS) and to approve an additional contingency amount not to exceed $43,000.

BE IT FURTHER RESOLVED that this Resolution shall become effective immediately upon passage and adoption.

I CERTIFY that at a regular meeting on June 18, 2019 the City Council of the City of El Cerrito passed this Resolution by the following vote:

AYES: COUNCILMEMBERS:
NOES: COUNCILMEMBERS:
ABSTAIN: COUNCILMEMBERS:
ABSENT: COUNCILMEMBERS:

IN WITNESS of this action, I sign this document and affix the corporate seal of the City of El Cerrito on June XX, 2019.

_____
Holly M. Charléty, City Clerk

APPROVED:

_____
Rochelle Pardue-Okimoto, Mayor

AGREEMENT FOR PROCESSING RECYCLABLE MATERIALS FROM THE CITY OF EL CERRITO

This Agreement for Purchase of Recyclable Materials ("Agreement") is entered into as of the _____ day of_____, by and between the CITY OF EL CERRITO, (the "City"), and _____ (the "Processor"), each a "Party" and collectively the "Parties."

RECITALS

This Agreement is entered into on the basis of the following facts, understandings, and intentions of the Parties:

A. The City desires to sell the recyclable material collected within its jurisdiction, including (1) loose commingled "single-stream" recyclable materials collected from both residential and commercial premises served by the City, and (2) loose commingled recyclable materials collected by the City at the City's Recycling Center located at 7501 Schmidt Lane, El Cerrito, CA 94530 (the "Recycling Center").

B. The Processor desires to accept the materials, as defined in this Agreement, from the City and make payments or receive payments for processing such material based on the terms of this Agreement.

NOW, THEREFORE, in consideration of the mutual covenants and conditions contained herein, the Parties agree to the following:

1. MATERIALS.

1.1. For purposes of this Agreement, the term "Materials" shall be defined as those loose commingled "single-stream" recyclable materials collected from both residential and commercial premises served by the City and delivered to the Processor by the City in collection trucks and those loose commingled recyclable materials collected by the City at the City's Recycling Center and delivered to the Processor. The types of Recyclables accepted shall include those materials collected through the City's recycling programs, as described in **Exhibit 1**.

1.2. For the term of this Agreement, the City agrees to commit to deliver to the Processor for processing a portion of Materials collected by the City. The City makes no guarantee of the total daily, monthly, or annual tonnage of Materials delivered to the Processor's facilities.

1.3 The City expressly disclaims any warranties, either express or implied, as to the composition or quantity of Materials delivered.

1.4 The City will make reasonable business efforts to deliver loads containing no more than 10% contamination by weight.

1.5 The Processor may choose to reject, within one (1) business day, any loads containing - in excess of 10% by weight - hazardous or toxic waste and materials not detailed in Exhibit 1 that otherwise cannot reasonably be diverted from landfill; if not rejected, all loads are deemed accepted as is. Once the Processor accepts the loads, transfer of ownership to the Processor occurs. Should the Processor reject any loads due to the presence or strong suspicion of contamination, the Processor shall immediately notify the City verbally and then follow the verbal notification with written notice. The notice shall identify the Processor's reasonable reason for rejection of the material and identify the truck that delivered such material if that truck was identified. Upon notice the City shall have the option to remove the rejected materials within 24 hours, or the Processor will assign a reasonable fee to cover the costs of handling and removal of the rejected materials. Before the expiration of 24 hours from the time the Processor notifies the City about any rejected materials, and before the Processor handles or removes those rejected materials, the Processor will provide the City with a good faith estimate of the costs of handling and removing the rejected materials and the proposed fee that would be assigned to the City. If the City deems that the proposed fee is not reasonable, the City will have an additional 24 hours (for a total of 48 hours since receiving notice from the Processor of rejected materials) to arrange for handling and removal of said materials. Alternatively, if the City deems that the proposed fee is not reasonable, the City and the Processor may negotiate a revised fee that would be agreeable to both Parties. In the event the Processor does assign a fee for the removal and handling of rejected materials, the Processor will provide documentation of what materials were handled, how they were removed, and how they were hauled and disposed of. This documentation shall include copies of any invoices for services provided to the Processor by any other entity and details of all the Processor time and resources expended on removal and handling of the rejected materials.

2. MEASUREMENT.

2.1 The Processor shall weigh all vehicles delivering Materials on an incoming and outgoing basis.

2.2 The Processor shall test and calibrate its scales in accordance with applicable law. Upon City request, the Processor shall provide the City with copies of scale calibration and test results.

3. PRICE AND PAYMENT.

3.1 The price per ton for Materials shall be calculated in the manner detailed in Exhibit 2, "Price Per Ton of Material". Either the City shall pay the Processor or the Processor shall pay the City for Materials that the City provides to the Processor based on the price per ton calculated according to Exhibit 2.

3.2 A ton shall consist of 2,000 pounds certified weight. Payments will be based on receiving weights and based on actual weight determined by state certified weight ticket at the Processor's locations at _____. The Processor may assign an alternative processing facility as long as there is no material impact on the time invested or expense by the City.

3.3 If the price per ton for Materials results in the Processor paying the City for Materials processed, the Processor shall make payment to the City on a monthly (net 30 day) basis, providing at a minimum the tonnage of Materials received, weight ticket numbers associated with the tonnage processed, and price per ton paid.

3.4 If the price per ton for Materials results in the City paying the Processor to process Materials in that quarter, the Processor shall invoice the City on a monthly (net 30 day) basis, providing at a minimum the tonnage of Materials received, weight ticket numbers associated with the invoiced tonnage processed, and price per ton invoiced.

3.5 The Processor shall receive all California Redemption Value (CRV) and other payments attributable to the materials delivered by the City to the Processor. The City understands that the price per ton compensation includes the value of CRV and other applicable state incentive payments for materials sold to the Processor. The City shall receive all state Supplemental recycling payments and other payments typically due to municipalities.

3.6 The City has the right, with reasonable prior written notice and provided it does not unreasonably interfere with the Processor's day to day operations, to inspect and audit the Processor's records showing:

a) tonnage of Materials accepted;

b) residual tonnage disposal supported by landfill weight tickets.

4. DELIVERY.

4.1 Costs of transportation of Materials to the Processor are the responsibility of the City.

4.2 Receiving Hours. The Processor will accept Materials between 5 a.m. and 4 p.m. on Monday through Friday and 8 a.m. to 4 p.m. on Saturday, including all Holidays except Christmas Day and New Year's Day. Hours may be adjusted via written amendment to this Agreement as per Section 8, below.

5. ASSIGNMENT. This Agreement may be assigned only upon the express written consent of the Parties.

6. TERM.

6.1 The term of this Agreement shall commence upon execution and terminate within one year of the effective date of this agreement.

6.2 The term of this Agreement may be renewed for successive terms of one (1) year each if agreed to in writing by the Parties, as per Section 8, below.

7. TERMINATION. City may cancel this Agreement at any time and without cause upon written notification to Processor. In the event of termination, Processor shall be entitled to compensation for services satisfactorily completed as of the date of written notice of termination; City, however, may condition payment of such compensation upon Contractor delivering to City documents and records identified in Section 3 of this Agreement. Processor recognizes the operational impacts to the City in the event Processor wishes to terminate this Agreement, and thus shall provide the City with 120 days written notification of its intent to terminate.

8. AMENDMENT. This Agreement may not be modified or amended in any respect except in writing signed by the Parties.

9. NOTICES. All notices required hereunder shall be provided in writing and shall be personally delivered to a representative of the Parties at the addresses below, or be deposited in the United States mail, first class postage prepaid (certified mail, return receipt requested), or sent by overnight courier such as Federal Express, postage prepaid, and addressed to the Parties as followed:

To the City: City of El Cerrito, CA
10890 San Pablo Avenue
El Cerrito, CA 94530
Attn: Operations + Environmental Services Manager

To the Processor: _____
_____
_____
Attn: _____

or to other such address as either of the Parties may hereafter designate by notice sent in the manner set forth above.

10. ENTIRE AGREEMENT. This Agreement consisting of eight (8) pages and one exhibit represents the full and entire Agreement between the Parties regarding the matters covered herein.

11. INSURANCE.

11.1 **Processor Insurance.** The Processor shall secure and maintain, in full force and effect during the Term, adequate insurance that shall be the types and amounts of insurance coverage listed below The Processor shall supply a certificate of insurance and additional insured endorsement. The terms and obligations of this section shall survive termination of this Agreement.

11.2 **Workers' Compensation Insurance.** The Processor shall take out and maintain during the life of this Agreement, Workers' Compensation and Employer's Liability insurance for all of its employees performing work related to this Agreement. In lieu of evidence of Workers' Compensation insurance, the City will accept a Self-Insuring Certificate from the State of California.

11.3 **Comprehensive Automobile and General Liability Insurance.** The Processor shall take out and maintain during the life of this Agreement General Liability insurance in the amount of two million dollars ($2,000,000) for combined single limit coverage for bodily injury, personal injury and property damage. The following coverages or endorsements must be indicated on the certificate:

(1) The City, its directors, officers and employees are additional insureds in the policy as to the work being performed,
(2) The coverage is primary to any other insurance carried by the City;
(3) Thirty (30) days' prior written notice shall be given to the City in the event of cancellation or non-renewal of the policy.

11.4 **Amounts of Insurance.** The amounts of insurance shall be the following:

General Liability – two million dollars ($2,000,000) per occurrence
Auto Liability – two million dollars ($2,000,000) per occurrence
Worker's Compensation – State statutory limit

11.5 **Delivery of Proof of Coverage.** Simultaneously with the execution of this Agreement, the Processor shall furnish City certificates of insurance required hereunder, in form and substance satisfactory to the City. Such certificates shall show the type and amount of coverage, effective dates and dates of expiration of policies and shall have all required endorsements.

Renewal certificates will be furnished periodically to the City to demonstrate maintenance of the required coverages throughout the term.

11.6 **Other Insurance Requirements.** In the event any services to be provided pursuant to this Agreement are delegated to a subcontractor, the Processor shall

require such subcontractor to provide statutory workers' compensation insurance and employer's liability insurance for all of the subcontractor's employees engaged in the work in accordance with this section. The liability insurance required by this section shall cover all subcontractors or the subcontractor must furnish evidence of insurance provided by it meeting all of the requirements of this section.

The Processor shall comply with all requirements of the insurers issuing policies. The carrying of insurance shall not relieve the Processor from any obligation under this Agreement. If any claim exceeding the amount of any deductibles or self-insured reserves is made by any third Person against the Processor or any subcontractor on account of any occurrence related to this Agreement, the Processor shall promptly report the facts in writing to the insurance carrier.

If the Processor fails to procure and maintain any insurance required by this Agreement, the City may take out and maintain, at the Processor's reasonable expense, such insurance as it may deem proper and deduct the cost thereof from any monies due the Processor.

12. INDEMNIFICATION

12.1 To the fullest extent allowable by law, the Processor shall indemnify, defend (with counsel reasonably acceptable to the City) and hold harmless the City and its council members, officers, directors, employees, administrators, and agents for its share of any and all loss, liability, penalty, forfeiture, fine, claim, demand, damages, expense costs (including attorney's fees), action, proceeding or suit of any and every kind and description, whether judicial, quasi-judicial or administrative in nature, including, but not limited to, personal injury, bodily injury, interference with third party contract, or for damage to property or resources arising out of, or resulting from any act, error or omission of the Processor in connection with the Processor's performance of this Agreement, including but not limited to, compliance with applicable laws or legal requirements, or breach of representations and obligations set forth in this Agreement, and excepting the active negligence or willful misconduct of the City, its council members, officers, directors, employees, administrators, and agents. This indemnification and defense shall survive the expiration or earlier termination of this Agreement.

12.2 To the fullest extent allowable by law, the City shall indemnify, defend (with counsel reasonably acceptable to the Processor) and hold harmless the Processor and its officers, directors, employees, administrators, and agents for its share of any and all loss, liability, penalty, forfeiture, fine, claim, demand, damages,

expense costs (including attorney's fees), action, proceeding or suit of any and every kind and description, whether judicial, quasi-judicial or administrative in nature, including, but not limited to, personal injury, bodily injury, interference with third party contract, or for damage to property or resources arising out of, or resulting from any act, error or omission of the City in connection with the City's performance of this Agreement, including but not limited to, compliance with applicable laws or legal requirements, or breach of representations and obligations set forth in this Agreement, and excepting the negligence or willful misconduct of the Processor, its officers, directors, employees, administrators, and agents. This indemnification and defense shall survive the expiration or earlier termination of this Agreement. City will not indemnify the Processor for delivery of contaminated material or material that does not meet a particular quality or grade but recognizes the Processor's right to reject any such material consistent with Section 1.5 of this Agreement.

13. COUNTERPARTS. This Agreement may be executed in counterparts each of which shall be considered an original.

14. WAIVERS. No waiver by either party with respect to any breach or default or of any right or remedy shall be deemed to constitute a continuing waiver of any breach or of any other right or remedy, unless such waiver is expressed in writing and signed by the party to be bound. No failure by the party to exercise a right or remedy available hereunder, or otherwise available under law shall constitute a waiver of any obligation of the other party to perform strictly in accordance with the terms thereof.

15. COMPLIANCE WITH LAW. The City and the Processor shall comply with all applicable local, State and Federal Laws, rules and regulations in the performance of the Agreement, including, without limitation, the Economic Stabilization Act, the Fair Labor Standards Act of 1938, as amended, Title VII of the Civil Rights Act of 1964, as amended, and the non-discrimination provision of Executive Order 11246 and any amendments thereof.

16. GOVERNING LAW. This Agreement and all rights and obligations hereunder, including matters of constructions, validity and performance, shall be governed by the laws of the State of California. If any provision of the Agreement is declared invalid, the remainder of the Agreement shall not be affected thereby, and each term and provision of the Agreement shall be valid and enforced to the fullest extent permitted by law.

17. CERCLA DISPOSAL RECORDS. For purposes of defense against possible CERCLA litigation, the Processor shall maintain, retain and preserve records that can establish where residue was disposed (and therefore establish where it was not). This provision shall survive the expiration or earlier termination of this agreement. The Processor shall maintain these records

for a minimum of ten (10) years beyond expiration or earlier termination of the Agreement, or shall transfer these records to the City at the expiration or earlier termination of this Agreement.

18. DISPENSATION DESCRIPTION. For purposes of educating the El Cerrito community about the end uses of materials collected for recycling by the City, the Processor shall provide descriptions detailing how each category of recyclable Materials described in Exhibit 1 gets recycled. The descriptions shall include the name of the country in which each of the material categories gets processed, a summary of the processes employed, and specific examples of the final products or uses of those re-processed materials. The descriptions may be fairly general, and pertain to each category of Materials listed in Exhibit 1, with a minimum of one (1) paragraph description per Material category listed.

IN WITNESS WHEREOF, City and the Processor have caused the Agreement for Purchase of Materials to be executed by their duly authorized representatives, in duplicate, as of the day and year first set forth above.

CITY OF EL CERRITO

_____
Karen Pinkos
City Manager

PROCESSOR

_____
Name:
Title:

ATTEST:

_____
Holly M. Charléty
City Clerk

APPROVED AS TO FORM:

_____
Sky Woodruff
City Attorney

EXHIBIT 1

ACCEPTABLE MATERIALS

- Mixed paper – all types
- Cardboard - all types
- Plastic Bottles - all types except PVC
- Hard plastics – except PVC, plastic foams, plastic utensils and straws
- Aluminum, tin, and scrap metals – all types
- Glass containers – all types
- Milk cartons and aseptic container – all types
- Additional materials upon mutual agreement

EXHIBIT 2

PRICE PER TON OF MATERIALS

The Cost or Payment to the City shall be negative twenty-five dollars (- $25.00) per ton of material delivered to Processor. Processor may apply no later than September 15th of each year, beginning September 15, 2020, for an annual adjustment in the Price Per Ton of Materials to become effective on January 1 of each year. Such an adjustment in the Price Per Ton of Materials shall be to the reasonable satisfaction of the City. One reference, among others, in determining the adjustment shall be the percent change from the Baseline established below in the Average Quarterly Market Price per Ton of the RecyclingMarkets.net Index for PS56 Sorted Residential Fiber, Regional Average for the Southwest region.

Baseline Quarterly Market Price/Ton				
RecyclingMarkets.net				
PS56 Sorted Residential Fiber Regional Average, Quarterly Average				
		2/8/2019	$ 47.50	
		2/28/2019	$ 47.50	
		3/7/2019	$ 27.50	
		3/30/2019	$ 27.50	
		4/8/2019	$ 22.50	
		4/30/2019	$ 22.50	
		Quarterly Avg	**$ 32.50**	

AGENDA BILL

Agenda Item No. 4(C)

Date: June 18, 2019

To: El Cerrito City Council

From: Kristen Cunningham, Human Resources Manager

Subject: Amendments to the City Classification Plan

ACTION REQUESTED

Adopt a resolution amending the City's Classification Plan to 1) Establish the classification of Neighborhood Preservation Officer and establish the salary range as recommended; 2) Authorize the addition of one (1) Neighborhood Preservation Officer position in the Community Development Department, and 3) Authorize the deletion of one (1) Building Inspector I position in the Community Development Department

BACKGROUND

The City's Strategic Plan identifies "Deliver Exemplary Government Services" as a primary goal. The strategies outlined for this goal include recruiting and retaining a talented workforce and maintaining an emphasis on providing excellent customer service.

Human Resources works continuously with Department and Division managers to review class specifications throughout the City to confirm that they are representative of organizational changes and duties performed that have evolved over time.

ANALYSIS

Staff has conducted a review of the current staffing and positions within the Community Development Department and has determined the need to establish the class of Neighborhood Preservation Officer which will be responsible for coordinating and administering the City's Code Enforcement program. The purpose of the Code Enforcement program is to protect public health and safety, promote civic pride, and preserve property values.

Historically, the City's Code Enforcement Officer has been classified as a Building Inspector I. Staff is recommending the establishment of this new classification to delineate the unique responsibilities of the position from that of the Building Inspector series. In addition to the need to conduct code enforcement for activities within the City that do not conform with our Municipal or Building codes, such as building without a required permit or other nuisance activities, the position is also responsible for conducting inspections pursuant to the City's Residential Rental Inspection Program, which was previously contracted out. Due to the complexity of the assignment, the position requires an incumbent who can skillfully and professionally engage with both residents and business owners to uphold City values and basic health and safety standards that enhance the quality of life for all who live and work here. Staff is recommending that the compensation for the Neighborhood Preservation Officer be set at an initial salary of $6,118 to $7,437 per month.

This new classification will be represented by SEIU, Local 1021. Staff met with representatives of the union and they concur with the changes as described.

STRATEGIC PLAN CONSIDERATIONS

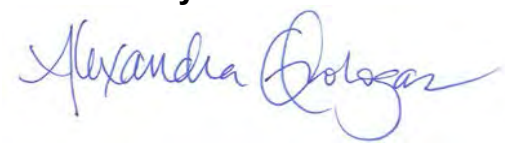
Amending the City's classification plan will help fulfill City of El Cerrito Strategic Plan Goal A: Delivering Exemplary Public Services and the following objectives:

- Recruit and retain a talented and effective workforce
- Maintain emphasis on providing excellent customer service

FINANCIAL CONSIDERATIONS

The salary and benefits costs of deleting one (1) Building Inspector position and adding one (1) Neighborhood Preservation Officer in the Community Development Department will be an additional $15,487 annually which will be absorbed within the current fiscal year's operating budget. These additional costs will be included in next year's biennial budget as ongoing costs to the Department.

Reviewed by:



Alexandra Orologas
Assistant City Manager

Attachments:

1. Resolution
2. Class Specification – Neighborhood Preservation Officer

RESOLUTION 2019-

RESOLUTION OF THE CITY COUNCIL OF THE CITY OF EL CERRITO AMENDING THE CITY CLASSIFICATION PLAN

WHEREAS, the City Council of the City of El Cerrito has an adopted Classification Plan for positions in the City's service; and

WHEREAS, staff has conducted a review of positions in the Community Development Department; and

WHEREAS, staff recommends the establishment of the class specification of Neighborhood Preservation Officer based on a study of the Community Development Department and the need to expand the level of service provided within the Department.

NOW, THEREFORE, BE IT RESOLVED, that the City Council does hereby amend the City's Classification Plan to:

a. Establish the classification of Neighborhood Preservation Officer in the Community Development Department as specified in Exhibit A to this resolution.
b. Authorize the addition of one (1) Neighborhood Preservation Officer position in the Community Development Department
c. Authorize the deletion of one (1) Building Inspector I position in the Community Development Department

BE IT FURTHER RESOLVED that this resolution shall become effective immediately upon passage and adoption.

I CERTIFY that at a regular meeting on June 18, 2019 the City Council of the City of El Cerrito passed this Resolution by the following vote:

AYES: COUNCILMEMBERS:
NOES: COUNCILMEMBERS:
ABSTAIN: COUNCILMEMBERS:
ABSENT: COUNCILMEMBERS:

IN WITNESS of this action, I sign this document and affix the corporate seal of the City of El Cerrito on June XXX , 2019.

_____
Holly M. Charléty, City Clerk

APPROVED:

_____
Rochelle Pardue-Okimoto, Mayor

NEIGHBORHOOD PRESERVATION OFFICER

*Class specifications are intended to present a descriptive list of the range of duties performed by employees in the class. Specifications are **not** intended to reflect all duties performed within the job.*

DEFINITION

Under general supervision, performs a variety of technical and functional duties in support of the City's local code enforcement program; monitors and enforces a variety of applicable ordinances, codes, and regulations related to zoning, land use, nuisance housing, building and residential codes, health and safety, blight, graffiti, water waste, and other matters of public concern; oversees the City's Residential Rental Inspection Program and serves as a resource and provides information on City regulations to property owners, residents, businesses, the general public, and other City departments and divisions.

DISTINGUISHING CHARACTERISTICS

Positions in this class are assigned difficult and complex assignments in the program area requiring a high degree of knowledge of applicable policies, practices, and techniques. This class is distinguished from the Building Inspector series in that the incumbent is responsible for coordinating and administering the City's Residential Rental Inspection and Code Enforcement programs, requiring extensive coordination with the City's Housing Analyst, Police and Fire departments, and being able to proactively manage and professionally respond to Code Enforcement program requirements in a wide variety of contexts.

SUPERVISION RECEIVED AND EXERCISED

Receives general supervision from the Building Official.

ESSENTIAL FUNCTIONS STATEMENT

Essential responsibilities and duties may include, but are not limited to, the following:

Essential Functions:

- Plans and recommends code enforcement strategies and policies; develops code enforcement procedures and schedules; assists planners in preparing new municipal codes or revising existing ordinances.

- Plans and implements in coordination with the Building Official the City's Residential Rental Inspection Program

- Responds to complaints and conducts onsite inspections and re-inspections; investigates and determines existence and type of zoning, housing, signage, health, noise, animal, public safety, property maintenance and/or nuisance code violations and recommends corrective actions to bring about compliance; determines time frames for compliance achievement; issues notices of violations and citations.

- Ability to perform basic inspection duties in trade specialties, such as plumbing, electrical, mechanical, structural, finish trade areas, Americans with Disabilities Act requirements, energy conservation requirements and Title 24 requirements as necessary to occasionally help/back-up other inspection staff.

- Prepares correspondence to educate the public and advise individuals on the status of code enforcement activities

- Prepare correspondence and coordinates the residential rental inspection program.

- Maintains accurate, complete records of complaints, inspections, violations and citations; prepares periodic written reports detailing code enforcement activity and results for presentation to the Design Review Board, Planning Commission and City Council.

- Coordinate inspection and code enforcement activities with other City departments and divisions.

- Assist in the conduct of zoning and general land use, and code enforcement inspection work as assigned.

- Investigate reported violations of City Municipal Codes and regulations; gather supporting evidence and prepare reports on possible violation.

- Seek abatement of violations through voluntary compliance or, as necessary, through direct enforcement activities.

- Ascertain conformance to California Building, Residential, Plumbing, Electrical and Mechanical, Fire codes, California Title 24 energy code requirements, Americans with Disabilities Act requirements and pertinent provisions of state and county health and environmental ordinances.

- Perform a variety of tasks on the City's rental housing program including ongoing assessment of the program and developing improvements as may be necessary; issuing work permits; explaining requirements to tenants and landlords; conducting inspections; investigating reported violations; seeking abatement of violations; and maintaining documentation.

- Explain and interpret requirements and restrictions; educate the public regarding City requirements through both formal and informal means.

- Keep records such as inspection requests, building inspection reports on progress of current projects, and daily inspections log.

- Prepare correspondence and reports to notify property owners of zoning, fire, residential & building code violations and maintain files of properties with such violations.

- Assist in the zoning and general land use, and code enforcement inspection work as assigned.

Marginal Functions:

May give presentations for the Planning Commission, City Council, or courts of law. Perform related duties as assigned.

QUALIFICATIONS

Knowledge of:

- Federal, state, and local laws and regulations pertaining to land use, zoning, building permits, property maintenance, health public safety, peace, animal regulations, fire, traffic, disabled access and public nuisance
- Methods, procedures and techniques used in the identification, interpretation and enforcement of a wide variety of code violations
- Building-related codes and ordinances enforceable by the City, specifically, California Building and Residential Codes.
- Principles and methods of research and investigation related to code enforcement

Ability to:

- Learn to perform journey-level inspection skills in a variety of specialty trade areas and to perform competent and efficient work as a combination Building Inspector and enforce necessary regulations with firmness and tact.
- Learn to enforce a variety of zoning, general land-use and related City codes.
- Read and interpret building plans, specifications, and building codes.
- Understand and carry out oral and written directions.
- Advise on standard construction methods and requirements.
- Make arithmetical computations rapidly and accurately.
- Communicate clearly and concisely, both orally and in writing.
- Establish and maintain effective working relationships with those contacted in the course of work.
- Operate a variety of office equipment including a personal computer, microfilm reader and printer.
- Maintain physical and mental capacities appropriate to the performance of assigned duties and responsibilities.

Experience and Education Guidelines
Any combination of experience and training that would likely provide the required knowledge and abilities is qualifying. A typical way to obtain the knowledge and abilities would be:

Experience:

Previous experience with another jurisdiction in code enforcement of building inspection.

Experience in the building construction field as a plumber, electrician, carpenter, or related craftsperson.

Education:

Equivalent to completion of the twelfth grade.

Completion of college level courses in building code/code enforcement technologies is highly desirable.

Licenses/Certificates/Other Requirements:

Possession of, or ability to obtain, an appropriate, valid California driver's license.

Possession of ICC Certification or equivalent as a Combination Residential Building Inspector, Property Maintenance and Housing Inspector, or other related certification or ability to obtain a relevant certification within one year of hire.

PHYSICAL DEMANDS

Sitting:	Occasionally	Lifting:	
Standing:	Occasionally	up to 10 lbs:	Frequently
Walking:	Frequently	11 to 25 lbs:	Occasionally
Bending:	Occasionally	26 to 50 lbs:	Occasionally
Crouching:	Occasionally	51 to 75 lbs:	Never
Stooping:	Occasionally	76 to 100 lbs:	Never
Kneeling:	Occasionally	100 + lbs:	Never
Crawling:	Occasionally	Carrying:	
Climbing:	Occasionally	up to 10 lbs:	Occasionally
Balancing:	Occasionally	11 to 25 lbs:	Occasionally
Running:	Occasionally	26 to 50 lbs:	Occasionally
Twisting:	Occasionally	51 to 75 lbs:	Never
Turning:	Occasionally	76 to 100 lbs:	Never
Jumping:	Occasionally	100 + lbs:	Never
Pushing/Pulling:			
up to 10 lbs:	Occasionally		
11 to 25 lbs:	Never		
26 to 50 lbs:	Never		
51 to 75 lbs:	Never		
76 to 100 lbs:	Never		
100 + lbs:	Never		
Grasping – firm:	Occasionally		

Finger dexterity:	Occasionally
Reaching forward:	Occasionally
Reaching overhead:	Occasionally
Pinch grasp:	Occasionally
Grasp – light:	Occasionally

Coordination	-	Eye-hand:	Occasionally
		Eye-hand-foot:	Occasionally
		Driving:	Occasionally
Talking	-	Face-to-face:	Frequently
		Verbal contact:	Frequently
		Public:	Frequently
Vision	-	Acuity far:	Required
		Acuity, near:	Required
		Depth perception:	Required
		Field of vision:	Required
		Accommodation:	Required
		Color vision:	Required
Hearing	-	Conversation:	Frequently
		Telephone:	Frequently
		Earplugs:	Occasionally

MENTAL REQUIREMENTS

Abstract variables, Interpret instructions, Problems-standard, Detailed-uninvolved instructions, One or two-step instructions, Reading-simple, Reading-complex, Writing-simple, Writing-complex, Math skills-simple, Math skills-complex, Spatial, Form, Clerical, Synthesizing, Coordinating, Analyzing, Compiling, Computing, Copying, Comparing, Mentoring, Negotiating, Instructing, Supervising, Persuading, Speaking-signaling, Serving, Taking instructions-helping, Setting up, Precision work, Driving-operation, Manipulation, Comprehend/follow instructions, Perform simple-repetitive tasks, Maintain work pace, Relate to other people, Influence other people, Perform varied-complex tasks, Generalizations/evaluations, Responsibility for direction.

WORK ENVIRONMENT

Exposure to: Indoors, Outdoors, Unprotected heights, Moving machinery, Change in temperature/humidity, Dust/fumes/smoke/gases/etc., Toxic/caustic chemicals, Excessive noise, Solvent-grease or oil, Slippery/uneven surfaces, Below ground, Using computer/computer monitor screen, Works around others, Works alone, Works with others, Required – hard hat.

Established: 6/2019

Contra Costa Mosquito & Vector Control District

Nola Woods
Public Affairs Director

CONTRA COSTA MOSQUITO & VECTOR CONTROL DISTRICT

1

District History

Contra Costa County citizens voted to create the Contra Costa Mosquito Abatement District as a public health agency in 1926 due to Saltwater Marsh Mosquito Infestation in the 1920s.

Today we are the Contra Costa Mosquito & Vector Control District.

Protecting Public Health Since 1927

2

District Facts

Special District: Independent

Personnel: 34

Operational Jurisdiction: 716 square miles/ 1.1 million people

3

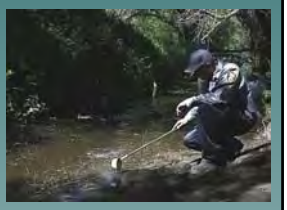
What is a Vector?

Vector: any animal including insects that can transmit the causative agent of disease or cause discomfort to people

4

District Services

Mosquitoes- Inspection & control
Mosquitofish- For residential ponds
Yellowjackets- Ground-nesting only
Bees- Inspection and assistance
Ticks- Tick ID
Rats & mice- Inspection & advice
Skunks- Inspection & assistance
Public Education- Literature & presentations



5

Trustees

Term

- First term: 2 years
- Additional terms: 2- 4 years

Qualifications

- At least 18-years-old
- A Contra Costa County taxpayer who is a resident of the city which is within the District's jurisdiction
- An interest in public health, public policy, wetlands, farming, community education, finance, personnel, or land development.
  (California Health & Safety Code, Section 2242)

6

Trustees

Duties

- Sets policy
- Hires the District General Manager
- Hires an independent auditor
- Establishes the budget and approves expenditures
- Retains legal counsel

The Board oversees and provides counsel and direction to management and should not be involved in the day-to-day affairs of the District.

The power and ability to make decisions lies with the full Board, not with individual Trustees.

The Board of Trustees is not involved in the hiring of employees or other personnel actions, except those that concern the District General Manager. The Personnel Committee of the Board is the appeal body for employee grievances and disciplinary actions.

7

Contra Costa Mosquito & Vector Control District

155 Mason Circle, Concord
www.ContraCostaMosquito.com
925-685-9301

8

Transition to Trustee Area Elections

Update to the El Cerrito City Council

June 18, 2019

Objectives

- Chronological Review
- Summary of Stipulation and Judgement
- Review of Trustee Area Map
- Review of Independent Commission
- Discussion of Next Steps

Transition to Trustee Area Elections

At-large vs. Trustee-Area Elections

- At-large elections: Each trustee is elected by all voters within the District.
- Trustee-area elections: Each trustee must reside within the designated trustee area boundary, and is elected only by the voters in that trustee area. Also known as "district-based" elections.

Transition to Trustee Area Elections

California Voting Rights Act

- California Voting Rights Act of 2001, expands on federal Voting Rights Act of 1965.
- A violation of the CVRA is established if it is shown that racially polarized voting occurs in elections for members of the governing body.
- Proof of intent on the part of the voters or elected officials to discriminate against a protected class is not required.

Transition to Trustee Area Elections

Chronology

January 22, 2018
District receives letter alleging its system of at-large elections violates CVRA

March 7, 2018
Board fails to pass a resolution to transition to trustee-area elections

Transition to Trustee Area Elections

Chronology

March 21, 2018
Lawsuit filed to compel District to move to trustee-area elections

Board adopts Resolution No. 64-1718 indicating its intent to transition to trustee-area elections

April - June
District develops six draft maps and holds five public hearings

Transition to Trustee Area Elections

Chronology

June 27, 2018
Board adopts Resolution No. 101-1718, recommending County Committee approve map titled "Cities and Schools B"

July 24, 2018
County Committee on School District Organization rejects District proposal

August
Court approves resolution of some elements of the lawsuit

Transition to Trustee Area Elections

Chronology

September 26, 2018
Board directs staff to hold map planning sessions to gather input from the public on trustee area boundary maps

September – October 2018
Staff performs outreach to encourage public participation

October 2018
Three public map planning sessions held

Transition to Trustee Area Elections

Chronology

November 14, 2018
Board adopts a "preferred" map, directs staff to negotiate with plaintiffs

February 27, 2019
Board approves settlement in closed session, pending plaintiff approval, court signature

March 6, 2019
Court signs stipulation and judgement

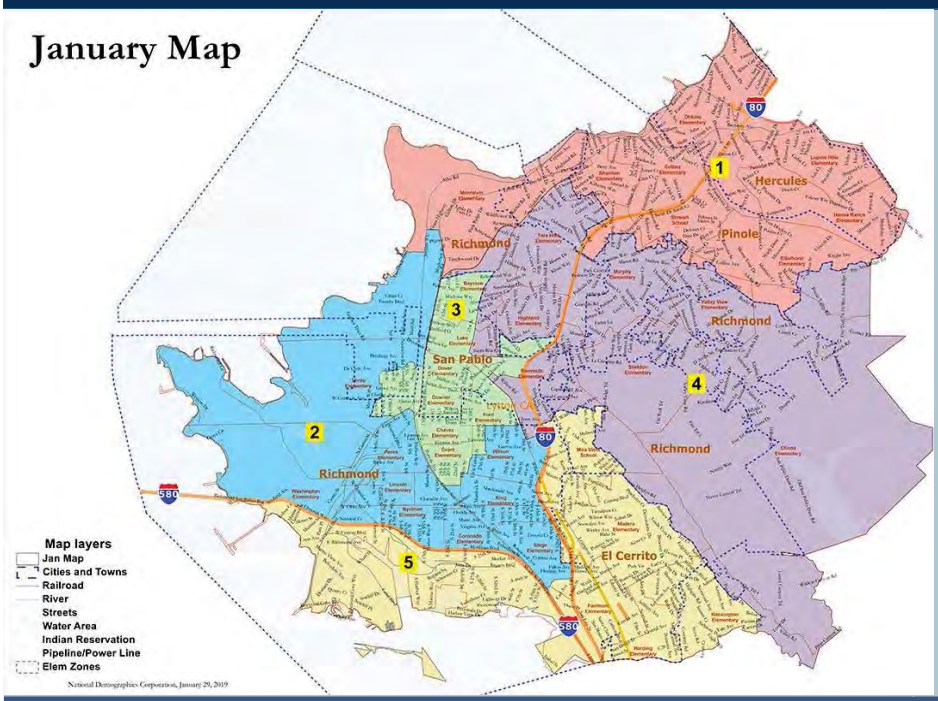
Transition to Trustee Area Elections

Summary

- ❑ Two-year terms for 2018 seats
- ❑ Approved Trustee Area Map for 2020 election
- ❑ Trustee-area elections in 2020; all 5 seats on ballot
- ❑ Areas 1, 2, and 3 in 2020 will be four-year terms
- ❑ Areas 4 and 5 in 2020 will be two-year terms
- ❑ District pays plaintiff's counsel $280,000 (in addition to $30,600 previously paid)
- ❑ Independent Redistricting Commission – 2022 map

Transition to Trustee Area Elections

Approved Trustee Area Map



Total Population
235,847

Hispanic	34%
White	24%
Black	19%
Asian	20 %

Citizens of Voting Age
152,771

Hispanic	22%
White	32%
Black	21%
Asian	23%

Transition to Trustee Area Elections

Area 1

Total Population
47,973

Hispanic 21%
White 25%
Black 16%
Asian 35%

Citizens of Voting Age
35,654

Hispanic 18%
White 29%
Black 14%
Asian 36%

Transition to Trustee Area Elections

Area 2

Total Population

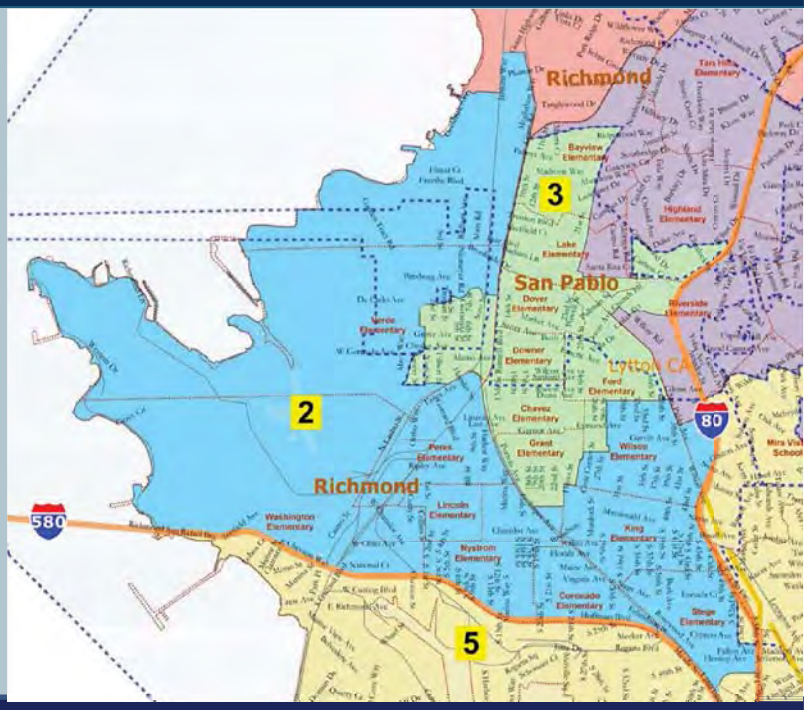
47,191

Hispanic	46%
White	9%
Black	35%
Asian	7%

Citizens of Voting Age

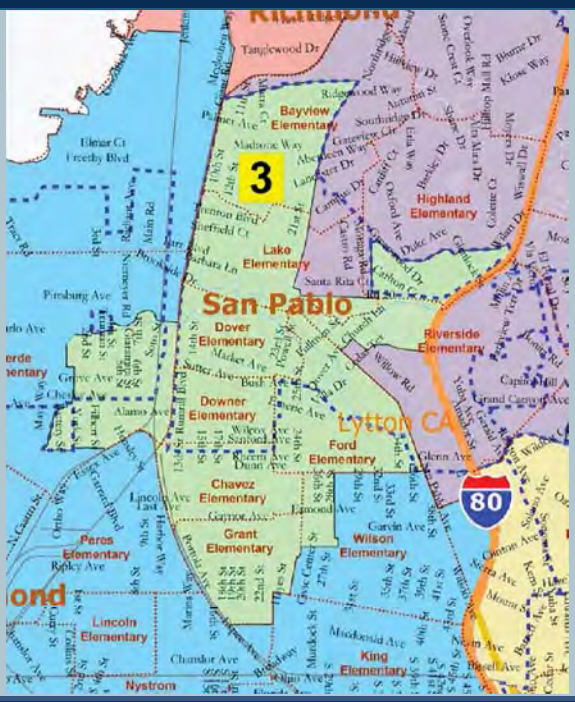
25,844

Hispanic	25%
White	17%
Black	44%
Asian	12%



Transition to Trustee Area Elections

Area 3



Total Population

44,511

Hispanic	67%
White	8%
Black	13%
Asian	10%

Citizens of Voting Age

20,496

Hispanic	49%
White	14%
Black	17%
Asian	18%

Transition to Trustee Area Elections

Area 4

Total Population
48,513

Hispanic	24%
White	27%
Black	23%
Asian	21%

Citizens of Voting Age
34,257

Hispanic	20 %
White	32%
Black	23%
Asian	22%

Transition to Trustee Area Elections

Area 5

Total Population
47,659

Hispanic 13%
White 51%
Black 10 %
Asian 24%

Citizens of Voting Age
36,520

Hispanic 9%
White 58%
Black 9%
Asian 22%

Transition to Trustee Area Elections

Independent Redistricting Commission

- Seven (7) members appointed by retired judge
- One (1) member from each trustee area
- Two (2) from county, but outside the District
- Cannot be from the same political party
- Retired judge selected by District, plaintiff's counsel
- Members must not seek election before 2028
- California Elections Code sections 23000 - 23003

Transition to Trustee Area Elections

Independent Redistricting Commission

- Nomination period from Jan. 1, 2021 - March 1, 2021
- Selection of commission members by May 1, 2021
- Transparency:
  - Post any communication from incumbents
  - Five public hearings, one in each area
  - Members subject to conflict of interest code

Transition to Trustee Area Elections

Next Steps

- ❑ Continued Outreach to Parent Groups, City Councils, Municipal Advisory Groups
- ❑ April 2020 - Census
- ❑ November 2020 - All five seats up for election
- ❑ January 2021- Begin accepting applications for redistricting commission
- ❑ January 1, 2022 - Recommended Map

Transition to Trustee Area Elections

Additional Information

Additional Information

1. District Resources – www.wccusd.net/trusteeareas
2. Interactive Map - https://bit.ly/2XINZSx
3. California Elections Code - https://bit.ly/2O2eluD
4. Judgement - https://bit.ly/2XIhfsJ

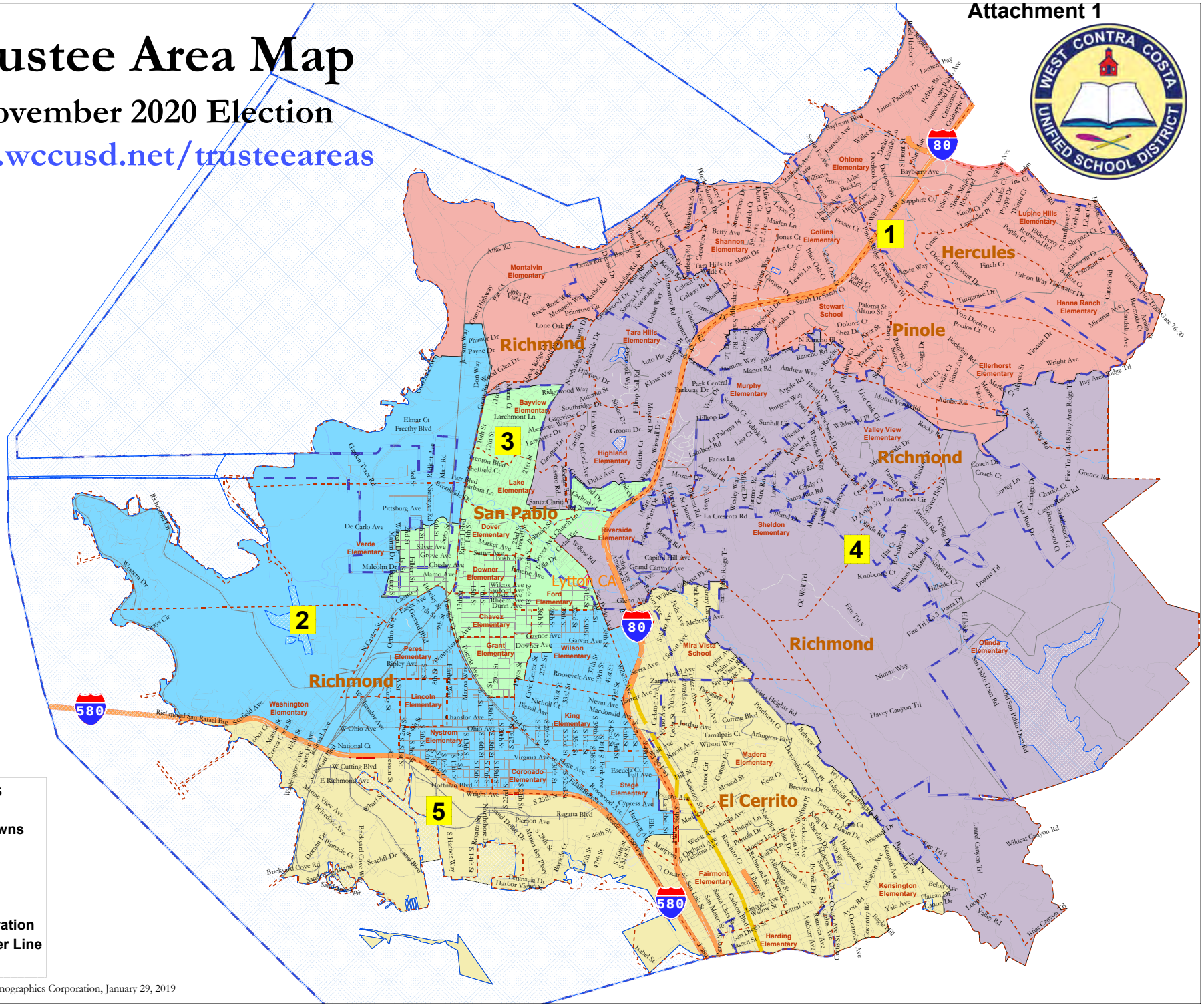
Questions

Questions

Trustee Area Map

November 2020 Election

www.wccusd.net/trusteeareas



National Demographics Corporation, January 29, 2019

WCCUSD - Jan Map demographics							
District		**1**	**2**	**3**	**4**	**5**	**Total**
Ideal	Total Pop	47,973	47,191	44,511	48,513	47,659	235,847
47,169	Deviation from ideal	804	22	-2,658	1,344	490	4,002
	% Deviation	1.70%	0.05%	-5.64%	2.85%	1.04%	8.48%
Total Pop	% Hisp	21%	46%	67%	24%	13%	34%
	% NH White	25%	9%	8%	27%	51%	24%
	% NH Black	16%	35%	13%	23%	10%	19%
	% Asian-American	35%	7%	10%	21%	24%	20%
Citizen Voting Age Pop	Total	35,654	25,844	20,496	34,257	36,520	152,771
	% Hisp	18%	25%	49%	20%	9%	22%
	% NH White	29%	17%	14%	32%	58%	32%
	% NH Black	14%	44%	17%	23%	9%	21%
	% Asian/Pac.Isl.	36%	12%	18%	22%	22%	23%
Voter Registration (Nov 2016)	Total	27,147	21,808	15,467	26,348	33,223	123,994
	% Latino est.	25%	28%	53%	21%	9%	24%
	% Spanish-Surnamed	22%	25%	47%	18%	8%	21%
	% Asian-Surnamed	11%	3%	4%	8%	9%	7%
	% Filipino-Surnamed	6%	1%	2%	3%	1%	3%
	% NH White est.	38%	16%	18%	41%	69%	41%
	% NH Black	20%	50%	21%	28%	11%	24%
Voter Turnout (Nov 2016)	Total	20,209	13,115	9,249	19,204	27,457	89,234
	% Latino est.	25%	30%	54%	20%	9%	22%
	% Spanish-Surnamed	22%	27%	49%	18%	8%	20%
	% Asian-Surnamed	10%	3%	4%	8%	10%	8%
	% Filipino-Surnamed	5%	1%	2%	2%	1%	3%
	% NH White est.	43%	19%	27%	46%	70%	47%
	% NH Black	23%	51%	30%	29%	11%	25%
Voter Turnout (Nov 2014)	Total	10,807	6,864	4,045	10,568	18,056	50,340
	% Latino est.	18%	19%	41%	14%	7%	15%
	% Spanish-Surnamed	16%	17%	37%	13%	6%	14%
	% Asian-Surnamed	9%	3%	4%	6%	9%	7%
	% Filipino-Surnamed	4%	1%	3%	2%	1%	2%
	% NH White est.	47%	22%	25%	47%	74%	51%
	% NH Black est.	21%	55%	25%	30%	9%	24%
ACS Pop. Est.	Total	49,784	49,758	46,336	49,699	49,985	245,562
Age	age0-19	21%	29%	30%	21%	18%	24%
	age20-60	56%	57%	57%	56%	55%	56%
	age60plus	23%	14%	13%	22%	26%	20%
Immigration	immigrants	32%	36%	45%	30%	25%	33%
	naturalized	69%	30%	37%	57%	54%	48%
Language spoken at home	english	56%	43%	27%	56%	68%	50%
	spanish	15%	45%	57%	22%	9%	29%
	asian-lang	21%	8%	12%	13%	13%	14%
	other lang	8%	4%	4%	8%	10%	7%
Language Fluency	Speaks Eng. "Less than Very Well"	17%	28%	38%	19%	13%	23%
Education (among those age 25+)	hs-grad	53%	53%	51%	59%	36%	50%
	bachelor	25%	12%	9%	19%	30%	20%
	graduatedegree	11%	5%	3%	9%	28%	12%
Child in Household	child-under18	29%	34%	41%	26%	23%	30%
Pct of Pop. Age 16+	employed	61%	57%	58%	59%	63%	60%
Household Income	income 0-25k	10%	28%	26%	16%	12%	18%
	income 25-50k	16%	29%	28%	20%	16%	21%
	income 50-75k	17%	18%	21%	18%	17%	18%
	income 75-200k	48%	23%	25%	39%	43%	37%
	income 200k-plus	9%	2%	1%	6%	12%	7%
Housing Stats	single family	83%	63%	70%	71%	72%	72%
	multi-family	17%	37%	30%	29%	28%	28%
	rented	26%	60%	56%	43%	38%	44%
	owned	74%	40%	44%	57%	62%	56%

Total population data from the 2010 Decennial Census.

Surname-based Voter Registration and Turnout data from the California Statewide Database.

Latino voter registration and turnout data are Spanish-surname counts adjusted using Census Population Department undercount estimates. NH White and NH Black registration and turnout counts estimated by NDC. Citizen Voting Age Pop., Age, Immigration, and other demographics from the 2012-2016 American Community Survey and Special Tabulation 5-year data.

Michael A. Fischer
El Cerrito City Nominated Commissioner
Contra Costa County Library Commission
Email: eclibrarycommissioner@gmail.com

To: Members of the El Cerrito City Council

Date: June 10, 2019

Subject: Periodic Report of Library Commissioner

This is a periodic report to the people of the City of El Cerrito and its City Council on library-related issues.

Library as "Second Responders"

We all know that we are fortunate to have our very professional and heroic first responders here in El Cerrito. The idea of second responders is not as well-known and has various meanings. One is the CERT program that our fire fighters have created from training volunteer residents. A recent article in the Atlantic (attached) also refers to our libraries as second responders. Libraries are thought of by many as a valuable public resource, a community building where all are welcome (as former California Poet Laureate Dana Gioia said at the El Cerrito Library) and where we can meet about or get information or assistance with things that are happening in our area. Some of these situations are discussed in the Atlantic article. I'd like to discuss a couple of additional recent events.

In 2016 we had a sustained, triple digit heat wave in El Cerrito. Our library had to close during some of that time because the building was unable to cope with the heat accumulation.

Last year we had horrific fires to the north of us and the wind patterns meant we had significantly unhealthy smoke levels in the air. Again, the library had to close because the HVAC system was unable to cope with the smoke.

Our library is old. It was built in 1949 and only three of the 25 county library branches are older. The population of El Cerrito has grown over 40% since it was built. If we had had a more recently built structure our library could have been a refuge from the heat in 2017 and from the smoke in 2018, thereby fulfilling the modern role of a library as a second responder.

When many of us hear the word library we think books; some wonder if we need libraries given the electronic format of much of the reading materials. But libraries are much more than a place to get books and other reading material, although many of our patrons prefer the "dead tree" version of reading materials to reading on digital devices. And not all of us have digital devices – indeed the library is a source of digital access and a means of overcoming the digital divide in our society. (More on that subject in a later report.) The concept of "second responders" is one of the areas where our libraries are more than just a source of reading material. In subsequent reports, I'll cover more of these modern library uses, and why they show the need for an affordable and appropriate 21st library for our city.

New Library Website

The county is in the process of developing a contemporary website using the BiblioCommons system (bibliocommons.com). This system is the prime system in use by many libraries nationally: *e.g.* Boston, Chicago, Hennepin County, Las Vegas, Pima County, and Seattle. It is currently used by the following California libraries: Marin, Palo Alto, Peninsula, San Francisco, San Mateo, Santa Clara City, Santa Clara County, Santa Monica, and Yorba Linda. It will soon be used by other California libraries including Alameda County, Pleasanton, and San Jose. The expectation is the new website will be available before the end of this year.

Results from Increased Hours

The council has provided funding for increased hours at our library, permitting it to be open 50 hours a week and 7 days a week. This action shows the council's continuing prioritization of library services for our city. (Under the county library system, the county provides only sufficient staffing to keep the library open 35 hours a week. Under that schedule, our library had been closed for 2 days a week.) And the increased hours have had a beneficial effect on our library:

- Library computer logins have increased over 50% compared to a countywide increase during the same period of less than 4%. Library computers are an important tool in overcoming the digital divide.
- The number of patrons coming into the library on a per hour basis increased slightly making the total average week patronage increase over 42% with the increased hours. Countywide usage per hour decreased over 3% in the same period.
- When the hours of the library were only 35 a week, we could not provide full-time employment for any library staff. Instead, they had to divide their time between the El Cerrito Library and other county libraries. This made it difficult to find and retain good staff and we often had multiple positions open. The increase in hours means we have full time librarians and a full staff; the energy and creativity they show is evident to any patron of the library.

New Library Card Designs

In keeping with a new website design, the library will also be providing new designs for our library cards. There was a poll conducted on the library's current website which closed on June 1. The wining designs will debut later this year.

Local History Items

The City of Pleasant Hill is in the process of replacing its library building. This branch used to be the "main" county library and, as a result, has many items of local historical, genealogical, or governmental interest. These collections are being moved to other branch libraries or, in the case of the historical documents, to the Contra Costa Historical Society where they will be protected in terms of a controlled environment and be open to the public during times commensurate to when they were available at the Pleasant Hill Library.

Location of Commission Meetings

Historically the commission has held its bi-monthly meetings at the staff offices for county library system in Martinez. (The agendas from the March and May commission meetings are attached.) Last year the commission voted to have at least some of its meetings at branch libraries in order to be more accessible to our countywide constituency. The March and May meetings have been held at the Concord Library which is one of the older libraries in the county, having been built in 1959. (The El Cerrito Library is older, having been built in 1949.

The July meeting of the Commission will be held at the newest and easternmost library in the county in Brentwood, having opened last September. It is a good example of what a 21st Century library can be, and its design team included an architect from El Cerrito.

Attachments:
Exhibit A – Libraries as Second Responders (The Atlantic, May 2019)
Exhibit B – March 2019 Commission Agenda
Exhibit C – May 2019 Commission Agenda

When Libraries Are 'Second Responders'

Deborah Fallows 2:50 PM / May 23, 2019

Above the doorway of the Columbus Metropolitan Library are the words *Open to All.* Deborah Fallows

Everyone knows about first responders. I've come to think of libraries as playing a crucial role as "second responders."

In Ferguson, Missouri, the public library stayed open when the schools were closed after the riots, to offer the kids a safe place and even classes taught by volunteers. After the hurricanes in Houston, some library websites were immediately up and running, announcing that they were open for business. After Hurricane Sandy, some libraries in New Jersey became places of refuge. And in the Queens Library's Far Rockaway branch, which didn't have heat or light, the librarians set up shop in the parking lot to continue children's story hours "to give them a sense of normalcy," says Christian Zabriskie, who was a Queens librarian then. "Story time at the end of the

world" he called it. In Orlando, after the nightclub shootings, the library hosted an art gallery for those who made art as a way to express and share their reactions. After the Thomas Fire, the Santa Barbara Public Library invited the public to share their stories and lessons, to help heal and prepare for the future.

Libraries step in to fill gaps and offer help when normal channels are inaccessible. Pima County, Arizona, pays for a team of nurses to come to the library to help with medical questions for those who can't or won't go to a hospital, clinic, or doctor. In Charleston, West Virginia, librarians told me that they have launched searches for people to research health issues or concerns. In some libraries, librarians have Narcan training. In Bend, Oregon, a social worker has helped prepare the librarians to work with people who came in with sensitive, personal questions, such as how to meet their rent and mortgage payments.

Others report that they have helped people figure out how to have a dignified funeral when they have no money for one. In Las Vegas and surrounding Clark County, among the hardest-hit areas of the entire country during the 2008–2009 financial collapse, the leaders of the public-library system found ways to stretch and reprogram their budget to ensure that their system would stay open seven days a week during the crisis, because they knew their citizens would need its resources to cope with job loss, house foreclosures, and more.

Carved in the granite above the doorway of the imposing flagship Carnegie Library in Columbus, Ohio, are the words Open to All. I have seen homeless people line up waiting for the doors to open so they can spend the day inside comfortably and safely.

In my hometown of Washington, D.C., I trudged to our local library during an extreme cold-weather episode a year or two ago and read a handwritten sign saying that the library was closed because of the cold, and pointing to the emergency shelters that were open instead. Librarians have told me

that they've heard from homeless people about one of the important reasons they go to libraries: These are the only places where they are treated with respect. Librarians also told me about the various rules and regulations they impose about noise, sleeping, eating, "bathing" in restrooms, disruptive behavior, and storage of belongings. They say that occasionally people are placed on "sabbatical" from the libraries for infringements and are sometimes referred to public places where they can take showers. None have reported serious incidents to me, which suggests that respect is mutual.

The most serious of these examples are testament to the trust that citizens place in their libraries and librarians. The Pew Research Center reports that 78 percent of people say libraries help them to find information they can trust. Librarians are nothing if not discreet. I have asked librarians about their users looking at pornography on the public computers. They demur, kind of, and say that they don't look at what people are doing on the computers, and others say that they only step in when someone complains.

Zabriskie, who now works in Yonkers, points to the complexity of being a librarian these days. "Amidst glory days of librarianship," he says, "there can be trauma. If every day's work were just reading to toddlers, great. But sometimes those kids are homeless."

"Sometimes librarians are Batman," Zabriskie says. "Sometimes they are ghosts in the machine. We have to resist hardening the space."

If these are the libraries acting as second responders, there are also plenty of cases where they respond as providers of second chances.

The Los Angeles Public Library offers a chance to earn a high-school degree for those who missed out the first time around. Mayor Eric Garcetti and City Librarian John Szabo hand out diplomas. The most popular volunteer opportunity at the Smiley Library in Redlands, California, is for

adults to teach other adults how to read and write. Public libraries across the country offer a variety of paths to help people find new economic opportunity, with job and interview support and digital skills training.

And listen for how often you hear adults credit the public library as the place that spirited them away in their youth from anger or sadness or boredom at home. Many libraries make themselves appealing to schoolchildren of any age as a safe, warm place to do homework or just hang out when they can't or won't go home. I have seen and heard variations on this theme that range from the library being the only place the kids could go, to the library being the cool place where teenagers would hang out. I heard these comments from the desert communities of Arizona to the small towns of California to the urban centers of the Midwest and East Coast.

There are libraries in prisons, for those who can't go out, and books delivered to prisons when inmates request them. Library books are delivered to remote schools in Kanawha County, West Virginia, for teachers who don't have access to materials. Extending that metaphor of the library coming to the people, I have seen pop-up libraries in parks in Wichita, Kansas. There is a summer program around Minneapolis lakes to lend books in watertight containers from a library raft to boaters. And there is a library in the big shopping mall in Ontario, California, opportunistically placed for presumably reluctant shoppers who accompany enthusiastic shoppers.

Welcome to the new realities of public libraries and librarians.

Agenda Item No. 5(C)

DRAFT

MEETING OF THE LIBRARY COMMISSION
A G E N D A

DATE: Thursday, March 21, 2019

TIME: **7:00 p.m. LIBRARY COMMISSION MEETING**

LOCATION: **CONCORD LIBRARY MEETING ROOM**
1900 Salvio Street, Concord, CA 94519

- Electronic agenda packet viewing is available at: http://guides.ccclib.org/commission
- Hard copy agenda packets are available for viewing at each Contra Costa County Library

The Library Commission will provide reasonable accommodations for persons with disabilities planning to attend Library Commission meetings who contact Library Administration at least 48 hours before the meeting, at (925) 608-7700.

Any disclosable public records related to an open session item on a regular meeting agenda and distributed by the Contra Costa County Library Commission to a majority of members of the Library Commission less than 96 hours prior to that meeting are available for public inspection at Contra Costa County Library Administration, 777 Arnold Drive, Suite 210, Martinez, CA 94553.

Library Commissioners, please **call Library Administration,** at (925) 608-7700 by 5 p.m. **Wednesday, March 20, 2019 if you will NOT be at the meeting**. A quorum must be established before a meeting can be held. A record is maintained of Commissioner's attendance.

1. **7:00 p.m.** **(5 mins.)**
CALL THE MEETING TO ORDER / ROLL CALL
The Library Commission Chair will call the meeting to order. Commissioners will introduce themselves for the record.

2. **7:05 p.m.** **(5 mins.)**
WELCOME & INTRODUCTIONS
Visitors will have an opportunity to introduce themselves; self-introductions are voluntary.

3. **7:10 p.m.** **(5 mins.)**
PUBLIC COMMENT –
Speakers from the audience may address the Library Commission on any relevant issue that is not scheduled for the agenda. Public comment can be made on agenda items when the item is discussed. Public comment is limited to three (3) minutes per speaker and speakers may fill out a speaker card. Public comment on agenda items can also be e-mailed to the Library Commission at ccclibcommission@ccclib.org to be received one day prior to the Library Commission meeting.

PRESENTATION

4. **7:15 p.m.** **Discussion** **(15 mins.)**
CCC LIBRARY SPECIAL COLLECTIONS– *Agenda Attachment 1*
Deputy County Librarian Gail McPartland will present a written report regarding the dispensation of the special collections currently held at the Pleasant Hill Library.

5. **7:30 p.m.** **(20 mins.)**
ITEMS OF INTEREST TO THE COMMISSION AND ANNOUNCEMENTS
Commissioners or library staff may report on any Work Plan activities and make announcements regarding the Library Commission and Library or Friends group activities of interest to other Library Commission members.

Exhibit B

NEW BUSINESS

6. **7:50 p.m.** **ACTION** **(20 mins.)**

STRATEGIC PLAN DRAFT / Second Reading – *Agenda Attachment 2*
Deputy County Librarian Gail McPartland will present the draft and analysis of the updated Strategic Plan which the Commission **will vote to adopt.**

CONTINUED BUSINESS

7. **8:10 p.m.** **ACTION** **(35 mins.)**

WORKING COMMITTEE REPORTS - *Agenda Attachments 3 and 4*

A. Commissioner A. Smith will report on the activities of the Legislative Working Committee. (**20 minutes**)
B. Commissioner Wilson will report on the activities of the Work Plan & Annual Report Working Committee. Commissioners will report on their activities that support the 2019 Work Plan (**15 minutes**)

OTHER BUSINESS

8. **8:45 p.m.** **ACTION** **(5 mins.)**

ACCEPTANCE OF MINUTES - *Agenda Attachments 5 and 6*
Commissioners will approve or amend the minutes for the meetings of November 15, 2018 and January 17, 2019.

9. **8:50 p.m.** **INFORMATION** **(5 mins.)**

COUNTY LIBRARIAN REPORT - *Agenda Attachment 7*
County Librarian Melinda Cervantes submits a written report on items of interest to Commissioners.

10. **8:55 p.m.** **ACTION** **(5 mins.)**

AGENDA SETTING FOR NEXT MEETING and FUTURE TOPICS
Commissioners will suggest items for future meetings.

11. **9:00 p.m.** **ACTION**

ADJOURNMENT TO THE May 16, 2019 LIBRARY COMMISSION MEETING, to be held at the Concord Library, 1900 Salvio Street, Concord 94519.

ITEMS TO CALENDAR

1. The July 18, 2019 Commission meeting will be held at the Brentwood Library.
2. **"TENTATIVE"** The annual Library Forum event will be held at the San Ramon Library on October 26, 2019 from 8:30 am until 1pm.

Agenda Item No. 5(C)

DRAFT

MEETING OF THE LIBRARY COMMISSION
A G E N D A

DATE: Thursday, May 16, 2019

TIME: **7:00 p.m. LIBRARY COMMISSION MEETING**

LOCATION: **CONCORD LIBRARY MEETING ROOM**
2900 Salvio Street, Concord, CA 94519

- Electronic agenda packet viewing is available at: http://guides.ccclib.org/commission
- Hard copy agenda packets are available for viewing at each Contra Costa County Library

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Any disclosable public records related to an open session item on a regular meeting agenda and distributed by the Contra Costa County Library Commission to a majority of members of the Library Commission less than 96 hours prior to that meeting are available for public inspection at Contra Costa County Library Administration, 777 Arnold Drive, Suite 210, Martinez, CA 94553.

Library Commissioners, please **call Library Administration,** at (925) 608-7700 by 5 p.m. **Wednesday, May 15, 2019 if you will NOT be at the meeting**. A quorum must be established before a meeting can be held. A record is maintained of Commissioner's attendance.

1. 7:00 p.m. (5 mins.)
CALL THE MEETING TO ORDER / ROLL CALL
The Library Commission Chair will call the meeting to order. Commissioners will introduce themselves for the record.

2. 7:05 p.m. (5 mins.)
WELCOME & INTRODUCTIONS
Visitors will have an opportunity to introduce themselves; self-introductions are voluntary.

3. 7:10 p.m. (5 mins.)
PUBLIC COMMENT
Speakers from the audience may address the Library Commission on any relevant issue that is not scheduled for the agenda. Public comment can be made on agenda items when the item is discussed. Public comment is limited to three (3) minutes per speaker and speakers may fill out a speaker card. Public comment on agenda items can also be e-mailed to the Library Commission at ccclibcommission@ccclib.org to be received one day prior to the Library Commission meeting.

4. 7:15 p.m. Discussion (20 mins.)
ITEMS OF INTEREST TO THE COMMISSION AND ANNOUNCEMENTS
Commissioners or library staff may make announcements regarding the Library Commission and Library or Friends group activities of interest to other Library Commission members.

PRESENTATIONS

5. 7:35 p.m. Discussion (20 mins.)
BIBLIOCOMMONS
Deputy County Librarian Alison McKee will present an update on the library's new website and the developer, BiblioCommons.

6. 7:55 p.m. Discussion (15 mins.)
LIBRARY BUDGET UPDATE – *Agenda Attachment 1*
ASO/Budget & Finance Linda Martinez will update the Commission on the Library's portion of the FY2019/20 Recommended Budget and answer commissioner's questions.

Exhibit C

7. **8:10 p.m.** **Discussion (10 mins.)**

NEW PLEASANT HILL LIBRARY
Deputy County Librarian Alison McKee and Senior Community Library Manager Patrick Remer will report to the Commission on the new Pleasant Hill Library.

CONTINUED BUSINESS

8. **8:20 p.m.** **ACTION (25 mins.)**

WORKING COMMITTEE REPORTS -

A. Commissioner A. Smith will report on the activities of the Legislative Working Committee. (**15 minutes**)
B. Commissioner Wilson will report on the activities of the Work Plan & Annual Report Working Committee. Commissioners will report on their activities that support the 2019 Work Plan (**10 minutes**)

OTHER BUSINESS

9. **8:45 p.m.** **ACTION (5 mins.)**

ACCEPTANCE OF MINUTES - *Agenda Attachment 2*
Commissioners will approve or amend the minutes for the March 21, 2019 meeting.

10. **8:50 p.m.** **INFORMATION (5 mins.)**

COUNTY LIBRARIAN REPORT - *Agenda Attachment 3*
County Librarian Melinda Cervantes submits a written report on items of interest to Commissioners.

11. **8:55 p.m.** **ACTION**

AGENDA SETTING FOR NEXT MEETING and FUTURE TOPICS
Commissioners will suggest items for future meetings.

12. **9:00 p.m.** **ACTION**

ADJOURNMENT in memory of former commissioner Leonard McNeil to the July 18, 2019 LIBRARY COMMISSION MEETING, to be held at the Brentwood Library, 104 Oak Street, Brentwood CA 94513

ITEMS TO CALENDAR

1. **The July 18, 2019 Commission meeting will be held at the Brentwood Library.**
2. **The Annual Library Friends, Foundation & Commission Forum** event will be held at the San Ramon Library on October 26, 2019 from 8:30 am until 1pm.

AGENDA BILL

Agenda Item No. 6(A)

Date: June 18, 2019

To: El Cerrito City Council

From: Will Provost, Public Works Analyst
Stephen Prée, Environmental Programs Manager/City Arborist
Maria Sanders, Operations + Environmental Services Division Manager
Yvetteh Ortiz, Public Works Director/City Engineer

Subject: Ordinance to Amend Chapter 13.28 of the El Cerrito Municipal Code, Trees and Shrubs

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ACTION REQUESTED

Conduct a public hearing and upon conclusion introduce by title and waive any further reading of an Ordinance amending Chapter 13.28 – Trees and Shrubs of the El Cerrito Municipal Code.

BACKGROUND

The Urban Forest, including existing and future Public Trees located within the City of El Cerrito, is a valuable and distinctive natural resource. The Urban Forest of the City augments the economic base through the provision of resources, community character, and enhancement of the living environment. These resources are a major infrastructure element and offer many benefits to the city, county, and region.

- *Environmental benefits* include mitigating the effects of climate change, carbon sequestration, reducing the heat island effect, improving water quality, reducing airborne pollutants, and providing habitat for wildlife and pollinator species.

- *Public Health benefits* include improving air quality, supporting a healthy, active community, reducing the risk of landslides, and reducing pollutants from stormwater. Healthy, well-selected and maintained trees also improve public safety by decreasing the risks associated with hazardous trees.

- *Social benefits* include creating a sense of place, providing connections to the natural world, creating memorable nodes and entry points, and helping to facilitate a sense of community.

- *Economic benefits* include an increase in property values, attraction of businesses and shoppers, and contribution to the financial standing of the City. In addition, healthy, well-selected and maintained trees reduce potential damage to public and private infrastructure, including utilities, sidewalks, and roads, while also reducing the cost of construction and maintenance of drainage systems through increased diversion of surface waters.

The benefits that a healthy and thriving Urban Forest provide demonstrate the need for a robust Public Tree and Shrub Ordinance, that would protect Public Trees and set the foundation for the City's Tree Program moving forward. The importance of actively caring for, managing, and protecting Public Trees is outlined in the City's prior planning efforts, including the General Plan (1999), Urban Forest Management Plan (2007), Climate Action Plan (2013), Strategic Plan (2013), San Pablo Avenue Specific Plan (2014), Urban Greening Plan (2015), and the City's Parks and Recreation Facilities Master Plan (2019). This is because, as stated above, trees play a vital role in areas ranging from creating nodes in business districts or parks, to improving air quality and reducing greenhouse gas pollution. The plans, collectively, set forth the relationship between the long-term health of the Urban Forest and many other goals of the City, relating to economic growth, sustainability, and quality of life. As a result, the plans both implicitly and explicitly underscore the benefit of having a robust Public Tree and Shrub Ordinance.

To further these goals, City Staff embarked on an effort to expand the existing El Cerrito Municipal Code language relating to Trees and Shrubs, in order to add greater protections for Public Trees in the City's Urban Forest. To do this, working closely with the City of El Cerrito's Urban Forest Committee (UFC), City Staff researched best practices and completed a robust public process to develop the amended language. The culmination is an amended Ordinance that will protect Public Trees from harm, will provide a solid foundation for implementation of the City's Tree Program, and will fulfill a General Plan implementation measure by including key elements of the Tree Preservation Ordinance envisioned by the Plan.

ANALYSIS

The UFC, as well as City Staff, conducted a thorough review of the El Cerrito Municipal Code and found that Chapter 13.28 (Trees and Shrubs) could be expanded to increase the protections for, and health of, the publicly controlled Urban Forest. In 2016 and 2017, the UFC researched tree ordinances and compared code language from more than 15 cities in California. Among other things, the UFC created a matrix that identified key areas in which the City of El Cerrito's Ordinance could be improved. In 2018, City Staff began a more concerted effort to update the City's Tree and Shrub Ordinance. The UFC and City Staff identified key provisions that could be added in order to: establish clear maintenance standards that reflect industry best practices to protect Public Trees from harm; clarify penalties for damaging or killing a Public Tree; establish processes for tree planting, pruning, and removal; set processes for enforcement and appeals of violations; and to amend language to clarify the City's polices and regulations relating to the management and protection of Public Trees and shrubs. At the June 11, 2018, UFC meeting, City Staff presented proposed revisions for discussion and input. City staff then circulated an updated draft for review by Cal Fire, the Davey Tree Expert Company, the Municipal Pooling Authority, the City Attorney, and other City Departments. The feedback received culminated in an Administrative Draft presented to the Urban Forest Committee on November 26, 2018.

Amending the Ordinance to add these provisions will provide greater protections for Public Trees, while also enabling the City to meet the pre-requisite standards to seek recognition and grant funding as a "Tree City USA," a program of the National Arbor Day Foundation.

Public Involvement and Outreach

City Staff released a public draft of the Ordinance, widely soliciting input from the broader community. On January 7, 2019, the UFC hosted a Public Meeting in the City's Council Chambers to gather feedback from all interested parties. At that meeting, City Staff heard many comments regarding the management of trees in parks and public rights-of-way that could be easily incorporated into the Ordinance. City Staff also heard a desire from some members of the community to add additional tree-related code language, primarily relating to wildfire concerns and concerns about protecting or prohibiting specific trees on private property. These concerns were out of the scope of the draft Ordinance, which focused on the proper maintenance and management of Public Trees. Currently, trees on private property are regulated by other sections of the El Cerrito Municipal Code, including Chapter 10.90 – Obstruction of Views by Trees on Private Property (which identifies prohibited trees), Chapter 19.25 – Landscaping and Buffer Yards (which contains regulations for landscaping and trees on private sites), and Chapter 8.34 – Nuisance Conditions (which declares dead, decayed, diseased or hazardous trees, weeds and other vegetation a public nuisance under certain conditions). Though, hearing the concerns, the UFC continued the discussion at the UFC's next regular meeting.

At its February 2019 meeting, the UFC identified opportunities to further refine the Ordinance, and agreed that the current amendments should remain focused on Public Trees but expressing an interest to develop other processes to review the City's policies and programs relating to private trees and prevention of wildfires. A motion was passed to make fire management a priority in the UFC's upcoming workplan. At its April 15 meeting, the UFC reviewed an updated draft of the Ordinance, which incorporated additional comments and suggestions, and recommended that the Ordinance be presented at a second Public Meeting. City staff advertised and presented at a second Public Meeting on May 13, 2019. At the conclusion of the meeting, the UFC unanimously approved a motion to recommend the El Cerrito City Council's adoption of the amended Ordinance.

Highlights of the Amended Ordinance

The updated Ordinance builds upon the existing language in the El Cerrito Municipal Code, Chapter 13.28 – Trees and Shrubs. The current, unamended code language includes provisions that:

- Require "authorization" to plant a tree or shrub in the "parking strip"
- Establish an Official Tree List that must be utilized to plant trees and shrubs in a "parking strip"
- Provide the City with control over pruning or removing Public Trees, shrubs, plants, and vegetation
- Allow the City to regulate vegetation that interferes with utilities, or obstructs the usefulness of sidewalks and streets

- Make it unlawful to abuse, destroy, or mutilate a tree, shrub, or plant in a public place
- Allow the City to pursue violations in accordance with the City's Nuisance Abatement procedures set forth in Chapter 8.34 of the El Cerrito Municipal Code

The expanded language amends Chapter 13.28 with a new title, "Public Tree and Shrub Ordinance" and includes provisions that:

- Clearly define terms used in the Ordinance and responsibilities of the City and property owners for public and private trees, respectively
- Establish a policy of the City to enhance a healthy Urban Forest in Public Places
- Require the City to establish criteria and standard operating procedures for consideration of requests for Pruning, planting, and removal of Public Trees and Shrubs
- Establish a Protected Root Zone to protect the roots of Public Trees. This area generally does not extend beyond the public right-of-way or boundaries of property owned or controlled by the City. For new development projects, the zone may extend up to the setback standards required for a specific project
- Establish maintenance standards, requiring the use of the A300 standards adopted by the American National Standards Institute (ANSI) regarding tree, shrub and other woody plant maintenance, and all successor standards adopted by ANSI
- Establish processes for the permitting of private persons to complete plantings, prunings, or tree removals, with City approval
- Require the protection of Public Trees during construction, in accordance with the ANSI A300 standards
- Establish proportionate penalties for the improper pruning, death, and mutilation of a Public Tree, while also setting up a process for enforcement actions and appeals

As a whole, these provisions fulfill the Ordinance's stated purpose to preserve and protect the health, longevity, and safety of Public Trees.

Standard Operating Procedures

The updated Ordinance requires the City to establish criteria and standard operating procedures (SOP) for consideration of requests for pruning, planting, and removal of Public Trees and Shrubs. These standards, which shall be consistent with the Ordinance and its guiding principles, can be updated administratively and will further clarify how the City's Tree Program will consider and prioritize tree work in the community. For instance, criteria for prioritizing work will include: public safety, tree health, the location and scale of the work that is needed, funding, and the order in which the request was received. The SOP will further outline:

- The City's procedures for responding to hazardous and emergency tree issues
- The evaluation, prioritization, and process for Public Tree planting requests
- The evaluation, prioritization, and process of requests for Public Tree pruning and removal.

- The criteria and process for allowing the private planting, pruning, and/or removal of a Public Tree.
- The mitigation required for the removal of a Public Tree by a private person, including the planting of replacement trees and fees associated with the establishment of the new trees (as approved in the City's Fiscal Year 2019-20 Master Fee Schedule).

This SOP will clearly define criteria and processes, enabling the Tree Program to implement the Ordinance consistently and equitably across all requests received.

Tree City USA

As noted above, an additional driver for updating and amending the El Cerrito Municipal Code language regarding Public Trees and Shrubs is also to enable the City to pursue the Tree City USA designation. To do so, the City must meet four prerequisite standards, established by the National Arbor Day Foundation and National Association of State Foresters. These standards require cities to have:

1. A Tree Board or Department – This is currently being achieved through the ongoing work of the Urban Forest Committee and will be bolstered by the clear designation of a Tree Program Manager in the amended Ordinance.
2. A Tree Care Ordinance – The amended Ordinance will fulfill the requirement to have a Public Tree Care Ordinance that provides a robust foundation for the City's Tree Program. To ensure the City's Ordinance will meet the standards, City Staff utilized a guiding document titled, "Guidelines for Developing and Evaluating Tree Ordinances," generated by the International Society of Arboriculture, to develop the proposed changes.
3. A Community Forestry Program with an Annual Budget of at least $2 per capita – El Cerrito's current program meets this minimum standard for funding. In Fiscal Year 2018-19, the City budgeted more than $160,000 for tree pruning, planting, and hazardous tree responses and removals.
4. An Annual Arbor Day Observance and Proclamation – The City has observed Arbor Day for many years. Most recently, in 2019, the City celebrated beginning with an El Cerrito City Council proclamation on February 19, designating Arbor Week as March 7 through March 14, 2019. On March 13, 2019, children from the Madera Elementary After School Program planted a Coast Live Oak seedling with Operations & Environmental Services staff. The UFC hosted a ceremonial tree planting with community members in Poinsett Park and a work day in the Hillside Natural Area to remove Eucalyptus duff, fuels, and invasive plants. The City will continue to celebrate Arbor Week every year, promoting educational activities and events focused on the value of trees for building successful, healthy, cities and neighborhoods.

The benefits of becoming a Tree City USA are manifold. First, by fulfilling the four standards, the City will create a robust foundation for a tree care program and healthy publicly controlled Urban Forest. Second, the designation can make the City more competitive for grant funding, as it demonstrates the City's commitment to high-quality

tree care. Third, it increases public awareness and education about the benefits of trees. Lastly, becoming a Tree City USA can become a point of community pride.

According to the Arbor Day foundation, 149 California communities have received the Tree City USA designation. Together, these cities have spent more than $149 million on urban forestry management and have reported the planting of nearly 38,000 trees. This amended Ordinance will enable the City of El Cerrito to join those communities in receiving recognition for the work done thus far and, in the future, to improve the City's Urban Forest.

STRATEGIC PLAN CONSIDERATIONS

The City's Strategic Plan articulates the mission of the City to serve, lead, and support our diverse and transit-rich community by providing exemplary and innovative services, public places and infrastructure, ensuring public safety, and creating an economically and environmentally sustainable future. Amending and updating the City's Tree and Shrub Ordinance is consistent with the following Strategic Plan Goals:

- Goal B - *Achieve long-term financial sustainability* by enabling the City to pursue the Tree City USA designation and become more competitive in pursuing and supporting "opportunities for new funding, including outside grants."
- Goal C - *Deepen a sense of place and community identity* by fulfilling the strategies of promoting strong neighborhoods and encouraging economic development that builds on our strengths of environmental sustainability.
- Goal D - *Develop and rehabilitate public facilities as community focal points* by viewing trees as a key infrastructure element in the city and fulfilling the strategy to develop a plan to address ongoing maintenance for infrastructure.
- Goal E - *Ensure the public's health and safety* by fulfilling the strategy to "explore innovative and best practices for promoting public health," by seeing the value the Urban Forest has in promoting walking and biking, as well as its role in creating clean water, clean air, and stemming the impacts of climate change.
- Goal F - *Foster environmental sustainability citywide* by fulfilling the strategies to "be a leader in setting policies and providing innovative programs that promote environmental sustainability".

ENVIRONMENTAL CONSIDERATIONS

The proposal is exempt from the California Environmental Quality Act (CEQA) pursuant to CEQA Guidelines §15308. Categorical Exemption [Class 8, Section 15308] exempts actions taken by regulatory agencies to assure the maintenance, restoration, enhancement, or protection of the environment where the regulatory process involves procedures for protection of the environment. The Ordinance is an action taken by a regulatory agency to preserve and protect trees within the City, and to regulate the removal of trees.

FINANCIAL CONSIDERATIONS

One key focus of the amended Ordinance is to allow mitigation and compensation to the City for the permitted removal of a Public Tree by a private person, as well as to increase the liability and penalties for harming a Public Tree to ultimately add

protections for the Urban Forest. This will allow the Public Works Department to recover costs for certain tree planting, pruning, and removal requests. As such, in the Fiscal Year 2019-20 Master Fee Schedule, adopted May 21, 2019, the Public Works Department added two new fees:

- Maintenance to establish a new street tree that would be applied in the case of mitigation when a street tree is removed by a property owner request and a new tree cannot be reestablished in a location adjacent to the property ($770.00).
- Permitting of street tree pruning or removal by fronting property owner ($199.74).

In terms of penalties, the updated Ordinance also provides the City with the authority to do the following:

- Require a property owner to prune or remove a tree or shrub that has become a nuisance due to the actions of the property owner or his/her tenants. If the property owners fail to complete the work, the City may perform the work and charge the property owner for the cost of such work.
- Pursue administrative penalties associated with violations of the Chapter.
- Pursue penalties equal to twice the amount of the appraised replacement value of a tree if it is unlawfully damaged, killed, or mutilated. Additional penalties may include the City's costs incurred in performing the appraisal and the costs to irrigate a tree for a three-year establishment period.

The amended Ordinance also creates a framework for appeals wherein determinations, including the above enforcement actions, may be appealed to the Director of Public Works. The decision of the Director may also then be appealed to the City Manager.

This increased liability for harming Public Trees is believed to be an important protection to deter improper pruning, removal, or other similar actions to the City's Urban Forest.

LEGAL CONSIDERATIONS

The City Attorney has reviewed the Ordinance and all legal considerations have been addressed. Notification of this public hearing was publicly posted on June 6, 2019 and published in the West County Times on June 8, 2019. If approved, the Ordinance would require a second reading by title only, no sooner than five days after the first reading and, if adopted, would become effective 30 days from the date of adoption.

Reviewed by:

Alexandra Orologas
Assistant City Manager

Attachments:

1. Ordinance

ORDINANCE NO. 2019–XX

AN ORDINANCE OF THE CITY OF EL CERRITO AMENDING CHAPTER 13.28 OF THE EL CERRITO MUNICIPAL CODE, TREES AND SHRUBS

WHEREAS, the El Cerrito City Council has adopted a General Plan (1999), Urban Forest Management Plan (2007), Climate Action Plan (2013), Strategic Plan (2013), San Pablo Avenue Specific Plan (2014), Urban Greening Plan (2015), and Parks and Recreation Facilities Master Plan (2019) (collectively "Plans"), and conducted the appropriate level of environmental review for these Plans; and

WHEREAS, the General Plan calls for the City to adopt a Tree Preservation Ordinance to protect trees and minimize environmental impacts; and

WHEREAS, the General Plan identifies trees as special features and landmarks that differentiate one location from another, and create a distinct image; and

WHEREAS, the Urban Forest Management Plan describes the numerous benefits of public trees and calls for an ordinance to require selection of tree species from the City's approved tree list and in accordance with the Urban Forest Management Plan guidelines; and

WHEREAS, the Parks and Recreation Facilities Master Plan identifies trees as an important amenity and park system infrastructure element, in need of maintenance; and

WHEREAS, the Climate Action Plan calls for updating the City's Master Tree List and standardizing best management practices in order to maintain and enhance a community forest that contributes to a sustainable environment; and

WHEREAS, the San Pablo Avenue Specific Plan identifies trees as an important element to increase pedestrian activity and to create community gateways and commercial nodes; and

WHEREAS, the Urban Greening Plan focuses on using trees and other plantings to emphasize El Cerrito's identity as an environmentally oriented destination, while including considerations for ensuring suitable tree plantings and maintenance; and

WHEREAS, the amended ordinance aligns with multiple Strategic Plan goals, by deepening a sense of place and community identity, developing and rehabilitating public facilities as community focal points, ensuring the public's health and safety, and fostering environmental sustainability citywide; and

WHEREAS, the Plans collectively set forth the relationship between the long-term health of the Urban Forest and many other goals of the City, relating to economic growth, sustainability, and quality of life; and

WHEREAS, the City completed a robust public process to develop the amended Public Tree and Shrub Ordinance, working closely with the Urban Forest Committee, and soliciting community input at two public meetings; and

WHEREAS, the Urban Forest Committee recommended the City Council adopt the Public Draft of this ordinance at the May 13, 2019 public meeting; and

WHEREAS, in adopting the amended Public Tree and Shrub Ordinance, the City of El Cerrito has found the ordinance to be consistent with its General Plan and existing ordinances.

NOW THEREFORE, THE CITY COUNCIL OF THE CITY OF EL CERRITO DOES HEREBY ORDAIN AS FOLLOWS:

SECTION 1. Chapter 13.28 of Title 13 of the El Cerrito Municipal Code, Trees and Shrubs, is hereby deleted in its entirety and replaced with a new Chapter 13.28 to read as follows:

13.28.010 - Title

This Chapter shall be known as the "Public Tree and Shrub Ordinance" and may be cited as such.

13.28.020 – Findings

The City of El Cerrito City Council finds and declares that the Urban Forest, including existing and future Public Trees located within the City of El Cerrito, are a valuable and distinctive natural resource. The Urban Forest of the City augments the economic base through the provision of resources, community character, and enhancement of the living environment. These resources are a major infrastructure element, offering many benefits to the city, county, and region.

El Cerrito's diverse Urban Forest is comprised of distinct public and private tree populations and categories, including natural area stands, maintained landscapes, and Street Trees, that require specific management strategies. While the City recognizes the complexity of Urban Forest management, especially in a period of changing climate, the aim and purpose of this Ordinance is the protection of Public Trees from harm attributable to inappropriate or improper management practices and actions.

Trees and shrubs benefit the community by providing the following:

- **Environmental benefits** include mitigating the effects of climate change, carbon sequestration, reducing the heat island effect, improving water quality, reducing airborne pollutants, and providing habitat for wildlife and pollinator species. Trees and greening also contribute to the City's sustainability goals, as defined in the

City's Urban Forest Management Plan (2007), Climate Action Plan (2013), Urban Greening Plan (2015), and Green Infrastructure Plan, anticipated to be adopted in 2019.

- **Public Health benefits** include improving air quality, supporting a healthy, active community, reducing the risk of landslides, and reducing pollutants from stormwater. In addition, healthy, well-selected and Maintained Trees improve public safety by decreasing the risks associated with Hazardous Trees.

- **Social benefits** include creating a sense of place, providing connections to the natural world, creating memorable nodes and entry points, and helping to facilitate a sense of community.

- **Economic benefits** include an increase in property values, attraction of businesses and shoppers, and contribution to the financial standing of the City. In addition, healthy, well-selected and Maintained Trees reduce potential damage to public and private infrastructure, including utilities, sidewalks, and roads, while also reducing the cost of construction and maintenance of drainage systems through increased diversion of surface waters.

Careful planning and management is needed to protect and maintain the health and integrity of the Urban Forest. Pruning, Tree removals, and plantings are periodically needed as Trees age, become infected by disease or pests, suffer damage from wind, storms or improper Tree care, or interfere with infrastructure (e.g. overhead wires, sidewalks, underground utilities). Intentional planting of the right Tree in the right place improves the likelihood of Tree survival, maximizing benefits and minimizing program costs in our Urban Forest. This Ordinance outlines the responsibilities and practices that shall be utilized to ensure the long-term health of the City's Urban Forest, balancing the complexities, benefits, challenges, and concerns related to Public Trees.

13.28.030 – Definitions

In this chapter the following terms shall have the following meaning:

A. "ANSI A300 Standards" means the A300 standards adopted by the American National Standards Institute (ANSI) regarding Tree, Shrub and Other Woody Plant Maintenance, and all successor standards adopted by ANSI.

B. "City" shall mean the City of El Cerrito.

C. "City Tree List" means the list of Trees approved by the Director to be planted in Public Places.

D. "Cut" or "Prune" shall mean to detach or separate from a Tree any limb or branch over one inch in diameter, or to remove branching structures, as designated by the ANSI A300 Standards.

E. “Damage”, “Mutilate”, or “Disfigure” shall mean any action that causes injury or death to a Tree, including unsightly and injurious Pruning. This shall include practices that are not in conformance with ANSI A300 Standards. It shall include, but not be limited to, Pruning practices such as flush cutting, heading back, lion tailing, rounding, stubbing, tipping, or topping, as well as poisoning, unauthorized relocating or transplanting of a Tree, nailing or piercing of a Tree, trenching, excavating, and compaction of soil or any work within the Protected Root Zone of a Tree.

F. "Director” means the Public Works Director of the City of El Cerrito.

G. “Encroachment Permit” shall mean written authorization to perform work in the public right-of-way or public street issued pursuant to Chapter 13.12 of this Code.

H. “Maintenance” or “Maintain” when used in this chapter in reference to Trees or Shrubs, means and includes Pruning, fertilizing, irrigating, propping, cabling, treating for insects, treating for disease or injury, and any other similar acts which promote the life, growth, health, beauty or safety of such Trees or Shrubs, in accordance with ANSI A300 Standards.

I. "Objectionable" or “Nuisance” when used in reference to Trees means all Trees which the Tree Program Manager or a qualified arborist designated by the Director or designee determines are diseased, invasive, in danger of falling over or becoming a hazard of any kind, interfere with surface or underground utilities, or whose root systems are such that they damage sidewalk, street and other pavement in the public right-of-way.

J. “Person” shall mean any natural person, partnership, firm, corporation, governmental agency other than the City of El Cerrito, or other legal entity.

K. “Planting Strip” means the area between the curb of the street, whether marked by cement curbing construction or not, and the abutting property line.

L. “Public Place” shall mean any property owned or controlled by the City, including, but not limited to, parks, parkways, open space, easements, public streets, public rights-of-way, City owned property, and Planting Strips.

M. "Public Tree(s) or Shrubs" means a Tree or Shrub located in a Public Place, or any area under ownership or control of the City, including property under the operational control of another entity by virtue of a lease, license, operating or other agreement.

N. “Private Tree or Shrubs” means any Tree or Shrub located on private property.

O. “Protected Root Zone” means the ground area extending a minimum of three (3’) feet radially from the periphery of the tree trunk or three inches (3”) for every one inch (1”) diameter of tree trunk, whichever is greater, measured at four feet

six inches (4’6”) from the base of the tree, not to extend beyond the public right-of-way or boundaries of property owned or controlled by the City. For new development projects, the Protected Root Zone may extend beyond the public right-of-way, not to extend beyond the setback standards required for a specific project.

P. “Replacement Value” means the cost of replacing a Tree or Shrub as determined by an arborist retained by the City and in accordance with industry standards.

Q. “Shrub” means a woody plant with multiple stems, generally smaller than a Tree.

R. “Street Trees and/or Shrubs" are herein defined as Public Trees and Shrubs located in the Planting Strip.

S. "Tree" means a perennial woody plant, typically having a single main stem or trunk growing to a considerable height and bearing lateral branches some distance from the ground.

T. “Tree Program Manager” means the Director’s designee with responsibilities to manage the City’s Urban Forest Program.

U. “Urban Forest” shall mean the natural resource composed of all Trees and woody Shrubs on public and private property within the City limit.

13.28.040 – Purpose and Policy

The purpose of this Ordinance is to preserve and protect the health, longevity, and safety of Public Trees as an important resource as noted in Section 13.28.020, to promote the health, safety, welfare and quality of life of the residents and to enhance the appearance of the City, to clearly define responsibility for the maintenance of Public Trees and Shrubs, and to adopt best management practices and industry standards for the planting and maintenance of Public Trees and Shrubs.

It is the policy of the City to enhance a healthy Urban Forest in Public Places and to conduct a consistent and adequate program for Maintaining and preserving Trees. In addition, it is the policy of the City to encourage new Tree, Shrub, and ground cover planting in Public Places, contributing to a flourishing Urban Forest in accordance with the requirements of this Chapter.

13.28.050 – Jurisdiction

A. Public Trees and Shrubs

The City shall have authority and responsibility over all Public Trees or Shrubs, and other plantings now or hereafter located in any Public Place, and shall have the authority to

plant, care for, Maintain, remove, and replace such Trees, Shrubs and other plantings. Nothing in this section shall be interpreted as prohibiting a property owner from planting Shrubs and other ground plantings in the Planting Strip (See Diagram 1) adjacent to their respective properties, as long as such planting complies with the requirements of this Chapter.

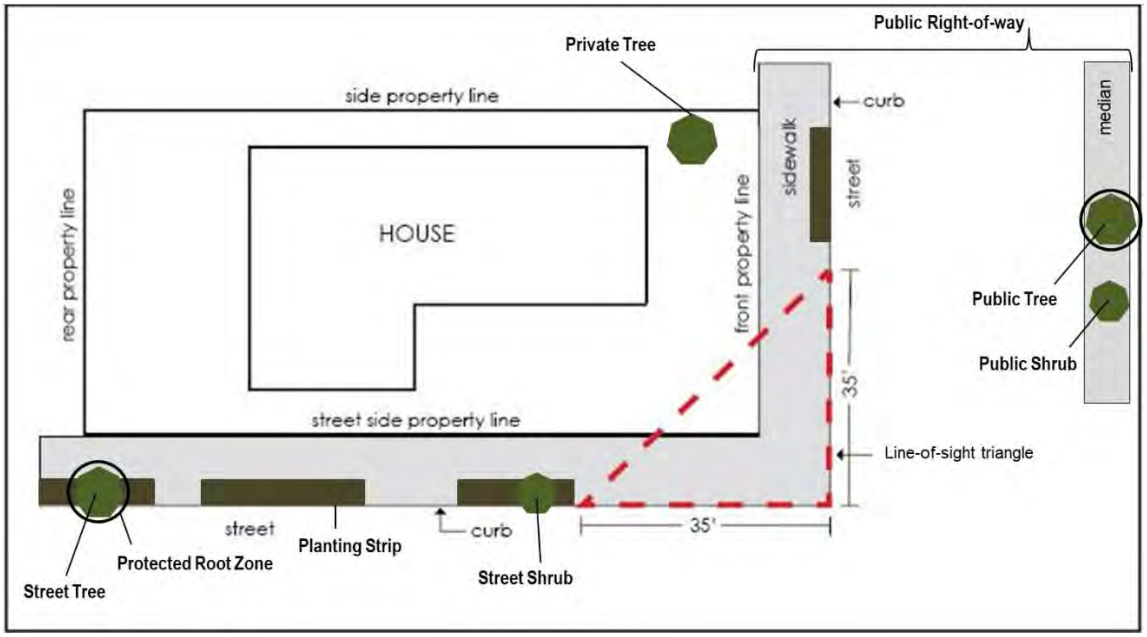
B. Street Trees and Shrubs

Unless otherwise designated in a development-related agreement or conditions of approval, the City shall have the authority and responsibility for the Pruning of all Street Trees which the City planted or required to be planted and shall also be responsible for the repair of sidewalk damages caused by such Street Trees. Property owners shall also provide care for all Street Trees and Shrubs in the adjacent Planting Strip. For the purposes of this Section, care of Street Trees and Shrubs includes watering and removing fallen leaves, fallen branches, and fruit debris, and any other similar acts which promote the life, growth, health or beauty of such Trees or Shrubs. However, property owners shall not cut, prune, remove, apply chemicals or fertilizers, or plant Street Trees without first obtaining an Encroachment Permit from the City. Residents may Prune a Tree limb that is less than one inch (1”) in diameter, from an adjacent Street Tree, only as necessary for purposes of egress clearance, as long as such action meets ANSI A300 Standards and complies with all requirements of this Chapter.

C. Private Trees and Shrubs

Except as otherwise provided in this Code, Trees and Shrubs on private property are the responsibility of the property owners to keep, remove, and maintain as deemed appropriate by the property owner in accordance with all applicable laws. However, if a tree protection plan has been approved as a part of a City-approved development project, the tree protection plan shall be implemented by the property owner to the satisfaction of the Community Development Director, or his/her designee.

Diagram 1:



13.28.060 Planting of Public Trees and Shrubs

A. Any Person can request that the City plant a Tree in a specific Public Place by contacting the Tree Program Manager. A Person may also plant Trees on Planting Strips themselves after receiving written authorization from the City in the form of an Encroachment Permit and in accordance with ANSI A300 Standards.

B. The placement of any Tree in any Public Place shall be approved by the City as to not interfere with any public or private utility, including, but not limited to, water, sewer, electrical and natural gas infrastructure. Placement shall not impede the visibility of traffic safety devices.

C. It is unlawful to plant any Tree in any Public Place or Public Street, including but not limited to a Planting Strip, without first obtaining an Encroachment Permit.

D. The City Tree List shall guide the planting of Trees in any Public Place. All Trees planted in a Public Place shall be approved by the Tree Program Manager to ensure suitability with the proposed location.

E. No permit or prior approval from the City is required for the planting of Shrubs, plants and ground cover in the Planting Strip, as long as the item to be planted complies with all requirements of this Chapter.

F. When planting Trees and Shrubs in Public Places, the City shall evaluate the use of native species and drought tolerant plants, where possible.

13.28.070 - Pruning and Removing Trees and Shrubs in Public Places, Including Street Trees and Shrubs

A. The City may Prune or remove any Tree, Shrub, or other vegetation in any Public Place, including but not limited to a Planting Strip, if it is determined to be Objectionable or a Nuisance by the Tree Program Manager.

B. In the event that the Tree Program Manager determines a Public Tree or Shrub has become Objectionable or a Nuisance because of the actions of the adjacent property owner, or her/his tenants, the City may require the adjacent property owner to Prune or remove the Tree, Shrub or other vegetation, or take other appropriate action after being issued an Encroachment Permit. Failure to complete the required work within fifteen days shall be a violation of this Chapter. Additionally, if the adjacent property owner fails to complete the required work within fifteen (15) days, the City may perform the work and charge the property owner for the cost of such work. The City shall send an invoice of the costs to the property owner, and if such costs are not paid within thirty (30) days, the City may record a nuisance abatement lien or special assessment on the property pursuant to the procedures set forth in Chapter 8.34 of this Code.

C. Any Person may submit a request for the City to Prune or remove a Public Tree, and this request shall be considered and prioritized for action based on public safety, Tree health, and other criteria maintained by the Director. Residents may Prune a Tree limb that is less than one inch (1”) in diameter, from an adjacent Street Tree, only as necessary for egress clearance, as long as such action meets ANSI A300 Standards and complies with all requirements of this Chapter.

D. The City may authorize the Pruning or removal of a Public Tree by a Person, at the Person’s own expense, if the removal or Pruning meets the established criteria but has been deemed a lower priority for action by the City. The City’s authorization of such action by a Person is conditioned upon the Person obtaining an Encroachment Permit, and may be subject to appropriate mitigation measures, in accordance with the Public Tree Program standard operating procedures established by the Director from time to time. The removal of a Street Tree that does not meet the established criteria for removal, may be authorized by the City, but shall require appropriate mitigation measures, in accordance with the Public Tree Program standard operating procedures established by the Director from time to time. The City may charge fees to cover the costs associated with permitting, removal of an existing Tree, planting, and the establishment of a new Tree.

E. The Director shall establish and maintain criteria and procedures for consideration of requests for Pruning and removal of Public Trees and Shrubs including maintenance requirements and applicable mitigation measures.

13.28.080 – Mutilation or Destruction of Public Trees Prohibited

It is a violation of this Chapter to Damage or Mutilate any Public Tree, Shrub or plant in any Public Place, including but not limited to a Planting Strip. The following acts are prohibited under this Chapter unless otherwise exempt:

A. To Damage, Disfigure, or Mutilate a Public Tree.

B. To Cut, Prune, plant, or remove a Tree in a Public Place without first obtaining authorization from the City in the form of an Encroachment Permit.

C. To Damage the roots of any Public Tree by grading, clearing or grubbing, stockpiling materials, changing soil grade, excavating, trenching, or adding any impervious materials (e.g. concrete, asphalt, other hard surfaced homogenous materials, such as bricks and stones, which are mortared together, or plastic sheeting) within the public-rights-of-way or Protected Root Zone, except when authorized by the City under an Encroachment Permit and/or Building Permit, as appropriate. This includes placing any pervious materials (e.g. bricks, stones, landscaping cloth, mulch) or plantings within the Protected Root Zone of any Public Tree.

D. Applying or attaching any rope, chain, cable, or wire, other than materials customarily used to support young or broken Trees or Shrubs.

E. Applying or attaching a sign or poster, or any other object, by piercing or otherwise causing Damage to the Tree or Shrub.

F. Applying any gaseous, liquid or solid substance that may cause harm or death to any Public Tree or Shrub, including herbicides or pesticides.

13.28.090 Private Trees

Property owners are encouraged to utilize the City Tree List when planting Trees, Shrubs, vines or ground cover on private property. However, planting certain Tree species on private property is explicitly prohibited elsewhere in this Code. When planting and caring for Trees on private property, property owners should also reference Chapter 10.90 of the El Cerrito Municipal Code – Obstruction of Views by Trees on Private Property.

13.28.100 – Protecting Trees During Construction

During any construction project, including, but not limited to, the erection, repair, alteration or removal of any private or public building, house structure, or other private or public facility or utility, the Person in charge of such work shall protect any Tree, Shrub or plant

identified for protection in the development approval process and any Public Trees with good and sufficient guards, protectors, or fences in conformance with ANSI A300 Standards, as well as any other specific conditions established by the development approval process. The purpose of this requirement is to prevent injury to said Tree(s), Shrub(s) or plant(s) arising out of said erection, repair, alteration or removal as required by the City.

In the event that a Person completing a construction project is not able to conform with ANSI A300 standards and will adversely impact the long-term health of a Public Tree, the development approval process shall require mitigation, in accordance with the standard operating procedures established by the Director. Mitigation may include the planting of a replacement Tree(s) by the City at the Person's own expense. The City may charge fees to cover the costs associated with permitting, removal of an existing Tree, planting, and the establishment of a new Tree.

13.28.110 - Obstructing Right-of-Way Prohibited

A. Any private Tree, Shrub, or plant which is determined by the Tree Program Manager to obscure the sightlines of pedestrians or vehicle operators in the public right-of-way, or to otherwise endanger the security or usefulness of any public street, sewer, utility, or sidewalk, may be declared to be a public nuisance.

B. All Private Trees, Shrubs or plants located adjacent to any Public Street, sidewalk or walkway shall be kept Pruned so that no part thereof shall extend over the street at a height of less than fourteen (14) feet or over a public walkway at a height of less than seven (7) feet. No thorn-bearing plant and no barbed wire fence shall be placed or permitted to remain along the boundary of any sidewalk or public path within the city. A violation of this section may be declared to be a public nuisance by the Tree Program Manager.

C. Upon determination by the Director or Tree Program Manager that any Private Tree, Shrub or plant constitutes a public nuisance, the City may abate the nuisance pursuant to the procedures established in Chapter 8.34 of this code or may pursue any other available legal remedy in this Code or California law to have the nuisance abated.

13.28.120 –Interference

No Person shall interfere with any City employee or City contractor acting under this Chapter.

13.28.130 – Appeals

Any action or determination by the Tree Program Manager may be appealed to and considered by the Director. To be effective, an appeal must be in writing and must be filed within fifteen (15) days after the date of the decision of the Tree Program Manager. The written appeal shall clearly specify the reasons for which an appeal is requested and may include any evidence or documentation supporting the appeal. The appeal investigation will be conducted solely on the basis of the submission of written arguments and evidence, except that the Director may elect to receive oral testimony in his or her sole discretion. The Director may also elect to conduct on-site inspections to develop findings. Within fifteen (15) days of submission of the appeal, the Director shall render his/her decision, which may affirm, revise or modify the Tree Program Manager's decision. The decision of the Director may also be appealed in writing to the City Manager within five (5) business days of the decision. The decision of the City Manager shall be in writing and shall be final.

13.28.140 – Penalty for Violation

A. Any violation of this Chapter is subject to an administrative penalty as set forth in Chapter 1.14 of this Code. Any violation of this Chapter may also be punished as a misdemeanor, pursuant to Chapter 1.09 of this Code.

B. In addition to the penalties provided for in Section 13.28.140(A), any Person who unlawfully Damages, kills or otherwise causes Mutilation of a Public Tree in violation of this Chapter shall pay a penalty that shall include an amount equal to twice the amount of the Replacement Value of the Tree. Trees that are Mutilated, killed, or removed without authorization/permit are assumed to be in "good" condition unless proven otherwise. An arborist retained by the City shall estimate the Replacement Value of the removed, killed, or Damaged Tree(s) in accordance with industry standards. The penalty shall also include the City's costs incurred in performing the appraisal and the costs to irrigate and maintain the new Tree for a three year establishment period. The City shall provide notice of the amount of the penalty to the responsible Person, and the Person shall have thirty (30) days to pay the penalty. Thereafter, the penalty shall be a debt owed to the City. If the Public Tree was Damaged or Mutilated by the adjacent property owner, or its tenants, contractors or agents, in the event that the penalty is not timely paid, the City may record the unpaid amount of the penalty as a lien or special assessment on the property adjacent to the Damaged or Mutilated tree.

13.28.150 – Enforcement

The Director shall be responsible for the enforcement of this chapter and may impose any of the penalties identified herein or available through otherwise applicable law. The City Attorney is hereby authorized to pursue any available legal remedy, including instituting civil or criminal proceedings, to enforce this chapter.

13.28.160 – Performance Evaluation

The Tree Program Manager shall collect and maintain records and data necessary to objectively evaluate whether progress is being made toward the intent, purpose and objectives of this chapter.

13.28.170 – Liability

Nothing contained in this Section shall be interpreted to impose any liability upon the City, its officers, employees, or agents, nor to relieve the owner of any private property from the duty to keep any Tree, Shrub or plant located upon the adjacent Planting Strip or upon the owner's private property from becoming a hazard or public nuisance.

13.28.180 – Administrative Responsibilities

The Director or designee shall, by use of City employees or private contractors, have the authority to plant, Maintain and otherwise care for, or if necessary remove trees in any Public Place. The responsibilities of the Director or designee under this Chapter shall include but not be limited to, the following:

1. Maintain Public Trees and Shrubs.

2. Make determination of Tree removals in Public Places.

3. Inspect the planting, Maintenance, and removal of all Trees in Public Places.

4. Maintain a list of approved Trees in Public Places and the public right-of-way, respectively.

5. Establish criteria and standard operating procedures for consideration of requests for Pruning, planting, and removal of Public Trees and Shrubs.

6. Evaluate and administer permits as allowed and provided under this section.

7. Provide a specific and final determination with regard to definitions and disputes under this Chapter.

SECTION 2. If any Section, subsection, sentence, clause or phrase or word of this Ordinance is for any reason held to be unconstitutional, unlawful or otherwise invalid by a court of competent jurisdiction, such decision shall not affect the validity of the remaining portions of this Ordinance. The City hereby declares that it would have passed and adopted this Ordinance and each and all provisions thereof irrespective of the fact that any one or more of said provisions be declared unconstitutional, unlawful or otherwise invalid.

SECTION 3. The proposed amendments to the Municipal Code are exempt from the California Environmental Quality Act (CEQA) pursuant to CEQA Guidelines section 15308, which exempts actions taken by regulatory agencies to assure the maintenance, restoration, enhancement, or protection of the environment where the regulatory process involves procedures for protection of the environment. The Ordinance is an action taken by a regulatory agency to preserve and protect trees within the City, and to regulate the removal of trees.

SECTION 4. This Ordinance shall take effect and be enforced thirty (30) days after the date of its adoption, and prior to the expiration of fifteen (15) days from the passage thereof, the ordinance or a summary thereof shall be posted or published as may be required by law, and thereafter the same shall be in full force and effect.

First read at a regular meeting of the City Council on the 18th day of June 2019, and passed by the following vote:

AYES: Councilmembers
NOES: Councilmembers
ABSENT: Councilmembers
ABSTAIN: Councilmembers

Adopted and ordered published at a regular meeting of the City Council held on the XX day of July 2019, and passed by the following vote:

AYES: Councilmembers
NOES: Councilmembers
ABSENT: Councilmembers
ABSTAIN: Councilmembers

APPROVED:

_____
Rochelle Pardue-Okimoto, Mayor

ATTEST:

_____
Holly M. Charléty, City Clerk

IN WITNESS of this action, I sign this document and affix the corporate seal of the City of El Cerrito on July XX, 2019.

_____
Holly M. Charléty, City Clerk

ORDINANCE CERTIFICATION

I, Holly M. Charléty, City Clerk of the City of El Cerrito, do hereby certify that this Ordinance is the true and correct original Ordinance No. 2019–XX of the City of El Cerrito; that said Ordinance was duly enacted and adopted by the City Council of the City of El Cerrito at a meeting of the City Council held on the XX day of July, 2019; and that said Ordinance has been published and/or posted in the manner required by law.

WITNESS my hand and the Official Seal of the City of El Cerrito, California, this XX day of July, 2019.

_____
Holly M. Charléty, City Clerk

AGENDA BILL

Agenda Item No. 6(B)

Date: June 18, 2019

To: El Cerrito City Council

From: Sean Moss, Planning Manager
Melanie Mintz, Community Development Director

Subject: An appeal of the Planning Commission's approval of Tier II Design Review, pursuant to the San Pablo Avenue Specific Plan for a project located at 11965 San Pablo Avenue.

ACTION REQUESTED

Conduct a public hearing and upon conclusion, adopt a resolution denying the appeal and upholding the Planning Commission's approval of Tier II Design Review, pursuant to the San Pablo Avenue Specific Plan for a project which includes 144 new dwelling units, located at 11965 San Pablo Avenue.

BACKGROUND

Site Location and Layout

The project site is located on San Pablo Avenue at the northernmost portion of the City. The site is bounded by San Pablo Avenue on the east, the city limits on the north and west, and the aerial BART tracks on the south. The site has frontage on San Pablo Avenue as well as the recently completed portion of the Richmond Greenway (located under the BART tracks). To the north of the site is open space owned by the City of Richmond. (The City of Richmond recently improved a section of Baxter Creek which is north of the project site.) The site is 22,951 square feet (0.53 acres) in size.

Vicinity Map

The project site is designated Transit-Oriented Higher-Intensity Mixed Use (TOHIMU) in the City's General Plan, and is zoned as TOHIMU in the San Pablo Avenue Specific Plan as well.

Regional vehicular access to the project site is provided by Interstate 80 located to the west of the site; the El Cerrito del Norte BART Station is located 0.5 mile south of the site. A transit stop which provides access to AC Transit local, express, and Transbay bus service is located approximately 500 feet from the site.

Existing Public Right-of-Way

The site has street frontage on San Pablo Avenue to the east and the Richmond Greenway to the south. This portion of San Pablo Avenue currently features an approximately 10-foot sidewalk with tree wells.

Existing/Previous Land Use

The site previously housed a fast food restaurant and is developed with a building, parking lot, and landscaping. Historically, the site contained a nursery business.

Site Photo

Adjacent Land Uses

North: Open space in the City of Richmond.

East: San Pablo Avenue. Baxter Creek Gateway Park lies across San Pablo Avenue.

South: Aerial BART tracks and a large-format retail home improvement store beyond the BART tracks.

West: Open space in the City of Richmond.

ANALYSIS

Project Description

The proposed project consists of 144 residential units contained in one 8-story building totaling 108,102 square feet. The project provides ten below-market rate (very low income) residential units and therefore qualifies for a density bonus pursuant to the State affordable housing density bonus statute (see discussion below). The building would be located atop an underground parking garage containing 77 parking spaces. Street-facing uses along San Pablo Avenue include an entrance lobby, leasing office, amenity space, trash-recycling room and four residential units. The building is an L or V-shape, opening toward the Richmond Greenway. A common area open space would be located on the Greenway side of the project. The upper two stories step back away from the Greenway. An additional common open space is located on a terrace on the sixth level. Vehicular access to the parking area would be provided from an existing driveway access from San Pablo Ave which previously served the fast food restaurant. The driveway is located on an easement from the City of Richmond, that was established for the previous use and is attached in perpetuity to the site. The project would feature two public plazas that would be located on the same easement area. One plaza would be located between the proposed building and the existing driveway and the other would be located across the driveway, adjacent to open space in the City of Richmond.

Compliance with the San Pablo Avenue Specific Plan

Chapter Two of the San Pablo Avenue Specific Plan establishes the land use regulations and development standards of the Specific Plan Area.

Some development standards apply throughout the Plan area. These include:

- Regulation by Street Type – which includes building placement, building form, and shadow analysis.
- Open Space Requirements – which includes private, common and public open spaces.

Other development standards vary by transect zone. The development standards that are related to the transect zone include:

- Use – types of land use permitted, conditionally permitted or prohibited.
- Building Height – the minimum and maximum heights allowed.
- Parking of motor vehicles – the minimum and maximum number of spaces allowed.
- Parking of bicycles- the minimum number of spaces allowed.

This project is located in the Transit-Oriented Higher-Intensity Mixed-Use (TOHIMU) Transect and, because it includes 10 very low income units, also qualifies for waivers and concessions pursuant to the State Affordable Housing Density Bonus laws, as discussed in more detail below. The applicant has elected to use the waivers and concessions for

which the project qualifies. Except for the aspects of the project to which the waivers and concessions have been applied, the project meets all other relevant development standards specified for its location in the Plan Area.

Section 2.02.07 of the San Pablo Avenue Specific Plan establishes four "tiers" of Design Review for projects within the San Pablo Avenue Specific Plan area. Tiers I and III are applicable to renovation and modification of existing buildings. Tiers II and IV are applicable to new construction. Tier II Design Review "applies to new projects that are designed in full compliance with development and design standards of the San Pablo Avenue Specific Plan." Tier IV Design Review "is intended to allow high-quality new development projects that would not otherwise be allowed under a strict interpretation of the Specific Plan regulation, but nevertheless comply with the intent of the Specific Plan…". Tier II Design Review requires approval of the aesthetic components of the project by the Design Review Board. (See the "City Council Purview" section, below, for a discussion of the Tier II Design Review purview.) Tier IV Design Review requires a similar approval from the Design Review Board and also requires the Planning Commission to make a determination that the project "provides a public benefit which is consistent with the goals of the Specific Plan and furthers an important goal(s) as stated in adopted City policy documents…".

As this report will demonstrate, utilizing the tables and narrative below, this project is consistent with the standards of the San Pablo Avenue Specific Plan. Deviations from the standards are solely the result of concessions and waivers to which the project is legally entitled under the state Density Bonus Law. In staff's view, in this case, because the deviations are ones to which the applicant is legally entitled, and the project is consistent with all other standards of the San Pablo Avenue Specific Plan, the project is subject to Tier II Design Review.

The tables below show the relevant Specific Plan standards and the compliance of the project with those standards. The project is located on a portion San Pablo Avenue which is designated as a Community Street in the San Pablo Avenue Specific Plan.

Regulation by Street Type: SPA Community Street	*Required*	*Provided*
Building Placement		
Sidewalk Amenity Zone	6 ft. min	6 ft.
Sidewalk Pedestrian Zone	8 ft. min	8 ft.
Sidewalk Activity Zone	0 ft. min	0 ft. min

Ground Floor Front Setback	Min: distance needed to accommodate required zones Max: Up to 10 ft. for non-residential uses; up to 15 ft. for residential uses	3 ft.
Side Setback	0 ft. min.	0 ft. min.
Rear Setback	See Shadows	0 ft. (No applicable shadow standard at rear)
Pedestrian Access	Street facing ground floor units and spaces to have individual entries along front or side streets. Upper floor units and spaces to be accessed by common entry along the front or side streets.	Residential entry on San Pablo Avenue. Project seeks a waiver pursuant to the State Affordable Housing Density Bonus for unit entries on San Pablo Ave (see discussion below).
Vehicular Access	Max 20 ft. 2-way driveways, minimum 100 feet apart. Side access on corner lots.	(1) 17 ft. driveway on San Pablo Avenue
Building Form		
Upper Floor Setbacks	See Shadows	Building is setback in compliance with required shadow standards.
Ground Floor Ceiling Height	14 ft. min clear	11 ft. 4 in. min Project seeks a waiver pursuant to the State Affordable Housing Density Bonus (see discussion below)
Upper Floor Ceiling Height	9 ft. min clear	8 ft. 6 in. min Project seeks a waiver pursuant to the State Affordable Housing Density Bonus (see discussion below)
Building Length	200 ft. max	153 ft. along street frontage

Ground Floor Transparency	Residential 40% min	53%
Upper Floor Transparency	30% min	44%
Front Encroachments	4 ft. max	0 ft.
Rear Encroachments	4 ft. max	0 ft.
Allowed Frontage Types	Min: 50% Flex Max. 50% Forecourt (NE side). Max: 100% Shop Front, Arcade (NE side SPA) or Ecofront	100% Flex Front

Open Space Requirements	*Required*	*Provided*
Private/Common Open Space	80 sq. ft./unit min 144x80=11,520 sq. ft.	11, 655 sq. ft.
Public Open Space	25 sq. ft./1,000 sq. ft. of building for buildings >25,000 sq. ft. (Total of 2,703 sq. ft. required)	2,580 sq. ft. Project seeks a waiver pursuant to the State Affordable Housing Density Bonus (see discussion below)

Transit-Oriented Higher-Intensity Mixed Use Zone	*Required*	*Provided*
Parking		
Auto Parking	Up to 1.0 spaces/unit (Reductions and increases allowed with Zoning Administrator approval)	0.53 space per unit (total of 77 garage spaces)
Bicycle Parking	Min 1 short-term space/10 units 144/10=14.4 (14) spaces Min 1.5 long-term spaces/unit 144x1.5=216 spaces	8 racks = 16 short-term bike spaces 220 long-term spaces

Building Height		
Maximum Height	85 ft. max for affordable housing projects, as defined by State law	85 ft. Project seeks a waiver pursuant to the State Affordable Housing Density Bonus (see discussion below)
Minimum Height	3 stories residential, 2 stories commercial	8 residential stories

State Affordable Housing Density Bonus

Based on the applicant's commitment to include 10 qualifying Very Low Income units in the project, the project is eligible for a density bonus pursuant to California Government Code Section 65915. Using the project plans, staff calculated a "base project" of 85,737 square feet, with a total of 112 "base" dwelling units. The Base Project is the version of the project that could be built without modification of the development standards. In order to ensure the accuracy and feasibility of the base project, staff utilized a base project with a 65-foot height limit (as permitted under the TOHIMU development standards).

Based on the applicant's commitment to provide 9% (10 out of 112) of units in the base project as units affordable to Very Low Income households (≤50% Area Median Income) the project qualifies for a 30% density bonus. 30% of the 112-unit base project is 32 bonus units. Adding the bonus units to the base project results in 144 total units, including the 10 affordable units. Further, the San Pablo Avenue Specific Plan identified a maximum height of 85-feet (in the TOHIMU district) which is permitted under the affordable housing density bonus. The project proposes to provide the bonus units within this height limit.

Pursuant to the density bonus law, the applicant is permitted to request one "concession" or "incentive" and an unlimited number of "waivers". Concessions or incentives can include modifications to development standards, zoning standards, and architectural or design standards, or other regulatory concession or incentives which result in "identifiable and actual cost reductions to provide for affordable housing." Waivers are available for development standards that physically preclude the construction of the project that qualifies for a density bonus. In the case of this project, the applicant is seeking one concession and four waivers.

The concession seeks relief from the requirement for street-facing units on the San Pablo Avenue Community street type to have individual unit entries along the street. The majority of the San Pablo Avenue frontage is occupied by the building lobby, leasing office, amenity space and trash room. However, four residential units are proposed with frontage on San Pablo Avenue. Eliminating the street-facing entries for these units results in a small construction cost savings for the project. Further, there are additional cost

savings presented by not having to provide enhanced security features for units with access to San Pablo Avenue. This concession will provide greater security for these units, making them more desirable and increasing rental rate of the unit, which, in turn, can underwrite the cost of providing the affordable units. The applicant has estimated that the units will rent for 15-25% more with the additional security provided by not having unit entries on the street.

The first waiver is an increase in the height limit, as previously discussed. This height increase is specifically permitted on FBC Table 05 of the San Pablo Avenue Specific Plan. "Affordable housing project[s], as defined by State law" are permitted at a maximum height of 85 feet in the TOHIMU district. The second waiver would allow the project to provide 8-foot, 6-inch ceiling heights on the upper floors, where 9-foot ceiling heights would normally be required. Similarly, the third waiver would allow the project to provide an 11-foot, 4-inch ceiling on the ground floor where a 14-foor ceiling height is required. These waivers of the ceiling height requirements will allow the project to provide the permitted bonus units within the 85-foot height limit identified in the San Pablo Avenue Specific Plan. The fourth waiver is a reduction in the amount of public open space provided from the required 2,703 square feet to 2,580 square feet. Previously, all required public open space was provided onsite. As a result of feedback from the Design Review Board, the site plan was substantially revised prior to approval of the project. The reduction of 123 square feet of public open space is necessary to accommodate the bonus units on the site in the revised site plan configuration.

Architectural Design

The project features a contemporary architectural style. The San Pablo Avenue elevation features smooth stucco as the primary façade material. The stucco surface would be colored brown. The project would also feature large projecting bays clad in corrugated metal panels. The metal panels would be painted a gray color. The balconies located within these projections would be lined with wood veneer resin panels. The elevator shaft would be a prominent feature of the front elevation and would be clad with dark bronze aluminum storefront windows. The ground floor façade would feature a similar aluminum storefront to the left of the elevator tower and a smooth, stained concrete surface, with windows, to the right of the elevator tower. Upper floor residential units would feature dark bronze vinyl windows. The north-facing building elevation would contain smaller projecting bays, clad in the same metal panels, with the smooth stucco surface dominating more of the north elevation.

In order to create the noise attenuation required for the project, the BART-facing façade will feature a sound partition. The sound partition has been substantially revised from previous versions of the project. The partition now extends 5 stories and features transparent window openings on all levels.

Project Rendering

Landscape Design

As discussed above, the project contains a variety of open spaces, including a courtyard for residents of the project, a roof deck on the sixth floor, and two public plaza areas. The courtyard would feature landscaping, common seating areas, and a petanque court. The roof deck would feature seating areas, a fire pit, and an outdoor kitchen. The plazas would feature a mixture of hardscape and landscape areas, as well as amenities such as birdhouses, insect motels, and interpretive signage.

The plant palette features a mixture of drought-tolerant and native plants such as Manzanita, California Fuchsia, and California Grey Rush.

Art in Public Places

The project is required to comply with Chapter 13.50, Art in Public Places of the El Cerrito Municipal Code. The applicant is proposing to include art onsite. The proposed art includes a sculptural element at the acute angle of the building located where the Richmond Greenway meets San Pablo Avenue.

Monetary Contributions to the Community

To understand the direct and indirect contributions to the community, staff has created a list illustrating the financial contributions that are required to be made by the applicant related to this project. Some are directly submitted to the City of El Cerrito. Others are submitted to community agencies such as the West Contra Costa Unified School District and West County Transportation Advisory Committee. These contributions are over and

above what is required to be paid to the Stege Sanitary District and any building and planning user fees needed for processing the entitlement, plan review and inspection of the project during the construction phase.

1. Estimated* West Contra Costa Unified School District fee of $5.05 per square foot are assessed on gross square footage of the project. (123,914 sq. ft. x 5.05= $625,765.70) This money is collected by the School District to help fund both modernization and new construction of school facilities.

2. Estimated* West County Sub Regional Transportation Mitigation Program (STMP Fee) of $2,679 per multi-family dwelling unit. (144 du x $2,679=$385,776). This is collected by the City and transferred to West County Transportation Advisory Committee to assure that new development in West County pays its fair-share toward regional circulation and transit improvements that are proportional to the traffic impact the new development will generate. The local fees collected in West County provide congestion relief to mitigate traffic on regional routes and through improved transit service.

3. Estimated * Transportation Impact Fee of $2,325 per multi-family dwelling unit (144 du x $2,325 = $334,800). The project will be required to pay a Transportation Impact Fee (TIF) to fund improvements contained in the Complete Streets chapter of the San Pablo Avenue Specific Plan. These improvements will be constructed by the City as funds are accumulated and sufficient for specific project phases.

Total community contribution of this project is estimated to be $1,346,341.70

*Denotes that these fees change on a periodic basis and are due at building permit. As construction plans typically take 12 to 18 months to complete, these fees may have changed by the time payment is due.

<u>Design Review Process</u>

The project has been reviewed by the Design Review Board several times in both study sessions and public hearings over the last year. Below is a brief chronology and narrative from both staff review and these public meetings.

The application for Tier II Design Review for the project was originally submitted on March 1, 2017. Following several rounds of comments from City staff, the application was determined to be complete on March 16, 2018. The first Design Review Board study session for the project was held on July 5, 2018.

As a result of noise measurements taken during the environmental review process, a much greater degree of noise attenuation was required in order to achieve the interior and exterior noise levels required by State and City standards. The project as originally submitted, proposed a U-shaped building with an interior courtyard that opened toward the Richmond Greenway and the elevated BART tracks. The curving nature of the elevated tracks results in elevated noise levels. The required noise attenuation could not be achieved with the site plan that was originally proposed. The project was subsequently redesigned to provide the required noise attenuation.

The initial redesign resulted in an O-shaped building, with a large, blank wall facing the Greenway. An additional Design Review Board study session was held on October 3, 2018. At this meeting, the Design Review Board provided comments to the applicant and the project was further refined. The first public hearing for the project was held on November 7, 2018. At this meeting, the Board conducted a public hearing, provided comments to the applicant and continued the hearing to December 5, 2018. At the December 5, 2018 meeting, the Board gave further comments to the applicant, and continued the hearing to the January 24, 2019 special meeting. Over the course of these meetings, the Design Review Board felt strongly that the O-shaped site plan was an inferior design, and that the enclosed interior courtyard would be a dark, cold and unpleasant space. Subsequent to this redesign, staff commenced revisions to the Initial Study checklist to address comments that had been raised. By January 24, 2019, the final Initial Study Checklist for the project was not complete, and the Board continued the hearing to February 6, 2019 without further discussion.

By February 6, 2019, the project had been revised substantially to address the Board's previous comments. The project featured the L- or V- shaped site plan that is currently proposed. The Design Review Board considered these revisions to be a great improvement over the previous site plan and gave final comments to the applicant at this meeting. Because the hearing for the project had been continued several times, staff recommended that a new public notice be distributed for the project and a new hearing commence on March 6, 2019. At the March 6, 2019 meeting, upon motion of Boardmember Chuaqui, with a second by Boardmember Thompson, the Board approved the project on a vote of 4-0, with Boardmember Groch absent. The packet for this meeting is available at: http://www.el-cerrito.org/ArchiveCenter/ViewFile/Item/4752

Planning Commission Appeal

On March 14, 2019, Sara Dudley of Adams, Broadwell, Joseph & Cardozo, representing El Cerrito Citizens for Responsible Development submitted an appeal of the Design Review Board's approval of the project. The Planning Commission considered this appeal on April 17, 2019. After hearing presentations from City staff, the appellant, and the applicant, and conducting a public hearing, the Commission unanimously denied the appeal, upon motion of Commissioner Bloom, second by Commissioner Hansen, with all Commissioners present. As part of its action, the Commission added three Conditions of approval to the project. The first condition required 5'-2"-wide windows on all studios. The second condition required the applicant to work with the Public Works Department to install a loading zone for the project, as feasible. The third condition requires the applicant to prepare a glare analysis and to implement measures to eliminate glare from the building consistent with the program EIR for the San Pablo Avenue Specific Plan.

The packet for this meeting is available at: http://www.el-cerrito.org/ArchiveCenter/ViewFile/Item/4801

City Council Appeal

Following the Planning Commission's denial of the appeal, the original appellant declined to file a further appeal to the City Council. However, on the deadline of the appeal period, an appeal of the Planning Commission's action was filed by El Cerrito resident Howdy Goudey. In his letter of appeal (Attachment 4), Mr. Goudey makes a series of points related to the appeal. A summary of these points and the staff response to each is contained below.

Appellant's point:

Mr. Goudey's contends that the project is not subject to Tier II Design Review because it is not consistent with the standards contained in the San Pablo Avenue Specific Plan.

Staff Response:

As demonstrated in this report, particularly the tables above, the project is consistent with the standards of the San Pablo Avenue Specific Plan. Deviations from the standards are solely the result of concessions and waivers to which the project is legally entitled under the state Density Bonus Law. In staff's view, in this case, because the deviations are ones to which the applicant is legally entitled, it would undermine the purpose of Tier II review to elevate the level of review to Tier IV as a result of providing 10 units affordable to very-low income households.

A detailed response to each standard raised in Mr. Goudey's letter is contained below. Furthermore, the project was reviewed by both the Design Review Board, and during the first appeal, by the Planning Commission. Neither body maintained that this project was not subject to Tier II Design Review project.

Appellant's point:

The project is not consistent with the standard contained in *Section 2.04.02.05, Table 15* that requires individual unit entries along the Ohlone Greenway.

Staff Response:

The standard states, "Ground floor units and spaces to have individual entries along front or side streets." The reference to front and side streets is a typo. The title of *Table 15* is "Ohlone Greenway Building Placement" and the table is intended to reference the Ohlone Greenway.

This standard is intended and has consistently been interpreted to require individual unit entries along the Ohlone Greenway when residential units are proposed along Ohlone Greenway frontage. This project does not propose units along the Ohlone Greenway frontage, so no unit entries along the Greenway could be provided. The standard does not require a project to front ground floor units on the Greenway if the property abuts the Greenway.

The project has few interior spaces (i.e. spaces other than residential units) which front onto the Richmond/Ohlone Greenway. Therefore, building entries are not provided along the Greenway. Further, as described above, a high degree of sound attenuation is required along the Ohlone Greenway in order for the project to be compliant with State and City noise standards. This level of sound attenuation is only achieved by locating units further away from the elevated BART tracks (i.e. the Richmond/Ohlone Greenway).

Appellant's Point:

The project is not consistent with the standard contained in *Section 2.04.02.05, Table 16* regarding ground floor and upper floor transparency.

Staff Response:

The project is consistent with the transparency standards contained in *2.04.02.05, Table 16*. The standards require a minimum of 30% ground-floor transparency for residential land uses and a minimum of 25% upper floor transparency. The project proposes 30.5% transparency on the ground floor and 29% transparency on upper floors. In applying the San Pablo Avenue Specific Plan standards to this project, staff have applied the residential ground floor transparency requirement adjacent to the Richmond/Ohlone Greenway. As discussed above, the project features a common open space area adjacent to the Greenway, which is separated from the Greenway by a sound partition. This is a unique scenario which is unlikely to occur anywhere else in the City. In applying the San Pablo Avenue Specific Plan development standards to these unique circumstances, staff determined that the residential transparency standard was most appropriate.

Appellant's Point:

The project is not consistent with *Section 02.05.06.02.02.D* regarding placement of plazas.

Staff Response:

Section 2.05.06 of the San Pablo Avenue Specific Plan contains a series of "standards and guidelines" related to public open space. *Section 02.05.06.02.02.D* is a guideline that is implemented when feasible. City staff have encouraged the creation of new public open spaces consistent with the guidelines contained in *Section 2.05.06.* However, the San Pablo Avenue Specific Plan also recognizes the need for flexibility when designing new open spaces, due to a variety of constraints and opportunities that might be provided by a particular site. For example, on another project located at 10135 San Pablo Avenue, an existing vacated street (Avila, adjacent to the current Popeye's quick service restaurant) is located on the north side of the project site. The public open space for the project was located adjacent to this area, to build off of the opportunity presented by the vacated street. With regard to the project now being appealed, as stated previously, the noise levels from BART present a challenge and constraint to the project. Furthermore, the site of the proposed open space is adjacent to open space in the City of Richmond. The location is better shielded from the noise of

BART and builds-off of the adjacent Richmond open space at the City's northern gateway. The Design Review Board and Planning Commission weighed these various issues when approving the location of the public open space on the north side of the building.

Appellant's Point:

The project is not consistent with *Section 2.05.06.02.02*, related to transparency along plazas.

Staff Response:

Section 2.05.06 of the San Pablo Avenue Specific Plan contains a series of "standards and guidelines" related to public open space. *Section 02.05.06.02.02* is a guideline that is implemented when feasible. Further, the project implements transparency requirements for the San Pablo Avenue Community Street type along this frontage. 75% transparency is typically achieved through implementation of fenestration such as an aluminum storefront system, as is proposed along San Pablo Avenue-facing amenity space. These types of window systems give a commercial feel and appearance and are not appropriate for residential land uses.

Appellant's Point:

The project is not consistent with *Section 2.05.06.02.04.G*, related to ground-floor transparency along 'creek greenways.'

Staff Response:

Creek Greenways are described in *Section 2.05.06.02.04* as, "Linear open spaces designed to provide enhanced connectivity between destinations and other open spaces while also providing areas for activity and gathering. Creek greenways run along the riparian edge and provide opportunities to bring the public closer to this natural amenity."

The project is not adjacent to a creek greenway as described in *Section 2.05.06.02.04*. The Richmond Greenway and Baxter Creek lay on opposite sides of the project site. The portion of the open space adjacent to the project site which contains a segment of Baxter Creek does not contain a pedestrian path.

Appellant's Point:

The project is not consistent with *Section 2.05.07.08, Table 31*, regarding wall heights.

Staff Response:

The BART-facing façade of the proposed building is an integral part of the building structure. Although it has been referred to as a "sound wall," it is not the type of structure typically thought of as a wall. It will act as a building façade, containing the common open space, which is integrated into the architecture of the building. The design of this wall is based on feedback from the Design Review Board over several

meetings. This façade treatment is required in order to provide the level of sound attenuation required in interior and exterior spaces within the project. Windows have been provided in this façade in order to comply with the transparency standards of the San Pablo Avenue Specific Plan. The façade will look and act like a building façade, and therefore the standards for buildings have been applied to this portion of the project.

Appellant's Point:

The public open space requirement is not met and the State density bonus waiver is applied incorrectly.

Staff Response:

Pursuant to *Section 65915(e)(1)* of the Density Bonus Law, cities must grant waivers to density bonus projects for "any development standard that will have the effect of physically precluding the construction of a development." Although the project features more than the required amount of private and common open space, it is not feasible to simply redistribute open space between common and public open space types. First, it would be impossible to provide 123 square feet of public open space in this location while achieving the minimum dimensions for open space required by the San Pablo Avenue Specific Plan. The Specific Plan requires that plazas be a minimum of 10 feet deep and 20 feet wide. These dimensions equal a minimum of 200 square feet. The applicant has revised the site plan to provide additional open space along the Richmond/Ohlone Greenway. This additional space is provided as an additional setback from a portion of the Greenway. However, this space does not meet the dimensional requirements and is not being counted toward the public open space requirement. Further, placing a larger amount of additional public open space along the Richmond/Ohlone Greenway was discouraged by the Design Review Board which encouraged the applicant to eliminate spaces that could pose a safety concern and could promote camping along the public trail.

<u>City Council Purview</u>

Pursuant to *Section 2.02.07.01.02.B* of the San Pablo Avenue Specific Plan, Tier II Design Review is the entitlement process for new projects that have been designed in full-compliance with the design standards of the San Pablo Avenue Specific Plan.

The Design Review Board is the body of decision for Tier II Design Review. Because the Design Review Board's action was appealed to the Planning Commission, and the Planning Commission's action was appealed to the City Council, the City Council is now tasked with taking action on the Tier II Design Review. The Council's purview for the appeal remains the same as the Design Review Board's Tier II purview and includes the following components:

- Exterior building colors, materials, and textures
- Landscaping
- Site Plan
- Building facades and articulation

- Relationship of the development to adjacent public rights-of-way
- Signs
- Locations and footprints of bioretention facilities as required for stormwater management

Public Notice and Comment

The required public notice for the appeal hearing was mailed to owners of property within 300 feet of the project site and posted at the site on May 28, 2019, publicly posted June 6, 2019, and published in the East Bay Times June 8, 2019.

No comments were received related to this appeal.

Previous comments were received related to previous versions of the project, the Design Review Board's consideration of the project, and the appeal to the Planning Commission. Those comments are available as attachments to the previous staff reports, which are referenced above.

Intent of the Specific Plan

The project will implement the following strategies of the San Pablo Avenue Specific Plan:

Strategy A.3: Optimize Placemaking in all developments.

The project addresses San Pablo Avenue with entries onto the street and landscaping improvements within the public-right-of-way. The project will also enhance the Richmond Greenway with additional public space. The project will continue to enhance the San Pablo Avenue corridor, as a place, by bringing more residential units to this location of El Cerrito.

Strategy A.4: Attract pedestrian activity to key nodes to foster community and identify places of interest.

The project site fronts onto San Pablo Avenue, a Community Street. The proposed project will enhance the existing mixed-use node on San Pablo Avenue near MacDonald Avenue.

Strategy B.1: Maximize TOD potential (BART and AC Transit).

The project will provide 144 new residential units in close proximity to existing AC Transit lines and the El Cerrito del Norte BART station. The project includes bike parking as required by the San Pablo Avenue Specific Plan and will provide a pleasant pedestrian environment along San Pablo Avenue and the intersection of the Richmond Greenway and Ohlone Greenway.

Strategy B.2: Stimulate investment in vacant/underutilized sites at key focus areas.

The project will develop a long vacant lot. The proposed project will provide 144 new residential units in close proximity to public transit on San Pablo Avenue, and the Uptown district.

Strategy B.3: Build on recent and planned private and public investments.

The applicant proposes to add 144 new residential units to a vacant parcel. The project will build upon the development of other projects in the San Pablo Avenue Specific Plan area, as well as recent public investment in improvements to San Pablo Avenue, and the Ohlone and Richmond Greenways.

Strategy E.1: Promote infill development through increased land use intensity close to existing transit infrastructure.

The project will provide 144 new residential units by converting a vacant parcel into a new building in close proximity to existing public transit infrastructure.

General Plan Compliance

The project is consistent with and will implement the following policies of the El Cerrito General Plan:

LU1.5: Suitable Housing. Promote suitably located housing and services for all age groups within the city. Within the San Pablo Avenue Specific Plan area, allow ground floor residential development and increased land use intensity close to existing transit infrastructure to promote residential infill development and catalyze mode shift.

The project will provide 144 new housing units in the San Pablo Avenue Specific Plan Area with close proximity to public transportation and commercial uses.

LU2.1: San Pablo Avenue Specific Plan Area. Promote retail, office, and mixed uses within the San Pablo Avenue Specific Plan Area to provide more tax revenues to the city.

In accordance with the goals of the San Pablo Avenue Specific Plan, the proposed project will add housing units to the San Pablo Avenue Specific Plan Area which will promote a balanced mixture of land uses in the corridor. The new residents of the project will support new and existing businesses along San Pablo Avenue.

LU4.1: Mixture of Uses. Encourage a mix of uses that promotes such community values as convenience, economic vitality, fiscal stability, public safety, a healthy environment, and a pleasant quality of life.

The proposed project will enhance the mixture of uses along San Pablo Avenue, which contains both residential and commercial land uses. The location of the project will provide the residents with convenient access to businesses, parks, schools, public transit, and the Ohlone and Richmond Greenways. The design of the project will allow for surveillance of the street, enhancing public safety.

LU5.6: Development Along the Ohlone Greenway. New or substantially altered development abutting the Ohlone Greenway will be evaluated with respect to how the development enhances the aesthetics and ambiance of this important linear recreational and transportation facility, and how the development contributes to the security of users of the Greenway. The City will expect frontage along the Greenway to be treated as if it were public street frontage, with commensurate attention to design quality.

The proposed project is adjacent to the Richmond Greenway, at the intersection where it connects to the Ohlone Greenway. It has been evaluated as part of the Design Review process. The project proposes a high degree of windows and transparency on the Greenway frontage, while achieving the required noise attenuation. The project has been substantially revised to enhance this elevation based on the Design Review Board's feedback. The project will provide visibility between the Greenway and the project's outdoor open space and will enhance this portion of the Greenway.

LU6.2: Circulation Alternatives. To the extent possible, encourage alternatives to the use of private automobiles. Encourage a full range of transportation options – driving, transit, walking and biking – without allowing any one to preclude the others. On San Pablo Avenue, in many constrained right-of-ways, it is not possible to provide optimum facilities for all user groups and in the event that trade-offs are necessary, transit users and pedestrians are the highest priority.

The location of the project provides convenient access to frequent public transit along San Pablo Avenue as well as the El Cerrito del Norte BART station. The location also provides convenient walking access to local businesses.

CD1.9: Building Design. A variety of attractive images will be achieved by encouraging a variety of building styles and designs, within a unifying context of consistent "pedestrian" scale along streets and compatibility among neighboring land uses.

The proposed residential use is compatible with the existing mix of land uses on San Pablo Avenue. The building is designed at a pedestrian scale, with units facing San Pablo Avenue. The building features a variety of colors and materials, and pop-outs and recesses, which create architectural interest.

CD2.1: Street Frontages. Encourage street frontages that are safe, by allowing for surveillance of the street by people inside buildings and elsewhere, and are interesting for pedestrians. Require buildings in the San Pablo Avenue Specific Plan area to be directly abutting sidewalks, with window openings, entries and high levels of transparency along the pedestrian frontage.

The building will abut the sidewalk on San Pablo Avenue and features pedestrian access to the street. The street-facing windows will allow surveillance of the street. The building features a high degree of glazing and transparency.

CD2.3: Streetscape Improvements. Maintain an active program of street tree planting and improved roadway landscaping through both public and private means. Design guidelines shall describe appropriate types of trees for commercial areas – to enhance the shopping experience rather than detract from it.

The project will provide new street trees and public improvements on San Pablo Avenue.

CD3.2: Usable Open Space. Require the provision of usable open space in the form of ground-floor patios, upper-floor decks, and balconies, as well as common recreational facilities and amenities.

The project features common open space in the form of a courtyard and a rooftop deck with amenities. Private open space is being created with balconies on many of the units.

CD3.3: Site Landscaping. Improve the appearance of the community by requiring aesthetically designed screening and landscaping on public and private sites. Ensure that public landscaping includes entry areas, street medians, parks, and schools. Require landscaping for all private sites, yard spaces, parking lots, plazas, courtyards, and recreational areas.

The project has provided landscaping in conformance with the standards in the San Pablo Avenue Specific Plan. New street trees will be installed on San Pablo Avenue, and new landscaping will be installed at the perimeter of the project and in the public and common open spaces.

CD3.12: Landscape Species. Indigenous and drought-tolerant species that reduce water usage and are compatible with El Cerrito's climate are encouraged.

The proposed plant palette includes native, drought-tolerance plants such as Manzanita, California Grey Rush, Yarrow, Flax, California Buckwheat and Dune Sedge.

CD4.2: Building Articulation. Ensure that buildings are well articulated. Avoid large unarticulated shapes in building design. Ensure that building designs include varied building facades, rooflines, and building heights to create more interesting and differentiated building forms and shapes. Encourage human scale detail in architectural design. Do not allow unarticulated blank walls or unbroken series of garage doors on the facades of buildings facing the street or the Ohlone Greenway.

The proposed building is articulated in compliance with the San Pablo Avenue Specific Plan. The building includes a varied façade and interesting building form. The building is designed at a human scale with a pedestrian entry on San Pablo Avenue. The Ohlone greenway frontage features a great degree of building articulation.

CD5.1: Design Review Process. Continue design review and approval process for all new development, changes, additions, and modifications of existing buildings (except for single-family homes on existing lots).

The proposed project received Tier II Design Review approval from the Design Review Board in compliance with the San Pablo Avenue Specific Plan. This approval was appealed to the Planning Commission, which upheld the approval. The Planning Commission's action was appealed to the City Council.

T2.1: Land Use Patterns. Recognize the link between land use and transportation. Promote land use and development patterns that encourage walking, bicycling, and transit use. Emphasize high-density and mixed land use patterns that promote transit and pedestrian travel. Where feasible, emphasize the following land use measures:

1. Promote conveniently located neighborhood complexes that provide housing and commercial services near employment centers and within transit corridors.

2. Promote land use patterns that maximize trip-linking opportunities by assembling uses that allow people to take care of a variety of daily needs.

3. Encourage pedestrian-oriented land use and urban design that can have a demonstrable effect on transportation choices.

4. Direct growth to occur along transit corridors.

5. Encourage retail, commercial, and office uses in ground floor space in combination with upper-floor housing along San Pablo Avenue.

The project will provide 144 new residences in close proximity to public transportation and local businesses. In accordance with the goals of the San Pablo Avenue Specific Plan, the project will add housing units along San Pablo Avenue, a major transit corridor.

T2.2: Project Design. Projects should be designed to include features that encourage walking, bicycling, and transit use.

The building will abut the sidewalk on San Pablo Avenue and features pedestrian access onto the street via the lobby. As required, the project provides ample bicycle parking.

H2.2: Encourage the construction of transit-oriented developments (TODs) that seek to maximize opportunities for the use of public transit and transportation corridors through high-density residential and mixed-use projects along those corridors in accordance with the San Pablo Avenue Specific Plan and the City's Incentives Program (Chapter 19.23 of the El Cerrito Zoning Ordinance.)

The project provides higher-density housing along a transit corridor consistent with the Transit-Oriented Higher-Intensity Mixed Use Transect Zone in the San Pablo Avenue Specific Plan.

H2.3: Continue to enforce the sections of the Zoning Ordinance that increase density, reduce parking requirements, and establish design and development standards to create inviting, mixed-use neighborhoods around transit, and enforce the San Pablo Avenue Specific Plan.

The San Pablo Avenue Specific Plan reduced parking requirements and eliminated maximum density in the plan area. This project will enhance the mix of uses in the corridor adjacent to public transit. The project complies fully with the standards of the San Pablo Avenue Specific Plan.

Required Findings

Pursuant to Section 2.02.07.01.02.B.3 of the San Pablo Avenue Specific Plan, in acting to approve or conditionally approve an application for a Tier II Design Review application, the City Council shall make the following findings:

a. That the project complies with all applicable Specific Plan design standards;

As discussed in the staff report, the project complies with all standards of the San Pablo Avenue Specific Plan, except as a result of a concession and waivers to which the project is legally entitled pursuant to the State Affordable Housing Density Bonus Law.

b. That the project implements applicable goals and policies of the El Cerrito General Plan.

As discussed in this report, the proposed project will implement the following goals of the El Cerrito General Plan: LU1.5: Suitable Housing, LU2.1: San Pablo Avenue Specific Plan Area, LU4.1: Mixture of Uses, LU5.6: Development Along the Ohlone Greenway, LU6.2: Circulation Alternatives, CD1.9: Building Design, CD2.1: Street Frontages, CD2.3: Streetscape Improvements, CD3.2: Usable Open Space, CD3.3: Site Landscaping, CD3.12, Landscape species; CD4.2 Building Articulation; CD5.1, Design Review Process; T2.1: Land Use Patterns, T2.2: Project Design, Policies H2.2, and H2.3.

STRATEGIC PLAN CONSIDERATIONS

By implementing the General Plan policies discussed above, the project will further Goal C: *Deepen a sense of place and community identity* of the El Cerrito Strategic Plan by incorporating a "vision for underdeveloped and underutilized properties…that [includes] investment and/or new development."

ENVIRONMENTAL CONSIDERATIONS

A Program Environmental Impact Report (program EIR) was certified for the San Pablo Avenue Specific Plan in 2014. This type of environmental documentation is authorized by section 15168 of the California Environmental Quality Act (CEQA) Guidelines for use in documenting the environmental impacts of specific plans, and other planning "programs." As explained in the CEQA Guidelines, a program EIR is useful in evaluating the potential environmental impacts of a project that involves a series of interrelated actions that can reasonably be characterized as a single project. Subsequent activities that fall within the scope of the program may not be subject to further environmental review if the environmental effects of the subsequent activity have been adequately addressed in the program EIR. CEQA Guidelines Section 15168(c)(4) recommends using a written checklist or similar device to confirm whether the environmental effects of a subsequent activity were adequately covered in a program EIR.

An Initial Study Checklist has been prepared for this project (Attachment 3). The responses contained in the checklist confirm that the project is considered within the scope of the evaluation completed for the program EIR. No new impacts were identified and no new mitigation measures are required.

Several conditions of approval have been included in the draft resolution to ensure that key mitigation measures of the San Pablo Avenue Specific Plan Program EIR are implemented with regard to this project. The inclusion of these conditions ensures that the project will not have environmental effects which have not previously been addressed in the San Pablo Avenue Specific Plan EIR.

FINANCIAL CONSIDERATIONS

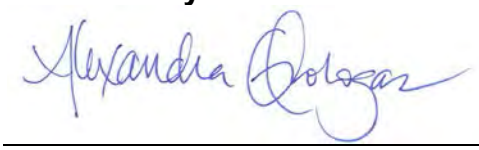
The project has paid all required application fees which cover the City's costs for processing the planning application, including environmental review. The appellant has paid the required appeal fee. The non-applicant appeal fee has been set by the City at a reduced rate that does not fully cover the City's costs for the appeal.

If approved and a building permit application is submitted, the project will pay all applicable building permit fees which cover the City's costs to process a building permit and provide inspection for the project. Prior to issuance of a building permit, the applicant would also be required to pay all adopted impact fees (as detailed in this report) which provide funds to address the project's fair share of associated impacts.

LEGAL CONSIDERATIONS

The City Attorney has reviewed and approved this report. Notification of this public hearing was publicly posted on June 6, 2019 and published in the West County Times on June 8, 2019.

Reviewed by:



Alexandra Orologas
Assistant City Manager

Attachments:

1. Resolution
2. Project Plans
3. Initial Study Checklist
4. Letter of Appeal from Howdy Goudey, dated April 26, 2019
5. Design Review Board Resolution DRB19-04
6. Planning Commission Resolution PC 2019-07
7. Letter from Mark A. Rhoades, representing the applicant, dated May 31, 2019
8. Supplemental letter from Howdy Goudey, dated June 10, 2019

RESOLUTION 2019-

RESOLUTION OF THE CITY COUNCIL OF THE CITY OF EL CERRITO DENYING AN APPEAL OF THE PLANNING COMMISSION'S TIER II DESIGN REVIEW APPROVAL AND APPROVING TIER II DESIGN REVIEW FOR A PROJECT CONTAINING 144 RESIDENTIAL UNITS, LOCATED AT 11965 SAN PABLO AVENUE

WHEREAS, on March 1, 2017, the applicant submitted application PL17-0028 for Tier II Design Review for an eight-story multi-family residential development (the "project") located at 11965 San Pablo Avenue in El Cerrito (the "site"); and

WHEREAS, the project site is located within the San Pablo Avenue Specific Plan Area; and

WHEREAS, the General Plan land use classification of the project site is Transit-Oriented Higher-Intensity Mixed Use; and

WHEREAS, the zoning district of the project site is Transit-Oriented Higher-Intensity Mixed Use and the project is located on a Neighborhood Street; and

WHEREAS, the existing Assessor's Parcel Number of the site is 513-340-059; and

WHEREAS, on March 16, 2018, the application was determined to be complete; and

WHEREAS, on November 7, 2018, the Design Review Board, conducted a public hearing and continued consideration of the project to its December 5, 2018 meeting; and

WHEREAS, on December 5, 2018, the Design Review Board, conducted a public hearing and continued consideration of the project to its January 24, 2019 meeting; and

WHEREAS, on January 24, 2019, the Design Review Board, continued consideration of the project to its February 6, 2019 meeting; and

WHEREAS, on February 6, 2019, the Design Review Board, conducted a public hearing; and

WHEREAS, a new public notice was distributed for a hearing for the project on March 6, 2019; and

WHEREAS, on March 6, 2019, the Design Review Board conducted a public hearing, received public testimony, and adopted Resolution DRB 19-02, conditionally approving the project; and

WHEREAS, on March 14, 2019, Sara Dudley of Adams, Broadwell, Joseph &

Cardozo submitted an appeal of the Design Review Board's Tier II Design Review approval of the project on behalf of El Cerrito Citizens for Responsible Development; and

WHEREAS, on April 17, 2019, the Planning Commission conducted a public hearing, considered the appeal and adopted Resolution PC 2019-07, denying the appeal and conditionally approving the project; and

WHEREAS, on April 29, 2019; Howdy Goudey filed an appeal of the Planning Commission's Tier II Design Review approval of the project; and

WHEREAS, on June 18, 2019, the City Council, after due consideration of all evidence and reports offered for review, does find and determine the following:

1. The project is consistent with the Program Environmental Impact Report certified for the San Pablo Avenue Specific Plan, pursuant to CEQA Guidelines Sections 15168(c) and 15182 and is subject to the Program Environmental Impact Report mitigation measures listed below.

2. The project complies with all applicable standards of the San Pablo Avenue Specific Plan, except as a result of a concession and waivers to which the project is legally entitled pursuant to the State Affordable Housing Density Bonus Law. The project complies with the standards for the Community Street type, the standards for the Transit-Oriented Higher-Intensity Mixed Use district, and all other applicable standards of the San Pablo Avenue Specific Plan.

3. The proposed project will implement the following goals of the El Cerrito General Plan: LU1.5: Suitable Housing, LU2.1: San Pablo Avenue Specific Plan Area, LU4.1: Mixture of Uses, LU5.6: Development along the Ohlone Greenway, LU6.2: Circulation Alternatives, CD1.9: Building Design, CD2.1: Street Frontages, CD2.3: Streetscape Improvements, CD3.2: Usable Open Space, CD3.3: Site Landscaping, CD3.12, Landscape species; CD4.2 Building Articulation; CD5.1, Design Review Process; T2.1: Land Use Patterns, T2.2: Project Design, Policies H2.2, and H2.3 of Housing Element Goal H2: New Housing Development.

NOW THEREFORE, BE IT RESOLVED that after careful consideration of maps, facts, exhibits, correspondence, and testimony, and other evidence submitted in this matter, and, in consideration of the findings, the El Cerrito City Council hereby denies the appeal and approves Application No. PL17-0028, subject to the following conditions:

Planning Division:

1. The project will be constructed substantially in conformance with the plans dated April 12, 2019. Minor changes may be approved by the Zoning Administrator. All improvements shall be installed in accordance with these approvals. Once constructed or installed, all improvements shall be maintained as approved.

2. If applicant constructs the building or makes improvements in accordance with these approvals, but fails to comply with any of the Conditions of Approval or limitations set forth in these Conditions of Approval and does not cure any such failure within a reasonable time after notice from the City of El Cerrito, then such failure shall be cause for nonissuance of a certificate of occupancy, revocation or modification of these approvals or any other remedies available to the City.

3. These Conditions of Approval shall apply to any successor in interest in the property and applicant shall be responsible for assuring that the successor in interest is informed of the terms and conditions of this approval.

4. If not used, this design review shall expire two years from the date of this action.

5. The applicant shall share the conditions of approval with their general contractor for the project. The general contractor shall sign a copy of the conditions of approval to acknowledge that he/she is aware of all these conditions of approval and will comply as directed.

    a. Prior to the issuance of a building permit, this signed copy shall be returned to the planning and building division and kept as part of the project file. The conditions of approval shall be reviewed at the mandatory pre-construction meeting held between the City and the General Contractor. A copy of the conditions of approval shall be maintained on the project site at all times during construction.

6. Prior to issuance of building permit, the applicant shall demonstrate compliance with Chapter 13.50: Art in Public Places of the El Cerrito Municipal Code to the satisfaction of the Zoning Administrator. The project shall be fully compliant with Chapter 13.50 prior to issuance of Certificate of Occupancy.

7. In compliance with Chapter 16.34 of the El Cerrito Municipal Code, the applicant shall submit plans for undergrounding of utilities adjacent to the project to the satisfaction of the Building Official prior to issuance of building permit.

8. The cost of all automobile parking shall be separate from the sale or rental price of all residential units. All renters and/or buyers of market-rate residential units shall be free to not rent and/or purchase parking.

9. A construction staging plan shall be submitted to the Zoning Administrator for review and approval prior to the issuance of a building permit. The construction staging plan shall illustrate where the construction equipment will be staged and the location of parking for the construction employees. This construction and staging plan may also require the submission of a Temporary Use Permit to allow this use.

10. Prior to the issuance of a building or demolition permit the applicant/developer shall submit a notice containing the following information to the satisfaction of the Zoning Administrator (text shown in quotes shall be reproduced verbatim on the notice.)

Once approved, the text on this notice shall be transferred onto a 6 foot by 3-foot sign on the project site's construction fence. This temporary sign shall be made of weather resistant materials and remain in place for the duration of the construction of the project.

a. "Emergency contact number: 9-1-1".
   "This number should only be used in case of fire or criminal activity is observed."
b. "Urgent contact numbers:"
   "These numbers should be used for urgent issues such as dust and noise concerns."
   The telephone number and name of person to contact (construction liaison) that is authorized to address urgent concerns on the project team's team. "This person shall respond and take corrective action within 24 hours of receipt of complaint."
c. The Air District's phone number:
   "Bay Area Air Quality Management District: 1-800-334-ODOR (6367) for any issue related to dust and/or air quality"
d. The number of the "Development Service Manager in El Cerrito (510) 215-4332 if any community member has questions or concerns regarding the project."
e. A color rendering of the new project that has been approved for construction along with a brief, factual project description. An interested party contact is also allowed in this section of the notice.

11. Prior to the issuance of a building permit, applicant shall pay all applicable development impact and other fees in the amounts in effect at that time, including but not limited to the Transportation Impact Fee, the West County Subregional Transportation Mitigation Impact Fee, San Pablo Avenue Specific Plan Maintenance Fee, and West Contra Costa County Unified School District impact fees.

<u>Conditions based on applicable mitigation measures from the San Pablo Avenue Specific Plan Program EIR:</u>

12. Aesthetics and Visual Resources. (Mitigation 4.2): The project shall install landscaping and incorporate other measures into and around parking structure(s) (light source shielding, etc.) as necessary to ensure that potential light and glare from vehicles would be avoided toward the Ohlone Greenway, residential uses, and other sensitive uses, consistent with El Cerrito City Resolution 82-9 and the El Cerrito design review process.

    Regarding reflective building materials, for all future development in the Specific Plan area, facades shall be of non-reflective materials, and windows shall incorporate non-reflective coating.

13. Air Quality (Mitigation Measure 5.1): Implement the following Bay Area Air Quality Management District (BAAQMD) recommended measures to control particulate matter emissions during construction. City staff will spot check that these

measures are being implemented throughout the construction phase of the project. These measures reduce diesel particulate matter *PM2.5* and PM10 created from construction to ensure that short-term health impacts to nearby sensitive receptors are avoided or reduced:

Dust (PM2.5 and PM10) Control Measures:

a. Water all active construction areas at least twice daily and more often during windy periods. Active areas adjacent to residences should be kept damp at all times.
b. Cover all hauling trucks or maintain at least two feet of freeboard.
c. Pave, apply water at least twice daily, or apply (non-toxic) soil stabilizers on all unpaved access roads, parking areas, and sweep daily (with water sweepers) all paved access roads, parking areas, and staging areas and sweep streets daily (with water sweepers) if visible soil material is deposited onto the adjacent roads.
d. Hydroseed or apply (non-toxic) soil stabilizers to inactive construction areas (i.e., previously graded areas that are inactive for 10 days or more).
e. Enclose, cover, water twice daily, or apply (non-toxic) soil binders to exposed stockpiles.
f. Limit traffic speeds on any unpaved roads to 15 mph.
g. Replant vegetation in disturbed areas as quickly as possible.
h. Suspend construction activities that cause visible dust plumes to extend beyond the construction site.
i. Post a publicly visible sign(s) with the telephone number and person to contact at the Lead Agency regarding dust complaints. This person shall respond and take corrective action within 48 hours. The Air District's phone number shall also be visible to ensure compliance with applicable regulations.

Additional Measures to Reduce Diesel Particulate Matter and PM2.5 and other construction emissions:

j. The developer or contractor shall provide a plan for approval by the City or BAAQMD demonstrating that the heavy-duty (>50 horsepower) off-road vehicles to be used in the construction project, including owned, leased and subcontractor vehicles, will achieve a project wide fleet-average 20 percent NOX reduction and 45 percent particulate reduction compared to the most recent CARB fleet average for the year 2011.
k. Clear signage at all construction sites shall be posted indicating that diesel and gasoline equipment standing idle for more than five minutes shall be turned off. This would include trucks waiting to deliver or receive soil, aggregate or other bulk materials. Rotating drum concrete trucks could keep their engines running continuously as long as they were on-site or adjacent to the construction site.
l. The contractor shall install temporary electrical service whenever possible to avoid the need for independently powered equipment (e.g., compressors).
m. Properly tune and maintain equipment for low emissions.

14. Air Quality (Mitigation Measure 5.2): Prior to issuance of a building permit the applicant shall require project-level construction health risk assessment shall be completed to the satisfaction of the Zoning Administrator. This assessment shall be completed either through screening or refined modeling to identify impacts and, if necessary, include performance standards and industry-recognized measures to be accomplished through, though is not limited to, the following measures:

    a. Construction equipment selection.
    b. Use of alternative fuels and engine retrofits temporary line power or electric equipment.
    c. Modified construction schedule; and
    d. Implementation of BAAQMD Basic and/or Additional Construction Mitigation Measures for control of fugitive dust.

15. Prior to the issuance of a building permit, the applicant shall implement a program, for review and approval of the Zoning Administrator, that includes the following elements:

    a. Archeological resource identification training procedures for construction personnel
    b. Procedures for reporting archeological discoveries

16. Biological Impacts (Mitigation Measure 6.1): Removal of trees, shrubs, or weedy vegetation between February 1 and August 31 shall require a survey for nesting birds by a qualified wildlife biologist to the satisfaction of the Zoning Administrator. The survey shall be conducted no sooner than 14 days prior to the start of removal of trees, shrubs, or weedy vegetation. Survey results shall be valid for 21 days following the survey. Any removal of trees, shrubs, or weedy vegetation more than 21 days after a survey shall require a new survey. The area surveyed shall include all construction sites, access roads, and staging areas, as well as areas within 150 feet outside the boundaries of the areas to be cleared or as otherwise determined by the biologist.

    In the event that an active nest is discovered in the areas to be cleared, or in other habitats within 150 feet of construction boundaries, clearing and construction shall be postponed for at least two weeks or until a wildlife biologist has determined that the young have fledged (left the nest), the nest is vacated, and there is no evidence of second nesting attempts.

    A qualified biologist shall conduct preconstruction surveys for bats and suitable bat roosting habitat at work sites where culverts, structures and/or trees would be removed or otherwise disturbed prior to the initiation of construction. If bats or suitable bat roosting habitat is detected, CDFW shall be notified immediately for consultation and possible on-site monitoring.

    The survey for nesting birds, bats and suitable bat roosting habitat may be conducted simultaneously.

17. Historic and Cultural Resources (Mitigation Measure 7.2): If subsurface archeological or cultural resources are encountered during ground-disturbing activities, work in the immediate vicinity shall be stopped and a qualified archaeologist shall be retained to evaluate the finds following the procedures described in Mitigation Measure 7-3 of the San Pablo Avenue Specific Plan Environmental Impact Report. Project personnel shall not collect cultural resources. If human remains are found, special rules set forth in State Health and Safety Code section 7050.5 and CEQA Guidelines section 15126.4(b) shall apply, and there shall be no further excavation or disturbance of the site or any nearby area reasonably suspected to overlie adjacent remains until the Contra Costa County Coroner has been notified of the remains and has determined that the remains are not subject to the provisions of Section 27491 of the Government Code or any other related provisions of law concerning investigation of the circumstances, manner and cause of any death, and the recommendations concerning the treatment and disposition of the human remains have been made to the person responsible for the excavation, or to his or her authorized representative, in the manner provided in Section 5097.98 of the Public Resources Code.

18. Paleontological Resources (Mitigation Measure 7.3): The applicant shall implement a program that includes the following elements:

    a. Paleontological resource identification training procedures for construction personnel
    b. Spot-checks by a qualified paleontological monitor of all excavations deeper than seven feet below ground surface
    c. Procedures for reporting paleontological discoveries and their geologic context

    If subsurface paleontological resources are encountered, excavation shall halt in the vicinity of the resources, and the project paleontologist shall evaluate the resource and its stratigraphic context. The monitor shall be empowered to temporarily halt or redirect construction activities to ensure avoidance of adverse impacts to paleontological resources. During monitoring, if potentially significant paleontological resources are found, “standard” samples shall be collected and processed by a qualified paleontologist to recover micro vertebrate fossils. If significant fossils are found and collected, they shall be prepared to a reasonable point of identification. Excess sediment or matrix shall be removed from the specimens to reduce the bulk and cost of storage. Itemized catalogs of material collected and identified shall be provided to a local museum repository with the specimens. Significant fossils collected during this work, along with the itemized inventory of these specimens, shall be deposited in a local museum repository for permanent curatorship and storage. A report documenting the results of the monitoring and salvage activities, and the significance of the fossils, if any, shall be prepared and submitted to the Zoning Administrator.

19. Geology and Soils (Mitigation Measure 8.1): As required by the Building Official, subject to City review and approval, the applicant shall complete and implement the geotechnical mitigation recommendations identified in the required site-specific

geotechnical investigations and engineering studies, in coordination with City grading permit and building permit performance standards.

20. Noise (Mitigation Measure 13.1): Future development would be exposed to outdoor noise levels exceeding acceptable levels as defined in the El Cerrito and Richmond General Plans. Noise levels inside residential structures proposed in such noise environments would exceed 45 dBA Ldn, the local established land use compatibility threshold. In areas where residential developments would be exposed to an Ldn of greater than 60 dBA, El Cerrito General Plan Policy H3.9 requires the evaluation of mitigation measures for specific projects. In Richmond General Plan Action SN4.A, new noise-sensitive uses that are located in an area with day-night average sound levels (Ldn) of 55 or greater require a noise study report; the report shall identify noise mitigation measures that limit noise to an acceptable level compared to existing conditions.

    a. Utilize site planning to minimize noise in residential outdoor activity areas (shared outdoor space in multi-family developments) by locating the areas behind noise barriers, the buildings, in courtyards, or orienting the terraces to alleyways rather than streets, whenever possible. The goal is a maximum noise level of 60 dBA Ldn from roadway traffic and 70 dBA Ldn from BART noise.
    b. The City of El Cerrito requires project-specific acoustical analyses to achieve interior noise levels of 45 dBA Ldn or lower, and the adopted instantaneous noise levels in residential units exposed to exterior noise levels greater than 60 dBA Ldn should not exceed 50 dBA Lmax in bedrooms and 55 dBA Lmax in other rooms. Building sound insulation requirements would need to include the provision of forced-air mechanical ventilation in noise environments exceeding 60 dBA Ldn so that windows could be kept closed at the occupant's discretion to control noise. Special building construction techniques (e.g., sound rated windows and building facade treatments) may be required where exterior noise levels exceed 65 dBA Ldn. These treatments include, but are not limited to, sound rated windows and doors, sound rated exterior wall assemblies, acoustical caulking, etc. The specific determination of what treatments are necessary will be conducted on a unit-by-unit basis during project design. Results of the analysis, including the description of the necessary noise control treatments, will be submitted to the City, along with the building plans, which shall be revised as necessary or approved prior to issuance of a building permit. Feasible construction techniques such as these would adequately reduce interior noise levels to 45 dBA Ldn or lower and meet instantaneous noise limits.
    c. Similar to above, noise insulation features shall be considered on a case-by-case basis for noise-sensitive offices and commercial uses proposed where noise levels exceed 65 dBA Ldn, in order to meet adopted noise standards.
    d. Implementation of these measures would reduce potential noise and land use compatibility impacts to a less-than-significant level.

21. Noise (Mitigation 13.2): New commercial development proposed in the same building as or adjacent to residential development could result in noise levels exceeding City standards.

a. Noise levels at residential property lines from commercial development shall be maintained not in excess of the General Plan and municipal code limits for the Cities of El Cerrito and Richmond. The approval of the commercial development shall require a noise study demonstrating how the business--including loading docks, refuse areas, and ventilation systems--would meet these requirements and would be consistent with the respective City's noise standards.
b. Ensure that noise-generating activities, such as maintenance and loading and unloading, are limited to the hours of 7:00 AM to 9:00 PM.

22. Noise and Land Use Compatibility/Construction Noise (Mitigation Measure 13.3): Construction equipment shall be well-maintained and used judiciously to be as quiet as practical. The following measures shall be implemented to reduce noise from construction activities:

a. Equip all internal combustion engine-driven equipment with mufflers that are in good condition and appropriate for the equipment.
b. Utilize "quiet" models of air compressors and other stationary noise sources where technology exists.
c. Locate stationary noise-generating equipment as far as feasible from sensitive receptors when sensitive receptors adjoin or are near a construction area.
d. Prohibit unnecessary idling of internal combustion engines.
e. Pre-drill foundation pile holes to minimize the number of impacts required to seat the pile.
f. Construct solid plywood fences around construction sites adjacent to operational business, residences, or noise-sensitive land uses.
g. If noise conflicts occur which are not irresolvable by proper scheduling, a temporary noise control blanket barrier shall be erected, as determined to be necessary by the Zoning Administrator, along building facades facing construction sites.
h. Route construction-related traffic along major roadways and as far as feasible from sensitive receptors.
i. Construction activities (including the loading and unloading of materials and truck movements) and excavating, grading, and filling activities (including warming of equipment motors) shall be limited to the hours of 7:00 AM to 6:00 PM on weekdays and to the hours of 9:00 AM and 5:00 PM on Saturdays. Work shall be prohibited on Sundays and Holidays.
j. Businesses, residences, or noise-sensitive land uses adjacent to construction sites shall be notified of the construction schedule in writing.
k. Designate a "construction liaison" who would be responsible for responding to any local complaints about construction noise. The liaison would determine the cause of the noise complaints (e.g., starting too early, bad muffler, etc.) and institute reasonable measures to correct the problem. Conspicuously post a telephone number for the liaison at the construction site.

23. Noise and Land Use Compatibility/Construction Noise (Mitigation 13-4): The following measures are recommended to reduce vibration from construction activities:

    a. Avoid impact pile driving where possible. Drilled piles causes lower vibration levels where geological conditions permit their use.
    b. Avoid using vibratory rollers and tampers near sensitive areas.
    c. In areas where project construction is anticipated to include vibration-generating activities, such as pile driving, in close proximity to existing structures, site-specific vibration studies shall be conducted to determine the area of impact and to present appropriate mitigation measures that may include the following:

        1. Identify sites that would include vibration compaction activities (such as pile driving) and have the potential to generate ground-borne vibration, and the sensitivity of nearby structures to ground-borne vibration. Vibration limits shall be applied to all vibration-sensitive structures located within 200 feet of the project. A qualified structural engineer should conduct this task.
        2. Develop a vibration monitoring and construction contingency plan to identify structures where monitoring would be conducted, set up a vibration monitoring schedule, define structure-specific vibration limits, and address the need to conduct photo, elevation, and crack surveys to document before and after construction conditions.
        3. Design construction contingencies that would be implemented when vibration levels approached the limits.
        4. At a minimum, conduct vibration monitoring during initial demolition activities and during pile driving activities. Monitoring results may indicate the need for more or less intensive measurements.
        5. When vibration levels approach limits, suspend construction and implement contingencies to either lower vibration levels or secure the affected structures.
        6. Conduct post-survey on structures under either of these circumstances: (a) when construction monitoring has indicated high vibration levels or (b) when complaints of damage have been made due to construction activities. Make appropriate repairs or compensation when damage has resulted from construction activities.

<u>Project Specific Conditions of Approval:</u>

24. The BAAQMD's Planning Healthy Places recommend installation of air filters rated at a minimum efficiency reporting value (MERV) 13 or higher in exposed buildings associated with sensitive land uses (e.g. schools, residences, hospitals). Increased cancer risks from I-80 traffic at the project site is significant. Cancer risks is mostly the result of exposure to diesel particulate matter, although, gasoline vehicle exhaust contributes. The project shall include the following measures, as a condition of approval, to minimize long-term diesel particulate matter exposure, which leads to increased cancer risk, for new project occupants:

- Install air filtration in residential buildings. Air filtration devises shall be rated MERV13 or higher. To ensure adequate health protection to sensitive receptors (i.e., residents), this ventilation system, whether mechanical or passive, all fresh air circulated into the dwelling units shall be filtered.
- As part of implementing this measure, an ongoing maintenance plan for the buildings' heating, ventilation, and air conditioning (HVAC) air filtration shall be required.
- Ensure that the use agreement and other property documents: (1) require cleaning, maintenance, and monitoring of the affected buildings for air flow leaks, (2) include assurance that new owners or tenants are provided information on the ventilation system, and (3) include provisions that fees associated with owning or leasing a unit(s) in the building include funds for cleaning, maintenance, monitoring, and replacements of the filters, as needed.

25. The project design shall implement the following measures to achieve an interior noise level of 45 dBA Ldn or less, in compliance with City noise standards:

    a. South and West Façade:
        i. For units with exterior walls directly facing BART (on the 2nd and 8th floors), exterior walls must have a minimum STC rating of 61. Preliminary calculations indicate that the use of an internally insulated staggered wood stud assembly with two layers of 5/8" gypsum board at the interior face and 7/8" thick three coat stucco at the exterior would provide this STC rating; however, the STC rating may be achieved through other design approaches.
        ii. For units with windows or other glazing on the southern and western façades (1st through 6th floors), bedroom windows must have a minimum STC rating of 32. and exterior wall materials and all windows must achieve an interior noise attenuation of 33 dBA in bedrooms and 28 dBA in living rooms.
    b. Eastern Façade:
        i. Exterior walls must have a minimum STC rating of 61, all exterior windows on the eastern façade must have a minimum STC rating of 38, and all exterior doors on the eastern façade must have a minimum STC rating of 35.
    c. Northern Façade:
        i. Exterior walls must have a minimum STC rating of 61, all exterior windows on the northern façade must have a minimum STC rating of 35, and all exterior doors on the northern façade must have a minimum STC rating of 32.
    d. The STC ratings required by this condition shall be documented and submitted to the City for review prior to issuance of a building permit.

26. Prior to issuance of a building permit, the applicant shall develop a construction noise control plan, including, but not limited to, the above mitigation measures

provided by Mitigation 13-3 of the San Pablo Avenue Specific Plan EIR, and the following controls:

- Control noise from construction workers' radios to a point where they are not audible from adjacent land uses.
- Locate staging areas and construction materials areas as far away as possible from adjacent land uses.

27. Prior to Certificate of Occupancy, the applicant shall provide mirrors at the driveway ramp curves to ensure adequate visibility between vehicles entering and exiting the project site to the satisfaction of the Public Works Director.

28. Prior to the issuance of a Certificate of Occupancy, the applicant shall submit the necessary application to the Public Works Department to ensure that 20 feet of red curb be provided on San Pablo Avenue on the both sides of the project driveway. The applicant shall ensure that the canopy of trees within the public right-of-way be maintained no lower than 6 feet from the ground on both sides of the project driveway.

29. Prior to issuance of a building permit, the project plans shall provide a minimum of an 8-foot wide clear pedestrian zone along San Pablo Avenue, with no obstructions.

30. Prior to issuance of a Building Permit, the applicant shall prepare a Phase II Environmental Site Assessment for the project site.

31. The applicant shall provide 10 units of Very Low Income affordable housing in the project for a minimum of 55 years.

32. Prior to the issuance of a building permit, the applicant shall enter into an Affordable Housing Agreement that implements El Cerrito Municipal Code Section 19.22 and California Government Code Sections 65915 - 65918. The Affordable Housing Agreement may include any terms and affordability standards determined by the City to be necessary to ensure such compliance. The maximum qualifying household income for the Very Low Income affordable housing units shall be 50 percent of area median income (AMI), and the maximum housing payment shall be 30 percent of 50 percent of AMI, as set forth in the following paragraphs of this condition. In addition, the following provisions shall apply: Maximum rent shall be adjusted for the family size appropriate for the unit pursuant to California Health & Safety Code Section 50052.5. Rent shall include a reasonable allowance for utilities, as published and updated by the Housing Authority of the County of Contra Costa, including garbage collection, sewer, water, electricity, gas, and other heating, cooking and refrigeration fuels. Such allowance shall take into account the cost of an adequate level of service. Utilities do not include telephone service or cable TV. Rent also includes any separately charged fees or service charges assessed by the lessor which are required of all tenants, other than security deposits.

Public Works Department:

33. Prior to the Certificate of Occupancy, applicant shall provide an easement recorded with the County of Contra Costa, for the proposed driveway and storm water drainage management facilities at the City of Richmond public right of way. The proposed storm water management facilities on this easement shall be described as perpetual facilities that City of Richmond would agree not to modify.

34. Prior to the issuance of a building permit, applicant shall provide a detailed civil plan for off-site work (improvements in the public right of way).

35. Prior to the issuance of a building permit, applicant shall provide an access circulation study for the proposed San Pablo Avenue driveway, completed by a traffic engineer that provides any necessary signage and striping required to keep sight lines clear and safe movement in and out of the proposed driveway. Striping and signs changes on San Pablo Avenue and along the property frontage may be required of the applicant.

36. Prior to the Certificate of Occupancy, applicant shall remove and replace sidewalk, curb, gutter and curb ramps along the frontage of the property to current ADA and City standards.

37. Prior to the issuance of a building permit, applicant shall submit an estimate of grading and earthwork to be completed for the project. Any earthwork and/or grading operations in excess of 50 cubic yards will require the applicant to submit a detailed grading plan, obtain a Grading & Transportation Permit and pay all associated fees.

38. Prior to the start of ANY work in the public right-of-way, including any street tree, sidewalk and driveway work, applicant shall obtain a Public Works Encroachment Permit and pay all associated fees.

39. Prior to the issuance of a building permit, the applicant shall submit a landscaping plan, showing all planting in the right-of-way. All new street trees must be selected from the City Master Tree List and approved by the City Arborist before installation by the applicant. Tree species, location, spacing, tree well size, and planting details, are to be approved by the City Arborist before installation. Any new street trees are required to have irrigation and an establishment period of 3 years prior to acceptance by the City.

40. Prior to Certificate of Occupancy, applicant shall deactivate and remove traffic signal blankout head located at the existing southern driveway for the site (former drive-thru) and return it to the City of El Cerrito Corporation Yard.

41. Improvements on the property frontage shall follow the adopted San Pablo Avenue Specific Plan Complete Streets Design Standards and Guidelines section. This also includes signage, striping and curb painting.

42. Prior to Certificate of Occupancy, per the adopted San Pablo Avenue Specific Plan Complete Streets section and the adopted Active Transportation Plan, the applicant shall update the two (2) curb ramps and associated crosswalks at the proposed driveway.

43. Installation of bike racks in the public right-of-way requires a Public Works Encroachment Permit. The locations of all bike racks in the public right-of-way shall be to the satisfaction of the Public Works Director.

44. Prior to the issuance of a building permit, applicant shall prepare an Erosion and Sediment Control Plan for construction.

45. Prior to issuance of a building permit, applicant shall complete the Stormwater Control Plan to demonstrate the infeasibility of implementing a LID on the entire site, as specified on the Contra Costa Clear Water program – Stormwater C.3 Guidebook -7th addition (under page 44).

46. Applicant shall complete a Stormwater Operation and Maintenance Agreement for the required stormwater drainage facilities required for the project. The Agreement must be reviewed and approved by the Public Works Department e prior to Certificate of Occupancy.

47. The City of Richmond and City of El Cerrito have just completed the restoration of the portion of Baxter Creek immediately adjacent to the project and new vegetation has been installed along the restored creek banks. The shadow study shows a good portion of this recently installed vegetation being shadowed by the future building. Applicant shall prepare a report by a licensed landscaping architect on the impact that the reduced sunlight may cause to the newly installed creek bank vegetation to the satisfaction of the Public Works Director. This study may find that shadows created by project buildings may require replacement of recent plantings with new plant species in the future. Applicant shall be responsible for implementing the recommendations/findings of the report to the satisfaction of the Public Works Director, prior to certificate of occupancy.

Building Division:

48. Compliance with the Building Code and associated codes in effect whenever the building plans are submitted is required.

Fire Department:

49. Compliance with the Fire Code and associated codes in effect whenever the building plans are submitted is required. The following list is provided to assist the Applicant/Development Team with the preparation of the building plans:

    a. Emergency Vehicle Access
        1. If gates are installed across emergency vehicle access roads, gates shall be operable by the use of a Knox Key.

2. A “KNOX BOX” shall be installed with keys for all common areas.

b. Fire Flow Requirements
   1. Provide code analysis of required total firefighting water.
   2. Based on required fire flow, show on plans the number of fire hydrants required and locations based on maximum spacing requirements.
   3. If required, plans for fire service underground shall be submitted for review, approval and permit under separate cover.

c. Fire Riser Locations
   1. Fire Department Connections (FDCs) shall be in locations acceptable to the fire department for emergency operations.
   2. Fire FDC’s shall be interconnected between the two buildings.

d. Gates
   1. All gates shall be operable by the use of a Knox Key.
   2. A “KNOX BOX” shall be installed with keys for all common areas at all gates and doors.

e. Premises Identification
   1. Approved numbers or address shall be provided in such a position to be plainly visible and legible from the street fronting the property.
   2. Address shall be either internally or externally illuminated.

f. Automatic Fire Sprinklers
   1. Automatic Fire Sprinklers shall be installed throughout the project buildings.
   2. Fire sprinkler plans shall be submitted for review, approval and permit.

g. Emergency Egress
   1. Every sleeping room shall have at least one operable window or door approved for emergency escape or rescue in accordance with CFC 1030.
   2. Escape or rescue windows shall be installed in accordance with CFC 1030.
   3. Exit signs shall be internally or externally illuminated.
   4. Emergency electrical system to automatically illuminate means of egress.

h. Fire Sprinkler / Underground
   1. Fire riser and FDC locations shall be submitted for review and approval.
   2. Fire FDC’s shall be in locations acceptable for fire department for emergency operations.
   3. Fire FDC’s shall be interconnected with fire sprinklers and standpipes.
   4. Fire Sprinkler Plans shall be submitted for review and approval.
   5. Fire system underground pipe plans shall be submitted for review and approval.

i. Standpipes
   1. Standpipes shall be wet.
   2. Standpipes shall extend to the roof where required.
   3. Fire Department valve connections shall be in the intermediate landings of stairwells.
   4. Standpipes shall be located in both stairwells.

j. Smoke & Heat Vents
   1. Smoke & heat vents shall be installed on roof above each stairwell.
   2. Smoke & heat vents shall be equipped with fusible link.
   3. Smoke & heat vents shall be equipped with manual release for emergency operations.

k. Fire alarm System
   1. Fire alarm plans shall be submitted for review and approval.
l. Smoke Detection
   1. Smoke detection shall be installed in each bedroom, in hallways adjacent to bedrooms, and one detector per floor level (top and bottom of stairs).
   2. Smoke detectors shall be 120v powered with battery backup.
   3. Smoke detectors shall be interconnected when more than one is required per sleeping area.
   4. Single Station or Multiple-Station Smoke alarm(s) not required to activate fire alarm system outside of sleeping area.
m. Carbon Monoxide Detectors
   1. Carbon monoxide alarm shall be installed outside of and adjacent to sleeping areas where fuel-burning appliances are installed; and in dwelling units that have attached garages.
   2. Carbon Monoxide detectors shall be installed in accordance with NFPA 720.
   3. Carbon Monoxide alarms shall be120 v Powered with battery backup and be interconnected with the smoke detectors.
n. Electrical
   1. All electrical breakers shall be labeled.
o. Radio Communications
   1. Radio frequency signal strength analysis shall be conducted throughout the building.
   2. If radio signal strength deficiencies are identified, signal boosters shall be installed to achieve adequate signal strength and boosters shall be maintained.

Police Department

50. Prior to issuance of building permit, the applicant/developer shall submit a plan for construction site security to the satisfaction of the Police Chief.

Stege Sanitary District:

51. The applicant shall pay all applicable sewer connection fees pursuant to Section 7.3 of the Stege Sanitary District Ordinance Code.

Design Review Board:

52. Prior to issuance of building permit, the plans shall be revised to add reveals and architectural joints to the concrete base.

53. Prior to issuance of building permit, the plans shall specify products for the proposed metal panels that are consistent with the color and texture shown in the plans reviewed by the Design Review Board on March 6, 2019.

54. Control joints for the exterior stucco shall be as depicted on the plans reviewed by the Design Review Board on March 6, 2019.

55. Prior to issuance of building permit, the plans shall be revised to utilize two paint colors for the stucco for all building facades as depicted in Image D on Sheet A-602 of the plans reviewed by the Design Review Board on March 6, 2019.

Planning Commission:

56. The applicant shall include 5'-2" wide windows on all studios prior to issuance of a building permit.

57. The applicant shall work with the Public Works Department to evaluate the feasibility of an on-street pick-up/drop-off area adjacent to the project site and shall submit an application to the Public Works Department for such pick-up/drop-off area if one is determined to be feasible.

58. Prior to issuance of a building permit, the applicant shall prepare a glare analysis, including studying low-glare exterior glass, and shall implement measures identified in the analysis to prevent undue glare, consistent with Mitigation Measure 4-2 of the San Pablo Avenue Specific Plan EIR.

I CERTIFY that at a regular meeting on June 18, 2019 the City Council of the City of El Cerrito passed this Resolution by the following vote:

AYES: COUNCILMEMBERS:
NOES: COUNCILMEMBERS:
ABSTAIN: COUNCILMEMBERS:
ABSENT: COUNCILMEMBERS:

IN WITNESS of this action, I sign this document and affix the corporate seal of the City of El Cerrito on June XX, 2019.

_____
Holly M. Charléty, City Clerk

APPROVED:

_____
Rochelle Pardue-Okimoto, Mayor

PERSPECTIVE VIEW

PERSPECTIVE VIEW

UNIT INFORMATION

TYPE	SqFt	# of Units	Net Rentable SqFt
Studio S1	437	68	29,716
Studio S1a	435	1	435
Studio S2	471	7	3,297
1BR/1B-1A	751	1	751
1BR/1B-1Aa	668	21	14,028
1BR/1B-1B	642	2	1,284
1BR/1B-1C	698	6	4,188
1BR/1B-1D	687	7	4,809
1BR/1B-1E	630	2	1,260
1BR/1B-1Ea	646	5	3,230
1BR/1B-F	775	7	5,425
1BR/1B-1H	778	6	4,668
2BR/2B-2A	942	10	9,420
2BR/2B-2B	1107	1	1,107
Total/Average	**580.68**	**144**	**83,618**

BUILDING AREA

Building Area		
	GrossBuilding	
Floor 1	13,409	GSF
Floor 2	14,451	GSF
Floor 3	14,500	GSF
Floor 4	14,492	GSF
Floor 5	14,425	GSF
Floor 6	14,460	GSF
Floor 7	11,232	GSF
Floor 8	11,133	GSF
TOTAL	108,102	GSF
Garage	16,446	GSF

SHEET INDEX

G-001 GENERAL INFORMATION
G-002 ZONING INFORMATION
G-003 CONTEXT PHOTOS
G-004 FACADE MOVEMENT / FACADE TRANSPARENCY STUDIES
G-005 UPPER LEVEL TRANSPARENCY STUDY
G-006 SHADOW STUDY
G-007 VIEW STUDY
C-001 SURVEY
SW1.0 STORMWATER CONTROL PLAN
SW1.1 STORMWATER CONTROL PLAN
AS-101 SITE PLAN
A-100 GARAGE FLOOR PLAN
A-101 FLOOR PLANS LEVEL 1 & 2
A-102 FLOOR PLANS LEVEL 3 & 4
A-103 FLOOR PLANS LEVEL 5 & 6
A-104 FLOOR PLANS LEVEL 7 & 8
A-201 ELEVATIONS
A-202 ELEVATIONS
A-203 ELEVATIONS
A-204 ELEVATIONS
A-301 SECTIONS
A-302 WALL SECTION AND DETAILS
A-501 UNIT PLANS
A-502 UNIT PLANS
A-503 UNIT PLANS
A-504 UNIT PLANS
A-601 MATERIALS & COLORS
A-602 RENDERINGS
L-001 LANDSCAPE GROUND FLOOR
L-002 LANDSCAPE INTERPRETIVE SIGN
L-101 LANDSCAPE PLANTING PLAN & STORMWATER
L-102 LANDSCAPE PLANTING PLANS, ENLARGEMENTS
L-201 LANDSCAPE LEVEL 8
*C-1.0 **EXISTING CONDITIONS***
C-2.0 PRELIMINARY GRADING & DRAINAGE AND UTILITY PLAN

PROJECT DIRECTORY

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11965 SAN PABLO
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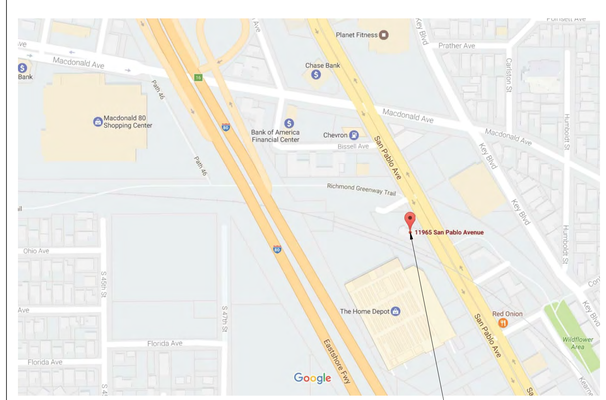
VICINITY MAP



PROJECT LOCATION

POLARIS
APARTMENTS @ 11965 SAN PABLO

EL CERRITO, CALIFORNIA

Revision	Date
UPDATED APPLICATION	02.19.2019

CITY COUNCIL
06.18.2019

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LICENSED ARCHITECT
JOSEPH J. DECREDICO
C24676
3/28/19
Signed Date
CALIFORNIA

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JDeS Project Number: **16019**
Issue Date: .

GENERAL INFORMATION
G-001

POLARIS
APARTMENTS @ 11965 SAN PABLO

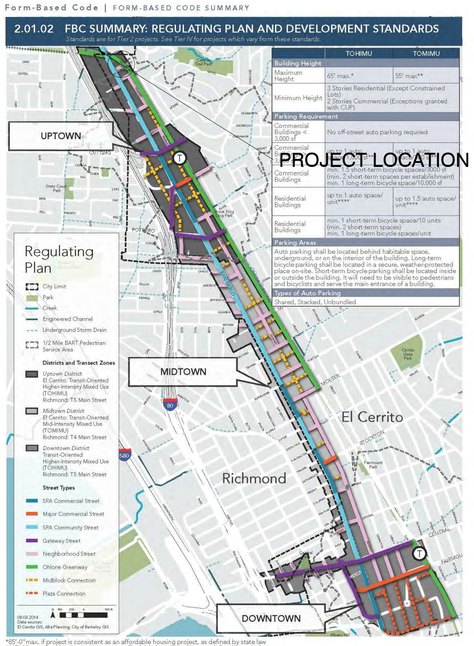
EL CERRITO, CALIFORNIA

Revision	Date
UPDATED APPLICATION	02.19.2019
UPDATED APPLICATION	05.22.2019

CITY COUNCIL
06.18.2019

CONTEXTUAL MAP

ZONING INFORMATION MAP



*65'-0" max. if project is consistent as an affordable housing project, as defined by state law
**55'-0" max. if project is consistent as an affordable housing project, as defined by state law
***All projects include basic Transportation Demand Management (TDM). Projects proposing 0-0.5 auto spaces/residential unit may be required to perform a parking study and/or provide additional TDM measures.
****All projects include basic TDM. Projects proposing 0-1 auto spaces/residential unit may be required to perform a parking study and/or provide additional TDM measures.

02-2 - San Pablo Avenue Specific Plan - December 2014

BUILDING CODE

CONSTRUCTION TYPE:	7-STORIES TYPE IA STEEL OVER 1-STORY TYPE 1A CONCRETE AT GRADE WITH 1-STORY TYPE 1A CONCRETE BASEMENT
OCCUPANCY TYPES:	R-2 - RESIDENTIAL APARTMENT UNITS M - LEASING OFFICE S-2 - GARAGE AND STORAGE
SPRINKLERS:	YES. NFPA 13
HEIGHT:	UNLIMITED
STORIES:	UNLIMITED
ALLOWABLE AREA:	UNLIMITED

FORM-BASED CODE COMPLIANCE DATA

FORM BASED CODE COMPLIANCE DATA FORM BASED CODE COMPLIANCE DATA

ZONING 2.01.02
TRANSECT ZONE
UPTOWN
TOHIMU: Transit Oriented Higher-Intensity Mixed Use

LAND USE
Proposed use, Multiple Family Residential, is P (permitted) as-of-right that require no disscetionary review if in compliance with all standards.

INCLUSIONARY HOUSING
Project is an affordable housing project as defined by state law.
10 units will be rented to Low Income for the area (50% Average Median Income).
Project will make use of the City of El Cerrito incentive to provide 85'-0" maximum building height (from 65'-0").

DEVELOPMENT STANDARDS
BUILDING HEIGHT
Maximum 85'-0" If project is consistent as an affordable housing project, as defined by state law.
Minimum 3 stories for residential use.
Proposed 8 story, 85'-0".

STREET TYPE 2.01.03

SAN PABLO AVENUE COMMUNITY STREET	REQUIREMENT	PROPOSED
Sidewalk Amenity Zone	6'-0" min.	6'-0"
Sidewalk Pedestrian Zone	8'-0" min.	8'-0"
Sidewalk Activity Zone	0'-0" min.	0'-0"
Vehicular Access	20'-0" max.	20'-0" / 18'-0"

BUILDING FORM	REQUIREMENT	PROPOSED
Upper Floor Setback	N/A	
Ground Floor Ceiling Height	14'-0" clear min.	11'-4" clear
Upper Floor Ceiling Height	9'-0" clear min.	8'-5" clear
Building Length	200' max.	191'
Ground Floor Transparency - Residential	40% min.	52.7%
Upper Floor Transparency	30%	43.6%
Encroachments - Front	4'-0" max.	
Allowed Frontage Type - Flex	50% min.	60%

SHADOWS 2.01.05
Shadows
There are no adjacent existing residential uses within the shadow line.
Building does not cast shadows beyond the curbline.

Setbacks	REQUIREMENT	PROPOSED
Ground Floor Front	14'-0" min.	14'-0"
Side Setback	0'-0" min.	
Rear Setback	none	10'-0"

VIEWS
View corridor into courtyard will be provided as well as view to Baxter Creek Park.

BUILDING ARTICULATION

REQUIREMENT	PROPOSED
Wall Offset at Street Front50% of Wall.	Complies. See G-004.
Wall Offset 1'-0" min. / 25 LF	Complies. See G-004.
Colors, Materials and Textures. 50% of Wall.	Complies. See G-004 and A-601.

FRONTAGE
Shop Front, Flexible, Arcade/Galley, or Forecourt

SHOP FRONT PROPOSED	REQUIREMENT	PROPOSED
Height	12' min. 18' max.	14'
Recess	10' max.	0'
Entry	5' max.	4'-0"
Glazing	75% clear glazing	85% clear glazing

SUSTAINABLE DESIGN
All exterior lighting will be Dark Sky certified.
Building will comply with California Building Energy Efficiency Standards.
External shading devices are provided at south and west facades.

ART
An art composition along the Ohlone Greenway face of the building will be custom designed and fabricated by a recognized artist.
The cost of the work will be 1% of the construction cost or $150K, which ever is less. See location on elevation.

OPEN SPACE 2.01.06
Gross building area. 108,102 SF
Number of Units 144

	REQUIREMENT
Public Open Space	25 SF/ 1000 SF=2,703 SF
Private/Common Open Space	80 SF / Unit=11,520 SF

OPEN SPACE PROPOSED	PUBLIC	PUBLIC DEFECIT	COMMON PRIVATE	PRIVATE
Ground Level Easement	2,580 SF			
Ohlone Trail	123 SF			
Courtyard			5,700 SF	
Level 2			557 SF	430 SF
Level 3				430 SF
Level 4				430 SF
Level 5				412 SF
Level 6				422 SF
Level 7			2,295 SF	422 SF
Level 8				422 SF
Sub-Totals	2,703 SF		8,552 SF	2,968 SF
Required	2,703 SF			11,520 SF
Total Private			8,552 SF + 2,968 SF =	11,520 SF
Excess/Deficit	0 SF		0 SF	

PARKING REQUIREMENT

REQUIREMENT	PROPOSED
Residential 1 per unit max.	.5 per unit
144 max.	77 auto spaces

Parking is provided underground with stacker.

Bicycle Minimum	
Short-term 1 per 10 Units (14.4)	15 spaces
Long-term 1.5/unit (216)	220 spaces

Proposed long-term spaces in garage storage area, stacked.

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JDeS Project Number: **16019**
Issue Date: .

PLANNING INFORMATION
G-002

CONTEXT PHOTO NORTH

CONTEXT PHOTO EAST

CONTEXT PHOTO SOUTH

CONTEXT PHOTO WEST

POLARIS
APARTMENTS @ 11965 SAN PABLO

EL CERRITO, CALIFORNIA

Revision	Date
UPDATED APPLICATION	02.19.2019

CITY COUNCIL
06.18.2019

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LICENSED ARCHITECT
JOSEPH J. DECREDICO
C24676
3/28/19
Renewal Date
CALIFORNIA

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JDeS Project Number: **16019**
Issue Date: .

CONTEXT PHOTOS

G-003

FAÇADE ARTICULATION CALCULATIONS		
Push 1	927.00	SF
Push 2	1,126.00	SF
Push 3	914.20	SF
Push 4	678.20	SF
Push 5	740.50	SF
Pull 1	766.00	SF
Pull 2	901.90	SF
Pull 3	254.50	SF
Pull 4	1,117.40	SF
Pull 5	871.30	SF
Total	8,297.00	SF
Total Façade Area	16,523.00	SF
Articulation % Required	50%	
Articulation % Achieved	50.2%	

SAN PABLO AVENUE FACADE ARTICULATION DIAGRAM

POLARIS
APARTMENTS @ 11965 SAN PABLO

EL CERRITO, CALIFORNIA

Revision	Date
UPDATED APPLICATION	02.19.2019

CITY COUNCIL 06.18.2019

800 Bancroft Way, Suite 203
Berkeley, CA 94710
t: 510.755.4710
jdecredico@gmail.com
www.jdecredico.com

LICENSED ARCHITECT
JOSEPH J. DECREDICO
C24676
3/28/19
Renewal Date
STATE OF CALIFORNIA

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JDeS Project Number: **16019**
Issue Date: .

FACADE DIAGRAMS

G-004

POLARIS
APARTMENTS @ 11965 SAN PABLO

EL CERRITO, CALIFORNIA

WINDOW TRANSPARENCY CALCULATION - UPPER FLOORS					
Type	Size	Quantity	Overall Area		Remarks
Window Type A	2'-2" x 8'-0"	56	972.16	SF	At Units
Window Type B	3'-0" x 8'-0"	21	504.00	SF	At Units-Operable
Window Type C	4'-5" x 8'-0"	34	1,202.24	SF	At Units-Fixed
Window Type D	3'-0" x 8'-0"	15	384.00	SF	At Decks with Transom
Window Type D1	6'-0" x 8'-0"	15	720.00	SF	At Decks with Transom
Window Type E	11'-2" x 8'-0"	7	664.37	SF	At Tower-Storefront with Spandrel Panels
Window Type F	11'-1" x 7'-4"	2	162.54	SF	At Tower-Storefront
Total			4,609.31	SF	
Total Façade Area			14,548.02	SF	
Transparency % Required			30%		
Transparency % Achieved			31.68%		

WINDOW TRANSPARENCY CALCULATION - GROUND FLOOR					
Type	Size	Quantity	Overall Area		Remarks
Window Type A	2'-2" x 8'-0"	5	86.8	SF	At Units
Window Type B	3'-0" x 8'-0"	1	24	SF	At Units
Window Type C	4'-5" X 8'-0"	2	70.72	SF	At Units
Window Type G	3'-8" X 9'-10"	21	754.45		At Amenity Space-Storefront
Window Type J	11'-1" X 1'-8"	1	18.40	SF	At Amenity Space-Storefront
Window Type K	3'-2" X 1'-8"	1	5.55	SF	At Amenity Space-Storefront
Window Type M	7'-10" X 7'-10"	1	59.40		Storefront Entry
Total			1,019.32	SF	
Total Façade Area			2,199.95	SF	
Transparency % Required			40%		SPA Community Street-Residential
Transparency % Achieved			46.33%		

GROUND FLOOR AND UPPER FLOOR TRANSPARENCY CALCULATIONS

CITY COUNCIL
06.18.2019

Revision	Date
UPDATED APPLICATION	02.19.2019

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Issue Date:

FACADE DIAGRAMS

G-005

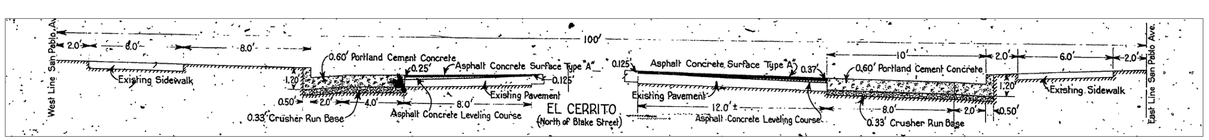
POLARIS
APARTMENTS @ 11965 SAN PABLO

EL CERRITO, CALIFORNIA

Revision	Date
UPDATED APPLICATION	02.19.2019

CITY COUNCIL
06.18.2019

SHADOW STUDY - DECEMBER 21ST @ 1:30 P.M.



SAN PABLO RIGHT OF WAY FROM CALTRANS DRAWING

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Issue Date:

SHADOW STUDY

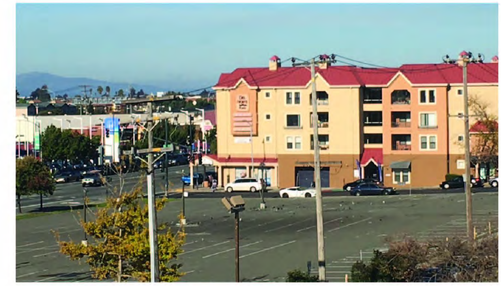
G-006

POLARIS
APARTMENTS @ 11965 SAN PABLO

EL CERRITO, CALIFORNIA

Revision	Date
UPDATED APPLICATION	02.19.2019

CITY COUNCIL
06.18.2019



VIEW FROM DEL NORTE BART PLATFORM TO PROJECT SITE BLOCKED BY EXISTING BUILDING

VIEW FROM DEL NORTE BART PLATFORM TO MOUNT TAMALPIAS AND MARIN HEADLANDS

VIEW FROM DEL NORTE BART PLATFORM TO THE BAY BRIDGE AND SAN FRANCISCO

VIEW FROM BAXTER CREEK TO WESTERN THROUGH PROJECT SITE BLOCKED BY ELEVATED BART TRACKS

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VIEW ANALYSIS

G-007

POLARIS
APARTMENTS @ 11965 SAN PABLO

EL CERRITO, CALIFORNIA

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SURVEY

C-001

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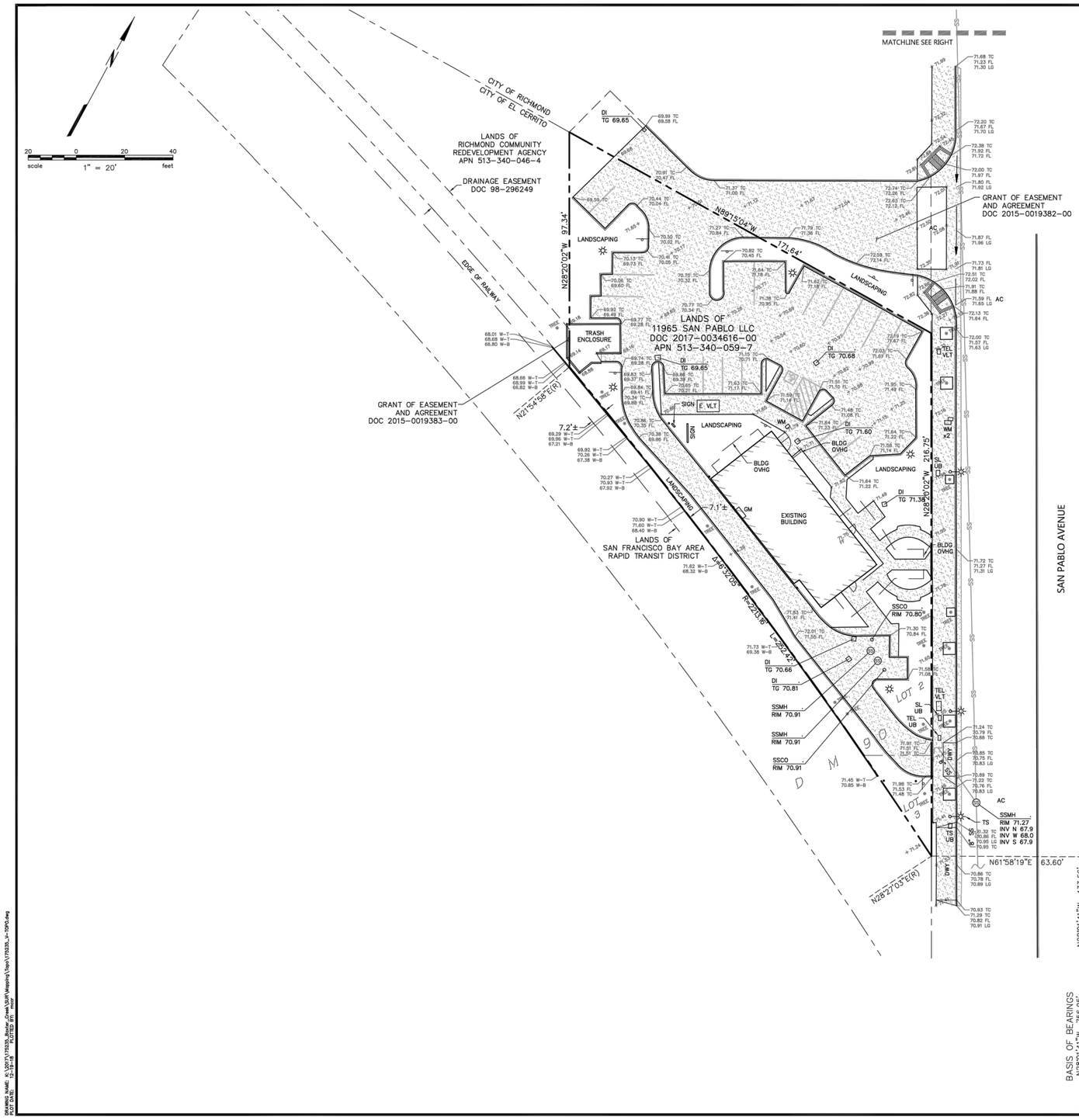

SYMBOLS & LEGEND

EXISTING

- BRASS DISK w/PUNCH IN WELL
- SIGN
- STREET LIGHT
- LIGHT POLE
- SUBJECT PROPERTY LINE
- ADJOINING LOT LINE
- FORMER LOT LINE
- EASEMENT
- CENTER LINE
- SURVEY TIE
- FENCE
- FLOWLINE
- SANITARY SEWER
- CONCRETE

ABBREVIATIONS

Δ	DELTA
AC	ASPHALT CONCRETE
APN	ASSESSOR'S PARCEL NUMBER
BLDG	BUILDING
DI	DROP INLET
DOC	DOCUMENT NUMBER
DWY	DRIVEWAY
E	ELECTRIC
FF	FINISHED FLOOR
FL	SURFACE FLOWLINE
G	GAS
GM	GAS METER
INV	BOTTOM INSIDE OF PIPE
L	LENGTH
LG	LIP OF GUTTER
OR	OFFICIAL RECORDS
R	RADIUS
SDMH	STORM DRAIN MANHOLE
SS	SANITARY SEWER
SSCO	SANITARY SEWER CLEAN OUT
SSMH	SANITARY SEWER MANHOLE
TC	TOP FACE OF CURB
TEL	TELECOMMUNICATION
TG	TOP OF GRATE
TS	TRAFFIC SIGNAL
TYP	TYPICAL
UB	UTILITY BOX
W	WATER
WM	WATER METER
W-B	BOTTOM OF WALL
W-T	TOP OF WALL

BASIS OF BEARINGS

THE BEARING OF N28°01'41" WEST BETWEEN FOUND MONUMENTS ON SAN PABLO AVENUE, AS SHOWN ON SFBART RIGHT-OF-WAY MAP "RRW46", DATED MARCH 24, 1965, WAS TAKEN AS THE BASIS OF BEARINGS FOR THIS MAP.

BENCHMARK

THE ELEVATIONS SHOWN HEREON GPS DERIVED. (DATUM NAVD88)

NOTES

1. THE BOUNDARY SHOWN HEREON IS BASED ON FIELD MEASUREMENTS AND RECORD INFORMATION.
1. TOPOGRAPHY SHOWN HEREON WAS COMPILED BY FIELD SURVEYS PERFORMED IN DECEMBER OF 2018.
2. ALL UNITS ARE IN US SURVEY FEET AND DECIMALS THEREOF.
3. ALL TIES ARE PERPENDICULAR UNLESS NOTED OTHERWISE.

UTILITY NOTE

THE UTILITY LINES SHOWN ON THIS PLAN ARE DERIVED FROM SURFACE OBSERVATION. ACTUAL LOCATION AND SIZE, TOGETHER WITH THE PRESENCE OF ANY ADDITIONAL UTILITY LINES NOT SHOWN ON THIS PLAN SHALL BE VERIFIED IN THE FIELD BY THE CONTRACTOR PRIOR TO CONSTRUCTION.

SURVEYOR'S STATEMENT:

THIS MAP CORRECTLY REPRESENTS A SURVEY MADE BY ME OR UNDER MY DIRECTION IN CONFORMANCE WITH THE REQUIREMENTS OF THE PROFESSIONAL LAND SURVEYOR'S ACT.

ALEX CALDER, P.L.S. NO. 8863 — DATE: 2018-12-19

PROFESSIONAL LAND SURVEYOR — ALEX CALDER PLS 8863 — STATE OF CALIFORNIA

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BOUNDARY AND TOPOGRAPHIC SURVEY
LANDS OF 11965 SAN PABLO LLC
11965 SAN PABLO AVENUE

CITY OF EL CERRITO — CONTRA COSTA COUNTY — CALIFORNIA

Revisions	No.

Date:	2018-12-19
Scale:	AS SHOWN
Design:	N/A
Drawn:	RGM
Approved:	AMC
Job No:	175235-13

Drawing Number: 175235

1 OF 1

DRAWING NAME: K:\2017\175235_Bestar_Corel\SUR\Mapping\1Ton\175235_1-TOPO.dwg
PLOTTED BY: Alex Calder
PLOTTED ON: 12-18-18

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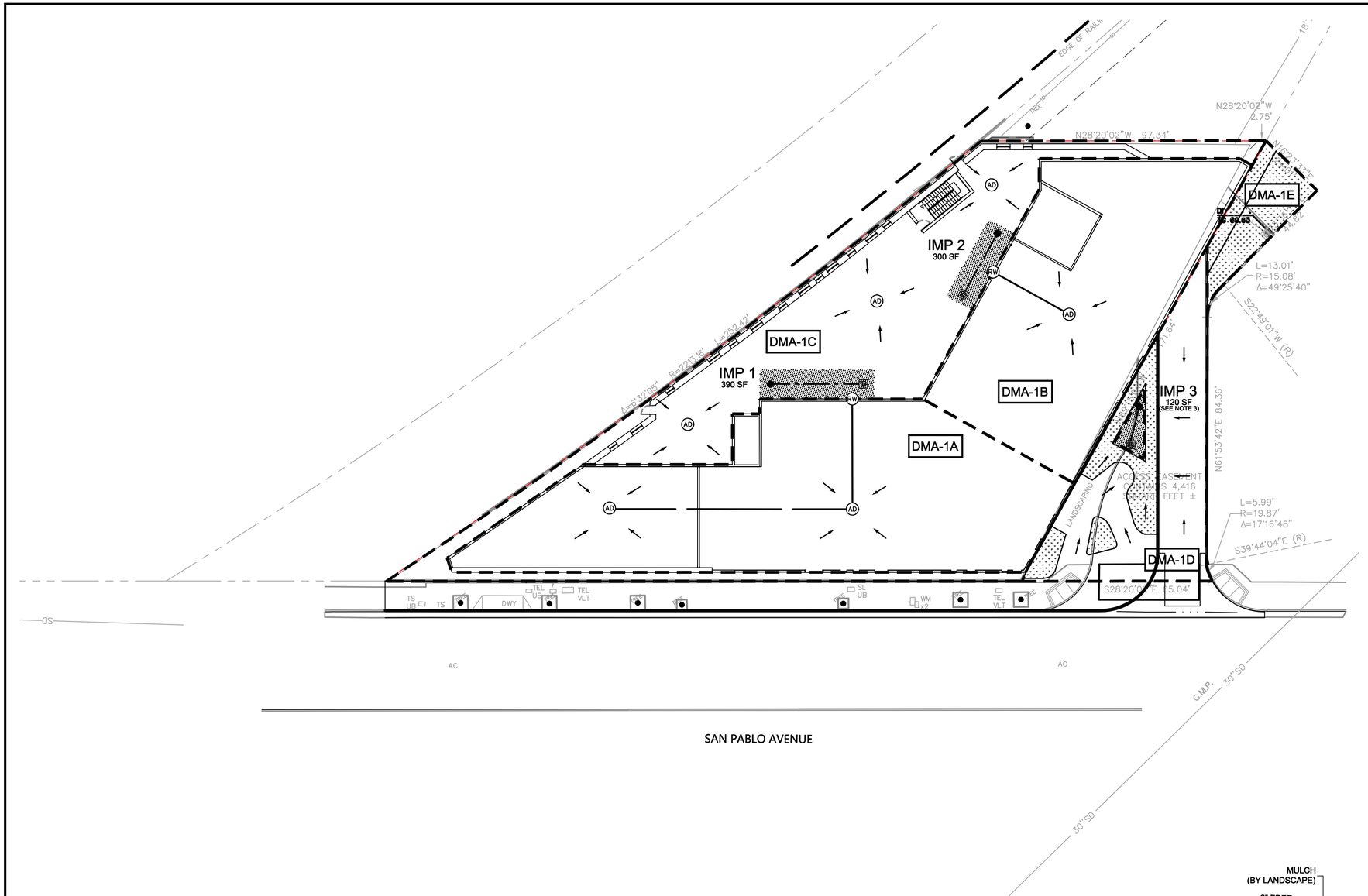
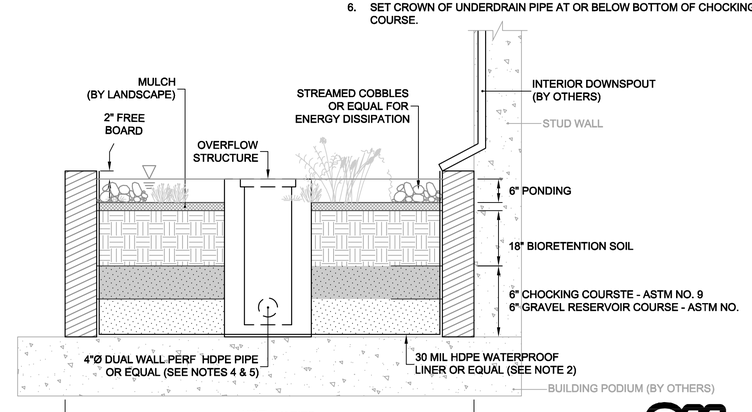


FLOWTHROUGH PLANTER NOTES

1. INSTALL DOWNSPOUTS OR OTHER CONVEYANCE CONNECTIONS (E.G. SCUPPER, CHANNEL, OVERHEAD RUNNEL) FROM BUILDING TO DRAIN ABOVE DESIGN PONDING ELEVATION.
2. BUILDING WATERPROOFING BY ARCHITECT; COORDINATE PLANTER CONSTRUCTION WITH BUILDING FAÇADE / WATERPROOFING.
3. PROVIDE WALL AT BUILDING FACE IN CASES WHERE GAP IS REQUIRED BETWEEN WALL AND PLANTER OR WHERE BUILDING FAÇADE IS INCOMPATIBLE WITH PLANTER CONFIGURATION.
4. ALL PERFORATIO0NS SHALL BE SLOTTED TYPE AND CONFORM TO AASHTO CLASS 2 SPECIFICATIONS AND MEASURE 0.125 INCH WIDE BY 0.875 INCH LONG (MAX), PROVIDING A MINIMUM INLET AREA OF 1.0 SQUARE INCH PER LINEAR FOOT OF PIPE.
5. PERFORATION SHALL BE LOCATED IN VALLEYS OF CORRUGATIONS, ORIENTED PERPENDICULAR TO LONG AXIS OF PIPE, AND EVENLY SPACED AROUND CIRCUMFERENCE AND LENGTH OF PIPE.
6. SET CROWN OF UNDERDRAIN PIPE AT OR BELOW BOTTOM OF CHOCKING COURSE.



1 FLOWTHROUGH PLANTER - TYPICAL SECTION
NOT TO SCALE

LEGEND

- BIORETENTION PLANTER
- IMPERVIOUS SURFACE
- TRADITIONAL PLANTER
- SUB-DRAINAGE MANAGEMENT AREA
- STORMWATER PIPE TO FLOW THROUGH PLANTER
- ROOF/GROUND SURFACE FLOW DIRECTION
- RW RAIN WATER LEADER DOWNSPOUT LOCATION
- AD AREA DRAIN (SEE NOTE 1)
- 4" HDPE PERFORATED UNDERDRAIN
- CO FLOW THROUGH PLANTER CLEANOUT
- OVERFLOW STORM DRAIN STRUCTURE

ABBREVIATIONS

BMP	BEST MANAGEMENT PRACTICE
CONC	CONCRETE
DMA	DRAINAGE MANAGEMENT AREA
GND	GROUND
LID	LOW IMPACT DEVELOPMENT
LSP	LANDSCAPE
LVL	LEVEL
RF	ROOF
SF	SQUARE FEET

STORMWATER CONTROL GENERAL NOTES

THE PROPOSED MULTI-FAMILY RESIDENTIAL DEVELOPMENT AT 11965 SAN PABLO AVENUE IN EL CERRITO **WILL CREATE OR REPLACE MORE THAN 10,000 SQUARE FEET OF IMPERVIOUS SURFACE.** THEREFORE THE PROJECT WILL BE SUBJECT TO COVERAGE UNDER THE PROVISION C.3 OF THE CALIFORNIA REGIONAL WATER QUALITY CONTROL BOARD, SAN FRANCISCO BAY REGION, MUNICIPAL REGIONAL STORMWATER NPDES PERMIT (MRP). COMPLIANCE WILL BE ACHIEVED IN ACCORDANCE WITH CONTRA COSTA CLEAN WATER PROGRAM STORMWATER C.3 GUIDEBOOK.

THIS PROJECT MAY QUALIFY AS A "SPECIAL PROJECT" CATEGORY C BASED ON ITS CLOSE PROXIMITY TO A TRANSIT HUB, THE EL CERRITO DEL NORTE BART STATION, 146 DWELLING UNITS ON 0.53 ACRES, AND ZERO SURFACE PARKING, IN ACCORDANCE WITH THE CONTRA COSTA CLEAN WATER C.3 GUIDEBOOK, 6TH EDITION.

PER TABLE 4-14 NON-LID TREATMENT SYSTEMS, THIS PROJECT CAN QUALIFY FOR AN LID CREDIT OF UP TO 75%. HOWEVER, BASED ON THE FEASIBILITY OF LID PLACEMENT, THE ABOVE DRAINAGE MANAGEMENT AREAS HAVE BEEN DESIGNED SUCH THAT THE PERCENTAGE OF LID TREATMENT IS 68% AND THE PERCENTAGE OF NON-LID TREATMENT IS 32%.

NOTES

1. AREA DRAIN LOCATIONS ARE PRELIMINARY AND SUBJECT TO CHANGE.
2. PUMP MAY BE REQUIRED TO ROUTE WATER FROM BASEMENT MEDIA FILTER TO STORM DRAIN OUTFALL CONNECTION.
3. CURB CUTS WILL BE PROVIDED FOR DRAINAGE TO FLOW INTO IMP 3.

DRAINAGE MANAGEMENT AREA TABLE

BOUNDARY		CONVENTIONAL SURFACE (SF)			DRAINS TO	LID OR IMP (SF)	TOTAL (SF)
WATERSHED	LVL	ROOF	CONC.	LSP			
DMA-1A	ROOF	8,670	-	-	IMP 1	390	9,060
DMA-1B	ROOF	6,555	-	-	IMP 2	300	6,855
DMA-1C	1ST/8TH	-	7,075	-	CONTECH FILTER		7,075
DMA-1D	1ST	-	2,500	860	IMP 3	120	3,480
DMA-1E	1ST	-	-	830	SELF-TREATING		830
OVERALL TOTAL	-	15,225	9,575	1,690	-	810	27,300

0 20 40
GRAPHIC SCALE: 1"=20'

Know what's **below.** Call before you dig.

REVISIONS

NO.	DESCRIPTION	BY	DATE	APPV'D
1				
2				
3				
4				

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1946 N. CALIFORNIA BLVD
SUITE 400
WALNUT CREEK, CA 94596
925-940-2259 (FAX)
925-940-2200 (TEL)
ENGINEERS / SURVEYORS / PLANNERS

DRAWN: M.THOMAS
DESIGNED: M.THOMAS
CHECKED: J.YOUNG
APPROVED: J. WHITE

REGISTERED PROFESSIONAL ENGINEER
JASON T. WHITE
No. C 062281
CIVIL
STATE OF CALIFORNIA

POLARIS APARTMENTS
11965 SAN PABLO AVE, EL CERRITO, CA
STORMWATER CONTROL PLAN

DATE 5-30-2019
SCALE As Indicated
BKF JOB NO. 20175235
COUNTY NO.
SHEET NO. 3 OF 4
FILE NO. **SW1.0**

DRAWING NAME: \\BKF-WC\vol4\2017\175235_Baxter_Creek\ENG\SHEETS\01_SWCP.dwg
PLOT DATE: 05-30-19 PLOTTED BY: thoe

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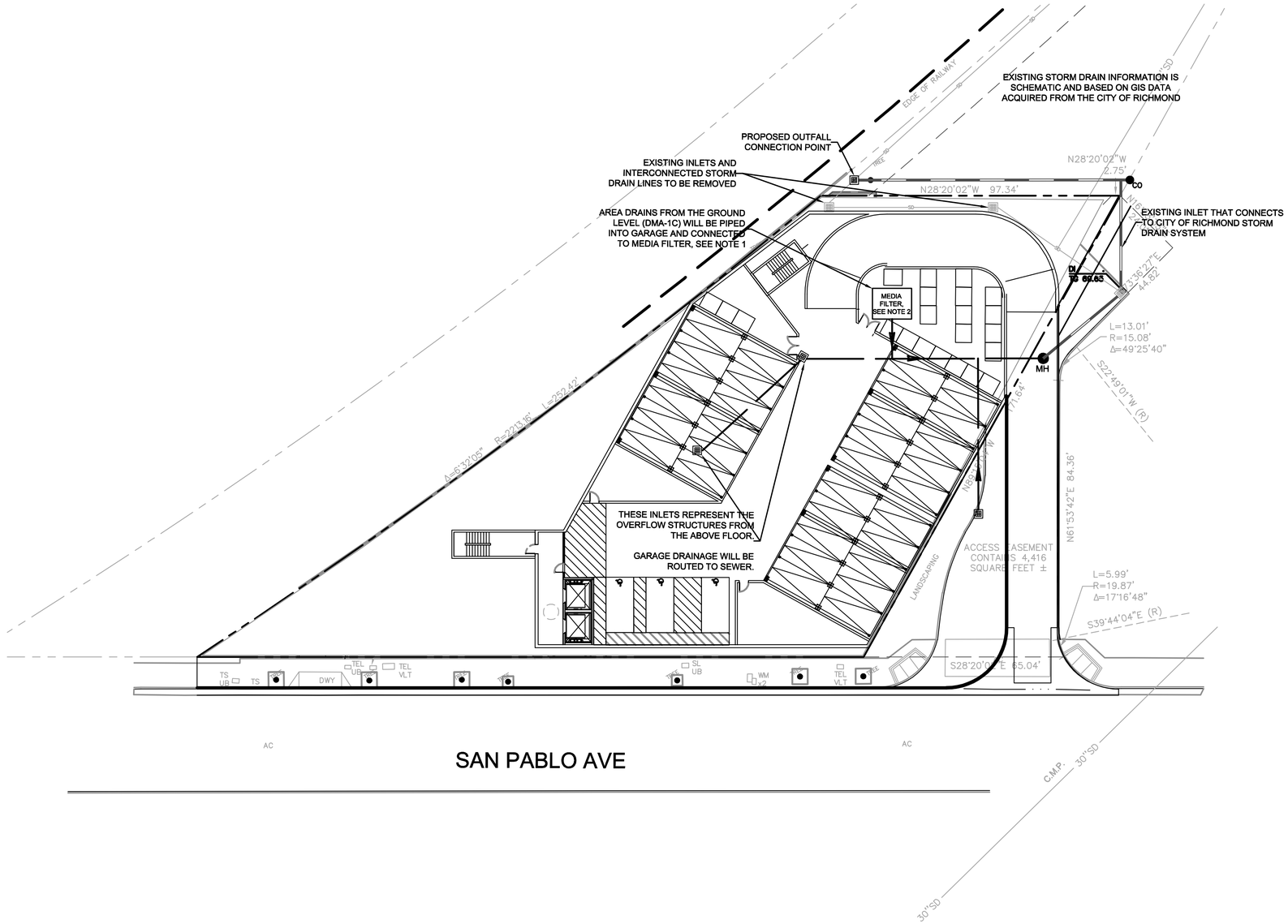

LEGEND

- STORMWATER PIPE TO MEDIA FILTER/ CITY CONNECTION
- MANHOLE
- OVERFLOW STORM DRAIN STRUCTURE FOR FLOW THROUGH PLANTERS ON GROUND FLOOR
- STORM DRAIN CLEANOUT
- PROPOSED STORM DRAIN LINE

ABBREVIATIONS

IMP	INTEGRATED MANAGEMENT PRACTICE
CONC	CONCRETE
DMA	DRAINAGE MANAGEMENT AREA
GND	GROUND
LID	LOW IMPACT DEVELOPMENT
LSP	LANDSCAPE
LVL	LEVEL
RF	ROOF
SF	SQUARE FEET

STORMWATER CONTROL GENERAL NOTES

THE PROPOSED MULTI-FAMILY RESIDENTIAL DEVELOPMENT AT 11965 SAN PABLO AVENUE IN EL CERRITO **WILL CREATE OR REPLACE MORE THAN 10,000 SQUARE FEET OF IMPERVIOUS SURFACE.** THEREFORE THE PROJECT WILL BE SUBJECT TO COVERAGE UNDER THE PROVISION C.3 OF THE CALIFORNIA REGIONAL WATER QUALITY CONTROL BOARD, SAN FRANCISCO BAY REGION, MUNICIPAL REGIONAL STORMWATER NPDES PERMIT (MRP). COMPLIANCE WILL BE ACHIEVED IN ACCORDANCE WITH CONTRA COSTA CLEAN WATER PROGRAM STORMWATER C.3 GUIDEBOOK.

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PER TABLE 4-14 NON-LID TREATMENT SYSTEMS, THIS PROJECT CAN QUALIFY FOR AN LID CREDIT OF UP TO 75%. HOWEVER, BASED ON THE FEASIBILITY OF LID PLACEMENT, THE ABOVE DRAINAGE MANAGEMENT AREAS HAVE BEEN DESIGNED SUCH THAT THE PERCENTAGE OF LID TREATMENT IS 68% AND THE PERCENTAGE OF NON-LID TREATMENT IS 32%.

NOTES

1. AREA DRAIN PIPE ROUTING THROUGH BUILDING TO MEDIA FILTER TO BE DESIGNED BY MEP AT LATER DATE.
2. PUMP MAY BE REQUIRED TO ROUTE WATER FROM BASEMENT MEDIA FILTER TO STORM DRAIN OUTFALL CONNECTION.
3. CURB CUTS WILL BE PROVIDED FOR DRAINAGE TO FLOW INTO IMP 3.

DRAINAGE MANAGEMENT AREA TABLE

BOUNDARY		CONVENTIONAL SURFACE (SF)			DRAINS TO	LID OR IMP (SF)	TOTAL (SF)
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DMA-1D	1ST	-	2,500	860	IMP 3	120	3,480
DMA-1E	1ST	-	-	830	SELF-TREATING		830
OVERALL TOTAL	-	15,225	9,575	1,690	-	810	27,300

0 20 40
GRAPHIC SCALE: 1"=20'

811 Know what's below. Call before you dig.

REVISIONS

NO.	DESCRIPTION	BY	DATE	APP'D
4				
3				
2				
1				

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STATE OF CALIFORNIA

POLARIS APARTMENTS
11965 SAN PABLO AVE, EL CERRITO, CA
STORMWATER CONTROL PLAN

DATE: 2-28-2019
SCALE: As Indicated
BKF JOB NO.: 20175235
COUNTY NO.:
SHEET NO.: 4 OF 4
FILE NO.: **SW1.1**

DRAWING NAME: \\BKF-WC\vol4\2017\175235_Baxter_Creek\ENG\SHEETS\02_SWCP_Garage.dwg
PLOT DATE: 05-30-19 PLOTTED BY: thoe

POLARIS
APARTMENTS @ 11965 SAN PABLO

EL CERRITO, CALIFORNIA

Revision	Date
UPDATED APPLICATION	02.19.2019
UPDATED APPLICATION	05.22.2019

CITY COUNCIL 06.18.2019

- RESIDENTIAL UNITS
- CIRCULATION
- UTILITY
- AMENITY
- PRIVATE OPEN SPACE COURTYARD
- PUBLIC OPEN SPACE

1 SITE PLAN
1/16" = 1'-0" @ 22 X 34 SHEET

0' 8' 16' 32'

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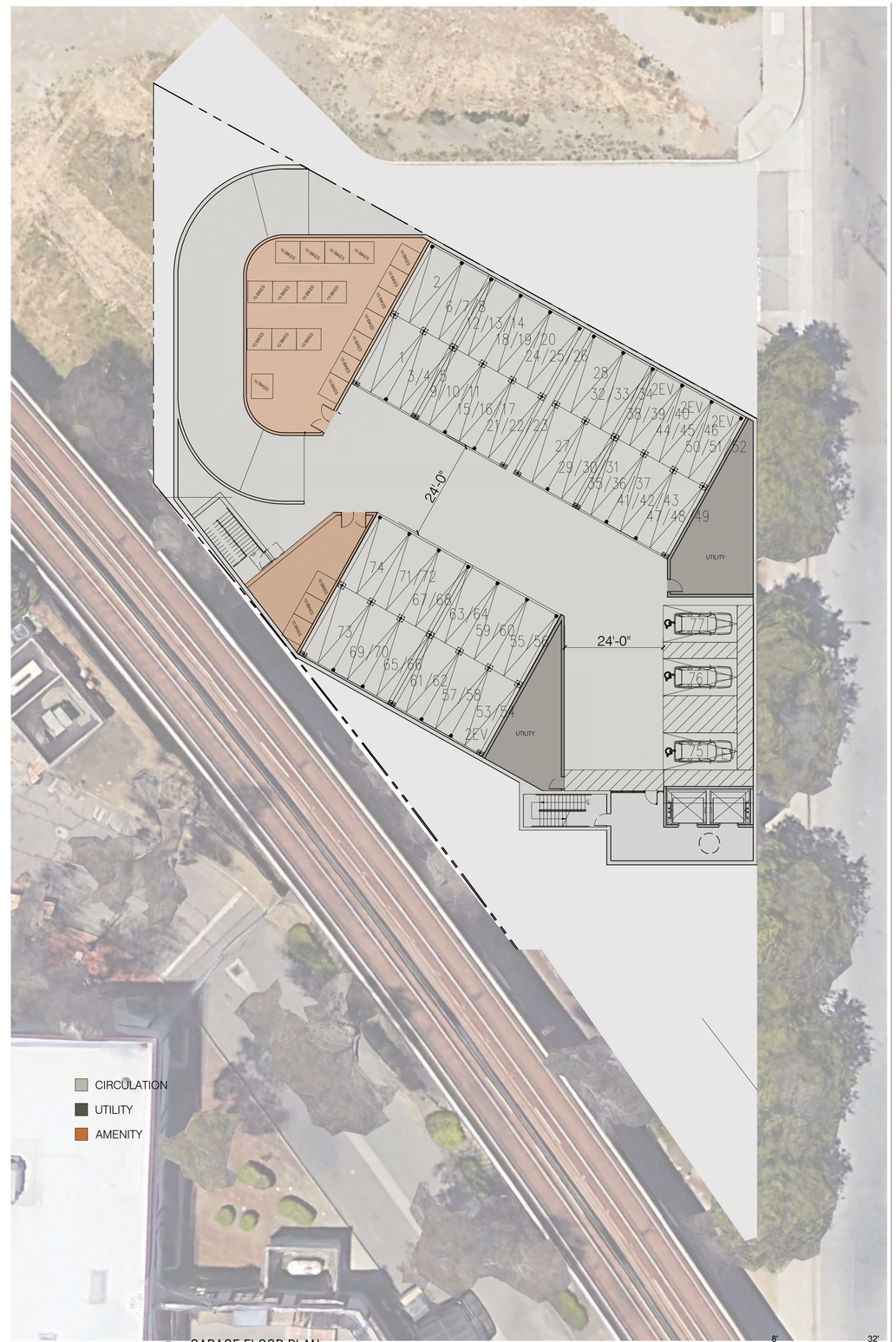
Issue Date: .

SITE PLAN

AS101



1 GARAGE FLOOR PLAN
1/16" = 1'-0" @ 22 X 34 SHEET

0' 8' 16' 32'

POLARIS
APARTMENTS @ 11965 SAN PABLO

EL CERRITO, CALIFORNIA

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Issue Date: .

GARAGE
FLOOR PLAN
A-100

1 FLOOR PLAN - LEVEL 1
1/16" = 1'-0" @ 22 X 34 SHEET

2 FLOOR PLAN - LEVEL 2
1/16" = 1'-0" @ 22 X 34 SHEET

POLARIS
APARTMENTS @ 11965 SAN PABLO

EL CERRITO, CALIFORNIA

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UPDATED APPLICATION	05.22.2019

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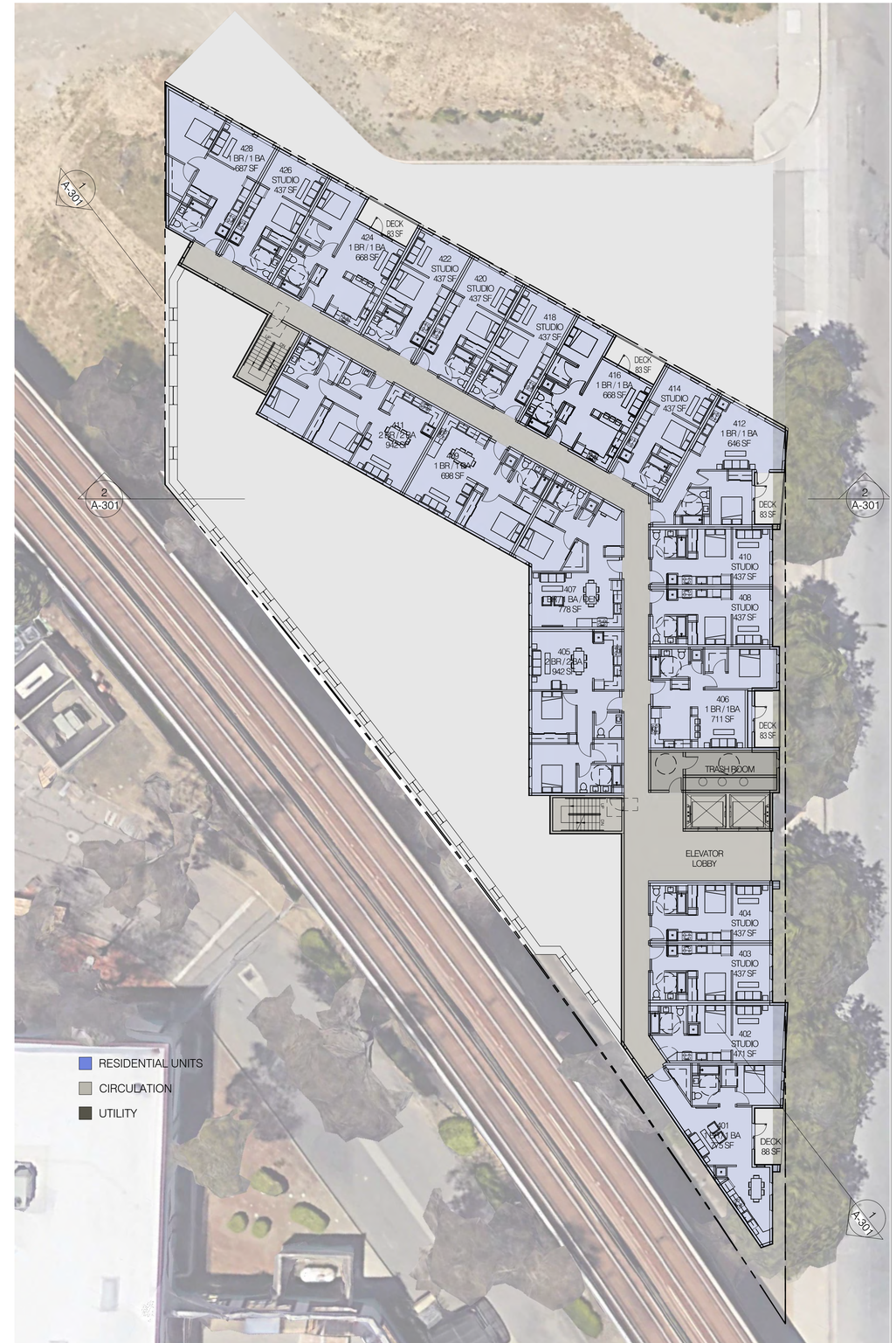
JDeS Project Number: **16019**
Issue Date: .

FLOOR PLANS LEVEL 1 & 2
A-101

1 FLOOR PLAN - LEVEL 3
1/16" = 1'-0" @ 22 X 34 SHEET



2 FLOOR PLAN - LEVEL 4
1/16" = 1'-0" @ 22 X 34 SHEET

POLARIS
APARTMENTS @ 11965 SAN PABLO

EL CERRITO, CALIFORNIA

Revision	Date
UPDATED APPLICATION	02.19.2019
UPDATED APPLICATION	05.22.2019

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C24676
3/28/19
Renewal Date
CALIFORNIA

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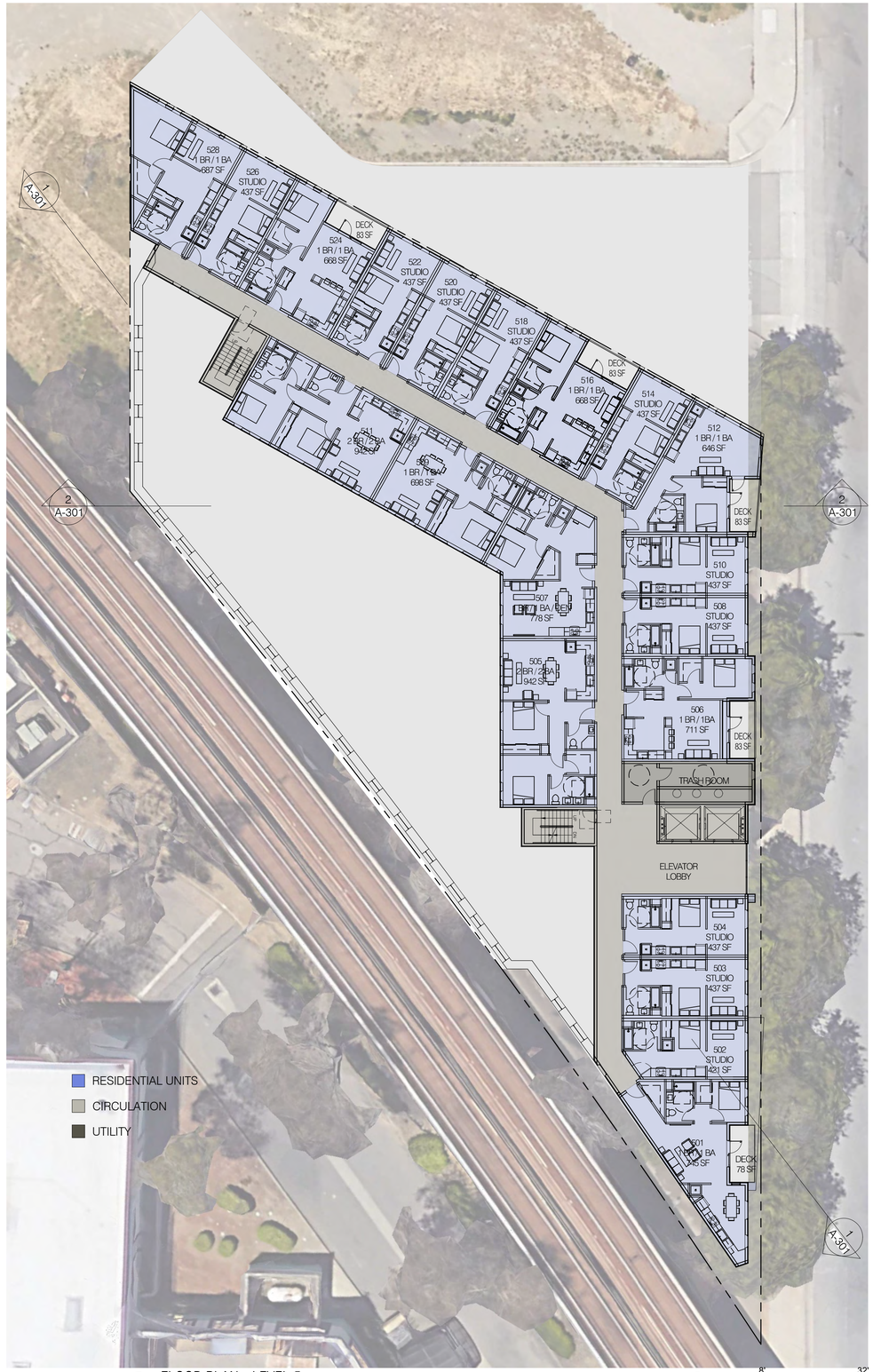
FLOOR PLANS
LEVEL 3 & 4
A-102



1 FLOOR PLAN - LEVEL 5
1/16" = 1'-0" @ 22 X 34 SHEET

2 FLOOR PLAN - LEVEL 6
1/16" = 1'-0" @ 22 X 34 SHEET

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FLOOR PLANS LEVEL 5 & 6
A-103

1 FLOOR PLAN - LEVEL 7
1/16" = 1'-0" @ 22 X 34 SHEET

2 FLOOR PLAN - LEVEL 8
1/16" = 1'-0" @ 22 X 34 SHEET

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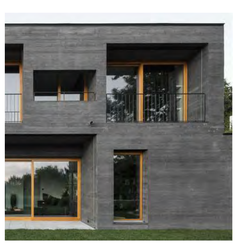
FLOOR PLANS
LEVEL 7 & 8
A-104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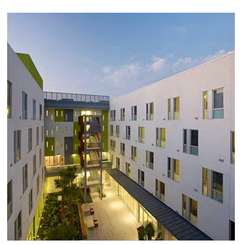
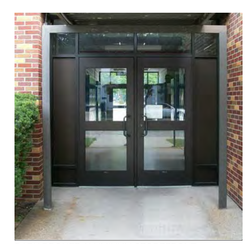
HORIZONTAL GUARDRAIL


STUCCO

WOOD VENEER RESIN PANELS


DARK BRONZE ALUMINUM STOREFRONT

PAINTED METAL PANEL

STOREFRONT AND SPANDREL STAIR TOWER

1 *EAST ELEVATION - SAN PABLO AVENUE*
1/16" = 1'-0" @ 22 X 34 SHEET

POLARIS
APARTMENTS @ 11965 SAN PABLO

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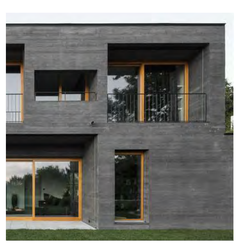
ELEVATIONS

A-201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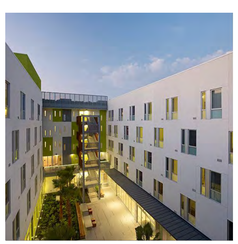
HORIZONTAL GUARDRAIL


STUCCO

WOOD VENEER RESIN PANELS

DARK BRONZE VINYL WINDOWS

PAINTED METAL PANEL

1 *NORTH ELEVATION - BAXTER CREEK PARK*
1/16" = 1'-0" @ 22 X 34 SHEET

POLARIS
APARTMENTS @ 11965 SAN PABLO

EL CERRITO, CALIFORNIA

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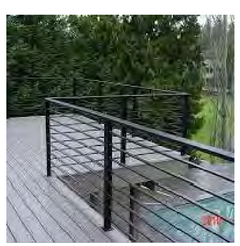
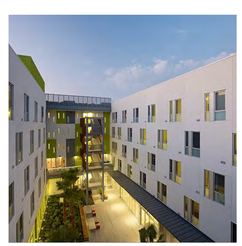
ELEVATIONS

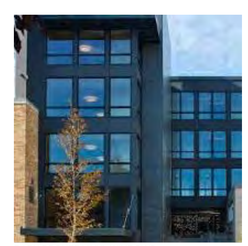
A-202

BLACK CONCRETE


HORIZONTAL GUARDRAIL


STUCCO

AMENTIY SPACE WITH VIEWS


DARK BRONZE VINYL WINDOWS

PAINTED METAL PANEL

ROOF TERRACE WITH PAVILION

1 *SOUTHWEST ELEVATION - BART FACING*
1/16" = 1'-0" @ 22 X 34 SHEET

POLARIS
APARTMENTS @ 11965 SAN PABLO

EL CERRITO, CALIFORNIA

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ELEVATIONS

A-203

POLARIS
APARTMENTS @ 11965 SAN PABLO

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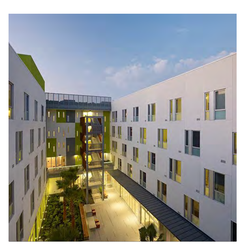
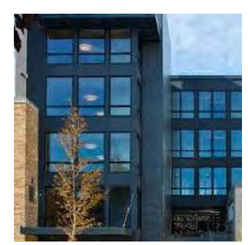
BLACK CONCRETE

HORIZONTAL GUARDRAIL


STUCCO

AMENTIY SPACE WITH VIEWS


DARK BRONZE VINYL WINDOWS

PAINTED METAL PANEL

ROOF TERRACE WITH PAVILION

1 *WEST ELEVATION - BART FACING*
1/16" = 1'-0" @ 22 X 34 SHEET

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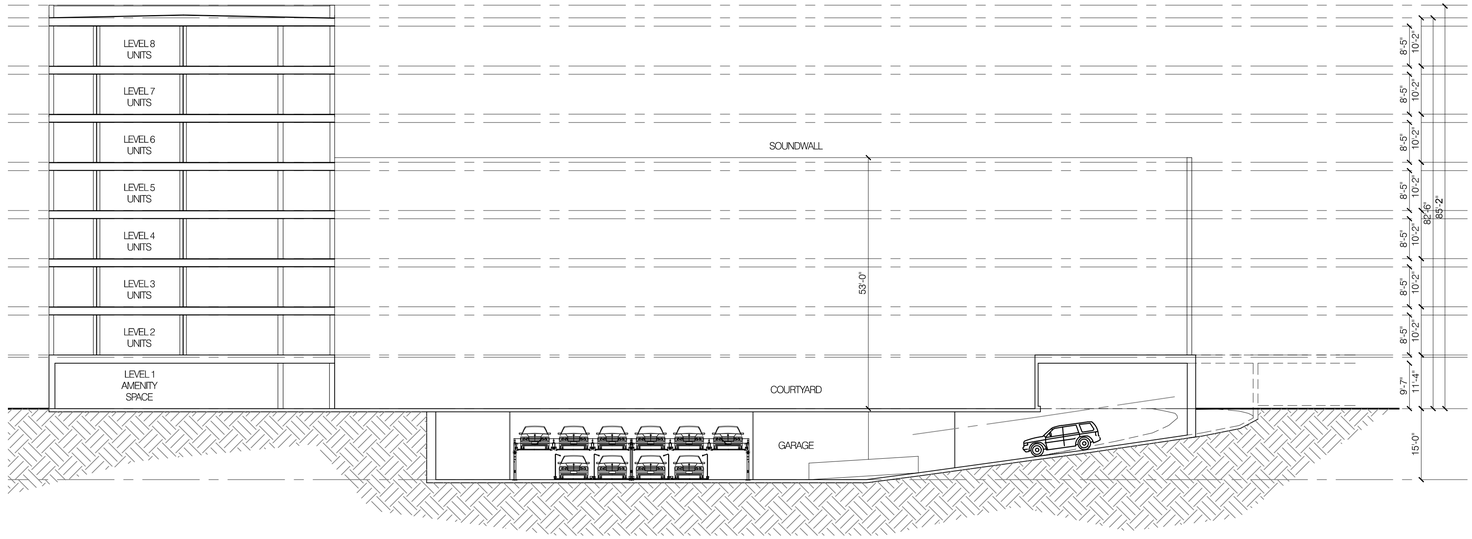
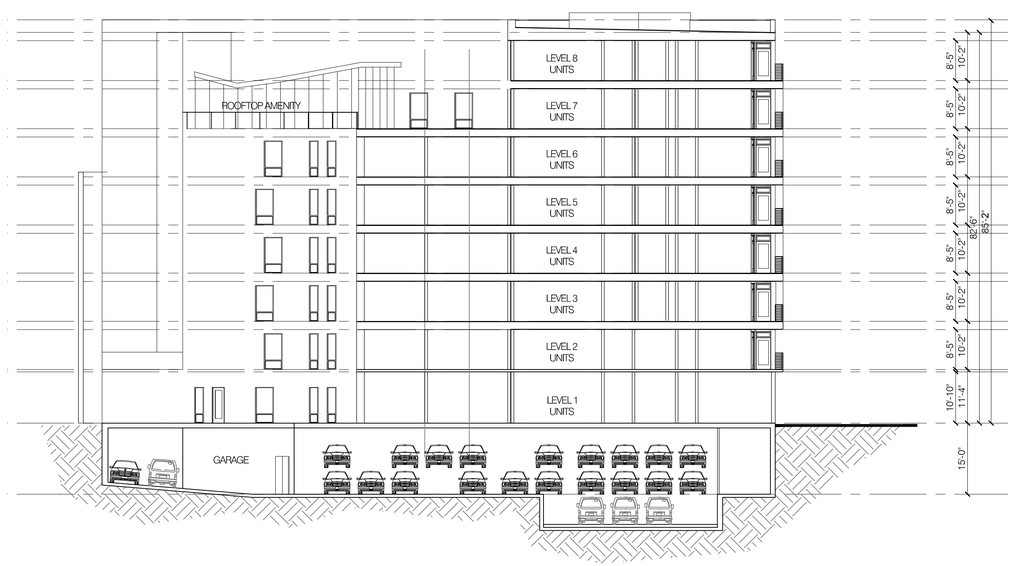
ELEVATIONS

A-204



1 SECTION
1/16" = 1'-0" @ 22 X 34 SHEET



2 SECTION
1/16" = 1'-0" @ 22 X 34 SHEET

POLARIS
APARTMENTS @ 11965 SAN PABLO

EL CERRITO, CALIFORNIA

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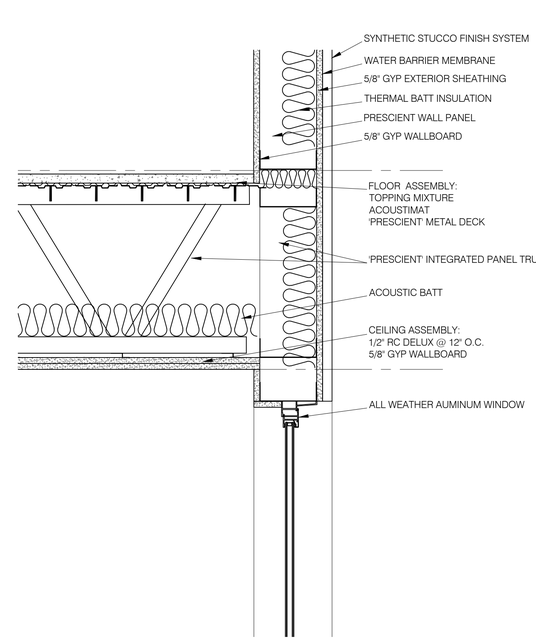
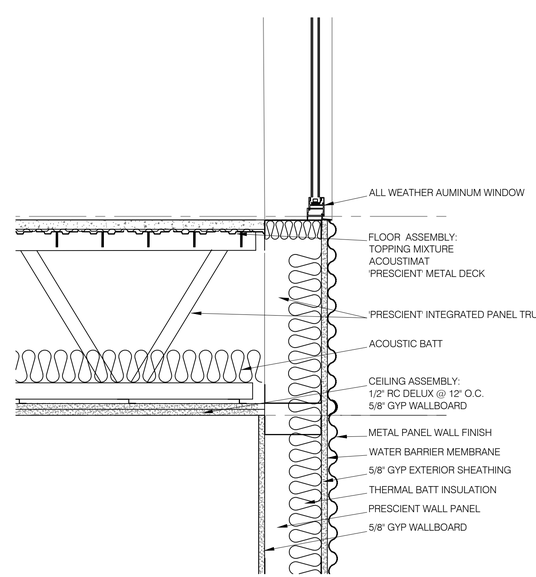
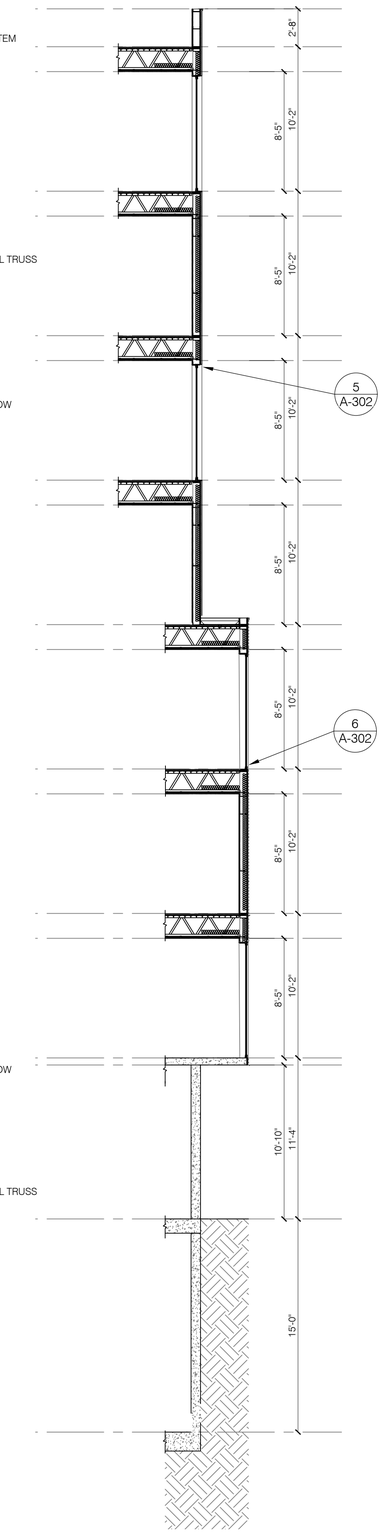
SECTION
A-301



5 *TYPICAL WINDOW HEAD DETAIL*
1 1/2"" = 1'-0" @ 22 X 34 SHEET



6 *TYPICAL WINDOW SILL DETAIL*
1 1/2"" = 1'-0" @ 22 X 34 SHEET



3 *TYPICAL WALL SECTION*
3/16" = 1'-0" @ 22 X 34 SHEET

POLARIS
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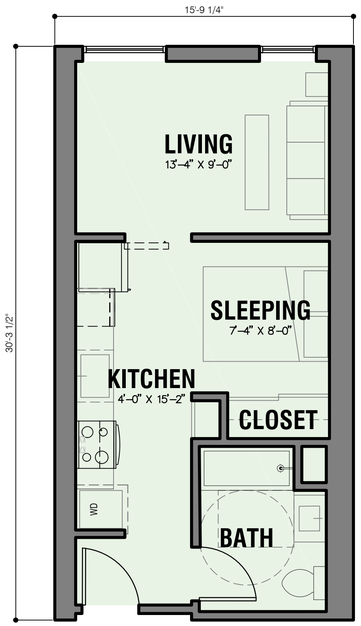
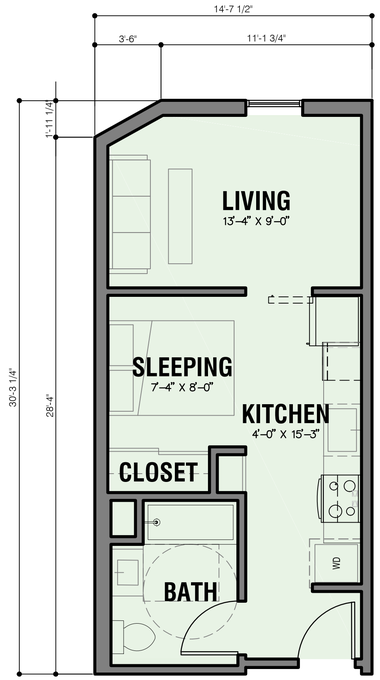
WALL SECTION DETAILS
A-302



UNIT NUMBERS:
106
203-803
204-804
108-808
110-810
214-814
118-818
120-820
222-822
226-826

UNIT S1 I Studio

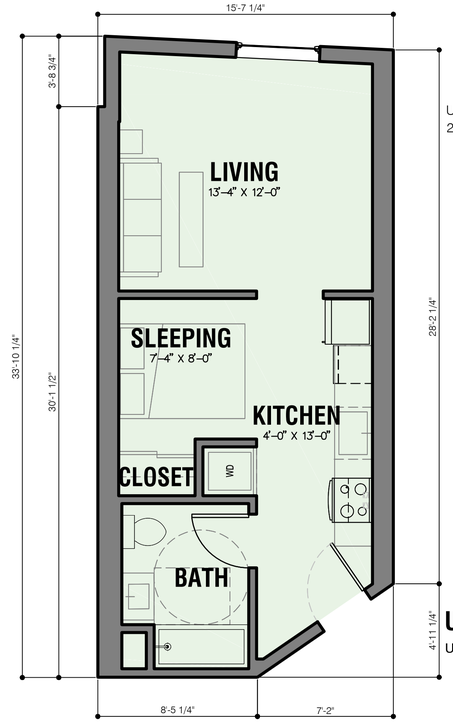
Unit Area: 437 SF



UNIT NUMBERS:
122

UNIT S1a I Studio

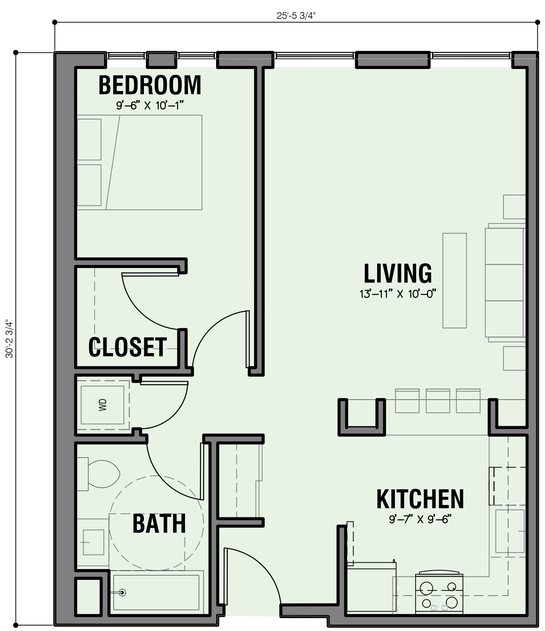
Unit Area: 435 SF



UNIT NUMBERS:
202-802

UNIT S2 I Studio

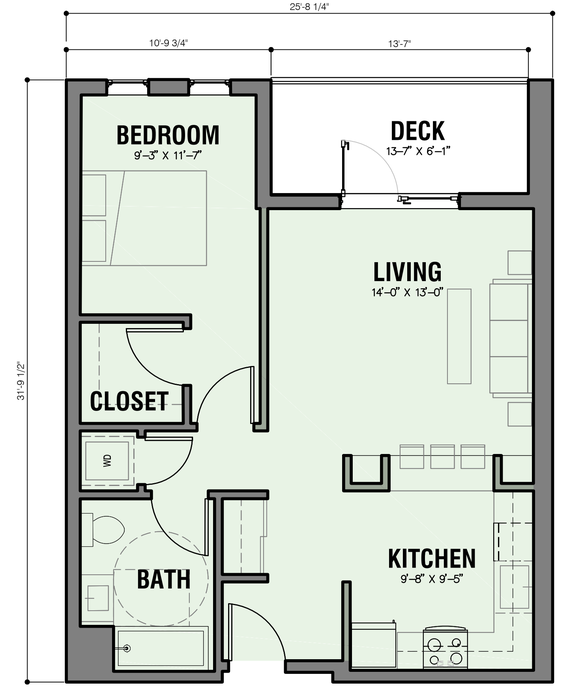
Unit Area: 471 SF



UNIT NUMBERS:
116

UNIT 1A I 1 Bedroom

Unit Area: 751 SF



UNIT NUMBERS:
206-806
216-816
224-824

UNIT 1Aa I 1 Bedroom

Unit Area: 668 SF
Deck Area: 83 SF

POLARIS
APARTMENTS @
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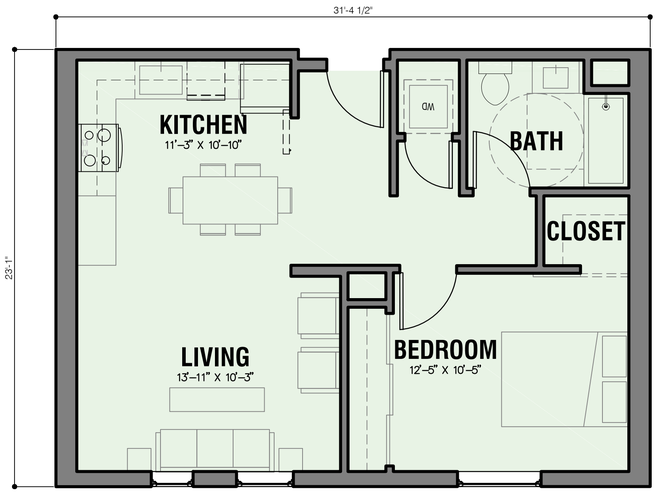
ENLARGED UNIT PLANS

A-501



UNIT NUMBERS:
109-609

UNIT 1C I 1 Bedroom

Unit Area: 698 SF

UNIT NUMBERS:
228-828

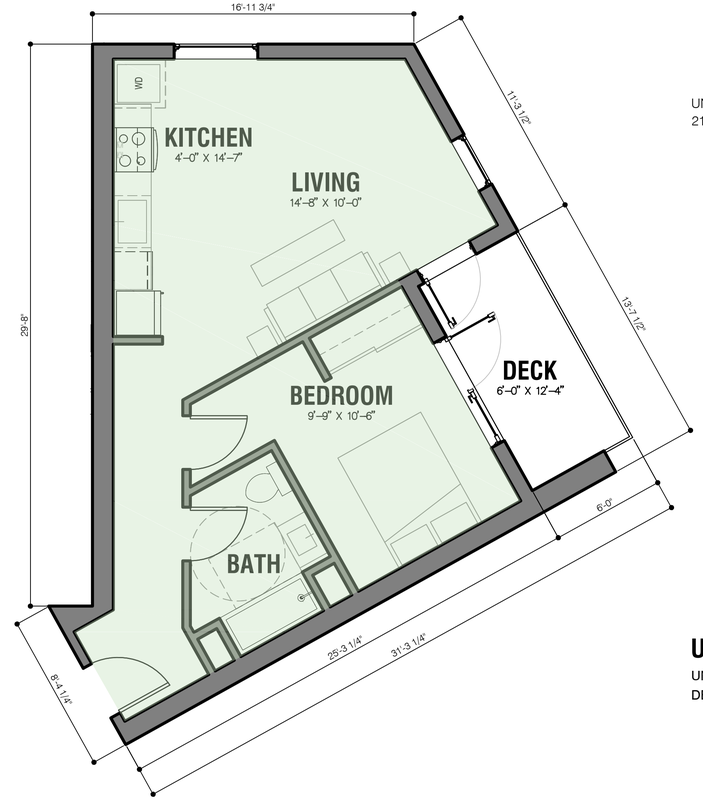
UNIT 1D I 1 Bedroom

Unit Area: 687 SF

UNIT NUMBERS:
111-211

UNIT 1B I Bedroom

Unit Area: 642 SF



UNIT NUMBERS:
212 AND 812

UNIT 1E I 1 Bedroom

UNIT AREA: 630 SF
DECK AREA: 74 SF

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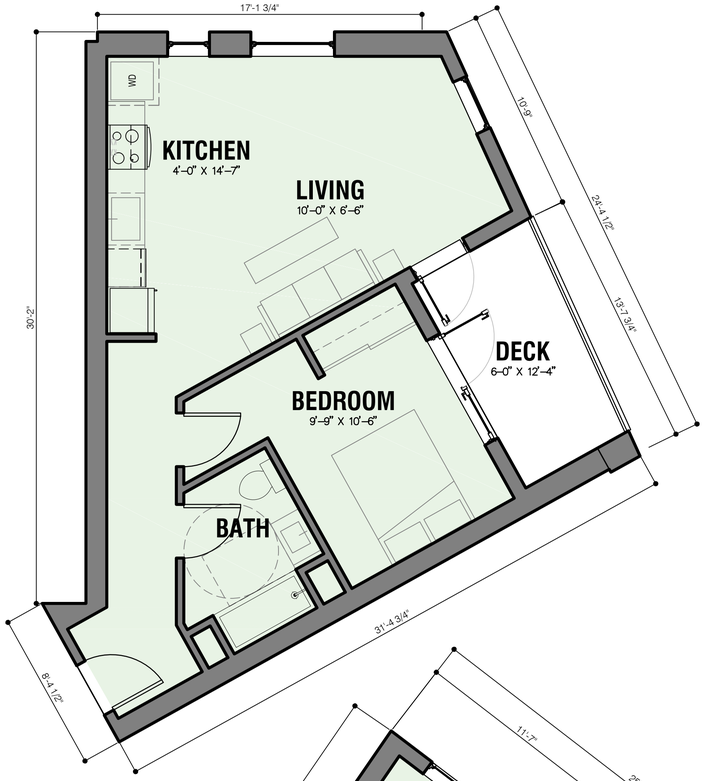
ENLARGED UNIT PLANS

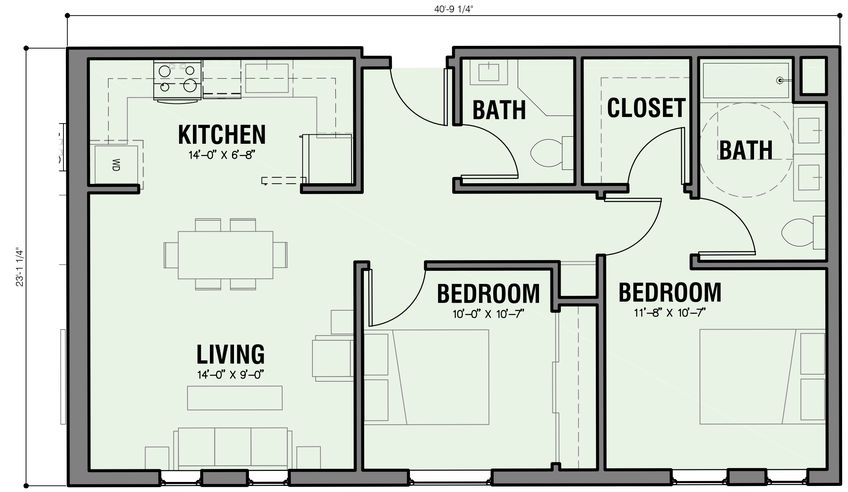
A-502



UNIT NUMBERS:
312-712

UNIT 1Ea I 1 Bedroom

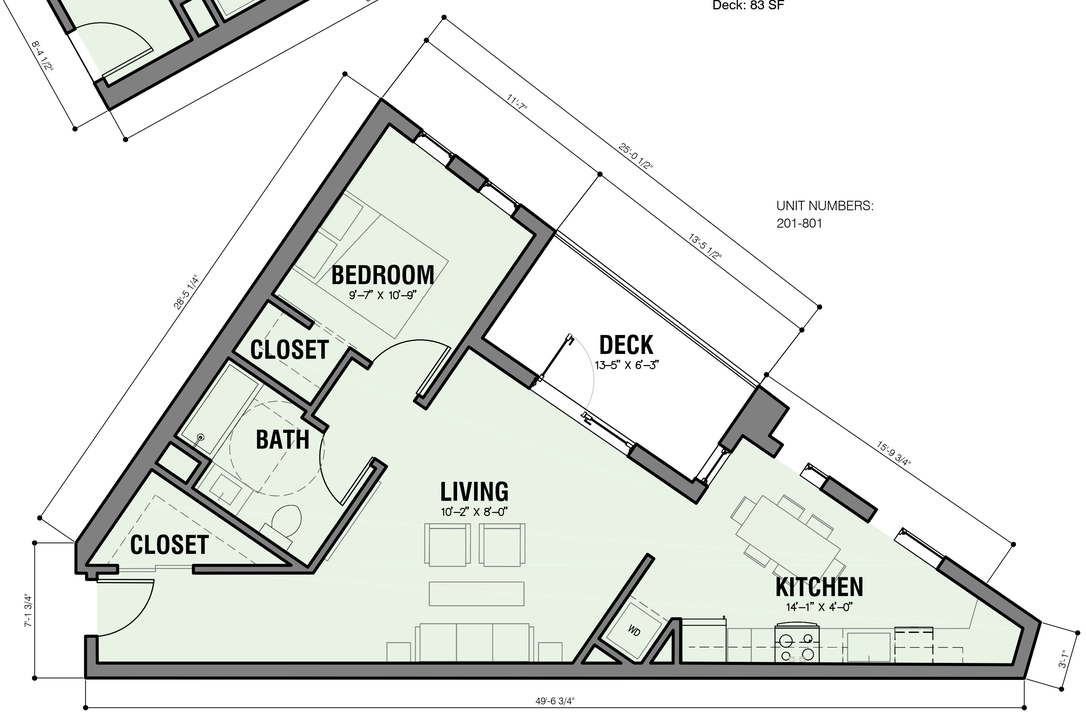
Unit Area: 646 SF
Deck: 83 SF



UNIT NUMBERS:
105-605
311-611

UNIT 2A I 2 Bedroom

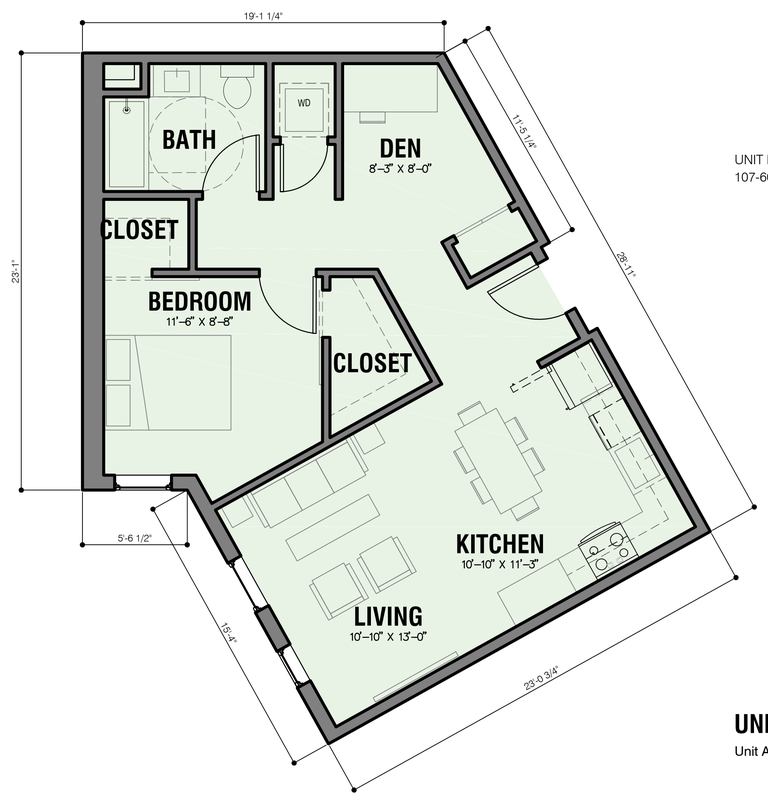
Unit Area: 942 SF



UNIT NUMBERS:
201-801

UNIT 1F I 1 Bedroom

UNIT AREA: 775 SF
DECK AREA: 88 SF



UNIT NUMBERS:
107-607

UNIT 1H+ I 1 Bedroom 1 Den

Unit Area: 778 SF

POLARIS
APARTMENTS @
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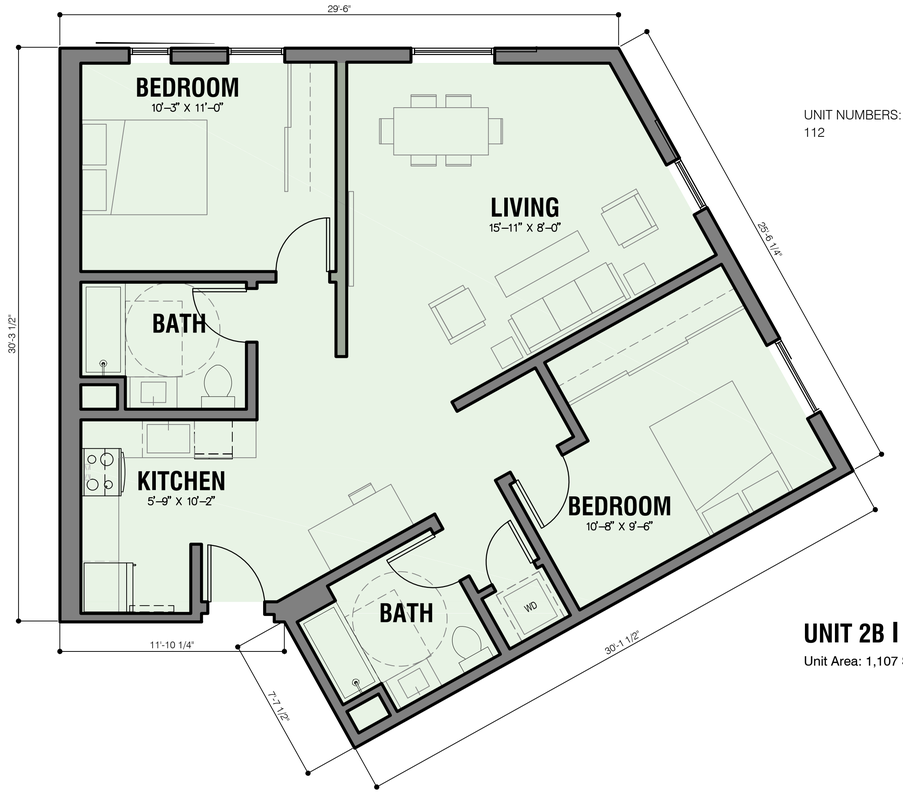
JDeS Project Number: **16019**
Issue Date: .

ENLARGED UNIT PLANS

A-503



UNIT NUMBERS:
112

UNIT 2B I 2 Bedroom

Unit Area: 1,107 SF

POLARIS
APARTMENTS @
11965 SAN PABLO

EL CERRITO, CALIFORNIA

Revision	Date
UPDATED APPLICATION	02.19.2019

CITY
COUNCIL
06.18.2019

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LICENSED ARCHITECT
JOSEPH J. DECREDICO
C24676
3/28/19
Renewal Date
CALIFORNIA

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JDeS Project Number: **16019**
Issue Date: .

ENLARGED UNIT PLANS

A-504

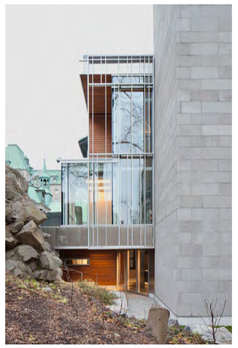
POLARIS
APARTMENTS @ 11965 SAN PABLO

EL CERRITO, CALIFORNIA

Revision	Date
UPDATED APPLICATION	02.19.2019

CITY COUNCIL
06.18.2019

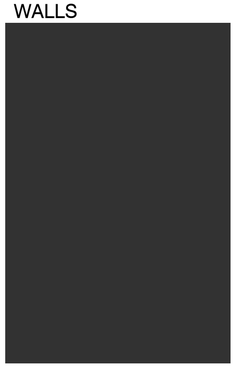
(A) WOOD VENEER RESIN PANELS AT RECESSES



(B) INTEGRAL COLOR SMOOTH STUCCO AT PRIMARY FACADE

BURNT BARK 576

(C) SMOOTH STAINED CONCRETE AT BUILDING BASE WALLS



WARM CHARCOAL

(D) METAL PANEL SIDING AT EXTERIOR FACADE BAYS

HARBOR GRAY

METAL PANEL EXAMPLE

(E) LOCATION OF PUBLIC ART ON BUILDING WALL AT GREENWAY

(F) HORIZONTALPOWDER COATED METAL GUARDRAILS AT BALCONIES

(G) DARK BRONZE ANODIZED ALUMINUM STOREFRONT AND DOORS

(H) DARK BRONZE VINYL WINDOWS AND DOORS, TYPICAL

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STATE OF CALIFORNIA

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Issue Date: .

MATERIALS

A-601

E VIEW FROM I-80 SOUTHWEST

D HIGH VIEW FROM SOUTHWEST

C VIEW FROM WALKWAY INTO COURTYARD

B VIEW FROM GROUND FLOOR INTO COURTYARD

A VIEW ALONG OHLONE GREENWAY

POLARIS
APARTMENTS @ 11965 SAN PABLO

EL CERRITO, CALIFORNIA

Revision	Date
UPDATED APPLICATION	02.19.2019
UPDATED APPLICATION	05.22.2019

CITY COUNCIL
06.18.2019

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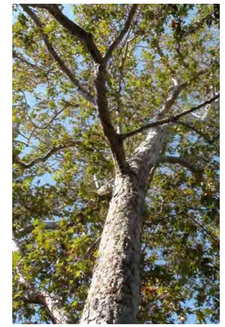
Issue Date:

RENDERINGS

A-602

ENTRY AND STREET PLANT PALETTE


PLATANUS ACERIFOLIA
'COLUMBIA'
LONDON PLANE TREE

ARCTOSTAPHYLOS DR HURD
MANZANITA

CORREA 'DUSKY BELLS'
RED AUSTRALIAN FUCHSIA

EPILOBIUM SIDEWINDER
CALIFORNIA FUCHSIA

COURTYARD PLANT PALETTE

CAREX PANSA
DUNE SEDGE

CHONDROPETALUM TECTORUM
CAPE RUSH

PHORMIUM COOKIANUM
FLAX

JUNCUS PATENS
CALIFORNIA GREY RUSH

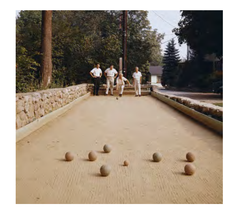
GARRYA ELLIPTICA
SILK TASSEL

Prunus x cerasifera 'Cripoizam'
Crimson Pointe Flowering Plum

PHORMIUM 'JACK SPRATT'
JACK SPRATT PHORMIUM

SITE ELEMENTS

RAISED PLANTER


PETANQUE COURT

OUTDOOR KITCHEN

SOUND WALL GREENSCREEN AND VINE

BAXTER CREEK
APARTMENTS @ 11965 SAN PABLO

EL CERRITO, CALIFORNIA

Revision	Date

TIER 2 APPLICATION
08/10/2018

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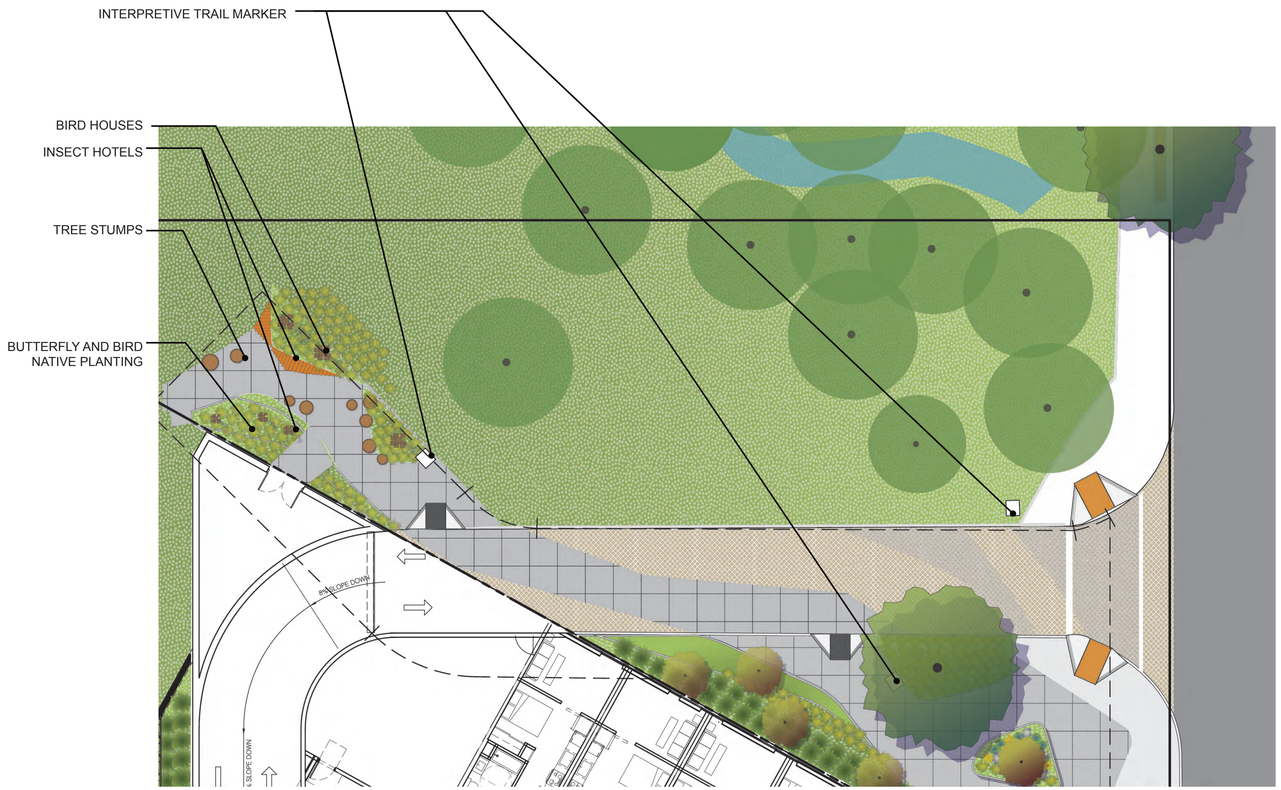
Issue Date:

LANDSCAPE GROUND FLOOR

L-001



INTERPRETIVE TRAIL MARKER

BAXTER CREEK: RAIL INTERPRETIVE SIGN / GATEWAY ELEMENT

INSECT HOTEL

BIRDHOUSES

BAXTER CREEK
APARTMENTS @ 11965 SAN PABLO

EL CERRITO, CALIFORNIA

Revision	Date

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08/10/2018

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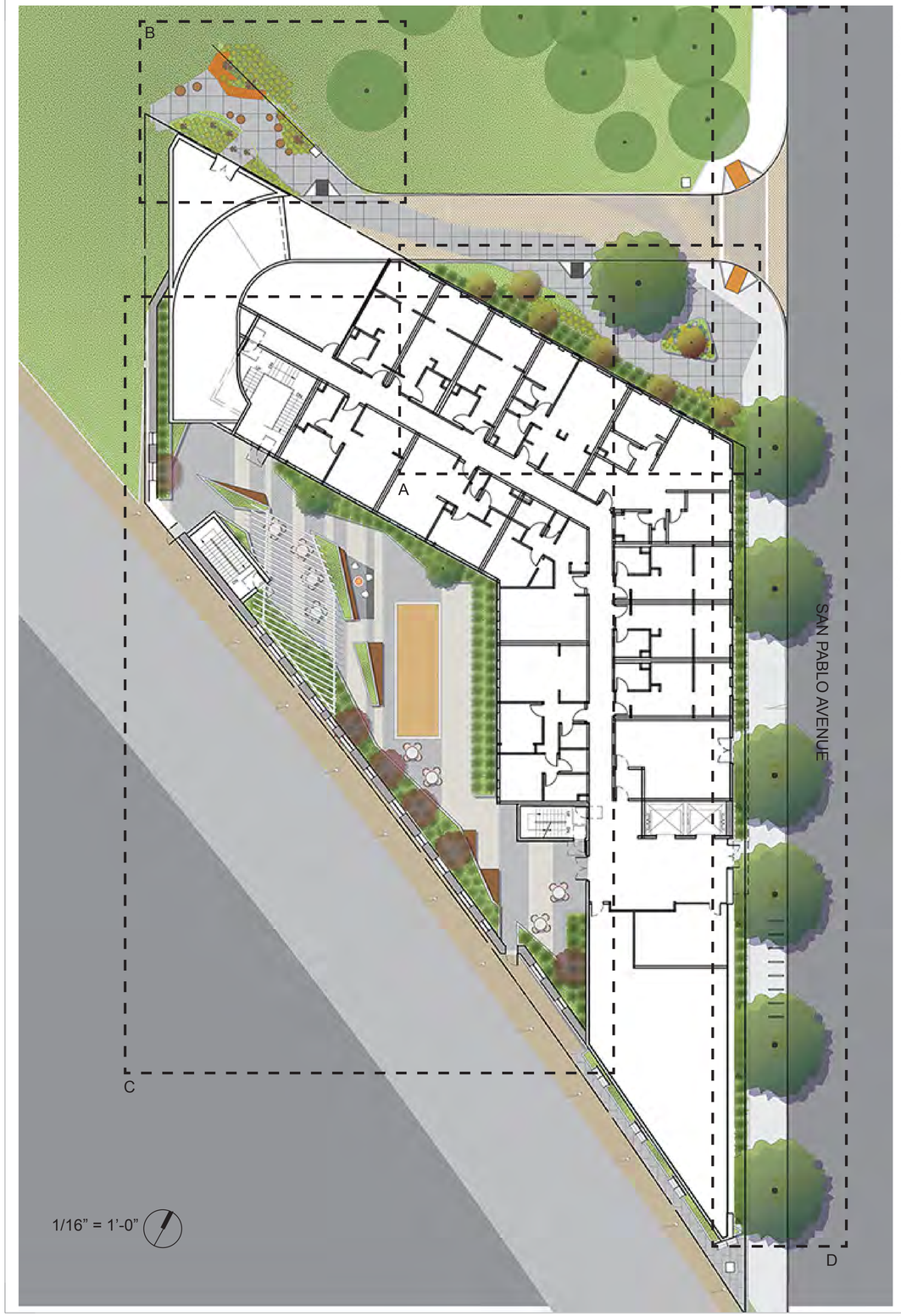
Issue Date:

LANDSCAPE INTERPRETIVE SIGN

L-002



PLANT LIST

SYMBOL	BOTANICAL NAME	COMMON NAME	CONTAINER SIZE	SPACING	WATER USE	WATER USE SOURCE
VINE						
CR	CAMPSIS RADICANS	TRUMPET VINE	15 GAL	15'	LOW	WUCOLS
TREE						
PA	PLATANUS X ACERIFOLIA 'COLUMBIA'	YARWOOD SYCAMORE	24" BOX	30'-0"	MODERATE	WUCOLS
SHRUB						
AD	ARCTOSTAPHYLOS 'DR. HURD'	DR. HURD MANZANITA	5 GAL	12'	LOW	WUCOLS
AB	ARCTOSTAPHYLOS EDMUNDSII 'BIG SUR'	BIG SUR MANZANITA	15 GAL	5'-0"	LOW	WUCOLS
P	EPILOBIUM 'SLOEWANDER'	CALIFORNIA FUCHSIA	1 GAL	2'-0"	LOW	WUCOLS
GE	GARRYA ELLIPTICA 'EVE'	EVE'S SILK TASSEL	15 GAL	10'-0"	LOW	WUCOLS
N	NANDINA DOMESTICA 'LEMON LIME'	LEMON LIME NANDINA	5 GAL	3'	MODERATE	WUCOLS
PCD	PHORMIUM 'CREAM DELIGHT'	NEW ZEALAND FLAX	5 GAL	3'-6"	LOW	WUCOLS
PD	PHORMIUM 'DARK DELIGHT'	NEW ZEALAND FLAX	5 GAL	4'-0"	LOW	WUCOLS
PZ	PRUNUS X CERASIFERA 'CRIPOZAM'	CRIMSON POINT FLOWERING PLUM	15 GAL	5'-0"	LOW	UNKNOWN
SC	SALVIA CLEVELANDII 'WINNIFRED GILLMAN'	CLEVELAND SAGE	5 GAL	3'-0"	LOW	WUCOLS
PERENNIAL						
Y	ACHILLEA MILLEFOLIUM	YARROW	1 GAL	1'-0"	LOW	WUCOLS
EF	ERIOGONUM FASCICULATUM	CALIFORNIA BUCKWHEAT	1 GAL	4'-0"	VERY LOW	WUCOLS
U	ERIOGONUM UMBELLATUM CHLOROTHAMNUS	BUCKWHEAT	1 GAL	2'-0"	LOW	WUCOLS
PC	PHORMIUM COOKIANUM	NEW ZEALAND FLAX	5 GAL	3'-6"	LOW	WUCOLS
GROUNDCOVER						
#	AEONIUM SIMSII	SIMSII AEONIUM	1 GAL	2'-0"	LOW	WUCOLS
CD	CORREA 'DUSKY BELLS'	RED AUSTRALIAN FUCHSIA	5 GAL	3'-4"	LOW	WUCOLS
DA	DICKSONIA ANTARTICA	TASMANIAN TREE FERN	1 GAL	12'	HIGH	WUCOLS
E	ERIGERON 'WAYNE RODERICK'	WAYNE RODERICK DAISY	5 GAL	2'-0"	MODERATE	WUCOLS
GRASS						
C	CAREX PANSA	PACIFIC DUNE SEDGE	1 GAL	1'-6"	MODERATE	WUCOLS
CT	CHONDROPETALUM TECTORUM	CAPE RUSH	5 GAL	4'-0"	LOW	WUCOLS
JP	JUNCUS PATENS 'ELK BLUE'	ELK BLUE CALIFORNIA GRAY RUSH	1 GAL	2'-0"	LOW	WUCOLS
L	LOMANDRA LONGIFOLIA 'breeze'	DWARF MAT RUSH		2'-0"	LOW	WUCOLS
S	SISYRINCHIUM BELLUM	BLUE-EYED GRASS	1 GAL	1'-6"	VERY LOW	WUCOLS

PROPOSED IRRIGATION EQUIPMENT LIST

MODEL	DESCRIPTION	PSI	GPM
HEB-20	HUNTER PRESSURE COMPENSATING EMITTER INSTALL ON FLEX RISER	30	2 GPH
PCB-25	HUNTER PRESSURE COMPENSATING BUBBLER INSTALL ON FLEX RISER	30	0.25
RZWS-18-25-CV	HUNTER ROOT ZONE WATERING SYSTEM	30	0.25
ICA10-IR1-30	ITS / IRRITROL CONTROLLER & CABINET ASSEMBLY - WALL MOUNT		
CL100	IRRITROL WIRELESS SOLAR SYNC WEATHER SENSOR		
825YA-1"	FEBCO BACKFLOW PREVENTER - INSTALL WITH RELIEF VALVE DRAIN KIT		
2160 - 1"	GRISWOLD MASTER REMOTE CONTROL VALVE - NORMALLY OPEN		
FS-B100	HUNTER FLOW SENSOR		
T-113-K	NIBCO GATE VALVE - LINE SIZE		
11000 SERIES	WEATHERMATIC REMOTE CONTROL VALVE		
SUBSURFACE IRRIGATION CONTROL VALVE ASSEMBLY, TO INCLUDE:			
11024FCR-10	WEATHERMATIC REMOTE CONTROL VALVE		
PR-075-L-30	JAIN 30# PRESSURE REGULATOR		
4EH-3/4A-150	JAIN FILTER		
33 DNP	RAIN BIRD QUICK COUPLING VALVE		

MAINLINE: THROUGH OR WITHIN STRUCTURE, COPPER INSTALLED UNDER PLUMBING SECTION OF CONTRACT. WHERE EXPOSED ON ROOF LEVEL, BY LANDSCAPE.

SCH 40 PVC SOLVENT WELD PIPE WITH SCH 40 PVC SOLVENT WELD FITTINGS-18" COVER. ALL MAINLINE TO BE SIZE 1-1/4" UNLESS OTHERWISE NOTED ON PLAN.

SCH 40 PVC SOLVENT WELD PIPE WITH SCH 40 PVC SOLVENT WELD FITTINGS-12" COVER. ALL MAINLINE TO BE SIZE 3/4" UNLESS OTHERWISE NOTED ON PLAN.

SLEEVE: SCH 40 PVC, SIZE AS NOTED ON PLAN.

SUBSURFACE IRRIGATION: TORO DL2000 MODEL RGP-212, WITH TORO LOK-EZE FITTINGS. 4" COVER IN PLANTERS; TUBING LAYOUT SHOWN IN SELECTED AREAS. INSTALL AT GREEN ROOF AREAS PER TRAY MANUFACTURER'S RECOMMENDATIONS.

IRRIGATION NOTES

1. IRRIGATION DESIGN INTENT:
   THE IRRIGATION SYSTEM WILL BE DESIGNED TO PROVIDE THE MINIMUM AMOUNT OF WATER REQUIRED TO SUSTAIN PLANT HEALTH. ALL AREAS TO BE IRRIGATED WITH LOW FLOW DRIP, BUBBLER OR SUBSURFACE EQUIPMENT. CONTROL OF SYSTEM TO BE BY 'SMART' CONTROLLER, CAPABLE OF MAKING REALTIME IRRIGATION SCHEDULE ADJUSTMENTS BASED ON DATA RECEIVED FROM ON-SITE WEATHER SENSOR. SYSTEM TO INCLUDE FLOW SENSING CAPABILITY TO PROTECT AGAINST LEAKS AND BREAKS.
2. IRRIGATION PIPING THROUGH OR WITHIN STRUCTURE TO BE PROVIDED BY PLUMBER. LANDSCAPE CONTRACTOR TO CONNECT TO STUB-OUTS PROVIDED, WHERE INDICATED ON PLAN.
3. IRRIGATION SYSTEM DEMAND IS 15 GPM AT 50 PSI AT EACH POINT OF CONNECTION.
4. IRRIGATION SUBMETERS ARE SPECIFIED TO ENABLE MONITORING OF IRRIGATION WATER USE, AS REQUIRED BY STATE AND LOCAL 'WATER EFFICIENT LANDSCAPE ORDINANCE'
5. HAND-HELD REMOTE OR SMARTPHONE APP TO BE SPECIFIED TO ALLOW OPERATION OF SYSTEM BY MAINTAINERS.

BAXTER CREEK
APARTMENTS @
11965 SAN PABLO

EL CERRITO, CALIFORNIA

Revision	Date

TIER 2
APPLICATION
08/10/2018

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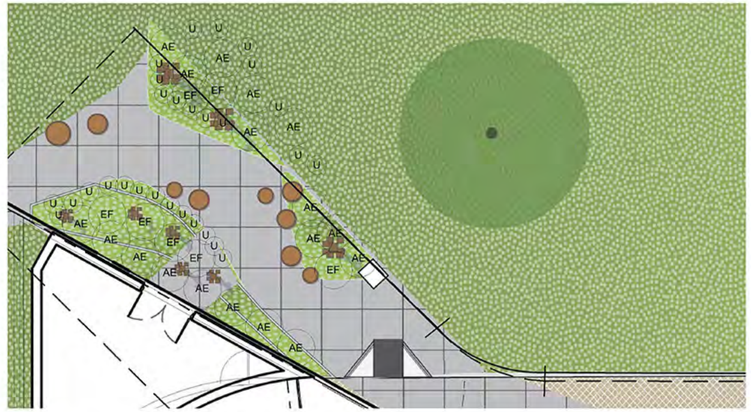
JDeS Project Number: 16019
Issue Date:

LANDSCAPE PLANTING PLAN, IRRIGATION & STORMWATER

L-101

A ENTRANCE AND PERIMETER ENLARGEMENT

1/8" = 1'



B PARK ENLARGEMENT

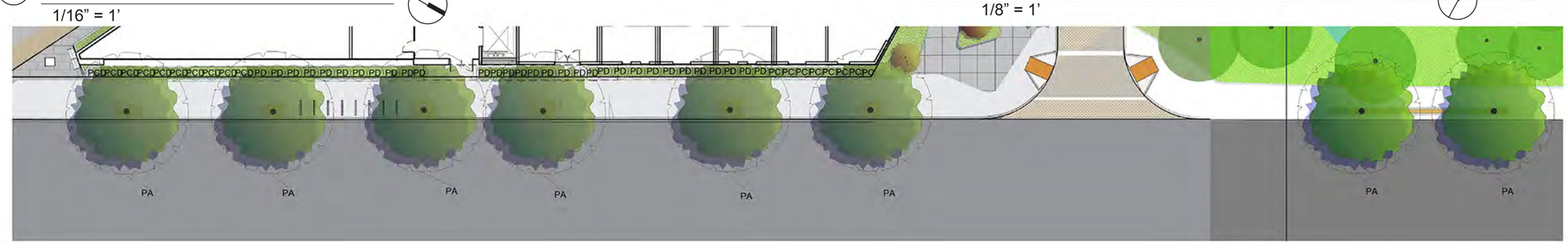
1/8" = 1'

C COURTYARD ENLARGEMENT

1/8" = 1'

D STREETSCAPE ENLARGEMENT

1/16" = 1'



BAXTER CREEK
APARTMENTS @ 11965 SAN PABLO

EL CERRITO, CALIFORNIA

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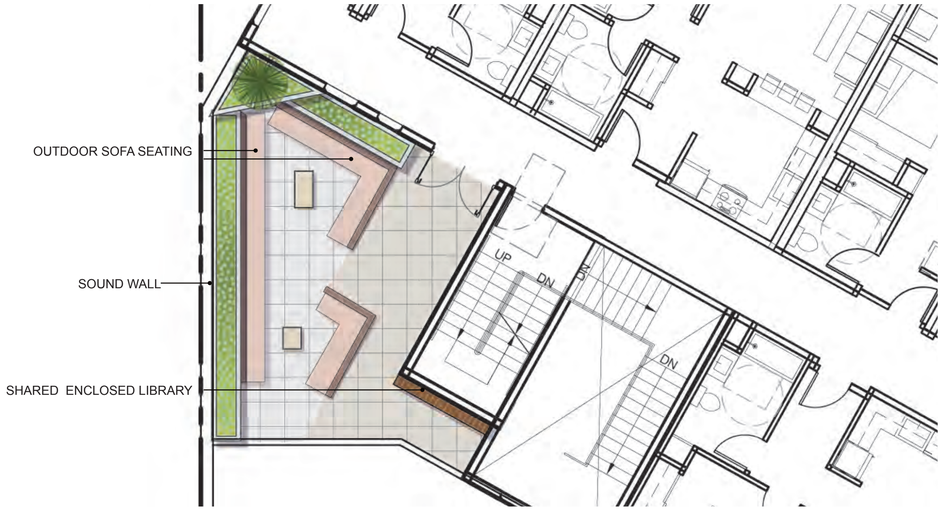
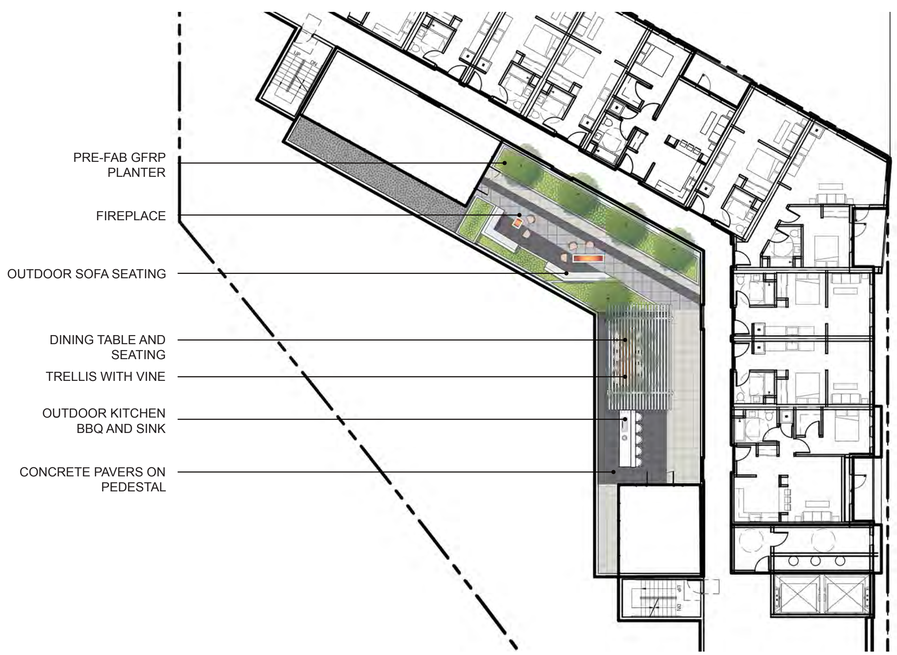
Issue Date:

LANDSCAPE PLANTING PLAN, ENLARGEMENTS

L-102



LEVEL 2 DECK LANDSCAPE
1/4" = 1'-0"



ROOF DECK LANDSCAPE
1/8" = 1'-0"

COURTYARD PLANT PALETTE

AEONIUM SIMSII
SIMSII AEONIUM

LOMANDRA LONGIFOLIA 'BREEZE'
DWARF MAT RUSH

NANDINA DOMESTICA 'LEMON LIME'
LEMON LIME NANDINA

PHORMIUM 'JACK SPRATT'
JACK SPRATT PHORMIUM

SITE ELEMENTS

SOFA SEATING

LIBRARY

PRE-FAB PLANTERS

FIREPLACE

DINING TABLE AND CHAIRS

OUTDOOR KITCHEN WITH TRELLIS

BAXTER CREEK
APARTMENTS @ 11965 SAN PABLO

EL CERRITO, CALIFORNIA

Revision	Date

TIER 2 APPLICATION
08/10/2018

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Issue Date:

LANDSCAPE LEVEL 8

L-201

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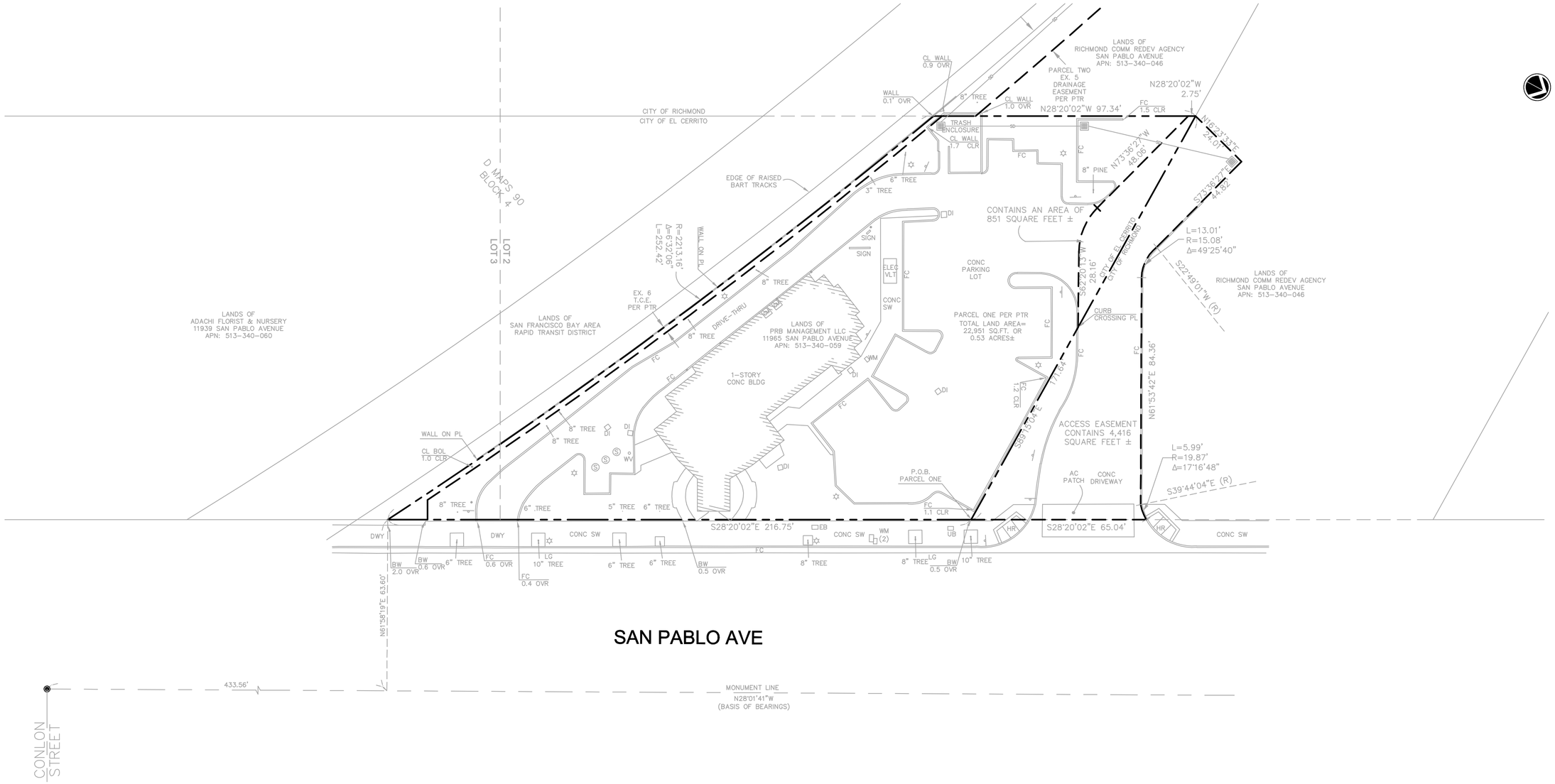

EXISTING LEGEND

- PROPERTY LINE
- BUILDING LINE
- EASEMENT LINE
- MONUMENT LINE
- PARCEL LINE
- AREA LIGHT/STREET LIGHT
- BOLLARD
- FND BD IN MON WELL
- GAS METER
- SANITARY SEWER MANHOLE
- SIGN

ABBREVIATIONS

AC	ASPHALTIC CONCRETE
APN	ASSESSORS PARCEL NUMBER
BD	BRASS DISK
BLDG	BUILDING
BOL	BOLLARD
BW	BACK OF WALK
CL	CENTERLINE
CLR	CLEAR OF PROPERTY LINE
CONC	CONCRETE
DI	DRAINAGE INLET
DWY	DRIVEWAY
ELEC	ELECTRIC
EB	ELECTRIC BOX
EX.	EXCEPTION NUMBER
FC	FACE OF CURB
HR	HANDICAP RAMP
LG	LIP OF GUTTER
OVR	OVER PROPERTY LINE
P.O.B.	POINT OF BEGINNING
PTR	PRELIMINARY TITLE REPORT
PL	PROPERTY LINE
SW	SIDEWALK
T.C.E.	TEMPORARY CONSTRUCTION EASEMENT
UB	UTILITY BOX
VLT	VAULT
WM	WATER METER
WV	WATER VALVE

GENERAL NOTES

1. UTILITIES SHOWN ON THIS PLAN SET ARE DERIVED FROM RECORD DATA AND/OR SURFACE OBSERVATION AN SIZE, TOGETHER WITH THE PRESENCE OF ANY ADDITIONAL UTILITY LINES NOT SHOWN ON THIS PLAN SHALL BE VERIFIED IN THE FIELD PRIOR TO CONSTRUCTION.
2. PRIOR TO DIGGING, CALL 811 AT LEAST 48 HOURS IN ADVANCE TO HAVE EXISTING UNDERGROUND UTILITIES MARKED.

TOPOGRAPHIC SURVEY AND BOUNDARY

THE EXISTING CONDITIONS AND BOUNDARY DATA SHOWN ON THESE PLANS IS BASED ON A TOPOGRAPHIC AND BOUNDARY SURVEY PERFORMED BY BKF ENGINEERS ON SEPTEMBER 16, 2014.

BASIS OF ELEVATION

THE BEARING OF N28°01'41" BETWEEN TWO FOUND MONUMENTS ON SAN PABLO AVENUE, AS SHOWN ON SFBART RIGHT-OF-WAY MAP "RRW46", DATED MARCH 24, 1965, WAS TAKEN AS THE BASIS OF BEARINGS FOR THIS MAP.

0 20 40
GRAPHIC SCALE: 1"=20'

Know what's below. Call before you dig.

REVISIONS

NO.	DESCRIPTION	BY	DATE	APPV'D
1				
2				
3				
4				

BKF
1946 N. CALIFORNIA BLVD
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WALNUT CREEK, CA 94596
925-940-2299 (FAX)
925-940-2200 (TEL)
ENGINEERS / SURVEYORS / PLANNERS

DRAWN: M.THOMAS
DESIGNED: M.THOMAS
CHECKED: J.YOUNG
APPROVED: J. WHITE

REGISTERED PROFESSIONAL ENGINEER JASON T. WHITE No. C 062281 CIVIL STATE OF CALIFORNIA

BAXTER CREEK APARTMENTS
11965 SAN PABLO AVE, EL CERRITO, CA
EXISTING CONDITIONS

DATE 11-21-2018
SCALE As Indicated
BKF JOB NO. 20175235
COUNTY NO.
SHEET NO. 1 OF 4
FILE NO. C1.0

DRAWING NAME: \\BKF-WC\vol4\2017\175235_Baxter_Creek\ENG\SHEETS\00_EX.dwg
PLOT DATE: 11-20-18 PLOTTED BY: thoe

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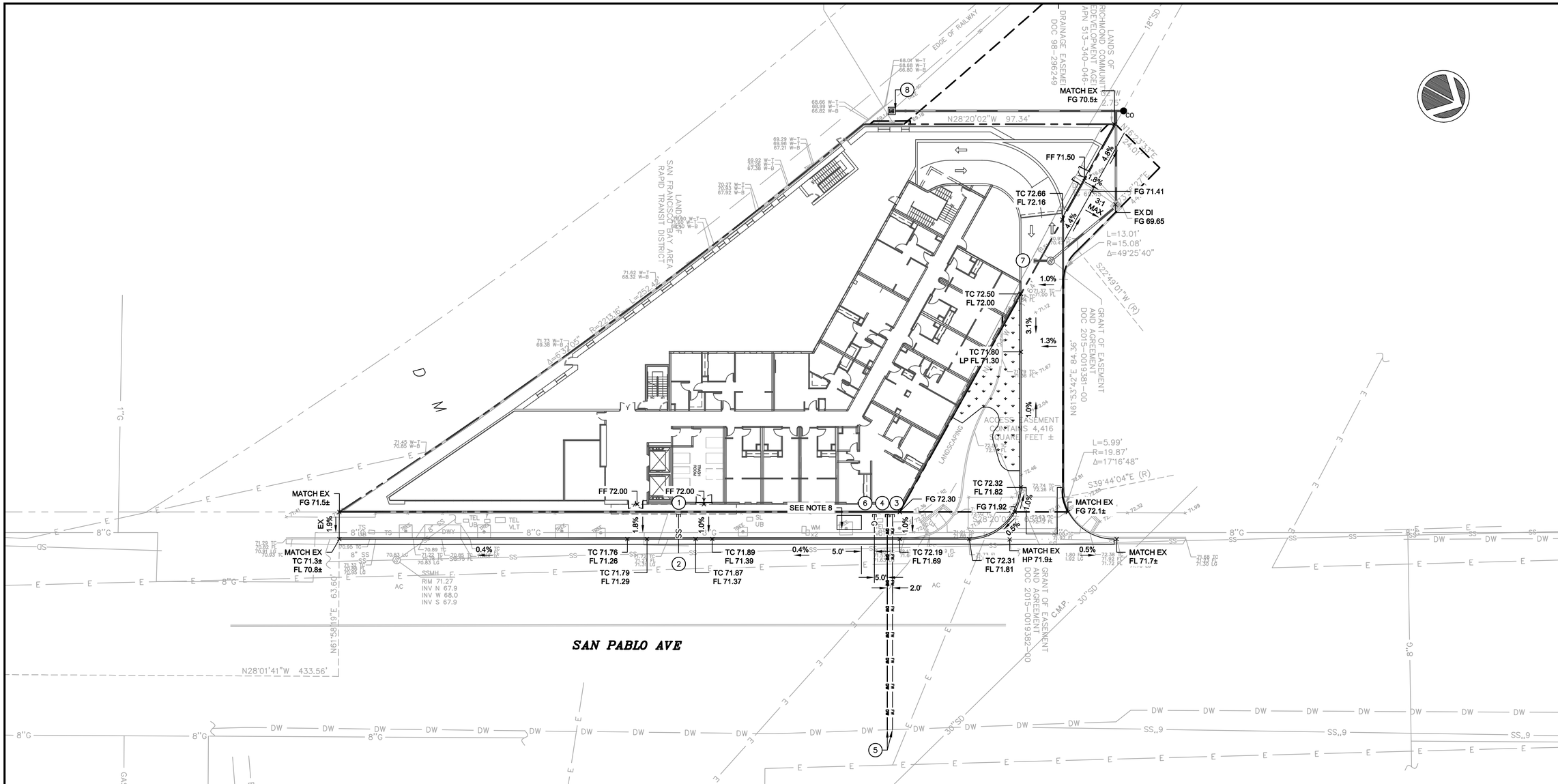

EXISTING LEGEND

- PROPERTY LINE
- SANITARY SEWER LINE
- STORM DRAIN LINE
- DOMESTIC WATER LINE
- GAS LINE
- ELECTRICAL LINE
- SANITARY SEWER MANHOLE
- STORM DRAIN MANHOLE
- STORM DRAIN INLET

PROPOSED LEGEND

- SANITARY SEWER LINE
- FIREWATER LINE
- DOMESTIC WATER LINE
- GAS LINE
- CLEAN OUT
- STORM DRAIN MANHOLE
- STORM DRAIN INLET
- STORM DRAIN LINE
- BIORETENTION PLANTER

KEY NOTES

1. SANITARY SEWER P.O.C.
   SPP FOR CONTINUATION INTO BUILDING
2. SEWER CONNECTION TO MAIN
   (SEE GENERAL NOTE 6)
3. FIRE WATER P.O.C.
   SPP FOR CONTINUATION INTO BUILDING
4. DOMESTIC WATER P.O.C.
   SPP FOR CONTINUATION IN TO BUILDING
5. WATER LINE CONNECTION TO MAIN
6. GAS P.O.C.
   SPP FOR CONTINUATION IN TO BUILDING
7. STORM DRAIN P.O.C.
8. CONNECT TO EXISTING STORM DRAIN LINE
9. NEW FIRE HYDRANT
   PER EBMUD STANDARD DETAIL 9496-GB

GENERAL NOTES

1. ALL DIMENSIONS ARE TO FACE OF CURB UNLESS OTHERWISE NOTED ON PLANS
2. CONFORM ELEVATIONS ARE INTERPOLATED BASED UPON AVAILABLE SURVEY INFORMATION. CONTRACTOR TO MATCH EXISTING PAVEMENT ELEVATIONS AT CONFORM AND VERIFY POSITIVE SLOPE TO GUTTER
3. UTILITIES SHOWN ON THIS PLAN SET ARE DERIVED FROM RECORD DATA AND/OR SURFACE OBSERVATION AND ARE APPROXIMATE ONLY. ACTUAL LOCATION, DEPTH AND SIZE, TOGETHER WITH THE PRESENCE OF ANY ADDITIONAL UTILITY LINES NOT SHOWN ON THIS PLAN SHALL BE VERIFIED IN THE FIELD PRIOR TO CONSTRUCTION.
4. PRIOR TO DIGGING, CALL 811 AT LEAST 48 HOURS IN ADVANCE TO HAVE EXISTING UNDERGROUND UTILITIES MARKED.
5. GRADING OPERATIONS WILL OCCUR OVER EXISTING UTILITIES. CONTRACTOR SHALL EXERCISE THE NECESSARY CARE IN THESE AREAS TO ENSURE EXISTING UTILITIES ARE NOT DAMAGED OR EXPERIENCE ANY INTERRUPTION IN SERVICE. ANY UTILITIES DAMAGED DUE TO CONTRACTOR'S ACTIVITIES SHALL BE REPAIRED TO ORIGINAL CONDITION AT THE EXPENSE OF THE CONTRACTOR.
6. CONTRACTOR TO FIELD VERIFY SANITARY SEWER MAIN INVERT AND PIPE MATERIAL PRIOR TO CONSTRUCTION.
7. CONTRACTOR TO POTHOLE AND FIELD VERIFY ALL UTILITY CROSSINGS
8. UCD IS FOR REFERENCE ONLY. DESIGN DONE BY OTHERS.

ABBREVIATIONS

AC	ASPHALT CONCRETE
BW	BACK OF SIDEWALK
DI	DROP INLET
FF	FINISHED FLOOR
FL	FLOWLINE
FS	FINISHED SURFACE
FG	FINISHED GRADE
GB	GRADEBREAK
LP	LIP OF GUTTER
LP	LOW POINT
TC	TOP OF CURB

0 20 40
GRAPHIC SCALE: 1"=20'

811 Know what's below. Call before you dig.

REVISIONS

NO.	DESCRIPTION	BY	DATE	APPV'D
1				
2				
3				
4				

BKF
1946 N. CALIFORNIA BLVD
SUITE 400
WALNUT CREEK, CA 94596
925-940-2229 (FAX)
925-940-2200 (TEL)
ENGINEERS / SURVEYORS / PLANNERS

DRAWN: M.THOMAS
DESIGNED: M.THOMAS
CHECKED: J.YOUNG
APPROVED: J. WHITE

REGISTERED PROFESSIONAL ENGINEER
JASON T. WHITE
No. C 062281
CIVIL
STATE OF CALIFORNIA

POLARIS APARTMENTS
11965 SAN PABLO AVE, EL CERRITO, CA

PRELIMINARY GRADING AND UTILITY PLAN

DATE 5-30-2019	SCALE As Indicated
BKF JOB NO. 20175235	
COUNTY NO.	
SHEET NO. 2 OF 4	
FILE NO. C2.0	

DRAWING NAME: \\BKF-WC\vol4\2017\175235_Boxter_Creek\ENG\SHEETS\01_GRUT.dwg
PLOT DATE: 05-30-19 PLOTTED BY: thoe

ENVIRONMENTAL COMPLIANCE CHECKLIST

Baxter Creek Apartments Project

Prepared for
City of El Cerrito

Prepared by
Circlepoint

February 2019

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Baxter Creek – 11965 San Pablo Avenue

CEQA Environmental Checklist

Project Title	Baxter Creek Apartments at 11965 San Pablo Avenue
Lead agency name and address:	City of El Cerrito Planning Division 10890 San Pablo Avenue El Cerrito, CA 94530
Contact person and phone number	Sean Moss (510) 215-4359
Project Location:	11965 San Pablo Avenue El Cerrito, CA 94530
File Number:	PL17-0028
Project sponsor's name and address:	Charlie Oewel, 11965 San Pablo, LLC 1606 Juanita Lane, Suite A Tiburon, CA 94920
Property Owner:	11965 San Pablo, LLC 1606 Juanita Lane, Suite A Tiburon, CA 94920
General Plan Designation:	Transit-Oriented Higher-Intensity Mixed Use (TOHIMU)
Zoning:	Transit-Oriented Higher-Intensity Mixed Use (TOHIMU)
Description of project:	The project would include demolition of the one existing structure and parking lot and construction of a new 107,990 square foot, 8-story, 85-foot tall[1] multi-family residential building with a total of 144 dwelling units and 77 parking spaces.
Surrounding land uses and setting briefly describe the project's surroundings:	The project site is bordered by a trail to the north, which connects with the Ohlone Greenway across San Pablo Avenue. There are several commercial uses including a church and restaurant across the trail. San Pablo Avenue borders the project site to the east, across which there is a grocery store, associated parking lot, and laundromat, as well as the Baxter Creek Gateway Park and Ohlone Greenway. The project site is bordered to the south by the Richmond Greenway Trail and Bay Area Rapid Transit (BART) tracks, beyond which are commercial uses including big-box stores, undeveloped land, and Interstate 80 (I-80).
Other public agencies whose approval is required (e.g. permits, financial approval, or participation agreements):	None.

[1] Measured from the finished grade to bottom of parapet along San Pablo Avenue.

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Appendix B: CHRIS Search Results
Appendix C: Geotechnical Report
Appendix D: Phase I/Phase II Environmental Site Assessment
Appendix E: Noise Impact Study
Appendix F: Transportation Analysis

1 Introduction

This checklist and attached supporting documentation have been prepared to analyze the potential environmental impacts of the Baxter Creek Apartments (the project) in relationship to the prior environmental review conducted for the project site in the City of El Cerrito's San Pablo Avenue Specific Plan Environmental Impact Report (Specific Plan EIR). This analysis considers whether the environmental impacts of the project have already been analyzed under the California Environmental Quality Act (CEQA) (Pub. Resources Code (PRC), Section 21000, et seq.).

This document has been prepared in accordance with the relevant provisions of CEQA and the CEQA Guidelines as implemented by the City of El Cerrito (City). According to Section 15168(c)(2) of the 2017 CEQA Guidelines, a program EIR can be used to address the effects of a subsequent activity so long as the activity is within the scope of the project covered by the program EIR, no new effects are found, and no new mitigation measures would be required. As supported by the analysis in this document, the project would not result in new or substantially more severe significant environmental effects than what was analyzed in the Specific Plan EIR.

1.1 Project Background and Prior CEQA Documentation

In 2007, the City began the process to prepare a Specific Plan for San Pablo Avenue. The major goals of the Specific Plan were to articulate a vision for the future of San Pablo Avenue, identify improvements, and adopt context-sensitive regulations that could be applied along its length and to adjacent areas.

In 2014, the City certified the Specific Plan EIR (State Clearinghouse #2014042025) and adopted the San Pablo Avenue Specific Plan. The Specific Plan includes (1) a Form-Based Code (FBC) to provide clear signals to developers as to the type, location, and shape of desired development; (2) multimodal transportation goals and policies including streetscape design improvements, and design standards as part of the Complete Streets Plan; and (3) infrastructure improvements to support new development.

1.2 CEQA Requirements

CEQA Guidelines Section 15168(c)(4) recommends using a written checklist or similar device to confirm whether the environmental effects of a subsequent activity were adequately covered in a program EIR. This checklist confirms the project at 11965 San Pablo Avenue would be within the planning area of the Specific Plan EIR and would have no new significant environmental effects nor substantially increase the severity of previously identified significant effects, and no new mitigation measures are required beyond those identified in the Specific Plan EIR. As such, the City finds that impacts resulting from implementation of the project would be within the scope of the Specific Plan EIR and no supplemental environmental document is required. Pursuant to Public Resources Code Section 21166 and CEQA Guidelines Section 15168, the project does not require any further review under CEQA.

2 Project Description

2.1 Project Location and Setting

The project site is at 11965 San Pablo Avenue (APNs 513-340-059 and 513-340-046) within the cities of El Cerrito and Richmond, respectively, in Contra Costa County, California (**Figure 1**). The project site consists of two parcels located along the Municipal Boundaries of El Cerrito and Richmond, with a parcel in each city. El Cerrito is the project lead agency per the California Environmental Quality Act (CEQA). The 0.65 acre project site is largely flat.[2] The eastern side of the project site has frontage on San Pablo Avenue, and the south and west sides of the project site abut elevated BART tracks. The El Cerrito parcel contains an existing one-story vacant commercial building built in 1998, an asphalt parking lot, and perimeter landscaping and has historically been part of a nursery operation. The Richmond parcel is developed with driveway access that serves the existing building on the El Cerrito parcel.

Commercial properties, including a take-out restaurant, church, and auto body shop, are located north of the project site. Across San Pablo Avenue, additional commercial properties are located in proximity to the project site including a grocery store to the northeast, a laundromat to the southeast, and a home improvement store to the south across the BART tracks. I- 80 is located to the west of the site, and the Richmond Greenway abuts the project site to the south and northeast. Across the BART tracks, the project site is bordered by vacant, undeveloped land. Surrounding land uses are depicted in **Figure 2**.

The project site is located within the Specific Plan area and has a land use designation of Transit-Oriented Higher-Intensity Mixed Use (TOHIMU) as shown in **Figure 3** and **Figure 4**. The zoning for the project site is also TOHIMU. Multi-family residential land use is permitted for TOHIMU per Section 2.03.03 of the Specific Plan. The El Cerrito Del Norte BART station is located 0.4 miles east of the project site, and the El Cerrito Plaza Bart Station is located 2.27 miles southeast. As described in further detail herewith in, there have been no substantial changes in environmental circumstances at or around the project site since certification of the Specific Plan EIR.

The majority of project improvements would occur on the El Cerrito parcel (APN 513-340-059), including construction of the proposed residential building. Minor project improvements would occur within Richmond (APN 513-340-046) and would entail driveway reconfiguration and landscaping activities. The Richmond parcel is zoned CM-3, Commercial Mixed-Use, and the land use designation is Medium Intensity Mixed Use.

The Richmond Greenway Trail is south of the project site and connects to Baxter Creek Gateway Park and the Ohlone Greenway across San Pablo Avenue. An additional trail is located directly north of the project site which provides a connection to Baxter Creek Gateway Park and the Ohlone Greenway.

[2] Joe DeCredico Studio, project plans, 2017.

2.2 Specific Plan Development Capacity

The Specific Plan provides the framework for future development along San Pablo Avenue. As shown in **Table 1**, the Specific Plan EIR analyzed a maximum development capacity of 1,706 new residential units and 243,112 square feet of new commercial space. Since approval of the Specific Plan, 1,286 residential units and 63,893 square feet of commercial space are under construction, have been proposed, or are undergoing City approval process.

Table 1 San Pablo Avenue Specific Plan Area Development Capacity 2013-2040

	Residential Units	Commercial (Square Feet)
Specific Plan Existing Conditions (2013)	1,340	2,016,370
Specific Plan Development – Net New (2040)	1,706	243,112
Total Future– Existing (2013) + Net New (2040)	3,046	2,259,482
Development Proposed & Under Construction Since Specific Plan Adoption (2015-2017)	1,286	63,893
Development Capacity Remaining (2017)	420	179,219

Source: San Pablo Avenue Specific Plan Area: Development Proposed, Under Construction or Recently Completed, City of El Cerrito, September 2018.

2.3 Project Characteristics

The project would include demolition of the one existing structure on site and construction of a new eight story, 85-foot tall[3] multi-family residential building with a total of 144 dwelling units, as shown on **Figure 5**, **Figure 6**, and **Figure 7**. The project would be an affordable housing project, with 10 percent of the units rented to very low income tenants. This affordable housing component would allow the project to make use of the State Affordable Housing Density Bonus as implemented by the San Pablo Avenue Specific Plan, for a maximum permitted building height of 85 feet. The proposed residential units would include a combination of studios, 1-bedroom, and 2-bedroom units. The gross building area would be 107,990 square feet, plus a 16,446-square-foot underground parking garage. Implementation of the project would require removal of ten trees onsite. Construction of the project is expected to be completed in one phase and last approximately 20 months.

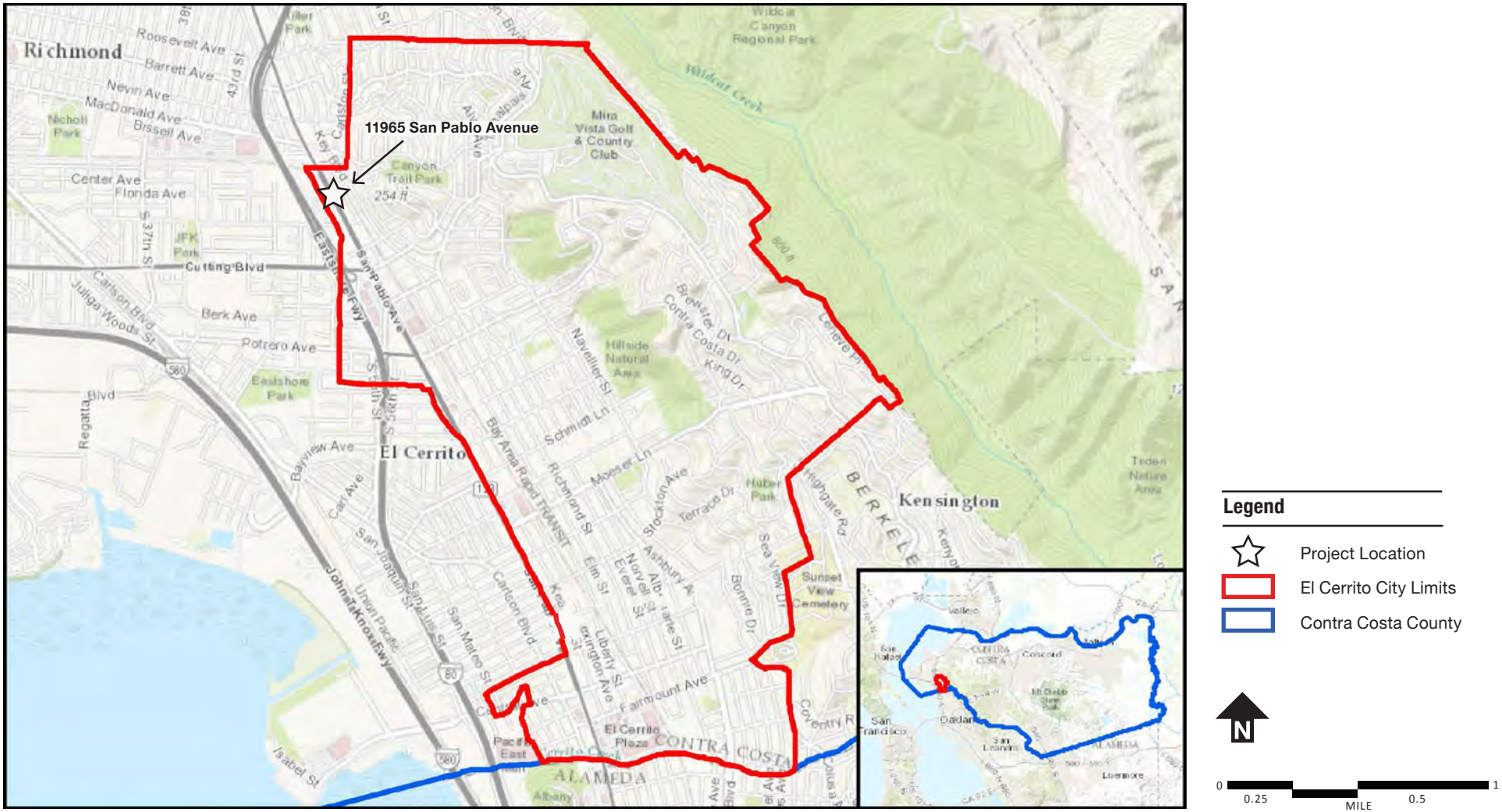
The parking garage would include 77 parking spaces, 220 long-term bicycle parking spaces, and 8 electric vehicle charging stations. Auto access to the project would be provided via an approximately 24-foot wide driveway along the northern side of the project site connecting to San Pablo Avenue. The 77 parking spaces would provide a parking ratio of 0.5 spaces per unit, consistent with TOHIMU regulations in the Specific Plan which set forth a parking *maximum* of 1 space per unit.

[3] Measured from the finished grade to bottom of parapet along San Pablo Avenue.

The project would be accessible by automobiles, public transit, bicycles, and walking. Bus stops are located at the corner of San Pablo Avenue and Macdonald Avenue, approximately 0.1 miles south of the project site, and the El Cerrito Del Norte BART station is located approximately 0.4 miles east. The project would enhance pedestrian and bicycle access by updating the sidewalk along the project perimeter on San Pablo Avenue and installing 220 long-term bicycle storage spaces for tenants. Eight short-term bicycle parking spaces would be provided along San Pablo Avenue.

The building would be set back a minimum of 14 feet from the curb line of San Pablo Avenue on the ground floor and would have a 10-foot set back from the property boundary along the BART tracks. All exterior lighting would be Dark Sky certified.[4] Landscaping would be provided along San Pablo Avenue, along the perimeters of the project site, and in several public and private open spaces, as shown in **Figure 8**.

[4] The International Dark Sky Association (IDA) is a premier authority on light pollution. IDA maintains a database of lighting products certified to minimize glare, reduce light pollution, and protect the night sky.



Regional Location Map

Figure 1

Source: Google Earth, 2017

Legend

Project Site

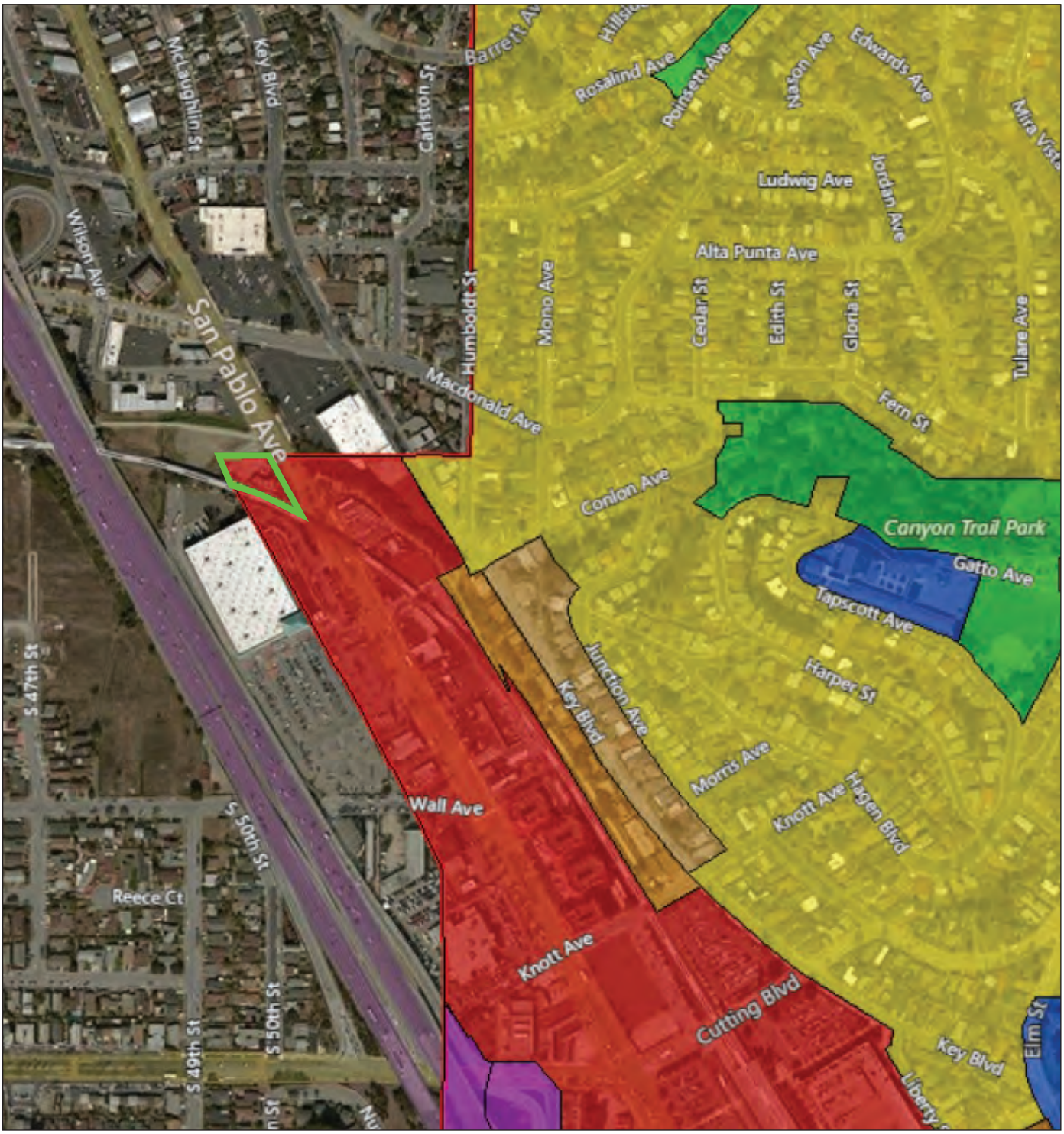
N

NOT TO SCALE

Project Site Map

Figure 2

Source: Google Earth, 2017



Legend

- Project Site
- Transit Oriented High Intensity Mixed Use (TOHIMU)
- Low Density
- Medium Density
- High Density
- Commercial
- Institutional & Utility
- Parks & Open

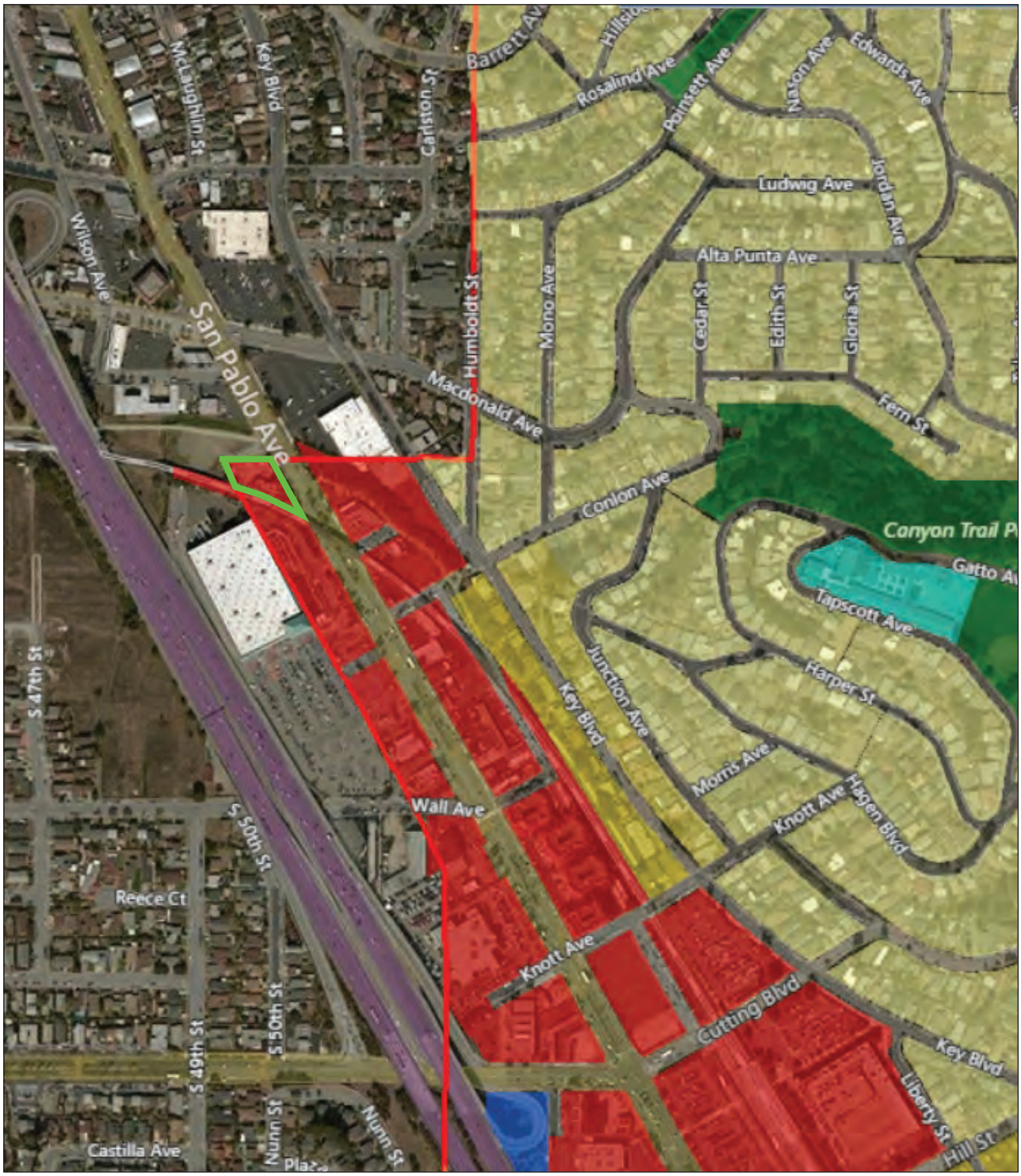
N

NOT TO SCALE

Land Use Map

Figure 3

Source: City of El Cerrito



Legend

	Project Site		RD
	TOHIMU		RM
	TOM		PS
	RS-5		PR

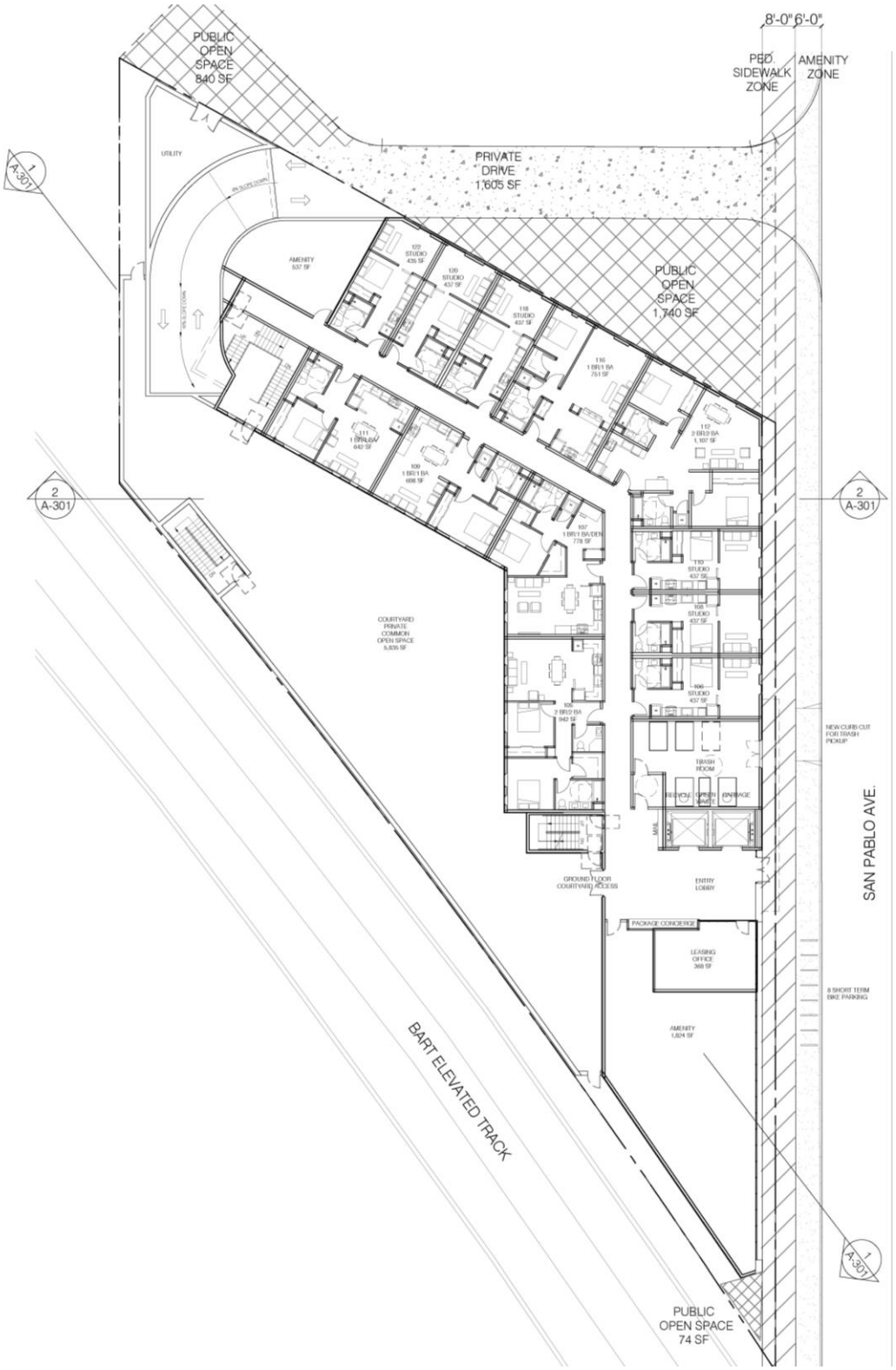
N

NOT TO SCALE

Zoning Map

Figure 4

Source: City of El Cerrito



Legend

Project Site

0 50 100 200
Feet

Site Plan Figure **5**

Source: Joe DeCredico Studio, project plans, 2018

Project Elevations Figure **6**

Source: Joe DeCredico Studio, project plans, 2018

Project Renderings Figure **7**

Source: Joe DeCredico Studio, project plans, 2018

Landscaping and Planting Plan Figure **8**

Source: Joe DeCredico Studio, project plans, 2018

3 Evaluation of Environmental Impacts

The following discussion addresses the potential level of impact relating to each aspect of the environment.

3.1 Aesthetics

	Significant Impact	Less than Significant with Mitigation Incorporated	Less-than-Significant Impact	No New Impact
Would the project:				
a) Have a substantial adverse effect on a scenic vista?	☐	☐	☐	☒
b) Substantially damage scenic resources, including but not limited to: trees, rock outcroppings, and historic buildings within a state scenic highway?	☐	☐	☐	☒
c) Substantially degrade the existing visual character or quality of the site and its surroundings?	☐	☐	☐	☒
d) Create a new source of substantial light or glare which would adversely affect day or nighttime views in the area?	☐	☐	☐	☒

Discussion

As noted in the Specific Plan EIR, implementation of the Specific Plan would enhance the visual and aesthetic character of the planning area by incorporating Form-Based Code and Complete Streets design guidelines and development standards. These guidelines and standards support and maintain a strong sense of place and visual identity on San Pablo Avenue. These design and development standards are included in Chapter 2, Form Based Code and Chapter 3, Complete Streets of the Specific Plan.

The City's location between the I-80 freeway and the East Bay Hills affords views of the Golden Gate Bridge, San Francisco skyline, and Mt. Tamalpais.[5] The primary potentially significant impact to scenic resources identified in the Specific Plan EIR was the potential for Specific Plan development to obstruct scenic views of Mt. Tamalpais, the Golden Gate Bridge, the San Francisco skyline, East Bay Hills, and Albany Hill from public rights-of-way, and areas of lower elevation such as hillside homes in El Cerrito

[5] City of El Cerrito, 2014. San Pablo Avenue Specific Plan, December 2014. Available at: http://www.el-cerrito.org/396/San-Pablo-Avenue-Specific-Plan. Accessed January 2018.

and Richmond (Impact 4-1).[6] This impact was determined to be significant and unavoidable; however, the Specific Plan EIR requires individual development projects to complete further evaluation to determine if they meet the standards and guidelines set forth in the Specific Plan.

As a result of the topography and surrounding land uses, the project site is not visible from local parks. Views of the project site from public areas in the hills, such as Tassajara Park, are likely blocked by intervening development. However, as generally demonstrated by the visual simulations below, the project site does not dominate viewsheds and the project would be consistent with existing development in the City of El Cerrito.

The Specific Plan identifies scenic views of the San Francisco Bay Area from public viewpoints. Key scenic views include Mt. Tamalpais, the Golden Gate Bridge, Albany Hill, and the San Francisco skyline. A view corridor analysis was prepared for the project in February 2018 and features visual simulations depicting four viewpoints from local streets near the project site.[7] These photos and simulations show that views through the project site of scenic features described in the Specific Plan are very limited and would generally not be affected by the project. The Golden Gate Bridge and San Francisco skyline are not currently visible from nearby viewpoints. As depicted in the view corridor analysis, the project would be visible at Gatto Avenue, Hagen Boulevard, and Macdonald Avenue. The project would be fully obscured at Barrett Avenue.

The photo simulations depict the project from vantage points including the Del Norte BART station platform and public rights-of-way which run east to west. The locations for these simulations were selected because the project site was visible and the locations represent views from surrounding residences and neighborhoods. From locations higher in elevation, visual presence of the project will be further limited, as the project will appear further below the horizon. As described above, the project would not have an impact on views of key features identified in the Specific Plan.

The Specific Plan EIR also determined potentially significant impacts could result from the introduction of new light and glare in the plan area (Impact 4-2), but concluded implementation of **Mitigation Measure 4-2**, which requires the installation of non-reflective building materials and windows, would reduce potential glare impacts of individual development projects to a less-than-significant level. With adherence to this mitigation measure, the project would not cause any new light and glare impacts.

Applicable Mitigation

Implementation of **Mitigation Measure 4-2** would be required and would remain adequate to mitigate impacts as described in the Specific Plan EIR. No new mitigation measures would be required.

Conclusion

The project is generally consistent with the type and intensity of development analyzed in the Specific Plan EIR, is within the allowable height limits, would be consistent with policies related to visual character and design, and would not result in a substantial increase in light and glare. No substantial

[6] City of El Cerrito, 2014. San Pablo Avenue Specific Plan Environmental Impact Report, June 2014. Available at: http://www.el-cerrito.org/396/San-Pablo-Avenue-Specific-Plan. Accessed January 2018.

[7] Joe DeCredico Studio, 2018. 11965 San Pablo Avenue View Corridor Memo, February 2018.

changes in environmental circumstances have occurred, and no new information that could not have been known at the time the Specific Plan EIR was certified has been identified which would lead to new or more severe significant impacts. Therefore, the Specific Plan EIR adequately evaluated impacts that would occur with implementation of the project and no new or more severe impacts would occur.

3.2 Agriculture and Forest Resources

	Significant Impact	Less than Significant with Mitigation Incorporated	Less-than-Significant Impact	No New Impact
Would the project:				
a) Convert Prime Farmland, Unique Farmland, or Farmland of Statewide Importance (Farmland) to non-agricultural use?	☐	☐	☐	☒
b) Conflict with existing zoning for agricultural use, or with a Williamson Act contract?	☐	☐	☐	☒
c) Conflict with existing zoning for, or cause rezoning of, forest land (as defined in Public Resources Code section 12220(g)), timberland (as defined by Public Resources Code section 4526), or timberland zoned Timberland Production (as defined by Government Code section 51104(g))?	☐	☐	☐	☒
d) Result in the loss of forest land or conversion of forest land to non-forest use?	☐	☐	☐	☒
e) Involve other changes in the existing environment which, due to their location or nature, could result in conversion of Farmland, to non-agricultural use or conversion of forest land to non-forest use?	☐	☐	☐	☒

Discussion

The Specific Plan EIR determined there are no agricultural or forestry resources located within or near the Specific Plan area.[8] The Specific Plan area is predominantly urbanized and is classified as "Urban and Built-Up Land" by the State Department of Conservation. There is no land designated as Prime Farmland, Unique Farmland, or Farmland of Statewide Importance within the Specific Plan area or the City. In addition, the City does not contain woodland, forestland cover, or land zoned for timberland production. The project is within the Specific Plan area and therefore is not located on land that is currently under a Williamson Act contract or any other type of agricultural or forestry land. Given this, no new impacts would occur.

[8] City of El Cerrito, 2014. San Pablo Avenue Specific Plan Environmental Impact Report. Available at: http://www.el-cerrito.org/DocumentCenter/View/3728. Accessed January 2018.

3.3 Air Quality

	Significant Impact	Less than Significant with Mitigation Incorporated	Less-than-Significant Impact	No New Impact
Would the project:				
a) Conflict with or obstruct implementation of the applicable air quality plan?	☐	☐	☐	☒
b) Violate any air quality standard or contribute substantially to an existing or projected air quality violation?	☐	☐	☐	☒
c) Result in a cumulatively considerable net increase of any criteria pollutant for which the project region is non-attainment under federal or state ambient air quality standard (including releasing emissions which exceed quantitative thresholds for ozone precursors)?	☐	☐	☐	☒
d) Expose sensitive receptors to substantial pollutant concentrations?	☐	☐	☐	☒
e) Create objectionable odors affecting a substantial number of people?	☐	☐	☐	☒

Discussion

Specific Plan EIR **Mitigation Measure 5-2** requires individual projects to undergo assessment for construction health risks, either through screening or refined modeling. Therefore, a project-specific Air Quality Analysis report was prepared for the project and included as **Appendix A**. The results of this analysis are provided below.

Clean Air Plan Consistency

An air quality plan describes air pollution control strategies to be implemented by a city, county, or region classified as a non-attainment area. The main purpose of an air quality plan is to bring an area into compliance with the requirements of federal and state air quality standards.

The Bay Area Air Quality Management District (BAAQMD) guidelines were referenced to determine if the project would conflict with or obstruct implementation of an applicable air quality plan, which for the Specific Plan EIR was the 2010 Bay Area Clean Air Plan (CAP). The Specific Plan EIR found that since the Specific Plan would not cause significant increases in vehicle miles traveled (VMT) compared to service population growth, and would not interfere with CAP control measures, implementation of the Specific Plan would result in a less-than-significant impact related to consistency with the applicable clean air plan.

BAAQMD's current clean air plan is the 2017 CAP, which was adopted on April 19, 2017. The 2017 CAP provides a regional strategy to protect public health and protect the climate. To protect public health, the plan describes how BAAQMD will continue progress toward attaining all State and federal air quality standards and eliminating health risk disparities caused by air pollution among Bay Area communities. To protect the climate, the plan defines a vision for transitioning the Bay Area to a post-carbon economy and provides a regional climate protection strategy that will put the Bay Area on a pathway to achieve ambitious greenhouse gas (GHG) reduction targets for 2030 and 2050.

The 2017 CAP includes a wide range of control measures designed to decrease emissions of the air pollutants that are most harmful to Bay Area residents. Such pollutants include particulate matter, ozone, and toxic air contaminants (TACs). Additionally, the 2017 CAP includes measures to reduce emissions of carbon dioxide by reducing fossil fuel combustion, as well as methane and other "super-GHGs" that have a larger greenhouse gas effect than carbon dioxide in the near-term.

Consistency with the CAP is determined by whether or not a proposed project would result in significant and unavoidable air quality impacts or hinder implementation of control measures (e.g., excessive parking or preclude extension of transit lane or bicycle path).

Implementation of the project would locate future residents within walking distance of public transportation, jobs, restaurants, and services, all of which would individually and collectively encourage residents to reduce their VMT. In addition, dwelling units constructed under the project would fall within the total development anticipated in the Specific Plan EIR.

As discussed in **Section 2.0, Project Description** and **Section 3.13, Population and Housing**, implementation of the project would not increase population, vehicle trips, or VMT above what was anticipated in the Specific Plan EIR. Trip generation anticipated under the project is discussed in detail in **Section 3.16 Transportation/Traffic**. Therefore, the project would support the goals of the CAP and would not conflict with any of the control measures identified in the CAP designed to bring the Bay Area into attainment. Consistent with the Specific Plan EIR, this impact would remain less than significant.

Construction-Related Impacts

The Specific Plan EIR determined construction from implementation of the Specific Plan would result in short-term emissions. Such activities would include site grading, asphalt paving, building construction, and architectural coating. Emissions commonly associated with construction activities include fugitive dust from soil disturbance, fuel combustion from mobile heavy-duty diesel- and gasoline-powered equipment, portable auxiliary equipment, and worker commute trips. During construction, fugitive dust is generated when wheels or blades disturb surface materials and can become a nuisance and potential health hazard to those living and working nearby. The Specific Plan EIR identified **Mitigation Measure 5-1** which would require BAAQMD-recommended measures to control particulate matter emissions during construction. Implementation of **Mitigation Measure 5-1** would reduce construction impacts to a less-than-significant level.

Development of the project would result in similar construction-related, short-term air quality impacts as those impacts identified in the Specific Plan EIR. Therefore, implementation of **Mitigation Measure 5-1** would be required. With adherence to the mitigation measures, the project would not result in any new or more significant construction-related air quality impacts than those identified in the Specific Plan EIR.

Ambient Air Quality Impacts

As described in the Specific Plan EIR, monitoring data from all ambient air quality monitoring stations in the Bay Area indicate existing carbon monoxide (CO) levels currently meet State and national ambient air quality standards. Therefore, the Bay Area has been designated as an attainment area for CO emissions. At the time the Specific Plan EIR was certified, the highest measured CO levels at the closest monitoring station to the Specific Plan area over the previous three years were 1.3 parts per million (ppm) for eight-hour averaging periods, compared with State and Federal criteria of 9.0 ppm. Monitored CO levels have decreased substantially since 1990 as newer vehicles with greatly improved exhaust emission control systems have replaced older vehicles.

Even though CO levels in the Bay Area are well below ambient air quality standards, elevated levels of CO still warrant analysis. CO hotspots (occurrences of localized high CO concentrations) can occur near busy, congested intersections. Recognizing the relatively low CO concentrations experienced in the Bay Area, BAAQMD's CEQA Air Quality Guidelines state that a project would have a less-than-significant impact if it would not increase traffic volumes at affected intersections to more than 44,000 vehicles per hour. As identified in the Specific Plan EIR, peak hour traffic volumes attributed to implementation of the Specific Plan would be far below this threshold. The project would not generate vehicle trips beyond what was considered and analyzed in the Specific Plan. Given this, impacts related to CO hotspots would remain less than significant. Further discussion of project trip generation is provided in **Section 3.16, Transportation/Traffic**.

Short-Term Exposure of Sensitive Receptors to Toxic Air Contaminants

Sensitive receptors are defined as residential uses, schools, daycare centers, nursing homes, and medical centers. The Specific Plan EIR determined construction activities could result in short-term emissions of diesel particulate matter (DPM), a known TAC. Individuals particularly vulnerable to DMP are children, whose lung tissue is still developing, and the elderly, who may have serious health problems that can be aggravated by exposure to diesel particulate matter. Exposure from diesel exhaust associated with construction activity contributes to both cancer and chronic non-cancer health risks.

The length of time sensitive receptors are exposed to TACs and the concentration of TACs during exposure are the primary factors used to determine health risk. Health risk is quantitatively evaluated by determining the potential for exposure to TAC emission levels that exceed applicable standards. Health-related risks associated with diesel-exhaust emissions are primarily linked to long-term exposure and the associated risk of contracting cancer. The calculation of cancer risk associated with exposure to TACs is typically based on a 70-year period of exposure. The use of diesel-powered construction equipment, however, would be temporary and episodic and would occur over a relatively large area.

Construction of the project may expose surrounding sensitive receptors to airborne particulates, as well as a small quantity of construction equipment pollutants (usually diesel-fueled vehicles and equipment). However, construction contractors would be required to implement the best management practices (BMPs) during construction, as required by **Mitigation Measure 5-1**. With implementation of BAAQMD-recommended measures to control particulate matter emissions during construction, **Mitigation Measure 5-1** would ensure that project construction emissions would fall below BAAQMD's significance thresholds as described in the Specific Plan EIR. Therefore, sensitive receptors would not be exposed to

substantial pollutant concentrations during project construction. The project would result in no new or more severe impacts related to short-term exposure to TACs than analyzed in the Specific Plan EIR, and further analysis is not required.

Long-Term Exposure of Sensitive Receptors to Toxic Air Contaminants

Implementation of the Specific Plan would result in the placement of new sensitive receptors in the Specific Plan area, as well as new non-residential land uses that would be potential new emissions sources. The roadway screening analysis tables from the Specific Plan EIR indicate health risk from high volume surface streets such as San Pablo Avenue, Central Avenue, Carlson Boulevard, and Potrero Avenue would be less than significant at average daily traffic volumes (ADT) of 40,000 vehicles or less at a distance of 10 feet. The Specific Plan EIR determined that if individual projects are constructed under the Specific Plan in close proximity to surface streets with daily traffic volumes higher than 40,000 ADT, a potentially significant impact would occur. **Mitigation Measure 5-2** requires completion of a site-specific health risk assessment for projects within close proximity to these roadways. This analysis was completed in January 2019 and is included in **Appendix A**.

The project site is located within 330 feet of I-80 and 25 feet of San Pablo Avenue. Therefore, to comply with **Mitigation Measure 5-3**, a project-specific health risk assessment was prepared in January 2019 (**Appendix A**).

According to BAAQMD, a project would result in a significant impact if it would:

- Individually expose sensitive receptors to TACs resulting in an increased cancer risk greater than 10.0 in one million,
- Increase non-cancer risk of greater than 1.0 on the hazard index (chronic or acute), or
- Cause an annual average ambient particulate matter ($PM_{2.5}$) increase greater than 0.3 micrograms per cubic meter (µg/m3).

A significant cumulative impact would occur if the project, in combination with other projects located within a 1,000-foot radius of the project site, would expose sensitive receptors to TACs resulting in an increased cancer risk greater than 100 in one million, an increased non-cancer risk of greater than 10.0 on the hazard index (chronic), or an ambient $PM_{2.5}$ increase greater than 0.8 µg/m3 on an annual average basis. Impacts from substantial pollutant concentrations are discussed below.

The air quality assessment calculated TACs within a 1,000-foot radius of the project site. TAC emissions from traffic on nearby roadways including San Pablo Avenue and Macdonald Avenue, and TACs from stationary sources were calculated. Permitted stationary sources of air pollution near the project site were identified using BAAQMD's Stationary Source Risk and Hazard Analysis Tool. This mapping tool identified the location of two stationary sources and their estimated risk and hazard impacts: a gasoline dispensing station approximately 350 feet north of the project site and a diesel generator approximately 100 feet west of the project site. The combined community risk levels at the project site from all sources (roadways and stationary sources) are summarized in **Table 2**.

Table 2 Community Risk Levels

Source	Cancer Risk (per million)*	$PM_{2.5}$ Concentration ($\mu g/m^3$)	Acute and Chronic Hazard (HI)
Highways – I-80 at 340 ft. west	**18.2**	0.25	0.02
Local Roadways – San Pablo Avenue at 35 ft., (2nd-story exposure) 16,350 ADT	4.5	0.17	0.01
Local Roadways – Macdonald Avenue at 330 ft., 9,205 ADT	0.5	0.02	<0.01
Chevron gas station, at 4838 Macdonald Ave - 350 ft.	1.8	0.00	0.01
Home Depot diesel generator at 11939 San Pablo Ave – 85 ft.	**12.5**	0.04	0.01
Total **	<37.5	<0.48	<0.06
BAAQMD Thresholds –			
Single Source (Maximum)	10.0	0.3	1.0
Cumulative Source	100	0.8	10.0
Significant?	**Yes – single source** No – cumulative source	No	No

Source: Illingworth & Rodkin, 2018.

* Cancer risk adjusted for the 2015 OEHHA methods

**Cumulative risks would be less than total since this table reports maximum impacts, which would not all occur at one location.

Combined health risks for all measured TACs are below BAAQMD cumulative thresholds. However, community risk levels from I-80 and Home Depot would exceed the single-source thresholds analyzed in the Specific Plan EIR. Therefore, additional mitigation measures are necessary.

1. **Project-Specific Condition of Approval:** The BAAQMD's Planning Healthy Places recommend installation of air filters rated at a minimum efficiency reporting value (MERV) 13 or higher in exposed buildings associated with sensitive land uses (e.g. schools, residences, hospitals).Increased cancer risks from I-80 traffic at the project site is significant. Cancer risks is mostly the result of exposure to diesel particulate matter, although, gasoline vehicle exhaust contributes. The project shall include the following measures, as a condition of approval, to minimize long-term diesel particulate matter exposure, which leads to increased cancer risk, for new project occupants:
    - Install air filtration in residential buildings. Air filtration devises shall be rated MERV13 or higher. To ensure adequate health protection to sensitive receptors (i.e., residents), this ventilation system, whether mechanical or passive, all fresh air circulated into the dwelling units shall be filtered.

- As part of implementing this measure, an ongoing maintenance plan for the buildings' heating, ventilation, and air conditioning (HVAC) air filtration shall be required.
- Ensure that the use agreement and other property documents: (1) require cleaning, maintenance, and monitoring of the affected buildings for air flow leaks, (2) include assurance that new owners or tenants are provided information on the ventilation system, and (3) include provisions that fees associated with owning or leasing a unit(s) in the building include funds for cleaning, maintenance, monitoring, and replacements of the filters, as needed.

Odors

The Specific Plan EIR concluded the Specific Plan area includes potential odor sources that could affect new sensitive receptors. However, most of these major existing sources are already buffered by existing uses. Responses to odors are subjective, and vary by individual and type of use. Sensitive land uses that include outdoor uses, such as residences and possibly daycare facilities, are likely to be affected most by existing odors. According to the Specific Plan, several land use types within the City are known to produce objectionable odors, such as a wastewater treatment facility, landfill, food processing facility, or chemical plant. The project site is not located within 1.0 miles of such odor-generating properties or land-use types. Restaurants are generally not considered to be odor-generating in the same manner as food processing facilities. Given this, the project site would not be subject to potential odor complaints or associated impacts. Similarly, the project would entail residential development and would not create a new source of objectionable odors.

Applicable Mitigation

Implementation of **Mitigation Measure 5-1** would be required and would remain adequate to mitigate impacts as described in the Specific Plan EIR. **Mitigation Measures 5-2 and 5-3** have been fulfilled through preparation of the project air quality health risk assessment. No new mitigation measures would be required.

Conclusion

The project would be consistent with the development standards regarding air quality analyzed in the Specific Plan EIR. No substantial changes in environmental circumstances have occurred, and no new information that could not have been known at the time the Specific Plan EIR was certified has been identified which would lead to new or more severe significant impacts. Therefore, the Specific Plan EIR adequately evaluated impacts that would occur with implementation of the project and no new or more severe impacts would occur.

3.4 Biological Resources

	Significant Impact	Less than Significant with Mitigation Incorporated	Less-than-Significant Impact	No New Impact
Would the project:				
a) Have a substantial adverse effect, either directly or through habitat modifications, on any species identified as candidate, sensitive, or special status species in local or regional plans, policies, regulations, or by the California Department of Fish and Game or U.S. Fish and Wildlife Service?	☐	☐	☐	☒
b) Have a substantial adverse effect on any riparian habitat or other sensitive natural community identified in local or regional plans, policies, regulations, or by the California Department of Fish and Game or U.S. Fish and Wildlife Service?	☐	☐	☐	☒
c) Have a substantial adverse impact on federally protected wetlands as defined by Section 404 of the Clean Water Act (including but not limited to: marsh, vernal pool, coastal, etc.) through direct removal, filling, hydrological interruption, or other means?	☐	☐	☐	☒
d) Interfere substantially with the movement of any native resident or migratory fish or wildlife species or with an established resident or migratory wildlife corridors, or impede the use of native wildlife nursery sites?	☐	☐	☐	☒
e) Conflict with any local policies or ordinances protecting biological resources, such as a tree preservation policy or ordinance?	☐	☐	☐	☒
f) Conflict with the provisions of an adopted Habitat Conservation Plan, Natural Community Conservation Plan, or other approved local, regional, or state habitat conservation plan?	☐	☐	☐	☒

Discussion

The Specific Plan EIR found that implementation of the Specific Plan would result in less-than-significant impacts to biological resources, because the Specific Plan area is almost entirely urbanized with approximately 90 percent of the land developed, recently disturbed, or ruderal. The Specific Plan EIR concluded the Plan area does not contain any plant or animal species identified as a candidate, sensitive, or special-status species in local or regional plans, policies, or regulations or by the California Department of Fish and Wildlife or US Fish and Wildlife Service (USFWS).

In addition, the Specific Plan area does not contain any federally protected wetlands. The only identified riparian habitat or other sensitive natural community within the Specific Plan area is riparian habitat adjacent to Cerrito Creek (near the El Cerrito Plaza Shopping Center parking lot and Ohlone Greenway) and Baxter Creek. Cerrito Creek is located approximately 2.43 miles south of the project site. Cerrito creek is separated from the project site by BART tracks, dense residential and commercial land uses and several local arterial roadways including Cutting Boulevard, Potrero Avenue, San Pablo Avenue, Carlson Boulevard, and Central Avenue, all of which have at least four travel lanes.

Baxter Creek at Gateway Park is located directly east of the project site, across the four-lane segment of San Pablo Avenue, a distance measuring approximately 88 feet. As discussed in the Specific Plan EIR, the Specific Plan area includes about 12 acres of park and open space. Much of the space is considered disturbed or ruderal, and often lacks necessary habitat characteristics suitable for special-status species.

Although Baxter Creek features lush greenery abutting the Ohlone Greenway as it travels southward, portions of the creek in proximity to Gateway Park are surrounded by commercial land uses. Gateway Park abuts a grocery store to the north and is bordered by a laundromat located approximately 28 feet south of the park. As discussed in the Specific Plan EIR, green spaces within the Specific Plan area often lack habitat characteristics suitable for special-status species. Due to the extremely small extent of such isolated vacant areas, they provide almost no permanent values to wildlife.[9]

As previously discussed, the realigned Richmond Greenway is located directly south of the project site, abutting the BART tracks. Given the developed nature and noise and vibration impacts associated with operation of the BART tracks, the paved trail does not likely feature any valuable habitat.

As it is unlikely for species to traverse the urban, built-up land uses and roadways between Cerrito Creek, Baxter Creek, and the project site, implementation of the project would not result in any direct or indirect impacts to these habitats or the species that may occur within these natural communities. The project site is covered in paved surfaces with no surface vegetation beyond street trees along the project perimeter. As such, the project site does not provide any valuable habitat beyond the street trees.

The Specific Plan EIR identified potential impacts associated with the removal of existing trees with implementation of the Specific Plan. Removal of existing trees containing nest or eggs of migratory birds, raptors or bird species during the nesting season would be considered an “unlawful take” under the federal Migratory Bird Treaty Act and USFW provisions protecting migratory and nesting birds. As

[9] City of El Cerrito, 2014. San Pablo Avenue Specific Plan Final Environmental Impact Report. June 2014. Available at: http://www.el-cerrito.org/396/San-Pablo-Avenue-Specific-Plan. Accessed January 2018.

the project would require removal of ten trees, adherence to Specific Plan EIR **Mitigation Measure 6-1** would be mandatory. **Mitigation Measure 6-1** avoids the removal of trees, shrubs, or weedy vegetation during the bird nesting season spanning February 1 through August 31. Implementation of **Mitigation Measure 6-1** would be required to adequately minimize potentially significant impacts associated with tree removal on nesting birds to less-than-significant levels.

Applicable Mitigation

Implementation of **Mitigation Measure 6-1** would adequately mitigate impacts as described in the Specific Plan EIR. No new mitigation measures would be required.

Conclusion

The project would be consistent with the type of development analyzed within the Specific Plan EIR. Tree removal activities would be conducted in conformance with **Mitigation Measure 6-1**. No substantial changes in environmental circumstances have occurred for this topic, and no new information that could not have been known at the time the Specific Plan EIR was certified has been identified which would lead to new or more severe significant impacts. Therefore, the Specific Plan EIR adequately evaluated impacts that would occur with implementation of the project and no new or more severe impacts would occur.

3.5 Cultural Resources

	Significant Impact	Less than Significant with Mitigation Incorporated	Less-than-Significant Impact	No New Impact
Would the project:				
a) Cause a substantial adverse change in the significance of a historical resource as defined in Section 15064.5?	☐	☐	☐	☒
b) Cause a substantial adverse change in the significance of an archaeological resource, pursuant to Section 15064.5?	☐	☐	☐	☒
c) Directly or indirectly destroy a unique paleontological resource, site, or unique geologic features?	☐	☐	☐	☒
d) Disturb any human remains, including those interred outside of formal cemeteries?	☐	☐	☐	☒

Discussion

Historic Resources

The Specific Plan EIR identified properties or features within the Specific Plan area that may be eligible for listing in a local, State, or Federal register of historic resources. The Specific Plan EIR identified **Mitigation Measure 7-1** to be applied to any individual discretionary project within the Specific Plan area that the City determines may involve a property that contains a potentially significant historic resource.[10] Per **Mitigation Measure 7-1**, such a resource shall be evaluated by City staff, and if warranted, shall be assessed by a qualified professional on the California Historical Resources Information System (CHRIS) list of consultants who meet the Secretary of the Interior's Professional Qualifications Standards to determine whether or not the property is a significant historic resource and whether or not the project may have a potentially significant adverse effect on the historic resource.

The project site contains an existing one-story vacant commercial building constructed in 1998 that is proposed for demolition. Given the construction date, the structure located on the project site does not meet any of the criteria for listing in the NRHP or the CRHR, and is thus not considered a historical resource for the purposes of CEQA.

[10] A potentially significant historic resource is defined as a property that is unrecorded and thus, has not been listed in or formally determined eligible or ineligible for listing in any local, state or federal register. Properties containing unrecorded buildings or structures over 45 years old are conservatively considered potentially significant and historic.

Archeological and Paleontological Resources

The Specific Plan EIR concluded potential impacts on cultural resources from development within the Specific Plan area, including archaeological and paleontological resources and human remains, would be less than significant with implementation of mitigation measures. Discovery and disturbance of previously unknown archaeological or paleontological resources, including human remains, could occur during grading and excavation at individual project sites. The Specific Plan EIR concluded **Mitigation Measure 7-2** and **Mitigation Measure 7-3** would reduce potential impacts on unknown cultural resources to less-than-significant levels.

In accordance with Specific Plan EIR **Mitigation Measure 7-2**, a non-confidential CHRIS records search was undertaken at the Northwest Information Center at Sonoma State University for the project site and vicinity (Included in **Appendix B**).[11] The records search confirmed there are no recorded cultural resources on the project site, although several recorded sites are located within the project vicinity. The records search determined there is a moderately high potential of identifying Native American archaeological resources and a moderate potential of identifying historic-period archaeological resources within the project site and vicinity.

Implementation of Specific Plan EIR **Mitigation Measure 7-2** and **Mitigation Measure 7-3**, which specify compliance with existing codes and regulations applicable to the accidental discovery of archaeological and paleontological resources and human remains during construction activities, would be required. These measures ensure that if archaeological resources are encountered during construction, work shall be temporarily halted in the vicinity 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. These mitigation measures would minimize any potentially significant impacts associated with accidental archaeological discoveries to a less-than-significant level.

Applicable Mitigation

Implementation of **Mitigation Measure 7-2** and **Mitigation Measure 7-3** would be required and would remain adequate to mitigate impacts as described in the Specific Plan EIR. **Mitigation Measure 7-1** has been fulfilled upon results of the conducted project site CHRIS search. No new mitigation measures would be required.

Conclusion

The project would be consistent with the type of development analyzed within the Specific Plan EIR. Ground disturbing activities would be conducted in conformance with Specific Plan EIR **Mitigation Measures 7-2** and **Mitigation Measure 7-3**. No substantial changes in environmental circumstances have occurred, and no new information that could not have been known at the time the Specific Plan EIR was certified has been identified which would lead to new or more severe significant impacts. Therefore, the Specific Plan EIR adequately evaluated impacts that would occur with implementation of the project and no new or more severe impacts would occur.

[11] 11965 San Pablo Avenue CHRIS Request, 2018.

3.6 Geology and Soils

	Significant Impact	Less than Significant with Mitigation Incorporated	Less-than-Significant Impact	No New Impact
Would the project:				
a) Expose people or structures to potential substantial adverse effects including the risk of loss, injury or death involving:				
i) Rupture of a known earthquake fault, as delineated on the most recent Alquist-Priolo Earthquake Fault Zoning Map issued by the State Geologist for the area or based on other substantial evidence of a known fault?	☐	☐	☐	☒
ii) Strong seismic ground shaking?	☐	☐	☐	☒
iii) Seismic-related ground failure, including liquefaction?	☐	☐	☐	☒
iv) Landslides?	☐	☐	☐	☒
b) Would the project result in substantial soil erosion or the loss of topsoil?	☐	☐	☐	☒
c) Be located on a geologic unit or soil that is unstable, or that would become unstable as a result of the project, and potentially result in on- or off-site landslide, lateral spreading, subsidence, liquefaction or collapse?	☐	☐	☐	☒
d) Be located on expansive soil, as defined in table 18-1b of the Uniform Building Code (1994), creating substantial risks to life or property?	☐	☐	☐	☒
e) Have soils incapable of adequately supporting the use of septic tanks or alternative wastewater disposal systems where sewers are not available for the disposal of wastewater?	☐	☐	☐	☒

Discussion

The Specific Plan EIR concluded that geologic and soil impacts would be primarily related to potential ground shaking during seismic events and associated impacts related to ground failure. Since the Specific Plan area is not located within an Earthquake Fault Hazard Zone, the likelihood of surface fault rupture is minimal. The Specific Plan EIR determined slope instability hazards are minimal due to the absence of appreciable slopes in the Specific Plan area.

The Specific Plan area is susceptible to ground shaking from the Hayward Fault or one of the other active faults in the region. The Hayward Fault is the nearest active fault to the Specific Plan area, approximately 1 mile to the east. However, the Specific Plan EIR determined impacts related to ground shaking would be less than significant with compliance with the latest California Building Standards Code. The project would be designed and constructed in accordance with these requirements.

The Specific Plan EIR concluded grading and construction activities within the Specific Plan area may result in minor erosion or the minor loss of some topsoil. Although the project site is entirely covered in paved surfaces, and would be excavated to construct an underground parking garage, the Foundation Investigation and Recommendations report completed for the project (included in this document as **Appendix C**) determined that there are no areas of mass instability at or near the building site.[12] Furthermore, implementation of City-required grading and construction-period erosion control techniques would mitigate potential impacts to a less-than-significant level.

Implementation of the Specific Plan would have potentially significant impacts related to earthquake-induced on-site liquefaction, differential settlement, lateral spreading, and subsidence, and associated damage to project buildings and other improvements within the Specific Plan area. However, potential impacts would be reduced to less-than-significant levels with implementation of **Mitigation Measure 8-1**, which requires preparation and implementation of the recommended measures of a site-specific design-level geotechnical study for individual development projects.

Expansive soil or soil with shrink-swell potential and low strength with variations in moisture content is a common cause of foundation distress. As indicated by the Foundation Investigation and Recommendation report completed for the project site in June 2017 (**Appendix C**), the project site is largely underlain by soils that are not susceptible to liquefaction, therefore, the soils at the project site would not pose a risk to new structures from liquefaction. Furthermore, with implementation of **Mitigation Measure 8-1**, the foundation recommendations of the site-specific geotechnical study will be implemented, reducing this potential impact to a less-than-significant level.

Liquefaction is a phenomenon where soils are subject to a loss of strength because of pressure from earthquakes. Soils found at the project site are a type generally not susceptible to liquefaction. Lateral spreading is a failure within a nearly horizontal soil layer that could occur due to liquefaction. Effects of lateral spreading from ground shaking would be reduced or avoided by designing structures to resist lateral forces in accordance with the 2016 California Building Code.

[12] Lawrence B. Karp, 2017. 11965 San Pablo Avenue Foundation Investigation and Recommendations. June 2017

Applicable Mitigation

Implementation of **Mitigation Measure 8-1** would be required and would remain adequate to mitigate impacts as described in the Specific Plan EIR. No new mitigation measures would be required.

Conclusion

The project design plans are consistent with development standards analyzed in the Specific Plan EIR and would be required to comply with the California Building Code, City-required erosion control techniques, and Specific Plan EIR **Mitigation Measure 8-1**. No substantial changes in environmental circumstances have occurred, and no new information that could not have been known at the time the Specific Plan EIR was certified has been identified which would lead to new or more severe significant impacts. Therefore, the Specific Plan EIR adequately evaluated impacts that would occur with implementation of the project and no new or more severe impacts would occur.

3.7 Greenhouse Gas Emissions

	Significant Impact	Less than Significant with Mitigation Incorporated	Less-than-Significant Impact	No New Impact
Would the project:				
a) Generate greenhouse gas emissions, either directly or indirectly, that may have a significant impact on the environment?	☐	☐	☐	☒
b) Conflict with an applicable plan, policy or regulation adopted for the purpose of reducing the emissions of greenhouse gases?	☐	☐	☐	☒

Discussion

As identified in the Specific Plan EIR, BAAQMD CEQA Air Quality Guidelines contain methodology and thresholds of significance for evaluating GHG emissions. BAAQMD suggests applying a specific plan-level GHG efficiency threshold of 4.6 metric tons (MT) per year per capita. Specific plans with emissions above the threshold would be considered to have an impact that, cumulatively, would be significant.

To calculate GHG emissions, Specific Plan land use types, total square footage of anticipated development, and trip generation rates were input to CalEEMod. CalEEMod predicts emissions of GHGs in the form of equivalent carbon dioxide emissions (CO_2e). Specific Plan GHG emissions were computed using the California Emissions Estimator Model (CalEEMod) using projected operational emissions in 2040.

CalEEMod results showed that in the cumulative scenario year (2040), development under the Specific Plan would have per capita emissions between 3.9 and 3.7 MT of CO_2e per year. The modeled per capita emissions for the Specific Plan would not exceed BAAQMD specific plan-level threshold of 4.6 MT of CO_2e /year. Therefore, this impact was determined to be less than significant.

BAAQMD does not have adopted thresholds of significance for construction-related GHG emissions. Instead, BAAQMD encourages the incorporation of BMPs to reduce GHG emissions during construction where feasible and applicable, including, but not limited to: using local building materials of at least 10 percent, and recycling or reusing at least 50 percent of construction waste or demolition materials. The 2016 California Green Building Standards Code (CALGreen) requires a diversion rate of at least 65 percent of construction waste or demolition materials.

As documented in the Specific Plan EIR, implementation of the Specific Plan would be subject to new requirements under rule making developed at the State and local level regarding GHG emissions. The Specific Plan is also subject to local and General Plan policies aimed at reducing GHG emissions, including policies in the El Cerrito Climate Action Plan. Given this, the Specific Plan is consistent with and conforms to applicable GHG emission reduction plans.

The project would be required to adhere to the building guidelines in the Specific Plan, would be consistent with the El Cerrito Climate Action Plan, and would promote reductions in GHG emissions through mixed-use development in close proximity to transit. The project would result in no new or more severe impacts related to GHG emissions than analyzed in the Specific Plan EIR and further analysis is not required.

Applicable Mitigation

The Specific Plan EIR did not identify any mitigation measures for greenhouse gas impacts, and no new mitigation measures would be required.

Conclusion

The project is consistent with the type of development analyzed in the Specific Plan EIR and would be required to comply with the 2016 California Green Building Standards Code and El Cerrito Climate Action Plan. No substantial changes in environmental circumstances have occurred, and no new information that could not have been known at the time the Specific Plan EIR was certified has been identified which would lead to new or more severe significant impacts. Therefore, the Specific Plan EIR adequately evaluated impacts that would occur with implementation of the project and no new or more severe impacts would occur.

3.8 Hazards and Hazardous Materials

	Significant Impact	Less than Significant with Mitigation Incorporated	Less-than-Significant Impact	No New Impact
Would the project:				
a) Create a significant hazard to the public or the environment through the routine transport, use, or disposal of hazardous materials?	☐	☐	☐	☒
b) Create a significant hazard to the public or the environment through reasonably foreseeable upset and accident conditions involving the release of hazardous materials into the environment?	☐	☐	☐	☒
c) Emit hazardous emissions or handle hazardous or acutely hazardous materials, substances, or waste within one-quarter mile of an existing or proposed school?	☐	☐	☐	☒
d) Be located on a site which is included on a list of hazardous materials sites complied pursuant to Government Code Section 65962.5 and as a result, would it create a significant hazard to the public or the environment?	☐	☐	☐	☒
e) For a project located within an airport land use plan or, where such a plan has not been adopted, within two miles of a public airport or public use airport, would the project result in a safety hazard for people residing or working in the project area?	☐	☐	☐	☒
f) For a project within the vicinity of a private airstrip, would the project result in a safety hazard for people residing or working in the project area?	☐	☐	☐	☒
g) Impair implementation of or physically interfere with an adopted emergency response plan or emergency evacuation plan?	☐	☐	☐	☒
h) Expose people or structures to the risk of loss, injury or death involving wildland fires, including where wildlands are adjacent to urbanized areas or where residences are intermixed with wildlands?	☐	☐	☐	☒

Discussion

The Specific Plan EIR concluded no significant impacts associated with hazards and hazardous materials would occur. The Specific Plan EIR did identify the potential for development to expose construction workers to existing spilled, leaked, or otherwise discharged hazardous materials or wastes during project construction due to the large number of auto-related businesses that previously operated in the Specific Plan area, including the project site. However, the Specific Plan EIR determined that compliance with all applicable City, regional, and State-mandated site assessment, remediation, removal, and disposal requirements for soil, surface water, and/or groundwater contamination would ensure potential impacts are less than significant.

The Specific Plan EIR determined residential, commercial, and open space uses proposed as part of the Specific Plan would not involve the routine transport, use, storage, or disposal of hazardous materials to the extent that a significant public or environmental hazard would occur. Operations in the Specific Plan area may involve the occasional transport, use, storage, or disposal of common hazardous substances such as fuel, paint, and solvents. These operations would be subject to local, state, and federal regulations. The Specific Plan EIR determined that implementation of these standard regulations would ensure potential impacts would be less than significant.

A Phase I Environmental Site Assessment (ESA) was prepared for the project site in January 2017 and is included as **Appendix D**.[13] As part of the Phase I ESA, a close review of records obtained from Contra Costa County was completed along with searches of online databases maintained by the Department of Toxic Substances Control and the Water Board, and agency list searches were conducted. No agency listings were found for the project site. Nearby listed sites include but are not limited to the adjacent Home Depot property (11939 San Pablo Ave), Chevron gas station (4838 Macdonald Ave), the former dry-cleaning facility located at Bishop Center (now vacant), and a nearby manufacturing and auto repair facility. The Phase I ESA determined that based on distance apart, gradients and case closure status, there is a low potential that contamination from these facilities has impacted the project site.

Due to the long-term use of the subject site as part of a nursery operation, soil at the property may have been impacted by pesticides and herbicides. However, as documented in the ESA, it is likely that the issue of potential residual pesticide concentrations in shallow soils at the site would have been resolved during construction of the Taco Bell restaurant and associated parking areas when areas of soil were redistributed across the site during the construction and grading activities. Given this, the Phase I ESA recommended no further environmental investigations at the project site. As described in the Specific Plan EIR, a Phase II ESA will be required for sites with potential contamination, at the City's discretion. This is not mitigation, but a standard condition of approval for projects in the City. The project will be required to complete a Phase II ESA prior to construction.

[13] Schutze & Associates, Inc., 2017. Phase I ESA and Phase II Subsurface Investigation. January, 2017. Accessed January 2018.

The nearest school to the project site is King Elementary School located approximately 0.46 miles southwest of the project site.[14] As the project site is located further than 0.25 miles from the school, no impacts related to handling hazardous materials in such close proximity to a school would occur. The project site is located approximately 14.22 miles northwest of the nearest public airport, Oakland International Airport. As the project site is not located within the Oakland International Airport Influence Area, no airport safety hazards would occur.[15] According to the Specific Plan EIR, no private airstrips are located in the plan area vicinity. In addition, the Specific Plan area, including the project site, is not within or adjacent to wildland area and would not be subject to wildland fire risks.

Applicable Mitigation

The Specific Plan EIR did not identify any mitigation measures for hazards or hazardous material impacts, and no new mitigation measures would be required.

Conclusion

The project is consistent with the development standards regarding hazards and hazardous materials analyzed in the Specific Plan EIR. The project would be required to comply with existing regulations related to hazardous soil or groundwater conditions at the site during ground disturbing activities. No substantial changes in environmental circumstances have occurred, and no new information that could not have been known at the time the Specific Plan EIR was certified has been identified which would lead to new or more severe significant impacts. Therefore, the Specific Plan EIR adequately evaluated impacts that would occur with implementation of the project and no new or more severe impacts would occur.

[14] City of El Cerrito, 2017. Schools in El Cerrito. Available at https://www.el-cerrito.org/362/Schools. Accessed January 2018.

[15] Alameda County Airport Land Use Commission, 2010. Oakland International Airport, Airport Land Use Compatibility Plan. Available at: https://www.acgov.org/cda/planning/landuseprojects/documents/Draft_OAK_ALUCP_091510.pdf. Accessed January 2018.

3.9 Hydrology and Water Quality

	Significant Impact	Less than Significant with Mitigation Incorporated	Less-than-Significant Impact	No New Impact
Would the project:				
a) Violate any water quality standards or waste discharge requirements?	☐	☐	☐	☒
b) Substantially deplete groundwater supplies or interfere substantially with groundwater recharge such that there would be a net deficit in aquifer volume or a lowering of the local groundwater table level e.g., the production rate of pre-existing nearby wells would drop to a level which would not support existing land uses or planned uses for which permits have been granted?	☐	☐	☐	☒
c) Substantially alter the existing drainage patterns of the site or area including through the alteration of the course of a stream or river, in a manner which would result in substantial erosion or siltation on or off-site?	☐	☐	☐	☒
d) Substantially alter the existing drainage pattern of the site or area, including through the alteration of the course of a stream or river, or substantially increase the rate or amount of surface runoff in a manner which would result in flooding on-or off-site?	☐	☐	☐	☒
e) Create or contribute runoff water which would exceed the capacity of existing or planned stormwater drainage systems or provide substantial additional sources of polluted run-off?	☐	☐	☐	☒
f) Otherwise substantially degrade water quality?	☐	☐	☐	☒
g) Place housing within a 100-year flood hazard area as mapped on a Federal Flood Hazard Boundary or Flood Insurance Rate Map or other flood hazard delineation map?	☐	☐	☐	☒

	Significant Impact	Less than Significant with Mitigation Incorporated	Less-than-Significant Impact	No New Impact
h) Place within a 100-year flood hazard area structures which would impede or redirect flood flows?	☐	☐	☐	☒
i) Expose people or structures to a significant risk of loss, injury or death involving flooding, including flooding as a result of the failure of a levee or dam?	☐	☐	☐	☒
j) Inundation by seiche, tsunami, or mudflow?	☐	☐	☐	☒

Discussion

The Specific Plan EIR determined long-term water quality impacts associated with implementation of the Specific Plan could result in stormwater runoff contamination from petroleum and other motor vehicle contaminants. However, compliance with Water Board and jurisdictional City-required post-construction, non-point source pollution control measures would ensure that such impacts would be reduced to a less-than-significant level. In addition, the Specific Plan EIR determined compliance with applicable Water Board and City of El Cerrito water quality protection requirements and conditions of approval would ensure any potential construction-period and post-construction water quality impacts are less than significant.

Construction projects are required to prepare a Stormwater Control Plan, which requires implementation of BMPs to control stormwater peak flows and pollutant levels. This requirement is stipulated in Provision C.3 of the Contra Costa County National Pollutant Discharge Elimination System (NPDES) permit. El Cerrito Municipal Code section 8.40.050 states that every application for a development project is required to submit a Stormwater Control Plan that meets the criteria in the most recent version of the Contra Costa Clean Water Program Stormwater C.3 Guidebook. Consistent with Provision C.3 requirements, the project applicant has already submitted a Stormwater Control Plan as part of the project application materials. If the project is approved, the City will confirm that this plan conforms to all applicable local and State requirements as part of the development review process.

The project would include 26,555 square feet of impervious surface area once implemented. Therefore, the 10,000 square foot threshold would be triggered and the project must comply with C.3 requirements. Further, the City's General Construction Permit requires the preparation and implementation of a Storm Water Pollution Prevention Plan (SWPPP). The SWPPP would include specifications for BMPs that would be implemented during project construction to control contamination of surface water flows and the potential discharge of pollutants. In addition, full compliance with the Contra Costa County NPDES permit guidelines for stormwater discharge would ensure that pollutant levels in stormwater runoff would be less than significant.

The Specific Plan EIR identified that a small portion of the southwest part of the plan area, near Central Avenue and I-80, is within a 100-year flood zone. The project site however is located within Zone X, an area of minimal flood hazard.[16] Given this, implementation of the project would not place people or structures in a 100-year flood zone. The Specific Plan EIR determined the Specific Plan area is not subject to inundation by seiche or mudflow. The southwest portion of the Specific Plan along Central Avenue in the City of Richmond is located near a Tsunami Inundation Zone; however, the project site is approximately 2.3 miles from this area.

Applicable Mitigation

The Specific Plan EIR did not identify any mitigation measures for hydrology or water quality impacts, and no new mitigation measures would be required.

Conclusion

The project is consistent with the type of development analyzed in the Specific Plan EIR and would be consistent with the development standards required in the Specific Plan. No substantial changes in environmental circumstances have occurred, and no new information that could not have been known at the time the Specific Plan EIR was certified has been identified which would lead to new or more severe significant impacts. Therefore, the Specific Plan EIR adequately evaluated impacts that would occur with implementation of the project and no new or more severe impacts would occur.

[16] FEMA, 2015. Flood Insurance Rate Maps (FIRM) Flood Map. September 2015. Available: https://msc.fema.gov/portal/search#searchresultsanchor. Accessed January 2018.

3.10 Land Use and Planning

	Significant Impact	Less than Significant with Mitigation Incorporated	Less-than-Significant Impact	No New Impact
Would the project:				
a) Physically divide an established community?	☐	☐	☐	☒
b) Conflict with any applicable land use plan, policy, or regulation of an agency with jurisdiction over the project (including, but not limited to the general plan, specific plan, local coastal program, or zoning ordinance) adopted for the purpose of avoiding or mitigating an environmental effect?	☐	☐	☐	☒
c) Conflict with any applicable habitat conservation plan or natural community conservation plan?	☐	☐	☐	☒

Discussion

The Specific Plan EIR concluded implementation of the Specific Plan would provide for the expansion of housing choices by encouraging compact, transit-accessible, pedestrian-oriented housing and mixed-use development in the Plan area at densities and heights greater than currently permitted. The Specific Plan EIR determined implementation of the Specific Plan would result in beneficial effects related to land use and planning by revitalizing the San Pablo Avenue corridor. The Specific Plan facilitates development where services and infrastructure can be most efficiently provided by promoting higher residential densities near or within an existing shopping, service, employment, infrastructure, and public transportation centers.

The Specific Plan would not include construction of any new roadway systems or physical barriers, and would promote connectivity along the San Pablo Avenue corridor by encouraging compact, transit-accessible, pedestrian-oriented housing. Accordingly, implementation of the Specific Plan would not result in the division of an established community.

As previously discussed, the project site is designated TOHIMU in the City's General Plan and Specific Plan.[17] In addition, the site is also zoned as TOHIMU. The intent of the TOHIMU designation is to provide for a vibrant, walkable, transit-oriented higher density area within a half mile of Bay Area Rapid Transit

[17] City of El Cerrito 1999 General Plan. Available at: http://www.el-cerrito.org/718/General-Plan. Accessed January 2018.

(BART) that allows a for variety of uses including retail, commercial, residential, and public uses in the Downtown and Uptown areas.[18] The TOHIMU designation allows for a 65-foot height limit (85 feet is permissible for projects subject to the State affordable housing bonus program) and requires a minimum height of three stories for residential uses. The project would comply with the standards of the TOHIMU designation and would develop the site with high-density residential uses in close proximity to transit as envisioned in the Specific Plan EIR, thus being consistent with the underlying zoning and land use of the project site.

The project would include construction of an 85-foot tall multi-family residential building. The project would include an affordable housing component, with 10 percent of the units rented to low income tenants. Including this affordable housing component would allow the project to make use of the City's incentive for a maximum permitted building height of 85 feet. The City's Design Review Board will consider the project site plan and make findings related to any project design elements, as contemplated by the form based code guidelines articulated in the Specific Plan.

The El Cerrito Del Norte BART station is located approximately 0.4 miles east of the project site, and the El Cerrito Plaza Bart Station is located approximately 2.27 miles southeast. Two bus stops are located within 0.10 miles of the project site, one located at the corner of Macdonald Avenue and the other at the intersection of Conlon Avenue and San Pablo Avenue.

Applicable Mitigation

As concluded in the Specific Plan EIR, the Specific Plan would result in beneficial land use and planning effects. The Specific Plan EIR did not identify any mitigation measures for land use and planning impacts, and no new mitigation measures would be required.

Conclusion

The project is consistent with the type of development analyzed in the Specific Plan EIR and would be consistent with the development standards envisioned in the Specific Plan. No substantial changes in environmental circumstances have occurred, and no new information that could not have been known at the time the Specific Plan EIR was certified has been identified which would lead to new or more severe significant impacts. Therefore, the Specific Plan EIR adequately evaluated impacts that would occur with implementation of the project and no new or more severe impacts would occur.

[18] City of El Cerrito, 2017. Municipal Code. Available at: https://library.municode.com/ca/el_cerrito/codes/code_of_ordinances. Accessed January 2018.

3.11 Mineral Resources

	Significant Impact	Less than Significant with Mitigation Incorporated	Less-than-Significant Impact	No New Impact
Would the project:				
a) Result in the loss of availability of a known mineral resource that would be of value to the region and the residents of the state?	☐	☐	☐	☒
b) Result in the loss of availability of a locally important mineral resource recovery site delineated on a local general plan, specific plan or other land use plan?	☐	☐	☐	☒

Discussion

As stated in the Specific Plan EIR, the El Cerrito General Plan determined that there are no mineral resources within the Specific Plan area. Accordingly, there are no identified resources in proximity to the project site.[19] Given this, implementation of the project would have no impact on mineral resources.

[19] City of El Cerrito, 1999. General Plan, 1999. Available at: http://www.el-cerrito.org/718/General-Plan. Accessed January 2018.

3.12 Noise

	Significant Impact	Less than Significant with Mitigation Incorporated	Less-than-Significant Impact	No New Impact
Would the project:				
a) Result in exposure of persons to or generation of noise levels in excess of standards established in the local general plan or noise ordinance, or applicable standards of the other agencies?	☐	☐	☐	☒
b) Result in exposure of persons to or generation of excessive ground borne vibration or ground borne noise levels?	☐	☐	☐	☒
c) Result in a substantial permanent increase in ambient noise levels in the project vicinity above levels existing without the project?	☐	☐	☐	☒
d) Result in a substantial temporary or periodic increase in ambient noise levels in the project vicinity above levels existing without the project?	☐	☐	☐	☒
e) For a project located within an airport land use plan or, where such a plan has not been adopted, within two miles of a public airport or public use airport, would the project expose people residing or working in the project area to excessive noise levels?	☐	☐	☐	☒
f) For a project located within the vicinity of a private airstrip, would the project expose people residing or working in the project area to excessive noise levels?	☐	☐	☐	☒

Discussion

This section compares construction and operational noise impacts from the project with impacts identified in the Specific Plan EIR. While the Specific Plan EIR addressed noise and vibration impacts more generally, a Noise Impact Study was completed for the project in October 2018.

Operational noise can be categorized as mobile source noise and stationary source noise. Mobile source noise would be attributable to the additional trips that would be generated by the project. Stationary source noise includes noise generated by the residential land use such as exterior mechanical

equipment (air conditioning systems, fans, etc.) Given the nature of the project, proposed dwelling units are not anticipated to introduce long-term operational vibration impacts to the surrounding area. In turns, existing sources of vibration within the project vicinity would not result in adverse impacts to residents.

Certain land uses are considered more sensitive to noise than others. Examples of these include residential areas, educational facilities, hospitals, childcare facilities, and senior housing. The project site is located within the San Pablo Avenue corridor that is predominantly developed with commercial, retail uses and multi-family residential uses. The closest sensitive receptors include a residence located approximately 250 feet southeast of the project site, opposite San Pablo Avenue. The project proposes the construction of 144 dwelling units, therefore introducing sensitive receptors to the project site.

Exterior Noise Environment

The Specific Plan EIR determined new residential land uses developed under the Specific Plan would be exposed to exterior noise levels of 70 A-weighted decibels (dBA) or greater, which exceed El Cerrito's noise and land use compatibility standards. This was identified as a potentially significant impact. The Specific Plan EIR identified **Mitigation Measure 13-1**, which requires project-specific acoustical analyses to determine future exterior and interior noise levels and mitigate where possible. **Mitigation Measure 13-1** requires projects to utilize site planning to minimize noise in residential outdoor activity areas by locating recreation areas "behind noise barriers, the buildings, in courtyards, or orienting the terraces to alleyways rather than streets, whenever possible". The mitigation measure sets a goal of a maximum exterior noise level of 70 dBA from BART noise. The Specific Plan EIR concluded Implementation of these measures would reduce potential noise and land use compatibility impacts to a less-than-significant level.

A Noise Impact Study was conducted for the project in October 2018 to satisfy the City's requirement for a project-specific noise impact analysis, per Specific Plan EIR **Mitigation Measure 13-1**. Future noise levels were estimated based on noise measurement data gathered at the project site and the surrounding area from January 29, 2018 and February 1, 2018. Future noise levels were also informed by peak hour trip generations for the proposed project. Noise measurement details are provided in **Appendix E**.

Under existing conditions, the exterior noise environment ranges from 74 to 87 dBA during the day and 59 to 85 dBA at night. This is based on long-term noise measurements taken at the project site in January and February 2018.

The project would include three public open spaces, one private podium-level courtyard open space, an open space on the second floor, and a 7th floor roof deck. Two of the public open spaces would be north of the building and the third would be south of the building adjacent to San Pablo Avenue. While these areas are identified as public open space, outdoor seating or other activities intended for extended outdoor use are not proposed in these spaces, and therefore they would not be subject to the City's exterior noise thresholds.

The podium-level private courtyard would be in the center of the site with building facades on the north and east sides and a sound wall on the west to southwest sides. This outdoor space would be well shielded from traffic noise along San Pablo Avenue and fully shielded from BART pass-by noise as a result of the sound wall. Considering the noise shielding from these intervening structures, the future

exterior noise levels at this outdoor use space are expected to be 60 dBA Ldn or less. Full details on the anticipated construction materials and noise attenuation of the sound wall can be found in **Appendix E**.

Considering height and distance relationships to the BART tracks, the edge of the 7th level roof deck would be between 45 and 70 feet from the centerline of the BART tracks. A large portion of the roof deck would receive significant noise shielding from the sound wall, roof edge, and building structure, such that rooftop areas 5 feet from the edge of the roof will be exposed to future exterior noise levels below the conditionally acceptable threshold of 65 dBA Ldn or less, and areas greater than 10 feet from the roof edge will be exposed to the normally acceptable threshold of 60 dBA Ldn or less.

Interior Noise Environment

Interior noise levels within new multi-family residential units are required to be maintained at or below 45 dBA by City standards and below an annual average of 45 dBA community noise equivalent level under State standards. Additionally, the City of El Cerrito requires the interior noise levels of new residential units exposed to 60 dBA or greater should be limited to a maximum instantaneous noise level of 50 dBA in the bedrooms and 55 dBA in other rooms. Though the City does not specify whether these maximum levels absolute or recurring maximum levels, in keeping with accepted acoustical practice in areas where the noise sources which produce maximum noise events are relatively constant and repetitive in nature (such as BART pass-bys) this analysis considers the City standards to apply to the recurring maximum noise levels from passing BART trains.

Residences on the southwestern façade of the building will be the nearest to the BART tracks at a setback of about 25 feet from the track centerline. The project design is such that only two residences have exterior walls directly exposed to BART; one unit on the second floor and one on the eighth. However, neither of these units have any windows or doors in the exterior walls facing BART. Considering that the tracks are elevated, exterior-facing residential units on each floor would be exposed to future exterior noise levels of 89 dBA Ldn and recurring maximum instantaneous (Lmax30) noise levels ranging from 106 to 108 dBA. Based on typical construction materials and techniques in California, it is assumed that exterior walls will provide up to 44 dBA of sound attenuation.[20] Thus, residential units without any exterior windows would be exposed to interior noise levels of 45 dBA Ldn and recurring maximum noise levels of 62 to 64 dBA. While the 45 dBA Ldn levels would be in compliance with General Plan Noise standards, the interior recurring maximum instantaneous noise levels would exceed interior maximum noise levels standards by 12 to 14 dBA in bedrooms and 7 to 9 dBA in other rooms.

All other west and southwest facing residential units would be setback from BART opposite the main outdoor courtyard, behind and acoustically shielded by the proposed sound wall. Considering the

[20] Though the current project drawings do not give the exterior wall assemblies, it is expected that they would be single stud wood framed with cavity insulation and a single layer of gypsum board at the interior face, based on typical California construction techniques. Based on this and that the building elevations indicate that this façade will have a stucco exterior finish, the sound isolation rating of these exterior wall assemblies would be STC 46 for walls with 7/8" thick stucco (based on laboratory test number W-50-71 published by the U.S. National Bureau of Standards). Such a wall assembly, without window or door openings, would be expected to reduce exterior noise levels within residential interiors by 44 dBA.

varying setbacks of these units from the BART line and the noise shielding of the wall, the exterior facades of these units would be exposed to future exterior noise levels of between 62 and 64 dBA Ldn and recurring maximum instantaneous (Lmax30) noise levels ranging from 81 to 83 dBA. To allow interior average and maximum instantaneous noise levels standards to be met within all west and southwest facing residential units opposite the main outdoor courtyard, the composite exterior wall/window assembly at bedrooms will need to provide a minimum exterior to interior noise reduction of 33 dBA at bedrooms and 28 dBA at living rooms.

Exterior-facing residential units along the eastern building façade would have some exposure to BART pass-bys due to the elevation and alignment of the tracks and distance of 90 to 250 feet from the track centerline. Additionally, these building façades will have direct line-of-sight to vehicular traffic noise along San Pablo Avenue, with units set back approximately 45 feet from the roadway centerline. At these distances, the future exterior noise levels along the eastern building façade are expected to range from 73 to 80 dBA Ldn, with recurring instantaneous maximum noise levels ranging from 83 to 94 dBA. Based on project plans and typical construction assumptions, the eastern units would have interior noise levels of up to 50 dBA Ldn and would experience recurring instantaneous maximum noise levels of up to 67 dBA in living rooms, along with interior noise levels of up to 51 dBA Ldn and recurring instantaneous maximum noise levels of up to 68 dBA in bedrooms.

Exterior-facing residential units along the northern building façades would have limited exposure to BART pass-by noise and direct line-of-sight noise exposure to vehicular roadway traffic on San Pablo Avenue. This façade would be setback approximately 45 to 195 feet from the centerline of San Pablo Avenue, and approximately 75 to 135 feet from the center of the BART tracks. Noise from BART pass-bys would be significantly reduced due to noise shielding from the building. Considering these distances, the future exterior noise levels on the northern building façade is expected to range from 61 to64 dBA Ldn, with recurring maximum instantaneous noise levels ranging from 76 to 82 dBA. In living rooms along this facade, interior noise levels would be 36 dBA Ldn and recurring maximum instantaneous noise would be up to 54 dBA. In bedrooms, interior noise levels would be 33 dBA Ldn and recurring maximum instantaneous noise levels would be 52 dBA.

Based on the projected interior noise levels, additional noise reduction beyond the attenuation provided by standard construction would be needed to ensure average interior noise levels and instantaneous noise levels meet the applicable standards. To reduce interior noise, the following project-specific condition of approval is required:

2. **Project-Specific Condition of Approval:** The project design shall implement the following measures to achieve an interior noise level of 45 dBA Ldn or less, in compliance with City noise standards:
    a. **South and West Façade:**
        i. For units with exterior walls directly facing BART (on the 2nd and 8th floors), exterior walls must have a minimum STC rating of 61. Preliminary calculations indicate that the use of an internally insulated staggered wood stud assembly with two layers of 5/8” gypsum board at the interior face and 7/8” thick three coat stucco at the exterior would provide this STC rating; however, the STC rating may be achieved through other design approaches.

ii. For units with windows or other glazing on the southern and western façades (1st through 6th floors), bedroom windows must have a minimum STC rating of 32. and exterior wall materials and all windows must achieve an interior noise attenuation of 33 dBA in bedrooms and 28 dBA in living rooms.

b. **Eastern Façade**:
   i. Exterior walls must have a minimum STC rating of 61, all exterior windows on the eastern façade must have a minimum STC rating of 38, and all exterior doors on the eastern façade must have a minimum STC rating of 35.

c. **Northern Façade**:
   i. Exterior walls must have a minimum STC rating of 61, all exterior windows on the northern façade must have a minimum STC rating of 35, and all exterior doors on the northern façade must have a minimum STC rating of 32.

d. The STC ratings required by this condition shall be documented and submitted to the City for review before final building permits are granted

Construction Noise

Construction is permitted by the City between the hours of 7:00 a.m. and 6:00 p.m. Monday through Friday and between the hours of 8:00 a.m. and 5:00 p.m. on Saturday. No construction activity is allowed on Sundays or holidays. The highest construction noise levels would be generated during grading and excavation, with lower noise levels occurring during other construction activities. Large pieces of earth-moving equipment such as graders, scrapers, and bulldozers, generate maximum noise levels of 85 to 90 dBA at a distance of 50 feet. Typical hourly average construction-generated noise levels are about 65 to 88 dBA measured at a distance of 50 feet from the site during busy construction periods. These noise levels drop off at a rate of about 6 dBA per doubling of distance between the noise source and receptor. Intervening structures or terrain attenuate the noise, resulting in lower noise levels.

The Specific Plan EIR concluded that while construction noise would be temporary and localized to individual project sites, existing businesses and residences would be intermittently exposed to high levels of noise throughout Specific Plan implementation. The Specific Plan EIR concluded individual project construction would elevate noise levels at adjacent businesses and residences by 15 to 20 dBA or higher. Such a large increase in noise levels, although short-term in duration, was determined to be a potentially significant impact. The Specific Plan EIR identified **Mitigation Measure 13-3**, which provides mitigation for temporary construction noise at residential and commercial land uses. However, construction noise impacts remain significant and unavoidable.

Daytime ambient noise levels at the existing residence located southeast of the project site and the existing commercial uses located to the east, opposite San Pablo Avenue, range from 74 to 77 dBA Leq. The existing commercial uses located to the north range from 76 to 80 dBA Leq, and the commercial use located southwest, opposite the BART tracks, have daytime ambient noise levels ranging from 84 to 87 dBA Leq.

Noise generated by construction equipment would at times exceed 60 dBA at the existing residence and would at times exceed 70 dBA at commercial land uses. However, due to the high ambient levels at each

existing land use surrounding the project site, construction noise levels are not expected to exceed daytime ambient noise levels by 5 dBA or more.

Reasonable regulation of the hours of construction, as well as regulation of the arrival and operation of heavy equipment and the delivery of construction material, are necessary to protect the health and safety of persons, promote the general welfare of the community, and maintain the quality of life. **Mitigation Measure 13-3** of the SPASP DEIR provides mitigation for temporary construction noise where noise levels would exceed 60 dBA Leq at residential land uses or exceed 70 dBA Leq at commercial land uses when the noise would exceed the ambient noise environment by 5 dBA Leq or more for more than one year.

In addition to **Mitigation Measure 13-3**, implementation of the following condition of approval would further reduce noise levels in the vicinity of the construction site.

3. **Project-Specific Condition of Approval:** Develop a construction noise control plan, including, but not limited to, the above mitigation measures provided by **Mitigation 13-3** of the Specific Plan EIR, and the following controls:
    - Control noise from construction workers' radios to a point where they are not audible from adjacent land uses.
    - Locate staging areas and construction materials areas as far away as possible from adjacent land uses.

Implementation of the above measures would reduce construction noise levels emanating from the site, limit construction hours, and minimize disruption and annoyance. With the implementation of these measures, the project would not result in a temporary increase in ambient noise levels beyond what was analyzed in the Specific Plan EIR.

Construction-Related Vibration

The Specific Plan EIR determined construction under the Specific Plan would in some cases be located directly adjacent to existing weakened structures. Depending on the proximity of existing structures to the construction site, the structural soundness of the surrounding existing buildings, and the methods of construction used, construction may cause vibration levels high enough to damage existing structures.

The Specific Plan EIR determined construction-related vibration impacts would be potentially significant and identified **Mitigation Measure 13-4**, which requires projects to avoid pile driving, vibratory rolling, and tampers wherever feasible, and requires site-specific vibration studies in areas where project construction is anticipated to include vibration-generating activities. Since avoiding all use of vibration-generating construction equipment may not be feasible, even with mitigation, this impact was found to be significant and unavoidable.

Implementation of **Mitigation Measure 13-4** would be required for the project. No historic buildings or buildings that are documented to be structurally weakened are adjacent to or adjoin the project site. Construction of the project may generate perceptible vibration when heavy equipment or impact tools (e.g. jackhammers, hoe rams) are used. Construction activities would include site preparation work, foundation work, and new building framing and finishing. Construction of the project would also involve demolition of one small concrete structure and excavation for an underground parking structure. Pile

driving, which can cause excessive vibration, is not anticipated to be required or used during project construction.

The nearest existing residential structure would be approximately 250 feet southeast of the project's boundary. At this distance, vibration levels would be at or below 0.02 in/sec PPV, which is below the 0.3 in/sec PPV threshold. Additionally, commercial buildings surround the site to the north, opposite the BART tracks to the southwest, and opposite San Pablo Avenue to the east. The commercial buildings to the north would be 145 feet or more from the site, exposing these structures to vibration levels at or below 0.03 in/sec PPV. The commercial building to the southwest would be approximately 65 feet from the project site. At this distance, vibration levels would be up to 0.07 in/sec PPV. The commercial buildings to the east range from 115 to 215 feet from the project site, and at these distances, vibration levels would be at or below 0.04 in/sec PPV.

Therefore, vibration levels due to the use of construction equipment would not exceed the 0.3 in/sec PPV vibration threshold. The project would not result in any new or more significant construction-period vibration impacts than were described in the Specific Plan EIR.

Permanent Stationary Source Noise Impacts

The Specific Plan EIR determined new permanent mechanical equipment installed as a part of Specific Plan commercial development would generate noise, further increase the ambient noise environment and result in a potentially significant noise impact. The Specific Plan EIR identified **Mitigation Measure 13-2**, which requires site-specific analysis for proposed commercial uses to reduce long-term noise impacts to a less-than-significant level. The project would not introduce new commercial uses; therefore, this mitigation measure would not apply.

Multi-family residential buildings typically require various mechanical equipment including air conditioners, exhaust fans, and air handling equipment for ventilation of the buildings. A mechanical equipment room would be located in the basement level garage of the project building, and mechanical equipment would also be located on the rooftop.

According to the City's General Plan, mechanical equipment noise must be maintained at or below 55 dBA Leq during daytime hours (7:00 a.m. to 10:00 p.m.) and at or below 45 dBA Leq during nighttime hours (10:00 p.m. to 7:00 a.m.) at sensitive receptors.

As described in the General Plan, if ambient noise levels exceed acceptable levels, the threshold for impacts to the noise environment shall be an increase in the ambient noise environment. Therefore, operation of the project must maintain an ambient noise level of 60 dBA Leq during daytime hours and at or below 56 dBA Leq during nighttime hours at the adjacent residences to meet the City's stationary noise requirements.

The daytime ambient noise levels measured at the nearest residential receptor ranged from 74 to 77 dBA (average of 75 dBA), and the nighttime ambient noise levels ranged from 59 to 75 dBA (average of 68 dBA). The Maximum Allowable Noise Exposure Table for Stationary Noise Sources states in the notes that if the ambient noise levels exceed the stated thresholds then the ambient noise levels shall be used as the threshold. Therefore, for the nearest residence located southeast of the project site, mechanical equipment noise must be at or below 75 dBA during daytime hours and at or below 68 dBA during nighttime hours to meet the City's stationary noise requirements.

Due to the high ambient noise levels generated by BART train passbys and the distance from the project site to the nearest noise-sensitive receptor, mechanical equipment noise is not expected to exceed the City's daytime or nighttime thresholds at the nearest sensitive use. Given this, the project would not result in any new or more significant permanent noise impacts than were described in the Specific Plan EIR.

Mobile Source Noise Impacts

Implementation of the project would result in new daily trips on local roadways in the project site vicinity. The Specific Plan EIR found that cumulative traffic noise levels, with or without implementation of the Specific Plan, would not increase substantially along the roadways serving the Specific Plan area.

According to the City's General Plan, a substantial increase would occur if a project would result in a 3 dBA increase over existing conditions or if any increase would result in noise levels greater than 60 dBA. Since existing ambient noise levels in the project vicinity exceeds 60 dBA, a significant impact would occur if traffic from the project would permanently increase ambient levels by 3 dBA.

For reference, a 3 dBA noise increase would be expected if the project would double existing traffic volumes along a roadway. During the peak AM hour, the project would generate 41 trips. During the peak PM hour, the project would generate 65 trips. Compared to the existing traffic volumes along San Pablo Avenue, this would be an increase in peak hour traffic volumes of less than 4 percent. This would result in a traffic noise increase of less than 1 dBA. Therefore, the project would not result in a permanent noise increase of 3 dBA or more.

Cumulative traffic noise increases would not be considered substantial, and the project would not make a cumulatively considerable contribution to increased noise levels. Therefore, this impact would remain less than significant and the project would not result in any new or more significant permanent noise impacts than were described in the Specific Plan EIR.

Aircraft Noise

The Specific Plan EIR did not address potential aircraft noise impacts because the Specific Plan area is not located within 2 miles of a public or public use airport. Oakland International Airport is the closest airport and is located approximately 14 miles southeast of the project site. Aircraft noise is occasionally audible at the project site; however, no portion of the project site lies within the 65 dBA CNEL noise contours of any public airport, and no portion of the project site is within 2 miles of any private airfield or heliport. Therefore, consistent with the Specific Plan EIR, the project would not result in the exposure of sensitive receptors to the excessive noise levels form aircraft noise sources.

Applicable Mitigation

Implementation of **Mitigation Measure 13-3, Mitigation Measure 13-4**, and the project-specific condition of approval would be required. **Mitigation Measure 13-1** has been fulfilled through preparation of the project Noise Impact Study (**Appendix E**). No new mitigation would be required.

Conclusion

The project would be consistent with the type of development analyzed the Specific Plan EIR and consistent with development standards required in the Specific Plan. No substantial changes in environmental circumstances have occurred, and no new information that could not have been known

at the time the Specific Plan EIR was certified has been identified which would lead to new or more severe significant impacts. Therefore, the Specific Plan EIR adequately evaluated impacts that would occur with implementation of the project and no new or more severe impacts would occur.

3.13 Population and Housing

	Significant Impact	Less than Significant with Mitigation Incorporated	Less-than-Significant Impact	No New Impact
Would the project:				
a) Induce substantial population growth in an area, either directly, (for example, by proposing new homes and businesses) or indirectly (for example, through extension of roads or other infrastructure)?	☐	☐	☐	☒
b) Displace substantial numbers of existing housing, necessitating the construction of replacement housing elsewhere?	☐	☐	☐	☒
c) Displace substantial numbers of people, necessitating the construction of replacement housing elsewhere?	☐	☐	☐	☒

Discussion

The Specific Plan EIR evaluated potential environmental impacts from a maximum buildout of approximately 243,112 net new square feet of commercial space, 1,706 units of residential development, and 3,840 new residents. Such growth is consistent with local and regional plans, as detailed below.

The General Plan identifies the San Pablo Avenue corridor as the focus of new housing and population growth in the City, due its proximity to existing services, including public transportation infrastructure, and the opportunities for increased land use intensity afforded by underutilized land and surface parking lots.

Further, the Association of Bay Area Governments and the Metropolitan Transportation Commission have collaboratively adopted Plan Bay Area: Regional Transportation Plan and Sustainable Communities Strategy for the San Francisco Bay Area 2012-2040 (Plan Bay Area). The San Pablo Avenue Specific Plan area is identified as a "Priority Development Area" in Plan Bay Area, where “infill development and intensification is envisioned.” Plan Bay Area forecasted an increase of 2,350 housing units in the Specific Plan area by 2040. While projections included in Plan Bay Area are not mandates, the 1,706 housing units proposed under the project would be consistent with local and regional plans for housing and population growth.

The Specific Plan EIR concluded population growth associated with the Specific Plan will not directly or indirectly induce substantial population growth beyond the Specific Plan boundaries. Rather, Specific Plan implementation will facilitate residential and commercial growth within a transit-rich, mixed use area identified for such growth in both local and regional plans and forecasts. Therefore, the Specific Plan's direct and indirect impact on population growth was determined to be less than significant.

As discussed in the Specific Plan EIR, implementation of the Specific Plan will not require or induce the displacement of housing. Over time, existing residential units may be voluntarily replaced by property owners in accordance with Specific Plan provisions and allowable land uses. However, the residential and mixed-use focus of the Specific Plan provides for the addition of approximately 1,706 net new residential units in the Specific Plan area, offsetting any loss of housing. Accordingly, impacts associated with displacement from the Specific Plan were found to be less than significant.

Implementation of the project would introduce 144 new residential units, which is consistent with development anticipated for the project site in the Specific Plan. For these reasons, implementation of the project would not result in any impacts related to population and housing beyond those identified in the Specific Plan EIR.

Applicable Mitigation

The Specific Plan EIR did not identify any mitigation measures for population and housing impacts, and no new mitigation measures would be required.

Conclusion

The project is consistent with the type of development analyzed in the Specific Plan EIR and would be within the growth projections evaluated in regional planning documents and the Specific Plan EIR. No substantial changes in environmental circumstances have occurred, and no new information that could not have been known at the time the Specific Plan EIR was certified has been identified which would lead to new or more severe significant impacts. Therefore, the Specific Plan EIR adequately evaluated impacts that would occur with implementation of the project and no new or more severe impacts would occur.

3.14 Public Services

	Significant Impact	Less than Significant with Mitigation Incorporated	Less-than-Significant Impact	No New Impact
Would the project:				
a) Would the project result in substantial adverse physical impacts associated with the provision of new or physically altered governmental facilities, need for new or physically altered governmental facilities, the construction of which could cause significant environmental impacts, in order to maintain acceptable service ratios, response times or other performance objectives for any of the public services:				
i) Fire protection?	☐	☐	☐	☒
ii) Police protection?	☐	☐	☐	☒
iii) Schools?	☐	☐	☐	☒
iv) Parks?	☐	☐	☐	☒
v) Other public facilities?	☐	☐	☐	☒

Discussion

Schools

The Specific Plan area is located within the West Contra Costa Unified School District (WCCUSD). According to the Specific Plan EIR, WCCUSD student yield factors for multi-family units indicated that the addition of 1,706 new residences would generate approximately 1,147 new students in the District schools over the approximately 25-year planning horizon of the Specific Plan. The Specific Plan EIR concluded new students would be accommodated in existing WCCUSD schools, and Specific Plan implementation would not result in the need for new or expanded school facilities. As the population and housing units proposed under the project would fall within the total development anticipated by the Specific Plan EIR (Table 1), new students generated by the addition of 144 new dwelling units are within the assumptions of the Specific Plan EIR, which envisioned up to 1,706 new dwelling units. As such, existing school facilities could accommodate the project.

Fire

The Specific Plan EIR concluded additional demand associated with buildout of the Specific Plan could be accommodated by the existing El Cerrito Fire Department fire protection facilities and personnel. Specifically, the Specific Plan EIR determined any demand for additional fire protection personnel or equipment resulting from Specific Plan buildout would be funded by the annual budget review and allocation in El Cerrito. Given this, impacts to fire protection services were determined to be less than significant. As the 144 dwelling units proposed under the project would fall within the total development anticipated by the Specific Plan EIR, the project would result in no new impacts associated with fire services.

Police

The Specific Plan EIR determined increased demand for police services associated with buildout of the Specific Plan would not require new or physically altered police protection facilities. The Specific Plan EIR reasoned that implementation of the Specific Plan would result in more "eyes-on-the-street" through creation of a more pedestrian-friendly corridor, which would in turn provide a safer public environment. The Specific Plan EIR identified police department approvals that would be required on a project-by-project basis to ensure the department is equipped and has the ability to maintain acceptable levels of service. The project would add 144 new dwelling units, which is consistent with the total development anticipated in the Specific Plan EIR. Therefore, implementation of the project would not result in new impacts to police services.

Parks and Other Public Facilities

The Specific Plan EIR determined implementation of the Specific Plan would not create a need for new or physically altered government facilities. Further discussion of parks and recreation resources is provided in **Section 3.15, Parks and Recreation**.

Applicable Mitigation

The Specific Plan EIR did not identify any mitigation measures for impacts to public services, and no new mitigation measures would be required.

Conclusion

Development of the project would be within the development assumptions evaluated in the Specific Plan EIR. No substantial changes in environmental circumstances have occurred, and no new information that could not have been known at the time the Specific Plan EIR was certified has been identified which would lead to new or more severe significant impacts. Therefore, the Specific Plan EIR adequately evaluated impacts that would occur with implementation of the project and no new or more severe impacts would occur.

3.15 Parks and Recreation

	Significant Impact	Less than Significant with Mitigation Incorporated	Less-than-Significant Impact	No New Impact
Would the project:				
a) Increase the use of existing neighborhood and regional parks or other recreational facilities such that substantial physical deterioration of the facility would occur or be accelerated?	☐	☐	☐	☒
b) Include recreational facilities or require the construction or expansion of recreational facilities which might have an adverse physical effect on the environment?	☐	☐	☐	☒

Discussion

Buildout of the Specific Plan would generate 1,706 new residences and increase the local population by 3,840 people. The increased local population would create an increased demand on parks and recreational facilities. The City's General Plan establishes a ratio of 5 acres of parks and recreational facilities per 1,000 residents as the level of service standard. In 2010, the City had a ratio of 6.67 acres per 1,000 residents. With full buildout of the Specific Plan, which includes plans for new open space areas, the ratio within the City would be 5.85 acres of parks and recreational facilities per 1,000 residents. Therefore, the ratio of 5.85 acres per 1,000 residents would be above the adopted level of service standard. The Specific Plan EIR concluded the combination of existing and proposed parks and greenways within the Specific Plan area and its vicinity would meet the City's requirements for parks and open space.

The project would add 144 new residential units to the site, which falls within the anticipated population increase analyzed in the Specific Plan EIR. Although 917 residential units are currently undergoing City approval, implementation of the project would still not exceed projected growth for the area. As previously discussed, a trail existing just north of the project site currently provides a crossing to the Baxter Creek Gateway Park. Once implemented, the project would improve the alternate crossing providing access to the Ohlone Greenway and the park across San Pablo Avenue. Therefore, the project would not result in additional demand for parks and recreational facilities beyond what was analyzed in the Specific Plan EIR.

Applicable Mitigation

The Specific Plan EIR did not identify any mitigation measures for impacts to parks and recreation resources.

Conclusion

Development of the project would fall within the development assumptions evaluated within the Specific Plan EIR. No substantial changes in environmental circumstances have occurred, and no new information that could not have been known at the time the Specific Plan EIR was certified has been identified which would lead to new or more severe significant impacts Therefore, the Specific Plan EIR adequately evaluated impacts that would occur with implementation of the project and no new or more severe impacts would occur**.**

3.16 Transportation/Traffic

	Significant Impact	Less than Significant with Mitigation Incorporated	Less-than-Significant Impact	No New Impact
Would the project:				
a) Conflict with an applicable plan, ordinance or policy establishing measures of effectiveness for the performance of the circulation system, taking into account all modes of transportation including mass transit and non-motorized travel and relevant components of the circulation system, including but not limited to intersections, streets, highways and freeways, pedestrian and bicycle paths, and mass transit?	☐	☐	☐	☒
b) Conflict with an applicable congestion management program, including, but not limited to level of service standards and travel demand measures, or other standards established by the county congestion management agency for designated roads or highways?	☐	☐	☐	☒
c) Result in a change in air traffic patterns, including either an increase in traffic levels or a change in location that results in substantial safety risks?	☐	☐	☐	☒
d) Substantially increase hazards due to a design feature (e.g., sharp curves or dangerous intersections) or incompatible uses (e.g., farm equipment)?	☐	☐	☐	☒
e) Result in inadequate emergency access?	☐	☐	☐	☒
f) Conflict with adopted policies, plans, or programs regarding public transit, bicycle, or pedestrian facilities, or otherwise decrease the performance or safety of such facilities?	☐	☐	☐	☒

Discussion

This section compares traffic impacts that would result from implementation of the project with impacts identified in the Specific Plan EIR. A Preliminary Transportation Impact Analysis (TIA) was completed for the project in January 2018 and is included as **Appendix F**.

The Specific Plan EIR determined buildout of the Specific Plan would cause the intersection at San Pablo Avenue/Cutting Boulevard to fall from LOS D to an unacceptable LOS E when considered cumulatively with existing conditions all other planned and reasonably foreseeable projects in the cumulative scenario year 2040. The Specific Plan EIR identified **Mitigation Measure 16-1**, which required adoption and implementation of the San Pablo Avenue Complete Streets Plan to reduce vehicle trips and change the City's standard for acceptable LOS from D to E. However, because the projected mode shift associated with the Complete Streets Plan could not be assured, the impact was concluded to be significant and unavoidable after mitigation.

The Specific Plan assumed several roadway improvements would occur as part of the Specific Plan buildout. In the vicinity of the project, several roadway modifications along San Pablo Avenue in the downtown area were included to improve circulation for all modes. The City of El Cerrito is currently in the process of refining the multimodal improvements identified in the Specific Plan. The City is also developing a Transportation Impact Fee (TIF) program to determine fair-share payment for individual development projects to finance the implementation of these improvements. The TIA determined that the additional traffic associated with the project would require fair-share mitigation fee payment, to be determined by the City. This requirement would be applied to the project as a condition of approval:

> **Project Specific Condition of Approval:** Applicant shall pay a fair share contribution towards the implementation of the multi-modal Complete Streets improvements identified by the Specific Plan as determined by the Public Works Director.

Trip Generation

Using the same trip generation methodology used in the Specific Plan EIR, the transportation analysis estimated the project would generate 41 AM peak-hour and 65 PM peak-hour trips (See **Table 3**).

Table 3 Project Trip Generation

Project/Plan	AM Peak Hour			PM Peak Hour		
	In	Out	Total	In	Out	Total
11965 San Pablo Avenue (Proposed Project)	13	28	41	38	27	65
Specific Plan EIR Trip Generation for High Priority Opportunity Sites	284	460	744	855	729	1,584
Percent Complete	**34%**	**35%**	**35%**	**24%**	**20%**	**22%**

Source: Fehr & Peers, 2018

Since the certification of the Specific Plan EIR, 20 developments, including this project, have been proposed and are in some stage of the City's approval process. **Table 4** summarizes the total trip generation for 14 developments within the high opportunity sites, including this project. Compared to

the Specific Plan EIR, the combined trip generation for all 14 projects would fall below the total trip generation estimated for high-opportunity areas within the Specific Plan EIR. Thus, the project cumulatively combined with all planned, approved, and under construction projects in the Specific Plan area would not result in significant traffic impacts beyond those identified in the Specific Plan EIR.

Table 4 Trip Generation for Proposed High Opportunity Sites in the Specific Plan Area

Project	AM/PM Peak Hour Trips			
	AM In	AM Out	PM In	PM Out
Total Proposed Project Trips	97	160	148	349
Specific Plan EIR Trip Generation for High Opportunity Sites	284	460	729	1,584
Percent Built Out	**34%**	**35%**	**20%**	**22%**

Source: Fehr & Peers, 2018

Vehicle Access and On-site Circulation

The TIA concluded residents and visitors of the project would access the project site via a full-access approximately 24-foot wide driveway on San Pablo Avenue at the northeast corner of the project site. The driveway would provide access to an underground parking garage.

The project proposes 77 stacked parking spaces (0.5 spaces per unit), including eight electric vehicle charging stations and 3 Americans with Disabilities Act-compliant spaces. The TIA provided project design recommendations to improve on-site circulation.

1. **Project Specific Condition of Approval:** Applicant shall provide mirrors at the driveway ramp curves to ensure adequate visibility between vehicles entering and exiting the project site.

Project Driveway Site Distance

The TIA provided project design recommendations to improve project driveway site distance. Vehicles parked on either side of the San Pablo Avenue driveway may block the sight distance between vehicles exiting the driveway and vehicles traveling northbound or southbound on San Pablo Avenue. Trees that currently exist on either side of the driveway may also affect visibility of exiting vehicles if the tree canopy is lower than six feet from the ground.

1. **Project Specific Conditions of Approval:** Applicant shall ensure that on-street parking and trees on both sides of the project driveway on San Pablo Avenue would not restrict sight distances for existing vehicles by providing at least 20 feet of red curb and ensuring that the tree canopies are higher than six feet from the ground on both sides of the driveway.

Bicycle Parking, Access and On-Site Circulation

Section 2.05.07.04 of the Specific Plan Form-Based Code requires bicycle parking for residential and commercial uses. Based on the proposed number of units, 219 long-term bicycle parking spaces and 7 short-term bicycle parking spaces would be required. The Project would provide 220 long-term bicycle parking spaces and eight short-term bicycle parking spaces, meeting Specific Plan requirements. Long-

term bicycle parking would be provided in secured rooms located at the northwest end of the underground garage, and along the stairwell located at the southwest corner of the underground garage. Short-term bicycle parking would be located along the building frontage on San Pablo Avenue.

Pedestrian Access and On-Site Circulation

Pedestrians would access the building via a lobby entrance along San Pablo Avenue. The lobby entrance would provide direct access to units on the first floor, as well as stair and elevator access to the upper floor units. Pedestrian access between the parking garage and the building would be provided via stairs and elevator to the lobby entrance in the front of the building. The Specific Plan Form Based Code requires a minimum a 14-foot public realm along community streets, including 8 feet of clear pedestrian right-of-way and 6 feet of amenity space, which includes landscaping. The project would provide an eight-foot pedestrian zone and a six-foot amenity zone, meeting Specific Plan requirements.

Transit Access

AC Transit provides nearby transit service to the project site with a bus stops along both northbound and southbound San Pablo Avenue, at the San Pablo Avenue/Macdonald Avenue intersection, about 700 feet north of the project and at the San Pablo Avenue/Conlon Avenue intersection, about 600 feet south of the project. The San Pablo Avenue/Macdonald Avenue bus stops provide a bench and bus shelter. The San Pablo Avenue/Conlon Avenue intersection bus stops provide a bench and no bus shelter. Both the San Pablo Avenue/Macdonald Avenue and San Pablo Avenue/Conlon Avenue intersections are signalized, providing a protected crossing for pedestrians crossing San Pablo Avenue to walk between the northbound bus stops and the project site.

Parking and TDM Requirements

The Specific Plan Form-Based Code requirements for the TOHIMU zoning district apply to the project site. TOHIMU zoning requires a maximum of 1.0 automobile parking space per dwelling unit and a basic Transportation Demand Management (TDM) plan.

The project would provide a ratio of 0.5 spaces per unit; 77 parking spaces in the underground parking garage for a total of 144 dwelling units. This would be consistent with Specific Plan parking standards.

Applicable Mitigation

Implementation of **Mitigation Measure 16-1** would be required along with implementation of the project-specific conditions of approval. No new mitigation measures would be required.

Conclusion

The project is consistent with the type, density, and intensity of development analyzed in the Specific Plan EIR. No substantial changes in environmental circumstances have occurred, and no new information that could not have been known at the time the Specific Plan EIR was certified has been identified which would lead to new or more severe significant impacts. Therefore, the Specific Plan EIR adequately evaluated impacts that would occur with implementation of the project and no new or more severe impacts would occur.

3.17 Tribal Cultural Resources

	Significant Impact	Less than Significant with Mitigation Incorporated	Less-than-Significant Impact	No New Impact
Would the project:				
a) Cause a substantial adverse change in the significance of a tribal cultural resource, defined in Public Resources Code section 21074 as either a site, feature, place, cultural landscape that is geographically defined in terms of the size and scope of the landscape, sacred place, or object with cultural value to a California Native American tribe, and that is:				
i) Listed or eligible for listing in the California Register of Historical Resources, or in a local register of historical resources as defined in Public Resources Code section 5020.1(k)?	☐	☐	☐	☒
ii) A resource determined by the lead agency, in its discretion and supported by substantial evidence, to be significant pursuant to criteria set forth in subdivision (c) of Public Resources Code Section 5024.1? In applying the criteria set forth in subdivision (c) of Public Resource Code Section 5024.1, the lead agency shall consider the significance of the resource to a California Native American tribe.	☐	☐	☐	☒

Discussion

As confirmed in the CHRIS records search, there are no recorded cultural resources onsite, although several recorded sites are located in close proximity. As previously discussed in **Section 3.5, Cultural Resources**, implementation of **Mitigation Measure 7-2** would be required; this mitigation measure will protect previously unrecorded or unknown cultural resources, including Native American artifacts and human remains.

AB 52

Subsequent to certification of the Specific Plan EIR, the California Legislature passed Assembly Bill (AB) 52, which provides for consultation between lead agencies and Native American tribal organizations

during the CEQA process. Effective July 1, 2015, AB 52 states that prior to the release of an EIR or negative declaration/mitigated negative declaration for public review, a lead agency must provide the opportunity to consult with local tribes. Formal consultation under AB 52 is not required for this project per Section 15162, which exempts project CEQA documents that do not require public review.[21]

Native American Sacred Lands File Search

A Sacred Lands File search for the project site was submitted to the Native American Heritage Commission (NAHC) on January 24, 2018 (included as **Appendix G**).[22] The results of the NAHC Sacred Lands File Search showed tribal cultural resources exist at the project site or its vicinity. As recommended by the NAHC, letters notifying tribes were sent out on March 2, 2018. As previously discussed, the project will implement **Mitigation Measure 7-2**, thus, protecting previously unrecorded or unknown cultural resources, including Native American artifacts and human remains.

Applicable Mitigation

Implementation of **Mitigation Measure 7-2** would be required and would remain adequate to mitigate impacts as described in the Specific Plan EIR. No new mitigation measures would be required.

Conclusion

The Specific Plan EIR adequately evaluated the potential impacts to cultural resources. Project-specific research and Native American contact for the project has confirmed the Specific Plan EIR adequately evaluated the potential tribal cultural resource impacts that would occur with implementation of the project. No substantial changes in environmental circumstances have occurred, and no new information that could not have been known at the time the Specific Plan EIR was certified has been identified which would lead to new or more severe significant impacts. Therefore, the Specific Plan EIR adequately evaluated impacts that would occur with implementation of the project and no new or more severe impacts would occur.

[21] As the Specific Plan EIR was certified prior to July, 2015, and as this Program EIR Checklist supports the findings that, pursuant to CEQA Guidelines Section 15132, there are no new or substantially more severe significant effects and mitigation required, the project is within scope and is not subject to AB 52.

[22] 11965 San Pablo Avenue Sacred Lands File Search, 2017.

3.18 Utilities and Service Systems

	Significant Impact	Less than Significant with Mitigation Incorporated	Less-than-Significant Impact	No New Impact
Would the project:				
a) Exceed wastewater treatment requirements of the applicable Regional Water Quality Control Board?	☐	☐	☐	☒
b) Require or result in the construction of new water or wastewater treatment facilities or expansion of existing facilities, the construction of which could cause significant environmental effects?	☐	☐	☐	☒
c) Require or result in the construction of new stormwater drainage facilities or expansion of existing facilities, the construction of which could cause significant environmental effects?	☐	☐	☐	☒
d) Have sufficient water supplies available to serve the project from existing entitlements and resources, or are new or expanded entitlements needed?	☐	☐	☐	☒
e) Result in a determination by the wastewater treatment provider which serves or may serve the project that it has adequate capacity to serve the project's projected demand in addition to the provider's existing commitments?	☐	☐	☐	☒
f) Be served by a landfill with sufficient permitted capacity to accommodate the project's solid waste disposal needs?	☐	☐	☐	☒
g) Comply with Federal, State, and local statutes and regulations related to solid waste?	☐	☐	☐	☒

Discussion

The Specific Plan EIR determined water demand would increase as a result of buildout of the Specific Plan. Average daily demand was projected to be 882,720 gallons per day (gpd), which represents approximately 0.38 percent of the water demand forecasted in the Urban Water Management Plan (UWMP) for the year 2040.

The Specific Plan EIR also noted development within the Specific Plan area would incorporate the City's requirements for providing adequate water supply, including compliance with adopted performance standards, application of these standards in each jurisdictional City's development review process, coordination of development review with East Bay Municipal Utility District (EBMUD) including consistency with the UWMP, and the requirement that new development pay a fair share of the costs associated with provision of water facilities as required by the City's conditions of approval.

The Specific Plan EIR concluded that since development facilitated by the Specific Plan would require about 0.38 percent of EBMUD's forecasted planning level water demand for its service area by the year 2040, and would be subject to EBMUD and jurisdictional City plans, regulations, and ordinances regarding water supply, the impact on water supply would be less than significant.

The Specific Plan EIR concluded development associated with the Specific Plan would result in less-than-significant impacts on utilities and service systems, including wastewater treatment, stormwater drainage, and solid waste disposal. However, the Specific Plan EIR determined wastewater and storm drainage infrastructure systems would require improvements, including the upgrading of existing deficiencies, in order to accommodate new development facilitated by the Specific Plan. The Specific Plan EIR provided recommendations and design considerations for proposed infrastructure improvements.

The Stege Sanitary District provides wastewater service to properties along San Pablo Avenue, including the project site. This project applicant will participate in the San Pablo Avenue Sewer Capacity Improvement Fee Program.

The Specific Plan EIR determined that significant, unavoidable construction-related noise and vibration impacts would result from construction of the identified infrastructure improvements required to meet the Specific Plan buildout capacity.

Dwelling units constructed under the project would fall within the total development anticipated in the Specific Plan EIR. As such, the project would not increase demand on the wastewater infrastructure beyond that analyzed in the Specific Plan EIR. Given this, the project would not result in any impacts from expanded utility infrastructure beyond what was identified in the Specific Plan EIR.

The increase in commercial and residential density under the Specific Plan would result in an increase in the amount of solid waste generated within the Specific Plan area. The Specific Plan EIR concluded the increase in solid waste generation would not exceed acceptable rates established by plans, policies, and regulation. Solid waste generated by the occupation and operation of Specific Plan development would be served by solid waste and recycling facilities with sufficient long-term capacities to accommodate residential and commercial development of the Specific Plan development, including the project. Solid waste in El Cerrito is collected by the East Bay Sanitary Company and processed at the Golden Bear Transfer Station in Richmond. After processing, landfill materials are transferred to the Keller Canyon Landfill in Contra Costa County. As such, solid waste impacts were determined to be less than significant.

Pacific Gas & Electricity would provide gas and electric services to the project site, Stege Sanitary District would provide sewer services, and EBMUD would provide water services.[23,]

Applicable Mitigation

The Specific Plan EIR did not identify any mitigation measures for utility impacts. No new mitigation measures would be required.

Conclusion

The project is consistent with the type of development analyzed in the Specific Plan EIR. No substantial changes in environmental circumstances have occurred, and no new information that could not have been known at the time the Specific Plan EIR was certified has been identified which would lead to new or more severe significant impacts, and no new mitigation measures, beyond implementation of the project-specific condition of approval, would be required. The project would not result in new significant or more severe impacts related to utilities. Therefore, the Specific Plan EIR adequately evaluated the utilities and service systems impacts of the project and no new impacts related to utilities would result.

[23] Pacific Gas and Electric Company (PG&E), 2017. Gas and Electric Server Will-Serve Letter. August, 2017. Accessed January 2018.

4 Reference Documents

City of El Cerrito 1999 General Plan. http://www.el-cerrito.org/718/General-Plan. Accessed January 2018.

City of El Cerrito, 2014. San Pablo Avenue Specific Plan. December 2014. Available at: http://www.el-cerrito.org/396/San-Pablo-Avenue-Specific-Plan. Accessed January 2018.

City of El Cerrito, 2014. San Pablo Avenue Specific Plan Final Environmental Impact Report. June 2014. Available at: http://www.el-cerrito.org/396/San-Pablo-Avenue-Specific-Plan. Accessed January 2018.

Technical Appendices

The following resources were prepared in order to further identify project specific parameters. Copies of these technical documents are incorporated herein by reference and are available for review during normal business hours at the City of El Cerrito.

A. Illingworth & Rodkin, 2018. Air Quality Assessment and Construction Health Risk Assessment: http://www.el-cerrito.org/DocumentCenter/View/10718
B. CHRIS Search Results: http://www.el-cerrito.org/DocumentCenter/View/10719
C. Lawrence B. Karp, 2014. 11965 San Pablo Avenue Foundation Investigation and Recommendations. June 2017: http://www.el-cerrito.org/DocumentCenter/View/10720
D. Schutze & Associates, Inc., 2017. Phase I ESA. January, 2017: http://www.el-cerrito.org/DocumentCenter/View/10721
E. Illingworth & Rodkin, 2018. Noise Assessment: http://www.el-cerrito.org/DocumentCenter/View/10722
F. Fehr & Peers, 2018. El Cerrito 11965 San Pablo Avenue Project – Preliminary Transportation Analysis: http://www.el-cerrito.org/DocumentCenter/View/10723

April 26, 2019

Planning Division
El Cerrito City Hall
10890 San Pablo Avenue
El Cerrito, CA 94530.

RE: Appeal of Tier II Planning Commission approval of the project proposed for 11965 San Pablo Ave.

The project proposed for 11965 San Pablo (application PL17-0028) **does not meet Tier II criteria** of the San Pablo Ave. Specific Plan, as approved on March 6, 2019, by the DRB and as upheld by the Planning Commission April 17, 2019.

Through the Design Review Board process, the applicant made many helpful improvements to bring a better design solution for the challenging site, and while this project is otherwise desirable and welcome, it is not compliant to be a Tier II entitled project, as is. Under this appeal, City Council is urged to deny this Tier II application, but to further encourage the project by providing direction how this project can be made consistent with the Specific Plan by further changes to the proposal to meet Tier II criteria, submittal under Tier IV with additional public benefits, or by qualification for more state density bonus concessions after providing additional affordable units. If City Council denies this appeal, the findings of Tier II compliance for the items listed below need to be clearly demonstrated on the record, as previous inquiries by the public into the issue of Tier II compliance at numerous public hearings have received no response of substance.

The following San Pablo Specific Plan standards relate to visibility and activation of the public realm that are essential to public safety and establishment of a vibrant pedestrian friendly urban environment, as repeatedly called out in the Specific Plan. Please see the cited sections of the San Pablo Specific Plan form-based code.

1. Greenway: provide ground floor individual entries (2.04.02.05, Table 15)
2. Greenway: provide ground floor and upper floor transparency (2.04.02.05, Table 16)
3. Plazas: do not locate on the north side of a building, or shade more than 50% for 2/3 of daylight hours (2.05.06.02.02.D)
4. Plazas: provide doors and 75% ground floor transparency (2.05.06.02.02.J)
5. Creek greenways: provide doors and 75% ground floor transparency (2.05.06.02.04.G)
6. Fencing/walls shall not be higher than 8 feet (2.05.07.08, Table 31)
7. Public open space requirement is not met and housing density bonus waiver applied incorrectly (2.05.06)

The 5-story sound wall with glass openings is not a Tier II compliant structure. The visibility onto the Greenway is only from private common outdoor open space that will be occupied much less than indoor living space. This is not the kind of visibility the plan envisioned for the greenway and it still does not include any greenway oriented ground floor entries to units to activate the space and reduce the long tunnel like experience that will degrade the safety and quality of this newly built greenway connection. A significant public investment was recently made to provide high quality bicycle and pedestrian connectivity between El Cerrito and Richmond. The Polaris project sits right at the focus of that connection and instead of celebrating and enhancing it, the building turns it back on the greenway and tries to armor itself from the outside world instead of taking meaningful action to help bring further improvement to the public realm that will ultimately make it a more desirable neighborhood and a more desirable building to inhabit.

The public plaza open space on the north side of the building does not meet Tier II standards because of shading, transparency and doors onto these public spaces. Functionally, they are plazas, they have been called plazas in past versions of the plans, and staff continues to refer to them as plazas. Even if it is argued that they aren't "plazas," the same requirements apply to frontages on creek Greenways, which is the adjacent use to the north.

For the number and type of affordable units being offered by this project, the state density bonus allows one "concession" (on the basis that the standard presents a financial burden) and unlimited "waivers" (on the basis that the standard physically limits the allowed density bonus). The public open space shortfall is not eligible for a state density bonus waiver, as claimed, because the proposed project is not being physically constrained by this requirement. There is a greater excess of private common open space than there is a shortfall of public open space. Hence, a mere adjustment of the boundaries for the public and private realms would bring the project into compliance without changing the building footprint or unit count.

Despite repeated requests, there was no presentation of a police department review of this plan regarding public safety and security of the surroundings, as modified by the project, particularly with respect to the long narrow greenway enclosure that will have many sightline issues with users pushed close to the BART columns, and very limited space to remove oneself from a dangerous situation.

Please encourage this project but do not approve it, as is, under Tier II. It is not Tier II compliant and it can still use significant improvement to be a truly positive impact on El Cerrito, particularly where the interface to the public realm and associated safety is concerned.

Sincerely,

Howdy Goudey
[redacted]
El Cerrito, CA 94530

Design Review Board Resolution DRB 19-04

APPLICATION NO. PL17-0028

A RESOLUTION OF THE CITY OF EL CERRITO DESIGN REVIEW BOARD GRANTING TIER II DESIGN REVIEW APPROVAL FOR THE CONSTRUCTION OF A NEW BUILDING CONTAINING 144 UNITS AT 11965 SAN PABLO AVENUE.

WHEREAS, the site is located within the San Pablo Avenue Specific Plan Area;

WHEREAS, the General Plan land use classification of the site is Transit-Oriented Higher-Intensity Mixed Use;

WHEREAS, the zoning district of the site is Transit-Oriented Higher-Intensity Mixed Use and the project is located on a Neighborhood Street;

WHEREAS, the site is located at 11965 San Pablo Avenue;

WHEREAS, the existing Assessor's Parcel Number of the site is 513-340-059;

WHEREAS, on March 1, 2017, the applicant submitted an application for Tier II Design Review;

WHEREAS, on March 16, 2018, the application was determined to be complete;

WHEREAS, on November 7, 2018, the Design Review Board, conducted a duly noticed public hearing and continued the project to the December 5, 2018 meeting;

WHEREAS, on December 5, 2018, the Design Review Board, conducted a public hearing and continued the project to the January 24, 2019 special meeting;

WHEREAS, on January 24, 2019, the Design Review Board, continued the public hearing to the February 6, 2019 meeting;

WHEREAS, on February 6, 2019, the Design Review Board, conducted a public hearing, and directed City staff to distribute a public notice for a new public hearing on March 6, 2019;

WHEREAS, on March 6, 2019, the Design Review Board, after due consideration of all evidence and reports offered for review, does find and determine the following:

1. The project is consistent with the Program Environmental Impact Report certified for the San Pablo Avenue Specific Plan, pursuant to CEQA Guidelines Sections 15168(c) and 15182 and is subject to the Program Environmental Impact Report mitigation measures listed below.

2. The project complies with all applicable standards of the San Pablo Avenue Specific Plan. The project complies with the standards for the Community Street type, the standards for the Transit-Oriented Higher-Intensity Mixed Use district, and all other applicable standards of the San Pablo Avenue Specific Plan.

3. The proposed project will implement the following goals of the El Cerrito General Plan: LU1.5: Suitable Housing, LU2.1: San Pablo Avenue Specific Plan Area, LU4.1: Mixture of Uses, LU5.6: Development along the Ohlone Greenway, LU6.2: Circulation Alternatives, CD1.9: Building Design, CD2.1: Street Frontages,

CD2.3: Streetscape Improvements, CD3.2: Usable Open Space, CD3.3: Site Landscaping, CD3.12, Landscape species; CD4.2 Building Articulation; CD5.1, Design Review Process; T2.1: Land Use Patterns, T2.2: Project Design, Policies H2.2, and H2.3 of Housing Element Goal H2: New Housing Development.

NOW, THEREFORE, BE IT RESOLVED that after careful consideration of maps, facts, exhibits, correspondence, and testimony, and other evidence submitted in this matter, and, in consideration of the findings, the El Cerrito Design Review Board hereby approves Application No. PL17-0028, subject to the following conditions:

Planning Division:

1. The project will be constructed substantially in conformance with the plans dated December 19, 2018. Minor changes may be approved by the Zoning Administrator. All improvements shall be installed in accordance with these approvals. Once constructed or installed, all improvements shall be maintained as approved.

2. If Applicant constructs the building or makes improvements in accordance with these approvals, but fails to comply with any of the Conditions of Approval or limitations set forth in these Conditions of Approval and does not cure any such failure within a reasonable time after notice from the City of El Cerrito, then such failure shall be cause for nonissuance of a certificate of occupancy, revocation or modification of these approvals or any other remedies available to the City.

3. These Conditions of Approval shall apply to any successor in interest in the property and Applicant shall be responsible for assuring that the successor in interest is informed of the terms and conditions of this approval.

4. If not used, this design review shall expire two years from the date of this action.

5. The applicant shall share the conditions of approval with their general contractor for the project. The general contractor shall sign a copy of the conditions of approval to acknowledge that he/she is aware of all these conditions of approval and will comply as directed.
   a. Prior to the issuance of a building permit, this signed copy shall be returned to the planning and building division and kept as part of the project file. The conditions of approval shall be reviewed at the mandatory pre-construction meeting held between the City and the General Contractor. A copy of the conditions of approval shall be maintained on the project site at all times during construction.

6. Prior to issuance of building permit, the applicant shall demonstrate compliance with Chapter 13.50: Art in Public Places of the El Cerrito Municipal Code to the satisfaction of the Zoning Administrator. The project shall be fully compliant with Chapter 13.50 prior to issuance of Certificate of Occupancy.

7. In compliance with Chapter 16.34 of the El Cerrito Municipal Code, the applicant shall submit plans for undergrounding of utilities adjacent to the project to the satisfaction of the Building Official prior to issuance of building permit.

8. The cost of all automobile parking shall be separate from the sale or rental price of all residential units. All renters and/or buyers of market-rate residential units shall be free to not rent and/or purchase parking.

9. A construction staging plan shall be submitted to the Zoning Administrator for review and approval prior to the issuance of a building permit. The construction staging plan shall illustrate where the construction equipment will be staged and the location of parking for the construction employees. This

construction and staging plan may also require the submission of a Temporary Use Permit to allow this use.

10. Prior to the issuance of a building or demolition permit the Applicant/Developer shall submit a notice containing the following information to the satisfaction of the Zoning Administrator (text shown in quotes shall be reproduced verbatim on the notice.) Once approved, the text on this notice shall be transferred onto a 6 foot by 3-foot sign on the project site's construction fence. This temporary sign shall be made of weather resistant materials and remain in place for the duration of the construction of the project.

    a. "Emergency contact number: 9-1-1".
    "This number should only be used in case of fire or criminal activity is observed."
    b. "Urgent contact numbers:"
    "These numbers should be used for urgent issues such as dust and noise concerns."
    The telephone number and name of person to contact (construction liaison) that is authorized to address urgent concerns on the project team's team. "This person shall respond and take corrective action within 24 hours of receipt of complaint."
    c. The Air District's phone number:
    "Bay Area Air Quality Management District: 1-800-334-ODOR (6367) for any issue related to dust and/or air quality"
    d. The number of the "Development Service Manager in El Cerrito (510) 215-4332 if any community member has questions or concerns regarding the project."
    e. A color rendering of the new project that has been approved for construction along with a brief, factual project description. An interested party contact is also allowed in this section of the notice.

<u>Conditions based on applicable mitigation measures from the San Pablo Avenue Specific Plan Program EIR:</u>

11. Aesthetics and Visual Resources. (Mitigation 4.2): The project shall install landscaping and incorporate other measures into and around parking structure(s) (light source shielding, etc.) as necessary to ensure that potential light and glare from vehicles would be avoided toward the Ohlone Greenway, residential uses, and other sensitive uses, consistent with El Cerrito City Resolution 82-9 and the El Cerrito design review process.

    Regarding reflective building materials, for all future development in the Specific Plan area, facades shall be of non-reflective materials, and windows shall incorporate non-reflective coating.

12. Air Quality (Mitigation Measure 5.1): Implement the following Bay Area Air Quality Management District (BAAQMD) recommended measures to control particulate matter emissions during construction. City staff will spot check that these measures are being implemented throughout the construction phase of the project. These measures reduce diesel particulate matter *PM2.5* and PM10 created from construction to ensure that short-term health impacts to nearby sensitive receptors are avoided or reduced:

    Dust (PM2.5 and PM10) Control Measures:

    a. Water all active construction areas at least twice daily and more often during windy periods. Active areas adjacent to residences should be kept damp at all times.
    b. Cover all hauling trucks or maintain at least two feet of freeboard.
    c. Pave, apply water at least twice daily, or apply (non-toxic) soil stabilizers on all unpaved access roads, parking areas, and sweep daily (with water sweepers) all paved access roads, parking areas,

and staging areas and sweep streets daily (with water sweepers) if visible soil material is deposited onto the adjacent roads.

d. Hydroseed or apply (non-toxic) soil stabilizers to inactive construction areas (i.e., previously graded areas that are inactive for 10 days or more).
e. Enclose, cover, water twice daily, or apply (non-toxic) soil binders to exposed stockpiles.
f. Limit traffic speeds on any unpaved roads to 15 mph.
g. Replant vegetation in disturbed areas as quickly as possible.
h. Suspend construction activities that cause visible dust plumes to extend beyond the construction site.
i. Post a publicly visible sign(s) with the telephone number and person to contact at the Lead Agency regarding dust complaints. This person shall respond and take corrective action within 48 hours. The Air District's phone number shall also be visible to ensure compliance with applicable regulations.

Additional Measures to Reduce Diesel Additional Measures to Reduce Diesel Particulate Matter and PM2.5 and other construction emissions:

j. The developer or contractor shall provide a plan for approval by the City or BAAQMD demonstrating that the heavy-duty (>50 horsepower) off-road vehicles to be used in the construction project, including owned, leased and subcontractor vehicles, will achieve a project wide fleet-average 20 percent NOX reduction and 45 percent particulate reduction compared to the most recent CARB fleet average for the year 2011.
k. Clear signage at all construction sites shall be posted indicating that diesel and gasoline equipment standing idle for more than five minutes shall be turned off. This would include trucks waiting to deliver or receive soil, aggregate or other bulk materials. Rotating drum concrete trucks could keep their engines running continuously as long as they were on-site or adjacent to the construction site.
l. The contractor shall install temporary electrical service whenever possible to avoid the need for independently powered equipment (e.g., compressors).
m. Properly tune and maintain equipment for low emissions.

13. Air Quality (Mitigation Measure 5.2): Prior to issuance of building permit the applicant shall require project-level construction health risk assessment shall be completed to the satisfaction of the Zoning Administrator. This assessment shall be completed either through screening or refined modeling to identify impacts and, if necessary, include performance standards and industry-recognized measures to be accomplished through, though is not limited to, the following measures:
    a. Construction equipment selection.
    b. Use of alternative fuels and engine retrofits temporary line power or electric equipment.
    c. Modified construction schedule; and
    d. Implementation of BAAQMD Basic and/or Additional Construction Mitigation Measures for control of fugitive dust.

14. Prior to the issuance of a building permit, the applicant shall implement a program, for review and approval of the Zoning Administrator, that includes the following elements:
    a. Archeological resource identification training procedures for construction personnel
    b. Procedures for reporting archeological discoveries

15. Biological Impacts (Mitigation Measure 6.1): Removal of trees, shrubs, or weedy vegetation between February 1 and August 31 shall require a survey for nesting birds by a qualified wildlife biologist to the satisfaction of the Zoning Administrator. The survey shall be conducted no sooner than 14 days prior to the start of removal of trees, shrubs, or weedy vegetation. Survey results shall be valid for 21 days following the survey. Any removal of trees, shrubs, or weedy vegetation more than 21 days after a

survey shall require a new survey. The area surveyed shall include all construction sites, access roads, and staging areas, as well as areas within 150 feet outside the boundaries of the areas to be cleared or as otherwise determined by the biologist.

In the event that an active nest is discovered in the areas to be cleared, or in other habitats within 150 feet of construction boundaries, clearing and construction shall be postponed for at least two weeks or until a wildlife biologist has determined that the young have fledged (left the nest), the nest is vacated, and there is no evidence of second nesting attempts.

A qualified biologist shall conduct preconstruction surveys for bats and suitable bat roosting habitat at work sites where culverts, structures and/or trees would be removed or otherwise disturbed prior to the initiation of construction. If bats or suitable bat roosting habitat is detected, CDFW shall be notified immediately for consultation and possible on-site monitoring.

The survey for nesting birds, bats and suitable bat roosting habitat may be conducted simultaneously.

16. Historic and Cultural Resources (Mitigation Measure 7.2): If subsurface archeological or cultural resources are encountered during ground-disturbing activities, work in the immediate vicinity shall be stopped and a qualified archaeologist shall be retained to evaluate the finds following the procedures described in Mitigation Measure 7-3 of the San Pablo Avenue Specific Plan Environmental Impact Report. Project personnel shall not collect cultural resources. If human remains are found, special rules set forth in State Health and Safety Code section 7050.5 and CEQA Guidelines section 15126.4(b) shall apply, and there shall be no further excavation or disturbance of the site or any nearby area reasonably suspected to overlie adjacent remains until the Contra Costa County Coroner has been notified of the remains and has determined that the remains are not subject to the provisions of Section 27491 of the Government Code or any other related provisions of law concerning investigation of the circumstances, manner and cause of any death, and the recommendations concerning the treatment and disposition of the human remains have been made to the person responsible for the excavation, or to his or her authorized representative, in the manner provided in Section 5097.98 of the Public Resources Code.

17. Paleontological Resources (Mitigation Measure 7.3): The applicant shall implement a program that includes the following elements:
    a. Paleontological resource identification training procedures for construction personnel
    b. Spot-checks by a qualified paleontological monitor of all excavations deeper than seven feet below ground surface
    c. Procedures for reporting paleontological discoveries and their geologic context

    If subsurface paleontological resources are encountered, excavation shall halt in the vicinity of the resources, and the project paleontologist shall evaluate the resource and its stratigraphic context. The monitor shall be empowered to temporarily halt or redirect construction activities to ensure avoidance of adverse impacts to paleontological resources. During monitoring, if potentially significant paleontological resources are found, "standard" samples shall be collected and processed by a qualified paleontologist to recover micro vertebrate fossils. If significant fossils are found and collected, they shall be prepared to a reasonable point of identification. Excess sediment or matrix shall be removed from the specimens to reduce the bulk and cost of storage. Itemized catalogs of material collected and identified shall be provided to a local museum repository with the specimens. Significant fossils collected during this work, along with the itemized inventory of these specimens, shall be deposited in a local museum repository for permanent curatorship and storage. A report documenting the results of the monitoring and salvage activities, and the significance of the fossils, if any, shall be prepared and submitted to the Zoning Administrator.

18. Geology and Soils (Mitigation Measure 8.1): As required by the Building Official, subject to City review and approval, the applicant shall complete and implement the geotechnical mitigation recommendations identified in the required site-specific geotechnical investigations and engineering studies, in coordination with City grading permit and building permit performance standards.

19. Noise (Mitigation Measure 13.1): Future development would be exposed to outdoor noise levels exceeding acceptable levels as defined in the El Cerrito and Richmond General Plans. Noise levels inside residential structures proposed in such noise environments would exceed 45 dBA Ldn, the local established land use compatibility threshold. In areas where residential developments would be exposed to an Ldn of greater than 60 dBA, El Cerrito General Plan Policy H3.9 requires the evaluation of mitigation measures for specific projects. In Richmond General Plan Action SN4.A, new noise-sensitive uses that are located in an area with day-night average sound levels (Ldn) of 55 or greater require a noise study report; the report shall identify noise mitigation measures that limit noise to an acceptable level compared to existing conditions.

    a. Utilize site planning to minimize noise in residential outdoor activity areas (shared outdoor space in multi-family developments) by locating the areas behind noise barriers, the buildings, in courtyards, or orienting the terraces to alleyways rather than streets, whenever possible. The goal is a maximum noise level of 60 dBA Ldn from roadway traffic and 70 dBA Ldn from BART noise.
    b. The City of El Cerrito requires project-specific acoustical analyses to achieve interior noise levels of 45 dBA Ldn or lower, and the adopted instantaneous noise levels in residential units exposed to exterior noise levels greater than 60 dBA Ldn should not exceed 50 dBA Lmax in bedrooms and 55 dBA Lmax in other rooms. Building sound insulation requirements would need to include the provision of forced-air mechanical ventilation in noise environments exceeding 60 dBA Ldn so that windows could be kept closed at the occupant's discretion to control noise. Special building construction techniques (e.g., sound rated windows and building facade treatments) may be required where exterior noise levels exceed 65 dBA Ldn. These treatments include, but are not limited to, sound rated windows and doors, sound rated exterior wall assemblies, acoustical caulking, etc. The specific determination of what treatments are necessary will be conducted on a unit-by-unit basis during project design. Results of the analysis, including the description of the necessary noise control treatments, will be submitted to the City, along with the building plans, which shall be revised as necessary or approved prior to issuance of a building permit. Feasible construction techniques such as these would adequately reduce interior noise levels to 45 dBA Ldn or lower and meet instantaneous noise limits.
    c. Similar to above, noise insulation features shall be considered on a case-by-case basis for noise-sensitive offices and commercial uses proposed where noise levels exceed 65 dBA Ldn, in order to meet adopted noise standards.
    d. Implementation of these measures would reduce potential noise and land use compatibility impacts to a less-than-significant level.

20. Noise (Mitigation 13.2): New commercial development proposed in the same building as or adjacent to residential development could result in noise levels exceeding City standards.

    a. Noise levels at residential property lines from commercial development shall be maintained not in excess of the General Plan and municipal code limits for the Cities of El Cerrito and Richmond. The approval of the commercial development shall require a noise study demonstrating how the business--including loading docks, refuse areas, and ventilation systems--would meet these requirements and would be consistent with the respective City's noise standards.
    b. Ensure that noise-generating activities, such as maintenance and loading and unloading, are limited to the hours of 7:00 AM to 9:00 PM.

21. Noise and Land Use Compatibility/Construction Noise (Mitigation Measure 13.3): Construction equipment shall be well-maintained and used judiciously to be as quiet as practical. The following measures shall be implemented to reduce noise from construction activities:
    a. Equip all internal combustion engine-driven equipment with mufflers that are in good condition and appropriate for the equipment.
    b. Utilize "quiet" models of air compressors and other stationary noise sources where technology exists.
    c. Locate stationary noise-generating equipment as far as feasible from sensitive receptors when sensitive receptors adjoin or are near a construction area.
    d. Prohibit unnecessary idling of internal combustion engines.
    e. Pre-drill foundation pile holes to minimize the number of impacts required to seat the pile.
    f. Construct solid plywood fences around construction sites adjacent to operational business, residences, or noise-sensitive land uses.
    g. If noise conflicts occur which are not irresolvable by proper scheduling, a temporary noise control blanket barrier shall be erected, as determined to be necessary by the Zoning Administrator, along building facades facing construction sites.
    h. Route construction-related traffic along major roadways and as far as feasible from sensitive receptors.
    i. Construction activities (including the loading and unloading of materials and truck movements) and excavating, grading, and filling activities (including warming of equipment motors) shall be limited to the hours of 7:00 AM to 6:00 PM on weekdays and to the hours of 9:00 AM and 5:00 PM on Saturdays. Work shall be prohibited on Sundays and Holidays.
    j. Businesses, residences, or noise-sensitive land uses adjacent to construction sites shall be notified of the construction schedule in writing.
    k. Designate a "construction liaison" who would be responsible for responding to any local complaints about construction noise. The liaison would determine the cause of the noise complaints (e.g., starting too early, bad muffler, etc.) and institute reasonable measures to correct the problem. Conspicuously post a telephone number for the liaison at the construction site.

22. Noise and Land Use Compatibility/Construction Noise (Mitigation 13-4): The following measures are recommended to reduce vibration from construction activities:
    a. Avoid impact pile driving where possible. Drilled piles causes lower vibration levels where geological conditions permit their use.
    b. Avoid using vibratory rollers and tampers near sensitive areas.
    c. In areas where project construction is anticipated to include vibration-generating activities, such as pile driving, in close proximity to existing structures, site-specific vibration studies shall be conducted to determine the area of impact and to present appropriate mitigation measures that may include the following:
        1. Identify sites that would include vibration compaction activities (such as pile driving) and have the potential to generate ground-borne vibration, and the sensitivity of nearby structures to ground-borne vibration. Vibration limits shall be applied to all vibration-sensitive structures located within 200 feet of the project. A qualified structural engineer should conduct this task.
        2. Develop a vibration monitoring and construction contingency plan to identify structures where monitoring would be conducted, set up a vibration monitoring schedule, define structure-specific vibration limits, and address the need to conduct photo, elevation, and crack surveys to document before and after construction conditions.
        3. Design construction contingencies that would be implemented when vibration levels approached the limits.

4. At a minimum, conduct vibration monitoring during initial demolition activities and during pile driving activities. Monitoring results may indicate the need for more or less intensive measurements.
5. When vibration levels approach limits, suspend construction and implement contingencies to either lower vibration levels or secure the affected structures.
6. Conduct post-survey on structures under either of these circumstances: (a) when construction monitoring has indicated high vibration levels or (b) when complaints of damage have been made due to construction activities. Make appropriate repairs or compensation when damage has resulted from construction activities.

Project Specific Conditions of Approval:

23. The BAAQMD's Planning Healthy Places recommend installation of air filters rated at a minimum efficiency reporting value (MERV) 13 or higher in exposed buildings associated with sensitive land uses (e.g. schools, residences, hospitals). Increased cancer risks from I-80 traffic at the project site is significant. Cancer risks is mostly the result of exposure to diesel particulate matter, although, gasoline vehicle exhaust contributes. The project shall include the following measures, as a condition of approval, to minimize long-term diesel particulate matter exposure, which leads to increased cancer risk, for new project occupants:
    - Install air filtration in residential buildings. Air filtration devises shall be rated MERV13 or higher. To ensure adequate health protection to sensitive receptors (i.e., residents), this ventilation system, whether mechanical or passive, all fresh air circulated into the dwelling units shall be filtered.
    - As part of implementing this measure, an ongoing maintenance plan for the buildings' heating, ventilation, and air conditioning (HVAC) air filtration shall be required.
    - Ensure that the use agreement and other property documents: (1) require cleaning, maintenance, and monitoring of the affected buildings for air flow leaks, (2) include assurance that new owners or tenants are provided information on the ventilation system, and (3) include provisions that fees associated with owning or leasing a unit(s) in the building include funds for cleaning, maintenance, monitoring, and replacements of the filters, as needed.

24. The project design shall implement the following measures to achieve an interior noise level of 45 dBA Ldn or less, in compliance with City noise standards:
    a. South and West Façade:
        i. For units with exterior walls directly facing BART (on the 2nd and 8th floors), exterior walls must have a minimum STC rating of 61. Preliminary calculations indicate that the use of an internally insulated staggered wood stud assembly with two layers of 5/8" gypsum board at the interior face and 7/8" thick three coat stucco at the exterior would provide this STC rating; however, the STC rating may be achieved through other design approaches.
        ii. For units with windows or other glazing on the southern and western façades (1st through 6th floors), bedroom windows must have a minimum STC rating of 32. and exterior wall materials and all windows must achieve an interior noise attenuation of 33 dBA in bedrooms and 28 dBA in living rooms.
    b. Eastern Façade:
        i. Exterior walls must have a minimum STC rating of 61, all exterior windows on the eastern façade must have a minimum STC rating of 38, and all exterior doors on the eastern façade must have a minimum STC rating of 35.
    c. Northern Façade:

i. Exterior walls must have a minimum STC rating of 61, all exterior windows on the northern façade must have a minimum STC rating of 35, and all exterior doors on the northern façade must have a minimum STC rating of 32.

d. The STC ratings required by this condition shall be documented and submitted to the City for review prior to issuance of a building permit.

25. Prior to issuance of a building permit, the applicant shall develop a construction noise control plan, including, but not limited to, the above mitigation measures provided by Mitigation 13-3 of the San Pablo Avenue Specific Plan EIR, and the following controls:
    - Control noise from construction workers' radios to a point where they are not audible from adjacent land uses.
    - Locate staging areas and construction materials areas as far away as possible from adjacent land uses.

26. Prior to the issuance of a building permit, the applicant shall pay a fair share contribution towards the implementation of the multi-modal Complete Streets improvements identified by the Specific Plan as determined by the Public Works Director.

27. Prior to Certificate of Occupancy, the applicant shall provide mirrors at the driveway ramp curves to ensure adequate visibility between vehicles entering and exiting the project site to the satisfaction of the Public Works Director.

28. Prior to the issuance of a Certificate of Occupancy, the applicant shall submit the necessary application to the Public Works Department to ensure that 20 feet of red curb be provided on San Pablo Avenue on the both sides of the project driveway. The applicant shall ensure that the canopy of trees within the public right-of-way be maintained no lower than 6 feet from the ground on both sides of the project driveway.

29. Prior to issuance of a building permit, the project plans shall provide a minimum of an 8-foot wide clear pedestrian zone along San Pablo Avenue, with no obstructions.

30. Prior to issuance of a Building Permit, the applicant shall prepare a Phase II Environmental Site Assessment for the project site.

31. The applicant shall provide 10 units of Very Low Income affordable housing in the project for a minimum of 55 years.

32. Prior to the issuance of a building permit, the applicant shall enter into an Affordable Housing Agreement that implements El Cerrito Municipal Code Section 19.22 and California Government Code Sections 65915 - 65918. The Affordable Housing Agreement may include any terms and affordability standards determined by the City to be necessary to ensure such compliance. The maximum qualifying household income for the Very Low Income affordable housing units shall be 50 percent of area median income (AMI), and the maximum housing payment shall be 30 percent of 50 percent of AMI, as set forth in the following paragraphs of this condition. In addition, the following provisions shall apply: Maximum rent shall be adjusted for the family size appropriate for the unit pursuant to California Health & Safety Code Section 50052.5. Rent shall include a reasonable allowance for utilities, as published and updated by the Housing Authority of the County of Contra Costa, including garbage collection, sewer, water, electricity, gas, and other heating, cooking and refrigeration fuels. Such allowance shall take into account the cost of an adequate level of service. Utilities do not include

telephone service or cable TV. Rent also includes any separately charged fees or service charges assessed by the lessor which are required of all tenants, other than security deposits.

Public Works Department:

33. Prior to the Certificate of Occupancy, applicant shall provide an easement recorded by the county, for the proposed driveway and storm water drainage management facilities at the City of Richmond public right of way. The proposed storm water management facilities on this easement shall be described as perpetual facilities that City of Richmond would agree not to modify on its perpetuity.

34. Prior to the issuance of a building permit, applicant shall provide a detailed civil plan for off-site work (improvements in the PROW).

35. Prior to the issuance of a building permit, applicant shall provide an access circulation study for the proposed San Pablo Avenue driveway, completed by a traffic engineer in which provides any necessary signage and striping required to keep sight lines clear and safe movement in and out of the proposed driveway. Striping and signs changes on San Pablo Avenue and at along the property frontage may be required.

36. Prior to the Certificate of Occupancy, applicant shall remove and replace sidewalk, curb, gutter and curb ramps along the frontage of the property to current ADA and City standards.

37. Prior to the issuance of a building permit, applicant shall submit an estimate of grading and earthwork to be completed for the project. Any earthwork and/or grading operations in excess of 50 cubic yards will require the applicant to submit a detailed grading plan, obtain a Grading & Transportation Permit and pay all associated fees.

38. Prior to the start of ANY work in the public right-of-way, including any street tree, sidewalk and driveway work, applicant shall obtain a Public Works Encroachment Permit and pay all associated fees.

39. Prior to the issuance of a building permit, the applicant shall submit a landscaping plan, showing all planting in the right-of-way. All new street trees are to be installed, they must be selected from the City Master Tree List and approved by the City Arborist before installation. Tree species, location, spacing, tree well size, and planting details, are to be approved by the City Arborist before installation. Any new street trees are required to have irrigation and an establishment period of 3 years prior to acceptance by the City.

40. Prior to Certificate of Occupancy, applicant shall deactivate and remove traffic signal blankout head locates at the existing southern driveway for the site (former drive-thru) and return it to the City of El Cerrito Corporation Yard.

41. Improvements on the property frontage shall follow the adopted San Pablo Avenue Specific Plan Complete Streets Design Standards and Guidelines section. This also includes signage, striping and curb painting.

42. Prior to the Certificate of Occupancy, per the adopted San Pablo Avenue Specific Plan Complete Streets section and the adopted Active Transportation Plan, the Applicant shall update the two (2) curb ramps and associated crosswalks at the proposed driveway.

43. Installation of bike racks in the public right-of-way requires a Public Works Encroachment Permit. The locations of all bike racks in the public right-of-way shall be to the satisfaction of the Public Works Director.

44. Prior to the issuance of a building permit, applicant shall prepare an Erosion and Sediment Control Plan for construction.

45. Prior to issuance of a building permit, applicant shall complete the Stormwater Control Plan to demonstrate the infeasibility of implementing a LID on the entire site, as specified on the Contra Costa Clear Water program – Stormwater C.3 Guidebook -7th addition (under page 44).

46. Applicant shall complete a Stormwater O&M Agreement for the Public Works Department to review and approve prior to Certificate of Occupancy.

47. The City of Richmond and City of El Cerrito have just completed the restoration of the portion of the Baxter Creek immediately adjacent to proposed development and new vegetation has been installed along the restored creek banks. The shadow study shows a good portion of this recent installed vegetation being shadowed with the future building. Applicant shall prepare a report by a licensed landscaping architect on the impact that the reduced sunlight may cause to the newly installed creek bank vegetation to the satisfaction of the Public Works Director. This study may require replacement of new plant species in the future. Applicant shall be responsible for implementing the recommendations/findings of the report to the satisfaction of the Public Works Director.

48. Prior to issuance of the Building Permit, the project Applicant shall pay a fair share contribution towards the implementation of the multi-modal Complete Streets improvements identified by the Specific Plan as determined by the Public Works Director.

Building Division:

49. Compliance with the Building Code and associated codes in effect whenever the building plans are submitted is required.

Fire Department:

50. Compliance with the Fire Code and associated codes in effect whenever the building plans are submitted is required. The following list is provided to assist the Applicant/Development Team with the preparation of the building plans:

a. Emergency Vehicle Access
   1. If gates are installed across EVA roads, gates shall be operable by the use of a Knox Key.
   2. A "KNOX BOX" shall be installed with keys for all common areas.

b. Fire Flow Requirements
   1. Provide code analysis of required total firefighting water.
   2. Based on required fire flow, show on plans the number of fire hydrants required and locations based on maximum spacing requirements.
   3. If required, plans for fire service underground shall be submitted for review, approval and permit under separate cover.

c. Fire Riser Locations
   1. Fire FDC's shall be in locations acceptable to the fire department for emergency operations.
   2. Fire FDC's shall be interconnected between the two buildings.

d. Gates

1. All gates shall be operable by the use of a Knox Key.
2. A "KNOX BOX" shall be installed with keys for all common areas at all gates and doors.

e. Premises Identification
1. Approved numbers or address shall be provided in such a position to be plainly visible and legible from the street fronting the property.
2. Address shall be either internally or externally illuminated.

f. Automatic Fire Sprinklers
1. Automatic Fire Sprinklers shall be installed throughout the Complex.
2. Fire sprinkler plans shall be submitted for review, approval and permit.

g. Emergency Egress
1. Every sleeping room shall have at least one operable window or door approved for emergency escape or rescue in accordance with CFC 1030.
2. Escape or rescue windows shall be installed in accordance with CFC 1030.
3. Exit signs shall be internally or externally illuminated.
4. Emergency electrical system to automatically illuminate means of egress.

h. Fire Sprinkler / Underground
1. Fire riser and FDC locations shall be submitted for review and approval.
2. Fire FDC's shall be in locations acceptable for fire department for emergency operations.
3. Fire FDC's shall be interconnected with fire sprinklers and standpipes.
4. Fire Sprinkler Plans shall be submitted for review and approval.
5. Fire system underground pipe plans shall be submitted for review and approval.

i. Standpipes
1. Standpipes shall be wet.
2. Standpipes shall extend to the roof where required.
3. Fire Department valve connections shall be in the intermediate landings of stairwells.
4. Standpipes shall be located in both stairwells.

j. Smoke & Heat Vents
1. Smoke & heat vents shall be installed on roof above each stairwell.
2. Smoke & heat vents shall be equipped with fusible link.
3. Smoke & heat vents shall be equipped with manual release for emergency operations.

k. Fire alarm System
1. Fire alarm plans shall be submitted for review and approval.

l. Smoke Detection
1. Smoke detection shall be installed in each bedroom, in hallways adjacent to bedrooms, and one detector per floor level (top and bottom of stairs).
2. Smoke detectors shall be 120v powered with battery backup.
3. Smoke detectors shall be interconnected when more than one is required per sleeping area.
4. Single Station or Multiple-Station Smoke alarm(s) not required to activate fire alarm system outside of sleeping area.

m. Carbon Monoxide Detectors
1. Carbon monoxide alarm shall be installed outside of and adjacent to sleeping areas where fuel-burning appliances are installed; and in dwelling units that have attached garages.
2. Carbon Monoxide detectors shall be installed in accordance with NFPA 720.
3. Carbon Monoxide alarms shall be120 v Powered with battery backup and be interconnected with the smoke detectors.

n. Electrical
1. All electrical breakers shall be labeled.

o. Radio Communications
1. Radio frequency signal strength analysis shall be conducted throughout the building.

2. If radio signal strength deficiencies are identified, signal boosters shall be installed to achieve adequate signal strength and boosters shall be maintained.

Police Department

51. Prior to issuance of building permit, the Applicant/Developer shall submit a plan for construction site security to the satisfaction of the Police Chief.

Stege Sanitary District:

52. This applicant shall pay all applicable sewer connection fees pursuant to Section 7.3 of the Stege Sanitary District Ordinance Code.

Design Review Board:

53. Prior to issuance of building permit, the plans shall be revised to add reveals and architectural joints to the concrete base.

54. Prior to issuance of building permit, the plans shall specify products for the proposed metal panels that are consistent with the color and texture shown in the plans reviewed by the Design Review Board on March 6, 2019.

55. Control joints for the exterior stucco shall be as depicted on the plans reviewed by the Design Review Board on March 6, 2019.

56. Prior to issuance of building permit, the plans shall be revised to utilize two paint colors for the stucco for all building facades as depicted in Image D on Sheet A-602 of the plans reviewed by the Design Review Board on March 6, 2019.

CERTIFICATION

I certify that this resolution was adopted by the El Cerrito Design Review Board at a regular meeting held on March 6, 2019, upon motion of Boardmember Chuaqui, second by Boardmember Thompson:

AYES: Chuaqui, Li, Riley, Thompson
NOES: None
ABSTAIN: None
ABSENT: Groch

Sean Moss, AICP
Acting Planning Manager

Planning Commission Resolution PC 2019-07

APPLICATION NO. PL17-0028

A RESOLUTION OF THE CITY OF EL CERRITO PLANNING COMMISSION DENYING AN APPEAL OF THE DESIGN REVIEW BOARD'S APPROVAL OF TIER II DESIGN REVIEW APPROVAL AND APPROVING A PROJECT THAT INCLUDES THE CONSTRUCTION OF A NEW BUILDING CONTAINING 144 UNITS AT 11965 SAN PABLO AVENUE.

WHEREAS, the site is located within the San Pablo Avenue Specific Plan Area;

WHEREAS, the General Plan land use classification of the site is Transit-Oriented Higher-Intensity Mixed Use;

WHEREAS, the zoning district of the site is Transit-Oriented Higher-Intensity Mixed Use and the project is located on a Neighborhood Street;

WHEREAS, the site is located at 11965 San Pablo Avenue;

WHEREAS, the existing Assessor's Parcel Number of the site is 513-340-059;

WHEREAS, on March 1, 2017, the applicant submitted an application for Tier II Design Review;

WHEREAS, on March 16, 2018, the application was determined to be complete;

WHEREAS, on November 7, 2018, the Design Review Board, conducted a public hearing and continued the project to the December 5, 2018 meeting;

WHEREAS, on December 5, 2018, the Design Review Board, conducted a public hearing and continued the project to the January 24, 2019 meeting;

WHEREAS, on January 24, 2019, the Design Review Board, continued the project to the February 6, 2019 meeting;

WHEREAS, on February 6, 2019, the Design Review Board, conducted a public hearing;

WHEREAS, a new public notice was distributed for a hearing for the project on March 6, 2019;

WHEREAS, on March 6, 2019, the Design Review Board conducted a public hearing, received public testimony, and adopted Resolution DRB 19-02, approving the project;

WHEREAS, on March 14, 2019, Sara Dudley of Adams, Broadwell, Joseph & Cardozo submitted an appeal of the Design Review Board's Tier II Design Review approval of the project on behalf of El Cerrito Citizens for Responsible Development;

WHEREAS, on April 17, 2019, the Planning Commission, after due consideration of all evidence and reports offered for review, does find and determine the following:

1. The project is consistent with the Program Environmental Impact Report certified for the San Pablo Avenue Specific Plan, pursuant to CEQA Guidelines Sections 15168(c) and 15182 and is subject to the Program Environmental Impact Report mitigation measures listed below.

2. The project complies with all applicable standards of the San Pablo Avenue Specific Plan. The project complies with the standards for the Community Street type, the standards for the Transit-Oriented Higher-Intensity Mixed Use district, and all other applicable standards of the San Pablo Avenue Specific Plan.

3. The proposed project will implement the following goals of the El Cerrito General Plan: LU1.5: Suitable Housing, LU2.1: San Pablo Avenue Specific Plan Area, LU4.1: Mixture of Uses, LU5.6: Development along the Ohlone Greenway, LU6.2: Circulation Alternatives, CD1.9: Building Design, CD2.1: Street Frontages, CD2.3: Streetscape Improvements, CD3.2: Usable Open Space, CD3.3: Site Landscaping, CD3.12, Landscape species; CD4.2 Building Articulation; CD5.1, Design Review Process; T2.1: Land Use Patterns, T2.2: Project Design, Policies H2.2, and H2.3 of Housing Element Goal H2: New Housing Development.

NOW, THEREFORE, BE IT RESOLVED that after careful consideration of maps, facts, exhibits, correspondence, and testimony, and other evidence submitted in this matter, and, in consideration of the findings, the El Cerrito Planning Commission hereby denies the appeal and approves Application No. PL17-0028, subject to the following conditions:

Planning Division:

1. The project will be constructed substantially in conformance with the plans dated April 12, 2019. Minor changes may be approved by the Zoning Administrator. All improvements shall be installed in accordance with these approvals. Once constructed or installed, all improvements shall be maintained as approved.

2. If Applicant constructs the building or makes improvements in accordance with these approvals, but fails to comply with any of the Conditions of Approval or limitations set forth in these Conditions of Approval and does not cure any such failure within a reasonable time after notice from the City of El Cerrito, then such failure shall be cause for nonissuance of a certificate of occupancy, revocation or modification of these approvals or any other remedies available to the City.

3. These Conditions of Approval shall apply to any successor in interest in the property and Applicant shall be responsible for assuring that the successor in interest is informed of the terms and conditions of this approval.

4. If not used, this design review shall expire two years from the date of this action.

5. The applicant shall share the conditions of approval with their general contractor for the project. The general contractor shall sign a copy of the conditions of approval to acknowledge that he/she is aware of all these conditions of approval and will comply as directed.
   a. Prior to the issuance of a building permit, this signed copy shall be returned to the planning and building division and kept as part of the project file. The conditions of approval shall be reviewed at the mandatory pre-construction meeting held between the City and the General Contractor. A copy of the conditions of approval shall be maintained on the project site at all times during construction.

6. Prior to issuance of building permit, the applicant shall demonstrate compliance with Chapter 13.50: Art in Public Places of the El Cerrito Municipal Code to the satisfaction of the Zoning Administrator. The project shall be fully compliant with Chapter 13.50 prior to issuance of Certificate of Occupancy.

7. In compliance with Chapter 16.34 of the El Cerrito Municipal Code, the applicant shall submit plans for undergrounding of utilities adjacent to the project to the satisfaction of the Building Official prior to issuance of building permit.

8. The cost of all automobile parking shall be separate from the sale or rental price of all residential units. All renters and/or buyers of market-rate residential units shall be free to not rent and/or purchase parking.

9. A construction staging plan shall be submitted to the Zoning Administrator for review and approval prior to the issuance of a building permit. The construction staging plan shall illustrate where the construction equipment will be staged and the location of parking for the construction employees. This construction and staging plan may also require the submission of a Temporary Use Permit to allow this use.

10. Prior to the issuance of a building or demolition permit the Applicant/Developer shall submit a notice containing the following information to the satisfaction of the Zoning Administrator (text shown in quotes shall be reproduced verbatim on the notice.) Once approved, the text on this notice shall be transferred onto a 6 foot by 3-foot sign on the project site's construction fence. This temporary sign shall be made of weather resistant materials and remain in place for the duration of the construction of the project.

    a. "Emergency contact number: 9-1-1".
    "This number should only be used in case of fire or criminal activity is observed."
    b. "Urgent contact numbers:"
    "These numbers should be used for urgent issues such as dust and noise concerns."
    The telephone number and name of person to contact (construction liaison) that is authorized to address urgent concerns on the project team's team. "This person shall respond and take corrective action within 24 hours of receipt of complaint."
    c. The Air District's phone number:
    "Bay Area Air Quality Management District: 1-800-334-ODOR (6367) for any issue related to dust and/or air quality"
    d. The number of the "Development Service Manager in El Cerrito (510) 215-4332 if any community member has questions or concerns regarding the project."
    e. A color rendering of the new project that has been approved for construction along with a brief, factual project description. An interested party contact is also allowed in this section of the notice.

<u>Conditions based on applicable mitigation measures from the San Pablo Avenue Specific Plan Program EIR:</u>

11. Aesthetics and Visual Resources. (Mitigation 4.2): The project shall install landscaping and incorporate other measures into and around parking structure(s) (light source shielding, etc.) as necessary to ensure that potential light and glare from vehicles would be avoided toward the Ohlone Greenway, residential uses, and other sensitive uses, consistent with El Cerrito City Resolution 82-9 and the El Cerrito design review process.

    Regarding reflective building materials, for all future development in the Specific Plan area, facades shall be of non-reflective materials, and windows shall incorporate non-reflective coating.

12. Air Quality (Mitigation Measure 5.1): Implement the following Bay Area Air Quality Management District (BAAQMD) recommended measures to control particulate matter emissions during construction. City staff will spot check that these measures are being implemented throughout the construction phase of the project. These measures reduce diesel particulate matter *PM2.5* and PM10

created from construction to ensure that short-term health impacts to nearby sensitive receptors are avoided or reduced:

Dust (PM2.5 and PM10) Control Measures:

a. Water all active construction areas at least twice daily and more often during windy periods. Active areas adjacent to residences should be kept damp at all times.
b. Cover all hauling trucks or maintain at least two feet of freeboard.
c. Pave, apply water at least twice daily, or apply (non-toxic) soil stabilizers on all unpaved access roads, parking areas, and sweep daily (with water sweepers) all paved access roads, parking areas, and staging areas and sweep streets daily (with water sweepers) if visible soil material is deposited onto the adjacent roads.
d. Hydroseed or apply (non-toxic) soil stabilizers to inactive construction areas (i.e., previously graded areas that are inactive for 10 days or more).
e. Enclose, cover, water twice daily, or apply (non-toxic) soil binders to exposed stockpiles.
f. Limit traffic speeds on any unpaved roads to 15 mph.
g. Replant vegetation in disturbed areas as quickly as possible.
h. Suspend construction activities that cause visible dust plumes to extend beyond the construction site.
i. Post a publically visible sign(s) with the telephone number and person to contact at the Lead Agency regarding dust complaints. This person shall respond and take corrective action within 48 hours. The Air District's phone number shall also be visible to ensure compliance with applicable regulations.

Additional Measures to Reduce Diesel Additional Measures to Reduce Diesel Particulate Matter and PM2.5 and other construction emissions:

j. The developer or contractor shall provide a plan for approval by the City or BAAQMD demonstrating that the heavy-duty (>50 horsepower) off-road vehicles to be used in the construction project, including owned, leased and subcontractor vehicles, will achieve a project wide fleet-average 20 percent NOX reduction and 45 percent particulate reduction compared to the most recent CARB fleet average for the year 2011.
k. Clear signage at all construction sites shall be posted indicating that diesel and gasoline equipment standing idle for more than five minutes shall be turned off. This would include trucks waiting to deliver or receive soil, aggregate or other bulk materials. Rotating drum concrete trucks could keep their engines running continuously as long as they were on-site or adjacent to the construction site.
l. The contractor shall install temporary electrical service whenever possible to avoid the need for independently powered equipment (e.g., compressors).
m. Properly tune and maintain equipment for low emissions.

13. Air Quality (Mitigation Measure 5.2): Prior to issuance of building permit the applicant shall require project-level construction health risk assessment shall be completed to the satisfaction of the Zoning Administrator. This assessment shall be completed either through screening or refined modeling to identify impacts and, if necessary, include performance standards and industry-recognized measures to be accomplished through, though is not limited to, the following measures:
    a. Construction equipment selection.
    b. Use of alternative fuels and engine retrofits temporary line power or electric equipment.
    c. Modified construction schedule; and
    d. Implementation of BAAQMD Basic and/or Additional Construction Mitigation Measures for control of fugitive dust.

14. Prior to the issuance of a building permit, the applicant shall implement a program, for review and approval of the Zoning Administrator, that includes the following elements:
    a. Archeological resource identification training procedures for construction personnel
    b. Procedures for reporting archeological discoveries

15. Biological Impacts (Mitigation Measure 6.1): Removal of trees, shrubs, or weedy vegetation between February 1 and August 31 shall require a survey for nesting birds by a qualified wildlife biologist to the satisfaction of the Zoning Administrator. The survey shall be conducted no sooner than 14 days prior to the start of removal of trees, shrubs, or weedy vegetation. Survey results shall be valid for 21 days following the survey. Any removal of trees, shrubs, or weedy vegetation more than 21 days after a survey shall require a new survey. The area surveyed shall include all construction sites, access roads, and staging areas, as well as areas within 150 feet outside the boundaries of the areas to be cleared or as otherwise determined by the biologist.

    In the event that an active nest is discovered in the areas to be cleared, or in other habitats within 150 feet of construction boundaries, clearing and construction shall be postponed for at least two weeks or until a wildlife biologist has determined that the young have fledged (left the nest), the nest is vacated, and there is no evidence of second nesting attempts.

    A qualified biologist shall conduct preconstruction surveys for bats and suitable bat roosting habitat at work sites where culverts, structures and/or trees would be removed or otherwise disturbed prior to the initiation of construction. If bats or suitable bat roosting habitat is detected, CDFW shall be notified immediately for consultation and possible on-site monitoring.

    The survey for nesting birds, bats and suitable bat roosting habitat may be conducted simultaneously.

16. Historic and Cultural Resources (Mitigation Measure 7.2): If subsurface archeological or cultural resources are encountered during ground-disturbing activities, work in the immediate vicinity shall be stopped and a qualified archaeologist shall be retained to evaluate the finds following the procedures described in Mitigation Measure 7-3 of the San Pablo Avenue Specific Plan Environmental Impact Report. Project personnel shall not collect cultural resources. If human remains are found, special rules set forth in State Health and Safety Code section 7050.5 and CEQA Guidelines section 15126.4(b) shall apply, and there shall be no further excavation or disturbance of the site or any nearby area reasonably suspected to overlie adjacent remains until the Contra Costa County Coroner has been notified of the remains and has determined that the remains are not subject to the provisions of Section 27491 of the Government Code or any other related provisions of law concerning investigation of the circumstances, manner and cause of any death, and the recommendations concerning the treatment and disposition of the human remains have been made to the person responsible for the excavation, or to his or her authorized representative, in the manner provided in Section 5097.98 of the Public Resources Code.

17. Paleontological Resources (Mitigation Measure 7.3): The applicant shall implement a program that includes the following elements:
    a. Paleontological resource identification training procedures for construction personnel
    b. Spot-checks by a qualified paleontological monitor of all excavations deeper than seven feet below ground surface
    c. Procedures for reporting paleontological discoveries and their geologic context

    If subsurface paleontological resources are encountered, excavation shall halt in the vicinity of the resources, and the project paleontologist shall evaluate the resource and its stratigraphic context. The monitor shall be empowered to temporarily halt or redirect construction activities to ensure avoidance of adverse impacts to paleontological resources. During monitoring, if potentially significant

paleontological resources are found, "standard" samples shall be collected and processed by a qualified paleontologist to recover micro vertebrate fossils. If significant fossils are found and collected, they shall be prepared to a reasonable point of identification. Excess sediment or matrix shall be removed from the specimens to reduce the bulk and cost of storage. Itemized catalogs of material collected and identified shall be provided to a local museum repository with the specimens. Significant fossils collected during this work, along with the itemized inventory of these specimens, shall be deposited in a local museum repository for permanent curatorship and storage. A report documenting the results of the monitoring and salvage activities, and the significance of the fossils, if any, shall be prepared and submitted to the Zoning Administrator.

18. Geology and Soils (Mitigation Measure 8.1): As required by the Building Official, subject to City review and approval, the applicant shall complete and implement the geotechnical mitigation recommendations identified in the required site-specific geotechnical investigations and engineering studies, in coordination with City grading permit and building permit performance standards.

19. Noise (Mitigation Measure 13.1): Future development would be exposed to outdoor noise levels exceeding acceptable levels as defined in the El Cerrito and Richmond General Plans. Noise levels inside residential structures proposed in such noise environments would exceed 45 dBA Ldn, the local established land use compatibility threshold. In areas where residential developments would be exposed to an Ldn of greater than 60 dBA, El Cerrito General Plan Policy H3.9 requires the evaluation of mitigation measures for specific projects. In Richmond General Plan Action SN4.A, new noise-sensitive uses that are located in an area with day-night average sound levels (Ldn) of 55 or greater require a noise study report; the report shall identify noise mitigation measures that limit noise to an acceptable level compared to existing conditions.

    a. Utilize site planning to minimize noise in residential outdoor activity areas (shared outdoor space in multi-family developments) by locating the areas behind noise barriers, the buildings, in courtyards, or orienting the terraces to alleyways rather than streets, whenever possible. The goal is a maximum noise level of 60 dBA Ldn from roadway traffic and 70 dBA Ldn from BART noise.
    b. The City of El Cerrito requires project-specific acoustical analyses to achieve interior noise levels of 45 dBA Ldn or lower, and the adopted instantaneous noise levels in residential units exposed to exterior noise levels greater than 60 dBA Ldn should not exceed 50 dBA Lmax in bedrooms and 55 dBA Lmax in other rooms. Building sound insulation requirements would need to include the provision of forced-air mechanical ventilation in noise environments exceeding 60 dBA Ldn so that windows could be kept closed at the occupant's discretion to control noise. Special building construction techniques (e.g., sound rated windows and building facade treatments) may be required where exterior noise levels exceed 65 dBA Ldn. These treatments include, but are not limited to, sound rated windows and doors, sound rated exterior wall assemblies, acoustical caulking, etc. The specific determination of what treatments are necessary will be conducted on a unit-by-unit basis during project design. Results of the analysis, including the description of the necessary noise control treatments, will be submitted to the City, along with the building plans, which shall be revised as necessary or approved prior to issuance of a building permit. Feasible construction techniques such as these would adequately reduce interior noise levels to 45 dBA Ldn or lower and meet instantaneous noise limits.
    c. Similar to above, noise insulation features shall be considered on a case-by-case basis for noise-sensitive offices and commercial uses proposed where noise levels exceed 65 dBA Ldn, in order to meet adopted noise standards.
    d. Implementation of these measures would reduce potential noise and land use compatibility impacts to a less-than-significant level.

20. Noise (Mitigation 13.2): New commercial development proposed in the same building as or adjacent to residential development could result in noise levels exceeding City standards.

    a. Noise levels at residential property lines from commercial development shall be maintained not in excess of the General Plan and municipal code limits for the Cities of El Cerrito and Richmond. The approval of the commercial development shall require a noise study demonstrating how the business--including loading docks, refuse areas, and ventilation systems--would meet these requirements and would be consistent with the respective City's noise standards.
    b. Ensure that noise-generating activities, such as maintenance and loading and unloading, are limited to the hours of 7:00 AM to 9:00 PM.

21. Noise and Land Use Compatibility/Construction Noise (Mitigation Measure 13.3): Construction equipment shall be well-maintained and used judiciously to be as quiet as practical. The following measures shall be implemented to reduce noise from construction activities:
    a. Equip all internal combustion engine-driven equipment with mufflers that are in good condition and appropriate for the equipment.
    b. Utilize "quiet" models of air compressors and other stationary noise sources where technology exists.
    c. Locate stationary noise-generating equipment as far as feasible from sensitive receptors when sensitive receptors adjoin or are near a construction area.
    d. Prohibit unnecessary idling of internal combustion engines.
    e. Pre-drill foundation pile holes to minimize the number of impacts required to seat the pile.
    f. Construct solid plywood fences around construction sites adjacent to operational business, residences, or noise-sensitive land uses.
    g. If noise conflicts occur which are not irresolvable by proper scheduling, a temporary noise control blanket barrier shall be erected, as determined to be necessary by the Zoning Administrator, along building facades facing construction sites.
    h. Route construction-related traffic along major roadways and as far as feasible from sensitive receptors.
    i. Construction activities (including the loading and unloading of materials and truck movements) and excavating, grading, and filling activities (including warming of equipment motors) shall be limited to the hours of 7:00 AM to 6:00 PM on weekdays and to the hours of 9:00 AM and 5:00 PM on Saturdays. Work shall be prohibited on Sundays and Holidays.
    j. Businesses, residences, or noise-sensitive land uses adjacent to construction sites shall be notified of the construction schedule in writing.
    k. Designate a "construction liaison" who would be responsible for responding to any local complaints about construction noise. The liaison would determine the cause of the noise complaints (e.g., starting too early, bad muffler, etc.) and institute reasonable measures to correct the problem. Conspicuously post a telephone number for the liaison at the construction site.

22. Noise and Land Use Compatibility/Construction Noise (Mitigation 13-4): The following measures are recommended to reduce vibration from construction activities:
    a. Avoid impact pile driving where possible. Drilled piles causes lower vibration levels where geological conditions permit their use.
    b. Avoid using vibratory rollers and tampers near sensitive areas.
    c. In areas where project construction is anticipated to include vibration-generating activities, such as pile driving, in close proximity to existing structures, site-specific vibration studies shall be conducted to determine the area of impact and to present appropriate mitigation measures that may include the following:
        1. Identify sites that would include vibration compaction activities (such as pile driving) and have the potential to generate ground-borne vibration, and the sensitivity of nearby

structures to ground-borne vibration. Vibration limits shall be applied to all vibration-sensitive structures located within 200 feet of the project. A qualified structural engineer should conduct this task.

2. Develop a vibration monitoring and construction contingency plan to identify structures where monitoring would be conducted, set up a vibration monitoring schedule, define structure-specific vibration limits, and address the need to conduct photo, elevation, and crack surveys to document before and after construction conditions.
3. Design construction contingencies that would be implemented when vibration levels approached the limits.
4. At a minimum, conduct vibration monitoring during initial demolition activities and during pile driving activities. Monitoring results may indicate the need for more or less intensive measurements.
5. When vibration levels approach limits, suspend construction and implement contingencies to either lower vibration levels or secure the affected structures.
6. Conduct post-survey on structures under either of these circumstances: (a) when construction monitoring has indicated high vibration levels or (b) when complaints of damage have been made due to construction activities. Make appropriate repairs or compensation when damage has resulted from construction activities.

Project Specific Conditions of Approval:

23. The BAAQMD's Planning Healthy Places recommend installation of air filters rated at a minimum efficiency reporting value (MERV) 13 or higher in exposed buildings associated with sensitive land uses (e.g. schools, residences, hospitals). Increased cancer risks from I-80 traffic at the project site is significant. Cancer risks is mostly the result of exposure to diesel particulate matter, although, gasoline vehicle exhaust contributes. The project shall include the following measures, as a condition of approval, to minimize long-term diesel particulate matter exposure, which leads to increased cancer risk, for new project occupants:
    - Install air filtration in residential buildings. Air filtration devises shall be rated MERV13 or higher. To ensure adequate health protection to sensitive receptors (i.e., residents), this ventilation system, whether mechanical or passive, all fresh air circulated into the dwelling units shall be filtered.
    - As part of implementing this measure, an ongoing maintenance plan for the buildings' heating, ventilation, and air conditioning (HVAC) air filtration shall be required.
    - Ensure that the use agreement and other property documents: (1) require cleaning, maintenance, and monitoring of the affected buildings for air flow leaks, (2) include assurance that new owners or tenants are provided information on the ventilation system, and (3) include provisions that fees associated with owning or leasing a unit(s) in the building include funds for cleaning, maintenance, monitoring, and replacements of the filters, as needed.

24. The project design shall implement the following measures to achieve an interior noise level of 45 dBA Ldn or less, in compliance with City noise standards:
    a. South and West Façade:
        i. For units with exterior walls directly facing BART (on the 2nd and 8th floors), exterior walls must have a minimum STC rating of 61. Preliminary calculations indicate that the use of an internally insulated staggered wood stud assembly with two layers of 5/8" gypsum board at the interior face and 7/8" thick three coat stucco at the exterior would provide this STC rating; however, the STC rating may be achieved through other design approaches.

ii. For units with windows or other glazing on the southern and western façades (1st through 6th floors), bedroom windows must have a minimum STC rating of 32. and exterior wall materials and all windows must achieve an interior noise attenuation of 33 dBA in bedrooms and 28 dBA in living rooms.

b. Eastern Façade:
   i. Exterior walls must have a minimum STC rating of 61, all exterior windows on the eastern façade must have a minimum STC rating of 38, and all exterior doors on the eastern façade must have a minimum STC rating of 35.

c. Northern Façade:
   i. Exterior walls must have a minimum STC rating of 61, all exterior windows on the northern façade must have a minimum STC rating of 35, and all exterior doors on the northern façade must have a minimum STC rating of 32.

d. The STC ratings required by this condition shall be documented and submitted to the City for review prior to issuance of a building permit.

25. Prior to issuance of a building permit, the applicant shall develop a construction noise control plan, including, but not limited to, the above mitigation measures provided by Mitigation 13-3 of the San Pablo Avenue Specific Plan EIR, and the following controls:
    - Control noise from construction workers' radios to a point where they are not audible from adjacent land uses.
    - Locate staging areas and construction materials areas as far away as possible from adjacent land uses.

26. Prior to Certificate of Occupancy, the applicant shall provide mirrors at the driveway ramp curves to ensure adequate visibility between vehicles entering and exiting the project site to the satisfaction of the Public Works Director.

27. Prior to the issuance of a Certificate of Occupancy, the applicant shall submit the necessary application to the Public Works Department to ensure that 20 feet of red curb be provided on San Pablo Avenue on the both sides of the project driveway. The applicant shall ensure that the canopy of trees within the public right-of-way be maintained no lower than 6 feet from the ground on both sides of the project driveway.

28. Prior to issuance of a building permit, the project plans shall provide a minimum of an 8-foot wide clear pedestrian zone along San Pablo Avenue, with no obstructions.

29. Prior to issuance of a Building Permit, the applicant shall prepare a Phase II Environmental Site Assessment for the project site.

30. The applicant shall provide 10 units of Very Low Income affordable housing in the project for a minimum of 55 years.

31. Prior to the issuance of a building permit, the applicant shall enter into an Affordable Housing Agreement that implements El Cerrito Municipal Code Section 19.22 and California Government Code Sections 65915 - 65918. The Affordable Housing Agreement may include any terms and affordability standards determined by the City to be necessary to ensure such compliance. The maximum qualifying household income for the Very Low Income affordable housing units shall be 50 percent of area median income (AMI), and the maximum housing payment shall be 30 percent of 50 percent of AMI, as set forth in the following paragraphs of this condition. In addition, the following provisions shall apply:

Maximum rent shall be adjusted for the family size appropriate for the unit pursuant to California Health & Safety Code Section 50052.5. Rent shall include a reasonable allowance for utilities, as published and updated by the Housing Authority of the County of Contra Costa, including garbage collection, sewer, water, electricity, gas, and other heating, cooking and refrigeration fuels. Such allowance shall take into account the cost of an adequate level of service. Utilities do not include telephone service or cable TV. Rent also includes any separately charged fees or service charges assessed by the lessor which are required of all tenants, other than security deposits.

Public Works Department:

32. Prior to the Certificate of Occupancy, applicant shall provide an easement recorded by the county, for the proposed driveway and storm water drainage management facilities at the City of Richmond public right of way. The proposed storm water management facilities on this easement shall be described as perpetual facilities that City of Richmond would agree not to modify on its perpetuity.

33. Prior to the issuance of a building permit, applicant shall provide a detailed civil plan for off-site work (improvements in the PROW).

34. Prior to the issuance of a building permit, applicant shall provide an access circulation study for the proposed San Pablo Avenue driveway, completed by a traffic engineer in which provides any necessary signage and striping required to keep sight lines clear and safe movement in and out of the proposed driveway. Striping and signs changes on San Pablo Avenue and at along the property frontage may be required.

35. Prior to the Certificate of Occupancy, applicant shall remove and replace sidewalk, curb, gutter and curb ramps along the frontage of the property to current ADA and City standards.

36. Prior to the issuance of a building permit, applicant shall submit an estimate of grading and earthwork to be completed for the project. Any earthwork and/or grading operations in excess of 50 cubic yards will require the applicant to submit a detailed grading plan, obtain a Grading & Transportation Permit and pay all associated fees.

37. Prior to the start of ANY work in the public right-of-way, including any street tree, sidewalk and driveway work, applicant shall obtain a Public Works Encroachment Permit and pay all associated fees.

38. Prior to the issuance of a building permit, the applicant shall submit a landscaping plan, showing all planting in the right-of-way. All new street trees are to be installed, they must be selected from the City Master Tree List and approved by the City Arborist before installation. Tree species, location, spacing, tree well size, and planting details, are to be approved by the City Arborist before installation. Any new street trees are required to have irrigation and an establishment period of 3 years prior to acceptance by the City.

39. Prior to Certificate of Occupancy, applicant shall deactivate and remove traffic signal blankout head locates at the existing southern driveway for the site (former drive-thru) and return it to the City of El Cerrito Corporation Yard.

40. Improvements on the property frontage shall follow the adopted San Pablo Avenue Specific Plan Complete Streets Design Standards and Guidelines section. This also includes signage, striping and curb painting.

41. Prior to the Certificate of Occupancy, per the adopted San Pablo Avenue Specific Plan Complete Streets section and the adopted Active Transportation Plan, the Applicant shall update the two (2) curb ramps and associated crosswalks at the proposed driveway.

42. Installation of bike racks in the public right-of-way requires a Public Works Encroachment Permit. The locations of all bike racks in the public right-of-way shall be to the satisfaction of the Public Works Director.

43. Prior to the issuance of a building permit, applicant shall prepare an Erosion and Sediment Control Plan for construction.

44. Prior to issuance of a building permit, applicant shall complete the Stormwater Control Plan to demonstrate the infeasibility of implementing a LID on the entire site, as specified on the Contra Costa Clear Water program – Stormwater C.3 Guidebook -7th addition (under page 44).

45. Applicant shall complete a Stormwater O&M Agreement for the Public Works Department to review and approve prior to Certificate of Occupancy.

46. The City of Richmond and City of El Cerrito have just completed the restoration of the portion of the Baxter Creek immediately adjacent to proposed development and new vegetation has been installed along the restored creek banks. The shadow study shows a good portion of this recent installed vegetation being shadowed with the future building. Applicant shall prepare a report by a licensed landscaping architect on the impact that the reduced sunlight may cause to the newly installed creek bank vegetation to the satisfaction of the Public Works Director. This study may require replacement of new plant species in the future. Applicant shall be responsible for implementing the recommendations/findings of the report to the satisfaction of the Public Works Director.

47. Prior to issuance of the Building Permit, the project Applicant shall pay a fair share contribution towards the implementation of the multi-modal Complete Streets improvements identified by the Specific Plan as determined by the Public Works Director.

Building Division:

48. Compliance with the Building Code and associated codes in effect whenever the building plans are submitted is required.

Fire Department:

49. Compliance with the Fire Code and associated codes in effect whenever the building plans are submitted is required. The following list is provided to assist the Applicant/Development Team with the preparation of the building plans:

a. Emergency Vehicle Access
   1. If gates are installed across EVA roads, gates shall be operable by the use of a Knox Key.
   2. A "KNOX BOX" shall be installed with keys for all common areas.

b. Fire Flow Requirements
   1. Provide code analysis of required total firefighting water.
   2. Based on required fire flow, show on plans the number of fire hydrants required and locations based on maximum spacing requirements.
   3. If required, plans for fire service underground shall be submitted for review, approval and permit under separate cover.

c. Fire Riser Locations
   1. Fire FDC's shall be in locations acceptable to the fire department for emergency operations.
   2. Fire FDC's shall be interconnected between the two buildings.

d. Gates
   1. All gates shall be operable by the use of a Knox Key.
   2. A "KNOX BOX" shall be installed with keys for all common areas at all gates and doors.

e. Premises Identification
   1. Approved numbers or address shall be provided in such a position to be plainly visible and legible from the street fronting the property.
   2. Address shall be either internally or externally illuminated.

f. Automatic Fire Sprinklers
   1. Automatic Fire Sprinklers shall be installed throughout the Complex.
   2. Fire sprinkler plans shall be submitted for review, approval and permit.

g. Emergency Egress
   1. Every sleeping room shall have at least one operable window or door approved for emergency escape or rescue in accordance with CFC 1030.
   2. Escape or rescue windows shall be installed in accordance with CFC 1030.
   3. Exit signs shall be internally or externally illuminated.
   4. Emergency electrical system to automatically illuminate means of egress.

h. Fire Sprinkler / Underground
   1. Fire riser and FDC locations shall be submitted for review and approval.
   2. Fire FDC's shall be in locations acceptable for fire department for emergency operations.
   3. Fire FDC's shall be interconnected with fire sprinklers and standpipes.
   4. Fire Sprinkler Plans shall be submitted for review and approval.
   5. Fire system underground pipe plans shall be submitted for review and approval.

i. Standpipes
   1. Standpipes shall be wet.
   2. Standpipes shall extend to the roof where required.
   3. Fire Department valve connections shall be in the intermediate landings of stairwells.
   4. Standpipes shall be located in both stairwells.

j. Smoke & Heat Vents
   1. Smoke & heat vents shall be installed on roof above each stairwell.
   2. Smoke & heat vents shall be equipped with fusible link.
   3. Smoke & heat vents shall be equipped with manual release for emergency operations.

k. Fire alarm System
   1. Fire alarm plans shall be submitted for review and approval.

l. Smoke Detection
   1. Smoke detection shall be installed in each bedroom, in hallways adjacent to bedrooms, and one detector per floor level (top and bottom of stairs).
   2. Smoke detectors shall be 120v powered with battery backup.
   3. Smoke detectors shall be interconnected when more than one is required per sleeping area.
   4. Single Station or Multiple-Station Smoke alarm(s) not required to activate fire alarm system outside of sleeping area.

m. Carbon Monoxide Detectors
   1. Carbon monoxide alarm shall be installed outside of and adjacent to sleeping areas where fuel-burning appliances are installed; and in dwelling units that have attached garages.
   2. Carbon Monoxide detectors shall be installed in accordance with NFPA 720.
   3. Carbon Monoxide alarms shall be120 v Powered with battery backup and be interconnected with the smoke detectors.

n. Electrical

1. All electrical breakers shall be labeled.

o. Radio Communications
   1. Radio frequency signal strength analysis shall be conducted throughout the building.
   2. If radio signal strength deficiencies are identified, signal boosters shall be installed to achieve adequate signal strength and boosters shall be maintained.

Police Department:

50. Prior to issuance of building permit, the Applicant/Developer shall submit a plan for construction site security to the satisfaction of the Police Chief.

Stege Sanitary District:

51. This applicant shall pay all applicable sewer connection fees pursuant to Section 7.3 of the Stege Sanitary District Ordinance Code.

Planning Commission:

52. The applicant shall include 5'-2" wide windows on all studios prior to issuance of a building permit.

53. The applicant shall work with the Public Works Department to evaluate the feasibility of an on-street pick-up/drop-off area adjacent to the project site and shall submit an application to the Public Works Department for such pick-up/drop-off area if one is determined to be feasible.

54. Prior to issuance of a building permit, the applicant shall prepare a glare analysis, including studying low-glare exterior glass, and shall implement measures identified in the analysis to prevent undue glare, consistent with Mitigation Measure 4-2 of the San Pablo Avenue Specific Plan EIR.

CERTIFICATION

I certify that this resolution was adopted by the El Cerrito Planning Commission at a regular meeting held on April 17, 2019, upon motion of Commissioner Bloom, second by Commissioner Hansen:

AYES: Bloom, Crump, Gillett, Hansen, Lucas, Mendez, Navarrete
NOES: None
ABSTAIN: None
ABSENT: None

Sean Moss, AICP
Acting Planning Manager

May 31, 2019

By: Email and Hand Delivery

Mayor Rochelle Pardue-Okimoto and Members of the El Cerrito City Council
City of El Cerrito
10890 San Pablo Avenue
El Cerrito, CA 94530

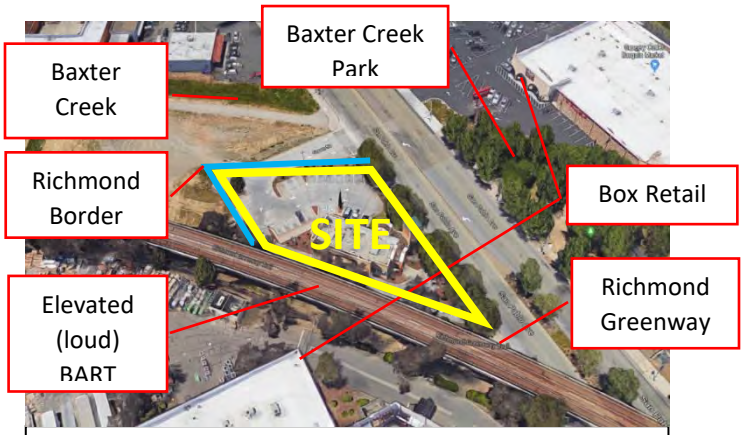
Subject: Appeal of Planning Commission and Design Review Board Approvals of Polaris Apartments at 11965 San Pablo Avenue

Dear Mayor Pardue-Okimoto and Members of the City Council,

The applicant team is providing this letter in response to the appeal filed against the proposed 144-unit (including eight very low-income apartment units) infill development project known as Polaris Apartments, which is located at the very north end of San Pablo Avenue and within the Transit-Oriented High Intensity Mixed-Use (TOHIMU) zoning district of the San Pablo Avenue Specific Plan Area. Originally unanimously approved by the Design Review Commission on March 6, 2019, Polaris was heard by the Planning Commission on April 17, 2019, after receiving an appeal on CEQA compliance grounds by a law firm and the trades unions representing "El Cerrito Residents for Responsible Development." The team successfully proved compliance and the unfounded appeal was unanimously denied by the Planning Commission. On April 26, 2019 the Planning Commission's decision was then appealed for significantly different, design related items by Mr. Howdy Goudey, an El Cerrito resident, who did not appeal the previous approvals.

In his letter, appended to this letter as ***Attachment A,*** Mr. Goudey contends that several elements of the approved project's design are inconsistent with the adopted San Pablo Avenue Specific Plan Form-Based Code (SPA FBC). The following narrative summarizes each of Mr. Goudey's appeal points and further demonstrates how Polaris complies with the SPA FBC, warranting the City Council's denial of the appeal.

The project site at 11965 San Pablo Avenue has been carefully designed to encompass the driving elements of the SPA FBC, while effectively accommodating the unique challenges presented by its location as the furthest north parcel along San Pablo Avenue in the City of El Cerrito, bounded by the neighboring City of Richmond. Its adjacency to the elevated BART tracks, which curve as they cross over San Pablo Avenue causing a significant sound nuisance, as well as the Richmond Greenway and Baxter Creek Park presents uncommon development challenges and opportunities. In this capacity, the development team has over the past 16 months effectuated design changes to accommodate these, as evidenced by its DRB approval.



Polaris Site Constraints

Mr. Goudey's position is that Polaris is inconsistent with numerous sections of the San Pablo Avenue Specific Plan Form-Based Code due to the following sections, which include the following references to the SPA FBC:

1. "Greenway: provide ground floor individual entries (2.04.02.05 Table 15)

Response: This section of the SPA FBC presupposes projects where dwelling units actually front on the Ohlone Greenway. However, this section is not applicable to the project because the project's dwelling units do not directly front on the Greenway, which is actually the Richmond Greenway as stated in the City's staff report to the Planning Commission on April 17, 2019. The Ohlone Greenway, which is the subject of the requirement, begins to the east of San Pablo Avenue and is not adjacent to the project site.

View from Richmond Greenway into courtyard

View from unit to courtyard and Richmond Greenway

To mitigate the above noted noise issues, the Polaris residences front to an open space feature, set back from the Greenway with a "sound partition," an architectural element that is part of the building and that still affords visibility between the project and Greenway activity so desired through the SPA FBC policies. While the project is not designed with individual unit entries fronting

the Greenway because of these noise issues, it does provide for a very high level of transparency between the proposed apartment units, the private outdoor open space area, and the Greenway. Through this lens, Greenway users will experience aesthetically interesting architectural and landscape improvements along the greenway and will be able to see into the courtyard area. Similarly, residents and users of the apartments and the open space courtyard will be able to see through the sound partition and out to the greenway at all levels of the project.

2. "Greenway: provide ground floor and upper floor transparency (2.04.02.05 Table 16)

INSECT HOTEL

BIRDHOUSES

Response: Please refer to the images for the prior response. Again, this section of the SPA FBC presupposes projects where dwelling units actually front on the Ohlone Greenway. Nonetheless, although not required to, the apartment homes which face the open space are accommodated by the partition that provides a sense of home while still addressing the concept of transparency. In this capacity, on its Greenway/BART facing side – the building's south elevation - the homes and the partitions have 30.5% transparency where 30% is required. It is further supported on the upper floors of this elevation, with transparency at over 29% where 25% is required.

3. "Plazas: do not locate on the north side of a building, or shade more than 50% for 2/3 of daylight hours (2.05.06.02.02.D), and further in the appeal letter, "The public plaza open space on the north side of the building does not meet Tier II standards because of shading, transparency and doors onto these public spaces"

Response: Polaris complies with the open space guidelines and requirements of the SPA FBC because of the concession granted pursuant to State Density Bonus Law, as an extension of the San Pablo Avenue facade. This is a broad concession and requires that the unit entry standard and ground floor transparency also cannot be met – these are waivers required to support the concession. The basis for the concession,

which is required to provide for the reduced rents for the 50% AMI below market rate units, was described in prior applicant statements and staff's reports to the DRB and the PC and includes:

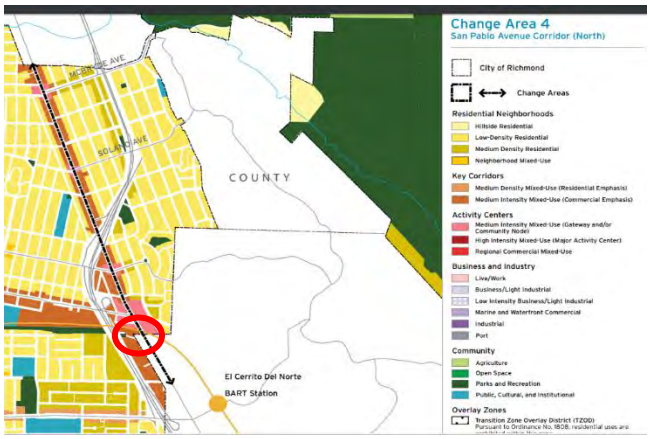
- Reductions in rent with exterior entries due to perception of safety issues from San Pablo Avenue
- Requirement to design and construct, at significant extra cost, additional and street fronting doorways, as well the need to maintain the interior accessible corridor access.

However, Polaris also clearly meets the spirit and intent of the SPA FBC. It does so by activating the north edge of the project and the edge of Baxter Creek. The plazas support biodiversity and public education, as elements of the façade concession. The visible residential architectural elements – windows and balconies further activate the north edge of the project, provide eyes and ears on the plaza and create a softer entry into El Cerrito from the North. All of this was collaboratively developed with DRB through the process of design review.

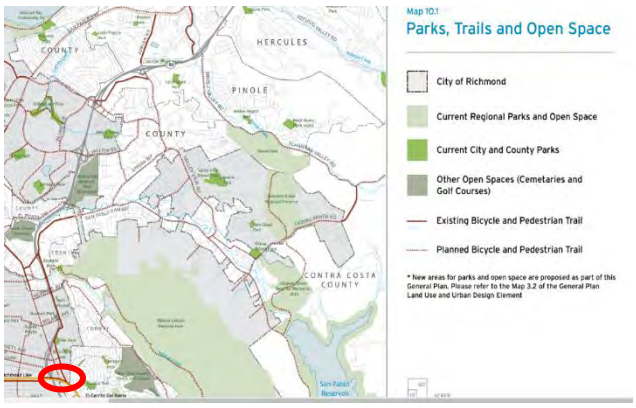
4. "Plazas: provide doors and 75% ground floor transparency (2.05.06.02.02.J)"

Response: See response No. 3, above.

5. "Creek greenways: provide doors and 75% ground floor transparency (2.05.06.02.04.G)"



Response: No part of the project site is adjacent to a designated "Creek Greenway" nor is there a "Creek Greenway" standard, thus these standards are not applicable to Polaris. The project site borders the City of Richmond on its north edge. Baxter Creek, which was recently improved, runs to the north of the project site in the City of Richmond. Neither the City of Richmond General Plan Land Use Map nor the Parks and Open Space map (see images at right) designates any of the land around this portion of the creek as any kind of greenway, or open space. In fact, the land area around this portion of Baxter Creek in the City of Richmond is designated as commercial.



6. "Fencing/walls shall not be higher than 8 feet (2.05.07.08, Table 31)"

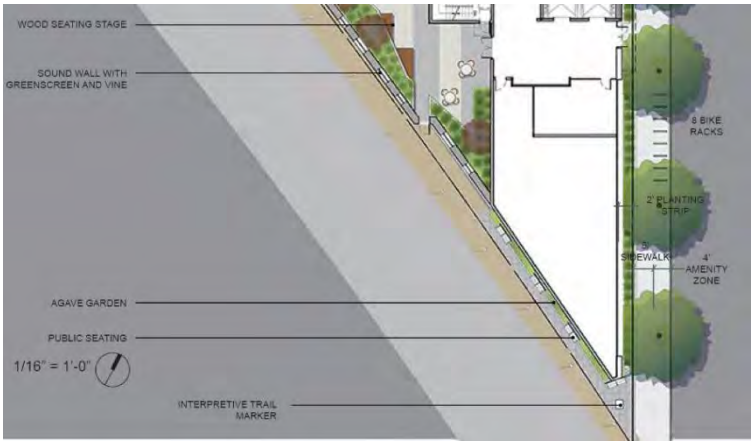
Response: The appellant is referring to the above noted proposed sound partition along the project's south elevation. This site was recognized by the DRB, based on the CEQA analyses, as being much too exposed from a typical greenway perspective, which does not

typically have the curvature of the BART tracks and San Pablo Avenue as adjacent uses. The architectural resolution of this issue is the sound partition, which is part of the structure, tied to the building foundation, and meets the transparency requirement of the SPA FBC.

Further, per the SPA FBC, Polaris is not subject to any required setbacks. The architecturally integrated sound partition is only 55 feet high. That is well below the allowed building height - which with the state density bonus law waiver is 85 feet. The partition affords both noise attenuation for residents and safety as a private open space, as well as a high level of visual transparency and public improvement for the Greenway, while providing visual permeability at all levels of the BART facing façade.

7. "Public open space requirement is not met and housing density bonus waiver applied incorrectly (2.05.06)" and further in the appeal letter, "The public open space shortfall is not eligible for a state density bonus waiver, as claimed, because the proposed project is not being physically constrained by this requirement. There is a greater excess of private common open space than there is a shortfall of public open space. Hence, a mere adjustment…would bring the project into compliance…"

(A) VIEW ALONG OHLONE GREENWAY



Response: While meeting the spirit and intent of the SPA FBC open space requirements, that additional open space does not meet the technical dimensional requirement and is the subject of state density bonus law waiver. The area is directly adjacent to the Greenway and provides for a safer and more aesthetically pleasing entry onto the Greenway.

As evidenced in the appended revised plan sheets pages A-101 and L-001, since the DRB and Planning Board approval meetings, the Polaris' design has been amended to address the previous numeric open space shortfall by providing an additional 123 square feet of area to be located on the Greenway side of the sound partition. This is accomplished by moving the existing jog in the partition to a point approximately 30' to the northwest of where it was approved by the DRB. This is accomplished without compromising safety or visibility along the Greenway or behind the project. As result, Polaris now meets the numeric public open space requirements of the SPA FBC.

The Applicant Statements submitted for both the Design Review Board's and the Planning Commission's consideration clearly explains the need for the density bonus waiver. This need was in fact due to the Design Review Board's request to refine the building's design for future residents and to create a better interface with the proposed public improvements along San Pablo Avenue and along the Richmond Greenway. These important design revisions thoughtfully considers "defensible space" improvements, a proven method of community policing through design, while still affording Richmond Greenway trail visibility.

8. "The 5-story sound wall with glass opening is not a Tier II compliant structure."

Response: The south facing façade of Polaris is designed and architecturally integrated, at significant additional expense, as a façade and not as a simple sound barrier. It includes a high level of transparency, which (as demonstrated above) meets the requirements of the SPA FBC. Therefore, as an integral part of the overall project the "sound partition" otherwise meets the requirements for a Tier II project because it is only 53' high where 85' is otherwise allowed for a qualifying affordable housing project subject to State Density Bonus Law. It is also consistent with the SPA FBC requirements as described previously in this letter.

The above noted commitments by the Design Review Board and the Planning Commission mirror the development team's belief that Polaris has been best designed, with thoughtful City input, balancing the various design and environmental considerations, the planning pillars of the SPA FBC, and the unique site conditions. We hope that the City Council will continue its support, by rejecting the appeal, and allowing Polaris to enhance the area around it and provide a beautiful and sustainable example of El Cerrito's commitment to design and environmental excellence. Please do not hesitate to contact me if you have any questions 510.545.4341.

Sincerely,

Mark A. Rhoades, AICP
Principal
Rhoades Planning Group

C: Melanie Mintz, Community Development Director MMintz@ci.el-cerrito.ca.us
Sean Moss, Acting Planning Services Manager, SMoss@ci.el-cerrito.ca.us
El Cerrito City Clerk, Clerk@ci.el-cerrito.ca.us

June 10, 2019

Appeal of Tier II Design Review and Planning Commission Approval of 11965 San Pablo Ave, Polaris Apartments

The Polaris Apartments project proposed for 11965 San Pablo **does not meet Tier II criteria** of the San Pablo Ave. Specific Plan, as approved on March 6, 2019, by the DRB and as upheld by the Planning Commission April 17, 2019.

Tier II compliance is an objective set of standards of the form-based code in the San Pablo Ave. Specific Plan. In staff presentations about the Specific Plan, Tier II applications have been repeatedly referred to as the cases that are easy to confirm compliance with standards. These projects should unambiguously meet all the expectations of the plan for Tier II, and these standards should be applied as written, without stretching them through a generous interpretation, to argue compliance.

Many developers have pursued (and been entitled under) Tier IV applications when their project didn't meet all the Tier II standards. It is unfair to them for another developer to proceed with a Tier II process with a project that isn't compliant with all Tier II standards. One of the stated goals of the San Pablo Specific Plan was to give developers "certainty" of standards and process that would lead to predictable and expedient outcomes. However, a misapplication of the form-based code, such as in this case, undermines that clearly stated uniformity of expectations, exposes inconsistent treatment of applicants and ultimately delays the process as the discrepancies are resolved. All of this was avoidable by faithfully applying the Specific Plan, as written. I repeatedly raised the Tier II compliance issues much earlier in the process, when the project was before the Design Review Board and Planning Commission. Unfortunately, those bodies did not act to thoroughly evaluate Tier II compliance and I have brought this appeal to Council for there to be a meaningful discussion of the Tier II compliance of this project and with the hope this discussion will help inform the process of future projects to reemphasize attention to consistency and fairness for all applicants.

Fundamentally, the City Council consideration of this appeal is not a discretionary development decision, it is a review of the project against the explicit standards of the Specific Plan, as they were approved by Council. Even if there is a particular failure to meet a standard that members of Council are prepared to excuse in this case, denying this appeal is not the proper procedure to exercise that discretion. Tier II is about clear compliance with the plan, as written. The project must be shown to be compliant with Tier II standards, or not. If Council is supportive of excusing a particular standard, that discretionary decision needs to be delivered through the Tier IV process of the Specific Plan (accompanied with a presentation of public benefits), or by an expanded use of density bonus concessions, by increasing the fraction of affordable units offered.

While I have a history appealing two other projects in El Cerrito (because they were inconsistent with stated policies and goals of El Cerrito), I am not opposed to new development and increased density in El Cerrito. I have spoken in favor of many of the San Pablo Specific Plan projects, and my participation in public meetings about new development has solely intended to help improve the outcomes of the projects under review, not delay or undermine them. In observing these meetings, I have been very impressed by the thoughtful comments of the Design Review Board and Planning Commission and, combined with some public input, it is clear that our review bodies have delivered notably improved projects for El Cerrito. Our planning staff, Design Review Board and Planning Commission do excellent work, but mistakes can still be made, and the process simply went wrong in this case, by omitting attention to some important details of Tier II compliance.

I support a building of this height and density at the site in question and I welcome the inclusion of affordable units that are proposed under the state housing density bonus. However, under the argument presented, I believe City Council should uphold the appeal and deny this Tier II application. I do not want to see the project go away and I don't think City Council does either. I urge City Council to encourage the project by providing direction how this project can be made consistent with the Specific Plan by further changes to the proposal to meet Tier II criteria, submittal under Tier IV with additional public benefits, or by qualification for more state density bonus concessions after providing additional affordable units. If City Council instead denies this appeal, the findings of Tier II compliance for the items I have enumerated need to be clearly demonstrated on the record, as previous inquiries by the public into the issue of Tier II compliance at numerous public hearings have received no response of substance on this matter.

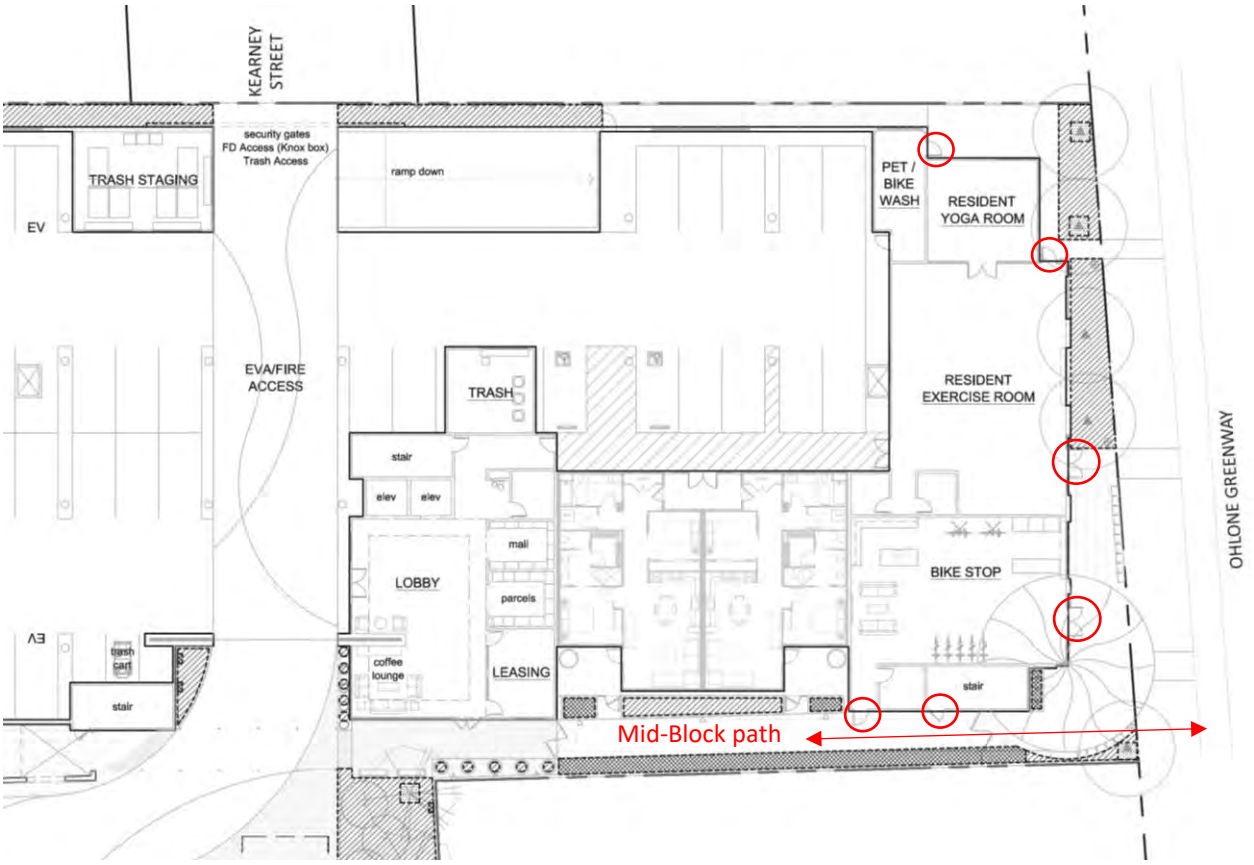
As usual, the Design Review Board (DRB) process for this project delivered many helpful improvements to bring a better design solution for this challenging site. In additional to numerous comments on aesthetics and site plan layout, etc. The DRB often raises potential building code issues which are not their immediate purview, but are very useful comments to help projects avoid costly delays and complications later on in the building permit review process. Some applicants skimp on attention to these details, because they are intending to sell the entitlement before construction and they have an incentive to get that entitlement with the minimum work and expense. As a result, the drawing details and building code compliance details suffer and become someone else's problem down the line, ultimately causing delays in new housing coming to El Cerrito, if it is even built at all. It is very helpful when our highly experienced DRB members share their deep knowledge of the building code, and the implications on design, to help address potential issue early and smooth the path for project completion. However, I am concerned that the DRB hasn't demonstrated the same level of familiarity and application of the content of the Specific Plan to the projects that are reviewed. It is generally assumed that staff has confirmed all Tier II compliance. As a result, there is no discussion of this important aspect of the approval, even though the DRB is the only review body for Tier II Specific Plan projects and their first deliverable reads: *"That the project complies with all applicable Specific Plan design standards."* Even after repeatedly raising the Tier II compliance issue in public comment in DRB meetings as well as during the Planning Commission consideration of an appeal (by a different appellant), there was no attempt to provide a clear explanation defending the Tier II compliance of this project, only an assertion that

is it compliant without proof. Staff does a great job, but mistakes can be made and it is incumbent on the decision making body reviewing the project to be attentive to the role of validating the findings presented by staff, particularly when those findings are questioned with specific references to the specific plan standards.

The following San Pablo Specific Plan standards relate to visibility and activation of the public realm that are essential to public safety and establishment of a vibrant pedestrian friendly urban environment, as repeatedly called out in the Specific Plan. Please see the cited sections of the San Pablo Specific Plan form-based code.

1. Greenway: provide ground floor individual entries (2.04.02.05, Table 15)

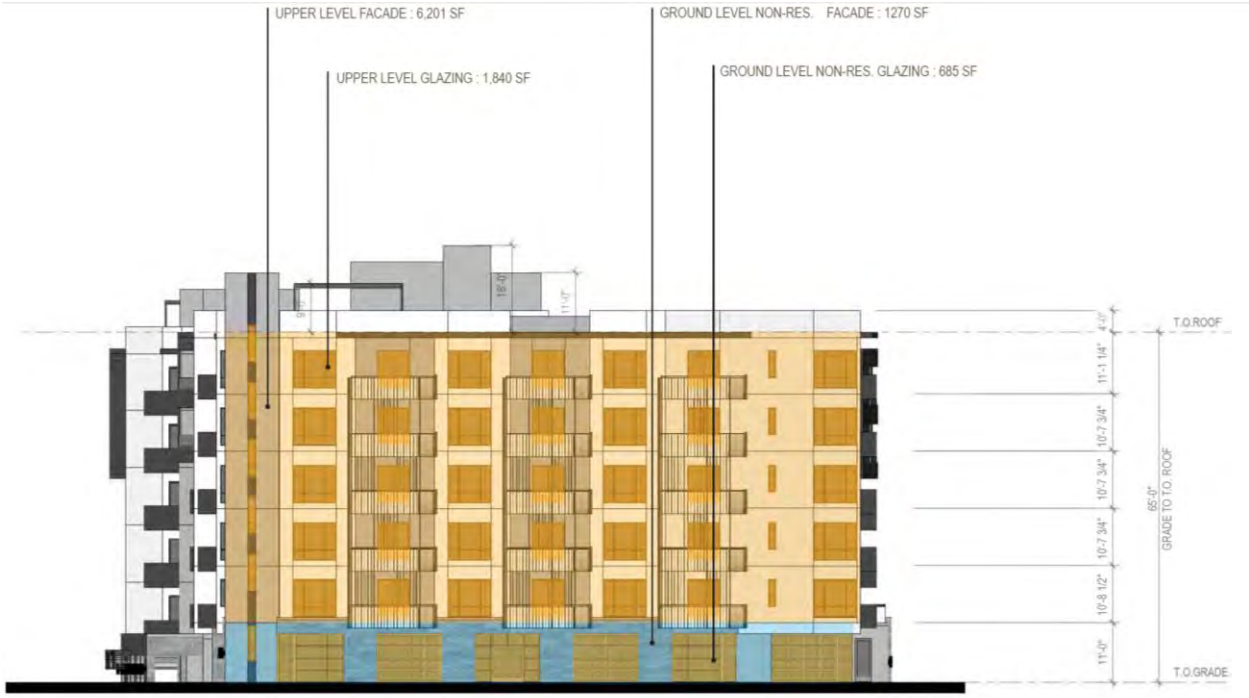
Despite there being ground floor residential units facing the bike/ped greenway, there is more than 150 feet (unbroken) of a five story sound wall with no doors. Only a single emergency exit (not an entrance) is at the extreme end of the wall. This is not what the plan envisioned for enhancing the Greenway frontage. Multiple points of access and interactions of residents with a more residential feel to the frontage will enhance the walkable/bikeable urban vibrancy, as well as improve public safety along this important, newly finished, gap connection between the El Cerrito and Richmond greenways. No dimensions were provided on the greenway part of the plans. Insufficient rendered images were provided to understand the experience of traveling the path next to the sound wall in place (render inside tunnel, not just outside).



This image from the entitled Tier IV Griffin Project (former Big 5) shows the four doors facing the greenway along a much shorter frontage, as well as the public bike stop and mid-block path connection to San Pablo.

2. Greenway: provide ground floor and upper floor transparency (2.04.02.05, Table 16)

While transparency was added to the sound wall, this does not provide the same functional transparency of windows looking from directly occupied spaces. The sound wall merely functions as a fake building façade with the appearance of windows, but the sightlines of anyone actually in their unit is not equivalent to the wall not being there, and this is not compliant. Below is another example from the Griffin project showing a much more active and functionally transparent façade fronting the Ohlone Greenway.



OHLONE TRAIL (EAST) ELEVATION TRANSPARENCY STUDY

FACADE TRANSPARENCY (GREENWAY ZONE)

LEVEL	REQ'D	PROVIDED
GROUND FLOOR	40% MIN. (RES.)	NA
	50% MIN. (NON-RES.)	54%
UPPER	30% MIN	30%

3. Plazas: do not locate on the north side of a building, or shade more than 50% for 2/3 of daylight hours (2.05.06.02.02.D)

The public plaza open space on the north side of the building does not meet Tier II standards because of location (shading). No shading calculation were presented. Functionally, the provided public open spaces are plazas. They have been called plazas in past versions of the plans, and staff continues to refer to them as plazas. Even if it is argued that they aren't "plazas," they have that function and the standard should apply. The north side of a tall building is not very inviting for this type of space in our climate

4. Plazas: provide doors and 75% ground floor transparency (2.05.06.02.02.J)

There are no doors and insufficient windows (transparency) onto the public open space. There is no presentation of the window areas to meet this criteria. The space is much less likely to be used without access.

5. Creek greenways: provide doors and 75% ground floor transparency (2.05.06.02.04.G)

Even if the public open space is not defined as a "plaza," the same requirements apply to frontages on creek Greenways, which is the adjacent use to the north.

6. Fencing/walls shall not be higher than 8 feet (2.05.07.08, Table 31)

The 5-story sound wall with glass openings is not a Tier II compliant structure. This wall will create a long tunnel like experience that will degrade the safety and quality of this newly built greenway connection. A significant public investment was recently made to provide high quality bicycle and pedestrian connectivity between El Cerrito and Richmond. The Polaris project sits right at the focus of that connection and instead of celebrating and enhancing it, the building turns it back on the greenway and tries to armor itself from the outside world instead of taking meaningful action to help bring further improvement to the public realm that will ultimately make it a more desirable neighborhood and a more desirable building to inhabit.

7. Public open space requirement is not met and housing density bonus waiver applied incorrectly (2.05.06)

For the number and type of affordable units being offered by this project, the state density bonus allows one "concession" (on the basis that the standard presents a financial burden) and unlimited "waivers" (on the basis that the standard physically limits the allowed density bonus). The public open space shortfall is not eligible for a state density bonus waiver, as claimed, because the proposed project is not being physically constrained by this requirement. There is a greater excess of private common open space than there is a shortfall of public open space. Hence, a mere adjustment of the boundaries for the public and private realms would bring the project into compliance without changing the building footprint or unit count.

Please encourage this project but do not approve it, as is, under Tier II. It is not Tier II compliant and it can still use significant improvement to be a truly positive impact on El Cerrito, particularly where the interface to the public realm and associated safety is concerned.

Sincerely,

Howdy Goudey
[redacted]
El Cerrito, CA 94530

April 26, 2019

Planning Division
El Cerrito City Hall
10890 San Pablo Avenue
El Cerrito, CA 94530.

RE: Appeal of Tier II Planning Commission approval of the project proposed for 11965 San Pablo Ave.

The project proposed for 11965 San Pablo (application PL17-0028) **does not meet Tier II criteria** of the San Pablo Ave. Specific Plan, as approved on March 6, 2019, by the DRB and as upheld by the Planning Commission April 17, 2019.

Through the Design Review Board process, the applicant made many helpful improvements to bring a better design solution for the challenging site, and while this project is otherwise desirable and welcome, it is not compliant to be a Tier II entitled project, as is. Under this appeal, City Council is urged to deny this Tier II application, but to further encourage the project by providing direction how this project can be made consistent with the Specific Plan by further changes to the proposal to meet Tier II criteria, submittal under Tier IV with additional public benefits, or by qualification for more state density bonus concessions after providing additional affordable units. If City Council denies this appeal, the findings of Tier II compliance for the items listed below need to be clearly demonstrated on the record, as previous inquiries by the public into the issue of Tier II compliance at numerous public hearings have received no response of substance.

The following San Pablo Specific Plan standards relate to visibility and activation of the public realm that are essential to public safety and establishment of a vibrant pedestrian friendly urban environment, as repeatedly called out in the Specific Plan. Please see the cited sections of the San Pablo Specific Plan form-based code.

1. Greenway: provide ground floor individual entries (2.04.02.05, Table 15)
2. Greenway: provide ground floor and upper floor transparency (2.04.02.05, Table 16)
3. Plazas: do not locate on the north side of a building, or shade more than 50% for 2/3 of daylight hours (2.05.06.02.02.D)
4. Plazas: provide doors and 75% ground floor transparency (2.05.06.02.02.J)
5. Creek greenways: provide doors and 75% ground floor transparency (2.05.06.02.04.G)
6. Fencing/walls shall not be higher than 8 feet (2.05.07.08, Table 31)
7. Public open space requirement is not met and housing density bonus waiver applied incorrectly (2.05.06)

The 5-story sound wall with glass openings is not a Tier II compliant structure. The visibility onto the Greenway is only from private common outdoor open space that will be occupied much less than indoor living space. This is not the kind of visibility the plan envisioned for the greenway and it still does not include any greenway oriented ground floor entries to units to activate the space and reduce the long tunnel like experience that will degrade the safety and quality of this newly built greenway connection. A significant public investment was recently made to provide high quality bicycle and pedestrian connectivity between El Cerrito and Richmond. The Polaris project sits right at the focus of that connection and instead of celebrating and enhancing it, the building turns it back on the greenway and tries to armor itself from the outside world instead of taking meaningful action to help bring further improvement to the public realm that will ultimately make it a more desirable neighborhood and a more desirable building to inhabit.

The public plaza open space on the north side of the building does not meet Tier II standards because of shading, transparency and doors onto these public spaces. Functionally, they are plazas, they have been called plazas in past versions of the plans, and staff continues to refer to them as plazas. Even if it is argued that they aren't "plazas," the same requirements apply to frontages on creek Greenways, which is the adjacent use to the north.

For the number and type of affordable units being offered by this project, the state density bonus allows one "concession" (on the basis that the standard presents a financial burden) and unlimited "waivers" (on the basis that the standard physically limits the allowed density bonus). The public open space shortfall is not eligible for a state density bonus waiver, as claimed, because the proposed project is not being physically constrained by this requirement. There is a greater excess of private common open space than there is a shortfall of public open space. Hence, a mere adjustment of the boundaries for the public and private realms would bring the project into compliance without changing the building footprint or unit count.

Despite repeated requests, there was no presentation of a police department review of this plan regarding public safety and security of the surroundings, as modified by the project, particularly with respect to the long narrow greenway enclosure that will have many sightline issues with users pushed close to the BART columns, and very limited space to remove oneself from a dangerous situation.

Please encourage this project but do not approve it, as is, under Tier II. It is not Tier II compliant and it can still use significant improvement to be a truly positive impact on El Cerrito, particularly where the interface to the public realm and associated safety is concerned.

Sincerely,

Howdy Goudey
[redacted]
El Cerrito, CA 94530

April 16, 2019

Planning Division
El Cerrito City Hall
10890 San Pablo Avenue
El Cerrito, CA 94530.

Dear Planning Commission and City staff,

I am not a party to the appeal regarding 11965 San Pablo (Polaris Apartments), however I did attend all the public meetings for this project and made repeated comments explaining why the project, as proposed, **does not meet Tier II Specific Plan criteria**. Please uphold the appeal, not on the basis of the EIR arguments of the appellant, but on the basis that the project does not satisfy Tier II Specific Plan requirements and this is a "de novo" hearing that must confirm all validity of the previous decision. This project is otherwise desirable, I do not object to the height and I welcome the small number of affordable units (though I wish there were more). Through the Design Review Board process, I think the applicant made many helpful improvements to bring a better design solution for the challenging site. However, it is not compliant to be entitled, as is, under Tier II. I encourage the Planning Commission to deny this Tier II application, but to provide direction how this project can be made consistent with the Specific Plan (by changes to the proposal, submittal under Tier IV or qualification for more density bonus concessions by providing more affordable units).

The following San Pablo Specific Plan standards relate to visibility and activation of the public realm that are essential to public safety and establishment of a vibrant pedestrian friendly urban environment, as repeatedly called out in the Specific Plan. Please see attached excerpts from the Specific Plan referenced by section in the following list.

1. There shall be ground floor entries to units facing the greenway (2.04.02.05, Table 15)
2. There shall be ground floor transparency on the greenway (2.04.02.05, Table 16)
3. There shall be upper floor transparency on the greenway (2.04.02.05, Table 16)
4. Plazas shall not be shaded or placed on the north side of a large building (2.05.06.02.02.D)
5. Plazas shall have 75% ground floor transparency (2.05.06.02.02.J)
6. Creek greenways shall have 75% transparency and doors (2.05.06.02.04.G)
7. Fencing/walls shall not be higher than 8 feet and shall not obscure views (2.05.07.08, Table 31)
8. Public open space requirement is not met and housing density bonus waiver applied incorrectly (2.05.06)

The 5-story sound wall with glass openings is not a Tier II compliant structure. The visibility onto the Greenway is only from private common outdoor open space that will be occupied much less than indoor living space. This is not the kind of visibility the plan envisioned for the greenway and it still does not include any greenway oriented ground floor entries to units to activate the space and reduce the long tunnel like experience that will degrade the safety and quality of this newly built greenway connection. A significant public investment was just made to provide high quality bicycle and pedestrian connectivity between El Cerrito and Richmond. The Polaris project sits right at the focus of that connection and instead of celebrating and enhancing it, the building turns it back on the greenway and tries to armor itself from the outside world instead of taking meaningful action to help bring further improvement to the public realm that will ultimately make it a more desirable neighborhood and a more desirable building to inhabit.

The public plaza open space on the north side of the building does not meet the standards because of shading and transparency onto these public spaces. Functionally they are plazas and have been called plazas in past versions of the plans, but even if it is argued that they aren't "plazas," the same transparency requirements apply to frontages on creek Greenways, which is the adjacent use to the north.

For the number and type of affordable units being offered by this project, the state density bonus allows one "concession" (on the basis that the standard presents a financial burden) and unlimited "waivers" (on the basis that the standard physically limits the allowed density bonus). The public open space shortfall is not eligible for a state density bonus waiver, because the proposed project is not being physically constrained by this requirement. There is a greater excess of private common open space than there is a shortfall of public open space. Hence, a mere adjustment of the boundaries for the public and private realms would bring the project into compliance without changing the building footprint or unit count.

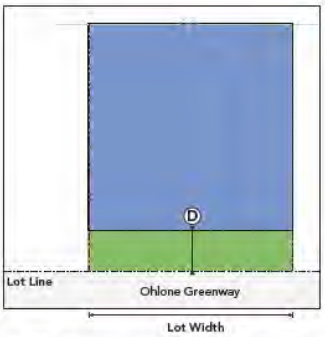
Despite repeated requests, there was no presentation of a police department review of this plan regarding public safety and security of the surroundings as modified by the project, particularly with respect to the long narrow greenway enclosure that will have many sightline issues with users pushed close to the BART columns, and very limited space to remove oneself from a dangerous situation.

Please encourage this project but do not approve it, as is, under Tier II. It is not Tier II compliant and it can still use significant improvement to be a truly positive impact on El Cerrito, particularly where the interface to the public realm and safety is concerned.

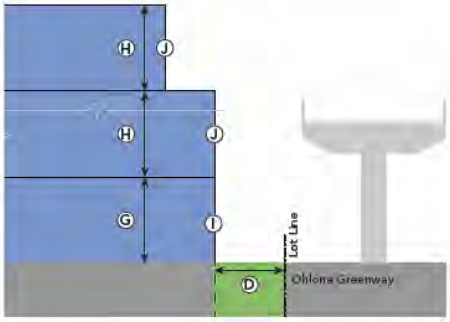
Sincerely,

Howdy Goudey
[redacted]
El Cerrito, CA 94530

Ohlone Greenway



FBC Figure 27. Development Standards Plan Diagram



FBC Figure 28. Development Standards Section Diagram

2.04.02.05.01 Intent

To enhance this major regional pedestrian and bicycle connection, adjacent buildings orient windows, doors and balconies towards the Ohlone Greenway, while providing connections, ground floor uses and additional open spaces along the Greenway to increase activity, connectivity and safety.

FBC Table 15. Ohlone Greenway Building Placement

Amenity Zone	n/a	
Pedestrian Zone	n/a	
Activity Zone	n/a	
Ground Floor Front Setback	Up to 10'-0" non-residential uses, Up to 15'-0" residential uses	D
Side Setback	n/a	
Rear Setback	n/a	
Pedestrian Access	Ground floor units and spaces to have individual entries along front or side streets.	
Vehicular Access	n/a	

Ohlone Greenway

FBC Figure 29. Prototypical building elevation along Ohlone Greenway illustrating ground floor residential and private open space opening onto the walkway.

FBC Table 16. Ohlone Greenway Building Form		
Upper Floor Setbacks	*See Section 2.05.02.02 Shadow Standards*	
Ceiling Height Ground Floor (fin. floor to fin. ceiling)	9'-0" min. clear	G
Ceiling Height Upper Floors (fin. floor to fin. ceiling)	9'-0" min. clear	H
Building Length	200' (Downtown), 300' (Uptown and Midtown) *Longer building length to be approved by Design Review Board and Planning Commission*	
Transparency Ground Floor	Non-residential 50% min., Residential 30% min. *See Section 2.05.03 Building Articulation*	I
Transparency Upper Floors	25% min. *See Section 2.05.03 Building Articulation*	J
Encroachments Front	Not allowed	
Encroachments Rear	4'-0" max projection of architectural features into rear setback	
Allowed Frontage Types	Max. 100%: Forecourt (NE side), Flex, Frontyard, or Eco-front Max. 50%: Shop Front	

See Section 2.03.02 Transect Zones for Building Height and Parking Requirements
See Section 2.05.06.01 On-Site Open Space Requirements for additional Open Space Requirements
See Section 2.05.08.08.01 Fence and Screening: Additional Regulations for explanation of terms

2.05.06.02.02 Plazas

A hardscape public space with seating and other urban furniture intended to provide opportunities for rest and relaxation, outdoor dining, commerce, social gathering and events that compliment the use of the building.

A. Plazas shall be a minimum of 10 feet deep, 20 feet wide and a maximum of 50% lot frontage. The average dimension should be 40 feet with a minimum of 1,500 sf for corner plazas and 2,000 sf for internal plazas (forecourts).

B. For development adjacent to transit in Downtown and Uptown, locate plazas at transit stops.

C. Locate plazas in high visibility areas such as intersections, commercial areas and community nodes.

D. Minimize shade from the adjoining building and ensure 50% of the open space is free of shadow during 2/3 of daylight hours (sunrise to sunset). Do not locate on the north facing edge of a building.

E. Include amenities in all plazas such as benches, trees and landscaping, pedestrian-scaled lighting and shade structures.

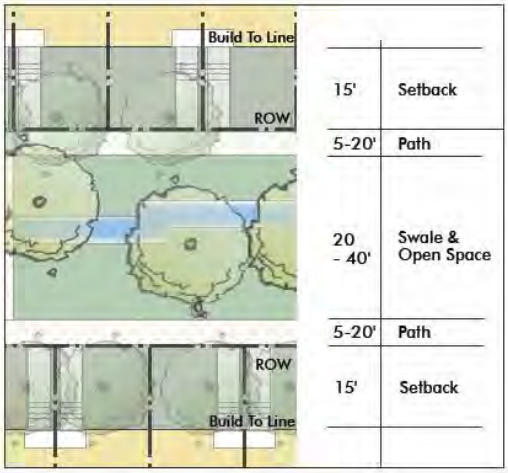
F. Include special paving in the plazas to increase visibility and identity. Where possible, pave plazas with permeable paving that meets the requirements of the stormwater C.3 Guidebook to lend identity.

G. Design plazas to be places for community gathering, play, performance and commerce.

H. Provide up to 15 foot front residential setbacks for buildings that front onto the plazas.

I. Outdoor seating from small-scale retail uses is permitted and encouraged on the plazas to activate the space.

J. Provide doors onto plazas, a minimum of 75% transparency on the ground floor façade facing the plaza, and up to 10 feet upper story stepbacks to be activated with balconies and other uses to promote interaction between the private and public realms.



2.05.06.02.04 Greenways/Creek Greenways

Linear open spaces designed to provide enhanced connectivity between destinations and other opens spaces while also providing areas for activity and gathering. Creek greenways run along the riparian edge and provide opportunities to bring the public closer to this natural amenity.

A. Where possible, daylight creeks and create creek greenways to provide open space and pedestrian and bicycle pathways through blocks.

B. Maintain sufficient buffer areas (as per creek buffer guidelines) between greenway pathways and creek banks and beds to limit the negative impacts of human use on creeks.

C. Provide adequate lighting, seating, trash cans, etc. along greenways. If greenways are 60 feet wide, provide additional amenities in accordance with standards for open space.

D. Maintain and increase biodiversity and protect native habitats in creek corridors.

E. Identify and highlight creek greenways with enhanced landscaping, public art and signage.

F. Provide 15 feet front setbacks for residential uses on greenways to provide "eyes on the park" and activate the space.

G. Provide doors onto greenways, a minimum of 75% transparency on the ground floor façade facing the greenway and upper story stepbacks along greenways to be activated with balconies and other uses to promote interaction between the private and public realms.

2.05.07.08 Fences and Screening

A. **Applicability.** The requirements of this Section apply to all fences and walls in the Transect Zones unless otherwise stated.

B. **Height limits.** Each fence or wall shall comply with the height limits shown in *FBC Table 31. Maximum Height of Fences or Walls.*

FBC TABLE 31. MAXIMUM HEIGHT OF FENCES OR WALLS

Location of Fence or Wall	Maximum Basic Height	Maximum Height Exceptions
Within front or side street setback	3 feet*	6 feet if non view-obscuring and not in excess of 50% opacity over 3 feet
Not within front or side street setback	6 feet	8 feet**

* Front and side street fences must meet the Design Requirements of Section *2.05.07 Landscaping, Fencing and Screening Standards.* Fences above 3 feet in height require the approval of the Zoning Administrator.

** The exception is only applicable when a rear yard is abutting an interior side yard or any yard is abutting residential or industrial use and requires approval of the Zoning Administrator.

2.05.07.08.01 Fence and Screening: Additional Regulations

A. Measurement of fence and wall height. Fence height shall be measured as the vertical distance between the finished grade at the base of the fence and the top edge of the fence material. Where a fence is constructed on top of a retaining wall, the height shall be measured from the outside base of the retaining wall, where the yard is on the high side of the retaining wall. Where the yard is on the low side of the retaining wall, fence height shall be measured from the top of the retaining wall.

B. Fence Clearance Requirements

1. A fence clearance is required to construct any fence of any height. A building permit (Section 6.02 and California Code of Regulations, Title 24) is required to construct any fence more than six feet in height.

2. An application for a fence clearance may be obtained from the Planning Division and shall be filed with and approved ministerially by the Planning Division if it conforms to the provisions of this Section.

C. **Fence Design.** Fences shall be constructed, designed and maintained as follows:

1. **Permitted Materials.** Chain link fences visible from public view are not allowed. If fencing visible from public view is used for commercial uses, open work such as wrought iron and metal (tube) fences with design features are preferred, although masonry, stucco and plaster are permitted. Wood fences are permitted only with approval of the Zoning Administrator.

2. **Fence Maintenance.** Every fence shall be kept in good repair, consistent with the design thereof. The property owner shall be responsible for landscaping and maintaining the area, if any, between the property line and the owner's fence.

3. **Hazardous and Prohibited Materials.** Fences shall not incorporate electrically charged wire, barbed wire and razor wire, spiked tips, chain link of any kind, woven wire mesh ("chicken wire"), welded wire mesh, woven wire ("hog wire") rope, cable, railroad ties or any other similar materials or materials not specifically manufactured for permanent fencing.

2.05.06 GENERAL PUBLIC AND PRIVATE OPEN SPACE STANDARDS

Public open space is a critical component of a vibrant and healthy urban environment and central to the community vision outlined in the El Cerrito Strategic Plan. The open space standards and guidelines outlined in this section support the goals of the City's Urban Greening Plan (in development 2014) and are intended to achieve the following:

A. To incentivize development of multifunctional new public open space.

1. This includes on-site privately owned and operated or on-site publicly owned and operated open space.
2. Alternatively, new developments may provide off-site in-liu fees where on site provision of open space is restricted on constrained lots. An In-lieu Fee Program will be developed pursuant to additional analysis of open space conditions within the Specific Plan Area.

B. To encourage urban open spaces, which include: plazas, midblock connections and community gardens

C. To allow private open space for residential buildings.

D. To customize the design of open space to site context.

1. Create midblock connections at the locations delineated in the Street Types Plan *2.04.02.06 Midblock Connection.*
2. Daylight or landscape creeks.
3. Contribute to citywide stormwater improvements. By limiting new impervious surfaces and treating runoff in a manner consistent with provision C.3 of the municipal regional permit.
4. Implement goals and strategies outlined in the Urban Greening Plan.

E. To increase safety by providing more "eyes on the street" and implementing relevant Crime Prevention through Environmental Design (CPTED) principles.

2.05.06.01 On-Site Open Space Requirements

FBC TABLE 28. ON-SITE OPEN SPACE REQUIREMENTS

Residential Uses	
Private/Common Open Space	80 sf/unit min.*
Public Open Space	Buildings < 25,000 sf there is no public open space requirement Buildings > 25,000 sf required public open space is 25 sf/1000 sf of bldg
*Public open space may be used to fulfill the private/common open space requirement - each 1 sf of public open space counts as 2 sf of private/common open space. Buildings greater than 25,000 sf must first meet their public open space requirement before using public open space to full the private/common open space requirements.	
Non-Residential Uses	
Public Open Space	Buildings < 25,000 sf there is no public open space requirement Buildings > 25,000 sf required public open space is 25 sf/1000 sf of bldg
Location/In-Lieu	
Applicants may apply to pay an in-lieu fee as a program is established. Sites identified on the Open Space Regulatory Plan will be strongly encouraged to provide on-site open space as a program is established (See *FBC Figure 89. Open Space Plan).*	

Dec. 5, 2018

Planning Division
El Cerrito City Hall
10890 San Pablo Avenue
El Cerrito, CA 94530.

Dear Design Review Board and City staff,

Even with the state density bonus provision of one concession (financial burden) and unlimited waivers (physical space limitation), the project proposed for 11965 San Pablo (Baxter Creek Apartments) **does not meet Tier II criteria** and either needs modification or to proceed as a Tier IV process.

I count as many as 6 separate standards (but certainly at least 2) that do not meet Specific Plan standards and I have provided the pertinent plan references (attached).

All of these standards relate to visibility and activation of the public realm that are essential to public safety as repeatedly noted in the Specific Plan. There is no obligation for the city to grant any concessions that impact public safety. They are all concessions, not waivers.

1. There should be ground floor entries to units facing the greenway.
2. There should be ground floor transparency on the greenway.
3. There should be upper floor transparency on the greenway.
4. Plazas should not be shaded (north side).
5. Plazas should have 75% ground floor transparency.
    a. Also creek/greenways require 75% transparency if the open space is defined differently.
6. Fencing can't be higher than 3-6 feet and can't obscure views

There are three designated public plazas for public open space that don't meet shading and transparency standards.

A cost comparison should be provided if they want to claim a financial hardship. It is not clear that the cost of sound proof window solution, such as glass enclosed balconies/buffers with another window to the living space, would not be easily made up for by the higher value of the apartments with high quality south-facing bay/city views.

In the floor plans, there are two windows facing BART at the SW corner of the Greenway façade. Why are these windows possible but not the others? These windows don't appear to be in the renderings, are they really included?

There is a "security fence" and doors enclosing the mural (shown on sheet L-001 and L-101). This is not shown on other site/floor plans and renderings. Is the setback of the path to the first fence/wall depicted accurately in the rendering? The security fence (or even the blank wall of the building) is not consistent with the fencing standard of the Specific Plan.

Has the police department reviewed this plan for safety and security?

What will the temporary construction impact be on the Greenway (position of fence).

Sincerely,

Howdy Goudey
[redacted]
El Cerrito, CA 94530

AGENDA BILL

Agenda Item No. 7(A)

Date: June 13, 2019

To: El Cerrito City Council

From: Kristen Cunningham, Human Resources Manager

Subject: Resolution for Management and Confidential Employees

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ACTION REQUESTED

Adopt a resolution modifying salaries, benefits, and conditions of employment for Management and Confidential Employees.

BACKGROUND/ANALYSIS

The City's Strategic Plan identifies "Deliver Exemplary Government Services" as a primary goal. The strategies outlined for this goal include recruiting and retaining a talented workforce and maintaining an emphasis on providing excellent customer service.

The salaries, benefits, and conditions of employment for the City's Management and Confidential employees are governed by resolution of the City Council. The most recent updates to the Management/Confidential Employees Resolution were Resolutions 2014-22, 2015-71, and 2017-52.

The following is a summary of changes to the Management/Confidential Employees Resolution, in line with the authority provided to the City's management team by the City Council:

- A Cost of Living Adjustment (COLA) of 3% effective the first full pay period of July 2019
- Modifications to language regarding the control point of salary ranges
- Removal of outdated *Separate Vacation Bank* language
- Addition of recently updated classification amendments approved by the City Council

STRATEGIC PLAN CONSIDERATIONS

Adopting the Resolution for Management and Confidential Employees fulfills Goal A, Deliver Exemplary Government Services, including the strategies of "Recruiting and retaining a talented and effective workforce" and "Maintain emphasis on providing excellent customer service."

FINANCIAL CONSIDERATIONS

Funding for the COLAs for management and confidential employees is included within the adopted FY 2019-20 Budget.

Reviewed by:

Alexandra Orologas
Assistant City Manager

Attachments:

1. Resolution

RESOLUTION NO. 2019-XX

RESOLUTION OF THE CITY COUNCIL OF THE CITY OF EL CERRITO ESTABLISHING SALARIES, BENEFITS AND CONDITIONS OF EMPLOYMENT FOR MANAGEMENT AND CONFIDENTIAL EMPLOYEES EFFECTIVE JULY 1, 2019~~7~~; AND ~~RESCINDING~~ SUPERSEDING RESOLUTIONS 2014-22-, ~~AND~~ 2015-71 AND 2017-52

WHEREAS, it is in the City's best interest to recruit and retain high quality employees for the City; and

WHEREAS, an effective means for achieving this objective is to provide competitive salaries, benefits, and conditions of employment for said employees.

NOW, THEREFORE, BE IT RESOLVED that the El Cerrito City Council hereby establishes the salaries, benefits, and conditions of employment for the City's management and confidential employees, as follows:

CHAPTER 1
EMPLOYEES

1.1 Management employees are, for purposes of this section, those actively involved in the following classifications:

- ~~Accounting Supervisor~~
- Assistant City Manager
- Assistant to the City Manager
- Associate Engineer
- Building Official
- City Clerk
- Community Development Director
- ~~Development Services Manager~~
- Finance Director/City Treasurer
- Finance Supervisor
- Human Resources Manager
- Information Technology Manager
- Maintenance Services Superintendent
- Management Analyst I,II,III
- Network Security Engineer
- Operations and Environmental Services Manager
- Planning Manager
- Program Manager
- Public Works Director/City Engineer
- Recreation Director
- Recreation Supervisor
- Recycling Operations Supervisor
- Senior Accountant
- Senior Engineer

- Senior Human Resources Analyst
- Senior Planner
- Senior Program Manager

1.2 Confidential employees are, for the purposes of this section, those actively involved in the following classifications:

- Accountant II
- Human Resources Specialist ~~Technician~~
- Information Technology Specialist
- Public Safety Executive Assistant

CHAPTER 2
SALARIES AND BENEFITS

2.1 Effective the first full pay period in July 2019~~7~~, the following control points shall apply and serve as the midpoint of approved monthly salary ranges for management employees:

~~Accounting Supervisor~~	~~9,705~~
Assistant City Manager	17,364
Assistant to the City Manager	9,628
Associate Engineer	9,848
Building Official	12,242
City Clerk	14,376
Community Development Director	15,155
~~Development Services Manager~~	
Finance Director/City Treasurer	15,133
Finance Supervisor	9,705
Human Resources Manager	13,691
Information Technology ~~Systems~~ Manager	13,691
~~Environmental Services Manager~~	
Maintenance Services Superintendent	9,013
Management Analyst I	7,450
Management Analyst II	8,194
Management Analyst III	9,013
Network Security Engineer	9,372
Operations and Environmental Services Manager	10,947
Planning Manager	12,855
Program Manager	9,013
Public Works Director/City Engineer	15,319
Recreation Director	15,019
Recreation Supervisor	9,013
Recycling Operations Supervisor	8,145

Senior Accountant	9,013
Senior Engineer	12,214
Senior Human Resources Analyst	10,011
Senior Planner	9,372
Senior Program Manager	10,011

2.2 Effective the first full pay period in July 2019~~7~~, control points shall apply and serve as the midpoint of approved monthly salary ranges for confidential employees are as follows:

Accountant II	7,552
Human Resources Specialist ~~Technician~~	7,074
Information Technology Specialist	7,450
Public Safety Executive Assistant	6,801

A. A salary range of 25% above and below the control point shall be created, within which a Department Head or the City Manager may approve salary adjustments of up to 5% or 10% per calendar year, respectively.

~~A.~~B. Advancement beyond the control point shall be reserved for exceptional performance only.

~~B.~~C. Effective the first full pay period in July 2019~~8~~, the City will increase the salaries of management and confidential employees by 3.0%.

2.3 Pension Plan Benefits

Employees are members of the California Public Employees Retirement System (CalPERS) plan, with a 2.7% at 55 retirement formula integrated with Social Security, which has an eight percent (8%) employee contribution, the PERS single highest year option and service credit for unused sick leave option.

Effective January 1, 2013, newly hired employees that are considered “new members” in accordance with the Public Employees’ Pension Reform Act (PEPRA), will be enrolled under the CalPERS Miscellaneous Employee 2% at 62 retirement formula integrated with Social Security, average of highest three (3) years compensation earnable, in accordance with applicable law and PEPRA.

Effective July 1, 2014, the City no longer contributes toward the PERS employee contribution rate.

2.4 Flexible Benefits Plan

The City has a Flexible Benefits Plan that provides for the following:

A. The City will contribute the equivalent of the cost of the lowest cost medical plan rate, according to dependent status, regardless of which medical plan is chosen. *"According to dependent status"* means that if an employee is single he or she shall receive the lowest cost single premium in his or her flexible spending account. If an employee and a dependent are enrolled in a City medical plan, the employee shall receive the lowest cost two party premium in his or her flexible spending account. If an employee and more than one dependent are enrolled in a City medical plan, the employee shall receive the lowest cost family premium in his or her flexible spending account.

Effective July 2019~~7~~, the lowest cost medical plan rate is Kaiser HMO.

B. In the event that an employee has alternate comprehensive group medical coverage through a spouse's medical plan or some other group medical plan, the employee may select a "no medical plan" option. In this event, the City shall contribute the equivalent to the lowest cost medical premium to the Flexible Benefits Plan and the employee may receive this amount in cash. In that case, the amount is treated as taxable income, or may be reallocated toward the purchase of other benefits in the Plan, or a combination of both.

C. Employees may contribute salary of up to~~-~~ the maximum by law on a pre-tax basis in order to purchase the following benefits:

- Medical premiums, co-payments, and deductibles
- Dental premiums, co-payments, and deductibles
- Unreimbursed medical and dental expenses
- Dependent care Mental health counseling services

Rules governing the allocation and distribution of such funds shall conform to applicable sections of State and Federal tax codes and the City of El Cerrito's Flexible Benefits Plan.

D. Health plans will become effective the first of the month following the date of hire.

E. Health benefit programs recognize the participation of domestic partners of eligible employees. Please refer to the City's Citiflex document for details.

F. The City may establish a Citywide task force for the purpose of exploring alternate health plans, including PERS Health, for both active and retired employees. The City will include members of the un~~-~~represented management group.~~.~~

2.5 Dental Plan
The City will pay the full cost of family coverage under the Delta Dental Plan.

2.6 Life Insurance
The City will provide a term life insurance policy for management and confidential employees. The principal sum shall be equal to the annual salary rounded to the nearest $1,000 (up to a maximum of $100,000), effective the first day of the month following City Council adoption of any changes in the Pay Plan.

2.7 Auto Allowance
The City will supply an automobile to management employees who, in the opinion of the City Manager, require a City vehicle as an integral part of their work. Alternately, the City will provide a cash allowance of up to $325 per month in lieu of use of a City automobile. Confidential employees required to use their own automobiles for City business shall be reimbursed at the Internal Revenue Service allowable rate.

2.8 Short-term/Long term Disability Insurance
The City shall provide employees with short-term/long term disability insurance with coverage of two-thirds salary up to the maximum monthly salary limit of $10,000 and a thirty-day elimination period. Like regular wages, this benefit is taxable.

2.9 Benefit Status

A. The salary and benefits contained within this Resolution are granted only to employees who are in a current pay status. The City shall incur no cost, nor shall benefits accrue, for retirees, survivors, or employees in a non-pay status. Family and Medical Leave Act (FMLA), California Family Rights Act (CFRA), and Military Leave, however, shall be granted in accordance with the applicable provisions of state and federal law.

B. In the event an employee is in a non-pay status because of a disputed workers' compensation claim, benefits under this article shall be continued upon written agreement of the affected employee to repay to the City the amount of any premiums paid by the City during the non-pay status period if the employee's claim is denied by the Workers Compensation Appeals Board or withdrawn by the employee prior to a decision by the Board.

CHAPTER 3
HOLIDAYS

3.1 Holidays
The following holidays are recognized as municipal holidays for pay purposes:

New Year's Day	Veteran's Day
Dr. M.L. King Jr. Birthday	Thanksgiving Day
President's Day	Day after Thanksgiving
Memorial Day	Christmas Eve Day
Independence Day (July 4)	Christmas Day
Labor Day	½ Day New Year's Eve

In the event that any of the aforementioned days falls on a Sunday, the following Monday shall be considered a holiday for pay purposes. In the event that any of the aforementioned days fall on a Saturday, the preceding Friday shall be considered a holiday for pay purposes. (Department Heads may make changes in the above schedule in accordance with the needs of their departments.) The afternoon of New Year's Eve, commencing at 12 noon, shall be considered a holiday for pay purposes. In the event New Year's Eve falls on a Sunday or a Monday, the preceding Friday afternoon shall be considered a holiday for pay purposes. Some adjustments may be made if necessitated by an alternative work schedule.

3.2 Birthday and Floating Holidays

In addition to the recognized municipal holidays, employees shall receive annually three (3) floating holidays, subject to the same requirements for scheduling vacation under Section 5.2 of this agreement. For new employees, the floating holidays are pro-rated quarterly based on date-of-hire. Floating holidays must be taken during the fiscal year they are received and may not be carried over and accumulated.

Employees are allowed an additional holiday in recognition of their birthday. This birthday holiday shall be posted upon appointment to City service and at the beginning of each fiscal year thereafter.

3.3 Compensation for Municipal Holidays

A. An employee on leave of absence without pay shall not receive any compensation for holidays occurring during such leave.

B. Regular employees must be in a pay status on the workday preceding a holiday to be eligible to be compensated for the holiday.

CHAPTER 4
SICK LEAVE, WORKERS' COMPENSATION, FAMILY SICK LEAVE, AND OTHER LEAVES

4.1 Accrual of Sick Leave Rate

A. Sick leave shall accrue at the rate of eight hours and 45 minutes per calendar month worked, providing the employee has worked or been authorized leave with pay for at least ten working days in the month.

B. Employees with 20 or more years of service shall accrue sick leave at the rate of 11 hours and 25 minutes per calendar month worked, provided the employee has worked or been authorized leave with pay for at least ten working days in the month.

4.2 Sick Leave Maximum Accrual
Accumulation of sick leave is unlimited.

4.3 Activity During Sick Leave
No employee who is absent from work on sick leave shall engage in any work or other activity that would interfere with the employee's ability to return to work to perform regular duties.

4.4 Retirement Benefit
Upon retirement from City service, an employee shall be entitled to compensation for one fourth of the accumulated sick leave on the books at the time of such retirement, with a maximum payment equivalent to twenty-five (25) days pay, at the employee's option. Actual sick leave remaining on the books will be reported to PERS in accordance with PERS regulations governing the sick leave credit contract option. In no case will unearned sick leave be reported for the purpose of increasing the member's retirement as prohibited by PERS.

4.5 On the Job Injury
When an employee is off work as a result of an on the job injury, the City shall continue to pay full salary for up to 90 calendar days.

4.6 Workers' Compensation Disability Payments
An employee receiving disability payments under the Workers' Compensation laws may use accumulated sick leave and vacation leave in order to maintain regular income. Under these circumstances, the employee shall be paid the difference between full salary and the disability payments received. Such sick leave and vacation leave shall be drawn in proportion to the salary payments required to provide the employee with his/her regular income.

4.7 Family Sick Leave
Under Labor Code Section 233, employees may utilize accrued sick leave to care for an ill or injured child, spouse or parent. The City has extended this provision to include domestic partners and their dependent children. There is no requirement that the illness or injury reach the level of seriousness provided for under the Family and Medical Leave Acts. However, if the illness or injury qualifies under the Family and Medical Leave Act, it also satisfies the "family sick

leave" criteria. The maximum "family sick leave" allowed each calendar year that is subject to this provision is one-half (1/2) of the employee's annual accrual of sick leave. Additional family sick leave may be taken subject to departmental regulations and approval of the Department Head and City Manager.

4.8 Bereavement Leave

Employees are entitled to time off with pay when there is a death or anticipated death in the immediate family. Bereavement leave shall not exceed five (5) consecutive days when death is anticipated. Bereavement leave after death shall not exceed that period of time between death and the day of the funeral, providing the funeral is held within five days following death. Additional time may be granted and charged as sick leave when, in the opinion of the Department Head, unusual circumstances identify the need for additional time off.

Immediate family is defined as spouse, domestic partner, child, parent, parent-in-law, sister, brother, sister-in-law, brother-in-law, grandparent, spouse's grandparent, grandchild, son-in-law, daughter-in-law, or any other relative of the employee or employee's spouse residing in the same household, or who has resided with the employee in the same household for three or more years. In cases where death has occurred involving someone other than the immediate family, the Department Head shall make the decision as to qualification for bereavement leave.

4.9 Administrative Leave

Management employees shall receive administrative leave in recognition of extraordinary working hours and conditions. The City Manager will annually approve the number of leave days by individual employee based on the amount of overtime performed and the quality of work produced. The annual amount of time assigned shall not exceed ten days. Unused administrative leave cannot be carried over from year to year or cashed out at year end or upon separation.

4.10 Family and Medical Leave

Pursuant to State and Federal law, the City will provide family and medical care leave for eligible employees. The City Family Care and Medical Leave policy sets forth employees' rights and obligations with respect to such leave. Rights and obligations which are not specifically set forth in the City's policy are set forth in the Department of Labor regulations implementing the Federal Family and Medical Leave Act of 1993 ("FMLA") and the regulations of the California State Pregnancy Disability Act and the California Fair Employment and Housing Commission implementing the California Family Rights Act ("CFRA") (Government Code Section 12945.2). Unless otherwise provided by the City's policy or this resolution, "Leave" under this article shall mean leave pursuant to the FMLA.

CHAPTER 5
VACATION

5.1 Eligibility

Employees shall be eligible to take a paid vacation at the end of the first year of continuous service, and annually thereafter, unless otherwise provided by the City Manager.

5.2 Scheduling

The scheduling of annual vacation leave and the amount to be taken at any one time shall be determined by the Department Head in accordance with departmental regulations and with regard for the needs of the City and the preference of the employee.

5.3 Vacation at Termination

Employees leaving the municipal service with accrued vacation leave shall be paid the amount of accrued vacation to the date of termination. Payment for accrued vacation shall be at the employee's current rate of pay.

5.4 Effect of Extended Military Leave

A management employee who interrupts his/her City service because of extended military leave shall be compensated for accrued vacation at the time the leave becomes effective.

5.5 Sick Leave During Vacation

Vacation leave may be converted to sick leave subject to the review and approval of the Department Head and the City Manager if an employee is injured or sick during the vacation for a period in excess of 24 hours.

5.6 ~~New~~ Vacation Cap ~~and Implementation~~

~~A. New~~ Vacation Cap

~~Effective January 1, 2015, the~~ The vacation cap shall ~~change to~~be two (2) times the employee's annual vacation accrual rate. ~~Thereafter, at a~~Any time an employee reaches the maximum accrual, the employee will cease accruing vacation hours until such time the balance falls below the cap. ~~After January 1, 2015, n~~No employee will be allowed to accrue vacation hours above the cap.

~~B. Implementation~~

~~Effective January 1, 2015, any employee who has vacation hours in excess of two (2) times the annual accrual rate, the excess hours will be placed in a separate vacation bank.~~

~~5.7 Separate Vacation Bank~~

~~Effective January 1, 2015, any accrued vacation in access of two (2) times the annual vacation accrual rate will be placed in a separate Vacation Bank for each effected employee. This will be a single, one-time process. Employees shall be entitled to use or sell the hours in the Bank for vacation in the same manner as regular vacation hours. The hours shall be paid out at the employee's current rate of pay~~.

5.7~~8~~ Vacation Cash-Out

~~Effective August 1, 2014, e~~Employees may annually cash-out up to 16 days (120 hours) of vacation provided that they have taken a minimum of 16 vacation days (or administrative leave for management employees) in the previous fiscal year and maintain a vacation balance of 37.5 hours at the time of vacation cash out. Employees may elect to cash-out a maximum of two (2) times annually and each cash-out request must be a minimum of 8 days (60 hours). All requests must be in writing and submitted to Human Resources with final approval by the Human Resources Manager. ~~to the Human Resources Manager for initial review with final approval by the City Manager.~~

If an employee wants to request an irrevocable vacation cash-out, they must provide written notice to the Human Resources Manager, or designee, no later than June 30 of the fiscal year before the fiscal year in which the employee wishes to cash-out vacation leave. The notice shall indicate how many vacation leave hours the employee wishes to cash-out the following year. The amount requested cannot exceed the amount stated above. An employee can cash-out during the months of July and December.

5.8~~9~~ Accrual

Unless otherwise provided by the City Manager, vacation leave will be accrued from the first day of employment when a management employee is in a pay status and will be credited on a monthly basis. Municipal holidays shall not be counted during vacation. The vacation schedule is based on the years of service with the City.

VACATION ACCRUAL – MANAGEMENT AND CONFIDENTIAL

Years of Service	Days	Hrs Earned/Yr (37.5 hrs/wk)
During 1st Year	11	82.50
2-3	12	90.00
4	13	97.50
5	15	112.50
6-7	16	120.00
8-9	17	127.50
10-11	18	135.00
12-13	19	142.50
14-15	20	150.00
16-17	21	157.50
18-19	22	165.00
20-21	23	172.50

22-23	24	180.00
24-25	25	187.50
26-27	26	195.00
28-29	27	202.50
30-31	28	210.00
32-33	29	217.50
34-35	30	225.00
36-37	31	232.50
38-39	32	240.00
40	33	247.50

CHAPTER 6
WORK SCHEDULE

6.1 Workweek

The number of hours worked in the workweek for management and confidential employees is as required by the City. The normal workday varies by department depending upon the standard or designated alternative work schedule. The workweek for those assigned to the nine-day schedule in a ~~two-week~~two-week period begins at noon on Friday and concludes immediately before noon the following Friday.

CHAPTER 7
EDUCATION BENEFITS

7.1 Tuition Refund Plan

Management employees are eligible for educational cost reimbursement up to a maximum of $1,000 per year for work related studies at a recognized college, university or professional school. Course content should relate to one of the following:

- Knowledge or skills needed by an employee in his/her present job
- Preparation for promotional opportunities or advancement in the same or different field within the City organization
- The requirements of a program leading to a degree, at an approved institution, which enhances the employee's job knowledge or on the job skills.

Procedures for obtaining reimbursement and limitations regarding reimbursement may be found in the City of El Cerrito administrative procedure on educational expense reimbursement.

CHAPTER 8
MISCELLANEOUS POLICIES FOR MANAGEMENT EMPLOYEES

8.1 Continuing Education

It is the policy of the City that management employees take part in some educational or training course each year, and the City Council will attempt to provide funds in each budget for such purpose.

8.2 Membership

It is the policy of the City to provide paid membership in approved professional associations for management employees. This policy shall include publications associated with membership and other educational materials as may be approved.

8.3 Conferences

It is the policy of the City that each management employee attend (as a member) a professional conference of his or her peers each year at City expense; however, travel outside the state of California may be discouraged due to budgetary restraints.

CHAPTER 9
MISCELLANEOUS POLICIES FOR CONFIDENTIAL EMPLOYEES

9.1 Overtime

A. Policy – Definition

It is the policy of the City that overtime work is to be kept at a minimum consistent with the protection of the lives and property of El Cerrito citizens and the efficient operation of the departments and activities of the City. Overtime must be authorized by both the supervisor and department manager and is subject to such other rules and procedures as the City Manager may prescribe.

Overtime shall be defined as time worked beyond the hours worked in the normal workweek, defined in Section 6.1 herein as 37.5 hours for full-time confidential employees and 28.125 hours for the confidential Personnel Technician – 75%. Hours worked are defined as all time during which an employee is necessarily required to be on the employer's premises, on duty or at a prescribed work place. Sick leave, vacation, holidays and other paid leave are considered to be part of the normal workweek and unpaid leave shall not be included as time worked. Overtime shall commence at the time an employee is released or the work is completed, whichever is earlier.

B. Overtime Compensation

1. For hours worked in excess of the normal workweek, but not in excess of forty- hours in a workweek, one of the following shall occur at the discretion of the department manager and in consultation with the employee:
   a. Employee shall accrue compensatory time off on a time-and-one-half basis (this will not count toward the FLSA compensatory time ceiling of 240 hours, but will count toward the City's 40-hour compensatory time cap)
   b. Overtime shall be paid at time-and-one-half the regular hourly rate of pay.
2. For hours worked in excess of forty in any workweek, one of the following shall occur at the discretion of the employee:
   a. Employee shall accrue compensatory time off on a time-and-one-half basis (this will count toward the FLSA compensatory time ceiling of 240 hours as well as the City's 40-hour compensatory cap); or
   b. Overtime shall be paid at time-and-one-half the regular hourly rate of pay.

C. Maximum Accumulation of Compensatory Time
Confidential employees may not accrue more than 40.0 hours of compensatory time-off without permission of the department manager. Time off for compensatory time must be approved by the department manager or delegate.

9.2 Uniform Allowance

The City shall provide uniforms in accordance with department procedures and subject to approval by the Department Head and City Manager for management and confidential employees required to wear one.

BE IT FURTHER RESOLVED that Resolution 2014-22, ~~and~~ Resolution 2015-71 and 2017-52 are hereby rescinded.

I CERTIFY that at a regular meeting on June 18~~20~~, 2019~~7~~, the El Cerrito City Council passed this resolution by the following vote:

AYES:	COUNCILMEMBERS:
NOES:	COUNCILMEMBERS:
ABSENT:	COUNCILMEMBERS:
ABSTAIN:	COUNCILMEMBERS:

IN WITNESS of this action, I sign this document and affix the corporate seal of the City of El Cerrito on June XXXX, 2019~~7~~.

_____
Holly M. Charléty, City Clerk

APPROVED:

_____
Rochelle Pardue-Okimoto ,-Mayor

3235202.1

SUPPLEMENTAL AGENDA MATERIALS

CITY COUNCIL MEETING
June 18, 2019

AGENDA ITEM 4(B) - Processing Contract for Recyclable Materials

1. Supplemental Agenda Bill Information

AGENDA ITEM 6(A) – Ordinance to Amend Chapter 13.28 of the El Cerrito Municipal Code, Trees and Shrubs

1. PowerPoint Presentation

AGENDA ITEM 6(B) An appeal of the Planning Commission's approval of Tier II Design Review, pursuant to the San Pablo Avenue Specific Plan for a project located at 11965 San Pablo Avenue

1. Staff PowerPoint Presentation
2. Appellant PowerPoint Presentation
3. Applicant PowerPoint Presentation

Materials received at the meeting

SUPPLEMENTAL AGENDA BILL

Agenda Item No. 4(B)

Date: June 18, 2019

To: El Cerrito City Council

From: Maria Sanders, Operations & Environmental Services Division Manager
Yvetteh Ortiz, Public Works Director/City Engineer

Subject: SUPPLEMENTAL: Processing Contract for Recyclable Materials

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SUPPLEMENTAL INFORMATION

City staff received clarification from California Waste Solutions (CWS) regarding the costs and revenue sharing included in their proposal after writing the Agenda Bill to award a contract for processing recyclable materials. The CWS proposal includes a market indexing system that is complex, specifically as it relates to a variable "Revenue Split". While the clarification does not materially change the outcome of the proposal evaluation nor change the action requested by City staff, it changes the CWS information in Table B of the Agenda Bill as shown and discussed below.

Revised Table B: Proposed Processing Costs and Concomitant Operational Costs

	CWS	MDRR	NRWS	Republic
Processing Costs Per Ton				
Base Cost to City	$48.00	$193.18	$25.00	$140.00
Revenue Split **	$100.00	$ (84.13)	$0.00	$0.00
Contamination Charge	$0.00	$1.06	$0.00	$0.00
Cost/Ton	$148.00	$110.11	$25.00	$140.00
Annual Tons Processed	4,300	4,300	4,300	4,300
Subtotal Annual Cost	**$636,400**	**$473,484**	**$107,500**	**$602,000**

Annual Operational Costs				
Transportation (fuel, tolls)	$13,545	$52,676	$53,868	$11,288
Driver Overtime	$0	$35,794	$35,794	$0
Subtotal	**$13,545**	**$88,470**	**$89,663**	**$11,288**
Grand Total Annual Costs	**$649,945**	**$561,954**	**$197,163**	**$613,288**
Total Cost per Ton	$151	$131	$46	$143

** Payment (to) or from City

CWS proposed a Base Cost of $48 per ton and an indexed mechanism for payment *from or to* the City that tracks changes in the value of recyclable material on a quarterly basis – a variable "Revenue Split". By using the variable "Revenue Split," CWS would

either receive additional payment for processing during a down market or would pay the City for the value of the materials during a good market. Under current market conditions the “Revenue Split” proposed would require additional payments from the City of $70 per ton in addition to the Base Cost, bringing the total cost per ton to $118 in this coming quarter (July through September 2019). If commodity prices continued to fall (as is very possible), then the “Revenue Split” in future quarters could rise, but would be capped at a maximum of $100.00, resulting in a maximum total Cost Per Ton of $148.00. As the City would need to plan for the worst case scenario, the total maximum Cost Per Ton was considered by staff in its evaluation of proposals. The Revised Table B shows the updated Revenue Split and Total Annual Costs for CWS.

Public Tree and Shrub Ordinance

El Cerrito City Council
June 18, 2019

Will Provost
Public Works Analyst

1

PRESENTATION OUTLINE

- Background
- Reasons for Updating Ordinance
- Process and Public Input
- Existing Ordinance
- Key Changes and Amendments
- Consistency with City Policies
- Staff Recommendations / Next Steps

2

2

REASONS FOR UPDATING ORDINANCE

To Establish:

- What qualifies as a "Public Tree"
- Responsibilities for pruning, planting, and removal of Public Trees
- Protections for Public Trees
- Liability for damage to Public Trees
- Enforcement and appeals processes

A Tree Protection Ordinance is a prerequisite to becoming a "Tree City U.S.A."

3

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PROCESS

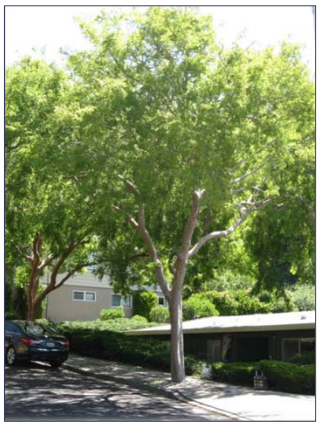
- 2016-2017 – UFC researched dozens of ordinances and made recommendations to Staff.
- June 11, 2018 – UFC Meeting
  - Presented proposed revisions to ordinance for review, discussion, and comments.
- November 26, 2018 – UFC Meeting
  - Reviewed the administrative draft for feedback, discussion, and comments.
- January 7, 2019 – Public Meeting #1
  - Presented Public Draft of Ordinance for review, discussion, and comments.
- February 11, 2019 – UFC Meeting
  - Discussed Public Draft, comments from meeting, and next steps.
- April 15, 2019 – UFC Meeting
  - Presented an updated administrative draft for review, discussion, and comments.
- May 13, 2019 – Public Meeting #2
  - Presented Public Draft of Ordinance for review, discussion, and comments.

4

4

EXISTING TREE AND SHRUB ORDINANCE

- Official Tree List for planting in "parking strip"
- Approval needed from City to plant a tree or shrub in the parking strip
- City may require pruning or removal of trees or shrubs in parking strip
- City may cause work to be done through nuisance abatement procedures
- Trees and shrubs may not block streets or sidewalks
- Unlawful to mutilate or damage trees and shrubs in the parking strip or public places



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KEY CHANGES

- Focuses on Public Right-of-way (PROW) <u>and</u> Public Spaces
- Emphasizes the protection and long-term management of public trees
- Defines elements of the City's Tree Program
- Sets clear guidelines for when City approval (permit) is needed
  - To eliminate improper planting, pruning, removal, etc.
  - Expands ability to plant shrubs and ground cover in adjacent PROW without a permit

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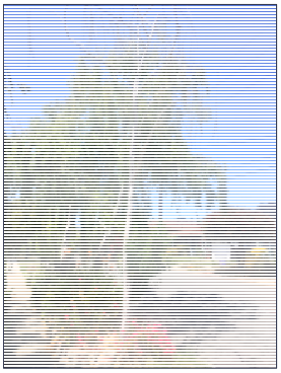
KEY CHANGES (Cont.)



- Sets standards for the maintenance and protection of public trees and shrubs
- Defines a "Protected Root Zone"
- Establishes mitigation standards for requests to remove a public tree (i.e. planting trees)
- Establishes liability for damaging or killing a public tree
- Creates appeals process for permits and violations

7

7

STANDARD OPERATING PROCEDURES

- The updated Ordinance requires the City to establish criteria and standard operating procedures (SOP) for consideration of requests for pruning, planting, and removal of Public Trees and Shrubs. Including SOPs for:
  - Hazardous and emergency tree issues
  - Public Tree planting requests
  - Public Tree pruning and removal requests
  - Allowing the private planting, pruning, and/or removal of a Public Tree
  - Mitigation (e.g. tree plantings) required for the removal of a Public Tree

The SOPs will clearly define criteria and processes, enabling the Tree Program to implement the Ordinance consistently and equitably across all requests received.

8

8

CONSISTENCY WITH CITY POLICIES

- General Plan (1999)
- Urban Forest Management Plan (2007)
- Climate Action Plan (2013)
- El Cerrito Strategic Plan (2013)
- San Pablo Avenue Specific Plan (2014)
- Urban Greening Plan (2015)
- Parks and Recreation Facilities Master Plan (2019)
- Green Infrastructure Plan (2019*)

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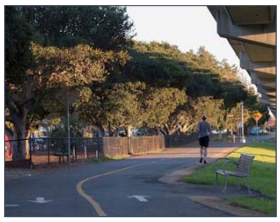
PUBLIC FEEDBACK / CONCERNS

In addition to the comments that were incorporated into the Ordinance, community members also expressed a desire to:



- Add private property or "heritage tree" protections
- Prohibit fire prone or allergenic species on public and private property
- Address fire risk and fire prevention
- Amend development guidelines and requirements for trees
- Add funds for maintaining Hillside Natural Area and enforcing existing policies

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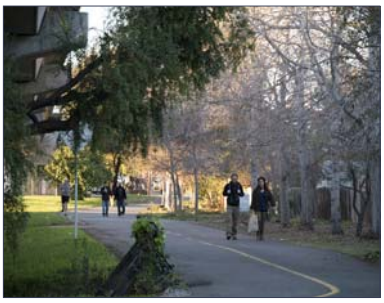
NEXT STEPS

- Consider adoption of the amended Public Tree and Shrub Ordinance
- Pursue Tree City U.S.A. Designation

TREE CITY USA®



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QUESTIONS or COMMENTS?

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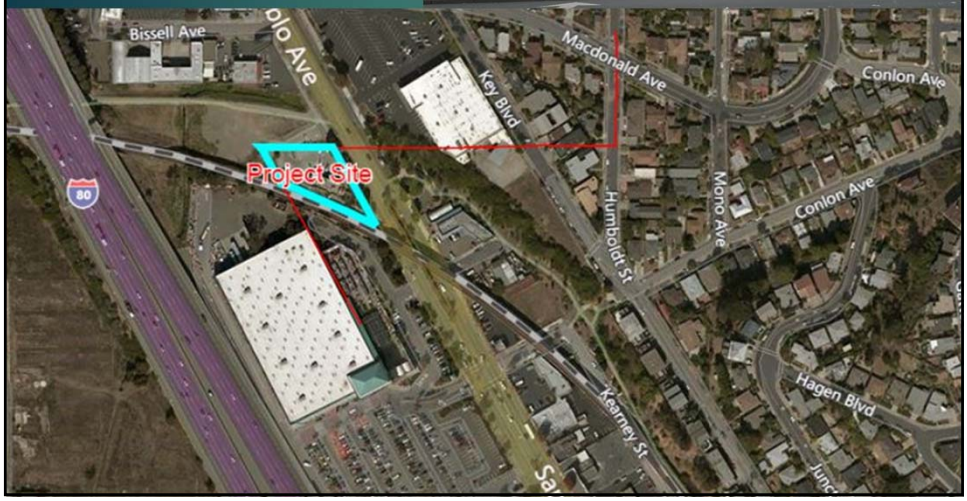
Polaris Apartments Appeal

CITY OF EL CERRITO
CITY COUNCIL
JUNE 18, 2019

1

Site Photo and Location



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Site Photo and Location

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Project Background

- TOHIMU zoning designation (Transit Oriented Higher Intensity Mixed Use)
- Housing proposed on an vacant site
- Site is 0.5 acres (@21,911 s.f.)
- Project seeks density bonus pursuant to state law. Concessions include building height, upper floor ceiling height, public open space. All other aspects of the project comply with Tier II Design Review standards.

4

Project Details

- 144 units
- Eight stories, 85 feet tall
- 77 new garage parking spaces; unbundled parking; long and short term bicycle parking
- Public open space of @2,580 square feet: public plazas
- Rooftop private open space and interior courtyard
- Public art on building exterior

5

State Density Bonus Law

- Applicant is providing 9% of units in "base project" as Very Low Income Units
- Project qualifies for 30% density bonus
- San Pablo Avenue Specific Plan allows a height increase to allow increased density
- Applicant is also permitted to seek concessions & waivers (1 concession an unlimited waivers)

6

State Density Bonus Law

- Waivers for the project include:
  - Building height
  - Ground Floor ceiling height
  - Upper Floor ceiling height
  - Square footage of public open space
- Concession for the project includes:
  - Requirement for unit entries on San Pablo Avenue

7

Design Review Process

- Tier II Design Review
- Initial proposal was redesigned to address noise concerns at site.
- Design Review Board reviewed the project over six meetings.
- Result is an improved project that addressed all Design Review Board concerns.
- Appeal of DRB decision was filed.
- Planning Commission denied the appeal.

8

Tier II Design Review Purview

- Exterior building colors, materials, and textures
- Landscaping
- Site Plan
- Building facades and articulation
- Relationship of the development to adjacent public rights-of-way
- Signs
- Locations and footprints of bioretention facilities as required for stormwater management

9

Rendering

10

Building Elevations (east: San Pablo Avenue)

11

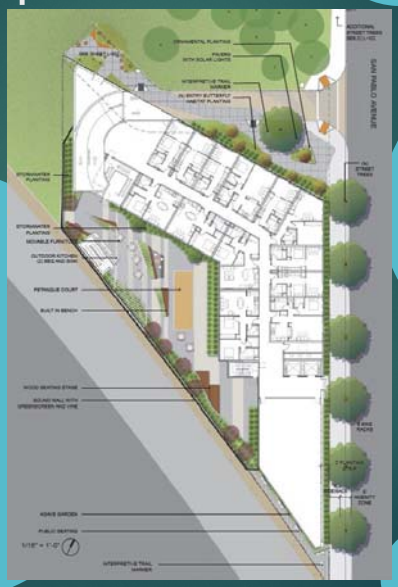
Building Elevations (north)

12

Building Elevations (south: BART-facing)

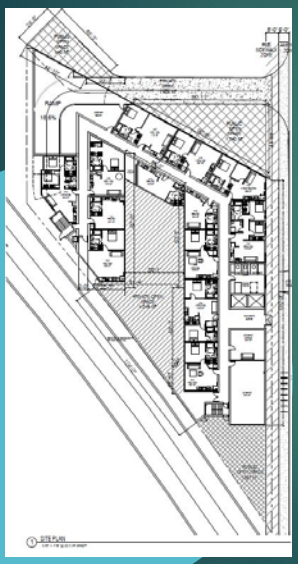
13

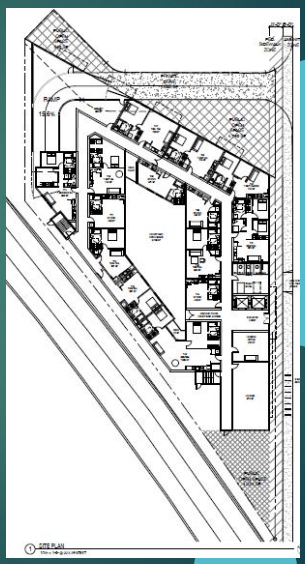
Landscape Plan



14

Previous Proposals



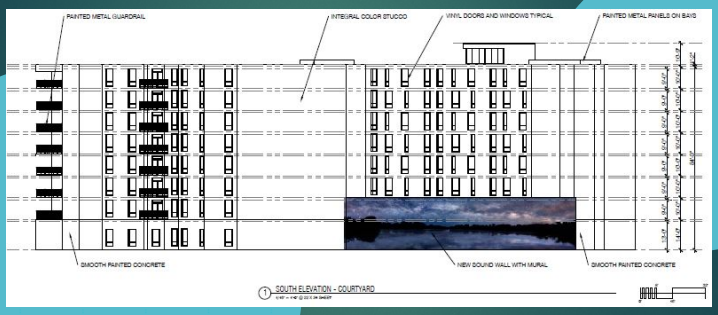


15

Approved Site Plan

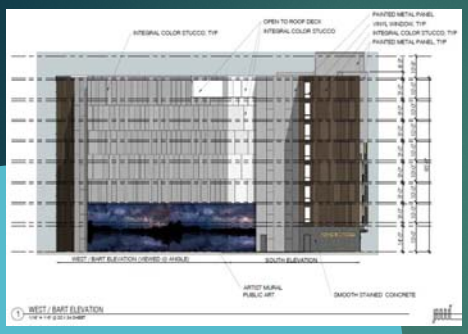
16

Previous Proposals



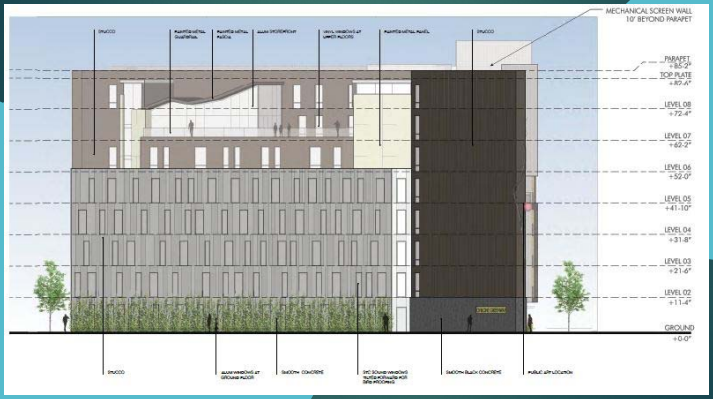
17

Previous Proposals



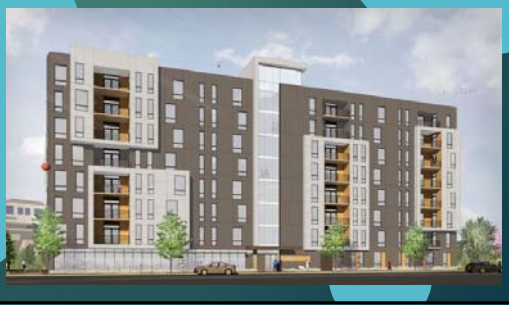
18

Approved Elevation



19

Previous Proposals



20

Appeal

- Appeal received from Howdy Goudey on April 29, 2019.
- Appeal letter states several reasons for appeal.

21

Appeal

- Project is not subject to Tier II Design Review.
- Project does not comply with:
  - Greenway standards
  - Transparency standards
  - Plaza/Creek Greenway standards
  - Fencing/wall standards

22

Appeal

- Staff Responses:
  - Project is subject to Tier II Design Review due to application of density bonus.
  - Greenway standards do not require units along Greenway frontage, rather require entries when units are provided.
  - Transparency standards along Greenway are met.
  - Open space guidelines provide flexibility to respond to context of site.
  - Sound partition is integral part of the building.

23

Polaris Apartments

24

Polaris Apartments

25

At the focus of a new, pivotal bike/ped connection, Polaris turns its back and armors itself from the outside world, instead of celebrating and enhancing the corridor to further improve the public realm that will ultimately make it a more desirable neighborhood and a more desirable building to inhabit.

APPEAL OF TIER II APPROVAL 11965 SAN PABLO AVE POLARIS APARTMENTS

HOWDY GOUDEY

PICTURE A FRUSTRATING BUILT ENVIRONMENT BLUNDER

- As Council members in El Cerrito, I'm sure you've all encountered one or more legacy problems in our built environment that you wish you had the power to change, but it is too late and it is out of your hands
- Most development decisions last for many decades, usually 50 years or longer
- You have the power tonight to avoid a problematic outcome that will have people shaking their heads in disbelief for years to come.
- Don't pass up this opportunity to uphold the established bike/ped greenway standards of the city and avoid creating another long-lived problem for the city.

WHAT THIS APPEAL IS NOT . . .

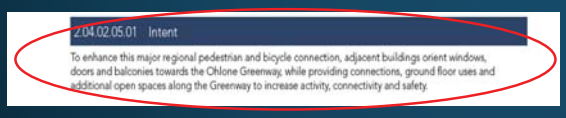
- Not opposed to height, density, or parking ratio. These are clearly supported by the Specific Plan
- Not an attempt to stop or delay the project, but rather make it better and consistent with the Council adopted Tier II standards of the Specific Plan
- Not an opportunity for Council to excuse lack of compliance with a discretionary action. That is not part of the Tier II process. It would need to follow the Tier IV process and offer demonstrative public benefits to the city.
- Not a good time to be offered answers to substantive questions about Tier II compliance for the first time, when they were raised repeatedly in public meetings months and months ago.

WHAT THIS APPEAL IS . . .

- A request for attention to the objective Tier II standards that have been ignored so far in this process
- Standing up for the faithful application of the Council adopted Specific Plan to get the best outcome for the city
- A call for fairness and consistency for all applicants. It is an insult to others who have completed the Tier IV process to have a non-compliant Tier II project sneak through against the standards and it weakens the Specific Plan's image as a clearly stated set of standards that offer certainty and predictability to applicants
- An opportunity to get more for the city that is deserved under the circumstances of this project (public benefits under Tier IV, or a greater number of affordable units to earn more State Density bonus concessions).
- The first time I have received answers to my concerns about Tier II compliance, and they seem to have been contrived to fit the project as proposed, rather than faithfully interpreting the form based code adopted by Council

1. GREENWAY: PROVIDE GROUND FLOOR INDIVIDUAL ENTRIES (2.04.02.05, TABLE 15)

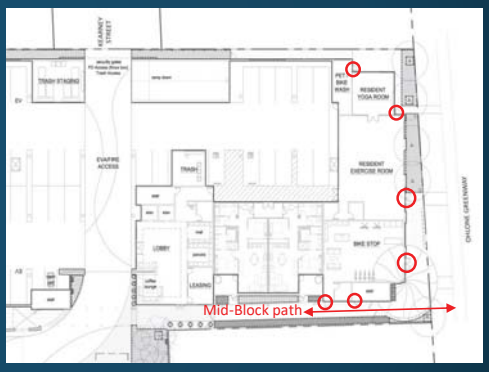
- Staff response: No residential units facing greenway
- There are 4 ground floor units 18-45 feet from the greenway
- Units are obstructed from activating the greenway by a 150 foot long, 5 story, sound wall enclosing outdoor private common space
- Inappropriate set-back is covered up with imposing, inactive sound wall.
- Only about 7 lateral feet between sound wall and BART (low, dark, tunnel effect)


2.04.02.05.01 Intent

To enhance this major regional pedestrian and bicycle connection, adjacent buildings orient windows, doors and balconies towards the Ohlone Greenway, while providing connections, ground floor uses and additional open spaces along the Greenway to increase activity, connectivity and safety.

Without sound wall, the building has excessive set back from the greenway frontage (10-15 feet max allowed)

Ground floor entries not just applied to residential spaces, but also other common spaces (Griffin – Big 5)



Tier IV Griffin Project (former Big 5) activates the Greenway with at least four doors, a public bike station and mid-block connection path

2. GREENWAY: PROVIDE GROUND FLOOR AND UPPER FLOOR TRANSPARENCY (2.04.02.05, TABLE 16)

- Staff response: Greenway transparency is met
- Transparency requirements are described for windows in occupied ground and upper floors.
- Glass openings in a 150 foot long, 5 story, sound wall enclosing outdoor private common space is not equivalent
- Sightlines from units are heavily impaired by the wall and sporadic alignment with sound wall glass
- Private common space will have less frequent occupancy than units, especially at night
- "Unique scenario," "unlikely to occur anywhere elsewhere," these staff descriptions motivate Tier IV treatment

Courtyard shrubs and path facing vines will further obscure sightlines resulting in views that are heavily dependent on future landscape choices and maintenance

Tier IV Griffin Project (former Big 5) demonstrates the intended compliance with a high degree of transparency facing the greenway (from directly occupied living spaces).

3. PLAZAS: DO NOT LOCATE ON THE NORTH SIDE OF A BUILDING, OR SHADE MORE THAN 50% FOR 2/3 OF DAYLIGHT HOURS (2.05.06.02.02.D)

- Staff response: Distinction of standards and guidelines (implemented when feasible)
- These guidelines are not called out as flexible
- Language such as "ensure," "do not," "shall," etc. are clearly not optional
- Many other sections use "should" or "encourage" when it is optional
- Not enforcing this standard is arbitrary and capricious when worded like other standards that are routinely enforced.
- The Tier IV 10135 San Pablo (McNevin-Avila) plaza should have been identified as violating the north side standard and the daylight hours should have been calculated. That was another error. Not an excuse to repeat the error.

D. Minimize shade from the adjoining building and ensure 50% of the open space is free of shadow during 2/3 of daylight hours (sunrise to sunset). Do not locate on the north facing edge of a building.

4. PLAZAS: PROVIDE DOORS AND 75% GROUND FLOOR TRANSPARENCY (2.05.06.02.02.J)

- Staff response: Distinction of standards and guidelines (implemented when feasible)
- These guidelines are also not called out as flexible
- Language such as "provide," "a minimum," "shall," etc. are clearly not optional
- Many other sections use "should" or "encourage" when it is optional
- There are no doors and insufficient ground floor windows (transparency) onto the public open space (plazas).
- There is no presentation of the window areas calculated for this façade (community street type is the wrong frontage, but has same door and transparency requirement).
- The public open space is much less likely to be used (and feel secure) without good access and connectivity for residents.

J. Provide doors onto plazas, a minimum of 75% transparency on the ground floor façade facing the plaza, and up to 10 feet upper story stepbacks to be activated with balconies and other uses to promote interaction between the private and public realms.

5. CREEK GREENWAYS: PROVIDE DOORS AND 75% GROUND FLOOR TRANSPARENCY (2.05.06.02.04.G)

2.05.06.02.04 Greenways/Creek Greenways

Linear open spaces designed to provide enhanced connectivity between destinations and other opens spaces while also providing areas for activity and gathering. Creek greenways run along the riparian edge and provide opportunities to bring the public closer to this natural amenity.

G. Provide doors onto greenways, a minimum of 75% transparency on the ground floor façade facing the greenway and upper story stepbacks along greenways to be activated with balconies and other uses to promote interaction between the private and public realms.

- Staff response: Distinction of standards and guidelines (implemented when feasible)
- These guidelines are also not called out as flexible
- Language such as "provide," "a minimum," "shall," etc. are clearly not optional
- Many other sections use "should" or "encourage" when it is optional
- There are no doors and insufficient ground floor windows (transparency) toward the creek which is a natural extension of the plazas which provide linear travel (quieter route to greenway).
- The investment in restoring the creek should be respected and enhanced, if the public is going to feel invited and secure it needs good access and connectivity for residents and the public alike.

6. FENCING/WALLS SHALL NOT BE HIGHER THAN 8 FEET (2.05.07.08, TABLE 31)

- Staff response: It's part of the building not a wall
- It is exceedingly generous and not really defensible to consider the sound wall "part of the building"
- A building encloses habitable space with a roof covering. There are many building code distinctions along these lines.
- This is a 50+ foot high and 150+ foot long wall structure exposed to the weather on both sides.
- A dummy façade like this would not be acceptable on San Pablo or other street frontages. It is also not acceptable on the greenway.
- There is no meaning to a wall/fence standard if a fake façade can be built with no limitations under Tier II criteria.
- This is much too large of a departure from the clearly stated standards of the form-based code to accept, as proposed
- Superior sound attenuation solutions could actually delivery more livable spaces with higher value (solarium balconies)

Polaris

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El Cerrito City Council – June 18, 2019

Project Overview and History

Application Submitted March 1, 2017

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Meeting	Date	Resulting Action
DRB	7/5/18	Building reconfigured, added rooftop terrace, improved sound wall
DRB	10/3/18	New public art and façade, sound wall revisions
DRB	11/7/18	Stair, garage, and sound wall design improvements
DRB	12/5/18	Opened courtyard, revised sound wall, shifted massing and garage entrance
DRB	2/6/19	Improved transparencies, lowered sound wall 25', articulations, color, stairwell and open space design mods
DRB	3/6/19	Sound wall transparency resolved, project approved
Planning Commission	4/17/19	Appeal denied, Project approved

Project Stats	
Lot Area	23,591
Residential GSF	108,102 sf
Dwelling Units	144 Total (10 BMR@50% AMI)
Bike Parking	220 long term 16 short term
Vehicle Parking	77 spaces
Open Space (public)	2,703 sf (prev. 2580 sf)
Open Space (private)	11,520 sf (prev. 11,655 sf)

Key Project Benefits

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Replacement of auto-oriented fast food use with transit-oriented housing

10 affordable units at 50% AMI (approximately $1,400/month two-bedroom)

292 construction jobs/4 permanent jobs.

Enhances bike/ped connectivity to Richmond Greenway and Del Norte BART

236 bike parking spaces

Public art at the dramatic building at the intersection of San Pablo/Richmond Greenway/BART Tracks

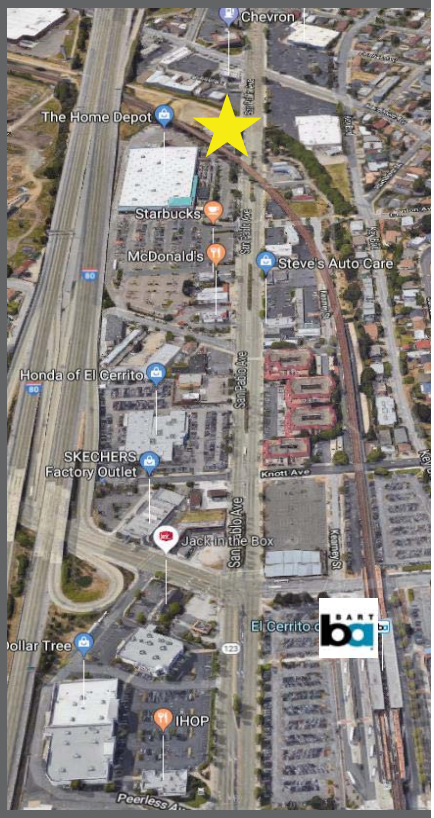
Baxter Creek/nature interface on northside of project

Increased **walkability with safer connections** along San Pablo Ave/Greenways

On site dog area for residents' pets

@ $3.5M in new fees/revenues generated:

1. Complete Streets Fund = $335,000
2. West Contra Costa USD = $625,765
3. West County Subregional Transportation Fees = $237,000
4. Significant property tax increase of @ $650,000 per year ($18K/year today)
5. Contribution to Stege Sanitary District $795,000
6. School District Fees $630,000



Current Views from San Pablo Avenue

Polaris

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Polaris Site Context/Constraints

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Site/Floor Plan Layout Drafts

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November 2017

Current

Site and Urban Design Principles

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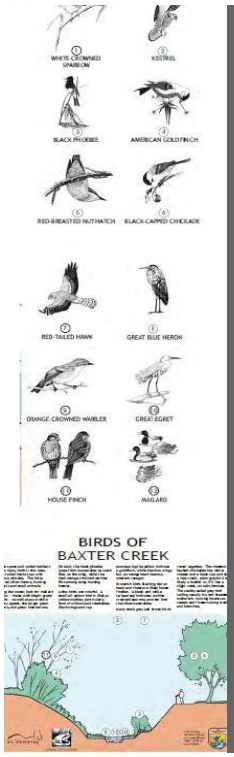
Planning for Nature



Planning for People

FIREPLACE

DINING TABLE AND CHAIRS

OUTDOOR KITCHEN WITH TRELLIS

Floor Plan and Units

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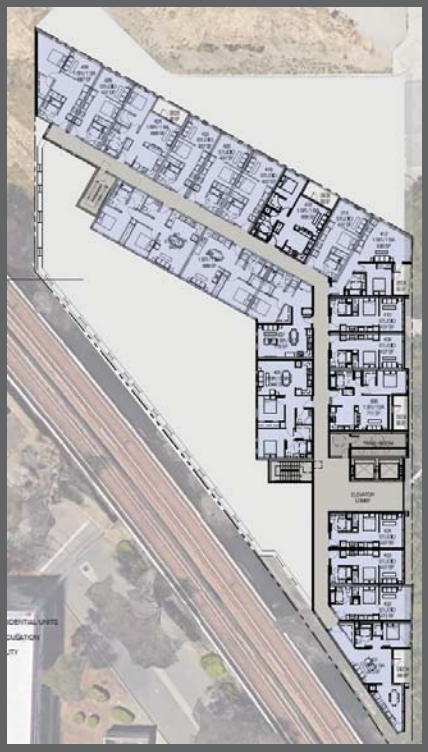
Typical floor plan



Expensive array of unit types due to site

Appeal Issue #1: Provide Ground Floor Entries at Greenway

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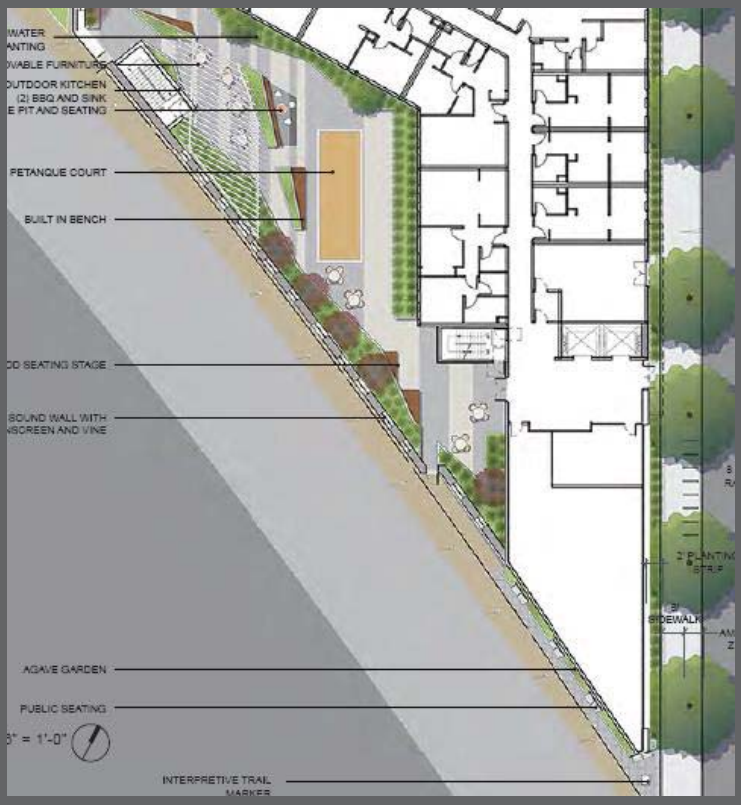
Response: The project does not propose units that front the Richmond Greenway. The project will engage the Greenway:

- High level of transparency between the outdoor open space area, apartments, and the Greenway.
- Aesthetically interesting architectural and landscape Greenway improvements allowing users to see into the courtyard area.
- Active Greenway pedestrian features.



Baxter Creek Trail Facade

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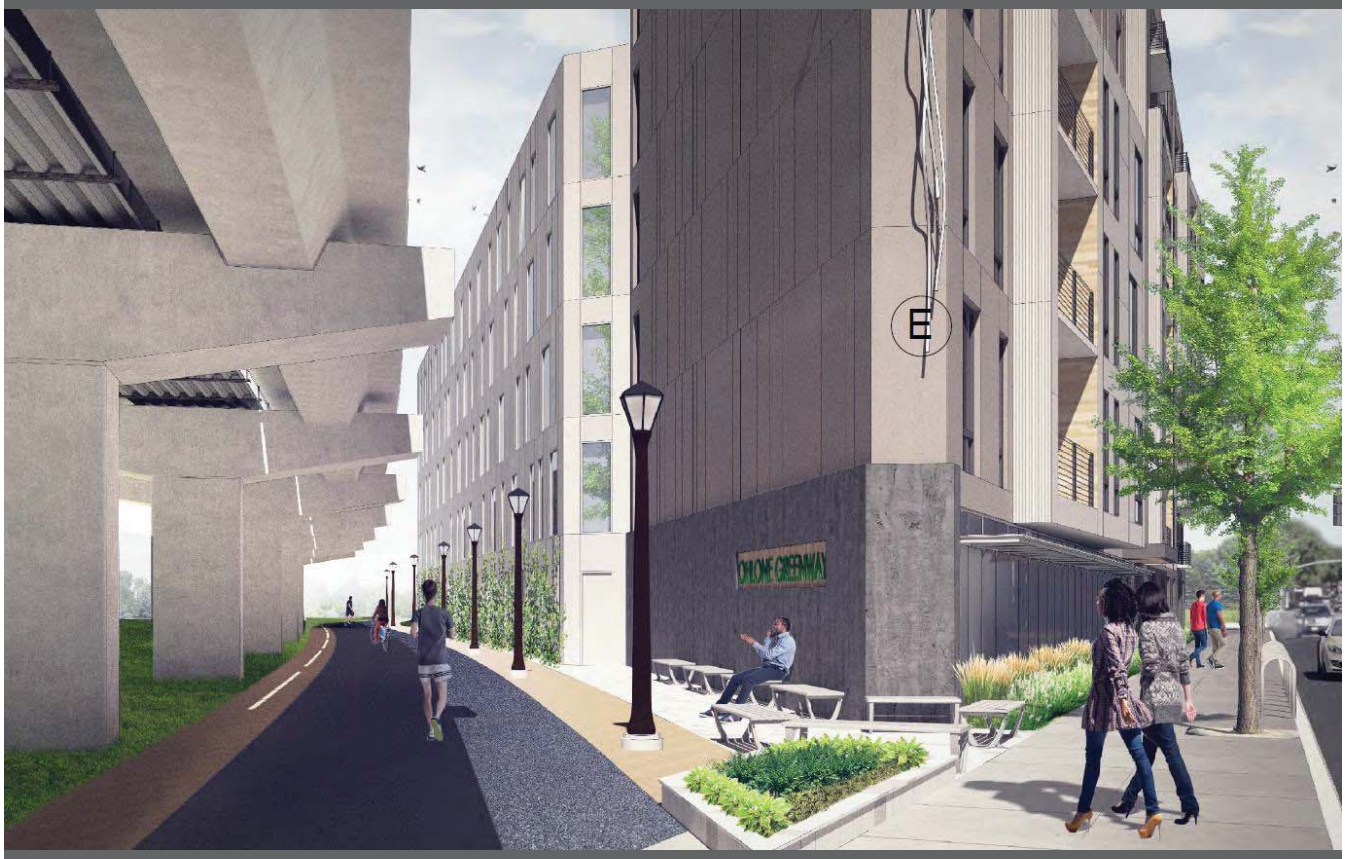

View from Greenway into Courtyard

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View from Apartments

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Appeal Issue #2: Provide Ground Floor and Upper Level Transparency at Greenway

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El Cerrito City Council – June 18, 2019

Response: The project is not subject to the requirement but it does exceed both the ground floor transparency and upper floor transparency standards

Appeal Issue #3, #4 and #5: No North Side Public Plazas, Provide Unit Entries and Transparency at Plaza

Polaris

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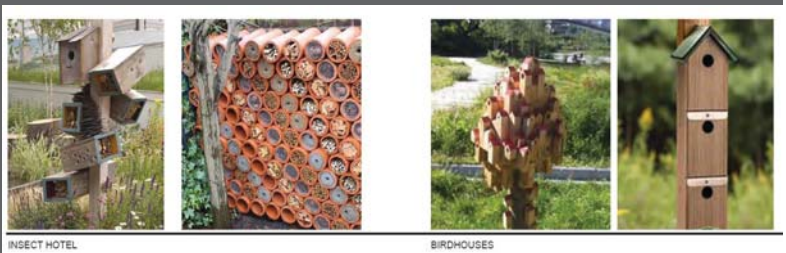
Response: The project will beautifully activate the north edge of the site with the edge of the Baxter Creek area. The northside open area in question is not a plaza per se, and could also be referred to as either a Pocket Park or as a Creek Greenway per the SPAFBC. The open space meets those requirements.

(with the exception of individual unit entries and transparency at the ground level, for which the project requires a concession as pursuant to SDBL)



Appeal Issue #6: Fencing/Walls Shall Not Be Higher Than 8'

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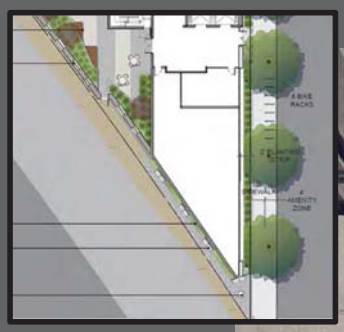
El Cerrito City Council – June 18, 2019

Response: The project does not propose fencing or walls that are higher than 8'. The appellant may be referring to the sound partition, which is an architecturally integrate design feature of the proposed building and not subject to the Fences/Walls provision. No setback is required for building facades.



Appeal Issue #7: Public Open Space is Not Met and SDBL Waivers Don't Apply

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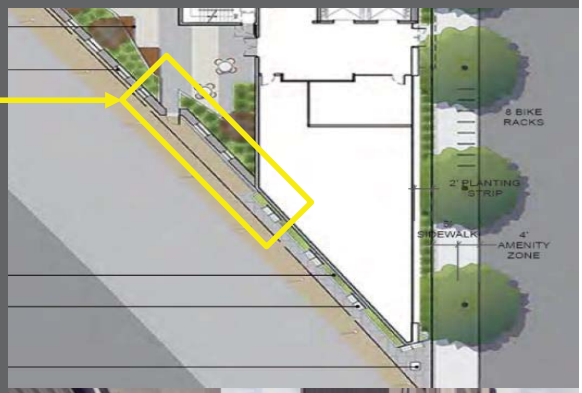
Response: The project team has amended the site plan to provide the open space shortfall with 123 square feet located on the Greenway side of the facade. While now meeting the spirit/intent of the SPAFBC requirements, the waiver for the dimensional requirement is supported for several reasons:

- Meeting the dimensional requirement will compromise the integrity of 12 units.
- DRB's request to refine the building's design for future residents.
- Better interface with San Pablo Avenue/Richmond Greenway improvements.
- Consideration of "defensible space" improvements, while allowing Richmond Greenway trail visibility.



Appeal Issue #8: The 5-story sound wall with glass opening is not a Tier II compliant structure

Polaris

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Response: Polaris South Façade is compliant with Tier II standards:

- Designed and architecturally integrated (at significant additional expense) as a façade and not as a simple sound barrier.
- Includes high transparency, which meets the requirements of the SPA FBC.
- Only 53' high where 85' is otherwise allowed for a qualifying affordable housing project subject to State Density Bonus Law.
- Consistent with the SPA FBC requirements as described previously in this letter.

Polaris

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RECEIVED
AT THE MEETING OF
JUN 18 2019
CITY OF EL CERRITO
CITY CLERK

ACA-1 Local government financing: affordable housing and public infrastructure: voter approval. (2019-2020)

SHARE THIS:

REVISED MAY 16, 2019

AMENDED IN ASSEMBLY MARCH 18, 2019

CALIFORNIA LEGISLATURE— 2019–2020 REGULAR SESSION

ASSEMBLY CONSTITUTIONAL AMENDMENT No. 1

Introduced by Assembly Member Aguiar-Curry
(Principal coauthor: Assembly Member Chiu)
(Principal coauthor: Senator Wiener)
(Coauthors: Assembly Members ~~Chiu,~~ *Berman, Bloom, Bonta, Burke, Cooper,* Eggman, *Frazier,* Eduardo Garcia, *Gipson,* Gloria, *Gonzalez, Grayson, Holden, Jones-Sawyer, Kalra, Levine, Low,* McCarty, Mullin, *Nazarian, Quirk, Luz Rivas, Robert Rivas, Blanca Rubio,* Santiago, ~~and Ting~~ *Mark Stone, Ting, Weber, Wicks, Wood, and Chu*)
(Coauthors: Senators Beall, Hill, and Skinner)

December 03, 2018

A resolution to propose to the people of the State of California an amendment to the Constitution of the State, by amending Sections 1 and 4 of Article XIII A thereof, by amending Section 2 of, and by adding Section 2.5 to, Article XIII C thereof, by amending Section 3 of Article XIII D thereof, and by amending Section 18 of Article XVI thereof, relating to local finance.

LEGISLATIVE COUNSEL'S DIGEST

ACA 1, as amended, Aguiar-Curry. Local government financing: affordable housing and public infrastructure: voter approval.

(1) The California Constitution prohibits the ad valorem tax rate on real property from exceeding 1% of the full cash value of the property, subject to certain exceptions.

This measure would create an additional exception to the 1% limit that would authorize a city, county, ~~or city and county~~ *city and county, or special district* to levy an ad valorem tax to service bonded indebtedness

incurred to fund the construction, reconstruction, rehabilitation, or replacement of public~~ infrastructure or~~ *infrastructure,* affordable housing, *or permanent supportive housing, or the acquisition or lease of real property for those purposes,* if the proposition proposing that tax is approved by 55% of the voters of the city, county, or city and county, as applicable, and the proposition includes specified accountability requirements. *The measure would specify that these provisions apply to any city, county, city and county, or special district measure imposing an ad valorem tax to pay the interest and redemption charges on bonded indebtedness for these purposes that is submitted at the same election as this measure.*

(2) The California Constitution conditions the imposition of a special tax by a local government upon the approval of 2/3 of the voters of the local government voting on that tax, and prohibits these entities from imposing an ad valorem tax on real property or a transactions or sales tax on the sale of real property.

This measure would authorize a local government to impose, extend, or increase a sales and use tax or transactions and use tax imposed in accordance with specified law or a parcel tax, as defined, for the purposes of funding the construction, rehabilitation, or replacement of public~~ infrastructure or~~ *infrastructure,* affordable housing, *or permanent supportive housing* if the proposition proposing that tax is approved by 55% of its voters voting on the proposition and the proposition includes specified accountability requirements. This measure would also make conforming changes to related provisions. *The measure would specify that these provisions apply to any local measure imposing, extending, or increasing a sales and use tax, transactions and use tax, or parcel tax for these purposes that is submitted at the same election as this measure.*

(3) The California Constitution prohibits specified local government agencies from incurring any indebtedness exceeding in any year the income and revenue provided in that year, without the assent of 2/3 of the voters and subject to other conditions. In the case of a school district, community college district, or county office of education, the California Constitution permits a proposition for the incurrence of indebtedness in the form of general obligation bonds for the construction, reconstruction, rehabilitation, or replacement of school facilities, including the furnishing and equipping of school facilities, or the acquisition or lease of real property for school facilities, to be adopted upon the approval of 55% of the voters of the district or county, as appropriate, voting on the proposition at an election.

This measure would *expressly prohibit a special district, other than a board of education or school district, from incurring any indebtedness or liability exceeding any applicable statutory limit, as prescribed by the statutes governing the special district. The measure would also* similarly~~ lower to 55% the voter approval threshold for a~~ *require the approval of 55% of the voters of the* city, county,~~ or city and county~~ *city and county, or special district, as applicable,* to incur bonded indebtedness, exceeding in any year the income and revenue provided in that year, that is in the form of general obligation bonds issued to fund the construction, reconstruction, rehabilitation, or replacement of public~~ infrastructure or~~ *infrastructure,* affordable~~ housing~~ *housing, or permanent supportive housing* projects, if the proposition proposing that bond includes specified accountability requirements. *The measure would specify that this 55% threshold applies to any proposition for the incurrence of indebtedness by a city, county, city and county, or special district for these purposes that is submitted at the same election as this measure.*

Vote: 2/3 Appropriation: no Fiscal Committee: no Local Program: no

Resolved by the Assembly, the Senate concurring, That the Legislature of the State of California at its~~ 2017-18~~ *2019-20* Regular Session commencing on the~~ fifth~~ *third* day of December~~ 2016,~~ *2018,* two-thirds of the membership of each house concurring, hereby proposes to the people of the State of California, that the Constitution of the State be amended as follows:

First— That Section 1 of Article XIII A thereof is amended to read:

SECTION 1. (a) The maximum amount of any ad valorem tax on real property shall not exceed 1 percent of the full cash value of that property. The 1 percent tax shall be collected by the counties and apportioned according to law to the districts within the counties.

(b) The limitation provided for in subdivision (a) shall not apply to ad valorem taxes or special assessments to pay the interest and redemption charges on any of the following:

(1) Indebtedness approved by the voters before July 1, 1978.

(2) Bonded indebtedness to fund the acquisition or improvement of real property approved on or after July 1, 1978, by two-thirds of the votes cast by the voters voting on the proposition.

(3) Bonded indebtedness incurred by a school district, community college district, or county office of education for the construction, reconstruction, rehabilitation, or replacement of school facilities, including the furnishing and equipping of school facilities, or the acquisition or lease of real property for school facilities, approved by 55 percent of the voters of the district or county, as appropriate, voting on the proposition on or after November 8, 2000. This paragraph shall apply only if the proposition approved by the voters and resulting in the bonded indebtedness includes all of the following accountability requirements:

(A) A requirement that the proceeds from the sale of the bonds be used only for the purposes specified in this paragraph, and not for any other purpose, including teacher and administrator salaries and other school operating expenses.

(B) A list of the specific school facilities projects to be funded and certification that the school district board, community college board, or county office of education has evaluated safety, class size reduction, and information technology needs in developing that list.

(C) A requirement that the school district board, community college board, or county office of education conduct an annual, independent performance audit to ensure that the funds have been expended only on the specific projects listed.

(D) A requirement that the school district board, community college board, or county office of education conduct an annual, independent financial audit of the proceeds from the sale of the bonds until all of those proceeds have been expended for the school facilities projects.

(4) (A) Bonded indebtedness incurred by a city, county, ~~or city and county~~ *city and county, or special district* for the construction, reconstruction, rehabilitation, or replacement of public ~~infrastructure or~~ *infrastructure,* affordable housing, *or permanent supportive housing for persons at risk of chronic homelessness, including persons with mental illness,* or the acquisition or lease of real property for public ~~infrastructure or~~ *infrastructure,* affordable housing, *or permanent supportive housing for persons at risk of chronic homelessness, including persons with mental illness,* approved by 55 percent of the voters of the city, county, ~~or city and county~~ *city and county, or special district,* as appropriate, voting on the proposition on or after the effective date of the measure adding this paragraph. This paragraph shall apply only if the proposition approved by the voters and resulting in the bonded indebtedness includes all of the following accountability requirements:

(i) A requirement that the proceeds from the sale of the bonds be used only for the purposes specified in this paragraph, and not for any other purpose, including city, county, ~~or city and county~~ *city and county, or special district* employee salaries and other operating expenses.

(ii) A list of the specific projects to be funded, and a certification that the city, county, ~~or city and county~~ *city and county, or special district* has evaluated alternative funding sources.

(iii) A requirement that the city, county, ~~or city and county~~ *city and county, or special district* conduct an annual, independent performance audit to ensure that the funds have been expended only on the specific projects listed.

(iv) A requirement that the city, county, ~~or city and county~~ *city and county, or special district* conduct an annual, independent financial audit of the proceeds from the sale of the bonds until all of those proceeds have been expended for the public infrastructure or affordable housing projects, as applicable.

(v) A requirement that the city, county, ~~or city and county~~ *city and county, or special district* post the audits required by clauses (iii) and (iv) in a manner that is easily accessible to the public.

(vi) A requirement that the city, county, ~~or city and county~~ *city and county, or special district* appoint a citizens' oversight committee to ensure that bond proceeds are expended only for the purposes described in the measure approved by the voters.

(B) For purposes of this ~~paragraph, "affordable~~ *paragraph:*

(i) "Affordable housing" shall include housing developments, or portions of housing developments, that provide

workforce housing affordable to households earning up to 150 percent of countywide median income, and housing developments, or portions of housing developments, that provide housing affordable to lower, low-, or very low income households, as those terms are defined in state law.

(ii) "At risk of chronic homelessness" includes, but is not limited to, persons who are at high risk of long-term or intermittent homelessness, including persons with mental illness exiting institutionalized settings, including, but not limited to, jail and mental health facilities, who were homeless prior to admission, transition age youth experiencing homelessness or with significant barriers to housing stability, and others, as defined in program guidelines.

(iii) "Permanent supportive housing" means housing with no limit on length of stay, that is occupied by the target population, and that is linked to onsite or offsite services that assist residents in retaining the housing, improving their health status, and maximizing their ability to live and, when possible, work in the community. "Permanent supportive housing" includes associated facilities, if those facilities are used to provide services to housing residents.

~~(C)For purposes of this paragraph, "public~~

(iv) "Public infrastructure" shall include, but is not limited to, projects that provide any of the following:

~~(i)~~

(I) Water or protect water quality.

~~(ii)~~

(II) Sanitary sewer.

~~(iii)~~

(III) Treatment of wastewater or reduction of pollution from stormwater runoff.

~~(iv)~~

(IV) Protection of property from impacts of sea level rise.

~~(v)Parks.~~

(V) Parks and recreation facilities.

~~(vi)~~

(VI) Open ~~space and recreation facilities.~~ *space.*

~~(vii)~~

(VII) Improvements to transit and streets and highways.

~~(viii)~~

(VIII) Flood control.

~~(ix)~~

(IX) Broadband ~~Internet~~ *internet* access service expansion in underserved areas.

~~(x)~~

(X) Local hospital construction.

(XI) Public safety buildings or facilities, equipment related to fire suppression, emergency response equipment, or interoperable communications equipment for direct and exclusive use by fire, emergency response, policy or sheriff personnel.

(XII) Public library facilities.

(v) "Special district" has the same meaning as provided in subdivision (c) of Section 1 of Article XIII C and specifically includes a transit district, except that "special district" does not include a school district, redevelopment agency, or successor agency to a dissolved redevelopment agency.

(C) This paragraph shall apply to any city, county, city and county, or special district measure imposing an ad valorem tax to pay the interest and redemption charges on bonded indebtedness for those purposes described in this paragraph that is submitted at the same election as the measure adding this paragraph.

(c) (1) Notwithstanding any other provisions of law or of this Constitution, a school district, community college district, or county office of education may levy a ~~55 percent~~ *55-percent* vote ad valorem tax pursuant to paragraph (3) of subdivision (b).

(2) Notwithstanding any other provisions of law or this Constitution, a city, county, ~~or city and county~~ *city and county, or special district* may levy a ~~55 percent~~ *55-percent vote* ad valorem tax pursuant to paragraph (4) of subdivision (b).

~~Second—That Section 4 of Article XIII A thereof is amended to read:~~

~~SEC. 4.Except as provided by Section 2.5 of Article XIII C, a city, county, or special district, by a two-thirds vote of its voters voting on the proposition, may impose a special tax within that city, county, or special district, except an ad valorem tax on real property or a transactions tax or sales tax on the sale of real property within that city, county, or special district.~~

Second— *That Section 4 of Article XIII A thereof is amended to read:*

~~Section 4.~~*SEC. 4.* ~~Cities, Counties and special districts,~~ *Except as provided by Section 2.5 of Article XIII C, a city, county, or special district,* by a two-thirds vote of ~~the qualified electors of such district,~~ *its voters voting on the proposition,* may impose ~~special taxes on such district,~~ *a special tax within that city, county, or special district,* except *an* ad valorem ~~taxes~~ *tax* on real property or a ~~transaction~~ *transactions* tax or sales tax on the sale of real property within ~~such City, County~~ *that city, county,* or special district.

Third— That Section 2 of Article XIII C thereof is amended to read:

SEC. 2. Notwithstanding any other provision of this Constitution:

(a) Any tax imposed by a local government is either a general tax or a special tax. A special district or agency, including a school district, has no authority to levy a general tax.

(b) A local government may not impose, extend, or increase any general tax unless and until that tax is submitted to the electorate and approved by a majority vote. A general tax is not deemed to have been increased if it is imposed at a rate not higher than the maximum rate so approved. The election required by this subdivision shall be consolidated with a regularly scheduled general election for members of the governing body of the local government, except in cases of emergency declared by a unanimous vote of the governing body.

(c) Any general tax imposed, extended, or increased, without voter approval, by any local government on or after January 1, 1995, and before the effective date of this article, may continue to be imposed only if that general tax is approved by a majority vote of the voters voting in an election on the issue of the imposition, which election shall be held no later than November 6, 1996, and in compliance with subdivision (b).

(d) Except as provided by Section 2.5, a local government may not impose, extend, or increase any special tax unless and until that tax is submitted to the electorate and approved by a two-thirds vote. A special tax is not deemed to have been increased if it is imposed at a rate not higher than the maximum rate so approved.

Fourth— That Section 2.5 is added to Article XIII C thereof, to read:

SEC. 2.5. (a) The imposition, extension, or increase of a sales and use tax imposed in accordance with the Bradley-Burns Uniform Local Sales and Use Tax Law (Part 1.5 (commencing with Section 7200) of Division 2 of the Revenue and Taxation Code) or a successor law, a transactions and use tax imposed in accordance with the Transactions and Use Tax Law (Part 1.6 (commencing with Section 7251) of Division 2 of the Revenue and

Taxation Code) or a successor law, or a parcel tax imposed by a local government for the purpose of funding the construction, reconstruction, rehabilitation, or replacement of public ~~infrastructure or~~ *infrastructure,* affordable housing, *or permanent supportive housing for persons at risk of chronic homelessness, including persons with mental illness,* or the acquisition or lease of real property for public ~~infrastructure or~~ *infrastructure,* affordable housing, *or permanent supportive housing for persons at risk of chronic homelessness, including persons with mental illness,* is subject to approval by 55 percent of the voters in the local government voting on the proposition, if both of the following conditions are met:

(1) The proposition is approved by a majority vote of the membership of the governing board of the local government.

(2) The proposition contains all of the following accountability requirements:

(A) A requirement that the proceeds of the tax only be used for the purposes specified in the proposition, and not for any other purpose, including general employee salaries and other operating expenses of the local government.

(B) A list of the specific projects that are to be funded by the tax, and a certification that the local government has evaluated alternative funding sources.

(C) A requirement that the local government conduct an annual, independent performance audit to ensure that the proceeds of the special tax have been expended only on the specific projects listed in the proposition.

(D) A requirement that the local government conduct an annual, independent financial audit of the proceeds from the tax during the lifetime of that tax.

(E) A requirement that the local government post the audits required by subparagraphs (C) and (D) in a manner that is easily accessible to the public.

(F) A requirement that the local government appoint a citizens' oversight committee to ensure the proceeds of the special tax are expended only for the purposes described in the measure approved by the voters.

(b) For purposes of this section, the following terms have the following meanings:

(1) "Affordable housing" shall include housing developments, or portions of housing developments, that provide workforce housing affordable to households earning up to 150 percent of countywide median income, and housing developments, or portions of housing developments, that provide housing affordable to lower, low-, or very low income households, as those terms are defined in state law.

(2) "At risk of chronic homelessness" includes, but is not limited to, persons who are at high risk of long-term or intermittent homelessness, including persons with mental illness exiting institutionalized settings, including, but not limited to, jail and mental health facilities, who were homeless prior to admission, transition age youth experiencing homelessness or with significant barriers to housing stability, and others, as defined in program guidelines.

~~(2)~~

(3) "Parcel tax" means a special tax imposed upon a parcel of real property at a rate that is determined without regard to that property's value and that applies uniformly to all taxpayers or all real property within the jurisdiction of the local government. "Parcel tax" does not include a tax imposed on a particular class of property or taxpayers.

(4) "Permanent supportive housing" means housing with no limit on length of stay, that is occupied by the target population, and that is linked to onsite or offsite services that assist residents in retaining the housing, improving their health status, and maximizing their ability to live and, when possible, work in the community. "Permanent supportive housing" includes associated facilities, if those facilities are used to provide services to housing residents.

~~(3)~~

(5) "Public infrastructure" shall include, but is not limited to, the projects that provide any of the following:

(A) Water or protect water quality.

(B) Sanitary sewer.

(C) Treatment of wastewater or reduction of pollution from stormwater runoff.

(D) Protection of property from impacts of sea level rise.

~~(E)Parks.~~

(E) Parks and recreation facilities.

(F) Open~~ space and recreation facilities.~~ *space.*

(G) Improvements to transit and streets and highways.

(H) Flood control.

(I) Broadband~~ Internet~~ *internet* access service expansion in underserved areas.

(J) Local hospital construction.

(K) Public safety buildings or facilities, equipment related to fire suppression, emergency response equipment, or interoperable communications equipment for direct and exclusive use by fire, emergency response, policy or sheriff personnel.

(L) Public library facilities.

(c) This section shall apply to any local measure imposing, extending, or increasing a sales and use tax imposed pursuant to the Bradley-Burns Uniform Local Sales and Use Tax Law, a transactions and use tax imposed in accordance with the Transactions and Use Tax Law, or a parcel tax imposed by a local government for those purposes described in subdivision (a) that is submitted at the same election as the measure adding this section.

Fifth— That Section 3 of Article XIII D thereof is amended to read:

SEC. 3. (a) An agency shall not assess a tax, assessment, fee, or charge upon any parcel of property or upon any person as an incident of property ownership except:

(1) The ad valorem property tax imposed pursuant to Article XIII and Article XIII A.

(2) Any special tax receiving a two-thirds vote pursuant to Section 4 of Article XIII A or *receiving a 55-percent approval pursuant to* Section 2.5 of Article XIII C.

(3) Assessments as provided by this article.

(4) Fees or charges for property-related services as provided by this article.

(b) For purposes of this article, fees for the provision of electrical or gas service are not deemed charges or fees imposed as an incident of property ownership.

Sixth— That Section 18 of Article XVI thereof is amended to read:

SEC. 18. (a) A county, city, town, township, board of education, or school district, shall not incur any indebtedness or liability in any manner or for any purpose exceeding in any year the income and revenue provided for that year, without the assent of two-thirds of the voters of the public entity voting at an election to be held for that purpose, except that with respect to any such public entity~~ which~~ *that* is authorized to incur indebtedness for public school purposes, any proposition for the incurrence of indebtedness in the form of general obligation bonds for the purpose of repairing,~~ reconstructing~~ *reconstructing,* or replacing public school buildings determined, in the manner prescribed by law, to be structurally unsafe for school use, shall be adopted upon the approval of a majority of the voters of the public entity voting on the proposition at~~ such~~ *the* election; nor unless before or at the time of incurring such indebtedness provision shall be made for the collection of an annual tax sufficient to pay the interest on such indebtedness as it falls due, and to provide for a sinking fund for the payment of the principal thereof, on or before maturity, which shall not exceed forty years from the time of contracting the indebtedness. *A special district, other than a board of education or*

Assemblymember Cecilia Aguiar-Curry, 4th Assembly District

ACA 1 – 55% Vote for Local Affordable Housing and Public Infrastructure

RECEIVED
AT THE MEETING OF
JUN 18 2018
CITY OF EL CERRITO
CITY CLERK

Assembly Coauthors: *Chiu (PC), Berman, Bloom, Bonta, Burke, Chu, Cooper, Eggman, Frazier, Eduardo Garcia, Gipson, Gloria, Gonzalez, Grayson, Holden, Jones-Sawyer, Kalra, Levine, Limón, McCarty, Mullin, Nazarian, Quirk, Luz Rivas, Robert Rivas, Blanca Rubio, Santiago, Stone, Ting, Weber, Wicks, Wood*
Senate Coauthors: *Wiener (PC), Beall, Hill, Skinner*

SUMMARY
ACA 1 will lower the necessary voter threshold from a two-thirds supermajority to 55 percent to approve local general obligation (GO) bonds and special taxes for affordable housing and public infrastructure projects.

ACA 1 is targeted to the urgent needs of local communities. This measure gives local governments a more realistic financing option to fund an increase in the supply of affordable housing, and to address the numerous local public infrastructure challenges cities, counties, and special districts are facing.

BACKGROUND
The California Constitution requires a two-thirds vote at the local level for both GO bonds and special taxes.

However, local school districts must only achieve 55 percent voter approval for school bonds to fund construction, reconstruction, rehabilitation, replacement of school facilities, furnishing of schools, or the acquisition or lease of real property.

From 2001 to 2013, over 2,200 local revenue measures have been placed before voters concerning school, city, county, or special district taxes or bonds. Majority vote tax measures have proven to be much more likely to pass, while just half of two-thirds vote measures succeeded. School bonds with a 55 percent have been the most successful, with four out of every five passing. In contrast, just half of two-thirds vote measures succeeded. A 55 percent voter threshold for special taxes would have made a dramatic difference. Nearly 80 percent of all two-thirds supermajority measures garnered more than 55 percent of "yes" votes.

1) AFFORDABLE HOUSING NEED
According to the Department of Housing & Community Development (HCD), in the last 10 years California has built an average of 80,000 homes per year, while the need to keep up with the housing need is approximately 180,000 homes per year. There is a shortfall of over one million rental homes affordable to extremely low and very low-income households.

2) LACK OF FUNDING FOR PUBLIC INFRASTRUCTURE
Cities, counties, and special districts face numerous challenges in securing funding for important local public infrastructure projects, including:

Water. Much of the state's water supply, wastewater, and flood control infrastructure is aging. Rebuilding typically requires costly upgrades to meet increasingly high standards for water quality and infrastructure safety. In the last few decades, new mandates on managing stormwater runoff and climate change have added increased costs and heightened levels of management complexity. The water sector has historically relied heavily on locally generated revenues, which means that Proposition 13 (1978), Proposition 218 (1996), and Proposition 26 (2010), have made it increasingly difficult for local agencies to raise funds.

Parks and Recreation. According to the Statewide Comprehensive Outdoor Plan of 2015, 62 percent of Californians live in areas with less than 3 acres of parkland per 1,000 residents (the recognized standard for adequate parks). Additionally, 9 million people do not have a park within a half mile of their home.

Other Local Needs. Our local governments across the state know best what specific priorities matter most in their communities. For some, funding the costs of a new library or other public building is a means to create local engagement and encourage learning. For others, funding the expansion of broadband is a concern that can seem financially impossible. Strained public safety and emergency response resources in many regions could also benefit from much needed investment. Plus, with discussions underway in Washington D.C. about a possible federal infrastructure initiative, the ability to provide matching-dollars for federal grants is critical to being competitive for new grants.

3) IMPACT OF TWO-THIRDS VOTER REQUIREMENT
The California Constitution limits the opportunity for communities to decide to tax themselves to provide funding for local projects that meet goals and laws approved by the majority. One-third of local voters have the power to overrule fiscal decisions.

THIS BILL:

ACA 1 will lower the constitutional vote threshold to 55 percent for both GO bonds and special taxes, when proposed specifically for the construction, reconstruction, rehabilitation, or replacement of public infrastructure, affordable housing, or supportive housing. The bill will also specify requirements for voter protection, public notice, and financial accountability.

In practice, local officials propose a local bond or special tax, and then the voters in that community decide whether they support the idea or not. The voters would still need to overwhelmingly (with 55 percent of the vote) support a bond or special tax in order for it to be approved. ACA 1 will level the playing field and create parity between school districts and cities, counties, and special districts, so that all local governments have a viable financing tool to address community needs.

ACA 1 defines "public infrastructure" to include:

- Projects to provide water or protect water quality, sanitary sewer, treat wastewater or reduce pollution from storm water runoff;
- Protect property from impacts of sea level rise;
- Public buildings, including fire and police facilities;
- Parks, open space, and recreation facilities;
- Improvements to transit and streets and highways;
- Flood control;
- Public library facilities;
- Broadband expansion in underserved areas;
- Local hospital construction;
- Public safety buildings, facilities, and equipment;
- Public library facilities.

ACA 1 defines "affordable housing" and "supportive housing" to include:

- Housing developments that provide workforce housing affordable to households earning up to 150% of countywide median income;
- Housing developments that provide housing affordable to lower, low, or very low-income households, as those terms are defined in state law;
- Targeted housing that is linked to services that assist residents in retaining the housing, improving their health status, and maximizing their ability to live and, when possible, work in the community.

This bill proposes an amendment to the California Constitution, which means that if passed by the Legislature, the proposal would then go to the ballot for voter approval during the next statewide election.

SUPPORT:

California Professional Firefighters (cosponsor)
Housing California (cosponsor)
State Building and Construction Trades Council (cosponsor)
California Labor Federation (cosponsor)
Alpine Village-Sequoia Crest Community Services District
American Planning Association California
Association of Bay Area Governments
Association of California Healthcare Districts
Bay Area Council
Bay Area Housing Advocacy Coalition
Bear Valley Community Services District
Beaumont Library District
Beaumont-Cherry Valley Water District
Brooktrails Township Community Services District
Burbank Housing
California Apartment Association
California Association of Council of Governments
California Association of Housing Authorities (CAHA)
California Association of Nonprofits
California Association of Recreation & Park Districts
California Association of Sanitation Agencies
California Coalition for Rural Housing
California Contract Cities
California Fire Chiefs Association
California Housing Consortium
California Housing Partnership
California Library Association
California Library Services Board
California Nurses Association
California Park & Recreation Society
California Rural Legal Assistance Foundation (CRLAF)
California Special Districts Association
California State Association of Counties (CSAC)
California State Association of Electrical Workers
California State Council of Laborers
California State Pipe Trades Council
California Transit Association
California State Treasurer, Fiona Ma
Cameron Park Community Services District
Chicano Federation of San Diego County
Chico Area Recreation and Park District
Chino Valley Fire District
Cities Association of Santa Clara
City of Alameda
City of Albany
City of Arvin
City of Burbank
City of Camarillo
City of Ceres
City of Chowchilla
City of Davis
City of East Palo Alto
City of Emeryville
City of Goleta
City of Gustine
City of Hayward

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SUPPORT (continued)
City of Laguna Beach
City of Lathrop
City of Lodi
City of Long Beach
City of Manteca
City of Marin
City of Merced
City of Milpitas
City of Moorpark
City of Napa
City of Novato
City of Oakland
City of Oceanside
City of Placentia
City of Ripon
City of Riverbank
City of Sacramento
City of San Luis Obispo
City of Santa Monica
City of Stockton
City of Ventura
City of Walnut Creek
City of West Hollywood
City/County Association of Governments of San Mateo County
Coalition for a New Community Library and Resource Center
Conejo Recreation District
County Mono
County of Marin
County of Monterey
County of Napa
County of Santa Clara
County of Solano
County of Sonoma
County of Yolo
Crestline Sanitation District
Cucamonga Valley Water District
Desert Recreation District
EAH Housing
East Bay for Everyone
East Bay Housing Organizations
East Bay Municipal Utilities District
East Bay Regional Park District
East Contra Costa Fire Protection District
Eden Housing
Environmental Defense Fund
Eric Garcetti, Mayor, City of Los Angeles
Fallbrook Public Utility District
Fallbrook Regional Health District
Feather River Recreation and Park District
Fire Districts Association of California
Foundation for Monterey County Free Libraries
Fresno Mosquito and Vector Control District
Fulton-El Camino Recreation and Park District
Goleta West Sanitary District
Greater Merced Chamber of Commerce
Habitat for Humanity East Bay/Silicon Valley
Hayward Area Recreation and Park District
International Union of Elevator Constructors
International Union of Operating Engineers
League of California Cities
League of Women Voters of California
Los Angeles County Metropolitan Transportation Authority
Marin County Transit District
Marin County Council of Mayors and Councilmembers
Metropolitan Transportation Commission
Midpeninsula Regional Open Space District
MuniServices
Non-Profit Housing Association of Northern California
North Bay Leadership Council
North County Fire Protection District
North Tahoe Fire Protection District
Oceano Community Services District
Olivenhain Municipal Water District
Orange County Cemetery District
Palomar Health
Palos Verdes Library District
Pleasant Valley Recreation and Park District
Professional Engineers in California Government (PECG)
Salinas Valley Memorial Healthcare System
San Diego City Council President, Georgette Gómez
San Diego Habitat for Humanity
San Joaquin County Hispanic Chamber of Commerce
San Mateo County Transit District (SamTrans)
San Ramon Valley Fire Protection District
Santa Clara Valley Water District
Santa Ynez Community Services District
Shafter Parks and Recreation District
Silicon Valley @ Home
Silicon Valley Leadership Group
Solano Irrigation District
Solano Transportation Authority
South Coast Water District
Southern California Association of NonProfit Housing
SPUR (San Francisco Bay Area Planning and Urban Research Association)
Rural County Representatives of California (RCRC)
Stege Sanitary District
The Two Hundred
Town of Discovery Bay Community Services District
Town of Yountville
United Contractors
Urban Counties of California
Ventura Council of Governments
Western Center on Law and Poverty
Western States Council Sheet Metal, Air, Rail, and Transportation

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