

ORDINANCE 2023-###

**AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF SAN PABLO
AMENDING SAN PABLO ZONING ORDINANCE CHAPTER 17.38, OVERLAY AND
SPECIAL DISTRICTS, TO ADD A NEW SECTION 17.38.090, DESIGNATED
HOUSING ELEMENT SITES (HE)**

The City Council of the City of San Pablo does ordain as follows:

Section 1. The City Council makes the following findings, pursuant to Section 17.22.040 of the San Pablo Municipal Code:

- A. As required by California law, the City of San Pablo is preparing an update to its Housing Element to reflect the current Regional Housing Needs Allocation (RHNA) cycle of 2023-2031.
- B. One of the programs required by the California Department of Housing and Community Development for the updated Housing Element is to complete an amendment to the San Pablo Zoning Ordinance to clarify that certain housing sites identified in the current and prior versions of the Housing Element are subject to by-right approval without discretionary action when the projects include housing developments with 20 percent or more of the units designated as affordable to lower-income households, consistent with Government Code Sections 65583.2(h) and (i).
- C. The subject sites addressed by this amendment include the following properties: 2405 Church Lane (APN 411-340-026); 14560 San Pablo Avenue (APN 416-170-005); unaddressed landlocked parcel behind 3426 San Pablo Dam Road (APN 420-130-020); 3426 San Pablo Dam Road (APN 420-130-024); and 3440 San Pablo Dam Road (APN 420-130-025).
- D. The amendment would add a new Overlay District entitled Designated Housing Element Sites (HE) as a new section 17.38.090 to Chapter 17.38, Overlay and Special Districts.
- E. A duly noticed public hearing was held by the Planning Commission on November 28, 2023 to consider this amendment to the Zoning Ordinance of the City of San Pablo codified and the Planning Commission recommended its approval by the San Pablo City Council by Resolution PC23-15.
- F. A duly noticed public hearing was held by the City Council on December 18, 2023 to consider this amendment to the Zoning Ordinance of the City of San Pablo codified as Title 17 of the San Pablo Municipal Code.
- G. This Ordinance is consistent with the following City of San Pablo General Plan Policies for Land Use and Housing:

LU-G-5 Promote a variety of housing types and prices within neighborhoods to serve the economic needs of all segments of the community.

Goal H-3: Affordability and the Adequate Provision of Housing

Provide a diversity of housing types to meet the needs of all economic segments and family types in San Pablo.

Policy H-3.1 Affordable Housing

Affordable Housing. Continue to encourage and assist with the development of affordable housing units for lower income households and strive for the provision of housing that is affordable to, and meets the needs of, current and future residents of San Pablo.

Policy H-3.3 Housing Variety, Choice and Innovation:

Continue to encourage the provision of a variety of housing choices and types in the community, including innovative forms of housing.

- H. This Ordinance is consistent with the following purposes of the Zoning Ordinance in that it would help to reduce barriers to constructing affordable housing at specified qualifying locations within the City of San Pablo. By reducing barriers to construction of affordable housing at these specified sites, the City further ensures that a range of affordable housing options are available to all residents, building a stronger and healthier community:

Zoning Ordinance Section 17.01.020, Purpose, the purpose of the ordinance is to promote growth of the city in an orderly manner and to promote and protect the public health, safety, peace, comfort, and general welfare in conformance with the general plan.

Zoning Ordinance Section 17.32.010, Purpose, the ordinance helps to produce healthy, safe, and attractive neighborhoods in San Pablo, consistent with the policy direction in the San Pablo general plan

- I. The amendment is exempt from the California Environmental Quality Act (CEQA) because it is not a “project” pursuant CEQA Guidelines Section 15378(b)(5) because the proposed change to the Zoning Ordinance is an organizational or administrative activity that will not result in direct or indirect physical changes in the environment in that the amendment would not impact the type or intensity of use already allowed on the properties, but rather simply recognizes that there is

no discretionary permit or review required; and even if the amendment was considered to be a project, it would be exempt from environmental review pursuant to the “common sense exemption” per CEQA Guidelines Section 15061(b)(3) because it can be seen with certainty that there is no possibility that its adoption would have a significant effect on the environment because it does not allow any different uses or additional density than currently permitted.

Section 2. Chapter 17.38, Overlay and Special Districts, of the San Pablo Zoning Ordinance, is hereby amended to add a new Section to be entitled 17.38.090, Designated Housing Element Sites (HE) Overlay, to read as follows:

17.38.090 Designated Housing Element Sites (HE) Overlay

A. Purpose. The purpose of the Designated Housing Element Sites (HE) overlay district is to establish the maximum density requirements and ministerial review rights for certain properties that are designated for lower income housing pursuant to California Housing Law as part of the City’s Housing Element, consistent with Government Code Sections 65583.2 (h) and (i).

B. Designation of HE Overlay Sites. The HE Overlay is applied to the following parcels that have been identified in the 2008-2015, 2015-2023, and/or 2023-2031 Housing Elements as potential sites for lower income housing:

1. 2405 Church Lane (APN 411-340-026)
2. 14560 San Pablo Avenue (APN 416-170-005)
3. Unaddressed landlocked parcel behind 3426 San Pablo Dam Road (APN 420-130-020)
4. 3426 San Pablo Dam Road (APN 420-130-024)
5. 3440 San Pablo Dam Road (APN 420-130-025)

C. Allowed Uses.

1. Permitted uses. Permitted uses on HE Overlay sites are as indicated in Table of Use for the underlying zones of the properties. (Table 2-2 of the San Pablo Avenue Specific Plan for the SP-2 properties and Table 17.32.A of the Zoning Ordinance for the remaining properties).

2. By-Right Approval for Lower Income Residential Projects. Development projects on properties in the HE Overlay which provide 20 percent or more of the units affordable to lower-income households shall only be subject to Minor Design Review under Section 17.18.010. The Zoning Administrator shall approve a Minor Design Review permit upon making a finding that the project complies with all applicable objective provisions of the zoning ordinance, municipal code, general plan, and any applicable specific plans or city

regulations/standards. No other findings required by Section 17.18.010 or any discretionary approvals, including a conditional use permit, shall be required.

D. Development Standards.

1. The development standards for the properties in the HE Overlay are the same as those required for the underlying zoning designation (i.e. those development standards set forth in Table 4-1, Development Standards by Land Use in the San Pablo Avenue Specific Plan for the properties with an underlying SP-2 designation, and those development standards set forth in Division IV of this Code for the properties that are not within the SP-2 district).
2. In no case shall the development standards, including those for height or lot coverage, allow for less than 30 dwelling units per acre on the properties designated HE Overlay when proposed for housing development with 20 percent or more of the units affordable to lower-income households.

Section 3. Severability.

Where any section, subsection, sentence, clause, or phrase of these regulations is, for any reason, declared by the courts to be unconstitutional or invalid, such decision shall not affect the validity of the regulations as a whole, or any part thereof, other than the part so declared.

Section 4. Effective Date and Publication.

This Ordinance shall become effective thirty (30) days following its adoption. The City Clerk’s Office shall publish and post the Ordinance in accordance with California Government Code section 36933.

* * * * *

First introduced at a regular meeting of the City Council of the City of San Pablo on December 18, 2023, and finally passed and adopted at a regular meeting of the City Council held on _____, by the following vote:

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

ATTEST:

APPROVED:

Dorothy Gantt, City Clerk

Patricia Ponce, Mayor