

## **RESOLUTION 2021-126**

**RESOLUTION OF THE CITY COUNCIL OF THE CITY OF SAN PABLO APPROVING MAJOR DESIGN REVIEW; CONDITIONAL USE PERMIT; VARIANCE TO ALLOW A REDUCED CREEK SETBACK; MAJOR EXCEPTIONS FROM THE MIXED USE CENTER SOUTH REGULATING PLAN TO ALLOW A DETACHED SINGLE-FAMILY BUILDING STYLE AND REDUCED SETBACKS FROM THE WILDCAT CREEK TRAIL; AND A VESTING TENTATIVE MAP FOR A 20-LOT TOWNHOUSE STYLE SINGLE-FAMILY RESIDENTIAL DEVELOPMENT (INCLUDING EIGHT ACCESSORY DWELLING UNITS) IN THE SP-2 MIXED USE CENTER SOUTH DISTRICT AT 2812 CHATTLETON LANE, SAN PABLO (APN 417-310-004)**

WHEREAS, the project site at 2812 Chattleton Lane (designated as “Block E” in the Mixed Use Center South Regulating Code and referred to as “project site” in this Resolution) consists of a vacant parcel located in the Mixed Use Center South District of the San Pablo Avenue Specific Plan (SP-2) area with a General Plan land use designation of Mixed Use Center; and

WHEREAS, the 42,008-square foot project site extends alongside and adjacent to a portion of the east bank of Wildcat Creek and the Wildcat Creek Trail; and

WHEREAS, the project site is currently owned by the City of San Pablo and is proposed to be developed with at least 16 for-sale single-family homes with potential for accessory dwelling units and one home to be deed-restricted for sale to a lower-income household, under the terms of a Disposition and Development Agreement with BV Builders, Inc., doing business as Bay Valley Development, adopted by the City Council on August 3, 2020 by Resolution 2020-102 and amended on August 2, 2021, by Resolution 2021-102; and

WHEREAS, an application has been submitted by Karl Dumas of Dumas Real Estate, on behalf of the developer Bay Valley Development and with the consent of the owner, the City of San Pablo, on May 11, 2021 in PLAN2012-0011, for approval of a Major Design Review and Vesting Tentative Map of a 20-lot Townhouse-Style Single-Family Residential Development, including eight accessory dwelling units along with a Conditional Use Permit to allow construction within 50 feet of a creek or stream, a Variance to allow encroachments into the 30-foot setback from the top of a creek bank required by the San Pablo Avenue Specific Plan, and Major Exceptions from the Mixed Use Center South Regulating Code to allow a single-family detached residential land use pattern and to allow encroachments into the 30-foot setback from a creekway trail required by this code; and

WHEREAS, approval of the Vesting Tentative Map requires final approval by the City Council per section 16.04.050 of the Municipal Code and in accordance with section 17.16.070.B. of the Zoning Code, when a project requires more than one permit with more than one approving authority, all project permits shall be processed concurrently and final action shall be taken by the highest-level designated approving authority for all such requested permit because the Vesting Tentative Map requires final

approval by the City Council; and

WHEREAS, the proposed development is located within the San Pablo Avenue Specific Plan area and is required to conform to the Development Regulations of this plan and to consider its Design Guidelines; and

WHEREAS, the proposed development is located within the SP-2 Mixed Use Center South zoning district of the San Pablo Avenue Specific Plan, which is governed by the Mixed Use Center South Regulating Code; and

WHEREAS, the Mixed Use Center South Regulating Code allows for flexibility in its land use categories and in Major Exceptions to its requirements under Section 1.1.3; and

WHEREAS, in approving the Major Exceptions to the Mixed Use Center South Regulating Code, the City Council shall find that the applicant demonstrates that a clearly superior design solution would result, that the new solution is supportive of the intent of the Regulating Code's applicable regulations, that the exception will not result in conditions that adversely affect public health and/or safety, and that the exception will not detract from the peaceful enjoyment of residents or visitors; and

WHEREAS, the Zoning Code allows for variances to provide relief to applicants where practical difficulties, unnecessary hardships, and results inconsistent with the general purpose of the Zoning Code may result from the strict application of its provisions; and

WHEREAS, to approve a variance, the City Council shall make a finding of fact showing that there are exceptional or extraordinary conditions applying to the land referred to in the application, which circumstances or conditions do not apply generally to land and/or uses in the same district; that because of these exceptional or extraordinary circumstances or conditions, the strict application of the Zoning Code deprives the property of privileges enjoyed by other properties in the vicinity and within the same zoning district; that granting of the variance is necessary for the preservation and enjoyment of substantial property rights of the petitioner; that the granting of the variance will not, under the circumstances of the particular case, materially affect adversely the health or safety of persons residing or working in the neighborhood of the property of the applicant and will not, under the circumstances of the particular case, be materially detrimental to the public welfare or injurious to property or improvements in the neighborhood; and,

WHEREAS, Section 17.20.030(B) of the Zoning Code requires major design review for multiple-family residential development with five or more residences; and

WHEREAS, in approving the Major Design Review, the City Council shall determine that the project under consideration adequately meets the requirement of the applicable design guidelines; and

WHEREAS, section 17.32.030. B.2. of the Zoning Code requires a Use Permit for development within 50 feet of any stream to ensure that the development adequately avoids impacts to wetland features or woodlands, reduces impacts to the creek, and prevents degradation of riparian and wetland features from urban pollutants, pursuant to the relevant policies and actions related to creeks within the general plan; and

WHEREAS, to approve the Conditional Use Permit, the City Council shall make findings that the establishment, maintenance or operation of the proposed use will not, under the circumstances of the particular case, be detrimental to the health, safety, peace, morals, comfort and general welfare of persons residing or working in the neighborhood of such proposed use or be detrimental or injurious to property and improvements in the neighborhood or to the general welfare of the City; and

WHEREAS, the proposed development is required to prepare and have approved a Tentative Map under Chapter 16.04 of the San Pablo Municipal Code as it would involve the subdivision and development of a parcel into five or more individual lots; and

WHEREAS, to approve the Tentative Map, the City Council shall make findings that the proposed map is consistent with the general plan and any applicable specific plan or other adopted applicable plan; that the design or improvement of the subdivision is consistent with the general plan or any applicable specific plan; that the site is physically suitable for the type of development proposed; that neither the design of the subdivision nor any proposed improvement is likely to cause substantial environmental damage, or substantially and avoidably injure fish or wildlife or their habitat; that the design of the subdivision or improvement is not likely to cause significant public health problems; and that the design of the subdivision or improvements will not conflict with easements acquired by the public at large for access through or use of property within the proposed subdivision; and

WHEREAS, the potential environmental effects of development of the site have been previously evaluated in Environmental Impact Reports (EIRs) prepared for the San Pablo General Plan 2030 (adopted on April 18, 2011 by Resolution 2011-045) and San Pablo Avenue Specific Plan (adopted on September 19, 2011 by Resolution 2011-104), as well as in an Initial Study/Mitigated Negative Declaration (IS/MND) adopted by the City on October 17, 2011 (Resolution 2011-115) for the Mixed Use Center South Regulating Code and the City has prepared Addenda to the two EIRs and the IS/MND to identify the proposed land use of single-family detached development at the subject site; the proposed development would continue to be consistent with the land use and zoning designations for the site and would not result in an increase in the severity of impacts identified in the prior EIRs or IS/MND or any new impacts not previously considered in the prior EIRs and IS/MND; and the circumstances under which the project would be undertaken have not substantially changed such that new or substantially increased impacts would occur; and,

WHEREAS, following a duly noticed public hearing, the Planning Commission adopted Resolution PC21-08 on August 24, 2021 recommending approval to the City Council of the Major Design Review, Conditional Use Permit, Variance, Exceptions from

the Mixed Use Center South Regulating Code, and Vesting Tentative Map for the proposed project at 2812 Chattleton Lane (PLAN2012-0011), subject to the conditions of approval included in the resolution; and,

WHEREAS, a public hearing notice has been provided by mail to the applicant, local affected agencies and to all property owners within 300 feet of the subject property, this notice has been published in the West County Times newspaper (West Contra Costa edition of the East Bay Times) in accordance with the requirements of Government Code Section 65091, and a public hearing was held on September 20, 2021, at which public testimony was considered.

NOW, THEREFORE, BE IT RESOLVED that the City Council of the City of San Pablo has reviewed the proposed project and does hereby approve the Major Design Review, Conditional Use Permit, Variance, Major Exceptions, and Vesting Tentative Map for PLAN2012-0011 based on the following findings:

- A. The City of San Pablo adopted EIRs for the General Plan and San Pablo Avenue Specific Plan and an Initial Study/Mitigated Negative Declaration (IS/MND) for the Regulating Code and these documents anticipated that the site would be developed with a mix of uses, potentially including commercial, office, residential, institutional, and/or hotel uses. Due to the change in proposed development pattern to town-house style single-family residences, the City has prepared Addenda to the two EIRs and the IS/MND to identify these future land use changes. The proposed development would continue to be consistent with the land use and zoning designations for the site and would not result in an increase in the severity of impacts identified in the prior EIRs or IS/MND or any new impacts not previously considered in the prior EIRs and IS/MND. The circumstances under which the project would be undertaken have not substantially changed such that new or substantially increased impacts would occur. Further, there is nothing peculiar about the project or the project site that would result in impacts substantially greater than discussed in the prior EIRs or negative declaration. Therefore, no further environmental analysis is required for the project.
- B. The proposed project is responsive to General Plan policies calling for planned land uses that are compatible with existing uses, the creation of safe, walkable and attractive urban environments, encouragement of new residential development in a manner which fosters day and nighttime activity and visual presence on the street level, protecting and enhancing the quality of life in the City's residential neighborhoods, and promoting a variety of housing types and prices within neighborhoods that offer a range of amenities, including public and private open space, landscaping, and direct access to commercial services, public transit, and community gathering areas.

*The proposed project would be responsive to these policies by developing 20 new town-house style single-family homes, plus 8 new Junior Accessory Dwelling Units for sale on a site that will be well-integrated into its surroundings, and in*

*close proximity to amenities, such as transit, the San Pablo Library, the Wildcat Creek Trail, the Alvarado Adobe Museum, health services, senior center, and a variety of commercial uses. The project would also offer on-site amenities including landscaped bio-retention facilities and a small park/tot-lot to be donated to the City.*

- C. The proposed project would also be responsive to Housing Element policies calling for the provision of a diversity of housing types to meet the needs of all economic segments and family types in San Pablo, to encourage and assist with the development of affordable housing units for lower income households, and to promote the development of secondary dwelling units.

*In terms of housing, the project would add new urban-scale homes for sale, a housing choice that has not been available in San Pablo in recent years. Under the terms of the Disposition and Development Agreement (DDA) with the City, one of the units would be affordable to a lower-income household, and 65% of the units would be required to be owner-occupied for at least the first year following the initial sale.*

- D. The proposed project is located within the San Pablo Avenue Specific Plan and is designated as Mixed Use Center South in an opportunity site and focus area identified as the "Circle S" area. The project would be consistent with the San Pablo Avenue Specific Plan guiding and implementing policies promoting pedestrian- and transit-friendly development, providing a diverse range of housing for all income levels and household types, providing ample open spaces and recreational facilities, encouraging structured parking, integrating pedestrian and bicycle connections to transit, open space, and key destinations; and designing building facades at a pedestrian scale with building heights of three to four stories.

*The development would be well integrated into the established pedestrian-oriented context by providing interior sidewalks with connections to sidewalks along Chattleton Lane as well as the Wildcat Creek Trail. These corridors provide safe and direct pedestrian connections to the closest AC Transit stops on San Pablo Avenue just south of Church and in front of the Walgreens Pharmacy. The project would also provide a diversity of housing types, with for-sale single-family homes as well as accessory dwelling units. One of the 20 homes would also be held affordable to a lower-income household. There would be excellent proximity to open space and park facilities due to the site's location adjacent to the Wildcat Creek Trail and provision of a small park (tot-lot) for dedication to the public. In conformance with the policies, the project would incorporate parking that would be hidden from view in enclosed garages. Finally, the project would maintain an appropriate density and scale, with residences at the recommended three-story height.*

- E. The project complies with the development standards of the San Pablo Avenue Specific Plan and Zoning Ordinance for the SP-2 Mixed Use Center South Mixed Use district, with the exception of encroachments into the 30-foot setback from the

top of creekbank of the adjoining Wildcat Creek, for which a Variance is requested as part of this application and granted approval as discussed below.

*In terms of off-street parking requirements, Section 17.54.020 of the Zoning Code requires that two covered parking spaces be provided for single-family residential uses. The project would provide two enclosed garage spaces for each residence. Due to the site's proximity to transit, per State Law and Zoning Code Section 17.60.070.F.3.c, no additional off-street parking is required for the ADUs.*

- F. The project is also consistent with the requirements of the Mixed Use Center South Regulating Code, with the exception of the detached single-family residential townhouse land use pattern and encroachments into the required 30-foot setback from the edge of the adjoining creek trail, for which Major Exceptions have been requested as part of this application and granted approval as discussed below.
- G. The project is consistent with the applicable Design Guidelines for the Mixed Use Center South district of the San Pablo Avenue Specific Plan and with the land use, physical design, economic development element and open space elements of the General Plan.

*The project would fit well within the highly planned Plaza San Pablo area by offering a new housing choice in an attractive setting with high-quality design and lifestyle features. The architectural design of the structures and their colors and material would be visually harmonious with the surrounding contemporary and Spanish-style development patterns and with the natural areas along the Wildcat Creek corridor. Due to the placement of the project alongside Wildcat Creek, the heavy vegetation and buffer provided by the Creek will protect the nearby Casa Adobe apartments and other residential uses accessible from Dover Drive from visual or privacy intrusion resulting from the project.*

- H. The location and design of the proposed development gives particular consideration to privacy, views, and sunlight to adjoining properties and fosters the orderly and harmonious development and preservation of the public health and welfare of the city neighborhoods.

*Due to the placement of the project alongside Wildcat Creek, the heavy vegetation and buffer provided by the Creek will protect the nearby Casa Adobe apartments and other residential uses accessible from Dover Drive from visual or privacy intrusion resulting from the project.*

- I. The architectural design, materials and colors of the proposed building are visually harmonious with surrounding development, landforms, and vegetation.

*The proposed project would break up block lengths by including two side-facing courts or paseos off the main driveway for the units in the western portion of the site. The total block length along Chattleton Lane would be limited to 200 feet. In*

*addition, the project includes direct pedestrian connection to the adjacent Wildcat Creek Trail and the proposed tot-lot park.*

*As shown in the building elevations and sections, the design of the project would include recessed garage entries and other articulating elements, such as small balconies. The project would also use of a variety of materials and colors. As shown in the color and material board exhibit, there are five different building styles, each with a unique palette. In addition, the roof heights and forms would vary among the unit types. As also shown in the building elevations, the residences would have visually interesting, traditionally home-like facades, with prominent front doors, ample window openings, porch overhangs, dormers, small balconies, and recessed doorways.*

- J. The establishment, maintenance, or operation of the use of the buildings applied for will not, under the circumstances of the particular case, be detrimental to the health, safety, peace, morals, comfort, and general welfare of persons residing or working in the neighborhood of such proposed use or be detrimental or injurious to property and improvements in the neighborhood or the general welfare of the city.
- K. Through its proposed landscape improvements and bioretention areas, the development will adequately avoid impacts to wetland features or woodlands, reduce impacts to the adjoining Wildcat Creek, prevent degradation of riparian and protect wetland features from potential urban pollutants.
- L. The proposed residential use is allowed in the Mixed Use Center South district of the SP-2 San Pablo Avenue Specific Plan, as modified by the requested Exception to allow a detached single-family residential development pattern.
- M. The project complies with the development regulations of the Zoning Code, San Pablo Avenue Specific Plan, and the Mixed Use Center South Regulating Code, with the exception of encroachments into the 30-foot setback from the top-of-creekbank required by the Specific Plan and the 30-foot setback from the Creekway Trail required by the Regulating Code, and a variance and regulating code exception to allow these encroachments have been requested as part of this application and granted approval as discussed below.
- N. The site is physically suited for the type, density, and intensity of the proposed use, with adequate roadway and utility access and the absence of any physical constraints to development.

*The northern portion of the site is located within Flood Zone AE and the conditions of approval require that the proposed design shall comply with the requirements of the California Building Codes for structures located in the flood hazard area, including the requirement that the building pad be placed above the 100-year floodplain Base Flood Elevation. Additional restrictions are contained in the California Building Code. Residents within this flood zone area may also be*

*required to obtain flood insurance and identification of flood zone is required for all real estate transactions.*

- O. The project site is buffered from the Wildcat Creek corridor by the recently constructed Wildcat Creek Trail which extends along the entire length of its western frontage and therefore the project would not physically impact the creek corridor.
- P. Sufficient buffering distance and intervening landscaping would prevent any impact upon the adjoining Wildcat Creek Trail.
- Q. The applicant has submitted a Geotechnical Report stating that the subject site is geotechnically suitable for the proposed project and setting forth a number of conditions to be adhered to during design and construction to ensure project safety from a geotechnical standpoint.
- R. Granting the permit would not be detrimental to the public interest, health, safety, convenience, or welfare, or materially injurious to persons, property, or improvements in the vicinity in which the project is located. The site has long been planned for redevelopment with a variety of urban scale uses, including residential development.
- S. Granting of the requested Conditional Use Permit will not materially adversely affect the health or safety of persons residing or working in the neighborhood of the property and will not, under the circumstances of the particular case, be materially detrimental to the public welfare or injurious to property or improvements in the neighborhood. The site fits well into the context of its surrounding and would not create a visual or safety impediment to any surrounding uses.
- T. Due to special and unique concerns related to the site configuration and the relative shallowness of the site as a shallow rectangle bordering Wildcat Creek, encroachments or variances are granted to allow for building footprints that will intrude into the required top-of-bank setback as depicted in the submitted Vesting Tentative Map. The encroachment would be approximately one foot for Lots 1, 16, and 18 and approximately 9 feet for Lot 20, which is particularly constrained by its location on the northwest corner of the property with creek bank frontage on two sides. These conditions reflect exceptional or extraordinary circumstances which impact the use and developability of the site and are not found in other locations.
- U. There are exceptional or extraordinary circumstances or conditions applying to the land or building referred to in the application, including size, shape, topography, location or surroundings, which circumstances or conditions do not apply generally to land, buildings and/or uses in the same district.
- V. Because of these exceptional or extraordinary circumstances or conditions, the strict application of the Zoning Ordinance would deprive the property of privileges enjoyed by other properties in the vicinity and within the same zoning district.



- W. The granting of the requested variance is necessary for the preservation and enjoyment of substantial property rights of the petitioner.
- X. Granting of the requested variance will not, under the circumstances of the particular case, materially affect adversely the health or safety of persons residing or working in the neighborhood of the property of the applicant and will not, under the circumstances of the particular case, be materially detrimental to the public welfare or injurious to property or improvements in the neighborhood.
- Y. By allowing for improved open space and privacy around each unit and providing ample perimeter landscaping, the applicant has demonstrated that a clearly superior design solution would result if the exception to allow the single-family detached land use pattern and to reduce the required setback from the Wildcat Creek Trail is granted, and the proposed design is supportive of the intent of the Mixed Use Center South Regulating Code's applicable regulations.
- Z. The exception to allow the single-family detached land use pattern and to reduce the required setback from the Wildcat Creek Trail will not result in conditions that adversely affect public health and/or safety.

*Improvements associated with the recently completed Wildcat Creek Restoration and Greenway Trail project have resulted in fully developable conditions at Block E that will protect the adjacent creek and its water quality. The Wildcat Creek Restoration and Greenway Trail Project restored 1,500 linear feet of creek channel to effectively transport sediment throughout the reach without excessive aggradation or deposition while increasing the in-stream riffle-to-pool ratio and stabilizing the creek bank (with riffle being the rocky or shallow part of a stream).*

*Due to the presence of existing stormwater control improvements installed as part of the recently completed Wildcat Creek Trail project along with the proposed stormwater improvements to be installed as part of the proposed project (including the placement of three bioretention basins), there would be no direct outflow from the project into the creek and no impacts on the water quality condition of the adjoining Wildcat Creek would occur. As shown on the project plans, the drainage from the site will flow into the mainline storm drain (SD) in Chattleton Lane, which will eventually flow into one of the creek outfalls.*

*The proposed reduction in the creekbank setback would not create additional impacts or increase in environmental impacts as a result of the project due to its overall compliance within anticipated development levels assessed as part of previous environmental documentation, the existence of improvements installed as a part of the Wildcat Creek Trail project, and the drainage and landscaping improvements proposed as part of the project. The proposed project does not include any filling of wetlands or other waters.*

- AA. The exception to allow the single-family detached land use pattern and to

reduce the required setback from the Wildcat Creek Trail will not detract from the peaceful enjoyment of residents or visitors.

- BB. The proposed Tentative Vesting Map is consistent with the general plan and with the San Pablo Avenue Specific Plan.
- CC. The design and improvements shown in the proposed subdivision are consistent with the San Pablo General Plan and the San Pablo Avenue Specific Plan.
- DD. The site is in an urban area that has long been planned for redevelopment and is physically suitable for the type of development proposed.
- EE. The site is physically suitable for the proposed density of development.
- FF. Neither the design of the subdivision nor any proposed improvements are likely to cause substantial environmental damage, or substantially and avoidably injure fish or wildlife or their habitat as indicated in the previous environmental documentation prepared on the site as part of the San Pablo General Plan, San Pablo Avenue Specific Plan, Mixed Use Center South Regulating Code.
- GG. The design of the subdivision or type of improvement is not likely to cause significant public health problems.
- HH. The design of the subdivision or the type of improvements will not conflict with easements acquired by the public at large for access through, or use of property within, the proposed subdivision.
- II. Public notice of the hearing has been provided by mail to the applicants, local affected agencies, and all property owners within 300 feet of the subject property and has been published in the West County Times newspaper (West Contra Costa edition of the East Bay Times), in accordance with the requirements of Government Code Section 65905.

BE IT FURTHER RESOLVED that the City Council of the City of San Pablo approves the Major Design Review, Conditional Use Permit, Variance, Major Exceptions, and Vesting Tentative Map for PLAN2012-0011 along with and contingent upon the following Conditions of Approval:

### **General Conditions**

1. The proposed use and project construction shall be conducted in substantial compliance with the planning submittal, including the site plans, floor plans, elevations, renderings, details/rendering, landscape plan, and park/tot lot plan that were submitted to Planning Staff on May 11, 2021, as revised on July 6, 2021, August 9, 2021, and September 8, 2021, which are on file with the Community Development Department, under PLAN 2012-0011.

2. Minor amendments to this approval and modifications to the design review may be approved by the Zoning Administrator, if the proposed changes generally comply with the overall intent of the permit and/or are in response to revisions required by other approving agencies.
3. The applicant shall obtain all necessary City of San Pablo Building and Public Works permits as well as any outside agency permits for water, waste, fire and any proposed work and shall submit payment of fees and agency permits and approval from relevant agencies for any proposed work.
4. The design review approval shall expire if building permits have not been issued within one year from the date of final approval. A time extension not exceeding one year beyond the initial one-year period may be granted by the Zoning Administrator.
5. If the use granted by this Conditional Use Permit is discontinued for a period of six consecutive months, the Use Permit shall automatically expire.
6. The applicant shall properly file the Vesting Tentative Map in accordance with Section 16.04 of the San Pablo Municipal Code. Vested rights shall remain in effect for an initial time period of one year from recordation of the final map. In accordance with Section 16.06.090.C.2, at any time prior to the expiration of the one-year time period for vesting rights, the subdivider may apply for a one-year extension in writing to the Planning Division.
7. Prior to expiration of the Vesting Tentative Map, the subdivider shall submit a Final Map to the City Engineer and Planning Manager for review and shall enter into any necessary agreement for public improvements with the City prior to approval of the Final Map by the City Council, as set forth in Section 16.08.110 of the Municipal Code. Applicant shall also submit with the Final Map the access easement agreement with the City of San Pablo in a form acceptable to the City. The Final Map shall be approved and recorded prior to project completion.
8. All public and commons area improvements shown on the Vesting Tentative Map, including road and sidewalk construction and bioretention areas, shall be in place to the satisfaction of the City Engineer prior to any occupancy of the project.
9. The applicant shall obtain any permits and licenses needed for the proposed use.
10. All roof-mounted and other mechanical equipment, if any, shall be screened from view from adjacent public rights-of-way as well as from adjoining properties, subject to the review and approval during the Plan Check review process.
11. The site shall be kept clean of all debris (boxes, junk, garbage, etc.) at all times. All scrap materials shall be stored in a container and shall be removed regularly.

12. All construction improvements shall be designed by the appropriately licensed design professional. The standards imposed by the City for the private improvements shall be considered as minimum requirements and the standards may be increased by the design professional where judgment and prudence dictate.
13. Applicant shall submit joint trench and/or utility undergrounding plans to City's Public Works Engineering Division for review prior to the work. Plans shall be prepared and signed by the appropriate professional.
14. After construction is complete, Applicant shall provide City with bound copies of grading, improvement, joint trench and landscaping plans. Plans must be the final approved versions, with red lines denoting any as-built deviations from the plans. Additionally, CADD files of said plans shall be provided to City.
15. Prior to construction, Applicant shall submit to City's Public Works Engineering Division, product and material cut sheets for key components, including storm drain pipes, manholes, inlets, street lights and pull boxes, if applicable.
16. All abandoned pipes and other abandoned miscellaneous improvements shall be removed.
17. All equipment such as backflow prevention devices, meters and transformers shall be screened with landscaping or other means, and not visible from the public right of way.
18. In the event of the encounter of subsurface materials suspected to be an archaeological or paleontological nature, all grading or excavation shall cease in the immediate area and the find left untouched. Applicant shall select and provide a qualified professional archaeologist certified by the Register of Professional Archaeologists or paleontologist with a degree in paleontology or geology, to evaluate. The recommendation of the qualified professional shall be implemented before work may proceed. The applicant shall be liable for all costs associated therewith.
19. The applicant shall obtain any necessary permits from the Contra Costa County Flood Control District for any work conducted in or near the District's Wildcat Creek flood control easement area.
20. All applicable ordinances, regulations and requirements of Federal, State and local governments shall be met, including all the requirements of the City of San Pablo Municipal Code. All noise, building permit and grading permit requirements shall be met as applicable.
21. Failure to comply with any of the terms or conditions of this Use Permit is considered to be a violation of the City of San Pablo Municipal Code and is subject to the enforcement provisions prescribed by Chapter 17.10, Enforcement, and any and all other penalties and remedies that may be provided by law.
22. Any Use Permit granted in accordance with the terms of the City of San Pablo

Municipal Code may be revoked if any of the conditions or terms of such permit are violated, the use is discontinued, or if any law or ordinance is violated in connection therewith.

23. The project shall comply with the provisions of the Disposition and Development Agreement (DDA) with the City of San Pablo, as amended by Resolution 2021-102, including the requirement that one unit shall be deed restricted for sale to a lower-income household (i.e., at 80% Area Median Income) and that 65% of the homes developed on the site shall require the initial purchaser of a completed home, as a condition of the sale and purchase, to reside in and occupy the home for a period of one year from the date of sale; to adopt Covenants, Conditions, and Covenants (CC&Rs), which shall be submitted to the City for approval prior to the Final Map; to dedicate the proposed park/tot-lot as depicted in the approved plans to the City of San Pablo; and to adhere to the provisions of the access easement to the south to be limited to project ingress only.
24. The improvements associated with and the play equipment to be installed in the public park/tot-lot shall be of sufficient quality and durability for use by the public and the design and details shall be subject to the review and approval of the City Engineer.
25. Indemnification: Pursuant to Government Code Section 66474.9, the applicant (including any agent thereof) shall defend, indemnify, and hold harmless the City of San Pablo and its agents, officers, or employees from any claim to attack, set aside, void or annul, the City's approval concerning this planning application, which action is brought within the time period provided for in Section 66499.37. The City will promptly notify the applicant of any such claim, action, or proceeding and cooperate fully in the defense.

#### **Building Division Conditions**

26. Section 150.1(c)14 of the 2019 California Energy Codes states that all new low-rise residential buildings must have a photovoltaic (PV) system.
27. The proposed project is located in Flood Zone AE. Consequently, the proposed design shall comply with the requirements of the California Building Codes for structures located in the flood hazard area.
28. Noise and construction hours shall be observed as required by Chapter 17 of the San Pablo Municipal Code.
29. All construction documents shall be prepared in accordance with the applicable 2019 California Building Codes.
30. Special inspectors shall be registered with the city for the specific job to be undertaken.

31. Special inspection reports shall be required for all applicable items that are part of the design in accordance to Chapter 17 of the 2019 California Building Code.
32. Structural observations shall be required in accordance to the engineer's design and applicable risk category
33. The applicant shall submit complete sets of electronic plans, including the following: Plot Plan; Foundation Plan; Floor Plan; Ceiling and roof framing plan; Electrical Plans including size of main switch, number and size of service entrance conductors, circuit schedule and demand load; Plumbing and sewer plan and isometric, including underground diagram, water piping diagram, sewer location, fixture units, gas piping and vents, and heating and air conditioning diagram; Landscape and Irrigation plans. Landscape plans shall be compliant with the San Pablo MWELO requirements and approved prior to the issuance of any Building Permits.
34. The applicant shall submit electronic sets of structural calculations, energy conservation calculations and soils reports. Architects/Engineers stamp and wet signature is required prior to submittal of plan check.
35. All contractors shall be licensed by the State of California and shall obtain City of San Pablo business licenses.
36. No work shall be performed until the required permits are obtained.
37. All fees shall be paid before the permit is issued
38. No structure shall be occupied until a Certificate of Occupancy issued by the Building Official has been granted.
39. It is the responsibility of the person doing the work to call for the required inspections.
40. Changes or deviation from the approved set of plans shall be resubmitted for plan check.
41. All work shall remain accessible until inspected and approved by the Building Official.
42. Best management practices shall be observed during construction to avoid pollutants to enter the storm drain system.
43. At the time of plan check, the applicant shall incorporate the required California Green Code Mandatory Measures such as E.V. Ready, clean air vehicle parking, bicycle parking, best management practices and storm water pollution prevention, light pollution reduction, energy efficiency, indoor and outdoor water usage efficiency, etc.
44. Cal Green mandatory measures shall be observed during construction, for example:

- water efficiency and conservation
  - construction waste reduction, disposal and recycling
  - All other applicable codes for the efficient construction and operation of the new structure.
45. Deferred submittals shall be clearly identified on the building plans. This includes submittals such as; Photovoltaic fire sprinklers, fire alarms, trusses, etc.
46. All building permits shall expire by limitation 12 months after the issuance date. One or more extensions may be granted by the building official. Extensions shall be requested in writing prior to the expiration of the building permit.

### **Fire Protection**

47. The access road loop shall be installed prior to construction or storage of combustible material on site. The applicant shall call for required inspection prior to construction.
48. Access road(s) and hydrant(s) shall be installed, in service, and inspected prior to construction (CFC 501.4).
49. Paint red curbs and mark curbs with white lettering "NO PARKING-FIRE LANE" or provide "NO-PARKING-FIRE LANE" signs in accordance with CCCFPD FPS-020.
50. Submit two (2) copies of automatic fire sprinkler system plans and specifications, as prepared by a C-16 licensed fire sprinkler contractor, which conform to NFPA 13D-2016, for review and approval prior to installation per plan. (CFC 903.2).
51. Access as shown appears to comply with Fire District requirements. Provide emergency apparatus access roadways with all-weather (paved) driving surfaces of not less than 20-feet unobstructed width, and not less than 13 feet 6 inches of vertical clearance, to within 150 feet of travel distance to all portions of the exterior walls of every building. Access shall have a minimum outside turning radius of 45 feet, and must be capable of supporting the imposed fire apparatus loading of 37 tons. (503) CFC.
52. Access roadways of less than 28-feet unobstructed width shall have signs posted or curbs painted red with the words NO PARKING - FIRE LANE clearly marked. (22500.1) CVC, (503.3) CFC.
53. Access roadways of 28 feet or greater, but less than 36-feet unobstructed width shall have NO PARKING - FIRE LANE signs posted, allowing for parking on one side only or curbs painted red with the words NO PARKING - FIRE LANE clearly marked. (22500.1) CVC, (503.3) CFC.
54. The developer shall provide an adequate and reliable water supply for fire

protection with a minimum fire flow of 500 GPM. Required flow must be delivered from not more than 1 hydrant flowing for a duration of 30 minutes while maintaining 20-pounds residual pressure in the main. (507.1), (B105) CFC.

55. Provide emergency escape and rescue openings in Group R occupancies of type V construction. Basements and sleeping rooms below the fourth story above grade plane shall have at least one exterior emergency escape and rescue opening. Such openings shall open directly into a public way or to a yard or court that opens to a public way. Landscaping, signage and other obstructions must not hinder the positioning of firefighting ground ladders from apparatus access to the rescue windows.
56. A land development permit is required for access and water supply review and approval. The developer shall submit a minimum of two (2) copies of full size, scaled site improvement plans indicating: All existing or proposed hydrant locations; fire apparatus access; elevations of buildings; size of building and type of construction; and striping and signage plan to include "NO PARKING-FIRE LANE" markings. Provide drawings for paths from the public way to under emergency escape and rescue openings showing a proposed clear path and clear space under these openings that allow for the placement of ground ladders at a climbing angle of 70 to 75 degrees and a minimum of 18" clearance from the base of the ladder to any obstruction (see attached ground ladder access standard) for review and approval prior to obtaining a building permit. Overlay the landscape plan with the ground ladder plan to confirm vegetation does not hinder operations. This is a separate submittal from the building construction plans. These plans shall be approved prior to submitting building plans for review. (501.3) CFC.
57. Emergency apparatus access roadway shall be installed, in service, and inspected by the Fire District prior to construction or combustible storage on site. (501.4) CFC. Note: temporary aggregate base or asphalt grindings roadway is not considered an all-weather surface for emergency apparatus access. The first lift of asphalt concrete paving shall be installed as the minimum roadway material and must be engineered to support the designated gross vehicle weight of 37 tons.
58. The homes as proposed shall be protected with an approved automatic fire sprinkler system complying with the 2016 edition of NFPA 13D or Section R313.3 of the 2019 California Residential Code. Submit a minimum of two (2) sets of plans to this office for review and approval prior to installation. (903.2) CFC, (R313.3) CRC, Contra Costa County Ordinance 2019-37.
59. The developer shall provide traffic signal pre-emption systems (Opticom) on any new or modified traffic signals installed with this development. (21351) CVC.
60. Flammable or combustible liquid storage tanks shall not be located on the site without obtaining approval and necessary permits from the Fire District. (3401.4) CFC.



61. The owner shall cut down and remove all weeds, grass, vines, or other growth that is capable of being ignited and endangering property. (304.1.2) CFC.
62. The homeowner shall maintain an effective firebreak by removing and clearing away flammable vegetation and combustible growth from areas within 30 feet of buildings or structures. (1276.01) P.R.C.
63. Development on any parcel in this subdivision shall be subject to review and approval by the Fire District to ensure compliance with minimum requirements related to fire and life safety. Submit three (3) sets of plans to the Fire District prior to obtaining a building permit. (501.3) CFC.
64. The owner or the owner's authorized agent shall be responsible for the development, implementation and maintenance of a written plan establishing a fire prevention program at the project site applicable throughout all phases of the construction. The plan shall be made available for review by the fire code official upon request. (Ch.33) CFC.
65. The fire prevention program superintendent shall develop and maintain an approved pre-fire plan in cooperation with the fire chief. The fire chief and fire code official shall be notified of changes affecting the utilization of information contained in such pre-fire plans. (Ch.33) CFC

### **Garbage and Recycling Area**

66. The project shall comply with the requirements of the Republic Services, and shall place containers within the areas set forth on the plan provided by Republic Services to the Developer on February 26, 2021.
67. The project must provide equal space for recyclables as for garbage containers which are adequate, accessible and convenient areas for collecting and loading of both recyclable and garbage materials. Driveways and/or travel aisles shall, at a minimum, conform to local building-code requirements for garbage collection access and clearance. The driveways and/or travel aisles must provide unobstructed access for collection vehicles and personnel. Areas for collecting and loading recyclable materials must be adjacent to the solid waste collection areas. The builder should make their "best effort" to use recycled materials wherever possible.

### **Drainage**

68. The applicant shall be required to comply with all rules, regulations and procedures of the National Pollutant Discharge Elimination System (NPDES) permit for municipal, construction and industrial activities as promulgated by the California State Water Resources Control Board or any of its Regional Water Quality Control Boards (San Francisco Bay-Regional II). If applicable, the project shall comply with requirements of the NPDES *Municipal Regional Permit* Section C.3, and the Contra Costa Clean Water Program *Stormwater C.3 Guidebook*, current versions.

69. A Stormwater Control Plan and Operations & Maintenance Agreement shall be required for the parcel; the Agreement must be recorded prior to a certificate of occupancy.
70. A hydrology or hydraulics report to show whether the existing and proposed storm drain system can accommodate runoff from the subject site after the improvement. This report typically includes drainage design, system capacity, and other relevant information related to hydrology or hydraulic study. Per San Pablo Plaza Specific Plan, the hydrology report shall include a capacity analysis of the storm drain system on Chattleton accounting for future development (Block E and future PD building). This report shall be furnished by a licensed civil engineer.
71. The applicant shall submit grading, drainage improvement plans, sediment and erosion control plans and the engineer's estimate to the Public Works Engineering Division for approval. All of these plans shall be prepared by a California-registered Civil Engineer and approved by the City prior to submission for a building permit.
72. All improvement plans, landscaping plans and joint trench and/or utility undergrounding plans shall include a separate section with a copy of the City Standard Notes, without alteration of the numbers or content, as presented in the Appendix, and a full-size plan sheet with the "Pollution Prevention" plan sheet developed by the NPDES/Clean Water program (electronic copies are available from the City).
73. On-site storm drains shall be owned, operated and maintained by the property owner or the Home Owners Association as set forth in the CC&R's for the Home Owners Association, which shall be submitted and approved by the City prior to submission of a Final Map.
74. The applicant shall agree to provide repairs, upgrades or connection to public storm drain facilities which will be necessary to accommodate the proposed storm water generated by the project as required by the City Engineer.

### **Signs**

75. No illegal signs, pennants, banners, balloons, flags, or streamers are to be used on this site at any time.
76. Prior to the installation of any signs, the applicant shall obtain design review approval from the Planning Division and building permits from the Building Division. The design, color and location of any project sign at the entrance to the property shall be reviewed and approved by the Community Development Department.

### **Lighting**

77. A lighting site plan and contour plan shall be submitted for approval of the Zoning Administrator consistent with required standards. All lighting on the property shall be oriented or screened so as to prevent glare and direct light from reaching

adjacent properties.

### **Utilities**

78. Water, gas, electrical, telephone, and sanitary sewer utilities shall be constructed to the minimum standards of the respective utility companies. However, the trench details, pipe slope and other details shown the City's Standard Details shall also be met as minimum requirements. All requirements of the applicable utility companies and departments and the fire department shall be met, including fees and administrative requirements.

79. All proposed overhead wires shall be undergrounded.

80. Contractor shall call 811 before construction for the location of any underground services.

### **Sanitary Sewer**

81. A plot plan showing the locations of sewer laterals and connections shall be submitted and be reviewed and approved by West County Wastewater District (WCWD), along with a related fee estimate.

82. A will-serve letter from the WCWD shall be submitted prior to submission for a building permit.

83. The project shall comply with the conditions of WCWD.

84. Improvement plans shall require WCWD approval.

85. WCWD approval is required prior to finalizing permit or prior to granting certificate of occupancy.

### **Water**

86. The Tentative Map for the project shall be approved and signed by the Fire Marshal prior to the East Bay Municipal Utility District (EBMUD) proceeding with design work to provide water main extension to serve the project

87. A will-serve letter from EBMUD shall be submitted prior to submission for a building permit.

88. Water conservation measures for both internal and external use must be incorporated into the design and construction of the proposed project. EBMUD encourages the use of equipment, devices, and methodology that furthers water conservation and provides for long-term efficient water use. EBMUD recommends the use of drought resistant plantings, use of inert materials, and minimum use of turf areas.

89. All private lot landscaping shall consist of non-invasive, drought-tolerant, low-water use plant species.

### **Environmental Hazards**

90. If applicable, any existing or abandoned monitoring wells shall be destroyed pursuant to Contra Costa Environmental Health requirements. Appropriate permits and inspections for this work shall be obtained.
91. If applicable, prior to commencement of site grading or the issuance of a building permit, the applicant shall have the site inspected by a competent hazardous waste materials expert who shall submit a report for the City's review attesting to the removal of any hazardous waste materials on site.
92. The project shall comply with the requirements of the Health Services Department, Environmental Health Division.

### **Geotechnical**

93. The project shall follow all conditions set forth in the submitted Geological Reports, prepared by Wayne Ting and Associates, Inc., including those pertaining to site preparation and grading, foundation, concrete slabs on grade, post-tensioned slab foundation, trench backfill, driveway, and general construction requirements
94. The applicable geotechnical report for the project shall be noted on improvement plans. For various buildings that are within the creek setback zone shown in the preliminary site plan, the geotechnical report shall confirm that the creek bank is stable and will support the said buildings. The geotechnical report shall be signed off by a licensed engineer.
95. The applicant shall commission a licensed engineer to inspect all grading operations and submit a report to the City, if applicable.
96. High levels of ground shaking may occur during future large magnitude Bay Area earthquakes, particularly on the Hayward fault. All structures and other improvements on the property will be subjected to this shaking and could be seriously damaged if not properly designed. This potential impact could be reduced to a level of less than significant through ensuring that the structural design of all buildings is performed by knowledgeable structural engineers familiar with conservative seismic design principles. Other on-site improvements should also incorporate conservative elements of good design practice to minimize damage.
97. Prior to issuance of building permits, applicant shall submit an as-graded report of the engineering geologist or the geotechnical engineer to Community Development Department with an as-graded map showing final plan and grades if required by the City Engineer. The applicant shall submit grading plans for review and approval of the Community Development Department and City Engineer prior to issuance of grading permits.

## **Landscaping**

98. The property manager of the Homeowner's Association for the development shall be responsible for maintaining site landscaping. Landscaping shall be maintained to professional standards on a regular basis.
99. At the back of sidewalks, where the slope of the planting bed may allow soil, mulch or other materials to migrate onto the walkway, appropriate durable bender boards shall be placed or concrete curbs shall be used.
100. Landscaping and irrigation shall be part of the final design drawings (improvement plans).
101. Plants and vegetation that are drought tolerant with a minimal use of pesticide and fertilizer (Bay friendly) are required. See C.3 Guidebook Section B-1-1 for a list of approved plants. List all trees that will be cut or remove and check for any disturbances of natural habitat (nests, etc.) before the removal of any trees or vegetation.
102. An on-site inspection shall be made by the Community Development Department (or Public Works Department) to determine compliance with the approved landscape plan.
103. The Homeowners' Association will be responsible for sidewalk and landscaping strip maintenance and the CC&R's shall include this requirement. Root barriers needed to be installed in the landscaping area per City Standards.

## **Streets & Sidewalks**

104. All private curb ramps and sidewalks within the property shall meet current ADA and Title 12 requirements and guidelines. Existing public curb ramps along the property frontage which do not meet current ADA and Title 12 requirements shall be upgraded, and tripping hazards in public sidewalks shall be corrected by replacing the offending sections. City inspector may require additional work in the Public Right of Way as needed by public safety and interest.
105. The applicant shall provide for public street improvements as necessitated by the project, including but not limited to median modifications, striping and other pavement markings, curb ramps, sidewalk repairs, monuments, fire hydrants, electroliers/lighting facilities, along the frontage and adjacent properties, if applicable.
106. The applicant shall insure that improvements near intersections do not obstruct the sight distance to oncoming traffic.

## **TDM & Growth Management**

107. The developer shall comply with applicable provisions of Measure J, including any regional traffic improvements that may be required by the Contra Costa County Transportation Authority (Congestion Management Agency) for projects generating more than 100 peak hour trips, if applicable.

## **Waste Minimization/Energy Conservation**

108. Incorporate design features wherever feasible to protect solar access. Inclusion of these measures would not be part of Title 24 compliance, but rather an additional conservation measure.
109. All outdoor lighting shall be LED.

## **Construction**

110. Construction activity shall be limited between the hours of 7:00 am and 6:00 pm Monday through Friday and from 9:00 am to 5:00 pm on Saturday. Construction is not permitted on Sundays.
111. At least 50% of construction waste must be recycled.
112. The project shall be subject to performance bonds and labor and material bonds for any public improvements. A 100% performance bond and a 100% labor and materials bond shall be required. All bonds and insurance policies shall be approved by the City Attorney. Bonded work shall include the grading work.
113. Erosion control plans for grading shall be subject to City review.
114. At least one week prior to commencement of grading, the applicant shall post the site and mail to the owners of property within 300 feet of the exterior boundary of the project site notice that construction work will commence. The notice shall include a list of contact persons with name, title, phone number and area of responsibility. The person responsible for maintaining the list shall be included. The list shall be kept current at all times and shall consist of persons with authority to indicate and implement corrective actions in their area of responsibility. The names of individuals responsible for noise and litter control, tree protection, construction traffic and vehicles, erosion control, and the 24-hour emergency number, shall be expressly identified in the notice. The notice shall be re-issued with each phase of major grading and construction activity.
115. A copy of the notice shall be concurrently transmitted to the Community Development Department and City Engineer. The notice shall be accompanied by a list of the names and addresses of the property owners noticed, and a map identifying the area noticed.

116. A staging plan for construction must be submitted to the Community Development Department during Plan Check. The plan must include a described narrative on how and where construction staging will occur.
117. A dust and litter control program shall be submitted for the review and approval of the City. Any violation of the approved program or applicable ordinances shall require an immediate work stoppage. Construction work shall not be allowed to resume until, if necessary, an appropriate construction bond has been posted.
118. The applicant shall make a good-faith effort to avoid interference with existing neighborhood traffic flows. Prior to issuance of building permits, the proposed roads serving this development shall be constructed to provide access as required by the City Engineer.
119. The site shall be maintained in an orderly fashion. Following the cessation of construction activity, all construction debris shall be removed from the site.
120. Separate permits will be required from Public Works for the following work: grading, joint trench and site improvements.
121. Truck routes for hauling materials shall be submitted for City approval.

BE IT FURTHER RESOLVED that the foregoing recitations are true and correct and are included herein by reference as findings.

\* \* \* \* \*

Adopted this 20<sup>th</sup> day of September, 2021, by the following votes:

AYES:	COUNCILMEMBER:	Ponce, Pineda, Xavier and Pabon-Alvarado
NOES:	COUNCILMEMBER:	None
ABSENT:	COUNCILMEMBER:	Cruz
ABSTAIN:	COUNCILMEMBER:	None

ATTEST:	APPROVED:
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/s/ Dorothy Gantt,  
Dorothy Gantt, City Clerk

/s/ Elizabeth Pabon-Alvarado  
Elizabeth Pabon-Alvarado, Mayor