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Title: RESOLUTION OF THE CITY COUNCIL OF THE CITY OF SAN PABLO APPROVING MAJOR DESIGN REVIEW; CONDITIONAL USE PERMIT AND 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 SINGLE FAMILY RESIDENTIAL DEVELOPMENT (INCLUDING EIGHT ACCESSORY DWELLING UNITS) IN THE SP-2 MIXED USE CENTER SOUTH DISTRICT TO BE LOCATED AT 2812 CHATTLETON LANE, SAN PABLO, APN 417-310-004

Sponsors:

Indexes:

Code sections:

Attachments: 1. Attachment A - RES 2021-126 Design Review CUP Variance 2812 Chattleton Ln, 2. Attachment B - RES PC21-08 Block E, 3. Attachment C - PUBLIC COMMENT – AGENDA ITEM #PC21-024, 4. Attachment D. Block E Site Location, 5. Attachment E- Application, Letter, Business Plan, Legal Description.2812 Chattleton Block E, 6. Attachment F Block E combined arch civil landscape plans 081221, 7. Attachment G - Revised Vesting Tentative Map 090821 C-1, 8. Attachment H Geotechnical Report, 9. Attachment I - CEQA Documents Block E, 10. Attachment J Proof of Publication, 11. PPT item 18 - PLAN2012-0011.2018 Chattleton Block E.090721

| Date | Ver. | Action By | Action | Result |
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| 9/20/2021 | 1 | City Council | | |

PREPARED BY: ELIZABETH TYLER

DATE OF MEETING: 09/20/21

SUBJECT:

RESOLUTION OF THE CITY COUNCIL OF THE CITY OF SAN PABLO APPROVING MAJOR DESIGN REVIEW; CONDITIONAL USE PERMIT AND 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 SINGLE FAMILY RESIDENTIAL DEVELOPMENT (INCLUDING EIGHT ACCESSORY DWELLING UNITS) IN THE SP-2 MIXED USE CENTER SOUTH DISTRICT TO BE LOCATED AT 2812 CHATTLETON LANE, SAN PABLO, APN 417-310-004

Location: 2812 Chattleton Lane

APN: 417-310-004

Zoning: SP-2, Mixed Use Center South

CEQA: Addenda to existing EIRs for the City of San Pablo 2030 General Plan, San Pablo Avenue Specific Plan, and Regulating Plan for “The Avenue” Mitigated Negative Declaration, prepared showing no significant effect on the environment due to the project

Owner: City of San Pablo

Applicant: Bay Valley Development
Agent for Applicant: Karl Dumas, Dumas Real Estate
Staff Contact: Elizabeth "Libby" Tyler, Ph.D., FAICP, Community Development Director

Conduct public hearing; adopt Resolution

Compliance statements

FY 2021-23 City Council Priority Workplan Compliance Statement

Expand Housing Options is an adopted Major Policy Goal and Increase Homeownership is listed as priority 300 in the FY 2021-23 City Council Priority Workplan, effective March 15, 2021.

CEQA Compliance Statement

Future development of the site was anticipated in the San Pablo General Plan 2030 and the San Pablo Avenue Specific Plan adopted in 2011, as well as in the Regulating Code for Mixed Use Center South where it is identified as "Block E", also adopted in 2011. 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. These documents are available for viewing at these links:

[<https://www.sanpabloca.gov/DocumentCenter/View/463/SPGP_EIR-PR-draft?bidId=>](https://www.sanpabloca.gov/DocumentCenter/View/463/SPGP_EIR-PR-draft?bidId=>)

[<https://www.sanpabloca.gov/DocumentCenter/View/565/San-Pablo-GP-FEIR--021011?bidId=>](https://www.sanpabloca.gov/DocumentCenter/View/565/San-Pablo-GP-FEIR--021011?bidId=>)

[<https://www.sanpabloca.gov/DocumentCenter/View/1077/SPAve-Draft-EIR-Complete-0311_reduced?bidId=>](https://www.sanpabloca.gov/DocumentCenter/View/1077/SPAve-Draft-EIR-Complete-0311_reduced?bidId=>)

[<https://www.sanpabloca.gov/DocumentCenter/View/1064/FEIR---San-Pablo-Ave-SP_FINAL_reduced?bidId=>](https://www.sanpabloca.gov/DocumentCenter/View/1064/FEIR---San-Pablo-Ave-SP_FINAL_reduced?bidId=>)

[<https://www.sanpabloca.gov/DocumentCenter/View/7991/Mitigated-Neg-Dec-adopted-with-Reso-2011-115?bidId=>](https://www.sanpabloca.gov/DocumentCenter/View/7991/Mitigated-Neg-Dec-adopted-with-Reso-2011-115?bidId=>)

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 as discussed in the Addenda, which are attached.

REQUESTED ACTIONS

A request for approval of Major Design Review; Conditional Use Permit and Variance for creek setback reductions; 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 Vesting Tentative Map under PLAN2012-0011, to allow for the construction of a 20-lot town-house-style single-family development on an existing 42,008 square-foot vacant parcel in the SP-2 Residential Mixed Use Center South district.

According to the San Pablo Zoning Ordinance, Major Design Review is required for multiple family

developments with five or more residences

(San Pablo Municipal Code Section 17.20.030

[<https://www.codepublishing.com/CA/SanPablo/>](https://www.codepublishing.com/CA/SanPablo/)). The applicant has also requested a Conditional Use Permit and Variance to allow reduced setbacks from the proposed dwellings on Lots 1, 16, 18, and 20 to the top of bank of the adjacent Wildcat Creek. Conditional Use Permit provisions to ensure protections from nearby creeks are identified in Section 17.32.030.B.2 and the requirement for a minimum 30-foot setback from top of creekbank is set forth in Table 4-1, Development Standards by Land Use in the San Pablo Avenue Specific Plan (

[<https://www.sanpabloca.gov/1203/San-Pablo-Avenue-Specific-Plan>](https://www.sanpabloca.gov/1203/San-Pablo-Avenue-Specific-Plan)).

The Major Exceptions to the Mixed Use Center South Regulating Plan

([<https://www.sanpabloca.gov/DocumentCenter/View/5946/Mixed-Use-Center-South?bidId=>](https://www.sanpabloca.gov/DocumentCenter/View/5946/Mixed-Use-Center-South?bidId=>)) are to allow a single-family development pattern in the Mixed Use Center South, Block E location and to allow an encroachment into the required 30-foot setback from the Creekside Trail (Section 2.2.E, Block E). The Major Exception process is set forth in Section 1.1.3 of the Regulating Code. Finally, a Vesting Subdivision Map has been submitted for approval under Chapter 16.06 of the Municipal Code and the California Subdivision Map Act.

The site is currently owned by the City of San Pablo and is being developed under the terms of a Disposition and Development Agreement (DDA) by B.V. Builders, Inc., doing business as (dba) Bay Valley Development (“Bay Valley”). According to Bay Valley, San Pablo has a marketplace need for new home construction. The expected buyer target market will be upwardly mobile professional workers desiring to live in an attractive walkable community with nearby public transportation and easy access to Interstate 80. One of the 20 homes to be developed would be offered at an affordable level, and eight of the units would contain Junior Accessory Dwelling Units (ADUs) with separate ground floor entrances. Bay Valley will serve as the General Contractor for the project and anticipates releasing homes for sale in summer 2022.

Future development of the site was anticipated in the San Pablo General Plan 2030 and the San Pablo Avenue Specific Plan adopted in 2011, as well as in the Regulating Code for Mixed Use Center South where it is identified as “Block E”, also adopted in 2011. 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. 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 this change in the environmental documentation. The proposed development would continue to be consistent with the land use and zoning 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.

PLANNING COMMISSION RECOMMENDATION

As the City Council approves a Vesting Subdivision Map, all requested approvals were considered by the Planning Commission for recommendation to the City Council pursuant to Municipal Code section 17.16.070. (Attachment B).

A Public Hearing before the Planning Commission was held on August 24, 2021, during which the Planning Commission received a staff presentation on the project. There was one public comment from James McCarty, City of San Pablo resident, which was read into the record (included in Attachment C; see below for staff response). Following discussion, the Planning Commission

adopted Resolution PC21-08, by a vote of 3 ayes - 2 absent - 0 nays, Recommending Approval of 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), subject to the Conditions of Approval included in the Resolution (Attachment B).

RESPONSE TO PUBLIC COMMENT

At the Planning Commission meeting on August 25, 2021, a member of the public, James McCarty, City of San Pablo Resident and Homeowner, submitted a written comment for reading into the record (Attachment C). The Staff-prepared response to this comment is provided below.

Comment: Mr. McCarty requested that the Alvarado Adobe Museum be mentioned as one of the nearby amenities to the proposed project.

Response: This language has been added to the Staff Report and to the proposed City Council Resolution.

Comment: In addition, Mr. McCarty expressed concern about the potential impacts of the proposed variance allowing for encroachments into the 30-foot setback from the top-of-bank of the adjoining Wildcat Creek on four of the proposed lots. Mr. McCarty notes that Wildcat Creek is designated by the San Francisco Bay Regional Water Quality Control Board as an impaired water body under the Clean Water Act Section 303(d). According to Mr. McCarty, impaired waters are those that do not meet water quality standards, even after pollution control technology for point sources of pollution have been implemented.

Response: San Pablo engineering staff have reviewed this comment and provided the following information in response. 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). Other creek restoration benefits include the creation of refuge areas for trout, a modified floodplain to accommodate larger flow volumes, a widened creek corridor, soil bioengineering applications and planting of at least 2,600 native riparian plants on the restored bank. This project's purpose is to improve water quality, habitat connectivity, human health and local climate change adaptation. Moreover, the project attained permits and complied with strict mitigation restrictions by regulatory agencies such as the California Department of Fish and Wildlife, San Francisco Regional Water Quality Control Board (RWQCB), Army Corp of Engineers and others. Although the Wildcat Creek project cannot control upstream creek runoff and downstream creek cross-section restrictions, the existing new condition of the creek and its bank adjacent to Block E is as stable as it can be at this time.

At the same time, the City of San Pablo is one of 76 local governmental entities that are subject to the requirements of the California RWQCB or the San Francisco Bay Region's Municipal Regional Stormwater Permit (MRP). The MRP mandates implementation of a comprehensive program of stormwater control measures and actions designed to limit contributions of urban runoff pollutants to

the San Francisco Bay watershed. Green Infrastructure (GI) refers to the construction and retrofit of storm drainage systems to reduce runoff volumes, disperse runoff to vegetated areas, harvest and use runoff where feasible, promote infiltration and evapotranspiration, and use bioretention and other natural systems to detain and treat runoff before it reaches nearby bodies of water. GI facilities include, but are not limited to: bioretention facilities, raingardens, pervious pavers, infiltration basins, green roofs, and rainwater harvesting systems. GI can be incorporated into construction on new and previously developed parcels, as well as new and rebuilt streets, and other infrastructure within the public right-of-way (ROW). Water quality in the San Francisco Bay has been identified as impaired by mercury and polychlorinated biphenyls (PCBs), sources of which include urban stormwater. The MRP Provisions were created to reduce PCBs.

Additional information on this project may be found at this location:

<https://www.sanpabloca.gov/2589/Wildcat-Creek-Restoration-Greenway-Trail>

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 Chatleton Lane, which will eventually flow into one of the creek outfalls.

Comment: Mr. McCarty also notes that the project is located within the Federal Emergency Management Authority's 100-year floodplain.

Response: The City is aware that 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.

Comment: Finally, Mr. McCarty states concern with the staff conclusion that the requested variances from the 30-foot setback from the top of creek bank would result in no additional environmental impacts and that the project would not be consistent with the previously completed and referenced Environmental Impact Reports (EIRs) and Mitigated Negative Declaration (MND), which include reference to the setback requirement in their analysis. He cites one instance where the setback is cited as a policy which would reduce impacts on the filling of wetlands and other waters.

Response: City planning and engineering staff and its environmental consultant have reviewed the potential impacts of the proposed reduction in the creekbank setback and have concluded that there would be no 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.

San Pablo Avenue Specific Plan policies related to provision of a setback along creeks include Policy

5-I-6, which states:

Implementing Policy 5.I.6: Require all new private development located along above-ground creeks to prevent flooding with ample setbacks.

As discussed above, the project would be protected from flooding due to the improvements installed along Wildcat Creek and FEMA requirements.

With respect to the ability of the City to approve variances from development regulations, such as the 30-foot setback from the top of creekbank contained in the San Pablo Avenue Specific Plan, this practice is well established by national planning and zoning law and is consistent with U.S. Constitutional protections. According to Section 17.20.050 of the San Pablo Municipal Code (Zoning Code), variances may be considered 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 the provisions. The compliance of the request with the variance requirements and findings are addressed in this staff report as part of the Variance discussion below.

As noted in the staff report, 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. Therefore, the project would not physically impact the creek corridor or trail. None of the proposed encroachments would impact the creek or its enjoyment by the public in that the creek is buffered from the site by the Wildcat Creek Trail and the encroachments would not impede the use of the trail. In addition, the proposed project would include landscaping amenities that will enhance the Creek Trail surroundings and would result in the addition of a public park with active play opportunities for younger children and direct access from the Creek Trail.

Surrounding Zoning and Land Uses:

This parcel is located in the Plaza San Pablo regulating plan area (Mixed Use Center South) of the San Pablo Avenue Specific Plan. Plaza San Pablo is designed to create a local and regional mixed-use destination as part of the overall vision for revitalization of the San Pablo Avenue Corridor. Surrounding zoning and land uses from the site are as follows:

North: SP2-San Pablo Avenue Specific Plan - Mixed Use Center South (Plaza San Pablo); Casa Adobe apartments, San Pablo Senior Center

South: SP2-San Pablo Avenue Specific Plan - Mixed Use Center South (Plaza San Pablo); vacant parcel (possible site for future Police training facility), new San Pablo City Hall

East: SP2-San Pablo Avenue Specific Plan - Mixed Use Center South (Plaza San Pablo); San Pablo Public Library, Vacant Lot (Lot "C")

West: SP2-San Pablo Avenue Specific Plan - Mixed Use Center South (Plaza San Pablo); Wildcat Creek, Creekside Healthcare Center

PUBLIC HEARING NOTICE

Notices regarding this public hearing were mailed to owners of properties within a 300-foot radius of the site on September 7, 2021. In addition, a Public Hearing Notice was published in the West County Times newspaper (West Contra Costa edition of the East Bay Times) on Friday, September

10, 2021.

SITE LOCATION AND PROJECT DESCRIPTION

The 42,008 square-foot project site (designated as “Block E” in planning documents) is located in the northern portion of the Plaza San Pablo area of central San Pablo which consists of a number of redevelopment tracts on the west side of San Pablo Avenue to the south of Church Lane. This area is identified as the “Circle S” Focus Area/Opportunity Site in the San Pablo Avenue Specific Plan and is further addressed in the Mixed Use Center South Regulating Plan. New developments in the area include the San Pablo Public Library, San Pablo City Hall, West County Behavioral Health Center, Contra Costa County San Pablo WIC (Women, Infants & Children), a County-owned parking structure, and Walgreens Pharmacy. In addition to the proposed project, future development includes a possible location of a Police Training Facility to the south of the site and the “Block C” mixed use development to the southeast of the site. (See Attachment D, site location).

Along with the application form, the applicant has submitted a Letter of Explanation; Business Plan; legal description; and a detailed plan set including project data and code analysis, site plan, floor plans, conceptual perspectives, exterior elevations, building sections, color/material board, contextual photographs, vesting tentative map, grading and drainage plan, utility plan, stormwater control plan, boundary/topographic survey, landscape plan, and irrigation plan (see Attachments E and F). A revised Vesting Tentative Map was submitted by the applicant on September 8, 2021 to show separate lots for project phasing (included in Attachment G). The Geotechnical Report is including separately (Attachment H).

The project consists of a total of 20 single-family detached three-story homes on lots ranging from 1,175 to 2,005 square feet in area, with access from a project driveway to be extended from Chattleton Lane. There are three basic floor plans ranging in size from two-bedroom, two and one-half bathrooms (1,611 square feet) to three-bedroom, three and one-half bathrooms (2,127 square feet). Eight of the units contain a built-in Junior Accessory Dwelling Unit (JADU) and the other units will contain a first-level flex space that can be used as an at-home office. One unit will be deed-restricted to be affordable to a lower-income household (i.e., at the 80% median income level). Each lot contains a two-car garage and room for garbage bin storage.

The design of the homes will include elements of contemporary Spanish style architecture in keeping with nearby residential and City Hall construction. The western portion of the site will abut Wildcat Creek and the City’s newly constructed Wildcat Creek Trail. Most of the homes on this side of the site will be focused around two courts or paseos providing visual access to the trail and a sense of privacy and enclosure.

Under the terms of a Disposition and Development Agreement (DDA), the project will also include the construction of a 2,120 square foot public park or tot-lot at its southwest corner, to be dedicated to the City for use in conjunction with the Wildcat Creek Trail. The DDA also allows for access to the project driveway from the adjacent Police Training Facility site. This southern driveway access will be limited to entrance (ingress) only to reduce the potential for interference with police emergency response traffic leaving their parking area. Other features of the project include two landscaped bioretention areas along the western edge adjacent to the Trail and one at the northeast corner of the site. The project would include a Homeowner’s Association (HOA) for common area maintenance of streets, lights, landscaping, etc.

BACKGROUND

The Plaza San Pablo site was acquired by the former Redevelopment Agency of the City of San Pablo to eliminate blighting conditions. The community vision for this area includes comprehensive redevelopment to create a local and regional mixed-use destination as part of the overall vision for revitalization of the San Pablo Avenue Corridor, as set forth in the San Pablo Avenue Specific Plan and in the Mixed Use Center South Community Vision + Regulating Code + Implementation document (i.e., the Regulating Code). On a broader scale, the Association of Bay Area Governments (ABAG) is also focusing on San Pablo Avenue as one of three regional corridors to focus implementation of their Plan Bay Area Sustainable Communities Strategy.

An area-wide master plan was developed for the Plaza San Pablo as part of the 2012 planning effort and the City has since implemented this vision with several recent projects constructed in the area. These projects include the new City Hall, Walgreens, Library, the WIC Building, and other County health facilities. Most recently, the City completed the Wildcat Creek Trail project which extends along the western edge of the Plaza San Pablo area. The subject site is identified as a portion of "Block E" in the Regulating Code.

The Site is currently owned by the City of San Pablo as the housing successor to the former Redevelopment Agency of the City of San Pablo. A prior agreement to sell the property for senior apartments was terminated after the nonprofit developer failed to obtain sufficient funding. On August 3, 2020, the San Pablo City Council adopted a resolution approving the execution of a Disposition and Development Agreement (the "DDA") with BV Builders Inc., dba Bay Valley Development (the "Developer") for the property (Resolution 2020-102). The purchase price for the site is \$550,000 and is based on an appraisal obtained on April 24, 2018, from Smith & Associates. The net proceeds from the sale will be deposited into the City's Low-Income Housing Asset Fund to be used for affordable housing programs and projects within the City of San Pablo.

The DDA requires the Developer to build at least sixteen for-sale single-family homes with potential for Accessory Dwelling Units ("ADU's"), including one home that must be deed-restricted for sale to a lower-income household (80% Area Median Income). The Declaration of Covenants, Conditions and Restrictions (CC&R's) for the Site require that when the homes are initially sold, 65 percent must be sold for owner-occupancy for a period of at least one year.

On August 2, 2021, by Resolution 2021-102, the DDA was amended to address the configuration of the proposed park and the access easement to be granted from the city-owned property to the south of the site. Additional information on this amendment and a copy of the amended DDA may be accessed from this link:

<https://sanpablo.legistar.com/LegislationDetail.aspx?ID=5072327&GUID=DC71B26C-BF38-4BE7-B5BF-629641A20338>

GENERAL PLAN CONFORMANCE

The General Plan designation for the site is Mixed Use Center. This designation allows for a variety of commercial, residential, and public institutional uses, as identified in the San Pablo Avenue Specific Plan and the Plaza San Pablo (Mixed Use Center South) Regulating Code. The following General Plan Guiding (G) and Implementing (I) policies apply to this request:

Urban Form:

LU-G-2

Ensure planned land uses are compatible with existing uses and provide for appropriate

transitions or buffers for new uses, as needed.

Community Design:

LU-G-3

Preserve and strengthen the City's overall image and create a safe, walkable and attractive urban environment for the current and future generations of residents.

LU-I-9: *Encourage new residential, commercial and related forms of development in a manner which fosters both day and appropriate night time activity; visual presence on the street level; appropriate lighting; and minimally obstructed view areas.*

Residential Neighborhoods:

LU-G-4

Protect and enhance quality of life in the city's residential neighborhoods.

LU-G-5

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

LU-I-13

Ensure that new development in or adjacent to established neighborhoods is compatible in scale and character with the surrounding area by:

- *Promoting a transition in scale and architecture character between new buildings and established neighborhoods; and*
- *Requiring pedestrian circulation and vehicular routes to be well integrated.*

LU-I-14

Support housing that offers residents a range of amenities, including public and private open space, landscaping, and recreation facilities with direct access to commercial services, public transit, and community gathering spaces.

LU-I-15

Promote the development of public spaces that could serve as a neighborhood square or "commons" for the surrounding neighborhood.

LU-I-16

Support residential infill on vacant lots within existing neighborhoods.

Special Planning Subareas:

LU-G-11: *Recognize the importance of the mixed-use areas along San Pablo Avenue, San Pablo Dam Road, 23rd Street, and Rumrill Boulevard to the vitality and quality of life in San Pablo.*

LU-I-39: *Use the San Pablo Avenue Specific Plan to guide future development in the Circle S (Plaza San Pablo) site focus area.*

Open Space & Conservation:

OSC-G-4: *Ensure both access and ecological functionality of the creek system in San Pablo*

The following relevant Housing Element Goals, Policies, and Programs pertain to the project:

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.

Program H-3.3.1 Promote Second Units.

Continue to promote the development of second units as an affordable housing alternative in single-family areas, with reduced setback requirements. To promote the development of secondary dwelling units, the City will provide information in annual e-mailings to residents.

The proposed project would be responsive to these policies by developing 20 new town-house style single-family homes, plus 8 new JADUs 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. The design of the project would be compatible with the contemporary Spanish style found in the nearby City Hall and in the Casa Adobe apartments to the north. The project would also add to the mix of uses envisioned by the General Plan for the Plaza San Pablo (“Circle S”) area.

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 DDA, 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. In addition, the project would provide for significant progress in meeting the City’s Regional Housing Needs Allocation (RHNA) numbers which are to be implemented by the Housing Element. According to the City’s most recent RHNA report, the City had developed only 74 units out its 449 allocated units since 2015 (17%). There are 375 units remaining to be produced by 2023. The proposed 28 qualifying units (20 single family residents plus 8 new JADUs) would account for 7.5% of the remaining number of units to be provided, bringing the number down to 347 units remaining to be produced.

For the reasons mentioned above, Planning Staff finds that the proposed use is consistent with the San Pablo General Plan land use and housing-related policies.

SAN PABLO AVENUE SPECIFIC PLAN CONFORMANCE

The subject site is within an opportunity site and focus area identified as the “Circle S” area by the San Pablo Avenue Specific Plan. The land use (and zoning) designation for the site is shown as Mixed Use Center South.

The Specific Plan describes the Circle-S opportunity site as follows:

This 18-acre site, owned by the San Pablo Redevelopment Agency, is a major opportunity for the City of San Pablo. Located adjacent to Wildcat Creek and along the busiest stretch of San Pablo Avenue, this site presents an opportunity to capitalize on the proximity of City Hall, the San Pablo Lytton Casino, and nearby medical offices to establish a major mixed-use residential and commercial node in the heart of the corridor. It also presents an opportunity to integrate a large park or community open space into the development and along the corridor.

The following guiding (G) and implementing (I) policies of the San Pablo Avenue Specific Plan are

relevant to the proposed project:

Land Use Policies:

2-G-3: *Promote pedestrian- and transit-friendly development that enhances the public realm.*

2-I-1: *Establish mixed use, transit-supportive nodes of development near the intersections of San Pablo Avenue and the following streets: Rumrill Boulevard, El Portal Drive, Church Lane, and San Pablo Dam Road.*

2-I-2: *Promote a diverse range of housing types within each development to accommodate a variety of household types. Locate building types that specifically serve individuals with disabilities or seniors close to accessible pathways to transit and public services.*

2-I-3: *Provide housing for all income levels and household types, with emphasis on affordable housing for students, seniors, and low-income families.*

2-I-4: *Develop housing, and particularly affordable housing by complying with the policies of the San Pablo Housing Element.*

2-I-5: *Ensure that ample community gathering spaces, open spaces, and recreational facilities are part of any mixed-use development or master planned area.*

2-1-16: *Encourage structured or underground, or tuck-under parking in new development, to maximize occupied uses and open space at the ground level. Discourage new or expanded surface parking lots.*

Access, Circulation, and Parking Policies:

3-G-4: *Provide continuous pedestrian sidewalks and safe bike travel routes throughout the Planning Area and within development projects.*

3-G-6: *Ensure that private development integrates pedestrian and bicycle connections to transit, open space, and key destinations.*

3-G-11: *Avoid excessive supplies of parking that would discourage transit ridership and pedestrian or bicycle trips.*

Urban Design Policies:

4-G-1: *Develop the Circle-S site with a vital mix of synergistic retail, eating/drinking establishments, office, institutional, and residential uses, and as a citywide and regional destination.*

4-G-2: *Ensure that streets and open spaces form the framework for development, with the public realm designed to be accessible from the surroundings, and designed to enhance pedestrian movement.*

4-G-14: *Design building facades at a pedestrian scale to heighten pedestrian comfort and access, and to create an active and inviting public realm.*

4-I-8: *Maintain buildings of generally three to four stories, with lower heights in certain portions of the site, and reaching five or six stories in selected locations, stepped away from the project's edges.*

The proposed project would be consistent with the guiding goals and implementing policies of the San Pablo Avenue Specific Plan. 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.

ZONING CODE CONFORMANCE

The property is in the SP-2 Mixed Use Center South district (San Pablo Avenue Specific Plan) and the General Plan land use designation is Mixed Use Center. The Mixed Use Center South area is described as follows:

Mixed Use Center South. The Mixed Use Center South designation is limited to the former Circle-S site. Similar to Mixed Use Center North, this designation describes a new high-intensity mixed-use destination in an area with high growth potential. The Mixed Use Center South designation aims to establish a major new activity center and new citywide and regional destination for the City of San Pablo. Uses may include commercial, office (including medical offices), residential, institutional, and hotel. Typical heights are expected to reach three to five stories, with a maximum height of 60 feet. The maximum FAR is 2.5 and the maximum residential density allowed is 60 units per gross acre (included within the FAR limit).

Development standards in the Mixed Use Center South area are set forth in Tables 2-3 and 4-1 of the San Pablo Avenue Specific Plan. A breakdown of the relevant standards is provided in the table below:

| DEVELOPMENT STANDARDS FOR SP-2 MIXED USE CTR SOUTH DISTRICT | | | |
|--|---|---|------------------|
| Standards | SP/Zoning Code Requires | Proposed | Complies? |
| Minimum parcel area (sf) | -- | 1, 175 - 2,005 sf | Yes |
| Lot Width | -- | 23 ft-9 in to 27 ft | Yes |
| Block Length | 400 ft max | 200 ₊ ft | Yes |
| Maximum building height (feet) | 60 ft | 34 - 35 ft | Yes |
| Max Stories | 4-6 | 3 | Yes |
| Maximum floor area ratio (FAR) | 2.5 | 1.34 - 2.10 | Yes |
| Density (DU/acre) | Up to 60 | 21 (29 w/ADU's) | Yes |
| Maximum Lot Coverage | 90% | 43 - 66% | Yes |
| Open Space | 60 sf privately accessible/ unit + 150 sf publicly accessible | 95 - 112 sf per lot plus 1,910 sf publicly accessible and 2,120 public park | Yes |
| Front yard setback (feet) | 5 -10 ft | 5 ft | Yes |
| Rear yard setback (feet) | 0 ft. | 4 ft to 6 ft-5 in | Yes |

| | | | |
|---------------------------|------------------------|---|-----|
| Side yard setbacks (feet) | 0 ft | 3 ft-3 in to 3 ft-6 in | Yes |
| Setback adjacent to Creek | 30 ft from top of bank | 29± ft on Lot 1, 16, 18 21± ft on Lot 20 | No |

As identified above, the proposed project would be in conformance with the development standards for the SP2 - Mixed Use Center South district, with the exception of encroachments into the required 30 foot from top of bank setback along Wildcat Creek for four of the lots. These areas of encroachment are illustrated on Sheet C-1, Vesting Tentative Map (page 24 of Attachment F). As shown, there would be minor encroachments of approximately one foot on Lots 1, 16, and 18, and a larger encroachment of approximately nine feet on Lot 20. The applicant has requested a variance (discussed below) for these encroachments.

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.

REGULATING CODE CONFORMANCE

The Mixed Use Center South Regulating Code provides additional guidance for development of the site, which is identified as “Block E” in the document (Section 2.2.E). This Regulating Plan supplements and in some cases replaces the requirements of the San Pablo Avenue Specific Plan. When the content of the Regulating Plan conflicts with the San Pablo Avenue Specific Plan, the Regulating Plan shall govern. The Regulating Code provides this overview for Block E:

Encompassing over 1.5 acres, Block E is bound by Chattleton Square North, Chattleton Lane, and Wildcat Creek. With approximately 180 feet of frontage visible from Chattleton Green, Block E is an ideal location for a commercial, civic, or cultural anchor that serves as a prominent visual terminus for pedestrians within the central square. Frontage along Chattleton Lane presents an opportunity for a shared parking lot or structure where it is directly accessible from Chattleton Lane and San Pablo Avenue.

Land use categories allowed in Block E include Main Street Retail, General Commercial, Destination Retail, Workplace, Residential, Lodging, and Civic/Cultural. The project would fit within the Residential category. According to the Regulating Code, the intent and permitted uses of the Residential Use Category are as follows:

The Residential Use Category includes a range of permitted residential development types that support the community’s vision for safe, active, and pedestrian-oriented neighborhoods. Residential development within the Plan Area shall have a minimum of 12.1 and a maximum of 60 units per gross acre in accordance with the Medium and High Density Residential designation in the San Pablo Avenue Specific Plan.

Permitted Types

- *Multiple Family Dwellings including apartments, flats, town-houses and/or lofts, located in a multistory residential or mixed-use building.*
- *Single-Family Attached dwellings including row-houses and duplexes.*
- *Home occupations upon compliance with the standards as set forth in the San Pablo Municipal*

Code.

Because the proposed project would involve detached single-family residential development - albeit in a relatively dense “townhouse” configuration - it would not be completely consistent with the above. However, the Regulating Code provides for flexibility in its Land Use Categories (Section 2.3) as noted below:

Land Use Category Definitions

Land Use Categories provide flexibility to developers by permitting a mix of complementary uses for each block. For each Land Use Category, a statement of intent and list of exemplary uses is provided.

For each Land Use Category, a statement of intent and list of exemplary uses is provided. The lists do not identify all of the potentially appropriate uses. Each application will be evaluated in terms of its conformance with the intent of the Land Use Category and the “Overview” statement for the respective block location. Determination of “similar” uses is subject to review by the Planning Director and may be referred to the Planning Commission.

In terms of site development standards for Block E (Section 2.2.E), the Regulating Code reflects the requirements of the San Pablo Avenue Specific Plan as addressed above. However, there is one additional building setback identified in the Code which is a 30-foot setback from the Creekside Trail. Due to placement of the Trail, this setback requirement extends further into the site than does the Specific Plan’s 30-foot setback from the top of bank. Lots 1, 14, 16, 18, and 19 would encroach into this setback. This is illustrated in Sheet C-1 (page 24) of the submitted plans included in Attachment F:



The Regulating Code provides a Code Exception process. The applicant has requested Code Exceptions to allow a detached single-family residential use type and to allow encroachments into the Creekside Trail setback requirement. This request is discussed further below.

MAJOR DESIGN REVIEW

The applicant proposes to construct 20 new three-story town-house style single-family homes to be located on lots ranging from 1,175 to 2,005 square feet. The residences would be accessed via a private driveway extending from two curb-cuts off Chattleton Lane, with the southern access point provided via an access easement from the adjoining property. Ten of the lots would face Chattleton Lane and the remaining ten interior lots would be accessed on the western side of the private drive, with eight of the lots facing onto east-west running courts or paseos. Six of the lots would have

frontage on the Wildcat Creek Trail and two would be adjacent to the proposed tot-lot.

As shown in the proposed plan set (Attachment F), there are three floor plans ranging in size from two-bedroom, two and one-half bathrooms (1,611 square feet) to three-bedroom, three and one-half bathrooms (2,127 square feet). Eight of the units contain a built-in Junior Accessory Dwelling Unit (JADU) and the other units will contain a first-level flex space that can be used as an at-home office. Each lot contains a two-car garage and room for garbage bin storage. The plan set elevations show that the project building heights would range from 34 to 35 feet.

The design of the homes will include elements of contemporary Spanish style architecture in keeping with nearby residential construction. As shown in the exterior elevations (Sheets A3.0 - A3.6), design elements will include painted stucco in neutral tones, wood and fiber cement trim, concrete roof tile, and several decorative elements including Juliet balconies, metal railings, corbels, finials, trellises, tile insets and surrounds, and clay pipe. The color and material board (Sheet A.5.0, page 22) shows stucco body, accent/trim/fascia/garage door, roof tile, entry door, and tile accent for five different unit styles.

Landscape plans for the project (Attachment F, Sheet L1.0 and L2.0) show generous landscaping throughout the site and particularly along the Creekside or western perimeter. A total of 47 native and ornamental trees are proposed to be planted, including Japanese maple, crape myrtle, coast live oak, western redbud, and weeping bottlebrush. In addition, numerous shrubs, grasses, perennials, and groundcover species will be planted. A detailed plan for the proposed park has also been submitted (Attachment F, Sheet L1.0 - L3.0). This shows improvement with a concrete path, benches, tot-lot play equipment on a soft tot-lot surface, lawn area and landscape plantings around the periphery. The park would have a four-foot fence surround but would be accessible from both the project and the adjacent Creek Trail.

Section 17.20.030(C) of the San Pablo Zoning Ordinance states that the Planning Commission shall ensure that the proposed development meet the following requirements:

1. *Design Guidelines. The proposal is consistent with applicable design guidelines.*
2. *Community Plans. The proposal is consistent with any community design plan or specific plan.*
3. *General Plan. The proposal is consistent with the land use, physical design, and economic development element and the open space element of the general plan.*
4. *Location and Design. The location and design of proposed development gives particular consideration to privacy, views, and sunlight on adjoining properties and fosters the orderly and harmonious development and preservation of the public health and welfare of the city and its neighborhoods.*
5. *Design and Colors. The architectural design of structures and their colors and materials are visually harmonious with surrounding development, landforms, and vegetation.*

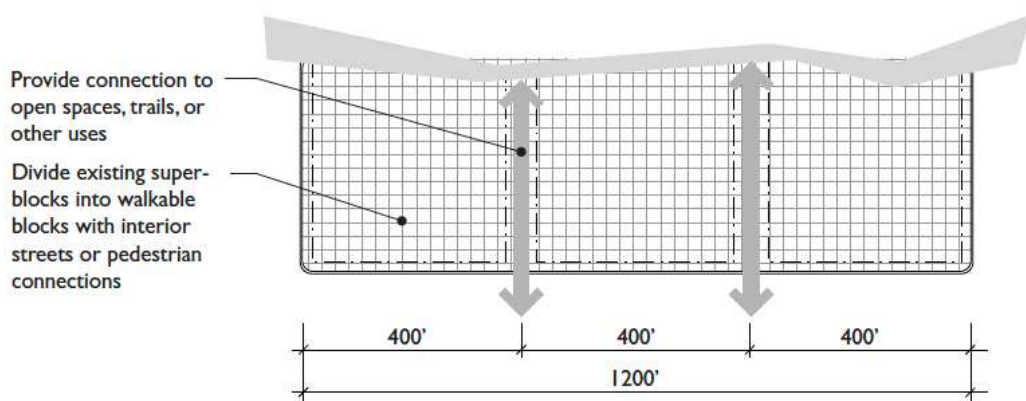
The project's overall compliance to the San Pablo General Plan, San Pablo Avenue Specific Plan, and Mixed Use Center South Regulating Code are addressed above. Several of the policies within these plans are aimed at fostering the orderly and harmonious development and preservation of the

public health and welfare of the city and its neighborhoods. 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 any visual or privacy intrusion resulting from the project.

The San Pablo Avenue Specific Plan contains design guidelines in Chapter 4 which are intended to serve as recommendations to guide development projects in the design review process. Below is a discussion of the guidelines that are most pertinent to this development:

Block Size:

DG-1 Create new interior streets to divide long blocks along San Pablo Avenue and within potential development sites like Circle-S and Towne Center into 200- to 400-foot block lengths (with some blocks potentially even smaller in portions of the Circle-S site).



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.

Building Height, Massing, and Articulation:

DG-4 Provide vertical and horizontal articulation in building mass through setbacks at upper levels, recessions and projections, changes in materials and transparency, and variations in height.

DG-6 Require adjacent buildings and buildings within master planned developments to exhibit variation in roof heights and forms.

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.

Building Orientation, Entries, and Facades:

DG-13 Require street-facing facades of residential development to incorporate recognizable front doors, windows, stoops, front porches, dormers, bay windows, and/or balconies.

As 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.

Open Space:

DG-16 Design open spaces as integral elements to the development, not as left over space.

DG-23 Provide walkways, patios, swimming pools, barbeque areas, playgrounds, seating areas, recreational facilities, turf, or other common open spaces as appropriate to enhance the outdoor environment of residential and mixed-use developments.

DG-25 Encourage sustainable landscape design with the use of hardy, native, low-water consumption, drought-tolerant planting, as well as stormwater management systems. Utilize bioswales and rain gardens in street medians or landscape buffers. Employ moisture-sensitive irrigation systems.

DG-27 Locate publicly accessible open space near the center of activity nodes or buildings and along pedestrian connections to encourage a variety of spillover activities and facilitate pedestrian access.

In addition to perimeter and roadside landscaping to be maintained by the HOA, the project includes three landscaped bioretention areas and the dedication of a small public park/tot-lot. The public park would be located alongside the recently completed Wildcat Creek Trail. The landscaping materials would consist of appropriate drought-resistant plantings meeting Water Efficiency standards.

Parking Design:

DG-28 Locate parking behind buildings, below grade, or encapsulated within buildings to reduce visual impact.

The project includes two completely enclosed garage spaces for each of the units, with no additional parking required for the junior ADU units pursuant to State law.

The proposed project appears to be responsive to the recommended design guidelines and incorporates a number of the contextual elements of the surrounding neighborhood. The architectural design, colors and materials would be visually harmonious with surrounding development.

CONDITIONAL USE PERMIT

Use Permit provisions to ensure protections from nearby creeks are identified in Section 17.32.030.B.2, Uses Allowed:

B. Exceptions. Notwithstanding the provisions of Table 17.32-A, the following provisions apply:

- 2. Streams. In the absence of any other permit requirement, any development, including land disturbance, that is within fifty feet of any stream shall require an administrative use permit 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 potential urban pollutants, pursuant to the relevant policies and actions related to creeks within the general plan.

Because the project is within 50 feet of Wildcat Creek and would involve encroachments into the 30-foot setback from the top-of-bank, the Zoning Administrator has determined that the project is subject to this provision.

The Use Permit process is set forth in Section 17.18.080 and 17.20.040 of the Zoning Code. Section 17.20.040.B identifies the following necessary finding for granting of a Conditional Use Permit by the Planning Commission:

Findings. In order to grant any use permit, the findings of the planning commission shall be that the establishment, maintenance, or operation of the use of the building 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 to the general welfare of the city.

Based upon the planning and zoning conformance analysis contained in this staff report, the project appears to meet the required findings to support a Conditional Use Permit. Findings to support the granting of a Conditional Use Permit in this case include the following:

1. 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.
2. 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. The applicant has requested a variance and regulating code exception to allow these encroachments.
3. 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.
4. 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. Therefore, the project would not physically impact the creek corridor or trail.
5. The applicant has submitted a Geotechnical Report (Attachment E) 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. Those conditions are incorporated into the proposed conditions of approval for the project.

6. 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.
7. 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.

VARIANCE

As noted above, the applicant has requested a variance from the 30-foot top of bank setback along Wildcat Creek required in Table 4-1, Development Standards by Land Use, of the San Pablo Avenue Specific Plan. The areas of encroachment are illustrated on Sheet C-1, Vesting Tentative Map (page 24 of Attachment F). As shown, there would be minor encroachments of approximately one foot on Lots 1, 16, and 18, and a larger encroachment of approximately nine feet on Lot 20.

According to Section 17.20.050 of the Zoning Code, the variance process is available 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 given unique circumstances regarding the particular parcel. In order to grant any variance, after the conclusion of the public hearing, the Planning Commission (in this case the City Council which is the final authority on all of the needed entitlements) shall make a finding of facts showing that the following conditions exist:

1. 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.
2. Because of these exceptional or extraordinary circumstances or conditions, the strict application of this title deprives the property of privileges enjoyed by other properties in the vicinity and within the same zoning district.
3. The granting of the application is necessary for the preservation and enjoyment of substantial property rights of the petitioner.
4. The granting of such application 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.

The City Council may impose such conditions in connection with the variance as it deems necessary to secure the purposes of the Zoning Code and to ensure that the variance does not constitute a grant of special privileges inconsistent with the limitations upon other properties in the vicinity and within the same zoning district.

Due to special and unique concerns related to the site configuration and the relative shallowness of the site, these encroachments are requested to allow for building footprints that will intrude into the setback. The encroachment would be very minor in the case of Lots 1, 16, and 18 (on the order of one-foot or 3%), but more significant on Lot 20, which is particularly constrained by its location on the northwest corner of the property with creek bank frontage on two sides. On this lot, the requested variance is for approximately 9 feet or 30%. These conditions reflect exceptional or extraordinary circumstances which impact the use and developability of the site and are not found in other locations.

The applicant believes that the granting of the variance is necessary for the preservation and enjoyment of substantial property rights, related to their expectation to build on the site to provide housing in accordance with City plans and their DDA with San Pablo. None of the encroachments would impact the creek or its enjoyment by the public in that the creek is buffered from the site by the Wildcat Creek Trail and the encroachments would not impede the use of the trail. Granting the variance would not adversely affect the health or safety of persons residing or working in the neighborhood and will not be detrimental to the public or injurious to property or improvements in the neighborhood.

REGULATING CODE EXCEPTIONS

As noted above, exceptions to the Mixed Use Center South Regulating Code are requested to allow the detached single-family residential pattern and to allow encroachments into the 30-foot setback from the Creek Pathway. According to Section 1.1.3 of the Regulating Code:

Code Exceptions:

The Plan Area contains a number of unique conditions related to property configuration, parcel size, adjacencies and access. These conditions may create design and construction challenges that require flexibility in the application of the Code's development regulations. It is therefore sometimes in the public interest to make an exception to regulations contained in the Regulating Code.

Generally, the Planning Commission may authorize minor adjustments to a development proposal not specified by or approved by this Plan. Significant deviations from this Plan as related to site development shall be granted only after application and approval by the City. The City may require that the application for a major exception be considered at a public hearing before the Planning Commission and/ or City Council.

An exception may be approved only where the Planning Commission or City Council makes the following findings:

- 1. The applicant demonstrates that a clearly superior design solution would result if the exception were granted, and the new solution is supportive of the intent of this Code's applicable regulations.*
- 2. The proposed exception will not result in conditions that adversely affect public health and/or safety.*
- 3. The proposed exception will not detract from the peaceful enjoyment of residents or visitors.*

With respect to the exception to allow a single-family detached, rather than attached development pattern, the project as designed would provide more of a neighborhood feel than could be achieved with attached units and would offer the advantages of allowing for traditional lot ownership by

homeowners as opposed to shared-wall townhouse construction. By providing for setbacks between the houses, additional opportunities for access to the Wildcat Creek Trail and proposed tot-lot will also be possible. The proposed exception would not result in conditions that adversely affect public health and/or safety and will not detract from the peaceful enjoyment of residents or visitors. In addition, as noted in Section 2.3, the Regulating Code explicitly provides for flexibility in its Land Use Categories and determination of similar uses subject to review by the Planning Director with possible referral to the Planning Commission.

With respect to the second requested Exception, the site development standards for Block E (Section 2.2.E) in the Regulating Code reflect the requirements of the San Pablo Avenue Specific Plan, with one additional requirement for a 30-foot setback from the Creekside Trail. This requirement is stricter than the setback requirement in the San Pablo Specific Plan for a 30-foot setback from the top of bank. Due to placement of the Trail, this setback requirement extends further into the site than does the Specific Plan's 30-foot setback from the top of bank. Lots 1, 14, 16, 18, 19, and 20 would encroach into this setback by approximately 10 to 21 feet.

As with the request for the Variance from the top-of-bank setback, the Creekside Trail setback Exception is requested due to the configuration of the site and the shallowness of the parcel. These conditions reflect exceptional or extraordinary circumstances which impact the use and developability of the site and are not found in other locations. None of the encroachments would impact the Wildcat Creek Trail or its use or enjoyment by the public. The proposed project would include landscaping amenities that will enhance the Creek Trail surroundings and would result in the addition of a public park with active play opportunities for younger children and direct access from the Creek Trail. Granting the Exception would result in a superior design for the project, will not result in conditions that adversely affect public health and/or safety, and would not detract from the peaceful enjoyment of residents and visitors.

VESTING TENTATIVE MAP

In order to divide the subject parcel into 20 individual lots for sale, and to identify lots or easements to be held in common or to be dedicated for the park or access, approval of a subdivision map is necessary. Because the site will be divided into five or more lots, the project is required to submit a Tentative Map for review and recommendation by the Planning Commission, approval by the City Council, and for subsequent recordation prior to real estate transfers. The applicant has submitted a revised Tentative Vesting Map showing separate parcels to allow for the phasing of the private street to meet Department of Real Estate requirements (shown as Parcels A, F, G on Attachment G).

The requirements for Tentative Maps are set forth in Chapter 16.04 of the Municipal Code. Required contents for Tentative Maps are set forth in Section 16.04.030 and submittal of accompanying information is identified in Section 16.04.040. Section 16.04.050.E.2 requires the Planning Commission to hold a public hearing and to make a recommendation to the City Council within 50 days of the City's environmental determination on the submittal. The City Council is then required to fix the meeting date at which the Tentative Map will be considered at its next regular meeting following the Planning Commission's recommendation. The City Council shall approve, conditionally approve, or disapprove the tentative map within 30 days of that regular meeting.

General provisions for subdivisions are contained in Section 16.02.110. Pertinent requirements for this project include the following:

- A. *Public Access. As a condition of approval of a tentative or final parcel or subdivision map,*

the subdivider shall provide reasonable access to and/or along public waterways, rivers, streams, reservoirs, or lakes as required in Article 3.5, of Chapter 4 of the Subdivision Map Act. In addition to the criteria given in Article 3.5 of the Subdivision Map Act for determining reasonable access, the city shall consider potential damage to sensitive wildlife and vegetative habitats.

C. Existing Vegetation. All subdivisions shall be designed to preserve desirable existing native vegetation, especially trees, to the maximum extent feasible.

F. Building Sites. All lots created by a residential subdivision shall have a building site, unless the lot is specifically created to meet open space and/or public drainage or storm water retention/detention requirements.

G. Creek Protection. All subdivisions shall be designed to preserve and enhance creek corridors, including provisions for public access trails and for setbacks required by the general plan.

H. Stormwater Management. All subdivisions shall be designed to meet the requirements specified in the most recent version of the municipal regional stormwater permit (MRP), and shall follow the design guidelines outlined in the city's green infrastructure plan.

Necessary findings for approval include the following (Section 16.04.060):

A. Plan Consistency. That the proposed map is consistent with the general plan and any applicable specific plan or other adopted applicable plan;

B. Design or Improvement. That the design or improvement of the proposed subdivision is consistent with the general plan and any applicable specific plan;

C. Type of Development. That the site is physically suitable for the type of development proposed;

D. Density of Development. That the site is physically suitable for the proposed density of development;

E. Fish or Wildlife. That neither the design of the subdivision nor any proposed improvements is likely to cause substantial environmental damage, or substantially and avoidably injure fish or wildlife or their habitat;

F. Public Health. That the design of the subdivision or type of improvement is not likely to cause significant public health problems;

G. Access. That 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.

The proposed submittal appears to meet the above required findings as set forth in the earlier discussion of plan consistency, design, site suitability, and access. Review of fish and wildlife in the

area and any public health issues from development of the Plaza San Pablo redevelopment area has been reviewed and found not to be significant as part of previous environmental documents.

The applicant's Tentative Map plan submittals are contained in Sheets C1 - C4 of Attachment F (pages 24 - 27). These materials were submitted for technical review by the City's consulting subdivision review surveyor/engineer, CSG Consultants of Foster City, and the applicant has completed the requested revisions for final review and approval by the City Engineer.

For this project, the applicant has requested approval of a Tentative Map with vesting rights (Vesting Tentative Map), as set forth in Chapter 16.06, in anticipation of full development of the project rather than individual lot sales for build-to-suit purchasers. Vesting Tentative Maps confer additional rights to the subdivider pursuant to the Subdivision Map Act. In addition to the information to be provided for a Tentative Map, a Vesting Tentative Map requires additional accompanying information, per Section 16.06.060, including development plans, utility plans, grading plans, soil information, drainage study, landscaping and site details, and geological report. Vesting Tentative Maps also have additional conditions of approval tied to them regarding the time periods for vesting rights, as set forth in Section 16.06.090.

CONCLUSION

The Planning Commission has recommended that the City Council approve the Major Design Review, Conditional Use Permit, Variance, Regulating Code Exceptions, and Vesting Map Act, along with the conditions of approval identified in the attached proposed Resolution (Attachment A). Any changes to the project or proposed changes to the approvals must first be submitted to the City of San Pablo for review.

FISCAL IMPACT

Planning application fees were collected and City resources spent for the review of the project. Approval of the project will result in added revenue for the City of San Pablo due to the Disposition Development Agreement and from transfer of the site from public to private ownership with taxable real estate improvements.

ATTACHMENTS:

- A. Draft City Council Resolution
- B. Adopted Resolution PC21-08
- C. Public Comment
- D. Site Location
- E. Project Application with Letter of Explanation, Business Plan, and Legal Description
- F. Architectural/Engineering Submittal: Site Plan, Floor Plans, Perspectives, Elevations, Sections, Color/Material board, photographs, tentative map, grading and drainage plan, utility plan, stormwater control plan, boundary/topographic survey, landscape plan, irrigation plan
- G. Revised Vesting Tentative Map
- H. Geotechnical Reports
- I. CEQA Documents: Addenda to General Plan EIR, San Pablo Avenue Specific Plan EIR, and Regulating Plan for "The Avenue" Mitigated Negative Declaration
- J. Proof of Publication from West County Times