



Legislation Text

File #: #PC22-13, **Version:** 1

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GRIFFEN DEMPSEY

DATE OF MEETING: 09/27/22

SUBJECT:

RESOLUTION APPROVING MAJOR DESIGN REVIEW; CONDITIONAL USE PERMIT FOR DEVELOPMENT WITHIN 50 FEET OF A CREEK; AND DENSITY BONUS WITH CONCESSIONS/WAIVERS AND VARIANCES TO ALLOW AN INCREASE IN THE NUMBER OF UNITS, HEIGHT, AND NUMBER OF STORIES, A REDUCTION IN THE SIDE YARD SETBACK, AND ENCROACHMENT WITHIN A CREEK SETBACK, AND FURTHER DETERMINING THAT THE POTENTIAL ENVIRONMENTAL EFFECTS OF THE DEVELOPMENT HAVE BEEN PREVIOUSLY EVALUATED AS PART OF THE ENVIRONMENTAL IMPACT REPORTS FOR THE SAN PABLO GENERAL PLAN AND SAN PABLO AVENUE SPECIFIC PLAN AND NO FURTHER ENVIRONMENTAL REVIEW IS NEEDED, FOR A MULTIFAMILY RESIDENTIAL PROJECT CONTAINING 64 UNITS, INCLUDING SIX AFFORDABLE UNITS, TO BE LOCATED ON A 45,302-SQUARE-FOOT PARCEL AT 2364 ROAD 20, SAN PABLO, APN: 416-120-029

Location: 2364 Road 20
APN: 416-120-029
Zoning: SP2 - San Pablo Avenue Specific Plan - High Density Residential
CEQA: Addenda to existing EIRs for the City of San Pablo 2030 General Plan and San Pablo Avenue Specific Plan prepared showing no significant effect on the environment due to the project
Owner: San Pablo Road 20, LLC
Applicant: San Pablo Road 20, LLC (Attn: Santosh Addagulla)
Agent for Applicant: Adriana Cook, Arris Studio
Staff Contact: Elizabeth Tyler, Community Development Director

Conduct public hearing; adopt Resolution

REQUESTED ACTION

within 50 feet of a creek, and Density Bonus with Concessions/Waivers and Variances to allow an increase in the number of units, height, and number of stories, a reduction in the side yard setback, and encroachment of building supports for first-level surface parking and second level overhang within a creek setback for a 64-unit multifamily residential use on a 45,302-square foot parcel located at 2364 Road 20, at the southeast corner of the intersection of Road 20 with San Pablo Avenue, in the SP2 - San Pablo Avenue Specific Plan High Density Residential district.

According to the San Pablo Zoning Ordinance, Major Design Review by the Planning Commission is required for all multifamily residential developments with five or more units (San Pablo Municipal Code Section 17.20.030)

[<https://www.codepublishing.com/CA/SanPablo/>](https://www.codepublishing.com/CA/SanPablo/)).

According to Section 17.32.030 of the Zoning Code, a Conditional Use Permit is required due to the project's location adjacent to San Pablo Creek 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.

The project is also requesting Density Bonus provisions and Concessions/Waivers to allow an increase in the allowable number of units (from 62.4 to 64), pursuant to California Density Bonus Law, as amended (California Government Code Sections 65915-65918). Because the development would contain six units that are affordable to Very Low-Incomes, it would be eligible for a Density Bonus to allow the proposed 61.54 units per acre (i.e., 64 units on the 1.04-acre site). As calculated per Density Bonus Law instructions, the six Very Low-Income units would qualify as 10% of the total number of units and a Density Bonus of 32.5% would be allowed. At this level, the developer would also be allowed two concessions to development standards for the site under the Density Bonus Law and the City's Zoning Code. Possible concessions are identified in Section 17.60.020(F) of the Zoning Code. The Density Bonus concessions would accommodate the requested two-foot decrease in setback along the east side of the project (from 10 feet to 8 feet) and the increase in the requested height from 45 feet to 65 feet-4 inches.

In addition to the Concessions, the project is requesting Waivers and/or Variances to allow for an increase in the maximum number of stories from four to five and an encroachment of up to 13 feet into a 30-foot setback from the top-of-bank of the adjacent San Pablo Creek to allow for placement of building support pillars for first-level surface parking and up to 5 feet for a second level overhang. It should be noted that State law prohibits the City from applying any development standard that will physically preclude construction of the project at the requested density and with the requested concessions (see Government Code section 65915(e)(1)). Due to the constraints of the project site, the proposed density would not be possible without the requested waivers/variances.

Future development of the site was anticipated in the San Pablo General Plan 2030 and the San Pablo Avenue Specific Plan, both adopted in 2011. The City of San Pablo adopted EIRs for the General Plan and San Pablo Avenue Specific Plan. These documents anticipated that the site would be developed with infill development and high-density residential/potential park uses. Due to the proposed increase in the height, density, and setback encroachment at the site, the City has prepared Addenda to the two EIRs to identify this change in the environmental documentation. According to the Addenda, 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 any new impacts not previously considered in the prior EIR.

Staff recommendation is for Planning Commission to determine that no further environmental review is necessary pursuant to the prepared EIR Addenda for the project and to approve the Major Design Review, Conditional Use Permit, Density Bonus and Concessions, and Waivers/Variances, subject to the conditions of approval included in the resolution.

Surrounding Zoning and Land Uses:

The subject parcel is located within the area of the San Pablo Avenue Specific Plan. Zoning designations and land uses surrounding the site are as follows:

North: SP2 - San Pablo Avenue Specific Plan - Medium Density Residential; Residential townhomes complex

South: SP2- San Pablo Avenue Specific Plan/San Pablo Creek - San Pablo Creek; High density Residential; Multifamily residential complex

East: R-3 Multifamily Residential - Single-family residence

West: SP2-San Pablo Avenue Specific Plan - Residential Mixed Use; Medical office building

PUBLIC HEARING NOTICE

Notices regarding this public hearing were mailed to owners of properties within a 300-foot radius of the site on September 14, 2022. In addition, a Public Hearing Notice was published in the West County Times newspaper (West Contra Costa edition of the East Bay Times) on Saturday, September 17, 2022.

SITE LOCATION AND PROJECT DESCRIPTION

The 45,302 square-foot project site is located in the central portion of San Pablo at the southeast corner of the intersection of Road 20 and San Pablo Avenue. The site falls within the boundaries of the San Pablo Avenue Specific Plan, a document designed to guide development along the corridor surrounding the San Pablo Avenue arterial.

Along with the application form, the applicant has submitted a Project Description; legal description; and a detailed plan set including project data and code analysis, site plan, floor plans, renderings, elevations, color/material board, lighting plan, grading and drainage plan, stormwater control plan, boundary/topographic survey, and landscape and irrigation plan (see Attachments C and D). The applicant also submitted a Traffic Impact Analysis, Soil Report, Biological Resources Technical Memorandum, and Cultural Resources Study (Attachments E through H).

The proposed project would consist of eight studio, 44 one-bedroom, eight two-bedroom, and four three-bedroom residential units, totaling 64 units. The project would include six units designated as Very Low-Income units. Unit sizes include eight units under 500 square feet, 50 units between 501 and 800 square feet, and six units between 801 and 1,100 square feet.

The proposed building would be 65 feet-4 inches high and would consist of five stories. The ground level would be devoted to an entry lobby, bicycle parking, and parking for 71 cars, and the four upper levels would include the residential apartments. Most of the parking would be contained within three-level stacked parking, called “park lifts,” which would be at grade and screened from exterior view in the front (north) portion of the first level. No commercial space would be included in the project. The front of the building would be set back and landscaped to enhance the building massing and pedestrian experience.

The topography of the site is generally flat towards Road 20, with a significant slope towards San Pablo Creek in the southern portion of the property, which will not be built upon. The surrounding neighborhood consists of existing residential multi-unit structures, as well as townhouses and some single-family homes. The project is located near Helms Middle School and the College Center shopping plaza.

BACKGROUND

The site falls within the San Pablo Avenue Specific Plan area, which was adopted in September of 2011 to provide a vision and implementation measures for creating a vibrant, accessible, and sustainable mixed-use corridor. The plan aims to revitalize areas along San Pablo Avenue with higher-intensity development to promote stronger economic activity, street life, and transit ridership, among other goals. On a broader scale, Bay Area Metro (Association of Bay Area Governments (ABAG) and the Metropolitan Transportation Commission (MTC) is also focusing on San Pablo Avenue as one of three regional corridors to focus implementation of their Plan Bay Area Sustainable Communities Strategy (see <https://www.planbayarea.org/>) The corridor is designated as a Priority Development Area.

The site is privately owned by San Pablo Road 20 LLC, which purchased it in 2020. A nursery operated on the site until 2010, after which the site sat vacant for a decade with some unpermitted vehicle storage and towing operations taking place. The site is currently unused, with the exception of a single-family residence occupied by a tenant serving as an on-site caretaker. A partially enclosed shed structure is also located on the site, as well as a deck extending over the creek bank.

GENERAL PLAN CONFORMANCE

The General Plan designation for the site is High Density Residential/Potential Park Location. This designation allows primarily for residential uses, as identified in the San Pablo Avenue Specific Plan. The Potential Park Location designation is shown at five locations on the General Plan Land Use Map, primarily along the San Pablo Avenue corridor. Because the site is privately-owned, development with a public park is not currently feasible at this location. However, the site would retain open space along San Pablo Creek and is nearby the public open space at Kennedy Plaza on the west side of San Pablo Avenue/23rd Street opposite Road 20.

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.

LU-I-5

Promote the phasing out of old uses in areas designated for new land use in an orderly fashion, consistent with adopted general plan designations. Promote the continuing viability of old uses during the transition period.

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-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.

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.

Program H-3.1.1. Provide Density Bonuses and Incentives for Affordable and Special Needs Housing

Continue to offer density bonuses and other incentives to affordable housing and other qualified housing development, consistent with State law. In addition to the density bonus, the City offers at least 1-3 incentives to increase the financial feasibility of developing affordable housing, based on the percentage of affordable units in a development, consistent with State law. It should be noted that developers granted a density bonus enter into an Affordable Housing Contract with the City to ensure the continued affordability of the units. Affordable rent units are subject to annual rent adjustments based upon changes in the elderly tenant's monthly income.

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.

The proposed project would be responsive to these policies by developing 64 studio, one, two, and three-bedroom residential units with parking for 71 cars. This development is located on a site that will be well-integrated into its surroundings, and will place residents in close proximity to amenities, such as transit, the San Pablo Community Center, College Center shopping plaza, health services, Contra Costa College, and a variety of commercial uses. The project is of an appropriate density and mass for the location's prominence near the intersection of two major arterial streets and enhances the public realm with a high-quality visual presence and landscaping.

In terms of housing, the project would add new urban-scale apartments, a housing typology that remains relatively rare in San Pablo. In addition, the project would provide for significant progress in meeting the City's Regional Housing Needs Allocation (RHNA) numbers, as identified by the Housing Element. According to the City's most recent RHNA report (for 2021), the City had developed only 99 units out its 449 allocated units since 2015 (22%). There are 350 units remaining to be produced by 2023. The proposed 64 qualifying units would account for **18%** of the remaining number of units to be provided, bringing the number down to 286 units remaining to be produce for the current cycle.

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 the San Pablo Avenue Specific Plan. The land use (and zoning) designation for the site is shown as High Density Residential, with a Potential Park Site shown. The Specific Plan describes the High-Density Residential zone as follows:

This designation is intended for multifamily buildings and townhomes between 24.1 and 60 units per gross acre. The higher densities of this designation may provide more affordable rental and ownership housing opportunities, while its location near active commercial centers may provide more lifestyle options. Developments in this classification would typically stand two to four stories high. Common open space and shared amenities are required within High Density Residential developments.

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-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.*
- 2-1-16:** *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-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.*

The proposed project would be consistent with the guiding goals and implementing policies of the San Pablo Avenue Specific Plan. The project is in close proximity to AC Transit stops on San Pablo Avenue just south of Road 20 and just north of Purisima Street. The project would also provide a diversity of housing affordability options, offering both market-rate and very low-income rental units. There would be good proximity to open space due to the site's location near Kennedy Plaza park and blocks away from the Wildcat Creek Trail and John Davis Park. The building would create a more welcoming pedestrian environment with parking and loading hidden away from the street and attractive landscaping placed near the sidewalk. In conformance with city policies, the project would incorporate parking that would be hidden from public view as the building would be of a podium-style, with the ground level devoted to parking, most of which will be contained within three-level park lifts, in addition to an enclosed bicycle parking room.

ZONING CODE CONFORMANCE

The property is in the SP-2 High Density Residential zone (San Pablo Avenue Specific Plan). The High Density Residential zone is described in the section above.

Development standards in the High Density Residential zone are set forth in Tables 2-3 and 4-1 of the San Pablo Avenue Specific Plan. A breakdown of the relevant standards and the project's compliance is provided in the table below:

DEVELOPMENT STANDARDS FOR SP-2 HIGH DENSITY RESIDENTIAL ZONE			
Standards	SP/Zoning Code Requires	Proposed	Complies?
Minimum parcel area (sf)	--	45,302 sq. ft.	NA
Lot Width	--	350± ft.	NA
Block Length	400 ft max	350± ft.	Yes
Building Frontage	70% min (312 ft)	77% (345 -446 ft)	Yes
Maximum building height (feet)	45 ft	65 ft. 4 in.	No Density bonus concession request

Max Stories	4	5	No Density bonus waiver/variance request
Maximum floor area ratio (FAR)	-	1.68	NA
Density (DU/acre)	Up to 60 (62.4 units on 1.04-acre site)	61.54 (64 units)	No Density Bonus request
Maximum Lot Coverage	75%	34%	Yes
Open Space	300 SF / unit X 64 units = 19,200 SF	12,096 private open space + 7,150 common space = 19,246 SF	Yes
Front yard setback (feet)	5-10 ft	5 ft.	Yes
Rear yard setback (feet)	15 ft; 30 ft. from creek bank	30 ft.	Yes
Side yard setbacks (feet)	0 ft - 10 ft (10 ft. if adjacent to residential)	8 ft.	Yes, on W side No on E side (adjacent to residence) Density bonus concession request
Creek setback	30 ft from top of bank	13 feet at closest location of building support pillar/up to 5 feet of second level overhang	No Density Bonus Waiver/Variance request

As identified above, the proposed project would be in conformance with the development standards for the SP2 - High Density Residential district, with the exception of the maximum density of 60 units per acre, the maximum building height of 45 feet, the maximum number of 4 stories, the 10-foot side yard setback on the east side (adjacent to residential), and the encroachment into the 30-foot Creek setback for the placement of building support pillars for surface parking and to allow limited areas of second level overhang.

The development contains six units that are affordable to very low incomes, enabling a Density Bonus of 32.5% to allow the proposed 61.54 units per acre (64 units on the 1.04-acre site). As 10% of the project is reserved for Very Low-Income units (as calculated per Density Bonus Law instructions), the developer is allowed two concessions to development standards for the site in addition to the increased allowed density under the Density Bonus Law and the City's Zoning Code. The developer has requested concessions in the building height and in the encroachment into the side yard setback. Additional waivers and/or variances would be necessary to allow the increased number of stories and the encroachments into the creek setback.

The requests to increase the maximum allowable density, height, number of stories, and to allow

reductions in the setback requirements would be facilitated by the project including 10% of its units (i.e., six units) as affordable to Very Low-Income households. The proposed project would include eight studio, 44 one-bedroom, eight two-bedroom, and four three-bedroom residential units, a total of 64 units. As shown above, the block length, lot coverage, building frontage, open space, and front, rear, and east side setbacks conform with the standards set forth for the High Density Residential zone of the San Pablo Avenue Specific Plan.

The project is additionally required to be set back 30 feet from the bank of San Pablo Creek. Some sections of the building encroach into the setback by up to five feet at a second level overhang and up to 13 feet for placement of building supports to allow surface parking. A Density Bonus Waiver/Variance has been requested to allow for this encroachment due to the exceptional constraints posed by the shallow and irregular configuration of the site that would otherwise prevent the project from achieving the proposed density.

Parking Compliance:

Based on the project proposal of 64 residential units, with eight units under 500 square feet, 50 units between 501 and 800 square feet, and six units between 801 and 1,100 square feet, the required number of parking spaces would be 94 spaces in accordance with the parking requirements of the San Pablo Avenue Specific Plan (Table 3.3). Section 17.54.050 of the Zoning Ordinance allows for a variety of parking waivers and reductions. Because the project is located within one-quarter mile of a transit stop, the number of parking spaces can be reduced by 10 percent. Applying the 10% reduction for proximity to transit and an allowed reduction of one space due to the provision of bicycle parking, the project would be required to provide 84 spaces under the City's requirements. However, State Density Bonus Law limits the number of parking spaces that may be required per unit. Under these regulations, the project cannot be required to have more than one parking space per studio and one-bedroom unit and 1.5 parking spaces per two- and three-bedroom unit. Using these calculations, the project would be required to have a total of 70 parking spaces.

The proposed project includes 71 parking spaces, most of which are contained in three-car parking lifts in the first-floor garage. The amount of proposed parking meets the requirement under the State Density Bonus Law, and thus is compliant with the standards for this site.

MAJOR DESIGN REVIEW

The proposed project would consist of a multi-family residential rental development with 64 studio, one-, two-, and three- bedroom units, ranging in size from under 500 square feet to 1,100 square feet. The ground level would be devoted to an entry lobby and parking for 71 cars, most of which would be in three-level park lifts.

The proposed building consists of five stories, and will be the tallest building in the immediate area and the first high-density building in the central San Pablo Avenue corridor. The ground level is devoted to lobby, and parking uses and the four upper levels will consist of residential apartments. The rear of the property will contain a parking access driveway, a common open space area, and the bank area of San Pablo Creek. The front of the building along Road 20 would be set back and landscaped to enhance the pedestrian experience.

The proposed building design is a contemporary style with vertical and horizontal articulation to reflect the uses inherent in the building. Living room volumes are projected forward, while bedroom areas are recessed and clad with replica wood architectural panels. Balconies are projected as

accent elements with metal railings. Each elevation of the building is articulated as a series of narrow columns rather than a continuous façade with repetitive fenestration. The upper fifth floor level on the east end of the building is visually separated with different trim and coloration from the lower floors to reduce the perceived height and volume. The west end of the building uses a different pattern of articulation with a stronger appearance as a single structure, standing out from the rest of the structure. The front yard and open spaces will be extensively landscaped with drought-tolerant plant materials, trees, and bushes. The podium includes a lobby, utility and trash rooms, a bike storage room, and 71 parking spaces.

Primary exterior materials include smooth stucco; horizontal imitation wood panels; double-glazed aluminum windows; metal railings, concrete base walls; and a color palette featuring both muted background and accent colors. Samples of colors and finishes are included in the submitted materials exhibit (Sheet A.4 on Attachment D).

Section 17.20.030(C) of the San Pablo Zoning Ordinance states that the Planning Commission shall ensure that the proposed development meets 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 give 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 with the San Pablo General Plan and the San Pablo Avenue Specific Plan 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 San Pablo Avenue Specific Plan area as it adds dense new housing to the corridor while enhancing the public realm through new landscaping and a strong, balanced visual presence. The architectural design of the structures and their colors and materials would be visually harmonious with the surrounding contemporary development patterns.

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:

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 proposed project is designed in a contextual contemporary style and is articulated both vertically and horizontally to reflect the uses inherent in the building. Living room volumes are projected forward, while bedroom areas are recessed and treated with faux wood façade panels. Balconies are expressed as accent elements with alternating metal finishes and expressed support beams. The project would also use of a variety of materials and colors, as shown in the color and material exhibit.

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, much of the building would be articulated to appear as a group of townhouses rather than as a continuous façade with repetitive fenestration. The upper fifth-floor level would be given a distinctive façade treatment to reduce the perceived height and mass. The front yard and rear and side open spaces would be extensively landscaped with drought-tolerant plant materials, trees, and bushes.

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.

In addition to perimeter and roadside landscaping, side yard and rear open spaces would be extensively landscaped with drought-tolerant plant materials, trees, and a variety of shrubs and native plants. The landscaping materials would consist of appropriate drought-resistant plantings meeting Water Efficiency standards. Bioswales in the rear of the property would aid in water retention. Areas in the rear of the property towards San Pablo Creek will remain open and vegetated, preserving the natural environment around the waterway.

Parking Design:

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

The proposed 71 parking spaces would be encapsulated within and behind the building, and most will be in park lifts with no visual impact to the exterior of the building. A parking access drive and rideshare pickup space will be located behind the building, with all other spaces inside the first-floor garage.

Staff analysis has determined that the project, as proposed, is consistent with the applicable design guidelines and with the design-related goals of the San Pablo Avenue Specific Plan, as well as the land use, physical design, and economic development and open space elements of the General Plan.

The location and design of the project would give consideration to the privacy, views, and sunlight on adjoining properties and would foster the orderly and harmonious development and preservation of the public health and welfare of the city and its neighborhoods. The project site is an underutilized, largely vacant property at the intersection of two major arterials in a highly urbanized setting. Across Road 20 to the north is the Abella residential condominium townhomes complex, which is well buffered from the project site by the roadway, perimeter wall, and site landscaping, to the west across San Pablo Avenue/23rd Street is open space associated with Kennedy Plaza and San Pablo Creek, to the south is San Pablo Creek, and to the east is an existing single-family residence on a property that is zoned R-3, Multi Family Residential. This residence will be buffered from the project by existing mature landscaping and new perimeter landscaping proposed as part of the project. The architectural design of the structure and its colors and materials would also be visually harmonious with surrounding development, landforms, and vegetation.

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 San Pablo 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. In addition, because the project has other concurrent discretionary approvals being considered by the Planning Commission, the Zoning Administrator has referred the required Use Permit to the Planning Commission for consideration. 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 findings 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. Specific findings to support the granting of a Conditional Use Permit in this case include the following:

1. The proposed multi-family residential project is allowed by right in the High Density Residential District of the SP-2 San Pablo Avenue Specific Plan, with additional density allowed by Density Bonus due to the provision of affordable housing units.
2. The project complies with the development regulations of the Zoning Code and San Pablo Avenue Specific Plan, with the exception of density (number of units), height, number of stories, side yard setback on the east, and encroachments into the 30-foot setback from the top-of-creekbank to allow for supporting pillars and second level overhang. The increased density and height and two-foot reduction in the side yard setback would be provided through the use of Density Bonus and Density Bonus Concessions, while the increase in the number of stories and encroachment into the 30-foot setback would require Density Bonus Waivers and/or Variances.
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 applicant has submitted a Traffic Impact Analysis Report (Attachment E) that estimates that it will generate 23 peak hour trips during the weekday a.m. and 29 peak hour trips during the weekday p.m. All of the study intersections would continue to operate within applicable jurisdictional Level of Service D standards. The project would extend queue lengths at the San Pablo Avenue/Road 20-23rd Street intersection. No modifications to the circulation plan for the project were recommended.
5. The applicant has submitted a Soils Report (Attachment F) which found no concerns with arsenic levels or hazardous waste. It is recommended that the applicant prepare a Geotechnical Report prior to Plan Check to ensure project safety from a geotechnical standpoint and to help protect the structural integrity of the adjacent San Pablo Creek.
6. The applicant has submitted a Biological Resources Report (Attachment G) that assesses site conditions and evaluates the potential for the site to support special status species and habitat and to map the extent of riparian vegetation at the site. The project is designed to minimize impacts through re-use of previously developed areas and to avoid significant disturbance of riparian habitat or areas below the top of bank and is unlikely to affect special status species. As currently designed, the project would not impact riparian habitat or other jurisdictional areas surrounding San Pablo Creek.
7. As indicated by the Biological Report and the proposed Stormwater Management Plan, the project would adequately avoid impact to wetland features or woodlands, would avoid impacts on the creek, and would prevent degradation of riparian and wetland features from potential urban pollutants.
8. The applicant has submitted a Cultural Resources Study (Attachment H) which found that no historical or cultural resources have been identified on the project site and no cultural materials

or anthropogenic soils were identified during a site survey. Sensitivity for cultural resources in the form of archaeological sites is considered moderate at this location and conditions of approval will require protection of any resources that are detected on the site.

9. 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 high-density residential development.
10. 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.

DENSITY BONUS REQUEST

Density Bonus. Section 17.60.020, Density Bonus and Other Incentives, of the San Pablo Zoning Code addresses the potential for obtaining a density bonus and other incentives for projects involving affordable housing. These Density Bonus provisions have been augmented and, in some cases superseded, by current state Density Bonus Law, as amended effective January 2022 (Government Code Sections 65915-65918).

The Density Bonus Law now allows a bonus of up to 32.5% for projects with at least 10% of its units set aside for very low-income residents. With a site area of 45,302 square feet (1.04 acres) and a maximum density of 60 units per acre, the project would be allowed to build 62.4 units before application of a density bonus. The project would contain six affordable units, all of which would be affordable to very low-income residents. The project's six very low-income units represent 10% (9.62%) of the total 62.4 units allowed on the site, which would earn the project a density bonus of 32.5%. This would increase the permitted density at the site from 62 units to 81 units. The proposed development includes 64 units, well within the allowed density with the bonus factored in.

Density Bonus Concessions. In addition to the density bonus, the project would be eligible for up to two density bonus concessions or incentives. Government Code Section 65915(d)(2)(B).

According to Section 17.60.020.F of the Zoning Code, the following concession and incentives are available:

- a. *A reduction in setback and square footage requirements. (Reduction of two percent is considered one incentive.)*
- b. *Reduced minimum lot setbacks. (Reduction of two feet is considered one incentive.)*
- c. *Ratio of vehicle parking spaces that would otherwise be required and that results in identifiable, financially sufficient, and actual cost reductions.*
- d. *Reduced minimum outdoor and/or private outdoor living area. (Reduction of two percent is considered one incentive.)*
- e. *Increased maximum building height and/or stories. (An additional story is considered three incentives.)*

- f. Reduced minimum building separation.*
- g. Increased maximum lot coverage. (Increase of two percent is considered one incentive.)*
- h. Reduced street standards, such as reduced minimum street widths, subject to fire district approval (Government Code Section [65915](http://leginfo.legislature.ca.gov/faces/codes_displaySection.xhtml?lawCode=GOV§ionNum=65915) [\(l\)\(1\)\)](http://leginfo.legislature.ca.gov/faces/codes_displaySection.xhtml?lawCode=GOV§ionNum=65915).*
- i. Other regulatory incentives or concessions proposed by the developer which result in identifiable, financially sufficient, and actual cost reduction.*

The findings for approval of density bonuses, incentives, waivers, or modifications are as follows (Zoning Code Section 17.60.020.Q):

- 1. If the density bonus is based all or in part on donation of land, the findings included in subsection G of this section, Density Bonus for Donation of Land.*
- 2. If the density bonus, incentive, or concession is based all or in part on the inclusion of a child care facility, the findings included in subsection H of this section, Additional Density Bonus and Incentives or Concessions for Development of Child Care Facilities.*
- 3. If the incentive or concession includes mixed-use development, the finding included in subsection F of this section, Available Incentives and Concessions.*
- 4. If a waiver or modification is requested, the developer has shown by substantial evidence that the waiver or modification is necessary to make the housing units economically feasible (Government Code Section [65915](http://leginfo.legislature.ca.gov/faces/codes_displaySection.xhtml?lawCode=GOV§ionNum=65915) [\(f\)](http://leginfo.legislature.ca.gov/faces/codes_displaySection.xhtml?lawCode=GOV§ionNum=65915)).*

It is important to note that State Law has changed since the adoption of the Density Bonus Section of the San Pablo Zoning Code, 17.60.020. Government Code Section 65915(d)(1) states the City must grant a requested concession or incentive unless it makes specific findings that the concession or incentive results in no identifiable cost reductions to provide for affordable housing, or there is a specific adverse impact on public health and safety or on real property designated as a historical resource, and since there is no evidence to support such findings, the City must grant the concession.

The applicant is requesting two concessions to: (1) allow a reduction in the minimum setback along the east side from 10 feet to 8 feet under Section 17.60.020.F.1. b; and (2) increase the maximum building height from 45 feet to 65 feet-4 inches under Zoning Code Section 17.60.020.F.1.e. The Zoning Administrator has determined that while Zoning Code Section 17.60.020.F.1.e requires three concessions for an increase in the number of stories, because that section places no quantified limitation on the concession for height, the proposed increase in height is eligible for one concession but there are insufficient concessions to apply to the proposed increased number of stories.

Waivers and Reductions. In addition to concessions, Density Bonus Law now also requires waivers or reductions of development standards under certain circumstances for projects that qualify for a density bonus. Specifically, the City is not permitted to apply any development standard which physically precludes the construction of the project at its permitted density and with the granted concession/incentives. However, the City is also not required to waive or reduce development standards that would cause a public health or safety problem, cause an environmental problem, harm historical property, or would be contrary to law. The waiver or reduction of a development standard

does not count as an incentive or concession and there is no limit on the number of development standard waivers that may be requested by or granted to a developer who qualifies for a density bonus. Development standards that may be waived or reduced using this section include setback, lot coverage, open space, height limits, etc. (*Guide to the California Density Bonus Law* by Jon Goetz and Tom Sakai, Meyers/Nave, revised January 2022)

In addition to the two concessions, the applicant has requested waivers or reductions to increase the number of stories from 4 to 5 and to allow the encroachment of between 5 and 13 feet into the Creek setback to accommodate portions of a second-level overhang and portions of building support columns to accommodate ground-level parking. The applicant has also requested that these reductions also be considered as Variances due to the unique site conditions that are present on the property (addressed in the following section).

Reduced Parking Requirements. As discussed under the Zoning Code Conformance section, State Density Bonus Law now also limits the number of parking spaces required per unit. The proposed project includes 71 parking spaces, most of which are contained in three-car parking lifts in the first-floor garage. The amount of proposed parking meets the requirement under the State Density Bonus Law, and thus is compliant with the standards for this site.

VARIANCES

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 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 Planning Commission 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, minor encroachments are requested to allow for areas of second-level overhang and for placement of five building support columns that will intrude into the required 30-foot setback from the top of bank of San Pablo Creek. Shown in Sheets A2.0 and A2.1 (Attachment D), the second level encroachments would be no more than five feet and would affect the south ends of four units (Units 205, 207, 209, and 215). Encroachments of the southern portions of five support columns into the setback area are also shown on Sheet A2.0. These ground-level parking support columns would involve very narrow encroachments of up to 13 feet in depth (Sheet A2.0 and shown in elevation on Sheet A3.1 in Attachment D). The shallowness of the site and the need to incorporate design measures to protect the area adjacent to the creek reflect exceptional or extraordinary circumstances that impact the use and developability of the site and are not found in other locations.

A second Variance is also requested to allow for an increase in the number of stories for the project from four to five. This increase in number of stories is necessary to accommodate the proposed density for the project and due to the constraints posed by the shallowness of the site and the need to protect the adjacent San Pablo Creek. In addition, as discussed above, not allowing the number of stories to increase would physically preclude the construction of the project at its permitted density and with the proposed concessions and for that reason may be contrary to Density Bonus Law.

The applicant believes that the granting of the Variances is necessary for the preservation and enjoyment of substantial property rights, related to their expectation to build on the site to provide both market-rate and affordable housing in accordance with City plans and Density Bonus Law. The encroachments would not impact the creek and would help to accommodate a design that pulls the project footprint away from the creek. Because the project is allowed an increase in height as a Density Bonus concession, not being allowed to the number of stories would pose a practical difficulty and hardship, and would be contrary to the intended benefit of the Density Bonus Law. The site has long been planned and zoned for high density development, involving multi-level structures. Granting the Variances 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.

ENVIRONMENTAL DETERMINATION

Future development of the site was anticipated in the San Pablo General Plan 2030 and the San Pablo Avenue Specific Plan, both adopted in 2011. The City of San Pablo adopted EIRs for the General Plan and San Pablo Avenue Specific Plan. These documents are available for viewing at these links:

<https://www.sanpabloca.gov/867/General-Plan-2030>
<https://www.sanpabloca.gov/DocumentCenter/View/565/San-Pablo-GP-FEIR--021011?bidId=>
<https://www.sanpabloca.gov/1203/San-Pablo-Avenue-Specific-Plan>
https://www.sanpabloca.gov/DocumentCenter/View/1064/FEIR---San-Pablo-Ave-SP_FINAL_reduced?bidId=

These documents anticipated that the site would be developed with infill development and high-density residential use. Due to the proposed increase in the height, number of stories, density, and setback encroachment at the site, the City has prepared Addenda to the two EIRs to identify this change in the environmental documentation. According to the Addenda, 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 any new impacts not previously considered in the prior EIRs, pursuant to CEQA Guidelines 15162 and 15164. 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. Accordingly, the City has prepared the attached Addenda to the two EIRs, which conclude that no further environmental review is needed for the project.

CONCLUSION

Staff recommends that the Planning Commission determine that no further environmental review is necessary pursuant to the prepared EIR Addenda for the project and approve the Major Design Review, Conditional Use Permit, Density Bonus with Concessions/Waivers, and Variances requested, 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.

ATTACHMENTS

- A. Resolution PC22-06
- B. Site Location
- C. Project Application
- D. Architectural/Engineering Submittal: Project Description, Site Photos, Renderings, Site Conditions, Site Plan, Floor Plans, Elevations, Color/Material sheet, Lighting Plan and Specifications, Parking Lift Information, Landscape Plan, Utility, Drainage, and Grading plan; Stormwater Control Plan, and Fire Hose Exhibit.
- E. Traffic Impact Analysis Report
- F. Soil Report
- G. Biological Resources Technical Memorandum
- H. Cultural Resources Study
- I. CEQA Documents:
 - a. Addendum to the City of San Pablo General Plan EIR
 - b. Addendum to the San Pablo Avenue Specific Plan EIR
- J. Proof of Publication from West County Times
- K. Public Comments