

RESOLUTION NO. 15-2014

RESOLUTION OF COUNTY PLANNING COMMISSION OF THE COUNTY OF CONTRA COSTA, STATE OF CALIFORNIA, INCORPORATING FINDINGS AND RECOMMENDATIONS FOR A PROPOSED CHANGE IN ZONING, FINAL DEVELOPMENT PLAN AND VESTING TENTATIVE MAP FOR THE WESTBOROUGH CONDOMINIUM PROJECT LOCATED ON TICE VALLEY BOULEVARD IN THE WALNUT CREEK AREA OF SAID COUNTY.

WHEREAS, Momo Development 2013, LLC (Applicant) & William Ashurst, Margaret Sluus and Sarah Lombardo (Owners) submitted a request for approval of a vesting tentative map, rezone and final development plan for a 14-unit condominium development, and related on-site improvements, to be located on a 1.12-acre site identified as 1640-1660 Tice Valley Boulevard in the unincorporated Walnut Creek area of Contra Costa County, for which an application was received on April 3, 2014; and

WHEREAS, for purposes of compliance with the provisions of the California Environmental Quality Act (CEQA) and the State and County CEQA Guidelines, the Department of Conservation and Development prepared a Notice of Public Review and Notice of Intent to Adopt a Mitigated Negative Declaration for the project which was posted and circulated for comment on September 4, 2014, which indicated that, as mitigated, the project would not result in any significant environmental impacts; and

WHEREAS, no comments were received during the 20-day public comment period and the applicant agreed in writing to the mitigation measures prepared for the project; and

WHEREAS, after notice having been lawfully given, a public hearing was scheduled before the County Planning Commission on Tuesday, October 28, 2014, where all persons interested therein might appear and be heard; and

WHEREAS, at the public hearing the Planning Commission, after opening the public hearing and receiving testimony, expressed concern over the handling of the trees and green waste to be generated during the clearing of the site, moved to modify the language of condition of approval #22 in a manner that would ensure that all of the "green waste" removed from the project site be properly recycled so that a modified condition of approval #22 was prepared which reads as follows:

Modified Condition of Approval #22: At least 15 days prior to the issuance of a grading permit or building permit the developer shall demonstrate compliance

with the debris recovery program, which requires at least 50 percent of the jobsite debris generated by construction projects of 5,000 square feet or greater to be recycled, or otherwise diverted from landfill disposal. All green waste shall be delivered to a permitted green waste recycling facility and the developer shall provide evidence to CDD that 100% of the green waste generated by the project was delivered to a permitted green waste recycling facility.

WHEREAS, on Tuesday, October 28, 2014, the County Planning Commission having fully reviewed, considered and evaluated all the testimony and evidence submitted in this matter;

NOW, THEREFORE, BE IT RESOLVED, that the County Planning Commission:

1. FINDS that on the basis of the whole record before the County (including the initial study) that there is no substantial evidence that the project will have a significant effect on the environment and that the proposed Mitigated Negative Declaration reflects the County's independent judgment and analysis and recommends that the Board adopts same;
2. FINDS that the proposed rezoning to Planned Unit Development (P-1) District and related Final Development Plan for the development of the "Westborough" 14-unit condominium development and related improvements is consistent with the proposed Multiple Family Residential Medium Density (MM) General Plan Designation and recommends that the Board adopts the same;
3. APPROVES the "Westborough" vesting tentative condominium map for 14 units; and
4. RECOMMENDS that the Board of Supervisors ADOPT an ordinance rezoning the subject 1.12-acre site from the Multiple-Family Residential District (M-12) to the Planned Unit Development District (P-1) and APPROVE the Final Development Plan for the Westborough 14 unit condominium project.

BE IT FURTHER RESOLVED that the County Planning Commission's approval of the "Westborough" tentative map and recommendation to the Board of Supervisors is based upon the following findings:

A. Tentative Map Findings

Required Finding: *The Planning Commission shall not approve a tentative map unless it finds that the proposed subdivision, together with the provisions for its design and improvement, is consistent with the applicable general plan required by law.*

Project Finding: The tentative map for the Westborough condominiums, in conjunction with the final development plan, is consistent with the applicable goals and policies as found in the County 2005-2020 General Plan. According to the Land Use Element (Chapter 3) of the General Plan, there are no specific land use policies that apply to the project based on its specific location, such as is the case for the Saranap area.

With regard to the other applicable goals and policies found in the General Plan such as those in the Growth Management Element, Transportation and Circulation Element, Public Facilities/Services Element, etc., the project has been found to be consistent those goals and policies.

In terms of conformance with the density requirement of the Multiple-Family Residential, Medium-Density (MM) General Plan designation in which the property is located, the proposed density for the Westborough development will be 15.2 units per net acre, which is within the density range of MM designation which permits a density range of 12.0 to 21.9 units per net acre.

B. Final Development Plan Findings

Required Finding: *The applicant intends to start construction within two and one-half years from the effective date of the zoning change and plan approval.*

Project Finding: The applicant intends to start construction shortly after approval of the tentative map, final development plan and rezoning.

Required Finding: *The proposed planned unit district is consistent with the county general plan.*

Project Finding: The Westborough condominiums are consistent with all applicable goals and policies of the County General Plan. At 15.2 units per net acre, the project density is within range of the Multiple-Family Residential Medium-Density (MM) General Plan Designation in which it is located (see A1 above for additional General Plan analysis).

Required Finding: *The project will constitute a residential environment of sustained desirability and stability, and will be in harmony with the character of the surrounding neighborhood and community.*

Project Finding: The Westborough condominiums will be located in an area that is highly suitable for residential uses and in an area that is experiencing a high demand for residential units. The site is located near public transportation (Walnut Creek BART, County Connection), major highways (Hwy 680, 24) and shopping (Downtown Walnut Creek).

The design and layout of the Westborough condominiums is consistent with the other uses surrounding the project site. The buildings have been laid out in a manner that they will all front on the new "U" shaped private roadway instead of facing Tice Valley Boulevard, which is consistent with the character of Tice Valley Boulevard in the vicinity of the project. The building designs, including building height and massing is also consistent with the other uses in the vicinity of the project, including the single family uses to the east of the site. These design and layout considerations, in conjunction with the approved landscaping plan, will result in a project that is in harmony with the character of the surrounding neighborhood and community and a project with sustained desirability and stability.

Required Finding: *The development of a harmonious integrated plan justifies exceptions from the normal application of the code.*

Project Finding: The Westborough condominiums represent an attractive, well designed development project in a desirable area of unincorporated Walnut Creek. Under the development standards of the M-12 zoning district it would not be possible to develop the site in a manner that is as compatible or consistent with the surrounding uses. The M-12 development standards are mainly suited for development of apartment style, multi-family units, not condominiums.

C. Variance Findings

Required Finding: *That any variance authorized shall not constitute a grant of special privilege inconsistent with the limitations on other properties in the vicinity and the respective land use district in which the subject property is located.*

Project Finding: A variance to the Planned Unit District (P-1) 5-acre minimum lot size requirement for the Westborough project does not constitute a grant of special privilege inconsistent with the limitations on other properties in the vicinity and the respective land use district in which the subject property is located.

At the State and County level, development of in-fill properties, specifically high density residential project located near transit and population centers, is being encouraged. This is evident with the passage of Senate Bill 375 in 2008 and adoption of the 2009 Housing Element Update by the Board of Supervisors in 2009.

Senate Bill (SB) 375 passed into law in 2008. It was one of the first efforts by state government to coordinate land use and transportation planning to reduce greenhouse gas (GHG) emissions in response to implementing the provisions of the landmark California Global Warming and Solutions Act of 2006 (otherwise known as Assembly Bill 32). One of the key provisions of SB 375 was to require the planning for housing by cities and counties to be linked and consistent with land use and transportation planning for GHG emission reductions mandated under AB 32.

The County's Housing Element identifies removal of the 5-acre minimum lots size restriction for the P-1 zoning as a five-year objective of the County's Housing Plan. By removing this restriction, the P-1 zoning could be used to develop smaller in-fill properties near transit centers as required by State law and the County Housing Element. Based on its proximity to freeways, public transportation and shopping, this project is a perfect example of the use of the P-1 zoning for a small in-fill project as encouraged by the passage of SB 375 by the State and the Housing Element Update by the Board of Supervisors.

For this project, the P-1 zoning provides the flexibility to develop the property with a desirable product (for-sale units) that is in short supply and high demand in the vicinity of the site. The P-1 also provides the flexibility to design the project in a manner that is compatible and consistent with the surrounding uses.

Required Finding: *That because of special circumstances applicable to the subject property because of its size, shape, topography, location or surroundings, the strict application of the respective zoning regulations is found to deprive the subject property of rights enjoyed by other properties in the vicinity and within the identical land use district.*

Project Finding: Due to the relatively small size of the site (1.2-acres), development of the property in a manner that would be compatible with the surrounding neighborhood, utilizing the M-12 zoning standards, would be difficult. The subject property abuts single family residential uses on two sides, so development of the site with an apartment building, utilizing the M-12 zoning standards or any other of the multiple-family zoning districts, is not consistent with the existing pattern of development. Therefore, in order to develop the site in a manner that is compatible with the neighborhood, specifically the adjacent uses, establishment of a Planned Unit District (P-1) to allow for the development of a condominium complex is necessary and appropriate, even though the P-1 zoning requires a minimum of size of 5-acres.

Required Finding: *That any variance authorized shall substantially meet the intent and purpose of the respective land use district in which the subject property is located.*

Project Finding: The variance to the minimum lot size requirements of the Planned Unit Zoning District (P-1) will permit development of the subject property in a manner that is consistent with the intent and purpose of the P-1 zoning district and compatible with the surrounding uses.

D. Growth Management Findings

Traffic: The traffic generated by the 14 unit Westborough condominium project will not result in a decrease in the existing levels of service (LOS) in the vicinity of the project.

Water: The project site is within the service area of the East Bay Municipal Utility District (EBMUD) who has indicated that public water service is available for the project.

Sanitary Sewer: The project is within the service area of the Central Contra Costa Sanitary District (CCSD) who will provide waste water services for the project.

Fire Protection: The project is located less than 1-mile from Fire Station 3 of the Contra Costa County Fire Protection District.

Public Protection: The 14 unit Westborough condominiums will not increase the population by more than 1,000. Therefore, no additional Sheriff facilities will be required.

Parks and Recreation: The 14 unit Westborough condominiums will not increase the population by more than 1,000. Therefore, no additional park facilities are required.

Flood Control and Drainage: There has been no indication from the County Public Works Department or Flood Control District that the 14 unit Westborough condominium project would require improvements to existing storm drain facilities in order to accommodate peak flows generated by the project.

E. Tree Permit Findings

Tree Permit Findings: With regard to removal of 23 code protected trees and work within the dripline of 11 code protected trees (as shown in the tree removal plan dated May 27, 2014 and in the Tree Preservation Report dated April 1, 2014), the following factors, as provided for in Section 816-6.8010 of

the County Coed, have been identified in permitting the removal and alteration of the trees;

- Reasonable development of the property would require the alteration or removal of the tree and this development could not be reasonably accommodated on another area of the lot.
- Where the arborist or forester report has been required, the Community Development Division is satisfied that the issuance of a permit will not negatively affect the sustainability of the resource.

NOW BE IT RESOLVED that the secretary of this Commission will sign and attest the certified copy of this resolution and deliver the same to the Board of Supervisors, all in accordance with the Government Code of the State of California.

This Resolution was approved upon motion of the County Planning Commission on Tuesday, October 28, 2014 by the following vote:

AYES: Wright, Stewart, Steele, Snyder, Terrell, Clark and Swenson

NOES: None

ABSENT: None

ABSTAIN: None

DON SNYDER
Chairman of the County Planning Commission,
County of Contra Costa, State of California

ATTEST:

A handwritten signature in cursive script, reading "Aruna Bhat", is written over a horizontal line.

ARUNA BHAT, Secretary
County Planning Commission,
County of Contra Costa,
State of California