

PROJECT FINDINGS FOR THE HANOVER COMPANY (APPLICANT) AND CHARLES & JUDITH DUNCAN, CHRISTINA & HAIGOUSH HEIDI KOHLER, TIM & TOSHIKO MCKEEN, 3000 DEL HOMBRE HOLDINGS LLC, RECO INVESTORS, LLC (OWNERS): COUNTY FILES #GP18-0002, RZ18-3245, MS18-0010, DP18-3031

A. Government Code Section 65863 (SB 166, 2017) Findings

(Referenced subsections are from the above-referenced Government Code)

1. **Required Finding:** No city, county, or city and county shall, by administrative, quasi-judicial, legislative, or other action, reduce, or require or permit the reduction of, the residential density for any parcel to, or allow development of any parcel at, a lower residential density, as defined in paragraphs (1) and (2) of subdivision (g), unless the city, county, or city and county makes written findings supported by substantial evidence of both of the following:

(A) The reduction is consistent with the adopted general plan, including the housing element.

(B) The remaining sites identified in the housing element are adequate to meet the requirements of Section 65583.2 and to accommodate the jurisdiction's share of the regional housing need pursuant to Section 65584. The finding shall include a quantification of the remaining unmet need for the jurisdiction's share of the regional housing need at each income level and the remaining capacity of sites identified in the housing element to accommodate that need by income level.

Project Finding: The developer is proposing to maximize the number of residential units on the site. The project includes a General Plan Amendment and rezoning to allow for a greater density on the property than what is permitted under the current land use designation. In addition, the project includes a request for a density bonus. The density bonus request will increase the maximum density allowed under the proposed General Plan land use designation by 20 percent to a total of 284 residential units for the site.

2. **Required Finding:** If a city, county, or city and county, by administrative, quasi-judicial, legislative, or other action, allows development of any parcel with fewer units by income category than identified in the jurisdiction's housing element for that parcel, the city, county, or city and county shall make a written finding supported by substantial evidence as to whether or not remaining sites identified in the housing element are adequate to meet the requirements of Section 65583.2 and to accommodate the jurisdiction's share of the regional housing need pursuant to Section 65584. The finding shall include a quantification of the remaining unmet need for the jurisdiction's

share of the regional housing need at each income level and the remaining capacity of sites identified in the housing element to accommodate that need by income level.

Project Finding: A component of preparing the County's Housing Element for the General Plan is the identification of vacant and underutilized sites suitable for residential development, and an evaluation of the housing development potential of these sites in fulfilling the County's share of the regional housing needs as determined by the Association of Bay Area Governments. This property is identified in the County's 2015-2023 Housing Element Sites Inventory (the "Inventory") with a unit potential of 14 residential units in the low-income category.

This project includes a total of 284 residential units with 248 market-rate units, 24 deed-restricted moderate-income units, and 12 deed-restricted very low-income units. The project includes studio, one-bedroom, and two-bedroom units. These unit types will increase housing opportunities for different size households for different income categories. As previously stated, this project maximizes the housing density and development of the site, and includes a density bonus of 20 percent above the base unit density for the site.

The Inventory currently has a surplus of approximately 266 lower income units. This project will provide 12 units to the Inventory's lower income category. Although this project will result in a reduction of two lower income units for the site as identified in the Housing Element, there is sufficient capacity on other identified sites in the Inventory that can accommodate the County's unmet share of the regional housing need for the remainder of this cycle of the Housing Element. This project also includes 24 moderate income units not identified in the Inventory and 248 above-moderate income units, which all contribute towards the regional housing need for the County and provide needed housing units for the region.

3. **Required Finding:** If a reduction in residential density for any parcel would result in the remaining sites in the housing element not being adequate to meet the requirements of Section 65583.2 and to accommodate the jurisdiction's share of the regional housing need pursuant to Section 65584, the jurisdiction may reduce the density on that parcel if it identifies sufficient additional, adequate, and available sites with an equal or greater residential

density in the jurisdiction so that there is no net loss of residential unit capacity.

If the approval of a development project results in fewer units by income category than identified in the jurisdiction's housing element for that parcel and the jurisdiction does not find that the remaining sites in the housing element are adequate to accommodate the jurisdiction's share of the regional housing need by income level, the jurisdiction shall within 180 days identify and make available additional adequate sites to accommodate the jurisdiction's share of the regional housing need by income level. Nothing in this section shall authorize a city, county, or city and county to disapprove a housing development project on the basis that approval of the housing project would require compliance with this paragraph.

Project Finding: The approval of the development project will not result in a net loss of residential unit capacity, and the remaining sites in the Inventory is sufficient to meet County's unmet share of the regional housing need for the remainder of this cycle of the Housing Element.

B. General Plan Amendment

1. **Required Finding:** Adoption of the proposed General Plan Amendment will not violate the County Urban Limit Line.

Project Finding: No change to the County Urban Limit Line (ULL) is proposed. No extension of urban services beyond the ULL is proposed. The subject site is located inside the ULL, and therefore may be designated for "urban" or "non-urban" development, as defined in the 2005-2020 Contra Costa County General Plan. The proposed land use designation, Multiple-Family Residential-Very High Special Density (MS), is urban and consistent with the ULL.

2. **Required Finding:** Adoption of the proposed General Plan Amendment is consistent with the 65/35 Land Preservation Standard.

Project Finding: Adoption of the proposed General Plan Amendment (GPA) will not violate the 65/35 Land Preservation Standard (the "65/35 Standard"), established by county voters through adoption of Measure C-1990 and reaffirmed through adoption of Measure L-2006. Under the 65/35 Standard, no more than 35 percent of the land in the county may be designated for development with urban uses and at least 65 percent of the land must be designated for non-urban uses such as agriculture, open space, parks, etc. The

existing land use designation for the subject site, Multiple-Family Residential-Very High Density (MV), is an urban designation. As the proposed MS land use designation is also an urban designation, there will be no change in the acreage or percentage of land designated for urban and non-urban uses.

3. **Required Finding:** The proposed General Plan Amendment is consistent with the Contra Costa County Growth Management Program.

Project Finding: The current iteration of the Contra Costa County Growth Management Program was established by county voters through adoption of Measure J-2004. The project complies with the objectives and requirements of the Growth Management Program and related Contra Costa Transportation Authority (CCTA) resolutions.

4. **Required Finding:** Following adoption of the proposed General Plan Amendment, the General Plan will remain internally consistent, as required under Government Code Section 65300.5.

Project Finding: The County General Plan comprises an integrated, internally consistent, and compatible statement of policies governing land use in the unincorporated areas of the county. The proposed GPA affects only the Land Use Element Map and involves increasing the maximum allowable density for the subject site from 44.9 to 99.9 units per net acre. This change is consistent and compatible with the General Plan's policies for the Pleasant Hill/Contra Costa Centre BART Station area, particularly Policy 3-109, which calls for integrating housing into the area and increasing the supply of affordable units (the proposed project provides 284 units, 36 of which [15 percent] would be affordable). Increasing density on an infill site adjacent to a major transit facility is consistent and compatible with the overarching goals and policies of the General Plan related to land use, growth management, transportation, housing, noise, conservation, open space, and safety. In no way does increasing density as proposed interfere with the County's ability to otherwise implement the General Plan. Adoption of the proposed GPA will not result in an internal inconsistency within the General Plan.

5. **Required Finding:** Adoption of the proposed General Plan Amendment is in the public interest, as required under Government Code Section 65358(a).

Project Finding: Adoption of the proposed GPA is in the public interest. The Bay Area suffers from a severe housing shortage and severe traffic congestion. Adoption of the proposed GPA will more than double the subject site's

development potential and allow for 284 multiple-family residential units in various income categories to be constructed directly adjacent to rail and bus transit. Furthermore, the proposed project presents an opportunity to maximize the potential of an underutilized infill site near the Pleasant Hill/Contra Costa Centre BART Station. The subject site currently consists of five small parcels. Combining them into one larger development allows for a more cohesive design approach and significantly increases unit yield.

6. **Required Finding:** Adoption of the proposed General Plan Amendment would not exceed the limit on such amendments specified under Government Code Section 65358(b).

Project Finding: Pursuant to Government Code Section 65358(b), no mandatory element of the General Plan may be amended more than four times per calendar year. The proposed GPA affects the Land Use Element, a mandatory element, and constitutes the second amendment to such element for calendar year 2020.

C. Growth Management Findings

1. **Traffic:** Implementation Measure 4-c under the Growth Management Program (GMP) of the County's General Plan requires a traffic impact analysis be conducted for any project that is estimated to generate 100 or more AM or PM peak-hour trips. The project involves the construction of a 284-unit apartment building and therefore, a Traffic Impact Assessment was prepared (TIA) and discussed in the DEIR. The DEIR identified Coggins Drive at Las Juntas Way intersection to degrade to an unacceptable service level of LOS F in the morning peak-hour. A proposed mitigation measure to restrict parking on the north side of Las Juntas Way between Coggins Drive and Del Hombre Lane could allow restriping within the existing right-of-way to provide a left-turn pocket and a through-right shared lane. This improvement would result in LOS D operations (31 seconds) for vehicles, reducing the vehicle impact to a less-than-significant level. However, the Iron Horse Regional Trail crosses this intersection and there are high levels of pedestrian and bicycle activity. Therefore, this improvement could increase vehicle/bicycle/pedestrian conflicts, which would be a secondary impact of restriping to provide an additional vehicle lane. Including this left-turn pocket would conflict with numerous policies (e.g., Complete Streets, General Plan), as well as general best practices in transit-oriented development planning, but specifically would conflict with General Plan Policy 5-18, which prioritizes safety over vehicle

- throughput. Therefore, the LOS impact to Opening Year with the project at Coggins Drive at Las Juntas Way intersection would be significant and unavoidable. A statement of overriding consideration has been prepared for this project is attached as Attachment A.
2. **Water:** Water supply would be provided to the project site by Contra Costa Water District. (CCWD). The CCWD 2015 Urban Water Management Plan (UWMP) determined that the CCWD has sufficient water supplies to accommodate the anticipated population growth throughout its service area, including the project site. In addition, this project is in an urbanized area that is currently served by the CCWD and accounted for in the CCWD 2015 UWMP. Thus, the DEIR prepared indicated that adequate water supplies would be available to serve the project from existing and planned supplies.
 3. **Sanitary Sewer:** The project is within the service area of the Central Contra Costa Sanitary District (CCCCSD) who provides wastewater services for the project. The Utility Due Diligence Report that analyzed utility capacity for the project site determined that there is sufficient capacity to handle the project's expected wastewater generation. In addition, correspondence with CCCCCSD confirmed that the existing sanitary sewer system contains sufficient capacity to handles the project's potential wastewater generation. Thus, the DEIR prepared for the project indicated that the CCCCCSD Treatment facility would contain sufficient capacity to serve all aspects of the project.
 4. **Fire Protection:** The project site is located within the service area of the Contra Costa Fire Protection District. The nearest Fire Station, Station No. 2, at 2012 Geary Road, is approximately 1.6 miles west of the project site. The project would comply with the California Building Code (CBC), which includes compliance with the California Fire Code that requires the following standards for fire safety, such as fire flow requirements for buildings, fire hydrant location and distribution criteria, automated sprinkler systems, and fire-resistant building materials. Primary vehicle access to the project site would be from Del Hombre Lane; however, a secondary emergency access to the project site would be provided from the rear of the building from Roble Road. Additionally, the DEIR prepared identified response time to the project site would be 2 minutes and 45 seconds, which is under the 5-minute response standard set by the County's General Plan. Overall, the project would not substantially increase the use of existing fire protection or adversely affect response times.

5. **Public Protection:** The project site is located 5.35 miles from the nearest Valley Station and the square footage of the Valley Station is estimated to be 5,372 square feet. The County's General Plan Policy 7-57 indicates that a sheriff facility standard of 155 square feet of sheriff station space per 1,000 persons of population. The project would result an increase of 818 persons, less than the required standard. As the project will add to the County's population, the increase in demand for sheriff station space is nominal. Although the Office of the Sheriff did not indicate that the project would result in the need for new or expanded Sheriff facilities, the project site is located next to the Pleasant Hill/Contra Costa Centre BART Station, which contains one resident deputy for the BART Station, including the Contra Costa Centre. A condition of approval (COA) #23 is included to fund the sheriff for the area.
6. **Parks and Recreation:** As the project will add to the County's population, COA #16 and 17 requires the project proponent to pay applicable Park fees per unit. The Park Impact fee collected will be used for acquisition of parkland and development of parks and recreational facilities. The Park Dedication requirement allows the developer of land for residential use to dedicate land, pay an in-lieu fee, or a combination of both for neighborhood and community park or recreational purposes. Furthermore, the project includes outdoor recreational amenities, such as a swimming pool, bocce ball court, and outdoor seating within the courtyards to be used by the residents of the apartment building.
7. **Flood Control and Drainage:** The project is in Zone X, as designated on the Federal Emergency Management Agency's Flood Insurance Rate Maps. The project will drain most of the site to an underground detention pipe system along the north edge of the property and the northern half of the eastern edge of the property. The detention system is designed to meet C.3 hydromodification requirements. Runoff stored in the detention system drains through a high-flowrate media filter before being pumped to a proposed storm drain pipe that is to tie into the existing manhole structure in the intersection of Las Juntas Way and Del Hombre Lane. The pump is intended to regulate flows to pre-project levels by limiting the flowrate. An 18" overflow pipe is also proposed to accommodate larger storms.

The project site is located within Drainage Area (DA) 44. The applicant proposes to divert the additional runoff that will be created by the proposed

project from DA 44 to DA 44B, which requires an exception from Section 914-2.004 of the County Ordinance Code and is included in the project.

D. Rezoning Findings

1. **Required Finding:** The change proposed will substantially comply with the general plan.

Project Finding: The project includes a General Plan Amendment from Multiple-Family Residential-Very High Density (MV) to Multiple-Family Residential-Very High Special Density (MS) and includes a rezone of the project site to a Planned Unit District. (P-1). Primary land uses in the MV and MS designations include multiple-family residences, such as apartments and condominiums. The 284-unit apartment building is a use that is consistent with both the MV and MS land use designations. In addition, Table 3-5 of the County's General Plan indicates that a P-1 zoning district is consistent with the MS land use designation. Further, rezoning of the 2.37-acre site to P-1 is a transit-oriented, infill project that is consistent with other General Plan policies that promotes housing near the Pleasant Hill/Contra Costa Centre BART Station and encourages other modes of transportation (e.g., transit, bicycling), while providing additional units to the County's housing inventory.

2. **Required Finding:** The uses authorized or proposed in the land use district are compatible within the district and to uses authorized in adjacent district.

Project Finding: The project site is located near the Pleasant Hill/Contra Costa Centre BART Station, and is surrounded by a number of multiple-family residential developments. The project is a use consistent with the MS General Plan land use designation. Overall, the project is in harmony with the surrounding area and the uses established in the area.

3. **Required Finding:** Community need has been demonstrated for the use proposed, but this does not require demonstration of future financial success.

Project Finding: Currently, the 2.37-acre site consists of two single-family residences and is vastly underutilized. The project is an infill project that is located within an area that is developed with multiple-family residential and commercial uses. The project to construct the 284-units will improve the current unimproved condition of the project site. Further, the 2005-2020 Contra Costa County General Plan contains policies related to providing an adequate supply of housing and encouraging infill development on under-

utilized sites within urbanized areas where necessary utilities already are installed. This project is consistent with the surrounding area consisting of residential development near transit.

E. Tentative Map Findings

1. **Required Finding:** The advisory agency 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 project is located within the unincorporated Walnut Creek community, where surrounding uses include primarily of multiple-family residential and commercial. The tentative map is to merge five existing parcels into a single 2.37-acre parcel to construct the 284-unit apartment building. The project is consistent with the proposed General Plan land use designation of Multiple-Family Residential-Very High Special (MS), which allows 45.0 - 99.9 units per net acre. The 2.37-acre site (net) would allow for 237 units, which results in a density of within the MS density range.

In addition, pursuant to Government Code Section 65915(b), the project includes a density bonus for the project. The project would provide 36 affordable units; representing 15 percent of the 237 units allowed by the proposed MS land use designation and 12 of those (5 percent) would be affordable to very low-income households. Therefore, the project would be eligible for the State density bonus of 20 percent, and the total allowable unit count under the MS designation would increase from 237 units to 284 units. The project is a transit-oriented, infill development project that provides the much-needed housing units near the Pleasant Hill/Contra Costa Centre BART Station that encourages a variety of transportation opportunities consistent with the established uses in the surrounding area. Overall, the project is consistent with the applicable policies for the MS land use designation, as well as transportation and housing policies of the General Plan.

2. **Required Finding:** The advisory agency shall not approve a tentative map unless it shall find that the proposed subdivision fulfills construction requirements.

Project Finding: The project will comply with the collect and convey regulations, storm drainage facilities, and design standards for private roads. Additionally, compliance with the California Building Code and all applicable

County Ordinances is required for grading of the property and construction of residential buildings.

F. Findings of Approval of P-1 Zoning District and Final Development Plan

1. **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 has indicated that they intend to commence construction within 2 ½ years off the effective date of the zoning change and plan approval.

2. **Required Finding:** The proposed planned unit development is consistent with the County General Plan.

Project Finding: The project includes a General Plan Amendment from Multiple-Family Residential-Very High Density (MV) to Multiple-Family Residential-Very High Special Density (MS) and includes a rezone of the project site to a Planned Unit District. (P-1). Primary land uses in the MV and MS designations shall include multiple-family residences such as apartments and condominiums. The project to allow a 284-unit apartment building is a use that is consistent with both the MV and MS land use designations. In addition, Table 3-5 of the County's General Plan finds that a P-1 zoning district is consistent with the MS land use designation. Further, rezoning of the 2.37-acre site to P-1 is a transit-oriented, infill project that is consistent with other General Plan policies that promotes housing near the Pleasant Hill/Contra Costa Centre BART Station and encourages other modes of transportation (e.g., transit, bicycling), while providing additional units to the County's housing inventory.

The project is to merge the 2.37-acre site into one parcel to construct the 284-unit apartment building. The project is consistent with the proposed General Plan land use designation of Multiple-Family Residential-Very High Special Density (MS), which allows 45.0 - 99.9 units per net acre. The 2.37-acre site (net) would allow for 237 units, which results in a density of within the MS density range. In addition, pursuant to Government Code Section 65915(b), the project includes a density bonus for the project. The project would provide 36 affordable units; representing 15 percent of the 237 units allowed by the proposed MS land use designation and 12 of those (5 percent) would be affordable to very low-income households. Therefore, the project would be

eligible for the State density bonus of 20 percent, and the total allowable unit count under the MS designation would increase from 237 units to 284 units.

The County's General Plan provides Housing goals and policies that promote and encourage projects, such as this project within the unincorporated Walnut Creek area. Goal 6 of the County's Housing Element identifies the need to provide adequate sites with the appropriate land use and zoning designations to accommodate the County's share of regional housing. The project will provide 284-units on a site that is underutilized, adjacent the Pleasant Hill/Contra Costa Centre BART Station. Policy 7.3 of the County's Housing Element encourages P-1 zoning in areas with concentrations of variances sought. The project includes the rezoning of the property to P-1, which is consistent with the General Plan Land Use designation of MS. The variance to the lot area for P-1 (where a minimum of five acres is required) is also consistent with properties within the County, including the unincorporated Walnut Creek area (Westborough Condominium, Olympic Boulevard, and Del Hombre Projects) and Pacheco project that are less than five acres and have been rezoned to P-1. Policy 3-8 of the General Plan encourages infilling of already developed areas, where new development is preferred to vacant or under-used sites within urbanized areas, which have necessary utilities installed. Furthermore, the Housing Element identifies the removal of governmental constraints (i.e. eliminating the 5-acre minimum parcel size requirement for P-1).

The County's General Plan also provides Transportation goals and policies that supports the project. The project is a transit-oriented, infill development project that provides the much needed housing units near the Pleasant Hill/Contra Costa Centre BART Station and the Iron Horse Regional Trail runs parallel to and immediately west of the site. The project also considers the physical conflicts between pedestrians, bicyclists, and vehicular traffic, which is consistent with General Plan Policy 5-18 that prioritizes safety over vehicle throughput. Overall, the project is consistent with the County's General Plan, especially the goal to reduce greenhouse gas emissions by providing housing within an area that provides multimodal access.

3. **Required Finding:** In the case of residential development, it 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 surrounding area consists primarily of multiple-family residential development. The 284-unit apartment building will consist of 21 studios, 174 one-bedroom units, and 89 two-bedroom units ranging in size from 566, 773, and 1,160 square feet, respectively. The project site is located within an established neighborhood that primarily consists of multiple-family development near the Pleasant Hill/Contra Costa Centre BART Station and the Iron Horse Regional Trail. The project site is located within an area that is accessible to different modes of transportation (e.g. bicycle, transit, etc.). Overall, the proposed development will be in harmony with the surrounding area.

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

Project Finding: The project site is 2.37 acres in size that is currently zoned Single-Family Residential (R-15) and Planned Unit District. The current MV General Plan land use designation, as well as the proposed MS designation permits multiple-family residences such as apartments and condominiums, consistent with the project to establish 284-unit apartment building. Applying the required setbacks for the R-15 Zoning District would not be feasible, as the project site is small in size for the higher density that the site is planned for. The R-15 zoning designation is not consistent with the MV or MS General Plan land use designations. Furthermore, the portion that is zoned P-1 was for a smaller project that was approved, but the design standards would not apply to this project. This project is a more cohesive project that assembles five underutilized parcels into one parcel, designed to fit within the surrounding multiple-family development near transit. Overall, the subdivision will remain for residential use consistent with surrounding area.

**G. Findings for Granting an Exception Per Section 92-6.002
Request for an exception from Title 9 Offsite Collect and Convey Diversion
requirements (Section 914-2.004)**

1. **Required Finding:** That there are unusual circumstances or conditions affecting the property.

Project Finding: The nearest drainage line within DA 44 is 160 feet north of the project site along Las Juntas Way at an invert elevation of 77.4 feet. The elevation of the storm drainage system leaving the site at the northern portion of the property is set an elevation of 76.5 feet and therefore it is not feasible for the site to drain to the existing system. The second nearest DA 44

line is located 250 feet east of the project site on private property for which the development does not have rights and has been informed by the adjacent property owner that they will not grant rights for the construction of offsite drainage improvements through their property for this development.

2. **Required Finding:** That the exception is necessary for the preservation and enjoyment of a substantial property right of the applicant.

Project Finding: In order to comply with Contra Costa County Collect and Convey requirements of Division 914 to properly drain to an existing adequate public drainage system a diversion to DA 44B is requested. This allows for the substantial property right of the applicant to develop the site in the manner proposed.

3. **Required Finding:** That the granting of the exception will not be materially detrimental to the public welfare or injurious to other property in the territory in which the property is situated.

Project Finding: The diversion would not be detrimental or injurious to the public welfare as it would promote more efficient site drainage into an adequately sized public drainage system.

H. Variance Findings Per Section 26-2.2006

Variance request from the 5-acre minimum lot size requirement of the Planned Unit District (P-1) to allow the rezoning of the subject 2.4-acre property (Section 84-66.602 [1])

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

Project Finding: The project requires a variance to allow the rezoning of a 2.37-acre project site from Single-Family Residential (R-15) and Planned Unit District (P-1) to P-1. Under the P-1 Zoning District, a minimum of five acres is required. As found on Table 3-5 of the County's Land Use Element, the P-1 zoning is consistent with the MS General Plan land use designation.

Additionally, Table 6-39 of the County's Housing Element identifies the removal of the five-acre minimum lot requirement for the P-1 zoning. This would allow the development of small infill and under-utilized properties. Other properties in the County that are less than the required five acres have been rezoned to P-1. In 2015, the Board of Supervisors approved the rezoning

to P-1 of a 1.12-acre property identified as the Westborough Condominium project located off Tice Valley, and a 0.53-acred property located on Del Hombre Lane within the unincorporated Walnut Creek area, which is one of the parcels included for this project. Subsequently, a 0.96-acre property located on Olympic Boulevard in the unincorporated area of Walnut Creek and a 0.49-acre property on Center Avenue in Pacheco were also rezoned to P-1.

A variance was requested for the public road setback for the development, to reduce the setback below the 10-foot setback requirement in Ordinance Code section 82-12.402. A variance is not required. Ordinance Code section 84-66.1404 provides that, for a development in a P-1 zoning district, the Planning Commission may recommend, and the Board of Supervisors may “adopt as part of the preliminary development plan, and may require in the final development plan, standards, regulations, limitations and restrictions which are either more or less restrictive than those specified elsewhere” in the County Ordinance Code. Under that section of the Ordinance Code, the setback for the project may be smaller than the setback that generally would be required under Ordinance Code section 82-12.402.

Here, the Planning Commission recommended approval of a development plan that includes the reduced setbacks, and also recommended a setback variance. The Board of Supervisors can approve the project without a variance from the setback requirements because the project is designed to protect and maintain property values and community amenities in the subject community, and to foster and maintain the health, safety and general welfare of the community. The project provides an emergency vehicle access at the rear of the property, which places the building closer to Del Hombre Lane. As such, the project is consistent with other developments in the area.

2. **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: The project consists of assembling five parcels on an underutilized 2.37-acre site. Except for the two residences, the project site consists of undeveloped parcels surrounded by multiple-family residential developments in the immediate area. It is impractical to acquire additional

parcels to meet the 5-acre minimum because the adjacent parcels are developed with multiple-family units. Thus, the size of the project site is limited and implementing the current zoning standards would deprive the subject property of rights enjoyed by other properties developed as multiple-family development near transit.

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

Project Finding: The proposal to rezone a property for residential use less than five acres will meet the intent of the P-1 Zoning District and the goal of the County's Housing Element to encourage small infill properties. The P-1 Zoning District provides an opportunity for a cohesive design with flexible regulations.

I. Tree Permit Findings

Required Finding: The County Planning Commission is satisfied that the following factors as provided by County Code Section 816-6.8010 for granting a tree permit have been satisfied:

1. Reasonable development of the property will require the removal of 161 trees and work within the dripline of an additional 27 trees will be necessary to construct the project. All feasible efforts have been made to retain the maximum number of trees, as well as, to preserve those trees, which are exceptional due to their visual prominence on the site.
2. Development of this project cannot be reasonably accommodated on other parts of the property due to the size of the project site.