



Contra  
Costa  
County

To: Board of Supervisors

From: John Kopchik, Interim Director, Conservation & Development Department

Date: February 10, 2015

Subject: Rezoning and Final Development Plan for 13-Unit Apartment Complex

### **RECOMMENDATION(S):**

1. OPEN the public hearing and receive testimony on the project.
2. CLOSE the public hearing.
3. FIND that on the basis of the whole record before it, including the Initial Study and the comments received, the Board of Supervisors finds that there is no substantial evidence that the project with the proposed mitigation measures will have a significant effect on the environment and that the Mitigated Negative Declaration (MND) reflects the County's independent judgment and analysis.
4. ADOPT the Mitigated Negative Declaration and Mitigation Monitoring Program dated August 15, 2014, finding it to be adequate and complete, finding that it has been prepared in compliance with the California Environmental Quality Act (CEQA) and the State and County CEQA Guidelines, and finding that it reflects the County's independent judgment and analysis.
5. CONSIDER the County Planning Commission's recommendation to deny the Rezoning and Final Development Plan stated in their Resolution No. 13-2014, as well as the recommendation of County Staff to approve.
6. ADOPT Board Resolution No. 2015/41 and the findings therein as the basis for the Board's approval.

☒ APPROVE

☐ OTHER

☒ RECOMMENDATION OF CNTY ADMINISTRATOR

☐ RECOMMENDATION OF BOARD COMMITTEE

Action of Board On: **02/10/2015** ☒ APPROVED AS RECOMMENDED ☐ OTHER

Clerks Notes:

### **VOTE OF SUPERVISORS**

AYE: John Gioia, District I Supervisor  
Candace Andersen, District II Supervisor  
Mary N. Piepho, District III Supervisor  
Karen Mitchoff, District IV Supervisor  
Federal D. Glover, District V Supervisor

I hereby certify that this is a true and correct copy of an action taken and entered on the minutes of the Board of Supervisors on the date shown.

ATTESTED: February 10, 2015

David Twa, County Administrator and Clerk of the Board of Supervisors

By: June McHuen, Deputy

Contact: Jennifer Cruz, (925)  
674-7790

7. ADOPT Ordinance No. 2015-03 to rezone the 0.53-acre property from Single-Family Residential, R-15 to Planned Unit District, P-1, giving effect to aforementioned rezoning.
8. APPROVE the proposed Preliminary and Final Development Plan to establish a 13-unit apartment complex, including the request to allow: a) a variance for a 0.53-acre property to be rezoned to P-1 (where a 5 acre minimum is required, b) a variance to allow three guest parking spaces (where four spaces are required), c) the removal of 19 trees, and d) work within the drip line of 21 trees, with the revised findings and conditions of approval.

## RECOMMENDATION(S): (CONT'D)

9. DIRECT staff of the Department of Conservation and Development to file a Notice of Determination with the County Clerk.

## FISCAL IMPACT:

None. The applicant has paid the necessary initial application deposit and fees, and is obligated to pay supplemental costs to cover any and all expenses associated with processing the application.

## BACKGROUND:

### **Project Summary**

#### Original Proposal Considered before the County Planning Commission

On August 9, 2012, applications for a rezoning and a development plan were filed with the Department of Conservation and Development for a proposal to rezone the 0.53-acre property from Single-Family Residential District, R-15 to Planned Unit District, P-1 to allow a 14-unit apartment complex. The proposed project also involves the removal of 19 trees (ranging in size from 5.5 inches to 72 inches in diameter) and work within the drip line of 21 trees (ranging in size from 15 inches to 40 inches in diameter). The existing residence and accessory buildings will be demolished in order to allow the construction of the apartment complex. The project also includes variance requests to allow three guest parking spaces on Del Hombre Lane (where four spaces are required) and to allow the rezoning of a 0.53-acre property to P-1 (where a minimum of 5 acres is required for residential uses).

The proposed apartment complex will consist of stucco, hardiplank lap siding, metal roofing, and will include decks. A 20-foot wide driveway access is proposed through the center of the property. Below is a summary of the proposed project as presented before the County Planning Commission:

<b>Details of the 14-Unit Apartment Complex</b>		
	<u>Each Unit</u>	<u>Total</u>
<b>(10) Two bedrooms</b>	1,348 sq. ft. living area 409 sq. ft. garage	
<b>(4) Three bedrooms</b>	1,904 sq. ft. living area 388 sq. ft. garage	
<b>Garage (Parking Spaces)</b>	2 spaces	28 spaces
<b>Building Height</b>		34 feet

<b>Number of Stories</b>		3
<b>Landscaping</b>		3,600 square feet
<b>Guest Parking</b>		3 spaces(on-street)

### County Planning Commission (CPC) Hearing on October 14, 2014

The County Planning Commission held a public hearing on October 14, 2014, to consider the proposed project. The Planning Commission received testimony from the property owner and her architect, along with two neighboring property owners. After evaluating the project and receiving testimony, the Planning Commission voted to recommend denial of the proposed project.

The Planning Commission recognized the project's location in close proximity to the Pleasant Hill Bay Area Rapid Transit (BART) Station and staff's reasoning for recommending approval of the variances. However, Commissioners felt that since the project is not within the Pleasant Hill BART/Contra Costa Centre Specific Plan area, reduced guest parking should not be approved. They also felt that the garages would not be used for automobile parking and would be used for storage instead. Strong concern was also expressed about not having any Americans with Disabilities Act (ADA) parking for guests. The Planning Commission also noted that there is currently insufficient parking for BART users and therefore, the amount of street parking in the area is reduced and unavailable for use by guests of residents in the area. In addition, the Commission indicated the proposed project is too dense and the variance to allow the 0.53-acre property to be rezoned to P-1 (minimum lot area of 5 acres required) was significant and could not be supported.

The Planning Commission's decision was a recommendation to the Board of Supervisors; however, the Commission also noted that they would reconsider a smaller, less dense project. The applicant elected to request a decision from the Board of Supervisors rather than substantially revise the project for reconsideration by the Planning Commission. The applicant has made modest changes that address the concerns of on-site guest parking and ADA parking. Therefore, staff is recommending the Board of Supervisors consider the project as revised.

The Department of Conservation and Development provides staff support and recommendations to the Planning Commission and conveys the Planning Commission's recommendations to the Board. In this instance, staff does not agree with the Planning Commission's recommendation because staff finds that the benefits of the project as an example of Transit Oriented Development outweigh the drawbacks that were identified. This is an infill property and will provide much needed housing near transit, which is strongly encouraged by existing State and County law and policies.

### Revised Proposal for 13-Units

In November 2014, the applicant submitted revised plans. The revisions were in response to concerns heard at the County Planning Commission meeting, specifically the request to provide on-site guest parking that is consistent with the American with Disabilities Act (ADA). The revisions primarily include the removal of one unit to provide two parking spaces, of which one guest parking space complies with ADA requirements. The two spaces are also consistent with the dimensions of the County's Off-Street Parking Ordinance. Below is a summary of the revised proposed project:

<b>Details of the 13-Unit Apartment Complex</b>		
	<u>Each Unit</u>	<u>Total</u>
<b>(9) Two bedrooms</b>	1,348 sq. ft. living area 409 sq. ft. garage	
<b>(4) Three bedrooms</b>	1,904 sq. ft. living area 388 sq. ft. garage	
<b>Garage (Parking Spaces)</b>	2 spaces	26 spaces
<b>Building Height</b>		34 feet
<b>Number of Stories</b>		3
<b>Landscaping</b>		3,600 square feet
<b>Guest Parking</b>		3 (2 on-site and 1 on-street)

A variance for guest parking is still required, however, the request is to allow three guest parking spaces – two on-site and one on Del Hombre Lane - where four spaces are required. County Code Section 84-26.1202 (a)(2), permits guest parking along the subject property's street frontage. The revision eliminated one unit to allow two guest parking spaces on-site at the rear of the property, closest to Unit 13. The variance request to allow a 0.53-acre property to be rezoned to P-1 remains as part of the project.

#### State and County Laws that Support the Project

The subject property is located approximately 200 feet from the Pleasant Hill Bay Area Rapid Transit (BART) and is one of the remaining infill properties with options for multimodal transportation. Other modes of transportation available in this area include: bus transit, bicycling, and walking. The site is currently primarily a vacant lot, though one unoccupied single-family home with boarded windows is present. The site was recently cleaned through a code enforcement abatement process.

Efforts encouraging development of infill properties, specifically high-density residential projects located near mass transit and population centers have been accomplished at both the State and County levels. Infill development reduces the distance between places people need to travel, resulting in a reduction of greenhouse gas (GHG) emissions, as well as improved regional air quality and healthy and environmentally friendly active transportation.

Senate Bill (SB) 375 became effective in 2008 and supports the efforts of Assembly Bill (AB) 32 to reduce greenhouse gas emissions. SB 375 coordinates planning for land use transportation at a regional scale, with the goal of reducing the amount that people have to drive and associated GHG emissions. Implementation of SB 375 is intended to create walkable and efficient communities that reduce air pollution, improve public health, and shorten commutes as more people can afford to live closer to work. The project is consistent with the goals of this Senate Bill. The project provides accessibility to BART and is located within an area that is also walkable to the Contra Costa Centre, a transit village adjacent to the property.

The County's General Plan consists of goals and policies that promote and encourage projects, such as this 13-unit project that provide housing close to transit. 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 proposed project will be providing 13 rental units on a property that is underutilized and adjacent to other apartments. Policy 3-2 of the County's Housing Element encourages and provides incentives for the production of housing within close proximity to public transportation and services. The project is consistent with this policy, since it is 200 feet from the Pleasant Hill BART Station and near bus transit. Policy 7-3 of the County's Housing Element encourages P-1 zoning in areas with concentrations of applicants seeking variances. The variance to the lot area for P-1 (where a minimum of five acres is required) is also consistent with properties along Treat Boulevard that are less than five acres and have been rezoned to P-1.

The County's Housing Element Update was recently adopted by the Board of Supervisors in December 2014. According to Table 6-38, removal of the 5-acre minimum lot requirement for the P-1 zoning is an eight-year objective identified in the County's Housing Plan. Removal of the lot size requirement will allow flexibility for small sites and infill development. Since 1978, numerous properties in the County that are less than five acres have been rezoned to P-1 (See Exhibit Rezoning to P-1 under 5 acres since 1978). More recently, a request to rezone a 1.12-acre property located on Tice Valley Boulevard in the unincorporated area of Walnut Creek to P-1 was approved by the Board on January 13, 2015. As proposed, the project is consistent with the goal to reduce greenhouse gas emissions by establishing housing within an area that provides multmodal access.

The following Transportation Policies of the County's Transportation Element also supports the project. Policy 5-13 encourages the use of pedestrian and bicycle facilities. The Iron Horse Regional Trail is located adjacent to the property and a pedestrian bridge is also located south of the property. The applicant will also provide bicycle spaces located at the rear of the property. Policy 5-24 encourages the use of alternative forms of transportation, such as transit, bike, and pedestrian modes. The Pleasant Hill BART Station and the bus transit are located within close proximity to the property and are accessible for the housing provided. In addition to the Transportation Policies, the

Transportation Demand and Management (TDM) Plan Ordinance implements the goals of the County's General, the Measure C Growth Management Program, Contra Costa County's Congestion Management Program, and the Bay Area Clean Air Plan. The intent of the TDM is to promote a more balanced transportation system that takes advantage of all modes of transportation by incorporating pedestrian, bicycle, and transit access into the proposed development. This transit orient development project provides much needed housing that is accessible to a variety of transportation options.

#### Consistency with General Plan Land Use Designation

The subject property is within the Multiple-Family Residential-Very High Density (MV) General Plan land use designation. This land use designation allows for a density range of 30 and 44.9 multiple family units per net acre. The property is 0.53 acres (0.42 acres – net) and the size of the property would yield a density range of 12-18 units. The proposal to establish an apartment complex of 13 units is within this density range and is consistent with the underlying General Plan.

#### Consistency with Zoning District

The P-1 Zoning District provides an opportunity for a cohesive design, with flexible regulations. The proposed apartment complex consists of stucco, hardiplank lap siding and metal roofing. The proposed building is consistent with the eclectic designs of existing buildings within the surrounding development. The subject property is adjacent to the Contra Costa Centre, a transit village that includes commercial, office and residential use. The proposed apartments will be three stories tall and approximately 21 trees will remain, with five additional trees required for planting to replace the 19 trees to be removed. Conditions of Approval #13, 14, and 15 have been included requiring review and approval of the proposed building design and materials, sign program, and lighting to ensure compatibility with the surrounding area. The general direction of the County is to encourage P-1 zoning in unincorporated areas where it is appropriate in relation to the community's setting. As proposed, the apartment complex is consistent with the following design objectives as required in P-1 Zoning District: building bulk, height, visual appearance from the adjacent land, and compatibility with the existing adjoining development and land.

#### Conclusion

Staff recommends that the Board of Supervisors approve the Rezoning and Preliminary and Final Development Plan. The proposed 13-unit apartment complex is an infill project, consistent with the surrounding uses that will provide new housing in an area accessible to public transportation, freeways, schools, and shopping, which is a major factor in accomplishing the goals and policies of the County General Plan and State incentives to reduce greenhouse gas emissions

### CONSEQUENCE OF NEGATIVE ACTION:

If the Board does not approve the project to allow the rezoning of the subject property and the Final Development Plan to allow a 13-unit apartment complex, then the project will not be implemented and constructed, preventing the addition of new housing in the County located near mass transit.

### CHILDREN'S IMPACT STATEMENT:

The proposal to allow the rezoning of a property and to allow the construction of a 13-unit apartment complex is consistent with the following outcome established in the Children's Report Card: 5 - *Communities that are safe and provide a high quality of life for children and families.*

### CLERK'S ADDENDUM

*Speakers: Herand Der Sarkissian, representing Mrs. Kolhler, Applicant; Reid Settlemyer, resident of Oakland; Toshika McKeen, resident of Walnut Creek (handout attached). CLOSED the public hearing. FOUND that on the basis of the whole record before it, including the Initial Study and the comments received, the Board of Supervisors finds that there is no substantial evidence that the project with the proposed mitigation measures will have a significant effect on the environment and that the Mitigated Negative Declaration (MND) reflects the County's independent judgment and analysis. ADOPTED the Mitigated Negative Declaration and Mitigation Monitoring Program dated August 15, 2014, finding it to be adequate and complete, finding that it has been prepared in compliance with the California Environmental Quality Act (CEQA) and the State and County CEQA Guidelines, and finding that it reflects the County's independent judgment and analysis.*

*CONSIDERED the County Planning Commission's recommendation to deny the Rezoning and Final Development Plan stated in their Resolution No. 13-2014, as well as the recommendation of County Staff to approve. ADOPTED Board Resolution No. 2015/41 and the findings therein as the basis for the Board's approval*

*ADOPTED Ordinance No. 2015-03 to rezone the 0.53-acre property from Single-Family Residential, R-15 to Planned Unit District, P-1, giving effect to aforementioned rezoning. APPROVED the proposed Preliminary and Final Development Plan to establish a 13-unit apartment complex, including the request to allow: a) a variance for a 0.53-acre property to be rezoned to P-1 (where a 5 acre minimum is required, b) a variance to allow three guest parking spaces (where four spaces are required), c) the removal of 19 trees, and d) work within the drip line of 21 trees, with the revised findings and conditions of approval. DIRECTED staff of the Department of Conservation and Development to file a Notice of Determination with the County Clerk.*

### ATTACHMENTS

Resolution No. 2015/41

Rev Findings and Conditions

Ordinance No. 2015-03 Map



CPC Resolution No. 13-2014

CPC Staff Report

CPC Findings

Maps

Rezoning to P-1 Map

Initial Study/Mitigation Monitoring Program

Revised Plans

Powerpoint Presentation