



**Contra
Costa
County**

To: Board of Supervisors
From: John Kopchik, Director, Conservation & Development Department
Date: August 11, 2020

Subject: Del Hombre 284-Unit Apartment Project near the Pleasant Hill/Contra Costa Centre BART Station (District IV)

RECOMMENDATION(S):

1. OPEN the public hearing on the Del Hombre Apartment Project, RECEIVE testimony, and CLOSE the public hearing.
2. DENY the appeals filed on County File #MS18-0010.
3. CERTIFY that the environmental impact report prepared for the Del Hombre Apartment Project was completed in compliance with the California Environmental Quality Act (CEQA), was reviewed and considered by the Board of Supervisors before Project approval, and reflects the County's independent judgment and analysis.
4. CERTIFY the environmental impact report prepared for the Del Hombre Apartment Project.
5. ADOPT the CEQA findings for the Project.
6. ADOPT the mitigation monitoring and reporting program for the Project.
7. ADOPT the statement of overriding considerations for the Project.
8. DIRECT the Department of Conservation and Development to file a CEQA Notice of Determination with the County Clerk.
9. SPECIFY that the Department of Conservation and Development, located at 30 Muir Road, Martinez, CA, is the custodian of the documents and other material which constitute

☒ APPROVE

☐ OTHER

☒ RECOMMENDATION OF CNTY

☐ RECOMMENDATION OF BOARD

ADMINISTRATOR

COMMITTEE

Action of Board On: **08/11/2020** ☒ APPROVED AS RECOMMENDED ☒ OTHER

Clerks Notes:

See Addendum

VOTE OF SUPERVISORS

AYE: John Gioia, District I Supervisor
Candace Andersen, District II Supervisor
Diane Burgis, 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: August 11, 2020

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

By: June McHuen, Deputy

Contact: Jennfier Cruz, (925)
674-7790

cc:

the record of proceedings upon which the decision of the Board of Supervisors is based.

RECOMMENDATION(S): (CONT'D)

10. ADOPT Resolution No. 2020/212, amending the General Plan to change the land use designation of the subject property from Multiple-Family Residential-Very High (MV) to Multiple-Family Residential-Very High Special (MS) (County File #GP18-0002).
11. ADOPT Ordinance No. 2020-17, rezoning the subject property from Single Family Residential (R-15) and Planned Unit District (P-1) to Planned Unit District (P-1) (County File #RZ18-3245).
12. APPROVE a variance 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.
13. APPROVE a 20 percent density bonus, the requested concession to allow 24 units be affordable to moderate-income households as opposed to low-income households, and the requested reduction in development standard to allow a driveway aisle width of 24 feet.
14. APPROVE the Preliminary and Final Development Plan, including the associated tree removal program (County File #DP18-3031).
15. APPROVE the vesting tentative map for the Project and approve the requested exception from Title 9 offsite collect and convey diversion requirements, (County File #MS18-0010).
16. APPROVE the findings in support of the Project.
17. APPROVE the Project conditions of approval.
18. APPROVE the Del Hombre Apartment Project.

FISCAL IMPACT:

The applicant has paid the necessary application deposits and is obligated to pay supplemental fees to cover all additional costs associated with the application process.

BACKGROUND:

*****TO VIEW THE COMPLETE BACKGROUND TO THIS BOARD ORDER, PLEASE SEE ATTACHMENT ONE.*****

Project Summary

The project, known as the “Del Hombre Apartments” involves the development of a 6 story, 284-unit apartment building on an approximately 2.4-acre site located on Del Hombre Lane between Roble Road and Honey Trail in the Walnut Creek/Contra Costa Centre area of the County. The project includes a General Plan Amendment to designate the project site to Multiple-Family Very-High Special (MS) density, a rezone of the property to a Planned Unit District (P-1), a minor subdivision to combine the five parcels into one parcel, and a final development plan to allow the construction of a six-story podium apartment building consisting of 284 units. The project also includes a variance to the lot size for rezoning a less than 5-acre property to P-1 and an exception from Title 9 for drainage requirements. The project will include demolition of the existing residential buildings, removal of approximately 161 trees and work within the dripline of approximately 27 trees, and grading of approximately 29,000 cubic yards. The project also seeks a density bonus and concessions for moderate income units and to the parking aisle width.

The project approvals considered by the Planning Commission also included a variance for a reduced setback. Upon further review of the Planned Unit District Ordinance, the requirement for the public road setback pursuant to CCC Section 82-12.402 would not apply since the project proposes a rezoning of the property to P-1 where the standards, regulations, limitations and restrictions which are either more or less restrictive than those specified elsewhere in the zoning ordinance are applied through approval of a Development Plan. (CCC Section 84-66.1404).

The Department of Conservation and Development (DCD) determined that an Environmental Impact Report (EIR) was required for the project and distributed a Notice of Preparation (NOP) on October 29, 2018. The Draft EIR (DEIR) was released for public review on September 10, 2019 and was available for public review and comment for a period of 60 days, through November 15, 2019. A public hearing to receive comments on the DEIR was held before the Zoning Administrator on October 7, 2019. The responses to the comments received during the DEIR comment period are addressed in the Final EIR (FEIR). The FEIR and the mitigation monitoring and reporting program (MMRP) were made available to the public on May 15, 2020.

County Planning Commission Hearing

On May 27, 2020, the project was heard at the County Planning Commission (CPC). The CPC opened the hearing, received testimony from neighbors, closed the hearing, approved the Minor Subdivision (County File #MS18-0010) and recommended approval of the General Plan Amendment, rezoning, and final development plan to the Board of Supervisors. The CPC also certified the environmental impact report (EIR) and recommended that the Board of Supervisors also certify the EIR. Comments heard during the CPC hearing included traffic and emergency access concerns, density, parking, consistency with the neighborhood, air quality, and greenhouse gas emissions. These comments were also previously addressed in the Final Environmental Impact Report (FEIR).

There was a 10-day appeal period for the approval of the vesting tentative map. Two appeals were filed with the County.

Appeal Points

On June 5, 2020, Contra Costa Citizens in Favor of Reasonable Growth by Amy Zeller of 1293 Honey Trail, Walnut Creek 94597 filed an appeal of the project. Below are the appeal points and Staff's response.

Appeal Point #1: Variance findings cannot be made to allow rezoning of property to P-1.

Staff's Response: Findings to support the variance to the minimum 5-acre lot size requirement were provided in the CPC staff report and can be found under the Project

Findings Section attached to this report. The County previously rezoned other properties in the unincorporated Walnut Creek area to P-1 that were smaller than 5 acres. Additionally, the surrounding area consists of a number of P-1 zoned properties that are less than the required 5 acres. The Housing Element in the County's General Plan calls for the removal of the 5-acre minimum lot requirement for the P-1 zoning.

Appeal Point #2: Project is not consistent with the General Plan Policy 3-8 and the Transportation and Circulation Element (General Plan Goal 5-I and Policies 5-14, 5-18) and Goal-1 of the Housing Element.

Staff's Response: The County's General Plan Policy 3-8 promotes infill of already developed areas and preference is given to vacant and underused sites within urbanized areas, which have necessary utilities installed. The project site is consistent with this policy since portions of the site are vacant and underutilized, and is surrounded by existing multiple family development. The Utilities Section in the Draft EIR indicated that the project site would adequately be served by the existing utilities and the sanitary and water agencies also would have the capacity to serve the project.

General Plan Goal 5-I encourages the use of transit. The project site is approximately 500 feet east of the Pleasant Hill/Contra Costa Centre BART Station. The project is consistent with this goal and provides accessibility to the BART Station and bus transit. Thus, this project is an example of a transit-oriented infill development located on an underutilized site.

General Plan Policy 5-14 states that physical conflicts between pedestrians, bicyclists, and vehicular traffic shall be minimized. General Plan Policy 5-18 further states that the design and the scheduling of improvements to arterials and collectors shall give priority to intermodal safety over other factors including capacity. The DEIR identified Coggins Drive at Las Juntas Way intersection to degrade to an unacceptable level of service (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 where there are high levels of pedestrian and bicycle activity. Therefore, this improvement could increase vehicle/bicycle/pedestrian conflicts, causing a secondary impact by restriping to provide an additional vehicle lane. In addition, the inclusion of this left-turn pocket would conflict with numerous polices (e.g., Complete Streets, General Plan), as well as general best practices in transit-oriented development planning. Specifically, this improvement would conflict with General Plan Policy 5-18, which prioritizes safety over vehicle capacity. Therefore, this left-turn pocket would not be included as part of the project and this intersection would continue to operate at an unacceptable level of service for vehicles in the morning peak-hour under Opening Year with Project Conditions (DEIR page 3.15-51). Although 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 and can be found in the attached CEQA Findings section and the project remains consistent with General Plan Policy 5-14 and 5-18.

Appeal Point #3: It is not in the public interest to amend the General Plan per Government Code Section 65358(a).

Staff's Response: Adoption of the proposed General Plan Amendment (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.

Appeal #4: Changing the land use designation to Multiple-Family Residential-Very High Special (MS) from Multiple-Family Residential-Very High (MV) is not appropriate. The proposed density is not consistent with immediate surrounding uses.

Staff's Response: The project is to allow a General Plan Amendment from MV to MS and to rezone the property to a Planned Unit District. Staff has made the necessary General Plan and rezoning findings to support the project, which are attached to this report. The project site is surrounded with various multiple-family developments that range from 2-4 stories immediately to the south, north, and east. The Avalon Walnut Creek development, which is approximately 500 feet southwest of the project site is approximately six stories. Overall, the project is consistent with existing developments in the area and also seeks approval of a 20% density bonus as allowed under the State's density bonus law [Government Code Section 65915(b)].

Appeal #5: The proposed main entrance for the project will be served by a dead-end street (Del Hombre Lane), which will cause a traffic nightmare. Del Hombre Lane is at its maximum capacity serving too many residential units.

Staff's Response: Vehicular access to the project site would be provided by a new driveway on Del Hombre Lane that provides access to the proposed parking garage. Based on the existing traffic volumes on Del Hombre Lane and the projected project volumes, this roadway is projected to operate with minimal delay for vehicles (DEIR page 3.15-58).

Appeal #6: The proposed density of the project will further cause vehicle conflicts with those seeking to use the Iron Horse Trail from either Las Juntas Way or Del Hombre Lane.

Staff's Response: The DEIR evaluated the bicyclist and pedestrian facilities (DEIR page 3.15-22). The DEIR determined that the project would not conflict with adopted policies, plans, or programs regarding bicycle facilities, or otherwise decrease the safety performance of such facilities. Thus, the operational impacts related to circulation system performance in terms of bicycle facilities would be less than significant. Moreover, the project would include pedestrian facilities along both sides of the project frontage on Del Hombre Lane, Roble Road, and Honey Trail. New sidewalks will be located on Del Hombre Lane and Roble Road. A new crosswalk is also proposed on the south leg of Del Hombre Lane at Las Juntas/Roble Road in addition to the reconstructed curb ramps on the southeast corner of the intersection. On the southern end of the project site, a new curb ramp would be constructed on Del Hombre Lane off set from the existing curb ramp on the west side of the street connecting to the existing Iron Horse Trail across Del Hombre Lane from the project site. The proposed crosswalk design does not align with the existing curb ramp to Del Hombre Lane and Iron Horse Trail, which represents a potentially significant impact. However, Mitigation Measures Trans-1c and Trans-1d requires that the crosswalk design be updated to align with existing roadway and trail facilities and to include a lighting plan for the pedestrian path. These mitigation measures would reduce the operational impacts related to circulation for pedestrian facilities to a less than significant level.

Appeal #7: The project is not consistent with CEQA Guidelines Section 15604.3, since no VMT analysis was performed.

Staff's Response: New CEQA guidelines section 15064.3 states that the vehicle miles traveled (VMT) analysis do not take effect until July 1, 2020 unless the lead agency adopts them earlier. The County had not adopted VMT thresholds at the time the DEIR was prepared. However, the County has determined that the 15 percent reduction recommended by OPR is an appropriate significance threshold for the project given in the recommendation in the OPR's Technical Advisory document.

VMT analysis was conducted and determined that the project is expected to generate 11.4 VMT per capita per day, which is more than 15 percent below both the regional (15.3 VMT) and local (18.0 VMT) average. Absent adopted local thresholds, the recommended OPR threshold for residential uses was applied; new developments that have an estimated VMT of 15 percent below existing regional and city VMT per capita (household or home-based) would be considered less than significant. Therefore, based on the OPR Criteria, the project is consistent with the intent of SB 743 to promote development that reduces vehicle travel and the VMT impact is less than significant (FEIR page 3-49).

Appeal #8: Density bonus should not be granted because of the unmitigated environment impacts the project will cause.

Staff's Response: The DEIR identified an impact to Coggins Drive at Las Juntas Way

intersection and a mitigation measure required a left-turn pocket. However, this would create a secondary impact to pedestrians and bicyclists crossing from the nearby Iron Horse Regional Trail. The inclusion of the left-turn pocket mitigation measure conflicts with a number of policies (e.g., Complete Streets, General Plan). To prioritize safety over capacity, a statement of overriding consideration was prepared to support the significant and unavoidable impact. All other impacts identified in the DEIR are mitigated to a less than significant level. Additionally, findings to support the proposal for a 20% density bonus were made. This infill project located next to transit will add to the County's housing inventory and remains consistent with the goals and policies of the County's general plan.

Appeal #9: Project is under parked and occupants and guests will use parking in adjacent townhome and apartments.

Staff's Response: Parking for occupants and guests will be provided on-site. The project provides 380 spaces and exceeds the State's requirement of 373 spaces per Government Code Section 65915(p)(1). At 380 spaces, there are 96 more parking spaces than apartment units. Therefore, the project will provide an adequate number of parking spaces.

Appeal #10: The location of passenger loading and unloading zone is problematic as it borders Honey Trail (single access point or entrance to development) on south side of project.

Staff's Response: The plans have been routed to and reviewed by the Public Works Department and the Fire District. Neither agency has indicated that the passenger loading and unloading zone would be a concern. Further, the location of these loading and unloading zone were analyzed in the DEIR which determined that the project would not result in a conflict with roadway geometric design (DEIR page 3.15-61).

Appeal #11: The lack of appropriate setbacks and the mass of the project will give a wall or fortress appearance with little or no aesthetic appeal.

Staff's Response: The project includes a rezone of the project site to P-1, which allows standards that are either more or less restrictive than those specified elsewhere in the zoning ordinance (CCC Section 84-66.1404). The project provides an emergency vehicle access at the rear of the property, which places the building closer to Del Hombre Lane and consistent with other similar developments in the area. The building ranges from four to six stories and the design elements of the building incorporate stepped rooflines utilizing different roofing materials, staggered exteriors to add depth and variation to the exterior of the building. The closest portion of the building to the property line would be along Del Hombre Lane at approximately 4- 9 feet. This side of the building would primarily be six stories and reduces to five stories on the northwestern corner and four stories on the southwestern corner. There would be landscaping along Del Hombre Lane to break up the mass of the building. Additional street trees will also be located along Roble Road and the building on this side would be setback 15 feet from the property line.

The eastern portion of the building will be setback 30 feet from the eastern property line near the Avalon Walnut Ridge apartments and the existing tree landscape from the adjacent property provides a buffer between both properties. The southern portion of the building along Honey Trail will be setback 20 feet from the property and is four stories. The building façade on the southern side is broken up since the pool courtyard is located between the southwestern and southeastern corners of the building.

Appeal #12: The following are suggested project revisions:

- Reduced density by keeping current General Plan designation of MV to allow 130 units, including a density bonus;
- Building stepped back to reduce massing and to provide landscape buffer to protect existing tree line along Honey Trail;
- Main driveway should be 26 feet and not 24 feet;
- Main entrance on Roble Road, which has two way street or access or extend Del Hombre to Treat.

Staff's Response:

The suggestion to reduce the density by keeping the current MV General Plan designation would reduce the number of market rate and affordable units. Thus, the recommended number of units would not meet the project's objective of providing the housing needed in Contra Costa County on an underutilized site that is next to transit.

As mentioned in Appeal #10, the building will be four stories as viewed from Honey Trail, will be approximately 20 feet away along the southern property line that abuts Honey Trail, and there are existing trees that buffer the project from Honey Trail. Additional landscape will also be provided along the southern portion of the building.

According to CCC Section 82-16.404(a)(2), the access drive must measure at least twelve feet wide if it will be used for one-way traffic, and at least twenty feet wide if it will be used for two-way traffic. The access driveway is approximately 24 feet wide and meets this requirement. However, within the parking garage, the project proposes parking spaces at 90 degrees, which requires two way travel to have 25-foot aisle width [CCC Section 82-16.404(b)(1)(c)]. The project proposes a 24-foot-wide parking aisle width within the garage, and therefore has requested a reduction of this development standard as an incentive per Government Code Section 65915(e) of the State's Density Bonus Law.

The project proposes the entrance to the site on Del Hombre Lane. As such, the traffic impact study and the Draft EIR analyzed the Del Hombre Lane access and not Roble Road. Roble Road is a private road that will be used for emergency vehicle access to the site. The suggestion to extend Del Hombre Lane to Treat Boulevard would not be feasible, especially since the Iron Horse Regional Trail crosses that area.

The appellant also provided as an exhibit a letter from Adams Broadwell Joseph & Cardozo dated May 27, 2020 addressed to the County Planning Commission. The concerns indicated in this letter are addressed in the appeal points below.

On June 8, 2020, Adams Broadwell Joseph & Cardozo of 601 Gateway Boulevard, Suite 1000, South San Francisco filed an appeal of the vesting tentative map. The appellant also provided, as an exhibit, a letter from Adams Broadwell Joseph & Cardozo dated May 27, 2020 addressed to the County Planning Commission. The County's consultant FirstCarbon Solutions (FCS) has prepared a written response related to the Greenhouse Gases and Air Quality comments that is included as an attachment to this report. The appeal points are addressed below incorporating FCS' responses to the comments.

Appeal #1: The EIR uses incorrect and unsupported Greenhouse Gases (GHG) thresholds to support its GHG analysis. The EIR fails to support the use of its GHG threshold with any evidence, except for the vague statement in the Final EIR (FEIR) that this is the "substantial progress threshold." Without substantial evidence justifying the County's use of the 2030 threshold, the EIR cannot be approved as satisfying CEQA's requirement of disclosure and analysis.

Staff Response: As noted on page 3.7-42 of the DEIR, the thresholds of significance provided in the 2017 Bay Area Air Quality Management District (BAAQMD) California Environmental Quality Act (CEQA) Guidelines were established based on meeting the 2020 GHG targets set forth in Assembly Bill (AB) 32. AB 32 targets are based on 2020 GHG reduction goals. The 2017 BAAQMD CEQA Guidelines contain the following thresholds for GHG emissions: For land use development projects (including residential, commercial, industrial, and public land uses and facilities), the threshold is (1) compliance with a Qualified GHG Reduction Strategy; or (2) annual emissions less than 1,100 metric tons per year of carbon dioxide equivalent (CO₂e); or (3) 4.6 metric tons CO₂e/service population/year (residents + employees).

As the project would be developed and become operational post-2020, it is appropriate to identify thresholds that address post-2020 GHG reduction targets. This was noted in the DEIR and reaffirmed in the FEIR. The 2017 Scoping Plan provides an intermediate target that is intended to achieve reasonable progress towards goals for 2050 under Executive Order S-3-05. The BAAQMD had not updated their recommended GHG emissions thresholds to address target reductions past year 2020, at the time the DEIR or FEIR were published. However, consistent with current State directives, the updated target identified and addressed in the DEIR requires an additional 40 percent reduction in GHG emissions by year 2030. Applied to the BAAQMD quantitative thresholds based on 2020 AB 32 GHG reduction goals, this would equate to 660 metric tons (MT) carbon dioxide equivalent (CO₂e) per year by year 2030 or 2.6 MT CO₂e per year per service population (SP) by year 2030.

The GHG analysis for the project (summarized in Impact GHG-1 of the DEIR) assessed emissions for the operational years of 2022 and 2030. As noted in both the DEIR and FEIR, the total project emissions in these years were analyzed against the 2020 BAAQMD efficiency threshold of 4.6 MT CO₂e/SP/year and the projected 2030 efficiency threshold of 2.6 MT CO₂e/SP/year. The project's estimated GHG emissions

for the 2022 operational year were shown because 2022 is used as the operational year throughout the DEIR. Given that BAAQMD's most current and formally adopted thresholds include the 4.6 MT CO₂e/SP/year, it is appropriate that the DEIR compare the project's full buildout emissions in 2022 against an applicable adopted threshold. The DEIR and FEIR both note the 4.6 MT CO₂e/SP/year threshold is one of the three GHG thresholds recommended in the 2017 BAAQMD CEQA Guidelines. The 2017 BAAQMD CEQA Guidelines provides substantial evidence to support the use of the 4.6 MT CO₂e/SP/year threshold. Although the reference to 2017 BAAQMD CEQA Guidelines was included in the DEIR, the DEIR and the FEIR clearly identify that the buildout year assumed for the project (2022) would be beyond the target year (2020) for which the AB 32 Scoping Plan established the 4.6 MT CO₂e/SP/year threshold. To further address this issue, the project's emissions in year 2030 were compared against the projected 2030 efficiency threshold of 2.6 MT CO₂e/SP/year. GHG impacts were found to be less than significant under both scenarios.

The DEIR and FEIR contain substantial supporting evidence for use of the 2.6 MT CO₂e/SP/year. As described in detail above and noted in the DEIR and the FEIR, the projected efficiency threshold of 2.6 MT CO₂e/SP/year was based on the existing 4.6 MT CO₂e/SP/year adopted BAAQMD threshold and adjusted to reflect Senate Bill 32 (SB 32) 2030 GHG reduction goals. Below is an excerpt from page 3.7-42 of the DEIR.

BAAQMD's project-level significance threshold for operational GHG generation was deemed appropriate to use when determining the project's potential GHG impacts. The thresholds suggested by BAAQMD are as follows:

- Compliance with a Qualified GHG Reduction Strategy, or
- 1,100 MT CO₂e per year, or
- 4.6 MT CO₂e per service population (employees plus residents) per year.

It should be noted that the BAAQMD's thresholds of significance was established based on meeting the 2020 GHG targets set forth in the AB 32 Scoping Plan. For developments that would occur beyond 2020, the service population threshold of significance was adjusted to a "substantial progress" threshold that was calculated based on the SB 32 target of 40 percent below 1990 levels and the forecasted 2030 service population.

In addition, California Executive Order B-30-15 (which established the GHG emissions reduction target of 40 percent below 1990 levels by 2030) and SB 32 (which gave the California Air Resources Board [ARB] the statutory responsibility to include the 2030 target previously contained in Executive Order B-30-15 in the 2017 Scoping Plan Update) are described in the Section 3.7.3-Regulatory Framework of Section 3.7, Greenhouse Gas Emissions, of the DEIR. The FEIR reaffirms the use of the 2.6 MT CO₂e/SP/year threshold and restates some of the supporting evidence for the threshold provided in the DEIR. Although a detailed calculation and in-depth explanation for how the 4.6 MT CO₂e/SP/year threshold was adjusted to reflect the SB 32 target of 40 percent

below 1990 levels and the forecasted 2030 service population, the DEIR and FEIR justified the selection of the 2.6 MT CO₂e/SP/year with substantial evidence. More details on the specifics of how the BAAQMD's 4.6 MT CO₂e/SP/year threshold of significance was adjusted to a "substantial progress" threshold that was calculated based on the SB 32 target of 40 percent below 1990 levels and the forecasted 2030 service population can be found in the "Final White Paper Beyond 2020 and Newhall: A Field Guide to New CEQA Greenhouse Gas Thresholds and Climate Action Plan Targets for California.", authored in 2016 by the Association of Environmental Professionals.

Appeal #2: The FEIR relies on the BAAQMD's significance threshold of 4.6 MT CO₂e/service population (SP) to evaluate 2022 GHG emissions from the project. There are two problems with this use: first, the BAAQMD advises agencies not to rely on its GHG thresholds as the District [BAAQMD] is in the process of updating them. Further, assuming it is still valid, it is valid only until 2020. The project will not be operational until 2022 and probably will not be fully occupied until several years later.

Staff's Response: As described in the DEIR, further addressed in responses to comments in the FEIR, and explained above in the response to Appeal Point #1, the project's generation of GHG emissions were analyzed against both the 2020 BAAQMD efficiency threshold of 4.6 MT CO₂e/SP/year for the 2022 operational year and the projected 2030 efficiency threshold of 2.6 MT CO₂e/SP/year for the 2030 operational year. Consistent with the rest of the CEQA document, emissions at full buildout were shown in the 2022 operational year. Assessing emissions at full buildout in the earliest year of operations represents a reasonably worst-case scenario, as emissions are expected to decrease over time for the same activities because of improvements in technology and more stringent regulatory requirements.

As described in the DEIR, the FEIR, and the response to Appeal Point #1 above, the thresholds provided in the 2017 BAAQMD CEQA Guidelines are the most current and formally adopted thresholds available. In numerous comment letters and other correspondence with the BAAQMD on the issue, the BAAQMD is merely recommending that CEQA documents address post-2020 GHG reduction targets for projects proposed to be developed and become operational post-2020. Although the BAAQMD has stated that they are in the process of updating their thresholds, they have yet to publish updated recommended thresholds at the time the GHG analysis for the EIR was completed or at the time FCS prepared the Memorandum. As described above, post-2020 GHG reduction goals were addressed in Impact GHG-1 by evaluating project emissions for the 2030 scenario against the projected 2030 efficiency threshold of 2.6 MT CO₂e/SP/year for the 2030 operational year. For disclosure purposes, emissions for full project buildout in the 2022 operational year were also included and compared against the 4.6 MT CO₂e/SP/year threshold. The regulations that have gone into effect as a result of the State's and the County's effort to meet the AB 32 2020 GHG reduction goal would remain in effect in the year the project's emissions were assessed in 2022. As the project is not expected to be fully operational until 2022 at the earliest, modeling emissions for the 2022 year is more appropriate than modeling emissions for the 2020

year and the use of the 4.6 MT CO₂e/SP/year threshold for the year 2022 is appropriate as described above.

Appeal #3: The DEIR fails to note the removal of the on-site vegetation would significantly reduce the potential carbon sequestration at the project site.

Staff's Response: Carbon sequestration is the process of capturing and storing atmospheric carbon dioxide. California Emissions Estimator Model (CalEEMod) does include options in the modeling to account for carbon sequestration. However, there are many factors that affect the amount of carbon sequestration from vegetation (vegetation type, the amount of water the vegetation receives, the age of the vegetation). As noted on Page 3.7-41 of the DEIR, data are insufficient to accurately determine the impact that existing plants on-site have on carbon sequestration. Because of the numerous variables that go into quantifying carbon sequestration and the wide range of factors that can be used in quantifying carbon sequestration, any estimates quantifying the net change would be highly speculative. As described in more detail under Appeal Point #4, pursuant to BAAQMD guidance, carbon sequestration does not need to be included in either the baseline or when considering the project's generation of GHG emissions, and, therefore, not quantifying a change in carbon sequestration would not result in a significant GHG impact. However, further detail is provided regarding carbon sequestration associated with the proposed project under Appeal Point #4.

Appeal Point #4: The EIR does not address the increase in GHG emissions from the clearing of trees and the subsequent loss of sequestration at the site. When properly included, Dr. Clark calculated that the resulting increase in GHG emissions would be 263 MT CO₂/yr in 2030, bringing the project's total 2030 GHG emissions to 2,187 MT CO₂e/yr. Using the EIR's service population of 823 people, the project's GHG emissions generation will be 2.7 MT CO₂e/service population/year, which exceeds the EIR's stated 2030 GHG emission threshold of 2.6 MT CO₂e/service population/year.

Staff's Response: The estimate of the change in carbon sequestration provided in the comment letter does not accurately reflect the change in carbon sequestration that would be expected from implementation of the project. The comment letter incorrectly asserts that new on-site trees and on-site landscaping would not result in carbon sequestration. The 20-year estimate referred to by Dr. James Clark specifically refers to the amount of time suggested to allow the ecosystem to return to the level of biomass, stable soil, and litter pools of an undisturbed state. Furthermore, CalEEMod includes an option in the modeling specifically to account for the planting of net new trees and assumes a 20-year active growth period when accounting for the carbon sequestration rate. Impacts stemming from GHG emissions contribute to a global impact, so a loss of carbon sequestration at one site can be offset by an increase of carbon sequestration at another site. Therefore, the net change in carbon sequestration from the implementation of the project does not need to be restricted to the project site.

The comment letter also inaccurately states the removal of vegetation on the project site

would result in an increase in the project's GHG emissions. The removal of carbon sequestration is not equivalent to the generation of GHG emissions. As recommended in the 2017 BAAQMD CEQA Guidelines, only the project's net generation in GHG emissions were estimated and compared against the applicable thresholds of significance in the GHG analyses included in the EIR. The specific guidance provided in the 2017 BAAQMD CEQA Guidelines is provided in Table 4-2 of the memorandum prepared by FCS. According to CEQA Guidelines 15064.7(c)(d), lead agencies are directed to "consider thresholds of significance previously adopted by other public agencies." Further, using the environmental standards as thresholds of significance established by subject area experts, such as BAAQMD, "promotes consistency in significance determinations and integrates environmental review with other environment planning and regulation" throughout the region.

The guidance related to quantifying GHG emissions and comparing GHG emissions to applicable thresholds is specifically only for the project's generation of GHG emissions. Furthermore, the 2017 BAAQMD CEQA Guidelines provide the following information when considering the appropriate baseline.

If a proposed project involves the removal of existing emission sources, BAAQMD recommends subtracting the existing emissions levels from the emissions levels estimated for the new proposed land use. This net calculation is permissible only if the existing emission sources were operational at the time the Notice of Preparation (NOP) for the CEQA project was circulated (or in the absence of an NOP when environmental analysis begins), and would continue if the proposed redevelopment project is not approved. This net calculation is not permitted for emission sources that ceased to operate, or the land uses were vacated and/or demolished, prior to circulation of the NOP or the commencement of environmental analysis. This approach is consistent with the definition of baseline conditions pursuant to CEQA.

As noted in the BAAQMD's recommendations for establishing a baseline for the purposes of CEQA and estimating emissions, only existing sources of emissions are of concern. Pursuant to BAAQMD guidance, carbon sequestration does not need to be included in either the baseline or when considering the project's generation of GHG emissions, and, therefore, not quantifying a change in carbon sequestration would not result in a significant GHG impact.

Although a change in carbon sequestration does not equate to a generation of GHG emissions and is not required to be included as part of the sources used to estimate the project's net generation GHG emissions for comparison against the applicable thresholds, the following analysis has been provided for informational purposes.

Dr. Clark calculated that the resulting increase in GHG emissions would be 263 MT CO₂/yr in 2030, which would bring the project's total 2030 GHG emissions to 2,187 MT CO₂e/yr. Dr. Clark's reasoning and methodology is summarized below.

The CalEEMod analysis, relied on in the FEIR, includes a default GHG

accumulation per acre factor for trees of 111 MT CO₂/acre.’ Additional GHG would be stored in the understory. The FEIR did not include the increase in GHG emissions from clearing vegetation from the site. The resulting increase in GHG emissions from removing the vegetation are (2.37 acres)(111 MT CO₂/acre) = 263 MT CO₂/yr. Thus, the total year 2030 GHG emissions are 1,924 + 263 = 2,187 MT CO₂e/yr.

The calculations in the comment letter were based on the removal of 2.37 acres of vegetation at 111 MT CO₂/acre. The factor of 111 MT CO₂/acre is the value provided in CalEEMod for a change in vegetation for the “forest land, trees” vegetation land use type and vegetation land use subtype. Using this methodology, Dr. Clark’s calculations should be adjusted by a factor of 32.3 percent (based on 61 net trees removed with 189 trees currently on-site)^[1] Multiplying 263 MT CO₂e/yr—the emissions assumed in the comment letter—by 32.3 percent results in 84.9 MT CO₂e/yr. Including an additional 84.9 MT CO₂/year would bring the project’s operational GHG emissions to 2,476 MT CO₂e/year in 2022 and 2,009 MT CO₂e/year in 2030. Using a service population of 823 employees plus residents, the project would generate approximately 3.0 MT CO₂e per service person per year in the year 2022 and 2.4 MT CO₂e per service person per year in the year 2030 in terms of total (amortized construction plus operational) project GHG emissions. Therefore, the project would not exceed the BAAQMD’s threshold of 4.6 MT CO₂e/service population/year for the 2022 GHG emissions or the 2.6 MT CO₂e/service population/year for the 2030 GHG emissions even if the additional emissions were included. Therefore, the GHG impact related to the project’s net generation of GHG emissions would remain less than significant.

Available vegetation land use types under CalEEMod’s land use change options include forest land, cropland, grassland, wetlands, and others. Under the forest land type, the available land use subtypes include trees or scrub. The options available in CalEEMod using the change in land use type method are provided in Table 11.1 of Appendix D of the CalEEMod User’s Guide.

As shown in Table 11.1 of Appendix D of the CalEEMod User’s Guide, the annual CO₂ accumulation per acre factor for “forest land, trees” is 111 MT CO₂/acre and is markedly higher than the other land use options available. Therefore, the revised estimate of an additional 84.9 MT CO₂e/yr from a change in carbon sequestration provides a conservative estimate.

Alternatively, the project’s change in carbon sequestration can be calculated in CalEEMod using the factors for “sequestration” rather than the “land use change” method described above. Table 11.2 of Appendix D of the CalEEMod User’s Guide shows the CO₂ sequestered in units of MT/tree/year.

Table 1: Difference in Annual Carbon Sequestration (CO₂/year) from Implementation of the Project

Given Data (as Provided by CalEEMod)	Calculations
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Species	CO ₂ Sequestered (MT/tree/year)	Annual CO Sequestration Without the Project Based on 189 Trees (MT CO ₂ /year)	Annual CO Sequestration With the Project Assuming 128 Trees (MT CO ₂ /year)	Difference in Annual Carbon Sequestration (MT CO ₂ /year)
Aspen	0.0352	6.6528	4.5056	2.1472
Soft Maple	0.0433	8.1837	5.5424	2.6413
Mixed Hardwood	0.0367	6.9363	4.6976	2.2387
Hardwood Maple	0.0521	9.8469	6.6688	3.1781
Juniper	0.0121	2.2869	1.5488	0.7381
Cedar/Larch	0.0264	4.9896	3.3792	1.6104
Douglas Fir	0.0447	8.4483	5.7216	2.7267
True Fir/Hemlock	0.0381	7.2009	4.8768	2.3241
Pine	0.0319	6.0291	4.0832	1.9459
Spruce	0.0337	6.3693	4.3136	2.0557
Miscellaneous	0.0354	6.6906	4.5312	2.1594
Maximum Difference in Annual Carbon Sequestration for the Project (MT CO₂/year)				3.1781

As noted in Table 1, the maximum CO₂ per year due to a change in carbon sequestration resulting from implementation of the proposed project would be 3.1781 MT CO₂/year using the CalEEMod factors for sequestration. Including an additional 3.2 MT CO₂/year would bring the project's operational GHG emissions to 2,394 MT CO₂e/year in 2022 and 1,927 MT CO₂e/year in 2030. Using a service population of 823 employees plus residents, the project would generate approximately 2.9 MT CO₂e per service person per year in the year 2022 and 2.3 MT CO₂e per service person per year in the year 2030 in terms of total (amortized construction plus operational) project GHG emissions.

Therefore, the project would not exceed the BAAQMD's threshold of 4.6 MT CO₂e/service population/year for the 2022 GHG emission or the 2.6 MT CO₂e/service population/year for the 2030 GHG emissions and the project's net generation of GHG emissions would remain less than significant.

Considering that the project's net GHG emissions would remain under the applicable thresholds if either method were applied to calculate the change in GHG emissions resulting from a change in carbon sequestration, including GHG emissions from the loss of carbon sequestration would not result in a significant GHG impact.

[1] The project site has 189 trees; therefore Dr.'s Clarks calculation of 2.37 acres of vegetation being removed is used as a proxy for 189 of 189 being removed. The project would remove 161 trees and plant 100 new trees, resulting in a net reduction of 61 trees. Therefore, the assumption that 189 trees of 189 trees would be removed does not provide an accurate representation of the change in emissions from a change in vegetation.

Appeal Point #5: The DEIR and FEIR contain significantly different and conflicting estimates of water demand, with no explanation for the differences. The DEIR and FEIR have significantly different projected water demands, with the DEIR projecting 55.23 Mgal/yr and the FEIR projecting 30.169 MG/yr. This change in calculation has a marked impact on the projected GHG emissions from the project, and the EIR must disclose the justification behind this reduction before it can be approved under CEQA.

Staff's Response: A review of the "Air Quality, GHG Emissions, and Energy Supporting Information" appendix material included in the DEIR and FEIR (DEIR Appendix B and FEIR Appendix C) reveals the water consumption assumed to estimate GHG emissions did not change in the FEIR compared to the DEIR; both versions project 30.169 MG/yr of unmitigated water consumption for purposes of estimating GHG emissions. As noted in Section 3.7, Greenhouse Gas Emissions, of the DEIR, project water consumption was based on the CalEEMod default factors, with an adjustment for compliance with regulations that would be in place by the start of 2020. This methodology was disclosed in the DEIR and was further supported and explained in response to comments in the FEIR. These estimates account for compliance with the latest building standards, which have significantly decreased the amount of water typically consumed in new residences built in California over time. The estimates are also specific to the region and are explained in detail in the CalEEMod User Guide. The number 55.23 million gallons/year estimate referred to in the comment letter is from Section 3.17, Utilities and Service Systems, and not from Section 3.7 Greenhouse Gas Emissions, or the appendix materials that support Section 3.7. The estimate provided in the Utilities and Service Systems section is based on historical data from the Contra Costa County 2015 Urban Water Management Plan, which overestimates water consumption for new residences, as they would be based on averages from residences built in past that would include homes with older appliances.

The comment letter recommends a usage rate of 92 gallons per capita be used to estimate GHG emissions based on the California Water Resources Control Board water conservation production reports from 2019. However, this average per capita usage for residential development does not consider the type of residential development. Water usage varies widely based on the type of residential development (i.e. single-family home versus multi-family apartment). Because this usage rate does not specify the type of residential development assessed, it is not applicable to this project and should not be used to estimate GHG emissions.

Appeal Point #6: The FEIR maintains that its water consumption analysis was accurately modeled to include "Apply Water Conservation Strategy" because it incorporated Green Building Code Standards and the Water Efficient Land Use Ordinance. However, the FEIR does not identify how these standards will lead to the reduction of water consumption.

Staff's Response: During the comment period, a comment was received that stated that

the “compliance with Green Building Code or the California Model Water Efficient Landscape” was not sufficient to justify use of the “Apply Water Conservation Strategy” in CalEEMod. In response to this comment, the FEIR included clarification that the project would comply with California Green Building Standards (CALGreen) and the California Model Water Efficient Landscape Ordinance. This was noted in Chapter 2, Project Description, and the clarification was included in Section 3, Errata, of the FEIR.

The CalEEMod model used for the GHG analysis would not otherwise account for reductions in water use resulting from project compliance with these mandatory measures unless “Apply Water Conservation Strategy” was manually included in the model as “mitigation” per the structure/naming of CalEEMod. However, this would be part of the project design and the applicant would be required to adhere to these measures. Specifically, “Apply Water Conservation Strategy” was included to reflect compliance with CALGreen and the California Model Water Efficient Landscape Ordinance. Energy savings from water conservation resulting from CALGreen for indoor water use and California Model Water Efficient Landscape Ordinance for outdoor water use are not automatically included in CalEEMod and need to be entered in manually. The Water Conservation Act of 2009 mandates a 20 percent reduction in urban water use that is implemented with these regulations, which is the source behind the 20 percent reduction from compliance. CALGreen (California Code of Regulations [CCR] Title 24, Part 11 code) provides means for conserving water use indoors, outdoors, and in waste-water conveyance (Division 4.3 Water Efficiency and Conservation). The project would be required to adhere to all applicable measures. Benefits of the water conservation regulations are applied in the CalEEMod mitigation component through the “Apply Water Conservation Strategy.” Table 1 demonstrates the project applicability of these regulations as well as the reduction source and the percent reduction in 2022 and 2030.

Table 1: Reductions from Greenhouse Gas Regulations

Regulation	Project Applicability	Reduction Source	Percent Reduction in 2022 and 2030
Green Building Code Standards	The project will include water conservation features required by the Green Building Code Standards such as low flow plumbing fixtures, insulated hot water, Energy Star appliances, and high efficiency water heaters.	CalEEMod “mitigation” component	20 percent ¹
Water Efficient Land Use Ordinance	The project landscaping will comply with the regulation by focusing on drought-tolerant, native species, utilizing weather based smart irrigation controllers, and installing efficient drip watering	CalEEMod “mitigation” component	20 percent ²

Notes:

The source of the percentage reductions from each measure are from the following sources:

1 California Green Building Standards Code

2 California Water Plan Update 2018 (California Department of Water Resources [CDWR] 2018)

Therefore, use of the Apply Water Conservation Strategy in the CalEEMod model accurately represents the project's compliance with existing ordinances and building standards. The use of the Apply Water Conservation Strategy in the unmitigated scenarios accurately reflects this reduction as part of the project design and is accurately modeled in CalEEMod. Furthermore, the CalEEMod input was disclosed in the DEIR and FEIR through the inclusion of the CalEEMod output files included as part of the "Air Quality, GHG Emissions, and Energy Supporting Information" appendix (DEIR Appendix B and FEIR Appendix C).

Appeal Point #7: The FEIR increased unmitigated mobile source emissions by 3% in 2020 and 2030, relative to estimates in the DEIR. Further, the FEIR indicates that revised mobile source GHG emissions decrease from 1,644 MT CO₂e/yr in 2022 to 1,305 MT CO₂e/yr in 2030 (as opposed to 1,599 MT CO₂e/yr in 2022 to 1,269 MT CO₂/yr in 2030 as disclosed in the DEIR). However, the FEIR does not reveal the basis for the increase relative to the DEIR nor the decrease from 2022 to 2030. Thus, the major source of the project's GHG emissions is unsupported.

Appeal Point #8: GHG emissions from mobile sources depend on the fleet mix, miles travelled, and vehicle emission factors. A review of the CalEEMod output files in DEIR Appendix B and FEIR Appendix C indicate that the fleet mix and miles traveled are disclosed in the CalEEMod modeling Appendices and did not change between the DEIR and FEIR. Thus, the only factor that could have changed is the emission factors in MT CO₂e per mile travelled. The DEIR and FEIR both fail to disclose the GHG emission factors assumed for mobile sources in 2022 and 2030. Thus, the major source of GHG emissions for the project is unsupported.

Staff's Response to Appeal Points #7 and 8: Compared to the DEIR, the following assumptions did not change in the FEIR:

- Fleet mix (in any operational run);
- Miles traveled based on trip type (in any operational run);
- Trip type percentages; and,
- Trip purpose percentages.

Compared to the DEIR, the following assumptions did change in the FEIR:

- The trip rate applied to Sunday trips.

As discussed in the FEIR starting on Page 3-44, the mobile-source emissions for both the 2022 and 2030 scenarios increased in the FEIR compared to the DEIR. As also noted in

the FEIR, these revisions were made in response to comments. A comment received on the DEIR asserted that Sunday trips were underestimated for the operational phase. As described in the FEIR, the operational modeling was revised in response to this comment. The commenter had asserted that the inputs used to represent Sunday trips in the DEIR underestimated the trips because they were less than the trips used in the Transportation Impact Assessment (TIA). The air quality and GHG analysis in the DEIR used the Institute of Transportation Engineers (ITE) Trip Generation Manual 10th Edition Trip Rates for the ITE Land Use Category 220, applied a 20 percent reduction for additional use of alternative modes of transportation, and applied a 5 percent increase to account for ridesharing trips. The analysis in the DEIR used the methodology consistent with the TIA to determine the project-specific trip rates to apply in the CalEEMod modeling for weekday, Saturday, and Sunday trips. Because the applicable ITE trip rate for Sunday trips is less than the applicable ITE trip rate for weekday trips, the projected trips for Sunday utilized in the modeling were less than the trips projected for weekdays and Saturdays. In response to the comment, the modeling was revised in the FEIR so that the reduction for the use of alternative modes of transportation was not applied to Sunday trips. To reflect this change, the specific “Sunday” trip rate was changed in the CalEEMod inputs from 5.34 trips per dwelling unit to 6.59 trips per dwelling unit. Both 5.34 trips per dwelling unit and 6.59 trips per dwelling unit are non-default values; therefore, both of these inputs to the CalEEMod model are included in the “Non-Default Data” data table of the appropriate CalEEMod output files. These CalEEMod output files were included as part of the “Air Quality, GHG Emissions, and Energy Supporting Information” appendix (DEIR Appendix B and FEIR Appendix C). Furthermore, the difference in overall vehicle miles travelled resulting from these changes can also be seen by comparing the “Trip Summary Information” sections of the appropriate operational CalEEMod output files. No other changes were made to the inputs affecting mobile-source emissions in the FEIR compared to the DEIR. The differences in the estimated project-generated operational emissions resulting from these changes were disclosed in the Errata, included as Section 3 of the FEIR.

As described above, the only difference in the CalEEMod inputs associated with operational mobile-source emissions in the FEIR compared to the DEIR included the increased trip rates applied to Sunday trips in all operational CalEEMod runs. Therefore, although individual trip lengths did not change, the overall projected vehicle miles travelled increased in the FEIR compared to the DEIR, an increase that does not affect the conclusions in the DEIR and FEIR. The comment letter incorrectly concluded that “the only factor that could have changed is the emission factors in MT CO₂e per mile travelled.”

Furthermore, the commenter incorrectly states that “the DEIR and FEIR both fail to disclose the GHG emission factors assumed for mobile sources in 2022 and 2030.” The emission factors used to estimate GHG emissions from mobile-source emissions did not change in the FEIR compared to the DEIR. As noted in the DEIR, CalEEMod version 2016.3.2 was used to estimate project emissions for both the DEIR and the FEIR. No changes were made to the default emissions factors to estimate GHG emissions in either

the 2022 or 2030 operational year. As previously mentioned, the complete CalEEMod output files used to estimate GHG emissions were included in the “Air Quality, GHG Emissions, and Energy Supporting Information” appendix (DEIR Appendix B and FEIR Appendix C). Any changes to non-default values are shown in the output files. FCS reviewed the operational output files included in DEIR Appendix B and FEIR Appendix C, and no changes were made to the default emission factors in any operational run used to estimate emissions in either the DEIR or the FEIR. The operational runs used the default mobile-source emission factors and the fleet mixes for the operational year analyzed. As noted in Section 3.2, Air Quality, of the DEIR and disclosed in every operational output file included in DEIR Appendix B and FEIR Appendix C, project emissions were assessed for a project in Contra Costa County. Therefore, the GHG emissions factors used to estimate GHG emissions for mobile-source emissions in the 2022 and 2030 scenarios were both disclosed and supported in both the DEIR and FEIR.

Appeal Point #9: Additionally, the DEIR assumed GHG emissions from processing project waste would be reduced by 74%, from 66 MT CO₂e/yr to 49 MT CO₂e/yr by complying with AB 341. However, as Dr. Clark explains in his letter, “there is no support for the assumption that a 74% reduction in waste by recycling and composting would reduce GHG emissions by 74%.”

Staff’s Response: The comment letter states GHG emissions from waste would be reduced 74 percent; however, a reduction from 66 MT CO₂e per year to 49 MT CO₂e per year represents a 26 percent reduction. As noted in the “Air Quality, GHG Emissions, and Energy Supporting Information” appendices included in the DEIR and FEIR (DEIR Appendix B and FEIR Appendix C), the waste reduction was applied in modeling to reflect compliance with Assembly Bill (AB) 341. The FEIR further addressed this input assumption.

The project would comply with AB 341 (which mandates that 75 percent of solid waste generated be source reduced, recycled, or composted) and provide recycling and composting facilities onsite; this has been noted in Chapter 2, Project Description, and this clarification is included in Section 3, Errata, of the Final EIR. The CalEEMod model used in this analysis would not otherwise account for reductions in waste resulting from project compliance with this mandatory recycling law unless this reduction is manually included in the model as “mitigation” per the structure/naming of CalEEMod. However, because this would be included as part of the project design, inclusion of a 26 percent waste reduction in CalEEMod accurately represents the project’s compliance with this law. The CalEEMod default value already accounted for a diversion rate of 49 percent; therefore, a 26 percent reduction was applied to meet the mandated 75 reduction rate.

Consistent with the recommendations provided in the 2017 BAAQMD CEQA Guidelines, biogenic CO₂ emissions should not be included in the quantification of GHG emissions for a project. Biogenic CO₂ emissions result from materials that are derived from living cells, as opposed to CO₂ emissions derived from fossil fuels, limestone, and other materials that have been transformed by geological processes. Biogenic CO₂

contains carbon that is present in organic materials that include, but are not limited to, wood, paper, vegetable oils, animal fat, and food, animal, and yard waste. Considering this information, it is appropriate to apply the reduction to meet mandated diversion rate without manually adding GHG emissions from forms of recycling (or composting as the comment letter notes).

Appeal Point #10: The EIR assumes a service population in its analysis that underestimates GHGs.

Staff's Response: The U.S. Department of Housing occupancy estimation identified in the comment letter provides only a general rule and does not accurately reflect the specific housing and population characteristics of the project area. The two persons per bedroom guidance is a general rule established by the U.S. Department of Housing for enforcement of the Fair Housing Act; therefore, the reference to such a "rule" has no relationship to how the California Department of Finance derives an average of persons per household in California. As a state agency, the California Department of Finance provides a more accurate estimation and therefore, it is appropriate to use the estimation.

Using more specific information relevant to the project site, the project is expected to accommodate 818 residents and five employees, resulting in a service population of 823. These numbers were used in the GHG analysis and are consistent throughout the EIR. The number of residents is described in Section 3.12, Population and Housing, page 3.12-8 of the DEIR.

According to the [California Department of Finance] CDF, unincorporated Contra Costa County has an average of 2.88 persons per household. Using this figure as a multiplier, the project would add 818 persons to the population of Contra Costa County.

In addition, the number of employees is also described in Section 3.12, Population and Housing, page 3.12-8 of the DEIR.

The project is within a suburban residential area and currently well-served by transportation and utility infrastructure. Once operational, the project is expected to employ five workers on-site daily for the maintenance and operation of the proposed apartment community. These employees would be expected to be drawn from the local labor force.

Therefore, the service population presented in the DEIR is appropriate and the resulting GHG emissions per service population per year as disclosed in the DEIR are accurate.

Appeal Point #11: Availability of Tier IV Equipment - The comment letter notes that "the likelihood of this mitigation measure [MM AIR-3] being achieved in practice is extremely low."

Staff's Response: The project would be required to meet the conditions outlined in MM AIR-3 during project construction, which requires the use of all off-road equipment with diesel engines greater than 50 horsepower to meet either United States Environmental Protection Agency (EPA) or ARB Tier IV Interim off-road emission standards. The Mitigation Monitoring Reporting Program (MMRP) includes a: (1) method of verification, (2) timing of verification, and (3) party responsible for verification of mitigation measures. For this mitigation, the (1) method of verification is incorporation into bid documents and on-site inspection, (2) timing of verification is prior to the issuance of building permit and prior to any fuel powered grading or construction activities, and (3) the agency responsible for verification is Contra Costa County. Compliance with the mitigation would be enforced by the County of Contra Costa. The incorporation of requirements to use Tier IV in the bid documents means that the contractor performing the work must utilize Tier IV or the project cannot be built.

Availability of Tier IV equipment has steadily increased since it first became available. The comment letter provides estimates of different equipment tiers available throughout the State. The availability of cleaner equipment for a given project does not have a correlation to the percentage of total equipment that would meet the standard, and the comment letter's conclusion that adequate Tier IV would not be available during project construction is incorrect.

Appeal Point #12: The County failed to analyze and mitigate traffic queue exceedances.

Staff's Response: The Draft EIR assessed vehicle queues at signalized intersections for the Existing with Project condition and for the Opening Year with project condition. In both scenarios, the analysis in the Draft EIR finds that the addition of project traffic is not expected to cause vehicle queues to increase by more than 50 feet (or two car-lengths) for movements where the 95th percentile queue already exceeds the available storage, nor is project traffic expected to result in vehicle queues that exceed the available storage at other intersections. In other words, the only intersections that show what was previously (pre-SB743) considered a significant increase in queue lengths are already exceeding queue lengths under existing conditions (without the project). These intersections can be found on Table 3.15-9 of the Draft EIR. Per the requirements set out in SB743 and according to the County's analysis of the vehicle queues, the project's impact on vehicle queuing is considered to be less than significant.

General Plan, Rezoning, and Final Development Plan Project Components

Project Description

The project is to allow the development of a 284-unit, six-story apartment building on a 2.4-acre site in the unincorporated area of Walnut Creek adjacent to the Pleasant Hill BART station/Contra Costa Centre. The project will require approval of General Plan Amendment to designate the site from Multiple-Family Residential-Very High Density (MV) to Multiple-Family Residential-Very High Special Density (MS), a rezoning of the

property from Single-Family Residential (R-15) and Planned Unit District (P-1) to a new Planned Unit District (P-1), and a Final Development Plan to allow the construction of the 284-unit apartment building. The project also includes a variance to the minimum lot size requirement for rezoning a property less than 5-acres to P-1 and an exception from Title 9 for drainage requirements. The project also includes the improvements to roads, demolition of the existing residential buildings, the removal of approximately 161 trees and work within the drip line of approximately 27 additional trees, and grading of approximately 29,000 cubic yards for construction of the underground parking for the building.

Residential Uses

The proposed six-story podium apartment building will be approximately 425,879 gross square feet, covering 81,639 square feet (or 79 percent) of the 2.37-acre site. The apartment building will have a modern Spanish Mediterranean design with stepped tile roofs with a mostly stucco exterior. The building would be a maximum six stories tall above grade, with two levels of underground parking and a maximum height of approximately 77 feet above exterior grade. The units will consist of studios (21), one bedroom (174), and two bedroom (89). Amenities to serve residents will also be provided. Indoor amenities will include a fitness room, a club room with a kitchen, a business center with conference rooms, and media rooms. The leasing office would be located on the first floor.

The outdoor recreation area includes a private swimming pool and two outdoor courtyard areas provided on Floor 2 that would be available to residents and their guests. The first area would include outdoor seating, a bocce ball court, private patios connected to the apartment units, a fireplace, and fire pits. A pool would be provided in the other courtyard in the center of the southern portion of the project site with outdoor beds and lounges. An assortment of trees would be interspersed throughout the courtyard areas. A 735-square-foot roof deck would also be provided on Floor 6.

The project is required to provide 373 parking spaces per Government Code Section 65915(p)(1). The project will provide a total of 380 spaces on two levels of parking. In addition, 152 long-term bicycle spaces and 20 short-term bicycle spaces will be provided.

Density Bonus

In accordance with California Density Bonus law, pursuant to Government Code Section 65915(b), the applicant seeks a density bonus for the project. The project would provide 36 affordable units; representing 15 percent of the 237 units allowed by the proposed land use designation (Multiple Family Very-High Special) 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. By providing 5 percent of units as affordable to very low-income households, the project is also eligible for one

development incentive or concession. The project seeks a concession to provide the remaining affordable units (24 total) as affordable to moderate income.

Additionally, the County Off-Street Parking Ordinance Section 82-16.404(b)(1)(c) requires driveway aisle widths of 25 feet for spaces with a 90-degree angle in parking. Pursuant to Government Code Section 65915(e), the applicant is requesting a reduction of this development standard to allow a driveway aisle width of 24 feet within the parking area for the project.

Project Consistency

General Plan

The project is consistent with the Goals and Policies set forth in the County General Plan. The proposal includes the amendment of the General Plan land use designation from Multiple-Family Residential-Very High (MV) to Multiple-Residential-Very High Special (MS). The project is consistent with the allowed number of units of 237 under the MS designation. However, the applicant seeks a density bonus for the project and since the project provides 36 affordable units, the project is eligible for a density bonus of 20%, thereby increasing the total allowable unit count to 284. The project is located near the Pleasant Hill/Contra Costa Centre BART Station and elements of the proposed design of the building mimic the approved Avalon Walnut Creek development (Block C) of the Contra Costa Centre. The project site is vacant and underutilized, located within the Urban Limit Line (ULL) and is consistent with the General Plan Growth Management policies. The project is also consistent with Transportation Goals and Policies that encourage the use of transit, reduces greenhouse gas emissions by encouraging transit, bicycle, and pedestrian facilities, minimizes bicyclists and pedestrian conflicts, and provides curbs and sidewalks. Furthermore, the project is consistent with Housing Goals and Policies of the Housing element. The project would increase the supply of housing, increase the supply of affordable housing, including housing affordable to extremely-low income households, and encourage the development of mixed-income housing.

Zoning

The project includes the rezoning of the entire project to a Planned Unit District (P-1). The P-1 zoning district allows flexibility with respect to use, building types, lot size, and open space, while ensuring the project complies with the County's General Plan and requirements of the County's Ordinance. The project is a multiple-family residential infill development, which will be in harmony with the surrounding multiple-family residential development near transit. The surrounding area consist of various building designs that are 2-4 stories, with the Avalon Walnut Creek development at six stories. Overall, the project is consistent with the established development in the area and will provide additional housing stock to the area.

Conclusion

The Del Hombre 284-unit apartment project is consistent with applicable goals and policies of the General Plan, including the intent of the MS General Plan designation and the P-1 zoning district. The project is an underutilized site that is near transit, the Iron Horse Regional Trail, and commercial uses. The project is consistent with the established surrounding BART area. The project will provide additional needed housing and affordable housing units in an ideal transit-oriented location. Nearly all environmental impacts would be mitigated to less-than-significant levels, except for the significant impact identified in transportation for which a statement of overriding consideration finding has been prepared. Staff recommends that the Board deny the appeal and approve the minor subdivision, approve the general plan amendment, rezoning, and final development plan and certify the environmental impact report and adopt the mitigation monitoring and reporting program.

CONSEQUENCE OF NEGATIVE ACTION:

In the event that the proposed project is not approved, the applicant will not obtain approval of the required General Plan Amendment, Rezoning, Minor Subdivision, and Development Plan entitlements needed to allow development of the proposed 284-unit apartment project in the unincorporated Walnut Creek area.

CLERK'S ADDENDUM

Speakers: Ted Asrigadue, Walnut Creek; Michael Samson, Walnut Creek; Julie, Walnut Creek; Tom Hanson, Business Manager, IBEW Local 302; Lisa Lombardi, Walnut Creek; Tom Lawson, Steamfitters Local 159; Amy Felix, Conco; Don Pelligrudo, Walnut Creek; Jeff Peckham, Waldon Home Improvement District; Kristin; John Kreutzer, Pleasant Hill.

Written commentary provided by: Nirit Lotan, Adams Broadwell Joseph and Cardozo, on behalf of Contra Costa Residents for Responsible Growth; Scott Youdall, The Hanover Company (applicant); Rachel Mansfield-Howlett, Attorney at Law, on behalf of Contra Costa Citizens in Favor of Reasonable Growth; John Kreutzer, Pleasant Hill; Amy Zeller (appellant); Anita Bottari; Natalia Jdanova; Dina Varella, Walnut Creek; Chet Paulinellie, Walnut Creek; Lisa Lombardi, Walnut Creek; Walnut Square Homeowners Association, Walnut Creek. **APPROVED the recommendations as set forth in the Board Order; and added a Condition of Approval for the applicant to place in its documentation soliciting bids for the subcontractor "Bidder plans to provide labor from the nine county Bay Area. This will be given additional consideration as part of the overall award process for this project. Please be prepared to address the consideration as part of your bid."**

ATTACHMENTS

Del Hombre 284-Unit Apartment Project Complete Board Order

Resolution 2020/212

CEQA Findings and MMRP

Project Findings

Conditions of Approval

Ordinance 2020-17

Appeal Letter from Amy Zeller

Appeal Letter from Adams Broadwell Joseph & Cardozo

FCS Memorandum

Maps

Draft EIR

Draft Appendices

Final EIR

Final EIR Appendices

County Planning Commission Staff Report

Final Plans

PowerPoint Presentation