



**Contra
Costa
County**

To: Board of Supervisors

From: John Kopchik, Director, Conservation & Development Department

Date: April 26, 2022

Subject: Bayview Estates Residential Project (144 Lots) in Unincorporated Martinez/Vine Hill

RECOMMENDATION(S):

1. OPEN the public hearing on the Bayview Estates Residential Project, RECEIVE testimony, and CLOSE the public hearing.
 2. CERTIFY that the Environmental Impact Report prepared for the Bayview Estates Residential Project was completed in compliance with the California Environmental Quality Act, was reviewed and considered by the Board of Supervisors before project approval, and reflects the County's independent judgement and analysis.
 3. CERTIFY the Environmental Impact Report prepared for the Bayview Estates Residential Project.
 4. ADOPT the attached CEQA findings, Mitigation Monitoring and Reporting Program, and Statement of Overriding Considerations for the project.
 5. SPECIFY that the Department of Conservation and Development, located at 30 Muir Street, Martinez, California 94553 is the custodian of the documents and other material that constitutes the record of proceedings upon which the decision of the Board of Supervisors is
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☒ APPROVE

☐ OTHER

☒ RECOMMENDATION OF CNTY ADMINISTRATOR

☐ RECOMMENDATION OF BOARD COMMITTEE

Action of Board On: **04/26/2022** ☐ 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: April 26, 2022

Monica Nino, County Administrator and Clerk of the Board of Supervisors

By: June McHuen, Deputy

Contact: Gary Kupp, (925)
655-2871

cc:

based.

6.DENY the appeal of Burt Kallander and Alma Johnson.

7.ADOPT Resolution No. 2022/139, amending the General Plan to change the land use designation of the project site from Heavy Industry (HI) to Single-Family Residential High Density (SH) and Open Space (OS) (County File No. CDGP04-00013).

8.ADOPT Ordinance No. 2022-18, rezoning the project site from Heavy Industrial (H-I) to a Planned Unit District (P-1) (County File No. CDRZ04-03148).

9.APPROVE the Vesting Tentative Map for the project and the associated exceptions to minimum pavement and right-of-way width and detention basin requirements (County File No. CDS04-08809).

10.APPROVE the Preliminary and Final Development Plan for the project and the associated Tree Permit (County File No. CDDP04-03080).

RECOMMENDATION(S): (CONT'D)

11. APPROVE the Findings in support of the project.
12. APPROVE the project Conditions of Approval.
13. APPROVE the attached Community Benefits Agreement.
14. APPROVE the Bayview Estates Residential Project.
15. DIRECT the Department of Conservation and Development to file a CEQA Notice of Determination with the County Clerk.

FISCAL IMPACT:

The applicant has paid the necessary application deposit, and is obligated to pay supplemental fees to recover any and all additional costs associated with the application process.

BACKGROUND:

This hearing is to consider approving the Bayveiw Estates Residential Project, including a General Plan Amendment (CDGP04-00013), Rezoning (CDRZ04-03148), 144-Lot Major Subdivision (CDS04-08809), Development Plan (CDDP04-03080), a Tree Permit, Exceptions from provision of Title-9, consider certifying the EIR for the project and consider an appeal of the Planning Commission's February 23, 2022 approval of the proposed Bayveiw Estates Residential Project vesting tentative map and development plan.

PROJECT DESCRIPTION

The project sponsor proposes to develop a phased 144-unit residential subdivision on approximately 78.2-acres of vacant land in the Martinez/Vine Hill area of unincorporated Contra Costa County. The proposed project includes the following major components on and adjacent to the project site:

- 1 A Vesting Tentative Map (VTM) for development of up to 144 detached single-family homes and associated new internal roadways on approximately 31.8 acres of the project site;
2. Approximately 42 acres of open space, marshes and undeveloped land, including: a) the preservation of approximately 20.1 acres of the upper hill area shown as "Parcel A" on the VTM; b) the preservation of approximately 19.8 acres of the lower site areas (containing wetlands, coastal salt marsh, freshwater marsh, open water, and alkali meadow) shown as "Parcel B" on the VTM; c) the development of a new 2.0-acre stormwater treatment basin, in accordance with the County's C.3 Guidebook, and shown as "Parcel F" on the VTM;
3. Development of an approximately 4.5-acre private neighborhood park in proximity to

“Parcel B” and “Parcel F”;

4. A grading permit for onsite grading of approximately 900,000 cubic yards of earth material for residential subdivision development, including substantial grading of the lower hill area and limited grading of the upper hill area in order to balance overall project cut and fill earthwork volumes;
5. Extension of new utility lines to and throughout the project site, and the repair and upgrade of existing off-site utility lines;
6. Improvement of two existing off-site roadways, Central Avenue and Palms Drive, to better accommodate two lanes of moving vehicular traffic to/from the project site;
7. A tree permit to remove up to 30 code-protected trees;
8. The project also includes requests for exceptions to Title 9 relating to roadway and detention basin standards.

CALIFORNIA ENVIRONMENTAL QUALITY ACT (CEQA)

The Department of Conservation and Development prepared an Environmental Impact Report (EIR) for the project (State Clearinghouse# 2008032074). The project EIR is composed of both a Draft EIR and Final EIR. The Notice of Preparation (NOP) of the EIR was posted on June 7, 2017 and a public Scoping Meeting was held on July 17, 2017. Both written and oral comments were received during the NOP public comment period and the Scoping Meeting; the comments were responded to in the Draft EIR, which was released for public review on May 13, 2021 with a Notice of Availability. A 45-day comment period for the Draft EIR began on May 13, 2021 through June 28, 2021 and was extended at the request of the public for an additional 2 weeks until July 12, 2021. During the comment period, the County received 21 comment letters on the Draft EIR for the proposed project. The comment topics included concerns about traffic congestion, views, tree removal, impacts to wildlife, adequacy of emergency services, sanitary and water service, and petroleum pipelines. The County's responses to the comments received are provided in the Final EIR that has been prepared for certification by the Board of Supervisors.

The EIR for the proposed project identified two significant and unavoidable effects related to vehicle miles traveled (VMT) for the project, including:

1. Total Home Based VMT per resident generated by the project would be greater than 15 percent below the regional VMT for similar uses in Contra Costa County, resulting in a significant impact for the project.
2. The project with a General Plan amendment would increase the Countywide VMT, resulting in a significant impact for the project.

When a public agency determines that a project will have significant and unavoidable effects, Public Resources Code section 21081(b) requires that the public agency make findings of overriding considerations to demonstrate that economic, legal, social, technological, or other benefits of the project outweigh the significant environmental effects of the project. Accordingly, the County has made the requisite findings of overriding consideration and has found that the potential benefits of the project do in fact

outweigh the environmental impacts. The project's benefits include, Jobs-housing balance, provision of parks and open spaces, new housing inventory, street improvements for Palms Drive and Central Avenue, and upgraded water and sanitary services, and public nuisance abatement of illegal uses of the project site. The County's findings of overriding consideration are attached to this staff report in the project's findings and proposed conditions of approval.

STAFF ANALYSIS OF PROJECT

GENERAL PLAN CONSISTENCY

The proposed Bayview Estates Residential Project is consistent with the General Plan. The project sponsor proposes to develop a 144-lot residential subdivision on approximately 78.3-acres of vacant land. To support the proposed land use and density, the project proposes to amend the existing Contra Costa County General Plan land use map to change the existing Heavy Industry (HI) land use designation to the Single-Family Residential-High Density (SH)(5.0-7.2 units/net acre) and Open Space (OS) land use designations. The proposed change of the land use designation of the project site from HI to SH is compatible with the contiguous existing residential neighborhood to the north along Palms Drive and Central Avenue, which the General Plan also designates as SH.

The SH designation allows between 5.0 and 7.2 units per net acre. 144 detached single-family homes and associated new internal roadways and a neighborhood park will be developed on approximately 36.3 acres, and the remaining acreage will comprise open space, wetlands, and undeveloped land. Subdivision CDS04-08809, as proposed, includes 144 units on 27.2 net developable acres of the project site. The density range of the SH land use designation in the General Plan is 5.0 to 7.2 units per net acre, which allows the project site a minimum of 136 units and a maximum of 196 units, which translates to 5.3 units per net acre, and is therefore within the allowable SH density range. Thus, the proposed project with 144 single-family units is consistent with the SH General Plan designation.

a) General Plan Policies: The application is subject to the General Plan's "Policies for the Vine Hill/Pacheco Area" (policies 3-105 through 3-107). These policies are highlighted below:

3-105. The scenic assets and unstable slopes of the Vine Hill Ridge are to be protected for open space/agricultural use.

3-106. The residential neighborhood east of I-680 shall be buffered from the industrial/landfill-related uses.

3-107. Approximately 40 acres of land south of the Burlington Northern Santa Fe tracks, between Morello and Pacheco, is designated Agricultural Lands, to encourage the continued operation of the Viano family vineyards and winery.

b) Housing Element: The project is also consistent with the following General Plan

Housing Element goals and policies.

Goal 1. Maintain and improve the quality of the existing housing stock and residential neighborhoods in Contra Costa County.

Goal 6. Provide adequate sites through appropriate land use and zoning designations to accommodate the County's share of regional housing needs.

Goal 9. Promote energy efficient retrofits of existing dwellings and exceeding building code requirements in new construction.

The project site is listed in the housing site inventory that is maintained by the Housing and Community Improvement Division, as a site suitable for residential development. The project would allow for additional housing opportunities on a vacant underutilized property that may be developed to meet the housing demands and needs of the County and region. The development of 144 market-rate units on the property is expected to contribute towards meeting the County's future 6th Cycle Housing Element Regional Housing Needs Allocation (RHNA). The 6th Cycle Housing Element covers the planning period from 2023 to 2031 and includes a RHNA of 7,610 housing units as determined by ABAG/MTC as the unincorporated County's fair share of development towards the regional housing need. The subject property is listed in the current 5th Cycle Housing Element sites inventory as available land for the potential development of housing. The total number of market rate units that the County is responsible for development is 3,133, and this project would provide a significant contribution towards meeting that goal.

c) Noise Element: The General Plan Noise Element includes the following goals and policies that are applicable to the proposed project:

Goal 11-A. To improve the overall environment in the County by reducing annoying and physically harmful effects of noise for existing and future residents and for all land uses.

Goal 11-C. To ensure that new developments will be constructed so as to limit the effects of exterior noise on the residents.

Policy 11-1. New projects shall be required to meet acceptable exterior noise level standards as established in the Noise and Land Use Compatibility Guidelines contained in Figure 11-6. These guidelines, along with the future noise levels shown in the future noise contour maps, should be used by the County as a guide for evaluating the compatibility of "noise sensitive" projects in potentially noisy areas.

Policy 11-8. Construction activities shall be concentrated during the hours of the day that are not noise-sensitive for adjacent land uses and should be commissioned to occur during normal work hours of the day to provide relative quiet during the more sensitive evening and early morning hours.

The Community Noise Exposure Levels on Figure 11-6 of the General Plan Noise Element show that levels of 60 dB or less are normally acceptable and 70 dB or less are conditionally acceptable for single-family residential land uses. Due to the proximity of Interstate 680 immediately to the east of the project site and the Burlington Northern Santa Fe rail corridor on the southern boundary, future noise levels on the project site

would exceed the 60 dB normally acceptable level for single-family residents and could result in noise impacts on project residents. Modern construction materials and design techniques generally mitigate such “environment-on-project” impacts to non-significant levels; therefore, the new residences should not experience excessive noise issues.

With respect to project construction, the project EIR included mitigation measures for avoiding excessive groundborne vibration and construction noise, by requiring the applicant to create and implement a development-specific noise-reduction plan to reduce noise at sensitive receptors along Central Avenue to below 75 dBA Lmax. Contractors may elect any combination of legal, non-polluting methods to maintain or reduce construction-related noise to threshold levels or lower, as long as those methods do not result in other significant environmental impacts or create a substantial public nuisance. Examples of measures that can effectively reduce noise impacts include locating equipment in shielded and/or less noise-sensitive areas, selection of equipment that emits low noise levels, and/or installation of noise barriers such as enclosures to block the line of sight between the noise source and the nearest receptors. Other feasible controls could include, but shall not be limited to, fan silencers, enclosures, and mechanical equipment screen walls. In addition, the project has been conditioned to limit construction activities to daytime hours between 8:00 am and 5:00 pm Monday through Friday. The aforementioned development-specific noise-reduction plan for attenuating construction-related noises shall be implemented prior to the initiation of any work that triggers the need for such a plan. As conditioned, the proposed project would be consistent with the applicable goals and policies of the Noise Element.

d) Transportation and Circulation Element:

The Transportation and Circulation Element of the General Plan shows designated arterials and expressways that are part of the County roadway network. Arthur Road is a southwest-northeast oriented collector and extends from Pacheco Boulevard to a residential area north of the project site. West of the project site, the roadway has one travel lane in each direction. The I-680/Arthur Road interchanges provides access to/from points north along I-680.

Central Avenue is a local road with one travel lane in each direction north of the project site. This roadway is maintained by the County between Arthur Road and Darcie Way and becomes an unpaved private road as it extends to the project site and CCCSD Maltby pump station. This road would be widened and paved as part of the project, serving as the main access roadway to the project site. The posted speed limit between Arthur Road and Darcie Way is 25 miles-per hour and has a suggested speed limit of 5 miles-per-hour on the privately owned segment. Central Avenue currently is not a through street and would serve as a main access roadway to the project site. Palms Drive is a local road with one travel lane in each direction north of the project site. The surface pavement conditions are poor with uneven and missing pavement. The road is not a through street and would be extended to the project site as a secondary access. The speed limit is not posted.

Analysis in the project EIR indicates that the project’s projected trip generation of 1,360

additional daily trips with 107 AM peak hour vehicle trips and 143 PM peak hour trips would increase traffic volumes on residential roadway segments near the project site resulting in obstacles (or hazards) for project vehicle traffic. Therefore, in accordance with County requirements and design standards, the project has been conditioned to mitigate these impacts by providing even surface pavement, appropriate signage, delineation, and other features on Palms Drive (and Central Avenue if it becomes a public street) to improve vehicle transportation conditions and eliminate obstacles (or hazards). The project EIR did not find that the project's traffic volumes would have any substantial congestive effect on the area arterials.

The project EIR did identify that the project would have significant impacts on VMT ("Vehicle Miles Traveled") for the project. CEQA Guidelines §15064.3(a) states that VMT "refers to the amount and distance of automobile travel attributable to a project." These impacts were analyzed in the EIR based on the project's effect on VMT and its effects on the pedestrian, bicycle, and transit modes of travel, and it was found that the total Home-Based VMT per resident generated by the project would be greater than 15 percent below the regional VMT for similar uses in Contra Costa County, and that the cumulative Countywide VMT would also increase as a result of the project. These VMT impacts were identified as significant and unavoidable in the EIR. Notwithstanding the significant and unavoidable level of the project's impacts on VMT, the project has nonetheless been conditioned to mitigate these impacts the maximum extent feasible by requiring prior to issuance of building permits for the project applicant to develop a transportation and parking demand management plan (TDM). The applicant shall submit the TDM program to the County Department of Conservation and Development for review and approval. The TDM program shall identify trip reduction strategies as well as mechanisms for funding and overseeing the delivery of trip reduction programs and strategies. The TDM program shall be designed to achieve the trip reduction, as required to reduce the VMT per resident from 20.6 to 16.5, to the extent feasible, consistent with a 20 percent reduction in the near-term. Thus, the project would be consistent with General Plan transportation policies.

e) Open Space Element:

The Open Space Element of the General Plan contains goals and policies pertinent to the preservation and management of open spaces within the County. Approximately 44.5 acres of the 78.3-acre project site will be designated open space, natural wetlands, and park areas. Therefore, the project is consistent with the following goals and policies of the Open Space Element.

Goal 9-A. To preserve and protect the ecological, scenic, cultural/historic, and recreational resource lands of the county.

Goal 9-B. To conserve the open space and natural resources of the county through control of the direction, extent, and timing of urban growth.

Goal 9-C. To achieve a balance of open space and urban areas to meet the social, environmental, and economic needs of the county now and for the future.

Policy 9-1. Permanent open space shall be provided within the county for a variety of

open space uses.

Policy 9-2. Historic and scenic features, watersheds, natural waterways, and areas important for the maintenance of natural vegetation and wildlife populations shall be preserved and enhanced.

Policy 9-13. Providing public facilities for outdoor recreation should remain an important land use objective in the county, as a method of promoting high scenic quality, for air quality maintenance, and to enhance outdoor recreation opportunities of all residents.

Policy 9-21. Any new development shall be encouraged to generally conform with natural contours to avoid excessive grading.

REZONE / ZONING CONSISTENCY

The project site is currently zoned Heavy Industrial District (H-I), which allows heavy industrial manufacturing uses of all kinds, including, but not limited to, lumber, steel, chemicals, explosives, fertilizers, gas, rubber, paper, cement, sugar, and all other industrial or manufacturing products including the processing of petroleum and the manufacturing of petroleum products (i.e. crude oil refinery). No such industrial uses, or other uses of any kind, exist on the subject property which is entirely vacant land. The proposed 144-lot Bay View Estates Residential Project is incompatible with the current heavy industrial zoning designation. In order to implement the subdivision, the project includes an application to rezone the subject property (File# CDRZ04-03148) from Heavy Industrial District (H-I) to the Bay View Estates Planned Unit District (P-1). The P-1 zoning designation will allow single-family homes while setting aside land for hillside open space, storm drainage management, a neighborhood park, and protected wetlands. Compared to the largely unrestricted development standards of the Heavy Industrial District, the proposed P-1 district would have reduced lot area, lot width, lot depth, and building height requirements. The proposed development standards are cited in condition of approval #89.

PLANNING COMMISSION HEARING

On February 23, 2022, the project was heard by the County Planning Commission (CPC). The CPC opened the hearing, received testimony from the public and closed the hearing. Comments heard during the CPC hearing included traffic and emergency access concerns. Similar comments were also previously addressed and responded to in the project EIR. The CPC, with a (6-1) motion, approved the Vesting Tentative Map (County File# CDSD04-08809) and recommended that the Board of Supervisors approve the General Plan Amendment, Rezoning, and Preliminary and Final Development Plan for the project. The CPC also certified the project EIR and recommended that the Board of Supervisors also certify the EIR. There was a 10-day appeal period for the approval of the Vesting Tentative Map, during which time, one appeal was filed with the County.

APPEAL OF THE PLANNING COMMISSION DECISION

On March 7, 2022, Burt Kallander and Alma Johnson filed a joint appeal (attached) of the Planning Commission's February 23, 2022 decision to approve the Vesting Tentative Map for the project. Enumerated below are the appeal points and staff responses.

Appeal Subject #1

The appellants objected to the remote hearing format, stating that Zoom meetings limit free speech because of technical limitations and the inability of attendees to interact in-person on the same premises.

- Staff Response #1: The remote hearing was held in conformance with all public hearing and Brown Act requirements. Members of the public were provided the appropriate opportunity to speak on the project applications and were not restricted in their comments. All public comments were heard and considered by the Planning Commission.

Appeal Subject #2

The appellants assert that traffic volumes and impacts on Palms Drive were not adequately addressed during project review.

Staff Response #2: The project will be accessed by both Palms Drive and Centra Avenue. Central Avenue would be the main access roadway to the project site, and Palms Drive would be a secondary access. Palms Drive is a local road with one travel lane in each direction north of the project site. The road is not a through street and would be extended to the project site as a secondary access. Traffic volumes were analyzed and it was determined that the project would increase traffic on Palms Drive. Palms Drive could carry an additional 1,360 daily vehicles generated by the project if Central Avenue between Darcie Way and the project site were to remain privately owned. The poor pavement conditions and narrow travel-way widths on Palms Drive and the private ownership and unpaved condition on Central Avenue represent obstacles or hazards for project vehicle traffic using Palms Drive and Central Avenue. The project EIR determined that if Central Avenue remains private, a single public access point on Palms Drive would still operate well for general traffic use when it is improved to better accommodate two-way traffic movements. The EIR also provided mitigation measures that will reduce traffic impacts on Palms Drive to less-than-significant levels. Specifically, Mitigation Measure TRF-4 incorporates County requirements and design standards to provide even surface pavement, appropriate signage, delineation, and other features on Palms Drive (and Central Avenue if it becomes a public street) that will improve vehicle transportation conditions and eliminate obstacles or hazards.

Appeal Subject #3

The appellants state concerns regarding the adequacy of emergency access to the site.

Staff Response #3: The project would correct existing life-safety deficiencies due to non-compliant emergency vehicle access (EVA), based on requirements pursuant to the California Fire Code (Fire Code) as amended and adopted by the Contra Costa County Fire Protection District (Fire District). Currently, Arthur Road is the only road to this Vine Hill neighborhood with over 400 existing homes. The Fire Code requires two separate fire apparatus access roads. The project would provide a secondary EVA from the south side of the project site to meet code requirements. Currently, Arthur Road

extends into the Vine Hill neighborhood with Central Avenue and Palms Drive branching off Arthur Road. Both Central Avenue and Palms Drive dead end at the project site. These dead-end roads exceed the maximum code-prescribed length without a code-prescribed turnaround. The project would extend both Central Avenue and Palms Drive into the project site and provide connection between the two roads, as well as provide code-prescribed turnarounds for all in-tract dead-end roads, all to Fire Code requirements. Currently, segments of the existing Palms Drive have pavement width of less than 20', and segments of both Central Avenue and Palms Drive have damaged and missing pavement. Fire Code requires a minimum clear width of 20' with pavement structural section sufficient to sustain fire truck wheel loads. The project would repair and replace existing deficient pavement to meet Fire Code requirements and, where open space exists, provide for homes with sprinklers and other fire-safety improvements. Accordingly, by improving Central Avenue and Palms Drive and turning both streets into through streets, by providing a third access road into the neighborhood, and by replacing open space with residential development equipped with sprinklers, the project will provide a greater level of emergency vehicle access than the Fire Code requires, and will improve emergency vehicle access for surrounding developments. It should also be noted that, separately from this project, the adjacent approved Palms 10 subdivision (Tract 8744) would also improve a segment of Palms Drive adjacent to the project site.

MODIFICATIONS TO FINDINGS AND CONDITIONS OF APPROVAL SUBSEQUENT TO THE FEBRUARY 23, 2022 CPC HEARING FOR CONSIDERATION BY THE BOARD

FINDINGS

Subsequent to the February 23, 2022 Planning Commission hearing, clarifying edits and additions have been made to the project findings. These edits were primarily made to the CEQA findings in order to provide updated references to direct the reader to the pertinent sections of the project EIR. No new or substantial project information has been provided that would require public review and comment under CEQA. Similar clarifying edits have been made to other sections of the findings as well. The revisions are reflected in the final findings in support of the project attached to this board order.

CONDITIONS OF APPROVAL

Inclusionary Housing

At the February 23, 2022 hearing of the Planning Commission, the Commission requested that the applicants provide affordable housing at the site. It is important to note that the effective date of the inclusionary unit requirement was November 23, 2006, and the project applications were deemed complete on October 17, 2006. Because the applications were deemed complete before the effective date of the ordinance, the project is not subject to the County's Affordable Housing Ordinance that requires at least fifteen percent of the for-sale units be constructed and sold as inclusionary units (i.e. units that are required to be sold at an affordable sales price to lower and moderate income households). Staff has engaged the applicant on this issue and the applicant has agreed to

provide 5 on-site inclusionary units affordable to moderate income households, or pay an in-lieu fee, as reflected in the following added condition of approval.

(Condition #114) Inclusionary Housing

(A.) Inclusionary Housing Agreement: Prior to recording the first Final Map or issuance of the first building or grading permit, whichever occurs first, the developer shall enter into an Inclusionary Housing Agreement for the on-site development and sale of five (5) inclusionary housing units affordable to moderate income households. Alternatively, the developer may satisfy this condition of approval, in whole or in part, by payment to the County of an in-lieu fee equal to \$100,000 per inclusionary housing unit that the developer elects not to develop and sell on-site.

(B.) Inclusionary Housing Plan: At least 120 days prior to filing the first Final Map for recordation or submitting an application for the first building or grading permit, whichever occurs first, the developer shall submit to the County an Inclusionary Housing Plan that includes the information identified in County Ordinance Code Section 822-4.414. The Inclusionary Housing Plan shall include whether the developer will satisfy this condition of approval in whole or in part by payment of an in-lieu fee.

(C.) Inclusionary Housing Unit Standards:

1. The project is a phased residential development. The Inclusionary Housing Units shall be constructed in proportion to the construction of the market-rate units. The parties agree that the phasing schedule for construction of the Inclusionary Housing Units will be as described in the plan.
2. The Inclusionary Housing Units must be dispersed throughout the residential project. The parties agree that the Inclusionary Housing Units will be located within the residential project as described in the plan.
3. The Inclusionary Housing Units must have access to all on-site amenities that are available to the market-rate units.
4. The construction quality and exterior design of the Inclusionary Housing Units must be comparable to the market-rate units. However, the Inclusionary Housing Units may be smaller in size, developed on smaller lots, and have alternative interior finishes.

(D.) Sale of Inclusionary Housing Units:

1. The developer will sell five (5) Inclusionary Housing Units in a condition meeting the reasonable satisfaction of the County and in accordance with the approved Inclusionary Housing Agreement.
2. The project is a phased residential development. The Inclusionary Housing Units shall be made available for sale in proportion to the sale of the market rate units. The developer may revise the phasing with the written consent of the County.
3. The initial sale of each Inclusionary Housing Unit must be at a price that does not exceed the affordable sales price to a buyer that is a moderate-income household. Notwithstanding the foregoing, the maximum affordable sales price may not exceed the appraised value of the unit.

4. The initial sale of an Inclusionary Housing Unit may occur only to a household that meets the following criteria: a) The household is a Moderate Income Household; b) The household has not owned a residence within the previous three years; and c) The household has no more than \$250,000 in assets. This amount excludes assets reserved for a down payment and closing costs, assets in retirement savings accounts, and assets in medical savings accounts.

5. Based on the information provided to the developer by the buyers of the Inclusionary Housing Units, the developer or its third-party designee will determine the income-eligibility of each buyer of an Inclusionary Housing Unit prior to permitting the buyer to purchase and occupy the Inclusionary Housing Unit. The developer will submit a completed Income Certification Form to the County not later than 30 days prior to the close of escrow. The developer will retain all records related to income eligibility for at least five years.

6. Developer may independently source qualified buyers for the Inclusionary Housing Units, determine income-eligibility of such buyers, and complete the Income Certification Form, and/or developer may also hire or utilize one or more third party vendors or brokers to source qualified buyers for the Inclusionary Housing Units, determine income-eligibility of such buyers, and complete the Income Certification Form. If necessary, the County agrees to cooperate with such third parties hired by the developer.

7. Prior to the close of escrow for the initial sale of each Inclusionary Housing Unit, Developer shall ensure that the following documentation is entered into and/or obtained:

a) Appraisal. Developer shall require the buyer to obtain and deliver to developer a third party appraisal obtained by the buyer in connection with its financing of the purchase of the Inclusionary Housing Unit (or if no appraisal is required, the buyer shall nevertheless obtain a third party appraisal from a third party appraiser who regularly appraises residential real estate in Contra Costa County for institutional lenders), which appraisal shall set forth the market value of the Inclusionary Housing Unit as if the Inclusionary Housing Unit were unencumbered by this Agreement (the "Appraised Market Value"). The Appraised Market Value shall be used in connection with the calculation of amounts payable to the County under the resale restriction and memorialized by a promissory note and secured by a deed of trust;

b) Resale Restriction. Developer shall ensure that the County and the buyer execute, acknowledge, and deposit into escrow for recordation against the Inclusionary Housing Unit a resale restriction. The resale restriction shall record immediately after the grant deed conveying the Inclusionary Housing Unit and before any deed of trust or other instrument securing any financing to the buyer;

c) Promissory Note. Developer shall require the buyer to execute a promissory note in favor of the County that obligates the buyer to pay the County the amount required under Section 822-4.410(b)(3) of the Ordinance. The promissory note will be subject to County's reasonable review and approval; and

d) Deed of Trust. Developer shall ensure that the County and the buyer execute, acknowledge, and deposit into escrow for recordation against the Inclusionary Housing Unit a deed of trust to secure performance of the buyer's covenants under the resale restriction and payment of the amounts due under the promissory note. The deed of trust shall record immediately after the grant deed conveying the Inclusionary Housing Unit

and concurrent with the resale restriction, subordinate only to the lien for the first mortgage loan obtained by the buyer to finance the purchase of the Inclusionary Housing Unit.

(E.) Inclusionary Housing Unit Restrictions:

1. In accordance with County Ordinance Code section 822-4.410(b), Inclusionary Housing Units must remain affordable to moderate income households for the term of affordability. Upon the initial sale of each Inclusionary Housing Unit, the developer will cause agreements to be recorded in the official records against the Inclusionary Housing Unit. The agreements will stipulate that the Inclusionary Housing Units are to remain affordable to moderate income households for the term of affordability of not less than 55 years. Each recorded agreement will be a covenant running with the land, binding on the assigns, heirs, and successors of the developer during the term of the resale restriction.
2. The buyer's first mortgage amount may not exceed the amount needed to finance the purchase of the Inclusionary Housing Unit and the buyer's closing costs. The buyer may not refinance any other debt or receive funds at the close of escrow, except to reimburse the buyer for overpayment of estimated buyer closing costs.
3. The initial purchaser of each Inclusionary Housing Unit must agree to occupy the unit as their principal residence for at least three years unless an emergency requires the earlier sale of the unit."

The General Plan Amendment findings have also been updated to reflect the voluntary provision by the applicant of inclusionary housing incentives as being in the public interest and are therefore recommended for approval by the Board of Supervisors.

Community Benefits Agreement (CBA)

The applicant has agreed to enter into the attached CBA with the County. The CBA enhances the project's beneficial contributions to the community, which supports the County's findings that the proposed General Plan Amendment will be in the public interest. The following condition of approval has been added by staff:

(Condition #110) CBA The applicant has agreed to enter into a Community Benefits Agreement with the County to fund projects benefiting the community near the project. The agreement will detail the timing and amount of the agreed-upon community benefit payments. Prior to filing of the first final map for the project, the applicant shall provide Department of Conservation and Development staff with evidence that the applicant and County have entered into a Community Benefits Agreement." The General Plan Amendment findings have also been updated to reflect the community benefits agreement as being in the public interest and are therefore recommended for approval by the Board of Supervisors.

Trail Access

The applicant has agreed to provide, at the request of the Planning Commission on February 23, 2022, regional and internal trail access as part of the Bayview Estates Residential Project. The following conditions of approval has been added by staff:

(Condition #111) Regional Trial Easement. The applicant shall record an easement in favor of the County, or other public agency named by the County, granting public bicycle and pedestrian access on Central Avenue. The purpose is to enable the public to access a potential future connection to the Iron Horse Trail through a roadway and sidewalk that will be maintained by the HOA. The easement shall be granted before the first Final Map is recorded.

(Condition #112) Internal Trails. The applicant shall provide internal walking/hiking trail access for Bayview residents for the purpose of accessing the hill within the development for recreational purposes. Hill access trails will be incorporated into the grading design of the drainage/erosion control benches. The applicant shall show the trail access on the grading plans and the plans shall be submitted to the Community Development Division for review prior to approval of site grading permits.

Off-Site Street and Sidewalk Improvements

The applicant has agreed to provide additional off-site street and sidewalk improvements as part of the Bayview Estates Residential Project. Staff and the applicant have developed the following condition of approval:

(Condition #113) Enhanced Pedestrian Improvements Along Arthur Road Connecting to Las Juntas Elementary. The applicant shall design and construct sidewalk and path improvements and enhanced pedestrian crosswalks along Arthur Road and Karen Lane from the intersection of Arthur Road, Leabig Lane and Palms Drive to and including the pathway from Karen Lane to Las Juntas Elementary School (collectively, “Enhanced Pedestrian Improvements”). A more precise description of the scope of the Enhanced Pedestrian improvements is provided in Attachment A to the conditions of approval for the project. The County will review and approve the project plans to be provided by the applicant. The County will provide the applicant with encroachment permits and all other authorizations necessary for applicant to construct at no charge to the applicant. The applicant will not have to obtain any Right-of-Way, or permits, or any regulatory approvals. Applicant will not have to pay for inspections or secure bonds for these improvements. Applicant will assist the County’s pursuit of any necessary authorizations from Caltrans. The Enhanced Pedestrian Improvements shall be completed prior to the issuance of the building permit for the 49th home in the project. However, the Director of Conservation and Development may authorize the issuance of additional building permits pending completion of the Enhanced Pedestrian Improvements if the Director determines, in his or her sole discretion, that the applicant has made and continues to make a good faith effort towards completion of the Enhanced Pedestrian Improvements and that the delay in completion is not due to fault of the applicant (e.g., delay in County approvals or required Caltrans authorizations).

The General Plan Amendment findings have also been updated to reflect that these Off-Street Improvements are in the public interest and are therefore recommended for approval by the Board of Supervisors. Each of the described conditions of approval are

reflected in the final conditions of approval for the project, attached to this board order.

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, Major Subdivision, and Development Plan entitlements needed to allow development of the proposed 144-unit subdivision development in the unincorporated Martinez area.

CHILDREN'S IMPACT STATEMENT:

The project comprises a 144-lot subdivision. Pursuant to the Conditions of Approval, the applicant shall pay the required fee per lot (upon which a residence is being built) for childcare facility needs in the area, as established by the Board of Supervisors. Therefore, the recommendation supports one or more of the following children's outcomes:

1. Children Ready for and Succeeding in School;
2. Children and Youth Healthy and Preparing for Productive Adulthood;
3. Families that are Economically Self Sufficient;
4. Families that are Safe, Stable and Nurturing; and
5. Communities that are Safe and Provide a High Quality of Life for Children and Families.

The project comprises a 144-lot subdivision. Pursuant to the Conditions of Approval, the applicant shall pay the required fee per lot (upon which a residence is being built) for childcare facility needs in the area, as established by the Board of Supervisors. Therefore, the recommendation supports one or more of the following children's outcomes:

1. Children Ready for and Succeeding in School;
2. Children and Youth Healthy and Preparing for Productive Adulthood;
3. Families that are Economically Self Sufficient;
4. Families that are Safe, Stable and Nurturing; and
5. Communities that are Safe and Provide a High Quality of Life for Children and Families.

CLERK'S ADDENDUM

Speakers: Doug Chen (Applicants), Burt Kallendar (Appellant), Alma Johnson (Appellant), Edward Reva, No name given; Alexandra; Rafael Martinez. Written commentary (attached) received from: Pamel Mitchell; Collette Jimenez; Nehrzaad Hazratizdadeh; Jennifer Brennan.

ADOPTED the recommendations with the following alterations and/or additions to the Conditions of Approval:

BOS requested correction to Growth Management Finding #4 BOS requested correction to Tentative Map Finding #2 Modification to Conditions of Approval #s 23 & 79 Addition of a Condition to require deed disclosure notifying owners of potential odorous and/or noisy nearby industrial land uses.

ATTACHMENTS

Resolution 2022/139

Resolution No. 2022-139

Ordinance No. 2022-18

Vesting Tentative Map

Development Plan

Findings & Conditions of Approval

Mitigation Monitoring Program (MMRP)

Site Maps

General Plan Amendment Map

Rezone Map

Appeal Letter

CPC Staff Report

Community Benefits Agreement

Presentation Slides