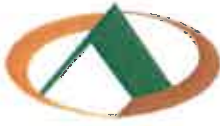


ALAMEDA COUNTY COMMUNITY DEVELOPMENT AGENCY
PLANNING DEPARTMENT



STAFF REPORT

TO: Castro Valley Municipal Advisory Council

HEARING DATE: June 8, 2020

APPLICATION: PLN2019-00024

PROPONENT: Eden Housing, Ellen Morris

PROPOSAL: **SITE DEVELOPMENT REVIEW**, New affordable, multi-family project with 72 rental housing units with associated parking and open space areas, and new a creek side trail.

AFFECTED PROPERTIES: Three parcels, totaling 6.3 acres with Crescent Avenue to the north, Ruby Street to the northeast, and A Street to the southeast, Castro Valley area of unincorporated Alameda County. Previous County Assessor's Parcel Numbers 415-230-2, -3, -5, -11, -12, -13, -14, -15, -16, -17, -18, -19, -21, -22, -23, -24, -69, -70, -72, and -73. New parcel numbers have not been assigned yet.

ZONING: R-S-D-20 (Suburban Residence, one residential dwelling unit allowed for every 2,000 sq. ft. of land)

GENERAL PLAN DESIGNATION: General Plan land use designation of *Castro Valley General Plan* (Residential Low-Density Multi-Family (RLM): 18-22 dwelling units/acre)

ENVIRONMENTAL REVIEW: The proposed application has been reviewed in accordance with the provisions of the California Environment Quality Act (CEQA) pursuant to Section 21083.3 of the state CEQA statutes and Section 15183 of the State CEQA Guidelines. As provided for in Section 15183, "projects which are consistent with the development density established by existing zoning, community plan or general plan policies for which an EIR was certified shall not require additional environmental review, except as might be necessary to examine whether there are project specific significant effects which are peculiar to the project or its site."

STAFF RECOMMENDATION: Hear a presentation by staff on the project, take public testimony on the Site Development Review and the CEQA document and recommend approval of the project to the Planning Director.

BACKGROUND

This project has been heard before the CVMAC mostly recently on August 26th 2019 and November 25th 2019, both times as informational items to introduce the project to the Council and the community at-large, to provide detailed information on particular issues, and to receive direction from the Council to

guide the staff review of the project. The staff reports, project plans, public comments received, and environmental documents are publicly available on the Planning Department's website:

<https://www.acgov.org/cda/planning/landuseprojects/currentprojects.htm>.

The project site was identified as a housing site in the 2012 Castro Valley General Plan, as a housing site in the County's Housing Element, and has been zoned for residential uses for many decades. The project requires approval of a Site Development Review permit from the County's Planning Department which also must include an analysis of potential environmental impacts pursuant to the California Environmental Quality Act (CEQA). The Planning Department determined that a CEQA Community Plan Exemption (CPE) was the appropriate level of environmental review during the pre-application meeting held in 2018.

During 2019 and prior to publication of the CPE, staff reviewed and considered several issues raised in public comments, which resulted in changes such as widening the creek setback so that it conforms to the County's Watercourse Protection Ordinance requirements, and a second site reconnaissance survey by a qualified biologist to delineate a riparian boundary. This review and consideration of dozens of public comments delayed the publication of the CPE and associated staff report and project hearings for several months while staff worked with the applicant and CEQA consultant to improve the project.

At the CVMAC meeting regarding the highway 238 parcels on August 26, 2019, after hearing public concerns specific to environmental impacts, the CVMAC requested that the next hearing focus solely on the CEQA CPE for the Ruby Street Apartments Project before they would consider action on the project. Subsequent to this hearing the CEQA CPE was published on the Planning Department's website in October 2019.

At the November 25, 2019 CVMAC meeting, the Planning Department provided an overview of key CEQA environmental issues of interest to the public and received public comments on several issues. Consequently, the CVMAC directed the Planning Department to coordinate with the CEQA consultant to address public comments in a master response which was completed and made public in early May 2020. The Planning Department would like to note that public circulation and responding to comments are not required for CEQA exemptions; the Planning Department conducted public circulation outside of the CEQA requirements at the request of the CVMAC and to engage the community.

This report includes a summary of the CEQA comments received for the November 25, 2019 meeting, and comments received since then, to update the CVMAC on the CEQA review. This report also includes non-CEQA information that is pertinent to the SDR review, including information regarding the project itself, the density bonus request, and details regarding how the project addresses the County's Regional Housing Need Allocation.

Since the previous CVMAC meetings the project has not changed much, but significant developments include a letter of intent drafted between HARD and Eden Housing (Attachment A) to transfer Parcel B to HARD to create a trail head near the corner of A Street and Ruby Street, and Eden Housing submitted revised grading plans to the Alameda County Public Works Agency grading division after the November 25, 2019 CVMAC meeting. The updated grading plans are posted on the project page and depict three small retaining walls near the San Lorenzo Creek. As noted in the CEQA CPE, these retaining walls are included to minimize or avoid grading in the required creek setback area.

SITE AND CONTEXT DESCRIPTION

Physical Features: The site is mostly undeveloped and is covered with non-native annual grassland with ruderal (weedy) species and trees. San Lorenzo Creek forms the southern boundary of the site, and portions of the creek bank in the project vicinity are currently undergoing habitat restoration. The site is generally flat with the exception of the area immediately adjacent to San Lorenzo Creek, which contains some steeper areas along the bank of the creek. The site has its major frontage on Ruby Street (440'), and is also accessed from Crescent Avenue (170'). Ruby Street and Crescent Avenue are two-lane residential streets. Two small residential structures are located at the northeast corner of the site (at new parcel B) along A Street.

The project site also contains a Caltrans conservation easement, which is largely contiguous with the San Lorenzo Creek. The conservation easement is used for riparian enhancement and restoration, which comprises mitigation for a separate Caltrans project, the SR-84 Safety Improvement project at Pigeon Pass in Alameda County.

Adjacent Area: The parcels located directly adjacent to the project site along the northwest corner of the project site, bounded by Crescent Avenue and Ruby Street, contain one- and two-story single-family homes and duplexes. Land uses to the north across Crescent Avenue and the northeast across Ruby Street consist of one- and two-story single-family homes apartment buildings. The parcel further east of the project site, bounded by Ruby Street and A Street, contains a two-story warehouse and an associated parking lot. The San Lorenzo Creek forms the southern border of the project site, and the area south of the creek is residential and commercial land under jurisdiction of the City of Hayward. The Douglas Morrison Theater and the Hayward Japanese Gardens are two establishments located in the western vicinity of the project site. A Street is a major northeast-southwest arterial corridor through Castro Valley.

PARCEL ZONING HISTORY

July 18, 1957, the 133rd Zoning Unit designated large areas of the County into various zone districts, including the project site and surrounding area. This historic zoning designation map indicates that the project area was zoned as R-1 (single family residence).

October 16, 1958, 204th Zoning Unit, shows the project site zoning designation as R-S-D-3 (2,000 square feet per dwelling unit).

The current zoning of RS-D20 is similar to the historical zoning of 1958.

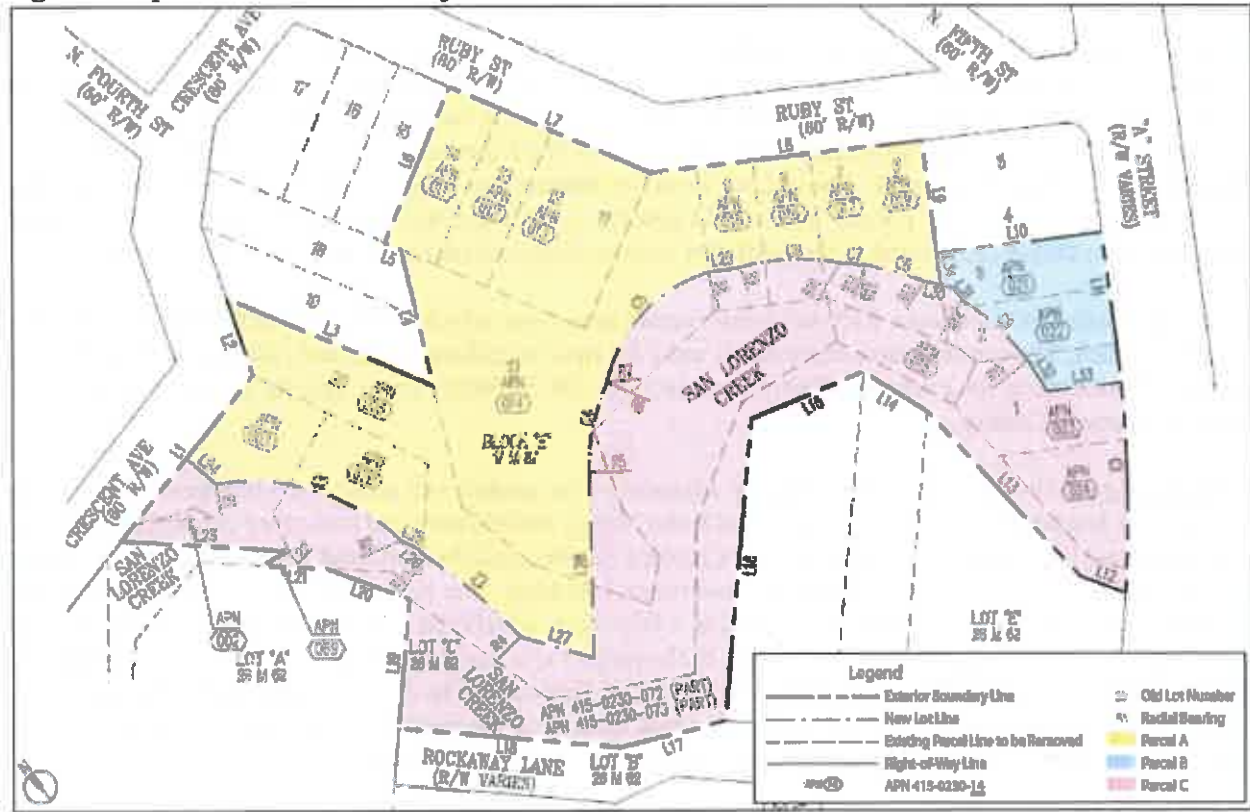
PROJECT DESCRIPTION

The project proposal is to allow the construction of an affordable, multi-family residential building with 72 units in 79,917 square feet of floor area, with parking areas, open space and other site amenities on three parcels totaling 6.3 acres.

As shown in Figure 1, "Proposed Parcels on the Parcel Site" the project site was 20 separate parcels that were combined into three distinct parcels as part of a Boundary Adjustment in 2019, and reconfigured as follows:

- Parcel A – 2.95 acres
- Parcel B – 0.34 acre
- Parcel C – 2.99 acres

Figure 1 Proposed Parcels on the Project Site



Parcel A would be developed with the 72 dwelling units. The 72 units include 8 studio units, 27 one-bedroom units, 18 two-bedroom units, and 19 three-bedroom units. The proposed building would include a mix of two-story, three-story, and four-story floors with a maximum roofline height of 52 feet and 10 1/2 inches.

The ground floor of the building would include two lobbies, an approximately 1,260-square-foot community room, building offices, flex space, and a bicycle storage area with capacity for 56 bicycles. Approximately 14,213 square feet of common open space would be provided in a courtyard with play mounds, a barbecue area, and benches. In addition, residents would have access to the proposed San Lorenzo Creek trail. The project design would avoid the required creek setback for San Lorenzo Creek, and it would also avoid the area near San Lorenzo Creek that is designated as a Caltrans conservation easement.

As shown on Figure 2, "Site Plan", the project would include two surface parking lots with a total of 109 parking spaces divided between one large lot accessed from Crescent Avenue and another smaller lot accessed from Ruby Street. In addition to the 56 spaces designated for permanent bike storage, eight outdoor bicycle spaces would be provided at the parking lots.

Figure 2 Site Plan



New sidewalks would be constructed along Ruby Street, A Street, and Crescent Avenue adjacent to the project site. Landscaping and light posts would be installed adjacent to the parking lots and sidewalks. Approximately 42 of the 58 existing on-site trees would be removed to accommodate the proposed building and parking lots. None of these trees are protected under local, state or federal law. Approximately 100 replacement trees are proposed.

Project Approvals:

Castro Valley Municipal Advisory Council

- Recommendation to Planning Director regarding site development review

Planning Director

- Demolition permit for existing structures on Parcel B
- Approval of site development review

Other Public Agencies Whose Approval is Required:

- Alameda County Flood Control District – Watercourse Encroachment Permit
- San Francisco Bay Regional Water Quality Control Board – Section 401 certification under the Clean Water Act (CWA)
- California Department of Fish and Wildlife – Section 1602 streambed alteration agreement

- U.S. Army Corps of Engineers – Section 404 Permit under the CWA

COMMUNITY COMMENTS

Since the project's inception and then subsequent to the release of the CEQA document, the Planning Department has received several letters of concern (see attached) regarding the project. As described in the above background section, the CVMAC requested a CEQA master response to comments during that meeting held on November 25, 2019. This master response document is publicly available on the Planning Department's website. In general terms the issues of concern include:

1. *Density* – Several public comments stated that the number of proposed units is too high for the project site and for the neighborhood. The residential property is 2.952 acres. At 2.952 acres, and with the R-S-D-20 zoning, up to 65 (rounded up from 64.3) units may be developed on this site. The state density bonus law allows the applicant to increase the maximum number of residential units by 35%, allowing a total of up to 88 (rounded up from 87.75) units. The proposed unit count is 72. The County has incorporated all relevant provisions of the state density bonus law into our code of ordinances as Chapter 17.106, Density Bonus. While the project would increase the number of units to a much more intense density compared to the adjacent dwelling units, the proposed 72 units are aligned with the General Plan and zoning designations for this site.

General Plan Conformity: The proposal to add 72 dwelling units at the project site is consistent with the *Castro Valley General Plan's* land use designation of the site and surrounding area as Residential Low-Density Multi-Family, which permits between 18-22 units per acre. However, as noted above, the applicant is using the state's Density Bonus law to increase the density by 35%.

Zoning Ordinance Conformity: The project site is designated as a R-S-D-20 zoning district. The R-S (Suburban Residence) districts are established to regulate and control the development in appropriate areas of relatively large building sites at various densities. The R-S district allows the following types of residential uses: one-family dwelling, two-family dwelling, multiple dwelling or dwelling groups. Together with the D-20 combing district, this zoning designation requires 2,000 square feet of building site per dwelling unit.

The proposed density would not incur an environmental impact, pursuant to CEQA land use impact thresholds and the approved Castro Valley General Plan EIR (2012).

2. *Size of the apartment buildings* – Several public comments noted that the proposed building heights were too tall for the neighborhood and in comparison to the adjacent dwelling units. The R-S-D-20 zoning specifies a building height maximum of 30', or 35' where at least 25' from the property line. The application proposes three-story and four-story buildings that would be a maximum 55' tall. The project is entitled to a waiver for building height, and the County does not have the authority to reduce the building height. With regard to CEQA land use thresholds, the proposed density is not considered a significant environmental impact.
3. *Lack of parking* – Several public comments noted that the project does not provide enough parking to accommodate the proposed new residents, and this would create parking congestion problems on local streets. Parking issues are not a CEQA environmental threshold. Therefore, this information is for informational purposes, only.

The existing County parking standards for multi-family development in this zoning designation require 159 parking spaces. The requirement is 1 space per studio, 1.5 per 1-bedroom unit, and 2 spaces per 2 to 3-bedroom unit, with one space per unit covered, and guest parking of 0.5 spaces per unit. An affordable housing project can request reductions to the parking requirements listed in local codes per the State's Density Bonus law. Also, there is inadequate site area available to provide parking spaces for this number of vehicles. The proposed site plan already maximizes all available site area for parking but is constrained by the long/narrow site dimensions, the physical presence of the creek, and space needs for fire trucks. That number is limited to 1 space per studio or 1-bedroom unit, and 2 spaces per 2- or 3-bedroom unit. Due to the Density Bonus law, a jurisdiction also may not require covered parking or carports and must allow the use of tandem spaces toward reaching that number. The proposed project provides the number of parking spaces corresponding to that reduced requirement as permitted by Density Bonus law: 109 spaces total, without using tandem spaces.

4. *Excessive traffic* – Several public comments noted that the project would create traffic congestion problems in their neighborhood. The proposed project complies with the land use type and density that was evaluated and approved in the Castro Valley General Plan EIR (2012). The purpose of a General Plan is to provide a cohesive and forward-thinking plan for a community. The CVGP EIR found all transportation and traffic impacts to be less than significant. Traffic congestion is projected to increase with or without the implementation of the General Plan. In addition to the CVGP EIR findings that this project qualifies to rely upon, the project applicant provided a new traffic study, and these model outputs indicated no substantial traffic impacts, pursuant to CEQA impact thresholds.
5. *Open space and trails* – Several public comments stated the desire to retain the project site as open space.

While the project site is currently vacant, the *Castro Valley General Plan* land use designation is Residential Low-Density Multi-Family (18-22 dwelling units/acre) and the zoning designation for this site is R-S-D-20. Therefore, the project site is intended for residential land uses, not open space. However, the County has worked with the applicant and HARD to provide a trail along the San Lorenzo Creek, and a trailhead at the corner of A Street and Ruby Street.

The Alameda County Public Works Agency and HARD would like to construct an 8.72-mile trail along the San Lorenzo Creek. This proposed multi-use trail would originate at the San Francisco Bay Trail in the west, and end with a connection to the Bay Area Ridge Trail at Cull Canyon. In 2018, these two agencies submitted a competitive funding application to the State of California, Department of Transportation, Active Transportation Program, but they did not obtain funding. PWA and HARD are currently working on another competitive grant application to obtain this funding. Nonetheless, the applicant's proposed trail provides a trail in an underserved area that has not yet been able to fund a trail.

6. *Riparian habitat* – Several public comments expressed concern that the proposed housing development and trail could negatively impact riparian areas. The CVGP Figure 7-2 Biological Resources Overlay Zone designates the project site as an area of potential High Priority Biological Resources. Because it is infeasible and extremely costly to conduct biological reconnaissance surveys for an entire General Plan area, this figure is intended solely as a broad guide based on a coarse and cursory documentation of existing land use features. As such, CVGP Action 7.1-1 Biological Resources Overlay Zone, page 7-12, requires that an environmental assessment be prepared by a qualified biologist. The CEQA CPE includes detailed information regarding the

potential for biological resources at the project site. In addition, in response to several public comments, the Planning Department coordinated with the CEQA consultant to augment the environmental assessment with additional details, including a second site visit to document and delineate a riparian border (CEQA CPE Figure III.B-2, "Riparian Canopy and Project Site Plan") for the project site, and additional information regarding the CEQA thresholds related to wildlife corridors and the potential for sensitive plant communities, as defined by the California Department of Fish and Wildlife and / or the U.S. Fish and Wildlife Service. The biology section in the CEQA CPE was augmented substantially to address public comments and questions related to biological resources. Based on two site visits and research performed by a qualified biologist, there are no substantial impacts related to riparian habitat or other biological resources.

7. *San Lorenzo Creek* – Several public comments expressed concern that the grading required to construct the trail near the San Lorenzo Creek would violate the County's Watercourse Protection Ordinance (WPO) and cause water quality and erosion problems during construction of the 14' wide trail. This trail would also serve as a maintenance access road for the Alameda County Flood Control and Water Conservation District. The Alameda County Public Works Agency (PWA) would regulate and refine any grading that may be needed for the trail. The applicant cannot grade any portion of the project site without first obtaining a grading permit from PWA, and the Director of PWA has the authority to allow grading near the creek if he finds that the activity meets criteria for public benefits. Initially, some grading may have been required for certain parts of this trail. However, in December 2019, Eden Housing submitted a revised grading plan to the PWA grading division depicting minimization or elimination of grading in the creek setback area and the addition of retaining walls mentioned in the CEQA CPE. PWA will review the permit set construction and grading plans when Eden Housing applies for a grading permit.

In addition to grading concerns, several public comments expressed concern that the proposed project would violate the WPO's riparian protection requirements. As described in item #6, the Planning Department instructed the CEQA consultant to have a qualified biologist conduct a second site visit to document and delineate a riparian boundary for the project and trail features. Based on two site visits and research performed by a qualified biologist, there are no substantial impacts related to riparian habitat or other biological resources.

8. *Cultural resources* – A few public comments expressed concern regarding the destruction of cultural resources that may occur at the site. In response to public comments, the Planning Department instructed the CEQA consultant to conduct additional research on the potential cultural resources that may be located at or near the site. After conducting additional research, the CEQA consultant team did not find any significant cultural resources at the site. It is not uncommon to unearth tribal and cultural resources during construction activities along watercourses in California. The CEQA Community Plan Exemption documents the legal procedures and requirements that the applicant needs to follow during construction activities to protect subsurface cultural resources that may be discovered during construction. While the CPE published in October 2019 provided a comprehensive and legally sufficient assessment of cultural resources, the CEQA consultant added additional explanations in the CEQA master response comment to address public questions raised in comment letters and during the November 25, 2019 CVMAC informational meeting.
9. *Bats* – As stated in the staff report dated November 25, 2019, the Planning Department deemed the CEQA CPE published in October 2019 as sufficient and legally adequate. As directed by the Castro Valley General Plan, the CPE biology section included a site reconnaissance survey by a qualified biologist. The CEQA CPE included standard pre-

construction survey protocol information regarding bats that may be present at the project site. However, in response to a brief bat acoustic survey, the Planning Department directed the CEQA consultant to provide additional details regarding the possibility of additional bat species at the project site, and information regarding possible remedies if other bat species are observed during pre-construction surveys. This information is located in the CEQA Response memorandum, which can be found on the Planning Department's website page for the project.

COMMENTS FROM REFERRAL AGENCIES

Staff has received comment letters from the Alameda County Public Works Agency (PWA) Grading Division, Construction and Development Services, PWA Land Development Services, PWA Traffic Control Division, Castro Valley Sanitation District, East Bay Municipal Utility District, Alameda County Fire Department, and the Alameda County Sheriff's Office. Refer to attached letters for the complete text.

Public Works Agency, Grading Division, Construction and Development Services: In letters dated April 4, 2019 and July 10, 2019, the Public Works Agency Grading Division, and Construction and Development provided comments, as follows:

1. According to the Seismic Hazard Zones map published by the California Geologic Survey, the subject site is located within the designated zone of required investigation for liquefaction. A site-specific geotechnical investigation report, which documents the results of an investigation of the site for seismic hazards and recommends mitigation measures to reduce the risk of identified seismic hazards to acceptable levels, should be required prior to approval of any structures for human occupancy or any subdivision of land that contemplate the eventual construction of structures for human occupancy in compliance with the provisions of the Seismic Hazards Mapping Act and the Special Publication 117A.
2. No grading shall be permitted until a grading plan and erosion and sedimentation control plans have been reviewed and approved by the County and a grading permit or exemption is obtained from this office in accordance with the provisions of the Alameda County Grading Ordinance.
3. A geotechnical/geologic investigation report shall accompany the grading permit application in accordance with the provisions of the Alameda County Grading Ordinance Chapter 15.36.320. The report shall contain all of the elements listed under the Alameda County Grading Ordinance Chapter 15.36.350 as they may be applicable to the project.
4. No grading work would be allowed during the rainy season, from October 1 to April 30, except upon a clear demonstration, to the satisfaction of the director of the public works, that at no stage of the work will there be any substantial risk of increased sediment discharge from the site.
5. Prior to any work within a watercourse setback, a watercourse encroachment permit or a grading permit shall be secured from this office in accordance with the Alameda County Watercourse Protection Ordinance. The Watercourse Ordinance established a setback of 20 feet from the top of bank. However, for existing bank slopes at 2 horizontal to 1 vertical, or steeper, establish the setback by drawing a line at a 2 horizontal to 1 vertical slope from the toe of the existing bank to a point where it intercepts the ground surface and then adding 20 feet. A site or grading plan shall delineate this watercourse setback accordingly.

6. Prior to any grading work near/within the watercourse and near/within any potential riparian habitats for the state and federal protected species, the owner/developer shall secure necessary permits or approvals required from other regulatory state and federal agencies as required.
7. The Federal Emergency Management Agency (FEMA) Flood Insurance Rate Map for Alameda County shows the 100-year floodplain along the creek. The boundaries of the floodplains need to be delineated on the grading plan in accordance with the FEMA map. Any improvements on the subject lot will be subject to the FEMA regulations
8. Sites with land disturbances greater than one (1) acre must file a Notice of Intent (NOI) with the State Water Resources Control Board for coverage under the State General NPDES permit for Construction Activities. A copy of the NOI must be submitted to the District prior to issuance of a grading permit for the site or any land disturbance on the site. A Storm Water Pollution Prevention Plan (SWPPP) shall be made available to the District prior to issuance of grading permit or any land disturbance on the site.

Public Works Agency, Land Development Division: In a letter dated April 2, 2019, the Public Works Agency, Land Development Division provided comments, as follows:

1. The project is designated to drain to San Lorenzo Creek (Zone 2, Line B), a major County flood control facility that straddle along the southerly and westerly boundary of the site. As per FEMA's Flood Insurance Rate Map Number 06001C0287G, dated August 3, 2009, there is a portion of the project site that is located within the flood hazard area which will need to be addressed by the Applicant.
2. A detailed soils/geotechnical investigation report should be provided for the proposed project. This investigation would need to address both the structural and riparian/biological assessment setbacks from the creek, the areas of creek bank/bottom stability and if necessary, the suggestion of possible mitigative measures. As a general rule if the existing banks are 2:1 slope or steeper, as in this project's case, the structural setback is established by drawing a line at 2:1 slope from the toe of the existing bank to a point where it intercepts the ground surface and then adding 20 feet. Modifications to this general rule and/or additional requirements may be made upon examination of the above-mentioned geotechnical report. The developer should be made aware that more work in addition to that mentioned above may be required in order to produce a complete package for review.
3. Creek setback line accurately delineating the boundary and cross-sections with all pertinent information and data must be shown in the improvement plans. Critical cross-sections must be provided to determine that there is no encroachment. No development shall be allowed to be placed within creek setback boundary except the proposed creek-side trail and the storm drain outfall structure.
4. For the proposed creek-side trail, design should adequately factor in the location which will be within soils hazard area. Also, ownership, as well as maintenance responsibilities will have to be properly determined and agreement executed and recorded.
5. Other setback boundary lines (riparian, biological assessment report, easement, etc.) must be accurately delineated. The riparian/biological assessment setback boundary shall be determined and verified by the Planning Department. If the determined riparian/biological assessment setback

boundary is beyond the creek setback boundary, the riparian/biological assessment setback boundary will govern the development restrictions.

6. This project will likely increase the quantity of urban runoff pollution entering the storm drain system. Storm Water Quality Control issues must be appropriately addressed. It is the responsibility of the applicant to comply with Federal, State, and local water quality standards and regulations. Any proposed on-site stormwater treatment for the planned development should comply with the requirements of the C.3 Stormwater Technical Guidance. It will be the responsibility of the Project Applicant to verify whether the project site is located in a Hydromodification Management (HM) Control Area in the Susceptibility Map. If so, the project will need to provide HM related on-site flow duration control measures.
7. The California State Department of Fish and Wildlife, as well as the U.S. Army Corps of Engineers should be notified of any proposed work to be done within the creek area. If those organizations make a determination that a Streambed Alteration Agreement and/or Corps Permit, respectively, are necessary, copies of such must be provided to this office prior to the Public Works Agency approval of the improvement plans.

Public Works Agency, Traffic Control Division: In an email dated October 11, 2018, the Public Works Agency, Traffic Control Division stated that they would prefer if the project improvements facilitate their design concept for A Street.

Castro Valley Sanitation District: In a letter dated April 1, 2019, the Castro Valley Sanitation District (CVSan) stated that the proposed project would require installation of a new 8 inch diameter sanitary sewer mainline pipe to connect to the CVSan mainline on Crescent Avenue. A further determination will be made once the expected flow and capacity needs are submitted to CVSan for review.

East Bay Municipal Utility District (EBMUD): In a letter dated March 25, 2019, EBMUD stated that water service for new multiunit structures shall be individually metered or sub-metered in compliance with Senate Bill 7, which encourages conservation of water in multifamily residential buildings through metering infrastructure for each dwelling unit.

Alameda County Fire Department: In a letter dated June 20, 2019, the County Fire Department stated as follows:

The following conditions shall be met prior the issuance of a building permit and fire clearance for occupancy:

1. Project must comply with all building and fire code requirements in effect at time of building permit submittal.
2. The building must be equipped with fire sprinklers and a fire alarm system that includes fire sprinkler monitoring.
3. The building may also need an emergency response radio system. If existing systems cannot operate in the building.
4. If a fire pump is needed a fire pump room will need to be provided. That room will need to be directly accessible from a fire access road.

Alameda County Sheriff's Office: In a letter dated April 24, 2019, the County Sherriff's Office expressed concern regarding the cumulative effect of allowing additional growth with no provision for additional law enforcement resources. The Sherriff's Office also requested additional security features, such as lighting

and physical security, during construction of the project to guard against theft and vandalism. And, the final construction should include adequate exterior lighting, security cameras, and complete perimeter fencing, consistent with the principles of Crime Prevention Through Environmental Design.

DENSITY BONUS

Summary

The state Density Bonus law (California Government Code Sections 65915-65918) allows developers to exceed certain local zoning restrictions in exchange for providing affordable housing within their projects. The Density Bonus law allows a developer a maximum of 35% increase in project density, depending on the percentage of affordable housing provided. The proposed project is 100% affordable and therefore qualifies for the full 35% density bonus. Recent state law has increased the density bonus allowed, but given the timing of the application submittal, staff is using the 35% number as a standard.

The Density Bonus law also requires a city or county to provide up to three “incentives” or “concessions”. A concession or incentive must result in identifiable, financially sufficient, and actual cost reductions. The Density Bonus law also allows waivers, which are defined as relief against any development standard that would physically preclude the construction of a project with the density bonus and the incentives or concessions to which the developer is entitled.

The Density Bonus law is a state mandate. A developer who meets the requirements of this law is entitled to receive the density bonus, incentives/concessions, and waivers as a matter of right.

The following text is a discussion of how the project applicant, Eden Housing, is applying the Density Bonus law to the proposed project.

Affordable Housing Density Bonus

The residential property is 2.952 acres. At 2.952 acres, and with the current R-S-D20 zoning, up to 65 (rounded up from 64.3) units may be developed on this site. The applicant states that this number is not adequate to generate sustainable operating revenue over the life of the building. The Density Bonus law allows the applicant to increase the maximum number of residential units by 35%, allowing a total of up to 88 (rounded up from 87.75) units. The proposed unit count is 72.

The developer will apply for federal tax credits designated for family housing. According to the California Tax Credit Allocation Committee (CTCAC), this funding source requires that 50% of residential units be two and three bedroom units. This requirement has a direct impact on the physical size of the building and the quantity of parking spaces that must be provided. The proposed unit mix is as follows: 8 studios; 27 1-bedroom units, 18 2-bedroom units, and 19 3-bedroom units.

INCENTIVES/CONCESSIONS

Requested Concession: Storage Areas

Due to the prohibitive cost, private storage areas (between 100 and 250 cu ft per unit) for residents are not proposed. This allows us to reduce the overall square footage of the building by approximately 2,000 SF minimum (plus necessary circulation), which results in an overall substantial cost reduction for the construction budget.

Requested Concession: Private Open Space

The County requires private and common open space be provided based upon the number of units. The Density Bonus law allows additional units, that also creates an additional burden on a project to leave additional landscaped site area.

Without the Density Bonus law, the County's open space requirements would be 350 SF total per unit, with 100 SF minimum per unit as private, and 100 SF minimum per unit as common. The required total open space for the entire development is 25,200 SF, but the applicant is proposing to provide 17,500 SF common open space. Private open space in a multi-story building would necessarily have to be constructed as balconies and this construction cost is prohibitively high. No private outdoor space is provided. Common outdoor space is supplemented by the availability of the San Lorenzo Creek Trail, which may be approximately 16,000 SF of paved usable surface. In addition, the building provides indoor amenity spaces such as a Community Room and a Computer Lab/Library at approximately 1,500 SF.

WAIVERS

Requested Waiver: Height/Stories

The zoning designation for the proposed project allows a building height limit of 30', or 35' where at least 25' from property lines and if the site is not adjacent to R-1 or other low-density residential districts. This zoning designation also allows an 8' exception for limited non-habitable architectural projections. The zoned maximum stories are 3 stories for multi-family development. This allowable height is incompatible with the allowable stories, as it does not account for roof structure, and it assumes very low ceilings. The applicant is proposing a pitched roof with overhanging eaves, which feels less massive than a parapet with flat roof, but results in a higher numerical height measurement.

The proposed development includes a 2- and 3-story height along Ruby Street (where the building is visible from the road). Rear portions of the building would be 4 stories, which allows the applicant to achieve 72 units. The proposed maximum heights are 42 feet along Ruby Street, and 52 feet elsewhere.

Requested Waiver: Setbacks

The County's 2014 Residential Design Standards and Guidelines, Table 2.5-1, specify various setback requirements depending on the number of building stories. In order to fit into the irregular-shaped site with 72 units, and to minimize the street presence and preserve existing street trees, the project will infringe on some of these standards. The applicant's proposed setbacks are listed, as follows:

- Ruby Street: varies, 10' to 24' (Requirement is 20')
- Side yard: varies, minimum 16' to 19' proposed (Requirement is 10' to 15', and 20' at a fourth story if allowed)
- Rear yard: The building backs up to the creek and is a minimum of 27' outside of the creek setback (requirement is 20' to 25', and 30' at a fourth story if allowed)

Requested Waivers: Parking Location and Design - Frontage

On Ruby Street and on Crescent Avenue, the parking frontage exceeds 30% of the total street frontages that are specified in the County's 2014 Residential Design Standards and Guidelines, Table 2.5-1. This is due to the odd configuration of the site, and the presence of the creek limiting available developable area. On Crescent Avenue, there is no building frontage at all, and on Ruby Street the parking will extend for nearly half of the frontage. This is balanced with a well-articulated building frontage on Ruby Street, and with the use of landscaping to minimize the presence of the parking.

Additionally, Planning had advised a 20' setback from street-facing property lines. This is not possible, given the constraint of the creek trail width. A setback of 10' is what is feasible to provide. Given the distance between the edge of pavement and the property line, the net effect is still a distance of 20' from the roadway to the edge of parking.

Reduced Parking Requirement

The existing county parking standards for multi-family development in this zoning designation require 159 parking spaces. The requirement is 1 space per studio, 1.5 per 1-bedroom unit, and 2 spaces per 2-3-bedroom unit, with one space per unit covered, and guest parking of 0.5 spaces per unit. There is inadequate site area available to provide parking spaces for this number of vehicles. The proposed site plan already maximizes all available site area for parking, but is constrained by the long/narrow site dimensions, the physical presence of the creek, space needs for fire trucks, and the need to provide stormwater treatment areas.

The Density Bonus law defines a maximum number of parking spaces that a jurisdiction may require a qualified affordable development to provide. That number is limited to 1 space per studio or 1-bedroom unit, and 2 spaces per 2- or 3-bedroom unit. A jurisdiction also may not require covered parking or carports, and must allow the use of tandem spaces toward reaching that number. The proposed project provides the number of parking spaces corresponding to that reduced requirement, 109 spaces total, without using tandem spaces.

REGIONAL HOUSING NEEDS ALLOCATION

California state law requires that each local jurisdiction plan for the housing needs of its residents by preparing a Housing Element to its general plan every eight years. The current housing element cycle is from 2015 to 2023. Each jurisdiction's housing element must include a detailed inventory and analysis of land suitable for residential development to demonstrate adequate capacity to accommodate its Regional Housing Need Allocation, or RHNA. RHNAs are based on California Department of Housing and Community Development (HCD) estimates of the total number of new homes the Bay Area needs to build during the current cycle. The allocations are broken out by very low-, low-, moderate- and above moderate-income levels. The Association of Bay Area Governments (ABAG) then distributes a share of the region's housing need to each city and county in the region.

The total RHNA for the unincorporated County for the current 2015 to 2023 cycle is 1,769 housing units, of which 215 must be affordable to extremely low-income households, 215 must be affordable to very low-income households, 227 to low-income households, 295 to moderate-income households, and 817 to above-moderate-income households.

This inventory can be found in Appendix A of the County's Housing Element. The determination of suitable sites to include in the inventory was based on what sites could be available for residential use in the planning period. Other characteristics the County must consider when evaluating the appropriateness of sites include physical features (e.g. susceptibility to flooding, slope instability or erosion, or environmental considerations) and location (proximity to transit, job centers, and public or community services). Approximately half of the original 21 parcels that are now consolidated into three parcels are included in the County's Housing Element site inventory.

CEQA ANALYSIS

The CEQA document was prepared as a Community Plan Exemption, pursuant to Public Resources Code Section 21083.3 and CEQA Guidelines Section 15183, "Projects Consistent with a Community Plan or Zoning", states that projects that are "consistent with the development density established by existing zoning, community plan or general plan policies for which an EIR was certified shall not require additional environmental review, except as might be necessary to examine whether there are project specific significant effects which are peculiar to the project or its site." Such projects are eligible for streamlined environmental review. Section 15183(c) specifies that "if an impact is not peculiar to the parcel or to the project, has been addressed as a significant effect in the prior EIR, or can be substantially mitigated by the imposition of uniformly applied development policies or standards (...), then an EIR need not be prepared for the project solely on the basis of that impact."

Further, Section 15183(b) states:

"In approving a project meeting the requirements of this section, a public agency shall limit its examination of environmental effects to those which the agency determines, in an initial study or other analysis:

1. Are peculiar to the project or the parcel on which the project would be located;
2. Were not analyzed as significant effects in a prior EIR on the zoning action, general plan or community plan with which the project is consistent;
3. Are potentially significant off-site impacts and cumulative impacts which were not discussed in the prior EIR prepared for the general plan, community plan or zoning action; or
4. Are previously identified significant effects which, as a result of substantial new information which was not known at the time the EIR was certified, are determined to have a more severe adverse impact than discussed in the prior EIR."

Pursuant to CEQA Guidelines Section 15183, the project qualifies for a community plan exemption. The project meets the requirements for a community plan exemption, as it is permitted in the zoning district where the project site is located and is consistent with the land uses and densities envisioned for the site in the *Castro Valley General Plan* and General Plan EIR, as described below in Subsection C, Project Consistency with General Plan. This CEQA document concludes that the project would not result in significant impacts that: (1) are peculiar to the project or project site; (2) were not identified as significant project-level, cumulative, or offsite effects in the General Plan EIR; or (3) were previously identified as significant effects but are determined to have a more severe adverse impact than discussed in the General Plan EIR.

CEQA Guidelines Section 15183(f) states that an impact is not peculiar "if uniformly applied development policies or standards have been previously adopted by the city or county with a finding that the development policies or standards will substantially mitigate that environmental impact when applied to future projects (...)." The County has such policies and standards in the County's Municipal Code Zoning Ordinance, and General Plan, which are referenced as needed to reduce potential impacts of the project. Consistent with the requirements of CEQA, a determination of whether the project would have a significant impact was made prior to the approval of the project and, where applicable, policies and regulations have been identified to mitigate those impacts. In some instances, exactly how the measures/conditions identified will be achieved awaits completion of future studies, an approach that is legally permissible where measures/conditions are known to be feasible for the impact identified; where subsequent compliance with identified federal, state, or local regulations or requirements apply; where specific performance criteria are

specified and required; and where the project commits to developing measures that comply with the requirements and criteria identified.

The *Castro Valley General Plan* (General Plan) is intended to serve as the basis for regulating land use and development in the unincorporated Castro Valley Planning Area (“Planning Area”) until the year 2025, which is the horizon year of the plan. The previous General Plan for Castro Valley was adopted in 1985.

The *Castro Valley General Plan* was prepared over a seven-year period from 2004 to 2012. The Notice of Preparation for the Draft General Plan EIR was filed with the State Clearinghouse on March 7, 2007 (State Clearinghouse Number: 2006032036) and the Draft General Plan EIR was published in April 2007. Subsequent to the publication, the County Board of Supervisors (“Board”) voted to adjust the Planning Area boundary to include several additional neighborhoods. As a result, a revised draft of the General Plan was published for public review in July 2010, and the revised Draft General Plan EIR was published in August 2011. The revised Draft General Plan EIR analyzed the expansion of the Planning Area boundaries and included a new chapter analyzing the impact of the General Plan on climate change.

The Final General Plan EIR incorporates the added material from the revised Draft General Plan EIR: the new chapter on climate change and the revisions to the initial Draft General Plan EIR associated with expansion of the Planning Area boundary. This eliminates the need for reference to the revised Draft General Plan EIR. On March 27, 2012, the Board approved the revised General Plan and certified the General Plan EIR.

The Castro Valley General Plan EIR notes that the General Plan EIR “will be used as a basis for environmental review of projects the County and its agencies undertake within the Castro Valley Planning Area or projects that may have environmental effects within the Castro Valley Planning Area.”

Based on the findings included in this CEQA document, no additional environmental documentation or analysis is required.

CONCLUSION

The proposed project is consistent with historical and current residential zoning, and also consistent with the residential land use designation documented in the 2012 Castro Valley General Plan. The state’s density bonus law allows concessions and waivers for additional density and less parking, and also less restrictive site development standards.

The project has improved since its original submittal and will benefit residents both locally and regionally. In addition to being an affordable housing project in an area of high housing demand, the publicly accessible trail and potential trailhead will provide important open space linkages that don’t currently exist. In response to many concerns with protecting the creek and its biological habitat, the Planning Department conducted a very rigorous environmental review, with extra emphasis on biological resources, the San Lorenzo Creek, and cultural resources.

As such, staff recommends approval of the Site Development Review by adopting the attached resolution with findings and the proposed conditions.

ATTACHMENTS

- Attachment A HARD Parcel B Letter of Intent

- Plan Set including architectural, grading and landscaping.
- Draft resolution to be considered by CVMAC, including conditions of approval.
- Comments received by the public.
- Please note that the CEQA Community Plan Exemption and associated attachments are publicly available on the Alameda County Planning Department's website, by following this link: <https://www.acgov.org/cda/planning/landuseprojects/currentprojects.htm>.

Prepared By: Nisha Chauhan, Senior Planner

Reviewed By: Albert Lopez, Planning Director

Attachment A

Hayward Area Recreational District

October 7, 2019

Re: Letter of Intent

Property located at the intersection of Ruby Street and A Street, Hayward, California

Dear Sirs:

Ruby Street, L.P., a California limited partnership ("RSLP") is interested in entering into an option agreement with Hayward Area Recreational District ("HARD") under which RSLP will grant HARD an option to purchase certain real property located at the intersection of Ruby Street and A Street in the City of Hayward, California, defined below. This Letter of Intent summarizes the basic terms and conditions upon which RSLP would be willing to enter into a binding option agreement granting HARD an option to purchase the Property (the "Agreement").

1. **Property:** The real property located in the unincorporated area, County of Alameda, State of California, described in Exhibit A, attached hereto and made a part hereof (the "Property").
2. **Purchase Price:** The purchase price for the Property shall be One Dollar (\$1.00).
3. **Project:** HARD shall use the Property as a new public park (the "Project") owned, operated, and maintained by HARD.
4. **Project Development:** The Agreement shall set forth RSLP's and HARD's responsibilities (i) for site preparation (relocation, demolition) for the Project, Project approvals, and construction of the Project, and (ii) for all costs associated therewith.
5. **License Agreement:** RSLP and HARD shall enter into a License Agreement granting HARD trail maintenance and management rights through property owned by RSLP located adjacent to the Property and more particularly described in Exhibit B, attached hereto and made a part hereof ("Adjacent Property").
6. **Trail Costs:** At HARD's option, RSLP shall complete additional improvements on or around the trail on the Adjacent Property and be reimbursed by HARD for all costs associated therewith.

7. Escrow Closing Date: Escrow shall close on a date mutually acceptable to RSLP and HARD.

8. Title Company: The Title Company will be as follows:

North American Title Company, Inc.
21060 Redwood Road, Suite 110
Castro Valley, CA 94546
Attn: Suzanne H. Smith, Escrow Officer

9. Closing Costs: All closing costs shall be paid per the custom in Alameda County.

10. Confidentiality: The parties shall maintain the confidentiality of the terms and conditions of the proposed transaction and the contents of this Letter of Intent and the transaction documents, except that either party may disclose the terms hereof to its attorneys or lenders or as required by law.

11. Legal Effect:

- a. RSLP and HARD each acknowledge that a transaction of this type involves terms and conditions which have not yet been agreed upon and that this Letter of Intent is not intended to be a complete or definitive statement of all of the terms and conditions of the proposed transaction, but contemplates and is subject to the negotiation and execution of the Agreement. Except as provided in Paragraph 10 above and in subparagraph 11(b) below, neither RSLP nor HARD will be legally bound in any manner or have any obligations, to each other unless and until the Agreement has been executed and delivered by both parties.
- b. This Letter of Intent does not constitute a binding commitment of RSLP or HARD with respect to the option to purchase the Property. Neither party shall have any such obligations unless and until an Agreement has been executed by the parties. The parties agree to negotiate in good faith to enter into an Agreement. This Letter of Intent shall terminate if RSLP has not received a countersigned copy of the Letter of Intent by November 15, 2019.

If the foregoing accurately describes your present intention concerning this transaction, please sign the enclosed counterpart of this letter and return it to the undersigned on or


before November 15, 2019. Upon receipt of a mutually executed Letter of Intent we will draft a formal Agreement for your review.

Very truly yours,

Ruby Street, L.P.,
a California limited partnership


By: Ruby Street LLC,
a California limited liability company,
its general partner

By: Eden Development, Inc.,
a California nonprofit public benefit corporation,
its sole member/manager

By: 
Name: Lydia Mendelsohn
Title: President

Accepted and Agreed:

Hayward Area Recreational District

By: 
Name: Danelle Cameron
Title: Acting General Manager

Date: 10/18/19

**RESOLUTION #2020-001 OF THE CASTRO VALLEY MUNICIPAL ADVISORY COUNCIL
APPROVING PLN2019-00024, SITE DEVELOPMENT REVIEW**

Introduced by Councilmember:

Seconded by Councilmember:

WHEREAS The Alameda County Planning Department did receive application PLN2019-00024, Site Development Review, submitted by the applicant, Eden Housing, Inc., for the construction of a new affordable, multi-family project with 72 rental housing units with associated parking and open space areas, and new a creek side trail. Three parcels, totaling 6.3 acres with Crescent Avenue to the north, Ruby Street to the northeast, and A Street to the southeast, Castro Valley area of unincorporated Alameda County. Previous County Assessor's Parcel Numbers 415-230-2, -3, -5, -11, -12, -13, -14, -15, -16, -17, -18, -19, -21, -22, -23, -24, -69, -70, -72, and -73. New parcel numbers have not been assigned yet; and

WHEREAS the *Castro Valley General Plan* (General Plan) classifies the subject property as Residential Low Density Multi-Family (RLM), which is suitable for 18-22 dwelling units/acre; and

WHEREAS the *Alameda County Municipal Code of Ordinances* zones the subject property as R-S-D-20 (Suburban Residence with "D" Combining District, requiring 2,000 square feet of building site per dwelling unit; and

WHEREAS the Suburban residence districts, hereinafter designated as R-S districts, are established to regulate and control the development in appropriate areas of relatively large building sites at various densities in harmony with the character of existing or proposed development in the neighborhood, and to assure the provision of light, air and privacy, and the maintenance of usable open space in amounts appropriate to the specific types and numbers of dwellings permitted; and

WHEREAS the combining D district is established to be combined with R-S districts in order to provide for variations in the intensity of development and thus to create, maintain and protect patterns of residential use in conformance with adopted plans concerning the ratio of dwelling units to land area; and

WHEREAS the project is a 100% affordable housing project and has requested a density bonus, concessions/incentives and waivers pursuant to California Government Code Sections 65915-65918 to exceed the base density allowed per the R-S-D20 designation, from 65 units to 72; and

WHEREAS with the density bonus request and the provided incentives, concessions and waivers, the Site Development Review has been found to be consistent with the requirements and intent of both the R-S and D Districts which allow for multi-family residential development; and

WHEREAS the proposed development was reviewed for compliance with the California Environmental Quality Act and a Community Plan Exemption pursuant to the Castro Valley General Plan Final Environmental Impact Report that was approved on March 27, 2012; and

WHEREAS the Castro Valley Municipal Advisory Council did hold a duly noticed public hearing on said project at the hour of 6:00p.m. on Monday June 8, 2020, listened to public testimony and deliberated on the project; and

NOW THEREFORE,

BE IT RESOLVED the Castro Valley Municipal Advisory Council does hereby find that the Community Plan Exemption document adequately analyzes and evaluates potential impacts related to the proposed project, and

BE IT FURTHER RESOLVED the Council finds that the project is consistent with the land use regulations of the General Plan and zoning, and that the density bonus law has been appropriately applied in this case, and

BE IT FURTHER RESOLVED that the Council does hereby recommend approval of PLN2019-00024, Site Development Review, with the conditions of approval (below), and as set forth in Exhibit "A", June 11, 2019 Planning Department staff report, and Exhibit "B", the approved plans;

ADOPTED BY THE FOLLOWING VOTE:

AYES:

NOES:

ABSENT:

EXCUSED:

ABSTAINED:

CONDITIONS OF APPROVAL, PLN2019-00024 SITE DEVELOPMENT REVIEW

THIS SITE SHALL BE DEVELOPED AND MAINTAINED IN CONFORMANCE WITH THE DESIGN, STATEMENTS, AND CONDITIONS INDICATED HEREON. NO STRUCTURES OR OTHER USES THAN THOSE INDICATED ARE PERMITTED.

ANY DESIGN MODIFICATIONS REQUESTED BY ANY PARTY, EITHER PRIOR TO THE ISSUANCE OF A BUILDING PERMIT OR DURING CONSTRUCTION, SHALL BE SUBJECT TO APPROVAL BY THE PLANNING DIRECTOR.

This approval of the Site Development Review is subject to plans marked "Exhibit B" dated XXX, 2020, on file with the Alameda County Planning Department and the following conditions:

1. Approval of PLN2019-00024 authorizes a Site Development Review permit to construct a new affordable, multi-family project with 72 rental housing units with associated parking and open space areas, and new a creek side trail. The total site consists of three parcels, totaling 6.3 acres with Crescent Avenue to the north, Ruby Street to the northeast, and A Street to the southeast, Castro Valley area of unincorporated Alameda County. Previous County Assessor's Parcel Numbers 415-230-2, -3, -5, -11, -12, -13, -14, -15, -16, -17, -18, -19, -21, -22, -23, -24, -69, -70, -72, and -73. New parcel numbers have not been assigned.
2. Minor modification(s) to plans marked, PLN2019-00024 Exhibit "B", as well as to these Conditions of Approval, may be conducted as an administrative Planning Department staff-level procedure not requiring a public hearing. The determination of minor modification(s) and of the level of staff review necessary shall be subject to the discretion by the Planning Director.
3. The project shall be constructed as shown in Exhibit "B". Any phasing plan other than complete build-out shall be provided to the County for approval. This requirement shall apply to the current applicant/developer and any subsequent applicant/developer.
4. Eden Housing shall enter into an housing affordable agreement specifying the affordability terms and conditions, as specified per the Density Bonus Law (California Government Code Sections 65915-65918), to be recorded against the property with a minimum term of 55 years.
5. As indicated by a letter of intent on file in the department, Eden Housing shall enter into a purchase agreement to sell Parcel B to the Hayward Area Recreational District (HARD) for the intent of creating a trail head at A St.
6. Eden Housing shall deed Parcel C to the Alameda County Flood Control and Water Conservation District (District).
7. Prior to occupancy of any of the units in the project, Eden Housing shall design, construct, and fund construction of the trail shown on Exhibit B, at 10' wide with 2' shoulders on both sides (14' total) to be used as a public trail and a maintenance access road for the Alameda County Flood Control and Water Conservation District. Eden Housing shall design and construct the trail according to HARD's trail design standards. Eden Housing shall coordinate with Caltrans to ensure that the trail is not located in the Caltrans mitigation area. The trail shall not be located in riparian areas, nor shall grading for the trail occur in riparian areas. Eden Housing shall grant an access agreement to Alameda County Flood Control and Water Conservation District for maintenance vehicle access along the trail. Eden Housing shall enter into a trail maintenance agreement with HARD and shall provide a public access easement along the trail.

8. All site improvements, including all landscaping, grading, stormwater treatment, drainage control, exterior structures, and buildings, shall be subject to review and approval by Alameda County Planning Department and Public Works Agency (PWA). All site improvements shall be subject to laws, policies, and regulations applicable at the time of application for respective Demolition, Grading, Site, Stormwater, Encroachment, or Building Permits.

9. The environmental conditions (including the pre-construction surveys and required permits from state and federal resource agencies) and the avoidance measures stated in the CEQA Community Plan Exemption (CPE) (October 2019) and the CEQA Master Responses (May 2020) are hereby incorporated into these Conditions of Approval and shall have the same force and effect. Minor modification(s) to the environmental conditions and avoidance measures related to the CEQA CPE and CEQA Master Responses may be conducted as an administrative Planning Department staff-level procedure not requiring a public hearing. The determination of minor modification(s) and of the level of staff review necessary shall be subject to the discretion of the Planning Director.

10. A pre-construction bird/bat survey schedule shall be submitted to the Department for review pursuant to the requirements identified in the CEQA CPE (October 2019) and the CEQA Response Memo (May 2020).

11. A final landscape plan shall be reviewed and approved by the Planning Director prior to building permit issuance. The plan shall demonstrate compliance with the California State Water Efficiency Landscape Ordinance and with the Alameda Countywide Clean Water Program stormwater treatment and stormwater pollution prevention drainage regulations.

12. Prior to any grading work near/within the watercourse setback, a watercourse encroachment permit or a grading permit shall be secured from PWA in accordance with the Alameda County Watercourse Protection Ordinance.

13. All roadway and storm drain facilities are to conform to Alameda County's Subdivision Design Guidelines and Hydrology and Hydraulics Criteria Summary. All work must be in compliance with the Alameda County ordinances, guidelines, and permit requirements.

14. The applicant shall submit to PWA a Zone A FIRM study using the FEMA Zone A Manual for Determining Base Flood Elevations in Special Flood Hazard Areas. This study shall be submitted with the grading permit application.

15. The applicant shall submit an updated site-specific geotechnical report with their building permit application.

16. The applicant shall coordinate with PWA and the CDFW regarding permits required for the proposed stormwater outfall.

17. The permittee shall meet the requirements of the following agencies:

- a. Alameda County Fire Department
- b. Alameda County Public Works Agency, Building Inspection Department
- c. Alameda County Public Works Agency, Land Development
- d. Alameda County Public Works Agency, Grading Division
- e. Alameda County Public Works Agency, Flood Control and Water Conservation District

18. The following conditions shall be met prior the issuance of a building permit and fire clearance for occupancy.

- a. Comply with all building and fire code requirements in effect at time of building permit submittal.
- b. Certification of each floor will be required at time of construction. This shall be done by a licensed engineer or architect.
- c. Deferred fire sprinkler and possible fire alarm plans will need to be submitted after construction plans.

19. Prior to issuance of a Building Permit, the plans shall demonstrate that the required Fire Sprinkler (fire alarm) water flow monitoring system will be installed, to the satisfaction of the Alameda County Fire Department.

20. The project shall comply with all applicable building and fire codes and submittal requirements in effect at time of Building Permit application.

21. New proposed structures shall comply with Alameda County Green Building Ordinance, Construction & Demolishing Debris Management program and California Green Building Code.

22. The Building Permit plans shall include bicycle storage facilities to the satisfaction of the County.

23. The Building Permit plans shall show car-share and electric vehicle parking to the satisfaction of the County.

24. Trash enclosures shall be covered and comply with Alameda County clean water requirements set forth in Section 15.08.190 of the Alameda County Ordinance Code.

25. All required permits related to the onsite stormwater system, underground utilities, parking lot lighting, and accessible paths of travel, shall be obtained prior to issuance of a Building Permit.

26. All Americans with Disabilities Act accessibility requirements shall be met by the project.

27. A California licensed architect or engineer shall be designated as the design professional responsible charge for the project submittal for Grading and Building Permits.

28. Prior to approval of Building Permits, the potential fault rupture hazard at the project site must be assessed by a qualified geologist and reviewed and approved by the Alameda County PWA pursuant to the provisions of Alquist-Priolo Earthquake Fault Zoning Act and the Special Publication 42. The developer shall provide the necessary funding for the completion of this review.

29. The applicant /property owner(s) shall defend, indemnify, and hold harmless Alameda County and its agents, officers, and employees from any claim, action, or proceeding against Alameda County or its agents, officers or employees to attack, set aside, void, or annul Site Development Review PLN2019-00024, the CEQA determination, or any combination thereof. Such indemnification shall include, but not be limited to, an award of costs and attorney's fees incurred by Alameda County in its defense. The County shall promptly notify applicant of any such challenge.

30. The applicant, owner, or successor shall comply with all other local, state, or federal regulations, laws, and ordinances, during the life of this Permit. Failure to comply with all other local, state, or federal may subject the permit to revocation in accordance with conditions of approval herein and per the Alameda County Zoning Ordinance Section 17.54.030.

CVMAC Reso #2020-001
June 8, 2020
PLN2019-00024

31. During construction, the applicant, owner, or successor shall keep the subject site secure against illegal trespassing with fencing to the satisfaction of the Planning Director.

****END OF CONDITIONS****