



6000 Heritage Trail • Clayton, California 94517
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PLANNING COMMISSION NOTICE OF DECISION

DATE: December 20, 2019

FILED WITH: Secretary of the Commission
City Clerk

RE: The Olivia on Marsh Creek Project Environmental Review (ENV-01-17), Density Bonus Application (DBA-01-19), Site Plan Review Permit (SPR-04-17), and Tree Removal Permit (TRP-24-17)

At the conclusion of a duly noticed public hearing on December 10, 2019, which had been initiated at and continued from a public hearing on November 12, 2019, the Clayton Planning Commission made the following decision and no decision, A. and B., respectively, for the project described below.

PROJECT DESCRIPTION

The applicant, William Jordan, requested a public hearing before the Clayton Planning Commission for the purpose of reviewing the Infill Exemption (ENV-01-17), Affordable Housing Density Bonus Application (DBA-01-19), Site Plan Review Permit (SPR-04-17), and Tree Removal Permit (TRP-24-17) for The Olivia on Marsh Creek, a proposed 81-unit senior (55 and older) rental housing project. The project includes seven affordable units designated for Very Low Income households (as defined by the U.S. Department of Housing and Urban Development [HUD]). The proposed development is located on three adjacent parcels at the southwest corner of the intersection of High Street and Marsh Creek Road in the Town Center of Clayton.

At the December 10, 2020 public hearing, the Clayton Planning Commission considered two resolutions related to the project: A., Resolution No. 05-19, regarding the Environmental Infill Exemption (ENV-01-17) and B., Resolution No. 06-19, regarding the Affordable Housing Density Bonus Application (DBA-01-19), Site Plan Review Permit (SPR-04-17), and Tree Removal Permit (TRP-24-17). By a 3-1 vote the Planning Commission approved Resolution No. 05-19 regarding ENV-01-17. By a 2-2 vote a no decision was the resulting action on Resolution No. 06-19 regarding DBA-01-19, SPR-04-17, and TRP-24-17.

These actions of the Planning Commission shall be final unless appealed to the City Council with the appeal fee, within ten (10) days from the date of the Notice of Decision in accordance with Chapter 17.68 Decisions and Appeals of the Clayton Municipal Code. The date of this Notice of Decision is December 20, 2019. Given that there are City holidays on December 24 and 25, 2019, and January 1, 2020, the appeal period is extended to January 2, 2020. The fee to file an appeal of a Planning Commission action on this residential project is \$324.00 in accordance with the City's Master Fee Schedule for Fiscal Year 2019-20. There were two actions (A. and B.) of the Planning Commission

related to this application as described above. If appeals would be filed separately for the actions, each appeal would pay the \$324.00 fee; if a single appeal would be filed for both actions, one fee of \$324.00 would be charged. An appeal form is available at the Community Development Department:

https://ci.clayton.ca.us/fc/onlineforms/cddforms/Appeal_PC_Decision.pdf

A. ENVIRONMENTAL REVIEW INFILL EXEMPTION (ENV-01-17)

PLANNING COMMISSION DECISION FOR ENVIRONMENTAL REVIEW INFILL EXEMPTION (ENV-01-17)

By a 3-1 vote, the Planning Commission adopted the attached Planning Commission Resolution No. 05-19 making the determination that the project qualifies for a Categorical Exemption, under Class 32 Infill Development Projects, pursuant to the California Environmental Quality Act (CEQA), for The Olivia on Marsh Creek, an 81-unit senior residential development project.

B. AFFORDABLE HOUSING DENSITY BONUS APPLICATION (DBA-01-19), SITE PLAN REVIEW PERMIT (SPR-04-17), AND TREE REMOVAL PERMIT (TRP-24-17)

PLANNING COMMISSION NO-DECISION FOR AFFORDABLE HOUSING DENSITY BONUS APPLICATION (DBA-01-19), SITE PLAN REVIEW PERMIT (SPR-04-17), AND TREE REMOVAL PERMIT (TRP-24-17)

The Planning Commission rendered a 2-2 no-decision for the attached Planning Commission Resolution No. 06-19 regarding the approval of the Affordable Housing Density Bonus Application (DBA-01-19), Site Plan Review Permit (SPR-04-17), and Tree Removal Permit (TRP-24-17) for The Olivia on Marsh Creek, an 81-unit senior residential development project.

David Woltering /s/

December 20, 2019

David Woltering, AICP, MPA
Interim Community Development Director

Date

Attachments

Planning Commission Resolution No. 05-19
Planning Commission Resolution No. 06-19

**CITY OF CLAYTON
PLANNING COMMISSION
RESOLUTION NO. 05-19**

**A RESOLUTION OF THE CLAYTON PLANNING COMMISSION DETERMINING THAT THE OLIVIA
ON MARSH CREEK SENIOR HOUSING PROJECT QUALIFIES FOR A CATEGORICAL EXEMPTION
UNDER CLASS 32 – INFILL DEVELOPMENT PROJECTS
PURSUANT TO THE CALIFORNIA ENVIRONMENTAL QUALITY ACT
(ENV-01-17)**

WHEREAS, the City received an application from William Jordan requesting review and consideration of an Affordable Housing Density Bonus Application (DBA-01-19), Site Plan Review Permit (SPR-04-17), Tree Removal Permit (TRP-24-17), and related Environmental Review (ENV-01-17) for development of an 81-unit senior residential development located on three adjacent parcels with a total area of 3.02 acres ("Project"), located at the southwest intersection of High Street and Marsh Creek Road (APNs: 119-021-063, 119-021-055, and 119-021-013); and

WHEREAS, the Project meets the definition of an infill development project as specified in Section 15332 of Title 14 of the California Code of Regulations, the California Environmental Quality Act ("CEQA") Guidelines; and

WHEREAS, the City commissioned an independent analysis of the Project's eligibility for a Class 32 Infill Exemption by Raney Planning & Management, Inc., titled "Infill Exemption Environmental Analysis for Clayton Senior Housing Project" and dated June 14, 2019, which analyzes whether the Project meets all criteria of the Class 32 Infill Exemption as stated in CEQA Guidelines Section 15332, and which is attached as Exhibit A to this Resolution; and

WHEREAS, the Clayton Planning Commission has reviewed the "Infill Exemption Environmental Analysis for Clayton Senior Housing Project"; and

WHEREAS, on November 12, 2019, and December 10, 2019, the Clayton Planning Commission held a duly-noticed public hearings on the Project, including staff's recommended determination of a Class 32 Categorical Exemption (Infill Development Projects) pursuant to the CEQA Guidelines.

NOW, THEREFORE, BE IT RESOLVED, as follows:

1. The foregoing recitals are true and correct.
2. The Clayton Planning Commission hereby finds, on the basis of the whole record before it, that:
 - a. The City of Clayton exercised overall control and direction over the CEQA review for the Project, including the preparation of the “Infill Exemption Environmental Analysis for Clayton Senior Housing”, and independently reviewed the same; and
 - b. There is no substantial evidence that the Project will have a significant effect on the environment; and
 - c. The “Infill Exemption Environmental Analysis for Clayton Senior Housing” reflects the City’s independent judgment and analysis.
3. The Clayton Planning Commission hereby determines that the Project is Categorically Exempt, under Class 32 – Infill Development Projects, from further review pursuant to the California Environmental Quality Act.

PASSED AND ADOPTED by the Planning Commission of the City of Clayton at a regular meeting on the 10th day of December, 2019.

APPROVED:

ATTEST:



Peter Cloven
Chair

David Woltering
Interim Community Development Director

ATTACHMENTS

Exhibit A – Infill Exemption Environmental Analysis for Clayton Senior Housing Project by Raney Planning & Management, Inc. (supporting technical studies are available for review in the Community Development Department at Clayton City Hall)



June 14, 2019

David Woltering
Interim Community Development Director
City of Clayton
6000 Heritage Trail
Clayton, CA

WWW.RANEYMANAGEMENT.COM

NORTHERN CALIFORNIA

1501 SPORTS DRIVE SUITE A
SACRAMENTO, CA 95834

TEL: 916.372.6100 • FAX: 916.419.6108

Subject: Infill Exemption Environmental Analysis for Clayton Senior Housing Project

Dear Mr. Woltering:

The City of Clayton retained Raney Planning & Management, Inc. (Raney) to determine whether the Clayton Senior Housing Project satisfies criteria (c) and (d) of the Class 32 Infill Exemption included in the California Environmental Quality Act (CEQA) Guidelines. The specific conditions identified in the Class 32 Infill Exemption in the CEQA Guidelines are as follows (specific emphasis has been added for criteria (c) and (d)):

Class 32 consists of projects characterized as in-fill development meeting the conditions described in this section.

- (a) *The project is consistent with the applicable general plan designation and all applicable general plan policies as well as with applicable zoning designation and regulations.*
- (b) *The proposed development occurs within city limits on a project site of no more than five acres substantially surrounded by urban uses.*
- (c) *The project site has no value as habitat for endangered, rare or threatened species.*
- (d) *Approval of the project would not result in any significant effects relating to traffic, noise, air quality, or water quality.*
- (e) *The site can be adequately served by all required utilities and public services.*

The applicant team prepared several technical studies for the project, which provide information needed to determine whether the project satisfies criteria (c) and (d). To that end, the Raney team performed peer reviews of the applicant-prepared reports to determine their adequacy. The technical reports for the Clayton Senior Housing Project are as follows:

- *6170 High Street/6450 Marsh Creek Road, 6490 Marsh Creek Road – Revised Biological Constraints Assessment Survey Results* (November 6, 2018), prepared by Olberding Environmental;
- *Air Quality & Greenhouse Gas Impact Assessment for the Proposed Clayton Senior Housing Project, Clayton, CA*, prepared by Ambient Air Quality & Noise Consulting (September 24, 2018);
- *Noise & Groundborne Vibration Impact Assessment for the Proposed Clayton Senior Housing Project, Clayton, CA*, prepared by Ambient Air Quality & Noise Consulting (September 21, 2018); and
- *Clayton Senior Housing Trip Generation Study Final Letter* (May 8, 2017), prepared by Kimley Horn.

The following section provides a summary of Raney's review of the technical biological, air quality, noise, traffic, and water quality studies.

Biological

Raney has determined that the methods employed by Olberding Environmental are in general conformance with industry standard practice for biological assessments. For example, the report includes a search of the California Natural Diversity Database (CNDDDB) maintained by the California Department of Fish and Wildlife, and reports the special-status species recorded within an extended radius around the project site (presumably 5 miles). The initial peer review comments provided by Raney to the City on September 19, 2018 have been adequately addressed in the final November 6, 2018 report. The report concludes that the project site has no value as habitat for endangered, rare or threatened species, consistent with criteria (c) of Infill Exemption 15332.

Air Quality

Raney has concluded that the Air Quality/Greenhouse Gas analysis was completed in accordance with current industry standards, and in compliance with the recommended guidance of the Bay Area Air Quality Management District (BAAQMD). The general methodology of the Technical Memorandum included estimating potential air quality and greenhouse gas (GHG) emissions from construction and operation of the proposed project, using the most-up-to-date version of the California Emissions Estimator Model (CalEEMod) software. To assess the adequacy of the Air Quality/GHG analysis presented in the Technical Memorandum, Raney reviewed the methods, assumptions, and CalEEMod outputs provided by Ambient Consulting. The initial peer review comments provided by Raney to the City on July 20, 2018 and September 7, 2018 have been adequately addressed in the final September 24, 2018 report. The report concludes that the proposed project would result in construction and operational emissions below the BAAQMD's thresholds of significance. Thus, the proposed project would not result in any significant air quality effects, consistent with criteria (d) of Infill Exemption 15332.

Noise

Raney hired j.c. brennan & associates, Inc., a noise technical expert, to perform a technical peer review of the project-specific noise and vibration study. j.c. brennan & associates reviewed the report methodology and results and determined that the report was completed in accordance with current industry standards and adequately addresses whether the proposed project would exceed the City of Clayton's General Plan Noise Element and/or Noise Ordinance standards. The report concludes that the proposed project would result in operational noise levels below the relevant City noise thresholds. With respect to construction noise, the report correctly notes that construction activities occurring between the allowable hours specified in Clayton Municipal Code Section 15.01.101 are not subject to the City's noise level thresholds. Per City Ordinance, construction hours for the project would be limited. Thus, the proposed project would not result in any significant noise effects, consistent with criteria (d) of Infill Exemption 15332.

Traffic

Raney consulted with Abrams Associates Traffic Engineering, Inc. to advise on the accuracy of a Trip Generation Study prepared for the proposed project by Kimley Horn. On May 9, 2018, Abrams Associates confirmed that the method of analysis used in the Trip Generation Study was correct, and that the resulting trip estimates are accurate. The Trip Generation Study concludes that the proposed project would generate 16 AM peak hour trips and 19 PM peak hour trips using the ITE Trip Generation Manual. The expected AM and PM peak hour trips are well below the Contra Costa Transportation Authority's 100 peak hour trip threshold for warranting a traffic impact analysis. Additionally, the nearby intersection of Marsh Creek Road/Clayton Road was analyzed and it was determined that the intersection would not be impacted by the relatively small increase in trips in the vicinity. Thus, the proposed project would not result in any significant traffic effects, consistent with criteria (d) of Infill Exemption 15332.

Hydrology

The City Engineer has reviewed the proposed project's potential to significantly effect water quality in the vicinity and has determined that compliance with existing stormwater regulations would ensure no significant adverse water quality effects would occur, as the following will demonstrate. The proposed project would implement the City of Clayton development standards, as well as adhere to all regulations set forth by the Regional Water Quality Control Board, including Section C.3 of the Municipal Regional Storm Water Permit. Additionally, the proposed project would adhere to all requirements for sewerage collection and purveyance of drinking water enforced by the Contra Costa Water District. The City Engineer determined that the proposed project would not introduce any extraordinary issues that would negatively impact water quality on the project site or in the surrounding area. Thus, the proposed project would not result in any significant water quality effects, consistent with criteria (d) of Infill Exemption 15332.

Conclusion

As discussed above, the project site does not contain valuable habitat for endangered, rare or threatened species. Based on an air quality analysis conducted for the proposed project, emissions of criteria pollutants associated with the project would not exceed applicable thresholds established by BAAQMD. Additionally, as determined by the technical studies, the proposed project would be consistent with all applicable regulations set forth by the City and Contra Costa County with regard to noise and traffic. Finally, the City Engineer has evaluated the project site plans and determined that the proposed project would not create any significant adverse effects to water quality on the project site or in the surrounding area. Based on the above, the Clayton Senior Housing Project would satisfy the Infill Exemption conditions (c) related to biological resources and (d) related to air quality, noise, traffic, and water quality.

Exceptions to Categorical Exemptions

Even if a project is ordinarily exempt under any of the categorical exemptions, CEQA Guidelines Section 15300.2 provides specific instances where exceptions to otherwise applicable exemptions apply. The following is a discussion of any possible exceptions to the CEQA exemption.

Criterion 15300.2(a): Location

This exception only applies to CEQA exemptions under Classes 3,4,5,6, or 11. Since the proposed project qualifies as a Class 32 Infill Exemption, Criterion 15300.2(a) would not apply.

Criterion 15300.2(b): Cumulative Impact

The project site is currently designated Multifamily High Density Residential in the Clayton General Plan and zoned Planned Development. The proposed project is consistent with the site's General Plan and zoning designations. Therefore, impacts of the project have been anticipated by the City and analyzed in the General Plan EIR. Furthermore, the proposed project would not create a significant impact related to modification of habitat for endangered, rare, or threatened species, air quality, noise, traffic, or water quality. Thus, the overall effects of the proposed project would be less than significant and would not contribute to significant cumulative impacts.

Criterion 15300.2(c): Unusual Circumstances

The proposed project would develop a senior housing facility on a project site currently planned for residential development. As discussed above, the Biological Assessment determined that the site does not contain any suitable habitat for endangered, rare, or threatened species; and, such species are not anticipated to occur on-site. Additionally, the project site has not been identified as a source of potentially hazardous materials or waste contamination which could pose a risk to surrounding residents. Based on the above, the project site is not affected by any unusual circumstances. Thus, the exception regarding significant effects on the environment due to unusual circumstances would not apply.

Criterion 15300.2(d): Scenic Highway

The project site would not be located within view of any Officially Designated Scenic Highway. Interstate 680 (I-680), an Officially Designated Scenic Highway, is located approximately 7.5 miles southwest of the project site; however, I-680 would not provide views of the project site.¹ Thus, the exception regarding scenic highways would not apply.

Criterion 15300.2(e): Hazardous Waste Sites

The Cortese List, consisting of databases identified in California Government Code Section 65962.5, was consulted to identify sites with known hazardous materials or waste contamination within or adjacent to the project site; however, none were found. Thus, an exception to the Class 32 exemption based on the presence of a hazardous waste site would not apply.

Criterion 15300.2(f): Historical Resources

The City of Clayton's *Heritage Preservation Task Force Report* includes a list of any potentially historic resources located within the City, including historic resources listed on either the California Register of Historical Resources or the National Register. Based on the Report, the existing on-site structures are not listed as historical resources and the project site does not contain any other structures which are considered historic by the City. In addition, the project site is located within an urbanized area of the City of Clayton and is surrounded by development. Thus, archaeological and paleontological resources are not anticipated be present at or near the project site. Therefore, the exception based on presence of historical resources would not apply.

Conclusion

Based on the above discussions, the proposed project would be consistent with the General Plan and zoning designations. Consistency with such would ensure that the project would not result in any cumulative impacts which have not already been anticipated by the City. In addition, the project site does not contain any unusual circumstances. Finally, the project site is not within view of a Scenic Highway, identified as a source of hazardous materials, and does not contain any recorded historic resources. Based on the above, the proposed project would not meet any of the exception criteria for a Class 32 Infill Exemption.

Please contact me at (916) 372-6100 if you have any questions regarding this Infill Exemption analysis.

Sincerely,

Nick Pappani
Vice President
Raney Planning and Management, Inc.

¹ California Department of Transportation. *California Scenic Highway Mapping System Contra Costa County*. Accessed June 2019. Available at: http://www.dot.ca.gov/hq/LandArch/16_livability/scenic_highways/.

**CITY OF CLAYTON
PLANNING COMMISSION
RESOLUTION NO. 06-19**

A RESOLUTION APPROVING THE AFFORDABLE HOUSING DENSITY BONUS APPLICATION (DBA-01-19), SITE PLAN REVIEW (SPR-04-17), AND TREE REMOVAL PERMIT (TRP-S4-17) FOR THE OLIVIA ON MARSH CREEK SENIOR HOUSING PROJECT

WHEREAS, the City received an application from William Jordan requesting review and consideration of an Affordable Housing Density Bonus Application (DBA-01-19), Site Plan Review Permit (SPR-04-17), and Tree Removal Permit (TRP-24-17), and related Environmental Review (ENV-01-17) for development of an 81-unit senior residential project located on three adjacent parcels with a total area of 3.02 acres (“Project”), known as The Olivia on Marsh Creek Road, located at the southwest intersection of High Street and Marsh Creek Road (APNs: 119-021-063, 119-021-055, and 119-021-013); and

WHEREAS, the City commissioned an independent analysis of the Project’s eligibility for an Infill Exemption by Raney Planning & Management, Inc., titled “Infill Exemption Environmental Analysis for Clayton Senior Housing Project” and dated June 14, 2019, which analyzes whether the Project meets all criteria of the Class 32 Infill Exemption as stated in California Environmental Quality Act (CEQA) Guidelines Section 15332; and

WHEREAS, the Clayton Planning Commission adopted Resolution No. 05-19 determining that the Project is Categorically Exempt from environmental review pursuant to CEQA, under Class 32 (Infill Development Projects) of the CEQA Guidelines, at the Planning Commission meeting of December 10, 2019; and

WHEREAS, proper notice of this public hearing was given in all respects as required by law; and

WHEREAS, on November 12, 2019, and on December 10, 2019, the Clayton Planning Commission held a duly-noticed public hearing on the Project and received and considered testimony and evidence, both oral and documentary.

NOW, THEREFORE, BE IT RESOLVED, the Planning Commission does determine the foregoing recitals are true and correct and makes the following findings for approval of the Project:

Clayton Municipal Code (CMC) Section 17.90.090 and State Density Bonus law states that the City shall grant the concessions or incentives requested by a project applicant unless the City makes a written finding, based upon substantial evidence, of either of the following:

- A. The concession or incentive is not required in order to provide for Affordable Housing Costs;***
- B. The concession or incentive would have a specific adverse impact upon public health and safety or the physical environment or on any real property that is listed in the Federal Register of Historical Resources or any locally officially designated architecturally and historically significant buildings and for which there is no feasible method to satisfactorily mitigate or avoid the specific adverse impact without rendering the development unaffordable to Low and Moderate Income households.***

The applicant has submitted documentation demonstrating that the two requested concessions are required in order to make the development project economically feasible with inclusion of the affordable units. According to the independent analysis prepared on the applicant's behalf, and subject to a peer review by the City's independent consultant, for the cost savings of the concessions: (1) a reduction in setback requirements for buildings and parking spaces; and (2) a reduction in the required number of parking spaces; the total cost savings makes it possible to offer seven units at reduced rents to Very Low Income households.

The City further finds that the requested concessions would not have an adverse impact on public health or safety, the physical environment, or historic resources as defined in Government Code section 65589.5(d)(2). There are no environmentally sensitive areas or historic resources on or adjacent to the project site. With one parking space provided per dwelling unit, the project will avoid any potential negative impacts related to parking.

NOW THEREFORE BE IT FURTHER RESOLVED, the Planning Commission hereby makes the following required findings for approval of a Site Plan Review Permit:

- 1. That the project is consistent with the General Plan and Town Center Specific Plan designations and policies.***

The General Plan designation of the project site is Multifamily High Density (MHD) (20 units per acre) and the Specific Plan designation is Multi-Family High Density Residential (15.1-20 units per acre). These designations are intended to facilitate development of apartments or condominiums, and include affordable housing, two stories or higher in areas of Clayton where higher densities are appropriate, such as near the commercial center. The proposed development is partially within and immediately adjacent to the commercial Town Center of Clayton. The proposed design is complementary to the western design theme of the Town Center Specific Plan. The land use designation allows for maximum structural coverage of 65% of the site area. The proposed project is well below this maximum, with lot coverages of 24.1% for 6170 High Street, 24.5% for 6450 Marsh Creek Road, and 26.1% for 6490 Marsh Creek Road.

The policies for the MHD land use designation encourage new development to use “Planned Development concepts and standards, with incorporation of significant design and amenity in the project.” The project site is subject to the Planned Development District zoning regulations and corresponding development standards. The project is well designed, with quality building materials, articulated facades, ample open space, diverse and attractive landscaping, and other amenities including outdoor furnishings, bicycle racks and an assigned parking space for each unit.

Due to the project incorporating a density bonus, pursuant to State law and the City’s Affordable Housing Density Bonus Requirements Ordinance, it exceeds the 20 unit per acre residential density for the MHD land use designation. Proposed residential density for the project with the bonus units is 26.8 units per acre. However, the state Density Bonus Law allows a development project to exceed the maximum density allowed under the General Plan when affordable housing units are included and the granting of the density bonus shall not require, or be interpreted, in and of itself, to require a general plan amendment. Furthermore, the Density Bonus Law requires the City to approve the project with the additional density, provided that it meets all requirements of the law and does not result in specific adverse impacts as defined in Government Code section 65589.5(d)(2). Thus, in this case the project is allowed and is consistent with state law and the City’s general plan and local regulations (CMC Chapter 17.90) at the proposed density of 26.8 units per acre.

2. Meets the standards and requirements of the Zoning Ordinance.

The project meets the requirements of CMC Chapter 17.90, the Affordable Housing Density Bonus Requirements. Eleven percent of the number of 60 residential units allowed under the General Plan are set aside for households meeting HUD’s definition of Very Low Income. Therefore, the project is entitled to a 35 percent density bonus, equivalent to 21 additional units. The type and size of affordable units reflects the range and sizes of units in the project as a whole (five one-bedroom units and two two-bedroom units are designated as below market rate [BMR]). The units are dispersed throughout the three buildings and are identical in design and construction quality to the market-rate units.

The applicant has submitted all required materials for the Affordable Housing Unit Plan that are listed in CMC Section 17.90.140. A requirement for an Affordable Housing Unit Agreement pursuant to CMC Section 17.90.150 has been included as a Condition of Approval for the project.

In addition, the project complies with the zoning standards of the Planned Development District in CMC Chapter 17.28. As prescribed in CMC Section 17.28.050.B, the applicable development standards are the Multiple Family Residential High Density (M-R-H) District standards in Chapter 17.20. With the

exception of minor variations in required setbacks and building height and the reduced parking requirements that are permitted through the granting of concessions and waivers/reductions pursuant to the Density Bonus Law, which shall not require, or be interpreted, in and of itself, to require a zoning change the project meets the development standards for the M-R-H District.

3. *Preserves the general safety of the community regarding seismic, landslide, flooding, fire, and traffic hazards.*

The project is located on a mostly level site that is not impacted by landslide hazard and is not located in an area at risk of flooding. The project will comply with local and State building codes for seismic safety and fire prevention.

4. *Maintains solar rights of adjacent properties.*

The project is located on a relatively flat site and maintains adequate building setbacks from property lines, thereby avoiding shadow impacts and protecting solar access for adjacent properties.

5. *Reasonably maintains the privacy of adjacent property owners and/or occupants.*

Mature existing trees along the western property line of the subject parcels and along the southern property line of 6490 Marsh Creek Road will be maintained, helping to ensure privacy for adjacent properties to the west and south. In addition, new Oak and Bay trees will be planted along the western property line of 6170 High Street to provide additional screening. Along the “flagpole” section of 6470 Marsh Creek Road that is located between the two subject parcels at 6450 and 6490 Marsh Creek Road, six-foot high solid wood fencing is proposed to ensure privacy for the former parcel.

6. *Reasonably maintains the existing views of adjacent property owners and/or occupants.*

The project is located on a relatively flat site and is downhill from the adjacent property to the west. Because of the significant difference in elevation between the subject site (approximate elevation of 400 feet above sea level) and the properties to the west, 6470 Marsh Creek Road and 6061 Clayton View Lane, (approximate elevation of 450 feet above sea level) the proposed buildings will not obstruct views from these neighboring properties to the west. No other properties adjacent to the project site have significant views.

7. *Is complementary, although not identical, with adjacent existing structures in terms of design, materials, colors, size, and bulk.*

The applicant has requested a waiver of this standard pursuant to the Density Bonus Law. The size and bulk of the proposed buildings (three stories in height) exceed that of many of the existing structures in the surrounding area. However, the topography in the vicinity of the project site, specifically the hill immediately to the west, has the effect of lessening the visual impact of the taller buildings. In addition, variations in exterior wall planes and design articulation of the facades helps to create a less bulky appearance.

Building materials such as smooth hardiplank siding, brick and composition shingle roofing, as well as stone retaining walls, are similar and complementary to the design and rustic character of nearby structures. Proposed exterior colors for the buildings are primarily neutral and natural earth-tones, such as beiges, browns, grays, and brownish shades of red, which are complementary with the character of the surrounding area.

8. Is in accordance with the design standards for manufactured homes per Section 17.36.078. of the CMC

Not applicable – the project does not include manufactured homes.

9. Proposed tree removal with proposed tree replacement will not adversely impact the health, safety, and general welfare of the residents, while balancing the right of an individual to develop private property per Section 15.70.010 of the CMC.

The applicant is proposing and the City is requiring replacement trees both on-site and off-site with this proposed project.

NOW THEREFORE BE IT FURTHER RESOLVED, The Clayton Planning Commission does hereby approve the Affordable Housing Density Bonus Application (DBA-01-19), Site Plan Review Permit (SPR-04-17), and Tree Removal Permit (TRP-24-17) for The Olivia on Marsh Creek Road, an 81-unit senior residential development located on three adjacent parcels with a total area of 3.02 acres, located at the southwest intersection of High Street and Marsh Creek Road (APNs: 119-021-063, 119-021-055, and 119-021-013), subject to the following conditions:

PLANNING CONDITIONS

1. An Affordable Housing Unit Agreement (AUA) shall be recorded as a restriction on each parcel on which the Affordable Housing units will be constructed in a form acceptable to the City Attorney. The approval and recordation of the AUA shall take place prior to issuance of building permits. The AUA shall be binding on all future owners and successors interest. The AUA shall include, at minimum, but shall not be limited to the following:
 - a. A description of the development, including the total number of units, the number of Affordable Housing Units, and the tenure of the Affordable Housing Units;

- b. The size, in square footage, and location of Affordable Housing Units;
 - c. A description of the household income group to be accommodated by the Affordable Housing Units, and the formula for determining the monthly rent amount for each Affordable Housing Unit;
 - d. The term of affordability for the Affordable Housing Units;
 - e. A schedule for completion and occupancy of the Affordable Housing Units;
 - f. Provisions and/or documents for rights of first refusal or rental restrictions;
 - g. The Marketing Plan for rental of the Affordable Housing Units;
 - h. Provisions for monitoring the ongoing affordability of the Affordable Housing Units, and the process for qualifying prospective resident households for income eligibility; and
 - i. A description of the concession(s) or incentive(s) provided by the City.
 - j. Specific property management procedures for qualifying and documenting tenant income eligibility, establishing affordable rent and maintaining Affordable Housing units for qualified tenants;
 - k. Provisions requiring property owners to verify household incomes and maintain books and record to demonstrate compliance with this chapter;
 - l. Provisions requiring the Property Owner to submit an annual report to the city, which includes the name(s), address, and income of each household occupying target units, and which identifies the bedroom size and monthly rent or cost of each Affordable Housing unit;
 - m. Provisions describing the amount of, and timing for payment of, Administrative Fees to be paid to the city for the mandated term of compliance monitoring in accordance with the provisions of this chapter; and
 - n. Any additional obligations relevant to the compliance with Chapter 17.90 of the Clayton Municipal Code, *Affordable Housing Density Bonus Requirements*.
2. The project is subject to development impact fees. The applicant shall be responsible for all fees and environmental review costs, including those charged by the California Department of Fish and Wildlife.
3. Any major changes to the project as determined by the Community Development Director shall require Planning Commission review and approval. Any minor changes to the project as determined by the Community Development Director shall be subject to City staff review and approval.
4. No permits or approvals, whether discretionary or mandatory, shall be considered if the applicant is not current on fees, reimbursement payments, and other fees that are due.
5. Parking spaces shall be assigned to specific residential units. Each unit shall have one (1) assigned parking space. The number and location of the assigned parking space shall be stated in the rental agreement for each unit.

6. The applicant shall execute a shared parking agreement between 6170 High Street and 6450 Marsh Creek Road allowing for three (3) resident parking spaces and one (1) guest parking space for 6170 High Street to be located on the 6450 Marsh Creek Road parcel. The shared parking agreement shall be recorded on the deed for each parcel and shall be in a form acceptable to the City Attorney.
7. Prior to issuance of a building permit, the applicant shall assure there is a recorded easement in a form acceptable to the City Attorney between Site 1 and Site 2 for pedestrian access between parking lot areas.
8. Prior to the commencement of grading, demolition, or construction activities, the applicant shall submit a recycling plan for construction materials to the City for review and approval. The plan shall include that all materials that would not be acceptable for disposal in the sanitary landfill be recycled/reused. Documentation of the material type, amount, where taken, and receipts for verification and certification statements shall be included in the plan. The applicant shall submit deposits to the City to ensure good faith efforts of construction and demolition recycling. A deposit of \$2,000 per residence shall be submitted prior to issuance of the building permit for each residence, or demolition permit. Appropriate documentation regarding recycling shall be provided to the City. All staff costs related to the review, monitoring, and enforcement of this condition shall be charged to the deposit account.
9. Prior to issuance of demolition permits for on-site structures, the applicant shall show compliance with the NPDES Municipal Regional Permit (MRP 2.0) issued by the San Francisco Regional Water Quality Control Board regarding Mercury control and disposal. Building and site assessment shall be conducted to determine if any Mercury-containing devices (i.e. thermostats, etc.) or sources exist. If the assessment identifies any Mercury-containing devices or equipment, the devices or equipment shall be properly removed and disposed of at an acceptable recycling facility or landfill, so that demolition activities do not result in Mercury being scattered on site or entering storm drains. Where applicable, documentation of site assessment and proper disposal shall be provided to the Community Development Department prior to the issuance of any new construction permit.
10. Prior to the issuance of demolition permits, the applicant shall show compliance with the NPDES Municipal Regional Permit (MRP 2.0) issued by the San Francisco Regional Water Quality Control Board regarding polychlorinated biphenyl (PCB) control and disposal. The applicant shall ensure proper management of potential PCB-containing materials and wastes during building demolition and disposing of PCB properly, so that demolition activities do not result in PCB entering storm drains. Prior to issuance of demolition permits, the applicant shall submit to the Community Development Department an analysis of the existing structures having PCB concentrations below 50 ppm, or provide written documentation and evidence as to the type and style of all structures to be demolished that are single-family residential and/or wood frame structures. If the applicant is unable to obtain compliance by either of these measures,

the applicant shall abate any PCB at or above 50 ppb in accordance with an approved disposal plan to be submitted to the Community Development Department prior to issuance of demolition permits.

11. At least thirty (30) days prior to any demolition or groundbreaking activities, the applicant shall retain an exterminator who shall evaluate the site and make recommendations for the control and/or eradication of any on-site rodents. The exterminator's recommendations shall be subject to the review and approval of the Community Development Director. The applicant shall comply with the approved exterminator's recommendations prior to initiation of any demolition or groundbreaking activities.
12. The applicant agrees to indemnify, protect, defend, and hold harmless the City and its elected and appointed officials, officers, employees, and agents from and against any and all liabilities, claims, actions, causes, proceedings, suits, damages, judgments, liens, levies, costs, and expenses of whatever nature, including attorney's fees and disbursements arising out of or in any way relating to the issuance of this entitlement, any actions taken by the City relating to this entitlement, or the environmental review conducted under the California Environmental Quality Act for this entitlement and related actions. In addition, if there is any referendum or other election action to contest or overturn these approvals, the applicant shall either withdraw the application or pay all City costs for such an election.

GENERAL CONDITIONS

13. The project shall comply with the Clayton Municipal Code. All construction shall conform to the requirements of the California Building Code and City of Clayton standards.
14. The project shall be implemented as indicated on the application form and accompanying materials provided to the City and in compliance with the Clayton Municipal Code, or as amended by the Planning Commission.
15. No building permit will be issued unless the plan conforms to the project description and materials as approved by the Planning Commission and the standards of the City.
16. This approval expires one year from the date of approval (expires_____, 2021), unless a building permit has been issued and construction has diligently commenced thereon and has not expired, or an extension has been approved by the Planning Commission. Requests for extensions must be received in writing with the appropriate fees prior to the expiration of this approval. No more than one, one-year extension shall be granted.
17. This approval supersedes previous approvals, if any, that have been granted for this site.
18. The general contractor shall install and maintain the erosion and sedimentation control devices around the work premises per the most current NPDES Municipal Regional Permit (MRP). Current MRP is 2.0 and upcoming permit will be MRP-3.0.

19. All required easements or rights-of-way shall be obtained by the applicant at no cost to the City of Clayton. Advance permission shall be obtained from any property owners or easement holders for any work done within such property or easements.
20. Prior to issuance of the certificate of occupancy for each property, the public improvement for that property including streets, sewers, storm drains, street lights, and traffic signs required for access to the site shall be completed to the sole satisfaction of the City Engineer or City Traffic Engineer.
21. City staff shall inspect the site for compliance with conditions of approval and approved plans prior to final inspection approval.
22. The applicant shall obtain an encroachment permit for all work to be done within the public right-of-way or easement, and peak commute-hour traffic shall not be impeded by construction-related activity. All on-site improvements not covered by the building permit including walkways, driveways, paving, sewers, drainage, curbs, and gutters must be constructed in accordance with approved plans and/or standards and a Site Development Permit approved by the City Engineer.
23. All existing easements shall be identified on the site plan and all plans that encroach into existing easements shall be submitted to the easement holder for review and approval, and advance written permission shall be obtained from any property owner or easement holder for any work done within such property or easement.
24. Building permits for retaining walls shall be obtained as follows:
 - a. For major walls over three feet in height to be constructed during the mass-grading phase, obtain a building permit prior to issuance of the grading permit.
 - b. For all other walls, obtain a building permit prior to issuance of permits for structures on the respective lot in accordance with the applicable California Building Code Standards.

NOISE CONTROL, DUST, AND CONSTRUCTION ACTIVITY CONDITIONS

25. An encroachment permit is required for all work in the public right-of-way. Restoration of existing improvements (curb, gutter, sidewalk, street section, etc.) shall be to the City of Clayton standards and as approved by the City Engineer.
26. The use of construction equipment shall be restricted to weekdays between the hours of 8:00 a.m. and 5:00 p.m., or as approved in writing by the City Manager.
27. The project shall be in compliance with and supply all the necessary documentation to comply with the City of Clayton Construction and Demolition Debris Recycling Program.
28. Driveway access to neighboring properties shall be maintained at all times during construction.

29. Standard dust control methods shall be used to stabilize the dust generated by construction activities in accordance with the Bay Area Air Quality Management District standards.
31. The site shall be fenced with locked gates by 7:00 PM. The gates shall remain locked until 7:00 AM. Contractors shall not arrive at the site prior to the opening of the gates. The name and contact information shall be placed at locations on the site for neighbors to contact in the circumstance there is a concern that needs to be addressed to the satisfaction of the City Engineer.
32. All construction equipment utilizing combustion engines shall be equipped with "critical" grade (rather than "stock" grade) noise mufflers or silencers that are in good condition. Back up "beepers" shall be tuned to insure lowest possible noise levels while also serving the safety purpose of the backup sound indicator.
33. Stationary noise sources shall be located at least 300 feet away from any occupied residential or business dwellings unless noise-reducing engine housing enclosures or other appropriate noise screens are provided.
34. Speeds of construction equipment shall be limited to 10 mph. This includes equipment traveling on local streets to and from the site.
35. Access shall be maintained to all driveways at all times.
36. There shall be no parking of construction equipment or construction worker's cars on residential or business streets at any time. A staging area shall be secured prior to issuance of a grading or building permit as determined necessary by the City Engineer.
37. Truck routes for the import or export of cut/fill material shall be identified and approved by the City Engineer prior to the issuance of any permits. Applicant shall be responsible for the repair of any damage to City streets (private and public) caused by the contractor's or subcontractor's vehicles.
38. Prior to construction, applicant shall ensure that the contractor shall contact City inspector for a pre-construction meeting. Haul route shall be submitted for review and approval by the City Engineer.
39. All construction activities must be designed to minimize potential spills from equipment and to provide a planned response in the event an accidental spill occurs. The applicant shall maintain spill equipment on site; there shall be a designated area if refueling takes place on site. Applicant shall insure all construction personnel are trained in proper material handling, cleanup and disposal procedures.

40. Prior to any demolition activities, a demolition permit shall be obtained and all demolition activities be performed in accordance with the Bay Area Air Quality Management District Regulation 11 Hazardous Pollutants, Rule 2 Asbestos Demolition, Renovation, and Manufacturing. The purpose of this Rule is to control emissions of asbestos to the atmosphere during demolition, renovation, milling and manufacturing and establish appropriate waste disposal procedures. These requirements specify the appropriate methods for survey, demolition/removal, and disposal of asbestos materials to control emissions and prevent hazardous conditions. Specifications developed for the demolition activities shall include the proper packaging, manifesting and transport of demolition wastes by trained workers to a permitted facility for disposal in accordance with local, State, and Federal requirements.
41. Prior to demolition or renovation activities that may disturb suspected lead-based paint (LBP), actual material samples shall be collected or an XRF survey performed in order to determine if LBP is present. It should be noted that construction activities that disturb materials or paints containing any amount of lead are subject to certain requirements of the Occupational Safety and Health Administration (OSHA) lead standard contained in 29 CFR 1910.1025 and 1926.62. If lead-based paint is identified, the paint shall be removed by a qualified lead abatement contractor. Specifications developed for the demolition activities shall include the proper packaging, manifesting, and transport of demolition wastes by trained workers to a permitted facility for disposal in accordance with local, State, and Federal requirements.

PROPERTY MAINTENANCE CONDITIONS

42. A parking lot sweeping program shall be implemented that, at a minimum, provides for sweeping immediately prior to the storm season and prior to each storm event.
43. The site shall be kept clean of all debris (litter, boxes, junk, garbage, etc.) at all times.
44. No signs shall be installed on this site without prior City approval.
45. Any undeveloped areas on-site shall be maintained in an attractive manner that ensures fire safety and prevents any runoff onto the adjacent sidewalks.

AGENCY REQUIREMENT CONDITION

46. Applicable requirements of other agencies including, but not limited to the Contra Costa County Fire District, the Contra Costa Water District, City of Concord (Sanitation), and the East Contra Costa County Habitat Conservancy shall be met.

FEE CONDITIONS

47. The applicant shall pay all fees required by the City Council and other applicable agencies.
48. The applicant shall pay all required fees at the time of building permit issuance.

GRADING CONDITIONS

49. All grading shall be required grading and drainage plan prepared by a registered Civil Engineer, a soils report prepared by a registered Geotechnical Engineer and a Grading Permit approved by the City Engineer. The grading plans and soils report shall require review by the City's geotechnical consultant with all costs to be borne by the applicant.
50. All recommendations made in the Soil Engineers report (unless amended through the City's review) and all recommendations made by the City's geotechnical consultant shall be incorporated into the design and construction of the project.
51. Contour grading techniques with spot elevations shall be employed throughout the project to achieve a more natural appearance, even where this will increase the amount of grading.
52. Tops of cuts or toes of fills adjacent to existing public rights-of-way or easements shall be set back two feet minimum from said rights-of-way and easements.
53. Erosion control measures shall be implemented by the applicant per plans approved by the City Engineer for all grading work not completed before October 1. At the time of approval of the improvement and/or grading plans, an approved Erosion Control Plan prepared by a registered Civil Engineer shall be filed with the City Engineer.
54. All graded slopes in excess of 5 feet in height shall be hydroseeded no later than September 15 and irrigated (if necessary) to ensure establishment prior to the onset of the rainy season
55. The applicant's engineer shall certify the actual pad elevation for the lot in accordance with City standards prior to issuance of Building Permit.
56. Any grading on adjacent properties will require written approval of those property owners affected.
57. If cultural resources are discovered during subsurface excavations, the Contractor shall cease construction and a qualified archeologist shall be contacted to make recommendations for mitigation.
58. The plans shall include the boundary treatment shown on cross sections, drawn to scale, for retaining walls, fencing and drainage.
59. All elevations shown on the grading and improvement plans shall be on the USGS 1929 sea level datum or NAVD 88 with conversion information, or as approved by the City Engineer.

UTILITY CONDITIONS

60. In the circumstance the applicant or successor-in-interest applies to convert the project from a rental apartment project to a condominium subdivision, the applicant or successor-in-interest shall be required to underground all existing and proposed utilities in accordance with the applicable provisions of the Clayton Municipal Code (CMC) at that time.
61. Trash enclosures shall drain to sanitary sewer and shall incorporate methods to contain runoff at the front-gate and pedestrian access point to prevent storm water from entering the enclosure.
62. The sewer collection system shall be constructed to function as a gravity system. Sanitary sewer collection system shall be constructed to the standards of the City of Concord and Central Contra Costa Sanitary District. Inspections of sanitary sewer collection system shall be performed by City of Concord under contract to City of Clayton.
63. Water system facilities shall be designed to meet the requirements of Contra Costa Water District and the fire flow requirements of the Contra Costa County Fire Protection District. All requirements of the responsible agency shall be guaranteed prior to approval of the improvement plans. Any required offsite easements shall be obtained by the applicant at his/her own expense.
64. A reduced pressure backflow preventer assembly shall be installed on all water meter services.
65. Double detector check fire line backflow assemblies shall be enclosed within an easement granted to Contra Costa Water District, as needed, and at no cost to the City or the District.
66. The applicant shall provide adequate water pressure and volume to serve this development, as approved by the City Engineer. This will include a minimum residual pressure of 20 psi with all losses included at the highest point of water service and a minimum static pressure of 50 psi.
67. All onsite utilities shall be privately maintained and connected to public facilities in accordance with City and applicable agency standards, as approved by the City Engineer.
68. All sanitary sewer system connections and improvements shall be submitted for reviewed and approved by the City Engineer and review and comment by the City of Concord (Sanitation).

DRAINAGE AND WATER QUALITY CONDITIONS

69. For projects disturbing one (1) acre or more, the applicant shall comply with the State Construction General Permit requirements. The applicant shall be responsible for preparing the SWPPP, submit all required documents, and obtaining coverage by filing a Notice of Intent (NOI) with State Water Resource Control Board (SWRQB).
70. A copy of the SWPPP and the Notice of Intent (WDID) shall be submitted to the City prior to issuing permits for construction. The SWPPP and the WDID shall be kept at the job site during construction. The WDID number shall be included onto the cover sheet of the Grading Plans for the project.
71. Prior to approval of the grading plans, the applicant shall submit a drainage study to the City for review and approval, and to the Contra Costa County Flood Control and Water Conservation District (FC District) for review and comment. The applicant shall be responsible to pay directly for the agency's review.
72. Applicant shall comply with the requirements of Provision C.3 of the Municipal Regional Permit (MRP) of the State Regional Water Resources Control Board NPDES Permit as applicable to this project.
73. Stormwater control facilities (C.3 facilities) shall be maintained and operated by the applicant/property owner, in perpetuity, in accordance with the Operation and Maintenance Plan. The applicant/property owner shall provide periodic and annual inspection reports.
74. Applicant shall submit a comprehensive Stormwater Control Plan, construction plans, details, and calculations in accordance with the current Contra Costa Clean Water Program (CCCWP) C.3 Guidebook (7th Edition). Required offsite improvements and street(s) frontage improvement work shall be considered and included as a part of this project for compliance with C.3 requirements. The Stormwater Control Plan watershed drainage map shall include all impervious surface locations (i.e. streets, buildings, parking lots, walkways, etc.) to be used in the calculations for sizing C.3 facilities.
75. CCWP C.3 online calculator shall be used in determining the size of the required C.3 facilities. Submit a printout and attach a copy in the Stormwater Control Plan.
76. Bio-retention basin side slopes shall not be steeper than 3H:1V.
77. Using C.3 bio-retention basin(s) as a detention basin(s) for the mitigation of increased peak flows shall be subject to the City Engineer's approval. If approved by the City Engineer, applicant shall submit hydrology and hydraulic study, calculations, and details to demonstrate compliance with the C.3 requirements as well as flood control requirements. Detention basin(s) design parameters and the calculations shall also be in accordance with Contra Costa County Flood Control guidelines.

78. Prior to City Approval of the plans and issuance of permits, the applicant shall submit a signed operation and maintenance agreement. The agreement shall be the City's standard form and subject to the review and approval by the City.
79. All storm water flows shall be collected onsite and discharged into an approved public storm drain system. No onsite drainage is allowed to flow over the sidewalk.
80. Applicant shall not increase storm water runoff to adjacent downhill lots unless either, (1) a Drainage Release is signed by the property owner(s) of the affected downhill lots and recorded in the office of the County Recorder; or (2) site drainage is collected and conveyed in approved drainage facilities within a private drainage easement through a downhill property. This condition may require collection of on-site runoff and construction of an off-site storm drainage system. All required releases and/or easements shall be obtained prior to issuance of any building permits.
81. A structure shall be installed at all pipe intersections, change of direction, or change in slope as approved by the City Engineer.

STREET IMPROVEMENT CONDITIONS

82. Sidewalks, curb, gutter, sidewalk and street pavement shall be constructed and/or replaced (if cracked, broken or damaged) in the public right-of-way along the entire project frontage as required by the City Engineer and at no cost to the City. Driveway aprons shall be removed and/or replaced with new curb, gutter and sidewalk to match the proposed development. Corner curb ramps (handicap ramps) that do not meet current Federal ADA and State Title 24 Standards shall be replaced to current standards. Existing street pavement section shall be removed and replaced along the frontage of the property to the centerline of the street if the section is cracked or damaged in any way (regardless if it is damaged by project construction or not), or other roadway preservation methods as approved by the City Engineer. All required public easements or rights-of-way shall be offered to the City. All improvements shall be designed and constructed to the satisfaction of the City Engineer.
83. All streets shall be paved and improved after utilities are installed in accordance with the City of Clayton Standard Drawings and Design Guidelines and the approved plans.

LANDSCAPING CONDITIONS

84. Sight distance triangles shall be maintained per Chapter 12.08 of the CMC, Site Obstructions at Intersections, or as approved by the City Engineer. Landscaping and signage shall not create a sight distance problem.
85. Detailed landscaping and irrigation plans for the entire site shall be submitted to the City for review and approval. All landscaping and irrigation shall be installed in accordance with approved plans prior to the issuance of certificates of occupancy for this building.

86. Landscaping for the project shall be designed to comply with the applicable requirements of City of Clayton Municipal Code. The State Model Water Efficient Landscape Ordinance (MWELo). Prior to issuance of a building permit, the applicant shall demonstrate compliance with the applicable requirements of the MWELo in the landscape and irrigation plans submitted to the City.
87. Landscape shall show immediate results. Landscaped areas shall be watered, weeded, pruned, fertilized, sprayed, and/or otherwise maintained as necessary. Plant materials shall be replaced as needed to maintain the landscaping in accordance with the approved plans. Plant material selection shall avoid plant species that are known to be susceptible to disease (e.g., Platanus Blood Good) or drop fruit on hard surfaces and walkways causing a maintenance or safety concern.
88. All trees shall be a minimum 15-gallon size and all shrubs shall be a minimum 5- gallon size.

PROJECT SPECIFIC CONDITIONS

89. Any cracked or broken sidewalks shall be replaced as required by the City Engineer.
90. All rooftop mechanical equipment shall be screened from the public right-of-way and the residential properties to the west of the subject property. A line of sight study shall be submitted with the building permit submittal confirming the equipment is screened.
91. Asphalt paving shall have a minimum slope of two percent (2%), concrete paving shall have a minimum slope of 0.75%, except asphalt paving for identified accessible parking stalls and access routes shall have a minimum slope of 1.5% and a maximum slope of 2%, or as approved by the City Engineer.
92. All on-site curbs, gutters and sidewalks shall be constructed of Portland cement concrete.
93. All walkways adjacent to parking areas with vehicle overhang shall be a minimum of six and a half (6½) feet wide.

TREE PROTECTION CONDITIONS

94. The following construction policies and guidelines for tree preservation and protection put forth by the City of Clayton shall be followed during project implementation:
 - a. The applicant shall submit for the review and approval of the Community Development Director a tree protection plan to identify the location of the tree trunk and dripline of all on- and off-site trees subject to City of Clayton Municipal Code Section 15.70.020.
 - b. A protective fence shall be installed around all trees subject to the tree protection plan. The protective fence shall be installed prior to commencement of any construction activity and shall remain in place for the duration of construction.

- c. Grading, excavation, deposition of fill, erosion, compaction, and other construction-related activities shall not be permitted within the dripline or at locations which may damage the root system of trees subject to the tree protection plan, unless such activities are specifically allowed by the tree protection plan. Tree wells may be used if specifically allowed by the tree protection plan.
 - d. Oil, gas, chemicals, vehicles, construction equipment, machinery, and other construction materials shall not be allowed within the dripline of trees subject to the tree protection plan.
95. Trees which are identified for preservation, and are subsequently removed during construction, shall be replaced by new trees or shall be required to pay an in-lieu fee equal to 200% of the value (as established by the International Society of Arboriculture) of the original tree(s) to be preserved.
96. The Community Development Department shall review and approve grading and improvement plans to ensure adequate measures are taken to protect trees.

LANDSCAPING CONDITIONS

97. The project shall comply with all applicable requirements and regulations as they pertain to the Landscape Water Conservation Standards and the Water Efficient Landscape Ordinance.
98. Three sets of the landscape and irrigation plans shall be submitted with the grading and improvement plans for review and approval by the Community Development Department, Engineering Department, and the Maintenance Department. These plans shall be prepared by a landscape architect.
99. Installation of all irrigation and landscaping shall be performed by a licensed contractor. Open trench inspection of the irrigation installation in areas to be maintained by the City is subject to approval of the Maintenance Department. Prior to the final inspection by the Maintenance Department, the installation shall be approved by the landscape architect.
100. All trees shall be planted at least ten (10) feet away from any public water, sewer, or storm drain lines, unless a closer location is approved by the City. All trees shall be installed with support staking. All nursery stakes must be removed from trees. All trees planted within eight (8) feet of a sidewalk or driveway shall be installed with root guards.

EXPIRATION CONDITION

103. The Tree Removal Permit (TRP-24-17) shall expire simultaneously with the expiration of the Site Plan Review Permit (SRP-04-17), pursuant to the permit expiration provisions listed in Chapter 17.64 of the Clayton Municipal Code.

GENERAL CONDITIONS

104. The applicant shall obtain the necessary approvals from the Contra Costa County Fire Protection District.
105. The applicant shall provide an adequate and reliable water supply for fire protection as set forth in the Uniform Fire Code.
106. The access driveway/roadway and turnaround improvements must be completed and inspected by the Contra Costa County Fire Protection District (CCCYPD) prior to construction on the two residential lots.
107. All proposed residences are required to be protected with an approved automatic fire sprinkler system complying with the 2013 edition of NFPA 13D or Section R313.3 of the 2013 California Residential Code. A minimum of two (2) sets of sprinkler plans shall be submitted to the CCCYPD for both residences for review and approval prior to installation.
108. Additional requirements may be imposed by the CCCYPD. Before proceeding with the project, it is advisable to check with the CCCYPD located at 4005 Port Chicago Highway, Concord, 925-941-3300.
109. The applicant shall comply with all applicable State, County, and City codes, regulations, and standards as well as pay all associated fees and charges.
110. All construction and other work shall occur only between 7:00 a.m. and 5:00 p.m. Monday through Friday. Any such work beyond these hours and days is strictly prohibited unless specifically authorized in writing by the City Engineer, 925-969-8181, scott.alman@weareharris.com (Clayton Municipal Code Section 15.01.101).
111. The applicant shall obtain the necessary building permits from the Contra Costa County Building Inspection Department. All construction shall conform to the California Building Code.
112. Prior to issuance of a Certificate of Occupancy for any residential building, the applicant shall install security cameras to monitor primary individual building entries and parking areas with the ability to archive and monitor the imaging to the satisfaction of the Chief of Police.
113. In the circumstance the applicant or successor-in-interest applies to convert the rental apartment project to a condominium subdivision, the applicant or successor-in-interest shall pay Quimby Act fees in accordance with applicable provisions of the Clayton Municipal Code (CMC) and City adopted fee schedule in effect at that time.


114. The applicant shall prepare a property maintenance program to address on-going building maintenance, landscaping, parking lot maintenance, and tenant maintenance responsibilities to the satisfaction of the City Attorney.
115. Prior to issuance of a City demolition and/or grading permit the applicant shall complete a Green Infrastructure Feasibility analysis, as required by the San Francisco Rational Water Quality Control Board in MRP 2.0, to determine opportunities to address existing frontage runoff into planned or new bio retention areas behind the back of curb. If such analysis determines these are feasible, any Green Infrastructure shall be maintained by the abutting property owner in perpetuity.
116. The applicant is advised this project is subject in perpetuity to the required (annual) Operations and Maintenance inspections by the City for the C.3 facilities at the costs established and updated annually in the City Fees and Charges Schedule.
117. The trash enclosures shall have solid metal doors, a solid roof and ventilation. The proposed trash enclosures need to be enlarged in order to have internal clear dimensions that are adequate to accommodate the required refuse and recycling dumpsters/containers and resident accessibility to utilize them. The trash enclosures must be located in close proximity to the access driveway near the public right-of-way to the satisfaction of Republic Services and the City Engineer to assure accessibility for trash removal and adequate sight distance to assure the public the safety.
118. All landscaping along Marsh Creek Road and along High Street behind the back of curb shall be maintained by the abutting property owner in perpetuity.
119. Prior to the issuance of the first Certificate of Occupancy the applicant shall contribute up to \$20,000. to establish a Permit Parking Program System for the Stranahan Subdivision located across Marsh Creek Road to the east of the project to limit possible spillover parking from outside that neighborhood to the satisfaction of the City Engineer and Chief of Police.
120. Prior to the issuance of the first Certificate of Occupancy the applicant shall install electronic speed indicator signage on Marsh Creek Road in the vicinity of the intersection of Marsh Creek Road and Stranahan Circle to facilitate reducing speeding in this area to the satisfaction of the City Engineer and Chief of Police.
121. Prior to the issuance of the first Certificate of Occupancy the applicant shall install pedestrian activated crosswalk flashers at the trail crosswalk south of the project site on Marsh Creek Road to facilitate pedestrian safety to the satisfaction of the City Engineer.
122. The property owner shall provide annual bus passes to the tenants in the development and establish a car share program to facilitate reducing on-site parking demand to the satisfaction of the Community Development Director.

123. Prior to the issuance of the first Certificate of Occupancy the applicant shall provide and install fifty 15-gallon trees off-site within the City of Clayton to increase carbon absorption to the satisfaction of the City Maintenance Supervisor and City Manager.

NO DECISION WITH A 2-2 VOTE by the Planning Commission of the City of Clayton at a regular meeting on the 10th day of December 2019.

NO DECISION:

ATTEST:


Peter Cloven
Chair
David Woltering
Interim Community Development Director