AGENDA FOR THE

CITY OF PINOLE PLANNING COMMISSION
REGULAR MEETING

Monday, June 28, 2021
7:00 P.M.
Via Zoom Videoconference

DUE TO THE STATE OF CALIFORNIA'S DECLARATION OF EMERGENCY – THIS MEETING IS BEING HELD PURSUANT TO AUTHORIZATION FROM GOVERNOR NEWSOM'S EXECUTIVE ORDERS – CITY COUNCIL AND COMMISSION MEETINGS ARE NO LONGER OPEN TO IN-PERSON ATTENDANCE.

WAYS TO WATCH THE MEETING

- LIVE ON CHANNEL 26. The Community TV Channel 26 schedule is published on the City's website at www.ci.pinole.ca.us. The meeting can be viewed again as a retelecast on Channel 26.
- VIDEO-STREAMED LIVE ON THE CITY'S WEBSITE, www.ci.pinole.ca.us. and remain archived on the site for five (5) years.
- If none of these options are available to you, or you need assistance with public comment, please contact Planning Manager David Hanham at (510) 724-8912 or dhanham@ci.pinole.ca.us.

COMMENTS

Please submit public comments to Planning Staff before or during the meeting via email dhanham@ci.pinole.ca.us. Comments received before the close of the item will be read into the record and limited to 3 minutes. Please include your full name, city of residence and agenda item you are commenting on.

In compliance with the Americans with Disabilities Act of 1990, if you need special assistance to participate in a City meeting or you need a copy of the agenda, or the agenda packet in an appropriate alternative format, please contact the Development Services Department at (510) 724-8912. Notification of at least 48 hours prior to the meeting or time when services are needed will assist the City staff in assuring that reasonable arrangements can be made to provide accessibility to the meeting or service.

Assistant listening devices are available at this meeting. Ask staff if you desire to use this device.

CITIZEN PARTICIPATION:

Persons wishing to speak on an item listed on the Agenda may do so when the Chair asks for comments in favor of or in opposition to the item under consideration. After all of those persons wishing to speak have done so, the hearing will be closed and the matter will be discussed amongst the Commission prior to rendering a decision.

NOTE FOR VIDEOCONFERENCE MEETINGS: Public comments may be submitted to Planning Staff before or during the meeting via email dhanham@ci.pinole.ca.us. Comments received before the close of the item will be read into the record and limited to 3 minutes. Please include your full name, city of residence and agenda item you are commenting on.

Any person may appeal an action of the Planning Commission or of the Planning Manager by filing an appeal with the City Clerk, in writing, within ten (10) days of such action. Following a Public Hearing, the City Council may act to confirm, modify or reverse the action of the Planning Commission and the Planning Commission may act to confirm, modify, or reverse the action of the Planning Manager. The cost to appeal a decision is $500 and a minimum $2,500 deposit fee.

Note: If you challenge a decision of the Commission regarding a project in court, you may be limited to raising only those issues you or someone else raised at the public hearing or in writing delivered to the City of Pinole at, or prior to, the public hearing.

A. CALL TO ORDER

B. PLEDGE OF ALLEGIANCE AND ROLL CALL

C. CITIZENS TO BE HEARD:

The public may address the Planning Commission on items that are within its jurisdiction and not otherwise listed on the agenda. Planning Commissioners may discuss the matter brought to their attention, but by State law (Ralph M. Brown Act), action must be deferred to a future meeting. Time allowed: five (5) minutes each.

D. MEETING MINUTES:

1. **Planning Commission Meeting Minutes from May 24, 2021**
2. **Planning Commission Meeting Minutes from June 7, 2021**

E. PUBLIC HEARINGS:

At the beginning of an item, the Chair will read the description of that item as stated on the Agenda. The City Staff will then give a brief presentation of the proposed project. The Commission may then ask Staff questions about the item.

For those items listed as Public Hearings, the Chair will open the public hearing and ask the applicant if they wish to make a presentation. Those persons in favor of the project will then be given an opportunity to speak followed by those who are opposed to the project. The applicant will then be given an opportunity for rebuttal.

The Public Hearing will then be closed and the Commission may discuss the item amongst themselves and ask questions of Staff. The Commission will then vote to approve, deny, approve in a modified form, or continue the matter to a later date for a decision. The Chair will announce the Commission's decision and advise the audience of the appeal procedure.

Note: No Public Hearings will begin after 11:00 p.m. Items still remaining on the agenda after 11:00 p.m. will be held over to the next meeting.

1. Comprehensive Design Review DR21-05 SAHA Apartments

Request: Consideration of a Comprehensive Design Review for the purpose of constructing 33 units for low-income households that consist of 29 one-bedroom apartments and 4 two-bedroom units. The complex will provide management offices for the residents with an outdoor courtyard connecting a community garden and children's area. The complex will provide 16 parking spaces as well as a community room with kitchen and computer station amenities for its residents.

Applicant: Satellite Affordable Housing Associates

Location: 811 San Pablo Avenue (402-166-030)
1835 Alcatraz Avenue
Berkeley, CA 94703

Planner: David Hanham

F. OLD BUSINESS:

1. Selection of Alternate for Planning Commission Subcommittee

G. NEW BUSINESS:

1. Amended Planning Commission Schedule for 2021

H. CITY PLANNER'S/COMMISSIONER'S REPORT:

1. Verbal Updates of Projects

I. COMMUNICATIONS:

J. NEXT MEETING(S):

Planning Commission Regular Meeting, July 12, 2021 at 7:00PM (if approval is provided for the Amended Planning Commission Schedule for 2021)

Planning Commission Regular Meeting, July 26, 2021 at 7:00PM

K. ADJOURNMENT

POSTED: June 24, 2021

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David Hanham
Planning Manager

DRAFT

MINUTES OF THE REGULAR MEETING
PINOLE PLANNING COMMISSION

May 24, 2021

DUE TO THE STATE OF CALIFORNIA'S DECLARATION OF EMERGENCY – THIS MEETING WAS HELD PURSUANT TO AUTHORIZATION FROM GOVERNOR NEWSOM'S EXECUTIVE ORDERS – CITY COUNCIL AND COMMISSION MEETINGS WERE NO LONGER OPEN TO IN-PERSON ATTENDANCE. THE MEETING WAS HELD VIA ZOOM TELECONFERENCE.

A. CALL TO ORDER: 7:05 P.M.

B. PLEDGE OF ALLEGIANCE AND ROLL CALL

Commissioners Present:	Benzuly, Flashman, Kurrent, Martinez, Wong, Vice Chair Moriarty, Chair Banuelos
Commissioners Absent:	None
Staff Present:	Tamara Miller, Development Services Director David Hanham, Planning Manager Misha Kaur, Senior Project Manager Alex Mog, Assistant City Attorney

C. CITIZENS TO BE HEARD

The following speaker submitted written comments via email that were read into the record and would be filed with the agenda packet for this meeting: ***Rafael Menis***.

Commissioner Flashman expressed her appreciation for the kind comments Mr. Menis had attributed to her in his e-mail.

D. MEETING MINUTES:

1. Planning Commission Meeting Minutes from April 26, 2021

Commissioner Moriarty reported that during a recent City Council meeting there had been a comment about the quality of the City Council meeting minutes. The speaker had also mentioned the quality of the Planning Commission minutes and she had

agreed that Planning Commission minutes were exceptional and she appreciated the work of the minute-taker in recording the meeting.

MOTION by a Roll Call Vote to adopt the Planning Commission Meeting Minutes from April 26, 2021, as submitted.

MOTION: Flashman SECONDED: Moriarty APPROVED: 6-0-1
ABSTAIN: Benzuly

E. PUBLIC HEARINGS:

1. Zoning Code Amendment 21-02, Specific Plan Amendment 21-01 Update Use Definitions for Dental Office

Request: Consideration of a Zoning Ordinance Amendment and Specific Plan Amendment to add "dental office" to the Office, Business and Professional" use definition in Section 17.22.020 (F) (40) of the City of Pinole Zoning Ordinance and the "Office – Business and Professional" use definition in Chapter 11, Definitions of the Three Corridors Specific Plan

Applicant: Navjeet Chahal
2300 Henry Avenue
Pinole, CA 94564

Location: 2300 Henry Avenue (APN: 401-410-010)

Planner: David Hanham

Planning Manager David Hanham presented the staff report dated May 24, 2021, and recommended the Planning Commission adopt Resolution 21-06 recommending the City Council approve a Zoning Ordinance Amendment to amend the definition of "Office-Business and Professional" in Section 17.22.020 (F) (40) of the Pinole Zoning Code and Chapter 11 of the Three Corridors Specific Plan.

Responding to the Commission, Mr. Hanham clarified the permitted uses in the Public/Quasi-Public/Institutional (PQI) Zoning District and the staff rationale for adding "dental office" to the Office-Business and Professional Zoning District, as outlined in the staff report. The property located at 2300 Henry Avenue was currently zoned PQI. On parcels zoned PQI located within the Old Town-Sub Area of the Pinole Valley Road Corridor, Office - Business and Professional was a permitted use, but Medical Service – General was prohibited. The applicant desired to open a dental office on the site which required a zoning change.

Mr. Hanham explained that dental offices involved less traffic than medical offices and staff wanted to keep the area with as little traffic as possible and stay within the PQI Zoning District. The subject parcel had been a dental office and dental lab in the past and people were familiar with the site as a dental office. While a complete zoning change could be considered if the Planning Commission so desired, staff determined a dental office would have the least impact on the Zoning Code and there had been a dental office on the parcel in the past.

Mr. Hanham also clarified the building occupancy would not change unless the building was expanded in size, which would require design review or a Conditional Use Permit (CUP) depending on the use. From a Professional Office use to a dental office, as an example, the occupancy would not change since the building would remain the same size. If however the building were to be demolished and if the use changed, it would be subject to the allowable uses permitted within the classifications in the Zoning Code and within the Three Corridors Specific Plan.

Mr. Hanham clarified that Office-Business and Professional was a permitted use within the Zoning District and by allowing dental offices to that district it would become a permitted use. The subject parcel was not a public facility zoned PQI.

Assistant City Attorney Alex Mog explained that the proposal was not intended to change the PQI Zoning but to change the definition of what was included within the Office-Business and Professional Zoning District. The Zoning Text and Specific Plan Amendments would apply to any parcel citywide where Office-Business and Professional was currently an allowed use.

Mr. Hanham further clarified that while the subject parcel was situated adjacent to a school, it was located on a separate parcel. The Kaiser Permanente parcel was zoned Office-Professional Mixed-Use (OPMU).

PUBLIC HEARING OPENED

Navjeet Chahal, 2300 Henry Avenue, Pinole, explained that the parcel had been occupied by a dental lab in the past and opening a dental office/clinic would have no impact on the use since it would be a minimal change. The Zoning Ordinance Text and Specific Plan Amendments, as proposed, would permit a dental office.

Ed Klotz, reiterated the parcel had previously been occupied by a dental lab and surrounded by other health industry giants, such as Kaiser Permanente. The PQI District allowed hospitals as a permitted use and it had been a strange twist that medical and dental offices were not fully permitted at that location. He agreed with staff that adding the dental office use definition to the Office-Business and Professional Zoning District would allow the best use of the property.

The following speaker submitted written comments via email that were read into the record and would be filed with the agenda packet for this meeting: ***Rafael Menis.***

PUBLIC HEARING CLOSED

The Planning Commission discussed Zoning Code Amendment 21-02, Specific Plan Amendment 21-01 and offered the following comments and/or direction to staff:

- Understood the intent had always been that the parcel would remain the way it was but suggested it should have been included in the Office-Business and Professional District. Recognized the parcel had been occupied by a dental lab in the past and suggested the Zoning Text and Specific Plan Amendments would essentially repair a planning error with little impact on the area. (Banuelos)

- Uncertain the staff approach was the best solution in that if dental offices were to be included in the Office – Business and Professional use definition dental laboratories should be included and permitted as well. Found there were no differences between Medical Offices and regular offices. Pointed out that Pinole Business Park included a Lifeline Medical facility amongst the surrounding businesses which had not created any issues. (Kurrent)

Mr. Hanham read into the record the definition for Medical Services General, which uses were not permitted in the PQI Zoning District Old Town-Sub Area. Medical Services Hospital, as defined, would be permitted in the PQI Zoning District. For the City of Pinole, all of the uses in the PQI Zoning District were either schools, a library, a church located on San Pablo Avenue and some dental offices which were located in either OPMU or the CMU Zoning Districts. The subject parcel was the only parcel within the PQI Zoning District which had anything other than that on it. He reiterated the staff rationale for the Zoning Ordinance Text and Specific Plan Amendments and the intent not to conduct a major rewrite of the land use classifications other than to amend what was allowed without going through a complete overhaul. Staff was of the opinion the recommended process was simpler but it was the prerogative of the Planning Commission to provide direction.

- Accepted the staff recommendation as the quickest way for the applicant to open their office. Supported the staff recommendation but would also like to see dental laboratories be included in the allowed uses. Suggested with the next General Plan update the subject parcel should be flagged as needing a permanent solution as opposed to a piecemeal approach. (Kurrent)

- Agreed with the concerns raised by Commissioner Kurrent but recognized that a singular parcel was involved and the change would not affect other parcels in the PQI Zoning District. Had there been impacts to other parcels, a more rigorous discussion would have been required. Appreciated the staff effort to create an easier approach but agreed it should be done right in the future. At this time, she was neutral on the recommendation to include dental laboratories in the allowed uses. (Moriarty)

- Not opposed to the general idea of the recommendation offered by Commissioner Kurrent, although noted when the general public searched for the Zoning District description there could be an issue. Pursuant to the information provided on the City's website, the PQI Zoning District had no information in the description about offices, leading to potential confusion. Per the current discussion, Offices were allowed in the PQI Zoning District although the City's website did not include the same information. (Wong)

- Expressed concern if the Zoning Code Text and Specific Plan Amendments were approved, as proposed by staff, it may impact all properties that were zoned in this way, and the piecemeal repair may lead to greater problems. Would have preferred a solution that was specific to the subject parcel. Noted that hospital and emergency care was allowed whereas preventative care, which was oftentimes more necessary in the community, was not, which should be discussed in the future, such as the types of medical uses that would be allowed. (Flashman)

Mr. Hanham understood that when the PQI Zoning District had been developed it had been developed for all city facilities and it was possible the subject parcel had been lumped in since it had always been a Professional Office or a Medical Office, and never a PQI use or a school. He reiterated the staff rationale for bringing the item forward and the challenges involved with making changes to the Zoning Code.

- Suggested including dental laboratories as an allowed use would depend on the size since it could jump to different occupancy criteria, but recognized the size of the subject parcel would prevent a potential dental laboratory from becoming too large. Supported the staff recommendation and while there may be some impact to other properties in the future, there would likely be more flexibility involved than with the subject parcel. (Banuelos)

- Expressed concern that the staff recommendation could set a precedent for other properties, and while supportive of a dental office would like to see the zoning be corrected properly. (Martinez)

Mr. Hanham commented that based on the uses, the subject parcel would likely have only two uses that were consistent with the General Plan and would include CMU or OPMU uses; however, OPMU was not an option in the Old Town-Sub

Area since it was not a zoning category allowed in the Old Town-Sub Area of the Three Corridors Specific Plan. It would likely be a CMU use, and while Professional Offices and Medical Service General were allowed in the CMU Zoning District, everything else permitted within the CMU Zoning District would also apply. By leaving the zoning classification of PQI alone, everything permitted or not permitted remained the same, and adding dental office to the definition changed that use from a non-permitted to a permitted use and did not change anything else, which was very different from changing the entire zoning classification from a CMU to a PQI Zoning District.

- Recommended the definition of dental office be included in the Office, Business and Professional Zoning District and not be stricken from the Medical Services definition of the Three Corridors Specific Plan, as shown in Chapter 11, Section 11.1 Definitions of Attachment 3 to the staff report. While he would have preferred a long-term approach, if this action worked for the applicant, he could support the staff recommendation subject to his recommendations. (Kurrent)

Speaking to Attachment 3, Amended Sections of Three Corridors Specific Plan, Chapter 11.1 Definitions, Medical Services, Mr. Hanham confirmed the definition could be revised to read:

> ***Medical Services*** *– General. Facilities primarily engaged in furnishing outpatient medical, mental health, surgical and other personal health services, but which are separate from hospitals (e.g. medical and dental laboratories, medical, dental and psychiatric offices, out-patient care facilities, allied health service).*

MOTION by a Roll Call Vote to adopt Resolution No. 21-06, A Resolution of the City of Pinole Planning Commission Recommending that the City Council Approve an Ordinance Amending the Definition of "Office-Business Professional" in Section 17.22.020 (F) (40) of the Pinole Zoning Code and Chapter 11 of the Three Corridors Specific Plan, subject to the following modification:

- Attachment 3, Amended Sections of Three Corridors Specific Plan, Chapter 11, 11.1. Definitions, Medical Services, to be revised to read:

  Medical Services *– General. Facilities primarily engaged in furnishing outpatient medical, mental health, surgical and other personal health services, but which are separate from hospitals (e.g. medical and dental laboratories, medical, dental and psychiatric offices, out-patient care facilities, allied health service).*

MOTION: Flashman SECONDED: Wong APPROVED: 7-0

F. **OLD BUSINESS**: None

G. **NEW BUSINESS**:

1. Review of Draft Five-Year Capital Improvement Plan for Consistency with the General Plan

Request: Review of the Draft 2021/22–2025/26 City Capital Improvement Plan for Consistency with the City's General Plan

Project Staff: Tamara Miller/Misha Kaur

Development Services Director Tamara Miller introduced the item, clarified there may be more evolution and changes to the Draft Five-Year Capital Improvement Plan (CIP), and introduced Senior Project Manager Misha Kaur.

Senior Project Manager Misha Kaur provided a PowerPoint presentation of the Proposed Capital Improvement Plan (CIP) for Fiscal Year 2021/22-2025/26 which provided an overview of the 29 planned citywide public improvement projects in the categories of facilities, parks, sanitary sewer, stormwater and roads, with six new projects, three of which had been proposed for FY 2021/22. The background and purpose of the CIP, General Plan conformity, and the new projects proposed for FY 2021/22 were all highlighted in detail.

Responding to the Commission, Ms. Miller and Ms. Kaur clarified the following:

- The West Contra Costa Transportation Advisory Committee (WCCTAC) had recommended some funding to the City of Pinole for the design of the Appian Way Complete Streets Project, although the construction phase was unfunded.

- A slurry seal project that had been included in the prior years' CIP list had been completed this fiscal year.

- Some of the projects would include start and end dates to provide greater narrative on the status of the projects.

- A recent presentation to the City Council of the CIP list of projects identifying project status and progress could also be made available to the Planning Commission via a link to the same information.

- For Project No. FA2002, Electric Vehicle Charging Stations, the City was working to leverage grants from the Metropolitan Transportation Commission (MTC) with $20,000 identified as local match funding.

- For Project No. FA1901, Senior Center Auxiliary Parking Lot, the parking lot would include the installation of charging stations.

- For Project No. PA2001, Bocce Ball Court, the Pinole Rotary Club had identified the bocce ball court as its Centennial Project, with the project to be funded through different grant sources.

- The City had considered adding solar and would continue to review solar opportunities.

- For Project No. FA1702, Citywide roof repairs and replacement, the project had been identified by a roofing company, repairs would be required prior to consideration of any solar, and while some members of the City Council supported solar opportunities there were regulations associated with the ability to generate power via solar required to be offset by the use of power. Staff had discussed solar opportunities with MTC and Marin Clean Energy (MCE). The project may be added to the unfunded project list and would continue to be monitored.

- Measure S included a pattern of funding for a modest amount of pothole repairs in the City ranging from $20,000 to $50,000 each year. The Public Works Department had purchased a specialty piece of equipment for patch paving and would be conducting a more formalized pothole repair program. The ongoing budget for pavement funding also allowed for the purchase of asphalt material and staff promised the City Council when the equipment was purchased that it would be on the road for approximately six weeks a year to patch potholes using a technique to facilitate slurry seal projects.

- For Project No. RO2501, Residential Slurry Seal, the City funded between $250,000 and $300,000 in slurry seal projects every other year. In 2020, the City funded almost $800,000 in slurry seal projects having paired two projects and expanded them into the list of roads for 2022, which allowed the City to do larger projects, obtain overall lower bid pricing, and maximize staff resources. If funding was increased, the size of projects could be increased and staff would be looking at the available federal and state stimulus funding to determine whether the projects could be made larger.

- The Pinole Valley Underground District had impacted Pinole Valley Road and its cul-de-sacs. There were rules associated with the funding sources for the project which had used Rule20A funds. While the pavement serviceability of the road on Pinole Valley Road would be like a new road and patching would be done by the contractor, the cul-de-sacs would be a challenge and the City would have to wait until after the job was complete before deciding how to optimize the spending on the cul-de-sacs. An area of the pavement towards the south end of the project would also have to be

evaluated to see how it could be optimized. All of the sidewalk work done using Rule20A funds would be Americans with Disabilities Act (ADA) compliant. Staff would look at the project once complete, and acknowledged there would be funding demands on the City to try to harmonize what was new and old in the area. Staff hoped the work would be complete in the next 60 days.

- For the Hercules-Pinole Wastewater Treatment Plant, the cities of Hercules and Pinole had the foresight to realize the construction project would have an impact on the road and had included specific language in the Fiscal Agreement each city had signed that stipulated for whatever life was lost due to the construction project each city would pay half. The Hercules-Pinole Wastewater Subcommittee would meet on May 26, 2021 to discuss funding for the Tennant Avenue Rehabilitation Project and the budget documents had been included in the Planning Commission packet. The City of Hercules and the Sewage Enterprise Fund would be putting monies towards that project. Given the service demands, the road was an expensive project. Slurry seal provided three years of service life and the option was to rehabilitate the pavement sections to produce a road with a ten- to twelve-year service life.

PUBLIC COMMENTS OPENED

The following speaker submitted written comments via email that were read into the record and would be filed with the agenda packet for this meeting: ***Rafael Menis.***

Responding to public comment with respect to Project No. RO2501, Residential Slurry Seal and Project No. RO2401, Cape Seal, Ms. Miller explained the City used StreetSaver software which optimized recommendations and took the Pavement Condition Index (PCI) scored by the field personnel and mapped it over time so that during the Five-Year Budget report, a specific road would be scheduled for slurry seal repair based on the methodology and algorithm that projected the serviceability of the pavement itself. She also clarified that slurry seal was weather dependent and a road could not be slurry sealed during wet and cold weather.

PUBLIC COMMENTS CLOSED

The Planning Commission discussed the Draft Five-Year CIP and offered the following comments and/or direction to staff:

- Recommended that Project No. FA2002, Electric Vehicle Charging Stations and Project No. FA1901, Senior Center Auxiliary Parking Lot, be combined to provide greater funding capabilities and consideration of solar. For Project No. FA1702, Citywide roof repairs and replacement, suggested the

inclusion of solar on the roof of City Hall should be considered to provide more efficiency and investment in green technology. For Project No. PA2001, Bocce Ball Court and Project No. PA1704 Prepare a Park Master Plan, supported a Park Master Plan, but questioned the cost of the bocce ball court given the condition of city streets. Encouraged the support of funding for the Bocce Ball Court via community organizations to potentially reduce costs. (Martinez)

- Requested a list/matrix of completed CIP projects and the status of each. (Moriarty)

- Agreed a list/matrix of completed CIP projects and the status of each project should be provided. Liked the potential inclusion of solar and adding solar to the unfunded project list. Acknowledged the concerns with the cost of the bocce ball courts but recognized the identified funds for the project must be used for parks only. (Flashman)

- Found the Draft Five-Year CIP to be a positive report and was excited to see the upcoming projects come to fruition. (Banuelos)

MOTION by a Roll Call Vote to adopt Resolution No. 21-07, A Resolution of the Planning Commission of the City of Pinole Recommending the City Council of the City of Pinole Find that the Proposed Capital Improvement Plan for Fiscal Years 2021/2022 Through 2025/2026 is in Conformance with the City of Pinole General Plan.

MOTION: Flashman SECONDED: Kurrent APPROVED: 7-0

H. CITY PLANNER'S / COMMISSIONERS' REPORT

1. Verbal Updates of Projects

Mr. Hanham reported the application for 811 San Pablo Avenue for 33 units of 100 percent affordable housing would come to the Planning Commission during its June meeting. Vista Woods, a 179-unit senior 100 percent affordable housing project on San Pablo Avenue and Roble Avenue was in the process of completing environmental work to be forwarded to the consultant to meet a Notice of Exemption and would be considered by the Planning Commission in the August to October 2021 timeframe. He also reported the applicant for Appian Village would be holding a community meeting scheduled for June 2, 2021 at 6:00 P.M. via Zoom with more information to be provided to the Planning Commission.

Mr. Hanham also reported that Pinole Vista, a 214-unit project on Fitzgerald Drive in the former Kmart building was in the process of completing specific agreements and may be considered by the Planning Commission in November/December 2021

or early 2022. Also, staff received responses from comments from the applicant and other agencies for the project proposed for 2801 Pinole Valley Road and staff continued to receive single-family home applications and permit requests. In addition, staff was working on updating the City's standard conditions of approval as projects were being processed.

Mr. Hanham added that staff had received a request for minor administrative design review from East Bay Coffee, which would like to modify the outdoor seating area. Staff was of the opinion the proposed modification rose to the level of Planning Commission review and recommended a Special Meeting for either June 2 or June 7, 2021. All of the project conditions and the approval of a Public Necessity for the sale of alcohol would remain in effect. The only items to be reviewed would be the outdoor design features and the fence.

By consensus, the Planning Commission scheduled a Special Meeting for Monday, June 7, 2021 at 7:00 P.M. and staff confirmed that public comment would be accepted at that time.

Mr. Hanham further reported that given the volume of projects and since the Planning Commission met only once a month, staff proposed a second Planning Commission meeting each month and would bring that proposal to the Commission for consideration at its next meeting.

Chair Banuelos stated he had discussed with staff the possibility of having a presentation of projects planned for specific locations, such as all of the projects planned along Pinole Valley Road, to allow the Planning Commission to identify all potential impacts, such as traffic. He also recommended a regular Future Requests for Agenda Items on each meeting agenda.

Planning Commissioners discussed the removal of a street tree at 2518 San Pablo Avenue as related to the City's current Tree Ordinance, and recommended as the City moved towards a Tree Master Plan the current ordinance be strengthened with better enforcement and clarity to the regulations.

Commissioner Moriarty reported the appointment of an Alternate to the Ad-Hoc Planning Commission Subcommittee was to have been agendized for this meeting, and Mr. Hanham advised the item could be agendized for the Special Planning Commission meeting scheduled for June 7, 2021.

In response to Commissioner Moriarty, Mr. Hanham also provided an update on code enforcement related to the removal of the street tree from property at 2518 San Pablo Avenue. In that case, the City had sent a letter to the property owner outlining the City's requirements and what the property owner was required to pay for the tree's removal. A memorandum had also been sent to the City Manager. He assured the Commission that there would be a replacement for the street tree that had been removed.

Commissioner Moriarty also inquired of the status of Planning Commissioners having city e-mails and the Sprouts tree mitigation, to which Mr. Hanham advised he was still working on the e-mail issue and hoped to have more information on June 7. As to Sprouts, no trees would be allowed in the West Contra Costa County Flood Control right-of-way, the City would have to reconsider what could be done with the property owner, and staff continued to work on the matter. He also confirmed he would forward to Commissioners information on the CIP project status that had been presented to the City Council.

The Planning Commission expressed its appreciation to Commissioner Flashman for her work on the Planning Commission and wished her well on her next endeavor.

Commissioner Martinez referenced the Pinole Valley Road Underground District project and suggested it was an opportunity for broadband infrastructure and additional electric charging stations. He wanted to see a Master Plan for the City's roads which also identified the infrastructure under the roads and asked that the Planning Commission be allowed to view the City's larger scaled projects in order to provide input.

Chairperson Banuelos suggested that such a discussion would be important for future projects and the Planning Commission could provide input and recommendations for City Council consideration.

Commissioner Flashman expressed her appreciation to each Planning Commissioner, encouraged members of the public to participate in order to create the community desired, and stated she had been honored and grateful for the opportunity to serve on the Planning Commission. She planned to continue her civic life in the future and had enjoyed the vibrant and inclusive Pinole community.

I. **COMMUNICATIONS**: None

J. **NEXT MEETING**

The next meeting of the Planning Commission to be a Special Meeting to be held on June 7, 2021 at 7:00 P.M.

K. **ADJOURNMENT**: ***In Honor of Sarah Flashman*** at 9:19 P.M.

Transcribed by:

Sherri D. Lewis
Transcriber

ATTACHMENT TO MEETING MINUTES – May 24, 2021
Public Comments Received During and for the 5/24/21 Planning Commission Meeting

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Item C. Citizens to be Heard

From Rafael Menis,

> Greetings Commissioners, Staff and the general public. As this meeting will be the last one for Commissioner Flashman, I would like to say a few words in praise of her work as a planning commissioner.
>
> It can be tempting at times to view the planning commission's work as purely technical- checking to see that a project fits with the general plan and doesn't have fundamental design flaws. But the work by its nature also involves foresight beyond the technical- how will this project integrate into the community as a whole, even if it is a valid general plan use? What are the future impacts to the city if the commission waives requirements for a given project? Commissioner Flashman has always worked to clarify the human impacts of policy choices- what does it mean when the city decides to waive housing requirements? Who does it impact, now and in the future?
>
> Commissioner Flashman has also been a voice for justice and equity on the Commission, examining the impact of projects on disadvantaged communities within Pinole that might otherwise go overlooked.
>
> Finally, Commissioner Flashman has urged the commission to take accountability for its actions, as shown in the minutes for the prior meeting and in many other instances. When we plan, it is especially important to note when plans aren't implemented, and why.
>
> Thank you, Commissioner Flashman, for your service and your example.

Item E1. Zoning Code Amendment 21-02, Specific Plan Amendment 21-01 Update Use Definitions for Dental Office

From Rafael Menis,

> I'm not sure that it would be advisable to carve out an exemption for dental offices (as opposed to other medical offices) in the ordinance.
> Since the location was used for dental purposes in the past, would it be possible to change the zoning of the parcel, and then grant a Conditional Use Permit rather than rewriting the code?
>
> The reason I say this is in particular attachment 3, listing chapter 11 of the specific plan. Saying that every kind of medical services facility is a medical services facility except dental seems like it goes against the general understanding of medical services, particularly in the context of the following clause. What makes a dental office a professional office and not a medical one, when a psychiatric office would still be a medical office?
>
> Rather than rewriting the specific plan to warp the definition of medical services, I think it would be better to first re-zone the parcel to OPMU (thereby requiring an office use of at least 51% of the

space), and then grant a Conditional Use Permit for this particular project. The 3 corridors specific plan, Chapter 6 page 6.0-19 lists Medical Services - General as requiring a CUP for Office Professional Mixed Use (OPMU) zoning. This zoning would align with nearby zoned areas (the gateway shopping mall across the street, as noted on page 2 of the item and 13 of the agenda packet).

Thank you.

Item G1. Review of Draft Five Year Capital Improvement Plan for Consistency with the General Plan

From Rafael Menis,

Is there a difference between the roads targeted in RO2501 and RO2301? I ask because it would seem like it would be better to do slurry seal work earlier, to prevent problems from worsening- but RO2501 has its funding projected for 2025-26 (page 21 of presentation, 52 of agenda packet), while RO2301 has funding projected for 2023-24 (23 presentation, 54 packet). And in between the two we have RO2401 scheduled for FY2024-25, which is a more aggressive repair (22 presentation, 53 packet). Is there a reason we aren't doing all the slurry seal work first, rather than having cape seal work in between them?

Thank you.

DRAFT

MINUTES OF THE SPECIAL MEETING
PINOLE PLANNING COMMISSION

June 7, 2021

DUE TO THE STATE OF CALIFORNIA'S DECLARATION OF EMERGENCY – THIS MEETING WAS HELD PURSUANT TO AUTHORIZATION FROM GOVERNOR NEWSOM'S EXECUTIVE ORDERS – CITY COUNCIL AND COMMISSION MEETINGS WERE NO LONGER OPEN TO IN-PERSON ATTENDANCE. THE MEETING WAS HELD VIA ZOOM TELECONFERENCE.

A. CALL TO ORDER: 7:05 P.M.

B. PLEDGE OF ALLEGIANCE AND ROLL CALL

Commissioners Present: Benzuly, Kurrent, Martinez, Chair Banuelos

Commissioners Absent: Moriarty, Wong

Staff Present: David Hanham, Planning Manager
Alex Mog, Assistant City Attorney

C. CITIZENS TO BE HEARD

No speaker cards or e-mails were submitted for this item.

D. MEETING MINUTES:

Approval of the Minutes of the May 24, 2021 and June 7, 2021 meetings were continued to the June 28, 2021 regular meeting.

E. PUBLIC HEARINGS: None

F. OLD BUSINESS: None

G. NEW BUSINESS:

1. Administrative Design Review – East Bay Coffee

Request: Consideration of an Administrative Design Review for the purpose of amending the outdoor dining space and fencing configurations located at 2529 San Pablo Avenue.

Applicant: Lisa Ancira
c/o East Bay Coffee Company
2529 San Pablo Avenue
Pinole, CA 94564

Location: 2529 San Pablo Avenue (APN: 401-184-015)

Planner: David Hanham

Planning Manager David Hanham presented the staff report dated June 7, 2021, and provided a PowerPoint presentation to illustrate the approved layout and the proposed use for the outdoor dining area for East Bay Coffee Company.

Mr. Hanham recommended the Planning Commission adopt Resolution 21-08 approving Administrative Design Review to amend the outdoor dining design for East Bay Coffee subject to the conditions of approval contained in Exhibit A to Attachment A, as shown in the staff report.

Responding to the Commission, Mr. Hanham clarified the fence would include some vertical plant material, and there would be no entrance or exit from the outdoor dining area onto San Pablo Avenue, although there would be a side entrance with an Americans with Disabilities Act (ADA) ramp. As part of the original use permit, the applicant would be required to maintain the property including the fence and landscaping. The current fence design included horizontal slats with a two-inch gap between the planks.

PUBLIC COMMENTS OPENED

The applicant was not present.

The following speakers submitted written comments (and photographs) via email that were read into the record and would be filed with the agenda packet for this meeting: ***Robert Whitfield, 769 John Street, Pinole and Priscilla Kyu.***

In response to public comment, Mr. Hanham clarified the existing landscaping on both sides and rear of the property. The side landscaping, which was currently overgrown, would be pared back. The tables and chairs in the outdoor dining area would be moved to the middle of the property. The landscaping was required to be preserved as part of the approved Conditional Use Permit (CUP) for the business. In response to neighbors' concerns for views of the site as well as privacy concerns and while the front windows of neighboring homes may have views of the pergolas, staff suggested that due to the slope of the property there would not be clear views of the tables, chairs and patrons in the outdoor dining area.

While the Planning Commission acknowledged neighbors' concerns with respect to privacy, the Commission pointed out the CUP, which had been approved in July 2020, included a number of conditions of approval and there was recognition that the applicants had been very accommodating to the neighborhood, particularly with respect to the location of patron parking.

Mr. Hanham displayed a Google Earth Map of the property along San Pablo Avenue that included views of East Bay Coffee and the existing landscaping. He identified the landscaping to be preserved and noted that some of the landscaping had been trimmed since the Google Map photograph had been taken. There were also views of the location where the tables and chairs would be placed in the middle of the property, views from the sidewalk level, and views of the neighboring properties. Staff acknowledged neighbors may have some slight views of patrons sitting in the outdoor dining area and of the pergolas, but the pergolas and landscaping would screen a lot from view.

The Planning Commission found that the existing landscaping may provide noise and view mitigation from the outdoor dining area. As to the neighboring property to the north of the subject site, it was noted that the fence may have to be cut back a bit to ensure the line of sight for the neighboring property owner to exit their driveway. Staff would have to discuss that issue with the applicant and staff may require a reduction in the height of the fence at that location.

The Planning Commission also viewed photographs of the site provided by Ms. Kyu via e-mail. The Planning Commission recommended the Planning Manager work with Ms. Kyu and the applicants to reach a solution with respect to Ms. Kyu's privacy.

PUBLIC COMMENTS CLOSED

The Planning Commission discussed Administrative Design Review – East Bay Coffee and offered the following comments and/or direction to staff:

- Liked the modified fence design with horizontal slats but had supported the initial vertical slat fence design with views through the fence along San Pablo Avenue. Reiterated the expansion of the business had been approved by the Planning Commission in July 2020, which had been the time for the public to raise any concerns with the proposal. Characterized the proposed amendment to the outdoor dining and fencing configurations as a slight modification to the original plans, and understood the original owners intended the business to be a labor of love to provide a venue for up-and-coming musicians to play and for the community to meet. Recommended the Planning Manager be authorized to work with both Ms. Kyu and East Bay Coffee Company to come up with a solution to address the privacy concerns raised by Ms. Kyu. (Kurrent)

- Liked the proposed design and the slightly taller fence that would serve as a sound break from the live music. Found the modified outdoor dining space and fencing configurations to be a nice addition to the property. Supported the approval of the fence “as shown” for the front, contingent upon determining the final location of the interior components as well as the privacy screening issue to be resolved between the Planning Manager, the applicants, and Ms. Kyu. If a consensus could not be reached, recommended the application be brought back to the Planning Commission for further discussion. (Benzuly)

- Pleased to see a small business grow and make an investment in the community, recognized the business would still have a small town community feel with the enhancements, supported the new outdoor dining space and fencing configurations but suggested the height of the fence was too high and could be lowered to allow views into the outdoor dining area and of the enhancements being made. Opposed the fence becoming a wall or barrier to the community. On further discussion, supported approval of the fence “as shown” for the front with the contingency offered by Commissioner Benzuly. (Martinez)

- Provided the history of the project and reported upon visiting the site that there had been a level change on the property with a retaining wall at the rear and with vegetation/bushes that also served as a sound barrier. The back of the sidewalk from San Pablo Avenue to the raised garden bed had a level change which gradually went uphill and then reached street level, and which included views of San Pablo Avenue and up to the middle of the windows of the Victorian homes located across the street. Due to the level change on the property, suggested there would be no perception of a taller fence. Liked the side entrance, proposed fence height, horizontal slat design, and the two-inch gap between planks allowing views into the outdoor dining area while also providing some protection. Suggested the design would be successful. (Banuelos)

  Agreed maintenance was important and would be addressed via the conditions of approval for the CUP and non-compliance of the conditions may result in revocation of the use permit. Liked the elimination of the original plan for the use of a storage container. Found the modified outdoor dining space and fencing configurations would bring people closer, make the business more attractive in the downtown similar to other small town establishments on main streets, and attract other small town businesses to the downtown. Acknowledged the need to balance residential and commercial neighborhoods while also recognizing the need to have enough activity for the business to be successful. (Banuelos)

Mr. Hanham commented as part of the original conditions of approval of the CUP if he was unable to reach consensus between the business owner and the neighbor the application could be brought back to the Planning Commission. The Planning Commission may approve the application as-is contingent upon staff meeting with the property owner and the applicant to resolve the privacy concerns or alternatively, the Planning Commission may approve the front fence with two-inch gaps between the planks, with the position of the tables, chairs and pergolas remaining to be finalized between the property owner and the neighbor, and with a report back to the Planning Commission.

Commissioner Benzuly offered a motion, seconded by Commissioner Martinez, to approve the fence for East Bay Coffee as shown, with two-inch gaps between the planks; with the Planning Manager, property owner and neighbor to the north to continue to work through solutions for privacy screening as well as rearranging the internal components of the outdoor dining area, as needed, to obtain consensus. If consensus was not reached the application would return to the Planning Commission at a later date.

Assistant City Attorney Alex Mog advised that the Planning Commission had been provided a resolution of approval, as shown in Attachment A to the staff report, which included the required findings. He suggested the motion, as stated, be included as further action in the resolution to document the fact that if the Planning Manager was unable to negotiate a consensus the application would come back to the Planning Commission.

MOTION to adopt Resolution 21-08, A Resolution of the Planning Commission of the City of Pinole, County of Contra Costa, State of California, Approving Administrative Design Review 21-13, to Amend Design Components as Described in Resolution 20-03 at East Bay Coffee Company Restaurant Located at 2529 San Pablo Avenue, Pinole, CA, 94564. APN: 401-181-015, subject to the conditions of approval contained in Exhibit A to Attachment A, and subject to a new NOW, THEREFORE BE IT FURTHER RESOLVED clause to read:

> The Planning Manager shall coordinate with the property owner and the neighbor to install appropriate privacy screening between the two properties and if a solution was not reached, the matter shall be brought back to the Planning Commission for a decision.

MOTION: Benzuly SECONDED: Martinez APPROVED: 4-0-2
ABSENT: Moriarty, Wong

Chair Banuelos identified the 10-day appeal process in writing to the City Clerk.

H. CITY PLANNER'S / COMMISSIONERS' REPORT

1. Verbal Updates of Projects

Mr. Hanham reported the next Planning Commission meeting had been scheduled for June 28, 2021, and would include a number of items. He requested that the Ad Hoc Planning Commission Subcommittee consider meeting in the next week or two to review an application from Bowlero which had proposed a new painting scheme for the building.

It was the consensus of Ad Hoc Subcommittee members Martinez and Banuelos to meet on Wednesday, June 16 at 3:30 P.M.

Mr. Hanham also reported that recruitment for the vacancy on the Planning Commission was ongoing with a status report to be provided to the Chair.

Commissioner Martinez reported on the plans for redistricting in the State of California and in the United States with the opportunity to work with the State Commissioner's Office. He asked that the ticker for Pinole TV include information related to public comment to allow the public to be involved in the redistricting for the City of Pinole, and he expressed the willingness to provide available information to staff.

Mr. Mog asked that Commissioner Martinez also copy the City Manager with any information.

I. COMMUNICATIONS: None

J. NEXT MEETING

The next meeting of the Planning Commission to be a Regular Meeting of the Planning Commission to be held on June 28, 2021 at 7:00 P.M.

K. ADJOURNMENT: 8:23 P.M.

Transcribed by:

Sherri D. Lewis
Transcriber

ATTACHMENT TO MEETING MINUTES – JUNE 7, 2021
Public Comments Received During and for the 6/7/21 Planning Commission Meeting

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Item G1. Administrative Design Review – East Bay Coffee

From Priscilla Kyu,

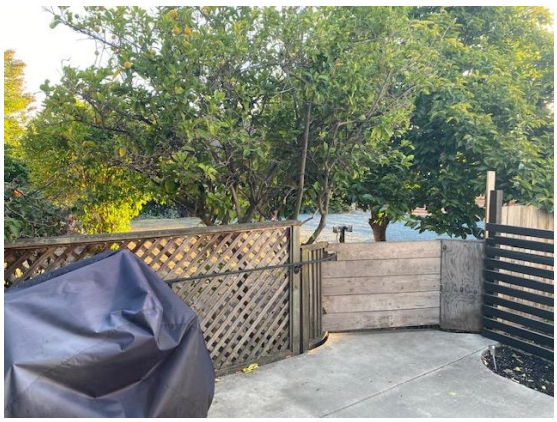
1. Dear Sir,

   We are new to the neighborhood and recently moved in next door to this new project. we are concerned about our privacy with tables shifted to the middle of the property versus when it was originally in the front. The new plan proposed will allow patrons of the outdoor dining at East Bay Coffee company to view into our home. I hope you take this into consideration.

   Thanks!

2. Dear sir,
   fence will be going up between our property and the outdoor dining lot but that has yet to be seen. The landscaping DOES NOT cover the outdoor lot so it wouldn't be sufficient coverage and privacy to our home. In the winter, the foilage is entirely gone. I am attaching some photos from our view below.

   Thank you



From Robert Whitfield,

Dear Sir,
As a homeowner in the John Street neighborhood, I am concerned about the nuisance created by the expansion of the "business" down the street.

I do not consider the coffee company good neighbors or an asset to the neighborhood. The contributions that I have noted are increased pollution and parking concerns.

I fear with expansion and designs to build a beer garden, an increase in these problems with the addition of noise pollution. I am concerned about the design of the new facilities and how it may not compliment the look of our neighborhood. I've heard a container structure within a paddock like fence doesn't feel like the quaint town I fell in love with 12 years ago.

Though they alone did not destroy the property that they plan to grow into, it was a sad loss for our community to lose what looked like a small park with nice plant life to a gravel lot meant to accommodate overflow parking. It was obvious that business was not evened about our neighborhood.

I assume there is a penalty for building without a permit and before plans were approved but doubt the city has interest in causing problem for a business(non-profit church disguised as a business) over the concerns of tax-paying citizens. As evidenced by the lack of notice to our neighborhood about these plans that could greatly impact our quality of life.

When we hoped to design a basement addition to our house, we were face a daunting exercise of seeking neighbors' approval in addition to a requirement of adding a tasteless parking structure to our home. Why haven't the "business" owners at least had to notify the neighborhood or even seek neighborhood approval?

Thank you for your time,
Robert Whitfield
769 John Street

From Paula Jarvis,

As we understand from watching video of the Planning Commission's past meetings, East Bay Coffee has purchased the gravel lot next door to their property, with the intention of offering outdoor dining. We understand that food and alcohol will be allowed in this outdoor space, and the area will be enclosed with a privacy fence on three sides and a 6 foot fence on the San Pablo side which is intended to be somewhat more open to public view. We also understand that there may be plans for future conditional use permits for events in the space.

The fence that will face San Pablo Ave must be in keeping with the historic design of Old Town, and it must present as welcoming and inviting. We request that Dave Hanham seek public input as he reviews design options for the fence. As stated earlier, its appearance will set a tone for the rest of our business community.

We also understand that EB Coffee proposes a shipping container be placed within the fenced area. As such a structure can be an imposing presence in the heart of the historic downtown, we request that it be placed at the back of the lot, oriented in such a way as to minimize its imposition and if necessary, be clad in wood or stucco to be compatible with the surrounding architecture.

The Commission is already aware, we believe, of the importance of protecting the parking and driveway entrances to the homes in the immediate area, on Rafaela and on John St. The city has provided adequate public parking right across San Pablo Avenue and it is critical that EB Coffee and the city make every possible effort to protect the parking and access needs in our neighborhood.

Lastly, but importantly, we have a concern about noise associated with daily activities and special events. Acoustic music may be an acceptable option, but amplified sound carries directly into our community. We often hear amplified events in Fernandez Park, which is two blocks further away, and it is generally on weekend days, as opposed to evenings. We object to any consideration of allowing amplified sound systems for gatherings of any size in this additional East Bay Coffee space. Should the Commission choose to allow anything other than dining in the space, and to allow sound amplification, it is important to us that there be restrictions on times, days, and amplification level. Some of us work from home, others have young children who need quiet for school or naps.

Item E1

Memorandum

TO: **PLANNING COMMISSION MEMBERS**

FROM: **David Hanham, Planning Manager**

SUBJECT: **Satellite Affordable Housing Associates (SAHA) Apartment Complex**

DATE: **June 28, 2021**

Applicant: SAHA Ngan Mai 1835 Alcatraz Avenue Berkeley, CA 94703	**Property Owner:** City of Pinole 2131 Pear Street Pinole, CA 94564
File: Comprehensive Design Review – DR 21-05/PL21-0013	
Location: 811 San Pablo Avenue APNs: 402-166-030	
General Plan: MUSA, Mixed Use Sub Area Specific Plan: San Pablo /Service Sub-Area (SSA) / Commercial Mixed Use CMU Zoning: CMU, Commercial Mixed-Use	

BACKGROUND

The City of Pinole currently owns the property located at 811 San Pablo Avenue. The property was a part of the City's land holdings that were acquired through the Redevelopment Agency. The State ended Redevelopment Agencies with legislation in 2011. Thereafter, the property was transferred to the City as a housing asset. The City is required to use the property for an affordable housing project, or alternatively use the proceeds from any sale for affordable housing. The City has negotiated a Disposition and Development Agreement (DDA) with Satellite Affordable Housing Associates (SAHA), an affordable housing builder, to purchase 811 San Pablo for the purpose of constructing an affordable housing project. The City Council will be considering the DDA for approval at its July 6 meeting.

The SAHA group submitted a development application on February 16, 2021. The SAHA group is proposing to construct 33 affordable units (which includes on manager's unit) on the approximately 0.61 acres/26,572 sq ft. site. The project is proposed to utilize by-right state density bonus law provisions as described later in this report.

The Planning Commission Ad-Hoc Design Review Sub-Committee met on May 12, 2021 to discuss this project. The main issues that were discussed included parking, articulation of the east elevation, and the overall site utilization of the project. The Planning Commission- Sub-Committee wanted to look at moving the building to the western edge of the property to see if there could be additional parking added. However, given site constraints, additional parking was not found feasible.

PROJECT DESCRIPTION

The SAHA project will provide 100% affordable housing with 33 units for low-income households. The development will consist of 29 one-bedroom units and four (4) two-bedroom units, one of which will be the manager's unit. The ground floor comprises of a lobby with mailboxes, stairs, elevator, a spacious community room with a kitchen and a computer station, two property management offices, a resident services office, an exterior bike storage area, and a courtyard connecting to a community garden and children's playground. The parking entrance located along San Pablo Avenue will lead to an outdoor parking lot consisting of 16 parking spaces, including required accessible parking. Services and refuse functions for the building are proposed to be located in the front northeast corner of the building with gated access to San Pablo Avenue. The property will be managed by a team of SAHA Staff members who will provide management, maintenance, and resident services coordination.

Required Land Use Approval

Entitlements and city approvals for the project include Comprehensive Design Review, an Affordable Housing Regulatory Agreement, Disposition Development Agreement (DDA), and a California Environmental Quality Act determination. Pursuant to Table 17.10.060-1, of the Zoning Code of the City Pinole, a Comprehensive Design Review final approval is issued by the Planning Commission with an appeal to the City Council. However, the approvals for the DDA and the Affordable Housing Regulatory Agreement are issued by the City Council. Since the City Council has the final approval authority of for aspects of the project, the Planning Commission will be making a recommendation on the project to the City Council for final approval.

Figure 1 Site Location

1.

Direction from Project Site	Land Use
North	San Pablo Avenue/Commercial and Industrial Uses
West	Existing Commercial Building
South	Existing Single Family Residential
East	Existing Residential and Mixed Use

Site Parameters

The site is bound by San Pablo Avenue to the north. Surrounding land uses include a concrete material yard and the Pinole Shore Industrial area to the north across San Pablo Avenue a mixed use building to the east, and a Glass Company and U-Haul rental facility to the west. The site is adjacent to single and multi-family residential uses to the south. The project site is relatively level, with the high point in the southwest portion the property to the low point in the northeast of the property towards the San Pablo Avenue. Figure 1 of this report and Page A1.1 of the SAHA Development Package show the surrounding uses that are adjacent to the project area.

The site has been vacant for about 50 years. Previous uses of the site were for surface parking and a lumber yard. A small garage structure use to be located on the northeast side of the property. The concrete pad for the garage and driveway are still visible.

A sewer easement extends through the site which extends to Meadow Avenue. Construction of the project will require relocation of the sewer line through the surface parking lot and recordation of a new sewer easement to coincide with the relocated line. The current easement will be required to be vacated.

ANALYSIS

This section of the report will analyze SAHA's Comprehensive Design Review project request for consistency with the General Plan, the Three Corridors Specific Plan, and the Zoning Ordinance of the City of Pinole. As a part of the consistency evaluation and approval, the Planning Commission is required to make specific findings and other considerations consistent with Sections 17.12.150 (G) & (H) of the Pinole Zoning Code. In addition, the Commission will also review the by-right density bonus request for the project. Since the project is 100% affordable, the applicant is entitled to a density bonus of 80% above the permitted density and 4 concessions. The project is only asking for 3 concessions, so the project complies with basic height and setback requirements. The City may only deny a requested concession if the concession would either: 1) not result in identifiable and actual cost reductions, or 2)have a specific, adverse impact upon public health and safety. The density bonus request is outlined below:

Density Bonus Request:

Table 1
Density Bonus Request & Concessions

Zoning Standard	Municipal Code Requirement	Proposed	Request
Parking Standard Sect. 17.48.050	61	16	(concession) Under the Density Bonus law, the maximum number of parking spots that can be required for the project is 37. SAHA is requesting a further reduction of 21 parking spaces .
Open Space Sect. 17.24.030 (A) 1 &2	9,000 sq. ft. of improved usable space 80 sq ft of private open space per ground floor unit	5,700 sq ft of improved usable space	(concession) SAHA is requesting a reduction of 3,300 sq ft. of improved usable space. SAHA is also requesting not to provide the 80 sq ft. of private open space for ground floor units in favor of shared open space. The reason for that is because the only available location on site to provide additional open space would be on the roof. SAHA cannot utilize the roof due to supervision and resident liability. If the building footprint is reduced to provide more open space, the community room, service offices, and communal space

			would need to be relocated within the building. These spaces would be occupied spaces that would contribute to a height increase of the building, which would exceed the height requirement.
Density and Unit Total, Sect 17.24.020	20.1 – 30.0 units per acre 13-19 units	33 units including one unit for manager	(by-right) SAHA is requesting a by-right 80% density bonus with the 33 units that raises the permitted number of units to 54 units per acre. State law allows density bonuses up to 80% with project that are 100% affordable. The SAHA project is proposing a 100% affordable project.
Parking Lot Shade, Sect 17.44.060 (F)	60%	34%	(concession) SAHA is requesting a 26% decrease in parking lot shading. The reason for the reduction is the previously proposed Holly Oaks were too big and they are replacing with Brisbane Box trees that has a grow to a spread of 20' in diameter. The change will reduce the parking lot shade at 15 years to 34%.

General Plan Consistency

The property located at 811 San Pablo has a General Plan Land Use Designation of MUSA, Mixed Use Sub-Area (10.1 to 50 du/ac). MUSA is defined as encouraging mixed residential and commercial development that is united by transit and pedestrian improvements. This land use designation allows all types of commercial and residential as either a single use or a combination with other allowable commercial and residential uses.

The project helps to implement numerous policies within different elements of the General Plan including the Community Character Element, Land Use and Economic Development Element, Circulation Element, Health and Safety Element, the Natural Resources and Open Space Element, and the Sustainability Element. Applicable policies are provided below.

Community Character Element

POLICY CC.1.1 All new development and redevelopment shall adhere to the basic principles of high-quality urban design and architecture including, but not limited to, human-scaled design, pedestrian orientation, and interconnectivity of street layout, siting buildings to highlight important intersections, entryways, focal points and landmarks.

POLICY CC.1.2 Require all new development to incorporate high-quality site design, architecture and planning to enhance the overall quality of the built environment in Pinole and create a visually interesting and aesthetically pleasing town environment.

Land Use and Economic Development Element

POLICY LU.3.2 Ensure high quality site planning, architecture and landscape design for all new residential development, renovation or remodel

POLICY LU.4.1 Ensure all new development, renovation or remodeling preserves and strengthens Pinole's residential neighborhoods by requiring projects to be harmoniously designed and integrated with the existing neighborhood.

POLICY LU.4.2 Maintain the character and long-term viability of the City's residential areas by ensuring that residential projects are well designed and consistent with challenging development constraints.

Housing Element

POLICY H 2.1 Enhance neighborhood identity and sense of community by designing new housing to have a sensitive transition of scale and compatibility in form with the existing neighborhood.

POLICY H.2.3 PROMOTE HIGH QUALITY DESIGN. Provide stable, safe, and attractive neighborhoods through high quality architecture, site planning, and amenities that: (1) reduce the perception of bulk; (2) recognize existing street patterns; CHAPTER 6 HOUSING 6.0-96 CITY OF PINOLE GENERAL PLAN (3) enhance the sense of place; (4) minimize the visual impact of parking and garages; and (5) use quality building materials.

POLICY H.3.4 PROVIDE ADEQUATE TRANSPORTATION FACILITIES AND SERVICES. Provide adequate transportation alternatives which improve accessibility of residential neighborhoods to the community and beyond, while maintaining neighborhood integrity. The following are specific policies to reduce traffic on residential streets and improve available transportation alternatives: • Encourage a variety of transportation modes to serve existing neighborhoods. • Plan new commercial development around the use of certain arterial corridors and in close proximity to new residential development. • Foster pedestrian oriented neighborhoods. • Maintain and improve AC Transit and WestCat services, including the implementation of BART Express Service.

POLICY H.4.1 PROVIDE A CHOICE OF HOUSING. Provide a mix of sizes and housing types to meet the needs of Pinole's diverse population. Specific examples include traditional single family homes, second units, mixed use developments, infill development, accessible housing, and transitional and emergency housing. Opportunities must be available for lower, moderate, and above-moderate income households reflecting available job opportunities in close proximity to Pinole. Available housing choices should also strive to minimize transportation needs.

POLICY H.4.4 SUPPORT THE DEVELOPMENT OF AFFORDABLE HOUSING. Maintain appropriate land use regulations and other development tools to encourage development of affordable housing opportunities throughout the City.

Circulation Element

- POLICY CE.1.4 Encourage maximum utilization of the existing public transit system and alternate modes of transportation in Pinole.
- POLICY CE.8.1 Require development to provide pedestrian walkways that are safe, interconnected, and accessible by all members of the community.
- POLICY CE.8.4 Encourage the location of basic shopping and services within walkable distances to residential areas.

Health and Safety Element

- POLICY HS.6.1 Promote and encourage walking and bicycling as viable forms of transportation to services, shopping and employment.
- POLICY HS.7.3 Reduce the transport of runoff and surface pollutants off site.

Natural Resources and Open Space Element

- POLICY OS.3.6 Minimize Environmental Impacts. Encourage development patterns which minimize impacts on the City's biological, visual, and cultural resources, and integrate development with open space areas.

ACTION OS.8.8.6 Require new development projects to incorporate facilities and measures to treat stormwater before discharge from the site. The facilities shall be included in required Stormwater Control Plans and sized to meet NPDES permit requirements. Projects shall protect water quality by incorporating Low Impact Development (LID) design to detain, treat, and infiltrate runoff by minimizing impervious area; such as use of pervious pavements and green roofs, disperse runoff to landscaped areas; and/or route runoff to rain gardens, cisterns, swales, and other small-scale facilities distributed throughout the project area.

Sustainability Element

POLICY SE.8.7 Work to improve Pinole's pedestrian and bicycle infrastructure and to meet the needs of all pedestrians and bicyclists.

Specific Plan and Zoning Consistency

The SAHA project is located in the Three Corridor Specific Plan. The project has a CMU, Commercial Mixed Use Specific Plan Designation and a CMU, Commercial Mixed Use zoning designation. By developing the

SAHA project, the City is replacing a vacant and underutilized parcel in a mixed-use area with new residential and increasing residential density area along the San Pablo Corridor.

The Specific Plan allows for a 100% residential project within the CMU Zone District. However, the project must enter into an Affordable Housing Agreement and when that development includes community benefits as specified in the General Plan.

The proposed project includes features to improve pedestrian access from the project to San Pablo Avenue. Landscape upgrades are proposed within the project site that include tree and shrub plantings as well as new landscaping along San Pablo Avenue.

The Specific Plan includes policies to help fulfill the plan's objectives. The proposed project helps to implement the Specific Plan policies provided below.

Table 2 Land Use Policies of the Three Corridor Specific Plan	
Land Use Policy 1	Provide for a variety of housing types throughout the plan areas.
Land Use Policy 3	Provide affordable housing within he plan areas consistent with the City's General Plan
Land Use Policy 6	Actively promote the "revitalization" of underutilized land.
Land Use Policy 8	Encourage the development of mixed use office buildings in proximity to existing transit stops

Overall Design of the Project DR-21-05

The scale and detail of the building were designed to contextually blend with this section of San Pablo Avenue streetscape, which is a blend of newer and older buildings with varied setbacks and varied building forms. Ground street level offices are carefully places to ensure unit privacy and a given commercial storefront appeal to blend into the diversity of services provided along San Pablo Avenue. To activate the San Pablo corridor in keeping with priorities and principles set forth in Pinole's Three Corridor Specific Plan, the design places the lobby and entrance, service office, and property management office along the project frontage, featuring storefront windows and a minimal setback. The building entrance and lobby will provide a welcoming and secure point-of-entrance for residents and visitors alike. A spacious multi-purpose community room is located just off of the lobby, which in turn is connected via an outdoor pathway to a large patio terrace/courtyard in the rear of the property to facilitate indoor/outdoor activities. Residential units are located on the first through fourth floors; the upper floors are fully accessible and served by an elevator.

Generous landscaping is incorporated to create a sense of being built into the surroundings and allows for a softer transition from the heavier street traffic. In order to achieve the character built within Pinole, the building has been laid out to ensure the parking and many of the units are tucked behind the main façade which becomes the feature to assist in defining the project and achieving the goal to fit into the distinct identity of Pinole. The proposed site plan includes large green space at the south end of the site that is designed for shared community use and programmed with amenities such as a children's play area, and community garden beds.

Findings:

1.The proposed project is consistent with the objectives of the general plan and complies with applicable zoning regulations, planned development, master plan or specific plan provisions, improvement standards, and other applicable standards and regulations adopted by the city;

General Plan, Specific Plan and Zoning Regulations:

As stated above in this report, General Plan and Specific Plan goals, policies, and action items have been identified to satisfy consistency with this project, the City of Pinole General Plan, and the Three Corridor Specific Plan. As described above, this project is asking for some concessions that are permitted under state density bonus law. The proposed project is consistent with the Three Corridor Specific Plan as well as the Zoning Ordinance of the City of Pinole.

Building Architecture

The architecture for the project includes a mix of materials and colors. The mix of materials and colors will be used will provide a modern looking building. The building will be a mixture of stucco, horizontal hardie siding with fiber cement board and batten materials that give the building a wood look and finish. Another feature that is being used on this project is the office style windows in the front of the windows to give the building a mixed use look from the street. Design components can be found on Page A-5 of the Design and Development Plan Set.

Landscape Plan

The landscape plan includes the removal of the existing trees on the project site and replacement with new trees. A conceptual landscape plan is provided with potential tree, shrub and ground cover choices that are drought tolerant and well-suited to Pinole's climate. Much of the proposed new landscape material is proposed inside the complex with some landscaping along San Pablo Avenue. As described in the Landscape Plan on page, L2.01, they are prescribing to plant 40 trees plus shrubs and ground cover. This project will be replacing approximately 16 existing trees. Based on the layout of the plan, the trees will need to be removed. There are no heritage trees on the site.

Density Bonus/Affordable Housing

As stated above, this Project is zoned CMU, Commercial Mixed-Use. The maximum density for this area is 30 units per acre. The Parcel is 0.61 acres. Based on the zoning and the size of the parcel, SAHA is allowed to build a maximum of 19 units. All residential projects in the City are required to have an affordable housing component. Section 17.32.020 requires that 15 percent of the propose project shall be affordable and 40 percent of that number is required for very low income. Based on the 19 units, SAHA is required to provide 3 units for 80 percent of median income and 2 of those units are required to be for persons making 120 percent of median income. The project exceeds the Municipal Code requirements for affordability.

SAHA is proposing that 19 units would be available for people making sixty percent (60%) of the area median income or less. By SAHA proposing that all of the units are affordable, State Law allows for an 80 percent maximum density bonus. SAHA is requesting the maximum density bonus which allows SAHA to build 33 units. The density bonus request is consistent with state law density bonus requirements.

When a project is using a density bonus, the applicant is allowed concessions and waivers from the City to relieve SAHA of burdens of the City Codes. SAHA is requesting three (3) concessions of City Standards. The concessions are listed below:

> *Concession 1 – SAHA is requesting a further reduction of parking stalls. SAHA is proposing 16 parking stalls.* Under the Density Bonus law, the maximum number of parking spots that can be required for the project is 37. *This concession would eliminate an additional 21 of the required parking stall for this project.*
>
> *Concession 2 – SAHA is requesting that a reduction of usable open space per unit. SAHA is proposing 5,700 sq. ft. of usable open space. This concession would eliminate 3,300 sq. ft. of usable open space. The Zoning Code requires a maximum 80 sq. ft. of private open space per unit at the ground floor. Based on the design of the project, the only available location on the site for additional space is on the roof. SAHA cannot utilize the roof for open space due to supervision and resident liability.*
>
> *Concession 3 – SAHA is requesting a reduction in parking lot shade. The Zoning Code requires this project to provide a minimum of 60% of shading for pedestrian, and this was met with the proposed Holly Oak in the first revision of the plan. Due to space concerns, the project is proposing to replace the oak trees with Brisbane Box Trees, which will grow to a spread of 20' feet in diameter. The change reduces the shade cover from 60% to 34%. SAHA is requesting a concession for a 24% reduction in parking lot shade.*

Conclusion: Based on the statements above, the concessions requested by the applicant are consistent with state law allowances for density bonus concessions.

2. The proposed project will not create conflicts with vehicular, bicycle, or pedestrian transportation modes of circulation;

San Pablo Avenue is the main access for this project. All of the improvements to San Pablo have been installed. The project will be required to have right-in and right-out with no left turns directly into the project. There is an existing median directly in front of the project that prohibits left outs and left ins to the project area. However, there is a left turn lane on eastbound San Pablo at the intersection of Meadow and San Pablo Avenue. This access will allow residents to go west on San Pablo. There is also a left-hand turn lane on westbound San Pablo to allow residents to make a U-turn to access the project. The project is proposing 16 bicycle stalls, 10 in the rear of the property and 6 in the front. The project is also proposing separate entrances in the front of the building and the rear of the building for pedestrian access. San Pablo Avenue has improved curb, gutter, and sidewalk for pedestrian access in front of the project area. There is a cross walk with high-visibility striping and pedestrian crossing signage on the west leg of the San Pablo/Meadow Avenue intersection with stop controls for the north and south bound traffic. There are future street projects that will create a pedestrian refuge median to be installed within the crosswalk area. Bicycle lane striping is also proposed on San Pablo Avenue. Page A2.0 shows the separation of bicycles, vehicles, pedestrian entrances and the improved area of San Pablo Avenue.

Conclusion: Based on the discussion above, the proposed project with not create conflicts with vehicular, bicycle or transportation modes of circulation.

3. The site layout (orientation and placement of buildings and parking areas), as well as the landscaping, lighting, and other development features, are compatible with and complement the existing surrounding environment and ultimate character of the area under the general plan and applicable specific plans.

The Project layout has most of the amenities within the gated area as seen on page A2.2 of the project plan, the project's site layout as well as the landscaping, lighting, and other development features are compatible with and complement the existing surrounding environment and ultimate character of the area under the general plan and applicable specific plans. The project plans submitted with the application provide the landscaping and lighting plan that is consistent with the General Plan, Three Corridor Specific Plan, and Pinole Zoning Ordinance regulations.

Conclusion: Based on the above discussion, the site layout and development features are compatible with and complement the existing surrounding environment and ultimate character of the area.

4. Qualifying single-family residential, multi-family residential, and residential mixed-use projects shall comply with all relevant standards and guidelines in the city's currently adopted design guidelines for residential development.

SAHA is proposing a multi-family project within the Three Corridors Specific Plan area. The Three Corridors Specific Plan includes design guidelines for multi-family residential projects which include design standards for massing, landscape, setbacks and exterior building design. the design that SAHA has proposed has included elements that are consistent with the Three Corridors Specific Plan. The CMU, Commercial Mixed-Use requires a site to develop a density of between 20.1 and 30 dwelling units per acre. The proposed project maximizes the density with a density bonus and exceeds the 30 dwelling units per acre.

Conclusion – Based on the discussion above, the project is consistent with the Three Corridors Specific Plan design guidelines.

In conducting comprehensive design review, the designated approving authority shall consider the following:

1. Considerations relating to site layout, the orientation and location of building, signs, other structures, open spaces, landscaping, and other development features in relation to the physical characteristics, zoning, and land use of the site and surrounding properties.

The Development Package dated 4/22/2021 as well as the assessment of the project above shows that the project has been designed to consider all of the development features applicable to the project site and surrounding properties. Project orientation along San Pablo Avenue and stepped massing of the building away from San Pablo Avenue creates a visually appealing building. Compliance with 15' side

and rear setbacks provide for separation between the project and surrounding structures.

Conclusion: Based on the discussion in the staff report and above, considerations relating to site layout and other design features in relation to the physical characteristics of the site and surrounding properties have been made.

2. Considerations relating to traffic, safety, and traffic congestion, including the effect of the development plan on traffic conditions on abutting streets, the layout of the site with respect to locations and dimensions of vehicular and pedestrian entrances, exits, driveways, and walkways, the adequacy of off-street parking facilities to prevent traffic congestion, and the circulation patterns within the boundaries of the development.

As shown on page A2.0, the ingress and egress for the project is approximately 175 feet from the intersection of San Pablo and Meadow Avenue. Due to the median located in San Pablo Avenue, the vehicular traffic is required to make right-in and right-out movement. The traffic coming from this project is minimal due to the 16 off-street parking stalls. The layout of the site allows for the driveway to be at the most western part of the property, which allow the maximum distance from the intersection of Meadow and San Pablo. The concession of eliminating 45 parking stalls will eliminate on-site conflict within in the development.

Conclusion: Based on the discussion above and in the staff report, the project design addresses and considered traffic, safety, traffic congestion and the effect of the development on traffic conditions on abutting streets (Meadow Avenue). The project also includes appropriately designed vehicle and pedestrian entrance, exits, driveways and walkways. Parking facilities are provided consistent with the requested density bonus concession.

3. Considerations necessary to ensure that the proposed development is consistent with the general plan and all applicable specific plans or other city plans, including, but not limited to, the density of residential units.

As stated above in this report, General Plan and Specific Plan goals, policies, and action items have been identified to satisfy consistency with this project and the City of Pinole General Plan, and the Three Corridor Specific Plan. The project is also consistent with state density bonus law for the density of the residential units

Conclusion: Based on the discussion in the staff report and above, the project is consistent with the General Plan and the Three Corridors Specific Plan.

4. Considerations relating to the availability of city services, including, but not limited to, water, sewer, drainage, police and fire, and whether such services are adequate based upon city standards.

Based on discussions with City Staff and a review of available utility information, this project has availability of water, sewer, drainage, police and fire. The Applicant will be required to install the new green infrastructure in compliance with the most current Contra Costa Clearwater Program Guidelines

Program as required under the current Regional Water Quality Control Permit. The Project will also be required to add Trash Capture Devices basins the parking lot prior to the issuance of a building permit for compliance

Conclusion: Based on the discussion above and information in the staff report, city services are available and adequate to serve the site.

ENVIRONMENTAL REVIEW

CEQA provides several "categorical exemptions" which are applicable to categories of projects and activities that the Lead Agency has determined generally do not pose a risk of significant impacts on the environment. The project consists of a residential project within the developed urban area of the city of Pinole. The project is exempt under Section 15332 of the State CEQA Guidelines (Class 32-Infill Development Projects) and under Government Code section 65457 and State CEQA Guidelines Sec. 15182 (Specific Plan Consistency). The detail of these exemptions is located in Attachment 2 of this report.

AFFORDABILITY AGREEMENT AND DISPOSITION AND DEVELOPMENT AGREEMENT

Section 17.32 of the Pinole Zoning Ordinance requires affordable housing projects to enter into an Affordable Housing Agreement. The Affordable Housing Agreement shall be made a condition of the discretionary planning entitlements for all qualifying projects granted a density bonus. The Affordable Housing Agreement shall include an affordable housing plan and shall be reviewed and approved by the City Council. The Affordable Housing Agreement also includes the duration of the affordability in conformance with the requirements of the Pinole Zoning Code, Pinole Municipal Code, and State Law.

A Disposition Development Agreement (DDA) is an agreement between a developer (SAHA) and the City which sets forth terms and conditions under which the City can sell land to a private developer. For this project, the City has owned this property for decades under the Redevelopment Agency. Since the dissolution of Reevelopment Agencies in 2011, the City has held the property as a housing asset and is required to use or sell the land for affordable housing purposes.

Both of these agreements are approved by the City Council, and are not reviewed by the Planning Commission. However, the Planning Commission is required to find that the sale of the property is consistent with the General Plan. The sale of this property is consistent with the General Plan for the reasons described above.

STAFF RECOMMENDATION

Staff recommends that the Planning Commission take the following actions after holding a public hearing.

Adopt Resolution 21-09 recommending approval to the City Council for a Comprehensive Design Review and CEQA-Notice of Exemption, and finding that the disposition of 811 San Pablo conforms with the General Plan

ATTACHMENTS

A. Draft Resolution 21-09 – with Exhibit A, Conditions of Approval.
B. CEQA Determination -- Notice of Exemption
C. Development Plan Package date April 22, 2021 (under separate cover)
D. Draft Deposition & Development Agreement
E. Draft Affordability Agreement

ATTACHMENT A

PLANNING COMMISSION RESOLUTION 21-09
WITH EXHIBIT A: CONDITIONS OF APPROVAL

RESOLUTION OF THE PLANNING COMMISSION OF THE CITY OF PINOLE RECOMMENDING APPROVAL TO THE CITY COUNCIL FOR A COMPREHENSIVE DESIGN REVIEW (DR 21-05) TO CONSTRUCT 33 AFFORDABLE UNITS AND MAKE SITE IMPROVEMENTS, LOCATED AT 811 SAN PABLO AVENUE (APN – 402-166-030) AND FINDS THAT THE DISPOSITION OF 811 SAN PABLO AVENUE CONFORMS WITH THE GENERAL PLAN

WHEREAS, Eve Stewart, (SAHA), (Applicant) filed an application with the City of Pinole for a Comprehensive Design Review, for the purpose of constructing 33 affordable housing units and in accordance with Title 17, of the Pinole Municipal Code; and

WHEREAS, the Project site is located on the south side of San Pablo Ave approximately 200 feet west of Meadow Avenue (APN: 402-166-030); and

WHEREAS, the site has General Plan Land Use Designation of MUSA, Mixed-Use Sub-Area, a Specific Land Use Designation of Mixed Use, and a zoning of CMU, Commercial Mixed Use, and development; and

WHEREAS, the applicant has proposed 100% affordability for the units and has requested a density bonus as permitted by State Law, including a request for three (3) concessions/waivers; and

WHEREAS, the project is subject to a Disposition Development Agreement due to the City of Pinole owning the property; and

WHEREAS, as required by Chapter 17.32 of the Pinole Zoning Ordinance the applicant is required to enter into an Affordable Housing Agreement for the inclusionary housing requirement; and

WHEREAS, the City Council shall serve as the authority to approve the entitlement requests, since at least one entitlement request associated with SAHA Apartment Complex requires City Council approval and project permits, consideration shall be taken by the highest-level designated approving authority under Section 17.10.060 of the Pinole Municipal Code; and

WHEREAS, in compliance with California Environmental Quality Act (CEQA), the City prepared a Notice of Exemption pursuant to Section 15332, Infill Development Project, Government Code 65457, and CEQA Section 15182 Specific Plan Consistency, which is hereby incorporated by reference; and

WHEREAS, a notice of public hearing was distributed to all property owners within 1,000 feet of the project site and a notice was published in the June 18, 2021 edition of the West County Times; and

WHEREAS, the Planning Commission has held a duly noticed public hearing considered

all public comments received, the presentation by City staff, the staff report, and all other pertinent documents regarding the proposed request.

NOW THEREFORE, BE IT RESOLVED, that the above recitals are true and correct and made part of this resolution.

BE IT FURTHER RESOLVED that the Planning Commission of the City of Pinole hereby recommends that the City Council approve DR 21-05 subject to the Conditions of Approval, applicable to the entire SAHA Apartment Complex, attached as Exhibit A to this Resolution, and determines that the project is consistent with the following findings and other considerations, as provided in the Staff Report dated June 28, 2021 to Planning Commission and hereby incorporated by reference:

Findings

1. The proposed project is consistent with the objectives of the general plan and complies with applicable zoning regulations, planned development, master plan or specific plan provisions, improvement standards, and other applicable standards and regulations adopted by the city.

2. The proposed project will not create conflicts with vehicular, bicycle, or pedestrian transportation modes of circulation.

3. The site layout (orientation and placement of buildings and parking areas), as well as the landscaping, lighting, and other development features, are compatible with and complement the existing surrounding environment and ultimate character of the area under the general plan and applicable specific plans; and

4. Qualifying single-family residential, multi-family residential, and residential mixed-use projects shall comply with all relevant standards and guidelines in the city's currently adopted design guidelines for residential development.

Other Consideration in accordance with Section 17.12.150 (H):

1. Considerations relating to site layout, the orientation and location of building, signs, other structures, open spaces, landscaping, and other development features in relation to the physical characteristics, zoning, land use of the site and surrounding properties have been made.

2. Considerations relating to traffic, safety, and traffic congestion, including the effect of the development plan on traffic conditions on abutting streets, the layout of the site with respect to locations and dimensions of vehicular and pedestrian entrances, exits, driveways, and walkways, the adequacy of off-street parking facilities to prevent traffic congestion, and the circulation patterns within the boundaries of the development have been made.

3. Considerations necessary to ensure that the proposed development is consistent with the general plan and all applicable specific plans or other city plans, including, but not limited to, the density of the residential units have been made.

4. Considerations relating to the availability of city services, including but not limited to, water, sewer, drainage, police and fire, and whether such services are adequate based on

upon city standards have been made.

BE IT FURTHER RESOLVED that the Planning Commission of the City of Pinole hereby recommends that the City Council find the approval of DR 21-05 and the sale of 811 San Pablo categorically exempt from CEQA pursuant to CEQA Guidelines Section 15332, Infill Development Project, Government Code 65457 and CEQA Guidelines Section 15182 Specific Plan Consistency, as set forth in the notice of exemption on file with the City Clerk and incorporated herein by reference.

BE IT FURTHER RESOLVED that the Planning Commission of the City of Pinole hereby concludes that the disposition of the 811 San Pablo conforms to the City of Pinole General Plan pursuant to Government Code section 65402, based upon the substantial evidence presented to the Planning Commission during its meeting on June 28, 2021.

PASSED AND ADOPTED by the Planning Commission of the City of Pinole on this 28th day of June 2021, by the following vote:

AYES:
NOES:
ABSTAIN:
ABSENT:

_____
Timothy Banuelos, Chair, 2021-2022

ATTEST:

_____
David Hanham, Planning Manager

3792648.1

Exhibit A
Planning Commission Resolution 21-09 CONDITIONS OF APPROVAL

		Timing/ Implementation	Monitoring Department / Division	Verification (date and Signature)
1.	The project shall be constructed in substantial compliance with the approved Design Review request for SAHA Apartments (APN 402-166-030), as shown on the project plans dated April 22, 2021, unless otherwise conditioned. The proposed project shall be built in a manner consistent with all applicable federal, state, and local regulations.	On-Going	Development Services Department	
2.	The Applicant shall hold harmless the City, its Council Members, its Planning Commission, officers, agents, employees, and representatives from liability for any award, damages, costs and fees incurred by the City and/or awarded to any plaintiff in an action challenging the validity of this permit or any environmental or other documentation related to approval of this permit. Applicant further agrees to provide a defense for the City in any such action.	On-Going	Development Services Department	
3.	All building permit drawings and subsequent construction shall substantially conform to the approved drawings and application materials. Any modifications must be reviewed by the Planning Manager who shall determine whether the modification requires additional review and approval by the Planning Commission.	On-Going	Development Services Department	

Exhibit A
Planning Commission Resolution 21-09 CONDITIONS OF APPROVAL

		Timing/ Implementation	Monitoring Department / Division	Verification (date and Signature)
	Prior to Issuance of Building Permits			
4.	LANDSCAPE AND FENCING PLAN – The applicant shall prepare and submit a final full detailed landscape, fencing and irrigation plan for review and approval by the Development Services Department prior to the issuance of building permits. The landscape, fencing and irrigation plan shall include the number, type, and size of all proposed new trees, shrubs, and groundcover specimens. Any new fencing or gate design details shall be included within the building construction plans. All proposed plantings shall be drought-tolerant and well-suited to the City's climate zone. The detailed landscape, fencing and irrigation plan shall be consistent with all applicable requirements of the Municipal Code including Chapter 17.44. The detailed landscape plan shall ensure that: a. All shrubs shall be a minimum 5-gallon size. b. Light-colored, high albedo materials or vegetation shall be installed for at least fifty percent of all sidewalks, patios, and driveways. Specific design material information and specifications for the permeable pavers and crushed rock shall be included within the final landscape plan.	Prior to Issuance of Building Permits	Development Services Department	

		Timing/ Implementation	Monitoring Department / Division	Verification (date and Signature)
	c. High water use turf grasses and other similar plantings shall only be utilized in high-use areas with high visibility or functional needs. When only drought-tolerant turf grasses are used, the turf area shall be limited to twenty-five percent (25%) of all irrigated, landscaped areas. When non-drought-tolerant turf grasses or a combination of non-drought-tolerant and drought-tolerant turf grasses is used, the turf area shall be limited to fifteen percent (15%) of all irrigated, landscaped areas. d. At least twenty-five percent (25%) of the lot area and no more than forty percent (40%) of the front yard area shall be non-pervious surface. Additionally, at least ninety percent (90%) of the plants selected in non-turf areas shall be well suited to the climate of the region and require minimal water once established. Up to ten percent (10%) of the plants may be of a non-drought-tolerant variety, provided they are grouped together and can be irrigated separately e. Tree protection measures provided by a certified arborist shall be included in the landscape plan.			
5.	WATER EFFICIENT LANDSCAPING – The Applicant shall demonstrate compliance with Water Efficient Landscaping requirements, pursuant to Pinole Municipal Code Chapter 15.54, including submittal of a Landscape	Prior to Issuance of Building	Development Services Department	

Exhibit A
Planning Commission Resolution 21-09 CONDITIONS OF APPROVAL

		Timing/ Implementation	Monitoring Department / Division	Verification (date and Signature)
	Documentation Package as described in Chapter 15.54 and consistent with State Water Efficient Landscape Ordinance provisions.	Permits		
6.	PARKING LOT LIGHTING – Lights shall be provided in the parking area. All lighting used to illuminate such parking facilities shall be approved by the Development Services Department. Any lighting used shall be so arranged as to reflect the light away from adjoining residential areas or public streets. Lighting shall be installed with the intent to provide only as much light as is necessary for public safety and shall satisfy the requirements of Chapter 17.46	Prior to Issuance of Building Permits	Development Services Department	
7.	REFUSE AREA DESIGN AND SERVICE – The project shall provide for service by Republic Services. The area and access to trash, recycling and green waste containers shall be approved in advance by Republic Services.	Prior to Issuance of Building Permits	Development Services Department	
8.	MECHANICAL EQUIPMENT – All mechanical devices and their component parts, such as air conditioners, evaporative coolers, exhaust fans, or similar equipment located wholly or partially on the roof or wall shall be screened from view. All wall mounted heating units or air conditioners shall be flush-mounted.	Prior to Issuance of Building Permits	Development Services Department	
9.	DRAINAGE PLANS - The applicant shall prepare a construction drainage plan and final drainage plan for Development Services Department review and approval. The construction drainage plan will show how drainage will be handled during construction. The final drainage plan will	Prior to Issuance of Building	Development Services Department	

Exhibit A
Planning Commission Resolution 21-09 CONDITIONS OF APPROVAL

		Timing/ Implementation	Monitoring Department / Division	Verification (date and Signature)
	show how drainage will be handled after construction is complete. Site design shall avoid drainage of water from one property onto another property and shall be subject to approval by the City Engineer.	Permits		
10.	AFFORDABLE HOUSING AGREEMENT –The Applicant shall execute the Affordable Housing Regulatory Agreement and Declaration of Restrictive Covenants and record the document in the Official Records of Contra Costa County.	Prior to Issuance of Grading Permits or Building Permits	Development Services Department	
11.	CULTURAL RESOURCES – Prior to the issuance of any construction permit, the Applicant shall submit a plan and report detailing how on-site monitoring shall be carried out on the site as requested by a local tribe. Monitoring activities shall be carried out per the report, and inspection notes shall be submitted to the City prior to issuance of an occupancy permit for the building.	Prior to Issuance of Grading Permits or Building Permits	Development Services Department	
12.	CULTURAL RESOURCES - Prior to the issuance of any construction permit, construction plans shall include a requirement (via notation) indicating that if historic and/or cultural resources or human remains are encountered during construction or other site work, all such work shall be halted immediately within the area of discovery and the contractor shall immediately notify the City of the discovery. In such case, the applicant	Prior to Issuance of Grading Permits or Building Permits	Development Services Department	

Exhibit A
Planning Commission Resolution 21-09 CONDITIONS OF APPROVAL

		Timing/ Implementation	Monitoring Department / Division	Verification (date and Signature)
	shall retain, at their own cost, the services of a qualified archaeologist for the purpose of recording, protecting, or curating the discovery as appropriate. The archaeologist shall be required to submit to the City for review and approval a report of the findings and method of curation or protection of the resources. Further construction work within the vicinity of the discovery, as identified by the qualified archaeologist, shall not be allowed until the preceding steps have been taken.			
13.	PRE-CONSTRUCTION WASTE MANAGEMENT PLAN - The applicant shall complete a pre-construction waste management plan. Forms can be obtained from the Development Services Department.	Prior to Issuance of Building Permits	Development Services Department	
14.	PERMITS, BONDS, AND INSURANCE - The applicant shall obtain an encroachment permit, posting the required bonds and insurance, for any work to be done in the City's right-of-way. This encroachment permit shall be obtained prior to the issuance of a building permit and prior to any work being done in the City's right-of-way.	Prior to Issuance of Building Permits	Development Services Department	
15.	DEVELOPMENT IMPACT FEES - The applicant shall pay all applicable development impact fees prior to issuance of the building permit.	Prior to Issuance of Building Permits	Development Services Department	

Exhibit A
Planning Commission Resolution 21-09 CONDITIONS OF APPROVAL

		Timing/ Implementation	Monitoring Department / Division	Verification (date and Signature)
16.	EROSION CONTROL PLAN – The applicant shall submit an erosion control plan in accordance with the City's Grading Ordinance (PMC §15.36.190) when grading is performed during winter season (October 1 through April 15). For all sites over one acre, in accordance with the City's Erosion Control Ordinance (PMC §08.20) the applicant shall submit: 1. Storm Water Pollution Prevention Plan (SWPPP) 2. Strom Water Control Plan (SCP) Certified by an Architect or Engineer. 3. Operation and Maintenance.	Prior to Issuance of Grading Permits or Building Permits	Development Services Department	
17.	MATERIAL HAULING - The applicant shall submit a proposed material hauling route and schedule. All material hauling activities including, but not limited to, adherence to approved route, hours of operation, dust control and street maintenance shall be the responsibility of the applicant (as per Section 15.36.080 of the Municipal Code). Violation of the applicable may be cause for suspension of work.	Prior to Issuance of Building Permits	Development Services Department	
18.	WATER SUPPLY SYSTEM - Prior to issuance of a building permit there shall be an approved and tested water supply system capable of supplying the required fire flow as determined by the Fire Chief or Fire Marshall. Water supply system for staged construction, if applicable, shall provide required fire flows at all stages.	Prior to Issuance of Building Permit	Fire Department	

Exhibit A
Planning Commission Resolution 21-09 CONDITIONS OF APPROVAL

		Timing/ Implementation	Monitoring Department / Division	Verification (date and Signature)
19.	SEWER CONNECTION - The project is within the service area of the Pinole/Hercules Water Pollution Control Plant. The proposed project shall have a unique connection to the public sewer collection system. The connection to the sewer system will require a permit from the City of Pinole, the payment of sewer user fees, and payment of a sewer connection fee prior to the issuance of building permits.	Prior to Issuance of Building Permit	Development Services Department	
20.	CONDITIONS ON PLANS - These project conditions of approval listed below under the heading "During Construction and Prior to Occupancy" shall appear on the building plans.	Prior to Issuance of Building Permit	Development Services Department	
	During Construction and Prior to Occupancy			
21.	CERTIFIED GRADED PAD - A California-Licensed Engineer shall certify that the graded construction pad for the proposed dwelling unit has been adequately compacted and designed to support the proposed dwelling unit.	During Construction	Development Services Department	
22.	CONSTRUCTION SITE INFORMATION – A construction contact person's name, mobile phone number, and email address shall be posted on the project site during the duration of construction. The property address shall be clearly marked during the project construction process.	During Construction	Development Services Department	

Exhibit A
Planning Commission Resolution 21-09 CONDITIONS OF APPROVAL

		Timing/ Implementation	Monitoring Department / Division	Verification (date and Signature)
23.	CONSTRUCTION ACTIVITY - The building permit holder shall ensure the following provisions to control noise, dust, and construction debris nuisance occur during construction: A. Building construction activities shall occur only between 7:00A.M. and 5:00 P.M., Monday through Friday on non-federal holidays. Interior construction work may occur between 9:00A.M. and 6:00P.M. on weekends if requested and approved by the City as allowed under Chapter 15.02 of the City Municipal Code. B. All construction vehicles shall be properly maintained and equipped with exhaust mufflers and meet State and Federal standards. C. Newly disturbed soil surfaces shall be watered down regularly throughout the day and any construction grading activity shall be discontinued in wind conditions greater than 10 miles per hour. D. Construction activities shall be scheduled so that paving and foundation placement begin immediately upon completion of grading operation. E. All excavated or silty materials shall be covered with a tarp during transit to and from the site.	During Construction	Development Services Department	

Exhibit A
Planning Commission Resolution 21-09 CONDITIONS OF APPROVAL

		Timing/ Implementation	Monitoring Department / Division	Verification (date and Signature)
	F. All construction debris shall be covered with a tarp during transit from the site. G. The construction site shall be maintained in an orderly fashion and litter shall be contained and properly disposed of on a daily basis.			
24.	SITE MAINTENANCE - The construction site shall be cleaned of garbage and debris on a daily basis and maintained in an orderly fashion. All construction equipment shall be secured at the end of each day of construction.	During Construction	Development Services Department	
25.	INSPECTIONS - The applicant shall notify the Development Services Department at least forty-eight (48) hours prior to starting any work pertaining to on-site drainage facilities, grading, or paving, as well as any work in the City's right-of-way as per Section 15.36.230 of the Municipal Code. The applicant shall arrange all inspections with the Building Division, Fire Department, and Public Works Division. All Building Division inspection requests shall be made at least 24 hours in advance.	During Construction	Development Services Department	
26.	ACCESS TO SAN PABLO AVENUE - Project construction vehicles and vehicles belonging to construction workers shall not block access to San Pablo Avenue or any other public roadway.	During Construction	Development Services Department	

Exhibit A
Planning Commission Resolution 21-09 CONDITIONS OF APPROVAL

		Timing/ Implementation	Monitoring Department / Division	Verification (date and Signature)
27.	SIDEWALK, CURB AND GUTTER REPAIR - The applicant shall repair and replace to existing City standards, any sidewalk, curb and gutter abutting the project site.	Prior to Occupancy	Development Services Department	
28.	POST-CONSTRUCTION WASTE MANAGEMENT Report - The applicant shall complete a post-construction waste management report prior to issuance of a certificate of occupancy.	Prior to Occupancy	Development Services Department	
29.	ADDRESSING - Prior to issuance of a "Certificate of Occupancy" or final building inspection approved illuminated numbers and addresses shall be installed in compliance with Section 15.02.050 of the Municipal Code.	Prior to Occupancy	Development Services Department	
30.	EASEMENTS – The Applicant shall complete recordation of all new, modified, or removed easements on the project site.	Prior to Occupancy	Development Services Department	
31.	LANDSCAPING CERTIFICATE OF COMPLETION – A Certificate of Completion shall be submitted by either the signer of the landscape design plan, the signer of the irrigation design plan, or the licensed landscape contractor certifying that the landscape project has been installed per the approved Landscape Documentation Package	Prior to Occupancy	Development Services Department	

ATTACHMENT B

CALIFORNIA ENVIRONMENTAL QUALITY ACT
NOTICE OF EXEMPTION

From:
City of Pinole
Development Services Department
2131 Pear St.
Pinole, CA 94564

To:
Contra Costa County Clerk
555 Escobar St.
Martinez, CA 94553

Project Title: SAHA 33-Unit Affordable Housing Project

Project Applicant: Satellite Affordable Housing Associates
1835 Alcatraz Avenue
Berkeley, CA 94703
estewart@sahahomes.org
(510) 809-2754

Project Location: 811 San Pablo Avenue (APN 402-166-030)

Project Location – City: City of Pinole **Project Location – County:** Contra-Costa County

Project Description:

Satellite Affordable Housing Associates is proposing to construct a 33-unit, 100% affordable housing project at 811 San Pablo Avenue in the City of Pinole. The project site is a vacant 0.61 acre in-fill site, surrounded by commercial and residential uses. The project includes 33 one and two bedroom units in a four-story building with a total of 16 surface parking spaces. Additional interior spaces and amenities include a community room and management offices. The project includes landscaping, a children's playground and outdoor open space for resident use. The project is located on San Pablo Avenue west of Meadow Avenue as shown on the attached figure.

Name of Public Agency Approving Project: City of Pinole

Name of Person or Agency Carrying Out Project: Satellite Affordable Housing Associates

Exempt Status:

[ ]	Ministerial [Sec.21080(b)(1); 15268];
[ ]	Declared Emergency [Sec. 21080(b)(3); 15269(a)];
[ ]	Emergency Project [Sec. 21080(b)(4); 15269(b)(c)];
[X]	Categorical Exemption Project is exempt per Sec. 15332, Class 32;
[X]	Statutory Exemptions: Gov. Code 65457; CEQA Guidelines Sec. 15182 - Project is consistent with Three Corridors Specific Plan

Reasons why project is exempt:

Section 15332, Class 32 Exemption

CEQA provides several "categorical exemptions" which are applicable to categories of projects and activities that the Lead Agency has determined generally do not pose a risk of significant impacts on the environment. The project consists of a residential project within the developed urban area of the city of Pinole. The project is exempt under Section 15332 of the State CEQA Guidelines (Class 32-Infill Development Projects) and under Government Code section 65457 and State CEQA Guidelines Sec. 15182 (Specific Plan Consistency). First, the project meets the conditions for an infill exemption described in Section 15332 of the State CEQA Guidelines as explained below.

a. *The project is consistent with the applicable General Plan and Specific Plan designations, applicable policies and applicable zoning designation and regulations*.

   The subject site is designated Commercial Mixed Use (CMU) in the City's General Plan and Three Corridors Specific Plan and is zoned CMU (Commercial Mixed Use). The Specific Plan CMU designation calls for mixed-use and residential development. Mixed-use residential and commercial developments with units above first floor commercial uses are principal permitted uses in the zoning district. However, an entirely residential use is also permitted in the CMU zoning district. Thus, the project is consistent with the General Plan, Three Corridors Specific Plan and zoning designations for the site.

   In addition, the project site is identified as a housing production site in the City's 2015-2023 Housing Element.

   The proposed project provides 33 affordable residential units. Since the project will be 100% affordable (aside from manager's unit), the project qualifies for a state density bonus and concessions and incentives. The following two concessions and one waiver are requested:

   - *Parking:* The project will provide 16 parking spaces, which is approximately ½ parking space per unit. The project is seeking a density bonus concession to provide 45 fewer parking spaces than required by the Municipal Code (1.5 spaces for a one-bedroom unit, 2 parking spaces for each two-bedroom unit, plus 0.3 guest spaces). However, since the project is along a high-quality transit corridor and more than 20% of the units are affordable to low-income households, the project is eligible to provide parking at a rate of ½ parking space per unit.
   - *Open Space:* The project seeks a density bonus to provide 5,700 square feet of usable open space instead of 9,000 square feet as require by the Municipal Code.
   - *Private Open Space:* The project seeks a development standard waiver of the requirement to provide 80 square feet of ground floor open space in favor of shared open space.

b. *The proposed development occurs within city limits on a project site of no more than five acres substantially surrounded by urban uses.*

   The proposed project occurs within the city limits of Pinole on an approximate 0.61-acre site, and thus, is less than the maximum five acres specified in Section 15332(b) for this exemption. The site is surrounded by existing developed urban residential and commercial uses.

c. *The project has no value as habitat for endangered, rare or threatened species.*

The site is vacant and contains non-native, weedy grasses and has been disturbed. The site is surrounded by urban development and contains no sensitive habitat or habitat for special status species. Thus, the project site has no value 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.*

Approval of the project would not result in any significant effects related to traffic, noise, air quality or water quality. A project traffic study was prepared, and no significant impacts were identified with respect to sight distance, pedestrian facilities or bike facilities (to be provided by the City at a later date).

The project uses would not result in a generation of substantial operational noise levels and would not result in significant noise impacts. The project site is located adjacent to San Pablo Avenue in an area where future ambient noise levels are projected to be approximately 68 decibels Ldn (day-night average sound level) according to the City's General Plan 2030 EIR, which is within the "normally acceptable" noise range for the multi-family residential uses with appropriate interior noise attenuation. Thus, the project occupants would not be exposed to noise levels that exceed standards for land use compatibility.

The project would not result in significant air emissions or a significant increase in vehicle miles traveled (VMT) and is below the level of development that could potentially result in a significant impact. This determination was based on the following:

- *100% Affordable project.* Due to the project size and fact that it is 100% affordable and have up to 35% fewer vehicle trips than market rate development (Caltrans, 2018), the project is presumed to have less than significant VMT impacts. (OPR SB 743 VMT Technical Advisory)
- *Major transit stop*. CEQA Guideline15064.3, subdivision (b)(1), states that lead agencies generally should presume that certain projects (including residential) proposed within a ½ mile of an existing major transit stop along an existing high-quality transit corridor are exempt from CEQA analysis. The project is along San Pablo Avenue, which is a high-quality transit corridor. Westcat service is provided along San Pablo Avenue in front of the project site at regular intervals by routes JL/JR, C3 and 17 which connect to the Hercules and Richmond Parkway transit centers. The project also complies with all of the presumptions to use this exemption:
    - Project has a floor area greater than 0.75. Project floor area is 1.17
    - Project does not have more parking than required by the Pinole Municipal Code.
    - Project is consistent with the applicable SCS (Plan Bay Area Blueprint) which encourages residential development along corridors.
    - Project does not replace affordable residential units with a smaller number of moderate or high-income units.

The project complies with or will be City storm water requirements and includes "Low Impact Development" measures consistent with the National Pollution Discharge Elimination System (NPDES) regional permit administered through the Contra Costa Clean Water Program (CCCWP) and the city, and thus, will not result in significant water quality impacts.

e. *The project has been reviewed by City staff and can be adequately served by all required utilities and public services.* The project has been reviewed by City staff and can be adequately served by all required utilities and public services.

The City has further considered whether the project is subject to any of the exceptions to the use of a categorical exemption found at CEQA Guidelines Section 15300.2. This section prohibits the use of categorical exemptions under the following circumstances:

a. for certain classes of projects (Classes 3, 4, 5, 6 and 11) due to location where the project may impact an environmental resource or hazardous or critical concern.

b. when the cumulative impact of successive projects of the same type in the same place, over time, is significant; (c) where there is a reasonable possibility that the activity will have a significant effect on the environment due to unusual circumstances.

c. where the project may result in damage to scenic resources, including but not limited to, trees, historic buildings, rock outcroppings, or similar resources, within a highway officially designated as a state scenic highway.

d. where the project is located on a state designated hazardous waste site; and

e. where the project may cause a substantial adverse change in the significance of a historical resource.

Section 15300.2(a) does not apply to the Class 32 category of exemptions. Nonetheless, the project site is not located in area of sensitive or critical concern.

With regard to Section 15300.2(b), there is no evidence of a potential significant cumulative impact because successive projects of the same type in the same place have not been approved. Cumulative impacts related to development accommodated by the City's General Plan over the next 10+ years were found to be less than significant in the General Plan 2030 EIR, except for potential significant cumulative impacts related to vehicle miles traveled, water supply, population, and noise. The proposed project would not contribute to the identified significant cumulative noise impact as the identified street segments where increased noise levels are projected are outside of the project area (Westside industrial area). Cumulative population growth due to development accommodated by the General Plan was not determined to be significant.

The project would be subject to requirements for installation of water conserving fixtures and landscaping in accordance with City Municipal Code and California Green Building Code requirements.

Regarding Section 15300.2(c), the project would not result in any significant effects on the environment due to unusual circumstances. The project site is surrounded by urban development and not located within a sensitive resource area. However, since the possibility of Archaeological and Cultural resources could be found on the site, the project will be conditioned to require on-site monitoring the studies on the project site found no evidence of significant archaeological resources. A project geotechnical investigation has been prepared that sets forth soil preparation and foundation measures to mitigate against seismic hazards.

Section 15300.2(d) does not apply to the project site as the site is not located adjacent to or visible from a designated scenic highway, and thus, will not result in damage to scenic resources or a scenic highway.

Section 15300.2(e) does not apply because the site is not a state-designated hazardous waste site.

Statutory Exemption, Gov. Code 65457; CEQA Guidelines Sec. 15182

In addition to the Class 32 exemption, the project is consistent with the Three Corridors Specific Plan and none of the circumstances warranting further environmental review under Pub. Res. Code section 21166 have occurred:

a. *Substantial changes have <u>not</u> been proposed in the project that will require major revisions of the environmental impact report.*

   The City of Pinole General Plan EIR, certified in 2010, includes an analysis of land use and policy changes adopted with the General Plan and the Three Corridors Specific Plan. Subsequent rezoning of the properties within the Specific Plan area were carried out to make property zoning consistent with the General Plan and Three Corridors Specific Plan. The project is one of the first residential projects proposed for development in the San Pablo Corridor of the Three Corridors Specific Plan since it was adopted, and the property is zoned Commercial Mixed Use (CMU). The project complies with the zoning and development standards of the specific plan and zoning, with the exception of requested density bonus concessions for a reduction in open space area and parking. Since the project is consistent with the specific plan and the build-out development analyzed in the General Plan EIR, substantial changes have not been proposed in the project that would require any type of revision to the environmental impact report.

b. *Substantial changes <u>have not occurred</u> with respect to the circumstances under which the project is being undertaken which will require major revisions in the environmental impact report.*

   Substantial changes have not occurred with respect to the circumstances under which the project is being undertaken. No new development has occurred in the project vicinity or under the specific plan which is not consistent with the specific plan and associated environmental impact report.

c. *New information, which was not known and could not have been known at the time the environmental impact report was certified as complete <u>has not become</u> available.*

   New information has not become available with respect to any environmental condition within the City of Pinole that would affect the certified EIR for the General Plan and Three Corridors Specific Plan.

Lead Agency

Contact Person: David Hanham

Phone: (510) 724-9018

Department: Development Services

Address: 2131 Pear Street
Pinole, CA 94564

Signature: _____

Date: _____

Title: Planning Manager

Signed by Lead Agency

If filed by applicant:

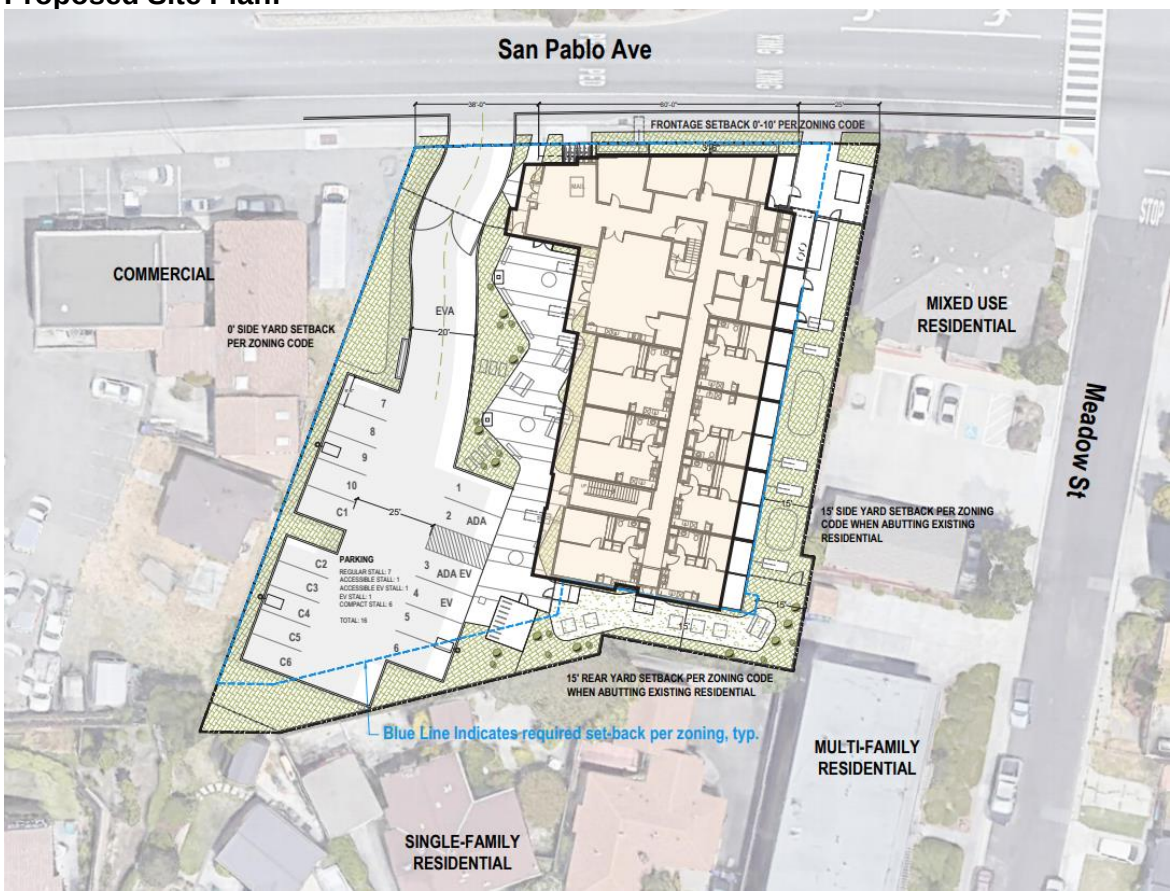
1. Attach certified document of exemption finding.
2. Has a notice of exemption been filed by the public agency approving the project? Yes

Date Received for filing at County Clerk: _____

Date Received for filing at OPR: _____

Project Location:

Proposed Site Plan:



ATTACHMENT C

811 SAN PABLO AVE

Preliminary Development Resubmittal

2021. April. 22

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SITE LIGHTING

1 Exterior Lighting

STUDIO T SQUARE

SAHA SATELLITE AFFORDABLE HOUSING ASSOCIATES

PROJECT DESCRIPTION

The 811 San Pablo project will provide 100% affordable housing with 33 units for low-income households in Pinole. The development will consist of twenty-nine (29) one-bedroom units and four (4) two-bedroom units. The ground floor comprises a lobby with mailboxes, stairs, elevator, spacious community room with kitchen and a computer station, two property management offices, a resident services office, an exterior bike storage, and a courtyard connecting to a community garden and a children's playground. The parking entrance located along San Pablo Avenue will lead to an outdoor parking lot consisting of 16 parking spaces. The property will be managed by a team of Satellite Affordable Housing Associates (SAHA) staff members who will provide management, maintenance, and resident services coordination.

Development Standards

The project has been thoughtfully designed to comply with the development regulations for the CMU zone, which covers the site.

- The height for the building complies with the 50' height, four stories limit.
- The proposed design provides 15 foot setbacks along the side and rear yards.
- The proposed design also complies with the Special Height Requirements of one to one height to setback ratio for stories above 35 feet, applied to rear and side, and above the third story, applied to street frontage.
- Exterior bike storage has been provided for the residents, and consistent with zoning code. Sixteen (16) bicycle parking spaces are provided, which is above the required one per four units bicycle parking ratio.

Proposed Design

The scale and details of the building were designed to coincide with historic Pinole streetscapes. Ground street level offices are carefully placed to ensure unit privacy and given a commercial storefront appeal to blend into the diversity of services provided along San Pablo Avenue. To activate the San Pablo corridor in keeping with priorities and principles set forth in Pinole's Three Corridors Specific Plan, the design places the lobby and entrance, services office, and property management office along the project frontage, featuring storefront windows and a minimal setback. The building entrance and lobby will provide a welcoming and secure point-of-entrance for residents and visitors alike. A spacious multi-purpose community room is located just off of the lobby, which in turn is connected via an outdoor pathway to a large patio terrace/courtyard in the rear of the property to facilitate indoor/outdoor activities. Residential units are located on the first through fourth floors; the upper floors are fully accessible and served by an elevator.

Generous landscaping is incorporated to create a sense of being built into the surroundings and allow a softer transition from the heavier street traffic. In order to achieve the character built within Pinole, we have laid out the building to ensure the parking and many of the units are tucked behind the main façade. This allows the parking to be entirely concealed from the main street front view. The engaging street frontage façade then becomes the feature to assist in defining the project and achieving the goal to fit into the distinct identity of Pinole. The proposed site plan includes a large green space at the south ends of the site that is designed for shared community use and programmed with amenities such as a children's play area, and community garden beds.

PROJECT DATA

PROPERTY INFORMATION:

Site Address:	811 San Pablo, Pinole, CA
APN:	402-166-030-5
Site Area:	0.61 AC (26,690 SF)
Existing Use:	Vacnt
Proposed Use:	Multi-family Residential
Construction:	Type V-A with Fire Sprinklers
Residential Units:	33 units
Vehicle Parking:	16 spaces
Bike Parking:	16 bikes in secured storage building 6 short-term visitor bike racks

ZONING REQUIREMENT:

Current Zoning:	CMU - Commercial Mixed Use
Building Height:	50 ft max for Primary Building 15 ft for Accessory Building *Special height stepbacks required when abutting streets and single-family residential properties
Density:	54 du/acre max (Including 80% density bonus)
Setback:	Build to Front Line: 0~10 ft Side Yard: 15 ft when abutting existing residential Rear Yard: 15 ft when abutting existing residential

PROJECT TEAM

APPLICANT:
Satellite Affordable Housing Associates
1835 Alcatraz Ave. Berkeley, CA 94703
Contact: Eve Stewart
estewart@sahahomes.org
Phone: 510-809-2754

ARCHITECT
Studio T-SQ., Inc.
1970 Broadway, Suite 615, Oakland, CA 94612
Contact: Robert Lindley
rlindley@studiot-sq.com
Phone: 510-451-2850

LANDSCAPE ARCHITECT
Bay Tree Design
2808 Adeline St, Unit 1 Berkeley, CA 94703
Contact: Lisa Howard
lisa@baytreedesign.com
Phone: 510.644.1320

CIVIL ENGINEER
Luk and Associates
738 Alfred Nobel Drive, Hercules, CA 94547
Contact: Jackie Luk
jackie@lukassociates.com
Phone: 510.239.3338

MEP ENGINEER
Emerald City Engineers, Inc.
21705 Highway 99, Lynnwood, WA 98036
Contact: Adam French
afrench@emeraldcityeng.com
Phone: 206.351.6697

AFFORDABLE HOUSING DENSITY BONUS

Under the State's Affordable Housing Density Bonus program, this project is entitled to concessions and waivers of some local Municipal Code requirements if they can be shown to render the project infeasible. SAHA is proposing two concession and one waiver, as follows:

PARKING REQUIREMENTS (concession)

- The City of Pinole Municipal Code requires 51 parking spaces in total.
  (1.5 residential parking space + 0.3 visitor parking spaces per one-bedroom unit,
  2 residential parking space + 0.3 visitor parking spaces per two-bedroom unit.)
  The project provides 16 parking spaces in total.
  (The project seeks a density bonus concession to provide 45 fewer parking spaces than required by the Municipal Code)

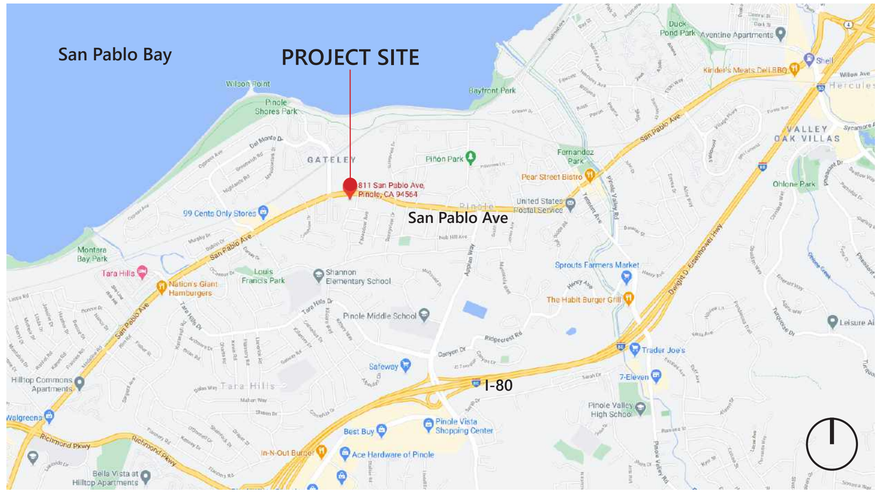
OPEN SPACE REQUIREMENTS (concession)

- The City of Pinole Municipal Code requires 9,000 sf usable open opace.
  (300 sf usable open space per unit)
  The project provides 5,700 sf usable open space in total.
- The City of Pinole Municipal Code requires a minimum of 80 sf private open space per unit at ground level. The only available location on site for additional open space would be on the roof. However, SAHA cannot utilize the roof for open space due to supervision and resident liability. If the open space were to be located on the roof, the community room, services offices and communal spaces would be located there as well. These spaces would be occupied spaces that would contribute to a height increase of the building, thus add another story which exceeds the height requirements.

PARKING LOT SHADE(concession)

- The City of Pinole Municipal Code requires this project to provide a minimum of 60% of shading for pedestrian.
  The project provides 34% of parking lot shade at 15 years coverage.
  (The project seeks a density bonus concession to provide 26% less than the requirement)

VICINITY MAP



PROJECT SUMMARY

SITE AREA	**26,136**	**SF**	**0.60 AC**	(Assessor Parcel Map)
	26,690	**SF**	**0.61 AC**	(Survey)
DENSITY	**55**	**DU/AC**	(Assessor Parcel Map)	
	54	**DU/AC**	(Survey)	
BUILDING AREA	**30,680**	**SF**		
FAR	**1.17**			

OVERALL DEVELOPMENT SUMMARY

BUILDING AREA SUMMARY		1F	2F	3F	4F	TOTAL
	GROSS RESIDENTIAL AREA (SF)	4,102	6,153	5,567	4,688	20,510
	GROSS COMMON AREA (SF)			CORRIDORS/STAIR	5,518	10,170
				MAIN LOBBY	500	
				OFFICE 1-3	690	
				OFFICE 4	320	
				COMMUNITY ROOM	930	
				MAINTENANCE ROOM	260	
				ALL GENDER RESTROOMS(2)	150	
				LAUNDRY ROOMS(3)	510	
				OTHERS	1,292	
	GROSS BUIDLING AREA (SF)					**30,680**
UNIT SUMMARY		**1 BR**	**2 BR**			
	UNIT TYPE	1B	2B			
	UNIT SIZE (SF)	586	879			COUNT
	1F	7	0			7
	2F	9	1			10
	3F	8	1			9
	4F	5	2			7
	TOTAL	**29**	**4**			**33**
	UNIT MIX	87.9%	12.1%			100%
	PARKING				REGULAR PARKING (Include 1 ADA+ 1 ADA EV+1 EV)	10
					COMPACT PARKING	6
					TOTAL	**16**
	BIKE PARKING				BIKES IN SECURED STORAGE BUILDING	16
					SHORT-TERM VISITOR BIKE RACKS	6
					TOTAL	**22**

STUDIO T SQUARE
: Architecture
: Planning
: Urban Design
: 1970 Broadway #615
: Oakland, California 94607
: (510) 451 - 2850

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PINOLE, CA

Satellite Affordable Housing Associates
1835 Alcatraz Avenue
Berkeley, CA94703

SAHA SATELLITE AFFORDABLE HOUSING ASSOCIATES

Sheet Title:

PROJECT DATA

Job No. 20042
Date: 04/12/2021
Scale:
Drawn By:

Sheet No:

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Satellite Affordable Housing Associates
1835 Alcatraz Avenue
Berkeley, CA94703

SAHA
SATELLITE AFFORDABLE HOUSING ASSOCIATES

Sheet Title:

VICINITY AND CONTEXT

Job No.	20042
Date:	04/12/2021
Scale:	
Drawn By:	

Sheet No:

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Satellite Affordable Housing Associates
1835 Alcatraz Avenue
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SAHA
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Sheet Title:

SITE PLAN
IN CONTEXT

Job No. 20042
Date: 04/12/2021
Scale: 1/16"=1'-0"
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Satellite Affordable Housing Associates
1835 Alcatraz Avenue
Berkeley, CA94703

SAHA
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Sheet Title:

FIRE ACCESS DIAGRAM

Job No.	20042
Date:	04/12/2021
Scale:	1/16"=1'-0"
Drawn By:	

Sheet No:

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SITE & 1ST FLOOR PLAN

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PINOLE, CA

Satellite Affordable Housing Associates
1835 Alcatraz Avenue
Berkeley, CA94703

SAHA
SATELLITE AFFORDABLE HOUSING ASSOCIATES

Sheet Title:

SITE & 1ST FLOOR PLAN

Job No.	20042
Date:	04/12/2021
Scale:	1"=10'-0"
Drawn By:	

Sheet No:

A 2.2

3RD FLOOR PLAN

2ND FLOOR PLAN

0 5' 10' 20'

STUDIO T SQUARE
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: Urban Design
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: Oakland, California 94607
: (510) 451 - 2850

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PINOLE, CA

Satellite Affordable Housing Associates
1835 Alcatraz Avenue
Berkeley, CA94703

SAHA
SATELLITE AFFORDABLE HOUSING ASSOCIATES

Sheet Title:

2ND & 3RD FLOOR PLANS

Job No.	20042
Date:	04/12/2021
Scale:	1"=10'-0"
Drawn By:	

Sheet No:

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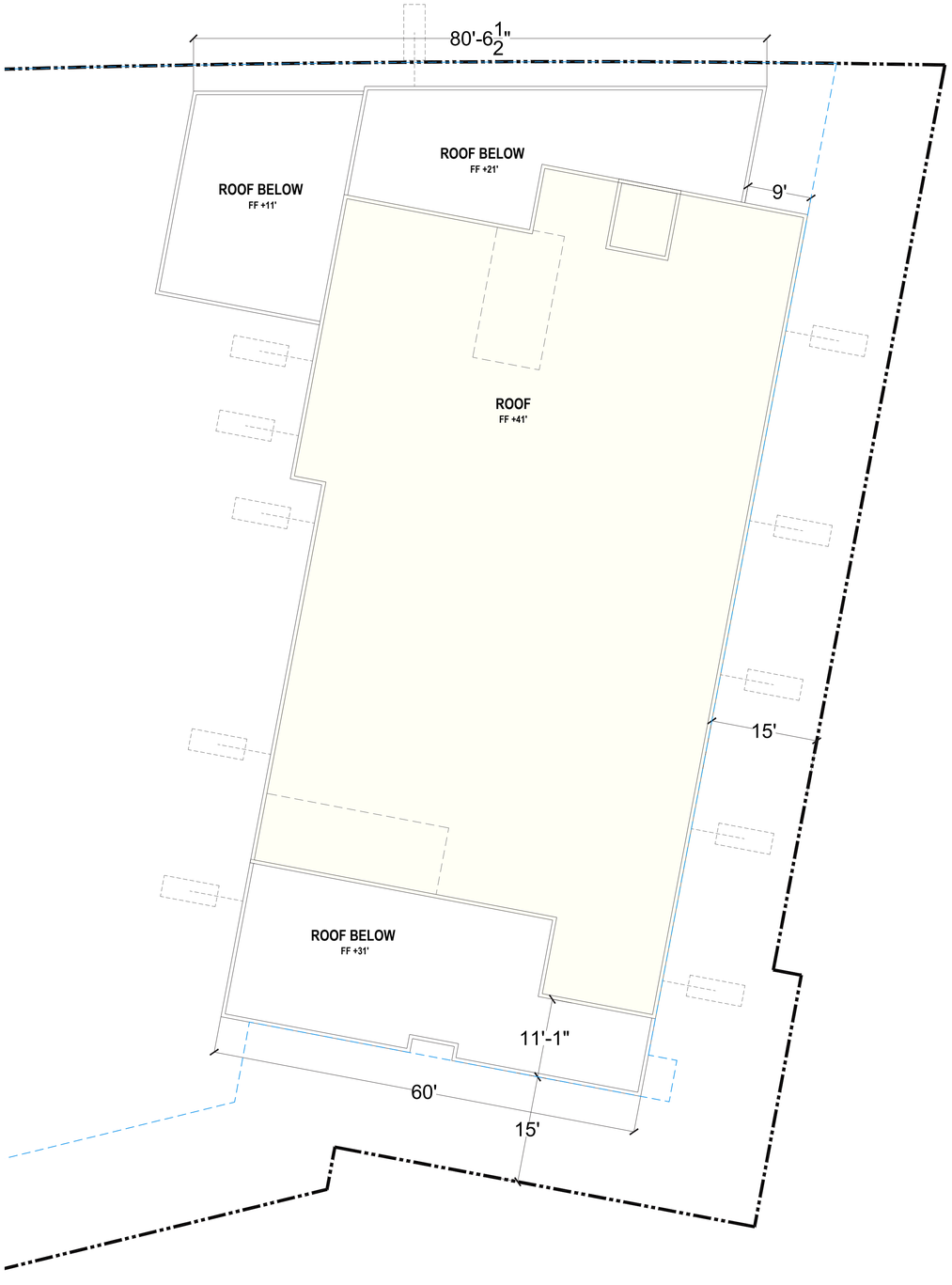

ROOF PLAN

4TH FLOOR PLAN

0 5' 10' 20'

STUDIO T SQUARE

: Architecture
: Planning
: Urban Design

: 1970 Broadway #615
: Oakland, California 94607
: (510) 451 - 2850

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SAHA
SATELLITE AFFORDABLE HOUSING ASSOCIATES

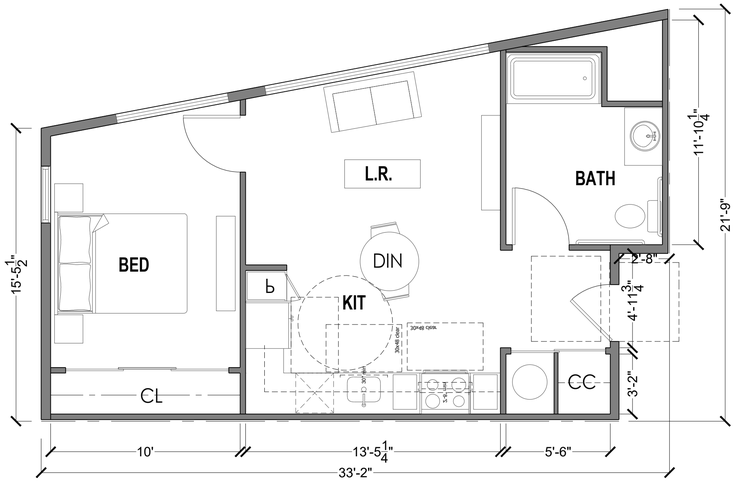
Sheet Title:

4TH & ROOF FLOOR PLANS

Job No.	20042
Date:	04/12/2021
Scale:	1"=10'-0"
Drawn By:	

Sheet No:

A 2.4



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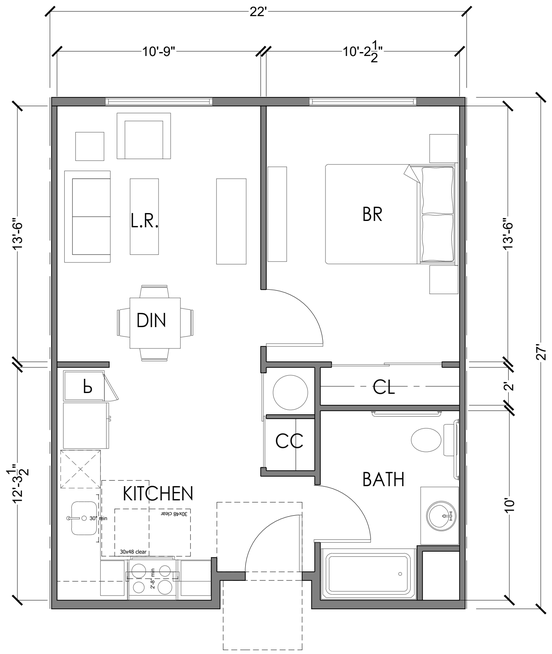
1 BEDRM + 1 BATHRM
GSF: 562 SF
NUMBER: 1



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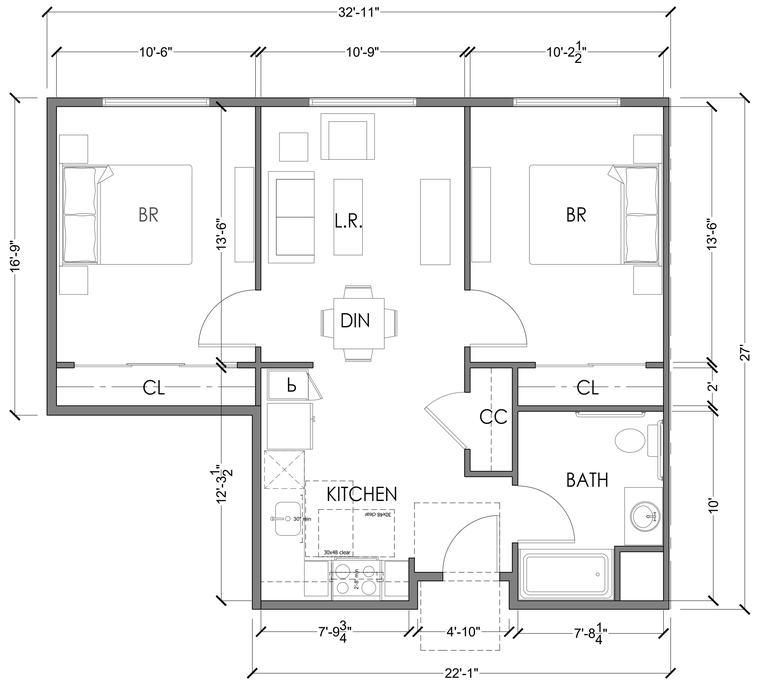

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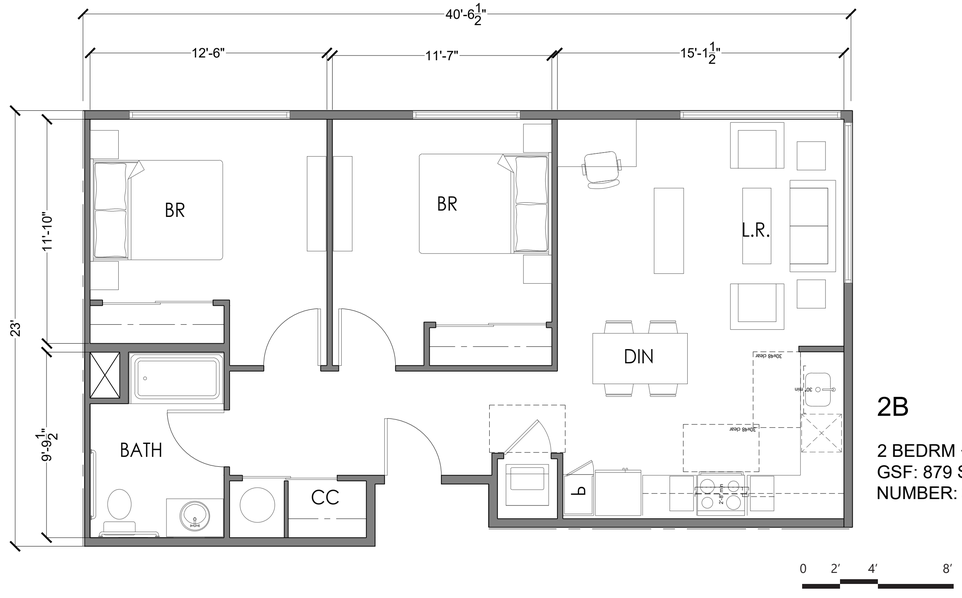

2B

2 BEDRM + 1 BATHRM
GSF: 879 SF
NUMBER: 3

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UNIT PLANS

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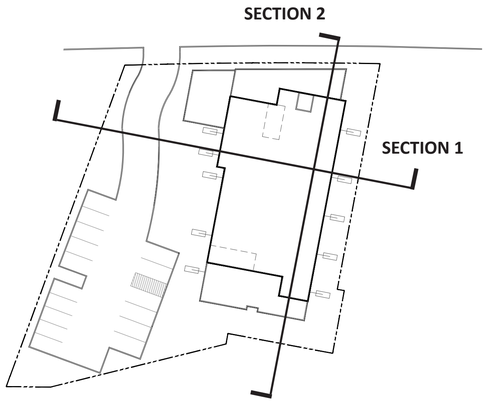

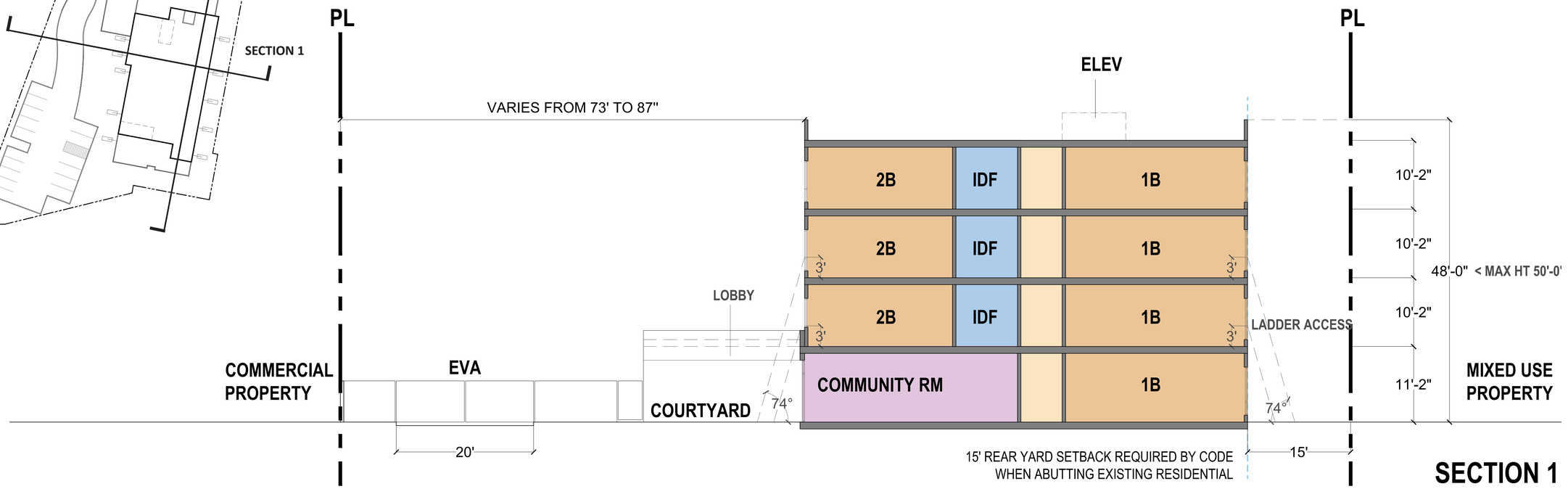

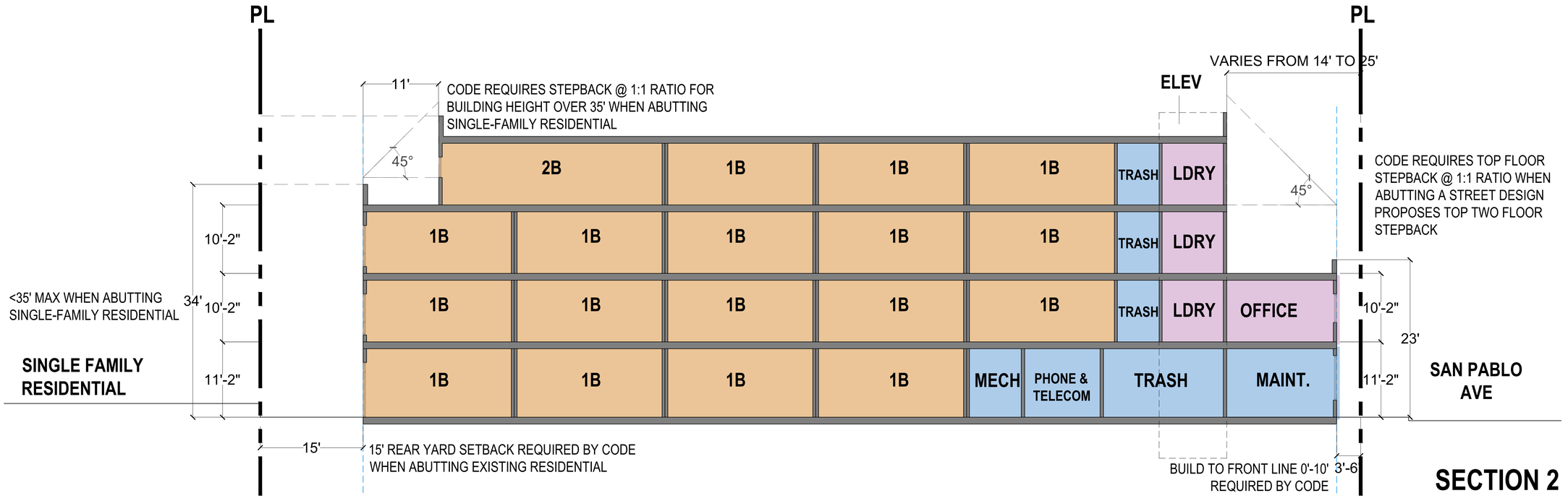

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Sheet Title:

BUILDING SECTIONS

Job No. 20042
Date: 04/12/2021
Scale: 1/8"=1'-0"
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WEST ELEVATION | 1

EAST ELEVATION | 2

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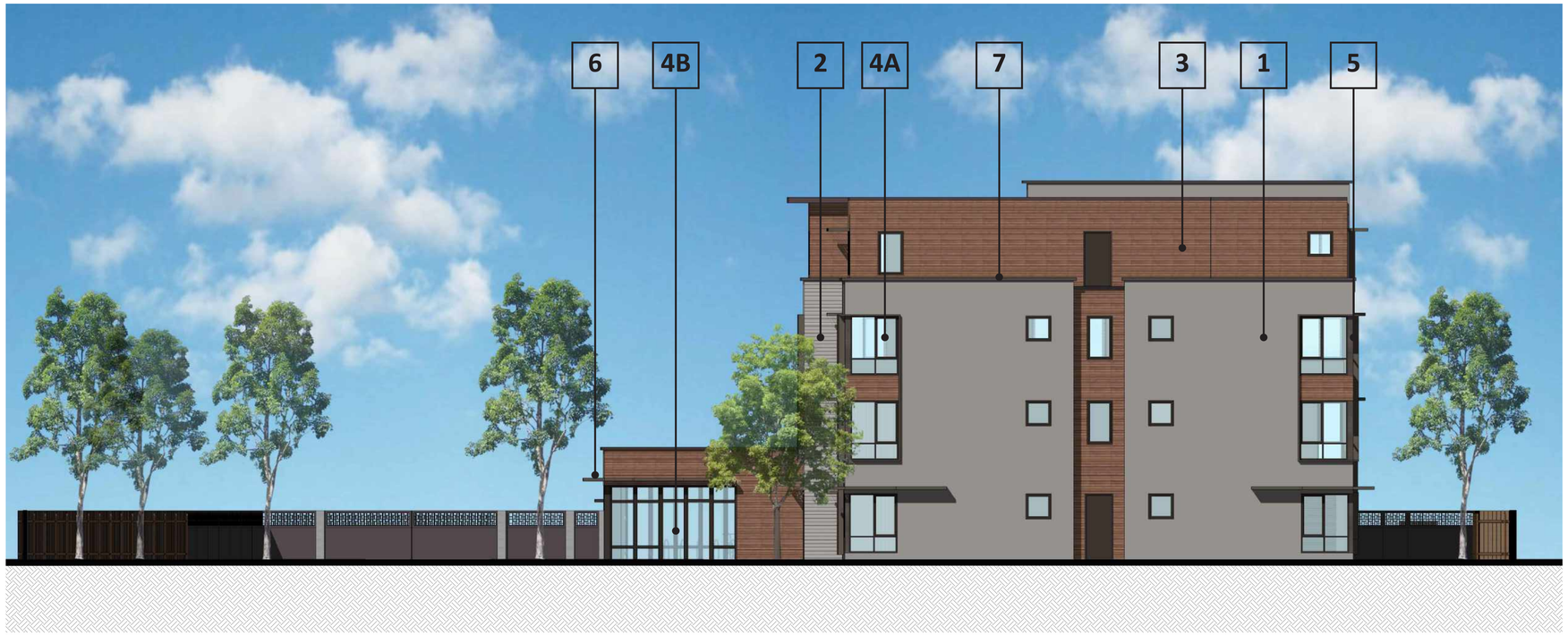
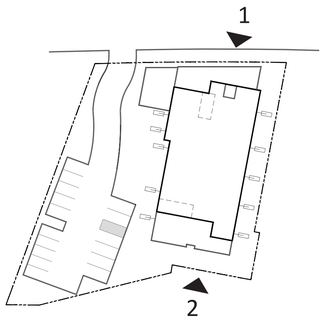


SOUTH ELEVATION | 1



NORTH ELEVATION | 2

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BUILDING ELEVATIONS

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FROM SAN PABLO AVE WEST

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BUILDING PERSPECTIVES

Job No. 20042
Date: 04/12/2021
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FROM SAN PABLO AVE EAST

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SAHA
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Sheet Title:

BUILDING PERSPECTIVES

Job No. 20042
Date: 04/12/2021
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FROM COURTYARD PARKING

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Sheet Title:

BUILDING PERSPECTIVES

Job No.	20042
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BIRD'S EYE PERSPECTIVE

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Sheet Title:

BUILDING PERSPECTIVES

Job No. 20042
Date: 04/12/2021
Scale:
Drawn By:

Sheet No:

A 4.3

STUCCO

1. PAINTED COLOR

HORIZONTAL JAMES HARDIE SIDING

2. PAINTED COLOR

FIBER CEMENT BOARD AND BATTEN

3. WOOD-TONE COLOR

WINDOWS AND STOREFRONT

4A. VINYL WINDOW, TYP.

4B. STOREFRONT, TYP.

4C. ROLL-UP DOOR

SUNSHADE

5. PERFORATED METAL SUNSHADE, TYP.

AWNING

6. SIM. WOOD OR PERFORATED METAL AWNING, TYP.

PARAPET

7. PARAPET CORNICE, TYP.

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Sheet Title:

COLORS AND MATERIALS

Job No. 20042
Date: 04/12/2021
Scale:
Drawn By:

Sheet No:

A 5.0

IMPROVEMENT PLAN
811 SAN PABLO AVE
PINOLE, CA 94564

GENERAL NOTES:

1. THE ENGINEER ASSUMES NO RESPONSIBILITY BEYOND THE ADEQUACY OF THIS DESIGN CONTAINED HEREIN.

2. THE CONSTRUCTION CONTRACTOR AGREES, THAT IN ACCORDANCE WITH GENERALLY ACCEPTED CONSTRUCTION PRACTICES, TO ASSUME SOLE AND COMPLETE RESPONSIBILITY FOR JOB SITE CONDITIONS DURING THE COURSE OF CONSTRUCTION OF THE PROJECT, INCLUDING SAFETY OF ALL PERSONS AND PROPERTY; THAT THIS REQUIREMENT SHALL BE MADE TO APPLY CONTINUOUSLY AND NOT BE LIMITED TO NORMAL WORKING HOURS; AND THE CONSTRUCTION CONTRACTOR FURTHER AGREES TO DEFEND, INDEMNIFY AND HOLD THE DESIGN PROFESSIONAL HARMLESS FROM ANY AND ALL LIABILITY, REAL OR ALLEGED, IN CONNECTION WITH THE PERFORMANCE OF WORK ON THIS PROJECT, EXCEPTING LIABILITY ARISING FROM THE SOLE NEGLIGENCE OF THE DESIGN PROFESSIONAL.

3. EXCAVATIONS SHALL BE ADEQUATELY SHORED, BRACED AND SHEETED SO THAT ALL EXISTING IMPROVEMENTS OF ANY KIND WILL BE FULLY PROTECTED FROM DAMAGED. ANY DAMAGE RESULTING FROM A LACK OF ADEQUATE SHORING, BRACING AND SHEETING, SHALL BE THE RESPONSIBILITY OF THE CONTRACTOR AND HE SHALL EFFECT NECESSARY REPAIRS OR RECONSTRUCTION AT HIS OWN EXPENSE. EXCAVATION SHEETING AND BRACING SHALL CONFORM TO THE APPLICABLE CONSTRUCTION SAFETY ORDERS OF THE DIVISION OF INDUSTRIAL SAFETY OF THE STATE OF CALIFORNIA. THE CONTRACTOR SHALL ALWAYS COMPLY WITH OSHA REQUIREMENTS.

4. OBSTRUCTIONS INDICATED ARE FOR INFORMATION ONLY. IT IS THE CONTRACTOR'S RESPONSIBILITY TO VERIFY THE LOCATION AND DEPTH WITH THE APPROPRIATE AGENCIES. NEITHER THE OWNER NOR THE ENGINEER ASSUMES RESPONSIBILITY THAT THE OBSTRUCTIONS INDICATED WILL BE THE OBSTRUCTION ENCOUNTERED.

5. THE EXISTENCE AND LOCATION OF ANY UNDERGROUND UTILITIES, PIPES AND/OR STRUCTURES SHOWN ON THIS SURVEY WERE OBTAINED BY A SEARCH OF AVAILABLE RECORDS. THE CONTRACTOR SHALL NOTIFY UNDERGROUND SERVICE ALERT (800-642-2444) FOR UTILITY LOCATIONS 48 HOURS PRIOR TO POTHOLE OR EXCAVATION. THE U.S.A. NUMBER SHALL BE KEPT ON THE JOB SITE. THE CONTRACTOR SHALL ASCERTAIN THE TRUE LOCATION, SIZE, AND DEPTH OF ANY UNDERGROUND UTILITIES PRIOR TO ANY CONSTRUCTION, AND SHALL BE RESPONSIBLE FOR DAMAGE TO ANY PUBLIC OR PRIVATE UTILITIES, SHOWN OR NOT SHOWN HEREON. CONTRACTOR MAY HAVE TO RELOCATE EXISTING UTILITIES OR FIELD ADJUST PROPOSED IMPROVEMENT AS REQUIRED. CONTRACTOR SHALL NOTIFY THE ENGINEER AT (510) 724-3388 PRIOR TO CONTINUING THE CONSTRUCTION. THE CONTRACTOR IS RESPONSIBLE FOR COORDINATION WITH ALL NECESSARY UTILITY COMPANIES FOR ANY RELOCATION OF THEIR FACILITIES.

6. THE CONTRACTOR SHALL EXPOSE AND CHECK INVERTS ON EXISTING STORM DRAIN, SEWER, WATER MAIN, JOINT TRENCHES AND CLEARANCES OF KNOWN CROSSINGS OR OTHER UTILITIES BEFORE CONSTRUCTING NEW PIPELINES.

7. THE CONTRACTOR IS RESPONSIBLE FOR MATCHING EXISTING STREETS, SURROUNDING LANDSCAPE AND OTHER IMPROVEMENTS WITH A SMOOTH TRANSITION IN PAVING, CURBS, GUTTERS, SIDEWALKS, GRADING, ETC., AND TO AVOID ANY ABRUPT OR APPARENT CHANGES IN GRADES OR CROSS SLOPES, LOW SPOTS OR HAZARDOUS CONDITIONS.

8. THE ENGINEER ASSUMES NO RESPONSIBILITY FOR FINAL GRADE OF CONCRETE UNLESS FORMS ARE CHECKED BY THE ENGINEER PRIOR TO POURING. ANY CHECKING OF THE FORMS BY THE ENGINEERS SHALL BE AT THE OWNER'S EXPENSE.

9. THE CONTRACTOR SHALL POST EMERGENCY TELEPHONE NUMBERS FOR PUBLIC WORKS, AMBULANCE, POLICE AND FIRE DEPARTMENTS AT THE JOB SITE.

10. THE CONTRACTOR SHALL PROVIDE, AT ALL TIMES, LIGHTS, SIGNS, BARRICADES, FLAGMEN OR OTHER DEVICES NECESSARY TO PROVIDE FOR PUBLIC SAFETY PER MUTCD TRAFFIC CONTROL SPECIFICATIONS LATEST EDITION. IT IS THE RESPONSIBILITY OF THE CONTRACTOR TO MAINTAIN PROPER TRAFFIC CONTROL AT ALL TIMES.

11. THE CONTRACTOR SHALL PROVIDE FOR INGRESS AND EGRESS FOR PRIVATE PROPERTY ADJACENT TO THE SITE THROUGHOUT THE PERIOD OF CONSTRUCTION.

12. PRIOR TO COMMENCEMENT OF ANY WORK ON ADJACENT PROPERTIES, THE OWNER SHALL OBTAIN WRITTEN PERMISSION FROM AFFECTED PROPERTY OWNERS.

13. CONSTRUCTION OPERATIONS SHALL BE LIMITED TO WEEKDAYS (MONDAY THROUGH FRIDAY, EXCEPT CITY HOLIDAYS) AND THE HOURS FROM 7:00 A.M. TO 7:00 P.M. UNLESS OTHERWISE APPROVED IN WRITING BY THE CITY ENGINEER.

14. ALL MATERIALS AND WORKMANSHIP SHALL BE IN CONFORMANCE WITH THE STANDARD SPECIFICATIONS, STANDARD DRAWINGS, AND REQUIREMENTS OF THE CITY OF PINOLE.

15. SHOULD IT APPEAR THAT THE WORK TO BE DONE, OR ANY MATTER RELATIVE THERETO, IS NOT SUFFICIENTLY DETAILED OR EXPLAINED ON THESE PLANS, THE CONTRACTOR SHALL CONTACT LUK AND ASSOCIATES AT (510) 724-3388 FOR SUCH FURTHER EXPLANATIONS AS MAY BE NECESSARY.

16. THE CONTRACTOR SHALL PROVIDE THE NECESSARY SAFETY TESTING OF EQUIPMENT AND PERSONNEL.

17. PRIOR TO PLACING CURB, SIDEWALK, ASPHALT CONCRETE, SUBBASE, OR BASE MATERIAL, ALL UNDERGROUND UTILITIES WITHIN THE PAVED AREAS SHALL BE INSTALLED, BACKFILL COMPLETED, TESTED AND APPROVED FOR SUCH UTILITY INSTALLATION.

18. IF ARCHAEOLOGIC MATERIALS ARE UNCOVERED DURING GRADING, TRENCHING, OR OTHER EXCAVATION, EARTHWORK WITHIN 100 FEET OF THESE MATERIALS SHALL BE STOPPED UNTIL A PROFESSIONAL ARCHAEOLOGIST WHO IS CERTIFIED BY THE SOCIETY OF CALIFORNIA ARCHAEOLOGY (SPA) AND/OR THE SOCIETY OF PROFESSIONAL ARCHAEOLOGY (SOPA) HAS HAD AN OPPORTUNITY TO EVALUATE THE SIGNIFICANCE OF THE FIND AND SUGGEST APPROPRIATE MITIGATION MEASURES IF THEY DEEMED NECESSARY. ANY COSTS ASSOCIATED WITH ARCHAEOLOGICAL INVESTIGATION, TESTING, STOPPING WORK, ETC. SHALL BE PAID FOR BY THE OWNER.

19. EXISTING CURB AND SIDEWALK, WITHIN THE PROJECT LIMITS THAT ARE DAMAGED OR DISPLACED DURING THE CONSTRUCTION PERIOD SHALL BE REPAIRED OR REPLACED, AT THE CONTRACTOR'S EXPENSE AS DETERMINED BY THE CITY ENGINEER.

20. ALL IMPROVEMENTS SHALL BE CONSTRUCTED IN ACCORDANCE WITH CITY OF PINOLE STANDARD SPECIFICATIONS AND DETAILS SUBJECT TO THE INSPECTION AND APPROVAL OF THE ENGINEERING DIVISION. ALL REVISIONS MUST BE APPROVED BY THE CITY PRIOR TO CONSTRUCTION.

21. ALL STORM DRAIN STRUCTURES GREATER THAN 4' IN DEPTH SHALL HAVE STEPS INSTALLED PER THE LATEST FEDERAL AND STATE SAFETY STANDARDS. A CONCRETE COVER SLAB SHALL BE INSTALLED OVER PIPE WITH LESS THAN 1' OF COVER UNLESS OTHERWISE SPECIFIED ON THE PLAN. ALL STORM DRAIN PIPES ARE AS INDICATED ON THESE PLANS.

22. MUD TRACKED ONTO STREETS OR ADJACENT PROPERTIES SHALL BE REMOVED IMMEDIATELY. STREETS SHALL BE WASHED OR SWEPT AS DIRECTED BY THE CITY INSPECTOR.

23. TREES TO BE SAVED SHALL BE FLAGGED AND MARKED PRIOR TO ANY CLEARING OR STRIPPING WORK AND PROTECTIVE FENCING, WHERE REQUIRED BY THE CITY, SHALL BE INSTALLED PRIOR TO COMMENCING ANY GRADING. LOCATIONS OF FENCING SHALL BE APPROVED IN THE FIELD BY THE CITY UPON COMPLETION OF THE STAKING OF DAYLIGHT LINES.

24. GRADING OR ANY OTHER OPERATION THAT CREATES DUST SHALL BE STOPPED IMMEDIATELY IF DUST AFFECTS ADJACENT PROPERTIES. SUFFICIENT WATERING TO CONTROL DUST AT ALL TIMES AND A DUST PALLIATIVE MAY BE REQUIRED BY THE CITY ENGINEER.

25. PROJECTS PROPOSED FOR CONSTRUCTION BETWEEN OCTOBER 15TH AND APRIL 15TH MUST HAVE AN EROSION AND SEDIMENTATION CONTROL PROGRAM APPROVED, AND IMPLEMENTED PRIOR TO THE START OF ON-SITE EARTHWORK. EARTHWORK THAT IS NECESSARY TO INSTALL EROSION AND SEDIMENTATION CONTROL FACILITIES, SUCH AS DRAINAGE DITCHES AND SEDIMENTATION BASINS, MAY PROCEED CONCURRENT WITH THE INSTALLATION OF THE EROSION CONTROL FACILITIES. OWNER SHALL PAY THE COSTS OF PREPARING ANY SWPPP. CONTRACTOR HAS INCLUDED FUNDS FOR THE COSTS OF INSTALLING THE SWPPP WORK SHOWN ON THE PLANS. IF ADDITIONAL WORK BEYOND WHAT IS SHOWN ON THE PLANS IS REQUIRED IT SHALL BE ADDED TO THE CONTRACT. OWNER SHALL TIMELY PAY FOR AND OBTAIN ANY STORM WATER DISCHARGE PERMITS, INCLUDING PERMITS THAT MAY BE NEEDED FROM EAST BAY MUNICIPAL UTILITY DISTRICT, THAT MAY BE REQUIRED TO HANDLE SITE WATER ARISING FROM THE CONSTRUCTION OF THE WORK.

26. CONTRACTOR SHALL ADJUST ALL EXISTING UTILITIES TO GRADE AFFECTED BY CONSTRUCTION.

27. THE CONTRACTOR SHALL COMPLY WITH ALL RULES, REGULATIONS AND PROCEDURES OF THE NATIONAL POLLUTANT DISCHARGE ELIMINATION SYSTEM (NPDES) FOR MUNICIPAL CONSTRUCTION AND INDUSTRIAL ACTIVITIES AS PROMULGATED BY THE CALIFORNIA STATE WATER RESOURCE CONTROL BOARD OR ANY OF ITS REGIONAL WATER QUALITY CONTROL BOARDS.

28. ALL CURBS SHALL BE STAKED BY A REGISTERED CIVIL ENGINEER OR A LICENSED LAND SURVEYOR.

29. ANY ENCROACHMENT PERMITS SHALL BE PAID FOR BY THE OWNER AND OBTAINED BY CONTRACTOR IN A TIMELY MANNER SO AS TO AVOID DELAY TO THE CONSTRUCTION SCHEDULE.

30. ALL EXISTING ELEVATIONS SHOWN ARE AS MEASURED IN THE FIELD UNLESS OTHERWISE NOTED.

31. IT IS THE CONTRACTOR'S LIABILITY TO REPLACE ALL STREET MONUMENTS, LOT CORNER PIPES, AND GRADE STAKES DISTURBED DURING THE PROCESS OF CONSTRUCTION AT THE REGULAR ENGINEER'S FEE.

32. SEE DUST MITIGATION NOTES ON THIS SHEET.

36. THE CONTRACTOR IS RESPONSIBLE FOR COORDINATING HIS WORK TO AVOID CONFLICTS BETWEEN SEWER LATERALS, STORM DRAIN LINES, WATER MAINS, GAS LINES, AND OTHER UTILITIES.

37. WHERE EXISTING PAVEMENT IS TO BE EXTENDED, EXISTING PAVEMENT ENDS MUST BE SAW-CUT AT THE CONFORM. ANY A.C. OR P.C.C. PAVEMENT REMOVED MUST BE SAWCUT OR REMOVED TO AN EXPANSION JOINT.

38. CONTRACTOR SHALL MAINTAIN SITE NEAT AND FREE OF TRASH, RUBBISH, AND OTHER DEBRIS. UPON COMPLETION OF WORK, CONTRACTOR SHALL REMOVE ALL EXCESS EXCAVATED MATERIALS FROM SITE.

39. THE CONTRACTOR SHALL PROPERLY COORDINATE HIS WORK WITH THE WORK UNDER OTHER CONTRACTS THAT MAY BE UNDERWAY CONCURRENTLY WITH THIS PROJECT.

40. FOR DETAILS NOT SHOWN ON THESE PLANS, REFER TO CONTRA COSTA COUNTY STANDARD SPECIFICATIONS AND CONSTRUCTION DETAILS.

41. THE CONTRACTOR SHALL ARRANGE A PRE-CONSTRUCTION MEETING WITH THE CITY ENGINEER OR HIS DESIGNATED REPRESENTATIVE, THE OWNER OR THE OWNER'S REPRESENTATIVE, AND THE OWNER'S CIVIL AND SOILS ENGINEER(S), AND OTHER CONSULTANTS INVOLVED PRIOR TO START OF CONSTRUCTION.

42. THE CONTRACTOR SHALL VERIFY LOCATION OF EXISTING UTILITIES WITHIN AREAS OF IMPROVEMENT AND CONDUCT ALL CONSTRUCTION OPERATIONS IN SUCH A MANNER THAT THE EXISTING UTILITIES ARE NOT DAMAGED WHATSOEVER.

43. CONTRACTOR'S ATTENTION IS DIRECTED TO THE REQUIREMENTS OF THE DIVISION OF INDUSTRIAL SAFETY PERTAINING TO "CONFINED SPACES". MANHOLES, CULVERT, DROP INLET OR TRENCH WHICH COULD CONTAIN AIR WHICH IS NOT READILY VENTILATED MAY BE CONSIDERED A "CONFINED SPACE".

44. RIGHT-OF-ENTRY IS GRANTED TO THE CITY OFFICIAL FOR ACCESS TO THE JOB SITE.

45. ALL REVISIONS TO THESE PLANS MUST BE APPROVED BY THE CITY OF PINOLE ENGINEERING DIVISION PRIOR TO CONSTRUCTION AND SHALL BE ACCURATELY SHOWN ON REVISED PLANS STAMPED AND DISTRIBUTED BY THE ENGINEERING DIVISION PRIOR TO ACCEPTANCE OF THE WORK AS COMPLETED.

46. CONSTRUCTION ZONE TRAFFIC CONTROLS SHALL CONFORM TO THE LATEST REVISION OF THE MANUAL OF TRAFFIC CONTROLS FOR CONSTRUCTION AND MAINTENANCE WORK ZONES BY THE CALIFORNIA DEPARTMENT OF TRANSPORTATION.

47. CONTRACTOR SHALL EFFECT AND MAINTAIN PRECAUTIONARY MEASURES TO PROTECT ADJACENT WATERCOURSES AND PUBLIC OR PRIVATE PROPERTY FROM DAMAGE BY EROSION, FLOODING, AND DEPOSITION OF MUD OR DEBRIS ORIGINATING FROM THE SITE.

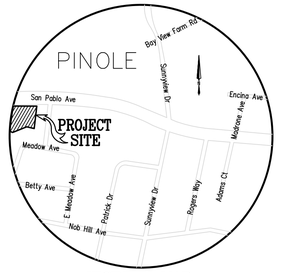
48. RAISE MANHOLES, VALVES, ETC., TO GRADE AFTER PAVING HAS BEEN ACCOMPLISHED. IF PAVING JOB IS LAID IN TWO LIFTS, RAISE TO GRADE BETWEEN FIRST AND SECOND LIFT.

CONSTRUCTION DUST MITIGATIONS:

1. THROUGHOUT CONSTRUCTION PERIOD THE CONTRACTOR SHALL:
2. WATER ALL ACTIVE CONSTRUCTION AREAS AT LEAST TWICE DAILY.
3. WATERING OR COVERING OF STOCKPILES OF DEBRIS, SOIL, SAND OR OTHER MATERIALS THAT CAN BE BLOWN BY THE WIND.
4. COVER ALL TRUCKS HAULING SOIL, SAND, AND OTHER LOOSE MATERIALS.
5. SWEEP DAILY (PREFERABLY WITH WATER SWEEPERS) ALL PAVED ACCESS ROAD, PARKING AREAS AND STAGING AREAS AT CONSTRUCTION SITES.
6. SWEEP STREETS DAILY (PREFERABLY WITH WATER SWEEPERS) IF VISIBLE SOIL MATERIAL IS CARRIED ONTO ADJACENT PUBLIC STREETS.
7. DURING DEMOLITION, THE CONTRACTOR SHALL: DUST-PROOF CHUTES SHOULD BE USED FOR LOADING CONSTRUCTION DEBRIS ONTO TRUCKS.
8. WATERING SHOULD BE USED TO CONTROL DUST GENERATION DURING DEMOLITION OR STRUCTURES AND BREAKUP OF PAVEMENT.
9. COVER ALL TRUCKS HAULING DEMOLITION DEBRIS FROM THE SITE.

SHEET INDEX

SHEET NUMBER	DESCRIPTION
C-1	COVER SHEET
C-3	DEMOLITION PLAN
C-4	GRADING PLAN
C-5	UTILITY PLAN
C-6	STORMWATER CONTROL PLAN



VICINITY MAP
NO SCALE

LEGEND

SYMBOL	DESCRIPTION
AB	AGGREGATE BASE
AC	ASPHALTIC CONCRETE
BW	BACK OF WALK
BLDG	BUILDING
CB	CATCH BASIN
CO	CLEAN OUT
CONC	CONCRETE
DI	DRAIN INLET
DWY	DRIVEWAY
EB	ELECTRICAL BOX
ELE	ELEVATION
EX	EXISTING
FC	FACE OF CURB
FF	FINISHED FLOOR ELEVATION
FL	FLOW LINE
G	GAS
GB	GRADE BREAK
GM	GAS METER
GP	GALVANIZED PIPE(BOLLARD)
GRD	GROUND ELEVATION
GR	GRATE ELEVATION
HC	HANDICAP PARKING
HP	HIGH POINT
IRRIG	IRRIGATION
JP	JOINT POLE
LF	LINEAR FOOT
LP	LOW POINT
MIN	MINIMUM
MAX	MAXIMUM
PAD	PAD ELEVATION
PAV	PAVEMENT
PG&E	PACIFIC GAS & ELECTRIC
R/W	RIGHT OF WAY
RCP	REINFORCED CONCRETE PIPE
S	SLOPE
SD	STORM DRAIN
SDMH	STORM DRAIN MANHOLE
SS	SANITARY SEWER
SSCO	SANITARY SEWER CLEAN OUT
SSMH	SANITARY SEWER MANHOLE
T	TRANSITION
TC	TOP OF CURB
TP	TOP OF PAVING
(T)	TOTAL
(TYP)	TYPICAL
W	WATER
WM	WATER METER
WV	WATER VALVE

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Sheet Title:
TITLE, GENERAL NOTES, LEGEND AND SHEET INDEX

Job No. 20227A10
Date: 02/26/2021
Scale:
Drawn By:

Sheet No:
C-1

NORTH

SCALE: 1" = 10'

GRAPHIC SCALE

20 0 5 10 20

(IN FEET)
1 inch = 10 ft.

DEMOLITION NOTES (OFFSITE):

1. LIMIT OF DEMOLITION. CONTRACTOR SHALL PROTECT EXISTING IMPROVEMENTS TO REMAIN AND REPAIR ANY DAMAGED IMPROVEMENTS DUE TO THE CONSTRUCTION ACTIVITY BEYOND THE LIMIT OF WORK.
2. PROTECT EXISTING UTILITY BOX IN PLACE. CONTRACTOR SHALL ADJUST THE EXISTING UTILITY BOX TO MATCH FINAL GRADE.
3. PROTECT EXISTING ELECTRIC BOX IN PLACE. CONTRACTOR SHALL ADJUST THE EXISTING ELECTRIC BOX TO MATCH FINAL GRADE.
4. PROTECT EXISTING STREET LIGHT BOX IN PLACE. CONTRACTOR SHALL ADJUST THE EXISTING STREET LIGHT BOX TO MATCH FINAL GRADE.
5. PROTECT EXISTING SIGN IN PLACE.
6. PROTECT EXISTING CURB AND GUTTER IN PLACE ALONG SAN PABLO AVE UNLESS NOTED TO BE REMOVED PER GRADING PLAN.
7. PROTECT EXISTING SANITARY SEWER MAN HOLE IN PLACE. CONTRACTOR SHALL ADJUST THE EXISTING SANITARY SEWER MAN HOLE TO MATCH FINAL GRADE.

DEMOLITION NOTES (ONSITE):

20. REMOVE EXISTING CONCRETE,WALLS, FENCE, LANDSCAPE AND ASSOCIATED UNDERGROUND UTILITIES. THE CONTRACTOR SHALL COORDINATE WITH UTILITY COMPANIES TO SHUT DOWN LINES PRIOR TO REMOVAL
21. REMOVE EXISTING CHAIN LINK FENCE ALONG PROPERTY LINE
22. EXISTING SANITARY SEWER UTILITIES TO BE CONFIRMED TO ONLY SERVE SUBJECT PROPERTY. IF SO, CONTRACTOR SHALL COORDINATE WITH UTILITY TO DEACTIVATE PRIOR TO REMOVE. IF NOT, CONTRACTOR SHALL PROTECT IN PLACE THROUGHOUT CONSTRUCTION.
23. REMOVE EXISTING TREES AND ENTIRE ROOT SYSTEM PER LANDSCAPING PLANS. BACKFILL IN ACCORDANCE WITH GEOTECHNICAL REPORTS AND EARTHWORK SPECIFICATIONS.

GENERAL NOTES:

CLEAN ALL DEBRIS FROM ENTIRE SITE. PROVIDE STREET BARRICADES, TRAFFIC CONTROL, AND FLAGMEN DURING DEMOLITION AND EXCAVATION PERIOD. ALL CONSTRUCTION WORKERS SHALL COMPLY WITH CITY OF OAKLAND NOISE CONTROL GUIDELINES. APPLY FOR OBSTRUCTION PERMIT FOR SIDEWALK CLOSURE. PROVIDE TEMPORARY FENCE PROTECTION DURING DEMOLITION AND CONSTRUCTION PERIOD. PROVIDE DUST CONTROL AND EROSION CONTROL DURING THE ENTIRE CONSTRUCTION PERIOD. SUBMIT DETAIL PLANS TO GENERAL CONTRACTOR FOR THEIR APPROVAL.

CITY APPROVED TRAFFIC CONTROL PLAN IS REQUIRED FOR ANY VEHICULAR TRAFFIC LANE CLOSURE, BIKE LANE CLOSURE AND/OR SIDEWALK CLOSURE RESULTING IN LESS THAN 5'-06" UNOBSTRUCTED SIDEWALK SPACE.

LEGEND

LIMIT OF IMPROVEMENT. CONTRACTOR SHALL PROTECT EXISTING SITE FEATURES OUTSIDE THE IMPROVEMENT LIMIT AND MATCH EXISTING ELEVATION TO PROVIDE SMOOTH TRANSACTION AND POSITIVE DRAINAGE PATTERN. PROTECT ALL UNDERGROUND UTILITY LINES AND PIPES IN THE LIMIT OF IMPROVEMENTS, UNLESS OTHERWISE SPECIFIED ON THIS PLAN.

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Sheet Title:
DEMOLITION PLAN

Job No. 20227A10
Date: 02/26/2021
Scale:
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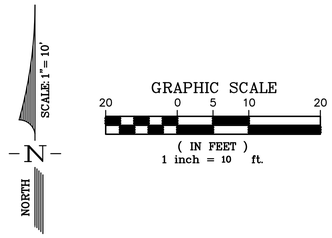
C-3



GRADING NOTES (OFFSITE)

50 LIMIT OF IMPROVEMENT. EXISTING CURB AND GUTTER TO REMAIN. CONTRACTOR SHALL SAW CUT ALONG THE BACK OF CURB TO SEPARATE THE EXISTING CURB FROM THE SIDEWALK IN PREPARATION OF NEW IMPROVEMENTS.

51 LIMIT OF IMPROVEMENT. EXISTING CURB AND GUTTER TO BE REPLACED. CONTRACTOR SHALL SAW CUT THE AC PAVEMENT 2.0' BEHIND THE FACE OF THE EXISTING GUTTER LIP IN PREPARATION OF THE NEW IMPROVMENTS.

52 CONSTRUCT NEW CONCRETE DRIVEWAY PER CITY OF PINOLE STANDARDS AND SPECIFICATIONS

53 CONSTRUCT NEW CONCRETE NEW SIDEWALK WITH ADA COMPLIANT CROSS SLOPE PER CITY OF PINOLE STANDARDS AND SPECIFICATIONS.

54 CONSTRUCT NEW CONCRETE CURB, GUTTER AND AC CONFORM PER CITY OF PINOLE STANDARDS AND SPECIFICATIONS IN THE SPAN OF THE EXISTING CURB CUT.

55 ADJUST EXISTING UTILITY VAULT TO MATCH THE FINISHED SURFACE OF THE NEW SIDEWALK

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Sheet Title:
GRADING PLAN

Job No. 20227A10
Date: 02/26/2021
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C-4

STORM DRAIN (ONSITE):

100 INSTALL OLDCASTLE DROP INLET DI-1212 (OR EQUAL) WITH STEEL GRATE TO SERVE AS THE FLOW THROUGH PLANTER OVERFLOW STRUCTURE. CONNECT STORM DRAIN CONVEYANCE PIPELINES AT THE FLOW LINE ELEVATIONS PROVIDED. REFER TO PLAN FOR PIPE DIAMETERS

101 INSTALL FLOW-THROUGH-PLANTER CLEANOUT STRUCTURE. CONNECT CLEANOUT RISER TO THE OVERFLOW STRUCTURE WITH PERFORATED UNDERDRAIN PIPE AT THE FLOW LINE ELEVATIONS PROVIDED. REFER TO PLAN FOR PIPE DIAMETERS

102 INSTALL AREA DRAIN AT THE GRATE ELEVATION PROVIDED. CONNECT TO STORM CONVEYANCE PIPELINE USING 45° ELBOWS AND WYE CONNECTIONS

103 INSTALL STORM DRAIN CLEANOUT. CONNECT TO STORM CONVEYANCE PIPELINE USING 45° ELBOWS AND WYE CONNECTIONS

104 INSTALL CHECK STORMWATER CHECKVALVE IN LINE WITH THE LATERAL TO THE STORM SEWER

105 INSTALL TRASH CAPTURE DEVICE IN THE CATCH BASIN TO SCREEN THE OPENING TO THE NEW STORM LATERAL DISCHARGING TO THE PUBLIC STORM SEWER

STORM DRAIN (OFFSITE):

110 CONNECT STORM DRAIN PIPE TO THE EXISTING CATCH BASIN. POSITION THE NEW LATERAL FLOW LINE AT THE BOTTOM OF THE CONCRETE VAULT. PATCH THE WALL PENETRATION WITH CLASS 'C' MORTAR.

SEWER (ON-SITE):

120 EXISTING SEWER MAIN TO BE REROUTED CLEAR OF THE BUILDING FOOTPRINT. OWNER TO COORDINATE NEW SEWER EASEMENT WITH THE COUNTY RECORDS OFFICE. CONTRACTOR TO COORDINATE WITH THE SANITARY DISTRICT TO ESTABLISH THE SEWER MAIN OUTAGE PLAN AND DIVERSION WHILE THE NEW SANITARY SEWER IMPROVEMENTS ARE CONSTRUCTED. INSTALL NEW PRECAST MANHOLE STRUCTURE OVER THE EXISTING SEWER PIPELINE AT THE POINT OF DIVERSION. CAP AND ABANDON THE SECTION OF MAIN UNDER THE PROPOSED BUILDING PER SANITARY DISTRICT STANDARDS.

121 INSTALL NEW PRECAST MANHOLE STRUCTURE. CONNECT MANHOLE TO THE NEW SEWER PIPELINES AT THE ELEVATIONS SHOWN. SEE PLAN FOR PIPE DIAMETER, MATERIAL AND SLOPE

SEWER (OFF-SITE):

130 INSTALL NEW PRECAST MANHOLE STRUCTURE OVER THE EXISTING SEWER MAIN. CONNECT NEW SEWER MAIN PIPELINE TO THE MANHOLE AT THE FLOW LINE ELEVATION OF THE EXISTING MAIN AT THE POINT OF CONNECTION.

131 CAP THE ABANDONED SECTION OF SEWER LATERAL IN THE EXISTING MANHOLE PER SANITARY DISTRICT STANDARDS AND SPECIFICATIONS.

SCALE: 1" = 10'

NORTH

GRAPHIC SCALE
20 0 5 10 20
(IN FEET)
1 inch = 10 ft.

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Sheet Title:
UTILITY PLAN

Job No. 20227A10
Date: 02/26/2021
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C-5

SCALE: 1" = 10'

NORTH

GRAPHIC SCALE

20 0 5 10 20

(IN FEET)

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Sheet Title:
STORMWATER CONTROL PLAN

Job No. 20227A10
Date: 02/26/2021
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Sheet No:
C-6

WINTER SOLSTICE ON DEC 21ST - 9 AM

SPRING & AUTUMN EQUINOX ON MARCH/SEPT 21ST - 9 AM

SUMMER SOLSTICE ON JUNE 21ST - 9 AM

WINTER SOLSTICE ON DEC 21ST - 12 PM

SPRING & AUTUMN EQUINOX ON MARCH/SEPT 21ST - 12 PM

SUMMER SOLSTICE ON JUNE 21ST - 12 PM

WINTER SOLSTICE ON DEC 21ST - 3 PM

SPRING & AUTUMN EQUINOX ON MARCH/SEPT 21ST - 3 PM

SUMMER SOLSTICE ON JUNE 21ST - 3 PM

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Sheet Title:

SOLAR SHADING ANALYSIS

Job No. 20042
Date: 04/12/2021
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A 6.0

MATERIALS LEGEND AND SITE DETAIL KEYNOTES:

- HARDSCAPE
  - CONCRETE 1
  - CONCRETE 2
  - ASPHALT
  - ENGINEERED WOOD FIBERS
  - BOULDERS
- UTILITIES
  - EV CHARGING STATION
- SITE FURNISHINGS
  - PARKING LIGHTING
  - TRANSITIONAL LIGHTING
  - BENCH
  - PICNIC TABLE
  - SHORT TERM BIKE PARKING
  - LONG TERM BIKE PARKING
  - TREE GRATE
  - TRASHCAN
  - STEPPING STONES
- PLANTING AREAS
  - PLANTING AREA
  - STORMWATER TREATMENT SWALE
  - RAISED PLANTER
  - PROPOSED SITE TREE

- FENCING
  - METAL VEHICULAR GATE
  - METAL PEDESTRIAN GATE
  - 6' PICKET FENCE
  - 6' PICKET FENCE ON RETAINING WALL
  - INTERIOR GATE
  - 6' METAL PANEL FENCE

1 MATERIALS PLAN + PALETTE
SCALE: 1:16'

NORTH

0' 8' 16' 24'

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Sheet Title:
LANDSCAPE MATERIALS PLAN AND PALETTE

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L1.00

1. TRASHCANS

2. TREE GRATE

3. STEPPING STONES

4. BOULDERS

5. BIKE PARKING

6. BENCH

7. ADA PICNIC TABLE

8. FIXED FURNITURE

9. ENTRANCE GATE/FENCE

10. SITE WALL/FENCE

A. COURTYARD

B. PLANTING BUFFER AREA

C. COMMUNITY GARDEN

1 MATERIALS PLAN + PALETTE
SCALE: 1:16'

NORTH

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LANDSCAPE MATERIALS PLAN AND PALETTE

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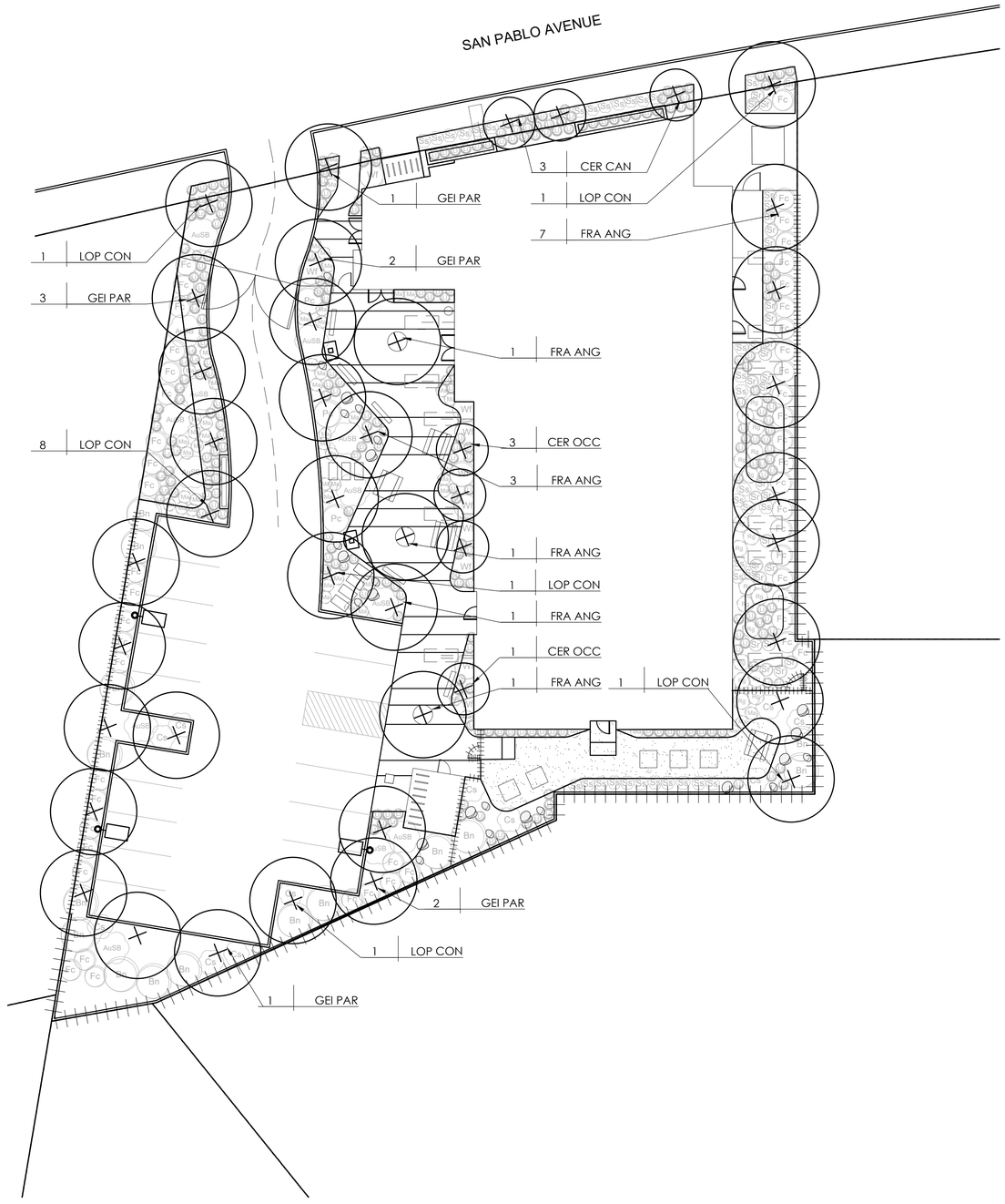

1 PLANTING PLAN
SCALE: 1"=16'

PLANT LEGEND:

SHRUBS

- Bn — BER NEV, Berberis Nevinii
- Fc — FRA CAL, Frangula californica 'Mound San Bruno'
- Pc — PHY CAP, Physocarpus capitatus
- Sr — SAR RUS, Sarcococca ruscifolia
- Wf — WES FRU, Westringia fruticosa

GRASSES, PERENNIALS, + ACCENT PLANTS

- LE — LEY CON, Leymus condensatus 'Canyon Prince'
- LO — LOM LON, Lomandra longifolia
- Ma — MIM AUR, Mimulus aurantiacus
- Rg — ROS GYM, Rosa gymnocarpa

GROUNDCOVERS

- AuSB — ARC UVA, Arctostaphylos uva-ursi 'San Bruno Mountains'
- Cs — CIS SAL, Cistus salviifolius
- Ss — SAL SPA, Salvia spacathea

(N) TREE

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LANDSCAPE PLANTING PLAN

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Sheet No:
L2.00

811 SAN PABLO PLANT LIST

Sunset Zone 17; USDA Hardiness Zone 10a/b

April 5, 2021

QUANTITY	ID	BOTANICAL NAME	COMMON NAME	NATIVE	WUCOLS WATER RATING	EXPOSURE S/PS/SH	MIN. SIZE	SPACING	HT.	SPD.	NOTES
TREES											
7	CER OCC	CERCIS OCCIDENTALIS	Western Redbud	Y	L	S/PS	24" BOX	As shown	15'	15'	Contra Costa Water District List
14	FRA ANG	FRAXINUS ANGUSTIFOLIA 'RAYWOOD'	Raywood Ash	N	M	S	24" BOX	As shown	40'	20'	Contra Costa Water District List
9	GEI PAR	GEIJERA PARVIFLORA	Australian Willow	N	M	S	24" BOX	As shown	25'	20'	
13	LOP CON	LOPHOSTEMON CONFERTUS	Brisbane Box	N	L	S	24" BOX	As shown	40'	20'	
CURRENT LAYOUT: After 15 years, Pedestrian Hardscape 60% shaded, Parking and Vehicular Hardscape 34% shaded. 51% Evergreen Trees, 49% Deciduous											
SHRUBS											
	BER NEV	BERBERIS NEVINII	Nevin's Barberry	Y	L	S/PS	15 GAL	As shown	8'	8'	
	FRA CAL	FRANGULA CALIFORNICA	Coffeeberry	Y	L	S/PS	15 GAL	As shown	12'	6'	
	PHY CAP	PHYSOCARPUS CAPITATUS	Pacific Ninebark	Y	L	S/PS	15 GAL	As shown	5'	5'	
	SAR RUS	SARCOCOCCA RUSCIFOLIA	Fragrant Sarcococca	N	L	PS/SH	5 GAL	As shown	3'	3'	
	WES FRU	WESTRINGIA FRUTICOSA	Coast Rosemary	N	L	S	5 GAL	As shown	4'	6'	
GRASSES, PERENNIALS, + ACCENTS											
	LEY CON	LEYMUS CONDENSATUS 'CANYON PRINCE'	Wild Rye	Y	L	S/PS	5 GAL		3'	3'	
	LOM LON	LOMANDRA LONGIFOLIA	Dwarf Mat Rush	N	L	S/PS/SH	5 GAL	As shown	2'	3'	
	MIM AUR	MIMULUS AURANTIACUS	Monkey Flower	Y	L	S/PS	1 GAl	As shown	3'	3'	
	ROS GYM	ROSA GYMNOCARPA	Wood Rose	Y	L	S/PS	5 GAL	As shown	2'	3'	
GROUNDCOVERS											
	ARC UVA	ARCTOSTAPHYLOS UVA-URSI	San Bruno' Manzanita	Y	L	S/PS	5 GAL	As shown	1'	15'	
	CIS SAL	CISTUS SALVIIFOLIUS	Prostrate' Rock Rose	N	L	S/PS	1 GAL	As shown	2'	6'	
	SAL SPA	SALVIA SPACATHEA	Hummingbird Sage	Y	L	PS/SH	1 GAL	As shown	1'	4'	

TREES

RAYWOOD ASH

AUSTRALIAN WILLLOW

WESTERN REDBUD

BRISBANE BOX

SHRUBS

NEVIN'S BARBERRY

COFFEEBERRY

PACIFIC NINEBARK

SARCOCOCCA

GRASSES, ACCENTS, + PERENNIALS

WILD RYE

DWARF MAT RUSH

MONKEY FLOWER

WOOD ROSE

GROUNDCOVERS

SAN BRUNO MANZANITA

PROSTRATE ROCK ROSE

HUMMINGBIRD SAGE

PLANT PALLETTE
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04.05.2021

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LANDSCAPE PLANT LIST

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Date: 04/12/2021
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Drawn By: EX + LF

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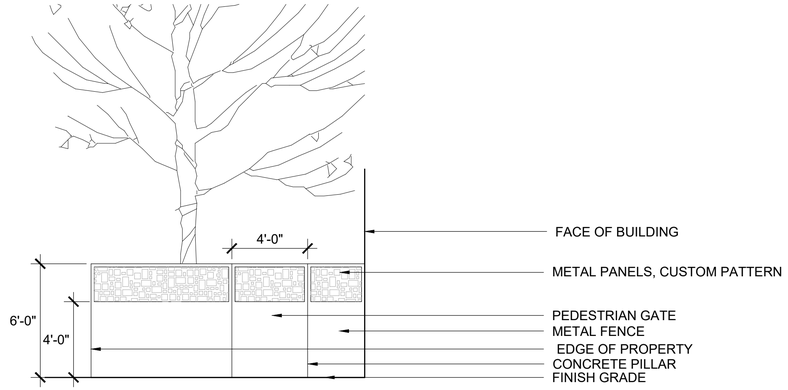
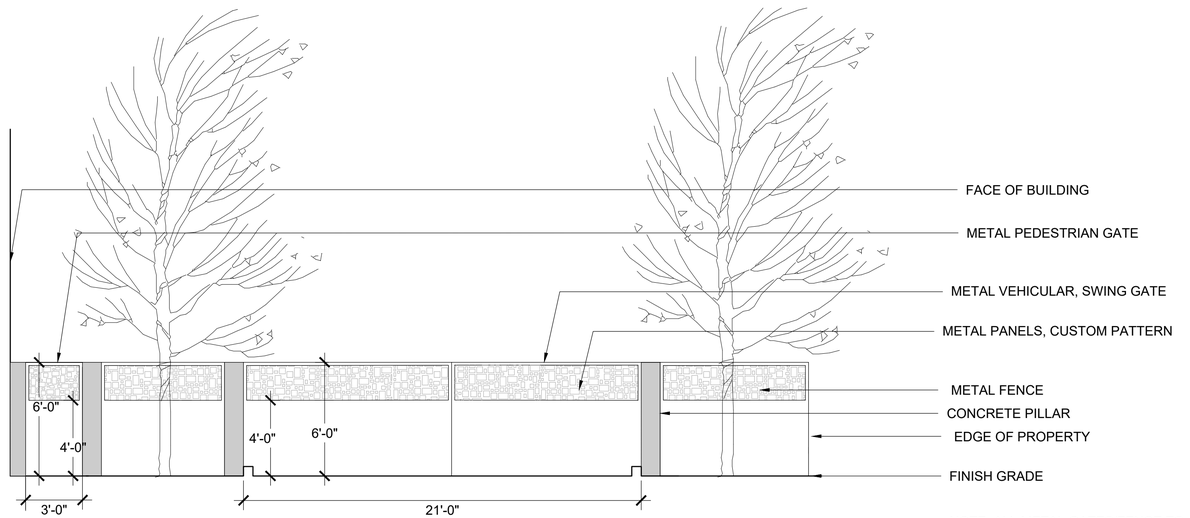
L2.01



NOTE: ALL METAL GATES/FENCE TO BE IN BRONZE FINISH FOR DESIGN REVIEW ONLY, FINAL COLOR TBD.

5 PEDESTRIAN GATE- ENTRANCE

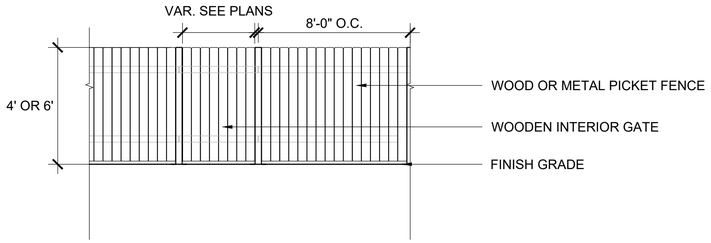
SCALE: 1/4" = 1'-0"



NOTE: ALL METAL GATES/FENCE TO BE IN BRONZE FINISH FOR DESIGN REVIEW ONLY, FINAL COLOR TBD.

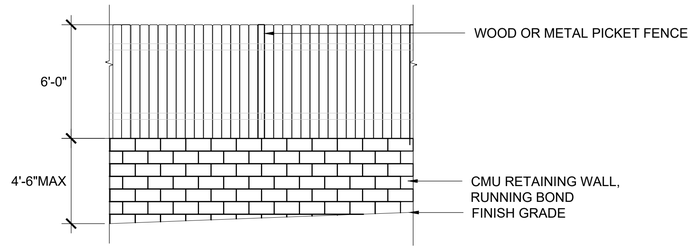
4 VEHICULAR AND PEDESTRIAN GATE - ENTRANCE

SCALE: 1/4" = 1'-0"



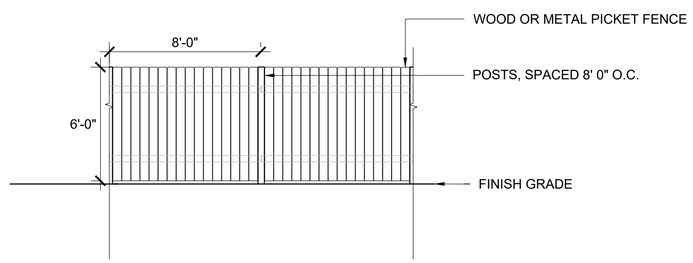
3 6' INTERIOR PICKET FENCE AND GATE

SCALE: 1/4" = 1'-0"



2 RETAINING WALL AND PERIMETER FENCE

SCALE: 1/4" = 1'-0"



1 6' PERIMETER PICKET FENCE

SCALE: 1/4" = 1'-0"

STUDIO T SQUARE

: Architecture
: Planning
: Urban Design

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811 SAN PABLO
PINOLE, CA

Satellite Affordable Housing Associates
1835 Alcatraz Avenue
Berkeley, CA94703

Sheet Title:

FENCE DETAILS

Job No. 20042
Date: 04/12/2021
Scale:
Drawn By: EX + LF

Sheet No:

L3.00

sixteen5hundred

Ceiling Height: NA
Luminaire Mounting Height: As noted
Calculation Point Height: As noted

Luminaire illuminance values provided in this report, whether for normal, critical, or emergency applications, are for product application assistance only. These values were developed in collaboration with, and are subject to approval by, the design professional of record (architect/engineer/LC), and are NOT intended for construction. Because these values are approximate and based on limited application information provided to 16500, Inc. at the time of calculation, 16500, Inc. does not warrant the installed performance of the luminaire(s) will match that shown in this report. Please verify all data and conditions to assure the accuracy of the report. 16500 shall neither be responsible nor liable for design, approval, or results of emergency lighting under any circumstance.

Schedule

Symbol	Label	Quantity	Manufacturer	Catalog Number	Description	Lamp	Lumens Per Lamp	Light Loss Factor	Wattage
	A	8	Tech Lighting	700OWASHH93016DBUNV		LED	1346	0.85	18.2
	B	3	LIGMAN	MV-30001-W-W30		LED	938	0.85	11
	C	3	Lithonia Lighting	WDGE1 LED P1 30K 90CRI VW		LED	1030	0.85	10.0002
	D	3	Gotham Architectural Lighting	EVO4SC 30/10 BZR WD		LED	737	0.85	8.8
	SL1	2	Lithonia Lighting	DSX0 LED P2 30K T3M MVOLT HS		LED	4389	0.85	49
	SL1A	1	Lithonia Lighting	DSX0 LED P2 30K T2M MVOLT HS		LED	4559	0.85	49
	SL2	2	LIGMAN	HAM-20021-LC-T2-W30		LED	6311	0.85	53.4

Finish Schedule

Finish	Surface	Reflectance/ Transmittance
Ground	Floor	20
Building Surfaces	Walls/Ceilings	30

Statistics

Description	Symbol	Avg	Max	Min	Max/Min	Avg/Min
Bike Shelter 0'-0"	+	4.5 fc	7.2 fc	3.0 fc	2.4:1	1.5:1
Community Garden 0'-0"	+	2.6 fc	14.5 fc	0.0 fc	N/A	N/A
Courtyard 0'-0"	+	4.4 fc	20.8 fc	0.4 fc	52.0:1	11.0:1
East Site 0'-0"	+	0.6 fc	10.4 fc	0.0 fc	N/A	N/A
EVA 0'-0"	+	0.5 fc	1.6 fc	0.1 fc	16.0:1	5.0:1
Main Lobby Walkway 0'-0"	+	3.9 fc	19.0 fc	0.1 fc	190.0:1	39.0:1
Parking lot 0'-0"	+	1.5 fc	3.3 fc	0.3 fc	11.0:1	5.0:1
Pathways 0'-0"	+	0.9 fc	5.7 fc	0.1 fc	57.0:1	9.0:1
Service Yard 0'-0"	+	1.4 fc	5.3 fc	0.0 fc	N/A	N/A
Short-term Bike Parking 0'-0"	+	4.1 fc	6.2 fc	2.0 fc	3.1:1	2.1:1

THIS LIGHTING APPLICATION REQUIRES SPECIFIC LIGHTING CONTROL DEVICES OR SYSTEMS PER CALIFORNIA TITLE 24 PART 6.

Therefore, this proposal includes:

- ☐ SOLUTION: This proposal includes a complete lighting and control system either as an alternate to that specified, or as a recommendation based on the information provided, subject to your review and approval.
- ☐ SUPPLEMENT: This proposal includes lighting as requested/specified, as well as a proposed lighting control system for your review and approval.
- ☒ ALERT: This proposal includes only lighting as requested/specified. However, the application likely requires compatible lighting controls to meet the following criteria. We are happy to provide a lighting control quote/proposal at your request.
  - Manual Switch(es)
  - Automatic time switch (astronomical)
  - Occupancy Sensor(s)
  - Photosensor(s) / daylight sensor(s)
  - Demand responsive / load shedding
  - Controlled Receptacle(s)
  - Motion Sensor(s) - Outdoor

STUDIO T SQUARE

: Architecture
: Planning
: Urban Design

: 1970 Broadway #615
: Oakland, California 94607
: (510) 451 - 2850

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PINOLE, CA

Satellite Affordable Housing Associates
1835 Alcatraz Avenue
Berkeley, CA94703

SAHA SATELLITE AFFORDABLE HOUSING ASSOCIATES

Sheet Title:

EXTERIOR LIGHTING

Job No. 20042
Date: 04/12/2021
Scale:
Drawn By:

Sheet No:

1

DISPOSITION AND DEVELOPMENT AGREEMENT

BY AND BETWEEN

THE CITY OF PINOLE

AND

SATELLITE AFFORDABLE HOUSING ASSOCIATES

Dated July ___, 2021

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DISPOSITION AND DEVELOPMENT AGREEMENT
BY AND BETWEEN THE CITY OF PINOLE
AND SATELLITE AFFORDABLE HOUSING ASSOCIATES

This **DISPOSITION AND DEVELOPMENT AGREEMENT** (this "**Agreement**") is entered into as of July ___, 2021 (the "**Effective Date**") by and between the City of Pinole, a California municipal corporation (the "**City**") and Satellite Affordable Housing Associates, a California nonprofit public benefit corporation (the "**Developer**"). The City and the Developer are each referred to as a "**Party**" and collectively referred to herein as the "**Parties**." Capitalized terms have the definitions set forth in Article I or as otherwise set forth herein.

RECITALS

A. The City is the owner of certain property (the "**Property**") located at 811 San Pablo Ave. in the City of Pinole, California, known as County Assessor's Parcel Number 402-166-030, as more particularly described in Exhibit A attached hereto and incorporated herein by this reference.

B. The Property was originally purchased by the Redevelopment Agency of the City of Pinole (the "**Former Agency**") with funds from the Former Agency's low- and moderate-income housing fund.

C. On June 29, 2011 the legislature of the State of California adopted Assembly Bill x1 26 (as amended by AB 1484 and SB 107, the "**Dissolution Law**"), which amended provisions of the redevelopment law.

D. Pursuant to the Dissolution Law the Agency was dissolved on February 1, 2012 and the housing assets owned by the Former Agency were transferred to the City as housing successor to the Former Agency.

E. At the direction of the City Council, the City and the Developer have entered into negotiations pursuant to which the Developer will develop, construct, own and operate a Thirty-Three (33) unit affordable rental apartment project affordable to households earning sixty percent (60%) or less of area median income (the "**Project**").

F. The Property was appraised by Thomas E. Dum on December 17, 2020 at a market value of One Million One Hundred Eighty Thousand Dollars ($1,180,000) (the "**Purchase Price**").

G. The City has agreed to provide a loan in the amount of the Purchase Price to Developer in the form of a residual receipts loan (the "**Purchase Loan**").

H. The City has also agreed to provide a loan in the amount of Two Million Dollars ($2,000,000) (the "**Construction Loan**") to the Developer to assist with costs related to the construction of the Project.

I. The Purchase Loan and the Construction Loan will be provided pursuant to a loan agreement (the "**Loan Agreement**"), substantially in the form attached as Exhibit B, to be entered into between the Parties, which will be secured by a deed of trust (the "**Deed of Trust**"), substantially in the form attached as Exhibit C, executed by Developer as trustor for the benefit of the City and recorded in the official records of Contra Costa County (the "**Official Records**").

J. Pursuant to this Agreement, the Developer will also enter into an Affordable Housing Regulatory Agreement and Declaration of Restrictive Covenants with the City (the "**Regulatory Agreement**," substantially in the form attached as Exhibit D, and together with this Agreement, the Loan Agreement and the Deed of Trust, the "**City Documents**") that will restrict the rent to an affordable cost on certain units located in the Project.

K. The purpose of this Agreement is to provide the terms and conditions under which the City will transfer the Property to the Developer and the Developer will develop, construct, own and operate the Project thereon.

L. The City has undertaken, pursuant to the California Environmental Quality Act (Public Resources Code Section 21000 *et seq*., hereinafter "**CEQA**"), the required analysis of the environmental effects that would be caused by the Project and has determined that the Project is categorically exempt from CEQA pursuant to CEQA Guidelines section 15332, and that none of the exceptions to this exemption specified in CEQA Guidelines section 15300.2 are applicable to the Project.

M. The City Council has approved the disposition of the Property, subject to the terms and conditions set forth this Agreement.

N. The City has concluded that the Developer has the necessary expertise, skill and ability to carry out the commitments contained in this Agreement and that the development of the Property pursuant to this Agreement will further the goals of the City by providing affordable housing in the City.

ARTICLE I
DEFINITIONS

As used in this Agreement, the terms set forth herein have the following meanings:

"**CEQA**" means the California Environmental Quality Act, Sections 21000 et seq. of the Public Resources Code and the CEQA Guidelines set forth at 14 California Code of Regulations Sections 15000 et seq.

"**Certificate of Occupancy**" is defined in Section 3.14 of this Agreement.

"**City**" means the City of Pinole, California, a municipal corporation, organized under the laws of the State of California.

"**City Documents**" means this Agreement, the Loan Agreement, and the Affordable Housing Agreement, all by and between the Parties.

"**City Manager**" means the City Manager of the City.

"**Close of Escrow**" means the date, which date shall occur no later than one hundred eighty or one hundred ninety four (180 or 194) calendar days (or such later date approved by the California Tax Credit Allocation Committee) after the award to the Developer of a nine percent (9%) tax credit preliminary reservation or a four percent (4%) tax credit preliminary reservation, as determined by the awarding agency, on which the Grant Deed transferring rights to the Property from the City to the Developer is recorded in accordance with the provisions of this Agreement, or such later date as authorized by the City Manager.

"**Construction Cost**" means the total construction contract amount for construction of the Project.

"**Construction Loan**" means the Two Million Dollar ($2,000,000) loan to be provided to the Developer from low- and moderate-income funds held by the City.

"**Deed of Trust**" means that certain deed of trust executed by the Developer for the benefit of the City securing the Construction Loan and the Purchase Loan.

"**Developer**" means Satellite Affordable Housing Associates, having its offices at 1835 Alcatraz Ave., Berkeley, CA 94703, and any permitted nominee, assignee or successor in interest pursuant to this Agreement.

"**Effective Date**" means the date of this Agreement.

"**Environmental Response Actions**" means any and all activities, data compilations, preparation of studies or reports, interaction with environmental regulatory agencies, obligations and undertakings associated with environmental investigations, removal activities, remediation activities or responses to inquiries and notice letters, as may be sought, initiated or required in connection with any local, state or federal governmental or private party claims, including any claims by the Developer or the City.

"**Environmental Response Costs**" means any and all costs associated with Environmental Response Actions including, without limitation, any and all fines, penalties and damages.

"**Financing Plan**" means the Developer's plan for financing the construction and operation of the Project on the Property including all commitments from lenders and equity partners as submitted by the Developer and reviewed and approved by the City pursuant to the terms of Section 2.2.A.2 of this Agreement.

"**Hazardous Materials**" means any substance, material or waste which is (1) defined as a "hazardous waste," "hazardous material," "hazardous substance," "extremely hazardous waste," "restricted hazardous waste," "pollutant," or any other terms comparable to the foregoing terms under any provision of California law or federal law; (2) petroleum; (3) asbestos;

(4) polychlorinated biphenyls; (5) radioactive materials; or (6) determined by California, federal or local governmental authority to be capable of posing a risk of injury to health, safety or property.

"**HCD**" means the California Department of Housing and Community Development.

"**Improvements**" means: (i) a thirty-three (33) unit affordable rental housing project consisting of studio, one, and two-bedroom units, (ii) one (1) manager unit, and (iii) on-site parking spaces.

"**Preliminary Site Plan**" is defined in Section 2.1C of this Agreement.

"**Project**" means the development and construction of the Improvements on the Property in one or more phases in accordance with the terms of this Agreement.

"**Property**" is defined in Recital A to this Agreement.

"**Purchase Loan**" mean the loan in the amount of One Million One Hundred Eighty Thousand Dollars ($1,180,000) from the City to the Developer for the purchase of the Property.

"**Regulatory Agreement**" is defined in Section 4.8.

"**Schedule of Performance**" means the timeline for the Project attached hereto as Exhibit F.

"**Scope of Development**" means the description of the Project and the conditions imposed on the construction of the Project as described in Exhibit E.

"**Term**" means one (1) year after issuance of the Certificate of Occupancy.

ARTICLE II
PROPERTY

2.1 Obligations of the Parties.

A. Developer Representations and Warranties. The Developer represents and warrants to the City as follows, and the Developer covenants that until expiration or earlier termination of this Agreement, upon learning of any fact or condition which would cause any of the representations and warranties in this Section 2.1.A not to be true, the Developer shall immediately give written notice of such fact or condition to the City.

1. The Developer is a nonprofit public benefit corporation in good standing under the laws of the State of California. The Developer has full right, power and authority to undertake all obligations of the Developer as provided herein, and the execution, performance and delivery of this Agreement by the Developer has been duly authorized by all requisite actions. The Developer has duly authorized, executed and delivered this Agreement and the Developer has or will authorize, execute and deliver, within the times set forth therefor in the Schedule of Performance attached hereto as Exhibit F and incorporated herein by this reference, any and all other mutually acceptable agreements and documents required to be authorized, executed and delivered by the Developer in order to carry out, give effect to and consummate the transactions contemplated by this Agreement. This Agreement constitutes a valid and binding obligation of the Developer.

2. The Developer does not have any contingent financial obligations or any contractual agreements which could materially adversely affect the ability of the Developer to carry out its obligations hereunder.

3. There are no pending or, so far as is known to the Developer, threatened, legal proceedings to which the Developer is or may be made a party or to which any of its property is or may become subject, which have not been fully disclosed in the documents submitted to the City which could materially adversely affect the ability of the Developer to carry out its obligations hereunder.

4. Except as otherwise disclosed to the City in writing, there is no action or proceeding pending or, to the Developer's best knowledge, threatened, looking toward the

dissolution or liquidation of the Developer, and there is no action or proceeding pending or, to the Developer's best knowledge, threatened by or against the Developer which could affect the validity and enforceability of the terms of this Agreement, or materially and adversely affect the ability of the Developer to carry out its obligations hereunder.

5. The Developer is not subject to or a party named in any bankruptcy proceeding.

B. Conditions Precedent. As a condition precedent to the sale by the City of the Property to the Developer, the conditions set forth in this Article II must first be met within the times set forth in the Schedule of Performance, attached hereto as Exhibit F, unless such time limit is extended (i) in accordance with the provisions of Section 9.7, or (ii) in accordance with the provisions of Section 3.18, or (iii) in writing by the City at the discretion of its City Manager.

Should the Developer fail to meet any predisposition requirement by the dates set forth in the Schedule of Performance, subject to the Developer's right to cure as described in Section 8.3 and subject to enforced delays as defined in Section 9.7, the City shall have the option, but not the obligation, to terminate this Agreement and neither party shall have any further rights or obligations hereunder, except as otherwise provided for in this Agreement.

C. Scope of Development and Preliminary Site Plan. Prior to the City's consideration of this Agreement, the Developer submitted to the City a proposed Scope of Development for the Project. The Scope of Development is described in Exhibit E attached hereto, and includes the construction of the Improvements. The preliminary site plan for the Project (the "**Preliminary Site Plan**") is attached hereto as Exhibit G, and shows the general location of the Improvements, including the location of the residential units, parking, open space, common areas, and sidewalks. The Parties understand that the Preliminary Site Plan shall be revised from time to time to take into consideration factors such as but not limited to, mitigation requirements of CEQA, if any, site constraints, funding requirements or "points" to make the Project more competitive, and financing. Each such revision, if any, shall be subject to the City's written approval.

D. Approvals; Permit Costs. The Developer shall, in good faith and with due diligence, take all commercially reasonable necessary steps to ensure that the construction activities will not be delayed and will proceed pursuant to the Schedule of Performance, subject

to Section 9.7. Necessary steps shall include, at a minimum, the timely submission of all documents, drawings and other information necessary for the issuance of all required building permits and other approvals necessary for construction of the Project.

E. Easements. The Developer hereby agrees to execute all appropriate documents providing for the recordation of easement agreements determined to be reasonably necessary by Developer and the City, at no cost to the City, for the public improvements to be constructed.

2.2 Disposition of the Property.

A. City Pre-Disposition Requirements. The provisions of this Section 2.2 set forth the conditions precedent to the City's obligation to sell the Property to the Developer.

1. No Default. There are no conditions, event or act which would constitute a breach or default under this Agreement or any other City document, or which, upon the giving of notice or the passage of time, or both, would constitute such a material breach or default.

2. Preliminary Financing Plan and Financing Plan.

a. Within thirty (30) calendar days of the Effective Date, the Developer shall submit to the City for its review and approval its preliminary plan for the construction and permanent financing of the Project (the "**Preliminary Financing Plan**"). The Preliminary Financing Plan shall indicate all sources of funds necessary to pay, when due, the estimated costs of Project development, including, without limitation, hard and soft construction costs, and shall include development and operating proformas which set out in detail the Developer's preliminary plan for financing the cost of development, construction and operation of the Project. The Parties acknowledge that the Preliminary Financing Plan is subject to change from time to time based on the funding sources, Project costs and other factors. Each such revision to the Preliminary Financing Plan shall be subject to City review and approval.

b. Prior to the conveyance of the Property, the Financing Plan shall indicate all sources of funds necessary to pay, when due, the estimated costs of Project development, including, without limitation, hard and soft construction costs, and shall be accompanied by evidence that such funds have been firmly committed by the Developer, equity investors or lending institutions, subject only to commercially reasonable conditions. The

Financing Plan shall include development and operating proformas which set out in detail the Developer's plan for financing the cost of development, construction and operation of the Project.

City staff shall promptly review the proposed Preliminary Financing Plan, revisions, and Financing Plan, and acting through the City Manager, the City shall approve such plan in writing within thirty (30) business days following receipt provided that the plan conforms to the requirements of this Article II and the City agrees such approval shall not be unreasonably withheld. If the City does not approve the Preliminary or final Financing Plan, the City shall set forth its objections in writing and notify the Developer of the reasons for its disapproval. The Developer shall thereafter submit a revised Preliminary or final Financing Plan that addresses the reasons for disapproval, and the City shall grant the Developer a reasonable extension of the time deadlines set forth in this Agreement as required to restructure the Preliminary or final Financing Plan. The City's approval of the final Financing Plan shall be a condition precedent to the City's obligation to convey the Property to the Developer. The City's approval shall not be unreasonably withheld or delayed. The City shall not have to right to withhold or delay its approval of the final Financing Plan as long as the final plan is consistent with the approved Preliminary Financing Plan.

If the Preliminary Financing Plan is not approved by the City in accordance with the terms of this Section 2.2, the City shall have the right , but not the obligation, to terminate this Agreement pursuant to the terms of Section 7.1.

3. Tax Credit Financing. The Developer anticipates that it will submit an application to the California Tax Credit Allocation Committee ("**TCAC**") for a preliminary tax credit reservation once all other local and State funding necessary to construct the Project has been committed. Upon award of a preliminary reservation from TCAC, the Developer shall exercise diligent good faith efforts to obtain a funding commitment from a reputable equity investor. Procurement of a TCAC preliminary reservation and an acceptable funding commitment from equity investors for the Project shall be conditions precedent to the City's obligation to convey the Property to the Developer.

If the Developer does not receive an allocation of tax credits by December 31, 2024, the City shall confer with the Developer in good faith for a period not to exceed ninety (90) calendar days (commencing on the date the Developer is notified that the Project did not obtain a TCAC commitment) to determine if a feasible and mutually acceptable alternate

arrangement can be made to extend the Agreement; provided however, if the Developer and the City cannot agree on a mutually acceptable alternate arrangement, then either Party shall have the right to terminate this Agreement upon written notice.

Prior to application to TCAC, the Developer shall also apply for all other necessary and available financing listed on the Financing Plan, attached hereto as Exhibit H.

4. Evidence of Availability of Funds. No later than the date shown in the Schedule of Performance, the Developer shall submit to the City evidence reasonably satisfactory to the City that (i) all conditions to the release and expenditure of the initial draw of funds described in the approved Financing Plan as the source of construction financing for the Project have been met or will be met upon conveyance of the Property to the Developer and that such funds will be available upon conveyance of the Property, (ii) all approvals, permits, and authorizations which are conditioned upon conveyance will be received promptly after conveyance, and (iii) all construction financing (including draws subsequent to the initial draw of funds) will be available upon conveyance of the Property to the Developer subject to all lender-required conditions to the release of draws subsequent to the initial draw. Submission by the Developer, and approval by the City, which shall not be unreasonably withheld or delayed, of such evidence of funds availability and evidence of issuance of all required approvals, permits (or permit-ready letters) and authorizations shall be a condition precedent to the City's obligation to convey the Property to the Developer.

5. Execution and Delivery into Escrow. The Developer shall have executed and acknowledged and delivered to the City or into Escrow: (a) the Loan Agreement and any notes related thereto; (b) the Deed of Trust; (c) the Regulatory Agreement; (d) the Closing Costs; and (e) all other instruments and documents required in connection with the transactions contemplated by this Agreement. Copies of all loan documents required by other lenders shall be delivered to the City as soon as practical following closing.

6. Representations. All representations and warranties of the Developer contained herein or certificate delivered in connection with the transaction contemplated by this Agreement shall be true and correct in all material respects as of the Close of Escrow.

7. Authorization. The Developer shall have provided the City with certified copies of resolutions authorizing the Developer's execution of this Agreement (or similar

evidence of the Developer's authority to execute such documents reasonably acceptable to the City) and such additional certificates as the City shall reasonably require.

8. Insurance. The Developer shall have provided satisfactory evidence that the Developer has complied with the Developer's obligations regarding insurance identified in Section 3.9 to the extent such obligations must be satisfied by the Close of Escrow.

9. Land Use Entitlements. The City shall have approved the land use entitlements for the Development and Developer shall have approved the same, including without limitation all terms and conditions applicable thereto

B. Developer Pre-Disposition Requirements. The provisions of this Section 2.2 set forth the conditions precedent to the Developer's obligation to buy the Property from the City.

1. No Default. The City shall not be in default under the terms of this Agreement, and all representations and warranties of the City contained herein shall be true and correct in all material respects.

2. Title Policy. The Title Company (defined below) is prepared to issue to the Developer, at the Developer's cost, a policy of title insurance, insuring Developer's interest in the Property, subject only to (i) applicable building and zoning laws and regulations; (ii) assessments, conditions, covenants, restrictions or easements of record; (iii) utility easements to service the Property which do not interfere with its existing or intended use; (iv) the documents contemplated by this Agreement, including without limitation, the Deed of Trust, the Regulatory Agreement, and (v) such other title exceptions that the Developer shall have approved in its reasonable discretion (collectively, the "**Permitted Exceptions**").

3. Financing Commitments.

a. The Developer has obtained all financing commitments necessary to construct, own and operate the Project, upon terms reasonably acceptable to the Developer, including the Purchase Loan from the City in the amount of One Million One Hundred Eighty Thousand Dollars ($1,180,000) and the Construction Loan in the amount of not to exceed Two Million Dollars ($2,000,000) pursuant to the Loan Agreement, and (i) all conditions to the release and expenditure of the initial draw of funds described in the approved Financing Plan as

the source of construction financing for the Project have been met or will be met upon conveyance of the Property to the Developer and that such funds will be available upon conveyance of the Property, (ii) all approvals permits, and authorizations which are conditioned upon conveyance will be received promptly after conveyance, and (iii) all construction financing (including draws subsequent to the initial draw of funds) will be available upon conveyance of the Property to the Developer subject to all lender-required conditions to the release of draws subsequent to the initial draw.

4. There are no changed conditions with respect to the permitted uses or condition of the Property which materially and adversely affect intended use of the Property or substantially increases the Developer's Project costs.

D. Escrow Opening. No later than thirty (30) business days after the Developer receives all financing necessary for the Project, Developer shall open an escrow account (an "**Escrow Account**") with Old Republic Title Company, located at 555 12th Street, Sruite 2000, Oakland, CA 94607 ("**Escrow Agent**"), to facilitate the transfer of the Property, subject to the provisions of the standard conditions for acceptance of escrow and the terms and conditions in this Agreement. The City and the Developer shall provide such additional escrow instructions as shall be necessary and consistent with this Agreement. In the event any conflict between the terms of this Agreement and the standard conditions for acceptance of escrow, the terms of this Agreement shall control. The Parties acknowledge and agree that the Developer shall utilize the Escrow Account for the Developer's purchase of the Property.

E. Conveyance of Property. The Developer acknowledges and agrees that: (i) no later than ninety (90) calendar days prior to the Close of Escrow, the Developer shall inspect the Property and the improvements located thereon, and shall examine the legal, environmental, zoning, land use, seismic, title, survey and physical characteristics and condition thereof; (ii) by acquiring a fee interest in the Property, the Developer shall be deemed to have approved of all such characteristics and conditions; (iii) the Property and the improvements thereon are to be conveyed to, and accepted by the Developer in their present condition "AS IS," "WHERE IS" AND WITH ALL FAULTS with no warranty expressed or implied regarding the condition of the soil, its geology, or the presence of known or unknown faults or Hazardous Materials, and no patent or latent defect or deficiency in the condition of the Property or the improvements thereon whether or not known or discovered, shall affect the rights of either the City or the Developer hereunder. The Developer shall rely solely upon its own independent investigation concerning

the physical condition of the Property and its compliance with applicable statutes, ordinances, rules and regulations. The City shall have no responsibility for site preparation, demolition, or any other removal or replacement of improvements on the Property. Within ninety (90) calendar days of the Effective Date of this Agreement, the City shall provide copies of any documents in their possession, reports, studies, investigations (environmental or otherwise) and other documents in the possession and control of the City, including all contracts and other documentation in connection with the City's site clearance and demolition work on the Property during the City's ownership of the Property.

It shall be the sole responsibility of the Developer, at the Developer's sole expense, to investigate and determine the soil conditions of the Property and the suitability of such soil conditions for the construction of the Project by the Developer. If the soil conditions are not in all respects entirely suitable for the use or uses to which the Property will be put, then it is the sole responsibility and obligation of the Developer to take such action as may be necessary to place the soil conditions of the Property in a condition suitable for development of the Property.

F. Costs; Prorations. Each party will pay one-half of escrow fees and recording fees. Developer will pay title insurance and title report costs. The City will pay all governmental conveyance fees and all transfer taxes and pro-rated property taxes (the "**Closing Costs**"). At the Close of Escrow, the Escrow Holder shall make the following prorations: (i) property taxes will be prorated as of the close of escrow based upon the most recent tax bill available, including any property taxes which may be assessed after the close of escrow but which pertain to the period prior to the transfer of title to the Property to Developer, regardless of when or to whom notice thereof is delivered; (ii) any bond or assessment that constitutes a lien on the Property at the close of escrow will be assumed by Developer. City does not pay ad valorum property taxes.

G. Termination. If the conditions to closing set forth in Section 2.2 have not been satisfied or waived by the applicable Party by the Close of Escrow, then either Party which has fully performed under this Agreement may provide written notice to the nonperforming party of such condition and a right to cure, including a right to cure any liens, encumbrances, conditions or other defects on the title that are not Permitted Exceptions. If the nonperforming party fails to cure the condition preventing Close of Escrow by within ten (10) business days following receipt of such notice, then the non-defaulting party may provide written demand for the return of all funds and documents and notice of termination of this Agreement to Escrow Agent with a copy to all Parties in accordance with Section 9.4. Termination of this Agreement pursuant to this

Section 2.2 will be without prejudice as to any legal rights either Party may have against the other arising from this Agreement, including without limitation any rights to specific performance.

H. Other Conditions. The City shall not be liable for any real estate commissions or brokerage fees incurred by the Developer that may arise in connection with this Agreement or the conveyance of the Property.

I. Closing Procedure. Escrow Agent will close escrow for the Property as follows:

1. Record the Regulatory Agreement and the Deed of Trust with instructions for the County Recorder to deliver conformed copies of each such document with recording information indicated thereon to the Developer and to the City;

2. Instruct the Title Company to deliver the Title Policy to the Developer and the City Title Policy to City;

3. Forward to both the Developer and the City a separate accounting of all funds received and disbursed for each party and copies of all executed and recorded or filed documents deposited into escrow, with such recording and filing date and information endorsed thereon.

L. Title Documents/Title Insurance. Within seven (7) business days following the Effective Date, the City shall deliver or cause to be delivered to the Developer a preliminary title report ("**Preliminary Report**") on the Property issued by Old Republic Title Company, or some other title insurance company satisfactory to the City and the Developer having equal or greater financial responsibility ("**Title Company**"), setting forth all liens, encumbrances, easements, restrictions, conditions, pending litigation, judgments, administrative proceedings, and other matters of record affecting the City's title to the Property, together with copies of all documents relating to exceptions listed in the Preliminary Report ("**Title Exceptions**") and complete and legible copies of all instruments referred to therein, as requested by the Developer. The Developer shall approve or disapprove each Title Exception within thirty (30) calendar days of the Effective Date. The Developer's failure to object within such period shall be deemed to be an approval of the Title Exceptions.

If the Developer objects or is deemed to have disapproved any Title Exception, the City shall use its best efforts at the City's sole expense to remove from title or otherwise satisfy each such exception no later than Sixty (60) business days after the Developer's written objection and

such satisfaction shall be in a form that is reasonably satisfactory to the Developer. If the City fails to remove or satisfy any Title Exception to the satisfaction of the Developer, the Developer shall have the option, in its sole discretion, to terminate this Agreement or to accept title subject to such exception. In the event the Developer elects to terminate this Agreement, all funds and documents deposited into escrow by or on behalf of the Developer shall be returned to the Developer, and all rights and obligations hereunder shall terminate.

The Developer shall pay for all premiums for title insurance coverage, including, without limitation, charges for special endorsements. The Title Company shall, if requested by the Developer, provide the Developer with an endorsement to insure the amount of the Developer's estimated development costs of the improvements to be constructed upon the Property and the Developer shall pay the entire premium for any such increase in coverage.

2.3 Indemnity, Hold Harmless, Waiver, Warranty.

A. Developer Indemnity. The Developer agrees, from and after the date of conveyance of the Property under this Agreement, to defend, indemnify, protect and hold harmless the City and its officers, beneficiaries, employees, agents, attorneys, representatives, legal successors and assigns ("**Indemnitees**") from, regarding and against any and all liabilities, obligations, orders, decrees, judgments, liens, demands, actions, Environmental Response Actions, claims, losses, damages, fines, penalties, expenses, Environmental Response Costs or costs of any kind or nature whatsoever, together with fees (including, without limitation, reasonable attorneys' fees and experts' and consultants' fees), whenever arising, unless caused in whole or in part by the gross negligence or willful misconduct of any of the Indemnitees, resulting from or in connection with the construction of the Project by the Developer, the general contractor or any subcontractor or supplier of or to the Project, the Developer's occupancy or use of the Property or the Developer's performance or non-performance under or with respect to this Agreement or the actual or claimed generation, storage, handling, transportation, use, presence, placement, migration and/or release of Hazardous Materials, at, on, in, beneath or from the Property generated or released after the date of conveyance (collectively referred to as "**Contamination**"). The Developer's defense, indemnification, protection and hold harmless obligations herein shall include, without limitation, the duty to respond to any governmental inquiry, investigation, claim or demand regarding the Contamination, at the Developer's sole cost. If the Developer discovers Contamination or other materials subject to legal requirements or corrective action, the Developer shall immediately notify the City of the same.

B. Release and Waiver. The Developer hereby releases and waives all rights, causes of action and claims the Developer has or may have in the future against the Indemnitees arising out of or in connection with any Hazardous Materials, at, on, in, beneath or from the Property, unless the presence of such Hazardous Materials at, on, in, beneath or from the Property is caused in whole or in part by any of the Indemnitees. The provisions of this paragraph shall not apply to (i) the presence of such Hazardous Materials at, on, in, beneath or from the Property is caused in whole or in part by any of the Indemnitees after the Close of Escrow for the Property, (ii) any Contamination caused by the City during the City's ownership of the Property, (iii) the City's failure to disclose any known condition which the City is required to give to any transferee of the Property. Subject to the limitation set forth in the preceding sentence, the Developer hereby acknowledges that the aforementioned release includes Hazardous Material claims that the Developer does not know or suspect to exist as of the date hereof, and with respect to such Hazardous Materials claims or causes of action, the Developer affirmatively waives and relinquishes any right or benefit, to the full extent that it may lawfully waive all such rights and benefits pertaining to the subject matter of this Section 2.3, the Developer further waives all such rights and benefits that the Developer may have under California law or any similar provision of the statutory or nonstatutory law of any other applicable jurisdiction to claim that a general release does not extend to claims which the Developer does not know or suspect to exist in its favor at the time of executing the release, which if known by it would have materially affected its agreement with the City.

The Developer is aware of and familiar with the provisions of Section 1542 of the California Civil Code which provides:

> A GENERAL RELEASE DOES NOT EXTEND TO CLAIMS WHICH THE CREDITOR DOES NOT KNOW OR SUSPECT TO EXIST IN HIS FAVOR AT THE TIME OF EXECUTING THE RELEASE, WHICH IF KNOWN BY HIM MUST HAVE MATERIALLY AFFECTED HIS SETTLEMENT WITH THE DEBTOR

As such relates to this Section 2.3, the Developer hereby waives and relinquishes all rights and benefits which it may have under Section 1542 of the California Civil Code, except for the limitations set forth in (i), (ii), and (iii) in this Section 2.3.B.

_____
Developer Initials

C. Materiality. The Developer acknowledges and agrees that the defense, indemnification, protection and hold harmless obligations of the Developer for the benefit of the City set forth in this Agreement are a material element of the consideration to the City for the performance of its obligations under this Agreement, and that the City would not have entered into this Agreement unless the Developer's obligations were as provided for herein. The Developer further acknowledges and agrees that the paragraph which extends representations, warranties, indemnifications, and/or covenants of the Developer to the benefit of the City shall not be satisfied, waived or otherwise extinguished by the City's issuance of any Certification of Occupancy under Section 3.14 of this Agreement.

D. Warranty. The City shall not, in any way or manner, be answerable or suffer loss, damage, expense or liability for any loss or damage that may happen to the building, work, or equipment or any part thereof, or in, on, or about the same during its construction and before issuance of the Certificate of Completion, unless caused by the negligence of the City. The Developer warrants that the work as performed by the general contractor, subcontractor, or supplier will conform with the Preliminary Site Plan or any written authorized deviations therefrom.

2.4 Access. Prior to conveyance of Property from the City, representatives of the Developer shall have the right of access to the Property at all reasonable times, upon not less than two (2) business days written notice to the City, for the purpose of obtaining data and making surveys and tests necessary to carry out this Agreement. While any of the activities described in this Section are taking place, the Developer shall maintain the insurance coverage's described in Section 3.9A (1), (2) and (3) and indemnify and hold the City harmless from any injury or damages arising out of any activity pursuant to this paragraph. The Developer shall have access to all data and information on the Property available to the City, but without warranty or representation by the City as to the completeness, correctness or validity of such data and information, except as otherwise set forth in this Agreement.

Any preliminary work undertaken on the Property by the Developer prior to conveyance of the Property from the City shall be done only after written consent of the City staff and at the sole expense of the Developer, except that written consent shall not be required to conduct the Developer's due diligence investigations. The Developer shall save and protect the City against any claims resulting from such preliminary work, access or use of the Property. The City shall

have the right to receive copies of data, surveys and tests obtained or made by the Developer on the Property, subject to the rights of any third-party preparer of such documents, and provided that such documents shall be made available to the City without warranty or representation as to the accuracy of the contents by the Developer. Any preliminary work by the Developer shall be undertaken only after securing any necessary permits from the appropriate governmental agencies.

2.5 CEQA Documentation. The Developer acknowledges that any required additional approvals by any other local, state or federal agency may require additional environmental review, and that any approval by the City shall not bind any other local, state or federal agency to approve the Project or to impose mitigation measures which are consistent with the terms of this Agreement or with the terms of any mitigation measures required. The City agrees to cooperate with the Developer to obtain all necessary approvals by providing all information and studies in the possession and control of the City.

2.6 Land Use Approvals. Before commencement of construction of the Improvements or other works of improvement upon the Property, the Developer shall, at its own expense, secure or cause to be secured any and all land use and other entitlements, permits, and approvals which may be required for the Improvements by the City or any other governmental agency affected by or having jurisdiction over such construction or work, except for those which are the responsibility of the City as set forth herein. The Developer shall, without limitation, apply for and secure, and pay when due all costs, charges and fees associated therewith, all permits and fees required by the City, and other governmental agencies with jurisdiction over the Improvements. City staff shall work cooperatively with the Developer to assist in coordinating the expeditious processing and consideration of all necessary permits, entitlements, and approvals. However, the execution of this Agreement does not constitute the granting of or a commitment to obtain, approve, or grant any required land use permits, entitlements, or approvals required by the City.

ARTICLE III
CONSTRUCTION AND DEVELOPMENT OF PROPERTY

3.1 Preliminary Site Plan. The Developer shall develop the Property and construct the Improvements in accordance with the Scope of Development, attached hereto as Exhibit E. The Parties agree that the Property and Improvements shall be developed as generally established in the Preliminary Site Plan, as set forth on Exhibit G attached hereto as the same

may be updated from time to time with the approval of the City. Any material changes to the Preliminary Site Plan shall be subject to the approval of the City and shall be within the limitations of the Scope of Development and consistent with the overall plan for the development of the Property as provided in this Agreement. Neither party shall unreasonably withhold or delay consent to any material changes in the Preliminary Site Plan.

3.2 Related Documentation. In addition to the Site Plan, the Developer shall prepare all construction plans, drawings and related documents required to be submitted for approval by the City (or other governing body) for the construction of the Project. Nothing herein shall relieve the Developer of any obligation to submit any plans, drawings and related documents as required for permits or approvals required by the City or other public agencies.

3.3 City Approvals. The City shall have the right to review and approve material changes to the Preliminary Site Plan, as provided in Section 3.1. The Developer shall have the vested right to develop the Project on any areas or portions of the Property, subject to the terms and conditions of this Agreement and prior to the date of the issuance of the Certificate of Completion, in accordance with the Plan in effect as of the date of the execution of this Agreement by the City.

3.4 Costs of Development and Construction. The Developer shall pay all design, development and construction costs, whether foreseen or unforeseen, in a timely fashion. The City shall not be liable for any costs, including without limitation any costs of construction, except for incremental costs incurred by the Developer due solely to discretionary changes to the Project required by the City Council, or except as otherwise expressly set forth herein. Cost overruns or other costs in excess of the projected costs of developing the Property and constructing the Project shall be borne and paid for solely by the Developer from Project funds. In addition, any costs incurred by the Developer that are caused by or result from the negligence or failure of the Developer, or its contractors, agents or representatives, to act in a commercially reasonable manner shall be borne and paid for by the Developer and not by the City. Nothing in this Section is intended to prevent or limit the Developer from seeking payment or reimbursement from its contractors or other party that may be responsible for this cost.

3.5 Construction Plans Must Be Approved; Construction in Accordance with Plans and Approvals. The Developer shall not commence construction of the Project until the Developer has received all required permits from the City Building Department. The Developer

shall construct the Project in accordance with the approved Construction Plans and all other permits and approvals granted by the City and/or the City pertaining to development of the Project, including but not limited to any conditions of approval ("**Conditions of Approval**"). The Developer shall comply with all directions, rules and regulations of any fire marshal, health officer, building inspector or other officer of every governmental agency having jurisdiction over the Property or the Project. Each element of the work shall proceed only after procurement of each permit, license or other authorization that may be required for such element by any governmental agency having jurisdiction. All design and construction work on the Project shall be performed by licensed contractors, engineers or architects, as applicable.

3.6 Change in Construction Plans. If the Developer desires to make any material change in the Construction Plans, the Developer shall submit the proposed changes to the City for approval, which approval shall not be unreasonably withheld or delayed if the Construction Plans, as modified by any proposed change, conform to the requirements of this Agreement, the Scope of Development, the Project approvals and the Conditions of Approval. As used in the preceding sentence, "material change" means (i) any change for which approval of the City is required under the City's building approval process, (ii) any structural change, (iii) any change to the exterior of buildings, elevation, number of units, or increase or decrease of the square footage of the community buildings to the Project by more than 10%, or (iv) any single change order in excess of $50,000 or $100,000 in the aggregate. Unless such proposed change is rejected within ten (10) business days, the City shall be deemed to have approved such change. If rejected within such time period, the previously approved Construction Plans shall continue to remain in full force and effect. This Section shall not apply to any approvals required by the City Building Department in connection with any building, grading or other permits issued for the Project.

Any change in the Construction Plans required in order to comply with applicable law shall be deemed approved, so long as such changes do not substantially, nor materially, change the architecture, design, function, use, or other amenities of the Project as shown on the latest approved Construction Plans.

3.7 Defects in Plans. The City shall not be responsible to the Developer or to any third party for any defect in the Construction Plans or for any structural or other defect in any work done pursuant to the Construction Plans.

3.8 Construction Activities. No later than thirty (30) calendar days after Close of Escrow, the Developer shall promptly begin and thereafter diligently prosecute to completion the construction of the Project and the development of the Property within the times specified in the Schedule of Performance, or such extension of said dates as may be granted by the City in writing or as provided in Section 9.7 of this Agreement. The Schedule of Performance is subject to revision from time to time as mutually agreed upon in writing between the Developer and the City staff.

During the period of construction, but not more frequently than once a month, the Developer shall submit to the City a written progress report of the construction when and as requested by the City. The report shall be in the form of a construction draw request generally submitted by general contractors with such additional detail as may reasonably be required by the City.

3.9 Insurance and Surety Obligations.

A. Insurance Obligations. Prior to the commencement of construction, except as otherwise stated herein, on the Property or any portion thereof, the Developer shall furnish or cause to be furnished to the City duplicate originals or appropriate certificates of the following insurance policies:

1. Workers' Compensation. During the term of this Agreement, the Developer shall fully comply with the terms of the laws of the State of California concerning workers' compensation. Said compliance shall include, but not be limited to, maintaining in full force and effect one or more policies of insurance insuring against any liability the Developer may have for workers' compensation. Said policy shall also include employer's liability coverage no less than $1,000,000 per accident.

2. General Liability Insurance. The Developer shall obtain at its sole cost and keep in full force and effect during the term of this Agreement commercial general liability insurance in the amount of $2,000,000 per occurrence for bodily injury, personal injury, and property damage. Said insurance shall provide (1) that the City and its officers, agents, and employees, shall be named as additional insured's under the policy, and (2) that the policy shall operate as primary insurance, and that (3) no other insurance effected by the City or other named insured's will be called upon to cover a loss covered thereunder.

3. Automobile Liability Insurance. The Developer shall obtain at its sole cost and keep in full force and effect during the term of this Agreement automobile liability insurance in the amount of $1,000,000 per occurrence for bodily injury and property damage. Said insurance shall provide (1) that the City, and its officers, agents, and employees, shall be named as additional insureds under the policy, and (2) that the policy shall operate as primary insurance, and that (3) no other insurance effected by the City or other named insureds will be called upon to cover a loss covered thereunder.

4. Course of Construction Insurance. The Developer shall obtain at its sole cost and keep in full force and effect during the term of this Agreement Course of Construction insurance with policy limits no less than $5,000,000 with no coinsurance penalty provisions in the standard "Builders Risk" form policy. The City shall be named as loss payee and the insurer shall waive all rights of subrogation against the City.

5. Certificates of Insurance. The Developer shall file with the City, prior to commencement of construction on the Property or any portion thereof or prior to any access to or entry on the Property as authorized by this Agreement, certificates of insurance which shall provide that no cancellation, major change in coverage, expiration, or nonrenewal will be made during the term of this Agreement, without thirty (30) calendar days written notice to the City prior to the effective date of such cancellation, or change in coverage. The Developer shall deliver copies of the insurance policies to the City.

6. Other Requirements. Prior to the commencement of construction on the Property or any portion thereof, the Developer shall file with the City the City's standard endorsement form providing for each of the above requirements. The Developer shall also furnish or cause to be furnished to the City evidence satisfactory to the City that any contractor with whom it has contracted for the performance of work on the Property carries the same insurance required of the Developer in the amounts of coverage specified above. The Developer shall also require any contractor to obtain certificates of insurance from all subcontractors in scope of and in amount satisfactory to Developer.

3.10 Performance and Payment Bond(s).

A. Within the time specified in the Schedule of Performance, the Developer shall deliver to the City copies of payment bond(s) and performance bond(s) issued by a reputable insurance company licensed to do business in California, each in a penal sum of not less than one hundred percent (100%) of the scheduled cost of construction of the Project. The bonds shall name the City as a co-obligee.

B. In lieu of such performance and payment bonds, the Developer may submit evidence satisfactory to the City of the Developer's ability to commence and complete construction of the Project in the form of an irrevocable letter of credit, pledge of cash deposit, certificate of deposit, or other marketable securities held by a broker or other financial institution, with signature authority of the City required for any withdrawal, or a completion guaranty in a form and from a guarantor acceptable to the City. Such evidence must be submitted in approvable form in sufficient time to allow the City to review and approve the information within the time specified in the Schedule of Performance.

3.11 City Right of Access. For the purposes of assuring compliance with this Agreement, representatives of the City shall have the reasonable right of access to the Property with twenty-four (24) hour notice without charges or fees and at normal construction hours during the period of construction for the purposes of this Agreement, including, but not limited to, the inspection of the work being performed in constructing the Project. Such representatives of the City shall be those who are so identified in writing by the City Manager. The City shall indemnify the Developer and hold it harmless from any damage caused (including any reasonable damages or costs incurred by any wrongful delays caused by the City) or liability arising out of this right to access.

The Developer acknowledges that the City is under no obligation, and the City neither undertakes nor assumes any responsibility or duty, to the Developer or to any third party to in any manner review, supervise, or inspect the progress of construction or the operations of the Project. The Developer and all third parties shall rely entirely upon its or their own supervision and inspection in determining the quality and suitability of the materials and work, and the performance of architects, subcontractors, and material suppliers and all other matters relating to the construction and operation of the Project. Any review or inspection undertaken by the City is solely for the purpose of determining whether the Developer is properly discharging its

obligations to the City, and shall not be relied upon by the Developer or any third party as a warranty or representation by the City as to the quality of the design or construction of the Improvements or otherwise.

3.12 Prevailing Wages. To the extent required by law, Developer and all of the Developer's subcontractors shall comply with California Health and Safety Code Section 33422.1, and shall comply with California Labor Code Section 1770 et seq. and all regulations adopted pursuant thereto (referred to herein as, "**Prevailing Wage Laws**"), and be responsible for carrying out the requirements of such provisions. The Developer shall, and hereby agrees to, unconditionally indemnify, reimburse, defend, protect and hold harmless the City and its elective and appointive boards, commissions, officers, agents, attorneys, consultants and employees, and all of their respective successors and assigns, from and against any and all claims, demands, suits and actions at law or in equity, and losses, liabilities, expenses, penalties, fines, orders, judgments, injunctive or other relief, and costs and damages of every kind, nature and description (including but not limited to attorneys' fees and court costs; with counsel reasonably acceptable to the City), and administrative, enforcement or judicial proceedings, whether known or unknown, and which directly or indirectly, in whole or in part, are caused by, arise from, or relate to, or are alleged to be caused by, arise from, or relate to, the payment or requirement of payment of prevailing wages or the requirement of competitive bidding in the construction of the Project, the failure to comply with any state or federal labor laws, regulations or standards in connection with this Agreement, including but not limited to California Labor Code Section 1770 et seq. and the Prevailing Wage Laws, or any act or omission of the City or the Developer related to this Agreement with respect to the payment or requirement of payment of prevailing wages or the requirement of competitive bidding, whether or not any insurance policies shall have been determined to be applicable to any such claims, demands, suits, actions, losses, liabilities, expenses, penalties, fines, orders, judgments, injunctive or other relief, costs, damages, or administrative, enforcement or judicial proceedings. It is further agreed that the City does not, and shall not, waive any rights against the Developer which they may have by reason of this indemnity and hold harmless agreement because of the acceptance by the City, or the deposit with the City by the Developer, of any of the insurance policies described in this Agreement.

If applicable, as provided in California Labor Code Section 1770 et seq., the hourly and daily rate of wages to be paid each of the classes of mechanics and worker employed in connection with construction of the Project shall not be less than the rate of such wages then prevailing in Contra Costa County. If Prevailing Wages applies to any portion of this Project,

the Developer agrees to and shall forfeit, as a penalty, the sums established and applicable pursuant to California Labor Code Section 1770 et seq. for each calendar day or portion thereof that each workman employed in connection with the Project is paid less than the rates designated in this paragraph for any work performed under this Agreement by the Developer or any subcontractors or agents of the Developer; or is not reported to the labor commissioner and the City as required pursuant to California Labor Code Section 1770 et seq. If the Developer fails to pay such penalty or restitution as required under California Labor Code Section 1770 et seq., the Developer shall pay the amount of the penalty to the City.

3.13 Equal Opportunity in Contracting Construction. During the construction of the Project, the Developer and all of the Developer's subcontractors shall not discriminate on the basis of race, religion, sex, or national origin in the hiring, firing, promoting or demoting of any person engaged in the construction work and shall require its contractors and subcontractors to refrain from discrimination on such basis.

3.14 Certificate of Occupancy. Promptly after completion of all construction and development of the Project (or if phased, a phase of the Project) the City shall furnish the Developer with a final certificate of occupancy (the "**Certificate of Occupancy**"). The final Certificate of Occupancy shall be conclusive determination of satisfactory completion of the construction of the Project and the other development obligations set forth in this Agreement in accordance with the provisions of this Agreement.

A Certificate of Occupancy shall not constitute evidence of compliance with or satisfaction of any obligation of the Developer to any holder of a mortgage or any insurer of a mortgage securing money loaned to finance the Project.

3.15 Compliance with Laws. The Developer shall carry out the construction of the Project in conformity with all applicable state, local and federal laws, ordinances, rules and regulations, including all applicable state and federal labor laws and standards, the City zoning and development standards, building, plumbing, mechanical and electrical codes, all other provisions of the City's Municipal Code, and all applicable disabled and handicapped access requirements, including without limitation, the Americans with Disabilities Act, 42 U.S.C. Section 12101, et seq., Government Code Section 4450, et seq., Government Code Section 11135, et seq., and the Unruh Civil Rights Act, Civil Code Section 51, et seq..

3.16 Indemnity. The Developer shall defend (with counsel approved by the City), indemnify and hold harmless the Indemnitees from and against any and all future claims arising from or in connection with the Developer's failure to comply with all applicable laws and regulations relating to the construction of the Project, including, without limitation, all applicable federal and state labor laws and standards, or in any other manner relating to development of the Project, or the Developer's activities or performance under this Agreement whether such activities or performance be by the Developer or by anyone directly or indirectly employed or contracted with or by the Developer and whether such claim shall accrue or be discovered before or after termination of this Agreement. The Developer's indemnity obligations under this Section 3.16 shall not extend to claims resulting from Indemnitees' gross negligence or willful misconduct.

3.17 Liens and Stop Notices. Until the recording of the Certificate on Completion, the Developer shall not allow to be placed on the Property or any part thereof any lien or stop notice on account of materials supplied to or labor performed on behalf of the Developer. If a claim of a lien or stop notice is given or recorded affecting the Project, the Developer shall within thirty (30) calendar days of such recording or service: (a) pay and discharge the same; or (b) effect the release thereof by recording and delivering to the Party entitled thereto a surety bond in sufficient form and amount or provide other assurance satisfactory to the City that the claim of lien or stop notice will be paid or discharged.

3.18 Right of City to Satisfy Liens on the Property. After the conveyance of the Property, if the Developer fails to satisfy or discharge any lien or stop notice on the Property pursuant to Section 3.17 above, the City shall have the right, but not the obligation, to satisfy any such liens or stop notices at the Developer's expense and without further notice to the Developer. In such event the Developer shall be liable for and shall immediately reimburse the City for such paid lien or stop notice. Alternatively, the City may require the Developer to immediately deposit with the City the amount necessary to satisfy such lien or claim pending resolution thereof. The City may use such deposit to satisfy any claim or lien that is adversely determined against the Developer. The Developer shall file a valid notice of cessation or notice of completion upon cessation of construction of the Improvements for a continuous period of thirty (30) calendar days or more, and shall take all other reasonable steps to forestall the assertion of claims or liens against the Property or the Improvements. The City may (but has no obligation to) record any notices of completion or cessation of labor, or any other notice that the City deems necessary or desirable to protect its interest in the Property and the Improvements.

ARTICLE IV
USE OF THE PROPERTY

4.1 Uses. The Developer covenants and agrees for itself, its successors, its assigns and every successor in interest that during construction and the duration of the Regulatory Agreement, the Developer and its successors and assignees shall devote the Property to the uses specified in this Agreement, and that the Property shall be used as an affordable housing development in accordance with the terms and conditions of the Regulatory Agreement. The covenants against discrimination specified in Section 4.5 of this Agreement shall be perpetual, the covenants pertaining to use and maintenance of the Property and the Improvements shall be in effect for the duration of the Regulatory Agreement and the covenants regarding low-income housing specified herein and in the Regulatory Agreement shall remain in effect for a term of fifty-five (55) years, commencing upon the issuance of a final Certificate of Occupancy for the Project.

4.2 Affordable Housing. The Property shall be used in compliance with all terms of the Regulatory Agreement.

4.3 Maintenance. The Developer shall maintain the Property, the Improvements and related landscaping and common areas in accordance with the Pinole Municipal Code in a manner consistent with community standards, and shall comply with all applicable federal, state and local laws and regulations pertaining to the Property. The Developer covenants that prior to completion of the Project, the portions of the Property undergoing construction shall be maintained in a neat and orderly condition to the extent practicable and in accordance with industry health and safety standards. The Developer shall maintain the Project in good repair and working order, and in a neat, clean and orderly condition, including the walkways, driveways, and landscaping, and from time to time make all necessary and proper repairs, renewals and replacements.

In the event that there arises at any time prior to the expiration of the term of the Regulatory Agreement, a condition in contravention of the above maintenance standard, then the City shall notify the Developer in writing of such condition, giving the Developer thirty (30) calendar days from receipt of such notice to cure such condition. In the event the Developer fails to cure or commence to cure the condition within the time allowed, the City shall have the right

to perform all acts necessary to cure such condition, or to pursue such other remedy available to the City and to receive from the Developer the City's cost in taking such action. The Parties further mutually understand and agree that the rights conferred upon the City expressly include the right to enforce or establish a lien or other encumbrance against the Property. The foregoing provisions shall be a covenant running with the land until the expiration of the term of the Regulatory Agreement, enforceable by the City, its successors and assigns. Nothing in the foregoing provisions shall preclude the Developer from making any alterations, additions, or other changes to the Project, provided that such changes comply with this Agreement and the approved construction plans, and with all necessary land use, building permits, and other approvals from the City.

To ensure Developer's continued maintenance of the Improvements, the Developer agrees to execute, acknowledge and record in the official records of Contra Costa County a maintenance agreement in form and substance satisfactory to the City.

4.4 Taxes and Assessments. The Developer shall pay all real and personal property taxes, assessments and charges and all franchise, income, payroll, withholding, sales, and other taxes assessed to the Property and Improvements, or payable by the Developer, at such times and in such manner as to prevent any penalty from accruing, or any lien or charge from attaching to the Property; provided, however, that the Developer shall have the right to contest in good faith, any such taxes, assessments, or charges. In the event the Developer exercises its right to contest any tax, assessment, or charge, the Developer, on final determination of the proceeding or contest, shall immediately pay or discharge any decision or judgment rendered against it, together with all costs, charges and interest. The parties acknowledge that the Developer will apply for a welfare exemption from real property taxes.

4.5 Obligation to Refrain from Discrimination. The Developer covenants by and for itself and any successors in interest that there shall be no discrimination against or segregation of any person or group of persons, on account of any basis listed in subdivision (a) or (d) of Section 12955 of the Government Code, as those bases are defined in Sections 12926, 12926.1, subdivision (m) and paragraph (1) of subdivision (p) of Section 12955, and Section 12955.2 of the Government Code, in the leasing, subleasing, transferring, use, occupancy, tenure, or enjoyment of the Property or the Improvements, nor shall the Developer itself or any person claiming under or through it establish or permit any such practice or practices of discrimination or segregation with reference to the selection, location, number, use or occupancy of tenants,

lessees, subtenants, sublessees or vendees of the Property. The foregoing covenants shall run with the land.

4.6 Effect and Duration of Covenants. The covenants established in this Agreement shall, without regard to technical classification and designation, be binding for the benefit and in favor of the City, its successors and assigns, the City and any successor in interest to the Property or any part thereof.

The City is deemed the beneficiary of the terms and provisions of this Agreement and of the covenants running with the land for and in its own rights and for the purposes of protecting the interests of the community and other parties, public or private, in whose favor and for whose benefit this Agreement and the covenants running with the land have been provided. This Agreement and the covenants shall run in favor of the City without regard to whether the City has been, remains or is an owner of any land or interest therein in the Property, any parcel or subparcel, or in the Project Area. The City shall have the right, if this Agreement or the covenants are breached, to exercise all rights and remedies and to maintain any actions or suits at law or in equity or other proper proceedings to enforce the curing of such breaches to which it or any other beneficiaries of this Agreement and the covenants may be entitled.

4.7 Rights of Access – Public Facilities.

A. The Developer shall construct public improvements, if any, as required under the City's conditions of approval for the Project.

B. Upon completion of the Project, the City, for itself and for the City and other public agencies, at their sole risk and expense, reserves the right to enter the Property or any part thereof at all reasonable times and with as little interference as possible for the purposes of construction, reconstruction, maintenance, repair or service of any public facilities located on the Property including any recorded easements in favor of the public or the City. Any such entry shall be made only after reasonable notice to the Developer, and the City shall indemnify and hold the Developer harmless from any claims or liabilities pertaining to any entry. Any damage or injury to the Property resulting from such entry shall be promptly repaired at the sole expense of the public agency responsible for the entry.

4.8 Affordable Housing Obligations

A. City's Affordable Housing Purpose. The City has entered into this Agreement to facilitate the development of affordable housing and to increase the supply of affordable housing and housing for persons with special needs in the City, if feasible.

B. Regulatory Agreement. To assure that affordable units will be developed and maintained as provided in this Section 4.8, at Close of Escrow, the Developer and the City will record a Regulatory Agreement substantially in the form attached to this Agreement as Exhibit D (the "**Regulatory Agreement**") and fully incorporated herein. The City agrees to execute, and record at the Developer's cost, subordination agreements to subordinate the Regulatory Agreement to the Developer's construction and/or permanent loans for the Project if (i) such construction and/or permanent financing is provided by (a) the California Department of Housing and Community Development ("**HCD**"), the California Housing Financing Agency ("**CalHFA**"), HUD, or other public senior lender which requires by statute or regulation that regulatory agreements with local public entities be subordinated, or (b) in the case of tax-exempt bond financing, subordination of the Regulatory Agreement is required by such financing, or (ii) the Developer demonstrates to the satisfaction of the City that, compared to financing available to the Developer if Regulatory Agreement is subordinated, financing without such subordination will be offered on less favorable terms. In all cases, the City shall be entitled to notice and cure provisions contained in Health and Safety Code Section 33334.14(a)(4).

ARTICLE V
PURCHASE LOAN AND CONSTRUCTION LOAN

5.1 Purchase Loan. The City hereby agrees to provide the Purchase Loan in the form of a note in the amount of One Million One Hundred Eighty Thousand Dollars ($1,180,000). Simple interest will accrue on the outstanding principal balance of the Purchase Loan at a per annum rate of interest equal to three percent (3%) (or such interest rate as is necessary to meet the requirements of the tax investor), commencing on the Close of Escrow.

5.2 Construction Loan. The City hereby agrees to provide the Construction Loan in the form of a note in the amount of Two Million Dollars ($2,000,000). Simple interest will accrue on the outstanding principal balance of the Construction Loan at a per annum rate of

interest equal to three percent (3%) (or such interest rate as is necessary to meet the requirements of the tax investor), commencing on the Close of Escrow.

5.3 The Purchase Loan and the Construction Loan (collectively the "Loans") shall be governed by the terms and provisions of the Loan Agreement.

5.4 Annual Payments. The Developer shall make payments of principal and interest to the City in the amount of the City prorata percentage of residual receipts, as set forth in the Loan Agreement. Such annual payments shall be due and payable in arrears no later than [May 1] of each year with respect to the previous calendar year, commencing on [May 1st] of the first year after the City's issuance of a Certificate of Occupancy for the Improvements. The Developer shall provide the City with any documentation reasonably requested by the City to substantiate the Developer's determination of residual receipts. Repayments shall be credited first to interest, then to principal.

5.5 Payment in Full. Developer shall pay all outstanding principal and accrued interest on the Loans, in full, on the earliest to occur of (i) a Developer Event of Default for which the City exercises its right to cause the Loans indebtedness to become immediately due and payable, and (ii) fifty-five (55) years from the date of issuance of the Certificate of Occupancy.

5.6 Prepayment. Developer may pay the principal and any interest due on the Loans in advance of the time for payment thereof as provided in the Loan Agreement, without penalty.

ARTICLE IV
CONDITIONS AFFECTING THIRD PARTY INTERESTS IN THE PROPERTY

6.1 Taxes, Assessments, Encumbrances and Liens. The Developer shall pay when due all real estate taxes and assessments assessed and levied on the Property for any period subsequent to conveyance of title to the Property. The Developer shall not place or allow to be placed on the Property any mortgage, trust deed, encumbrance or lien unauthorized by this Agreement. The Developer shall remove or have removed any levy or attachment on the Property (or any portion thereof), or shall assure the satisfaction thereof, within a reasonable time, but in any event prior to any sale pursuant to any such mortgage, trust deed, encumbrance or lien. Nothing herein contained shall be deemed to prohibit the Developer from contesting the validity or amounts of any tax, assessment, encumbrance or lien, or to limit the remedies

available to the Developer in respect thereto. Nothing herein shall prohibit the Developer from filing claims for welfare exemption.

6.2 Prohibition Against Transfer of Property, the Buildings or Structures Thereon and Assignment of Agreement. Except as provided in Section 7.2 or as otherwise provided in the Financing Plan approved by the City, prior to the issuance of a Certificate of Occupancy, the Developer shall not, except as expressly permitted by this Agreement, sell, transfer, convey, assign or lease the whole or any part of the Property or the buildings or improvements thereon without the prior written approval of the City. This prohibition shall not apply to (a) transfers of Developer's interest in this Agreement to a limited partnership in which Developer or its affiliate is the general partner, (b) transfers of limited partnership interests in such limited partnership, and (c) transfers of the general partner interest to the Limited Partner (as defined in Section 9.22 below) or its assignee in the event the general partner is removed by the Limited Partner in accordance with the terms of the terms of the limited partnership agreement. This prohibition shall not be deemed to prevent the granting of easements, rights of way, licenses or permits to facilitate the development of the Property. The Developer shall have the right to enter into lease agreements prior to the issuance of a certificate of occupancy as long as the occupancy is contingent upon receiving the Certificate of Occupancy. In the absence of specific written agreement by the City, no such transfer, assignment or approval by the City shall be deemed to relieve the Developer or any other party from any obligations under this Agreement.

6.3 Security Financing; Rights of Holders.

A. No Encumbrances Except Mortgages, Deeds of Trust or Other Financing for the Project. Notwithstanding Sections 6.1 and 6.2 of this Agreement, mortgages, deeds of trust, regulatory agreement, covenants or any other form of conveyance required for any reasonable method of financing are permitted, but only for the purpose of securing loans of funds to be used for financing or refinancing the construction, reconstruction, rehabilitation of the Project and any other expenditures necessary and appropriate to develop, own and operate the Property in accordance with the provisions of this Agreement. The Developer shall notify the City in advance of any mortgage, deed of trust, or other form of conveyance for financing unless incorporated in the Financing Plan. Except as permitted in the Financing Plan approved by the City, the Developer shall not enter into any such conveyance for financing without the prior written approval of the City and shall promptly notify the City of any mortgage, deed of trust, sale and lease-back or other financing conveyance, encumbrance or lien that has been created or

attached thereto whether by voluntary act of the Developer or otherwise unless incorporated in the Financing Plan. The words "mortgage" and "deed of trust," as used herein, include all other appropriate modes of financing real estate acquisition, construction and land development.

B. Holder Not Obligated to Construct Project. The holder of any mortgage, deed of trust or other security interest authorized by this Agreement shall in no way be obligated by the provisions of this Agreement to construct or complete the Project or to guarantee such construction or completion. Nothing in this Agreement shall be deemed to construe, permit or authorize any such holder to devote the Property to any uses or to construct any improvements thereon other than those uses provided for or authorized by this Agreement.

No Mortgagee (including any Mortgagee who obtains title to the Developer's interest in the Property or any part thereof as a result of foreclosure proceedings or transfer in lieu of foreclosure) shall be obligated by the provisions of this Agreement to construct the improvements unless Mortgagee expressly assumes such obligation by written notice to the City. Whether or not a Mortgagee elects to assume the Developer's obligation to construct the Improvements, nothing in this Agreement shall be construed to permit such Mortgagee to construct any Improvements other than the Improvements authorized under this Agreement. If the Mortgagee elects to assume the Developer's obligation to construct the Improvements, the Mortgagee shall not be bound by the Schedule of Performance, provided that, upon assuming such obligation, the Mortgagee and the City shall execute a new Schedule of Performance and the Mortgagee shall complete the Improvements in accordance with the new schedule of performance. If, after acquiring the Developer's interest in the Property, the Mortgagee elects not to assume the Developer's obligation to complete the Improvements, the Mortgagee shall so notify the City within sixty (60) calendar days after the Mortgagee's acquisition of the Developer's interest in the Property, and the Mortgagee shall use good faith efforts to sell such interest within one hundred eighty (180) calendar days after delivery of such notice to a developer that will construct the improvements.

C. Notice of Default to Mortgage, Deed of Trust or Other Security Interest Holders; Right to Cure. Whenever the City shall deliver any notice or demand to the Developer with respect to any breach or default by the Developer in completion of construction of the Project, the City shall at the same time deliver a copy of such notice or demand to each holder of record of any security interest authorized by this Agreement who has previously made a written request to the City therefore. Each such holder shall (insofar as the rights of the City are concerned) have the right, at its option, within 30 calendar days after the receipt of the notice, to cure or

remedy or commence to cure or remedy any such default and to add the cost thereof to the security interest debt and the lien on its security interest. In the event there is more than one such holder, the right to cure or remedy a breach or default of the Developer under this paragraph shall be exercised by the holder first in priority or as the holders may otherwise agree among themselves, but there shall be only one exercise of such right to cure and remedy a breach or default of the Developer under this paragraph. Nothing contained in this Agreement shall be deemed to permit or authorize such holder to undertake or continue the construction or completion of the Project (beyond the extent necessary to conserve or protect the Project or construction already made) without first having expressly assumed the Developer's obligations to the City by written agreement satisfactory to the City. The holder in that event must agree to complete, in the manner provided in this Agreement, the Project to which the lien of such holder relates and submit evidence satisfactory to the City that it has the qualifications and financial responsibility necessary to perform such obligations. Any such holder properly completing such Project shall be entitled, upon written request made to the City, to a Certificate of Completion from the City.

D. Failure of Holder to Complete Improvements. In any case where, three months after a default by the Developer in completion of construction of the Improvements, the holder of any mortgage, deed of trust or other security interest creating a lien or encumbrance upon the Property has not exercised the option to construct, or if it has exercised the option and has not proceeded diligently with construction, the City may purchase the mortgage, deed of trust or other security interest by payment to the holder of the amount of the unpaid debt, plus any accrued and unpaid interest. If the Developer's interest in the Property has vested in the holder, the City, if it so desires, shall be entitled to the conveyance of such interest in the Property from the holder to the City upon payment to the holder of an amount equal to the sum of the following:

1. The unpaid security interest debt at the time fee interest in the Property became vested in the holder (less all appropriate credits, including those resulting from collection and application of rentals and other income received during foreclosure proceedings);

2. All expenses with respect to the reconveyance;

3. The net expenses, if any (exclusive of general overhead), incurred by the holder as a direct result of the subsequent management of the Property and Project;

4. The costs of any authorized improvements made by such holder; and

5. An amount equivalent to the interest that would have accrued on the aggregate of such amounts had all such amounts become part of the debt and had the debt continued in existence to the date of payment by the City.

E. Right of City to Cure Security Interest Default. In the event of a default or breach by the Developer of a mortgage, deed of trust or other security interest with respect to the Property prior to completion of the Project and the holder has not exercised its option to complete the Project, the City may cure the default prior to completion of any foreclosure. In such event, the City shall be entitled to reimbursement from the Developer of all costs and expenses incurred by the City in curing the default. The City shall also be entitled to a lien upon the Developer's interest in the Property to the extent of such costs and disbursements. Any such lien shall be subject to mortgages, deeds of trust or other security interests executed for the sole purpose of obtaining funds to develop the Property as authorized herein.

ARTICLE VII
CHANGES IN DEVELOPER

7.1 Changes only Pursuant to this Agreement. The qualifications, experience and expertise of the Developer are of particular concern to the City. It is because of these qualifications, experience and expertise that the City has entered into this Agreement. No voluntary or involuntary successor in interest to the Developer shall acquire any rights or powers under this Agreement, other than pursuant to a Transfer permitted in Section 7.2. Any attempt to assign this Agreement or transfer any interest of the Developer under this Agreement without the prior written consent of the City shall be null and void and shall confer no rights or privileges upon the purported assign.

7.2 Prohibition Against Transfer of Property and Assignment of Agreement Prior To Completion. Prior to the recording of the Certificate of Completion, the Developer shall not voluntarily or involuntarily make or attempt any total or partial sale, transfer, conveyance, assignment or lease ("**Transfer**") of the whole or any part of the Property or the buildings or structures thereon or this Agreement without the prior written approval of the City which the

City may withhold in its sole and absolute discretion. This provision shall not apply to transfers after a foreclosure by a Third Party Lender.

If the Developer proposes a Transfer of the Property or a portion thereof, other than as authorized in the previous paragraph, the proposed transferee shall have the qualifications and financial resources necessary and adequate as may be reasonably determined by the City to fulfill the obligations undertaken in this Agreement by the Developer. Any transferee, by instrument in writing satisfactory to the City and in form recordable among the land records, for itself and its successors and assigns, and for the benefit of the City shall expressly assume all of the obligations of the Developer under this Agreement relating to the Property and agree to be subject to all the conditions and restrictions to which the Developer is subject. There shall be submitted to the City for review all instruments and other legal documents proposed to affect any such Transfer; and if approved by the City its approval shall be indicated to the Developer in writing. This Section 7.2 shall not be deemed to prevent the granting of easements, rights of way, licenses or permits to facilitate the development of the Property.

In the absence of specific written agreement by the City, no Transfer by the Developer shall be deemed to relieve the Developer or any other party from any obligations under this Agreement.

ARTICLE VIII
DEFAULTS AND REMEDIES

8.1 Termination Without Fault. The occurrence of any of the following constitutes a basis for either Party to terminate this Agreement without fault of the other Party:

(a) The Developer, despite good faith and diligent efforts, is unable to satisfy all of the conditions precedent to the City's obligation to convey the Property to the Developer, set forth in Article II, by not later than the date set forth in the Schedule of Performance or such later date mutually agreed upon by the City and the Developer;

(b) The Developer is unable to obtain an allocation of tax credits, and the Parties do not agree upon an alternative means to finance the Project;

(c) The City, despite good faith and diligent efforts, is unable to convey the Property to the Developer because the Project is not approved for development pursuant to CEQA, and the Developer is otherwise entitled to such conveyance;

(d) The City fails to approve the Financing Plan pursuant to Section 2.2;

Upon the occurrence of any of the above-described events, and at the election of either Party, this Agreement may be terminated by written notice to the other Party. After termination, neither Party shall have any rights against, or liability to the other Party under this Agreement, except that the indemnification provisions of Sections 2.3 and 3.16 shall survive such termination and remain in full force and effect.

8.2 Fault of City. Except as to events constituting a basis for termination under Section 8.1, and provided further that the Developer has satisfied its obligations hereunder, the following events shall constitute an City Event of Default:

(a) The City, without good cause, fails to convey the Property to the Developer within the time and in the manner set forth in Section 2.2.D, and the Developer is otherwise entitled by this Agreement to such conveyance; or

(b) The City breaches any other material provision of this Agreement and fails to cure such breach within any applicable cure period.

Upon the occurrence of any of the above-described events, the Developer shall first notify the City in writing of its purported breach or failure, giving the City sixty (60) calendar days from receipt of such notice to cure or, if cure cannot be accomplished within sixty (60) calendar days, to commence to cure such breach, failure, or act. In the event the City does not then so cure within sixty (60) calendar days, or if the breach or failure is of such a nature that it cannot be cured within sixty (60) calendar days, the City fails to commence to cure within sixty (60) calendar days and thereafter diligently complete such cure within a reasonable time thereafter but in no event later than one hundred twenty (120) calendar days, then the Developer shall be afforded all of its rights at law or in equity, including the following remedies: (1) terminating this Agreement by delivery of written notice to the City (provided, however, that the indemnification provisions of Sections 2.3 and 3.16 shall survive such termination); and (2) reimbursement within sixty (60) days of all reasonable and verified expenditures made in

pursuing development of the Project as of the date of termination and (3) prosecuting an action for specific performance.

8.3 Fault of the Developer. Except as to events constituting a basis for termination under Section 8.1, and provided further that the City has satisfied its obligations hereunder, the following events in shall each constitute a Developer Event of Default:

(a) The Developer fails or refuses to satisfy, within the time and in the manner set forth in Article II, one or more of the conditions precedent to the City's obligation to convey the Property to the Developer;

(b) The Developer refuses to accept conveyance of the Property within the time periods and under the terms set forth in Article II;

(c) An Event of Default arises under any City Document other than this Agreement and remains uncured beyond any applicable cure period;

(d) An Event of Default arises under any loan secured by a mortgage, deed of trust or other security instrument recorded against the Property and remains uncured beyond any applicable cure period such that the holder of such security instrument has the right to accelerate repayment of such loan;

(e) The Developer fails to commence or complete construction of the Project within the times set forth in Article III, or abandons or suspends construction of the Project prior to completion of all construction for a period of sixty (60) calendar days after written notice of such abandonment or suspension;

(f) A Transfer occurs, either voluntarily or involuntarily, in violation of Article VI;

(g) The Developer fails to maintain insurance on the Property and the Project as required pursuant to the City Documents and the Developer fails to cure such default within thirty (30) calendar days.

(h) Following conveyance of the Property to the Developer, subject to the Developer's right to contest the following charges pursuant to the City Documents, if the Developer fails to pay taxes or assessments due on the Property or the Project or fails to pay any

other charge that may result in a lien on the Property or the Project, and the Developer fails to cure such default within ten (10) calendar days.

(i) Any representation or warranty contained in this Agreement or in any application, financial statement, certificate or report submitted to the City in connection with this Agreement or in any other City Document proves to have been incorrect in any material and adverse respect when made and continues to be materially adverse to the City interest in the Property or this Agreement;

(j) A court having jurisdiction shall have made or entered any decree or order (1) adjudging the Developer to be bankrupt or insolvent, (2) approving as properly filed a petition seeking reorganization of the Developer or seeking any arrangement for either of the Developer under the bankruptcy law or any other applicable debtor's relief law or statute of the United States or any state or other jurisdiction, (3) appointing a receiver, trustee, liquidator, or assignee of the Developer in bankruptcy or insolvency or for any of its properties, or (4) directing the winding up or liquidation of the Developer;

(k) The Developer shall have assigned its assets for the benefit of its creditors (other than pursuant to a mortgage loan) or suffered a sequestration or attachment of or execution on any substantial part of its property, unless the property so assigned, sequestered, attached or executed upon shall have been returned or released within sixty (60) calendar days after such event (unless a lesser time period is permitted for cure under any other mortgage on the Property, in which event such lesser time period shall apply under this subsection as well) or prior to any sooner sale pursuant to such sequestration, attachment, or execution;

(l) The Developer shall have voluntarily suspended its business or the Developer's partnership shall have been dissolved or terminated; or

(m) If the Developer defaults in the performance of any term, provision, covenant or agreement contained in this Agreement other than an obligation enumerated in this Section 8.3 and unless a shorter cure period is specified for such default, the default continues for ten (10) calendar days in the event of a monetary default or thirty (30) calendar days in the event of a nonmonetary default after the date upon which the City shall have given written notice of the default to the Developer; provided however, if the default is of a nature that it cannot be cured within thirty (30) calendar days, a Developer Event of Default shall not arise hereunder if the Developer commences to cure the default within thirty (30) calendar days and thereafter

prosecutes the curing of such default with due diligence and in good faith to completion and in no event later than one hundred twenty (120) calendar days after receipt of notice of the default.

Upon a Developer's Event of Default under this Agreement, the City shall provide written notice of the purported breach, and unless a shorter cure period is specified above or in the case of a Developer Event of Default arising under clauses (c) through (l) above, the Developer shall have thirty (30) calendar days after the date upon which the City shall have given written notice of the default to the Developer to cure such default; provided however, if the default is of a nature that it cannot be cured within thirty (30) calendar days, a Developer Event of Default shall not arise hereunder if the Developer commences to cure the default within thirty (30) calendar days and thereafter prosecutes the curing of such default with due diligence and in good faith to completion and in no event later than one hundred twenty (120) calendar days after receipt of notice of the default.

8.4 Legal Actions. Upon the occurrence of a default and the expiration of the applicable cure period the non-defaulting party shall have the right, in addition to any other rights or remedies, to institute any action at law or in equity to cure, correct, prevent or remedy any default, to recover damages for any default or to obtain any other remedy consistent with the purpose of this Agreement. Any such legal actions shall be filed in the Superior Court of Contra Costa County, California or in the Federal District Court for the Northern District of California. Notwithstanding anything herein to the contrary, a party's right to recover damages in the event of a default shall be limited to recovery of actual damages and shall exclude consequential damages.

8.5 Remedies Cumulative; No Waiver. Except as otherwise expressly stated in this Agreement, the rights and remedies of the Parties hereunder are cumulative, and the exercise or failure to exercise one or more of such rights or remedies by either Party shall not preclude the exercise by it, at the same time or different times, of any right or remedy for the same default or any other default. Failure or delay by either Party in providing a notice of default shall not constitute a waiver of any default.

8.6 Construction Plans. If the Agreement is terminated pursuant to Section 8.3, the Developer shall deliver to the City, as a Project lender, but only if the City is a Project lender, copies of any development or construction plans the Developer has had prepared for the Project

on the Property, subject to the rights of any senior Project lender, the third-party preparer of such documents, and without representations or warranties by the Developer.

8.7 Rights of Mortgagees. Any rights of the City under this Article VIII shall not defeat, limit or render invalid any lease, mortgage, deed of trust or other security interest permitted by this Agreement or any rights provided for in this Agreement for the protection of holder of security interests in the Property.

ARTICLE IX
GENERAL PROVISIONS

9.1 Applicability. This Agreement shall remain as an encumbrance against the Property until expiration of the Term, at which point it shall have no further force or effect; provided, however, that any provisions herein that expressly provide for ongoing applicability, including Sections 2.3 and 3.16 shall survive the termination of this Agreement. The Parties agree to execute such document as may be necessary to remove this Agreement as an encumbrance upon title.

9.2 Holder To Be Notified. The Developer, for itself, its successors and assigns hereby warrants and agrees that each term contained herein dealing with security financing and rights of holders shall be either inserted into the relevant deed of trust or mortgage or shall provide written evidence that a copy of this Agreement was sent to the holder prior to its coming into any security right or interest in the Property.

9.3 Modifications To Agreement. The City shall not unreasonably withhold, delay or condition its consent to modifications of this Agreement requested by the Developer's lender or lenders or investors provided such modifications do not alter the City's substantive rights and obligations under this Agreement. Any requests for extensions or modifications of the Schedule of Performance may be determined by the City Manager, without approval by the City Council; however, the City Manager may forward the request to the City Council in his or her sole discretion.

9.4 Notices, Demands and Communications. Formal notices, demands, and communications between the City and the Developer shall be sufficiently given if and shall not be deemed given unless dispatched by registered or certified mail, postage prepaid, return receipt

requested or delivered personally, to the principal office of the City and the Developer as follows:

City: City of Pinole
2131 Pear St.
Pinole, CA 94564
Attn: City Manager

Developer: Satellite Affordable Housing Associates,
1835 Alcatraz Ave
Berkeley, CA 94703
Attn: Eve Stewart, Vice President of Real Estate Development

Such written notices, demands and communications may be sent in the same manner to such other addresses as the affected Party may from time to time designate by mail as provided in this Section 9.4.

9.5 Conflict of Interests. No member, official or employee of the City shall make any decision relating to the Agreement which affects his or her personal interests or the interests of any corporation, partnership or association in which he or she is directly or indirectly interested.

9.6 Non-Liability of City Officials, Employees and Agents. No member, official, employee or agent of the City shall be personally liable to the Developer, or any successor in interest, in the event of any default or breach by the City or for any amount, which may become due to the Developer or successor or on any obligation under the terms of this Agreement. No officer, director, employee, agent, member or partner of the Developer shall be personally liable for any breach of any obligation of the Developer.

9.7 Enforced Delay. In addition to specific provisions of this Agreement, performance by either Party hereunder shall not be deemed to be in default where delays or defaults are due to war; insurrection; strikes; lock-outs; riots; floods; earthquakes; fires; casualties; acts of God; acts of the public enemy; epidemics or pandemics; quarantine restrictions; freight embargoes; lack of transportation; governmental restrictions or priority; litigation (including suits filed by third parties concerning or arising out of this Agreement or suits challenging approvals of this Project by the City); weather or soils conditions which will

necessitate delays; delays of any contractor, sub-contractor or supplier; acts of the other Party; unreasonable delays due to a lender identified in the Financing Plan not caused by the Developer, or any other causes beyond the control or without the fault of the Party claiming an extension of time to perform. The Party claiming such extension shall send written notice of the extension to the other within thirty (30) calendar days from the commencement of the cause. The City and the Developer may also extend times of performance under this Agreement in writing by mutual agreement of the Developer and the City Manager unless the City Manager, in his or her reasonable discretion, refers the matter of extension to the City Council for its written approval. Any time period provided herein shall be extended by the period of an Enforced Delay.

9.8 Inspection of Books and Records. The City has the right at all reasonable times to inspect on a confidential basis the books, records and all other documentation of the Developer pertaining to its obligations under this Agreement, except those confidential and privileged records, including, but not limited to, financial information of investors, and financial information of the Developer or its affiliates unrelated to the Project. Notwithstanding the above limitation, upon reasonable prior written notice, the City will have the right to reasonable inspection of the financial records showing the development and construction of the Project on a confidential basis. The Developer also has the right at all reasonable times upon prior written notice to inspect the books, records and all other documentation of the City pertaining to its obligations under this Agreement.

9.9 Rights and Remedies Cumulative. Except as otherwise expressly stated in this Agreement, the rights and remedies are cumulative, and the exercise or failure to exercise one or more of such rights or remedies by either Party shall not preclude the exercise by it, at the same time or different times, of any right or remedy for the same default or any other default.

9.10 Corporate Citizen. The City encourages the Developer to participate in civic activities sponsored by the City. The City urges the Developer to become involved with local civic organizations and to actively participate in community activities.

9.11 Development Changes. The City agrees that no amendment that changes the uses or development permitted on the Property or changes the restrictions or controls that apply to the Property or otherwise directly affect the use of the Property shall be made or become effective without the prior written consent of the Developer.

9.12 Amendments to this Agreement; Approvals. The Developer and the City agree to mutually consider reasonable requests for amendments to this Agreement (including any of the Attachments hereto) that may be made by any of the Parties hereto, lending institutions, the Developer's tax credit investors, bond counsel, or financial consultants to the City, provided such requests are consistent with this Agreement and would not substantially alter the basic business terms included herein. The City Manager is hereby authorized to execute any such amendments to this Agreement on behalf of the City not otherwise requiring approval of the City Council. The City Manager is hereby further authorized to execute any and all approvals on behalf of the City required by this Agreement and to take all further actions and execute all documents necessary to perform the agreements of the City contained herein.

Whenever this Agreement calls for City approval, consent, or waiver, the written approval, consent, or waiver of the City Manager shall constitute the approval, consent, or waiver of the City, without further authorization required from the City Council. Where this Agreement specifically refers to the City Council, then the approval, consent or waiver by said body is required. The City hereby authorizes the City Manager to deliver such approvals, consents as are required by this Agreement, or to waive requirements under this Agreement, on behalf of the City.

9.13 Reasonable Approvals. Unless the context indicates otherwise, where an action under this Agreement requires approval of a Party, such approval shall not be unreasonably withheld or delayed.

9.14 Applicable Law. This Agreement shall be interpreted under and pursuant to the laws of the State of California.

9.15 Severability. If any term, provision, covenant or condition of this Agreement is held by a court of competent jurisdiction to be invalid, void or unenforceable, the remainder of the provisions shall continue in full force and effect unless the rights and obligations of the Parties have been materially altered or abridged by such invalidation, voiding or unenforceability.

9.16 Legal Actions. In the event any legal action is commenced to interpret or to enforce the terms of this Agreement or to collect damages as a result of any breach thereof, the

Party prevailing in any such action shall be entitled to recover against the Party not prevailing all reasonable attorney's fees and costs incurred in such action.

9.17 Binding Effect. This Agreement shall be binding upon and inure to the benefit of the heirs, administrators, executors, successors in interest and assigns of each of the Parties hereto except that there shall be no transfer of any interest by any of the Parties hereto except pursuant to the terms of this Agreement. Any reference in this Agreement to a specifically named Party shall be deemed to apply to any successor, heir, administrator, executor or assign of such Party who has acquired an interest in compliance with the terms of this Agreement, or under law.

9.18 Parties Not Co-Venturers. Nothing in this Agreement is intended to or does establish the Parties as partners, co-venturers, or principal and agent with one another.

9.19 Time is of The Essence. In all matters under this Agreement, the Parties agree that time is of the essence.

9.20 Complete Understanding Of The Parties. This Agreement consists of the text of the Agreement and the attached Exhibits and constitutes the entire understanding and agreement of the Parties.

9.21 Good Faith. The Parties recognize that it is impractical in this Agreement to provide for every contingency which may arise during the life of the Agreement, and the Parties hereby agree that it is their intention that this Agreement shall operate fairly between them and without detriment to the interests of either of them, and that, if during the term of this Agreement either Party believes that this Agreement is operating unfairly, the Parties will use their best efforts to agree on such action as may be necessary to remove the cause or causes of such unfairness.

9.22 Investor Limited Partner Provisions. The City agrees to the following provisions for the benefit of the Developer's or its successor's investor limited partner ("**Limited Partner**"):

(a) The City will give the Limited Partner a copy of any written notice that the City gives to the Developer under this Agreement;

(b) The City will give the Limited Partner fifteen (15) calendar days after the Limited Partner's receipt of such notice to cure a non-payment of any sum due under this Agreement;

(c) The City will give the Limited Partner thirty (30) calendar days after the limited partner's receipt of such notice to cure any other default under the Agreement or such additional time as needed if the Limited Partner is diligently proceeding to cure the default; and

(d) If the Limited Partner makes any such payment or otherwise cures such default within the timeframe set forth above, the City will accept such action as curing the respective default under the Agreement.

9.23 Estoppel Certificates. The City shall execute any estoppel certificates reasonably required by the Limited Partner or a Third Party Lender in connection with the financing of the Property.

SIGNATURES ON FOLLOWING PAGE

IN WITNESS WHEREOF, the Parties have executed this Agreement as of the date first above written.

CITY PINOLE

By: _____
Andrew Murray, City Manager

ATTEST:

By: _____
Heather Iopu, City Clerk

APPROVED AS TO FORM:

By: _____
Eric S. Casher, City Attorney

SATELLITE AFFORDABLE HOUSING ASSOCIATES

By: _____
Its: _____

EXHIBIT A

Legal Description of Property

EXHIBIT B

LOAN AGREEMENT

EXHIBIT C

DEED OF TRUST

EXHIBIT D

REGULATORY AGREEMENT

EXHIBIT E

SCOPE OF DEVELOPMENT

EXHIBIT F

SCHEDULE OF PERFORMANCE

EXHIBIT G

PRELIMINARY SITE PLAN

EXHIBIT H

FINANCING PLAN

EXHIBIT I

MEMORANDUM OF DISPOSITION AND DEVELOPMENT AGREEMENT

RECORDING REQUESTED BY AND WHEN RECORDED MAIL TO: City of Pinole 2131 Pear St. Pinole, California 94564 Attn: City Manager This document is exempt from payment of a recording fee pursuant to. Government Code Section 27383.	

(Space Above for Recorder's Use Only)

MEMORANDUM OF DISPOSITION AND DEVELOPMENT AGREEMENT

Recording requested by and when recorded mail to: City of Pinole 2131 Pear Street Pinole, CA 94564 Attn: City Clerk EXEMPT FROM RECORDING FEES PER **GOVERNMENT CODE §§6103, 27383**	
APN: 402-166-030	Space above this line for Recorder's use.

AFFORDABLE HOUSING REGULATORY AGREEMENT

AND

DECLARATION OF RESTRICTIVE COVENANTS

by and between

THE CITY OF PINOLE

AND

SATELLITE AFFORDABLE HOUSING ASSOCIATES

Dated April ___, 2021

EXHIBITS

A: Property Description
B: Unit Mix, Rent and Occupancy Restrictions
C: Insurance Requirements

This Affordable Housing Regulatory Agreement and Declaration of Restrictive Covenants (this "**Agreement**") is entered into effective as of _____, 2021 (the "**Effective Date**") by and between the City of Pinole, a California municipal corporation (the "**City**") and Satellite Affordable Housing Associates, a California ("**Developer**"). City and Developer are hereinafter collectively referred to as the "**Parties**."

RECITALS

A. The City is the owner of certain property (the "**Property**") located at 811 San Pablo Ave. in the City of Pinole, California, known as County Assessor's Parcel Number 402-166-030, as more particularly described in Exhibit A attached hereto and incorporated herein by this reference.

B. Developer intends to construct, own and operate on the Property a 24-unit affordable housing development for very low-income and extremely low-income households (the "**Project**") in accordance with the Disposition and Development Agreement (the "**DDA**") dated as of _____2021, executed by and between Developer and City, a memorandum of which has been recorded as Document Number _____ in the Official Records of Contra Costa County. Capitalized terms used herein and not defined have the meaning ascribed to them in the DDA.

C. The DDA provides that thirty-two (32) residential units in the Project shall be affordable to and occupied by or available for occupancy by low-income, very low-income, and extremely low-income households for a period of not less than fifty-five (55) years.

D. Pursuant to the DDA the City has agreed to provide a Purchase Loan and a Construction Loan (together, the "**Loans**")to the Developer to assist in the purchase of the Property and the construction of the Project. The Loans are secured by a Deed of Trust naming City as beneficiary (the "**Deed of Trust**"), dated as of _____, 2021 and executed by Developer for the benefit of City. The Deed of Trust shall be recorded concurrently herewith.

E. As a condition to its agreement to execute the DDA and to provide the Loans to Developer, City requires the Property to be subject to the conditions, restrictions, reservations and rights of the City set forth herein.

F. The Parties have agreed to enter into and record this Agreement in order to satisfy the conditions described in the foregoing Recitals. The purpose of this Agreement is to regulate and restrict the occupancy and rents of the Project's Restricted Units for the benefit of the Project occupants. The covenants in this Agreement are intended to run with the land and be binding on Developer and Developer's successors and assigns for the full term of this Agreement.

NOW THEREFORE, in consideration of the foregoing, and other valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the Parties hereby agree as follows:

1. Definitions. The following terms have the meanings set forth in this Section wherever used in this Agreement or the attached exhibits.

1.1 "**Area Median Income**" or "**AMI**" means the area median income for Contra Costa County, California, adjusted for household size, determined periodically by the California Department of Housing and Community Development ("**HCD**") as published in Section 6932 of Title 25 of the California Code of Regulations ("**Regulations**") or successor provision published pursuant to California Health and Safety Code Section 50093(c). If HCD ceases to make such determination, Area Median Income shall be the median income applicable to Contra Costa County, with adjustments for household size, as determined from time to time by the U.S. Department of Housing and Urban Development ("**HUD**") pursuant to the United States Housing Act of 1937 as amended, or such other method of median income calculation applicable to the City of Pinole that HUD may hereafter adopt in connection with such Act.

1.2 "**Eligible Household**" means a household for which total household income upon initial occupancy does not exceed the maximum income level for a Restricted Unit as specified in Sections 2.1 and 2.2.

1.3 **Low-Income Eligible Household**" means an annual gross income that is not greater than sixty percent (60%) of Area Median Income, as set forth in Exhibit B attached hereto and incorporated herein by this reference.

1.4 "**Rent-Restricted**" means a dwelling unit for which the gross rent charged for such unit does not exceed the Qualifying Rent, as adjusted for assumed household size in accordance with the Department of Housing and Community Development ("**HCD**") guidelines.

1.5 "**Restricted Unit**" means a dwelling unit which is reserved for occupancy at a Qualifying Rent by a Very Low-Income Eligible Household in accordance with and as set forth in Sections 2.1 and 2.2.

1.6 "**Very Low-Income Eligible Household**" means an annual gross income that is not greater than fifty percent (50%) of Area Median Income, as set forth in Exhibit B attached hereto and incorporated herein by this reference.

1.7 "**Qualifying Rent**" means a monthly rent which does not exceed one-twelfth of 30% of the applicable income level set forth in Exhibit B.

2. Use and Affordability Restrictions. Developer hereby covenants and agrees, for itself and its successors and assigns, that the Property shall be used solely for the construction and operation of a 33-unit affordable rental housing development, including one manager's unit, in compliance with the DDA, the development approvals granted by the City of Pinole, and the requirements set forth herein. Developer represents and warrants that it has not entered into any agreement that would restrict or compromise its ability to comply with the occupancy and affordability restrictions set forth in this Agreement, and Developer covenants that it shall not enter into any agreement that is inconsistent with such restrictions without the express written consent of City. Notwithstanding the foregoing or anything to the contrary contained herein, if the terms of financing for the Project require greater affordability restrictions than those imposed hereby, the requirements of such other financing shall prevail for the term thereof.

2.1 Affordability Requirements.

2.1.1 For a term of fifty-five (55) years commencing upon the date of issuance of a final certificate of occupancy for the Project, no fewer than sixteen (16) of the thirty-two (33) dwelling units in the Project shall be both Rent-Restricted and occupied (or if vacant, available for occupancy) by Low- and Very Low-Income Eligible Households. The size and mix of the Restricted Units are set forth in Exhibit B.

2.1.2 In the event that recertification of tenant incomes indicates that the number of Restricted Units actually occupied by Eligible Households falls below the number required as specified in this Section and in Exhibit B, Developer shall rectify the condition by renting the next available dwelling unit(s) in the Project to Eligible Household(s) until the requirements of this Agreement are satisfied.

2.2 Rents for Restricted Units.

2.2.1 Rents for Restricted Units shall be limited to Qualifying Rents. Notwithstanding the foregoing, no tenant qualifying for a Restricted Unit shall be denied continued occupancy of a unit in the Project because, after admission, such tenant's adjusted income increases to exceed the Qualifying Rent for such Restricted Unit.

2.2.2 If upon recertification of a tenant's income, the Developer determines that tenant's adjusted income has increased higher than Low-Income or Very Low-Income, Developer may raise the Qualifying Rent accordingly after providing tenant with sixty (60) days advance written notice of such increase; and provided further that Developer shall rent the next available unit to a Low-Income or Very Low Income Eligible Household.

2.3 Unit Sizes, Preferences.

2.3.1 The Restricted Units shall consist of ____ (_) studio apartments, ____ (__) one bedroom apartments, and _____ (___) two-bedroom apartments, as set forth in Exhibit B.

2.3.2 In renting Restricted Units, Developer shall give first preference to Eligible Households in which at least one member lives or works in the County of Contra Costa, unless compliance with the foregoing criteria is prohibited by law or by state or federal sources of financing for the Project.

2.4 Manager's Unit. One (1) dwelling unit in the Project may be used as a resident manager's unit, and shall be exempt from the occupancy and rent restrictions set forth in Sections 2.1 and 2.2 of this Agreement. The manager's unit shall be a two (2) bedroom unit.

2.5 No Condominium Conversion. Developer shall not convert the Project to condominium or cooperative ownership or sell condominium or cooperative rights to the Project during the term of this Agreement.

2.6 Non-Discrimination; Compliance with Fair Housing Laws.

2.6.1 Fair Housing. Developer shall comply with state and federal fair housing laws in the marketing and rental of the units in the Project. Developer shall accept as tenants, on the same basis as all other prospective tenants, persons who are recipients of federal certificates or vouchers for rent subsidies pursuant to the existing Section 8 program or any successor thereto.

2.6.2 Non-Discrimination. The Developer covenants by and for itself and any successors in interest that there shall be no discrimination against or segregation of any person or group of persons, on account of any basis listed in subdivision (a) or (d) of Section 12955 of the Government Code, as those bases are defined in Sections 12926, 12926.1, subdivision (m) and paragraph (1) of subdivision (p) of Section 12955, and Section 12955.2 of the Government Code, in the leasing, subleasing, transferring, use, occupancy, tenure, or enjoyment of the Property and the Project, nor shall the Developer itself or any person claiming under or through it establish or permit any such practice or practices of discrimination or segregation with reference to the selection, location, number, use or occupancy of tenants, lessees, subtenants, sublessees or vendees of the Property. The foregoing covenants shall run with the land.

2.7 Reporting Requirements.

2.7.1 Tenant Certification. Developer or Developer's authorized agent shall obtain from each household prior to initial occupancy of each Restricted Unit, and on every anniversary thereafter, a written certificate containing all of the following in such format and with such supporting documentation as City may reasonably require:

(a) The identity and age of each member of the household; and

(b) Total household income.

2.7.2 Developer shall retain such certificates for not less than three (3) years, and upon City's request, shall make the originals available for inspection by City and shall provide copies of such certificates to City.

2.8 Annual Report; Inspections. Developer shall submit an annual report ("Annual Report") to the City in form satisfactory to City, together with a certification that the Project is in compliance with the requirements of this Agreement.

2.8.1 Developer shall submit to the City such Annual Report:

(a) Not later than the ninetieth (90) day after the close of each fiscal year of the City; or such other date as maybe requested by City; and

(b) Within fifteen (15) days after receipt of a written request, any other information or completed forms requested by City in order to comply with reporting requirements of the State of California.

2.8.2 The Annual Report shall, at a minimum, include the following information for each dwelling unit in the Project:

(a) Unit number;

(b) Current rent and other charges;

(c) Dates of any vacancies during the previous year;

(d) Number of people residing in the unit;

(e) Total household income of residents;

(f) Documentation of source of household income; and

(g) The information required by Section 2.7.1.

2.8.3 Upon City's request, Developer shall include with the Annual Report, an income recertification for each household, documentation verifying tenant eligibility, and such additional information as City may reasonably request from time to time in order to show compliance with this Agreement. The Annual Report shall conform to the format requested by City; provided however, during such time that the Project is subject to a regulatory agreement restricting occupancy and/or rents pursuant to requirements imposed in connection with the use of federal low-income housing tax credits or tax-exempt financing, Developer may satisfy the requirements of this Section by providing City with a copy of compliance reports required in connection with such financing.

2.9 On-site Inspection. Developer shall permit representatives of City to enter and inspect the Property and the Project during reasonable business hours in order to monitor compliance with this Agreement upon 24-hours advance notice of such visit to Developer or to Developer's management agent.

2.10 Additional Information. Developer shall provide any additional information reasonably requested by City. The City shall have the right to examine and make copies of all books, records, or other documents of the Developer which pertain to the Project.

2.11 Records. The Developer shall maintain complete, accurate and current records pertaining to the Development, and shall permit any duly authorized representative of the City to inspect records, including records pertaining to income and household size of tenants. All tenant lists, applications and waiting lists relating to the Development shall at all times be kept separate and identifiable from any other business of the Developer and shall be maintained as required by the City in a reasonable condition for proper audit and subject to examination during business

hours by representatives of the City. The Developer shall retain copies of all materials obtained or produced with respect to occupancy of the Units for a period of at least five (5) years, and for any period during which there is an audit undertaken by the City pursuant to the Grant Agreement.

2.12 Rent Increases Upon Foreclosure. If a lender forecloses on the Project or accepts a deed in lieu of foreclosure, the lender and/or its transferees shall have the right to increase rents and income targeting applicable to the Extremely Low Income Units to the extent permitted by, and subject to the requirements of, Section 10337(a)(3) of the regulations promulgated by the California Tax Credit Allocation Committee for affordable housing projects receiving an allocation of tax credits.

3. Term of Agreement.

3.1 Term of Restrictions. This Agreement shall remain in effect through the 55th anniversary of the issuance of the final certificate of occupancy for the Project.

3.2 Effectiveness Succeeds Conveyance of Property and Repayment of Loans. This Agreement shall remain effective and fully binding for the full term hereof regardless of:

3.2.1 Any sale, assignment, transfer, or conveyance of the Property or the Project or any part thereof or interest therein,

3.2.2 Any payment, prepayment or extinguishment of either Loan, or

3.2.3 Any reconveyance of the Deed of Trust, unless this Agreement is terminated earlier by City in a recorded writing.

3.3 Reconveyance. Upon the termination of this Agreement, the Parties agree to execute and record appropriate instruments to release and discharge the terms of this Agreement; provided, however, the execution and recordation of such instruments shall not be necessary or a prerequisite to the termination of this Agreement in accordance with its terms.

4. Binding Upon Successors; Covenants to Run with the Land.

4.1 Developer hereby subjects its interest in the Property and the Project to the covenants and restrictions set forth in this Agreement. The City and Developer hereby declare their express intent that the covenants and restrictions set forth herein shall be deemed covenants running with the land and shall be binding upon and inure to the benefit of the heirs, administrators, executors, successors in interest, transferees, and assigns of Developer and City, regardless of any sale, assignment, conveyance or transfer of the Property, the Project or any part thereof or interest therein. Any successor-in-interest to Developer, including without limitation any purchaser, transferee or lessee of the Property or the Project (other than the tenants of the individual dwelling units within the Project) shall be subject to all of the duties and obligations imposed hereby for the full term of this Agreement. Each and every contract, deed, ground lease or other instrument affecting or conveying the Property

or the Project or any part thereof, shall conclusively be held to have been executed, delivered and accepted subject to the covenants, restrictions, duties and obligations set forth herein, regardless of whether such covenants, restrictions, duties and obligations are set forth in such contract, deed, ground lease or other instrument. If any such contract, deed, ground lease or other instrument has been executed prior to the date hereof, Developer hereby covenants to obtain and deliver to City an instrument in recordable form signed by the parties to such contract, deed, ground lease or other instrument pursuant to which such parties acknowledge and accept this Agreement and agree to be bound hereby.

4.2 Developer agrees for itself and for its successors that in the event that a court of competent jurisdiction determines that the covenants herein do not run with the land, such covenants shall be enforced as equitable servitudes against the Property and the Project in favor of City.

5. Property Management; Repair and Maintenance; Marketing.

5.1 Management Responsibilities. Developer shall be responsible for all management functions with respect to the Property and the Project, including without limitation the selection of tenants, certification and recertification of household income and eligibility, evictions, collection of rents and deposits, maintenance, landscaping, routine and extraordinary repairs, replacement of capital items, and security. Except as City may otherwise agree in writing, City shall have no responsibility for management or maintenance of the Property or the Project.

5.2 Management Entity. City shall have the right to review and approve the qualifications of the management entity proposed by Developer for the Project. The City hereby approves _____, as the initial management entity for the Project. The contracting of management services to a management entity shall not relieve Developer of its primary responsibility for proper performance of management duties.

5.3 Services. Developer shall provide the following services to the tenants living in the Project: housing retention counseling, employment coaching, money management training, independent living skills training, substance abuse recovery and treatment, mental health recovery treatment, future-oriented housing guidance, peer groups, social events and classes. The Project will be served by two (2) full-time case managers, part-time to substance abuse recovery specialists and access to a mental health professional.

5.4 Repair, Maintenance and Security. Throughout the term of this Agreement, Developer shall at its own expense, maintain the Property and the Project in good physical condition, in good repair, and in decent, safe, sanitary, habitable and tenantable living conditions in conformity with all applicable state, federal, and local laws, ordinances, codes, and regulations. Without limiting the foregoing, Developer agrees to maintain the Project and the Property (including without limitation, the residential units, common meeting rooms, common areas, landscaping, driveways and walkways) in a condition free of all waste, nuisance, debris, unmaintained landscaping, graffiti, disrepair, abandoned vehicles/appliances, and illegal activity,

and shall take all reasonable steps to prevent the same from occurring on the Property or at the Project. Developer shall prevent and rectify any physical deterioration of the Property and the Project and shall make all repairs, renewals and replacements necessary to keep the Property and the improvements located thereon in good condition and repair. Developer shall provide adequate security services for occupants of the Project.

5.4.1 City's Right to Perform Maintenance. In the event that Developer breaches any of the covenants contained in this Section 5.4, and such default continues for a period of ten (10) days after written notice from City (with respect to graffiti, debris, and waste material) or thirty (30) days after written notice from City (with respect to landscaping, building improvements and general maintenance), then City, in addition to any other remedy it may have under this Agreement or at law or in equity, shall have the right, but not the obligation, to enter upon the Property and perform all acts and work necessary to protect, maintain, and preserve the improvements and the landscaped areas on the Property.

5.4.2 Costs. All costs expended by City in connection with the foregoing, shall constitute an indebtedness secured by the Deed of Trust, and shall be paid by Developer to City upon demand. All such sums remaining unpaid thirty (30) days following delivery of City's invoice therefor shall bear interest at the rate of 10% per annum.

5.5 Marketing and Management Plan. Not later than 180 calendar days following the issuance of the first building permit for the Project, Developer shall submit for City review and approval, a plan for marketing and managing the Property ("Marketing and Management Plan"). The Marketing and Management Plan shall address in detail how Developer plans to market the Restricted Units to prospective Eligible Households in accordance with fair housing laws and this Agreement, Developer's tenant selection criteria, and how Developer plans to certify the eligibility of Eligible Households. The Plan shall also describe the management team and shall address how the Developer and the management entity plan to manage and maintain the Property and the Project. The Plan shall include the proposed management agreement and the form of rental agreement that Developer proposes to enter into with Project tenants. Developer shall abide by the terms of the Marketing and Management Plan in marketing, managing, and maintaining the Property and the Project, and throughout the term of this Agreement, shall submit proposed modifications to City for its review and approval.

5.6 Approval of Amendments. If City has not responded to any submission of the Management and Marketing Plan, the proposed management entity, or a proposed amendment or change to any of the foregoing within 30 days following City's receipt of such plan, proposal or amendment, the plan, proposal or amendment shall be deemed approved by City.

5.7 Fees, Taxes, and Other Levies. Developer shall be responsible for payment of all fees, assessments, taxes, charges, liens and levies, including without limitation possessory interest taxes, if applicable, imposed by any public authority or utility

company with respect to the Property or the Project, and shall pay such charges prior to delinquency. However, Developer shall not be required to pay any such charge so long as:

5.7.1 Developer is contesting such charge in good faith and by appropriate proceedings,

5.7.2 Developer maintains reserves adequate to pay any contested liabilities, and

5.7.3 On final determination of the proceeding or contest, Developer immediately pays or discharges any decision or judgment rendered against it, together with all costs, charges and interest.

5.8 Insurance Coverage. Prior to issuance of building permits for the Project, and continuing throughout the term of this Agreement Developer shall comply with the requirements set forth in Exhibit C, and shall, at Developer's expense, maintain in full force and effect insurance coverage as specified in Exhibit C; provided however, during such time that lenders providing financing for the Project impose insurance requirements that are inconsistent with the requirements set forth in Exhibit C, Developer may satisfy the requirements of this Section by meeting the requirements of such lenders. Notwithstanding the foregoing, throughout the term hereof, Developer shall comply with the provisions of Exhibit C pertaining to:

5.8.1 Provision to City of proof of insurance for the Project,

5.8.2 Naming of the City of Pinole as an additional insured, and

5.8.3 Provision to City of notice of cancellation or reduction in coverage.

5.9 Property Damage or Destruction. If any part of the Project is damaged or destroyed, Developer shall repair or restore the same, consistent with the occupancy and rent restriction requirements set forth in this Agreement. Such work shall be commenced within 120 days after the damage or loss occurs and shall be completed within one year thereafter, provided that insurance proceeds are available to be applied to such repairs or restoration within such period and the repair or restoration is financially feasible. During such time that lenders or low-income housing tax credit investors providing financing for the Project impose requirements that differ from the requirements of this Section the requirements of such lenders and investors shall prevail.

6. Recordation; Subordination. This Agreement shall be recorded in the Official Records of Contra Costa County. Developer hereby represents, warrants and covenants that with the exception of the Permitted Exceptions as defined in the DDA, and easements of record, if any, absent the written consent of City, this Agreement shall not be subordinated in priority to any lien (other than those pertaining to taxes or assessments), encumbrance, or other interest in the Property or the Project, except as may be permitted in the DDA. If at the time this Agreement is recorded, any interest, lien, or encumbrance has been recorded against the Project in position superior to this Agreement, upon the request of City, Developer hereby covenants and agrees to promptly undertake all action necessary to clear such matter from

title or to subordinate such interest to this Agreement consistent with the intent of and in accordance with this Section 6, and to provide such evidence thereof as City may reasonably request. Notwithstanding the foregoing, the City agrees to execute such subordination agreement as may be required by a construction and/or permanent lender, provided such agreement meets the requirements set forth in the DDA.

7. Transfer and Encumbrance.

7.1 Restrictions on Transfer and Encumbrance. During the term of this Agreement, except as permitted pursuant to the DDA, Grant Agreement, or this Agreement, Developer shall not make or permit the occurrence of any Transfer (as defined in the DDA) of the Project or the Property without the prior written consent of the City; provided however, neither the admission of an investor limited partner, nor the transfer by the investor limited partner to an entity in which an affiliate is the general partner or managing member shall require City consent.

7.2 Permitted Transfers. No City consent shall be required to the following Transfers:

7.2.1 A transfer from Developer to an entity which is controlled by the Developer; or

7.2.2 A transfer to the construction or permanent lender for the Project or to a third party by foreclosure, deed in lieu of foreclosure or comparable conversion of any lien on the Project or to any subsequent transfer by such lender or third party following such foreclosure, deed in lieu of foreclosure or comparable conversion.

7.2.3 In addition, City shall not unreasonably withhold its consent to the sale, transfer or other disposition of the Project, in whole or in part, provided that:

(a) The Project is and shall continue to be operated in compliance with this Agreement;

(b) The transferee expressly assumes all obligations of Developer imposed by this Agreement;

(c) The transferee executes all documents reasonably requested by the City with respect to the assumption of the Developer's obligations under this Agreement, and upon City's request, delivers to the City an opinion of its counsel to the effect that such document and this Agreement are valid, binding and enforceable obligations of such transferee; and either:

(i) The transferee has at least three years' experience in the ownership, operation and management of low-income rental housing projects of similar size to that of the Project, without any record of material violations of nondiscrimination provisions or other state or federal laws or regulations applicable to such projects, or

(ii) The transferee agrees to retain a property management firm with the experience and record described in this Agreement.

7.3 Encumbrances. Developer agrees to use best efforts to ensure that any deed of trust secured by the Project for the benefit of a lender other than City ("Third-Party Lender") shall contain each of the following provisions:

7.3.1 Third-Party Lender shall use its best efforts to provide to City a copy of any notice of default issued to Developer concurrently with provision of such notice to Developer (provided however, the failure to do so shall not impair such Third-Party Lender's rights and remedies);

7.3.2 City shall have the reasonable right, but not the obligation, to cure any default by Developer within the same period of time provided to Developer for such cure;

7.3.3 Provided that City has cured any default under Third-Party Lender's deed of trust and other loan documents, City shall have the right to foreclose City's Deed of Trust and take title to the Project without acceleration of Third-Party Lender's debt; and

7.3.4 City shall have the right to transfer the Project without acceleration of Third-Party Lender's debt to a nonprofit corporation or other entity which shall own and operate the Project as an affordable rental housing Project, subject to the prior written consent of the Third-Party Lender.

Developer agrees to provide to City a copy of any notice of default Developer receives from any Third-Party Lender within three (3) business days following Developer's receipt thereof.

7.4 Mortgagee Protection. No violation of any provision contained herein shall defeat or render invalid the lien of any mortgage or deed of trust made in good faith and for value upon all or any portion of the Project or the Property, and the purchaser at any trustee's sale or foreclosure sale shall not be liable for any violation of any provision hereof occurring prior to the acquisition of title by such purchaser. Such purchaser shall be bound by and subject to this Agreement from and after such trustee's sale or foreclosure sale. Promptly upon determining that a violation of this Agreement has occurred, City shall give written notice to the holders of record of any mortgages or deeds of trust encumbering the Project or the Property that such violation has occurred.

8. Default and Remedies.

8.1 Events of Default.

8.1.1 The occurrence of any one or more of the following events shall constitute an event of default hereunder ("Event of Default"):

(a) The occurrence of a Transfer in violation of Section 7.1 hereof;

(b) Developer's failure to maintain insurance on the Property and the Project as required hereunder, and the failure of Developer to cure such default within 10 days.

(c) Subject to Developer's right to contest the following charges, Developer's failure to pay taxes or assessments due on the Property or the Project or failure to pay any other charge that may result in a lien on the Property or the Project, and Developer's failure to cure such default within 10 days.

8.1.2 Developer's default in the performance of any term, provision or covenant under this Agreement or under any other City Document (other than an obligation enumerated in this Subsection 8.1.2), and unless such provision specifies a shorter cure period for such default, the continuation of such default for ten (10) days in the event of a monetary default or thirty (30) days in the event of a non-monetary default following the date upon which City shall have given written notice of the default to Developer, or if the nature of any such non-monetary default is such that it cannot be cured within 30 days, Developer's failure to commence to cure the default within thirty (30) days and thereafter prosecute the curing of such default with due diligence and in good faith, but in no event longer than 120 days from receipt of the notice of default.

8.2 Remedies.

8.2.1 If within the applicable cure period, Developer fails to cure a default or fails to commence to cure and diligently pursue completion of a cure, as applicable, or if a cure is not possible, City may proceed with any of the following remedies:

(a) Bring an action for equitable relief seeking the specific performance of the terms and conditions of this Agreement, and/or enjoining, abating, or preventing any violation of such terms and conditions, and/or seeking declaratory relief;

(b) Pursuant to the Deed of Trust, foreclose on the leasehold interest in the Property;

(c) For violations of obligations with respect to rents for Restricted Units, impose as liquidated damages a charge in an amount equal to the actual amount collected in excess of the Qualifying Rent;

(d) Pursue any other remedy allowed at law or in equity.

8.2.2 Each of the remedies provided herein is cumulative and not exclusive. The City may exercise from time to time any rights and remedies available to it under applicable law or in equity, in addition to, and not in lieu of, any rights and remedies expressly provided in this Agreement.

9. Indemnification.

9.1 Notwithstanding the insurance coverage required hereunder, Developer shall defend, indemnify and hold the City and its officials, officers, directors, employees, and agents (collectively, the "**Indemnified Parties**") harmless from and against any and all losses, damages, liabilities, claims, demands, judgments, actions, court costs, and legal or other expenses (including reasonable attorneys' fees) which an Indemnified Party may incur as a result of:

9.1.1 Developer's failure to perform any obligation as and when required by this Agreement;

9.1.2 Any failure of Developer's representations or warranties to be true and complete in all material respects when made; or

9.1.3 Any act or omission by Developer, or any of Developer's contractors, subcontractors, agents, employees, licensees or suppliers with respect to the Project or the Property, except to the extent that such losses are caused by the gross negligence or willful misconduct of such Indemnified Party.

9.2 Developer shall pay immediately upon an Indemnified Party's demand any amounts owing under the indemnity provided under this Section. The duty of Developer to indemnify includes the duty to defend the Indemnified Party in any court action, administrative action, or other proceeding brought by any third party arising in connection with the Project or the Property with counsel reasonably approved by City. Developer's duty to indemnify the Indemnified Parties shall survive the expiration or earlier termination of this Agreement.

10. Miscellaneous.

10.1 Amendments. This Agreement may be amended or modified only by a written instrument signed by both Parties.

10.2 No Waiver. Any waiver by City of any term or provision of this Agreement must be in writing. No waiver shall be implied from any delay or failure by City to take action on any breach or default hereunder or to pursue any remedy allowed under this Agreement or applicable law. No failure or delay by City at any time to require strict performance by Developer of any provision of this Agreement or to exercise any election contained herein or any right, power or remedy hereunder shall be construed as a waiver of any other provision or any succeeding breach of the same or any other provision hereof or a relinquishment for the future of such election.

10.3 Notices. Except as otherwise specified herein, all notices to be sent pursuant to this Agreement shall be made in writing, and sent to the Parties at their respective addresses specified below or to such other address as a Party may designate by written notice delivered to the other parties in accordance with this Section.

10.3.1 All such notices shall be sent by:

(a) Personal delivery, in which case notice is effective upon delivery;

(b) Certified or registered mail, return receipt requested, in which case notice shall be deemed delivered upon receipt if delivery is confirmed by a return receipt;

(c) Nationally recognized overnight courier, with charges prepaid or charged to the sender's account, in which case notice is effective on delivery if delivery is confirmed by the delivery service;

(d) Facsimile transmission, in which case notice shall be deemed delivered upon transmittal, provided that

(i) A duplicate copy of the notice is promptly delivered by first-class or certified mail or by overnight delivery, or

(ii) A transmission report is generated reflecting the accurate transmission thereof. Any notice given by facsimile shall be considered to have been received on the next business day if it is received after 5:00 p.m. recipient's time or on a nonbusiness day.

10.3.2 All such notices shall be sent to:

City: City of Pinole
2321 Pear St.
Pinole, CA 94563
Attention: City Manager

Developer: Satellite Affordable Housing Associates
1835 Alcatraz Ave.
Berkeley, CA 94703
Attention: _____

10.4 Further Assurances. The Parties shall execute, acknowledge and deliver to the other such other documents and instruments, and take such other actions, as either shall reasonably request as may be necessary to carry out the intent of this Agreement.

10.5 Parties Not Co-Venturers. Nothing in this Agreement is intended to or shall establish the Parties as partners, co-venturers, or principal and agent with one another.

10.6 Action by the City. Except as may be otherwise specifically provided herein, whenever any approval, notice, direction, consent or request by the City is required or permitted under this Agreement, such action shall be in writing, and such action may be given, made or taken by the City Executive Director or by any person who shall have been designated by the City Executive Director, without further approval by the governing board of the City.

10.7 Non-Liability of City Officials, Employees and Agents. No member, official, employee or agent of the City shall be personally liable to Developer or any

successor in interest, in the event of any default or breach by the City, or for any amount of money which may become due to Developer or its successor or for any obligation of City under this Agreement.

10.8 Headings; Construction. The headings of the sections and paragraphs of this Agreement are for convenience only and shall not be used to interpret this Agreement. The language of this Agreement shall be construed as a whole according to its fair meaning and not strictly for or against any Party.

10.9 Time is of the Essence. Time is of the essence in the performance of this Agreement.

10.10 Governing Law. This Agreement shall be construed in accordance with the laws of the State of California without regard to principles of conflicts of law.

10.11 Attorneys' Fees and Costs. If any legal or administrative action is brought to interpret or enforce the terms of this Agreement, the prevailing party shall be entitled to recover all reasonable attorneys' fees and costs incurred in such action.

10.12 Severability. If any provision of this Agreement is held invalid, illegal, or unenforceable by a court of competent jurisdiction, the validity, legality, and enforceability of the remaining provisions shall not be affected or impaired thereby.

10.13 Entire Agreement; Exhibits. This Agreement, together with the City Documents contains the entire agreement of Parties with respect to the subject matter hereof, and supersedes all prior oral or written agreements between the Parties with respect thereto. The exhibits attached hereto are incorporated herein by this reference.

10.14 Counterparts. This Agreement may be executed in multiple counterparts, each of which shall be an original and all of which together shall constitute one agreement.

SIGNATURES ON FOLLOWING PAGE

IN WITNESS WHEREOF, the Parties have executed this Affordable Housing Regulatory Agreement and Declaration of Restrictive Covenants as of the date first written above.

CITY OF PINOLE,
a California Municipal Corporation

By: _____

Name: _____
City Manager

ATTEST:

By: _____

APPROVED AS TO FORM:

By: _____
City Attorney

SATELLITE AFFORDABLE HOUSING ASSOCIATES
a California non-profit benefit corporation

By: _____
[NAME]

Its: [TITLE]

SIGNATURES MUST BE NOTARIZED.

Exhibit A

LEGAL DESCRIPTION

The land referred to is situated in the County of Contra Costa, City of Pinole, State of California, and is described as follows:

PARCEL ONE:

Portion Lot "C", Map of Dohrmann Ranch, filed December 21, 1895, Map Book "E", Page 115, Contra Costa County Records, described as follows:

Beginning on the South line of San Pablo Avenue, at the West line of the parcel of land described in the Deed to Claude C. Orr, recorded November 29, 1946, Book 964 Official Records, Page 391; thence from said point of beginning along the West and South lines of said Orr Parcel, South 9° 37' West, 129.31 feet and South 80° 23' East, 4 feet; thence South 9° 37' West, 35.90 feet to the Northwest corner of Lot 35, as shown on the Map of Meadow Parcel, Unit No. 1, filed July 6, 1951, Map Book 44, Page 29, Contra Costa County Records; thence along the exterior lines of said Meadow Park Unit No. 1, North 80° 23' West, 110 feet and South 50° 27' West, 110.53 feet to an angle point therein, being on the West line of said Lot C; thence North 19° 08' East, along said West line, 224.37 feet to the South line of said San Pablo Avenue; thence Easterly along said South line, along the arc of a curve to the right with a radius of 2,950 feet, the center of which bears South 2° 51' 06" East, an arc distance of 143.72 feet to the point of beginning.

Excepting from Parcel One:

All that portion thereof conveyed in the Deed to Frank A. Archambault, et ux, recorded July 21, 1957, Book 3002 Official Records, Page 174.

PARCEL TWO:

Portion of Lot 33, Map of Meadow Park, Unit No. 1, filed July 6, 1951, Map Book 44, Page 29, Contra Costa County Records, described as follows:

Beginning at the Northeast corner of said Lot 33; thence from said point of beginning along the North line of said Lot 33, North 79° 19' 10" West, 50 feet (the bearing of North 79° 19' 10" West being taken for the purpose of this description) and South 51° 30' 50" West, 62.97 feet; thence North 76° 09' 30" East, 100.25 feet to the East line of said Lot 33, distant thereon South 10° 26' 36" West, 6.04 feet from the Northeast corner thereof; thence North 10° 26' 36" East, along said East line, 6.04 feet to the point of beginning.

PARCEL THREE:

A right of way (not to be exclusive) as an appurtenance to Parcels One and Two above, for use as a roadway for vehicles of all kinds, pedestrians and animals, for water, gas, oil and sewer pipe lines, and for telephone, television service, electric light and power lines, together with the necessary poles or conduits, over a portion of Lot C, Map of Dohrmann Ranch, filed December 21, 1895, Map

Book "E", Page 115, Contra Costa County Records, being a strip of land 15 feet in width, the North line of which is described as follows:

Beginning on the West line of Meadow Avenue, as shown on the Map of Meadow Park, Unit No. 1, filed July 6, 1951, Map Book 44, Page 29, Contra Costa County Records, at the South line of the parcel of land described in the Deed to Claude C. Orr, recorded November 29, 1946, in Book 964 Official Records, Page 391; thence from said point of beginning, North 80° 23' West, along said South line, 60 feet to an East line of Parcel One above.

APN: 402-166-030

Exhibit B

UNIT MIX, RENT AND OCCUPANCY RESTRICTIONS

Restricted Unit Type	No. of Required Units
Studio	
One Bedroom	
Two Bedroom	

VLI 50 = Very Low Income Eligible Household (50% of AMI)

AMI = Area Median Income

MU = Manager's Unit

Exhibit C

INSURANCE REQUIREMENTS

Prior to issuance of building permits for the Project and throughout the term of this Agreement, Developer shall obtain and maintain, at Developer's expense, the following policies of insurance.

A. Property Insurance. Insurance for the risks of direct physical loss, with minimum coverage being the perils insured under the standard Causes of Loss - Special form (ISO Form CP 10 30) or its equivalent, covering all improvements, all fixtures, equipment and personal property, located on or in, or constituting a part of, the Property ("Improvements"), in an amount equal to one hundred percent (100%) of the full replacement cost of all such property.

1. The insurance shall:

(a) Cover explosion of steam and pressure boilers and similar apparatus, if any, located on the Property,

(b) Cover floods if the Property is in a Special Hazard Area, as determined by the Federal Emergency Management City or as shown on a National Flood Insurance Program flood map;

2. The insurance required hereunder shall be in amounts sufficient to prevent Developer from becoming a co-insurer under the terms of the applicable policies, with not more than a Ten Thousand Dollars ($10,000) deductible (or such higher deductible approved by the City, which approval shall not be unreasonably withheld) from the loss payable for any casualty.

3. The policies of insurance carried in accordance with this Paragraph A shall contain a "replacement cost endorsement" and an "increased cost of construction endorsement."

B. Liability Insurance. Commercial general liability insurance on an "occurrence basis" covering all claims with respect to injury or damage to persons or property occurring on, in or about the Property and the Improvements. The limits of liability under this Paragraph B shall be not less than Two Million Dollars ($2,000,000) combined single limit per occurrence, with a deductible no greater than Ten Thousand Dollars ($10,000) or such higher deductible as may be approved by City, which approval shall not be unreasonably withheld.

1. The insurance shall also include coverage for:

(a) Liability for bodily injury or property damage arising out of the use, by or on behalf of Developer, of any owned, non-owned, leased or hired automotive equipment in the conduct of any and all operations conducted in connection with the Project or the Property;

(b) Premises and operations including, without limitation, bodily injury, personal injury, death or property damage occurring upon, in or about the Property or the Improvements on any elevators or any escalators therein and on, in or about the adjoining sidewalks, streets and passageways;

(c) Environmental liability and indemnification of City therefore;

(d) Broad form property damage liability;

(e) Additional insured and primary insured endorsements protecting the City and its respective elected and appointed officials, officers, employees and agents;

(f) Personal injury endorsement.

C. Worker's Compensation Insurance. Worker's compensation insurance, in the amount required under then applicable state law, covering Developer's employees, if any, at work in or upon the Property or engaged in services or operations in connection with the Project or the Property. Developer shall require that any contract entered into by Developer with regard to work to be undertaken on the Property include a contractual undertaking by the contractor to provide worker's compensation insurance for its employees in compliance with applicable state law.

D. Course of Construction Insurance. Course of construction insurance in the same amount as required in Paragraph A above for property insurance, covering all construction activities on the Property.

E. General Insurance Provisions.

1. All policies of insurance provided for in this Exhibit shall be provided under valid and enforceable policies, in such forms and amounts as hereinbefore specified, issued by insurers licensed to do business in the State of California (or approved to do business in California and listed on the California Department of Insurance list of Eligible Surplus Lines Insurers or successor listing) and having a rating of A-VII or better in Best Insurance Guide or, if Best Insurance Guide is no longer in existence, a comparable rating from a comparable rating service. Prior to the issuance of building permits for the Project, and thereafter, not less than thirty (30) days prior to the expiration date of each policy furnished pursuant to this Exhibit C, Developer shall deliver to City certificates evidencing the insurance required to be carried by Developer under this Exhibit C. If requested by City, Developer shall deliver within ten (10) days following such request, certified, complete copies of the insurance policies required hereunder. Insurance policies to be provided hereunder shall meet the following requirements:

2. Each policy of insurance obtained pursuant to this Agreement, other than worker's compensation insurance, shall contain endorsements which provide:

(a) A waiver by the insurer of the right of subrogation against City, Developer or any tenant of the Project for negligence of any such person,

(b) A statement that the insurance shall not be invalidated should any insured waive in writing prior to the loss any or all right of recovery against any party for loss accruing to the property described in the insurance policy, and

(c) A provision that no act or omission of Developer which would otherwise result in forfeiture or reduction of the insurance therein provided shall affect or limit the obligation of the insurance company to pay the amount of any loss sustained.

(d) By endorsements, City, and its elected and appointed officials, officers, employees and agents shall be named as additional insured under the liability insurance required to be maintained by Developer hereunder. City shall be named as loss payee on the property insurance policies required to be maintained hereunder.

3. Each policy required hereunder shall include a Notice of Cancellation or Change in Coverage Endorsement which shall provide that such policy shall not be cancelled or materially changed without at least thirty (30) days' prior written notice by registered or certified mail to City.

4. All insurance policies shall provide that there shall be no exclusion from coverage for cross liability among the listed insureds.

5. Any certificate of insurance applicable to course of construction insurance to be maintained shall be deposited with City prior to commencement of construction of any Improvements.

6. Each policy shall contain an endorsement that provides that the insurance applies separately to each insured that is seeking coverage or against whom a claim is made, except with respect to the limits of liability

7. Each policy shall be written as a primary policy not contributing with and not in excess of coverage that City may carry.

8. Each policy shall expressly provide that City shall not be required to give notice of accidents or claims and that City shall have no liability for premiums.

F. Blanket Policies. Any insurance provided for in this Exhibit F-3 may be placed by a policy or policies of blanket insurance; provided, however, that such policy or policies provide that the amount of the total insurance allocated to the Property and the Project shall be such as to furnish protection the equivalent of separate policies in the amounts herein required, and provided further that in all other respects any such policy or policies shall comply with the other provisions of this Agreement

G. Waiver of Subrogation. To the extent permitted by law and the policies of insurance required to be maintained hereunder, and without affecting such insurance coverage, City and Developer each waive any right to recover against the other:

1. Damages for injury or death of persons,

2. Damage to property,

3. Damage to the Property or the Improvements or any part thereof, or

4. Claims arising by reason of any of the foregoing, to the extent that such damages and/or claims are covered (and only to the extent of such coverage) by insurance actually carried by either City or Developer.

This provision is intended to restrict each party (as permitted by law) to recover against insurance carriers to the extent of such coverage, and waive fully, and for the benefit of each, any rights and/or claims which might give rise to a right of subrogation in any insurance carrier.

H. Compliance with Policy Requirements. Developer shall observe and comply with the requirements of all policies of public liability, fire and other policies of insurance at any time in force with respect to the Property, and Developer shall so perform and satisfy the requirements of the companies writing such policies that at all times companies of good standing shall be willing to write or to continue such insurance.

3708632.1

Item F1

Memorandum

TO: **Planning Commission**

FROM: **David Hanham, Planning Manager**

SUBJECT: **Selection of Alternate for Planning Commission Sub-Committee**

DATE: **June 28, 2021**

Planning Commissioners:

As you are aware at our April 26, 2021 meeting, the Planning Commission selected three new members for the Planning Commission Sub-Committee. As a part of the item, the Commission is requested to select an alternate member for this Sub-Committee.

At this time, we have three members that can serve as an alternate (Commissioner Kurrent, Wong, and Benzuly)

Recommendation:

Staff recommends that the Planning Commission select an alternate for the Planning Commission Sub-Committee for the 2021-2022 term.

Memorandum

TO: **Planning Commission**

FROM: **David Hanham, Planning Manager**

SUBJECT: **Amended Planning Commission Schedule for 2021**

DATE: **June 28, 2021**

Planning Commissioners:

As you are aware, the November meeting is usually the meeting that the Planning Commission determines the schedule for the following year. The Planning Commission approved the schedule for 2021.

In 2021, Staff has seen a significant increase in projects ranging from new construction to existing businesses that want to expand and provide additional services to our community. Currently, the Planning Commission only has one meeting a month. Projects that fall just outside one meeting window have to wait a minimum of 45 days to get to the next Planning Commission meeting.

Also, there are times when projects need to be tabled and/or continued. The way we handle it today is by calling a special meeting. If we had another scheduled regular meeting date, we could just move the meeting to the next regular meeting.

We do not know what the future will bring in terms of projects, but Staff feels that if we provide some flexibility in our meeting schedule, we have the potential to review more projects and have more public outreach on particular items at our regular meetings.

Recommendation:

Staff recommends that the Planning Commission review and approve the amended schedule for the rest of the 2021 calendar year.

Amended
2021 Planning Commission Regular Meeting Schedule

MONTH	DATE	TIME
January	**Monday, 1/25/21**	7:00 PM
February	**Monday, 2/22/21**	7:00 PM
March	**Monday, 3/22/21**	7:00 PM
April	**Monday, 4/26/21**	7:00 PM
May	**Monday, 5/24/21**	7:00 PM
June	**Monday, 6/28/21**	7:00 PM
July	**Monday 7/12/21**	7:00 pm
July	**Monday, 7/26/21**	7:00 PM
August	**Monday 8/09/21**	7:00 PM
August	**Monday, 8/23/21**	7:00 PM
September	**Monday 9/13/21**	7:00 PM
September	**Monday 9/27/21**	7:00 PM
October	**Monday 10/11/21**	7:00 PM
October	**Monday, 10/25/21**	7:00 PM
November	**Monday 11/08/21**	7:00 PM
November	**Monday, 11/22/21**	7:00 PM
December	**Monday, 12/13/21**	7:00 PM
	TOTAL MEETINGS: 17	

Bold Month = Additional Meeting