Date: April 18, 2017
To: El Cerrito City Council
From: Sean Moss, Senior Planner
Margaret Kavanaugh-Lynch, Development Services Manager
Subject: Appeal of the Planning Commission’s Design Review action to approve the El Dorado Townhomes

**ACTION REQUESTED**
Conduct a public hearing and upon conclusion, adopt a resolution upholding the Planning Commission’s Design Review action to approve the El Dorado Townhomes.

**BACKGROUND**

**Executive Summary**
On December 17, 2014, Urban Community Partners submitted a proposal to build 27 townhome condominiums at 5828 El Dorado Street. City records showed that the use of the property was a Recreational Vehicle Park. The zoning designation for the site is Multi-family Residential. The General Plan designation is High Density Residential. The General Plan envisions this area of the city as follows: *In the area near Central Avenue, this plan will allow for a small increase in residential units over time as older single-family houses are replaced by new multifamily structures (duplex, three- and four-unit apartments, condos, and townhouses)*. The project site is surrounded by a mix of single family and multifamily housing. It is within a half mile of several public transit and service opportunities including the El Cerrito Plaza and the nearby BART station, as well as AC Transit bus stops.

Pursuant to the El Cerrito Municipal Code, the project originally required a Tentative Subdivision Map and Design Review entitlements. At the City Council hearing for the Tentative Subdivision Map two more units were added to the project and a Parking Waiver was then required, as well. (See Chronology of the Entitlement Process Section below for details), resulting in 29 townhome units.

Although this project has a long entitlement history, the purview of this hearing is the Appeal of the Planning Commission’s approval of the Design Review Application only, and not other aspects of the project, which have already been approved.

**Project Description**
The project consists of 29 townhome units and three accessory living units. Two of the 29 units are one-bedroom ground floor flats that are fully accessible and three of the 29 include accessory living units.
The townhomes are proposed to be clustered into three buildings. One building will face El Dorado Street, one building will face Avila Street and one building will be internal to the project. The buildings will be served by two private driveways, one accessed from Avila Street and the other from Santa Clara Street. Twenty-seven townhome units will contain a two-car garage on the ground floor, with one bedroom and living space on the second floor and two additional bedrooms on the third floor. Most of the garages will be in a tandem configuration as allowed by the Zoning Ordinance. Three of the end units will have side by side two-car garages with an accessory living unit on the ground floor.

The site will also feature a small landscaped common area adjacent to Central Park that will also serve as required stormwater treatment during wet periods. In addition to this common open space, each unit will include private open space in the form of upper level balconies and/or ground level fenced yards. The private open space areas will be maintained by the unit owners, while the common open space, private drives and the exteriors of the townhome buildings will be maintained by a Homeowners Association. Please see the Plan set included as Attachment 3.

The Design Review Board conducted Preliminary Conceptual Design Review of the project on October 7, 2015. This type of review is not considered an entitlement, but rather an opportunity for initial feedback to the applicant.

Chronology of the Entitlement Process
Entitlements are planning land use actions that are required of development projects. Due to this project’s location and specific development details, it was required to secure a Tentative Subdivision Map, a Parking Waiver and Final Design Review. Each of these actions has a specific set of findings that the applicable decision-maker must be able to make—based upon the evidence in the record—to be able to approve each entitlement for the project. The Tentative Map required both a recommendation and decision from separate public bodies (the Planning Commission and City Council). The Parking Waiver and the Design Review action only required the action of one body of decision, the Planning Commission. When an entitlement action is appealed, the decision is stayed while the action is reviewed by a higher body of decision.

The Planning Commission considered the Tentative Subdivision Map for the project on May 18, 2016. After conducting a public hearing, the Commission voted to recommend that the City Council approve the Tentative Subdivision Map.

The City Council considered the Tentative Subdivision Map on July 19, 2016. Although the proposed living units met the requirements of the Building Code and Fair Housing Act, the Council expressed concerns regarding the accessibility of the units. In addition, the Council expressed concern regarding the elimination of living options with lower rents as a result of the closure of the RV park by the property owner. The Council’s discussion focused mainly on the inclusion of smaller units as a way to achieve units that had a lower price point and therefore a wider range of affordability.
In order to allow the applicant time to address these concerns, the City Council continued the item to the September 20, 2016 meeting. The applicant subsequently revised the project to add accessory living units within three of the townhomes and the City Council approved the Tentative Subdivision Map on September 20, 2016. The revised project required a parking reduction and the City Council approved a Condition of Approval requiring the applicant to seek a parking reduction from the Planning Commission.

The Planning Commission approved a parking waiver for the project on October 19, 2016.

The Design Review Board next considered the Final Design Review of the project on November 2, 2016. The Board expressed concerns about the aesthetic design of the project and continued the item to the December 7, 2016 meeting to allow the applicant an opportunity to respond to the Board’s concerns. A more detailed discussion of the Board’s comments is contained below.

The Design Review Board again reviewed the project on December 7, 2016 and unanimously approved the Final Design Review. (Attachment 4)


On February 15, 2017 the Planning Commission reviewed the appeal of the Design Review Board’s decision and unanimously denied the appeal, upholding the Design Review Board’s approval of the project. (Attachment 5)

On February 23, 2017, Howdy Goudey submitted an appeal of the Planning Commission’s decision to the City Council. (Attachment 2)

**ANALYSIS**

The scope of this hearing is the appeal of the Final Design Review entitlement of this project. Title 19 of the El Cerrito Municipal Code, Chapter 19.38 (*Design Review*) establishes the procedure for Design Review. Section 19.38.040 establishes the Scope of Final Design Review and provides the Design Review Board authority to review the aesthetics of projects based on specific criteria as detailed below. Chapter 19.39 (*Appeals*) extends this authority to the City Council if the project is appealed. The purview for appeals is discussed in more detail below. Each body of decision, (first the Design Review Board, then on appeal the Planning Commission, and finally the City Council) must limit their deliberation of the project to the Design Review entitlement purview and criteria as specified in 19.39.050

**Design Review Purview**

Section 19.38.040 states:
The Zoning Administrator or Design Review Board shall approve, conditionally approve or deny, or make recommendations on applications for final aesthetic architectural review based on consideration of the requirements of this Chapter as they apply to design of the structures, landscaping, lighting and other architectural features of an application including:

A. Building articulation, facade treatment and architectural details.

B. Exterior colors and materials.

C. Character defining features and the relation to existing settings.

D. Design of fences, walls, and screen plantings, including but not limited to height of those structures, materials, colors, and type.

E. Location and type of landscaping including selection and size of plant materials and design of hardscape including landscape lighting.

F. The size, location, design, color, number, lighting, and materials of signs.

G. Design of the streetscape, including but not limited to landscaping, furniture and materials.

The Design Review Components of the Project

Architecture

As noted earlier in the report, the project consists of three buildings. Building #1 faces Avila Street, Building #2 is in the interior of the project site and Building #3 faces El Dorado Street (Attachment 3). The architectural features of each building are essentially identical. The ground floors of the buildings that face Avila Street and El Dorado Street all feature pedestrian paths with entries into the dwellings. Vehicular access is tucked to the rear of the buildings. The interior building, (Building #2) has its pedestrian entry off of the interior drive on the north half of the site with a path of travel that connects to a walkway that runs along the eastern property line.

Since the initial project submittal to the City, the architecture was updated to a more contemporary nature and a number of architectural features have been added including step backs and pop-outs in a repeating pattern in response to comments provided at the October 2015 DRB meeting. The rooflines are a mix of pop-outs with shed roof lines, in contrast with the flat roof lines on the remainder roof area. Finally, a unifying color palette has also been included that utilizes modern colors and textures.

The ground floors of all three buildings are primarily finished with a cement plaster base in a dark grey color (Benjamin Moore, Stormy Sky) and either a gray (Benjamin Moore, Timber Wolf) roll-up garage door or brown (Benjamin Moore, Devonwood Taupe) metal
entry doors. Railings and trim throughout the project are gray (Benjamin Moore, Timber Wolf) and vinyl windows (Milgard, Montecito) will be silver.

The upper floors of all three buildings vary a bit depending on the elevation. On the elevations with roll-up garage doors, they are primarily finished with horizontal composite siding made of a synthetic polymer in a medium wood tone, (Trugrain Resyta, Java Teak). For accent, there is a two story pop-out element finished with white cement plaster siding, (Benjamin Moore, White Winged Dove). These elements top out three feet above the roof of the main part of the buildings and two feet out from the main façade.

On elevations without the garage doors, the second and third floor balconies are introduced using perforated metal panels as railing. The second floor balconies all step out over the first floor by five and one half feet, while the third floor balconies are set out by seven and one half feet, creating visual interest. The pop-out colors seen on the other elevations are also present on these facades, as well, but due to the step outs, the second story is more muted and the third story pop-out is more pronounced. Where the third story contains a master bedroom, a shed roof element has been added, using composition shingles (GAF Timberline Natural Shadow Shingles, Artic White). In aggregate, these color and articulation choices aim to add visual interest and general attractiveness of the pedestrian realm.

Landscape Design
Staff notes that a mix of deciduous trees (Japanese Maples) and evergreen trees (Tibouchina) have been added along the patio areas of each unit to allow more light in the winter and some year round privacy. Additional trees (Dwarf Southern Magnolia and Water Gum) have been added for screening purposes along the east side of the site and as part of the open space area to provide privacy to and from adjacent residential uses.

In terms of hardscape, the project includes a small shared seating area in the interior of the site. This area will include a pebble path and bench seating. Concrete walks occur throughout the site allowing pedestrian access through and around the project. A color-treated concrete walkway is located immediately adjacent to the driveway on Avila Street to allow a clear demarcation for all users of the pedestrian entry way.

New tubular steel metal fencing is proposed along the western edge of the site, delineating the boundary with Central Park. A six-foot horizontal wood fence is proposed along the eastern side of the property and 42-inch horizontal wood fences are proposed for the front yards of the patios.

Design Review Board Actions
At the November 2, 2016 Design Review Board hearing, the Board reviewed the project and expressed that it could not make the findings required for approval of the design as submitted. The Board gave several comments to the applicant about items that they wanted to see modified. The Board’s comments and the applicant’s responses are detailed below:
Comment: Add a 2x4 trimmer to the windows to create a recess. Focus on key locations, such as the street-facing elevations.

Response: The applicant has agreed to make this change. All windows will feature a 2x4 trimmer. This change can be seen on the revised renderings. Staff has also added a condition of approval to ensure that this change is carried through in the building permit submittal.

Comment: Align window mullions vertically on the second and third floors.

Response: The windows and mullions have been aligned between the second and third floors.

Comment: Change the color of the base of the building to a dark gray.

Response: The paint color on the plaster base has been changed to Benjamin Moore #1616 – Stormy Sky.

Comment: Use an alternative balcony railing with a more modern look and a top railing.

Response: The railing has been changed to a more modern perforated metal panel (Bok Modern fascia mount guardrail system) with a top railing. A detail of the railing has been provided on Sheet A-18. In addition, the metal railing has been brought down to the bottom of the balcony deck fascia in order to minimize the trim band between stories (see comment below).

Comment: Remove the composite fascia panel on the second floor and extend the third floor bays down to the second floor.

Response: In many locations, the plaster bays have been extended down to the second story on either side of the sliding balcony doors on the second level. The sliding doors themselves could not be pushed forward, due to the need to maintain the minimum private open space required by the Zoning Ordinance.

Comment: Remove the trim band between the first and second floors.

Response: The trim band has been minimized or eliminated in all locations. In locations where a transition was needed, the height of the band has been minimized.

Comment: Add an architectural canopy above the front unit entries.

Response: Many front entries are situated under 2-foot overhangs of the above second story. However, on the Avila Street elevation, several entries do not have an overhang. In these locations, a canopy has been added. In addition, the applicant has added an elevation detail of an entry, showing typical lighting, and address numbers on Sheet A-18.
Comment: Use horizontal board fencing along the property line with Central Park.

Response: The fencing has been changed to horizontal board in this location.

Comment: Increase the height of the shed roofs.

Response: The maximum building height is limited by the Zoning Ordinance which establishes a maximum building height of 35 feet in the RM zoning district. However, the parapet wall between the shed roofs has been reduced about one foot in most locations to accentuate the height of the shed roofs and create the appearance of additional height.

Comment: Align the entry doors with the windows above.

Response: The misalignment of entry doors occurs only on the Avila Street elevation of Building. This condition occurs as a direct result of the City Council’s direction to the applicant to add smaller units to the project and to address the accessibility of units. In response to these comments, accessible one-bedroom units were added to the ground floor in Building 1, along Avila Street. Due to the need to have accessible entries for these units, there is no flexibility in the floorplans to further align the entries.

The Design Review Board held a second hearing and reviewed the project on December 7, 2016. At this meeting, the Board determined that the applicant had sufficiently addressed their comments. In addition, the Board identified some new comments. The Board expressed concern about the height of the trash enclosures adjacent to the two one bedroom units and the accessory living units and asked that the control joints in the exterior stucco surfaces be shown. The Board also expressed concern that the landscape plan lacked detail. The Board approved the project unanimously, adding Conditions of Approval to address these concerns. (Attachment 4)

Planning Commission Action on the Appeal
On December 15, 2016 Howdy Gouday submitted an appeal of the Design Review Board’s decision to the Planning Commission. On February 15, 2017, the Planning Commission considered the appeal of the Design Review Board’s approval of the project. Again, as specified by the Zoning Ordinance, the standards of the Planning Commission’s review are the same as those required by the Design Review Board, although the hearing body may adopt the same decision and findings or different ones. The Commission held a public hearing and received public comment and presentations from staff, the appellant and the applicant. The Commission reviewed the findings and conditions of approval that were adopted by the Design Review Board and voted unanimously to deny the appeal without altering the findings or conditions of approval.

City Council Action on Appeal
Section 19.39.040.F states:

The authorized hearing body shall review the appeal, the record, and any written correspondence submitted after the appeal has been filed, and shall take one of the following actions:

1. Conduct a public hearing; or

2. Remand the matter to the decision-making body or official to cure a deficiency in the record or the proceedings.

Section 19.39.050 states:

When reviewing any decision on appeal, the hearing body shall use the same standards for decision-making required for the original decision. The hearing body may adopt the same decision and findings as were originally approved or different ones.

This means that appeals are de novo, and the City Council is not obligated to make the same findings that the Design Review Board or Planning Commission made or to reach the same decision. The City Council is free to review the Planning Commission's findings and make the same findings or to make different findings. However, the Council is obligated to evaluate the project based on the Design Review criteria as specified in 19.38.040 and discussed above and the evidence in the record before the Council and to determine whether on the basis of that evidence it can make the findings required for Design Review as outlined in later sections of this report. The Council is also free to adopt the same Conditions of Approval. It may also adopt different Conditions of Approval, if it finds that it can make the required findings only if additional or modified Conditions of Approval are included in the project requirements.

Appellant’s Basis for Appeal
The following is a brief summary of the points contained in Howdy Goudey's February 23, 2017 letter of appeal (Attachment 2). After each point staff has supplied a response. Many issues listed are not within the purview of the Design Review entitlement. When that argument is identified, staff attempts to offer related information for the Council's reference.

Appellant Point: The project creates displacement of long term low-income, elderly and disabled El Cerrito residents. It is morally reprehensible that this act occurred.

Staff Response: This point is not within the purview of this Design Review entitlement action.

For reference, housing conditions of the previous residents of the former Audiss RV Park were documented in a report which was reviewed by the Planning Commission and City Council as part of the review of the Tentative Subdivision Map. The report describes the benefits that were provided to residents of the RV park to mitigate the
effects of the closure of the park. Neither the Municipal Code nor State law mandates compensation to residents for the closure of an RV park. Staff nevertheless insisted on the preparation of the report to document the impacts of the closure of the RV park on residents. In staff’s view, the report assisted the residents in negotiating for the benefits received. For more information see the July 19, 2016 City Council Agenda Bill and attachments located here: http://www.el-cerrito.org/DocumentCenter/View/6202 and on file with the City Clerk. The issue of displacement is a regional problem and its causes are diverse; including a regional lack of new housing at all price points. The possible solutions must also be multi-faceted. Staff hopes that the upcoming Affordable Housing Strategy can supply some policy recommendation for El Cerrito.

Appellant Point: The project doesn’t add housing units; it replaces 39 rental units with 29 market-rate condos.

Staff Response: This point is not within the purview of this Design Review entitlement action. In its approval of the Tentative Subdivision Map, the City Council determined that the project was consistent with the General Plan, including the goals and policies of the Housing Element. For a more detailed analysis of the project’s General Plan compliance with regard to the Housing Element, please see the September 20, 2016 City Council Agenda Bill located at: http://www.el-cerrito.org/DocumentCenter/View/6524 and on file with the City Clerk. For an analysis of the project’s General Plan consistency with respect to this Design Review entitlement, please see the General Plan Consistency section, below. Staff notes that several RV inhabitants had lived at Audiss for many years. However, since the use was legally listed as an RV Park, intended for short term occupancy not long-term residential rental. The property owner was not legally obligated to continue to use the property for an RV park. The number of units approved for the project is at the maximum density permitted under the Zoning Ordinance and General Plan without a density bonus, which a developer is not compelled to use.

Appellant Point: The Condo Conversion Ordinance (Chapter 19.45, ECMC) applies to the project.

Staff Response: This point is not within the purview of this Design Review entitlement action. Further, Planning staff, in consultation with the City Attorney, has determined that Chapter 19.45: Condo Conversion is not applicable to this project. For more information see the September 20, 2016 City Council Agenda Bill located at: http://www.el-cerrito.org/DocumentCenter/View/6524 and on file with the City Clerk.

Appellant Point: The project does not include enough diversity of unit types.

Staff Response: The unit types and mix of units have been approved as part of the approval of the Tentative Subdivision Map. This comment is not within the purview of this Design Review entitlement. In response to the City Council’s comments, two one-bedroom units and three accessory living units were added to the project as part of the
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approval of the Tentative Subdivision Map. The project now features 5 unit types (including the accessory living units). For a more detailed discussion of the unit types, see the September 20, 2016 City Council Agenda Bill located at: http://www.el-cerrito.org/DocumentCenter/View/6524 and on file with the City Clerk.

Appellant Point: The project will add underutilized units to El Cerrito’s housing stock.

Staff Response: The unit types and unit sizes are not within the purview of this Design Review entitlement. For a more detailed discussion of the unit types and El Cerrito’s housing stock, see the September 20, 2016 City Council Agenda Bill located at: http://www.el-cerrito.org/DocumentCenter/View/6524 and on file with the City Clerk.

Appellant Point: The project should include a greater degree of universal access.

Staff Response: This point is not within the purview of this Design Review entitlement. The El Cerrito Building Official has reviewed the submitted plans and has determined that the project meets the requirements of the Americans with Disabilities Act as implemented through the California Building Code. Upon submittal of a Building Permit application, the project will be reviewed in detail for compliance with applicable accessibility requirements. Compliance with the Building Code is mandatory for all projects and is not part of the City Council’s discretionary review of the project’s aesthetics. Further, the applicant added additional accessibility features, including two fully accessible ground floor one-bedroom units to the project as a result of the City Council’s initial comments on the Tentative Subdivision Map. For a more detailed discussion see the September 20, 2016 City Council Agenda Bill located at: http://www.el-cerrito.org/DocumentCenter/View/6524 and on file with the City Clerk.

Appellant Point: The townhome model leads to a heavily automobile-dominated site plan with asphalt alleys that are low-quality space and lack good hardscape design.

Staff Response: The site plan was approved by the City Council as part of the approval of the Tentative Subdivision Map. Therefore, the locations and sizes of building and driveways have been approved. The project is fully compliant with the standards for the Multi-family Residential zoning district in which it is located, including required setbacks, lot coverage, and maximum building height. The applicant has responded to concerns of the City Council and Design Review Board with respect to delineating pedestrian areas along a portion of the driveway leading to Avila Street. This area will be delineated with stamped, colored concrete. Staff notes the project is not within the San Pablo Avenue Specific Plan area where transit-oriented development and lower parking ratios are incorporated into the regulations.

Appellant Point: The project should include centralized garbage collection.

Staff Response: This point is not within the purview of this Design Review entitlement. Further, the project has been reviewed by East Bay Sanitary Company and the City’s
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Operations and Environmental Services Division with regard to garbage, recycling and green-waste pickup. The proposed townhome unit type shares some similarities with more dense multi-family land uses and some similarities with single family land uses. As such, the preference among the two service providers was for the units to have individual refuse bins which are picked up at two collection points. Residents will store bins individually and will wheel bins to two collection points, located near the end of each driveway (one on Santa Clara Street and one on Avila Street). Trucks will not need to enter the property, minimizing noise and inconvenience for residents.

Appellant Point: The Park Closure Report is inadequate.

Staff Response: This Park Closure Report which documented the housing conditions of the previous tenants of the site is not within the purview of this Design Review entitlement. The Park Closure Report was reviewed by the City Council as part of the review of the Tentative Subdivision Map and was utilized to make a determination that the Tentative Subdivision Map approval was consistent with the El Cerrito General plan. For this Design Review action, the City Council must make a determination that the design elements subject to review are consistent with the General Plan. The Park Closure Report is not part of this review. For more information about the Park Closure Report see the July 19, 2016 City Council Agenda Bill and attachments located at: [http://www.el-cerrito.org/DocumentCenter/View/6202](http://www.el-cerrito.org/DocumentCenter/View/6202) and on file with the City Clerk.

Appellant Point: Market-rate projects like this exacerbate the need for more affordable housing. The project could have included affordable housing.

Staff Response: This point is not within the purview of this Design Review entitlement. Further, as the appellant notes in his letter, the City cannot compel the inclusion of affordable units or participation in the State affordable housing density bonus program. As part of the Tentative Subdivision Map approval, the City Council made a determination that that project was consistent with the El Cerrito General Plan, including the Housing Element. For a more detailed analysis of the project’s General Plan compliance with regard to the Housing Element, see the September 20, 2016 City Council Agenda Bill located at: [http://www.el-cerrito.org/DocumentCenter/View/6524](http://www.el-cerrito.org/DocumentCenter/View/6524) and on file with the City Clerk. For an analysis of the project’s General Plan consistency with respect to this Design Review action, please see the General Plan Consistency section, below.

For further reference, Community Development is currently in the process of developing an Affordable Housing Strategy that will analyze the relationship between supply and affordability and consider strategies, such as inclusionary zoning, for the City Council’s consideration.

Zoning Ordinance Consistency

The Design Review component of this proposed project is consistent with the parameters outlined in the Zoning Ordinance for this new development project in this
location. The Zoning Ordinance describes the Multi-family Residential (RM) District as follows:

*To provide opportunities for multi-family residential development in a well-designed environment at a density of 21 to 35 dwelling units per net acre. Additional density can be achieved through the approval of density bonuses and other incentives. The RM district is intended to be located in areas where higher traffic volumes and buildings can be accommodated. These developments should be located outside of single-family residential communities, and where services and transportation systems are adequate to serve the increased densities. The RM district is further intended to achieve design compatibility between new multi-family development and surrounding less intensive residential neighborhoods by establishing physical development standards and performance standards.*

The project density, as proposed, is 35 dwelling units per acre. It is surrounded by a mix of single family and multifamily housing. Its location is within a half mile of several public transit and service opportunities including the El Cerrito Plaza and the nearby BART station, as well as AC Transit bus stops. It is immediately adjacent to Central Park. Nearby major roadways include Central and San Pablo Avenue. Finally, it is proposed to be constructed in full compliance with the development standards of the Multi-family Residential District.

**General Plan Consistency**

The Design Review component of this proposed project is consistent with the vision outlined in the General Plan for new development in this location. It is sited in the High Density General Plan Designation. This designation is described as follows:

*The High Density residential land use category is intended to provide opportunities for multiple-family residential development in a well-designed environment. The range is intended to be located in areas where higher traffic volumes and buildings can be accommodated. These developments should be located outside of single-family residential communities, where services and transportation systems are adequate to serve the increased densities.*

As noted above, the project is surrounded by a mix of single family and multifamily housing. Its location is within a half mile of several public transit and service opportunities including the El Cerrito Plaza and the nearby BART station, as well as AC Transit bus stops. It is immediately served by Central Park. Nearby major roadways include Central and San Pablo Avenue. In the General Plan, this part of the city is known as “Residential Areas West of San Pablo Avenue.” It is described as follows:

*In the area near Central Avenue, this plan will allow for a small increase in residential units over time as older single-family houses are replaced by new multifamily structures (duplex, three- and four-unit apartments, condos, and townhouses). All new development will conform to local development standards and design and development review requirements. In most cases, the plan*
assumes that new construction will be better designed, providing for more amenities than the structures being replaced.

The project will implement all of the goals listed above and the following General Plan policies:

**LU1.3 Quality of Development.** Ensure that all multi-family or mixed-use development in residential areas addresses compatibility and quality of life issues.

The architectural design of the project was revised pursuant to the Design Review Board's comments to ensure the design aesthetic is compatible with the surrounding neighborhood and will provide a positive visual image.

**CD1.1 Neighborhood Character.** Preserve and enhance the character of existing residential neighborhoods by limiting encroachment of new buildings and activities that are out of scale and character with the surrounding use.

The project conforms to all required development standards, including height limits. The proposed multi-family residential use and the overall design of the project are consistent with the surrounding residential neighborhood.

**CD1.3 High-Quality Design.** Encourage higher-quality design through the use of well-crafted and maintained buildings and landscaping, use of higher-quality building materials, and attention to the design and execution of building details and amenities in both public and private projects.

The project is using high quality materials including TruGrain “Resysta” composite siding and Milgard “Montecito” vinyl windows which are made of durable materials. The composite siding is composed of synthetic polymer that can withstand weather conditions found in El Cerrito. Milgard “Montecito” vinyl windows have a slim profile frame providing a clean, modern detail, consistent with the architecture. The windows are recessed from the building face to create shadow lines.

**CD1.9 Building Design.** A variety of attractive images will be achieved by encouraging a variety of building styles and designs, within a unifying context of consistent “pedestrian” scale along streets and compatibility among neighboring land uses.

The project will add new multi-family housing next to surrounding residential uses. Its contemporary architecture with articulated facades will add an attractive image to an already diverse neighborhood architectural theme. It also adds window openings, patios and landscape along the street, continuing the consistent pedestrian-scaled streetscape.
CD2.1 Street Frontages. Encourage street frontages that are safe, by allowing for surveillance of the street by people inside buildings and elsewhere, and are interesting for pedestrians. Require buildings in development centers and neighborhood commercial centers along San Pablo Avenue to be directly abutting sidewalks, with window openings and entries along the pedestrian frontage.

The units will face street frontages on El Dorado and Avila Streets, with front doors, fenced yards and landscaping along the street-frontages. Additionally, balconies on upper levels will also allow for surveillance of the adjacent streets.

CD2.7 Accessible Design. Site and building design must meet basic accessibility needs of the community and not be exclusively oriented to those who arrive by car.

The project will exceed the basic accessibility needs of the community as required by the California Building Code by adding two fully accessible ground floor units and three additional fully accessible accessory living units. In addition, all other units are designed to have stair-lifts as an optional feature available to home buyers.

The project’s many doors and windows which face directly onto Avila and El Dorado provides direct pedestrian access to the project from the public sidewalk. The project’s location, in close proximity to public transit, provides important transportation options for residents and visitors of the project.

CD3.3 Site Landscaping. Improve the appearance of the community by requiring aesthetically designed screening and landscaping on public and private sites. Ensure that public landscaping includes entry areas, street medians, parks, and schools. Require landscaping for all private sites, yard spaces, parking lots, plazas, courtyards, and recreational areas.

Each unit in the project will feature a landscaped yard area in front of the unit. The plant palette has been selected appropriately for El Cerrito’s climate and the characteristics of the site. The project has been revised to respond to the Design Review Board’s preliminary comments regarding landscape design. In addition, the project features a landscaped common area, which also serves as a biofiltration area during wet periods. The plants in this area have been selected appropriately for their dual use.

CD4.2 Building Articulation. Ensure that buildings are well articulated. Avoid large unarticulated shapes in building design. Ensure that building designs include varied building facades, rooflines, and building heights to create more interesting and differentiated building forms and shapes. Encourage human scale detail in architectural design. Do not allow unarticulated blank walls or
unbroken series of garage doors on the facades of buildings facing the street or the Ohlone Greenway.

The building façade is articulated with architectural pop-outs and recesses. These features are appropriately appointed with various exterior materials. The roofline has been revised to address the Design Review Board’s preliminary comments. Garage doors in the project are appropriately broken with front entry doors and material changes.

CD5.1 Design Review Process. Continue design review and approval process for all new development, changes, additions, and modifications of existing buildings (except for single-family homes on existing lots).

The project was approved by the Design Review Board, the Design Review Board’s decision was upheld, on appeal, by the Planning Commission and the project is proceeding through the Design Review process on appeal to the City Council.

Environmental Review
Pursuant to the California Environmental Quality Act (CEQA) Guidelines, Section 15332 Class 32 – Infill Development Projects, the project is exempt from review under CEQA.

Section 15332 of the CEQA Guidelines establishes following conditions for in-fill projects which are exempt from CEQA review:

(a) The project is consistent with the applicable general plan designation and all applicable general plan policies as well as with applicable zoning designation and regulations.

As discussed above, the project is consistent with the High Density General Plan designation and the Multi-family Residential (RM) zoning district.

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

The project is within the City of El Cerrito and the site is 0.84 acres.

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

The San Pablo Avenue Specific Plan EIR did not identify any “candidate, sensitive, or special-status species” with habitat in the San Pablo Avenue Specific Plan Area. While the site is not within the San Pablo Avenue Specific Plan Area, the site sits about 150 feet from the plan area. The site has been extensively disturbed by past development and no longer provides suitable habitat for any special-status animal or plant species.
(d) Approval of the project would not result in any significant effects relating to traffic, noise, air quality, or water quality.

The applicant commissioned traffic analysis, a Noise Impact Assessment, an Air Quality Impact Assessment, a Water Quality Impact Assessment, and a Stormwater Control Plan. These studies are available for review on the city website at part of the Planning Commission packet of May 18, 2016 located at http://www.elcerrito.org/ArchiveCenter/ViewFile/Item/2651 and on file with the City Clerk.

The original studies concluded that the project would not have any significant effects in these areas. The revision to the project provided as a result of the City Council action on the Tentative Map increased the unit count from 27 to 29. This caused an increase of seven new vehicles trips to the project. That increase was seen as negligible amount of additional traffic trips in the traffic analysis (within the standard of error for the existing study) and does not change the conclusions of the original analysis.

(e) The site can be adequately served by all required utilities and public services.

The site is currently served by all utilities. Pursuant to the requirements of the Stege Sanitary District, the applicant has prepared a sewer capacity study which shows that existing sewers have capacity to serve the project.

Proposed Findings for City Council Action
Pursuant to Section 19.38.060: Final Design Review Findings and Criteria of the Zoning Ordinance, the City Council must determine that the project is consistent with the following items in order to approve the project. Staff offers these draft findings to the members of the Council, based on the project as proposed and the action of the Planning Commission:

1. The applicable standards and requirements of this Zoning Ordinance;

   The project meets the requirements of the Zoning Ordinance, specifically Multi-family Residential District and Section 19.06.030 Development Standards. This includes the general development standards in terms of height, setbacks, parking and open space.

2. The design policies of the General Plan and specific plans adopted by City Council;

   The design is consistent with the General Plan designation of High Density Residential for this area of the city; as well as policies that influence design, specifically, L1.1 Quality of Development, CD 1.1 Neighborhood Character, CD 1.3 High Quality Design, CD1.9 Building Design, CD 2.1 Street Frontages, CD2.7
Accessible Design, CD3.3 Site Landscaping, CD4.3 Building Articulation and CD 5.1 Design Review Process.

3. Any applicable design guidelines adopted by the City Council;

   There are no design guidelines adopted by the City Council for this part of the city. This finding is not applicable.

4. The design review criteria set forth in the following subsection;

   The project is in keeping with the design review criteria as outlined below (Section 19.38.060 of the El Cerrito Municipal Code).

5. Any planning or zoning approvals by the Planning Commission or Zoning Administrator;

   The project is consistent with the City Council’s approval of the Tentative Subdivision Map for the project and the Planning Commission’s approval of a Conditional Use Permit to allow a parking reduction. The project has received all required Planning Commission and City Council approval. No additional Zoning Administrator approval is needed.

6. Any other relevant policies or regulations of the City.

   No other City policies apply to this project.

Pursuant to Section 19.038.060.B - Design Review Criteria:

When conducting design review, the City Council shall be guided by whether the project satisfies all applicable criteria, the policies of the General Plan’s Community Design Element, and by any other policies or guidelines that may be adopted by the City Council for this purpose. Criteria listed below are specific criteria that, if applicable, all projects must satisfy for approval.

1. The aesthetic design, including its exterior design and landscaping, is appropriate to the function of the project and will provide an attractive and comfortable environment for occupants, visitors, and the general community.

   The project provides an attractive and comfortable environment for all because the buildings have a clean, contemporary design. Landscaping will be a prominent design feature along the street frontage. The project design provides the tenants many amenities including; private and common open space areas; including private landscaped yards and a landscaped common area.
2. Project details, colors, materials, and landscaping, are fully integrated with one another and used in a manner that is visually consistent with the proposed architectural design.

The building materials integrate well with the building design and the façade articulation. The proposed landscaping is appropriate for the site and integrates well with the proposed design aesthetic. The overall design scheme is visually consistent.

3. The project has been designed with consideration of neighboring development.

Surrounding structures include both single family and multi-family housing. The structures are one, two and three stories high and are typically mid-century in design. The massing of the proposed project is consistent with the prevailing three stories in the neighborhood with similar front, side and rear setbacks.

4. The project contributes to the creation of an attractive and visually interesting built environment that includes well-articulated structures that present varied building facades, rooflines, and building heights and encourages increased pedestrian activity and transit use.

The proposed contemporary design aesthetic will add visual interest and architectural variety to the surrounding area. The buildings will be well-articulated. The El Cerrito Plaza Bay Area Rapid Transit (BART) station and AC Transit bus routes are less than a half of a mile away from the project, making it an ideal walking or biking distance to public transit.

5. Street frontages are attractive and interesting for pedestrians, address the street and provide for greater safety by allowing for surveillance of the street by people inside buildings and elsewhere.

The units will face street frontages on El Dorado and Avila Streets, with front doors, fenced yards and landscaping along the street-frontages. Additionally, balconies on upper levels will also allow for surveillance of the adjacent streets.

6. The proposed design is compatible with the historical or visual character of any area recognized by the City as having such character.

This finding is not applicable. The project location is not in a part of the city that has been recognized as having a historically or visually significant character.

7. The aesthetic design preserves significant public views and vistas from public streets and open spaces and enhances them by providing areas for pedestrian activity.

This finding is not applicable. The project location is not in a part of the city that
has been recognized as having significant public views and vistas from public streets.

8. The proposed landscaping plan is suitable for the type of project and will improve the appearance of the community by enhancing the building, minimizing hardscape and softening walls; and the landscape plan incorporates plant materials that are drought-tolerant, will minimize water usage, and are compatible with El Cerrito's climate.

Each unit in the project will feature a landscaped yard area in front of the unit. The plant palette incorporates drought-tolerant plants and has been selected appropriately for El Cerrito's climate and the characteristics of the site. The project has been revised to respond to the Design Review Board’s preliminary comments regarding landscape design. In addition, the project features a landscaped common area, which also serves as a bio-filtration area during wet periods. The plants in this area have been selected appropriately for their dual roles.

9. The project has been designed to be energy efficient including, but not limited to, landscape design and green or eco-friendly design and materials.

The project has been designed to exceed the energy requirements of Title 24 of the 2016 Cal Green building code by 27%.

10. The project design protects and integrates natural features including creeks, open space, significant vegetation, and geologic features. Projects along the Ohlone Greenway shall enhance the usability and aesthetic appeal of the Greenway by integrating it into the fabric of the City through building designs that include entries, yards, patios, and windows that open onto and face the Ohlone Greenway.

There are no significant natural features on the project site. The site is not adjacent to the Ohlone Greenway. This finding is not applicable.

STRATEGIC PLAN CONSIDERATIONS
By implementing the General Plan policies discussed above, the project will further Goal C: Deepen a sense of place and community identity of the El Cerrito Strategic Plan by incorporating a “vision for underdeveloped and underutilized properties…that [includes] investment and/or new development.”

ENVIRONMENTAL CONSIDERATIONS
As discussed above, staff recommends that the project is exempt from review under the California Environmental Quality Act pursuant to Section 15332: Class 32, Infill Development Projects.
FINANCIAL CONSIDERATIONS
The development of infrastructure for the project will be financed through a combination of development impact fee programs and developer funding. The General Fund will not be used to pay for any of the infrastructure costs of this project.

LEGAL CONSIDERATIONS
The City Attorney has reviewed the project and this report.

Reviewed by:

Scott Hanin
City Manager

Attachments:
1. Draft Resolution
3. Project plans, dated April 10, 2017
4. Design Review Board Resolution DRB16-05, granting design review approval to the project.
5. Planning Commission Resolution PC17-01, denying an appeal and upholding the Design Review Board's design review approval of the project.
RESOLUTION NO. 2017-XX

RESOLUTION OF THE CITY COUNCIL OF THE CITY OF EL CERRITO DETERMINING THAT THE PROJECT IS CATEGORICALLY EXEMPT, MAKING FINDINGS, DENYING AN APPEAL, AND UPHOLDING THE PLANNING COMMISSION’S DESIGN REVIEW ACTION CONDITIONALLY APPROVING THE DESIGN REVIEW OF EL DORADO TOWNHOMES

WHEREAS, on December 17, 2014, Urban Community Partners (“applicant”) submitted an application for a Tentative Subdivision Map and Design Review to build 27 townhome condominiums (“project”) on property located at 5802, 5808 and 5828 El Dorado Street (“subject site” or “site”) (Application No. PL14-0171); and

WHEREAS, the current Assessor’s Parcel Numbers of the site are 510-037-001, 510-037-002, 510-037-027, and 510-037-028; and

WHEREAS, the application number of the project is PL14-0171; and

WHEREAS, the General Plan land use classification of the site is High Density Residential; and

WHEREAS, the zoning district of the site is RM (Multi-family Residential); and

WHEREAS, the project is Categorically Exempt from review under the California Environmental Quality Act pursuant to Section 15332: Class 32, Infill Development Projects; and

WHEREAS, on October 7, 2015, the Design Review Board conducted Preliminary Conceptual Design Review for the project; and

WHEREAS, on May 18, 2016, the Planning Commission adopted a resolution recommending that the City Council approve the Tentative Subdivision Map for the project; and

WHEREAS, on July 19, 2016, the City Council held a public hearing and continued the project to September 20, 2016 with guidance to the applicant as to possible amendments to the project; and

WHEREAS, on September 20, 2016, the City Council adopted a resolution approving the Tentative Subdivision Map for the project; and

WHEREAS, on October 19, 2016, the Planning Commission approved a Conditional Use Permit to allow a parking reduction of 6 parking spaces and a Conditional Use Permit to allow an exception to the requirement for 1 parking space for each of three second units; and

WHEREAS, on November 2, 2016, the Design Review Board considered the Final Design Review for the project and continued the item to the regular December 7, 2016 Design Review Board meeting; and

WHEREAS, on December 7, 2016, the Design Review Board granted Design Review approval to the project; and
WHEREAS, on December 15, 2016, Howdy Goudey submitted an appeal of the Design Review Board’s approval of the project; and

WHEREAS, on February 15, 2017, the Planning Commission considered the appeal and adopted a resolution denying the appeal and upholding the Design Review Board’s action; and

WHEREAS, on February 23, 2017, Howdy Goudey submitted an appeal of the Planning Commission’s action; and

WHEREAS, on April 18, 2017, the City Council of El Cerrito held a properly noticed public hearing on the appeal. As required by El Cerrito Municipal Code Section 19.38.060 and based upon all evidence and reports offered for review, including both oral and written testimony by the appellant, applicant, and members of the public, the City Council does find and determine that the project is consistent with:

1. The applicable standards and requirements of this Zoning Ordinance;

   The project meets the requirements of the Zoning Ordinance, specifically Multi-family Residential District and Section 19.06.030 Development Standards. This includes the general development standards in terms of height, setbacks, parking and open space.

2. The design policies of the General Plan and specific plans adopted by City Council;

   The design is consistent with the General Plan designation of High Density Residential for this area of the city; as well as policies that influence design, specifically, L1.1 Quality of Development, CD 1.1 Neighborhood Character, CD 1.3 High Quality Design, CD1.9 Building Design, CD 2.1 Street Frontages, CD2.7 Accessible Design, CD3.3 Site Landscaping, CD4.3 Building Articulation and CD 5.1 Design Review Process.

3. Any applicable design guidelines adopted by the City Council;

   There are no design guidelines adopted by the City Council for this part of the city. This finding is not applicable.

4. The design review criteria set forth in the following subsection;

   The project is in keeping with the design review criteria as outlined below (Section 19.38.060 of the El Cerrito Municipal Code).

5. Any planning or zoning approvals by the Planning Commission or Zoning Administrator;

   The project is consistent with the City Council’s approval of the Tentative Subdivision Map for the project and the Planning Commission’s approval of a Conditional Use Permit to allow a parking reduction. The project has received all required Planning Commission and City Council approval. No additional Zoning Administrator approval is needed.
6. Any other relevant policies or regulations of the City.

   No other City policies apply to this project; and

WHEREAS, pursuant to El Cerrito Municipal Code Section 19.038.060 B. - Design Review Criteria, when conducting design review, the decision maker shall be guided by whether the project satisfies all applicable criteria, the policies of the General Plan's Community Design Element, and by any other policies or guidelines that may be adopted by the City Council for this purpose. The City Council further finds and determines the following:

a. The aesthetic design, including its exterior design and landscaping, is appropriate to the function of the project and will provide an attractive and comfortable environment for occupants, visitors, and the general community.

   The project provides an attractive and comfortable environment for all because the buildings have a clean, contemporary design. Landscaping will be a prominent design feature along the street frontage. The project design provides the tenants many amenities including; private and common open space areas; including private landscaped yards and a landscaped common area.

b. Project details, colors, materials, and landscaping, are fully integrated with one another and used in a manner that is visually consistent with the proposed architectural design.

   The building materials integrate well with the building design and the façade articulation. The proposed landscaping is appropriate for the site and integrates well with the proposed design aesthetic. The overall design scheme is visually consistent.

c. The project has been designed with consideration of neighboring development.

   Surrounding structures include both single family and multi-family housing. The structures are one, two and three stories high and are typically mid-century in design. The massing of the proposed project is consistent with the prevailing three stories in the neighborhood with similar front, side and rear setbacks.

d. The project contributes to the creation of an attractive and visually interesting built environment that includes well-articulated structures that present varied building facades, rooflines, and building heights and encourages increased pedestrian activity and transit use.

   The proposed contemporary design aesthetic will add visual interest and architectural variety to the surrounding area. The buildings will be well-articulated. The El Cerrito Plaza Bay Area Rapid Transit (BART) station and AC Transit bus routes are less than a half of a mile away from the project, making it an ideal walking or biking distance to public transit.

e. Street frontages are attractive and interesting for pedestrians, address the street and provide for greater safety by allowing for surveillance of the street by people inside buildings and elsewhere.
The units will face street frontages on El Dorado and Avila Streets, with front doors, fenced yards and landscaping along the street-frontages. Additionally, balconies on upper levels will also allow for surveillance of the adjacent streets.

f. The proposed design is compatible with the historical or visual character of any area recognized by the City as having such character.

This finding is not applicable. The project location is not in a part of the city that has been recognized as having a historically or visually significant character.

g. The aesthetic design preserves significant public views and vistas from public streets and open spaces and enhances them by providing areas for pedestrian activity.

This finding is not applicable. The project location is not in a part of the city that has been recognized as having significant public views and vistas from public streets.

h. The proposed landscaping plan is suitable for the type of project and will improve the appearance of the community by enhancing the building, minimizing hardscape and softening walls; and the landscape plan incorporates plant materials that are drought-tolerant, will minimize water usage, and are compatible with El Cerrito's climate.

Each unit in the project will feature a landscaped yard area in front of the unit. The plant palette incorporates drought-tolerant plants and has been selected appropriately for El Cerrito's climate and the characteristics of the site. The project has been revised to respond to the Design Review Board's preliminary comments regarding landscape design. In addition, the project features a landscaped common area, which also serves as a bio-filtration area during wet periods. The plants in this area have been selected appropriately for their dual roles.

i. The project has been designed to be energy efficient including, but not limited to, landscape design and green or eco-friendly design and materials.

The project has been designed to exceed the energy requirements of Title 24 of the 2016 Cal Green building code by 27%.

j. The project design protects and integrates natural features including creeks, open space, significant vegetation, and geologic features. Projects along the Ohlone Greenway shall enhance the usability and aesthetic appeal of the Greenway by integrating it into the fabric of the City through building designs that include entries, yards, patios, and windows that open onto and face the Ohlone Greenway.

There are no significant natural features on the project site. The site is not adjacent to the Ohlone Greenway. This finding is not applicable.

NOW THEREFORE, BE IT RESOLVED by the City Council of the City of El Cerrito that after careful consideration of maps, facts, exhibits, correspondence, and testimony, and other
evidence submitted in this matter, and, in consideration of the findings made above, it hereby
denies the appeal of the Planning Commission’s design review approval of the project and
approves the design review of Application No. PL14-0171, subject to the following conditions:

Planning Division:

1. The project will be constructed substantially in conformance with the plans presented to
the City Council on April 18, 2017. Minor changes may be approved by the Zoning
Administrator. All improvements shall be installed in accordance with these approvals.
Once constructed or installed, all improvements shall be maintained as approved.

2. If applicant constructs buildings or makes improvements in accordance with these
approvals, but fails to comply with any of the Conditions of Approval or limitations set
forth in these Conditions of Approval and does not cure any such failure within a
reasonable time after notice from the City of El Cerrito, then such failure shall be cause
for nonissuance of a certificate of occupancy, revocation or modification of these
approvals or any other remedies available to the City.

3. These Conditions of Approval shall apply to any successor in interest in the property
and Applicant shall be responsible for assuring that the successor in interest is informed
of the terms and conditions of this approval.

4. If not vested, this Design Review approval shall expire 24 months from the date of this
action, unless extended by subsequent action of the City.

5. The applicant shall share the following conditions of approval with their general
contractor for the project. The general contractor shall sign at the bottom of this list to
acknowledge that he/she is aware of all these conditions of approval and will comply as
directed. Prior to the issuance of a building permit, this signed list shall be returned to
the planning and building division and kept as part of the project file:

   a. Water all active construction areas at least twice daily and more often
during windy periods. Active areas adjacent to residences should be kept
damp at all times.

   b. Cover all hauling trucks or maintain at least two feet of freeboard.

   c. Sweep daily (with water sweepers) all paved access roads, parking areas,
and staging areas and sweep streets daily (with water sweepers) if visible
soil material is deposited onto the adjacent roads.

   d. Enclose, cover, water twice daily, or apply (non-toxic) soil binders to
exposed stockpiles.

   e. Replant vegetation in disturbed areas as quickly as possible.

   f. Suspend construction activities that cause visible dust plumes to extend
beyond the construction site.
g. Clear signage at all construction sites shall be posted indicating that diesel equipment standing idle for more than five minutes shall be turned off. This would include trucks waiting to deliver or receive soil, aggregate, or other bulk materials. Rotating drum concrete trucks could keep their engines running continuously as long as they were on-site or adjacent to the construction site.

h. The contractor shall install temporary electrical service whenever possible to avoid the need for independently powered equipment (e.g., compressors).

i. All construction equipment shall be maintained and properly tuned in accordance with the manufacturer’s specifications. All equipment shall be checked by a certified visible emissions evaluator.

j. Post a publically visible sign(s) with the telephone number and person to contact at the Lead Agency regarding dust complaints. This person shall respond and take corrective action within 48 hours. The Air District’s phone number shall also be visible to ensure compliance with applicable regulations.

k. All project construction activities shall be limited to the following hours: 7:00 a.m. to 6:00 p.m., Monday through Friday; and 8:00 a.m. to 5:00 p.m. on Saturdays. Construction activities shall be prohibited on Sundays and holidays.

l. The applicant or contractor shall designate a Construction Noise Coordinator who is responsible for posting required signs, explaining the construction timeline, responding to noise complaints and managing noise through appropriate work practices and other appropriate measures. If complaints are received, the Coordinator shall determine the cause of the noise complaints (e.g., starting too early, bad muffler, etc.) and institute reasonable measures to correct the problem.

m. Signs shall be posted at the construction site, which provide the permitted construction hours, a day and evening contact number for Construction Noise Coordinator and a contact number for the City of El Cerrito.

n. Notification shall be sent to the City and businesses, residences, or noise-sensitive land uses in proximity to the subject site, containing the construction schedule prior to the start of construction. Notice shall also be sent in advance of each expected loud activity or impulsive noise activity.

o. Noisy stationary equipment (e.g. generators and compressors) and materials unloading and staging areas shall be located away from adjacent sensitive uses including adjacent residences.

p. All construction equipment shall be in good working order with properly installed mufflers. Diesel engines shall not be idled unnecessarily.
q. The removal of trees, shrubs, or weedy vegetation shall be avoided during the February 1 through August 31 bird nesting period and roosting bats to the extent possible. If no vegetation or tree removal is proposed during the nesting period, no further action is required. If it is not feasible to avoid the nesting period, the project applicant shall retain a qualified wildlife biologist to conduct a survey for nesting birds no sooner than 14 days prior to the start of removal of trees, shrubs, grassland vegetation, buildings, grading, or other construction activity. Survey results shall be valid for 21 days following the survey; therefore, if vegetation or building removal is not started within 21 days of the survey, another survey shall be required. The area surveyed shall include access roads, and staging areas, as well as areas within 150 feet outside the boundaries of the areas to be cleared or as otherwise determined by the biologist.

r. In the event that an active nest is discovered in the areas to be cleared, or in other habitats within 150 feet of construction boundaries, clearing and construction shall be postponed for at least two weeks or until a wildlife biologist has determined that the young have fledged (left the nest), the nest is vacated, and there is no evidence of second nesting attempts.

s. A qualified biologist shall conduct pre-construction surveys for bats and suitable bat roosting habitat at work sites where culverts, structures and/or trees would be removed or otherwise disturbed prior to initiation of construction. If bats or suitable bat roosting habitat is detected, CDFW shall be notified immediately for consultation and possible on-site monitoring.

t. In the event that subsurface cultural or paleontological resources are encountered during grading, digging or trenching construction activity, work in the immediate vicinity shall be stopped and a qualified archaeologist and/or paleontologist shall be retained to evaluate the finds following the procedures described in the San Pablo Avenue Programmatic Environmental Impact Report for this resource.

u. Project personnel shall not collect cultural resources.

v. If human remains are found, special rules set forth in State Health and Safety Code section 7050.5 and CEQA Guidelines section 15126.4(b) shall apply.

6. Prior to issuance of building permit, the applicant shall demonstrate compliance with Chapter 13.50: Art in Public Places of the El Cerrito Municipal Code to the satisfaction of the Zoning Administrator. The project shall be fully compliant with Chapter 13.50 prior to issuance of Certificate of Occupancy.

7. The applicant shall submit a Stormwater Control Plan to the City for review and approval prior to issuance of building permit. The Stormwater Control Plan shall include a site plan, showing runoff reduction measures included in the project, along with project data form and completed checklists for each of the runoff measures.
8. All required fees of the West Contra Costa Unified School District and the Stege Sanitary District shall be paid prior to issuance of building permit. The applicant shall submit proof of payment to the satisfaction of the Building Official.

9. The applicant shall pay all outstanding City costs associated with the project, including but not limited to legal fees, to the satisfaction of the Community Development Director, prior to the issuance of a building permit.

10. The applicant shall specify a two-by-four trimmer on all windows as part of the building permit submittal for the project.

Public Works Department:

11. The applicant shall re-pave the section of Santa Clara Street between El Dorado Street and the Central Park entrance prior to issuance of Certificate of Occupancy.

12. The applicant shall construct an ADA compliant sidewalk and driveway (a path of travel including truncated domes) on El Dorado Street at Santa Clara Street prior to issuance of Certificate of Occupancy.

13. The applicant shall construct an ADA path of travel, including truncated domes, with a striped crosswalk, from the newly constructed sidewalk on Santa Clara Street to the park entrance prior to issuance of Certificate of Occupancy.

14. The applicant shall provide pedestrian safety measures for pedestrians crossing from the sidewalk to the park to the satisfaction of the Public Works Director. This may include but is not limited to a convex mirror, sensors, or similar device to alert drivers or pedestrians if there is a conflict.

15. The applicant shall construct ADA compliant curb ramps at the entrance on Avila Street prior to issuance of Certificate of Occupancy.

16. The applicant shall replace sidewalk flags along the property frontage to meet City and ADA standards prior to issuance of Certificate of Occupancy. Sidewalk replacement locations will be at the discretion of the Public Works Director.

17. Any new street trees to be installed shall be from the City Master Tree List and be approved by the City Arborist before installation.

18. For any street tree, sidewalk and driveway work, applicant shall obtain a Public Works Encroachment Permit and pay all associated fees.

19. The applicant shall submit a detailed grading plan, obtain a Grading & Transportation Permit and pay all associated fees for all earthwork and grading operations in excess of 50 cubic yards.

20. The applicant shall provide a drainage plan for new roof and any rain leaders. All drainage is encouraged to stay on-site, draining away from the foundations, 10 feet from property lines, and shall not cause a nuisance to neighboring properties.

Fire Department:

22. Prior to the issuance of the building permit, the applicant is responsible to meet the following requirements to the satisfaction of the Fire Marshall:

23. Provide code analysis of required total firefighting water.

24. If required, plans for fire service underground shall be submitted for review, approval and permit under separate cover.

25. Fire Department Connections (FDCs) shall be in locations acceptable to the fire department for emergency operations.

26. Fire Department Connections (FDCs) shall be interconnected between all three buildings and shall be located on El Dorado and Avila.

27. All pathways required for Fire Department access shall remain open, clear and ungated.

28. “KNOX BOX” shall be installed with keys for all common areas.

29. Smoke detection shall be installed in each bedroom, in hallways adjacent to bedrooms, and one detector per floor level (top and bottom of stairs).

30. Smoke detectors shall be 120v powered with battery backup.

31. Smoke detectors shall be interconnected.

32. Carbon monoxide alarm shall be installed outside of and adjacent to sleeping areas where fuel-burning appliances are installed; and in dwelling units that have attached garages.

33. Carbon Monoxide detectors shall be installed in accordance with NFPA 720.

34. Carbon Monoxide alarms shall be 120v Powered with battery backup and be interconnected with the smoke detectors.

35. All electrical breakers shall be labeled.

36. Approved numbers or address shall be provided in such a position to be plainly visible and legible from the street fronting the property. Address shall be either internally or externally illuminated.

37. Automatic Fire Sprinklers shall be installed throughout the Complex.

38. Fire sprinkler plans shall be submitted for review, approval and permit under separate cover.
39. Every sleeping room shall have at least one operable window or door approved for emergency escape or rescue in accordance with CBC 310.4.

40. Escape or rescue windows shall be installed in accordance with CBC 310.4.

Stege Sanitary District:

41. The applicant shall submit a sewer capacity study to Stege Sanitary District for review and approval prior to issuance of building permit.

Design Review Board:

42. Planning staff shall review and approve the final landscape plan prior to issuance of Building Permit.

43. Planning staff shall review and approve a method of screening trash bins in the front yards of units prior to issuance of a building permit.

44. The applicant shall show control joints on exterior stucco surfaces on the Building Permit submittal plans.

I CERTIFY that at a regular meeting on April 18, 2017 the City Council of the City of El Cerrito passed this Resolution by the following vote:

AYES:  COUNCILMEMBERS:
NOES:  COUNCILMEMBERS:
ABSTAIN:  COUNCILMEMBERS:
ABSENT:  COUNCILMEMBERS:

IN WITNESS of this action, I sign this document and affix the corporate seal of the City of El Cerrito on April XX, 2017.

Cheryl Morse, City Clerk

APPROVED:

______________________________
Janet Abelson, Mayor
City of El Cerrito
Planning Division
10890 San Pablo Avenue
El Cerrito, CA 94530

RE: Appeal of the Feb. 15th Planning Commission decision regarding a proposed development at 5828 Eldorado Street (application PL14-0171)

Dear Mayor Abelson, City Council Members and Planning Division Staff,

Please consider the following appeal of the Feb. 15th 2017 Planning Commission decision regarding the final design review for the proposed development project at 5828 Eldorado Street (application PL14-0171). This letter summarizes some of the concerns and is followed by more detailed elements of the appeal and associated municipal code references.

Background
Because I have already appeared before the Council with an appeal regarding a different flawed project, I want to begin by stating that I do not take these appeals lightly and I am not motivated to obstruct development process. It has always been my intention to reach a better outcome than the one proposed and I hope you will work to do the same. I do not oppose development in El Cerrito and this is not a NIMBY complaint without substance. In fact, I have spoken in favor of several recent large developments in our City. However, I feel obligated to speak out against developments that are demonstrably inferior and inconsistent with the goals, policies and values of our community. Regrettably, this project falls into these categories. Not only has the developer made the colossal misjudgment to be a party to a socially irresponsible dislocation of low-income, elderly and disabled residents of longstanding when there are no suitable affordable living situations available to them, he has been insufficiently responsive to the criticism of his project. Furthermore, the planning process and review dialog has failed to uphold essential obligations to the community.

I appreciate the effort of Council, during the sub-division map portion of the process, to provide direction for improved affordability and accessibility elements in the plan. Unfortunately, the developer’s response was insufficient to make the plan more consistent with city policies and the values of the community and relevant critiques on the site plan from the DRB’s initial review were not shared with you at the time of the sub-division map decision. I urge you to oppose this project, as proposed, unless much more substantial improvements are made to address affordability and accessibility.

There are many innovative ways to do better. I have proposed a simple opportunity for the additional smaller units to provide genuine affordability. Instead of offering the additional smaller units for sale at market value, they can be designated as rental units belonging to the HOA with an
income qualification and affordable rent level set in a deed restriction on the property. This would provide significant income to the HOA for maintenance while simultaneously establishing at least two genuinely affordable units to compensate for those displaced by the project. It would be particularly appropriate to offer these rental units to former occupants of the site who have been displaced by the project at the rent they previously paid. The developer has asserted that this is too much of a management burden for an HOA; however, on the contrary, it would relieve some of the burden of HOA dues with very little management overhead.

This is not the only potential way to improve this project, it is just one, relatively easy, incremental gesture (from a re-design point of view). Please use your own imagination to propose solutions to improve this project such that it reflects the social responsibility that our City expects. I urge you to further challenge the developer’s imagination to propose a project that is mindful of the profound social impacts the current project imposes and demand a solution that genuinely mitigates these impacts.

Purview
The decision being appealed has the purview associated with the DRB final design review, the scope of which is primarily an aesthetic architectural review of structures and landscaping applied to a number of stated findings and criteria. The following appeal document is therefore organized within that structure from the zoning ordinance. However, it is important to also reflect on the context of this purview in the larger process. Despite the aesthetic architectural focus of the scope, the DRB final review findings and criteria include broad language with a substantially larger scope, such as findings of consistency with the zoning ordinance, General Plan and other regulations. It has been argued that the sub-division map action for this project severely restricts the purview of final design review; however, it is still extremely important to embrace the entirety of the broad scope of the DRB findings, including an open-minded review of the previous entitlement decisions with respect to aesthetic implications. The design review perspective and findings were not part of the sub-division map decision, and that decision should not preempt them from being considered at this point.

These projects tend to develop a great deal of inertia and inevitability as they move through the process; however, part of final design review needs to be a fresh look at whether the process delivered a sound result in light of the overall context. The maturity and momentum of this project is not an excuse to avoid critical review of the process to date. The developer’s neglect of site plan feedback that was provided at the beginning of the project, should not be rewarded by considering it a settled issue, just because a year has elapsed. The concerns and needs for significant site plan design changes have not gone away, just because the developer chose to ignore them, and their negative implications will not go away for many decades over which this project will stand.

Economic impact
The developer has repeatedly asserted the challenges of making the project economical when improvements have been proposed; however, there is no requirement to substantiate any of these claims and they remain highly questionable, especially considering this proposed design is
one of the least expensive construction types (entirely wood-framed) for units that can be sold at extremely high prices in the current market. In the sub-division map process before Council, the developer was questioned about proposing only 27 units when 29 are allowed. Two small units were subsequently added, as a minimal gesture to improve affordability and accessibility. Rather than hurting the economics of the project, they are likely to financially benefit from this change, because the incremental development cost will almost certainly be far less than the increased sales proceeds of the two additional units. By the same logic, they are leaving money on the table by not making more efficient use of the space and increasing the number of units further, by use of an affordable housing density bonus or other means of variance from the prevailing density standard. This is a rare large site in our city, one of the few that can accommodate greater density without undo impacts on the surrounding neighborhood when properly designed; however, this project completely fails to make the most of the opportunity the site offers and instead squanders the potential with a lasting impact for decades to come.

Despite the superior design flexibility it affords, there was never any serious consideration to utilize dense parking solutions in a common garage rather than individual private garages for each unit. Flexible independent access such as pit lift, puzzle parking and pallet systems (Appendix 2) provide convenience and space efficiency that preserve valuable space to create higher value, more livable, features. It is likely a viable option to consolidate dense parking in a core garage as a means to expand ground floor living space and increase units and density with a lower parking ratio that is more consistent with transit oriented development, without actually increasing the overall built out envelope of the site. In other words, the townhouse format and driveway heavy site plan is seriously underutilizing and degrading the valuable space of the site, one of the few of this size in the area.

Summary Comments

- **This project replaces 36 rental units (among the most affordable in El Cerrito) with 29, mostly three and four bedroom, townhouse condos for sale** at market rate, well out of reach of the majority of the population, certainly beyond that of the longstanding existing residents at the site who were displaced by the project.

- **This project does not help with urban infill and transit oriented development (TOD) but rather displaces a greater number of low-income units to be replaced by a smaller number of high-income units. Low income workers will have to commute greater distances to their jobs in this area as a result of this displacement, which defeats the goals of TOD. The car-centric design of the proposed project is not actually in the spirit of good TOD.**

- **The displacement of low-income, disabled seniors caused by this proposed project is highly immoral and reprehensible** (a displaced elderly man spent this rainy winter living out of his car, one woman suffered a heart attack during her forced move and another woman passed away from a stroke shortly after relocation into a $2500/mo apartment that she could not afford). The project has not adequately mitigated the displacement impact, and this is a major dereliction of social responsibility. The RV park closure document didn’t contact most of the former residents, but it does indicate many former residents were
forced to move 20-30+ miles away. The report does not document the impacts on rent paid, commute distance to work, and other impacts caused by the displacement. Just because the previous residents presumably found something doesn’t mean it came without a significant sacrifice. **You have not been adequately informed of the sacrifices that are being made, by those who can least afford it, for this project to be built.** There is plenty of language in City housing policy supporting the preservation of low-income housing, that has been inappropriately neglected in this case, including the following:

Necessary finding regarding condo conversion in Zoning Ordinance 19.45.080 G (reiterated in Housing Element H1.5):

> The proposed (condominium) conversion will not displace a significant percentage of low and moderate income or senior citizen tenants and delete a significant number of low and moderate income rental units from the city's housing stock at a time when no equivalent housing is readily available in the City of El Cerrito area.

- According to the report provided, in Dec. 2014, only 2 out of 27 units at Audiss RV park were not long term. Despite the notion that an RV Park is typically intended to provide “short term” accommodations, this facility was acting as a de-facto multi-unit rental housing, with several residents living there for decades, because of the lack of sufficient affordable housing in the area. It is unconscionable to neglect the reality that this project is a condo conversion with adverse impacts that are expressly protected in our Zoning Ordinance. This project should not be entitled as condos, or until a mitigation can remedy the violation of 19.45.080 G.

- **It is unacceptable to claim that El Cerrito residents that are highly vulnerable to housing insecurity, do not deserve the protection of the condo conversion ordinance because their housing is somehow less important than someone else’s.** The closure report clearly confirms the scarcity of equivalent housing units in the area. Former residents had to move 20+ miles to find another place to live and there are waiting lists several years long for local affordable housing. The RV park residences are respected by the US census and as a domicile for the purpose of voting and in the legal system. The US postal service, a branch of the federal government, delivered mail to individual free standing mail boxes at Audiss RV spaces, the same level of service as a single family residence. Why is the City of El Cerrito refusing to consider these homes as equal to others for the application of the Zoning Ordinance? The impacts on the people aligning with the conversion ordinance should be more important that the details of the housing perfectly aligning with the ordinance (even though there is nothing in the written ordinance that excludes application to this case).

- **Even with the two additional units, this project does not include enough diversity of housing types/sizes, especially considering the lower cost rental units it is removing.** As a result, this project is not adequately serving the most significant housing needs in our community. It is a waste to squander this rare large parcel on a subdivision for a type of housing that serves only a small sector of higher income residents who have more options than others.
• According to the housing element, nearly 50% of the El Cerrito housing stock is already 3-4 bedroom housing units, but 2/3 of households in the city are 2 or fewer people. As a result, 84% of homes have occupancy of 0.5 per room or less. The proposed pattern of development for this project will only further the underutilization of our housing stock. While reducing the options for low-income residents seeking small affordable dwellings.

• This project provides a meager provision for universal access that is inconsistent with the goals and policies of our City. **Optional stair lifts are not an acceptable level of universal access in new construction.** This approach is a band-aid fix to retrofit older buildings designed when we didn’t know better and should not be used as an excuse to shirk a responsibility to provide genuine universal access as a best practice. The recently entitled 9 unit apartment building, just a few doors down El Dorado street, has a unit with a lift for full universal accessibility in one unit and it is a considerably smaller project. Surely a development of 29 units can afford to provide full universal access to at least one or two units. Really, it should do much better by having a single elevator serve all three buildings connected as one, as well as including larger, exclusively ground floor flats. The pattern of the development of tall narrow townhomes appears to be incompatible with achieving the universal access goals and policies of our city. Housing Element Policy H3.5

  **Encourage the development of housing accessible to people with disabilities, including developmental disabilities, and strive to match housing needs established by local and regional entities for persons with developmental disabilities.**

• While the townhouse rows appear fairly dense, this model of dwelling still closely resembles the detached single family residential model with **a heavily automobile dominated site plan.** These dominate asphalt alleys are low-quality spaces and they are not good hardscape design (which falls under DRB scope).

• **It is inappropriate that a project of this size would be served by individual trash and recycling bins for each unit.** Up to 64-96 bins are proposed to be rolled to the street each week. It is important to include provisions for green waste pickup to allow household compost waste diversion, even if the site doesn’t otherwise generate much green waste from the landscape. An integrated shared refuse pickup solution needs to be implemented through the home owner’s association. Just because the hauler doesn’t mind the solution (they are undoubtedly happy to get up to 32 new accounts) doesn’t mean it is thoughtfully planned for the convenience of the residents and neighbors.

• There are many ways in which this project could employ high quality design elements such as those required in the neighboring San Pablo Specific Plan to provide a more innovative and inclusive housing solution that truly serves the community.

• **The RV park closure report provides inadequate documentation of the impacts to previous residents.** An exceedingly small number of previous residents were actually able to provide input and only about 8 of the 40+ received any financial assistance.
• While there have been new affordable units introduced recently (Ohlone Gardens) and additional sorely needed affordable units are in the pipeline (including new units at Eden Senior Housing, the upcoming Mayfair site, and a modest number at Creekside Walk), these limited resources are massively exceeded by the need and it is irresponsible to remove affordable rental units in exchange for high end market rate condos. The Community Development Department has indicated that the sales comps generated by this condo project will help the financing case for future low-income housing projects; however we can’t afford to lose so many low-income rental units in the name of real estate comps. When I was at the counter filing my first appeal of the DRB decision to the Planning Commission, a man came in asking about affordable housing opportunities and he was told that the waiting lists were about 2 years long. He was also told that “affordable” units in Creekside walk would rent for over $1000/mo. It was clear that he had immediate need and that paying that much rent was not affordable for him. It was painful to watch him be turned away without any help. This project is not helping him, but it did create 30-40 more people like him out there looking for affordable housing in a hostile market.

• It is precisely because of the pressure of market rate projects like this that there are insufficient affordable housing resources available to the people that have been evicted by the previous owner to allow selling this site for development. The developer claims that the project is only feasible as a market rate project, but that argument is unsubstantiated and unconvincing. There is undoubtedly considerable opportunity for a superior design that could probably have 40+ units in a similar site envelope, including affordable units and a greater diversity of units sizes and rental versus ownership types. Also, there were plenty of vacant lots available in El Cerrito that the developer could have chosen to develop without causing displacement.

• It is up to your review to hold the developer to a high standard with regards to meeting Council direction for improved affordability and accessibility in the context of this site. You shouldn’t take a developer’s hearty say-so at face value when they claim they can’t afford to provide an important project amenity. There has been a pattern of reluctance and tone deaf statements by the developer during this application process that should not be rewarded. Our goals and policies give you the leverage to get a better project for the long-term in El Cerrito that doesn't sacrifice our affordable housing and universal access ideals.

• Planning and construction decisions last a long time (50+years) it is important to get them right for the future they will serve, rather than settling for something that is marginally (if at all) helpful in the short term. This project may be compliant with most of the somewhat dated ordinances for the RM district, but it is not consistent with the vision of the SPASP (that it borders) and the broader vision of TOD density increase to serve housing supported by alternative modes of travel. Other projects have sought and received support to obtain lower parking and increased density. This decision will be baked in for a long time, get it right.
Further discussion
There are many ways the developer could be making a more earnest effort to mitigate the affordability impacts associated with the displacement of longstanding residents their project has caused. While the developer cannot be compelled to do so, it still doesn't make financial sense that they are unwilling to take advantage of the state affordable housing density bonus opportunity, as relatively modest provisions of affordable units will allow building more market rate units (up to 39 total) and undoubtedly offer more profit potential. If they were leaving money on the table with 27 instead of 29 units, they are definitely leaving money on the table by not taking the 20% or 35% density bonuses.

For 20% bonus (up to 35 total units)
- 5% very low income: 2 very affordable units, enable 4 more market rate units
- 10% low income: 3 affordable units, enable 3 more market rate units

For 35% bonus (up to 39 total units)
- 11% very low income: merely 3 very affordable units, enable 7 more market rate units!
- 20% low income 6 unit affordable enables 4 more market rate

The “last-century” car-centric townhome site plan (entirely wood-framed) is perhaps the least costly for the developer, but it provides a poor service to the community by failing to achieve the opportunity for high quality dense TOD housing on one of the few larger lots in El Cerrito. A raised concrete podium, or even just elevated decks over the driveways and parking, opens the potential to support more units in the same space while establishing more and higher quality private/shared open space, as well as accommodating parking alongside significantly more ground level living space at the perimeter.

Accessibility, would also be improved by configuring units as flats rather than narrow three-story row houses (not to mention the space savings and construction costs on multiple stairwells in every unit). A single elevator could make every unit 100% accessible if all three building were connected as one. The wall strengthening provision for stair lifts is not an equal or sufficient access provision. It requires numerous inconvenient transfers and isn't accommodating to short notice needs. There are at least two runs of stairs in each unit. The verticality of the units inherently fails to provide universal accessibility. The stair lifts are impractical enough for a resident who needs to install one, but this measure completely ignores the provision of access to incidental needs to accommodate a visitor that aren’t planed weeks in advance and can’t warrant a band aid construction project, because the building didn’t prioritize inclusive design from the outset.

The developer already easily acquired a parking variance as part of the addition of two units, and it would have been an easy opportunity to propose an even lower parking ratio that would be more in line with the direction of the nearby San Pablo Specific Plan, rather than going by the more out of date prevailing zoning. However, even with 2 spaces per unit, they could accommodate parking in a superior manner if they didn't insist on separate garages and long wasteful driveways, dominating most of the ground floor. A common open garage solution (under podium/decks) could
provide more flexibility and enable more usable living space on grade. Mechanical parking density (appendix 2) could also help minimize space for parking and free it to be used for higher purposes that deliver more value to the occupants.

In addition to the two small unit that were added. The three largest units contain accessory dwelling (in-law) units which may increase the number of smaller rental units associated with the site, if the owner chooses to rent them. In order to maintain the highest possible utilization of the bedrooms provided by this project (as opposed to the prevailing low utilization rate in the city), the CC&Rs should be prevented from prohibiting the rental of accessory units, and rooms in other units when they are otherwise owner occupied. Sublet of a room by a renter of one of the full condo units should also not be prohibited. The housing element states: nearly 50% of the El Cerrito housing stock is already 3-4 bedroom housing units, but 2/3 of households in the city are 2 or fewer people. As a result, 84% of homes have occupancy of 0.5 per room or less. We don't need more large underutilized spaces, but we need to be sure that all dwelling configurations are likely to be highly utilized rather than reducing the number of people housed on the site.

Centralized waste collection really needs to be implemented for a project of this size and all three streams need to be supported. The non-driveway street frontage is 130’ and 225’ = 355’. At 3.5’ per bin (~18” gap per pick-up guidelines) the maximum 96 bins require 336’, so apart from the logistical (and noise) nuisance of rolling so many bins long distances every week, there will be curb length conflict with as few as 1-2 cars parking on each street bordering the site, leading to blocked sidewalks and less pickup convenience and efficiency for the route drivers. It has been mentioned that the bins will be “clustered” near the driveways, but it is completely unsubstantiated how such a solution can be practical, with so many bins, without creating significant egress problems. Individual bins are not a good solution for this density of housing, and just another example of where this developer is shirking the responsibility to provide a high quality dense housing solution that is a pleasure for the occupants and the neighborhood alike.

This project is squarely within the intention of the El Cerrito condo conversion ordinance (preventing dislocation of low-income, elderly and disabled residents when they have poor prospects for alternative accommodations), and I still do not see a compelling reason that the ordinance should not be applied equally to protect all long term renters, rather than dismissing some housing and occupants as inferior to others. We should not run El Cerrito like Orwell’s Animal Farm where some are “more equal” than others.

In addition to the many units of long term housing in RVs, there were at least 4-5 units in permanent structures. These units should also qualify for the condo conversion protection, but because two of the duplexes sit on separate lots, they can be narrowly excluded from the multifamily housing designation, even though the project is clearly impacting all five of these units together. A case can be made that the condo conversion ordinance should apply (especially since they are being impacted by a single project under a single demolition permit after the parcels have been combined and re-split with a subdivision map). The application of the condo conversion ordinance remains an interpretation that ultimately you need to evaluate and exercise with a well-supported determination, rather than just accepting the staff interpretation.
It has been said that this development has been careful or conservative by staying within the zoning criteria (some of which are now dated compared to recent directions in the city). However, it is never a conservative act to undertake the development of an occupied property that forces displacement of long-standing residents, especially when proposing condos in a city with a conversion ordinance. Even in the case that the law protects the intention to displace low-income and elderly residents (which I do not think it does), it is all the more reprehensible that a developer is willing to exploit a favorable interpretation of the law rather than reflecting their social responsibility to the community and voluntarily avoiding the negative impacts of the current proposal.

I do not oppose new development of the site in question. However, I strongly oppose the details of the proposed project as they stand because they are inconsistent with the goals and policies of the city and they represent a failure of social responsibility on the part of the developer to be thoughtful about the context of the housing they are replacing and the occupants that have been displaced by their proposed project.

**Conclusion**

I agree that we want to encourage new high quality development and not obstruct it, but we also shouldn’t just take projects as they come, especially when they primarily serve outside interests, rather than the goals and values of the community of El Cerrito and its long-standing residents. **It is important for the City Council to stand up for the people and policies of our community and not just accept a developer’s word without substantial supporting evidence.** Development decisions have longstanding impacts, it is imperative that we do our best to get them right and not just settle for anything new.

It was striking to witness the strength and caring within the Audiss community during the several presentations they made before the City Council and DRB. Despite modest means, they shared holidays together, and looked out for each other. It was heartening and inspiring to learn about, and thus even more disheartening to witness the lack of protection offered when their community was destroyed to make way for market rate condos to be sold to much wealthier people. It is a failure of policy interpretation that the longstanding residents of Audiss RV park were marginalized, under-appreciated and forced to move miles away so that other can build high priced housing where they once lived.

It is important to recognize that there are significant mental/physical stress implications of housing insecurity with serious health impacts. An elderly man has been living out of his car through this rainy winter, following his displacement from Audiss. An elderly woman suffered a heart attack during her move (thankfully she recovered and is ok). Another elderly woman suffered a stroke and passed away shortly after moving to the only accommodation she could find at $2500/mo, a rent she could not afford indefinitely. This project does not increase housing density or opportunity, it just changes who can live there (wealthier people replacing lower-income residents) and it is unconscionable.
The El Cerrito community has appropriately rallied support to denounce an egregious hate crime in our city. It is not hyperbole to characterize this displacement of some the most vulnerable low income residents in our city for the benefit of a developer and wealthy home buyers as an egregious economic hate crime that deserves the same denouncement and commitment to action. I do not say this to be provocative. I say it as a call to personal action, that not a single one of us should be comfortable condoning this action, and the developer should feel to social pressure to offer a better solution for the sake of his own conscience and to earn the heart-felt support of his fellow human beings, rather than hiding behind inhuman private property rights. With property right come property responsibilities and it is up to all of us to remind others of this social responsibility.

Unfortunately, the history of humanity is littered with recurring episodes of displacement of people with less socio-economic power, while simultaneously providing overwhelming favor toward those with more money and power. Which side of this dismal trend do you want to align yourself and your decisions for El Cerrito? Please fully consider and implement means to improve this project to assure that it adequately serves the standards and values of our community rather than just the economic interest of the developer.

I fully expect that developer, the community, City staff and Council do not want to be party to a project that benefits a few wealthier people over a larger number of low-income people who are struggling to find housing in our community. It is incumbent upon all of us to act to improve this project and protect the displaced residents as required by the Zoning Ordinance 19.45.080 G.

Sincerely,

Howdy Goudey

635 Elm St.
El Cerrito, CA 94530
An appeal of the February 15th 2017 decision of the Planning Commission regarding the final design review for the proposed project at 5828 Eldorado Street

It is important to begin with a full understanding of the scope, purview and findings for the Design Review Board (DRB) decision that this appeal is asking the Council to consider. Because only a portion of the text was provided in the staff report for this appeal. The complete relevant text from the municipal code. The DRB final design review scope, has been provided in Appendix 1 of this document (ECMC 19.38.040 and 19.38.060). Selected relevant sections are presented below with each associated appeal argument.

Scope of Final Design Review (19.38.040):
To paraphrase the relevant sections, the scope of final design review is the aesthetic architectural review applied to structures and landscaping, including character defining features and the relation to existing settings (19.38.040-C) and the location and type of landscaping including selection and size of plant materials and design of hardscape (19.38.040-E).

This is the definition of scope that should be kept in mind when considering the following design review findings and criteria from section 19.38.060. I encourage you to consider the language in 19.38.040 and 19.38.060 yourselves (not just allow it to be interpreted for you by staff) and reflect on what you are being asked to review. To ensure the best project outcome, it is important to maintain an open mind that there is still an opportunity to revisit.

Final Design Review Findings (19.38.060)
The Design Review Board may only approve a final design review application if it finds it to be consistent with the following:

A1. The applicable standards and requirements of this Zoning Ordinance

The project is not compliant with all the zoning ordinance standards. For instance, the condo conversion ordinance (19.45) should be applied.

19.45.010 - Purpose.
The purpose of this chapter is to establish criteria for the conversion of existing multiple family rental housing to condominiums and to reduce the impact of such conversions on residents in rental housing who may be required to relocate due to the conversion.

19.45.020 - Applicability.
The regulations set forth in this chapter shall apply to the conversion of existing multiple family rental housing to condominiums.
The ordinance does not elaborate on the type of multifamily rental housing. It says what is included, but it is not exhaustive and does not say what is excluded. It does not specify if the ordinance only applies to condo conversion of existing units as they stand, or conversion by demolition as well.

**19.46.030 - Residential use classifications.**  
4. Multiple Family Residential. Three or more dwelling units on a single lot. Types of multiple-family dwellings include: townhouses, garden apartments, and other apartment buildings.

**19.47.020 - Definitions.**  
**Building.** Any structure having a roof supported by columns or by walls, designed for the shelter or housing of any person, animal or property.  
**Dwelling.** A building or portion thereof designed and used exclusively for residential occupancy, including one-family, two-family and multiple-family dwellings, but not including hotels, motels or boarding houses.  
**Dwelling Unit.** One room or a cluster of rooms designed for use by one family for living and sleeping purposes and having only one kitchen or kitchenette.

The definitions above help clarify that any rental situation with 3 or more units comprised of "room/s" with a roof on a lot for the purpose of living and sleeping by independent families would qualify for the 19.45 condo conversion ordinance.

There is no explicit reference in the El Cerrito Municipal code that excludes house trailers or motor homes (with fixed sewer, water and electrical connections) from being considered "dwelling units."

However it has been asserted as an interpretation by staff the, “for the purposes of the condo conversion ordinance, the RV park doesn't qualify as multi-family residential housing. The definition of multi-family residential housing includes a list of the types of housing that qualify and an RV park isn't similar enough to the types of housing listed to qualify.”

Shouldn’t we be more concerned about the impacts to the people being similar to those the ordinance tries to avoid rather than the building type being similar enough? Ultimately, this is an interpretation. The strict language of the ordinance does not clearly exclude this housing type from multi-family designation and there are more than three units of permanent rental housing structures across the multiple lots which should also qualify given they are impacted together under one project.

It would be in the best interest of all concerned to be more careful to mitigate the serious social impacts associated with housing displacement and affordability, rather than attempting to push through a market rate project that displaces low-income residents and seniors by interpreting ordinances in a manner that is favorable to a developer at the expense of the least powerful in our community.
A2. The design policies of the General Plan and specific plans adopted by City Council.

Housing Element (part of General Plan):

H1.1 Encourage neighborhood preservation and housing rehabilitation of viable older housing to preserve neighborhood character and, where possible, retain supply of very low, low, and moderate-income units.

- The “where possible” clause doesn’t mean it is a low priority, optional consideration, it means that this is an important consideration that should be taken seriously where it applies, because it is infrequent as an existing condition. This is all the more reason to pay close attention to it in the rare instances where low-income units are the existing condition, such as this.

H1.2 Discourage the conversion of residential uses to non-residential uses, unless there is a finding of clear public benefit and equivalent housing can be provided for those who would be displaced by the proposed conversion.

- While the new use remains residential, this policy further emphasizes our community values that displacement is not acceptable without the availability of equivalent alternative housing, especially for residents facing the most extreme housing insecurity.

H2.1 Provide adequate residential sites for the production of new for-sale and rental residential units for existing and future residents.

- This project achieves new, for-sale, housing by removal of a greater number of rental units (net loss) and displaces lower-income rental units with expensive for sale condo units.

H2.7 Encourage innovative housing approaches in the design and ownership of units to increase the availability of affordable housing.

- This project is not innovative and is providing only expensive 3-4 bedroom units for sale and the few smaller units in the revised plan are not a sufficient redesign. A more diverse selection of housing, including affordable units, would be far more innovative and supportive of the needs of the community. Beyond the superior project that could be prosed within the RM zone standards. The Planned Development and density bonus opportunities give the needed latitude to achieve a more innovative solution to address housing affordability and diversity, as supported by policy and programs of the Housing Element. Following the Planning Commission meeting on this project last May, one of the Commissioners said that the design of the project represented “everything that was wrong with townhouse development in the 1970’s” (not a ringing endorsement of “innovative” and accommodating design).
H2.8 Encourage diversity of unit size and number of bedrooms within multifamily housing developments and strive to provide family housing of 3 to 4 bedroom units within projects.

- Mostly providing 3-4 bedrooms units is not adequately serving diversity. This provision means to be inclusive of 3-4 bedrooms units, not nearly exclusively providing 3-4 bedroom units (especially when replacing smaller more affordable units). The Mayfair project sees the market rate housing opportunity to be much greater with studio, 1 and 2 bedroom units. The housing element shows that roughly 2/3 of El Cerrito households are 2 or fewer people. Given this trend, most of the proposed bedrooms will be empty (at least as bedrooms). It has been suggested that renting out rooms may increase the density of use of these large units, but it is possible that the condo homeowner’s association (HOA) will prohibit the rental of a room by its owner or the sublet of an extra bedroom by the renter of a whole conde. It should be assured as a condition of approval that renting portions of the condos will not be prohibited by the HOA CC&Rs.

H2.9 Provide regulatory and/or financial incentives where appropriate to offset or reduce the costs of affordable housing development, including density bonuses and flexibility in site development standards.

- Incentives exist to make it attractive to include affordable units (acceptance of higher density and other concessions), but this project is not including them and claiming that it isn't economical, which is unsubstantiated and not likely given the power of the incentives, if a more innovative project was proposed.

H2.12 Based on the land-use strategy developed in the General Plan and Zoning Ordinance, direct growth into compact patterns of development to promote infill and intensify land uses.

- Actually this "infill" project is reducing the intensity of housing by replacing 36 units with 29 units. The only thing it "grows" is high priced housing that can only be afforded by wealthier people than were previously living there.

H2.13 Assist and cooperate with non-profit, private, and public entities to maximize opportunities to develop affordable housing, including extremely low-income housing.

- The City is clearly committed to these goals if the developer is willing to engage the affordable housing opportunity and responsibly mitigate the problem they have exacerbated by displacing affordable rental housing units.

H3.1, 3.5 Encourage the provision of housing for special needs groups. / Encourage the development of housing accessible to people with disabilities, including developmental disabilities, and strive to match housing needs established by local and regional entities for persons with developmental disabilities.

- Evicting low-income disabled seniors to sell high cost condos is not adequately considering the welfare of some of our most vulnerable residents. The townhome design and the
limited provisions offered toward meaningful universal access, are inadequate to meet accessibility policies. The units are heavily dominated by the multiple flights of stairs. This reduces universal access and makes poor use of limited floor space as well as adding a great deal of inconvenience for occupants. Every piece of furniture and bag of groceries will need to be carried up one or more full flights of stairs.

_H4.1 Promote fair housing opportunities for all people._
- In his letter supplied to the Planning Commission packet for their May meeting on the project, the developer expresses concern with the fairness of how his project is treated, but does not seem concerned with the fairness of the implications of his housing project on the people previously living there, or the community as a whole. It is exceedingly unfair (and a violation of El Cerrito’s zoning ordinance) to evict low-income, elderly and disabled residents without good alternatives. To truly serve the community, the project design would embrace fairness to support the broader range of housing needs by introducing more diversity of housing units, instead of just replacing low-income renters with expensive condo units in order to turn the highest profit.

_San Pablo Avenue Specific Plan:_
Although the project site is not in the San Pablo Avenue Specific Plan (SPASP) area and the application predates the adoption of that plan, the close proximity and the claim of providing a transit oriented development, bears comparison to the guidance of that SPASP.

_A4. The design review criteria set forth in the following subsection._

See comments on section B criteria below.

_A6. Any other relevant policies or regulations of the City._

_Strategic Plan:_

**Value: Responsiveness**
- Seeks and utilizes community input

There has been a regrettable failure to meaningfully act on the significant community input, including the displaced residents of the former Audiss RV Park, to guide improvements to this project.

**Value: Ethics and Integrity**
- Keeps the public’s interest always in mind
- Has the courage to say no
- Is willing to admit failures/faults
As stated under the responsiveness section above, the public process regarding this development has not kept the public’s interest in mind as much as it has kept the developer’s interests in mind.

The Strategic Plan guides decision makers to have the courage to say no. In this case that means the courage to say no to a developer who rigidly rejects adopting design modifications that will improve the project for all concerned.

We are appealing for your review to take to heart the Strategic Plan recommendation to willingly admit failures/faults of the process to date and to remedy them while there is still an opportunity.

**Final Design Review Criteria (19.38.060)**

All projects must satisfy the following for approval:

**B1. The aesthetic design, including its exterior design and landscaping, is appropriate to the function of the project and will provide an attractive and comfortable environment for occupants, visitors, and the general community**

The three rows of tall, narrow buildings with asphalt driveways in between are too crowded and create unattractive and uninviting low quality alley spaces as the majority of the exterior common space on the site.

**B3. The project has been designed with consideration of neighboring development.**

The design is monotonous and not consistent with the surroundings. The car-centric choices and the dense concentrations of rolling refuse bins, rather than communal waste collection, is not a considerate interface with the neighborhood.

**B4. The project contributes to the creation of an attractive and visually interesting built environment that includes well-articulated structures that present varied building facades, rooflines, and building heights and encourages increased pedestrian activity and transit use.**

At ½ mile, the walking distance to BART is not highly convenient and the destinations served by bus routes on San Pablo are limited. For these reasons, it is not accurate to portray these units as highly transit oriented, especially when the design is very car-centric with so much valuable space dedicated to driveways and private garages. Most importantly, the new development does not actually add units or residents compared to the preexisting condition, so the project does nothing to improve housing density near transit, as genuine transit oriented projects should.

**B8. The proposed landscaping plan is suitable for the type of project and will improve the appearance of the community by enhancing the building, minimizing hardscape and softening walls; and the landscape plan incorporates plant materials that are drought-tolerant, will minimize water usage, and are compatible with El Cerrito’s climate.**
While the project meets outdoor open space requirements, the overuse of asphalt hardscape alleys serving the private garages is a poor use of outdoor common space that degrades the outdoor livability of the units.

B9. The project has been designed to be energy efficient including, but not limited to, landscape design and green or eco-friendly design and materials.

The car-centric plan and high fraction of asphalt hardscape associated with this development is not green or eco friendly design. The poor choice of individual household roller bins for trash and recycling does not include composting for food waste diversion and is a disincentive to recycle, because an extra bin must be rolled a long distance every week and the large number of bins will probably not be easily accommodated on streets that also are used for street parking.

The DRB has repeatedly expressed that vinyl framed windows are a lower grade building material with poor aesthetics and lesser durability. It is worth noting that all vinyl frames expand and contract a great deal more than other materials with every temperature swing. The repeated cyclical expansion and contraction may lead to premature seal failure, operability and other durability issues. Vinyl framed windows do, of course, meet the energy code requirements; however, vinyl is not considered a “green” building material. It has significant environmental impacts associated with manufacture and it has lower performance in terms of lifetime durability and life cycle impacts. This is particularly notable because windows are an expensive building component to replace and by specifying a lower quality product the developer is saddling the future building owners with less occupant satisfaction and greater building maintenance cost over time.
Appendix 1 – Title 19 – Zoning. Part V – Administration, El Cerrito Municipal Code

19.38.040 - Scope of final design review.

The Zoning Administrator or Design Review Board shall approve, conditionally approve or deny, or make recommendations on applications for final aesthetic architectural review based on consideration of the requirements of this Chapter as they apply to design of the structures, landscaping, lighting and other architectural features of an application including:

A. Building articulation, facade treatment and architectural details.
B. Exterior colors and materials.
C. Character defining features and the relation to existing settings.
D. Design of fences, walls, and screen plantings, including but not limited to height of those structures, materials, colors, and type.
E. Location and type of landscaping including selection and size of plant materials and design of hardscape including landscape lighting.
F. The size, location, design, color, number, lighting, and materials of signs.
G. Design of the streetscape, including but not limited to landscaping, furniture and materials.

19.38.060 - Final design review findings and criteria.

A. Findings for Approval. The Zoning Administrator or Design Review Board may only approve a final design review application if it finds that the application is consistent with the purposes of this Chapter and is consistent with:

1. The applicable standards and requirements of this Zoning Ordinance;
2. The design policies of the General Plan and specific plans adopted by City Council;
3. Any applicable design guidelines adopted by the City Council;
4. The design review criteria set forth in the following subsection;
5. Any planning or zoning approvals by the Planning Commission or Zoning Administrator;
6. Any other relevant policies or regulations of the City.

B. Design Review Criteria. When conducting design review, the Zoning Administrator and the Design Review Board shall be guided by whether the project satisfies all applicable criteria, the policies of the General Plan’s Community Design Element, and by any other policies or guidelines that may be adopted by the City Council for this purpose. Criteria listed below are specific criteria that, if applicable, all projects must satisfy for approval.

1. The aesthetic design, including its exterior design and landscaping, is appropriate to the function of the project and will provide an attractive and comfortable environment for occupants, visitors, and the general community.
2. Project details, colors, materials, and landscaping, are fully integrated with one another and used in a manner that is visually consistent with the proposed architectural design.
3. The project has been designed with consideration of neighboring development.
4. The project contributes to the creation of an attractive and visually interesting built environment that includes well-articulated structures that present varied building facades, rooflines, and building heights and encourages increased pedestrian activity and transit use.
5. Street frontages are attractive and interesting for pedestrians, address the street and provide for greater safety by allowing for surveillance of the street by people inside buildings and elsewhere.
6. The proposed design is compatible with the historical or visual character of any area recognized by the City as having such character.
7. The aesthetic design preserves significant public views and vistas from public streets and open spaces and enhances them by providing areas for pedestrian activity.
8. The proposed landscaping plan is suitable for the type of project and will improve the appearance of the community by enhancing the building, minimizing hardscape and softening walls; and the landscape plan incorporates plant materials that are drought-tolerant, will minimize water usage, and are compatible with El Cerrito's climate.
9. The project has been designed to be energy efficient including, but not limited to, landscape design and green or eco-friendly design and materials.
10. The project design protects and integrates natural features including creeks, open space, significant vegetation, and geologic features. Projects along the Ohlone Greenway shall enhance the usability and aesthetic appeal of the Greenway by integrating it into the fabric of the City through building designs that include entries, yards, patios, and windows that open onto and face the Ohlone Greenway.

C. Final Design Review Conditions. In granting final design review approval for a project that meets all of the applicable standards and requirements of this Zoning Ordinance, the Zoning Administrator or Design Review Board may impose final aesthetic architectural design conditions reasonably related to the application and deemed necessary to achieve the purposes of this Chapter. Therefore, such conditions may not overlap with, or impose more restrictive requirements than those provided for under Planning Commission land use authority pursuant to State law, the Municipal Code, Zoning Ordinance, and any other adopted plans, policies, permits or regulations. Notwithstanding the foregoing, this section shall not limit the powers of the Zoning Administrator or Design Review Board established by any other law.

(Ord. 2008-2 Div. II (part), 2008.)
Appendix 2 – Independent dense parking systems (any car is accessible anytime without the action of other drivers)

Pit lift system gain more independent parking with modest excavation

Puzzle parking (vertical and horizontal motion) more space efficient

Pallet parking (density without lift, pits, or higher ceiling)
TENTATIVE MAP
FOR CONDOMINIUM PURPOSES
GRADING & UTILITY PLAN
EL DORADO TOWNHOMES
CITY OF EL CERRITO  CONTRA COSTA COUNTY  CALIFORNIA

SCALE: 1" = 20'  DATE: AUGUST 30, 2016

Site Plan - TM-4
NOTES:
1. ALL TREES SHALL BE PLANTED 20’ INDIAN FOR 10’ STREET.
2. TREES BE PLANTED 30’ OF HABITAT ELEMENT.
3. LANDSCAPE AND PLANTING SHALL COMPLY WITH CITY’S CURRENT WATER-EFFICIENT LANDSCAPE ORDINANCE.
4. LANDSCAPE AND PLANTING SHALL COMPLY WITH CITY’S CURRENT WATER-EFFICIENT LANDSCAPE ORDINANCE.
5. LOW WATER USE PLANTING FOR ALL SHRUB AND GROUNDCOVER AREAS.
6. MEDIUM WATER USE PLANTING FOR TREES.
7. LOW WATER USE PLANTING AT BIOTRETENTION AREA.
8. MEDIUM WATER USE PLANTING FOR TREES.

WATER BUDGET CALCULATIONS:

LOW WATER USE PLANTING:
- All plantings shall be irrigated at 70% water efficiency.
- All plantings shall be watered at 50% water efficiency.

LOW WATER USE PLANTING:
- All plantings shall be watered at 70% water efficiency.
- All plantings shall be watered at 50% water efficiency.

LOW WATER USE PLANTING:
- All plantings shall be watered at 70% water efficiency.
- All plantings shall be watered at 50% water efficiency.
Landscape Enlargement Plan

LANDSCAPE ARCHITECTURE
LAND PLANNING
1410 BONANZA STREET
SUITE 314
WALNUT CREEK, CA 94596
TEL: 925.938.7377
FAX: 925.938.7436

4" CONCRETE WALK - PEDESTRIAN ACCESS TO EL DORADO STREET

SCREEN TREE, TYPICAL

PRECAST CONCRETE PAVER TRUNCATED DOMES

COLORED CONCRETE WALK ALONG ASPHALT DRIVE WITH PERIMETER BAND AND STAMPED COBBLE FIELD
COLOR: MESA BUFF BY DAVIS COLORS

STAMPED COLORED CONCRETE WALK AT ASPHALT DRIVE WITH PERIMETER BAND AND STAMPED COBBLE FIELD
COLOR: GREY

6'-0" HORIZONTAL WOOD FENCE

PRECAST CONCRETE PAVER TRUNCATED DOMES

AVILA STREET

5828 EL DORADO, LLC

El Dorado Townhomes
El Cerrito, California

Landscape Enlargement Plan

November 15, 2016
PROJECT DATA

ADDRESS: 525 EL DORADO ST

APN: 510-007-003, 510-007-002, 510-007-007, 510-007-008

ZONE DESIGNATION: RM (Units 1-3) FAMILY RESIDENTIAL
GENRAL PLAN DESIGNATION: HIGH DENSITY RESIDENTIAL
TOTAL LOT AREA: 84 ACRES (36,765 SF)
LOT OVERAGE: 47,864
HEIGHT LIMIT: 30 FEET

LANDSCAPED AREA REQUIRED: 2.8% OF GROSS AREA
LANDSCAPED AREA PROVIDED: 5,525 SF
PRIVATE OPEN SPACE REQUIRED: 0.05% OF GROSS AREA
PRIVATE OPEN SPACE PROVIDED: 6,090 SF

UNIT A: 300 S.F., 150 EAC, 60 PER UNIT
UNIT B: 300 S.F., 120 EAC, 60 PER UNIT
UNIT C: 300 S.F., 120 EAC, 60 PER UNIT
UNIT D: 300 S.F., 120 EAC, 60 PER UNIT
UNIT E: 300 S.F., 120 EAC, 60 PER UNIT
UNIT F: 300 S.F., 120 EAC, 60 PER UNIT
UNIT G: 300 S.F., 120 EAC, 60 PER UNIT
UNIT H: 300 S.F., 120 EAC, 60 PER UNIT

TOTAL PRIVATE SPACE REQUIRED: 2,720 SF (29 UNITS AT 95 SF EA)
TOTAL PRIVATE SPACE PROVIDED: 1,280 SF

EXCESS OPEN SPACE PROVIDED (1,440 SF)
PRIVATE OPEN SPACE
COMMON SPACE REQUIRED: 1,440 SF (29 UNITS AT 49 SF EA)
COMMON SPACE PROVIDED: 1,391 SF

SUMMARY - RESIDENTIAL UNITS
TOTAL UNITS: 29 UNITS
UNIT A: 29 UNITS
UNIT B: 25 UNITS
UNIT C: 25 UNITS
UNIT D: 25 UNITS
UNIT E: 25 UNITS
UNIT F: 25 UNITS
UNIT G: 25 UNITS
UNIT H: 25 UNITS

AVG. GROSS UNIT AREA BY UNIT TYPE:
UNIT A: 2,140 SF
UNIT B: 2,023 SF
UNIT C: 1,633 SF
UNIT D: 1,548 SF

PARKING REQUIRED:
40 VEHICLES
36 COVERED SPACES
3 SPACES (MAY BE UNCOVERED)

CONCEPTUAL SITE PLAN

AVILA ST.

12 UNIT BUILDING
8 UNIT BUILDING
8 UNIT BUILDING
1. BUILDING 1 - ROOF PLAN

2. BUILDING 1 - SECOND FLOOR PLAN
SECTION AA - BUILDING 2

SECTION CC - BUILDING 2
CONCEPTUAL BUILDING MATERIALS

HORIZONTAL COMPOSITE SIDING
MANUF: TRUGRAIN "RESYSTA"
COLOR: JAVA TEAK
MATERIAL: SYNTHETIC POLYMER

ROOF SHINGLE
MANUF: GAP TIMBERLINE NATURAL SHADOW SHINGLES
COLOR: ARCTIC WHITE

VINYL WINDOWS & SLIDING DOORS
MANUF: MILGARD "MONTECITO"
COLOR: SILVER

CEMENT PLASTER BASE
MANUF: BENJAMIN MOORE
COLOR: #1615 STORMY SKY

CEMENT PLASTER SIDING
MANUF: BENJAMIN MOORE
COLOR: #1457 WHITE WINGED DOVE

FASCIA, RAILINGS AND TRIM
MANUF: BENJAMIN MOORE
COLOR: #1603 TIMBER WOLF

METAL FRONT ENTRY DOOR
MANUF: BENJAMIN MOORE
COLOR: #1006 DEVONWOOD TAUPE

NOTE: Paint color numbers, materials and manufacturers shown on this board are representative only. Final approval will be based on sample portion of building. Call the architect or owner for final reviews. The owner reserves the right to change any listed manufacturer. The changes in manufacturer shall not affect price or material as noted.
CONCEPTUAL BUILDING LIGHTING

NOTE: Light fixture colors, material and manufacturers shown on this board are representative only. The owner reserves the right to change any listed manufacturer.
Design Review Board Resolution DRB16-05

APPLICATION NO. PL14-0171

A RESOLUTION OF THE CITY OF EL CERRITO DESIGN REVIEW BOARD GRANTING DESIGN REVIEW APPROVAL OF A TWENTY NINE UNIT TOWNHOME PROJECT LOCATED AT 5802, 5808 AND 5828 EL DORADO STREET.

WHEREAS, the subject property is located at 5802, 5808 and 5828 El Dorado Street; and

WHEREAS, the current Assessor’s Parcel Numbers of the site are 510-037-001, 510-037-002, 510-037-027, and 510-037-028; and

WHEREAS, the application number of the of the project is PL14-0171; and

WHEREAS, the General Plan land use classification of the site is High Density Residential; and

WHEREAS, the zoning district of the site is RM (Multi-Family Residential); and

WHEREAS, the project is Categorically Exempt from review under the California Environmental Quality Act pursuant to Section 15332: Class 32, Infill Development Projects; and

WHEREAS, on December 17, 2014, the applicant submitted an application for a Tentative Subdivision Map and Design Review; and

WHEREAS, on October 7, 2015, the Design Review Board conducted Preliminary Conceptual Design Review for the project; and

WHEREAS, on May 18, 2016, the Planning Commission passed a resolution recommending that the City Council approve the Tentative Subdivision Map for the project; and

WHEREAS, on July 19, 2016, the City Council held a public hearing and continued the project to September 20, 2016 with guidance to the applicant as to possible amendments to the project; and

WHEREAS, on September 20, 2016, the City Council passed a resolution approving the Tentative Subdivision Map for the project; and

WHEREAS, on October 19, 2016, the Planning Commission approved a Conditional Use Permit to allow a parking reduction of 6 parking spaces and a Conditional Use Permit to allow an exception to the requirement for 1 parking space for each of 3 second units; and

WHEREAS, on November 2, 2016, the Design Review Board considered the Final Design Review for the project and continued the item to the regular December 7, 2016 Design Review Board meeting; and
WHEREAS, on December 7, 2016, the Design Review Board of El Cerrito, after due consideration of all evidence and reports offered for review, does find and determine the following:

Pursuant to Section 19.38.060: Final Design Review Findings and Criteria of the Zoning Ordinance, the Design Review Board must find that the application is consistent with:

1. The applicable standards and requirements of this Zoning Ordinance;
   
   The project meet the requirements of the Zoning Ordinance, specifically Section 19.06.030 Development Standards. This includes the general development standards in terms of height, setbacks, parking and open space.

2. The design policies of the General Plan and specific plans adopted by City Council;
   
   The design is consistent with the General Plan policies that influence design, specifically, L1.1 Quality of Development, CD 1.1 Neighborhood Character, CD 1.3 High Quality Design, CD1.9 Building Design, CD 2.1 Street Frontages, CD2.7 Accessible Design, CD3.3 Site Landscaping, CD4.3 Building Articulation and CD 5.1 Design Review Process.

3. Any applicable design guidelines adopted by the City Council;
   
   There are no design guidelines adopted by the City Council for this part of the city. This finding is not applicable.

4. The design review criteria set forth in the following subsection;
   
   The project is in keeping with the design review criteria as outlined below (Section 19.38.060 of the El Cerrito Municipal Code).

5. Any planning or zoning approvals by the Planning Commission or Zoning Administrator;
   
   The project has received all required Planning Commission and City Council approval. No additional Zoning Administrator approval is needed.

6. Any other relevant policies or regulations of the City.
   
   No other City policies apply to this project.

Pursuant to Section 19.038.060 B. - Design Review Criteria:

When conducting design review, the Design Review Board shall be guided by whether the project satisfies all applicable criteria, the policies of the General Plan's Community Design Element, and by any other policies or guidelines that may be adopted by the City Council for this purpose. Criteria listed below are specific criteria that, if applicable, all projects must satisfy for approval.
a. The aesthetic design, including its exterior design and landscaping, is appropriate to the function of the project and will provide an attractive and comfortable environment for occupants, visitors, and the general community.

The project provides an attractive and comfortable environment for all because the buildings have a clean, contemporary design. Landscaping will be a prominent design feature along the street frontage. The project design provides the tenants many amenities including; private and common open space areas; including private landscaped yards and a landscaped common area.

b. Project details, colors, materials, and landscaping, are fully integrated with one another and used in a manner that is visually consistent with the proposed architectural design.

The building materials integrate well with the building design and the façade articulation. The proposed landscaping is appropriate for the site and integrates well with the proposed design aesthetic. The overall design scheme is visually consistent.

c. The project has been designed with consideration of neighboring development.

Surrounding structures include both single family and multi-family housing. The structures are one, two and three stories high and are typically mid-century in design. The massing of the proposed project is consistent with the prevailing three stories in the neighborhood with similar front, side and rear setbacks.

d. The project contributes to the creation of an attractive and visually interesting built environment that includes well-articulated structures that present varied building facades, rooflines, and building heights and encourages increased pedestrian activity and transit use.

The proposed contemporary design aesthetic will add visual interest and architectural variety to the surrounding area. The buildings will be well-articulated. The El Cerrito Plaza Bay Area Rapid Transit (BART) station and AC Transit bus routes are less than a half of a mile away from the project, making it an ideal walking or biking distance to mass transit.

e. Street frontages are attractive and interesting for pedestrians, address the street and provide for greater safety by allowing for surveillance of the street by people inside buildings and elsewhere.

The units will face street frontages on El Dorado and Avila Streets, with front doors, fenced yards and landscaping along the street-frontages. Additionally, balconies on upper levels will also allow for surveillance of the adjacent streets.

f. The proposed design is compatible with the historical or visual character of any area recognized by the City as having such character.

This finding is not applicable. The project location is not in a part of the city that has been recognized as having a historically or visually significant character.
g. The aesthetic design preserves significant public views and vistas from public streets and open spaces and enhances them by providing areas for pedestrian activity.

This finding is not applicable. The project location is not in a part of the city that has been recognized as having significant public views and vistas from public streets.

h. The proposed landscaping plan is suitable for the type of project and will improve the appearance of the community by enhancing the building, minimizing hardscape and softening walls; and the landscape plan incorporates plant materials that are drought-tolerant, will minimize water usage, and are compatible with El Cerrito's climate.

Each unit in the project will feature a landscaped yard area in front of the unit. The plant palette incorporates drought-tolerant plants and has been selected appropriately for El Cerrito's climate and the characteristics of the site. The project has been revised to respond to the Design Review Board's preliminary comments regarding landscape design. In addition, the project features a landscaped common area, which also serves as a bio-filtration area during wet periods. The plants in this area have been selected appropriately.

i. The project has been designed to be energy efficient including, but not limited to, landscape design and green or eco-friendly design and materials.

The project has been designed to exceed the energy requirements of Title 24 of the 2016 CalGreen building code by 27%.

j. The project design protects and integrates natural features including creeks, open space, significant vegetation, and geologic features. Projects along the Ohlone Greenway shall enhance the usability and aesthetic appeal of the Greenway by integrating it into the fabric of the City through building designs that include entries, yards, patios, and windows that open onto and face the Ohlone Greenway.

This finding is not applicable.

Now, THEREFORE, BE IT RESOLVED, that after careful consideration of maps, facts, exhibits, correspondence, and testimony, and other evidence submitted in this matter, and, in consideration of the findings, the El Cerrito Design Review Board hereby approves Application No. PL15-0100, subject to the following conditions:

Planning Division:

1. The project will be constructed substantially in conformance with the plans dated November 21, 2016. Minor changes may be approved by the Zoning Administrator. All improvements shall be installed in accordance with these approvals. Once constructed or installed, all improvements shall be maintained as approved.

2. If applicant constructs buildings or makes improvements in accordance with these approvals, but fails to comply with any of the Conditions of Approval or limitations set forth in these Conditions of Approval and does not cure any such failure within a reasonable time after notice
from the City of El Cerrito, then such failure shall be cause for nonissuance of a certificate of occupancy, revocation or modification of these approvals or any other remedies available to the City.

3. These Conditions of Approval shall apply to any successor in interest in the property and Applicant shall be responsible for assuring that the successor in interest is informed of the terms and conditions of this approval.

4. If not vested, this Design Review approval shall expire 24 months from the date of this action, unless extended by subsequent action of the City.

5. The applicant shall share the following conditions of approval with their general contractor for the project. The general contractor shall sign at the bottom of this list to acknowledge that he/she is aware of all these conditions of approval and will comply as directed. Prior to the issuance of a building permit, this signed list shall be returned to the planning and building division and kept as part of the project file:

   a. Water all active construction areas at least twice daily and more often during windy periods. Active areas adjacent to residences should be kept damp at all times.

   b. Cover all hauling trucks or maintain at least two feet of freeboard.

   c. Sweep daily (with water sweepers) all paved access roads, parking areas, and staging areas and sweep streets daily (with water sweepers) if visible soil material is deposited onto the adjacent roads.

   d. Enclose, cover, water twice daily, or apply (non-toxic) soil binders to exposed stockpiles.

   e. Replant vegetation in disturbed areas as quickly as possible.

   f. Suspend construction activities that cause visible dust plumes to extend beyond the construction site.

   g. Clear signage at all construction sites shall be posted indicating that diesel equipment standing idle for more than five minutes shall be turned off. This would include trucks waiting to deliver or receive soil, aggregate, or other bulk materials. Rotating drum concrete trucks could keep their engines running continuously as long as they were on-site or adjacent to the construction site.

   h. The contractor shall install temporary electrical service whenever possible to avoid the need for independently powered equipment (e.g., compressors).
i. All construction equipment shall be maintained and properly tuned in accordance with the manufacturer’s specifications. All equipment shall be checked by a certified visible emissions evaluator.

j. Post a publically visible sign(s) with the telephone number and person to contact at the Lead Agency regarding dust complaints. This person shall respond and take corrective action within 48 hours. The Air District’s phone number shall also be visible to ensure compliance with applicable regulations.

k. All project construction activities shall be limited to the following hours: 7:00 a.m. to 6:00 p.m., Monday through Friday; and 8:00 a.m. to 5:00 p.m. on Saturdays. Construction activities shall be prohibited on Sundays and holidays.

l. The applicant or contractor shall designate a Construction Noise Coordinator who is responsible for posting required signs, explaining the construction timeline, responding to noise complaints and managing noise through appropriate work practices and other appropriate measures. If complaints are received, the Coordinator shall determine the cause of the noise complaints (e.g., starting too early, bad muffler, etc.) and institute reasonable measures to correct the problem.

m. Signs shall be posted at the construction site, which provide the permitted construction hours, a day and evening contact number for Construction Noise Coordinator and a contact number for the City of El Cerrito.

n. Notification shall be sent to the City and businesses, residences, or noise-sensitive land uses in proximity to the subject site, containing the construction schedule prior to the start of construction. Notice shall also be sent in advance of each expected loud activity or impulsive noise activity.

o. Noisy stationary equipment (e.g., generators and compressors) and materials unloading and staging areas shall be located away from adjacent sensitive uses including adjacent residences.

p. All construction equipment shall be in good working order with properly installed mufflers. Diesel engines shall not be idled unnecessarily.

q. The removal of trees, shrubs, or weedy vegetation shall be avoided during the February 1 through August 31 bird nesting period and roosting bats to the extent possible. If no vegetation or tree removal is proposed during the nesting period, no further action is required. If it is not feasible to avoid the nesting period, the project applicant shall retain a qualified wildlife biologist to conduct a survey for nesting birds no sooner than 14 days prior to the start of removal of trees, shrubs, grassland vegetation, buildings, grading, or other construction activity. Survey results shall be valid for 21 days following the survey; therefore, if vegetation or building removal is not started within 21 days of the survey, another survey shall be required. The area surveyed shall include access roads, and staging areas, as
well as areas within 150 feet outside the boundaries of the areas to be cleared or as otherwise determined by the biologist.

r. In the event that an active nest is discovered in the areas to be cleared, or in other habitats within 150 feet of construction boundaries, clearing and construction shall be postponed for at least two weeks or until a wildlife biologist has determined that the young have fledged (left the nest), the nest is vacated, and there is no evidence of second nesting attempts.

s. A qualified biologist shall conduct pre-construction surveys for bats and suitable bat roosting habitat at work sites where culverts, structures and/or trees would be removed or otherwise disturbed prior to initiation of construction. If bats or suitable bat roosting habitat is detected, CDFW shall be notified immediately for consultation and possible on-site monitoring.

t. In the event that subsurface cultural or paleontological resources are encountered during grading, digging or trenching construction activity, work in the immediate vicinity shall be stopped and a qualified archaeologist and/or paleontologist shall be retained to evaluate the finds following the procedures described in the San Pablo Avenue Programmatic Environmental Impact Report for this resource.

u. Project personnel shall not collect cultural resources.

v. If human remains are found, special rules set forth in State Health and Safety Code section 7050.5 and CEQA Guidelines section 15126.4(b) shall apply.

6. Prior to issuance of building permit, the applicant shall demonstrate compliance with Chapter 13.50: Art in Public Places of the El Cerrito Municipal Code to the satisfaction of the Zoning Administrator. The project shall be fully compliant with Chapter 13.50 prior to issuance of Certificate of Occupancy.

7. The applicant shall submit a Stormwater Control Plan to the City for review and approval prior to issuance of building permit. The Stormwater Control Plan shall include a site plan, showing runoff reduction measures included in the project, along with project data form and completed checklists for each of the runoff measures.

8. All required fees of the West Contra Costa Unified School District and the Stege Sanitary District shall be paid prior to issuance of building permit. The applicant shall submit proof of payment to the satisfaction of the Building Official.

9. The applicant shall pay all outstanding City costs associated with the project, including but not limited to legal fees, to the satisfaction of the Community Development Director, prior to the issuance of a building permit.

10. The applicant shall specify a two-by-four trimmer on all windows as part of the building permit submittal for the project.
Public Works Department:

11. The applicant shall re-pave the section of Santa Clara Street between El Dorado Street and the Central Park entrance prior to issuance of Certificate of Occupancy.

12. The applicant shall construct an ADA compliant sidewalk and driveway (a path of travel including truncated domes) on El Dorado Street at Santa Clara Street prior to issuance of Certificate of Occupancy.

13. The applicant shall construct an ADA path of travel, including truncated domes, with a striped crosswalk, from the newly constructed sidewalk on Santa Clara Street to the park entrance prior to issuance of Certificate of Occupancy.

14. The applicant shall provide pedestrian safety measures for pedestrians crossing from the sidewalk to the park to the satisfaction of the Public Works Director. This may include but is not limited to a convex mirror, sensors, or similar device to alert drivers or pedestrians if there is a conflict.

15. The applicant shall construct ADA compliant curb ramps at the entrance on Avila Street prior to issuance of Certificate of Occupancy.

16. The applicant shall replace sidewalk flags along the property frontage to meet City and ADA standards prior to issuance of Certificate of Occupancy. Sidewalk replacement locations will be at the discretion of the Public Works Director.

17. Any new street trees to be installed shall be from the City Master Tree List and be approved by the City Arborist before installation.

18. For any street tree, sidewalk and driveway work, applicant shall obtain a Public Works Encroachment Permit and pay all associated fees.

19. The applicant shall submit a detailed grading plan, obtain a Grading & Transportation Permit and pay all associated fees for all earthwork and grading operations in excess of 50 cubic yards.

20. The applicant shall provide drainage plan for new roof and any rain leaders. All drainage is encouraged to stay on-site, draining away from the foundations, 10 feet from property lines, and shall not cause a nuisance to neighboring properties.

Fire Department:


22. Prior to the issuance of the building permit, the applicant is responsible to meet the following requirements to the satisfaction of the Fire Marshall:
23. Provide code analysis of required total firefighting water.

24. If required, plans for fire service underground shall be submitted for review, approval and permit under separate cover.

25. Fire Department Connections (FDCs) shall be in locations acceptable to the fire department for emergency operations.

26. Fire Department Connections (FDCs) shall be interconnected between all three buildings and shall be located on El Dorado and Avila.

27. All pathways required for Fire Department access shall remain open, clear and ungated.

28. "KNOX BOX" shall be installed with keys for all common areas.

29. Smoke detection shall be installed in each bedroom, in hallways adjacent to bedrooms, and one detector per floor level (top and bottom of stairs).

30. Smoke detectors shall be 120v powered with battery backup.

31. Smoke detectors shall be interconnected.

32. Carbon monoxide alarm shall be installed outside of and adjacent to sleeping areas where fuel-burning appliances are installed; and in dwelling units that have attached garages.

33. Carbon Monoxide detectors shall be installed in accordance with NFPA 720.

34. Carbon Monoxide alarms shall be 120v powered with battery backup and be interconnected with the smoke detectors.

35. All electrical breakers shall be labeled.

36. Approved numbers or address shall be provided in such a position to be plainly visible and legible from the street fronting the property. Address shall be either internally or externally illuminated.

37. Automatic Fire Sprinklers shall be installed throughout the Complex.

38. Fire sprinkler plans shall be submitted for review, approval and permit under separate cover.

39. Every sleeping room shall have at least one operable window or door approved for emergency escape or rescue in accordance with CBC 310.4.

40. Escape or rescue windows shall be installed in accordance with CBC 310.4.
Stege Sanitary District:

41. The applicant shall submit a sewer capacity study to Stege Sanitary District for review and approval prior to issuance of building permit.

Design Review Board:

42. Planning staff shall review and approve the final landscape plan prior to issuance of Building Permit.

43. Planning staff shall review and approve a method of screening trash bins in the front yards of units prior to issuance of a building permit.

44. The applicant shall show control joints on exterior stucco surfaces on the Building Permit submittal plans.

CERTIFICATION

I CERTIFY that this resolution was adopted by the El Cerrito Design Review Board at a regular meeting held on December 7, 2016, upon motion of Boardmember Thompson, second by Boardmember Leighly:

AYES: Groch, Leighly, Thompson
NOES: None
ABSTAIN: None
ABSENT: Laverne, Wood

Sean Moss, AICP
Senior Planner
Planning Commission Resolution PC17-01

APPLICATION NO. PL14-0171

A RESOLUTION OF THE CITY OF EL CERRITO PLANNING COMMISSION DENYING AN APPEAL OF THE DESIGN REVIEW BOARD’S APPROVAL OF A TWENTY NINE UNIT TOWNHOME PROJECT LOCATED AT 5802, 5808 AND 5828 EL DORADO STREET AND GRANTING DESIGN REVIEW APPROVAL TO THE PROJECT.

WHEREAS, the subject property is located at 5802, 5808 and 5828 El Dorado Street; and

WHEREAS, the current Assessor’s Parcel Numbers of the site are 510-037-001, 510-037-002, 510-037-027, and 510-037-028; and

WHEREAS, the application number of the of the project is PL14-0171; and

WHEREAS, the General Plan land use classification of the site is High Density Residential; and

WHEREAS, the zoning district of the site is RM (Multi-Family Residential); and

WHEREAS, the project is Categorically Exempt from review under the California Environmental Quality Act pursuant to Section 15332: Class 32, Infill Development Projects; and

WHEREAS, on December 17, 2014, the applicant submitted an application for a Tentative Subdivision Map and Design Review; and

WHEREAS, on October 7, 2015, the Design Review Board conducted Preliminary Conceptual Design Review for the project; and

WHEREAS, on May 18, 2016, the Planning Commission passed a resolution recommending that the City Council approve the Tentative Subdivision Map for the project; and

WHEREAS, on July 19, 2016, the City Council held a public hearing and continued the project to September 20, 2016 with guidance to the applicant as to possible amendments to the project; and

WHEREAS, on September 20, 2016, the City Council passed a resolution approving the Tentative Subdivision Map for the project; and

WHEREAS, on October 19, 2016, the Planning Commission approved a Conditional Use Permit to allow a parking reduction of 6 parking spaces and a Conditional Use Permit to allow an exception to the requirement for 1 parking space for each of 3 second units; and

WHEREAS, on November 2, 2016, the Design Review Board considered the Final Design Review for the project and continued the item to the regular December 7, 2016 Design Review Board meeting; and
WHEREAS, on December 7, 2016, the Design Review granted Design Review approval to the project;

WHEREAS, on December 15, 2016, Howdy Goudy submitted an appeal of the Design Review Board’s approval of the project; and

WHEREAS, on February 15, 2017, the Planning Commission of El Cerrito, after due consideration of all evidence and reports offered for review, does find and determine the following:

Pursuant to Section 19.38.060: Final Design Review Findings and Criteria of the Zoning Ordinance, the Planning Commission must find that the application is consistent with:

1. The applicable standards and requirements of this Zoning Ordinance;
   \[\text{The project meet the requirements of the Zoning Ordinance, specifically Section 19.06.030 Development Standards. This includes the general development standards in terms of height, setbacks, parking and open space.}\]

2. The design policies of the General Plan and specific plans adopted by City Council;
   \[\text{The design is consistent with the General Plan policies that influence design, specifically, L1.1 Quality of Development, CD 1.1 Neighborhood Character, CD 1.3 High Quality Design, CD1.9 Building Design, CD 2.1 Street Frontages, CD2.7 Accessible Design, CD3.3 Site Landscaping, CD4.3 Building Articulation and CD 5.1 Design Review Process.}\]

3. Any applicable design guidelines adopted by the City Council;
   \[\text{There are no design guidelines adopted by the City Council for this part of the city. This finding is not applicable.}\]

4. The design review criteria set forth in the following subsection;
   \[\text{The project is in keeping with the design review criteria as outlined below (Section 19.38.060 of the El Cerrito Municipal Code).}\]

5. Any planning or zoning approvals by the Planning Commission or Zoning Administrator;
   \[\text{The project has received all required Planning Commission and City Council approval. No additional Zoning Administrator approval is needed.}\]

6. Any other relevant policies or regulations of the City.
   \[\text{No other City policies apply to this project.}\]

Pursuant to Section 19.038.060 B. - Design Review Criteria:
When conducting design review, the Design Review Board shall be guided by whether the project satisfies all applicable criteria, the policies of the General Plan's Community Design Element, and by any other policies or guidelines that may be adopted by the City Council for this purpose. Criteria listed below are specific criteria that, if applicable, all projects must satisfy for approval.

a. The aesthetic design, including its exterior design and landscaping, is appropriate to the function of the project and will provide an attractive and comfortable environment for occupants, visitors, and the general community.

The project provides an attractive and comfortable environment for all because the buildings have a clean, contemporary design. Landscaping will be a prominent design feature along the street frontage. The project design provides the tenants many amenities including: private and common open space areas; including private landscaped yards and a landscaped common area.

b. Project details, colors, materials, and landscaping, are fully integrated with one another and used in a manner that is visually consistent with the proposed architectural design.

The building materials integrate well with the building design and façade articulation. The proposed landscaping is appropriate for the site and integrates with the proposed design aesthetic. The overall design scheme is visually consistent.

c. The project has been designed with consideration of neighboring development.

Surrounding structures include both single family and multi-family housing. The structures are one, two and three stories high and are typically mid-century in design. The massing of the proposed project is consistent with the prevailing three stories in the neighborhood with similar front, side and rear setbacks.

d. The project contributes to the creation of an attractive and visually interesting built environment that includes well-articulated structures that present varied building facades, rooflines, and building heights and encourages increased pedestrian activity and transit use.

The proposed contemporary design aesthetic will add visual interest and architectural variety to the surrounding area. The buildings will be well-articulated. The El Cerrito Plaza Bay Area Rapid Transit (BART) station and AC Transit bus routes are less than a half of a mile away from the project, making it an ideal walking or biking distance to mass transit.

e. Street frontages are attractive and interesting for pedestrians, address the street and provide for greater safety by allowing for surveillance of the street by people inside buildings and elsewhere.

The units will face street frontages on El Dorado and Avila Streets, with front doors, fenced yards and landscaping along the street-frontages. Additionally, balconies on upper levels will also allow for surveillance of the adjacent streets.
f. The proposed design is compatible with the historical or visual character of any area recognized by the City as having such character.

*This finding is not applicable. The project location is not in a part of the city that has been recognized as having a historically or visually significant character.*

g. The aesthetic design preserves significant public views and vistas from public streets and open spaces and enhances them by providing areas for pedestrian activity.

*This finding is not applicable. The project location is not in a part of the city that has been recognized as having significant public views and vistas from public streets.*

h. The proposed landscaping plan is suitable for the type of project and will improve the appearance of the community by enhancing the building, minimizing hardscape and softening walls; and the landscape plan incorporates plant materials that are drought-tolerant, will minimize water usage, and are compatible with El Cerrito's climate.

*Each unit in the project will feature a landscaped yard area in front of the unit. The plant palette incorporates drought-tolerant plants and has been selected appropriately for El Cerrito’s climate and the characteristics of the site. The project has been revised to respond to the Design Review Board’s preliminary comments regarding landscape design. In addition, the project features a landscaped common area, which also serves as a bio-filtration area during wet periods. The plants in this area have been selected appropriately.*

i. The project has been designed to be energy efficient including, but not limited to, landscape design and green or eco-friendly design and materials.

*The project has been designed to exceed the energy requirements of Title 24 of the 2016 CalGreen building code by 27%.*

j. The project design protects and integrates natural features including creeks, open space, significant vegetation, and geologic features. Projects along the Ohlone Greenway shall enhance the usability and aesthetic appeal of the Greenway by integrating it into the fabric of the City through building designs that include entries, yards, patios, and windows that open onto and face the Ohlone Greenway.

*This finding is not applicable.*

**NOW, THEREFORE, BE IT RESOLVED, that after careful consideration of maps, facts, exhibits, correspondence, and testimony, and other evidence submitted in this matter, and, in consideration of the findings, the El Cerrito Planning Commission hereby denies the appeal of the Design Review Board’s approval of the project and approves Application No. PL14-0171, subject to the following conditions:**

**Planning Division:**

1. The project will be constructed substantially in conformance with the plans dated November 21, 2016. Minor changes may be approved by the Zoning Administrator. All improvements shall be
installed in accordance with these approvals. Once constructed or installed, all improvements shall be maintained as approved.

2. If applicant constructs buildings or makes improvements in accordance with these approvals, but fails to comply with any of the Conditions of Approval or limitations set forth in these Conditions of Approval and does not cure any such failure within a reasonable time after notice from the City of El Cerrito, then such failure shall be cause for nonissuance of a certificate of occupancy, revocation or modification of these approvals or any other remedies available to the City.

3. These Conditions of Approval shall apply to any successor in interest in the property and Applicant shall be responsible for assuring that the successor in interest is informed of the terms and conditions of this approval.

4. If not vested, this Design Review approval shall expire 24 months from the date of this action, unless extended by subsequent action of the City.

5. The applicant shall share the following conditions of approval with their general contractor for the project. The general contractor shall sign at the bottom of this list to acknowledge that he/she is aware of all these conditions of approval and will comply as directed. Prior to the issuance of a building permit, this signed list shall be returned to the planning and building division and kept as part of the project file:

   a. Water all active construction areas at least twice daily and more often during windy periods. Active areas adjacent to residences should be kept damp at all times.

   b. Cover all hauling trucks or maintain at least two feet of freeboard.

   c. Sweep daily (with water sweepers) all paved access roads, parking areas, and staging areas and sweep streets daily (with water sweepers) if visible soil material is deposited onto the adjacent roads.

   d. Enclose, cover, water twice daily, or apply (non-toxic) soil binders to exposed stockpiles.

   e. Replant vegetation in disturbed areas as quickly as possible.

   f. Suspend construction activities that cause visible dust plumes to extend beyond the construction site.

   g. Clear signage at all construction sites shall be posted indicating that diesel equipment standing idle for more than five minutes shall be turned off. This would include trucks waiting to deliver or receive soil, aggregate, or other bulk materials. Rotating drum concrete trucks could keep their engines running continuously as long as they were on-site or adjacent to the construction site.
h. The contractor shall install temporary electrical service whenever possible to avoid the need for independently powered equipment (e.g., compressors).

i. All construction equipment shall be maintained and properly tuned in accordance with the manufacturer’s specifications. All equipment shall be checked by a certified visible emissions evaluator.

j. Post a publicly visible sign(s) with the telephone number and person to contact at the Lead Agency regarding dust complaints. This person shall respond and take corrective action within 48 hours. The Air District’s phone number shall also be visible to ensure compliance with applicable regulations.

k. All project construction activities shall be limited to the following hours: 7:00 a.m. to 6:00 p.m., Monday through Friday; and 8:00 a.m. to 5:00 p.m. on Saturdays. Construction activities shall be prohibited on Sundays and holidays.

l. The applicant or contractor shall designate a Construction Noise Coordinator who is responsible for posting required signs, explaining the construction timeline, responding to noise complaints and managing noise through appropriate work practices and other appropriate measures. If complaints are received, the Coordinator shall determine the cause of the noise complaints (e.g., starting too early, bad muffler, etc.) and institute reasonable measures to correct the problem.

m. Signs shall be posted at the construction site, which provide the permitted construction hours, a day and evening contact number for Construction Noise Coordinator and a contact number for the City of El Cerrito.

n. Notification shall be sent to the City and businesses, residences, or noise-sensitive land uses in proximity to the subject site, containing the construction schedule prior to the start of construction. Notice shall also be sent in advance of each expected loud activity or impulsive noise activity.

o. Noisy stationary equipment (e.g. generators and compressors) and materials unloading and staging areas shall be located away from adjacent sensitive uses including adjacent residences.

p. All construction equipment shall be in good working order with properly installed mufflers. Diesel engines shall not be idled unnecessarily.

q. The removal of trees, shrubs, or weedy vegetation shall be avoided during the February 1 through August 31 bird nesting period and roosting bats to the extent possible. If no vegetation or tree removal is proposed during the nesting period, no further action is required. If it is not feasible to avoid the nesting period, the project applicant shall retain a qualified wildlife biologist to conduct a survey for nesting birds no sooner than 14 days prior to the start of removal of trees, shrubs,
grasland vegetation, buildings, grading, or other construction activity. Survey results shall be valid for 21 days following the survey; therefore, if vegetation or building removal is not started within 21 days of the survey, another survey shall be required. The area surveyed shall include access roads, and staging areas, as well as areas within 150 feet outside the boundaries of the areas to be cleared or as otherwise determined by the biologist.

r. In the event that an active nest is discovered in the areas to be cleared, or in other habitats within 150 feet of construction boundaries, clearing and construction shall be postponed for at least two weeks or until a wildlife biologist has determined that the young have fledged (left the nest), the nest is vacated, and there is no evidence of second nesting attempts.

s. A qualified biologist shall conduct pre-construction surveys for bats and suitable bat roosting habitat at work sites where culverts, structures and/or trees would be removed or otherwise disturbed prior to initiation of construction. If bats or suitable bat roosting habitat is detected, CDFW shall be notified immediately for consultation and possible on-site monitoring.

t. In the event that subsurface cultural or paleontological resources are encountered during grading, digging or trenching construction activity, work in the immediate vicinity shall be stopped and a qualified archaeologist and/or paleontologist shall be retained to evaluate the finds following the procedures described in the San Pablo Avenue Programmatic Environmental Impact Report for this resource.

u. Project personnel shall not collect cultural resources.

v. If human remains are found, special rules set forth in State Health and Safety Code section 7050.5 and CEQA Guidelines section 15126.4(b) shall apply.

6. Prior to issuance of building permit, the applicant shall demonstrate compliance with Chapter 13.50: Art in Public Places of the El Cerrito Municipal Code to the satisfaction of the Zoning Administrator. The project shall be fully compliant with Chapter 13.50 prior to issuance of Certificate of Occupancy.

7. The applicant shall submit a Stormwater Control Plan to the City for review and approval prior to issuance of building permit. The Stormwater Control Plan shall include a site plan, showing runoff reduction measures included in the project, along with project data form and completed checklists for each of the runoff measures.

8. All required fees of the West Contra Costa Unified School District and the Stege Sanitary District shall be paid prior to issuance of building permit. The applicant shall submit proof of payment to the satisfaction of the Building Official.
9. The applicant shall pay all outstanding City costs associated with the project, including but not limited to legal fees, to the satisfaction of the Community Development Director, prior to the issuance of a building permit.

10. The applicant shall specify a two-by-four trimmer on all windows as part of the building permit submittal for the project.

Public Works Department:

11. The applicant shall re-pave the section of Santa Clara Street between El Dorado Street and the Central Park entrance prior to issuance of Certificate of Occupancy.

12. The applicant shall construct an ADA compliant sidewalk and driveway (a path of travel including truncated domes) on El Dorado Street at Santa Clara Street prior to issuance of Certificate of Occupancy.

13. The applicant shall construct an ADA path of travel, including truncated domes, with a striped crosswalk, from the newly constructed sidewalk on Santa Clara Street to the park entrance prior to issuance of Certificate of Occupancy.

14. The applicant shall provide pedestrian safety measures for pedestrians crossing from the sidewalk to the park to the satisfaction of the Public Works Director. This may include but is not limited to a convex mirror, sensors, or similar device to alert drivers or pedestrians if there is a conflict.

15. The applicant shall construct ADA compliant curb ramps at the entrance on Avila Street prior to issuance of Certificate of Occupancy.

16. The applicant shall replace sidewalk flags along the property frontage to meet City and ADA standards prior to issuance of Certificate of Occupancy. Sidewalk replacement locations will be at the discretion of the Public Works Director.

17. Any new street trees to be installed shall be from the City Master Tree List and be approved by the City Arborist before installation.

18. For any street tree, sidewalk and driveway work, applicant shall obtain a Public Works Encroachment Permit and pay all associated fees.

19. The applicant shall submit a detailed grading plan, obtain a Grading & Transportation Permit and pay all associated fees for all earthwork and grading operations in excess of 50 cubic yards.

20. The applicant shall provide drainage plan for new roof and any rain leaders. All drainage is encouraged to stay on-site, draining away from the foundations, 10 feet from property lines, and shall not cause a nuisance to neighboring properties.

Fire Department:

22. Prior to the issuance of the building permit, the applicant is responsible to meet the following requirements to the satisfaction of the Fire Marshall:

23. Provide code analysis of required total firefighting water.

24. If required, plans for fire service underground shall be submitted for review, approval and permit under separate cover.

25. Fire Department Connections (FDCs) shall be in locations acceptable to the fire department for emergency operations.

26. Fire Department Connections (FDCs) shall be interconnected between all three buildings and shall be located on El Dorado and Avila.

27. All pathways required for Fire Department access shall remain open, clear and ungated.

28. “KNOX BOX” shall be installed with keys for all common areas.

29. Smoke detection shall be installed in each bedroom, in hallways adjacent to bedrooms, and one detector per floor level (top and bottom of stairs).

30. Smoke detectors shall be 120v powered with battery backup.

31. Smoke detectors shall be interconnected.

32. Carbon monoxide alarm shall be installed outside of and adjacent to sleeping areas where fuel-burning appliances are installed; and in dwelling units that have attached garages.

33. Carbon Monoxide detectors shall be installed in accordance with NFPA 720.

34. Carbon Monoxide alarms shall be 120 v Powered with battery backup and be interconnected with the smoke detectors.

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Stege Sanitary District:

41. The applicant shall submit a sewer capacity study to Stege Sanitary District for review and approval prior to issuance of building permit.

Design Review Board:

42. Planning staff shall review and approve the final landscape plan prior to issuance of Building Permit.

43. Planning staff shall review and approve a method of screening trash bins in the front yards of units prior to issuance of a building permit.

44. The applicant shall show control joints on exterior stucco surfaces on the Building Permit submittal plans.

CERTIFICATION

I CERTIFY that this resolution was adopted by the El Cerrito Planning Commission at a regular meeting held on February 15, 2017, upon motion of Commissioner Colin, second by Commissioner Bloom:

AYES: Bloom, Colin, Hansen, Lucas
NOES: None
ABSTAIN: None
ABSENT: Iswalt, Motoyama

[Signature]

Sean Moss, AICP
Senior Planner
Follow-up to the appeal of the proposed development at 5828 Eldorado Street (application PL14-0171)

Dear Mayor Abelson, City Council Members and Planning Division Staff,

Please consider the following additional material with the earlier submitted appeal.

The formal submitted appeal presents policy-based arguments supporting the rejection of this project, as-is. In this letter I want to build on that to emphasize greater sensitivity to context and social responsibility that may, or may not be, adequately codified in law, but which we all recognize as an important part of being a good citizen and a productive member of our community.

There is no shortage of history involving legal standards that were “defensible” in their time, but were highly immoral and later changed through extraordinary effort and personal sacrifices. For example, by modern standards, there’s appalling law laid out in the almost 4000 year old Hammurabi’s code of ancient Babylonia, but it is important to point out, even when they accepted and codified slavery into their laws, the written introduction to their laws indicates a fundamental motivation “that the strong should not harm the weak.” This is as true today as it was then and we are still struggling to live up to it today, as they were then.

Throughout the ensuing centuries, when unjust laws were applied, there were always those who went along with it, whether they agreed or not, just because the law was the law, and they didn’t think it was their place to change the status quo, or they felt powerless to do so. Most troubling are the countless public officials who looked the other way and condoned actions they knew to be immoral when they actually did have some power to do something about it. Many of them would eventually make some courageous decisions, but it often was up to everyday people, with very limited power, to organize and raise attention to the injustice first. We have seen this pattern repeated over and over. We should know better by now. It shouldn’t take acute personal sacrifice to motivate public officials to act in the best interest of their community and constituents.

I do not file this and previous appeals, because I enjoy it, or because my motive is to be obstructive. I do it because there is an important principle to defend and I must appeal to your conscience to defend it. You can be part of the progress of social responsibility through history, rather than put it off for someone else to deal with later.

To quote a country song I happened upon the other day “There ain’t no right way to do the wrong thing” (lyric credit to John Rey Reed). I hope you choose to do the right thing and fully engage the need to do better by the former residents and the community with regards to this project, rather than putting a bandaid on a hemoragging wound to our community and making empty excuses why it isn’t possible to do more.

Sincerely,

Howdy Goudey

635 Elm St., El Cerrito, CA 94530