

City of San Leandro Planning Commission

RESOLUTION NO. 2024-XXX

**A RESOLUTION OF THE PLANNING COMMISSION
OF THE CITY OF SAN LEANDRO**

A RESOLUTION RECOMMENDING THAT CITY COUNCIL APPROVE PLN22-0006 FOR A ZONING MAP AMENDMENT AND PLANNED DEVELOPMENT TO ESTABLISH A PLANNED DEVELOPMENT OVERLAY DISTRICT, AND ADMINISTRATIVE SITE PLAN REVIEW AND TENTATIVE TRACT MAP 8703 FOR THE CONSTRUCTION OF A NINE-UNIT TOWNHOME DEVELOPMENT ON A 12,588 SQUARE FOOT PARCEL LOCATED AT 13489 EAST 14TH STREET, AND DETERMINE THAT NO ADDITIONAL ENVIRONMENTAL REVIEW IS REQUIRED PURSUANT TO CALIFORNIA ENVIRONMENTAL QUALITY ACT (CEQA) GUIDELINES SECTION 15183 (PLN22-0006)

WHEREAS, Shoonya, LLC (“Applicant” and “Property Owner”), is proposing a Zoning Map Amendment and Planned Development (PD) to establish a PD Overlay District, and Administrative Site Plan Review, and Tentative Tract Map (TTM) 8703 for the construction of a nine-unit townhome development on a 12,588 square-foot parcel (the “Project”), located at 13489 East 14th Street, Assessor’s Parcel Number: 077D-1405-001-01 (the “Property”); and

WHEREAS, the Property is a vacant lot located at the west corner of East 14th Street and 135th Avenue, has a Corridor Mixed Use (MUC) General Plan Land Use designation, and is located in the South Area 2 (SA-2) Zoning District; and

WHEREAS, the Property is located within the East 14th Street South Area Development Strategy (South Area Plan) plan area; and

WHEREAS, the goals, policies and objectives of the South Area Plan include transforming East 14th Street, south of Downtown San Leandro, into a pedestrian-friendly environment with high-quality multi-family housing; and

WHEREAS, Zoning Code Sections 3.04.108 and 3.04.120 allow property owners to initiate a Zoning Map Amendment to rezone property to a PD Overlay district and propose a PD project to build multi-family housing; and

WHEREAS, the Applicant/Property Owner has requested approval of a PD Overlay to rezone the property from SA-2 (South Area 2) to SA-2(PD) (South Area 2, with a Planned Development overlay) to build a PD project; and

WHEREAS, Zoning Code Sections 3.04.108 and 3.04.120 state that after recommendation by or appeal from the Planning Commission, a PD project may then be approved by the City Council; and

WHEREAS, a PD project provides for flexibility in development standards to facilitate high quality urban design; and

WHEREAS, that Applicant/Property Owner proposes to subdivide the Property into 9 residential lots and one common lot per Tentative Tract Map 8703 (TTM 8703) to build nine multi-family in two townhouse buildings; and

WHEREAS, Municipal Code Section 7-1-325 requires City Council approval of a Tentative Tract Map, preceded by examination and recommendation by the Planning Commission; and

WHEREAS, the Applicant/Property Owner has proposed to build a multi-family development in the form of townhomes, consistent with the definition for “Multi-family Residential” in Zoning Code Section 1.12.108; and

WHEREAS, Multi-family residential developments are a permitted use in the SA-Zoning District; and

WHEREAS, Zoning Code Section 2.08.404.A.1.a requires the review and approval of Site Plan Review for the construction of structures greater in size than 2,500 square feet; and

WHEREAS, pursuant to Zoning Code Section 5.12.116, the Zoning Enforcement Official may take action on the Administrative Site Plan Review application without holding a public hearing; and

WHEREAS, pursuant to Zoning Code Section 5.12.108, when a development project requires discretionary approval, the Administrative Site Plan Review application shall be processed concurrently with the other discretionary approvals, and decided upon by the review authority designated for any of the approvals; and

WHEREAS, the approvals of a Zoning Map Amendment, PD, and Tentative Tract Maps, are discretionary approvals; and

WHEREAS, the highest review authority for Zoning Map Amendments, PD Overlays, and Tentative Tract Maps, and the overall Project is the City Council; and

WHEREAS, the Applicant submitted an application on March 3, 2023 requesting approval of the Project; and

WHEREAS, the Project was deemed complete on June 22, 2023 and is subject to the City’s policies, standards, and ordinances in effect at that time; and

WHEREAS, the Project includes affordable units consistent with the requirements of the City's Inclusionary Housing Ordinance codified in San Leandro Zoning Code Chapter 6.04; and

WHEREAS, the Project is utilizing the State Density Bonus law (Government Code Section 65915) to reduce certain development standards; and

WHEREAS, with the application of the State Density Bonus law, the Project is consistent with the applicable development standards set forth in the Zoning Code; and

WHEREAS, numerous policies and actions in the City's General Plan are applicable to the project; and

WHEREAS, the City retained Rincon Consultants, Inc. to prepare a California Environmental Quality Act ("CEQA") Compliance Memo pursuant to CEQA Guidelines Section 15183 to document consistency between the proposed project and the City of San Leandro General Plan, and to compare the environmental effects of the proposed project against those identified in the City's 2023-2031 Housing Element and General Plan Update Supplemental Environmental Impact Report (SEIR); and

WHEREAS, the CEQA Compliance Memo supports a finding that the Project is consistent with the density established by the General Plan, for which an Environmental Impact Report (EIR) was previously prepared and certified, and there are no project-specific significant effects which are peculiar to the project or its site; and

WHEREAS, a staff report dated October 3, 2024, and incorporated herein by reference, describes and analyzes the proposed Project; and

WHEREAS, on October 3, 2024, the Planning Commission reviewed the staff report at a duly noticed public hearing on the proposed Project, at which time all interested parties had the opportunity to be heard; and

WHEREAS, the Planning Commission has considered all public comments received, the presentation by City staff, the staff report and attachments in adopting this resolution; and

WHEREAS, the Planning Commission has determined that the proposed Project does satisfy the requisite Findings of Fact necessary for approval as described in the staff report and herein; and

WHEREAS, the Planning Commission desires to recommend that the City Council approve the Project and adopt a finding that no additional environmental review is required pursuant to CEQA Guidelines Section 15183, as the project is consistent with the density established by the General Plan, for which an EIR was previously prepared and certified, and there are no project-specific significant effects which are peculiar to the project or its site; and

WHEREAS, the City's General Plan, Zoning Code, and Municipal Code, are incorporated herein by reference, and are available for review at City Hall during normal business hours.

NOW, THEREFORE THE PLANNING COMMISSION FOR THE CITY OF SAN LEANDRO RESOLVES THAT: The above recitals are true and correct and made a part of this resolution.

BE IT FURTHER RESOLVED THAT, the Planning Commission of the City of San Leandro does hereby recommend that City Council determine that no additional environmental review is required pursuant to CEQA Guidelines Section 15183, as the project is consistent with the density established by the General Plan, for which an EIR was previously prepared and certified, and there are no project-specific significant effects which are peculiar to the project or its site.

BE IT FURTHER RESOLVED THAT, the Planning Commission of the City of San Leandro does hereby recommend that City Council approve PLN22-0006 for a Zoning Map Amendment and Planned Development (PD) to establish a PD Overlay District, Administrative Site Plan Review and Tentative Tract Map 8703 for the construction of a nine-unit townhome development at 13489 East 14th Street as shown on the submitted project plans attached as Exhibit A and incorporated herein, based on the following findings and considering the staff report, and the whole of the record related to the Project:

Zoning Map Amendment

1. The proposed Zoning Map amendment is consistent with the policies of the General Plan and the purposes of the Zoning Code.

Planned Development

1. The proposed location of the Project use is in accord with the objectives of the Zoning Code and the purposes of the SA-2 (South Area 2) zoning district, in which the Property is located.
2. The proposed location of the Project and the proposed conditions under which it would be operated or maintained will be consistent with the General Plan; will not be detrimental to the public health, safety or welfare of persons residing, or working in, or adjacent to, the neighborhood of such use; and will not be detrimental to properties or improvements in the vicinity, or to the general welfare of the City.
3. The proposed Project will comply with the provisions of the Zoning Code, including all requirements for the proposed use in the SA-2 Zoning District in which it would be located.
4. The proposed Project will not create adverse impacts on traffic or create demands exceeding the capacity of public services and facilities, which cannot be mitigated.

5. The Planned Development Project Plan will provide superior urban design in comparison with the development under the base district zoning regulations.
6. The Planned Development project includes adequate provisions for utilities, services, and emergency vehicle access; and that public service demands will not exceed the capacity of existing and planned systems.

Administrative Site Plan Review

1. The project is in compliance with the minimum requirements of this Code and are arranged as to achieve the intent of such requirements by providing a harmonious and orderly development that is compatible with its surroundings. Parking, loading, storage, and service areas are appropriately screened by building placement, orientation walls, and/or landscaping.
2. The building(s) has(have) adequate articulation, with appropriate window placement, use of detailing, and/or changes in building planes to provide visual interest. The exterior materials, finishes, detailing, and colors are compatible with those of surrounding structures. Visually incompatible elements, such as roof-mounted utilities, are fully screened from public view.
3. The landscaping complements the architectural design, with an appropriate balance of trees, shrubs, and living ground covers, and provides adequate screening and shading of parking lots and/or driveways.
4. The proposed fencing is visually consistent with the architectural and landscape design of the project. The fencing is not composed of any reflective materials and thus, would not have glare. As conditioned, light for the buildings and site shall be shielded to minimize off-site glare and light spilling over to adjacent properties.

Tentative Tract Map

1. The proposed subdivision together with provisions for its design and improvements, is consistent with applicable General or Specific plans adopted by the City of San Leandro.
2. There is no basis to make any of the following findings as set forth in Section 66474 of the Subdivision Map Act.:
 - a. That the proposed map is not consistent with applicable General and Specific plans as specified in § 65451 of the Government Code.
 - b. That the design or improvement of the proposed subdivision is not consistent with applicable General and Specific plans.
 - c. That the site is not physically suitable for the type of development.
 - d. That the site is not physically suitable for the proposed density of development.

- e. That the design of the subdivision or the proposed improvements are likely to cause substantial environmental damage or substantially and avoidably injure fish or wildlife or their habitat.
- f. That the design of the subdivision or the type of improvements is likely to cause serious public health problems.
- g. That the design of the subdivision or the type of improvements will conflict with easements, acquired by the public at large, for access through or use of, property within the proposed subdivision. In this connection, the governing body may approve a map if it finds that alternate easements for access or for use will be provided, and that these will be substantially equivalent to ones previously acquired by the public. This subsection shall apply only to easements of record or to easements established by judgment of a court of competent jurisdiction and no authority is hereby granted to a legislative body to determine that the public at large has acquired easements for access through or use of property within the proposed subdivision.

No Net Loss Finding

1. The City's Housing Element sites inventory maintains sufficient capacity to accommodate the City's remaining unmet RHNA by each income level following approval of the Project.

BE IT FURTHER RESOLVED THAT, the Planning Commission's recommendation for approval of the Project is subject to the following conditions of approval:

PLANNING DIVISION

Compliance with Approved Plans and Conditions of Approval

1. **Compliance with Approved Exhibits.** The Project shall comply with the following exhibits, except as herein modified. Exhibits are on file at City Hall, at the City of San Leandro, Community Development Department, located at 835 E. 14th Street, San Leandro, California, 94577.
 - a. Exhibit A: Project Plans
 - b. Exhibit B: Inclusionary Housing Plan
2. **Planned Development Concept Plan.** Exhibit A shall serve as the Planned Development Concept Plan for the Planned Development Overlay in accordance with Zoning Code Section 3.04.108.
3. **Scope of Work.** The approval of Zoning Map Amendment, Planned Development (PD), Administrative Site Plan Review, and Tentative Tract Map (TTM) 8703 allows

for the construction of a nine-unit townhome development on a 12,588 square-foot parcel located at 13489 East 14th Street. APN: 077D-1405-001-01. Zoning District: SA-2.

4. **Modifications.** The project shall remain in substantial compliance with the approved Plans, Exhibits, and Conditions of Approval. Proposed changes to the project shall be made in writing to the Zoning Enforcement Official. A request for any change in conditions of approval, residential unit density, or other land use and property development regulations set forth in a Planned Development Project approval shall be treated as a new application for a Planned Development Project approval, subject to the submittal requirements of Section 3.04.124 Planned Development Project Application. If the Zoning Enforcement Official determines that the requested changes are minor and do not include substantial alterations to the Planned Development Project approval or conditions of approval and are consistent with the intent of the original Planned Development approval, the Zoning Enforcement Official may approve the changes or may refer the proposed changes to the Planning Commission. The Planning Commission may either approve or conditionally approve the requested changes or determine that the proposed changes shall be treated as a new application for a Planned Development Project approval. Decisions of the Planning Commission may be appealed in accord with Chapter 5.20 Appeals.
5. **Effective Date.** The project approval shall become effective upon City Council adoption of the Ordinance amending the Zoning Map to establish the Planned Development Overlay.
6. **Expiration Date.** This approval shall expire after two years from City Council approval, unless a renewal of the Planned Development project approval is granted in accord with Section 3.04.144; or a building permit or grading permit has been applied for, coupled with diligent progress evidencing good faith intention to commence the intended use; or an occupancy permit has been issued. Pursuant to Zoning Code Section 3.04.144, the Applicant may request from the Planning Commission renewal of the Planned Development project approval for up to two additional years if it finds the renewal is consistent with the Code and that no substantive change has occurred in conditions or circumstances pertinent to the Planned Development. Application for renewal shall be made in writing to the Community Development Director not less than 30 days or more than 120 days prior to the expiration of the Planned Development approval. Denial of a request for renewal of the Planned Development Project approval may be appealed.
7. **Revocation.** In accordance with Zoning Code Section 5.24.108, upon determination by the Zoning Enforcement Official that there are reasonable grounds for revocation of this approval, a revocation hearing shall be set by the Zoning Enforcement Official before the City Council.
8. **Compliance with Zoning Code.** Prior to permit issuance, the Applicant/Property Owner shall demonstrate that the Project complies with all minimum requirements of the San Leandro Zoning Code.

9. **Access to Conditions of Approval.** These Conditions of Approval shall be made available and accessible to all property owners and occupants on the property.
10. **Successors in Interest.** These conditions of approval shall run with the land and the Applicant/Property owner shall be responsible for ensuring that any heirs, executors, administrators, and successors in interest who assumes responsibility for this approval are informed of its terms and conditions.
11. **Permits Required.** The Applicant/Property Owner shall obtain any and all permits required, including but not limited to grading permits, building permits, fire permits, and encroachment permits for any work in the right-of-way.
12. **Fees.** Prior to permit issuance, any and all outstanding Planning, Engineering or Building deposit fees or balances shall be paid in full.
13. **School Fees.** Prior to issuance of building permits, the Applicant/Property Owner shall pay required developer fees to the applicable school district.

Indemnification

14. The Applicant/Property Owner hereby agrees to defend, indemnify, and hold harmless the City of San Leandro, its Council, boards, commissions, officers, employees and agents, from and against any and all claims, suits, actions, liability, loss, damage, expense, cost (including, without limitation, attorneys' fees, costs and fees of litigation) of every nature, kind or description, which may be brought by a third party against, or suffered or sustained by, the City of San Leandro, its Council, boards, commissions, officers, employees or agents to challenge or void the permit granted herein or any California Environmental Quality Act determinations related thereto.
15. In the event that any person should bring an action to attack, set aside, void or annul the City's approval of this Project, the Applicant/Property Owner shall defend, indemnify and hold harmless the City and/or its agents, officers and employees from any claim, action, or proceeding against the City and/or its agents, officers and employees with counsel selected by the Applicant/Property Owner (which shall be the same counsel used by Applicant/Property Owner) and reasonably approved by the City. Applicant/Property Owner's obligation to defend, indemnify and hold harmless the City and/or its agents, officers and employees shall be subject to the City's compliance with Government Code Section 66474.9.

Inclusionary Housing

16. **Inclusionary Housing Plan.** The Applicant/Property Owner shall comply with its City approved Inclusionary Housing Plan (**Exhibit B - Inclusionary Housing Plan**), which demonstrates how the project will comply with the requirements of the City's Inclusionary Housing Ordinance contained in Zoning Code Chapter 6.04, including the affordability requirements in Zoning Code Section 6.04.112(C). Under its approved Inclusionary Housing Plan, the Applicant/Property Owner will set aside Unit 1 for

moderate-income households. Any modifications to the approved Inclusionary Housing Plan shall be subject to the review and approval of the Zoning Enforcement Official to verify compliance with the City's Inclusionary Housing Ordinance.

- 17. Affordable Housing Regulatory Agreement.** Prior to the issuance of a building permit, the Applicant/Property Owner shall execute an Affordable Housing Regulatory Agreement, or similar legal agreement, restricting the sale of all affordable units in the project in accordance with Zoning Code Section 6.04.112(C). The project shall require Unit 1 to be reserved for moderate-income households. The Affordable Housing Regulatory Agreement shall be approved by the Zoning Enforcement Official prior to approval of a final map or building permit. The Agreement(s) will be recorded against the property.

Additional Submittals

- 18. Applicable Permits.** The Applicant/Property Owner shall obtain any and all required permits, including but not limited to grading permits, building permits, fire permits, encroachment permits for any work in the right-of-way, final map for subdivision, and permits from all applicable utility agencies.
- 19. Notations to Conditions of Approval.** Prior to permit issuance, the Applicant/Property Owner shall provide an annotated copy of these Conditions of Approval, detailing how every Condition of Approval has been complied with or will be complied with. Each annotation shall include a standard reference to the specific sheet(s) and drawing(s) of the construction plans that demonstrate(s) such compliance. Construction plans shall not be accepted without the annotated conditions of approval document.
- 20. Color and Materials Board.** The Applicant/Property Owner shall submit a final color and materials board as part of the building permit plans set at the time of building permit submittal for plan check, for review and approval of the Zoning Enforcement Official. To demonstrate that the exterior materials and finishes will be consistent with the conditions of approval and the illustrated approved plan exhibits, the materials and colors board shall include drawings, plans, schedules, and specifications indicating the exact type of materials and colors that will be applied. Prior to issuance of building permit, the Applicant/Property Owner shall provide physical material samples and color chips to the Planning Division for reference at the time of a final planning inspection. Prior to building permit final inspection, the Applicant/Property Owner shall install the approved exterior materials to the approved construction plans and to the satisfaction of Zoning Enforcement Official.
- 21. Final Landscape and Irrigation Plans.** Prior to issuance of building permits, the Applicant/Property Owner shall submit Final Landscape and Irrigation Plans subject to review and approval of the Zoning Enforcement Official. The plans shall document compliance with applicable Zoning Code requirements, including minimum soil depths, and shall include details such as: 1) tree size, species and location; 2) shrubs and groundcover size, species, and location; 3) installation specifications, including

tree staking; 4) irrigation details; 5) water conservation techniques; and 6) maintenance programs. Final landscape and irrigation plans shall be prepared and certified by a California licensed landscape architect and shall conform to the Model Water Efficient Landscape Ordinance (MWELO) as updated by the State of California Department of Water Resources. At the discretion of the City, the landscape plan may be reviewed by a consulting landscape architect, the cost of which shall be the responsibility of the Applicant/Property Owner.

- a. Each tree proposed for removal shall be replaced by a minimum of one 24-inch box size or greater tree, of a species and in a location approved by the Zoning Enforcement Official. The replacement tree shall be in addition to any trees required to be planted by another code requirement or condition of approval.
- b. All areas of the site not used for access, parking, buildings, open space, mechanical equipment, or other function shall be landscaped consistent with Zoning Code Chapter 4.16, Landscape Requirements, and the following requirements. Required landscaping areas shall be planted with a combination of trees, shrubs, and groundcover. Stormwater treatment areas may count toward required landscaping.
- c. A minimum of one 24-inch box size or greater tree shall be planted per 25 linear feet of landscape area. Tree grates shall be used for trees located in hardscape areas.
- d. Shrubs shall be a container size of five gallons or greater at planting and planted at spacing distances appropriate for the plant species.
- e. Landscaped areas that are not planted with trees or shrubs shall be planted with groundcover plants. Mulch (as a ground cover) shall be confined to areas underneath plants and is not a substitute for ground cover plants.
 - i. Groundcover plants other than grasses shall be four-inch pot size or greater and planted at spacing distances appropriate for the plant species.
 - ii. Groundcover plants shall be planted at a density that will cover the entire area within two years.

22. Lighting Plans. Lighting shall remain well-maintained and replaced periodically to ensure proper functioning. The position of such lighting shall not disturb the normal privacy and use of any neighboring residences. Prior to issuance of building permits and as part of the building permit plans, the Applicant/Property Owner shall submit final plans and details for site lighting, including manufacturer's specifications and schedules for all new light fixtures, for the review and approval of the Zoning Enforcement Official. After installation, and prior to building permit final inspection, the Zoning Enforcement Official reserves the right to require adjustment of light fixtures to comply with this requirement.

- a. Building entries and addresses shall be illuminated to provide nighttime visibility from adjacent streets, public accessways, and common areas.
- b. New or replacement on-site lighting shall be LED or other energy-conserving lighting and shall be down-shielded, designed and located so as to not interfere with traffic on adjacent streets and so as not to shine on adjacent properties.
- c. Lighting shall meet Code requirements, including those in Zoning Code Section 4.04.336, have sufficient illumination for the safety and security of the future building occupants, shall be directed below the horizontal plane, and shall not allow light to spill offsite.
- d. Lighting in parking and driveway areas shall be maintained with a minimum of one foot-candle of illumination at the ground level during the hours of darkness.
- e. Aisles, passageways, and recesses related to and within a development shall be illuminated with an intensity of at least 0.25 foot-candles at the ground level during the hours of darkness.
- f. Fixtures on buildings shall be attached only to walls or eaves, and the top of the fixture shall not exceed the height of the parapet or roof or eave of roof.

23. Trash Enclosure. Prior to permit issuance and as part of the construction drawings, the Applicant/Property Owner shall provide, for permit review and approval by the Zoning Enforcement Official, dimensioned architectural drawings (floor plans, elevation drawings, roof plans) for the trash enclosure. The refuse bins shall be screened on all sides using exterior materials, colors, and finishes that are also used on the primary buildings. The plans shall show compliance with all codes and regulations, including the requirements of the Public Works Department and its Divisions. Prior to building permit final for the patio structure, the trash enclosure shall be built to the approved construction plans.

24. HOA CC&Rs. A Homeowners Association shall be required for this residential subdivision and a Homeowners Association shall be referenced in the Covenants, Conditions & Restrictions (CC&Rs). The Homeowners Association shall be required to maintain the common areas to keep them free of litter and debris at all times, including removing graffiti and any debris from any acts of vandalism perpetrated on the common facilities. Plans submitted for building permits shall include a summary of the common areas under the responsibility of the HOA on the cover sheet of the plan set. Prior to approval of the final map, a copy of the CC&Rs shall be provided for review and approval by the Zoning Enforcement Official. Maintenance shall include, but not be limited to, maintenance of the following shared facilities:

- a. Landscaping, hardscaping, and irrigation.
- b. Walls, fences, and gates.

- c. Driveways and walkways.
- d. Building signage, addressing, and mailboxes.
- e. Outdoor furniture, hardscape, and all elements of the tenant activity area.
- f. Adjacent public right-of-way landscaping and sidewalk, including street trees and the sidewalk extension.
- g. Storm drains, including applying stormwater pollution measures required by Engineering.

Ongoing Maintenance Conditions

25. **Fences.** All fencing, gates and walls on the project site shall be structurally sound, graffiti-free, and well-maintained at all times. Fences, walls and hedges shall comply with Zoning Code Section 4.04.364 (Fences, Walls, and Hedges) and approved plans unless otherwise approved by the Zoning Enforcement Official. The installation of chain link or cyclone fencing shall be prohibited. The installation of barbed wire, razor, cyclone and electrified fencing are prohibited.
26. **Graffiti.** Any graffiti painted or marked upon the premises or on any adjacent area under the control of the licensee(s) shall be promptly removed or painted over.
27. **Landscaping.** All landscaping improvements shall be maintained in a healthy, growing, and weed-free condition at all times. Any missing, dead, or damaged plant and groundcover material shall be promptly replaced with a material similar in type and comparable in size to the plant(s) or groundcover being removed. The Applicant/Property owner shall provide irrigation to the street trees.
28. **Sidewalks.** Sidewalk areas shall be kept free of obstruction and available for their designated use at all times. Building egress and accessible paths of travel shall remain unobstructed.
29. **Signs.** All signage shall conform to the regulations in Zoning Code Chapter 4.12 (Signs). No temporary or unauthorized signs including but not limited to banners, balloons, streamers, and pennants, shall be placed on the property, unless approved by the City under a Temporary Sign Permit or Temporary Use Permit.
30. **Outdoor Storage.** There shall be no outdoor storage permitted in any outdoor publicly accessible area, common area such as courtyards, and private area such as balconies and patio areas that would be visible from any public-right-of-way or any access way with the exception that these areas can be furnished with plants and patio furniture.

Improvements and Amenities

31. **Screened Mechanical Equipment.** All exterior mechanical equipment, such as air conditioning/heating units and exhaust systems, shall be located such that they will

not be visible from any public-rights-of-way. Alternatively, they shall be screened or enclosed from view so as not to be visible from the public-right-of-way subject to review and approval by the Zoning Enforcement Official.

32. **Screened Utilities.** All electrical, gas, and water meters shall be located such that they will not be visible from any public-rights-of-way. Alternatively, they shall be screened or enclosed from view so as not to be visible from any public-rights-of-way. Prior to permit issuance and as part of the construction drawings, the Applicant/Property Owner shall provide, for permit review and approval by the Zoning Enforcement Official details for the mechanical screening.
33. **Screened Appurtenances.** The Applicant/Property Owner shall place all new transformers, switching boxes, and similar appurtenances subsurface, or shall screen them by locating them in an enclosure with walls matching the material and color of the nearest building. The enclosures shall include gates of heavy gauge corrugated steel and shall be surrounded by trees, shrubs and climbing vines. The Applicant/Property Owner shall arrange the location and treatment of the appurtenances with the gas, electric and communication providers prior to the approval of building permit(s) for vertical construction. A detail of the said screening shall be included on the improvement plans submitted for review and approval by the Zoning Enforcement Official.
34. **Backflow Prevention Devices.** Backflow prevention devices shall be installed on all new and existing domestic, commercial, irrigation, and fire water services as required by the East Bay Municipal Utility District (EBMUD). The location of water service and backflow devices shall be subject to review and approval by EBMUD and the City. Devices shall be screened from public view by landscaping or other approved methods in the area in which the device is located. Landscaping shall blend with surrounding landscaping and, if necessary, landscaping shall be added in other areas, as required for symmetry. The final landscape package shall include landscape screening of any backflow prevention devices.
35. **Bicycle Parking.** The Applicant/Property Owner shall install one bicycle parking space per unit and one bicycle parking space for guests, at a safe location accessible to guests. Prior to permit issuance and as part of the construction drawings, the Applicant/Property Owner shall provide, for permit review and approval by the Zoning Enforcement Official, installation details for the bicycle parking spaces (e.g., bicycle rack or hooks) and required design standards, compliant with Zoning Code Sections 4.08.128(C) and (D). Prior to building permit final, the bicycle storage shall be installed.
36. **Tenant Activity Area.** The tenant activity area shall be designed to the same quality and visual aesthetic of the primary buildings. Prior to permit issuance and as part of the construction drawings, the Applicant/Property Owner shall provide, for permit review and approval by the Zoning Enforcement Official, architectural details and manufacturer's specifications for the selected outdoor furniture. Furnishings shall be

designed and fabricated for outdoor applications. Prior to permit final, all equipment shall be permanently installed to the satisfaction of the Zoning Enforcement Official.

37. **Improvements Installed Prior to Certificate of Occupancy.** Prior to the issuance of any Certificate of Occupancy on the property, the improvements outlined in these Conditions of Approval and/or detailed in **Exhibit A - Project Plans** shall be completely installed to the satisfaction of the Zoning Enforcement Official and the City Engineer.

Construction Conditions

38. **Secure Construction Site.** The property shall be secured during construction with a temporary six (6) foot high chain link fence with green screening and any other security measures in accordance with recommendation of the San Leandro Police Department. Alternative temporary fencing is subject to prior approval from the Zoning Enforcement Official. Temporary fencing shall be maintained and kept free of graffiti.
39. **Construction Hours and Noise.** Construction on the project site shall not commence prior to 7:00 a.m. and shall cease by 7:00 p.m., Monday through Friday, and shall not commence prior to 8 a.m. and shall cease by 7 p.m. Saturday and Sunday, unless otherwise approved by the Chief Building Official. There shall be no construction on Federal holidays. As provided in Municipal Code Chapter 4-1, Article 11 (Noise), "construction" shall mean any site preparation, assembly, erection, substantial repair, alteration, demolition or similar action, for or on any private property, public or private right-of-way, streets, structures, utilities, facilities, or other similar property. Construction activities carried on in violation of this Article may be enforced as provided in Section 4-11-1130, and may also be enforced by issuance of a stop work order and/or revocation of any or all permits issued for such construction activity. Prior to the start of construction activities, the construction contractor shall:
- a. Maintain and tune all proposed equipment in accordance with the manufacturer's recommendations to minimize noise emission.
 - b. Inspect all proposed equipment and fit all equipment with properly operating mufflers, air intake silencers, and engine shrouds that are no less effective than as originally equipped by the manufacturer.
 - c. Post a sign, clearly visible at the site, with a contact name and telephone number of the construction manager.
 - d. Place stationary construction equipment and material delivery in loading and unloading areas as far as practicable from the residences.
 - e. Limit unnecessary engine idling to the extent feasible.

- f. Use smart back-up alarms, which automatically adjust the alarm level based on the background noise level, or switch off back-up alarms and replace with human spotters.
 - g. Use low-noise emission equipment.
 - h. Limit use of public address systems.
 - i. Minimize grade surface irregularities on construction sites.
40. **Dust Control.** Construction activity shall not create dust, noise or safety hazards for adjacent businesses and properties. Dirt and mud shall not be tracked onto public streets from the project site during construction. Standard construction dust control procedures, such as wetting, daily road washing and other maintenance functions to control emissions, shall be implemented at all times during outdoor construction. Dust generating activities such as grading, excavation, paving, etc. shall be scheduled the early morning and other hours when wind speeds are low. All construction activities entailing soil disturbance shall cease when winds exceed 30 miles per hour as an hourly average.
41. **Air Quality.** The Applicant/Property Owner shall comply with the current Bay Area Air Quality Management District's basic control measures for reducing construction emissions of PM10 (Table 8-1, Basic Construction Mitigation Measures Recommended for All Proposed Projects, of the BAAQMD CEQA Guidelines). (Review of all demolition, grading, and building permits. Implementation shall remain in place throughout project construction and verification shall occur during normal construction site inspections).
42. **Construction Truck Route.** The Applicant/Property Owner shall prepare a construction truck route plan that would restrict trucks to arterial streets that have a sufficient pavement section to bear heavy truck traffic, thereby minimizing noise and traffic impacts to the community. The construction truck route plan shall be reviewed and approved by the City Engineer prior to receipt of the grading permit.
43. **Construction Contract.** All construction contracts shall include the following requirements: Maintain and tune all proposed equipment in accordance with the manufacturer's recommendations to minimize noise emission.
- a. Unpaved construction sites shall be sprinkled with water at least twice per day;
 - b. Trucks hauling construction materials shall be covered with tarpaulins or other effective covers;
 - c. Streets surrounding demolition and construction sites shall be swept at least once per day; and

- d. Paving and planting shall be done as soon as possible. The City shall charge the Applicant/Property Owner, and the Applicant/Property Owner shall pay, for all costs of sweeping city streets in the vicinity of the project as necessary to control dust and spillage.
44. **Construction Facilities.** Potable water and temporary sanitary facilities shall be provided to workers during construction activities. Temporary sanitary facilities shall be kept in a clean and odorless condition, secured, and located away from nearby businesses.
45. **Compliance with Standards of Sanitation During Construction.** The Applicant and/or Property Owner shall comply with the following high standards of sanitation during construction of improvements: garbage cans, construction dumpsters, and debris piles shall be removed on a minimum weekly basis. All food related trash items such as wrappers, cans, bottles, and food scraps shall be disposed of in closed containers only and shall be regularly removed from the site. Inspections, conducted as part of the regular construction compliance, will be conducted to ensure compliance of the Applicant and/or Property Owner and contractors with these requirements.
46. **Water Quality Control during Construction.** All construction contracts shall include the following requirements:
- a. Unpaved construction sites shall be sprinkled with water at least twice per day;
 - b. Trucks hauling construction materials shall be covered with tarpaulins or other effective covers;
 - c. Streets surrounding demolition and construction sites shall be swept at least once per day; and
47. **Tree Protection.** The two street trees in the sidewalk on East 14th Street shall be protected in place during construction. Protection measures shall be in place prior to any grading or construction, to the satisfaction of the City Engineer and the Zoning Enforcement Official.
48. **Removal of Street Trees.** Prior to the removal of the street in the sidewalk on 135th Avenue, the Applicant/Property Owner shall obtain the necessary approval from the Public Works Director as required by San Leandro Municipal Code Section 5-2-215, and any necessary encroachment permits from the Engineering and Transportation Division to remove the street trees at the Owner's expense.
49. **Discovery of Historic/Prehistoric Artifacts or Human Remains.** If currently unknown historic/prehistoric artifacts or human remains are discovered during ground disturbing activities, the following measures shall be implemented: A.
- a. In compliance with State law (Section 7050.5 of the Health and Safety Code and Section 5097.94 of the Public Resources Code), in the event that historical artifacts

are found, all work within 50 feet of the find shall stop and a qualified archaeologist shall examine the find. The archaeologist shall then submit a plan for evaluation of the resource to the City of San Leandro Planning Services Division for approval.

- b. If the evaluation of the resource concludes that the found resource is eligible for the California Register of Historic Resources, a mitigation plan shall be submitted to the City of San Leandro Planning Services Division for approval, which shall consider reasonable efforts for the resources to be preserved in place or left in an undisturbed state.
- c. If the artifacts and samples recovered during construction are determined to be significant and cannot be preserved in place, the artifacts shall be cataloged and curated by a qualified archaeologist and placed in an appropriate curation facility. The mitigation plan shall be completed before earthmoving or construction activities can recommence within the designated resource area.
- d. If the human remains are of Native American origin, the coroner must notify the Native American Heritage Commission (NAHC) within 24 hours of this identification. The NAHC will immediately identify a Native American most likely descendant (MLD) to inspect the site and provide recommendation.

50. Migratory Birds. Tree removal, landscape grubbing, building demolition, and other construction activities such as grading and utility installation shall be performed in compliance with the Migratory Bird Treaty Act and relevant sections of the California Fish and Game Code to avoid loss of nests in active use. This shall be accomplished by scheduling tree removal and building demolition outside of the bird nesting season (which occurs from February 1 to August 31) to avoid possible impacts on nesting birds if new nests are established in the future. Alternatively, if tree removal and building demolition cannot be scheduled during the non-nesting season (September 1 to January 31), a pre-construction nesting survey shall be conducted. The survey shall be completed by a qualified wildlife biologist no more than 14 days prior to the start of tree removal. If active nests are identified, a no disturbance buffer of 25-500 feet (depending on species and setting) shall be established around each nest until the young are fledged or the nest becomes inactive.

51. Enforcement. Construction activities carried on in violation of these Conditions may be enforced as provided in the San Leandro Municipal Code and may be enforced by issuance of a Stop Work order and/or revocation of any or all permits issued for such construction activity.

PUBLIC WORKS – ENGINEERING LAND USE

52. Protest Within a 90-day Period. Pursuant to Government Code Section 66020, including Section 66020 (d) (1), the City HEREBY NOTIFIES the Applicant and/or Property Owner for this Project that the 90-day approval period (in which the Applicant and/or Property Owner may protest the imposition of any fees, dedications, reservations, or other exactions imposed on this Project by these Conditions of

Approval) will begin on the date of the conditional approval of this Project. If the Applicant and/or Property Owner fails to file a protest within this 90-day period, complying with all the requirements of Government Code Section 66020, the Applicant and/or Property Owner will be legally barred from later challenging any such fees, dedications, reservations or other exactions.

53. **Compliance.** The proposed development shall comply with City ordinances, policies and regulations. All improvements shall be in accordance with the City's Design Standards, Specifications and Standard Plans unless otherwise specifically approved by the City Engineer.

Additional Submittals to be submitted to Engineering

54. **Geotechnical Investigation Report.** The applicant shall submit a Geotechnical Investigation Report and shall incorporate all recommendations into the design. A letter from the engineer who prepared the geotechnical investigation report stating they have reviewed the proposed improvement plans and that it substantially conforms with the recommendations made in the report will be required.
55. **Grading Permit.** A Grading Permit is necessary for this project. The requirements for said permit are indicated in San Leandro Municipal Code §7-12. The permit will be issued prior to or concurrent with the Building Permit. The San Leandro Municipal Code can be found at <https://www.sanleandro.org/953/Permits>.
56. **Encroachment Permit from Engineering Division.** A portion of the work within the Public Right-of-Way (135th Avenue) shall require an Encroachment Permit from the Engineering Division prior to beginning such work. Please visit the following website for more information on the City's Encroachment Permit process: <https://www.sanleandro.org/953/Permits>.
57. **Encroachment Permit from Caltrans.** A portion of the work within the Public Right-of-Way on East 14th Street (State Route 185) shall require an Encroachment Permit from Caltrans prior to beginning such work. The Applicant and/or Property Owner shall obtain a permit from Caltrans and provide a copy to the City prior to beginning work.
58. **Encroachment into Neighboring Property.** If the design of any site improvement requires encroachments onto neighboring properties during construction, written agreements with that property owner shall be submitted to the City Engineer, for review and approval, prior to approval of the building permit.
59. **Application for Tract Map.** A Final Map shall be approved and recorded prior to building permit issuance, or the applicant shall enter into a Subdivision Improvement Agreement prior to the filing/recording of the Final Map. A Shared Maintenance Agreement (CC&R) should be prepared to govern how common area improvements will be managed and maintained in perpetuity. CC&R's shall be submitted for review by City staff in conjunction with the submittal of the Tract Map.

Engineering and Infrastructure Improvements

60. **Street Improvements.** The applicant shall remove any unused driveways or damaged driveways, sidewalk, and curb and gutter along the full property frontage and shall construct new City standard driveway, sidewalk, curb, and gutter according to City standard Plans Dwg. No. 100, 102 and 104. Plans shall show ADA path grades and control point elevations across the proposed driveway.
61. **Utility Removal.** Utility laterals and services to be abandoned shall be entirely removed and capped at the main line.
62. **Utility Underground.** Utility services to the site shall be placed underground.
63. **Storm Drain.** All proposed storm drain inlets and trench drains shall be marked “NO DUMPING, DRAINS TO BAY” as per the City of San Leandro Standard Plan Dwg. No. 204. Install Regional Water Quality Control Board (RWQCB) approved trash inserts at the proposed storm drain inlets prior to the connection of the existing storm drain line. See the most recent approved list located here: https://www.waterboards.ca.gov/water_issues/programs/stormwater/docs/trash_implementation/certified_fcsdevicelist_16Feb2021.pdf

Development Impact Fees

64. **Underground Utility District Master Plan Fee.** East 14th Street is included in the City’s adopted Underground Utility District Master Plan, as such an in-lieu fee is required. The estimated amount of the fee is \$54,501.37 which is calculated at \$465.82 per linear foot frontage (117 LF per assessor’s map 77D). This undergrounding overhead utility conversion fee will be included in the Building Permit issuance fees. These fees are subject to change at the start of each fiscal year on July 1 and will not be vested until issuance of a building permit.
65. **Development Fee for Street Improvements.** The City’s traffic impact fee program is called “Development Fee for Street Improvements” (DFSI). According to the adopted 2023-24 Fee Schedule, the rate for “General Residential” land use is \$1,854.89 per unit. Assuming 9 units, the total DFSI fee is an estimated amount of \$16,694.01. These fees are subject to change at the start of each fiscal year on July 1 and will not be vested until issuance of a building permit.
66. **Marina Boulevard/Interstate 880 Interchange Traffic Impact Fee.** The project is within the Marina Boulevard/Interstate 880 Interchange Traffic Impact Fee Zone. According to the adopted 2023-24 Fee Schedule, the rate for “General Residential” land use is \$926.03 per unit. Assuming 9 units, the total Marina Boulevard/Interstate 880 Interchange Traffic Impact fee is an estimated amount of \$8,334.27. These fees are subject to change at the start of each fiscal year on July 1 and will not be vested until issuance of a building permit.

67. Park Facilities Development Impact Fee. A Park Facilities Development Impact Fee for a proposed use of “Multi-Family” shall be assessed on this project. According to the adopted 2023-24 Fee Schedule, assuming 9 dwelling units, the Park Facilities Development Impact Fee is an estimated amount of:

Park Land Acquisition Fee:	\$15,988.00/du or \$143,892.00
Park Improvement Fee:	\$2,760.00/du or \$24,480.00
Total Park Impact Fee:	\$18,748.00/du or \$168,732.00

These fees are subject to change at the start of each fiscal year on July 1 and will not be vested until issuance of a building permit.

Ongoing Maintenance required by Engineering

68. Storm Water Pollution. The Applicant/Property Owner shall reduce storm water pollution by implementing the following pollution source control measures:

- a. Structures shall be designed to discourage the occurrence and entry of pests into buildings, thus minimizing the need for pesticides. The trash area shall be separated from the rest of the building by concrete or masonry walls so that pests that gain access to the area are less likely to access the rest of the building.
- b. All storm drains shall be marked “NO DUMPING, DRAINS TO BAY”.
- c. All on-site storm drains shall be inspected and, if necessary, cleaned at least twice a year immediately prior to the rainy season.
- d. Sidewalks and parking lots shall be swept regularly to minimize the accumulation of litter and debris. Steam cleaning or low volume pressure washing may be performed only after pre-cleaning using dry methods, spot cleaning and recovery in stained areas and removal of all mobile pollutants. Debris resulting from pressure washing shall be trapped and collected to prevent entry into the storm drain system. Wash water containing any soap, cleaning agent or degreaser shall not be discharged to the storm drain.
- e. Interior floor drains (if any) shall not be connected to the storm drain system.
- f. Air conditioning condensate shall be directed to landscaped areas. Any air conditioning condensate that discharges to land without flowing to a storm drain may be subject to the requirements of the State Water Resources Control Board’s (SWRCB) Statewide General Waste Discharge Requirements (WDRs) for Discharges to Land with a Low Threat to Water Quality.
- g. Landscaping shall be designed to minimize irrigation and runoff, promote surface infiltration where appropriate, and minimize the use of fertilizers and pesticides that can contribute to storm water pollution.

- h. Where feasible, landscaping shall be designed and operated to treat storm water runoff by incorporating elements that collect, detain, and infiltrate runoff. In areas that provide detention of water, plans that are tolerant of saturated soil conditions and prolonged exposure to water shall be specified.
- i. Plant materials selected shall be appropriate to site specific characteristics such as soil type, topography, climate, amount and timing of sunlight, prevailing winds, rainfall, air movement, patterns of land use, ecological consistency and plant interactions to ensure successful establishment.
- j. Selection of the plants that will require minimal pesticide use.
- k. Irrigation shall be appropriate to the water requirements of the selected plants.
- l. The Applicant and/or Property Owner shall select pest and disease resistant plants.
- m. The Applicant and/or Property Owner shall plant a diversity of species to prevent a potential pest infestation from affecting the entire landscaping plan.
- n. The Applicant and/or Property Owner shall plan insectary plants in the landscaping to attract and keep beneficial insects.

PUBLIC WORKS – SOLID WASTE

- 69. The Applicant/Property Owner shall comply with all City and State construction and demolition debris recycling requirements including CalGreen Residential Mandatory Measures Checklist. Permit applicants must demonstrate compliance by completing and submitting an online Waste Management Plan using Green Halo Systems (www.GreenHaloSystems.com) prior to permit issuance. Applicants must submit recycling and disposal receipts online and submit the waste management report before scheduling the final inspection. Note: All recycling and disposal tags must be registered into Green Halo Systems before permit final.
- 70. The project site is in the Waste Management of Alameda County (WM) service area.
- 71. The Applicant/Property Owner shall provide a final waste management plan, approved by the franchised waste hauler and the City, that may require “push/pull” service from the hauler to ensure that the refuse bins are not placed in the public right of way and comply with applicable requirements. Solid waste and recycling containers shall be kept inside the designated space(s) and kept out of public view, except when it is necessary to place them at the trash staging area on days that the contents of the containers are picked up for disposal.
- 72. The subject property is required to comply with California state law, SB 1383, which mandates that compostable and recyclable materials be separated from landfill materials and properly recycled. In San Leandro, SB 1383 is implemented and

enforced under the Alameda County Organics Reduction and Recycling Ordinance. For more information, visit <https://www.stopwaste.org/rules>.

73. To comply with state and local regulations, the Applicant/Property Owner shall provide, for permit review and approval by the Public Works Department, dimensioned architectural drawings (floor plans, elevation drawings, roof plans) for the trash enclosure. Solid waste enclosures shall have enough solid waste and recycling storage capacity to contain all materials generated at the site. The enclosure must be sized to ensure enough capacity for the collection, proper sorting and containment of all materials (landfill, recycling and organics). The plans shall show compliance with all codes and regulations. Calculate capacity needs for weekly service using the following formulas:

- a. $\text{Number of dwelling units} \times 1.1 \text{ (move in/out factor)} \times 32 \text{ gallon service/unit} \times 1 \text{ cubic yard/200 gallons} = \text{total weekly TRASH capacity needed for complex (in cubic yards)}$
- b. $\text{Number of dwelling units} \times 1.1 \text{ (move in/out factor)} \times 32 \text{ gallon service/unit} \times 1 \text{ cubic yard/200 gallons} = \text{total weekly RECYCLING capacity needed for complex (in cubic yards)}$

Prior to building permit final for the patio structure, the trash enclosure shall be built to the approved construction plans.

74. The Property Owner or building manager shall be responsible for securing trash, recycling and composting waste containers and preventing the theft of recycled materials. The Property Owner or building manager shall provide keys or cards to the franchised waste hauler or service company for access to any locked gates or enclosures if services are not provided by on-site maintenance staff. The property managers/building owners shall be responsible for ensuring solid waste and recycle containers are secured and waste enclosures are locked promptly after collection and shall be responsible for the regular cleaning and maintenance of all trash, organics and recycling enclosure areas and receptacles and ensure organics collection receptacles are maintained in an odor-free condition.

BUILDING DIVISION

75. The plan review for this planning entitlement does not constitute a complete building plan review. A formal plan check review will be completed at the time of project submittal to the Building Division. All construction shall fully comply with the current adopted California Building Standards Code in effect at the time of building permit issuance.

76. The Applicant/Property Owner shall provide detailed construction plans (working drawings) to the Building Division for plan review prior to issuance of a building permit. Plans and supporting documents shall be prepared by a California state-licensed architect or engineer. Upon completion of the plan check, all applicable fees shall be

paid and a building permit shall be issued prior to commencement of any actual construction work on-site.

77. The Applicant/Property Owner shall incorporate the following on plans submitted for permit issuance.

- a. A building permit application and construction documents (building permit plan set)
- b. Soils Report
- c. A structural review letter from a geotechnical engineer, stating that the foundation design complies with their soils report.
- d. Title 24
- e. Construction and Demolition per CalGreen
- f. CalGreen Residential Mandatory Measures Checklist

78. The Applicant/Property Owner shall demonstrate compliance with the following conditions of approval (requirements) on plans submitted for permit issuance. All revision clouds and deltas added to the plans during Planning approval must be removed prior to submitting the building permit application.

- a. Egress windows for bedrooms.
- b. Fire rating for walls, roof, and roof eaves within 5 feet of the property line
- c. Fire separation between units, habitable space above garage.
- d. Provide accessible van and standard space with signage and stripping.
- e. Provide accessible path of travel from public right of way and accessible parking to, unit entrances, and exterior common areas.
- f. Provide accessible clearances for all accessible spaces.
- g. Project will need to comply with 2019 California Building Code Chapter 11A Section 1102A.3.
- h. Provide required EV parking spaces.
- i. Project shall provide photovoltaic system for each unit.

ALAMEDA COUNTY FIRE DEPARTMENT

79. The Project shall comply with Building and Fire Codes adopted and in effect at the time of building permit submittal.

PASSED, CONDITIONALLY APPROVED, AND ADOPTED, on this 3rd day of October 2024 by the following vote:

AYES:

NOES:

ABSENT:

ABSTAIN:

Litha Zuber
Chair of the Planning Commission

ATTEST:

Avalon Schultz, AICP
Secretary to the Planning Commission