

City of San Leandro Board of Zoning Adjustments

RESOLUTION NO. 2023-0XX

**A RESOLUTION OF THE BOARD OF ZONING ADJUSTMENTS
OF THE CITY OF SAN LEANDRO**

**A RESOLUTION APPROVING
CONDITIONAL USE PERMIT AND ADMINISTRATIVE SITE PLAN REVIEW
PLN22-0037 FOR A 180-UNIT MULTI-FAMILY RESIDENTIAL DEVELOPMENT AND
RELATED SITE IMPROVEMENTS LOCATED AT 1145-1199 E. 14TH STREET, AND
DETERMINING THAT THE PROJECT IS CATEGORICALLY EXEMPT FROM THE
CALIFORNIA ENVIRONMENTAL QUALITY ACT (CEQA) PURSUANT TO CEQA
GUIDELINES SECTION 15332**

WHEREAS, the applicant, Bob Pickett (“Applicant”), on behalf of the property owner, Beam Development, LLC (“Property Owner”), is proposing a 180-unit multi-family residential development, spanning five floors, located above two floors of parking, common areas, and amenities (the “Project”) at 1145-1199 E. 14th Street, Assessor’s Parcel Numbers: 75-1-3, 75-1-4, 75-1-5, 75-1-6, 75-1-7-2, 75-1-8-2, 75-1-9-2, and 75-1-10-2 (the “Property”); and

WHEREAS, the Property is adjacent to existing transit services: it is served by the Tempo Bus Rapid Transit (BRT) line, with boarding platforms adjacent to the Property, and the San Leandro Bay Area Rapid Transit (BART) Station is approximately 0.4 miles away; and

WHEREAS, the Property is located in Downtown San Leandro and is bounded by E. 14th Street, Davis Street, and Dan Niemi Way, and has a Downtown Mixed Use General Plan Land Use designation and is zoned DA-1(S), Downtown Area-1, Special Review Overlay; and

WHEREAS, the Project is located within the Downtown San Leandro Transit Oriented Development Strategy (TOD Strategy) Special Overlay District (S-Overlay), which was established to implement provisions of the TOD Strategy where flexibility is needed to allow for varying development scenarios on specific parcels; and

WHEREAS, special Review Criteria were established for each site in the S Overlay, which were later amended in 2016 by Ordinance No. 2016-011 after the 2035 General Plan was adopted; and

WHEREAS, the goals, policies and objectives of the TOD Strategy intend to bring more housing, retail, and jobs to the City’s downtown core through projects designed to

create a sense of arrival and place, reduce reliance on automobiles, maximize available transit options, and promote a pedestrian-oriented community; and

WHEREAS, Zoning Code Section 3.16.112 requires a Conditional Use Permit (CUP) for new structures within the S-Overlay to provide an opportunity to evaluate proposed development against applicable S-Overlay Review Criteria. A CUP is also required for multi-family residential uses on parcels fronting East 14th Street north of Parrott Street; and

WHEREAS, the Applicant submitted a complete preliminary application for the project on September 6, 2022, and therefore the Project is only 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 increase the density of the project above the limit established by the City's Zoning Code; and

WHEREAS, the Project is using a number of waivers under the Density Bonus Law in order to eliminate or reduce certain development standards that would physically prevent the construction of the Project; and

WHEREAS, with the application of density bonuses, and waivers, the Project is consistent with the applicable development standards set forth in the Zoning Code, TOD Strategy, and S-Overlay Review Criteria; and

WHEREAS, numerous policies in the City's General Plan and Housing Element are applicable to the project. Many of those policies are generally applicable to residential development and apply citywide, while others are specific to projects in the Downtown Area; and

WHEREAS, the City retained Rincon Consultants, Inc. to study the potential application of categorical exemptions to the California Environmental Quality Act ("CEQA"); and

WHEREAS, Rincon prepared an exemption report, which determined the Project met the requirements to qualify for the categorical exemption for In-Fill Development Projects (Class 32) pursuant to CEQA Guidelines Section 15332 (the "Exemption Report"). The Exemption Report was made available to the Board of Zoning Adjustments and public for review prior to the public hearing for the Project; and

WHEREAS, a staff report dated September 7, 2023, and incorporated herein by reference, describes and analyzed the proposed Project and Exemption Report; and

WHEREAS, on September 7, 2023, the Board of Zoning Adjustments reviewed the staff report and the Exemption 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 Board of Zoning Adjustments has considered all public comments received, the presentation by City staff, the staff report and attachments, and the Exemption Report in adopting this resolution; and

WHEREAS, the Board of Zoning Adjustments 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 Board of Zoning Adjustments desires to approve a Conditional Use Permit and Administrative Site Plan Review for the Project; 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 BOARD OF ZONING ADJUSTMENTS 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 Board of Zoning Adjustments of the City of San Leandro does hereby determine that the Project is categorically exempt from CEQA as an In-Fill Development Project (Class 32) pursuant to CEQA Guidelines Section 15332, based on the following findings and considering the staff report, the Exemption Report and the whole of the record related to the Project:

1. The Project meets all of the following requirements to qualify for the exemption:
 - A. The Project is consistent with the applicable general plan designation and all applicable general plan policies as well as with applicable zoning designation and regulations;
 - B. The Project will occur within city limits on a project site of no more than five acres substantially surrounded by urban uses;
 - C. The project site has no value as habitat for endangered, rare, or threatened species;
 - D. Approval of the Project would not result in any significant effects relating to traffic, noise, air quality, or water quality; and
 - E. The project site can be adequately served by all required utilities and public services.

2. None of the exceptions to the Exemption identified in CEQA Guidelines Section 15332 apply to the Project.

BE IT FURTHER RESOLVED THAT, the Board of Zoning Adjustments of the City of San Leandro does hereby approve a Conditional Use Permit and Administrative Site Plan Review for the Project, consisting of 180-unit multi-family residential development without ground floor commercial space, as shown on the submitted project plans attached as Exhibit A and incorporated here, based on the following findings and considering the staff report, the Exemption Report and the whole of the record related to the Project:

1. The proposed location of the Project use is in accord with the objectives of the Zoning Code and the purposes of the DA-1(S), (Downtown Area-1, Special Review Overlay 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, as well as the Downtown San Leandro Transit Oriented Development Strategy and S-Overlay Review Criteria.
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 Project is in compliance with the minimum objective standards and criteria of this Code, the General Plan, and all other applicable objective standards and criteria.

BE IT FURTHER RESOLVED THAT, the Board of Zoning Adjustments' approval of the Conditional Use Permit and Administrative Site Plan Review for the Project is subject to the following conditions of approval:

PLANNING DIVISION

Compliance with Approved Plans

1. The Project shall comply with Exhibit A except as hereinafter modified. Exhibits are on file at the City of San Leandro, Community Development Department located at 835 E. 14th Street, San Leandro, California, 94577.
2. The Applicant and/or Property Owner shall be responsible for assuring that any successor in interest who assumes responsibility for this approval is informed of its terms and conditions.
3. The approval of this Conditional Use Permit and Administrative Site Plan Review allows for the construction of a seven-story, 180-unit, multi-family residential

development with associated site improvements on a 1.2-acre site, zoned DA-1(S) Downtown Area-1, Special Review Overlay, located at 1145-1199 E. 14th Street.

4. 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. The Zoning Enforcement Official may approve changes to approved exhibits or Conditions of Approval without a public hearing upon determining that the changes are minor and are consistent with the intent of the original approval.
5. The project approval shall become effective on the 15th day after the date the Board of Zoning Adjustments approves the project, unless appealed, as provided in Zoning Code Chapter 5.20 Appeals.
6. The project approval shall lapse four (4) years after its date of approval unless diligent progress has been made evidencing a good faith intent to commence the intended use; or an occupancy permit has been issued; or the approval is renewed, as provided in Section 5.08.136 and 5.12.132 of the Zoning Code. Pursuant to Zoning Code Section 5.08.136 and 5.12.132 upon written request the approval may be renewed by the Zoning Enforcement Official for a one (1) time extension of one (1) additional year without notice or public hearing if the findings required by Section 5.12.124 of the Zoning Code remain valid. Application for renewal shall be made in writing to the Zoning Enforcement Official before the permit expires. Denial of a request for renewal of the Project approval may be appealed.
7. Prior to permit issuance, the Applicant/Property Owner shall demonstrate that the Project complies with applicable minimum objective standards and criteria of the San Leandro Zoning Code, the General Plan, and all other applicable objective standards and criteria.
8. Prior to permit issuance, the Applicant/Property Owner shall include notations to the conditions of approval and clearly indicate how all conditions of approval will be or have been complied with. A reference shall be provided to specific plan sheets that demonstrate compliance. Construction plans shall not be accepted without the annotated final conditions of approval document.

Amenities and Open Space

9. Prior to the submittal of building permits, the Applicant/Property owner shall record a public easement for the 1,060 square foot publicly accessible open space at the corner of E. 14th Street and Davis Street. The project shall meet applicable Code requirements, including Zoning Code Section 4.04.336.C.2.c.i(C) subject to final approval by the Community Development Director.
 - a. Prior to the issuance of building permits, the Applicant/Property Owner shall enter into a maintenance agreement with the City for the publicly accessible open space, which shall require any changes to the space to be reviewed and approved by the Community Development Director.

- b. The Property Owner or building manager shall maintain the publicly accessible open space by keeping the area clean and free of litter and graffiti, well lit, and keeping in a healthy state any plant material that is provided.
10. The Applicant/Property Owner is encouraged to provide art that is publicly visible and appropriate for the location and audience.
11. The Applicant/Property Owner shall work with CalTrans and the Engineering Division to design a passenger pick-up and drop-off area along E. 14th Street to accommodate at least two (2) vehicles.
12. The building amenities and common-open space shall be reserved for the primary use of the building's residents and guests.
13. Prior to the issuance of building permits, the Applicant/Property Owner shall relocate and, if needed, reconstruct the plaque at 250 Davis Street that commemorates the site's history and identifies it as a California Point of Historical Interest. The final design and location of the plaque is subject to the review and approval of the Community Development Director.
14. Any outstanding Planning, Engineering/Public Works, Fire or Building deposit fees or balances shall be paid prior to permit issuance.

Indemnification

15. 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.
16. 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.

Additional Submittals

17. The Applicant/Property Owner shall submit a final materials and colors board at the time of building permit submittal for review and approval of the Community

Development Director. Final materials and colors shall be compatible with the Centro-Callan project under construction across the street from the project site.

18. Prior to issuance of building permits, the Applicant/Property Owner shall submit Final Landscape and Irrigation Plans for the review and approval of the Community Development Director. 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. 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.
 - b. 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.
 - c. Shrubs shall be a container size of five gallons or greater at planting and planted at spacing distances appropriate for the plant species.
 - d. 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.
 - e. Landscaping on podiums and rooftops shall provide minimum soil depths as follows.
 - i. Ground cover: 12 inches.
 - ii. Shrubs: 20 inches.

- iii. Trees: 36 inches.
19. If feasible, appropriately sized irrigated planter boxes (either elevated or flush with the sidewalk) shall be provided along the building around the garage area where there are openings with metal panels. The planter boxes shall be planted with a drought tolerant, evergreen, vine or climber subject to review and approval by the Community Development Director.
20. Street trees proposed in the Public Rights-of-Way shall be from the approved street tree list published by the City of San Leandro Public Works Department, subject to the approval of the Public Works Director. The Applicant/Property owner shall provide irrigation to the street trees.
21. Prior to issuance of building permits, the Applicant/Property Owner shall submit final plans and details for site lighting, including submittal of a photometric study, for the review and approval of the Community Development Director and City Engineer.
- a. The plans and details shall show location, height, decorative features, and construction details showing materials and finishes to be used for construction.
 - b. All site lighting shall meet Code requirements, including those in Zoning Code Section 4.04.336, and have sufficient illumination for the safety and security of the future building occupants and shall be directed below the horizontal plane and no lighting may spill offsite.
 - i. Freestanding light standards shall not exceed 25 feet in height.
 - ii. 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.
 - iii. Lighting in parking areas, garage areas, and carport areas shall be maintained with a minimum of one foot-candle of illumination at the ground level during the hours of darkness.
 - iv. 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.
 - c. Streetlighting proposed along the project property frontage shall match the existing decorative lighting currently installed in this area.
22. Required frontage improvements consistent with the Master Plan of City Streets, Bicycle and Pedestrian Master Plan, Downtown TOD Strategy, and any other applicable standard or requirement of the City shall be provided to the satisfaction of the Community Development Director and the City Engineer.

23. Prior to the issuance of any Certificate of Occupancy on the property, the improvements outlined above shall be completely installed to the satisfaction of the Community Development Director and the City Engineer.

Parking Management

24. The Property Owner or building manager shall regularly maintain the parking areas and shall be responsible for the prompt clean up and removal of litter, oil stains and spilled vehicle fluids. Parking areas shall be well maintained and kept free of litter and debris at all times. Any parking lifts shall be regularly maintained and in operable condition to ensure optimal vehicle capacity.
25. Loading areas shall be identified on all plans submitted for building permit issuance and shall be subject to review and approval by the Community Development Director and the City Engineer.
26. Deliveries and moving trucks shall not load or unload from the public right-of-way without prior approval of an encroachment permit. Loading and unloading shall not obstruct the flow of traffic on surrounding streets.

General Conditions

27. All signage shall conform to the regulations in Chapter 4.12 of the Zoning Code and the approved Master Sign Program for the development. Neon signs and flashing signs are prohibited, including those placed in windows. All signs shall be well maintained at all times. Any damaged signs shall be promptly repaired or replaced. Window signs, whether painted or adhered to the glass or within eight feet of the window excluding merchandise display, shall be no larger than twenty-five percent of the window in which they are located. No temporary or unauthorized signs including but not limited to 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 Special Event Permit. The use of spotlights, feather signs, animated or inflatable signs, balloons, and lasers shall be prohibited at all times.
28. All exterior mechanical equipment, including but not limited to rooftop equipment, air conditioning/heating units, and any communications equipment shall be screened from view so as not to be visible from adjacent properties or streets to the satisfaction of the Community Development Director. A detail of the screening shall be included on the plans submitted for permit review and approval by the Community Development Director.
29. The Applicant/Property Owner shall subsurface all new transformers, switching boxes, and similar appurtenances, 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 transformer screening shall be included on the improvement plans submitted for review and approval by the Community Development Director.

30. Backflow prevention devices shall be installed on all new and existing domestic, commercial, irrigation, and fire water services and 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.
31. All mechanical equipment shall be designed and maintained to comply with City noise standards and noise from any mechanical equipment, elevators or generators shall be minimized and insulated from adjacent residential units.
32. Any future wireless telecommunications facilities proposed on the subject property shall be considered through a separate permit, and subject to lease approval and conditions, as applicable. Such facilities shall be fully screened and incorporated wholly within the building's architecture. All service equipment and conduit shall be accommodated within the building's interior. No conduit, panels or equipment shall be permitted to be mounted on the building's exterior walls. No conduit, panels or mechanical equipment may be mounted in a visible location or manner on the sides of the building.
33. 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. All fencing, gates and walls on the project site shall be structurally sound, graffiti-free and well maintained at all times. Barbed or razor wire shall not be installed on any fence, wall or building on the project site. The installation of chain link or cyclone fencing shall be prohibited.

Construction Provisions

34. During the construction phase, the site shall be enclosed with a security fence and shall be well maintained in a neat manner, free of weeds, litter and debris.
35. The project 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).
36. If currently unknown historic/prehistoric artifacts or human remains are discovered during ground disturbing activities, the following measures shall be implemented:
 - 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.
37. Prior to the removal of any street trees, 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 Department to remove the street trees at the Owner's expense.
38. 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.
39. 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 this City of San Leandro's Noise Ordinance (ORDINANCE NO. 2003-005), "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 4-1-1130, 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:

- Maintain and tune all proposed equipment in accordance with the manufacturer's recommendations to minimize noise emission.
- 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.
- Post a sign, clearly visible at the site, with a contact name and telephone number of the construction manager.
- Place stationary construction equipment and material delivery in loading and unloading areas as far as practicable from the residences.
- Limit unnecessary engine idling to the extent feasible.
- 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.
- Use low-noise emission equipment.
- Limit use of public address systems.
- Minimize grade surface irregularities on construction sites.

40. Construction activity shall not create dust, noise or safety hazards for adjacent businesses and properties. Dirt and mud shall not be tracked onto E. 14th Street, Davis Street, or Dan Niemi Way 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. 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.

42. 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
- 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.

Inclusionary Housing

43. The Applicant/Property Owner shall comply with its Inclusionary Housing Plan submitted, reviewed, and approved through the planning approval process required under Section 6.04.128 "Compliance Procedures" of the Inclusionary Housing Ordinance (Chapter 6.04 of the Zoning Code).

44. The Applicant/Property Owner shall enter into, and record, an Inclusionary Housing Agreement (reflecting the approved Inclusionary Housing Plan) with the City per Zoning Code Section 6.04.128 (C-D) "Compliance Procedures" that commit the Inclusionary Units as affordable rental housing units.

ENGINEERING & TRANSPORTATION

General Conditions

45. Pursuant to Government Code Section 66020, including Section 66020(d)(1), the City HEREBY NOTIFIES the Applicant/Property Owner for this Project that the 90-day approval period (in which they 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/Property Owner fails to file a protest within this 90-day period, complying with all of the requirements of Government Code Section 66020, the Applicant/Property Owner will be legally barred from later challenging any such fees, dedications, reservations, or other exactions.

46. The Applicant/Property Owner shall obtain an Encroachment Permit from the Engineering and Transportation Department and pay encroachment permit fees for work within the Public Right-of-Way prior to beginning such work. Contractors must be properly licensed, obtain a City Business License, and provide proof of insurance.

47. The Applicant/Property Owner shall pay design review fees, permit fees, inspection fees, sewer connection fees, and any other fees charged by the City or other reviewing

agencies for the review, approval, permitting and inspection of the public and private improvements.

48. The proposed development shall comply with City ordinances, policies, and regulations. All public and private site improvements shall be constructed in accordance with the City's Design Standards, Specifications and Standard Plans unless otherwise specifically approved by the City Engineer.
49. The Applicant/Property Owner shall have public and private site improvements designed and stamped by a civil engineer registered to practice within the State of California. Applicant/Property Owner shall obtain approval of the City Engineer for all on and off-site improvements prior to the issuance of Building Permits for the project. All improvements within the right of way shall be per City Standards. Improvements shall be designed so that storm water does not impact pedestrian travel along sidewalks or across streets.
50. If the construction of any site improvement requires encroachments onto neighboring properties, the Applicant/Property Owner shall submit written agreements with that property owner to the City Engineer, for review and approval, prior to approval of the building permit.

Site Conditions

51. The proposed development occurs over eight separate parcels. The Applicant/Property Owner shall submit a Parcel Map application for the merger of the eight parcels and create or relinquish any easements over the property. The Parcel Map shall be approved by the City Council and recorded prior to the issuance of any construction permits. The application is available at <https://www.sanleandro.org/DocumentCenter/View/6915/Parcel-Map-Application-PDF>.
52. The proposed development shall comply with the recommendations of the Geotechnical Investigation prepared by Rockridge Geotechnical, dated July 20, 2022.
53. Prior to the issuance of grading or building permit, the Applicant/Property owner shall prepare a Site Management Plan for the review and approval of the Chief Building Official, City Engineer, and the Environmental Services Division.
54. The Applicant/Property Owner shall remove any unused driveways or damaged driveways, sidewalk, and curb and gutter along the full property frontage and construct new City standard driveway, sidewalk, curb and gutter in place of the removed items.
55. Any work within the Davis Street (State Route 112) and E. 14th Street (State Route 185) Right-of-Way shall require encroachment permits from Caltrans and from the City of San Leandro. The Contractor shall obtain said permits prior to beginning any work within the State Right-of-Way.

56. Any work within the Dan Niemi Way Right-of-Way shall require an encroachment permit from the City of San Leandro Engineering and Transportation Department. The Contractor shall obtain said permit prior to beginning any work within the Public Right-of-Way.
57. The Applicant/Property Owner shall provide a construction staging plan and a worksite management plan for the project prior to the issuance of construction permits.

Traffic Conditions

58. The automobile parking provided on-site shall meet all applicable City standards including, but not limited to, parking lot stall and aisle dimensions, bike parking, ratio of electric vehicle spaces, and accessible parking spaces shall be included to meet the latest ADA requirements

Grading Conditions

59. A Grading Permit will be necessary for the project. The requirements for said permit are indicated in the San Leandro Municipal Code §7-12. The permit will be issued prior to or concurrent with the Building Permit.
60. The site will be subject to a Construction General Permit according to the National Pollutant Discharge Elimination System (NPDES) General Permit No. CAS000002. The general permit is applicable to construction sites that disturb one or more acres of land surface. The Applicant/Property Owner will be required to register the project with the State Water Board's Stormwater Multi-Application and Report Tracking System (SMARTS) website. A Qualified SWPPP Developer (QSD) and a Qualified SWPPP Practitioner (QSP) must be responsible for permit compliance. The SMARTS system will generate a Waste Dischargers Identification (WDID) number which must be printed on the grading and/or erosion control plans set prior to Grading Permit issuance.

Stormwater/Clean Water Program Conditions

61. Because the project creates or replaces more than 10,000 SF of impervious surface, it is considered a Regulated Project according to Provision C.3.b of the San Francisco Bay Region Municipal Regional Stormwater NPDES Permit (Order No. R2-2015-0049, NPDES Permit No. CAS612008, adopted 11/19/2015). All requirements of the MRP and the Stormwater Requirements Checklist shall be followed prior to issuance of a Grading and/or Building Permit.
62. Any self-retaining or self-treating areas proposed for the project site shall conform to the requirements in the MRP. The Applicant/Property Owner shall provide any required calculations to demonstrate the proposed self-retaining and self-treating areas are adequately sized.
63. The Applicant/Property Owner shall provide the appropriate calculations to demonstrate the proposed media filters are adequately sized.

64. The Applicant/Property Owner shall agree to a right-of-entry for the inspection of stormwater treatment structures and shall submit a certified, signed, and notarized Stormwater Operation and Maintenance (O&M) Agreement prior to grading permit approval.
65. The Applicant/Property Owner shall relocate the media filter "M-2" out of the 1,060 square-foot publicly accessible open space at the corner of E. 14th Street and Davis Street to the rear of the property or to an alternative location unless it can be demonstrated to the City Engineer and Community Development Director that relocation is not feasible.
66. If left in place, the location of media filter "M-2" is on private property adjacent to the Public Right-of-Way. Regular maintenance activities of this treatment facility after it is installed is likely to require an encroachment permit from Caltrans and from the City of San Leandro due to its proximity to the Public Right-of-Way. Exhibit C of the required O&M agreement shall include notation indicating the requirement of an encroachment permit.
67. 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 walls of concrete or masonry, or walls finished with ceramic tile or metal so that pests that gain access to the trash rooms 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. The property shall be swept regularly to minimize the accumulation of litter and debris. Loaded trucks entering or exiting the site must have their loads covered with tarps to prevent debris from escaping.
 - g. 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.

- h. 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.
- i. 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.
- j. 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.
- k. Selection of the plants that will require minimal pesticide use.
- l. Irrigation shall be appropriate to the water requirements of the selected plants.
- m. The Applicant/Property Owner shall select pest and disease resistant plants.
- n. The Applicant/Property Owner shall plant a diversity of species to prevent a potential pest infestation from affecting the entire landscaping plan.
- o. The Applicant/Property Owner shall plan insectary plants in the landscaping to attract and keep beneficial insects.

Utility Conditions

68. All new utility services to the facility shall be placed underground from the appropriate utility pole or service points. All proposed improvements shall comply with City Standard Details and Specifications. All utilities under sidewalks shall have 24" of minimum cover and utilities under the street shall have 36" of minimum cover measured from the lip of gutter.
69. The sanitary sewer laterals are proposed to connect to the existing 8" sanitary sewer mains in the Public Right-of-Way. The Applicant/Property Owner shall prove that the existing sanitary sewer system can handle the effluent from the proposed development without requiring upgrades to the existing system.
70. The Applicant/Property Owner shall perform video inspection of the sanitary sewer mains where the proposed lateral connections will be installed. Videos shall be provided to the City with the construction permit submittals. Any pipeline deficiencies identified in the videos will need to be repaired prior to the connection of the proposed sanitary sewer laterals.

- 71. A site lighting plan and photometric study must be developed and submitted for approval along with the Building Permit application to assure sufficient illumination for the safety and security of the future building occupants.
- 72. Streetlighting proposed along the project property frontage shall match the existing decorative lighting currently installed in this area.

Development Impact Fee Conditions

- 73. A Development Fee for Street Improvements (DFSI) shall be assessed at the time of building permit issuance and the fee is subject to change. The current rate is \$1,711.57 per General Residential unit constructed, as listed in the 2022-23 City Fee Schedule. Per the drawings provided by the applicant, the proposed building will have 180 new residential units. After applying a credit for the existing Personal Service use (bank) of \$14.25 per square foot results in an estimated DFSI of \$40,467.60. Changes to the number of units will affect the amount of the fee.
- 74. A Marina Boulevard/Interstate 880 Traffic Impact Fee (M880) shall be assessed at the time of building permit issuance and the rate is subject to change. The current rate is \$860.89 per General Residential unit constructed, as listed in the 2022-23 City Fee Schedule. Per the drawings provided by the applicant, the proposed building will have 180 new residential units. After applying a credit for the existing Personal Service use (bank) of \$14.98 per square foot, results in a zero M880 fee.
- 75. A Park Facilities Development Impact Fee shall be assessed at the time of permit issuance. The current fee calculation assuming 180 “multi-family” dwelling units (du) is as follows:

Park Land Acquisition Fee:	\$15,444.00/du	or	\$2,779,920.00
Park Improvement Fee:	\$2,630.00/du	or	\$473,400.00
Total Park Impact Fee:	\$18,074.00/du	or	\$3,253,320.00

- 76. The Applicant/Property Owner has the option to pay only the Park Improvement Fee and dedicate land to the City for use as a Public Park. Using this option, the Park Improvement fee is due in the amount of \$473,400.00, and the required park land dedication is 1.17 acres. These fees were calculated using the Fiscal Year 2022-23. Changes to the number of units will affect the amount of the fee. The Park Facilities Development Impact Fees are due prior to the issuance of the building permit and are subject to change.

FIRE

- 77. The project shall comply with the California Building and Fire Codes and current and local ordinances in effect at the time of building permit submittal.
- 78. The building shall be subject to annual state mandated inspections.

79. The building shall be equipped with a fire alarm system, fire sprinkler system, fire pump, and ERRCS.
80. The final hydrant locations shall be determined in the final improvement plans, subject to review and approval by the Alameda County Fire Department.

BUILDING DIVISION

81. All construction shall fully comply with the current adopted California Building Standards Code in effect at the time of building permit issuance.
82. The Applicant/Property Owner shall provide detailed construction plans (working drawings) and structural calculations 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 issued prior to commencement of any actual construction work on-site.
83. The Applicant/Property Owner shall submit a Geotechnical report at the time of Building permit submittal.
84. The Applicant/Property Owner shall submit geotechnical, structural review, and approval letter from structural engineer of record.
85. The Applicant/Property Owner shall demonstrate the following on plans submitted for permit issuance:
 - a. The Applicant/Property Owner shall list all deferred submittals on plans submitted for building permits. Mechanical, Electrical and Plumbing (MEP) shall not be deferred.
 - b. The Applicant/Property Owner shall provide van and standard accessible parking space with signage and stripping per California Building Code Chapter 11A.
 - c. Accessible path of travel from public right of way to lobby, leasing office, bicycle storage, fitness center, outdoor plaza 1st floor, parking garage 1-2 floor, residential storage lockers 2nd floor, landscaped courtyard at 3rd floor and landscaped roof deck and club house on 7th floor.
 - d. Accessible clearances are required for all accessible spaces.
 - e. Multistory dwelling units in a building with one or more elevators shall comply with 2019 CBC section 1102A.3.2.
 - f. All exterior walking surfaces shall be ADA compliant.
 - g. A carbon monoxide detection system shall be provided at each garage level

- h. Garage and residential corridors shall be mechanically ventilated.
- i. Mechanical ventilation shall have generator back up.
- j. Clarify all utility chases and their required fire separation and fire penetration ratings.
- k. Provide location of rooftop mechanical systems and their rooftop access.
- l. Elevators shall have an elevator lobby. Clarify if access is only in parking garage.
- m. The parking garage shall have required fire separation from residential corridors.
- n. Clarify what amenities are taking place in each space, their occupancy and occupant loads.
- o. Provide bedroom egress windows for levels 1 through 3.
- p. Verify residential corridors for travel distance to exit stairs, width for occupant load, emergency lighting, areas of refuge location (if needed).
- q. All stairwells shall have an area of refuge.
- r. Residential storage areas shall have required fire separation and shall be accessible.
- s. Provide location of required EV parking spaces.
- t. The Project will need a Fire Pump. Provide the fuel type.
- u. The Fire Pump room shall be designed with proper fire separation.
- v. Clarify location of photovoltaic electric system.
- w. ADA Accessibility/Fair Housing Act Compliance. Provide adaptable accessible units and accessible path of travel from public right of way and accessible parking to the following: leasing office, individual units, elevator, amenities spaces, laundry room, mail room, and site. Common use areas shall accommodate accessible activities or provide equivalent facilitation. Residential roof top deck shall be accessible. All egress routes shall have accessible compliant hardware. Provide accessible clearances for all accessible spaces.
- x. Information provided on civil plans such as accessible path of travel, accessible parking, utilities, and exterior lighting locations shall be shown on architectural site plan.
- y. All revision clouds and deltas added during Planning approval must be removed prior to submitting to Building for permit.

86. It is highly suggested that this project have a CASp professional (Certified Access Specialist) on the design team for accessibility compliance.

SOLID WASTE

87. The project site is in the Alameda County Industries (ACI) service area. For questions about solid waste and recycling service, service levels and/or proposed service location(s) for residential and commercial tenants. Contact ACI at (510) 357-7282. To ensure compliance with the Franchise Agreement, ACI shall be the exclusive service provider for compactors onsite.

88. To comply with state and local regulations, the Applicant/Property Owner shall demonstrate on the plans submitted for building permit issuance that solid waste enclosures 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). California state law, SB 1383, mandates that compostable and recyclable materials be separated from landfill materials and properly recycled. In San Leandro, SB 1383 will be implemented and enforced under the Alameda County Organics Reduction and Recycling Ordinance. For more information, visit www.stopwaste.org/rules#Business.

89. 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 final.

90. 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.

91. 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.

PASSED, CONDITIONALLY APPROVED, AND ADOPTED, on this 7th day of September 2023 by the following vote:

AYES:

NOES:

ABSENT:

ABSTAIN:

Litha Zuber
Chair of the Board of Zoning Adjustments

ATTEST:

Avalon Schultz, AICP
Secretary to the Board of Zoning Adjustments