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**Title:** PLN22-0037; Consideration of a Conditional Use Permit and Administrative Site Plan Review for a 180-unit multi-family residential development and related site improvements located at 1145-1199 E. 14th Street; Zoning District: DA-1(S), Downtown Area-1, Special Review Overlay; Alameda County 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, and a determination that the project is categorically exempt from the California Environmental Quality Act (CEQA) pursuant CEQA Guidelines Section 15332; Bob Pickett (applicant); Beam Development, LLC (property owner).

**Indexes:**

**Code sections:**

**Attachments:** 1. Attachment 1 - Draft BZA Resolution 23-XX, 2. Attachment 1 - Exhibit A - Project Plans, 3. Attachment 2 - Compliance Table - Town Hall Square, 4. Attachment 3 - Class 32 CEQA Exemption Report 1199 E 14th St, 5. Attachment 4 - Inclusionary Housing Plan, 6. Attachment 5 - General Plan Goals and Policies, 7. Attachment 6 - Project Location, Existing Conditions & History.

Date	Ver.	Action By	Action	Result
9/7/2023	1	Planning Commission and Board of Zoning Adjustments	Received and Filed	Pass

**PLN22-0037;** Consideration of a Conditional Use Permit and Administrative Site Plan Review for a 180-unit multi-family residential development and related site improvements located at 1145-1199 E. 14<sup>th</sup> Street; Zoning District: DA-1(S), Downtown Area-1, Special Review Overlay; Alameda County 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, and a determination that the project is categorically exempt from the California Environmental Quality Act (CEQA) pursuant CEQA Guidelines Section 15332; Bob Pickett (applicant); Beam Development, LLC (property owner).

**SUMMARY AND RECOMMENDATIONS**

The applicant, Bob Pickett, on behalf of the property owner, Beam Development, LLC, is requesting a Conditional Use Permit and Administrative Site Plan Review for a proposed 180-unit multi-family residential development at 1145-1199 E. 14<sup>th</sup> Street. The 1.2-acre project site is located in Downtown and is bounded by E. 14<sup>th</sup> Street, Davis Street, and Dan Niemi Way.

The project proposes to demolish two existing buildings and a surface parking lot to facilitate the proposed development. A separately owned gas station occupies the same block to the north of the project site at Dan Niemi Way and E. 14<sup>th</sup> Street and is not part of the project scope.

The proposed project is utilizing State Density Bonus law, which allows an increase to the base residential density of a proposed project and provides concessions and waivers to development standards in exchange for providing a percentage of on-site affordable dwelling units.

The project is categorically exempt from the California Environmental Quality Act (CEQA) pursuant to Section

15332 of the CEQA Guidelines, In-Fill Development Projects.

Staff recommends the Board of Zoning Adjustments adopt the attached Resolution, 2023-007 approving a Conditional Use Permit and Administrative Site Plan Review for 1145-1199 E. 14<sup>th</sup> Street, PLN22-0037 and determining the project is categorically exempt from CEQA, based on the recommended Findings of Fact and subject to the recommended Conditions of Approval.

## **BACKGROUND**

*Please see Attachment 6 for Project Location, Existing Conditions & History.*

### ***Housing Accountability Act / Density Bonus Law***

The applicant has been coordinating with the City for several years on their proposal for the site. During this time, numerous changes to housing law were passed by the State to address the housing crisis in California. Among the changes is the strengthening of the Housing Accountability Act, which required cities to adopt and evaluate housing projects using only objective standards and approve projects that meet the applicable objective standards. The State also passed legislation to incentivize housing developments (e.g., updates to the Density Bonus Law) and to provide certainties to developers by preventing cities from enacting new laws that would limit growth and locking in fees and standards for developers (e.g., Senate Bill 330, “The Housing Crisis Act of 2019” (SB 330)).

Under the Density Bonus Housing Law, developers who include a certain percentage of affordable housing units are rewarded with bonus units that enable the development to exceed the otherwise applicable density limits for that project site. This approach aims to encourage developers to include affordable housing in their plans, as the extra density and incentives can offset the financial challenges associated with building affordable units. The law also provides additional incentives such as reduced parking requirements, relaxed development standards, and expedited processing.

To take advantage of the benefits available under State law, the developer submitted a Preliminary Application with a Density Bonus component in August 2022. This means that the project is locked into the City’s development standards, policies, and fees (subject to inflationary adjustments) that were in place when the Preliminary Application was deemed complete on September 6, 2022. The base project included 120 units (the maximum allowed on the site under the applicable density standard), of which 18 (15%) units are affordable to very-low income households, which satisfies the requirements of the City’s inclusionary housing ordinance. By providing these units, the project is entitled to up to 50 percent more units as a bonus, allowing 60 units to be added to the project, which are not subject to inclusionary regulations pursuant to State law.

The Density Bonus also provides the project with three concessions that it can use to eliminate or reduce certain development standards that would result in identifiable and actual cost reductions, in order to provide affordable housing. The project is also entitled to waive any development standard that would physically preclude the project from being built at the density allowed (with the bonus units). The project has not needed to use any of the allowed concessions, but is applying waivers to seven development standards.

Under State law, when concessions and waivers are applied, the project shall be considered consistent with the standards from which relief is being requested. Generally, the City can only deny the concessions or waivers if they would result in a violation state or federal law, or if the concession or waiver would have a specific, adverse impact upon public health and safety, and there is no feasible method to satisfactorily mitigate or avoid the impact without rendering the development unaffordable to low-income and moderate-income households. A “specific, adverse impact” means a significant, quantifiable, direct, and unavoidable impact, based on objective, identified written public health or safety standards, policies, or conditions as they existed on the date the application was deemed complete.

Under the Housing Accountability Act, cities generally may not deny a project or reduce its density if the project complies with all of the city's adopted, objective Zoning and General Plan requirements. Accordingly, to deny the proposed Administrative Site Plan Review or Conditional Use Permit, the Board of Zoning Adjustments would need to identify specific objective City standards or policies with which the project is inconsistent.

## **PROJECT PROPOSAL AND ANALYSIS**

The project site has a Downtown Mixed Use General Plan Land Use designation and is zoned DA-1(S), Downtown Area-1, Special Review Overlay. In 2007, the Downtown San Leandro Transit-Oriented Development Strategy (TOD Strategy) was adopted, and the S-Overlay was applied to eight Special Policy Areas in the Downtown where flexibility was needed to allow for varying development scenarios on those sites. Special Review Criteria were established for each site, which were later amended in 2016 after the 2035 General Plan was adopted. Zoning Code Section 3.16.112 requires a Conditional Use Permit 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 E. 14<sup>th</sup> Street north of Parrott Street.

The 180 rental unit development includes ten studio units, 94 one-bedroom units, 68 two-bedroom units, and five three-bedroom units. With an average unit size of 940 square feet, each unit would have a full kitchen, including a refrigerator, dishwasher, range/oven, and in-unit washer/dryer. Approximately 12 percent of the units are proposed to include private balconies. The residential units span five floors and are located above two floors of parking, common areas, and amenities. The project would comply with the requirements of provision C.3 of the Municipal Regional Stormwater Permit, in accordance with the Alameda County Clean Water Program, and includes a central courtyard and new landscaping that will reduce the overall amount of existing impervious surface by approximately 1,500 square feet.

The site is well served by existing transit services. The Tempo Bus Rapid Transit (BRT) line has boarding platforms adjacent to the property and the San Leandro Bay Area Rapid Transit (BART) Station is approximately 0.4 miles away.

### ***Compliance with Objective Development Standards***

The proposed infill-housing project is consistent with the City's development and design (objective) standards. The project plans are included as Exhibit A to the draft Resolution (Attachment 1) and a compliance table is included as Attachment 2.

### ***Site Design***

The project site consists of the block bounded by E. 14<sup>th</sup> Street, Davis Street, and Dan Niemi Way (excluding the gas station in the north corner of the block). The proposed multi-family residential building would occupy the full project site with minimal setbacks, as is common throughout the Downtown. The main pedestrian entrance to the proposed development would be through a small public plaza that will serve as the property's required publicly accessible open space at the corner of E. 14<sup>th</sup> Street and Davis Street. The garage entrance is proposed at the rear of the site on Dan Niemi Way.

The project complies with applicable project requirements through the application of Density Bonus waivers. The applicant is seeking Density Bonus waivers to the required setback and pedestrian zones on E. 14<sup>th</sup> Street and Davis Street established in the TOD Strategy, which calls for a seven-foot minimum setback on E. 14<sup>th</sup> Street and a 25-foot wide pedestrian realm. Similarly, on Davis Street, a five-foot minimum setback and 15-foot pedestrian zone are required. A 10-foot pedestrian zone along Davis Street and a 9.75 to 15-foot pedestrian zone along E. 14<sup>th</sup> Street will be provided along with a drop-off and pick-up area near the main entrance to the building on E. 14<sup>th</sup> Street that will help to reduce the potential for delivery and car-share drivers queuing and

double parking in the busy streets.

### Circulation & Parking

The project would include removal of the existing five driveways on Davis Street and Dan Niemi Way, and construction of a new sidewalk and one garage access driveway on Dan Niemi Way, approximately 100 feet north of Davis Street. Pedestrian access to the project site would be provided via existing sidewalks on Davis Street and E. 14<sup>th</sup> Street.

This project was initially designed to meet the City's parking requirements in early 2022. Since then, Assembly Bill (AB) 2097 was signed into law which eliminated parking requirements for most uses within 0.5 mile of major transit stops. The project site is located within 0.5 miles of the BART Station and BRT stops, and therefore no parking is required under AB 2097.

Although no parking is required, the applicant is proposing to provide a parking garage that includes 236 vehicle parking spaces. 103 spaces are proposed on a stacker system (lifting machines that allow several vehicles to park vertically in one spot). The remaining 133 spaces would be conventional parking spaces, comprising of standard, compact, and accessible spaces. As the project has not finalized the design details for the stacker system, Condition 58 has been added to ensure that the final parking configuration meets all applicable City standards. The applicant is seeking a waiver from Section 4.04.336.C.4.e.i, which requires a 40-foot setback for the garage from Davis Street. The garage is proposed to be setback by approximately 18 feet, behind the bike parking area and utility rooms, and will not be visible from this frontage. If the demand for vehicle parking reduces over time, the project design would potentially allow some of the parking spaces to be converted to other uses, including increasing the number of bike parking.

The project proposes a total of 180 long-term bike parking spaces, which meets the required long-term bike parking requirement of one space for each unit. These spaces would be easily accessible to residents from the lobby and are prominently featured along Davis Street. Additionally, short-term bike parking spaces are required for the project and the applicant proposes to install these along Davis Street (Condition 58). In conjunction with the availability of public transit nearby, this will offer residents various transportation options and help to reduce their dependence on automobiles.

### Trash

Residents will have access to a refuse room on each floor with chutes for recycling and refuse and a bin for compost, which will be serviced by building staff. Final details of the trash service plan are subject to approval by staff prior to permit issuance (Condition 90). Push-pull service, where (for an added fee) the waste hauler will remove and place back the bins to their storage area after servicing them may be required to ensure that refuse bins are not placed in the public right of way and comply with applicable requirements.

### Building Height

The project complies with the 24-foot minimum height requirement along E. 14<sup>th</sup> Street, and the building has been designed to meet the minimum 10-foot floor plate on the ground floor. Section 2.08.312 allows buildings heights of up to 75 feet in the DA-1 District, and an additional six feet of height allowed for parapets and 10 feet allowed for penthouse access (Section 4.04.320). The project includes a Density Bonus waiver for height. The overall roof height of the project is proposed to be 76 feet 10 inches and the height of the parapets ranges from 82 to 83.5 feet (to provide a varied roof line required by Section 4.04.336.A.4.b), and the top of the penthouse that encloses the emergency stairs measures 87 feet 4 inches at the top.

### Building Design

The building features multiple public and private outdoor areas that are attractively designed and complement

the building, including the interior courtyard and the public plaza in front of the lobby entrance at the corner of E. 14<sup>th</sup> and Davis Streets. All four elevations are consistently designed with a comfortable streetscape that encourages pedestrian use along each frontage consistent with the goals of the General Plan and TOD Strategy.

The proposed building architecture is modern in design and proposed has materials and colors consisting of fine grain stucco painted in grey, white, and dark blue, highlighted by lap siding with a wood appearance. Proposed balconies and windows are appropriately placed and designed with durable and attractive materials. These features, along with the variations in texture and placement of the materials and color, help to break up the massing of the building and contribute towards the project's compliance with applicable Multi-Family and Mixed-Use Residential Development standards per Section 4.04.336 as summarized in Attachment 2. The multi-family buildings. As such, the applicant has requested Density Bonus waivers from specific standards, including the required 20-foot by 10-foot massing break (Section 4.04.336.A.4.c).

The elevations and specifications for the proposed building materials and colors are included on Sheets AP 3.00 to AP 3.13 in the plan set (Exhibit A of Attachment 1). To ensure that the project has flexibility should there be any delays or shortage in construction materials, Condition 17 was added to allow staff to work with the applicant on a final materials and colors boards should the need for substitutions arise. Staff will also review the final materials and colors to ensure they complement the Centro Callan project under construction across the street.

### Sustainability Features

The building is proposed to have many sustainable features, including vehicle parking spaces with electric vehicle charging facilities. The project would have water conserving plumbing fixtures in both the units, landscaping, and common areas to save water. Solar panels are proposed on the roof and the units and the common areas would be equipped with energy conserving appliances.

As noted, the Town Hall Square site has long been identified by the City as a strategic infill development site in the Downtown, being centrally located, easily accessible by transit, and near goods and services. Development of this site has the potential to build upon other improvements downtown and to positively impact the surrounding area.

### Landscaping, Open Space & Lighting

The proposed project exceeds the DA-1 District minimum site landscaping requirement of five percent by landscaping 11 percent of the site area. The project proposes new London plane trees to replace those that would be removed on E. 14<sup>th</sup> Street, Along Davis Street, new Saratoga Laurel trees would be planted, and on Dan Niemi Way, Red Horse Chestnut trees are proposed. The approximately 8,500 square-foot landscaped courtyard on the third floor would be planted with a combination of trees (ginkgo, Japanese Maple, and Laurel), grass and shrubs, and groundcover in a combination of large planters and built in planting areas. The conceptual landscape plans are included on Sheets L1 - L5.1 of the plan set in Exhibit A to Attachment 1.

The Zoning Code requires a combined 10,800 square feet of open space for the proposed project, which would be satisfied through the provision of a podium courtyard, rooftop terrace, private balconies, and public plaza at the main pedestrian entrance. Section 4.04.336.C.2.b.i requires the width of the podium courtyard to equal that of the shortest adjacent wall, or approximately 55 feet. A Density Bonus waiver is included with the project to allow for the 50-foot wide courtyard.

The building's main entrance will be located off of a small but prominent triangular plaza measuring 1,060 square feet that will serve as an active space and also as a subtle transition between the public and private realms. This plaza satisfies the project's requirement to provide publicly accessible open space, and will have seating, vegetation, and other features per the Publicly Accessible Open Space Standards (Section

4.04.336.C.2.c). Condition 9 requires the applicant to work with staff to finalize the design of the space and to record a public access easement to ensure that the plaza is accessible and well maintained for the community.

The project is also required to submit a final lighting plan at the time of building permit submittal to ensure that the project will be consistent with the City's lighting standards, including adding new lampposts to match the existing lampposts installed Downtown.

### Amenities

Four amenities are required for multi-family developments, and the proposed amenities for the building's residents include a fitness center on the ground floor; tenant storage areas in the garage; a pet area on the second floor; a library/co-working space, a lounge, and a commercial kitchen on the third floor; a clubroom and deck are also available to residents on the seventh floor.

Public amenities include an outdoor public plaza constructed at the corner of E. 14<sup>th</sup> Street and Davis Street with decorative paving, outdoor seating, and bicycle parking. While there are no commercial uses proposed on the ground floor at this time, ground-floor uses have been designed and located to give an appearance of active commercial uses. The fitness center, leasing offices, mailroom, and bike room are proposed behind transparent windows to help activate the street scene along these two major thoroughfares. Access to these areas, and to the elevators to the residential units, would be through a large, bright, and contemporary lobby enclosed with glass walls. Which is where the applicant has proposed to install artwork for residents and the community.

### Public Art

Although there is no formal requirement for public art, the applicant has indicated an interest in providing public art that would be viewable from the public plaza but displayed inside the lobby for security and maintenance purposes. Public art would help to further activate and bring interest to this corner of Downtown. Condition 10 is proposed to promote the continued collaboration between the applicant and staff and ensure that the art display is appropriate for the location and audience.

### ***Downtown TOD Strategy / Special Review Overlay***

The proposed Project reflects the culmination of over a decade of planning efforts originating from the TOD Strategy, a long-term plan adopted in 2007 that provides the land use and development framework for new development in the Downtown. 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.

The main purpose of the TOD Strategy is to focus growth and density in the transit-accessible downtown area and to enhance downtown San Leandro. The Downtown is an ideal location for high-density transit-oriented development because the area is well served by multiple public transportation operators, including BART and the Tempo BRT. New housing will help to increase the local population living in downtown, providing additional 'eyes on the street', serving as a catalyst for downtown revitalization and further enhancing the market for new and existing shops and services. This project and the Centro-Callan project currently under construction across the street have been identified as the types of projects that are needed to bring the vision of the TOD Strategy to fruition.

The Town Hall Square properties are located within Special Policy Area 3 (SP-3) of the S Overlay District. In line with the goals of the TOD Strategy, the Special Polices for SP-3 require a minimum building height of 24 feet, encourage ground floor retail along Davis Street, and encourage improvements to the pedestrian experience and increased interaction with the San Leandro Creek through design measures such as

reconfiguration of Dan Niemi Way, outdoor plazas and open space, and increased building setbacks.

As noted above, the project meets the overall goals of the TOD Strategy and aligns with the Special Policies for SP-3 by installing a new public plaza at the intersection of East 14<sup>th</sup> Street and Davis Street and improving the pedestrian experience along all frontages, and installing new sidewalks and landscaping along East 14<sup>th</sup> Street, Davis Street and Dan Niemi Way. Additionally, the project aligns and will coordinate with offsite improvements in line with the Special Policies for SP-3, which will include the design and installation of improvements along Dan Niemi Way and the San Leandro Creek utilizing \$2 million in earmarked RDA funds.

### ***Density Bonus***

At the time the preliminary application for the project was submitted, the density for the DA-1 District was set at 100 dwelling units/acre (Section 2.08.332); based on the lot size (1.2 acres), a maximum of 120 units would be permitted at the site. By providing 18 deed-restricted dwelling units affordable to very-low income households (15-percent of the 120 base units for the project), the project is eligible for up to a 50-percent density bonus (or an additional 60 units) under the State Density Bonus law (Government Code Section 65915 et seq.). As such, the proposed project is able to provide 180 dwelling units on a 1.2-acre parcel, which would result in a density of 150 dwelling units per acre, higher than the density previously allowed, and also higher than the current density allowed (125 units/acre, adopted concurrently with the 2023-2031 Housing Element Update). With the application of the density bonus, the project conforms with maximum density requirements under State Law.

Under State Density Bonus law, the project is eligible for three concessions and an unlimited number of waivers or reductions to standards that would physically preclude the project from being constructed at the allowed density (including the bonus units). The project did not need to use their concessions, but has requested seven waivers to the City's development and design standards as noted earlier and summarized below.

1. Section 2.08.308.C.3, Setback on Davis Street (5' required, project provides 4')
2. Section 2.08.308.C.1, Setback on E. 14<sup>th</sup> Street (7' required, project provides 4-7')
3. Section 2.08.312, Height (75 feet allowed, building height is 76'10", parapets height is 82'-83.5', and penthouse height is 87'4")
4. Section 2.08.320, Floor Area Ratio (3.5 FAR allowed, project FAR is 3.78)
5. Section 4.04.336.A.4.c, Building Massing Break (a 20' by 10' massing break is required, and the project is providing variations in materials and textures, and strategically placed windows and balconies to reduce the building's massing)
6. Section 4.04.336.C.2.b.i, Open Space Dimension (55' width required, Project provides ~50')
7. Section 4.04.336.C.4.e.i, Garage setback (40' required, project provides 18')

With the waivers, the project is consistent with all applicable objective development standards, as summarized in Attachment 2, Compliance Table.

### ***Inclusionary Housing Plan***

The applicant's Inclusionary Housing Plan (Attachment 4) meets and exceeds the Inclusionary Housing requirements of Zoning Code Chapter 6.04 and advances the City's Housing Element goals. Chapter 6.04 requires 15% of units to be dedicated as affordable units, of which at least 60% must be affordable to very-low income households. The applicant is voluntarily proposing deeper affordability than required by the City's code by setting aside all 15 percent of the base units (18 units out of the 120 units) for very-low income households. The inclusionary units will be restricted and affordable to households with incomes below 50 percent of the Area Median Income (AMI). The monthly rent for these units is predetermined by the County and is based on the household size and income.

The inclusionary units would be built to the same standards and will have the same appliances and fixtures as the market rate units. The Housing Division has reviewed and approved the plan for consistency with the requirements of Chapter 6.04. When housing projects are constructed and ready to be occupied, the City and/or its Below Market Rate (BMR) Program Administrator works with property managers and owners to market and select eligible tenants for the inclusionary units.

### ***Lapse of Approvals and Renewals***

Zoning Code Sections 5.08.136 and 5.12.132 specify that Conditional Use Permits and Administrative Site Plan Review approvals are valid for an initial two-year period or an alternate time that is specified in the conditions of approval. Staff is recommending that the Board of Zoning Adjustments include Condition 6, which specifies that the project approval would lapse four (4) years after the approval date, with an optional one-time extension of one (1) additional year.

### ***Conclusion***

The proposed project would result in redeveloping an underutilized, urban infill site at a prominent corner in the City's downtown with a vibrant, high-quality housing development. The project would activate the intersection of Davis Street and E. 14<sup>th</sup> Street, which has long been envisioned as an opportunity for transit-oriented infill development. The proposed seven-story multi-family residential development would enhance this prominent corner in the heart of Downtown San Leandro and complement the mixed-use Centro Callan project under construction across E. 14<sup>th</sup> Street. The project, as conditioned, is consistent with the General Plan, TOD Strategy, and Zoning Code and complies with objective development standards.

### **GENERAL PLAN CONFORMANCE**

The project site was identified as a housing opportunity site in the 2015-2023 General Plan Housing Element, and the proposed 180-unit Town Hall Square project was included in the City's current 2023-2031 Housing Element as a planned project contributing towards the City's Regional Housing Needs Allocation (RHNA).

The proposed project is consistent with the General Plan's goals, policies and objectives. The project site has a General Plan land use designation of Downtown Mixed Use. The purpose of the Downtown Mixed Use land use designation is to allow a range of uses which together create a pedestrian-oriented street environment. The Downtown Mixed Use General Plan Land Use Designation allowed a maximum density of 100 du/ac at the time the Preliminary Application was submitted and currently allows a maximum of 125 du/ac. The proposed infill project would contribute towards a pedestrian-oriented street environment in a prominent downtown location and would advance housing production near transit, in alignment with the City's identified growth strategy for its Priority Development Areas.

Numerous policies and goals 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. Furthermore, the Housing Element specifically identifies the Project as a pending project and anticipates 180 units being developed on the Property. Many General Plan and Housing Element Policies are potentially applicable to the Project to some degree, but not every such minimally applicable policy or goal is identified herein. Rather, the most relevant and pertinent General Plan goals, policies, and actions that apply to the proposed project are included as Attachment 5.

### **REQUIRED FINDINGS**

In order to approve the Conditional Use Permit for the proposed multi-family residential development project within the DA-1(S) District, the BZA must find that the project is consistent with the required findings of Section 5.08.124:

1. That the proposed location of the use is in accord with the objectives of the Zoning Code and the purposes of the district in which the site is located;

*The proposed location of the multi-family development 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) which encourages mixed use, and conditionally allows for all-residential projects to be developed. The project is designed to complement the existing developments and enhance the community and give the appearance of active non-residential uses on the ground floor.*

2. That the proposed location of the use 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;

*The multi-family development at this prominent yet constrained corner in Downtown San Leandro has been designed to lessen potential impacts to the area and will operate in a manner that is consistent with the policies of the General Plan and will not adversely affect the public health, safety, or welfare of persons living or working or visiting the neighborhood, the surrounding areas, and throughout the City.*

3. That the proposed use will comply with the provisions of this Code, including any specific condition required for the proposed use in the district in which it would be located; and

*The proposed multi-family development, as conditioned, is consistent with the Zoning Code. It has been designed to complement surrounding uses and to meet the objectives of the Downtown San Leandro Transit Oriented Development Strategy. The project is also consistent with the Zoning Code and complies with all applicable development standards and objective design standards. The Project furthers 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.*

4. That the proposed use will not create adverse impacts on traffic or create demands exceeding the capacity of public services and facilities, which cannot be mitigated.

*The proposed multi-family development is in a location that was identified for housing in the City's 2015 to 2023 Housing Element and the Downtown San Leandro Transit Oriented Development Strategy. The development will be served by existing utilities and public services, and it will not create adverse impacts on traffic or create demands exceeding the capacity of public services and facilities, which cannot be mitigated.*

To approve or conditionally approve an Administrative Site Plan Review for a multi-family or mixed-use housing development project, as defined by Government Code Section 65589.5, the BZA must find that the project is consistent with the required findings of Section 5.12.124.

1. That the project is in compliance with the minimum objective standards and criteria of this Code, the General Plan, any applicable specific plan, and all other applicable objective standards and criteria.

*This project complies with objective standards and criteria of the Zoning Code and the special design requirements of the Downtown San Leandro TOD Strategy, with the application of the waivers pursuant to the Density Bonus Law. The review for this project does include discretionary requests, but the project was reviewed Administratively using the table in Attachment 2.*

## **PUBLIC OUTREACH**

The applicant conducted two outreach events prior to the hearing. An open house was held at the Main Library on Saturday, June 10, 2023, and businesses and residents within 500 feet of the project site were invited to attend to learn more about the project. The second outreach event was a presentation to the Board of Directors of the San Leandro Improvement Association (SLIA), the Downtown San Leandro Community Benefit District, on July 20, 2023. Staff attended both events and noted the feedback from participants was generally positive.

A notice of public hearing was published for this project in the East Bay Times Daily Review newspaper, mailed to property owners within 500 feet of the subject property, and posted at the project site and at City Hall on August 28, 2023.

## ENVIRONMENTAL REVIEW

This project is categorically exempt from the California Environmental Quality Act (CEQA) per CEQA Guidelines, Section 15332, In-Fill Development Projects (Class 32). In order to qualify for a Class 32 exemption, a project must meet the criteria below and must not be subject to any of the exceptions to the exemption, which would preclude it from using the exemption. The City hired Rincon Consultants, Inc. to study the potential application of the Class 32 Exemption. Rincon prepared an Exemption report, which is included as Attachment 3, which determined the project meets the requirements to qualify for the Exemption.

### ***Class 32 Infill Exemption Criteria***

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

*As discussed above, many General Plan and Housing Element goals and policies are applicable to the Project to some degree. A review of the most relevant and pertinent policies and goals demonstrates that the Project is consistent with the General Plan and Housing Element, which strongly encourage the development of new housing and the development of Downtown San Leandro as a vibrant pedestrian-oriented destination that is the civic and social heart of the City. The Housing Element specifically anticipates a 180 units residential project on the Property. As noted above and shown in Attachment 2, the project is consistent with the general plan and applicable provisions of the zoning code, with the application of the State Density Bonus Law.*

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

*The Project is located within the City of San Leandro on a 1.2-acre site, with existing development on all sides.*

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

*As discussed in Section 3.3 of the Exemption Report, the project site is located within a highly developed urban area that lacks habitat that would be suitable for sensitive animal or plant species.*

4. Approval of the project would not result in any significant effects relating to traffic, noise, air quality, or water quality.

*The Project site is located within 0.5 miles of the San Leandro BART Station and several Alameda-Contra Costa Transit District transit stops with transit service intervals of 15 minutes or less during peak commute hours (which constitutes a high-quality transit corridor pursuant to Section 21155 of the Public Resources Code). Section 210654.3 of the Public Resources Code states that a project within a high-quality transit*

*corridor can be presumed to have less than significant impacts related to VMT. Therefore, approval of the project would not result in significant effects related to traffic. As described in Section 3.4 of the Exemption Report, the applicant submitted reports that were peer reviewed and evaluated by the City's CEQA consultants to determine that the project would not have a significant impact on noise and air quality.*

5. The site can be adequately served by all required utilities and public services.

*The site is the heart of Downtown San Leandro and will be adequately served by all required utilities and public services.*

### **Exceptions to Categorical Exemptions**

A project may meet all the requirements to qualify for one or more categorical exemption, but if any of the exceptions set forth in CEQA Guidelines section 15322 applies to a project, then it would preclude the project from using any of the exemptions.

The report concluded that the exceptions to the exemptions do not apply to the project because the project site is not in an environmentally sensitive location. There are no significant cumulative impacts that are identified for the project, the construction and daily operation of an apartment building is not unusual and will not have a significant effect on the environment, the project is not close to and would not impact a designated scenic highway, and it is not on the State's lists of hazardous sites.

While the site is a historic point of interest, the structure of interest, namely the old Town Hall, was demolished over 100 years ago. The structures that occupy the site today do not qualify as historic resources under CEQA due to their lack of architectural or historical significance. With implementation of standard conditions in the event that cultural resources or human remains are found, and training for the workers as proposed by the applicant in the project plans, the project would not adversely impact a historic resource that may or may not turn up at the site. A detailed report for the Class 32 Exemption, including an analysis of the criteria and exceptions to the exemptions is provided as Attachment 3.

### **RECOMMENDATION**

The project, as conditioned, conforms to the Zoning Code, General Plan, and the Downtown San Leandro TOD Strategy. The proposed multi-family residential development at the key intersection of Davis Street and E. 14<sup>th</sup> Street will help realize the City's vision for the Downtown TOD Priority Development Area. Staff therefore recommends that the Board of Zoning Adjustments adopt a Resolution determining that the project is categorically exempt from the California Environmental Quality Act (CEQA) pursuant to CEQA Guidelines Section 15332 and approving PLN22-0037, Conditional Use Permit authorization and Administrative Site Plan review for the proposed multi-family residential development project located at 1145-1199 E. 14<sup>th</sup> Street, based on the recommended Findings of Fact and subject to the recommended Conditions of Approval.

### **ATTACHMENTS**

1. Draft BZA Resolution 2023-XX with Recommended Findings of Fact and Conditions of Approval  
Attachment 1 Exhibit A - Project Plans
2. Compliance Table
3. Class 32 CEQA Exemption Report
4. Inclusionary Housing Plan
5. General Plan Goals and Policies
6. Project Location, Existing Conditions & History.

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Planning Division