AGENDA

REGULAR MEETING OF THE
PLANNING COMMISSION

May 20, 2020 at 7:30 p.m.

This meeting will be held via teleconference.
The meeting will be accessible at https://meetingsamer6.webex.com/meet/cityclerk and
(408) 418-9388 (Access Code 296 024 026) at the date and
time specified above.

7:30 p.m. CONVENE REGULAR MEETING

1. ROLL CALL – Chair Leslie Mendez; Vice-Chair Andrea Lucas; Members Brendan
   Bloom, Greg Crump, Erin Gillett, and Joy Navarrete

2. COUNCIL/STAFF LIAISON ANNOUNCEMENTS AND REPORTS
   The City Council Liaison or City staff may report on matters of general interest to the
   Planning Commission, Council policies, priorities and significant actions taken by the City
   Council.

3. ORAL COMMUNICATIONS FROM THE PUBLIC
   Remarks are typically limited to three minutes per person, and may be on anything
   within the subject matter jurisdiction of the body. Remarks on non-agenda items will be
   heard first, remarks on agenda items will be heard at the time the item is discussed.

4. ADOPTION OF MINUTES
   Approval of the April 15, 2020 meeting minutes.

5. COMMISSIONER COMMUNICATION/CONFLICT OF INTEREST DISCLOSURE
   This time on the agenda is reserved for Commissioners to disclose communications from
   individuals regarding specific agenda items or to state a potential conflict of interest in
   relation to a specific agenda item

6. PUBLIC HEARING: 7 SANTA FE AVENUE VARIANCE AND USE PERMIT
   Application: PL20-0014
   Applicant: Erick Mikiten, AIA
   Location: 7 Santa Fe Avenue
   APN: 504-283-012
   Zoning: RS-5 (Single Family Residential)
   General Plan: Low Density Residential
   Request: Planning Commission consideration of a Variance for reduced rear setback
            and Conditional Use Permits to allow an exception to the main building
            envelope and to extend a structure with a nonconforming side setback to
            allow a proposed two-story addition to the rear of an existing two-story
            single family house (Chapter 19.36 and Chapter 19.34, ECMC)
   CEQA: This project is categorically exempt from the provisions of CEQA pursuant
t          to Section 15301 of the CEQA Guidelines, Class 1: Existing Facilities.
7. PUBLIC HEARING: 601 LEXINGTON AVENUE CONDITIONAL USE PERMITS
   Application: PL20-0032
   Applicant: Erica Meeks
   Location: 601 Lexington Avenue
   APN: 503-402-008
   Zoning: RM (Multi-Family Residential)
   General Plan: High Density Residential
   Request: Planning Commission consideration of Conditional Use Permits for a reduction of the required off-street parking; making substantial alterations to a nonconforming structure; an exception to buffer yard requirements; and an exception to retaining wall height requirements to allow the conversion of a former church and office building into 6 residences (Chapters 19.06, 19.24, 19.25, and 19.27, ECMC).
   CEQA: This project is categorically exempt from the provisions of CEQA pursuant to Section 15332 of the CEQA Guidelines, Class 32: In-Fill Development Projects.

8. PUBLIC HEARING: INCLUSIONARY ZONING ORDINANCE AMENDMENTS
   Applicant: City of El Cerrito
   Location: Citywide
   CEQA: This action is exempt from the requirements of the California Environmental Quality Act pursuant to CEQA Guidelines Section 15061 (b)(3). The activity is covered by the general rule which exempts activities that can be seen with certainty to have no possibility for causing a significant effect on the environment. Any project that would implement inclusionary housing being constructed would be subject to its own review under the California Environmental Quality Act.

9. STAFF COMMUNICATIONS
   Informational reports on matters of general interest, presented by City staff.

10. ADJOURNMENT

In compliance with the Americans with Disabilities Act, if you need special assistance to participate in this meeting, please contact Sean Moss at (510) 215-4330. Notification 48 hours prior to the meeting will enable the City to make reasonable arrangements to ensure accessibility to this meeting. (28 CFR 35.102-35.104 ADA Title I).

Any writings or documents provided to a majority of the members regarding any item on this agenda will be made available for public inspection.
7:30 p.m. CONVENE SPECIAL MEETING

1. ROLL CALL – Chair Leslie Mendez; Members Brendan Bloom, Greg Crump, Erin Gillett, and Joy Navarrete. Commissioner Andrea Lucas had an excused absence.

2. COUNCIL/STAFF LIAISON ANNOUNCEMENTS AND REPORTS
   Nothing was reported.

3. ORAL COMMUNICATIONS FROM THE PUBLIC
   No Comments were received.

4. ADOPTION OF MINUTES

5. COMMISSIONER COMMUNICATION/CONFLICT OF INTEREST DISCLOSURE
   Commissioner Andrea Lucas received an excused absence for this meeting. Andrea Lucas is the applicant for the public hearing item for 956 Sea View Drive Parcel Map. Andrea Lucas participated only during this public hearing item as the applicant and did not participate in the meeting as a Planning Commissioner nor take part in any Planning Commission actions.

6. PUBLIC HEARING: 7 SANTA FE AVENUE VARIANCE AND USE PERMIT
   Application: PL20-0014
   Applicant: Erick Mikiten, AIA
   Location: 7 Santa Fe Avenue
   APN: 504-283-012
   Zoning: RS-5 (Single Family Residential)
   General Plan: Low Density Residential
   Request: Planning Commission consideration of a Variance for reduced rear setback and a Conditional Use Permit for exceeding building envelope requirements to allow a proposed two-story addition to the rear of an existing two-story single family house (Chapter 19.36 and Chapter 19.34, ECMC)
   CEQA: This project is categorically exempt from the provisions of CEQA pursuant to Section 15301 of the CEQA Guidelines, Class 1: Existing Facilities.
Senior Planner Jeff Ballantine presented the staff report and answered questions from the Commission.

The project architect, Erick Mikiten, presented the project and answered questions from the Commission.

The public hearing was opened.

The following speakers addressed the Commission:
Diane Switzer, 14 San Carlos Avenue
Jim Feeley, 12 San Carlos Avenue
Howdy Goudey, El Cerrito

The public hearing was closed.


7. PUBLIC HEARING: 956 SEA VIEW DRIVE TENTATIVE PARCEL MAP
Application: PL17-0180
Applicant: Andrea Lucas and Tobin Kendrick
Location: 956 Sea View Drive
APN: 505-221-040
Zoning: RS-5 (Single Family Residential)
General Plan: Low Density Residential
Request: Planning Commission consideration of a recommendation for a tentative parcel map to subdivide lot into two lots and an exception to Title 18 of the City’s Municipal Code for minor subdivisions in which minimum frontage on a public street is not provided for all parcels (18.32.050, ECMC).
CEQA: This project is categorically exempt from the provisions of CEQA pursuant to Section 15315 of the CEQA Guidelines, Class 15: Minor Land Divisions.

Senior Planner Jeff Ballantine presented the staff report and answered questions from the Commission.

The applicant, Andrea Lucas, presented the project and answered questions from the Commission.

The public hearing was opened.

The following speakers addressed the Commission:
Athan Magganas, 933-941 Shevlin Drive
Peter Magganas, 933-941 Shevlin Drive
Kristos Magganas, 933-941 Shevlin Drive
Howdy Goudey, El Cerrito

The public hearing was closed.

Moved/Second: Commissioner Crump/Bloom. Action: Passed a motion to recommend City Council approval of a tentative parcel map to subdivide lot into two lots and an
exception to Title 18 of the City’s Municipal Code for minor subdivisions in which minimum frontage on a public street is not provided for all parcels at 956 Sea View Drive. **Ayes:** Commissioners Bloom, Crump, Gillett, Navarrete, Mendez. **Noes:** None.

8. **STAFF COMMUNICATIONS**
Planning Manager Sean Moss updated the commission regarding the City’s General Plan Annual Progress Report; City operations during the Contra Costa County Shelter in Place Order; and the City’s budget.

9. **ADJOURNMENT**
9:55p.m.
**Planning Commission Staff Report**  
May 20, 2020

**7 Santa Fe Avenue Variance and CUP**

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**DETAILS**

**Application Number:** PL20-0014  
**Applicant:** Erick Mikiten, AIA  
**Location:** 7 Santa Fe Avenue  
**APN:** 504-283-012  
**Zoning:** RS-5 (Single Family Residential)  
**General Plan:** Low Density Residential  

**Request:** Planning Commission consideration of a Variance for reduced rear setback and Conditional Use Permits to allow an exception to the main building envelope and to extend a structure with a nonconforming side setback for a proposed two-story addition to the rear of an existing two-story single family house due to a constrained site with a creek and in order to comply with creek setbacks (Chapter 19.36 and Chapter 19.34, ECMC)

**CEQA:** This project is categorically exempt from the provisions of CEQA pursuant to Section 15301 of the CEQA Guidelines, Class 1: Existing Facilities.

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**EXECUTIVE SUMMARY**

The requested entitlements for consideration by the Planning Commission are a Variance for a reduced rear yard setback and Conditional Use Permits to allow an exception to the main building envelope and to extend a structure with a nonconforming side setback for a proposed two-story addition to the rear of an existing two-story single family house. The proposed addition includes a seven-foot rear setback and encroaches outside the required daylight plane on the western (rear) and northern (side) portions of the proposed addition.

There are special circumstances whereby strict application of the Zoning Ordinance will deprive the property of privileges enjoyed by surrounding properties. As a result of a creek running diagonally through the southeast portion of the site and a 30-foot setback from top of creek bank required by Section 19.12.050 ECMC, the developable area of the lot is reduced to 8% of the lot.

In response to Planning Commission direction at the April 15, 2020 meeting and input from adjacent neighbors, the applicant: (1) moved the massing of the addition to the north by approximately 4 feet 7 inches; (2) frosted the lower portion of two windows facing west; (3) added three trees along the western edge of the project site; (4) extended a nonconforming side setback for a bathroom on the ground floor.

Based on the evidence contained in this report, staff is recommending approval of the Variance and Conditional Use Permits.
Background

Site Location and Layout

The project site is located on Santa Fe Avenue immediately south of the Grace Lutheran Church and at the southeast corner of the City limits of El Cerrito. Cerrito Creek runs through the southeast corner of the project site. The creek is approximately 10 feet below the grade of the remaining portion of the site, which is relatively flat. In the early 19th century, Cerrito Creek separated the vast Rancho San Antonio to south from the Rancho San Pablo to the north, and it became the division between Alameda County and Contra Costa County1. The main stem of the creek runs through a deep canyon that separates Berkeley from Kensington, and it is joined by numerous culverted tributaries near San Pablo Avenue2.

The project site is a 7,500 square foot lot developed with a 729 square foot two-story house with an attached 484 square foot garage, a detached carport, and a shed. The northern side of the existing house is situated directly on the northern property line and encroaches into the required side yard setback. The detached carport is also an existing nonconforming structure since it does not comply with the required front setback and creek setback, as discussed in greater detail below.

The surrounding neighborhood contains single-family houses, a couple of duplexes, and the Grace Lutheran Church immediately north of the project site. The surrounding houses are a mixture of one-story and two-story houses and range in size from 900 square feet to 2,100 square feet. On the Santa Fe Avenue block that the project site is located on, approximately 78% of the single-family houses have two stories. Of these houses, the average house size is 1,394 square feet and the average lot size is 4,171 square feet.

Vicinity Map

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Adjacent Designations and Land Uses

**North:** Single Family Residential (RS-5) Zoning and Low Density Residential General Plan designation. Grace Lutheran Church

**East:** Single family and duplex residential uses within the City of Albany.

**South:** Single Family Residential (RS-5) Zoning and Low Density Residential General Plan designation. Vacant parcel

**West:** Single Family Residential (RS-5) Zoning and Low Density Residential General Plan designation. Single family dwelling
Analysis

Project Description

The applicant is proposing an approximately 822 square foot, two-story addition to an existing two-story single family residence. The proposed addition would result in a 1,551 square foot house with two bedrooms and two bathrooms, and an attached 484 square foot garage.

Project Revisions

On April 15, 2020, the Planning Commission reviewed the application and continued the item to May 20, 2020, based on a recommendation by City staff and the applicant to allow more time to work with adjacent neighbors to address their concerns. On April 27, 2020, the applicant hosted a visual teleconference with the two neighbors immediately west of the project site and with City staff. During the teleconference, the applicant presented revised plans that moved the massing of the addition approximately 4 feet 7 inches to the north. This revision, which resulted from a recommendation by a Planning Commissioner, assists in reducing potential impacts to these adjacent neighbors.

The revised plans (see Attachment 2) include the following changes:

1. Massing of addition moved north by approximately 4 feet 7 inches.
2. Northern wall on ground floor of bathroom extended along nonconforming side setback due to changes to master bedroom on ground floor resulting from the massing being moved to the north.
3. The lower portion of two of the west facing windows, where the proposed interior stair well is located, will be frosted to minimize privacy impacts to adjacent neighbors (see Sheet A-3.0).
4. Two Columnar Evergreen Hollyleaf Cherry trees and one Evergreen Oak tree were added to the western edge of the property to minimize aesthetic and privacy impacts to adjacent neighbors (see Sheet A-2.1).

Project Alternatives

The applicant explored a few different alternatives to the proposed project that were ultimately determined inferior for the reasons below.

In preliminary discussions, the applicant explored alternative areas to expand the house. However, due to the more stringent findings required for encroachments into the Creek Protection Overlay District, City staff recommended that the applicant comply with the 30-foot setback requirement from the top of the creek bank, which only leaves a small area of the rear of the project site available for expanding the existing house.

The original submittal from the applicant in January 2020 proposed an addition that required variances for a reduced side setback and a reduced rear setback. After receiving feedback from City staff, the applicant revised the submittal such that the proposed addition requires only one variance for a reduced rear setback.

As described above, the proposal provided to the Planning Commission on April 15, 2020 proposed the majority of the addition to be located approximately 13 feet from the northern property line, instead of 8 feet 5 inches as currently proposed. The applicant proposed this change in order to address concerns from adjacent neighbors to the west of the project site.

Rear Yard Setback

Table 19.06-B of the El Cerrito Zoning Ordinance establishes the required minimum yards and includes a minimum rear yard setback of 15 feet for parcels in the RS-5 zoning district. The proposed addition is
located 7 feet from the rear property line and does not comply with the required minimum rear yard setback. As a result, the project requires a Variance for a reduced rear yard setback.

As a result of a creek running diagonally through the southeast portion of the site and the 30 foot setback from top of creek bank required by Section 19.12.050 ECMC, the developable area of the lot is reduced to 8% of the lot (see Sheet A-1.1 in Attachment 2). In addition, only 239 square feet (3% of the lot) of developable area is available that has not already been developed. Thus, strict application of the Zoning Ordinance would result in a house significantly smaller than other surrounding properties in the same zoning district.

There are at least 5 properties in the surrounding area that do not comply with the minimum 15-foot rear setback (15 Santa Fe Ave; 25 San Carlos Ave; 14 Carmel Ave; 145 Colusa Ave; and 149 Colusa Ave). The proposed 1,551 square foot two-story house is consistent with the RS (single-family residential) district and is similar in scale to surrounding single-family houses and does not grant special privileges to the property inconsistent with limitations on surrounding properties.

Main Building Envelope

Figure 19.06-B of the El Cerrito Zoning Ordinance establishes the permitted height limits and daylight planes for development in the RS zoning districts.

Maximum heights and daylight planes vary, depending on the slope of the subject property. The subject property has a slope less than 10%. The permitted maximum building envelope, therefore, reaches a height of 15 feet at the required setback lines and then slopes toward the center of the property at a 45-degree angle (the required daylight plane), until it reaches a base height of 25 feet. The ‘base height’ is the maximum height permitted by-right.

The proposed addition exceeds the daylight plane along the rear setback (see Sheet A-3.0 in Attachment 2). The rear (western) side of the proposed two-story addition is 7 feet from the rear property line and exceeds the daylight plane that starts at a height of 15 feet at the required rear setback (15 feet from the rear property line). In addition, the existing two-story house is located directly on the northern property line and the northern side of the house thus exceeds the daylight plane that starts at a height of 15 feet at the required side setback (5 feet from the northern property line). No portion of the existing house or of the proposed addition exceeds the base (by-right) 25-foot height limit (see images below).
The findings required for approval of the conditional use permit are discussed in detail below. In addition to the standard findings required for Conditional Use Permits, Section 19.06.030(D)(3)(a) of the El Cerrito Municipal Code (ECMC) contains an additional finding which is required for approval of Conditional Use Permits which grant exceptions to the main building envelope. This finding relates to solar access, view blockage and privacy, and these issues are discussed in greater detail below.

**Solar Access**

The height of the proposed house does not exceed 25 feet. Immediately east of the project site is Santa Fe Avenue with a right of way width of 80 feet. The applicant prepared shadow studies showing shadow impacts of the proposed addition onto adjacent properties on the Winter Solstice (December 21) and Summer Solstice (June 21) at 10 AM, 1 PM, and 4 PM (see Sheet T-3 on Attachment 2). These times of day and year were selected by City Staff based on standards developed in the City’s San Pablo Avenue Specific Plan and are meant to provide a general idea of shadow impacts at different times of day and different times of year. The Winter Solstice represents the longest shadows of year, and the Summer Solstice represents the shortest shadows of the year. Of these different times of day and year, only during 1 PM and 4 PM on the Winter Solstice does the addition cast a shadow on an adjacent building, the Grace Lutheran Church to the north. At 10 AM during both the Winter Solstice and the Summer Solstice, the proposed addition casts a shadow onto the backyards of residences to the west.

Consequently, the proposed house will not cause a significant adverse impact on adjacent residences with respect to solar access.

**Views**

The El Cerrito General Plan acknowledges the presence of views of bridges, the San Francisco and San Pablo bays, Mt. Tamalpais and Marin County, and of the East Bay hills from uphill locations in El Cerrito. Due to the gently sloping topography, location and scale of surrounding houses, and existence of large trees and vegetation located on and adjacent to the project site, project site, and the fact that the property to the south is vacant and the property to the north is a church, potential view impacts to residences of key landmarks that would result from the proposed addition appear to be limited. City staff note that this
is based on staff’s assessment of the best available information. City staff did not have access to adjacent properties and were not able to observe the views from inside adjacent residences.

Privacy

The proposed second story addition would be located seven feet from the western (rear) property line and approximately 13 feet from the northern (side) property line. Five windows of varying sizes are located on the second story looking west towards the rear yard of 14 San Carlos Avenue; two windows are located on the second story facing southwest towards the rear yard of 12 San Carlos Avenue; and one window is facing northwest towards the rear yards of 18, 22, and 24 San Carlos Avenue (see Section 3 on Sheet A-3.0 of Attachment 2). The northwest facing window and two of the west facing windows are for the kitchen, where base cabinets are located. The remaining windows are adjacent to the interior stairs and stair landing of the proposed addition. The lower portion of two of these windows adjacent to the interior stairs will be frosted to minimize privacy impacts from these windows (see Sheet A-3.0 of Attachment 2). There are numerous trees on the project site and on adjacent properties to the west that would obstruct views into the rear yards of these properties from these proposed windows (see Attachment 5). In addition, three new trees (two Hollyleaf Cherry trees and one Oak tree) are proposed along the western edge of the property in conjunction with a recently planted Magnolia tree to minimize aesthetic and privacy impacts to adjacent properties to the west of the project site (see Sheet A-2.1 of Attachment 2).

Nonconforming Setback

Section 19.27.050, ECMC establishes the requirements for all additions and structural alterations that enlarge and extend a nonconforming structure. Table 19.06-B, ECMC establishes a required minimum side yard setback of five feet for parcels in the RS-5 zoning district. The attached garage of the existing house is located on the northern property line and a laundry room behind the garage is approximately 3 feet 5 inches from the northern property line. The existing second story of the house is also nonconforming with a 2 feet 11 inches side setback from the northern property line. The proposed addition converts the laundry room into a bathroom on the first floor and extends the wall with the nonconforming wall by approximately 7 feet 8.5 inches. The second story portion of the proposed addition is more than eight feet from the northern property line and complies with the side setback requirement.

The proposed addition is moved approximately five feet north compared to proposed plans presented to Planning Commission on April 15, 2020, and resulted in needing to extend the nonconforming side setback for the master bathroom on the ground floor. The applicant proposes these revised plans in order to attempt to address concerns of neighbors immediately west of the project site.

Immediately to the north of the project site, the south wall of the Grace Lutheran Church is mostly a large blank wall with a few windows on the second story of the building. The proposed extension of the nonconforming side setback will not affect the livability or appropriate development of adjoining properties or the surrounding area as it is towards the rear and side of the lot and is a minimal expansion of the nonconforming side setback. In addition, in the surrounding neighborhood, there are numerous properties (15 and 105 Santa Fe Ave.; 7715 Ward Ave.; 4, 8, 22, 112, 114, and 138 San Carlos Ave.) with nonconforming side setbacks. As described above, the location, size, and design of the proposed house addition are consistent with the scale and design of development in the surrounding neighborhood.

Creek Protection Overlay District

Since Cerrito Creek runs through the project site, it is located in the Creek Protection Overlay District and subject to the provisions in Chapter 19.12, ECMC. Section 19.12.050, ECMC requires a 30 foot setback
from top of creek bank and a 35 foot setback from centerline of creek. These setbacks for the project site are shown on Sheet A-1.0 of Attachment 2. Due to the width of the creek, the 30 foot setback from top of creek bank covers a larger portion of the project site than the 35 foot setback from centerline of creek. As shown on Sheet A-2.1 of Attachment 2, the proposed addition complies with these setback requirements. Condition of Approval #6 in Attachment 1 requires the applicant to provide additional details on the proposed flagstones that would be located within the creek setback, for the Zoning Administrator to verify the material is considered impervious. Otherwise the applicant shall revise the material accordingly to an impervious surface, as described in Section 19.12.060, ECMC and Chapter 19.47, ECMC.

Public Notice and Comment

At their regularly scheduled April 15, 2020 meeting, the Planning Commission continued the project to May 20, 2020. The required public notice for the project for the April 15, 2020 meeting was published in the East Bay Times and mailed to owners of property within 300 feet of the project site on or before March 27, 2020. Since the Planning Commission continued the project to a date certain of May 20, 2020, additional public notice is not required. As of the publication of this staff report and subsequent to the Planning Commission meeting on April 15, 2020, City Staff have not received any written comments from neighbors or other members of the public.

Environmental Review

This project is categorically exempt from the provisions of CEQA pursuant to Section 15301 of the CEQA Guidelines, Class 1: Existing Facilities.

Compliance with the General Plan

The requested Variance for reduced rear yard setback and Conditional Use Permits to allow an exception to the main building envelope and to extend a structure with a nonconforming side setback are consistent with the following goals and policies of the El Cerrito General Plan:

**Policy LU1.5: Suitable Housing.** Promote suitably located housing and services for all age groups within the City.

*The proposed project would provide an additional bedroom, an additional bathroom, and enlarged common spaces of an existing single-family home, providing a total of two bedrooms and two bathrooms.*

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

*The proposed single-family house addition is generally consistent with the scale and design of surrounding single-family houses.*

Required Findings

In order to approve the Variance for a reduced rear yard setback and the Conditional Use Permits to allow an exception to the main building envelope and to extend a structure with a nonconforming side setback,
the Planning Commission must make the following findings, contained in Sections 19.36.030 and 19.34.040 of the El Cerrito Municipal Code (ECMC):

Variance Findings for Reduced Rear Yard Setback

1. There are special circumstances applicable to the property, including its size, shape, topography, location, or surroundings, whereby the strict application of the Zoning Ordinance will deprive such property of privileges enjoyed by other property of the same classification in the same zoning district;

   Cerrito Creek runs diagonally through the southeast portion of the site. The Creek Protection Overlay District (Section 19.12.050, ECMC) requires a 30-foot setback from top of creek bank. The developable area of the lot is therefore reduced to eight percent of the lot. Thus, strict application of the Zoning Ordinance would result in a house significantly smaller than other surrounding properties in the same zoning district.

2. Such special circumstances were not created by the owner or applicants;

   The property owners purchased the property in September 2000. Cerrito Creek historically served as the boundary between Contra Costa County and Alameda County, and between El Cerrito and Albany. The location of the creek has been relatively unchanged dating back to the earliest available maps from the 1940's. The special circumstances pertaining to the existence of the creek and the City of El Cerrito's regulations requiring setbacks from creeks were not caused by the property owners or applicant.

3. The Variance does not constitute a grant of special privileges inconsistent with the limitations upon other properties in the vicinity and zone in which such property is located;

   The proposed addition would result in a 1,551 square foot house that is similar in scale to surrounding single-family houses, and is smaller than what would be permitted pursuant to the development standards in the RS-5 district. There are at least 5 properties in the surrounding area that do not comply with the minimum 15-foot rear setback (15 Santa Fe Ave.; 25 San Carlos Ave.; 14 Carmel Ave.; 145 Colusa Ave.; and 149 Colusa Ave.). Approval of the Variance for a reduced rear yard setback will allow the property owner to construct a single-family home as otherwise permitted by the El Cerrito Zoning Ordinance and the RS-5 zoning district.

4. The authorization of the Variance will meet the intent and purpose of the zoning district in which the subject property is located, and will not be materially detrimental to persons residing or working in the vicinity, to adjacent property, to the neighborhood, or the public welfare in general;

   The purpose of the RS (Single-family Residential) zoning district is to promote and protect single-family neighborhoods and to minimize out-of-scale appearance of large homes and development relative to their lot size and slope, and relative to adjacent homes in the neighborhood. The project is in keeping with the surrounding single family residential character of the neighborhood, with the two-story built environment, and with the overall scale and size of houses in the neighborhood. The project, by its single family residential nature, will not be detrimental to people living in the area.

5. California Government Code Section 65906 provides that a variance from the terms of the zoning ordinance shall be granted only when, because of special circumstances applicable to the property, including size, shape, topography, location or surroundings, the strict application of the zoning ordinance deprives the property owner of privileges enjoyed by other property in the vicinity and under identical zoning classification.
Pursuant to Government Code Section 65906, the existence of a creek and the required setbacks for the creek on the project site constitute special circumstances. The Creek Protection Overlay District (Section 19.12.050, ECMC) requires a 30-foot setback from top of creek bank. The developable area of the lot is therefore reduced to eight percent of the lot. Thus, the strict application of the zoning ordinance would deprive the property owner of the privileges enjoyed by other properties in the vicinity and identical zoning classification.

Conditional Use Permit Findings (Nonconforming Setback Extension)

6. The location, size, design, and operating characteristics of the proposed development will be harmonious and compatible with and will not adversely affect the livability or appropriate development of abutting properties and the surrounding neighborhood;

The proposed extension of the nonconforming side setback from the northern property line will only extend this portion of the ground floor of the building by approximately 7 feet 8.5 inches. Immediately to the north of the project site, the south wall of the Grace Lutheran Church is mostly a large blank wall with a few windows on the second story of the building. The proposed extension of the nonconforming side setback will not affect the livability or appropriate development of adjoining properties or the surrounding area as it is towards the rear and side of the lot and is a minimal expansion of the nonconforming side setback. In addition, in the surrounding neighborhood, there are numerous properties (15 and 105 Santa Fe Ave.; 7715 Ward Ave.; 4, 8, 22, 112, 114, and 138 San Carlos Ave.) with nonconforming side setbacks.

The surrounding neighborhood contains single-family houses, a couple of duplexes, and the Grace Lutheran Church immediately north of the project site. The surrounding houses are a mixture of one-story and two-story houses and range in size from 900 square feet to 2,100 square feet. On the Santa Fe Avenue block that the project site is located on, approximately 78% of the single-family houses have two stories. Of these houses, the average house size is 1,394 square feet and the average lot size is 4,171 square feet. The proposed addition would result in a 1,551 square foot house on a 7,500 square foot lot. The location, size, and design of the proposed house addition are consistent with the scale and design of development in the surrounding neighborhood.

7. The location and design of the proposal will provide a convenient and functional living, working, shopping, or civic environment that will be an attractive amenity for the City;

The proposed project would provide an additional bedroom, an additional bathroom, and enlarged common spaces of an existing single-family home, providing a total of two bedrooms and two bathrooms. The resulting house will be an attractive addition to the neighborhood.

8. The proposal is consistent with the purposes of the district where it is located and conforms in all significant respects with the El Cerrito General Plan and with any other applicable plan adopted by the City Council;

The Conditional Use Permit will allow a single-family house addition that exceeds daylight plane requirements and that extends a nonconforming side setback. Single-family houses are a permitted land use in the RS-5 zoning district, and are consistent with the district’s intent. The proposed project will implement Policy LU1.5 (Suitable Housing) and Policy CD1.1 (Neighborhood Character) of the El Cerrito General Plan.
Conditional Use Permit Findings (Building Envelope)

9. The location, size, design, and operating characteristics of the proposed development will be harmonious and compatible with and will not adversely affect the livability or appropriate development of abutting properties and the surrounding neighborhood;

   The surrounding neighborhood contains single-family houses, a couple of duplexes, and the Grace Lutheran Church immediately north of the project site. The surrounding houses are a mixture of one-story and two-story houses and range in size from 900 square feet to 2,100 square feet. On the Santa Fe Avenue block that the project site is located on, approximately 78% of the single-family houses have two stories. Of these houses, the average house size is 1,394 square feet and the average lot size is 4,171 square feet. The proposed addition would result in a 1,551 square foot house on a 7,500 square foot lot. The location, size, and design of the proposed house addition are consistent with the scale and design of development in the surrounding neighborhood. As described in the staff report, the proposed addition has been designed to limit privacy, view, and solar access impacts to the adjacent properties.

10. The location and design of the proposal will provide a convenient and functional living, working, shopping, or civic environment that will be an attractive amenity for the City;

   The proposed project would provide an additional bedroom, an additional bathroom, and enlarged common spaces of an existing single-family home, providing a total of two bedrooms and two bathrooms. The resulting house will be an attractive addition to the neighborhood.

11. The proposal is consistent with the purposes of the district where it is located and conforms in all significant respects with the El Cerrito General Plan and with any other applicable plan adopted by the City Council;

   The Conditional Use Permit will allow a single-family house addition that exceeds daylight plane requirements and that extends a nonconforming side setback. Single-family houses are a permitted land use in the RS-5 zoning district, and are consistent with the district’s intent. The proposed project will implement Policy LU1.5 (Suitable Housing) and Policy CD1.1 (Neighborhood Character) of the El Cerrito General Plan.

   In addition, to approve the Conditional Use Permit to allow an exception to the main building envelope, the Planning Commission must make the following finding in Section 19.06.030.D.3.i:

12. The proposal when viewed in its entirety represents a superior design solution to that which would be possible if the project were built in full compliance with the required standards for the main building envelope, and will not cause a significant adverse impact on residences to the side, rear or directly across the street with respect to solar access, view blockage and privacy.

   The presented alternatives to the proposed design are inferior for the reasons outlined in the staff report. The proposed house addition has been designed to limit privacy, view, and solar access impacts to the adjacent properties. Shadow studies for the Winter and Summer Solstices indicate that the proposed house will not significantly impact the solar access of adjacent houses. The specific portions of the proposed addition that exceed the building envelope requirements and the minimum rear setback would not cause significant adverse view impacts to surrounding properties.
Staff Recommendation

Based on the information contained in this report, staff recommends approval of a Variance for reduced rear yard setback and Conditional Use Permits to allow an exception to the main building envelope and to extend a structure with a nonconforming side setback.

Proposed Motion

1. Move adoption of Planning Commission Resolution PC2020-03 approving a Variance to allow a reduced rear yard setback and Conditional Use Permits to allow an exception to the main building envelope and to extend a structure with a nonconforming side setback for a proposed two-story addition to an existing two-story single-family house at 7 Santa Fe Avenue.

Appeal Period

Within ten (10) calendar days after the date of the decision, the Planning Commission action may be appealed to the City Council.

Attachments

1. Draft resolution
2. Project Plans
3. Applicant Letter
4. Photos from Rear Yard
Planning Commission Resolution PC 2020-03

APPLICATION NO. PL20-0014

A RESOLUTION OF THE CITY OF EL CERRITO PLANNING COMMISSION APPROVING A VARIANCE TO ALLOW A REDUCED REAR YARD SETBACK AND CONDITIONAL USE PERMITS TO ALLOW AN EXCEPTION TO THE MAIN BUILDING ENVELOPE AND TO EXTEND A STRUCTURE WITH A NONCONFORMING SIDE SETBACK FOR A PROPOSED TWO-STORY ADDITION TO AN EXISTING TWO-STORY SINGLE-FAMILY HOUSE AT 7 SANTA FE AVENUE

WHEREAS, the site is located at 7 Santa Fe Avenue; and

WHEREAS, the existing Assessor’s Parcel Number of the site is 504-283-012; and

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

WHEREAS, the zoning district of the site is RS-5 (Single Family Residential); and

WHEREAS, the project is categorically exempt from the provisions of the California Environmental Quality Act (CEQA) pursuant to Section 15301 of the CEQA Guidelines, Class 1: Existing Facilities; and

WHEREAS, on January 17, 2020, Erick Mikiten (the “applicant”) submitted an application for a Variance to allow a reduced rear yard setback and a Conditional Use Permit to allow an exception to the main building envelope for a single-family house addition; and

WHEREAS, on April 15, 2020, the Planning Commission considered this application and continued the application to May 20, 2020, based on a recommendation by City staff and the applicant to allow more time to work with adjacent neighbors to address their concerns; and

WHEREAS, on May 20, 2020, the Planning Commission, after due consideration of all evidence and reports and application materials offered for review does find and determine the following:

Variance Findings for Reduced Rear Yard Setback

1. Cerrito Creek runs diagonally through the southeast portion of the site. The Creek Protection Overlay District (Section 19.12.050, ECMC) requires a 30-foot setback from top of creek bank. The developable area of the lot is therefore reduced to eight percent of the lot. Thus, strict application of the Zoning Ordinance would result in a house significantly smaller than other surrounding properties in the same zoning district.

2. The property owners purchased the property in September 2000. Cerrito Creek historically served as the boundary between Contra Costa County and Alameda County, and between El Cerrito and Albany. The location of the creek has been relatively unchanged dating back to the earliest available maps from the 1940’s. The special circumstances pertaining to the existence of the creek and the City of El Cerrito’s regulations requiring setbacks from creeks were not caused by the property owners or applicant.

3. The proposed addition would result in a 1,551 square foot house that is similar in scale to surrounding single-family houses, and is smaller than what would be permitted pursuant to the development standards in the RS-5 district. There are at least 5 properties in the surrounding area that do not comply with the minimum 15-foot rear setback (15 Santa Fe Ave.; 25 San Carlos Ave.; 14 Carmel Ave.; 145 Colusa Ave.; and 149 Colusa Ave.). Approval of the Variance for a reduced rear yard setback will allow the property owner
to construct a single-family home as otherwise permitted by the El Cerrito Zoning Ordinance and the RS-5 zoning district.

4. The purpose of the RS (Single-family Residential) zoning district is to promote and protect single-family neighborhoods and to minimize out-of-scale appearance of large homes and development relative to their lot size and slope, and relative to adjacent homes in the neighborhood. The project is in keeping with the surrounding single family residential character of the neighborhood, with the two-story built environment, and with the overall scale and size of houses in the neighborhood. The project, by its single family residential nature, will not be detrimental to people living in the area.

5. Pursuant to Government Code Section 65906, the existence of a creek and the required setbacks for the creek on the project site constitute special circumstances. The Creek Protection Overlay District (Section 19.12.050, ECMC) requires a 30-foot setback from top of creek bank. The developable area of the lot is therefore reduced to eight percent of the lot. Thus, the strict application of the zoning ordinance would deprive the property owner of the privileges enjoyed by other properties in the vicinity and identical zoning classification.

Conditional Use Permit Findings (Nonconforming Setback Extension)

6. The proposed extension of the nonconforming side setback from the northern property line will only extend this portion of the ground floor of the building by approximately 7 feet 8.5 inches. Immediately to the north of the project site, the south wall of the Grace Lutheran Church is mostly a large blank wall with a few windows on the second story of the building. The proposed extension of the nonconforming side setback will not affect the livability or appropriate development of adjoining properties or the surrounding area as it is towards the rear and side of the lot and is a minimal expansion of the nonconforming side setback. In addition, in the surrounding neighborhood, there are numerous properties (15 and 105 Santa Fe Ave.; 7715 Ward Ave.; 4, 8, 22, 112, 114, and 138 San Carlos Ave.) with nonconforming side setbacks.

The surrounding neighborhood contains single-family houses, a couple of duplexes, and the Grace Lutheran Church immediately north of the project site. The surrounding houses are a mixture of one-story and two-story houses and range in size from 900 square feet to 2,100 square feet. On the Santa Fe Avenue block that the project site is located on, approximately 78% of the single-family houses have two stories. Of these houses, the average house size is 1,394 square feet and the average lot size is 4,171 square feet. The proposed addition would result in a 1,551 square foot house on a 7,500 square foot lot. The location, size, and design of the proposed house addition are consistent with the scale and design of development in the surrounding neighborhood.

7. The proposed project would provide an additional bedroom, an additional bathroom, and enlarged common spaces of an existing single-family home, providing a total of two bedrooms and two bathrooms. The resulting house will be an attractive addition to the neighborhood.

8. The Conditional Use Permit will allow a single-family house addition that exceeds daylight plane requirements and that extends a nonconforming side setback. Single-family houses are a permitted land use in the RS-5 zoning district, and are consistent with the district’s intent. The proposed project will implement Policy LU1.5 (Suitable Housing) and Policy CD1.1 (Neighborhood Character) of the El Cerrito General Plan.

Conditional Use Permit Findings (Building Envelope)

9. The surrounding neighborhood contains single-family houses, a couple of duplexes, and the Grace Lutheran Church immediately north of the project site. The surrounding houses are a mixture of one-story and two-
story houses and range in size from 900 square feet to 2,100 square feet. On the Santa Fe Avenue block that the project site is located on, approximately 78% of the single-family houses have two stories. Of these houses, the average house size is 1,394 square feet and the average lot size is 4,171 square feet. The proposed addition would result in a 1,551 square foot house on a 7,500 square foot lot. The location, size, and design of the proposed house addition are consistent with the scale and design of development in the surrounding neighborhood. As described in the staff report, the proposed addition has been designed to limit privacy, view, and solar access impacts to the adjacent properties.

10. The proposed project would provide an additional bedroom, an additional bathroom, and enlarged common spaces of an existing single-family home, providing a total of two bedrooms and two bathrooms. The resulting house will be an attractive addition to the neighborhood.

11. The Conditional Use Permit will allow a single-family house addition that exceeds daylight plane requirements and that extends a nonconforming side setback. Single-family houses are a permitted land use in the RS-5 zoning district, and are consistent with the district’s intent. The proposed project will implement Policy LU1.5 (Suitable Housing) and Policy CD1.1 (Neighborhood Character) of the El Cerrito General Plan.

12. The presented alternatives to the proposed design are inferior for the reasons outlined in the staff report. The proposed house addition has been designed to limit privacy, view, and solar access impacts to the adjacent properties. Shadow studies for the Winter and Summer Solstices indicate that the proposed house will not significantly impact the solar access of adjacent houses. The specific portions of the proposed addition that exceed the building envelope requirements and the minimum rear setback would not cause significant adverse view impacts to surrounding properties.

NOW, THEREFORE, BE IT RESOLVED, that after careful consideration of maps, facts, exhibits, correspondence, and testimony, and other evidence submitted in this matter, and, in consideration of the findings, the El Cerrito Planning Commission hereby approves Application No. PL20-0014, subject to the following conditions:

Planning Division:

1. The project will be constructed substantially in conformance with the plans received by the City on April 2, 2020. Minor changes may be approved by the Zoning Administrator. All improvements shall be installed in accordance with these approvals. Once constructed or installed, all improvements shall be maintained as approved.

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

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

4. If not used, this approval shall expire two years from the date of this action.

5. A construction staging plan shall be submitted to the Zoning Administrator for review and approval prior to the issuance of a building permit. The construction staging plan shall illustrate where the
construction equipment will be staged and the location of parking for the construction employees. This construction and staging plan may also require the submission of a Temporary Use Permit.

6. Prior to issuance of building permit, the applicant shall provide additional details on the proposed flagstones for review and approval by the Zoning Administrator to verify that this is a pervious surface, in compliance with Section 19.12.060 of the El Cerrito Municipal Code. Alternatively, the applicant may propose a deck in this location in a manner consistent with Section 19.12.060(D), ECMC.

7. Prior to issuance of a building permit, a notice of limitation on the property, subject to review and approval of the Zoning Administrator, shall be recorded with the Contra Costa County Clerk-Recorder’s Office that indicates that the windows proposed as “FROSTED” on the New Elevation Looking East on Sheet A-3.0 of the plans received on May 8, 2020 shall be made of frosted glass or other similar obscured material as approved by the Zoning Administrator. These windows shall not be changed to a different glass type or material without the written approval of the Zoning Administrator.

8. The three proposed trees on the western edge of the property shown on Sheet A-2.1 shall be maintained in perpetuity. If any of these trees dies or needs to be removed, such tree(s) shall be replaced. The location or species of these trees shall not be changed without the written approval of the Zoning Administrator.

Fire Department:

9. Building Construction
   A. Building construction shall meet current California Building, Fire, and Residential Codes and the El Cerrito Fire Code.
   B. All electrical breakers shall be labeled.

10. Carbon Monoxide Detectors
    A. Carbon monoxide alarm shall be installed outside of and adjacent to sleeping areas where fuel-burning appliances are installed; and in dwelling units that have attached garages.
    B. Carbon Monoxide detectors shall be installed in accordance with NFPA 720.
    C. Carbon Monoxide alarms shall be 120v Powered with battery backup and be interconnected with the smoke detectors.

11. Smoke Detection
    A. Smoke detection shall be installed in each bedroom, in hallways adjacent to bedrooms, and one detector per floor level (top and bottom of stairs).
    B. Smoke detectors shall be 120v powered with battery backup.
    C. Smoke detectors shall be interconnected.

12. Emergency Egress
    A. Every sleeping room shall have at least one operable window or door approved for emergency escape or rescue.
    B. Escape or rescue windows shall be installed in accordance with California Residential Code R310.2.1 & R310.2.2.

13. Premises Identification
    A. Approved numbers or address shall be provided in such a position to be plainly visible and legible from the street fronting the property.
    B. Address shall be either internally or externally illuminated.
Public Works:

14. Prior to the issuance of a building permit, applicant shall submit an estimate of grading and earthwork to be completed for the project. Any earthwork and/or grading operations in excess of 50 cubic yards will require the applicant to submit a detailed grading plan, obtain a Grading & Transportation Permit and pay all associated fees.

15. Applicant shall provide a geotechnical report with recommendations for the proposed grading work and proposed construction for the Public Works Department to review and approve prior to issuance of building permit.

16. Applicant shall provide a detailed drainage plan including rain leaders, roof slopes, downspouts, etc. for the Public Works Department to review and approve prior to issuance of building permit. Clearly indicate how drainage is proposed to be accommodated adjacent to neighboring properties.

17. Applicant shall submit an Erosion and Sediment Control Plan (ESCP) for construction for review and approval by the Public Works Department prior to issuance of a building permit. The ESCP shall include measures to ensure soil, debris, or other material does not enter the creek during construction activities.

18. Before the start of any work in the public right-of-way, including any street tree, sidewalk and driveway work, applicant must obtain a Public Works Encroachment Permit and pay all associated fees. Any sidewalk, curb ramp and driveway work shall meet current ADA and City of El Cerrito Standards.

CERTIFICATION

I certify that this resolution was adopted by the El Cerrito Planning Commission at a regular meeting held on May 20, 2020, upon motion of Commissioner __________, second by Commissioner __________:

AYES:
NOES:
ABSTAIN:
ABSENT:

________________________
Sean Moss, AICP
Planning Manager
Vicinity Map

Sheet Index

1. Existing Demo Site Plan

Existing Demo Site Plan

Scope of Work

Two Story Addition of a Kitchen and Master Bedroom/Bathroom to an Existing Two Story Home.

Zoning Tabulation

General Information

Location: 7 Santa Fe Avenue, El Cerrito, CA
APP: 2014-P019442900002
Description: Single Family Home
Project Type: Residential Addition
Existing Use: Single Family Home

<table>
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<th>Building</th>
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<th>Required</th>
<th>Adjusted</th>
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<td>Total Building Area</td>
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<td>1,032 sq ft</td>
<td>1,032 sq ft</td>
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<tr>
<td>2nd Floor Area</td>
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<td>1,080 sq ft</td>
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<tr>
<td>Number of Dwelling Units</td>
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<td>1</td>
<td>1</td>
</tr>
<tr>
<td>Number of Parking Spaces</td>
<td>2</td>
<td>2</td>
<td>2</td>
</tr>
</tbody>
</table>

NOTE:

- City of El Cerrito Zoning Ordinance
- One Story Addition of a Kitchen and Master Bedroom/Bathroom to an Existing Two Story Home
- Planning Code: 7.26.010.010
- Maximum Building Height: 30' T.O.C. (Top Of Curb) + 10' (N) Total Building Area
- Maximum Building Area: 1,032 sq ft
- Total Footprint Area: 1,080 sq ft
- Building Area: 458 sq ft
- DWG.--DRAWING
- DISP.--DOWN
- D.I.--DRAIN 2" INLET
- F.R.P.--FIBER CONCRETE

ATTACHMENT 2

ARCHITECT:

MICHTEN ARCHITECTS
1315 Sutter Street, Suite 200
San Francisco, CA 94111
Phone: 415-398-6626 Fax: 415-398-6627
miji@michtenarchitects.com

CONSULTANT:

Aceves/Thomas
7 Santa Fe Avenue
El Cerrito, CA 94530

CLIENT:

Eve Aceves and Steven Thomas
7 Santa Fe Avenue
El Cerrito, CA 94530

SHEET CONTENTS:

COVER SHEET

DATES:

01/27/20 - VANCE
02/07/20 - VANCE REVISED
05/08/20 - VANCE REVISED DESIGN

ARCHITECT’S JOB #:

T-1
Shadow Study

June 21

10 AM

1 PM

4 PM

December 21

10 am

1 pm

4 pm

JUNE 21

DECEMBER 21

NOTE: All buildings being shadowed are shown on this diagram.

SHADOWS OF EXISTING STRUCTURES
new SHADOW CAST BY addition
EXISTING STRUCTURES
area of PROPOSED addition
PROPERTY LINE OF SUBJECT PROPERTY
PROPERTY LINE OF ADJACENT PROPERTIES
LINE OF WALL AFFECTED BY NEW SHADOWS

Proposed addition casts new shadow on south wall of Grace Lutheran Church to a height of approx. 17'.

Proposed addition casts new shadow on south wall of Grace Lutheran Church to a height of approx. 12'.

No impact on neighboring buildings

No impact on neighboring buildings

No impact on neighboring buildings

CONSULTANT:
Aceves/Thomas
Addition
7 Santa Fe Avenue
El Cerrito, CA 94530

CLIENT:
Eve Aceves and Steven Thomas
7 Santa Fe Avenue
El Cerrito, CA 94530

DATES:
01/17/20 - variance
02/27/20 - variance Resubmittal
5/8/20 - variance revised design

ARCHITECT'S JOB #:
18-011

PROJECT NAME:
Aceves/Thomas
Addition
7 Santa Fe Avenue
El Cerrito, CA 94530

DATE:
07/07/20 - variance
08/27/20 - variance resubmittal
5/8/20 - variance revised design

ARCHITECT: Mikiten Architecture
2415 Fifth Street • Berkeley • CA • 94710
Phone: 510-540-7111 • Fax: 510-540-7117
www.mikitenarch.com

LEGEND
EXISTING STRUCTURES
AREA OF PROPOSED ADDITION
SHADOWS OF EXISTING STRUCTURES
NEW SHADOW CAST BY ADDITION
PROPERTY LINE OF SUBJECT PROPERTY
PROPERTY LINE OF ADJACENT PROPERTIES
LINE OF WALL AFFECTED BY NEW SHADOWS

N
Not for Construction

N
1. View from Santa Fe Ave
2. South Elevation
3. Carport
4. West Elevation and Rear Yard
5. Front Entry Stair
6. Entry Deck

DATE:
- Site Photos: December 5
- South Elevation: December 5
- Carport: December 5
- West Elevation and Rear Yard: December 5
- Front Entry Stair: December 5
- Entry Deck: December 5
PROJECT NAME:
Aceves/Thomas Addition
7 Santa Fe Avenue
El Cerrito, CA 94530

CLIENT:
Eve Aceves and Steven Thomas
7 Santa Fe Avenue
El Cerrito, CA 94530

CONSULTANT:
Aceves/Thomas
Addition
7 Santa Fe Avenue
El Cerrito, CA  94530

DATES:
01/17/20 - variance
02/27/20 - variance Resubmittal
05/08/20 - variance revised design

ARCHITECT'S JOB #:
18-011

SHEET CONTENTS:

ARCHITECT:
STAMP:

SCALE: 1/4" = 1'-0"
15 January, 2020

El Cerrito Planning Commission
10890 San Pablo Avenue
El Cerrito CA 94530

RE: 7 Santa Fe Avenue Variance Application

Dear Commissioners,

I’m writing to you as the architect of a residential addition at 7 Santa Fe Avenue. I’m looking forward to meeting you at a future hearing.

My clients have a small, 654 square foot home above a ground floor garage and laundry room. They wish to add a master suite on the ground floor for aging in place, add a dining space, and create a more usable kitchen.

The project is located in the RS-5 zone, which allows 50% lot coverage. Typically, for a 7,500 SF lot, a building footprint of up to 3,750 SF would be permissible. However, there is a beautiful creek running diagonally through the center of the site. The ordinance appropriately requires major setbacks from the centerline and from the banks (35 and 30 feet, respectively.) After accounting for these additional setbacks, the developable area of this lot is reduced to 8% of the lot. (Please see the diagrams included in our package.)

We have designed a modest solution that:

1. Fully meets all setbacks for the creek.
2. Adds only 327 square feet of additional footprint to the house, with a lot coverage of just 18.2%.
3. Casts no shadows on adjacent houses.
4. Has neighbor support.
5. Directs the additional shadow onto the blank, windowless wall of the church next door.
6. Meets our clients needs for a normal sized bedroom, a dining space, and a kitchen of usable proportions.

We are requesting two minor accommodations:

1. A variance to encroach on the rear yard setback by 8 feet.
2. A conditional use permit to extend the building form beyond the Daylight Plane.

Discussion: Rear Yard Setback
Because of the topography of the creek bank and the required 30 foot setback, the west side of the house is the only possible direction for expansion, into the rear yard setback. Rear yard setbacks establish open space and create the low density character of single family residential neighborhoods. In this case, the site is over 80% open space, preserving an even lower density pattern of development. The difference is that the yard is located to the side of the house instead of the rear.

There is no significant impact to the streetscape, since the addition is on the rear corner of the house. The only impact is on the neighbor west of the site at 14 San Carlos. There will be a brief shadow impact on their rear yard in the early morning hours. There is no shadow on their house. The neighbor is aware of the impact and is in support of this application.
Discussion: Daylight Plane
This element of the ordinance preserves the open character of El Cerrito’s low density neighborhoods. In this case, the existing house already crosses the north side-yard setback and daylight plane, and we are not proposing any extension of this non-conforming condition. The proposed addition would cross the daylight plane on the west side of the house. Our shadow study shows that the only impacted building is the adjacent church, which is a tall blank wall with only a high window that is above our proposed roofline.

Required Findings:
Following is our response to each of the zoning code's Required Findings for a Variance:

19.36.030.1 There are special circumstances applicable to the property, including its size, shape, topography, location, or surroundings, whereby the strict application of the Zoning Ordinance will deprive such property of privileges enjoyed by other property of the same classification in the same zoning district;
Response: The topography of the creek bank governs the developable area of the site. A comparable El Cerrito lot without this special circumstance would allow a 3,096 square feet addition to the footprint of the house. Our design solution would add roughly one tenth that amount.

19.36.030.2 Such special circumstances were not created by the owner or applicants.
Response: The creek was pre-existing.

19.36.030.3 The Variance does not constitute a grant of special privileges inconsistent with the limitations upon other properties in the vicinity and zone in which such property is located.
Response: A Variance to create a residential addition roughly one tenth the size of a permissible addition on a comparable lot does not constitute a special privilege.

19.36.030.4 The authorization of the Variance will meet the intent and purpose of the zoning district in which the subject property is located, and will not be materially detrimental to persons residing or working in the vicinity, to adjacent property, to the neighborhood, or the public welfare in general.
Response: The purpose of the zoning district is to preserve a low density, residential neighborhood with generous open space and protected creeks. Even with the addition, this will be a very small house on a very large lot, with generous open space, and an enchanting creek, visible from the street, which contributes to the natural beauty of the neighborhood. An addition to this house will allow a modest and reasonable single-family use consistent with the purpose and intent of the RS-5 zoning district, with requisite parking and minimal height.

We look forward to answering your questions. Thank you for your consideration.

Sincerely,

Erick Mikiten, AIA
Architect, LEED-AP
PHOTOS FROM 2ND FLOOR DECK

PROJECT: ACEVES/THOMAS ADDITION
7 SANTA FE AVENUE
EL CERRITO, CA 94530

DRAWING TITLE: PHOTOS FROM 2ND FLOOR DECK

ARCHITECT: MIKITEN ARCHITECTURE
2415 Fifth Street
Berkeley • CA • 94710
510-540-7111
FAX 540-7117
www.MikitenArch.com

©2020 MIKITEN ARCHITECTURE

7 Santa Fe Avenue
El Cerrito, CA 94530

Aceves/Thomas Addition

Not to scale
4/10/20

Sheet # PH-O1

SCALE: NOT TO SCALE

ATTACHMENT 4
DETAILS

Application Number: PL20-0032
Applicant: Erica Meeks
Location: 601 Lexington Avenue
APN: 503-402-008
Zoning: RM (Multi-Family Residential)
General Plan: High Density Residential

Request: Planning Commission consideration of Conditional Use Permits for a reduction of the required off-street parking; making substantial alterations to a nonconforming structure; an exception to buffer yard requirements; and an exception to retaining wall height requirements to allow the conversion of a former church and office building into 6 residential units at 601 Lexington Avenue.

CEQA: This project is categorically exempt from the provisions of CEQA pursuant to Section 15332 of the CEQA Guidelines, Class 32: In-Fill Development Projects.

EXECUTIVE SUMMARY

The requested entitlements for consideration by the Planning Commission are Conditional Use Permits for a reduction of the required off-street parking; making substantial alterations to a nonconforming structure; an exception to buffer yard requirements; and an exception to retaining wall height requirements for the proposed conversion of a former church and office building into 6 residential units at 601 Lexington Avenue.

The proposed multi-family residential use is consistent with the RM (Multi-Family Residential) zoning district and with the multi-family residential and single-family residential character of the surrounding neighborhood. The project proposes substantial new landscaping; common and private open spaces for the units; a new recycling and solid waste enclosure; and ADA accessibility improvements. The project will largely maintain the aesthetics of the existing building and will provide additional windows and doors that face Lincoln Avenue and Lexington Avenue that will enhance the appearance of the building and allow for surveillance of both of these streets. The location, size, and design of the proposed house addition are consistent with the scale and design of development in the surrounding neighborhood.

The project also requires Design Review approval from the Design Review Board.

Based on the evidence contained in this report, staff is recommending approval of this application for a Conditional Use Permit.
Background

Site Location and Layout

The project site is located on the northwest corner of the intersection of Lexington Avenue and Lincoln Avenue. The project site is relatively flat, slightly sloping upwards towards the north from Lincoln Avenue. The project site is a 10,000 square foot lot developed with a 5,077 square foot office building that was originally constructed as a church. The existing building is located slightly more than five feet from the western property line and encroaches into the required rear setback of 15 feet. The parking lot currently includes nine parking spaces.

In 1949, the east-west oriented portion of the existing L-shaped building was constructed. In 1960, the Planning Commission approved Special Use Permit No. 1419 to allow an addition to the structure for the remaining rear portion of the building. In 2000, the Planning Commission approved a Use Permit to allow the conversion of the building to a professional office use for no more than 12 employees. Adventure Associates, Inc. continued to utilize this building as an office until October 2019. The building has been vacant since then.

The surrounding neighborhood contains single-family houses, multi-family residences, and commercial uses along nearby San Pablo Avenue. Many of the surrounding multi-family developments consist of four to eight residential units, with a few larger complexes containing more than 20 residential units.

Vicinity Map
Site Photos

Adjacent Designations and Land Uses

**North:** Multi-Family Residential (RM) Zoning and High Density Residential General Plan designation. Multi-family residential building with 4 units.

**East:** Multi-Family Residential (RM) Zoning and High Density Residential General Plan designation. Single family dwellings

**South:** Multi-Family Residential (RM) Zoning and High Density Residential General Plan designation. Single family dwelling

**West:** Multi-Family Residential (RM) Zoning and High Density Residential General Plan designation. Single family dwellings and a duplex
Analysis

Project Description

The applicant is proposing to convert the existing building into six residential units with a combined floor area of 6,887 square feet. The proposed project will not expand the building footprint but will raise the roof of the east-west oriented portion of the building to accommodate a new second floor. All of the proposed residential units would include two bedrooms and would range in size between 863 square feet and 1,326 square feet.

The number of off-street parking spaces would be reduced from nine spaces to six spaces in order to provide required common open space and a waste and recycling enclosure. The common open space area will include landscaping, synthetic turf, and a barbecue grill. Private open spaces will be provided for five of the six units. The applicant proposes to substantially increase the landscaping throughout the site with new trees, plants, and groundcover. In addition, one bicycle rack and one bicycle locker will be provided at the front of the site along with a wall-mounted bicycle rack in each unit.

Zoning Standards

The site lies within the RM (Multi-Family Residential) zoning district, just outside the San Pablo Avenue Specific Plan Area. A summary of the zoning standards is provided in the table below. Standards to which the project requires an exception are highlighted in yellow.

<table>
<thead>
<tr>
<th></th>
<th>Required</th>
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<th>Comment</th>
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<tbody>
<tr>
<td>Maximum Density</td>
<td>6 Units with a minimum lot size of 9,650 sq. ft.</td>
<td>6 Units with a lot size of 10,000 sq. ft.</td>
<td></td>
</tr>
<tr>
<td>Maximum Lot Coverage</td>
<td>60% for lots less than 30% slope</td>
<td>41.1%</td>
<td></td>
</tr>
<tr>
<td>Maximum Height</td>
<td>35 ft.</td>
<td>28 ft. 5 in.</td>
<td></td>
</tr>
<tr>
<td>Setbacks</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Front</td>
<td>10 ft.</td>
<td>15 ft.</td>
<td>The portion of the building within 10 ft. of the northern property line is less than 20 ft. tall. Therefore 5 ft. setback is required.</td>
</tr>
<tr>
<td>Side (Interior)</td>
<td>5 ft.; 10 ft. for portions of buildings taller than 25 ft.</td>
<td>5 ft. 2 in.</td>
<td></td>
</tr>
<tr>
<td>Side (Street)</td>
<td>8 ft. 6 in.</td>
<td>8 ft. 6 in.</td>
<td></td>
</tr>
<tr>
<td>Rear</td>
<td>15 ft.</td>
<td>5 ft. 1 in.</td>
<td>CUP required for substantial changes to an existing non-conforming building</td>
</tr>
<tr>
<td>Covered Parking Setback</td>
<td>20 ft.</td>
<td>N/A</td>
<td>There is not any existing or proposed covered parking</td>
</tr>
<tr>
<td>Projections</td>
<td>Canopies not exceeding 10 feet in length shall not extend more than 3 ft. into front setback and at least 5 ft. from street side lot line</td>
<td>Existing canopy facing south is approximately 3.5 ft. from street side lot line.</td>
<td>CUP required for substantial changes to an existing nonconforming building</td>
</tr>
<tr>
<td>Requirement</td>
<td>Required</td>
<td>Proposed</td>
<td>Comment</td>
</tr>
<tr>
<td>-------------</td>
<td>----------</td>
<td>----------</td>
<td>---------</td>
</tr>
<tr>
<td><strong>Parking</strong></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Vehicle Parking</td>
<td>2 spaces/unit with 1 covered space/unit including 25% reduction for developments within ¼ mile of BART station (9 spaces total)</td>
<td>6 uncovered spaces</td>
<td>CUP required for parking reduction</td>
</tr>
<tr>
<td>Bicycle Parking</td>
<td>Long Term: 1 space per 4 units (2 total) Short Term: 2 spaces minimum</td>
<td>Long Term: 1 wall-mounted bike rack in each unit plus 1 bike locker (7 total) Short Term: 1 bike rack (2 total spaces)</td>
<td></td>
</tr>
<tr>
<td><strong>Landscape/Open Space</strong></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Minimum site area that must be devoted to landscaping</td>
<td>15% of the site</td>
<td>19.5%</td>
<td></td>
</tr>
<tr>
<td>Minimum requirements for common open space</td>
<td>150 sq. ft./unit minus private open space provided in excess of requirement (458 sq. ft.)</td>
<td>585 sq. ft.</td>
<td>Required common open space = (6 units x 150 sq. ft.) - 442 sq. ft. of excess private open space = 458 sq. ft.</td>
</tr>
<tr>
<td>Minimum requirements for private open space</td>
<td>80% of units must be provided with private open space. Min 100 sq. ft. for ground level spaces and 50 sq. ft. for above ground level spaces</td>
<td>5 of the 6 units (83%) have private open space. 442 sq. ft. of private open space provided in excess of requirement.</td>
<td></td>
</tr>
<tr>
<td>Parking Lot Landscaping</td>
<td>Minimum of 15% of parking lot area shall be landscaped. Minimum of one 15-gallon tree shall be provided for every four parking spaces (2 trees).</td>
<td>15% of parking lot will be landscaped. Seven 24” box (25 gallon) trees proposed in parking lot.</td>
<td></td>
</tr>
<tr>
<td>Retaining Walls</td>
<td>There shall a minimum of 4 feet separation between retaining walls and a retaining wall in a street facing side yard shall not exceed four feet tall</td>
<td>1 ft. separation between an existing and a proposed retaining wall on southern property edge. Combined height exceeds four feet.</td>
<td>CUP required for exception to retaining wall separation/height requirements</td>
</tr>
<tr>
<td>Buffer Yards</td>
<td>Buffer Yard width of 5 ft. required along western property edge to include 6 ft. tall screening wall and combination of trees and shrubs</td>
<td>Not provided</td>
<td>CUP required for not providing Buffer Yard</td>
</tr>
</tbody>
</table>
Parking

Table 19.24-A of the El Cerrito Municipal Code establishes the required off-street parking requirements and requires two spaces per dwelling unit for multiple family residential units with at least two bedrooms. However, Section 19.24.040(E), ECMC reduces the number of normally required parking spaces by 25 percent for lots within one-quarter mile of a Bay Area Rapid Transit (BART) station. The project site is approximately 1,200 ft. (0.23 mile) from the El Cerrito Plaza BART station. Thus, the off-street parking requirement for the proposed project is nine spaces (6 units x 2 spaces = 12 spaces; 12 x 0.25 = 9 spaces). The proposed project includes six spaces, including one ADA space and is seeking a parking reduction.

Section 19.24.050(B), ECMC establishes required findings and procedures for Planning Commission consideration of a Conditional Use Permit for reduced parking. A Trip Generation and Parking Analysis Memo was prepared by Abrams Associates Traffic Engineering, Inc. on May 5, 2020 for the proposed project (see Attachment 4). This Memo indicates that the 5th Edition Institute of Transportation Engineers (ITE) Parking Generation Manual includes an estimated parking ratio of 1.16 vehicles per unit for apartments in a general urban/suburban environment located less than ½ mile from rail transit. This ratio results in a parking demand of seven vehicles for the proposed six units. This Memo also indicates that there are an average of 1.46 automobiles per renter occupied dwelling unit in this census tract, pursuant to data from the American Community Survey. This ratio results in a parking demand of nine vehicles for the proposed six units. For informational purposes, there are an average of 1.13 automobiles per renter occupied unit for the census tract where BART is located, which is immediately adjacent to the project site. Thus, the expected parking demand of the project will exceed the proposed off-street parking supply by one to three parking spaces.

The project site is located approximately 0.23 mile from the El Cerrito Plaza BART Station. There is also extensive bus transit service provided by AC Transit operating on San Pablo Avenue, (less than two blocks from the project site) and at the BART Station. Therefore, it is anticipated that a higher portion of travel will occur by the use of public transit and active modes of transportation. In addition, the project exceeds the requirements for bicycle parking. The project is required to provide two short-term and two long-term bicycle parking spaces. The project will provide two short-term bicycle parking spaces (one bicycle rack) and seven long-term bicycle parking spaces (one bike locker and one wall-mounted bicycle rack in each unit).

Abrams Associates conducted on-street parking surveys of all on-street public parking within about 500 feet of the project site on Friday, March 13, 2020 and Saturday, March 14, 2020 during the early afternoon (1-2 PM), mid-afternoon (4-5 PM), and evening (8-9 PM). The highest on-street parking occupancy occurred on the Saturday evening when approximately 169 spaces were occupied of the total supply of 223 spaces (76% occupancy). On the weekday evening, there were approximately 149 occupied spaces (67% occupancy). If the worst-case scenario occurred (resulting in an additional six vehicles parked on-street) the surveys indicate the parking occupancy in the area would still be no higher than 78% during any of the time periods surveyed. However, this outcome is not expected for the reasons discussed above.

As described below, the project is consistent with numerous General Plan policies by providing six new residential units in close proximity to transit and by providing common open space for the future residents and substantial new landscaping. There are currently nine off-street parking spaces on the site. The project would comply with parking requirements in the City’s Zoning Ordinance if these nine parking spaces remained. However, the applicant proposes to remove three of these parking spaces to allow space for a common open space area, a new recycling and solid waste enclosure, an ADA accessible ramp connecting the parking lot to four of the units, and an ADA accessible lift for access to another unit. If the project were required to comply with the parking standards in the City’s Zoning Ordinance, the following consequences could occur: common open space area would not be provided; the recycling and solid waste enclosure would be moved to the front of the property; and the entire project may no longer be feasible.
if space is not available for an ADA accessible ramp nor for converting one of the parking spaces to an ADA parking space, as the project would not comply with standard California Building Code requirements.

Nonconforming Building

Section 19.27.050, ECMC establishes the requirements for all additions and structural alterations that enlarge and extend a nonconforming structure. Table 19.06-B, ECMC establishes a required minimum rear yard setback of 15 feet for parcels in the RM zoning district. The existing building is approximately 5 feet 1 inches from the rear property line. In addition, Section 19.06.030(F), ECMC requires that canopies shall not extend closer than five feet from street side lot lines. The existing building includes an existing canopy that faces south and that extends approximately 3 feet 6 inches from the street side lot line. As a result, the project requires a Conditional Use Permit for additions and structural alterations that enlarge the height and floor area of a nonconforming structure.

On the 600 block of Lexington Avenue, there are four other multiple family residential buildings (611, 615, 620, and 642 Lexington Avenue) with nonconforming rear setbacks. All four of these buildings have a rear setback of approximately five feet. The project proposes to maintain the existing nonconforming rear setback of approximately five feet, and is consistent with a number of multiple family residential buildings on this block. In addition, the location, size, and design of the proposed house addition are consistent with the scale and design of development in the surrounding neighborhood.

Buffer Yards

Section 19.25.90, ECMC establishes requirements for buffer yards in order to minimize conflicts between potentially incompatible but otherwise permitted land uses. For instance, when a multiple family residential land use is proposed adjacent to a single family dwelling or a two family dwelling, then a buffer yard is required that includes a six foot tall wall (e.g. stucco or decorative block) and a five foot wide buffer yard. Buffer yards shall be planted with at least one tree and three shrubs per 20 lineal feet. The project proposes a multifamily residential use and two single family residences and a two family dwelling (duplex) are located immediately west of the project site. Thus, a buffer yard is required along the western five feet of the project site. An exception to the buffer yard provisions requires a Conditional Use Permit. The applicant requests a Conditional Use Permit for this purpose and the applicant indicates it is infeasible to comply with the buffer yard requirements for the following reasons: (1) the area must remain open for the Fire Department’s ladder access to several bedroom egress windows; (2) there are underground utility lines running through the five foot wide area that could be negatively affected by tree roots if trees were planted in this area; and (3) the existing building’s roof overhang covers half of the five foot wide area and blocks light needed for plants and trees.

On the 600 block of Lexington Avenue, every multiple family residential use that is adjacent to a single family or a two family residential use does not comply with the buffer yard requirements in Section 19.25.090, ECMC (611, 614, 615, 620, 629, 633, and 642 Lexington Avenue).

Retaining Walls

Section 19.06.030(U), ECMC establishes that there shall be a minimum of four feet separation between retaining walls and that a retaining wall in a front and street facing side yard shall not exceed four feet tall. Retaining walls that are closer than four feet are considered one wall. The project proposes a new retaining wall (two to three feet tall) located approximately one foot from an existing retaining wall on the southern property edge that is slightly taller than two feet. The new retaining wall will provide a relatively level surface for the private open spaces for units 1, 2, 3, and 4 (see Sheet A1.1 on Attachment 2). An exception to retaining wall requirements in Section 19.06.030(U), ECMC requires a Conditional Use Permit. The applicant proposes to plant ‘Morning Light’ Coast Rosemary along the approximately one-foot strip that separates the two retaining walls. These plants will minimize any potential aesthetic
impacts of the new retaining wall. The combined height of the existing and the proposed retaining wall shall not exceed six feet.

Public Notice and Comment

The required public notice for the project was published in the East Bay Times and mailed to owners of property within 300 feet of the project site on or before May 7, 2020. At the suggestion of Staff, the applicant held an informational virtual meeting for neighbors on May 12, 2020 and sent notices to property owners within 300 feet of the project site for this meeting. Four neighbors from three properties on Lexington Avenue attended the virtual meeting. These neighbors asked questions regarding parking spaces and proposed floor plans, and they expressed appreciation that proposed changes to the exterior of the building are relatively minimal.

City Staff have received written comments from one neighbor, Lorraine Shiraki (see Attachment 6). These comments express concerns regarding potential impacts to privacy in her back yard; noise; light glare; on-street parking supply. City Staff are reaching out to Ms. Shiraki to explore options to address some of these concerns.

Environmental Review

This project is categorically exempt from the provisions of CEQA pursuant to Section 15332 of the CEQA Guidelines, Class 32: In-fill Development Projects. A Class 32 Exemption Memo was prepared by Urban Planning Partners on May 11, 2020 for the proposed project (see Attachment 5). This Memo provides analysis demonstrating the project complies with the following the conditions under which a project qualifies for a Class 32 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.

As discussed in this staff report, the project is consistent with the general plan designation (High Density Residential) and applicable general plan policies as well as with the zoning designation (RM) and regulations. Per Sections 19.24.050, 19.27.050, 19.25.090, and 19.06.030 of the El Cerrito Municipal Code (ECMC), the project would require a Conditional Use Permit for providing reduced off-street parking; making substantial alterations to a building with a nonconforming rear setback; an exception to buffer yard requirements; and an exception to retaining wall height requirements, respectively. The general findings required for Conditional Use Permits in Section 19.34.040, ECMC include the finding that the project is consistent with the purposes of the district in which it is located and conforms in all significant respects with the El Cerrito General Plan. This staff report provides detailed analysis demonstrating that the project is consistent with each of the required findings.

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

The project site is within the City of El Cerrito and the site is 0.23 acres.

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

The San Pablo Avenue Specific Plan EIR did not identify any “candidate, sensitive, or special-status species” with habitat in the San Pablo Avenue Specific Plan Area. While the site is not within the San Pablo Avenue Specific Plan Area, the site sits about 180 feet from the plan area. The site has been extensively disturbed by past development and no longer provides suitable habitat for any special-status animal or plant species.
(d) Approval of the project would not result in any significant effects relating to traffic, noise, air quality, or water quality.

The project would generate less than 100 peak hour trips and is not considered to have significant traffic impacts per the Contra Costa County Transportation Authority (CCTA) traffic impact study guidelines. The project would not result in significant temporary (construction) noise as construction would occur during the times specifically allowed under Section 16.02.060, ECMC and since the project involves no foundation work or significant site preparation work. Operational noise impacts would not be significant since the proposed multifamily residential use is consistent with the existing multi-family and single-family residential uses in the surrounding neighborhood. The project is below the number of dwelling units in the screening criteria from the Bay Area Air Quality Management District (BAAQMD) CEQA Air Quality Guidelines and would not cause a significant impact to air quality. The project would be required to comply with the Contra Costa Clean Water Program, the California Stormwater Quality Association’s Best Management Practices for Construction Activities, and the Association of Bay Area Government’s Manual of Standards for Erosion and Sediment Control Measures. Compliance with these standards and regulations would minimize any water quality impacts of the project.

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

The site is currently served by all utilities.

In addition, a Historic Resource Evaluation was prepared by Left Coast Architectural History on May 11, 2020 for the proposed project as an attachment to the CEQA Memo. The Historic Resource Evaluation concluded that the church at 601 Lexington Avenue does not appear to be historically significant as it bears no associations with important events, people, architectural styles or design professionals, nor does it have information potential. As a result, this building does not appear to be eligible for listing on the California Register and, subsequently, would not qualify as a historic resource under CEQA.

Compliance with the General Plan

The requested Conditional Use Permit for providing reduced off-street parking; making substantial alterations to a building with a nonconforming rear setback; an exception to buffer yard requirements; and an exception to retaining wall height requirements is consistent with the following goals and policies of the El Cerrito General Plan:

LU1.2 Multifamily Neighborhoods. Ensure that new development in multifamily neighborhoods supports, rather than detracts from the existing residential character of the area.

The proposed project is consistent with the multi-family and single family residential character of the surrounding neighborhood. The project will feature six residential units that will face the adjacent streets add to surveillance of the street and integrate well into the surrounding community.

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

The proposed project is consistent and compatible with the surrounding multi-family and single family residential neighborhood. The project has been reviewed thoroughly to ensure that it will not negatively impact the surrounding neighborhood.

LU1.5 Suitable Housing. Promote suitably located housing and services for all age groups within the city.
The project proposes six new residential units. This housing type will provide new multi-family rental housing opportunities nearby the El Cerrito Plaza BART Station.

**LU1.7 Maximum Density.** Maintain the maximum multifamily density at 35 dwelling units per acre, except as otherwise provided in this Plan.

The density of the proposed project is 26 units/acre.

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

The proposed project will largely maintain the aesthetics of the existing building, while providing additional landscaping, common open space, doors, and windows that will enhance the aesthetics of the building and the site. The project will be considered by the Design Review Board as required to ensure high-quality materials and design.

**CD2.1 Street Frontages.** Encourage street frontages that are safe, by allowing for surveillance of the street by people inside buildings and elsewhere, and are interesting for pedestrians.

The residential units will include doors, windows, and private open spaces that face Lincoln Avenue and Lexington Avenue which will allow for surveillance of the street.

**CD3.2 Usable Open Spaces.** Require the provision of usable open space in the form of ground-floor patios, upper-floor decks, and balconies, as well as common recreational facilities.

Five of the six residential units will feature private open spaces (ground level yards or an upper level balcony). The project also features landscaped common open space.

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

The project incorporated landscaping as required by the Zoning Ordinance. The landscaping will be considered by the Design Review Board, as required, to ensure that it is of high-quality design and appropriate for the site.

**CD3.4 Fencing.** Require that residential streets maintain open front yards and not be enclosed with fences that exceed three feet in height. Allow fences up to six feet in height to enclose front yards along major arterials, heavily used pedestrian ways or to protect yards from deer and other animals.

All front yard fencing will be a maximum of 3 feet in height.

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

The proposed building facades are well-articulated and will be considered by the Design Review Board, as required, to ensure a well-designed building form.
**CD4.3 Front Yards.** Provide front yards in residential areas with structures and parking lots stepped back along public streets in keeping with the character and setbacks of surrounding buildings. Ensure that yard spaces are landscaped appropriately to fit the surrounding context.

*Four of the six units will have landscaped open spaces facing Lincoln Avenue. Landscaping in the front yard facing Lexington Avenue will be substantially increased and will provide screening of the parking lot.*

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

*The design elements of the project will be considered by the Design Review Board as required.*

**H1.6** Retain existing residential zoning and discourage non-residential uses in these zones. The City will strictly enforce the Zoning Code which states that non-residential uses in residential areas are limited to churches, daycares, and schools.

*The project is within the RM (Multi-Family Residential) zoning district. The zoning designation will remain in place as part of the project. The project proposes a multifamily residential use in the district.***

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

*The project will produce six new housing units.*

### Required Findings

In order to approve the Conditional Use Permit for providing reduced off-street parking; making substantial alterations to a building with a nonconforming rear setback; an exception to buffer yard requirements; and an exception to retaining wall height requirements, the Planning Commission must make the following findings, contained in Sections 19.24.050 and 19.34.040 of the El Cerrito Municipal Code (ECMC):

**Parking Reduction Findings**

**Section 19.34.040 Findings**

1. The location, size, design, and operating characteristics of the proposed development will be harmonious and compatible with and will not adversely affect the livability or appropriate development of abutting properties and the surrounding neighborhood;

*The surrounding neighborhood contains single-family houses, multi-family residences, and commercial uses along the nearby San Pablo Avenue. Many of the surrounding multi-family developments consist of four to eight residential units, with a few larger complexes with more than 20 residential units. The surrounding buildings are predominantly two-story and single-story.*

*The project includes six new multi-family residential units and proposes substantial additional landscaping, a new common open space area, a new trash enclosure. Except for these proposed changes, the appearance of the building and the site will look substantially similar to the existing*
building and site. The location, size, and design of the proposed house addition are consistent with the scale and design of development in the surrounding neighborhood.

The multi-family residential units in the surrounding neighborhood have between one to two off-street parking spaces per unit. Specifically for the 500 block and the 600 block of Lexington Avenue, there are an average of 1.5 off-street parking spaces per unit. The project includes one off-street parking space per unit, and is consistent with the range of off-street parking spaces provided for multi-family residential units in the surrounding neighborhood.

2. The location and design of the proposal will provide a convenient and functional living, working, shopping, or civic environment that will be an attractive amenity for the City;

The proposed project would provide six new multi-family residential units and will largely maintain the aesthetics of the existing building, while providing additional landscaping, common open space, doors, and windows that will enhance the aesthetics of the building, the parking lot, and the general site. The project will be an attractive addition to the neighborhood.

3. The proposal is consistent with the purposes of the district where it is located and conforms in all significant respects with the El Cerrito General Plan and with any other applicable plan adopted by the City Council;

The Conditional Use Permit will allow a multi-family residential building that includes reduced off-street parking; substantial alterations to a nonconforming structure; an exception to buffer yard requirements; and an exception to retaining wall height requirements. Multi-family residential buildings are a permitted use in the RM zoning district and are consistent with the district’s intent. The proposed project will implement the following General Plan Policies: LU1.2 (Multifamily Neighborhoods); LU1.3 (Quality of Development); LU1.5 (Suitable Housing); LU1.7 (Maximum Density); CD1.3 (High-Quality Design); CD2.1 (Street Frontages); CD3.2 (Usable Open Spaces); CD3.3 (Site Landscaping).

Section 19.24.050 Findings

4. The use will be adequately served by the proposed parking due to the nature of the proposed operation; proximity to frequent transit service; transportation characteristics of persons residing, working or visiting the site; or because the applicant has undertaken a transportation demand management program that will reduce parking demand at the site.

The parking demand of the project will exceed the proposed off-street parking supply by one to three parking spaces, based on analysis in the Trip Generation and Parking Analysis Memo prepared for the project. The project site is located approximately 0.23 mile from the El Cerrito Plaza BART Station. There is also extensive bus transit service provided by Alameda-Contra Costa County (AC) Transit operating on San Pablo Avenue (less than two blocks from the project site) and at the BART Station. Therefore, it is anticipated that a higher portion of travel will occur by the use of public transit and by walking. In addition, the project exceeds the requirements for bicycle parking. The project is required to provide two short-term and two long-term bicycle parking spaces. The project will provide three short-term bicycle parking spaces (one bicycle locker and one bicycle rack) and six long-term bicycle parking spaces (one wall-mounted bicycle rack in each unit). As a result, it is expected that some of the future residents of the project will forego owning
a car or an extra car, because of the close proximity to multiple transit options and because of the availability of long-term and short-term bicycle parking.

5. Parking demand generated by the project will not exceed the capacity of or have a detrimental impact on the supply of on-street parking in the surrounding area.

Abrams Associates conducted on-street parking surveys of all on-street public parking within about 500 feet of the project site on Friday, March 13, 2020 and Saturday, March 14, 2020 during the early afternoon (1-2 PM), mid-afternoon (4-5 PM), and evening (8-9 PM) (see Attachment 4). The highest on-street parking occupancy occurred on the Saturday evening when approximately 169 spaces were occupied of the total supply of 223 spaces (76% occupancy). On the weekday evening, there were approximately 149 occupied spaces (67% occupancy). As described above, it is anticipated that the parking demand of the project will exceed the proposed off-street parking supply by one to three parking spaces. If the worst-case scenario occurred where the project resulted in an additional six vehicles parked on-street, the surveys indicate the parking occupancy in the area would still be no higher than 78% during any of the time periods surveyed.

6. The project furthers the implementation of land use or redevelopment goals of the El Cerrito General Plan more effectively than the project would if it met the parking standards of this Chapter.

As described above, the project is consistent with numerous General Plan policies by providing six new residential units in close proximity to transit and by providing common open space for the future residents and substantial new landscaping. There are currently nine off-street parking spaces on the site. The project would comply with parking requirements in the City’s Zoning Ordinance if these nine parking spaces remained. However, the applicant proposes to remove three of these parking spaces to allow space for common open space, a new recycling and solid waste enclosure, an ADA accessible ramp connecting the parking lot to four of the units, and an ADA accessible lift for access to another unit.

If the project were required to comply with the parking standards in the City’s Zoning Ordinance, the following consequences could occur: common open space would not be provided; trash enclosure would be moved to the front of the property; and the entire project may no longer be feasible if space is not available for an ADA accessible ramp nor for converting one of the parking spaces to an ADA parking space.

Nonconforming Building Extension Findings

1. The location, size, design, and operating characteristics of the proposed development will be harmonious and compatible with and will not adversely affect the livability or appropriate development of abutting properties and the surrounding neighborhood;

The surrounding neighborhood contains single-family houses, multi-family residences, and commercial uses along the nearby San Pablo Avenue. Many of the surrounding multi-family developments consist of four to eight residential units, with a few larger complexes with more than 20 residential units. The surrounding buildings are predominantly two-story and single-story.

The project includes six new multi-family residential units and proposes substantial additional landscaping, a new common open space area, a new trash enclosure. Except for these proposed changes, the appearance of the building and the site will look substantially similar to the existing
building and site. The location, size, and design of the proposed house addition are consistent with the scale and design of development in the surrounding neighborhood.

On the 600 block of Lexington Avenue, there are four other multiple family residential buildings (611, 615, 620, and 642 Lexington Avenue) with nonconforming rear setbacks. All four of these buildings have a rear setback of approximately five feet. The project proposes to maintain the existing nonconforming rear setback of approximately five feet, and is consistent with a number of multiple family residential buildings on this block.

2. The location and design of the proposal will provide a convenient and functional living, working, shopping, or civic environment that will be an attractive amenity for the City;

The proposed project would provide six new multi-family residential units and will largely maintain the aesthetics of the existing building, while providing additional landscaping, common open space, doors, and windows that will enhance the aesthetics of the building and the site. The residential units will include doors, windows, and private open spaces that face Lincoln Avenue and Lexington Avenue which will allow for surveillance of the street. The project will be an attractive addition to the neighborhood.

3. The proposal is consistent with the purposes of the district where it is located and conforms in all significant respects with the El Cerrito General Plan and with any other applicable plan adopted by the City Council;

The Conditional Use Permit will allow a multi-family residential building that includes reduced off-street parking; substantial alterations to a nonconforming structure; an exception to buffer yard requirements; and an exception to retaining wall height requirements. Multi-family residential buildings are a permitted use in the RM zoning district and are consistent with the district’s intent. The proposed project will implement the following General Plan Policies: LU1.2 (Multifamily Neighborhoods); LU1.3 (Quality of Development); LU1.5 (Suitable Housing); LU1.7 (Maximum Density); CD1.3 (High-Quality Design); CD2.1 (Street Frontages); CD4.2 (Building Articulation); CD5.1 (Design Review Process); H1.6 (Retain Housing); and H2.1 (New Housing).

Buffer Yard Exception Findings

1. The location, size, design, and operating characteristics of the proposed development will be harmonious and compatible with and will not adversely affect the livability or appropriate development of abutting properties and the surrounding neighborhood;

The surrounding neighborhood contains single-family houses, multi-family residences, and commercial uses along the nearby San Pablo Avenue. Many of the surrounding multi-family developments consist of four to eight residential units, with a few larger complexes with more than 20 residential units. The surrounding buildings are predominantly two-story and single-story.

The project includes six new multi-family residential units and proposes substantial additional landscaping, a new common open space area, a new trash enclosure. Except for these proposed changes, the appearance of the building and the site will look substantially similar to the existing building and site. The location, size, and design of the proposed house addition are consistent with the scale and design of development in the surrounding neighborhood.

Complying with the buffer yard requirements is infeasible for the following reasons: (1) the area must remain open for the Fire Marshall’s ladder access to several bedroom egress windows; (2) there are underground utility lines running through the five foot wide area; and (3) the existing building’s roof overhang covers half of the five foot wide area and blocks light needed for plants and trees. On the 600 block of Lexington Avenue, every multiple family residential use that is
adjacent to a single family or a two family residential use does not comply with the buffer yard requirements in Section 19.25.090, ECMC (611, 614, 615, 620, 629, 633, and 642 Lexington Avenue).

2. The location and design of the proposal will provide a convenient and functional living, working, shopping, or civic environment that will be an attractive amenity for the City;

   The proposed project would provide six new multi-family residential units and will largely maintain the aesthetics of the existing building, while providing additional landscaping, common open space, doors, and windows that will enhance the aesthetics of the building and the site. The residential units will include doors, windows, and private open spaces that face Lincoln Avenue and Lexington Avenue which will allow for surveillance of the street. The project will be an attractive addition to the neighborhood.

3. The proposal is consistent with the purposes of the district where it is located and conforms in all significant respects with the El Cerrito General Plan and with any other applicable plan adopted by the City Council;

   The Conditional Use Permit will allow a multi-family residential building that includes reduced off-street parking; substantial alterations to a nonconforming structure; an exception to buffer yard requirements; and an exception to retaining wall height requirements. Multi-family residential buildings are a permitted use in the RM zoning district and are consistent with the district’s intent. The proposed project will implement the following General Plan Policies: LU1.2 (Multifamily Neighborhoods); LU1.3 (Quality of Development); LU1.5 (Suitable Housing); CD1.3 (High-Quality Design); CD3.3 (Site Landscaping); CD5.1 (Design Review Process); H1.6 (Retain Housing); and H2.1 (New Housing).

Retaining Wall Exception Findings

1. The location, size, design, and operating characteristics of the proposed development will be harmonious and compatible with and will not adversely affect the livability or appropriate development of abutting properties and the surrounding neighborhood;

   The surrounding neighborhood contains single-family houses, multi-family residences, and commercial uses along the nearby San Pablo Avenue. Many of the surrounding multi-family developments consist of four to eight residential units, with a few larger complexes with more than 20 residential units. The surrounding buildings are predominantly two-story and single-story.

   The project includes six new multi-family residential units and proposes substantial additional landscaping, a new common open space area, a new trash enclosure. Except for these proposed changes, the appearance of the building and the site will look substantially similar to the existing building and site. The location, size, and design of the proposed house addition are consistent with the scale and design of development in the surrounding neighborhood.

   The project includes a new retaining wall (two to three feet tall) located approximately one foot from an existing retaining wall on the southern property edge that is slightly taller than two feet. The new retaining wall will provide a relatively level surface for the private open spaces for units 1, 2, 3, and 4 (see Sheet A1.1 on Attachment 2). The applicant proposes to plant ‘Morning Light’ Coast Rosemary along the approximately one foot strip that separates the two retaining walls. These plants will minimize any potential aesthetic impacts of the new retaining wall. The combined height of the existing and the proposed retaining wall shall not exceed six feet.

2. The location and design of the proposal will provide a convenient and functional living, working, shopping, or civic environment that will be an attractive amenity for the City;
The proposed project would provide six new multi-family residential units and will largely maintain the aesthetics of the existing building, while providing additional landscaping, common open space, doors, and windows that will enhance the aesthetics of the building and the site. The residential units will include doors, windows, and private open spaces that face Lincoln Avenue and Lexington Avenue which will allow for surveillance of the street. The project will be an attractive addition to the neighborhood.

3. The proposal is consistent with the purposes of the district where it is located and conforms in all significant respects with the El Cerrito General Plan and with any other applicable plan adopted by the City Council;

The Conditional Use Permit will allow a multi-family residential building that includes reduced off-street parking; substantial alterations to a nonconforming structure; an exception to buffer yard requirements; and an exception to retaining wall height requirements. Multi-family residential buildings are a permitted use in the RM zoning district and are consistent with the district’s intent. The proposed project will implement the following General Plan Policies: LU1.2 (Multifamily Neighborhoods); LU1.3 (Quality of Development); CD1.3 (High-Quality Design); CD2.1 (Street Frontages); CD3.2 (Usable Open Spaces); CD3.3 (Site Landscaping); CD3.4 (Fencing); CD4.2 (Building Articulation); CD4.3 (Front Yards); and CD5.1 (Design Review Process).

Staff Recommendation

Based on the information contained in this report, staff recommends approval of a Conditional Use Permit for providing reduced off-street parking; making substantial alterations to a nonconforming structure; an exception to buffer yard requirements; and an exception to retaining wall height requirements.

Proposed Motion

1. Move adoption of Planning Commission Resolution PC2020-05 approving a Conditional Use Permit for providing reduced off-street parking; making substantial alterations to a nonconforming structure; an exception to buffer yard requirements; and an exception to retaining wall height requirements for a proposed conversion of a former church and office building into six residential units at 601 Lexington Avenue.

Appeal Period

Within ten (10) calendar days after the date of the decision, the Planning Commission action may be appealed to the City Council.

Attachments

1. Draft Resolution
2. Project Plans
3. Project Summary
4. Trip Generation and Parking Analysis
5. CEQA Class 32 Memo
6. Public Comment – Lorraine Shiraki
Planning Commission Resolution PC 2020-05

APPLICATION NO. PL20-0032

A RESOLUTION OF THE CITY OF EL CERRITO PLANNING COMMISSION APPROVING CONDITIONAL USE PERMITS FOR A PARKING REDUCTION; MAKING SUBSTANTIAL ALTERATIONS TO A NONCONFORMING STRUCTURE; AN EXCEPTION TO BUFFER YARD REQUIREMENTS; AND AN EXCEPTION TO RETAINING WALL HEIGHT REQUIREMENTS FOR A PROPOSED CONVERSION OF A FORMER CHURCH AND OFFICE BUILDING INTO 6 RESIDENTIAL UNITS AT 601 LEXINGTON AVENUE

WHEREAS, the site is located at 601 Lexington Avenue; and

WHEREAS, the existing Assessor’s Parcel Number of the site is 503-402-008; and

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

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

WHEREAS, the project is categorically exempt from the provisions of the California Environmental Quality Act (CEQA) pursuant to Section 15332 of the CEQA Guidelines, Class 32: In-Fill Development Projects; and

WHEREAS, on February 27, 2020, Erica Meeks (the “applicant”) submitted an application for Conditional Use Permits for a parking reduction; making substantial alterations to a nonconforming structure; an exception to buffer yard requirements; and an exception to retaining wall height requirements for a proposed conversion of a former church and office building into 6 residential units at 601 Lexington Avenue; and

WHEREAS, on May 20, 2020, the Planning Commission, after due consideration of all evidence and reports and application materials offered for review does find and determine the following:

PARKING REDUCTION FINDINGS

Section 19.34.040 Findings

1. The surrounding neighborhood contains single-family houses, multi-family residences, and commercial uses along the nearby San Pablo Avenue. Many of the surrounding multi-family developments consist of four to eight residential units, with a few larger complexes with more than 20 residential units. The surrounding buildings are predominantly two-story and single-story.

The project includes six new multi-family residential units and proposes substantial additional landscaping, a new common open space area, a new trash enclosure. Except for these proposed changes, the appearance of the building and the site will look substantially similar to the existing building and site. The location, size, and design of the proposed house addition are consistent with the scale and design of development in the surrounding neighborhood.

The multi-family residential units in the surrounding neighborhood have between one to two off-street parking spaces per unit. Specifically for the 500 block and the 600 block of Lexington Avenue, there are an average of 1.5 off-street parking spaces per unit. The project includes one off-street parking space per unit, and is consistent with the range of off-street parking spaces provided for multi-family residential units in the surrounding neighborhood.

2. The proposed project would provide six new multi-family residential units and will largely maintain the aesthetics of the existing building, while providing additional landscaping, common open space, doors,
and windows that will enhance the aesthetics of the building, the parking lot, and the general site. The project will be an attractive addition to the neighborhood.

3. The Conditional Use Permit will allow a multi-family residential building that includes reduced off-street parking; substantial alterations to a nonconforming structure; an exception to buffer yard requirements; and an exception to retaining wall height requirements. Multi-family residential buildings are a permitted use in the RM zoning district and are consistent with the district’s intent. The proposed project will implement the following General Plan Policies: LU1.2 (Multifamily Neighborhoods); LU1.3 (Quality of Development); LU1.5 (Suitable Housing); LU1.7 (Maximum Density); CD1.3 (High-Quality Design); CD2.1 (Street Frontages); CD3.2 (Usable Open Spaces); CD3.3 (Site Landscaping).

Section 19.24.050 Findings

1. The parking demand of the project will exceed the proposed off-street parking supply by one to three parking spaces, based on analysis in the Trip Generation and Parking Analysis Memo prepared for the project. The project site is located approximately 0.23 mile from the El Cerrito Plaza BART Station. There is also extensive bus transit service provided by Alameda-Contra Costa County (AC) Transit operating on San Pablo Avenue (less than two blocks from the project site) and at the BART Station. Therefore, it is anticipated that a higher portion of travel will occur by the use of public transit and by walking. In addition, the project exceeds the requirements for bicycle parking. The project is required to provide two short-term and two long-term bicycle parking spaces. The project will provide three short-term bicycle parking spaces (one bicycle locker and one bicycle rack) and six long-term bicycle parking spaces (one wall-mounted bicycle rack in each unit). As a result, it is expected that some of the future residents of the project will forego owning a car or an extra car, because of the close proximity to multiple transit options and because of the availability of long-term and short-term bicycle parking.

2. Abrams Associates conducted on-street parking surveys of all on-street public parking within about 500 feet of the project site on Friday, March 13, 2020 and Saturday, March 14, 2020 during the early afternoon (1-2 PM), mid-afternoon (4-5 PM), and evening (8-9 PM) (see Attachment 4). The highest on-street parking occupancy occurred on the Saturday evening when approximately 169 spaces were occupied of the total supply of 223 spaces (76% occupancy). On the weekday evening, there were approximately 149 occupied spaces (67% occupancy). As described above, it is anticipated that the parking demand of the project will exceed the proposed off-street parking supply by one to three parking spaces. If the worst-case scenario occurred where the project resulted in an additional six vehicles parked on-street, the surveys indicate the parking occupancy in the area would still be no higher than 78% during any of the time periods surveyed.

3. As described above, the project is consistent with numerous General Plan policies by providing six new residential units in close proximity to transit and by providing common open space for the future residents and substantial new landscaping. There are currently nine off-street parking spaces on the site. The project would comply with parking requirements in the City’s Zoning Ordinance if these nine parking spaces remained. However, the applicant proposes to remove three of these parking spaces to allow space for common open space, a new recycling and solid waste enclosure, an ADA accessible ramp connecting the parking lot to four of the units, and an ADA accessible lift for access to another unit.

If the project were required to comply with the parking standards in the City’s Zoning Ordinance, the following consequences could occur: common open space would not be provided; trash enclosure would be moved to the front of the property; and the entire project may no longer be feasible if space is not available for an ADA accessible ramp nor for converting one of the parking spaces to an ADA parking space.
NONCONFORMING BUILDING EXTENSION FINDINGS

1. The surrounding neighborhood contains single-family houses, multi-family residences, and commercial uses along the nearby San Pablo Avenue. Many of the surrounding multi-family developments consist of four to eight residential units, with a few larger complexes with more than 20 residential units. The surrounding buildings are predominantly two-story and single-story.

The project includes six new multi-family residential units and proposes substantial additional landscaping, a new common open space area, a new trash enclosure. Except for these proposed changes, the appearance of the building and the site will look substantially similar to the existing building and site. The location, size, and design of the proposed house addition are consistent with the scale and design of development in the surrounding neighborhood.

On the 600 block of Lexington Avenue, there are four other multiple family residential buildings (611, 615, 620, and 642 Lexington Avenue) with nonconforming rear setbacks. All four of these buildings have a rear setback of approximately five feet. The project proposes to maintain the existing nonconforming rear setback of approximately five feet, and is consistent with a number of multiple family residential buildings on this block.

2. The proposed project would provide six new multi-family residential units and will largely maintain the aesthetics of the existing building, while providing additional landscaping, common open space, doors, and windows that will enhance the aesthetics of the building and the site. The residential units will include doors, windows, and private open spaces that face Lincoln Avenue and Lexington Avenue which will allow for surveillance of the street. The project will be an attractive addition to the neighborhood.

3. The Conditional Use Permit will allow a multi-family residential building that includes reduced off-street parking; substantial alterations to a nonconforming structure; an exception to buffer yard requirements; and an exception to retaining wall height requirements. Multi-family residential buildings are a permitted use in the RM zoning district and are consistent with the district’s intent. The proposed project will implement the following General Plan Policies: LU1.2 (Multifamily Neighborhoods); LU1.3 (Quality of Development); LU1.5 (Suitable Housing); LU1.7 (Maximum Density); CD1.3 (High-Quality Design); CD2.1 (Street Frontages); CD4.2 (Building Articulation); CD5.1 (Design Review Process); H1.6 (Retain Housing); and H2.1 (New Housing).

BUFFER YARD EXCEPTION FINDINGS

1. The surrounding neighborhood contains single-family houses, multi-family residences, and commercial uses along the nearby San Pablo Avenue. Many of the surrounding multi-family developments consist of four to eight residential units, with a few larger complexes with more than 20 residential units. The surrounding buildings are predominantly two-story and single-story.

The project includes six new multi-family residential units and proposes substantial additional landscaping, a new common open space area, a new trash enclosure. Except for these proposed changes, the appearance of the building and the site will look substantially similar to the existing building and site. The location, size, and design of the proposed house addition are consistent with the scale and design of development in the surrounding neighborhood.

Complying with the buffer yard requirements is infeasible for the following reasons: (1) the area must remain open for the Fire Marshall’s ladder access to several bedroom egress windows; (2) there are underground utility lines running through the five foot wide area; and (3) the existing building’s roof...
overhang covers half of the five foot wide area and blocks light needed for plants and trees. On the 600 block of Lexington Avenue, every multiple family residential use that is adjacent to a single family or a two family residential use does not comply with the buffer yard requirements in Section 19.25.090, ECMC (611, 614, 615, 620, 629, 633, and 642 Lexington Avenue).

2. The proposed project would provide six new multi-family residential units and will largely maintain the aesthetics of the existing building, while providing additional landscaping, common open space, doors, and windows that will enhance the aesthetics of the building and the site. The residential units will include doors, windows, and private open spaces that face Lincoln Avenue and Lexington Avenue which will allow for surveillance of the street. The project will be an attractive addition to the neighborhood.

3. The Conditional Use Permit will allow a multi-family residential building that includes reduced off-street parking; substantial alterations to a nonconforming structure; an exception to buffer yard requirements; and an exception to retaining wall height requirements. Multi-family residential buildings are a permitted use in the RM zoning district and are consistent with the district’s intent. The proposed project will implement the following General Plan Policies: LU1.2 (Multifamily Neighborhoods); LU1.3 (Quality of Development); LU1.5 (Suitable Housing); CD1.3 (High-Quality Design); CD3.3 (Site Landscaping); CD5.1 (Design Review Process); H1.6 (Retain Housing); and H2.1 (New Housing).

RETA I NING WALL EXCEPTION FINDINGS

1. The surrounding neighborhood contains single-family houses, multi-family residences, and commercial uses along the nearby San Pablo Avenue. Many of the surrounding multi-family developments consist of four to eight residential units, with a few larger complexes with more than 20 residential units. The surrounding buildings are predominantly two-story and single-story.

The project includes six new multi-family residential units and proposes substantial additional landscaping, a new common open space area, a new trash enclosure. Except for these proposed changes, the appearance of the building and the site will look substantially similar to the existing building and site. The location, size, and design of the proposed house addition are consistent with the scale and design of development in the surrounding neighborhood.

The project includes a new retaining wall (two to three feet tall) located approximately one foot from an existing retaining wall on the southern property edge that is slightly taller than two feet. The new retaining wall will provide a relatively level surface for the private open spaces for units 1, 2, 3, and 4 (see Sheet A1.1 on Attachment 2). The applicant proposes to plant ‘Morning Light’ Coast Rosemary along the approximately one foot strip that separates the two retaining walls. These plants will minimize any potential aesthetic impacts of the new retaining wall. The combined height of the existing and the proposed retaining wall shall not exceed six feet.

2. The proposed project would provide six new multi-family residential units and will largely maintain the aesthetics of the existing building, while providing additional landscaping, common open space, doors, and windows that will enhance the aesthetics of the building and the site. The residential units will include doors, windows, and private open spaces that face Lincoln Avenue and Lexington Avenue which will allow for surveillance of the street. The project will be an attractive addition to the neighborhood.

3. The Conditional Use Permit will allow a multi-family residential building that includes reduced off-street parking; substantial alterations to a nonconforming structure; an exception to buffer yard requirements; and an exception to retaining wall height requirements. Multi-family residential buildings are a permitted use in the RM zoning district and are consistent with the district’s intent. The
proposed project will implement the following General Plan Policies: LU1.2 (Multifamily Neighborhoods); LU1.3 (Quality of Development); CD1.3 (High-Quality Design); CD2.1 (Street Frontages); CD3.2 (Usable Open Spaces); CD3.3 (Site Landscaping); CD3.4 (Fencing); CD4.2 (Building Articulation); CD4.3 (Front Yards); and CD5.1 (Design Review Process).

NOW, THEREFORE, BE IT RESOLVED, that after careful consideration of maps, facts, exhibits, correspondence, and testimony, and other evidence submitted in this matter, and, in consideration of the findings, the El Cerrito Planning Commission hereby approves Application No. PL20-0014, subject to the following conditions:

Planning Division:

1. The project will be constructed substantially in conformance with the plans received by the City on May 8, 2020. Minor changes may be approved by the Zoning Administrator. All improvements shall be installed in accordance with these approvals. Once constructed or installed, all improvements shall be maintained as approved.

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

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

4. If not used, this approval shall expire two years from the date of this action. If the Design Review Board approves the design review application for this project (PL20-0032) within such time, then this approval shall expire two years from the date of action by the Design Review Board.

5. A construction staging plan shall be submitted to the Zoning Administrator for review and approval prior to the issuance of a building permit. The construction staging plan shall illustrate where the construction equipment will be staged and the location of parking for the construction employees. This construction and staging plan may also require the submission of a Temporary Use Permit.

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

7. The applicant shall provide a site survey conducted by a licensed surveyor prior to issuance of a building permit. If the survey substantially deviates from materials provided to the Planning Commission, then reconsideration by the Planning Commission may be required.

8. The applicant shall propose a small loading area for solid waste containers, such as an extended red curb on both sides of the driveway, for review and approval by the Zoning Administrator prior to issuance of a certificate of occupancy.

Building Division:

Prior to issuance of building permit, applicant shall address the following:
9. In order to not provide an accessible path to every residential unit, the applicant shall perform a site analysis, per Chapter 11A Section 1150A of the California Building Code, that demonstrates that providing an accessible route is not technically feasible.

10. There must be an accessible path from each unit to the common outdoor space.

11. All units must comply with current requirements for energy efficiency, water conservation, sub-metering, etc.

12. All areas of the building must be protected by an automatic fire sprinkler system in accordance with fire department requirements and under a separate permit.

**Fire Department:**

Prior to issuance of building permit, applicant shall address the following:

13. Building Construction

14. Access
   a. Any electronic gates installed shall be equipped with Knox Key System.
   b. Any non-electric gates installed shall have Knox Box next to gate(s).
   c. A “KNOX BOX” shall be installed with keys for all common areas.

15. Fire Flow Requirements
   a. Provide code analysis of required total firefighting water.
   b. Based on required fire flow, show on plans the number of fire hydrants required and locations based on maximum spacing requirements.
   c. If required, plans for fire service underground shall be submitted for review, approval and permit under separate cover.

16. Automatic Fire Sprinklers
   a. Automatic Fire Sprinklers shall be installed throughout the building.
   b. Fire sprinkler plans shall be submitted for review, approval and permit under separate cover.

17. Fire Department Connection / Underground
   a. Fire riser and FDC locations shall be submitted for review and approval.
   b. Fire FDC’s shall be in locations acceptable for fire department for emergency operations.
   c. Fire system underground pipe plans shall be submitted for review and approval.

18. Fire Alarm System
   a. Automatic fire alarm system is required.
   b. Fire alarm plans shall be submitted for review and approval.

19. Smoke Detection
   a. Smoke detection shall be installed in each bedroom, in hallways adjacent to bedrooms, and one detector per floor level (top and bottom of stairs).
   b. Smoke detectors shall be 120v powered with battery backup.
   c. Smoke detectors shall be interconnected.
20. Carbon Monoxide Detectors
   a. Carbon monoxide alarm shall be installed outside of and adjacent to sleeping areas where fuel-
      burning appliances are installed; and in dwelling units that have attached garages.
   b. Carbon Monoxide detectors shall be installed in accordance with NFPA 720.
   c. Carbon Monoxide alarms shall be 120v Powered with battery backup and interconnected with the
      smoke detectors.

21. Electrical
   a. All electrical breakers shall be labeled.

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

23. Emergency Egress
   a. Every sleeping room shall have at least one operable window or door approved for emergency
      escape or rescue in accordance with CFC 1030.
   b. Escape or rescue windows shall be installed in accordance with CFC 1030.

Public Works:

24. Applicant shall provide a detailed civil plan for off-site work (improvements in the PROW) for the Public
    Works Department to review and approve prior to issuance of building permit.

25. Prior to the issuance of a building permit, applicant shall submit an estimate of grading and earthwork
    to be completed for the project. Any earthwork and/or grading operations in excess of 50 cubic yards
    will require the applicant to submit a detailed grading plan, obtain a Grading & Transportation Permit
    and pay all associated fees.

26. Applicant shall provide a geotechnical report for the Public Works Department to review and approve
    prior to issuance of building permit.

27. Applicant shall provide a detailed drainage plan including rain leaders, roof slopes, downspouts, etc.
    for the Public Works Department to review and approve prior to issuance of building permit.

28. Applicant shall submit an Erosion and Sediment Control Plan for construction for review and approval
    by the Public Works Department prior to issuance of a building permit.

29. Before the start of any work in the public right-of-way, including any street tree, sidewalk and driveway
    work, applicant must obtain a Public Works Encroachment Permit and pay all associated fees. Any
    sidewalk, curb ramp and driveway work shall meet current ADA and City of El Cerrito Standards.

30. Approval from the East Bay Municipal Utilities District (EBMUD) and Stege Sanitary District is required.

City Arborist:

31. Protect existing street trees during construction, per Section 015639 of the Tree and Plant Protection
    specifications of the Urban Tree Foundation.
32. The applicant shall enlarge planter strip tree well openings subject to the approval of the City Arborist prior to issuance of a certificate of occupancy. This shall include removing concrete panels adjacent to existing trees (1 each) and replacing with arbor mulch or approved equal. Then repair concrete pavement in ROW per City standard.

33. Prior to the issuance of a building permit, the applicant shall submit a landscaping plan, showing all planting in the right-of-way. The applicant shall remove and replace one to three street trees on Lincoln Avenue in front of the project site. All new street trees shall be selected from the City Master Tree List and approved by the City Arborist before installation. Tree species, location, spacing, tree well size, and planting details, are to be approved by the City Arborist before installation. Any new street trees are required to have irrigation and an establishment period of three years prior to acceptance by the City.

CERTIFICATION

I certify that this resolution was adopted by the El Cerrito Planning Commission at a regular meeting held on May 20, 2020, upon motion of Commissioner __________, second by Commissioner __________:

AYES:
NOES:
ABSTAIN:
ABSENT:

_________________________
Sean Moss, AICP
Planning Manager
THE PROJECT IS LOCATED AT 601 LEXINGTON AVENUE, AT THE CORNER OF LEXINGTON AVENUE. THE ORIGINAL USE OF THE PROPERTY WAS AS A CHURCH BUILT IN THE 1950'S, WHICH CONSISTED OF A Foyer and Sanctuary. In the 1960's/1970's a Sunday school addition for classrooms, a classroom addition's exterior will generally remain intact with modifications occurring on the interior. its four residential units, it will have a new roof, new windows and doors. The rear Sunday school addition's exterior will generally remain intact with modifications occurring on the interior. Its four residential units, it will have a new roof, new windows and doors. The rear Sunday school addition, the church, the rear addition of two stories on its side and steps down to one story on its north end. A parking lot for 9 cars was also created at the time of the addition.

The property has most recently been used for office space. However, due to the strong demand for housing, prospective new owners wish to convert the building into residential apartment units. The project proposes 5 townhouse units and 1 single family unit.

The building's footprint will not be expanded. However, the sanctuary will have its roof removed for the construction of a new second floor to accommodate 3 townhouse units. It will have a new roof, new windows and doors. The rear Sunday school addition's exterior will generally remain intact with modifications occurring on the interior. Its four residential units, it will have a new roof, new windows and doors. The rear Sunday school addition, the church, the rear addition of two stories on its side and steps down to one story on its north end. A parking lot for 9 cars was also created at the time of the addition.

PRIVATE OPEN SPACE WILL BE PROVIDED TO 5 OF THE 6 UNITS. A COMMON OPEN SPACE AREA WILL BE PROVIDED ON A PORTION OF THE PARKING AREA. It will have landscaping and a seating area. The parking area will also be modified to provide an accessible parking stall and ramp access to three accessible units.
PROPOSED ROOF PLAN

100' PROP. LINE
100' PROP. LINE
100' PROP. LINE

BLDG WALL, TYP.

(N) ROOF AT SANCTUARY W/S SLOPE TO MATCH (E) REAR BLDG ROOF

(N) 2ND FLOOR DECK ON (E) ENTRY CANOPY ROOF BELOW

MAINTAIN (E) PORCH ROOF

EXISTING/DEMO ROOF PLAN

PREF. LINE
(E) WALL
(E) TO DEMOLISH
(N) WALL
SOFFIT LINE ABOVE

LEGEND

100' PROP. LINE
100' PROP. LINE
100' PROP. LINE

(N) ROOF AT SANCTUARY

(IN) FLOOR DECK ON (E) ENTRY CANOPY ROOF BELOW

(N) ROOF AT SANCTUARY W/S SLOPE TO MATCH (E) REAR BLDG ROOF

MAINTAIN (E) PORCH ROOF
Preliminary Draft 04/21/20

Exterior Light Fixtures

See Elevations

Roof Material

See Window Specs

Paint Colors

Contacts:
- Andrew Garay: 510.923.9100, 5950 Doyle St, Studio 1, Emeryville, CA 94608
- John Tanke: 650.654.6584, 1431 Cedar Street, San Carlos, CA 94070
- Jacques Kaswan: 510.540.5387, 1940B Hearst Avenue, Berkeley, CA 94708

 Architects: The Bay Architects
- Office: 1270 Valencia St, Berkeley, CA 94703
- Contact: James Novosel, 510-549-1973, Fax 510-715-1901
- Website: www.bayarch.com

Building Owner: Prasad & Rani Lakireddy
- Contact: 510.420.1484, 2278 Shattuck Avenue, Berkeley, CA 94703
- Website: www.bayarch.com

Architect of Record: James Novosel
- Contact: 510-420-1165, 1840B Alcatraz Ave, Berkeley, CA 94703

Mechanical Engineer: CRES Engineering
- Contact: Ron Mallia, 510.549.1973, Fax 510.697.1901
- Website: berkeley, ca 94709

Structural Engineer: Tantech Engineers
- Contact: David Welsh, 510.923.9100, 1904 Franklin St, Brentwood, CA 94513
- Website: arizonia.com

Tenant: The Dishnia Company, LLC
- Contact: James Novosel, 510.848.1656, 1940B Hearst Avenue, Berkeley, CA 94708
- Website: www.bayarch.com

Construction: Gotham Bay
- Contact: Konte Kingdom, 510.231.6120, PO Box 70977, San Francisco, CA 94110
- Website: thebarchitect.com

Client: The Dishnia Company, LLC
- Contact: 510.420.1484, 1940B Hearst Avenue, Berkeley, CA 94703
- Website: www.bayarch.com

Lightology

Pitch Outdoor LED Wall Light
- By Tech Lighting
- Located at Unit Entry Doors, Patio Doors, Common Open Space Accessible Ramp
- Dimensions: 12W x 10D x 8H
- Finish: Bronze
- Price: $192.00

Details:
- Model: TLG540331
- Color: White
- Voltage: 120V AC
- Lumens: 1,050
- Wattage: 24 W
- Beam Spread: 120°
- IP Rating: 67
- UL Listed

Specifications:
- Material: Aluminum
- Dimensions: 12" W x 10" D x 8" H
- Finish: Bronze
- Light Source: LED
- Input Voltage: 120V AC
- Lumens: 1,050
- Wattage: 24 W
- Beam Spread: 120°
- IP Rating: 67
- UL Listed

Other Details:
- Weight: 20 lbs
- Mounting: Bracket
- Warranty: 2 years
- Manufacturer: Tech Lighting

Additional Information:
- Made in China
- ETL Listed
- Five year warranty on finish, electrical components, and housing
- Satisfaction guaranteed
- Website: lightology.com

Notes:
- For all new replacement windows
- See Window Specs
- See Elevations
- For all new weather resistant barrier, sheathing
- See Roof Material
- See Window System
TRASH ENCLOSURE PLAN

TRASH ENCLOSURE ELEVATIONS

TRASH ENCLOSURE WALL MATERIAL

TRASH ENCLOSURE SCREEN MATERIAL

TRASH ENCLOSURE PLAN

TRASH ENCLOSURE ELEVATIONS

TRASH ENCLOSURE WALL MATERIAL

TRASH ENCLOSURE SCREEN MATERIAL

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TRASH ENCLOSURE PLAN

TRASH ENCLOSURE ELEVATIONS

TRASH ENCLOSURE Wall MATERIAL

PERFORATED SHEET STEEL SCREENING AT ENCLOSURE DOORS
Grecian Pattern, 35% Open
By Industrial Metal Supply
Plant Images

Shrubs, Ferns, Groundcovers and Perennials

- **Weigela florida 'Morning Light'**
  - Coast Rosemary
- **Camellia sasanqua 'Black Starr'**
  - 'Baby Star' Camellia
- **Centaurea cineraria 'Blue Angel'**
  - 'Corktop' Sage

- **Rubus idaeus 'Tuelo Red'**
  - raisin vine
- **Rubus 'Red'**
  - Crimson Rambler
- **Olearia europaea 'Winter'**
  - 'Lila' Rose (Deep Pink)

- **Typha angustata 'Louisana'**
  - Louisiana Pondweed
- **Lavandula x intermedia 'Provence'**
  - Blue Lavender
- **Thymophylla serpyllifolia**
  - 'Blue Star'

- **Lavandula angustifolia 'Hidcote'**
  - English Lavender
- **Pelargonium zonale 'Harlequin'**
  - 'Dreaded Dragon' Geranium
- **Ceratophyllum demersum 'Blue Leader'**
  - Skunkweed

Existing Trees

- **Eucalyptus**
  - 'David Dune'
- **Eucalyptus**
  - 'Gleneden'

Trees

- **Lavandula angustifolia 'Hidcote'**
  - 'Bridal Lavender'
- **Olearia europaea**
  - 'Blue Star'

Ornamental Grasses

- **Pennisetum alopecuroides 'Hameln'**
  - Dwarf Muhly Grass
- **Andropogon gerardii**
  - 'Red Pants'
- **Cyperus luteus**
  - 'Golden Grass'

Vines

- **Parthenocissus quinquefolia 'Veitchii'**
  - virginia creeper
- **Ficus pumila**
  - 'Creepl'
The proposed project is a conversion of an existing office building to residential use and is located at 601 Lexington Avenue, at the corner of Lincoln Avenue (APN 503-402-008). The original use of the property was as a church, which was built in the 1950's and consisted of a Foyer and Sanctuary section. In the 1960's or 70's a Sunday school addition for classrooms, general purpose ancillary spaces including bathrooms, storage, etc. was constructed at the rear of the church. The rear addition is two-stories on its south end and steps down to one story on its north end. The property also included a parking lot for 9 cars.

The property is currently owned by Adventure Associates who acquired it from First Church of Christ Scientist in 2000. They obtained a Use Permit per application 5748 on November 1, 2000 to change the use of a 4,710 square foot church building to a professional office use on a 10,000 square foot corner lot with eight parking spaces when nine parking spaces are required to accommodate one handicapped parking space. The zoning at that time was R-3 (Multiple Family Residential).

The Dishnica Company, LLC currently has a purchase and sale agreement with Adventure Associates, which is contingent upon receiving Planning Commission approval. Similar to the original change of use request from church to professional office in 2000, we wish to change the current use from office and convert the former church building into 6 residential apartment units. The apartment units will consist of 5-two story townhouse units and 1-single story flat unit. All of the units will have 2 bedrooms. The single-story flat unit will have one bathroom, one townhouse will have 1.5 bathrooms, and the remaining four townhouse units will have 2.5 bathrooms and a separate den space.

The building’s footprint will not be expanded. However, the Foyer and Sanctuary portion of the original building will have its roof removed for the construction of a new second floor to accommodate 3 town house units. The newer Sunday School Addition will remain intact with all modifications occurring within the existing structure. All of the buildings will have new windows and doors. The rear two-story portion will have some of its windows replaced and/or expanded to provide egress windows. Private open space will be provided to 5 of the 6 units. A common open space area will be provided on a portion of the parking area. It will have landscaping and a seating area. The parking area will also be modified to provide an accessible parking stall and a ramp access to the accessible units.

It has been well documented in California and especially in the San Francisco Bay Area that there is a very strong demand for housing and very little supply, which has created a shortage of housing. This shortage has impacted families throughout the region looking for housing of all types, sizes, and prices. The East Bay market, defined from Oakland to El
Cerrito, has also experienced a significant increase of households looking for housing resulting from the expanding economy, demographic changes, and the exodus of people who have left San Francisco due to the lack of and price of housing.

Until very recently there has been very little new supply of housing produced in the East Bay in west Contra Costa and north Alameda counties; however, beginning in the last several years, the City of Oakland, Berkeley, and Emeryville have experienced a surge of new supply to meet that demand, but haven’t been able to fill that demand. Most of the new properties are fully occupied or are in the process of lease-up. El Cerrito has also moved forward to encourage the production of new housing to meet demand; however, most of the current supply consists of older housing stock with much of the newer housing stock having been built in the early 2000’s. Most of the new apartment units proposed under the city’s updated general and specific plans are either under construction or in the planning stages. One recently completed new apartment development, Metro 510, located on the south side of the El Cerrito Plaza, which is across the street from the El Cerrito Plaza BART station, is fully occupied. There are very few vacancies in El Cerrito indicating that supply is not meeting demand for apartments in the community.

The property is a corner lot and is only about three blocks from the El Cerrito Plaza BART Station. El Cerrito adopted the San Pablo Avenue Specific Plan in 2014. While this property isn’t located within the boundaries of this plan, it is immediately proximate to and only 1 block away from the Kearney Street and Central Street boundaries. Due to its location near the El Cerrito Plaza BART station (approximately 3 blocks) and the A/C Transit bus service (approximately 3 blocks) on San Pablo Avenue, this project shares many of the characteristics incorporated within the specific plan area identified as TOHIMU. When reviewing Goal E in the San Pablo Avenue Specific Plan we believe that this project meets Strategies 1, 2, & 7:

- **Goal E: Catalyze Mode Shift**
  - **Strategy 1:** Promote residential infill development through increased land use intensity close to existing transit infrastructure.
  - **Strategy 2:** Reduce parking requirements to encourage transit use and reduce reliance on the private automobile.
  - **Strategy 7:** Increase the supply, diversity and affordability of housing in proximity to existing or planned transportation investments.

In Diagram 2.01.02 of the Form-Based Code Summary, the parking requirement for residential buildings in the TOHIMU area is up to 1 auto space/unit. Our request is for 1 auto space/unit. The parking lot’s existing configuration while very challenging, has worked reasonably well over the history of uses as a church and professional office.

Converting this property to a residential use provides the opportunity to reduce the traffic impact in the neighborhood compared to the current professional office use or the former church use. This conversion also includes 5 large townhouse units, which is a unique product type in the apartment market and in high demand, especially for families.

We request approval of all variances necessary to allow the conversion of the property from professional office use to residential use, which is consistent with the current zoning.
May 5, 2020

Jeff Ballantine, AICP
Senior Planner
City of El Cerrito
10890 San Pablo Avenue
El Cerrito, CA 94530

Re: Trip Generation and Parking Analysis for the Proposed Residential Project at 601 Lexington Avenue in the City of El Cerrito

This report presents the results of the trip generation analysis of the proposed residential project located at 601 Lexington Avenue in the City of El Cerrito. The proposed project involves renovation and remodeling of an existing church building currently being used as offices. The existing building has 4,710 square feet of office space and would be renovated to provide 6 two-bedroom apartments. The project is proposing to provide an on-site parking lot with six parking spaces. The project is also proposing to exceed the requirements for bicycle parking by providing 3 short term bicycle spaces and 6 long term spaces. The minimum requirement is for 2 short-term and two long-term bicycle parking spaces. The short term spaces would include one bicycle locker and a bike rack for two bicycles. The long term bicycle parking would consist of six wall bicycle storage spaces, one within each unit.

PROJECT TRIP GENERATION

As noted above, the proposed project would have 6 apartments and would replace 4,710 square feet of currently occupied office space. The trip generation rates are based on the ITE rates for apartments and retail space taken from the 10th Edition of the Institute of Transportation Engineers (ITE) Trip Generation Manual. The ITE trip rates for apartments are generally representative of apartment buildings with a mixture of one and two bedroom apartments, with studios sometimes included, for an average of no more than about 2 bedrooms per unit. As shown in Table 1, the proposed apartments are forecast to generate roughly the same amount of traffic as the existing office space.

PARKING ANALYSIS

This section discusses the City of El Cerrito’s zoning and estimated parking demand for the project. Section 19.24.050 of the El Cerrito Municipal Code specifies that multi-family housing in RM zones requires 2 spaces per dwelling unit for each unit of two or more bedrooms but allows for a 25% reduction for projects less than ½ mile from BART. This equates to a requirement for 9 parking spaces for the proposed project. The following is a summary of the potential parking demand from the project based on ITE parking generation rates and US Census Data.
TABLE 1
TRIP GENERATION CALCULATIONS

<table>
<thead>
<tr>
<th>Land Use</th>
<th>ITE Code</th>
<th>Size</th>
<th>ADT</th>
<th>AM Peak Hour</th>
<th>PM Peak Hour</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td></td>
<td></td>
<td></td>
<td>In</td>
<td>Out</td>
</tr>
<tr>
<td>ITE Apartment Rates - Trips per Unit</td>
<td>220</td>
<td>7.32</td>
<td>0.11</td>
<td>0.35</td>
<td>0.46</td>
</tr>
<tr>
<td>Apartment Trip Generation</td>
<td></td>
<td>6 units</td>
<td>44</td>
<td>1</td>
<td>2</td>
</tr>
<tr>
<td></td>
<td></td>
<td></td>
<td></td>
<td>0.11</td>
<td>0.35</td>
</tr>
<tr>
<td>ITE Office Rates - Trips per Unit</td>
<td>710</td>
<td>9.74</td>
<td>1.00</td>
<td>0.16</td>
<td>1.16</td>
</tr>
<tr>
<td>Existing Office Trip Generation</td>
<td></td>
<td>4,000 sq ft.</td>
<td>46</td>
<td>4</td>
<td>1</td>
</tr>
<tr>
<td>Net New Trip Generation from the Proposed Project</td>
<td></td>
<td></td>
<td>-2</td>
<td>-3</td>
<td>1</td>
</tr>
</tbody>
</table>


Residential Parking Demand Based on ITE Parking Generation Rates - To provide additional information on parking demand, Table 2 provides a summary of the parking demand results using the average ITE parking generation rates for apartments in a general urban/suburban environment located less than ½ mile from rail transit (i.e. BART) taken from the 5th Edition of the ITE Parking Generation Manual. As shown in Table 2, the unadjusted average peak parking demand that would be generated by the proposed project would be forecast to be approximately 7 parking spaces based on the ITE data.

Table 2
Off-Street Parking Calculations Using Parking Data from the Institute of Transportation Engineers

<table>
<thead>
<tr>
<th>Component</th>
<th>Data Source</th>
<th>Land Use</th>
<th>Size</th>
<th>Parking Ratio</th>
<th>Parking Demand</th>
</tr>
</thead>
<tbody>
<tr>
<td>Residential</td>
<td>ITE Parking Demand Rates</td>
<td>Apartments</td>
<td>6 units</td>
<td>1.16</td>
<td>7 vehicles</td>
</tr>
</tbody>
</table>

Residential Parking Demand Based on US Census Data - In addition to the zoning requirements and ITE rates, there are other factors that can be considered with regard to residential parking. For a location such as this with excellent transit access the parking demand can be shown to be less than the typical parking demand rate in the ITE Parking Generation Manual. To provide additional information on the potential parking demand in the project area U.S. Census data was also utilized based on Census Transportation Planning Products.
A summary of data from the American Community Survey. The U.S. census data indicated the parking demand for the census tract where the project was located (Census Tract 3880) averaged 1.46 automobiles per renter occupied dwelling unit. Based on the U.S. Census data, the residents of the proposed 6 unit project would generate an average of about 9 parked vehicles. It should also be noted that the project is right on the border (across the street) from the census tract where BART is located (Census Tract 3891 which has an average of only 1.13 automobiles per renter occupied dwelling unit.

**On-Street Parking Surveys** - In order to evaluate the local parking situation on-street parking occupancy surveys were conducted based on the standard traffic engineering guidelines for a study area specified by the City of El Cerrito. This survey included a detailed inventory of all on-street public parking within about 500 feet of the project site. The study involved a block-by-block survey of the number and types of spaces, and the parking occupancy during the early afternoon (1-2 PM), mid-afternoon (4-5 PM), and evening (8-9 PM). The surveys were conducted on Friday March 13 and Saturday March 14, 2020. The parking inventory (i.e. the number of parking spaces on each block-face) for the project area is shown in Figure 1. The results of the parking occupancy surveys are presented in Figures 2 through 7. These figures present the study area and the particular streets that have been studied along with the number of parked vehicles for each time period. Table 3 presents a summary of the percentage occupancy on each street for each of the time periods surveyed.

As shown in Table 3, there are currently about 223 on-street parking spaces located within about 500 feet of the project site. The studies found that the peak occupancy on both weekdays and weekends occurred in the evening surveys between 8:00 and 9:00 PM. During the highest evening survey (on a Saturday) there were about 169 spaces (76%) that were occupied, and about 54 spaces available. During the weekday evening surveys there were about 149 occupied spaces, which is an occupancy rate of 67%, with about 74 available on-street spaces. Please note that for the worst-case scenario (Saturday evening) even if it were assumed approval of the project could result in an additional 6 vehicles parked on-street (as a worst case scenario) the surveys indicate the on-street parking occupancy in the area would still be no higher than 78% during any of the time periods surveyed. Please note this calculation does not assume any parking reductions due to the proximity to BART or the provision of bicycle parking.

**Summary of Findings on Parking** - Based on these studies, the City could consider making the findings that the proposed 6 space parking lot is reasonable and appropriate. The justification is as follows:

1. The project is proposing to exceed the requirements for bicycle parking by providing 3 short-term bicycle spaces and 6 long-term spaces. The minimum requirement is for 2 short-term and two long-term bicycle parking spaces. The short-term spaces would

---

include one bicycle locker and a bike rack for two bicycles. The long term bicycle parking would consist of six wall bicycle storage spaces, one within each unit.

2. The availability of transit has been shown to result in a significant reduction in the demand for parking. The El Cerrito Plaza BART station is located less than a mile from the project site. This station is located on the Richmond-Fremont Line which connects to other destinations in the Bay Area, including San Francisco, at the MacArthur Station. There is also extensive bus transit service provided by Alameda-Contra Costa County (AC) Transit operating on San Pablo Avenue less than two blocks from the site and at the BART Station. Please note the nearest bus stops are only two blocks from the site on San Pablo Avenue. Therefore, for this project it is anticipated that a higher portion of travel will occur by walking and through the use of public transit. As a result, it is also expected that some of the apartment residents will most likely forego owning a car, or having an extra car, because of the close proximity to transit.

3. The project will not remove any on street parking spaces.

4. With the addition of the parked vehicles from the project the on-street parking in the area surrounding the project site would be forecast to remain below 80% occupancy.

Please don’t hesitate to contact me if you have any questions or need additional information.

Sincerely,

Stephen C. Abrams
President, Abrams Associates
T.E. License No. 1852
LEGEND

## Parking Spaces Available
Unrestricted Parking
4 Hour Parking 7am-6pm M-F or Permit “P” Parking
No Parking

FIGURE 1 | PARKING CAPACITY BY STREET BLOCK
TRANSPORTATION IMPACT ANALYSIS
601 Lexington Avenue
City of El Cerrito
FIGURE 2 | PARKING SURVEY ON FRIDAY, MARCH 13 2020 1-2 PM
TRANSPORTATION IMPACT ANALYSIS
601 Lexington Avenue
City of El Cerrito

03-13-20 (1-2 PM)
Total Supply: 223
Total Demand: 126
Net Vacant Spaces: 97
Percent Occupied: 57%
FIGURE 3 | PARKING SURVEY ON FRIDAY, MARCH 13 2020 5-6 PM
TRANSPORTATION IMPACT ANALYSIS
601 Lexington Avenue
City of El Cerrito

03-13-20 (5-6 PM)
Total Supply: 223
Total Demand: 136
Net Vacant Spaces: 87
Percent Occupied: 61%
FIGURE 4 | PARKING SURVEY ON FRIDAY, MARCH 13 2020 8-9 PM
TRANSPORTATION IMPACT ANALYSIS
601 Lexington Avenue
City of El Cerrito

03-13-20 (8-9 PM)
Total Supply: 223
Total Demand: 149
Net Vacant Spaces: 74
Percent Occupied: 67%
FIGURE 5 | PARKING SURVEY ON SATURDAY, MARCH 14 2020 1-2 PM
TRANSPORTATION IMPACT ANALYSIS
601 Lexington Avenue
City of El Cerrito

03-14-20 (1-2 PM)
Total Supply: 223
Total Demand: 131
Net Vacant Spaces: 92
Percent Occupied: 59%
03-14-20 (5-6 PM)
Total Supply: 223
Total Demand: 137
Net Vacant Spaces: 86
Percent Occupied: 61%
FIGURE 7 | PARKING SURVEY ON SATURDAY, MARCH 14 2020 8-9 PM
TRANSPORTATION IMPACT ANALYSIS
601 Lexington Avenue
City of El Cerrito

03-14-20 (8-9 PM)
Total Supply: 223
Total Demand: 169
Net Vacant Spaces: 54
Percent Occupied: 76%
# Table 3

## Parking Survey Results

<table>
<thead>
<tr>
<th>Segment ID</th>
<th>Street</th>
<th>Side</th>
<th>Capacity</th>
<th>1:30 PM</th>
<th>5:30 PM</th>
<th>8:00 PM</th>
<th>1:00 PM</th>
<th>5:00 PM</th>
<th>8:00 PM</th>
</tr>
</thead>
<tbody>
<tr>
<td>1</td>
<td>Kearney Street</td>
<td>West</td>
<td>19</td>
<td>10</td>
<td>11</td>
<td>15</td>
<td>11</td>
<td>12</td>
<td>18</td>
</tr>
<tr>
<td></td>
<td></td>
<td></td>
<td></td>
<td>53%</td>
<td>58%</td>
<td>79%</td>
<td>58%</td>
<td>63%</td>
<td>95%</td>
</tr>
<tr>
<td>2</td>
<td>Kearney Street</td>
<td>East</td>
<td>20</td>
<td>14</td>
<td>16</td>
<td>19</td>
<td>15</td>
<td>19</td>
<td>20</td>
</tr>
<tr>
<td></td>
<td></td>
<td></td>
<td></td>
<td>70%</td>
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<td>95%</td>
<td>75%</td>
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</tr>
<tr>
<td>3</td>
<td>Kearney Street</td>
<td>West</td>
<td>20</td>
<td>13</td>
<td>11</td>
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<td>100%</td>
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<td>100%</td>
<td>75%</td>
<td>75%</td>
<td>75%</td>
<td>50%</td>
</tr>
</tbody>
</table>

**Parking Totals:** 223 | 126 | 57% | 136 | 61% | 149 | 67% | 131 | 59% | 137 | 61% | 169 | 76%

**Spaces Available:** 97 | 43% | 87 | 39% | 74 | 33% | 92 | 41% | 86 | 39% | 54 | 24%
Memorandum

DATE May 11, 2020

TO Jeff Ballantine, Senior Planner (510) 215-4358 JBallantine@ci.el-cerrito.ca.us

FROM Emilio Balingit, Planner Lynette Dias, Principal-in-Charge

RE: 601 Lexington Avenue - Class 32 Exemption

INTRODUCTION

This memorandum documents Urban Planning Partner’s finding that the 601 Lexington Avenue project (project) qualifies for a categorical exemption as an In-Fill Development Project (Class 32 exemption) under the California Environmental Quality Act (CEQA).\(^2\) Section 15300 of the CEQA Guidelines defines certain classes of projects which have been “determined not to have a significant effect on the environment and which shall, therefore, be made exempt from the provisions of CEQA.” The CEQA Guidelines Section 15332 describes the conditions under which a project qualifies for a Class 32 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 proposed development occurs 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.
(e) The site can be adequately served by all required utilities and public services.

Urban Planning Partner’s review and analysis of this project demonstrates that the project meets the required conditions. Our findings are described below:

\(^2\) CEQA Guidelines Section 15332
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.

The project site’s General Plan land use designation is High Density Residential and the zoning designation is RM (Multi-Family Residential). Per the El Cerrito General Plan’s Community Development and Design Element, the High Density land use designation is “intended to provide opportunities for multiple-family residential development,” with residential densities of between 21 to 35 dwelling units per acre.

The project’s proposed multifamily residential use would be compatible with the project site’s General Plan land use designation and the RM zoning district, which permits multifamily residential uses by-right.

<table>
<thead>
<tr>
<th>TABLE 1</th>
<th>DEVELOPMENT STANDARDS IN THE RM ZONE</th>
</tr>
</thead>
<tbody>
<tr>
<td>Standard</td>
<td>Permitted/Required</td>
</tr>
<tr>
<td>Minimum Lot Size for 6 units in the RM district</td>
<td>9,650 square feet</td>
</tr>
<tr>
<td>Residential Density (General Plan)</td>
<td>21-35 DU/Acre</td>
</tr>
<tr>
<td>Lot Coverage</td>
<td>60%</td>
</tr>
<tr>
<td>Setbacks</td>
<td></td>
</tr>
<tr>
<td>Front</td>
<td>10’</td>
</tr>
<tr>
<td>Side</td>
<td>5’-0”</td>
</tr>
<tr>
<td>Corner Side</td>
<td>8’-6”</td>
</tr>
<tr>
<td>Rear</td>
<td>15’</td>
</tr>
<tr>
<td>Max. Height</td>
<td>35’</td>
</tr>
<tr>
<td>Parking</td>
<td>9 spaces</td>
</tr>
</tbody>
</table>

Source: El Cerrito Municipal Code Table 19.06-B.

As seen in Table 1 above, the project would meet the applicable regulations for developments in the RM zone. Per Sections 19.27.050 and 19.24.050 of the ECMC, respectively, the project would require a use permit to alter an existing non-conforming structure and permit a parking reduction. The general findings for approval for use permits, described in Section 19.34.040, include finding that the project “is consistent with the purposes of the district in which it is located and conforms in
all significant respects with the El Cerrito General Plan.” Thus, approval of the project would necessitate the project being consistent with the zoning and General Plan land use designations.

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

The project site is 10,000 square feet in area, or 0.23 acres, and is located within the City of El Cerrito’s city limits. The CEQA Guidelines do not specifically define urban uses, but a definition of “qualified urban uses” is provided in CEQA Guidelines Section 15191, which states that a qualified urban use is any “residential, commercial, public institutional, transit or transportation passenger facility, or retail use, or any combination of those uses.” The project site is bordered on all sides by residential uses and thus is “substantially surrounded by urban uses.”

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

The project site is within a highly developed urban area. The project site itself was first developed in 1949 and is currently developed largely with impervious surfaces, apart from five street trees and some assorted landscaping containing small shrubs and grasses. Per the San Pablo Avenue Specific Plan (SPASP) Environmental Impact Report (EIR), neither the Specific Plan area nor the vicinity contain any plant or animal species “identified as a candidate, sensitive, or special-status species in local or regional plans, policies, or regulations.” The San Pablo Avenue Specific Plan boundary is approximately 180 feet west of the project site, terminating at the western edge of Kearny Street, and it is thus reasonable to assume that the findings of the SPASP EIR regarding endangered species apply to the project site. Furthermore, the project site does not contain any federally protected wetlands or riparian habitat.

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

1) Traffic

The City of El Cerrito uses the Contra Costa Transportation Authority (CCTA) traffic impact study guideline thresholds to determine whether a traffic study is required and for determining potential traffic impacts. According to the CCTA guidelines, a project that generates less than 100 peak hour trips is considered to have no significant impacts.

The project would eliminate 4,170² sf of office use and create six new multifamily dwelling units. According to the Institute of Transportation Engineers’ (ITE) *Trip Generation Manual, 10th Edition*, multifamily housing (ITE land use code 220) generates 7.32 daily and 0.56 peak hour trips per unit. Using these figures, the new project would generate approximately 44 daily and 4 peak hour trips.

total. Without considering, the net change from office to residential these trip totals are less than the CCTA traffic study thresholds and thus the project would not have any significant impacts related to traffic.

2) Noise
Appendix G of the CEQA Guidelines contains criteria for determining the significance of the project’s noise impacts. In December 2018, Appendix G and the criteria for noise were revised as shown below eliminating the significance criteria related to the exposure of future residents or employees of projects to existing ambient noise at the project site, which is no longer a consideration on CEQA as it is regulated by state and local policies.

Would the project:

a) Exposure of persons to or generation of a substantial temporary or permanent increase in ambient noise levels in the vicinity of the project in excess of standards established in the local general plan or noise ordinance, or applicable standards of other agencies??  
b) Exposure of persons to generation of excessive groundborne vibration or groundborne noise levels?  
c) A substantial permanent increase in ambient noise levels in the project vicinity above levels existing without the project?  
d) A substantial temporary or periodic increase in ambient noise levels in the project vicinity above levels existing without the project?  

c) For a project located within the vicinity of a private airstrip or an airport land use plan or, where such a plan has not been adopted, within two miles of a public airport or public use airport, would the project expose people residing or working in the project area to excessive noise levels?  
f) For a project within the vicinity of a private airstrip, would the project expose people residing or working in the project area to excessive noise levels?

Temporary Noise Increase (Construction)

Construction of the project would result in a temporary increase in noise in the project vicinity. Given the project is an adaptive reuse project, the scope of the construction would be less than if the site was being development with all new construction. The project involves no foundation work or significant site preparation work, such as grading, excavation, or pile driving. These construction activities are typically the noisiest phases of construction. Section 16.02.060 of the Municipal Code restricts the time that construction activities may take place from 7:00 a.m. to 6:00 p.m. Monday through Friday and from 8:00 a.m. to 5:00 p.m. on Saturdays, with construction being totally prohibited Sundays and holidays. The code further states work must be controlled to prevent causing a public nuisance such as dust, noise, vibrations, uncontrolled storm water runoff, and traffic congestion. Limiting construction to these hours ensures that no increase in noise would occur during nights and on Sundays and holidays when the ambient noise is typically lower and an increase in noise would be perceived as louder. The limited construction scope together with the limited hours for construction activity, would ensure that the project would not result in a substantial temporary increase in noise.

Permanent Noise Increase (Operation)
The proposed project would result in the adaptive reuse of the project site with residences, whereas the site is currently utilized for commercial office. Overall operational noise levels would generally be low, consistent with similar uses, and would primarily be associated with vehicle noise associated with residents accessing the site, but this would be similar to existing conditions when accessed by office users and would not result in a substantial permanent increase in noise at the site or its vicinity. The project site is not within 2 miles of a private airstrip or public airport. The nearest such facility is Oakland International Airport, located approximately 11.9 miles southeast of the project site.

Vibration

Neither project construction nor operation are anticipated to result in any noticeable vibration. The scope of the construction is limited and would not involve grading or the use of heavy equipment that would result in vibration. Residential use does not cause noticeable vibration. As a result, the project would not result in any significant impacts related to noise.

Non-CEQA Informational Section: Ambient Noise

Although not required under CEQA, this analysis of the potential for future residents of the project site to be exposed to noise in excess of the standards established by the City of El Cerrito for residential uses is provided for informational purposes. Per the ECMC Section 19.21.050, outdoor noise levels for residential areas shall not exceed a Ldn\(^3\) of 60 dB, or 70 dB if the noise source is a Bay Area Rapid Transit (BART) facility. As the project site is surrounded by residential uses, the primary noise sources are traffic noise on adjacent streets and BART trains passing on the tracks to the east.

The project site is located at the intersection of Lincoln Avenue and Lexington Avenue, both of which are low-volume, low-speed residential streets in the vicinity of the project site. The major source of traffic noise from the project would be from San Pablo Avenue, whose centerline is approximately 420 feet west of the project site. Noise from the BART tracks, approximately 450 feet to the west, would also be perceptible at the project site.

The initial study for the 921 Kearny Street project used the Federal Highway Administration (FHWA) Highway Traffic Noise Prediction Model to predict traffic noise levels at that project site, which was approximately 165 feet from the centerline of San Pablo Avenue. The FHWA model showed that traffic noise from San Pablo Avenue would be 59.3 dBA at 100 feet from the centerline of the road, and 55 dBA at 195 feet from the centerline of the road. As noise attenuates with distance, the perceived noise from San Pablo Avenue at the project site would be less than 55 dBA and thus compliant with the residential area noise standards in ECMC 19.21.050.

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\(^3\)Ldn (Day/Night Noise Level) is the average A-weighted sound pressure level during a 24-hour day, obtained after addition of 10 decibels to levels measured during the night between 10:00 p.m. and 7:00 a.m.
Noise measurements taken at the project site for the 921 Kearny Street project initial study showed that the maximum noise perceptible at the project site during afternoon peak traffic hour was 65.7 dBA, with passing BART trains generating the loudest noise recorded. The 921 Kearny project site is approximately 390 feet west of the BART tracks. As the project is further from the BART tracks than the 921 Kearny project, noise from passing BART trains would be lower than the 65.7 dBA measured at the 921 Kearny project site and thus compliant with the residential area noise standards in ECMC 19.21.050.

3) Air Quality

The Bay Area Air Quality Management District (BAAQMD) provides guidelines for assessing air quality impacts of projects under CEQA in the San Francisco Bay Area Air Basin\(^4\). By the nature of the project (multifamily residential), operation of the project would not be considered a source of Toxic Air Contaminants (TAC) or PM\(_{2.5}\)^\(^5\). Additionally, as shown in Table 2, the project is below the screening criteria in the BAAQMD CEQA Air Quality Guidelines. Projects of a smaller size than those in the screening criteria are assumed to have less than significant impacts on air quality. As the project is below the number of dwelling units in the screening criteria, both operation and construction of the project would result in a less-than-significant impact from air pollutant emissions.

<table>
<thead>
<tr>
<th>Project Phase</th>
<th>Project</th>
<th>BAAQMD Screening Criteria (low-rise apartments)</th>
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</thead>
<tbody>
<tr>
<td>Operation</td>
<td>6 dwelling units</td>
<td>451 dwelling units</td>
</tr>
<tr>
<td>Construction</td>
<td>6 dwelling units</td>
<td>240 dwelling units</td>
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</tbody>
</table>

Source: BAAQMD, 2017. CEQA Air Quality Guidelines Table 3-. May. The BAAQMD database of permitted stationary sources of air pollution shows that no stationary sources are within 1,000 feet of the project site. The closest stationary source is the Unlocal #4296 gas station at 3160 Carlson Boulevard, approximately 1,025 feet southwest of the project site. The air quality analysis conducted for the SPASP EIR concluded that any site at least 131 feet away from this gas station would not be exposed to significant air quality impacts. The other potential source of air pollution at the project site is high-volume roadways. The SPASP EIR concluded that projects at least 75 feet east of San Pablo Avenue and 750 feet east of I-80 would not experience significant air quality impacts from these sources. The project site is over 2,500 feet away from Interstate-80 (I-80) and thus residents at the project would not be exposed to significant air pollution from that roadway. The closest high-volume roadway is San Pablo Avenue, the centerline of which is approximately

\(^5\) El Cerrito Municipal Code Section 8.49.070
450 west of the project site. As a result, the project would not result in exposure of sensitive receptors (new residents) to significant levels of air pollution.

4) Water Quality

During construction, the project would be required to comply with the City’s municipal stormwater permit requirements under the Contra Costa Clean Water Program\(^6\), the California Stormwater Quality Association’s Best Management Practices for Construction Activities, and the Association of Bay Area Government’s Manual of Standards for Erosion and Sediment Control Measures\(^7\). Compliance with these standards and regulations would minimize any water quality impacts resulting from construction of the project. Additionally, the project would reduce the amount of impervious surfaces by converting a portion of the paved parking lot to landscaping, thus reducing the amount of stormwater runoff from the site. No streams, rivers, or wetlands are on or near the project site and thus none of these features would be impacted by the project. Water would be provided to the site by the East Bay Municipal Utilities District and thus the project would not affect ground water recharge, well water supplies, or aquifers. Lastly the project site is not within a flood hazard area as mapped by the Federal Emergency Management Agency.

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

The project site is within the city limits of El Cerrito and currently adequately served by public services and utilities. The project site currently contains an operating office building and is served by existing sewer, water, and electrical lines. The City of El Cerrito provides police and fire services.

EXCEPTIONS TO CATEGORICAL EXEMPTIONS

Section 15300.2 of the CEQA Guidelines describes criterion which would prohibit the use of a Class 32 CEQA exemption:

Criterion 15300.2(b): Cumulative Impact. All exemptions for these classes are inapplicable when the cumulative impact of successive projects of the same type in the same place, over time is significant.

Criterion 15300.2(c): Significant Effect. A categorical exemption shall not be used for an activity where there is a reasonable possibility that the activity will have a significant effect on the environment due to unusual circumstances.

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\(^6\) El Cerrito Municipal Code Section 8.49.070
\(^7\) El Cerrito Municipal Code Section 8.40.90.
Criterion 15300.2(d): Scenic Highways. A categorical exemption shall not be used for a project which may result in damage to scenic resources, including but not limited to, trees, historic buildings, rock outcroppings, or similar resources, within a highway officially designated as a state scenic highway. This does not apply to improvements which are required as mitigation by an adopted negative declaration or certified EIR.

Criterion 15300.2(e): Hazardous Waste Sites. A categorical exemption shall not be used for a project located on a site which is included on any list compiled pursuant to Section 65962.5 of the Government Code.

Criterion 15300.2(f): Historical Resources. A categorical exemption shall not be used for a project which may cause a substantial adverse change in the significance of a historical resource.

None of the criterion described in section 15300.2 exist at the project site. No successive projects of the same type in the same place are known or are expected to occur over time that would result in cumulatively considerable impacts. The project site and surrounding environment contain no unusual circumstances which would cause the project to have a significant effect on the environment. The project is not located on or near a Scenic Highway nor a Hazardous Waste site and thus these exceptions would not apply.

No historic resources exist at the project site. The CEQA Guidelines Section 15064 defines a historical resource as being:

1) Listed or eligible to be listed in the California Register of Historic Resources
2) Listed in a local register of historic resources or identified as significant in a historic resource survey
3) Any object, building, structure, site, area, place, record, or manuscript which a lead agency determines to be historically significant or significant in the architectural, engineering, scientific, economic, agricultural, educational, social, political, military, or cultural annals of California

The church structure currently at the project site was constructed in 1949. It does not appear on any local, state, or national list or register of historic resources. As stated in the attached memo from Left Coast Architectural History dated May 11, 2020 (Attachment A), the church structure is not a historic resource for the purposes of CEQA.

CONCLUSION

On the basis of the evidence provided above, the project is eligible for a Class 32 categorical exemption, in accordance with Section 15332, Infill Development Projects, of the CEQA Guidelines. Because the Project meets the criteria for categorically exempt infill development projects, and
because it would not have a significant effect on the environment, this analysis finds that a Notice of Exemption may be prepared for the Project. No further review is needed.
ATTACHMENT A: 601 LEXINGTON AVENUE, EL CERRITO HISTORICAL RESOURCE EVALUATION
601 Lexington Avenue, El Cerrito
Historical Resource Evaluation

Prepared for:
Urban Planning Partners, Inc.
388 17th Street, Suite 230
Oakland, CA 94612

11 May 2020
INTRODUCTION
This Historic Resource Evaluation was prepared by Caitlin Hibma, architectural historian qualified under the Secretary of the Interior's Standards for Architectural History, for Urban Planning Partners, Inc. It examines the historic significance and integrity of the property addressed 601 Lexington Avenue in the City of El Cerrito (APN: 503-402-008-0), which was built in 1949 according to County Assessor's data. The study provides a record of research findings, evaluation according to the California Register of Historical Resources significance criteria and aspects of integrity, and culminates in a preliminary determination of the property's eligibility for designation as a Historic Resource.

METHODOLOGY
This report was undertaken during statewide shelter-in-place orders, effective during April 2020. The following methodology was vetted and approved by the City of El Cerrito Planning Division. Research was performed remotely using sources available online or through communications with the El Cerrito Historical Society. The significance and integrity evaluation contained herein is based on that research. A caveat is provided that other historical information may be available that was not able to be obtained by this effort and which may have the potential to change the conclusions of this analysis.

No site visit was performed. Instead, visual inspection of the property was made using Google Maps and Google Street View, which provided imagery current to January 2019.

Research was performed via online repositories, including the following archives/sources:

- *Architect & Engineer* trade periodical (via Internet Archive; archive.org)
- California Digital Newspaper Collection (https://cdnc.ucr.edu/cgi-bin/cdnc)
- City of El Cerrito Building Division building permits and other property records (obtained by project sponsor and provided to Left Coast Architectural History by Urban Planning Partners)
- El Cerrito Historical Society (email from Left Coast Architectural History to echistorical@gmail.com on 17 April 2020; response received from David Weinstein stating that ECHS had no information available for the property.)
- Google Maps/street view (maps.google.com)
- NETR Historic Aerials (https://www.historicaerials.com/)
- Newspaper Archive (newspaperarchive.com via San Francisco Public Library)
- Oakland city directories (including surrounding cities); 1949, 1951, 1953-1957 (via Ancestry.com) (Subject property not listed at any time)
- Pacific Coast Architecture Database (http://pcad.lib.washington.edu/)
- Sanborn Fire Insurance maps (ProQuest via San Francisco Public Library)

This memorandum culminates in an evaluation and determination of eligibility of the property for the California Register of Historical Resources (CRHR), which establishes each property's status as a Historic Resource according to the California Environmental Quality Act (CEQA). Evaluative procedures for CRHR eligibility are outlined below:

**Evaluative Procedures**
CEQA states that any property listed or determined eligible for listing on the CRHR qualifies as a Historic Resource under CEQA and must be given consideration in the CEQA process. To evaluate and determine
eligibility for listing on the CRHR, it must be found that a property is significant under one or more of the following criteria.

**Criterion 1 (Events):** Resources that are associated with events that have made a significant contribution to the broad patterns of local or regional history, or the cultural heritage of California or the United States.

**Criterion 2 (Persons):** Resources that are associated with the lives of persons important to local, California, or national history.

**Criterion 3 (Architecture):** Resources that embody the distinctive characteristics of a type, period, region, or method of construction, or represent the work of a master, or possess high artistic values.

**Criterion 4 (Information Potential):** Resources or sites that have yielded or have the potential to yield information important to the prehistory or history of the local area, California, or the nation.

In addition to possessing significance under one of the aforementioned criteria, a property must also retain historic integrity to be eligible for listing on the CRHR. The process of determining integrity references seven variables or aspects to define integrity, as follows:

- **Location** is the place where the historic property was constructed.
- **Setting** addresses the physical environment of the historic property inclusive of the landscape and spatial relationships of the building(s).
- **Design** is the combination of elements that create the form, plans, space, structure and style of the property.
- **Materials** refer to the physical elements that were combined or deposited during a particular period of time and in a particular pattern of configuration to form the historic property.
- **Workmanship** is the physical evidence of the crafts of a particular culture or people during any given period in history.
- **Feeling** is the property’s expression of the aesthetic or historic sense of a particular period of time.
- **Association** is the direct link between an important historic event or person and a historic property.

**RESEARCH FINDINGS**

**Current Historic Status**

- National Register of Historic Places – Not Listed
- California Register of Historical Resource – Not Listed
• Contra Costa County Historic Resources Inventory (current July 2019) – Not listed
• City of El Cerrito - No local inventory of historic resources; not listed.

Sanborn Fire Insurance Maps

• July 1926 – The only Sanborn map edition available for the City of El Cerrito was published in July 1926. The map shows that the parcel currently addressed 601 Lexington Avenue may have consisted of two lots, both of which were vacant, suggesting that the subject property was not developed prior to the construction of the current building.

Aerial Photographs

The earliest aerial photograph available via the Historic Aerials website dates to 1946 and shows that the subject property was vacant at that time, supporting the idea that the property was undeveloped prior to construction of the subject building in 1949.
The next available aerial photographs date to 1958 and 1959. They show a large rectangular building located at the corner of Lexington and Lincoln Avenues and oriented on an east-west axis. The size and shape of the building corresponds to the east-west oriented mass of the current L-shaped building. The northern portion of the lot remained open and scattered trees are visible.

By 1968, when the next aerial image was taken, the north-south oriented mass of the L-shaped building appears to have been added, extending across the back of the open northern portion of the parcel, while the open northeastern portion bears no vegetation and may have been occupied with a surface parking area, as today.

Additional aerial photos from 1980 through 2016 indicate no additional changes to the property.¹

Building Division Records

The following building permit records, architectural drawings, and other records are on file at the City of El Cerrito Building Division:

<table>
<thead>
<tr>
<th>Date</th>
<th>Description</th>
<th>Contents/Scope of Work</th>
</tr>
</thead>
<tbody>
<tr>
<td>07/11/60</td>
<td>Architectural drawings</td>
<td>“Additions to First Church of Christ Scientist” by Corlett &amp; Spackman Architects of San Francisco. Illustrates addition of rear north-south ell to existing church building. Owner: First Church of Christ Scientist</td>
</tr>
<tr>
<td>2000</td>
<td>Use permit application #5748</td>
<td>Change of use from church to professional office. Owner: Adventure Associates, Inc.</td>
</tr>
<tr>
<td>09/15/05</td>
<td>Building permit #05 1042</td>
<td>Replace 8 windows, same sizes, no location changes. Owner: Adventure Associates, Inc.</td>
</tr>
</tbody>
</table>

Chain of Title & Occupancy

Deduced from city/county directories, building permit records, and newspaper advertisements:

<table>
<thead>
<tr>
<th>Dates</th>
<th>Owner</th>
<th>Tenant/Use</th>
</tr>
</thead>
<tbody>
<tr>
<td>1949 – 2000</td>
<td>First Church of Christ Scientist</td>
<td>Same/religious</td>
</tr>
<tr>
<td>2000 – recent</td>
<td>Adventure Associates, Inc.</td>
<td>Same/commercial – professional office</td>
</tr>
</tbody>
</table>

Architect & Builder

- No original building permit or other archival information was found that identified the original architect and/or builder of the church.

¹ Images not included due to copyright restrictions.
Corlett & Spackman Architects: designers of the 1960 rear ell addition. Partnership of William G. Corlett III and Wendell Ross Spackman. Firm based in San Francisco, established 1952. Spackman retired in 1976 and other partners joined, firm name changed, still operates as CSDA Design Group. Portfolio of work during Corlett & Spackman era includes: Greenbrae Elementary School, Greenbrae, CA (1953); Center Street School, Castro Valley (1955); American Corp Sisalkraft’s West Coast plant (1957); American Trust Company Branch Banking Facility, Napa, CA (1959); main arena for Squaw Valley Winter Olympics (1960); Sunset View Mortuary, Kensington, CA (1962); U.C. Santa Cruz dorms and dining commons (1968); American International School of Tokyo, Japan K-12 campus (1968); Glen Park BART Station, San Francisco (1970).2

Newspapers

The following advertisements for church activities were found in local newspapers:

Berkeley Gazette, 15 December 1951.

Oakland Tribune, 4 October 1969.

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2 PCAD, https://csdadesigngroup.com/firm/
EVALUATION

Historical Significance

The California Register of Historical Resources (California Register) is an inventory of significant architectural, archaeological, and historical resources in the State of California. In order for a property to be eligible for listing in the California Register, it must be found significant under one or more of the following criteria.

- **Criterion 1 (Events)**: Resources that are associated with events that have made a significant contribution to the broad patterns of local or regional history, or the cultural heritage of California or the United States.

- **Criterion 2 (Persons)**: Resources that are associated with the lives of persons important to local, California, or national history.

- **Criterion 3 (Architecture)**: Resources that embody the distinctive characteristics of a type, period, region, or method of construction, or represent the work of a master, or possess high artistic values.

- **Criterion 4 (Information Potential)**: Resources or sites that have yielded or have the potential to yield information important to the prehistory or history of the local area, California, or the nation.³

The building at 601 Lexington Avenue does not appear to be eligible for individual listing in the California Register under any of the above criteria. A full evaluation follows:

**Criterion 1 (Event)**

The building at 601 Lexington Avenue does not appear to be associated with historical events or patterns of development significant to the history of El Cerrito or the State of California that would raise it to a level of individual significance and eligibility. A few newspaper advertisements indicate that the church hosted religious

lectures in addition to its presumably regular services. However, these lectures do not appear to be of any historic significance and no other specific events of historical importance are known to have occurred at the property. The church was built in 1949, falling into a late period of El Cerrito's development, after the city was established and had grown to notable size. The church's construction may be loosely related to population growth in the area spurred by World War II, but was built 4 years after the end of the war and so is not directly related to the war-era boom, nor was it specifically influenced by war-time activities. Based on this analysis, the property is not eligible for individual listing in the California Register under Criterion 1 (Events).

Criterion 2 (Persons)

The building at 601 Lexington Avenue does not appear to be associated with any people significant to the history of El Cerrito or the State of California that would raise it to a level of individual significance and eligibility. The property served as a church for the majority of its history. Research identified no names of specific individuals associated with church leadership or membership who may have been historically significant. The only names that were found were those of people who gave religious lectures at the church, but none of them have known activities or achievements beyond their church involvement or appear to be historically significant. Based on this analysis, the property is not eligible for individual listing in the California Register under Criterion 2 (Persons).

Criterion 3 (Architecture/Design)

The building at 601 Lexington Avenue does not appear to exhibit the high architectural merit or associations with a master architect that would raise it to a level of individual significance and eligibility. The building was originally designed in 1949 as a simple rectangular church building with some Modernist decorative detailing located around the primary entrance. The church's aesthetic is best assigned to the Mid-Century Modern sub-style of Modernism, which embraced cantilevered roofs and overhangs, the use of bright or contrasting colors, projecting eaves, canted windows, projecting boxes that frame upper stories, stucco siding, spandrel glass, large expanses of windows, flat or shed roof forms, vertical corrugated siding, stacked roman brick cladding, and occasionally, vertical wood siding. The church at 601 Lexington exhibits few of these character defining features, except its stucco siding and perhaps the asymmetrically patterned box-like framing that creates a grid incorporating a window and louvered vent above the main entrance. It is noted that churches – as less utilitarian and more ceremonial, and therefore dramatic and expressive, structures - “embraced Midcentury Modern design elements that emphasized exaggerated roof forms, projecting overhangs, and articulated facades.” The subject church, other than having a strong gable roof form, does not exhibit any of these traits either. The 1960 rear addition, which imposed an L-shaped plan on the building, only mimicked existing materials and decorative elements, like the asymmetrically patterned box framing, on other areas of the building. It perhaps instilled slightly more Modernist influence in roofline details like broader eaves and clerestory windows at the location of a roof level change, but did not impose any stylistic expression of its own on the building. Based on this, the church does not appear to be a strong example of the Midcentury Modern style, especially as applied to ecclesiastical buildings, which were often more dramatic than buildings of other uses.

No architect or builder were identified with the original design or construction of the church. The rear ell addition was designed by Corlett & Spackman Architects, a prominent Bay Area architecture firm; however, this project – an addition to an existing building, mimicking its prevailing style – does not rank highly within the firm's portfolio of independently designed, publicly prominent, high-style projects that included schools and state college campuses, mortuaries, factories, banks, BART stations, and an Olympic venue. The firm's Sunset View Mortuary, in neighboring Kensington and only two years older than the addition to 601 Lexington Avenue,

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5 Ibid.
is a quasi-ecclesiastical building that stands as an excellent comparative example of the firm's work, both in location and use, and is far more expressive and noteworthy in its architecture.

Because the building lacks architectural merit, is not the original work of any known architect or builder, and is not a prime example of work by Corlette & Spackman Architects, it does not rise to a level of individual significance that would make it eligible for individual listing in the California Register under Criterion 3 (Architecture/Design).

**Criterion 4 (Information Potential)**

Criterion 4 is typically concerned with archaeological investigation. Where buildings or architectural elements are concerned, it typically relates to rare construction types, of which 601 Lexington Avenue is not an example. Therefore, the property does not appear to be eligible for individual listing in the California Register under Criterion 4.

**Integrity**

In order to qualify for listing in the California Register, a property must possess significance under one of the aforementioned criteria and have historic integrity. The church at 601 Lexington Avenue does not appear to qualify for designation on an individual level; therefore, an analysis of its integrity is not required. However, it can be noted that the church retains integrity of location and setting having never been moved from the primarily residential neighborhood in which it is located, which was developed throughout the 20th century and not drastically changed since the time the church was built. The building itself has undergone some alterations, the exterior extent of which appears to include window replacement; steel-sash for vinyl along the southern facade (likely occurred in 2005). This affects integrity of design, materials, and workmanship to some extent, but the church generally remains physically intact. The rear ell addition changed the original design, but occurred within the historic period and is stylistically and materialistically in keeping with the original portion of the church and so is not considered to diminish integrity. The church's integrity of feeling as a Midcentury neighborhood church remains intact. There are no significant associations giving the church significance, so integrity of association is not pertinent. Overall, the building retains integrity, although it is not historically significant.

**CONCLUSION**

The church at 601 Lexington Avenue does not appear to be historically significant; bearing no associations with important events, people, architectural styles or design professionals, nor having information potential. The building retains physical integrity, but this does not support historic significance or designation eligibility. Therefore, 601 Lexington Avenue does not appear to be eligible for listing on the California Register and, subsequently, would not qualify as a historic resource under CEQA.
Hello,

I am writing to you regarding the use permit at 601 Lexington Ave. I am unable to attend the meeting on May 20th so I would like to state my concerns here:

1. I am the neighbor who lives directly behind this building (602 Kearney St.). For 28 years I have enjoyed the fact that my privacy in my back yard has not been compromised even when it was occupied by the business that moved in years ago. Now that this building is going to house residents my privacy is taken away due the fact the existing windows are going to be replaced so that the people can look out right into my back yard and in my house facing them.

2. The other concern is that the noise factor would be an issue since the second story will be the living room area for these units.
If the windows are open and the people are entertaining or have loud music playing this will affect my privacy and the quiet environment I have come to expect over the years.

3. The porch lights on the south side of the building facing Lincoln St. has been an issue because the light shines in my house when they are on. I spoke with Jim at The Bay Architects and he said they could resolve this issue. I’m hoping this can be addressed.

4. Six parking spaces will be created in the existing parking lot. If there are two people living in these units and there is a second car this will create issues with the already limited parking on the streets.

I am requesting that the number of units be reduced. It seems with all the new construction going on around our neighbor that this is another factor in more congestion and the overall issues when more people are present.

Thank you for considering my concerns. A confirmation that this was received is appreciated.

Sincerely,

Lorraine Shiraki
602 Kearney St.
Inclusionary Zoning Ordinance Amendments

**EXECUTIVE SUMMARY**

In December 2014, the City Council adopted the San Pablo Avenue Specific Plan to permit increased development in the San Pablo Avenue corridor consistent with City goals. In August 2017 the City Council adopted the Affordable Housing Strategy. One policy identified in the Strategy was the adoption of an Inclusionary Housing policy. Chapter 19.30: Inclusionary Zoning was adopted in May 2018. The Ordinance exempted entitled projects and projects with complete applications provided that a building permit was issued within two years of approval or by June 30, 2021, whichever comes first.

Construction costs have escalated greatly over the past two years. City staff have continued to work with developers to accommodate project changes which maintain the feasibility of entitled projects so that these projects can continue to move toward construction.

The coronavirus pandemic has added uncertainty to the financial markets and the construction environment. In order to facilitate exempt, entitled projects to continue to move into the construction phase, City staff is recommending the following amendments to Chapter 19.30: Inclusionary Zoning of the El Cerrito Municipal Code:

1. Establish the expiration of all exemptions to the Inclusionary Zoning Ordinance as June 30, 2021.

2. Modify the exemption to require that building permit applications be submitted by June 30, 2021 and that building permits be issued within 6 months of submittal.

3. Allow the exemption for all exempt projects to expire on June 30, 2021 regardless of any entitlement extensions or amendments which have been granted, as described further below.
Background

In December 2014, the City Council adopted the San Pablo Avenue Specific Plan which permitted increased development in the transit-rich San Pablo Avenue corridor, consistent with a variety of City goals identified in the City’s General Plan, Housing Element, Active Transportation Plan, Climate Action Plan, and Urban Greening Plan. In the decades prior to the adoption of the Specific Plan, little development had occurred along San Pablo Avenue because the prior zoning ordinances did not permit an intensity of development which was financially feasible to develop. The adoption of the Specific Plan and a robust economy led to the entitlement of 15 projects in the Specific Plan area, to date, including 1,170 new residential units, 27,254 square feet of new commercial space, and 124 new hotel rooms. Four of these projects are now under construction. In August 2017 the City Council adopted the City’s first Affordable Housing Strategy (Resolution 2017-61). The Strategy identified establishing a new inclusionary zoning policy and/or enacting new housing impact fees for affordable housing as one approach to increasing the City’s supply of affordable housing by ensuring that private development was making a reasonable contribution toward addressing the need for additional affordable housing. In recognition that an Inclusionary Zoning ordinance would impact the financial feasibility of projects, and with funding from a Metropolitan Transportation Commission (MTC) Priority Development Area (PDA) Implementation grant, the City Council authorized execution of a professional services agreement with Keyser Marsten Associates (Resolution 2017-81) to conduct a Real Estate Financial Feasibility Analysis (Analysis) and to make recommendations based upon the analysis.

Based upon the results of that analysis, the City Council established inclusionary zoning through the addition of Chapter 19.30 to the El Cerrito Municipal Code (Ordinance No. 2018-02), requiring the inclusion of affordable units within new residential development projects and allowing the payment of a fee in lieu of providing units for rental projects. As a reminder, Table 1 below includes a summary of the major provisions of the Ordinance. Of the 15 projects entitled to date in the Plan area, 13 were considered complete or entitled prior to the effective date of the Inclusionary Zoning requirements (one non-residential hotel project is exempt from Inclusionary Zoning requirements and not included on the table). More detailed information about the Inclusionary Zoning requirements can be found at www.el-cerrito.org/InclusionaryHousing

Table 1: City of El Cerrito Chapter 19.30 Inclusionary Zoning Provisions

<table>
<thead>
<tr>
<th></th>
<th>For-Sale Projects</th>
<th>Rental Projects</th>
</tr>
</thead>
<tbody>
<tr>
<td><strong>Applicability</strong></td>
<td>All residential development applications not deemed complete by the Ordinance effective date.</td>
<td>All residential development applications not deemed complete by the Ordinance effective date.</td>
</tr>
<tr>
<td><strong>Threshold</strong></td>
<td>9 units</td>
<td>10 units</td>
</tr>
<tr>
<td><strong>Exemptions</strong></td>
<td>Accessory Dwelling Unit (ADU) &lt; 9 units</td>
<td>&lt; 10 units</td>
</tr>
<tr>
<td><strong>Compliance Options</strong></td>
<td>On-site</td>
<td>In-lieu fee or on-site</td>
</tr>
<tr>
<td><strong>Set-aside</strong></td>
<td>12%</td>
<td>10%</td>
</tr>
<tr>
<td><strong>Affordability</strong></td>
<td>Moderate income (80-120%)</td>
<td>5% low (up to 80% AMI) + 5% moderate-income</td>
</tr>
<tr>
<td><strong>In-lieu Fee</strong></td>
<td>$21.00 per square foot (for fractional units)</td>
<td>$18.00 per square foot - optional</td>
</tr>
<tr>
<td><strong>Fractional Unit</strong></td>
<td>≥ .5, provide unit</td>
<td>≥ .5, provide unit</td>
</tr>
<tr>
<td></td>
<td>&lt; .5, pay fee</td>
<td>&lt; .5, pay fee</td>
</tr>
</tbody>
</table>
Exempt

A residential development project that is entitled or with an application that has been deemed complete by the effective date of this Ordinance AND for which a building permit is issued within 2 years from their entitlement date.

Sunset Provision

All projects that haven’t been issued a building permit by June 2021.

Analysis

Because at the time of adoption, only one new multifamily development had been constructed within the past decade, the Analysis recommended, and Council recognized the importance of exempting projects in the pipeline in order to establish a more robust data set of rent and sale comparables to improve the lending environment for new development. Metro 510 opened in 2017 (109 market-rate + 19 below market rate units) and prior to that Village at Town Center (141 market-rate + 24 below market rate units) was built in 2007; these represent the two most recent projects which added a notable number of units to El Cerrito’s housing supply along with the publicly funded Hana Gardens, 62 affordable senior units, completed in late 2018. The Analysis pointed out that projects initiated after the effective date of the Ordinance would be able to negotiate land prices and make other adjustments necessary to absorb the costs of the new requirements. At the time of adoption of the Ordinance, staff recommended that a new economic analysis be conducted 24-36 months after adoption and subject to completion of development projects in the pipeline at the time. Based upon their application being deemed complete by the Ordinance effective date, twelve projects were considered exempt from the Ordinance as long as they pulled their permits within two years of their entitlement (and by the June 30, 2021 sunset provision). Of those 12, 4 are currently under construction (representing 243 units); one has submitted for building permits and is under review (90 units); one has made modifications in order to improve the project’s feasibility and is expected to submit for a building permit within the next several months (183 units); one applied for and received an extension of entitlement through February 21, 2022, and is currently, without modification, subject to the Inclusionary Zoning Ordinance (40 units); one which had previously been entitled for 14 units was sold and re-entitled for 54 units and is now subject to the Inclusionary Zoning requirements; and five have deadlines approaching within the next 3-15 months for pulling their building permit. See Table 2 for a summary and status of these early/exempt projects.

Table 2: Status of Entitled Projects

<table>
<thead>
<tr>
<th>Project Address</th>
<th>Final Design Approval</th>
<th>Unit Count</th>
<th>Status</th>
<th>Notes</th>
</tr>
</thead>
<tbody>
<tr>
<td>10963 San Pablo Avenue</td>
<td>05/02/2018</td>
<td>50</td>
<td>Under Construction</td>
<td>Construction suspended during second Shelter In Place order. Construction has now resumed.</td>
</tr>
<tr>
<td>10810 San Pablo Avenue</td>
<td>04/04/2018</td>
<td>40</td>
<td>Entitlement expired April 4, 2020; Applied for and Received a 2-year entitlement extension through February 21, 2022 (Resolution ZA2020-01)</td>
<td>• Infill project at Village at Town Center. • Building permit submitted. Response to plan check comments submitted on May 11, 2020.</td>
</tr>
<tr>
<td>11600/11690 San Pablo Avenue</td>
<td>08/02/2017</td>
<td>223 Total Units; Phase 1 = 156 Market-Rate Units</td>
<td>Under Construction;</td>
<td>• Revisions made to improve financial feasibility. Underground parking level</td>
</tr>
</tbody>
</table>
Under Construction; and Phase II = 67 Affordable Units.

<table>
<thead>
<tr>
<th>Address</th>
<th>Date</th>
<th>Units</th>
<th>Status</th>
</tr>
</thead>
<tbody>
<tr>
<td>10167 San Pablo Avenue</td>
<td>06/06/2018</td>
<td>62</td>
<td>Must Pull Permit by June 6, 2020</td>
</tr>
<tr>
<td>10300 San Pablo Avenue</td>
<td>09/06/2017</td>
<td>32</td>
<td>Under Construction</td>
</tr>
<tr>
<td>10300 San Pablo Avenue</td>
<td>09/06/2017</td>
<td>32</td>
<td>Under Construction</td>
</tr>
<tr>
<td>10534 San Pablo Avenue</td>
<td>05/04/2016</td>
<td>5</td>
<td>Under Construction</td>
</tr>
<tr>
<td>10135 San Pablo Avenue</td>
<td>06/18/2018</td>
<td>72</td>
<td>Must Pull Permit by June 18, 2020</td>
</tr>
<tr>
<td>11048/11060 San Pablo Avenue</td>
<td>01/24/2019</td>
<td>173</td>
<td>Must Pull Permit by January 24, 2021</td>
</tr>
<tr>
<td>10919 San Pablo Avenue</td>
<td>07/03/2019</td>
<td>90</td>
<td>Must pull Building Permit by June 30, 2021 (Sunset Provision)</td>
</tr>
<tr>
<td>921 Kearney</td>
<td>03/04/2019</td>
<td>59</td>
<td>Must pull Building Permit by June 30, 2021 (Sunset Provision)</td>
</tr>
<tr>
<td>11965 San Pablo Avenue</td>
<td>06/18/2019</td>
<td>144</td>
<td>Must Pull Permits by June 18, 2021</td>
</tr>
<tr>
<td>10192 San Pablo Avenue</td>
<td>01/24/2019</td>
<td>26</td>
<td>Must pull permits by January 24, 2021</td>
</tr>
<tr>
<td>11795 San Pablo Avenue</td>
<td>10/2/2019</td>
<td>117</td>
<td>Must Pull Permit by January 24, 2021</td>
</tr>
<tr>
<td>10290 San Pablo Avenue</td>
<td>08/02/2017</td>
<td>49</td>
<td>Initial approval for 14 units and exempt from</td>
</tr>
</tbody>
</table>

- BRIDGE Housing has applied to modify the project’s 100% affordable housing component due to a variety of funding related factors.
In the previous two year period, construction costs escalated steeply. Some developers reported that construction bids received for projects were 50% higher than the preliminary bids they had used to build project pro formas (the financial model upon which the project is developed) one year prior. Staff worked with the developers of the Mayfair and Griffin projects to facilitate project changes aimed at keeping the projects financially feasible. For the Mayfair project, these changes included the elimination of an underground parking level, while maintaining a parking ratio within the range permitted by-right, and avoiding other design changes to the exterior of the project. For the Griffin project (site of the Big 5 Sporting Goods), these changes included an amendment to the entitlement to facilitate the elimination of an underground parking level, and the elimination of ten 3-bedroom units, and an overall increase of ten units which necessitated other design changes. Both of these changes were the result of the changing construction environment after the project were approved. If the proposed ordinance changes (discussed below) are adopted, City staff will continue to work with applicants, as necessary, to bring forward reasonable amendments to project entitlements which will allow projects to remain feasible in the current uncertain environment, while maintaining consistency with the goals of the San Pablo Avenue Specific Plan. These changes will continue to be reviewed by the applicable decision-making body/bodies.

City staff have remained in contact with developers during the coronavirus pandemic. Several developers have communicated that they are committed to moving their projects forward, and some have taken actions to do so even during the pandemic (see Table 2 for more details). Staff remain optimistic that many entitled projects in El Cerrito will continue to move into the construction phase, despite the pandemic. However, the current crisis has added much uncertainty to financial markets and the construction environment.

The cost of implementing inclusionary housing requirements is typically accounted for in negotiations regarding property sales. Two projects (10290 San Pablo Avenue and 11795 San Pablo Avenue) have been processed and approved since the Inclusionary Zoning Ordinance came into effect. The remainder of El Cerrito’s entitled projects were approved without an inclusionary housing requirement. The sale price for these project sites, therefore, would have been negotiated without accounting for an inclusionary housing requirement. Adding such a requirement to projects post-entitlement typically causes the pro forma for such a project to become invalid, endangering the project’s financing and feasibility.

In recognition that cities often phase in inclusionary requirements over time to give the market time to adjust to the new policies, the Inclusionary Zoning Ordinance exempted residential development projects that were already entitled or had an application deemed complete prior to the effective date of the Ordinance and for which a building permit would be issued within two years from the project’s entitlement date (final approval). In order to not allow entitled projects to remain unbuilt, and to assure the provision of new affordable housing (via on-site units or in-lieu fees) the Ordinance also included a sunset provision through which all projects not issued a building permit by June 30, 2021 would be subject to the Ordinance.

Taking into account the uncertainty and delays caused by the coronavirus pandemic and the shutdown of many aspects of the economy, staff is recommending amendments to the Inclusionary Zoning
Ordinance in order to allow projects to continue to move toward the construction phase and completion in the current environment. The following changes are recommended:

1. Establishing a date of June 30, 2021 as the sunset for the inclusionary zoning exemption for all projects.

Currently, the exemption for a project expires two years after the final entitlement, or on June 30 2021, whichever comes first. The expirations for currently entitled projects which have not yet been issued building permits, therefore, span from April 4, 2020 to June 30, 2021. The two year sunset for most projects was established in order to motivate developers of these projects to submit building permit applications and move the projects into the construction phase. Based on staff’s recent communication with project developers, and the recent applications submitted for several projects, several developers continue to move projects forward, but the uncertainty in financial markets makes the timing of necessary financing uncertain. Extending all exemptions to June 30, 2021 will provide many projects with critical additional months to secure financing, prepare and submit construction documents, and complete the building permit process. The expiration date of June 30, 2021 will remain in place, maintaining an incentive for developers to start construction prior to this date.

2. Modifying the exemption to require that building permits be submitted by June 30, 2021 and that building permits be issued within 6 months.

Developers typically secure construction financing before investing substantial amounts of capital in the production of construction drawings and the payment of building permit fees upon submittal of a building permit application. Requiring building permits to be submitted by June 30, 2021 allows the maximum period for developers to secure financing for their projects in the current uncertain financial environment. Creating a further requirement that building permits be issued within 6 months of the submittal date creates an incentive to move through the building permit process and ensures that projects do not languish at this stage.

3. Allowing the exemption to remain in place until June 30, 2021, regardless of any entitlement extensions or amendments which are granted.

Extending exemptions while continuing to base the exemption on the original entitlements would have little practical effect. If exemptions are to extended to June 30, 2021, this change is also necessary to implement the extension.

Lastly, given the success of the Specific Plan to date, the City is on track to meet its Regional Housing Needs Allocation (RHNA) a state-mandated process for identifying the total number of housing units (by affordability level) that each jurisdiction must accommodate in its Housing Element. For the 2015-2022 reporting period, El Cerrito is tasked with creating 398 new housing units, at different affordability levels. As of May 13, 2020, the City is on pace to meet its 2015-2022 numbers and is also exempt from Senate Bill 35 which aims to help address housing affordability by expediting approvals for certain new housing projects in jurisdictions that are not meeting their housing needs. Extending the Inclusionary Zoning exemption period through June 30, 2021 will not impact the City’s RHNA progress.

Environmental Review

This action is exempt from the requirements of the California Environmental Quality Act pursuant to CEQA Guidelines Section 15061(b)(3). The activity is covered by the general rule which exempts activities that can be seen with certainty to have no possibility for causing a significant effect on the environment. Any
project that would implement inclusionary housing being constructed would be subject to its own review under the California Environmental Quality Act.

**Staff Recommendation**

Based on the information contained in this report, staff recommends that the Planning Commission recommend that the City Council adopt an ordinance to amend the exemptions contained in Chapter 19.30: Inclusionary Zoning of the El Cerrito Municipal Code.

**Proposed Motion**


**Attachments**

1. Draft resolution
2. Draft Inclusionary Zoning Ordinance Amendments
A RESOLUTION OF THE CITY OF EL CERRITO PLANNING COMMISSION RECOMMENDING THAT THE CITY COUNCIL ADOPT AN ORDINANCE TO AMEND CHAPTER 19.30: INCLUSIONARY ZONING OR THE EL CERRITO MUNICIPAL CODE

WHEREAS, the San Pablo Specific Plan and Form Based Code was adopted in 2014 to promote new high-density and mixed use in transit-oriented development for all income levels;

WHEREAS, the El Cerrito Affordable Housing Strategy adopted August 17, 2017 identifies four policy pillars for implementation over the next five years to produce, protect and preserve affordable housing for El Cerrito residents;

WHEREAS, Pillar A. Leveraging private development to address affordable housing needs, recommends establishing a new inclusionary zoning ordinance and/or enact new housing in-lieu fees for affordable housing;

WHEREAS, on May 15, 2018, the City Council adopted an ordinance (Inclusionary Zoning Ordinance) adding Chapter 19:30: Inclusionary Zoning to the El Cerrito Municipal Code;

WHEREAS, the Inclusionary Zoning Ordinance currently exempts projects with approved entitlements or a complete entitlement application as of the effective date of the ordinance, provided that a building permit is issued within two years of entitlement;

WHEREAS, the Inclusionary Zoning Ordinance currently contains a sunset of all exemptions on June 30, 2021;

WHEREAS, the 2019-2020 coronavirus global pandemic has added much uncertainty to financial markets;

WHEREAS, in order to allow developers to secure financing the construct entitled projects in the current uncertain environment, additional time is needed;

WHEREAS, the proposed ordinance amendments will allow additional time to secure financing by allowing existing exempt projects to be exempt from the ordinance until June 30, 2021, provided that a building permit application is submitted by this date and the permit is issued within six months of submittal; and

WHEREAS, the City of El Cerrito supports the production of housing at all income levels;

NOW, THEREFORE, BE IT RESOLVED, that after careful consideration of facts, exhibits, correspondence, and testimony, and other evidence submitted in this matter, and, in consideration of the findings, the El Cerrito Planning Commission hereby recommends that the City Council adopt an ordinance amending Chapter 19.30: Inclusionary Zoning of the El Cerrito Municipal Code.

CERTIFICATION

I certify that this resolution was adopted by the El Cerrito Planning Commission at a regular meeting held on May 20, 2020, upon motion of Commissioner __________, second by Commissioner __________:

AYES:
NOES:
ABSTAIN:
ABSENT:

Sean Moss, AICP
Planning Manager
DRAFT AMENDED INCLUSIONARY ZONING ORDINANCE

Chapter 19.30 - INCLUSIONARY ZONING

19.30.010 - Findings and Purpose.

A. Findings.

The City Council finds and declares as follows:

1. Housing affordability continues to be a regional issue, especially for the residents of El Cerrito.

2. According to the El Cerrito Affordable Housing Strategy, one-third of El Cerrito’s households are cost-burdened or spend more than 30 percent of their household income for housing.

3. The 2015-2023 Housing Element identifies the need to study an inclusionary zoning ordinance to address a portion of the City’s affordable housing needs.

4. According to the 2015-2022 Regional Housing Needs Allocation (RHNA), determined by the Association of Bay Area Governments (ABAG), the City of El Cerrito has a total housing need of 398 units through the year 2022, out of which nearly sixty percent (60%) is for lower- and moderate-income households (232 units). Of the affordable units: 50 units (13%) are for extremely low-income households; 50 units (13%) for very low-income households; 63 units (16%) for lower income households; and 69 units (17%) for moderate income households.

5. The inclusionary ordinance codified in this Chapter will substantially advance the City's legitimate interest in providing additional housing affordable to all income levels and dispersed throughout the City because Inclusionary Units required by the ordinance codified in this Chapter, including both rental and for-sale units, must be affordable to lower, and moderate-income households.

6. The Ordinance codified in this Chapter is being adopted pursuant to the City's police power authority to protect the public health, safety, and welfare. Requiring Inclusionary Units within each residential development is consistent with the community's housing element goals of protecting the public welfare by fostering an adequate supply of housing for persons at all economic levels and maintaining both economic diversity and geographically dispersed affordable housing. Requiring builders of new market rate housing to provide some housing affordable to lower and moderate-income households is also reasonably related to the impacts of their projects.
B. Purpose.

The purposes of this Chapter are to:

1. Implement the housing goals set forth in the 2015-2023 Housing Element of the El Cerrito General Plan and the Affordable Housing Strategy of the City of El Cerrito.

2. Ensure that private market-rate development is making a reasonable and feasible contribution towards addressing the need for additional affordable housing.

3. Increase the production of affordable housing units for very low, low and moderate-income households.

4. Create a balanced community with a wide variety of housing available to households of all income levels.

5. Support the housing objectives contained in State law.

6. Establish policies and alternative methods of compliance for meeting the City’s affordable housing needs.


The definitions set forth in this part shall govern the application and interpretation of this Chapter. Words and phrases not defined in this Chapter shall be interpreted to give this Chapter its most reasonable application.

**Affordable Housing Cost** means the housing cost for Dwelling Units as defined by California Health and Safety Code Section 50052.5 for owner-occupied housing and the affordable rent for rental units as defined by California Health and Safety Code Section 50053, as applicable.

**Affordable Housing Strategy** means the City’s affordable housing workplan that identifies a range of goals and implementation tools to preserve and expand housing opportunities for households with very low to moderate incomes and for persons with special housing needs.

**Affordable Sales Price** means the maximum allowable sales price for an Inclusionary Unit in effect at the time of initial (first) sale to an Eligible Household. The Affordable Sales Price is a price that includes a reasonable down payment and results in projected average monthly housing payments during the first calendar year of a household’s occupancy, including interest, principal, mortgage insurance, property taxes, homeowners’ insurance, homeowners’ association dues, if any, not exceeding costs equal to thirty five percent of one hundred ten
percent (110%) of Area Median Income for Moderate Income units. The City Manager may adjust the percentage of Area Median Income to between eighty percent (80%) and one hundred ten percent (110%) to address major shifts in the housing market or other related economic conditions affecting the demand for Inclusionary Units, as needed.

The Affordable Sales Price shall be determined for a household size based on the number of bedrooms in the Dwelling Unit plus one. The City Manager shall determine the sales price for Inclusionary Units by any reasonable method, so long as average monthly housing payments do not exceed those permitted by this Chapter. Affordable Sales Prices may be adjusted annually by the City Manager and will be provided to the Developer annually upon such adjustment.

**Affordable Rent** means the total monthly payments by the Tenant of an Inclusionary Unit for all of the following: (1) use and occupancy of the Inclusionary Unit, land and storage lockers, and use of all common areas; (2) any separately charged fees or service charges assessed by the Developer that are required of all tenants of Units in the Project, except security deposits; (3) an allowance for utilities paid by the Tenant as established by the Contra Costa Housing Authority, including garbage collections, sewer, water, electricity, gas and other heating, cooking and refrigeration fuel, but not telephone service or cable TV; and (4) any other interest, taxes, fees or charges for use of the land or associated facilities that are assessed by a public or private entity other than the Developer and paid by the Tenant.

The Affordable Rent shall be determined for a household size based on the number of bedrooms in the Dwelling Unit plus one. The City Manager shall determine the rent for Inclusionary Units by any reasonable method, so long as average monthly housing payments do not exceed those permitted by this Chapter. Affordable Rent may be adjusted annually by the City Manager and shall be provided to the Developer annually upon such adjustment. For purposes of this Chapter, Affordable Rent shall not exceed costs equal to thirty percent (30%) of seventy percent (70%) of Area Median Income for Lower Income units or thirty percent of one hundred ten percent (110%) of Area Median Income for Moderate Income units.

**Affordable Housing Trust Fund** means a fund or account designated by the City to maintain and account for all monies received pursuant to this Chapter.

**Affordable Housing Plan** means a plan on a form provided by the City that shall be submitted by the Applicant or Developer, containing all of the information specified in and in conformance with Section 19.30.040 of this Chapter specifying the manner in which Inclusionary Units will be provided in conformance with this Chapter and any regulations adopted to implement this Chapter, and consistent with the El Cerrito General Plan.
Applicant or Developer means a person, persons, or entity that applies for a Residential Development and includes the owner or owners of the property if the Applicant does not own the property on which development is proposed.

Area Median Income or "AMI" means the annual median income for Contra Costa County as published annually by the State of California Department of Housing and Community Development, adjusted for household size, as published periodically in the California Code of Regulations, Title 25, Section 6932, or its successor provision, or as established by the City of El Cerrito in the event that such median income figures are no longer published periodically in the California Code of Regulations.

Building Permit includes full structural building permits as well as partial permits such as foundation-only permits.

City means the City of El Cerrito.

City Manager means the City Manager of the City of El Cerrito or his or her designee.

Certificate of Occupancy is the permit issued by the El Cerrito building division authorizing the initial occupancy of a Dwelling Unit, including a temporary certificate of occupancy.

Common Ownership or Control refers to property owned or controlled by the same person, persons, or entity, or by separate entities in which any shareholder, partner, member, or family member of an investor of the entity owns ten percent (10%) or more of the interest in the property.

Community Development Director means the director of the Community Development Department or his or her designee.

Construction Phase means:
A. The area included within one city approved tentative subdivision map for Residential Development where a single final map implements the entire approved tentative map;
B. The area included within each separate final map for Residential Development where multiple final maps implement the entire approved tentative map; or
C. An area designated as a construction phase in an approved Affordable Housing Plan. For Residential Development that does not require a
subdivision map, the Affordable Housing Plan shall identify Construction Phases.

**Contiguous Property** means any parcel of land that is:

A. Touching another parcel at any point;

B. Separated from another parcel at any point only by a public right of way, private street or way, or public or private utility, service, or access easement; or

C. Separated from another parcel only by other real property of the Applicant which is not subject to the requirements of this Chapter at the time of the Planning Permit application by the Applicant.

**Determined to be Complete** is a term that applies to an application for a specific land Planning Permits that is requested by the Applicant and in accordance with Title 19 (Zoning) herein, and means that such application:

A. Accurately includes all data required on the appropriate Planning Permit checklist that is utilized upon the date of receipt of the application;

B. Is duly executed by the Applicant or the Applicant's authorized representative;

C. Includes the full payment of all required fees;

D. Includes an accurate and complete application for environmental clearance; and

E. Includes the Affordable Housing Plan required by Section 19.30.040.

**Density Bonus Units** means Dwelling Units approved in a Residential Development pursuant to California Government Code Section 65915 et seq. that are in excess of the maximum residential density otherwise permitted by the El Cerrito General Plan, San Pablo Avenue Specific Plan or zoning ordinance.

**Dwelling Unit** shall have the definition given for dwellings in Title 19 (Zoning) of the El Cerrito Municipal Code.

**Effective Date** shall have the definition given in Section 19.30.030.

**Eligible Household** means a household which has been determined to be eligible to rent or purchase an Inclusionary Unit.

**First Approval** means the first of the following approvals to occur with respect to a Residential Development: development agreement, General Plan amendment, specific or area plan adoption or amendment, zoning, rezoning, pre-
zoning, annexation, planned development permit, tentative map, parcel map, conditional use permit, special use permit, or building permit.

**For-sale** means and refers to any Dwelling Unit, including a condominium, stock cooperative, community apartment, or attached or detached single family home, for which a parcel or tentative and final map is required for the lawful subdivision of the parcel upon which the Dwelling Unit is located or for the creation of the unit in accordance with the Subdivision Map Act (California Government Code Section 66410 et seq.), or any Residential Development including such for-sale Dwelling Units.

**Inclusionary Housing Agreement** means an agreement in conformance with Section 19.30.040 of this Chapter between the City and an Applicant, governing how the Applicant shall comply with this Chapter.

**Inclusionary Unit** means a Dwelling Unit imposed on new Residential Development as required by this Chapter to be affordable to Lower or Moderate-Income Households.

**Livable Square Feet** means the total square footage of the interior of all Dwelling Units within a Residential Development.

**Lower Income Household** means a household with incomes that do not exceed eighty percent (80%) of Area Median Income as set forth in California Health and Safety Code Section 50079.5.

**Market Rate Unit** means a new Dwelling Unit in a Residential Development that is not an Inclusionary Unit as defined by Section.

**Moderate Income Household** means a household with income ranging above eighty percent (80%) to one hundred twenty percent (120%) of Area Median Income as set forth in California Health and Safety Code Section 50093(b).

**Planning Permit** means a tentative map, parcel map, conditional use permit, site development permit, planned development permit, design review, development agreement, or special use permit, or any discretionary permit excluding General Plan amendments, zoning and rezoning, annexation, specific plans, and area development policies.

**Rental** means and refers to a Dwelling Unit that is not a For-sale Dwelling Unit, and does not include any Dwelling Unit, whether offered for rental or sale, that may be sold as a result of the lawful subdivision of the parcel upon which the Dwelling Unit is located or creation of the unit in accordance with the Subdivision
Map Act (California Government Code Section 66410 et seq.), or any Residential Development including such rental Dwelling Units.

**Residential Development** means any project requiring a Planning Permit for which an application has been submitted to the City, and that either:

A. Would create ten (10) or more new Rental Dwelling Units or nine (9) or more new For-sale Dwelling Units by:
   1. The construction or alteration of structures, or
   2. The conversion of a use to residential from any other use.

B. Is contiguous to property under Common Ownership or Control and the cumulative residential capacity of all of the Applicant's property pursuant to the General Plan designation or zoning at the time of the Planning Permit application for the Residential Development is either:
   1. Ten (10) or more Rental or nine (9) or more For-sale Dwelling Units; or
   2. Any combination of nine (9) or more For-Sale and Rental Dwelling Units, in which case the inclusionary housing requirement shall be determined as though the project were a For-Sale Residential Development.

**Tenant** is a household occupying an Inclusionary Unit pursuant to a valid lease with the Developer.

**Unit Type** means any form of dwelling or Dwelling Unit described in Title 19 (Zoning) of the El Cerrito Municipal Code.

**Utilities** means garbage collection, sewer, water, electricity, gas and other heating, cooling, cooking and refrigeration fuels.

19.30.030 - Effective Date and Applicability.

A. Effective Date.

This Chapter shall be effective thirty (30) days from and after the date of its adoption.

B. Applicability.

The provisions of this Chapter shall apply City-wide to:

1. All For-sale Residential Development that consist of nine (9) or more units;
2. All Rental Residential Development that consist of ten (10) or more units; and
3. All Residential Development and Contiguous Property that is under Common Ownership or Control.

C. Exemptions.

This Chapter shall not apply to any of the following:

1. Accessory Dwelling Unit(s).
2. Rental Residential Developments with a total of less than ten (10) Dwelling Units.
3. For-sale Residential Developments with a total of less than nine (9) Dwelling Units.
4. A Residential Development project the application for which has been determined to be complete prior to the Effective Date, and for which a building permit application is issued submitted by June 30, 2021 and a building permit is issued within six months of submittal, within two (2) years from the issuance date of the last approval required for the Residential Development.
5. A Residential Development project that has received all required approvals prior to the Effective Date, and for which a building permit application is issued submitted by June 30, 2021 and a building permit is issued within six months of submittal, within two (2) years from the date of the issuance date of last approval required for the Residential Development.
6. Residential Developments exempted by California Government Code Section 66474.2 or 66498.1, provided that such Residential Developments shall comply with any predecessor ordinance, resolution, or policy in effect on the date the application for the development was determined to be complete.

D. Special Circumstances Related to Exemptions.

1. Planning Permit expiration, extension, or amendment.
   a. Upon the expiration of any Planning Permit, and unless otherwise exempted, a Residential Development shall be subject to the inclusionary housing requirements of this Chapter and shall not proceed until such time as an Affordable Housing Plan is approved in conjunction with any other required Planning Permit or amendment thereto. Residential Development projects that are exempt under subsections (C)(4) and (C)(5) of this Section shall remain exempt for the period stipulated in subsections (C)(4) and (C)(5) if their Planning Permits are amended or extended.
   b. Residential Development projects that are exempt under subsections (C)(4) and (C)(5) of this Section shall be subject to the requirements of this
Chapter if a Planning Permit for the Residential Development is amended or extended after the period stipulated in subsections (C)(4) and (C)(5), unless the requirements are waived pursuant to Section 19.30.070(C).

c. In the event that a Planning Permit expires for a Residential Development project that is exempt under paragraphs (C)(4) and (C)(5) of this Section the period stipulated in subsections (C)(4) and (C)(5), this Chapter shall apply to any subsequent Residential Development of the same property, unless the requirements are waived pursuant to Section 19.30.070(C).

d. Any Residential Development project that requests an extension or amendment of any approved Planning Permit shall be subject to the requirements of this Chapter, unless the Development project is exempt pursuant to Section 19.30.030(C) or the requirements are waived pursuant to Section 19.30.070(C).

b. Any Residential Development project that requests an extension of any Planning Permit shall be subject to the requirements of this Chapter, unless the requirements are waived pursuant to Section 19.30.070.C.

2. Limited extension of exemption due to delay. The City Manager, may grant a request for an extension of the timelines in this section exempting Residential Development from this Chapter where a change in federal, state or local law would cause the need for a material redesign of the approved Residential Development that would render any of the approved Planning Permits, if implemented as approved, in violation of federal, state, or local law and would require amendment or revision of the Planning Permit.


All Residential Development that has not been issued a building permit by June 30, 2021 will be subject to this Chapter.

19.30.040 - Inclusionary Housing Requirements.

A. Inclusionary housing requirement.

1. All new Residential Developments and Contiguous Property under Common Ownership and Control shall include Inclusionary Units. Calculations of the number of Inclusionary Units required by this section shall be based on the number of Dwelling Units in the Residential Development, excluding any Density Bonus Units as defined in this Chapter.

2. On-site inclusionary requirement. Unless otherwise exempted or excepted from this Chapter, Residential Developments shall include Inclusionary Units upon the same site as the Residential Development as follows:
a. For-sale Residential Development: For For-Sale Residential Development projects with nine or more Dwelling Units, twelve percent (12%) of the total Dwelling Units in the Residential Development shall be built on-site and made available for purchase at an Affordable Housing Cost to Moderate Income Households.

b. Rental Residential Development: For Rental Residential Development projects with 10 or more Dwelling Units that elect to provide units, five (5%) of the total Dwelling Units in the Residential Development shall be made available for rent at an Affordable Housing Cost to Moderate Income Households, and five percent (5%) of the total Dwelling Units in the Residential Development shall be made available for rent at an Affordable Housing Cost to Lower Income Households.

3. If a project amendment results in a change in the total number of Dwelling Units, the number of Inclusionary Units will be recalculated to coincide with the final approved Residential Development.

B. Calculation of Inclusionary Units

1. To calculate the number of Inclusionary Units required:
   a. For For-Sale Residential Development projects, multiply 12% by the total number of For-Sale Dwelling Units in the project.

   b. For Rental Residential Development projects with 10 or more Dwelling Units, multiply 5% by the total number of Rental Dwelling Units in the project to determine the number of Dwelling Units that must be made available for rent at an Affordable Housing Cost to Moderate Income Households, and 5% by the total Dwelling Units in the project to determine the number of Dwelling Units that shall be made available for rent at an Affordable Housing Cost to Lower Income Households.

2. For Rental Residential Development projects, when 5% is multiplied by the total number of Dwelling Units to determine the number for each respective income category and the result is less than one unit for each income category, the number of Inclusionary Units required shall be calculated by multiplying 10% by the total number of Dwelling Units, and the required Inclusionary Units shall be affordable to Moderate-Income Households.

C. Fractional units.

1. When the calculation of Inclusionary Units according to this section results in a number that includes a fractional unit, the fraction shall be rounded to the next whole number if the fraction is equal to one-half (0.50) or more. In that event an additional Inclusionary Unit shall be provided, or for Rental Residential
Development projects either an additional Inclusionary Unit affordable to Moderate-Income Households shall be provided or a fee may be paid in lieu of the additional Inclusionary Unit.

2. If the result of the calculation of Inclusionary Units includes a fraction less than one-half (0.50), the Applicant shall have the option of either rounding up to next whole number and providing an additional Inclusionary Unit affordable to Moderate-Income Households or paying an in-lieu fee as provided in Chapter 19.30.50 for the fractional unit.

D. State Density Program

Any Inclusionary Units provided on site in compliance with this Chapter may be used to qualify for a density bonus under California Government Code Section 65915 or any ordinance implementing Government Code Section 65915. An Applicant seeking a density bonus under State Law shall provide reasonable documentation to establish eligibility for a requested density bonus, incentive or concession, and waiver or reduction of development standards, as provided for under State Law and as consistent with the process and procedures detailed in a locally adopted ordinance implementing the State Law. The number of Inclusionary Units shall be based upon the total number of Dwelling Units in a Residential Development, including any Market Rate Units allowed as a result of Density Bonus. The Inclusionary Unit requirement for a Residential Development shall be recalculated after a Density Bonus is provided to determine the total Dwelling Units in the project. Regardless of State Density Bonus utilization, the Applicant is required to meet the inclusionary housing requirements defined in this Chapter.

E. Contiguous Property under Common Ownership and Control.

An Applicant for a Planning Permit shall not avoid the requirements of this Chapter by submitting piecemeal Planning Permit applications. At the time of the application for first approval for the Residential Development, the Applicant shall identify all Contiguous Property under Common Ownership and Control. The Applicant shall not be required to construct Dwelling Units upon the Contiguous Property at the time of the application for first approval; however, the Applicant shall be required to include the Contiguous Property under Common Ownership or Control in its Affordable Housing Plan. The Inclusionary Housing Agreement shall be recorded against the Residential Development and all Contiguous Property under Common Ownership or Control and shall require compliance with this Chapter upon development of each Contiguous Property at such time as there are Planning Permit applications that would authorize a total of ten (10) or more Rental or nine (9) or more For-sale Dwelling Units for the Residential Development and the Contiguous Property under Common Ownership or Control.

F. Residential Development with overlapping inclusionary requirements.

When overlapping inclusionary housing requirements could be applied to a Residential Development pursuant to this Chapter because the Residential Development is located upon a parcel or parcels subject to more than one of the requirements in this
section, the entire Residential Development shall be subject to the requirement that results in the production of the greatest amount and greatest depth of affordability of Inclusionary Dwelling Units.

G. Residential Development with both For-sale and Rental units.

When a Residential Development includes both For-sale and Rental Dwelling Units, the provisions of this Chapter that apply to For-sale Residential Development shall apply to that portion of the development that consists of For-sale Dwelling Units, while the provisions of this Chapter that apply to Rental Residential Development shall apply to that portion of the development that consists of Rental Dwelling Units.

H. Timing of construction of Inclusionary Units.

All Inclusionary Units shall be constructed, completed, ready for occupancy, and marketed concurrently with or prior to the Market Rate Units, unless the City finds that extenuating circumstances exist. In phased developments, Inclusionary Units may be constructed and occupied in proportion to the number of units in each phase.

I. Standards for Inclusionary Units.

1. Single-family detached Inclusionary Units shall be dispersed throughout the Residential Development. Townhouse, row-house, and multifamily Inclusionary Units shall be located so as not to create a geographic concentration of Inclusionary Units within the Residential Development.

2. The quality of exterior design and overall quality of construction of the Inclusionary Units shall be consistent with the exterior design of all Market Rate Units in the Residential Development and meet all site, design, and construction standards included in Title 16 (Buildings and Construction), Title 18 (Subdivisions), and Title 19 (Zoning) of this code, including but not limited to compliance with all design guidelines included in applicable specific plans or otherwise adopted by the City council, and any regulations adopted to implement this Chapter shall have functionally equivalent parking when parking is provided to the Market Rate Units.

3. Inclusionary Units shall have the same interior finishes and features as the Market Rate Units that are durable and of good quality and comply with any regulations adopted to implement this Chapter.

4. The Inclusionary Units shall have the same amenities as the Market Rate Units, including the same access to and enjoyment of common open space and facilities in the Residential Development.
5. The Inclusionary Units shall have the same proportion of unit types as the market rate units in the Residential Development except:
   a. Single-family detached residential projects may include single family attached Inclusionary Units;
   b. Single-family detached Inclusionary Units may have smaller lots than single-family detached Market Rate Units in a manner consistent Title 19 (Zoning); and

6. The Inclusionary Units shall have a comparable square footage and the same bedroom count and bedroom count ratio as the Market Rate Units.

J. Minimum requirements.

The requirements of this Chapter are minimum requirements and shall not preclude a Residential Development from providing additional Inclusionary Units or Inclusionary Units with lower Affordable Rents or Affordable Sales Prices than required by this Chapter.

K. Affordable Housing Plan and Inclusionary Housing Agreement.

1. An Affordable Housing Plan shall be submitted as part of the application for first approval of any Residential Development whether paying the in-lieu fee or providing Inclusionary Units on-site. No application for a first approval for a Residential Development may be determined to be complete unless an Affordable Housing Plan is submitted and approved by the City in conformance with the provisions of this Chapter.

2. For each construction phase, the Affordable Housing Plan shall specify, at the same level of detail as the application for the Residential Development, all of the following applicable information including, but not limited to:
   a. Developer’s Compliance option as specified in Section 19.30.050;
   b. The calculations used to determine the number of Inclusionary Units;
   c. A floor plan or site plan depicting the location of the Inclusionary Units;
   d. The tenure and affordability level for each Inclusionary Unit;
   e. The term of affordability;
   f. Other affordability requirements;
   g. A phasing plan for phased developments;
   h. A description and details of any requested incentives, waivers or exemptions;
   i. The process by which eligibility of qualified households will be reviewed and selected to purchase or rent Inclusionary Units;
   j. Rental/ownership regulatory provisions;
   k. An annual reporting schedule and requirements;
1. A statement signed by the Applicant and property owner, if different, that the Affordable Housing Agreement required by this Chapter shall include a provision that authorizes the City to recover reasonable attorneys' fees, investigation and litigation expenses, and related staff costs associated with enforcing the Inclusionary Housing Agreement; and

m. Any other information that is reasonably necessary to evaluate the compliance of the Affordable Housing Plan with the requirements of this Chapter and any regulations adopted to implement this Chapter.

3. Upon submittal, the Community Development Director shall determine if the Affordable Housing Plan is complete and conforms to the provisions of this Chapter and any regulations adopted to implement this Chapter. The decision of the Community Development Director may be appealed to the City Council.

4. The decision of the Community Development Director may be appealed to the City Council by filing a written appeal with the City Clerk. The appeal shall identify the decision being appealed and shall clearly and concisely state the reasons for the appeal. The appeal shall be accompanied by the fee specified in the City’s master fee schedule.

5. The City Clerk shall schedule the appeal for consideration by the City Council within 30 days of the date the appeal was filed. The Community Development Director shall prepare a staff report that responds to the issues raised by the appeal and may include a recommendation for action.

6. The Affordable Housing Plan shall be reviewed as part of the first approval of any Residential Development. The Affordable Housing Plan shall be approved if it conforms to the provisions of this Chapter and any regulations adopted to Implement this Chapter. A condition shall be attached to the first approval of any Residential Development to require recordation of the Inclusionary Housing Agreement described in this Section prior to the approval of any final or parcel map or building permit for the Residential Development.

7. A request for a minor modification of an approved Affordable Housing Plan may be granted by the Community Development Director if the modification is substantially in compliance with the original Affordable Housing Plan and conditions of approval. Other modifications to the Affordable Housing Plan shall be processed in the same manner as the original plan.

8. Following the first approval of a Residential Development, the City shall prepare an Inclusionary Housing Agreement providing for implementation of the Affordable Housing Plan and consistent with any regulations adopted to implement this Chapter. Prior to the approval of any final or parcel map or issuance of any building permit for a Residential Development subject to this Chapter, the Inclusionary Housing Agreement shall be executed by the
City and the Applicant and recorded against the entire Residential Development property and any other property used for the purposes of providing inclusionary housing pursuant to this Chapter to ensure that the Affordable Housing Agreement will be enforceable upon any successor in interest. The Inclusionary Housing Agreement shall not be amended without the prior written consent of the City and shall also not be amended prior to any necessary amendments to applicable Planning Permits.

9. The City Council, by resolution, may establish fees for the ongoing administration and monitoring of the Inclusionary Units, which fees may be updated periodically, as required.

L. Lottery

At the initial offering of Inclusionary Units in a residential project and any Inclusionary Unit becomes available for sale or for rent in any Residential Project, the City requires the use of a lottery approved by the City to select purchasers or renters.
19.30.050 – Developer’s Compliance Options.

A. On-site Provision of Inclusionary Rental Units Instead for Inclusionary For-Sale Units.

When on-site Inclusionary For-Sale Units are required by this Chapter, a Developer may instead construct on-site Inclusionary Rental. If a Developer chooses to construct on-site Inclusionary Rental Units in lieu of on-site Inclusionary For-Sale Units, the requirements for such on-site Rental Inclusionary Units shall be the same as if the Residential Development were a Rental Residential Development project.

B. In lieu fee.

1. The inclusionary housing requirement in Section 19.30.040 for For-Sale Residential Development must be satisfied by the provision of the required Inclusionary Units, except when the number of required Inclusionary Units includes a fraction less than one-half (0.5). In that case, an in-lieu fee may be paid for the fractional unit. The inclusionary housing requirement in Section 19.30.040 for Rental Residential Development may be satisfied by the payment of a fee to the City in lieu of constructing the Inclusionary Units within the Residential Development, including fractional units. In either case, any fee that the Developer chooses to pay must be received by the City upon issuance of a Building Permit for the Residential Development.

2. In lieu fees shall be as follows:

   a. For-sale Residential Development: An in-lieu fee may be paid only for fractional units when the number of required Inclusionary Units includes a fraction less than one-half (0.5). In that case, the in-lieu fee for each For-sale Inclusionary Unit shall be $20.00 per square foot multiplied by the Livable Square Footage of the entire project and divided by the number of required For-sale Inclusionary Units, including fractional units. The in-lieu fee for each fractional For-sale Inclusionary Unit shall be the per-unit in-lieu fee calculated using the preceding formula multiplied by the applicable fraction.

   b. Rental Residential Development: An in-lieu fee may be paid for all or any portion of Inclusionary Units required in a Rental Residential Development, including fractional units. As noted in Section 19.30.040(C), however, if the number of required Rental Inclusionary Units is one-half (0.5) or greater, the fraction shall be rounded to the next whole number, and the Developer may either provide the Rental Inclusionary Unit or pay a fee in lieu of the Rental Inclusionary Unit. In the event that the Developer chooses to pay a fee in lieu of providing Rental Inclusionary Units, the in-lieu fee for each Rental Inclusionary Unit shall be $17.00 per square foot multiplied by the Livable Square Footage of the entire project and divided by the number of required Rental Inclusionary Units, including fractional units. The in-lieu fee for each fractional Rental Inclusionary Unit shall be the per-unit in-lieu fee calculated using the preceding formula multiplied by the applicable fraction.
3. The amount of in lieu fees established in this Section shall be included in the City’s Master Fee Schedule and may be adjusted annually for inflation each July 1 using an appropriate index, as determined by the City Council.

4. If a project amendment results in a change in the total number of Dwelling Units, the in-lieu fee will be recalculated to coincide with the final approved Residential Development.

5. No Building Permit shall be issued by the City for any Market Rate Dwelling Unit in the Residential Development prior to the payment in full of all in-lieu fees to the City. The Developer shall provide both notice by recorded document against the Residential Development and, additionally, for each For-sale Dwelling Unit therein, the Developer shall provide specific written notice to any purchaser of any Dwelling Unit prior to the acceptance of any offer to purchase, and shall obtain executed acknowledgment of the receipt of such notice, that purchaser shall not have any right to occupy the Dwelling Unit until such time as all in lieu fees owing for the Residential Development are paid to the City.

6. All in lieu fees collected under this section shall be deposited in the City of El Cerrito Affordable Housing Trust Fund and utilized for the development of new Affordable Housing units.

19.30.060 - Continuing Affordability and Occupancy.

A. The duration of affordability and occupancy for units created through the inclusionary zoning provisions are this Chapter shall be as follows:

1. The Affordable Sales Price for Inclusionary Units shall be restricted for a period of 45 years pursuant to an Affordable Housing Agreement recorded against the property and resets upon resale of the unit(s).

2. The monthly Affordable Rent for Inclusionary Units shall be restricted for a period of 55 years pursuant to an Affordable Housing Agreement recorded against the property.

3. A longer term of affordability may be required if the Residential Development receives a subsidy of any type, including but not limited to loan, grant, mortgage financing, mortgage insurance, or rental subsidy, and the subsidy program requires a longer term of affordability.

B. The Developer shall be required to execute standard documents, in a form approved by the City Attorney, to ensure the continued affordability of the Inclusionary Units approved for each Residential Development. The documents may include, but are not limited to, Inclusionary Housing Agreements, regulatory agreements, promissory notes, deeds of trust, resale restrictions, rights of first refusal, options to purchase, and/or other documents. The affordability documents shall be recorded against the Residential Development, all Inclusionary Units, and any site subject to the provisions of this Chapter. Affordability documents for For-sale owner-occupied Inclusionary Units shall also include subordinate shared appreciation documents permitting the City to capture at resale the
difference between the market rate value of the Inclusionary Unit and the affordable housing cost, plus a share of appreciation realized from an unrestricted sale in such amounts as deemed necessary by the City to replace the Inclusionary Unit.

C. Unless otherwise required by law, all promissory note repayments, shared appreciation payments, or other payments collected under this Section shall be deposited in the City of El Cerrito Affordable Housing Trust Fund established pursuant to Section 19.30.070.

D. Any household that occupies an Inclusionary Unit must occupy that unit as its principal residence at all times, unless the Community Development Director approves rental to a third party for a limited period of time due to household hardship.

E. No household may begin occupancy of an Inclusionary Unit until the household has been determined to be an Eligible Household to occupy that unit. Rental Inclusionary Units shall continue to be rented to income Eligible Households at an Affordable Rent for the entire term of the inclusionary housing restriction. The Community Development Director shall establish standards for determining household income, maximum occupancy, affordable housing cost, provisions for continued monitoring of tenant eligibility, and other eligibility criteria.

F. Officials, employees, or consultants of the City, and members of boards and commissions thereof, shall comply with all applicable laws, regulations, and policies relating to conflicts of interest as to their eligibility to develop, construct, sell, rent, lease, occupy, or purchase an Inclusionary Unit. City Council may adopt additional conflict of interest provisions relating to the administration of this paragraph and the eligibility of persons to occupy Inclusionary Units pursuant to this Chapter.


A. Affordable Housing Trust Fund.

1. Unless otherwise required by law, all in lieu fees, fees, promissory note repayments, shared appreciation payments, or other funds collected under this Chapter shall be deposited into a separate account to be designated as the City of El Cerrito Affordable Housing Trust Fund.

2. The moneys in the Affordable Housing Trust Fund and all earnings from investment of the moneys in the Affordable Housing Trust Fund shall be expended exclusively to provide housing affordable to extremely low income, very low income, Lower Income, and Moderate-Income Households in the City of El Cerrito and administration and compliance monitoring of the inclusionary housing program.

B. Monitoring of compliance.

Each Inclusionary Housing Agreement shall include provisions for the monitoring by the City of each Residential Development and each Inclusionary Unit for compliance with the terms of this Chapter, the applicable Inclusionary Housing Agreement, and as required by law. Such provisions shall require annual compliance reports to be submitted to the City by the owner and the City shall conduct periodic on-site audits to insure compliance with all applicable laws, policies, and agreements. The City Council may
adopt fees for the costs of monitoring and compliance by the City, which shall be deposited into the Affordable Housing Trust Fund for that purpose.

C. Waiver.

1. Notwithstanding any other provision of this Chapter, the requirements of this Chapter may be waived, adjusted, or reduced if an Applicant shows, based on substantial evidence, applying the requirements of this Chapter would take property in violation of the United States or California Constitutions.

2. Any request for a waiver, adjustment, or reduction under this section shall be submitted to the City concurrently with the Affordable Housing Plan required by Section 19.30.040 of this Chapter. The request for a waiver, adjustment, or reduction shall set forth in detail the factual and legal basis for the claim.

3. The request for a waiver, adjustment, or reduction shall be reviewed and considered in the same manner and at the same time as the Affordable Housing Plan and is subject to the appeal process for Affordable Housing Plans in Section 19.30.040.

4. In making a determination on an application for waiver, adjustment, or reduction, the Applicant shall bear the burden of presenting substantial evidence to support the claim. The City may assume each of the following when applicable:

   a. That the Applicant will provide the most economical Inclusionary Units feasible, meeting the requirements of this Chapter and any regulations adopted to implement this Chapter.

   b. That the Applicant is likely to obtain housing subsidies when such funds are reasonably available.

5. The waiver, adjustment or reduction may be approved only to the extent necessary to avoid an unconstitutional result, after adoption of written findings, based on substantial evidence, supporting the determinations required by this section.

D. Implementation and enforcement.

1. The Community Development Director may issue regulations or interpretations to assist in the implementation and administration of all aspects of this Chapter.

2. The City shall evaluate the effectiveness of the ordinance codified in this Chapter, for review by the City Council, three (3) years or sooner after the Effective Date of this Chapter.

3. The City Attorney shall be authorized to enforce the provisions of this Chapter and all Inclusionary Housing Agreements, regulatory agreements, covenants, resale restrictions, promissory notes, deed of trust, and other requirements placed on Inclusionary Units by civil action and any other proceeding or method permitted by law. The City may, at its discretion, take such enforcement action as is authorized under this code and/or any other action authorized by law or
by any regulatory document, restriction, or agreement executed under this Chapter.

4. Failure of any official or agency to fulfill the requirements of this Chapter shall not excuse any Applicant or owner from the requirements of this Chapter. No permit, license, map, or other approval or Planning Permit for a Residential Development shall be issued, including without limitation a final inspection or Certificate of Occupancy, until all applicable requirements of this Chapter have been satisfied.

5. The remedies provided for herein shall be cumulative and not exclusive and shall not preclude the City from any other remedy or relief to which it otherwise would be entitled under law or equity.