AGENDA
REGULAR MEETING
OF THE
PLANNING COMMISSION

7:30 p.m.
Wednesday, May 17, 2017
El Cerrito City Hall
Council Chambers
10890 San Pablo Avenue, El Cerrito

This Meeting Place Is Wheelchair Accessible

Roll Call - Chair: Carla Hansen; Commissioners: Brendan Bloom, Kevin Colin, Michael Iswalt, Andrea Lucas, Leslie Mendez and Lisa Motoyama.

1. Comments from the Public
   (Each speaker is limited to a maximum of 3 minutes.)

2. Approval of Minutes
   Approval of the December 21, 2016 and April 19, 2017 meeting minutes.

3. 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.

4. Public Hearing – Creekside Walk Tentative Subdivision Map
   Application: PL16-0156
   Applicant: Derek Baak
   Location: El Cerrito Plaza
   APN: 504-170-022
   Zoning: Transit-Oriented Higher-Intensity Mixed Use
   General Plan: Transit-Oriented Higher-Intensity Mixed Use
   Request: Planning Commission consideration of a Tentative Subdivision Map for a one-lot subdivision for condominium purposes of a 128-unit multi-family residential project. (ECMC Chapter 18.12 Subdivision Ordinance)
   CEQA: Certified Final Environmental Impact Report

5. Public Hearing – 2332 Alva Avenue Variance
   Application: PL17-0024
   Applicant: Bill McLaughlin
   APN: 500-430-016

COMMUNICATION ACCESS INFORMATION
To request a meeting agenda in large print, Braille, or on cassette, or to request a sign language interpreter for the meeting, call Sean Moss, Staff Liaison at (510) 215-4330 (voice) at least FIVE (5) WORKING DAYS NOTICE PRIOR TO THE MEETING to ensure availability.
City of El Cerrito
Planning Commission Meeting Agenda

Location: 2332 Alva Avenue
Zoning: RS-5 (Single-family Residential)
General Plan: Low Density Residential
Request: Planning Commission consideration of a Variance to the rear setback (Section 19.06.030, Table 19-06 B. of the ECMC) and a Variance to develop on a sub-standard size lot (Section 19.06.030 B. 2. of the ECMC)
CEQA: This project is categorically exempt from the provisions of CEQA pursuant to Section 15303 of the CEQA Guidelines, Class 3: New Construction.

6. Staff Communications

7. Adjournment

Appeals:
A decision of the Planning Commission may be appealed to the City Council, by the applicant or any El Cerrito resident or property owner, through the filing of a written statement and the payment of an appeal fee of $363 with the City Clerk within ten calendar days after the decision date. (The applicant may file an appeal for the cost of half the original permit fee.)

Any writings or documents provided to a majority of the Planning Commission regarding any item on this agenda will be made available for public inspection in the Planning Division office located at 10890 San Pablo Avenue during normal business hours.
MINUTES
REGULAR MEETING
OF THE
PLANNING COMMISSION

7:30 p.m.
Wednesday, December 21, 2016
El Cerrito City Hall
Council Chambers
10890 San Pablo Avenue, El Cerrito

This Meeting Place Is Wheelchair Accessible

Roll Call - Chair: Carla Hansen; Commissioners: Brendan Bloom, Michael Iswalt, Bill Kuhlman, and Andrea Lucas. Commissioners Kevin Colin and Lisa Motoyama had excused absences.

1. Comments from the Public
   No comments were received.

2. Approval of Minutes
   Motion to approve the October 19, 2016 meeting minutes: Lucas, 2nd: Bloom.
   Vote:
   Ayes: Bloom, Iswalt, Kuhlman, Lucas
   Noes: None
   Abstain: Hansen
   Absent: Colin, Motoyama

3. Commissioner Communication/Conflict of Interest Disclosure
   Commissioner Kuhlman reported that he has visited the site of the 7302 Gladys Avenue project.

4. Public Hearing - 7302 Gladys Addition Conditional Use Permit
   Application: PL16-0108
   Applicant: Heather Sanders-Jacob
   Location: 7302 Gladys Avenue
   Zoning: RS-5 (Single Family Residential)
   Gen. Plan: Low Density Residential
   Request: Planning Commission consideration of a Conditional Use Permit to allow an addition to an existing single family home which is nonconforming with regard to the amount of required parking spaces, (the property contains no off-street covered parking) pursuant to Section 19.27.050 of the El Cerrito Municipal Code.
   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, Sean Moss, presented the staff report and answered questions from the Commission.

The applicant, Heather Sanders-Jacob, presented the project and answered questions from the Commission.

The public hearing was opened.

The public hearing was closed.

Motion to adopt a Conditional Use Permit to allow an addition to an existing single family home which is nonconforming with regard to the amount of required parking spaces: Lucas, 2nd: Bloom.

Vote:
Ayes: Bloom, Hansen, Iswalt, Kuhlman, Lucas
Noes: None
Abstain: None
Absent: Colin, Motoyama

5. **Staff Communications**
Staff updated the Commission regarding the upcoming Crab Feed and Lunar New Year events.

6. **Adjournment**
8:03 p.m.
MINUTES
REGULAR MEETING
OF THE
PLANNING COMMISSION

7:30 p.m.
Wednesday, April 19, 2017
El Cerrito City Hall
Council Chambers
10890 San Pablo Avenue, El Cerrito

This Meeting Place Is Wheelchair Accessible

Roll Call - Chair: Carla Hansen; Commissioners: Brendan Bloom, Kevin Colin, Andrea Lucas, Leslie Mendez and Lisa Motoyama. Commissioner Michael Iswalt had an excused absence.

1. Comments from the Public
   Councilmember Quinto updated the Commission about the appeal of the El Dorado Townhomes Design Review and the process regarding marijuana business regulations.

2. Approval of Minutes
   Approval of the July 20, 2016; December 21, 2016; and February 15, 2017 meeting minutes.

   Motion to approve the July 20, 2016 meeting minutes: Motoyama, 2nd: Lucas.
   Vote:
   Ayes: Bloom, Hansen, Lucas, Motoyama
   Noes: None
   Abstain: Colin, Mendez
   Absent: Iswalt

   Motion to approve the February 15, 2017 meeting minutes: Lucas, 2nd: Bloom.
   Vote:
   Ayes: Bloom, Colin, Hansen, Lucas
   Noes: None
   Abstain: Motoyama, Mendez
   Absent: Iswalt

   Approval of the December 21, 2016 meeting minutes was continued to the next meeting due to a lack of a quorum.

3. Commissioner Communication/Conflict of Interest Disclosure
   Nothing was reported.

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10890 San Pablo Avenue, El Cerrito, CA 94530  Tel: (510) 215-4330
E-mail: smoss@ci.el-cerrito.ca.us
4. Public Hearing – 444 Richmond Street – New single family dwelling

Application: PL17-0029
Applicant: Mayari Development LLC
APN: 504-112-026
Location: 444 Richmond Street
Zoning: RD (Duplex Residential)
General Plan: Medium Density Residential

Request: Planning Commission consideration of a Conditional Use Permit to allow for the development of a single family dwelling on a legally non-conforming substandard lot (El Cerrito Municipal Code Section 19.06.030.B.3; 19.27.090.B.) and a Variance for relief from the required 20 foot corner street side setback for an attached garage on a corner lot (El Cerrito Municipal Code TABLE 19.06-B)

CEQA: This project is categorically exempt from the provisions of CEQA pursuant to Section 15303 of the CEQA Guidelines, Class 3: New Construction.

Senior Planner, Noel Ibalio, presented the staff report and answered questions from the Commission.

The applicant, Henry Ortiz, presented the project and answered questions from the Commission.

The public hearing was opened.

The following members of the public addressed the Commission:
Laura Maurer, 549 Liberty St
Brian Grosenheider, 440 Everett St

The public hearing was closed.

Motion to approve a Conditional Use Permit to allow for the development of a single family dwelling on a legally non-conforming substandard lot and a Variance for relief from the required 20 foot corner street side setback for an attached garage on a corner lot: Colin, 2nd: Bloom.

Vote:
Ayes: Bloom, Colin, Hansen, Lucas, Mendez, Motoyama
Noes: None
Abstain: None
Absent: Iswalt

5. Public Hearing – Accessory Dwelling Unit Regulation Update

Applicant: City of El Cerrito
Location: City-wide
Request: Recommendation to City Council on a Zoning Text Amendment for Accessory Dwelling Unit (ADU) Regulations

Development Services Manager, Margaret Kavanaugh-Lynch, presented the staff report and answered questions from the Commission.

The public hearing was opened.
The following members of the public addressed the Commission:
Tomi Nagai-Rothe, 5835 El Dorado St
Devan Reiff, 738 Colusa Ave
Paul Taybi, 2 Ridgeway Ln
Patrick Riley, 1455 Vista Rd
Howdy Goudey, 635 Elm St
Robin Mitchell, 635 Elm St

The public hearing was closed.

Motion to continue the item to a future meeting: Colin.
Substitute motion to recommend adoption to the ordinance to the City Council with the following modifications:

- Planning Commission recommends no parking be required for Accessory Dwelling Units or, alternatively, modify the requirement in Section 2.a.ii(1) to allow 1 hour transit frequency on weekends and holidays.
- The parking inventory in Section E.2.f should demonstrate that there are two 20-foot long parking spaces within 300 feet of the property on weeknights at 7:00pm.
- Add a requirement that required parking must be on a driving surface.
- Section F should read “…visually harmonious or compatible with the primary dwelling…”

Motion: Lucas, 2nd: Mendez.
Vote:
Ayes: Bloom, Hansen, Lucas, Mendez, Motoyama
Noes: Colin
Abstain: None
Absent: Iswalt

Project: 2017-2018 Planning Commission Work Plan

Discussion of the item was continued to a future meeting.

7. **Staff Communications**
Nothing was reported.

8. **Adjournment**
10:58 p.m.
I. SUBJECT
Application: PL16-0156
Applicant: Derek Baak
Location: El Cerrito Plaza
APN: 504-170-022
Zoning: Transit-Oriented Higher-Intensity Mixed Use Zone
General Plan: Transit-Oriented Higher-Intensity Mixed Use Zone
Request: Planning Commission consideration of a Tentative Map for a one-lot subdivision for condominium purposes of a 128-unit multi-family residential project. (ECMC Chapter 18.12 Subdivision Ordinance)
CEQA: Certified Environmental Impact Report (SCH: 2004032021)

II. BACKGROUND

The site is located at the south easterly corner of the El Cerrito Plaza Shopping Center. The project site is on a single parcel (APN 504-170-022), is three acres in size and fronts on a shared easement with the El Cerrito Plaza Shopping Center driveway. Construction of a 128-unit condominium project and daylighting a creek is currently underway on the site.
Entitlements for the project are as follows:

In 1997, the City Council certified the El Cerrito Plaza Shopping Center Redevelopment Project Environmental Impact Report (EIR) evaluating impacts of the redevelopment and rehabilitation of the El Cerrito Plaza Shopping Center. The 1997 proposal included up to 205 multi-family residential units on six acres on the eastern end of the shopping center.

In 2004, a Use Permit application was submitted under the Incentives Program for a proposed mixed-use development located in the southeast corner of the El Cerrito Plaza shopping center. The development was proposed to contain 84 units of owner-occupied housing, a 404 space parking garage for BART patrons and a child care facility. The Planning Division determined that the proposed mixed-use project might cause significant environmental impacts not sufficiently addressed in the previous EIR and that a subsequent environmental impact report (SEIR) should be prepared. As a result, a Draft Subsequent Environmental Impact Report (DSEIR) for the El Cerrito Plaza Mixed-Use Development Project was prepared.

On February 16, 2005, the Design Review Board held a public hearing on the 84 unit project that included the parking garage, adopted a motion recommending that the Planning Commission not consider the project under the Incentives Program and directed changes in design. In late February 2005, the City determined that it no longer wanted to move forward with the garage portion of the project and the project sponsor eliminated the BART parking garage and a child care facility leaving the residential project intact.

In March 2005, the City of El Cerrito Community Development Department received revised plans for the project site, which included 128 residential units. This revised plan was initially evaluated as the Residential Only Alternative in the DSEIR. On September 21, 2005, the Design Review Board held a public hearing to review the Project’s qualifications for the City’s Incentives Program and accept public comment. The Board prepared comments for the Planning Commission, which are included in the administrative record.

The City prepared responses to the comments received during the public review period and made changes to the SEIR, as appropriate, to account for the adoption of a Residential Only Alternative as the proposed Project. The text changes and the comments and responses were compiled into the Final Subsequent Environmental Impact Report (FSEIR). The FSEIR, dated September 2005, was distributed to commenting agencies on September 23, 2005, made available to the public on September 26, 2005, and placed on the City’s website. On October 5, 2005, the FSEIR was distributed to Planning Commission members for their review.

On November 2, 2005, the Planning Commission held a public hearing on the FSEIR and the Project, and received comments from the public. The Commission reviewed the FSEIR and considered the record and all relevant materials. The Planning Commission adopted Resolution PC05-21 certifying the FSEIR, adopting environmental findings, mitigation measures and approving the mitigation monitoring and reporting program and Resolution PC05-22 approving a Use Permit for Application 6038, a 128 unit condominium development to locate in a C-2-A, commercial zoning district at the southeast corner of El Cerrito Plaza.

On November 17, 2005, four appellants appealed the decision of the Planning Commission. On January 9, 2006, the City Council held a duly noticed public hearing to consider the appeals and
continued the item to a special meeting. On January 30, 2006, the City Council held a public hearing to consider the appeals, and adopted Resolution 2006-1, certifying the FSEIR, adopting environmental findings, mitigation measures and approving the mitigation monitoring and reporting program, denying the appeals, and upholding the Planning Commission action approving a Use Permit with conditions allowing a condominium development to locate in a C-2-A, Commercial zoning district at the southeast corner of El Cerrito Plaza. At the meeting, the applicant (Forest Park Partners) and the property owner (Regency), verbally agreed to comply with a condition of approval requiring preparation of a traffic and circulation study for the Plaza shopping center.

On November 14, 2006, the applicant applied for a use permit extension in order to allow the design review process to continue as the Use Permit issued under City Council Resolution 2006-1 were to expire on January 30, 2007.

On December 6, 2006, the applicant initiated the Design Review process by holding a study session with the Design Review Board.

On December 20, 2006, the Planning Commission held a duly noticed public hearing and approved a request for a Use Permit extension for a period of one year.

On January 2, 2007, an appellant appealed the decision of the Planning Commission regarding progress on condition of approval #50, and project density; and

On February 5, 2007, the City Council held a duly noticed public hearing to consider the appeal and denied the appeal.

On March 18, 2007, the applicant applied for Design Review approval.

On May 2, 2007, the Design Review Board held a duly noticed public hearing and approved Resolution DRB07-04, granting design review approval of the building shell and site layout. The Board requested the applicant return with specific architectural and landscape details as specified in the Resolution.

On September 5, 2007, the Design Review Board held a duly noticed public hearing and approved Resolution DRB 07-09, granting approval for specific architectural and landscape details and materials.

On September 11, 2007, an appellant appealed the decision of the Design Review Board regarding issues unrelated to the September 5, 2007 approval.

On November 5, 2007, the City Council held a duly noticed public hearing to consider the appeal; and upheld the decision of the Design Review Board approving the architectural and landscaping details.

A demolition permit was issued for the project by the City of El Cerrito on December 4, 2007.

On August 27, 2013, the project sponsor, Creekside Walk Ventures, LLC, submitted for building permits.

On April 2, 2014, the Design Review Board held a hearing to confirm compliance with the Conditions of Approval in Design Review Board Resolution No. 07-09 Design Review item no. 5
and the Final Subsequent Environmental Impact Report’s Mitigation and Monitoring Reporting Plan (MMRP) Mitigation Measure NO 4.1. At that meeting, the Board unanimously confirmed that compliance was met and added the following recommendations:

1. Window shall be aluminum windows. Any other materials shall be brought back to the Board.
2. Bicycle and pedestrian path adjacent to the creek shall be redesigned to be serpentine and incorporated with seating.
3. Connectivity from the Ohlone Greenway to the bicycle and pedestrian path must be designed to be wide and with a gradual slope.
4. Stoops along the bicycle and pedestrian path along the creek shall be redesigned to be wider to be in keeping with the original stoop designed.

On July 7, 2015, building permits were issued for the project.

On September 29, 2015, the applicant met with staff and stated that they were not able to find suitable aluminum windows for the project.

On November 4, 2015, the Design Review Board, after due consideration of all evidence and information offered did confirm that VPI Endurance Series vinyl windows and glass doors are adequate for use in the project.

On November 22, 2016, the applicant submitted a planning application for Subdivision Committee consideration of a Tentative Map for a one-lot subdivision for condominium proposes. Upon further review of the application, staff determined that discretionary hearing body is the Planning Commission pursuant to Chapter 18.12 (Subdivision Ordinance) of the El Cerrito Municipal Code.

III. DISCUSSION

Project Description
The applicant is requesting the approval of a Tentative Map for condominium purposes for the 128-unit multi-family residential project. The Tentative Map will allow a condominium map to be drawn around the units for subdivision and sale purposes. Staff notes that although this application will allow for the sale of individual dwelling units at a future date, the applicant has informed the staff that their intention is to initially offer the dwelling units for rent once the certificate of occupancy is issued for each building.

Analysis
Staff believes that the proposed Tentative Map meets the requirements of Section 66426 of the State of California Government Code (Subdivision Map Act), Chapter 18 Division of Land of the El Cerrito Municipal Code and the San Pablo Avenue Specific Plan. Staff believes that the Planning Commission can approve the proposed Tentative Map, in that, the map would create a lot that is adequate in size, has access through a shared easement with the El Cerrito Plaza Shopping Center driveways which all front onto a public street, and implements the goals of the San Pablo Avenue Specific Plan and the General Plan.

State Government Code:
The California Government Code Section 66426 states the following:

“A tentative and final map shall be required for all subdivisions creating five or more parcels, five or more condominiums as defined in Section 783 of the Civil Code, a community apartment project
containing five or more parcels, or for the conversion of a dwelling to a stock cooperative containing five or more dwelling units, except where any one of the following occurs:

a) The land before division contains less than five acres, each parcel created by the division abuts upon a maintained public street or highway, and no dedications or improvements are required by the legislative body.”

Since the project site is not adjacent to a “maintained public street or highway” but rather is granted access by easement, a Tentative Map is required for five or more condominiums.

Subdivision Ordinance:
Section 18.12.100 requires that the Planning Commission approve a Tentative Map that is comprised of more than five lots, or in this case, more than five condominiums. The El Cerrito Municipal Code requires the following:

Section 18.12.100. Planning Commission Approval

A. The planning commission shall determine whether the tentative map is in conformity with the provisions of law and of this title, and upon that basis within thirty days after the filing of the tentative map approve, conditionally approve, or disapprove the same and shall report such action direct to the subdivider and shall also transmit to the city engineer a copy of the tentative map, and a memorandum setting forth the action of the commission thereon.

The Tentative Map project was deemed complete on April 18, 2017. Based on the analysis in the staff report, staff has determined that the Tentative Map is in compliance with the Zoning Ordinance, the San Pablo Avenue Specific Plan and the General Plan of the City of El Cerrito.

B. The planning commission may require the subdivider to dedicate suitable areas for the parks and playgrounds and set aside areas for schools and other public building sites that will be required for the use of the population which is intended to occupy the subdivision under the plan of proposed property uses therein. In all cases the planning commission shall suggest to the subdivider such measures as will make for excellence of residential, commercial, or industrial development.

The Tentative Map identifies the daylighting of a 220 foot segment of Cerrito Creek. The daylighting of the Creek includes creating a bicycle and pedestrian path connecting the Ohlone Greenway to a daylighted portion of Cerrito Creek at the western end of the El Cerrito Plaza Shopping Center.

C. The planning commission may refuse to approve a tentative map when the only practical use which can be made of the property proposed to be subdivided, is a use prohibited by ordinance or law or if the property is deemed unhealthful or unfit for human habitation or occupancy by the health officer of the city.

The use of the site as a multi-family residential project is an allowed use under the Transit-Oriented Higher-Intensity Mixed Use zone (TOHIMU). Staff believes that the project is consistent with the San Pablo Avenue Specific Plan and the General Plan of the City of El Cerrito.

San Pablo Avenue Specific Plan:
While the site plan, elevations, and floor plans of both buildings, as well as the landscape plan of Creekside Walk were approved before the adoption of the San Pablo Avenue Specific Plan, staff notes that overall project is in keeping with the goals of the San Pablo Avenue Specific Plan, overall.

**Goal A: Strengthen Sense of Place**

*Strategy 1: Articulate distinctive role and identity of each focus area: Downtown, Midtown, and Uptown.*

*Strategy 2: Reinforce distinguishing sense of place by responding to existing assets such as the Ohlone Greenway and key views.*

*Strategy 3: Optimize placemaking in all developments.*

*Strategy 4: Attract pedestrian activity to key nodes to foster community and identify places of interest.*

**Goal B: Ensure Return on Investment**

*Strategy 3: Build on recent and planned private and public investments.*

**Goal E: Catalyze Mode Shift**

*Strategy 1: Promote residential infill development through increased land use intensity close to existing transit infrastructure.*

*Strategy 3: Strengthen pedestrian and bicycle connectivity through existing and new connections that provide more alternatives to single-occupancy vehicles.*

It meets the intent of the Downtown District of the TOHIMU zone included in the San Pablo Avenue Specific Plan:

“Provide a vibrant, walkable, transit oriented higher intensity area within a 1/2 mile BART walkshed that allows a wide variety of uses including retail, commercial, residential and public uses in the distinctive Downtown and Uptown areas”

Finally, this project addresses three of the challenges noted in the Plan for this area of the City. Specifically:

- Create an identifiable green southern gateway to the City that highlights where Cerrito Creek meets San Pablo Avenue.
- Construct higher-intensity mixed-use developments in proximity to the BART station.
- Improve connectivity through El Cerrito Plaza and to San Pablo Avenue

The Tentative Map will increase the vibrancy in the El Cerrito Plaza Shopping Center. It allows for the future ownership of 128 dwelling units, records the daylighting of a 220 ft. segment of Cerrito Creek, and adds a bicycle and pedestrian path connecting the Ohlone Greenway (an existing public investment) through the project to the lower segment of Cerrito Creek (that is already above ground) and the El Cerrito Plaza Shopping Center (an existing private investment). Therefore, it augments the green southern gateway to the City, enhancing a sense of place, while highlighting
Cerrito Creek/Ohlone Greenway connection; and greatly improves the bicycle and pedestrian connectivity through the Plaza to San Pablo Avenue.

Approval of the Tentative Map allows for the subdivision of the units into for sale, condominium units. The lot is three acres in size and is in compliance with the San Pablo Avenue Specific Plan. The San Pablo Avenue is silent on minimum lot sizes in the TOHIMU zone, therefore the El Cerrito Municipal Code (ECMC) governs, in particular Title 19 (the Zoning Ordinance). Section 19.07.030 of the ECMC notes that the minimum lot size in this area of the city is 5,000 square feet. The proposed Tentative Map will create one lot that is greater than 5,000 square feet, therefore is in conformance with the ECMC with regards to size.

Consistency with the General Plan
The proposed Tentative Map is consistent with the goals and policies outlined in the General Plan. As identified in the General Plan, the classification for the subject property is Transit-Oriented Higher-Intensity Mixed Use. The following General Plan policies apply with regards to the proposed Tentative Map:

Transit Oriented Higher Intensity Mixed Use
The intent of the San Pablo Specific Plan in the Transit-Oriented Higher-Intensity Mixed Use Zone is to:

“Provide a vibrant, walkable, transit oriented higher intensity area within a 1/2 mile BART walkshed that allows a wide variety of uses including retail, commercial, residential and public uses in the distinctive Downtown and Uptown areas. Encourage multifamily residential uses to provide a variety of housing types, including units with 3 or more bedrooms, to meet the diverse needs of residents.”

Although approved after the adoption of the San Pablo Avenue Specific Plan, the project as built implements the intent of the TOHIMU Zone by creating a higher density residential project adjacent to the El Cerrito Plaza BART station, provide pedestrian and bicycle amenities and provide one, two, and three-bedroom units.

General Plan Policies
Policy LU 3.1 - Commercial / Residential. The Tentative Map allows the development of a 128-unit multi-family residential project, on a three acre lot, in a mixed use zone. The project is in the El Cerrito Plaza Shopping Center, therefore, allowing resident’s convenient access to goods and services.

Policy LU 4.1- Mixture of Uses. The Tentative Map will create a lot and project that will encourage a mix of uses that promotes convenient, economic vitality, fiscal stability, public safety, a healthy environment, and a pleasant quality of life. El Cerrito Plaza Shopping Center offers retail, food sales and services. The project diversifies the Shopping Center by adding a residential component to an otherwise commercial area.

Policy LU 4.2 - Availability of Goods and Services. The Tentative Map will create a lot and project that will allow for residents to live adjacent to resident-serving goods and services.

Policy LU 4.4 - Amenities. The Tentative Map will create a lot and project that will ensure that new development provides a high level of amenity for users of the development, and, wherever possible, includes community-serving facilities. The project includes daylighting of 220 foot segment of
Cerrito Creek. The daylighting of the creek also incorporates a bicycle and pedestrian path that will connect the Ohlone Greenway and the above-ground segment of the Creek on the El Cerrito Plaza Shopping Center parcel, further providing an essential community serving amenity.

Policy LU 4.5 - Quality of Development. The Tentative Map will create a lot and project that ensures that all development in nonresidential areas addresses compatibility and quality of life issues. The project provides private and public courtyards that incorporate benches and tables for the use and the enjoyment of the tenants and the public.

Policy LU 5.5 - Pedestrians, Bicycles, and Access. The Tentative Map will create a lot and project that ensures that business areas have adequate pedestrian and bicycle facilities and accessibility for persons with disabilities, and that easy connections to transit are available wherever possible. The bicycle and pedestrian path, compliant with the American with Disability Act requirements, will provide a link between the Ohlone Greenway to the above-ground segment of the Cerrito Creek on the El Cerrito Plaza Shopping Center parcel.

Policy LU 5.6 - Development Along the Ohlone Greenway. The Tentative Map will create a lot and project that ensure that development incorporates the greenway in a safe and functional manner. The development incorporates windows and balconies that face onto the greenway so as to encourage “eyes on the street” and promoting a safe environment on the Greenway.

Policy LU 6.1 Natural Features. The parcel map allows for a project that will daylight a culverted section of the Cerrito Creek while creating a pedestrian and bicycle link between the Ohlone Greenway and the western half of Plaza.

Policy CD 3.6 Cerrito Creek. The Tentative Map will create a lot and project that allows for a project that will daylight a 220 foot section of the Cerrito Creek starting west from the Ohlone Greenway. The creek improvements will include a pedestrian and bicycle pathway that will link the Ohlone Greenway to the daylighted segment of Cerrito Creek west of the subject site.

Environmental Review
A Certified Subsequent Environmental Impact Report (SCH No. 2004032021) pursuant to the California Environmental Quality Act was prepared for this project. Staff found that this action is consistent with that report and no further environmental review is required.

IV. FINDINGS

Findings
The Subdivision Ordinance does not specify findings to approve a Tentative Map, however, pursuant to Section 66473.5 of the California Government Code (Subdivision Map Act), the following finding must be made in order to approve the proposed Tentative Map for the project:

*The proposed subdivision, together with the provisions for its design and improvement, is consistent with the general plan required by Article 5 (commencing with Section 65300) of Chapter 3 of Division 1, or any specific plan adopted pursuant to Article 8 (commencing with Section 65450) of Chapter 3 of Division 1.*

General Plan Goals
The project will implement the following standards of the General Plan Policies: LU 3.1 - Commercial / Residential; LU 4.1 - Mixture of Uses; LU 4.2 - Availability of Goods and Services; LU 4.4 – Amenities; LU 4.5 - Quality of Development; LU 5.5 - Pedestrians, Bicycles, and Access; LU 5.6 - Development Along the Ohlone Greenway; LU 6.1 Natural Features; and CD 3.6 Cerrito Creek.

Specific Plan Goals
The project implements the following San Pablo Avenue Specific Plan goals: Goal A: Strengthen Sense of Place; Goal B: Ensure Return on Investment; Goal E: Catalyze Mode Shift;

General Plan Consistency finding:
The proposal is consistent with the purpose 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.

General Plan
The primary use in the area is a mix of commercial and residential. The use of the lot will be multi-family residential. The use is consistent with the General Plan Designation of Transit-Oriented Higher-Intensity Mixed Use.

Specific Plan
Approval of the Tentative Map provides a multi-family residential project to be mapped as condominiums for the purposes of sale and provide a bicycle and pedestrian path connecting the Ohlone Greenway (an existing public investment) through the project to the lower segment of Cerrito Creek (that is already above ground) and the El Cerrito Plaza Shopping Center (an existing private investment).

V. RECOMMENDATION

Staff recommends approval of Planning Application No. PL16-0156 as conditioned by the draft resolution in Attachment 1 for a Tentative Map to create a one lot subdivision for condominium purposes (Section 18.12.030 of the Subdivision Ordinance).

Proposed Motion: Move adoption of Planning Commission Resolution 17-04 approving a Tentative Map pursuant to Section 18.12.100 of the Subdivision Ordinance.

Appeal Period: Within ten (10) calendar days after the date of the decision, Planning Commission decision may be appeal to the City Council for consideration. The appeal shall be filed with the City Clerk.

Attachments:
1) Draft Resolution
2) Plans dated April 18, 2017
Planning Commission Resolution PC17-04

APPLICATION NO. PL16-0156

A RESOLUTION OF THE CITY OF EL CERRITO PLANNING COMMISSION APPROVING A TENTATIVE MAP FOR A ONE-LOT SUBDIVISION TO CREATED 128 CONDOMINIUM UNITS AS PART OF A MULTI-FAMILY RESIDENTIAL PROJECT (ECMC CHAPTER 18.12 SUBDIVISION ORDINANCE) ON A SITE LOCATED THE EL CERRITO PLAZA SHOPPING CENTER

WHEREAS, the subject property is located at the south eastern corner of the El Cerrito Plaza Shopping Center;

WHEREAS, the Assessor’s Parcel Number of the subject property is 504-170-022;

WHEREAS, the zoning district of the site is Transit-Oriented Higher-Intensity Mixed Use Zone;

WHEREAS, the General Plan land use designation of the site is Transit-Oriented Higher-Intensity Mixed Use;

WHEREAS, a Final Subsequent Environmental Impact Report was certified for the project. Approval of the proposed Tentative Map is part of the project that was analyzed in the Subsequent Environmental Impact Report;

WHEREAS, the current application is for Planning Commission approval of a Tentative Map for a one-lot subdivision to create 128 condominium units as part of a multi-family residential project;

WHEREAS, approval of the Tentative Map is governed by Section 66426 of the State of California Government Code (Subdivision Map Act), Chapter 18 Division of Land of the El Cerrito Municipal Code and the San Pablo Avenue Specific Plan;

WHEREAS, for the purpose of the review of the Tentative Map, staff deemed the map application complete on April 18, 2017. Based on the analysis in the staff report, staff has determined that the Tentative Map is in compliance with the Zoning Ordinance and General Plan of the City of El Cerrito;

WHEREAS, the Tentative Map identifies the daylighting of a 220 foot segment of Cerrito Creek. The daylighting of the Creek includes creating a bicycle and pedestrian path connecting the Ohlone Greenway to a daylighted portion of Cerrito Creek at the western end of the El Cerrito Plaza Shopping Center;

WHEREAS, on November 22, 2016, the applicant submitted a planning application for Subdivision Committee consideration of a Tentative Map and upon further review of the application, staff determined that the discretionary hearing body is the Planning Commission; and

WHEREAS, on May 17, 2017, the Planning Commission of El Cerrito, after due consideration of all evidence and reports offered for review, does find and determine the following:

1. The project will implement the following standards of the General Plan Policies: LU 3.1 - Commercial / Residential; LU 4.1- Mixture of Uses; LU 4.2 - Availability of Goods and Services;
LU 4.4 – Amenities; LU 4.5 - Quality of Development; LU 5.5 - Pedestrians, Bicycles, and Access; LU 5.6 - Development Along the Ohlone Greenway; LU 6.1 Natural Features; and CD 3.6 Cerrito Creek.

2. The Tentative Map will create a development and use of the site as a multi-family residential building. The project is an allowed use under the Transit-Oriented Higher-Intensity Mixed Use zone (TOHIMU). The project is consistent with the San Pablo Avenue Specific Plan goal of promoting higher intensity residential projects adjacent to the El Cerrito Plaza Bay Area Rapid Transit Station.

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. PL16-0156, subject to the following conditions:

Planning Division

1. The Planning Commission approval is for a Tentative Map for a one-lot subdivision to create 128 condominium units as part of a multi-family residential project.

2. If a Final Map application is not filed, this Tentative Map approval shall expire 24 months from the date of this action, unless extended by subsequent action of the Planning Commission.

3. Prior to the expiration of the Tentative Map the applicant must prepare and record a Final Map, in accordance to Section 18.16 of the El Cerrito Municipal code for Planning Commission consideration, unless extended by subsequent action of the Planning Commission, to the satisfaction of the Zoning Administrator and the City Engineer.

4. 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.

Public Works

5. Prior to filing the Final Map with the City, the applicant must:

   - revise the Final Map to show the subject lot as “Parcel A”;
   - record a Public Access Easement along the northern edge of the creek for pedestrian and bicycle access from the Ohlone Greenway through the property connecting to the El Cerrito Plaza Shopping Center;
   - record a deed restriction over the creek and pedestrian and bicycle path that complies with the California Department of Fish and Wildlife requirements; and
   - indicate on the map the dimensions of the deed restricted area.

CERTIFICATION

I CERTIFY that this resolution was adopted by the El Cerrito Planning Commission at a regular meeting held on May 17, 2017 upon motion of Commissioner , second by Commissioner :
AYES:
NOES:
ABSTAIN:
ABSENT:

Noel M. Ibalio
Senior Planner
PROJECT INFORMATION:

1. ASSESSOR'S PARCEL NO.: 504-170-1022
2. PROPERTY ADDRESS: SAN PABLO AVE
   (EL CERRITO, CA 94530)
3. OWNER/DEVELOPER: RAYFED HOLDINGS, INC.
   (7242 WILSHIRE BLVD, SUITE 670
   LOS ANGELES, CA 90025
   (310) 979-3210)
4. CITY: CITY OF EL CERRITO
   1000 SAN PABLO AVENUE
   EL CERRITO, CA 94530
   (510) 215-4525
5. ARCHITECT: PAUL EYK ARCHITECTS
   313 WASHINGTON BLVD, SUITE 3
   MARTINA DEL REY, CA 90243
   (310) 205-1650
6. CIVIL ENGINEER: ALIQUOT ASSOCIATES, INC.
   1050 S. MAIN STREET, SUITE 310
   WALNUT CREEK, CA 94596
   (925) 476-2300
7. SOIL ENGINEER: O'KELLY ENGINEERING COMPANY
   655 CITIZEN LANE, SUITE A
   YACOLT, WA 98675
   (503) 441-5453
8. UNDERGROUND UTILITIES: STEME SANITARY DISTRICT
   5008 SAN PABLO AVENUE
   (510) 576-4585
9. STORM DRAIN: CITY OF EL CERRITO
   1000 SAN PABLO AVENUE
   (510) 215-4525
10. WATER: EAST BAY MUNICIPAL UTILITY DISTRICT
    500 N. ELEVENTH STREET
    OAKLAND, CA 94607-4245
    (510) 239-3000
11. ELECTRICAL & GAS: PG & E
12. TELEPHONE: AT&T
13. FIRE PROTECTION: CITY OF EL CERRITO
14. EXISTING USE: COMM. SHOPPING CENTER
15. PROPOSED USE: RESIDENTIAL (CONDO/TOWNHOUSE)
16. EXISTING ZONING: C-2-PD, CENTRAL BUSINESS DISTRICT
   PLANNED DEVELOPMENT COMBINING ZONING DISTRICT.
17. PROPOSED ZONING: PLANNED DEVELOPMENT AMENDMENT
18. TOTAL ACREAGE: 3.04 ACRES
19. PROPOSED NO. OF PARCELS: 1
20. PROJECT AREA NOT SUBJECT TO INUNDATION PER THE LATEST
    FEMA FIRM MAP.

LEGEND:

EXISTING

- PROPERTY LINE
- STORM DRAIN LINE
- SANITARY SEWER LINE
- WATER LINE
- ELECTRICITY
- METER BASIN
- SANITARY SEWER MANHOLE
- STORM DRAIN MANHOLE
- GAS VALVE
- FIRE HYDRANT
- BED OF PAVEMENT
- BED OF CONCRETE
- BURLAP VALVE
- LID OF CURB
- CEMENTED CURB
- ROLLED CURB
- CONCRETE VALLEY GUTTER
- STREET MONUMENT
- CEMENTalyzed CURB
- SEWER

TENTATIVE SUBDIVISION MAP
SUBDIVISION 9208
"FOR CONDOMINIUM PURPOSES"

PLANNERS:
ALIQUOT CIVIL ENGINEERS
SURVEYORS

TYPICAL STREET SECTIONS

NOTE:
1. SEE SHEET 2 FOR SITE PLAN.
2. SEE ARCHITECTURAL DRAWINGS FOR TYPICAL CONDO UNITS.
EVELYN AVE.
PARKING GARAGE LEVEL
CONDOMINIUM
PARKING GARAGE LEVEL
CONDOMINIUM
LIMIT OF WORK - PHASE I
PHASE II - SEE RDG CREEK PLANS

TENTATIVE SUBDIVISION MAP
SUBDIVISION 9208
"FOR CONDOMINIUM PURPOSES"

Aliquot Associates, Inc.
1390 S. Main St. - Ste. 310
Walnut Creek, CA 94596
Telephone: (925) 476-2300
Fax: (925) 476-2350

PLANNERS
CIVIL ENGINEERS
SURVEYORS
DECLARATION OF RESTRICTIONS AND GRANT OF EASEMENTS

among

AMERICAN STORES PROPERTIES, INC.,

REGENCY REALTY GROUP, INC.

and

LONGS DRUG STORES CALIFORNIA, INC.

DATE: July 6, 2000

STORE NO: ABS #7006

LOCATION: SEC San Pablo Avenue & Fairmont Avenue
El Cerrito, California
which agreements are described on Exhibit G attached hereto ("Existing REA Agreements"). In connection with the pending Redevelopment Project, the Parties desire to terminate the Existing REA Agreements and replace them in their entirety with this Agreement, and that certain Common Area Maintenance Agreement ("CAM Agreement") being executed and recorded concurrently herewith.

H. In connection with the pending Redevelopment Project, and the termination of the Existing REA Agreements, the Parties desire the Shopping Center, and the Parcels owned by each Party to this Agreement, to be operated for the mutual benefit of the Parties and of each and all of their respective ownership interests therein, and accordingly do hereby establish a general plan for the improvement, development, maintenance and use of each of the Parties’ Parcels as a commercial shopping center and for such purposes the Parties do hereby establish easements, covenants, and restrictions as hereinafter set forth, subject to which all of the Shopping Center shall be improved, held, exchanged, leased, sold and/or conveyed.

I. The Parties intend that the successive owners of all or any portion of any Parcel shall be bound by the easements, covenants, and restrictions as hereinafter set forth for the benefit of the other Parcels in the Shopping Center, and that the Restrictions shall run with the land.

NOW, THEREFORE, in consideration of the foregoing, and the covenants and agreements set forth herein, the Parties agree as follows:

1. **Recitals.** The foregoing Recitals are hereby incorporated herein in their entirety.

2. **Certain Defined Terms.**

   2.1 **ASPI.** American Stores Properties, Inc., a Delaware corporation, and its parent corporation, Albertson’s, Inc., a Delaware corporation, together with any corporation or other entity succeeding thereto by consolidation, merger or acquisition of its assets substantially as and entirety, and any wholly owned subsidiary thereof.

   2.2 **ASPI Parcel.** That certain parcel of real property legally described in Exhibit B attached hereto. The ASPI Parcel is shown as "ASPI Parcel" on the Site Plan.

   2.3 **Building Area.** That area shown as "Building Area" on the Site Plan.

   2.4 **Building Envelopes.** All those areas on the ASPI Parcel within the Building Envelope Lines as shown on the Site Plan.

   2.5 **Common Areas.** All real property within the Shopping Center which is not shown on the Site Plan as Building Area or Building Envelope, or which is not a Permitted Building Extension of a Building Area. Common Areas also include any property which is shown on the Site Plan as Building Area, but upon which buildings are not from time to time located or in the process of construction.

   2.6 **CAM Agreement.** That certain Common Area Maintenance Agreement between the Parties hereto which encumbers the Shopping Center and which is recorded concurrently herewith.
6.2 **Common Area Use.**

6.2.1 The **Common Areas** shall be used for vehicular access, circulation and parking, pedestrian traffic and the use of customers, invitees, licensees, agents and employees of the Owners and business occupants of the buildings constructed in the Building Area on the Parcels in the Shopping Center, and for the servicing and supplying of such businesses.

6.2.2 In addition, the Common Area may be used (i) on a temporary basis, as a staging area in connection with the construction and repair of any buildings or Common Area in the Shopping Center so long as such use does not occupy more area than is reasonably required nor unreasonably restrict access to and from or the conduct of business within the buildings in the Shopping Center or access to and from the adjacent streets; (ii) in connection with the construction and maintenance of utility lines so long as such activity is undertaken in strict compliance with the requirements of Section 7.2 hereof; and (iii) for any other use required by Law.

6.2.3 No building, barricade or structure may be placed, erected or constructed within the Common Areas on any Parcel, except loading and delivery docks and covered areas attached to such docks, trash enclosures, pylon and other free-standing signs (to the extent not herein prohibited) and directional signs, bumper guards or curbs, paving, landscaping and landscape planters, lighting standards, driveways, sidewalks, walkways, parking stalls, columns or pillars supporting roof overhangs, and any other improvements as may be required by Law or permitted by the provisions of this Agreement.

6.3 **Parking.**

6.3.1 The number of parking spaces maintained on each Parcel and the configuration thereof shall be as shown on the Site Plan. Any changes to the number of parking spaces shall require the consent of the Consenting Owners. Notwithstanding the foregoing, the Owner of the Phase I Developer Parcels shall have the right, without the necessity of obtaining the consent of the Consenting Owners, to add or reduce the number of parking spaces within the Phase I Developer Parcels; provided such addition or reduction shall in no event exceed five (5) parking spaces.

6.3.2 The Owner of the ASPI Parcel and the Owner of the Phase I Developer Parcels may establish by written agreement a program of time restricted parking within those portions of the Common Areas shown on the Site Plan as "Time Restricted Parking Areas".

6.3.3 There shall be no charge or other validation for parking in the Common Area without the prior written consent of the Consenting Owners, other than in that portion of the Shopping Center shown as on the Site Plan as "Metered Parking Area".

6.4 **Employee Parking.**

6.4.1 Specific areas within the Common Area of the Shopping Center to be used for motor vehicle parking purposes by employees of occupants of the Shopping Center may be designated from time to time by the Consenting Owners.
along the boundary lines of any portion of the Shopping Center except along the common boundary line of any Parcel with any other Parcel; provided, however, that any impairment of access to or from the Shopping Center, or any part thereof, shall require the Consenting Owners' prior written approval, which may be withheld in such Consenting Owner's sole and absolute discretion.

7. **Easements.**

7.1 **Ingress, Egress and Parking.** Each Owner, with respect to its Parcel, hereby grants to each other Owner, as grantee, for the benefit of each other Owner, and for the use of the Owners and their respective tenants, employees, agents, customers and invitees of such tenants, and for the benefit of the Parcels owned by such grantee and as a burden on the grantor's Parcel, a non-exclusive easement appurtenant to each grantee's Parcel for the purpose of ingress and egress by vehicular and pedestrian traffic and for vehicular parking upon, over, across and through the Common Area within grantor's Parcel, except for those areas devoted to Service Facilities or drive up or drive through customer service facilities. The foregoing shall not create any rights in any parties other than the Owners.

7.2 **Utility Systems.**

7.2.1 Each Owner, as grantor with respect to its Parcel, hereby grants to each other Owner as grantee, for the benefit of each other Owner and its Parcel, non-exclusive easements appurtenant to the Parcel owned by the grantee, under, through and across the Common Area of the Parcel for the installation, maintenance, repair and replacement of structures, conduits, systems, and other facilities for Utilities ("Utility Systems") necessary for the orderly development and operation of the Common Areas and each building in the Shopping Center; provided, the rights granted pursuant to such easements shall at all times be exercised in such manner as to cause the least interference with the normal operation of the Shopping Center or the business operating upon another Owner's Parcel; and provided further, except in an emergency, the right of any Owner to enter upon the Parcel of another Owner for the exercise of any right pursuant to such easements shall be conditioned upon obtaining the prior written consent of such other Owner, which consent shall not unreasonably be withheld, delayed or conditioned.

7.2.2 All such Utility Systems shall be installed and maintained below the surface or ground level of such easements.

7.2.3 In the event an Owner deems it necessary to cause the installation of a Utility System across the Common Area of any other Parcel subsequent to the paving and improving thereof as a part of the Redevelopment Project, the Owner thereof agrees not to unreasonably withhold the granting of any necessary additional easements; provided, in no event will such installation be permitted if it would unreasonably interfere with the normal operation of any business of the Shopping Center or on such Owner's Parcel(s); and provided further, the Owner making or causing such installation shall, at its sole cost and expense, promptly, diligently and completely restore all Common Area improvements and surfaces disrupted as a result of such installation to a condition at least equal to that which existed prior to such installation.
I. SUBJECT

Application: PL17-0024
Applicant: Bill McLaughlin
APN: 500-430-016
Location: 2332 Alva Avenue
Zoning: RS-5 (Single-family Residential)
General Plan: Low Density Residential
Request: Consideration of a Variance to the rear setback (Section 19.06.030, Table 19-06 B. of the ECMC) and a Variance to develop on a sub-standard sized lot (Section 19.06.030 B. 2. of the ECMC)

CEQA: This project is categorically exempt from the provisions of CEQA pursuant to Section 15303 of the CEQA Guidelines, Class 3: New Construction.

II. BACKGROUND

The property is located in the northern hills of the City, approximately two blocks west of the Mira Vista Country Club. The subject lot is square in shape, slopes up from the front to the rear and is currently vacant. The subject lot is 3,564 square feet in size and is surrounded by two-story, single family residential dwellings.

The lot is a legally non-conforming sub-standard lot. The applicant submitted a title report confirming that the lot was created by the recordation of a Map entitled Mira Vista Highland, with the Contra Costa County Recorder’s Office in July of 1926.
III. DISCUSSION

The applicant is proposing to build a two-story single family residence on the lot. The residence will be 2,443 sq. ft. in size. It will consist of two stories with three bedrooms, a kitchen, great room (living room), dining room and bonus/media room. The residence will be served by an attached two-car garage. The site improvements will include the residential structure, a driveway along the front, retaining walls along the sides and rear, landscaping along the setbacks and a curb cut to serve the driveway.

The project is in compliance with all development standards in the RS-5 (Single-family Residential) zoning district with the exception of the required rear yard setback and minimum lot size.

<table>
<thead>
<tr>
<th>Development Standards</th>
<th>Zoning Ord. Requirement</th>
<th>Proposed</th>
</tr>
</thead>
<tbody>
<tr>
<td>Lot Size</td>
<td>5,000 sq. ft.</td>
<td>3,564 sq. ft. (existing)</td>
</tr>
<tr>
<td>Lot Coverage</td>
<td>50%</td>
<td>48%</td>
</tr>
<tr>
<td>Setbacks: Front</td>
<td>10 ft.</td>
<td>10 ft.</td>
</tr>
<tr>
<td>Sides/Corner</td>
<td>5 ft. / 8.5 ft. / 20 ft. garage setback</td>
<td>5 ft. / 9 ft. / 20ft. garage setback</td>
</tr>
<tr>
<td>Rear</td>
<td>15 ft.</td>
<td>6 ft. (does not meet the rear yard setback)</td>
</tr>
<tr>
<td>Height</td>
<td>25 ft.</td>
<td>25 ft.</td>
</tr>
<tr>
<td>Parking</td>
<td>2 covered spaces</td>
<td>2 covered spaces (garage)</td>
</tr>
</tbody>
</table>

**Bold** – not in compliance with the Zoning Ordinance

Analysis

The proposed project requires two Variances. The details of both of these entitlements are discussed below. The Findings for the Variances are based on the characteristics of the surrounding neighborhood, which is made up one zoning designation, (RS-5) Single Family Residential. Pursuant to the Zoning Ordinance, the Findings for the Variances must be made strictly in the same Zoning Designation in which the subject property is located.

Variance to grant relief of the rear setback

Pursuant to El Cerrito Municipal Code, Table 19.06 – B, the rear setback in the RS-5 zoning district is fifteen feet. The applicant has designed a project that complies with the required building envelope for all development standards except the rear setback. Due to the shortened depth of the lot, the architect determined that the new single family residence needed to encroach a maximum of nine feet into the rear setback, therefore requiring a Variance.

Variance to grant relief for construction of single family residence on a sub-standard lot.

Pursuant to El Cerrito Municipal Code Section 19.06.030 B. 2.: Any lot or parcel of land of less area or width than that required by the regulations for the district in which it is located may be used and/or developed as a building site subject to approval of a variance or certificate of compliance only if it was a lot of record on October 19, 1953 and the following standards are met:

1. Required Improvements. All lots adjoining a public right-of-way shall install all required improvements in compliance with applicable development standards and use regulations,
unless the Planning Commission approves a variance or waiver in accordance with the provisions of this Zoning Ordinance.

2. **RS District.** No dwelling, other than a single family home, shall be constructed on any building site in the RS district containing less than 5,000 square feet of area.

This project meets the criterion listed in this section of the municipal code. It was created in 1926, if the Planning Commission grants the Variance for the rear setback, the project will be constructed in compliance with all applicable development standards and use regulations and the proposal is to construct a single family dwelling.

Variance to grant relief from the required fifteen foot rear setback.

In order for the Planning Commission to grant this request it must find that “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.”

The full set of findings is found in ECMC Section 19.36.030.A. and in the Findings Section, below.

As noted above, staff believes that the special circumstance present in the project is that the subject lot is legally non-conforming and sub-standard in size.

Further, approval of the Variance does not constitute a grant of special privilege. As shown on Table 2; in the same RS-5 Zoning District and in the same neighborhood there are 3 other single family dwellings with similar square footages to the project proposal. In addition, the Table also notes that several houses in the immediate area were constructed with a reduced rear yard setback ranging from 5 ft. to the 10 ft.

**Table 2: Surrounding Neighborhood Development in the RS-5 Zoning District with Sub-standard Rear Setbacks**

<table>
<thead>
<tr>
<th>Address</th>
<th>Building Area</th>
<th>Rear Setback</th>
</tr>
</thead>
<tbody>
<tr>
<td>2509 Tamalpais Ave.</td>
<td>2,570 sf.</td>
<td>10 ft.</td>
</tr>
<tr>
<td>2500 Alva Ave.</td>
<td>2,500 sf.</td>
<td>8 ft. -10 ft.</td>
</tr>
<tr>
<td>6220 Lagunitas Ave.</td>
<td>2,265 sf.</td>
<td>3 ft. – 5 ft. ft.</td>
</tr>
</tbody>
</table>

Figure 1: SFR with Reduced Rear Yard Setbacks
Consistency with the Zoning District:
The project is located in the RS-5 (Single family- Residential) zoning district. It is described in the Zoning Ordinance. Specifically, “To promote and protect single-family neighborhoods at a base density of up to 10 dwelling units per net acre; and to minimize the out-of-scale appearance of large homes and development relative to their lot size and slope, and relative to adjacent homes in the neighborhood. Certain areas of the RS district areas are intended to: protect sensitive hillside areas from extensive development; protect against hazards related to earthquakes, unstable terrain, and wild fires; protect sensitive environmental areas and features; and provide sites for larger, distinctive residences. The RS District is split into four separate subsets guiding the minimum size of each lot and other development standards such as minimum lot depth and width and setbacks—RS-5 would be a minimum lot size of 5,000 square feet...”

The development meets the purpose and intent of the RS-5 zoning district. The proposed single family residence continues the residential character and use of the neighborhood. The use and design are compatible and in scale with the surrounding single family residential development. The proposed development is suitably located in a residential neighborhood and is accessible to the Del Norte Plaza Bay Area Rapid Transit Station and the commercial centers that are adjacent to the Station.

Consistency with the General Plan
The project is located in the Low Density category of the General Plan. It is categorized as follows: “The Low Density category of residential land uses is intended to promote and protect single-family neighborhoods.” The project complies with this homogenous residential land use by adding a single family residence to the non-conforming sub-standard small lot.

The proposed project is generally consistent with the El Cerrito General Plan and will implement the following General Plan Policies:

LU1.1 Predominate Single-Family Use. Ensure that the existing single-family neighborhoods remain in predominately single-family use, but including accessory units, by prohibiting incompatible uses.

The proposed project preserves the single family residential character of the neighborhood by proposing a single family residential project. The project is compatible with the development on surrounding properties.

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.

As designed, the project preserves the single family residential character. In addition, it is consistent with all but one of the development standards for the Single Family Residential District and there are at least three other similarly sized residences that have a reduced rear yard setback.

Environmental Review
The project is Categorically Exempt under the Section 15303 – Class 3, New Structures of the California Environmental Quality Act.
IV. FINDINGS

In order to approve the project, the Planning Commission must make the following findings, as outlined in Section 19.36.030 (Variance) of the El Cerrito Zoning Ordinance:

Variance Findings

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;

There are special circumstances applicable to the property regarding size of the lot whereby the strict application of the code would deprive such properties of privileges enjoyed by properties in the neighborhood. The lot is sub-standard in size at 3,564 square feet. There are three other properties in the neighborhood that do not meet the required fifteen foot rear yard setback. Denial of the project would deprive the property of privileges enjoyed by similar properties in the area.

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

The substandard size was not created by the owner or the applicant. The lot was recorded with the Contra Costa County Recorder’s office in 1926 as part of the Mira Vista Highlands Map. At the time of recordation, there were no standards for lot size, dimensions or design. The City’s first requirement for lot size came as part of the first City of El Cerrito zoning ordinance in 1931, well after the establishment of the lot, where the minimum lot size in a residential zone was 5,000 square feet.

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; and

Approval of the Variance does not constitute the granting of a special privilege. There are at least three other properties in the neighborhood that do not meet the required fifteen foot rear yard setback.

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.

Authorization of the Variance meets the intent and purpose of the RS-5 (Single-family Residential) and will not be detrimental to persons living in the vicinity. The project is in keeping with the surrounding single family residential character of the neighborhood and with the two-story built environment. 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
Government Code Section 65906 requires that a Variance can only be granted 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.”

The sub-standard size of the subject lot (3,564 square feet) is deemed a special circumstance that is applicable to the property. The special privilege was not created by the property owner. The lot was established as a legal lot of record in 1926, prior to minimum lot size and lot width requirements. There are at least three other properties in the neighborhood that do not meet the required fifteen foot rear yard setback. 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.

V. RECOMMENDATION

Staff recommends approval of Planning Application No. PL17-0024, as conditioned by the draft resolution in Attachment 1, approving a Variance for rear setback that does not meet the required 15 ft. setback (ECMC TABLE 19.06-B) and a Variance to develop on a sub-standard lot (ECMC Section 19.06.030 B. 2.).

Proposed Motion: Move adoption of Planning Commission Resolution PC17-05 to a Variance for relief from the required 15 ft. rear setback (El Cerrito Municipal Code TABLE 19.06-B) and a Variance to develop on a sub-standard lot (ECMC Section 19.06.030 B. 2.)

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

Attachments:

1) Draft Resolution
2) Plans dated February 27, 2017
3) Applicant information
4) Letter from neighbor at 6418 Lagunitas Avenue
Planning Commission Resolution PC17-05

APPLICATION NO. PL17-0024

A RESOLUTION OF THE CITY OF EL CERRITO PLANNING COMMISSION APPROVING A VARIANCE TO THE REAR SETBACK (SECTION 19.06.030, TABLE 19-06 B. OF THE EL CERRITO MUNICIPAL CODE) AND A VARIANCE TO DEVELOP ON A SUB-STANDARD SIZED LOT (SECTION 19.06.030 B. 2. OF THE EL CERRITO MUNICIPAL CODE) TO ALLOW CONSTRUCTION OF NEW SINGLE FAMILY DWELLING LOCATED AT 2332 ALVA AVENUE

WHEREAS, on February 27, 2017, the applicant submitted an application to construct a single family dwelling on a vacant lot located at 2332 Alva Avenue;

WHEREAS, the Assessor’s Parcel Number of the subject property is 500-430-016;

WHEREAS, the zoning designation of the subject property is RS-5 (Single-family Residential);

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

WHEREAS, the lot is substandard in size however, it was legally established in 1926 as part of the recordation, with the Contra Costa County Recorder’s Office, of the Mira Vista Highlands Map;

WHEREAS, this project requires the approval of a Variance for relief of required rear yard setback and a Variance to develop a single family dwelling on a substandard vacant lot;

WHEREAS, this project is Categorically Exempt from the provisions of the California Environmental Quality Act pursuant to Section 15303: Class 3, New Construction;

WHEREAS, on May 17, 2017, the Planning Commission of El Cerrito, after due consideration of all evidence and reports offered for review, does find and determine the following:

Variance Findings

1. There are special circumstances applicable to the property regarding size of the lot whereby the strict application of the code would deprive such properties of privileges enjoyed by properties in the neighborhood. The lot is sub-standard in size at 3,564 square feet. There are three other properties in the neighborhood that do not meet the required fifteen foot rear yard setback. Denial of the project would deprive the property of privileges enjoyed by similar properties in the area.

2. The substandard size was not created by the owner or the applicant. The lot was recorded with the Contra Costa County Recorder’s office in 1926 as part of the Mira Vista Highlands Map. At the time of recordation, there were no standards for lot size, dimensions or design. The City’s first requirement for lot size came as part of the first City of El Cerrito zoning ordinance in 1931, well after the establishment of the lot, where the minimum lot size in a residential zone was 5,000 square feet.
3. Approval of the Variance does not constitute the granting of a special privilege. There are at least three other properties in the neighborhood that do not meet the required fifteen foot rear yard setback.

4. Authorization of the Variance meets the intent and purpose of the RS-5 (Single-family Residential) and will not be detrimental to persons living the in the vicinity. The project is in keeping with the surrounding single family residential character of the neighborhood and with the two-story built environment. The project, by its single family residential nature, will not be detrimental to people living in the area.

5. Government Code Section 65906 requires that a Variance can only be granted 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.”

The sub-standard size of the subject lot (3,564 square feet) is deemed a special circumstance that is applicable to the property. The special privilege was not created by the property owner. The lot was established as a legal lot of record in 1926, prior to minimum lot size and lot width requirements. There are at least three other properties in the neighborhood that do not meet the required fifteen foot rear yard setback. 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.

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. PL17-0024, subject to the following conditions:

Planning Division

1. The project will be constructed substantially in conformance with the plans dated February 27, 2017. Minor changes may be approved by the Zoning Administrator. All improvements shall be installed in accordance with these approvals. Once constructed or installed, all improvements shall be maintained as approved.

2. If Applicant constructs the building 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 Variance shall expire two years from the date of this action.
Building Division

5. Prior to issuance of the building permit, the project must be designed in accordance with the 2016 California Residential Building Code to the satisfaction of the Building Official. This includes that the plans note the fireplace to be gas only. Wood burning fireplaces are not allowed in new construction per Regulation 6, Rule 3, section 6-3-306 from the Bay Area Air Quality Management District.

Fire Department

6. Prior to the submittal of the building permit plans, the project must be designed in accordance with the 2016 California Fire Code to the satisfaction of the Fire Marshal.

7. Prior to the final inspection, smoke detection and carbon monoxide sensors shall be installed to the satisfaction of the Fire Marshall.

8. Prior to the final inspection, approved numbers or address shall be provided in such a position to be plainly visible and legible from the street fronting the property. Address shall be either internally or externally illuminated to the satisfaction of the Fire Marshall.

Stege Sanitary

9. In conjunction with the installation of the underground plumbing, the contractor must install a Backflow Prevention Device to the satisfaction of the Building Official.

CERTIFICATION

I CERTIFY that this resolution was adopted by the El Cerrito Planning Commission at a regular meeting held on May 17, 2017 upon motion of Commissioner, second by Commissioner:

AYES:
NOES:
ABSTAIN:
ABSENT:

_________________________
Noel M. Ibalio
Senior Planner
The William J McLaughlin Administrative Trust.

VICTORY MAP

PROJECT DATA

OWNER:
The William J McLaughlin Administrative Trust,
PH: 415-308-0175

CONSULTANTS:
Lynam Young Engineers
2300 Rincon Lane
Caterham Park
CA 94923
PH: 925-874-6363
FAX: 925-874-0248

SITE DATA

LOCATION: 2332 ALVA AVE.

ACCESSORY PARTIAL NUMBER:

BUILDING DATA

CONDITIONED FLOOR: 2443 SQ. FT.

GENERAL: 456 SQ. FT.

DECK: TO BE DETERMINED

SCOPE OF WORK

NEW CUSTOM HOME

APPLICABLE CODES

DRAWING OUTLINE

C1 - COVER SHEET
C2 - SITE PLAN
C3 - PARK FLOOR PLAN
C4 - DETAIL ELEVATIONS
C5 - BUILDING SECTIONS

VARIANCE REQUEST FOR 2332 ALVA AVENUE

ALVA AVENUE NEIGHBORHOOD SUPPORT

We, the undersigned Alva Avenue neighbors of the McLaughlin Family property (lot APN # 500-430-016) located at 2332 Alva Avenue, are voicing our support for the attached variance application regarding the rear yard set-back. The remodel of the family's original residence at 2336 Alva Avenue has been a very positive addition to the neighborhood from both a property value and aesthetic standpoint. Requiring the set-back be retained would result in a residence substantially smaller and out of character with our neighborhood or, worse, possibly a vacant substandard lot that is undesirable. In either event there would be a negative affect on overall property values and the results would not meet the objective standards that the planning codes seek to achieve which include the conservation of property values and the encouragement of the most appropriate use of the land. We believe that the new project will meet or exceed the standards the McLaughlin’s have established in the recently completed residence next door. We have reviewed the plans and renderings and would request that the Planning Commission support this variance and project in furtherance of the neighborhood’s desires.

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APPLICATION FOR VARIANCE

PL 17-0024

APN# 500-430-16

2332 Alva Avenue

NEIGHBORHOOD SUPPORT
VARIANCE REQUEST FOR 2332 ALVA AVENUE

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