



MEMORANDUM

TO: PLANNING COMMISSION

FROM: Corey Simon, Senior Planner

DATE: August 11, 2009

SUBJECT: Adoption of resolution for the July 28, 2009, approval of a proposal to construct a 49 unit apartment project for seniors (55 years of age or older), with all rents restricted to affordable levels (i.e. all rents to be limited to 50% of Area Median Income, or less). Proposal required approval of a Use Permit to allow density and height above 17 units per acre, 2 story/30 ft height limit normally permitted in the DS – Downtown Shoreline zoning district. Applicant also requested a density bonus for affordable housing, pursuant to California Government Code Sections 65915-65918 to allow 49 units per acre where a maximum of 35 units would normally be permitted, and related concessions/incentives to requirements for useable open space, maximum site coverage and subdivision map. This project is located at 310 Berrellesa Street (block bounded by Berrellesa, Buckley, Richardson and Foster Streets).

DISCUSSION:

The draft resolution, including a finalized version of the draft project conditions, are attached for Commission review and approval. Staff has worked with the applicant and City Attorney to clarify the conditions, and most all changes are non-consequential. One change that staff would like the Commissioners to note is the proposed changes to the condition requiring the applicant to return to the Design Review Committee prior to issuance of building permits. The revised condition, with proposed changes underlined, is below:

III.C Prior to issuance of building permit, the developer shall return to the Design Review Committee (DRC), for final review and approval of detailed design features including but not limited to: exterior lighting fixtures, masonry veneers and/or alternative treatment of all exterior retaining walls, **railings**, decorative paving materials, final planting plan and augmentation of Richardson Street elevations **with such features as added bay windows and/or trellises**. Plans submitted for building permit issuance shall incorporate all requirements of this subsequent DRC review.

The proposed change should clarify the limited scope of the required supplemental Design Review. If requested by the Commission, staff can highlight the more minor

changes at the upcoming meeting.

ATTACHMENTS:

Resolution PC 09-06 [DRAFT]
Conditions of Approval [DRAFT]

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RESOLUTION NO. PC 09-06 [DRAFT]

A RESOLUTION OF THE PLANNING COMMISSION OF THE CITY OF MARTINEZ, GRANTING A USE PERMIT AND STATE MANDATED DENSITY BONUS, INCENTIVES/CONCESSIONS AND DESIGN REVIEW APPROVAL TO ALLOW CONSTRUCTION OF A NEW SENIOR APARTMENT BUILDING ("BERRELLESA PALMS"/RCD, DEVELOPER) WITH DENSITY AND HEIGHT ABOVE NORMALLY PERMITTED, AND FRONT YARD SETBACK LESS THAN THE NORMALLY REQUIRED, AT 310 BERRELLESA STREET (APN: 372-091-002)

WHEREAS, RCD, Resources for Community Development ("Applicant") has made application to the City of Martinez ("City") for a Use Permit and Design Review approval for the construction a new 49 unit affordable senior apartment building; "Berrellesa Palms" ("Project") (310 Berrellesa Street; 372-091-002); and

WHEREAS, the base zoning applicable to the property is DS - Downtown Shoreline Zoning District, which allows multi-family as a permitted use; and

WHEREAS, the proposed Use Permit would allow the project to exceed the base density of 17 unit per acre and 2 story/30' height limit normally permitted. In addition, the proposed Use Permit would permit a front yard setback less than the 20' normally required in the DS – Downtown Shoreline Zoning District; and

WHEREAS, the DS - Downtown Shoreline Zoning District allows for a density of up to 35 units per acre subject to Use Permit approval; and

WHEREAS, the development standards prescribed by the DS – Downtown Shoreline District allow a maximum building height of three stories/40' for projects approved at 35 units per acre, and allow for a 10' minimum front yard setback, subject to Use Permit approval; and

WHEREAS, the Applicant has requested a 35% density bonus for affordable housing, pursuant to California Government Code Sections 65915-65918, to allow 49 units per acre where a maximum of 35 units would normally be permitted, and related concessions/incentives to requirements for useable open space, maximum site coverage and subdivision map; and

WHEREAS, Design Review approval is required for all multi-family residential development within the City; and

WHEREAS, the Planning Commission held a duly noticed public hearing on July 28, 2009, in regards to the said actions and has considered public testimony and all other substantial evidence in the record; and

WHEREAS, the Record of Proceedings ("Record") upon which the Planning

Commission bases its decision regarding the Project includes, but is not limited to: (1) the Downtown Specific Plan Final EIR and the appendices and technical reports cited on and/or relied upon in preparing the Final EIR, (2) the Mitigation Monitoring and Reporting Program, (3) all staff reports, City files and records and other documents prepared for and/or submitted to the Planning Commission, the City Council and the City relating to the Final EIR and/or the Project, (4) the evidence, facts, findings and other determinations set forth in this resolution, (5) the City of Martinez General Plan, The 2006 Downtown Specific Plan and related EIR and the Martinez Municipal Code, (6) all applications, designs, plans, studies, data and correspondence submitted by the Applicant in connection with the Final EIR and/or the Project, (7) all documentary and oral evidence received at public hearings or submitted to the City during the comment periods relating to the Final EIR and the Project, (8) all other matters of common knowledge to the City Council including, but not limited to, City, state and federal laws, policies, rules regulations, reports, records and projections related to development within the City and its surrounding areas; and

WHEREAS, the Custodian of Records in the City Clerk of the City of Martinez; and

NOW, THEREFORE, BE IT RESOLVED that the Planning Commission, based on its independent judgment, does hereby find and resolve as follows:

Section 1. Project exempt from CEQA

- A. The Planning Commission has reviewed and considered the information contained in the record, including but not limited to, all staff reports, all oral and written testimony presented at, or prior to, the hearing on the Project and all other matters deemed relevant prior to adopting this resolution.
- B. The Planning Commission does, based thereon hereby find that the Project is exempt from the requirements of CEQA, including but not limited to, California Public Recourses Code Sections 2159.21, 21159.23 and 21159.24 and CEQA Guidelines Sections 15192, 15194, 15195, 15182 and 15332, as set forth in **Exhibit A**, attached hereto and incorporated herein by reference.

Section 2. Consistency with General Plan

- A. The Planning Commission has reviewed and considered the information contained in the Record, including but not limited to, all staff reports, all oral and written testimony presented at, or prior to, the hearing on the Project and all other matters deemed relevant prior to adopting this resolution.
- B. The Planning Commission does, based thereon hereby find that the Project is consistent with the General Plan and adopts the findings set forth in **Exhibit B**,

attached hereto and incorporated herein by reference.

Section 3. Consistency with Downtown Specific Plan

- A. The Planning Commission has reviewed and considered the information contained in the Record, including but not limited to, all staff reports, all oral and written testimony presented at, or prior to, the hearing on the Project and all other matters deemed relevant prior to adopting this resolution.
- B. The Planning Commission does, based thereon hereby find that the Project is consistent with the Downtown Specific Plan and adopts the findings set forth in **Exhibit C**, attached hereto and incorporated herein by reference.

Section 4. Approval of Conditional Use Permit and Findings

- A. The Use Permit standards prescribed by Downtown Specific Plan Chapter 9 – Downtown Shoreline District and MMC Chapter 23 – Downtown Shoreline District require that in order to approve a density at or near the upper end of the density range, the Planning Commission would need to find that the proposal is superior in terms of all or most all of the eight criteria listed below. Based on the analysis in the staff report and the record as a whole, the Planning Commission does hereby find that the project is superior, in the following:
 - 1) **Assembling all or most of the contiguous parcels into one project, and designing the project as a new neighborhood.** Not applicable; there are no parcels contiguous to the subject parcel, which is surrounded by public streets.
 - 2) **Design and appearance.** While there are currently no projects within the Downtown Shoreline District to use as comparisons in judging whether a project is “superior,” the concept of allowing added density, above a prescribed basic allowable density and subject to Use Permit approval, is well established within the larger Downtown Martinez context.

Since 1996, such increases in project density have been allowed within the Downtown Overlay Zoning District, subject to Use Permit approval. The Downtown Overlay District, which is immediately adjacent to the west and south of the subject property, also encompasses all of the adjacent Downtown Neighborhood Sub-District of the Specific Plan. Within this neighborhood, immediately to the north of the subject property, both the recently completed three-unit complex at 231 Main Street (Aiello) and eight-unit complex at 500-528 Berrellesa Street (Villa del Sol) are examples of what have previously been found to be superior projects that received approval to exceed the basic allowable densities applicable to their subject R-Residential Zoning District. Attributes that these two existing projects, and the current proposal share, which make them

superior additions to their context include:

- a) Extensive landscaping adjacent to streets. Those parts of the Downtown's residential neighborhoods closest to commercial areas often lack front yard landscaping and street trees. Especially in regards to the Villa del Sol project, the economic advantage of higher densities has allowed for the significant public benefit of added trees and landscaping. The subject proposal, with street frontages on all four sides, is proposing extensive landscaping, with trees and shrubs planted in informal patterns to echo the planting patterns of the nearby residential neighborhood. This residential landscaping will create a streetscape far superior to that of the existing industrial streetscape.
 - b) Unified architectural vocabularies that are rooted in local styles. Unlike older multi-family construction from the 1960's and 1970's which did not utilize historic architectural vocabularies, the architectural styles used by the projects noted above, (Craftsman/ Bungalow for 231 Main Street; Spanish Revival for Villa del Sol) are examples of how new buildings, often built with densities that are higher than neighboring structures, can be a superior fit to the area's broader historical architectural context. The subject project provides a Late Victorian/Neoclassical vocabulary which is seen throughout Downtown Martinez, which is far superior to other multi-family projects in Martinez.
 - c) High level of detailing, building articulation and materials. On all three projects, the inclusion of such superior features as decorative pavers in place of asphalt or concrete and building elevations with well articulated bay window type details exemplify a high degree of design and appearance. Some distinct features of the proposed Berrellesa Palms proposal include extensive porch, terrace and arbor details along the street, providing both a superior appearance from the street as well as a superior amount of recreational open space for the new residents of the proposed project.
- 3) **Minimizing impacts on adjacent public lands.** Not applicable; there are no public lands adjacent to the subject parcel.
 - 4) **Providing onsite amenities for the future residents.** Unlike most of the existing multi-family buildings within the Downtown area where little or no common open space areas are provided, the subject project will provide a relatively generous central garden/terrace area. In addition, smaller common balcony/terrace areas are also being proposed. And as fitting an apartment complex designed for seniors, generous interior common recreation and reading rooms are proposed. Each of these facilities together provides superior onsite amenities for future residents.
 - 5) **Preserving or creating view corridors from public streets such as Talbart, Buckley, Marina Vista, Carquinez Scenic Drive, Castro and Berrellesa.** The project has been designed to preserve existing views toward the Straight,

enjoyed when looking down public street corridors (including down Richardson Street). While some side views across the subject property will naturally be affected by any construction on the largely vacant lot, the relocation of some date palm trees may open up some additional new views. Thus the proposed project is superior to standard multi-family construction in terms of view preservation. As an existing block sized parcel, there is no opportunity to create new view corridors through the site.

- 6) **Utilizing green building practices to the maximum extent possible.** The developer has committed to meeting the industry standards, established by the U.S. Green Building Council (USGBC), for certification pursuant to the Leadership in Energy and Environmental Design (LEED) for Homes Green Building Rating System. The features to be provided include, but are not limited to: diversion of 75% of demolition waste, exceeding energy performance standards of State Title 24 by over 15%, use of Energy Star refrigerators and dishwashers in all units, use of double glazed low E windows, rain water harvesting for irrigation of drought tolerant landscaping, solar hot water and photovoltaics to offset common area energy usage and interior finishes and materials to improve indoor air quality, such as recycled content carpets, formaldehyde free materials and low or no VOC paints. Thus the project's green building practices are far superior to standard construction.
 - 7) **Providing a variety of housing types, including detached single-family residential, where feasible, as a transition in areas near existing single family neighborhoods.** The subject property adjoins a neighborhood of mixed residential densities to the south and west, consisting of a mixture of single-family, duplex and multi-family buildings. The proposed project provides multi-family affordable housing for seniors, which provide the desired transition to the existing eclectic residential neighborhood. In looking at the entire Downtown Area, the proposed development adds to the variety of housing types available, as there are few comparable high density senior housing opportunities in the downtown. Thus the project is superior in terms for contributing to the provision of a variety of housing types.
 - 8) **Providing a new public street system that improves access to the Regional Shoreline and Alhambra Creek, potentially by extending Alhambra Avenue along the creek, and vacating Berrellesa.** Not applicable; the site is not contiguous to either the Regional Shoreline or Alhambra Creek.
- B. In addition to the special standards for Use Permit approval made above in Section 3, the Downtown Overlay District, MMC Chapter 22.13, provides additional requirements relating to the granting of a Use Permit to adjust the zoning standards of the Downtown Overlay District, which, pursuant to the Downtown Shoreline Zoning District regulations, are applied to property within the Downtown Shoreline Zoning District.

Pursuant to MMC Section 22.13.030.C, a 10' front yard setback may be permitted upon the Planning Commission's finding below. Based on the analysis in the staff report and the record as a whole, the Planning Commission does hereby find:

1. **The proposed front yard setback of 10' is consistent with, and not detrimental to, the existing development in the neighborhood.** The 10' setbacks proposed for both front yards of this dual frontage lot is equal or greater than most of the front yard and street-side side yard setbacks of the surrounding properties, and thus is consistent with the existing pattern of development in the neighborhood. Furthermore, the same 10' setback is permitted for the two street-side side yards on the property.

In addition, MMC 22.13.030.F requires that in order to grant a Use Permit pursuant to the regulations of the Downtown Overlay District, the Planning Commission must make the following findings, which, based on the analysis in the staff report and the record as a whole, the Planning Commission does hereby find:

1. **That the residential development will complement and be compatible with the existing residential community and reflect the historic ambiance of the Downtown residential district.** The Late Victorian/Neoclassical architectural vocabulary, defined by the extensive use of bay windows, horizontal hardboard siding and extensive wood accent wall and roof parapet detailing, will be consistent, compatible, and complementary with the existing residential community and the historic ambiance of the Downtown area, in that these are the same materials, details and design vocabulary found in the majority of the older residential structures of the adjoining established neighborhood.
2. **That the architecture, landscaping and site plan of the residential development will result in a significantly better environment than otherwise would have occurred under the existing zone (sic) district requirements.** As the proposal is consistent with the criteria for granting approval of the maximum density within the Downtown Shoreline District, in that the proposal is superior in design and appearance, with superior historically based architectural detailing and far more extensive landscaping than is currently found in the area, the additional density, height and allowance of 10' front yard setbacks are appropriate adjustments to facilitate the development of a project that will create a significantly better environment than otherwise would occur (see Section A above).

- C. In addition to the special Use Permit findings made above in Section 3.A. for granting the requested increase in density and height, and made above in Section 3.B, Use Permit approval is subject to the provisions of the Martinez Municipal Code as generally applied to all Use Permit requests. Pursuant to MMC Section 22.40.070, the Planning Commission must make the following findings, which, based on the analysis in the staff report and the record as a whole, the Planning Commission does hereby find:

1. **The proposed location of the conditional use is in accord with the objectives of this title, and the purposes of the district in which the site is located.** The stated purpose of the Downtown Shoreline District is to provide for a variety of new residential uses, which are to replace the existing industrial uses that currently separate the older Downtown neighborhood from the Martinez Regional Shoreline Park to the north. The purpose of the District is "...to contribute to the economic revitalization of Downtown, by permitting a sufficient intensity of development to provide the economic incentive for industrial uses to relocate," and as noted in Zoning Ordinance Section 22.23.010 (Purpose), to be replaced with residential development that "respects and complements the existing primarily single-family neighborhood immediately to the south." This proposal is consistent with the criteria for granting approval of the maximum density within the Downtown Shoreline District, in that the proposal is superior in design and appearance, view corridor preservation, provision of on-site amenities and use of green building practices. It is also complementary to the historic architectural styles, varied massing and informal landscape vocabulary of the adjacent neighborhood. Articulation of the proposed building creates the appearance of multiple buildings, echoing the mixture of single- and multi-family buildings of the adjacent neighborhood. Therefore, the Use Permit to allow the proposed density, height and 10' front yard setback is consistent with the objectives of Title 22 and the purposes of the Downtown Shoreline District.

2. **The proposed location of the conditional use and the proposed conditions under which it would be operated or maintained will not be detrimental to the public health, safety or welfare, or materially injurious to properties or improvements in the vicinity.** The conversion of this industrial use to a multi-family development to be built with the conditionally permitted maximum density of the Downtown Shoreline District, and 36' building height, will have no detrimental impact on the current industrial neighbors to the north and east. Furthermore, the building has been designed to avoid materially injurious impacts to the residential neighbors to the south and west. The greatest building mass is located along the north and east sides, adjacent to the current industrial properties and away from the residential properties, where the building's scale is more comparable to that of a single-family neighborhood. The site topography, rising to its greatest elevation at the southwest corner, also helps reduce the apparent height above existing grade. At the corner of Richardson and Buckley Streets, on the opposite corner from the existing single-family homes, the proposal will appear as a two-story building with a 20' building height, comparable to that of the single-family homes within the immediate area and below the threshold for which a Use Permit to allow construction over 30' in height would be required. Additional benefits to the health, safety and welfare to the community will be the removal the visual clutter and a poorly maintained industrial use and structures, remediation of the contaminated ground water from past industrial uses, and the reduction of truck traffic by converting from

industrial to residential uses, with total vehicular traffic remaining well below what was envisioned for the Downtown Shoreline District as planned for in the Specific Plan EIR.

3. **The proposed conditional use will comply with each of the applicable provisions of Title 22 of the Martinez Municipal Code.** With the exception of the incentives/concessions mandated by Government Code Section 65915: *Incentives For Lower Income Housing Development* (see below), the proposal complies with all other applicable provisions of Title 22, including requirements for off-street parking and the development standards, as adjusted with the subject Use Permit approval, of the Downtown Shoreline District.

- D. Based on the Findings as set forth above in Sections A through C, the Planning Commission does hereby grant a Use Permit to allow the proposed maximum 36'/three story building height, where a maximum of 30'/two stories is normally permitted. Pursuant to Downtown Specific Plan Section 9.5.3 and MMC Section 22.23.050.B; Maximum Height for Downtown Shoreline Zoning District, the maximum permitted building height for projects approved at a density of 35 unit per acre is 40', or three stories. With the approval of the Use Permit, the requested maximum building height of 36'/three stories is thus also hereby approved.

Section 5. Granting of Density Bonus and Incentives/Concessions Pursuant to California Government Code Sections 65915-65918.

- A. The applicant has requested a 35% density bonus as well as concessions/incentives and waiver of development standards pursuant to California Government Code Section 65915, as listed below:
 - a) Permitting site coverage of 49% as opposed to the maximum 45% normally allowed.
 - b) Reducing the per unit requirement for useable open space from a minimum of 400 sq. ft. per unit to 226 sq. ft. per unit.
 - c) Allowing a "waiver of development standards" pursuant to Government Code Section 65915(e), to relieve the requirement for a subdivision map to create condominiums, as otherwise required for multi-family projects within the Downtown Shoreline Zoning District.

Government Code Section 65915(d)(1) requires that the City shall grant the concession or incentive unless the city makes a written finding based upon substantial evidence that the requested concession or incentive: a) is not required in order to provide for affordable housing costs or targeted rents, or b) the concession or incentive would have a specific adverse impact, as defined in paragraph (2) of subsection (d) of Section 65589.5, upon public health and safety or the physical environment or on any real property that is listed in the California Register of Historical Resources and for which there is no feasible method to

satisfactorily mitigate or avoid the specific adverse impact without rendering the development unaffordable to low- and moderate-income households, or c) is contrary to State or Federal law. As used in Section 65589.5(d)(2), the term specific adverse impact is defined as "a significant, quantifiable, direct and unavoidable impact, based on objective, identified written public health or safety standards, policies or conditions as they existed on the date the application was deemed complete. Inconsistency with the zoning ordinance or general plan land use designation shall not constitute a specific, adverse impact upon the public health or safety."

The Planning Commission finds that based on the Record as a whole the requested concessions/incentives are required to provide for the affordable housing costs and targeted rents based upon the 49 units necessary to make the project financially feasible. In addition, no evidence was presented to the Planning Commission which established that the requested concessions/incentives would have a specific adverse impact upon the public health, safety or physical environment or on any real property that is listed in the California Register of Historical Resources, and no adverse impacts of the 4% increase in site coverage, or decrease in Usable Open Space were noted. In addition, the development standard exception to permit waiver of the condominium map requirement is financially necessary due to the cost and condominium requirements would not be viable as the property is to be deed restricted to be affordable rentals. Based upon the above, the Planning Commission hereby grants a 35% density bonus and the above noted concessions/incentives and waivers.

Section 5. Approval of Design Review Application and Findings

- A. In order to approve the Design Review application pursuant to MMC 22.43.045, the Planning Commission must make the following findings, and based upon the analysis in the staff report and the record as a whole, the Planning Commission does hereby find that the project:
- 1) **Complies with all other applicable provisions of the Martinez Municipal Code involving the physical development of buildings, structures and property, including use restrictions.** With the exception of the incentives/concessions mandated by California Government Code Section 65915: *Incentives For Lower Income Housing Development*, the proposal complies with all other applicable provisions of Title 22, including use regulations and the development standards, as adjusted with the subject Use Permit approval, of the Downtown Shoreline District and requirement for off-street parking.
 - 2) **Provides desirable surroundings for occupants as well as for neighbors. Emphasis is placed upon exterior design with regard to height, bulk, and area openings; breaks in the facade facing on a public or private street;**

line and pitch of the roof; and arrangement of structures on the parcel. As required by the Downtown Specific Plan, the building's height and mass is well articulated to reduce the appearance of bulkiness, and to thus reflect the relatively lower density residential neighborhood to the south and east. Two deep recesses are provided along the Buckley Street façade, helping the block-long building appear more as a collection of three smaller buildings when viewed in perspective. Much of the Richardson frontage is adjacent to an open courtyard and an exterior parking area, thus landscaped areas, rather than building mass, are located adjacent to this existing residential frontage. Elevations facing the current industrial areas to the north and east are well articulated with bay windows, and include an inviting entry porch along Berrellesa Street. Furthermore, the open space areas created by the provisions of recesses, courtyards and porches are to be improved as useable outdoor areas for occupants, with arbors, trellises and/or outdoor furniture.

- 3) **Has a harmonious relationship with existing and proposed neighboring developments avoiding both excessive variety and monotonous repetition, but allowing similarity of style, if warranted.** The Late Victorian/Neoclassical architectural vocabulary, defined by the extensive use of bay windows, horizontal hardboard siding and extensive wood accent wall and roof parapet detailing, has been designed to be consistent, compatible, and to complement the nearby homes and small multi-family structures within the adjacent Downtown neighborhood. The relatively straightforward Neoclassical vocabulary is used for the majority of the building containing the living units (with such elements as square parapet roofs and simple wood detailing), while the more ornate Queen Anne Victorian vocabulary is used for the common area and lobby (with such elements as an octagonal turreted roof element and more ornate wood porch detailing), thus providing an appropriate level of variety within a unifying theme of historically relevant vocabularies.
- 4) **Uses a limited palette of exterior colors; those colors must be harmonious and architecturally compatible with their surrounding environment (sic).** The project will use similar colors to those in the surrounding areas, primarily based on medium warm earth tones, with more limited use of darker and lighter beiges as accents, which will be harmonious and architecturally compatible with the surrounding environment., which draws from a similar color pallet.
- 5) **Uses a limited number of materials on the exterior face of the building or structure. In addition, all interior surfaces normally visible from public property shall be finished.** The project uses an appropriately limited number of exterior materials, such as horizontal hardboard lap siding, window trim and accents. A variety of wood and man-made materials will be used for the compatible Late Victorian/Neoclassical architectural detailing, including that associated with the porches, arbors, trellises, cornices and brackets. An appropriately textured masonry veneer will be used to echo a traditional foundation wall for the base of the garage at the corner of Berrellesa and

Buckley Streets.

- 6) **Has exterior lighting appropriately designed with respect to convenience, safety, and effect on occupants as well as neighbors.** As per the Conditions of Approval, the developer shall return to the Design Review Committee prior to issuance of building permits to assure that the lighting features to be used are both consistent with the project's Late Victorian/Neoclassical architectural theme and that the lighting sources shall be shielded and/or downcast to avoid creating new sources of glare to existing residents.
- 7) **Effectively conceals work areas, both inside and outside of buildings, in the case of non-residential facilities.** Not applicable; the proposal is not for a non-residential facility.
- 8) **Undergrounds all utility boxes unless it can be shown that they can be effectively screened from the view of the general public.** Project conditions require that all utility boxes be underground or located in screened areas as required by the Engineering Department.
- 9) **Designs the type and location of planting with respect to the preservation of specimen and landmark trees, water conservation as set forth in Chapter 22.35, and maintenance of all planting.** A tree report has been prepared by the applicant (provided as Attachment E), which was used for the development of the proposed landscape plan. As a developed, industrial parcel, all 24 of the trees on site (with 6.5" diameter trunk or larger) are defined by the City as protected trees, regardless of species. As per City policy, approval for removal of protected trees can be granted as part of a project's Design Review approval, which includes the approval of a new landscape plan. Only the 14 Canary Island date palms and five coast redwoods are noteworthy due to their height, and none are landmarks. The grading that will be necessary for the required frontage improvements and proposed construction necessitates the removal (or possible relocation) of all but three of the existing trees, as three of the Canary Island date palms are proposed for retention at their present location at Richardson Street. Other date palms are proposed for relocation within the site, as per the proposed landscape plan. In light of the proposed retention/relocation of the date palms, and extensive replacement plantings of shade and accent trees being proposed, the proposed tree removal, preservation and conceptual planting plan is contextually appropriate. A Condition of Approval requires the developer to return to the Design Review Committee prior to issuance of building permits, for review and approval of a final landscape plan, which shall include review of possible tree and/or shrub species that can replace the coast redwoods with similar evergreen plantings that are more suitable to the somewhat constrained area available for replacement plantings.

- 10) **Establishes a circulation pattern, parking layout and points of ingress and egress (both vehicular and pedestrian), designed to maximize pedestrian safety and convenience and to minimize traffic congestion resulting from the impediment of vehicular movement. When applicable, access for handicapped individuals should be considered.** As a project designed for senior citizens, many of whom will no longer be driving, pedestrian safety features are of added importance and include a pick up/drop off staging area along Berrellesa Street that is separate from the parking area, and a lighted pedestrian crosswalk at the corner of Berrellesa and Buckley Streets. Tenant parking is to be sequestered in the garage, with a separate and smaller guest parking area accessed off of Richardson Street. The separation of tenant parking, guest parking and pedestrian staging areas should maximize safety and reduce potential points of congestion.

- 11) **Ensures that all signs be designed so that they are in scale with the subject development, and will not create a traffic hazard. Emphasis is placed upon the identification of the use or building rather than the advertising of same.** No signage has been proposed.

- 12) **Substantially preserves views from nearby properties where this can be done without severe or undue restrictions on the use of the site, balancing the property rights of the applicant and the affected property owner(s) (sic).** As the subject property has been virtually vacant for decades, some residents on Buckley Street have enjoyed partial views toward the Carquinez Straight across the property. It appears that any development of the property, even at the basic allowable two-story/30' height limit, would block much of the views currently enjoyed by the property owners on this street. Given that any possible design change to preserve these views would place a greater restriction on the use of the property that is prescribed by the basic allowable building envelope, the possible imposition of such design changes can be seen as a severe or undue restriction on the use of the site. However, It should be noted that the views of the Straight from nearby properties further to the south and west will be preserved, as the these residences are at elevations that will be able to see over the proposed building.

NOW, BE IT FURTHER RESOLVED that the Planning Commission approves Use Permit 09-01 and Design Review R 09-12 subject to conditions of approval, incorporated herein by this reference.

I HEREBY CERTIFY that the foregoing is a true and correct copy of a resolution duly adopted by the Planning Commission of the City of Martinez at a regular meeting of said Commission held on the 11th day of August, 2009:

AYES:

NOES:

ABSENT:

BY: _____
Frank Kluber
Planning Commission Chair

Corey M. Simon
Senior Planner

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EXHIBIT A

PLANNING COMMISSION RESOLUTION PC 09-06
"Berrellesa Palms" - 310 Berrellesa Street

QUALIFICATIONS FOR EXEMPTION FROM REQUIREMENTS OF CEQA

Section 1. Public Resources Code Section 21159.21/CEQA Guidelines Section 15192: Exemption for qualified housing project

The Planning Commission finds that the proposed project meets the requirements of Public Resources Code Section 21159.21/CEQA Guidelines Section 15192 in that:

- (a) **The project is consistent with the applicable general plan, and specific plan, including mitigation measures required by the Downtown Specific Plan, as it existed on the date that the application was deemed complete and with the zoning ordinance, as it existed on the date that the application was deemed complete, except that a project shall not be deemed to be inconsistent with the zoning designation for the site if that zoning designation is inconsistent with the general plan only because the project site has not been rezoned to conform with a more recently adopted general plan.** The Project is consistent with the requirements of the General Plan as set forth in Exhibit A , Downtown Specific Plan, DS-Downtown Shoreline Zoning District as set forth in Exhibit C and Mitigation Monitoring Program of the Final Downtown Specific Plan Environmental Impact Report as set forth in the Conditions of Approval which are attached and hereby incorporated herein by reference.
- (b) **Community-level environmental review has been adopted or certified.** The Environmental Impact Report for the Downtown Specific Plan was certified on July 24, 2006.
- (c) **The project and other projects approved prior to the approval of the project can be adequately served by existing utilities, and the project applicant has paid, or has committed to pay, all applicable in-lieu or development fees.** As an infill site, surrounded by existing streets and urbanized uses, all utilities are in place and the project applicant has committed to pay all in-lieu and development fees.
- (d) **The site of the project does not contain wetlands, does not have any value as a wildlife habitat, and the project does not harm any species protected by the federal Endangered Species Act of 1973 (16 U.S.C. Sec. 1531 et seq.) or by the Native Plant Protection Act (Chapter 10 (commencing with Section 1900) of Division 2 of the Fish and Game**

Code), the California Endangered Species Act (Chapter 1.5 (commencing with Section 2050) of Division 3 of the Fish and Game Code), and the project does not cause the destruction or removal of any species protected by a local ordinance in effect at the time the application for the project was deemed complete. For the purposes of this subdivision, "wetlands" has the same meaning as in Section 328.3 of Title 33 of the Code of Federal Regulations and "wildlife habitat" means the ecological communities upon which wild animals, birds, plants, fish, amphibians, and invertebrates depend for their conservation and protection. The site is currently used as an industrial corporation /storage yard and is paved. The site has no wetlands or wildlife habitat.

- (e) **The site of the project is not included on any list of facilities and sites compiled pursuant to Section 65962.5 of the Government Code.** The site is not on a list relating to hazardous waste as defined by Section 65962.5
- (f) **The site of the project is subject to a preliminary endangerment assessment prepared by a registered environmental assessor to determine the existence of any release of a hazardous substance on the site and to determine the potential for exposure of future occupants to significant health hazards from any nearby property or activity.**
 - (1) **If a release of a hazardous substance is found to exist on the site, the release shall be removed, or any significant effects of the release shall be mitigated to a level of insignificance in compliance with state and federal requirements.** Soil and groundwater of this formally industrial site shall be remediated as per the requirements of the Mitigation Monitoring Program of the Final Downtown Specific Plan Environmental Impact Report and the Bay Area Regional Water Quality Control District as set forth in the Conditions of Approval which are attached and hereby incorporated herein by reference.
 - (2) **If a potential for exposure to significant hazards from surrounding properties or activities is found to exist, the effects of the potential exposure shall be mitigated to a level of insignificance in compliance with state and federal requirements.** No significant hazards from surrounding properties have been found to exist.
- (g) **The project does not have a significant effect on historical resources pursuant to Section 21084.1.** As per the Historic Resource Inventory and Evaluation Report, prepared for RCD by Carey & Co, Inc. Architecture and dated February 17, 2009, there are no structures on the site or on the

opposite side of the street surrounding the block that are listed, or appear to be eligible for listing, as historical resources as defined in Section 21084.1.

(h) **The project site is not subject to any of the following:**

- (1) **A wildland fire hazard, as determined by the Department of Forestry and Fire Protection, unless the applicable general plan or zoning ordinance contains provisions to mitigate the risk of a wildland fire hazard.** The site is within an urbanized area, where wildland fire hazards are not present.
 - (2) **An unusually high risk of fire or explosion from materials stored or used on nearby properties.** The neighboring industrial properties do not pose an unusually high risk of fire or explosion, as documented in the Final Downtown Specific Plan Environmental Impact Report.
 - (3) **Risk of a public health exposure at a level that would exceed the standards established by any state or federal agency.** There will not be exposure above established safety standards, as documented in the Final Downtown Specific Plan Environmental Impact Report.
 - (4) **Within a delineated earthquake fault zone, as determined pursuant to Section 2622, or a seismic hazard zone, as determined pursuant to Section 2696, unless the applicable general plan or zoning ordinance contains provisions to mitigate the risk of an earthquake fault or seismic hazard zone.** The site is not within a earthquake fault zone or a seismic hazard zone.
 - (5) **Landslide hazard, flood plain, flood way, or restriction zone, unless the applicable general plan or zoning ordinance contains provisions to mitigate the risk of a landslide or flood.** Flood hazard shall be mitigated as per the requirements MMC Chapter 15.30; Floodplain Management, and as set forth in the Conditions of Approval which are attached and hereby incorporated herein by reference.
- (i) (1) **The project site is not located on developed open space.** The site is currently a private industrial storage facility, and is not developed open space as defined below.
- (2) **For the purposes of this subdivision, "developed open space" means land that meets all of the following criteria:**
- (A) **Is publicly owned, or financed in whole or in part by public funds.**
 - (B) **Is generally open to, and available for use by, the public.**
 - (C) **Is predominantly lacking in structural development other than structures associated with open spaces, including, but not**

limited to, playgrounds, swimming pools, ballfields, enclosed child play areas, and picnic facilities.

- (3) For the purposes of this subdivision, "developed open space" includes land that has been designated for acquisition by a public agency for developed open space, but does not include lands acquired by public funds dedicated to the acquisition of land for housing purposes
- (j) The project site is not located within the boundaries of a state conservancy. Not applicable.

Section 2. Public Resources Code Section 21159.23/CEQA Guidelines
Section 15194: Exemption for affordable low income housing

The Planning Commission finds that the proposed project is exempt for CEQA pursuant to Public Resources Code Section 21159.23/CEQA Guidelines Section 15194 as set forth below:

- (a) **CEQA does not apply to the proposed development project which consists of the construction, conversion, or use of residential housing consisting of 100 or fewer units and is 100% affordable to low-income households if both of the following criteria are met (sic):**
- (1) **The developer of the development project provides sufficient legal commitments to the appropriate local agency to ensure the continued availability and use of the housing units for lower income households, as defined in Section 50079.5 of the Health and Safety Code, for a period of at least 30 years, at monthly housing costs, as determined pursuant to Section 50053 of the Health and Safety Code.** The developer will enter into agreements with Contra Costa County (as the distributor of CBDG funds) and the City to assure rents stay at affordable levels to qualifying low income seniors for a period of 55 years, as set forth in the Conditions of Approval which are attached and hereby incorporated herein by reference.
- (2) **The development project meets all of the following requirements:**
- (A) **The project satisfies the criteria described in Section 21159.21.** (see discussion in Section 1, above)
- (B) **The project site meets one of the following conditions:**
- (i) **Has been previously developed for qualified urban uses.** The site has been improved as a service commercial/industrial storage facility, a qualified urban use as defined in Section 21072.

- (ii) **The parcels immediately adjacent to the site are developed with qualified urban uses, or at least 75 percent of the perimeter of the site adjoins parcels that are developed with qualified urban uses and the remaining 25 percent of the perimeter of the site adjoins parcels that have previously been developed for qualified urban uses, and the site has not been developed for urban uses and no parcel within the site has been created within 10 years prior to the proposed development of the site. 50% of the site is surrounded by residential uses, 25% by a public institutional use (City Corporation Yard), and the remaining 25% with service commercial/industrial uses.**
 - (C) **The project site is not more than five acres in area. Project site is 1.03 acres.**
 - (D) **The project site is located within an urbanized area or within a census-defined place with a population density of at least 5,000 persons per square mile or, if the project consists of 50 or fewer units, within an incorporated city with a population density of at least 2,500 persons per square mile and a total population of at least 25,000 persons. The City of Martinez is within an Urbanized Area with a population of approximately 36,000, with a density of approximately 2850 persons per square mile.**
- (b) **Notwithstanding subdivision (a), if a project satisfies all of the criteria described in subdivision (a) except subparagraph (D) of paragraph (2) of that subdivision, this division does not apply to the project if the project is located within either an incorporated city or a census defined place with a population density of at least 1,000 persons per square mile. The project satisfies the criteria of subdivision (a).**
- (c) **Notwithstanding subdivision (b), this division applies to a project that meets the criteria of subdivision (b), if there is a reasonable possibility that the project would have a significant effect on the environment or the residents of the project due to unusual circumstances or due to the related or cumulative impacts of reasonably foreseeable projects in the vicinity of the project. Not applicable; the project satisfies the criteria of subdivision (a).**
- (d) **For the purposes of this section, "residential" means a use consisting of either of the following:**
- (1) **Residential units only.**
 - (2) **Residential units and primarily neighborhood-serving goods, services, or retail uses that do not exceed 15 percent of the total floor area of the project.**
- The project is solely for residential uses, with no retail uses.

Section 3. Public Resources Code Section 21159.24/CEQA Guidelines
Section 15195: Exemption for infill housing

The Planning Commission finds that the proposed project is exempt for CEQA pursuant to Public Resources Code Section 21159.24/CEQA Guidelines Section 15195 as set forth below:

a) **CEQA does not apply to this project, as the following criteria are met:**

- (1) **The project is a residential project on an infill site.** The site has been improved as a service commercial/industrial storage facility, a qualified urban use as defined in Section 21072. The site is also surrounded by properties that have been developed with qualified urban uses, with 50% of the site is surrounded by residential uses, 25% by a public institutional use (City Corporation Yard), and the remaining 25% with service commercial/industrial uses.
- (2) **The project is located within an urbanized area.** Pursuant to the definition of urbanized area in Section 21071, the combined populations of the contiguous cities of Martinez, Pleasant Hill and Concord exceed a population of 100,000.
- (3) **The project satisfies the criteria of Section 21159.21** (see discussion in Section 1, above).
- (4) **Within five years of the date that the application for the project is deemed complete pursuant to Section 65943 of the Government Code, community-level environmental review was certified or adopted.** The Environmental Impact Report for the Downtown Specific Plan was certified on July 24, 2006.
- (5) **The site of the project is not more than four acres in total area.** Project site is 1.03 acres.
- (6) **The project does not contain more than 100 residential units.** The Project contains 49 residential units.
- (7) (A)(i) **At least 10 percent of the housing will be sold to families of moderate income, or not less than 10 percent of the housing is rented to families of low income, or not less than 5 percent of the housing is rented to families of very low income.** 100% of the project will be affordable to low income residents, as defined in California Government Code Sections 65915-65918.

(ii) **The project developer provides sufficient legal commitments to the appropriate local agency to ensure the continued availability and use of the housing units for very low, low-, and moderate-income households at monthly housing costs determined pursuant to paragraph (3) of subdivision (h) of Section 65589.5 of the Government Code.** The developer will enter into agreements with Contra Costa County (as the distributor of CBDG funds), and the City, to assure rents stay at affordable levels to qualifying low income seniors for a period of 55 years.

(B) **The project developer has paid or will pay in-lieu fees pursuant to a local ordinance in an amount sufficient to result in the development of an equivalent number of units that would otherwise be required pursuant to subparagraph (A).** Project complies with requirements of subparagraph (A).

(8) **The project is within one-half mile of a major transit stop.** The site is approximately 500' away from the Martinez Intermodal Transportation facility, with Amtrak, and both regional and local bus service.

(9) **The project does not include any single level building that exceeds 100,000 square feet.** The project consists of a three level building, with less than 100,000 sq. ft.

(10) **The project promotes higher density infill housing. A project with a density of at least 20 units per acre shall be conclusively presumed to promote higher density infill housing. A project with a density of at least 10 units per acre and a density greater than the average density of the residential properties within 1,500 feet shall be presumed to promote higher density housing unless the preponderance of the evidence demonstrates otherwise.** The proposal has a density of 49 units per acre.

b) **In addition, the following findings are made as the applicability of the exemption:**

(1) **There is not a reasonable possibility that the project will have a project-specific, significant effect on the environment due to unusual circumstances.** There are no unusual factors present that would create the possibility for the individual project to have a significant effect on the environment. This is an infill project on an already developed commercial/industrial site surrounded by urban uses. Traffic will be less than the current use it is replacing. Noise will similarly be reduced.

(2) **Substantial changes with respect to the circumstances under which the project is being undertaken that are related to the project have occurred since community-level environmental review was certified**

or adopted. The Program Environmental Impact Report for the Downtown Specific Plan was certified on July 24, 2006. There have been no substantial changes regarding the site or its surroundings since that time.

- (3) **New information becomes available regarding the circumstances under which the project is being undertaken and that is related to the project, that was not known, and could not have been known, at the time that community-level environmental review was certified or adopted.** The Program Environmental Impact Report for the Downtown Specific Plan was certified on July 24, 2006. There has not been any new information regarding the site or its surroundings since that time.

Section 5. CEQA Guidelines Section 15182; residential projects pursuant to a specific plan

The Planning Commission finds that the proposed project is exempt for CEQA pursuant to CEQA Guidelines Section 15182 as set forth below:

- a) **Exemption.** Where a public agency has prepared an EIR on a specific plan after January 1, 1980, no EIR or negative declaration need be prepared for a residential project undertaken pursuant to and in conformity to that specific plan if the project meets the requirements of this section. The Program Environmental Impact Report for the Downtown Specific Plan was certified on July 24, 2006.
- b) **Scope.** Residential projects covered by this section include but are not limited to land subdivisions, zoning changes, and residential planned unit developments. The proposal is for a senior citizens' apartment building.
- c) **Limitation.** This section is subject to the limitation that if after the adoption of the specific plan, an event described in Section 15162 should occur, this exemption shall not apply until the city or county which adopted the specific plan completes a subsequent EIR or a supplement to an EIR on the specific plan. The exemption provided by this section shall again be available to residential projects after the Lead Agency has filed a Notice of Determination on the specific plan as reconsidered by the subsequent EIR or supplement to the EIR. As defined in Section 15162, there have been no substantial changes to the site, neighborhood or circumstances, or new information that would warrant the preparation of additional environmental analysis.
- d) **Fees.** The Lead Agency has authority to charge fees to applicants for projects which benefit from this section. The fees shall be calculated in the aggregate to defray but not to exceed the cost of developing and

adopting the specific plan including the cost of preparing the EIR. Not applicable.

- e) **Statute of Limitations.** A court action challenging the approval of a project under this section for failure to prepare a supplemental EIR shall be commenced within 30 days after the Lead Agency's decision to carry out or approve the project in accordance with the specific plan. Not applicable.

Section 6. CEQA Guidelines Section 15332: Categorical exemption for infill development projects

The Planning Commission finds that the proposed project is exempt for CEQA pursuant to CEQA Guidelines Section 15332 as set forth below:

- 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 is consistent with the General Plan High Density Land Use Designation as set forth in Exhibit B and Downtown Specific Plan and Downtown Shoreline District as set forth in Exhibit C.
- b) **The proposed development occurs within city limits on a project site of no more than five acres substantially surrounded by urban uses.** Project site is 1.03 acres, and is surrounded by properties that have been developed with qualified urban uses, with 50% of the site is surrounded by residential uses, 25% by a public institutional use (City Corporation Yard), and the remaining 25% with service commercial/industrial uses.
- c) **The project site has no value as habitat for endangered, rare or threatened species.** The site is currently used as an industrial corporation /storage yard, and is paved. The site has no wetlands or wildlife habitat.
- d) **Approval of the project would not result in any significant effects relating to traffic, noise, air quality, or water quality.** The Program Environmental Impact Report for the Downtown Specific Plan was certified on July 24, 2006. No effects beyond those already evaluated will result. In addition, traffic noise, air water quality impacts will all be less than the current industrial use.
- e) **The site can be adequately served by all required utilities and public services.** As an infill site, surrounded by existing streets and urbanized uses, all utilities are in place.

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EXHIBIT B

PLANNING COMMISSION RESOLUTION PC 09-06
"Berrellesa Palms" - 310 Berrellesa Street

FINDINGS OF CONSISTENCY WITH THE GENERAL PLAN

The proposed development of a new 49 unit affordable senior apartment building: "Berrellesa Palms" ("Project") is consistent with the policies of the Martinez General Plan, and the Central Martinez Specific Area Plan, a component thereof, including, but not limited to the following:

21.341 - Land Use Element, Residential Uses, High Density Residential Areas: **High density residential development...shall be permitted in limited areas. The primary purpose is provision for apartment types of housing accommodations to serve the needs of single persons, families with preschool children and childless households.**

Facts in Support: The project appropriately provides housing opportunities to senior citizens, who are typically childless and often maintain single person households.

30.26 - Central Martinez Specific Area Plan Goal: **Achieve a visually pleasing community in which structures and surroundings are related in a harmonious and functional pattern while eliminating unattractive elements and arresting deterioration.**

Facts in Support: The replacement of the present industrial use with the proposed residential use, as envisioned by the Downtown Specific Plan will create a more functional residential community to patronize the downtown commercial areas and will remove what many would view as an unattractive industrial storage yard use. The proposed residential use, with its neo-traditional architecture that echoes that of the adjacent downtown neighborhood, will form a harmonious and functional relationship with its existing residential neighbors.

30.522 - Central Martinez Specific Area Plan, Housing: **Areas which encircle the central business district now underutilized or in light industrial and commercial use, may be converted to residential use of appropriate density and structure type. This should increase the housing supply and should eliminate the threat of visual and structural blight to adjacent residential neighborhoods.**

Facts in Support: In implementation of this General Plan policy, the subject and adjoining industrial properties were designated for residential uses in 2006 with the adoption of the Downtown Specific Plan. The subject development, to be built at the higher densities and with the traditional design elements consistent with the Specific Plan, will replace an underutilized industrial storage yard. The accessory structures on this site are in poor condition, and given that the site's industrial use is nonconforming, improvements to these structures are unlikely, thus the removal and replacement with a new conforming residential structure will not only increase the housing supply but will remove a potential source of visual blight.

30.524 - Central Martinez Specific Area Plan, Housing: New construction of multi-family housing should be encouraged to meet present demand and to "reconstruct" blighted areas, where such construction will not threaten the character of existing neighborhoods. Infill development of vacant and underutilized parcels at a higher density should be encouraged, if development reinforces architectural styles, a higher quality development, and encourages the consolidation of smaller parcels .

Facts in Support: The proposed project is multifamily housing which will replace the currently non-conforming commercial/industrial use on the project site and improve this blighted area. This proposed infill development encompasses the higher development standards encouraged by the Downtown Specific Plan. It includes contextually appropriate neo-traditional architectural massing and building finishes and provides higher density housing without threatening the character of the adjacent neighborhood.

Housing Element, Goal #1, Adequate Supply of Housing: Achieve an adequate supply of safe, decent housing for all economic segments of the community. Promote throughout the City a mix of housing types responsive to household size, income, age and accessibility needs (this site has been identified as an opportunity site for affordable housing in the City's current Housing Element).

Facts in Support: The development will serve very low income senior citizens, a population that the Housing Element has identified as having inadequate affordable housing opportunities. In addition, the project will add to the mix of housing in the downtown area by providing accessible multi-family housing.

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EXHIBIT C

PLANNING COMMISSION RESOLUTION PC 09-06 "Berrellesa Palms" - 310 Berrellesa Street

FINDINGS OF CONSISTENCY WITH THE DOWNTOWN SPECIFIC PLAN

The proposed development of a new 49 unit affordable senior apartment building; "Berrellesa Palms" ("Project") is consistent with the policies of the Downtown Martinez Specific Plan, including, but not limited to the following:

Section 1. LAND USE (2.2.1)

Goal LU-1: To provide land use opportunities for Downtown Martinez to serve as a cultural, arts and entertainment center offering a wide range of opportunities for residential lifestyles, work environments, shopping, entertainment, culture and the arts.

Policy LU-1-1: **Maintain the integrity of each Downtown area** (there is a goal stated for each of the five districts) **as follows:**

Downtown Shoreline: The developed area, currently in industrial use, between the railroad tracks and the Downtown Core and Neighborhood Districts. The land use strategy is centered on relocating industry and creating new development that is in keeping with the traditional Downtown character.

Section 9.1 of the Downtown Shoreline District chapter states: **The intent of the Downtown Shoreline area is to provide for a variety of residential uses in an environment that is transitioning from industrial to residential uses. This area serves as a transition area between the urbanized portion of the Downtown and the open space of the Martinez Regional Shoreline to the north. The standards and guidelines for this area are intended to protect and enhance the environmentally sensitive areas of the Shoreline, and contribute to the economic revitalization of Downtown, by permitting a sufficient intensity of development to provide an economic incentive for industrial uses to relocate.**

Facts in Support: The relatively higher density and larger building mass of the proposal, when compared to its immediate neighbors, is consistent with the Specific Plan's goals of providing new housing opportunities through the economic incentive created by permitting sufficiently high density residential development, which makes the relocation of the former industrial use financially viable to both the seller and developer. The new development continues the Downtown's traditional character, by offering housing within buildings of varied residential densities, which in this case will provide high density apartments alongside single-family, duplex and small multi-family buildings. The Downtown's traditional visual character is maintained with the use of neo-

traditional architectural elements echoing those found throughout the neighborhood, and well articulated massing that creates the appearance of several small multi-family buildings, rather than one large building. This project creates an image similar to that of the adjacent older residential neighborhoods.

Policy LU-1-4: Provide incentives for infill development throughout Downtown, with an emphasis on the opportunity sites identified in the Plan.

Facts in Support: The subject property was identified as Opportunity Site 4 in the 2003 Economic Revitalization Concept developed for the Specific Plan. The Downtown Shoreline District regulations allow the highest possible residential density (outside the Downtown Core District) to encourage the conversion of this industrial property to residential use.

Policy LU-1-5: Encourage the establishment of a vibrant mix of uses that will serve the needs of both residents and visitors and will help create a vibrant daytime and nighttime and weekend environment.

Facts in Support: The subject project will introduce new residents to a currently unpopulated industrial site. The new senior citizens residents, and the anticipated visits from family members, will add to the potential for economic activity beyond the mid-day, workday hours.

Policy LU-1-9: Encourage construction of residential development within walking distance of the City's Intermodal Station (Amtrak) to encourage use of rail passenger service

Facts in Support: The subject residential project is within two blocks of the Station. The path is level and project's crosswalk improvements are proposed to further encourage pedestrian travel from the project to the Station.

Section 2. HOUSING (2.2.3)

Goal H-1: To help Downtown Martinez succeed as an active daytime, evening and weekend downtown, encourage transit and pedestrian oriented housing in areas that are now outside the traditional residential neighborhoods, to include the Downtown Core and areas currently in industrial use

Policy H-1-1: Provide a variety of housing options affordable to varied income groups, including single-family houses, townhouses, live-work loft space, condominiums and apartments, and mixed-use buildings with a residential component.

Facts in Support: The subject residential project adds variety to the Downtown Housing stock by providing secure multi-family opportunities for low income seniors that are not currently available.

Policy H-1-5: Encourage and promote new transit and pedestrian oriented residential projects, new secondary residential units, and the use of upstairs spaces in existing buildings in the Downtown Core for housing to increase housing options and help bring daytime, evening and weekend activity to the Downtown.

Facts in Support: The subject residential project provides a new housing opportunity within two blocks of the Intermodal Station. The proposal will increase the day and nighttime population of the Downtown area, with new working and retired residents, many of which will add to the daytime, evening and weekend retail activity of the nearby commercial areas downtown.

Section 3. ECONOMIC DEVELOPMENT (2.2.4)

Goal ED-1: Strengthen Downtown as a local and regional destination for specialty shopping, dining, nightlife, employment, culture and the arts.

Policy ED-1-5: Target key infill residential opportunities including small lot and row homes, townhouses, apartments and condominiums and live/work loft space.

Facts in Support: The subject property was identified as Opportunity Site 4 in the 2003 Economic Revitalization Concept developed for the Specific Plan. The Downtown Shoreline District regulations allow the highest possible residential density (outside the Downtown Core District) to encourage the conversion of this industrial property to residential use.

Section 4. URBAN DESIGN (2.2.5)

Goal UD-1: Strengthen the identity and character of Downtown using the existing historic and architectural urban character of the community, while allowing for new structures that are architecturally compatible with, and complementary to, the existing architectural and historic fabric.

Policy UD-1-1: Through design review, ensure that new development enhances the character of the Downtown Districts by requiring design qualities and elements that contribute to an active pedestrian environment, where appropriate, and ensuring that architectural elements are compatible and in scale with the existing historic structures in the Downtown.

Findings in Support: The Victorian/Neoclassical architectural vocabulary for the proposed project is the same as that used on many of the nearby structures in the adjoining neighborhood, using predominantly wood detailing and horizontal siding, with bay windows and deep indentations in the building's southern façade, bringing the building's sense of scale closer to that of the older, smaller multi-family buildings of the adjoining neighborhood. Pedestrian scales arbors and main entry porch also help to keep the visual scale of the building comparable to that of the older structures.

Section 5. DOWNTOWN SHORELINE STANDARDS & DESIGN GUIDELINES
(9.6)

9.6.1: Consistency with Downtown Shoreline Character Defining Statements:

The character of the Downtown Shoreline area is defined by its proximity to Downtown residential neighborhoods to the south and the Martinez Regional Shoreline to the north. This is primarily a district for residential uses, including semi- and/or fully-attached single-family homes, live-work uses, and small multifamily structures. New development should be planned to create views of the Shoreline from Downtown where possible. Large industrial uses are encouraged to relocate out of the District, but smaller, self-contained service commercial uses may coexist with existing and new residential uses.

Facts in Support: The defining statement is intended to be the prism through which the City can determine the applicability and conformance of the more detailed and specific guidelines to follow. As in the above policy discussion, the introduction of a multifamily building does not conflict with the character of the existing neighborhood. As the Downtown Shoreline is a neighborhood yet to have its own residential character, the adjoining Downtown Neighborhood District (adjoining the site to the south and west) was used to draw inspiration, with the sum of that whole adjoining neighborhood, not just the opposing sides of the streets from the project site, to establish the context. It is within this wider context of mixed densities and historic styles that the proposal is consistent. It should be noted that quarter block multifamily buildings (sites of 100' x 100') are common throughout the Downtown Neighborhood District, intermingled within the single-family and duplex buildings. It is within this scale of small multi-family that the applicant has modeled the current design

9.6.2-4: Consistency with Downtown Shoreline Specific Design Guidelines

The Specific Plan Design Guidelines aide project designers and decision-makers in developing projects that comply with the broad goals, policies and character defining statements of the Specific Plan, above. In addition, the following provision under Chapter 3; Downtown Land Use Areas states:

3.3.3. Interpretation - The design guidelines are general and may be interpreted by the Design Review Committee for specific projects with some flexibility, consistent with the purpose of the district. Variations may be considered for projects with special design characteristics during the City's design review process to encourage the highest level of design quality while at the same time providing the flexibility necessary to encourage creativity on the part of project designers.

The Proposal is consistent with the Downtown Shoreline District Design Standards and Guidelines, including, but not limited to, the following:

9.6.3 Architecture

Style:

- a) **New buildings should have a traditional residential style, reminiscent of existing residences in the adjacent Downtown Neighborhood District.**
- b) **A consistent architectural style should be used for a building and the elements that relate to it, such as trellises, carports, roof forms, windows and detailing. While specific architectural styles are not dictated, several styles predominate in the Downtown Neighborhood District and the other residential parts of Downtown Martinez and should provide inspiration to help maintain Martinez' unique character. Styles need not be replicated literally, but should be clearly reflected in a proposed project.**
- c) **For buildings with more than six residential units, or projects with more than two residential buildings, design shall be varied, not uniform or monotonous.**

Facts in Support: The entire complex uses neoclassical design elements from the late Victorian/Edwardian era from the turn of the last century. Much of the window, parapet and cornice details are from what in the greater Bay Area may be called neoclassical themes from the early 1900's. Elements of these complementary design vocabularies are common throughout the Downtown Neighborhood District. In addition, the proposed project draws inspiration from existing residential structures in the adjoining Downtown Neighborhood District, such as the three-level apartment building at the southwest corner of Main and Talbert Street, which like the proposed project, has horizontal siding and a neo-traditional cornice at the parapet that surrounds the flat roof. In addition, the use of period bay window details, and more significant recesses in the façade mid-block at Buckley Street, achieves the visual variety necessary for consistency with the Guidelines.

Scale:

- a) **New buildings should respect the overall massing scale of the neighborhood.**
- b) **Long blank walls should be avoided.**

Findings in Support: One of the greatest challenges of the proposal is meeting the functional demands of a blocked-sized senior apartment building, while respecting the established massing pattern of the neighborhood, where buildings are typically on 50' x 100' or 100' by 100' (quarter block) lots. As stated above, changes in façade plane (Buckley Street elevation), as well as significant break changes in the roof and detailing for the lobby and common area (Berrellesa Street elevation,) appropriately echo the massing of how smaller lots would have developed individually. The proposal is consistent with the Guidelines for Scale, in that no long wall planes exist, because significant indentations and/or bay window projection are incorporated into all façade planes, which would otherwise appear longer had such articulations not been incorporated into the design.

Roof Design:

The typical roof in this area should be of a pitched design reflective of nearby residences.

Findings in Support: While pitched roofs are typically a good tool to reduce visual massing and achieve compatibility within an older residential context, the specific circumstances of the parcel have instead lead the applicant to propose a flat roof as a means of fitting into the existing context. In applying the flexibility prescribed by the Specific Plan in provision 3.3.3., the variation of a flat roof with a parapet, as opposed to pitched roof, appears warranted for the following reasons:

- i) A flat roof with parapet allows for a lower overall building height (approximately 35') as opposed to 38'-40' with a pitched roof. In previous public meetings and at the Planning Commission study session, the applicant was given specific direction to reduce building height to the greatest extent possible while preserving the integrity of the project's affordable housing objective.
- ii) This particular setting contains adjacent and nearby structures (e.g. the existing multi-family structure at the southwest corner of Berrellesa and Buckley Streets) that have flat roofs.

Section 6. GENERAL DESIGN GUIDELINES(10.3)

The project is in substantial compliance with the General Design Standards and Guidelines – Chapter 10, as set forth in the project staff report dated July 28, 2009.

Section 7. PARKING (Chapter 12)

12.2: Consistency with Off-Street Parking Requirements:

Downtown Specific Plan Section 12.2.1 compliance with Zoning Ordinance Chapter 33.36: Off-Street Parking and Loading Facilities. Section 22.36.030 states: For subsidized or assisted senior citizen housing, there shall be a minimum of .35 parking spaces per dwelling unit.

Facts in Support: The proposal exceeds the Zoning Ordinance's minimum requirement, as 33 parking spaces for the 49 units are proposed, resulting in a ratio of .67 spaces per unit.

12.4: Consistency with Bicycle Parking Requirements:

12.4.2 Residential Uses: For residential development requiring Design Review, one sheltered, secure bicycle parking space per dwelling unit should be required. Bicycle parking may be located in garages, basements, storage sheds, utility rooms, or similar areas that can be secured from unauthorized access and are sheltered from sun and rain. Additional convenience bicycle parking may be provided with exterior racks but does not count toward the sheltered bicycle parking requirement.

12.4.5 Visibility and Security: Bicycle parking should be visible to cyclists from the street and visible from at least one building entrance and the sidewalk, in order to provide increased security. Bicycle parking areas should be at least as well lit as vehicle parking areas.

Facts in Support: As a senior citizen apartment project, the anticipated level of bicycle use is substantially less than one would expect for a general market residential project. While a guideline of providing one bicycle parking space for each unit is recommended in the Specific Plan, the applicant's proposal that one bike rack be installed in the garage for residents for approximately five bicycles, and that an outdoor rack be provided near the rear parking lot for approximately 5 bicycles (to be used by visitors and/or employees) is appropriate.

CONDITIONS OF APPROVAL [FINAL DRAFT]
AS APPROVED BY PLANNING COMMISSION

NOTE: Changes and additions to Standard City conditions are in **boldface type**

Project Name: "BERRELLESA PALMS" (49 unit affordable senior apartments.)

Site Location: 310 Berrellesa Street

I. Description of Permit: These conditions apply to and constitute the approval of

- A. Use Permit #09-01 to allow density and height above 17unit per acre, 2 story/30'height limit normally permitted in the DS – "Downtown Shoreline" zoning district, and 10' front yard setback, permitting density at 35 units per acre (49 units per acre with State mandated density bonus) and maximum building height of 36'.
- B. Design Review #09-12 consisting of: development plans, building elevations and sections, tree preservation/removal and landscape plan, colors and materials.

II. Exhibits

The following exhibits are incorporated as conditions of approval, except where specifically modified by these conditions:

EXHIBIT	DATE RECEIVED	PREPARED BY	PAGES
Site and Architectural plans	July 23, 2009	KTGY Architects	17
Preliminary Grading, Drainage and Stormwater Treatment plans		Luk and Associates, Civil Engineering	4
Landscape plans		Keller Mitchell & Co Landscape Architecture	2

All construction plans, including but not limited to the final map, improvement/grading plans and construction plans for the individual units shall conform to these exhibits, except as modified by these conditions. Where a plan or further information is required by these conditions, it is subject to review and approval by the Planning Division, Engineering Division and/or Building Department, or as noted.

III. Special Requirements for Development

- A. **Prior to issuance of building permit, the developer shall record a deed restriction or agreement, restricting the use of the property (as designed with 33 parking spaces) as "subsidized senior citizen**

housing,” in perpetuity, as prescribed in MMC Section 22.36.030; Parking Requirements for Residential Uses. Any possible adjustments to this restriction, which would be subject to the City’s approval, and would be predicated upon either the provision of additional parking, as such is otherwise required of all multifamily housing projects other than those exclusively for “subsidized senior citizen housing” and/or the City’s discretionary approval of a parking variance. Final wording of deed restriction or agreement, and method of recordation subject to approval of City Attorney.

- B. Prior to issuance of a building permit, the developer shall enter into an affordable housing agreement setting forth the affordable housing requirements Pursuant to State Density Bonus Law, of the project, and rental restrictions in a form acceptable to the City manager and City Attorney.
- C. Prior to issuance of building permit, the developer shall return to the Design Review Committee (DRC), for final review and approval of detailed design features including but not limited to: exterior lighting fixtures, masonry veneers and/or alternative treatment of all exterior retaining walls, railings, decorative paving materials, final planting plan and augmentation of Richardson Street elevations with such features as added bay windows and/or trellises. Plans submitted for building permit issuance shall incorporate all requirements of this subsequent DRC review.
- D. The developer shall use the construction practices, materials and/or standards, established by the U.S. Green Building Council (USGBC), for certification pursuant to the Leadership in Energy and Environmental Design (LEED) for Homes Green Building Rating System. The features to be provided may include, but are not limited to: diversion of 75% of demolition waste, exceeding energy performance standards of State Title 24 by over 15%, use of Energy Star refrigerators and dishwashers in all units, use of double glazed low E windows, rain water harvesting for irrigation of drought tolerant landscaping, solar hot water and photovoltaics to offset common area energy usage and interior finishes and materials to improve indoor air quality, such as recycled content carpets, formaldehyde free materials and low or no VOC paints.
- E. Bicycle parking shall be provided, with one bike rack provided in the garage for residents, for approximately five bicycles, and that an outdoor rack be provided near the rear parking lot for approximately 5 bicycles (to be used by visitors and/or employees), or equivalent to be approved by staff.
- F. The project developer shall comply with each of the applicable Mitigations Measures set forth in the Downtown Specific Plan

Mitigation and Monitoring Program Approved by the City Council, July 24, 2006.

IV. Site Plan

A. Lighting

1. Building plans and landscaping plans shall show all exterior lighting: walkways, driveway areas, recreational areas, etc. Height and style shall be shown.
2. All exterior lighting shall be directed such that lights create as little off-site glare and nuisance as is feasible. All fixtures shall be glare-shielded.
3. Energy-saving fixtures shall be used.

V. Architectural

- A. All building materials, windows and colors and shall be substantially as shown on the materials and color exhibit dated July 23, 2009, as on file with the Planning Division, **or as subsequently modified by pending DRC's final review and approval of design details.**
- B. All exterior and roof mounted utility and meter boxes, and mechanical equipment shall be screened from off-site public view. Equipment and screening shall be shown on final construction plans and subject to staff review and approval.

VI. Trees, Landscaping, Walls and Fences

- A. **Removal of existing trees is limited to those identified for removal in the Tree Report prepared by Hort-Science and dated: March 2009, or as approved by DRC as part of the final Landscape Plan approval required in Condition III.B. All trees to be retained and/or relocated shall be protected as per the measures identified in the report.**
- B. **Final Landscape Plans to be submitted for DRC's approval as required in Condition III.B, shall incorporate a variety of evergreen and deciduous trees, to be planted in informal clusters, along the Berrellesa, Buckley, Richardson and Foster Street frontages. Subsequent to the DRC's approval, the final landscape construction plans shall:**
 1. Be prepared by a licensed landscape architect, on the grading plan as a base map and shall be submitted for review and approval by the City at the same time grading and improvement plans are submitted. Final landscape construction plans must receive City approval prior to

issuance of building or grading permits, whichever comes first. Plans shall:

- a) Protect planting areas adjacent to parking areas with minimum 6" high concrete curbs or equivalent.
- b) Be prepared in accordance with the City's adopted water conservation and landscaping ordinance (Martinez Municipal Code Chapter 22.35).
- c) Specify trees of minimum 15 gallon size with **50% of trees adjacent to the Berrellesa, Buckley, Richardson and Foster Street frontages to be 24" box size.**
- d) Specify shrubs of minimum 5-gallon size
- e) Provide either lawn or a continuous ground cover with complete coverage within 3 years.
- f) Show all non-plant features: benches, lights, arbors, mail box areas paths, etc.
- g) Include an irrigation plan.

C. Fences

1. All fencing, retaining walls, barriers, etc., shall be installed by the developer, and shall be shown on the site and landscape plan.
2. The maximum height for all new walls, fences and/or fences on retaining walls shall be 6 feet unless as otherwise shown on approved plans. Fences off-set from retaining walls 18 inches or greater shall be considered separate structures with a maximum height of 6 feet each.

VII. Noise Control, Dust and Conditions for Construction Activity

- A. All construction activities shall conform to the City's Noise Control Ordinance, Chapter 8.34 of the Municipal Code: Construction activities including delineation and starting/warming of vehicles are limited to the hours of 7:00 a.m. to 7:00 p.m., Monday through Friday; and 9:00 a.m. to 5 p.m. Saturday and Sunday. **Lane closures shall be limited to 9:00 a.m. to 4:00 p.m. Monday through Friday on Berrellesa Street and Marina Vista Avenue.** The permittee shall post a sign on the site notifying all workers of these restrictions.
- B. The site shall be fenced with locked gates at 7 p.m. The gates shall remain locked until 7:00 am. Contractors shall not arrive at the site prior to the opening of the gates.

- C. Contractors shall be required to employ the quietest construction equipment available, and to muffle noise from construction equipment and to keep all mufflers in good working order in accordance with State law.
- D. Adequate dust control measures shall be employed throughout all grading and construction periods. The Contractor shall be required to regularly water areas that are exposed for extended periods to reduce wind erosion. The following controls shall be implemented at all construction sites:
 - Water all active construction areas at least twice daily.
 - Cover all trucks hauling soil, sand, and other loose materials or require all trucks to maintain at least two feet of freeboard.
 - Pave, apply water three times daily, or apply (non-toxic) soil stabilizers on all unpaved access roads, parking areas and staging areas at construction sites.
 - Sweep daily (with water sweepers) all paved access roads, parking areas and staging areas at construction sites.
 - Sweep streets daily (with water sweepers) if visible soil material is carried onto adjacent public streets.
- E. Speeds of construction equipment shall be limited to **10** miles per hour. This includes equipment traveling on local streets to and from the site.
- F. Access shall be maintained to all neighboring driveways at all times.
- G. There shall be no parking of construction equipment or construction worker's cars on residential streets at any time.
- H. Truck routes for the import or export of cut/fill material shall be identified and approved by the City Engineer prior to the issuance of any permits. Developer shall be responsible for the repair of any damage to city streets (private and public) caused by the import or export of soils materials necessary for the project.
- I. Prior to construction, contractor shall contact city inspector for a pre-construction meeting. Haul route shall be along Berrellesa and Alhambra.

VIII. Agreements, Fees and Bonds

- A. All improvement agreements required in connection with said plans shall be submitted to and approved by City and other agencies having jurisdiction prior to City approval and issuance of the Building, Encroachment, Grading or Site development permit, whichever comes first.
- B. Prior to approval of the plans and issuance of permits, applicant shall pay all applicable fees and deposits including plan check fees, inspection, drainage

impact fees and Impact Mitigation Fees. Impact fees for multifamily residential units include but are not limited to: transportation facilities fees, park (in lieu of land dedication) fees, park and recreation facilities fees, cultural facilities fees, police facilities fees, as required by the Community Development Director. The final amount for the above fees shall be in accordance with the fee schedule in effect of time of payment. A credit shall be given for the two residential units existing at the site which will be removed by this project.

- C. All fees and deposits required by other agencies having jurisdiction shall be paid prior to City approval and issuance of the Building, Encroachment, Grading or Site Development Permit, whichever comes first.

IX. Grading

- A. All grading shall require a grading and drainage plan prepared by a registered Civil Engineer, a soils report prepared by a registered Geotechnical Engineer and a Grading Permit approved by the City Engineer. The grading plans and soils report shall require review by the City's geotechnical consultant with all costs to be borne by the applicant.
- B. All recommendations made in the Soil Engineers report, (unless amended through the City's review) and all recommendations made by the City's geotechnical consultant shall be incorporated into the design and construction of the project.
- C. The on-site finish grading shall require drainage to be directed away from all building foundations at a slope of 2 percent minimum to 20 percent maximum toward approved drainage facilities or swales. Non-paved drainage swales shall have a minimum slope of 1 percent. A minimum 4-ft. wide clear access shall be provided around each building.
- D. Contour grading techniques with spot elevations shall be employed throughout the project to achieve a more natural appearance, even where this will increase the amount of grading. Tops of cuts or toes of fills adjacent to existing public rights-of-way or easements shall be set back two feet minimum from said rights-of-way and easements.
- E. Erosion control measures shall be implemented per plans approved by the City Engineer for all grading work not completed before October 1. At the time of approval of the improvement and/or grading plans, an approved Erosion Control Plan prepared by a registered Civil Engineer shall be filed with the City Engineer.
- F. All graded slopes in excess of 5 ft. in height shall be landscaped or hydroseeded no later than September 15 and irrigated (if necessary) to ensure establishment prior to the onset of the rainy season.

- G. The applicant's engineer shall certify the actual pad elevation for the lot in accordance with City standards prior to issuance of Building Permit.
 - H. All front yard landscaping or alternate erosion control measures shall be installed prior to release for occupancy to mitigate erosion problems on each lot.
 - I. The finished grading shall be inspected and certified by the developer's engineer that it is in conformance with the approved Grading Plan and Soils Report pursuant to the provisions of Title 15 of the Martinez Municipal Code.
 - J. **The grading and finished lot pads shall meet or exceed the requirements of a 100-year (1 percent) flood zone.**
 - K. Any grading on adjacent properties will require written approval of those property owners affected.
 - L. If cultural resources are discovered during subsurface excavations, the Contractor shall cease construction and a qualified archeologist shall be contacted to make recommendations for mitigation.
 - M. The plans shall include the boundary treatment shown on cross sections, drawn to scale, for retaining walls, fencing and drainage.
- X. Drainage
- A. A hydrologic study shall be prepared and submitted to the City Engineer and Contra Costa County Flood Control District, when required, for review and approval to ensure discharge of storm runoff to facilities of adequate capacity. **The study shall include analysis of the capacity of the existing system downstream of the project. The developer shall make all necessary upgrades to existing systems, as deemed necessary by the City Engineer. Drainage area is defined as all that area draining into, and including, the area of the proposed development.**
 - B. All concentrated runoff shall be collected and conveyed to an approved storm drainage system. Existing slopes that have no additional discharge directed onto them or are not substantially regraded can remain as natural runoff.
 - C. Applicant shall not increase storm water runoff to adjacent downhill lots unless either, (1) a Drainage Release is signed by the property owner(s) of affected downhill lots and recorded in the office of the County Recorder; or (2) site drainage is collected and conveyed in approved drainage facilities within a private drainage easement through a downhill property. This condition may require collection of on-site runoff and construction of an off-site storm drainage system. All required releases and/or easements shall be

obtained prior to issuance of the Building, Encroachment, Grading or Site Development Permit, whichever comes first.

- D. The storm drain system shall be designed per City and County Flood Control District Standards to carry at least a 10-year storm. Furthermore, the system shall be designed to ensure that local streets remain passable during a 100-year storm, **or as required by the City Engineer**. Passable is defined as one 10-ft. travel lane in each direction, pavement free of water runoff. The developer shall install a drainage system to ensure passability. Should the runoff due to the proposed development contribute incrementally to an existing flooding problem, then the developer may be required to contribute funds for his proportional share of future drainage system costs as required by the City Engineer.
- E. Parking lots and on-site drainage shall be collected and conveyed to an approved storm drainage facility. When approved by the City Engineer, drainage may be conveyed under the sidewalk and discharged through the curb in accordance with City standards. Drainage shall be directed to a concrete curb and gutter whenever practical. Drainage from covered parking lot shall be directed to the sanitary sewer system.
- F. All public drainage facilities, which cross private lots and to be maintained by the City, shall require a 10-ft. minimum width storm drain easement. Private storm drain facilities to be maintained by the owner (s).
- G. Concentrated drainage flows shall not be permitted to cross sidewalks or driveways.
- H. The developer shall comply with Contra Costa County Flood Control District Design requirements.
- I. Fifteen (15) inch minimum RCP (reinforced concrete pipe) shall be used for all public storm drain lines and 12-inch minimum pipe shall be used for laterals and for private storm drain lines, unless otherwise approved by the City Engineer.

XI. NPDES Requirements

- A. Trash enclosures and dumpster areas shall be covered and protected from roof and surface drainage.
- B. All areas used for washing, steam cleaning, maintenance, repair or processing shall have impermeable surfaces and containment berms, roof covers, recycled water wash facilities, and shall discharge into the sanitary sewer, as approved by the City Engineer.

- C. Efficient irrigation, appropriate landscape design and proper maintenance shall be implemented to reduce excess irrigation runoff, promote surface filtration, and minimize use of fertilizers, herbicides, and pesticides.
- D. To the maximum extent practicable, as determined by the City Engineer, drainage from paved surfaces shall be routed through grassy swales, buffer strips or sand filters prior to discharge into the storm drain system.
- E. All storm drain inlets (catch basins) shall be imprinted with the sign "No Dumping, Flows to Creek" as per City Standard #SD-1.
- F. For projects one (1) acre or larger, developer shall comply with the State Water Resources Control Board requirements, NPDES permit, for construction. The Developer shall be responsible for preparing and implementing a Storm Water Pollution Prevention Plan (SWPPP) for the project. A copy of the SWPPP and the Notice of Intent (NOI) shall be submitted to the City. The SWPPP and The NOI shall be kept at the job site during construction.
- G. **C.3 Requirements:** Developer shall comply with the State Water Resources Control Board NPDES permit requirements for constructing this project. The project's plans (with support documentations and reports) shall incorporate storm water flow-control and treatment measures designed to meet the criteria in the latest edition of the Contra Costa Clean Water Program's *Stormwater C.3 Guidebook*.
 - 1. Prior to issuance of a grading permit the applicant shall prepare and submit a complete storm water control plan and operation and maintenance plan for review and approval in accordance with the *Stormwater C.3 Guidebook* . The construction plans shall include drawings and specifications, consistent with the approved storm water control plan, to implement all measures required in the approved Plan. The permit application shall also include a completed stormwater control plan, "Construction Plan C.3 Checklist" as described in the *Stormwater C.3 Guidebook*.
 - 2. As may be required by the City of Martinez, drawings submitted with the permit application (including structural, mechanical, architectural, grading, drainage, site, landscape, and other drawings) shall show the details and methods of construction for site design features, measures to limit directly connected impervious area, pervious pavements, self-retaining areas, treatment BMPs permanent source control BMPs, and other features that control stormwater flow and potential stormwater pollutants.
 - 3. The stormwater control facilities shall be maintained by the

property owner. The applicant shall be responsible and pay all costs associated with the preparation of all documents, construction of facilities, and the implantation, operation and maintenance of the stormwater control plan (including required annual reporting). Prior to issuing permits for construction, the applicant shall execute an agreement(s) pertaining to the responsibility of long-term maintenance and operation of the stormwater management facilities. The property owner shall give the City and other regulatory agencies the rights to enter onto the property to inspect the stormwater control facilities, if necessary.

4. Prior to building permit final and issuance of a Certificate of Occupancy, the applicant shall submit, for the review and approval of the City of Martinez, as built plans for the stormwater control facilities and the final operation and maintenance plan.

Guidelines for the preparation of Stormwater BMP Operation and Maintenance Plans are in Appendix F of the Contra Costa County Clean Water Program, Stormwater C.3 Guidebook.

- H. Development shall include adequate accessible and convenient areas for collecting and loading recyclable materials, to the satisfaction of the City Engineer, in conformance with the California Integrated Waste Management Board Recycling Ordinance.

XII. Street Improvements

A. Frontage improvement: Pursuant to Chapter 12.30 of the Martinez Municipal Code, sidewalks, curb, gutter shall be constructed along the entire frontage of the property. Street pavement shall be constructed or reconstructed, along the entire property frontage to center line of the street as determined necessary by the City Engineer. Following are required frontage improvements:

1. The developer shall replace and construct new sidewalk along the entire frontage of the property. Public sidewalk located outside the public right of way shall be included within a public sidewalk easement dedicated to the City. A continuous public sidewalk shall be provided along the perimeter of the property, unless otherwise approved by the City Engineer. The width of sidewalk shall be per City standards (5.5 feet, as measured from face of curb).
2. Pavement: Existing street pavement section shall be rehabilitated, resurfaced, removed and/or replaced along the frontage of the property to the centerline of the streets if the existing structural section is cracked or damaged in any way, or if the street structural section is determined by the City Engineer to be inadequate for the

intended traffic. Pavement damaged as a result of construction beyond the centerline of the streets shall also be repaired. The condition of the pavement shall meet the approval of the City Engineer prior to final approval of the project and release of bonds and deposits. The required pavement improvement shall be determined by the City engineer by field inspection after most of the construction is complete.

3. Existing damaged curb and gutter shall be replaced along the entire frontage of the property.
4. Standard street lights shall be installed along the entire frontage of the property unless otherwise approved by the City Engineer.
5. All streets shall be paved and improved after utilities are installed in accordance with City of Martinez Standard Drawings and Design Guidelines and the Approved plans.
6. No retaining walls (including the footings for the walls) shall be allowed in the public right of way. All walls supporting the street right of way shall be constructed with durable materials and be constructed to the satisfaction of the City Engineer.
7. Handicap access ramps shall be reconstructed at all curb returns per the current Caltrans standard details.
8. All traffic control devices, including Stop signs, No Parking signs, legends and striping shall be installed in accordance with plans approved by the City Engineer.
9. All improvements shall be subject to the approval of the City Engineer.
10. Public streets design and requirements:
 - a) All required right of way and/or public sidewalk easements shall be dedicated to the City of Martinez as required by the City Engineer prior to approval and issuing permit(s).
 - b) Pavement design and construction control for all public streets shall be per City Standards and based on State of California "R" value method, using Traffic Indices (T.I.'s) of 5.5 with a minimum 0.20 ft. AC pavement section over a minimum 0.50 ft. Class 2 aggregate base.
 - c) Unless otherwise approved by the City Engineer, the minimum width of pavement, as measured from face of curb to face of curb, shall be as follows: Foster Street, 20 ft with no parking on either side; Richardson & Buckley Streets 32 feet; and

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Berrellesa Street, 36 ft. The street design shall also provide for approved provisions for access and turning around of Police Department and Fire Department apparatus as required.

- d) The radius of curb return at the intersection of Richardson and Foster Streets shall be 25 feet. All other curb returns shall match the radiuses of the existing curb returns, but in no case shall be less than 10 feet, unless otherwise approved by the City Engineer.**

B. Private parking lot design and requirements:

Paving design and construction control shall be based on State of California "R" value method, using Traffic Indices (T.I.'s) approved by the City Engineer. The street section design shall utilize a T.I. of 5.0 with a minimum 0.20 ft. AC pavement section over a minimum 0.50 ft. Class 2 aggregate base or equivalent section. The minimum width of private driveway shall be 20 ft. Parking lots and stalls dimensions shall meet City standards. Parking lot and driveway width is subject to the approval of Police and Fire Departments.

- C. All new utility distribution services on-site and off-site shall be installed underground.
- D. Sidewalk pipe drains shall be installed on either side of driveways and shall conform to City Standard No. S-13.
- E. A City Encroachment Permit is required for any work within the City Right-of-Way.
- F. All improvement shall be designed and constructed to the satisfaction of the City Engineer.

XIII. Water System

- A. Water system facilities shall be designed to meet the requirements of the Martinez Water District and the fire flow requirements of the Contra Costa County Consolidated Fire Protection District. All requirements of the responsible agency shall be guaranteed prior to approval of the improvement plans.
- B. Water system connection, including installation of the water meter, shall be made in accordance with appropriate Water District standards. Prior to obtaining water service, fees shall be paid in accordance with the water fee schedule in effect at time of payment.
- C. Backflow prevention, required as part of the water service installation, must

be completed before occupancy of the building, and appropriately screened with suitable material.

XIV. Sanitary Sewer System

- A. Sewer system connections and plans for sanitary sewer facilities shall be approved by the Central Contra Costa Sanitary District. All requirements of that District shall be met before approval of the improvement plans.

XV. Other Requirements

- A. Construction shall comply with all applicable City and State building codes and requirements including handicapped and energy conservation requirements, grading and erosion control ordinances.
- B. Design of all public improvements shall conform to the City of Martinez Design Guidelines, Standard Special Provisions, and Standard Drawings. Prior to preparation of improvement plans, the developer or his representative should contact the City's Engineering Development Review section of the Community Development Department.
- C. Complete grading, site and improvement plans, specifications and calculations shall be submitted to and approved by the City Engineer, Community Development Director, and/or other agencies having jurisdiction for all improvements within the proposed development prior to issuance of a Building, Site, Grading or Encroachment Permit whichever comes first. Approved plans shall become the property of the City of Martinez upon being signed by the City Engineer and Community Development Director.
- D. Prior to City approval of the plans, all fees, bonds, and deposits shall be paid and posted; all agreements shall be executed and all grading and improvement plans shall be approved by the City Engineer and Community Development Director. No construction shall take place until the issuance of the appropriate Encroachment, Site, Grading and/or Building Permits.
- E. Prior to issuance of the building permit, the access to building sites shall be graded and improved to at least an all-weather surface condition, and operating fire hydrants shall be in place, unless waived by City Engineer.
- F. Prior to issuance of the certificate of occupancy, the public improvements including streets, sewers, storm drains, street lights, and traffic signs required for access to the sites of that phase of the project shall be completed. All public improvements shall be completed and accepted by the City prior to issuance of certificate of occupancy on final dwelling unit in the project.
- G. Prior to acceptance of improvements, offers of dedication, and release of

bonds and deposits by the City, the City's record copies of the grading, site, and improvement plans shall be updated to show "As Built" conditions of the project. Said plans shall be prepared by the responsible Civil Engineer of work and shall reflect all changes made during the course of project construction. Grading and improvement plans shall be 24" x 36" in size. The as built plans and final map shall be provided in 4 mil photo mylars and in the form of electronic files compatible with AutoCAD.

- H. All on-site improvements not covered by the building permit including sidewalks, driveways, paving, sewers, drainage, curbs and gutters must be constructed in accordance with approved plans and/or standards and a Site Development Permit approved by the City Engineer.
- I. Building permits for retaining walls shall be obtained as follows:
 - 1. For major walls to be constructed during the mass-grading phase, obtain permit prior to issuance of the Grading Permit.
 - 2. For all other walls, obtain permit prior to issuance of Permits for structures on the respective lot.
- J. Any existing water wells on the property shall be filled and sealed off or otherwise disposed of as directed by the City Engineer.
- K. Approval by the applicant's Soils Engineer, the City's Soils Consultant, the Fire District, Sewage District, water agency, and other regulatory agencies of all improvements and buildings is required prior to City approval of construction plans.
- L. Swimming pools and any public facility with kitchen (restaurants, meeting and recreation rooms) shall be approved by the Contra Costa County Health Department.
- M. There shall be no parking of construction vehicles or equipment on the surrounding residential streets, including all workers vehicles.

XVI. Validity of Permit and Approval

- A. Planning Commission approval is subject to: (i) appeal to the City Council within ten calendar days of the approval, and, if applicable (ii) the City Council's approval of the requested rezoning and/or general plan amendment.
- B. All permits and approvals shall expire in one year from the date on which they became effective (unless extended under C) unless building permit is obtained and construction begun within the one year time period. Unless an appeal is filed, the *effective date* of the permit and approval is August 11, 2009.

- C. The time extension of the expiration date, August 11, 2010, of a permit or approval can be considered if an application with required fee is filed at least 45 days before the original expiration date. (Otherwise a new application is required.) A public hearing will be required for all extension applications, except those involving only Design Review. Extensions are not automatically approved: Changes in conditions, City policies, surrounding neighborhood, and other factors permitted to be considered under the law, may require or permit denial.
- D. The applicant and its successors in interest, shall defend, indemnify and hold harmless the City and its agents, officers, attorneys and employees from any claim, action, or proceeding brought against the City or its agents, officers, attorneys or employees to attack, set aside, void, or annul the Planning Commission's decision to approve UP 09-01 and DR 09-12, and any environmental document approved in connection therewith. This indemnification shall include damages or fees awarded against the City, if any, cost of suit, attorneys' fees, and other costs and expenses incurred in connection with such action whether incurred by applicant and its successors in interest, the City, and/or the parties initiating or bringing such action.
- E. The applicant and its successors in interest shall defend, indemnify and hold harmless the City, its agents, officers, employees and attorneys for all costs incurred in additional investigation of, or study of, or for supplementing, preparing, redrafting, revising, or amending any document (such as the Negative Declaration), if made necessary by said legal action and if the applicant and its successors in interest desires to pursue securing such approvals, after initiation of such litigation, which are conditioned on the approval of such documents, in a form and under conditions approved by the City Attorney.
- F. In the event that a claim, action or proceeding described in Subsection E, above, is brought, the City shall promptly notify the applicant and its successors in interest of the existence of the claim, action or proceeding, and the City will cooperate fully in the defense of such claim, action or proceeding. Nothing herein shall prohibit the City from participating in the defense of any claim, action or proceeding. In the event that the applicant and its successors in interest is required to defend the City in connection with any said claim, action, or proceeding, the City shall retain the right to (i) approve the counsel to so defend the City, (ii) approve all significant decisions concerning the manner in which the defense is conducted, and (iii) approve any and all settlements, which approval shall not be unreasonably be withheld. The City shall also have the right not to participate in said defense, except that the City agrees to cooperate with the applicant and its successors in interest in the defense of said claim, action or proceeding. If the City chooses to have counsel of its own to defend any claim, action or proceeding where the applicant and its successors in interest has already retained counsel to defend the City in such matters, the fees and expenses of the counsel selected by the City shall be paid by the City, except that the fees and expenses of the City Attorney shall be paid by the applicant.

- G. The applicant and its successors in interest shall indemnify the City for all the City's costs, fees, and damages which the City incurs in enforcing the above indemnification provisions.
- H. The Conditions of Project Approval set forth herein include certain fees, dedication requirements, reservation requirement, and other exactions. Pursuant to Government Code Section 66020(d)(1), these Conditions constitute written notice of a statement of the amount of such fees, and a description of the dedications, reservations, and other exactions. You are hereby further notified that the 90-day approval period in which you may protest these fees, dedications, reservations, and other exactions, pursuant to Government Code Section 66020(a), has begun. If you fail to file a protest within this 90-day period complying with all of the requirements of Section 66020, you will be legally barred from later challenging such exactions.

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