

# PLANNING COMMISSION MEETING MINUTES

July 28, 2009 & August 11, 2009

Planning Commission Minutes  
Regular Meeting  
July 28 2009  
Martinez, CA

## CALL TO ORDER

The meeting was called to order by Chair Frank Kluber at 7:08 p.m. with all members present except Commissioner Avila, who arrived after roll call.

## ROLL CALL

PRESENT: Donna Allen, Commissioner, AnaMarie Avila-Farias, Commissioner, Harriett Burt, Commissioner, Jeff Keller, Commissioner, Lynette Busby, Vice Chair, Frank Kluber, Chair, and Rachael Ford, Planning Commission Alternate

EXCUSED: None.

ABSENT: None.

Staff present: Karen L. Majors, Assistant City Manager/Community Development Director, Veronica Nebb, Deputy City Attorney, Planning Manager Terry Blount, and Senior Planner Corey Simon

## AGENDA CHANGES

Assistant City Manager/Community Development Director Karen Majors introduced new Commissioners Rachael Ford and Jeff Keller, noting that Commissioner Hughes term expired and Commissioner Korbmacher resigned.

## PUBLIC COMMENT

Anne Mobley asked if Commissioner Ford would recuse herself on the RCD item since she was at the Design Review hearing and spoke in favor. Chair Kluber said this was not the appropriate time to ask the question.

Commissioner Avila said she would recuse herself from item 2.

## REGULAR ITEMS

2. *RCD Senior Housing*

*UP #09-01, DR #09-12*

*Public hearing to consider a 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), including allowing density and height above 17 units per acre, 2 story/30 ft height limit normally permitted in the DS – “Downtown Shoreline” Zoning District, and a 10’ front yard setback; and Design*

*Review for building elevations and landscaping, also 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).*

Senior Planner Corey Simon presented the staff report discussing the General Plan, Downtown Specific Plan and Shoreline District Design Guideline policies and requirements, as well as citywide design guidelines and requirements. He also discussed details of the application, the state-mandated density bonus and CEQA exemption (but noting that the mitigation measures of the Downtown Specific Plan EIR do apply). He also noted that revised conditions of approval were presented at the dais.

Commissioner Allen commended Mr. Simon for a great job, but expressed concern about the CEQA categorical exemption. She asked whether the requirements of the Specific Plan had been met. She thought the application was incomplete or out of compliance.

Planning Manager Terry Blount said staff believes the project is exempt. Commissioner Allen confirmed with Mr. Blount that the Commission needs to decide whether it agrees with staff's determination.

Commissioner Allen discussed concerns raised during the Specific Plan process, and a policy in the Plan encouraging ownership housing. She cited a reference in the Plan, "All new multiple residential developments shall be processed concurrently with Tentative Condominium Map." Mr. Simon said the state-mandated density bonus regulations allow the applicant to also request a waiver from such development standards, which they have requested. Commissioner Allen said she was unaware of that request; Mr. Simon said it was done by separate a letter to the City, not part of the application per se.

Mr. Simon said staff believes the project is consistent with the State legislation and eligible for the waiver. Assistant City Attorney Veronica Nebb commented on Attachment G, which lists the legal requirements and exceptions thereto.

Commissioner Allen said she was not disagreeing on the exemption per se; just the determination that it was categorically exempt. Ms. Nebb said the question of CEQA exemption is part of the Commission's decision tonight, but the public hearing is also part of the process, before the CEQA determination can be made.

Commissioner Allen asked if it were not categorically exempt, wouldn't there be a Negative Declaration or something for the Commission to consider. Ms. Nebb said staff decided the project fits under the Specific Plan EIR, which is why additional environmental review was not done.

Commissioner Burt commented on the extensive public process in developing the Specific Plan, which included much public concern and a goal was set to aim for ownership housing in the downtown. She noted that this project is very different, which necessitates additional environmental review in her opinion. Ms. Nebb referred to state mandates granting density

bonuses to affordable housing projects, as specified in Attachment G, noting that the Commission would have to make a finding that there is a specific adverse impact upon public health and safety or the physical environment or on any real property that is listed in the California Register of Historical Resources for the bonus to be denied.

Chair Kluber asked that any further Commission questions be postponed until after public comment has been heard.

Public hearing opened

DENI ADANIYA, RCD, discussed changes to the project since the last Planning Commission hearing, universal design elements, resident amenities and support services, property management standards and benefits of the project to the community.

PAUL PENINGER, Bay Area Economics, discussed the economic development and revitalization benefits from affordable housing projects such as this one, both short-term and long-term.

JILL WILLIAMS, architect, KTG Group, reviewed changes to the architectural plan since earlier hearings. She also discussed the story poles that were placed at the site, building facades, a photo montage of views of the project from different angles, context comparisons, section cuts to show the changes in grade as compared to existing conditions, the roof plan, sun/shadow diagrams, and the landscape plan.

Chair Kluber asked staff to have the site context plan available if necessary during public comment.

RAY RAINIERI discussed the mix of uses in his neighborhood. As a senior citizen, he expressed interest in anything and everything that affects this under-served population. He expressed full support for the project that will meet a need that has been long overlooked.

SALLY SWEETSER, expressed support for the project, its design and height, especially when compared to what is there currently. She thought it was good infill development and a good project for a transitional neighborhood between residential and commercial areas.

ANAMARIE AVILA-FARIAS said she recused herself because of the conflict of interest, but she was legally allowed to speak as a member of public. She discussed experience with her property, Villa del Sol, and the desire to contribute to economic vitality in the downtown. She stated that this project can only be beneficial to the downtown neighborhood, and can be the start for economic improvement for the area. She expressed concern that Villa del Sol will be a solo act if this project is not approved. She also noted that this project can convert to home ownership in the future when the market changes.

PAUL WILSON said he is reserving his rights to bring action against the City if this project is approved, because it does not comply with the Downtown Specific Plan. He expressed concern about the safety risks and noise from the nearby train yard and flood plain hazards. He was doubtful that economic revitalization will result, and expressed disbelief at the anticipated economic boon from residents of the proposed project. He also questioned how habitable the units will be because of the proximity to the switchyard and the distance from needed services.

He also expressed that the building is out of character for the neighborhood, in terms of massing and design. He asked for compliance with the Downtown Specific Plan and the EIR as written.

KRISTEN HENDERSON asserted that the project will have a negative impact on the City's historical resources. She expressed concern about the lack of response from City staff to her request for documents. She also asserted that a conditional use permit should require CEQA review; and she was concerned about the height, cumulative impacts, nuisance standards, the HUD document, and special treatment given to the property owner. She further commented on impacts on the City's medical resources, finances, and emergency services. She agreed that Commissioner Ford should recuse herself, since she is a tenant of another property owned by the Dunivan's.

THOM SULLIVAN expressed support for the project, citing RCD's good reputation and the benefits the project will bring to a currently under-served population. He asked the Commission to approve the application.

RICHARD CABRAL said he also supports the project, but he was concerned about his loss of view, the building's height and the proposed rental use rather than ownership housing. He questioned whether that many units are really needed.

GLENN YOUNG noted his firm did the hazardous material analysis for the applicant. He indicated there was only a little found, from an unknown source but typical of the urban setting and not high enough for impacts. He stated that the water board agreed, provided there is a deed restriction against digging once the project is built. He was supportive of the project and offered to answer questions from the Commission.

PATRICK O'LEARY, low-income senior citizen, expressed support for the project and the site. He said he hopes to live there at some point; but currently he cannot afford to live in Martinez. He noted that the site is accessible to regional medical centers, and the interview process for RCD tenants is rigorous. He asked for the Commission's approval.

RAY SLOAN expressed strong support for the project as beneficial to the community and the high quality of the project.

YVONNE MILLS was also supportive of the project, whether at that location or another, to provide low income senior housing.

BETH EISELMAN expressed concern about miscalculations, misleading statements, misrepresentations and misinterpretations on the part of the applicant. She thought the design is too tall, too dense, will have a negative effect on views, and will violate the guidelines of the Downtown Specific Plan. She also commented on economic harm to property values, the nonprofit status, the resulting lack of property taxes, and the assistance the City has already given even before the public hearing process began, the need for more ownership housing, concern about the floodplain, the reduced open space requirement and safety hazards.

Ms. Eisman also read comments from ANNE MOBLEY and submitted photos and written documents for the record.

MARK MENESINI, born and raised in Martinez, commented on the struggles faced by many senior residents in the City. He thought this was a good project in a good location, with a good design. He encouraged the Commission to approve the project and help the City move forward.

KATTYE GILES, resident of another RCD project, commented on the benefits from living there. She asked what low-income seniors are supposed to do without affordable housing.

BARBARA WADLEY, resident of senior housing in Walnut Creek, expressed love for Martinez. She would like to live here, but there is no affordable senior housing. She asked for approval of the project.

GEORGE GUILFOYLE, resident of RCD project in Walnut Creek, commented on the blessings of living there. He indicated that most tenants there share his opinion and appreciation. He also asked for the Commission's approval.

JOSEPH POKA, senior facing retirement, expressed concern about how to live on a limited income. He would like a project like this to live in.

PAT CORR asked why the floor plan of the units was not shown, noting they will be very small units (11 sq. ft). She also expressed concern about the proximity of the train tracks, and the lack of commercial resources in the area. She did not think this is the right location.

PEGGY JEN expressed support for the project and concern about future senior housing needs. As an employee for a nonprofit that provides financing for affordable housing, she commented on the reliability of RCD in providing a long-term asset to the City.

ED KEEGAN discussed the downgrading of the City's downtown over time, noting he believes this project will provide economic revitalization for the area as well as needed senior housing. He also expressed that the downtown is an appropriate location for this density; neighborhoods evolve, things change over time. He was confident that RCD will be good neighbor, and the increased density can lead to increased vitality in the area. He reminded the Commission they are responsible for the greater good of the community, and RCD will bring that.

BARBARA SMITH, Contra Costa for Every Generation, expressed support for the project as "aging-friendly," which should be a goal for every city in the county. Her organization enthusiastically and unanimously approves.

NANCY SCHAEFER indicated she also supports the project; as a LEEDs project it will benefit the climate.

MARIA BRENNAN provided pictures taken from her porch, adding that she supports senior housing, but not at this height for this location. She stated that the blighted conditions at the site are the result of the owner not taking proper care of the property. She agreed that more business is needed in the downtown, but the community needs to support added housing. She also voiced her concern about noise impacts from the air conditioning units. She agreed with earlier speakers that Commissioner Ford should not be voting, as she is a tenant of the property owner.

NATHAN ROGERS, Greenbelt Alliance, expressed support for the project as a livable, affordable, compact development near transit. He noted this proposal will help the City meet its affordable housing goals as well, making good use of an underutilized site. He felt there is a need for well-designed infill development like this.

CHARLENE WEST, downtown business owner, expressed appreciation for the information provided by Ms. Henderson and Mr. Wilson. She was confident that the developers will do what they can to make the project succeed – the building heights can be reduced, and public transportation can take the residents to area shopping centers.

LUIGI DABERDAKU, owner of 99 Cent Store, said this development is a good project; he hopes to provide delicatessen items in the future.

RICHARD PARKER questioned why there is opposition to this project when it can bring additional business to the downtown. He was sure that the seniors will manage to get around to where they need to go. He thought private development like this is a good alternative to Redevelopment, which a vocal minority prevented. He urged the Commission to support staff's recommendation.

GWEN WATSON, Interfaith Council of Contra Costa County, expressed appreciation for the provision of 49 additional affordable senior housing.

FRED MORSE, downtown business owner and resident, expressed full support for the project and asked for Commission approval.

BOB TREBINO, local businessman, said he supports the project as change for the good. He was optimistic that this project can be a spark for the downtown.

RICH VERRILLI raised procedural issues – the lack of discussion among the Commission before public comment, questions about eligibility of Commissioner Ford to sit on the Commission for this hearing, and whether there was sufficient environmental review.

SONJA SRAOJ, downtown business owner, asked the Commission to approve the project, as it will bring more foot traffic to the area and then hopefully more businesses (grocery stores, etc.). She also commented that more activity and more people are needed to make the downtown thrive again.

MIKE ALFORD said you can tell a society by how it treats its senior citizens and affordable housing for senior citizens is needed. He noted that the Dunavin's have worked hard to bring a quality project, and more residents can bring much-needed business. He also thought that the small units can be ideal for senior residents, and he discussed promises made by RCD that the project will be senior housing mandated for 40 years. He was doubtful that seniors will bring a negative element to the City. He could see no good reason why this project should not be approved – public transit is easily accessible and this project may even bring back medical support services to the downtown.

BOB MARAZZANI, 70-year Berrellesa Street resident, commented on changes to the City over time. He expressed support for the project as an improvement for the area.

ALICIA VALLE, family-owned restaurant, expressed support for the project.

Seeing no further speakers, Chair Kluber closed public comment.

#### Rebuttal

Mr. Peninger responded to comments about consumer spending and the household incomes of potential residents, although he acknowledged there is no way to guarantee that it will be spent in the City.

#### Commission Comment

Commissioner Burt said she was appreciative of the green building practices. She asked about soundproofing from railroad track noise, and Ms. Williams discussed the results of the acoustical study and insulation needs.

Commissioner Allen asked about performance standards. Mr. Blount confirmed there are conditions of approval based on the requirements of the DSP.

Commissioner Ford asked about parking standards. Ms. Williams said there will be some subterranean parking with 26 spaces plus an at-grade lot providing almost double that required by City Code, with minimal loss of on-street parking spaces. She also noted that improved curb and gutters will make parking easier on the street. Ms. Adaniya discussed the parking studies that were done, noting that based on past experience, RCD believes the proposed parking is adequate. She indicated that the averages parking ratios at other RCD sites are .3 - .6 at their sites, and .3 - .5 at non-RCD projects.

Ms. Nebb responded to concerns raised previously about what happens when the affordability standards come off the project, noting there will need to be a deed restriction that will require Planning Commission approval to discuss increased parking requirements should the use proposal change in the future.

Commissioner Burt noted that the use likely cannot change, and Ms. Nebb reviewed different funding agency restrictions on use changes. While the City cannot require that it remain senior affordable "in perpetuity," she was confident that the deed restriction can ensure City approval of any change.

Commissioner Burt expressed concern that the use not change. Ms. Nebb said in order for it to change, the owner/developer will have to come back in and apply for a discretionary permit which will require Planning Commission approval.

Chair Kluber asked the overall RCD eviction rate for projects in the bay area. Eric Knecht, RCD, indicated that annual studies show there is generally 90-95% stability.

Chair Kluber asked about landscaping and view blockage from redwood trees and palm trees. Commissioner Marchiano said trees will not block the views, but the building height will definitely create some blockage.

Commissioner Busby asked if residential permit parking could be instituted in the area should it become an issue in the future. Ms. Nebb said yes, there is precedent in the City for similar situations.

Commissioner Busby asked about potentially providing a shuttle to the City's senior center. Ms. Adaniya discussed research into possible shuttle service, but said there is nothing definite yet. Commissioner Burt asked about the status of the City's community-based transportation study; Ms. Majors said grants or other funding might be possible, but unfortunately CCCTA will probably not be able to expand service in the near future.

Commissioner Busby asked if the City would assist in the grant process. Ms. Majors said the City can assist in the application process, but could not provide financial assistance.

Commissioner Allen asked if the parking studies done were of complexes near train stations. Ms. Adaniya said it is difficult to find comparable projects; she was not sure about that.

Commissioner Allen also asked whether onsite parking at RCD projects is always adequate. Ms. Adaniya said no, the parking ratios for those are much lower, and they currently have waiting lists. Commissioner Allen asked what happens while waiting; Ms. Adaniya said they park the cars elsewhere offsite.

Ms. Majors noted this project has greater parking ratio than most of the other RCD senior projects. Ms. Adaniya confirmed other RCD projects have assigned parking. Mr. Blount noted this project is already providing almost double what is required by the City.

Commissioner Ford asked about the senior housing density bonus requirement, based on the Housing Element. Mr. Blount said there is no requirement for the City to provide housing, but rather to provide sites for affordable housing. He discussed the Housing Element process, noting this site was identified as an opportunity site in the Housing Element. He indicated the City currently has enough sites identified, but thus far only a very small number have had housing built upon them.

Chair Kluber noted the common thread among all public comment is that the City needs senior housing, and this is the first site and the best site available to do that. He commented on his experience on the Housing Task Force. He mentioned the former DMV site and the opposition it faced originally, yet now it is an attractive building and fits well in the neighborhood. He was supportive of the project.

Commissioner Allen said she was not prepared to vote on the project tonight, although she acknowledged RCD has done quality work in the past as evidenced by the public support and the County's willingness to invest CDBG funds into the project. She was opposed to the project because of the location, and she observed that the same project could be built elsewhere in the City with the same funding. She was also very concerned about the CEQA categorical exemption and the high density exceptions. Since this is the first project under the Downtown Specific Plan, she would rather continue the item to ensure that all the guidelines are met and the environmental analysis is sufficient.

Commissioner Ford noted that the new building at the DMV site had much neighborhood opposition, but the completed project has definitely improved the area. Supports project as meeting intents and purposes of the Downtown Specific Plan. This project will bring needed renewal to the area.

Commissioner Marchiano said other than loss of views, this project is a good project that could be a cornerstone of needed revitalization to the area.

Commissioner Keller said it is nice to see a project like this for renewal of the downtown. He supports the project.

Commissioner Busby concerned about parking, but permit question was answered. Sympathy for potential lost views, but benefit to senior community.

Commissioner Burt acknowledged valid need for senior affordable housing, design is much improved over last time. Need for flexibility regarding Specific Plan in view of housing market burst. Appreciation for design of project, concern about density levels set by state, loss of views can affect property values but view ordinance addresses trees, not building heights. Discussed appeal process that is right of neighbors, as well as permit parking should parking become an issue. Cannot say health, safety or environmental issue exists that prevents density bonus. On the whole it is a very good project and will benefit the City.

Commissioner Allen expressed that it was truly unfortunate that the Specific Plan process was so long and yet this project began within a year and was given some level of support from the City with the Commission unaware. She noted that the Planning Commission needs to make findings for approval of the increased density from 17-35 units. She was also concerned about CEQA issues, and she said she believes the Commission is making many mistakes in approving this project.

Ms. Majors discussed the next steps in the process, including a possible motion directing staff to prepare conditions and a resolution of approval.

Commissioner Busby asked if bringing the motion back will reopen the public hearing. Ms. Nebb said no, it will be a consent item, although she acknowledged the public can address consent items.

Motion by Frank Kluber, Chair, seconded by Rachael Ford, Commissioner, to approve UP #09-01 and DR #09-12, 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), including allowing density and height above 17 units per acre, 2 story/30 ft height limit normally permitted in the DS – Downtown Shoreline Zoning District, and a 10' front yard setback; and Design Review for building elevations and landscaping, also 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.

Motion passed 6:1. (Commissioner Allen voted no; Commissioner Avila recused herself.)

Planning Commission Minutes *DRAFT*  
Regular Meeting  
August 11, 2009  
Martinez, CA

CALL TO ORDER

Chair Kluber called the meeting to order at 7:00 p.m. with all members present except Commissioners Avila, Busby, and Marchiano, who were excused.

ROLL CALL

Present: Commissioners Donna Allen, Harriett Burt, Rachael Ford, Jeff Keller & Chair Frank Kluber

Excused: Commissioners AnaMarie Avila Farias Lynette Busby & Michael Marchiano

AGENDA CHANGES

Chair Kluber asked for any agenda changes. Assistant City Manager/Director of Community & Economic Development Karen Majors asked if the Commission would like to pull item #2 from the Consent Calendar. She also noted that item #3 would be continued to the next meeting.

Commissioner Burt asked that item #2 be pulled from the Consent Calendar.

PUBLIC COMMENT

No public comment

CONSENT ITEMS

1. *Minutes of July 28, 2009, meeting.*

On motion by Donna Allen, Commissioner, seconded by Frank Kluber, Chair, the Commission present voted to approve the Minutes of July 28, 2009, meeting. (Commissioners Avila, Busby and Marchiano absent.)

2. *RCD Senior Housing - UP #09-01, DR #09-12*

*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). Applicant: Deni Adaniya, RCD (CS)*

Item moved from Consent Calendar to Regular Items.

## REGULAR ITEMS

2. RCD Senior Housing UP #09-01, DR #09-12 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). Applicant: Deni Adaniya, RCD (CS)

Assistant City Attorney Veronica Nebb commented on the process regarding the public hearing on this project, which was closed at the last meeting. She stated that interested persons could only ask or speak about the Resolution before the Commission tonight.

Chair Kluber stated that there would be a 3-minute time limit for each speaker, unless another individual cedes their time.

DENI ADANIYA, RCD, indicated that they were available to answer any questions.

Chair Kluber opened public comment on the item.

BARBARA HAUNAFAN asked about the 49 units & 1 elevator. She was very concerned about there being only one elevator with so many units.

RICHARD VERRILLI commented that the Brown Act forbids the Commission to require that speaker cards be filled out. Ms. Nebb explained that the Chair can ask for speaker cards to be completed, but cannot deny someone the opportunity to speak if they refuse to fill out a card. She also noted that the person denied the opportunity to speak at the last hearing had ceded his time to another speaker.

MARTA VAN LOAN asked for an explanation in plain English about what can be talked about tonight. Ms. Nebb explained again.

KRISTEN HENDERSON questioned the legality on what could be discussed. She asked if the zoning amendment was discussed at the last hearing. She did not think the project complies with CEQA requirements.

BETH ISELMAN indicated she had retained an expert on land use law because of the very serious concerns. That expert says the project is not consistent with the Downtown Specific Plan and will have a impact on historic resources, as well as serious noise issues. She asked

the Commission to deny the project until all concerns have been addressed.

PAUL WILSON spoke about the inadequate mitigation measure regarding sound issues, specifically the train noise. He also discussed issues with the flood plain, the size of the building, the underground garage and view impacts. He expressed dissatisfaction with the disregard for the people living in the neighborhood.

MIKE ALFORD said he disagreed with Paul Wilson, and he likes the project. He also thinks putting the seniors in that area will give the town character, with easy access to the bus system for shopping. He noted there will be a restriction mandating senior housing at the site for at least 55 years. The City should be thankful for this project.

TIM PLATT confirmed that a letter he submitted for the July 28th meeting had been given to the Commission. He said he thought the project has merits, but this is the wrong location, and he suggested better locations. He reviewed his concerns regarding design criteria, housing types (not transitional or varied), impacts on historic resources, CEQA requirements, water supply and potential flooding.

Seeing no further speakers, Chair Kluber closed public comment on the item.

Commissioner Burt noted that the Downtown Specific Plan (DSP) did provide for high-density housing in the area, although it preferred ownership housing to rental. She also stated that the railroad had been in the area for many years, and the train noise should not be a factor. She was concerned, however, about crossing issues. She asked about noise and safety issues with the truck traffic from the Telfer site.

Ms. Nebb responded that there was a noise study and a traffic study included with the staff report for the July 28th meeting. She noted that there would be no additional noise or traffic as a result of the project, and thus the impacts from existing traffic have already been considered.

Commissioner Burt asked whether the noise study considered the fact that some of the noise will be in the middle of the night. She questioned whether the buildings would be designed to minimize the noise levels in the units. Ms. Nebb responded that all the existing noise sources in the downtown were considered in developing the DSP, and the mitigation measures in the DSP will be applicable to this project as well.

Jill Williams, architect, KTGy, reviewed the noise study done by the acoustical engineer. She also confirmed that any applicable design standards in the DSP would need to be verified by the City Building Department to ensure that the criteria are met.

Commissioner Allen asked for specifics about the performance standards set by the DSP. Ms. Nebb explained that the purpose of the noise study done by the applicant was to confirm to the City that the performance standards set by the DSP could be met. She referred to an exhibit included with the staff report that specified the requirements and the analysis of the project.

Planning Manager Terry Blount confirmed that City staff will have to verify that the mitigation standards will be met before construction can begin. Commissioner Allen acknowledged that, but said again she would have liked to have a list of the standards included with the staff report,

so that the Commission would know what it was approving.

Chair Kluber added that the construction drawings will specify materials, etc., and if the standards are not met, building permits will not be issued.

Commissioner Allen asked to go on record that she strongly disagrees that the project is exempt from CEQA, and she does not think it is consistent with the housing goals and policies of the DSP; and since the type of housing proposed is not what was analyzed for the Plan, the CEQA analysis should be re-done. She also expressed concern that the project does not meet the requirements regarding density or allow for a better project with assemblage of land, and the project is not consistent with the design standards nor matches the scale of the existing neighborhood.

Commissioner Allen also said she did not think this type of project was ever envisioned by the DSP, nor did she think the necessary findings can be made for approval of the use permit. She was very concerned about the precedent that could be established if this project is approved.

Commissioner Ford asked Chair Kluber whether the Commissioners should keep their comments to the resolution itself rather than going back over all the issues.

Chair Kluber responded to a comment made at the last meeting by Commissioner Marchiano about the potential view impacts of the project. He discussed research he conducted in the meantime, concluding that the views to the waterfront and the hills would be enhanced by the relocation of the existing palm trees.

Chair Kluber asked that RCD rethink having palm trees in the courtyard area that will block the sky, instead open up natural light to the units. He asked them to consider creating privacy screening with trees that don't get very high. He referred to the Villa Del Sol project as an example.

Ms. Majors reviewed one of the recommendations in the report regarding limitations to the tree removals, subject to Design Review Commission approval. Chair Kluber said he would like to see the landscape plan in the future.

Commissioner Burt acknowledged that the noise issues are very important to her, and she cautioned staff and the applicant to ensure that the DSP standards are met, in order that the tenants are satisfied with their living environment. Any further comments she might make would be outside of the scope of the Resolution, although she noted that the Commission is now dealing with the economic realities of 2009, not the dreams of 2005. She was doubtful that anyone was even considering land assemblage in the area. She was supportive of the project.

On motion by Rachael Ford, Planning Commission Alternate, seconded by Jeff Keller, Commissioner, the Commission present voted to adopt the Resolution approving UP #09-01 and DR #09-12, 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). (Commissioner Allen voted no; Commissioners Avila, Busby and Marchiano absent.)

CITY OF MARTINEZ  
PLANNING COMMISSION  
REGULAR MEETING  
July 24, 2007

A regular meeting of the Martinez Planning Commission was called to order by Chair Mark Hughes at 7:05 P.M. on Tuesday, July 24, 2007, at City Hall Council Chambers, 525 Henrietta Street, Martinez, California.

**PRESENT:** Commissioners Allen (alternate), Burt, Busby, Glover, Hughes, Kluber, Korbmacher

**ABSENT:** Avila.

**STAFF:** Assistant Planner Anjana Mevani  
Senior Planner Corey Simon  
Deputy Director of Community Development Albert Lopez  
Deputy Director of Park and Community Services Joann Tool

**REGULAR ITEMS**

5. Freitas Subdivision Sub 9120

Public hearing to consider: a) adoption of a Mitigated Negative Declaration and b) a General Plan Amendment to re-designate approximately 3 acres from "Open Space" to "Residential," to allow the possibility of creating 4 additional single family home lots, in addition to the one existing single-family home on the 5.57 acre site. The Planning Commission will make its recommendation to the City Council, which will consider the possible amendment at a future date to be announced. Should the General Plan Amendments be approved by the City Council, the Planning Commission will then consider, at a future hearing date, requests for a Rezoning from Open Space to R-10 (One Family Residential: 10,000 square feet minimum site area) and approval of a 5-lot Major Subdivision.

Senior Planner Corey Simon presented the staff report, including a brief background and history of the site. He acknowledged that the Planning Commission had been reluctant to handle the request until the City Council had weighed in, but the City Attorney had said that it must be heard by the Planning Commission in a timely manner, and he reviewed the process. He also discussed the history of the Pine Meadows subdivision from 1976 forward, noting that this is this third request from this applicant to consider amending the General Plan designation. He commented on the difficult balance between environmental/visual impacts and the continued need for more housing. He reviewed potential visual impacts from 4 different approaches.

Mr. Simon also commented on engineering mitigation measures that could be considered to minimize the visual impacts. He acknowledged there were difficult questions, but he noted that the applicant has made progress in the design.

Commissioner Busby asked for clarification on the number of homes proposed; Mr. Simon said there would be 4 new homes making a total of 5.

Public hearing opened.

GARY FREITAS, applicant, expressed appreciation for the in-depth report. He noted that he was the original owner of the property, and he reviewed changes in the area over the last 20-30 years. He agreed the community has changed, as well as his goals for the property. He noted that he had been unable to meet with the City Council as the Commission had wished, so he had submitted a new General Plan Amendment (GPA) to the City.

TIFFANY LATHROP, Peabody Engineering, asked for the focus to be on the GPA for a portion of the property. She indicated that under the current proposal, Coward Knoll would be preserved and dedicated to the City for its use, and the rural feel of the area would be maintained as much as possible. She commented on issues raised at the February meeting, including the sensitive nature of the views of the area, and efforts made by the applicant to accommodate neighbors' concerns. She urged the Planning Commission to recommend approval.

Commissioner Kluber asked if Peabody was still recommending that the area behind the lots be an open space corridor. Ms. Lathrop said yes. Commissioner Kluber said he didn't think that could be maintained as a public area; but perhaps it could be dedicated as open space.

HENRY BENTON, Pine Meadows resident, asked how many times this issue has to be addressed since the lot is supposed to be open space and has been that way from the beginning. He was strongly against the GPA, expressing concern about view blockage and tree growth, and the lack of City enforcement. He questioned why the view from existing homes was not shown in presentation. Mr. Simon explained the visual perspective was focused on neighborhood aesthetics. He acknowledged Mr. Benton had a valid concern; and perhaps the property could be lowered to mitigate the impact.

Mr. Benton said there were original limits on the Pine Meadows subdivision for landscaping height, but the City does not enforce them. He also expressed concern about the adverse effect on existing homes.

JOHN MIFFLETON, condo owner nearby, said when he bought his property the Freitas lot was open space. He questioned what community benefit would result from the loss of open space area. He also commented on the acoustic phenomenon of a natural amplified amphitheatre effect from the contours of the property and potential noise impacts from the development. He asked the Planning Commission to preserve the open space designation on the property.

Chair Hughes read comments from ELAINE JACKSON, BOB BOUCHARD and MARYLOU BOUCHARD against the project.

ELEANOR SOUZA expressed concern about the loss of rural view and noise impacts, lighting impacts, wildlife and bird life, as well as traffic/parking issues. She was strongly opposed to the project.

STEVE SCHMIDT commented on property value impacts from the development of open space. He was concerned about the precedent from land speculation and the loss to the City if the

property is developed. He suggested Mr. Freitas consider building a mansion to sell if he wants to make money off the property.

Chair Hughes read comments from ROGER GOODWIN, who was opposed to any current or future change of open space designation for the property.

ROBERT HAYWORTH expressed support for the General Plan amendment request, saying that Martinez needs to change; this may be the first of many GPAs. He was confident that the proposal should result in nice homes with landscaping, trees, and wildlife, while the Knoll will be preserved as open space. He also noted that Mr. Freitas' deed says nothing about the land being open space. He encouraged the Commission to recommend approval.

LESLIE CHERNAK referred to a letter by Lorna Thompson and quotation from the state Supreme Court that the open space designation should not be given as a placeholder for future development. Ms. Chernak noted that she had paid a premium price for her property and her view. She was also concerned about noise impacts and the precedent that could be set if the GPA is approved.

JEFF LAPERRY commented on the positive character of the people involved, and the community benefit from more homes and the 2 acres given to the City. He expressed support for Mr. Freitas and the GPA.

RICH ROBINSON, 40 year resident of the area, commented on the many developments over time. He expressed concern that Mr. Freitas is not being given the same rights as others in the neighborhood that have already been developed. He urged the Commission to support the GPA.

SHIRLEY SWITALSKI said Mr. Freitas should have known that the property was designated open space. She noted that open space preservation was one reason she was drawn to Martinez. She was concerned about impacts on wildlife access and the potential breach of faith on the part of the City if approval of this GPA is granted. She urged the Commission to listen to the voters, and keep the open space designation on the parcel.

JAN SWITALSKI suggested building on developable sites before taking open space for new development. He reminded the Commission that promises were made to nearby property owners that should be honored. He questioned whether a scenic easement designation for part of the property would be enforced.

RUSSELL ROOFENER expressed support for the project as high-end well-designed homes that will be an asset to the neighborhood.

CAROL BAIER said she was encouraged by the earlier statement that adequate recreation and open space area is mandated by the City's General Plan. She expressed concern about impacts on existing oak trees and the water table from grading above.

Comments from MARY WALSH and WILLIAM JOHNSOON were read into the record as supportive of the development proposal.

ALBERT TURNBAUGH said he was in favor of the application. Those who were promised something by realtors should seek recompense from them, not Mr. Freitas. He also noted that there had been many new developments over the last 20 years, and earlier residents have given up much more open space than is proposed now. He urged the Commission to protect property rights; since General Plan amendments are allowed.

PETER CARPENTER commented on the asset to the neighborhood from the open space that is currently there, adding that there should be some recompense to them if the lot is developed. He was also concerned about maintenance issues for the open space along the back of the properties, adequate turn around space for trucks, etc and safety issues for children. He asked the Planning Commission to recommend against the project.

MIKE GEORGE discussed points made by Ms. Thompson in her letter by Ms. Thompson. He also stated that his realtor told him the Freitas lot was "permanent open space" that cannot be changed. He noted that nothing has changed since past public hearings, so why should a development be approved now? He agreed surrounding property owners would lose from a GPA.

JOAN SAVARIES agreed open space should be preserved, as a past promise and commitment that should be upheld.

CHRIS DEAN, daughter of the original property owner (Coward Ranch), was supportive of the GPA request. She questioned the validity and origin of the open space designation. She also commented on the value of the democratic process that allows public input. She noted that Mr. Freitas has considered and incorporated the neighbors' concerns into the plans. She was supportive of the project, especially since Coward Knoll would be preserved and donated to the City.

GARY HERNANDEZ noted he was told "you're going to ruin our home values" when he developed his property, but actually the neighbors benefited from property value increases as a result. He also commented on the fire hazards and weedy condition that currently exist on the property, adding that the area would be improved by high-end homes instead. He was supportive of the added value to the community.

Chair Hughes asked Mr. Simon to review how the property was designated open space, which he did, indicating it was private open space. He also said a scenic easement was supposed to be recorded on the deed.

Seeing no further speakers, Chair Hughes closed the public hearing.

#### Rebuttal

Mr. Freitas commented on his history with the City and the promises made to him in the past. He noted that the Superior Court accepted his 50% support from neighborhood homeowners allowing a change to the CCRs. He also indicated he has cooperated with the City's requests, which will make this project better.

#### Commission comment

Commissioner Busby asked if a tentative map and a General Plan amendment can be filed at the same time. Mr. Simon acknowledged that they usually are. He explained that they were

separated because of the Planning Commission's hesitation to approve the General Plan amendment without City Council input.

Commissioner Korbmacher said the city he works for takes great pride in its open space stock. He clarified that the original land was not open space; but rangeland. He pointed out that four parcels were set aside for open space when the land was sold by the original owners. He also noted that realtors did not mislead clients with their claims about the open space designation; since City records show the same. He questioned whether there would be any real benefit to the City in changing the open space designation to residential for only four additional homes. He acknowledged there was ample documentation in the staff report regarding past decisions on the matter. He agreed that the applicant is free to apply as many times as he likes, and the City is free to deny the application. He was opposed to the General Plan amendment.

Vice Chair Glover disagreed, noting that the original 1976 concerns were visual impacts; but those are lessened because there has already been so much development in the area. He felt the impacts of the project can be mitigated. He noted that since the site is currently private property, with no access on and off; the open space designation is not a land use. He also agreed that there are maintenance and safety issues with the site as it is, adding that allowing the GPA provides an opportunity to honor the original intent to preserve the knoll. He also felt that the impacts of the development will be addressed in the approval process. He thought the GPA application should be sent to the City Council, and the final product will be an enhancement to the City.

Commissioner Kluber said he was generally in favor of the project; with his recommendation for an open space corridor along the back of the properties. He agreed the value of the open space area is the knoll, and he expressed admiration for Mr. Hayworth's property, noting the same could be done on these lots. He expressed hesitation, however to move the project forward without changes to the site plan. He was also concerned about impacts to the health of the oak trees. He suggested an arborist report be required, and that the maintenance costs for the knoll should be the responsibility of a homeowners association.

Commissioner Allen agreed with Commissioner Korbmacher, partly because of the timing of the application. She noted that the original designation of this property as open space was part of the mitigation for the environmental impacts from the original development. She was concerned about piecemeal consideration of GPAs, and she was glad that the City Council has included a General Plan update in the budget. She felt that any change to this lot should be part of an overall General Plan update. Property owners should do their due diligence before purchasing a lot, but the current General Plan designates this site as open space. She indicated there should be no change without input from the public through the General Plan update process.

Commissioner Burt agreed with Commissioners Korbmacher and Allen that this is a crucial issue with legal and moral implications. She acknowledged that many people made important purchasing decisions based on the designation of permanent open space. She also acknowledged the need for more housing, especially single-story and affordable. While this could be a good site, it is presently designated open space, and the value of open space is held very strongly by the residents of Martinez. She agreed, however, that there is a process for amending/updating the General Plan. She concluded by saying she cannot support a General Plan amendment for this site except as part of a full General Plan update.

Commissioner Busby noted that Mr. Freitas has been maintaining this site for 30 years. She was concerned about delaying consideration of his application while waiting for a General Plan update. She also commented on the difference between private open space and public open space, and she felt the questions raised by Commissioner Kluber can be addressed through the process, as can tree preservation issues. Landscape buffers can be created to minimize visual impacts. She would support moving the project forward and leave the other questions for later in the process.

Chair Hughes indicated he was supportive of the project concept, but he would need to see a development plan and tentative map first. He said he could not recommend approval of a GPA at this point, but he was confident that the project can be an enhancement to the community eventually.

There was discussion between the Commission and staff on how to proceed.

Vice Chair Glover suggested approving the GPA, contingent on the issues being adequately addressed. Commissioner Burt said the Commissioners need to feel comfortable in what they are advocating before overturning past City Council and Planning Commission actions.

Commissioner Busby said the Commission should set time constraints on the process, noting again that all the questions can be answered through the normal process.

Chair Hughes said the majority of the Commission seems to be in support; but would rather wait to approve or deny a total project, not the GPA alone. Mr. Simon urged the Commission to call the question, allowing input from the applicant.

Ms. Lathrop said the applicant was willing to mitigate for the oak trees at the tentative map stage, as well as the design review process, but they would like to take the GPA to the City Council first.

Commissioner Allen asked how many GPAs the City Council has approved this year; staff said none so far.

The Commission recessed briefly

The Commission reconvened at 9:53 with all members present as indicated.

Chair Hughes asked the applicant's preference as to whether to come back to the Planning Commission with a more complete project, or to make a recommendation to the City Council tonight. Ms. Lathrop said they would like the Commission to vote tonight to send a recommendation (for or against) to the Council.

#### MOTION

On motion of Vice Chair Glover, seconded by Commissioner Busby, the Commission present voted to recommend that the City Council approve Subdivision 7120, including the Negative Declaration and request for a General Plan Amendment.

*AYES: Glover, Busby*  
*NOES: Hughes, Allen, Burt, Kluber, Korbmacher*  
*ABSENT: Avila*  
*ABSTAIN: None.*

Motion failed.

Chair Hughes said he could not support the project currently, noting that Martinez is a town of neighbors; and issues have been raised that the applicant can address. He indicated, however, that he was supportive of the project in its broadest sense.

#### MOTION

On motion of Commissioner Korbmacher, seconded by Commissioner Burt, the Commission present voted to recommend that the City Council deny Subdivision 7120, including the request for a General Plan Amendment.

*AYES: Korbmacher, Burt, Allen, Hughes, Kluber*  
*NOES: Busby, Glover*  
*ABSENT: Avila*  
*ABSTAIN: None.*

Motion carried.

At Commissioner Burt's request, Mr. Simon reviewed the next steps in the process.

\* \* \*

**RESOLUTION NO. PC 09-06**

**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 Resources 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 6. 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 11<sup>th</sup> day of August, 2009:

AYES: Burt, Ford, Keller & Kluber

NOES: Allen

ABSENT: Busby & Marchiano

ABSTAIN: Avila Farias

BY:   
\_\_\_\_\_  
Frank Kluber  
Planning Commission Chair

  
\_\_\_\_\_  
Corey M. Simon  
Senior Planner

# 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.

\* \* \*

# 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.

\* \* \*

# 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.

