

Resolution Number 24-07

County of Sonoma
Santa Rosa, California

May 2, 2024
MJS23-0001; Joshua Miranda

RESOLUTION OF THE PLANNING COMMISSION, COUNTY OF SONOMA, STATE OF CALIFORNIA, ADOPTING A MITIGATED NEGATIVE DECLARATION AND APPROVING A MAJOR SUBDIVISION LENOX HOMES LLC, FOR PROPERTY LOCATED AT 175 AND 245 AIRPORT BOULEVARD, SANTA ROSA; APNS 039-025-028 AND 039-025-026.

WHEREAS, the applicant, Lenox Homes LLC, filed a Tentative Map with Permit Sonoma for a Major Subdivision housing project ("Project") on a 4.78-acre site to create 57 new residential lots ranging from 1,322 square feet to 3,414 square feet in size, and one 0.20-acre common area lot. The Project includes construction of 43 detached single family dwelling units and 14 attached duet units between 1,230 to 2,058 square feet in size with reduced setbacks and 136 parking spaces for residents and guests. Primary access to the site will be provided from Airport Boulevard and secondary emergency vehicle access from Old Redwood Highway. Internal circulation is proposed via a private loop road ranging from 21 to 25 feet wide. The application requests and is entitled to a density bonus under the State Density Bonus Law (Gov. Code, § 65915) to achieve the 57-unit density because it includes 6 units affordable to low-income households and 6 units affordable to moderate-income households, to be provided consistent with the Density Bonus Law and Article 89 of Chapter 26 of the Sonoma County County Code; and

Whereas, the project site is comprised of two parcels, located at 175 and 245 Airport Boulevard (APNs 039-025-028 and -026). The parcel identified as 175 Airport Blvd and 039-025-028 ("Parcel -028") is approximately 4.49 acres in size. The parcel identified as 245 Airport Blvd and APN 039-025-026 ("Parcel -026") is approximately .29 acre. Parcel -028 has General Plan land use of Urban Residential (UR) 9 and is zoned Medium Density Residential (R2), with a density of 9 dwelling units per acre, with the Affordable Housing (AH) and Valley Oak Habitat (VOH) Combining Districts. Parcel -026 has General Plan land use of Urban Residential (UR) 20 and is currently zoned High Density Residential (R3) with a density of 20 dwelling units per acre, with the Valley Oak Habitat (VOH) Combining District; and

WHEREAS, pursuant to Government Code Sections 65941.1 and 65589.5, the applicant submitted a preliminary application (the "SB 330 pre-application") for the Project that was deemed complete in April 2023, and vested the ordinances, policies and standards, including zoning, that were in effect at the time the pre-application was deemed complete; and

WHEREAS, on August 22, 2023, the Sonoma County Board of Supervisors adopted the 6th Cycle (2023-2031) Sonoma County Housing Element, following its certification of the Final Environmental Impact Report (State Clearinghouse #2022060323) ("Housing Element EIR") and adoption of a Mitigation and Monitoring Program for the Housing Element Update Project, in compliance with the California Environmental Quality Act and State CEQA Guidelines; and

WHEREAS, adoption of the Housing Element included rezoning of a number of parcels across the County to make available adequate sites that are appropriately zoned to accommodate the County's Regional Housing Needs Allocation (RHNA) for all income levels. Rezoned sites are included in the County's Housing Element site inventory; and

WHEREAS, Parcel -026 was rezoned to the High Density Residential (R3) Residential Zoning District as part of the Housing Element adoption. It was included in the Housing Element site inventory as LAR-4 as an appropriately zoned site to accommodate five housing units, including two units affordable to moderate-income households and three for above-moderate income households; and

WHEREAS, State Housing Element law requires the County to maintain, throughout the 2023-2031 Housing Element cycle, adequate appropriately zoned sites in the Housing Element site inventory to accommodate the County's current share of the regional housing need (RHNA). (Gov. Code § 65863.) Under this law, a jurisdiction may not approve a project on a site in the Housing Element inventory at a lower density or a lower level of affordability than is listed for that site in the inventory, unless the jurisdiction makes written findings that the reduction is consistent with the General Plan, and the remaining sites identified in the housing element are adequate to accommodate the remaining unmet RHNA for the period; and

WHEREAS, to ensure that the County would maintain adequate sites for each income level in inventory, throughout the Housing Element cycle, the site inventory adopted in August 2023 with the Housing Element Update includes a "buffer" of additional adequate sites to accommodate the County's RHNA, by income level. The inventory included a 92% buffer of sites to meet the County's RHNA for moderate-income households, and a 27% buffer of sites for above-moderate income units. The Housing Element also includes a program requiring regular monitoring of the status of sites in the inventory, updates to the inventory as projects are approved, and timely action to provide additional appropriately zoned replacement sites, as needed; and

WHEREAS, parcels included in the Housing Element site inventory and that are developed for residential use are subject to applicable mitigation measures identified in the Housing Element Final EIR, certified by the Board of Supervisors on August 22, 2023; and

WHEREAS, based on its SB 330 pre-application, the Project, including its 57 total units with 6 units reserved for low-income households and 6 units for moderate-income households, was included in the Housing Element "pending and approved projects" list for Parcel -028 only, and credited toward the County's RHNA consistent with State guidance for preparing housing elements; and

WHEREAS, a Mitigated Negative Declaration was prepared for the Project, noticed and made available on March 5, 2024, for agency and public review in accordance with the California Environmental Quality Act ("CEQA") and the State CEQA Guidelines; and

WHEREAS, the following applicable mitigation measures from the Housing Element EIR have been incorporated into the Project either in the Project's Mitigated Negative Declaration, or otherwise as conditions of approval: AES-1, AES-2, AQ-1, AQ-2, BIO-1 through BIO-6, BIO-10 through BIO-12, BIO-14 through BIO-16, CUL-1, CUL-3, CUL-9, GEO-1, GHG-1, NOI-7, TRA-1, TRA-2, UTIL-1, WFR-1, and WFR-2; and

WHEREAS, staff revised the proposed Mitigated Negative Declaration after it was circulated for public review and prior to consideration for adoption, in response to comments from the California Department of Fish and Wildlife, to reflect changes in the necessary project entitlements, and to improve overall clarity and effectiveness, and presented the revised MND ("Revised MND") to this Commission for consideration following a public hearing; and

WHEREAS, CEQA Guidelines Section 15073.5(a) provides that a lead agency must recirculate a negative declaration when the document must be substantially revised after it is circulated for public review, but before it is adopted. Under Guidelines Section 15073.5(b), "substantial revision" means that (1) a new, avoidable significant effect is identified, and mitigation measures or project revisions must be added to reduce the effect to insignificance, or (2) the lead agency

determines that the proposed mitigation measures or project revisions will not reduce potential effects to less than significance and new measures or revisions are required to reduce the effects to insignificance; and

WHEREAS, CEQA Guidelines Section 15073.5(c) specifies that recirculation of a negative declaration, including mitigated negative declaration, is not required in the following circumstances:

- (1) Mitigation measures are replaced with equal or more effective measures pursuant to Section 15074.1.
- (2) New project revisions are added in response to written or verbal comments on the project's effects identified in the proposed negative declaration which are not new avoidable significant effects.
- (3) Measures or conditions of project approval are added after circulation of the negative declaration which are not required by CEQA, which do not create new significant environmental effects and are not necessary to mitigate an avoidable significant effect.
- (4) New information is added to the negative declaration which merely clarifies, amplifies, or makes insignificant modifications to the negative declaration; and

WHEREAS, under CEQA Guidelines Section 15074.1, a mitigation measure is "equivalent or more effective" when the new measure will avoid or reduce the significant effect to at least the same degree as, or to a greater degree than, the original measure and will create no more adverse effect of its own than would have the original measure; and

WHEREAS, on May 2, 2024, in accordance with applicable provisions of law, the Planning Commission held a duly noticed public hearing on the Project and the Revised MND, at which time the Planning Commission heard and received all relevant testimony and evidence presented orally or in writing regarding the Revised Mitigated Negative Declaration and the Project. All interested persons were given an opportunity to speak and be heard regarding the Revised Mitigated Negative Declaration and the Project; and

WHEREAS, the Planning Commission has had an opportunity to review this Resolution and finds that it accurately sets forth the intentions of the commission regarding the Revised Mitigated Negative Declaration and the Project;

NOW, THEREFORE, BE IT RESOLVED that the Planning Commission makes the following findings:

1. Environmental Determination.

- a. The Planning Commission has reviewed and considered the Revised Mitigated Negative Declaration prepared to address potential environmental impacts of the project and as revised, together with all comments received during the public review process.
- b. Based upon the full record of proceedings (including the Mitigated Negative Declaration/Initial Study circulated for public review, the proposed revisions to the MND, and all comments received), the Commission concurs, finds and determines that there is no substantial evidence that the project will have a significant environmental effect on the environment. Mitigation measures have been incorporated into the project through the Conditions of Approval that avoid or reduce potentially significant environmental impacts to a less than significant level. The mitigation measures have been agreed to by the applicant.
- c. Based on its review of the Revised MND and consistent with CEQA Guidelines Section 15073.5 and 15074.1, the Commission finds that the changes to the MND that are reflected in the Revised MND do not constitute "substantial revision" of the MND as circulated for public review. No new, avoidable significant effect has been identified, and no new mitigation measures or project revisions had to be added to

reduce a new, avoidable significant effect to insignificance, the revised mitigation measures will reduce potential effects to less than significance, and no new measures or revisions are required to reduce the effects to insignificance. Revisions to the description of project background and entitlements merely clarify the discussion, do not reflect a change in the project, and do not change the substance of impacts analysis or the effectiveness of mitigation measures.

- d. The revised and substituted mitigation measures are equivalent or more effective than the measures in the MND circulated for public review. The revisions clarify procedural steps and the compliance obligation of the applicant, and avoid or reduce potentially significant impacts of the Project equally or more effectively than the measures included in the MND as circulated, and will not themselves cause any potentially significant effect on the environment. The Commission's finding and determination includes the following specific:
 - i. BIO-1 and BIO-2 are replaced with equally or more effective mitigation measures to provide improved clarity, consistent with Guidelines Sec. 15073.5, regarding procedural steps for compliance with the measures, including clarification that plant surveys shall be submitted to the California Department of Fish and Wildlife for review and approval, and that take authorization will be required if the project is determined to have impacts to special status plant species. By improving clarity these revisions will reduce environmental effects to an equal or greater degree as the original circulated measures.
 - ii. The Project description is updated to clarify the required entitlements for the Project. In accordance with CEQA Guidelines Section 15073.5(c)(4), this revision does not trigger recirculation because the modification merely provides improved factual clarity and has no bearing on the environmental determination.
- e. The Commission finds that the Revised Mitigated Negative Declaration has been completed in compliance with State CEQA Guidelines and reflects the independent judgment and analysis of the County of Sonoma.

2. General Plan Consistency.

- a. The proposed project is consistent with the Urban Residential land use designation, which applies to both project parcels, both under the current applicable General Plan designations and Parcel -026's prior UR designation, pertinent pursuant to the Project's SB 330 pre-application.
- b. The project is substantially consistent with the overall goals, objectives, and policies of the General Plan, including Housing Element Policies HE-3e and HE-6e, as follows:
 - i. Housing Element Policy HE-3e, provides that the County will "continue to encourage affordable infill projects on underutilized sites within Urban Service Areas by allowing flexibility in development standards pursuant to state density bonus law (Government Code § 65915)." The project applicant seeks and agrees to construct a housing development that includes 10 percent of the base units as for-sale units affordable to low-income households, and includes an additional 10 percent of for-sale base units as affordable to moderate-income households, consistent with State Density Bonus Law. The project utilizes two regulatory concessions as well as waivers of development standards, also compliant with State density bonus law.
 - ii. Policy HE-6e provides that the County will provide housing opportunities throughout the county for all household income cohorts while avoiding or mitigating displacement of existing residents. The project parcels are vacant and the project will not displace existing residents.
 - iii. For the reasons outlined in Section 5 below, approval of the Project is compatible and does not conflict with Housing Element Program 9 (No Net

Loss of Residential Capacity to Accommodate RHNA), which requires the County to monitor the status of sites in the inventory, update the inventory as projects are approved, and take timely action to provide additional appropriately zoned replacement sites, as needed to maintain enough appropriately zoned sites to meet the remaining unmet RHNA. The loss of Housing Element site inventory capacity for 2 moderate-income units and 3 above-moderate income units is adequately offset by the 318-unit (92%) buffer of adequate, appropriately zoned sites in inventory for moderate-income households, and by the 177-unit (27%) buffer of sites for above-moderate income households. In addition, the regular inventory status monitoring and annual review required by Program 9 ensures that any necessary future adjustments are addressed promptly.

3. Zoning Consistency. The proposed project is consistent with Sonoma County Zoning Code as follows:
 - a. The proposed project is allowed in the R2 (Medium Density) and R3 (High Density) Zoning District, and the project meets applicable development standards with the exception of the requested waivers or reductions in development standards entitled to the applicant under State Density Bonus Law (Government Code Section 65915).
 - b. The project complies with the requirements of the Valley Oak Habitat (VOH) and Affordable Housing (AH) Combining Districts. The project will not remove protected Valley Oak trees and have incorporated existing oaks into the project design. The project does not propose to utilize the density increased granted to affordable housing projects in the AH Combining District.
 - c. The project meets the County's inclusionary requirements outlined in Zoning Code Article 89 by providing at least 20 percent of the project units as affordable to low- and moderate-income households.
4. Subdivision Ordinance and Subdivision Map Act Consistency.
 - a. The proposed tentative map meets the requirements for approval in Sonoma County Code Section 25-17 (Standards for Approval), as confirmed by the Sonoma County Project Review and Advisory Committee and the Sonoma County Planning Commission.
 - b. The proposed subdivision complies with the Subdivision Map Act, in that no conditions specified in Government Code Section 66474 are created by the proposed Tentative Map, and therefore the County has no grounds for disapproval.
5. Government Code Section 65863 (No Net Loss Law) findings.
 - a. The Commission finds that, although approval of the Project will result in the loss of site capacity to accommodate two moderate-income units and three above-moderate income units, the inventory's existing buffer of additional sites appropriately zoned for moderate-income and above-moderate income housing means that after the County's site inventory will remain adequate to accommodate the County's unmet RHNA need.
 - b. The Project is substantially consistent with the General Plan, including the Housing Element. The loss of site capacity is offset by the buffer of additional sites included in the Housing Element site inventory for exactly this type of circumstance. The Housing Element site inventory has a 318-unit, 92% buffer of sites to meet its moderate-income RHNA. Moreover, the Project is protected by an SB 330 preliminary application that was submitted before the current land use and zoning for Parcel -026 was adopted with the Housing Element Update, and pursuant to State law the applicant is entitled to proceed with the Project based on the General Plan land use and zoning, including density, in effect at the time the pre-application was submitted.

- c. For the reasons discussed above, approval of the Project therefore does not compromise the County's ability to maintain, throughout the Housing Element cycle, adequate appropriately zoned sites in inventory to accommodate the County's current RHNA for all income levels, including for moderate-income households.
- d. While approval of the project will cause the loss of site capacity for two moderate-income units and three above-moderate income units, due to the buffer discussed above it will not cause the Housing Element site inventory to become insufficient to meet the County's remaining RHNA for moderate- and above-moderate income households. Moreover, the Project will contribute 6 units restricted for low-income households and 6 units restricted for moderate-income households, toward meeting the County's RHNA for the current cycle.

BE IT FURTHER RESOLVED that the Planning Commission hereby adopts the Revised Mitigated Negative Declaration and Mitigation Monitoring Program incorporated into the Conditions of Approval, and approves the Project subject to the Conditions of Approval in Exhibit A, attached hereto. The Planning Commission certifies that the Mitigated Negative Declaration has been completed, reviewed, and considered, together with comments received during the public review process, in compliance with CEQA and State CEQA Guidelines, and finds that the Mitigated Negative Declaration reflects the independent judgment and analysis of the Commission.

BE IT FURTHER RESOLVED that the Planning Commission designates the Secretary as the custodian of the documents and other material which constitute the record of proceedings upon which the Board's decision herein is based. These documents may be found at the Permit Sonoma office at 2550 Ventura Avenue, Santa Rosa, CA 95403.

BE IT FURTHER RESOLVED that the Planning Commission' action shall be final on the 11th day after the date of the Resolution unless an appeal is taken.

THE FOREGOING RESOLUTION was introduced by Commissioner Reed , who moved its adoption, seconded by Commissioner Olmstead, and adopted on roll call by the following vote:

Commissioner Olmstead
Commissioner Reed
Commissioner Wiig
Commissioner Marquez
Commissioner McCaffery

Ayes:5 Noes:0 Absent:0 Abstain:0

WHEREUPON, the Chair declared the above and foregoing Resolution duly adopted; and

SO ORDERED.