



PLANNING COMMISSION AGENDA ITEM NO. E.1
07/02/2024

SUBJECT: Continuance of an application for a Vesting Tentative Subdivision Map, Design Review, and grant of a Density Bonus and waivers for the Orchard Grove North residential project.

DEPARTMENT: Community Development

STAFF: Erik Nolthenius, Planning Manager
Sarah Yuwiler, Associate Planner

TITLE/RECOMMENDATION

Staff recommends that the Planning Commission adopt Resolution No. 24-028 recommending that the City Council approve the Mitigated Negative Declaration (SCH# 2024050112) and Mitigation Monitoring and Reporting Program; Resolution No. 24-029 recommending that the City Council approve Vesting Tentative Subdivision Map No. 9649 (VTSM 9649); and Resolution No. 24-030 recommending that the City Council approve Design Review No. 23-012 (DR 23-012) for the Orchard Grove North project, as conditioned.

The project includes a Vesting Tentative Subdivision Map (VTSM 9649) for the subdivision of 9.6-acres into 34 parcels (including 30 single-family detached homes and four affordable duets), one on-site bioretention parcel, and a designated 0.4-acre remainder parcel. The project also includes a density bonus application to allow for a 17.2% increase in density pursuant to the [State Density Bonus Law \(SDBL\)](#), as well as a design review application (DR 23-012) for the homes to be constructed on the 34 parcels and a modification request to the General Plan density transition policy. The project is located at 1901 Lone Oak Road, just south of Grant Street and directly east of Adams Lane (APN 016-040-004).

The City prepared a mitigated negative declaration for this project in accordance with the requirements of the California Environmental Quality Act (CEQA, codified at Public Resources Code §§ 21000, et seq., and as further governed by the State CEQA Guidelines, found at 14 CCR §§ 15000, et seq.). Several potentially significant impacts are identified; however, mitigation measures are incorporated to reduce those impacts to less than significant levels. All mitigation measures are included by reference as conditions of approval.

OWNER/APPLICANT

Gloria McCoy / Shea Homes

GENERAL PLAN

Residential - Very Low Density (R-VLD)

ZONING/SURROUNDING LAND USES

Single-Family Residential Estate (R-1-E)

Surrounding Land Uses

North: The Rock Church and Vineyard Academy school

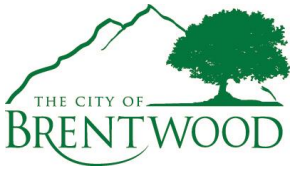
South: Vacant land currently under construction with the original Orchard Grove single-family subdivision

West: Adams Lane and Marsh Creek Elementary School

East: Lone Oak Road and single-family homes zoned R-1-E



2023 Aerial Photo of Project Site



PREVIOUS ACTION(S)

At the June 4, 2024 Planning Commission meeting, staff requested and was granted a continuance of this item due to a discrepancy that was discovered after publication of the agenda packet. The Initial Study/Mitigated Negative Declaration (IS/MND) contained the incorrect Archaeological Assessment Report cited in Section V “Cultural Resources”. The correct Archaeological Assessment Report has now been attached.

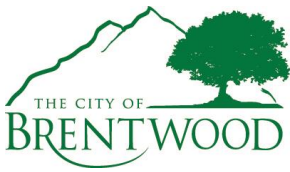
BACKGROUND

The 9.6-acre project site is located at 1901 Lone Oak Road (APN 016-040-004) on the east side of Adams Lane. The site is currently developed with one single-family home at the southeast corner of the property, in which the property owner currently resides, and will remain as a 0.4-acre remainder parcel with this subdivision. The rest of the parcel is currently vacant grassland but does have a history of agricultural use. The General Plan designates the site as Residential-Very Low Density (R-VLD) and the site is zoned single-family residential estate (R-1-E), with a minimum lot size of 14,500 square feet. The R-VLD designation provides for fairly large lots for single-family residences in an identifiable, suburban residential neighborhood.

APPLICABLE STATE HOUSING LAW

The applicant submitted a preliminary application for this project under [Senate Bill \(SB\) 330](#); that preliminary application was deemed submitted to the City consistent with the requirements of [Government Code §65941.1](#) in August 2023. This law made numerous changes to the Permit Streamlining Act and the Housing Accountability Act. SB 330 requires that, if the application complies with the applicable objective general plan, zoning, and subdivision standards and criteria, including design review standards, that are in place at the time that the preliminary application was deemed submitted (i.e. August 18, 2023), the City cannot deny or condition the project in a manner that would lessen the intensity of housing, such as decreasing the density or number of units ([Government Code section 65589.5\(j\)](#)).

Additionally, the City cannot require compliance with the City’s General Plan “mid-range” policy. The “mid-range” policy requires that applicants meet subjective criteria to develop above the mid-point of the applicable General Plan density range, and is, therefore, contrary to the state law requirement that cities cannot limit density through subjective criteria. The City Council has previously directed that this policy be removed from the General Plan.



PROJECT DESCRIPTION

The applicant, Shea Homes, is requesting the approval of an Initial Study/Mitigated Negative Declaration (IS/MND), a Mitigation Monitoring and Reporting Plan (MMRP), a Vesting Tentative Subdivision Map (VTSM 9649), and a Design Review (DR 23-012) for a new 34-unit single-family development including four (4) affordable duet units, one on-site bioretention parcel, and a designated 0.4-acre remainder parcel. The project also includes a density bonus application to allow for a 17.2% increase in density, with an overall project density of 3.54 units per gross acre, as well as associated waivers, one of which is the City’s General Plan Density Transition Policy. The project includes four affordable units; two affordable to households qualifying as Very Low Income and two of the units affordable to households qualifying as Moderate Income. Two of the duets have lot sizes of 3,867 square feet and the other two duets are located on 4,532 square foot lots. The remaining 30 lots range in size with a majority of the lots being approximately 8,000 square feet and the lots around the perimeter of the project being slightly larger (up to 13,389 square feet).

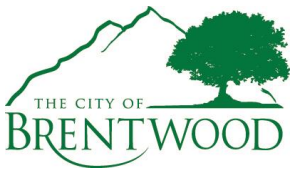
The proposed project will connect to the public loop street to the south that is currently under construction as part of the recently approved Orchard Grove subdivision. Orchard Grove and Orchard Grove North are accessible from two locations off of Adams Lane. Adams Lane will be widened along the project frontage consistent with the approval for the Orchard Grove subdivision to the south. No access to the 34 new lots will be provided via Lone Oak Road. The existing single-family home on the property will continue to have frontage on (and take access from) Lone Oak Road.

ANALYSIS

GENERAL PLAN AND HOUSING ELEMENT CONSISTENCY

Residential-Very Low Density

The subject property has a General Plan land use designation of R-VLD. The R-VLD designation is designed predominantly for fairly large lots for single-family residences. The permitted density range is 1.1 to 3.0 units per gross acre (du/ac), and the proposed project would result in a density of 3.54 du/ac (34 units/9.6 acres) due to a density bonus request under State Density Bonus Law, which will be explained in more detail below. As noted above, the City cannot impose the “mid-range” policy currently identified in the General Plan.



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In addition to applicable State laws, the City's 2014 General Plan and 2023 Housing Element have goals and policies to ensure that adequate provisions are made for meeting the housing needs of all economic segments of Brentwood. These goals and policies are supported through actions listed in the General Plan and Housing Element, and include granting density bonuses, when required by State law and by integrating affordable housing into single-family neighborhoods so that the overall construction and quality of the affordable homes is compatible with that of the market rate units. The proposed project meets the intent of the goals and policies established by the General Plan and Housing Element as follows:

Goal LU 1. *Establish a land use pattern in Brentwood that provides for a diverse, self-sufficient community that offers a broad spectrum of job opportunities, housing types, community facilities, and commercial services.*

The project proposes a land use pattern that provides for a diverse and self-sufficient community that offers a broad spectrum of housing by providing 30 detached single-family market rate homes and four attached affordable duet units.

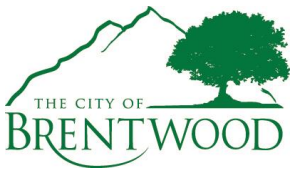
Goal H-1. *Facilitate a diversity of housing opportunities to enhance the City's living environment and to satisfy the shelter needs of all Brentwood residents.*

The project provides a diversity of housing opportunities by providing 30 detached single-family market rate homes and four attached affordable duet units. The four affordable units include a variety of affordability levels. Two of the units are affordable to households qualifying as Very Low Income and two of the units affordable to households qualifying as Moderate Income.

Goal H-2. *Encourage housing that is affordable to all socio-economic segments of Brentwood's population.*

The project includes four affordable units with varying levels of affordability, as referenced above.

Action H 2a. *Compliance with Affordable Housing Ordinance: All new residential projects shall provide affordable housing units in accordance with the City's adopted affordable housing ordinance Chapter 17.725. The City will continue to review and monitor the ongoing effectiveness of the City's affordable housing ordinance to ensure developers provide a certain percentage of new homes to qualifying households at an affordable cost for the longest feasible time. The ordinance shall also continue to include a list of automatically available development incentives to*



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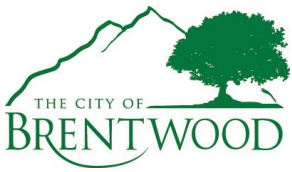
encourage the construction of the inclusionary units as well as provide the details for available alternatives to satisfy inclusionary housing obligations.

The project complies with the City's adopted affordable housing ordinance that was in effect at the time the project was deemed complete and per the Brentwood Municipal Code (BMC 17.725.003D), by providing the required number of affordable units for projects between 27 and 34 units (one low-income unit, two moderate-income units, and one very low-income unit). Pursuant to the City's ordinance and consistent with State law, a very low-income unit also qualifies as a low income unit and therefore the project complies with BMC 17.725.003D by providing two very low-income units and two moderate-income units. In addition, the project developer would be required to enter into an Affordable Housing Agreement with the City prior to final map approval.

Action H 2i. *Density Bonus Ordinance: Assembly Bill 2345, Chapter 197 Statutes 2020 requires a density bonus of up to 50 percent when a qualifying percentage of Below Market Rate (BMR) units are proposed.*

The project site is within the General Plan Residential - Very Low Density (R-VLD) land use designation, which provides for a density range from 1.1 to 3.0 dwelling units per acre. Pursuant to the SDBL, an applicant may obtain additional density without requiring a rezone or General Plan land use designation change, as well as a relaxation or elimination of applicable development standards (i.e., concessions and waivers) in exchange for providing certain levels of affordable housing. The density bonus is set on a sliding scale, based on the percentage of affordable units provided. The base density for the project is 3 units/acre on 9.6 acres which would allow a total of 29 units. In order to invoke the SDBL provisions, a minimum of five percent (5%) of the units are required to be affordable to very low income households. The applicant is proposing two (2) of the project's total 34 units as affordable to very-low income households which equates to six percent (6%) of the units and therefore meets the SDBL threshold for a density bonus (Government Code § 65915 (f)(2)(B)(1)(b)). The State's sliding scale allows for a 22.5% density bonus for projects that offer 6% very low income units, which would allow the project to construct a total of 36 units. However, the applicant is not proposing to seek the full bonus allowed by law and is proposing a 17.2% density bonus, which equates to 34 units. The proposed project results in an overall density of 3.54 dwelling units per acre.

Goal H-3. *Encourage an equitable distribution of housing for all economic groups throughout the community.*



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By providing a mix of market rate, moderate, and low income units, the project achieves and maintains an equitable distribution of housing types available to all economic groups. The Regional Housing Needs Allocation (RHNA) for Brentwood for the 6th cycle requires planning for the development of 1,522 new affordable housing units, including 247 units for moderate-income households and 232 units for low income households for the next 2023-2031 housing allocation cycle. The proposed project would contribute four affordable units and 30 above moderate units that are all anticipated to be counted toward the 2023-2031 allocation cycle consistent with the provisions in the recently adopted and certified Housing Element. Additionally, the two sets of duet units will be spread throughout the proposed subdivision.

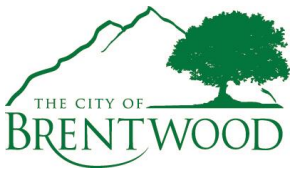
Action H- 3a. *Affordable housing design and distribution: All affordable units within a mixed-income subdivision shall be harmonious and comparable to the market-rate units in exterior design, quality of materials and architectural elements, and overall construction quality. Affordable units may have different interior amenities and/or slightly different dimension than market rate units in a residential development. Affordable units in a mixed-income development shall be dispersed throughout the residential development so as to prevent the concentration of affordable units.*

The duet housing product proposed for the affordable units provides for a four-bedroom, two-story home with a two-car garage. This home design is comparable in bedroom and bathroom count, garage configuration, and floor plan layout with the market rate homes, although of smaller total square footage as is allowed under Brentwood affordable housing ordinance. The design and distribution of the affordable units are comparable to the market rate units in exterior design, materials, architectural elements, and overall construction quality, as well as the number of bedroom and proportion of bedroom types. The affordable units are also dispersed throughout the residential development.

Goal H-4. *Housing Opportunities: Promote equal housing opportunities for all residents of Brentwood.*

The project provides 30 market rate units and four affordable units; two affordable to very low-income households and two affordable to moderate-income households. The proposed project would be anticipated to contribute four affordable units to the 2023-2031 allocation cycle consistent with the provisions in the Housing Element.

Action LU 2a. *Density Transition Policy*



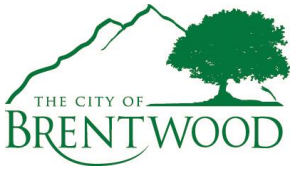
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Action LU 2a of the General Plan requires a density transition for proposed lots facing or abutting existing residential lots zoned Ranchette Estate or of one acre or more, such that the proposed lots have a minimum area of 20,000 square feet. Given the presence of one-acre lots both north and east of the site, the adjacent proposed lots are required by this policy to have a minimum area of 20,000 square feet. The project does not meet this requirement and seeks modification of the policy. The General Plan Action LU 2a(4) grants the Planning Commission the discretion to modify the density transition policy when certain findings can be met. Here, there are three affected parcels to the north, owned by The Rock Church, located at 1770 Adams Lane (APN 016-040-009, 016-040-011, and 016-040-010). Under the General Plan, an exception to affected transition lot requirements can be made when the adjacent property has a similar land use or zoning designation that would enable the future subdivision of the adjacent property into lots of a size similar to those planned in the proposed subdivision, even though the property owner has no present intentions to subdivide their property (Goal LU 2 Action LU2a 4a.) The property located at 1770 Adams Lane has the same zoning designation as the proposed project site.

However, this project is not seeking the Planning Commission's approval of an exception to this density transition requirement per the General Plan. Instead, pursuant to SDBL, the applicant is requesting a waiver of the density transition requirement along the northern and eastern boundary of the project in order to provide the 34 units proposed. Although this request is made under SDBL, the General Plan requires that the Planning Commission make a recommendation to the City Council on any exceptions to the density transition policy. Therefore, the entire project is subject to review by the City Council. A detailed discussion regarding the proposed waiver can be found later in the staff report.

ZONING CONSISTENCY

The project site is zoned R-1-E, which allows for single-family detached residential uses on lots with a minimum size of 14,500 square feet. As shown in the table below, the project satisfies the required height and parking standards for the zoning district; however, the project proposes reduced front and rear yard setbacks, reduced lot area and width, and an increase in density. As allowed under the SDBL, the applicant is requesting waivers of these development standards, which is discussed further in the report.



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Table 1

	R-1-E Development Standards	Proposed	Complies
Minimum Lot Size	14,500 sf 10,000 sf (w/ CUP)	8,000 sf 3,750 sf (duet units)	No, waiver requested.
Minimum Lot Width	100 ft	80 ft 40 ft (duet units)	No, waiver requested.
Minimum Front Yard Setback	20 ft	15 ft to living space 20 ft to garage	No, waiver requested.
Minimum Side Yard Setback	10 ft, sum of both sides 25 ft	7 ft, sum of both sides 20 ft, 0 ft minimum for duet on lot line that splits the building	No, waiver requested.
Minimum Street Side for Corner Lots	15 ft	15 ft	Yes
Minimum Rear Yard Setback	30 ft	15 ft	No, waiver requested
Minimum Off-Street Parking Spaces	2 spaces	2 spaces	Yes
Maximum Building Height	30 ft	27 ft 7 in	Yes



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	R-1-E Development Standards	Proposed	Complies
Density	2.0 units /acre (permitted) 3.0 units/acre (conditionally permitted)	3.54 units / acre	SDBL allows for an increase in density.

RELEVANT HOUSING LAWS

The State has passed numerous housing laws to address the housing shortage and limit local governments’ ability to deny housing projects that comply with the General Plan and/or zoning regulations. Several laws apply to the project that affect the City’s processing of the application. The housing laws that affect the Orchard Grove North project directly limit the City’s ability to respond to issues about density, development standards, and design standards. Although there are a variety of housing laws that apply to this project, the most relevant is the SDBL (Government Code §§ 65915-65918).

State Density Bonus Law (SDBL)

The State Density Bonus Law was enacted in 1979 to address the shortage of affordable housing in California. The law has been amended dozens of times over the years. Pursuant to the SDBL, an applicant may obtain additional density, as well as a relaxation or elimination of applicable development standards (i.e., concessions and waivers) in exchange for providing certain levels of affordable housing. The density bonus is set on a sliding scale, based on the percentage of affordable units provided. The project site is within the General Plan Residential- Very Low Density (R-VLD) land use designation, which allows for a density range from 1.1 to 3.0 dwelling units per acre. The base density for the project is 3 units/acre on 9.6 acres which would allow a total of 29 units. Here, the applicant is proposing to provide six percent (6%) of the units for very-low income households, which meets the State’s Density Bonus Law threshold for a density bonus (Government Code § 65915 (f)(2)(B)(1)(b)). The State’s sliding scale allows for a 22.5% density bonus for projects that offer 6% very low income units, which would allow the project to construct a total of 36 units. However, the applicant is not proposing to seek the full bonus allowed by law and is proposing a 17.2% density bonus (total of 34 units) as illustrated in the table below.



Table 2

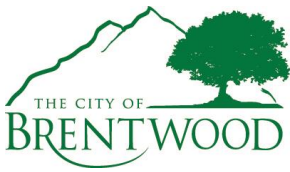
Density	Units
Base Density	9.6 acres x 3 units= <u>29</u>
Proposed Density Bonus	29 units x 17.2%= <u>34</u>
Max Allowed Density Bonus	29 units x 22.5%= <u>36</u>

*Density calculations resulting in fractional units are required to be rounded up to the next whole number

When a developer sets aside a qualifying percentage of units in a housing development for affordable units, the City has no discretion with regard to the density bonus award; as long as the project provides the requisite affordability, the formulaic bonus must be awarded. With the recent revisions to the law, the applicant may also request incentives/concessions, waivers of development standards that would preclude development of the project as designed at the increased density, and the reduction of parking standards. In reviewing requested incentives or concessions, the City’s review of the requests is limited to determining the project’s eligibility for the requested incentives and concessions, and whether any requested deviations from City standards would (1) not actually result in identifiable and actual cost reductions to provide for affordable housing costs, (2) have a specific, adverse impact on public health/safety or on a property listed on the California Register of Historical Resources for which there is no feasible method to satisfactorily mitigate the impact without rendering the project unaffordable, (3) be contrary to state or federal law. Cities bear the burden of proof for the denial of any requested incentive, concession, or waiver not given.

Concession

An incentive/concession is defined as a reduction in site development standards or a modification of zoning requirements or architectural design requirements that exceed the minimum Building Code standards, or other regulatory incentives or concessions proposed by the developer or the City, that result in identifiable and actual cost reductions to provide for affordable housing costs (§ 65915(k)). A housing development project may be awarded between one and four incentives/concessions, depending on the level of affordability provided. Given the Project’s provision of 6% of units affordable to households of very-low income, it is entitled to a single incentive/concession under the SDBL (§ 65915(d)(1)). The applicant is not requesting any concessions for this project.



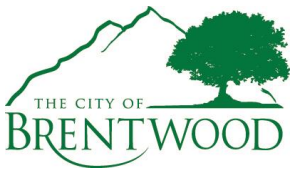
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Waivers

Under the SDBL, a qualified applicant may request waivers of development standards such as lot sizes, lot dimensions, or setbacks. Pursuant to the SDBL, the City is not permitted to apply any development standards that would physically preclude the construction of the project as designed at its permitted density with the concessions allowed under the law. As with concessions, the City is not required to waive or reduce development standards that would (1) have a specific, adverse impact on public health /safety or on a property listed on the California Register of Historical Resources for which there is no feasible method to satisfactorily mitigate the impact without rendering the project unaffordable, or (2) be contrary to state or federal law. Furthermore, a waiver does not count as an incentive/concession, and there is no limit on the number waivers that may be requested or granted. The following table provides an analysis of the waivers requested by the applicant:

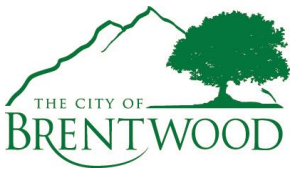
Table 3

	General Plan Transition Policy	Waiver Request	Analysis
1	General Plan Density Transition Policy (LU-2a) requires minimum 20,000 square foot lot sizes for certain lots along the exterior of the project.	Waive the General Plan Density Transition Policy requirements for lots on the northern & eastern edge of the site to instead range from 3,867 sq. ft. for the duet lots and between 10,429 sq. ft. to 13,389 square feet for the detached single-family lots.	The proposed development is subject to the General Plan Transition Policy LU-2a requiring 20,000 sf minimum lot sizes on the northern and eastern borders of the property. Requiring those lots to strictly adhere to this policy would physically preclude construction at the proposed density because it would result in elimination of multiple lots from the land plan.
	R-1-E Zoning Standard	Waiver Request	Analysis
2	Minimum lot size is 14,500 sf; minimum lot size can be reduced to 10,000 sf for conditionally permitted uses	Minimum lot sizes for the market rate units reduced to 8,000 sf.	Larger lot sizes would physically preclude construction of the project at the proposed density. The applicant ran a sample land plan scenario showing the constraints of 10,000 sf minimum lot sizes on the project as a whole, the 20,000 sf minimum on the lots adjacent to existing large lot



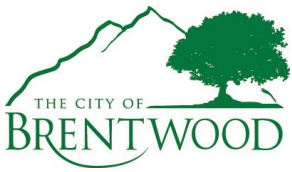
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			residential, and the various other land use controls. The maximum number of units possible on this site under those conditions would be 28 units, including the four affordable unit required per the City's Affordable Housing ordinance. The reduction to 8,000 sf minimum lot sizes on the market rate units would be necessary to allow for construction of the 34-unit project.
3		Minimum lot sizes for the affordable units reduced to 3,750 sf.	The duet housing product proposed for the affordable units provides for a four-bedroom, two story home with a two car garage. This design is consistent with the bedroom and bathroom count, garage configuration, and floor plan layout with the market rate homes, with the exception of total square footage, as allowed under the City's Affordable Housing ordinance. A larger lot size requirement than what is proposed would impact the setbacks of the remaining homes on the block. Without this waiver, the proposed density project would be physically precluded from being constructed at the proposed density, even with the requested waivers for the market rate units.
4	Minimum lot width is 100 feet	Minimum lot width for the market rate units reduced from 100 feet wide to 80 feet wide as, measured at the rear lot line.	Increased lot widths would physically preclude construction of the project. The applicant ran a sample land plan scenario showing the constraints of a 10,000 sf minimum lot size (essentially the same as applying a 100-foot minimum lot width) on the project as a whole, a 20,000 sf minimum lot size on the lots



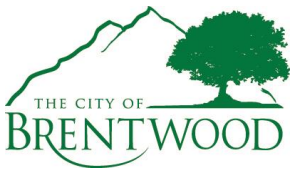
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			<p>adjacent to existing large lot residential, and the various other land use controls. The maximum number of units possible on this site under those conditions would be 28, including the four affordable unit required by the City's Affordable Housing ordinance. The reduction in the minimum lot dimensions on the market rate units is necessary to allow for construction of the 34-unit project, while also allowing for density transition lots on the south and east, and a housing product consistent with the surrounding neighborhoods and economically feasible in the marketplace.</p>
5		<p>Minimum lot dimensions for duet units shall be reduced from 100 feet wide to 40 feet, wide as measured at the rear lot line.</p>	<p>The duet housing product proposed for the affordable units provides for a four bedroom, two story home with a two car garage. This home design is comparable in bedroom and bathroom count, garage configuration, and floor plan layout with the market rate homes, although of smaller total square footage, as is allowed under Brentwood affordable housing ordinance. The lot dimensions proposed are appropriate to the proposed architecture and provide for comfortable and livable setbacks. Lot dimensions any larger than what is proposed would not materially improve the duet homes and would significantly impact the lot sizes and setbacks of the remaining lots and homes in the subdivision. Without this waiver, the proposed density project would be physically precluded from building the 34 units allowed, even with the other</p>



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			requested waivers for setbacks and lot sizes.
6	Minimum front yard setback is 20 feet.	Minimum front yard setbacks include an allowance to decrease the front setback to 15 feet to living space, yet maintain the existing 20 feet to the garage.	The requested waiver is to allow for a 15-foot front setback to any living space that may project forward of the garage. This waiver is necessary to support the proposed architecture as described above while preserving reasonable rear yard setbacks. Without this waiver, lot depths would have to increase, resulting in the reduction of the total number of units proposed for the project, and physically precluding the proposed 34-unit density bonus project.
7	Minimum side yard setback is 10 feet, the sum of both sides is 25 feet.	Minimum side yard setback reduced from 10 feet minimum and reduced from 25 feet in aggregate to 20 feet in aggregate.	The requested waiver is to allow for a garage reduction of 3 feet on the minimum and 5 feet on the aggregate side yard setback. This is necessary to support the proposed architecture as described above and accommodating lot widths necessary to achieve the densities allowed under the density bonus. Without this waiver, the project could not be physically constructed at the proposed density because increased lot widths would reduce the total number of units proposed for the project.
8	Side yard setback for duet units	Side yard setbacks shall include a provision for a zero setback on the lot line defining the common wall between duets.	Because the duet units are proposed to be fee simple ownership, individual legal lots must be mapped. A zero setback is required on the lot line that splits the building. Without this waiver, the proposed duets could not be physically constructed and thus the project could not be



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			physically constructed at the proposed density.
9	Minimum rear yard setback is 30 feet.	Minimum rear yard setback shall be reduced from 30 feet to 15 feet.	A 15-foot minimum rear yard setback is necessary to support the proposed architecture while preserving the minimum front yard setbacks. Without this waiver, the project could not be physically constructed at the proposed density because increased lot depths would reduce the total number of units.
	Objective Design Standards*	Waiver Request	Analysis
1.1(D)	Minimum setback of 30 feet between sound walls and bordering arterial and collector streets.	Minimum setback shall be 15 feet.	Compliance with the 30-foot setback would physically preclude the project from constructing the proposed number of units because an increased setback would reduce the number of units. Staff also notes that this development standard is not consistent with existing sound walls on Adams Lane or any other minor arterial in Brentwood.
2.2(E)1	A minimum of one unit on each lot must have the front entry door facing the street.	Allow eight lots to not have entry doors facing the street.	The proposed subdivision has some lots that gain access via a shared access drive aisle off of the public street and therefore these homes are not oriented facing the public street. Some of the entrance doors for the duet units are located on the side in order to match the rest of the subdivision. The requirement to have these lots face the street would physically preclude construction of the number of proposed lots as there is not enough room for all lots to fit with frontage on the street.



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2.2(E)2&3	Where the housing development comprises two side-by-side detached units positioned along the street frontage, each unit must have the front entry door facing the street. Where two units are proposed to be attached and are located on an interior lot, one of the two units must have its front entry door facing the street, and the other unit must have its front entry door on the building side or rear.	Allow the duet units to have front doors both facing the same street.	Some of the entrance doors for both of the duet units are located on the front in order to match the rest of the subdivision and appear as one single-family home. The duets cannot be physically constructed to comply with this requirement and thus without the waiver, the project could not be constructed at the proposed density.
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*The applicant is requesting modifications to some standards in order to achieve the 34 lots.

Staff has analyzed whether all of the above waivers are subject to denial and has determined that they are not, for the following reasons:

- (1) there are no specific, adverse impacts on public health or safety for which there is no feasible method of mitigation or avoidance that would be associated with granting this requested waiver;
- (2) there are no specific, adverse impacts on public health or safety on any real property listed in the California Register of Historical Resources; and
- (3) the requested waivers are not contrary to state or federal law.

Affordable Housing Ordinance and Density Bonus Affordability Component

The project application was deemed submitted under SB 330 in August of 2023, and therefore is subject to the City’s Affordable Housing Ordinance that was in effect at that time. The ordinance requires projects between 27 and 34 units to contain one low-income unit, two moderate-income units, and one very low-income unit (BMC 17.725.003D). Pursuant to the City’s ordinance and consistent with definitions of the state law, a very low-income unit qualifies as a low income unit and therefore the project complies by providing two very low-income units and two moderate-income units. The project is proposing four (4) affordable units, with two (2) affordable to very low-income households and two (2) affordable to moderate-income households.



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Under the State Density Bonus Law (Government Code § 65915 (f)(2)(B)(1)(b)), the project is required to provide five percent (5%) of the units for very-low income households in order to qualify for Density Bonus benefits. However, the project proposes six percent (6%) of the units for very-low income households which allows the project to qualify for an increase density of up to 22.5%. Units required by the City's Affordable Housing Ordinance qualify as affordable units for purposes of the State Density Bonus Law. Therefore, with a total of four (4) affordable for-sale units, the project meets the affordability requirements as required by City and State requirements.

The designs of the affordable units are comparable to the exterior designs of the market rate units, materials, architectural elements, and overall construction quality, as well as the number of bedroom and proportion of bedroom types. The affordable units are also dispersed throughout the residential development, consistent with the requirements of the applicable Affordable Housing Ordinance.

VESTING TENTATIVE SUBDIVISION MAP

The subdivision consists of a rectangular-shaped 9.6-acre parcel, excluding the 0.4-acre remainder parcel at the southeast corner of the project site. The proposed vesting tentative subdivision map includes 34 single-family lots, a bioretention lot (Parcel A), and ties in to the previously approved looped public street for the original Orchard Grove subdivision just to the south of the parcel, with access via two points along Adams Lane. The bioretention parcel for storm water treatment is located on the northeast corner. Smaller residential lots ranging from 8,000 to 9,000 square feet are located at the center of the project and slightly larger lots ranging from approximately 10,000 to 13,400 square feet (with the exception of the duet lots) are located along the northern and western perimeter of the site.

Although the project will not have an on-site park, it is in close proximity to Blue Goose Park (a four-acre community park with many amenities), located directly across Adams Lane and southwest of the project site. Additionally, Dolphin Park is within a half mile walk of the project with a safe crossing at the controlled intersection of Grant Street and Adams Lane. Consistent with the City's 2019 Parks, Trails and Recreation Master Plan, an on-site park is not required based on the availability of the two existing parks in the vicinity of the project site and the safe access thereto for project residents. As a draft condition of approval, the developer is subject to park



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in-lieu fees to fund community-wide projects rather than construct another new park in close proximity to two existing parks (Goal CSF 2, Policy 2-9).

As part of the application review, the Public Works Department and the Contra Costa County Fire Protection District reviewed the proposed vesting tentative subdivision map to verify that safe and acceptable street widths are included in the subdivision. Full right-of-way improvements would be constructed within the street, including utilities, curb, gutter, and a separated sidewalk with a landscape strip.

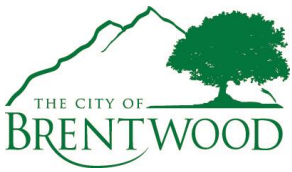
The project involves the construction of the necessary infrastructure to serve the proposed neighborhood and would include plans to connect to existing City infrastructure to provide water and sewer to the site. Storm water quality for the site will be established with a bio-retention basin constructed at the northeast corner of the site pursuant to Contra Costa County and State Water Resources Control Board regulations. A condition of approval would also require improvements to Lone Oak Road along the eastern project frontage.

DESIGN REVIEW

Access and Circulation

Access to the site would be via two existing (currently under construction by the Orchard Grove project directly to the south) access points off Adams Lane, which borders the property to the west and the subdivision will tie into the looped public street internal to the previously approved Orchard Grove project. The two projects will connect for an overall design of one continuous project to ensure consistency within the neighborhood, well-connected streets, and development that occurs in a logical and orderly manner. The internal street is approximately 56 feet in width, with sidewalks connecting to the existing sidewalk on Adams Lane. Adams Lane will be widened along the project frontage to accommodate through traffic and new turning movements into and out of the proposed project. Full right-of way improvements would be constructed within the internal street, including utilities, curb, gutter, and a separated sidewalk with a landscape strip. (Policy LU1-4, LU1-5, Policy CIR 1-2).

An analysis of the expected vehicle miles traveled (VMT) by the proposed residential development was prepared by TJKM Transportation Consultants. The proposed development is expected to generate 362 daily vehicle trips, including 27 a.m. peak



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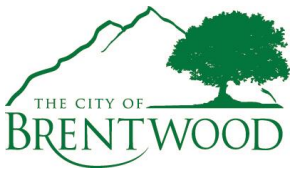
hour trips and 34 p.m. peak hour trips. Based on the existing residential VMT generated by other similar homes surrounding the project location, the project is expected to generate VMT per resident that is at least 15 percent below the Brentwood citywide average. The project would produce a less-than-significant impact, based on the adopted Contra Costa Transportation Authority thresholds. A detailed discussion of transportation-related impacts associated with the proposed project can be found in the IS/MND.

Architecture

The proposed architecture is designed to be consistent with the previously approved Orchard Grove project located on the parcel to the south of the current proposal in order to appear as one cohesive subdivision. The project is uniquely designed, allowing for increased variation of building design and massing throughout the subdivision. There are four home plans for the market rate homes and two home plans for the duet units. Each of the floor plans offer a unique configuration of massing, intended to create differentiation and variety on the streetscape, and provide buyers with distinct choices in lifestyle and use of space. A summary of the proposed home plans is as follows:

Table 4

Plan #	Home Size (SF)	Bed/Bath	Garage Spaces	Stories	Maximum Proposed Height
1	3,043	4/3.5	2	One Story	20' 9"
2	3,155	4/3.5	2	One Story	20' 6"
3	3,741	4/3.5	3	Two Story	26' 3 1/8"
4	4,118	5/4.5 (includes ADU)	3	Two Story	27' 6 5/8"
5 (duet)	1,976	4/3	2	Two Story	29' 7"



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6 (duet)	2,073	4/3	2	Two Story	29' 7"
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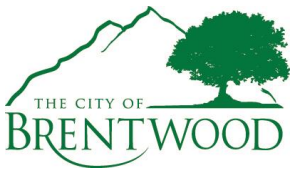
The unit breakdown for each plan type is shown in the table below.

Table 5

PLAN	TOTAL	% OF TOTAL UNITS
Plan 1 (1 story)	8	23.5%
Plan 2 (1 story)	8	23.5%
Plan 3 (2 story)	7	20.6%
Plan 4 (2 story)	7	20.6%
Plan 5 Duet (2 story)	2	5.9%
Plan 6 Duet (2 story)	2	5.9%
TOTAL	34	100%

There are three distinctive elevation styles for each home plan, which include Early California/Spanish, Mediterranean Revival, and Craftsman. All duet units have a Craftsman elevation, similar to the Craftsman elevation found in the market rate homes. The three elevation styles offered are as follows:

Early California/Spanish – The Early California/Spanish style incorporates concrete “S” style tile roofing covering a series of traditional gable roof forms. The roof pitches of this style are 4:12. Walls are clad with stucco and the base of the Plan 1 has been built out true to the style and will be painted with a complimentary color. The Early California/Spanish style incorporates deep-set entry doors with entrances onto porches that are typically designated by a single arch feature or a more open design incorporating a decorative beam. A decorative beam is also included above the garage door to match the entryway. Two of the porch designs are also appointed with decorative wing walls common in early California architecture. Style-appropriate recessed windows are shown on the front elevations of many of the plans, as are wood-sided bay windows that emphasize elements on either the first or the second floor. All windows are accented with dimensional stucco trim, which is carried around onto the sides and rear of the homes.



Mediterranean Revival – The Mediterranean Revival style incorporates concrete “S” style tile roofing covering a series of pyramid hip and cross-hipped roof forms. The roof pitches of this style are 4:12. Walls are clad with stucco over foam trim. The entrances onto porches are either curved or square with cementitious trim around the perimeter of the opening that is painted a complimentary color and a light fixture above the entryway. Style-appropriate recessed windows are shown on the front elevations of many of the plans, as are wood-sided bay windows and windows with curved stucco/cementitious finishes that emphasize elements on either the first or the second floor. The Mediterranean Revival style incorporates a complimentary trim around the garage doors, which matches the entryway and window trims.

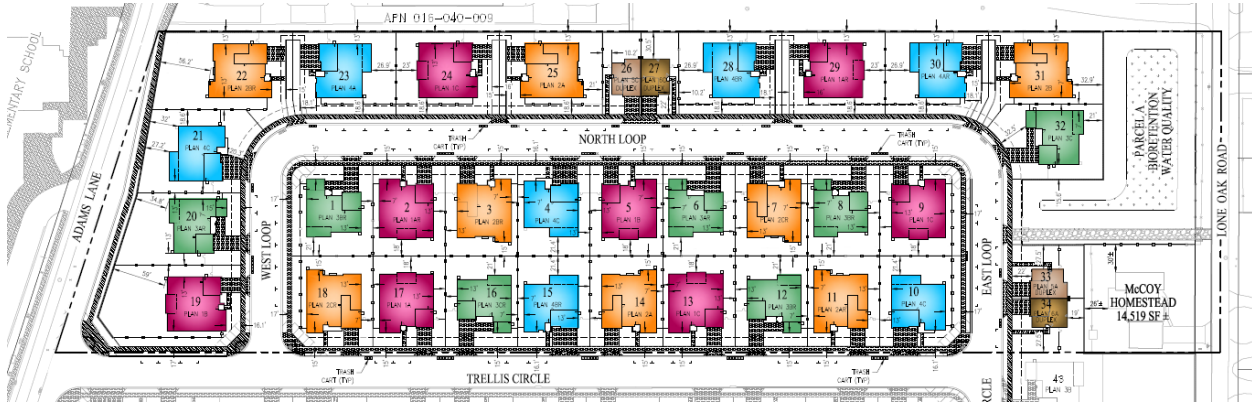
Craftsman – The Craftsman elevations are a combination of stucco over foam trim and cementitious board and batten siding. In addition, there are stone veneer trim bases and column bases with paired porch posts defining the entries. Wooden posts and trim elements adorn each of the front porches, consistent with the style and wooden trim compliments on the windows on all four elevations. Front elevations feature unique window trim styles and detail elements, and decorative faux corbels and trim details in the roof gable ends. The garage door style is specific to this elevation type. The rooflines are made up of accent gables in alternating directions with concrete roof tile. The roof pitches of this style are 4:12. All the duet units have a Craftsman elevation with a 6:12 roof pitch.

The exterior materials, massing, roof shape and pitches, trim shapes, colors and materials create a strong neighborhood identity and provides for architectural variation throughout the subdivision. For each plan, there are four color schemes that represent the particular style, for a total of 12 color schemes. The proposed design provides architectural elements and building forms that reflect attention to detail and general compliance with the City’s Interim Objective Design Standards explained below.

Master Plotting Plan

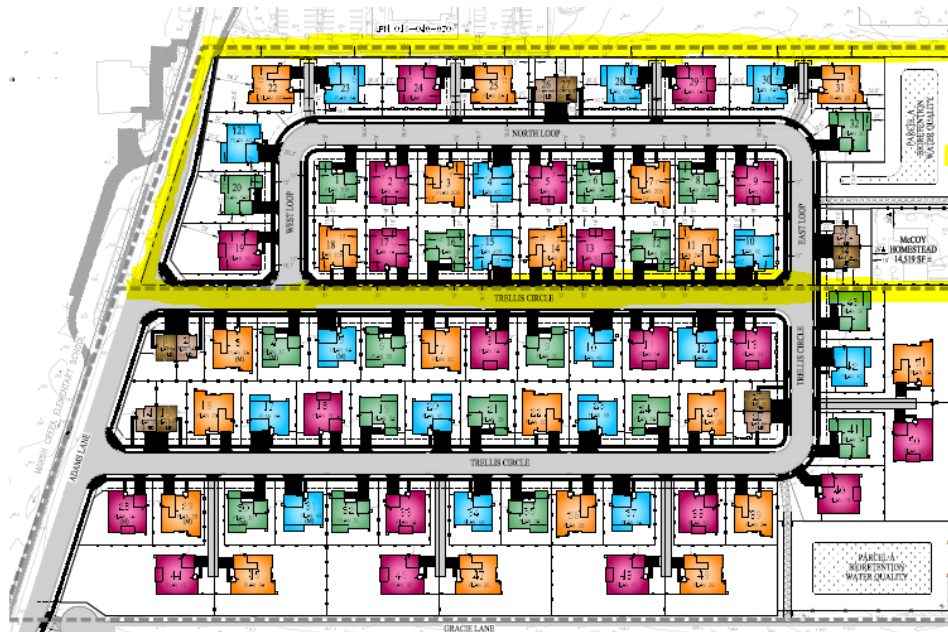
The master plotting plan depicts which home plans would be constructed on a particular lot. Consistent with the City’s Interim Objective Design Standards, the proposed combination of models and elevation styles serve to diversify the plotting as much as possible. The proposal provides for a varied streetscape, interspersing single-story plans, two-story plans, and duet units. Single-story and duet units are

located on corner lots to provide massing and lot proportions consistent with the residential development. A condition of approval is included to ensure that elevation styles are not repeated on adjacent lots, thereby creating a diverse streetscape and architectural variation.

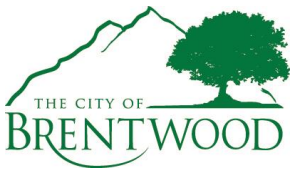


Orchard Grove North Master Plotting Plan

As previously referenced, the project will physically tie into the Orchard Grove project on the parcel just south of the subject site. The applicant prepared a combined master plotting plan that incorporates both the Orchard Grove and Orchard Grove North projects for reference as shown below. The subject project, Orchard Grove North, is highlighted in yellow for clarity.



Combined Orchard Grove & Orchard Grove North Plotting Plan



Lighting

Lighting details and cut sheets for the residential lighting fixtures will be reviewed in conjunction with final design-level submittals for site improvements and building permits for compliance with the City's applicable regulations. As conditioned, all external light fixtures must be of either a cut-off or full-cut off design, per City regulations.

Preliminary Landscaping

The preliminary landscape plan submitted with the application provides typical front yard landscaping. Shade and ornamental trees proposed on the site are 15-gallon and 24-inch box as required by the Brentwood Municipal Code. The bio-retention area includes a landscape buffer along Lone Oak Road and the remainder parcel with the existing single-family home. Although the project will not have an on-site park, Blue Goose Park and Dolphin Park are both in close proximity to the project site. A draft condition of approval would require new landscaping, irrigation, curb, and storm drain improvements along Adams Lane. A standard condition of approval requires the submittal of detailed landscape and irrigation plans for review and approval prior to issuance of a building permit to ensure compliance with the City's Water Efficient Landscape Ordinance.

Fencing / Wall

Proposed at the northern property line of the project site is a six-foot high enhanced wood fence that extends from Adams Lane, east to Lone Oak Road, with the exception of the bio-retention basin. The bio-retention area includes a four-foot-high concrete split rail fence along Lone Oak Road and northern property line adjacent to the bioretention area while the interior perimeter includes a six-foot high landscape wall. A six-foot high perimeter masonry wall with split face block is provided along Adams Lane for noise attenuation and is consistent with the wall for the adjacent subdivision. Each property will be provided a six-foot high wood good neighbor fence for privacy by the applicant.

INTERIM OBJECTIVE DESIGN STANDARDS (IODS) ANALYSIS

On June 27, 2023, the City Council adopted Interim Objective Design Standards (IODS) that are applicable to all new single-family homes within the city. The subject application was submitted to the City on July 25, 2023 and is therefore subject to the



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IODS. Staff has reviewed the application for consistency and the proposed project complies with a majority of the standards. However, as mentioned above in Table 3, the applicant is requesting waivers to some standards allowed by SDBL (please refer back to Table 3 for more detail). The applicant is also requesting an exception from three of the IODS, based on the reasoning below, as these standards do not physically preclude the construction of the additional units and therefore do not qualify for waiver under SDBL however, the Planning Commission, has discretion to grant exceptions to the ODS through the design review process.

Table 6

2(E)7	Street-facing doors must provide 6 sq. ft. of glazing.	Allow some architectural styles a reduction in the required glazing square footage.	The applicant has indicated that the elevation styles that are appropriate for glazing will have at least six square feet such as the Craftsman style. Other styles where this is not appropriate architecturally are requesting an exception. Applicant is requesting a modification from the ODS for the Early California/Spanish and Mediterranean Revival architectural styles.
2.2(J)2	Exterior wall planes exceeding 250 square feet in area must provide glazing for 30% of the total wall area.	Allow some areas of the home a reduction in glazing due to location.	The applicant indicates that this requirement is not possible to achieve on certain areas of the home such as attic space gables, garages, utility walls, etc. therefore an exception is being requested. Applicant is requesting a modification from the ODS.
2.2(k)2c	When stucco is used, it must be used in combination with a least one other wall material, which must comprise of at least 20% of the building frontage, excluding	Allow Spanish elevations a reduction in the 20% requirement of a secondary material.	The applicant has indicated that the Spanish elevation has introduced mosaic tile accents on the front elevation. While this does not result in 20% of the frontage being a different material, it does introduce a second material, different than stucco, that is appropriate to the style. All other elevations comply. Applicant is requesting a modification from the IODS to allow for this alternative approach to adding the appearance of a secondary material.



	windows and railings.		
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DATE OF NOTICE

As required, the City published a public hearing notice in the Brentwood Press and mailed it to property owners within 300 feet of the site on May 3, 2024 with the CEQA Notice of Availability, and the project site is posted with the required signage. At the June 4, 2024 Planning Commission hearing, the item was continued to the July 2, 2024 meeting date and therefore no additional public notice was required.

ENVIRONMENTAL DETERMINATION

The City prepared a mitigated negative declaration for this project in accordance with the requirements of the California Environmental Quality Act (CEQA, codified at Public Resources Code 21000, et seq., and as further governed by the State CEQA Guidelines, found at 14 CCR 15000, et seq.). Several potentially significant impacts are identified; however, mitigation measures are incorporated to reduce those impacts to less than significant levels. All mitigation measures are also included by reference in the conditions of approval.

The public review period for the proposed IS/MND began on May 3, 2024, and ended on June 3, 2024. During this review period, staff received two comment letters (Attachment 9); one from the California Department of Toxic Substances Control and one from the Central Valley Regional Water Quality Control Board. These comments have been incorporated as conditions of approval as applicable and a response has been provided by the CEQA consultant included as Attachment 10.

The IS/MND, Mitigation Monitoring and Reporting Program (MMRP) may be reviewed by clicking on the link below and scrolling to "Orchard Grove North:"

<https://www.brentwoodca.gov/government/community-development/planning/ceqa-documents>

The original publication of the IS/MND inadvertently included the Archaeological Assessment Report for Orchard Grove, the previously-approved project located directly south of the project site which is currently under construction. The report was cited in Section V. "Cultural Resources" of the IS/MND (pages 40 and 41). Therefore, errata changes were provided (Exhibit B of Attachment 2) with corrected citations for the Archaeological Assessment Report, along with the report itself. These errata changes



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do not change any of the IS/MND significance determinations, nor otherwise impact other sections of the IS/MND. The changes are very minor and merely clarify the existing analysis in the IS/MND with references to the correct report. Recirculation of the IS/MND is therefore not warranted, as the documents have not been substantially revised per 14 CCR Section 15073.5(a).

ATTACHMENT(S)

1. Previous Actions
2. Planning Commission Resolution No. 24-028—IS/MND & Errata Sheet
3. Planning Commission Resolution No. 24-029--VTSM
4. Planning Commission Resolution No. 24-030—Design Review
5. Project Plans date stamped received February 19, 2024
6. VTSM Plans date stamped received February 19, 2024
7. Project Description
8. Interim Objective Design Standards Checklist
9. MND Public Comments Received
10. Response to MND Public Comments