

CHAIRPERSON

Kevin Henderson, District 1

PLANNING COMMISSIONERS

Steven Belong, District 3, Vice Chair

Christina Ross, District 2

Luke Corona, District 4

Carol Lenoir, Represents Entire City

**PLANNING COMMISSION AGENDA**

Regular Meeting

January 25, 2024

6:00 PM

CITY OF HOLLISTER

CITY COUNCIL CHAMBERS, CITY HALL

375 FIFTH STREET

HOLLISTER, CA 95023

(831) 636-4360

www.hollister.ca.gov/

NOTICE TO PUBLIC

Persons who wish to address the Planning Commission are asked to complete a speaker's card and give it to the Secretary before addressing the Planning Commission. Those who wish to address the Planning Commission on an agenda item will be heard when the presiding officer calls for comments from the audience. City-related items not on the agenda will be heard under the Public Input section of the agenda. Following recognition persons desiring to speak are requested to advance to the podium and state their name and address. If you are joining us by Zoom, please click on the bottom of your screen to raise your hand. If you are joining us by Zoom using a cell phone, please press *9. After hearing audience comments, the public portion of the meeting will be closed, and the matter brought to the Planning Commission for discussion.

PUBLIC PARTICIPATION NOTICE

The public may watch the meeting via live stream at:

Community Media Access Partnership (CMAP) at:

<http://cmaptv.com/watch/>

or

City of Hollister YouTube Channel:

https://www.youtube.com/channel/UCu_SKHetqbOiiz5mH6XgpYw/featured

Public Participation:

The public may attend meetings.

NOTICE: The Planning Commission will hold its public meetings in person, with a virtual option for public participation based on availability. The City of Hollister utilizes Zoom teleconferencing technology for virtual public participation; however, we make no representation or warranty of any kind, regarding the adequacy, reliability, or availability of the use of this platform in this manner. Participation by members of the public through this means is at their own risk. (Zoom teleconferencing may not be available at all meetings.)

If you wish to make a public comment remotely during the meeting, please use the zoom registration link below:

https://us02web.zoom.us/webinar/register/WN_SljF_bdFTHGgOjM2qMI1TQ

CALL TO ORDER

ELECTION OF CHAIRPERSON AND VICE CHAIRPERSON

PLEDGE OF ALLEGIANCE

ROLL CALL

VERIFICATION OF AGENDA POSTING

A. PUBLIC INPUT

This is the time for anyone in the audience to speak on any item not on the agenda and within the subject matter jurisdiction of the Planning Commission. Speaker cards are available in the lobby, and are to be completed and given to the Secretary before speaking. When the Secretary calls your name, please come to the podium, state your name and city for the record, and speak to the City Planning Commission. If you are joining us by Zoom, please click on the bottom of your screen to raise your hand. If you are joining us by Zoom using a cell phone, please press *9. Each speaker will be limited to three (3) minutes with a maximum of 30 minutes per subject. Please note that state law prohibits the Planning Commission from discussing or taking action on any item not on the agenda.

B. CONSENT ITEMS

All items listed under consent agenda will be enacted by one motion authorizing actions indicated for those items so designated. There will be no separate discussion of these items unless requested by a member of the Planning Commission, a staff member, or a member of the public.

1. The minutes of the **Regular Planning Commission Meeting December 21, 2023**

C. PUBLIC HEARINGS

1. **WEST FAIRVIEW DEVELOPMENT AGREEMENT AMENDMENT** – Eden Housing/Mimosa Street Investors LLP – The Applicant is requesting the Planning Commission consider

recommending City Council approval of a partial assignment of the provisions of the West of Fairview Development Agreement. The partial assignment will be for portions of the Development Agreement that are applicable to the approved 100 multifamily apartment project (S&A 2022-16) within the West Fairview Subdivision. The units will be affordable to low, very low, and extremely low-income families and farmworkers. The project site is located on the corner of Avenida Cesar Chavez (formerly Union Road) and Mimosa Drive in the Residential West Fairview Specific Plan (RWF/SP) Zoning Designation, further identified as San Benito County Assessor Parcel Number 057-860-046.

CEQA: The project is consistent with the certified Environmental Impact Report and West Fairview Specific Plan.

RECOMMENDATION: Hold a public hearing and adopt a resolution recommending approval of the development agreement amendment to the City Council.

2. **DENSITY BONUS 2023-4** – Eden Housing/Mimosa Street Investors LLP – The Applicant is requesting the Planning Commission consider recommending City Council approval of a Density Bonus for the approved affordable 100 multifamily apartment project (S&A 2022-16) located within the West Fairview Subdivision. The units will be affordable to low, very low, and extremely low-income families and farmworkers. The Density Bonus request is in addition to a prior Density Bonus approval for the waiver of setbacks (DB 2023-1) and is requested for additional incentives for the affordable project. The project site is located on the corner of Avenida Cesar Chavez (formerly Union Road) and Mimosa Drive in the Residential West Fairview Specific Plan (RWF/SP) Zoning Designation, further identified as San Benito County Assessor Parcel Number 057-860-046.

CEQA: The project is consistent with the certified Environmental Impact Report and West Fairview Specific Plan.

RECOMMENDATION: Hold a public hearing and adopt a resolution recommending approval of Density Bonus 2023-4 to the City Council.

D. INFORMATIONAL REPORTS

1. PLANNING COMMISSIONER REPORTS

Receive informational reports from the members of the Planning Commission.

2. PLANNING DIVISION REPORT

Receive reports from the members of the Planning Division staff.

ADJOURNMENT

In compliance with the Americans with Disabilities Act, if you need special assistance to participate in this meeting, please contact the City of Hollister's Planning Division at (831) 636-4360. Notification of 48 hours prior to the meeting will enable the City to attempt to make reasonable arrangements to ensure accessibility to this meeting [28 CFR 2.102-35. 104 ADA Title II].

Materials related to an item of this agenda submitted to the Planning Commission after distribution of the agenda packet are available for public inspection at the City Clerk's office at City Hall, 375 Fifth Street, Hollister, Monday through Friday, 8:00 a.m. to noon, 1:00 p.m. to 5:00 p.m. (closed between 12:00 and 1:00 p.m.). Materials are also available at the Development Services Department office located 339 Fifth Street, Hollister, Monday through Thursday, 8:30 a.m. to noon, 1:00 p.m. to 4:30 p.m. (closed between 12:00 p.m. and 1:00 p.m.).

Notice to anyone attending any public meeting: The meeting may be broadcast live on Cable 17 and/or videotaped or photographed. Recent Planning Commission meetings may also be viewed at www.CMAP.com and periodically on Cable Channel 17.

MINUTES

HOLLISTER PLANNING COMMISSION REGULAR MEETING

December 21, 2023

CALL TO ORDER

The regular meeting of the Planning Commission was called to order by Chairperson Henderson on December 21, 2023 at 6:00 p.m. in the City Council Chambers are 375 Fifth Street, Hollister, CA 95023.

PLEDGE OF ALLEGIANCE

Vice Chairperson Belong led the Pledge of Allegiance.

ROLL CALL

Attendee Name	Title	Status	Arrived
Kevin Henderson	Chairperson / District 1	Present	
Christina Ross	District 2	Present	
Steven Belong	District 3	Present	
Luke Corona	District 4	Present	
Carol Lenoir	Mayoral Seat	Present	

STAFF IN ATTENDANCE

Attendee Name	Title	Status	Arrived
Jennifer Thompson	Assistant City Attorney	Present	
Eva Kelly	Planning Manager	Present	
Ambur Cameron	Senior Planner	Present	
Magda Gonzalez	Senior Planner (4Leaf, Inc.)	Remote	
Vanessa Sanchez	Planning Technician (4Leaf, Inc.)	Present	
Mark Falgout	Acting City Engineer (Kimley Horn)	Remote	

VERIFICATION OF AGENDA POSTING

Senior Planner Ambur Cameron verified that the agenda for the City of Hollister Planning Commission regular meeting of Thursday, December 21, 2023 was posted on the bulletin board outside of City Hall on Friday, December 15, 2023, at 1:30 p.m. per Government Code Section 54954.2.

APPROVAL OF MINUTES

Commissioner Corona moved, and Commissioner Lenoir seconded the motion to approve the November 16, 2023 Minutes of the Regular Planning Commission Meeting. Motion carried 5-0-0.

RESULT:	Approved
MOTION:	Luke Corona
SECOND:	Carol Lenoir
AYES:	Ross, Belong, Henderson, Corona, Lenoir
NOES:	
RECUSED:	
ABSTAIN:	
ABSENT:	

PUBLIC INPUT None.

PUBLIC HEARINGS

1. **Conditional Use Permit Amendment 2017-2** – Marci Huston – Conditional Use Permit 2017-2 Amendment to intensify the California Department of Alcoholic Beverage Control license from a Type 41 (beer and wine) to a Type 47 (beer, wine, and distilled spirits) on an existing business (The Garden Shoppe) located at 364 Seventh Street, further identified as San Benito Assessor Parcel Number: 054-050-009 in the Downtown Mixed Use (DMU) Zoning District. CEQA: A Notice of Exemption will be filed as this project qualifies for an exemption under Section 15301 (Existing Facilities).

Chairperson Henderson recused himself from the public hearing stating that he lives within 500 ft. of the proposed project and left the chambers.

Chairperson Belong presides at 6:04 p.m.

Senior Planner Magda Gonzalez presented the staff report.

Vice Chairperson Belong opened the public hearing at 6:10 p.m.

Public Providing Testimony: Marci Huston.

Vice Chairperson Belong closed the public hearing at 6:12 p.m.

Commissioner Lenoir moved, and Commissioner Ross seconded the motion to adopt Resolution 2023-37 approving Conditional Use Permit 2017-2 Amendment, subject to the findings and conditions contained in the draft resolution. Motion carried 4-0-0 (Commissioner Henderson absent).

RESULT:	Adopted
MOTION:	Carol Lenoir
SECOND:	Christina Ross
AYES:	
NOES:	
RECUSED:	Kevin Henderson
ABSTAIN:	
ABSENT:	

Chairperson Henderson returned to the meeting at 6:15 p.m.

2. **Tentative Map 2021-2, Conditional Use Permit 2021-8 for a Planned Development, and Site and Architectural Review 2021-8 Extension** – Tri Pointe Homes/Scott Kramer – The applicant is requesting approval of an extension for a Tentative Map, Conditional Use Permit for a Planned Development, and Site and Architectural Review for the subdivision of a 23.51-acre parcel into 116 detached single-family lots and 28 duets (single-family attached) lots. The project is located North of Meridian Street, South of Santa Ana Road, and West of Marguerite Maze Middle School, and is further identified as Assessor Parcel Number 054-630-001 in the Medium Density Residential Performance Overlay (R3-M/PZ) Zoning District. CEQA: A Mitigated Negative Declaration (MND) was adopted for Prezone 2018-1 for the prezone and annexation of the subject property on December 2, 2019. The project complies with the adopted MND.

Planning Technician Vanessa Sanchez presented the staff report.

Chairperson Henderson opened the public hearing at 6:27 p.m.

Public Providing Testimony: Scott Kramer.

Chairperson Henderson closed the public hearing at 6:33 p.m.

Commissioner Lenoir moved, and Vice Chairperson Belong seconded the motion to adopt Resolution 2023-38 approving Tentative Map 2021-2, Conditional Use Permit 2021-8 for a Planned Development, and Site & Architectural Review 2021-8, subject to the findings and conditions contained in the draft resolution with the removal of conditions 11 and 12. Motion carried 5-0-0 via roll call vote.

RESULT:	Adopted
MOTION:	Carol Lenoir
SECOND:	Steven Belong
AYES:	Ross, Belong, Henderson, Corona, Lenoir
NOES:	
RECUSED:	
ABSTAIN:	
ABSENT:	

3. **Appeal 2023-5** – Valles & Associates LLC – The appellants have filed an appeal in accordance with Section 17.24.140 Appeals of the Municipal Code related to a Director determination of expiration of the entitlements for 44 multifamily apartments that are a part of the Los Pinars Subdivision (Tentative Map 2016-5, Conditional Use Permit 2017-3 for a Planned Unit Development, and Site and Architectural Review 2016-13) located south of Nash Road and east of Cushman Street (San Benito County Assessor Parcel Numbers 057-800-002 and 057-800-001). CEQA: A Mitigated Negative Declaration was prepared for the original project entitlement, however the expiration of the project entitlement does not constitute a project under CEQA as it has not potential for causing a significant effect on the environment (Section 15061(b)(3) of CEQA Guidelines).

Assistant City Attorney Jennifer Thompson presented the staff report.

Chairperson Henderson opened the public hearing at 6:59 p.m.

Written Testimony Provided by: Jason Retterer.

Public Providing Testimony: Anne Hall, Tiffany Valles, Albert Valles, Jason Retterer.

Chairperson Henderson closed the public hearing at 7:18 p.m.

Following discussion by the Commission and a request to speak to the project applicant, Chairperson Henderson re-opened the public hearing at 7:28 p.m.

Public Providing Testimony: Albert Valles.

Chairperson Henderson closed the public hearing at 7:32 p.m.

Commissioner Lenoir moved, and Vice Chairperson Belong seconded the motion to adopt Resolution 2023-39 approving an extension for Site and Architectural 2016-13 for two years commencing on the issuance of the building permit for the multifamily with an added option of a one-year extension to be considered by the Development Services Director.

Following discussion by the Commission, Commissioner Lenoir amended her motion to adopt Resolution 2023-39 approving Site and Architectural 2016-13 for two years starting December 21, 2023, with an option for a one-year extension to be decided by the Development Services Director.

Following additional Commission discussion, Commission Lenoir amended her motion to adopt Resolution 2023-39 approving an extension for Site and Architectural Review 2016-13. The applicant shall have two years, until December 21, 2025, to receive a building permit for the first building in the project. From the date the building permit for the first building is issued, that applicant shall have two years to receive building permits for the remaining buildings within the project. The Director or Development Services shall have the authority to extend this for one additional year, provided that a request is filed by the applicant 30 days prior to the expiration date in writing with applicable fees.

Vice Chairperson Belong seconded the amended motion.

Motion carried 5-0-0 via roll call vote.

RESULT:	Adopted
MOTION:	Carol Lenoir
SECOND:	Steve Belong
AYES:	Ross, Belong, Henderson, Corona, Lenoir
NOES:	
RECUSED:	
ABSTAIN:	
ABSENT:	

NEW BUSINESS

1. **City of Hollister 2024 Planning Commission Calendar** – The City of Hollister’s Planning Division Staff is requesting that the Planning Commission receive, review, and approve the Planning Commission Meeting calendar for the year 2024.

Senior Planner Ambur Cameron presented the staff report.

Vice Chairperson Belong moved, and Commissioner Lenoir seconded the motion to adopt Resolution 2023-40 approving the City of Hollister 2024 Planning Commission Meeting Calendar as proposed. Motion carried 5-0-0.

RESULT:	Adopted
MOTION:	Steven Belong
SECOND:	Carol Lenoir
AYES:	Ross, Belong, Henderson, Corona, Lenoir
NOES:	
RECUSED:	
ABSTAIN:	
ABSENT:	

OLD BUSINESS

None.

STUDY SESSION ITEMS

None.

PLANNING DEPARTMENT REPORTS

Planning Manager Kelly reported Planning staff are working with the City Clerk's Office on a new agenda format, anticipated to start in January 2024.

Planning Manager Kelly provided an update on the Safeway landscaping and K-Mart signage and what the City can do for dilapidated landscaping and business signage for unoccupied buildings.

Planning Manager Kelly reported on the City and County's pre-approved Accessory Dwelling Unit (ADU) program.

Planning Manager Kelly reported on the City's implementation of Wordly.ai translation services for City Council meetings.

Planning Manager Kelly reported the City Council did not adopt the Inclusionary Housing Ordinance at the December meeting.

PLANNING COMMISSION REPORTS

Commissioner Lenoir recommended all Planning Commissioners attend the upcoming League of California Cities Planning Commissioners Academy March 4-6, 2024. Planning Manager Kelly confirmed that there is funding for all Planning Commissioners to attend.

Chairperson Henderson reported he and Commissioners Corona and Lenoir attended the study session with the City Council regarding the Housing Element. Chairperson Henderson commented on the YouTube audio for Planning Commission meetings and requested staff look for options to improve it.

ADJOURNMENT

Chairperson Henderson adjourned the meeting at 8:16 p.m.

Chairperson of the Planning Commission
of the City of Hollister

ATTEST:

Christine Hopper, Secretary



Planning Commission

Staff Report

January 25, 2024

Item C1

SUBJECT: **West Fairview Development Agreement Amendment** – Eden Housing/Mimosa Street Investors LLP – The Applicant is requesting the Planning Commission consider recommending City Council approval of a partial assignment of the provisions of the West Fairview Development Agreement. The partial assignment will be for portions of the Development Agreement that are applicable to the approved 100 multifamily apartment project (S&A 2022-16) within the West of Fairview Subdivision. The units will be affordable to low and very low income families. The project site is located on the corner of Avenida Cesar Chavez (formerly Union Road) and Mimosa Drive in the Residential West Fairview Specific Plan (RWF/SP) Zoning Designation, further identified as San Benito County Assessor Parcel Number 057-860-046.

STAFF PLANNER: Erica Fraser, Senior Planner (831) 636-4360

ATTACHMENTS:

1. Resolution recommending City Council approval of the West Fairview Development Agreement Amendment for Eden Housing with the revised Development Agreement included as Exhibit A.
2. Red-lined Development Agreement.

RECOMMENDATION: Adopt a Resolution recommending City Council approval of the Development Agreement Amendment.

PROJECT DESCRIPTION:

The Applicant previously received Site & Architectural Review approval (S&A 2022-16) from the Planning Commission for the construction of 100 affordable multi-family dwelling units on a 4.607-acre parcel located at the corner of Avenida Cesar Chavez and Mimosa Street in the West of Fairview Specific Plan Area (Planning Commission Resolutions No. 2023-8 and 2023-9). The parcel has a General Plan Land Use Designation of Medium Density Residential and is located in the West of Fairview (RWF) Zoning District.

After the project was approved, the Applicant submitted a request for an amendment to the West Fairview Development Agreement between the City and Award Homes.

BACKGROUND:

The proposed project site is located within the West of Fairview Specific Plan Area. The West of Fairview (WOF) Specific Plan designated the proposed project site for 100 affordable multi-family housing. The following summarizes the history of the project site within the WOF Specific Plan Area.

- 1989 – San Benito County receives applications for major subdivisions including for land within Hollister’s Sphere of Influence which included the West of Fairview Road area.
- February 1990 – It was determined that a Specific Plan for the 300-acre West of Fairview Road area would be required with the County as the Lead Agency (the application for development was originally filed with the County).
- Fall of 1992 – The City becomes the Lead Agency for the West of Fairview Specific Plan because 1/3 of the project area was annexed by the City.
- February 17 and March 16, 1998 – The City of Hollister approved the West of Fairview Specific Plan, amendments to the Zoning Ordinance related to zoning of the properties within the Specific Plan Area and certified an Environmental Impact Report related to the Specific Plan and development of the Plan Area.
- October 10, 2000 – The City Council entered into a Development Agreement with Award Homes related to the construction of the Award Homes portion of the West of Fairview Specific Plan Area.
- May 6, 2002 – The Hollister City Council passes an urgency Ordinance suspending building permits related to water treatment capacity of the City.
- December 2004 – LAFCO approves annexation of 125 acres of Award Homes land and the Award Homes portion of West of Fairview is annexed to the City with a Stipulated Settlement Agreement.
- April 16, 2007 – The City Council certified the Award Homes Subdivision and Specific Plan Amendment Supplemental Final Environmental Impact Report (SCH #2005111094) to increase the overall project density by increasing the acreage of medium and high-density residential development from 6 to 9.1 acres.
- June 27, 2007 – Resolution 2007-16 was adopted by the Planning Commission approving Tentative Map 2005-1 for the remaining undeveloped portion of the West of Fairview Specific Plan area for the subdivision of 125.9 acres into 517 individual lots, 60 garden homes on clustered lots (hereafter referred to as “cluster lots”), and 100 apartments on a single lot (the Eden Housing/Mimosa Street Investors project site).
- December 2010 – First Development Agreement expires.
- April 2, 2012 – The City Council adopted Ordinance No. 1082 amending the Development

Agreement (First Amendment) at Award Homes request to extend the term of the Development Agreement by five years (the DA had expired), to place a recordation timeline for the final map for Phase I, and to revise the affordable housing component of the original Development Agreement.

- May 17, 2021 – The City Council adopted Ordinance No. 1201 amending the Development Agreement (Second Amendment) at Award Homes request to extend the term of the Development Agreement until May 1, 2027, and to require the construction of 100 apartments available for moderate income households on Lot 100 of the Tentative Map).
- March 23, 2023 – The Planning Commission approved Resolution No. 2023-8 approving a Density Bonus for setbacks and Resolution No. 2023-9 approving a Site & Architectural Review for the construction of a 100 percent affordable, 100-unit multi-family residential complex.

ANALYSIS:

The Applicant has requested approval of an amendment to the adopted West Fairview Development Agreement (WFDA). The current WFDA was amended and adopted by the City Council on May 17, 2021. The Applicant has requested an amendment of the WFDA to allow for a partial assignment of the items applicable to the affordable project to Eden Housing.

Section 17.24.280 of the Zoning Ordinance includes the requirements for Development Agreements. The Planning Commission is charged with reviewing a Development Agreement (or Development Agreement Amendment) and making a recommendation to the City Council. The City Council then makes a decision on the Development Agreement during a public hearing based on the recommendation of the Planning Commission and all evidence in the record.

The amended Development Agreement is included as Exhibit A to Attachment 1. For a red-lined version of the Development Agreement please refer to Attachment 2. The City Attorney worked with the Applicant in the preparation of the Amendment and has reviewed the final version under review by the Planning Commission.

CONCLUSION:

The Applicant has requested approval of an amendment to the West Fairview Development Agreement for the partial assignment of requirements within the Development Agreement that pertain to the Eden Housing project. The City Attorney has reviewed the amended Development Agreement and has no concerns with the modifications.

PLANNING COMMISSION OPTIONS:

The Planning Commission can choose one of the following options:

1. Adopt a Resolution recommending City Council approval of an amendment to the West Fairview Development Agreement for Eden Housing.

Staff Report

Development Agreement Amendment/Eden Housing

Page 4 of 5

2. Adopt a Resolution recommending City Council denial of an amendment to the West Fairview Development Agreement for Eden Housing.
3. Continue the hearing and direct Staff to provide additional information or clarification.

Staff recommends the Planning Commission select Option 1 for this Item.

GENERAL INFORMATION

APPLICANT: Eden Housing
22645 Grand Street
Hayward, CA 94541

PROPERTY OWNER: Mimosa Street Investors, L.P.
22645 Grand Street
Hayward, CA 94541

LOCATION: Corner of Avenida Cesar Chavez and Mimosa Street

**ASSESSOR PARCEL
NUMBER:** APN 057-860-0460

**GENERAL PLAN
DESIGNATION:** Medium Density Residential

ZONING DISTRICT: RWF (West of Fairview Road)

SURROUNDING USES:

Location	Zoning Designation	General Plan Land Use	Current use of Property
Project Site	RWF	Medium Density Residential	Vacant
North	RWF	Medium Density Residential	Vacant
South	RWF	Medium Density Residential	Single Family Residential
East	RWF	Medium Density Residential	Single Family Residential
West	RWF	Medium Density Residential	Single Family Residential

PLANNING COMMISSION RESOLUTION NO. 2024-

**A RESOLUTION OF THE PLANNING COMMISSION OF THE CITY OF HOLLISTER RECOMMENDING CITY COUNCIL APPROVAL OF A DEVELOPMENT AGREEMENT AMENDMENT TO THE DEVELOPMENT AGREEMENT BETWEEN THE CITY OF HOLLISTER AND AWARD HOMES FOR THE PARTIAL ASSIGNMENT OF THE DEVELOPMENT AGREEMENT TO EDEN HOUSING/MIMOSA STREET INVESTORS FOR A 100 PERCENT AFFORDABLE PROJECT LOCATED AT THE CORNER OF AVENIEDA CHAVEZ AND MIMOSA STREET
(APN 057-860-046)**

WHEREAS, the Applicant, Eden Housing/Mimosa Street Investors LLP, has submitted an application for an amendment to the executed Development Agreement for the West Fairview Subdivision; and

WHEREAS, on March 23, 2023, the Planning Commission adopted Resolution No. 2023-8 approving a Density Bonus and Resolution No. 2023-9 approving a Site & Architectural Review for the construction of a 100 percent, 100-unit multi-family residential complex; and

WHEREAS, Section 17.24.280 of the Hollister Zoning Ordinance establishes the requirements for Development Agreements and requires the Planning Commission to review Development Agreement requests and make a recommendation to the City Council; and

WHEREAS, on October 10, 2000, the City Council entered into a Development Agreement with Award Homes related to the construction of the Award Homes portion of the West Fairview Specific Plan Area; and

WHEREAS, on April 2, 2012, the City Council adopted Ordinance No. 1082 amending the Development Agreement (First Amendment) at Award Homes request; and

WHEREAS, on May 17, 2021, the City Council adopted Ordinance No. 1201 amending the Development Agreement at Award Homes request (Second Amendment) to extend the term of the Development Agreement until May 1, 2027 and to require the construction of 100 affordable apartments; and

WHEREAS, the Planning Commission held a duly noticed public hearing on January 25, 2024 to consider the amendment to the executed Development Agreement, review the City Staff Report, and receive written and oral testimony for and against the proposal; and

NOW THEREFORE IT IS RESOLVED that the Planning Commission of the City of Hollister does hereby make the following findings and determinations regarding the proposed Development Agreement Amendment and recommends the City Council approve the Development Agreement Amendment:

- A. The proposed amendment to the Development Agreement complies with Section 17.24.280, Development Agreements of the Hollister Zoning Ordinance, because:
 - 1. The proposed Amendment has been requested by the developer of the affordable project, Eden Housing/Mimosa Street Investors, which lies on Lot 100 of Phase 1A of the West of

Fairview Subdivision, which is within the area included in the West Fairview Development Agreement between the City of Hollister and Award Homes.

2. The proposed Amendment is requested by the Applicant and is for the partial assignment of the terms of the Development Agreement to Eden Housing for the portions of the Agreement that are related to the Eden Housing portion of the West Fairview Subdivision.
3. The proposed Amendment is related to the Eden Housing project, which is a 100 percent affordable project, and was approved by the Planning Commission on March 23, 2023.
4. The proposed Amendment is consistent with the existing Development Agreement, the General Plan, and the West Fairview Specific Plan.
5. The City Attorney has reviewed the proposed Development Agreement Amendment for partial assignment to Eden Housing and their recommendations are included in the final version before the Planning Commission.

PASSED AND ADOPTED, at a regular meeting of the City of Hollister Planning Commission held on this 25th day of January 2024, by the following vote:

AYES:

NOES:

ABSTAIN:

ABSENT:

Chairperson of the Planning Commission
of the City of Hollister

ATTEST:

Christine Hopper, Secretary

Please Note

It is the sole responsibility of the project applicant to comply with the conditions as approved, modified, or added by the Planning Commission. It is recommended that the applicant review these conditions carefully and if any questions arise as to compliance with the conditions, please do not hesitate to contact the staff planner. Also, if you do not agree with the proposed conditions, you have an opportunity to present your case to the City Council at their meeting. In addition, the City provides for a 15-day appeal period.

RECORDING REQUESTED BY
AND WHEN RECORDED MAIL TO:

Mimosa Street Investors, L.P.
22645 Grand Street
Hayward, CA 94541
Attn: Linda Mandolini

Space Above This Line for Recorder's Use Only

PARTIAL RELEASE OF DEVELOPMENT AGREEMENT

This Partial Release of Development Agreement (this “**Release**”) is dated as _____, 2023, by and between MIMOSA STREET, L.P, a California limited partnership (“**Affordable Developer**”), and the CITY OF HOLLISTER, a municipal corporation (the “**City**” and, together with Affordable Developer, the “**Parties**”).

RECITALS

A. The City and Award Homes, Inc., a California corporation (“**Award Homes**”), among others, entered into that certain Development Agreement (the “**Original Agreement**”) dated May 10, 2000, recorded December 6, 2000 as Instr. No. 2000-0016461 in the Official Records of the County of San Benito (the “**County**”), as amended by that certain First Amendment to Development Agreement (the “**First Amendment**”) dated April 2, 2012, recorded April 3, 2013 as Instr. No. 2013-0003414 in the County Official Records, as partially assigned pursuant to that certain Partial Assignment of Rights and Obligations under Development Agreement by Award Homes to Lennar Homes of California, Inc., a California corporation, dated as of May 3, 2021, recorded May 3, 2021 as Instr. No. 2021-0006851 in the County Official Records, as further amended by that certain Amendment No. 2 to Development Agreement (the “**Second Amendment**”) dated May 17, 2021, recorded June 24, 2021 as Instr. No. 2021-0009729 in the County Official Records, and as further partially assigned pursuant to that certain Partial Assignment of Development Agreement dated _____, 2023, recorded _____, 2023 as Instr. No. _____ in the County Official Records (the Original Agreement, as amended and assigned, is referred to herein as the “**Development Agreement**”). Terms used but not defined herein have the meanings set forth in the Development Agreement.

B. Affordable Developer has acquired fee title to that portion of the real property subject to the Development Agreement more particularly described in Exhibit A attached hereto (the “**Transferred Property**”); the balance of the property, exclusive of the Transferred Property, is referred to herein as the “**Non-Affordable Property**.”

C. The Parties agree that Affordable Developer’s obligations under the Development Agreement are intended to be limited solely to the Affordable Housing Obligations (as defined below), and the Parties desire to evidence Affordable Developer’s release from any and all other obligations under the Development Agreement.

D. The Parties agree and acknowledge that Affordable Developer would not undertake the Affordable Housing Obligations without the release set forth below.

A G R E E M E N T S

NOW, THEREFORE, in exchange for the mutual covenants set forth herein and for other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the Parties hereby agree as follows:

1. Affordable Housing Obligations. The “Affordable Housing Obligations” are the obligations described in the Development Agreement that pertain to the development of a low-income housing project on the Transferred Property.

2. Release.

(a) The City hereby releases Affordable Developer from any and all obligations under the Development Agreement (including without limitation any development obligations, payments of fees or costs and indemnity obligations) that are not Affordable Housing Obligations, excluding the Ongoing CFD Obligation (as described below). Except with respect to the foregoing release, the provisions of the Development Agreement shall remain in full force and effect and shall not be modified by this Release.

(b) Upon issuance of certificate of occupancy for an affordable housing project developed on the Transferred Property, Affordable Developer shall be released from all obligations under the Development Agreement (except for the Ongoing CFD Obligation) automatically without any further documentation; provided however, the City agrees to execute such documentation as is reasonably requested in order to evidence such release.

(c) The “**Ongoing CFD Obligation**” means the Affordable Developer’s obligation under section 3.1(d) of the Development Agreement solely to the extent related to the City of Hollister Communities Facilities District Nos. 4 and 5, and no other existing or future Mello-Roos Community Facilities District, provided however that such obligation shall not exceed an amount, in aggregate, equal to **[DENSITY BONUS CONCESSION REQUEST CAP AMOUNT]** (the “**Maximum Amount**”). For the sake of clarity, Affordable Developer shall only have the obligation to annex into City of Hollister Communities Facilities District Nos. 4 and 5 and no other district, and the aggregate assessment under City of Hollister Communities Facilities District Nos. 4 and 5 shall not exceed such Maximum Amount.

3. Governing Law; Venue. This Release shall be interpreted and enforced in accordance with the laws of California without regard to principles of conflicts of laws.

4. Entire Agreement/Amendment. This Release constitutes the entire agreement among the Parties with respect to the subject matter hereof, and supersedes all prior written and oral agreements with respect to the matters covered by this Release. This Release may not be amended except by an instrument in writing signed by each of the Parties.

5. Further Assurances. Each Party shall execute and deliver such other certificates, agreements and documents and take such other actions as reasonably required to consummate the transactions contemplated by this Release.
6. Successors and Assigns. This Release and all of the terms, covenants, and conditions hereof shall extend to the benefit of and be binding upon the respective successors and permitted assigns of the Parties.
7. Attorneys' Fees. In the event of any litigation pertaining to this Release, the losing party shall pay the prevailing party's litigation costs and expenses, including without limitation reasonable attorneys' fees.
8. Recordation. The Parties shall cause this Release to be recorded in the Official Records of San Benito County, and shall promptly provide a conformed copy of the recorded Release to Affordable Developer.
9. Captions; Interpretation. The section headings used herein are solely for convenience and shall not be used to interpret this Release. The Parties acknowledge that this Release is the product of negotiation and compromise on the part of the Parties, and the Parties agree, that since both have participated in the negotiation and drafting of this Release, this Release shall not be construed as if prepared by one of the Parties, but rather according to its fair meaning as a whole, as if all Parties had prepared it.
10. Severability. If any term, provision, condition or covenant of this Release or its application to any party or circumstances shall be held by a court of competent jurisdiction, to any extent, invalid or unenforceable, the remainder of this Release, or the application of the term, provision, condition or covenant to persons or circumstances other than those as to whom or which it is held invalid or unenforceable, shall not be affected, and shall be valid and enforceable to the fullest extent permitted by law unless the rights and obligations of the Parties have been materially altered or abridged thereby.
11. No Waiver. No delay or omission by either Party in exercising any right, remedy, election or option accruing upon the noncompliance or failure of performance by the other Party under the provisions of this Release shall constitute an impairment or waiver of any such right, remedy, election or option. No alleged waiver shall be valid or effective unless it is set forth in a writing executed by the party against whom the waiver is claimed. A waiver by either Party of any of the covenants, conditions or obligations to be performed by the other Party shall not be construed as a waiver of any subsequent breach of the same or any other covenants, conditions or obligations.
12. Time of the Essence. Time is of the essence in the performance by each Party of its obligations under this Release.

13. Authority. Each person executing this Release represents and warrants that they have the authority to bind their respective Party to the performance of its obligations hereunder and that all necessary approvals have been obtained.

14. Counterparts. This Release may be executed in counterparts, each of which shall, irrespective of the date of its execution and delivery, be deemed an original, and the counterparts together shall constitute one and the same instrument.

[Signatures follow]

IN WITNESS WHEREOF, the parties hereto have executed this Release as of the Effective Date.

“AFFORDABLE DEVELOPER”

MIMOSA STREET INVESTORS, L.P.,
a California limited partnership

By: Mimosa Street, LLC,
a California limited liability company,
its General Partner

By: Eden Investments, Inc.,
a California nonprofit public benefit corporation,
its Sole Member

By: _____
Name: _____
Its: _____

“CITY”

THE CITY OF HOLLISTER,
a municipal corporation

By: _____
Name: _____
Its: _____

STATE OF CALIFORNIA)
)
COUNTY OF _____)

Signature _____ [Seal]

STATE OF CALIFORNIA)
)
COUNTY OF _____)

Signature _____ [Seal]

EXHIBIT A
to
Partial Release of Development Agreement

LEGAL DESCRIPTION OF TRANSFERRED PROPERTY

Real property in the City of Hollister , County of San Benito, State of California, described as follows:
LOT 100 AS SHOWN ON MAP ENTITLED "TRACT 303-PHASE 1A WEST FAIRVIEW, FILED FOR RECORD
JANUARY 30, 2020, IN [BOOK 16 OF MAPS, AT PAGE 83](#), SAN BENITO COUNTY RECORDS.
APN: 057-860-046-000

D. The Parties agree and acknowledge that Affordable Developer would not undertake the Affordable Housing Obligations without the release set forth below.

A G R E E M E N T S

NOW, THEREFORE, in exchange for the mutual covenants set forth herein and for other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the Parties hereby agree as follows:

1. Affordable Housing Obligations. The “Affordable Housing Obligations” are the obligations described in the Development Agreement that pertain to the development of a low-income housing project on the Transferred Property.

2. Release.

(a) The City hereby releases Affordable Developer from any and all obligations under the Development Agreement (including without limitation any development obligations, payments of fees or costs and indemnity obligations) that are not Affordable Housing Obligations, excluding the Ongoing CFD Obligation (as described below). Except with respect to the foregoing release, the provisions of the Development Agreement shall remain in full force and effect and shall not be modified by this Release.

(b) Upon issuance of certificate of occupancy for an affordable housing project developed on the Transferred Property, Affordable Developer shall be released from all obligations under the Development Agreement (except for the Ongoing CFD Obligation) automatically without any further documentation; provided however, the City agrees to execute such documentation as is reasonably requested in order to evidence such release.

(c) The “**Ongoing CFD Obligation**” means the Affordable Developer’s obligation under ~~Section J.3 of Exhibit 3~~ section 3.1(d) of the Development Agreement solely to the extent related to the City of Hollister Communities Facilities District ~~No~~Nos. 4 ~~and 5,~~ and no other existing or future Mello-Roos Community Facilities District, provided however that such obligation shall not exceed an amount ~~equal to the “maximum aggregate payment” amount set forth in Section J.3 of Exhibit 3 of the Development Agreement,~~ in aggregate, equal to [DENSITY BONUS CONCESSION REQUEST CAP AMOUNT] (the “Maximum Amount”). For the sake of clarity, Affordable Developer shall only have the obligation to annex into City of Hollister Communities Facilities District ~~No~~Nos. 4 and ~~5 and~~ no other district, and the aggregate assessment under City of Hollister Communities Facilities District ~~No~~Nos. 4 ~~and 5~~ shall not exceed such ~~“maximum aggregate payment.”~~ Maximum Amount.

3. Governing Law; Venue. This Release shall be interpreted and enforced in accordance with the laws of California without regard to principles of conflicts of laws.

4. Entire Agreement/Amendment. This Release constitutes the entire agreement among the Parties with respect to the subject matter hereof, and supersedes all prior written and oral agreements with respect to the matters covered by this Release. This Release may not be amended except by an instrument in writing signed by each of the Parties.
5. Further Assurances. Each Party shall execute and deliver such other certificates, agreements and documents and take such other actions as reasonably required to consummate the transactions contemplated by this Release.
6. Successors and Assigns. This Release and all of the terms, covenants, and conditions hereof shall extend to the benefit of and be binding upon the respective successors and permitted assigns of the Parties.
7. Attorneys' Fees. In the event of any litigation pertaining to this Release, the losing party shall pay the prevailing party's litigation costs and expenses, including without limitation reasonable attorneys' fees.
8. Recordation. The Parties shall cause this Release to be recorded in the Official Records of San Benito County, and shall promptly provide a conformed copy of the recorded Release to Affordable Developer.
9. Captions; Interpretation. The section headings used herein are solely for convenience and shall not be used to interpret this Release. The Parties acknowledge that this Release is the product of negotiation and compromise on the part of the Parties, and the Parties agree, that since both have participated in the negotiation and drafting of this Release, this Release shall not be construed as if prepared by one of the Parties, but rather according to its fair meaning as a whole, as if all Parties had prepared it.
10. Severability. If any term, provision, condition or covenant of this Release or its application to any party or circumstances shall be held by a court of competent jurisdiction, to any extent, invalid or unenforceable, the remainder of this Release, or the application of the term, provision, condition or covenant to persons or circumstances other than those as to whom or which it is held invalid or unenforceable, shall not be affected, and shall be valid and enforceable to the fullest extent permitted by law unless the rights and obligations of the Parties have been materially altered or abridged thereby.
11. No Waiver. No delay or omission by either Party in exercising any right, remedy, election or option accruing upon the noncompliance or failure of performance by the other Party under the provisions of this Release shall constitute an impairment or waiver of any such right, remedy, election or option. No alleged waiver shall be valid or effective unless it is set forth in a writing executed by the party against whom the waiver is claimed. A waiver by either Party of any of the covenants, conditions or obligations to be performed by the other Party shall not be construed as a waiver of any subsequent breach of the same or any other covenants, conditions or obligations.

12. Time of the Essence. Time is of the essence in the performance by each Party of its obligations under this Release.

13. Authority. Each person executing this Release represents and warrants that they have the authority to bind their respective Party to the performance of its obligations hereunder and that all necessary approvals have been obtained.

14. Counterparts. This Release may be executed in counterparts, each of which shall, irrespective of the date of its execution and delivery, be deemed an original, and the counterparts together shall constitute one and the same instrument.

[Signatures follow]

IN WITNESS WHEREOF, the parties hereto have executed this Release as of the Effective Date.

“AFFORDABLE DEVELOPER”

MIMOSA STREET INVESTORS, L.P.,
a California limited partnership

By: Mimosa Street, LLC,
a California limited liability company,
its General Partner

By: Eden Investments, Inc.,
a California nonprofit public benefit corporation,
its Sole Member

By: _____
Name: _____
Its: _____

“CITY”

THE CITY OF HOLLISTER,
a municipal corporation

By: _____
Name: _____
Its: _____

STATE OF CALIFORNIA)
)
COUNTY OF _____)

Signature _____ [Seal]

STATE OF CALIFORNIA)
)
COUNTY OF _____)

Signature _____ [Seal]

EXHIBIT A
to
Partial Release of Development Agreement

LEGAL DESCRIPTION OF TRANSFERRED PROPERTY

Real property in the City of Hollister , County of San Benito, State of California, described as follows:
LOT 100 AS SHOWN ON MAP ENTITLED "TRACT 303-PHASE 1A WEST FAIRVIEW, FILED FOR RECORD
JANUARY 30, 2020, IN [BOOK 16 OF MAPS, AT PAGE 83](#), SAN BENITO COUNTY RECORDS.
APN: 057-860-046-000



Planning Commission

Staff Report

January 25, 2024

Item C2

SUBJECT:

Density Bonus 2023-4 – Eden Housing/Mimosa Street Investors LLP – The Applicant is requesting the Planning Commission consider recommending City Council approval of a Density Bonus for the approved affordable 100 multifamily apartment project (S&A 2022-16) located within the West Fairview Subdivision. The units will be affordable to low, very low, and extremely low income families and farmworkers. The Density Bonus request is in addition to a prior Density Bonus approval for the waiver of setbacks (DB 2023-1) and is requested for additional incentives for the affordable project. The project site is located on the corner of Avenida Cesar Chavez (formerly Union Road) and Mimosa Drive in the Residential West Fairview Specific Plan (RWF/SP) Zoning Designation, further identified as San Benito County Assessor Parcel Number 057-860-046. CEQA: The project is consistent with the certified Environmental Impact Report and West Fairview Specific Plan.

STAFF PLANNER:

Erica Fraser, Senior Planner

(831) 636-4360

ATTACHMENTS:

1. Resolution recommending City Council approval of Density Bonus 2023-4.
2. Resolution recommending City Council approval of Density Bonus 2023-4 as amended by the Planning Commission.
3. Density Bonus Written Request

RECOMMENDATION:

Adopt a Resolution recommending City Council approval of the Development Agreement Amendment.

PROJECT DESCRIPTION:

The Applicant previously received approval of a Density Bonus and Site & Architectural Review (S&A 2022-16) from the Planning Commission for the construction of 100 affordable multi-family dwelling units on a 4.607-acre parcel located at the corner of Avenida Cesar Chavez and Mimosa Street in the West of Fairview Specific Plan Area (Planning Commission Resolutions No. 2023-8 and 2023-9).

The approved Density Bonus was for the waiver of development standards (related to the rear setback and height requirement) for the project. Following approval of the project, the Applicant requested a waiver of impact fees for the project which the City determined could be granted with a new Density

Bonus application for the project.

BACKGROUND:

The proposed project site is located within the West Fairview Subdivision. The proposed affordable project comprises 15 percent of the total number of units within this subdivision. As a 100 percent affordable project, which comprises 15 percent of the total number of units, the project is eligible for three incentives or concessions (Section 17.34.060 (C)(3) of the Zoning Ordinance).

The approved Density Bonus was for one incentive or concession (at the request of the Applicant). Following approval by the Planning Commission, the Applicant requested a waiver of impact fees to support the construction and operation of the affordable development. After discussing the request with the City Attorney, the City Attorney determined that the appropriate path was for the Applicant to apply for a new Density Bonus for the remaining two incentives for the project.

ANALYSIS:

In accordance with Section 17.34.060(C)(3) of the Zoning Ordinance, the project is eligible for three incentives or concessions. The three incentives or concessions for the project include:

1. Development Standards (Approved)
2. Waiver of all City Impact Fees
3. Reduction in Community Facilities District fees for CFD 4 and 5

A request for a direct financial contribution (i.e. a reduction in fees or waiver of fees) is discretionary and requires approval by the City Council under Government Code Section 65915(k). The City Council is not required to approve or approve all of a financial contribution request.

Impact Fee Waiver Request

The Applicant has requested a waiver of the City impact fees shown below.

Table 1 – Impact Fee Waiver Request

Impact Fee*	2+ Bedroom Impact Fee	1 Bedroom Impact Fee
Parks	\$13,761.64	\$6,638.99
Traffic	\$14,009.85	\$13,669.31
Fire	\$690.00	\$690.00
Sewer Treatment	\$4,464.68	\$4,464.68
Sewer Collection	\$3,590.00	\$3,590.00
Storm Drainage	\$2030.00	\$700.00
Library Facilities	\$1,357.90	\$1,357.90
Police	\$520.00	\$520.00
Detention (Jail/Juvenile Hall)	\$2,751.41	\$2,751.41
City Hall/City Yard	\$535.35	\$257.33
Subtotal/Unit	\$43,710.83	\$34,639.62

Project Total (By Unit Count)	\$2,884,914.78	\$1,177,747.08
Total Fee Waiver		\$4,062,661.86*

**Please note that this is the impact fee in effect at the time of application, the actual waiver will be calculated when the impact fees are collected (prior to Occupancy).*

Total City impact fees per two-bedroom unit is \$43,710.83 and per one bedroom unit is \$34,639.62. The request for the complete waiver of all City impact fees totals \$4,062,661.86 for the project. This waiver will be offset by the City paying for the impact of the project out of the City's funds. The Applicant has requested the fee waivers to offset the cost of construction of the residential development. The Applicant estimates that the impact fees are equal to 6.5% of the total development costs for the project. In the Applicant's Written Request (see Attachment 3) the Applicant states that the waiver of the impact fees would decrease the amount of funding that the Applicant will need to secure in order to start construction and would be used to offset the cost of building the affordable development.

The Applicant would still be required to pay all outside impact fees including fees to the Hollister School District, San Benito High School District, and Sunnyslope Water District.

Community Facilities Fee (CFD) Reduction

For the third incentive, the Applicant is requesting a reduction in the Community Facilities District (CFD) fees for this project. All projects/phases within the West Fairview Subdivision are required to enter into CFD 4 and 5 as a project condition of approval and as required by the Development Agreement. CFD 4 was established for the maintenance of public facilities including landscaping, lighting, streets, stormwater, sidewalks, etc. CFD 5 was established for Police and Fire Services. The CFD fees for the West Fairview Subdivision was calculated subdivision-wide and was based on the total costs for maintenance and services with all properties (including the affordable apartment project) contributing to the CFD to offset City costs.

This project is anticipated to be annexed into Tax Zone 20 for CFD 4, which was established using the public facilities maintenance budget estimations for the entirety of the West of Fairview Subdivision. The multifamily project is anticipated to be annexed into Tax Zone 20 along with the rest of the subdivision, to ensure that all properties are paying equitable rates for the public facilities that are shared by the entire subdivision. Using the fiscal year 2023-2024 (FY 23-24) rates, the CFD 4 maximum tax for Tax Zone 20 is \$1,176.78 per multifamily unit per year for CFD 4 (or a total of \$117,678.00). For CFD 5, the maximum tax in FY 23-24 is \$758.16 per multifamily unit per year (or a total of \$75,816.00). Total CFD fees for this project would be \$193,494 per year, subject to an annual increase by the consumer price index.

The Applicant is requesting that the CFD fees for the project be reduced to \$400 per unit per year (or \$40,000) with an increase of 3.5% per year starting after the first year. The Applicant is requesting the reduction in CFD fees for this project to offset operating costs. As noted in their Request (Attachment 3), the high fees would not meet the Department of Housing and Community Development (HCD) standards for operating cashflow for subsidies and the loss of the subsidy would make the project financially infeasible.

The reduction in CFD funds would result in the City offsetting any costs for providing services for the

West Fairview Subdivision. As annexation into a CFD adopts a maximum tax rate, the City Council can agree not to charge the maximum fee established for CFD 4 and 5 and can allow a rate anywhere between \$0 and the maximum tax. Should the Planning Commission wish to recommend approval of this reduction to the City Council, Staff recommends that the property still be annexed into CFD 4 Tax Zone 20 and CFD 5, but that the City Council enter into an agreement to charge the reduced rate (plus yearly increase of 3.5%) for the project, with the requirement that should the project become a market-rate development that the CFD fee will revert to standard maximum tax in effect at that time. Staff would not recommend annexing the project into a reduced tax rate/zone, as modifications to the tax zone in the future would be near-impossible, unless it was the desire of a future property owner to be annexed into a higher rate. Entering an agreement between the City and Eden Housing to charge a reduce rate for this property, should it be the desire of the City Council, would result in the applicant's request being fulfilled, but would leave open the future opportunity for the City to charge the maximum tax that provides for full cost recovery for the provision of public facilities and police and fire services to the property should circumstances change in the future related to the property and project.

CONCLUSION:

The Applicant has requested approval of two additional incentives to offset the construction of the development, allow the developer to meet HCD's requirements to receive project subsidies, and to offset the costs of operation of the 100 percent affordable project. To that effect, the Applicant is requesting a waiver of all City impact fees and a reduction of the established CFD fees for CFD 4 and 5 to \$400 per unit per year, with a 3.5% annual increase.

Staff has prepared two Resolutions for the Planning Commission for tonight's meeting. Attachment 1 is for the waiver of all City impact fees and the reduction of CFD fees as requested by the Applicant. Should the Planning Commission wish to make a specific recommendation for fee waivers to the City Council, Staff has included Attachment 2 which leaves the stated incentives blank which will allow the Planning Commission to fill in during the meeting.

PLANNING COMMISSION OPTIONS:

The Planning Commission can choose one of the following options:

1. Adopt a Resolution recommending City Council approval of Density Bonus 2023-4 as requested by the Applicant.
2. Adopt a Resolution recommending City Council approval of Density Bonus 2023-4 as amended by the Planning Commission.
3. Adopt a Resolution recommending City Council denial of Density Bonus 2023-4.
4. Continue the hearing and direct Staff to provide additional information or clarification.

GENERAL INFORMATION

APPLICANT: Eden Housing
22645 Grand Street
Hayward, CA 94541

PROPERTY OWNER: Mimosa Street Investors, L.P.
22645 Grand Street
Hayward, CA 94541

LOCATION: Corner of Avenida Cesar Chavez and Mimosa Street

**ASSESSOR PARCEL
NUMBER:** APN 057-860-0460

**GENERAL PLAN
DESIGNATION:** Medium Density Residential

ZONING DISTRICT: RWF (West of Fairview Road)

SURROUNDING USES:

Location	Zoning Designation	General Plan Land Use	Current use of Property
Project Site	RWF	Medium Density Residential	Vacant
North	RWF	Medium Density Residential	Vacant
South	RWF	Medium Density Residential	Single Family Residential
East	RWF	Medium Density Residential	Single Family Residential
West	RWF	Medium Density Residential	Single Family Residential

PLANNING COMMISSION RESOLUTION NO. 2024-

A RESOLUTION OF THE PLANNING COMMISSION OF THE CITY OF HOLLISTER RECOMMENDING CITY COUNCIL APPROVAL OF DENSITY BONUS 2023-4 TO WAIVE IMPACT FEES AND REDUCE THE COMMUNITY FACILITIES DISTRICT FEES FOR A 100 PERCENT AFFORDABLE PROJECT LOCATED AT THE CORNER OF AVENIEDA CHAVEZ AND MIMOSA STREET (APN 057-860-046)

WHEREAS, the Applicant, Eden Housing/Mimosa Street Investors, has submitted an application for a Density Bonus (DB 2023-4) for a 100 percent affordable project; and

WHEREAS, on March 23, 2023, the Planning Commission adopted Resolution No. 2023-8 approving a Density Bonus and Resolution No. 2023-9 approving a Site & Architectural Review for the construction of a 100 percent, 100 unit multi-family residential complex; and

WHEREAS, the California Density Bonus Law (Government Code Section 65915 et seq.) and Chapter 17.34, Density Bonus, of the Zoning Ordinance, allows developers to seek incentives or concessions from the City in exchange for providing affordable units within their project; and

WHEREAS, the proposed project is a 100 percent affordable project and is therefore eligible for three incentives or concessions pursuant to Section 17.34.060 (C)(3) of the Zoning Ordinance; and

WHEREAS, on March 23, 2023, the Planning Commission approved one incentive, out of the three incentives the project is eligible for, for the project (waiver of development standards); and

WHEREAS, the Applicant has requested approval of two additional incentives. The incentives are for the waiver of all City impact fees and for a reduction in the City's Community Facilities District (CFD) fees for CFD 4 and 5 (to \$400.00 per year per unit starting the first year of occupancy, with an annual increase of 3.5 percent) when annexed into CFD 4 and 5; and

WHEREAS, a Staff Report dated January 25, 2024, and incorporated herein by reference, described and analyzed the Density Bonus (DB 2023-4); and

WHEREAS, the Planning Commission held a duly noticed public hearing on January 25, 2024 to consider Density Bonus 2023-4, review the City Staff Report, and receive written and oral testimony for and against the proposal; and

NOW THEREFORE IT IS RESOLVED that the Planning Commission of the City of Hollister does hereby make the following findings and determinations regarding the proposed Density Bonus and recommends the City Council approve Density Bonus 2023-4:

- A. The residential development meets the requirements of Chapter 17.34, Density Bonus, because:
1. The Applicant is proposing to restrict all 100 units in the residential complex to low, very low, and extremely low income families and farmworkers.
 2. The 100 percent affordable project is eligible for a density bonus pursuant to Section 17.34.040, Allowed Density Bonuses, of the Zoning Ordinance.

3. The project is eligible for three incentives or concessions pursuant to Section 17.34.060 (C)(3) because although the project is a 100 percent affordable development, the project comprises 15 percent of the West Fairview Subdivision.
 4. The project was previously granted approval of a Density Bonus (Planning Commission Resolution No. 2023-8) for one incentive which was related to setbacks for the project. The Applicant could have requested approval of additional incentives at that time (up to three).
 5. The Applicant has submitted a new application for a Density Bonus (Density Bonus 2023-4) and has requested approval of two additional incentives for the waiver of all City impact fees and a reduction in the CFD 4 and 5 fees for the project.
- B. The proposed Project provides the required number of Target Units for the proposed affordability Type:
1. The project will provide 100 multi-family dwelling units restricted to low, very low and extremely low income families and farmworkers for a minimum period of fifty-five (55) years.
 2. The proposed project will comprise 15 percent of the total number of dwelling units within the West of Fairview Specific Plan Area and therefore is eligible for the requested concession/incentive.
- C. The Applicant is requesting concessions or incentives that the project is eligible for under the Government Code because:
1. The project is entitled to three incentives or concessions because the 100 percent affordable project comprises 15 percent of the West Fairview Subdivision (Government Code Section 65915)(d)(2)).
 2. One incentive was previously approved by the Planning Commission on March 23, 2023 (Planning Commission Resolution No. 2023-8). This incentive was for development standards (setbacks) and only one incentive of the three allowed was applied for.
 3. The Applicant has now applied for a second density bonus for their project. This request is for the waiver of all impact fees and a reduction CFD 4 and 5 fees to off-set the construction of the affordable units and the cost of maintaining the units for a minimum period of fifty-five (55) years.
 4. Approval of a direct financial contribution is a concession or incentive under Section 17.34.060(D)(4) of the Zoning Ordinance and requires the approval of the City Council. Approval of any request for a financial contribution is discretionary.

NOW THEREFORE BE IT FURTHER RESOLVED that the Planning Commission of the City of Hollister does hereby recommend that the City Council adopt a Resolution approving Density Bonus 2023-4, approving two additional incentives for the Eden Housing Development which include the waiver of all City impact fees and require the project to annex into Community Facilities Districts 4 and 5 with a reduction in the Community Facilities District (CFD) fees for CFD 4 and 5, to the amount of \$400 per unit per year, with an annual increase of 3.5% for this project, with the fees increased to the current rate if the project becomes market rate in the future.

PASSED AND ADOPTED, at a regular meeting of the City of Hollister Planning Commission held on this 25th day of January 2024, by the following vote:

AYES:

NOES:

ABSTAIN:

ABSENT:

Chairperson of the Planning Commission
of the City of Hollister

ATTEST:

Christine Hopper, Secretary

Please Note

It is the sole responsibility of the project applicant to comply with the conditions as approved, modified, or added by the Planning Commission. It is recommended that the applicant review these conditions carefully and if any questions arise as to compliance with the conditions, please do not hesitate to contact the staff planner. Also, if you do not agree with the proposed conditions, you have an opportunity to present your case to the City Council at their meeting. In addition, the City provides for a 15-day appeal period.

PLANNING COMMISSION RESOLUTION NO. 2024-

A RESOLUTION OF THE PLANNING COMMISSION OF THE CITY OF HOLLISTER RECOMMENDING CITY COUNCIL APPROVAL OF DENSITY BONUS 2023-4 TO

**_____ FOR A 100 PERCENT
AFFORDABLE PROJECT LOCATED AT THE CORNER OF AVENIEDA CHAVEZ AND MIMOSA STREET
(APN 057-860-046)**

WHEREAS, the Applicant, Eden Housing/Mimosa Street Investors, has submitted an application for a Density Bonus (DB 2023-4) for a 100 percent affordable project; and

WHEREAS, on March 23, 2023, the Planning Commission adopted Resolution No. 2023-8 approving a Density Bonus and Resolution No. 2023-9 approving a Site & Architectural Review for the construction of a 100 percent, 100 unit multi-family residential complex; and

WHEREAS, the California Density Bonus Law (Government Code Section 65915 et seq.) and Chapter 17.34, Density Bonus, of the Zoning Ordinance, allows developers to seek incentives or concessions from the City in exchange for providing affordable units within their project; and

WHEREAS, the proposed project is a 100 percent affordable project and is therefore eligible for three incentives or concessions pursuant to Section 17.34.060 (C)(3) of the Zoning Ordinance; and

WHEREAS, on March 23, 2023, the Planning Commission approved one incentive, out of the three incentives the project is eligible for, for the project (waiver of development standards); and

WHEREAS, the Applicant has requested approval of two additional incentives. The incentives are for the waiver of all City impact fees and for a reduction in the City's Community Facilities District (CFD) fees for CFD 4 and 5 (to \$400.00 per year per unit starting the first year of occupancy, with an annual increase of 3.5 percent) when annexed into CFD 4 and 5; and

WHEREAS, a Staff Report dated January 25, 2024, and incorporated herein by reference, described and analyzed the Density Bonus (DB 2023-4); and

WHEREAS, the Planning Commission held a duly noticed public hearing on January 25, 2024 to consider Density Bonus 2023-4, review the City Staff Report, and receive written and oral testimony for and against the proposal; and

WHEREAS, after reviewing the proposed request, the Planning Commission determined that the request could not be recommended as proposed and therefore recommends that the City Council approve the waiver of impact fees for _____ and _____ for the project; and

NOW THEREFORE IT IS RESOLVED that the Planning Commission of the City of Hollister does hereby make the following findings and determinations regarding the proposed Density Bonus and recommends the City Council approve Density Bonus 2023-4 with the above aforementioned modifications by the Planning Commission:

A. The residential development meets the requirements of Chapter 17.34, Density Bonus, because:

1. The Applicant is proposing to restrict all 100 units in the residential complex to low, very low, and extremely low income families and farmworkers.
 2. The 100 percent affordable project is eligible for a density bonus pursuant to Section 17.34.040, Allowed Density Bonuses, of the Zoning Ordinance.
 3. The project is eligible for three incentives or concessions pursuant to Section 17.34.060 (C)(3) because although the project is a 100 percent affordable development, the project comprises 15 percent of the West Fairview Subdivision.
 4. The project was previously granted approval of a Density Bonus (Planning Commission Resolution No. 2023-8) for one incentive which was related to setbacks for the project. The Applicant could have requested approval of additional incentives at that time (up to three).
 5. The Applicant has submitted a new application for a Density Bonus (Density Bonus 2023-4) and has requested approval of two additional incentives for the waiver of all City impact fees and a reduction in the CFD 4 and 5 fees for the project.
- B. The proposed Project provides the required number of Target Units for the proposed affordability Type:
1. The project will provide 100 multi-family dwelling units restricted to low, very low and extremely low income families and farmworkers for a minimum period of fifty-five (55) years.
 2. The proposed project will comprise 15 percent of the total number of dwelling units within the West of Fairview Specific Plan Area and therefore is eligible for the requested concession/incentive.
- C. The Applicant is requesting concessions or incentives that the project is eligible for under the Government Code because:
1. The project is entitled to three incentives or concessions because the 100 percent affordable project comprises 15 percent of the West Fairview Subdivision (Government Code Section 65915)(d)(2)).
 2. One incentive was previously approved by the Planning Commission on March 23, 2023 (Planning Commission Resolution No. 2023-8). This incentive was for development standards (setbacks) and only one incentive of the three allowed was applied for.
 3. The Applicant has now applied for a second density bonus for their project. This request is for the waiver of all impact fees and a reduction CFD 4 and 5 fees to off-set the construction of the affordable units and the cost of maintaining the units for a minimum period of fifty-five (55) years.

4. Approval of a direct financial contribution is a concession or incentive under Section 17.34.060(D)(4) of the Zoning Ordinance and requires the approval of the City Council. Approval of any request for a financial contribution is discretionary.

NOW THEREFORE BE IT FURTHER RESOLVED that the Planning Commission of the City of Hollister does hereby recommend that the City Council adopt a Resolution approving Density Bonus 2023-4, approving two additional incentives for the Eden Housing Development for

PASSED AND ADOPTED, at a regular meeting of the City of Hollister Planning Commission held on this 25th day of January 2024, by the following vote:

AYES:

NOES:

ABSTAIN:

ABSENT:

Chairperson of the Planning Commission
of the City of Hollister

ATTEST:

Christine Hopper, Secretary

Please Note

It is the sole responsibility of the project applicant to comply with the conditions as approved, modified, or added by the Planning Commission. It is recommended that the applicant review these conditions carefully and if any questions arise as to compliance with the conditions, please do not hesitate to contact the staff planner. Also, if you do not agree with the proposed conditions, you have an opportunity to present your case to the City Council at their meeting. In addition, the City provides for a 15-day appeal period.



November 30, 2023

Erica Fraser
Development Services Department – Planning Division
City of Hollister
375 Fifth Street, Hollister, California 95023

Subj: West of Fairview Affordable Project (S&A 2022-16) Impact Fee and Community Facilities District Fee Waiver Requests

Dear Ms. Fraser,

I am writing on behalf of Eden Housing, the non-profit developer involved with the development and eventual construction of the 100-unit West of Fairview Affordable Housing project that will be located at the corner of Avenida Cesar Chavez and Mimosa Street (APN: 057-860-046) in the City of Hollister. The project will be a new construction affordable housing development serving low-, very low-, and extremely low-income families and farmworkers. The project will be 100% affordable with units offered to families earning between 30-50% Area Median Income. The units will remain affordable under regulatory control by the California Tax Credit Allocation Committee ("CTCAC") for a minimum of years. The project includes the construction of a standalone community building that will house a property management office, resident services space, and community kitchen, as well as outdoor amenities that include a community garden, sports court, picnic area, and bike parking. The affordable property will be managed by Eden Housing, a nonprofit organization with over 55 years of history building, maintaining and operating high quality communities throughout California.

To support the development and long-term operation of the West of Fairview Affordable community, Eden Housing is writing to request an impact fee waiver and a reduction on Community Facilities District (CFD) fees applied to the project.

Request #1: Impact Fee Waiver

The West of Fairview Affordable project was approved as a 100-unit community comprised of 34 one-bedroom, 33 two-bedroom, and 33 three-bedroom units. Based on the City of Hollister's 2022-2023 impact fee schedule, the project would be subject to the following impact fees:

Impact Fees (City of Hollister 2022-2023)	2+ Bedroom / unit fee	1 Bedroom / unit fee
Parks	\$13,761.64	\$6,638.99
Traffic	\$14,009.85	\$13,669.31
Fire	\$690.00	\$690.00
Sewer Treatment	\$4,464.68	\$4,464.68
Sewer Collection	\$3,590.00	\$3,590.00
Storm Drainage	\$2,030.00	\$700.00
Library Facilities	\$1,357.90	\$1,357.90
Police	\$520.00	\$520.00
Detention (Jail/Juvenile Hall)	\$2,751.41	\$2,751.41
City Hall/City Yard	\$535.35	\$257.33
Subtotal /unit	\$43,710.83	\$34,639.62
Project Total /bedroom size	\$2,884,914.78 (66 units)	\$1,177,747.08 (34 units)
TOTAL	\$4,062,661.86	





Eden Housing would like to request a waiver of the impact fees for the project for the following reasons:

- 100% of the project's 100-units are restricted to 30-50% AMI for at least 55 years, ensuring long-term affordability.
- The \$4,062,661.86 in impact fees amounts to over 6.5% of the estimated total development cost for the entire project. For comparison the per unit development cost is approximately \$620,000. Waiving the impact fees would allow us to substantially decrease the amount of funding needed to start construction.
- The project is located within the West of Fairview development area. The required utilities and public infrastructure in the district have been constructed by the master developer. Infrastructure in the surrounding area has been designed to support the construction of 100-units of affordable housing on site. No additional off-site infrastructure is required to serve the site.
- The project is subject to additional fees from the Sunnyslope Water District, Hollister School District, and San Benito School District fees that total \$2,391,776. Additional impact fees charged by the City of Hollister would increase the financing required to fund construction and would delay construction of critically needed affordable units.

Request #2: Community Facilities District (CFD) Fee Reduction

The West of Fairview Affordable project is also subject to CFD fees under CFD #4 and #5. Current CFD fees amount to \$1,176.78/unit/year under CFD #4 and \$758.16/unit/year under CFD #5 for fiscal year 2023/2024 which totals \$1,934.94/unit in additional annual operating fees for the project. \$193,494 in annual fees with escalation would make the project financially infeasible as an affordable housing project in the long term.

To provide context for the impact of the CFD fees for an affordable project, Eden Housing applied for and received a commitment of 22 project-based vouchers (PBV) from the Housing Authority of the County of Santa Cruz for the West of Fairview Affordable project. The vouchers are estimated to generate approximately \$408,000 in annual rent subsidies for the project. If the project is subject to almost \$193,494 in annual fees under CFD #4 and #5, almost 50% of the annual subsidy generated by the PBVs would have to be used to pay for the CFD fees alone and the project would not meet State of California Department of Housing and Community Development (HCD) underwriting standards for operating cashflow. In addition, the loss in \$193,494 in operating subsidy would result in approximately \$2,000,000 less on the permanent loan for the project resulting in the project becoming financially infeasible.

The State of California passed AB 1743 in 2020. The purpose of the senate bill was to prevent CFD fees from overburdening affordable housing projects and support affordable housing creation. Eden Housing is requesting a reduction on the annual CFD fees for the West of Fairview Affordable project. Per the Initial Development Agreement for the West of Fairview plan area executed in 2000, the project would be subject to CFD fees that in total are capped at \$250/unit adjusted for inflation per year. At today's rates, using the Consumer Price Index this would amount to \$400/unit/year. Eden Housing is requesting to reduce the total CFD fees applied to the project following the terms of the initial development agreement to \$400/unit/year, \$40,000 total, escalated by 3.5% per year following State of California HCD underwriting standards. Long-term lending rates are increasing and have doubled in the last year. The size of the CFD fees will dramatically impact the amount of mortgage proceeds the property can raise for financing the project.





We would like to thank the City of Hollister for reviewing our request to waive the impact fees and reduce the CFD fees applied to the West of Fairview Affordable project. Eden Housing has successfully secured a commitment of 22 PBVs from the Housing Authority of the County of Santa Cruz and submitted an over-the-counter application to California HCD for Infill Infrastructure Grant Funds (IIG). We anticipate submitting applications next year for Joe Serna Farmworker Housing Grant funds and tax credits at the State level. If we are successful in receiving these State funds, combined with the City of Hollister's support in waiving the impact fees and reducing the CFD fees for the project, we have a financially feasible project that could begin construction on 100 critically-needed affordable units in 2025.

Thank you again for your support and consideration of our request. If you have any questions or require any more information, please contact Weijia Song, at dev@co-operations.org or 628 587-3551.

Sincerely,

Andrea Osgood
Chief of Real Estate Development
Eden Housing