

CITY OF SANTA ROSA
CITY COUNCIL

TO: MAYOR AND CITY COUNCIL
FROM: SUSIE MURRAY, SENIOR PLANNER
PLANNING AND ECONOMIC DEVELOPMENT
SUBJECT: APPEAL OF THE DECISION TO DENY THE FLATS AT 528 B
STREET

AGENDA ACTION: TWO RESOLUTIONS

RECOMMENDATION

It is recommended by the Design Review Board (DRB) and Cultural Heritage Board (CHB) that the Council, by resolution, deny the appeal and uphold the Boards' decision to deny Preliminary Design Review for the Flats located at 528 B Street.

It is further recommended by the Cultural Heritage Board that the Council deny the appeal and uphold the Board's decision to deny a Landmark Alteration Permit for the Flats located at 528 B Street.

Council options include:

- Deny the project
 - Deny the appeal
 - Uphold the Boards' decision to Deny Preliminary Design Review
 - Uphold the CHB's decision to Deny the Landmark Alteration Permit
- Approve the project
 - Grant appeal
 - Approve Preliminary Design Review
 - Approve the Landmark Alteration Permit
- Continue for re-design
 - Following redesign, return to City Council for review
 - Following redesign, return to DRB and CHB for review

EXECUTIVE SUMMARY

The Flats at 528 B Street (Project) is a proposal to construct a five-story, mixed-use building comprised of 24 market-rate dwelling units above commercial space located on the ground floor. The Project includes (1) an application for major Design Review because it involves construction of a building greater than 5,000 square feet in a preservation district and (2) an application for a Landmark Alteration Permit because the proposed structure is within the St. Rose Preservation District.

Before the Council is an appeal, filed by the Project applicant, of the Design Review and Cultural Heritage Boards' (Boards) decision to deny Preliminary Design Review, and the CHB's decision to deny a Landmark Alteration Permit.

Image 1: View north down B Street



Source: Project Plans

PROJECT HISTORY

- On January 30, 2019, a Neighborhood Meeting was held; six neighbors attended.
- On October 2, 2019, the Project was considered as a concept item at a joint meeting of the Boards.
- On February 25, 2020, the Project applications were submitted to the Planning and Economic Development Department.
- On March 13, 2020, a Notice of Application was mailed to owners and occupants of properties within 600 feet of the project site.
- On November 23, 2020, the Boards held a public hearing to consider the Project. The DRB affirmed with a vote of 5-0-0-1 (Board Member Kordenbrock abstaining and one vacant seat). The CHB denied with a vote of 3-1-2-0 (Board Member Garrett voting no, Board Member DeBacker and Vice Chair Fennell absent and one vacant seat). Because Section 20-60.070 requires that CHB actions have an

affirmative vote of at least four members, and because the Boards failed to reach consensus, Preliminary Design Review was effectively denied.

- On December 1, 2020, the applicant filed an Appeal Form with the City Clerk's Office, requesting the Council grant an appeal of the Boards' decisions, grant Preliminary Design Review and approve a Landmark Alteration Permit.

PROJECT DESCRIPTION

The Flats at 528 B Street (Project) property is located on north side of B Street on the eastern edge of the St. Rose Preservation District. The Project proposes demolition of the existing building and construction of a new five-story mixed-use building on an approximately 0.19-acre site.

The building is proposed at 55-feet tall at the top of the cornice with additional screening set back on the roof to screen rooftop equipment. It designates the bottom floor for commercial space and provides 24 residential units on the second through fifth floors, including both one- and two- bedroom units. Given the shape and size of the parcel, parking is provided offsite in a City-owned garage adjacent to the site, allowing for an open-space area for the exclusive use of building occupants along the northern side of the property. The Project has been conditioned to enter into a parking agreement with the City prior to building occupancy. A comprehensive project description, provided by the applicant, is attached to this report.

PRIOR CITY COUNCIL REVIEW

Not Applicable.

ANALYSIS

1. Development Standards

A comprehensive analysis of the how the project has been found in compliance with the applicable policies and documents, including the General Plan, Downtown Station Area Specific Plan, Zoning Code, Design Guidelines, Processing Procedures Review Procedures (for owners of historic properties) and Secretary of the Interior's Standards for Rehabilitation, are included in the attached staff report and exhibits that were provided to the CHB and DRB at the joint meeting on November 23, 2020. To summarize:

- General Plan – The General Plan land use designation is Retail and Business Services. The Project implements several goals and policies of the General Plan. Most notably, it would provide housing for Santa Rosa Residents near transit services, retail uses and recreational areas.

- Downtown Station Area Specific Plan (2007) – The Project was reviewed in compliance the 2007 Downtown Station Area Specific Plan. It implements several goals and policies; most notably, the structure would provide areas designated for commercial and housing uses near the SMART Station and 2nd Street Transit Mall and draw residents into the City’s core area.

On October 13, 2020, the Council adopted the Downtown Station Area Specific Plan (Plan) update. On December 1, 2020, the Council approved the associated Zoning Code and Design Guidelines updated. The new regulations will go into effect on January 1, 2021. The Project also appears to be in compliance with this version of the Plan.

- Zoning Code – The Project was found in compliance with development standards provided in the Zoning Code, which are shown in the table below included with the appeal.

[Zoning Code Section 20-28.040](#), which discusses preservation districts, limits the allowable height of a new structure in a preservation district to 35-feet or two stories unless the review authority finds that the increased height does not detract from the character of the preservation district or any adjacent contributing properties.

The subject property is located on the eastern edge of the St. Rose Preservation District. This section of B Street is where Healdsburg Avenue and B Street converge, and it acts as an entryway to the downtown. The proposed mixed-use structure would screen the view of the 7th Street parking garage from B Street, offering a transition between residential and larger scale development. The placement of the proposed structure along the southern property line, with an open space area that spans the full length of the Project site along the northern property line, separates it from the single-story structure at 534/536 B Street and effectively minimizes the impact of the difference in height.

Image 2: Existing view from B Street



Source: Google Maps (image captured in March 2019)

As depicted in Figure 3 of the Historic Resource Evaluation, prepared by Mark Parry, dated June 2, 2020 (attached), several character defining elements found in the St. Rose Preservation District have been incorporated into the building design. While the contemporary design of the building does not mimic historic structures in the District, the addition of those architectural features integrates the Project with the District.

- Design Guidelines – Applicable standards can be found in the Core Area, Multifamily Residential, Building Design and Historic Districts sections of the Design Guidelines. To summarize:

The Project meets the goals and policies of the Design Guidelines by offering 24 residential units, including one- and two-bedroom apartments, above commercial uses on the ground floor. The overall project design would be consistent with the visual character of the surrounding area in scale and architectural style, as defined by the City's Core guidelines.

The design doesn't mimic, but rather complements the area. The architecture is unique to Santa Rosa and incorporates a street-facing entrance; significant glazing on the ground floor; varied exterior materials; and landscaping and landscape features that soften the scale at street level.

The massing of the building is broken up with vertical stepping, the addition of balconies, varied window sizes and placement, and a broad range of materials. No two sides of the new building are the same; each elevation is unique; and the building retains architectural continuity appropriate for all elevations.

- Processing Review Procedures (for owners of historic properties) – Section G of this document provides guidelines for new construction within preservation districts. The guidelines don't specify architectural style, but rather direct that new construction may be contemporary and should not mimic existing buildings in the district. The document focuses more on scale, mass and size.

This document acknowledges that two preservation districts, St. Rose and Railroad Square, include taller buildings; most other districts are primarily single-family residential. The proposed five-story structure is compatible in height with most of its neighbors, with one exception, to the north, where there's a single-story residential structure currently used as commercial office space. The Project's site plan is designed with open space separating the two structures that will minimize that impact.

The Project site is adjacent to three residential buildings that are identified as contributors to the District:

535 B Street - A two-story single-family structure located approximately 150 feet to the west, on the opposite side of B Street;

534/536 B Street - A single-story commercial building to the north, with a shared property line, which would be separated by private open space along the north side of Project site; and

526 B Street - A three-story multifamily structure to the south that would be directly adjacent to the propose structure and separated by landscaping.

Overall, the three District-facing elevations of the new building would be differentiated, yet remain compatible, with the setting of the St. Rose Historic Preservation District. The contemporary design of the proposed mixed-use structure incorporates architectural design features inspired by historic buildings located close by and within the District, including the cornice, window trim details, balcony guardrails, storefront industrial sash, and gate.

The new building would also maintain the rhythm of the streetscape with windows and an entry adjacent to the sidewalk. A flat roof and varied exterior finish materials that differentiate between ground and upper floors are also compatible with adjacent buildings.

- Secretary of the Interior's Standards for Rehabilitation – Discussed in the above referenced Parry Report, many of these standards are not applicable because this is new construction. The report concludes that the “new building reflects the basic district context and sufficient character-defining elements to be sensitive to and in keeping with the Secretary of the Interior's Standards.”

2. Grounds for Appeal

Pursuant to Zoning Code Section 20-62.030, the Appeal application includes the Appellant's grounds for appeal, which are provided below. Staff's response is provided following each of the grounds:

Appellant: Grounds for Appeal No. 1: Appeal of Resolution Number (no number provided) granting Preliminary Design Review.

- The DRB voted 5-0 in favor of the project design.*
- The CHB voted 3-1 in favor of the project design.*
 - The lone dissenting vote approved of the design but objected to the height, and stated they would have voted for design approval if it was a 4-story building.*
- The design was approved by a collective 8-1 vote, but denied because of a procedural technicality related to the CHB vote not reaching the*

minimum requirement of 4 affirmative votes. It should be noted that council has now corrected this technicality and under the new zoning code language a 3-1 CHB vote would be an approval.

Staff response: The current Zoning Code sections regulating discretionary review of the Project's include:

- [Section 20-58.060\(C\)\(3\)](#), which requires Design Review for downtown projects proposing development that exceed 5,000 square feet within a Historic combining district. It specifies that Preliminary Design Review will be conducted in a joint meeting of the CHB and DRB and that Joint Preliminary Design Review is to continue until consensus on project design is reached between the two boards.
- [Section 20-60.070\(H\)\(3\)](#) states that no action of the CHB shall be valid without the affirmative vote of at least four members.
- At the joint hearing on November 23, 2020, the subject of this appeal, both Boards voted on a motion made by the DRB to approve Preliminary Design Review. The DRB affirmed with a vote of 5-0-0-1 (Board Member Kordenbrock abstaining and one vacant seat). The CHB denied with a vote of 3-1-2-0 (Board Member Garrett voting no, Board Member DeBacker and Vice Chair Fennell absent and one vacant seat). Because Section 20-60.070 requires that CHB actions have an affirmative vote of at least four members, and because the Boards failed to reach consensus, Preliminary Design Review was effectively denied.

At its meetings held on November 17 and December 1, 2020, the Council introduced and adopted an ordinance to amend the Zoning Code to be consistent with the recently adopted Downtown Station Area Specific Plan update and to amend the Design Review process for projects located in Historic combining districts. The following Zoning Code amendments will go into effect on January 1, 2021:

- Action of the CHB shall be valid with a simple majority; however, CHB will still be required to convene a four-member quorum;
- Downtown projects that exceed 10,000 (increased from 5,000) square feet that are within a preservation district will require joint Concept Design Review;
- The DRB will act independently on required Design Review; and
- The CHB will continue to act independently on a required Landmark Alteration Permit.

Appellant Grounds for Appeal No. 2: Appeal of Resolution Number (no number provided) granting a Landmark Alteration Permit.

- a. CHB voted 2-2 to deny.
- b. The appellant is required to address conformance with all adopted policy and development standards. As noted below from staff’s summary of development standards in the staff report, **“the project as designed meets all adopted policy and development standards for the CD-5 zoning district”**, which also includes the development rights to build to 5-stories on this non-contributor parcel.

Feature	Requirement	Applicable Code Requirments	Comments
Lot Size	Not applicable	Zoning Code Table 2-8	Project complies
Allowable Density	No maximum	Zoning Code Table 2-8	Project complies
Front Setback	None allowed	Zoning Code Table 2-8	Supported by Specific Plan; the project complies
Side Setback	Five feet if adjacent to residential	Zoning Code Table 2-8	Project complies
Rear Setback	None required	Zoning Code Table 2-8	Project complies
Lot Coverage	Up to 100%	Zoning Code Table 2-8	Project complies
Building Height	Five stories	Zoning Code Table 2-19	Project complies
Landscaping		Zoning Code Chapter 20-34	Project complies
Parking		Zoning Code Chapter 20-36	100% Off-site parking; project complies

- c. As noted by the Historical Architect in his Architectural Historian report:
- i. ***“The new building reflects the basic district context and sufficient character-defining elements to be sensitive to and in keeping with the Secretary of the Interiors Standards. Also the design satisfies current zoning requirements, density needs. This project is recommended for approval based on our evaluation”***.
- d. The CHB Chair stated prior to his vote of dissent for the project that, ***“I think that it meets the downtown station area specific plan goals and needs, hits the nail right on the head”***.
- e. In relation to the two dissenting votes on CHB regarding height being ***“incompatible with the district”***, the staff report states:

- i. *“The massing of the building is broken up with vertical stepping, the addition of balconies, varied window sizes and placement, and a broad range of materials. No two sides of the new building are the same; each elevation is unique; and the building retains architectural continuity appropriate for all elevations”.*
- ii. *In comparison to our building, the three-story elevated apartment building to the south of the project site (first floor is 4 feet above the sidewalk), is approximately 40+ feet high which itself exceeds the 35-foot height limit for contributor properties. Furthermore, related to building massing, this building is approximately 50 feet wide which exceeds the width of our building of 45 feet.*
- iii. ***Of particular importance to note:*** *But for the City development standard requirement to provide a minimum 12-foot ground floor ceiling height, we would have designed a five-story development with a reduced overall building height.*
- iv. *The city owned parking garage to the east of our project, while far more massive than anything around it, is 48 feet at its highest point, making it only 7 feet lower in height than our building. Therefore, if required to match the parking garage height, thereby reducing the building height by 7 feet, **we would effectively have to eliminate an entire floor of housing.***
- v. *Pursuant to Zoning Code Section 20-12.020(D), in the event of any conflict between the requirements of this Zoning Code and standards adopted as part of a Specific Plan, **the requirements of the Specific Plan shall control.***
 - *Appellant believes that the two dissenting votes did not comply with this policy direction.*
- vi. *In addition, as stated in the staff report:*
 - ***“The design and layout of the proposed development is of superior quality, and is consistent with the General Plan, any applicable specific plan, applicable Zoning Code standards and requirements, the City’s Design Guidelines, architectural criteria for special areas, and other applicable City requirements (e.g., City policy statements and development plans)”.***
- f. *The project as designed has an FAR of 3.8. Therefore, the building is **also in compliance** with the newly adopted 2020 Downtown Specific Plan zoning designation of FAR 4.0 for this parcel.*
- g. *According to land use attorney’s Best, Best and Krieger (BB&K) in their published analysis regarding housing projects within local jurisdiction, the*

State has given clear direction through SB 330 “The Housing Crisis Act of 2019” whereby:

- i. “Parcels of land where housing is an allowable use may not be downzoned, and general or specific plan land use designations may **not be changed to a less intensive use** as compared to what was allowed as of January 1, 2018.”*
 - The requirement to reduce the building height from 5 to 4 stories (in conflict with the current zoning) would effectively **reduce the intensity** of the project and eliminate housing units.*
 - City Council reinforced the desire for **more intensive development on this particular site** at their public hearing on November 17, 2020 by changing the zoning from CD5 to FAR 4 with a 5-story cap. (The project as designed has an FAR of 3.8.)*
- h. Furthermore as of January 1, 2018 affected cities or counties **are prohibited from imposing or enforcing subjective design standards on housing developments where housing is an allowable use.** Objective standards are limited to design standards that involve **no personal or subjective** judgment by a public official.*

Staff response: At the joint meeting on November 23, 2020, the CHB acted independently on the Landmark Alteration Permit and denied a motion to approve a Landmark Alteration Permit with a vote of 2-2-2-0 (Board Member Garrett and Chair Meuser voting no, Board Member DeBacker and Fennell absent and one vacant seat).

During Planning review, staff concluded that the proposed project complies with the development standards of the primary zoning district, including that it is within the maximum allowable height of 5 stories to a maximum of 55 feet. Staff also concluded that the project is consistent with applicable design guidelines for new development in the Downtown area. There is no requirement that new buildings be constructed at the same height as existing structures. The design standards and guidelines encourage diversity and architecture unique to Santa Rosa. The size and shape of buildings on all sides should be considered by review authorities when making required findings. Based upon the conclusions reached during Planning review, and being able to make all required findings, Staff recommended approval of Preliminary Design Review and the Landmark Alteration Permit to the Boards.

Approval of Preliminary Design Review and Landmark Alteration Permit project applications require that review authorities make required findings. These findings are contained in the resolutions drafted by staff and presented to the

Boards. If, however, a board member, commissioner or council member does not agree with all drafted findings and can't otherwise make one or more of the required findings, they must vote against the project. The CHB identified three findings that they were unable to make prior to the denying the Landmark Alteration Permit.

Four draft resolutions are included in the Council packet (two upholding the appeal and two denying the appeal). All findings are shown on the draft resolutions drafted to approve the Project and overturn the Boards' decisions.

The Appeal also refers to Senate Bill 330 (SB 330), the Housing Crisis Act of 2019, and notes that "*Parcels of land where housing is an allowable use may not be downzoned, and general or specific plan land use designations may **not be changed to a less intensive use as compared to what was allowed as of January 1, 2018.***" Staff concurs that SB 330 does not allow changes to land use designation for properties designated for residential development, unless the review is done concurrent with the review of other changes in land use that would offset the reduction and result in zero net loss of land designated for housing development. The discretionary entitlements reviewed by the Boards, however, did not propose an action that would result in a downzoning or a change to the general or specific plan land use designations regulating development of the project site. Moreover, SB 330 allows for changing land use designations or zoning to less intensive uses if the city concurrently changes standards applicable to other parcels to ensure there is not net loss in residential capacity. The City Council concurrently reviewed and adopted the Downtown Station Area Specific Plan zoning implementation package which rezones properties within the Downtown Station Area to accommodate an additional 5,275 housing units beyond the 2007 Downtown Station Area Specific Plan and existing Housing Element. In addition, the Fall 2020 General Plan Amendment Package approved December 8, 2020, included an amendment to increase the allowable residential density at 3575 Mendocino Avenue, which will result in an increase of 371 units.

The Appeal again refers to SB 330 and states that, under that legislation, "as of January 1, 2018 affected cities or counties are prohibited from imposing or enforcing subjective design standards on housing developments where housing is an allowable use. Objective standards are limited to design standards that involve no personal or subjective judgment by a public official." Pursuant to SB 330, local jurisdictions cannot impose or enforce new non-objective design standards established on or after January 1, 2020. The Boards did not apply any design standards established after January 1, 2020. SB 330 also provides that a local jurisdiction cannot change the land use designation or zoning of a parcel to a less intensive use or reduce the intensity of land uses within an existing zoning district below what was allowed under the

land use designation and zoning in effect on January 1, 2018. As noted above, the Boards did not take any action to change the land use designation or zoning of the project site to a less intensive designation.

FISCAL IMPACT

Approval of this project would not have a fiscal impact on the General Fund.

ENVIRONMENTAL IMPACT

The project has been reviewed in compliance with the California Environmental Quality Act (CEQA):

Pursuant to CEQA Guidelines Section 15182, the project is statutorily exempt from CEQA because it is a mixed-use project; it has a floor area ratio of 3.8 (greater than 0.75); it is within Downtown Commercial zoning district; it is within the Downtown Station Area priority development area; is consistent with the 2007 Downtown Station Area Specific Plan Environmental Impact Report, which was certified by Council Resolution No. 26949, dated October 9, 2007; is consistent with the 2020 Downtown Station Area Specific Plan Subsequent Environmental Impact Report, which was certified by the Council on October 13, 2020; and is consistent with the General Plan land use designation of Retail and Business Services.

Pursuant to CEQA Guideline Section 15183, because the project is being developed consistent with the General Plan, for which Council certified an Environmental Impact Report in 2009, the project is eligible for streamlined CEQA processing. No further environmental review is necessary for the Project as analysis has confirmed that there are no new environmental effects, or environmental effects of greater severity, peculiar to the parcel or the project that were not analyzed and addressed in a prior EIR.

Pursuant to CEQA Guidelines Section 15332, because the project site is less than five acres; is consistent with the General Plan, any applicable specific plan and zoning; is not considered suitable habitat for listed species; is located in area where all services are available; and would not result in a significant impact in air quality, water quality, or traffic, it qualifies for a Class 32 categorical exemption.

The City has further determined that no exceptions to the exemptions apply and there is no reasonable possibility that the activity will have a significant effect on the environment due to unusual circumstances (CEQA Guidelines Section 15300.2.) This determination is based on the infill nature of proposed site, and the previous site development.

BOARD/COMMISSION/COMMITTEE REVIEW AND RECOMMENDATIONS

APPEAL OF THE DECISION TO DENY THE FLATS AT 528 B STREET
PAGE 13 OF 14

On October 2, 2019, the Boards reviewed the proposal for the Flats at 528 B Street as a concept item. The applicant has provided a comprehensive response that addresses each Board's comments.

On November 23, 2020, the Design Review Board (DRB) and Cultural Heritage Board (CHB) held a public hearing to consider The Flats at 528 B Street (Project), a proposal to construct a five-story, mixed-use building at 528 B Street, within the St. Rose Preservation District. The DRB provided the following resolutions, which have been included in the alternative resolution granting the appeal provided to City Council.

- Consider on all facades where there are tighter reveal areas to change material to the fiber cement, cedar color, to match the soffits.
- Consider a smoother CMU material, such as shot-blast smoothness or a limestone block look.
- Consider full glazing at office lobby entry.
- Consider recessed entry at residential lobby.
- Shall eliminate trim around residential Kingspan windows on the west elevation at the north & south corners of the building.

The two boards effectively denied Preliminary Design Review by not reaching consensus between the two boards (DRB: 5-0-1 Kordenbrock abstained, one vacant seat; CHB 3-1-0 DeBacker and Fennell absent, one vacant seat). At the same meeting, the Cultural Heritage Board effectively denied a Landmark Alteration Permit for the Project (2-2-0 DeBacker and Fennell absent, one vacant seat).

NOTIFICATION

All noticing was done in compliance with Zoning Code Chapter 20-66, including a mailed Notice of Public Hearing to owners and occupants within 600 feet of the project site, a published Notice of Public Hearing in the Press Democrat, and 12-square foot public hearing sign posted onsite.

ATTACHMENTS

- Attachment 1 - Disclosure Form
- Attachment 2 - Location and Neighborhood Context Map
- Attachment 3 - Appeal Application
- Attachment 4 - Minutes of Joint Design Review Board and Cultural Heritage Board Public Meeting held on November 23, 2020
- Attachment - Staff Report, provided for the joint meeting of the Cultural Heritage and Design Review Boards, prepared by Susie Murray, dated November 23, 2020
- Attachment 6 - Project Narrative, prepared by MKG and ArchiLOGIX, stamped received on February 25, 2020

APPEAL OF THE DECISION TO DENY THE FLATS AT 528 B STREET
PAGE 14 OF 14

- Attachment 7 - Project Plans, prepared by MKG and ArchiLOGIX, dated June 5, 2020
- Attachment 8 - Applicant Response to Board Comments at concept review, prepared by Morrison Karsten Group and ArchiLOGIX
- Attachment 9 - Trash Removal Plan, prepared by Thomas Karsten, dated August 3, 2020
- Attachment 10 - Shadow Study, provided by ArchiLOGIX, dated September 29, 2020
- Attachment 11 - Historic Resource Evaluation, prepared by Mark Parry, Artisan-Architecture, dated June 2, 2020
- Attachment 12 - Historic Property Survey and CEQA Evaluation, prepared by J Longfellow Consulting, dated January 5, 2020
- Attachment 13 - Public Correspondence (received prior to the November 23, 2020, joint meeting of the Boards)
- Resolution - Preliminary Design Review (denial)
- Resolution - Landmark Alteration Permit (denial)
- Resolution - Preliminary Design Review (approval)
- Resolution - Landmark Alteration Permit (approval)

CONTACT

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