

CITY OF SANTA ROSA
CITY COUNCIL

TO: MAYOR AND CITY COUNCIL
FROM: CONOR MCKAY, CITY PLANNER
PLANNING & ECONOMIC DEVELOPMENT DEPARTMENT
SUBJECT: STONY POINT FLATS DESIGN REVIEW - APPEAL OF THE
DESIGN REVIEW BOARD'S ACTION ADOPTING AN ADDENDUM
TO THE CERTIFIED ROSELAND AREA/SEBASTOPOL ROAD
SPECIFIC PLAN ENVIRONMENTAL IMPACT REPORT AND
APPROVING MINOR DESIGN REVIEW FOR STONY POINT
FLATS APARTMENTS LOCATED AT 2268 STONY POINT ROAD,
ASSESSOR'S PARCEL NUMBER 125-521-008
FILE NO. PRJ21-012

AGENDA ACTION: RESOLUTION

RECOMMENDATION

It is recommended by the Planning and Economic Development Department that the Council, by resolution, deny the appeal and uphold the Design Review Board's action adopting an Addendum to the certified Roseland Area/Sebastopol Road Specific Plan Environmental Impact Report and approving Minor Design Review for Stony Point Flats Apartments, a 2- and 3-story, 50-unit, Multi-family affordable housing project located at 2268 Stony Point Road.

EXECUTIVE SUMMARY

During a public hearing held on September 2, 2021, the Design Review Board, by votes of 6-0-1-0 on two resolutions, adopted the Addendum to the Roseland Area/Sebastopol Road Specific Plan EIR and approved Minor Design Review for the Stony Point Flats Apartments project. The Council is being asked to act on an appeal of the Design Review Board's actions, which is filed in accordance with regulations contained in City Code Chapter 20-62 (Appeals).

The proposed Multi-family land use at a maximum density of 49 dwelling units is a permitted use that is consistent with the adopted 2016 Roseland/Sebastopol Road Specific Plan for the area. The project demonstrated Density Bonus eligibility to allow one (1) additional dwelling unit by-right for a total of 50 dwelling units; therefore, the proposed land use and 50-unit density are permitted by-right and consistent with the Specific Plan. The California Environmental Quality Act (CEQA) provides an exemption

for projects that are consistent with a specific plan for which an Environmental Impact Report (EIR) has been certified. The project is consistent with the Roseland/Sebastopol Road Specific Plan and qualifies for an exemption under CEQA Guidelines section 15182. However, because Section 15182 does not clearly address its applicability where additional dwelling units are allowed pursuant to the ministerial State Density Bonus law, and to ensure that the City complies with the intent of CEQA, an Addendum to the EIR was prepared to analyze any potential impacts of one additional dwelling unit. The Addendum concluded there are no significant impacts beyond those mitigated by the Specific Plan EIR, and it was adopted by Design Review Board.

PROJECT BACKGROUND

On September 2, 2021, the Design Review Board (DRB) approved the Stony Point Flats Apartments (the Project), which proposes development of a 50-unit, 100% affordable, Multi-family rental housing project consisting of three buildings (one two-story and two three-story) with one-, two-, and three-bedroom units, with a maximum height of 39 feet, on a 2.93-acre parcel. All existing development including one single-family residential dwelling and agriculture-related accessory structure on the site would be demolished. Community amenities would include a leasing office, resident services facilities, community room and computer center, outdoor patio, children's play area/tot lot, a multi-sport court, and picnic areas. Bike lockers and bike racks would be located throughout the site. Solar energy generation via 90 solar panels located on building rooftops would allow the project to comply with CBC Title 24 net zero energy requirements. On- and off-site improvements, including landscaping, are required (see Attachment 3 – Design Narrative).

Figure 1: Illustrated proposed project entry design



(Source: Attachment 7 – Project Plan Set)

Project History

The proposed project was submitted on April 29, 2021, as a 50-unit, 100% affordable Multi-family development comprised of four structures with an expanded outdoor

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amenities area that included a pool. On July 15, 2021, following the required Pre-application Neighborhood Meeting and Concept Design Review activities, the applicant submitted a revised project that reduced the number of structures from four to three and eliminated the pool. These revisions resulted in expansion of the undeveloped area on the project site from ± 0.60 acres to ±0.90 acres, which is located at the rear of the project site adjacent to Roseland Creek.

On June 1, 2021, the applicant was advised that to facilitate a more comprehensive review of the proposed Stony Point Flats application (DR21-023), the Planning Director elevated discretionary review of DR21-023 from Zoning Administrator to Design Review Board at a public hearing. This decision to elevate was based upon authority granted to the Planning Director by [Section 20-60.080](#). Staff notes that prior to this notification, the applicant had requested that the required public meeting be elevated to a public hearing, which is an option available to all projects reviewed by the Zoning Administrator for which a public meeting is otherwise required.

Dates of Key Project Milestones:

April 22, 2021	Minor Design Review application submitted
May 3, 2021	Pre-application Neighborhood Meeting completed
June 3, 2021	Pre-application Concept Design Review completed
June 24, 2021	Waterways Advisory Committee review (continued)
July 15, 2021	Minor Design Review application resubmitted
August 18, 2021	Notice of Complete application issued
August 20, 2021	Public Hearing Distributed
August 26, 2021	Waterways Advisory Committee review completed
September 2, 2021	Project received approval by DRB
September 13, 2021	Appeal of the DRB decision to approve the project received by City Clerk's Office

Staff Comment: Project review by WAC was continued on June 24, 2021 in order for more detailed project information to be presented to WAC.

ANALYSIS

1. Regulatory Framework for Appeals

Zoning Code §20-16.070 (Modifications to design review) establishes that Design Review for new development in defined Priority Development Areas is delegated to the Zoning Administrator through the Minor Design Review process. Zoning Code §20-52.030 (Design Review) establishes procedures for the City's review of the

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design aspects of proposed development (for example, building design, landscaping, site planning and development, and signs), for consistency with the City's Design Guidelines. Zoning Code §20-50.020 (Table 5-1), which regulates permit application and filing, identifies the Zoning Administrator as the City official responsible for reviewing and making decisions on Minor Design Review applications.

On June 1, 2021, the applicant was advised that to facilitate a more comprehensive review of the proposed Stony Point Flats application (DR21-023), the Planning Director acted to elevate discretionary review of DR21-023 from Zoning Administrator to Design Review Board at a public hearing. This decision to elevate was based upon authority granted to the Planning Director by Section 20-60.080. Subsequently, DRB approved the Project. Pursuant to §20-62.020, decisions of the DRB are appealed to the Council.

2. Appeal Application dated September 13, 2021 (Attachment 14)

The grounds upon which this appeal is filed are:

1. **Brown Act Violation • Did Not Hold Public Comment and Took Action on Non-Agenda Items**

There were two actions taken by the DRB during this hearing, yet only one was noticed. The DRB decided on the EIR, which was properly noticed. However, there was a Brown Act violation in that there were several documents that were added late and deemed to be "ex parte communications." As these items were not presented to the public prior to the 48-hour cutoff as required by the Brown Act.

Additionally, the DRB did not properly indicate that a Final Concept Review was taking place as it was not on the agenda, yet it decided and Approved a Final Concept Review. This is a blatant and flagrant violation of the Brown Act. Review of the DRB hearing recording clearly shows that there were two actions taken by the DRB while only one item was listed on the agenda.

Attached hereto as Exhibit A, is a true and correct copy of the September 2, 2021 DRB agenda as obtained from the Santa Rosa City Website.

Furthermore, public comment was allotted for the EIR, but was not allotted for the Final Concept Review, thus depriving the public of its input as required by the Brown Act.

These combined violations should nullify any decision made on September 2, 2021. The City Council should reverse and remand all decisions made pertaining to the 2268 Stony Point Road project while also providing additional guidance for the DRB to consider on the items listed below.

Immediate suspension of any work by the developer until the Brown Act violations are properly addressed.

Staff Response:

Issue 1 describes two grounds for appeal. Each of these grounds for appeal is analyzed below.

1. DRB Action on two noticed items: the Addendum and the Minor Design Review
2. Late Correspondence

DRB Action on two noticed items: the Addendum and the Minor Design Review

The Stony Point Flats Apartments project was noticed in compliance with §20-66.020 (Notice of hearing). The Notice of Public hearing described that the Stony Point Flats Apartments project (File No. PRJ21-012) would be reviewed by the DRB. Files that begin with PRJ contain multiple applications, as described in the “Purpose of Notice” section on the public notice: *To receive public comments and recommendations prior to action on the proposed applications.* Minor Design Review application DR21-023 is one of the applications included in PRJ21-012.

The DRB did not conduct “Final Concept Review” as described in the appeal; the DRB took action on a Minor Design Review application, which is the only discretionary Planning entitlement required for this project. This action is identified in the published meeting agenda as described in this text copied from the Appeal Exhibit A provided by the appellant: STONY POINT FLATS APARTMENTS-ADDENDUM TO EIR- DESIGN REVIEW MINOR- 2268 STONY POINT RD - DR21-023. The DRB did not consider the Specific Plan EIR, as that document was certified in 2016 and is a legally valid document.

A public hearing by a review authority considers the totality of the project, including all decisions before the review authority. The opportunity for public comment is provided as part of the public hearing; decisions before the review authority are not provided with separate opportunities for public comment. The public hearing held for the project on September 2, 2021 offered the public to make comments of the totality of the project, including the addendum and Minor Design Review.

Late Correspondence

The “Exhibit A” prepared by Engineering Development Services (EDS) dated September 2, 2021 was the single project-related document that was brought to the DRB Public Hearing without previously being provided to the DRB or made available to the public. Included in the item packet, which was distributed to the DRB and made available to the public was an “Exhibit A” prepared by EDS dated August 23, 2021. The updated “Exhibit A” dated September 2, 2021, that was included as an attachment to the approved Design Review Board Resolution No. 21-1023, , which was handed out at the DRB meeting, did not result in changes to the project as proposed.

- The following is a brief synopsis of the differences between the Engineering Development Services Exhibit A dated 8/23/2021, and

originally published as part of the DRB meeting item, and the Exhibit A dated 9/2/2021, that were read into the record at the 9/2/2021 meeting of the DRB and subsequently approved through DRB Resolution No. 21-1023. Condition IV was stricken because the Waterways Advisory Committee doesn't approve projects.

- In Condition 2 the timing of easement dedication was changed to accommodate the fact that onsite dedications were required. Offsite easements are required to be dedicated earlier in the process.
- A New Condition 3 was added to clarify that this project would dedicate creek land to the Sonoma County Water Agency (SCWA), which was not addressed in the original drafting of the conditions of approval. This addition changed the numbering of the remaining conditions.
- The Condition originally numbered as 25 was stricken because it doesn't apply to this project.
- A New Section titled FEMA with New Condition 27, and another New Section titled CREEK SETBACK with New Conditions 28 through 34 were added due to the proximity to Roseland Creek and the previously mapped 100-year flood plain subject to change with a Letter of Map Revision.
- New Conditions 36, 46, and 47 were added to clarify the Storm Drain related design requirements for the construction documents.
- The Conditions originally numbered as 56, 83, and 84 which are now numbered 67, 94, and 95 were revised for clarity.

Pursuant to Chapter Nine, Section 54957.5 (b)(1) of the Brown Act, if a project related document is distributed by the local agency less than 72 hours prior to the public hearing for the project, the document shall be made available to the public at the same time as the review authority for the public hearing. A document distributed during a meeting must be made public at the meeting if prepared by the local agency. (Section 54957.5(c).) In this case, the updated Exhibit A prepared by EDS was made available to the public at the DRB meeting, at the same time the document was made available to the DRB members, and changes to the Exhibit A were read into the public hearing record.

Additional public comments were received after providing the DRB with the item packet but before the public hearing. These public comments were also included and presented to the public and the DRB as Late Correspondence.

Both the Addendum to the Roseland Area/Sebastopol Road Specific Plan EIR and the Minor Design Review items were included on the DRB Agenda posted on Legistar on August 27th, 2021.

2. Inadequate Traffic Study and Refusal to Address Ingress and Egress Safety

The DRB failed to address the inadequate traffic study and traffic issues that the proposed Stony Point Flats project will impose on the community of Roseland and the safety of future and current residents. Specifically, the DRB failed to require a U-turn at Pearblossom Drive, which would have relieved increased traffic impact

onto various neighboring thoroughfares, including scenic road, Burbank Avenue, and Hearn Avenue. Furthermore, the DRB failed to address or require sufficient ingress and egress in the event of an emergency such as fire, flood, or earthquake by not mandating proper traffic mitigation to allow both north and southbound exits from Stony Point Flats onto Stony Point Road. Additionally, the traffic study was conducted during COVID lockdowns and thus inadequately accounts for traffic on Stony Point Road and Hearn Avenue due to schools being out of session, and county wide work from home orders.

Staff Response:

Issue 2 describes three grounds for appeal. Each of these grounds for appeal is analyzed below.

1. U-turn at Stony Point Rd. and Pearblossom intersection;
2. Emergency Ingress and Egress; and
3. Traffic analysis data.

U-Turn at Pearblossom

The Traffic Analysis Memo, revised August 26th, 2021, was prepared by a certified engineer and concludes that impacts are less than significant without the addition of a U-turn pocket at Pearblossom Drive. Therefore, the project has not been conditioned to require this U-turn. However, the applicant is in consultation with the City regarding the U-turn and is exploring a variety of outcomes.

Emergency Ingress and Egress

The Project, including the Traffic Analysis Memo, was reviewed and approved with conditions by the Santa Rosa Fire Department (SRFD) and the City's Traffic Division, which determined that project as proposed has sufficient emergency access and operation ingress/egress.

Traffic Analysis Data

The Traffic Study was performed using traffic counts from 2019, so the analysis is based on data from before the COVID-19 pandemic.

3. Inadequate and Outdated Environmental Impact Report (EIR)

The DRB failed to address the inadequate Environmental Impact Report (EIR) for this project, relying on data that was either out of date (2016 Roseland Specific Plan), or minor studies (EIR Addendum) instead of a comprehensive and current site specific EIR. These outdated reports were conducted by individuals that are no longer licensed and/or have licenses that have expired. The reliance on outdated Roseland and Santa Rosa EIR's to approve projects throughout

Roseland is a disservice to the citizens of this area who deserve to have their environment protected as much as citizens of the rest of the city. However, due to the City's designation of Roseland as a "priority development area," Additionally, the Roseland Creek Restoration Plan requires fifty foot setbacks from the bank of the creek, yet this project is only required to have thirty foot setbacks. It is clear that Roseland is not afforded the same environmental protections as other areas of the city. This is an environmental injustice issue. Furthermore, members of the DRB seemed to be ill equipped to understand the process for an EIR as well as the different types of EIR's available. The members of the DRB appeared to lack critical knowledge or understanding of how EIR's work and likely should receive some training so they can understand the matters on which they are tasked to review.

Staff Response:

Issue 3 describes three grounds for appeal. Each of these grounds for appeal is analyzed below.

1. DRB's failure to address an inadequate Environmental Impact Report;
2. Roseland Creek setback requirements; and
3. DRB action on CEQA determination.

DRB's failure to address an inadequate Environmental Impact Report

The Roseland Area/Sebastopol Road Specific Plan EIR (the EIR) was not before the DRB and is not currently before the Council. The Specific Plan was approved and the EIR was certified by the City Council in August 2016. The EIR was prepared in accordance with CEQA. The EIR assesses the expected environmental impacts resulting from approval and implementation of the Roseland Area/Sebastopol Road Specific Plan, and it specifies mitigation requirements for impacts should they be identified. The EIR is a legally adequate document.

The proposed Project is consistent with the goals and policies set forth in the Roseland Area/Sebastopol Road Specific Plan. Pursuant to the Specific Plan and the City's General Plan, the property located at 2268 Stony Point Road is designated as split Medium Density Residential (2.63 acres, maximum 18 units per acre) and Low Density Residential (0.3 acres, maximum 8 units per acre). This allows for a total of 49.74 units, rounded down to 49 units per Zoning Code §20-12.020.

The Stony Point Flats project includes 50 units, which is one unit greater than what is allowed by the General Plan and in turn what was analyzed in the EIR. The additional unit does not render the project inconsistent with the General Plan and, therefore the project qualifies for a statutory CEQA exemption pursuant to Government Code 65457 and CEQA Guidelines section 15182. Nevertheless, pursuant to CEQA Guidelines Section 15164, the City prepared an addendum to

the previously certified EIR to analyze potential environmental impacts of the one unit that was not analyzed by the EIR. A lead agency such as the City may prepare an addendum to an adopted EIR where the proposed project will not result in new or more significant impacts not discussed in the previous EIR. (CEQA Guidelines section 15164). The Stony Point Flats Addendum analyzed the potential impacts associated with the project, including the one additional unit beyond what was studied in the Specific Plan EIR, and concluded that the project would not result in any additional environmental impacts not already addressed in the EIR. No additional environmental analysis is required.

Roseland Creek setback requirements

Due to the project's location adjacent to Roseland Creek, the project is subject to the Santa Rosa Citywide Creek Master Plan. The Roseland Creek Conceptual Restoration Plan was adopted by the Council as part of the Citywide Creek Master Plan (as an appendix on March 27, 2007). The text of the Roseland Creek Conceptual Restoration Plan provides: "Consistent with the City's Zoning Code 20-30.040, the creek setback shall be 50 feet from the top of the proposed top of bank on both sides of the channel. Exceptions to the creek setback are the same as those outlined in the City's Zoning Code." The stretch of Roseland Creek adjacent to 2268 Stony Point Road is identified as Reach #3 in the Citywide Creek Master Plan. This reach is identified as a Modified – Natural creek, which is a creek that has been channelized and re-introduced with native vegetation.

Zoning Code Section 20-30.040 (D)(3) establishes that adjacent to fully channelized waterways, structures may be closer to the top of the bank than a distance of 2.5 times the depth of the bank plus 50 feet, provided that this encroachment into the setback area will not obstruct or impair the channel's hydraulic functions, impede Water Agency access or maintenance of the channel, or impair the stability of the slope, bank, or maintenance of the channel, or impair the stability of the slope, bank, or creekbed fountain, all as determined by and approved by the Santa Rosa Planning & Economic Development Department, Santa Rosa Water, and the Sonoma County Water Agency (SCWA). The project has received approval from the Santa Rosa Planning & Economic Development Department and Santa Rosa Water. The City is completing consultation with SCWA and has provided the project's Draft Exhibit A prepared by Santa Rosa Engineering Development Services (EDS).

DRB action on CEQA determination.

According to CEQA Guidelines Section 15162 (Subsequent EIRs and Negative Declarations), when an EIR has been certified for a project, no subsequent EIR shall be prepared for that project unless the lead agency determines, on the basis of substantial evidence in the light of the whole record, one or more of the following:

1. *Substantial changes are proposed in the project which will require major revisions of the previous EIR or negative declaration due to the involvement of new significant environmental effects or a substantial increase in the severity of previously identified significant effects;*
2. *Substantial changes occur with respect to the circumstances under which the project is undertaken which will require major revisions of the previous EIR or Negative Declaration due to the involvement of new significant environmental effects or a substantial increase in the severity of previously identified significant effects; or*
3. *New information of substantial importance, which was not known and could not have been known with the exercise of reasonable diligence at the time the previous EIR was certified as complete or the Negative Declaration was adopted, shows any of the following:*
 - a. *The project will have one or more significant effects not discussed in the previous EIR or negative declaration;*
 - b. *Significant effects previously examined will be substantially more severe than shown in the previous EIR;*
 - c. *Mitigation measures or alternatives previously found not to be feasible would in fact be feasible, and would substantially reduce one or more significant effects of the project, but the project proponents decline to adopt the mitigation measure or alternative;*
or
 - d. *Mitigation measures or alternatives which are considerably different from those analyzed in the previous EIR would substantially reduce one or more significant effects on the environment, but the project proponents decline to adopt the mitigation measure or alternative.*

Staff do not find, based on substantial evidence, that any of the above criteria apply to the proposed project. The addition of residential density by one unit, as demonstrated in the environmental analysis conducted by Dudek in the Stony Point Flats Addendum, is not considered a substantial change that would result in significant environmental impacts not already considered in the EIR. The Stony Point Flats Addendum also incorporates mitigation measures from the EIR that ensure the project would result in less than significant environmental impacts. The EIR was prepared by qualified professionals in 2016. Any expiration of consultants' licenses that has occurred since the certification of the EIR has no effect on the validity of the analysis or findings of the EIR.

4. Inadequate and False Representations Regarding the Impact of Building in a Seasonal Floodplain

The applicant claims that they have applied for a FEMA revision of the floodplain maps pertaining to this project, stating that improvements to the Roseland Creek will mitigate any concerns the public has regarding the potential flooding that could be redistributed to neighboring parcels. Despite this critical revision being

complete, the DRB moved forward and approved the project's design without knowing if the floodplains would be revised in any significant matter by FEMA, and thus there could be significant environmental impacts, and damage caused to neighboring parcels. Without this revision being complete, the DRB is putting neighboring parcels and the public in danger of dealing with floodwaters that will be displaced by this development. The entire project should be remanded to the DRB pending full completion of the revision of the FEMA flood map so that any revisions of the designs as it pertains to flood water mitigation can be adequately addressed.

Staff Response:

Current FEMA maps identify a 100-year floodplain over a portion of the project site. As a result of improved drainage constructed by the City during Stony Point Road improvements, there is potential for the 100-year flood plain designation to be removed, subject to FEMA review and map revision. The applicant is currently coordinating submittal of new data provided by the City to FEMA for its review. Should FEMA act to update the floodplain map, then the Project would not be located in a floodplain.

If FEMA declines to update the floodplain map, then the Project would be required to comply with Chapter 18-52 (Flood Damage Protection), which identifies standards for construction in a floodplain. Compliance with these standards would not affect the property's drainage during a major weather event. The Project has been reviewed by Santa Rosa's Building and Engineering Development Services divisions, and by Sonoma Water. Required conditions of approval and standard Storm Water Low Impact Development Plan (SWLID) Best Management Practices would prevent landslides, flooding, and other potential environmental impacts related to the floodplain. One such condition (#27 in the Exhibit A) requires the submission of grading and drainage plans with building permit application submittal that show all grading and drainage construction details, cross-sections and elevations as needed to prevent flooding of the adjacent structures and show compliance with City Code Chapter 18-52 (Flood Damage Protection). The Project as approved would be developed with fill should the floodplain designation not be reversed, or without fill should FEMA accept a new map that would remove the floodplain. The addendum analyzes the environmental impact of the project design that introduces fill to raise the project site out of the floodplain.

5. Inadequate Fencing To Protect Future Residents and Provide Good Neighbor Support

The DRB failed to adequately address solid barriers surrounding the property primarily for safety as well as sound and light mitigation. A hedge row is insufficient and destroys the current fence line separating the property to the north, allowing for livestock and other uses to blend through the property lines. The project abuts Roseland Creek, which is currently inhabited by a large

homeless encampment. As Stony Point Flats is expected to house children, merely having a natural brush barrier is insufficient to prevent children and residences from being harmed by anyone who can easily enter and leave the property from the creek or surrounding open parcels of land. Furthermore, insufficient barriers to the creek open up the potential for a child to wander into the creek on their own, resulting in potential and preventable tragic incidents.

Staff Response:

Members of the public, the Waterways Advisory Committee (WAC) and the DRB provided mixed perspectives and opinions regarding perimeter fencing for the Stony Point Flats project. Fencing is not a development requirement. The Project has been reviewed by WAC, who recommended approval of the Project as proposed and has been approved by DRB, who approved the Project as proposed. These concerns were expressed during public comment and Staff is confident that the review authorities had all information before them when considering all fencing concerns. No livestock will be kept at the residential development pursuant to Zoning Code §20-22.030 (Residential district land uses and permit requirements), which prohibits animal keeping in R-3 zoning districts.

Staff did not encounter any person living inside the Roseland Creek riparian area during a site visit conducted August 4, 2021.

The site proposes outdoor lighting in compliance with Zoning Code §20-30.080 (Outdoor Lighting) which will provide clear illumination at nighttime and improve the overall security of the site. Additionally, the site is designed to maximize visibility on the creek which also improves the security of the site.

6. Inadequate protection of Heritage Trees

According to the City of Santa Rosa's Tree Ordinance, "A heritage tree is a tree or grove of trees designated by the Planning Commission as having a special significance requiring review before removal may be permitted" (<https://srcity.org/583CTree-Removal-Preservation>). While there is a record identifying heritage trees, every identified heritage tree is set to be removed, causing irreparable harm to the environment. The site to be developed will remove heritage valley oaks, live oaks, and redwoods throughout the parcel, and specifically along the southern border. This not only destroys habitats for numerous endangered wildlife in the area, but also takes away trees that are a historical part of Roseland. There is insufficient evidence to support that the ORB and larger planning board has researched the heritage trees that will be removed by this project, and additional review needs to be done before development may take place.

Staff Response:

The Roseland Area/Sebastopol Road Specific Plan EIR analyzed the impacts of the implementation of the Roseland Area/Sebastopol Road Specific Plan and

determined that with the adoption and enforcement the City's Tree Ordinance, there would be a less than significant impact to Sensitive Vegetation Communities including Riparian Habitat and no impact as a result of a conflict with a local policy or ordinance protecting biological resources. The City's Tree Ordinance (Title 17 Environmental Protection, §17-24.010) establishes a legal pathway for Heritage tree removal in the City when tree removal is associated with proposed development. The Project does propose to remove 16 Heritage trees; however, 29 Oaks and two Coast Redwoods (minimum 24" box) will be among the 99 total trees planted as a result of the proposed project. Zoning Code §17-24.050 establishes the mitigation requirement for projects associated with proposed development as two trees per six inches of fraction thereof of diameter of tree removed, which would result in the requirement of 47 tree to be replanted. However, this Section also establishes that the Director can approve a lower number of larger trees than what is required by §17-24.050. The Landscape Plan indicates each tree to be replanted are 24" box trees, which are larger than the 15-gallon minimum required by the Tree Ordinance. Many of these trees, as indicated on the Landscape Plan, will be planted along the southern property boundary which is Roseland Creek riparian area.

The Landscape Plan was made available to the DRB and the public in advance of the meeting in compliance with Brown Act requirements. This allows for the legally mandated time period for review of project materials prior to the public hearing. Therefore, there is no evidence that suggests the DRB failed to conduct adequate research on the project proposal prior to acting on the application.

7. Superior Alternate Building Sites are Available

In trying to work with the applicant, the community has presented several locations on the west side of Stony Point Road, Sebastopol Road, and Santa Rosa Avenue but both the city and applicant are determined to remove open spaces that have a significant environmental impact rather than recycling already developed land. These are all viable options as the applicant has yet to formally purchase the property located at 2268 Stony Point Road. These sites also allow for higher density of development, thus allowing for more low-income units to be developed on the sites.

Staff Response:

The availability of alternate building sites does not dictate Staff's support for a proposed land use that complies with the Zoning Code and supports City Council goals related to homelessness, housing, and affordability. The project would develop a property located in the R-3-18 zoning district, which allows multifamily housing by right. The site is not designated as Open Space by the General Plan and/or Roseland Area/Sebastopol Road Specific Plan – it is designated for Medium Density and Low Density residential development. There is no policy that requires property owners, developers, or applicants to pursue alternative building sites.

8. Inadequate Time Provided for Public Records Requests to Be Processed and Received Prior to the DRB Meeting

Due to the lack of transparency on the part of the City of Santa Rosa, requested public records have not been submitted within the mandated time frames. The standard turnaround is 10 business days for the city to respond, which can also be extended by an additional 15 days should the documents requested take that much time. Since there are still open public records requests regarding this project, it is requested that the hearing for this appeal not be set until 10 business days after the documents are produced. The public documents were requested on or about August 27, 2021. Not all of the records pertaining to this request have been received. The prior record request took nearly 10 weeks for the city to adequately respond, a violation of the Public Requests law. Since the city has set a precedent to delay submitting documents in a request to 10 weeks, this appeal should not be heard prior to the week of November 15, 2021.

Staff Response:

All requests for information filed pursuant to the Public Records Act (PRA) have been complied with to the full extent of all applicable laws. Staff will consider the request for a hearing during the week of November 15, 2021 but will not require this in order to recommend a denial of the appeal and upholding of the decision of the DRB.

3. Conclusion and Requested Remedies

Appellant's requested remedies include:

Repeal and remand the DRB's September 2, 2021 approval of the design plan for 2268 Stony Point road; the project should be required to go through the full planning review process given the public's ongoing concerns; and the City Council should also implement the following provisions.

Issue 1: Reverse and Remand the September 2, 2021 divisions by the ORB for the Brown Act violations. Provide additional recommendations pursuant to the following items. Immediate suspension of any work by the developer until the Brown Act violations are properly addressed.

Issue 2: Require an updated traffic study which adequately accounts for non-COVID restrictions on traffic.

Issue 3: Require an updated site specific EIR given the DRB's severe lack of technical knowledge to know what an EIR is, and the different types of EIR's that exist, as well as the fact that the City and developers are relying on completely outdated Santa Rosa and Roseland general area EIR's.

Issue 4: Require an updated FEMA floodplain map in order for the design to adequately address the flooding issues pursuant to that map.

Issue 5: Require, at minimum, a 4-foot-high solid barrier fence to protect future residents of this project, as well as current neighbors from trespass and harm that is foreseeable from Roseland Creek, as well as to mitigate sound and light pollution emanating from the property.

Issue 6: Require, at minimum, that design revision be considered to preserve identified heritage trees.

Issue 7: Remove this project from this site and move it to a more suitable location as presented by the public. Consider this site as a place for a much needed park that the entire community can benefit from.

Issue 8: Do not hold the appellate hearing before November 15, 2021.

Staff Response:

Planning staff have processed the appeal application in accordance with Chapter 20-62 Appeals. The following actions have been taken:

1. Staff has prepared this Director's report as required by Section 20-62.030(E).
2. Staff has coordinated scheduling of the appeal public hearing for Council review at the Council's earliest regular meeting after completion of the Director's report. Staff notes that the appellant requested that the public hearing not be held before November 15, 2021, because it feels that a Public Records Act request made before the Minor Design Review public hearing was not responded to in a timely manner (see Issue 8). As is practice, Staff contacted both the appellant and applicant to confirm a tentative public hearing date of November 9, 2021.
 - Confirmation of public hearing attendance was requested from the appellant on October 6, 2021. As of the writing of this report, no response has been received.
 - Confirmation of public hearing attendance was requested from the applicant on Wednesday, September 29, 2021, and the applicant was informed of the appellant's request to hold the meeting after November 15, 2021. In a letter to staff dated September 29, 2021, the applicant recounted how the project responds to the City's affordable housing development goals and reiterated that it feels the Project has addressed public concerns through plan changes. The applicant asked that the appeal public hearing be scheduled at the earliest possible date.

Following consideration of the appellant's reason for requesting scheduling of a public hearing after November 15, 2021, the appellant and applicant's responsiveness to confirmation requests, and the applicant's reasons for seeking review at the earliest possible date, Planning staff has scheduled this appeal public hearing for November 16, 2021.

PUBLIC NOTIFICATION

The project was noticed as a public hearing per the requirements of Chapter 20-66 of the City Code. Notification of this public hearing was provided by posting an on-site sign, publishing notice in a newspaper of general circulation, mailed notice to surrounding property owners and occupants, electronic notice to parties that had expressed interest in projects taking place in this geographic area of Santa Rosa, and bulletin board postings at City Hall and on the City website. Pursuant to Government Code Section 65091, where necessary, the City has incorporated notice procedures to the blind, aged, and disabled communities. These procedures include audio amplifier/assistive listening device support at public meetings, closed captioning, and optical character recognition conversion of electronic notices.

ATTACHMENTS

- Attachment 1 – Disclosure Form
- Attachment 2 – Location Map
- Attachment 3 – Design Narrative received 7-15-2021 and addendum received 8-26-2021
- Attachment 4 – Stony Point Flats EIR Addendum dated 8-2021
- Attachment 5 – Memo Regarding Stony Point Flats EIR Addendum Appendices A-H
- Attachment 6 – Traffic Analysis Memorandum dated 8-6-2021 and revised 8-26-2021
- Attachment 7 – Project Plans and Recorded Site Survey received 7-28-2021
- Attachment 8 – Tree Inventory Plan received 8-12-2021
- Attachment 9 – Density Bonus Eligibility Notice
- Attachment 10 – Creekside Setback Determination Letter
- Attachment 11 – Prior Board Minutes, Resolutions, Recommendations
- Attachment 12 – Public Correspondence
- Attachment 13 – Floodplain Update Memo and Delineation Map
- Attachment 14 – Grounds for Appeal received 9-13-2021
- Attachment 15 – September 2, 2021 DRB Meeting – Final Minutes
- Attachment 16 – Signed DRB Resolution 1 – Stony Point Flats Addendum
- Attachment 17 – Signed DRB Resolution 2 – Minor Design Review
- Attachment 18 Attachment 18 – Design Review Project Analysis and Staff Recommendation
- Attachment 19 – Appendix to Appellant Presentation
- Resolution / Exhibit A - Design Review Board Resolution No. 21-1023
- Presentation

CONTACT

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