



CITY OF POMONA COUNCIL REPORT

August 5, 2024

To: Honorable Mayor and Members of the City Council

From: Anita D. Gutierrez, City Manager

Submitted By: Ata Khan, Deputy Director of Development Services

**SUBJECT: PUBLIC HEARING FOR AN APPEAL OF PLANNING
COMMISSION'S APPROVAL OF A HOUSING DEVELOPMENT
PROJECT (DPR 72-2024) TO DEVELOP 289 DWELLING UNITS**

RECOMMENDATION:

It is recommended that the City Council take the following actions:

- 1) Conduct a Public Hearing regarding the appeal received for the Housing Development Project; and,
- 2) After receiving public comment and testimony, close the Public Hearing and adopt the following resolution (Attachment No. 1):

RESOLUTION NO. 2024-121 - A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF POMONA, CALIFORNIA APPROVING DEVELOPMENT PLAN REVIEW (DPR 72-2024) TO DEVELOP A 5.5 ACRE SITE WITH 289 DWELLING UNITS WITHIN TWO, FOUR-STORY BUILDINGS WITH PRIVATE AND COMMON OPEN SPACES, SUBTERRANEAN PARKING, GARAGE PARKING, SURFACE PARKING, COVERED PARKING, LANDSCAPING, TRASH FACILITIES, AND A PRIVATELY OWNED PUBLIC LINEAR PARK ON A PROPERTY LOCATED AT 3101-3191 N. GAREY AVENUE (APN: 8370-010-016, 8370-009-038).

EXECUTIVE SUMMARY:

On June 12, 2024, the Planning Commission held a public hearing and approved a request for a housing development project (Case File: DPR 72-2024) to develop a 5.5 acre site with 289 dwelling units within two, four-story buildings with private and common open spaces, subterranean parking, garage parking, surface parking, covered parking, landscaping, trash facilities, and a privately owned public linear park at 3101-3191 North Garey Avenue (5-0-1-1)

(Attachments No. 2-5). The Commission’s approval included additional conditions by staff, resulting from the community meeting held by the North Pomona Neighborhood Watch. Councilmember Torres appealed the decision and the City Council did not uphold the Commission’s decision. Therefore the matter is now before the Council as a public hearing, and staff has not changed its recommendation. The proposed project is a “housing development project,” subject to the Housing Accountability Act, also known as Senate Bill 330 (SB 330). One key provision of this State law is that a housing development project may not be denied unless there’s a specific adverse impact.

SB1439/GOVERNMENT CODE §84308 APPLICABILITY:

When this box is checked, it indicates the agenda item is subject to the Levine Act SB1439 requirements. Councilmembers are reminded to check their campaign contributions and determine whether they have received a campaign contribution of \$250 or more that would require disclosure and/or recusal from discussing or acting on this agenda item. Campaign contributions of \$250 or more made 1) by any person or entity who is identified in the agenda report as the applicant or proposer or 2) on behalf of the applicant or participant, including a parent, subsidiary or otherwise related business entity, or 3) by any person who has a financial interest in the agenda item requires a councilmember to comply with SB1439.

FISCAL IMPACT:

There is no fiscal impact to this action.

PREVIOUS RELATED ACTION:

On May 16, 2024, at a scheduled meeting, the Approving Authority of the Development Plan Review Hearing remanded the matter to the Planning Commission. (Attachments No. 6-8)

On June 12, 2024, at its regularly scheduled meeting, the Planning Commission held a public hearing and approved a request for housing development project (*Case File: DPR 72-024*) at 3101-3191 North Garey Avenue (5-0-1-1).

On June 27, 2024, Councilmember Torres filed an appeal of the decision. (Attachment No. 9)

On June 15, 2024, the City Council did not uphold the Planning Commission’s approval decision and directed the matter to a public hearing. (Attachment No. 10)

PROPERTY DETAILS

Address	3101-3191 N. Garey Avenue
Assessor’s Parcel Number (APN)	8370010016, 8370009038
Lot Size	5.5 acres
General Plan Place Type	Neighborhood Edge
General Plan Transect Zone	T4-B: 40 DU/Acre, 3 floors max.
Zoning District	N/A
Historic District	N/A
Specific Plan	City Gateway Segment of PCSP
City Council District	District 6 – Torres
Applicant	Matthew Cobo, AIA as agent for AC Martin
Property Owner	Noor Properties, LLC & Coliseum Properties

ADDITIONAL RELATED ACTIONS

Historic Preservation	N/A
Code Enforcement	CE 314-2024 – Encampments and landscaping debris on the property, owner provided the No Trespass Authorization and removed the debris, case closed. CE 22348-2022 – Junk, trash and debris on the sidewalk, items were removed and case closed. CE 16465-2020 – Sprinklers on the property were overwatering and there was a plumbing issue within the suites, items resolved and case closed.
Building & Safety	N/A
Planning	CUP 12399-2019 – 7 /11 request for the off-sale of beer and wine, denied by Planning Commission. DPR 18998-2022 – Proposed 289 dwelling units across eight, four-story buildings, application withdrawn and reapplied with a new site layout and new developer.

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I. LOCATION OF REQUEST

A. General Location

The project site is a corner block located on the west side of Garey Avenue bounded by West Grove Street to the south and Drake Street to the north. The site is surrounded by residential development consisting of apartment complexes to the west, south and east of the site. North of the site, there is a private education institution. The site is currently developed with a 26,535 square foot commercial shopping center, which was originally built in 1987. The shopping center only has 10 active tenants, including a restaurant, several personal services, convenience uses, and offices. After the outbreak of novel coronavirus disease (COVID-19), a majority of the tenants within the center were unable to recover economically and closed their businesses. Below is a list of current tenants and total number of vacancies.

Table 1. Active Tenants

Suite #	Tenant
3129	99 Cent Store +
3141	Sweet Art Bakery
3143	Action One Check Cashing Corp.
3151	Best Nails
3153	Stylz 4 Sho Beauty Parlor
3157	Chad Bowman Office
3177	Edward Aboaid (Eden Gift & Tobacco)
3181	Key Essentials to Behavior Management, Corp.
3185	LaKeysha Cobbs-Hayes Office
3191	Los Jarritos Mexican Restaurant
Lot	Wireless Communications Facility
Total Active Tenants - 10	
Total Vacancies - 15	
Total Tenant Spaces 25	

(See next page for corresponding figure)

Figure 1. General Location

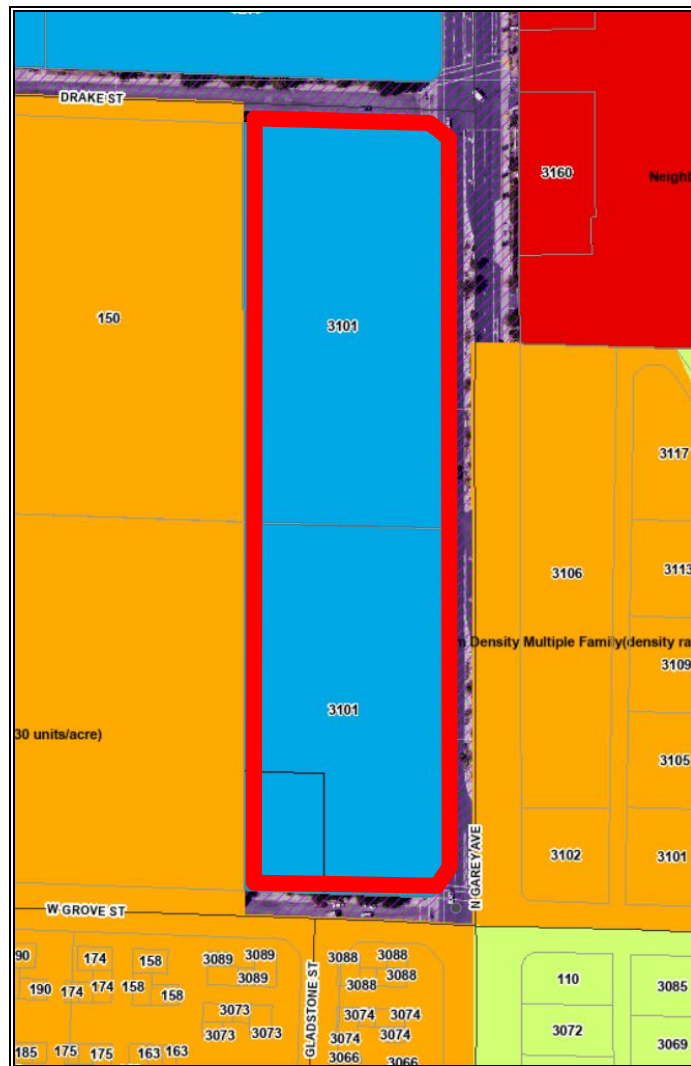


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B. Adjacent Land Uses & Current Zoning

The project site is located within the City Gateway Segment of the PSCP. The site is on the edge of the City Gateway Segment and is surrounded by R-3 (Medium Density Multiple-Family) zoning to the west, south and east. Across the street to the north, the City Gateway Segment continues into Foothill Boulevard. Additionally, across the street diagonally to the northeast, there is a Neighborhood Center designation.

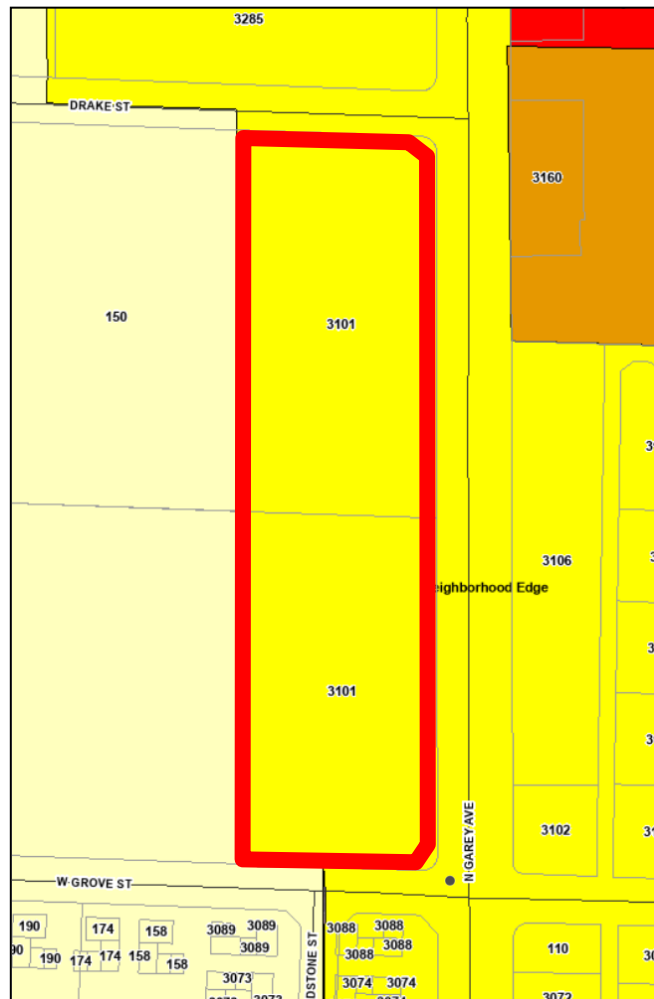
Figure 2. Zoning



C. General Plan Land Use

The Pomona General Plan identifies the proposed project location as part of the “Neighborhood Edge” Place Type, which includes “grand scale buildings, compatible with medium scale multi-family housing and townhomes in areas envisioned to have a more residential character” (Page 88, 2014 Pomona General Plan). The site is also within the T4-B Neighborhood Edge Transect which allows densities up to 40 dwelling units per acre and up to three stories.

Figure 3. General Plan Land Use



II. REQUEST DETAILS

The applicant is requesting approval to develop the 5.5 acre site with 289 dwelling units within two, four-story buildings with private and common open spaces, partial subterranean parking, garage parking, surface parking, covered parking, landscaping, trash facilities, and privately owned public open space. The request includes a 30% Density Bonus, which proposes to set aside twenty units for very low income and nine units for moderate income. The project proposes 120 one-bedroom units, 155 two-bedroom units, and 14 three-bedroom units. The site is currently developed with a 49,815 square foot commercial shopping center, which will be demolished in order to accommodate the project, with the exception of an existing cell tower on the northwest corner of the site (Attachment No. 11).

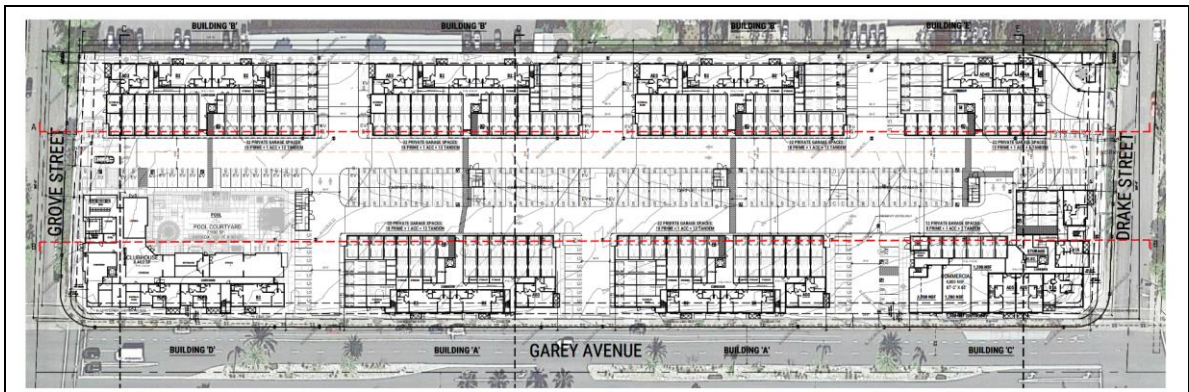
Figure 4. Project Site



A. First and Second Proposed Requests

The project went through a series of three site iterations to ensure that the design complied with the architectural requirements of the PCSP and that the development was compatible with the existing neighborhood. The first iteration of the project centralized parking within the site and removed the possibility of privately owned public open space. The site plan consisted of eight separate buildings, which lacked a distribution of common open space among the 5.5 acre site. The site plan did not reflect a walkable site and did not include a pedestrian network that connected the site to the surrounding neighborhood. The proposed access to the site created additional drive aisles, kept the same number to driveways as the existing site, and was auto-oriented. The building's exterior design elements lacked architectural details, incorporated little articulation, and did not meet the minimum design requirements of the PCSP. The first iteration of the site plan, created eight separate projects within the site and did not represent a compatible project with the surrounding neighborhood.

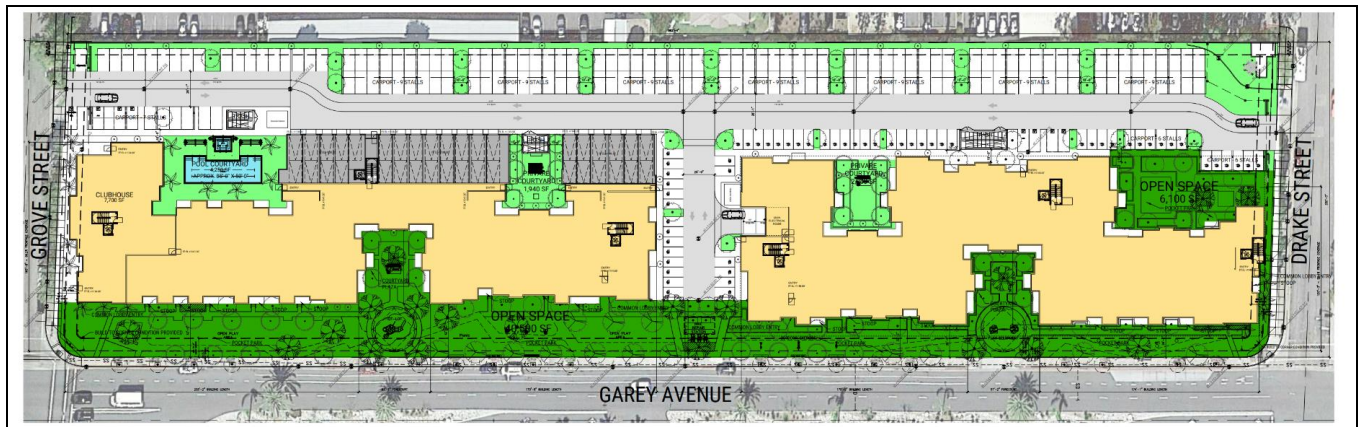
Figure 5. First Iteration Design



The second site plan iteration improved upon the location of the buildings and decentralized parking on the site. The new layout created a buffer between the four-story buildings and the adjacent development to the west by locating the parking to the rear and a buffer to the east by adding a privately owned public open space facing Garey Avenue. It introduced new areas of common open space that were within walkable distance to all residents of the project but lacked a pedestrian network to connect them all. The building façades still required additional

architectural details to meet the minimum design standards of the PCSP. Moreover, quality of life elements were missing among the architectural features of the buildings along with the programming details for both the common open space for the residents and for the private public open space. Further, the site plan left parking areas exposed to the public right-of-way and lacked screening requirements for mechanical and trash facilities. There were also additional questions by staff on the level of privacy and safety created by the placement of privately owned public open spaces within the buildings courtyards and interior areas of the site.

Figure 6. Second Iteration Design



B. Final Proposed Request

The third and final site iteration added a wider selection of architectural features into the buildings and implemented a network of pedestrian paths to connect the project to the surrounding public right-of-ways. The exterior cladding materials were differentiated between the upper stories - third and fourth floors, and lower stories - ground and second floor, minimizing the appearance of the four-stories and providing visual relief. The final design reflects buildings with clear entrances and well integrated common and private spaces for the residents, while maintaining a connection to the privately owned public open space. Moreover, the design includes recommendations from staff, which improve the quality of life for residents

and the usability of the privately owned public open space by the community (Attachment No. 12).

Figure 7. Final Design Iteration

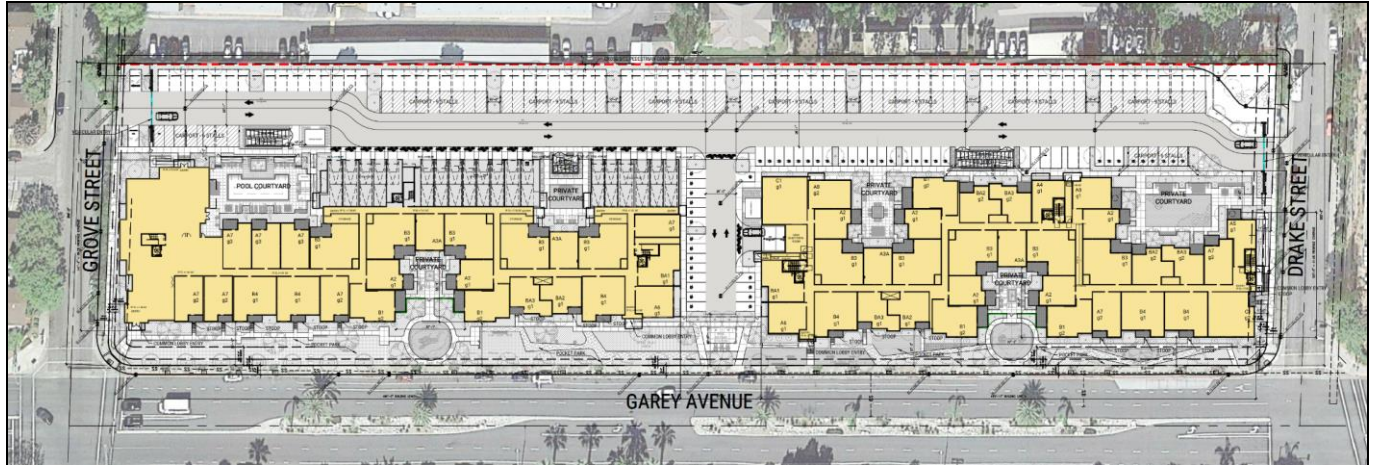


Site Plan

The final site plan consists of two, four-story buildings set back from Garey Avenue, extending from West Grove Street to Drake Street, totaling 289 dwelling units with private and common open spaces, and a privately-owned public linear park along the frontage of the site between the buildings and Garey Avenue. Building A is 466 feet in length and 188,400 square feet, inclusive of four floors and tandem parking garages. Building B is 410 feet in length and 216,600 square feet, inclusive of the subterranean parking garage. With the final design there is a mixture of outdoor and indoor private and common open spaces with amenities, and a privately owned public linear park. The project proposes new landscaping to meet the minimums required by the City's Water Efficient Landscape Ordinance No. 4232, and to provide screening when

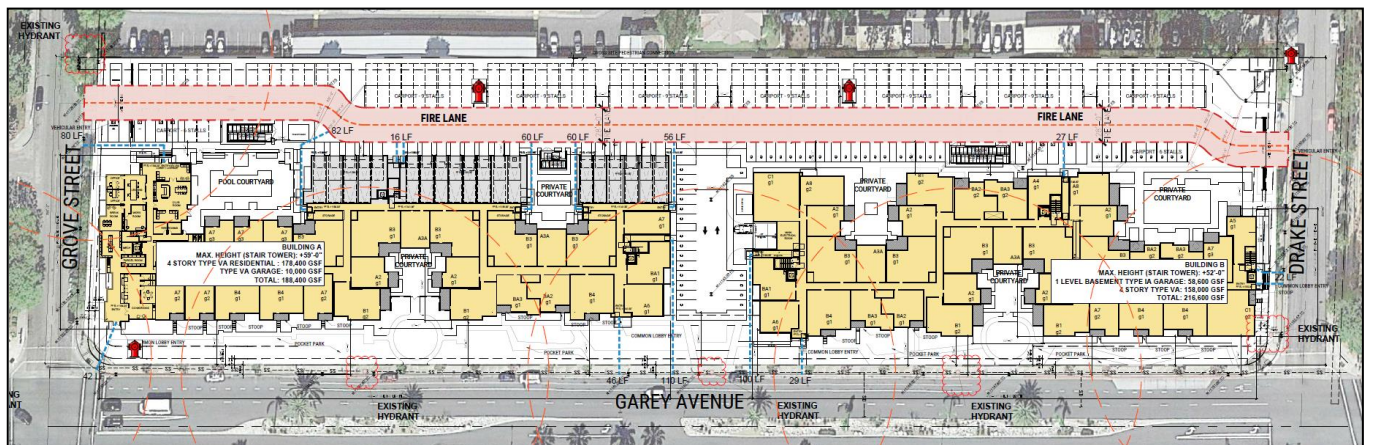
appropriate. Additional on-site and off-site improvements will include trash facilities, lighting, and accessibility requirements.

Figure 8. Site Plan



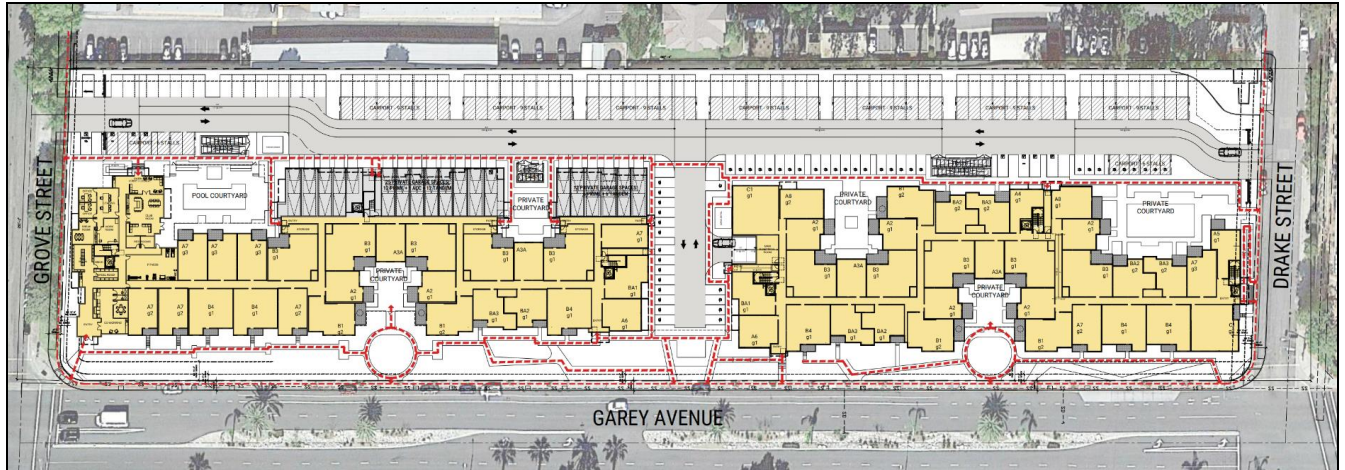
The final site plan proposes to reconfigure the site's current vehicular access. The current site gains vehicular access from five two-way driveway approaches; three of which are off of Garey Avenue, one of which is off of Drake Street, and one of which is off of West Grove Street. The proposed project will close all three driveway approaches off of Garey Avenue, in order to accommodate a privately-owned public linear park. The existing two-way driveways off of Drake Street and W. Grove Street will serve as the main entrances and exits for the project, and as the emergency fire access lane. These driveways are conditioned by Public Works to be reconstructed to current City Standards and ADA requirements. A partial subterranean parking garage in the building closest to the north end of the site will be accessed from an interior driveway lane between the buildings.

Figure 9. Access and Fire Lane



The final site plan includes a network of continuous pedestrian walkways that lead around the site, through the linear park, and connect to the surrounding public right-of-ways. The walkways are a mixture of concrete paths, a patterned sidewalk, and decomposed granite paths.

Figure 10. Pedestrian Paths



Entrances

Each building can be entered from either the public street directly or from the interior of the site. Public-facing entries include common lobby entrances, corner entries, and stoops. Interior site entries include private courtyards with porches and additional lobby entrances.

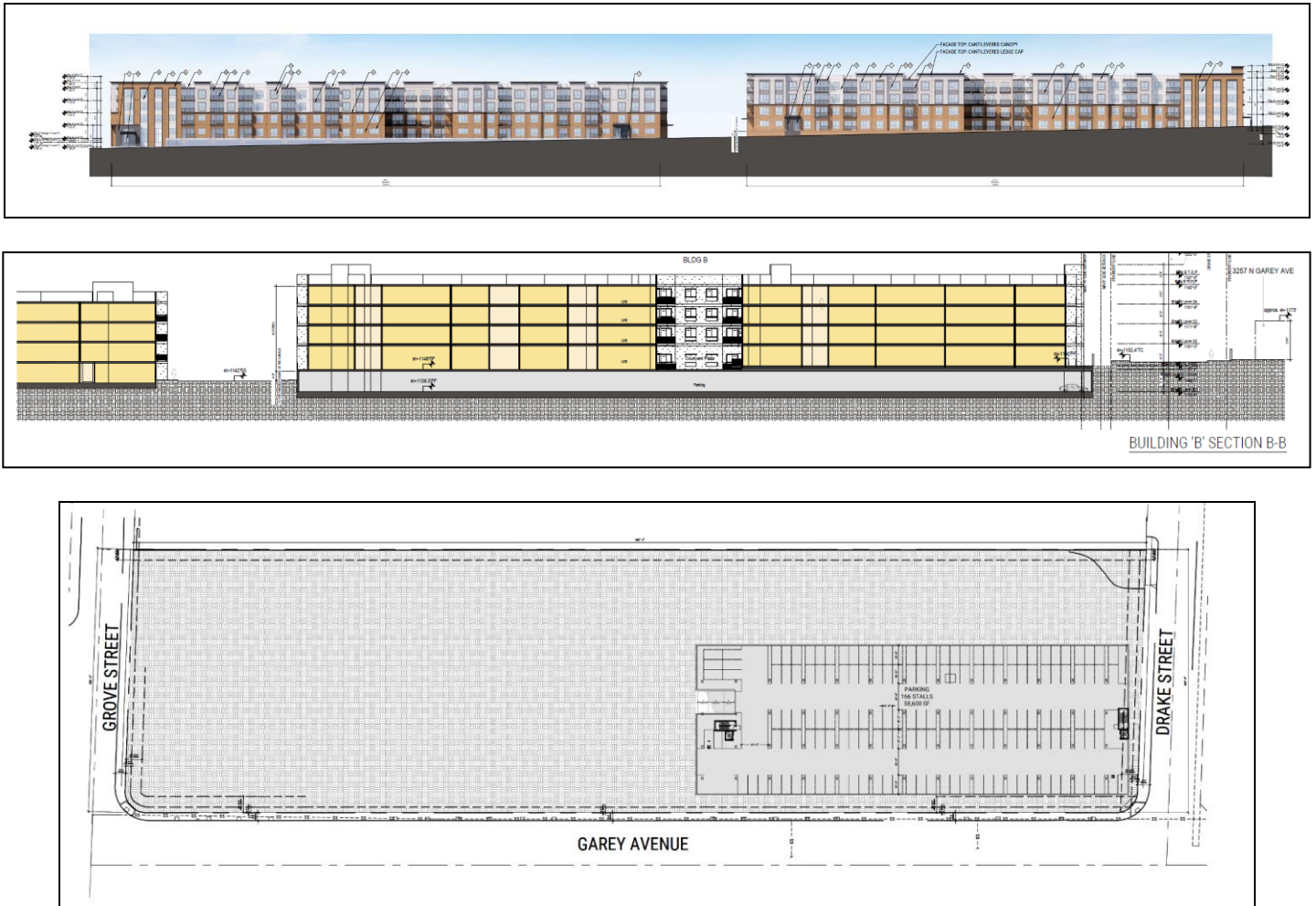
Figure 11. Public-facing Entries



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Additionally, the project includes a total of 409 parking spaces, consisting of tandem garage spaces, surface spaces, covered carport spaces, and spaces within the subterranean parking garage. A subterranean parking garage was possible due to the natural grade difference between the north and south portions of the site, as shown on the figures below. The parking garage includes a total of 166 parking spaces and is 58,600 square-foot. It includes two stairwells, two elevators, and one dual vehicular entry and exit point from the drive aisle in between the two buildings.

Figure 12. Elevation, Section, and Plan of Subterranean Parking Garage



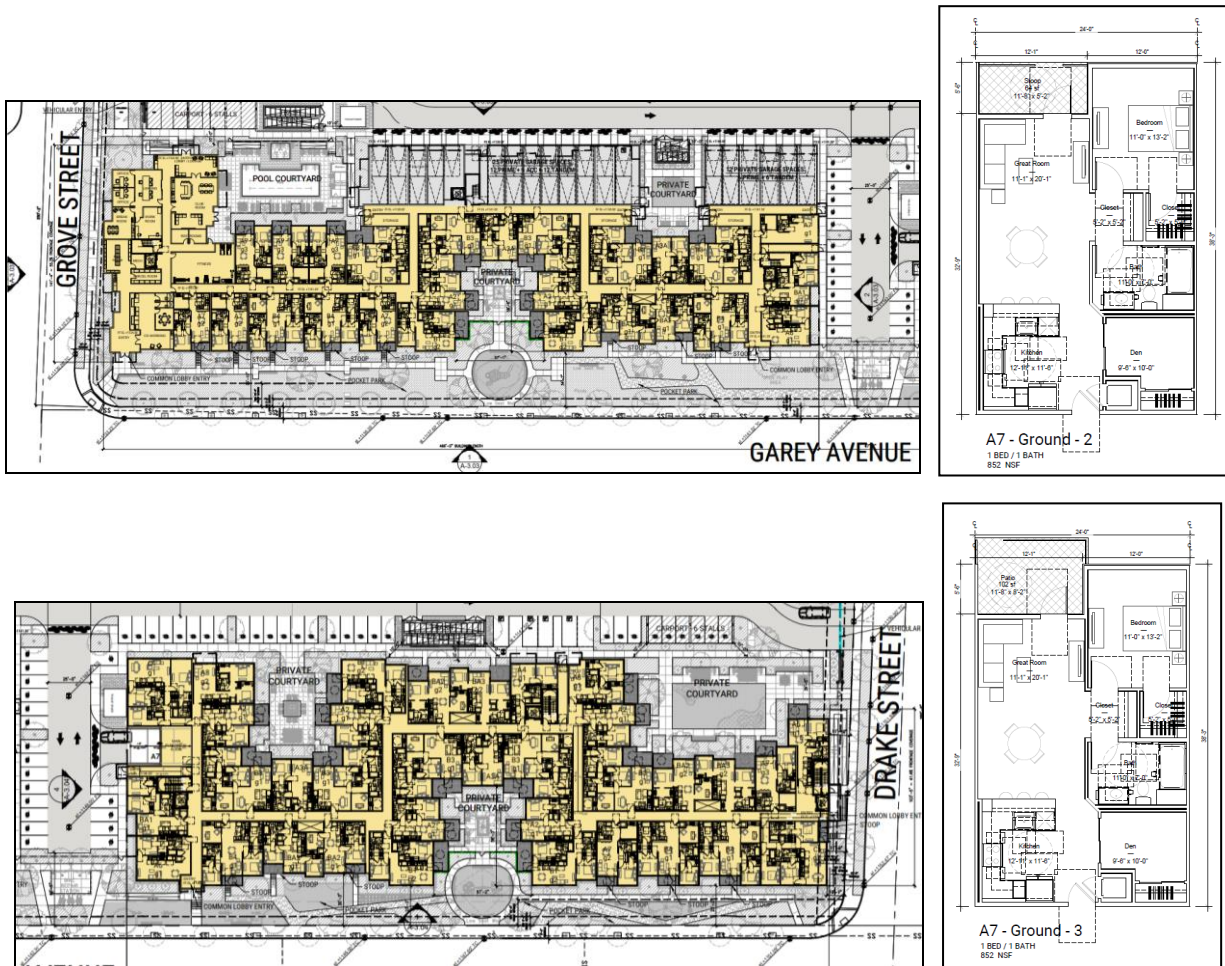
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Floor Plans

The ground floor on Building A, closest to Grove Street, includes seven common entryways along with individual entries for all units that are facing Garey Avenue. The units that are street-facing, have dual access from the exterior of the building and from the interior hallways of the building. Building A, also features the following ground floor amenities: a mail room, a club room, a lobby with a lounge, co-working space, a leasing office, and a fitness center. Additionally, there are 37 garage spaces attached to Building A, with 18 of them being tandem garage spaces.

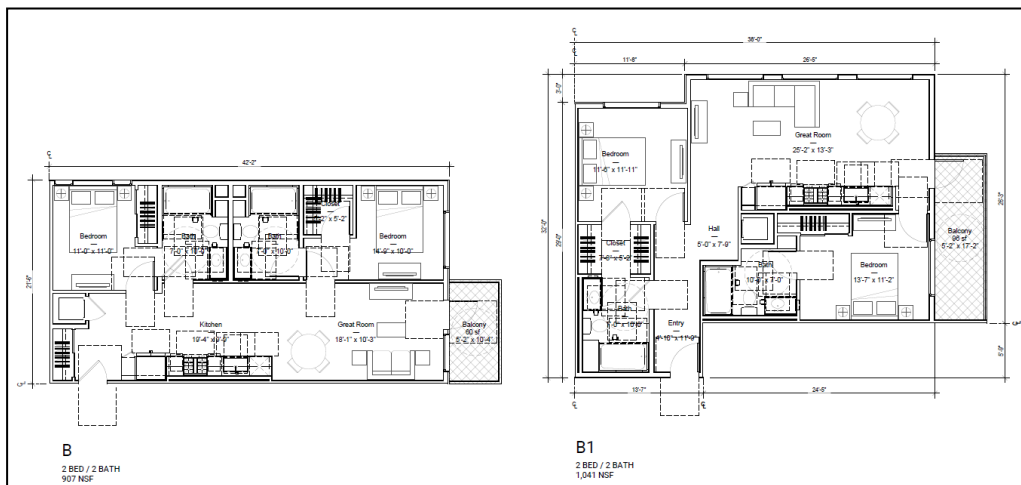
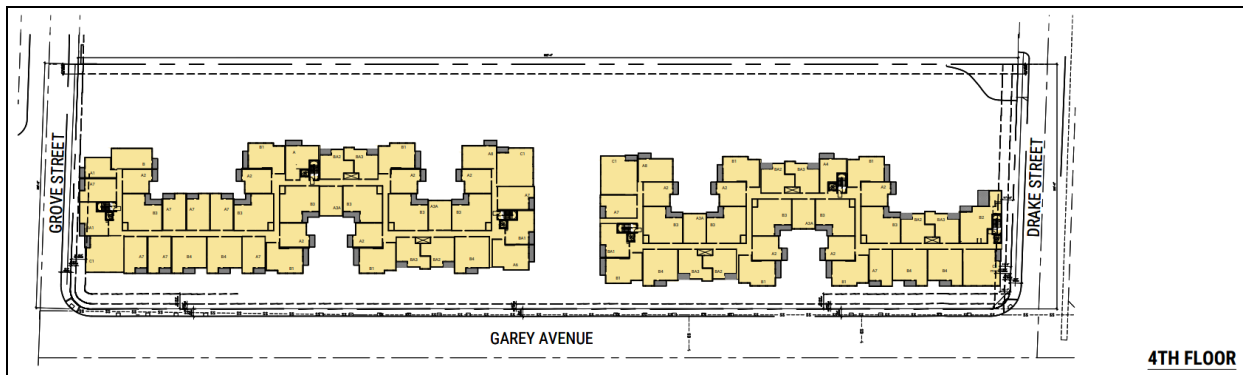
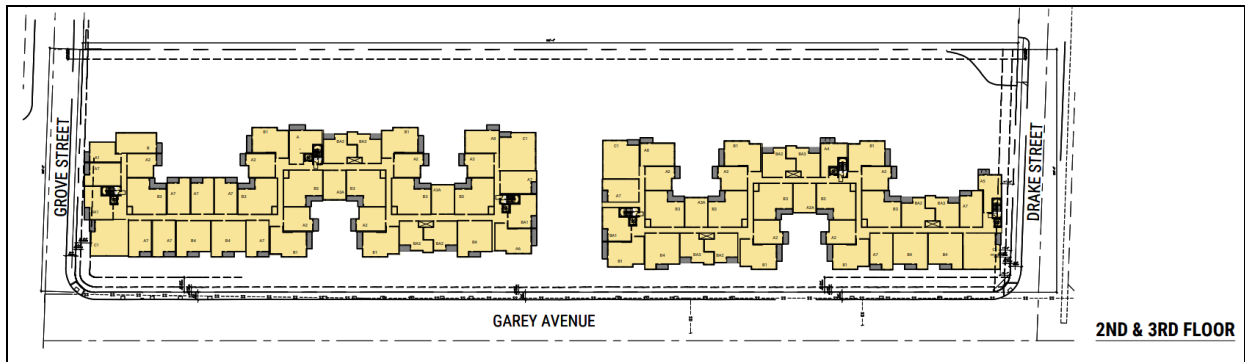
The ground floor on Building B, closest to Drake Street, includes four common entryways along with individual entries for all units that are facing Garey Avenue. The units that are street-facing have dual access from the exterior of the building and from the interior hallways of the building. Both buildings feature multiple stairwells and elevators for access in between the floors, including access to the subterranean parking garage. All units on the ground floor feature a stoop entrance or a patio with 60 square-feet of private open space, in addition to the six private courtyards.

Figure 13. Ground Level Floor Plans



All four stories across both buildings feature a mixture of one, two and three bedroom units on each floor. The units range in size from 618 square-feet to 917 square-feet for the one bedroom units, 822 square-feet to 1,318 square-feet for the two bedroom units, and 1,409 square feet to 1,520 square-feet for the three bedroom units. Within the second, third and fourth stories of the buildings, the units feature individual balconies that are 60 square-feet in size. The balconies are either set into the building or provided with a solid canopy to provide shading and protection from outside weather conditions.

Figure 14. Upper Level Floor Plans



Architecture & Materials

The architecture and design of the building is a modern style with a mix of materials and colors that visually reduces the four-story massing of the building. The first two stories of the buildings include a brick veneer finish, which extends to the fourth floor at main entrance lobbies with the combination of a stone veneer around the entrance doors. The third and fourth floors incorporate an exterior plaster finish with a varying color scheme to add elements of depth along the notches and extensions of the building. The residential entry doors and windows will be of vinyl material and recessed a minimum of two inches and include a trim around the exterior. The balconies include solid metal canopies and open metal railings. The site also incorporates a variety of fencing types, such as tubular metal fencing, combination fencing with brick veneer and tubular steel, and planter walls. The buildings height varies from 54 feet to 59 feet depending on the grade. The buildings include a cantilever ledge cap on the roof and all mechanical equipment is removed from the edge of the buildings to provide an appropriate screening distance from the public right-of-way.

Figure 14. Elevations and Renderings

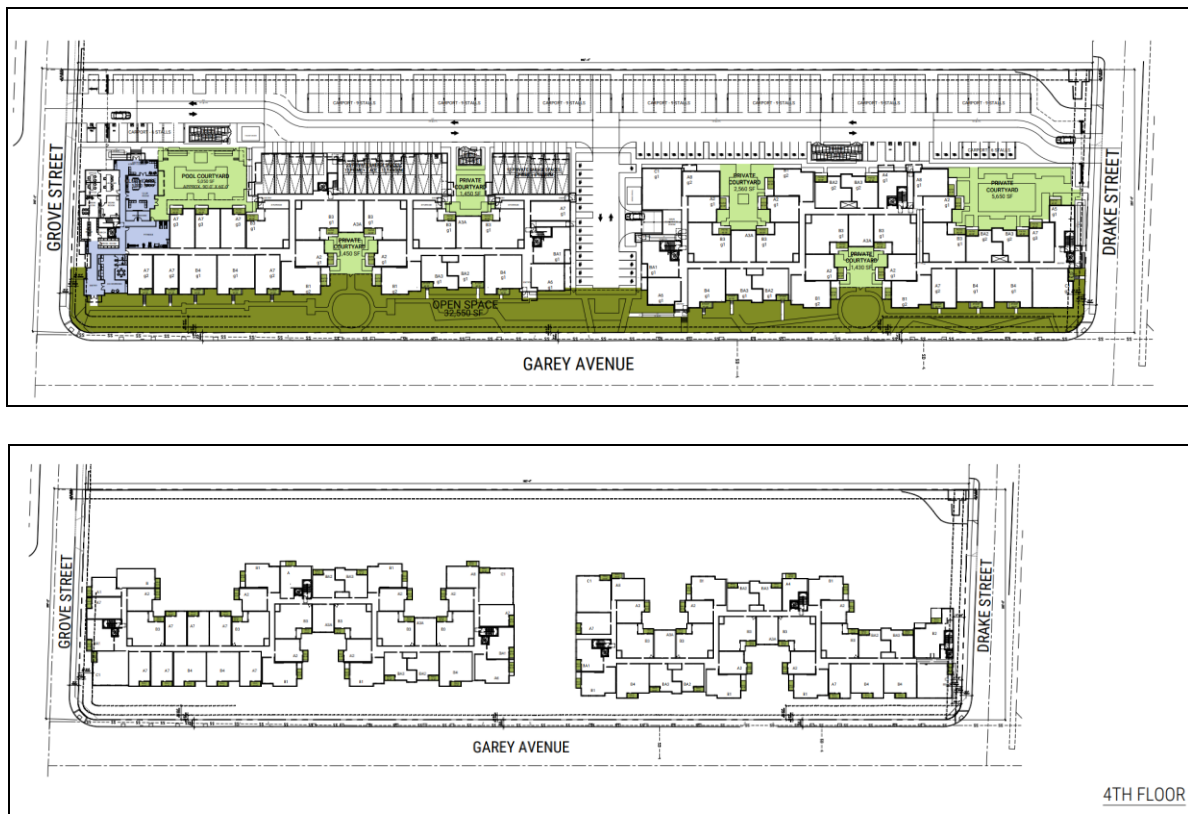




Open Space

The final project's open spaces can be categorized into three types: private space for residents, common open space for residents, and privately-owned public open space for the community. The common open spaces for the residents consist of six outdoor courtyards with amenities, ranging from 1,430 square-feet to 5,650 square-feet, and an indoor clubhouse with amenities. The private open spaces for residents are provided in the form of patios and stoops for ground floor residents and balconies for all upper floors, with a minimum size of 60 square-feet. Lastly, the privately-owned public open space for the community is provided in the form of 32,550 square foot linear park.

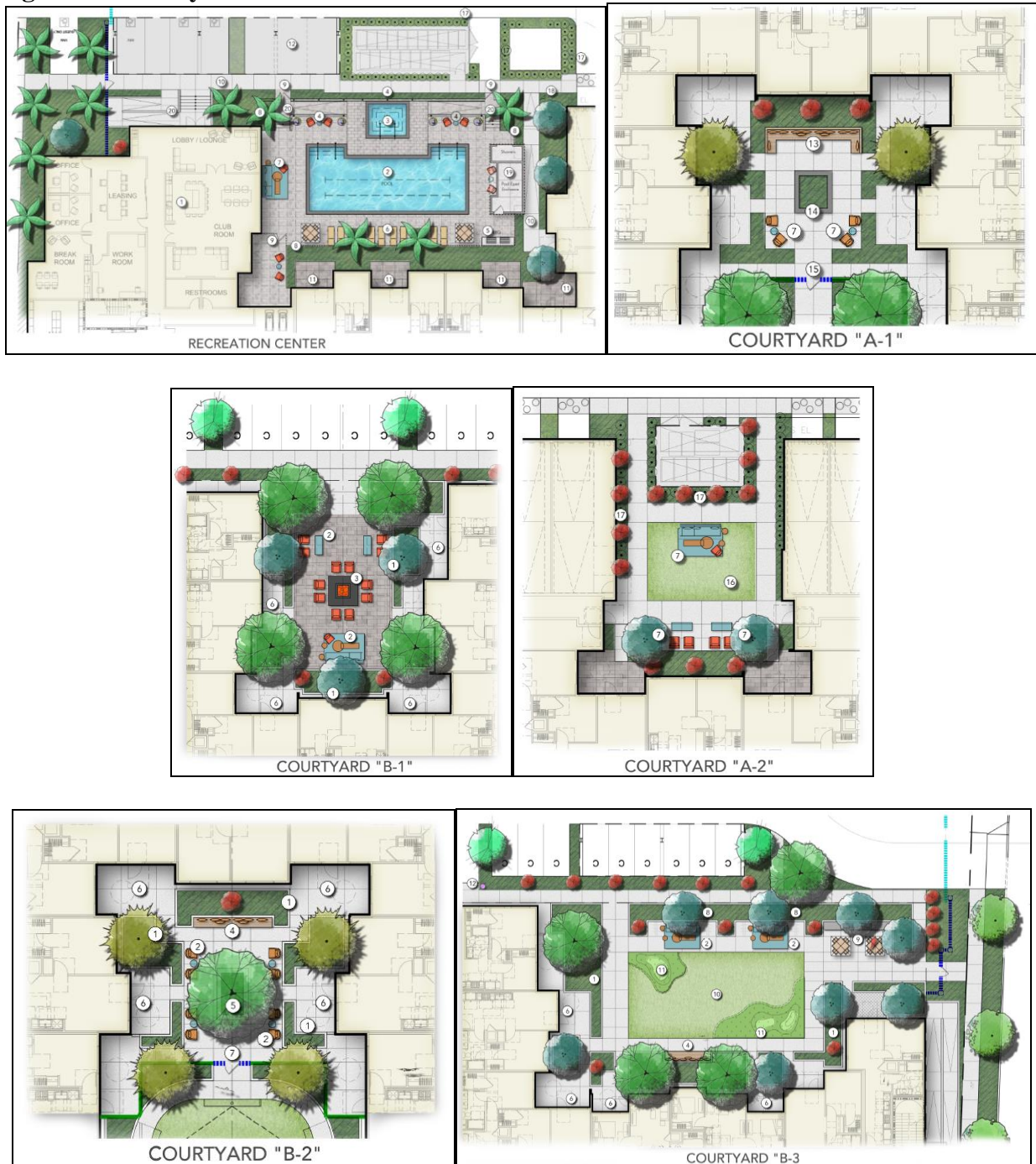
Figure 15. Private and Common Open Spaces for Residents



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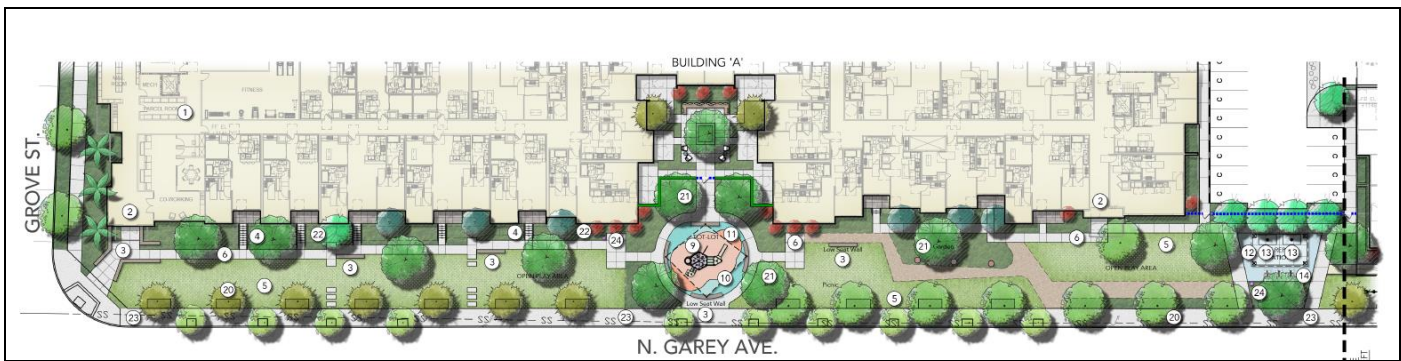
The six common courtyards for the residents include different layouts and amenities. Most notably, one of the courtyards includes a pool, a pool lounge, and a shower building. The other courtyards include a variety of seating options like patio sets with movable furniture, built-in seating walls, raised planters, dining BBQ areas, and open turf areas. The courtyards also incorporate overhead trellises and courtyard specimen trees for shading purposes. In addition to the outdoor courtyards the project features an indoor clubhouse that has the following amenities: a club room, a co-working space, a lounge, and a fitness room.

Figure 16. Courtyards for Residents



The final design for the project incorporated a privately owned public linear park along the frontage of the buildings facing Garey Avenue. As the project site is within the City Gateway Segment of the PCSP, public open space is required at the ratio of 150 square feet per unit, totaling a minimum of 43,350 square feet. The project provides 32,550 square feet of privately owned public open space and requests a waiver of 25% of the required public open space. Due to the dimensions of the lot, the applicant proposed a linear park across the length of the site, gaining the length of the site as usable space and ensuring the space connects to the public right-of-way. The linear park includes the following amenities to classify as a park in the PCSP: a tot lot with a shade canopy, a bike repair station with bike parking and a trellis, an outdoor fitness station, additional playground equipment with a shaded canopy, a rock garden, an urban garden, multiple seating points, and pet refuse station.

Figure 17. Privately-Owned Public Open Space



Landscaping

The project is subject to the City’s Water Efficient Landscape Ordinance No. 4232, requiring a minimum of 20% of landscaping, a combination of live vegetation and decorative hardscape, for residential projects. The conceptual landscaping plan provides a total of 50,140 square feet of landscaping or 21% of landscaping, across all open space amenities. Landscaping will be located between the outdoor parking stalls, within the private courtyards, as new parkway landscape improvements on Grove Street and Drake Street, and as new landscaping within the linear park. The site’s current landscaping within the existing parking lot will be removed to accommodate the project, with the exception of the landscaped area on the northwest corner belonging to the area with the cell tower. The conceptual landscaping plan proposes various forms of drought tolerant landscaping including the following: blue Italian cypress trees, carolina laurel cherry wucols, afghan pine wucols, variegated smooth agave, creeping fig, and green carpet natal plum. In addition to live vegetation, the project proposes a mixture of decorative hardscape elements throughout the site.

Figure 18. Conceptual Landscaping Plan

TREES	BOTANICAL / COMMON NAME	CONT	SHRUBS/ GROUNDCOVER PALETTE	BOTANICAL / COMMON NAME	CONT
	- EXISTING PALM TREE / EXISTING PALM TO REMAIN	EXISTING		AGAVE DESMETIANA 'VARIEGATA' / VARIEGATED SMOOTH AGAVE	5 GAL
	- EXISTING STREET TREE - LAGERSTROEMIA INDICA / RED CRAPE MYRTLE WUCOLS: MEDIUM	EXISTING		BOUGAINVILLEA X 'TORCH GLOW' / TORCH GLOW BOUGAINVILLEA	5 GAL
	- EXISTING TREE / EXISTING TREE TO REMAIN	EXISTING		CARISSA MACROCARPA 'GREEN CARPET' / GREEN CARPET NATAL PLUM	5 GAL
	PARKINSONIA X 'DESERT MUSEUM' / DESERT MUSEUM PALO VERDE WUCOLS: LOW	36" BOX		FESTUCA MAIREI / ATLAS FESCUE	5 GAL
	CUPRESSUS SEMPERVIRENS 'GLAUCA' / BLUE ITALIAN CYPRESS WUCOLS: LOW	24" BOX		FICUS PUMILA / CREEPING FIG	5 GAL
	LOPHOSTEMON CONFERTUS / BRISBANE BOX WUCOLS: MEDIUM	24" BOX		KALANCHOE THYRSIFLORA 'FLAPJACK' / FLAPJACK PADDLE PLANT	1 GAL
	PRUNUS CAROLINIANA 'COMPACTA' / CAROLINA LAUREL CHERRY WUCOLS: MEDIUM	36" BOX		LIGUSTRUM JAPONICUM 'TEXANUM' / TEXAS JAPANESE PRIVET	5 GAL
	PINUS ELДАРICA / AFGHAN PINE WUCOLS: LOW	24" BOX		NANDINA DOMESTICA 'GULF STREAM' TM / GULF STREAM HEAVENLY BAMBOO	5 GAL
	ULMUS PARVIFOLIA 'DRAKE' / DRAKE LACEBARK ELM WUCOLS: LOW/MEDIUM	24" BOX		RHAPHIOLEPIS UMBELLATA 'MINOR' / DWARF YEDDA HAWTHORN	5 GAL
	WASHINGTONIA ROBUSTA / MEXICAN FAN PALM WUCOLS: LOW	18" BTH		SENECIO VITALIS / BLUE CHALK FINGERS	1 GAL



III. APPLICABLE CODE SECTIONS

A. Pomona Corridors Specific Plan

A Development Plan Review (DPR) is required for all new development within the specific plan boundary areas.

B. Inclusionary Housing

The City of Pomona's Inclusionary Housing Ordinance (Ordinance No. 4295) requires for the construction of inclusionary units. These units are defined as dwelling unit that is designated to meet the requirements set forth in Ordinance No. 4295, and must be made available at an affordable housing cost or an affordable rent to eligible moderate-, low or very low-income households, as applicable to the unit. The project is subject to the Pomona Inclusionary Housing Ordinance. Rental units require 13% set aside units for moderate income. This equates to twenty nine units in total, comprised of twenty units for very low income and nine for moderate income.

C. Senate Bill 330 (SB 330)

- A. On August 2, 2021, the City adopted an SB 330 Overlay District, to establish a discretionary basis to enable development at General Plan densities.
1. SB 330 aims to increase certainty in the development process, speeding the review of new Housing Development Projects, preserving existing affordable housing and preventing certain zoning actions that reduce the availability of housing. Specifically, SB 330 does the following (emphasis added): Vesting. Creates a new vesting process for fees, zoning and land use ordinances, policies, and standards in place at the time that a preliminary application is submitted, with limitations;
 2. Historic Properties. Requires that the historic status or designation of any site be determined at the time an application for a discretionary action is deemed complete;
 3. Design Standards. Prohibits imposing or enforcing non-objective design review standards established after January 1, 2020;
 4. Time Limits. Shortens required permit review timeframes and limits the number of public hearings for housing projects that meet all applicable objective zoning standards;
 5. Downzoning Restrictions. Prohibits legislative actions that reduce total zoned capacity for housing (i.e. "downzoning") in the City and clarifies the circumstances under which Housing Development Projects may have their density reduced under the Housing Accountability Act;
 6. Housing Loss. Prohibits approval of a Housing Development Project that results in a net loss of housing units; and
 7. Protected Units and Tenant Protections. Creates new housing replacements, eviction protections, relocation assistance, and right-of-return requirements.

8. **Rezoning Prohibition.** Local agencies are prohibited from requiring an applicant to rezone a site if the housing development project is consistent with objective general plan standards and criteria.

As noted above, Government Code Section 65589.5(j)(4) states, *“a proposed housing development project is not inconsistent with the applicable zoning standards and criteria, and shall not require a rezoning, if the housing development project is consistent with the objective general plan standards and criteria but the zoning for the project site is inconsistent with the general plan.”*

Furthermore, Government Code Section 65589.5(j)(4) states, *“If the local agency has complied with paragraph (2), the local agency may require the proposed housing development project to comply with the objective standards and criteria of the zoning which is consistent with the general plan, however, the standards and criteria shall be applied to facilitate and accommodate development at the density allowed on the site by the general plan and proposed by the proposed housing development project.”* According to State regulations, the City may only apply applicable development standards to the extent that they accommodate the allowed density for the subject site. If the application of an objective development standard would not accommodate the allowed density for the subject site, the City would be limited from applying that standard.

D. Government Code Sections 65915-6518 (Density Bonus)

The State Density Bonus is a state mandate. Any applicant who meets the requirements of the state law is entitled to receive a density bonus and other benefits as a matter of right, these benefits include, incentives/concessions, waiver or reduction of standards, and special parking standards.

The city or county may not require more than the following parking ratios for a density bonus project:

- Studio 1 space
- 1 Bedroom 1 space
- 2 Bedroom 1.5 spaces
- 3 Bedroom 1.5 spaces

IV. CODE COMPLIANCE

Staff has determined that the proposed site design is in compliance with all applicable and objective design standards, with exception to the concessions/incentives and waivers and reductions requested by the applicant in conjunction with Density Bonus. The proposed project was reviewed by all City departments and County of Los Angeles Fire Department Land Development Unit as part of the approval of the DPR.

A. PSCP Compliance

A Compliance Summary with a detailed analysis of the project’s compliance with the City Gateway Segment of the PSCP has been provided as a separate exhibit (Attachment No. 13). The

proposed project is requesting concessions, waivers and reductions, as it only partially meets certain PCSP development standards.

B. State Density Bonus Review

The applicant is proposing to utilize State Density Bonus law by allocating 9% of the maximum number of units permitted under the General Plan (base density) for very low income residents, granting a 30% density bonus. In order to satisfy this requirement, twenty of the base density units are to be set aside for very low income tenants. The 30 % density bonus would grant an additional sixty-seven units to the base density of two-hundred and twenty-two, for a total of two-hundred and eighty-nine units. To satisfy the City's Inclusionary Housing Ordinance the project will set aside nine units for moderate income level tenants, in addition to the twenty units for very low income tenants, totaling 13% of the base density as required for rental units.

State Density Bonus law dictates that a City shall grant one or more incentives or concessions to each project which qualifies for density bonus. A concession or incentive is defined as:

- A reduction in site development standards or a modification of zoning code or architectural design requirements, such as a reduction in setback or minimum square footage requirements;
- Approval of mixed use zoning;
- Other regulatory incentives or concessions, which result in identifiable and actual cost reductions.

C. Concessions of Development Standards

The number of required incentives or concessions is based on the percentage of affordable units in the project. Based on the level of affordability proposed by the applicant, the project is eligible to receive two incentives/concessions. The applicant is requesting the following two concessions (Attachment No. 14):

1. Maximum Height
2. Maximum Building Length

D. Waivers or Reductions of Development Standards

Should any development standards have the potential to physically prevent the development from being built, the City may waive or reduce said standards to accommodate the development at the request of applicant. In addition, there is no limit for the available number of waivers or reductions that may be requested or granted. The project is requesting the following waivers and reductions:

1. Reduction of Building Massing Requirements along Grove Street
2. Reduction of Side yard Setback
3. Reduction of Frontage Coverage – along Drake Street
4. Reduction of 25% of required Public Open Space and Requirements
5. Reduction of Minimum Carport Dimensions

6. Waiver of Building Orientation to Street/Public Open Space
7. Waiver of Private Frontage Type Requirements
8. Waiver of Front Yard Setback
9. Waiver of Build to Corner Requirement

The requested waivers and reductions are due to the site constraints created by the length and width of the site, the size of the lot, the sewer and utility easements at the rear of the site, the existing cell tower maintained in place, and the inclusion of private open space along the frontage of the site.

E. Reduced Parking Requirements

The city or county may not require more than the following parking ratios for a density bonus project:

- Studio 1 space
- 1 Bedroom 1 space
- 2 Bedroom 1.5 spaces
- 3 Bedroom 1.5 spaces

The project provides a total of 409 parking spaces and is required a total of 374 parking spaces per density bonus parking ratios. The project exceeds the minimum number of parking spaces required.

F. General Plan Conformance

The project site is currently designated as Neighborhood Edge in the T4-B General Plan Transect, which allows for a maximum residential development density of 40 dwelling units per acre. The applicant is requesting a Density Bonus to construct sixty-seven additional dwelling units for a total density of 52.4 dwelling units per acre. The project is consistent with the Neighborhood Edge Place Type and the following goals and policies of the General Plan:

Goal 6D.G.1: “Improve the physical character, economic vitality, and mobility function of the City’s most visible and well-traveled corridors.”

Goal 6D.G.5: “Ensure that new development helps establish an appropriate edge to protect and buffer adjacent stable residential neighborhoods.”

Goal 6D.G.6: “Enhance Landscape buffering, streetscape quality, and pedestrian-friendliness of wider arterial streets to make environments more conducive to residential living and more flattering to the City’s image.”

Policy 6D.P6: “Provide incentives to redevelop blighted commercial properties along the corridors. Consider allowing density or intensity bonuses, reduced impact fees or property tax, tax increment financing funds, joint public/private development, or City-funded infrastructure improvements to help support redevelopment;.”

Policy 6D.P21. “Require developers to provide pedestrian amenities along with new development and focus on connections between parks, transit and surrounding properties.”

G. Environmental Review

The California Environmental Quality Act (CEQA) requires analysis of agency approvals of discretionary “projects.” A “project,” under CEQA, is defined as “the whole of an action, which has a potential for resulting in either a direct physical change in the environment, or a reasonably foreseeable indirect physical change in the environment” (State CEQA Guidelines Section 15378). The proposed project is considered a “project” under CEQA.

The City of Pomona, as lead agency, has conducted an environmental review on the proposed project per the California Environmental Quality Act (CEQA). Pursuant to the provisions of CEQA (Public Resources Code, Section 21084 et. seq.), the guidelines include a list of classes of projects which have been determined not to have a significant effect on the environments and which shall, therefore, be exempt from the provisions of CEQA. Pursuant to State CEQA Guidelines Section 15182 (Projects Pursuant to a Specific Plan), where a public agency has prepared an EIR on a specific plan after January 1, 1980, a residential project undertaken pursuant to and in conformity to that specific plan is exempt from CEQA if the project meets the requirements of State CEQA Guidelines Section 15182(c). Residential projects covered by this section include but are not limited to land subdivisions, zoning changes, and residential planned unit developments. The proposed Development Plan Review for the development of residential units on the subject site meets these criteria.

The City Council may find that the project is exempt from further environmental review pursuant to State CEQA Guidelines, Section 15182 based on the following findings of fact:

- a. On March 3, 2014 the City Council approved the 2014 General Plan Update as well as the Pomona Corridors Specific Plan (PCSP) and certified the Environmental Impact Report (EIR) for the General Plan Update, Pomona Corridors Specific Plan, Active Transportation Plan and Green Plan (State Clearinghouse No. 2012051025). The proposed housing development shall be undertaken pursuant and in conformity with the PCSP through a Development Plan Review application.
- b. At the time the certified EIR was adopted, transportation impacts were analyzed utilizing the Level of Service (LOS) metric. Since that time, transportation impacts analyzed pursuant to CEQA are now required to be analyzed utilizing the Vehicle Miles Traveled (VMT) metric in compliance with SB 743. In October of 2020, the City adopted VMT thresholds for use in reviewing projects that may have potential to increase the baseline VMT per service population for the City. Subsequently, in May 2021 the city adopted, a Substantial Evidence Memorandum for Vehicle Miles Traveled Screening Criteria Analysis (VMT Memo) which established screening criteria for Residential and Nonresidential uses. Per the San Gabriel Valley Council of Governments (SGVCOG) VMT Evaluation Tool, the proposed project would screen out and therefore would not require a project level VMT assessment.

- c. Furthermore, if, after the adoption of the applicable specific plan, an event described in State CEQA Guidelines Section 15162 occurs, the exemption set forth in State CEQA Guidelines Section 15182(c) shall not apply until the city which adopted the specific plan completes a subsequent EIR or a supplement to an EIR on the specific plan. These events, and their inapplicability to the proposed project, are outlined as follows:

- a. *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.*

No substantial changes are proposed in the project which would require major revisions of the previous EIR, as the proposed housing development's density, design, and infrastructure are consistent with the adopted PCSP.

- b. *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.*

There are no substantial changes in respect to the circumstances under which the project is undertaken, requiring major revisions of the previous EIR and there are no new significant environmental effects.

- c. *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.*

No new information of substantial importance has been identified that would necessitate further environmental review beyond the impacts and issues already disclosed and analyzed under the certified EIR.

The project meets the criteria for a Statutory Exemption pursuant to Section 15182 of the CEQA Guidelines in that the proposed project is consistent with the PCSP EIR adopted in 2014. Therefore, no further environmental review is required.

V. PUBLIC COMMUNICATION

The applicant organized a community open house on April 4, 2024 from 6:00PM-7:00PM at the project site, to introduce the project to the surrounding community. The open house provided an overview about the project and featured renderings of the buildings and site plans illustrating the privately owned public open space. Staff was present at the meeting to answer any questions related to the entitlement process and also received positive feedback about the project from the attendees.

A copy of the public hearing notice was sent to the owners and occupants of properties within a 1,000-foot radius of the subject site on July 22, 2024 (Attachment No. 15). Staff previously received 11 public comments by email for the Planning Commission hearing, 10 not in support of the project due to traffic and parking concerns, and one requesting additional affordable units and a handout from the North Pomona Neighborhood Watch (Attachment No. 16). As of the date of this report, two new public comment have been received in opposition to the project (Attachment No. 17).

VI. COUNCIL PRIORITIES & GOALS:

This item supports the 2019-2020 City Council Priority 1: Fiscal and Operational Responsibility – *Goal J: Encourage the development and maintenance of quality housing opportunities.*

VII. ALTERNATIVE:

1. City Council denies the request and makes written findings, based upon a preponderance of the evidence in the record, as to one of the below reasons to disapprove a housing development project. Please be advised of the following when considering this alternative:

On October 9, 2019, Governor Newsom signed into law the Housing Crisis Act of 2019 also known as Senate Bill 330 (“SB 330”). SB 330 creates new state laws regarding the production, preservation and planning for housing. It amends the State Housing Accountability Act, Permit Streamlining Act and Planning and Zoning Law all under Title 7 of the California Government Code. The bill establishes a statewide housing emergency for five (5) years from January 1, 2020 to January 1, 2025.

The proposed project is a “housing development project,” subject to the Housing Accountability Act, also known as Senate Bill 330 (SB 330). SB330 establishes specific written findings that must be made in order to disapprove a housing development project:

A local agency shall not disapprove a housing development project ... unless it makes written findings, based upon a preponderance of the evidence in the record, as to one of the following:

- a. The jurisdiction has adopted a housing element pursuant to this article that has been revised in accordance with Section 65588, is in substantial compliance with this article, and the jurisdiction has met or exceeded its share of the regional housing need allocation pursuant to Section 65584 for the planning period for the income category proposed for

the housing development project, provided that any disapproval or conditional approval shall not be based on any of the reasons prohibited by Section 65008. If the housing development project includes a mix of income categories, and the jurisdiction has not met or exceeded its share of the regional housing need for one or more of those categories, then this paragraph shall not be used to disapprove or conditionally approve the housing development project. The share of the regional housing need met by the jurisdiction shall be calculated consistently with the forms and definitions that may be adopted by the Department of Housing and Community Development pursuant to Section 65400. In the case of an emergency shelter, the jurisdiction shall have met or exceeded the need for emergency shelter, as identified pursuant to paragraph (7) of subdivision (a) of Section 65583. Any disapproval or conditional approval pursuant to this paragraph shall be in accordance with applicable law, rule, or standards.

- b. The housing development project or emergency shelter as proposed would have a specific, adverse impact upon the public health or safety, and there is no feasible method to satisfactorily mitigate or avoid the specific adverse impact without rendering the development unaffordable to low- and moderate-income households or rendering the development of the emergency shelter financially infeasible. As used in this paragraph, a “specific, adverse impact” means a significant, quantifiable, direct, and unavoidable impact, based on objective, identified written public health or safety standards, policies, or conditions as they existed on the date the application was deemed complete. Inconsistency with the zoning ordinance or general plan land use designation shall not constitute a specific, adverse impact upon the public health or safety.
- c. The denial of the housing development project or imposition of conditions is required in order to comply with specific state or federal law, and there is no feasible method to comply without rendering the development unaffordable to low- and moderate-income households or rendering the development of the emergency shelter financially infeasible.
- d. The housing development project or emergency shelter is proposed on land zoned for agriculture or resource preservation that is surrounded on at least two sides by land being used for agricultural or resource preservation purposes, or which does not have adequate water or wastewater facilities to serve the project.
- e. The housing development project or emergency shelter is inconsistent with both the jurisdiction’s zoning ordinance and general plan land use designation as specified in any element of the general plan as it existed on the date the application was deemed complete, and the jurisdiction has adopted a revised housing element in accordance with Section 65588 that is in substantial compliance with this article. For purposes of this section, a change to the zoning ordinance or general plan land use designation subsequent to the date the application was deemed complete shall not constitute a valid basis to disapprove or condition approval of the housing development project or emergency shelter.

Submitted by:



Prepared by:



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Senior Planner

ATTACHMENTS:

Attachment No. 1 – Draft CC Resolution 2024-121

Attachment No. 2 – Draft Minutes of 6-12-2024 Planning Commission

Attachment No. 3 – PC Staff Report 6-12-2024

Attachment No. 4 – Draft Approved PC Resolution 24-009

Attachment No. 5 – PC Proof of Publication and Mailing

Attachment No. 6 – DPR Staff Report 5-16-2024

Attachment No. 7 – DPR Draft Resolution 24-002

Attachment No. 8 – DPR Proof of Publication and Mailing

Attachment No. 9 – Appeal Form

Attachment No. 10 – CC Consent Item Staff Report 7-15-2024

Attachment No. 11 – Site Photographs

Attachment No. 12 – Proposed Plans

Attachment No. 13 – PCSP Compliance Summary Table

Attachment No. 14 – Density Bonus Request Letter by the Applicant

Attachment No. 15 – CC Proof of Publication and Mailing

Attachment No. 16 – Previous Public Comments by Email

Attachment No. 17 – New Public Comments by Email