RESOLUTION NO. 2023-_____

RESOLUTION OF THE PLANNING COMMISSION OF THE CITY OF BELMONT APPROVING A DESIGN REVIEW, TREE PERMIT, VESTING TENTATIVE MAP, OUTDOOR NOISE EXCEPTION, AFFORDABLE HOUSING PLAN, AND DENSITY BONUS INCENTIVE AND A REQUEST TO ALLOW MINIMUM AUTOMOBILE PARKING REQUIREMENTS FOR A DEVELOPMENT LOCATED CLOSE TO PUBLIC TRANSIT AS CODIFIED IN SENATE BILL 2097 (SB 2097) AND CALIFORNIA GOVERNMENT CODE §65863.2 FOR THE CONSTRUCTION OF A 103-UNIT APARTMENT DEVELOPMENT AT 604, 608, AND 610 HARBOR BOULEVARD (ASSESSOR'S PARCEL NUMBERS: 046-032-030,040, 080 & 090) (APPL. NO. PA2020-11).

WHEREAS, Windy Hill Property Ventures (Windy Hill), applicant, requests approvals for entitlements for the construction of a 103-unit apartment building and a parking garage at the ground level at 604, 608, & 610 Harbor Boulevard Assessor's Parcel Numbers: 046-032-030, 040, 080 and 090; and,

WHEREAS, on June 26, 2023, the Planning Commission, following notification in the prescribed manner, conducted a public meeting, at which hearing the Commission considered public comments and a staff report on the aforementioned requested entitlements; and,

WHEREAS, the project also includes a petition for the annexation of certain territory to the City of Belmont, and detachment of said territory from the Harbor Industrial Sewer Maintenance and Belmont County Lighting Districts and San Mateo County, consisting of approximately .71 acres of real property, and additionally includes adjacent rights-of-way on Harbor Boulevard and Old County Road, has been filed with the San Mateo County Local Agency Formation Commission (LAFCO), File. No 20-10, June 22, 2023 by the owners of said parcels; and,

WHEREAS, on November 14, 2017, Belmont adopted a comprehensive update to its General Plan (General Plan 2035 on November 28, 2017); and,

WHEREAS, the updated General Plan is a long term policy document that includes all incorporated areas within the City, as well as adjacent unincorporated territory that the city ultimately expects to annex or to serve, known as the City's sphere of influence (SOI); and,

WHEREAS, the subject project site for annexation is located within the City's SOI; and,

WHEREAS, the properties proposed for annexation were pre-zoned Harbor Industrial Area (HIA-1), consistent with the City's adopted General Plan; and,

WHEREAS, the Belmont City Council certified a Final Environmental Impact Report (FEIR) that evaluated the environmental impacts of the City's 2035 General Plan, Phase I Zoning, Belmont Village Specific Plan (BVSP), and Climate Action Plan (CAP) on October 24, 2017 (the "General Plan EIR" - SCH #2016082075). The Council made the required California Environmental Quality Act (CEQA) findings, and adopted a Mitigation Monitoring and Reporting Program (MMRP) and a statement of overriding consideration for the project on November 14, 2017; and,

WHEREAS, State CEQA Guidelines Section 15162 provides that no subsequent environmental review is required unless there are substantial changes in the Project, there are substantial changes with respect to the circumstances under which the project is undertaken, or there is new information of substantial importance, which was not known and could not have been known at the time of certification of the EIR; and,

WHEREAS, State CEQA Guidelines Section 15183 provides that no further environmental review is required for projects that are consistent with the General Plan for which an Environmental Impact Report was certified; and,

WHEREAS, a Consistency Analysis Initial Study Checklist was prepared for the project and demonstrates that the project would not result in substantial changes or involve new information that would warrant preparation of a subsequent EIR because the level of development proposed is within the development assumptions analyzed in the program level EIR for the 2035 General Plan, and, the Project does not contain elements that are peculiar to the Project or project site as provided in Exhibit "B"; and,

WHEREAS, the Planning Commission hereby adopts the staff report dated June 26, 2023, and the facts contained therein pertaining to the project as its own findings of facts.

NOW, THEREFORE, BE IT RESOLVED that the Planning Commission approves the Design Review, Grading Permit, Vesting Tentative Map, Outdoor Noise Exception, Affordable Housing Plan Density Bonus Incentive, and parking reduction as codified in Senate Bill 2097 (SB 2097) subject to the findings below, and the conditions of approval in Exhibit "A".

NOW, THEREFORE, BE IT FURTHER RESOLVED that the Planning Commission's approvals and recommendations in this resolution are expressly contingent upon approval of the project proponent's LAFCO application filed on June 22, 2023 with the San Mateo County Local Agency Formation Commission (LAFCO), File. No 20-10, for annexation of the property to the City of Belmont. If the application is not approved or withdrawn, the Planning Commission's approvals and recommendations herein are null and void.

Design Review

The Planning Commission approves the Design Review Permit for the proposed housing development project (as defined by Government Code Section §65589.5, subdivision (h)(2)), finding that neither of the findings set forth in Section 13.5.1 of the Zoning Ordinance for denial of the project can be made in the affirmative, as follows:

(1) The project does not comply with all applicable objective general plan, zoning, subdivision and development standards including objective design review standards.

As summarized in the table below, the project complies with all of the following applicable objective standards:

FAR	Building Color & Material Variation
Building Height	Projecting & Recessing Building Walls
Min. Landscaping / Tree Plantings	Screening: Ground & Rooftop Equipment
Open Space / Outdoor Area Per Unit	Access Standards
Street Scape (Sidewalk & Street Trees)	Underground Utilities

As proposed, the project would be consistent with all applicable objective development and design standards identified in the Belmont Zoning Ordinance (BZO). Therefore, Finding #1 cannot be affirmed.

(2) The project would result in a specific adverse impact to public health and safety that cannot be feasibly mitigated without denying the project or reducing its density.

No adverse impacts have been identified for the project. City staff and consultants have provided technical review and conditions of approval are included, as applicable, regarding project-related traffic, parking, grading, site remediation, drainage, storm-water runoff, sanitary sewer impacts, vehicular and pedestrian access, site circulation, site stability, structural encroachments, and construction impacts. Therefore, the project would not result in a specific adverse impact to public health and safety that cannot be feasibly mitigated without denying the project or reducing its density and Finding # 2 cannot be affirmed.

Grading Plan

The Planning Commission finds that the proposed Grading Plan meets the required findings set forth in Section 9-27(a)-(h) of the City of Belmont Municipal Code (Grading), as follows:

a) The project will not endanger the stability of the site or adjacent properties or pose a significant ground movement hazard to adjacent properties.

The City's Building Division and Public Works Department have reviewed the grading plans for the project and have determined that the plan is in conformity with the Building Code and the City of Belmont Grading Ordinance (Chapter 9 of the City Code). In addition, the City's standard requirements require the preparation of a site-specific geotechnical investigation, independent peer review of the investigation and incorporation of the findings of the independent peer review into the project design.

The City's consulting geologist prepared an independent peer review of the geotechnical investigations proposed as part of the project and concurs with the characterization of the project site, findings, and design specifications. The City's consulting geologist adds that the project geotechnical consultant shall review all plans, field work and conditions to assure that the project is built to specifications. The project geotechnical reports and the City's independent peer review requirements will, as a matter of grading and building permit procedures, be required of the project as conditions of project approval.

Based on reviews by City departments and the City's consulting geologist to assess site stability, no immediate safety concerns or hazards have been identified for the subject site or adjacent properties. Therefore, as proposed, and conditioned, the project will not endanger the stability of the site or adjacent properties or pose a significant ground movement hazard to adjacent properties. This finding is affirmed.

b) The proposed drainage improvements, landscaping, and erosion control measures would be adequate to control erosion or flooding and would not degrade riparian habitats, stream channel capacity or water quality.

There are no streams or rivers on the site. The applicant has submitted a C-3 Checklist, hydrology study, and landscaping, grading, and drainage plans. The submitted materials identify appropriate methods to treat drainage from the site. The project has been reviewed and found acceptable by the City's Department of Public Works at this stage of the Development Review process. Detailed working drawings with storm water measures will be required to be submitted for review and approval as part of the building permit application process. The Department of Public Works has also reviewed the proposed drainage plans and facilities and has provided conditions of approval.

In addition, the City requires the implementation of Best Management Practices (BMP's) for new development and construction as part of its storm water management program, as levied through standard City conditions of project approval. For new development and construction projects, the City requires the implementation BMP's to ensure the protection of water quality in storm runoff from the project site. In brief, the measures address pollution control and management mechanisms for contractor activities, including structure construction, material delivery and storage, solid waste management, employee and subcontractor training, etc. They also provide direction for the control of erosion and sedimentation as well as the establishment of monitoring programs to ensure the effectiveness of the BMP's.

The City also requires an agreement with the applicant that ensures the permanent and on-going maintenance of water quality control improvements by the applicant and/or project site owner(s). Therefore, the proposed drainage improvements, landscaping, and erosion control measures would be adequate to control erosion or flooding and would not degrade riparian habitats, stream channel capacity or water quality. This finding is affirmed.

c) The amount of grading proposed is necessary to allow reasonable use of the site.

Estimated earthwork quantities for the project include 552 cubic yards (CY) of off-haul materials (soil, underground storage tanks, etc.) and 1,300 CY of fill materials for foundation work (748 CY net of off-haul materials). The grading plan has been reviewed by the Public Works Department and found not to be excessive, as it is required for the redevelopment of the property (i.e., there is no grading unnecessary for the project proposed on extraneous areas of the property). This finding is affirmed.

d) The proposed grading would result in a building site that is visually compatible with the surrounding land and accommodates any required off-street parking and wall landscaping.

The building site would be visually compatible with the surrounding area, which is similarly graded/developed with multi-family and commercial buildings located on generally flat pads. There would not be large quantities of fill and clearcutting of trees on a project site solely to gain a view over surrounding properties. The proposed grading would accommodate construction of the building, drainage, utilities and the landscaping of the subject property. This finding is affirmed.

e) The proposed grading will meet the standards and specifications of Article IV of Chapter 9 in the City Code (Grading Ordinance).

Conditions of approval have been attached to the project to ensure that the final grading plan for the project will meet all of the standards contained in Article IV of Chapter 9 of the City Code (Grading Ordinance). This finding is affirmed.

f) The Director of Public Services and the applicant's Geotechnical engineer shall find that the form of vehicular access and methods of excavation are the simplest and least intrusive possible to obtain the geologic information required by the city.

The Public Works Department has reviewed the grading plan, vehicular access, and methods of excavation and, as proposed and conditioned, found them to be adequate and complete. Conditions of approval require the final grading and drainage plans be consistent with Public Works Department requirements for the design and construction of the site improvements. This finding is affirmed.

g) The grading permit is conditioned on issuance of a hauling permit, if required.

A hauling permit will be required in association with the Grading Permit for this project. This finding is affirmed.

h) The design of the project preserves existing protected trees on the site and trees on adjoining property to the extent possible.

The project includes the removal of three protected trees. These tree removals are necessary for the proposed development of the site (i.e., to accommodate the site improvements, grading of the site, drainage improvements, utilities and streetscape improvements, etc.). The applicant has proposed to replant 33 *Preferred Species* for the project in accordance with the City Code *Chapter 25 -Trees*. Other groundcover, shrubs and low plantings are also proposed for the project site. This finding is affirmed.

Tree Removal Permit

The Planning Commission evaluated a Tree Removal Permit proposal for the project, and approves the Permit based on the balancing of the Criteria for Permit Determination set forth in Section 25-7 (b)-(c)

(b) "The reviewing authority shall issue a permit to remove the following trees without consideration of the criteria in subsection (c):
(1) Blue Gum Eucalyptus (Eucalyptus globulus);
(2) Dwarf Blue Gum Eucalyptus (Eucalyptus globulus 'Compacta');
(3) Monterey Pine;
(4) Palm (all species);
(5) Acacia (all species);
(6) a dead tree (any species); and
(7) Any tree that a public utility is required to remove under California Public Utility Commission regulations."

(1) Criteria Supporting Removal	*(2) Criteria Supporting Retention*
(A) The tree is: (i) in poor condition; (ii) at the relative end of its life span of the particular species; (iii) diseased or infested beyond reasonable remediation; (iv) has poor structural integrity; (v) is in danger of falling; or, (vi) poses a safety hazard. *(B) The particular tree species is undesirable due to characteristics such as invasiveness, tendency toward limb failure, and fire hazard.* *(C) The tree is damaging or interfering with existing structures, site improvements, or utility services.* *(D) Removal of the tree is needed in order to construct improvements or otherwise allow conforming use of the property.* *(E) Proximity of the tree to existing or proposed structures.*	*(A) The tree is located outside the developable area of the property.* *(B) The tree and its location contribute substantially to the aesthetic appeal of the property or the neighborhood.* *(C) The effect of the requested tree removal on the remaining number, species, size and location of existing trees on the site and in the area, including trees mutually dependent on each other for survival, structural integrity or aesthetics.*

<u>Criteria Supporting Removals & Retention</u>

The project includes the removal of three protected trees. The arborist report and the landscape plans submitted as part of the project indicate that the trees proposed for removal are directly impacted by the project construction. As such, the trees proposed for removal are in line with criteria *D* supporting removal. The criteria supporting retention (*A – C*) does not apply. Based upon review of the arborist report, and the site and grading plans, the Planning Commission finds that the proposed tree removal is necessary for the construction of the project.

Preferred Tree Species & Conditions of Permit

The Tree Ordinance indicates that for each protected tree removed, the applicant shall plant a *Preferred Species* tree, minimum 15-gallon size, or pay an in-lieu planting fee. The applicant has proposed to replant 33 *Preferred Species* trees (Water Gum - *Tristania Laurina* and London Plane - *Platanus Acerifolia* Trees at 36" and 24" box sizes) for the project.

Vesting Tentative Map

As per Section 11.4 (A-G) of the Subdivision Ordinance, the Planning Commission must deny the proposed Tentative Map (VTM), if any of the following findings can be made in the affirmative:

A. The proposed map is not consistent with the applicable general and specific plans.

The subject property is designated and zoned Harbor Industrial Area (HIA-1) in the General Plan, and the Zoning Ordinance. The proposed VTM would consolidate lots in order to allow the development of the project site with a 103-unit apartment building with a parking garage. Consolidation of the lots would allow for the use of a centralized parking garage with one point of access, which would minimize curb cuts and enhance walkability. The project would be consistent with General Plan Goals and Policies that promote the consolidation of lots, and the construction of housing near existing transportation networks and commercial services.

Thus, the project is not inconsistent with the General Plan. A complete General Plan consistency analysis is included in the CEQA Analysis-Initial Study. (See Attachment 3).

B. The proposed design or improvement of the subdivision is not consistent with the applicable general and specific plans.

The project would be consistent with all applicable General Plan infrastructure policies. The project site fronts upon a fully improved roadway with access to all required utilities. All new service lines and utilities serving the project would be provided underground. As conditioned, the developer will complete all public improvements to the City's satisfaction prior to the issuance of occupancy. Therefore, the design or improvement of the proposed subdivision (consolidation) is not inconsistent with applicable infrastructure goals and policies of the General Plan.

C. The site is not physically suitable for the type of development.

The applicant proposes a VTM to consolidate four lots into one parcel for construction of an apartment building. Subject to approval of the VTM (consolidation), the approximately 0.71-acre project site would allow for the construction of an apartment building. In addition, the site and adjacent public right-of-way would be of sufficient size to accommodate all required frontage and streetscape improvements. The project site is not on a hillside or in a seismically active region, and a geotechnical investigation has been submitted that evaluates the geotechnical feasibility of the project. The City's geotechnical consultant has peer reviewed the geotechnical investigation and found that it adequately addresses the conditions on the site. The site contains soil contamination; however, contaminated soils will be removed from the project site as part of the project, and

conditions of approval from the San Mateo County Environmental Health Department Groundwater Protection Program, Consulting Geologist, Planning, Building and Public Works Departments have been incorporated into the project that address these issues.

No streams, rivers or wetlands exist on the project site. Finally, the VTM will be required to comply with all City Standards Conditions of Approval, and mitigation measures outlined in the General Plan EIR, the project EIR Addendum, and the applicant's geotechnical report. Thus, the site is physically suitable for the type of development.

D. The site is not physically suitable for the proposed density of development.

The project site is designated Harbor Industrial Area (HIA-1) in the General Plan, and the Zoning Ordinance. The density/intensity of development in the HIA-1 District is regulated through floor area ratio (FAR). The project will not exceed the maximum FAR for the zoning district. Thus, the site is physically suitable for the type of development.

E. The design of the subdivision or the proposed improvement is likely to cause substantial environmental damage or substantially and avoidably injure fish or wildlife or their habitat.

In accordance with the provisions of the California Environmental Quality Act (CEQA), the Belmont City Council certified a Final Environmental Impact Report (FEIR) that evaluated the environmental impacts of the City's 2035 General Plan, Phase I Zoning, Belmont Village Specific Plan (BVSP), and Climate Action Plan (CAP). The City's General Plan EIR is considered to be a "Program EIR" and the City may approve projects if it can be demonstrated that they are within the scope of the EIR, and these approvals may occur without conducting further environmental review. The project has been evaluated for its potential environmental impacts, and it has been determined to be within the scope of the adopted General Plan EIR; thus, no new environmental document is required. The evaluation of the project's consistency with the General Plan EIR was memorialized in the Consistency Analysis Initial Study Checklist prepared for the project.

The Consistency Analysis Initial Study Checklist prepared for this project demonstrates that the project would not result in substantial changes or involve new information that would warrant preparation of a subsequent EIR because the level of development proposed is within the development assumptions analyzed in the program level EIR for the General Plan, and furthermore, the Project does not contain elements that are peculiar to the Project or project site.

F. The design of the subdivision or the type of improvements is likely to cause serious public health problems.

All public utilities can serve the proposed project, and the design will not cause serious public health problems. The project will be required to comply with all mitigation measures in the General Plan EIR and Project EIR Addendum, as well as the conditions of project approval, and appropriate Building and Fire Codes.

G. The design of the subdivision or the type of improvements will conflict with easements, acquired by the public at large, for access through or use of property within the proposed subdivision. In this connection, the City Council may approve a map if it finds that alternate easements, for access or for use, will be provided, and that these will be substantially equivalent to one previously acquired by the public.

Title reports have been submitted and reviewed for all of the lots that are part of the VTM (consolidation). There are no existing easements acquired for the public at large for access through or use of property within the proposed subdivision. Therefore, the design of the subdivision or the type of improvements will not conflict with easements, acquired by the public at large, for access through or use of the property.

Affordable Housing Plan

The Planning Commission finds that the project's Affordable Housing Plan (AHP) meets the required findings in Belmont Zoning Ordinance Section 29.6 (b) (1-3), as follows:

(1) Affordable units must be comparable in exterior appearance and overall quality of construction to market-rate units in the same housing development. Interior finishes and amenities must equal those provided in the base model market-rate units.

Response. Compliant: The exterior appearance of the affordable units is consistent with the market rate units, as depicted on the Elevation Plans (Sheets AP3.00 through AP3.00A) of the project. It is not possible to verify interior finishes and amenities. While it is possible to verify interior finishes and amenities, the plan submittal includes notes on indicating that interior finishes and amenities of the affordable units shall be equal to those provided in the base model market-rate units. A project condition of approval will require verification of interior finishes after construction of the project, and before issuance of a certificate of occupancy. This finding is affirmed.

(2) The number of bedrooms in the affordable units must be comparable to the average number of bedrooms in the market-rate units, and the affordable units must be reasonably dispersed within the residential project, with unit locations comparable to those of the market-rate units, or, subject to the approval of the community development director, may be clustered within the residential project when this furthers affordable housing opportunities.

Response. The average number of bedrooms in the affordable units is consistent with the market rate units. The affordable units are also reasonably dispersed within the residential project. This finding is affirmed.

(3) The affordable units must have the same amenities as the market rate units, including the same access to and enjoyment of common open space, parking, storage, and other facilities in the residential project

Response. Compliant: The project floor plans, and information provide in the Affordable Housing Plan (Exhibit C) indicates that four of the affordable units would have access to a private balcony, consistent with the same percentage of market rate units. This finding is affirmed.

Exterior Noise Exception

The General Plan and BVSP identify the likelihood for development projects to exceed their exterior noise limitations and provide an exception mechanism to provide relief in these circumstances. While a formal exterior noise exception has not yet been created, BVSP Policy 6.5-2 provides a description of the situations in which an exception could be requested (applicability), and the method to determine if approval of an exterior noise exception is appropriate (findings).

The Planning Commission finds that this type of exception is applicable to the proposed multifamily residential project, and that an exception to City exterior noise standards would be consistent with BVSP Policy 6.5-2, based on the following findings:

(1) All feasible noise mitigations have been incorporated to lower exterior noise levels as close as possible to City standards.

Response. A comprehensive noise and vibration assessment was prepared for the project. All reasonable noise mitigations have been incorporated to lower exterior noise levels to the extent feasible. The report indicates that further reduction in noise levels could only be achieved by enclosing the balconies spaces. This finding is affirmed.

(2) Noise mitigations that lower interior noise levels below the City and State standard of 45 dB have been incorporated, to compensate for the high exterior noise levels which make outdoor activities uncomfortable.

Response. The project noise assessment includes recommendations (construction methods, increased insulation, noise baffling, etc.) that would reduce interior noise levels below the City and State level of 45 dB. This finding is affirmed.

Density Bonus Law

Under the Density Bonus Law, local jurisdictions are required to grant one density bonus when an applicant for a housing development project agrees to construct a certain type and percentage of affordable units (Gove. Code Sec. §65915(b)(1)). The project does not include a request for an increase in density, but only needs to be eligible for a density bonus in order to pursue incentives and concessions, such as reductions in development standards to facilitate the economically viable construction of affordable housing. The applicant proposes 15% of affordable units for low-income households which qualifies the project for a Density Bonus Incentive.

Government Code Section §65915(d)(1) indicates that local jurisdictions shall grant the concession or incentive requested by the applicant unless the jurisdiction can make a written finding, based upon substantial evidence, of any of the following:

A. The concession or incentive or waiver does not result in identifiable and actual cost reductions, consistent with subdivision (k), to provide for affordable housing costs.

Response. The project requests an exception from the City's Reach Code provision of requiring an all-electric building and electric vehicle parking infrastructure. Implementation of the Reach Code

standards would add costs to the project's electrical infrastructure and capacity from the utility provider. Providing the expanded EV parking infrastructure would increase costs for the additional wiring, conduit, receptacles, chargers to meet the Electric Vehicle charging requirements. Thus, the requested incentive would reduce the cost of construction for the project and offset the project cost of providing affordable housing. This finding is affirmed.

B. The concession or incentive would have a specific, adverse impact, as defined in paragraph (2) of subdivision (d) of Section 65589.5, upon public health and safety or the physical environment or on any real property that is listed in the California Register of Historical Resources and for which there is no feasible method to satisfactorily mitigate or avoid the specific, adverse impact without rendering the development unaffordable to low-income and moderate-income households.

Response. The project team has completed extensive site assessment work as part of their due diligence efforts preparing to develop the site. This work included the evaluation of soil stability for construction, an analysis to ensure that there would be adequate sewer capacity for the proposed use, and an evaluation of potential hazardous materials impacts that could result from the current use of the site as a service station and self-serve car wash. Based on these assessments it was determined that the project site could be safely developed, subject to appropriate standard conditions of project approval.

In addition, all applicants for development projects are required to agree to the mitigation measures identified in the General Plan EIR, and this includes the policies, programs and implementation measures within the General Plan that is designed to avoid, reduce or eliminate significant environmental impacts. Applicants must also agree to standard development requirements (SDRs) and the City standard COAs that implement policies and mitigation measures to reduce environmental impacts. The applicant agreed to these provisions, and potential Air Quality, Cultural, Noise, and Traffic Impacts were evaluated for the project. Based on this review and the implementation of all appropriate standard COAs, no significant impacts were identified for the project. This finding is affirmed.

C. The concession or incentive would be contrary to state or federal law.

Response. No violations of state or federal laws have been identified for the project. The project would not result in impacts to protected species under the Endangered Species Act, or to impacts to any local, state or federally listed historic resources. The proposed incentive would facilitate the production of housing and affordable housing, consistent with state law. In addition, the project has been reviewed for consistency with all pertinent air and water quality requirements under state and federal laws and thus would not violate state regulations and the federal Clean Air or Clean Water Acts. This finding is affirmed.

The Planning Commission finds that the applicant has justified the need for the requested density bonus incentive as provided in Exhibit "C" for the project, and the requisite findings.

Senate Bill 2097 (SB 2097)

Senate Bill 2097 (SB 2097) prohibits a public agency from imposing or enforcing any minimum automobile parking requirement on any residential, commercial, or other development project that is within one-half mile (0.5) of a Major Transit Stop as defined. A development project, for purposes of this bill, includes any project requiring a discretionary entitlement or building permit to allow the construction, reconstruction, alteration, addition, or change of use of a structure or land. AB 2097 does give local agencies the option to impose minimum parking requirements in limited instances, provided that one of the following three findings can be substantiated in the affirmative to necessitate minimum parking requirements:

- *The project furthers the City's ability to meet its share of the Regional Housing Needs Assessment (RHNA) for low and very low-income households,*
- *The project directly supports the City's ability to meet any special housing needs for the elderly or persons with disabilities; or,*
- *The project is located within one-half mile of existing residential or commercial parking.*

Response. Consistent: The project site is located within 0.5 mile of a Major Transit Stop (Belmont Caltrain Station) as required by SB2097 to be eligible for the automobile parking reduction. There is no available evidence in City records that proposed residential project will have a "substantially negative impact" on the city to meet its regional housing needs for low- and very low-income households, special housing needs for the elderly or persons with disability or on existing residential or commercial parking within one-half mile of the housing development project. Thus, the project is eligible for the automobile parking reduction under SB2097.

The project site is located within the vicinity of an existing residential project at 1325 Old County Road that is currently under construction, and a proposed office/life science building located at 601 Harbor Boulevard which has not been approved. However, these projects meet the City's requirements for vehicle parking. Thus, these certain existing and proposed projects within the subject project area would not have a cumulative impact on existing residential or commercial parking.

* * * * * * * * * * * * * *

Passed and adopted at a special meeting of the Planning Commission of the City of Belmont held on June 26, 2023 by the following vote:

AYES,
COMMISSIONERS: _____
NOES,
COMMISSIONERS: _____
ABSENT,
COMMISSIONERS: _____
ABSTAIN,
COMMISSIONERS: _____
RECUSED,
COMMISSIONERS: _____

_____

Carlos de Melo

Planning Commission Secretary

RESOLUTION NO. 2023-_____

RESOLUTION OF THE PLANNING COMMISSION OF THE CITY OF BELMONT APPROVING A DESIGN REVIEW, TREE PERMIT, VESTING TENTATIVE MAP, OUTDOOR NOISE EXCEPTION, AFFORDABLE HOUSING PLAN, AND DENSITY BONUS INCENTIVE AND A REQUEST TO ALLOW MINIMUM AUTOMOBILE PARKING REQUIREMENTS FOR A DEVELOPMENT LOCATED CLOSE TO PUBLIC TRANSIT AS CODIFIED IN SENATE BILL 2097 (SB 2097) AND CALIFORNIA GOVERNMENT CODE §65863.2 FOR THE CONSTRUCTION OF A 103-UNIT APARTMENT DEVELOPMENT AT 604, 608, AND 610 HARBOR BOULEVARD (ASSESSOR'S PARCEL NUMBERS: 046-032-030,040, 080 & 090) (APPL. NO. PA2020-11).

WHEREAS, Windy Hill Property Ventures (Windy Hill), applicant, requests approvals for entitlements for the construction of a 103-unit apartment building and a parking garage at the ground level at 604, 608, & 610 Harbor Boulevard Assessor's Parcel Numbers: 046-032-030, 040, 080 and 090; and,

WHEREAS, on June 26, 2023, the Planning Commission, following notification in the prescribed manner, conducted a public meeting, at which hearing the Commission considered public comments and a staff report on the aforementioned requested entitlements; and,

WHEREAS, the project also includes a petition for the annexation of certain territory to the City of Belmont, and detachment of said territory from the Harbor Industrial Sewer Maintenance and Belmont County Lighting Districts and San Mateo County, consisting of approximately .71 acres of real property, and additionally includes adjacent rights-of-way on Harbor Boulevard and Old County Road, has been filed with the San Mateo County Local Agency Formation Commission (LAFCO), File. No 20-10, June 22, 2023 by the owners of said parcels; and,

WHEREAS, on November 14, 2017, Belmont adopted a comprehensive update to its General Plan (General Plan 2035 on November 28, 2017); and,

WHEREAS, the updated General Plan is a long term policy document that includes all incorporated areas within the City, as well as adjacent unincorporated territory that the city ultimately expects to annex or to serve, known as the City's sphere of influence (SOI); and,

WHEREAS, the subject project site for annexation is located within the City's SOI; and,

WHEREAS, the properties proposed for annexation were pre-zoned Harbor Industrial Area (HIA-1), consistent with the City's adopted General Plan; and,

WHEREAS, the Belmont City Council certified a Final Environmental Impact Report (FEIR) that evaluated the environmental impacts of the City's 2035 General Plan, Phase I Zoning, Belmont Village Specific Plan (BVSP), and Climate Action Plan (CAP) on October 24, 2017 (the "General Plan EIR" - SCH #2016082075). The Council made the required California Environmental Quality Act (CEQA) findings, and adopted a Mitigation Monitoring and Reporting Program (MMRP) and a statement of overriding consideration for the project on November 14, 2017; and,

WHEREAS, State CEQA Guidelines Section 15162 provides that no subsequent environmental review is required unless there are substantial changes in the Project, there are substantial changes with respect to the circumstances under which the project is undertaken, or there is new information of substantial importance, which was not known and could not have been known at the time of certification of the EIR; and,

WHEREAS, State CEQA Guidelines Section 15183 provides that no further environmental review is required for projects that are consistent with the General Plan for which an Environmental Impact Report was certified; and,

WHEREAS, a Consistency Analysis Initial Study Checklist was prepared for the project and demonstrates that the project would not result in substantial changes or involve new information that would warrant preparation of a subsequent EIR because the level of development proposed is within the development assumptions analyzed in the program level EIR for the 2035 General Plan, and, the Project does not contain elements that are peculiar to the Project or project site as provided in Exhibit "B"; and,

WHEREAS, the Planning Commission hereby adopts the staff report dated June 26, 2023, and the facts contained therein pertaining to the project as its own findings of facts.

NOW, THEREFORE, BE IT RESOLVED that the Planning Commission approves the Design Review, Grading Permit, Vesting Tentative Map, Outdoor Noise Exception, Affordable Housing Plan Density Bonus Incentive, and parking reduction as codified in Senate Bill 2097 (SB 2097) subject to the findings below, and the conditions of approval in Exhibit "A".

NOW, THEREFORE, BE IT FURTHER RESOLVED that the Planning Commission's approvals and recommendations in this resolution are expressly contingent upon approval of the project proponent's LAFCO application filed on June 22, 2023 with the San Mateo County Local Agency Formation Commission (LAFCO), File. No 20-10, for annexation of the property to the City of Belmont. If the application is not approved or withdrawn, the Planning Commission's approvals and recommendations herein are null and void.

Design Review

The Planning Commission approves the Design Review Permit for the proposed housing development project (as defined by Government Code Section §65589.5, subdivision (h)(2)), finding that neither of the findings set forth in Section 13.5.1 of the Zoning Ordinance for denial of the project can be made in the affirmative, as follows:

(1) The project does not comply with all applicable objective general plan, zoning, subdivision and development standards including objective design review standards.

As summarized in the table below, the project complies with all of the following applicable objective standards:

FAR	Building Color & Material Variation
Building Height	Projecting & Recessing Building Walls
Min. Landscaping / Tree Plantings	Screening: Ground & Rooftop Equipment
Open Space / Outdoor Area Per Unit	Access Standards
Street Scape (Sidewalk & Street Trees)	Underground Utilities

As proposed, the project would be consistent with all applicable objective development and design standards identified in the Belmont Zoning Ordinance (BZO). Therefore, Finding #1 cannot be affirmed.

(2) The project would result in a specific adverse impact to public health and safety that cannot be feasibly mitigated without denying the project or reducing its density.

No adverse impacts have been identified for the project. City staff and consultants have provided technical review and conditions of approval are included, as applicable, regarding project-related traffic, parking, grading, site remediation, drainage, storm-water runoff, sanitary sewer impacts, vehicular and pedestrian access, site circulation, site stability, structural encroachments, and construction impacts. Therefore, the project would not result in a specific adverse impact to public health and safety that cannot be feasibly mitigated without denying the project or reducing its density and Finding # 2 cannot be affirmed.

Grading Plan

The Planning Commission finds that the proposed Grading Plan meets the required findings set forth in Section 9-27(a)-(h) of the City of Belmont Municipal Code (Grading), as follows:

a) The project will not endanger the stability of the site or adjacent properties or pose a significant ground movement hazard to adjacent properties.

The City's Building Division and Public Works Department have reviewed the grading plans for the project and have determined that the plan is in conformity with the Building Code and the City of Belmont Grading Ordinance (Chapter 9 of the City Code). In addition, the City's standard requirements require the preparation of a site-specific geotechnical investigation, independent peer review of the investigation and incorporation of the findings of the independent peer review into the project design.

The City's consulting geologist prepared an independent peer review of the geotechnical investigations proposed as part of the project and concurs with the characterization of the project site, findings, and design specifications. The City's consulting geologist adds that the project geotechnical consultant shall review all plans, field work and conditions to assure that the project is built to specifications. The project geotechnical reports and the City's independent peer review requirements will, as a matter of grading and building permit procedures, be required of the project as conditions of project approval.

Based on reviews by City departments and the City's consulting geologist to assess site stability, no immediate safety concerns or hazards have been identified for the subject site or adjacent properties. Therefore, as proposed, and conditioned, the project will not endanger the stability of the site or adjacent properties or pose a significant ground movement hazard to adjacent properties. This finding is affirmed.

b) The proposed drainage improvements, landscaping, and erosion control measures would be adequate to control erosion or flooding and would not degrade riparian habitats, stream channel capacity or water quality.

There are no streams or rivers on the site. The applicant has submitted a C-3 Checklist, hydrology study, and landscaping, grading, and drainage plans. The submitted materials identify appropriate methods to treat drainage from the site. The project has been reviewed and found acceptable by the City's Department of Public Works at this stage of the Development Review process. Detailed working drawings with storm water measures will be required to be submitted for review and approval as part of the building permit application process. The Department of Public Works has also reviewed the proposed drainage plans and facilities and has provided conditions of approval.

In addition, the City requires the implementation of Best Management Practices (BMP's) for new development and construction as part of its storm water management program, as levied through standard City conditions of project approval. For new development and construction projects, the City requires the implementation BMP's to ensure the protection of water quality in storm runoff from the project site. In brief, the measures address pollution control and management mechanisms for contractor activities, including structure construction, material delivery and storage, solid waste management, employee and subcontractor training, etc. They also provide direction for the control of erosion and sedimentation as well as the establishment of monitoring programs to ensure the effectiveness of the BMP's.

The City also requires an agreement with the applicant that ensures the permanent and on-going maintenance of water quality control improvements by the applicant and/or project site owner(s). Therefore, the proposed drainage improvements, landscaping, and erosion control measures would be adequate to control erosion or flooding and would not degrade riparian habitats, stream channel capacity or water quality. This finding is affirmed.

c) The amount of grading proposed is necessary to allow reasonable use of the site.

Estimated earthwork quantities for the project include 552 cubic yards (CY) of off-haul materials (soil, underground storage tanks, etc.) and 1,300 CY of fill materials for foundation work (748 CY net of off-haul materials). The grading plan has been reviewed by the Public Works Department and found not to be excessive, as it is required for the redevelopment of the property (i.e., there is no grading unnecessary for the project proposed on extraneous areas of the property). This finding is affirmed.

d) The proposed grading would result in a building site that is visually compatible with the surrounding land and accommodates any required off-street parking and wall landscaping.

The building site would be visually compatible with the surrounding area, which is similarly graded/developed with multi-family and commercial buildings located on generally flat pads. There would not be large quantities of fill and clearcutting of trees on a project site solely to gain a view over surrounding properties. The proposed grading would accommodate construction of the building, drainage, utilities and the landscaping of the subject property. This finding is affirmed.

e) The proposed grading will meet the standards and specifications of Article IV of Chapter 9 in the City Code (Grading Ordinance).

Conditions of approval have been attached to the project to ensure that the final grading plan for the project will meet all of the standards contained in Article IV of Chapter 9 of the City Code (Grading Ordinance). This finding is affirmed.

f) The Director of Public Services and the applicant's Geotechnical engineer shall find that the form of vehicular access and methods of excavation are the simplest and least intrusive possible to obtain the geologic information required by the city.

The Public Works Department has reviewed the grading plan, vehicular access, and methods of excavation and, as proposed and conditioned, found them to be adequate and complete. Conditions of approval require the final grading and drainage plans be consistent with Public Works Department requirements for the design and construction of the site improvements. This finding is affirmed.

g) The grading permit is conditioned on issuance of a hauling permit, if required.

A hauling permit will be required in association with the Grading Permit for this project. This finding is affirmed.

h) The design of the project preserves existing protected trees on the site and trees on adjoining property to the extent possible.

The project includes the removal of three protected trees. These tree removals are necessary for the proposed development of the site (i.e., to accommodate the site improvements, grading of the site, drainage improvements, utilities and streetscape improvements, etc.). The applicant has proposed to replant 33 *Preferred Species* for the project in accordance with the City Code *Chapter 25 -Trees*. Other groundcover, shrubs and low plantings are also proposed for the project site. This finding is affirmed.

Tree Removal Permit

The Planning Commission evaluated a Tree Removal Permit proposal for the project, and approves the Permit based on the balancing of the Criteria for Permit Determination set forth in Section 25-7 (b)-(c)

(b) "The reviewing authority shall issue a permit to remove the following trees without consideration of the criteria in subsection (c):
(1) Blue Gum Eucalyptus (Eucalyptus globulus);
(2) Dwarf Blue Gum Eucalyptus (Eucalyptus globulus 'Compacta');
(3) Monterey Pine;
(4) Palm (all species);
(5) Acacia (all species);
(6) a dead tree (any species); and
(7) Any tree that a public utility is required to remove under California Public Utility Commission regulations."

(1) Criteria Supporting Removal	*(2) Criteria Supporting Retention*
(A) The tree is: (i) in poor condition; (ii) at the relative end of its life span of the particular species; (iii) diseased or infested beyond reasonable remediation; (iv) has poor structural integrity; (v) is in danger of falling; or, (vi) poses a safety hazard. *(B) The particular tree species is undesirable due to characteristics such as invasiveness, tendency toward limb failure, and fire hazard.* *(C) The tree is damaging or interfering with existing structures, site improvements, or utility services.* *(D) Removal of the tree is needed in order to construct improvements or otherwise allow conforming use of the property.* *(E) Proximity of the tree to existing or proposed structures.*	*(A) The tree is located outside the developable area of the property.* *(B) The tree and its location contribute substantially to the aesthetic appeal of the property or the neighborhood.* *(C) The effect of the requested tree removal on the remaining number, species, size and location of existing trees on the site and in the area, including trees mutually dependent on each other for survival, structural integrity or aesthetics.*

<u>Criteria Supporting Removals & Retention</u>

The project includes the removal of three protected trees. The arborist report and the landscape plans submitted as part of the project indicate that the trees proposed for removal are directly impacted by the project construction. As such, the trees proposed for removal are in line with criteria *D* supporting removal. The criteria supporting retention (*A – C*) does not apply. Based upon review of the arborist report, and the site and grading plans, the Planning Commission finds that the proposed tree removal is necessary for the construction of the project.

Preferred Tree Species & Conditions of Permit

The Tree Ordinance indicates that for each protected tree removed, the applicant shall plant a *Preferred Species* tree, minimum 15-gallon size, or pay an in-lieu planting fee. The applicant has proposed to replant 33 *Preferred Species* trees (Water Gum - *Tristania Laurina* and London Plane - *Platanus Acerifolia* Trees at 36" and 24" box sizes) for the project.

Vesting Tentative Map

As per Section 11.4 (A-G) of the Subdivision Ordinance, the Planning Commission must deny the proposed Tentative Map (VTM), if any of the following findings can be made in the affirmative:

A. The proposed map is not consistent with the applicable general and specific plans.

The subject property is designated and zoned Harbor Industrial Area (HIA-1) in the General Plan, and the Zoning Ordinance. The proposed VTM would consolidate lots in order to allow the development of the project site with a 103-unit apartment building with a parking garage. Consolidation of the lots would allow for the use of a centralized parking garage with one point of access, which would minimize curb cuts and enhance walkability. The project would be consistent with General Plan Goals and Policies that promote the consolidation of lots, and the construction of housing near existing transportation networks and commercial services.

Thus, the project is not inconsistent with the General Plan. A complete General Plan consistency analysis is included in the CEQA Analysis-Initial Study. (See Attachment 3).

B. The proposed design or improvement of the subdivision is not consistent with the applicable general and specific plans.

The project would be consistent with all applicable General Plan infrastructure policies. The project site fronts upon a fully improved roadway with access to all required utilities. All new service lines and utilities serving the project would be provided underground. As conditioned, the developer will complete all public improvements to the City's satisfaction prior to the issuance of occupancy. Therefore, the design or improvement of the proposed subdivision (consolidation) is not inconsistent with applicable infrastructure goals and policies of the General Plan.

C. The site is not physically suitable for the type of development.

The applicant proposes a VTM to consolidate four lots into one parcel for construction of an apartment building. Subject to approval of the VTM (consolidation), the approximately 0.71-acre project site would allow for the construction of an apartment building. In addition, the site and adjacent public right-of-way would be of sufficient size to accommodate all required frontage and streetscape improvements. The project site is not on a hillside or in a seismically active region, and a geotechnical investigation has been submitted that evaluates the geotechnical feasibility of the project. The City's geotechnical consultant has peer reviewed the geotechnical investigation and found that it adequately addresses the conditions on the site. The site contains soil contamination; however, contaminated soils will be removed from the project site as part of the project, and

conditions of approval from the San Mateo County Environmental Health Department Groundwater Protection Program, Consulting Geologist, Planning, Building and Public Works Departments have been incorporated into the project that address these issues.

No streams, rivers or wetlands exist on the project site. Finally, the VTM will be required to comply with all City Standards Conditions of Approval, and mitigation measures outlined in the General Plan EIR, the project EIR Addendum, and the applicant's geotechnical report. Thus, the site is physically suitable for the type of development.

D. The site is not physically suitable for the proposed density of development.

The project site is designated Harbor Industrial Area (HIA-1) in the General Plan, and the Zoning Ordinance. The density/intensity of development in the HIA-1 District is regulated through floor area ratio (FAR). The project will not exceed the maximum FAR for the zoning district. Thus, the site is physically suitable for the type of development.

E. The design of the subdivision or the proposed improvement is likely to cause substantial environmental damage or substantially and avoidably injure fish or wildlife or their habitat.

In accordance with the provisions of the California Environmental Quality Act (CEQA), the Belmont City Council certified a Final Environmental Impact Report (FEIR) that evaluated the environmental impacts of the City's 2035 General Plan, Phase I Zoning, Belmont Village Specific Plan (BVSP), and Climate Action Plan (CAP). The City's General Plan EIR is considered to be a "Program EIR" and the City may approve projects if it can be demonstrated that they are within the scope of the EIR, and these approvals may occur without conducting further environmental review. The project has been evaluated for its potential environmental impacts, and it has been determined to be within the scope of the adopted General Plan EIR; thus, no new environmental document is required. The evaluation of the project's consistency with the General Plan EIR was memorialized in the Consistency Analysis Initial Study Checklist prepared for the project.

The Consistency Analysis Initial Study Checklist prepared for this project demonstrates that the project would not result in substantial changes or involve new information that would warrant preparation of a subsequent EIR because the level of development proposed is within the development assumptions analyzed in the program level EIR for the General Plan, and furthermore, the Project does not contain elements that are peculiar to the Project or project site.

F. The design of the subdivision or the type of improvements is likely to cause serious public health problems.

All public utilities can serve the proposed project, and the design will not cause serious public health problems. The project will be required to comply with all mitigation measures in the General Plan EIR and Project EIR Addendum, as well as the conditions of project approval, and appropriate Building and Fire Codes.

G. The design of the subdivision or the type of improvements will conflict with easements, acquired by the public at large, for access through or use of property within the proposed subdivision. In this connection, the City Council may approve a map if it finds that alternate easements, for access or for use, will be provided, and that these will be substantially equivalent to one previously acquired by the public.

Title reports have been submitted and reviewed for all of the lots that are part of the VTM (consolidation). There are no existing easements acquired for the public at large for access through or use of property within the proposed subdivision. Therefore, the design of the subdivision or the type of improvements will not conflict with easements, acquired by the public at large, for access through or use of the property.

Affordable Housing Plan

The Planning Commission finds that the project's Affordable Housing Plan (AHP) meets the required findings in Belmont Zoning Ordinance Section 29.6 (b) (1-3), as follows:

(1) Affordable units must be comparable in exterior appearance and overall quality of construction to market-rate units in the same housing development. Interior finishes and amenities must equal those provided in the base model market-rate units.

Response. Compliant: The exterior appearance of the affordable units is consistent with the market rate units, as depicted on the Elevation Plans (Sheets AP3.00 through AP3.00A) of the project. It is not possible to verify interior finishes and amenities. While it is possible to verify interior finishes and amenities, the plan submittal includes notes on indicating that interior finishes and amenities of the affordable units shall be equal to those provided in the base model market-rate units. A project condition of approval will require verification of interior finishes after construction of the project, and before issuance of a certificate of occupancy. This finding is affirmed.

(2) The number of bedrooms in the affordable units must be comparable to the average number of bedrooms in the market-rate units, and the affordable units must be reasonably dispersed within the residential project, with unit locations comparable to those of the market-rate units, or, subject to the approval of the community development director, may be clustered within the residential project when this furthers affordable housing opportunities.

Response. The average number of bedrooms in the affordable units is consistent with the market rate units. The affordable units are also reasonably dispersed within the residential project. This finding is affirmed.

(3) The affordable units must have the same amenities as the market rate units, including the same access to and enjoyment of common open space, parking, storage, and other facilities in the residential project

Response. Compliant: The project floor plans, and information provide in the Affordable Housing Plan (Exhibit C) indicates that four of the affordable units would have access to a private balcony, consistent with the same percentage of market rate units. This finding is affirmed.

Exterior Noise Exception

The General Plan and BVSP identify the likelihood for development projects to exceed their exterior noise limitations and provide an exception mechanism to provide relief in these circumstances. While a formal exterior noise exception has not yet been created, BVSP Policy 6.5-2 provides a description of the situations in which an exception could be requested (applicability), and the method to determine if approval of an exterior noise exception is appropriate (findings).

The Planning Commission finds that this type of exception is applicable to the proposed multifamily residential project, and that an exception to City exterior noise standards would be consistent with BVSP Policy 6.5-2, based on the following findings:

(1) All feasible noise mitigations have been incorporated to lower exterior noise levels as close as possible to City standards.

Response. A comprehensive noise and vibration assessment was prepared for the project. All reasonable noise mitigations have been incorporated to lower exterior noise levels to the extent feasible. The report indicates that further reduction in noise levels could only be achieved by enclosing the balconies spaces. This finding is affirmed.

(2) Noise mitigations that lower interior noise levels below the City and State standard of 45 dB have been incorporated, to compensate for the high exterior noise levels which make outdoor activities uncomfortable.

Response. The project noise assessment includes recommendations (construction methods, increased insulation, noise baffling, etc.) that would reduce interior noise levels below the City and State level of 45 dB. This finding is affirmed.

Density Bonus Law

Under the Density Bonus Law, local jurisdictions are required to grant one density bonus when an applicant for a housing development project agrees to construct a certain type and percentage of affordable units (Gove. Code Sec. §65915(b)(1)). The project does not include a request for an increase in density, but only needs to be eligible for a density bonus in order to pursue incentives and concessions, such as reductions in development standards to facilitate the economically viable construction of affordable housing. The applicant proposes 15% of affordable units for low-income households which qualifies the project for a Density Bonus Incentive.

Government Code Section §65915(d)(1) indicates that local jurisdictions shall grant the concession or incentive requested by the applicant unless the jurisdiction can make a written finding, based upon substantial evidence, of any of the following:

A. The concession or incentive or waiver does not result in identifiable and actual cost reductions, consistent with subdivision (k), to provide for affordable housing costs.

Response. The project requests an exception from the City's Reach Code provision of requiring an all-electric building and electric vehicle parking infrastructure. Implementation of the Reach Code

standards would add costs to the project's electrical infrastructure and capacity from the utility provider. Providing the expanded EV parking infrastructure would increase costs for the additional wiring, conduit, receptacles, chargers to meet the Electric Vehicle charging requirements. Thus, the requested incentive would reduce the cost of construction for the project and offset the project cost of providing affordable housing. This finding is affirmed.

B. The concession or incentive would have a specific, adverse impact, as defined in paragraph (2) of subdivision (d) of Section 65589.5, upon public health and safety or the physical environment or on any real property that is listed in the California Register of Historical Resources and for which there is no feasible method to satisfactorily mitigate or avoid the specific, adverse impact without rendering the development unaffordable to low-income and moderate-income households.

Response. The project team has completed extensive site assessment work as part of their due diligence efforts preparing to develop the site. This work included the evaluation of soil stability for construction, an analysis to ensure that there would be adequate sewer capacity for the proposed use, and an evaluation of potential hazardous materials impacts that could result from the current use of the site as a service station and self-serve car wash. Based on these assessments it was determined that the project site could be safely developed, subject to appropriate standard conditions of project approval.

In addition, all applicants for development projects are required to agree to the mitigation measures identified in the General Plan EIR, and this includes the policies, programs and implementation measures within the General Plan that is designed to avoid, reduce or eliminate significant environmental impacts. Applicants must also agree to standard development requirements (SDRs) and the City standard COAs that implement policies and mitigation measures to reduce environmental impacts. The applicant agreed to these provisions, and potential Air Quality, Cultural, Noise, and Traffic Impacts were evaluated for the project. Based on this review and the implementation of all appropriate standard COAs, no significant impacts were identified for the project. This finding is affirmed.

C. The concession or incentive would be contrary to state or federal law.

Response. No violations of state or federal laws have been identified for the project. The project would not result in impacts to protected species under the Endangered Species Act, or to impacts to any local, state or federally listed historic resources. The proposed incentive would facilitate the production of housing and affordable housing, consistent with state law. In addition, the project has been reviewed for consistency with all pertinent air and water quality requirements under state and federal laws and thus would not violate state regulations and the federal Clean Air or Clean Water Acts. This finding is affirmed.

The Planning Commission finds that the applicant has justified the need for the requested density bonus incentive as provided in Exhibit "C" for the project, and the requisite findings.

Senate Bill 2097 (SB 2097)

Senate Bill 2097 (SB 2097) prohibits a public agency from imposing or enforcing any minimum automobile parking requirement on any residential, commercial, or other development project that is within one-half mile (0.5) of a Major Transit Stop as defined. A development project, for purposes of this bill, includes any project requiring a discretionary entitlement or building permit to allow the construction, reconstruction, alteration, addition, or change of use of a structure or land. AB 2097 does give local agencies the option to impose minimum parking requirements in limited instances, provided that one of the following three findings can be substantiated in the affirmative to necessitate minimum parking requirements:

- *The project furthers the City's ability to meet its share of the Regional Housing Needs Assessment (RHNA) for low and very low-income households,*
- *The project directly supports the City's ability to meet any special housing needs for the elderly or persons with disabilities; or,*
- *The project is located within one-half mile of existing residential or commercial parking.*

Response. Consistent: The project site is located within 0.5 mile of a Major Transit Stop (Belmont Caltrain Station) as required by SB2097 to be eligible for the automobile parking reduction. There is no available evidence in City records that proposed residential project will have a "substantially negative impact" on the city to meet its regional housing needs for low- and very low-income households, special housing needs for the elderly or persons with disability or on existing residential or commercial parking within one-half mile of the housing development project. Thus, the project is eligible for the automobile parking reduction under SB2097.

The project site is located within the vicinity of an existing residential project at 1325 Old County Road that is currently under construction, and a proposed office/life science building located at 601 Harbor Boulevard which has not been approved. However, these projects meet the City's requirements for vehicle parking. Thus, these certain existing and proposed projects within the subject project area would not have a cumulative impact on existing residential or commercial parking.

* * * * * * * * * * * * * *

Passed and adopted at a special meeting of the Planning Commission of the City of Belmont held on June 26, 2023 by the following vote:

AYES,
COMMISSIONERS: _____
NOES,
COMMISSIONERS: _____
ABSENT,
COMMISSIONERS: _____
ABSTAIN,
COMMISSIONERS: _____
RECUSED,
COMMISSIONERS: _____

_____

Carlos de Melo

Planning Commission Secretary