



CITY COUNCIL AGENDA STATEMENT



June 4, 2019

File ID: 19-0229

TITLE

RESOLUTION OF THE CITY COUNCIL OF THE CITY OF CHULA VISTA APPROVING THE APPEAL BY SILVERGATE DEVELOPMENT, LLC AND ADOPTING MITIGATED NEGATIVE DECLARATION AND MITIGATION AND REPORTING PROGRAM IS-18-0001, AND APPROVING DESIGN REVIEW PERMIT DR17-0040 TO CONSTRUCT ONE FOUR-STORY BUILDING AND SIX THREE-STORY BUILDINGS TOTALING 149,534 SQUARE FEET, CONSISTING OF 170 APARTMENT UNITS INCLUDING NINE RENT RESTRICTED UNITS FOR OCCUPANCY BY VERY LOW-INCOME HOUSEHOLDS ON A 5.3 ACRES SITE LOCATED SOUTH OF BONITA ROAD, BETWEEN BONITA GLEN DRIVE AND I-805, SUBJECT TO THE CONDITIONS CONTAINED HEREIN

RECOMMENDED ACTION

Council conduct the public hearing and adopt the resolution.

SUMMARY

On December 22, 2017, Silvergate Development, LLC (the "Applicant") submitted a Design Review application for approval of the above-referenced apartment project. The proposed project is for the construction of six 3-story and one 4-story residential buildings with a total of 170 apartment units and 231 parking spaces on a 5.3-acres site (the "Project"). The Project also includes the construction of landscaped areas, recreational facilities and open space areas and facilities. Access is from Bonita Glen Drive and Vista Drive (see Locator Map, Attachment 1). The Applicant has elected to utilize the provisions allowed by [California Government Code § 65915](#) ("State Density Bonus Law") and as codified in [Chula Vista Municipal Code \(CVMC\) Chapter 19.90-Affordable Housing Incentives](#). Pursuant to State Density Bonus Law and CVMC, the Applicant is requesting a waiver of the maximum building height and to utilize the reduced parking standards. As required by [State Density Bonus Law/CVMC](#), 5-percent of the units (nine units) will be rent restricted for occupancy by very low-income households.

On March 13, 2019, the Planning Commission considered the Project and a Motion to approve. The Motion failed by a vote of 1 – Yes to 3 – No, thereby resulting in a Lost Motion. As such, no action was taken on the Project. Subsequently, on March 22, 2019, the Applicant

filed an Appeal to the City Council citing the “Factual Error” and “Findings Not Supported” provisions of the Appeal Application; specifically alleging inaccurate statements by the public regarding public safety concerns along Bonita Glen Drive, Peppertree Road and other nearby roadways.

This item now presents the Project for City Council consideration and action. The approvals at issue are Design Review and a proposed waiver of an otherwise applicable height limitation as allowed under State density bonus/affordable housing laws. Staff has identified four key items for consideration: 1) the regulatory framework; 2) Design Review consistency; 3) the waiver of maximum height requested pursuant to the State Density Bonus Law/CVMC; and 4) the project’s environmental considerations.

ENVIRONMENTAL REVIEW

The Director of Development Services has reviewed the proposed Project for compliance with the California Environmental Quality Act and has conducted an Initial Study, IS-18-0001 in accordance with the California Environmental Quality Act (CEQA). Based upon the results of the Initial Study, the Director of Development Services has determined that the Project could result in significant effects on the environment. However, revisions to the Project made by or agreed to by the Applicant would avoid the effects or mitigate the effects to a point where clearly no significant effects would occur; therefore, the Director of Development Services has caused the preparation of a Mitigated Negative Declaration, IS-18-0001 and associated Mitigation, Monitoring and Reporting Program (“MND”). This MND is presented for City Council consideration and adoption.

BOARD/COMMISSION/COMMITTEE RECOMMENDATION

As discussed above, on March 13, 2019 the Planning Commission made a Motion to approve the Project. The Motion failed by a vote of 1 – Yes to 3 – No, thereby resulting in a Lost Motion, and as such, no action was taken on the Project.

DISCUSSION

The City has received a Design Review application for the construction of a total of 170 apartment units, with nine units to be rent restricted for occupancy by very low-income households in accordance with State Density Bonus Law/CVMC, and 231 parking spaces on a 5.3-acre site.

The following discretionary action is requested for the proposed project:

Design Review Approval with a State Density Bonus Law Incentive

- Comprehensive evaluation of the site plan, architectural and landscape design components of the Project to determine consistency with development and City Code design standards.

- Waiver Request - A Waiver is requested of the maximum building height of 45 feet per the Bonita Glen Specific Plan (“BGSP”) and R-3 zone in order to allow one of the project buildings to be built up to 56 feet tall. The waiver is proposed as an incentive under State Density Bonus Law. A waiver is a reduction or deviation from typical zoning/development standards that would physically preclude the construction of a qualified housing development at the density proposed (Cal Govt Code § 65915(e)).

Project Description

This 170-unit apartment development is comprised of six 3-story walk-up, garden-style buildings (two 21-plex buildings, two 18-plex buildings, and two 13-plex buildings) and one 4-story, elevator served podium-style building (66 units). The development includes 6 studio units, 122 one-bedroom units, and 42 two-bedroom units on approximately 5.3 acres. Total building area for the proposed project is approximately 149,913 square-feet. The proposed project includes a total of 231 parking spaces: 101 covered spaces and 130 uncovered spaces. The Project also includes recreation areas including a pocket park, tot lot, swimming pool, clubhouse, and dog run.

The Applicant has requested and qualifies for State Density Bonus provisions under [California Government Code § 65915](#) and [CVMC Chapter 19.90](#) that promote affordable housing through the use of density bonus, incentives or concessions, waivers or reductions to development standards, and/or reduced parking ratios. Pursuant to the [State Density Bonus Law](#) and [CVMC Chapter 19.90](#), the Applicant will provide nine affordable rental units for very low income households and therefore, is requesting a waiver from the BGSP maximum height of 30 feet with allowance for architectural projects at 45 feet and use of the specified parking ratios.

Nine of the rental units (5% of the total 170 units) will be subject to rental and occupancy restrictions for very low-income households at 50% of the area median income (AMI) for a period of 55 years. The maximum annual income for a qualifying two person very low-income household is \$38,950 and \$43,800 for a three- person household. The anticipated restricted rental costs would range from \$715 a month for a one-bedroom unit and \$818 for a two-bedroom unit.

Project Site Characteristics

The Project is located within the Bonita Glen Specific Plan (BGSP) Area just west of the 805 Freeway (I-805) and South of Bonita Road. The proposed project is located on 5.3 acres, over six separate, contiguous parcels, including Assessor Parcel Numbers 570-131-11-00, 570-140-40-00, 570-140-54-00, 570-140-48-00, 570-140-51-00, and public right-of-way to be acquired from the City of Chula Vista (City) (Attachment 1, Locator Map).

As shown on Attachment 1, the site is within an urban portion of the City and in an area generally surrounded by residential and commercial land uses. To the north is the La Quinta Hotel, which contains 3-stories and 142 hotel rooms, a Denny’s restaurant, and Shell gas

station, mini-mart and carwash. To the west and southwest are the approximately 300-unit Point Bonita Apartments. To the south, across from Bonita Glen Road, is a vacant residential lot, and single-family dwellings are farther south of a relatively small (approximately 2-acre) vacant parcel located to the south beyond Bonita Glen Drive. Single-family dwellings are located across the private road to the east, with the I-805 farther east of the single-family dwellings.

The project site has been previously disturbed and graded and is currently vacant. The site is relatively flat, with overall gradual sloping east to west. Elevations range from approximately 45 feet above mean sea level (amsl) in the northwestern portion up to approximately 91 feet amsl in the south portion of the site.

The project site is currently bifurcated by an existing ephemeral stream, during and following rain events. During dry months, the ephemeral stream acts as a dry streambed. The ephemeral stream runs downhill from the southwest corner of the site to the northern boundary of the site. Under the proposed project, the ephemeral stream would remain in a natural state with re-graded and newly landscaped embankments. The proposed project would include two pedestrian bridges over the improved ephemeral stream.

Buildings 1–6 are three stories with tuck-under parking at level 1 and dwelling units above at levels 2 and 3. Buildings 1–6 are building code compliant non-elevator buildings with dwelling units located at levels 2 and 3, which are accessible via exterior stairs. Building 7 is an elevator served 4-story building with three stories of residential use over one story of partially below-grade parking. Building 7 contains 66 dwelling units. The proposed buildings would reach up to 56 feet in height, which is taller than what the BGSP and CVMC allows. However, a waiver of development standards is requested under the provisions of [State Density Bonus Law](#) to allow for additional height as further described below. It should be noted that this taller building, building 7, is located at the lowest portion of the site.

Buildings 1 and 2 would each be 13,485 square-feet. Buildings 3 and 4 would each be 8,938 square-feet, and Buildings 5 and 6 would each be 14,799 square-feet. The largest building, Building 7, would be 75,090 square-feet. Exterior finishes on both buildings would be warm toned, consisting of gray/browns, dusty charcoal and off-whites, with natural cedar and red colored accents. All exterior lighting would comply with the City’s Municipal Code and would be shielded and directed downward. The proposed project includes landscaped areas, surface parking, and amenities such as a children’s play area, pool, spa, and pool house for resident use only, and a small park that will be open to the public. (see Attachment 5, Project Plans).

Land Use and Zoning

The table below shows the current, General Plan, and zoning designations for the subject Site and the surrounding sites:

Current Use	General Plan	BGSP (Zoning)
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	Current Use	General Plan	BGSP (Zoning)
Site	Vacant	Commercial Retail	Central Commercial (CCP)
North	Shell gas, mini-mart and carwash; Denny's Restaurant; and La Quinta Hotel	Commercial Retail	Central Commercial (CCP)
East <i>(County of San Diego)</i>	Single Family	Residential Low	Single family (RR)
South	Vacant	Commercial Retail	Central Commercial (CCP)
West	Apartments/Condos	Residential High	Apartment Residential (R-3)

Consistency with Development Standards

The proposed residential development has been evaluated using the BGSP's development regulations, standards, and design guidelines. It should be noted that, while the BGSP has its own development standards and regulations, its regulations and standards derive from and are consistent with the standards and regulations of CVMC Chapter 19.28. Where the BGSP is silent on a standard or regulation the CVMC shall apply. The Project utilizes the R-3 Zone development standards for apartments.

Development Standard	Zoning	Project Proposal
Building Height	45 ft. Max.	56 feet max. *
Building Setbacks		
Front	15 feet	15 Feet
North Side	5 feet	10 Feet
South Side	5 Feet	10 Feet
Rear	15 Feet	15 Feet
Parking Required	212 spaces	231 spaces onsite*
Total Open Space Required	400 sf/unit – 68,800 sf	73,297 sf

**Height and parking are in accordance with the provisions of [Government Code § 65915 \(e\) and \(p\)](#)*

ANALYSIS:

Staff has identified four key items for consideration: 1) the regulatory framework; 2) Design Review consistency; 3) the waiver requested pursuant to the State Density Bonus Law/CVMC; and 4) the Project's environmental considerations.

1. Regulatory Framework In Reviewing the Project:

The proposed project requires adherence to the City of Chula Vista General Plan, Municipal Code, BGSP, Design Guidelines and State Density Bonus Law. The City's discretionary action on the Project must be based upon its reasonable determination of compliance or non-compliance with such written and objective standards and regulations. As stipulated in State Law, receipt of a density bonus and/or other incentives, concessions or waivers under State Density Bonus Law shall not constitute a basis for finding a project inconsistent with a particular plan, policy, ordinance, or standard. Project compliance is demonstrated in this analysis section.

In addition, the entirety of the action must also be found to be consistent with the Housing Accountability Act. Although the City Council retains discretion to act on the Project, that discretion must be consistent with the Housing Accountability Act (the "HAA" or "Act") found at [California Government Code §65589.5](#). The HAA applies to all housing development projects, whether affordable, market rate, or mixed use.

The HAA restricts a city's ability to deny, reduce the density of, or make infeasible housing developments that are consistent with objective general plan, zoning, subdivision, and design review standards. The burden of proof is placed on the City to justify such actions based upon the following:

- Written and specific findings that the project would have "the specific, adverse impacts" defined as "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" to public health and safety as supported by a preponderance of the evidence on the record; and
- Such action is necessary to mitigate such specific and adverse impacts(Gov't Code § 65589.5(j)).

2. Design Review – Compliance with City standards

The Project requires the approval of a Design Review Permit (DR) pursuant to CVMC Section 19.14.582. The purpose of the Design Review Permit is to review grading, site design, and landscaping improvements to ensure consistency with the City of Chula Vista Design Manual and the BGSP.

As indicated previously in this report, the City Council adopted the BGSP to implement the vision of a Mixed Use residential/commercial development at this location. The adopted BGSP contains the required regulations and development standards to review and evaluate

development projects for consistency with the vision and goal for the subject area. The proposed apartment Project was reviewed and evaluated based on the BGSP's and the R-3 regulations, development standards, the Government Code and Chula Vista Design Guidelines.

Land Use Compatibility

The proposed project is consistent with the vision, objectives and policies of the General Plan and the regulations of the BGSP. Apartments and condominiums are an allowed use. The Project would develop an underutilized and unimproved site and provide additional residential units in an area that is adjacent to commercial and apartment uses. The Project would contribute to provide rental multi-family housing with an affordable component to families that would support the existing commercial base within the Bonita Glen area. The proposed project is also consistent with the BGSP, CVMC R-3 development regulations, open space and building setbacks. As shown in the table above, the Project meets all of the applicable regulations and, in cases such as parking and usable open space, the Project exceeds the minimum required.

In the case of the parking requirement, the Project is in conformance with those parking ratios as outlined within [Government Code § 65915 \(p\)](#). As allowed for in [Government Code § 65915 \(e\)](#), the Applicant has requested a waiver of the height standard related to the three and four-story building height that will have the effect of physically precluding the construction of the development to include nine affordable units for very low-income households.

Site Planning and Building Placement/Orientation

The Project was analyzed based on the design guidelines established in the City's Design Manual. Following is a set of design standards applicable to the proposed project followed by a statement indicating how the Project is consistent with those guidelines.

- *The arrangement of structures, parking and circulation areas, and open spaces should recognize the particular characteristics of the site and should relate to the surrounding built environment in pattern, function, scale, character and materials;*
- *The scale of multiple family projects should be considered in the context of their surroundings. Large projects should be broken up into groups of smaller structures and taller structures should provide increased setbacks so as not to dominate and impose on surrounding uses and the character of the neighborhood.*
- *To the extent possible, each of the dwelling units should be individually recognizable. This can be accomplished with the use of roof lines, setbacks, projections and balconies which help articulate individual dwelling units or collection of units, and by the pattern and rhythm of windows and doors.*

The design was influenced by the irregular shape of the site and its topography; including the restoration and enhancement of the existing ephemeral stream as a positive natural feature

and improving pedestrian connections across and around the site for the benefit of both existing and new residents. The overall building arrangement, parking, recreational and open space areas, and landscaping creates a balanced mix of compact buildings with ample spatial separation onsite that is complimentary with the surrounding commercial, multi-family apartments and single family homes.

The Project's single 4-story and six 3-story building structures with tucked-under parking and living space interior and above are creatively and efficiently placed on the site to be oriented to the interior and take full advantage of the site's varied topography and open/natural spaces, while creating a cohesive arrangement of buildings and uses on the site. The building structures are evenly distributed along the site in a north and south orientation to the curvilinear street. The main 4-story building with 66 units is located along the Bonita Glen Drive street frontage to establish a clear presence on the street, while framing the main entry driveway into the main building's front entrance. The site plan concept is based on creating a resort ambience by locating the pocket park, tot lot outdoor activity area with enhanced paving parking as a focal point for the main entrance. The pool, spa and recreational building are located between buildings six and seven, adjacent to the ephemeral stream channel that will have two bridges crossing over it. The natural ephemeral stream which will remain undeveloped will be restored and maintained for the passive enjoyment of the residents. The Project residents will be able to view and enjoy the natural area from recreational activity and landscaped areas, as well as from their balconies and windows. The pocket park and trail through the property will be open to the public.

The Project has been designed to integrate and blend with the context, character, and scale of the surrounding neighborhood. The Project will be a pedestrian friendly development intended to connect with the street, surrounding commercial, and the rest of the neighborhood. All interior-facing building elements are designed to support pedestrian traffic and provide the residents within the Project as well as the public with the connectivity between the site and the immediate community. One of the important features that will connect the Project internally and externally is the pedestrian walkway located along the perimeter of the site connecting all buildings with the street and beyond. The walkway will serve to provide residents with a clear and safe path to be used for daily exercise around the site and neighborhood or simply to walk from their place of residency to the street and/or the commercial areas in the vicinity.

Building Architecture

- *The architecture should consider the compatibility with surrounding character, including harmonious building style, form, size, color, material and roofline. In developed areas, the new project should meet or exceed the standards of quality which have been set by surrounding development.*
- *Heights and setbacks within the same building should be varied, and wall planes should be staggered both horizontally and vertically in order to create pockets of light and shadow and provide visual relief from monotonous, uninterrupted expanses of wall.*
- *Colors and materials should be complementary to the chosen architectural style and compatible with the character of surrounding development. Materials for multiple family*

projects should be durable and require low maintenance. They should be consistently applied and work harmoniously with adjacent materials. Piecemeal embellishments and frequent changes in materials should be avoided. Materials tend to appear substantial and integral when material changes occur at changes in planes.

- *Colors and materials should be consistent with the chosen architectural style and compatible with the character of surrounding development. Sensitive alteration of colors and materials can produce diversity and enhance architectural form.*

The architecture throughout the site is a modern adaptation of the familiar and regionally appropriate Mission Style with warm white plaster walls, deep overhangs, colorful awnings, crafted timber trellises and protective patio walls. Buildings are simple with bold articulation varied rooflines. Lighted pathways will lead through colorful and drought tolerant gardens to shared outdoor gathering spaces. The overall “feel” of the development is inspired by upscale boutique hotels and resort living.

The proposed Spanish Mission architecture is scaled to be consistent with the surrounding commercial and residential buildings. The apartment buildings will be varied with individual patio entries and tuck under parking. The building’s fenestration allows those passing by to see welcoming large windows and balconies. In addition, the buildings will feature articulated walls, color variety, different finish textures and stepped facades to maintain proper scale with its surroundings.

Private balconies and shared amenities onsite will provide many opportunities for passive and active recreation. The Project is oriented internally with the exception of the main building 7 with its inviting entry on Bonita Glen Drive. The Project is consistent with the scale and style of the adjacent commercial and apartments properties. The large residential windows and balconies help to maintain the security concept of “eyes on the street.”

Unit Count/Building Height/Setbacks

Pursuant to CVMC 19.28.070 the residential unit mix of 6 studios, 122 one-bedroom and 42 two-bedroom units is within the allowable range based on the site acreage. The subject site is 5.3 acres in area. The 170-unit mix would require 5.1 acres, which is below the 5.3 acres of the site. This unit count is permitted in the R-3 zone based on its consistency with the site acreage.

The BGSP establishes a maximum building height of 38 feet and 50 feet for architectural features. The BGSP further limits buildings within 100 feet of Vista Drive to a maximum 30 feet and 45 feet height limit for architectural projections. The project presently includes two buildings (Buildings 1 and 2 on the east) within 100 feet of Vista Drive. Although those buildings are 34 feet high as measured from their respective lower floor slab – they are 30 feet high as measured from the property line – which is significantly below the street elevation due to the sloping grades. One building (Building 7 on the west) is proposed at 56 feet and 4-stories. In accordance with Government Code § 65915(e), the Applicant has requested the waiver in height as compliance with such development standard would have the effect of

precluding the construction of the housing development with five percent of the units restricted for occupancy and affordable to very low-income households.

In terms of building setbacks, the R-3 zone also provides for the minimum building setback from property lines, as listed in the table above, namely 15 feet front and rear and 5 feet on each side. The project buildings meet or exceed these setbacks.

Open Space

The BGSP requires the provision of usable open space that can be delivered in the form of common and private space, and the Design Manual provides guidelines for the provision of open space. The open space requirement within the CVMC is 400 square-feet of open space for each residential unit. Based on the proposed 170 units, the total amount of open space required is 68,000 square-feet. The CVMC also specifies criteria for which the proposed open space must qualify. The space must be usable and must contain a minimum dimension of six feet and be no less than 60 square-feet. In addition to common recreational facilities, private patios and balconies qualify as open space. However, driveways and parking areas, as well as some walkways and building entries, do not qualify as open space.

Regarding open space, the Design Manual states that:

- *Required common open space and recreation areas are expected to be centrally and conveniently located for all of the residents. Private open spaces should be contiguous to the units they serve and screened from public view.*

The proposed project's open space meets the requirements of the BGSP, the CVMC and the guidelines of the Design Manual. The proposed project exceeds both the private and common open space requirements. The Project proposes a total of approximately 73,297 square-feet of usable common open space that includes the passive park, tot lot, pool area, dog run, trail with benches, pedestrian walkway, and other open space features around the site (see Attachment 3, Conceptual Plans). Additional open space in the form of private balconies and the passive natural drainage area were also counted toward the required open space.

Parking

The provision of very low income affordable units allows project parking to be calculated at a rate of one space per 1-bedroom and two spaces per 2-bedrooms and above pursuant to [CVMC 19.90.080 \(H\)](#) and [Government Code § 65915\(p\)](#). Based on the proposed number of residential units with mix of 6 studios, 122 one and 42 two-bedrooms, the number of parking spaces required for the Project is 212 spaces. The Project provides 223 onsite spaces for the residents and an additional 16 visitor spaces in the form of tuck under carports, podium and open parking areas. Because the proposed number of parking spaces for the Project exceeds the applicable City standard, the Project meets City's parking requirements.

3. Waivers and Incentives – State Density Bonus Law/CVMC Chapter 19.90

Affordable Housing Incentives

[State Density Bonus Law](#) requires that cities provide certain incentives to developers of affordable housing projects that meet defined levels of affordability. Cities are required to provide an increase in allowable density to those qualifying projects ([Cal Govt Code § 65915 \(b\)](#)). In addition to these density increases, developers must also be afforded the opportunity to apply for other development incentives or concessions ([Cal Govt Code § 65915\(d\)](#)), the number of which is dependent on the amount of affordable units provided and their level of affordability, waivers or reduction of developments standards ([Cal Govt Code § 65915\(e\)](#)), and reduced parking ratios ([Cal Govt Code § 65915\(p\)](#)).

To facilitate and materially assist the housing industry in providing adequate and affordable shelter for all economic segments of the community and to provide a balance of housing opportunities for very low income, low income and senior households, the City adopted [CVMC Chapter 19.90 – Affordable Housing Incentives](#), consistent with State Density Bonus Law. Should an applicant agree to construct housing units to be restricted for occupancy by very-low and low-income households as set forth in [CVMC 19.90.040](#), upon the request of the applicant, the City shall make incentives and waivers available, in accordance with [CVMC 19.90.050](#), and parking ratios in accordance with [CVMC 19.90.080 \(H\)](#).

Pursuant to CVMC Chapter 19.90, with the provision of nine (9) very low-income affordable units or five percent of the 170 total dwelling units, the Project qualifies as an affordable housing residential development. Therefore, the Project is entitled to certain benefits, including a density bonus, one development incentive, waivers and reductions in development standards, and specified parking ratios.

Density Bonus

By including five percent of the base units for very low-income households, the Project is entitled to a 20 percent housing density increase under the provisions of [CVMC 19.90.040 \(B\)](#) and [Government Code § 65915\(f\)\(2\)](#). However, the Applicant is not requesting a density bonus to achieve the affordability level for the nine very low-income units. Per Govt Code Section 65915 (f) and CVMC Section 19.90.040 (E), the Applicant can request less than, including no density increase, and still receive all other incentives, concessions, waivers, and parking.

Incentives

By including five percent of the base units for very low-income households, the Project is entitled to one development incentive under the provisions of [CVMC Chapter 19.90](#). However, the Applicant is not requesting a development incentive to achieve the affordability level for the nine very low-income units.

Waivers/Reductions in Development Standards

By including five percent of the base units for very low-income households, the Applicant may request waivers or reductions of development standards in accordance with [CVMC 19.90.080 \(F\)](#) and [Government Code § 65915\(e\)](#) in addition to any requested incentives or concessions as described above.

In order to facilitate the proposed development at the density allowed under the BGSP, State Density Bonus Law, and CVMC, the Project is requesting a waiver of the building height in order to physically construct the development allowed under the law. The Applicant is requesting a waiver from the BGSP maximum height of 30 feet with allowance for architectural projects at 45 feet. The R-3 Zone allows a maximum height of 45 feet and three and one-half stories. The project proposes six 3-story buildings at a height of 34 feet and one 4-story building at a height of 56 feet. As mentioned on page 8 and 9 of this report, a building height of 56 feet would be below the grade along Bonita Glen Drive and, as such, would not be prominent. Staff has determined the requested waiver is consistent with the intent of the [State's Density Bonus Law](#), specifically Government Code § 65915(e) and CVMC 19.90.080 (F), which requires the City to not apply such development standards that would physically preclude the construction of a housing development providing five percent of the units as restricted for occupancy and affordable to very low income households at the density proposed.

No evidence has been identified to demonstrate that the granting of the requested waiver would have an adverse impact to health, safety or physical environment that cannot be feasibly mitigated. Furthermore, the proposed waiver will not impact any historic property and would not be contrary to any state or federal law.

Waiver Findings

State Density Bonus Law requires local agencies to grant the waiver requests unless one or more of the following findings can be made to deny any waiver of development standard based on substantial evidence:

- The waiver or reduction would have a specific adverse impact upon public health and safety as defined in Government Code § 65589.5, the physical environment, including environmentally sensitive lands, 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; or,
- The incentive would be contrary to state or federal law.

If the findings above cannot be made, the waiver must be granted.

To ensure compliance with [CVMC Chapter 19.90](#) and [State Density Bonus Law](#), as a condition of approval of the Project, the Applicant will be required to execute and record an Affordable Housing Regulatory Agreement prior to the issuance of a building permit. Such Agreement will set forth the terms and conditions for the required income and rent restrictions for nine units reserved for very low-income households for a minimum compliance period of 55 years and shall be recorded as a covenant on the property. Such restrictions will bind all subsequent

owners so that the commitment remains in force regardless of ownership. Compliance with these restrictions will be subject annually to regulatory audit and certification, with an annual monitoring fee to be paid to the City.

4. Mitigated Negative Declaration

Pursuant to the CEQA Initial Study (IS-18-0001) conducted, the Project could result in significant effects on the environment regarding Air Quality, Cultural Resources, Noise, and Biology. However, revisions to the Project made by or agreed to by the Applicant as presented in the Mitigated Negative Declaration (MND) would avoid the effects or mitigate the effects to a point where clearly no significant effects would occur. The MND IS-18-0001 and Mitigation, Monitoring and Reporting Program (MMRP) were circulated for public review from December 17, 2018 through January 13, 2019. Approximately 15 comment letters were received. In accordance with CEQA Guidelines Sections 15088 and 15204, the City has independently evaluated the comments and prepared written responses describing the disposition of any significant environmental issues raised. The Response to Comments (RTC's), MND and MMRP are included as Attachments 8-10.

PUBLIC OUTREACH

Two public meetings were held to inform the public about the proposed project and receive public input—the first on September 5, 2018 and the second on October 17, 2018. Residents expressed concern about the proposed project, primarily impacts to traffic and parking along Bonita Glen Drive. In response to written correspondence and comments from the public meeting, the following project features were revised and/or established:

- The proposed project would install a sidewalk and street lights along the frontage of Bonita Glen Drive.
- The proposed project would include eight additional parking spaces, for a total of 231 parking spaces.
- The Unnamed Road cul-de-sac at the end of Vista Drive will be acquired by the Applicant and maintained as a private road, and the segment of Vista Drive north of Bonita Glen Drive and south of the Unnamed Road cul-de-sac will be brought to appropriate County of San Diego standards.
- The proposed park would be open to the public, however privately maintained by the Applicant.
- The Traffic Impact Analysis was revised to include additional roadways, in response to concerns of traffic along Hilltop Drive and Pepper Tree Road.

Staff prepared a response to the issues raised by the residents. The response matrix is attached (see Attachment 2).

Conclusion

The Project, as proposed, is consistent with the vision and requirements of the City's General Plan, BGSP, R-3 Zone, the Guidelines of the City's Design Manual and State Density Bonus Law/CVMC. The requested waiver of height pursuant to State Density Bonus Law can be justified based upon the physical characteristics of the site, considered in light of the density allowed pursuant to the law. Any potential impacts identified in the CEQA Initial Study (IS-18-0001) have been reduced through revisions to the Project made by or agreed to by the Applicant as presented in the Mitigated Negative Declaration (MND) to a point where no significant effects would occur. For purposes of the HAA, based upon the preponderance of the Administrative record, no "specific, adverse impacts" to public health and safety have been determined that would necessitate the denial of the Project or a reduction in density to mitigate such impacts.

The Project will provide new investment, modern housing facilities and site improvements that will contribute to the revitalization and enhancement of the site and the neighborhood. It will provide new rental multi-family housing with an affordable component that will improve the housing mix, expand residential opportunities and contribute to business activity in this part of the City. The proposed project is well planned, incorporating the principals of Smart Growth such as compact design, pedestrian-oriented amenities, located near transit, and resource conservation. The Project's pedestrian orientation and location near the 705 MTS route along Bonita Road will provide convenient access for residents to nearby public transportation. Based on the description and evaluation of the Project and the conclusions above, staff recommends that the Council approve the proposed Project subject to the conditions contained in the resolution.

DECISION-MAKER CONFLICT

Staff has reviewed the property holdings of the City Council members and has found no property holdings within 1,000 feet of the boundaries of the property which is the subject of this action. Consequently, this item does not present a disqualifying real property-related financial conflict of interest under California Code of Regulations Title 2, section 18702.2(a)(7) or (8), for purposes of the Political Reform Act (Cal. Gov't Code §87100, *et seq.*).

Staff is not independently aware, and has not been informed by any City Council member, of any other fact that may constitute a basis for a decision-maker conflict of interest in this matter.

LINK TO STRATEGIC GOALS

The City's Strategic Plan has five major goals: Operational Excellence, Economic Vitality, Healthy Community, Strong and Secure Neighborhoods and a Connected Community. The Project implements the Economic Vitality, Healthy Community, Strong and Secure Neighborhoods, and Connected Community Strategic goals because the Project represents an investment in the construction of new residential units and all its infrastructure that is consistent with the goals and objectives of the City's General Plan and the development

standards of the City of Chula Vista Municipal Code in a manner that ensures public health and safety of the community. The development and provision of quality housing and housing for lower income families addresses the City's Connected Community goals as it provides housing to meet residents' needs and priorities.

CURRENT-YEAR FISCAL IMPACT

All costs associated with processing the Project, including the Appeal, are borne by the Applicant, resulting in no net impact to the General Fund or Development Services Fund. The Appellant paid the required filing fee for the Appeal. Costs associated with the processing of future implementing permits, will also be recovered by permit and processing fees.

ONGOING FISCAL IMPACT

There is no ongoing fiscal impact to the City as a result of this action.

ATTACHMENTS

1. Locator Map
2. Issues Response Matrix to resident's concerns
3. Support Letters to Planning Commission
4. Additional Letters to Planning Commission
5. Memorandum to Planning Commission from Silvergate Development
6. Planning Commission Minutes
7. Appeal from Silvergate, LLC
8. Mitigated Negative Declaration
9. Response To Comments
10. Mitigation Monitoring and Reporting Program (MMRP)
11. Project Plans

Staff Contact: Stan Donn, Senior Planner