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Title: HEARING on an appeal of the County Planning Commission's denial of the Windhover Terrace Apartments Project, a 24-unit apartment building project located on Windhover Way in the unincorporated Martinez area; consider approving the project, including approving a density bonus, approving a development plan, adopting a mitigate negative declaration, and related actions; and consider approving a community benefits agreement related to the project. (County File No. CDDP21-03031) (West Coast Land Development, Inc. – Robert West, Appellant/Applicant; West Coast Land Development, Inc., Owner) (John Kopchik, Department of Conservation and Development)

Attachments: 1. Attachment A Project Findings and Conditions of Approval.pdf, 2. Attachment B Appeal on County Planning Commission's Decision.pdf, 3. Attachment C Initial Study Mitigated Negative Declaration Documents.pdf, 4. Attachment D Maps.pdf, 5. Attachment E County Planning Commission Staff Report and Attachments.pdf, 6. Attachment F Project Plans.pdf, 7. Attachment G Windhover CBA CDDP21-03031 FINAL.pdf, 8. Attachment H CDDP21-03031 Presentation.pdf, 9. Correspondence Received.pdf

Date	Ver.	Action By	Action	Result	Tally
3/26/2024	1	BOARD OF SUPERVISORS	approved	Pass	4:0

To: Board of Supervisors

From: John Kopchik, Director, Conservation and Development

Report Title: Windhover Terrace Apartments Project in the Martinez area of the County (District V)

☒ Recommendation of the County Administrator ☐ Recommendation of Board Committee

RECOMMENDATIONS:

1. OPEN the public hearing on an appeal of the County Planning Commission's decision to deny the Windhover Terrace Apartments Project, a 24-unit apartment building project located on Windhover Way in the unincorporated Martinez area; RECEIVE testimony; and CLOSE the public hearing.
2. FIND that the mitigated negative declaration prepared for the Windhover Terrace Apartments Project adequately analyzes the project's environmental impacts, that there is no substantial evidence that the project will have a significant effect on the environment, and that the mitigated negative declaration reflects the County's independent judgement and analysis.
3. ADOPT the mitigated negative declaration (State Clearing House No. 2023070169) prepared for the project.
4. ADOPT the mitigation monitoring program for the project.
5. DIRECT the Department of Conservation and Development to file a CEQA Notice of Determination with the County Clerk.
6. SPECIFY that the Department of Conservation and Development, located at 30 Muir Road, Martinez, California, is the custodian of the document and other material that constitutes the record of proceedings upon which the decision of the Board of Supervisors is based.
7. GRANT the appeal by West Coast Land and Development, Inc. - Robert West.

8. APPROVE a density bonus of two addition units for a total of 24 units, the requested concession to reduce the open space requirement, and the requested reductions in development standards related to parking stall size, parking setbacks, and number of covered parking spaces.
9. APPROVE the Development Plan for the project, including the associated variance, tree permit and requested exception from Title 9 offsite collect and convey requirements (CDDP21-03031).
10. APPROVE the findings in support of the project.
11. APPROVE the project conditions of approval.
12. APPROVE the Windhover Terrace Apartments Project.
13. APPROVE the attached Community Benefits Agreement.

FISCAL IMPACT:

The applicant has paid the necessary application deposit and is obligated to pay supplemental fees to cover all additional costs associated with the application process.

BACKGROUND:

This is a hearing on an appeal of the County Planning Commission's decision to deny a Development Plan for the Windhover Terrace Apartments Project, a density bonus 24-unit rental development in the unincorporated Martinez area. The project includes construction of a 24-unit apartment building and carport for 16 parking spaces (and 24 additional uncovered parking spaces, and installation of associated improvements (e.g. pavement, utilities, stormwater conveyance) on a vacant parcel. The project includes a variance request for a building height of approximately 34.25' (where 30' is the maximum allowed) and a driveway aisle width of 24.5' (where 25' is the minimum required). The project includes a Tree Permit for the removal of four code-protected trees and work within the dripline of three code-protected trees. The project includes two units that will be made available for rent to low-income households and one unit that will be made available for rent to very low-income households. The applicant has requested a concession to reduce the Open Space requirement from 25% to 20.5% and requested a reduction in development standards pursuant to Government Code 65915 (p) for parking ratios and 65915(e) for reduced building height, driveway aisle width, parking stall size, parking setbacks, and total number of covered parking spaces. The project includes approximately seven cubic yards of cut and 3,803 cubic yards of fill. The applicant has also requested an exception to Division 914 Collect and Convey requirements.

The project was submitted to the Department of Conservation and Development on October 12, 2021. The matter was initially heard by the County Zoning Administrator on January 23, 2023, during which the County Zoning Administrator accepted testimony and continued the public hearing to February 22, 2023, as an open public hearing. At the February 22, 2023, hearing testimony was accepted from the applicant and members of the public. After receiving testimony and considering the project analysis provided by County staff, the County Zoning Administrator approved the Development Plan with modifications and added conditions of approval. Staff received one letter appealing the Zoning Administrator's decision from Joe Hise on February 27, 2023. A summary of the appeal and staff's response can be found in the attached CPC Staff Report (Attachment D).

While processing the appeal of the Zoning Administrator's decision, staff determined that it was appropriate to conduct additional environmental review of the project under the California Environmental Quality Act. In accordance with CEQA Guidelines, Section 15071 and Section 15072, a Mitigated Negative Declaration (MND) was prepared and published for the project. The 20-day public review period for the MND started on July 11, 2023, and ended on July 31, 2023. Analysis of the public comments received can be found in the attached CPC staff report (Attachment D).

The project was subsequently heard at the August 9, 2023, County Planning Commission where the County Planning Commission voted (6-0) to grant the appeal and deny the project. The Commission made the decision to deny the project based on the inability to justify the height variance and waiver setback reduction standards for the parking spaces.

Appeal

Staff received one letter appealing the County Planning Commission's decision from the applicant, Robert West, on August 21, 2023. The appeal letter from the applicant states that the project is compliant with the State Density Bonus law and consistent with the County General Plan and Zoning Ordinance. The appeal letter is attached (Attachment B). Since that time, the applicant has prepared additional materials and agreed to several project revisions to address concerns raised by the Commission and the public. The project revisions are described below and have been incorporated into the revised project conditions of approval (Attachment A).

- The building pad height will be decreased from 39.5 feet above mean sea level to 38.5 feet above mean sea level.
- The project will remove parapet walls and will lower the third-floor plate lines from ten feet to nine feet. This change will decrease the total height of the project from 38.5 feet to approximately 34.25 feet. Staff have included this as a condition of approval which requires the applicant to submit a compliance report showing they are in compliance with the approved height (Conditions of approval #2 and #9).
- The project will add six additional parking spaces, increasing the total amount of off-street parking to 40 parking spaces. Staff have included this as a condition of approval which requires the applicant to submit a compliance report showing they are in compliance with the required number of off-street parking spaces (Conditions of approval #5 and #9).
- The project will add two communal gathering areas (benches, picnic table/ trellis) provide small groups with an outdoor space. Staff have included this as a condition of approval which requires the applicant to submit revised plans showing this change. (Condition of approval #25).
- The project will increase all six-foot-tall CMU walls to seven feet tall to address privacy, noise and light concerns. Staff has included this as a condition of approval which requires the applicant to submit revised plans showing this change. (Condition of approval #25).
- The project will include a more robust landscaping plan for the Northern property line that will require the installation of fast-growing trees to provide for a sound and visual barrier. Staff have included this as a condition of approval which requires the applicant submit plans showing this change. (Condition of approval #25).
- The applicant will preserve the existing four Olive trees on the North property line. Staff have included this as a condition of approval which requires the applicant to retain the Olive trees. (Condition of approval #27).
- The applicant has also agreed to enter into a Community Benefit Agreement with the County for a voluntary financial contribution to improve the functionality of roadway and/or parks and other public facilities near the project. The applicant's community benefit contribution is documented in condition of approval #40, and a draft agreement is attached as Attachment G.

The proposed modifications to the project will further reduce impacts to the surrounding properties and address concerns raised by the neighboring property owners, and have been incorporated into the project conditions of approval to ensure that they are implemented prior to completion of the building.

PROJECT DETAILS

Site Description

The subject parcel is approximately 0.77-acres in size (approximately 32,820 square feet) and is a rectangular shaped parcel that includes a 52' x 70' strip extending to the west connecting the parcel to Windhover Way. The parcel is located on the east side of Windhover Way, approximately 125 feet north of the Pacheco Boulevard and Windhover Way intersection in the in the Pacheco/Vine Hill area. The site is vacant and is largely covered with grass and dirt and has eight trees located around the perimeter of the parcel. There are existing curb, sidewalk, streetlights, and underground utilities along the frontage of Windhover Way. Public Works has reviewed the submittal and has indicated that the applicant will not be required to perform further widening or frontage improvements. The general topographic slope of the parcel trends downward from west to east. The elevation starts at 40 feet above mean sea level at Windhover Way and slopes down to 31 feet above mean sea level at the rear of the property. The site currently has access from Windhover Way which will continue to remain as the access point. The site contains seven trees, including the following species: London Plane, Carolina Cherry Laurel, California Black Walnut, Glossy Privet and Olive tree. There are two off-site trees located in close proximity to the project parcel that will not be removed by the project including a Siberian elm at the project frontage and a Coast Redwood towards the southeast corner.

Surrounding Land Uses

This area along Windhover Way is exclusively occupied by residential development. The adjacent parcels to the north and south host single family residences. To the east of the site is a 13-unit townhouse development. The two properties to the west both host duplexes. Approximately 316 feet northeast of the subject property is a 12-unit apartment complex. Beyond the immediate neighborhood, along Pacheco Boulevard there are a variety of residential, commercial, and retail uses including multi-family housing, restaurants, schools, storage locations, gas stations, auto repair shops, and other retail services. Parcels within the City of Martinez jurisdiction are located approximately 1,100 feet to the east of the subject parcel.

Building Description

The applicant requests approval of a Development Plan to construct a three-story, approximately 34.25 feet tall, 24-unit apartment building. The unit breakdown for the apartment building is provided in the table below. The table includes the floor, type of apartment, total number of units and average unit size.

Proposed Dwelling Unit Summary

Floor	Type of Apartment	Number of Units	Average Unit Size (gross rentable square feet)
Building 1 st Floor	Two-bedroom unit One-bedroom unit	4 two-bedroom 4 one-bedroom	830 650
Building 2 nd Floor	Two-bedroom unit One-bedroom unit	4 two-bedroom 4 one-bedroom	830 650
Building 3 rd Floor	Two-bedroom unit One-bedroom unit	4 two-bedroom 4 one-bedroom	830 650
Total		24	

The three-story apartment building will have a modern design with a flat roof with stucco siding in a sandstone

color blended in with hard shingle siding in a pearl gray color around the proposed balconies. Window trim will be vinyl style in a sand color. Each level has similar floor plan layouts, with the two-bedroom units located on the outer portions of the building and the one-bedroom units located within the interior of the floor. The building would be comprised of three segments separated by staircase breezeways, joined under one unified flat roof to minimize the overall bulk of the structure. Building design incorporates a rectangular shape to create one cohesive building from top to bottom while the open breezeway at each level adds depth and variation to the exterior of the building. The overall height of the building will be 34.25' from natural grade and will appear to be 30'-10" from finished grade.

The project also includes various other improvements including:

- Parking-related improvements for 40 parking spaces with two ADA accessible spaces and four electric vehicle charging spaces.
- Asphalt and permeable pavement are located around the building footprint.
- Landscaping would include 25 trees and numerous shrubs throughout the property for a total of 6,600 square feet of landscaping. A new six-foot fence along the rear property line and a seven-foot decorative wall along the side property lines.
- Retaining walls along the rear of the property
- Fire Hydrant
- Six long-term bicycle storage lockers and two short-term bicycle storage spaces.
- A 13'-7" tall carport that will cover 16 spaces located on the east side of the parcel.
- An 8'-8", approx. 261 square foot, trash enclosure structure.
- Four downward-oriented LED streetlight-style lights to be located near the carport to provide site security.
- Bioretention Facilities.
- Site preparation would include approximately seven cubic yards of cut and 3,803 cubic yards of fill for bioretention treatment facilities and to direct stormwater to off-site drainage infrastructure.
- Curb, gutter, sidewalk improvements, and driveway ramp would be constructed along the project frontage on Windhover Way.

Parking

In accordance with California Density Bonus Law, instead of utilizing the parking requirements of the County Zoning Code, the applicant is providing parking in accordance with Government Code Section 65915(p)(1), which states that qualifying housing developments may provide parking according to the following ratios:

- 1 Bedroom Units: 1 on-site parking space
- 2 Bedroom Units: 1.5 on-site parking space

According to these ratios, the project is required by state law to provide 30 on-site parking spaces. Here, the project will provide a total of 40 on-site parking spaces. The spaces will include 24 spaces of 9' x 17' dimension, six spaces of 9' x 18' dimension, four spaces of 7.5' x 14.5' dimension and an additional six parking spaces that will be shown on a final parking plan to be provided prior to building permit issuance. These will include compact, accessible, and electric vehicle parking. The project proposes 17 parking spaces (16 of which will be covered parking spaces) along the eastern property line, 13 parking spaces along the northern property line, and four compact parking spaces along the entrance and an additional six parking spaces that will be shown on a final parking plan to be provided prior to building permit issuance. The additional six spaces are project revisions that have been included to address neighborhood comments. In addition, six long-term bicycle

parking spaces and two short-term bicycle parking spaces will be provided.

Density Bonus

In accordance with California Density Bonus Law, pursuant to Government Code Section 65915(b), the applicant seeks a density bonus for the project. The project would provide 3 affordable units in the housing development; one made available for rent to very-low-income households and two units made available for rent to low-income households. Under state law, the project is eligible for a density bonus. The project has a maximum current density of 22 units under the General Plan Land Use Designation (Multiple-Family Residential High Density (MH)). By providing three low-income units (14%), the project is eligible for a 26% density bonus (or six additional units). The applicant has requested a density bonus to allow two additional units, for a total of 24 units.

Under State Density Bonus Law, the project is also eligible for one development incentive or concession. County Code Section 84-26.14 requires 25 percent of the area to be landscaped and not covered by building, structures, or pavement. The applicant has requested a concession to reduce the open space requirement from 25% to 20.5% open space area within the parcel.

Under State Density Bonus Law, the project may also request the waiver or reduction of development standards that would have the effect of physically precluding the development and the increased density. The applicant has requested waivers or reductions of development standards to allow a reduced 2' side yard setback (where 20' minimum is required) for parking spaces, a reduced 17.5' front yard setback (where 25' minimum is required) for parking spaces, a reduced parking stall size to allow 9' x 18' and 9' x 17' parking stalls, (where 9' x 19' is required), and 16 covered parking where one-half of the required spaces shall be covered.) The covered parking area is located along the eastern property line of the site.

Inclusionary Housing Ordinance

Under the County's Inclusionary Housing Ordinance, the inclusionary housing requirement is 3.3 units (calculated as 15% of 22 units). In addition to the 3 affordable units described above, the applicant has agreed to pay an in-lieu fee of \$48,401.10 for the remaining fractional (0.3) inclusionary unit required.

Circulation and Access

Primary vehicle access to the project site would be from Windhover Way. Windhover Way connects to Pacheco Boulevard. Both of these roads are County maintained roads. Windhover Way along the project frontage is approximately 36-foot-wide street within a 56-foot right-of-way. The driveway exiting Windhover Way and leading to the parking lot on site will be 26' wide and will lead into an emergency vehicle hammerhead turnaround. Within the parking lot, the project site will maintain a 25' parking isle width for the parking spaces along Windhover Way and a 24.5' parking aisle width for the parking spaces on the east (side) property line. The project proposes to install retaining curbs along the edge of the driveway/parking lot area.

STAFF ANALYSIS AND DISCUSSION

- A. General Plan Consistency:** The General Plan Land Use Designation for the project site is Multiple-Family Residential High Density (MH). Within this designation, the General Plan allows for 22.0 to 29.9 multiple-family units per net acre. The table below demonstrates the project's compliance with the MH General Plan designation.

Total Gross Area=	0.75 Acres
Total Net Area (80% of Gross) = (The project has no streets, highways and public rights-of-way - therefore gross acre is net)	0.75 Acres
0.75 Net Acres x MH 22 to 29.9 Units Per Acre = Units Per Net Acre	16 to 22 units allowed
Proposed Development	24 units*

* Density Bonus Request pursuant to Government Code 65915(b)(1)(A)

Thus, as proposed the multi-family project is consistent with the Contra Costa County General Plan development guidelines for the MH land use designation. In addition to projects having to comply with the General Plan Density, a project has to comply with the General Plan Policies for development within the Vine Hill/Pacheco Boulevard Specific Geographic Area, as outlined below:

The project is not located on a site or in the area of any of the General Plan policies for the Vine Hill/Pacheco Boulevard Area.

Based on the consistency with the applicable policies and land use designation standards, it has been determined that the project is consistent with the County's General Plan.

B. Housing Element Compliance: A component of preparing the County's Housing Element for the General Plan is the identification of vacant and underutilized suits suitable for residential development, and an evaluation of the housing development potential of these sites in fulfilling the County's share of the regional housing needs as determined by the Association of Bay Area Governments (ABAG).

In order to assess whether this residential development application is subject to requirements of California Government Code section 65863, staff reviewed the site inventory for the adopted 2014 Housing Element (the applicable Housing Element for the proposed project) and determined that Assessor's Parcel Number 380-220-066 is not among the parcels listed in the inventory of residential sites which were relied upon to meet the County's share of regional housing needs. This was determined when the project was deemed complete in 2022. Nevertheless, the project includes a total of 24 residential units. The project includes one-bedroom and two-bedroom units. These unit types will increase housing opportunities for different size households for different income categories. As previously stated, this project maximizes the housing density and development of the site and includes a density bonus of nine percent above the base unit density for the site. Therefore, the project will contribute towards the regional housing need for the County and provide needed housing units for the region.

C. Zoning Consistency: The site is within the M-29 Multiple Family Residential (M-29) Zoning district which identifies multiple family buildings as a permitted use. With the included variances and concessions pursuant to Government Code Section 65915(e), the application is consistent with the districts' development standards and the County Zoning Ordinance. The district's zoning development standards dictate allowable development in the area. The project would require two variances from these standards, building height and reduced driveway aisle width and would utilize the Density Bonus Request to request a concession to reduce the open space requirement and a reduction for parking stall size, parking setback and total number of covered parking spaces. To build a structure of this size to accommodate the density bonus request, variances and reduction to development standards are required

as stated below.

	Required	Proposed
Area	10,000 SF	32,830 SF
Building Height:	Maximum 30 Feet (20 Feet Within 50 Feet of SFR District)	34.25' (Building Not Within 50 Feet of SFR District) (30.83' from Finished Grade)
Front Setback:	Minimum 25 Feet	17.5' for parking spaces** Approx. 71' for building
Side Setback:	Minimum 20 Feet	3.8' for parking spaces** 20' for building
Rear Setback:	Minimum 20 Feet	21.4'
Unit Density	22 Units allowed	24 Units^
Parking Spaces:	Government Code 65915(p) 1 Bedroom Units = 1 off-street parking 2 Bedroom Units = 2 off-street parking Total = 30 off-street parking	40 Spaces**
Covered Parking:	24 (50% of Required Parking Spaces)	16**
Bike Parking Long Term Short Term	15% of Number of Bedrooms 15% x 36 Rooms = 6 5% of Number of Bedrooms 5% x 36 Rooms = 2	6 Long Term 2 Short Term
Lot Coverage:	35% Maximum Per Building (11,490 SF)	10,619 SF
Open Area:	25% Minimum	20.5%#
Landscape Coverage:	Minimum 6,100 (75% of Open Area)	6,600 SF

*Variance Request **Government Code 65915 ^Density Bonus Request #Incentive/Concessions

D. Appropriateness of Use: The proposed 22,247-square-foot, three-story, 24-unit apartment building, and associated improvements (e.g. pavement, utilities, carport, etc.) would be appropriate for the residential area. The new residential development would be consistent with the surrounding neighborhood along Windhover Way, which is comprised of single- and multi-family residential development. The project would both continue the residential development pattern in the immediate vicinity, and the infill development would create updated housing stock in the neighborhood. Furthermore, the project layout and access would provide for reasonable development with no significant or adverse effects to the surrounding community or environment. The applicant has submitted a Transportation Impact Analysis report prepared by W-Trans which concluded that the project would have a less than significant impact to existing traffic levels. Thus, the proposed use would be appropriate and harmonious with the area.

E. Inclusionary Housing Ordinance: The project is subject to Chapter 822-4. Inclusionary Housing Ordinance. Pursuant to Section 822-4.402 of the Inclusionary Housing Ordinance, a residential development of five or more units shall require at least fifteen percent of the rental units to be developed and sold as inclusionary units. The applicant is therefore required to construct 3.3 inclusionary housing

units for the project. An Inclusionary Housing Plan was received on December 20, 2022, which proposed to construct three inclusionary units. Of the affordable units, two 830 square-foot units will be available to “lower-income households”, and one 650 square-foot unit will be available to a “very low-income household.” The fractional unit would be satisfied with paying a partial in-lieu fee of \$48,401.10. This fee is included as condition of approval #13 in the conditions of approval for this project.

- F. Parking:** The project will provide a total of 40 parking spaces consisting of 9’ x 17’, 9’ x 18’, 7.5’ x 14.5’ dimensions. These will include compact, accessible and electric vehicle. The project proposes 17 parking spaces, (16 of which will be covered parking spaces) along the eastern property line, 13 parking spaces along the northern property line four compact parking spaces along the entrance and six additional spaces that will be shown on a parking plan to be provided prior to building permit issuance. As part of the applicant’s Density Bonus request, which is discussed in this Staff Report, the applicant is requesting parking ratios pursuant to Government Code 69515(p). Pursuant to Government Code 65915 (p);

Upon the request of the developer, no city, county, or city and county shall require a vehicular ratio, inclusive of handicapped and guest parking, of a development meeting the criteria of subdivision (b) that exceeds the following ratios:

- a) Zero to one bedroom: 1 off-street parking space
- b) Two to three bedrooms: 1.5 off-street parking space

Based on the number of bedrooms proposed, 30 parking spaces would be required for the project. Thus, the project proposes 40 parking spaces, which meets this requirement.

County Code 82-16.412- Bicycle Parking requires long-term and short-term bicycle parking to be provided. Multiple-family dwelling projects must provide the following:

- a) Long Term - Spaces for 15 percent of the number of bedrooms, or two spaces, whichever is greater. $15\% \times 36 \text{ Rooms} = 6$
- b) Short Term- Spaces for five percent of the number of bedrooms, or two spaces, whichever is greater. $5\% \times 36 \text{ Rooms} = 2$

Based on the number of bedrooms proposed, the project will be required to provide six long-term bicycle parking and two short-term bicycle parking. The project has indicated that they will provide a bicycle locker that will allow for six bicycles to be stored and will provide a bike rack that will allow for two bicycles to be stored. Thus, the project proposes 8 total bicycle parking spaces, which meets this requirement.

- G. Trees:** There are eight trees evaluated on the property, representing five different species. The existing trees are located along the property boundaries. The project is requesting a Tree Permit for the removal of four code-protected trees and work within the dripline of three code-protected trees. During the Zoning Administrator hearing and County Planning Commission Hearing, the Olive Trees were requested to be saved by the neighborhood. The applicant has revised the project to preserve the Olive Trees (#40, 41 and 42). County Staff has also included a condition of approval #27 to ensure that these three Olive Trees are preserved. While work within the dripline of these three Olive Trees may occur,

Staff has included condition of approval #27 to require a security for possible damage to trees intended for preservation, condition of approval #28 which prohibits removal of any tree without an approved building or grading permit and conditions of approval #29-38 which are arborist recommended best management practices. Therefore, with the required conditions of approval, the applicant will be required to preserve and protect the required trees.

- H. Stormwater Management and Discharge Control Ordinance:** A Stormwater Control Plan (SWCP) is required for applications that will create and/or redevelop impervious surface area exceeding 10,000 square feet in compliance with the County's Stormwater Management and Discharge Control Ordinance (§1014) and the County's Municipal Separate Storm Sewer System (MS4) National Pollutant Discharge Elimination System (NPDES) Permit. This project will create 23,790 square feet of impervious surface therefore a stormwater control plan is required. The applicant has provided a Preliminary Stormwater Control Plan, dated February 2022, which has been deemed preliminarily complete. However, it remains subject to future revision, as necessary, during preparation of improvement plans in order to bring it into full compliance with C.3 stormwater requirements.

Provision C.10, Trash Load Reduction, of the County's NPDES Permit requires control of trash in local waterways. To prevent or remove trash loads from municipal storm drain systems, trash capture devices shall be installed in catch basins (excludes those located within a bioretention/stormwater treatment facility). The devices must meet the County's NPDES Permit and be approved by Public Works Department. Additionally, the location must be approved by Public Works Department.

- I. Drainage:** Division 914 of the County Ordinance Code requires that all storm water entering and/or originating on this property to be collected and conveyed, without diversion and within an adequate storm drainage system, to an adequate natural watercourse having a definable bed and banks or to an existing adequate public storm drainage system which conveys the storm waters to an adequate natural watercourse.

The property slopes from the northwest corner to the southeast corner, away and considerably below street grade. Stormwater runoff from the site will be captured into the bioretention facility onsite which discharges to an existing 18" storm drain in Windhover Way, effectively diverting the onsite flows. Section 914-2.004 of the County Ordinance prohibits the diversion of surface waters from any development. The applicant has requested an exception from the Advisory Agency (Contra Costa County Public Works Department) per section 92-6.002 of the County Ordinance Code. The Public Works Department reviewed the proposed project and is not opposed to granting the applicant an exception from the collect and convey requirements of the County Ordinance Code. If the off-site conveyance system, ultimate drainage facility or natural watercourse to which stormwater is proposed to be diverted is inadequate, the applicant shall be responsible for all costs related to the construction and/or right-of-way acquisition related to any necessary improvements to make the system adequate.

- J. Traffic and Circulation:** Primary vehicle access to the project site would be from Windhover Way. The subject site fronts Windhover Way, which connects to Pacheco Boulevard, both are County maintained roads. Windhover Way along the project frontage is approximately 36-foot-wide street within a 56-foot right-of-way. There are existing curbs, sidewalk, streetlights, and underground utilities along the frontage. No further widening or frontage improvements are necessary with this development.

Based on the Transportation Impact Analysis (TIA), the proposed project will not impact the Pacheco

Blvd and Windhover Way as the report concluded that the intersection is expected to continue operation at the same Levels of Service with and without the project. The study also reviewed the projects potential generation of Vehicle Miles Traveled (VMT). According to the Contra Costa County Travel Demand Model estimates, the Countywide home-based average VMT per resident is 19.4 miles. Concurring with guidance provided in the TIA, a project located anywhere in the County which generates a VMT that is 15% or more below this value, or 16.5 miles per resident, should be expected to have very little VMT impact and would not require further VMT analysis. The TIA Table 4 states that the project VMT rate would be 16.0. Therefore, the project is expected to have a VMT per capita less than 15% below the countywide VMT per resident and no further VMT analysis is required. The Transportation Planning Section of the Department of Conservation and Development reviewed the TIA and determined that it was sufficient. Conditions of approval as recommended by the Transportation Planning Section are included as condition of approval #34 in the Findings and Conditions of approval for this project.

K. Lighting District Annexation: The subject parcel is already annexed into the L-100 lighting district and will require no further annexation.

L. Area of Benefit Fee: The applicant will need to comply with the requirements of the Bridge/Thoroughfare Fee Ordinance for the Martinez Areas of Benefit, as adopted by the Board of Supervisors. The fee shall be paid prior to issuance of building permits.

M. Drainage Area Fee and Creek Mitigation: The applicant will be required to comply with the drainage fee requirements for Drainage Area 57, as adopted by the Board of Supervisors. This fee shall be paid prior to issuance of a building permit.

N. Variance/Exceptions: The applicant is seeking a request for the following variances:

- A 34.25' building height (where 30' is the maximum allowed) pursuant to County Code Section 84-26.803.
- A reduced driveway aisle width of 24.5' (where 25' is the minimum required) pursuant to County Code Section 82-16.404(2).

The applicant is also requesting an exception to Division 914 of the County Ordinance which requires all storm water entering and/or originating on this property to be collected and conveyed, without diversion and within an adequate storm drainage system, to an adequate natural watercourse having a definable bed and banks or to an existing adequate public storm drainage system which conveys the storm waters to an adequate natural watercourse. Findings to support approval of the variance requests and exceptions are discussed in the attached Findings and Conditions of Approval.

ENVIRONMENTAL REVIEW:

Staff conducted an Initial Study (IS) assessment of potentially significant adverse environmental impacts that could result from the proposed 24-unit Windhover Apartments Project. Staff determined that although the proposed project could have some environmental impacts, these impacts would be reduced to a less than significant level with mitigations incorporated. Thus, a Mitigated Negative Declaration (MND) was prepared

and published for the proposed project.

The public review for the MND started on July 11, 2023, and ended on July 31, 2023. A further detailed analysis of the public comments received during the public review period of the MND can be found in “Attachment D - County Planning Commission Staff Report and Attachments.”

CONCLUSION:

The project is consistent with applicable goals and policies of the General Plan, and with the Multiple Family-High (MH) General Plan designation and the M-29 Zoning District. The project is consistent with the surrounding uses including surrounding single-family and multiple family uses. The design and use of the proposed apartments is consistent with the other uses in the immediate area. The project will also provide additional needed housing and affordable housing units. In addition, an environmental analysis of the project has been conducted, and it was found that the proposed project would not have a significant impact on the environment with the incorporation of specific mitigations. Therefore, Staff recommends that the Board of Supervisors grant the appeal and approve County File #CDDP21-03031, based on the attached findings and subject to the attached conditions of approval.

CONSEQUENCE OF NEGATIVE ACTION:

In the event that the proposed project is not approved, the applicant will not obtain the required Development Plan, and other entitlements necessary to allow the proposed 24-unit Windhover Terrace Apartments project in the Martinez area and could have significant negative consequences including missing an opportunity to incrementally address the need for affordable housing on a underutilized site.

ATTACHMENTS

Attachment A - Project Findings and Conditions of Approval
Attachment B - Appeal on County Planning Commission’s Decision
Attachment C- Initial Study/Mitigated Negative Declaration Documents
Attachment D - Maps
Attachment E - County Planning Commission Staff Report and Attachments
Attachment F - Project Plans
Attachment G - Community Benefits Agreement
Attachment H - Presentation Slides