



STAFF REPORT – CITY COUNCIL MEETING

January 04, 2023

TO: Honorable Mayor and City Council Members

FROM: David Loya, Director of Community Development

PREPARER: Joe Mateer, Senior Planner

DATE: November 29, 2022

TITLE: **Consider an Appeal of the Planning Commission’s Approval of the Westwood Garden Apartments Multifamily Project Located at 2351 Westwood Court.**

RECOMMENDATION:

Staff recommends the City Council open the public hearing, receive a staff report, receive a presentation by the appellant, consider the project proponent’s response, and either affirm, affirm in part, or reverse the Planning Commission’s October 25, 2022, Action.

INTRODUCTION:

The Planning Commission approved the Westwood Garden Apartment Project (Project) on September 25, 2022, after the project proponent modified the project based on input from the Commission at prior hearings. The approval was based on Findings that were ultimately approved after lengthy deliberations. The approval was appealed within the period set by the Land Use Code (Code). The appellant raised several issues concerning the Commission’s approval. This item will provide the appellant an opportunity to outline the appeal for the Council’s consideration. The Code requires the Council to hear the appeal and decide to either affirm or modify the approval or to deny the permit.

BACKGROUND:

Planning Commission’s action approved 102, one-bedroom dwelling units within 4.5 acres of the 5.2-acre property known as the Westwood Garden Apartments. The Planning Commission action included a Planned Development Permit amendment, a Tree Removal Permit, and Design Review Permit. The project included new or revised access, parking, laundry, solid waste/recycling, walkways, utilities, lighting, stormwater, and landscaping improvements to accommodate the new dwelling units. The Planning Commission action approved Land Use Code exceptions to the amount of private recreation area and yard setbacks through the Planned Development Permit process.

An appeal of the Planning Commission’s action was made on November 8, 2022 (Attachment A). The Planning Commission approved the multi-family, residential, infill project (File No. 212-027-PDP-TRP-DR) after three public hearings by adopting the action that included findings and

conditions of approval (Attachment B). The Planning Commission's staff reports and video links to the three public hearings are available on the City's website or the following links:

September 13, 2022,

http://arcataca.iqm2.com/Citizens/Detail_Meeting.aspx?ID=3426

September 27, 2022,

http://arcataca.iqm2.com/Citizens/Detail_Meeting.aspx?ID=3427

and October 25, 2022,

http://arcataca.iqm2.com/Citizens/Detail_Meeting.aspx?ID=3429

The Planning Commission's October 25, 2022, staff report is included as Attachment C. This attachment does not include the draft action to reduce redundancy. The full October 25, 2022, staff report with the draft action is available by following the meeting link above.

The City of Arcata Land Use Code (Code) chapter 9.76 specifies a planning permit decision of the Planning Commission may be appealed to the City Council. The Code indicates an appeal may be filed by an aggrieved person who, in person or through a representative, appeared at the public hearing in connection with the decision being appealed. The Code section states an appeal of a planning permit decision shall be limited to issues raised at the public hearing or in writing before the hearing, or information that was not known at the time of the decision that is being appealed. The appellant did attend and provide public testimony at the Planning Commission hearings.

According to the Code appeal section, the City Council decision on the appeal may consider any issue involving the matter that is the subject of the appeal, in addition to the specific grounds for the appeal. The City Council has the following latitude in their decision on the appeal:

- 1) Affirm the Planning Commission action and deny the appeal.
- 2) Affirm the Planning Commission action in part, in other words, modify the findings and or conditions of approval that may address issues of the appeal or other concerns not subject to the appeal.
- 3) Reverse the Planning Commission action.

The City Council's decision must be based upon Findings of Fact (Findings). The Findings outline the reasons for the decision. If new or different evidence is presented during the appeal, the Council may refer the matter to any applicable review authority for further consideration, or it may make decisions based on the new information. The City Council's action is final and effective on the date of the decision. Regardless, of the City Council's action, the applicant may re-file a new application for consideration.

DISCUSSION:

The appeal is based on several factors (Attachment A). The appellant will provide information to the Council for its consideration related to these factors at the meeting.

The Planning Commission analyzed the project for conformance with the City of Arcata's General Plan Land Use policies and goals as well and the Land Use Code zoning standards. The Planning Commission heard public testimony and deliberated on the project prior to adopting the Action that included the Findings and Conditions of Approval. The project included three discretionary permits that each required unique and specific findings. The adopted Findings are included in Attachment B.

The Planning Commission approved two exceptions to the Code development standards as authorized by Code sections 9.72.070.D.2 – Planned Development Type "B". The two exceptions

include the reduction of private recreation space and a reduction of the rear and side yard setbacks for a solid waste and recycling structure. The Planning Commission considered the exception requests and made Findings of Approval to allow the exceptions, thus, meeting the applicable standards.

ENVIRONMENTAL REVIEW (CEQA):

The Commission adopted a California Environmental Quality Act (CEQA) §15332, Class 32 - In-Fill Development Projects and Class 33, section 15333 – Small Habitat Restoration Projects Categorical Exemption as further described in the environmental review findings (Attachment B, Exhibit 1). If the Council affirms the Commission decision, no further CEQA action is required. If the Council modifies the project, Staff will provide an analysis of the CEQA implications. If the Council reverses the Commission decision and denies the project, the decision would be exempt from CEQA (projects that are not approved are not subject to CEQA).

ATTACHMENTS:

Appeal (PDF)

Adopted Planning Commission Action (PDF)

Planning Commission Staff Report 2022 10 25 (PDF)