



## PLANNING COMMISSION AGENDA REPORT

**SUBJECT:** APPEAL OF THE MINOR DEVELOPMENT REVIEW APPROVAL OF TWO, NEW PRE-MANUFACTURED SINGLE-UNIT RESIDENCES AND A PRE-MANUFACTURED ACCESSORY DWELLING UNIT ON TWO SEPARATE LOTS WITH SHARED DRIVEWAY ACCESS

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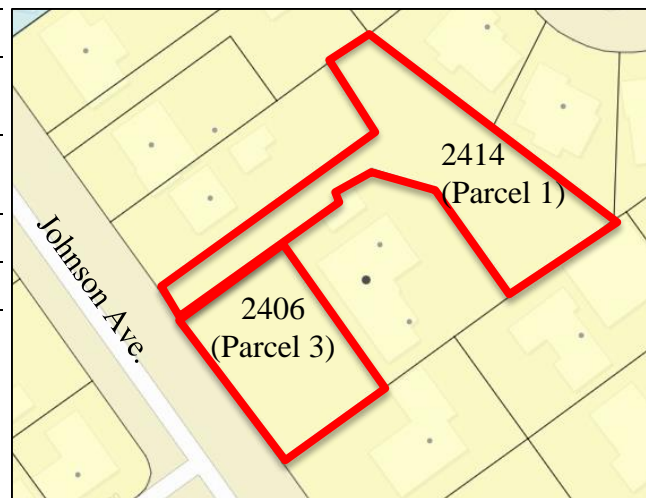
**APPELLANT:** Joe & Barbara Boud et al.

### 1.0 RECOMMENDATION

Adopt the Draft Resolution (Attachment A) entitled, “A resolution of the San Luis Obispo Planning Commission denying the appeal of the minor development review approval of two, new pre-manufactured single-unit residences and a pre-manufactured accessory dwelling unit on two separate lots with shared driveway access with a determination that the project is exempt from the California Environmental Quality Act (CEQA) as represented in the Planning Commission Agenda Report and attachments dated May 25, 2022 (2406 & 2414 Johnson, File # APPL-0182-2022).”

### 2.0 SITE DATA

|                         |   |
|-------------------------|---|
| <b>Location</b>         | 2406 & 2414 Johnson Avenue  |
| <b>Site Area</b>        | Parcel 1 - 0.4 acre; Parcel 3 - 0.25 acre   |
| <b>Site Condition</b>   | Vacant  |
| <b>Zoning</b>           | R-1 (Low density residential)   |
| <b>General Plan</b>     | Low density residential   |
| <b>Surrounding Uses</b> | <i>East: Single family residential development</i><br><i>West: Johnson Ave.</i><br><i>North: Single family residential development</i><br><i>South: Single family residential development</i> |



**Figure 1: Subject Properties**

### 3.0 SUMMARY

On February 7, 2022, the Architectural Review Commission (ARC) reviewed application No. ARCH-0383-2021 that proposes two, new, pre-manufactured, single story, single-unit residences on two separate lots that share driveway access (Attachment B, ARC Staff Report) for consistency with the Community Design Guidelines (CDG) and recommended

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that the Community Development Director find the project consistent with the CDG. Parcel 1 would contain a 3-bedroom unit with a separate 2-bedroom ADU structure. Parcel 3 would also contain a 3-bedroom residential unit that matches the structure on Parcel 1. The development project also proposes tree removals and replacements. Project plans are provided as Attachment C. On March 17, 2022, the Community Development Director reviewed the application and considered ARC's recommendation and approved the minor development project based on findings and conditions included in the approval letter (see Attachment D). On March 28, 2022, Joe and Barbara Boud et al. submitted an appeal of the Director's approval (Attachment E) based on three main areas:

1. Non-compliance and violation of the conditions of the subdivision;
2. Non-compliance and inconsistency with the City's Community Design Guidelines; and
3. That the ADU is inconsistent with objective subdivision conditions and the California State Subdivision Map Act.

#### **4.0 COMMISSION'S PURVIEW**

The Planning Commission's role is to review the project for consistency with the General Plan, [Zoning Regulations](#), [Community Design Guidelines](#) (CDG), and applicable City development standards. Planning Commission (PC) review is required for an appeal of the Community Development Director's decision.

#### **5.0 PREVIOUS REVIEW**

September 18, 2009: The Hearing Officer approved a tentative parcel map creating three lots from one lot.

October 28, 2009: The Planning Commission reviewed an appeal of the of the subdivision and denied the appeal and upheld the Hearing Officer's decision (PC Minutes, Attachment F).

January 5, 2010: The City Council reviewed an appeal of the Planning Commission's decision and denied the appeal and upheld the Hearing Officer's and Planning Commission's decisions (Council Resolution 10140 (2010 Series), Attachment G).

February 7, 2022: The ARC reviewed the project for consistency with the CDG. The ARC recommended that the Community Development Director find the project consistent with the CDG (Attachment B).

March 17, 2022: The Community Development Director reviewed the application and ARC's recommendation and approved the minor development project based on findings and conditions included in the approval letter (Attachment D).

## 6.0 PROJECT STATISTICS

**Table 1: Site Details for Parcel 1**

| Site Details                 | Proposed                                       | Allowed/Required*                  |
|------------------------------|--|------------------------------------|
| Setbacks                     |  |                                    |
| Front                        | > 20 feet (flag lot)                           | 20 feet                            |
| Side                         | 5 feet   | 5 feet                             |
| Side                         | 5 feet   | 5 feet                             |
| Northwest side               | 10 feet  | 10 feet**                          |
| Rear                         | 10 feet  | 5 feet                             |
| Maximum Height of Structures | 14.5 feet (does not exceed 406-foot elevation) | Not to exceed 406-foot elevation** |
| F.A.R.                       | 0.11   | 0.4                                |
| Number of Vehicle Spaces     | 3  | 3**                                |

\*2019 Zoning Regulations

\*\*Reso No. 10140 (2010 Series))

**Table 2: Site Details for Parcel 3**

| Site Details                 | Proposed           | Allowed/Required* |
|------------------------------|--------------------|-------------------|
| Setbacks                     |                    |                   |
| Front                        | 20 feet 8.5 inches | 20 feet           |
| Side                         | 20 feet            | 5 feet            |
| Side                         | 27 feet 8 inches   | 5 feet            |
| Rear                         | 16 feet 1 inch     | 5 feet            |
| Maximum Height of Structures | 15.5 feet          | 25 feet           |
| F.A.R.                       | 0.18               | 0.4               |
| Number of Vehicle Spaces     | 3                  | 3**               |

\*2019 Zoning Regulations

\*\*Reso No. 10140 (2010 Series))

## 7.0 PROJECT ANALYSIS

The appellants have identified several items in their Appeal Letter (Attachment E). These items are summarized and listed below with staff's response provided in italics.

Comment #1: The project proposes cutting into the slope to establish a site for prefabricated residential unit on Parcel 1.

*Response: The Engineering Division reviewed the proposed grading for the prefabricated residential unit on Parcel 1 and, as conditioned, found that proposed grading activities comply with City's Engineering Standards.*

Comment #2: The project does not consider site layout/design based on the existing trees located on the site.

*Response:* The project application includes a Report from a Certified Arborist dated August 11, 2021, that identifies the proposed tree removals for the project with descriptions of the species, sizes, locations, and health of each of the trees on Parcels 1 and 3 within the proposed construction areas. The City Arborist reviewed the proposed tree removals and landscape plans per Municipal Code Chapter 12.24, Tree Regulations, and determined that, as conditioned, the proposed tree removals and landscape plan is consistent with the Tree Regulations.

*Comment #3:* The prefabricated residential units have no character or identity with the neighborhood.

*Response:* As noted in Findings of Approval #6 & 7, the Director, with a recommendation from the ARC, found the project consistent with Community Design Guidelines (CDG), in particular, Chapter 2, General Design Principles, Section 2.2, Building Design and Chapter 5, Residential Project Design, Section 5.3 Infill Development. The CDGs and Zoning Regulations contain no guidelines or other prohibitions on prefabricated residential buildings, which have been successfully installed in other locations of the City. Figure 1 includes images of the residential structures that are located adjacent and across the street from the project site along Johnson Avenue.



**Figure 1: Images of residential structures located adjacent and across the street from the proposed site.**

Comment #4: There are no height restrictions on Parcel 3. Development of a two-story structure would require less landscape removal and less site disturbance. Fit the Site.

Response: Parcel 3 is located within the R-1 zone that has a height restriction of 25 feet and maximum lot coverage of 40 percent ([Zoning Regulations Chapter 17.16](#)). A residential unit for the site could be constructed to the maximum height of 25 feet but may or may not require less landscape removal or site disturbance depending on the overall size of the unit. As proposed, the project is a single level, residential unit that has a maximum height of 15 feet, 3 inches and occupies 17 percent of the total site and complies with the standards required of an R-1 zoned property.

Comment #5: The subdivision map clearly delineates a building envelope on the Tentative Map on both Parcels 1 & 3. The building envelope was modified by the Planning Commission, requiring the rear yard envelope to be reduced to 10-feet (shrinking the building envelope an additional five feet) (see Attachment E, Exhibits A, B & C that show the Tentative Map delineating these envelopes). Recognition of this building envelope is an essential component of the Tentative Parcel Map approval. It is not unusual for the term "building envelope" and "building footprint" to be comingled, however, the 3/17/22 approval with Findings #2c seem to ignore this interplay of terminology. There was no building footprint identified during the approval of the Tentative Parcel Map, however there was a delineated building envelope.

Response: The Planning Commission's denial of the appeal for the subdivision proposed in October 2009 was appealed to the City Council and the Council Agenda Report (Attachment H) provided a response to appellant's concern about slope and how that would be managed by reducing the building envelope. Staff wrote in the report, "The Planning Commission has required that the final map indicate a precise building "footprint" that is setback at least ten feet from the northeast property line to mitigate privacy impacts to surrounding neighbors" (Attachment H, Page 3, Response #1). The report italicizes the word "footprint," when the word envelope had been earlier used to refer to appellant's concern about slope. This is not a typo, but rather the word change and the use of italics conveys that the Planning Commission was not convinced by the appellant's argument to reduce the building envelope, and instead eliminated the envelope idea and required that the final map only indicate a building footprint with a 10 foot setback. Therefore, in this case, the terms "footprint" and "envelope" are not interchangeable or comingled. Further, the Community Development Director found the Final Map (Attachment I) to be in conformance with the tentative map and approved the Final Map in June 2017. The Final Map does not show a building envelope but does list the conditions and code requirements from Council Resolution 10140 (2010 Series).

In reviewing the development plans, the Director found that the proposed single-family residence located on Parcel 1 is consistent with Council Resolution 10140 (2010 Series) Condition of Approval, No. 3 and the Final Map because it is setback at least 10 feet from the northeast property line.



Comment #6: The proposed site plan for the project shows three spaces on Parcel 1 and two tandem spaces on Parcel 3, with a guest space along the northern boundary. Presently, Parcel 2 uses the fire turn pocket between Parcels 2 & 3 that, per conditions of approval, is a fire access driveway and restricted from parking. Parcel 2 has no other parking identified, garage or surface, on-site. City Council Resolution 10140, Condition of Approval #4 requires parking to be identified on Parcel #1 and Condition #26 requires parking access and maneuverability. The fire turn-around area between Parcels 2 & 3 will become a parking area and Parcels 1, 2 & 3 will load up the driveway with vehicles. In the event of a structural or wildland fire, how are neighboring properties protected.

Response: *Per City Council Resolution 10140, Condition of Approval #4, Parcel 1 provides one additional on-site guest parking space adjacent to the two required parking spaces and Parcel 2 provides two required parking spaces and one additional on-site guest parking space in tandem to one of the required parking spaces. Condition #11 states that “The improvement plans shall show the location of the proposed parking spaces to serve the existing developed Parcel 2 in accordance with the zoning regulations and the Parking and Driveway Standards.”*

*Although the proposed project does not include review of the improvement plans for Parcel 2, staff has confirmed that Parcel 2 has space available outside of the Emergency Access Easement for parking. Additionally, all vehicles accessing parcels 1, 2, & 3 along the common driveway must adhere to the “Fire lane, no parking” signs that are currently installed on the site. A person may report a vehicle parked in a fire lane to the Fire Department or the Police Department.*

Comment #7: In reviewing the CDG Chapters 2, 5 & 6, the appellant has identified several inconsistencies with the ARC staff report and the Director’s Findings of Approval. These inconsistencies are outlined the Appellant’s Letter, Attachment F, pages 5-9.

Response: *The proposed project was reviewed by the Architectural Review Commission and the Community Development Director and found to be consistent with the CDG Chapter 2, General Design Principles, Section 2.2 and Chapter 5 as detailed in the findings of the Director’s Approval Letter (Attachment D). In addition, the appellant notes inconsistencies with open space and natural features, retaining walls, landscape design guidelines, and grading as discussed in Chapter 6 of the CDG. These design guidelines must be considered along with specific City standards and requirements. As noted in comments #1 and #2, the Engineering Division and the City Arborist reviewed the project and, as conditioned, found that the proposed grading activities, including the use of retaining walls, and tree removals are consistent with the City’s Engineering Standards and Tree Regulations.*

Comment #8: The proposed Accessory Dwelling Unit (ADU) does not comply with objective development standards that were established in the approval of the Tentative Parcel Map (specifically, the ADU does not comply with the building envelope as discussed in Comment #5), in accordance with the CA Subdivision Map Act 66410.

*Response: An ADU is not subject to discretionary review per Government Code Section 65852.2, which expressly states that ADUs that comply with applicable development standards are subject to ministerial review and cannot be required to go through discretionary reviews. Per state law, the proposed ADU can only be evaluated against the City's ADU ordinance that complies with Section 65852.2, and no other "local ordinance, policy, or regulation" (i.e., conditions of approval). In addition, if the ADU could be evaluated against Council Resolution 10140 (2010 Series) Conditions of Approval, the comment is meritless because the ADU complies with all development standards, including those set forth in the Municipal Code and the 10-foot setback required by Condition of Approval, No. 3.*

Comment #9: Testimony at the ARC hearing indicated that this project would provide much needed affordable housing opportunities. The City staff responded by noting that "this project is not providing deed restricted affordable housing development. Comments were made at the ARC that the City has a major city goal to support housing development, including affordable housing." The proposed project will be rented. There are no proposed deed restrictions regarding sale value, nor is there any proposal related to affordable future rent and/or lease.

*Response: The staff report and presentation by staff did not identify that any of the units were affordable or required to be affordable. Although the project does not and is not required to provide deed restricted affordable units, it does provide housing and is consistent with the City's Major City Goal regarding Housing and Homelessness<sup>1</sup> and [Housing Element](#) policies 2.4, 4.4, 6.1, and 6.8 which focus on facilitating the production of all types of housing in compliance with the City's Zoning Regulations, and other applicable City codes and standards. The City does not evaluate housing based on the type, ownership or rental, or affordability unless the project is required to include affordable units.*

## 8.0 ENVIRONMENTAL REVIEW

The project is categorically exempt from the provisions of the California Environmental Quality Act (CEQA) (Class 32, Infill Exemption) because the project is consistent with General Plan policies for the land use designation and is consistent with the applicable zoning designation and regulations. The project site occurs on a property within city limits, of no more than five acres, substantially surrounded by urban uses, with no value as habitat for endangered, rare, or threatened species. Based on compliance with existing regulations, approval of the project would not result in any significant effects relating to noise, air quality, or water quality, and is served by required utilities and public services. The project has been reviewed by the City Public Works Department, Transportation Division, and no significant traffic impacts were identified, based on the size and location of the project.

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<sup>1</sup> In order to expand housing options for all, continue to facilitate the production of housing, including the necessary supporting infrastructure, with an emphasis on affordable and workforce housing. Collaborate with local non-profit partners and the county, the state, and federal governments to discover and implement comprehensive and effective strategies to reduce chronic homelessness

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### **9.0 OTHER DEPARTMENT COMMENTS**

The project has been reviewed by various City departments and divisions including Planning, Engineering, Transportation, Building, Utilities, and Fire. Staff has not identified any unusual site conditions or circumstances that would require special conditions. Other comments have been incorporated into the draft resolution as conditions of approval.

### **10.0 ALTERNATIVES**

- 10.1 Continue the action. An action to continue the item should include a detailed list of additional information or analysis required to make a decision.
- 10.2 Uphold the appeal and deny the project. An action denying the project should include findings that cite the basis for denial and should reference inconsistency with the General Plan, Community Design Guidelines, Zoning Regulations or other policy documents.

### **11.0 ATTACHMENTS**

- A - Draft Resolution denying the appeal of the Director's approval of the project (APPL-0182-2022)
- B - ARC Staff Report (APPL-0182-2022)
- C - Project Plans (APPL-0182-2022)
- D - Director Approval Letter (APPL-0182-2022)
- E - Appeal Letter (APPL-0182-2022)
- F - Planning Commission Minutes of October 28, 2009
- G - Council Resolution 10140 (2010 Series)
- H - Council Agenda Report of January 5, 2010
- I - Final Map SLO 09-0074