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M E M O R A N D U M

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CC: Brian D’Andrea
FROM: Elisa L. Paster and Stephanie M. DeHerrera
DATE: July 7, 2021
SUBJECT: Century Villages at Cabrillo Specific Plan Compliance with Assembly Bill 2162

Our client, Century Housing (“Applicant”), proposes a specific plan that provides supportive housing with associated supportive service uses, educational spaces, and commercial and retail uses (“Specific Plan”) at the existing Century Villages at Cabrillo housing development located at 2001 River Avenue (“Property”) in the City of Long Beach (“City”). Applicant has submitted an application for approval of a Specific Plan. The Specific Plan would be exempt from CEQA, and an EIR would not be required, should the Specific Plan qualify for ministerial approval under Assembly Bill 2162 (“AB 2162”). While the Applicant intends to complete the EIR and present it to the City in connection with approval of the Specific Plan, the Applicant also desires to show that the Specific Plan qualifies for a CEQA exemption under AB 2162 as a supplemental path to CEQA compliance. As set forth in this memorandum, the Specific Plan qualifies for ministerial approval under AB 2162 and we respectfully request that the City process a CEQA exemption.

I. Property and Project Description

The Property is approximately 27 acres and is bordered by Cabrillo High School and associated campus facilities to the north and east; California State Long Beach Technology and industrial uses (warehouse, distribution and logistics) to the south; Long Beach Job Corps Center to the east; and industrial uses (warehouse, distribution and logistics) to the west, across State Route 103 (“SR-103”). The San Pedro Branch railroad and Southern California Edison’s electricity transmission corridor are also to the west, across SR-103. The Ports of Long Beach and Los Angeles are to the south.

The Specific Plan will guide the redevelopment of the portions of the Property that currently consist of the former navy housing stock, transitioning the collection of antiquated structures and underutilized areas to modern affordable housing and service facilities along with key site improvements. Specifically, the Specific Plan involves the demolition of 235 existing dwelling units, 10,030 square feet (“sf”) of amenities, 10,200 sf of educational uses and 7,250 sf of administrative and supportive services, and the removal of 155 parking spaces. New development under the

Specific Plan will include 750 supportive housing units, 77,000 sf of amenities, 15,000 sf of educational uses, 17,000 sf of commercial and retail uses, 48,000 sf of administrative and supportive services, and 460 parking spaces. Accordingly, buildout of the Specific Plan will result in a total of 1,380 supportive housing units, 79,350 sf of amenities, 15,000 sf of educational uses, 22,850 sf of commercial and retail uses, 67,050 sf of administrative and supportive services, and 825 parking spaces.

II. AB 2162

AB 2162 establishes Government Code Section 65650 *et seq.*, which requires that local agencies allow as a use by right supportive housing¹ in zones, including nonresidential zones, where multifamily and mixed uses are permitted if the proposed housing development satisfies the following criteria:

- One hundred percent of the units, excluding managers' units, within the site are restricted to lower income households² and are or will be receiving public funding to ensure affordability of the housing to lower income Californians; and all affordable units are subject to a recorded affordability restriction for 55 years.
- At least 25 percent of the units are restricted to residents in supportive housing who meet criteria of the target population.³
- At least 3 percent of the total nonresidential floor area shall be provided for onsite supportive services⁴ that are limited to tenant use, including, but not limited to, community rooms, case management offices, computer rooms, and community kitchens; and the developer provides documentation demonstrating that supportive services will be provided onsite to residents in the project, and

¹ "Supportive housing" means housing with no limit on length of stay, that is occupied by the target population, and that is linked to an onsite or offsite service that assists the supportive housing resident in retaining the housing, improving his or her health status, and maximizing his or her ability to live and, when possible, work in the community. (Gov. Code §§ 65650, 65582.) See FN 3 for definition of "target population."

² "Lower income households" means persons and families whose income does not exceed the qualifying limits for lower income families as established and amended from time to time pursuant to Section 8 of the United States Housing Act of 1937. The limits shall be published by the department in the California Code of Regulations as soon as possible after adoption by the Secretary of Housing and Urban Development. In the event the federal standards are discontinued, the department shall, by regulation, establish income limits for lower income households for all geographic areas of the state at 80 percent of area median income, adjusted for family size and revised annually. (Gov. Code § 65651, HSC § 50079.5.)

³ "Target population" means persons, including persons with disabilities, and families who are "homeless," or who are "homeless youth." (Gov. Code § 65650, HSC § 50675.14)

⁴ "Supportive services" include, but are not limited to, a combination of subsidized, permanent housing, intensive case management, medical and mental health care, substance abuse treatment, employment services, and benefits advocacy. (Gov. Code §§ 65650, 65582.)

describing those services, including: the name of the proposed entity or entities that will provide supportive services; the proposed funding source or sources for the provided onsite supportive services; and the proposed staffing levels.

- All units that are, or in the five-years have been, subject to restrictions requiring rent be affordable to lower income households, or are occupied by lower income households be replaced with at least the same number of units of equivalent size (i.e., at least the same total number of bedrooms) and made available to households in the same income category as those households currently or last occupied.⁵
- Units within the development, excluding managers' units, include at least one bathroom and a kitchen or other cooking facilities, including, at minimum, a stovetop, a sink, and a refrigerator.

(Gov. Code § 65651.)

As discuss in the last section of this memorandum, if a project meets all the above criteria under AB 2162, it qualifies for ministerial approval, and thus is exempt from CEQA.

III. Project Compliance with AB 2162

Below, we demonstrate how the Project meets each of the criteria described above, which qualifies it for ministerial approval under AB 2162.

A. Location Requirement

The Specific Plan is located in a zone where multifamily and mixed uses are permitted. The Property is currently developed with residential uses and is zoned Planned Development District 31⁶ ("PD-31"), Subarea D. Subarea D, "promotes the adaptive reuse of the existing housing and support facility buildings for the express purpose of providing transitional housing and support services to the homeless veterans and the homeless population of the Long Beach metropolitan area." (PD-31, p. 6.) Further, the new Specific Plan, will expressly permit residential and mixed uses.

B. Affordability Requirement

⁵ The replacement requirement is fully described in Gov. Code § 65915(c)(3).

⁶ The ordinance implementing PD-31 is available at <http://www.longbeach.gov/globalassets/lbds/media-library/documents/planning/current/zoning-ordinances/pd-31--cabrillo-long-beach> (last accessed 04/29/21).

All 1,380 units within the Specific Plan will be made affordable to lower income households, and will be subject to a recorded affordability restriction of 55 years. Both the level of affordability as well as the length of the recorded affordability restriction will be required as part of the Specific Plan conditions of approval.

C. Target Population Requirement

At least 25 percent of the 1,380 units within the Specific Plan will be occupied by members of the target population, including homeless veterans, homeless seniors, and homeless individuals and families. This minimum target population occupation rate will be required as a Specific Plan condition of approval.

D. Supportive Services Requirements

The Specific Plan will provide 36 percent of the total proposed nonresidential floor area to supportive services. Specifically, the Specific Plan will provide a total of 184,250 sf of nonresidential uses, of which 67,050 sf will be dedicated to supportive services. The supportive services will include an expansion of what currently exists onsite, including, but not limited to, case management offices, a health clinic, workforce development, veteran services, a community center, classrooms and a teaching kitchen. The remaining nonresidential floor area within the Specific Plan will be dedicated to amenities and commercial uses that will be used primarily by Specific Plan residents, including, but not limited to, convenience stores, and a daycare and preschool.

E. Replacement Requirement

The Specific Plan will replace all existing units with an equal number of units of the same bedroom count and of the same level of affordability as the existing or last occupied households. This will be required as a condition of approval for the Specific Plan.

F. Unit Requirement

Every unit within the Specific Plan will include at least one bathroom and a kitchen or other cooking facilities, including, at minimum, a stovetop, a sink, and a refrigerator. This will be required as a condition of approval for the Specific Plan.

IV. Project Exemption from CEQA

AB 2162 explicitly exempts projects that meet all the applicable criteria from CEQA. The phrase “use by right” as defined in AB 2162 prohibits the City from requiring a conditional use permit, planned unit development permit, or other discretionary local review or approval that would constitute a “project” for purposes

of CEQA. (Gov. Code §§ 65650, 65583.2.) The City may require design review, however, that design review also cannot constitute a “project” for purposes of CEQA. (Gov. Code §§ 65650, 65583.2.)

CEQA only applies when the City considers approval of a “project,” which it defines as, “an activity which may cause either a direct physical change in the environment, or a reasonably foreseeable indirect physical change in the environment, and which is any of the following:

- a) An activity directly undertaken by any public agency.
- b) An activity undertaken by a person which is supported, in whole or in part, through contracts, grants, subsidies, loans, or other forms of assistance from one or more public agencies.
- c) An activity that involves the issuance to a person of a lease, permit, license, certificate, or other entitlement for use by one or more public agencies.”

(Pub. Res. Code §§ 21080, 21065.) CEQA only applies to *discretionary* projects, but does not apply to *ministerial* projects. (Pub. Res. Code § 21080; 14 C.C.R. §§ 15357, 15369.) In determining whether the Specific Plan meets the AB 2162 criteria, the City will only use fixed standards or objective measurements, and cannot use personal, subjective judgment. This type of decision-making constitutes ministerial consideration. Accordingly, the definition of the phrase “use by right” effectively exempts from CEQA all projects that meet the AB 2162 criteria. Because the Specific Plan meets all the AB 2162 criteria, it qualifies for ministerial approval as a use by right, and thus, is exempt from CEQA.