SAUSALITO PLANNING COMMISSION RESOLUTION NO. 2021-16

A RESOLUTION APPROVING A TENTATIVE MINOR SUBDIVISION MAP AND A CONDOMINIUM CONVERSION PERMIT TO CONVERT AN EXISTING DUPLEX AT 195-197 HI VISTA ROAD INTO TWO SINGLE-FAMILY CONDOMINIUM UNITS (TM/CCP 2019-00080)

WHEREAS, on April 9, 2019 an application was filed by property owners at 195-197 Hi Vista Road, requesting Planning Commission approval of a Tentative Minor Subdivision Map and a Condominium Conversion Permit to convert an existing duplex at 195-197 Hi Vista into two one-family condominium units for individual sale and use (APN 065-311-12); and

WHEREAS, the Planning Commission conducted a duly-noticed public hearing on June 2, 2021, at which time all interested persons were given an opportunity to be heard; and

WHEREAS, the Planning Commission has reviewed and considered the project plans; and

WHEREAS, the Planning Commission has considered all oral and written testimony on the subject application; and

WHEREAS, the Planning Commission has reviewed and considered the information contained in the staff report dated June 2, 2021 for the proposed project; and

WHEREAS, the Planning Commission finds that the project is categorically exempt from California Environmental Quality Act (CEQA) pursuant to Section 15301 of the CEQA Guidelines; and

WHEREAS, the Planning Commission finds that, as conditioned herein, the proposed project complies with the requirements of the General Plan and Zoning Ordinance as described in the staff report dated June 2, 2021.

NOW, THEREFORE, THE PLANNING COMMISSION HEREBY RESOLVES:

 A Tentative Minor Subdivision Map and a Condominium Conversion Permit to convert an existing duplex at 195-197 Hi Vista Road into two single-family condominium units for individual sale and use are approved based upon the findings provided in Attachment 1, and subject to the conditions of approval provided in Attachment 2. The project plans are provided in Attachment 3.

RESOLUTION PASSED AND ADOPTED, at the regular meeting of the Sausalito Planning Commission on the 2nd day of June, 2021, by the following vote:

AYES: Commissioner: Graef, Junius, Luxenberg, Saad, Chair Feller

NOES: Commissioner: None ABSENT: Commissioner: None Commissioner: None Commissioner: None

<u>Lilly Whalen</u> Lilly Whalen

Secretary to the Planning Commission

ATTACHMENTS

- 1- Findings
- 2- Conditions of Approval
- 3- Project Plans

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June 2, 2021 TM/CCP 2019-00080 195-197 Hi Vista Road

ATTACHMENT 1: FINDINGS

CONDOMINIUM CONVERSION FINDINGS

Pursuant to Zoning Ordinance Chapter 10.66 (Condominium Conversion Permits), the condominium conversion permit is approved based on the following findings:

1. The Planning Commission has received and reviewed an overall assessment report from the Community Development Department regarding the general condition of all buildings and listing all code violations.

The Physical Elements Report, including a pest control report and soils reports, indicate that the structural condition of the residential structure and related site improvements are in acceptable condition and do not pose any imminent threats to habitation. No code violations are reported for the property.

2. Factors identified in Section 10.66.040 (Public Notice and Hearing) have been fully considered by the Planning Commission.

The Tentative Map and Condominium Conversion Permit have been fully analyzed by the project staff report and considered by the Planning Commission at a publicly-noticed hearing in which all interested persons were provided an opportunity to comment.

3. The condominium project will conform to all applicable laws, ordinances and regulations, including but not limited to those pertaining to housing, building, fire and subdivision.

The subject property conforms to the use and density limits of the R-2-2.5 District and is legally conforming with regard to the development standards of the Zoning Ordinance, pursuant to Section 10.40.030. Furthermore, Section 10.66.060, Conditions of Approval, requires standard conditions of approval to ensure conformity with all applicable laws relating to public health and safety, in addition to ordinances and regulations.

4. The condominium project conforms to the Sausalito General Plan.

The existing General Plan policies and implementing programs regarding condominium conversions and housing opportunities are concerned with limiting the conversion of rental units in the City, protecting tenants and prevents the conversion of low and moderate income rentals. Displacement of tenants and loss of deed-restricted affordable housing is not applicable to 195-197 Hi Vista because the duplex units are both owner occupied and have been since the property was sold in 2016. While the conversion to a condominium will change the tenancy from rental to ownership conversion will not remove dedicated affordable housing in place nor displace low-income tenants. As five percent of the "potentially convertible rental stock" is 112 units, the subject project is requesting to convert 2 units and is the second condominium

conversion considered by the Planning Commission in 2021. On May 5, 2021, the Planning Commission approved the condominium conversion of 2 units at 37-39 Crescent Avenue. Approval of the condominium conversion at 195-197 Hi Vista will bring the total for 2021 to 4 units or .177% of total rental stock, the proposed condominium conversion is therefore consistent with all applicable General Plan policies.

5. The City approves the declaration of restrictions required by California Civil Code SS 1355 for the project, as specified in Section 10.66.060 (Conditions of Approval).

Conditions of Approval require that prior to recordation of a Final Parcel Map, the property owners submit final condominium association by-laws (i.e., CC&R's) for review and approval by the City of Sausalito.

6. Approval of the proposed condominium project will not adversely affect the provision of adequate housing for all segments of the community, and adequate replacement housing for displaced tenants is available. The vacancy rate for comparable units shall be considered in evaluating the adequacy of replacement housing.

Displacement of tenants is not applicable to 195-197 Hi Vista Road because the duplex units are both owner occupied and have been since the property was sold in 2016. Conversion therefore will have no impact on dedicated affordable housing or displacement of low-income tenants.

7. No deficiency of multiple family rental housing and two-family rental dwelling units exists within the City of Sausalito, consistent with the Housing Element.

The 2015-2023 Housing Element, indicates that Sausalito's 2010 housing stock consists of 4,536 housing units, of which roughly half are single family attached and detached homes and condominiums, and half are multi-family apartment units, duplexes and triplexes. Based on this information and the information contained in the staff report, there is no evidence that a deficiency of multiple family rental housing will occur with the subject Condominium Conversion Permit.

8. All provisions of this article are met; or the minimum number of parking spaces required by this article is being met, and existing nonconformities are not being increased, and to the greatest extent practicable, some existing nonconformities are being decreased

The project meets all development standards including parking with each unit providing a two carport. The conversion will result only in a change of the form of ownership of the property from tenancy-in-common ownership to condominium ownership.

9. The overall design and physical condition of the condominium conversion achieves a high degree of appearance, quality and safety.

The purpose of the Condominium Conversion Permit is to create air-space diagrams in order to subdivide the City of Sausalito approved existing duplex into two legal individual units for sale and use. There are no exterior modifications associated with the subject condominium conversion.

10. The proposed project will not convert during the current calendar year more than 5% of the potentially convertible rental units in Sausalito except as otherwise provided in this article, consistent with Section 10.66.150 (Effect on City's Low and Moderate-Income Housing Supply).

According to 2015-2023 Housing Element, Sausalito's 2010 housing stock shows that roughly half of Sausalito's housing units are rentals (2,268). Staff evaluated the number of new rental units approved since the 2010 census (6 units) and the number of units approved to be converted to condominiums since the 2010 census (20 units). Therefore, the "potentially convertible rental stock" is 2,254 and 5% of the stock is 112 units. This finding would allow a maximum of 112 rental units (5%) to be converted in a calendar year. The subject project is requesting to convert 2 units. This is the second condominium conversion considered by the Planning Commission in 2021. On May 5, 2021, the Planning Commission approved the condominium conversion of 2 units at 37-39 Crescent Avenue (included in conversion count above). Approval of the condominium conversion at 195-197 Hi Vista will convert a total of two units which would result in four total units being approved for conversion in this calendar year, or 0.177% of total rental stock, and therefore the project complies with the Zoning Ordinance requirements of a conversion of no more than 5% of the potentially convertible rental stock in one calendar year.

11. Vacancies in the project have not been intentionally increased for the purpose of preparing the project for conversion.

The existing duplex is owner occupied and has been since acquisition in 2016.

12. There has been no new construction over 300 square feet within the past three (3) years.

No new construction over 300 square feet has occurred within the past three years.

13. The project will not result in the eviction of a senior citizen tenant.

The units are owner occupied, and the condominium conversion will not result in the eviction of a senior citizen tenant.

14. The project will not result in a loss of low and moderate income housing stock of the City.

The duplex was built in 1965 and has been owner occupied since 2016, and therefore the conversion will not result in a loss of low and moderate income housing stock of the City

SUBDIVISION MAP ACT FINDINGS

In accordance with Government Code Section 66473.5, the Planning Commission finds:

1. The subdivision is consistent with the General Plan.

The existing General Plan policies and implementing programs regarding condominium conversions and housing opportunities are concerned with limiting the conversion of rental units in the City, protecting tenants and prevents the conversion of low and moderate income rentals. Displacement of tenants and loss of deed-restricted affordable housing is not applicable to 195-197 Hi Vista Road because the duplex units are owner occupied and have been since 2016. While the conversion to a condominium will change the tenancy from rental to ownership conversion will not remove dedicated affordable housing in place nor displace low-income tenants. As five percent of the "potentially convertible rental stock" is 112 units, the subject project is requesting to convert 2 units and this is the second condominium conversion considered by the Planning Commission in 2021. On May 5, 2021, the Planning Commission approved the condominium conversion of 2 units at 37-39 Crescent Avenue. Approval of the

condominium conversion at 195-197 Hi Vista will convert a total of two units which would result in four total units being approved for conversion in this calendar year, or 0.177% of total rental stock, and therefore there is no conflict with the project and the limits on the number of conversions the City can approve in a year. The proposed condominium conversion is therefore consistent with intent of the General Plan policies

In accordance with Government Code Sections 66412.3 and 66473.1, the Planning Commission finds:

2. Local agencies shall consider the effect of the approval or denial on the housing needs of the region in which the local jurisdiction is situated and balance these needs against the public service needs of its residents and available fiscal and environmental resources.

The proposed subdivision will not increase the local housing supply nor public service needs as no new residences are proposed. The conversion will result only in a change of the form of ownership of the property from tenancy-in-common ownership to condominium ownership. No physical improvements or modifications are included within the project.

3. The design of the subdivision shall provide, to the extent feasible, for future passive or natural heating or cooling opportunities in the subdivision. California Government Code (Section 66474) requires that the local agency disapprove a tentative map if it makes anyone of the following findings:

The proposed subdivision will not alter the existing structures or their potential for future passive heating or cooling.

Government Code Section 66474 requires the local agency disapprove a tentative map if it makes any one of the following findings. In accordance with Government Code Section 66474, the Planning Commission finds:

4. That the proposed map is not consistent with applicable general and specific plans.

The subdivision map is consistent with the General Plan. No specific plan exists for this area.

5. That the design or improvement of the proposed subdivision is not consistent with applicable general and specific plans.

The subdivision map does not include new improvements which are inconsistent with the General Plan or any applicable specific plan.

6. That the site is not physically suitable for the type of development.

The project site is already developed with an existing duplex and there are no proposed alterations to the existing structure and/or land. Therefore, by the fact that the duplex already exists and there have been no detrimental impacts to the site as a result of the duplex, the project can be considered physically suitable for the condominium conversion which will create the legal separation of the units.

7. That the site is not physically suitable for the proposed density of development.

The units conform to the density of the R-2-2.5 District and other development standards of the Page 6

site and zone district.

8. That the design of the subdivision or the proposed improvements are likely to cause substantial environmental damage or substantially and avoidably injure fish or wildlife or their habitat.

The subdivision map does not include new improvements to the existing structures on the subject parcel.

9. That the design of the subdivision or type of improvements is likely to cause serious public health problems.

The subdivision map does not include new improvements to the existing structures on the subject parcel.

10. That the design of the subdivision or type of improvements will conflict with easements, acquired by the public at large, for access through or use of, property within the proposed subdivision. This subsection shall apply only to easements of record or to easements established by judgment of a court of competent jurisdiction.

The subdivision map does not include new improvements to the existing structures on the subject parcel.

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ATTACHMENT 2: CONDITIONS OF APPROVAL

COMMUNITY DEVELOPMENT DEPARTMENT - PLANNING DIVISION CONDITIONS OF APPROVAL:

General Items

- 1. It shall be the applicant's/property owner's responsibility to diligently proceed to carry out the conditions of approval and implement any approved permit/entitlement. This shall include establishing the approved use within the time limits set forth by the applicable chapter (reference Sausalito Municipal Code (SMC) Section 10.50.120).
- 2. The <u>Condominium Conversion Permit</u> shall expire one year following the effective date of the permit if the project entitlement has not been implemented, provided no extension has been filed prior to the expiration date.
- 3. The <u>Tentative Map</u> shall expire twenty-four (24) months after the date of its approval or conditional approval.
- In the event that any condition imposing a fee, exaction, dedication or other mitigation measure is challenged by the project sponsors in an action filed in a court of law or threatened to be filed therein which action is brought within the time period provided by law, this approval shall be suspended pending dismissal or final resolution of such action. If any condition is invalidated by a court of law, the entire project shall be reviewed by the City and substitute conditions may be imposed.
- 5. The Applicant/Property Owners shall defend, indemnify (including reimbursement of all fees and costs reasonably incurred by separate counsel retained by the City) and hold harmless the City and its elected and appointed officials, officers, agents and employees, from and against any and all liability, loss, damage, or expense, including without limitation reasonable attorney's fees which City may suffer or incur as a result of any claims relating to or arising from the City's approval of the project or any portion of the project.

Conditions Related to the Tentative Map and Condominium Conversion Permit

6. Prior to recordation of the Final Map a declaration of restrictions as required by California Civil Code §1355 shall be submitted to the City which sets forth the occupancy and management policies for the project and shall contain provisions

satisfactory to the City regarding the following:

- Maintenance of all common areas including without limitation that portion of Hi Vista Road located within the applicants' property to the extent legally required to maintain the roadway and retaining walls in a safe condition; and
- b. Payment of all assessments and taxes; and
- c. Provision for the City to make any repairs or engage in any maintenance necessary to abate any nuisances, health or safety hazards and assess the owners of the condominium units for such repair or maintenance; and
- d. Provision that an individual owner cannot avoid liability for his prorated share of the expenses for the common area by renouncing rights in the common area.
- 7. Prior to recordation of the Final Map the applicants and the City representatives shall review the referenced property to identify any drainage and erosion impacts that may be causing erosion to the slope below the reference property that impacts Edwards Avenue. If in the opinion of the City additional erosion is discovered the applicant shall implement repairs on their property to not concentrate the flow onto the slope in order to reduce the possibility of further destabilization of the lower slope. Implementation of additional erosion control measures shall be addressed by the property owners at their expense within 6 months of the reviewed by the City representatives. A written inspection summary will be developed by the City representatives for the site and will be submitted to the Community Development Director and Director of Public Works, or their designee(s) and shall be submitted to the planning commission representatives as noted in Advisory Note 4.
- 8. Prior to recordation of the Final Map, the subdivider shall provide the City with a copy of the proposed budget for maintenance and operation of common facilities including needed reserves. The budget shall show estimated monthly costs to the owner of each unit, projected over a five (5) year period, or such time as is required by the Department of Real Estate. Such budget shall be prepared or reviewed and analyzed by a professional management firm, experienced with management of condominium complexes. The management firm shall submit a statement of qualifications.
- 9. The subdivider shall provide each purchaser with a copy of all submittals (in their final, acceptable form) required by Section 10.66.030.C (physical elements report), 10.66.030.D (declaration of Covenants, Conditions and Restrictions), and 10.66.030.G (other information) prior to said purchaser executing any purchase agreement or other contract to purchase a unit in the project, and said developer shall give the purchaser sufficient time to review said information. Copies of the submittals shall be made available at all times at the sales office and shall be posted at various locations, as approved by the City, at the project site. Copies shall also be provided to the Homeowners' Association upon its formation.
- **10.** Prior to the close of escrow, the subdivider shall submit the following information to the Community Development Department:

- a. Name, address and phone number of Homeowners' Association;
- b. Actual sales price of units;
- c. Actual Homeowners' Association fees:
- d. Number of prior tenants who purchased units; and
- e. Number of units purchased with intent to be used as rentals.
- 11. All provisions of the Sausalito Municipal Code shall be met. Any violations shall be corrected prior to the approval of the final or parcel map, or upon approval of the Community Development Department, funds shall be secured as provided by Section 10.50.190 (Security for Performance) to assure completion of such corrective work.
- **12.** A physical inspection of each unit shall be completed by the Building Inspector prior to final map approval to ensure compliance with the Housing Code.
- **13.** The following physical standards shall be met prior to recordation of the Final Map:
 - a. The project shall conform to the applicable standards of the City Housing Code and shall be found to comply with the Uniform Building Code of the Sausalito Municipal Code in effect on the date the last building permit was issued for the subject structure or structures, except as herein provided.
 - b. Each bathroom in each living unit shall be provided with ground fault circuit interrupters.
 - c. Each living unit shall be provided with approved smoke detectors conforming to the latest Uniform Building Code standards, mounted on the ceiling or wall at a point centrally located in the corridor or area giving access to rooms for sleeping purposes.
 - d. All fire hydrants, fire alarm systems, portable fire extinguishers, and other fire protective appliances shall be retained in an operable condition at all times.
 - e. The structure shall conform to all interior and exterior sound transmission standards of Appendix Chapter 12 Division II & IIA of the California Building Code. In such cases where present standards cannot reasonably be met, the Planning Commission may require the applicant to notify potential buyers of the noise deficiency currently existing within these units.
 - f. Each dwelling unit shall be separately metered for gas and electricity. A plan for equitable sharing of communal water metering shall be developed prior to final map approval and included in the Covenants, Conditions and Restrictions.
 - g. Each unit shall have at least 200 cubic feet of enclosed weather-proofed and lockable private storage space in addition to guest, linen, pantry and Page 10

clothes closets customarily provided. Such space may be provided in any location approved by the Community Development Department, but shall not be divided into two or more locations. In such cases where the subdivider can demonstrate that this standard cannot or should not be reasonably met, the Planning Commission may modify this standard.

- h. A laundry area shall be provided in each unit; or, if common laundry facilities are provided, such facilities shall consist of not less than one automatic washer and one dryer of equivalent capacity for every 5 units of three or more bedrooms; every 7 two-bedroom units, and every 10 one-bedroom units. In such cases where the subdivider can demonstrate that this standard cannot or should not be reasonably met, the Planning Commission may modify this standard.
- i. All landscaping shall be restored as necessary and maintained to achieve a high degree of appearance and quality. If a significant amount of new landscaping is required, the landscape plan shall be subject to Administrative Design Review.
- j. The developer shall provide a warranty to the buyer of each unit at the close of escrow that any dishwashers, garbage disposals, stoves, refrigerators, hot water tanks and air conditioners that are provided have a useful life of one year. At such time as the Homeowners' Association takes over management of the development, the developer shall provide a warranty to the Association that any pool and pool equipment (filter, pumps, chlorinator) and any appliances and mechanical equipment to be owned in common by the Association have a useful life of one year. Prior to Final Map approval, the developer shall provide the City with a copy of Warranty Insurance covering equipment and appliances pursuant to this section.
- k. All main buildings, structures, fences, patio enclosures, carports, accessory buildings, sidewalks, driveways, landscaped areas, and additional elements as required by the Community Development Department shall be refurbished and restored as necessary to achieve a high degree of appearance, quality and safety. The developer shall provide to the Homeowners' Association and/or purchaser a one-year warranty on all physical improvements required under this section. If substantial restoration is required, the design plans shall be subject to Design Review.
- I. Prior to recordation of the Final Map, the developer shall provide evidence to the City that a long-term reserve fund for replacement has been established in the name of the Homeowners' Association. Such fund shall equal two (2) times the estimated monthly homeowner's assessment for each dwelling unit.

Conditions Applicable to the Tentative Map

- **14.** Prior to recordation of the Parcel Map, all applicable City fees as established by City Council resolutions and ordinances shall be paid.
- **15.** The applicant shall indemnify the City for any and all costs, including without limitation attorneys' fees, in defending this project or any portion of this project and shall reimburse the City for any costs incurred by the City's defense of the approval of the project.
- **16.** Prior to Final Map recordation, the Parcel Map and necessary support documents shall be submitted for review by the City. Support documents shall include but not be limited to; a copy of the Easement Deeds for the two public utility easements identified on the Tentative Map, closure calculations, CC&Rs.

Advisory Notes

Advisory notes are provided to inform the applicant of Sausalito Municipal Code requirements, and requirements imposed by other agencies. These requirements include, but are not limited to, the items listed below.

- 1. The Final Map shall be submitted and approved in accordance with the Subdivision Map Act (California Government Code Section 66474) and the Subdivision Regulations of Ordinance No. 430.
- 2. An approval granted by the Planning Commission does not constitute a building permit or authorization for construction. Appropriate construction permit(s) issued by the Building Division must be obtained prior to construction.
- **3.** All applicable City fees as established by City Council resolutions and ordinances shall be paid.
- **4.** Staff will transmit a one-way communication to the Planning Commission following completion of Condition No. 7

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ATTACHMENT 3: PROJECT PLANS

