

**FINDINGS AND CONDITIONS OF APPROVAL FOR COUNTY FILE #RZ08-3203 AND PRELIMINARY AND FINAL DEVELOPMENT PLAN FILE #DP08-3017**

**FINDINGS**

A. **REZONING FINDINGS:**

Section 26-2.1806 of the County Ordinance Code requires specific findings to be made by the planning agency when a request for change in land use district is made; they are as follows:

1. The change proposed will substantially comply with the General Plan.

*The proposal to rezone the properties in the Montalvin Manor area from their current zoning districts of R-6, M-29, R-B, and H-I to the Planned-Unit District will establish zoning conformity and substantially comply with the General Plan.*

2. The uses authorized or proposed in the land use district are compatible within the district and the uses authorized in adjacent districts.

*The proposed rezoning program will allow more compatible uses within the district. Currently the zoning districts would not allow the uses that are specified in the General Plan. Rezoning the sites to P-1 would allow the desired uses specified in the General Plan.*

3. Community need has been demonstrated for the use proposed.

*The R-6 zoning district is proposed to be rezoned to P-1 to allow a reduction in required lot size from 6,000 sq. ft. to 5,000 sq. ft and a 50 ft. lot width. This would eliminate the substandard label for approximately 94 percent of the lots in Montalvin Manor.*

B. **GROWTH MANAGEMENT ELEMENT PERFORMANCE STANDARDS FINDINGS:**

1. Traffic - Rezoning the area and adopting a final development plan will not result in any traffic increase, but merely sets forth a streamlined process for permitting. The Growth Management Findings related to traffic will be required for future development under within the project area.

2. Water - The Montalvin Manor Redevelopment Area is within the service area boundaries of the East Bay Municipal Utility District. Rezoning the area and adopting a final developments plan will not result in additional demands for water service, but merely sets forth a streamlined process for permitting. The Growth Management Findings related to water service will be required for future development under within the project area.

3. Sanitary Sewer - The site lies within the West County Wastewater District service area. Rezoning the area and adopting a final developments plan will not result in demands for service, but merely sets forth a streamlined process for permitting. The Growth Management Findings related to sewer service will be required for future development under within the project area.
4. Fire Protection – The Contra Costa Fire District Station #68 at Hilltop Drive and Robert Miller Drive, Richmond, CA, 94806 is in close proximity to the Montalvin Manor Redevelopment Project area. The fire station is no more than two miles from any site within the Redevelopment area. The Growth Management Findings related to fire protection will be required for future development under within the project area.
5. Public Protection - The Growth Management Element standard is 155 square feet of Sheriff facility station area per 1,000 population. Rezoning the area and adopting a final development plan will not result in demands for service will not generate a population increase. The Growth Management Findings related to police protection will be required for future development under within the project area.
6. Parks and Recreation - Rezoning the area and adopting a final development plan will not result in an additional demand for parks and recreation, but merely sets forth a streamlined process for permitting. The Growth Management Findings related to parks and recreation, as well as the payment of park dedication fees, will be required for future development within the project area.
7. Flood Control and Drainage - Rezoning the area and adopting a final development plan will not result in impacts to flood control and drainage systems, but merely sets forth a streamlined process for permitting. The Growth Management Findings related to flood control and drainage will be required for future development under within the project area. In addition, future projects will be required to collect and convey all runoff to an adequate natural or manmade drainage facility.

## **CONDITIONS OF APPROVAL**

### **GENERAL**

1. All land located in the Montalvin Manor Redevelopment Plan Area is to be used as allowed and regulated in this Montalvin Manor Planned-Unit District. Existing approved land use permits will not be subject to any additional development regulations for the use/development approved.
2. Wherever there appears to be a conflict between this Planned-Unit District and Title 8 of the County Ordinance Code, this Planned-Unit District shall prevail. For development standards not covered by this Planned-Unit District, Title 8 shall be used as a guideline.

3. No person shall grade or clear land, erect, move or alter any building or structure on any land except in compliance with this Planned-Unit District.
4. All development and use of land shall comply with all criteria contained in the General Plan Map, the Montalvin Manor Land Use Matrix, the Development Standards, Conditions of Approval and the Design Guidelines.
5. Development shall comply with the County General Plan, all design criteria, County Ordinances and applicable State laws. Supplemental reference documents may be attached to further define these requirements. These documents are incorporated by reference and may be amended from time to time to reflect changes in major community goals, policies, legislation, or to further define specific criteria pursuant to the procedures set forth in Section 84-66.1804 of the County Ordinance Code.
6. As part of permit approval, the Department of Conservation and Development may apply standards, regulations, limitations and restrictions which are either more or less restrictive than those specified elsewhere in the Montalvin Manor Planned-Unit District.
7. In approving any application, the Department of Conservation and Development shall find it consistent with the intent and purpose of the Montalvin Manor Planned-Unit District and compatible with other uses in the vicinity that increase the aesthetic quality of the neighborhood.
8. The Planning Agency may impose on any Permit reasonable conditions of approval in addition to those stated in this section to carry out the purpose of this Montalvin Manor Planned-Unit District.

## **PROCEDURES**

9. All development and use of property are subject to review as specified in the Land Use Matrix. In no case will more than one type of development permit be required. Where a Land Use Permit is required, it shall take precedence over any other type of required application.
10. The project/use shall be maintained in compliance with all applicable conditions of approval at all times. An annual fee may be required to provide for adequate monitoring of conditions of approval. Proof of recordation of the following disclosure of deed restrictions shall be submitted to the Community Development department prior to issuance of a building permit in a P-1 zoning district: *“The subject property is within the Montalvin Manor Redevelopment Area Planned Unit (P-1) Zoning District with a permit for a residence. This project/use shall be maintained in compliance with all applicable P-1 Zoning District conditions of approval including, but not limited to, parking, fencing and landscaping at all times.”*
11. Appeals of any decision rendered pursuant to the Montalvin Manor Planned-Unit District resulting from a public hearing before the Zoning Administrator may be appealed to the

Planning Commission in accordance with Article 26-2.24 of the County Ordinance Code. Administrative decisions may be appealed in accordance with Article 14-4.004 within 30 days of rendering the decision to the Board of Supervisors.

12. A motion for reconsideration of any decision rendered pursuant to the Montalvin Manor Planned-Unit District, either administratively or after a public hearing, may be heard by either the Board of Appeals or the Board of Supervisors, having rendered the decision in accordance with Article 26-2.24 of the County Ordinance Code.
13. The Zoning Administrator shall review applications for modifications to a permit in accordance with Section 84-66.1804 of the County Ordinance Code.
14. Application fees within the Montalvin Manor Planned-Unit District shall be established by the Board of Supervisors and may differ from similar countywide fees.
15. A Development Permit, where required, must accompany subdivision requests.
16. An applicant may submit simultaneously, and in combination with the Permit required by this ordinance, an application for subdivision or lot line adjustment. Such combined applications shall be processed, noticed and heard as required for the subdivision approval.

#### **DEVELOPMENT PERMIT**

17. A Development Permit is required for all new residential construction of three (3) or more units. Units may be attached or detached, in conjunction with a subdivision application pursuant to Titles 8 and 9 of the County Ordinance Code or within a single building. A Development Permit is required for all new non-residential structures or buildings and additions to non-residential structures which exceed 50% of the existing floor area of the building or 10,000 sq. ft. whichever is less.
18. Development Permits Applications shall be referred to the Montalvin Manor Redevelopment Advisory Committee for review and recommendation.
19. Development Permits shall be processed in accordance with Article 26-2.21 of the County Zoning Ordinance. Notification of all property owners within 300 feet is required.
20. Development Permit hearings shall be held as requested and may be initially heard by the Zoning Administrator. The Zoning Administrator may refer the application to the Planning Commission for initial hearing.
21. A Development Permit shall become null and void if within two (2) years after the approval, in the event the construction specified in the Permit has not been commenced, unless otherwise stated in the Conditions of Approval. When a Development Permit is accompanied by a subdivision application and approval, the length of the validity of the Permit shall be consistent with the subdivision.

22. For a Development Permit not processed in conjunction with a subdivision application, the applicant may request an extension of the approval and the Zoning Administrator may grant not more than five extensions, each for no more than one year, upon showing of good cause. An application for an extension shall not be considered unless it is submitted before the expiration of the Development Permit.

## **LAND USE PERMITS**

23. Land Use Permits are required as designated in the Land Use Matrix for uses that are not permitted by right, but under certain circumstances are found to be compatible within the subject land use designation.
24. Land Use Permit Applications shall be referred to the Montalvin Manor Advisory Committee for review and recommendation.
25. Public hearings are required for all applications for Land Use Permits, which shall be processed in accordance with Article 26-2.20 of the County Ordinance Code and shall be initially heard by the Zoning Administrator. The Zoning Administrator may refer the application to the Planning Commission for initial hearing.
26. An approved Land Use Permit shall become null and void if within two (2) years after the approval, in the event the construction specified in the Permit has not been commenced or the use has not been established, unless otherwise stated in the Conditions of Approval.
27. Upon a written showing of good cause, the period for exercising a Land Use Permit may be extended administratively one time for a period of one year. An application for an extension shall not be considered unless it is submitted before the expiration of the Land Use Permit.

## **ADMINISTRATIVE PERMITS**

28. An Administrative Permit is required as designated on the Land Use Matrix for certain uses which require strict adherence to specific criteria, temporary uses, changes in occupancy in existing buildings, minor additions (less than 50% of the existing gross floor area or 10,000 sq. ft., whichever is less) of existing non-residential buildings, alterations to residential structures of three (3) or more units, small lot design review, Development Permit extensions and deviations to the Development Standards.
29. Administrative Permit Applications may be referred to the Montalvin Manor Redevelopment Advisory Committee for review and recommendation.
30. The Zoning Administrator has the authority to require notification of nearby property owners if deemed appropriate for Administrative Permits. If required, notification shall be processed in accordance with Article 26-2.2004 of the County Zoning Ordinance.

31. An Administrative Permit shall automatically expire a maximum of one year from the date of approval, if the use is not established. Administrative Permits may be conditioned for a lesser time of validity.
32. Upon a written showing of good cause, an Administrative Permit may be extended administratively once for a maximum of one year. An application for an extension shall not be considered unless it is submitted before the expiration of the Administrative Permit, or with authorization from the Zoning Administrator.

## **USES**

Uses may be permitted in the designated land use categories in accordance with the Land Use Matrix or approved permit.

33. Any non-conforming use lawfully existing at the effective date of this Montalvin Manor Planned-Unit District on that property may be extended or enlarged in accordance with Chapter 82-8 of the County Ordinance Code (granting of a Land Use Permit) and the Montalvin Manor Planned-Unit District.
34. Existing buildings and structures which do not conform to current standards but contain uses which conform to the Montalvin Manor Planned-Unit District are not subject to 'Non-Conforming Use' requirements and may be repaired or rebuilt in accordance with Chapter 82-8 of the County Ordinance Code. Additions to buildings and structures nonconforming to development standards contained herein shall be allowed subject to compliance with all requirements of this ordinance for the proposed new construction.
35. The Zoning Administrator shall specify the appropriate designation for any land use not specifically listed in the Land Use Matrix and not similar to any other use listed in the Matrix. Such uses shall be made a part of the Land Use Matrix by policy and incorporated in future amendments.

## **DEVELOPMENT POLICIES**

These development policies are applicable to all development proposed within the Montalvin Manor Planned-Unit District boundaries.

36. Building bulk, height, land coverage, visual appearance from adjacent land, and design compatibility with existing adjoining development and land use designation, shall be considered and controlled.
37. A development's design shall be consistent with the Design Guidelines and successfully integrate individual buildings and building groups with surrounding desirable development, other physical features in the area, and existing development on project site proposed to remain.

38. The design of structures should provide for harmonious composition of mass, scale, color, and textures, with special emphasis on the transition from one building type to another, termination of groups of structures, relationships to streets, misuse of views, and integration of spaces and building forms with the topography of the site and the unique character of the area.
39. Off-street parking and loading areas should be integrated into the overall vehicular circulation system.
40. Development applications should ensure that adequate buffer zones are provided between unlike land uses.
41. All new residential development shall be consistent with the design guidelines and should include attractive and varied designs which avoid monotonous streetscapes and improve the quality of life for residents. Exterior materials and colors, setbacks, frontage improvements, adequate and safe parking and yard areas and landscaping should be considered.
42. All uses shall comply with any applicable regulations of the Bay Area Air Quality Management District, the Regional Water Quality Control Board, the San Francisco Bay Conservation and Development Commission, the State and County Health Departments, East Bay Municipal District and any other regulatory agencies affecting the site/project.
43. Monitoring may be required on projects/uses with conditions of approval that require continuing obligations (i.e., maintenance).

## **DEVELOPMENT STANDARDS**

These development standards are to be observed for any development, construction and/or change in use.

44. The configuration of exterior light fixtures shall emphasize close spacing and lower intensity lighting that is directed downward in order to minimize light spill to adjacent streets and properties. Highly reflective mirrored glass walls shall be avoided as a primary building material. Applicant shall comply with the Mitigation and Monitoring Program.
45. Direct loss of riparian habitat shall be mitigated at an acreage ratio of 3:1 (acres of mitigation: acres of impact) due to the modest quality of the identified riparian corridor. Indirect or encroachment impacts shall be replaced at a 1:1 ratio. Applicant shall comply with the Mitigation and Monitoring Program.
46. All trees shall be protected in accordance with the County "Tree Protection and Preservation" Ordinance.

47. The construction envelope for proposed projects in the Project Area, including areas of construction, staging areas or other indirect activities, shall be identified as part of the application, and shall avoid a buffer area to include all areas within fifty (50) feet of the centerline of the Garrity Creek and drainage swells that support riparian vegetation. Future projects should be developed and operated in such a way as to avoid both direct (e.g., removal of riparian woodlands) and indirect (e.g., encroaching within the buffer with development) effects in or within the buffer to the extent feasible. Applicant shall comply with the Mitigation and Monitoring Program.
48. Applicant shall develop a Riparian Restoration Plan and a Plant Restoration Plan if there is a direct loss of riparian habitat. Applicant shall comply with the Mitigation and Monitoring Program.
49. A qualified ornithologist shall provide a pre-construction survey for any nesting raptors. Applicant shall comply with the Mitigation and Monitoring Program.
50. No structure, including but not limited to fences and gateways, or vegetation which obstructs the visibility of and from vehicles approaching the intersection of a street shall be constructed, grown, maintained or permitted higher than two feet above the curb grade or three feet above the edge of pavement within a triangular area bounded by the right-of-way lines and a diagonal line joining points on the right-of-way lines 25 feet back from the point of intersection.

## **RESIDENTIAL**

51. Projects with five (5) or more residential units may be eligible for a density bonus according to the County Density Bonus Ordinance.
52. Exterior materials shall be those customarily used in conventional single-family homes. Manufactured siding is not allowed.
53. Pitched roof and window trim shall be used.
54. Front landscaping and irrigation in accordance with the Water Conservation Landscaping requirements of Chapter 82-26 of the County Code shall be provided for residential projects.
55. Residential fences shall be maintained in good condition. Chain link fences are not allowed. Front fences shall not exceed four feet in height.
56. For single-family residences with three (3) bedrooms or less and with square footages up to 1,200 sq. ft. of livable space, the project shall include a minimum of a one-car garage and one car parking in the driveway.



57. For single-family residences with four (4) or more bedrooms, or more than 1,200 sq. ft. of livable space, the project shall include a minimum of a two-car garage and two car parking in the driveway per unit.
58. A converted room with an open floor plan shall not be considered a bedroom, however, dens, playrooms, etc, can be considered an additional bedroom, per CBC.
59. Required uncovered parking stalls may be allowed in front setbacks provided the parking space is on paved driveway and the owner upgrades/maintains their front landscaping and does not park on required landscaped area.

## **NON-RESIDENTIAL**

60. Landscaping on all frontages, and as a buffer to incompatible uses, shall be provided.
61. Any outdoor storage and maintenance area shall be screened from view from public streets. Chain link fences are not allowed as screening material unless slats and landscaping are included.
62. All ground, wall and roof mounted equipment shall be screened from public rights-of-way and adjacent properties. Visual screens shall be painted or treated to match the color of the wall or roof.
63. No loading space, dumpsters or refuse areas shall be placed so as to face any public rights-of -way.
64. Yard areas abutting a street shall be landscaped and maintained.
65. Adequate parking shall be provided on-site to minimize on-street parking, which will facilitate the flow of truck traffic and maximize sight distance for turning movements to and from driveways.
66. Comply with Contra Costa County Clean Water Program's *Stormwater C.3 Regulations*. Guidelines are available online at <http://www.cccleanwater.org>.
67. Limit/restrict activities that may result in noise, glare or vibrations extending beyond the property boundary.
68. Convenient bicycle parking areas shall be provided as outlined in the parking standards and design guidelines.

## **ARCHAEOLOGY**

69. Should archaeological materials be uncovered during grading, trenching or other on-site excavations(s), earthwork within 30 yards of these materials shall be stopped, until a

professional archaeologist who is certified by the Society for California Archaeology (SCA) and/or the Society of Professional Archaeology (SOPA) has had an opportunity to evaluate the significance of the find and suggest appropriate mitigations, if deemed necessary. Applicant shall comply with the Mitigation and Monitoring Program.

## **GRADING**

70. The applicant shall submit grading plans for review and approval of the Community Development Department prior to issuance of grading permits to assure compliance with this Planned-Unit District.
71. All trees shall be protected in accordance with the County “Tree Protection and Preservation” Ordinance.
72. The applicant shall submit a geotechnical report for any new structures. Applicant to comply with Mitigation and Monitoring Program.
73. Applicant shall prepare a site-specific erosion control plan for developments greater than 1-acre in size. Applicant shall comply with the Mitigation and Monitoring Program.

## **LANDSCAPING**

74. Parking lots shall be landscaped at a minimum ratio of one tree per four parking spaces for double-loaded stalls.
75. California native and/or drought-tolerant plants shall be used as much as possible.
76. Landscaping shall conform to the County Water Conservation Landscape Ordinance 82-26.
77. Landscaping shall be maintained by the developer/ property owners.

## **SIGNS**

78. All signs shall be consistent with the Design Guidelines and subject to an Administrative Permit and the review and approval of the Zoning Administrator.

## **CONSTRUCTION CONDITIONS**

79. Noise generating construction activities, including truck traffic coming to and from the site, shall be limited to the hours of 7:30 A.M. to 5:30 P.M., Monday through Friday, and shall be prohibited on Sundays and state and federal holidays on the calendar dates that these holidays are observed by the state or federal government as listed below. Noise generating activities of this type shall be prohibited on Saturdays, except as approved by the Zoning Administrator or Redevelopment Director on a case-by-case basis:

New Year's Day (State and Federal)  
Birthday of Martin Luther King, Jr. (State and Federal)  
Washington's Birthday/Presidents' Day (State and Federal)  
Lincoln's Birthday (State)  
Cesar Chavez Day (State)  
Memorial Day (State and Federal)  
Independence Day (State and Federal)  
Labor Day (State and Federal)  
Columbus Day (State and Federal)  
Veterans Day (State and Federal)  
Thanksgiving Day (State and Federal)  
Day after Thanksgiving (State)  
Christmas Day (State and Federal)

80. Litter and debris shall be contained in appropriate receptacles on site and shall be removed as necessary.
81. Projects creating 10,000 sq. ft. or more of new impervious surface area shall construct on site retention or detention facilities or install silt or grease traps in the storm drain system for the proposed project drainage during project construction.
82. Applicants shall be required to conduct a site specific noise analysis for new multi-family residential development. Applicant shall comply with Mitigation and Monitoring Program.

#### **CHILD CARE**

83. Projects which will have (a) 100 or more employees, (b) 15,000 gross sq. ft. or more retail area, and/or (c) residential projects of 30 dwelling units or more shall comply with Chapter 82-22 of the County Zoning Ordinance. Prior to obtaining building permits, the proposed program shall be submitted for the review and approval of the Zoning Administrator.

#### **FIRE PROTECTION**

84. Prior to issuance of a building permit, the Fire District shall review all plans for development.
85. Sprinkler systems shall be required for all new non-residential development and new residential development that is more than two miles away from a fire station.
86. All new buildings and major remodels shall have fire resistant roofs (Class C).

## CRIME PREVENTION THROUGH ENVIRONMENTAL DESIGN

87. Development should make best efforts to incorporate the strategies used in the CPTED process, including access control, surveillance, defensible space/territorial reinforcement, maintenance and premise liability. Following is a description of the specific strategies:

- **Access Control:** Natural strategies for access control employ spatial definition and circulation patterns, the focus of which is to deny access to and challenge unwanted visitors. Examples include fences, locks and computerized card entry systems.
- **Surveillance:** Design concepts incorporate natural surveillance from surrounding areas greatly enhancing safety and reducing the risk of crime. These include, but are not limited to, appropriate lighting, CCTV, window and door design, low landscaping and raised entrances.
- **Defensible Space/Territorial Reinforcement:** This includes providing clear border definition of space; clearly marked transitions from public to private space; placing safe activities in unsafe places and unsafe activities in safe places; use of natural barriers; improved scheduling of space to allow for “critical intensity”; overcoming distance & isolation through improved communications & design efficiencies.
- **Maintenance:** A maintenance plan is necessary to ensure the ongoing effectiveness of CPTED principles such as landscape management, preventative lighting measures, graffiti abatement.
- **Premise Liability:** Focuses on the prevention of civil suits against the property owner. Under law the property owner must provide a safe and secure environment.

## SAFETY

88. Applicants shall provide safe pedestrian safety by installing any necessary barriers to the railway tracks for any new development along the north part of Montalvin Manor near the Montera community center.

## DEVELOPMENT FEES

89. Prior to issuance of a building permit, the applicant shall pay the current fees for the following:

### Park Dedication Fee

- Single Family-\$7,238
- Multi-Family Unit-\$5,213
- Townhome-\$5,757
- Mobile Home \$4,859

#### Child Care Mitigation Fee

- \$400 per Single Family Residential
- \$200 per Unit for condominiums or town homes
- \$100 per apartment unit with two or more bedrooms (studio and 1-bedroom units are not subject to the fee) for all new residential development. Check with the Building Inspection Department for further description.

#### **PUBLIC WORKS CONDITIONS OF APPROVAL**

New projects will have additional Public Works conditions that are specific to the proposed project.

90. The applicant shall pay the current fee in compliance with the Drainage Area fee ordinance associated with the subject property. Consult the Public Works Department, Engineering Services Division to determine the current fee.
91. The applicant shall comply with the requirements of Title 8, 9, and 10 of the Ordinance Code. Copies of these ordinances are available for review at the Public Works Department and Department of Conservation and Development. Any exceptions there from must be specifically listed in this conditional approval statement. Future drainage, road and utility improvements shall require the review and approval of the Public Works Department. Conditions of approval are based on site plans date stamped received by the Department of Conservation and Development.
92. Improvement plans prepared by a registered civil engineer shall be submitted to the Public Works Department, Engineering Services Division, along with review and inspection fees, and security for all improvements required by the Ordinance Code for the conditions of approval of this development. These plans shall include any necessary traffic signage and striping plans for review by the Transportation Engineering Division.

#### **ADVISORY NOTES**

- A. NOTICE OF 90-DAY OPPORTUNITY TO PROTEST FEES, DEDICATIONS, RESERVATIONS, OR OTHER EXACTIONS PERTAINING TO THE APPROVAL OF THIS PERMIT.

This notice is intended to advise the applicant that pursuant to Government Code Section 66000, et seq., the applicant has the opportunity to protest fees, dedications, reservations, and/or exactions required as part of this project approval. The opportunity to protest is limited to a 90-day period after the project is approved.

The ninety (90) day period, in which you may protest the amount of any fee or the imposition of any dedication, reservation, or other exaction required by this approved permit, begins on the date this permit was approved. To be valid, a protest must be in writing pursuant to Government Code Section 66020 and delivered to the Community Development Department within 90 days of the approval date of this permit.

- B. It is the applicant's responsibility to comply the requirements of the West County Wastewater District.
- C. It is the applicant's responsibility to comply with all requirements set forth by the Contra Costa Fire Protection District.
- D. It is the applicant's responsibility to comply with all requirements set forth by the Building Inspection Division.
- E. It is the applicant's responsibility to comply with all fees of the West Contra Costa Unified School District.
- F. The applicant shall be required to comply with all rules, regulations, and procedures of the National Pollutant Discharge Elimination Systems (NPDES) for municipal, construction and industrial activities as promulgated by the California State Water Resources Control Board, or any of its Regional Water Quality Control Boards (San Francisco Bay - Region II).
- G. It is the applicant's responsibility to comply with all transportation/traffic fees of Contra Costa County.