

TEMPLETON AREA ADVISORY GROUP (TAAG)
LAND USE PROJECT APPROVAL HEARING RECOMMENDATIONS
SARA STREET LLC TRACT MAP PROJECT NO. SUB2020-00027
PLANNING COMMISSION JANUARY 26, 2023 CONDITIONAL USE PERMIT HEARING

To the SLO County Planning Commission:

The Templeton Area Advisory Group (TAAG) has reviewed the above noted Conditional Land Use Permit application for the purpose of submitting recommendations to the SLO County Planning Commission for consideration during the Commission's upcoming January 26, 2023 Sara Street LLC Approval Hearing. TAAG's reviews of this project consisted of a publicly noticed TAAG Project Review Committee meeting held January 11, 2023 and TAAG's regular January 19, 2023 Board Meeting. This project's Land Use Application requests approval of a Tract Map for an undeveloped 10.88 acre property that will revise the project site's current Residential Suburban zoning that permits development of ten (10) residential minimum 1 acre size lots to be reduced in size to allow for 15 lots with an average lot size of approximately 26,450 sq.ft. each, as apparently allowed by SLO County Affordable Housing Title 22 ordinances.

TAAG's January 19, 2023 Board meeting was attended by eight Templeton public residents, Supervisor John Peschong and SLO County Planner Eric Hughes. The project's applicant and the applicant's Planning Consultant did not attend this Board meeting or the January 11, 2023 TAAG Committee meeting. Several members of the public spoke in opposition of the proposed expansion of the project and downsizing of the minimum 1 acre lot sizes currently required by existing Residential Suburban zoning of the project property site and in the general neighboring Templeton area of the project site.

TAAG recommends that the Commission DENY APPROVAL of project NO. SUB2020-00027's Conditional Use Permit application. This recommendation was approved by a unanimous TAAG Board vote of 6-0, during TAAG's January 19, 2023 publicly noticed regular Board meeting. TAAG's recommendation for denial is NOT because one lot would be dedicated to a Very Low-Income Affordable Housing unit. Objections to this project are described below and are related to the expansion from 10 lots to 15 lots on this parcel (which is proposed to occur in tandem with the designation of a Very Low-Income Affordable Housing unit.)

Project Description

This Sara Street housing project is located on Bennett Way Templeton. Access to this property is from Vineyard Drive and from Santa Rita Road to Jordan Road. This property is currently zoned as Suburban Residential allowing ten (10) one acre minimum size lots. The project application proposes to dedicate one (1) additional lot as a Very Low Income Affordable Housing unit. County Planning has determined that this affordable Housing proposal will allow for an additional four (4) lots that will be available for sale at market prices to the general public. This project proposal represents the subdivision of this existing 10.88 acre parcel into 15 lot from its currently zoned 10 one acre lots. The addition of 5 lots will require each of the 15 lots to be downsized to approximate average lot sizes of 26,450 sq.ft from the 1 acre 43,560 sq.ft. minimum lot sizes currently allowed in this area. This application also requests the approval of an additional four (4) Accessory Dwelling Units (ADUs) on four (4) of the 15 lots which will result in the approval of a total of 19 housing units on this property site. Current ADU law allows for ADU units to be established on each of the project's 15 lots.

Existing Issues Supporting Recommendation of Denial of this Project

- The County's approval of this project will allow for expansion of this site's currently zoned 10 one-acre minimum lots to 15 downsized lots averaging approximately 26,460 sq.ft. TAAG believes that the proposed modification of the existing 10 lot zoning requirements violate existing California State Affordable Housing laws that went into

effect on January 1, 2020. This issue is recognized on page 14 of this Commission hearing's Staff Report recommending approval of the project that states:

"While the LUO has since been revised to no longer include smaller parcel sizes as an allowable density bonus incentive (as of November 2020), the proposed Vesting Tentative Tract Map would vest into the policies, ordinances, and standards at the time the application was deemed complete. Therefore, the project is consistent with the County standards regarding affordable housing incentives in place at the time the application was deemed complete for processing."

This statement claims that California Affordable Housing Law allowed, as of County Planning's September 30, 2020 project application's "acceptance" date, the granting of the 5 lot Density Bonus. TAAG has attempted to clarify this Staff Report statement with County Planning and County Counsel without success. The County amended its 2007 Title 22 Chapter 22.12 housing ordinance on November 17, 2020 to comply with California Affordable Housing Law (Code Section 65915) that went into effect on January 1, 2020. SLO County ordinance 22.12.020 A. states:

"Where there is conflict between the State Density Bonus Law and this ordinance, the State Density Bonus Law shall prevail."

TAAG has concluded, based on the information currently available, that the County was subject to the State's current Affordable Housing Laws as of January 1, 2020 that apparently prohibits granting of an additional 5 lots that has resulted in the reduction of project sites' minimum one-acre lot sizes. The County Staff Report claims that this restriction did not become effective until the County's Chapter 22.12 ordinance amended November 17, 2020 effective date, rather than the State Laws' January 1, 2020 effective date that apparently prohibits the County's granting of an additional five (5) Density Bonus lots and prohibits the County's proposed modification of the project site's existing Residential Suburban zoning one-acre per lot minimum size. See California Affordable Housing Laws Code Section 65915.

- This project application raises questions regarding the detrimental impact on the character of the surrounding neighborhood area. The downsizing of the project's 10 one-acre lots to 15 smaller lot sizes impacts the rural character of the existing area that is occupied by minimum zoned one-acre properties and residential home sites. Existing SLO County Affordable Housing Ordinance Chapter 22.12. indicates that the purpose of the Affordable Housing ordinance **"encourages developers to provide housing while retaining good design and neighborhood character."** California Affordable Housing Laws also provide for denial of this project due to its negative impacts on community character. It appears that most, if not all, neighboring property owners oppose the downsizing of the project lots below the minimum one-acre lots zoning that has existed for the past 25 years or more in the project's neighboring area.
- The County has published a 110 page Mitigated Negative Declaration (MND) that has concluded:

"Although the proposed project could have a significant effect on the environment, there will not be a significant effect in this case because revisions in the project have been made by or agreed to by the project proponent."

This County environmental review failed to consider certain environmental issues that appear to violate current California Environmental Quality Act (CEQA) laws and guidelines. For example:

- Item a.) on MND page 63 of 110 states that "The project site consists of relatively flat to steeply sloping topography on a 10.88-acre parcel. As discussed in Section IV, Biological Resources, the project site supports an unconsolidated swale located near the northeastern corner of the property; **however, this feature has no evidence of a bed, bank, or channel on-site or defined connection to Toad Creek."**

This MND statement conflicts with proposed Condition of Approval #17 that is before the Commission for consideration. COA #17 recognizes probable impacts to the existing Toad Creek drainage and downstream flooding problems that have existed for years as follows:

*“COA 17. Submit complete drainage calculations and drainage system design prepared by a licensed civil engineer to the Department of Public Works for review and approval. **Drainage must be detained on the property because Toad Creek and its tributaries are not capable of carrying additional runoff. All project related drainage shall be designed and constructed in accordance with the recommendations of the Templeton Drainage and Flood Control Study and county Public Improvement Standards.**”*

Offsite drainage from this project site is an obvious major concern to the County. County Public Works and COA # 15 d. & e., 17 and 20 require submission of a Stormwater Control Plan in accordance with County Code Section 22.10.155. This Code Section requires that “Prior to acceptance of an application for a construction permit, grading permit, land use permit or subdivision application associated with a Regulated Project that the Plan be submitted for review.” There is no publicly available evidence that the project’s Stormwater Plan exists and has been submitted in compliance with this Code Section.

The project’s MND (page 4 of 110) describes the need for a drainage retention basin as follows:

“Other on-site improvements would include clearing and grubbing, grading of the project site, and construction of a 3,230-square-foot detention basin with the capacity to hold 25,850 cubic feet of stormwater runoff. The size and capacity of the detention basin was designed based on the assumption that the project site would have approximately 64,000 square feet of impervious area upon buildout of residential uses. The proposed detention basin would be enclosed by a 6-foot-tall chain-link fence and accessed by a 12-foot-wide access road.”

COA #18 requires that “Plans for the drainage basin in accordance with Section 21.03.010 must be submitted for review and approval by the department of Public Works and the Department of Planning and Building. Plans must show basin cross sections, perimeter safety/access barrier, and interior and exterior landscaping and irrigation. The interior of the basin shall be landscaped to control erosion and the exterior of the fencing shall be landscaped to screen and soften the fencing.”

This retention basin is proposed to exceed the County’s maximum 2 foot depth limit. County Code Section 21.03.010 states:

“Privately maintained drainage basins shall be designed to contain two feet of water or less under the design storm as measured from the lowest point in the basin, and shall be landscaped so as to provide usable open space. Where it is not feasible to construct a drainage basin containing two feet of water or less, an adjustment may be granted pursuant to [Section 21.03.020](#). Where such a basin is proposed, a conceptual plan shall be submitted illustrating: basin cross sections, perimeter safety/access barrier, and interior and exterior landscaping and irrigation. The interior of such a basin shall be landscaped to control erosion and the exterior of the fencing shall be landscaped to screen and soften the fencing.”

The available application information required by this County Code Section has not provided the details of the proposed drainage retention basin. The Templeton Design Plan Item also opposes drainage retention basins exceeding a depth of 2 feet. Various Conditions of Approval being considered by the Commission also require Storm Water Control Plans and a Sedimentation and Erosion Control Plans for subdivision related improvements.

County Planning Info Hold correspondence commented the following Retention Basin issues:

“Guideline III.E.g in the Templeton Community Design Plan requires drainage basins to be designed for a maximum water depth of less than two feet to avoid the need for fencing and requires contouring to

incorporate a natural form with meandering slopes and banks. A request for adjustment to the Title 21 standards to allow a fenced basin does not abrogate the Templeton Community Design Plan standards.”

“In addition, the site grading is inconsistent with LUO Section 22.52.090.E.1.a, Grading Plan Criteria for Approval. It appears that Lots 1-5 will include 50% graded slopes (based on scaled rise-over-run); please indicate the slope ratios for the manufactured slopes and re-contour site grading to less than 30%. A fenced basin at the bottom of a 50% slope 17 feet high is not supportable. If fencing is proposed for basin depth greater than 2 feet, the basin fencing detail and location must be shown on a development plan with Ordinance compliant grading for consideration of an adjustment in conjunction with CUP findings and conditions.”

- The County recognizes the Templeton Design Plan that is incorporated in Title 22 Chapter 22.104.090. County Planning correspondence with the applicant (several Info Hold letters) highlights a number of project attributes that violate Templeton Design Plan guidelines, such as the following.
 - County Planning advised the applicant that “a project that is inconsistent with Templeton Community Design Plan may be unacceptable to, or opposed by, the Templeton Area Advisory Group and may be recommended for denial by Staff for inconsistency with the Land Use Ordinance.”
 - Land Use Ordinance Section 22.104.090 requires new development and proposed subdivisions to be designed to retain significant features such as oak trees, riparian habitats, and prominent hills. However, this project would require the removal of oak trees, significant grading to flatten rolling topography, and alteration of drainage patterns. This project estimates at least 30,000 yards of cut and fill grading is required in order to develop this property into 15 homesite lots with two access roads.
 - The proposed drainage retention basin as designed does not meet the standards in County Title 21 or the Templeton Community Design Plan’s Guideline III.E.g that requires drainage basins to be designed for a maximum water depth of less than two feet to avoid the need for fencing. Such a basin requires contouring to incorporate a natural form with meandering slopes and banks. Current information indicates that the retention basin depth will exceed 2 feet and require fencing. The project proposes a drainage basin that exceeds the maximum water depth of less than 2 feet. However, the project COA’s do not present the approved design of retention basin.
 - Indicating the proposed development setbacks, and how each lot will meet the variable front setback design criteria for the streetscape, as required in Guideline V.A.1.
- California Affordable Housing Laws (Code Section 65915) allows the County to withhold grants of Affordable Housing Law concessions and incentives on Density Bonus applications if the County makes a finding of any of the following:
 - A) The concession or incentive does not result in identifiable and actual cost reductions, consistent with subdivision (k), to provide for affordable housing costs, as defined in Section 50052.5 of the Health and Safety Code.” **No information has been provided by the County that indicates that any effort has been made to comply with this requirement. State laws define housing costs as mortgage loan principal and interest, property taxes, insurance, HOA fees, utilities and other property maintenance costs.**

COA #45 should be noted regarding this Section (A). COA #45 requires that “Prior to issuance of any construction permit, the Applicant shall enter into an agreement in accordance with the versions of County of San Luis Obispo County Code Sections 22.12.040.B.6 and 22.12.070.F that were in place when the project was deemed complete for processing in September 2020, to ensure the continued affordability of the affordable unit at the “very-low” income level.” **This is an unusual COA.** Why would the project applicant be required to execute an agreement with the County showing that the project complies with currently superseded County ordinance Sections that State Law has required since January 1, 2020, which places responsibility on the County,

not the applicant, to determine whether the project qualifies for a County approved 5 lot Density Bonus in accordance with (A) above?

B) The concession or incentive would have a specific, adverse impact, as defined in paragraph (2) of subdivision (d) of Section 65589.5, upon public health and safety . . . which there is no feasible method to satisfactorily mitigate or avoid the specific, adverse impact without rendering the development unaffordable to low-income and moderate-income households.” **As discussed below, it appears that certain environmental factors exist that could impact the health and safety of the project’s residents and the general public residing in the area.**

C) “The concession or incentive would be contrary to state or federal law.” **A case can certainly be made that the project violates the California Environmental Quality Act.**

- Several environmental impact issues exist with this project. COA #17 is discussed on Page 3 of this Recommendation. COA #17 refers to the Templeton Drainage and Flood Study, but this study was not made available for public review. SLO County has failed to adopt a Templeton 2013 Toad Creek Watershed Report study recommending improvement to drainage problems encountered during significant rainstorm events that result in flooding of Templeton area residential neighborhoods and downtown business areas of Main Street. No additional environmental impact information is disclosed regarding Toad Creek existing drainage and flooding issues.
- A second major environmental concern is the project’s proposal to grade and fill approximately 30,000 yards of the 10 acre project area. This project site’s topography consists of hills and ravines with certain slopes exceeding 50 degrees. It appears that substantial leveling of the project site is required to establish housing units on the property. Proposed grading will greatly increase the chances of future erosion and sedimentation and interference with existing drainage patterns due to the substantial ground disturbance to be conducted on the project site. See COA’s # 19 and #20 for the requirements to submit a complete Flood Control and Erosion and Sedimentation Control plans.
- County Planning has commented in writing during its application review various concerns regarding project variances that do not comply with the Templeton Community Design Plan. The County recognizes the project’s obligations to comply with this Design Plan. See County Title 22 Ordinance Chapter 22.104.090 – Templeton Community Standards. The following are examples of project variances with the Design Plan.
 - The Templeton Design Plan states that “The purpose is to ensure that every new development will carefully consider the community context in which it takes place and make a conscientious effort to develop a compatible relationship to the natural setting, neighboring properties and community design goals.” The project design to reduce lot sizes below the zoned minimum one acre lots results in negative impacts to the neighborhood area’s natural settings, rural character and its relationship to the existing minimum one acre neighboring properties in the project area.
 - Design Plan item II.E.6: Retention Basin Design recommends that “Drainage retention basins should incorporate design features to lessen their visual impact, such as:
 1. design basin depth to two feet or less **so that fencing is unnecessary**
 2. design basin shape to appear natural, avoid rectilinear forms
 3. provide meandering slopes and banks. The current project design calls for a retention basin more than 2 feet deep and requires fencing as a safety requirement.

The County’s proposed Conditions of Approval DOES NOT recognize these Retention Basin requirements. See COA’s #11.e and #12.

- The Project Site's major grading process discussed above is another issue that does not comply with the Templeton Design Plan. Plan Guideline III.E.7 addresses this issue as follows:

“Site Grading. Site plan new development on the least sensitive portion of the site to preserve the natural landforms, geologic features, and vegetation. The plan must direct and provide adequate flow of surface run-off to catch basins while gracefully contouring the land to blend with existing conditions at the boundaries of the site. Gradual transitions between existing topography and man-made cut/fill slopes are encouraged. Intent: The intent is to assure the development occurs in such a manner as to protect the natural and topographic character and identity of Templeton by ensuring that development does not create soil erosion, silting of lower slopes, slide damage, flooding problems, and severe cutting or scarring.”

TAAG has concluded that the County fails to comply with the California State Affordable Housing Law that went into effect on January 1, 2020 that prohibits the project's expansion from 10 to 15 lots. This matter remains unresolved at this time. It should be noted that the SLO County current Affordable Housing Ordinance Section 22.12.020 A. indicates that “Where there is a conflict between the State Density Bonus Law and this ordinance, the State Density Bonus Law shall prevail.”

COA #22. j. Requires that “At the time of application for construction permits, plans submitted shall show all development consistent with the applicable development standards outlined in County Code Title 22 and the Templeton Design Guidelines.” Obviously, this project as presently designed does not comply with this Condition of Approval.

Respectfully submitted,

Scott Shirley
TAAG Chair
January 24, 2023