

Attachment A

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ATTACHMENT A - DISCUSSION

I. BACKGROUND

The East Garrison Development, as approved in 2005, includes up to 1,400 residential units (consisting of 780 single-family detached units, 227 townhouses, 280 condominium/loft/apartment units, and 113 live/work units) plus up to 70 carriage units (dependent on water availability). Of these housing units, 84 are for very low income households, 112 are for low income households, 84 are for moderate income households, and 140 are for workforce II income households. East Garrison as approved also includes Town Center of up to 75,000 square feet (“sf”) of commercial space, and 11,000 sf of institutional uses (inclusive of an approximately 7,000 sf fire station and approximately 4,000 sf library with Sheriff substation). The development also includes a Historic Arts District of up to 100,000 sf of artist studio/public use space in 23 renovated historic buildings to be renovated and approximately 50 acres of open space, parks, and natural areas.

To date, East Garrison has developed into a thriving community of 1,059 homes inclusive of 130 affordable rental apartments, 51 moderate income units, and 70 workforce II units. East Garrison includes improvements for the community’s benefit including an 11,152 square foot (sf) Fire Station inclusive of a community room, and approximately 11 acres of parks, and 26 acres of improved open space and trails. The pre-construction planning well underway Library with Sheriff substation and construction is anticipated to begin in 2025.

County Approvals of Previously Approved Project

The Monterey County Board of Supervisors approved the East Garrison Specific Plan and Combined Development Permit Project (PLN030204) on October 4, 2005 (“Previously Approved Project”). The Previously Approved Project included 1) amendments to the 1982 Monterey County General Plan (Policies 26.1.9 and A-1); 2) amendments to Monterey County Code Title 21 (Section 21.08.060); 3) adoption of the East Garrison Specific Plan; 4) approval of a Combined Development Permit; 5) adoption of a Mitigation Monitoring and Reporting Plan; 6) allocation of 470 acre-feet per year (“AFY”) of water from the County’s 560 AFY water allotment (also referred to as “FORA water allocation”) for the former Fort Ord; and, 7) a Development Agreement. The Combined Development Permit consisted of a Vesting Tentative Subdivision Map for the subdivision of the 244-acre project site; a Use Permit for tree removal; a General Development Plan; a Use Permit to allow development on slopes over thirty percent (30%); and a Design Approval.

On October 4, 2005, Board of Supervisor’s took the following actions:

- Certified and adopted the Final Subsequent Environmental Impact Report, including project-specific mitigation measures and a Statement of Overriding Considerations (Resolution No. 05-264);
- Approved General Plan text amendments (Resolution No. 05-265);
- Approved Zoning Ordinance text and map amendments (Ordinance No. 05000);
- Adopted the East Garrison Specific Plan (Resolution No. 05-266);
- Approved the Combined Development Permit (Resolution No. 05-267);
- Adopted Enacting Ordinance to approve a Development Agreement (Ordinance No. 05001); and

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- Consented and agreed to a Disposition and Development Agreement (Resolution No. 05-273).

Additional information, including reports and documents, associated with the East Garrison Specific Plan Project can be found at the County of Monterey HCD-Planning's East Garrison webpage at the following address: www.countyofmonterey.gov/government/departments-a-h/housing-community-development/planning-services/library-current-major-projects/east-garrison

The Board of Supervisors subsequently amended the Combined Development Permit (PLN030204-AMD1) on February 11, 2020 (Resolution No. 20-037) and adopted an addendum to the EGSP Final Subsequent EIR, to amend Condition of Approval No. 184 (related to specificity of funding allocation for fees collected by Monterey Bay Air Resources District to mitigate Reactive Organic Gas and Nitrogen Oxide air quality impacts from the Approved Project), and approve an agreement between the County of Monterey and Monterey Bay Air Resources District.

On June 16, 2020, the Board of Supervisors considered an addendum to the EGSP Final Subsequent EIR and adopted Ordinance No. 5333 approving the First Amendment to the Development Agreement to extend the agreement for 15 years and establish fees on remaining building permits for the Approved Project to replace Fort Ord Reuse Authority's ("FORA") Community Facilities District fees for the Developer's fair share funding of habitat management, and regional and County roadway improvements.

Agency Approvals of Previously Approved Project

East Garrison Partners, LLC ("EGP") and the Redevelopment Agency of the County of Monterey, with the consent and agreement of the County of Monterey ("County"), entered into a DDA dated as of October 4, 2005. The DDA establishes, among other things, appropriate terms and conditions to assure that development of the site in accordance with the development approvals, including provisions governing the timing of affordable housing units and public facilities to ensure these public amenities are developed concurrently to the market rate housing. The DDA additionally sets forth the requirements, terms and conditions of financing to be provide by the Developer, Agency and others in connection with the development.

On September 8, 2009, UCP East Garrison, LLC ("the Developer") acquired fee title to the Previously Approved Project that was subject to the DDA, and consequently, as successor-in-interest to EGP, assumed certain rights, interests and requirements under the DDA. The Redevelopment Agency of the County of Monterey has been succeeded by the Successor Agency to the Redevelopment Agency of the County of Monterey ("Agency"). On August 30, 2016, the Developer and Agency entered into an Amended and Restated First Implementation Agreement to the Disposition and Development Agreement ("First Implementation Agreement") assigning the obligations of the DDA to the Developer and amending certain DDA terms.

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II. PROPOSED PROJECT

While home sales have remained consistent over the course of East Garrison’s build-out since the First Implementation Agreement, primarily because of the strong demand for new housing and lack of supply within the County, significant challenges have hampered the development process to finish the remaining portions of Phase 3 and the Town Center Development at East Garrison (collectively “Final Phase”). Among those challenges have been a fundamental market shift downward for office and retail space, cost inflation associated with construction materials, labor cost increases and availability, the Covid-19 pandemic, and prevailing wage rates. In aggregate, these factors, have created a very different development environment than that which existed when the Specific Plan was approved over 20 years ago. In order to achieve the intent of goals for East Garrison and ensure its completion, the Developer has proposed changes the Previously Approved Project to meet current economic conditions.

The Proposed Project (PLN030204-AMD2) consists of the Final Phase, combining remaining portions Phase 3 and the Town Center phase of the Previously Approved Project. The Final Phase includes up to 325 residential units, consisting of up to 259 residential for-sale units (consisting of 140 market rate single-family units and 119 live/work artist “rowhouses” which includes 33-units affordable to moderate-income households, 70 units affordable to Workforce II households, and 16 market-rate units.) and 66 affordable rental apartments, as well as up to 30,000 sf of commercial/institutional/retail uses (including a community courtyard), a one-acre Town Center Park (“Town Square”), and a 4,000 sf library/sheriff’s office. The Proposed Project also relocates the Phase 3 affordable rental apartments from their original location adjacent to the Arts Park to a new location cohoused and stacked on top of the commercial Town Center.

Overall, implementation of the Proposed Project would decrease the amount of development associated with buildout of the development. These Final Phase changes reduce the residential uses through an overall reduction in the total housing unit count for all phases from 1,400 to 1,384 (reduction by 16 total market rate units), with accompanying revision to the unit locations, counts and descriptions. The Proposed Project would reduce the maximum allowable commercial uses (reduction from 75,000 sf to 30,000 sf), without reducing the required minimum commercial uses. **Table 3** shows the comparison of total development between the Previously Approved Project and the Proposed Project.

Proposed Use	Previously Approved Project*	Proposed Project **	Difference
Residential (dwelling units)			
Single-Family	780^	919	Increase of 139 units
Townhouse	227^^	150	Decrease of 77 units

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Table 3 Comparison of Total Development under the Previously Approved Project and Proposed Project			
Proposed Use	Previously Approved Project*	Proposed Project **	Difference
Live/Work Rowhouse	197 ^{^^}	119	Decrease of 78 units
Affordable Apartments	196	196	N/A
Total	1,400	1,384	Decrease of 16 units
Carriage Units (dependent on water availability)	70	70	N/A
Total (including Carriage Units)	1,470	1,454	Decrease of 16 units
Non-Residential (square feet)			
Commercial (incl. Community Courtyard)	75,000	30,000	Decrease of 45,000 sf
Library/Sheriff	4,000	4,000	N/A
Fire Station	7,000	11,200	Increase of 4,200 sf***
Arts/ Cultural/ Education (incl. Chapel)	100,000	100,000	N/A
Total	186,000	145,200	Decrease of 40,800 sf
Notes: * As described in the Adopted EGSP ** As described in the application materials provided by the Applicant *** Already constructed – not included in the Proposed Modification ^ Included 140 Workforce II units and three (3) moderate income units. ^^ Included 114 affordable housing units. ^^ Included 65 affordable housing units. (Sources: County of Monterey, Development and Disposition Agreement, Page 162, May 2006, and Century Communities, November 2023)			

Proposed Project Consideration – County of Monterey

The Planning Commission considered the Proposed Project at the April 10, 2024 Planning Commission Hearing. The Planning Commission and members of the public raised concerns related to proposed changes to building heights, housing affordability, and parking, most notably the lack of dedicated off-street parking spaces for the affordable housing to be developed by CHISPA at the Town Center. The Planning Commission ultimately recommended that the Board of Supervisors approve the project with a vote of 9 to 0, but recommended that the Proposed Project be conditioned to include dedicated off-street parking for the proposed 66-unit affordable rental apartments to be developed by CHISPA (see **Attachment A** to the Agency Board report for further discussion). Additionally, the Planning Commission recommended that the Proposed Project facilitate the timely construction of the Town Square Park earlier in the development.

On June 26, 2024, the County Board of Supervisors is considering Proposed Project by approving an amendment to the EGSP including changes to Appendix A – Pattern Book, amendment of the Combined Development Permit PLN030204, and approve a Vesting Tentative Map. The County Board will also consider consenting and agreeing to amend the DDA and

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acknowledging amendment to the Phase Three Completion Guaranty. The County Board of Supervisors meeting agenda and staff report with attachments for item is available at <https://monterey.legistar.com/Calendar.aspx>.

Proposed Project Consideration – Successor Agency

First Amendment to the Amended and Restated Implementation Agreement

The Proposed Project would require an amendment to the East Garrison DDA via First Implementation Agreement. The First Amendment to the Amended and Restated First Implementation Agreement, attached in draft form as **Exhibit B** to the staff report, amends the following DDA terms:

- Reduction in Tax Increment Liabilities under the DDA
- Phasing Map (Attachment No. 1(B) to the DDA) to designate the remaining Final Phase development area;
- Product Size and Types (Exhibit 1 to Attachment No. 9 to the DDA) to reflect updates to modified product types, maximum unit size, and unit counts for the Final Phase.
- Financial Terms revising Second and Final Reporting Dates related to profit participation (Attachment No. 4, § 3.g to the DDA)
- Schedule of Performance (Attachment No. 5 to the DDA) to memorialize the phased timing for completion of the Final Phase development;
- Workforce II Housing (Attachment No. 3, §§ A&B and Attachment No. 9, § 5 to the DDA) to allow the developer to satisfy all remaining Workforce II Housing obligations in the Final Phase and require amendment to the WF II Housing Agreement;
- Town Center (Attachment No. 4, § G(2); Attachment No. 9, § 6) to establish Town Center construction milestones to be linked to timing triggers associated to issuance of building permits for certain number of Final Phase market rate units;
- Town Center Park (Town Square) specifying it shall include a play structure and establishing construction milestones linked to timing triggers associated to issuance of building permits for certain number of Final Phase market rate units; and
- Public Facilities terms modifying the payment timing for the remaining Developer’s Contribution (Attachment 9, § 8(i) to the DDA) for mandatory public facilities.

Following is a detailed discussion of these proposed amendments to the DDA.

Reducing Tax Increment Liabilities

The DDA has been recognized by the California Department of Finance (DOF) as an “Enforceable Obligation”. In order for the Agency and Developer to amend the DDA (via the First Implementation Agreement), such amendment must be deemed consistent with the Dissolution Act and Health and Safety Code Section 34181(e), which has been interpreted to mean that an agreement could be amended if the Agency’s tax increment liabilities were reduced and net revenues to the taxing entities increased as part of the amendment. The Proposed Project amends the DDA to reduce the number of overall residential units by 16 units and includes new residential unit types and sizes, which could impact the property tax generated by the development.

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In June 2024, the Developer submitted a Tax Increment Analysis which indicates that the total new incremental ad valorem property tax generated by the Proposed Project and the amount available (tax increment) to fund the Agency's enforceable obligations is greater than the tax increment generated by the Previously Approved Project. This analysis is included as Exhibit A to the First Amendment to the First Implementation Agreement (See **Attachment B Exhibit 1** to the staff report). This increase in property tax generated results in an increase in net revenues to the taxing entities and reduces the Agency's liabilities by enabling the Agency to retire obligations sooner given the increase in revenues. These outcomes ensure the Proposed Project and amendments to the DDA are consistent with state law related to amending enforceable obligations.

Reconfiguration for the Final Phase

The Proposed Project combines and reconfigures the mixed-use Town Center phase and the remaining development from Phases 2 and 3 into a Final Phase, and Attachment No. 1(B) to the DDA is replaced with Exhibit B to the First Amendment to the First Implementation Agreement (See **Attachment B Exhibit 1** to the staff report).

Housing Product Size and Type

The development concept envisioned in the EGSP and DDA for East Garrison to promote affordability by design and that each neighborhood (phase) would support a mix of housing types designed to meet a wide range of income and family needs. To support this concept, Exhibit 1 to Attachment 9 of the DDA sets forth the not to exceed maximum square footage for each residential product type. The Proposed Project creates a new "hamlet" product type which is similar to the existing Grove lots, but smaller. It also creates a new live/work rowhouse which is similar to the original live work and attached town home units. The Proposed Project also modifies the unit distribution by size. The Proposed Project also changes the implementation terms for the minimum size of the Moderate-Income units and Workforce II units. To ensure the Proposed Project continues to promote affordability by design, the changes product type, sizes (minimum, maximum, and average) and unit distribution amongst them are memorialized in a Revised Attachment 9 Exhibit 1 to the DDA, which is Exhibit C to the First Amendment to the First Implementation Agreement (See **Attachment B Exhibit 1** to the staff report).

Profit Participation Reporting Dates

The DDA includes terms that make a portion of any residual proceeds from the development available to the Agency according to specific terms and timing. Due to delays in the project, the terms related to financial report timing in Attachment No. 4, Section 3.g to the DDA are amended to align with the Final Phase timings, and are memorialized in Section 1.3 of the First Amendment to the First Implementation Agreement (See **Attachment B Exhibit 1** to the staff report).

Subphases and Affordable Housing Locations

The Proposed Project, or Final Phase, will be implemented in two distinct subphases – Phase A and Phase B. Phase A includes the 30,000 sf commercial Town Center with 66 very low and low income units stacked on top in the Phase Three Affordable Rental Apartment Project, Town Center Park, and 70 market rate single family houses. Phase B includes the 33 moderate income houses, 70 workforce II income houses, and another 70 market rate single family houses. The

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subphases and affordable unit locations are memorialized in Exhibit D to the First Amendment to the First Implementation Agreement (See **Attachment B Exhibit 1** to the staff report).

Town Center Commercial Space and Park

The EGSP and DDA envisioned the Town Center would be responsive to market demands and built gradually over time with the development, and the DDA requires a minimum of 34,000 sf of commercial uses. As a result of delays completing the development, changes to the lot configurations in the Proposed Project, and the fact that the Developer will directly construct the housing (as opposed to selling lots to an affiliated vertical developer), the timing triggers for the Town Center in Section 2 of Part G of Attachment 4 to the DDA require amendment. Section 4 of the First Amendment to the First Implementation Agreement requires that Town Center construction to commence prior to issuance of the 40th market rate unit building permit, and construction must be complete prior to issuance of the 71st permit. In response to the Monterey County Planning Commission's recommendation, the First Amendment to the First Implementation Agreement Section 5(a) is amended to specify that that Town Center Park (Town Square) shall include a play structure and to require construction of the park earlier in the Final Phase implementation and that it must be complete prior to issuance of the 71st market rate building permit in the Final Phase. (See **Attachment B Exhibit 1** to the staff report).

Schedule of Performance and Timing of Final Phase

The Proposed Project and needed amendments to the DDA include changes to Attachment No. 5 to the DDA (Schedule of Performance) for the Final Phase. Amendments to the Schedule of Performance are included as Exhibit E to the First Amendment to the First Implementation Agreement include a phasing plan that ensures the public amenities and affordable housing units are constructed concurrently with the market-rate units. (See **Attachment B Exhibit 1** to the staff report).

Workforce II Housing

Implementation of workforce II housing obligation for the Final Phase is updated and amended for the remaining 70 workforce II units to allow the developer to satisfy all remaining workforce II obligations in the Final Phase. Section 3 of the First Amendment to the First Implementation Agreement (See **Attachment B Exhibit 1** to the staff report) updates the terms of the DDA that were first amended with the First Implementation Agreement.

Mandatory Public Facilities

Under section 8(i) of Attachment 9 to the DDA, the Developer's Contribution to funding Public Facilities has been partially satisfied, and the remaining escalated value of the Developer's Contribution as of April 2024 is approximately \$2,315,462, and Section 6 of the First Amendment to the First Implementation Agreement updates the payment terms to require payment of not less than \$1,000,000 within 90 days of execution of the amendment, and the remaining (and as escalated per the terms of the DDA) to be provided when the Agency and County determine Library with Sheriff substation construction is ready to proceed, but no later than one year from execution of the amendment. Preconstruction activities for the Library and

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Sheriff substation are well underway, and construction is anticipated to start in the spring 2025. (See **Attachment B Exhibit 1** to the staff report).

Phase Three Affordable Rental Apartment Project

The EGSP and DDA envision that each neighborhood (or phase) would include a mix of housing types designed to meet a wide range of income and family needs and affordable by design, included a minimum of 20% of the residential units (not including the carriage units) be affordable to persons and families of very low income (6%), low income (8%), and moderate income (6%). The DDA provides, among other things, for the construction and rental of affordable housing, in three phases; the remaining Phase Three Affordable Rental Apartment Project would be constructed as part of the Final Phase. The Proposed Project includes changes the Phase 3 and Town Center layout to relocate the Phase 3 Affordable Rental Housing Project to be included in the Town Center. Relocating the affordable rental housing to the Town Center helps reduce construction costs by eliminating the need for parking garage and enhancing competitiveness for low-income housing tax credit program funding.

Completion Guaranty for Phase 3 Affordable Rental Housing

The DDA contemplated certain circumstances or “triggering events”, such as delays or failure for an affordable housing developer to secure timely financing, and provided the Developer the ability to provide a guaranty of completion for the affordable rental housing. On June 27, 2019, the Developer (via Casa Acquisition Corporation) provide the Agency a Completion Guaranty for Phase Three affordable rental housing project. As a condition to the continued issuance by the County of building permits and certificates of occupancy for the market rate units, the Developer provided a \$17,500,000 surety performance bond and guaranty the units would be constructed no later than March 31, 2025. To help reduce construction costs and increase funding eligibility for the Phase 3 Affordable Rental Housing, more time is needed to construct these units. Therefore, the Developer (via Casa Acquisition Corporation) has provided the Agency with a First Amendment to the Completion Guaranty for Phase Three, increasing the surety performance bond from an original amount of \$17,500,000 to a new amount of \$20,125,000 (an increase of 15%) and to extend the timeline for completion of the Phase 3 apartments from March 31, 2025 to March 31, 2030 (See **Attachment B Exhibit 2** to the staff report). In addition, by accepting the First Amendment to the Completion Guaranty, the Agency further ensures that the affordable rental units (and Town Center) will be completed by or before March 31, 2030.

Memorandum of Agreement with Phase 3 Affordable Housing Developer

The EGSP and the DDA provide that the very low income and low income units in each phase shall be affordable rental units developed by one or more qualified tax credit entities (each a "Rental Affordable Housing Developer") selected by the Developer, subject to the reasonable approval of the Agency. On January 16, 2007, the Developer entered into a Memorandum of Agreement with Artspace Projects, Inc. (“Artspace”), one of the specified nonprofit housing developers approved by the Agency under the DDA, designating Artspace as the Phase Three Rental Affordable Housing Developer. The Developer seeks to work with a new affordable housing developer to build, own and operate the Phase 3 Affordable Rental Apartment Project. The Developer, Artspace, and Agency entered into a letter agreement dated February 6, 2024, mutually agreeing that Artspace will not be the Phase Three Rental Affordable Housing

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Developer. Instead, the Developer wishes to designate Community Housing Improvement Systems and Planning Association, Inc., (“CHISPA”), who developed the Phase 2 Affordable Rental Apartment Project at East Garrison, as the Phase Three Affordable Apartment Developer. A Memorandum of Agreement between the Developer and CHISPA (“MOA”) to be approved by the Agency is included as **Exhibit 3 of Attachment B** to the staff report.

Key provisions are included in the MOA to address public comment and Planning Commission recommendation related to the need for dedicated parking for the affordable apartments and coordination with the local artists on design and marketing to ensure the affordable apartments help meet affordable housing needs for artists.

Section 7.b.iv of the MOA includes a requirement that CHISPA work in good faith to solicit input from Arts Habitat, Inc. and the local artist community in connection with the design of the Phase Three Rental Affordable Housing and to develop a directed marketing program designed to promote the affordable apartments to local artists.

The Proposed Project did not originally include dedicated off-street parking spaces for the affordable apartments located in the Town Center. The County has introduced a new Condition of Approval (No. 120) to require that the Applicant provide 66 designated off-street parking spaces for the affordable apartments located in the Town Center based on public comments and recommendation from the Planning Commission at the April 10, 2024 hearing. This requirement is also memorialized in the MOA between CHISPA and the Developer. The Applicant will work with CHISPA, the affordable housing developer, to determine and finalize a dedicated off-street parking plan for the affordable apartments. **Figure 1** shows a conceptual illustration of where the dedicated parking could be located.

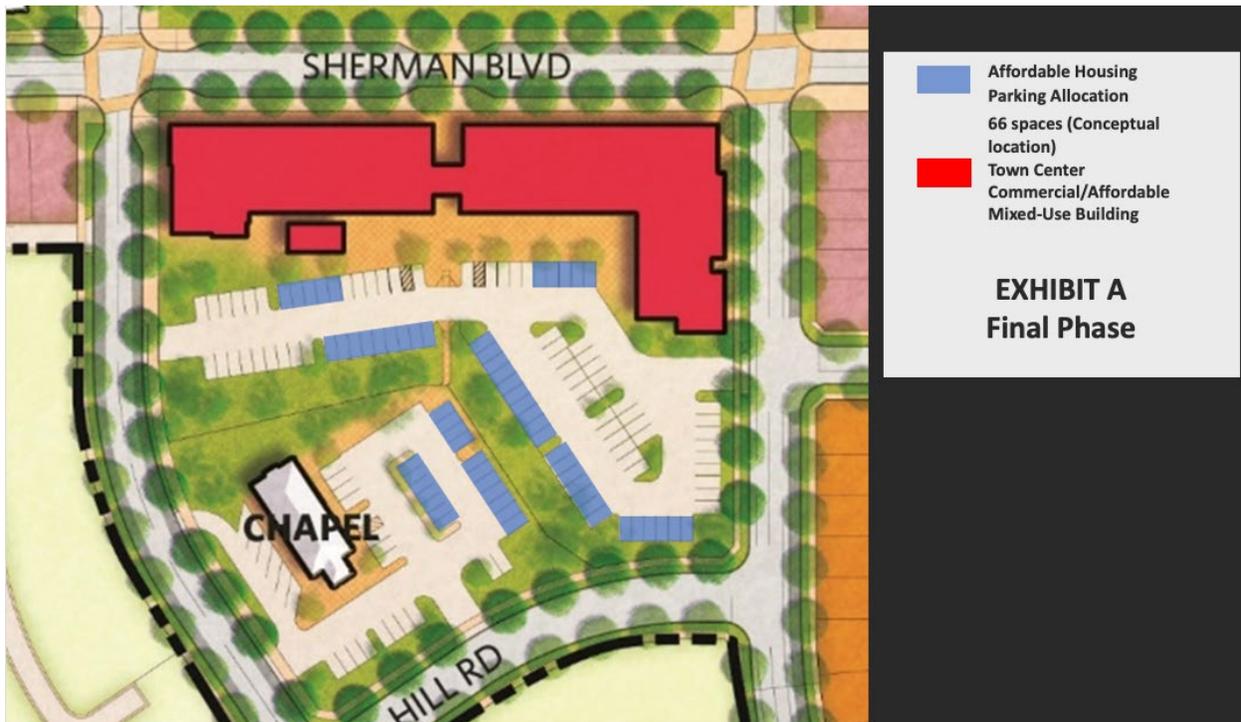


Figure 1. Conceptual Illustration of Dedicated Parking

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Moderate and Workforce II Housing

Various affordable housing implementing agreements were required by the County and Agency to ensure consistency with County's Inclusionary Housing Program. These agreements were identified in the DDA or subsequently determined to be needed by the Agency and County, and such agreements have been executed and amended as needed by the Agency, Developer and other relevant parties. The Proposed Project necessitates amendments to the affordable housing agreements listed below, which require subsequent Agency approval.

- Inclusionary Housing Agreement for Moderate Income Inclusionary Units (June 20, 2007) and the First Amendment (February 8, 2022);
- East Garrison Phase 1 Workforce II Housing Letter Agreement (March 9, 2016);
- Designation of Workforce II Housing Agreement for Phase 1 (December 12, 2017) and the First Amendment (June 26, 2018) and Second Amendment (February 12, 2019); and

Moderate-Income Housing Agreements

To implement the Moderate-Income housing requirements of the DDA and ensure consistency with the County's Inclusionary Housing Program, the Agency and Developer entered into an Inclusionary Housing Agreement for Moderate Income Inclusionary Units (June 20, 2007) and the First Amendment (February 8, 2022). Subsequent to approval of the Proposed Project the Agency and Developer must amend these agreements designating the new Moderate-Income unit locations as well as reducing the minimum unit size from 1,300 sf to 1,000 sf.

Workforce II Housing Agreements

The DDA requires that one hundred and forty (140) units be offered to Workforce II buyers in Phase 3 of the Project. This requirement was originally intended to guard against Workforce II homebuyers from being priced out of purchasing units located in the Project. However, due to declines in the local real estate market, the Parties agreed that a reasonable estimate for the purchase prices of the majority of the market rate units at the time the First Implementation Agreement was executed were anticipated to be sold at or below "Workforce II" levels.

To ensure the workforce II housing program at East Garrison is consistent with the County program while recognizing changes in the local real estate market, the First Implementation Agreement set out how the Developer would implement this Workforce II housing requirement. Subsequent Workforce II agreements between the Agency and Developer are as follows: East Garrison Phase 1 Workforce II Housing Letter Agreement (March 9, 2016); Designation of Workforce II Housing Agreement for Phase 1 (December 12, 2017) and the First Amendment (June 26, 2018) and Second Amendment (February 12, 2019); and Workforce Housing Agreement for the East Garrison Phase 2 and 3 (March 11, 2016). To implement the Workforce II housing requirements as laid out in the First Amendment to the First Implementation Agreement, subsequent to approval of the Proposed Project, the Agency and Developer must enter into a Workforce II housing agreement for the Final Phase.

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III. CEQA COMPLIANCE

Addendum to the Certified Final Subsequent Environmental Impact Report

The County as lead agency prepared Addendum No. 3 to the EGSP Final Subsequent EIR for the Proposed Project (see **Attachment C** to the staff report). CEQA Guidelines Section 15164 states that “[a] lead agency or responsible agency shall prepare an addendum to a previously certified EIR if some changes or additions are necessary but none of the conditions described in Section 15162 calling for preparation of a subsequent EIR have occurred.” CEQA Guidelines Section 15162 establishes the following criteria for the preparation of a subsequent EIR:

- 1) Substantial changes are proposed in the project which will require major revisions of the previous EIR or negative declaration due to the involvement of new significant environmental effects or a substantial increase in the severity of previously identified significant effects;
- 2) Substantial changes occur with respect to the circumstances under which the project is undertaken which will require major revisions of the previous EIR or negative declaration due to the involvement of new significant environmental effects or a substantial increase in the severity of previously identified significant effects; or
- 3) New information of substantial importance, which was not known and could not have been known with the exercise of reasonable diligence at the time the previous EIR was certified as complete or the negative declaration was adopted, shows any of the following:
 - a) The project will have one or more significant effects not discussed in the previous EIR or negative declaration;
 - b) Significant effects previously examined will be substantially more severe than shown in the previous EIR;
 - c) Mitigation measures or alternatives previously found not to be feasible would in fact be feasible and would substantially reduce one or more significant effects of the project, but the project proponents decline to adopt the mitigation measure or alternative; or
 - d) Mitigation measures or alternatives which are considerably different from those analyzed in the previous EIR would substantially reduce one or more significant effects on the environment, but the project proponents decline to adopt the mitigation measure or alternative.

Addendum No. 3 evaluated the potential environmental effects associated with implementation of the Proposed Project and concluded that it would not result in new significant impacts or increase the severity of a previously identified impact. The Proposed Project would reduce the number of residential units by 16 residential units. Similarly, the Proposed Project would reduce the maximum amount of non-residential development by 45,000 sf as compared to the

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Previously Approved Project. As a result, the Proposed Project would reduce the magnitude of potential impacts as compared to the Previously Approved Project. However, the Proposed Project would not reduce the overall level of significance (i.e., less than significant, less than significant with mitigation, or significant and unavoidable) of any of the impacts identified in the EGSP Final Subsequent EIR. The development of the EGSP, as modified by the Proposed Project, would still result in significant and unavoidable impacts related to construction and operational air quality emissions, substantial adverse changes to historic resources, incremental worsening of level of service (“LOS”) at project area intersection and roadways, and increases in water demand and construction of new water supply, storage, and distribution facilities as identified for the Previously Approved Project. Implementation of the Proposed Project would not, however, increase the severity of any of these impacts. In fact, the Proposed Project would slightly reduce the magnitude of these effects, except for wastewater, due to the reduction in proposed development. However, the increase in wastewater production is minimal (additional .014MGD for dry weather flows and .032MGD for wet weather flows) and is within the existing capacity of the service provider. The Proposed Project, including the amendments to the terms of the DDA, would not result in any additional environmental effects beyond those previously identified in the EGSP Final Subsequent EIR.

Pursuant to Section 15162 of the CEQA Guidelines, there are no substantial changes proposed in the Proposed Project, no changes to circumstances under which the Previously Approved Project was undertaken, and there is no new information of substantial importance not known at time that would require major revisions to the EGSP Final Subsequent EIR due to the introduction of new environmental effects or substantial increase in the severity of previously identified environmental effects as a result of the Proposed Project. The Proposed Project would not result in any new significant environmental effects that cannot be mitigated with existing, previously identified mitigation measures in the EGSP Final Subsequent EIR. In addition, the Proposed Project would not substantially increase the severity of environmental effects identified in the EGSP Final Subsequent EIR. As described above, CEQA Guidelines Section 15164 states that a lead agency or responsible agency shall prepare an addendum to a previously certified EIR if some changes or additions are necessary, but none of the conditions described in Section 15162 calling for preparation of a subsequent EIR have occurred. The Proposed Project, including the amendments to the terms of the DDA, does not present a substantial change to identified environmental impacts previously discussed and addressed in the EGSP Final Subsequent EIR (SCH#2003081086), see **Attachment D** to the staff report. Therefore, a subsequent or supplemental EIR, pursuant to CEQA Guidelines Section 15162, is not required in connection with approvals for the Proposed Project.

The Agency, as a responsible agency, has considered the addendum and agrees with its determination.

Conditions of Approval/Mitigation Monitoring & Reporting Program

The Board of Supervisors previously certified the EGSP Final Subsequent EIR (SCH#2003081086), adopted a Mitigation Monitoring and Reporting Plan (“MMRP”), and adopted a Statement of Overriding Considerations for the Previously Approved Project (Resolution No. 05-264) on October 4, 2005. Nineteen mitigation measures would be applicable to the Proposed Modification as identified in Appendix F of Addendum No. 3 (**Attachment D**).

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The County previously adopted 265 conditions of approval for the Previously Approved Project. Condition compliance for the Previously Approved Project is considered ongoing as buildout of the EGSP is ongoing. All applicable conditions from the Previously Approved Project would be carried over to the Proposed Project, with the exception of Condition No 184, which was modified as part of Addendum No. 1. The Proposed Project would not require additional mitigation measures beyond those identified for the Previously Approved Project. The County has identified that 5 additional conditions of approval would be applicable.

The County's adopted conditions of approval ensure development concurs consistent with the spirit of the EGSP, and in doing so the County's conditions also satisfy the Agency's need to ensure the development is implemented consistent with the DDA and other agreements. Four conditions of approval achieve needed assurances and consistency for both the County and Agency.

The County has included Condition of Approval (COA) No. 33 to the County's approvals to require the Developer submit a draft leasing plan for the Town Center with a goal of optimizing the commercial viability of the commercial uses, to the Agency prior to issuance of the certificates of occupancy for the Town Center.

To ensure consistency with the County's Inclusionary Housing program, the County has included COAs No. 34 and No. 116 to require the Developer submit draft Amended Workforce II Housing Agreements and draft Amended an Inclusionary Housing Agreement for Moderate Income Inclusionary Units, respectively, to HCD-Housing prior to recordation of the final map for the Final Phase.

To ensure the Town Center is developed consistent with the EGSP and to be responsive to the Planning Commission and public comment, the County has introduced COA No. 117 to require that the Applicant provide 66 designated off-street parking spaces for the affordable apartments located in the Town Center.

The County's adopted conditions provide that the development will be implemented consistent with the DDA and other agreements, and therefore the Agency does not need to adopt separate conditions of approval.

The County Board of Supervisors meeting agenda and staff report with attachments for item is available at <https://monterey.legistar.com/Calendar.aspx>. The conditions of approval can be found as Exhibit 1 to Attachment C of the County's staff report.

IV. PUBLIC OUTREACH

Public Outreach

The Applicant has conducted extensive public outreach (in person and via online webinar) to solicit community feedback from residents from fall 2021 through summer 2023, through participation in and/or presentation at multiple town hall events, Homeowners Association Board meetings, an East Garrison Community Services District Advisory Committee meetings, and in-person resident discussions at East Garrison. Community concerns at these events included the key topics of parking availability, open space, and traffic. Concern was also raised about the

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Town Center commercial uses. Questions and discussion also addressed the future Historic Arts District, however, planning regarding the redevelopment of the historic buildings is in progress and separate from the Proposed Project.

Public Comment

Staff received public comment relative to parking, structure height, the reduction in commercial square footage, the Town Square park, the Battle Simulation and Theater buildings, and allowed uses at the Town Center. The discussion below summarized the concerns and how they were addressed.

Parking

Overall, parking concerns were related to an existing issue with the general public parking in the community to access adjacent outdoor recreation areas as well as community residents with multiple vehicles, some of which being too large to park within their garage. Specific to the Final Phase development, the public expressed concerns with the limited amount of dedicated off-street parking and if/how on-street parking would be sufficient to serve residents as well as the general public.

The County approvals govern parking requirements at East Garrison and the DDA other Agency agreements do not address parking.

Height

Correspondence identified concerns with the increased height of structures within the Final Phase. Relative to safety, there was a concern with the existing fire apparatus at East Garrison and its inability to access a 4-story structure thereby necessitating a reliance on mutual aid for ladder truck. The commentor also mentioned that a 4-story structure not approved by Fire Marshal and that the change in height would result in allowing a 5-story structure.

The County approvals govern parking requirements at East Garrison and the DDA other Agency agreements do not specifically address parking.

Reduction of Commercial Square Footage

One comment included a concern with the Final Phase resulting in a reduction to the maximum allowed square footage of commercial/retail space. The commenter made specific reference to the potential for nearby future development of 1,000 units. Although unclear, it appears this reference relates to one of the property's included in the County's Sites Inventory Analysis prepared as part of the draft Housing Element Sixth Cycle Update.

The applicant submitted an East Garrison Town Center Retail Feasibility Analysis, prepared by Wildan Financial Services. This analysis supports a reduction of the maximum commercial square footage to 30,000 sf based on two primary factors.

As adopted, the DDA and EGSP accommodated up 75,000 sf of commercial space to meet the demand and capacity resulting from up to 3,000 residential units, which would eventually be planned and built within the East Garrison Track Zero area and on lands just south of Watkins Gate Road and along Barloy Canyon Road. The DDA requires a minimum 30,000 sf of

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commercial space. Since adoption of the EGSP, the Parker Flats (East Garrison II) area has been replaced with open space and habitat conservation area, to remain in perpetuity, thereby reducing the number of households that could support the Town Center retail by half, approximately 1500 residential units.

The analysis also found there has been a significant shift in retail over the past decade resulting from an increased utilization of “ecommerce”, or online shopping, and an uptick towards “experiential retail”, such as food and entertainment, rather than durable goods. The analysis also notes that as a result of COVID-19, this trend in retail has accelerated and anticipates it to continue on long term basis.

In order to address this trend and ensure a successful commercial aspect of the Town Center, the analysis supports the concept of providing smaller convenience retail resources to serve local residents (e.g. a convenience store, casual dining and neighborhood services. Nearby larger scale retail exists and is already provided by significant large format shopping centers such as the Dunes on Monterey Bay in Marina and the complex of strip centers along North Davis Road in Salinas, along with online sources such as Amazon. As proposed, the 30,000 sf Town Center would supplement these uses representing a relatively small portion of retail spending by East Garrison residents and draw few customers from outside the community. The County has incorporated Condition of Approval No. 33 requiring the Developer to submit a Town Center Commercial/Retail Leasing Plan with the goal of optimizing the commercial viability. This plan shall also include details relative to the operation and maintenance of the Town Center and common areas.

County permit records were researched and there is no current development application for 1,000 residential units in proximity to the East Garrison planning area. However, should one occur in the future, the development would be analyzed to ensure the needs resulting from the development are properly anticipated and planned for.

Town Square Park

This commenter suggested that with the change in residential density in the Final Phase, there should be a change to the park at the Town Center as outdoor space is an important element for the community residents.

As adopted, the EGSP provides for park and recreational activities, in sufficient size, to meet the requirements of the community. The Parks and Open Space network, comprising of 7 parks and 2 distinct greenway areas, allow for passive and active uses equitably distributed so that each resident is within a 1/4th mile of a park. Although the Final Phase would result in a modification of the approved residential development, the overall residential density would decrease by 16 units and maintains consistency with the planned network. The First Amendment to the

Battle Simulation & Theater Buildings

It was suggested the areas where the Battle Simulation and Theater building were located should be reused as an area for overflow parking, turned into bike/skate park or become a right-of-way area to extend Bragg Way so that it would connect to Sloat Street.

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Ownership of both the Battle Simulation and Theater parcels are retained by the Successor Agency and the reuse, development and maintenance of these lands are not under the control of the developer. As part of the Historic Arts District, the EGSP and DDA call for the replacement of the now demolished Battle Simulation and Theater building with new buildings of similar size. Although the suggestion by the public is sensible, the Proposed Project does not incorporate the necessary changes in the EGSP and Successor Agency agreements for this to occur. Artspace, Inc. the non-profit developer identified to rehabilitate the historic buildings conducted community outreach and a creative space needs analysis in 2023, and is updating the business plan for the Historic Arts District this spring. Artspace and the Agency will continue engaging the community as the Historic Arts District plans are updated to reflect market changes and community needs.

Town Center Allowed Uses

It was suggested that in order to better serve the residents of the community, the allowed uses at the Town Center commercial building should include a bar/brewery and the limitation of a grocery store to 10,000 sf. should be explored.

The County approvals govern specific land uses and limitations at East Garrison and the DDA other Agency agreements do not.