RESOLUTION OF THE CITY OF PETALUMA CITY COUNCIL
UPHOLDING THE APPEAL FILED BY APPLICANT,
OVERTURNING THE PLANNING COMMISSION’S DENIAL, AND AMENDING
THE OAK CREEK APARTMENTS PLANNED UNIT DEVELOPMENT
TO REFLECT THE REZONING OF APN 019-010-009 FROM THE PUD
(APN 019-010-007 and 008)

WHEREAS, on December 30, 1981 the Gray Annexation area containing 147 acres was incorporated into the City of Petaluma by Resolution 9336 and zoned R1-6500 (Single-family Residential); and

WHEREAS, on December 20, 1982 the Oak Creek Apartments Planned Unit Development (PUD) was created by Ordinance No. 1523 N.C.S. and rezoned approximately 17.56 non-floodway acres over APN 019-010-007, -008, and -009; and

WHEREAS, the Oak Creek Apartments PUD included development of the 76-unit Oak Creek Apartments on approximately 5.8 acres (APN -007) and included use restrictions on the approximately 11 acres of undeveloped land (APN -009) to be compliant with the “Planned Residential” General Plan designation applicable to the area in 1982, which allowed a maximum of 6.0 dwelling units to the acre; and

WHEREAS, on December 20, 1982 the City Council by Resolution 9628 adopted the Oak Creek Apartments Unit Development Plan for the 76-unit Oak Creek Apartment complex and including age restriction for all occupants; and

WHEREAS, on June 4, 1984 the City Council by Resolution 84-121 N.C.S. modified the Oak Creek Apartments Unit Development Plan to remove the originally approved age restriction for the Oak Creek Apartments, to require play apparatus and an open lawn play area, and to require the addition of 38 additional parking spaces at the north end of the approved apartment complex; and

WHEREAS, the addition of a northern parking lot and play area to implement the requirements of City Council Resolution No. 84-121 increased the area of the Oak Creek Apartment complex to approximately 7.5; and

WHEREAS, the current General Plan land use designation of the property within the Oak Creek Apartment PUD boundaries is Medium Density Residential (allowing between 8.1 and 18.0 dwelling units to the net acre), and the 76-unit Oak Creek apartment complex occupying approximately 7.5 acres of non-floodway lands represents a density of approximately 10 units to the acre, consistent with the Medium Density Residential land use designation; and

WHEREAS, the J. Cyril Johnson Investment Corp. submitted an application for a PUD Amendment to modify the Oak Creek Apartments PUD regulations to reflect the proposed Zoning Map Amendment to rezone APN -009 out of the Oak Creek Apartments PUD to the R4 zoning district; and
WHEREAS, Chapter 19 of the IZO includes provisions for modification to existing PUDs and specifies that PUD modifications are subject to the same findings as were required for the original approval; and

WHEREAS, IZO Section 19.040(E) requires consideration and recommendation by the Planning Commission prior to City Council adoption of a PUD Amendment by Resolution; and

WHEREAS, the Planning Commission held a duly noticed public hearing to consider the proposed PUD modifications on November 19, 2019, considered the staff report analyzing the application dated November 19, 2019; and

WHEREAS, a copy of the public notice was published in the Argus Courier and mailed to residents and occupants within 1000 feet of the Oak Creek Apartments PUD boundary (as well as to residents and occupants within 1000 feet of all involved Sid Commons properties), in compliance with state and local law; and

WHEREAS, the project is subject to the California Environmental Quality Act (CEQA) and the City of Petaluma as the lead agency prepared an Environmental Impact Report (EIR) inclusive of a Draft Environmental Impact Report (DEIR) and a Final Environmental Impact Report (FEIR), which was prepared in full compliance with CEQA provisions, for the project including the PUD Amendment; and

WHEREAS, at a duly noticed public hearing on November 19, 2019 the Planning Commission approved Resolution No. 2019-21 recommending City Council certify the EIR, make findings of fact, and adopt the Mitigation Monitoring and Report Plan; and

WHEREAS, at said public hearing a motion to approve a resolution recommending City Council approval a Zoning Map Amendment and PUD Amendment failed by a 2-5 vote and resulting in a defacto denial of the Zoning Map Amendment and PUD Amendment; and

WHEREAS, Implementing Zoning Ordinance (IZO 19.040.A) states that Planning Commission denial of a PUD Amendment shall terminate the proceedings, unless such decision is appealed to the City Council; and

WHEREAS, on December 2, 2019, the applicant filed a timely appeal of the Planning Commission’s denial of the zoning modifications; and

WHEREAS, the appeal letter noted that, in conjunction with the appeal, the team would be modifying the project based on feedback received from the Planning Commission and the public; and

WHEREAS, on January 8, 2020, the applicant submitted a newly revised 180-unit concept plan responsive to concerns noted by the Planning Commission (including increased setback from the mapped River Plan Corridor and 100-year floodplain) and that continues to be consistent with the range of alternatives evaluated by the EIR; and
WHEREAS, AB 3194, which is codified in Section 65589.5 of the Government Code, and is entitled the Housing Accountability Act, prohibits a local government from requiring a rezoning of a property if a housing proposal is consistent with the underlying general plan land use designation, and effectively invalidates any component of the existing zoning that precludes a project from being developed to the maximum density of the underlying General Plan designation; and

WHEREAS, the Oak Creek Apartment PUD contains components that restrict use of APN-009 to a level below the density range of the Medium Density Residential land use designation; and

WHEREAS, Under AB 3194, those aspects of the existing Oak Creek Apartment PUD that preclude development of APN -009 to the maximum density of 18 units per net acre as allowed by the Medium Density Residential General Plan land use designation are unenforceable, and the applicant could develop up to 288 units on the 16 net acre; and

WHEREAS, in response to feedback provided at the November 19, 2019 Planning Commission meeting the applicant submitted a newly revised concept plan proposing 180 units and modifying the project footprint to pull the proposed development further away from the Petaluma River, increasing tree preservation, incorporating 10% onsite affordable units to low income households, and committing to an all-electric residential project; and

WHEREAS, while AB 3194 would allow a significantly more intense project with fewer zoning criteria than the requested R-4 zoning district, the applicant has indicated a desire to continue with the newly revised concept plan and to seek a Zoning Map Amendment and PUD amendment to implement the R-4 zoning consistent with the Medium Density Residential land use designation and modify the Oak Creek Apartment PUD to reflect said changes; and

WHEREAS, at a duly noticed hearing on February 3, 2020, the City Council adopted Resolution No. 2020-XX, certifying an Environmental Impact Report for the project, in conformance with the California Environmental Quality Act (CEQA); and

WHEREAS, on February 3, 2020, the City Council of the City of Petaluma held a duly noticed public hearing to consider the appeal of the Planning Commission’s denial of the Oak Creek Apartment PUD Amendment.

NOW, THEREFORE, BE IT RESOLVED BY THE CITY COUNCIL AS FOLLOWS:

A. The above recitals are true and correct and incorporated herein by reference.

B. Based on the entire record herein, the City Council makes the following findings:

1. Pursuant to recent State AB 3194, the proposed Zoning Map Amendment is not required, but remains proposed by the applicant in order to establish orderly development parameters consistent with the site’s Medium Density Residential General Plan land use classification.
2. The PUD Amendment is consistent with the General Plan 2025 Medium Density Residential land use designation in that the Medium Density Residential provides for a variety of dwelling types, including multi-family housing at a density of 8.1 to 18.0 units/acre.

3. The PUD is, for the reasons discussed in the November 19, 2019 Planning Commission staff report, consistent with the following General Plan policies: Policy 1-P-1 (Density within the UGB), Policy 1-P-2 (Efficient Land Use), Policy 1-P-28 (Development within the UGB) and Housing Element Policies 11-P-2 (Encourage Housing on Underutilized Land).

4. The PUD Amendment is consistent with all requirements of IZO Chapter 19 related to modifications to existing residential PUDs.

C. As required by IZO 19.040.E.5., the PUD Amendment does not affect the ability of the PUD to remain complaint with the required findings of the existing Oak Creek Apartments PUD, as stated in the original adoption resolution (City Council Resolution 9628 N.C.S.) or in subsequent approvals (City Council Resolution 84-121 N.C.S.) in that:

1. Modifications to the Development Standards recognize the existing Oak Creek Apartment Complex as originally built and subsequently modified;

2. The PUD Modification incorporates the Zoning Map Amendment adopted by the City Council (Resolution No. 2020-XX) by modifying the boundaries of the PUD and eliminating references to APN -009 to which the PUD no longer applies;

3. The amendment will maintain the Oak Creek Apartments’ existing relationship to Graylawn Avenue, which has functioned as a suitable thoroughfare for the apartment complex since its development in 1984;

4. The developed Oak Creek Apartments continue to present the unified and organized arrangement of buildings and service facilities, appropriate in relation to adjacent properties and with adequate landscaping in place, as approved by the City in the 1980s;

5. The PUD Amendment includes modifications to clean up the development standards and make the a more usable document into the future to ensure continued implementation of the essential aspects of the PUD;

6. The proposed PUD modification will continue to preserve the existing natural and scenic qualities of the Oak Creek Apartments site including its heritage oak trees and planted vegetation, riverside orientation, and landscaping. Public space along the river will remain as will private community spaces within the apartment complex including the community pool and clubhouse; and
7. No development is proposed or anticipated within the Oak Creek Apartments complex. Any future development within the Oak Creek Apartments would remain subject to the PUD findings that such development will not be detrimental to the public welfare, will be in the best interests of the City, and will be in keeping with the general intent and spirit of the zoning regulations of the City of Petaluma, with the Petaluma General Plan, and with any applicable plans adopted by the City, including the River Access and Enhancement Plan. Any such future development would also remain subject to site plan and architectural review and to development standards of the Oak Creek Apartments PUD.

D. An EIR for the project satisfying all requirements of the California Environmental Quality Act (CEQA) was prepared and the City Council certified the EIR, made findings of fact, and adopted the MMRP.

E. Based on its review of the entire record herein, including the November 19, 2019 Planning Commission staff report, the February 3, 2020 City Council staff report, all supporting, referenced, and incorporated documents, and all comments received, the City Council approves the modified Oak Creek Apartment PUD attached as Exhibit 1 hereto and incorporated herein by reference.

F. This resolution will be of no force and effect unless and until the Ordinance upholding the appeal filed by the applicant, overturning the Planning Commission’s denial, and amending the Implementing Zoning Ordinance, Ordinance XXXX N.C.S. takes effect, and upon Ordinance XXXX N.C.S. taking effect, this resolution will take effect without further action of the City Council.
Zoning District Regulations

OAK CREEK APARTMENTS
PLANNING UNIT DEVELOPMENT (PUD)

Originally Adopted by Petaluma City Council in 1982 (City Council Resolution No. 9628)
Amended by the Petaluma City Council in 1984 (City Council Resolution No. 84-121 N.C.S.)
Combined, Amended, and Restated on February 3, 2019 (City Council Resolution No. 2020-XX N.C.S.)
1.0 **PUD Zoning District General Provisions:** The purpose of this document is to provide written standards based on the Oak Creek Apartments as built and approved by previous approvals. The overall objective is to memorialize the as built condition and carry forward those conditions essential to the original approval.

2.0 **Applicability**

2.1 **Location:** The Oak Creek Apartment PUD Regulations apply to the approximately 6.58-acre site on Graylawn Avenue that is developed as the Oak Creek Apartments.

2.2 **Boundaries:** The boundaries of the Oak Creek Apartments PUD include approximately 6.58 acres of APN 019-010-007 that lies outside of the Floodway as defined by the 2014 FEMA Flood Mapping. The PUD also includes APN 019-010-008 which is an approximately 0.52 acre privately owned landscaped area at the Graylawn turn around. This area is encumbered with an irrevocable offer of dedication to the City of Petaluma (PM No. 307) and is not a legal lot of record but a component of the PM No. 3017 remainder parcel.

2.3 **Boundary Modification:** City Council Resolution No. 2019-XX approved a Zoning Text Amendment to rezone an approximately 11.73-acre parcel (APN 009-010-009) and remove said property from the Oak Creek Apartments PUD.

2.4 **Effect of Prior Actions:** The following actions were incorporated into the Oak Creek Apartments PUD and shall no longer be in effect:

2.4.1 City Council Resolution No. 9628
2.4.2 City Council Resolution 84-121 N.C.S.

2.5 **Relationship to IZO:** Where the Oak Creek Apartments PUD regulations are silent on a matter related to land use or development, or less restrictive than the City ordinance or policies, the properties in the Oak Creek Apartments PUD shall be subject to applicable City of Petaluma ordinances and development policies.

3.0 **Permitted Uses**

3.1 The only permitted use under the PUD is the 76-unit Oak Creek Apartments and associated amenities (community room, club house, pool, etc.)

4.0 **Parking**

4.1 Minimum Parking Required: 170 parking space shall be provided on site, pursuant to the project design approved by Resolution 84-121 N.C.S. (that is 152 spaces (two spaces/unit) plus 38 additional spaces).
4.2 Future modifications of the Oak Creek Apartments may be subject to the parking standards as outlined in the zoning ordinance, if found appropriate through the Site Plan and Architectural Review Process.

4.3 Recreational vehicles parking shall not be allowed on-site. (Reso 9628 -- Condition #15)

4.4 ADA and guest parking should be clearly identified to avoid confusion by users. (Reso 9628 -- Condition #3b)

5.0 Conditions of Approval

5.1 A Portion of the property within the boundaries of the Oak Creek Apartments PUD is within the City’s Floodplain overlay zoning district. Any proposed modifications within the Floodplain area are subject to Floodplain regulation contained in the current zoning ordinance. See latest Floodplain Mapping. (Informational)

5.2 The PUD is subject to the River Access and Enhancement Plan and any proposed modifications are subject to that Plan. (Informational)

5.3 The existing children’s play area including play apparatus and an open lawn area is a required component of the Oak Creek Apartments project. Minor maintenance and upgrades are allowed but significant changes to the children’s play area are subject to Site Plan and Architectural Review. (Reso 84-121)

5.4 If any subsurface archaeological materials are encountered, all work shall be immediately halted, and a qualified archaeological consultant contact in order to evaluate the materials and formulate appropriate strategies for their preservation and protection. (Reso 9628 -- Condition #1)

5.5 Applicable Noise Regulations as outlined in the zoning ordinance apply to all use of the site. Any future remodel or construction shall be designed with consideration of the SMART rail line use and appropriate noise attenuation in construction. (Reso 9628 – Condition #2)

5.6 All sidewalks within the Oak Creek development shall assure logical connections are made to the existing sidewalks along Graylawn Avenue as well as to building and activity centers with the complex. (Reso 9628 -- #Condition 3a)

5.7 That portion of a natural rock outcropping that was preserved during construction of the Oak Creek Apartments by its incorporation into a small landscape and traffic calming island within the Graylawn Avenue is intended to be permanently preserved. (Reso 9628 -- Condition #5)

5.8 All existing on-site Oak trees shall be permanently preserved in healthy growing condition. (Reso 9628 -- Condition #5)

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1 However, the rock outcropping island is on land that has been dedicated as City right-of-way and is outside the limits of the PUD. Thus, the City could choose to modify the island.
5.9 Any future modification in the area designated as Petaluma River Floodway shall be subject to prior approval by the Planning Commission. (Reso 9628 -- Condition #5)

5.10 The northernmost street turn-around (in Graylawn Avenue) shall be fully landscaped and maintained. (Reso 9628 -- Condition #8)

5.11 The riverside pedestrian path shall be developed and maintained along the full length of the site. (Reso 9628 -- Condition #9)

5.12 Development rights to the full strip of land located along the River and in the Floodway shall be dedicated to the City for the purposes of creating permanent open space as required by Condition 10 of Reso 9628. Dedication of the strip has occurred for Public Access and Hydraulic Maintenance and for Re-vegetation, Restoration, Planting, and Vegetation Management and Bank Stabilizations; the easement shall be revised to also dedicate development rights to the full strip to the City for the purpose of permanent open space. (Reso 9628 -- Condition 10)

5.13 The area between the apartment complex and the river shall be landscaped and irrigated. Any modifications shall be subject to review and approval by the Planning Director. (SPARC 1983 approval -- Condition #12)

5.14 The storm water system shall remain as approved by the City Engineer. The owner is responsible for conducting ongoing hydraulic maintenance of the storm water system and detention basins. All future owners of the property shall likewise maintain the system. Should the City ever need to enforce proper maintenance of the system, reimbursement for all costs shall be borne by the apartment owner. (Reso 9628 -- Condition #14)

6.0 Modifications

6.1 **PUD Guidelines:** From time to time it may be necessary and desirable to modify the Oak Creek Apartments PCD development standards. Modifications shall be in accordance with IZO Chapter 19 (Planned Unit District and Planned Community District).

6.2 **Oak Creek Apartments:** Any proposed modifications or reconstruction shall be subject to Site Plan and Architectural Review in accordance with zoning ordinance provisions prior to the issuance of any on-site development permits. (Reso 9628 -- Condition #6)

6.3 **Parking Modifications:** Revisions to the parking area shall be subject to Site Plan and Architectural Review. (Reso 84-121 -- Condition #1)
RESOLUTION OF THE CITY OF PETALUMA CITY COUNCIL APPROVING USE OF AN ALTERNATIVE METHOD TO SATISFY INCLUSIONARY HOUSING REQUIREMENTS UNDER THE CITY’S PREVIOUS HOUSING ELEMENT PROGRAM 4.3
FOR THE SID COMMONS PROJECT

WHEREAS, J. Cyril Johnson Investment Corp. ("Applicant") submitted an application to the City of Petaluma for the Sid Commons apartment project, including Rezoning applications and an Environmental Impact Report to accommodate residential development at APN 019-010-006 and 009, located at the northern terminus of Graylawn Avenue; and

WHEREAS, the project application was deemed complete prior to January 1, 2019, and is therefore not subject to the City’s current onsite inclusionary housing requirement as outlined in IZO Section 3.040 and Housing Element Program 4.3, but rather is subject to the previous Housing Element Program 4.3; and

WHEREAS, the previous inclusionary housing requirement as specified at Housing Element Program 4.3, required either dedication of 15% of the units on-site for use as affordable housing, payment of an in-lieu fee to the City’s Housing Fund (at the previous rate), or use of an alternative method to meet the intent of the inclusionary requirement subject to approval by the City Council; and

WHEREAS, during the 2018 City Council hearing on the Sid Commons Apartment DEIR, in response to City Council’s expressed desire for on-site affordable housing rather than payment of the allowable in-lieu fee to the City’s Housing Fund, the applicant stated their intention that the Project provide affordable housing on-site; and

WHEREAS, the applicant has since specified their intended inclusionary housing proposal as follows:
- 10% of the total on-site units shall be restricted to rents affordable to families earning up to the 80% AMI level (low income)
- the units shall remain inclusionary for 55 years, and
- the unit mix shall mirror that of the overall project and be distributed throughout the site; and

WHEREAS, the City Council held a duly noticed public hearing on February 3, 2020 that included consideration of this proposal to accept provision of 10% onsite inclusionary housing at the low-income level as satisfying affordable housing requirements under the previous inclusionary housing program, at which time all interested parties had the opportunity to be heard; and

WHEREAS, at said hearing, the City Council considered the staff report dated February 3, 2020, analyzing the request for use of an alternative method to meet the intent of the inclusionary requirement; and
WHEREAS, public notice of the City Council hearing was published in the Petaluma Argus-Courier and mailed to residents and occupants within 1,000 feet of the Project site in compliance with state and local law; and

WHEREAS, at a duly noticed hearing on February 3, 2020, the City Council adopted Resolution No. 2020-XX, certifying an Environmental Impact Report for the Sid Commons Apartment project, in conformance with the California Environmental Quality Act (CEQA);

NOW THEREFORE, BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF PETALUMA AS FOLLOWS:

1. The foregoing recitals are true and correct and incorporated herein by reference.

2. Based on its review of the entire record herein, the City Council makes the following findings:

a. It is the desire of the City Council that Inclusionary Housing units be constructed throughout the City consistent with the goals, policies, and programs of the City's Housing Element.

b. As the Sid Commons project application was deemed complete prior to January 1, 2019, it is not subject to the City’s current onsite inclusionary housing requirement as outlined in IZO Section 3.040 and Housing Element Program 4.3, but to the previous inclusionary housing requirement outlined in former Housing Element Program 4.3.

c. The project is compliant with the applicable, former Housing Element Program 4.3 in the City’s General Plan 2025, 2015-2023 Housing Element (prior to its amendment on November 19, 2018), which contains the key points of the City’s inclusionary policy: the requirement that residential projects of five or more units dedicate 15% of the units on-site for use as affordable housing, make an in-lieu payment to the City’s Housing Fund (at the previous rate), or use of an alternative method to meet the intent of the inclusionary requirement subject to approval by the City Council.

d. The project proposes an alternative method to meet the intent of the inclusionary requirement by providing 10% of the project units as affordable to low-income families.

e. The City’s Housing Division estimates that applicable in-lieu fees for the Project based on square footage of the proposed units would contribute roughly $680,000 to the City’s Housing Fund (180 units averaging 960 square feet at the former rate of $3,773 for a unit of that size), which equates to the average construction cost of 1.2 residential units.

f. The proposed alternative method would result in construction 18 10% units (10%) affordable to families in the low-income range (up to 80% AMI).

g. These units will assist the City in meeting its California Department of Housing and Community Development specified Regional Housing Needs Allocation (RHNA) numbers. Petaluma’s Regional Housing Need Allocation for the 2015-2023 cycle indicates need for 103 low-income units available at 51% to 80% of average median
income.

h. Construction of 18 affordable units is more desirable than receiving payment into the City’s Housing Fund.

3. Based on its review of the entire record herein, including the February 3, 2020 City Council staff report, all supporting, referenced, and incorporated documents, and all comments received, the City Council hereby approves the Sid Commons Apartment project’s alternative method proposal as preferred over payment into the City’s Housing Fund. The City Council hereby authorizes that each of the inclusionary housing units to be constructed on site (10% of the total number of Project units) be made affordable to low-income households for a period of at least 55 years, and that the unit mix shall mirror that of the overall project and be distributed throughout the site.

4. The applicant commits to provision of 10% onsite inclusionary units at the low-income level and for a term of 55 years to satisfy the inclusionary housing requirement for the Sid Commons Apartment Project.

5. This resolution will be of no force and effect unless and until the Ordinance upholding the appeal filed by the applicant, overturning the Planning Commission’s denial, and amending the Implementing Zoning Ordinance, Ordinance XXXX N.C.S. takes effect, and upon Ordinance XXXX N.C.S. taking effect, this resolution will take effect without further action of the City Council.