



# CITY OF PETALUMA

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Kevin McDonnell  
*Mayor*

January 9, 2023

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*Via Email at: [mark@jcjinvestment.com](mailto:mark@jcjinvestment.com)*

Mark Johnson  
J. Cyril Johnson Investment Corporation  
125 Willow Road  
Menlo Park, CA 94025

RE: Preliminary Application Dated November 11, 2022

Dear Mr. Johnson,

This is in response to the Preliminary Housing Development Application (the "Application") from J. Cyril Johnson Investment Corp. ("Applicant") dated November 11, 2022, which was submitted to the City via its online application portal on November 22, 2022. In accordance with the following, City staff have concluded that the Application does not qualify as a preliminary application pursuant to the Housing Accountability Act, Government Code section 65589.5 (the "Act") and that the Application for the Project as described below is not eligible for processing under the Act. Accordingly, all of the City's current land use and development regulations remain in full effect as regards the Project, and no vesting or other streamlined processing benefits pursuant to the Act apply concerning the Project. In accordance with information provided in the City's Preliminary Housing Development Application forms, we encourage the Applicant to schedule a preliminary project discussion with City planning staff to discuss the Project and the City's applicable regulations.

The Application indicates that the Applicant proposes a multi-family development project ("Project") consisting of 639 apartment units and associated amenities and structures, including, but not limited to, garages, carports, open spaces, indoor/outdoor common spaces, pool, and pet park on parcels comprising 49 acres and identified as APNs 136-100-025 and 007-391-005 (the "Parcels") in Petaluma. The Parcels are on the west side of the 101 Freeway across from and adjacent to the recently-constructed 101 overpass that is generally aligned with the intersection of Rainier Avenue and North McDowell Boulevard. Currently, Rainier Avenue does not extend to or under the 101 overpass and the Parcels do not have City right of way access. Accordingly, in addition to the considerations addressed in this letter, since the Project submittals indicate it will rely on Rainier Avenue for vehicular access, it appears that extension of Rainier Avenue from the East side of Highway 101 beneath the 101 overpass and at least to the Project access will be a project requirement.

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The General Plan land use designation for the Parcels as of the City's receipt of the Application is RM (Medium Density Residential) and CC (Community Commercial) for APN 136-100-025 and 007-391-005, respectively. The zoning designations for the Parcels as of the date of the City's receipt of the Application are R4 (Residential 4) and C2 (Commercial 2) for APN 136-100-025 and 007-391-005, respectively. Importantly, the proposed Project is not a permitted use under the currently applicable Community Commercial land use designation and C2 zoning. However, C2 zoning does permit residential uses as part of a mixed use project if the residential units are located above the ground floor. (See Chapter 4 of Petaluma's Implementing Zoning Ordinance, Table 4.4.)

Because a portion of the Project as proposed is not a permitted use, the Project would require General Plan and zoning amendments. As noted in the City's Preliminary Housing Development Application form, projects eligible for processing under the Act must comply with existing General Plan and zoning requirements. The Act does not prohibit the City from requiring housing development projects such as the proposed Project to comply with applicable, objective, written development standards. (See Government Code section 65589.5(f)(1).) The City has not amended, qualified, or relaxed applicable General Plan and zoning requirements for development applications such as that for the Project. The City's Housing Accountability Act Eligibility Checklist requires confirmation that projects proposed for processing under the Act meet objective zoning standards. (See page 5 of 12 of the Preliminary Application; see also Government Code section 65941.1(a)(4).) The Application indicates that the Project does satisfy existing objective standards. However, that appears to be in error, based on the City's review as the Project would require General Plan and zoning amendments.

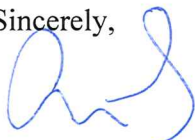
In addition, we would like to note that because the Application was received without payment for the applicable application fee, and no fee payment has been submitted, the Applicant is not deemed to have submitted a preliminary application, and the Application does not constitute a preliminary application that is deemed complete for purposes of Government Code section 65589.5(h)(5). (See also Government Code section 65941.1(a) and Section 24.030(c) of the City's Implementing Zoning Ordinance, Ordinance 2300 N.C.S.) Accordingly, the deadlines for the City's response to the Application in accordance with Government Code sections 65943 and 65589.5(j)(2)(a) have not begun to run.

Further, in view of the above, as of the date of this letter, City staff conclude that the materials have no vesting effect concerning the Project. The General Plan land use designations and zoning and other City development regulations that apply to the Project are subject to change, including the development fees that would apply to the Project. (See also Government Code section 65589.5(f)(3).)

Because the proposed Project is not consistent with the applicable General Plan land use designations and zoning as of the date of the City's receipt of the Application, and consistent with the above, the Project is not eligible for processing under the Act's preliminary application process. The Project is also subject to the City's discretionary Site Plan and Architectural Review requirements. Whether or not a later-submitted version of Project application complies with Act's preliminary application requirements, the Project will be subject to full CEQA review. (See section 65589.5(e).) As you are no doubt aware, the Parcels or portions of the Parcels are within the FEMA 100-year Flood Hazard zone and subject to applicable Floodway and Floodway District requirements in Chapter 6 of the City's Implementing Zoning Ordinance. Staff anticipate that the Project will entail significant environmental review.

As noted above, we recommend that the Applicant contact City staff to schedule a preliminary project discussion. We would be happy to meet with appropriate Project representatives to discuss the conclusions in this letter and the application process for the proposed Project.

Sincerely,



Eric Danly, City Attorney

cc: Brian Oh, Community Development Director  
Andrew Trippel, Planning Manager

