



# STAFF REPORT

AGENDA ITEM NO: 9a

MEETING DATE: March 15, 2021

**To: Honorable Mayor and City Council**

**Date: March 15, 2021**

**From: Kevin Gardiner, Community Development Director – (650) 558-7253  
Catherine Keylon, Senior Planner – (650) 558-7252**

**Subject: Adoption of Resolutions Making a Statement of Overriding Considerations for an Environmental Impact Report (EIR) and for Approval of an Application for Design Review, Conditional Use Permit, Condominium Permit, and Tentative Condominium Map for a 120-Unit Condominium Building at 1868-1870 Ogden Drive**

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## **RECOMMENDATION**

Staff recommends that the City Council take the following actions:

1. Adopt the following Resolution: “Resolution of the City Council of the City of Burlingame Recommending Certification of the Final Environmental Impact Report (FEIR) and Making a Statement of Overriding Considerations for a New Six-Story, 120-unit Condominium Building at 1868-1870 Ogden Drive (Assessor Parcel No: 025-121-190)”; and
2. Adopt the following Resolution: “Resolution of the City Council of the City of Burlingame Approving Applications for Design Review, Conditional Use Permit, Condominium Permit, and Tentative Condominium Map for a New Six-Story, 120-Unit Condominium Building at 1868-1870 Ogden Drive (Assessor Parcel No: 025-121-190)”.

## **BACKGROUND**

The project site is an interior property located on the east side of Ogden Drive between Garden Drive and Murchison Drive. The site totals 39,138 SF and is currently occupied by a one-story office building with one level of parking below. The Millbrae BART/Caltrain intermodal station is located 0.45 miles east, across El Camino Real.

The applicant is proposing to demolish the existing building and construct a new six-story, 120-unit residential condominium building. The project would include 35 studio units (29.2%), 30 one-bedroom units (25%), and 55 two-bedroom units (45.8%) totaling 89,859 net square feet (169,232 gross square feet including the parking levels). Six units (5% of the project) would be below market rate (BMR) for low-income households that do not exceed 80% of the average median income (AMI). The overall height would be approximately 69 feet to the top of the parapet and 76 feet to the top of the elevator penthouse.

The General Plan Update and North Burlingame Mixed Use (NBMU) zoning provide for a 20% parking reduction for projects that utilize a Transportation Demand Management (TDM) plan per Section 25.40.030(B)(4)(h) provided the project includes a permanent mobility mode shift towards alternative transportation of 25% or greater for building occupants through the TDM program. The applicant has prepared a TDM Plan and intends to implement the TDM program per the Hexagon Transportation Consultants TDM, dated November 8, 2020 (attached as Appendix B in DEIR). Staff would note that by implementing the TDM program, a reduction of 29.6 spaces is applied, reducing the required parking from 148 spaces to 119 spaces. The total on-site parking proposed is 150 spaces, which is 31 spaces more than required.

The project would provide a total of 150 on-site parking spaces located in two levels of parking, one at grade and one below grade; 66 of the 150 spaces would be provided in tandem configuration. Code Section 25.40.50 (D) allows the use of parking stackers or mechanical systems with approval of a Conditional Use Permit; tandem parking is proposed and is considered to be a similar alternative to the mechanical parking with approval of a Conditional Use Permit.

The NBMU zoning includes “tiered” development standards requiring community benefits to be included in projects in order to achieve the highest residential densities and building heights. The applicant has elected to develop consistent with “Tier 3” standards, which is the highest tier. Projects using Tier 3 standards shall provide at least three community benefits (see Community Benefits section in staff report for additional information). Planning staff has determined, and the Planning Commission concurred, that the proposed project complies with the Tier 3 development standards.

The following applications are requested for this project:

- Environmental Review in accordance with the California Environmental Quality Act (CEQA) (Environmental Impact Report);
- Design Review for construction of a new six-story, 120-unit residential condominium development (C.S. 25.40.020);
- Conditional Use Permit for tandem parking (C.S. 25.40.050) (d));
- Approval of Community Benefits Bonuses for a Tier 3 project (C.S. 25.40.030 (b)(3));
- Condominium Permit for 120-unit residential condominium development (C.S. 26.30.020); and
- Tentative Condominium Map

**Planning Commission Review and Recommendation.** The Planning Commission reviewed and recommended approval of this project to the City Council at its February 22, 2021 hearing (see attached minutes).

## **Environmental Review – CEQA (California Environmental Quality Act)**

The Planning Commission held an environmental review scoping meeting on November 12, 2019 to identify potential environmental issues to be studied in the environmental review. Initially, it was assumed that the environmental review for this project under the California Environmental Quality Act (CEQA) would be a Class 32 Infill Exemption. However, during the preparation of the initial study, it was discovered that the existing building was found to be significant under the California Register of Historical Resources (CRHR), Criterion 1 (Events) for its association with the United Farm Workers' labor activism in the 1960s and 1970s, and their decade-long struggle against the Teamsters.

The building at 1868–1870 Ogden Drive was completed in 1964 as headquarters for the Western Conference of Teamsters (Teamsters), which occupied the building from 1964 until 1977. The Teamsters occupancy of the building occurred during the organization's long-standing labor dispute with the National Farm Workers Association (NFWA), which evolved into the United Farm Workers Organizing Committee (UFWOC or, more commonly, UFW). Cesar Chavez, the influential Latino labor organizer and civil rights leader, co-founded the NFWA in 1962. From that year until his death in 1993, he spearheaded various campaigns to establish better pay and working conditions for agricultural workers. His efforts resulted in him receiving numerous honors, including the Presidential Medal of Freedom in 1994.

The Teamsters headquarters at 1868–1870 Ogden Drive was specifically associated with the farmworkers' labor movement. From the late 1960s through the late 1970s, the UFW and Teamsters waged a lengthy, violent, and occasionally deadly jurisdictional battle to decide who would represent farmworkers in California. The conflicts between the UFW and Teamsters were significant. The building at 1868–1870 Ogden Drive was also the site of numerous UFW demonstrations against the Teamsters and was bombed on April 18, 1974. The blast, which was powerful enough to be heard four miles away, shattered most of the building's windows and many windows in adjacent buildings. It blew a crater in the floor of the parking area and caused other damage, both inside and outside, but no injuries were reported. Teamsters officials refused to speculate as to who may have been responsible for the blast but implied possible UFW involvement.

The subject property served as a negotiation site as well, first, between the UFW and growers and, later, between the UFW and the Teamsters themselves. The first negotiations were in 1973; then in 1977, there were more negotiations that ultimately resulted in an agreement between the two unions that ended their decade-long fight and captured national headlines. The negotiations occurred at the 1868-1870 Ogden building, and a press conference announcing the historic agreement also occurred at the project site.

Given this involved history, the building at 1868–1870 Ogden Drive is a historical resource for the purposes of CEQA under Criterion A (Event). The Draft EIR includes Mitigation Measures CR-1 and CR-2 that would require documentation and interpretation regarding the significance of the building at 1868–1870 Ogden Drive. These measures require the applicant to create a collection of materials that would document the physical characteristics of the building and its historic context, which would be provided to publicly accessible repositories, in the new plaza at the front of the building. As such, this documentation would be made available to the public to inform future

research related to the significant events that took place at the building. But even with the proposed mitigations commemorating the historic events at the site, because the project proposes to demolish this CRHR-eligible historical resource, it is considered to be a significant unavoidable environmental impact that triggers the need for an EIR.

In accordance with the requirements of the California Environmental Quality Act (CEQA), the Final EIR was subject to the following notices and public reviews:

Planning Commission Scoping Session for Environmental Impact Report	November 12, 2019
Notice of Preparation to Office of Planning and Research for SCH # 2020070230	July 10, 2020
Notice of Availability and Completion of Draft EIR	November 23, 2020
Public Comment Hearing on Draft EIR	December 14, 2020
End of 45-day review period for Draft EIR	January 11, 2021
Response to Comments document (Final EIR) made available to public	February 12, 2021

**Final Environmental Impact Report:** The Draft Environmental Impact Report (DEIR) was circulated for a 45-day public review and comment period beginning November 23, 2020, and ending January 11, 2021 (extended due to holidays during this period). Seven comment letters were submitted to the City for this project, including four letters from public agencies and three letters from individuals as well as Planning Commissioner comments received at the December 14, 2020 public hearing. The Final EIR provides responses to each comment.

One specific area of concern raised during the environmental review process was water supply. A comment was received that noted that the Draft EIR used information about water from the 2015 Urban Water Management Plan (UWMP) and wanted to ensure that the analysis was up to date, noting that the UWMP is required to be updated every five years. Staff notes that the City is currently updating the UWMP and expects to make the updated plan available to the City Council this year (2021). Because the updated plan is not yet available, the Draft EIR relied on the most up-to-date information available at the time of publication, which was the 2015 Urban Water Management Plan. However, additional information regarding the water supply to support this project was available in the General Plan EIR. As noted in the Draft EIR, the Project would be consistent with the land use designation from the General Plan as well as the zoning designation, North Burlingame Mixed Use (NBMU), which incorporated increased dwelling unit densities given the proximity to high-quality transit options.

Chapter 20 of the General Plan EIR analyzed the ability of the City's utility infrastructure to meet the demands from increased development occurring as a result of General Plan implementation. The General Plan EIR identified that 1,283 million gallons of water were used per year in 2015 to serve Burlingame's 30,000 residents. The projected growth at building out the General Plan is a population of 38,778. According to the General Plan EIR, the projected usage with both passive and active water conservation measures is: 1,756 million gallons per year in 2025, 1,775 million gallons per year in 2030, and 1,841 million gallons per year in 2040. The General Plan EIR identified that the City's Individual Supply Guarantee from the San Francisco Public Utilities Commission through the year 2040 is 1,909 million gallons per year. This supply volume, in combination with continued water conservation and future expanded use of recycled water, would meet projected population needs of 1,841 million gallons per year in 2040 with implementation of the General Plan. Because the Project would be in conformance with the level of growth

envisioned in the General Plan and the General Plan EIR, the conclusions in the General Plan EIR would apply to the Project as well. As such, based on the foregoing, the City concluded that an adequate water supply would be available to meet the demands of the projected population in 2040 with implementation of the General Plan and, therefore, an adequate water supply would also be available to accommodate the demands of this Project.

It should be noted that all of the identified potential significant impacts can be reduced to less than significant levels through implementation of the mitigation measures identified in the Draft EIR except for historical resources.

The EIR finds and determines that:

- all but one of the significant impacts of the Project will be reduced to less-than-significant and acceptable levels by the mitigation measures described in the Final EIR;
- the City's approval of the 120-unit condominium project at 1868-1870 Ogden Drive will result in certain significant adverse environmental effects (specifically, to the historic resource) that cannot be avoided even with the incorporation of all feasible mitigation measures into the Project; and
- there are no other feasible mitigation measures or feasible alternatives that would further mitigate or avoid the remaining significant environmental effects.

The only significant effect that has not been mitigated to a less-than-significant level and is therefore considered significant and unavoidable:

- Impact CR-1: Demolition of a Historic Resource. The Project would cause a substantial adverse change in the significance of a historical resource, pursuant to Section 15064.5. The building at 1868–1870 Ogden Drive is a historical resource for the purposes of CEQA, having been found significant under the California Register of Historical Resources, Criterion 1 (Events). The subject building is significant for its association with the long struggles and, ultimately, the accomplishments of the United Farm Workers (UFW). The Project proposes to demolish this CRHR-eligible historical resource within the Project site. The Project would involve the destruction of all the characteristics that qualify the building for inclusion in the CRHR and therefore would be considered a substantial adverse change in the significance of the historical resource. The Project would result in a significant impact on a historic resource. Mitigation Measures CR-1 and CR-2 would require documentation and interpretation regarding the significance of the building at 1868–1870 Ogden Drive. The mitigation would partially compensate for impacts associated with the Project through documentation and memorialization of the resource. However, these measures would not be enough to avoid, rectify, reduce, or compensate for the loss of the historical resource at 1868–1870 Ogden Drive. Because demolition of the building would still occur, the impact on a historical resource would remain significant and unavoidable after the application of mitigation.

**Statement of Overriding Considerations:** The City Council resolution certifying the Final Environmental Impact Report is attached and includes a Statement of Overriding Considerations and Findings of Fact. These determine that despite this potentially significant impact, it is the

City's considered judgment that the benefits offered by the new 120-unit condominium project outweigh the potentially adverse effects of this significant impact. In particular:

- The proposed project would provide new housing units within a half mile of high-quality transit that would add to the housing stock, and would help the City meet its Regional Housing Needs Allocation (RHNA) goal.
- The project is consistent with the development envisioned for the North Burlingame Mixed Use (NBMU) zone in that it is a transit-oriented development in a district zoned to accommodate housing at progressively higher densities based on the level of community benefits provided.
- The project would be developed consistent with Tier 3 of the NBMU zone and would provide community benefits. These community benefits include 5% (six units) of the units being below-market rate for low-income households (80% AMI), and an approximately 3,400 square foot publicly accessible plaza that would include a historical marker to commemorate the historic events related to the UFW.
- Currently, the existing office building has no identifying features indicating the historic events, while the proposed project would provide a commemoration that would educate the public with information about the site and previous events.
- The project also includes a 1,600 square foot cultural arts space on the ground floor that would be available for flexible programming for City programs, afternoon enrichment classes, or for neighborhood meetings.

Each overriding consideration set forth constitutes a separate and independent ground for finding that the benefits of the 120-unit condominium project outweigh its potential adverse effects, and each such consideration, standing alone, warrants approval of the project. The Statement of Overriding Considerations is included as Exhibit C to the Resolution.

### **FISCAL IMPACT**

None.

Exhibits:

- Resolution – Certification of Final Environmental Impact Report
  - Exhibit A - Summary of the Impacts, Mitigation Measures and Improvement Measures
  - Exhibit B – Findings of Fact
  - Exhibit C - Statement of Overriding Considerations
- Resolution – Approval of Project Entitlements
- Planning Commission February 22, 2021 Draft Minutes
- Planning Commission February 22, 2021 Staff Report & Attachments

Separate Exhibits:

Draft Environmental Impact Report – 1868 Ogden Drive Project, dated November 2020 (SCH# 2020070230)

Final Environmental Impact Report – 1868 Ogden Drive Project, dated February 2021