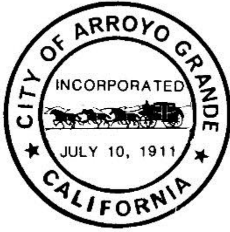

MEMORANDUM

TO: City Council

FROM: Bill Robeson, Assistant City Manager/ Director of Public Works

BY: Patrick Holub, Associate Planner
Andrew Perez, Planning Manager

SUBJECT: Appeal Case 26-002; Appeal of Planning Commission Approval of Conditional Use Permit 25-001; Location – 1271 & 1281 James Way; Appellants – Pismo Medical Properties LLC, Arroyo Grande Partners LLC and Ray B Bunnell Revocable Trust

DATE: March 24, 2026

RECOMMENDATION:
Adopt a Resolution denying Appeal Case No. 26-001 and approving Conditional Use Permit 25-001; Construction of Ninety-Two (92) Multi-Family Dwelling Units; Location – 1271 and 1281 James Way; Appellants – Pismo Medical Properties LLC, Arroyo Grande Partners LLC and Ray B. Burnell, Revocable Trust, and Finding the Project Statutorily Exempt from the California Environmental Quality Act Pursuant to Public Resources Code section 21080.66(a).

IMPACT ON FINANCIAL AND PERSONNEL RESOURCES:
At the time the appeal was submitted, the appellants paid the required fee of $1,327.20. This fee is intended to cover costs for processing of the appeal.

BACKGROUND:
The 1.81-acre project site consists of two vacant lots, 1271 and 1281 James Way, which form an "L" shape, located within the Office Mixed Use (OMU) district (Attachment 2).

On January 20, 2026[1], the project was heard by the Planning Commission, which approved the project by resolution with a 3-0 vote (Attachment 3). On January 30, 2026, an appeal was filed with the City Clerk (Attachment 4) within the required ten calendar days from the date of the Planning Commission's decision.

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[1]https://pub-arroyogrande.escribemeetings.com/Meeting.aspx?Id=c0ee1696-5441-432a-a40c-e992f8f0749f&lang=English&Agenda=Agenda&Item=18&Tab=attachments

Project Description

The proposal involves the construction of two (2) four-story residential buildings containing a total of ninety-two (92) multi-family residential units, including a community center and fitness area. Specifically, the project includes:

- Studios: 20 units;
- One-bedroom: 58 units; and
- Two-bedroom: 14 units.

- Parking: the project includes 31 one-car garage spaces on-site, and has described a reciprocal parking agreement structure for additional spaces. The applicant seeks a concession for a reduction from the required parking minimum of 99 parking spaces, which is permissible under State Density Bonus Law, and described in additional detail below. Under Density Bonus Law, the City is severely limited in its ability to deny the requested concession to reduce parking spaces otherwise required by the Arroyo Grande Municipal Code.

- The project proposes to reserve either 15% of the base density equivalent units to very low-income households or 24% to low-income households, which makes the Project eligible for State Density Bonus Law. Plans for the proposal are included as Exhibit B to the Resolution. Importantly, the City will ensure the project reserves the requisite number of affordable units via the requirement that the applicant execute a recorded, density bonus agreement that will deed restrict those affordable units over a 55-year term, required before the City will issue Building Permits (See Condition of Approval No. 95).

State Law Significantly Restricts City's Authority to Deny or Condition the Project

The proposed project is an eligible Housing Accountability Act (HAA) project because it proposes residential units. This means that the City may only deny or condition the project at a reduced density in the circumstances authorized by the California Legislature pursuant to Government Code Section 65589.5, as explained below.

Under the HAA, if *any* housing development project — regardless of affordability — complies with the City's objective development standards[2], the City cannot deny the project or reduce its density unless the City makes certain "written findings supported by a preponderance of the evidence." (*Id.*) Those findings require a "specific adverse impact"

[2] See, as example, Gov. Code § 66300(a)(7): "Objective design standard" means a design standard that involves no personal or subjective judgment by a public official and is uniformly verifiable by reference to an external and uniform benchmark or criterion available and knowable by both the development applicant or proponent and the public official before submittal of an application.

to public health and safety that cannot be mitigated. (*Id.*, at (j)(1)(A)-(B).) A "specific, adverse impact" means a significant, quantifiable, direct, and unavoidable impact, *based on objective, identified written public health or safety standards, policies, or conditions as they existed on the date the application was deemed complete*. (*Id,* emphasis added.) It is the Legislature's intent that such a finding is rarely made.[3]

Staff has evaluated the project and determined compliance with the City's objective development standards. The HAA exempts any inconsistency with City's objective standards as a result of concessions or waivers permitted under State Density Bonus Law. (*Id.*, at (j)(3).) Further, the HAA provides that if a city does not notify an applicant of inconsistencies with applicable development standards before an application is deemed complete, then the project is deemed consistent with all unidentified standards as a matter of law. (*Id.*, at (j)(2)(A)-(B))

Further, as an affordable housing project with either 15% of the base density units deed-restricted to very low-income households or twenty-four percent (24%) of the base density units restricted for low-income residents, the HAA further prohibits the City from denying the project unless it can make one of the findings provided for in Government Code section 65589.5(d)(1)-(6). The City does not believe it could meet those findings for denial based on the facts included below, and that the project should be approved:

- The City has not exceeded its Regional Housing Needs Allocation (RHNA) for the project's income categories (including very-low or low-income units) for the current planning period.
- The City does not believe approving the project will result in unmitigable specific, adverse impacts on the public health or safety. As defined by State law, this would require impacts that are both "significant, quantifiable, direct, and unavoidable," and impacts that are based on "objective, identified written public health or safety standards, policies, or conditions" in effect when the project application was deemed complete.
- The approval of the project will not violate a specific state or federal law.
- The project is not proposed on, or surrounded on at least two sides by, land that is zoned for agriculture or resource preservation purposes and the project will be served by adequate water and wastewater facilities.
- Consistent with state housing law, including the allowances afforded under State Density Bonus Law, the project is deemed consistent with the City's objective development standards.
- The project does not qualify as a "Builder's Remedy" project.

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[3] "It is the intent of the Legislature that the conditions that would have a specific, adverse impact upon public health and safety . . . arise infrequently." (Gov. Code § 65589.5(a)(3))

For the above reasons, the HAA significantly limits the City's ability to deny or reduce project density. Staff prepared the attached Resolution that denies the appeal and approves the project, makes the findings necessary to approve the conditional use permit under AGMC section 16.16.050, and documents the project's compliance with the objective standards of both the City's General Plan and Zoning Ordinance. Staff and responsible agencies have also added Conditions of Approval designed to ensure that the project can meet the City's necessary requirements for approval. As conditioned and as described above, no evidence in the record indicates that approving the project would have an unmitigable specific, adverse impact on public health and safety.

ANALYSIS OF ISSUES:

General Plan Consistency

The General Plan Land Use designation of the project site is Mixed Use, which allows residential uses as proposed. The project is consistent with the General Plan goals to build affordable housing, provide urban design amenities that encourage multi-modal travel, promote the mixture of residential and commercial uses in mixed-use corridors, facilitate affordable housing through the application of State Density Bonus Law, reduce parking standards for affordable housing developments, and by providing a 32' creek setback, consistent with the 25-50 foot development setback suggested in the Conservation and Open Space Element. A full analysis of General Plan consistency is contained in the January 20, 2026, Planning Commission Staff Report[4]. The Planning Commission determined that the project is consistent with the General Plan through the approval of Resolution No. 2026-02. (Attachment 3) Those same findings are contained in the prepared Resolution denying Appeal Case No. 26-001 and Approving Conditional Use Permit 25-001 (Attachment 1).

Development Standards

Whether by reserving 15% of the base density units for very low-income households or 24% of the base density units for low-income households, under the California Government Code, the project is entitled to a density bonus of up to 50%[5]. The project is also eligible under State law for three concessions from local, objective development standards that the applicant may select, which result in project cost savings,[6] and an

[4] https://pub-arroyogrande.escribemeetings.com/Meeting.aspx?Id=c0ee1696-5441-432a-a40c-e992f8f0749f&lang=English&Agenda=Agenda&Item=18&Tab=attachments

[5] Gov. Code, § 65915(f)(2).

[6] Gov. Code, § 65915(d)(2)(C); See also Gov. Code, § 65915(k). Rejecting the concession requires a written finding, based on substantial evidence, that the concession either (A) does not result in identifiable and actual cost reductions to provide for affordable housing costs or for affordable rents, (B) would have an unmitigable specific, adverse impact to public health and safety, or (C) is contrary to state or federal law.

unlimited number of waivers from local, objective development standards that would physically preclude the project with the affordability mix proposed by the applicant.[7]
For this project, the applicant originally requested three concessions and three waivers. A housing applicant is provided wide authority under State law with respect to the specific, objective development standards they select for concessions and waivers, in order to reduce project costs and ensure the project can be constructed with the proposed affordable units, respectively. Government Code section 65915(o) includes a non-exhaustive list of local development standards that can be waived under State Density Bonus Law, including parking, height limits, floor area ratio, and setbacks, all of which were requested by the applicant.

Concessions (a maximum of 3 under State law):

1. Allow the project to be built ten feet higher than the maximum permitted building height, from 35' to 45'. See *Arroyo Grande Municipal Code (AGMC) Section 16.36.020(H)(10)*;
2. Allow the project to provide one less parking space than the required minimum, providing ninety-eight (98) spaces instead of ninety-nine (99). See *AGMC Section 16.56.060(1)(e);* City notes that while the project's original request included a reduction of only one parking space, the applicant would be authorized under Density Bonus Law to seek a broader parking reduction; and
3. Allow the project to provide roughly 2% less of the off-street parking and access gross lot area as landscaping in the interior of the parking area, providing eight and twenty-three hundredths of a percent (8.23%) rather than the minimum of ten percent (10%). See *AGMC Section 16.56.130(1)*

Waivers (unlimited under State law):

1. *AGMC Section 16.36.020(H)(10)* limits maximum building size to 50,000 square feet. The applicant is requesting allowance to construct Building A at 77,269 square feet in order to achieve the maximum allowable density;
2. *AGMC Section 16.36.020(H)(10)* limits floor area ratio (FAR) to 1.0. The applicant is requesting to exceed this allowance with a proposed FAR of 1.3 in order to achieve the maximum allowable density; and
3. *AGMC Section 16.48.065* requires a minimum of 350 square feet of open space per unit. The applicant is requesting a reduction in this requirement to approximately 176 square feet per unit to achieve the maximum allowable density.

In addition to these three waivers, the project proposes to build within the required 50-foot setback from Meadow Creek. Although relief from this setback standard was not

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[7] Gov. Code § 65915(e). Rejecting the waiver requires an unmitigable specific, adverse impact to public health and safety, and if a court finds that the refusal to grant a waiver or reduction of development standards violates Density Bonus Law, then the court must award the plaintiff reasonable attorney's fees and costs of suit.

requested by the applicant as a concession or waiver, it was not identified as an aspect of the project that was non-compliant with the City's development standards at the time the project was deemed complete due to previous approvals on the project site, and therefore cannot be enforced (*see* Gov. Code §§ 65944(a), 65589.5(j)(2)(A)-(B), also described in additional detail below). Even if this local setback standard could be enforced, the applicant would be eligible to request a waiver for relief under State Density Bonus Law, to the extent that setback standard would physically preclude the construction of the project.

The proposed project's compliance with development standards is shown in Table 1 below.

Table 1: City Development Standards

Development Standard	Development Code Requirement	Proposed	Notes
Maximum Density	25 units/acre[8]	37.3 units/acre	Allowed per Density Bonus Law
Lot Size	20,000sf	78,892sf	Code Met
Setbacks:			
Front	0'-10'	15'	Code Met
Rear	0'-15'	12'	Code Met
Side	0'-5	10'	Code Met
Building Size Limits	50,000sf	77,269sf; 25,090sf	Allowable Under CUP Process and Density Bonus Law
Floor-Area Ratio	1.0	1.3	Allowed per Density Bonus Law
Lot Coverage	70%	35.5%	Code Met
Height	35' or three-stories	45'; four-stories	Allowed per Density Bonus Law
Parking Lot Landscaping	10% of gross lot area for off-street parking	8.23%	Allowed per Density Bonus Law
Open Space	350sf per Unit	176sf per unit	Allowed per Density Bonus Law
Creek Setback	50' from top of bank (Meadow Creek)	32' from top of bank	Allowed per Density Bonus Law

[8] Per General Plan Land Use Element Table LU-1. State Density Bonus Law requires the City to use the maximum allowable residential density permitted under the City's land use documents for the site. (Gov. Code, § 65915(o)(6).)

Density

Residential density for projects in mixed-use zones is calculated differently than exclusively single- and multi-family residential zoning districts. Pursuant to *AGMC Section 16.36.030*(C), projects in mixed-use zones use residential density equivalencies to calculate a project's density. Residential density in mixed-use developments relies on density equivalent units for compliance with density standards. The density equivalent unit system assigns a numerical value to a unit that is determined by the number of bedrooms in the unit, for purposes of calculating project density.

State law provides for a "bonus density" based on the percentage of total units a housing development dedicates to affordable housing at its base density. "Base density" excludes any units permitted by the density bonus. The maximum residential density for projects on properties with the Mixed Use general plan land use designation is 25 dwelling units per acre. At this density, the 1.81-acre site could accommodate 45.25 units without a density bonus. By reserving 15% of the base density units for very low-income households, the project is eligible for three concessions, plus waivers or reductions in development standards pursuant to Gov. Code Section 65915[9]. Alternatively, the project may reserve 24% of the units for low-income households, and still qualify for up to 50% density bonus and the three concessions plus waivers (Gov. Code § 65915(f)(2).). Table 2 below illustrates how the project complies with these requirements.

Table 2: Density Equivalent Units

Residential Dwelling Unit Type	Density Equivalent	Project Density Equivalent Units	Number of Units Proposed
Live/Work Unit	0.5	0	0
Studio	0.5	10	20
1-bedroom	0.75	43.5	58
2-bedroom	1.0	14	14
Total:		67.5	92

Pursuant to *AGMC Section 16.48.060,*[10] rounding up the maximum density is applicable for mixed-use districts.

Parking

[9] https://leginfo.legislature.ca.gov/faces/codes_displaySection.xhtml?sectionNum=65915&lawCode=GOV
[10] https://library.municode.com/ca/arroyo_grande/codes/code_of_ordinances?nodeId=COOR_TIT16DECO_CH16.48GEDEST_16.48.060DEDE

AGMC Section 16.56.060 provides off-street parking requirements for development projects and states that the parking required for residential uses in mixed-use projects does not have to be covered. This project proposes to construct multi-family residential units on two parcels that are located adjacent to the existing non-residential uses. This project proposes to share means of ingress, egress, and parking with the existing non-residential uses. These shared amenities would result in the existing non-residential and proposed residential uses functioning like a mixed-use development in a practical sense, and therefore, development standards for mixed-use projects were used for evaluating this project for consistency with the development code. State Density Bonus Law allows the project to be evaluated based upon mixed-use zoning with a concession.[11]

GC Section 65915(p)[12] establishes maximum parking ratios for projects that qualify for a density bonus based on the number of bedrooms for each unit. Studio units and one-bedroom units are required to provide one (1) parking space per unit, while two-bedroom units are required to provide one and one-half spaces (1.5) per unit. Using these ratios, the project would be required to provide a total of 99 parking spaces. However, the applicant may use State Density Bonus Law to further reduce their parking requirement for a total of 98 parking spaces, as originally proposed, or fewer spaces. Table 3 below provides a breakdown of the required and proposed parking, along with information regarding the requested parking reduction.

Table 3: Parking – Required and Proposed

Unit Type	Development Code Requirement	State DBL Parking Ratio	Parking Required	Parking Provided with DBL Concession	Notes
Studio x20	1 space per unit	1 space per unit	20 spaces		
1BR x58	1 space per unit plus 0.5 guest spaces per unit	1 space per unit	58 spaces		
2BR x14	2 space per unit plus 0.5 guest spaces per unit	1.5 spaces per unit	21 spaces		
Total			99 spaces	98 spaces	Not Met - Allowable under Density

[11] Gov. Code § 65915(k)(2)
[12] https://leginfo.legislature.ca.gov/faces/codes_displaySection.xhtml?sectionNum=65915&lawCode=GOV

Unit Type	Development Code Requirement	State DBL Parking Ratio	Parking Required	Parking Provided with DBL Concession	Notes
					Bonus Law

Parking for the project has been proposed by applicant as follows:
1. Thirty-one (31) single-car garage spaces under building;
2. Eighteen (18) spaces shared with hotel;
3. Forty-seven (47) non-designated surface parking spaces; and
4. Two (2) designated surface parking spaces.

In total, the application indicates that there are ninety-eight (98) parking spaces available for resident parking.

Landscaping
See Planning Commission Staff Report dated January 20, 2026.

Open Space
See Planning Commission Staff Report dated January 20, 2026.

BASIS OF APPEAL
The subject appeal is included in full in Attachment 4. A brief summary of appellant's assertions and staff's responses to those assertions are provided below:

(1) Inadequate and Unenforceable Parking Provisions Due to Binding Reciprocal Easements and Historical Overburdening
Staff Response: Staff cannot opine on the enforceability of the parking easements between private parties; however, staff notes that these "unenforceable" parking easements have been recorded with the Clerk-Recorder for San Luis Obispo County. (See e.g. Appeal, Exhibit A and Exhibit B) The private parking agreements bear limited value to City's review over this matter and the applicant's request. Pursuant to GC Section 65915(b)[13], a city shall grant incentives or concessions for projects meeting certain criteria contained within this section. By reserving fifteen percent (15%) of the base density units for very low-income household or 24% of the base density units for low-income households, the project is entitled to up to three concessions that provide relief from development standards. Irrespective of the private parking easements, applicant would be eligible to seek a modified concession for a reduction of the parking requirement from 99 to the number of on-site spaces. Government Code section 65915(d) provides the findings required to deny a concession or incentive sought by

[13] https://leginfo.legislature.ca.gov/faces/codes_displaySection.xhtml?sectionNum=65915&lawCode=GOV

a housing applicant, and those findings cannot be made. The concession to reduce parking will result in costs savings to the applicant, the reduction of parking will not a have a specific or adverse impact that cannot be mitigated, and the requested concession is not contrary to State or Federal law. Pursuant to Gov. Code §65589.5[14], a "specific, adverse impact" means a significant, quantifiable, direct, and unavoidable impact, based on objective, identified written public health or safety standards, policies or conditions as they existed on the date the application was deemed complete. With the application of a parking concession, the project is deemed in compliance with state and local requirements.

a. Proposed Parking Does Not Comply with On-Site Parking Regulations
   Staff Response:
   The proposed parking is not inconsistent with Government Code § 65915(p) or AGMC § 16.56.030. A reduction in parking is a standard concession, and a reduction from the minimum parking requirement from 99 spaces to a reduced number of parking spaces is consistent with State Density Bonus Law. This is a quintessential concession and expressly authorized by the Government Code. (See Gov. Code section 65915(k)(1)[Concession or incentive means "a reduction . . . in the ratio of vehicular parking spaces that would otherwise be revised. . . "], see also (p)(5)["An applicant may request parking incentives or concessions beyond those provided in this subdivision pursuant to subdivision (d)[concessions/incentives]") Irrespective of the private parking easements, the use of reduced onsite parking is justified under State law. Gov. Code section 65915(p)(4) says that a "development may provide onsite parking through tandem parking or uncovered parking, but not through on-street parking." Thus, in direct contrast with the appellant's assertion, the original proposal provided onsite parking in the precise manner contemplated by state law. GC Section 65915(p)(6)[15] establishes maximum parking ratios for density bonus projects and also provides the City discretion to reduce or eliminate parking requirements for development projects of any type in any location. Moreover, while residential projects adjacent to commercial projects have been treated as mixed-use in the City, state law also allows the project to be evaluated with mixed-use zoning through application of a concession.[16] Therefore, the City's granting of a parking reduction and the applicant's election to provide shared onsite parking complies with applicable State and City regulations regarding onsite parking.

b. Proposed Parking Does Not Comply with Covered Parking Regulations

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[14]https://leginfo.legislature.ca.gov/faces/codes_displaySection.xhtml?lawCode=GOV§ionNum=65589.5
[15] https://leginfo.legislature.ca.gov/faces/codes_displaySection.xhtml?sectionNum=65915&lawCode=GOV
[16] Gov. Code § 65915(k)(2).

Staff Response:
AGMC 16.04.070 defines mixed-use projects as those that combine commercial and residential uses, where the residential component is typically located above or behind the commercial use. Despite the project's proposing only residential units, the presence of the existing commercial uses and the nature of the proposal's shared ingress, egress, and parking amenities justifies the classification of the subject project as a mixed-use development. This interpretation has consistently been applied by City staff and the Planning Commission on a number of projects in the recent past. State Density Bonus Law further authorizes the applicant to have the project be treated as mixed-use through application of a concession.[17]

As addressed above, a residential project located within a commercial shopping center has historically been categorized as a mixed-use project. AGMC §16.56.060(e) is inapplicable to a mixed-use project like the one proposed because parking required for residential use in mixed-use projects does not have to be covered (See Table "Off-Street Parking Requirements", Residential Uses Note). However, even if this were deemed a residential project through an interpretation of AGMC §16.04.070 that is inconsistent with past practice of the City, uncovered parking is nevertheless justified. As a Density Bonus Law project, the housing development may provide onsite parking through tandem or uncovered parking. (Gov. Code § 65915(p)(4).) State law overrides the development standard that appellant identifies. Density Bonus Law also permits a concession to evaluate the project based on mixed-use standards.[18] Finally, the applicant could seek to modify its parking concession further and seek an additional reduction of spaces, which could make the uncovered parking spaces argument by appellant moot.

c. <u>Binding Easements Limit Applicant's Ability to Deliver Parking</u>
Staff Response:
The appellants assert that the applicant's existing encumbrances limit their ability to provide the required parking. First, the City is not a party to any private parking agreements, and, therefore, is not legally obligated to enforce any that exist. Those easements generally describe reciprocal parking easements, allowing shared parking on the project site. Second, by dedicating at least 15% of base density units for very low-income households, or twenty-four percent (24%) of the base density units for low-income households, the project qualifies for up to three concessions. (Gov. Code, § 65915(d)(2)(C). The applicant may request a parking concession to reduce the total number of required spaces,

[17] Gov. Code § 65915(k)(2)
[18] Gov. Code § 65915(k)(2).

and still be found in compliance with the City's minimum parking requirements for this project.

Moreover, per AGMC § 16.56.050, common parking facilities may be provided in lieu of individual requirements for individual uses and the parking facilities are located within five hundred (500) feet of the associated use. The appellant has presented a number of reciprocal parking easement agreements, which demonstrate compliance with provision of individual parking as common parking facilities, as authorized by AGMC § 16.56.050. The applicant's own submitted materials demonstrate the project's consistency with the parking requirements, with the application of the concession. It does not constitute an abuse of discretion for the City to approve the project "without conditioning release, amendment, or resolution" of the easements discussed in the appeal. Instead, as an HAA project, the City may not disapprove or condition the project at a lower density absent a "specific, adverse impact upon public health or safety . . . based on objective, identified written public health or safety standards, policies or conditions as they existed on the date the application was deemed complete." (Gov. Code § 65589.5) The City does not have, and did not identify at the time the application was deemed complete, any standards, policies, or conditions requiring modification to existing private property agreements in order to approve a project.

d. Historical Parking Shortages and City-Acknowledged Issues
Staff Response:
The appeal states that the City has acknowledged parking issues at this shared use site through historical entitlement reviews of the subject property. While the City has previously analyzed parking impacts in this location, that analysis was prepared for different applications not before the City now. State law requires that cities make findings to approve or disapprove projects based upon the facts of the application being reviewed. Even City "acknowledgement" of parking "issues" at and near the site does not meet the standard for specific, adverse impacts as defined above in the Government Code.

Moreover, the appellant's arguments fail to apply the appropriate standard to Council's review and omit key conclusions of the report. The appellant relies on a 2004 parking monitoring report prepared by Orosz Engineering Group. Appellant merely asserts there have been "historical issues" previously reviewed by the City, and concludes the "reduced [parking] ratios are insufficient." However, the same Orosz Engineering Group report appellant relies on concluded, "The data indicated that the site overall has adequate parking available to tenants, patients and patrons." (Appeal, Exhibit E, p. 91 of 366). The report further discusses that the "management issues" can be

resolved by encouraging "employees to utilize parking" in another area. (See id.) Thus, the appellant does not present evidence that supports denial of the project based upon the general parking assertions identified in the appeal.

(2) Improper Application of Statutory CEQA Exemption (Pub. Res. Code §21080.66)
Staff Response:
Attachment 5 provides a thorough analysis of the findings required in order to utilize the statutory exemption provided by AB 130 (Pub. Res. Code §21080.66). Staff has made each of the findings affirmatively and contends that the statutory CEQA exemption does apply to this project.

a. Sensitive Site/Riparian Habitat Exclusion
Staff Response:
Public Resources Code section 21080.66 does not preclude the City from relying on this statutory exemption because it abuts Meadow Creek. Instead, Public Resources Code section 21080.66 permits the use of this exemption only if it meets certain criteria, including that the Project site not be located on wetlands, as defined in the United States Fish and Wildlife Service Manual. (Pub. Resources Code, § 21080.66(a)(6). Here, Exhibit 1 to Attachment 5 contains a letter written by the project's biologist stating that no wetlands, as defined by the US Fish and Wildlife Service, exist on the project site. Further, the presence of riparian habitat alone on the site does not preclude the City's reliance on this statutory exemption, as it is not one of the identified criteria under Public Resources Code section 21080.66. As identified in the June 27, 2026, Creekside Junction Project Existing Conditions Biological Resources Assessment and Updated Meadow Creek Waters of the U.S./State Jurisdictional Limits Determination, the Project site is mainly paved and dirt parking lots, with a constructed basin and berm along Meadow Creek supporting upland non-native annual grassland, ruderal areas with patches of coyote brush, and a small stand of coast live oaks and willows on the southeast corner of the site. (Attachment 5, Exhibit 2) This cluster of coast live oaks and arroyo willow trees above the top of Meadow Creek bank are in uplands, and not associated with a riparian context. (*Id.*, p. 2.) The project would have no impact on any wetland or riparian habitat. (*Id.*, p. 4.) As for the appellant's claims that the Project design will risk erosion and non-compliance with Fish & Game Code section 1602, the Project Condition of Approval 76 requires the applicant to submit improvement plans, including erosion control, and be approved by the Public Works Department and/or Community Development Department. Further, AGMC 13.24.120 requires the applicant to implement erosion and sediment control measures prior to, during, and after construction. The applicant will be required to obtain approval of a Stormwater Pollution Prevention Plan (SWPPP) from the Central Coast Regional Water Quality

Control Board (CCRWQCB). City staff will review the SWPPP to ensure that the plan is consistent with City requirements prior to approval of the development and construction plans. Therefore, the project satisfies the requirements in AB 130 and Public Resources Code section 21080.66.

b. Surrounding Urban Uses Criterion Not Met
Staff Response:
Public Resources Code section 21080.66(a)(3)(A)-(D) requires that the Project site meet any of the following criteria: (1) previously developed with an urban use, (2) at least 75 percent of the site perimeter adjoins parcels developed with urban uses, (3) at least 75 percent of the area within a one-quarter mile radius of the site is developed with urban uses, or (4) for sites with four sides, at least three out of four sides are developed with urban uses and at least two-thirds of the perimeter of the site adjoins parcels that are developed with urban uses. As stated in Attachment 5, criterion 3, approximately 77% of the area within a one-quarter mile radius of the project site is developed with urban uses. California Public Resource Code Section 21072[19] defines urban uses as any residential, commercial, public institutional, transit/transportation passenger facility, or retail use, or a combination thereof. Therefore, the surrounding urban uses criterion is met.

c. Inconsistency with Zoning and General Plan
Staff Response:
As articulated through, State law clearly exempts any inconsistency with General Plan or Zoning standards that are due to the application of density bonus concessions or waivers. (Gov. Code, § 65915(j)(1); Gov. Code § 65589.5(j)(3).) Further, contrary to appellant's reasoning, Public Resources Code section 21080.66(a)(4)(C) states that "approval of a density bonus, incentives or concessions, waivers or reductions of development standards, and reduced parking ratios pursuant to Section 65915 of the Government Code shall not be grounds for determining that the project is inconsistent with the applicable general plan, zoning ordinance, or local coastal program." Additionally, no evidence in the record indicates that approving the project, as conditioned, would have an unmitigable specific, adverse impact on public health and safety.

d. Failure to Meet other Performance Standards
Staff Response:
The City's tribal consultation efforts regarding the project are included in Attachment 5. Eight separate tribal representatives were notified of the project.

[19] https://leginfo.legislature.ca.gov/faces/codes_displaySection.xhtml?lawCode=PRC§ionNum=21072

One tribe requested consultation, and consultation resulted in the addition of Condition of Approval Number 143 to the Planning Commission Resolution. This is in addition to Condition of Approval Numbers 136-142 that are required by AB 130. Tribal consultation for the project concluded consistent with applicable State law on January 2, 2026. As required under Public Resources Code section 21080.66, a Phase 1 ESA has already been provided to the City and as such, this Project satisfies Public Resources Code section 21080.66(c)(1)(A).

Based on the substantial evidence in the record of proceedings, staff has determined that the Project qualifies for the AB 130/Public Resources Code section 21080.66 statutory exemption.

(3) Violation of Creek Setback and Riparian Protection Standards

Staff Response:

The 32’ creek setback proposed by the applicant for the project has already been deemed consistent with AGMC § 16.44.050. The HAA provides that if a city does not notify an applicant of an inconsistency with an applicable development standards before the application is deemed complete, the project is deemed consistent with unidentified standards, as a matter of law. (Gov. Code § 65589.5(j)(2)(A)–(B).) This standard was not identified by staff as an inconsistency at the time the application was deemed complete because prior approvals located along Meadow Creek have been approved with a 32’ setback or a substantially similar setback.

Furthermore, the 32’ creek setback is consistent with General Plan policy C/OS2-1.3: “Where feasible, maintain a development setback of 25 – 50 feet from the top of stream bank or edge of riparian habitat depending on slope, habitat and floodplain characteristics. Locate development outside the setback.” (Agriculture, Conservation and Open Space Element (2007), Arroyo Grande General Plan) Under the HAA, a project is deemed consistent with zoning standards when there is an inconsistency between the zoning code standard and the General Plan standard. (Gov. Code § 65589.5(j)(4)) As a 32’ setback is consistent with the applicable General Plan standard of a setback of 25-50 feet.

By way of additional background, as discussed in a March 24, 2015, staff report to City Council for a previous project at this property, a creek variance setback had previously been approved at 35’ for this site, and staff had previously recommended a variance for the setback at 32’. (Appeal, Ex. F, p. 104 of 366) Staff had previously analyzed that application of the 50’ creek setback standard would “reduce the buildable lot width significantly.” (*Id.* at p. 113 of 366) That staff report identified that there would be apparent benefits to the creek habitat, where development would “enhance the health and function of the riparian area” by removing invasive species

and providing revegetation benefits. (*Id.*) While application of the creek setback standard is now precluded by state law, if the applicant were to request a density bonus waiver under Gov. Code § 65915(e), the applicant would be entitled to an 18' deviation from the setback requirement to avoid physical preclusion of the project.

Thus, the proposed 32' foot creek setback is deemed consistent with the City's development standard by two separate provisions of state law, and the applicant would be entitled to a waiver from the standard because strict application would preclude the applicant from building at the proposed density.

(4) Inadequate Traffic and Circulation Analysis
Staff Response:
In compliance with Senate Bill 743, the City has adopted a Transportation Impact Study Guidelines[20], which are based on a Vehicle Miles Traveled (VMT) metric rather than the traditional Level of Service (LOS). Based on the City's VMT screening criteria, the project is not screened out and was required to complete a VMT analysis. Residential projects that conduct a VMT analysis shall calculate the project VMT per capita using the San Luis Obispo Council of Governments (SLOCOG) travel demand model and compare the results to regional VMT with and without the project's modeled impacts. As shown in the analysis (Attachment 6), the existing home-based VMT for Arroyo Grande is 20.2 VMT per capita, while the project is expected to result in 12.29 VMT per capita. Per the City's guidelines, this is more than fifteen percent (15%) below existing VMT and thus, the project would not have a potentially significant impact on VMT. Therefore, the project is consistent with the City's requirements for evaluating potential traffic and circulation impacts.

(5) The Project Does Not Qualify for Preferential Treatment
Staff Response:
This project meets the definition of a housing development project in the HAA. (Gov. Code § 65589.5(h)(2).) Staff has evaluated the project and determined that it complies with the City's objective standards. State law exempts any inconsistency as a result of density bonus concessions or waivers. (Gov. Code § 65589.5(j)(3).) Additionally, no evidence in the record indicates that approving the project, as conditioned, would have an unmitigable specific, adverse impact on public health and safety. The project's required review under applicable State law does not constitute preferential treatment.

ALTERNATIVES:
The following alternatives are provided for the Council's consideration:

[20] https://arroyogrande.org/DocumentCenter/View/9851/Transportation-Impact-Study-Guidelines

1. Adopt the prepared Resolution denying Appeal Case No. 26-001 and approving Conditional Use Permit 25-001;
2. Modify and adopt the prepared Resolution denying Appeal Case No. 26-001 and approving Conditional Use Permit 25-001;
3. Do not adopt the prepared Resolution take tentative action to uphold appeal Case No. 26-001, and provide direction for staff to return with an appropriate supporting resolution including findings for denial of Conditional Use Permit 25-001; or
4. Provide other direction to staff.

ADVANTAGES:
Denial of the appeal will approve a housing project, provide units specifically reserved for residents qualifying as very low income or low income, and help the City meet its RHNA obligations under its adopted Housing Element . Furthermore, the project was processed in accordance with the HAA and Density Bonus Law.

DISADVANTAGES:
The reduction of required parking pursuant to State law could impact the availability of parking on the shared site. These concerns are expected to be attenuated by conditions of approval included in the prepared Resolution.

ENVIRONMENTAL REVIEW:
In July 2025, the Governor signed a budget trailer bill (AB 130) that includes new and amended statutes, including Public Resources Code section 21080.66, which significantly streamlined the environmental review process for housing projects.

Based on substantial evidence, City staff has determined that the Project is exempt from further environmental review pursuant to Public Resources Code section 21080.66 (Infill Housing Development Exemption). A full analysis of the Project's eligibility is included in Attachment 5. Accordingly, staff recommends that the City Council find the Project exempt from further environmental review pursuant to Public Resources Code section 21080.66(a).

PUBLIC NOTIFICATION AND COMMENTS:
The Agenda was posted at City Hall and on the City's website in accordance with Government Code Section 54954.2. A public hearing notice was posted at the site and mailed to all property owners within 300' of the project site on March 12, 2026.

ATTACHMENTS:
1. Resolution
2. Project Location
3. Planning Commission Resolution 2026-002
4. January 30, 2026 Appeal Form

5. AB 130 CEQA Findings
6. Traffic and Circulation Study