

CITY OF ALAMEDA PLANNING BOARD
DRAFT RESOLUTION

A RESOLUTION OF THE PLANNING BOARD OF THE CITY OF ALAMEDA RECOMMENDING THAT THE CITY COUNCIL AMEND THE ALAMEDA LANDING WATERFRONT MIXED USE MASTER PLAN AND BAY 37 DEVELOPMENT PLAN WITHIN THE ALAMEDA LANDING WATERFRONT MIXED USE PROJECT LOCATED AT 2800 FIFTH STREET.

WHEREAS, the 2017 Alameda Landing Waterfront Mixed Use Master Plan and Bay 37 Waterfront Development Plan authorize residential development along the waterfront at 2800 Fifth Street, provided that the development include 5,000-square-feet of space for commercial, retail, and/or commercial recreational uses; and

WHEREAS, an application was made on August 22, 2022 by Pulte Home Company, LLC (Pulte) for Master Plan/Development Plan Amendment Application No. PLN22-0401 to amend the 2017 Alameda Landing Waterfront Mixed Use Master Plan and Bay 37 Waterfront Development Plan to allow one of four options on an approximately 5,150-square-foot site located at 2800 Fifth Street ("Proposed Amendment"):

- Alternative #1. Two Moderate-Income Single-Family Detached Units and a Community Building on a separate lot conveyed to the City at no cost.
- Alternative #2. Neighborhood Park and public access easement
- Alternative #3. Two Low-Income Single Family Detached units and smaller neighborhood park
- Alternative #4. Five Low-Income Multifamily Homes; and

WHEREAS, the subject property is designated Medium Density Residential on the General Plan Diagram; and

WHEREAS, the subject property is located in a M-X (Mixed-Use Planned Development) Zoning District which requires a master plan for the development; and

WHEREAS, the subject property is located within the MF (Multi-Family Residential Combining Zone) Overlay District; and

WHEREAS, on December 5, 2006, the City Council adopted Resolution No. 14047 certifying the Final Supplemental Environmental Impact Report for the Alameda Landing Mixed Use Development Project ("2006 Supplemental EIR", a Supplement to the 2000 Catellus Mixed Use Development Project EIR) in accordance with the California Environmental Quality Act (CEQA) (State Clearinghouse #2006012091), and the City has prepared several addenda to the 2006 SEIR in 2007, 2008, 2012 and 2017 (collectively, "Previous CEQA Documents"); and

WHEREAS, on January 2, 2007, the City Council adopted Ordinance 2957 approving the Alameda Landing/Bayport Mixed Use Development Master Plan; and

WHEREAS, on September 5, 2017, the City Council adopted Ordinance No. 3188 amending the Alameda Landing Master Plan and approved an Addendum to the Supplemental EIR; and

WHEREAS, on October 14, 2019, the Planning Board approved the Development Plan, Density Bonus Application, and Tentative Map to construct 357 residential units, 5,000-square-feet of commercial space, internal roadways and alleys, parks and open space; and

WHEREAS, on December 9, 2019, the Planning Board adopted Resolution No. PB-19-20 and approved Design Review for the Alameda Landing Waterfront Mixed Use project to construct the 357 residential units within the approximately 17.2-acre site located at 2800 Fifth Street, which included a site for the 5,000-square-foot commercial development on Fifth Street adjacent to the waterfront park subject to conditions of approval. One condition of approval required the applicant to return to the Planning Board for design review for the commercial building; and

WHEREAS, on December 13, 2021, the Planning Board amended Resolution No. PB-19-21 to modify the timing for Design Review approval of the commercial building to avoid a delay in housing construction at the site. The Planning Board agreed with the applicant that a retail commercial use at the site would be difficult to maintain given the uncertain economic outlook for retail spaces, and noted the importance of having a community space next to the waterfront park. The Board directed the applicant to work with staff to return with a plan that included some form of community benefit; and

WHEREAS, on October 10, 2022, the Planning Board held a duly noticed public hearing to consider a recommendation from City staff and Pulte Homes to amend the 2017 Master Plan and Bay 37 Development Plan to replace the 5,000 square foot commercial building with a 1,500-square-foot one-story community building and two 2,500-square-foot single family units. The community building would be donated to the City of Alameda Recreation and Parks Department for public use, and the two residential units would be deed-restricted at the moderate-income level (up to 120% average median income (AMI)). At the meeting, several Bay 37 residents opposed the staff recommendation and the Planning Board continued the item for further review and analysis by Pulte and City staff; and

WHEREAS, following the Planning Board's direction, Pulte Homes and City staff continued to explore additional alternatives, and hosted a community meeting with the Bay 37 residents to discuss the alternatives; and

WHEREAS, on February 13, 2023, the Planning Board held a duly noticed public hearing to consider the Proposed Amendment on an approximately 5,150-square-foot site located at 2800 Fifth Street; and examined all pertinent application materials and public testimony.

NOW, THEREFORE, BE IT RESOLVED, that the Planning Board finds the environmental effects of the proposed project were considered and disclosed in the Previous CEQA Documents. No further environmental review is required under CEQA Guidelines Sections 15162 and 15163. The proposed mixed-use development will not result in any new environmental impacts or cause any previously disclosed significant impacts to become more

Exhibit 2

Item 7-A, February 13, 2023

Planning Board Meeting

severe, and all mitigations specified in the Previous CEQA Documents are included as conditions of approval for the project as required by the Alameda Landing Master Plan; and

BE IT FURTHER RESOLVED, that the Planning Board hereby recommends the City Council approve Planning File No. PLN22-0401 to amend the 2017 Alameda Landing Waterfront Mixed Use Master Plan and Bay 37 Waterfront Development Plan to replace the requirement for 5,000 square feet of commercial space located in the Residential Sub Area at the Alameda Landing waterfront with Proposed Amendment Alternative ____; and

BE IT FURTHER RESOLVED, that the Planning Board has made the following findings relative to Proposed Amendment Alternative ____ (Master Plan, AMC Section 30-4.20.c.; Development Plan, AMC Section 30-4.13, 30-4.20.g.3.):

1. **The development is a more effective use of the site than is possible under the regulations for which the PD district is combined (AMC Section 30-4.13).** The Proposed Amendment implements the City of Alameda General Plan, the MX Mixed Use and MF Multifamily Zoning District requirements for the site, and is a more effective use of the site than the current requirement for a commercial building. Economic factors and vacancy rates of nearby retail establishments indicate that a commercial building will likely fail to attract viable business tenants and will remain vacant space. Instead, the Proposed Amendment provides other means to utilize the site for either more affordable housing and/or community space consistent with the Master Plan's mixed use intent.
2. **The proposed use, if it complies with all conditions upon which approval is made contingent, will not adversely affect other property in the vicinity and will not have substantial deleterious effects on existing business districts or the local economy (AMC Section 30-21.3).** The Proposed Amendment consists of minor changes that will implement the General Plan and provides for a mixed-use development pursuant to the MX Mixed Use Planned Development Zoning District. The Proposed Amendment is consistent with the General Plan and MX District. In-lieu of a commercial building, the Proposed Amendment provides more affordable housing and/or community space consistent with the Master Plan's mixed use intent.
3. **The location of the proposed use is compatible with other land uses in the general neighborhood area, and the project design and size is architecturally, aesthetically, and operationally harmonious with the community and surrounding development (AMC Section 30-21.3).** The Proposed Amendment consists of minor changes that qualify as a mixed-use development pursuant to the MX, Mixed-Use Planned Development Zoning District, and satisfies the purposes of the MX district and MF Multifamily Overlay District regulations. The Proposed Amendment conforms to the General Plan Waterfront Mixed Use and Medium Density Residential land use policy objectives and requirements adopted to ensure that the project would be compatible with adjacent residential neighborhoods, the recently completed residential developments on adjacent sites and other existing and future waterfront uses.
4. **The proposed use will be served by adequate transportation and service facilities including pedestrian, bicycle, and transit facilities (AMC Section 30-21.3).** The Proposed Amendment consists of minor changes designed to be compatible with

Exhibit 2

Item 7-A, February 13, 2023

Planning Board Meeting

pedestrian, bicycle, and transit facilities approved for the Alameda Landing Waterfront Mixed Use Development and ensures that the development of the property is compatible with existing and potential contiguous uses.

5. **The proposed use relates favorably to the General Plan (AMC Section 30-21.3).** As documented in the February 13, 2023 Planning Board staff report and associated materials, the Proposed Amendment is minor relative to the overall Alameda Landing Waterfront Mixed Use Project and does not change the Planning Board's 2017 finding that the Master Plan is in substantial conformance with, and implements, the City of Alameda General Plan, Housing Element, and Zoning Ordinance policies and standards for the site.
6. **The Development Plan qualifies for approval under the Alameda Landing Master Plan and satisfies the purpose of the Mixed Use zoning regulations (AMC Section 30-4.20.g.3.).** The Proposed Amendment consist of minor changes that are consistent with the Alameda Landing Master Plan Amendment at this location. The Proposed Amendment qualifies for approval under AMC Section AMC Section 30-4.20(g) as it satisfies the purpose of the regulations to facilitate mixed use development by providing a mix of uses.
7. **The Development Plan is designed in a manner compatible with existing and potential contiguous uses. The Development Plan also provides a sufficient vehicular and non-vehicular circulation system within the project with the least amount of duplication, and the Plan provides the best interface with other systems (AMC Section 30-4.20.g.3.).** The Proposed Amendment is designed in a manner compatible with existing and potential contiguous uses. The project integrates into the approved pedestrian network, bicycle access, and street network that complement and support the planned surrounding uses within the Alameda Landing Waterfront Mixed Use project. The development contributes to the completion of the development to serve the final phases of the Alameda Landing Master Plan.
8. **The Development Plan provides and maintains adequate landscaping using, where appropriate, native plants and taking maximum advantage of the screening capabilities of landscaping (AMC Section 30-4.20.g.3.).** The Proposed Amendment integrates into the approved open space comprised of native plants and landscaping that are consistent with Bay Friendly standards and comply with state water efficient landscape requirements. The ground level landscaping provides a good transition between the public sidewalks, interior site circulation, and open space within the development.
9. **The amount of land proposed for any particular use can be marketed for that use within a reasonable time after development is complete (AMC Section 30-4.20.g.3.).** This Proposed Amendment provides for the development of the site under Alternative ____ which is a more effective use of the site than the current requirement for a commercial building. Economic factors and vacancy rates of nearby retail establishments indicate that a commercial building will likely fail to attract viable business tenants and will remain vacant space. Instead, the Proposed Amendment provides other means to utilize the site for either more affordable housing and/or community space

consistent with the Master Plan's mixed use intent and will be marketed for that use within reasonable time after development is complete.

- 10. The Development Plan provides sufficient area, and encourages adequate public accessibility and usage of the water/land interface (AMC Section 30-4.20.g.3.).** The Proposed Amendment integrates into the approved pedestrian corridor provides public access between Mitchell Avenue, Fifth Street, and the waterfront and Bay Trail through the development. The development plan provides a variety of outdoor spaces such as paseos, bike paths, pedestrian pathways, pocket parks, and other common open space facilitate harmonious transitions between the surrounding uses and the waterfront park.
- 11. The Development Plan provides a comprehensive, coordinated, controlled system of informational and directional graphic signage throughout the development (AMC Section 30-4.20.g.3.).** The Proposed Amendment consists of multiple clear points of entry along Fifth Street, the western greenway, and the pedestrian paseos, which will provide signage for public access to the waterfront park and the pocket parks in the development.
- 12. The Development Plan demonstrates progressive techniques for the conservation of, and decreased consumption of, nonrenewable energy (AMC Section 30-4.20.g.3.).** The Proposed Amendment will be 100% electric powered without any gas infrastructure serving the homes or the commercial development as recommended by the City of Alameda Climate Action and Resiliency Plan. All residential units will include solar panels on the roof; and

BE IT FURTHER RESOLVED, that the Planning Board hereby recommends the City Council include the following conditions of approval:

1. Master Plan/Development Plan Amendment: This Proposed Amendment shall not become effective until and unless the Alameda City Council approves the recommended Master Plan Amendment necessary to allow the developer to proceed with the selected Alternative in lieu of the current requirement to provide 5,000 square feet of space for commercial, retail, and/or commercial recreational uses. In the event that the Proposed Amendment is not approved, the Applicant shall redesign the project for Planning Board review consistent with the minimum commercial space requirement.
2. Deadline for Delivering the Alternative: Any building, grading or other construction permits associated with the selected Alternative shall be eligible for the "Ready to Issue" status in the City's permit system prior to the issuance of the 343rd building permit. The permits for the alternative shall be in "Issued" status prior to the final inspection for the building permit of the 350th unit. The Planning Director may extend the deadline by up to 90 days to accommodate any unforeseen circumstances.
3. Design Review: The applicant shall obtain Planning Board Design Review approval for any alternative that includes a recreation community building.

Indemnification. To the maximum extent permitted by law, the applicant (or its successor in interest) shall defend (with counsel acceptable to the City), indemnify, and hold harmless the City of Alameda, its City Council, City Planning Board, officials, employees, agents and volunteers (collectively, "Indemnitees") from and against any and all claims, actions, or proceedings against Indemnitees to attack, set aside, void or annul an approval by Indemnitees relating to this project. This indemnification shall include, but is not limited to, all damages, losses, and expenses (including, without limitation, legal costs and attorney's fees) that may be awarded to the prevailing party arising out of or in connection with an approval by the Indemnitees relating to this project. The City shall promptly notify the applicant of any claim, action or proceeding and the City shall cooperate in the defense. The City may elect, in its sole discretion, to participate in the defense of said claim, action, or proceeding and the applicant (or its successor in interest) shall reimburse the City for its reasonable legal costs and attorneys' fees.

NOTICE. No judicial proceedings subject to review pursuant to California Code of Civil Procedure Section 1094.5 may be prosecuted more than ninety (90) days following the date of this decision plus extensions authorized by California Code of Civil Procedure Section 1094.6.

NOTICE. The conditions of project approval set forth herein include certain fees and other exactions. Pursuant to Government Code section 66020(d) (1), these Conditions constitute written notice of a statement of the amount of such fees, and a description of the dedications, reservations and exactions. The applicant is hereby further notified that the 90-day appeal period, in which the applicant may protest these fees and other exactions, pursuant to Government Code section 66020(a) has begun. If the applicant fails to file a protest within this 90-day period complying with all requirements of section 66020, the applicant will be legally barred from later challenging such fees or exactions.

The decision of the Planning Board shall be final unless appealed to the City Council, in writing and within ten (10) days of the decision, by filing with the Planning, Building and Transportation Department a written notice of appeal stating the basis of appeal and paying the required fees.

* * * * *