

CITY OF ALAMEDA PLANNING BOARD
DRAFT RESOLUTION

APPROVING USE PERMIT NO. PLN25-0217 FOR TEMPORARY USE OF
THE ENCINAL TERMINALS SITE FOR OUTDOOR VEHICLE STORAGE
AND TEMPORARY IMPROVEMENTS

WHEREAS, the Encinal Terminals site is a vacant 23-acre site located at 1521 Buena Vista Avenue between the Alaska Basin and the Fortman Marina, north of and fronting on Clement Avenue, and

WHEREAS, the site is comprised of four parcels including land, wharfs, and water: three are owned by Bayview Landing, L.P. (Applicant and Developer) and one is owned by the City of Alameda in trust for the State of California (Tidelands Property). The Tidelands Property is located in the middle of the site and is subject to a lease, with City as Lessor and Bayview Landing, L.P. as Lessee; and

WHEREAS, the site is subject to the Encinal Terminals Tidelands Exchange Master Plan, Development Agreement (DA), Disposition and Development Agreement (DDA), and Tidelands Exchange and a Development Agreement (the Exchange Agreement) that vests the entitlements for 15 years in exchange for additional public benefits that could not be achieved without the Development Agreement; and

WHEREAS, the development project, to facilitate redevelopment for up to 589 multifamily housing units, 80 of which would be deed restricted affordable units, up to 50,000 square feet of commercial and maritime commercial space, a 160-slip marina, and 4.5 acres of public open space, was evaluated in an Environmental Impact Report (EIR, SCH# 2016042076) that was certified and adopted by the City Council on December 20, 2017 by Resolution 15337; and

WHEREAS, in recognition of the current economic circumstances and the progress made by the Developer over the past three years, the City and Developer amended the DA to allow an additional three years, until March 2028, for initial permit issuance and site work while retaining the ultimate implementation deadline of March 2037; and

WHEREAS, the Tidelands Property at the middle portion of the site, which is owned by the City as tidelands trust, is subject to a tidelands lease between the City and Developer as well as state law public trust requirement, which both govern the use of that portion of the site. The lease allows “a harbor and/or marina, wharves, docks, piers, berthing slips, quays and other utilities, warehouses, factories, storehouses, structures, tracks and appliances... including general or industrial manufacturing incidental to such purposes and for any other lawful use.” The temporary uses for this portion of the property must be consistent with the terms of the City’s lease for the tidelands area in the center of the site, and applicant will also need to seek a lease amendment before the proposed use can commence; and

WHEREAS, consistency of the use and operation over the whole site is necessary and desirable, and the Tidelands Property, subject to the aforementioned restrictions, makes up

a substantial portion of the proposed use area and is surrounded by the other parcels and provides land access to the northern parcel; and

WHEREAS, the zoning of the site, MX-MF, Mixed-Use District with Multi-Family Residential Overlay, allows a wide range of uses as specified in a site-specific Use Permit or Master Plan. The primary uses in the adopted Master Plan are described above. In addition, the Master Plan allows certain conditional uses, including maritime industrial, maritime related uses such as boatyards and dry boat storage, maritime recreation, and other similar uses as determined by the Planning Board. The M-X zoning district requires that, where a Master Plan has been approved, interim uses may be approved if they are consistent with the approved uses, do not have significant or greater adverse impacts on neighboring properties, include a time limit, and will not inhibit or delay implementation of the Master Plan. In this case, the interim use will be consistent with those uses as an outdoor parking area with minimal site work that will be completely removable and will be required to cease upon the timelines established in the Exchange Agreement. The zoning ordinance also requires a Use Permit for outdoor business activity, which is being accomplished with this temporary use permit; and

WHEREAS, the interim use of the site is exempt from further review under the California Environmental Quality Act pursuant to Class 1 and Class 4, Existing Facilities and Minor Alterations to Land, where the site is not proposed to be physically modified and will be used in a manner consistent with prior use. Furthermore, the project, including demolition of existing buildings, was considered under the Master Plan EIR; and

WHEREAS, the interim uses would be consistent with the underlying zoning, will not inhibit implementation of the Master Plan, and will not commence unless and until the use is found consistent with the tidelands lease, as may be amended. They also are consistent with or less intensive than prior uses such as a shipping wharf and storage area. The interim use permit is also time limited by the implementation requirements of the DA, i.e. site preparation for the mixed use development is required to begin by March 2028. Conditions of approval limit external effects on the neighborhood; and

WHEREAS, the Planning Board finds that the interim uses satisfy the necessary findings for the granting of a Use Permit, as follows:

1. 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 because it would be a temporary reestablishment of a use similar to the preexisting use of the property and does not involve any substantial construction.
2. The proposed use will be served by adequate transportation and service facilities including pedestrian, bicycle, and transit facilities because the use is a temporary outdoor storage use that has ready access from established truck routes and Entrance Road, the driveway at Fortman Marina will be reconfigured to minimize cross traffic on the cross-Alameda trail, and buildings will be cleared and new gates installed to facilitate the use of the exiting Entrance Road extension.

3. The proposed use, as conditioned, will not adversely affect other property in the vicinity and will not have substantial deleterious effects on existing business districts or the local economy because it is a temporary use that will be conducted on an expansive 23-acre former industrial site with adequate space to provide buffers to adjacent uses. Furthermore, the project, as conditioned, include prohibitions on causing a nuisance or violating applicable codes and standards and will provide a beneficial use that would reduce existing risks of nuisance from trespass, graffiti and vandalism.
4. The proposed use relates favorably to the General Plan because it does not permanently change the land use or inhibit the implementation of the adopted Encinal Terminals Master Plan.
5. The temporary use may be authorized and is permissible pursuant to AMC 30-4.20.j because: i) the use is conditionally permitted in the M-X district through the C-M district as provided in AMC 30-4.20.d.2.v, ii) a good-faith effort is being made to complete the master plan for the site according to an agreed-upon time schedule, iii) the term of the use permit is defined and short-term and conditions are included that describe and manage the termination of the interim use upon expiration of the use permit, iv) the interim use does not have significant or greater adverse impacts on neighboring properties and provides benefits by reducing risks of trespass, graffiti and vandalism, and v) the approved uses will not inhibit or delay implementation of a master plan or redevelopment of a the property consistent with the M-X zoning district purposes.

WHEREAS, on March 23, 2026, the Planning Board held a duly noticed public hearing and examined all submitted materials including a request to allow temporary use of the site including the tidelands lease portion and the privately held portion pursuant to the terms and conditions thereon including the lease, tidelands trust, master plan, and development agreement; and

NOW THEREFORE BE IT RESOLVED, that the City of Alameda Planning Board adopts the foregoing recitals as its findings; and

BE IT FURTHER RESOLVED, that the City of Alameda Planning Board approves the Use Permit for temporary use subject to the following conditions:

1. Approval. The project, including any plans submitted for a Building Permit, shall be in substantial compliance with the statements in the project application subject to the conditions specified in this resolution. The use shall not commence on any part of the site unless and until City Council approves a lease amendment authorizing the use on the Tidelands Parcel. Preparations such as fence repairs, building demolition, and driveway reconfiguration may commence independently.
2. Consistency with Tidelands Lease. The temporary use authorized under this Use Permit shall not commence on any portion of the site unless and until an amendment to the tidelands lease for the Tidelands Property is approved and executed, or unless and until the use is otherwise deemed consistent by the City with said lease. If the

tidelands lease for the Tidelands Property and this Use Permit contain provisions that substantially conflict as to the use or the operations thereof, the more restrictive provision shall apply to the use authorized under this Use Permit over the whole site.

3. Consistency with the Exchange Agreement. This use permit shall terminate upon the expiration of the timeline for the first phase of implementing horizontal improvements currently established in the Exchange Agreement, i.e. March 1, 2028.
4. Lapse. The Use Permit shall lapse two (2) years after the date of approval unless construction has begun and/or the use has been established under valid City permits including necessary business licenses and occupancy permits. A one-time extension for an additional two years may be granted upon written request to the Planning Director and payment of applicable fees and must be filed prior to the date of expiration. Such applications for extension shall be ruled upon by the Zoning Administrator after a public hearing. In no event shall the use extend beyond the March 31, 2028 timeframe allowed by the Tidelands Lease, Development Agreement or Master Plan.
5. Building Permit Conditions. These conditions shall be printed on building / demolition plans and improvement plans if any are required. Demolition of any structures on the site shall be pursuant to an approved Building Permit and include proper remediation, dust control, stormwater runoff control, fire suppression, and utility shutoffs to ensure the safety of the neighborhood and protection of the environment and workers. A copy of the SWPPP shall be provided, as well as the WDID number from the RWQCB and the J number from the BAAQMD prior to demolition of any buildings. PCB screening shall be provided to the Public Works Department. Temporary facilities such as portable restrooms and offices, lighting, generators, chargers, or similar shall be subject to a Building Permit to the extent required by code.
6. Changes to Approval. This approval is limited to the scope of the project defined in the project description and does not represent a recognition and/or approval of any work completed without required City permits. Any changes to the approved scope of the project shall be submitted to the Planning, Building and Transportation Department for review to determine whether they should be found consistent with this approval or shall require an amendment.
7. Hours of Operation – Initial Ramp Up Period. Prior to the initial delivery of vehicles to the site, the applicant shall notify the Planning Director in writing, which shall establish a four-week ramp up period during which vehicles may be delivered to the site between the hours of 7:00 AM and 8:00 PM. Upon conclusion of the ramp up period, delivery hours shall default to normal operations set forth below. The inventory draw down period at the conclusion of the use shall follow the same four-week procedure.
8. Hours of Operation – Normal Operations. Transport truck activity to deliver and remove vehicles to and from the site may occur only between 8:00 AM and 4:00 PM, unless previously authorized in writing by the Planning Director for limited expanded hours to address unusual circumstances. All other activity shall take place on the site between 7:00 AM and 8:00 PM. Transport trucks shall not park / idle on City streets.

9. Location and Intensity of Use. The outdoor activity area shall be focused in the middle and outer area of the site (closest to the estuary) to the greatest extent possible to minimize potential noise, dust, visual or other impacts to the residential neighbors to the south. No activity shall occur in areas subject to the jurisdiction of the Bay Conservation and Development Commission or other regulatory agency without first obtaining applicable permit approvals. A 200-foot buffer area with no outdoor storage along Clement Avenue shall be maintained in a weed free condition.
10. Site Security. Fences shall be maintained in good repair, free of graffiti, and capable of securing the site from unauthorized entry. Slats or fabric may be used in the fence to provide an attractive screen along Clement Avenue. Gates shall be installed in such a manner that vehicles are provided ready access to the site and do not block streets / sidewalks / trails. Security systems and/or personnel shall be provided to the extent necessary to minimize unauthorized access.
11. Roadway Access. Trucks shall use designated truck routes and Entrance Road. Improvements to the Fortman Marina street access as shown in the application shall be provided in a timely manner, i.e. permit applications shall be made to the Public Works Department and to the Building Department upon execution of the lease agreement and shall be pursued and implemented in a timely manner prior to establishment of the use. No access shall occur at the western driveway; an exception is allowed during installation of the Fortman Marina improvements.
12. Noise. Operations shall comply with the Alameda Noise Ordinance (AMC Section 4-10) and the maximum allowable noise levels in Section 4-10.4.b., i.e. shall not exceed the following levels for any 30-minute period: 65 dB between the hours of 7:00 a.m. and 10:00 p.m. and 60 dB between the hours of 10:00 p.m. and 7:00 a.m. at the closest residential property line. No public address system, security alert, or other recurring distinctive noise shall be allowed. Truck backup signals shall be minimized to the greatest extent possible by providing a forward moving route of access and on-site circulation.
13. Lighting. Prior to the installation of any new lighting, the applicant shall submit an exterior lighting plan to the satisfaction of the Planning Director. Said exterior lighting plan shall demonstrate compliance with the Dark Sky Ordinance, AMC Section 30-5.16.c. Glare shall be minimized at neighboring residential properties. In particular, nighttime lighting shall be minimized such that light is not reflected off glass, metal and other surfaces. Recommended lighting level is 0.1 footcandles.
14. Electric Power Facilities. Existing power lines, including underground cables, shall be protected and no permanent construction shall occur above the cables. If temporary power is installed, it shall be done pursuant to permits and standards of Alameda Municipal Power (AMP).
15. Fire Safety. Owner/applicant shall maintain approved fire apparatus and personnel access. Open flame and combustible materials in the outdoor area shall be subject to inspection and approval by the Fire Department and may be limited based on potential

hazards to persons or property.

16. Drainage. The applicant shall be responsible to maintain access to and function of existing storm drain lines that run onto and/or through the applicant's property. Stormwater shall be dispersed, diffused, detained, or otherwise infiltrated on-site to the extent feasible. Downspouts shall not be directly connected to public or private storm drain facilities. Stormwater shall not be directed across sidewalks or driveways.
17. Sewer and Water. The applicant shall secure all necessary permit approvals from EBMUD regarding the installation of all water service for the project or discharge of wastewater.
18. Solid Waste. The project shall be designed to accommodate three waste streams: recycling, organics, and trash; as required by the City of Alameda Municipal Code – Solid Waste and Recycling (Chapter 21). Signage clearly identifying how to sort materials into three waste streams shall be posted at each storage area.

The design, location, access, and provisions for waste hauler collection of all external enclosures for solid waste, recycling, and organics shall be of sufficient size and design to serve the development as approved by the Public Works Department.

Driveways or aisles shall provide unobstructed access for collection vehicles and personnel and provide at least the minimum clearance required by the collection methods and vehicles used by the City's designated collector or hauler. In all cases where a parcel is served by an alley, all exterior storage areas shall be directly accessible to the alley. For safety reasons, a turnaround must be provided for any street that would otherwise require the collection truck to back up a distance greater than 150 feet.

Commercial occupants shall be responsible for placing all solid waste, recyclable materials, and organic materials containers in a location on their premises agreed upon by the customer and the franchisee. Occupants shall not place or store containers on or in any public street, sidewalk, footpath, or public place; as required by Municipal Code Chapter 21-2.4.

Prior to approval of any construction permit valued at over \$100,000, the applicant/developer shall submit for review and approval by Public Works a waste management plan demonstrating how the project will achieve California's Green Building Standards Code (CALGreen) diversion requirements for construction waste. Projects deemed noncompliant shall be subject to fines and penalties.

19. Revocation. This Use Permit may be modified or revoked by the Planning Board, pursuant to Alameda Municipal Code Section 30-21.3.d, i.e. in the event of a violation of any of the provisions of the zoning regulations, or in the event of a failure to comply with any prescribed condition of approval, the Planning Board may, after notice and hearing, revoke any use permit..
20. 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.

NOTICE. 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.

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