

CITY OF ALAMEDA PLANNING BOARD  
**DRAFT RESOLUTION**

APPROVING APPLICATION PLN23-0518 AMENDING THE DEVELOPMENT PLAN AND DESIGN REVIEW APPROVALS FOR BLOCK 9 WITHIN "SITE A" IN THE WATERFRONT TOWN CENTER PLAN AREA AT ALAMEDA POINT AND APPROVING A USE PERMIT FOR CONVERTING A PORTION OF THE PREVIOUSLY-APPROVED GROUND FLOOR COMMERCIAL SPACE TO WORK-LIVE STUDIO

WHEREAS, Block 9 is designated as Mixed Use in the General Plan; and

WHEREAS, Block 9 is located within the Alameda Point Waterfront Town Center Sub-district (WTC Sub-district), which is in the Alameda Point District [Alameda Municipal Code (AMC) 30-4.24] of the Zoning Ordinance; and

WHEREAS, the Waterfront Town Center Plan is a Specific Plan pursuant to Government Code Section 65450 et seq. for a transit-oriented development of the waterfront lands that surround the Seaplane Lagoon and the property at the entrance of Alameda Point between Main Street and Seaplane Lagoon; and

WHEREAS, Block 9 is located within the Site A Development Plan approved by the City Council on June 16, 2015; and

WHEREAS, the Town Center Plan and the Site A Development Plan requires that the Planning Board approve a Design Review application prior to redevelopment and reuse of Block 9; and

WHEREAS, the Planning Board approved a Design Review for residential building referred to as "Block 9" within the approved Site A Development Plan in the Waterfront Town Center Precise Plan area of the Alameda Point property on December 11, 2017; and

WHEREAS, the approved Block 9 plan consists of 200 multi-family residential units, approximately 8,700 square feet of ground floor retail use, and approximately 8,500 square feet of community and amenity uses and spaces; and

WHEREAS, the project has been operational for two years since the completion of construction and the residential component has been occupied but the commercial space has remained unoccupied despite best efforts by two leasing agents to find tenants suited and able to use the space; and

WHEREAS, on December 27, 2023, the project owner applied to modify the development plan and design review and to obtain a use permit for live-work studios, including minor modifications to the exterior façade, landscape plan and signage plan; and

WHEREAS, the Planning Board held a duly noticed public hearing on February 12, 2024 for this application, considered presentations and testimony, and examined pertinent documents.

NOW, THEREFORE, BE IT RESOLVED, that the Planning Board finds that the following findings can be made in support of the approval:

1. By Resolution No. 14891 the City Council of the City of Alameda certified the Final Alameda Point Environmental Impact Report (FEIR) (State Clearinghouse No. 201312043) under the California Environmental Quality Act ("CEQA"), California Public Resources Code Section 21000 *et seq.* and adopted written findings and a Mitigation Monitoring and Reporting Program ("MMRP") on February 4, 2014, for the Alameda Point Project, including the Town Center Plan area which contains Site A and Block 9 and the proposed amendment, design review and use permit; and

2. The project is consistent with the General Plan, Zoning Ordinance, and Town Center Plan; and

3. There are no environmental impacts peculiar to the site that were not analyzed in the FEIR, or any such impact can be substantially mitigated by imposition of uniformly applied development policies or standards previously adopted by the City; and

4. There are no significant effects of the project that were not analyzed as significant effects in the FEIR; and

5. There are no potentially significant off-site impacts of the proposed project and there are no cumulative impacts to which the proposed project makes a considerable contribution which were not discussed in the FEIR; and

6. There are no previously identified significant impacts of the proposed project which, as a result of substantial new information which was not known at the time the EIR was certified, have been determined to have a more severe adverse impact than discussed in the FEIR; and

BE IT FURTHER RESOLVED, that pursuant to the streamlining provisions of Public Resources Code Section 21083.3 and CEQA Guidelines Section 15183, no further environmental review is required; and

BE IT FURTHER RESOLVED, that pursuant to AMC section 30-4.13, the following findings are made in support of the Development Plan Amendment approval:

1. **The development is a more effective use of the site than is possible under the regulations for which the PD district is combined.** The development is a more effective use of the site than is possible under the regulations for which the PD district is combined because it will activate the ground floor along a collector street that is an important entry to the new development area of Alameda Point where adaptive commercial space is planned but current market conditions do not support active retail or services, and work-live occupants can make use of the space for a combination of commercial and residential activity.

2. **The project meets the requirements of AMC Section 30-21.3.b. Use Permit Standards, subsections 1, 2, 3, and 4.** The use satisfies the findings required for a Use Permit as set forth more fully below; and

BE IT FURTHER RESOLVED, that pursuant to AMC section 30-37.5, the following findings are made in support of the Design Review approval:

1. **The proposed design is consistent with the General Plan, Zoning Ordinance, and the City of Alameda Design Review Manual.** The proposed design is consistent with the General Plan, Zoning Ordinance, and Design Review Manual because it retains the previously-approved adaptable commercial frontage while activating the space with daily use by resident/business operators and improved landscaping.

2. **The proposed design is appropriate for the site, is compatible with adjacent or neighboring buildings or surroundings, and promotes harmonious transitions in scale and character in areas between different designated land uses.** The proposed design is appropriate for the site, is compatible with adjacent buildings and surroundings, and promotes harmonious transitions in scale and character in areas between different designated land uses because the space was previously approved as a pedestrian-oriented interface along West Atlantic Avenue and will continue to serve this function with increased landscaping, storefront entries, and residential activity below multistory residential apartments.

3. **The proposed design of the structure(s) and exterior materials and landscaping are visually compatible with the surrounding development, and design elements have been incorporated to ensure the compatibility of the structure with the character and uses of adjacent development.** The proposed design are compatible because the materials and design are based on the existing façade treatments that have been installed in recent years, i.e. aluminum storefront systems, metal sunshade, and pavers, while adding more interest through operable windows, enhanced landscaping, and small scale business opportunities in a neighborhood that is still developing.

BE IT FURTHER RESOLVED, that pursuant to AMC section 30-21.3, the following findings are made in support of the Use Permit approval:

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.** 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 uses the existing building mass, landscape elements and facades consistent with previously approved development plans for the site.

2. **The proposed use will be served by adequate transportation and service facilities including pedestrian, bicycle, and transit facilities.** The proposed use will be served by adequate transportation and service facilities including pedestrian, bicycle, and transit facilities because the site fronts a new multi-use roadway with transit lanes, bike lanes, and on-street parking.

3. **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.** 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 because the uses will be small scale owner/occupant endeavors that will be limited to the allowable uses in the zoning and subject to conditions of approval that limit the range of uses to those without external impacts..

4. **The proposed use relates favorably to the General Plan.** The proposed use relates favorably to the General Plan, which establishes the area as a mixed use pedestrian environment with a range of uses including retail, service and entertainment,

and medium to high density residential with space reserved for commercial businesses that will be attracted to Alameda Point once new housing and employers have settled there, because the project will retain the mixed use aspect of the project.

BE IT FURTHER RESOLVED, that pursuant to AMC section 30-15.6, the following additional findings are made in support of the Work-Live Units use permit approval:

1. **The proposed or existing use of each work/live studio is a bona fide commercial or industrial activity consistent with Section 30-15.5d.** The proposed or existing use of each work/live studio is a bona fide commercial or industrial activity consistent with Section 30-15.5d, i.e. that the uses will be limited to those otherwise allowed in the district and that the uses will not be injurious to residents and visitors of the units or surroundings, because pertinent conditions of approval have been included in this approval.

2. **The establishment of work/live studios will not under the circumstances conflict with nor inhibit industrial or commercial uses in the area where the project is proposed.** The establishment of work/live studios will not under the circumstances conflict with nor inhibit industrial or commercial uses in the area where the project is proposed because the pattern of development has been set by the Site A and Block 9 development plans, and the future development south of West Atlantic Avenue is substantially delayed.

3. **Any building containing work/live studios and each work/live studio within the building has been designed to ensure that they will function predominantly as work spaces with incidental residential accommodations meeting basic habitability requirements in compliance with applicable regulations.** Any building containing work/live studios and each work/live studio within the building has been designed to ensure that they will function predominantly as work spaces with incidental residential accommodations meeting basic habitability requirements in compliance with applicable regulations because pertinent conditions of approval have been included in this approval.

4. **Any changes proposed to the exterior appearance of the building will be compatible with adjacent commercial or industrial uses where all adjacent land is zoned for commercial or industrial uses. If there is adjacent residentially-zoned land, then the proposed changes to the building shall make the commercial or industrial building being converted more compatible with the adjacent residential area.** Any changes proposed to the exterior appearance of the building will be compatible with adjacent commercial or industrial uses where all adjacent land is zoned for commercial or industrial uses because the street-facing areas are pedestrian oriented with ground-floor entries and canopy and signs that reflect commercial and residential activity. Furthermore, there is adjacent residentially zoned land, and the proposed changes to the building make the commercial or industrial building being converted more compatible with the adjacent residential area by providing activity in the spaces while retaining the adaptable potential for when more intensive commercial activity is warranted; and

BE IT FURTHER RESOLVED, that pursuant to AMC section 30-15.1, the following additional findings are made in support of the Work-Live Units use permit approval:

**The proposed use is consistent with the purposes for work/live studios set forth in Section 30-15.1 with respect to the circumstances and conditions of the subject property.** The proposed use is consistent with the purposes listed below for the following reasons:

1. To provide for and make feasible the reuse of existing commercial or industrial buildings and related sites in the Northern Waterfront and other specified

commercial, manufacturing, and industrial zoning districts as proposed in the Alameda General Plan because the Waterfront Town Center Precise Plan identifies the area for adaptable commercial space, which includes work/live studios as proposed.

2. To provide cost-efficient alternative work space that will provide an incentive for entrepreneurs, business owners, artists, artisans, and other individuals to continue to work in Alameda and contribute to the City's economy because .

3. To reduce traffic and associated adverse impacts on air quality, energy resources, and the quality of life in the City by reducing the number and length of work-related trips by employed Alameda residents.

4. To promote the preservation and reuse of commercial or industrial buildings that contribute to the historic character of the community in a manner that is consistent with other community goals and policies.

5. To allow activities that are compatible with and will not compromise or interfere with existing and potential industrial or commercial uses in the districts where such work/live studios are established.

6. To ensure that work/live studios will function predominantly as work spaces with incidental residential accommodations that meet basic habitability requirements in compliance with applicable regulations. No portion of any work/live studio shall be considered a "dwelling" as that term is defined in Sections 30-2 and 30-51.1.

7. To ensure that the exterior design of structures converted to work/live use reflects the predominant industrial or commercial character of such buildings and will be compatible with adjacent commercial or industrial uses.

8. To ensure that, where there is adjacent residentially zoned land, changes to the exterior of structures converted to work/live are designed to make the commercial or industrial building being converted more compatible with the adjacent residential area; and

BE IT FURTHER RESOLVED that the Planning Board of the City of Alameda hereby **approves** the Development Plan Amendment, Design Review Amendment and Use Permit PLN23-0518, **subject to the following conditions:**

1. Subsequent Permit Plans. All future design review applications, building permit applications, and improvement plan submittals shall be reviewed for consistency with this approval.

2. Work/Live Permit Required. Each tenant of an individual work/live studio must obtain a work/live permit prior to occupancy. Such permit shall be issued by the Planning Director only upon a determination that the proposed occupancy is consistent with the approved use permit and all applicable requirements of the zoning code. Application for a work/live permit shall be made to the Planning Department in writing on a form approved by the Department and shall be accompanied by a fee as set by resolution of the City Council.

3. Design of Work/Live Studios. Subject to all applicable building and fire code requirements:

- a. Work/live studios shall be designed to accommodate commercial or industrial uses conforming to the Group B occupancy classification under the California Building Standards Code and as evidenced by the provision of ventilation, interior storage, flooring, and other physical improvements of the type

commonly found in exclusively commercial or industrial facilities used for the same work activity.

- b. Areas within a work/live studio that are designated as living space shall be an integral part of the work/live studio and not separated from the work space, except that mezzanines and lofts may be used as living space subject to compliance with other provisions of this Article. Examples of ways to integrate the work space and living space in compliance with this section include, but are not limited to, the following:
  - i. Doors or solid walls between the work space and areas used for living space do not extend all the way to the ceiling, except for sanitary facilities and rooms used primarily for sleeping;
  - ii. There is a single entrance to the work/live studio;
  - iii. There are no walls separating the food preparation area from the work space,
- c. Only the sanitary facilities and rooms designated for sleeping are enclosed and all other portions of the living area are not separated from the work space.

4. Limitations on Allowed Uses. The work activity in a building where work/live units are allowed shall be any use permitted by right or use permit in the zoning district, except that, in order to protect the health and safety of persons who reside in a work/live studio or in a building which contains one (1) or more work/live studios, no work activity shall be permitted nor shall any work/live studio be established on any site that contains those uses which the Planning Director when considering a work/live permit or the Planning Board when considering a use permit, finds would, by virtue of size, intensity, number of employees or the nature of the operation, have the potential to create significant impacts by reason of dust, glare, heat, noise, noxious gases, odor, smoke, traffic, vibration or other impacts, or would be hazardous by way of materials, process, product or wastes including, but not limited to: Auto service/repair, vehicle sales or leasing, car washes, service stations, bars/lounges/night clubs, adult businesses, marine engine repair/refueling facilities, animal kennels/grooming/pet shops, liquor stores, veterinary offices/hospitals, funeral parlors/mortuaries, outdoor storage as a primary use, crematories/columbaria, dismantling facilities/scrap yards, public utility structures and facilities, tire sales/service, truck stops/repair.

5. Additional Limitations on Allowed Uses. Uses allowed under the foregoing paragraph that may, depending on how they are operated, also have the potential to generate impacts or would constitute a change in occupancy under the building code shall not be approved unless the Planning Director finds that as proposed to be conducted, or as modified by conditions of use permit, they would not conflict with or adversely affect existing work uses in the building and in the area where the work/live studio is located. No use shall be approved where, given the design or proposed design of the work/live studio, there would be the potential for adverse health impacts from the proposed use on the people residing in the studio. An example of a potential health impact is the potential for food contamination from uses which generate airborne particulates in a studio with an unenclosed kitchen.

6. Rental and Sale Limitations.

- a. No work/live studio, or any portion thereof, shall be sold as an individual unit.

- b. No portion of a work/live studio may be separately rented or sold as a commercial space for a person or persons not living in the premises or as a residential space for a person or persons not working in the same studio.
  - c. The restrictions shall be binding upon any successor in ownership of the property and lack of compliance shall result in legal action against the property owner.
7. Lease Agreements. The property owner or manager of the property shall ensure that all work/live studio leases include provisions requiring maintenance of a valid Work/Live Permit and valid business license.
8. Business License Required. At least one (1) occupant of each work/live studio shall maintain a current City of Alameda business license for a business located in that studio.
9. Mixed Occupancies. If a building contains mixed occupancies of work/live studios and other nonresidential uses, occupancies other than work/live shall meet all applicable requirements for those uses, and proper occupancy separations shall be provided between the work/live studios and other occupancies, as determined by the Building Official.
10. Notice to Occupants Required. The owner or developer of any building containing work/live studios shall provide written notice to all work/live occupants and users that the surrounding area may be subject to levels of noise, dust, fumes, or other effects associated with commercial and industrial uses at higher levels than would be expected in residential areas. State and Federal health regulations notwithstanding, noise and other standards shall be those applicable to commercial or industrial properties in the district where the project is located. For purposes of noise control, work/live studios shall be classified as commercial property under Table II in Section 4-10.4 of the Alameda Municipal Code.
11. Change of Use From Work/Live Studio. No work/live studio shall be changed to exclusively residential use in any building where residential use is not permitted. The conversion of an existing work/live studio to exclusively residential or nonresidential use is permitted with a Conditional Use Permit amendment and when the conversion meets all other applicable Alameda Municipal Code requirements for the proposed use. Such a change shall be subject to all applicable requirements for the district where the proposed dwelling unit is located.
12. Increase in Residential Use. No work/live studio shall be changed to increase the floor area devoted to residential use without review and approval of the Planning Director. In no case shall the floor area devoted to residential use be increased to more than four hundred (400) square feet or thirty (30%) percent of the gross floor area of the unit, whichever is less.
13. Deed Restriction Required. Prior to the City issuing a building permit for any work/live studio, the property owner shall file with the county recorder a declaration of restrictions, which has been approved by the City Attorney as to its form and content, specifying the limitations of use and operation included in the use permit and all Additional Requirements specified in section 30-15.5.

14. Landscaping. Where a building with work/live use is adjacent to residentially-zoned land, screening landscaping shall be provided and maintained as a buffer between the work/live building and adjacent residentially-zoned land where feasible in light of building setbacks, existing and required parking and whether there is land available along the property boundary.

15. Hazardous/Toxic Materials. A Phase I Environmental Assessment for a site proposed for work/live occupancy, including but not limited to an expanded site investigation to determine whether lead based paint and asbestos hazards exist, is required to be submitted as part of the application for a use permit. The purpose of this requirement is to assess whether there are any hazardous or toxic materials on the site that could pose a health risk. Where the Phase I shows that there are potential health risks, a Phase 2 Environmental Assessment shall be prepared and submitted to determine if remediation may be required.

16. Hold Harmless. The applicant shall defend (with counsel reasonably acceptable to the City), indemnify, and hold harmless the City of Alameda, the Alameda City Planning Board and their respective agents, officers, and employees from any claim, action, or proceeding (including legal costs and attorney's fees) against the City of Alameda, Alameda City Planning Board and their respective agents, officers or employees to attack, set aside, void or annul, an approval by the City of Alameda, the Community Development Department, Alameda City Planning Board, the City of Alameda City Council relating to this project. The City shall promptly notify the applicant of any claim, action or proceeding and the City shall cooperate in such defense. The City may elect, in its sole discretion, to participate in the defense of said claim, action, or proceeding.

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 Community Development Department a written notice of appeal stating the basis of appeal and paying the required fees.

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