

CITY OF ALAMEDA PLANNING BOARD
DRAFT RESOLUTION

A RESOLUTION OF THE PLANNING BOARD OF THE CITY OF ALAMEDA APPROVING DESIGN REVIEW AND DEVELOPMENT PLAN AMENDMENT APPLICATION NO. PLN21-0459 TO ALLOW THE CONSTRUCTION OF EIGHT TOWNHOME DWELLINGS WITHIN AN EXISTING 1.29-ACRE RESIDENTIAL DEVELOPMENT AT 2607 – 2619 SANTA CLARA AVENUE & 1514 – 1518 BROADWAY.

WHEREAS, an application was made on September 28, 2021 by Branagh Land, Inc., for a Design Review and Development Plan Amendment Application to allow the construction of eight townhome dwellings within an existing 1.29-acre residential development located at 2607 - 2619 Santa Clara Avenue & 1514 - 1518 Broadway; and

WHEREAS, the application was accepted as complete on January 24, 2022; and

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

WHEREAS, the subject property is located in R-5-PD (General Residential - Planned Development) and R-4-PD (Neighborhood Residential – Planned Development) Zoning Districts; and

WHEREAS, on November 23, 2020, the Planning Board held a duly noticed public hearing and approved Planning Board Resolution No. PB-20-25 for Development Plan and Density Bonus Application No. PLN19-0448 for the residential development. The Planning Board also held a duly noticed public hearing and approved Planning Board Resolution No. PB-20-26 for Tentative Map Tract 8534 to subdivide the existing 1.29-acre property into 12 lots; and

WHEREAS, on January 19, 2021, the City Council held a duly noticed public hearing and approved Resolution No. 15737 for Tentative Map Tract 8534 and Density Bonus Application PLN19-0448; and

WHEREAS, on February 14, 2022, the Planning Board held a duly noticed public hearing to review the proposed Design Review and Development Plan Amendment application PLN21-0459 for the construction of eight townhome dwellings and examined all pertinent maps, drawings, and documents; and

NOW, THEREFORE, BE IT RESOLVED, the Planning Board finds Design Review Approval for a permitted use is not subject to CEQA. *McCorkle Eastside Neighborhood Group v. City of St. Helena* (2018) 31 Cal.App.5th 80, Public Resources Code Section 21080. As a separate and independent basis, the development plan amendment is categorically exempt from the California Environmental Quality Act (CEQA) pursuant to the

CEQA Guidelines Section 15332, In-fill Development, and none of the exceptions apply; and

BE IT FURTHER RESOLVED, that pursuant to AMC Section 30-4.13(f)(3), the Board has made the following findings relative to proposed Development Plan:

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 proposed development is a more effective use of the site because the proposal will include the construction of eight additional residential units, including two very low-income affordable housing units on the property. The Development Plan and Density Bonus Waivers allow for a site plan that achieves the additional residential units while providing access, parking, and usable open space areas for the residential development.
2. **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 eight proposed townhomes are located at the center of the residential development, and will have minimal visibility from the street. Surrounding properties include similar residential uses to the proposed project. The proposed use, as conditioned, is consistent with the General Plan designation and the Zoning Ordinance, and will be operationally compatible with the surrounding area. The architectural designs of the buildings are architecturally, aesthetically harmonious with the community and the surrounding development.
3. **The proposed use will be served by adequate transportation and service facilities including pedestrian, bicycle, and transit facilities.** The bus stop for the AC Transit lines 51A and 851 is located at the corner of Broadway and Santa Clara Avenue adjacent to the site. In addition, existing bike lanes are located along Broadway and Santa Clara Avenue provide connections to the bicycle network throughout Alameda. The site is located within walking distance to the pedestrian oriented Park Street Commercial District.
4. **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 eight proposed townhomes are located at the center of the residential development, and will have minimal visibility from the street. The addition of eight residential units will not adversely affect other property in the vicinity and will not have substantial deleterious effects on existing business districts or the local economy.
5. **The proposed use relates favorably to the General Plan.** The proposed Development Plan to allow the construction of eight townhomes is consistent with the Medium Density Residential land use designation of the General Plan. In addition, the additional housing units contribute to the City meeting Goal No. 1 of the 2015-2023

Housing Element by providing opportunities to support, maintain, and enhance Alameda's diverse community and excellent quality of life and provide for the housing needs of Alameda's future residents and regional housing needs. The project location adjacent to the existing AC Transit stop and within walking proximity to the Park Street commercial area supports Goal No.3 of the Housing Element by creating transit oriented pedestrian friendly neighborhoods to reduce regional and local greenhouse gas emissions and local traffic congestion.

BE IT FURTHER RESOLVED, that the Planning Board makes the following findings relative to the Density Bonus Application:

1. The proposal qualifies for a density bonus pursuant to State Density Bonus Law and Alameda Municipal Code Section 30-17. The applicant is proposing that 7% of the 28 base units (i.e., two (2) units) will be available to very low-income households, which qualifies the project for a 25% density bonus or 7 "bonus" units, for a total project size of 35 residential units on the 1.29 acre site. The applicant is proposing 30 residential units in the development plan.
2. Pursuant to AMC section 30-17, the project is eligible for an unlimited number of waivers from development standards that would "physically preclude" the project from developing at the allowed density. To enable development of the permitted density, the Planning Board grants the following density bonus waivers because each of the development standards below would "physically preclude" the project from developing at the permitted density:
 - a. Multifamily Housing Waiver. AMC section 30-53 prohibits multifamily housing in Alameda. It is not possible to fit the eight new units on the property as conforming single-family or duplex units in conformance with AMC 30-53. The proposed waiver allows for construction of a three-unit multifamily building and a five-unit multifamily building. The request for a waiver from the multifamily prohibition would not result in any specific, adverse health or safety impacts, or impacts to the physical environment.
 - b. Front Yard Setback Waiver. AMC sections 30-4.4 and 30-4.5 require 20 foot front yard setbacks for all development. As shown on the Development Plan, none of the proposed lots for the existing 11 buildings provide a 20 foot front yard setback. (The front yard setbacks for the existing buildings range from 5 feet to 15 feet.) The three new buildings would not front onto a public street. The waiver would not result in any specific, adverse health and safety impacts, or impacts to the physical environment.
 - c. Rear Yard Setback Waiver: AMC sections 30-4.4 and 30-4.5 require 20 foot rear yard setbacks for all development. The Development Plan provides rear yard setbacks of 20 feet for three of the existing residential buildings. The rear property lines for the existing buildings reflect the location of existing fence lines. The new townhomes would have 11 foot rear yard setbacks. The waiver from the rear yard

setback standard would not result in any specific, adverse health or safety impact, or impacts to the physical environment.

- d. Side Yard Setback Waiver: AMC sections 30-4.4 and 30-4.5 require 5 foot side yard setbacks. The Development Plan provides side yard setbacks that range between 1 foot and 5 feet from the side property lines. As shown on the plans, the new property lines and “no build” easements have been placed to ensure compliance with California Building Code fire and life safety requirements for a minimum distance between buildings. The waivers are necessary to create the necessary lots for each of the existing buildings and to accommodate the additional eight units. The plan has been reviewed by the Building and Fire Department to ensure that it conforms to all life safety requirements. The waiver from the side yard setback standard would not result in any specific, adverse health or safety impact, or impacts to the physical environment.
 - e. Open Space Waiver: AMC sections 30-4.4, 30-4.5, and 30-5.12 requires 4,000 square feet of open space for the 20 units in the R-5 district (200 square feet per unit) and 2,400 square feet for the six units in the R-4 district (400 square feet per unit.) The five single family homes on Lots 4, 5, 6, 7, and 8 contain private back yards on individual lots and are not included in the open space calculations. Although the applicant is able to provide 4,630 square feet of common open space, a waiver for the open space requirements is required because the project does not have enough space on site to provide the required private open space that meets the dimension and setback requirements of the AMC. The private open space is required to provide a 5 foot side yard setback, a 10 foot rear yard setback, and have a minimum width of 10 feet. Because of these dimension requirements the applicant is unable to physically fit private open space in the development and therefore is requesting a waiver from the open space requirements. The requested waiver will not result in any specific, adverse health or safety impact, or impacts to the physical environment.
 - f. Minimum Lot Size and Width Waiver. AMC sections 30-4.4 and 30-4.5 require a minimum lot size of 5,000 square feet and minimum lot width of 50 feet. The Tentative Map lots range in size from 1,341 square feet to 15,194 square feet and in width from 34 feet to 100 feet. Lots 1-2, 4-8, 10 and 11 are less than 5,000 square feet in size. Lots 3-9 and 11 are less than 50 feet in width. The proposed lots, however, are largely reflective of existing conditions, including existing fence lines. The proposed lot sizes are not uncommon in Alameda and will not result in any specific, adverse health or safety impact, or impacts to the physical environment.
3. Pursuant to State Density Bonus Law, Government Code Section 65915(d)(2)(A), the project qualifies for one incentive or concession because more than 5% of the “base density” units will be affordable to very low income households. The applicant is requesting a concession to waive the requirements that 30% (three) of the new units satisfy the Universal Design requirements set forth in AMC section 30-18.4(b). Although

the applicant is able to meet the 100% visitability requirement, they are not able to meet the 30% universal design requirement that requires that 30% (three (3)) of the eight units also provide an accessible route to an accessible bathroom, an accessible common use room, an accessible bedroom, an accessible kitchen, accessible common or private open space; accessible laundry facility, and adaptable internal stairs. To do so in a townhome building would require installation of an elevator which is not economically feasible or a larger footprint for each building, which is not physically feasible. The concession or incentive results in actual or identifiable cost reductions to provide for affordable housing costs.

BE IT FURTHER RESOLVED, the Planning Board made the following findings relative to the Design Review approval PLN21-0459:

1. The proposed design is consistent with the General Plan, Zoning Ordinance, and the City of Alameda Design Review Manual. The proposal includes materials, architectural elements, and building colors to match and complement the existing buildings on the site and the surrounding neighborhood.
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. This project involves the construction of two residential buildings containing eight townhome dwellings located within an existing residential development. The architectural design is a modern interpretation of the adjacent buildings; the design incorporates the gabled roof forms, windows, and materials that are prevalent in the neighborhood. The exterior features include a combination of smooth sided vertical and horizontal siding, and shingle siding that relates to the varied siding elements of the surrounding neighborhood. Other notable features include decorative metal canopies over entrances, belly band, decorative lighting, wood trim and accent, and a boxed-window surround. The proposed three-story townhomes are approximately 37.5 feet tall, which is within the 40 feet maximum height limit and similar to the height of the three-story buildings fronting Broadway. In addition, the site has minimal visibility from the street and a large open space buffer between residents to the south, and therefore results in an appropriate transition in height and scale with the adjacent neighborhood.
3. The proposed design of the structure 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 modifications are designed to be compatible with the surrounding neighborhood and will utilize similar roof forms, exterior siding, windows, and decorative wood trim around the building which are also compatible with the design elements found on buildings in the surrounding neighborhood; and

BE IT FURTHER RESOLVED, that the Planning Board hereby approves Design Review and Development Plan Application No. PLN21-0459 to allow the construction of

eight townhome dwellings at 2607 - 2619 Santa Clara Avenue & 1514 - 1518 Broadway, subject to the following conditions:

1. Planning Board Resolution PB-20-25: The project shall comply with all conditions of approval in Planning Board Resolution No. PB-20-25. In the event in a conflict between the conditions contained in this resolution and resolution PB-20-25, the conditions of approval in this resolution shall govern.
2. Building Permit Conditions: The conditions contained in this resolution and in Planning Board Resolution No. PB-20-25 and City Council Resolution No. 15737 shall be printed on the first pages of all building plans and improvement plans.
3. Substantial Compliance with Approvals: The plans submitted for the building permit shall be in substantial compliance with the plans prepared by Hunt, Hale, Jones Architects, received on February 2, 2022, and on file in the office of the City of Alameda Planning, Building & Transportation Department, except as modified by the conditions listed in this resolution.
4. Changes to Approved Plans: 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 substantial changes to the approved scope of the project shall be submitted to the Planning Building and Transportation Department for review and approval.
5. Vesting: This Design Review approval shall expire two (2) years after the date of approval or by **February 14, 2024** unless substantial construction or use of the property has commenced under valid permits. Upon written request and payment of appropriate fees submitted no later than the expiration date of the Design Review approval, the Applicant may apply for a time extension not to exceed two (2) years. An extension request will be subject to approval by the Planning Director and must be filed prior to the date of expiration.
6. Affordable Housing Agreement: Prior to issuance of building permits, the project applicant shall execute an Affordable Housing Agreement with the City in conformance with the requirements of AMC Section 27-1. The Affordable Housing Agreement will require two (2) on-site residential units affordable to Very Low-Income households.
7. Development Impact Fees: Prior to the issuance of building permits, the applicant/developer shall pay all applicable Development Impact fees pursuant to AMC Section 27-3.5.
8. Public Art Requirement: Prior to final building inspection, the Applicant shall demonstrate compliance with the Public Art Ordinance (AMC Section 30-98).
9. Bicycle Parking: The project shall provide 12 short term and 12 long term bicycle

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parking spaces as required by AMC Section 30-7.15. Locations for bicycle parking consistent with the AMC bicycle requirements shall be shown on the Building Permit plans. The bicycle facility should be located in a secure and safe location and accessible from high pedestrian/bicycle traffic areas, such as at the street frontage, to the satisfaction of the Planning, Building & Transportation Department.

10. Bird Safe Ordinance: Building Permit plans shall demonstrate compliance with the Alameda Bird-Safe Building Ordinance (AMC Section 30-5.16.b), as applicable
11. Dark Skies Ordinance: Plans submitted for building permits shall demonstrate compliance with the Alameda Dark Skies Ordinance (AMC Section 30-5.16.c), as applicable
12. Water Efficiency Landscape Ordinance: Prior to issuance of building permits or improvement plans, Applicant/Developer shall submit a complete WELO Landscape Document Package, as defined by Alameda Municipal Code (AMC) Section 30-58.3(d), subject to the approval of the Planning, Building, and Transportation Director.
13. Landscape Maintenance Agreement. Prior to issuance of building permits, the applicant shall include a landscape maintenance agreement, service contract or other guarantee for the long-term maintenance and upkeep of the open space within Lot 12. The requirement for such long-term landscape maintenance guarantee shall be included in the CC&Rs for the development, and be subject to approval by the Planning, Building, and Transportation Director.
14. Dust Control: Prior to issuance of building or grading permits, the developer/applicant shall ensure that a dust control program is implemented consistent with City and BAAQMD requirements. Construction activities shall be subject to the requirements of the Alameda Municipal Code, which restricts construction to the hours of 7:00 a.m. to 7:00 p.m., Monday through Friday and 8:00 a.m. to 5:00 p.m. on Saturday, unless a permit is first secured from the City Manager or designee based upon a showing of significant financial hardship.
15. Building Permit plans shall incorporate the approved window schedule.
16. The final plans submitted for Building Permit approval shall conform to all applicable codes and guidelines.
17. A site inspection to determine compliance with this Design Review Approval is required prior to the final building inspection and/or to the issuance of a Certificate of Occupancy. The applicant shall notify Planning staff at least four days prior to the requested Planning Inspection dates.
18. Building Signage: Any temporary or permanent signage shall be subject to separate Sign Permit approval pursuant AMC Section 30-6.

19. Modifications: Minor project design details requested by the applicant may be established, modified, and approved by the Planning Director. Engineering standards and specifications requested by the applicant may be established, modified and approved by the Public Works Director or designee. Major modifications that are not consistent with this design review approval or these conditions shall be subject to review and approval of the Planning Board.

Public Works Conditions

20. Replace the existing sidewalk at the adjacent bus stop along Broadway Avenue southerly of Lot 3 (fronting APN 070-156-023) as required by City Engineer.
21. Upgrade existing streetlights fronting the project to current City Standards, including reinstallation of traffic signs from streetlight posts to stand alone posts per City Standards.
22. Project shall incorporate permanent stormwater low impact development (LID) design techniques and source control measures to manage the quantity and quality of stormwater runoff from the planned development to prevent and minimize impacts to water quality, in accordance with the City of Alameda's National Pollution Discharge Elimination System (NPDES) Permit, and consistent with the latest version of the Alameda County Clean Water Program's Provision C3 Technical Guidance Manual. Project Civil Improvement plans shall indicate the efforts taken to minimize impervious surface areas, especially directly connected impervious surface areas.
23. The project shall be developed to create or replace less than 10,000 square feet of impervious surface. The developer shall submit with the Civil Improvement Plans a stormwater exhibit detailing the impervious and pervious surfaces throughout the project. The City Engineer shall make the final determination whether the project creates or replaces less than 10,000 square feet of impervious surface and is therefore not subject to the City's National Pollution Discharge Elimination System (NPDES) Permit Provision C3 "Regulated Project" stormwater discharge requirements
24. The redevelopment area of the project is subject to full trash capture requirements of the City's NPDES permit. A full trash capture system or device is any single device or series of devices that traps all particles retained by a 5mm mesh screen and has a design treatment capacity of not less than the peak flow rate Q resulting from a one-year, one-hour storm in the sub-drainage area. Plan sheets shall include location, detail and cross-sectional drawings of the stormwater full trash capture device(s) necessary to treat the entirety of the site.

25. Prior to the issuance of any permits for the development, the Applicant shall submit with the Civil Improvement Plans a Stormwater Quality Management Plan that indicates the LID designs of the improvement plans and Stormwater Quality Management Plan are consistent with the latest version of the Alameda County Clean Water Program's Provision C3 Technical Guidance Manual.
26. Prior to the issuance of any permits for the project, the Applicant shall submit for review and approval by City Engineer a Stormwater C3-LID Measures Operations and Maintenance (O&M) Plan for the pervious pavement LID design measures and trash capture device(s) at the site. This O&M Plan shall be consistent with the City of Alameda's C3-LID Measures O&M Plan Checklist.
27. Prior to project acceptance and any certificate of occupancy, the Property Owner of the parcel subject to the proposed redevelopment shall execute a C3-LID Stormwater Measures Maintenance Agreement with the City, complete with the approved Operations and Maintenance Plan, the template for annual self-reporting, and assurances for property access for City verification inspections.
28. Prior to project acceptance and any certificate of occupancy, the Applicant shall submit a certification report (Report) prepared by a registered civil engineer, licensed in the State of California, affirming that all project stormwater site design and trash capture measures have been constructed per the City approved plans and specifications. As appropriate, the Report shall include, but not be limited to, assurances that: imported materials used for the site design measure(s) are certified by the supplier; installation of these materials is per approved plans and specifications and meets the intent of the design engineer; any required on-site testing results conform with approved plans and specifications; site design measures conform to dimensions, grades and slopes on approved plans and specifications; all structural features of the stormwater site design measures comply with plan specifications. The Report shall be submitted in a form acceptable to the City Engineer.
29. The Civil Improvement plans submittal shall include construction-phase appropriate erosion and sedimentation control program and plan for review and approval. The plan shall describe construction activity best management practices to be implemented in conformance with the City's erosion, sediment and discharge-control standards and shall utilize the California Storm Water Best Management Practices Handbook for Construction Activities, the ABAG Manual of Standards for Erosion & Sediment Control Measures, the City's Grading and Erosion Control ordinances and other generally accepted engineering practices for construction-phase pollution control.
30. The Applicant shall pay for any required cleanup, testing, and City administrative costs resulting from consequence of construction materials entering the storm water system and/or waters of the State.

Fire Department

31. All new buildings will have automatic sprinkler systems to NFPA 13R standard.
32. Fire Department Connection to Fire Sprinkler system will be in front of each new building.
33. Provide final fire hydrant plan as needed to ensure minimum fire hydrant flow required for the project.
34. HOLD HARMLESS. 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.

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