

CITY OF ALAMEDA ORDINANCE NO. ____
New Series

AMENDING THE ALAMEDA LANDING WATERFRONT MASTER
PLAN TO REPLACE A REQUIREMENT FOR A 5,000 SQUARE
FOOT COMMERCIAL RETAIL LOT WITH OTHER LAND USES AT
THE NORTHERN TERMINUS OF FIFTH STREET AT ALAMEDA
LANDING

WHEREAS, the 2017 Alameda Landing Waterfront Master Plan and Bay 37 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, on August 22, 2022, Pulte Home Company, LLC (“Pulte”) submitted Master Plan/Development Plan Amendment Application No. PLN22-0401 to amend the 2017 Alameda Landing Waterfront Master Plan and Bay 37 Development Plan to replace the requirement for 5,000 square feet of commercial space with one of the following options:

- Alternative #1. No action; keep commercial building requirement;
- Alternative #2. Two Moderate-Income single-family detached units and a recreation center on a separate lot conveyed to the City at no cost;
- Alternative #3. 5,000 square feet of public open space and public access easement;
- Alternative #4. Two Low-Income single family detached units and public open space;
- Alternative #5. Five Low-Income townhomes; 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 Supplemental EIR in 2007, 2008, 2012 and 2017 (collectively, “Previous CEQA Documents”); and

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

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

WHEREAS, on October 14, 2019, the Planning Board approved the Bay 37 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 two moderate-income single-family detached units and a community building on a separate lot conveyed to the City at no cost. At the meeting several Bay 37 residents opposed the staff recommendation and the Planning Board motion to approve failed. The Planning Board advised the applicant to seek input from the community and evaluate alternative proposals; and

WHEREAS, following the Planning Board's direction, Pulte 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 Amendments and adopted Resolution No. PB-23-02 recommending the City Council approve one market rate single family home with a maximum height of 20 feet on half of the site, and public open space on half of the site adjacent to the Bohol Circle Immigrant Park and Fifth Street. In addition, the Planning

Board recommended that Pulte designate two additional units among the unsold units in the development as very-low income affordable housing units; and

WHEREAS, on April 18, 2023, the City Council held a duly noticed public hearing to consider amendments to the 2017 Alameda Landing Waterfront Master Plan to replace the 5,000 square foot commercial requirement, and examined all submitted materials and received oral and written public comments regarding the Proposed Amendments; and

WHEREAS, on the same date, the City Council also considered a companion resolution amending the Bay 37 Development Plan to make corresponding changes to the 5,000 square foot commercial requirement.

NOW, THEREFORE, BE IT ORDAINED by the City Council of the City of Alameda that:

Section 1. Findings. The City Council makes the following findings to amend the 2017 Alameda Landing Waterfront Master 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 two Low-Income single family detached units and public open space on the site.

1. **California Environmental Quality Act.** The City Council finds, based on substantial evidence in the record, the potential environmental effects of the proposed project were considered and disclosed pursuant to CEQA in the Previous CEQA Documents. No further environmental review is required under CEQA Guidelines Sections 15162 and 15163. The amendments to the Alameda Landing Waterfront Master Plan and Bay 37 Development Plan will not result in any new environmental impacts or cause any previously disclosed significant impacts to become more 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
2. **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 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 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, 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 other means to utilize the site consistent with the Master Plan's mixed use intent.
6. **The proposed use relates favorably to the General Plan (AMC Section 30-21.3).** As documented in the April 18, 2023 City Council staff report and associated materials, the Proposed Amendment is minor relative to the overall Alameda Landing Waterfront Mixed Use Project. 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.

Section 2. Chapter 4 (Alameda Landing Mixed-Use Center), page 50-f of the Residential Sub-Areas section of the Alameda Landing Master Plan is hereby amended as follows:

"Mixed Use: The Master Plan Sub-Area requirements for retail, restaurants, health club space, entertainment space, personal and consumer-oriented business services space, visitor-serving uses, water-oriented uses, the Waterfront Plaza Node, vertical mixing of uses, or a mix of uses shall not apply, provided that the residential development plan includes a minimum of 5,000-square-foot area containing of ground floor commercial public open space and two Low-Income single-family homes with 12-foot floor to ceiling dimensions for commercial, retail, and/or commercial recreational uses consistent with the CC Zoning District regulations facing the Waterfront Plaza and water shuttle landing or along 5th Street. ~~Buildings with ground floor commercial space may exceed five stories. All~~

~~other buildings shall be five stories or fewer in height. The ground floor commercial space may be in freestanding buildings without a vertical mixing of uses."~~

Section 3. Severability. If any provision of this Ordinance is held by a court of competent jurisdiction to be invalid, this invalidity shall not affect other provisions of this Ordinance that can be given effect without the invalid provision and therefore the provisions of this Ordinance are severable. The City Council declares that it would have enacted each section, subsection, paragraph, subparagraph and sentence notwithstanding the invalidity of any other section, subsection, paragraph, subparagraph or sentence.

Section 4. Implied Repeal. Any provision of the Alameda Municipal Code inconsistent with the provisions of this Ordinance, to the extent of such inconsistencies and no further, is hereby repealed or modified to the extent necessary to effect the provisions of this Ordinance.

Section 5. Effective Date. This Ordinance shall be in full force and effect from and after the expiration of thirty (30) days from the date of its final passage.

Section 6. Authority. This Ordinance is enacted pursuant to the City of Alameda's general police powers, Section 1-2 of the Charter of the City of Alameda, and Article XI of the California Constitution.

Presiding Officer of the City Council

Attest:

Lara Weisiger, City Clerk

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I, the undersigned, hereby certify that the foregoing Ordinance was duly and regularly adopted and passed by the Council of the City of Alameda in a regular meeting assembled on this 18th day of April 2023, by the following vote to wit:

AYES:

NOES:

ABSENT:

ABSTENTIONS:

IN WITNESS WHEREOF, I have hereunto set my hand and affixed the official seal of said City this 19th day of April 2023.

Lara Weisiger, City Clerk
City of Alameda

Approved as to form:

Yibin Shen, City Attorney
City of Alameda