

CITY OF ALAMEDA PLANNING BOARD  
DRAFT RESOLUTION

A RESOLUTION OF THE CITY OF ALAMEDA PLANNING BOARD RECOMMENDING THAT THE CITY COUNCIL AMEND ALAMEDA MUNICIPAL CODE TO IMPROVE CLARITY AND IMPLEMENTATION OF SECTION 30-17 DENSITY BONUS ORDINANCE AND AMEND THE ALAMEDA MUNICIPAL CODE ENSURE AND ZONING MAP TO ENSURE CONSISTENCY BETWEEN THE NAS ALAMEDA COMMUNITY REUSE PLAN AND THE CITY OF ALAMEDA MUNICIPAL CODE AND ZONING MAP FOR THE 36.36 ACRES OF FEDERAL PROPERTY LOCATED ON SINGLETON AVENUE ON THE FORMER NAVAL AIR STATION IN ALAMEDA

WHEREAS, the City Council requested revisions to the Density Bonus Ordinance to improve clarity and understanding of the Density Bonus application process,

WHEREAS, the City Council requested potential zoning amendments to reduce the housing capacity in the Northern Waterfront,

WHEREAS, the 2014 Housing Element has a 522 unit surplus for the 2015-2023 planning period.

WHEREAS, in December 2014, the City Council approved 380 units on the Del Monte site even though the Housing Element projected 200 units on the Del Monte site. The December approval effectively increased the surplus by 180 units for a total surplus of 702 units.

WHEREAS, the North Housing site is identified in the Housing Element as a site with a "realistic capacity" of 806 units for RHNA accounting purposes. The proposed rezoning would reduce the realistic capacity to 435 units and reduce the surplus units in the Housing Element;

WHEREAS, the Planning Board approved 800 new housing units on Site A on May 11, 2015, which were not counted in the Housing Element and will serve to replenish the surplus;

WHEREAS, the Housing Element will retain a surplus in both the very low and low income category and the moderate and above moderate category after the proposed rezoning;

WHEREAS, the Planning Board held a public hearing on May 11, 2015 and considered all the relevant documents, public comments, and maps,

NOW THEREFORE BE IT RESOLVED that the Planning Board makes the following findings in regards to the proposed amendments shown in the attached draft Ordinance,

1. **The amendments maintain the integrity of the General Plan.** The proposed Density Bonus Ordinance Amendments implement General Plan policies to ensure effective community participation in land use and development decisions. The proposed zoning text and zoning

map amendments are necessary to ensure consistency between the NAS Alameda Community Reuse Plan, the General Plan Land Use Element, and the Alameda Municipal Code. The zoning text and map amendments ensure that the property is developed in a manner and at a density that is consistent with the U.S Navy's Environmental Impact Statement for conveyance of the property to a private entity and that the conveyance and ultimate development of the property is consistent with the Community Reuse Plan for the property.

2. **The amendments will support the general welfare of the community.** The proposed zoning text and map amendments will support the general welfare of the community by establishing clear standards for a variety of housing types and densities consistent with State Government Code requirements and the Community Reuse Plan.
3. **The amendments are equitable.** The proposed zoning amendment is equitable in that it establishes appropriate processes and procedures for the review of future residential development proposals and ensures equal access to all income groups and household types consistent with the Community Reuse Plan.
4. **California Environmental Quality Act (CEQA).** The proposed Zoning Amendments would not result in any new environmental impacts or more severe environmental impacts than those previously identified with the adoption of the Community Reuse Plan Environmental Impact Report (EIR) and 2009 Addendum or the Housing Element 2012 Addendum to the Transportation Element EIR.

NOW THEREFORE BE IT FURTHER RESOLVED that the Planning Board recommends that the City Council adopt the following amendments:

**Section 1.** Section 30-17.4 Density Bonus Application shall be amended as follows:

30-17.4 - Density Bonus Application.

- a. In order to receive concessions and/or incentives, or waivers under this section 30-17, an Applicant must submit to the City a Density Bonus Application which will be treated as part of the Development Application. At any time during the review process, the Planning and Building Director may require from the Applicant additional information reasonably necessary to clarify and supplement the Application or to determine the Development's consistency with the requirements of this section.
- b. The Density Bonus Application shall include the following:
  1. A development plan illustrating that the "base" project meets all existing general plan and zoning development standards.
  2. A description of the Development, including the total number of proposed Affordable Housing Units, senior housing units, or age-restricted mobile home park units; a description of any land the Applicant proposes to donate for low income housing units; and any child care facilities the Applicant proposes to construct as part of the qualifying housing development premises or on an adjacent property;
  3. The zoning and General Plan designations and assessor's parcel number(s) of the project site;
  4. A vicinity map showing the location of the proposed project.

5. A set of preliminary project plans that include a site plan showing all building and structure footprints or locations, drive aisles and parking layout; floor plans of all structures and buildings; and architectural elevations of all buildings and structures, all drawn to scale.
  6. A request for a concession or incentive shall include evidence to justify why it is necessary to provide for affordable housing costs. Specifically, the application shall include a financial report or pro forma demonstrating : i) whether the concessions or incentives sought would result in identifiable, financially sufficient, and actual cost reductions; ii) whether the concessions or incentives sought are necessary to reduce the cost of the housing project sufficiently to make feasible the provision of the Affordable Housing Units; and iii) how any additional concession or incentive would contribute significantly to the economic feasibility of the construction of the Child Care Facility if a Child Care Facility is proposed;.
  7. A request for a waiver shall include evidence to justify why it is necessary to allow construction of the development on the site. Specifically, any applicant requesting a waiver of development standards that physically preclude construction at the densities and/or concessions and incentives permitted shall submit evidence in the form of a site plan, drawing or written explanation describing why the waiver is needed to permit the project. A financial report or pro forma is not required to justify a waiver.
  8. The Affordable Housing Unit Plan including: described in subsection 30-17.15 below.
    - a) The location, structure (attached, semi-attached, or detached), proposed tenure (sale or rental), and size of proposed market-rate, and Affordable Housing Units and the proposed tenure and size of non-residential uses included in the Development;
    - b) The income level to which each Affordable Housing Unit will be made affordable;
    - c) For phased Developments, a phasing plan that provides for the timely development of Affordable Housing Units in proportion to other housing units in each proposed phase of development as required by this section;
  9. Any other information reasonably requested by the Planning and Building Director to aid in the implementation of this section 30-17
- c. In the event that construction of a project is to be: 1) phased over more than two years, and those entitlements are vested by instruments such as a Development Agreement or other similar instrument, and 2) the vesting document(s) allows for the phased submittal of Design Review plans including the floor plans and elevations of proposed buildings, then the applicant may be allowed to phase submittal of the floor plans and elevations required by subsection 30-17.4.5. of all planned residential buildings until such time that the Design Review plans are submitted pursuant to the vesting documents.
- d.e. A project with a Density Bonus Application, including a request for concessions, incentives or waivers, shall be reviewed for approval by the Planning Board; provided, however, that if a Development involves another permit or entitlement requiring City Council approval, then the Planning Board may deny the development project or recommend its approval to the City Council.
- e. d. A requested concession, incentive, or waiver shall be approved unless the findings for denial listed in subsection 30.17.9 a., "Requests for Incentives or Concessions," or 30-17.12 a., "Waivers of Development Standards the Physically Preclude Construction," are made in writing.

- f. e. Decisions of the Planning Board may be appealed to or reviewed by the City Council as provided in section 30-25 of this code, "Appeals or Calls for Review."

**Section 2.** Section 30-17.5 Density Bonus Standards subsection f. shall be amended as follows to conform to recent changes in State law:

- f. An applicant shall agree and the City shall ensure continued affordability of all low- and very-low-income units that qualified an Applicant for the award of the Density Bonus for 30 years for "for sale" units, and 55 years for rental units, or a longer period of time if required by the construction or mortgage financing assistance program, mortgage insurance program, or rental subsidy program.

**Section 3.** Section 30-17.13 Requests for Reduced Parking Ratio shall be amended as follows:

30-17.13 - Requests for Reduced Parking Ratio.

- a. Any application meeting the criteria of subsection 30-17.7 shall provide on-site parking consistent with Section 30-7 Off-Street Parking and Loading Space Regulation. In the event that applicant is unable to meet the requirements of Section 30-7, the applicant may request a reduction in the required on-site parking consistent with Upon the request of the Applicant, ~~a Development meeting the criteria of subsection 30-17.7 shall be subject to the following on-site parking ratios (inclusive of handicapped and guest parking):~~
1. Zero (0) to one (1) bedroom: one (1) on-site parking space.
  2. Two (2) to three (3) bedrooms: two (2) on-site parking spaces.
  3. Four (4) and more bedrooms: two and one-half (2½) parking spaces.
- b. If the total number of parking spaces required for a Development is other than a whole number, the number shall be rounded up to the next whole number. For purposes of this subsection, a development may provide "onsite parking" through tandem parking or uncovered parking, but not through on-street parking.
- c. This subsection shall apply to a Development that meets the requirements of subsection 30-17.7 but only at the request of the Applicant. An Applicant may request parking incentives or concessions beyond those provided in this subsection.

**Section 4.** Section 30-17.15 shall be deleted.

~~30-17.15 - Affordable Housing Unit Plan.~~

- a. ~~An Applicant shall submit an Affordable Housing Unit Plan as part of the Development Application.~~
- b. ~~The Affordable Housing Unit Plan shall include the following:~~
1. ~~The location, structure (attached, semi-attached, or detached), proposed tenure (sale or rental), and size of proposed market rate, and Affordable Housing Units and the proposed tenure and size of non-residential uses included in the Development;~~
  2. ~~A floor or site plan depicting the location of the Affordable Housing Units and a floor plan describing the size of the Affordable Housing Units in square feet;~~
  3. ~~The income level to which each Affordable Housing Unit will be made affordable;~~

- ~~4. Drafts of the documents to be used to ensure that the units remain affordable for the required term, such as resale and rental restrictions, deeds of trust, and rights of first refusal;~~
- ~~5. For phased Developments, a phasing plan that provides for the timely development of Affordable Housing Units in proportion to other housing units in each proposed phase of development as required by this section;~~
- ~~6. A marketing plan that describes how the Applicant will inform the public, and those within the appropriate income groups, of the availability of Affordable Housing Units;~~
- ~~7. A financial report (pro forma) to evaluate: i) whether the concessions or incentives sought would result in identifiable, financially sufficient, and actual cost reductions; ii) whether the concessions or incentives sought are necessary to reduce the cost of the housing project sufficiently to make feasible the provision of the Affordable Housing Units; and iii) how any additional concession or incentive would contribute significantly to the economic feasibility of the construction of the Child Care Facility if a Child Care Facility is proposed; and~~
- ~~8. Any other information reasonably requested by the Planning and Building Director to assist evaluation of the Affordable Housing Unit Plan.~~

**Section 5.** Section 30-17.16 shall be amended as follows:

30-17.16 - Affordable Housing Unit Agreement.

- a. Each Development for which a Density Bonus and incentive or incentives is granted pursuant to this section 30-17 shall be the subject of an Affordable Housing Unit Agreement the provisions of which will vary depending on how a Development satisfies the provisions of this section 30-17. The Affordable Housing Unit Agreement shall be recorded as a restriction on the parcel or parcels on which the Affordable Housing units will be constructed. The Affordable Housing Unit Agreement shall be approved and recorded before final map approval, or, where a map is not requested, prior to issuance of building permits for market-rate units. The Affordable Housing Unit Agreement shall be binding on all future owners and successors in interest. An Affordable Housing Unit Agreement must include:
  1. A description of the Development, including the total number of units, and the number and tenure (sale or rental) of Affordable Housing Units.
  2. The size, in square feet, and location of Affordable Housing Units;
  3. A description of the income group to be accommodated by the Affordable Housing Units, and the formula for determining the Affordable Rent or sales price and Affordable Housing Cost for each Affordable Housing Unit;
  4. The duration of affordability for the Affordable Housing Units; and the provisions to ensure that the units remain affordable for the required term, such as resale and rental restrictions, deeds of trust, and rights of first refusal;
  5. A schedule for completion and occupancy of the Affordable Housing Units;
  6. Provisions and/or documents for resale restrictions, deeds of trust, rights of first refusal or rental restrictions or other appropriate means to maintain the affordability of the Affordable Housing Units;
  7. A Marketing Plan approved by the City for sale or rental of the Affordable Housing Units, which shall use an equitable method to select renters or purchasers of the Affordable

Housing Units and describe how the Applicant will inform the public, and those within the appropriate income groups, of the availability of Affordable Housing Units

8. Provisions for subletting units consistently with affordability restrictions;
9. Procedures for qualifying tenants and prospective purchasers of Affordable Housing Units.
10. Provisions for monitoring the ongoing affordability and habitability of Affordable Housing Units; and
11. A description of the concession(s) or incentive(s) provided by the City.

(Ord. No. 3012 N.S., § 1, 12-1-2009)

**Section 6.** Section 30-17.17 shall be deleted:

~~30-17.17 Affordable Housing Unit Agreements for Ownership Units.~~

~~a. In addition to the requirements of subsection 30-17.16, an Affordable Housing Unit Agreement for an ownership Development must provide the following conditions governing the sale and use of Affordable Housing Units during the use restriction period:~~

- ~~1. Affordable Housing Units shall be sold to Very Low Income households, Low Income households or Moderate Income households in a common interest development, at an affordable sales price and Affordable Housing Cost as defined by this section 30-17 and Government Code section 65915 as it exists when a complete Application for the Development is submitted to the City.~~
- ~~2. The Affordable Housing Units shall be owner-occupied by Very Low or Low Income households or by Moderate Income households within common interest developments.~~
- ~~3. With the exception of Moderate Income housing units, the resale price of any affordable unit shall not exceed the purchase price paid by the owner of that unit with the following exceptions:~~
  - ~~(i) Customary closing costs and costs of sale,~~
  - ~~(ii) Cost of real estate commissions paid by the seller if a licensed real estate salesperson is employed, and~~
  - ~~(iii) Consideration for permanent capital improvements installed by the seller.~~
- ~~4. Upon resale of Moderate Income housing units, the seller of the unit shall retain the value of any improvements installed by the seller, his or her down payment, and the seller's proportionate share of appreciation. The City shall recapture any initial subsidy and its proportionate share of appreciation, which shall then be used within five years for the purposes of increasing, improving, and preserving the City's supply of Low and Moderate Income housing available at affordable housing cost. The City's proportionate share of appreciation is the ratio of the initial subsidy to the fair market value of the home at the time of initial sale. The initial subsidy is the fair market value of the home at the time of initial sale minus the initial sale price to the moderate-income household, including any down payment assistance or mortgage assistance. If upon resale, the market value is lower than the initial market value, then the value at the time of the resale shall be used as the initial market value thereafter.~~
- ~~5. The purchaser of each Affordable Housing Unit shall execute an instrument or agreement approved by the City restricting the sale of the Affordable Housing Unit in~~

~~accordance with this subsection 30-17.17 during the use restriction period. Such instrument or agreement shall be recorded against the parcel containing the Affordable Housing Unit and shall contain such provisions as the City may require ensuring continued compliance with this subsection 30-17.17 and with Government Code section 65915. With respect to Moderate Income Affordable Housing Units, the instrument or agreement shall provide for equity sharing as set forth in Government Code section 65915 and paragraph d. of this subsection 30-17.17~~

6. ~~Any additional obligations relevant to the compliance with this subsection 30-17.17~~

**SECTION 7.** Section 30-4.17 shall be amended to include new subsection c as shown below:

**30-4.17 - G, Special Government Combining District.**

a. *General.* The G District classification shall be combined with the district classifications applied to all lands in the ownership of the U.S. Government or the State of California.

b. Prior to the use of any lands by any private or public entity other than the United States or State of California, through purchase or pursuant to lease from the U.S. Government or State of California, rezoning procedures shall be completed to remove the G classifications and to consider further appropriate district classification changes.

c. The 36.36 acre U.S Government property identified by assessor's parcel numbers APN74090501002 and APN 74090501202 shall be developed consistent with the Community Reuse Plan Amendment (2009), and any use of the property by a private or public entity shall limit the number of housing units on the property to a maximum of 435 units, unless an affordable housing density bonus is granted pursuant to Section 30-17, in which case the maximum number of units may be increased consistent with Section 30-17..

~~d~~ e. Notwithstanding the provisions in subsection (b) herein, interim uses by private or public entities other than the United States or State of California of lands owned by the U.S. Government or State of California may be allowed, subject to a Use Permit, pursuant to subsection 30-21.3, if the following additional findings can be made:

- 1.The interim use is approved for a limited time, not to exceed the maximum time frame set forth in the interim leasing program criteria;
2. The interim use utilizes existing facilities and does not require substantial new development;
- 3.The interim use will not disrupt on-going operations of the governmental entity should the interim use occur concurrent with continuing operations by a governmental entity;
- 4.The interim use will not be detrimental to the ultimate redevelopment of the property or the potential resumption of use of the property by the governmental agency; and
- 5.The interim use is consistent with an interim leasing program adopted by the City.

~~e~~ d. An interim leasing program shall be adopted by the City prior to interim use, as provided in subsection (c) herein. The interim leasing program shall be for a specific parcel or parcels, shall specify permitted land uses, consistent with the underlying zoning district, and shall specify the maximum time frame for which a Use Permit may be granted. In the absence of an adopted interim leasing program, all interim leases shall require rezoning.

**Section 8.** The Citywide Zoning Map shall be amended to add the G, Special Government Combining District designation to the 36.36 acres of land identified by Assessor's Parcel Numbers (APN) 74090501002 and APN 74090501202) and shown below.

**Section 9.** Severability Clause. It is the declared intent of the City Council of Alameda that if any section, subsection, sentence, clause, phrase, or provision of this ordinance is held invalid or

unconstitutional by a court of competent jurisdiction, such invalidity or unconstitutionality shall not be so construed as to render invalid or unconstitutional the remaining provision of this ordinance.

**Section 10.** This ordinance and the rules, regulations, provisions, requirements, orders, and matters established and adopted hereby shall take effect and be in full force and effect from and after the expiration of thirty (30) days from the date of its final passage.

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