

March 11, 2015

Jennifer Ott  
Chief Operating Officer – Alameda Point  
City of Alameda  
2263 Santa Clara Avenue, Room 120  
Alameda, CA 94501

Re: Alameda Point (Site A) – Density Bonus Waiver Application/Findings

Dear Ms. Ott:

On February 11, 2015, Alameda Point Partners, LP, submitted a Request for a Multifamily Waiver under the Density Bonus Ordinance to allow the construction of multifamily housing on Site A in Alameda Point. That letter set forth our qualifications for the request; this letter serves as the project's formal Density Bonus Application and outlines how our specific Request for a Multifamily Waiver meets the development standards waiver requirements under the Density Bonus Ordinance.

As noted previously, Alameda Point Partners is seeking a waiver of Article 26 of the City Charter and Alameda Municipal Code ("AMC") section 30-53 under the Density Bonus Ordinance enacted pursuant to the Density Bonus Law (Cal. Gov't Code §§ 65915 *et seq.*), which requires local jurisdictions to grant incentives, concessions and waivers to developers seeking to construct low income housing. (Cal. Gov't Code §§ 65915(d) and 65915(e)). Where a developer meets the threshold requirements, the requested incentive, concession or waiver must be granted unless certain findings, supported by substantial evidence, show harm resulting from the waiver.

The state Density Bonus Law is codified in the City under Alameda Municipal Code ("AMC") Section 30-17. Under AMC Section 30.17.12, a developer seeking a waiver of a City development standard that physically precludes construction (such as the City's restriction on multifamily development) must (1) file a Density Bonus Application consistent with the provisions of AMC Section 30.17.4(b); and (2) must establish that it meets certain standards, or criteria, for specified affordable housing unit types as set forth under AMC Section 30-17.7. Once the developer has provided the two items above to the City, the City must grant a requested waiver unless, based on substantial evidence, it can make one of four findings.

As outlined below, this letter (1) serves as Alameda Point Partners' Density Bonus Application; (2) details the project's provision of the necessary affordable housing to substantiate a Multifamily Waiver; and (3) summarizes why a Multifamily Waiver must be granted since the City cannot make any one of the four required findings to deny the request.

## 1. **Density Bonus Application**

In order to receive waivers under AMC Section 30-17, an Applicant must submit to the City a Density Bonus Application which shall include the following:

- a. A development plan illustrating that the "base" project meets all existing general plan and zoning development standards;

See the attached Exhibit A.

- b. A description of the Development, including the total number of proposed Affordable Housing Units, senior housing units, or age-restricted units;

Development of the proposed mixed-use project at Site A on Alameda Point would entail the redevelopment of a 68-acre portion of Alameda Point adjacent to Seaplane Lagoon. Site A is proposed for a mixed-use, transit-oriented, residential/commercial development, and would serve as the retail core of Alameda Point. The proposed project would include approximately 800 residential units, approximately 200,000 square feet of new retail space, and up to 400,000 square feet of existing buildings to be reused for retail/commercial uses. The proposal includes 200 low-income units with 80 units for low income residents, 48 units for very-low income residents and 72 units for moderate income residents.

- c. The zoning and General Plan designations and assessor's parcel number(s) of the project site;

Site A falls under two General Plan designations. A majority of Site A is in the Alameda Point Mixed-Use 1 (AP-1) General Plan designation, while the portion of the property fronting Seaplane Lagoon is in the Alameda Point Mixed-Use 3 (AP-3) General Plan designation. Site A does not currently have individual assessor's parcels numbers as the property is either under the control of the Navy or was transferred by the Navy to the City via metes and bounds.

- d. A vicinity map showing the location of the proposed project.

See the attached Exhibit B.

- e. 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.

The attached Exhibit A depicts the overall project site. Because the Alameda Point project is a large multi-phased project the specific level of detail requested will be developed at a later point. Per City code, projects that have Master Plans and Development Agreements which are adopted by ordinances allow the City to phase development of large mixed use projects over the course of several years, thus allowing for the submittal for approval of the above referenced detailed plans at a later date but prior to the issuance of any building permit. This phasing allows the City to change and improve the final project's design to reflect current community preferences and current best practices rather than being bound to

the community's preferences that might have existed years earlier when the initial approvals for the project were granted.

- f. A request for a concession or incentive shall include evidence to justify why it is necessary to provide for affordable housing costs.

This section is not applicable as the developer does not seek a concession or incentive.

- g. A request for a waiver shall include evidence to justify why it is necessary to allow construction of the development on the site.

A waiver of the City restriction on multifamily housing is being sought as without such a waiver the housing densities permitted under the Town Center Precise Plan and Zoning Code are physically precluded. A detailed discussion of the waiver and evidence in support of it is included below under Section 3.

- h. The Affordable Housing Unit Plan described in subsection 30-17.15 below.

The Affordable Housing Unit Plan is currently being finalized and will be provided prior to any action on the waiver.

- i. Any other information reasonably requested by the Planning and Building Director to aid in the implementation of this section 30-17.

At this time nothing else has been requested.

The information provided above and the referenced attachments fulfill the City's Density Bonus Application as required under AMC Section 30.17.4(b).

## **2. The Project Provides the Necessary Affordable Housing to Qualify for a Density Bonus Waiver**

In addition to filing a Density Bonus Application as outlined above, to qualify for a waiver under the Density Bonus Ordinance (AMC §30-17.12) a project proponent must establish that a project meets certain standards, or criteria, for specified affordable housing unit types as set forth under AMC section 30-17.7. Specifically, the development must provide at least one of the following minimum percentages of low income housing type:

- 10% of residential units available to residents qualifying as low-income; or,
- 5% of residential units available to residents qualifying as very-low income; or,
- 10% of residential units available to residents qualifying as moderate income.

Alameda Point Partners is proposing 800 units on Site A. Of those 800 units, 25%, or 200 residential units, will be affordable. These units will be permanently affordable as follows: 10% to low income residents; 6% to very-low income and 9% to moderate income. The amount of very-low and low income designated housing units satisfies the criteria under the Density Bonus Ordinance for a waiver. (AMC §§ 30-17.7.1 (b) and 30-17.7.2 (b)).

In the first phase of construction on Parcel 8 of Site A, affordable housing developer Eden Housing will construct no less than the number of units equal to 6% very low and 10% low income

rental housing units up to a maximum of 128 low and very low income housing units as shown in the attached Exhibit C. All remaining moderate affordable housing units (i.e., 72 units) will be interspersed throughout the market-rate housing (parcels 1, 2, 3, 6, 7, 9 and 11) and will be a varied unit and product-type mix (i.e., townhouse, flat, apartment, etc.) and ownership type (i.e., rental/for sale).

The units developed by Eden Housing on Parcel 8 will be permanently affordable and Eden Housing will work with the Alameda Housing Authority to market the units. The moderate income units interspersed throughout the market rate units will be subject to the standard City of Alameda affordable housing requirements and will be marketed by the developer in partnership with the Alameda Housing Authority.

### **3. Findings in Support of Waiver for Multifamily Restriction**

Under the California Density Bonus Law once the Density Bonus Application is filed demonstrating how the project proponent will fulfill the affordable housing requirements, the City must grant a requested waiver from any limiting development control, unless, based on substantial evidence, it can make one of the four findings set forth below. (AMC § 30-17.12)

1. *The development standard does not physically preclude the construction of the development at the densities or with the concessions or incentives permitted.*

Alameda Point Partners is seeking a waiver from AMC § 30-53, which prohibits the development of multifamily units. Simply put, implementation of AMC § 30-53's development standard at Alameda Point does physically preclude the construction of residential units at the densities permitted under the General Plan and Municipal Code due to the inherent inefficiencies of single-family versus multifamily development.

As depicted on Exhibit D, a mixed-use development as envisioned by the General Plan, Municipal Code and Town Center Precise Plan but containing only single-family residential units (as opposed to multifamily residential units) would yield only 271 total residential units and only 68 affordable units.<sup>1</sup>

If all commercial development was eliminated, resulting in single-family residential development only (contrary to the General Plan and Town Center Precise Plan), Site A would yield only 560 units as depicted on Exhibit F. This would result in the loss of 60 affordable units.

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<sup>1</sup> While Site A is 68 acres, not all of Site A can be considered for development as some acreage must be used for right-of-ways, ingress and egress corridors, setbacks, public open spaces, and required plazas along Seaplane Lagoon in compliance with the restrictions of the Public Trust Doctrine. As a result, only 36.7 acres are truly developable as depicted on Exhibit E. As indicated above, the development of 271 single-family units assumes a mixed-use development with commercial uses alongside residential uses within the 36.7 acre developable area. Even if the project eliminated all commercial and retail uses (while still maintaining right-of-ways, ingress and egress corridors, setbacks, public open spaces, and required plazas) and attempted to maximize the total number of single-family units on the 36.7 acres as depicted in Exhibit F, the total number of units is 560, a figure that is still significantly less than the 800 units allowed under the General Plan. As Exhibit F reflects, detached residential development is inherently inefficient because it requires setbacks, lot dimensions and configurations to accommodate ingress/egress and compliance with health and safety code requirements, including the building and fire code.



In contrast, Alameda Point Partners is proposing 800 residential units on Site A in a combination of townhouse and podium style development. The proposal includes 200 low-income units with 80 units for low income residents, 48 units for very-low income residents and 72 units for moderate income residents. The Development of Site A, in compliance with Measure A, would result in the loss of 529 residential units, including the loss of 133 affordable units, or 53 low-income units, 48 very-low income units and 32 moderate-income units.

In sum, without a waiver of the restriction on multifamily development, the development of Site A at the densities proposed and with the affordable housing proposed would be physically precluded.

2. *The requested development standard waiver would have a specific, adverse impact, as defined in paragraph (2) of subdivisions (d) of Section 65589.5, upon health, safety, or physical environment, and for which there is no reasonable method to satisfactorily mitigate or avoid the specific adverse impact.*

Waiving the multifamily restriction on residential development would not adversely impact public health or safety. California Government Code section 65589.5(d), paragraph two (2) defines a “specific, adverse impact” as a “significant, quantifiable, direct, and unavoidable impact, based on objective, identified written public health or safety standards, policies, or conditions as they existed on the date the application was deemed complete. Inconsistency with the zoning ordinance or general plan land use designation shall not constitute a specific, adverse impact upon public health or safety.”

The Town Center Precise Plan designated Site A Residential Mixed Use (“RMU”), Commercial Mixed Use (“CMU”) and Retail, F&B, Entertainment (“R”). Under the RMU and CMU designations, single-family residential uses are not permitted and no-residential development is permitted in the R designation. A Final Environmental Impact Report (“EIR”) was prepared under the California Environmental Quality Act (“CEQA”) that evaluated development on Alameda Point generally, and, specifically, at a project level, the Town Center Precise Plan, including the development of Site A with multifamily residential development. It found no environmental impacts, including no health and safety impacts associated with the proposed development of Site A. (State Clearinghouse No. 2013012043). The EIR was certified by the City Council on January 13, 2014.

AECOM has evaluated Alameda Point Partners’ proposed development of Site A, including the required multifamily waiver under the Density Bonus Ordinance. It found the proposal consistent with Town Center Precise Plan studied under the EIR. Given that the EIR found no specific, adverse impacts, and, given that Alameda Point Partners’ proposed development of Site A is consistent with that plan, the multifamily waiver requested would not have a specific, adverse impact.

3. *The requested development standard waiver would have an adverse impact on any real property that is listed in the California Register of Historical Resources or designated a City of Alameda Historical Monument or included in the City of Alameda's Historical Building Study List and for which there is no feasible method to satisfactorily mitigate or avoid the specific adverse impact without rendering the development unaffordable to Low- and Moderate-Income households.*

The EIR prepared for Alameda Point and the Town Center Precise Plan evaluated all existing properties on Alameda Point to determine their historic status and whether development on Alameda Point would impact any historic resources under CEQA. The EIR concluded that no properties listed in the California Register of Historical Resources, or designated a City of Alameda Historical Monument, or included in the City of Alameda's Historical Building Study List exist on Site A. As a result, the Multi-Family Waiver requested by Alameda Point Partners, would have no impact any historic real property.

4. *The requested development standard waiver would be contrary to state or federal law.*

Measure A limits residential density in the City. Following its enactment by the California Legislature, the Density Bonus Law precludes jurisdictions from limiting the construction of affordable housing through density limits. Residential development that provides a certain percentage of affordable housing, qualifies to seek density bonuses and waivers from development standards that would preclude affordable housing construction. Thus, waiving Measure A and the restriction on multi-family development would be consistent with the California Density Bonus Law. There is no federal law that requires limitations on residential density or precludes multi-family residential development.

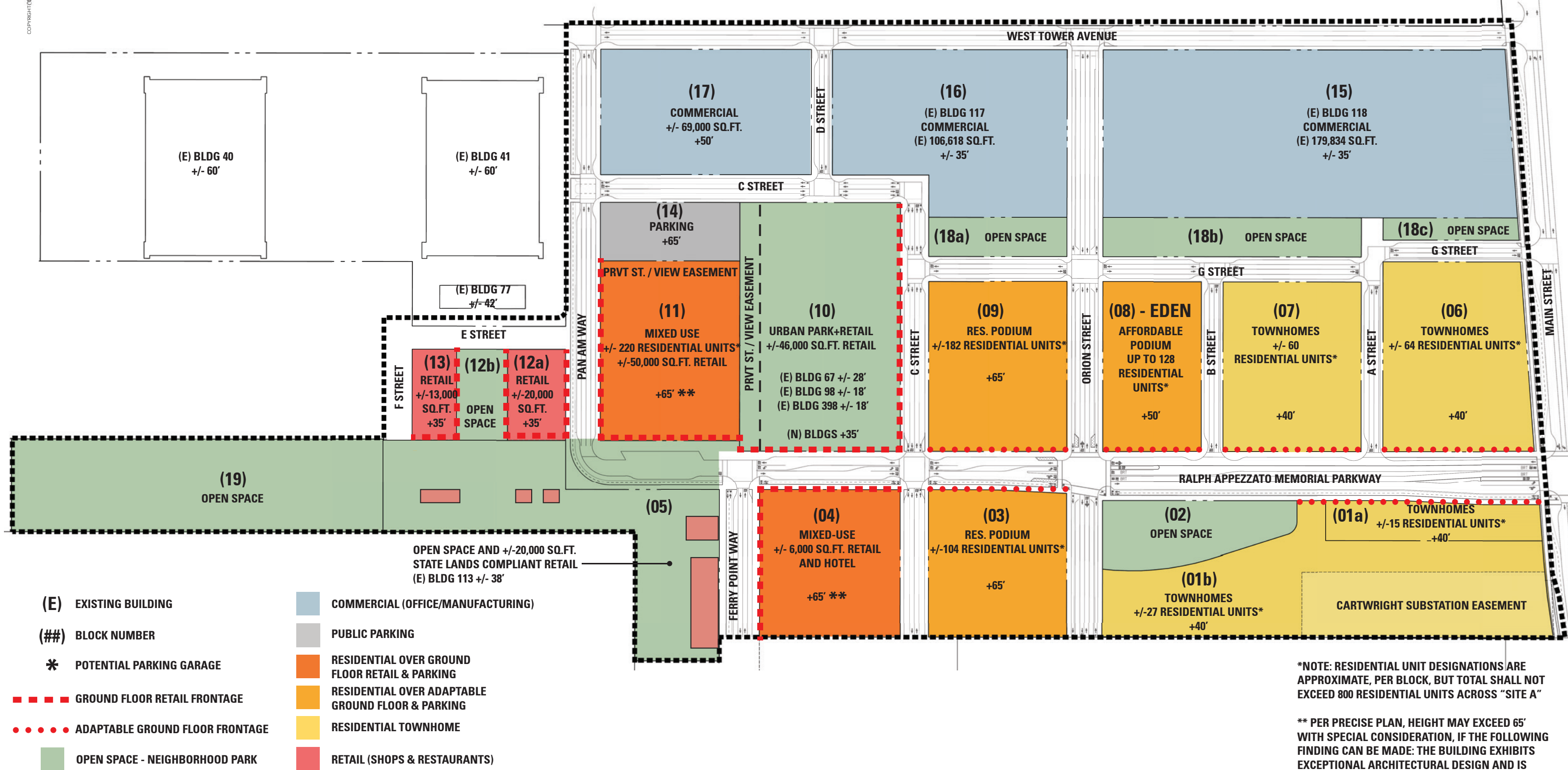
\* \* \* \* \*

In closing, for all the reasons set forth above Alameda Point Partners requests a waiver under the Density Bonus Ordinance of the restriction on multi-family development under Measure A. Should additional information be needed to evaluate the request, please let us know and we will work diligently to provide it for consideration.

Sincerely,



Joe Ernst  
Alameda Point Partners, LP



\*NOTE: RESIDENTIAL UNIT DESIGNATIONS ARE APPROXIMATE, PER BLOCK, BUT TOTAL SHALL NOT EXCEED 800 RESIDENTIAL UNITS ACROSS "SITE A"

\*\* PER PRECISE PLAN, HEIGHT MAY EXCEED 65' WITH SPECIAL CONSIDERATION, IF THE FOLLOWING FINDING CAN BE MADE: THE BUILDING EXHIBITS EXCEPTIONAL ARCHITECTURAL DESIGN AND IS TRANSIT SUPPORTIVE

ALAMEDA POINT | ALAMEDA, CA

DEVELOPMENT PLAN





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ALAMEDA POINT

ALAMEDA, CA

VICINITY MAP

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development partners  
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KwanHenmi

**FIELD**  
PAOLI

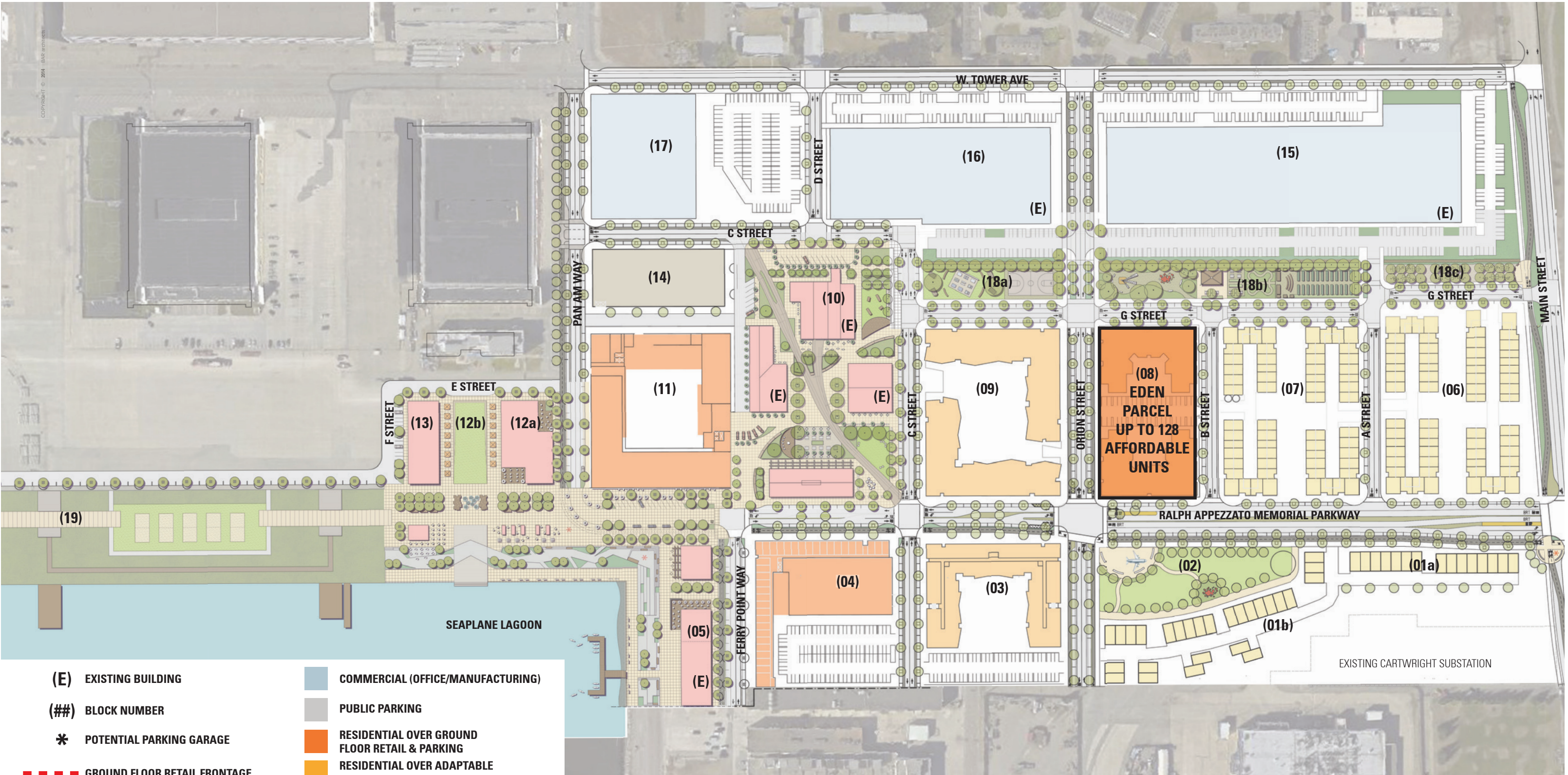
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**EXHIBIT B**





(E) EXISTING BUILDING

(##) BLOCK NUMBER

\* POTENTIAL PARKING GARAGE

■■■■■ GROUND FLOOR RETAIL FRONTAGE

..... ADAPTABLE GROUND FLOOR FRONTAGE

■ OPEN SPACE - NEIGHBORHOOD PARK

■ COMMERCIAL (OFFICE/MANUFACTURING)

■ PUBLIC PARKING

■ RESIDENTIAL OVER GROUND FLOOR RETAIL & PARKING

■ RESIDENTIAL OVER ADAPTABLE GROUND FLOOR & PARKING

■ RESIDENTIAL TOWNHOME

■ RETAIL (SHOPS & RESTAURANTS)

\*THIS SITE PLAN & BUILDING CONFIGURATIONS ARE ILLUSTRATIVE ONLY

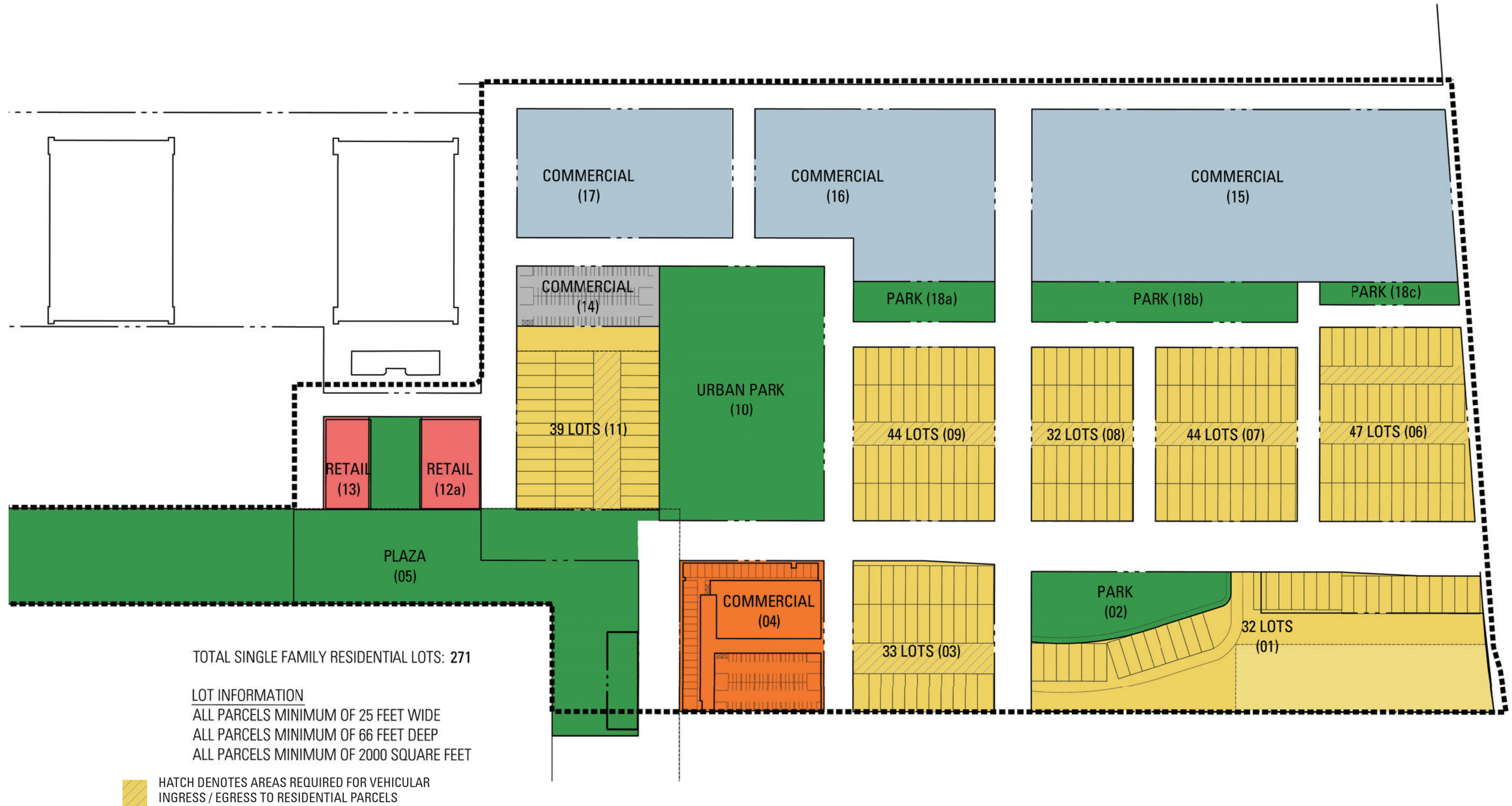
\*EXISTING BUILDINGS AND/OR SITES MAY BE OCCUPIED WITH USES CONSISTENT WITH THIS PLAN DURING ANY PHASE

ALAMEDA POINT

ALAMEDA, CA

INCLUSIONARY HOUSING PLAN

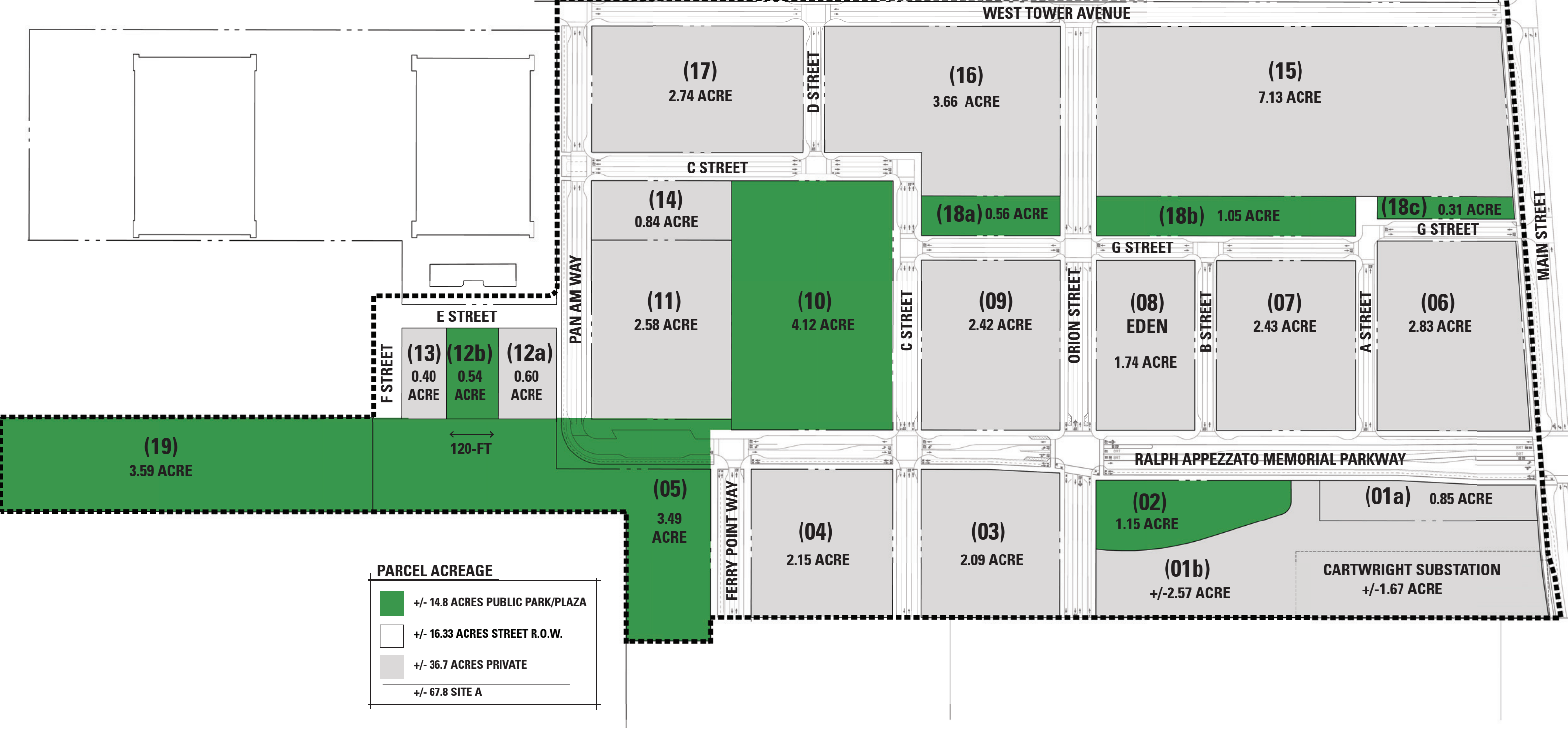




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SINGLE FAMILY RESIDENTIAL LOTS



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PARCEL DIAGRAMS





ALAMEDA POINT

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SINGLE FAMILY RESIDENTIAL LOTS - ALL RESIDENTIAL



**ALAMEDA POINT**  
**AFFORDABLE HOUSING UNIT PLAN**

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;

Alameda Point Partners is proposing 800 total residential units on Site A. Of those 800 units, 25%, or 200 residential units, will be affordable. These units will be permanently affordable as follows: 10% to low income residents; 9% to very-low income and 6% to moderate income. While the amount and breakdown of affordable housing to be built on Site A has been established, the precise affordable housing program (i.e., location, timing and ownership type), however, is still being finalized. The current proposal is that Eden Housing, an affordable housing developer, will construct 128 low and very low income housing units on Parcel 8 of Site A, as shown in the attached Development Plan (**Exhibit A**). All remaining affordable housing units (i.e., 72 units) will be interspersed throughout the market-rate housing and will be a varied unit and product-type mix (i.e., townhouse, flat, apartment, etc.) and ownership type (i.e., rental/for sale).

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;

See the attached **Exhibit A** for the location of the 128 unit low and very low income rental units. The remaining units will be interspersed within the market rate housing. As the project is a phased development, development of floor plans for the entire project is premature at this time. As per the requirements of the Development and Disposition Agreement (“DDA”) prior to the development of any residential units on the property, detailed elevations and floor plans will be required as part of the Design Review process. The Planning Board will review those elevations and floor plans, which will include the size and location of any affordable housing units located within the buildings to be constructed. The Planning Board will have the discretion to comment on those units as part of the Design Review process.

3. The income level to which each Affordable Housing Unit will be made affordable;

The 200 units will be permanently affordable with 80 units affordable to low income, 48 units affordable to very-low income and 72 units affordable to moderate income. The income level for these units will be established at the time that they are available for occupancy and will be based on AMI. A break-down of income level per unit type and affordability level based on current AMI has been provided by Eden Housing and is attached. This is provided as an example of current income ranges, but actual income levels will be set as of the date of occupancy. Given that the units are permanently affordable, the income range will vary over time based on AMI. For reference, attached as **Exhibit B**, is a table prepared by Eden Housing showing present day AMI and affordability.

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

The City and Developer will be entering into an Affordable Housing Agreement that will be recorded against the property that will set forth the terms and conditions for the affordable housing units, which are

required to be permanently affordable. The execution and recording of that Affordable Housing Agreement is required prior to the transfer of the property and/or the right to build. A draft of the Affordable Housing Agreement will be provided as part of the DDA and is a condition precedent to the development of the property.

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;

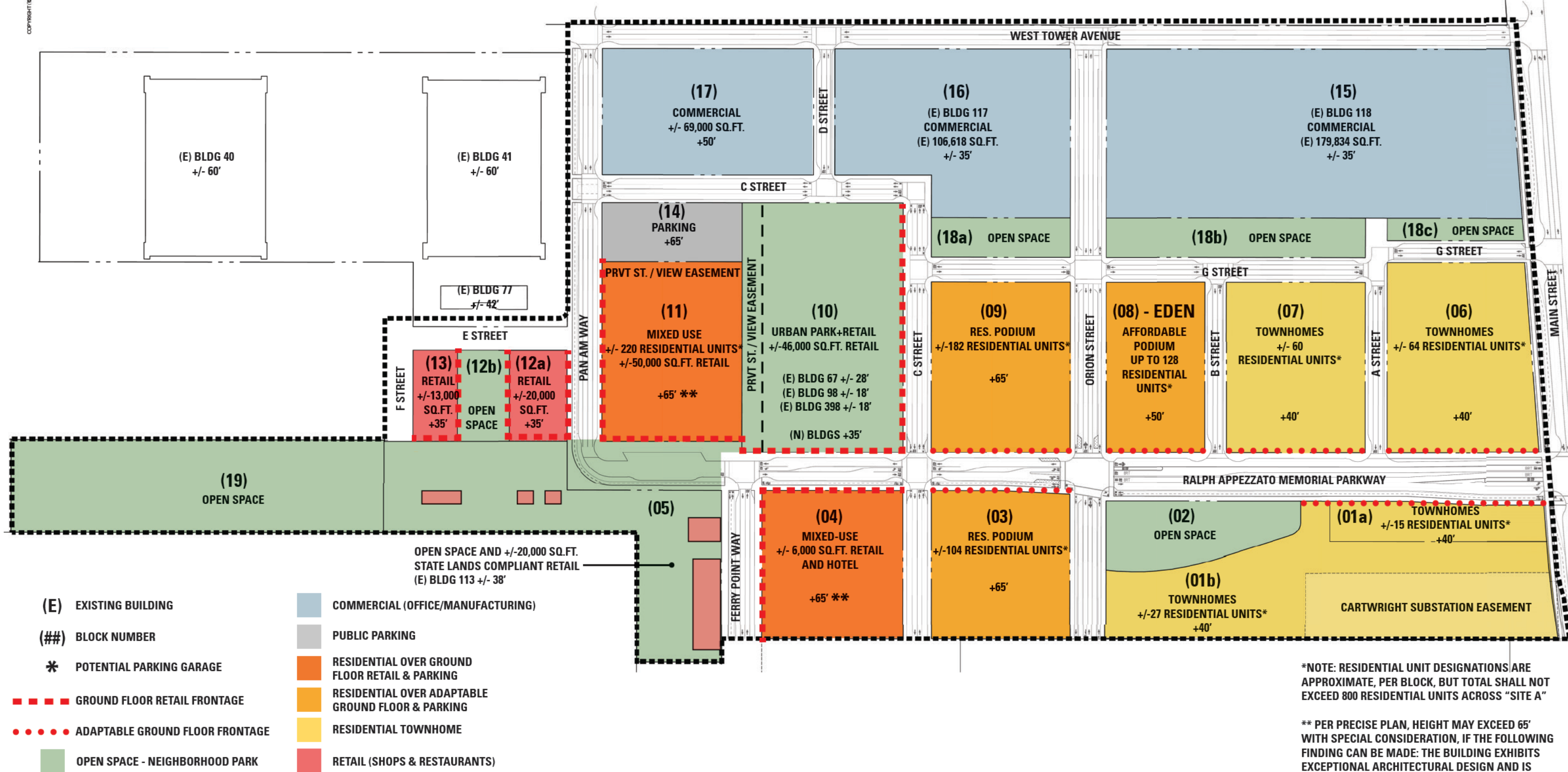
The phasing of affordable housing units will be consistent with timing outlined in the Development and Disposition Agreement between the City and the Developer.

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.

The Affordable Housing Agreement between the Developer and the City will establish the timing and requirements of the affordable housing marketing plan. The approval of the affordable housing plan is required before the issuance of a certificate of occupancy for any building that will contain affordable housing units.

7. A financial report (pro forma) to evaluate: i) whether the concessions or incentives sought would result in identifiable, financially sufficient, an 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 Affordable Housing Units.....

This provision is not applicable as the Developer is not seeking a concession or incentive.



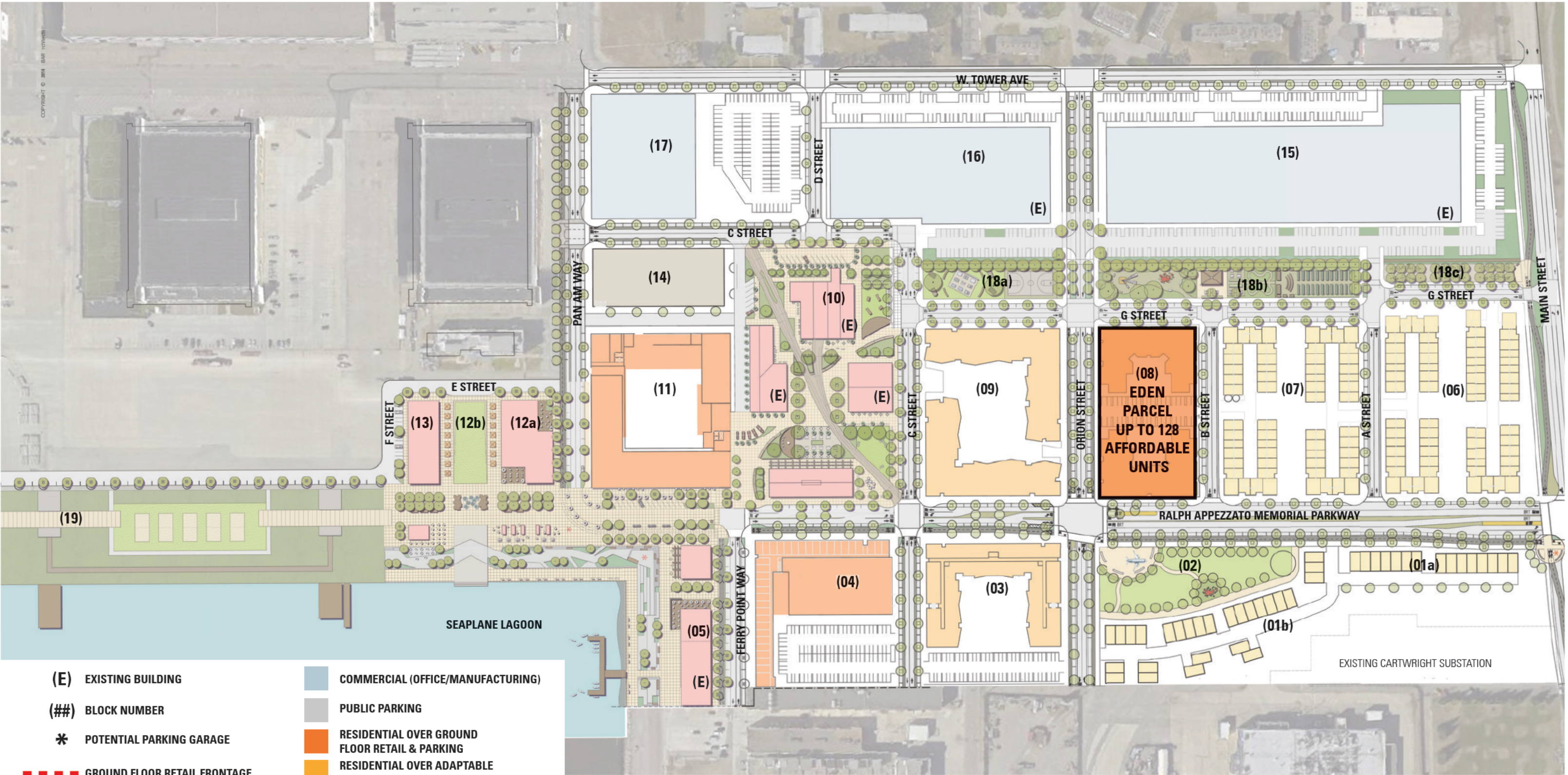
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## DEVELOPMENT PLAN





\*THIS SITE PLAN & BUILDING CONFIGURATIONS ARE ILLUSTRATIVE ONLY

\*EXISTING BUILDINGS AND/OR SITES MAY BE OCCUPIED WITH USES CONSISTENT WITH THIS PLAN DURING ANY PHASE

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ALAMEDA, CA

INCLUSIONARY HOUSING PLAN



## **EXHIBIT B**

### **EDEN 128-UNIT LOW & VERY LOW INCOME PROJECT**

2015 HUD Income Limits (Alameda County)

	<b>1 bdrm</b>	<b>2 bdrm</b>	<b>3 bdrm</b>
<b>Very Low (50% AMI)</b>	\$37,200	\$41,850	\$48,325
<b>Low (60% AMI)*</b>	\$44,640	\$50,220	\$57,990

\* Note that Low income targetting allows for rents to be set for households with incomes at 80% AMI. To be competitive for 9% tax credits, income targetting cannot exceed 60% AMI.

### **MARKET RATE MODERATE INCOME UNITS**

	<b>1 bdrm</b>	<b>2 bdrm</b>	<b>3 bdrm</b>
<b>Moderate (120% AMI)</b>	\$90,000	\$100,440	\$115,980