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<https://alameda.legistar.com/LegislationDetail.aspx?ID=3716309&GUID=1FBCF269-EFB7-4C72-A4E5-BD723FBF7D77&FullText=1>.

B. Land Use Element Section 2.2 Business Park Land Use Classification Amendments:

The Harbor Bay Industrial Park Development Plan, approved by Planning Board Resolution No. 1203 in 1981, and amended by Planning Board Resolution No. 1533 in 1985, establishes the development standards for the Harbor Bay Business Park. Planned Development No. PD-81-2, as amended in 1985 by PDA-85-4, established a “special” maximum FAR of 0.5 for the portion of the business park fronting Bay Edge Road located between the lagoon and the bay. This portion of Bay Edge Road is now the portion of Harbor Bay Parkway immediately located along the bay frontage. PD-81-2 and PDA-85-4 contain the following language:

46. Special criteria for the area between the lagoon and bay shall be as follows:

b. Floor area ratio (FAR) shall not exceed a ratio of 0.5:1 with increases in gross floor area permitted proportional to the amount of required parking provided within a structure or structure(s) up to a maximum FAR of 2:1 where all required parking is enclosed in a structure.

The resolution findings for both PD-81-2 and PD-85-4 make reference to the special FAR for the waterfront properties and state that it is necessary to “retain control of sensitive aesthetic environment in the area between the lagoon and the bay.”

In 1989, the Harbor Bay development standards and entitlements were vested by the City Council when they approved the 1989 Development Agreement, which specifically references Resolution Nos. 1203 and 1533. When entitlements are “vested” by a development agreement, future development standards adopted by the City which are more restrictive do not apply to the vested development. (PD-81-2, PD-85-4, and the Development Agreement are attached as Exhibit 2, 3, and 4.)

In 1991, the City Council approved the new citywide General Plan update. The new Land Use Element included Land Use Element Policy 2.8.a which states: “Support development of Harbor Bay Business Park consistent with existing approvals and agreements.”

The 1991 Land Use Element also included a new Business Park Land Use classification, which states:

Harbor Bay Business Park and portions of Marina Village consist primarily of offices, but also may include research and development space, manufacturing, and

distribution. Harbor Bay plans include a small amount of retail space and a conference-oriented hotel. Maximum FAR is .5, with increases up to a maximum of 2 permitted, proportional to the amount of required parking enclosed in a structure.

The General Plan land use classification states that the 0.5 FAR standard applies to the entire Harbor Bay Business Park and Marina Village Business Park, which is in conflict with Policy 2.8.a and the “existing approvals and agreements.” However, close examination of the FAR limit in the development standards of PD-81-2 and PDA-85-4 demonstrate that the 0.5 FAR limit is only applicable to the portion of the Business Park along the edge of the Bay.

Between 1991 and 2017, City staff and Planning Board interpreted these policies to mean that the 0.5 FAR only applies to the portion of Harbor Bay Business Park along the waterfront, consistent with the existing 1981, 1985, and 1989 entitlements.

However, in 2017, during consideration of a parcel map for a hotel at 1700 Harbor Bay Parkway, which is not located on the waterfront, Unite Here (the hotel workers union) argued that the parcel map should not be approved because the proposed FAR was greater than 0.5 and therefore not consistent with the General Plan land use classification. The Council stated that since the language in the General Plan was not clear, they would be unable to make the findings for the parcel map. The property owner withdrew their application for the parcel map, but was able to proceed with their hotel expansion.

In 2018, the City received another application for a new hotel at 1051 Harbor Bay Parkway, which is not located on the waterfront. The proposal has a proposed FAR of 0.8.

Staff is recommending that the General Plan land use classification be amended to clarify that the 0.5 FAR only applies to the land between the lagoon and the bay. With this clarification, the current hotel proposal with an FAR of 0.8 would be able to proceed. If the Planning Board and City Council wish to impose the 0.5 FAR on the entire Business Park, the hotel application will need to be amended, and Policy 2.8.a should be stricken from the Land Use Element.

Consistent with the prior practice and the sequence of events described above, staff recommends that the Planning Board and City Council clarify the General Plan Land Use Element classification to read as follows. Unchanged Land Use Element text is shown in plain Arial font. Proposed deletions to Land Use Element text are shown in ~~strikethrough Arial font~~. Proposed additions to Land Use Element text are in single-underline Arial font.

“BUSINESS PARK

“Harbor Bay Business Park and portions of Marina Village consist primarily of offices, but also may include research and development space, manufacturing, and distribution. Harbor Bay plans include a small amount of retail space and a conference-oriented hotel. ~~Maximum FAR is .5~~ Both business parks are characterized by mostly two and three story buildings with surface parking lots and a relatively low FAR of 0.5

to 1.0 depending on the size of the building and the lot. New development is governed by the subject site zoning regulations. Within the Harbor Bay Business Park, the maximum FAR for new development between the lagoon and the bay is limited to an FAR of 0.5, with increases up to a maximum of 2 permitted, proportional to the amount of required parking enclosed in a structure.”