

CITY OF ALAMEDA PLANNING BOARD
DRAFT RESOLUTION

A RESOLUTION OF THE PLANNING BOARD APPROVING GENERAL PLAN TEXT AMENDMENT, FILE NO. PLN19-0443, TO CLARIFY THE ALLOWABLE FLOOR AREA RATIOS (FAR) IN THE HARBOR BAY BUSINESS PARK TO BE CONSISTENT WITH THE HARBOR BAY BUSINESS PARK PLANNED DEVELOPMENT ZONING REGULATIONS.

WHEREAS, the Harbor Bay Business 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 and established a maximum FAR of 0.5 for the portion of the business park fronting Bay Edge Road located between the lagoon and the bay; and

WHEREAS, in 1989, the Harbor Bay development standards and entitlements were vested by the City Council when the Council approved the 1989 Development Agreement, which specifically references Resolution Nos. 1203 and 1533; and

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

WHEREAS, the 1991 Land Use Element also included a new Business Park Land Use classification that states that the 0.5 FAR standard applies to the entire Harbor Bay Business Park, which is in conflict with Policy 2.8.a and the existing approvals and agreements; and

WHEREAS, between 1991 and 2018, City staff and Planning Board have consistently interpreted these policies to mean that the 0.5 FAR only applies to the portion of Harbor Bay Business Park along a certain portion of the waterfront, consistent with the 1981, 1985, and 1989 entitlements; and

WHEREAS, in January 2018, during consideration of a parcel map for a hotel at 1700 Harbor Bay Parkway, which is not located on the waterfront, 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 Council asked staff to clarify the General Plan text; and

WHEREAS, in November 2018, the Planning Board recommended the City Council approve a General Plan Text Amendment to clarify the specific areas of the Harbor Bay Business Park subject to the 0.5 FAR. The Planning Board recommendation inadvertently extended the 0.5 FAR beyond those properties between the lagoon and the bay, as specified in the existing entitlements, to properties fronting the Oakland Airport manmade tidal basin, too far south by approximately 2,000 feet; and

WHEREAS, on September 5, 2019, Joe Ernst of srmErnst Development Partners, filed a request for General Plan Text Amendment to clarify the extent of applicability of the maximum 0.5 FAR to properties in the Harbor Bay Business Park, including the property at 1951 Harbor Bay Parkway, which is a vacant site that could potentially be developed in the near future for a rapidly growing tenant in the business park; and

WHEREAS, on September 23, 2019, the Planning Board held a duly noticed public hearing on this application, and has examined pertinent maps, drawings, and documents.

NOW, THEREFORE, BE IT RESOLVED, that the Planning Board finds the subject General Plan Text Amendment exempt from environmental review under the California Environmental Quality Act (CEQA) pursuant to CEQA Guidelines Section 15061(b)(3), the general rule that CEQA only applies to actions that have the potential to cause a significant impact on the environment. The proposed amendment does not establish new General Plan policies that could cause an effect on the environment. The amendment clarifies language from the 1991 Land Use Element to result in an internally consistent Land Use Element and aligns the Business Park Land Use classification with existing approved entitlements, consistent with Land Use Element Policy 2.8.a; and

BE IT FURTHER RESOLVED, that the Planning Board makes the following findings regarding the proposed General Plan Text Amendment:

1. **The General Plan Land Use Element Text Amendment relates favorably to the General Plan.** The proposed text amendment to clarify language pertaining to FAR standards in the Harbor Bay Business Park is consistent with Land Use Element Policy 2.8.a which states: "Support development of Harbor Bay Business Park consistent with existing approvals and agreements." Clarification of the FAR issue would result in an internally consistent Land Use Element and ensure consistent decision-making by the City on important land development matters that affect the economic vitality of the business park.
2. **The General Plan Land Use Element Text Amendment support the general welfare of the community.** The proposed amendments result in an internally consistent, up-to-date Land Use Element and General Plan which is required by the California Government Code and supports the general welfare of the community by ensuring consistent decision-making by the City of Alameda.
3. **The General Plan Land Use Element Text Amendment will have no adverse effects on existing persons or property.** The proposed text amendment clarifies the General Plan Business Park Land Use classification text to be consistent with long-established FAR regulations for the business park that were approved in 1981, 1985, and in the 1989 Development Agreement. No new regulations or policies are being created with this General Plan Text Amendment that could have adverse effects on existing persons or property; and

BE IT FURTHER RESOLVED, that the Planning Board finds that it is necessary, desirable, and in the public interest to adopt a General Plan text amendment to clarify the limited applicability of the maximum 0.5 FAR in the Harbor Bay Business Park, and recommends the City Council adopt the following text amendment to Section 2.2 of the Land Use Element (Land Use Classifications):

BUSINESS PARK

The Business Park land use classification identifies areas for business development including but not limited to offices, research and development space, hotels, manufacturing, and distribution uses. These business park areas are characterized by mostly two to four story buildings with surface parking with a floor area ratio of between 0.25 and 2.0. Within the Harbor Bay Business Park, the maximum FAR for new development located on waterfront properties in the area between the lagoon and the bay between the intersection of Mecartney Road and Adelphian Way and North Loop Road and Harbor Bay Parkway shall be 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. ~~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.~~

HOLD HARMLESS. The Applicant shall defend (with counsel acceptable to the City), indemnify, and hold harmless the City of Alameda, the Alameda City Planning Board and their respective agents, officers, and employees from any claim, action, or proceeding (including legal costs and attorney's fees) against the City of Alameda, Alameda City Planning Board, and their respective agents, officers, or employees to attack, set aside, void or annul, an approval by the City of Alameda, the Planning, Building and Transportation Department, Alameda City Planning Board, or City Council related to this project. The City shall promptly notify the Applicant of any claim, action, or proceeding and the City shall cooperate in such defense. The City may elect, in its sole discretion, to participate in the defense of said claim, action, or proceeding.

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

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.

* * * * *