

CITY OF ALAMEDA PLANNING BOARD
Draft RESOLUTION

APPROVING UNIVERSAL DESIGN WAIVER APPLICATION FOR THE BOATWORKS
DEVELOPMENT AT 2229 - 2235 CLEMENT AVENUE

WHEREAS, on March 3, 2020 the City Council approved a Settlement Agreement with Boatworks, LLC (Boatworks) to resolve three existing lawsuits filed by Boatworks against the City of Alameda (City) and allow for the development of the site for much needed new housing and waterfront access; and

WHEREAS, on April 7, 2020, the City Council adopted Resolution No. 15641 approving a Development Plan and Tentative Map for development of 182 residential units, approximately 1.5 acres of publicly accessible open space, and other improvements on the property; and

WHEREAS, on the same date, the City Council deferred its decision on Boatworks' request for a density bonus waiver from the provisions of Alameda Municipal Code (AMC) Section 30-18 Universal Residential Design; and

WHEREAS, on April 14, 2020, pursuant to AMC Section 30-18.5, Boatworks requested a waiver from the provisions of AMC Section 30-18 Universal Residential Design due to the topographical conditions on the site to reduce the visitability requirement from 100% to 50% (91 units would be visitable) and reduce the universal design requirement from 30% to 15% (28 units would meet the universal design standard); and

WHEREAS, on May 6, 2020, the Commission on Disability (Commission) reviewed the waiver request and provided comments and recommendations to the City Planning Board; and

WHEREAS, on May 11, 2020, the Planning Board held a duly noticed public hearing and examined all pertinent application materials and public testimony, including the comments and recommendations from the Commission.

NOW, THEREFORE, BE IT RESOLVED, that the Planning Board finds the environmental effects of the proposed project were considered and disclosed in the Boatworks Final Environmental Impact Report. No further environmental review is required under the California Environmental Quality Act for the proposed project. The proposed waiver will not result in any new environmental impacts or cause any previously disclosed significant impacts to become more severe; and

BE IT FURTHER RESOLVED, that the Planning Board makes the following finding pertaining to Boatworks' request for a waiver from the provisions of AMC Section 30-18:

1. The requested waiver is necessary to avoid an undue and substantial financial hardship caused by topographical conditions on the site; the size or configuration of the site; and/or other site constraints; and/or legal constraints and equivalent facilitation is not available; and

BE IT FURTHER RESOLVED, that the Planning Board approves the requested Universal Design

waiver, subject to the following conditions:

1. The Design Review plans submitted for Planning Board review shall provide evidence that:
 - At least 28 units meet all the requirements for universal design pursuant to AMC Section 30-18;
 - At least 91 units meet all the requirements for Visitability pursuant to Section 30-18;
 - At least 14 waterfront single family homes will meet all of the universal design requirements of Section 30-18 for the interior of the home;
 - Blocking is provided within the walls of all hallways to support future installation of grab bar/hand rails in all 182 units; and
 - Rocker light switches, electrical receptacles, and environmental controls will be placed at accessible heights throughout all 182 units.
2. **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, the City of Alameda or the Alameda 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. 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.

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.

NOTICE. The conditions of project approval set forth herein include certain fees and other exactions. Pursuant to Government Code section 66020(d) (1), these Conditions constitute written notice of a statement of the amount of such fees, and a description of the dedications, reservations and exactions. The applicant is hereby further notified that the 90-day appeal period, in which the applicant may protest these fees and other exactions, pursuant to Government Code section 66020(a) has begun. If the applicant fails to file a protest within this 90-day period complying with all requirements of section 66020, the applicant will be legally barred from later challenging such fees or exactions.

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.

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