

CITY OF ALAMEDA PLANNING BOARD
DRAFT RESOLUTION

DENYING APPEAL FILED BY JOHN HEALY AND APPROVING DESIGN REVIEW APPLICATION NO. PLN20-0047 TO ALLOW THE REHABILITATION OF AN APPROXIMATELY 50,517-SQUARE-FOOT EXISTING BUILDING FOR ADAPTIVE RE-USE AS A SENIOR LIVING CONVALESCENT HOME AT 1245 MCKAY AVENUE

WHEREAS, Doug Biggs for Alameda Point Collaborative submitted an application on January 28, 2020 requesting Design Review to allow the rehabilitation of an approximately 50,517-square-foot existing building for adaptive re-use as a senior living convalescent home on approximately 3.65-acres located at 1245 McKay Avenue; and

WHEREAS, the application was accepted as complete on March 4, 2020; and

WHEREAS, the subject property is designated as Office on the General Plan Diagram; and

WHEREAS, the subject property is located within the A-P, Administrative Professional Zoning District; and

WHEREAS, public notices were duly distributed and the Planning Director approved Design Review Application No. PLN20-0047 on March 16, 2020, to allow the rehabilitation of an approximately 50,517-square-foot existing building for adaptive re-use as a senior living convalescent home; and

WHEREAS, on March 26, 2020, the appellant John Healy filed a timely appeal of the Planning Director's decision to approve the project, and submitted supplemental materials on April 20 (collectively, "appeal"); and

WHEREAS, after giving due notice to the appellants, the applicant, all interested parties, and the public, the appeal was considered by the Planning Board at a public hearing on June 8, 2020; and

WHEREAS, the appellant, the applicant, supporters of the application, those opposed to the application and interested neutral parties were given the opportunity to participate in the public hearing; and

WHEREAS, the Planning Board held a de novo public hearing on June 8, 2020, on the design review application at which time the Planning Board considered the entirety of the record, including all submitted materials and public comments regarding the application; and

WHEREAS, the public hearing on the appeal was closed by the Planning Board on June 8, 2020; and

WHEREAS, the Planning Board considered the appeal, the public testimony, and all pertinent maps and reports and evidence in the record as a whole, and made the following findings concerning the project.

NOW, THEREFORE, BE IT RESOLVED, the Planning Board finds denying the appeal and upholding the Design Review Approval for a permitted use is not subject to CEQA. *McCorkle Eastside Neighborhood Group v. City of St. Helena* (2018) 31 Cal.App.5th 80, Public Resources Code Section 21080. As a separate and independent basis, a Mitigated Negative Declaration was adopted by the City Council on December 4, 2018 for the McKay Wellness Center in accordance with CEQA and no further review is required pursuant to Public Resources Code section 21166 and CEQA Guidelines Section 15162; and

BE IT FURTHER RESOLVED, on June 8, 2020, the Planning Board, having conducted a de novo hearing and independently heard, considered and weighed all the evidence in the record presented on behalf of all parties and being fully informed of the Design Review application, the Planning Director's decision, and the appeal, hereby deny the appeal and uphold the Planning Director's Design Review approval; and

BE IT FURTHER RESOLVED, that in support of the Planning Board's decision to deny the appeal and approve the Design Review application, the Planning Board makes the following Design Review Findings:

1. The proposed design is consistent with the General Plan, Zoning Ordinance, and the City of Alameda Design Review Manual, because the senior living convalescent home is a permitted use in the A-P, Administrative Professional Zoning District. Uses that are permitted in the respective zoning district are also consistent with the General Plan. The proposed project consists of rehabilitation and minor alterations to an existing building, and the proposed physical improvements to the building are architecturally compatible with the building's existing architectural style. Overall, the proposed project is consistent with the design guidelines for alterations to existing buildings set forth in the Design Review Manual. The project is compliant in all categories of the Objective Design Review Standards adopted on February 10, 2020 except for standards 1A regarding gates obstructing private streets, and standard 3.A.1 regarding front entrances facing the public street. The Planning Board finds through discretionary Design Review that the design of the McKay Avenue elevation establishes sufficient window transparency and architectural articulation to maintain interaction with the public street despite not having a physical entrance on the street facing side of the building. In addition, the Board also finds that maintaining the gate located at the private street into the facility is an existing condition, is consistent with existing wrought iron fencing on site, and on adjacent properties, and serves to provide security for the seniors at the facility.
2. The proposed design is appropriate for the site, is compatible with adjacent or neighboring buildings or surroundings, and promotes harmonious transitions in scale and character in areas between different designated land uses. This project involves

rehabilitation of an existing building for adaptive re-use as a senior living convalescent home, replacement of the exterior siding with new horizontal tile siding, replacement of the existing windows with new fixed/awning windows, a redesigned exterior entrance on the south elevation, and a new interior walkway connecting two wings on the north elevation. The project increases the existing building footprint by 1,141-square feet, which is a negligible, approximately 4%, expansion of the existing building footprint. The floor area expansion is primarily achieved by enclosing existing staircases, breezeways, and balconies around the building, which does not affect the overall scale and character of the building. The proposed modifications maintain the defining elements of the existing building such as the long horizontal form, the continuous ribbon style windows, the overhanging flat roof, and the horizontal projecting sunshade feature. Also, the exterior changes do not exceed the existing height of the structure, and therefore the project maintains the existing character of the building. The proposed project does not change the building's relationship with adjacent or neighboring buildings, nor does it affect the transitions in scale and character of existing buildings in the neighborhood.

3. The proposed design of the structure and exterior materials and landscaping are visually compatible with the surrounding development, and design elements have been incorporated to ensure the compatibility of the structure with the character and uses of adjacent development. The proposed modifications are designed to be compatible with the existing building and will utilize the similar fixed/awning windows, horizontal exterior siding, and decorative wood cladding around the building which are also compatible with the design elements found on buildings in the surrounding neighborhood; and

BE IT FURTHER RESOLVED, that the Planning Board of the City of Alameda hereby approves Design Review Application No. PLN20-0047 subject to the following conditions:

1. This approval is valid for two years and will expire on June 8, 2022, unless construction has commenced under valid permits. The approval may be extended by the Planning, Building and Transportation Director for two years to June 8, 2024, upon submittal of an extension request and payment of the associated fee.
2. The plans submitted for building permit and construction shall be in substantial compliance with plans prepared by Pyatok Architects, dated January 28, 2020, and on file in the office of the City of Alameda Planning, Building and Transportation Department, except as modified by the conditions listed in this resolution.
3. This approval is limited to the scope of the project defined in the project description and does not represent a recognition and/or approval of any work completed without required City permits.
4. A copy of the project conditions shall be printed on the cover of the final Building Permit plans.
5. CEQA Mitigation Measures: Prior to issuance of a Building Permit or Site Improvement Permit, the Applicant shall submit a Mitigation Measure Compliance

Checklist confirming compliance to date with all required environmental mitigation measures contained in the MMRP adopted by the Alameda City Council on December 4, 2018 for the McKay Wellness Center. The checklist shall be printed on the Building Permit plans.

6. Building Permit plans shall incorporate the approved window schedule.
7. The final plans submitted for Building Permit approval shall conform to all applicable codes and guidelines.
8. A site inspection to determine compliance with this Design Review Approval is required prior to the final building inspection and/or to the issuance of a Certificate of Occupancy. The applicant shall notify Planning staff at least four days prior to the requested Planning Inspection dates.
9. Modifications: Minor project design details requested by the applicant may be established, modified, and approved by the Planning Director. Engineering standards and specifications requested by the applicant may be established, modified and approved by the Public Works Director or designee. Major modifications that are not consistent with this design review approval or these conditions shall be subject to review and approval of the Planning Board; and

BE IT FURTHER RESOLVED, that the record before the Planning Board relating to the design review approval includes, without limitation, the following:

1. The application, including all accompanying maps and papers;
2. All plans submitted by the applicant and its representatives;
3. The appeal and all accompanying statements and materials;
4. All final staff reports, final decision letters, and other final documentation and information produced by or on behalf of the City, including without limitation all related/supporting final materials, and all final notices relating to the application, appeal and attendant hearings;
5. All oral and written evidence received by the Planning Board during the public hearing on the appeal; and all written evidence received by relevant City staff before and during the public hearing on the appeal; and
6. All matters of common knowledge and all official enactments and acts of the City, such as (a) the General Plan; (b) the Alameda Municipal Code; (c) all applicable State and federal laws, rules and regulations; and

BE IT FURTHER RESOLVED, that the custodians and locations of the documents or other materials which constitute the record of proceedings upon which the City Council's decision is based are located at the Office of the City Clerk located at 2263 Santa Clara Avenue, Room 380, Alameda, CA 94501.

HOLD HARMLESS. The applicant shall defend (with counsel acceptable to the City), indemnify, and hold harmless the City of Alameda, the Alameda City Council, 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 Council, 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 & Transportation Department, Alameda City Planning Board, the City of Alameda City Council relating 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.

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.

* * * * *