A RESOLUTION OF THE PLANNING BOARD OF THE CITY OF ALAMEDA ADOPTING AMENDED AND RESTATED OBJECTIVE DESIGN REVIEW STANDARDS

WHEREAS, the State of California and the City of Alameda face an unprecedented housing shortage and affordability crisis. In 2019, the Legislature concluded that “California has a housing supply and affordability crisis of historic proportions”; and

WHEREAS, the Housing Accountability Act, Government Code section 65589.5, restricts the City of Alameda’s ability to deny or reduce the density of housing development projects (i.e., residential development, transitional and supportive housing, and residential mixed used development where at least two-thirds of the square footage is designated for residential use) that are consistent with objective development standards; and

WHEREAS, Senate Bill (SB) 35, Government Code section 65913.4, establishes a developer-initiated process to streamline the approval process for housing developments (i.e., those proposing two or more multifamily units) meeting specific criteria, including affordable housing requirements and labor requirements. Such housing projects will be eligible for ministerial approval, which means the project is exempt from environmental review under the California Environmental Quality Act and will only be subject to “objective” planning standards; and

WHEREAS, on February 10, 2020, the City Planning Board adopted Planning Board Resolution No. PB-20-04 adopting objective design review standards, i.e., measurable and clear criteria, to facilitate and accommodate development at the density permitted on the site and proposed by the development, in accordance with State law; and

WHEREAS, the Planning Board wishes to adopt revised Objective Design Review Standards (“Objective Standards”), which will supersede the initial set of Objective Design Review Standards adopted on February 10, 2020. The Objective Standards will be applicable to housing development projects, as defined by the Housing Accountability Act, and as mandatory standards for all qualifying projects seeking streamlined, ministerial review under SB 35; and

WHEREAS, the Objective Standards primarily consist of design guidelines already contained in adopted City planning documents, and will complement the existing Citywide Design Review Manual in furtherance of the goals, policies, and actions of the General Plan, which encourage high quality design and the quality of life that an enhanced built environment fosters; and
WHEREAS, as an alternative, any developer of a housing development project seeking exceptions to the Objective Standards may proceed with the City’s existing discretionary design review process; and

WHEREAS, on February 22, 2021, the Planning Board held a duly noticed public hearing and received testimony related to the revised Objective Design Review Standards.

NOW, THEREFORE, BE IT RESOLVED, the Planning Board finds the adoption of the revised Objective Design Review Standards is exempt from CEQA, pursuant to CEQA Guidelines section 15061(b)(3), because it can be seen with certainty that there is no possibility that this action may have a significant impact on the environment. As an independent and separate basis, the Planning Board finds the adoption of revised objective design review standards is exempt from CEQA pursuant to CEQA Guidelines section 15183, projects consistent with a community plan, general plan or zoning; and

BE IT FURTHER RESOLVED, the Planning Board of the City of Alameda hereby adopts this Resolution adopting the Amended and Restated Objective Design Review Standards, dated 1/25/2021, attached as Exhibit 1 to the staff report and incorporated by reference as though fully set forth herein, subject to the following conditions:

1. Effective Date. This Resolution shall take effect immediately upon its adoption.
2. Additions and Deletions. Any future substantial amendments to the Objective Design Review Standards shall be presented to the Planning Board for consideration.
3. Revisions by Planning Director. The Planning Board hereby delegates responsibility to the Planning Director, or designee, to make miscellaneous minor administrative, clarifying, and technical revisions that facilitate implementation of the adopted standards. Examples of such revisions include word substitutions for clarification purposes, changes to graphics, formatting, and other typographical changes that do not substantially alter the intent, meaning, or purpose of any particular standard.

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 effective 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.

* * * * *
I, the undersigned, hereby certify that the foregoing Resolution was duly and regularly adopted and passed by the Planning Board of the City of Alameda during the Regular Meeting of the Planning Board on the 22th day of February 2021, by the following vote to wit:

AYES: (7) Teague, Cisneros, Curtis, Hom, Rothenberg, Ruiz, and Saheba

NOES: (0)

ABSENT: (0)

ATTEST:

Andrew Thomas, Secretary
City of Alameda Planning Board
A RESOLUTION RECOMMENDING THAT THE ALAMEDA CITY COUNCIL APPROVE AN ENCINAL TERMINALS TIDELANDS EXCHANGE TO RECONFIGURE THE PROPERTIES LOCATED AT THE ENCINAL TERMINALS SITE LOCATED AT 1521 BUENA VISTA AVENUE TO FACILITATE THE CONSTRUCTION OF HOUSING ON THE SITE IN SUPPORT OF CITY OF ALAMEDA HOUSING ELEMENT OBLIGATIONS.

WHEREAS, the Encinal Terminals site is designated as a multifamily housing opportunity site in the City of Alameda General Plan Housing Element; and

WHEREAS, North Waterfront Cove, LLC (“the Developer”) owns approximately 16.73 acres of real property commonly known as the Encinal Terminals site, with an address of 1521 Buena Vista Avenue, City of Alameda, County of Alameda (APN 072-0382-001, -002, and 72-0383-03); and

WHEREAS, the City of Alameda (“the City”) owns approximately 6.4 acres of real property in trust for the State of California within the center of the Encinal Terminals site (APN 072-0382-009); and

WHEREAS, the configuration of the City property is preventing the viable development of the site for residential use consistent with the General Plan and in support of the City’s Housing Element; and

WHEREAS, the redevelopment of the site for housing is critically important to the City of Alameda’s ability to meet its regional housing needs under State Law; and

WHEREAS, the Tidelands Exchange is critical to facilitate development of the property for housing consistent with General Plan and site zoning designations; and

WHEREAS, On December 19, 2017, the City Council adopted Resolution No. 15337 certifying the Final Focused Supplemental Environmental Impact Report (EIR) (State Clearinghouse No. 2016042076) for the redevelopment of the property with a Tidelands Exchange.

NOW THEREFORE BE IT RESOLVED that the City of Alameda Planning Board recommends that the City of Alameda City Council renegotiate and approve a Tidelands Exchange Agreement to facilitate the construction of 589 units of housing on the Encinal Terminals site, in support of City of Alameda Housing Element 2023-2031 regional housing obligations.

* * * * *

I, the undersigned, hereby certify that the foregoing Resolution was duly and regularly adopted and passed by the Planning Board of the City of Alameda during the March 8, 2021 Planning Board Meeting.
Regular Meeting of the Planning Board on the 8th day of March 2020, by the following vote to wit:

AYES: (6) Cisneros, Curtis, Hom, Rothenberg, Saheba, and Teague

NOES: (0)

RECUSED: (1) Ruiz

ATTEST:

Allen Tai, Secretary
City of Alameda Planning Board
RECOMMENDING THAT THE CITY COUNCIL ADOPT A RESOLUTION OF INTENT TO PREPARE A HOUSING ELEMENT UPDATE FOR THE PERIOD 2023-2031 THAT MAXIMIZES THE USE OF CITY-OWNED LAND AT ALAMEDA POINT AND ENCINAL TERMINALS AND REZONES CERTAIN SITES AND DISTRICTS TO PERMIT MULTIFAMILY HOUSING AND RESIDENTIAL DENSITIES OF AT LEAST 30 UNITS PER ACRE, AND FINDS THAT CITY CHARTER ARTICLE 26 IS PREEMPTED AND UNENFORCEABLE DUE TO CONFLICTS WITH STATE HOUSING LAW

WHEREAS, the California legislature has found that “California has a housing supply and affordability crisis of historic proportions. The consequences of failing to effectively and aggressively confront this crisis are hurting millions of Californians, robbing future generations of the chance to call California home, stifling economic opportunities for workers and businesses, worsening poverty and homelessness, and undermining the state’s environmental and climate objectives.” (Gov. Code § 65589.5); and

WHEREAS, the legislature further found that “Among the consequences of those actions are discrimination against low-income and minority households, lack of housing to support employment growth, imbalance in jobs and housing, reduced mobility, urban sprawl, excessive commuting, and air quality deterioration.” (Gov. Code § 65589.5); and

WHEREAS, the legislature recently adopted the Housing Crisis Act of 2019 (SB 330) which states that “In 2018, California ranked 49th out of the 50 states in housing units per capita...California needs an estimated 180,000 additional homes annually to keep up with population growth, and the Governor has called for 3.5 million new homes to be built over 7 years”; and

WHEREAS, State Law requires that the City Council adopt a Housing Element update for the period 2023-2031 (Gov. Code §§ 65000-66499.58); and

WHEREAS, the Housing Element must make adequate provision for the housing needs of all economic segments of the community (Gov. Code § 65580, subd. (d)); and

WHEREAS, on May 25, 2021, the Association of Bay Area Governments (ABAG) released the Draft Regional Housing Needs Allocation (RHNA) for the City of Alameda (City) Housing Element for 2023-2031 of 5,353 housing units, comprised of 1,421 very low income units, 818 low income units, 868 moderate income units, and 2,246 above moderate income units; and

WHEREAS, the City anticipates that previously approved projects will result in construction of approximately 1,522 housing units during the 2023-2031 housing element cycle; and
WHEREAS, the City-owned land at Alameda Point can feasibly accommodate up to 1,282 housing units within the financial caps established by the U.S. Navy for Alameda Point; and

WHEREAS, the City Council has approved the Waterfront Town Center Specific Plan and Main Street Neighborhood Specific Plan to support housing development on the City-owned land at Alameda Point; and

WHEREAS, up to 1,282 of the 5,353 RHNA may be accommodated at Alameda Point if the City Council approves the necessary land use and property disposition agreements to construct 1,282 units, which requires four votes of the City Council; and

WHEREAS, the configuration of the City-owned Tidelands Trust property at Encinal Terminals is preventing the viable development of the site for residential use consistent with the General Plan and in support of the City’s Housing Element; and

WHEREAS, the reconfiguration of the City-owned Tideland Trust lands at Encinal Terminals will allow for the development of 589 units at Encinal Terminals, and 589 of the 5,353 RHNA may be accommodated at Encinal Terminals if the City Council approves the necessary land use and property disposition agreements to construct 589 units as reconfigured, which requires four votes of the City Council; and

WHEREAS, the City Planning Board approved a resolution in support of the Tidelands Exchange at Encinal Terminals on March 8, 2021 and a resolution recommending approval of the Encinal Terminals Tidelands Exchange Master Plan and Development Agreement on May 24, 2021; and

WHEREAS, State law requires that Alameda must make zoning available for all types of housing, including multifamily housing (Gov. Code §§ 65583.2 and 65583(c)); and

WHEREAS, Alameda City Charter Article 26 prohibits construction of multifamily housing and residential densities above 21 units per acre; and

WHEREAS, State law generally states that the Housing Element and the City’s zoning must support housing for all income levels and residential densities under 30 units per acre do not support construction of housing for lower income households (Gov. Code § 65583.2(c)(3)(B)(iv)). Although state law may allow different densities, subject to a market study which considers market demand and financial feasibility, that option would ultimately require greater densities given that the City is located in the heart of the San Francisco Bay Area, a region with some of the highest land costs and highest construction costs in the country; and

WHEREAS, to address similar inconsistencies with state law, in 2012 the City adopted the Multi-Family (MF) overlay zone in AMC § 30-4.23(b)(1) which allows densities of 30 residential units per acre and states, “In the event of a conflict between the provisions of the MF Combining District and the provisions of the underlying district or the Alameda Municipal Code or Alameda City Charter Article 26, the provisions of the MF District shall govern”; and
WHEREAS, the analysis of available sites to accommodate the City’s RHNA of 5,353 housing units demonstrates that multifamily housing at densities of greater than 21 units per acre is necessary to accommodate the RHNA.

NOW, THEREFORE, BE IT RESOLVED, that the City Planning Board recommends that the City of Alameda City Council finds City Charter Article 26 is in direct conflict with state housing law and is preempted and unenforceable in these circumstances. More specifically, Article 26 of the City Charter is preempted by Government Code Sections 65583.2(c), (h), and (i) and Section 65583(c)(1) which require the City to allow multi-family housing, and Government Code Section 65583.2(c)(3) which requires the City to allow at least 30 du/acre to meet its RHNA; and

BE IT FURTHER RESOLVED that the City Planning Board recommends that the City of Alameda City Council:

- Declares its intent to prepare a draft Housing Element, all necessary programs and zoning amendments necessary to comply with State Law,
- Declares its intent to prepare zoning designations to permit multifamily housing at residential densities of at least 30 units per acre contrary to City Charter Article 26 as necessary to comply with State Law,
- Directs staff to prepare the documents necessary for the City Council to hold public hearings and consider inclusion of City-owned lands at Alameda Point in the draft Housing Element for the development of at least 1,282 housing units during the 2023-2031 period, and
- Directs staff to prepare the documents necessary for the City Council to hold public hearings and consider inclusion of Encinal Terminals in the draft Housing Element for the development of at least 589 housing units during the 2023-2031 period.

BE IT FURTHER RESOLVED that this action is not a project under Public Resources Code section 21065 and CEQA Guidelines section 15378. The Planning Board’s recommendation and the City Council’s action is simply declaring the City Council’s intent to comply with state law and directing staff to prepare a draft Housing Element (i.e. project description) for consideration and subsequent analysis under CEQA.

* * * *

I, the undersigned, hereby certify that the foregoing Resolution was duly and regularly adopted and passed by the Planning Board of the City of Alameda during the Regular Meeting of the Planning Board on the 14th day of June 2021, by the following vote to wit:
AYES: (5) Cisneros, Hom, Rothenberg, and Teague

NOES: (0)

ABSENT: (2) Curtis and Saheba

RECUSED: (1) Ruiz

ATTEST:

Allen Tai, Secretary
City of Alameda Planning Board
A RESOLUTION OF THE PLANNING BOARD OF THE CITY OF ALAMEDA APPROVING AN ADMINISTRATIVE VARIANCE AND DESIGN REVIEW, APPLICATION NO. PLN20-0541 TO ALLOW CONSTRUCTION OF A TWO-STORY SINGLE FAMILY RESIDENCE AT 910 CENTENNIAL AVENUE

WHEREAS, an application was made on December 22, 2020, by Amornrit Pudkeepamrongrit for Philip Figone, requesting an Administrative Variance and Design Review for the construction of an approximately 1,907-square-foot two-story residence with an attached garage at 910 Centennial Avenue; and

WHEREAS, the proposed project includes side yard setbacks of 1 foot and 3 feet where 5-foot side yard setbacks are required pursuant to AMC Section 30-4.2, and to rebuild the garage with tandem parking and a side entry for the house within the footprint of the existing garage using a variance for a 14-foot 6-inch front yard setback instead of the required 20-foot front yard setback; and

WHEREAS, the application was accepted as complete on March 25, 2021; and

WHEREAS, the project site is located within a R-2, Two Family Residence District; and

WHEREAS, the project site is designated as Medium Density Residential in the General Plan Diagram; and

WHEREAS, a single family residence is permitted by right in the R-2, Two Family Residence District; and

WHEREAS, on April 19, 2021 the Zoning Administrator held a duly-noticed public hearing to consider said project application and examined all pertinent materials and public testimony, and approved an Administrative Variance and Design Review for the construction of an approximately 1,907-square-foot two-story residence with an attached garage at 910 Centennial Avenue; and

WHEREAS, on April 26, 2021, Planning Board Member Rona Rothenberg called the Zoning Administrator’s decision for review; and

WHEREAS, on June 28, 2021, the Planning Board held a duly-noticed public hearing on the Administrative Variance and Design Review application and examined all pertinent material and public testimony.

NOW, THEREFORE, BE IT RESOLVED, that the Planning Board finds this project categorically exempt from the California Environmental Quality Act (CEQA) pursuant to
CEQA Guidelines Section 15303 – New Construction of Small Structures, which includes an exemption for the construction of a new single family house and Section 15305 – Minor Alterations in Land Use Limitations, including minor yard setback variances. None of the exceptions to the categorical exemptions in CEQA Guidelines Section 15300.2 apply; and

BE IT FURTHER RESOLVED, that the Planning Board makes the following findings relative to the Variance application:

1. **There are exceptional or extraordinary circumstances applying to the property involved or to the proposed use of this property.** The 22-foot width of the subject property is significantly narrower than a standard 50-foot wide lot, by 28 feet. The substandard lot presents an extraordinary physical constraint for the construction of a new single-family home, which is a permitted use in the R-2 District. The minimum side yard setback is 5 feet which would restrict the building to only 12 feet in width on the substandard lot, and which would make the appearance of a single family home extraordinarily narrow and incompatible with the existing homes in the surrounding neighborhood.

2. **Because of such exceptional or extraordinary circumstances, the literal enforcement of specified provisions of this section would result in practical difficulty or unnecessary hardship such as to deprive the applicant of a substantial property right possessed by other owners of property in the same class of district.** Many of the existing lots in the neighborhood are similarly narrow in width and feature side yard setbacks of less five feet. AMC Sections 30-4.2.d.5 and 30-4.2.d.6 requires 20-foot front yard and 5-foot side yard setbacks. The literal enforcement of the setback requirements in combination with the narrow lot size prohibits the property owner from building a single-family home that is more than 12-feet wide. The applicant is proposing an 18-foot-wide home which without the variance would be allowed to be only 12 feet wide. The proposed front yard setback of 14 feet 6 inches is the same as the existing front yard where the existing two car garage is located. With the use of minimal side yard setbacks and by rebuilding the garage in the same footprint as the existing non-conforming front yard, the proposed design is realistic for a new home and is compatible with other existing homes in the neighborhood. Therefore, the literal enforcement of the setback requirements would result in practical difficulty or unnecessary hardship such as to deprive the applicant of a substantial property right possessed by other owners of property in the same class of district (i.e., the ability to build a home on a narrow lot similar to those frequently found in the immediate neighborhood).

3. **The granting of the variance will not, under the circumstances of the particular case, be detrimental to the public welfare or injurious to persons or property in the vicinity.** The intent of the setback requirement is to provide a buffer between adjacent properties and buildings. The proposed distance between neighboring buildings is approximately 2 feet 6 inches on the west side and 4 feet 6 inches on the east side. The shadow study provided on the plans shows that the proposed building will generate no significant shading on the neighboring properties.
when compared to a home that is built with five-foot setbacks. The project also does not obstruct any designated scenic views. Overall, no major adverse effects such as significant shading or significant view blockage will occur on adjoining properties. All other components of the project, except the side yard and front yard setbacks covered under the variance, comply with development standards in the Zoning Ordinance. The proposed design will meet the requirements of Section R302 of the 2019 California Residential Code for fire and life safety features with automatic residential fire sprinkler protection and minimum fire resistance ratings for exterior walls and openings. Because the side yard setbacks are less than 5 feet, the exterior walls will be one hour rated construction. In addition, no building projections such as eaves are allowed less than two feet from the property line and no openings or penetrations are allowed less than three feet from the property line. These building design features are necessary to meet required building codes and to ensure that the building is built to fire and life safety standards. Granting this variance will not be detrimental to the public welfare or injurious to persons or property within the vicinity; and

BE IT FURTHER RESOLVED, that the Planning Board makes the following findings relative to the Design Review application:

1. The proposed design is consistent with the General Plan, Zoning Ordinance, and the City of Alameda Design Review Manual. With the approval of the variance, the proposed new single-family home is consistent with the General Plan, Zoning Ordinance, and the City of Alameda Design Review Manual because the new construction is compatible in design and use of materials with the existing neighboring buildings and the surrounding neighborhood. The proposed single family house utilizes articulation techniques in design to reduce perceived massing along the western wall that is visible to the neighbors. Furthermore, the overall building form and use of materials is consistent with the existing homes in the neighborhood.

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. The project consists of a new two-story home with a one-story entry and attached garage. The design of the new one-story structure at the front of the home re-uses the existing garage footprint and form and keeps the same hipped roof and height of 13 feet 6 inches with changes for tandem parking and a recessed side entry which reduces the mass of the front facade. Although the proposed garage projects forward from the home, the one car garage configuration at the front is common to other homes in the neighborhood. The two-story portion of the design is recessed from the street and incorporates hipped, gabled and flat roof types to reduce the overall scale of the building. The proposed building design incorporates stepped back vertical planes to reduce the horizontal mass of the long side walls and is compatible with the neighboring structures. The use of horizontal siding, trim and stucco exterior materials adds visual patterns at the larger walls and is
compatible in scale and character with the neighborhood.

3. **The proposed design of the structure(s) 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 design will utilize compatible materials including horizontal siding, stucco, wood trim and composite roof shingles which are materials that are found on residential buildings in the neighborhood. The concrete paving at the front yard will be reduced to provide plantings and a walkway which is compatible with surrounding properties. Despite being a narrower home, the visual appearance of the design is clearly residential in character and is compatible with the overall building form, roof style, and materials used in other homes in the neighborhood; and

BE IT FURTHER RESOLVED, that the Planning Board hereby approves the Administrative Variance and Design Review application no. PLN20-0541 based on the findings above and subject to compliance with the following conditions of approval:

1. **Building Permit Conditions:** These conditions shall be printed on the first page of all building plans and improvement plans.

2. **Building Permit Plans:** The plans submitted for the building permit shall be in substantial compliance with the plans prepared by Amornrit Pudkeepamrongrit, received on June 14, 2021 and on file in the office of the City of Alameda Planning, Building and Transportation Department, except as modified by the conditions in this resolution.

3. **Expiration:** The Administrative Variance and Design Review approval for the project shall expire and become void unless substantial construction under valid permits has occurred within two years after this approval. A one-time extension for an additional two years may be granted by the Planning, Building and Transportation Director upon written request and payment of applicable fees.

4. The Final Building Permit Plans shall reflect the following to the satisfaction of the Planning Director prior to issuance of Building Permits:
   
   a. The garage door shall have a wood like appearance with architectural detailing to include a mix of solid panels and divided lights.
   
   b. Detailed information of the siding, trim and other relevant details shall be consistent with the neighboring homes.
   
   c. Architectural details for corner trim and window and door casings shall be consistent with homes in the neighborhood.
   
   d. The applicant shall provide landscape screening to mitigate privacy impacts along the side property line shared with 1218 Ninth Street. Screen trees or plants shall also be planted along the rear property line and shall be fast growing, native plant species. All landscape improvements shall be
submitted for review by the Planning Director and the Planning Director’s decision shall be final.

e. Building Permit plan submittal shall include exterior finish sample materials and colors.

f. The applicant shall increase the west side yard setback at the garage by an additional 8 inches to 12 inches (the west side yard setback at the garage shall be between 1 foot 8 inches and 2 feet instead of only 1 foot.)

5. Changes to Approved Plans: 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. Any additional exterior changes shall be submitted to the Planning, Building, and Transportation Department for review and approval prior to construction.

6. HOLD HARMLESS. To the maximum extent permitted by law, the applicant (or its successor in interest) shall defend (with counsel acceptable to the City), indemnify, and hold harmless the City of Alameda, its City Council, City Planning Board, officials, employees, agents and volunteers (collectively, “Indemnitees”) from and against any and all claims, actions, or proceedings against Indemnitees to attack, set aside, void or annul an approval by Indemnitees relating to this project. This indemnification shall include, but is not limited to, all damages, losses, and expenses (including, without limitation, legal costs and attorney’s fees) that may be awarded to the prevailing party arising out of or in connection with an approval by the Indemnitees relating to this project. The City shall promptly notify the applicant of any claim, action or proceeding and the City shall cooperate in the defense. The City may elect, in its sole discretion, to participate in the defense of said claim, action, or proceeding and the applicant (or its successor in interest) shall reimburse the City for its reasonable legal costs and attorneys’ fees.

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.

* * * * *

I, the undersigned, hereby certify that the foregoing Resolution was duly and regularly adopted and passed by the Planning Board of the City of Alameda during the Regular Meeting of the Planning Board on the 28th day of June 2021, by the following vote to wit:

AYES: (6) Cisneros, Curtis, Hom, Rothenberg, Ruiz, and Teague

NOES: (0)

ABSENT: (1) Saheba

ATTEST:

[Signature]

Allen Tai, Secretary
City of Alameda Planning Board
CITY OF ALAMEDA PLANNING BOARD
RESOLUTION NO. PB-21-05

A RESOLUTION OF THE PLANNING BOARD OF THE CITY OF ALAMEDA APPROVING DESIGN REVIEW APPLICATION PLN19-0237 FOR THE CONSTRUCTION OF A 6,210 SQUARE FOOT COMMERCIAL BUILDING AT 1929 WEBSTER STREET.

WHEREAS, on May 29, 2019, Daniel and Ben Cukierman submitted an application for a Use Permit to allow the operation of a Tavern with outdoor seating and extended hours of operation, a parking waiver, and Design Review for a new commercial building at 1929 Webster Street; and

WHEREAS, on November 2, 2020, the application was deemed complete; and

WHEREAS, the project site is designated as Community Commercial in the General Plan; and

WHEREAS, the project site is located within the C-C, Community Commercial Zoning District; and

WHEREAS, the Planning Board held a duly noticed public hearing on November 23, 2020 and reviewed the application for a use permit and parking waiver, PLN19-0237, and all applicable material including public comments; and

WHEREAS, the Planning Board approved the use permit on November 23, 2020 and directed staff to prepare a draft resolution to approve a variance waiving off-street parking requirements. At the same meeting, the Planning Board provided direction on architectural and site design issues to be addressed prior to Design Review approval, and requested that the final Design Review return at a later date for the Planning Board’s consideration; and

WHEREAS, the Planning Board approved the variance waiving off-street parking requirements for this project on December 14, 2020; and

WHEREAS, the Planning Board held a duly noticed public hearing on June 28, 2021 and reviewed the application for Design Review approval, PLN19-0237, and all applicable material including public comments.

NOW, THEREFORE, BE IT RESOLVED, that the Planning Board finds this project is categorically exempt from environmental review pursuant to CEQA Guidelines Section 15332 – Infill Development, and finds that none of the exceptions to the categorical exemptions apply:

1. The project is consistent with the applicable general plan designation and all applicable general plan policies as well as with applicable zoning designation and regulations.

The proposed development of this vacant site for a tavern is consistent with the
Community Commercial land use designation and the C-C, Community Commercial zoning district regulations. With the approval of the use permit and parking variance, the proposed site plan meets all the zoning requirements (setback, lot coverage, height limit, etc.) for the C-C Community Commercial Zoning District. Overall, the project is consistent with the applicable General Plan policies and zoning designation and regulations.

2. **The proposed development occurs within city limits on a project site of no more than five acres substantially surrounded by urban uses.**
   The property is less than five acres (the project site is approximately 8,081 square feet), is located entirely within city limits, and is surrounded by urban commercial or institutional uses.

3. **The project has no value as habitat for endangered, rare, or threatened species.**
   The project site was developed as a used car lot and has been fully paved for several decades. As a result, the project site has no value as habitat for endangered, rare, or threatened species.

4. **Approval of the project would not result in any significant effects relating to traffic, noise, air quality, or water quality.**
   The project will utilize Transportation Demand Management measures consistent with Resolution No. PB-20-30, which approved a variance waiving all off-street parking requirements for this project and required bicycle-related facilities onsite, that will reduce the automobile trips generated by the project to reduce any significant effects relating to traffic. The project would not have any significant effects to traffic, noise, air quality or water quality.

5. **The site can be adequately served by all required utilities and public services.**
   The property is located within a developed urban area that is served by all required utilities and services; and

BE IT FURTHER RESOLVED, that the Planning Board makes the following findings in support of the project’s approval:

**DESIGN REVIEW**

1. **The proposed design is consistent with the General Plan, Zoning Ordinance, and the City of Alameda Design Review Manual.**
   The project complies with the C-C Zoning District development standards. The project is consistent with General Plan policies to provide varied services to Alameda residents and to encourage Webster Street to be a downtown business district for West Alameda residents. The project is consistent with the Citywide Design Review Manual, because the building utilizes different building materials to break up wall surfaces, and includes a dynamic trellis to enhance a prominent street corner to the Webster Street Business District.

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.**
   The north end of Webster Street was developed later than the historic core of Webster
Street to the south of the project site and as a result has an eclectic mix of architectural styles from different eras, with no predominate style or features. The proposed building’s modern architectural style is compatible with this eclectic mix of buildings. The two-story design is consistent with the height of other buildings on this part of Webster Street, and the use of wood exterior materials is also consistent with buildings in the vicinity using similar building materials. The open design of the building, with an open deck on the second story and access on the side of the property to the Cross Alameda Trail is intended to integrate the project into adjacent public amenities, which create a harmonious transition. Overall, the proposed design is appropriate for the site and compatible with its surroundings, and promotes harmonious transitions in scale and character in areas between different designated land uses.

3. **The proposed design of the structure(s) 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 building’s modern architectural style is compatible with the surrounding eclectic mix of buildings. The building includes corten steel panels similar to building materials on the Peet’s Coffee and Tea at 1901 Webster Street, which is two buildings south of the project. The layout and shape of the building are compatible with the adjacent Cross Alameda Trail, as the building is set back and features an open outdoor seating area that opens toward the public trail. The resulting building design does not crowd or loom over the trail. Overall, the proposed design of the structure and exterior materials and landscaping are visually compatible with the site’s commercial surroundings, and design elements have been incorporated to ensure the compatibility of the structure with the character and uses of adjacent development. The combination of different building materials add a variety of textures and color to the building.

BE IT FURTHER RESOLVED, that the Planning Board hereby approves Design Review PLN19-0237 for the construction of a 6,210 square foot commercial building at 1929 Webster Street subject to the following conditions:

1. **Building Permit Plans:** The plans submitted for the building permit shall be in substantial compliance with the plans prepared by Studio KDA, received on March 17, 2021, 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.

2. The Design Review approval for the project shall expire and become void unless substantial construction under valid permits has occurred within two years after this approval. A one-time extension for an additional two years may be granted by the Planning, Building and Transportation Director upon written request.

3. **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 re-approval of the Design Review.
4. Public Art Requirement: Prior to issuance of building permits for the project, the applicant shall pay all applicable Public Art fees and satisfy applicable requirements to implement public art pursuant to AMC Section 30-98.
   a. Should the applicant elect to provide onsite art pursuant to AMC Section 30-98.4, the applicant is encouraged to install public art to enhance the perimeter fence separating the project from the Cross Alameda Trail, subject to Public Art Commission approval.

5. Development Impact Fees: Prior to the issuance of building permits, the Applicant shall pay all applicable Development Impact fees pursuant to AMC Section 27-3.5.

6. Affordable Housing Fees: The Applicant shall pay all Affordable Housing Fees pursuant to AMC Section 27-1.

7. Sign Permit: The applicant shall obtain a separate sign permit for signage on the building pursuant to AMC Section 30-6.

8. Construction activities: Construction activities shall be subject to the requirements of the Alameda Municipal Code, which restricts construction to the hours of 7:00 a.m. to 7:00 p.m., Monday through Friday and 8:00 a.m. to 5:00 p.m. on Saturday.

9. Lighting: Prior to issuance of building permits, the applicant shall provide a lighting plan that demonstrates all new exterior lighting fixtures are compliant with AMC Section 30-5.16.c (Dark Skies Ordinance).

10. Cross Alameda Trail Connections: Prior to issuance of building and site improvement permits the applicant shall work with the Public Works Department and Transportation Planning Division on the final location of walkways within the Cross Alameda Trail.
   a. The applicant shall obtain encroachment permits for the construction of walkways within the Cross Alameda Trail. Prior to the issuance of Certificate of Occupancy the applicant shall replace or repair all irrigation, landscaping, and hardscape within the Cross Alameda Trail impacted by development, to the satisfaction of the Public Works Director.
   b. In the final improvement plans, show the Cross Alameda Trail landscaping as built, including bioretention basin grading, planting, irrigation, and drainage piping; irrigation and irrigation controllers; seating walls; signage; plantings; boulders; grading; and stormwater runon/runoff. Connections from the property to the park sidewalk shall not cross bioretention basins. If the gates are considered to be fire egresses, they shall open out to the park, but shall not damage the park landscaping with their swings. Any proposed modification to landscaping, drainage and/or irrigation shall be to the satisfaction of Public Works.
   c. During construction of the adjacent Cross Alameda Trail project, lead, PAH and petroleum contamination was discovered in the vicinity of Webster Street and Ralph Appezzato Memorial Parkway. The applicant’s property was not
included in the original Phase I environmental site assessment (ESA) and subsequent remediation plans. The applicant shall conduct a Phase I/Phase II ESA for this property. Final design shall incorporate any measures recommended for excavation, disposal and capping of any contaminated soils found, and for long term vapor control, if needed.

d. Final plans shall include a completed Water Efficient Landscape Ordinance (WELO) documentation package on the City website along with required exhibits. The landscaping and irrigation plans for on-site, public right-of-way, and park improvements/remodeling shall be prepared, and signed and stamped as approved, by a licensed landscape architect. The plans shall be in accordance with WELO requirements and the most recent version of the "Bay-Friendly Landscape Guidelines" developed by StopWaste.Org.

Public Works Engineering Conditions

Right of Way, Park, and Adjacent Private Property Impacts

11. Prior to issuance of the building permit, the applicant’s contractor shall apply for and obtain an Encroachment Permit from Public Works to cover work in the public right of way and the park.

12. Remove and replace the full frontage of sidewalk, curb and gutter on Webster Street. Coordinate new curb and gutter alignment with Public Works. Adjust stormwater and utility facilities as needed.

13. Improvement plans for work in the right of way and the park shall be prepared, signed, and stamped as approved by a registered civil engineer licensed in the State of California.

14. An Engineer’s Cost Estimate for these improvements shall be submitted to Public Works for approval. The applicant shall provide construction performance bonds for materials and labor, each equivalent to the cost of the public improvements and adjustments within the right of way and the park.

15. Applicant shall confirm the horizontal and vertical location of the 45 inch RCP storm drain in the sewer and storm drain easement prior to construction to confirm that the fence, gate, and doorway foundations will have no impacts on the buried pipes and manholes.

16. Any bike racks located in the public right of way shall comply with the dimension and clearance requirements in the City’s Bicycle Facility Design Standards.

17. Record drawings (as-builts) of improvements to the satisfaction of the City Engineer shall be provided in both paper and electronic format prior to final occupancy.
Floodplain

18. This project is in the mapped floodplain. The applicant shall submit a pre-construction Elevation Certificate using NAVD88 datum. The finished floor shall be at minimum 11.0 feet NAVD88. The front porch and bike rack area shall match the current sidewalk elevation (approximately 9.5 feet NAVD88). A second Elevation Certificate based on completed construction is required prior to Building Permit Final and Certificate of Occupancy.

19. Despite the need for an 18 inch change in elevation, the project shall have an accessible route from the front sidewalk to each functional area of public accommodation, including café/retail, bar, patio, trash enclosure, restrooms, and at least one of the side connections to the park.

Stormwater Treatment

20. All on-site stormwater shall be collected, treated, and conveyed to the City’s storm drain system in a manner approved by the City Engineer. The project shall incorporate permanent stormwater low impact development (LID) design techniques, source control measures, and permanent post-construction stormwater quality controls to manage the quantity and quality of stormwater runoff from the property to prevent and minimize impacts to water quality, in accordance with the City of Alameda’s National Pollution Discharge Elimination System (NPDES) Municipal Stormwater Permit, and consistent with the latest version of the Alameda County Clean Water Program’s Provision C3 Technical Guidance Manual. Project plans shall indicate the efforts taken to minimize impervious surface areas, especially directly connected impervious surface areas.

21. When determining the triggers for stormwater quality controls, include all asphalt removed and replaced with other impervious material, including new building roofs, the new trash enclosure roof, the replaced sidewalk in the ROW, the new front porch, the new accessible ramp/sidewalk along the side of the building, the new patio, and the new sidewalk connections in the park. Impervious areas that are replaced with landscaping or engineered pervious pavement system can be removed from this total.

22. Prior to submittal of plans for building permits, the Applicant shall submit a Stormwater Quality Management Plan complete with the individual drainage management areas identified, a completed Stormwater Requirements Checklist, and a stamped, signed City of Alameda C3 certification form from a qualified independent (i.e. works for a different firm) civil engineer with stormwater treatment facility design experience, licensed in the State of California, and acceptable to City Engineer that indicates the LID and treatment measure designs of the improvement plans and Stormwater Quality Management Plan meet the established sizing design criteria for stormwater treatment measures. The Civil Improvement Plans shall be consistent with the approved Stormwater Quality Management Plan submittal. All stormwater shall be treated on site. Use of the adjacent park for stormwater treatment is not permitted.
23. The development is subject to full trash capture requirements of the City’s NPDES permit. A full trash capture system or device is any single device or series of devices that traps all particles retained by a 5mm mesh screen and has a design treatment capacity of not less than the peak flow rate Q resulting from a one-year, one-hour storm in the property. Improvement Plan sheets shall include location, detail and cross-sectional drawings of the stormwater full trash capture device(s) necessary to treat the entirety of the property.

24. Prior to the issuance of any permits for the project, the Applicant shall submit for review and approval by City Engineer a Stormwater C3-LID Measures Operations and Maintenance (O&M) Plan that provides a thorough discussion of the inspection, operations and maintenance requirements of all of the stormwater treatment, including trash capture, engineered pervious pavement systems, and LID design measures at the site. This O&M Plan shall be consistent with the City of Alameda’s C3-LID Measures O&M Plan Checklist.

25. Prior to project acceptance and any certificate of occupancy, the Property Owner(s) shall execute a Stormwater Treatment Measures Maintenance Agreement with the City, and recorded against the property title, complete with an approved O&M Plan, the template for annual self-reporting, and assurances for property access for City verification inspections.

26. Prior to project acceptance and any certificate of occupancy, the Applicant shall submit a Certification Report (Report) prepared by a registered civil engineer, licensed in the State of California, affirming that all project site stormwater treatment measures have been constructed per the City approved plans and specifications. As appropriate, the Report shall include, but not be limited to, assurances that: imported materials used for the treatment measure(s) are certified by the supplier; installation of these materials are per approved plans and specifications and meet the intent of the design engineer; required on-site testing results conform with approved plans and specifications; treatment measures conform to dimensions, grades and slopes on approved plans and specifications; all structural features of the treatment measures comply with plan specifications; the irrigation system is installed and functions as designed; healthy vegetation/ground cover is installed as shown on plans. The Report shall be submitted in a form acceptable to the City Engineer.

27. The Civil Improvement Plans shall provide the Public Works Department Clean Water Program the construction-phase appropriate erosion and sedimentation control program and plan for review and approval. The plans shall describe construction activity best management practices to be implemented in conformance with the City’s erosion, sediment and discharge-control “Urban Runoff Best Management Practices Standards”, consistent with the California Storm Water Best Management Practices Handbook for Construction Activities, the ABAG Manual of Standards for Erosion & Sediment Control Measures, the City’s Grading and Erosion Control ordinances and other generally accepted engineering practices for construction activity pollution prevention, sediment,
and erosion control.

28. The Applicant shall pay for any required cleanup, testing, and City administrative costs resulting from consequence of construction materials entering the storm water system and/or waters of the State.

Utilities

29. The City participates in the EBMUD Regional Private Sewer Lateral Program; therefore the Applicant shall comply with the provisions of this program prior to the issuance of Certificate of Occupancy. Please review the program requirements and cost for Compliance Certificates: [http://www.eastbaypsl.com/eastbaypsl/](http://www.eastbaypsl.com/eastbaypsl/).

30. Prior to issuance of the building permit, the Applicant shall secure all necessary permit approvals from EBMUD regarding the installation of water connections for the project.

31. Fire sprinkler system test water discharges shall be directed to the sanitary sewer system or to appropriately-sized onsite vegetated area(s).

Waste Management

32. The project shall be designed to accommodate three waste streams: recycling, organics, and trash; as required by the Alameda County Waste Management Authority’s Mandatory Recycling Ordinance (ACWMA Ord. 2012-01).

33. The trash enclosure shall comply with Best Management Practices in accordance with the Clean Water Act. It shall be designed to contain litter, trash and other pollutants, so that these materials are not dispersed by the wind or otherwise discharged to the storm drain system. The trash storage shall have a rain-tight roof. The floor shall be impervious and shall drain to a sanitary sewer floor drain. The yard next to the trash enclosure shall be designed to prevent water run-on into the trash enclosure. The enclosure shall have a hose bib. The doorways and walkways between the trash storage and Webster Street shall accommodate the trash carts’ movement entirely on property, and not on the Cross Alameda Trail.

34. The project shall comply with Chapter 21, Article 6 of the Alameda Municipal Code and submit a Waste Management Plan documenting the diversion of project related construction and demolition debris (including asphalt and fence removal) to the satisfaction of the Public Works Director.

Fire Department Conditions

35. Prior to approval of the improvement plans, the Applicant shall submit plans, for review and approval by the Public Works Director and the Fire Chief, that ensure sufficient fire flow for the development compliant with California Fire Code Appendix B and AMC
Section 15-1.2 where a maximum 50% reduction of the fire flow is allowed for fire sprinklered buildings.

**Alameda Municipal Power Conditions**

36. The Applicant shall submit, with the site improvement plans, detailed drawings showing the required site electric utility facilities. Concurrent with submittal of Improvement Plans, the Applicant shall coordinate with Alameda Municipal Power (AMP) regarding power requirements. All submittals shall refer to AMP’s “Material and Installation Criteria for Underground Electrical Systems” for minimum clearances of street trees/shrubs from streetlights, electrical transformers and other utility electrical equipment.

37. The Applicant shall comply to AMP’s Rules and Regulations and "Material and Installation Criteria for Underground Electrical Systems" (both available at www.alamedamp.com) and provide completed “Service Planning Sheets” for AMP’s review prior to submitting plans for building permits.

38. The Applicant shall provide information on the location of transformers and total load in kilowatts or kilovolt-amp (KVA) to AMP for approval prior to building permit issuance. If necessary, the Applicant shall provide (at no charge to AMP) an easement and access to all AMP facilities on the property prior to issuance of building permits.

39. The Applicant shall provide all necessary underground substructures, including conduits, pull boxes, electric utility equipment pads, etc. per the AMP specifications. AMP will require easements for all transformers, primary and secondary boxes, and conduits. AMP will furnish and install all required transformers, high voltage distribution cables, and secondary cables.

40. Prior to issuance of Certificate of Occupancy, the Applicant shall furnish and install service equipment for the building. The service equipment shall meet Electric Utility Service Equipment Requirement Committee (EUSERC) standards. Electric meter(s) shall be located as close as practicable to the point of entry of the service-entrance conductors to the building. Outdoor meter locations shall be required unless a specific location within the building is approved by AMP. There shall be no remote metering.

41. The Applicant shall be responsible for all expenses involved in the duct/joint trench system engineering design, plan check, project coordination, and electrical construction inspection. The Applicant shall be responsible for the cost of AMP assigned inspector during construction.

42. Indemnification: To the maximum extent permitted by law, the applicant (or its successor in interest) shall defend (with counsel acceptable to the City), indemnify, and hold harmless the City of Alameda, its City Council, City Planning Board, officials, employees, agents and volunteers (collectively, “Indemnitees”) from and against any and all claims, actions, or proceedings against Indemnitees to attack, set aside, void or annul an
approval by Indemnitees relating to this project. This indemnification shall include, but is not limited to, all damages, losses, and expenses (including, without limitation, legal costs and attorney’s fees) that may be awarded to the prevailing party arising out of or in connection with an approval by the Indemnitees relating to this project. The City shall promptly notify the applicant of any claim, action or proceeding and the City shall cooperate in the defense. The City may elect, in its sole discretion, to participate in the defense of said claim, action, or proceeding and the applicant (or its successor in interest) shall reimburse the City for its reasonable legal costs and attorneys’ fees.

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.

* * * * *

I, the undersigned, hereby certify that the foregoing Resolution was duly and regularly adopted and passed by the Planning Board of the City of Alameda during the Regular Meeting of the Planning Board on the 28th day of June 2021, by the following vote to wit:

AYES:    (6) Cisneros, Curtis, Hom, Rothenberg, Ruiz, and Teague

NOES:    (0)

ABSENT:  (1) Saheba

ATTEST:

Allen Tai, Secretary
City of Alameda Planning Board
CITY OF ALAMEDA PLANNING BOARD
RESOLUTION PB-21-06

A RESOLUTION OF THE PLANNING BOARD OF THE CITY OF ALAMEDA APPROVING A USE PERMIT FOR THE CLUBHOUSE BAR FOR THE USE OF A REAR PATIO AND LAWN AREA FOR OUTDOOR SEATING AREA AT 1215 PARK STREET.

WHEREAS, the Club House Bar ("Applicant") is requesting approval for a Use Permit to use an existing rear patio and yard area for outdoor customer seating at 1215 Park Street ("Project"); and

WHEREAS, the subject property is designated as Community Commercial in the General Plan; and

WHEREAS, the subject property is located in a C-C-T, Community-Commercial-Theatre Combining District; and

WHEREAS, the Planning Board held a duly noticed public hearing on July 12, 2021 for the Project and examined pertinent maps, drawings, and documents.

NOW THEREFORE, BE IT RESOLVED, that the Planning Board finds this project categorically exempt from environmental review pursuant to CEQA Guidelines Section 15301 - Existing Facilities, and finds that none of the exceptions to the categorical exemptions apply. As a separate and independent basis, the project is also exempt from CEQA pursuant to CEQA Guidelines Section 15183 (projects consistent with General Plan and Zoning); and

BE IT FURTHER RESOLVED, that the Planning Board makes the following findings relative to the Use Permit application:

1. The location of the proposed use is compatible with other land uses in the general neighborhood area, and the project design and size is architecturally, aesthetically, and operationally harmonious with the community and surrounding development. As conditioned the proposed outdoor patio is compatible with other commercial and residential land uses in the surrounding neighborhood area. The project is conditioned to prohibit live or amplified music or announcements in the patio that would be incompatible with neighboring residential uses. Additionally the hours for customers to use the outdoor patio area are limited to minimize disturbances to the surrounding neighborhood area.

2. The proposed use will be served by adequate transportation and service facilities including pedestrian, bicycle, and transit facilities. The location of the project is fully developed and does not require additional service facilities. The proposed outdoor patio is an option for customers and the patio seating alone will not increase the vehicle traffic or parking demand of the restaurant use. The Park Street Business District has several City operated parking lots and street parking within walking distance to the bar, as well as bike parking facilities throughout the district. The site is located on Park Street which is served by AC Transit bus routes 20, 51A, and O.

3. The proposed use, if it complies with all conditions upon which approval is made contingent, will not adversely affect other property in the vicinity and will not have substantial deleterious effects on existing business districts or the local economy. The proposed outdoor seating, as conditioned, will not adversely affect the surrounding properties, or hurt existing business districts or the local economy. The proposed use is a low-intensity use that is consistent with the pedestrian-oriented commercial uses facilitated by the

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Community Commercial zoning regulations. The proposal does not involve design changes to the exterior of the building. Compliance with the conditions of approval will further minimize the possibility of adverse effects on adjacent property.

4. The proposed use relates favorably to the General Plan.
The proposed outdoor seating for a restaurant will provide a low-intensity use compatible with the Community Commercial General Plan designation. The proposal is consistent with the General Plan because the proposed use would not have any negative impacts upon the surrounding properties and commercial businesses. General Plan Policy 2.5.a also calls for providing enough retail business and services to provide Alameda residents with a full range of services.

BE IT FURTHER RESOLVED, that the Planning Board approves a Use Permit to allow an outdoor seating area in the rear patio and yard area at 1215 Park Street, subject to the following conditions:

1. Limitations Outdoor Patio Area Hours of Use: The use of the outdoor areas shall be limited to the following locations and times:
   - The lawn area will be closed to use Monday through Friday. On Saturday and Sunday, the lawn area will be limited to the hours of 11:00 am to 6 p.m. or dusk, whichever comes first.
   - The patio area will be open 11:00 am to 9:00 p.m. Sunday through Thursday and until 10 p.m. on Friday and Saturday.

2. Signs. Signs shall be posted in the back yard and patio area informing patrons of the need to be respectful, mindful, and courteous of the adjacent neighbors.
   a. Good Neighbor Policy: The applicant shall work with staff to develop and post a Good Neighbor Policy on the premises. The applicant is required to enforce the Policy at all times.

3. Video. The back patio area shall be equipped with surveillance cameras to enable the staff to monitor activities on the patio area at all times. Cameras shall not be mounted above the top of the fence.

4. Phone Numbers. The applicant shall provide neighbors with a direct line that can be used to talk to the staff when the noise in the rear patio or yard is becoming excessive or if patrons are not acting courteous or mindful of the needs of the neighbors.

5. Prohibitions on Amplified Sound: No amplified speakers, amplified announcements or live performances are allowed in the outdoor patio or garden.

6. Prohibition on Smoking: No smoking is allowed in the outdoor patio area. A “No Smoking” sign shall be posted in the outdoor patio area at all times.

7. Exterior Lighting: Exterior lighting fixtures shall be limited to the patio area and shall be low intensity, directed downward below the window sills of neighboring buildings and shielded to minimize offsite glare consistent with the City’s Dark Skies Ordinance, AMC Section 30-5.16.c.

8. Privacy Screening: Prior to the issuance of Certificate of Occupancy for the outdoor patio, the applicant shall install a new privacy fence along the rear property line that is eight feet tall, as

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permitted in AMC Section 30-5.14. Final design shall have input from adjacent residential neighbors.

9. **Posting of Use Permit and Conditions:** A copy of this Use Permit and conditions of approval shall be posted on the premises at all times. Bar employees shall be informed of these conditions of approval and limits of this Use Permit.

10. **Six-Month Review:** The Use Permit approval is valid for six months from the date of approval. The applicant shall submit a use permit application and pay application fees for the use permit renewal prior to six months after the date of approval, or January 12, 2022, at which point use of the outdoor patio approved under this Use Permit may continue until an action on the permit renewal is made by the Planning Board at a public hearing conducted in conformance with Alameda Municipal Code Section 30-21. If no use permit application is submitted prior to the six month anniversary of this approval the use permit shall expire, and use of the outdoor patio shall be prohibited.

11. **Revocation:** Upon receipt of three valid complaints due to operations or use in conflict with these conditions, City staff shall schedule a public hearing to consider revocation of this use permit. This Use Permit may be modified or revoked by the Zoning Administrator, Planning Board, or City Council, pursuant to Alameda Municipal Code Section 30-21.3d should the Zoning Administrator, Planning Board, and/or City Council determine that: 1) the use or conditions under which it is being operated or maintained is detrimental to the public health, welfare, or materially injurious to property or improvements in the vicinity; 2) the property is operated or maintained so as to constitute a public nuisance; or 3) the use is operated in violation of the conditions of the Use Permit.

12. **Fees:** The applicant shall pay all fees required by the adopted City of Alameda Fee Schedule for the review of a Conditional Use Permit.

HOLD HARMLESS. To the maximum extent permitted by law, the applicant (or its successor in interest) shall defend (with counsel acceptable to the City), indemnify, and hold harmless the City of Alameda, its City Council, City Planning Board, officials, employees, agents and volunteers (collectively, “Indemnitees”) from and against any and all claims, actions, or proceedings against Indemnitees to attack, set aside, void or annul an approval by Indemnitees relating to this project. This indemnification shall include, but is not limited to, all damages, losses, and expenses (including, without limitation, legal costs and attorney’s fees) that may be awarded to the prevailing party arising out of or in connection with an approval by the Indemnitees relating to this project. The City shall promptly notify the applicant of any claim, action or proceeding and the City may elect, in its sole discretion, to participate in the defense of said claim, action, or proceeding and the applicant (or its successor in interest) shall reimburse the City for its reasonable legal costs and attorneys’ fees.

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.

* * * * *

I, the undersigned, hereby certify that the foregoing Resolution was duly and regularly adopted and passed by the Planning Board of the City of Alameda during the Regular Meeting of the Planning Board on the 12th day of July 2021, by the following vote to wit:

AYES: (7) Cisneros, Curtis, Hom, Rothenberg, and Teague

NOES: (0)

ABSENT: (0) Ruiz, and Saheba

ATTEST:

Allen Tai, Secretary
City of Alameda Planning Board
A RESOLUTION OF THE PLANNING BOARD OF THE CITY OF ALAMEDA APPROVING FINAL PLANNED DEVELOPMENT AMENDMENT FOR APPLICATION NO. PLN 21-0299 TO ALLOW A FRONT YARD SETBACK REDUCTION FROM 50 FEET TO 49 FEET FOR THE BUILDING AT 1310 HARBOR BAY PARKWAY

WHEREAS, the subject property is located at 1310 Harbor Bay Parkway in the Harbor Bay Business Park, and designated as Business Park on the General Plan Diagram; and

WHEREAS, the subject property is located in a C-M-PD, Commercial Manufacturing - Planned Development Zoning District; and

WHEREAS, the Planned Development for the Business Park was approved by PD-81-2 (Resolution No. 1203), and subsequently amended by PDA-85-4 and PDA05-0003; and

WHEREAS, on June 24, 2019, the Planning Board approved Resolution PB19-13 approving the construction of three new flex R&D buildings, and requires a 50 foot front yard setback from Harbor Bay Parkway; and

WHEREAS, an application was made by srmErnst Development Partners on behalf of South Loop I, LLC (“Applicant”) requesting a reduction of the front yard setback for the building located at 1310 Harbor Bay Parkway from 50 feet to 49 feet; and

WHEREAS, the building at 1310 Harbor Bay Parkway requires a reduction in the front yard setback from 50 feet to 49 feet due to a surveying error that occurred during the design and construction of the building. An updated survey completed in connection with the sale and permanent financing of the building at 1310 Harbor Bay Parkway discovered that a prior surveying error has resulted in the main building façade being constructed up to 10 inches over the setback line, resulting in an actual Parkway setback of approximately 49 feet. This encroachment into the setback area has not impacted the quality of landscape or function within the band between the building and public sidewalk; and

WHEREAS, the Planning Board held a duly noticed public hearing on July 26, 2021 and examined all pertinent maps, drawings, and documents.

NOW, THEREFORE, BE IT RESOLVED, that the Planning Board makes the following findings regarding the Project’s compliance with the California Environmental Quality Act (CEQA): The City previously prepared and certified/adopted the Final Environmental Impact Report for Harbor Bay Isle, State Clearinghouse No. 1984112706 (EIR), and the Addendum thereto (together, Previous CEQA Documents), in accordance with CEQA, which contemplated development of the entirety of the Harbor Bay Business Park. A review of environmental factors for the Project, including, but not limited to, traffic, airport land use compatibility, noise, and biological conditions revealed that none of the circumstances necessitating further CEQA review are present, thus the City can rely on the Previous CEQA Documents.

BE IT FURTHER RESOLVED that the Planning Board makes the following findings relative to the application (PLN 21-0299):
1. **The development is a more effective use of the site than is possible under the regulations for which the PD district is combined.** The building at 1310 Harbor Bay Parkway provides a 49 foot front yard setback that provides for an adequate and visually appealing landscaped area between the building and Harbor Bay Parkway that is just over 49 feet in depth. The reduction in the setback by one foot does not impact the quality of landscape or function within the band between the building and public sidewalk.

2. **The location of the proposed use is compatible with other land uses in the general neighborhood area, and the project design and size is architecturally, aesthetically, and operationally harmonious with the community and surrounding development.** The proposed reduced setback does not change the approved use of the building or the architectural design of the building. The reduction in the setback by one foot from 50 feet to 49 feet does not reduce the compatibility of the use with the adjacent uses as originally approved, and the building design and size remains architecturally, aesthetically, and operationally harmonious with the community and surrounding development.

3. **The proposed use will be served by adequate transportation and service facilities, including pedestrian, bicycle, and transit facilities.** The reduction in the setback by one foot from 50 feet to 49 feet does not reduce the adequacy of the transportation services provided to serve the site and the site uses. The proposed use will continue to be served by adequate transportation and service facilities.

4. **The proposed use, if it complies with all conditions upon which approval is made contingent, will not adversely affect other property in the vicinity and will not have deleterious effects on existing business districts or the local economy.** The reduction in the setback by one foot from 50 feet to 49 feet does not increase or decrease the impact of the new use on the local economy nor does it change the conditions under which the project was originally approved.

5. **The proposed use relates favorably to the General Plan.** The project is consistent with General Plan polices in support of employment growth and economic development in the City’s business parks, including Harbor Bay Business Park. To require that the new building be moved back one foot would be detrimental to the General Plan’s policy objectives to support new businesses in the Business Park.

NOW, THEREFORE, BE IT RESOLVED that the Planning Board approves file no. PLN21-0299 for Final Planned Development Amendment to reduce the minimum front yard setback at 1310 Harbor Bay Parkway from 50 feet to 49 feet.

HOLD HARMLESS. To the maximum extent permitted by law, the applicant (or its successor in interest) shall defend (with counsel acceptable to the City), indemnify, and hold harmless the City of Alameda, its City Council, City Planning Board, officials, employees, agents and volunteers (collectively, “Indemnites”) from and against any and all claims, actions, or proceedings against Indemnites to attack, set aside, void or annul an approval by Indemnites relating to this project. This indemnification shall include, but is not limited to, all damages, losses, and expenses (including, without limitation, legal costs and attorney’s fees) that may be awarded to the prevailing party arising out of or in connection with an approval by the Indemnites relating to this project. The City shall promptly notify the applicant of any claim, action or proceeding and the City shall cooperate in the defense. The City may elect, in its sole discretion, to participate in the defense of said claim, action, or proceeding and the applicant (or its successor in interest) shall reimburse the City for its reasonable legal costs and attorneys’ fees.

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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.

* * * * *

I, the undersigned, hereby certify that the foregoing Resolution was duly and regularly adopted and passed by the Planning Board of the City of Alameda during the Regular Meeting of the Planning Board on the 26th day of July 2021, by the following vote to wit:

AYES:           (7) Cisneros, Curtis, Hom, Rothenberg, Ruiz, Saheba, and Teague
NOES:          (0)
ABSENT:      (0)

ATTEST:

Allen Tai, Secretary
City of Alameda Planning Board
CITY OF ALAMEDA PLANNING BOARD
RESOLUTION NO. PB-21-08

A RESOLUTION OF THE PLANNING BOARD OF THE CITY OF ALAMEDA APPROVING A TEMPORARY USE PERMIT FOR OUTDOOR COMMERCIAL EVENTS AT 1435 WEBSTER STREET.

WHEREAS, an application was made by the West End Arts District, the West Alameda Business Association and the Fireside Lounge ("Applicants") requesting approval for a temporary Use Permit to use an existing parking lot at 1435 Webster Street for outdoor commercial entertainment events; and

WHEREAS, the subject property is designated as Community Commercial in the General Plan; and

WHEREAS, the subject property is located in a C-C-T, Community-Commercial-Theatre Combining District; and

WHEREAS, the Planning Board held a study session on July 12, 2021 and a duly noticed public hearing on July 26, 2021 for the project and examined pertinent maps, drawings, and documents.

NOW THEREFORE, BE IT RESOLVED, that the Planning Board finds this project categorically exempt from environmental review pursuant to CEQA Guidelines Section 15301 - Existing Facilities, and finds that none of the exceptions to the categorical exemptions apply. As a separate and independent basis, the project is also exempt from CEQA pursuant to CEQA Guidelines Section 15183 (projects consistent with General Plan and Zoning); and

BE IT FURTHER RESOLVED, that the Planning Board makes the following findings relative to the Temporary Use Permit application:

1. The location of the proposed use is compatible with other land uses in the general neighborhood area, and the project design and size is architecturally, aesthetically, and operationally harmonious with the community and surrounding development. As conditioned the proposed outdoor commercial use is compatible with other commercial and residential land uses in the surrounding neighborhood area. The project is conditioned to limit the term of the use, the days of the week, the hours of the day, and the hours of amplified music to minimize disturbances to the surrounding neighborhood area.

2. The proposed use will be served by adequate transportation and service facilities including pedestrian, bicycle, and transit facilities. The location of the project is fully developed and does not require additional service facilities. The Webster Street Business District has City operated parking lots and street parking within walking distance to the site, as well as bike parking facilities throughout the district. The site is served directly by AC Transit.

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3. The proposed use, if it complies with all conditions upon which approval is made contingent, will not adversely affect other property in the vicinity and will not have substantial deleterious effects on existing business districts or the local economy. The proposed use of the site for outdoor events, as conditioned, will not adversely affect the surrounding properties, or hurt existing business districts or the local economy. The proposed use is consistent with the pedestrian-oriented commercial uses facilitated by the Community Commercial zoning regulations. Compliance with the conditions of approval will further minimize the possibility of adverse effects on adjacent property.

4. The proposed use relates favorably to the General Plan. The proposed events will support the economic recovery of the commercial district from the COVID pandemic. Preservation of commercial services and businesses is consistent with General Plan Policy 2.5.a which calls for providing enough retail business and services to provide Alameda residents with a full range of services.

BE IT FURTHER RESOLVED, that the Planning Board approves a Temporary Use Permit to allow an outdoor use of the parking lot at 1435 Webster Street for commercial entertainment uses, subject to the following conditions:

1. **Term.** This use permit and the use of the site for commercial events shall expire on December 31, 2021. This use permit shall not be renewable.

2. **Type of Events:** Types of events may include music (live, recorded, DJ, amplified, and acoustic), live dance performances, crafts markets, art exhibitions, “flea market” type fundraisers, spoken word events, free community events (such as yoga), and private events such as corporate rentals and wedding receptions.

3. **Event days per week.** Use of the site for commercial and community events, whether with or without amplified sound, shall be limited to no more than three (3) event days per week in July, August and September; two (2) event days per week in October and November; and three (3) event days total in December.

4. **Event Days of Week.** Use of the site for commercial and community events, whether with or without amplified sound, shall be limited to Thursdays, Fridays, Saturdays and Sundays.

5. **Amplified Sound Event Dates.** Concerts and other events with amplified sound shall be limited to the following specific dates:
   a. July 30 and 31
   b. August 1, 6, 7, 8, 14, 21 and 22
   c. September 17, 18, 19 and 25
   d. October 2, 9, 10, 15, 17, 23, 30 and 31
e. November 6, 13, 26 and 27
f. December 4, 10, and 11.

6. **Amplified Sound Time of Day and Duration.** The use of amplified sound of any kind (i.e. live band, DJ, background music) shall terminate at **8:00 pm** and be limited to a total of three (3) hours per day, plus an additional one (1) hour maximum for pre-event sound checks only.

7. **Event Time of Day.** Events times, whether they have amplified sound or not, shall be limited as follows:
   
   a. Thursday events limited to the hours of 5:00 pm to 8:00 pm.
   b. Friday events limited to the hours of 5:00 pm to 9:00 pm.
   c. Saturday events limited to the hours of 9:00 am to 9:00 pm. Between 9:00 and 11:00 am, events are limited to 30 people or less.
   d. Sunday events limited to the hours of 9:00 am to 8:00 pm. Between 9:00 and 11:00 am, events are limited to 30 people or less.
   e. Set up and breakdown activities may occur for up to 3 hours before and 2 hours after events.

8. **Ticket Sales.** Ticket sales shall be limited to 220 tickets per event.

9. **Event Parking.** Event organizers shall:
   
   a. Provide parking for staff and vendors at Beacon Bank and US Bank parking lots.
   b. Provide signs for the laundromat parking lot stating: “No event parking”. Provide staff to monitor to ensure non-laundromat customers are not using the laundromat lot.
   c. Provide secure bike parking onsite for 12 bicycles for events with 100 to 299 attendees, and for 18 bicycles for events with 300 or more attendees.
   d. Promote alternative forms of transportation (ride share, Uber/Lyft, bicycling, AC Transit, and walking) in all event advertising.

10. **Public Right of Way.** All activities shall be kept within the confines of the lot and traffic shall not be blocked on Taylor or Webster Street for any reason. Equipment and lighting may not obstruct vehicular traffic. No street closures shall be permitted. Attendees waiting to enter shall form a line along the sidewalk on Webster Street.
11. **Public Safety.** All physical structures and sound-proofing drapery shall be reviewed by the City of Alameda to ensure compliance with Building and Fire Codes. Fire extinguisher for general use shall be located at exits and readily accessible, classification 2A:10B:C. Generators shall not be located within 20 feet of tents/canopies or adjacent residential buildings. No pyrotechnics shall be allowed. Tent/Canopy location and layout shall be according to approved plans and shall not be located within 20 feet of buildings, lot lines and vehicles. No open flames are allowed under tents/canopies.

12. **Organizer Contact.** Applicants will provide their contact information to residential and commercial neighbors by posting on the site that informs the public who to call so that they may report on issues and concerns.

13. **Security.** For ticketed events with 100 or more attendees, security staff shall be posted at both entrances and exits to the space.

14. **Violations and Revocation.** Upon receipt of three valid complaints due to operations or use in conflict with these conditions, City staff shall schedule a public hearing to consider revocation of this use permit. This Use Permit may be modified or revoked by the Zoning Administrator, Planning Board, or City Council, pursuant to Alameda Municipal Code Section 30-21.3d should the Zoning Administrator, Planning Board, and/or City Council determine that: 1) the use or conditions under which it is being operated or maintained is detrimental to the public health, welfare, or materially injurious to property or improvements in the vicinity; 2) the property is operated or maintained so as to constitute a public nuisance; or 3) the use is operated in violation of the conditions of the Use Permit.

15. **Noise Ordinance.** The events held under this use permit shall strictly comply with the Alameda Noise Ordinance (AMC Section 4-10). The applicants shall monitor noise level at every event and ensure compliance with the maximum allowable noise levels in Section 4-10.4.b.

**HOLD HARMLESS.** To the maximum extent permitted by law, the applicant (or its successor in interest) shall defend (with counsel acceptable to the City), indemnify, and hold harmless the City of Alameda, its City Council, City Planning Board, officials, employees, agents and volunteers (collectively, “Indemnitees”) from and against any and all claims, actions, or proceedings against Indemnitees to attack, set aside, void or annul an approval by Indemnitees relating to this project. This indemnification shall include, but is not limited to, all damages, losses, and expenses (including, without limitation, legal costs and attorney's fees) that may be awarded to the prevailing party arising out of or in connection with an approval by the Indemnitees relating to this project. The City shall promptly notify the applicant of any claim, action or proceeding and the City shall
cooperate in the defense. The City may elect, in its sole discretion, to participate in the defense of said claim, action, or proceeding and the applicant (or its successor in interest) shall reimburse the City for its reasonable legal costs and attorneys’ fees.

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.

* * * * *

I, the undersigned, hereby certify that the foregoing Resolution was duly and regularly adopted and passed by the Planning Board of the City of Alameda during the Regular Meeting of the Planning Board on the 26th day of July 2021, by the following vote to wit:

AYES: (6) Cisneros, Hom, Rothenberg, Ruiz, Saheba, and Teague

NOES: (1) Curtis

ABSENT: (0)

ATTEST:

Allen Tai, Secretary
City of Alameda Planning Board
A RESOLUTION OF THE PLANNING BOARD OF THE CITY OF ALAMEDA APPROVING DESIGN REVIEW APPLICATION NO. PLN21-0077 TO ALLOW THE CONSTRUCTION OF AN APPROXIMATELY 29,810-SQUARE-FOOT MEDICAL RESPITE FACILITY AT 1245 MCKAY AVENUE

WHEREAS, Doug Biggs for Alameda Point Collaborative submitted an application on February 22, 2021 requesting Design Review to allow the construction of an approximately 29,810-square-foot medical respite center on an approximately 3.65-acre site located at 1245 McKay Avenue; and

WHEREAS, the application was accepted as complete on July 12, 2021; 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, in December 2018, following the Planning Board’s recommendation, the City Council adopted a Mitigated Negative Declaration (MND) and Mitigation Monitoring and Reporting Program (MMRP) in compliance with the California Environmental Quality Act (CEQA), and took action to change the land use designations for the property previously occupied by the federal government to facilitate its reuse for the McKay Wellness Center (project) (Resolution No. 15461 and Ordinance No. 3234); and

WHEREAS, on June 8, 2020, the Planning Board approved Design Review No. PLN20-0047 to rehabilitate Building 2 for adaptive reuse as a senior convalescent facility on the site. The Planning Board’s decision was appealed to the City Council; and

WHEREAS, on July 21, 2020, the City Council approved Design Review No. PLN20-0047 (Resolution No. 15683), thereby upholding the Planning Board’s decision; and

WHEREAS, on May 6, 2021, the Historical Advisory Board (HAB) held a public hearing and approved Certificate of Approval No. PLN20-0431 to demolish Buildings 1 and 2, and four accessory buildings on the site. The HAB’s decision was called for review; and

WHEREAS, on July 6, 2021, the City Council approved a Certificate of approval to demolish the two main building (Buildings 1 and 2), and four accessory buildings (Buildings 8, 9, 10, and 13) (Resolution No. 15792), thereby upholding the HAB’s decision; and

WHEREAS, on July 26, 2021, the Planning Board held a duly noticed public hearing
to review the proposed Design Review application PLN21-0077 for an approximately 29,810-square-foot medical respite facility, and examined all pertinent maps, drawings, and documents; and

NOW, THEREFORE, BE IT RESOLVED, the Planning Board finds 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, the City of Alameda adopted a Mitigated Negative Declaration in compliance with CEQA and an Addendum thereto, and no further environmental review is required; and

BE IT FURTHER RESOLVED, the Planning Board made the following findings relative to the Design Review approval PLN21-0077:

1. The proposed design is consistent with the General Plan, Zoning Ordinance, and the City of Alameda Design Review Manual. The project is consistent with all of the development standards for the property. The medical respite facility is a permitted use in the A-P, Administrative Professional Zoning District, and uses that are permitted in the respective zoning district are also consistent with the General Plan. The proposed medical respite facility design is architecturally compatible with the surrounding neighborhood and consistent with the design guidelines for set forth in the Design Review Manual.

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 the construction of a new medical respite facility building within a community with an eclectic mix of multifamily residential apartments, condominiums and commercial buildings. The buildings vary in building heights ranging from one to three stories, and the architectural styles and designs reflect construction from different time periods. A parking lot and existing line of mature trees provides a transition buffer between the site and the 1.5 story residential housing to the north. The new two story building design incorporates a contemporary style that complements the surrounding apartment buildings, condominiums and commercial buildings along Central and McKay Avenue. The facility features a large gable roof to create a protective, home-like feeling for the people it serves, with large punched windows, storefront glazing, and skylights to bring natural light into the facility. The cool color of the primary stucco exterior sets a calming tone that relates to the color palette of the surrounding community, while warm wood-tone siding and accents provide natural materials to connect with the nearby park facility. Decorative wall mounted lighting fixtures with black satin finish illuminate the building at night. The new building meets the maximum height allowed in the A-P District, and therefore the 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 surrounding neighborhood and will utilize similar fixed windows, stucco siding, wood cladding 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 hereby approves Design Review Application No. PLN21-0077 for an approximately 29,810-square-foot medical respite center located at 1245 McKay Avenue, subject to the following conditions:

1. **Building Permit Conditions:** These conditions shall be printed on the first page of all building plans and improvement plans.

2. **Substantial Compliance with Approvals:** The plans submitted for the building permit shall be in substantial compliance with the plans prepared by Ankrom Moisan Architects, received on July 12, 2021, and on file in the office of the City of Alameda Planning, Building & Transportation Department, except as modified by the conditions listed in this resolution.

3. **Changes to Approved Plans:** 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. Any substantial changes to the approved scope of the project shall be submitted to the Planning Building and Transportation Department for review and approval.

4. **Vesting:** This Design Review approval shall expire two (2) years after the date of approval or by **July 26, 2023** unless substantial construction or use of the property has commenced under valid permits. Upon written request and payment of appropriate fees submitted no later than the expiration date of the Design Review approval, the Applicant may apply for a time extension not to exceed two (2) years. An extension request will be subject to approval by the Planning Director and must be filed prior to the date of expiration. If litigation is filed challenging this Design Review approval, or its implementation, then the time period stated above is automatically extended for the duration of the litigation.

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. **Final Architectural Details:** Prior to issuance of building permits, the building permit plans shall include the following to the satisfaction of the Planning Director:
   a. Design improvements that provide refinement and enhancement of the street side elevation facing McKay Avenue.

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b. A sustainability plan that identifies sustainable building features such as, but not limited to, roof-mounted solar panels to reduce energy consumption of the facility. If LEED green building certification is pursued, identify the specific elements contributing toward LEED certification.

c. Details on the roofing materials on the plans. Explore the financial feasibility of substituting the proposed asphalt shingle roof material with standing seam metal roofing or other roofing material other than asphalt shingle.

d. Details showing smooth textures for exterior surfaces and EIFS siding material.

7. Building Permit plans shall incorporate the approved window schedule.

8. The final plans submitted for Building Permit approval shall conform to all applicable codes and guidelines.

9. 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.

10. Public Art Requirement: Prior to final building inspection, the Applicant shall demonstrate compliance with the Public Art Ordinance (AMC Section 30-98). Should the applicant elect to install onsite art, the Planning Board suggests the public art include historical references to the U.S. Maritime Service Officer’s School.

11. Bicycle Parking: Locations for bicycle parking consistent with the AMC bicycle requirements shall be shown on the Building Permit plans. The bicycle facility shall be located in a secure and safe location and accessible from high pedestrian/bicycle traffic areas, such as at the street frontage, to the satisfaction of the Planning, Building & Transportation Director.

12. Building Signage: Any temporary or permanent signage shall be subject to separate Sign Permit approval pursuant AMC Section 30-6.

13. Water Efficiency Landscape Ordinance: Prior to issuance of building permits or improvement plans, Applicant shall submit a complete WELO Landscape Document Package, as defined by Alameda Municipal Code (AMC) Section 30-58.3(d), subject to the approval of the Planning, Building & Transportation Director.

14. Bird Safe Ordinance: Building Permit plans shall demonstrate compliance with the Alameda Bird-Safe Building Ordinance (AMC Section 30-5.16.b), as applicable.

15. Dark Skies Ordinance: Plans submitted for building permits shall demonstrate compliance with the Alameda Dark Skies Ordinance (AMC Section 30-5.16.c), as applicable.

16. 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.

Public Works Conditions

17. The street section for any private access roads shall be designed by a registered civil engineer and is subject to approval by the City Engineer.

18. All on site surface drainage shall be collected and conveyed in an adequately designed underground storm drainage system in a manner to be approved by the City Engineer. The site shall be graded so that no additional runoff is directed to and so as not to impede runoff from adjacent properties.

19. A storm drainage hydrology analysis, identifying the total peak drainage flow quantities to be generated by the proposed project, as fully built out, shall be prepared in accordance with the Alameda County Flood Control District Hydrology and Hydraulics Manual by a registered civil engineer licensed in the State of California and submitted as part of the construction improvement plans. The analysis shall assess the impact of the proposed stormwater load on the private 12” RCP in Crown Harbor that this system drains into, and its 18” outfall into the Bay, and determine on-site and off-site improvements, if any, needed to ensure sufficient capacity for this project and Crown Harbor.

20. All projects shall incorporate permanent stormwater low impact development (LID) design techniques and source control measures to manage the quantity and quality of stormwater runoff from the planned development to prevent and minimize impacts to water quality, in accordance with the City of Alameda’s National Pollution Discharge Elimination System (NPDES) Municipal Stormwater Permit, and consistent with the latest version of the Alameda County Clean Water Program’s Provision C3 Technical Guidance Manual. Project plans shall indicate the efforts taken to minimize impervious surface areas, especially directly connected impervious surface areas.

21. The development shall incorporate permanent post-construction stormwater quality controls in accordance with the City of Alameda’s National Pollution Discharge Elimination System (NPDES) Permit. Stormwater design and treatment measures shall be constructed consistent with the latest version of the Alameda County Clean Water Program’s Provision C3 Technical Guidance Manual.

22. The development is subject to full trash capture requirements of the City’s NPDES permit. A full trash capture system or device is any single device or series of devices that traps all particles retained by a 5mm mesh screen and has a design treatment capacity of not less than the peak flow rate Q resulting from a one-year, one-hour storm in the sub-drainage area. Improvement Plan sheets shall include location, detail and cross-sectional drawings of the stormwater full trash capture
device(s) necessary to treat the entirety of the site.

23. Prior to the issuance of any permits for the development, the Applicant shall submit a Stormwater Quality Management Plan complete with the individual drainage management areas identified, a completed Stormwater Requirements Checklist, and a stamped, signed City of Alameda C3 certification form from a qualified independent civil engineer with stormwater treatment facility design experience, licensed in the State of California, and acceptable to City Engineer that indicates the LID and treatment measure designs of the improvement plans and Stormwater Quality Management Plan meet the established sizing design criteria for stormwater treatment measures. The Civil Improvement Plans shall be consistent with the approved Stormwater Quality Management Plan submittal.

24. Prior to the issuance of any permits for the project, the Applicant shall submit for review and approval by City Engineer a Stormwater C3-LID Measures Operations and Maintenance (O&M) Plan that provides a thorough discussion of the inspection, operations and maintenance requirements of all of the stormwater treatment, including trash capture, and LID design measures at the site. This O&M Plan shall be consistent with the City of Alameda’s C3-LID Measures O&M Plan Checklist.

25. Prior to project acceptance and any certificate of occupancy, the Property Owner(s) shall execute a Stormwater Treatment Measures Maintenance Agreement with the City, and recorded against the property title, complete with an approved O&M Plan, the template for annual self-reporting, and assurances for property access for City verification inspections.

26. Prior to project acceptance and any certificate of occupancy, the Applicant shall submit a Certification Report (Report) prepared by a registered civil engineer, licensed in the State of California, affirming that all project site stormwater treatment measures have been constructed per the City approved plans and specifications. As appropriate, the Report shall include, but not be limited to, assurances that: imported materials used for the treatment measure(s) are certified by the supplier; installation of these materials are per approved plans and specifications and meet the intent of the design engineer; required on-site testing results conform with approved plans and specifications; treatment measures conform to dimensions, grades and slopes on approved plans and specifications; all structural features of the treatment measures comply with plan specifications; the irrigation system is installed and functions as designed; healthy vegetation/ground cover is installed as shown on plans. The Report shall be submitted in a form acceptable to the City Engineer.

27. The developer shall comply with the State Water Quality Control Board’s Construction General Permit requirements. Copies of the required “Notice of Intent” (NOI) and “Storm Water Pollution Prevention Plan” (SWPPP) along with the WDID# shall be submitted to the City Engineer prior to the issuance of the Permit for any site work. The SWPPP shall utilize the California Storm Water Best Management Practices Handbook for Construction Activities, the ABAG
Manual of Standards for Erosion & Sediment Control Measures, the City’s Grading and Erosion Control ordinances, the City’s “Urban Runoff Best Management Practices Standards”, and other generally accepted engineering practices for construction activity pollution prevention, sediment, and erosion control.

28. Prior to the issuance of any permits for the project or the approval for any building demolition, the applicant shall assess and verify for the potential of PCBs in Building Demolition materials by:
   - Reviewing the packet “PCBs in Priority Building Materials: Model Screening Assessment Applicant Package (August 2018)” (Packet);
   - Completing the two-page “PCBs Screening Assessment Form” AND submitting a signed copy to Public Works for review; AND
   - IF Part 3 of the “PCBs Screening Assessment Form” is applicable and necessary, submit all necessary assessment records also referenced in attached guidance document prior to issuance of building/demolition permit AND provide verification to the City prior to closeout of the permit of the proper management and disposal of the relevant materials.

29. The Applicant shall pay for any required cleanup, testing, and City administrative costs resulting from consequence of construction materials entering the storm water system and/or waters of the State.

30. Sanitary sewerage shall be in accordance with the EBMUD Regional Standards for Sanitary Sewer Installation.

31. A sanitary sewage flow analysis identifying the total peak sanitary sewage flow quantities to be generated by the proposed development, shall be prepared by a registered civil engineer licensed in the State of California and submitted as part of the construction improvement plans. The analysis shall confirm that the proposed project flow, at full build-out and occupancy, will not adversely impact the existing private sewer and sanitary sewer pump station, nor the City of Alameda system it ties into on Central Avenue.

32. The City participates in the EBMUD Regional Private Sewer Lateral Program; therefore, the Applicant shall comply with the provisions of this program prior to the issuance of Certificate of Occupancy. Please review the program requirements and cost for Compliance Certificates: [http://www.eastbaypsl.com/eastbaypsl/](http://www.eastbaypsl.com/eastbaypsl/).

33. Prior to issuance of building permits, the Applicant shall secure all necessary permit approvals from EBMUD regarding the installation of water or sewer service connections for the project.

34. The Applicant shall design and construct water, power, telecom, gas, and other utilities in accordance with applicable utility standards.
35. Fire sprinkler system test water discharges shall be directed to the sanitary sewer system or to appropriately-sized onsite vegetated area(s).

36. The project shall be designed to accommodate three waste streams: recycling, organics, and trash; as required by the Alameda County Waste Management Authority’s Mandatory Recycling Ordinance (ACWMA Ord. 2012-01).

37. The design, location, access, and provisions for waste hauler collection of all external enclosures for solid waste, recycling, and organics shall be of sufficient size and design to serve the development as approved by the Public Works Department prior to approval of the improvements plans, parcel/final map(s), or the building permit, whichever comes first. If no building permit is required, the plans must be approved by the PWD prior to establishment of the use.

38. Trash enclosure(s) shall comply with Best Management Practices in accordance with the Clean Water Act. These facilities shall be designed to prevent water run-on to the area, runoff from the area, and to contain litter, trash and other pollutants, so that these materials are not dispersed by the wind or otherwise discharged to the storm drain system. Any trash enclosure facilities with a water supply shall also drain to the sanitary sewer.

39. The Project shall comply with Chapter 21, Article 6 of the Alameda Municipal Code and submit a Waste Management Plan documenting the diversion of project related construction and demolition debris to the satisfaction of the Public Works Director.

40. The landscape and irrigation plans for on-site improvements shall be prepared, and signed and stamped as approved, by a licensed landscape architect. The plans shall be in accordance with the most recent version of the "Bay-Friendly Landscape Guidelines" developed by StopWaste.Org, and the Bay Friendly Coalition, the AMC, the Alameda Master Tree Plan, the Alameda Tree Removal Policy, the Integrated Pest Management Policy, as well as conditions of approval by the Planning Board, and other applicable standards, as applicable. Landscaping shall be designed to improve curb appeal while promoting low maintenance plant material and xeriscaping.

Alameda Municipal Power

41. Prior to approval of Improvement Plans, the Applicant shall coordinate with Alameda Municipal Power (AMP) regarding power requirements.

42. The Applicant shall comply with AMP’s Rules and Regulations and “Material and Installation Criteria for Underground Electrical Systems” (available at www.alamedamp.com) which provides service options, standards, and minimum clearances from electrical transformers and other utility electrical equipment.
43. New street trees shall maintain clearances from electrical utilities as follow:
   a) street/pathway lights and utility poles – 25 feet; b) joint trench and all underground electrical lines – five feet; c) front of electrical pad-mounted equipment (e.g. switches, transformers and capacitors) – ten feet. Verify minimum clearance distances of trees/shrubs from all sides and back of electrical pad-mounted equipment with Alameda Municipal Power (AMP).

44. All service installations shall be underground.

45. The Applicant shall be responsible for all expenses involved in the duct/joint trench system engineering design, plan check, project coordination, and electrical construction inspection.

46. The applicant will also be billed for 100% cost of distribution line extension (except transformers that are rated less than 750 kVA). AMP will require a refundable deposit for transformers rated 750 kVA and higher based on their capacity utilization.

47. Applicant shall allocate space for pad-mounted transformers and switches in addition to the primary and secondary boxes and conduits that will be required to provide power to the development. AMP will require easements for all transformers, primary and secondary boxes, and conduits.

48. The Applicant shall submit, with the site improvement plans, detailed drawings showing the required site electric utility facilities.

49. Concurrent with acceptance of work by City Council, the applicant/developer shall dedicate, and AMP shall take over ownership and will be responsible for maintaining all new substructures for underground primary and secondary circuits, and distribution transformers once the improvements have been inspected by AMP and found to have been properly installed. The Applicant or successor property owner(s) shall be responsible for the service cables and service equipment.

50. Prior to issuance of Certificate of Occupancy, the Applicant shall furnish and install service equipment for each building. The service equipment shall meet Electric Utility Service Equipment Requirement Committee (EUSERC) standards. Electric meter(s) shall be located as close as practicable to the point of entry of the service-entrance conductors to the building. Outdoor meter locations are preferred. When meters are located within a building, the meter room shall be directly accessible from the exterior of the building. Remote metering is not allowed.

51. The development will be served from 208/120V or 480/277V sources, not 120/240V.

52. The Applicant shall provide completed “Service Planning Sheets” for AMP’s
53. The Applicant shall provide information on the location of transformers and total load in kilowatts or kilovolt-amp (kVA) to AMP for approval prior to building permit issuance. The location, number and type of electric facilities, such as transformers and primary cables, cannot be finalized until electric estimates of each unit are provided. Special loads, such as EV chargers, and solar installations should be identified.

54. The Applicant shall provide all necessary underground substructures, including conduits, pull boxes, electric utility equipment pads, etc. per AMP specifications. AMP will furnish and install all required transformers, high voltage distribution cables, and secondary cables.

55. The Applicant shall install all electric pull boxes and vaults in-line with the conduit joint trench. No conduit bend will be allowed between electric pull boxes, unless conduit section terminates to an electrical equipment pad. All primary and secondary electrical distribution pull boxes shall not be greater than two section deep (34-inches from finish grade to bottom of pull box). Any deviations from this standard shall be approved by the AMP Engineering Manager or designee in writing.

56. The Applicant shall furnish and install code-size service cables in code-size conduit from each electric metering facility to the nearest secondary pull box (or Service Point) in the public right-of-way, as designated by AMP. AMP will connect the service to the distribution transformer or to the secondary distribution system.

57. AMP poles along McKay Ave. near the project site may need to stay due to providing service to other customers. The overhead 12kV conductors paralleling McKay Ave. on the east side of the construction area will have to stay pending re-design by AMP (if feasible). Drawings C1.0 and C2.0 are referenced. Design pending after review of final submitted drawing package to City of Alameda permitting office.

58. **Indemnification.** To the maximum extent permitted by law, the applicant (or its successor in interest) shall defend (with counsel acceptable to the City), indemnify, and hold harmless the City of Alameda, its City Council, City Planning Board, officials, employees, agents and volunteers (collectively, “Indemnites”) from and against any and all claims, actions, or proceedings against Indemnitees to attack, set aside, void or annul an approval by Indemnitees relating to this project. This indemnification shall include, but is not limited to, all damages, losses, and expenses (including, without limitation, legal costs and attorney’s fees) that may be awarded to the prevailing party arising out of or in connection with an approval by the Indemnitees relating to this project. The City shall promptly notify the applicant of any claim, action or proceeding and the City shall cooperate in the defense. The City may elect, in
its sole discretion, to participate in the defense of said claim, action, or proceeding and the applicant (or its successor in interest) shall reimburse the City for its reasonable legal costs and attorneys' fees.

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.

I, the undersigned, hereby certify that the foregoing Resolution was duly and regularly adopted and passed by the Planning Board of the City of Alameda during the Regular Meeting of the Planning Board on the 26th day of July 2021, by the following vote to wit:

AYES: (4) Cisneros, Curtis, Hom, and Teague

NOES: (3) Rothenberg, Ruiz, and Saheba

ABSENT: (0)

ATTEST:

__________________________
Allen Tai, Secretary
City of Alameda Planning Board
PLANNING BOARD
RESOLUTION NO. PB-21-10

A RESOLUTION RECOMMENDING THAT THE ALAMEDA CITY COUNCIL APPROVE THE DRAFT AMENDED ENCINAL TERMINALS TIDELANDS EXCHANGE MASTER PLAN AND DENSITY BONUS APPLICATION AND DRAFT DEVELOPMENT AGREEMENT FOR THE REDEVELOPMENT OF THE ENCINAL TERMINALS PROPERTIES (APN 072-0382-001, -002, and 72-0383-03) AND CITY TIDELANDS PROPERTY (APN 072-0382-009) LOCATED AT 1521 BUENA VISTA AVENUE.

WHEREAS, North Waterfront Cove, LLC (the Developer) owns approximately 26 acres of real property commonly known as the Encinal Terminals site, with an address of 1521 Buena Vista Avenue, City of Alameda, County of Alameda (APN 072-0382-001, -002, and 72-0383-03); and

WHEREAS, the City of Alameda (the City) owns approximately 6.4 acres of real property in trust for the State of California within the center of the Encinal Terminals site (APN 072-0382-009); and

WHEREAS, the Encinal Terminals site is designated in the City General Plan for a residential, commercial, maritime and open space mix of uses; and

WHEREAS, the Encinal Terminals site is designated as a multifamily housing opportunity site in the City of Alameda General Plan Housing Element; and

WHEREAS, the Encinal Terminals site is designated MX (Mixed Use) and MF (Multifamily Residential) in the Alameda Municipal Code (AMC) Zoning Map; and

WHEREAS, the Developer and City wish to implement a Tidelands Exchange to reconfigure the existing property lines to facilitate redevelopment of the property consistent with the General Plan and site zoning designations; and

WHEREAS, on July 17, 2007, the City Council adopted Resolution Nos. 14134 and 14135 certifying the Final Environmental Impact Report for the Northern Waterfront General Plan Amendment (“Northern Waterfront EIR”) pursuant to the California Environmental Quality Act (“CEQA”), and on December 19, 2017, the City Council adopted Resolution No. 15337 certifying a Final Focused Supplemental Environmental Impact Report (EIR) (State Clearinghouse No. 2016042076) for the redevelopment of the property with a Tidelands Exchange (“Focused Supplemental EIR”, and with the Northern Waterfront EIR, “Previous CEQA Documents”), but the City Council failed to approve the Tidelands Exchange; and

WHEREAS, on September 4, 2018, the City Council approved the Encinal Terminals Master Plan and Density Bonus application for a mixed use plan for the property that did not include a Tideland Exchange but allowed for 589 multifamily housing units, up to 50,000 square feet of commercial and maritime commercial space, a 160-slip marina, and up to 3 acres of public open space; and

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WHEREAS, the September 4, 2018 Master Plan did not allow for the Tidelands Exchange to facilitate a viable redevelopment of the property and as a result the site has remained vacant and continues to deteriorate; and

WHEREAS, on March 8, 2021, the Planning Board held a duly noticed public hearing, and examined all submitted materials including a draft Tidelands Exchange Master Plan and approved a resolution recommending that the City Council approve a Tidelands Exchange to facilitate development of the property, in support of General Plan housing objectives; and

WHEREAS, on May 24, 2021, the Planning Board held a duly noticed public hearing, and examined all submitted materials and received oral and written public comments and considered a draft amended Encinal Terminals Tidelands Exchange Master Plan that allows for a mixed use plan for the property with a Tidelands Exchange and up to 589 multifamily housing units, up to 50,000 square feet of commercial and maritime commercial space, a 160-slip marina, and 4.5 acres of public open space; a Density Bonus application; and a draft Development Agreement vesting the entitlements for 15 years in exchange for additional public benefits that could not be achieved without the Development Agreement; and

WHEREAS, upon conclusion of the public hearing, the Planning Board made the following findings:

1. **California Environmental Quality Act.** On July 17, 2007, the City Council adopted Resolution Nos. 14134 and 14135 certifying the Northern Waterfront EIR, and on December 19, 2017, the City Council adopted Resolution No. 15337 certifying the Encinal Terminals Focused Supplemental EIR for development of the initial proposed Master Plan. All mitigation measures specified in the Focused Supplemental EIR shall be included as conditions of approval for the project development plans required by the Master Plan. The Planning Board, based upon its independent review, consideration, and exercise of its independent judgment, hereby finds and determines, on the basis of substantial evidence in the entire record before the City, that none of the circumstances necessitating further CEQA review are present. Thus, prior to recommending approval of the project, the City can rely on the Previous CEQA Documents and no further environmental review is required.

2. **The Master Plan relates favorably to the General Plan.** As documented in the staff report and associated materials, the Master Plan amendment is in substantial conformance with, and implements, the City of Alameda General Plan, Housing Element, and Zoning Ordinance policies and standards for the site. The Master Plan implements General Plan policies for mixed use redevelopment of a former industrial site in the Northern Waterfront, increases housing opportunities for a variety of household types, improves transportation infrastructure by funding the extension of Clement Avenue, increases transit services in the area, and increases public access to public waterfront parks in the area for all Alameda residents.

3. **The Master Plan proposes an effective use of the site.** The amended Master Plan implements the City of Alameda General Plan and the MX Mixed Use and MF Multifamily
Zoning District requirements for the site. The Master Plan provides for four and half acres of public waterfront parks and promenades adjacent to the Oakland Estuary where no public access currently exists. Further, the Plan allows for the conversion of the site, which was previously used for shipping container storage, to a transit-oriented mixed use development with market-rate and affordable deed-restricted housing opportunities, retail and maritime commercial job opportunities and services, pedestrian, transit and bicycle facilities and other amenities and features to ensure that the site is pedestrian, bicycle and transit-friendly.

4. The proposed Master Plan, if development complies with all conditions upon which approval is made contingent, will not adversely affect other property in the vicinity and will not have substantial deleterious effects on existing business districts or the local economy. The Master Plan implements the General Plan and provides for a mixed use development pursuant to the MX Mixed Use Planned Development Zoning District. The proposal improves access and circulation in the neighborhood by funding a fair share of the cost to complete the Clement Avenue extension from Atlantic Avenue to Grand Street and constructs a new intersection at Clement Avenue and Entrance Road allowing for the removal of the Truck Route from Buena Vista Avenue, which is a long-term public objective to improve the quality of life in the neighborhood. The proposal provides for more than four acres of new public waterfront open space for the neighborhood, including a waterfront promenade and Bay Trail along the perimeter of the property.

5. The location of the proposed use is compatible with other land uses in the general neighborhood area, and the project design and size are architecturally, aesthetically, and operationally harmonious with the community and surrounding development. The proposed development qualifies as a mixed-use development pursuant to the MX, Mixed-Use Planned Development Zoning District, and satisfies the purposes of the MX district and MF Multifamily Overlay District regulations. The Master Plan, as amended, is designed to conform to the Northern Waterfront General Plan policy objectives and requirements adopted to ensure that the project would be compatible with adjacent residential neighborhoods and other existing and future waterfront uses. The Plan provides for adequate landscaping including Bay Friendly native plants as required by City standards. The proposed development will result in health and safety improvements to a property that is currently severely blighted and a detriment to the surrounding community.

6. The proposed use will be served by adequate transportation and service facilities including pedestrian, bicycle, and transit facilities. The street network, location of entry roads, orientation of residential uses along Clement Avenue and within the site, and the location of bicycle, pedestrian, and transit facilities are all designed to complement and support the planned surrounding uses. The residential plans provide for a well-designed pedestrian network, and bicycle and vehicular access. The proposed waterfront promenade will support and encourage use of and access to the waterfront.

7. The proposed affordable units make the project eligible for a density bonus of
20% under California Government Code 65915 and City of Alameda Municipal Code Section 30-17. North Waterfront Cove, LLC qualifies for a 20% density bonus to allow for a total of 589 residential units. The applicant is proposing 80 affordable units, including 25 housing units affordable to very low-income households (5%), 20 housing units affordable to low-income households (4%), and 35 units affordable to moderate-income households (7%). Because the applicant is proposing to provide 5% of the units to very low-income households, the development qualifies for a 20% density bonus and one incentive or concession. With the density bonus, the applicant is proposing to construct 589 units, which falls within the limit that the applicant is entitled to and is consistent with state density bonus law.

8. The proposed affordable units make the project eligible for one incentive/concession under California Government Code 65915 and City of Alameda Municipal Code Section 30-17. North Waterfront Cove, LLC qualifies for one incentive or concession and waivers under State Density Bonus Law. The applicant is requesting an incentive or concession from the visitability requirements in AMC Section 30-18.4a for the townhome buildings (the number of townhomes with private garage parking is limited to 200 units). The applicant states that reduction of the 100% requirement to 50% results in an identifiable and actual cost reduction to provide for affordable housing costs. The request to reduce the visitability requirements from 100% to 50% would not have a specific, adverse impact, as defined in Government Code section 65589.5(d)(2), upon public health, safety, or physical environment, or on any historical property, or be contrary to state or federal law.

9. The proposed affordable units make the project eligible for waivers of development standards that physically preclude the development at the permitted density under California Government Code 65915 and City of Alameda Municipal Code Section 30-17. The applicant has requested waivers from City of Alameda General Plan and AMC height limits that apply to this site to accommodate the density bonus units. The waiver to the City’s height limits for the site provided in the Master Plan is necessary to accommodate the required density bonus units and would not have a specific, adverse impact, as defined in Government Code section 65589.5(d)(2), upon health, safety, or physical environment, nor would the waiver be contrary to state or federal law. Consistent with AMC requirements and the Master Plan, the specific design and height of all future buildings on the site must be reviewed and approved by the Planning Board. Given that it is not known at this time how many, or which, buildings will need to exceed the 45-foot height limit and to what extent the buildings will need to exceed the height limit to accommodate 589 units, the amended Master Plan includes a height waiver that states: The maximum height for any residential building shall be determined by the Planning Board at the time the Design Review application is submitted for Planning Board review. Design Review applications for any residential buildings that exceed 45 feet in height shall be accompanied by a massing study that demonstrates that the proposed height is needed to accommodate the 589 units and all of the amenities, parking and mix of commercial and open space uses as described and illustrated in the Master Plan. The Planning Board shall not deny a building height above 45 feet unless the Planning Board is able to make one or both of the following findings: 1) based upon a review of the Design Review plans and the massing study, the 45-foot height limit does not physically preclude construction of the 589 units and all of the...
amenities, parking and mix of commercial and open space uses as illustrated and described in the Master Plan, or 2) the waiver of the 45-foot height limit would have a specific, adverse impact, as defined in Government Code Section 65589.5(d)(2), upon health, safety, or physical environment, and for which there is no feasible method to satisfactorily mitigate or avoid the specific adverse impact. The 45-foot height limit shall not be used by City to prevent construction of the proposed project on the property.

10. The proposed development agreement is consistent with objectives, policies, land uses and programs specified in the General Plan and is compatible with the uses authorized in, and the other regulations prescribed for, the use of land at Encinal Terminals. As documented in the staff report and associated materials, the Development Agreement vests the rights granted by the Master Plan, which is in substantial conformance with, and implements, the City of Alameda General Plan, Housing Element, and Zoning Ordinance policies and standards for the site. The Master Plan implements General Plan policies for mixed use redevelopment of a former industrial site in the Northern Waterfront, increases housing opportunities for a variety of household types, improves transportation infrastructure by funding the extension of Clement Avenue, increases transit services in the area, and increases public access to public waterfront parks in the area for all Alameda residents.

NOW THEREFORE BE IT RESOLVED, that the City of Alameda Planning Board recommends that the City of Alameda City Council adopt the Encinal Terminals Tidelands Exchange Master Plan Amendment and Development Agreement, subject to the following condition:

1. The Master Plan text on page 33 should be amended to establish a site wide parking maximum parking requirement of 1.5 spaces per unit.

                                      * * * * *

I, the undersigned, hereby certify that the foregoing Resolution was duly and regularly adopted and passed by the Planning Board of the City of Alameda during the Regular Meeting of the Planning Board on the 24th day of May 2021, by the following vote to wit:

AYES: (5) Cisneros, Curtis, Hom, Rothenberg, and Saheba

NOES: (0)

ABSENT: (1) Teague

ABSTENTIONS: (1) Ruiz

ATTEST:

Allen Tai, Secretary
City of Alameda Planning Board

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