



ALAMEDA COUNTY COMMUNITY DEVELOPMENT AGENCY

PLANNING DEPARTMENT

October 21, 2020

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Agency Director

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Eden Housing
Ellen Morris, Associate Director of Real Estate Development
22645 Grand Street
Hayward, CA 94541

Dear Applicant:

Enclosed is a copy of the resolution which was adopted by the Alameda County Board of Supervisors at the public hearing held Tuesday, October 20, 2020 on your application for Site Development Review, PLN-2019-00024.

PLN2020-00024 was approved by the BOS on October 20, 2020.

The Alameda County Board of Supervisors denied the appeal of this Site Development Review on October 20, 2020. Therefore, the Alameda County Planning Commission Site Development Review approval from August 3, 2020 has been upheld. Please note that the associated conditions of approval were modified and augmented since the last project approval. Please find the attached resolution and conditions of approval.

If you have any questions concerning this matter, please free to contact this office.

Sincerely,

DocuSigned by:

Nisha Chauhan

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Nisha Chauhan
Senior Planner

RESOLUTION NUMBER R-2020-443

A RESOLUTION DENYING THE APPEAL AND APPROVING THE APPLICATION OF EDEN HOUSING, PLN 2019-00024, SITE DEVELOPMENT REVIEW FOR THE RUBY STREET APARTMENTS PROJECT OF 72 HOUSING UNITS

WHEREAS, Ann E. Maris, Grove Way Neighborhood Association, Ohlone Audubon Society, Cherryland Community Association, My Eden Voice|Parks and Open Space Committee, Eden Community Land Trust, Padres Unidos De Cherryland, and Friends of San Lorenzo Creek (Appellants), appealed the approval by the Planning Commission of Site Development Review PLN 2019-00024 – Application by Eden Housing (Applicant) to construct the Ruby Street Apartments, a proposal to allow construction of a single two to four-story apartment building to contain 72 affordable low and very-low income dwelling units and 109 surface parking spaces on a 6.3-acre site, together with a creek-side bicycle/pedestrian trail in the Castro Valley General Plan Area, west side of Ruby Street, 130 feet north of A Street, extending west to San Lorenzo Creek and north to Crescent Avenue, unincorporated Castro Valley area of Alameda County, designated Assessor's Parcel Numbers: 415-230-83, 415-230-81 and 415-230-82 (Project); and

WHEREAS, the Project is located within the *Castro Valley General Plan* area; and

WHEREAS, the *Castro Valley General Plan* was adopted by the County, following certification of the Castro Valley General Plan Environmental Impact Report (CVGP EIR), in March 2012; and

WHEREAS, the County of Alameda Planning Commission did consider and approve the Project in a public hearing at the hour of 3:00 pm on Monday, the 3rd day of August, 2020, conducted as a virtual meeting; and

WHEREAS, the County of Alameda Planning Commission did approve Site Development Review for the Project, finding the project exempt from the California Environmental Quality Act (CEQA) pursuant to the Community Plan Exemption in section 15183 of the CEQA Guidelines; and

WHEREAS, the Appellants filed an appeal from the decision of the County of Alameda Planning Commission; and

WHEREAS, the Board of Supervisors did hold a public hearing at 1 p.m. on October 20, 2020, in the Board of Supervisors' Chambers, 1221 Oak Street, Oakland, to consider the appeal; and

WHEREAS, it satisfactorily appears from documents in the public record that proper notice of the public hearing at the Board of Supervisors was given in all respects as required by law; and

WHEREAS, the Board of Supervisors did hear and consider all reports, recommendations, and testimony presented; and

WHEREAS, the representatives of the Appellants were present at the public hearing and presented testimony in support of the appeal; and

NOW, THEREFORE, BE IT RESOLVED that the Board finds as follows:

1. The Project is consistent with the development density established by existing zoning, community plan, or general plan policies for which an EIR was certified, specifically, the Castro Valley General Plan and R-S-D-20 zoning district, with additional density allowed pursuant to state law.

2. The proposed application was reviewed in accordance with the provisions of the California Environment Quality Act (CEQA), including the Community Plan Exemption (CEQA Guidelines section 15183).
3. In accordance with the Community Plan Exemption, the Project did not require additional environmental review, except as necessary to examine whether there are project-specific significant effects peculiar to the project or to its site.
4. Additional project specific review was conducted in accordance with CEQA, culminating in the Environmental Checklist for Community Plan Exemption (CEQA CPE) prepared by the County. The CVGP EIR adequately analyzed and covered the potential environmental impacts associated with the Project. The Project is required to incorporate and/or comply with the applicable requirements of the policies identified in the CVGP EIR; therefore, the CEQA CPE assumed the requirements to be included as part of the Project. The Community Plan Exemption, pursuant to CEQA Guidelines Section 15183, applies to the Project and no additional documentation or analysis, beyond that provided in the CEQA CPE, is required.
5. Approval of the proposed Site Development Review PLN2019-00024 of the property to allow a new multi-family project with 72 rental housing units, meets the intent clauses and performance standards of the *Castro Valley General Plan* and the Alameda County zoning ordinance.
6. Approval of the Site Development Review for the Project for purposes of creating up to 72 residential units is consistent with the land uses and density established in the *Castro Valley General Plan* land use designation and the Alameda County zoning ordinance, when combined with the required and allowable density bonus pursuant to the State density bonus law.
7. The Project will not have a specific, adverse impact upon the public health or safety, and will not have such an impact that does not have a feasible method to satisfactorily mitigate or avoid the impact without rendering the development unaffordable to low- and moderate-income households.

BE IT FURTHER RESOLVED that the Board of Supervisors does hereby deny the appeal of the decision of the County of Alameda Planning Commission and approve application PLN 2019-00024, a Site Development Review for a new multi-family project with 72 rental housing units, with the Conditions of Approval listed below and subject to the plans marked as "Exhibit B" on file with the Planning Department at 224 W. Winton Avenue, Hayward, California.

CONDITIONS OF APPROVAL

ANY DESIGN MODIFICATIONS REQUESTED BY ANY PARTY, EITHER PRIOR TO THE ISSUANCE OF A BUILDING PERMIT OR DURING CONSTRUCTION, SHALL BE SUBJECT TO APPROVAL BY THE PLANNING DIRECTOR. This approval of the Site Development Review is subject to the plans marked "Exhibit B" dated June 17, 2020, on file with the Alameda County Planning Department and the following conditions:

1. Approval of PLN2019-00024 authorizes a Site Development Review permit to construct a new affordable, multi-family project with 72 rental housing units with associated parking and open space areas, and a new creek side trail. The total site consists of three parcels, totaling 6.3 acres with Crescent Avenue to the north, Ruby Street to the northeast, and A Street to the

southeast, in the Castro Valley area of unincorporated Alameda County. Previous County Assessor's Parcel Numbers 415-230-2, -3, -5, -11, -12, -13, -14, -15, -16, -17, -18, -19, -21, -22, -23, -24, -69, -70, -72, and -73. New parcel numbers have not been assigned as of this date.

2. Minor modification(s) to plans marked PLN2019-00024 Exhibit "B", as well as to these Conditions of Approval, may be conducted as an administrative Planning Department staff-level procedure not requiring a public hearing. The determination of minor modification(s) and of the level of staff review necessary shall be subject to the discretion of the Planning Director.

3. The project shall be constructed as shown in Exhibit "B". Any phasing plan other than complete build-out shall be provided to the County Planning Department for approval. This requirement shall apply to the current applicant/developer and any subsequent applicant/developer.

4. Eden Housing shall enter into an affordable housing agreement specifying the affordability terms and conditions, as specified in the Density Bonus Law (California Government Code Sections 65915-65918), to be recorded against the property with a minimum term of 55 years. Contact the County's Housing and Community Development Department for compliance with this condition.

5. To the extent allowed by project funding sources and applicable federal, state, and local laws, preference to make units available to residents of unincorporated Alameda County is encouraged. Additionally, Eden Housing shall make a good faith effort to take advantage of housing vouchers for veterans, including meeting building construction and occupancy schedules.

6. As indicated by a letter of intent on file in the Planning Department, Eden Housing shall enter into a purchase agreement to sell Parcel B to the Hayward Area Recreational District (HARD) for the intent of creating a trail head at A Street.

7. Eden Housing shall deed Parcel C to the Alameda County Flood Control and Water Conservation District (District), subject to acceptance of the deed by the District's Board.

8. Prior to occupancy of any of the units in the project, Eden Housing shall design, construct, and fund construction of the trail shown on Exhibit B, at 10' wide with 2' shoulders on both sides (14' total) to be used as a public trail and a maintenance access road for the Alameda County Flood Control and Water Conservation District. Eden Housing shall design and construct the trail according to HARD's trail design standards. Eden Housing shall coordinate with Caltrans to ensure that the trail is not located in the Caltrans mitigation area. The trail shall not be located in riparian areas, nor shall grading for the trail occur in riparian areas. Eden Housing shall grant access by agreement to Alameda County Flood Control and Water Conservation District for maintenance vehicle access along the trail. Eden Housing shall enter into a trail maintenance agreement with HARD and shall provide a public access easement along the trail.

9. All site improvements, including all landscaping, grading, stormwater treatment, drainage

control, exterior structures, and buildings, shall be subject to review and approval by Alameda County Planning Department and Public Works Agency (PWA). All site improvements shall be subject to laws, policies, and regulations applicable at the time of application for respective Demolition, Grading, Site, Stormwater, Encroachment, or Building Permits.

10. The environmental conditions (including the pre-construction surveys and required permits from state and federal resource agencies) and the avoidance measures stated in the CEQA Environmental Checklist for Community Plan Exemption (CEQA CPE) (October 2019) and the CEQA Master Responses (May 2020) are hereby incorporated into these Conditions of Approval and shall have the same force and effect as if restated in this Resolution. Minor modification(s) to the environmental conditions and avoidance measures related to the CEQA CPE and CEQA Master Responses may be conducted and approved as an administrative Planning Department staff-level procedure not requiring a public hearing. The determination of minor modification(s) and of the level of staff review necessary shall be subject to the discretion of the Planning Director.

11. A pre-construction bird/bat survey schedule shall be submitted to the Planning Department for review pursuant to the requirements identified in the CEQA CPE (October 2019) and the CEQA Response Memo (May 2020).

12. A final landscape plan shall be reviewed and approved by the Planning Director prior to building permit issuance. The plan shall demonstrate compliance with the California State Water Efficiency Landscape Ordinance and with the Alameda Countywide Clean Water Program stormwater treatment and stormwater pollution prevention drainage regulations.

13. Prior to any grading work near or within the watercourse setback, a watercourse encroachment permit or a grading permit shall be secured from PWA in accordance with the Alameda County Watercourse Protection Ordinance.

14. All roadway and storm drain facilities are to conform to Alameda County's Subdivision Design Guidelines and Hydrology and Hydraulics Criteria Summary. All work must comply with applicable Alameda County ordinances, guidelines, and permit requirements.

15. The applicant shall submit to PWA a Zone A FIRM study using the FEMA Zone A Manual for Determining Base Flood Elevations in Special Flood Hazard Areas. This study shall be submitted with the grading permit application.

16. The applicant shall submit an updated site-specific geotechnical report with their building permit application.

17. The applicant shall coordinate with PWA and the CDFW regarding permits required for the proposed stormwater outfall.

18. The applicant shall meet the requirements of the following agencies:

- a. Alameda County Fire Department
- b. Alameda County Public Works Agency, Building Inspection Department
- c. Alameda County Public Works Agency, Land Development
- d. Alameda County Public Works Agency, Grading Division
- e. Alameda County Flood Control and Water Conservation District

19. The following conditions shall be met prior the issuance of a building permit and fire clearance for occupancy.

- a. Comply with all building and fire code requirements in effect at time of building permit submittal.
- b. Certification of each floor will be required at time of construction. This shall be done by a licensed engineer or architect.
- c. Deferred fire sprinkler and possible fire alarm plans will need to be submitted after construction plans.

20. Prior to issuance of a Building Permit, the plans shall demonstrate that the required Fire Sprinkler (fire alarm) water flow monitoring system will be installed, to the satisfaction of the Alameda County Fire Department.

21. The project shall comply with all applicable building and fire codes and submittal requirements in effect at time of Building Permit application.

22. New proposed structures shall comply with Alameda County Green Building Ordinance, Construction & Demolishing Debris Management program and California Green Building Code.

23. The Building Permit plans shall include bicycle storage facilities to the satisfaction of the County.

24. The Building Permit plans shall show car-share and electric vehicle parking to the satisfaction of the County.

25. Trash enclosures shall be covered and comply with Alameda County clean water requirements set forth in Section 15.08.190 of the Alameda County Ordinance Code.

26. All required permits related to the onsite stormwater system, underground utilities, parking lot lighting, and accessible paths of travel, shall be obtained prior to issuance of a Building Permit.

27. All Americans with Disabilities Act accessibility requirements shall be met by applicant for the project.

28. A California licensed architect or engineer shall be designated as the design professional responsible charge for the project submittal for Grading and Building Permits.

29. Prior to approval of Building Permits, the potential fault rupture hazard at the project site

must be assessed by a qualified geologist and reviewed and approved by the Alameda County PWA pursuant to the provisions of Alquist-Priolo Earthquake Fault Zoning Act and the Special Publication 42. The applicant shall provide the necessary funding for the completion of this review.

30. The applicant, property owner(s), and their successors shall defend, indemnify, and hold harmless the County of Alameda and its agents, officers, and employees from any claim, action, or proceeding against the County of Alameda or its, agents, officers or employees to attack, set aside, void, or annul Site Development Review PLN2019-00024, the CEQA exemption determination, including but not limited to the application of the Community Plan Exemption and the analysis provided in the CEQA CPE, or any combination thereof. Such indemnification shall include, but not be limited to, an award of costs and attorney's fees incurred by the County of Alameda in its defense. The County shall promptly notify applicant of any such challenge.

31. The applicant, property owner(s), and their successors shall comply with all other local, state, or federal regulations, laws, and ordinances, during the life of this Permit. Failure to comply with all other local, state, or federal may subject the permit to revocation in accordance with conditions of approval herein and per the Alameda County Zoning Ordinance Section 17.54.030.

32. During construction, the applicant, property owner(s), and their successors shall keep the subject site secure against illegal trespassing with fencing to the satisfaction of the Planning Director.

33. The Applicant shall not cut or remove any trees at the project site, unless tree removal is needed for health and safety reasons, until all permits and entitlements required for the Project have been obtained.

34. Fencing installed near the creek trail area shall be decorative. The Applicant shall submit a detailed fencing plan for all fencing near the creek and/or trail area to the Planning Department for review and approval. Approval of the fencing plan shall be required prior to issuance of the building permit.

THE FOREGOING was **PASSED** and **ADOPTED** by a majority vote of the Board of Supervisors of the County of Alameda this 20th day of October, 2020, to wit:

AYES: Supervisors Carson, Chan, Haggerty, Miley, & President Valle
NOES: None
EXCUSED: None
ABSTAINED: None

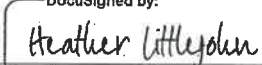

PRESIDENT, BOARD OF SUPERVISORS

ATTEST:

Anika Campbell-Belton, Clerk
Board of Supervisors

By: 
Deputy

APPROVED AS TO FORM:
DONNA R. ZIEGLER, COUNTY COUNSEL

By: 
Heather Littlejohn, Deputy County Counsel