

**RESOLUTION #2020-00x OF THE PLANNING COMMISSION  
DENYING APPEAL OF PLN2019-00024, SITE DEVELOPMENT REVIEW**

**Introduced by Commissioner:  
Seconded by Commissioner:**

**WHEREAS** The Alameda County Planning Department did receive application PLN2019-00024, Site Development Review, submitted by the applicant, Eden Housing, Inc., for the construction of a new affordable, multi-family project with 72 rental housing units with associated parking and open space areas, and new a creek side trail. Three parcels, totaling 6.3 acres with Crescent Avenue to the north, Ruby Street to the northeast, and A Street to the southeast, 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 yet; and

**WHEREAS** the *Castro Valley General Plan* (General Plan) classifies the subject property as Residential Low Density Multi-Family (RLM), which is suitable for 18-22 dwelling units/acre; and

**WHEREAS** the *Alameda County Municipal Code of Ordinances* zones the subject property as R-S-D-20 (Suburban Residence with "D" Combining District, requiring 2,000 square feet of building site per dwelling unit; and

**WHEREAS** the Suburban residence districts, hereinafter designated as R-S districts, are established to regulate and control the development in appropriate areas of relatively large building sites at various densities in harmony with the character of existing or proposed development in the neighborhood, and to assure the provision of light, air and privacy, and the maintenance of usable open space in amounts appropriate to the specific types and numbers of dwellings permitted; and

**WHEREAS** the combining D district is established to be combined with R-S districts in order to provide for variations in the intensity of development and thus to create, maintain and protect patterns of residential use in conformance with adopted plans concerning the ratio of dwelling units to land area; and

**WHEREAS** the project is a 100% affordable housing project and has requested a density bonus, concessions/incentives and waivers pursuant to California Government Code Sections 65915-65918 to exceed the base density allowed per the R-S-D20 designation, from 65 units to 72; and

**WHEREAS** with the density bonus request and the provided incentives, concessions and waivers, the Site Development Review has been found to be consistent with the requirements and intent of both the R-S and D Districts which allow for multi-family residential development; and

**WHEREAS** the proposed development was reviewed for compliance with the California Environmental Quality Act and a Community Plan Exemption was prepared pursuant to the Castro Valley General Plan Final Environmental Impact Report that was approved on March 27, 2012; and

**WHEREAS** the Castro Valley Municipal Advisory Council did hold a duly noticed public hearing on said project at the hour of 6:00 p.m. on Monday June 8, 2020, listened to public testimony, deliberated on the project and recommended that the Planning Director approve the project; and

**WHEREAS** the Planning Director approved the Site Development Review on June 17, 2020 with conditions of approval; and

**WHEREAS** Ann E. Maris et al submitted an appeal on June 24, 2020 claiming the project approval should be reversed based on five separate appeal items; and

**WHEREAS** the Planning staff has reviewed said appeal and provided a narrative in the staff report for each appeal item raised; and,

**WHEREAS** the Planning staff has determined that the appeal did provide additional information or substantial arguments to reconsider the project approval.

**NOW THEREFORE,**

**BE IT RESOLVED** the Planning Commission does hereby find that the Community Plan Exemption document adequately analyzes and evaluates potential impacts related to the proposed project, and

**BE IT FURTHER RESOLVED** the Planning Commission finds that the project is consistent with the land use regulations of the General Plan and zoning, and that the density bonus law has been appropriately applied in this case, and

**BE IT FURTHER RESOLVED** that the Commission does hereby deny the appeal submitted and approves PLN2019-00024, Site Development Review, with the conditions of approval (below), and as set forth in Exhibit "B", June 17, 2020 approved plans;

**ADOPTED BY THE FOLLOWING VOTE:**

AYES:

NOES:

ABSENT:

EXCUSED:

ABSTAINED:

**CONDITIONS OF APPROVAL, PLN2019-00024 SITE DEVELOPMENT REVIEW**

**THIS SITE SHALL BE DEVELOPED AND MAINTAINED IN CONFORMANCE WITH THE DESIGN, STATEMENTS, AND CONDITIONS INDICATED HEREON. NO STRUCTURES OR OTHER USES THAN THOSE INDICATED ARE PERMITTED.**

**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 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 new a 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, 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 writing.
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 for approval. This requirement shall apply to the current applicant/developer and any subsequent applicant/developer.
4. Eden Housing shall enter into an housing affordable agreement specifying the affordability terms and conditions, as specified per 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 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 St.
7. Eden Housing shall deed Parcel C to the Alameda County Flood Control and Water Conservation District (District).
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 an access 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 Community Plan Exemption (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. Minor modification(s) to the environmental conditions and avoidance measures related to the CEQA CPE and CEQA Master Responses 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.
11. A pre-construction bird/bat survey schedule shall be submitted to the 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/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 be in compliance with the 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 permittee 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 Public Works Agency, 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 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 developer shall provide the necessary funding for the completion of this review.
  30. The applicant /property owner(s) shall defend, indemnify, and hold harmless Alameda County and its agents, officers, and employees from any claim, action, or proceeding against Alameda County or its, agents, officers or employees to attack, set aside, void, or annul Site Development Review PLN2019-00024, the CEQA determination, or any combination thereof. Such

indemnification shall include, but not be limited to, an award of costs and attorney's fees incurred by Alameda County in its defense. The County shall promptly notify applicant of any such challenge.

31. The applicant, owner, or successor 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, owner, or successor shall keep the subject site secure against illegal trespassing with fencing to the satisfaction of the Planning Director.

**\*\*END OF CONDITIONS\*\***