

RESOLUTION No. _____

**A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF RICHMOND
ADOPTING AN ADDENDUM TO THE GENERAL PLAN FINAL ENVIRONMENTAL
IMPACT REPORT (STATE CLEARINGHOUSE #2008-022018) AND ASSOCIATED
MITIGATION MONITORING AND REPORTING PROGRAM, AND APPROVING A
GENERAL PLAN AMENDMENT, MAJOR DESIGN REVIEW, AND DENSITY BONUS FOR
WAIVERS FOR A MIXED-USE 135-UNIT AFFORDABLE AND SUPPORTIVE HOUSING
AND COMMERCIAL DEVELOPMENT (PLN 21-023), SUBJECT TO FINDINGS AND
CONDITIONS HEREIN**

WHEREAS, Eden Housing Inc., on behalf of the property owner, Contra Costa County (collectively, the “applicant”), requests approval of a General Plan Amendment to change the land use designation from Public, Cultural, and Institutional to Medium Intensity Mixed Use (Commercial Emphasis), a Zoning Map Amendment to Rezone the project site from PCI (Public, Cultural, and Institutional) to CM-3 (Commercial Mixed-Use), Major Design Review, and Density Bonus for purpose of obtaining waivers for the construction of a mixed-use development consisting of 135 affordable residential units and 10,000 square feet of commercial space (“Project”) at 100 38th Street (“subject site”), with associated site improvements including parking, landscaping, and lighting; and

WHEREAS, the proposed Project is subject to the requirements of the California Environmental Quality Act, as amended (Public Resources Code Sections 21000-21178), and the California Environmental Quality Act Guidelines (California Code of Regulations Title 14, Chapter 3) (collectively, “CEQA”); and

WHEREAS, on April 24, 2012, the Council adopted the CEQA Findings of Fact, Statement of Significance, and Mitigation Monitoring and Reporting Program, and certified the Environmental Impact Report, for the Richmond General Plan 2030 (SCH#2008022018) (the “Richmond General Plan 2030 EIR”); and

WHEREAS, pursuant to CEQA Guidelines Section 15164, the City has prepared a proposed addendum affirming that the analysis contained in the Richmond General Plan 2030 EIR adequately addresses the potential physical impacts associated with the proposed Project (the “proposed Addendum”); and

WHEREAS, the proposed Addendum demonstrates that none of the conditions described in CEQA Guidelines Section 15162 requiring the preparation of a subsequent EIR or negative declaration have occurred; and

WHEREAS, on July 27, 2022, the Design Review Board held a public hearing to consider a recommendation to the Planning Commission of the design and Density Bonus waiver of the Project and voted to recommend approval with conditions; and

WHEREAS, on August 18, 2022, the Planning Commission (the “Commission”) held a public hearing to consider recommending adoption of the Addendum to the General Plan FEIR with associated Mitigation Monitoring and Reporting Program (MMRP), and approving a

General Plan Amendment, Rezoning, Design Review, and Density Bonus waivers for the Project; and

WHEREAS, the Commission adopted Planning Commission Resolution No. 22-10 recommending Council adoption of the Addendum to the General Plan FEIR with associated MMRP, and approving a General Plan Amendment, Rezoning, Design Review, and Density Bonus waivers for the Project, subject to conditions; and

WHEREAS, on October 4, 2022, the Council held a duly noticed public hearing to consider adoption of the Addendum to the General Plan FEIR with associated MMRP, and approving a General Plan Amendment, Rezoning, Design Review, and Density Bonus waivers for the Project; and

WHEREAS, the City Council has considered the agenda report, all public comments, and the proposed Project materials, as set forth in this Resolution and the applicable provisions of the Richmond Municipal Code (“the Record”).

NOW THEREFORE BE IT RESOLVED, that the City Council hereby adopts the Addendum to the General Plan FEIR, attached as Exhibit A, and incorporated herein by reference based on the following findings:

1) Based on the analysis and documentation in the Addendum and the supportive environmental checklist prepared for the proposed project, none of the situations described in CEQA Section 21166 and CEQA Guidelines Sections 15162 and 15163 apply here. Based on the results of the supportive environmental checklist, the City has concluded that the proposed project would not result in new significant adverse impacts nor an increase in the severity of impacts identified and studied in the certified General Plan Update EIR. None of the conditions requiring a supplemental or subsequent EIR exists and the Addendum has been prepared in compliance with CEQA; and

2) The Addendum has been prepared in accordance with CEQA, and the CEQA Guidelines; and

3) The Addendum has been presented to the City who has reviewed and considered the information in the Addendum and certified General Plan Update FEIR prior to approving the Project; and

4) The Addendum and the certified General Plan FEIR reflect the City’s independent judgment and analysis.

BE IT FURTHER RESOLVED that the City Council approves the proposed General Plan Amendment to modify the land use classification from Public, Civic, and Institutional to Medium Intensity Mixed-Use (Commercial Emphasis) as specified in Exhibit C, based on the following findings:

A. The proposed amendment will contribute to the public health, safety, and general welfare or will be of benefit to the public.

Supporting Statement of Fact: *Satisfied.* The project is a mixed-use development consisting of 135 affordable units with 10,000 square feet development with associated site improvements including parking, landscaping, and lighting that will further the objectives of the General Plan 2030 to generate jobs and economic activity within the City of Richmond while also meeting the City's goals of increasing the number of affordable housing units.

Existing land uses surrounding the site comprise predominantly civic, commercial, and residential uses consistent with the proposed development. The project will establish a new residential community and include improvements that will enhance the area by activating a vacant building. As illustrated in Exhibit C, the existing land use classification of the site is PCI, Public, Cultural and Institutional. The proposed General Plan land use classification of Medium Intensity Mixed-Use (Commercial Emphasis) is consistent with the surrounding mixed-use land use designations in the area.

- B. The proposal is consistent with the General Plan goals unless the goals themselves are proposed to be amended.

Supporting Statement of Fact: *Satisfied.* The project is consistent with the proposed CM-3, Commercial Mixed-Use District. In this zone, mixed-use, multi-family unit and commercial projects are permitted at a density range of up to 50 dwelling units per acre. The proposed density is 47.5 dwelling units per acre, allowing up to 144 dwelling units on this 2.84 acre site.

The project is also consistent with various goals under the General Plan, such as Goal LU1 which encourages higher-density and infill mixed-use residential developments that are affordable on vacant and underutilized parcels. The project will also promote a balanced supply of housing types, densities, and prices to meet the needs of all income groups (Goal H-1) and promote the expansion of housing opportunities for all special needs groups, including female-headed households, persons with disabilities, large families, and homeless individuals and families. (Goal H-3).

- C. The proposed amendment retains the internal consistency of the General Plan and is consistent with other adopted plans, unless a concurrent amendment to those plans is also proposed and will result in consistency.

Supporting Statement of Fact: *Satisfied.* The General Plan amendment from Public Cultural Institutional to Medium Intensity Mixed-Use (Commercial Emphasis) land use classification will retain the internal consistency with the General Plan, such as the goal of improving the urban fabric by crafting development strategies that emphasize high-density development near transit and promote diverse housing types anticipated to meet these needs of special needs populations.

- D. The proposed amendment has been reviewed in compliance with the requirements of the California Environmental Quality Act.

Supporting Statement of Fact: *Satisfied.* The evaluation presented in the Environmental Checklist in Exhibit A explains the substantive evidence supporting a conclusion that the proposed project is within the scope of the General Plan FEIR, and therefore, an Addendum under CEQA Guidelines Section 15164 to the General Plan FEIR was prepared and MMRP will be incorporated as conditions of approval.

BE IT FURTHER RESOLVED that the City Council approves the proposed Major Design Review as specified in Exhibit D, based on the following findings:

A. The General Plan and any applicable specific plans;

Supporting Statement of Fact: *Conditionally Satisfied.* After the approval of the General Plan Amendment, Rezoning, Design Review and Density Bonus waivers, the proposed project will comply with all applicable development standards in the Richmond Zoning Ordinance and the General Plan.

B. Any applicable design guidelines;

Supporting Statement of Fact: There are no applicable design guidelines in this neighborhood.

C. Any approved tentative map, Use Permit, Variance, or other planning or zoning approval that the project required; and

Supporting Statement of Fact: *Conditionally Satisfied.* The project requires approval of a General Plan Amendment, Rezoning, and Density Bonus for the purpose of obtaining waivers. These entitlements are required to be approved by the City Council.

D. The design review criteria in Section 15.04.805.040:

The project must satisfy these criteria to the extent they apply.	Criteria Met?
A. The overall design of the project, including its scale, massing, site plan, exterior design, and landscaping, reflects design integrity and the relationship of form and function in a coherent manner.	Yes <input checked="" type="checkbox"/> No <input type="checkbox"/>
B. The project design evidences a sense of place; does not overwhelm or adversely impact adjoining properties; and respects prevailing setbacks and the scale and heights of neighboring buildings and how they relate to the street.	Yes <input checked="" type="checkbox"/> No <input type="checkbox"/>
C. The project's design elements, materials, signage, and landscaping are internally consistent, fully integrated with one another, and applied in a manner that is visually consistent with the proposed architectural design.	Yes <input checked="" type="checkbox"/> No <input type="checkbox"/>
D. Lighting and lighting fixtures are designed to complement buildings, be of appropriate scale, provide adequate light over walkways and parking areas to create a sense of pedestrian safety, and avoid creating glare.	Yes <input checked="" type="checkbox"/> No <input type="checkbox"/>
E. The proposed building design and landscaping supports public safety and security by allowing for surveillance of the street by people inside buildings and elsewhere on the site.	Yes <input checked="" type="checkbox"/> No <input type="checkbox"/>
F. Landscaping is designed to be compatible with and enhance the architectural character of the buildings on site. Proposed planting materials avoid conflicts with views, lighting, and signage.	Yes <input checked="" type="checkbox"/> No <input type="checkbox"/>

Supporting Statement of Fact (A to C, E, and F): *Conditionally Satisfied.* The proposed building will be well-composed and balanced and will be an asset to the surrounding area. The building elevations will incorporate architectural elements, such as substantial building projections, open space court areas, and a color scheme that will embrace a contemporary style. The courtyards and open space areas would allow for a wide range of amenities for tenants, including landscaping, seating areas, ornamental trellises, and tot play areas. The units are well designed with efficient floor plans and amenities. Therefore, the project will add to the City's overall effort to provide a variety of residential housing types.

The proposed design and characteristics of the two buildings will be compatible and enhance the urban fabric of the surrounding area. The project will provide ground floor commercial uses including Offices, Retail, and Community Assembly YMCA, which are consistent with the land uses in this area. The proposed building does not create visual impacts to persons living, working, or traveling through the neighborhood. Given that the conditions of approval will be incorporated, the project will be further design to minimize any potential impacts on adjacent properties.

Supporting Statement of Fact (D): *Conditionally Satisfied.* Condition of approval No.3 will ensure lighting and lighting fixtures are designed to avoid creating glare. The proposed building design supports public safety and security by allowing for surveillance of the street by people inside buildings and elsewhere on the site.

BE IT FURTHER RESOLVED that the City Council approves the proposed Density Bonus waivers for: 1) Open Space reduction; 2) Parking Reduction; and 3) Building Height increase and finds the requested waivers: 1) will not have an adverse impact on a property listed on the California Historical Register; 2) will not violate State and Federal law; and 3) will not result in specific adverse health or safety impact that cannot be mitigated.

BE IT FURTHER RESOLVED that the City Council does hereby adopt the Addendum to the General Plan FEIR and associated MMRP, in Exhibits A and B, and approves the General Plan Amendment, Design Review, and Density Bonus for purpose of waivers as set forth in Exhibits C and D (PLN21-023), subject to the following conditions of approval:

1. Development is to be constructed in compliance with the Project Plans in Exhibit A, attached, submitted to and date stamped July 19, 2022, by the Planning Division. Any minor modifications shall be reviewed by the Zoning Administrator who shall determine whether the modification requires additional approval.
2. All mitigation measures set forth in the Mitigation Monitoring Reporting Program (MMRP) shall be implemented by the applicant.
3. Indemnification: The Applicant agrees, on behalf of themselves, their successor(s)-in-interest and assigns, to defend, indemnify, and hold harmless the City, its Council, DRB, advisory boards, officers, employees, consultants and agents (hereinafter "City") from any claim, action or proceeding (hereinafter "Proceeding") brought against the

City to attack, set aside, void or annul the City's actions regarding any development or land use permit, application, license, denial, approval or authorization, including, but not limited to, variances, use permits, developments plans, specific plans, general plan amendments, zoning amendments, approvals and certifications pursuant to CEQA, and/or any mitigation monitoring program, or brought against the City due to acts or omissions in any way connected to the Applicant's Original or Revised Project(s), but excluding any approvals governed by Government Code Section 66474.9. This indemnification shall include, but not be limited to, damages, fees and/or costs awarded against the City, if any, and costs of suit, attorney's fees and other costs, liabilities and expenses incurred in connection with such proceeding whether incurred by Applicant or City. If Applicant is required to defend the City as set forth above, the City shall retain the right to select the counsel who shall defend the City.

4. Inclusionary Housing and Density Bonus Law Requirements: The Project shall comply with Article 15.04.603 of the Zoning Ordinance and requirements of the State Density Bonus Law (Government Code Section 65915). Prior to issuance of a building permit, the Applicant shall enter into and record a written agreement with the City as specified in Section 15.04.603.110 restricting the affordable rents on the units.
5. The Project shall meet the requirements of Richmond Municipal Code (RMC) Chapter 12.62 by either including on-site publicly accessible art valued at one percent (1%) of the Building Development Cost or by paying an in-lieu contribution of one percent (1%) of the Building Development Cost to the City's Public Art Project account as set forth in Section 12.62.050. Building Development Cost shall be as defined in the RMC Chapter 12.62.
6. The Project shall comply with RMC Chapter 9.64, which prohibits use of natural gas infrastructure in newly constructed buildings.
7. The Project shall be effective on the same date as the ordinance designating the new Zoning District for which the Project was approved and shall expire in five years after the effective date unless a building permit has been issued and construction diligently pursued.
8. All conditions of approval shall be written on the first page of the construction plans submitted for review and approval. All conditions of approval shall be on, at all times, all grading and construction plans, which shall be kept on the project site. It is the responsibility of the building developer to ensure that the project contractor and construction crew is aware of, and abides by, all conditions of approval.
9. Lighting installed throughout the site shall consist of pedestrian-friendly lighting at a human-scale height. Lighting shall also be consistent with International Dark-Sky Association guidelines and include any shielding necessary to limit the amount of light spill over to residential areas. LEDs shall be 3,000K maximum with warm light.
10. All new electrical line connections to the site shall be under grounded to the satisfaction of the City Engineer and Director of Community Development.

11. Any relocation of existing improvements or public utilities shall be accomplished under the direction of that utility company's requirement at no expense to the City or Utility Company.
12. The applicant shall repair all damaged sidewalk, pavement, existing curb and gutter along the project frontage to the satisfaction of the Director of Community and City Engineer prior to occupancy. The applicant shall replace any damaged landscaping, or street improvements caused by the installation of utility services and construction of the project site to the satisfaction of the City Engineer and Director of Community Development.
13. Encroachment agreements shall be obtained from the Director of Engineering and Public Works for all access improvements, drains, driveways, or related improvements. Said Agreement shall be reviewed and approved by the City Attorney as to legal form and content prior to the issuance of any building permits. The encroachment permit shall be obtained prior to issuance of the building permit.
14. A grading permit issued for the project shall be in accordance with the Excavation, Grading and Earthwork Construction Ordinance (Chapter 12.44 of the Richmond Municipal Code). Grading shall be subject to the approval of the City Engineer.
15. Fire hydrants shall be installed at locations specified by the Fire Department in compliance with City requirements.
16. An automatic fire sprinkler and auto fire alarm system shall be provided for all buildings. Plans shall be submitted to the Fire Department for review and, if found to be acceptable, approval prior to installation.
17. Illuminated building street address numbers, and emergency vehicle access shall be provided as required by the Fire Department.
18. The color of the corrugated metal material shall be replaced by a warmer color (kynar finish, Buckskin or equal, fasteners to match color).
19. Fence detail in front shall be modified. See fence detail (#5 page L1.4) wood shall be used on both sides. Use S.S. flat head fasteners - counter sunk. Seal end grain prior to application.
20. The tree at the entry plaza shall be medium to large evergreen tree.
21. The proposed fire equipment in front of Building A shall be moved to the west corner 10 feet from the front property line to allow for landscape screening. Final location shall be approved by the Fire Department.
22. The stucco material of the wall between the lower level and second floor-level guard railing community open space shall be corrugated metal.

- 23. A traffic calming addition consisting of a 10-foot-wide raised sidewalk at the level of the adjacent sidewalks centered on the entry gates in front of building B shall be provided, subject to the approval of the Fire Department.
- 24. Option No.2 shall be used for the east elevation of Building B as depicted on page A302A.
- 25. The composite material to be Trespa, "Thermory" modified wood siding or equal.

- Exhibit A: Addendum to General Plan FEIR
- Exhibit B: Mitigation Monitoring and Reporting Program
- Exhibit C: General Plan Amendment Map
- Exhibit D: Project Plans

I HEREBY CERTIFY that the foregoing resolution was adopted by the City Council of the City of Richmond at a regular meeting held on October 4, 2022 by the following vote.

- Ayes:
- Noes:
- Absent:
- Abstain:

CLERK OF THE CITY OF RICHMOND
(SEAL)

Approved:

THOMAS K. BUTT
Mayor

Approved as to Form:

DAVE ALESHIRE
City Attorney