

**ORDINANCE NO. \_\_\_\_\_**

**AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF RICHMOND, CALIFORNIA, APPROVING A ZONING MAP AMENDMENT REZONING FROM PCI, PUBLIC, CULTURAL, AND INSTITUTIONAL TO CM-3, COMMERCIAL MIXED-USE FOR A MIXED-USE 135-UNIT AFFORDABLE AND SUPPORTIVE HOUSING DEVELOPMENT WITH COMMERCIAL SPACE AT 100 38<sup>TH</sup> STREET (PLN21-023)**

WHEREAS, in 2021, Eden Housing Inc. (the “Applicant”) filed applications for a General Plan Amendment, Zoning Map Amendment to rezone the Project Site (100 38<sup>th</sup> Street, APN: 517-340-004) to CM-3 (Commercial Mixed-Use) for a mixed-use, 135-unit affordable and supportive housing development with ground floor commercial and associated site improvements (the “Project”) on an approximately 2.84-acre site in the City of Richmond, Contra Costa County, California; and

WHEREAS, upon completion of an Environmental Initial Study, Consistency Checklist, prepared by First Carbon Solutions, dated July 13, 2020 (Exhibit A), the proposed project is found to be in conformance with the analysis and conclusions of the General Plan FEIR (State Clearinghouse No. 2008-022018). The Addendum to the General Plan FEIR finds that the FEIR adequately anticipated and described the impacts of the proposed project. Consistent with the mandate in the State CEQA Guidelines Sections 15162 and 15168, no further environmental review is required based on the following findings:

1. There are no substantial changes in the proposed project that will require major revisions of the General Plan 2030 FEIR;
2. There are no substantial changes with respect to the circumstances under which the project will be undertaken that require major revisions of the General Plan FEIR;
3. There is no new information of substantial importance, that was not known and could not have been known, that shows a new or more severe impact than analyzed in the General Plan FEIR, and
4. There are no mitigation measures or alternatives that would substantially reduce project impacts, but that the project proponent declines to adopt.; and

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

WHEREAS, on August 18, 2022, the Planning Commission held a public hearing to consider a recommendation to the City Council regarding the Addendum to the General Plan Final EIR and associated Mitigation Monitoring Reporting Program (MMRP), General Plan Amendment, Zoning Map Amendment, Design Review, and Density Bonus for waivers for the Project; and

WHEREAS, on August 18, 2022, the Planning Commission voted unanimously to recommend approval to the City Council of the Addendum to the General Plan FEIR and associated MMRP, and approval of a General Plan Amendment, Zoning Map Amendment, Design Review, and Density Bonus for waivers for the Project (PLN 21-023), subject to conditions; and

WHEREAS, on October 4, 2022, the City Council held a public hearing to consider the Addendum to the General Plan FEIR and associated MMRP, General Plan Amendment, Zoning Map Amendment, Design Review, and Density Bonus for waivers for the Project; and

WHEREAS, on October 4, 2022, after reviewing all oral and written evidence in the public record, the City Council adopted the Addendum to the General Plan FEIR and associated MMRP, and approved a General Plan Amendment, Design Review Permit and Density Bonus Waivers for the Project conditioned upon City Council subsequent approval of the Zoning Amendment for the Project; and

WHEREAS, the Project application includes a request to change the zoning of the Project Site from PCI to CM-3 substantially in the form on file with the Planning Division, relative to the proposed development of the 100 38<sup>th</sup> Street on certain real property consisting of approximately 2.84-acres located in the City of Richmond, as more particularly described in the attached **Exhibits A** (“Rezoning Exhibit” incorporated herein and made part hereof.

NOW, THEREFORE, the City Council of the City of Richmond does ordain as follows:

**SECTION I.** The City Council finds and determines the following:

**REZONING FINDINGS (Section 15.04.814.050):**

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The City Council finds in approving an amendment to the zoning map to modify the site’s zoning from PCI to CM-3 as follows:

A. The proposed amendment is consistent with the General Plan.

Supporting Statement of Fact: The project is consistent with the CM-3, Commercial Mixed-Use District and various goals under the General Plan, such as the provision of affordable housing near public transit.

The CM-3 zoning designation sought by the applicant for the subject property is specifically intended to enable this type of development as proposed by the applicant. The project is also consistent with the General Plan Land Use Goal LU-A and Land Use Policy LU-I as the proposed project will enhance the value of the area, and will be constructed in conformance with the Richmond Zoning Ordinance and California Building Codes.

As illustrated in Exhibit A, the existing zoning designation of the site is PCI, Public Cultural and Institutional. The designation sought by the applicant is CM-3, Commercial Mixed-

Use, which is consistent with the surrounding commercial land use designation of the site (see Exhibit B of ordinance).

B. The proposed amendment is necessary for public health, safety, and general welfare or will be of benefit to the public.

Supporting Statement of Fact: The site is physically suitable for a mixed-use residential and commercial development and the proposed amendment is necessary for the benefit of the residents of Richmond. The subject property is 2.84-acre, and the proposed 135 residential units are consistent with similar development and the surrounding area. The subject property is located adjacent to an urbanized area where existing drainage, sewer, water, and improvements are available.

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

Supporting Statement of Fact: 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.

D. For a change to the Zoning Maps, that the subject property is suitable for the uses permitted in the proposed zone in terms of access, size of parcel, relationship to similar or related uses, and other relevant considerations, and that the proposed change of zoning district is not detrimental to the use of adjacent properties.

Supporting Statement of Fact: The proposed project, together with the provisions for its design and improvement, are not likely to cause any detriment in the surrounding area. The subject property is suitable for the proposed uses and compatible with surrounding development. The site is adequately served by public streets and transit.

**SECTION II.** By this ordinance, the City Council approves the Zoning Amendment to rezone the Project Site to CM-3 Commercial Mixed-Use as set forth in Exhibit A, (“Rezoning Exhibit”) incorporated herein and made part hereof.

**SECTION III.** Any provisions of the Richmond Municipal Code, or appendices thereto, or any other ordinances of the City inconsistent herewith, to the extent of such inconsistencies and no further, are hereby repealed.

**SECTION IV. Severability.** If any section, subsection, paragraph, sentence, clause or phrase of this Ordinance is for any reason held by a court of competent jurisdiction to be unconstitutional or invalid, the remaining portions of this Ordinance shall remain in full force and effect. The City Council hereby declares that it would have passed each section, subsection, paragraph, sentence, clause or phrase of this Ordinance irrespective of the

unconstitutionality or invalidity of any section, subsection, paragraph, sentence, clause or phrase.

**SECTION V. Effective Date.** This Ordinance becomes effective thirty (30) days after its final passage and adoption.

Exhibit A: Rezoning Map

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First introduced at a regular meeting of the City Council of the City of Richmond held October 4, 2022, and finally passed and adopted at a regular meeting held \_\_\_\_\_, 2022 by the following vote:

- YES:
- NOES:
- ABSTENTIONS:
- ABSENT:

\_\_\_\_\_  
Clerk of the City of Richmond

Approved:

\_\_\_\_\_  
THOMAS K. BUTT  
Mayor

Approved as to form:

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DAVE ALESHIRE  
City Attorney