

**ATTACHMENT 5**

**DRAFT RESOLUTION AND CONDITIONS OF  
APPROVAL**

## **RESOLUTION NO. FDP18-001**

**A RESOLUTION OF THE PLANNING COMMISSION OF THE CITY OF EMERYVILLE APPROVING A FINAL DEVELOPMENT PLAN (FDP) FOR “PARCEL B” OF THE MARKETPLACE REDEVELOPMENT PROJECT PLANNED UNIT DEVELOPMENT (PUD04-02) THAT WAS APPROVED BY THE CITY COUNCIL ON AUGUST 5, 2008, THAT INCLUDES AN EIGHT-STORY BUILDING WITH APPROXIMATELY 15,800 SQUARE FEET OF RENTABLE RETAIL SPACE, 150,000 SQUARE FEET OF RENTABLE OFFICE/LAB SPACE, AND 560 PARKING SPACES AND RESCINDING FINAL DEVELOPMENT PLAN FDP15-001 PREVIOUSLY APPROVED BY THE PLANNING COMMISSION ON JUNE 23, 2016**

**WHEREAS**, on January 15, 2008, via Resolution No. 08-09, the City Council certified the Marketplace Redevelopment Project Environmental Impact Report (EIR) for the Marketplace Redevelopment Project Planned Unit Development (PUD) and then on July 15, 2008, the Council passed Resolution No. 08-126 applying the EIR to the project, adopting mitigation measures, and adopting a Statement of Overriding Consideration; and

**WHEREAS**, on August 5, 2008, the City Council approved the Marketplace Redevelopment Project Planned Unit Development/Preliminary Development Plan (PUD/PDP); the project involved redevelopment of the existing Marketplace site with a phased development consisting of 674 multi-family residential units, 180,000 square feet of retail, and 120,000 square feet of office; the project included the 15-acre project site to be substantially redeveloped by replacement of surface level parking, realignment of Shellmound Street directly in front of the Marketplace Tower and Public Market buildings, addition of two new street segments with on-street parking (62<sup>nd</sup> and 63<sup>rd</sup> Streets), and addition of nine new buildings within the site and an enlarged City park; and

**WHEREAS**, on September 25, 2013, City Center Realty Partners filed a Final Development Plan application for construction of a parking garage with ground floor retail on Parcel B, and filed an updated application on November 17, 2015; and

**WHEREAS**, on December 1, 2015, the City Council adopted Ordinance No. 15-010, approving a Development Agreement among the City of Emeryville, AG-CCRP LP, and AvalonBay Communities, Inc (“Development Agreement”), which ordinance became effective on January 1, 2016, and which agreement became effective on January 13, 2016; and

**WHEREAS**, among other provisions and in relation to Parcel B, the Development Agreement stipulates that the Developer may use funds otherwise required for public art to treat the façade of the east wall of the Parcel B parking structure as public art; and

**WHEREAS**, on June 23, 2016 at duly held and properly noticed public hearing the Planning Commission approved a Final Development Plan for Parcel B that included a four-story building with approximately 20,000 square feet of ground floor retail space and 300 parking spaces, and a stand-alone single story, 2,280 square foot commercial pavilion with a plaza between the garage building and the pavilion (Resolution No. FDP15-001); and

**WHEREAS**, building permits for this project were issued on January 12, 2018; however, no work was done under these permits and City Center Realty Partners withdrew the building permits on October 10, 2018 and voluntarily relinquished their rights under the building permit and Resolution No. FDP15-001; and

**WHEREAS**, on November 28, 2018, City Center Realty Partners filed a new Final Development Plan application for construction of a parking garage with ground floor retail on Parcel B, 150,000 square feet of rentable office/laboratory space (“Project”); and

**WHEREAS**, the Planning Commission reviewed the Project at study session on December 13, 2018; and

**WHEREAS**, the Planning Commission held a duly and properly noticed public hearing on January 24, 2019 to solicit public comments and consider the proposed Final Development Plan for the Project; and

**WHEREAS**, the Planning Commission has reviewed and considered the staff report and attachments thereto, all public comments, and the Final Development Plan as set forth in this Resolution and the applicable provisions of the Emeryville Planning Regulations (“the Record”); now, therefore, be it

**RESOLVED**, that the Planning Commission hereby finds that the Marketplace Redevelopment Project Environmental Impact Report (EIR) certified by the City Council on January 15, 2008 (Resolution No. 08-09) applies to this Project, applicable mitigation measures have been incorporated into the Project’s conditions of approval, and as detailed in the Environmental Checklist, which evaluates all impact areas under the California Environmental Quality Act (CEQA), and which is included in the record as Attachment 4 to the Staff Report, since adoption of the EIR there have been no substantial changes to the project, no substantial changes to the circumstances under which the project will be undertaken and no new information of substantial importance, which would require further preparation of a subsequent EIR under CEQA section 21166 and corresponding CEQA Guidelines section 15162; furthermore, a traffic memo prepared by Kimley Horn concludes that the proposed changes as between the PUD/PDP and the proposed FDP for Parcel B, will not result in trip generation and traffic impacts that were not analyzed in the EIR certified by City Council Resolution No. 08-09 and that, based on the review of actual and projected traffic volumes, the baseline conditions presented in the EIR have not significantly changed; and be it further

**RESOLVED**, that in approving this Final Development Plan the Planning Commission makes the following findings required by Emeryville Municipal Code Section 9-7.1004(b) and based on its review and consideration of the Record:

1. The final development plan substantially conforms to the preliminary development plan.

**The approved PUD/PDP calls for a building up to 120 feet tall on Parcel B, containing 120,000 square feet of office space, 29,150 square feet of**

commercial (retail) space, and 518 parking spaces. Compared to the approved PUD/PDP, the proposed building will have approximately 13,350 square feet less commercial space (15,800 square feet versus 29,150 square feet), 30,000 square feet more office space (150,000 versus 120,000 square feet), and 42 more parking spaces (560 spaces versus 518 spaces). The building height of 113 feet is consistent with the approved PUD/PDP height of 120 feet.

While the proposed FDP for Parcel B would contain 30,000 square feet more office space than the PDP calls for, the overall intensity of the PUD buildout would still be less than allowed by the PDP. The total amount of commercial space in the PUD, including both office and retail space, will be 209,800 square feet under the various approved and proposed FDPs (150,000 square feet of office plus 59,8000 square feet of retail), while the PDP allows for up to 300,000 square feet of commercial space (120,000 square feet of office plus 180,000 square feet of retail), so in all there will be 90,200 square feet less total commercial space (office and retail) than allowed by the PDP.

The current proposal results in a development that is smaller in terms of Floor Area Ratio than that approved under the 2008 Marketplace PUD/PDP. The intent of the original approval was to replace surface parking lots and create a mixed-use development over a 25-year period. The revised proposal is to create a slightly smaller mixed-use development that replaces the existing surface parking lots with slightly less commercial space and within a shorter time frame.

2. Changes and conditions of approval specified by the City Council in its approval of the preliminary development plan have been met.

**The project is consistent with the conditions of approval of the Marketplace Redevelopment Project Preliminary Development Plan (PUD04-02) as approved by the City Council.**

and be it further

**RESOLVED** that the Planning Commission hereby approves Final Development Plan FDP18-001 for development of an eight-story building with approximately 15,800 square feet of rentable retail space, 150,000 square feet of rentable office/lab space, and 560 parking spaces as outlined in the plans entitled "Parcel B Final Development Plan" dated January 9, 2019 and subject to the Conditions of Approval as set forth in Exhibit A to this resolution; and be it further

**RESOLVED** that the Planning Commission hereby rescinds its previous approval of Final Development Plan FDP15-001 for development of a four-story building with approximately 20,000 square feet of ground floor retail space and 300 parking spaces, and a stand-alone single

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story, 2,280 square foot commercial pavilion with a plaza between the garage building and the pavilion.

**APPROVED** by the Planning Commission of the City of Emeryville at a regular meeting held on Thursday, January 24, 2019 by the following votes:

**AYES:** \_\_\_\_\_

**NOES:** \_\_\_\_\_ **ABSTAINED:** \_\_\_\_\_

**EXCUSED:** \_\_\_\_\_ **ABSENT:** \_\_\_\_\_

\_\_\_\_\_  
**CHAIRPERSON**

**APPROVED AS TO FORM:**

\_\_\_\_\_  
**RECORDING SECRETARY**

\_\_\_\_\_  
**CITY ATTORNEY**