

RESOLUTION NO. 77-14

RESOLUTION OF THE CITY COUNCIL OF CITY OF RICHMOND, CALIFORNIA APPROVING A CONDITIONAL USE PERMIT FOR THE CONSTRUCTION OF RESIDENTIAL ONLY UNITS, PURSUANT TO APPLICATION PLN14-098, ON UNDEVELOPED PARCELS OF LAND ON JETTY DRIVE WITHIN THE ANCHORAGE AT MARINA BAY SUBDIVISION (APNS:560-790-009, -010; 560-790-012 THROUGH -052; AND 560-800-016).

WHEREAS, on May 2, 2014, Nick Kovas, of Pulte Homes Corporation, LLC (the “applicant”), filed a land use application with the City of Richmond (the “City”) to rezone certain undeveloped parcels of land on Jetty Drive (APNs: 560-790-009, -010; 560-790-012 through -052; and 560-800-016) (the “Property”) located in the Anchorage at Marina Bay housing development from M-1 Industrial/ Office Flex to PA, Planned Area District (the “Rezone”). The application to Rezone the Property included an application for a Conditional Use Permit to permit residential only uses as part of Phase 2 of the Anchorage at Marina Bay subdivision project (the “Project”).

WHEREAS, the Richmond City Council adopted the Richmond General Plan 2030 by Resolution No. 164-94 on May 25, 2012 as the official plan to guide the future physical development of the City of Richmond; and

WHEREAS, on November 1, 2005, the City Council adopted the Final Mitigated Negative Declaration and Mitigation Monitoring and Reporting Program and approved the Tentative Tract Map and a rezone of 9.7 acres on an 11.4 acre project site to a Planned Area District for development of up to 207 townhomes and live-work units at 1689 Regatta Boulevard (3400 Jetty Drive) in the Marina Bay neighborhood. Condition of Approval (COA) No. 43 for the project included a requirement that applicant build live-work units or remove residential uses from 1.7 acres of the site unless the applicant were to proceed with this request; and

WHEREAS, COA No. 43 states: “The project applicant shall apply for a Conditional Use Permit and a rezoning for the M-1 portion of the site to construct residential properties. If rezoning approval is not granted, the applicant shall revise the site plan to remove residential uses from the portion of the site that is designated M-1 or provide live work units;” and

WHEREAS, the applicant constructed 116 units but halted construction of the live-work units before completing the development; and

WHEREAS, all COAs will continue to be in force with the exception of COA No. 43, as the approval of the application will satisfy the requirement that the applicant seek a Conditional Use Permit to build residential only units at the Property; and

WHEREAS, pursuant to Resolution No. 14-17 adopted by the Planning Commission of the City of Richmond on July 17, 2014 after a duly noticed public hearing, the Commission recommended the Rezone and adoption of a Conditional Use Permit for the Project to the City Council; and

WHEREAS, the City Council finds the Rezone and Project are consistent with other existing elements of the Richmond General Plan 2030, and

WHEREAS, the City Council finds that the 2005 Final Mitigated Negative Declaration analyzed residential only uses throughout the site and further finds that a change from live-work units to residential only units will not create any new environmental impacts requiring mitigation.

NOW, THEREFORE, BE IT RESOLVED that the City Council of the City of Richmond, California, has reviewed and considered the proposed Conditional Use Permit for the construction of residential only units as part of for Phase 2 of the Anchorage at Marina Bay subdivision, as requested by Pulte Homes Corporation, LLC pursuant to PLN14-098, and makes the following findings with statements of fact as required by Section 15.04.910 of the Richmond Zoning Ordinance for approval of a Conditional Use Permit:

Finding 1. The location of the proposed conditional use is in accordance with the policies of the General Plan of the City of Richmond.

Statement of Fact: *Criterion Satisfied.* The Richmond General Plan land use classification for the subject project is Medium - Intensity Mixed Use (Commercial Emphasis) with the intent to promote dense residential development on large parcels. A request for a zone change to conform to land uses policies in the General Plan is necessary to allow the residential development to conform to all of the City's land use regulations. The applicant is providing more density to allow a pedestrian-oriented building design that correlates with existing buildings in the subdivision. The applicant is also providing the maximum number of units and density allowed by the City's General Plan land use designation for the site in the Marina Bay neighborhood.

Finding 2. The location, size, design and operating characteristics of the proposed use is consistent with and will not be detrimental to the public health, safety, or welfare of persons residing or working in or adjacent to the proposed conditional use and the surrounding neighborhood.

Statement of Fact: *Criterion Satisfied.* The proposed residential housing development is consistent with the General Plan. The applicant's request for development of townhomes rather than live work units will not be detrimental to the public health, safety, and welfare of residents in the local area. The housing market has changed and higher density units are in greater demand as demonstrated by the Association of Bay Area Governments housing projections for the area. The applicant has agreed to further mitigate any potential environmental impacts by future development of residential uses. None are foreseen because these units will be similar to existing buildings constructed in Phase I of the development project. As a condition of approval, the applicant will abide by all existing project approvals and mitigation measures based on project entitlements for the site.

Finding 3. The proposed conditional use complies with all applicable provisions of the Zoning Ordinance.

Statement of Fact: *Criterion Conditionally Satisfied.* With approval of the rezoning and the conditional use permit, Phase II of the Anchorage at Marina Bay Residential project will be developed in accordance with all applicable sections of the Zoning Ordinance that permits residential development in a Planned Area District.

Finding 4. The site of the proposed use is adequately served by highways, streets and other public service facilities.

Statement of Fact: *Criterion Satisfied.* The project site is located on Jetty Drive, one of the major roads in the residential development and adjacent streets have ample resident and guest parking and all the on-street parking is adequate.

BE IT FURTHER RESOLVED that the City Council makes the above findings (Section I) and approves the requested Conditional Use Permit for the Project, subject to the following conditions.

SECTION II: CONDITIONS OF APPROVAL

1. Development shall be constructed in compliance with the Project Plans submitted to and date stamped September 1, 2004, by the Planning Department, except as modified by these conditions of approval. Any modifications shall be reviewed by the Zoning Administrator who shall determine whether the modifications require additional approvals.
2. All conditions of approval established by the City Council on November 1, 2005, shall continue to be in force in their entirety, with the exception of COA #43, as this approval eliminates that condition, limiting development on the 1.7 acres to live work units. These conditions and earlier conditions shall be written on the first page of the construction plans submitted for review and approval. All conditions of approval shall be on, all grading and

construction plans, which shall be kept on the project site at all times. 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.

3. The applicant agrees, on behalf of itself, its successor in interest and assigns, to defend, indemnify, and hold harmless the City, its Council, Planning Commission, 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 the California Environmental Quality Act, and/or any mitigation monitoring program, or brought against the City due to acts or omissions in any way connected to the applicant's project, but excluding any approvals governed by California 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, attorneys 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.

I certify that the foregoing resolution was adopted by the City Council of the City of Richmond at a regular meeting held on September 16, 2014:

AYES: Councilmembers Boozé, Butt, Myrick, Rogers, Vice Mayor Beckles, and Mayor McLaughlin.

NOES: None.

ABSENT: Councilmember Bates.

ABSTENTION: None.

DIANE HOLMES
CLERK OF THE CITY OF RICHMOND

(SEAL)

Approved:

GAYLE MCLAUGHLIN
Mayor

Approved as to form:

BRUCE GOODMILLER
City Attorney

State of California }
County of Contra Costa : ss.
City of Richmond }

I certify that the foregoing is a true copy of **Resolution No. 77-14**, finally passed and adopted by the City Council of the City of Richmond at a special meeting held on September 16, 2014.