

OFFICE OF THE CITY CLERK
2008 JUN 10 10:04

APPROVED AS TO FORM AND LEGALITY
Mark P. Ward
DEPUTY CITY ATTORNEY

OAKLAND CITY COUNCIL
ORDINANCE NO. 12869 C.M.S.

ORDINANCE REZONING THE HABITAT FOR HUMANITY EDES "B" RESIDENTIAL PROJECT SITE, LOCATED AT 10800 EDES AVENUE NEAR THE INTERSECTION OF EDES AVENUE AND 105TH AVENUE, FROM THE M-20 LIGHT INDUSTRIAL ZONE AND S-4 DESIGN REVIEW COMBINING ZONE TO THE R-40 GARDEN APARTMENT RESIDENTIAL ZONE

WHEREAS, the approximately 1.7-acre site of the Habitat for Humanity Edes "B" Residential Project ("Project"), located at 10800 Edes Avenue near the intersection of Edes Avenue and 105th Avenue, is currently located in the M-20 Light Industrial Zone and S-4 Design Review Combining Zone according to the Oakland Zoning Regulations; and

WHEREAS, the intent of the M-20 Light Industrial Zone is to create, preserve, and enhance areas containing manufacturing and related establishments with limited external impact within an open and attractive setting; and

WHEREAS, residential uses are not allowed in the M-20 Light Industrial Zone; and

WHEREAS, Habitat for Humanity East Bay ("Applicant") filed an application for a general plan amendment, redevelopment plan amendment, rezoning, planned unit development permit, vesting tentative tract map, design review, conditional use permit, and variances ("Applications") to construct a 28-unit residential development at the Project site on May 7, 2007; and

WHEREAS, the application for the rezoning petitioned the City to rezone the Project site from the M-20 Light Industrial Zone to the R-40 Garden Apartment Residential Zone; and

WHEREAS, the intent of the R-40 Garden Apartment Residential Zone is to create, preserve, and enhance areas containing a mixture of single- or two-family dwellings and garden apartments in spacious settings for urban living; and

WHEREAS, in accordance with the California Environmental Quality Act ("CEQA"), the City issued a Notice of Intent to Adopt a Negative Declaration for the Project on January 24, 2008; and

WHEREAS, the City received a total of two comments on the proposed Negative Declaration, primarily relating to at-grade rail crossings and water service, and the City believes the issues raised in the comment letters have been adequately addressed and do not change the conclusions of the Negative Declaration; and

WHEREAS, the Planning Commission conducted a duly noticed public hearing on the Negative Declaration and the Project Applications on March 19, 2008; and

WHEREAS, at the March 19, 2008, hearing, the Planning Commission adopted, and made appropriate findings for, the Negative Declaration, approved the Applications for planned unit development permit, vesting tentative tract map, design review, conditional use permit, and variances (collectively called "Development Permits"), recommended approval of the general plan amendment to the City Council, recommended approval of the redevelopment plan amendment to the City Council and Redevelopment Agency, and recommended approval of the rezoning to the City Council; and

WHEREAS, the Planning Commission found, in part, that the Project is consistent with the intent of the R-40 Garden Apartment Residential Zone; and

WHEREAS, the Planning Commission also found, in part, that the proposed rezoning is consistent with the overall goals, objectives, and policies of the General Plan in that the Project is a well-designed development on a vacant, underutilized, blighted and contaminated infill site located in an urbanized area of the City near public transportation that will provide needed affordable housing and economic revitalization, and that the proposed rezoning is necessary to implement the Project; and

WHEREAS, the Community and Economic Development Committee of the City Council conducted a duly noticed meeting on the Project Applications on April 8, 2008 and recommended Project approval; and

WHEREAS, the City Council and Redevelopment Agency of the City of Oakland conducted a duly noticed joint public hearing on the Project Applications on April 15, 2008; and

WHEREAS, all interested parties were given the opportunity to participate in the public hearing by submittal of oral and written comments; and

WHEREAS, the public hearing was closed by the City Council and Redevelopment Agency on April 15, 2008;

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

SECTION 1. The City Council, having heard, considered and weighed all the evidence in the record presented on behalf of all parties and being fully informed of the Applications and the Planning Commission's decision on the Project, hereby amends the designation and location of zones and zone boundaries on the Zoning Map as shown on the map attached to this Ordinance

as **Exhibit A**. This decision is based, in part, on the April 8, 2008, Community and Economic Development Committee Agenda Report (which was forwarded to the City Council for its April 15, 2008, public hearing), the March 19, 2008, Planning Commission Report, and the Initial Study/Negative Declaration which are hereby incorporated by reference as if fully set forth herein.

SECTION 2. In support of the City Council's decision to amend the General Plan, the City Council affirms and adopts as its findings and determinations (a) the April 8, 2008, Community and Economic Development Committee Agenda Report, and (b) the March 19, 2008, Planning Commission Report, including, without limitation, the discussion, findings, conclusions, and conditions of approval (each of which is hereby separately and independently adopted by this Council in full).

SECTION 3. The City Council finds that it is necessary, desirable, and in the public interest to amend the Zoning Map for the reasons set forth herein and in the April 8, 2008, Community and Economic Development Committee Agenda Report and the March 19, 2008, Planning Commission Report.

SECTION 4. The City Council finds and determines that this Ordinance complies with CEQA and the Environmental Review Officer is directed to cause to be filed a Notice of Determination with the appropriate agencies.

SECTION 5. The record before this Council relating to the Project Applications includes, without limitation, the following:

1. the Project Applications, including all accompanying maps and papers;
2. all plans submitted by the Applicant and his representatives;
3. all staff reports, decision letters and other documentation and information produced by or on behalf of the City, including without limitation the Initial Study/Negative Declaration and supporting technical studies, all related and/or supporting materials, and all notices relating to the Project Applications and attendant hearings;
4. all oral and written evidence received by the City staff, the Planning Commission, and the City Council before and during the public hearings on the Project Applications; and
5. all matters of common knowledge and all official enactments and acts of the City, such as (a) the General Plan; (b) Oakland Municipal Code, including, without limitation, the Oakland real estate regulations and Oakland Fire Code; (c) Oakland Planning Code; (d) other applicable City policies and regulations; and, (e) all applicable state and federal laws, rules and regulations.

SECTION 6. The custodians and locations of the documents or other materials which constitute the record of proceedings upon which the City Council's decision is based are respectively: (a) Community & Economic Development Agency, Planning & Zoning Division,

250 Frank H. Ogawa Plaza, Suite 3315, Oakland, California; and (b) Office of the City Clerk, 1 Frank H. Ogawa Plaza, 1st floor, Oakland, California.

SECTION 7. If any part of this Ordinance is held to be invalid for any reason, such decision shall not affect the validity of the remaining portion of this Ordinance, and this Council hereby declares that it would have passed the remainder of this Ordinance if such invalid portion thereof had been deleted.

SECTION 8. This Ordinance shall be in full force and effect immediately upon its passage as provided by Section 216 of the City Charter, if adopted by at least six members of Council, or upon the seventh day after final adoption if adopted by fewer votes.

SECTION 9. The recitals contained in this Ordinance are true and correct and are an integral part of the City Council's decision.

IN COUNCIL, OAKLAND, CALIFORNIA, MAY 6 2008, 2008

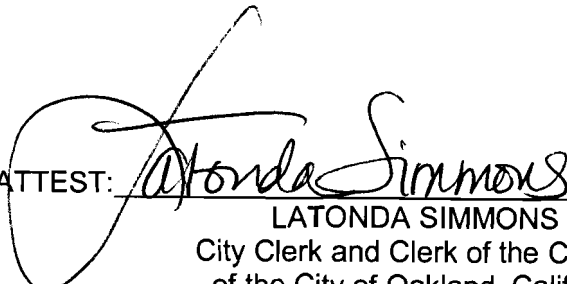
PASSED BY THE FOLLOWING VOTE:

AYES- BROOKS, BRUNNER, CHANG, KERNIGHAN, NADEL, QUAN, REID,
AND PRESIDENT DE LA FUENTE - 8

NOES- 0

ABSENT- 0

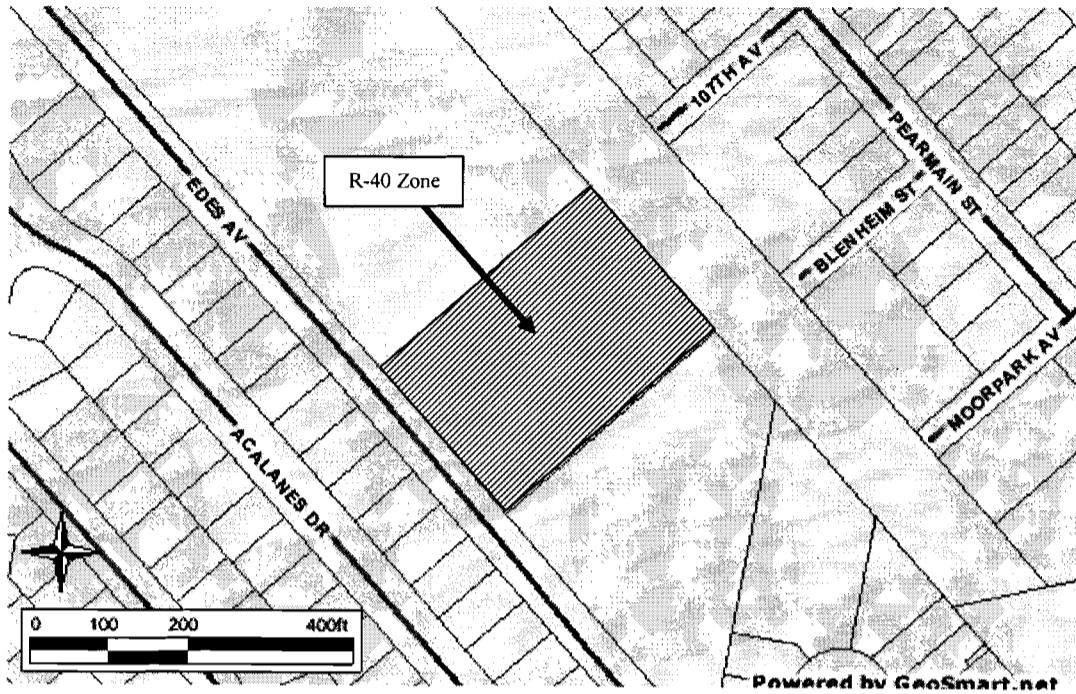
ABSTENTION- 0

ATTEST: 
LATONDA SIMMONS
City Clerk and Clerk of the Council
of the City of Oakland, California

Introduction Date: APR 15 2008

EXHIBIT A

AMENDMENT TO ZONING MAP
HABITAT FOR HUMANITY EDES "B" RESIDENTIAL PROJECT SITE
10800 EDES AVENUE (APN 045-5263-002-00)



NOTICE AND DIGEST

ADOPTION OF THE FOLLOWING ORDINANCES CONCERNING THE HABITAT FOR HUMANITY EDES "B" RESIDENTIAL PROJECT SITE LOCATED AT 10800 EDES AVENUE NEAR THE INTERSECTION OF EDES AVENUE AND 105TH AVENUE:

- 1) CITY ORDINANCE ADOPTING THE SIXTH AMENDMENT TO THE COLISEUM AREA REDEVELOPMENT PLAN AMENDING THE LAND USE DESIGNATION FOR THE PROJECT SITE FROM BUSINESS MIX TO MIXED HOUSING TYPE RESIDENTIAL; AND**
- 2) CITY ORDINANCE REZONING THE PROJECT SITE FROM THE M-20 LIGHT INDUSTRIAL ZONE AND S-4 DESIGN REVIEW COMBINING ZONE TO THE R-40 GARDEN APARTMENT RESIDENTIAL ZONE**

These ordinances would (1) amend the Redevelopment Plan for the Coliseum Redevelopment Project Area to revise the land use designation on the Redevelopment Plan Land Use Map for a 1.7-acre property at 10800 Edes Avenue to conform the Redevelopment Plan to the City's General Plan and (2) rezone the same 1.7-acre property from the M-20 Light Industrial Zone and S-4 Design Review Combining Zone to the R-40 Garden Apartment Zone in order to facilitate the 28-unit Habitat for Humanity Edes "B" Residential Project.