

CITY OF OAKLAND
AGENDA REPORT

FILED
OFFICE OF THE CITY CLERK
OAKLAND
2005 JUN -9 PM 8:02

TO: Office of the City Administrator
ATTN: Deborah Edgerly
FROM: Community and Economic Development Agency
DATE: June 21, 2005

RE: REPORT AND RESOLUTION ADOPTING THE NEGATIVE DECLARATION FOR THE UPDATED NOISE ELEMENT AND APPROVING THE FOLLOWING THREE AMENDMENTS TO THE CITY OF OAKLAND GENERAL PLAN: (1) ADOPT THE UPDATED NOISE ELEMENT OF THE CITY OF OAKLAND'S GENERAL PLAN, (2) APPROVE THE PROPOSED AMENDMENTS TO THE OAKLAND GENERAL PLAN BY: (a) REMOVING THE LIMITATION IN POLICY A3 OF THE LAND USE AND TRANSPORTATION ELEMENT (LUTE) THAT THE GENERAL PLAN MAY BE AMENDED NO MORE THAN THREE TIMES PER CALENDAR YEAR; AND (b) ADOPTING LANGUAGE TO CLARIFY THAT COMPETING POLICIES IN THE OAKLAND GENERAL PLAN DO NOT NECESSARILY RESULT IN A SIGNIFICANT ENVIRONMENTAL IMPACT UNDER THE CALIFORNIA ENVIRONMENTAL QUALITY ACT (CEQA); AND (3) APPROVE CHANGES TO THE GENERAL PLAN DESIGNATION OF A 25,000 SQUARE-FOOT PORTION OF ASSESSOR PARCEL NUMBER 008-0643-001-01 (LOCATED WITHIN THE AREA REFERRED TO AS "UPTOWN", AND GENERALLY BOUNDED BY SAN PABLO AVENUE TO THE WEST, THOMAS L. BERKELEY WAY TO THE NORTH, TELEGRAPH AVENUE TO THE EAST AND 19TH STREET TO THE SOUTH) FROM CENTRAL BUSINESS DISTRICT TO PARK AND URBAN SPACE

This agenda item combines three (3) separate General Plan Amendments (GPA), which the City Planning Commission and City Staff recommend for adoption. The GPAs are combined within one agenda item and omnibus resolution to accommodate the current restriction established in the City General Plan's Land Use and Transportation Element that the General Plan may be amended no more than three times within one calendar year. The City's self-imposed requirement is more restrictive than State law, which specifies that no mandatory element of a general plan shall be amended more frequently than four times per calendar year. Under both City and State requirements, each amendment may include more than one change to the general plan.

Each of the GPAs included in this report has its own separate City Council Agenda Report and will be reviewed individually when presented to the Community and Economic Development Committee on June 14, 2005. However, there is only one resolution presented before the Council at this time, which if approved, will adopt all three the GPAs. Combining these amendments into one resolution does not limit the City Council's discretion to adopt all three GPAs, one or two of the GPAs, or none of the GPAs.

Item _____
Council/ORA
June 21, 2005

The three GPAs before the council are:

(1) Noise Element: The Noise Element is a mandatory general plan element under the state Planning and Zoning Law. The general purpose of a noise element is to limit the exposure of the community to excessive noise levels and constitutes the first update of the City's original *Noise Element*, adopted more than thirty years ago, in 1974. A negative declaration has been prepared for the *Noise Element* in accordance with the California Environmental Quality Act.

(2) Limitations placed on General Plan Amendments: The second amendment proposes to (a) revise Policy A3 of the *Land Use and Transportation Element (LUTE)* by removing the limitation that General Plan amendments may only occur three times per calendar year, thereby causing the State Planning and Zoning law restriction of four amendments per year per mandatory element to govern; and (b) clarify that, although the Oakland General Plan contains competing policies, this does not create a conflict that necessarily results in a significant environmental impact under the California Environmental Quality Act (CEQA).

(3) Uptown Project Area: The third general plan amendment would change the general plan designation of a 25,000 square-foot portion of assessor parcel number 008-0643-001-01 (located within the area generally referred to as "Uptown", and generally bounded by San Pablo Avenue to the west, Thomas L. Berkeley way to the north, Telegraph Avenue to the east and 19th Street to the south) from Central Business district to Park and Urban Space.

FISCAL IMPACT

The fiscal impact of each individual GPA is included in the accompanying staff report for each of the proposed GPAs.

ACTION REQUESTED OF THE CITY COUNCIL

Staff recommends that the City Council adopt the attached resolution and approve the following amendments to the Oakland General Plan:

- A. Adopt the negative declaration for the updated noise element and adopt the updated noise element of the City of Oakland's General Plan; and
- B. Approve the proposed amendments the Oakland General Plan by: (1) revising Policy a3 of the *Land Use and Transportation Element (LUTE)* by removing the limitation that General Plan amendments may only occur during three distinct cycles per year; and (2) adopting language to clarify that the, although the Oakland General Plan contains competing policies, this does not cause a conflict that necessarily results in a significant environmental impact under the California Environmental Quality Act (CEQA); and

- C. Approve changes the General Plan designation of a 25,000 Square-Foot portion of Assessor Parcel Number 008-0643-001-01 (Located Within the Area Referred to as "Uptown", and Generally Bounded by San Pablo Avenue to the West, Thomas L. Berkeley Way to the North, Telegraph Avenue to the East and 19th Street to the South) from Central Business District to Park and Urban Space

Respectfully submitted,



Claudia Cappio
Development Director,
Community & Economic Development Agency

Prepared by:
Maziar M. Movassaghi
Community & Economic Development Agency

**APPROVED AND FORWARDED TO
THE CITY COUNCIL**



Office of the City Administrator

DEPUTY CITY ATTORNEY
OFFICE OF THE CITY CLERK
OAKLAND

OAKLAND CITY COUNCIL

2005 JUN -9 PM 8: 03

RESOLUTION NO. _____ C. M. S.

INTRODUCED BY COUNCILMEMBER _____

RESOLUTION ADOPTING THE NEGATIVE DECLARATION FOR THE UPDATED NOISE ELEMENT AND APPROVING THE FOLLOWING THREE AMENDMENTS TO THE CITY OF OAKLAND GENERAL PLAN: (1) ADOPT THE UPDATED NOISE ELEMENT OF THE CITY OF OAKLAND'S GENERAL PLAN, (2) APPROVE THE PROPOSED AMENDMENTS THE OAKLAND GENERAL PLAN BY: (a) REMOVING THE LIMITATION IN POLICY A3 OF THE LAND USE AND TRANSPORTATION ELEMENT (LUTE) THAT THE GENERAL PLAN MAY BE AMENDED NO MORE THAN THREE TIMES PER CALENDAR YEAR; AND (b) ADOPTING LANGUAGE TO CLARIFY THAT COMPETING POLICIES IN THE OAKLAND GENERAL PLAN DO NOT NECESSARILY RESULT IN A SIGNIFICANT ENVIRONMENTAL IMPACT UNDER THE CALIFORNIA ENVIRONMENTAL QUALITY ACT (CEQA); AND (3) APPROVE CHANGES THE GENERAL PLAN DESIGNATION OF A 25,000 SQUARE-FOOT PORTION OF ASSESSOR PARCEL NUMBER 008-0643-001-01 (LOCATED WITHIN THE AREA REFERRED TO AS "UPTOWN", AND GENERALLY BOUNDED BY SAN PABLO AVENUE TO THE WEST, THOMAS L. BERKELEY WAY TO THE NORTH, TELEGRAPH AVENUE TO THE EAST AND 19TH STREET TO THE SOUTH) FROM CENTRAL BUSINESS DISTRICT TO PARK AND URBAN SPACE

WHEREAS, there are a number of general plan amendments that have been recommended for adoption by the City Planning Commission; and

WHEREAS, the number of general plan amendments that can be adopted in any calendar year are limited pursuant to City and state requirements; and

WHEREAS, more than one general plan amendment can be made at a time; and

WHEREAS, the Community and Economic Development Committee of the City Council at its meeting of June 14, 2005, also considered the three proposed general plan amendment and the initial study/mitigated negative declaration, and also recommended to the City Council approval of the mitigated negative declaration and adoption of the proposed general plan amendment; and

WHEREAS, the City wants to adopt all of the recommended general plan amendments into one resolution so that all the general plan amendments are considered a single amendment to the general plan;

NOW, THEREFORE, BE IT RESOLVED: The City Council approves environmental determinations and adopts the general plan amendments (as detailed in the attachments, incorporated herein by reference) for:

(A) Adopt The Negative Declaration For The Updated Noise Element And Adopt The Updated Noise Element Of The City Of Oakland's General Plan,

(B) Approve The Proposed Amendments The Oakland General Plan By: (1) Revising Policy A3 Of The Land Use And Transportation Element (LUTE) By Removing The Limitation That The Oakland General Plan May Be Amended No More Than Three Times Per Calendar Year; And (2) Adopting Language To Clarify That Competing Policies in Oakland General Plan Do Not Necessarily Result In A Significant Environmental Impact Under The California Environmental Quality Act (CEQA);

(C) Approve Changes The General Plan Designation Of A 25,000 Square-Foot Portion Of Assessor Parcel Number 008-0643-001-01 (Located Within The Area Referred To As "Uptown", and Generally Bounded By San Pablo Avenue To The West, Thomas L. Berkeley Way To The North, Telegraph Avenue To The East and 19th Street To The South) From Central Business District To Park And Urban Space

FURTHER RESOLVED: That the City Administrator is directed to file notices of determination for the above-referenced actions with the Alameda County Clerk within five (5) working days of this approval.

FURTHER RESOLVED: That the record before this Council relating to this resolution includes, without limitation, the following:

1. The noise element and general plan land use designation, including all accompanying maps and papers;
2. All final staff reports, final decision letters and other final documentation and information produced by or on behalf of the City, including without limitation the initial study/negative declaration and supporting final technical studies and appendices, and all related/supporting final materials, and all final notices relating to the general plan amendment and attendant hearings;
3. All oral and written evidence received by the City Planning Commission and City Council during the public hearings on the general plan amendment; and all written evidence received by relevant City Staff before and during the public hearings on the general plan amendment;
4. all matters of common knowledge and all official enactments and acts of the City, such as (a) the general plan; (b) Oakland Municipal Code, (c) Oakland Planning Code; (d) other applicant City policies and regulations; and, (e) all applicable state and federal laws, rules and regulations.

FURTHER RESOLVED: that 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:

(a) Community and 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.

IN COUNCIL, OAKLAND, CALIFORNIA, _____, 2005

PASSED BY THE FOLLOWING VOTE:

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

NOES-

ABSENT-

ABSTENTION-

ATTEST: _____

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

DRAFT

APPROVED AS TO FORM AND LEGALITY:

FILED
OFFICE OF THE CITY CLERK
OAKLAND

DEPUTY CITY ATTORNEY

2005 JUN -9 PM 8:05

OAKLAND CITY COUNCIL

RESOLUTION No. _____ C. M. S.

INTRODUCED BY COUNCILMEMBER _____

**A RESOLUTION APPROVING A NEGATIVE DECLARATION FOR
THE UPDATED NOISE ELEMENT OF THE OAKLAND GENERAL PLAN AND
ADOPTING THE UPDATED NOISE ELEMENT**

WHEREAS, California Government Code Section 65300 requires that every planning agency prepare, and the legislative body of every county and city adopt, a comprehensive, long-term general plan for the physical development of the country or city; and

WHEREAS, California Government Code Section 65302 requires that the general plan include a noise element for the protection of the community from excessive noise; and

WHEREAS, the State of California's "General Plan Guidelines" recommends that the general plan be revised as new information becomes available and as community needs and values change; and is of the opinion that a general plan based upon outdated information and projections is not a sound basis for day-to-day decision-making; and

WHEREAS, the City of Oakland adopted its original *Noise Element* in 1974 and had not updated it since then even though the City's population and economy have expanded, and local land use patterns have changed; and

WHEREAS, the City of Oakland has prepared, with the input of City staff, the public and other interested public agencies, a draft of an updated *Noise Element*; and

WHEREAS, based on an initial study prepared under the California Environmental Quality Act of 1970 ("CEQA"), it was determined that the *Noise Element* could not have a significant effect on the environment, and a negative declaration was prepared; and

WHEREAS, the draft updated *Noise Element* and the initial study/negative declaration were circulated for public review for the requisite periods of time, including among the general public and among relevant government entities, as required by state law and regulations; and

WHEREAS, the City Planning Commission at its meeting of April 20, 2005, initially considered the draft updated *Noise Element* and the initial study/negative declaration but decided to continue the item until its next meeting to give the public additional time to provide comments; and

WHEREAS, the City Planning Commission again considered the draft updated *Noise Element* and the initial study/negative declaration at its meeting of June 1, 2005, and

recommended to the City Council approval of the negative declaration and adoption of the *Noise Element*; and

WHEREAS, the Community and Economic Development Committee of the City Council at its meeting of June 14, 2005, also considered the draft updated *Noise Element* and the initial study/negative declaration, and also recommended to the City Council approval of the negative declaration and adoption of the *Noise Element*; Now, therefore, be it

RESOLVED: that the City Council approves the negative declaration for the updated *Noise Element*, determines that this resolution complies with CEQA (based upon the findings of the City Planning Commission) and confirms, adopts and incorporates into this resolution the CEQA findings made by the Planning Commission regarding the *Noise Element*.

FURTHER RESOLVED: that the City Council hereby adopts the updated *Noise Element* as an element of the City's general plan.

FURTHER RESOLVED: that the City Administrator is directed to file a notice of determination for the negative declaration with the Alameda County Clerk within five working days of approval.

FURTHER RESOLVED: that the record before this Council relating to this resolution includes, without limitation, the following: (1) the *Noise Element*, including all accompanying maps and papers; (2) all final staff reports, final decision letters and other final documentation and information produced by or on behalf of the City, including without limitation the initial study/negative declaration and supporting final technical studies and appendices, and all related/supporting final materials and final notices regarding the *Noise Element*; (3) all oral and written evidence received by the City Planning Commission and City Council during the public hearings on the *Noise Element*; and all written evidence received by relevant City Staff before and during the public hearings on the *Noise Element*; and (4) all matters of common knowledge and all official enactments and acts of the City, such as the general plan, Oakland Municipal Code (including, without limitation, the Oakland real estate regulations and Oakland Fire Code), Oakland Planning Code, other applicant City policies and regulations, and all applicable state and federal laws, rules and regulations.

FURTHER RESOLVED: that 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: (a) Community and 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.

IN COUNCIL, OAKLAND, CALIFORNIA, _____, 2005

PASSED BY THE FOLLOWING VOTE:

AYES-
NOES-
ABSENT-
ABSTENTION-

ATTEST _____

LATONDA SIMMONS
Interim Agency Secretary/City Clerk and
Clerk of the Council of the City of Oakland, California

DRAFT

FILED
OFFICE OF THE CITY CLERK
OAKLAND

APPROVED AS TO FORM AND LEGALITY:

DEPUTY CITY ATTORNEY

2005 JUN -9 PM 8:05
OAKLAND CITY COUNCIL

RESOLUTION No. _____ C. M. S.

INTRODUCED BY COUNCILMEMBER _____

A RESOLUTION AMENDING THE OAKLAND GENERAL PLAN BY: (1) REMOVING THE LIMITATION THAT GENERAL PLAN AMENDMENTS MAY ONLY OCCUR DURING THREE DISTINCT CYCLES PER YEAR; AND (2) ADOPTING LANGUAGE TO CLARIFY THAT THE GENERAL PLAN CONTAINS COMPETING POLICIES, WHICH MUST BE BALANCED WHEN INDIVIDUAL PROJECTS ARE CONSIDERED BY THE CITY

WHEREAS, per California Government Code Section 65358(b), each of the seven mandatory elements of a general plan—land use, circulation, housing, conservation, open space, noise and safety—may be amended up to four times during any calendar year, for up to 28 amendments, combined; and

WHEREAS, Policy a3 of the *Land Use and Transportation Element (LUTE)* of the Oakland General Plan states that the City “will limit General Plan amendments to occur during three distinct cycles per year...”; and

WHEREAS, Policy a3 of the *LUTE* is significantly more restrictive than State law since it limits the City to amending all elements of its General Plan three times per year; and

WHEREAS, the City seeks to make Policy a3 consistent with State law and to restore the City’s flexibility to amend its General Plan as necessary; and

WHEREAS, while the City has historically not required more than three general plan amendment per calendar year, the City did use all of its amendments last year; and more importantly, based upon the number of development applications recently submitted, it is anticipated that the number of general plan amendments in calendar year 2005 could exceed the current limitation of three; and

WHEREAS, while policies in the General Plan must, by State law, be *consistent* with each other, General Plans contain numerous goals, policies and objectives that may also *compete* with each other if they address different goals, policies or objectives; and

WHEREAS, the City has interpreted its General Plan to acknowledge that there are competing policy goals and that a particular development projects may meet some goals, policies and objectives but not others, and that it is up to the decision makers to evaluate the development project and decide, on the whole, whether the project is consistent with the General Plan; and

WHEREAS, the balancing process between competing policies present in a development projects is consistent with California law; and

WHEREAS, competing policies do not necessarily result in a significant environmental impact under the California Environmental Quality Act (unless a physical change would occur); and

WHEREAS, the City has determined that the proposed amendments to the General Plan are not subject to environmental review under the California Environmental Quality Act since there is no possibility of a significant environmental effect [general rule; CEQA Guidelines §15061(b)(3)]; and

WHEREAS, the City Planning Commission at its meeting of June 1, 2005, considered the proposed amendments to the General Plan, and recommended to the City Council approval of the proposed amendments; and

WHEREAS, the Community and Economic Development Committee of the City Council at its meeting of June 14, 2005, also considered the proposed amendments to the General Plan, and also recommended to the City Council approval of the proposed amendments; now, therefore, be it

RESOLVED: that the City Council amends the Oakland General Plan by revising Policy a3 of the *Land Use and Transportation Element* as follows, by removing the limitation that General Plan amendments may only occur during three distinct cycles per year:

~~“To avoid erosion of the Plan by piecemeal amendments, the City of Oakland will limit General Plan amendments to any element of its General Plan to occur during three distinct cycles per year to be coordinated with the Plan’s annual review no more often than four times per calendar year.”~~

FURTHER RESOLVED: that the City Council amends the Oakland General Plan by inserting the following language to the introductory section of Chapter 4 of the *LUTE* (“Implementation Program”)—which would apply to all the elements of the General Plan—in order to clarify that the General Plan contains policies that might compete with each other and that such does not necessarily result in a significant environmental impact under CEQA:

“The General Plan contains many policies which may in some cases address different goals, policies and objectives and thus some policies may compete with each other. The Planning Commission and City Council, in deciding whether to approve a proposed project, must decide whether, on balance, the project is consistent (i.e., in general harmony) with the General Plan. The fact that a specific project does not meet all General Plan goals, policies and objectives does not inherently result in a significant effect on the environment within the context of the California Environmental Quality Act (CEQA). As stated in Section 15358(b) of the CEQA Guidelines, “[e]ffects analyzed under CEQA must be related to a physical change.” Section 15125(d) of the Guidelines states that EIRs shall discuss any inconsistencies between the proposed project and applicable General Plans in the “Setting” section of the document (not under impacts). Further, Appendix G of the Guidelines (Environmental Checklist Form) makes explicit the focus on environmental policies and plans, asking if the project would “conflict with any applicable land use plan, policy, or regulation...adopted for the purpose of avoiding or mitigating an environmental effect”. Even a response in the affirmative, however, does not necessarily indicate that the project would have a significant effect, unless a physical change would occur. To the extent that

physical impacts may result from such conflicts, such physical impacts would be analyzed in the appropriate environmental document for the project.”

FURTHER RESOLVED: that the City finds that, (a) the above amendments advance implementation of the General Plan by making City policy consistent with State law and restoring the City’s flexibility to amend its General Plan as necessary, and by acknowledging that the General Plan, even though it is internally consistent, contains competing policy goals; (b) the amendments are consistent with General Plan policies; (c) there are no inconsistencies between the amendments and existing General Plan policies; and (d) the amendments are not contrary to the achievement of citywide goals.

FURTHER RESOLVED: that the above amendments are not subject to environmental review under the California Environmental Quality Act since there is no possibility of a significant environmental effect [general rule; CEQA Guidelines §15061(b)(3)], and that the City Administrator is directed to file a notice of exemption for the amendments.

FURTHER RESOLVED: that the record before this Council relating to this resolution includes, without limitation, the following: (1) all final staff reports, final decision letters and other final documentation and information produced by or on behalf of the City, including without limitation all related/supporting final materials and final notices regarding the above General Plan amendments; (2) all oral and written evidence received by the City Planning Commission and City Council during the public hearings on the proposed General Plan amendments, and all written evidence received by relevant City Staff before and during the public hearings on the above amendments; and (4) all matters of common knowledge and all official enactments and acts of the City, such as the general plan, Oakland Municipal Code (including, without limitation, the Oakland real estate regulations and Oakland Fire Code), Oakland Planning Code, other applicant City policies and regulations, and all applicable state and federal laws, rules and regulations.

FURTHER RESOLVED: that 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: (a) Community and 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.

IN COUNCIL, OAKLAND, CALIFORNIA, _____, 2005

PASSED BY THE FOLLOWING VOTE:

AYES-

NOES-

ABSENT-

ABSTENTION-

ATTEST

LATONDA SIMMONS
Interim Agency Secretary/City Clerk and
Clerk of the Council of the City of Oakland, California

DRAFT

FILED
OFFICE OF THE CITY CLERK
APPROVED AS TO FORM AND LEGALITY:

2005 JUN -9 PM 8:03

DEPUTY CITY ATTORNEY

OAKLAND CITY COUNCIL

RESOLUTION No. _____ C. M. S.

INTRODUCED BY COUNCILMEMBER _____

A RESOLUTION TO CHANGE THE GENERAL PLAN DESIGNATION OF A 25,000 SQUARE-FOOT PORTION OF THE BLOCK BOUNDED BY SAN PABLO AVENUE TO THE WEST, WILLIAM STREET TO THE NORTH, TELEGRAPH AVENUE TO THE EAST AND 19TH STREET TO THE SOUTH FROM CENTRAL BUSINESS DISTRICT TO PARK AND URBAN OPEN SPACE.

WHEREAS, the General Plan Amendment will allow implementation of the Uptown Project which includes infill mixed-use development in close proximity to mass transit consistent with General Plan policies; and

WHEREAS, according to the City of Oakland's "Guidelines for Determining Project Conformity with the General Plan and Zoning Regulations" (Guidelines), passed by the Planning Commission on May 6, 1998, the site's current General Plan land use designations do not allow the proposed recreation use; and

WHEREAS, according to the Guidelines, Park and Urban Open Space General Plan land use designation would allow the proposed recreation use; and

WHEREAS, the City Council finds that a General Plan Amendment to facilitate development of the Uptown Project is in the public interest; and

WHEREAS, the City Council makes the following findings (a) through (d) as required by the General Plan Administration Section of the General Plan for a General Plan Amendment (as specified in Objective a3 of the Land Use and Transportation Element (LUTE):

- **Findings (a) and (b).** The amendment advances General Plan implementation and is consistent with the General Plan, including without limitation, the policies in the LUTE. Amending the General Plan land use designations for the City park site from Central Business District to Park and Urban Open Space to facilitate development of the Uptown Project implements the LUTE and other General Plan policies. The General Plan Amendment and the project are consistent with and implement the following LUTE and OSCAR policies:

Policy I/C3.3: Clustering Activity in "Nodes." Retail uses should be focused in "nodes" of activity, characterized by geographic clusters of concentrated commercial activity, along corridors that can be accessed through many modes of transportation.

The project includes retail space along Telegraph Avenue, in support of and adding to existing, concentrated commercial activity along the Telegraph Avenue corridor. The entire project is located within one-quarter mile of AC Transit bus stops serving both regional and local bus lines and the BART 19th Street station serving this regional transportation mode.

I/C3.4: Strengthening Vitality. The vitality of existing neighborhood mixed use and community commercial areas should be strengthened and preserved.

The project includes high-density residential uses adjacent to the downtown area. This use expands and strengthens the market for commercial, entertainment and employment land uses in the vicinity.

I/C3.5: Promoting Culture, Recreation, and Entertainment. Cultural, recreational, and entertainment uses should be promoted within the Downtown, particularly in the vicinity of the Fox and Paramount Theaters, and within the Jack London Square area.

The project includes high-density residential near the Fox and Paramount Theaters. This use expands and strengthens the market cultural, recreation and entertainment activities in the area.

Policy I/C4.1: Protecting Existing Activities. Existing industrial, residential, and commercial activities and areas which are consistent with long term land use plans for the city should be protected from the intrusion of potentially incompatible land uses.

Although the proposed use would replace existing an existing single-resident occupancy facility and underutilized commercial land uses, the project is consistent with long term plans for strengthening the community and providing synergistic uses in the downtown area.

Policy T2.1: Encouraging Transit-Oriented Development. Transit-oriented development should be encouraged at existing or proposed transit nodes, defined by the convergence of two or more modes of public transit such as BART, bus, shuttle service, light rail or electric trolley, ferry, and inter-city or commuter rail.

The project includes high-density residential and commercial uses located within one-quarter mile of AC Transit bus stops serving both regional and local bus lines and the BART 19th Street station serving this regional transportation mode.

Policy T2.2: Guiding Transit-Oriented Development. Transit-oriented development should be pedestrian-oriented, encourage night and day time use, provide the neighborhood with needed goods and services, contain a mix of land uses, and be designed to be compatible with the character of surrounding neighborhoods.

The project includes extensive streetscape improvements, pedestrian safety features, retail uses, and a City park, all intended to enrich the pedestrian and general public experience of the area.

Policy T2.3: Promoting Neighborhood services. Promote neighborhood-serving commercial development within one-quarter to one-half mile of established transit routes and nodes.

The project includes 9,000 square feet of ground floor commercial space along Telegraph Avenue and within close proximity to BART and AC Transit. The proposed commercial space enhances the existing commercial district in the project vicinity.

Policy T2.3: Linking Transportation and Activities. Link transportation facilities and infrastructure improvements to recreational uses, job centers, commercial nodes, and social services (i.e., hospitals, parks, or community centers).

The project involves intensifying recreational uses and housing opportunities near existing transit and transportation facilities, including BART, AC Transit and Interstate 880.

Policy D5.1: Encouraging Twenty-Four Hour Activity. Activities and amenities that encourage pedestrian traffic during the work week, as well as evenings and weekends should be promoted.

The project provides residential and commercial uses adjacent to the downtown area. Proposed residential activities will complement existing commercial and cultural activities in the downtown and immediate vicinity for which there is otherwise no audience during non-work hours. In addition, residential and recreational activities will encourage pedestrian traffic to and from the project at all hours of the day and all days of the week.

Policy D6.1: Developing on vacant land or to replace surface parking lots should be encouraged throughout the downtown, where possible.

The project would replace an existing surface parking lot and garage, as well as other underutilized land uses, in the downtown area with residential, recreational and commercial uses.

Policy D10.1: Encouraging Housing. Housing in the downtown should be encouraged as a vital component of a 24-hour community presence.

The project would provide 665 residential units in the downtown area.

Policy D10.2: Locating Housing. Housing in the downtown should be encouraged in identifiable districts, within walking distance of the 12th Street, 19th Street, City Center, and Lake Merritt BART stations to encourage transit use, and in other locations where compatible with surrounding uses.

The project would provide 665 residential units within one-quarter mile of the 19th Street BART station.

Policy D10.6: Creating Infill Housing. Infill housing that respects surrounding development and the streetscape should be encouraged in the downtown to strengthen or create distinct districts.

The project would provide 665 residential units in approximately six-story mid-rise buildings similar to the surrounding area and complementary to the nearby high-rise downtown district.

D11.1: Promoting Mixed-Use Development. Mixed use developments should be encouraged in the downtown for such purposes as to promote its diverse character, provide for needed goods and services, support local art and culture, and give incentive to reuse existing vacant or underutilized structures.

The proposed project is a predominantly residential mixed-use project that includes commercial and recreational uses. The proposed uses enhance the existing diverse character of the area by increasing the market for existing commercial, entertainment and employment uses in the area.

Policy N1.1: Concentrating Commercial Development. Commercial development in the neighborhoods should be concentrated in areas that are economically viable and provide opportunities for smaller-scale, neighborhood-oriented retail.

The proposed project includes new ground floor commercial space along Telegraph Avenue, an existing commercial district. The new commercial uses would contribute to a continuous commercial street frontage that is currently disrupted by a surface parking lot.

Policy N3.2: Encouraging Infill Development. In order to facilitate the construction of needed housing units, infill development that is consistent with the General Plan should take place throughout the City of Oakland.

The proposed project is located within a completely urbanized area and constitutes residential infill development within Oakland.

Policy N8.1: Development of Transit Villages. “Transit Village” areas should consist of attached multi-story development on properties near or adjacent to BART stations or other well-used or high volume transit facilities, such as light rail, train, ferry stations, or multiple-bus transfer locations. While residential units should be encouraged as part of any transit village, other uses may be included where they will not negatively affect the residential living environment.

The proposed project is a multi-story residential mixed-use project located near BART and AC Transit and is consistent with the “Transit Village” terminology.

Policy OS-4.1: Provision of Useable Open Space. Continue to require new multi-family development to provide useable outdoor open space for its residents.

The proposed project exceeds the zoning requirements for on-site usable open space for the new multi-family residential land uses (see Zoning Analysis subsection below). In addition, the project includes the provision of a 25,000 square-foot City park to meet the needs of downtown residents for public open space.

Policy OS-11.1: Access to Downtown Open Space. Provide better access to attractive, sunlit open spaces for persons working or living in downtown Oakland. The development of rooftop gardens is encouraged, especially on parking garages.

The proposed project exceeds the zoning requirements for on-site usable open space for the new multi-family residential land uses (see Zoning Analysis subsection below). In addition, the project includes the provision of a 25,000 square-foot City park to meet the needs of downtown residents for public open space.

Policy REC-3.1: Level of Service Standards. Use the level of service of standards in Table 15 (Level of Service Standards for Oakland Parks) as a means of determining where unmet needs exist and prioritizing future capital investments.

The OSCAR establishes a goal of 4.0 acres of local-serving park acreage per 1,000 residents. The project would result in an overall increase in population by 1060 residents (this calculation assumes the provision of 665 new residential units, replacing 34 existing units with a formula of 1.68 persons per unit, based on The Uptown Mixed use Project EIR--see discussion below). Accordingly, 4.24 acres of local new local-serving park is required in order to meet the stated goal. The proposed project includes 0.57 acre of parkland. However, the OSCAR also acknowledges that, "While the ultimate goal is to achieve these standards in every Oakland neighborhood, the city's built-out character presents a major obstacle in most cases. The immediate goal is to make significant inroads in the gap between what exists now and what is ultimately desired. The City should work towards reducing that gap in its annual capital improvement program." (page 4-40) The proposed project meets the overall intent and spirit of the policy by providing a significant amount of new public open space in the downtown area.

- **Finding (c).** There are no General Plan inconsistencies to be reconciled. The project would be consistent with the policies of the General Plan.
- **Finding (d).** The General Plan Amendment would not have a citywide impact, except that it is consistent with and would promote LUTE and other General Plan policies, including without limitation, LUTE and OSCAR policies related to the provision of infill housing and creation of new public open space; and

WHEREAS, at the duly noticed February 18, 2004 Planning Commission meeting, the Commission independently reviewed and considered an Environmental Impact Report (EIR) for the Uptown Project and (1) certified the EIR; and (2) adopted a Mitigation and Monitoring Reporting Program in accordance with the California Environmental Quality Act (CEQA) and the CEQA Guidelines; and

WHEREAS, the City has reviewed the proposed changes to the project and circumstances surrounding the project and hereby finds and determines on the basis of substantial evidence in the record that the EIR fully analyzes the potential environmental effects of the project and incorporates mitigation measures to substantially lessen or avoid any potentially significant impacts in accordance with CEQA. None of the circumstances necessitating preparation of additional CEQA review as specified in CEQA and the CEQA Guidelines, including without limitation Public Resources Code Section 21166 and CEQA Guidelines Section 15162, are present in that (1) there are no substantial changes proposed in the project or the circumstances under which the project is undertaken that would require major revisions of the EIR due to the involvement of new environmental effects or a substantial increase in the severity of previously identified significant effects; and (2) there is no "new information of substantial importance" as described in CEQA Guidelines Section 15162(a)(3); and

WHEREAS, at the duly noticed June 1, 2005 Planning Commission meeting, the Commission took the following actions: 1) Conditionally approved the Preliminary Planned Unit Development for the Uptown project (Parcels 1, 2, 3, 4 and park), the Final Planned Unit Development for Parcels 1, 2, 3 and park, Design Review, Conditional use Permit and Variance applications; 2) Conditionally approved the Vesting Tentative Map; 3) Found that the proposed street

vacations are consistent with the General Plan and recommended that the City Council adopt an ordinance to conditionally vacate portions of Thomas L. Berkley Way, William Street, and 19th Street between San Pablo Avenue and Telegraph Avenue and quit claiming the underlying fee interests in the vacated rights-of-way to the Oakland Redevelopment Agency; and 4) Recommended approval of the proposed General Plan Amendment and Rezoning to the City Council; now, therefore be it

RESOLVED: That the Community and Economic Development Agency is directed (1) to take all steps necessary to revise the General Plan diagrams to facilitate development of the approved Uptown Project, including changes to the land use designations of a 25,000 square-foot portion of the block bounded by San Pablo Avenue to the west, William Street to the north, Telegraph Avenue to the east and 19th Street to the south from Central Business District to Park and Urban Open Space; and (2) to file a Notice of Determination with the Clerk of Alameda County in accordance with CEQA Guidelines Section 15075.

IN COUNCIL, OAKLAND, CALIFORNIA, _____, 2005

PASSED BY THE FOLLOWING VOTE:

Brunner, Kernighan, Nadel, Quan, De La Fuente, Brooks, Reid, Chang

AYES-

NOES-

ABSENT-

ABSTENTION-

Council

ATTEST:

LaTonda Simmons
City Clerk and Clerk of the

of the City of Oakland,
California