

CITY OF OAKLAND
AGENDA REPORT

FILED
OFFICE OF THE CITY CLERK
OAKLAND

2005 NOV -2 PM 4:36

TO: Office of the City/Agency Administrator
ATTN: Deborah Edgerly
FROM: Community and Economic Development Agency
DATE: November 15, 2005

RE: **JOINT CITY AND AGENCY PUBLIC HEARING AND ACTION ON THE 366 UNIT ARCADIA PARK RESIDENTIAL PROJECT (LOCATED NEAR THE INTERSECTION OF 98TH AVENUE AND SAN LEANDRO STREET), INCLUDING ADOPTING:**

- 1) City Resolution denying the appeal and sustaining the Planning Commission decisions to certify the Environmental Impact Report and approve the Development Applications for the Project;**
- 2) City Resolution amending the General Plan Land Use Designation for the Project site from General Industrial/Transportation to Housing and Business Mix;**
- 3) Agency Resolution approving and recommending adoption of an amendment to the Coliseum Area Redevelopment Plan revising the Land Use Designation for the Project site from Manufacturing to Housing and Business Mix;**
- 4) City Ordinance adopting an amendment to the Coliseum Area Redevelopment Plan revising the Land Use Designation for the Project site from Manufacturing to Housing and Business Mix; and**
- 5) City Ordinance rezoning the Project site from the M-30 General Industrial Zone to the R-30 One-Family Residential Zone and R-50 Medium Density Residential Zone.**

SUMMARY

An appeal of the Planning Commission's September 21, 2005, approval of a proposed residential project was filed on September 30, 2005, by Robert A. D. Schwartz, representing himself, Jack Krause, and Polly Mendes. The appellant contends primarily that the proposal, which would reuse an existing 27-acre industrial site, is inconsistent with the policies and goals of the City because the proposed land use conversion would create additional land use conflicts between the proposed residential units and nearby existing industrial businesses. The appellant argues that redevelopment of the site with industrial uses is more consistent with the City's policies and goals.

The proposal involves the construction of 366 new residential dwelling units on a 27-acre industrial site located near the corner of 98th Avenue and San Leandro Street in East Oakland. A map of the project site is attached to this report (see Attachment A). The project consists of 74

Item: _____
City Council/Redevelopment Agency
November 15, 2005

single-family homes, 108 small-lot single-family homes (also called detached condominiums or urban single-family homes), and 184 attached townhomes. The project requires amending the General Plan land use designation for the site from General Industrial/Transportation to Housing and Business Mix, amending the Coliseum Area Redevelopment Plan land use designation for the site from Manufacturing to Residential, and rezoning the property from the M-30 General Industrial Zone to the R-30 One-Family Residential Zone and the R-50 Medium Density Residential Zone. The project also requires the following development permits: Planned Unit Development (PUD) permit; Tentative Tract Map; Conditional Use Permit; and Variances.

On September 21, 2005, the Planning Commission held a public hearing on the proposed project. The Commission voted 4-1 to take the following actions at the public hearing: 1) Certification of the Final Environmental Impact Report (EIR); 2) Approval of the development permits (Planned Unit Development (PUD), Tentative Tract Map, Conditional Use Permit, and Variances); 3) Recommendation of approval of the proposed General Plan amendment to the City Council; 4) Recommendation of approval of the proposed Redevelopment Plan amendment to the City Council and Redevelopment Agency; and 5) Recommendation of approval of the proposed rezoning to the City Council.

The City Council and Redevelopment Agency now must consider both the appeal of the Planning Commission's actions to approve the project and the Planning Commission's recommendations to adopt the proposed General Plan amendment, Redevelopment Plan amendment, and rezoning which are required in order to implement the project.

FISCAL IMPACT

The proposed project and the proposed General Plan amendment, Redevelopment Plan amendment, and rezoning will not result in any direct fiscal impacts to the City of Oakland. Staff costs related to the review of the project and the amendments, as well as future planning entitlements for the project area, are cost covered. These entitlements are subject to the applicable fees established in the Master Fee Schedule.

Major land use conversions, such as the proposed project, have the potential for indirect positive and negative fiscal impacts to the City's budget through the effect of the conversion on the tax revenue generated by the site and the cost of providing city services to the project. A fiscal impact analysis prepared for the project estimates that the subject property, given existing development on the site, will generate \$0.3 million in property tax revenue for the City during the 10-year period starting 2006 and ending 2015. The fiscal impact analysis is attached to this report (see Attachment B). If the proposed project is constructed, it is estimated that the property would generate \$2.9 million in property tax revenue for the City during the same 10-year period, or an increase of \$2.6 million. This figure only represents property tax revenue to the City; it does not account for the loss in business license tax revenue to the City when the existing business activity on the site is removed and it does not include the cost of providing city services to the project. The analysis also does not take into account that the project site is located in the Coliseum Redevelopment Project Area so that only a limited portion of the property tax revenue

increase from the project goes to the City's General Fund with the majority of the revenue increase going to the City's Redevelopment Agency. The increased revenue to the Redevelopment Agency would be used to fund improvements in the Redevelopment Project Area.

Housing developments typically do not generate enough tax revenue (from direct and indirect sources, including property taxes, sales and use taxes, motor vehicle in lieu fees, utility consumption taxes, real estate transfer taxes, fines and penalties) to offset the cost of providing city services. A similar fiscal impact analysis was prepared for the recently approved Wood Street development project in West Oakland, also located in a redevelopment area. The Wood Street analysis included costs of providing city services to the project and accounted for the way revenue is handled in redevelopment areas. The analysis found that when those two factors were included, the project had a negative fiscal impact to the City's General Fund. The proposed project and the Wood Street project are two different projects in two different parts of the city so it should not be assumed that the fiscal impacts of the two projects will be the same, however, the Wood Street analysis is useful in gaining a better understanding of the potential fiscal impacts of the project.

There is the potential for the project to result in indirect fiscal benefits to the City. The project would increase the population in the immediate vicinity of the Elmhurst commercial district on International Boulevard thereby expanding the consumer base for neighborhood businesses which would increase sales tax revenue. Furthermore, the project would enhance the quality of life in the existing residential neighborhood immediately adjacent to the project site by replacing an existing industrial operation with residential uses consistent with the existing neighborhood thereby making the neighborhood a more desirable place to live and, in turn, increasing revenue to the City in the form of increased property taxes and real estate transfer taxes.

BACKGROUND

The project was discussed by the Planning Commission at three public hearings held on April 20, 2005, July 20, 2005, and September 21, 2005. At the April 20, 2005, hearing the Planning Commission heard comments from the public and provided comments to staff on the scope of the Environmental Impact Report (EIR) for the project. At the July 20, 2005, hearing the Planning Commission discussed the results of the Draft EIR and the merits of the project itself. At the September 21, 2005, hearing the Planning Commission discussed the results on the Final EIR and took actions to approve the project. The staff reports for the July 20, 2005, and September 21, 2005, are attached to this report (see Attachments C and D). On September 30, 2005, the City received an appeal of the Planning Commission's decision filed by Robert A. D. Schwartz representing himself, Jack Krause, and Polly Mendes. The basis for the appeal is discussed below.

Basis for and Response to Appeal

In his appeal of the Planning Commission's actions to approve the project, the appellant, Robert A. D. Schwartz, states that the Planning Commission's actions were without adequate factual basis, failed to consider public policy, and constituted an abuse of discretion. Furthermore, the appellant states that the approvals were arbitrary, unfair, and discriminatory and should be rejected. The appeal itself is attached to this report (see Attachment E). In support of the appeal the appellant attached six exhibits and referred to the staff reports prepared for the Planning Commission hearings. Each exhibit is discussed below.

Exhibit A of the appeal is a letter dated August 10, 2005, written by Polly and Joe Mendes of Creative Wood Products, Inc., a furniture manufacturing business located at 900 77th Avenue in Oakland. This letter was originally submitted in response to the Draft EIR and disputes information in the Draft EIR related to hazardous materials, noise, traffic and circulation, and land use. City staff responded to the letter in the Final EIR (Pages III.25 to III.27).

Exhibit B of the appeal is a letter dated September 21, 2005, and written by Polly Mendes of Creative Wood Products, Inc. This letter was submitted to the Planning Commission at the Planning Commission's hearing on September 21, 2005, and states concerns about the project's effect on industrial businesses in Oakland. The letter was considered by the Planning Commission at the hearing on September 21, 2005. The Planning Commission acted to approve the project despite these concerns due to the reasons outlined below under the "Recommendation and Rationale" section of this report.

Exhibit C of the appeal is a letter dated August 11, 2005, and written by Jack Krause of Alta Building Material Company, a business located at 745 50th Avenue in Oakland. This letter was originally submitted in response to the Draft EIR and disputes information in the Draft EIR related to the potential land use conflicts between the project and surrounding industrial uses. City staff responded to the letter in the Final EIR (Pages III.27 to III.29).

Exhibit D of the appeal is a letter submitted by Robert A. D. Schwartz of Key Source International, located at 7711 Oakport Street in Oakland, at the Planning Commission's hearing on September 21, 2005. The letter asks questions concerning the proposal and the staff report prepared for the hearing. These questions primarily involve the appropriateness of converting industrial land to residential use in the city. Staff points out that the General Plan and the Zoning Regulations are not static; the City Council regularly amends both the General Plan and the Zoning Regulations in response to changing social, economic, and geographic circumstances. The fiscal impact analysis prepared for the project states that the site is unlikely to be redeveloped with new industrial uses. With a limited amount of land in the city, it is often necessary for the City to convert land from one use to another. Staff believes the potential conflict between the proposed residential use of the site and the surrounding industrial uses would be less than significant for the reasons outlined in the EIR and staff reports prepared for the July 20, 2005, and September 21, 2005, Planning Commission hearings. This letter was considered by the Planning Commission at the hearing on September 21, 2005. The Planning

Commission acted to approve the project despite the concerns raised in the letter due to the reasons outlined below under the “Recommendation and Rationale” section of this report.

Exhibit E of the appeal states the industry and commerce goals of the General Plan, disputes the project’s consistency with the General Plan, and questions the analysis contained in the EIR and the fiscal impact study that was prepared for the project. The appellant questions the application of the Housing and Business Mix designation to the project because the project is purely residential. Staff points out that the Housing and Business Mix designation was originally intended to apply to areas acting as a transition between heavy industrial uses and light industrial uses that are compatible with residential development. The project site is located geographically between industrial uses to the north, south, and west of the site and residential uses to the east of the site, and is located immediately adjacent to light industrial uses which are compatible with the residential uses. The proposed General Plan land use designation for the site and potential land use conflicts resulting from the project are further discussed under the “Key Issues and Impacts” section of this report.

The appellant also disputes the information in the EIR by arguing that the project would induce industrial properties located to the south of the project site to convert to residential uses. Staff argues that the project would be more likely to induce properties immediately abutting the site and properties to the north of the site to convert to other uses, rather than the properties to the south of the site across 98th Avenue, because the former properties either abut the project site or are of sufficient size and configuration to support residential site planning, unlike the properties to the south of the site across 98th Avenue which are small and where the ownership is more fragmented. Furthermore, the appellant argues that the fiscal impact analysis prepared for project fails to consider revenue generated by the site if it were to be redeveloped with new industrial uses. Staff points out that the fiscal impact analysis concluded that the site is unlikely to be redeveloped with new industrial uses. The potential for new industrial development on the site is further discussed under the “Key Issues and Impacts” section of this report. Finally, the appellant argues that the project was wrongly compared to the residential goals of the General Plan thereby disregarding the industrial goals of the General Plan. Staff argues that the site would be unable to meet the industrial goals on the General Plan because it is unlikely that the site would be redeveloped with industrial uses according to the fiscal impact analysis prepared for the project. The industrial and residential goals of the General Plan are listed on Page 4 of the staff report prepared for the Planning Commission hearing on July 20, 2005 (see Attachment C).

Exhibit F of the appeal contains copies of past agendas from the Industrial Policy Working Group, a group made up of city staff and industrial interests in the city, which include excerpts of minutes from various Zoning Update Committee meetings of the Planning Commission. These minutes contain discussions surrounding industrial policy matters in the city. The appellant does not indicate how this exhibit supports the appeal.

For the reasons stated above and below in this report, as well as the previous Planning Commission reports, and elsewhere in the administrative record, the appeal should be denied.

PROJECT DESCRIPTION

The applicant proposes to construct 366 new residential dwelling units on the site. The project consists of 74 single-family homes, 108 small-lot single-family homes (also called detached condominiums or urban single-family homes), and 184 attached townhomes. The project is described in more detail on Page 3 of the July 20, 2005 staff report (see Attachment C). The project plans for the proposal are attached to this report (see Attachment F).

The project site is located near the corner of 98th Avenue and San Leandro Street in East Oakland. The site is approximately 27 acres in size and is relatively flat. The site is the former location of the Fleischmann's Yeast factory that was constructed in 1935 and recently demolished in 2003. Currently there are five buildings on the site, as well as a water tower, tanks, and other remnants of the former use of the site. The site is currently used primarily for storing shipping containers. All structures on the site would be demolished or removed as part of the project.

Immediately adjacent to the west of the site running parallel to and between the site and San Leandro Street is the Union Pacific/Western Pacific railroad right-of-way and overhead BART tracks. The site is surrounded to the north, south, and west by industrial uses. To the east are residential uses.

KEY ISSUES AND IMPACTS

Below is a discussion of the key issues and impacts related to the project. These issues and impacts are further discussed in the July 20, 2005, and September 21, 2005, Planning Commission staff reports (see Attachments C and D).

Environmental Impacts

The project is subject to the environmental review requirements of the California Environmental Quality Act (CEQA). An Initial Study analyzing the potential environmental impacts of the project was prepared. The Initial Study concluded that all potentially significant environmental impacts could be reduced to less than significant levels with mitigation except for traffic impacts. The Planning Commission held a public hearing on April 20, 2005, regarding the scope of the EIR. At the hearing the Planning Commission asked that the EIR also contain a discussion of potential impacts related to land use, noise, and hazardous materials.

The Draft EIR was prepared and published for public review on July 1, 2005, beginning a 45-day public review period. A hearing on the Draft EIR was held at the July 20, 2005, Planning Commission meeting. At that hearing the public and the Planning Commission provided a number of comments on the Draft EIR and the project. A Final EIR was prepared that responds to these comments and clarifies and modifies information contained in the Draft EIR. The Draft EIR and Final EIR were provided under separate cover to each City Councilmember and is also

available on the City's website (www.oaklandnet.com) and at the offices of the Community and Economic Development Agency (250 Frank H. Ogawa Plaza, Suite 3315).

The Initial Study, included as Appendix A in the Draft EIR, and the EIR evaluated the proposed project and found impacts in the following environmental categories to be less than significant: aesthetics; agricultural resources; biological resources; hydrology and water quality; land use and planning; mineral resources; public services; population and housing; recreation; and utilities and service systems. The Initial Study and the EIR also found impacts in the following environmental categories to be less than significant with the incorporation of mitigation measures: air quality; cultural resources; geology and soils; hazards and hazardous materials; noise; and transportation and circulation. As detailed below, the Initial Study and EIR recommend mitigation measures that, if implemented, would avoid or reduce all of the identified significant effects to less-than-significant levels. These measures, listed below, were included within a Mitigation Monitoring and Reporting Program that was incorporated into the Conditions of Approval when the Planning Commission approved the project.

Significant but Mitigable Impacts

- Impact AIR-1: The project would generate dust during the construction period. Mitigation: The project would be required to comply with guidelines from the Bay Area Air Quality Management District to limit dust emissions during demolition and construction activities.
- Impact CUL-1: Construction activities associated with the proposed project have the potential to disturb unknown prehistoric or historic archaeological resources. Mitigation: Prior to construction activities the project sponsor would be required to submit the results of a field survey conducted by a qualified archaeologist to confirm no archaeological deposits exist on the site. If archaeological deposits are encountered during construction activities, the deposits would be evaluated by an archaeologist to determine if the deposits are significant before construction activities resume.
- Impact CUL-2: Construction activities associated with the proposed project have the potential to disturb unknown paleontological resources. Mitigation: Prior to construction activities the project sponsor would be required to submit the results of a field survey conducted by a qualified paleontologist to confirm no paleontological deposits exist on the site. If paleontological deposits are encountered during construction activities, the deposits would be evaluated by a paleontologist to determine if the deposits are significant before construction activities resume.
- Impact CUL-3: The records search indicated that the project area is situated along former Bay marsh margins, an area considered sensitive. In addition, CA-ALA-52, a Native American archaeological site, is located either adjacent or within the immediate vicinity of the project area. Given the environmental setting and the archaeological sensitive nature of the immediate area, there is a moderate potential for Native American sites to

exist in the project area which could be disturbed by the project. Mitigation: Prior to construction activities the project sponsor would be required to submit the results of a field survey conducted by a qualified archaeologist to confirm no archaeological deposits exist on the site. If archaeological deposits are encountered during construction activities, the deposits would be evaluated by an archaeologist to determine if the deposits are significant before construction activities resume.

- Impact GEO-1: The Geotechnical Investigation completed for the project found that strong ground shaking could be expected at the project site during moderate to severe earthquakes in the general region, which is the situation for virtually all developments in the San Francisco Bay Area. Mitigation: The project would be required to comply with all recommendations contained in the geotechnical report submitted by the applicant (Geotechnical Investigation prepared by Lowney Associates dated June 15, 2004).
- Impact Traffic-2: During the peak construction period, the project would employ a maximum of 125 workers on a daily basis and require a maximum of 50 daily truck trips (25 inbound and 25 outbound) to haul material. This level of activity results in approximately 300 daily trips, 131 AM peak hour trips, and 131 PM peak hour trips. Mitigation: Prior to the issuance of a demolition, grading, or building permit, the Project sponsor shall submit a traffic management plan (TMP) to the City for review and approval.
- Impact Traffic-3: Several intersections within the site are not completely perpendicular or are slightly offset. At these locations, vehicles may be unable to clearly determine right-of-way, leading to the potential for accidents. Mitigation: Implement traffic control features (stop signs) for these intersections.
- Impact Traffic-4: The easternmost project driveway on 98th Avenue is offset (not directly across) from the existing Gould Street by about 75 feet. Offset intersections can be dangerous and are an undesirable design due to the vehicle conflicts that are created. Mitigation: Restrict movements at the eastern-most driveway along 98th Avenue to right-turn in/right-turn out movements.
- Impact Traffic-5: The project would cause the intersection of San Leandro Street/98th Avenue to worsen from level of service (LOS) D under year 2010 conditions without the project to LOS E. Mitigation: Prior to project occupancy, the project sponsor shall re-stripe San Leandro Street at 98th Avenue to provide exclusive northbound and southbound right-turn lanes.
- Impact NOISE-1: The existing noise environment at the project site ranges from 62 dBA to 82 dBA L_{dn} which would cause interior sound levels to be higher than the allowed maximum of 45 dBA L_{dn}. Mitigation: All exterior walls exposed to a DNL of 60 dBA or greater shall be constructed with a Sound Transmission Class (STC) rating of 47. A qualified acoustical consultant shall review the design as it is developed to refine the

specific STC ratings once the building design and site layout have been finalized through City review and approval of the final design. Since the windows facing 98th Avenue and San Leandro Street will have to be closed in order to achieve the interior noise criteria, an alternate means of providing outside air to habitable spaces (ventilation or air conditioning) is required for facades exposed to an exterior dNL of 60 dBA or greater.

- Impact NOISE- 2: Construction and remediation noise levels would reach 80 to 90 dBA at a distance of 50 feet. Some activities, such as excavation would exceed these noise levels. Mitigation: Construction hours would be restricted to between 7:00 a.m. and 7:00 p.m. Monday through Friday, with pile driving and/or other extreme noise-generating activities limited to between 8:00 a.m. and 4:00 p.m. Monday through Friday. No construction activities would be allowed on weekends except within an enclosed building, and no extreme noise-generating activities would be allowed on weekends or holidays. Additional measures to reduce construction noise such as utilizing noise control devices on equipment and tools and installing a temporary plywood noise barrier around the site would be required. The applicant would also be required to submit measures to respond to and track complaints pertaining to noise generated during construction.
- Impact NOISE-3: Although the vibration produced by the BART trains was not found to be perceptible to future residents, the Union Pacific trains could produce vibrations that could be felt in the homes closest to San Leandro Street. Mitigation: The project sponsor shall retain an acoustical engineer during design to review and provide input to reduce the potential of vibration amplification on upper floors of the residences. Typical recommendations would include minimizing long spans, increasing joist depths, stiffening the structure, etc. Prospective residents shall be made aware of the train line through a full disclosure statement. These recommendations on the final design would be subject to City review and approval.
- Impact HAZ-1: A Phase I Site Assessment Report was prepared by Geomatrix Consultants in July 2004 which identified a number of contaminants related to past uses of the site as the Fleischman's yeast plant and trucking facilities. The contaminants include lead, mercury, petroleum hydrocarbons and underground storage tanks. Geomatrix Consultants conducted additional soil and groundwater sampling at over 50 locations across the site in July 2004 and September 2004, and their subsequent reports recommended actions that should be taken before reconstruction of the site can begin. Mitigation: The applicant would be required to obtain approval of a Health and Safety Plan that includes provisions for worker safety during construction and obtain approval for remediation plans for on-site contaminants.
- Impact HAZ-2: Existing buildings could contain asbestos containing materials (ACM) or lead-based paint. These materials require removal prior to any demolition activities in accordance with the Bay Area Air Quality Management District's (BAAQMD) Regulation 11, Rule 2. Mitigation: All ACMs and lead-based paint shall be removed

from the site prior to the start of any demolition activities. The removal of ACMs shall be conducted by a licensed asbestos abatement firm in accordance with the BAAQMD's Regulation 11, Rule 2.

The EIR evaluated the proposed project and found impacts in the following environmental category to be significant and unavoidable: transportation and circulation. The EIR conservatively identified four significant unavoidable impacts from the proposed project as detailed below.

Significant Unavoidable Impacts

- Impact Traffic-1: The project would contribute 166 vehicles to the intersection of International Boulevard and 92nd Avenue during the PM peak hour, causing the intersection to meet the Caltrans peak hour volume warrant. Mitigation: After 25 percent occupancy of the project, the project sponsor would perform a detailed traffic signal warrant evaluation (i.e., evaluate all eight warrants in the MUTCD) to establish a clear need for a traffic signal subject to City review and approval. If the traffic signal is warranted based on a detailed evaluation, the project sponsor would pay for the installation of a traffic signal at this location prior to additional occupancy of the project. If a signal is not warranted based on a detailed evaluation, the project sponsor would conduct another detailed evaluation once the project reaches 90 percent occupancy. If a signal is warranted and installed, the impact would be reduced to a less than significant level. Installation of the traffic signal is subject to review and approval by Caltrans. If Caltrans does not approve the installation of a traffic signal, this impact remains significant and unavoidable. Although there is no indication from Caltrans that they will not approve the mitigation measure, it is nevertheless conservatively considered to be a significant and unavoidable impact.
- Impact Traffic-6: Under year 2010 cumulative conditions, the project would contribute more than four seconds of average delay to the intersection of International Boulevard and 98th Avenue. Mitigation: Prior to project occupancy, the project sponsor shall stripe an exclusive 100-foot northbound right-turn lane on International Boulevard. With the new striping, the impact would be reduced to a less than significant level. The striping is subject to review and approval by Caltrans. If Caltrans does not approve the striping, this impact remains significant and unavoidable. Although there is no indication from Caltrans that they will not approve the mitigation measure, it is nevertheless conservatively considered to be a significant and unavoidable impact.
- Impact Traffic-7: Under year 2025 cumulative conditions, the project would contribute more than two seconds of average delay to the intersection of San Leandro Street and 98th Avenue, and would contribute seven percent of the cumulative traffic increase at the intersection. Mitigation: Implementation of restriping on San Leandro Street would reduce the LOS to E (from F) and average delay from 81 seconds (without the project) to 60 seconds (with the project). However, because the project would continue to contribute

more than five percent of the future traffic delay, the impact would remain significant and unavoidable. Prior to issuance of certificates of occupancy, the project sponsor would also be required to prepare a Travel Demand Management (TDM) plan for the project containing a variety of demand management measures including the installation of directional signs at project egress points identifying the locations of local transit stops (bus and BART). The posting of directional signs has not been shown to generally have a reliably quantifiable effect on the use of alternative travel modes. This mitigation measure would therefore not have a quantifiable impact on the future levels of service identified in the EIR. Moreover, the traffic volumes would have to be reduced by approximately 73 percent in order to reduce these impacts to less than significant levels. The significant unavoidable impacts identified in the EIR would be expected to remain significant and unavoidable. Additional mitigation, such as widening this intersection to provide additional capacity, would be infeasible because of the intersection's proximity to the concrete columns supporting the BART tracks and the proximity to surrounding uses.

- Impact Traffic-8: Under year 2025 cumulative conditions, the project would contribute seven seconds of delay to the intersection of International Boulevard and 98th Avenue, and would contribute nine percent of the cumulative traffic increase at the intersection. Mitigation: Implementation of the restriping of a new northbound right-turn lane on International Boulevard (as discussed above in Impact Traffic-6) would partially mitigate this impact, however, it would remain significant and unavoidable under both the project and cumulative scenarios. The striping is subject to review and approval by Caltrans. If Caltrans does not approve the striping, this impact would increase and would remain significant and unavoidable.

Potential for Industrial Redevelopment

The site is the former location of the Fleischmann's Yeast factory that was constructed in 1935 and recently demolished in 2003. Currently there are five buildings on the site, as well as a water tower, tanks, and other remnants of the former use of the site. The site is currently used primarily for storing shipping containers. According to a fiscal impact analysis prepared for the project (see Attachment B), it is unlikely that the site will be redeveloped with industrial uses that maximize the utilization of the site. The analysis concludes that the San Leandro Street industrial corridor is losing, and will continue to lose, industrial tenants due to the poor condition of the existing industrial stock, and existing industrial sites, such as the project site, are unlikely to be redeveloped with new industrial uses due to the high cost of construction relative to the low lease rates. Absent an unexpected shift in regional market forces, it is more likely that the site will remain in its current state of use rather than be redeveloped with industrial uses.

Encouraging the Conversion of Nearby Industrial Properties

According to the EIR, it is possible that the project would encourage other existing industrial properties in the vicinity of the site to convert to other uses in the future. The analysis in the EIR

indicates that the project may encourage the existing industrial properties located immediately adjacent to the north of the site along the south side of 92nd Avenue and to the south of the site along the north side of 98th Avenue to convert to other uses because they would fill in the resulting industrial “gaps” in an otherwise residential area extending from E Street in the east to San Leandro Street in the west between 92nd Avenue and 98th Avenue. The project may also encourage the industrial properties to the north of the site across 92nd Avenue to convert to other uses because their size and configuration supports site planning conducive to residential uses. Properties to the south of the site across 98th Avenue would be less likely to convert because their small sizes and fragmented ownership would be less conducive to residential site planning. Properties to the west of the site across San Leandro Street would be less likely to be encouraged to convert by the project because the immense width of San Leandro Street and the presence of the railroad right-of-way and overhead BART tracks act as barriers between the subject site and the properties across San Leandro Street.

The pressure for industrial conversions currently exists in the area. This pressure will continue given the demand for housing in Oakland and the Bay Area. The City is currently considering policy options to provide a new framework for the review of proposed industrial conversions. This future policy framework will likely have a greater long-term effect on future industrial conversions in the area than the proposed project.

Land Use Conflicts

The proposed project would eliminate existing land use conflicts between residential and industrial uses but has the potential to create some new, albeit lesser, conflicts between residential and industrial uses. The project site shares a boundary with the rear yards of adjacent lots located on E Street to the east of the site. The existing conflict between the current industrial use of the project site and these adjacent residential uses would be eliminated if the site was redeveloped with residential uses as proposed. The project has the potential to create some new areas of residential-industrial interface where the proposed residential uses would abut existing industrial uses along the north and northwest perimeter of the site and along the southeast perimeter of the site. Overall, however, as explained below, the new conflicts would result in less than significant impacts and would constitute a net reduction in existing impacts.

Residential-industrial conflicts typically result from the incompatibility of these two types of uses related to the health, odor, visual, and noise impacts of the industrial uses on the residential uses. Regarding potential health impacts, the operation of many of the businesses in the surrounding area involves the routine transport, use, and storage of chemicals such as petroleum fuel products, lubricants, solvents, and cleaning fluids. All businesses located on properties immediately adjacent to the project site have a Hazardous Materials Business Plan on file with the City as required. The Hazardous Materials Business Plan documents the types of chemicals stored and/or used on site, the location of hazardous materials on site, and emergency response information including employee training information. The Plan proscribes the manner in which these materials are transported and disposed. The Plan is designed to ensure that the employees are trained adequately to handle the materials used and provides information for the Oakland

Fire Department should an emergency response be necessary. None of the surrounding businesses are classified as handlers of large quantities of hazardous materials or handle acutely hazardous materials, none are involved in the treatment of hazardous materials, and there are no underground storage tanks located on any of these properties. All of these businesses are operating in compliance with regulations for the handling of hazardous materials and no extraordinary circumstances are present. Therefore, the potential health impacts on the project site caused by existing adjacent businesses, related to emissions, ground contamination, and industrial accidents involving hazardous materials, would be considered less than significant.

The industrial activities associated with the businesses operating on the adjacent properties are primarily conducted indoors with minimal potential odor and noise impacts on the project site. Visual impacts of the industrial properties on the project, due to building mass and bulk, would be modest because the buildings are primarily one and two stories tall. Stacked shipping containers on adjacent properties would be visible from the project site. Since there is the potential for intermittent noise in the outdoor areas of the project associated with the adjacent properties, such as truck noise and the stacking and repairing of shipping containers, the applicant is proposing to construct an eight-foot tall masonry wall along the perimeter of the site where the site abuts industrially zoned properties. This would further reduce the less than significant noise impacts. No aesthetic impacts are anticipated from the proposed wall; the wall would be located away from public rights-of-way and will be designed to be aesthetically pleasing with the incorporation of high-quality materials, finishes, and landscaping. Overall, the potential odor, visual, and noise impacts on the project site caused by existing adjacent businesses would be considered less than significant.

General Plan Amendment

The site is currently designated General Industrial/Transportation by the Oakland General Plan (see Attachment G). The proposed residential uses are not allowed under the current General Plan land use designation. In order for residential uses to be allowed, the General Plan land use designation must be changed. The applicant proposes to change the General Plan designation for the site from General Industrial/Transportation to Housing and Business Mix (see Attachment H). The General Plan amendment is proposed to be applied to only the project site.

According to the General Plan, the Housing and Business Mix designation is intended to guide a transition from heavy industry to low-impact light industrial uses and other businesses that can co-exist compatibly with residential development. In areas designated Housing and Business Mix, additional housing and neighborhood-friendly businesses are desired. The types of future development allowed in Housing and Business Mix areas includes housing of a mixture of densities, live-work units, low-impact light industrial uses, commercial uses, service businesses, and community facilities. The proposed project is entirely residential. The advantage of applying the Housing and Business Mix designation to the site, rather than a purely residential land use designation, is that if the adjacent industrial properties convert to other uses in the future, the City would have the option of expanding the Housing and Business Mix designation to a wider area. The Housing and Business Mix designation over the entire area between 92nd

Avenue and 98th Avenue from San Leandro Street to E Street would act as a transition between the industrial uses to the west and the residential uses to the east. The Housing and Business Mix designation would allow flexibility in the types of other uses allowed on the adjacent properties, including residential uses of mixed densities, live-work units, low-impact light industrial uses, commercial uses, service businesses, and community facilities.

In recommending approval of the General Plan amendment, the Planning Commission believed that the proposed amendment best serves the public interest by meeting the following objectives of the General Plan:

- A. Foster healthy, vital, and distinctive neighborhoods with adequate open space (Land Use and Transportation Element).** The proposal creates a new residential neighborhood that is well-designed with adequate open space. The proposal will also enhance the quality of life of the residents of the existing residential neighborhood located immediately to the east of the site by replacing the existing industrial use of the property with development that is more compatible with the residential neighborhood.
- B. Encourage quality housing for a range of incomes in Oakland's neighborhoods (Land Use and Transportation Element).** The proposal will contain high-quality housing through the use of high-quality materials and well-executed design and will contain a mixture of housing types (large-lot single-family homes, small-lot single-family homes, and attached townhouses) for a range of incomes.
- C. Encourage thriving, diverse, and attractive shopping districts in Oakland's neighborhoods that provide a variety of goods, services, and entertainment, and which are oriented to and well served by public transit, pedestrian, and bicycle facilities (Land Use and Transportation Element).** By increasing the population and expanding the consumer base for neighborhood businesses, the proposal will encourage economic revitalization of the Elmhurst commercial district on International Boulevard, which is well-connected to the project site and the rest of the city by public transit, pedestrian, and bicycle facilities.
- D. Design neighborhoods that encourage and support alternative transportation types (Land Use and Transportation Element).** The proposal supports the use of alternative transportation; the project site is located adjacent to an existing bus line and near other mass transit facilities.
- E. Provide adequate sites suitable for housing for all income groups (Goal 1, Housing Element).** The proposal will reuse an underutilized site, provide housing for a mixture of incomes, and assist the City in providing its fair share of housing in the region.
- F. Promote sustainable residential development and smart growth (Goal 7, Housing Element).** The proposal constitutes infill development by directing development to an

already urbanized area of the city. The proposal is designed to be compact and an efficient use of land, and is located near existing public transit.

Redevelopment Plan Amendment

The project site is located within the Coliseum Redevelopment Project Area. The Coliseum Area Redevelopment Plan designates the site as Manufacturing. The land use designations in the Coliseum Redevelopment Plan largely correspond to the land use designations contained in the General Plan. If the General Plan land use designation is changed for the project, the land use designation in the Coliseum Redevelopment Plan must also be changed to Housing and Business Mix to maintain consistency between the two plans.

In recommending approval of the Redevelopment Plan amendment, the Planning Commission believed that the proposed amendment best serves the public interest by meeting the following objectives of the Redevelopment Plan:

- A. The replanning, redesign and development of undeveloped areas which are stagnant or improperly utilized (Goal C).** The proposal redevelops an underutilized site, which is unlikely to be redeveloped with industrial uses, with an efficiently designed residential development.
- B. The establishment and implementation of performance criteria to assure high site design standards and environmental quality and other design elements which provide unity and integrity to the entire Project (Goal H).** The proposal is well-designed with high-quality materials and well-executed architectural design which will provide an attractive development that will enhance the visual environment of the Project Area.
- C. The revitalization of the East 14th Street corridor (Goal J).** The proposal will encourage economic revitalization of the Elmhurst commercial district on International Boulevard (formerly East 14th Street) by increasing the population in the immediate area thereby expanding the consumer base for neighborhood businesses.

Rezoning

The site is currently located in the M-30 General Industrial Zone (see Attachment I). The proposed residential uses would not be allowed in the M-30 Zone. The applicant proposes to rezone the site to the R-30 One-Family Residential Zone and R-50 Medium Density Residential Zone (see Attachment H). The R-30 Zone would be applied to the area containing the large-lot single-family homes and the R-50 Zone would be applied to the area containing the small-lot single-family homes and the townhomes.

In recommending approval of the rezoning, the Planning Commission believed that the proposed rezoning best serves the public interest by meeting the following objectives of the Zoning Regulations:

- A. To promote the achievement of the proposals of the Oakland Comprehensive Plan (Section 17.07.030A).** The proposed rezoning will facilitate implementation of the proposal which furthers the objectives of the General Plan (formerly the Comprehensive Plan) as outlined above.
- B. To provide for desirable, appropriately located living areas in a variety of dwelling types and at a wide range of population densities, with adequate provision for sunlight, fresh air, and usable open space (Section 17.07.030D).** The applicant proposes a well-designed residential community containing a variety of housing types. The proposed zone boundaries respond to the setting of the project site. The R-30 Zone would be located in the northeastern portion of the project site adjacent to the existing R-30 Zone located to the east of the site. The R-50 Zone would be located in the western and southern portions of the site near major arterials where higher density housing is more appropriate. The project is designed to maintain adequate sunlight, fresh air, and usable open space by providing appropriate separation between structures and park space that exceeds the existing per capita ratio of park space in the surrounding neighborhood.

SUSTAINABLE OPPORTUNITIES

The approval of the project provides the following economic, environmental, and social equity benefits to the city:

Economic: The project will encourage economic revitalization of the Elmhurst commercial district on International Boulevard by increasing the population in the immediate area thereby expanding the consumer base for neighborhood businesses. The project will create temporary construction-related jobs in the short-term which will create both immediate and secondary benefits for the local economy and workforce. The project will also enhance the quality of life in the nearby residential neighborhood thereby making the neighborhood a more desirable place to live and, in turn, increasing revenue to the City in the form of increased property taxes and real estate transfer taxes.

Environmental: The project area has been used for industrial purposes for many years. The project will involve the remediation of on-site soil contaminants. Also, the project is a compact, infill development in an already urbanized area thereby reducing the need for development in environmentally sensitive areas located at the edge of the city.

Social Equity: The project involves a mixture of housing types and sizes thereby increasing home ownership in the city for a range of incomes. The project would also benefit the existing residents of the nearby Elmhurst neighborhood by replacing an existing industrial use with residential uses consistent with the nearby residential neighborhood.

DISABILITY AND SENIOR CITIZEN ACCESS

The proposed development would be subject to the requirements of the Americans with Disabilities Act (ADA), as provided for in the California Building Code. Compliance with ADA regulations would be confirmed when building permits are issued for the project.

RECOMMENDATION AND RATIONALE

Staff recommends that the City Council and Redevelopment Agency deny the appeal, uphold the Planning Commission's decision, and take a series of actions to approve the project for the following reasons:

- A. Advancing Goals of Oakland General Plan.** The project, including the proposed amendment to the General Plan land use map, advances and conforms with the Oakland General Plan's goals, policies, and objectives. The proposed project furthers the goals of the Land Use and Transportation Element and Housing Element by facilitating new housing construction on an infill site. The project will result in the creation of 366 new for-sale housing units in a range of types and sizes thereby increasing home ownership in the city for a range of incomes as encouraged by the General Plan.
- B. Redevelopment of Underutilized Parcel.** The project will redevelop an underutilized site with a development that is well-designed and attractive.
- C. Neighborhood Improvement.** The project will improve the quality of life of the residents of the existing residential neighborhood located immediately to the east of the site by replacing the existing industrial use of the property with a development that is more compatible with the residential neighborhood.
- D. Commercial Revitalization.** The project will encourage economic revitalization of the Elmhurst commercial district on International Boulevard by increasing the population in the immediate area thereby expanding the consumer base for neighborhood businesses.
- E. Job Creation.** The project will create temporary construction-related jobs in the short-term which will create both immediate and secondary benefits for the local economy and workforce.
- F. Revenue Generation.** The project will enhance the quality of life in the nearby residential neighborhood thereby making the neighborhood a more desirable place to live and, in turn, increasing revenue to the City in the form of increased property taxes and real estate transfer taxes. The increased population in the area will support economic revitalization thereby expanding the sales tax base of the city.
- G. Advancing State and Regional Policy of Providing In-fill Housing.** Pursuant to California Government Code Section 65589.5(c), this development is consistent with the State Legislature's policy of discouraging the premature and unnecessary conversion of prime

agricultural lands to urban uses and by in-filling existing urban areas with residential development. The proposed infill development is located within an urbanized area of Oakland where existing public utilities, public transit, and other necessary services are fully available to meet the needs of the project. Thus, this project fulfills the Legislature's, the Bay Area region's, and the City of Oakland's goals of reducing urban sprawl and promoting clean air policies by approving residential projects which are located near public transit.

ACTION REQUESTED OF THE CITY COUNCIL AND REDEVELOPMENT AGENCY

Staff recommends that the City Council and Redevelopment Agency take the following actions:

- 1) Conduct a public hearing on the appeal and the project;
- 2) Adopt the City resolution denying the appeal and sustaining the Planning Commission's actions on the project (see Attachment J);
- 3) Adopt the City resolution amending the General Plan Land Use Designation for the project site from General Industrial/Transportation to Housing and Business Mix (see Attachment K);
- 4) Adopt the Agency resolution approving and recommending adoption of an amendment to the Coliseum Area Redevelopment Plan revising the Land Use Designation for the project site from Manufacturing to Housing and Business Mix (see Attachment L);
- 5) Adopt the City ordinance adopting an amendment to the Coliseum Area Redevelopment Plan revising the Land Use Designation for the project site from Manufacturing to Housing and Business Mix (see Attachment M); and
- 6) Adopt the City ordinance rezoning the project site from the M-30 General Industrial Zone to the R-30 One-Family Residential Zone and R-50 Medium Density Residential Zone (see Attachment N).

Respectfully submitted,

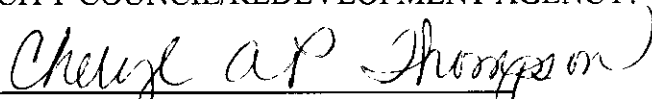


CLAUDIA CAPPIO

Director of Development

Community and Economic Development Agency

APPROVED AND FORWARDED TO THE
CITY COUNCIL/REDEVELOPMENT AGENCY:



OFFICE OF THE CITY/AGENCY ADMINISTRATOR

Reviewed by:
Gary Patton
Deputy Director of Planning and Zoning
Planning & Zoning Division

Prepared by:
Darin Ranelletti
Planner III
Planning & Zoning Division

ATTACHMENTS

- A. Site Map (Figure 2 from Draft EIR)
- B. Fiscal Impact Analysis
- C. Staff Report for July 20, 2005, Planning Commission hearing (without attachments)
- D. Staff Report for September 21, 2005, Planning Commission hearing (without attachments)
- E. Appeal Submitted by Robert A. D. Schwartz (dated September 30, 2005)
- F. Project Plans
- G. Map of Existing General Plan Designations (Figure 4 from Draft EIR)
- H. Map of Proposed General Plan and Zoning Designations (Figure 7 from Draft EIR)
- I. Map of Existing Zoning Designations (Figure 5 from Draft EIR)
- J. City Resolution Denying the Appeal and Sustaining the Decision of the Planning Commission Actions
- K. City Resolution Amending the General Plan Land Use Designation for the Project Site
- L. Agency Resolution Approving and Recommending Adoption of an Amendment to the Coliseum Area Redevelopment Plan Revising the Land Use Designation for the Project Site
- M. City Ordinance Adopting an Amendment to the Coliseum Area Redevelopment Plan Revising the Land Use Designation for the Project Site
- N. City Ordinance Rezoning the Project Site