

OFFICE OF THE CITY CLERK  
2004 JAN 15 PM 6:20

APPROVED AS TO FORM AND LEGALITY:

*Curtis B. Lee*

DEPUTY CITY ATTORNEY

INTRODUCED BY CONCILMEMBER \_\_\_\_\_

ORDINANCE NO. \_\_\_\_\_ C. M. S.

**AN ORDINANCE TO REZONE 928-998 66<sup>TH</sup> AVENUE AND 801-931 69<sup>TH</sup> AVENUE FROM R-70 HIGH DENSITY RESIDENTIAL, M-30 GENERAL INDUSTRIAL, AND OS OPEN SPACE (NEIGHBORHOOD PARK) TO C-25 OFFICE COMMERCIAL AND OS OPEN SPACE (NEIGHBORHOOD PARK).**

**WHEREAS**, by the publication and posting of the notices as required, the Council of the City of Oakland did initiate proceedings for the proposed rezoning of the properties located at 928-998 66<sup>th</sup> Avenue and 801-931 69<sup>th</sup> Avenue from R-70 High Density Residential, M-30 General Industrial, and OS Open Space (Neighborhood Park) to C-25 Office Commercial and OS Open Space (Neighborhood Park); and

**WHEREAS**, the rezoning of the subject properties will allow implementation of the Coliseum Gardens Master Plan which includes infill mixed-use development in close proximity to mass transit consistent with General Plan policies; and

**WHEREAS**, the City Council finds that the existing zoning classifications for the project site of R-70 High Density Residential, M-30 General Industrial, and OS Open Space (Neighborhood Park) are inadequate or otherwise contrary to the public interest because they would preclude development of the Master Plan. The existing zoning classifications do not allow the residential, civic, and commercial uses that are included in the project. As a result, the project benefits will not be realized without the proposed rezoning. Furthermore, the existing zoning classifications are inconsistent with the new General Plan land use designation for the site of Neighborhood Center Mixed Use. The proposed rezoning will remedy this inconsistency. In addition, the existing zoning map fails to accommodate the reconfiguration of the Coliseum Gardens Park, which will be addressed by the proposed rezoning. Therefore, the City Council approves the Commission's recommendation to rezone the project site; and

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**WHEREAS**, the rezoning of the subject properties will be consistent with the amended General Plan land use designations of Neighborhood Center Mixed Use and Park and Urban Open Space; and

**WHEREAS**, at the duly noticed June 4, 2003 Planning Commission meeting, the Commission independently reviewed and considered a Mitigated Negative Declaration/Finding of No Significant Impact (MND/FONSI) for the Coliseum Gardens project, together with comments received on the MND/FONSI and (1) determined that there was no substantial evidence that the project, as mitigated by adopted mitigation measures, would have a significant effect on the environment; (2) adopted the MND/FONSI; and (3) adopted a Mitigation and Monitoring Reporting Program in accordance with the California Environmental Quality Act (CEQA) and the CEQA Guidelines; and

**WHEREAS**, at the duly noticed January 7, 2004 Planning Commission meeting, the Commission took the following actions: (1) approved the Preliminary Development Plan for the Master Plan, Final Development Plan for Phase Two, Major Conditional Use Permit, Minor Variances, Design Review, and Tentative Tract Map applications; and (2) recommended to the City Council approval of the proposed General Plan Amendment and rezoning; and

**WHEREAS**, the City Council has independently reviewed and considered the MND/FONSI, together with comments received on the MND/FONSI, and finds on the basis of substantial evidence in the record as a whole that (1) there is no substantial evidence that the project, together with adopted mitigation measures, will have a significant effect on the environment; and (2) the MND/FONSI reflects the City's independent judgment and analysis; and

**WHEREAS**, the City Council finds on the basis of substantial evidence in the record that the MND/FONSI 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; and

**WHEREAS**, said ordinance was duly published and notice thereof and of the time and place of hearing thereon was duly posted in accordance with the requirements; and

**WHEREAS**, this Council has, at the time of said hearing, heard and considered all the evidence, both oral and written, offered by all persons interested in or objecting to the proposed rezoning of the subject properties; and

THE COUNCIL OF THE CITY OF OAKLAND DOES ORDAIN AS FOLLOWS:

SECTION 1. That the Council of the City of Oakland does hereby find and determine the foregoing recitals to be true and correct and hereby makes them part of this ordinance.

SECTION 2. That the requirements of the California Environmental Quality Act and National Environmental Policy Act have been met through approval by the Planning Commission in June 2003 of a Mitigated Negative Declaration/Finding of No Significant Impact.

SECTION 3. The City Clerk and Clerk of this Council is hereby directed to have a certified copy of this ordinance recorded in the Office of the Recorder of Alameda County, California, immediately upon its final passage. Upon such recordation of this ordinance, the rezoning of the project site as described above is complete.

SECTION 4. The Community and Economic Development Agency is directed (1) to take all steps necessary to revise the zoning classification diagrams to facilitate development of the approved Coliseum Gardens Master Plan, including changes to the zoning classifications for the project site to C-25 Office Commercial and OS Open Space (Neighborhood Park) in substantial conformance with Attachment B to this report; and (2) to file a Notice of Determination with the Clerk of Alameda County in accordance with CEQA Guidelines Section 15075.

SECTION 5. If any provision of this ordinance or the application thereof is held invalid, the remainder of this ordinance and the application that is not invalid shall not be affected thereby.

SECTION 6. This ordinance shall govern to the extent any provisions of the Planning Code conflict with this ordinance.

IN COUNCIL, OAKLAND, CALIFORNIA, \_\_\_\_\_, 2004

**PASSED BY THE FOLLOWING VOTE:**

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

AYES-

NOES-

ABSENT-

ABSTENTION-

ATTEST: \_\_\_\_\_

CEDA FLOYD  
City Clerk and Clerk of the  
Council of the City of  
Oakland, California

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*Heather Lee*

NOTICE AND DIGEST

AN ORDINANCE TO REZONE 928-998 66<sup>TH</sup>  
AVENUE AND 801-931 69<sup>TH</sup> AVENUE FROM  
R-70 HIGH DENSITY RESIDENTIAL, M-30  
GENERAL INDUSTRIAL, AND OS OPEN  
SPACE (NEIGHBORHOOD PARK) TO C-25  
OFFICE COMMERCIAL AND OS OPEN  
SPACE (NEIGHBORHOOD PARK).

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