

Mark B. Wald
OFFICE OF THE DEPUTY CITY ATTORNEY
OAKLAND, CALIFORNIA

2004 OCT 28 PM 12:02

OAKLAND CITY COUNCIL
78915

RESOLUTION NO. _____ C. M. S.

INTRODUCED BY COUNCILMEMBER _____

A RESOLUTION (a) APPROVING A NEGATIVE DECLARATION AND ADOPTING THE SAFETY ELEMENT, AN ELEMENT OF THE GENERAL PLAN (GPA 04-04188); AND (b) APPROVING A MITIGATED NEGATIVE DECLARATION AND AMENDING THE GENERAL PLAN LAND USE DESIGNATION OF 10900 EDES AVENUE FROM "BUSINESS MIX" TO "HOUSING AND BUSINESS MIX" (GPA 03-023)

Safety 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 safety element for the protection of the community from any unreasonable risks associated with the effects of various environmental and other safety hazards; 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becomes available and as community needs and values change; and is of the opinion that a general plan based upon outdated information and projections is not a sound basis for day-to-day decision-making; and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 a safety element in 1974 under the title of "Environmental Hazards Element" and had not updated it since then even though the City's population and economy have expanded, local land use patterns have changed markedly, and the City has experienced two crippling natural disasters (the 1989 Loma Prieta earthquake and the 1991 Oakland Hills firestorm); 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 safety element, titled "Protect Oakland;" and

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

WHEREAS, the draft updated safety 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 October 20, 2004, considered the draft updated safety element and the initial study/negative declaration, and recommended to the City Council approval of the negative declaration and adoption of the safety element; and

WHEREAS, both the Public Safety Committee and the Community and Economic Development Committee of the City Council at their meetings of November 9, 2004, also considered the draft updated safety element and the initial study/negative declaration, and also recommended to the City Council approval of the negative declaration and adoption of the safety element; and

Change of Land Use Designation

WHEREAS, 10900 Edes Avenue, currently a vacant parcel, is across the street from the Sobrante Park residential neighborhood; and

WHEREAS, Habitat for Humanity, a developer of affordable housing units submitted a request to change the General Plan Land Use Designation for 10900 Edes Avenue from Business Mix to Housing and Business Mix on January 17, 2003 in order to facilitate development of new residences on the property; 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, as amended, the site's current General Plan land use designation, Business Mix, does not allow residential activities; and

WHEREAS, according to the Guidelines, the Housing & Business Mix General Plan land use designation would allow the mix of activities, including residential, encouraged by several policies and objectives in the General Plan, as detailed in the October 20, 2004 City Planning Commission Report and incorporated herein by reference; and

WHEREAS, the Land Use and Transportation Element of the City of Oakland General Plan contains several objectives and policies encouraging compatible uses and the creation of transition districts between industrial and residential uses; and

WHEREAS, the Land Use and Transportation Element of the City of Oakland General Plan recognizes that incompatible uses that are placed within proximity of one another can have significant negative effects for the quality of life for the City of Oakland's residents; and

WHEREAS, according to the Guidelines, and the recently adopted Housing Element of the General Plan, the provision of additional affordable housing units within the City of Oakland is an important regional priority; and

WHEREAS, the proposed general plan amendment and the initial study/mitigated negative declaration were circulated for public review for the requisite period of time; and ,

WHEREAS, the City Planning Commission at its meeting of October 20, 2004, considered the proposed general plan amendment and the initial study/mitigated negative declaration, and recommended to the City Council approval of the mitigated negative declaration and adoption general plan amendment; and

WHEREAS, the City Planning Commission was originally requested to consider changing the general plan for two additional parcels, 10800 Edes Avenue & 732 105th Avenue but recommended not changing the designation of those two parcels due to a lack of a development proposal for those two properties at this time; and

WHEREAS, the Community and Economic Development Committee of the City Council at its meeting of November 9, 2004, also considered the 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; Now, therefore, be it

Safety Element

RESOLVED: that the City Council approves the negative declaration for the updated safety 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 safety element.

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

Change of Land Use Designation

FURTHER RESOLVED: that the City Council approves the mitigated negative declaration for the general plan change of land use designation, 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.

FURTHER RESOLVED: That the Community and Economic Development Agency is directed to change the General Plan land use designation of 10900 Edes Avenue from Business Mix to Housing & Business Mix.

For Both General Plan Amendments

FURTHER RESOLVED: that the City Administrator is directed to file notices of determination for the (mitigated) negative declarations 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 safety 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, including, without limitation, the Oakland real estate regulations and Oakland Fire 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, NOV 16 2004, 2004

PASSED BY THE FOLLOWING VOTE:

AYES- BRUNNER, CHANG, NADEL, REID, WAN, AND PRESIDENT DE LA FUENTE - 6

NOES-

ABSENT- 1 Quan

ABSTENTION-

Excused- Brooks-1

attest Patricia Simmons for
CEDA FLOYD
City Clerk and Clerk of the Council
of the City of Oakland, California 4