

FILED
OFFICE OF THE CITY CLERK
OAKLAND
2004 OCT 28 PM 5:31
INTRODUCED BY COUNCILMEMBER _____

APPROVED AS TO FORM AND LEGALITY

Mark P. Wald
CITY ATTORNEY

ORDINANCE NO. 12633 C.M.S.

AN ORDINANCE REZONING 10900 EDES AVENUE, FROM THE M-20 LIGHT INDUSTRIAL ZONE TO THE R-40 GARDEN APARTMENT RESIDENTIAL ZONE.

WHEREAS, on January 17, 2003, Habitat for Humanity approached the City about the possibility of obtaining a General Plan Amendment to change the General Plan from Business Mix to Housing and Business Mix and a rezoning 10900 Edes Avenue to the R-40 Garden Apartment Residential Zone; and

WHEREAS, the applicant was requesting to construct 26 single family homes on the property; and

WHEREAS, the current property is split by the R-40 Garden Apartment Residential zone and the M-20 Light Manufacturing Zone; and

WHEREAS, such a split in zoning makes the parcel extremely difficult to develop in any logical manner due to the great difference in allowed uses between those two zones; and

WHEREAS, on September 20, 2004, Planning & Zoning staff circulated a Notice of Intent to adopt a Mitigated Negative Declaration that found that this proposal would have no significant effect on the environment with incorporation of agreed upon mitigation measures; and

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

WHEREAS, a duly noticed public hearing was held on this matter by the City Planning Commission on October 20, 2004; and

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

WHEREAS, the Community and Economic Development Committee of the City Council at its meeting of November 9, 2004, also considered the proposed rezoning and the initial study/mitigated negative declaration, and also recommended to the City Council approval of the mitigated negative declaration and rezoning; and

WHEREAS, this matter came before the City Council at a duly noticed hearing; and

WHEREAS, the City Council finds and determines that the public safety, health, convenience, comfort, prosperity, and general welfare will be furthered by the proposed zoning amendment; now, therefore

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

SECTION 1. The City Council finds and determines the foregoing recitals to be true and correct and hereby makes them a part of this Ordinance.

SECTION 2. The City Council approves the mitigated negative declaration for the rezoning (including the mitigation measures recommended by the City Planning Commission), determines that this ordinance complies with CEQA (based upon the findings of the City Planning Commission) and confirms, adopts and incorporates into this ordinance the CEQA findings made by the Planning Commission.

SECTION 3. The designation and location of zones and zone boundaries on section map 33 in Chapter 17.154 of the Oakland Planning Code are hereby amended as indicated in Attachment A.

SECTION 4. The City Administrator is directed to file a notice of determination for the (mitigated) negative declarations with the Alameda County Clerk within five (5) working days of this approval.

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

1. the rezoning application, 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.

SECTION 6. The custodians and locations of the documents or other materials which constitute the record of proceedings upon which the City Council's decision is based are: (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.

SECTION 7. This Ordinance shall be effective upon adoption, subject to the provisions of Section 216 of the Charter of the City of Oakland, but shall not apply to permits already issued or to zoning applications approved by the City for which permits have not been issued.

SECTION 8. If any provisions of this Ordinance or application thereof to any person or circumstances is held invalid, the remainder of this Ordinance and the application of provisions to other persons or circumstances shall not be affected thereby.

IN COUNCIL, OAKLAND, CALIFORNIA, DEC 7 2004, 2004

PASSED BY THE FOLLOWING VOTE:

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

NOES- 0

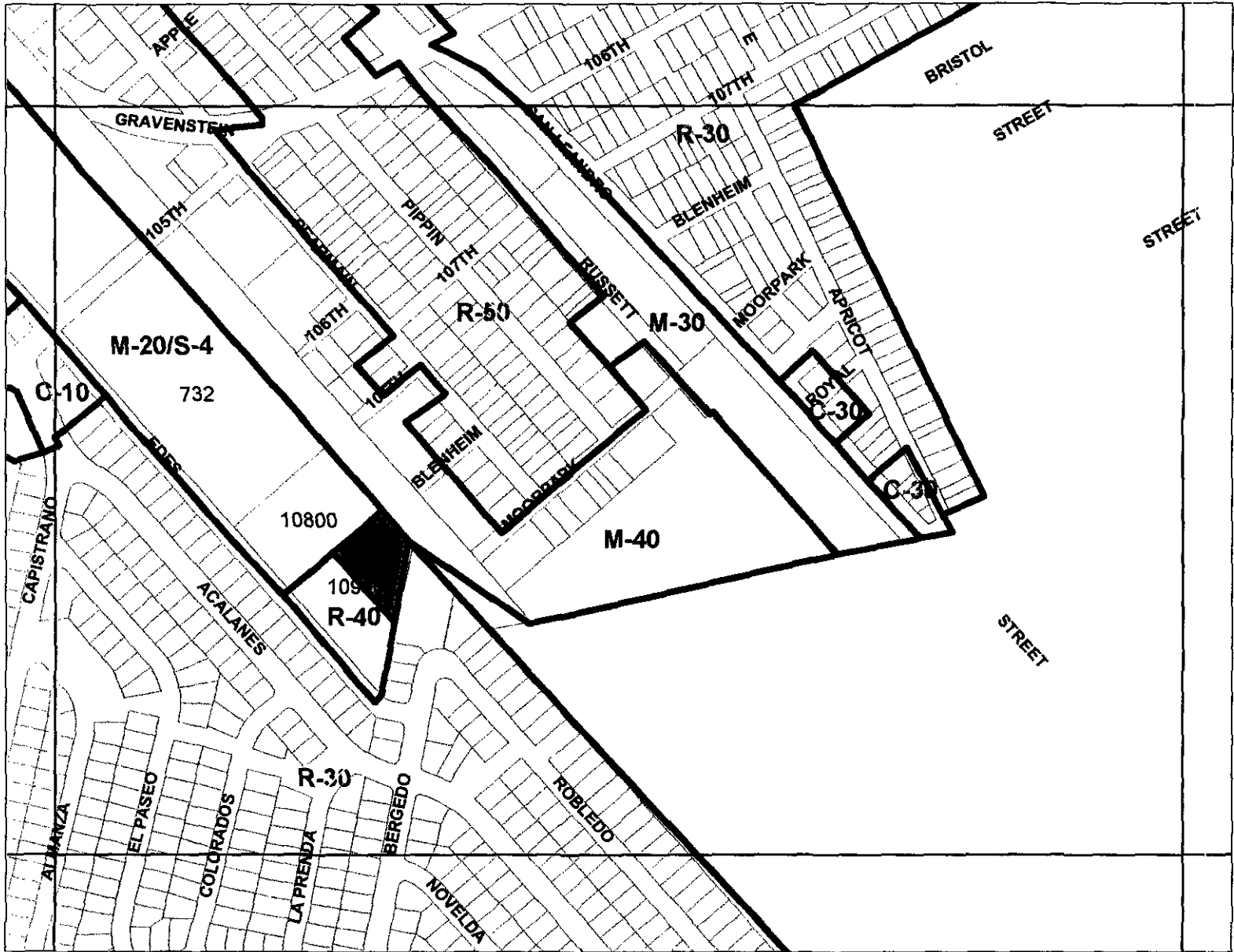
ABSENT- 0



ABSTENTION- 0

ATTEST: *CEDA FLOYD*
CEDA FLOYD
City Clerk and Clerk of the Council
of the City of Oakland, California

City of Oakland Proposed Rezoning

33



-  Zoning
-  Proposed Rezoning from M-20 to R-40



0 125 250 500 750 1,000 Feet

NOTICE AND DIGEST

AN ORDINANCE REZONING 10900 EDES AVENUE, FROM THE M-20 LIGHT INDUSTRIAL ZONE TO THE R-40 GARDEN APARTMENT RESIDENTIAL ZONE.

This ordinance amends the Oakland planning code to change the allowed use of the property from a split between residential and industrial uses to one that only allows residential uses to occur.