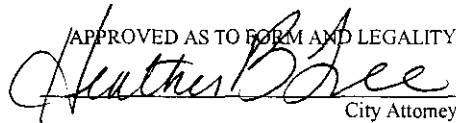


CITY COUNCIL REPORT

ATTACHMENT 5


City Attorney**ORDINANCE NO. _____ C.M.S.**

AN ORDINANCE OF THE CITY OF OAKLAND ADJUSTING THE ZONING DISTRICT BOUNDARY LINE FOR THE JACK LONDON SQUARE DISTRICT SO THAT C-45 (COMMUNITY SHOPPING COMMERCIAL) IS DESIGNATED FOR THE AREA BOUNDED BY HARRISON STREET TO THE WEST, 2ND STREET TO THE NORTH, ALICE STREET TO THE EAST AND THE ESTUARY TO THE SOUTH

WHEREAS, in November, 2002, the project applicants filed an environmental review application for a mixed use project that would intensify the retail, dining, entertainment and office uses in a nine block area bounded roughly by Castro Street, Alice Street, the Embarcadero and the Estuary with an additional site bounded by Alice, Harrison, Second and Third Streets; and

WHEREAS, on February 13, 2003, in accordance with the California Environmental Quality Act ("CEQA"), City staff issued a Notice of Preparation ("NOP") indicating an intent to prepare an Environmental Impact Report ("EIR") for the land use entitlements, including the requested Planned Unit Development ("PUD") permit, Zoning Boundary Line Adjustment ("ZBA"), Development Agreement, Major Conditional Use Permit and Major Variance for the proposed redevelopment of the Jack London Square area; and

WHEREAS, on May 12, 2003, City staff reissued the NOP, along with a revised Initial Study that reflected a decision to consider recreation and public services in the EIR; and

WHEREAS, as a part of the proposed development, the project applicant requested that the City of Oakland enter into a development agreement with the applicant in order to regulate the large-scale development project and to provide both the City and the project sponsor with assurances that the project could be successfully and completely built out over time; and

WHEREAS, on September 8, 2003, a Draft EIR ("DEIR"), State Clearinghouse No. 2003022086, was released by the City for a 46-day public review and comment period and on October 1, 2003, the Planning Commission conducted a public hearing to provide the public with an additional opportunity to comment on the DEIR; and

WHEREAS, on February 13, 2004, a document entitled "Jack London Square Final Environmental Impact Report" ("FEIR") was released, which included and analyzed a revised version of the proposed project (the "Revised Project"); and

WHEREAS, on February 25, 2004 and on March 17, 2004, the Planning Commission conducted public hearings, took testimony and determined that the EIR (consisting of the DEIR, Responses to Comments and other information presented in the FEIR) was adequate for certification and for decision-making on the requested land use entitlements for the Revised Project; and

WHEREAS, on March 17, 2004, the Planning Commission certified the EIR, adopted CEQA Findings and a Statement of Overriding Considerations, adopted a Mitigation Monitoring and Reporting Program, adopted General Findings, granted a PUD permit, approved a Preliminary Development Plan for all nine sites and Final Development Plans for eight of the nine sites within the Revised Project, approved Design Review, approved a Major Conditional Use Permit and a Major Variance, recommended that the City Council grant the proposed ZBA that is described and shown on Exhibit E and approve the proposed Development Agreement, and adopted accompanying Conditions of Approval; and

WHEREAS, the Planning Commission found that the rezoning will promote local and regional welfare through a set of applicable land use activities governed through a uniform zoning designation (Community Shopping Commercial) ; and

WHEREAS, the Planning Commission further found that this ZBA does not introduce a new zone into the area, and does not create an incompatibility with the adjacent R-80 and M-20/S-4 districts. Instead, the boundary line adjustment simply moves the lines separating the three existing zones within the project site; and

WHEREAS, the Planning Commission further found that retaining the existing boundary line between the C-45, R-80 and M-20/S-4 districts on the site of the Revised Project would be contrary to public interest because it would be more consistent with the General Plan land use designations for the area subject to the ZBA. Specifically, the WCR-1 (Waterfront Commercial Recreation, Phase II) General Plan designation applicable to Sites F2 and F3 of the Revised Project and the MUD (Mixed Use District) General Plan designation applicable to Site G of the Revised Project both emphasize retail, restaurant, cultural, office hotel, commercial-recreational and open space uses; and

WHEREAS, the Planning Commission further found that although the existing M-20 designation for Site G would permit most of the uses proposed for that site, it also would allow additional, light industrial uses that would not be appropriate in the context of the commercial and entertainment goals of the Revised Project, and therefore the C-45 designation more accurately guides the range of uses to be allowed; and

WHEREAS, the Planning Commission further found that the ZBA promotes local and regional welfare by enabling development of a comprehensive, integrated plan that is not arbitrarily broken by the existing boundary lines that do not represent the current Estuary Plan policies or other General Plan policies and objectives; and

WHEREAS, the Planning Commission further found that retaining the existing boundary lines between the M-20, R-80 and C-45 districts on the site of the Revised Project would be contrary to public interest, as it could result in the introduction of incongruent, inconsistent land use activities into the Jack London Square area, which are contrary to the Estuary Policy Plan and the General Plan as a major entertainment, recreational and retail destination; and

WHEREAS, the City Council affirms and adopts the Planning Commission's findings and further finds, based in part on the General Findings attached hereto as Exhibit D and incorporated by this reference, that the ZBA will promote local and regional welfare and facilitate the development of a comprehensive, integrated plan; and

WHEREAS, the notice required by section 17.144.060 has been given.

THE CITY COUNCIL OF THE CITY OF OAKLAND ORDAINS AS FOLLOWS:

Section I: The City of Oakland's Zoning Map is hereby amended by re-zoning the land in the area shown on the map attached as Exhibit E, and incorporated by this reference, as follows:

FROM: Zone R-80 (High-rise apartment residential)
TO: Zone C-45 (Community shopping commercial);

and

FROM: Zone M-20/S-4 (Light Industrial / Design Review combining zone)
TO: Zone C-45/S-4 (Community shopping commercial / Design Review combining zone)

The Planning Director shall change the Zoning Map accordingly pursuant to Chapter 17.144 of the Oakland Municipal Code.

Section II: This ordinance, including the zoning amendment described in Section I above, is based in part on the findings set forth above, and the CEQA Findings and Statement of Overriding Considerations Related to Approval of the Jack London Square Project, Mitigation Monitoring and Reporting Program, Conditions of Approval and the General Findings Related to Approval of the Jack London Square Project attached as Exhibits A-D and incorporated by this reference.

Section III: Except as specifically set forth herein, this ordinance suspends and supercedes all conflicting resolutions, ordinances, plans, codes, laws and regulations.

Section IV: If any provisions of this ordinance or application thereof to any person of circumstances is held invalid, the remainder of this ordinance and the application of provisions to the other persons or circumstances shall not be affected thereby.

Section V: This ordinance shall become effective 30 days after passage and within 15 days of passage shall be published once with the names of the City Council Members voting for and against it in the Oakland Tribune, a newspaper which is published in this City and in Alameda County.

IN COUNCIL, OAKLAND, CALIFORNIA, _____

PASSED BY THE FOLLOWING VOTE:

AYES –

NOES --

ABSENT –

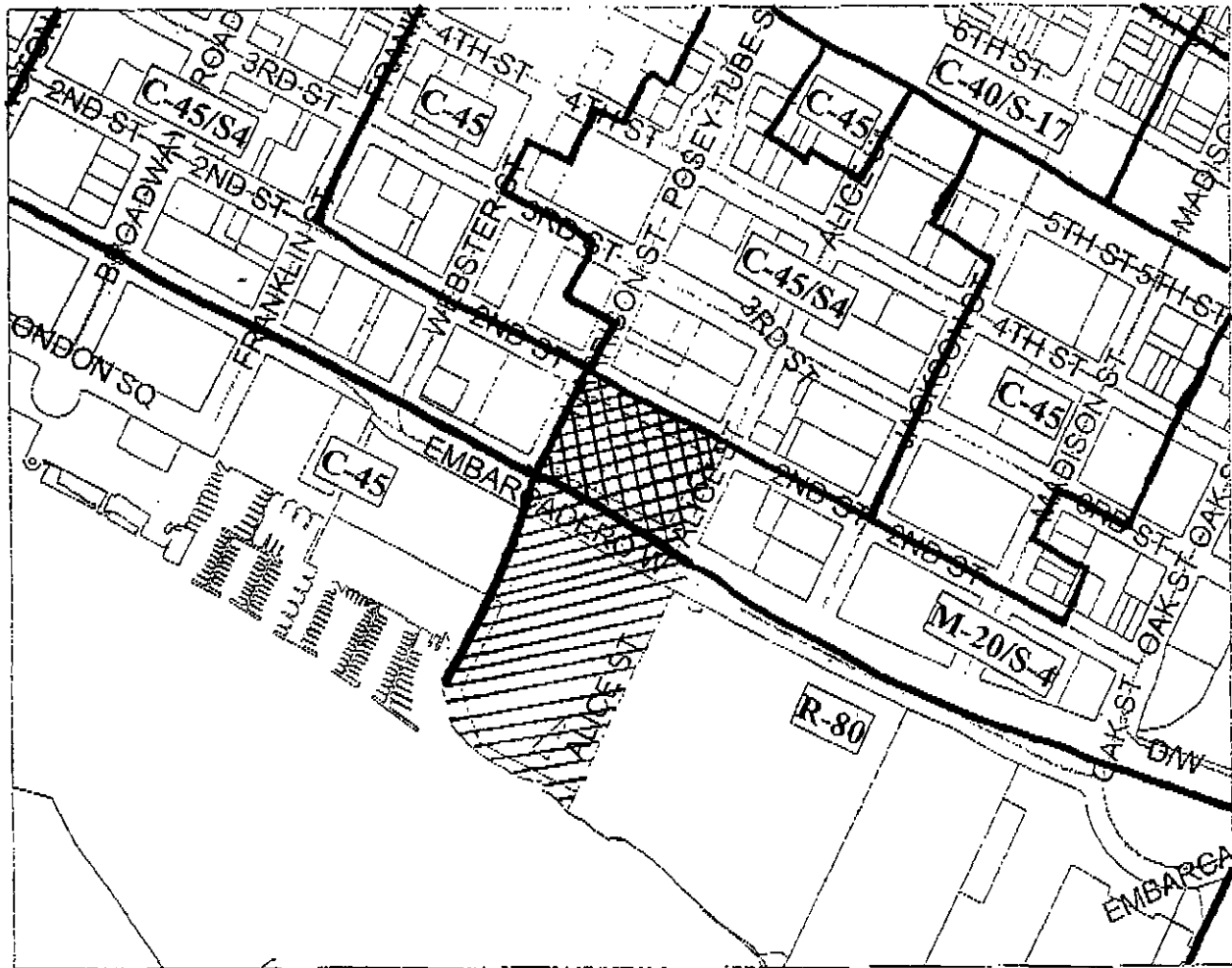
ABSTENTION –





ATTEST: _____

CEDA FLOYD

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

EXHIBIT E
ZONING BOUNDARY ADJUSTMENT



-  Zoning
-  Area to be Rezoned to C-45
-  Area to be Rezoned to C-45/S-4
-  Parcels