



AGENDA REPORT

TO: Edward D. Reiskin
City Administrator

FROM: William A. Gilchrist
Director, Planning &
Building Department

SUBJECT: Appeal of 1396 5th Street Project
Supplemental Report

DATE: February 7, 2022

City Administrator Approval

Date: Apr 4, 2022

RECOMMENDATION

Staff Recommends That The City Council Conduct A Public Hearing And Upon Conclusion Adopt A Resolution Continuing The Appeal By East Bay Residents For Responsible Development Of A Proposal To Construct 222 Dwelling Units On The Existing Vacant Lot Located At 1396 5th Street, Oakland CA (Project Case No. PLN20-101), And Directing The Preparation Of Further Environmental Analysis On The Topic Of Hazards And Hazardous Materials Prior To Return Of The Appeal To City Council.

REASON FOR SUPPLEMENTAL

The Planning & Building Department (PBD) is submitting a report for the "Appeal of 1396 5th Street Project" item scheduled at the March 15, 2022 City Council meeting to summarize the actions taken and direction provided by the City Council on this item from the September 21, 2021 City Council meeting.

The appeal, filed by East Bay Residents for Responsible Development, of the Planning Commission Approval of the housing project located at 1395 5th Street (Project) was heard by the City Council during a public hearing at the September 21, 2021 meeting. During the hearing, the City Council expressed concerns over the characterization of the hazardous materials at the Project site. At the conclusion of the public hearing, the City Council voted to direct staff to return to a future City Council meeting with a resolution for consideration to uphold the appeal on the basis that the California Environmental Quality Act (CEQA) analysis prepared for the Project inadequately described the current status of soil and ground water hazards conditions, did not adequately compare the current status with the analysis conducted under the West Oakland Specific Plan Environmental Impact Report (WOSP EIR), and did not address whether any additional mitigation measures would be necessary.

A revised resolution, which is a variation of the previous option three that was presented to the City Council at the September 21, 2021 public hearing, has been prepared and submitted for City Council consideration. This proposed resolution allows for additional analysis to be prepared and presented to the City Council to respond to the concerns regarding hazards and hazardous materials raised at the September 21, 2021 hearing, rather than denying the

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application or vacating the approval and remanding back to the Planning Commission. If adopted by the City Council, the appeal would be continued to a future City Council public hearing in which staff shall return with the additional analysis and a recommendation as to whether the Project will have one or more significant effects not described in the WOSP EIR that would require preparation of an additional EIR, such as a supplemental EIR under CEQA Guidelines Sections 15163, 15182, and 15183, and/or an infill EIR under CEQA Guidelines Section 15183.3, as determined appropriate based on the additional information reviewed and analyzed.

By adopting this revised resolution, the City Council and the public will have the opportunity to consider the additional hazards analysis and the City Council will then have the opportunity to determine whether the additional analysis either addresses outstanding concerns regarding hazards or presents substantial evidence that impacts from hazards trigger the requirements for preparation of a subsequent EIR. For additional background information, please refer to **Attachments A, B, C, D, E** and **F** of this report, listed below, which were previously provided in advance of the September 21, 2021 public hearing of the item.

ACTION REQUESTED OF THE CITY COUNCIL

Staff Recommends that the City Council conduct a public hearing and, upon conclusion, adopt a Resolution continuing the appeal by East Bay Residents for Responsible Development of a proposal to construct 222 dwelling units located at 1396 5th Street, Oakland CA (Project Case No. PLN20-101), and directing the preparation of further environmental analysis on the topic of hazards and hazardous materials prior to return of the appeal to City Council.

For questions regarding this report, please contact Peterson Vollmann, Planner IV, at (510) 238-6167.

Respectfully submitted,



WILLIAM A. GILCHRIST
Director, Planning & Building Department

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Edward Manasse
Deputy Director/City Planner
Bureau of Planning

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Peterson Vollmann, Planner IV
Bureau of Planning

Attachments (6):

- A. 1396 5th Street Appeal Agenda Report, dated August 23, 2021, submitted for the September 21, 2021 City Council meeting
- B. 1396 5th Street Appeal Supplemental Agenda Report, dated September 13, 2021, submitted for the September 21, 2021 City Council meeting
- C. [March 3, 2021 Planning Commission Staff Report](#)
- D. [March 12, 2021 Appeal by East Bay Residents for Responsible Development](#)
- E. May 25, 2021 Memo from Urban Planning Partners
- F. August 10, 2021 Letter from Project Applicant Representative