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OAKLAND

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APPROVED AS TO FORM AND LEGALITY

DEPUTY CITY ATTORNEY

OAKLAND CITY COUNCIL

ORDINANCE NO. 12922 C.M.S.

ORDINANCE REZONING THE LION CREEK CROSSINGS PHASE IV PROJECT SITE, LOCATED ON SNELL STREET BETWEEN 69TH AND 70TH AVENUES, FROM THE R-36 SMALL LOT RESIDENTIAL, R-50 MEDIUM DENSITY RESIDENTIAL AND M-30 GENERAL INDUSTRIAL ZONING DISTRICTS TO THE C-25 OFFICE COMMERCIAL DISTRICT

WHEREAS, the approximately 1.1-acre site of the Lion Creek Crossings Phase IV project located on Snell Street between 69th and 70th Avenues, is currently located in the R-36 Small Lot Residential, R-50 Medium Density Residential and M-30 General Industrial zoning districts, according to the Oakland Zoning Regulations; and

WHEREAS, the R-36 Small Lot Residential Zone is intended to foster the development of small lots that are less than four thousand (4,000) square feet in size and/or less than forty-five (45) feet in width in desirable settings for urban living, and is typically appropriate to areas of existing lower density residential development; and

WHEREAS, high-density residential development on large lots and social services are not allowed in the R-36 Small Lot Residential Zone; and

WHEREAS, the R-50 Medium Density Residential Zone is intended to create, preserve, and enhance areas for apartment living at medium densities in desirable settings, and is typically appropriate to areas of existing medium density residential development; and

WHEREAS, high-density residential development and social services are not allowed in the R-50 Small Lot Residential Zone; and

WHEREAS, the intent of the M-30 General Industrial Zone is to create, preserve, and enhance areas containing a wide range of manufacturing and related establishments, and is typically appropriate to areas providing a wide variety of sites with good rail or highway access; and

WHEREAS, residential uses are not allowed in the M-30 General Industrial Zone; and

WHEREAS, the Oakland Housing Authority and their developers ("Applicant") filed an application for a general plan amendment, redevelopment plan amendment, rezoning, , design review, conditional use permit, and variances ("Applications") to construct a 72-unit residential development at the Project site on September 4, 2009; and

WHEREAS, the application for the rezoning petitioned the City to rezone the Project site from the R-36 Small Lot Residential, R-50 Medium Density Residential and M-30 General Industrial Zones; and

WHEREAS, the C-25 Office Commercial District is intended to create, preserve, and enhance areas containing a mixture of professional and administrative offices and high-density residences within attractive settings, and is typically appropriate along major thoroughfares running through residential communities; and

WHEREAS, the Planning Commission conducted a duly noticed public hearing on the Mitigated Negative Declaration and the Project Applications on February 4, 2009; and

WHEREAS, at the February 4, 2009, hearing, the Planning Commission accepted, and made appropriate findings for, the addended Mitigated Negative Declaration/Finding of No Significant Impact (MND/FONSI), approved the Applications for design review, conditional use permit, and variances (collectively called "Development Permits"), recommended approval of the general plan amendment to the City Council, recommended approval of the redevelopment plan amendment to the City Council and Redevelopment Agency, and recommended approval of the rezoning to the City Council; and

WHEREAS, the Planning Commission found, in part, that the Project is consistent with the intent of the C-25 Office Commercial District Zone; and

WHEREAS, the Planning Commission also found, in part, that the proposed rezoning is consistent with the overall goals, objectives, and policies of the General Plan in that the Project is a well-designed development on a vacant, underutilized, blighted and contaminated infill site located in an urbanized area of the City near public transportation that will provide needed affordable housing and economic revitalization, and that the proposed rezoning is necessary to implement the Project; and

WHEREAS, the Community and Economic Development Committee of the City Council conducted a duly noticed meeting on the Project Applications on February 24, 2009, and recommended Project approval; and

WHEREAS, the City Council and Redevelopment Agency of the City of Oakland conducted a duly noticed joint public hearing on the Project Applications on March 3, 2009; and

WHEREAS, all interested parties were given the opportunity to participate in the public hearing by submittal of oral and written comments; and

WHEREAS, the public hearing was closed by the City Council and Redevelopment Agency on March 3, 2009; and

WHEREAS, the City Council independently reviewed and considered the findings made by the Planning Commission for approval of the Design Review, Conditional Use Permit, Variances, General Plan Amendment, Redevelopment Plan Amendment and Rezone, incorporated into the record by reference and included as Attachment D to the staff report, and hereby affirms said findings; and

WHEREAS, The City Council, acting as the Lead Agency, has independently reviewed, analyzed, and considered the Coliseum Gardens HOPE VI Revitalization MND/FONSI, and Addenda prior to acting on the approvals. Based upon such independent review, analysis, and consideration, and exercising its independent judgment, the City Council hereby finds the criteria of CEQA Guidelines Section 15162 requiring additional environmental review have not been met. Specifically, and without limitation, the City Council finds and determines that the project would not result in any new or more severe significant impacts, there is no new information of substantial importance that would result in any new or more severe significant impacts, there are no substantial changes in circumstances that would result in any new or more severe significant impacts, and there is no feasible mitigation measure or alternative that is considerably different from others previously analyzed that has not been adopted, based upon the accompanying City Council Agenda Report, and elsewhere in the record for this project.

NOW, THEREFORE, the Council of the City of Oakland does ordain as follows:

SECTION 1. The City Council, having heard, considered and weighed all the evidence in the record presented on behalf of all parties and being fully informed of the Applications and the Planning Commission's decision on the Project, hereby amends the designation and location of zones and zone boundaries on the Zoning Map as shown on the map attached to this Ordinance as **Exhibit A**. This decision is based, in part, on the February 24, 2009, Community and Economic Development Committee Agenda Report (which was forwarded to the City Council for its March 3, 2009, public hearing), the February 4, 2009, Planning Commission Report, and the MND/FONSI which are hereby incorporated by reference as if fully set forth herein.

SECTION 2. In support of the City Council's decision to amend the General Plan, the City Council affirms and adopts as its findings and determinations (a) the February 24, 2009, Community and Economic Development Committee Agenda Report, and (b) the February 4, 2009, Planning Commission Report, including, without limitation, the discussion, findings, conclusions, and conditions of approval (each of which is hereby separately and independently adopted by this Council in full).

SECTION 3. The City Council finds that it is necessary, desirable, and in the public interest to amend the Zoning Map for the reasons set forth herein and in the February 24, 2009, Community and Economic Development Committee Agenda Report and the February 4, 2009, Planning Commission Report.

SECTION 4. The City Council finds and determines that this Ordinance complies with CEQA and the Environmental Review Officer is directed to cause to be filed a Notice of Determination with the appropriate agencies.

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

1. the Project Applications, including all accompanying maps and papers;
2. all plans submitted by the Applicant and his representatives;
3. all staff reports, decision letters and other documentation and information produced by or on behalf of the City, including without limitation the MND/FONSI and supporting technical studies, all related and/or supporting materials, and all notices relating to the Project Applications and attendant hearings;
4. all oral and written evidence received by the City staff, the Planning Commission, and the City Council before and during the public hearings on the Project Applications; and
5. 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 applicable 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 respectively: (a) Community & 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. If any part of this Ordinance is held to be invalid for any reason, such decision shall not affect the validity of the remaining portion of this Ordinance, and this Council hereby declares that it would have passed the remainder of this Ordinance if such invalid portion thereof had been deleted.

SECTION 8. This Ordinance shall be in full force and effect immediately upon its passage as provided by Section 216 of the City Charter, if adopted by at least six members of Council, or upon the seventh day after final adoption if adopted by fewer votes.

SECTION 9. The recitals contained in this Ordinance are true and correct and are an integral part of the City Council's decision.

IN COUNCIL, OAKLAND, CALIFORNIA, MAR 17 2009, 2009

PASSED BY THE FOLLOWING VOTE:

AYES- BROOKS, DE LA FUENTE, KAPLAN, KERNIGHAN, NADEL, QUAN,
REID, AND PRESIDENT BRUNNER

NOES-

ABSENT-

ABSTENTION-

ATTEST: 

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

Introduction Date: MAR 3 2009

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NOTICE AND DIGEST

ADOPTION OF THE FOLLOWING ORDINANCES CONCERNING LION CREEK CROSSING PHASE IV RESIDENTIAL PROJECT SITE LOCATED ON SNELL STREET BETWEEN 69TH AND 70TH AVENUES:

- 1) CITY ORDINANCE ADOPTING THE SEVENTH AMENDMENT TO THE COLISEUM AREA REDEVELOPMENT PLAN AMENDING THE LAND USE DESIGNATION FOR THE PROJECT SITE FROM "MIXED HOUSING TYPE RESIDENTIAL" AND "URBAN RESIDENTIAL" TO "NEIGHBORHOOD CENTER MIXED USE"; AND**
- 2) CITY ORDINANCE REZONING THE PROJECT SITE FROM THE R-36 SMALL LOT RESIDENTIAL, R-50 MEDIUM DENSITY RESIDENTIAL AND M-30 GENERAL INDUSTRIAL ZONING DISTRICTS TO THE C-25 OFFICE COMMERCIAL DISTRICT.**

These ordinances would (1) amend the Redevelopment Plan for the Coliseum Redevelopment Project Area to revise the land use designation on the Redevelopment Plan Land Use Map for a 1.1-acre property on Snell Street between 69th and 70th Avenues to conform the Redevelopment Plan to the City's General Plan and (2) rezone the same 1.1-acre property from the R-36 Small Lot Residential, R-50 Medium Density Residential and M-30 General Industrial Zoning Districts to the C-25 Office Commercial District in order to facilitate the 72-unit Lion Creek Crossing Phase IV project.