



# City of Emeryville

CALIFORNIA

## MEMORANDUM

**DATE:** October 30, 2018  
**TO:** Christine Daniel, City Manager  
**FROM:** Charles S. Bryant, Community Development Director  
**SUBJECT:** San Pablo Avenue General Plan and Planning Regulations Amendments

**A Resolution Of The City Council Of The City Of Emeryville Amending The General Plan To Increase The Maximum Development Potential That Could Occur Within An Area Of Approximately 2.5 Acres Fronting The East Side Of San Pablo Avenue From 40th Street To Approximately 170 Feet South Of 45th Street By Modifying Figure 2-3: Maximum Floor Area Ratios, Figure 2-4: Maximum Building Heights, And Figure 2-6: Maximum Residential Densities (APNs: 49-1026-2 (Partial), -22 (Partial), -23, -24 (Partial), -26-2 (Partial); 49-1079-13 (Partial), 14-1, 17-1, 19-4 (Partial); 49-1555-11 Through 19; -65, -66, and -67 (Partial)) (CEQA Determination: Addendum To 2009 General Plan EIR Prepared)**

**Introduction And First Reading Of An Ordinance Of The City Council Of The City Of Emeryville Amending The Planning Regulations To Ensure Consistency With The General Plan By Updating Figure 9-4.201(a): Maximum Floor Areas Ratios, Figure 9-4.202(a): Maximum Building Heights, And Figure 9-4.203(a): Maximum Residential Densities To Reflect Updated General Plan Figures 2-3, 2-4, And 2-6, Respectively (CEQA Determination: Addendum To 2009 General Plan EIR Prepared)**

## RECOMMENDATION

The Planning Commission and staff recommend that the City Council amend the General Plan and Planning Regulations to increase the maximum development potential that could occur within an area of approximately 2.5 acres fronting the east side of San Pablo Avenue from 40th Street to approximately 170 feet south of 45th Street by increasing the allowable floor area ratio (FAR), building height, and residential density.

## BACKGROUND

On April 18, 2017, the City Council adopted Resolution No. 17-51 designating 4300 San Pablo Avenue as an affordable senior rental housing development site and authorizing staff to issue a Request for Qualifications and Proposal (RFQ/P). This was consistent with the 2015–2023 Housing Element of the Emeryville General Plan that identified the City-

owned property at this site as a possible site for affordable housing. At the City's pre-bid meeting on May 8, 2017 several potential developers expressed concern that, given the existing maximum density and floor area ratio ("FAR") on the site, it was impossible to design a project that would be financially viable. With this feedback, staff examined the General Plan designations in the vicinity of this site and noted that the parcels across from the site on the western side of San Pablo Avenue were designated with higher development potential as expressed by their FAR, height, and residential density. In order to accommodate a senior housing development on a City-owned property, to accommodate more housing generally in this area, and to make the development regulations consistent on both sides of San Pablo Avenue, staff is proposing a General Plan Amendment ("GPA") to increase the maximum development potential that could occur within an area of approximately 2.5 acres fronting the east side of San Pablo Avenue from 40th Street to approximately 170 feet south of 45th Street by increasing the allowable FAR, building height, and residential density. The Planning Regulations must also be amended because the General Plan FAR, height, and residential density maps are incorporated into the Planning Regulations. It is anticipated that Economic Development and Housing Division staff will then reissue the RFQ/P for the 4300 San Pablo Avenue site pending City Council approval of the proposed amendments to the General Plan and Planning Regulations.

## DISCUSSION

The proposed action includes a General Plan Amendment to increase development potential of 21 parcels totaling approximately 2.5 acres as shown in table below:

| Assessor's Parcel Numbers (APNs)  | Residential Density Base/with Bonus (units/acre) |          | Floor Area Ratio Base/with Bonus |          | Height Base/with Bonus (feet) |          |
|---|--|----------|----------------------------------|----------|-------------------------------|----------|
|   | Existing   | Proposed | Existing                         | Proposed | Existing                      | Proposed |
| 49-1026-2 (partial);<br>49-1026-22 (partial);<br>49-1062-23;<br>49-1062-24 (partial);<br>49-1062-26-2 (partial) | 50/60  | 85/100   | 1.2/1.6                          | 2.0/3.0  | 30/55                         | 55/75    |
| 49-1079-13 (partial);<br>49-1079-14-1;<br>49-1079 -17-1;<br>49-1079-19-4 (partial)                              | 50/60  | 85/100   | 1.2/1.6                          | 2.0/3.0  | 30/55                         | 55/75    |
| 49-1555-11 thru 19<br>49-1555-65;<br>49-1555-66;<br>49-1555-67 (partial)  | 50/60  | 85/100   | 1.2/1.6                          | 2.0/3.0  | 30/55                         | 55/75    |

Attachment 1 highlights the above parcels.

The General Plan maps of Maximum Floor Area Ratios (Figure 2-3), Maximum Building Heights (Figure 2-4), and Maximum Residential Densities (Figure 2-6) would be amended for the parcels described in the above table and illustrated in Attachment 1. The amended maps are included in the attached resolution as Exhibits A, B, and C. In addition, these three General Plan maps are included in the Planning Regulations as Figures 9-4.201(a), 9-4.202(a), and 9-4.203(a), respectively. Therefore, it is necessary to amend the Planning Regulations to update these three figures, which would be accomplished by passage of the attached draft ordinance.

### **Environmental Review**

The General Plan Environmental Impact Report (EIR) was certified by the City Council by Resolution No. 09-207 on October 13, 2009. When an EIR has been certified for a project, no subsequent EIR shall be prepared unless there is substantial evidence of substantial changes to the proposed project, substantial changes in the circumstances under which the project will be undertaken, or new information of substantial importance that has become known and that was not available previously. (State Public Resources Code Section 21166 and California Environmental Quality Act (CEQA) Guidelines Sections 15162.) If the conditions for a subsequent EIR are not met, then the lead agency prepares an addendum in accordance with CEQA Guideline 15164 for the proposed change to the project. The proposed modifications to the FAR, height, and residential density maps will result in a slight increase in development potential from what was analyzed in the General Plan EIR. However, as discussed below, and in the proposed addendum to the General Plan EIR (see Attachment 2), these changes to the General Plan do not result in substantial evidence to support a subsequent EIR. Accordingly, staff recommends that the City Council adopt the addendum to the General Plan EIR.

#### *Summary of the CEQA Addendum to the General Plan EIR*

Citywide, the 2030 buildout scenario analyzed in the General Plan included 16,600 residents, 9,800 residential units, and 3.1 million square feet of retail space. The proposed GPA would result in the potential to add up to 98 residents, develop approximately 58 more residential units and approximately 15,000 square feet of retail floor area in the 2.5-acre amendment area. The increase in development within the amendment area is the result of the proposed increase to the maximum FAR, maximum building heights, and maximum residential density compared to the maximums specified in the current General Plan.

The addendum concludes that the proposed GPA would not result in any new or substantially more severe impacts than those identified in the 2009 EIR, as specified below.

- The impacts to the following topics would remain **beneficial**, as identified in the 2009 EIR: *Land Use, Plans and Policies* (local and regional physical connectivity);

*Hydrology and Water Quality* (temporary and long-term water quality at Temescal Creek); *Parks and Recreation*; and *Aesthetics* (visual character).

- The impacts to the following topics would remain **less-than-significant**, as identified in the 2009 EIR: *Land Use, Plans and Policies* (displacement of houses, businesses, and/or people; conflict with other plans and ordinances; and land use incompatibility); *Traffic and Circulation* (Emery Go-Round and AC Transit bus overcrowding, pedestrian and bicyclist hazards, and motor vehicle parking demand); *Hazards and Hazardous Materials*; *Biological Resources*; *Hydrology and Flooding* (erosion/siltation during construction, dewatering/discharge during construction, stormwater drainage patterns and system, and flood/flooding risk); *Geology, Soils, and Geohazards*; *Noise* (construction noise, roadway noise, and ground-borne noise/vibration); *Cultural Resources* (archaeological and paleontological resources); *Air Quality* (Transportation Control Measures [TCMs] consistency, fugitive dust/criteria pollutants during construction, substantial pollutant concentrations, and odors); *Public Services*; *Recreation*; *Aesthetics* (scenic vistas and short-term visual resources/views); and *Greenhouse Gas and Energy*.
- The impacts to the following topics would remain **significant and unavoidable** as identified in the 2009 EIR: *Traffic and Circulation* (intersection operations, freeway segments, and transit travel times); *Noise* (roadway noise); *Cultural Resources* (historic resources); and *Air Quality* (Bay Area Ozone Strategy conflict).
- Lastly, the addendum also identified the following topics that were not addressed in the 2009 EIR (because they were not required for CEQA purposes when that EIR was prepared) and which would not exceed any current established thresholds: *Forestry Resources*, *Construction Emissions*, *Cumulative Health Risk Exposure*, *Vehicle Miles Traveled*, and *Tribal Cultural Resources*.

### *Proposed CEQA Findings*

The increase in population and development that could occur with the proposed GPA would not cause new or substantially more severe significant impacts than those identified in the previously certified 2009 EIR. Neither are any new mitigation measures or mitigating General Plan policies required, nor have there been any changes to circumstances or new information that would trigger any new or substantially more severe significant impacts than identified in the 2009 EIR. The addendum includes detailed findings supporting that no supplemental CEQA environmental review is required for the proposed GPA.

### **General Plan Amendment**

In order for City Council to approve the proposed General Plan amendment, the Council needs to make certain findings as outlined in Section 9.7-1205 of the Planning Regulations. Staff believes these findings can be made in the following way:

- (a) The proposed amendment will contribute to the public health, safety, and general welfare or will be of benefit to the public.

**The proposed General Plan Amendment will be of benefit to the public because it will provide incentives for the provision of more housing units than are currently allowed under the General Plan at this location, including, but not limited to, affordable and senior housing. The proposed amendment will meet the following policies and programs of the Housing Element: Policy H-2-2, that pertains to support of new housing opportunities for extremely low-, very low-, low- and moderate-income households; Program H-3-1-2 that pertains to supporting the development of residential care facilities for the elderly and independent senior housing developments, where appropriate, particularly senior housing facilities that offer housing affordable to lower income senior households; and Policy H-4-1 to ensure that the zoning ordinance facilitates development of a variety of housing types. This in turn helps in achieving the City's Regional Housing Needs Allocation (RHNA).**

- (b) The proposed amendment is consistent with the General Plan Guiding Principles, unless the Guiding Principles themselves are proposed to be amended.

**The proposed General Plan Amendment will facilitate the development of additional housing, including, but not limited to, affordable and senior housing, which is consistent with Guiding Principle 7, "A diverse, balanced, and inclusive community", which states that "the General Plan embraces physical, social, and economic diversity, ... [and] furthers a variety of housing types and emphasizes family-friendly housing, and linkages to Emeryville's school system to promote the success of its youth and to encourage new residents to actively contribute to the community."**

- (c) The proposed amendment retains the internal consistency of the General Plan and is consistent with other adopted plans, unless concurrent amendment to those plans is also proposed and will result in consistency;

**The proposed General Plan Amendment will retain internal consistency between the Maximum Floor Area Ratios map (Figure 2-3), Maximum Building Heights map (Figure 2-4), Maximum Residential Densities map (Figure 2-6), and the text that describes them.**

- (d) The proposed amendment has been reviewed in compliance with the requirements of the California Environmental Quality Act; and

**An addendum to the General Plan Environmental Impact Report that was certified by the City Council on October 13, 2009 has been prepared, which concluded that the proposed General Plan Amendment will not result in any new or substantially more severe impacts than those identified in the 2009 EIR.**

- (e) The proposed amendment complies with State law for the preparation, adoption, and amendment of general plans at California Government Code Section 65350 et seq.

**The proposed General Plan Amendment complies with applicable State law in that the procedures required by Government Code Section 65350 et seq. are satisfied. The California Environmental Quality Act does not trigger public notice or review of an Addendum to a certified Environmental Impact Report. The standard public noticing for a General Plan Amendment was done by sending notices to property owners and tenants within 300 feet of the project site and a legal notice was published in the Oakland Tribune.**

### **Planning Regulations Amendment**

In order for the City Council to approve the proposed amendment to the Planning Regulations, the Council needs to make certain findings as outlined in Section 9.7-1305 of the Planning Regulations. Staff believes these findings can be made in the following way:

- (a) The proposed amendment is consistent with the General Plan.

**The intent of this amendment to the Planning Regulations is to ensure consistency with the General Plan by updating Figure 9-4.201(a), Maximum Floor Area Ratios, Figure 9-4.202(a), Maximum Building Heights, and Figure 9-4.203(a), Maximum Residential Densities, to reflect updated General Plan Figures 2-3, 2-4, and 2-6, respectively.**

- (b) The proposed amendment is necessary for public health, safety, and general welfare or will be of benefit to the public.

**The proposed General Plan Amendment will be of benefit to the public because it will provide incentives for the provision of more housing units than are currently allowed under the General Plan at this location, including, but not limited to, affordable and senior housing. The proposed amendment will meet the following policies and programs of the Housing Element: Policy H-2-2, that pertains to support of new housing opportunities for extremely low-, very low-, low- and moderate-income households; Program H-3-1-2 that pertains to supporting the development of residential care facilities for the elderly and independent senior housing developments, where appropriate, particularly senior housing facilities that offer housing affordable to lower income senior households; and Policy H-4-1 to ensure that the zoning ordinance facilitates development of a variety of housing types. This in turn helps in achieving the City's Regional Housing Needs Allocation (RHNA).**

- (c) The proposed amendment has been reviewed in compliance with the requirements of the California Environmental Quality Act.

**An addendum to the General Plan Environmental Impact Report that was certified by the City Council on October 13, 2009 has been prepared, which concluded that the proposed General Plan Amendment that is the basis for this amendment to the Planning Regulations will not result in any new or substantially more severe impacts than those identified in the 2009 EIR.**

- (d) For a change to the Zoning Maps, that the subject property is suitable for the uses permitted in the proposed zone in terms of access, size of parcel, relationship to similar or related uses, and other relevant considerations, and that the proposed change of zoning district is not detrimental to the use of adjacent properties.

**No changes to the Zoning Map in Figure 3.103(a) or the Zoning Overlay Map in Figure 9-3.103(b) of the Planning Regulations are proposed.**

### **Adoption of Resolution and Ordinance**

The resolution approving the General Plan Amendment requires a majority vote of the entire membership of the City Council, i.e., a minimum of three votes (Government Code section 65356). Likewise, the ordinance amending the Planning Regulations must be adopted by a majority of the total membership of the City Council, i.e., a minimum of three votes (Government Code section 36936).

### **FISCAL IMPACT**

Adoption of the amendments to the General Plan and Planning Regulations will have no direct fiscal impact on the City.

### **STAFF COMMUNICATION WITH THE PUBLIC**

The Planning Commission unanimously recommended that the City Council approve the proposed General Plan Amendment and Planning Regulation Amendment at their September 27, 2018 meeting. (Vote: 5-0; Commissioners Barrera and Hidalgo had excused absences.)

### **CONCLUSION**

The Planning Commission and staff recommend that the City Council take the following actions:

1. Resolution amending the General Plan:
  - a. Take public testimony regarding the Resolution.
  - b. Adopt the Resolution.

2. Ordinance amending the Planning Regulations:
  - a. Introduce the Ordinance after a motion to read by title only.
  - b. Take public testimony regarding the Ordinance.
  - c. Adopt the first reading of the Ordinance.

**PREPARED BY:** Miroo Desai, Senior Planner

**APPROVED AND FORWARDED TO THE  
CITY OF EMERYVILLE CITY COUNCIL:**



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Christine Daniel, City Manager

Attachments:

- Subject Parcels
- Addendum to the General Plan Environmental Impact Report.
- Resolution amending the General Plan
  - Exhibit A. Revised Figure 2-3, "Maximum Floor Area Ratios"
  - Exhibit B. Revised Figure 2-4, "Maximum Building Heights"
  - Exhibit C. Revised Figure 2-6, "Maximum Residential Densities"
- Ordinance amending the Planning Regulations
  - Exhibit A. Revised Figure 9-4.201(a), "Maximum Floor Area Ratios"
  - Exhibit B. Revised Figure 9-4.202(a), "Maximum Building Heights"
  - Exhibit C. Revised Figure 9-4.203(a), "Maximum Residential Densities"