

RESOLUTION NO. 08-09

RESOLUTION OF THE CITY COUNCIL OF THE CITY OF EMERYVILLE CERTIFYING THE FINAL ENVIRONMENTAL IMPACT REPORT FOR THE MARKETPLACE REDEVELOPMENT PROJECT AND MAKING FINDINGS REQUIRED BY THE CALIFORNIA ENVIRONMENTAL QUALITY ACT.

WHEREAS, on December 1, 2005, the City of Emeryville, acting as the Lead Agency under the California Environmental Quality Act (CEQA), published a Notice of Preparation and initiated work on a Draft Environmental Impact Report (DEIR) for the Marketplace Redevelopment project, a 15-acre site bounded by 64th Street to the north, Powell Street to the south, the Amtrak/Union Pacific railroad tracks to the east, and Christie Avenue to the west; and

WHEREAS, the City of Emeryville completed the DEIR in June 2007 and circulated it for the required 45 day public comment period from June 21 to August 6, 2007. A public hearing to consider the DEIR was held before the Planning Commission on July 26, 2007; and

WHEREAS, the City of Emeryville prepared the Final Environmental Impact Report (FEIR) for the Marketplace Redevelopment project by incorporating the DEIR; comments received about the DEIR and responses to those comments; and changes, clarifications and corrections to the DEIR including an additional mixed use project alternative. As required by CEQA, the FEIR was mailed to those public agencies that commented on the DEIR, as well as all of the other commentors on November 30, 2007; and

WHEREAS, on December 13, 2007, the City of Emeryville Planning Commission reviewed and considered the FEIR and recommended certification of the FEIR prepared for the Marketplace Redevelopment project pursuant to CEQA; and

WHEREAS, on January 15, 2008, the City of Emeryville City Council reviewed and considered the FEIR in order to satisfy state and local requirements governing the City's environmental review, analysis, and conclusions pertaining to the Marketplace Redevelopment project pursuant to CEQA; and

WHEREAS, the Emeryville City Council has reviewed the following environmental documentation for the Marketplace Redevelopment project EIR ("CEQA Documentation"):

- Final EIR for the Marketplace Redevelopment project, consisting of the DEIR prepared by LSA and the City of Emeryville, dated June, 2007, comments received on DEIR, and the FEIR and Response to Comments Document, prepared by the City of Emeryville, dated November 30, 2007.

NOW THEREFORE BE IT RESOLVED, based on its review and consideration of the foregoing documents, and any public testimony at the January 15, 2008 meeting, the Emeryville City Council makes the following specific findings:

A. Compliance with CEQA Requirements: The Emeryville City Council, acting as Lead Agency under CEQA Guidelines §15090, has received, reviewed and considered the CEQA Documentation and other substantive and procedural components of CEQA compliance for the Marketplace Redevelopment project. The CEQA Documentation prepared for the project, and review procedures required by CEQA for a Lead Agency, have been completed in conformance with CEQA as set forth in the recitals to this resolution.

Pursuant to CEQA, including without limitations CEQA Guidelines § 15090, the City Council hereby finds, determines and certifies that the City of Emeryville has complied with all of its duties as a Lead Agency for the Marketplace Redevelopment project FEIR, that the FEIR was presented to the City Council and the City Council has reviewed and considered the information contained in the FEIR. Further, the City Council finds that the FEIR was completed in compliance with CEQA.

Specifically:

1. that a Notice of Preparation was published on December 1, 2005, giving public agencies and citizens until January 6, 2006 to review and respond to the proposed scope of the Marketplace Redevelopment EIR, and that a copy of such notice was mailed to every property owner within 500 feet of the project site, as well as surrounding cities and other public agencies; and a public scoping session was held on December 15, 2005;
2. that the DEIR was prepared in compliance with CEQA Guidelines §15120 through 15132;
3. that the DEIR was published in June 21, 2007 and circulated for public review and comment until August 6, 2007, thus complying with the 45 day review period, and as part of this review period a Notice of Availability was posted and mailed to all property owners within 300 feet of the site, to all parties who had previously expressed interest to be notified about the matter and to all surrounding cities and public agencies;
4. that the FEIR has been prepared, consisting of the comment letters received; the response to written comments; the response to oral comments received at the July 21, 2007 public hearing; a response to comments received after the close of the public comment period; and a comprehensive list of changes, clarifications and corrections to the DEIR including an additional mixed use project alternative, which is a combination of the mixed use project alternatives studied in the DEIR and is being included in the FEIR in part to address some of the comments received during the DEIR public review period.

B. The FEIR reflects the Lead Agency's independent judgment and analysis. The City Council hereby finds that the FEIR, as certified, reflects the independent judgment and analysis of the City Council and the City of Emeryville. The Council specifically finds that at this time, the FEIR for the Marketplace Redevelopment project accurately and completely presents adequate information upon which to base future environmental decisions about a proposed project at the Marketplace site and that there is no need to prepare a subsequent or supplemental EIR to evaluate the information and comments received about the DEIR, changes in circumstances, or new information presented to the City during the DEIR public comment period. The City Council further finds that no new information of substantial importance showing new significant environmental effects or a substantial increase in the severity of previously identified significant environmental effects beyond those effects analyzed in the DEIR for the Marketplace Redevelopment project were identified during the public comment period or during the preparation of the FEIR.

AND BE IT FURTHER RESOLVED, that the Emeryville City Council hereby certifies Final Environmental Impact Report for the Marketplace Redevelopment project pursuant to State CEQA Guidelines § 15090.

APPROVED by the City Council of the City of Emeryville at a regular meeting held Tuesday, January 15, 2008 by the following vote:

AYES: (4) Mayor Bukowski, Vice Mayor Atkin and Councilmembers Davis and Fricke

NOES: (1) Councilmember Kassis **ABSTAINED:** None

EXCUSED: None **ABSENT:** None

IK B
MAYOR

ATTEST:
[Signature]
CITY CLERK

APPROVED AS TO FORM:
[Signature]
CITY ATTORNEY