

January 16, 2007

MEMORANDUM

TO: Margaret Stanzione, Project Planner, City of Oakland, CEDA
FROM: Nancy J. Nadel
RE: Comments on Mandela Grand Draft EIR

These comments are in response to the Draft EIR for the Mandela Grand Mixed Use Development Project, dated December 2006.

Page II-29 J. Population, Housing and Employment

This summary states that the impacts on employment are less than significant. However, in reading the background information used to arrive at this conclusion, I found that:

1. There was no analysis of the impacts on employment of the cumulative loss of industrial land if this General Plan amendment is made with respect to synergy of lost manufacturing opportunity, although CEDA is aware that this property owner owns other industrial parcels in the immediate vicinity; and other property owners have begun to pressure CEDA to propose a mixed use category for all of the industrial areas known as areas 15 and 16 in the West Oakland Industrial area of the General Plan.
2. There was no analysis of the availability/potential loss of similar large sites, especially sites with both building and yard space that are useful for the new green energy industry. For example, currently a manufacturer of windmill parts is looking for a site just like Pacific Pipe for which there are none similar.
3. There is no analysis of the kinds of jobs produced from different kinds of industrial space and how they match up with capital availability (or lack thereof) for most West Oakland unemployed or underemployed workers. Short term construction jobs are apparently equated to permanent jobs in value. It is well known that very few low income West Oaklanders can afford to train for construction jobs because the pre-apprenticeships are long and without pay and apprentice programs are all in the suburbs.
4. There is no mention of the fact that the West Oakland Redevelopment Plan includes providing subsidy for industrial attraction – a practice that has not yet been tried because the tax increment is just starting to accrue.
5. There is no discussion of the fact that the property owner has refused to negotiate long term leases for this property and others that he owns, so that this document could state that the site is ostensibly empty with no jobs to be lost and, according to the property owner, having no viable industrial use. In contrast, the EIR, as if written by the developer only talks about ...”underutilized and partially vacant – a pattern found at many of the industrial sites in the area.” (Page III-5 under Existing Uses and Employment and Section IV.J.) The property

owner/developer's refusal to deal in good faith for long term uses at this site and others is a relevant fact known to the CEDA agency staff but not included in this document.

6. There is no discussion of my West Oakland Economic Development Work Group that was begun to kick start the uses of the industrial property, despite the fact that CEDA staff is aware of this group and has presented to it and participated in it. As this group began to outline its agenda, the property owner began purchasing industrial properties taking them out of industrial use and claiming that no entity except trucking was interested in the properties.
7. There is no analysis of the impacts of residential uses at this site on neighboring and adjacent properties with respect to employment options and industrial uses in the industrial- designated areas of the General Plan.

Other discussion missing from the document not related to the employment section includes:

1. There is no substantive discussion of neighborhood residential character – there are no other 30-story residential towers. Since there is no hint of such a consideration in the General Plan, property owners of the residential area will be subject to a complete change in the character of their community. Considerable discussion and compromise went into the establishment of the business/housing boundaries with a commitment to a horizontal buffer of live/work housing. This project introduces residential housing in the middle of the industrial area with no buffers between neighboring uses. Residents will be isolated in the midst of an industrial area where being a pedestrian amidst truck traffic will have safety challenges. On the project site alone trucks can enter and exit at 6 locations (page III-23).
2. I would like a financial analysis of what the developer is likely to profit from this General Plan amendment for this and other properties he owns in the area if they are bought at industrial prices and developed as market rate housing. This analysis should better help us to understand the financial feasibility of mitigation options. As policy makers we should also be educated in some public forum of the cost of investment on the part of the developer for an industrial tenant or a concept that is might be a commercial/industrial/recreational use such as a velodrome in conjunction with R&D, bicycle manufacturing, and/or assembly, sales and distribution. This latter concept would provide jobs in the long term, much needed controlled, but daring, teen recreational use, would be less impacting with respect to auto use and emissions, would work well with bicycle lanes rather than propose to remove them, etc. etc.

The following are other concerns I have about the EIR analysis:

Page III-7 Project Objectives:

This section reads like a company brochure, not an objective analysis. Page III-8, 4th bullet says that there will be a variety of housing types for a range of household incomes. However, the developer has told me in more than one meeting that he refuses to include affordable housing on the project site. The 8th bullet describes “improving public safety...by creating a vibrant, pedestrian-oriented industrial village.” In West Oakland, in the last few years, we have had a child killed on Mandela Parkway by a semi-tractor trailer whose driver could not see the little girl. In fact, historically, the mixture of industry with housing has been unpleasant/dangerous for both, not vibrant or pedestrian-oriented which is why we spent the last 20 years separating them and are now on the verge of focusing some attention on business attraction to the industrial area. This “pedestrian-oriented ..village” is proposed to accommodate 2300 cars, require the removal of bicycle lanes to accommodate cars and result in unmitigable LOS F traffic congestion at many surrounding intersections. The terminology is laughable.

Page III-13

This section describes the kind of businesses that would be considered for the “industrial village” scenario. There is no discussion of nearby uses that might not be compatible with the residents of this project because CEQA analysis does not have to consider the impacts of the surroundings on this project. However, the complaints likely to come from residents at this project about nearby industrial uses are predictable. This General Plan amendment to allow housing is a request that this property owner and other property owners eagerly await to increase profits for the other sites they own transferring from industry to housing. Looking at all the prior West Oakland industrial property that was changed to housing/ business mix in a recent zoning designation to match the General Plan, only one of the many properties that are being developed will be a business use.

This section ends stating that that the project sponsor will ensure compatibility with residential uses. However, there is no discussion of and there will not be any ability to control such compatibility with the industrial property next door resulting in pressure on that property to become housing as well.

Figure III-17, 18 Site Plan Phase 1 and 2

These figures show the construction staging area immediately across the street from the school. A very high percentage of our students in the flatlands public schools have asthma. This location of the staging area and minimal mitigations for noise and air pollution considering the location of this school should be reconsidered.

Figure IV-A-1 This map appears to have the wrong legend – a legend for the Estuary which has different classifications. This is one of many gross errors in the document making the reader wonder how reliably the technical information was reviewed.

Page IV-A-3 – Site Vicinity Land Uses

This section sites the Peralta Lofts as characteristic of the live-work nature of this area, claiming there is a “mix of ‘these’ uses throughout”. In fact, Peralta Lofts is a Work/live site with rental spaces. Peralta Lofts is not characteristic of the area which is mostly industrial. There is some live/work development in the HBX area but it is all market rate, mostly live and very little work. Live/work development is supposed to be used as a buffer between residential and industrial spaces as per the General Plan which is just beginning to be implemented in the HBX zoned areas separating the industrial area from the residential area in West Clawson. The Peralta Lofts project was allowed on West Grand and Peralta because it was work/live, not live/work and to save the historic building which PG&E was going to demolish.

Page IV A-5 Project Site Land Use

The text consistently states that the site is underutilized with the intention of influencing the reader to think that only this use will better utilize the site. In fact, the owner has influenced the standing of this site as “underutilized” for the purpose of convincing policymakers to change the general plan. I object to this “objective” document being used as a marketing device for the project.

Page IV –A-7 Applicable LUTE policies

The list of policies reminds us that industrial uses should be protected from the intrusion of potentially incompatible uses. What this section fails to include is the percentage of Oakland land that is already designated residential compared to the remaining land (not counting the public port and airport) that is industrial. I believe that only 5% or perhaps less is left with an industrial designation in the General Plan. There is plenty of other land for housing both infill and upgrading existing housing that is abandoned or seriously blighted.

Page IV A-8

This section suggests that the project will protect incompatible onsite uses from each other but it cannot protect incompatible uses next door. The issue is not just vertical buffers which the EIR suggests are being addressed and I don’t agree because standards are only “encouraged” not “required.” The EIR does not address horizontal buffers.

Page IV A-9 Consistency with Business Mix Land Use Classification

The following sentence is included “A great deal of discussion and work has occurred since development of the LUTE and Business Mix Classification around the appropriate relationship of residential and industrial uses within the area...” This sentence is the beginning of one of the most empty and circular arguments in the document, instead of a discussion to rationalize the erosion of the center of the last of the industrial area in a community with extremely high unemployment, crime and homelessness, clearly a community that needs employment because it has been isolated in poverty for decades. This project will neither house nor employ those community members.

While I agree that much discussion has occurred since the LUTE, in West Oakland we are diligently implementing the General Plan and we have lots more work to do before we consider putting individual out of town land speculators' profits before the best interests of all members of our community.

As CEDA staff and some of my colleagues on the council are aware, I began a group over a year ago called the West Oakland Economic Development Working Group. We have three priorities to meet our goal of utilizing industrial land with industrial uses to provide well-paying jobs to West Oakland residents who have been isolated in poverty and struggling in the job market. Those priorities are:

1. to make West Oakland land competitive with suburban industrial parks by improving the environment like removing heavy trucking and recycling uses onto the army base where possible further from residents; funding infrastructure improvements with redevelopment dollars; assembling incentive packages for new industry to develop in West Oakland. The auto mall use at the army base, makes it even more important to preserve industrial land in West Oakland, not erode it.
2. to better market existing West Oakland businesses to Oakland residents and other businesses so that they will thrive and spawn other business start-ups;
3. to assure a new and consistent link between businesses and local residents in need of work through good training and regular surveys of business employment needs; and to help new business start-ups.

The developer of this project had representatives at these meetings and despite our movement toward the goals of the group, the developer has chosen to work against the goals of our group.

Page IV.A-18

The narrative claims the project will “increase employment opportunities for Plan Area residents.” What does that mean? Does that mean residents of the new project or existing residents of West Oakland? What links are there between construction jobs on the project and future residents or existing local residents? What other jobs are being referred to? How will they be made opportunities for existing residents? Since construction jobs are not permanent, what other kinds of permanent job opportunities have been analyzed for this site?

Page IV A-20 Land Use Compatibility

The EIR, again sounding less than objective, tries to paint the surrounding area of the project as residential when in fact it is in the center of the industrial area and the proximity of residents is a testament to how small we have allowed the industrial area to shrink already. We need to focus on horizontal buffers, not vertical buffers. This section again cites the Peralta Lofts project as typical of the area. I too will repeat that it is not typical of the area; the area is predominantly industrial. The PG&E building transformation was to work/live (not live work).

Page IV A-24 – last paragraph

This is an excellent example of an absurd circular argument. The sentence says that because the project includes a general plan amendment it will not conflict with existing policies like the general plan.

Page IV B-20 Table IV B-6

It is unclear why the % of trips on Constitution Way in Alameda would be greater than the % on Mandela Parkway. The rationale for the percentages needs to be explained.

Page IV B-30 Mitigation B.2b

It is unclear whether the environmental mitigation is to remove the bike lane to accommodate more cars or that the traffic will be backed up leaving a significant unavoidable problem because we won't remove the bike lane. I am not advocating for removal of the bike lane since it is new, but this needs clarification in the narrative.

Page IV B-33 BART Standing Capacity

How is the number of 280 peak hour trips arrived at with 1500 new units being built?

Page IV B-36 Bicycle Impacts, 2nd Paragraph

The sentence says that the city is considering adopting lower bicycle parking standards in the zoning ordinance. This has not come to council and has never been discussed by council members.

Page IV B-39 Impacts on regional and local roadways

Would a BART shuttle increase the ridership on BART and alter the analysis for BART standing capacity?

Page IV B-44 City Off Street Parking Requirements, 2nd paragraph

I expect this is a typo and the second time the phrase "Industrial Village Scenario" appears it should be "community grocery store scenario."

Page IV C-11 Table IV C-2

There is no Port PM data sampled after May 2004, according to the 1997 to 2005 report for the Port by Gaia.

Page IV C-18 First paragraph after bullets

This sentence says that the project will help advance Oakland's goals of working toward regional compliance.....by 'encouraging certain operational standards.' Goals are not advanced by "encouraging." They are advanced by "requiring." If the project is claiming to advance environmental goals that will be measurable, standards must be required with monitoring as part of the standards. If standards are not going to be required in industrial land with housing above it, you will be making the same mistake that was made decades ago with the patchwork zoning in West Oakland that resulted in incompatible mixed use, nuisance, noise, pollution, asthma, etc.

Page IV C-21 Last Paragraph

The first sentence is one of many jumbled combinations of original and added phrases that were not edited which calls to question the accuracy of the more technical statements.

Page IV C-27 Cumulative Impacts

The last sentence of the last paragraph is another unedited jumble.

Page IV D-12 Noise

The first paragraph refers to sensitive receptors for noise, like parks. There is a school immediately adjacent that I think would be even more susceptible to noise interrupting its function.

Page IV D-16 HVAC Systems

This paragraph contains the sentence: “..the impact of the project on itself is not an impact of the project on the existing environment, and thus not a CEQA issue.” Since this document states in the beginning that it is exploring some issues beyond CEQA, I wonder why the key issue of whether it makes environmental sense to have housing above industry wouldn’t also be considered. There is no other environmental analysis where this would be discussed. Having spent 25 years undoing the mess of industrial and residential incompatible zoning in West Oakland, I would think that this would be an important issue to analyze.

Page IV F-6-17 Seismicity

There is no mention of the fact that the most deadly result of the Loma Prieta earthquake on the more distant San Andreas fault was at the site of this project where the freeway collapsed killing 40+ people. There is no mention of the fact that in the analysis of that freeway collapse, historic maps of a meandering shoreline at this location were found. There are no other buildings 30 stories high in this vicinity. The highest structure was the freeway which collapsed. Surely these facts are relevant to the safe construction of 3 30-story towers at this site.

Page IV J-2 last sentence on the page

It is not by coincidence that leases expire in 2007, but by design. The project sponsor would not negotiate longer leases in the hopes of getting the sought for general plan amendment.

Page IV J-3 Table IV J-2

What is the source of these employment figures? Are they trends for jobs in general or for employment needs of Oakland’s residents? How is the land speculation discussed below factored into the projections for jobs, if, for example, all the industrial land flips to housing?

Page IV J-3 Overall Characteristics and Trends

There is no mention in this section that additional industrial property in this area has been bought by the sponsor and he has refused to negotiate long leases in the hopes of getting

a general plan amendment. That is a trend. He is not the only property owner who is doing the same thing. This is a trend. It is not a good trend but it is a trend. It is not a trend that we should or must succumb to because it is based on speculation and greed. Profits on housing will be greater if developers buy land cheap and sell it for more. This is not planned for affordable housing. In fact, the developer has said he will not put affordable housing on the site. There is plenty of residential land available, blighted and in need of investment without encroaching on industrial land. There is plenty of industry willing to develop if the owners will negotiate in good faith. Such negotiation will only occur if the council doesn't succumb to the pressures of speculation and greed.

Page IV J-4 First paragraph

This paragraph acknowledges that there are land use conflicts between industry and residents. Why then would we consider putting residents in the middle of the industrial area and nowhere in the environmental analysis discuss the impacts of that? It appears because CEQA only requires that we consider the impacts of the project on the existing environment and not the reverse, we are not analyzing the key issue – how will surrounding industry affect residents at this proposed project? Will residents at this location have a domino affect on neighboring industrial property resulting in loss of jobs? How does this address the commitment in the general plan of buffering industrial areas with work/live or light industrial? If this property is allowed to be residential, the burden is left to the neighboring property to be the buffer. This is not discussed anywhere in the analysis.

The Redevelopment Plan for this area includes providing assistance to industrial properties to upgrade and attract new business. This fact is not in the document and because tax increment is just beginning to accumulate, the redevelopment agency has not yet had the opportunity to implement this strategy.

Page IV J-12 Population and Household Projections

The last sentence of this paragraph suggests that we are building more units than needed for projected growth. Why then would be erode the industrial area and job potential to build unneeded housing when we have so many unemployed people and people who cannot afford existing housing?

Section V – Alternatives

The rationale for a new, all-industrial project at this site being classified as a “no project” alternative can only be to allow the choice of the “environmentally superior” alternative to be an alternative that includes housing. This is the epitome of self-serving, non-objective statements in this document. A new, all-industrial project might not be what the sponsor wants to build but the reality is, such a development would be a project, not a “no project” alternative and following the analyses in this document, it would be the environmentally superior alternative. Upon discussing this with Director Cappio, I was told that because the site is currently zoned industrial, an EIR would not be required for an industrial project. Questioning her further about why we have been doing EIRs for housing developments in areas that are zoned for housing, she acknowledged that traffic studies and other studies are often necessary even if the zoning is appropriate for a

project. This is why calling the all industrial/new industrial project a “no project alternative” is not appropriate and in fact, it is the environmentally superior alternative.