

**CITY OF OAKLAND
COUNCIL AGENDA REPORT**

OFFICE OF THE CITY CLERK
2006 NOV 30 PM 6:54

TO: Office of the City Administrator
ATTN: Deborah Edgerly
FROM: Community and Economic Development Agency
DATE: December 5, 2006

RE: **A Follow-Up Report To The Report Considering Revisions To The City Of Oakland Subdivision Regulations (Title 16 Of The Oakland Municipal Code) Regarding Conversion of Rental Housing To Condominium Ownership To Provide Information On The Cost And Affordability Gap To Renters Purchasing Converted Units And To Provide A Recommendation On The Geographical Distribution of Condominium Conversions Throughout The City**

This report provides information on the cost and affordability gap to Oakland renters purchasing an averaged priced condominium and provides a recommendation on the geographical distribution of condominium conversions throughout the City.

FISCAL IMPACT

There are no fiscal impacts.

KEY ISSUES AND IMPACT

AFFORDABILITY GAP

Median sales price for all condominiums sold in Oakland in the past 12 months is \$425,000. A sample of sale prices of condominiums that were converted from apartments shows that units sell from \$350,000 to \$400,000.

According to the 2000 Census there are 88,301 renter households in Oakland. Median income for these households in 2000 was \$29,278. Trending this figure forward would place the average renter's income at \$35,000. At this income level, an affordable housing price for a converted unit is approximately \$160,000. Factoring in all the first-time homebuyer assistance available from the City's Mortgage Assistance Program (\$75,000), the America Dream Downpayment Initiative program (6% of purchase price/\$18,000) and the State (\$20,000-\$30,000), the most this household could afford would be \$252,000. This would leave an affordability gap for a \$350,000 Condominium of \$98,000.

Attachment A shows the maximum affordable purchase price for households at different income levels, taking into account all available subsidies from both City and State homebuyer programs.

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This analysis is based on actual underwriting criteria used by these programs. Using these programs, purchase of a condominium with a price of \$300,000 would require an income of just over \$45,000 a year. It should be noted that the analysis is done for a hypothetical household of three persons. Because income limits used for determining if a household is low or moderate income depend on the size of a household, a one-person household at this income level would not qualify for the City's first-time homebuyer assistance.

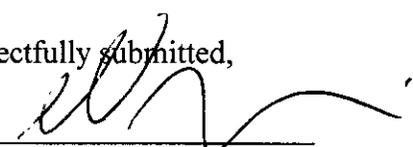
The income required to afford a modestly priced condominium unit at \$375,000 without City assistance is approximately \$80,500 per year.

The average condominium conversion fee of \$8,000 (1 BR, not in impact area) to \$18,000 (3 BR, inside impact area) is far short of what's needed to make a condominium affordable to the typical tenant household.

GEOGRAPHICAL DISTRIBUTION

The Condominium Conversion Ordinance Amendments limits the number of condominium conversions to 800 units a year. In order to ensure a citywide distribution of condominium conversions, the City may want to consider further limiting the number of condominium conversions per District to 115 units a year. For buildings consisting of more than 115 units, these buildings would be allowed to use up to 3 years or 345 units of conversion allowance.

Respectfully submitted,



DAN VANDERPRIEM
Director of Redevelopment,
Economic Development and Housing

Prepared by: 
Sean Rogan, Deputy Director
Housing and Community Development

APPROVED AND FORWARDED TO
THE CITY COUNCIL



Office of the City Administrator

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CITY OF OAKLAND
SUPPLEMENTAL AGENDA REPORT

OFFICE OF THE CITY CLERK
2006 NOV 30 PM 6:54

TO: Office of the City Administrator
ATTN: Deborah Edgerly
FROM: Community and Economic Development Agency
DATE: December 5, 2006

RE: Further Elaboration/Response on the California Environmental Quality Act (CEQA) as Applied to the Proposed Amendment to OMC 16.36 – “Conversions to Homeowner Condominiums”

SUMMARY AND BACKGROUND

On November 28, 2006, the Community and Economic Development Committee requested further elaboration and response to public comments on whether the proposed amendments are exempt from detailed CEQA review. This report responds to that request and is based upon the revised amendments that cap at 800 the annual number of conversions.

FISCAL IMPACTS

No change from those noted in the prior staff report.

KEY ISSUES AND IMPACTS

There have been written and oral comments made in the record that there will be secondary physical impacts resulting from tenant displacement, requiring preparation of an Environmental Impact Report (EIR), due to the following factors:

- The need for replacement housing for the tenants who will be displaced by the conversion of rental units into condominiums;
- Increases in traffic as the result of displaced tenants having to commute longer distances to their jobs because of the lack of affordable rental replacement housing and because of the increased number of cars owned by moderate and above moderate income households who would purchase the condominium units;
- Increase in homelessness
- Increased demand for parking in residential neighborhoods because the households moving into the new condominiums will have more automobiles than the previous renters.

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This report will first discuss the above secondary physical impacts and then address the specific CEQA exemptions, and other reasons, that Planning Staff believe are applicable to the proposed ordinance and then demonstrate why the opponents have not furnished substantial evidence to support their position.

THERE ARE NO MEASURABLE PHYSICAL IMPACTS UNDER CEQA

The City Council finds that the factors above do not constitute measurable physical impacts under CEQA. Specifically, the physical changes that are noted are speculative at this time because there is no particular project before the City that would enable an informed and meaningful evaluation of potential physical impacts on the environment. At this time, the City, as Lead Agency, finds that the need for replacement housing, traffic increases, homelessness and increased demand for parking, when measured against the City's CEQA thresholds of significance, do not trigger any potentially significant environmental impacts requiring preparation of an EIR or a (Mitigated) Negative Declaration, as set forth in detail below:

Need for replacement housing: The City uses the following CEQA Threshold of Significance (since at least 2004 in various environmental documents, including EIRs and (Mitigated) Negative Declarations) for evaluating changes in population and housing:

Will the project displace substantial numbers of existing housing units or people, necessitating the construction of housing elsewhere, in excess of that contained in the City's Housing Element?

Response: No, this ordinance amendment will not result in displacement of substantial housing units or people in excess of the established goals and projections of the City's General Plan Housing Element. In other words, the proposed amendments will not create additional housing demand, through displacement, that cannot be readily accommodated in Oakland's existing housing stock or projected new housing stock. The Housing Element has established the following quantified housing production objective for 1999-2006 (Table 8-1, page 8-1 of City of Oakland Housing Element 2004):

New Housing Construction – Quantified Objectives 1999-2006

Affordable to very low income	Affordable to low income	Affordable to moderate income	Affordable to above moderate income	Total Units
950	650	2,300	3,878	7,773

The chart above is also Association of Bay Area Governments (ABAG) projection of Oakland's share of the region's growth.

The City of Oakland has actually produced a housing supply far in excess of what ABAG projects. The City of Oakland Major Projects list for Oct-Nov 2006 lists a total of 3,228 units of housing that are in pre-application discussions and a further 11,432 units of

housing with applications submitted and under review or under construction. There is some overlap between the projections from the housing element and the known projects list. However, it is clear that the known projects show those projections from the housing element to be conservative as over 14,000 units of housing are in some stage of the permit process or under construction. The maximum number of conversions per year is capped at 800 units, which represents approximately 5.5 % of the known project total of 14,660 units and 0.9 % of the total estimated 88,391 rental stock in Oakland. No new construction in excess of the known projects or that contained in the City's housing element is required to ensure there is an adequate supply of new housing units to handle the maximum potential displacement of rental households. Moreover, the number of current conversions under the existing ordinance (baseline conditions) is 400 per year; so the net increase is 400 maximum, which is further reduced to 320 assuming only 20% of existing tenants were able or willing to purchase their units. This projected displacement of 320 households is only 2% of the known project total of 14,660 new units and less than 0.4% of the total rental stock in Oakland.

POTENTIAL DISPLACEMENT

	800	640	400	320
# Rental Housholds 88,391	0.91%	0.72%	0.45%	0.36%
Major Projects List 14,660	5.45%	4.37%	2.73%	2.18%

As proposed, the amendment to OMC Chapter 16.36 would establish an 800 unit annual cap on the number of existing rental units converted to ownership condominiums in any given year. As a conservative estimate, if only 20 percent of existing tenants were able or willing to purchase their units, there would be a theoretical need for 640 units of replacement housing. Those numbers represent twice what is the actual change from the baseline condition. The City of Oakland currently processes approximately 400 units of condominium conversions per year. The change from the baseline condition proposed by the new amendments is only 400 units (proposed cap minus baseline conversions). As demonstrated in the table above, this need would not exceed the approved new housing objectives adopted in the City's Housing Element. Therefore, the threshold for establishing a significant physical environmental impact is not triggered by the proposed amendment.

Further, there is documented annual turnover in rental and ownership units in Oakland regardless of the change in the proposed condominium conversion provisions. A 47 percent turnover rate was identified for ownership housing, between 1990-2000, and a 70 percent turnover rate was noted for rental housing between 1995-2000 (Statistic taken from a report entitled "The Proposed Wood Street Project: Policy and Planning Framework," Mundie and Associates, February 3, 2005). Those figures suggest that 14% of the rental housing stock turns over per year. The 2000 census indicates that there were just over 88,000 rental households in Oakland. That would suggest approximately

12,320 rental units change occupants per year in Oakland. The 640 replacement units would represent only 5% of the annual turnover in Oakland rental properties and the projected displaced household change from the baseline condition represents only a 2.5% increase in the annual rental turnover.

In addition, the rental vacancy rate in Oakland has been variously indicated as being from 2.5% to 7% in various studies. The 2.5% rate was reported in the City of Oakland 2004 rental survey prepared by the Community and Economic Development Agency in which the report indicated that the documented rate was 2.5% but that the real rate was “undoubtedly significantly higher.” Using the conservative estimate of 2.5% vacancy rate indicates that 2,200 rental units are vacant. That suggests there are approximately 4 times the number of replacement units needed (640) vacant at any given time. Even using a maximum potential of 800 units displaced, assuming no renter purchased a condominium unit, there are still approximately 3 times the number of vacant units needed to absorb this displacement. Again, these figures are lower when using the actual change from baseline figures of 400 maximum new potential displacements and 320 projected displacements. There are almost 7 vacant units per projected displaced household available at a given time based on the conservative vacancy figures used above. No new construction of rental units would be required to absorb the projected, or even maximum possible, displacement of renters.

In short, the proposed amendments will not result in substantial displacement of existing housing units or people that cannot be otherwise readily accommodated in Oakland’s existing housing stock or projected new housing stock. Thus, there is no CEQA impact.

Increases in Traffic. Although impacts on housing demand are not in and of themselves significant impacts within the provisions of CEQA, such impacts may be relevant to the extent that they may result in secondary significant impacts on the environment. In particular, traffic may be increased as the result of increased housing demand.

However, as demonstrated above, there is no actual requirement for new construction to accommodate displaced renters, as the annual turnover and vacancy rates and projected new construction (independent of the proposed ordinance) could easily accommodate the project or theoretical maximum number of displaced households. Thus, there is no CEQA impact.

In addition, in both the General Plan Land Use and Transportation Element EIR (certified in March 1998) and other recent large project EIRS [West Oakland Redevelopment Plan EIR, Central City East Redevelopment Plan EIR and the Kaiser Medical Center EIR (certified in June 2006)], cumulative growth scenarios were prepared in order to place the project in the context of future citywide and regional growth and development. The cumulative growth scenario, updated regularly, was developed using a forecast based approach. This approach was based on regional economic and demographic projections developed by the Association of Bay Area Governments (ABAG), the regional planning agency responsible for preparing employment and population projections for the nine-county Bay Area. The projections identify the amount and location of employment and

population throughout the region, both currently and in the future, and are based on varied information sources, including each City's General Plan growth projections, birth, death and migration records, employment growth, etc. For purposes of CEQA, the City of Oakland adjusts some of these population and employment projections upward to account for actual patterns of local growth in the City that the ABAG process does not identify. This process results in a more conservative set of growth assumptions.

The ABAG regional projections are then placed into the Alameda County Congestion Management Agency (ACCMA) travel demand model for Alameda County. The model calculates the interaction of traffic among areas, using the roadway network in the region. The environmental impacts of traffic changes along the roadway network can then be identified using travel demand patterns of residential and employment growth in the region. For Oakland, actual traffic patterns are used in the model to determine regional travel corridors in and out of the City. In previous EIRs, the City has established that the growth projected by ABAG and the City's General Plan can be accommodated along these major travel corridors.

The potential demand created by the replacement housing throughout the entire City is *de minimus* compared with the overall growth expected in Oakland and the region. The projected travel patterns of future residents in the condominiums created and by the tenants who may be displaced cannot reasonably be identified in any greater level of detail than already exists in the current ACCMA travel demand model. Any attempt to further model residence or employment travel patterns would be speculative and would not yield any further information concerning potential environmental impacts. A variety of speculative factors contribute to residence and employment location, including climate, school system, housing type, neighborhood preferences, and other economic and transportation factors. These factors cannot reasonably be known with enough degree of certainty at this time to assess where the replacement housing would be constructed and what its impacts, if any, would be. In addition, such a modeling effort would likely involve making different assumptions than those used in the ACCMA travel demand model for the regional network. As a result, an entirely new (or substantially modified) regional network model would need to be prepared. This task is clearly beyond the scope of analysis required to ascertain the potential traffic impacts of a minor amount of residential and employment trips generated by this ordinance amendment since this amount of growth is well within the established growth projections for the City.

With respect to construction-related impacts, the City uses uniformly applied development standards (standard conditions of approval) to reduce construction-related impacts to less than significant levels with respect to noise, air quality, traffic, hazardous materials, geology, biology, and other environmental factors. These standard conditions of approval apply whether a project is found to be exempt from CEQA or requires an EIR. Thus, to the extent that there may be construction-related impacts, they are already adequately addressed without the need for a separate EIR for the proposed amendments.

In sum, there will be no increases in traffic or construction-related impacts because there is no actual requirement for new construction to accommodate displaced renters, as the

annual turnover and vacancy rates and projected new construction (independent of the proposed ordinance) could easily accommodate the project or theoretical maximum number of displaced households. Any potential traffic impacts have already been accounted for in previously prepared EIRs. To the extent that there may be construction-related impacts, they are already adequately addressed through standard conditions of approval without the need for an EIR for the proposed amendments.

Increases in Homelessness

Several sources have testified that displacement causes a rise in homelessness. However, no source has identified a direct physical impact on the environment from homelessness. Economic and social impacts have been identified in testimony but, again, no link from those impacts to a secondary environmental impact has been presented. The most comprehensive evidence provided has been in the form of two exhibits contained in the Shute, Mihaly & Weinberger letter, dated November 1, 2006, authored by Robert Perlmutter. Two papers are provided in that letter as Exhibits D and E which purport to make a link between homelessness and environmental impacts. Neither study provides any facts to support a link from homelessness to environmental impacts. Exhibit D is a national paper suggesting there is a link between evictions and homelessness, no link to environmental impacts is discussed. Exhibit E is a paper from The City of San Francisco Public Health Department which suggests displacement is linked to a number of indirect social and economic impacts on housing but, again, posits no link from those indirect social and economic impacts to a significant environmental impact.

In summation, the testimony, orally and in writing, links displacement to homelessness but there is no link from homelessness to any direct environmental impact. In any event, the previous discussion above showed there is no significant displacement impact from the proposed amendments because there is a more than adequate supply of replacement housing in the form of new units being constructed or vacant rental housing to provide replacement housing for any potentially displaced tenants. Thus, there are no CEQA impacts.

Parking Issues. Parking, in and of itself, is not a CEQA issue. The Court of Appeal (San Franciscans Upholding the Downtown Plan v. the City and County of San Francisco (2002) 102 Cal.App.4th 656.) has held that parking is not part of the permanent physical environment, that parking conditions change over time as people change their travel patterns, and that unmet parking demand created by a project need not be considered a significant environmental impact under CEQA unless it would cause significant secondary effects. Parking supply/demand varies by time of day, day of week, and seasonally. As parking demand increases faster than the supply, parking prices rise to reach equilibrium between supply and demand. Decreased availability and increased costs result in changes to people's mode and pattern of travel. However, the City of Oakland, in its review of the proposed project, wants to ensure that the project's provision of additional parking spaces along with measures to lessen parking demand (by encouraging the use of non-auto travel modes) would result in minimal adverse effects to project occupants and visitors, and that any secondary effects (such as on air quality due to drivers searching for parking spaces) would be minimized. As such, although not

required by CEQA, parking conditions are evaluated in the course of specific, proposed development projects, but not as a CEQA impact..

Parking deficits may be associated with secondary physical environmental impacts, such as air quality and noise effects, caused by congestion resulting from drivers circling as they look for a parking space. However, the absence of a ready supply of parking spaces, combined with available alternatives to auto travel (e.g., transit service, shuttles, taxis, bicycles or travel by foot), may induce drivers to shift to other modes of travel, or change their overall travel habits. Any such resulting shifts to transit service, in particular, would be in keeping with the City's "Transit First" policy.

Additionally, regarding potential secondary effects, cars circling and looking for a parking space in areas of limited parking supply is typically a temporary condition, often offset by a reduction in vehicle trips due to others who are aware of constrained parking conditions in a given area. Hence, any secondary environmental impacts that might result from a shortfall in parking in the vicinity of the proposed project are considered less than significant.

In conclusion, there is clearly no possibility of a significant impact on the environment if the proposed changes are adopted. No direct physical change would result from the new ordinance amendments. Any indirect changes based on potential displacement of renters are clearly below the thresholds of significance based on known projects and known facts about the City's rental housing supply and its characteristics.

THE PROPOSED AMENDMENTS ARE EXEMPT FROM CEQA

The Planning Staff believe that there are three CEQA exemptions that apply and that each one represents a separate and independent basis for finding the proposed amendments to be exempt from further CEQA review and that no exceptions to the exemptions apply:

1) Section 15061(b)(3), State CEQA Guidelines, "General Rule," applies because there is no possibility of significant effect on the environment. Specifically, the housing units being converted already exist and a change in occupancy does not in and of itself constitute an environmental impact, as detailed above.

2) Section 15183, State CEQA Guidelines, "Projects Consistent with a Community Plan, General Plan or Zoning." This project constitutes a series of amendments to an existing portion of the City of Oakland Subdivision Ordinance. As described in detail in the October 18, 2006 Planning Commission report and elsewhere in the record for this project, the amendments are consistent with a broad set of current General Plan policies and objectives concerning condominium conversion policies, increasing home ownership opportunities and encouraging a mix of housing costs, unit sizes, types and ownership structures.

An EIR was prepared and certified in March 1998 for the General Plan Land Use and Transportation Element (LUTE)) and a 2004 Mitigated Negative Declaration was adopted for the General Plan Housing Element.

Specifically, Planning Staff believes and the Council, if it adopts the proposed ordinance, finds that (a) the project is consistent with Land Use and Transportation Element (LUTE) of the General Plan, for which an EIR was certified in March 1998 and the 2004 General Plan Housing Element for which Mitigated Negative Declaration was adopted; (b) feasible mitigation measures identified in the LUTE EIR and Housing Element Mitigated Negative Declaration were adopted and have been, or will be, undertaken; (c) the EIR and Mitigated Negative Declaration evaluated impacts peculiar to the project and/or project site, as well as off-site and cumulative impacts; (d) uniformly applied development policies and/or standards (Standard Conditions of Approval) have previously been adopted and found to, that when applied to future projects, substantially mitigate impacts. To the extent that no such findings were previously made, the City Council hereby finds and determines that the Standard Conditions of Approval substantially mitigate environmental impacts; and (e) substantial new information does not exist to show that the Standard Conditions of Approval will not substantially mitigate the project and cumulative impacts.

3) Section 15301 (k), State CEQA Guidelines, Existing Facilities – Division of Existing Multiple Family or Single-Family residences into common-interest ownership and subdivision of existing commercial or industrial buildings, where no physical changes occur and which are not otherwise exempt. This exemption is specific to the proposed condominium conversion ordinance as it applies to existing housing units where there are not physical changes occurring in the housing itself such as the addition of units within an existing project.

No Exceptions Apply to Any of the Exemptions

As with the use of any categorical exemption, the exceptions to the use of an exemption in CEQA Guidelines Section 15300.2 must be evaluated to determine if the use of an exemption is precluded. There are six exceptions, labeled a-f, to be considered, but only two may apply – Cumulative Impacts (b) and Significant Effects (c) -- exceptions (a), (d), (e) and (f) do not apply. Exception (a) is specific to classes 3, 4, 5, 6 and 11 and the proposed exemption is in class 1. Exceptions (d), (e) and (f) are site specific exceptions that would be considered on a project basis when any specific building is proposed for conversion.

Exceptions (b) must be examined as it deals with potential cumulative effects of successive projects and exception (c) must be examined to see if there is a significant effect from the project due to unusual circumstances. Both exceptions do not apply here.

Generally speaking, as stated above, there is no possibility of a significant effect from the proposed amendments. To briefly reprise that argument, there are no direct impacts because there is no physical change to the environment in a condominium conversion. Testimony received, orally and in writing, suggested that there may be secondary impacts due to new construction of replacement housing, traffic increases, homelessness and increased parking demand. The earlier discussion showed that already known new construction of housing units was more than adequate to provide replacement housing, that existing rental vacancies were at least three times the maximum potential number of displacements and that annual rental turn over is 20 times the projected displacement. These figures indicate that the potential displacement from condominium conversion is below City threshold's of significance and would not cause a significant impact on the environment. Potential traffic increases were shown to be within already existing growth projections of previously certified EIRs and would not cause a new significant effect on the environment. Homelessness was not shown to be linked to any potential significant effect on the environment. Finally, parking was shown to not be a CEQA issue.

Specifically, Cumulative Impacts will not occur because the number of units that could be converted under the new amendments are limited and represent a maximum potential conversion of only 400 units per year above the baseline condition. This number was shown to be less than one half of one percent of the existing rental housing stock and less than three percent of the known project totals for new housing construction.

Significant effects due to unusual circumstances will not occur because there are no unusual circumstances as the number of units converted will not yield impacts outside the already planned changes to the housing supply.

**THE CITY IS ALSO RELYING ON THE HOUSING ELEMENT MITIGATED
NEGATIVE DECLARATION AS AN ADDITIONAL BASIS OF CEQA
COMPLIANCE**

The 2004 Housing Element specifically considered the prospect of modifications to the condominium conversion ordinance as evidenced by the text of Action Point 2.2.4 of Policy 2.2 *Affordable Homeownership Opportunities* and Action Point 5.6.1 in Policy 5.6 *Limitations on Conversion of Rental Housing to Condominiums*. Action Point 2.2.4 says "The City might consider modifications to its Condominium Conversion Ordinance to provide more opportunities for affordable home ownership, especially to allow existing tenants to purchase their rental units." Action Point 5.6.1 says, in part, "Changes to the Condominium Conversion Ordinance may be made only if adopted by the City Council following appropriate public notice."

The Housing Element clearly envisioned the possibility of changes such as those proposed by the amendments and the adopted Mitigated Negative Declaration of that General Plan element must be considered to have covered such a possibility. Therefore, the proposed changes, as shown to be in accordance with those action points and policies of the Housing Element, may rely on the previously certified environmental document

provided they can meet the findings contained in Section 15162 of the State CEQA Guidelines. The proposed changes are in the scope proposed in the Housing Element and are thus not substantial changes to the project evaluated under that project. The previous discussion and finding showed that the housing unit production figures in the Housing Element are being met, if not exceeded. The earlier discussion of traffic also showed that the potential secondary impacts are within the range contemplated by the General Plan projections and the cumulative impact analyses of other previously certified environmental review documents. Therefore, there has been no substantial change to the circumstances of the previous project. Finally, the previous discussion and findings showed that there are no significant impacts from the proposed amendments so there can be no new or more severe significant effects than previously examined. Therefore, the proposed amendments do not require additional environmental review.

NO SUBSTANTIAL EVIDENCE HAS BEEN SUBMITTED BY PROJECT OPPONENTS

The most comprehensive challenge to the City of Oakland's use of CEQA exemptions for the proposed amendments comes from a letter from Robert Perlmutter of Shute, Mihaly & Weinberger, dated November 1, 2006. The main points raised in that letter, (new construction, traffic, parking and homelessness) have been discussed and rebutted above. However, further examination of the letter shows that it contains only speculative arguments, inaccuracies and improper analogies and thus does not constitute substantial evidence.

The first issue is the inaccurate use of 1,500 conversions as the unit of analysis. The proposed amendments use a cap of 800 units. Secondly, the change over the baseline condition with the new cap is only 400 units. The letter is using a conversion number that is four times too high as the basis for its conclusions.

The second issue is the use of the opinion from the City Attorney of San Diego as support for their arguments. The issue that San Diego was examining was the conversion of 11,422 units to condominiums in 17 months. Under the proposed amendments it would take the City of Oakland 14.2775 years, or over 171 months, to equal that number of conversions. The San Diego situation has no relevance for the City of Oakland as it is over ten times more intensive than that proposed by the amendments.

Finally, the exhibits submitted with the letter contain little or no direct evidence of environmental impacts. Exhibits A & B are included only to show that other cities (Berkeley and San Francisco) have different caps than those proposed by the new amendments. Exhibit C is a section from the City of Oakland Housing Element. Discussion above has shown that the actual housing supply being constructed is above those projections and as such directly refutes the use of it to support the assertions in the letter. Exhibits D and E have already been discussed in the section on homelessness. Exhibits F and G are used to argue for an increase in traffic impacts. These were shown to be within the already considered traffic growth models used by the City of Oakland and to not be a significant impact. Exhibit H is the San Diego City Attorney's opinion

discussed immediately above. Finally, Exhibit I is from the City of Berkeley voter information brochure surrounding that City's ballot initiative to change their condominium conversion ordinance. That measure was defeated and therefore the use of those potential displacements as evidence of the potential for cumulative increases impacting the City of Oakland is not possible.

CONCLUSIONS

As demonstrated above and elsewhere in the record, any one of the three exemptions apply to the proposed ordinance and there are no exceptions that would defeat use of the exemptions. Moreover, as a separate and independent basis, 2004 Housing Element Mitigated Negative Declaration is adequate for this proposed amendment and no further environmental review is required. Conversion of units to condominium ownership does not involve physical changes to the existing structures or the environment. Secondary impacts have been identified, examined and found to not have a significant effect on the environment. Concerns raised about the need for preparation of an EIR are based upon speculation and unsubstantiated opinions and evidence which is clearly erroneous and/or inaccurate and therefore does not constitute substantial evidence.

RECOMMENDATION AND RATIONALE

Staff requests that the City Council:

- Affirm the use of the recommend CEQA exemptions when introducing the text amendments at the December 5, 2006 City Council meeting;
- Adopt the additional CEQA finding that the previously adopted 2004 Housing Element Mitigated Negative Declaration is adequate for this proposed amendment and no further environmental review is required.

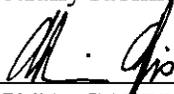
SUSTAINABLE OPPORTUNITIES

No change from those noted in the prior staff report.

DISABILITY AND SENIOR CITIZEN ACCESS

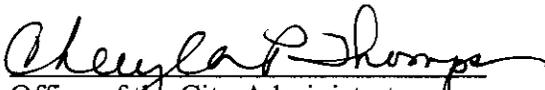
No change from those noted in the prior staff report.

Respectfully submitted,



CLAUDIA CAPPIO
Development Director
Community and Economic Development Agency

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



Office of the City Administrator