

MEMORANDUM

TO: Vin Smith, Director of Planning and Building
FROM: Greg Stepanicich, City Attorney
DATE: January 26, 2016
SUBJECT: Letter from Edward Yates

You have requested that I review the letter from Edward Yates asserting that the two Initial Studies and proposed Negative Declarations prepared for the General Plan amendments to be considered at tonight's Planning Commission meeting and the Multi-Family Residential and Mixed Use Design Guidelines and Zoning Ordinance amendments to be considered at the February 6 Commission meeting fail to comply with the requirements of the California Environmental Quality Act ("CEQA").

I agree with Mr. Yates that CEQA requires the City to examine any potentially significant environmental impacts caused by proposed General Plan or Zoning Ordinance amendments. However, I disagree that the Initial Studies prepared by staff do not adequately explain the reasons why these amendments will not have a significant effect on the environment. Mr. Yates states that the amendments "provide for possibilities of increase in FAR and decreases in setbacks, increases in both density and impermeable surfaces are certainly possible, if not probable." The letter does not specify how the changes being proposed to the General Plan or Zoning Ordinance will create these impacts. In order for a Negative Declaration to be insufficient under CEQA, there must be substantial evidence in the record that the proposed project may cause one or more potentially significant environment effects. Speculation as to possible impacts of a project are not considered substantial evidence under CEQA. Further, the approving body is not required to prove that there will be no potentially environmental effects. Instead in the absence of any substantial evidence in the record of any significant environmental effects, a Negative Declaration may be adopted.

The proposed General Plan amendments to be considered at tonight's meeting create two new land use designations that are intended to more effectively preserve the established mix of housing and development in the downtown area and permit existing single family uses to remain. These amendments were prepared in response to community concerns that the existing residential land use designations in the downtown area could result in excessive density and eliminate single family residences. The proposed land use designation changes will likely result in less, not more residential density in the downtown area. At this time, there does not appear to

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be any substantial evidence that the proposed land use designation amendments will result in significant environmental impacts.

The City presently does not have development design guidelines for multi-family residential or mixed-use developments. The proposed multi-family residential and mixed-use design guidelines to be considered at the next Planning Commission meeting will provide the Commission with greater regulatory authority over the design quality of multi-family and mixed-use residential development. This expanded regulatory authority does not create any potentially significant environmental effects but provides the City with greater authority to avoid adverse environmental impacts from new development. The Zoning Ordinance amendments impose new floor area requirements for multi-family residential development that presently do not exist and modify setback and parking requirements. The proposed amendments do not change the permitted density of residential development. The requirement for a conditional use permit for mixed use development is replaced with more specific design guidelines regulating mixed-use development with residential uses above the ground floor. Overall, it appears that the new design guidelines and modified development regulations will provide the City with greater land use and environmental regulatory authority over multi-family and mixed-use developments than exists at the present time.