

November 6, 1995
REPORT TO THE HONORABLE
MAYOR AND CITY COUNCIL

GENERAL PLAN AMENDMENTS TO CLARIFY THAT THE NAVAL TRAINING
CENTER AND
OTHER FEDERAL AND PORT DISTRICT LANDS ARE NOT WITHIN THE FUTURE
URBANIZING AREA DESIGNATION

In a memorandum dated November 2, 1995, Councilman Harvey requested a formal written opinion from the City Attorney regarding the subject matter of Item 332 on today's docket. With respect to this matter, my staff has been assisting the Planning Department for some time in researching and presenting the issue to the Naval Training Center Reuse Planning Committee and the Planning Commission. Although a formal legal opinion could not be produced in time for today's hearing, this report summarizes our legal advice to you on the matter.

The City Manager is recommending Council action to amend the Phased Development Map in the Progress Guide and General Plan to correct a mapping error by changing the designation of the Naval Training Center, Harbor Island, Lindberg Field and the Marine Corps Recruit Depot from the Future Urbanizing category to the category of Urbanized within the context of the City's Growth Management Program. Proposition A, adopted on November 5, 1985, requires a vote of the citizens to effectuate a phase shift of land from the Future Urbanizing category. The initiative is applicable to all land in the City which was defined as Future Urbanizing in the text and maps of the Progress Guide and General Plan on August 1, 1984.

City Manager's Report No. P-95-145 contains information which raises legitimate questions about the accuracy of the Phased Development Map in effect on August 1, 1984 with respect to the classification of the subject properties. The classification of these properties as Future Urbanizing appears to be inconsistent with the text and the practical workings of the Growth Management Program. As set forth in the General Plan, the main purpose of the City's Growth Management Program is to prevent premature urbanization of undeveloped land. The public harm which the program is designed to protect against are those negative impacts associated with "urban sprawl" and "leapfrog development." Those potential harms are documented to include: inefficient planning and implementation of new infrastructure, and inefficient or wasteful depletion of open space and environmental

resources.

In particular, there is one piece of documentation attached to the Manager's Report which I believe is highly probative and deserving of special consideration. Planning Report No. 83-533 (attached to the main Report) is a report relied upon by the City Council in 1983 when major amendments were considered to City Council Policy 600-30. City Council Policy 600-30 embodies the Council's specific implementation of the City's Growth Management Program and contains the criteria and findings required to make a Threshold Determination to shift land out of the Future Urbanizing category. As this report reflects, the Phased Development Map relied on by the City Council to formulate that policy shows the subject properties as Urbanized. For that official action, the Council did not consider the subject properties to be within the Future Urbanizing Area or part of the urban reserve of undeveloped land available to serve the future growth needs of the City. Considering the obvious mapping discrepancy between maps relied upon in formulating Council Policy 600-30 and the Phased Development Map in effect on August 1, 1984, it is apparent that the issue before you is not whether a mapping error occurred, but rather, when and where the mapping error occurred.

It is my opinion that after considering the overall purpose and intent of the Growth Management Program, and after considering the various documentation contained in Manager's Report No. P-95-145, there is sufficient evidence in the record to support a finding of the Council, should you decide to make one, that the Phased Development Map which was in effect on August 1, 1984, erroneously reflected the subject properties as being within the Future Urbanizing Area and that the proper classification was Urbanized.

Of course, it is also entirely within your prerogative to submit the question of a phase shift to the citizens for a vote and nothing in the law would preclude such an action. I am available to answer any questions on this matter.

Respectfully submitted,
JOHN W. WITT
City Attorney

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