

# ITEM 2

## CORRESPONDENCE



Planning Department <planning@amadorgov.org>

## Against Edwin Lands Zoning Change!

1 message

**Kathleen Green**

To: [planning@amadorgov.org](mailto:planning@amadorgov.org)

Sun, Jun 3, 2018 at 3:59 PM

Hello, I am Kathleen Green, representing my family.

I am against Edwin Lands request to change land zoning near lone from Residential to Manufacturing. I moved to this area to raise a family and run a ranch, and nearby manufacturing will harm the health and well being of both. We enjoy the peace and serenity of country living. Please preserve that for us and do not change our local zoning.

Sincerely,  
Kathleen Green

**CHATTEN-BROWN & CARSTENS**

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June 6, 2018

Planning Commission  
County of Amador  
810 Court Street  
Jackson, CA 95642-2132

Re: Objection To Request by Edwin Lands LLC for Zone Change From R1A to  
“M” Manufacturing District; Tuesday, June 12, 2018 Planning Commission  
Hearing

Honorable Commissioners:

On behalf of Ione Valley Land, Air, and Water Defense Alliance (Ione Valley LAWDA), we object to the zone change requested by Edwin Lands LLC for a zone change of approximately 1,500 acres from “R1A” to “M” Manufacturing District. Such a zone change would be poor public planning, and certainly may not be done on the basis of a claimed exemption from the California Environmental Quality Act (CEQA).

CEQA requires analysis of environmental effects that may accompany a zone change. (*City of Redlands v. County of San Bernardino* (2002) 96 Cal.App.4th 398.) In *City of Redlands*, the court set aside the County of San Bernardino’s approval of a general plan amendment because the county did not provide evidence to show how such a shift in policy would have little or no effect on the environment, failed to consider future development, and failed to provide sufficient evidence or analysis of the potential environmental effects of the amendments. Similarly, the County here would violate CEQA if it approves the zone change without sufficient environmental analysis. The County’s claim of an exemption from CEQA under section 15183 of the CEQA Guidelines is misguided because an exemption for projects that are consistent with density in a general plan is not applicable. Where the subject zone change would allow extensive manufacturing uses that are not allowed by current zoning, the project will have an impact on the environment that creates an exception to the exemption in section 15183 in any case.

The potential shift to “M” Manufacturing District zoning would allow the following land uses, which would not previously have been allowed:

4. Mining and quarrying, excavation of earth and minerals
5. Distillation of bones; fat rendering; dumping, disposal, incineration or reduction of garbage, sewage, offal, dead animals or refuse

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6. Drilling for and removal of oil and natural gas
7. Junk yards, wrecking yards
8. Commercial hog raising
9. Manufacture of acids, explosives, fertilizer, gas, glue, gypsum, inflammable fluids or gases
10. Refining of petroleum and petroleum products; tank farms
11. Ore smelting
12. Stockyards, slaughterhouses, tanneries
13. Other uses which might be objectionable by reason of production or emission of noise, offensive odor, smoke, dust, bright light, vibration, radiation, or which involve the handling of explosives or dangerous materials

(County Code section 19.24.040.) Prior to approval of the requested zone change, the County must analyze the potential environmental impacts of allowing any one of these uses, or all of them, on the 1,500 acres that would be subject to the zone change. The County must prepare an environmental impact report rather than claim an exemption from CEQA because of the obvious adverse environmental impacts that would accompany the uses specified above.

Thank you for your consideration.

Sincerely,



Douglas P. Carstens

June 11, 2018

Planning Commission  
County of Amador  
810 Court Street  
Jackson, CA 95642

*Re: June 12, 2018 Agenda Item 2  
Request for a Zone Change from the "RIA," Single Family Residential and  
Agricultural District to "M," Manufacturing Zone District for 1,150 +/- acres to  
achieve consistency with the General Plan's Land Use Designation*

*Edwin Lands, LLC Response to Objection by Chatten-Brown & Carstens*

Honorable Commissioners:

This letter responds to Chatten-Brown & Carstens' opposition to Edwin Lands, LLC's request to rezone certain property in order to conform to the updated County General Plan. Chatten-Brown & Carstens claims that the County must prepare an environmental impact report ("EIR") pursuant to the California Environmental Quality Act ("CEQA") prior to approving the zone change. This is false. Zone changes that are necessary to achieve consistency with an updated General Plan are expressly exempt from CEQA review. (CEQA Guidelines § 15183.)

**Project Background.** As stated in the Staff Report, this request seeks to rezone approximately 1,150<sup>1</sup> acres from "RIA" (Single-family Residential and Agricultural), to "M" (Manufacturing). The subject property is adjacent to the County's industrial park. The request before the Planning Commission is for a zone change only. No parcel map, and no development proposal, is included in this request.

**Legal Requirement for Consistent Zoning.** The requested zone change is necessary to conform the subject property's zoning to the County's updated General Plan, which designates the property as Industrial. The Industrial designation "[p]rovides for a broad range of industrial uses", including manufacturing. (Amador County General Plan, p. LU-10.) The General Plan accordingly identifies the requested "M" (Manufacturing) zone as consistent with the Industrial land use designation. (Amador County General Plan, p. LU-14.) The property's current zoning, "RIA" (Single-family Residential and Agricultural) is not consistent with the General Plan Industrial designation.

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<sup>1</sup>/ Note that Chatten-Brown & Carstens erroneously cites the acreage subject to this request as 1,500, rather than 1,150.

The state Planning and Zoning Law requires “zoning ordinances [to] be consistent with the general plan of the county or city . . .” (Gov. Code, § 65860(a).) Further, “in the event that a zoning ordinance becomes inconsistent with a general plan by reason of amendment to the plan . . . the zoning ordinance **shall be** amended within a reasonable time so that it is consistent with the general plan as amended.” (Gov. Code, § 65860(c) [emphasis added].) Here, the County’s amendment of the General Plan rendered the property’s zoning inconsistent with the Industrial designation. The County is now required to rezone the property to achieve consistency with the updated General Plan.

**CEQA Requirements.** CEQA Guidelines Section 15183 expressly exempts from environmental review zone changes that are necessary to achieve consistency with an updated General Plan. (CEQA Guidelines, § 15183(a)(i).) In *Wal-Mart Stores, Inc. v. City of Turlock* (2006) 138 Cal.App.4th 273 (*Wal-Mart Stores*), the Fifth District Court of Appeal held that a zone change was exempt from CEQA where (1) the zone change was consistent with the underlying General Plan and General Plan EIR, and (2) where the administrative record contained no evidence of any “reasonably foreseeable *project-specific changes* in the environment that are significant and *peculiar* to the zoning amendments or their site.” (*Wal-Mart Stores* at p. 422 [emphasis in original]; see also *Muzzy Ranch Co. v. Solano County Airport Land Use Commission* (2007) 41 Cal.4th 372, 388-389 [Section 15183 provides for streamlined review] (*Muzzy Ranch*); *Gilroy Citizens for Responsible Planning v. City of Gilroy* (2006) 140 Cal.App.4th 911, 935 [accord] (*Gilroy Citizens*).)

Chatten-Brown & Carstens cites to a single case, *City of Redlands v. County of San Bernardino* (2002) 96 Cal.App.4th 398 (*City of Redlands*), in support of its assertion that the County must prepare an EIR prior to approving the requested zone change. This case is inapplicable for at least three reasons:

- First, the case does not discuss or relate to the proper scope and application of CEQA Guidelines Section 15183, which is the CEQA exemption that specifically applies to zone changes of the type requested here. The cases that do address Section 15183, *Wal-Mart Stores*, *Muzzy Ranch*, and *Gilroy Citizens*, are cited above and all show that the requested zone change here does not require further environmental review.
- Second, the case relates to a county’s substantive amendment of its General Plan without preparing a supporting EIR. The case does not relate to a change in zoning to achieve consistency with an updated General Plan as required by Government Code Section 65860(c).
- Third, the court in *City of Redlands* determined that an EIR was required for the particular General Plan amendments sought by the county. The case does not

“require[] analysis of environmental effects that may accompany a zone change”, as Chatten-Brown & Carstens asserts. (See *McDowell & Craig v. City of Santa Fe Springs* (1960) 54 Cal.2d 33, 38 [a case may only be cited for issues actually heard and decided].)

The “project” at issue here involves a request to rezone certain property to “M” from “RIA” in order to achieve consistency with the County’s updated General Plan. This change is required by law. (See Gov. Code § 65860(c).) The project does not propose any specific development. The present request is consistent with the County General Plan for which the County certified an EIR, and does not present project-specific impacts. Accordingly, the project “shall not require additional environmental review.” (CEQA Guidelines, § 15183(a).)<sup>2</sup>

Should you have any questions concerning the matters discussed herein, please do not hesitate to contact me by telephone at (916) 382-4377, or by e-mail at [bjohnson@hthjlaw.com](mailto:bjohnson@hthjlaw.com).

Very truly yours,  
HARRISON, TEMBLADOR, HUNGERFORD & JOHNSON

By   
Bradley Johnson

cc: Tom Swett, Esq., Edwin Lands, LLC

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<sup>2/</sup> Other CEQA exemptions could also apply equally to this zone change request, including the “common sense” exemption, applicable where “it can be seen with certainty that there is no possibility that the activity in question may have a significant effect on the environment”. (CEQA Guidelines, § 15061(b)(3)).