



Memorandum

TO: HONORABLE MAYOR AND
CITY COUNCIL

FROM: Councilmember
Donald Rocha

SUBJECT: ISTAR PROJECT

DATE: Nov. 17, 2014

Approved

Don Rocha

Date

11/17/14

RECOMMENDATION

That the Council approve the memo from Mayor Reed and Councilmember Kalra dated November 14, 2014, which recommends approval of the iStar project.

ANALYSIS

I believe the proposed iStar project is a good one. I will be voting for it.

Before the Council approves the project, however, I think it's worth pointing out that it entails a conversion of industrial land to a residential use. I am not necessarily opposed to converting industrial land, but the Council majority has repeatedly taken extreme and inflexible policy positions in opposition to conversion. If the Council chooses to approve a conversion in this instance (as I expect will happen) it may be an opportunity for us to think critically about whether our approach to conversions is internally consistent.

iStar is not an Urban Village

In their memo dated November 14, 2014, Mayor Reed and Councilmember Kalra note that the proposal for the iStar site is "how we envisioned a model Urban Village being implemented." iStar, however, is not located within an Urban Village area; the General Plan considers it to be Employment Lands.

The General Plan contains strong and inflexible policy language against conversion of Employment Lands. Page 1-29 of the General Plan, for example, features a high level discussion of Employment Lands and makes the following declaration:

The Envision General Plan does not support conversion of industrial lands to residential use, nor does it include housing growth capacity for these areas.

How do we square this prohibition with the proposed conversion of Employment Lands on the iStar site? In their report, staff argues that the project complies with the General Plan because the employment growth capacity that we are losing on the iStar site (located in Edenvale Area 5) will be redistributed to Edenvale Area 2, thereby allowing more intense development of Area 2. There will be a loss in employment land acreage, but there will not be a loss in overall building floor area capacity.

This explanation seems to make sense, but unfortunately it does not account for the inflexibility of our General Plan. General Plan policy FS-4.1 on page 2-19 reads in relevant part:

Preserve and enhance employment land acreage and building floor area capacity for various employment activities.

This policy doesn't give us a choice between preserving either employment land acreage or building floor area capacity, it enjoins us to preserve both. Staff does not analyze this policy in their report.

Overly rigid General Plan policies will always trip us up, sooner or later. Land use is a complex policy area that sometimes requires flexibility and discretion—that's why we have democratically elected officials to make decisions on these matters. When we encounter a project that requires flexibility, such as iStar, we shouldn't simply ignore General Plan policies that deny us that flexibility. Rather, we should consider revising our policies to ensure that the Council has the discretion it needs and that all projects are treated equitably.

What if iStar were an Urban Village?

Given the Mayor's claim that iStar exemplifies Urban Village development, let's imagine for a moment that it is within an Urban Village area. Does it meet our standards for Urban Villages?

The Council will recall that on September 30th of this year, it adopted a text amendment (over my objections) imposing additional restrictions on residential development within Urban Villages. One of the provisions of that amendment reads as follows:

Residential conversions are not allowed to proceed ahead of the job creation that is necessary to balance the residential elements of the Village Plan. This policy means that jobs and housing can move together on a case by case basis.

If iStar were an Urban Village, would it comply with this provision? The key question seems to be whether by approving iStar, we are allowing a residential conversion to "proceed ahead" of the jobs it displaces.

A total of 414,000 square feet of office and commercial and 720 residential units are being proposed for the iStar site. Of this total, the proposed development standards would require that 125,000 square feet of the commercial development, as well as the infrastructure build-out, be completed before the full 720 residential unit build-out is allowed to proceed. The remaining commercial and office capacity, however, is not required to be built in advance of or “move together” with the residential, as is required by the policy.

What’s more, 1.0 million square feet of Office/R&D and 450,000 square feet of commercial are being moved to Edenvale Area 2 for the purpose of balancing out the conversion to residential on the iStar site. None of this shifted capacity is required to be built in advance of or “move together” with the 720 residential units.

It seems difficult to conclude that this project would be in compliance with Urban Village rules. We’re allowing the residential to “proceed ahead” of the majority of the onsite commercial and office capacity, as well as all of the capacity we’re moving to Area 2. A literal reading of the above policy would require that all of this capacity move either in advance of or together with the residential development.

Again, my point is not that this project is a bad one—I actually think it’s very good. Allowing the residential to move first will allow us to secure a new major retail tenant, as well as build out the infrastructure necessary to complete the office development. It’s an example of how housing can be used to jump-start job creation. If the Council decides to support this project, it should consider very carefully whether prohibiting ourselves from doing the exact same thing in an Urban Village area—as we did when we passed the above text amendment—was really a wise decision.

Conclusion

Many of the most restrictive anti-conversion policies were put into the General Plan for the purpose of constraining “future councils.” As I’ve noted before, the current council is often more than ready to do the very thing we tell future councils they shouldn’t do.