

FILED  
OFFICE OF THE CITY CLERK  
OAKLAND

2005 JUN -2 PM 7: 22

APPROVED AS TO FORM AND LEGALITY:



DEPUTY CITY ATTORNEY

INTRODUCED BY CONCILMEMBER \_\_\_\_\_

ORDINANCE NO. 12688 C. M. S.

**AN ORDINANCE TO REZONE A 25,000 SQUARE-FOOT SITE LOCATED IN THE MIDDLE OF THE BLOCK BOUNDED BY SAN PABLO AVENUE TO THE WEST, THOMAS L. BERKLEY WAY TO THE NORTH, TELEGRAPH AVENUE TO THE EAST AND 19<sup>TH</sup> STREET TO THE SOUTH FROM C-51 CENTRAL BUSINESS SERVICE DISTRICT/S-17 DOWNTOWN RESIDENTIAL OPEN SPACE COMBINING ZONE TO OS OPEN SPACE (NEIGHBORHOOD PARK).**

**WHEREAS**, by the publication and posting of the notices as required, the Council of the City of Oakland did initiate proceedings for the proposed rezoning of a 25,000 square-foot portion of the block bounded by San Pablo Avenue to the west, William Street to the north, Telegraph Avenue to the east and 19<sup>th</sup> Street to the south, from C-51 Business Service District/S-17 Downtown Residential Open Space Combining Zone to OS Open Space (Neighborhood Park); and

**WHEREAS**, the rezoning of the subject properties will allow implementation of the Uptown Project which includes infill mixed-use development in close proximity to mass transit and new public open space consistent with General Plan policies; and

**WHEREAS**, the City Council finds that the existing zoning classifications for the site of C-51 Business Service District/S-17 Downtown Residential Open Space Combining Zone is inadequate or otherwise contrary to the public interest because they would preclude development of the City park component of the Uptown Project. The existing zoning classifications do not allow the recreation uses that are included in the project. As a result, the project benefits will not be realized without the proposed rezoning. Furthermore, the existing zoning classifications are inconsistent with the new General Plan land use designation for the site of Park and Urban Open

Space. The proposed rezoning will remedy this inconsistency. Therefore, the City Council approves the Commission's recommendation to rezone the project site; and

**WHEREAS**, the rezoning of the subject site will be consistent with the amended General Plan land use designation of Park and Urban Open Space; and

**WHEREAS**, at the duly noticed February 18, 2004 Planning Commission meeting, the Commission independently reviewed and considered an Environmental Impact Report (EIR) for the Uptown Project and (1) certified the EIR; and (2) adopted a Mitigation and Monitoring Reporting Program in accordance with the California Environmental Quality Act (CEQA) and the CEQA Guidelines; and

**WHEREAS**, the City hereby finds and determines on the basis of substantial evidence in the record that the EIR fully analyzes the potential environmental effects of the project and incorporates mitigation measures to substantially lessen or avoid any potentially significant impacts in accordance with CEQA. None of the circumstances necessitating preparation of additional CEQA review as specified in CEQA and the CEQA Guidelines, including without limitation Public Resources Code Section 21166 and CEQA Guidelines Section 15162, are present in that (1) there are no substantial changes proposed in the project or the circumstances under which the project is undertaken that would require major revisions of the EIR due to the involvement of new environmental effects or a substantial increase in the severity of previously identified significant effects; and (2) there is no "new information of substantial importance" as described in CEQA Guidelines Section 15162(a)(3); and

**WHEREAS**, at the duly noticed June 1, 2005 Planning Commission meeting, the Commission took the following actions: 1) Conditionally approved the Preliminary Planned Unit Development for the Uptown project (Parcels 1, 2, 3, 4 and park), the Final Planned Unit Development for Parcels 1, 2, 3 and park, Design Review, Conditional use Permit and Variance applications; 2) Conditionally approved the Vesting Tentative Map; 3) Found that the proposed street vacations are consistent with the General Plan and recommended that the City Council adopt an ordinance to conditionally vacate portions of Thomas L. Berkley Way, William Street, and 19<sup>th</sup> Street between San Pablo Avenue and Telegraph Avenue and quit claiming the underlying fee interests in the vacated rights-of-way to the Oakland Redevelopment Agency; and 4) Recommended approval of the proposed General Plan Amendment and Rezoning to the City Council; and

**WHEREAS**, said ordinance was duly published and notice thereof and of the time and place of hearing thereon was duly posted in accordance with the requirements; and

**WHEREAS**, this Council has, at the time of said hearing, heard and considered all the evidence, both oral and written, offered by all persons interested in or objecting to the proposed rezoning of the subject site; and

**THE COUNCIL OF THE CITY OF OAKLAND DOES ORDAIN AS FOLLOWS:**

**SECTION 1.** That the Council of the City of Oakland does hereby find and determine the foregoing recitals to be true and correct and hereby makes them part of this ordinance.

- SECTION 2. That the requirements of the California Environmental Quality Act and National Environmental Policy Act have been met through approval by the Planning Commission in February 2004 of an EIR.
- SECTION 3. The City Clerk and Clerk of this Council is hereby directed to have a certified copy of this ordinance recorded in the Office of the Recorder of Alameda County, California, immediately upon its final passage. Upon such recordation of this ordinance, the rezoning of the project site as described above is complete.
- SECTION 4. The Community and Economic Development Agency is directed (1) to take all steps necessary to revise the zoning classification diagrams to facilitate development of the approved Uptown Project, including changes to the zoning classifications for the City park site to OS Open Space (Neighborhood Park) in substantial conformance with Attachment B to this report; and (2) to file a Notice of Determination with the Clerk of Alameda County in accordance with CEQA Guidelines Section 15075.
- SECTION 5. If any provision of this ordinance or the application thereof is held invalid, the remainder of this ordinance and the application that is not invalid shall not be affected thereby.
- SECTION 6. This ordinance shall govern to the extent any provisions of the Planning Code conflict with this ordinance.

**JUL 19 2005**

IN COUNCIL, OAKLAND, CALIFORNIA, \_\_\_\_\_, 2005

**PASSED BY THE FOLLOWING VOTE:**

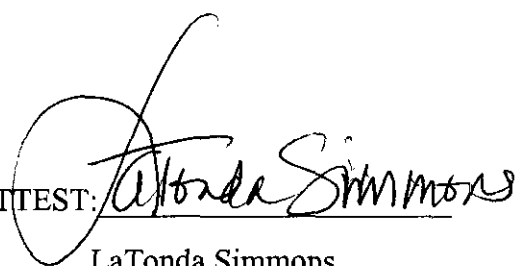
Brunner, Kernighan, Nadel, Quan, De La Fuente, ~~Brooks~~, Reid, Chang - 7

AYES- ↗

NOES- 0

ABSENT- 0

ABSTENTION- BROOKS - 1

ATTEST: 

LaTonda Simmons  
City Clerk and Clerk of the  
Council of the City of Oakland,  
California

Introduction Date: **JUN 21 2005**

**ATTACHMENT A:  
PLANNING COMMISSION STAFF REPORT**

Planning Commission

June 1, 2005

Case Files: PUD05037;PUDF05047;TTM7616;ER030007;GP05105;RZ05106

**ATTACHMENT A:  
PROJECT PLANS AND ELEVATIONS**