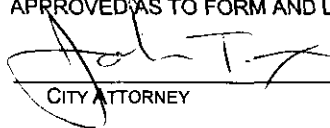


03 OCT 27 11:00

APPROVED AS TO FORM AND LEGALITY

INTRODUCED BY COUNCILMEMBER _____


CITY ATTORNEY

ORDINANCE NO. 12546 C.M.S.

ORDINANCE AMENDING THE OAKLAND PLANNING CODE TO ALLOW THE CONVERSION OF EXISTING NON-RESIDENTIAL BUILDINGS TO RESIDENTIALLY-ORIENTED JOINT LIVING AND WORKING QUARTERS IN THE DOWNTOWN AREA BOUNDED BY HIGHWAY 980/BRUSH STREET, THE ESTUARY SHORELINE, THE LAKE MERRITT/ESTUARY CHANNEL, THE WESTERN SHORE OF LAKE MERRITT, AND 27TH STREET

WHEREAS, in October 1996, the Oakland City Council approved a resolution declaring the City's support of public transit and other transportation alternatives to the single-occupant vehicle, and stated the City's intent to explore development of incentives such as density bonuses and reduced parking requirements to encourage development near transit as part of the City's Zoning Code Update; and

WHEREAS, an updated Land Use and Transportation Element of the Oakland General Plan was adopted by the Oakland City Council in March, 1998 to guide future land use and development in the city; and the Estuary Policy Plan, a component of the Land Use and Transportation Element, was adopted in 1999 to provide a framework for future land use and development of the area between the Nimitz Freeway and the Estuary shoreline; and

WHEREAS, the City Council certified the accompanying Environmental Impact Reports to the Land Use and Transportation Element and Estuary Policy Plan, and these EIRs addressed the potential impacts of future development in the downtown area; and

WHEREAS, the Land Use and Transportation Element contains objectives to increase the use of alternative modes of transportation by directing more intensive land development and redevelopment activities close to the city's urban core and major transit installations such as the 12th Street, 19th Street, and Lake Merritt BART Stations and major bus lines; and

WHEREAS, the Land Use and Transportation Element and the Estuary Policy Plan contain objectives for Oakland's downtown that promote: maximizing housing opportunities to create a better sense of community and a 24-hour

presence (Objective D10, Policy D10.1); fostering mixed-use development to create a more vibrant downtown and Estuary area (Objectives D11, LU-1); eliminating blight caused by underutilized properties (Objective D6); encouraging the adaptive re-use and sensitive rehabilitation of existing vacant or underutilized buildings (Policy D6.2; Objective JL-4); and developing locational and performance criteria for live-work developments in the downtown area (Policy D10.7); and

WHEREAS, in 1999, Mayor Jerry Brown made it a top priority to attract 10,000 new residents to downtown Oakland and the City Council supported the Mayor's "10K Initiative"; and

WHEREAS, on June 22, 1999, the Oakland City Council adopted Ordinance No. 12148 C.M.S, establishing interim zoning controls to facilitate the conversion of existing non-residential facilities into residentially-oriented joint living and working quarters in the downtown area bounded by Highway 980/Brush street, the Estuary shoreline, the Lake Merritt/Estuary channel, the western shore of Lake Merritt, and 27th Street; and

WHEREAS, corresponding amendments to the Oakland Building Code were made at this time to facilitate the conversion of existing non-residential buildings in the downtown area to residentially-oriented joint living and working quarters; and

WHEREAS, Oakland's downtown still contains underutilized or vacant commercial buildings that may be eligible for conversion to residentially-oriented joint living and working quarters; and

WHEREAS, the interim zoning controls adopted under Ordinance No. 12148 C.M.S. have since expired and there is a need to adopt more permanent controls; and

WHEREAS, the City Planning Commission held a duly noticed public hearing on May 21, 2003 to consider adopting text amendments to the Oakland Zoning Code to allow the conversion of existing non-residential buildings to residentially-oriented joint living and working quarters, and voted to recommend approval of said text amendments to the City Council; and

WHEREAS, passage of this ordinance will authorize the expeditious re-use and conservation of existing underused non-residential buildings in the service of meeting goals to accommodate 10,000 new residents downtown;

NOW, THEREFORE, THE CITY COUNCIL OF THE CITY OF OAKLAND DOES ORDAIN AS FOLLOWS:

SECTION 1. The City Council finds and determines the foregoing recitals to be true and correct and hereby makes them a part of this ordinance.

SECTION 2. The requirements of the California Environmental Quality Act (CEQA), as amended, the guidelines, as prescribed by the Secretary of Resources, and the provisions of the City of Oakland, have been met through certification of the Environmental Impact Report accompanying the Land Use and Transportation Element of Oakland's General Plan in 1998, and the City Council relies upon this previously certified EIR.

SECTION 3. The Oakland Planning Code is hereby amended to add, delete, or modify sections as set forth below. Section numbers and titles are indicated in **bold type**, additions are indicated by underlining, and deletions are indicated by ~~strike-out type~~. Portions of the code not cited, or not shown in underlining or strike-out type, are not changed:

Chapter 17.102 GENERAL REGULATIONS APPLICABLE TO ALL OR SEVERAL ZONES

Section 17.102.195 Residentially-Oriented Joint Living and Working Quarters.

- A. Area of applicability. The provisions of Section 17.102.195 apply to the area bounded by Highway 980/Brush Street, the Estuary shoreline, the Lake Merritt/Estuary channel, the western shore of Lake Merritt, and 27th Street.
- B. Definition. Residentially-Oriented Joint Living and Working Quarters means residential occupancy by persons maintaining a common household of one or more rooms in a building originally designed for non-residential occupancy which includes cooking space and sanitary facilities which satisfy the provisions of other applicable municipal codes. A Residentially-Oriented Joint Living and Working Quarter consists of a designated residential area and a designated work area. However, the definitions applied by City Council Resolution No. 68518 C.M.S that apply to "Joint Live/Work Space," including criteria that define space requirements, are not applicable to Residentially-Oriented Joint Living and Working Quarters.
- C. Conditions for conversion.
 1. In the area prescribed in Subsection A, an existing building or portion of a building that was originally designed for non-residential occupancy may be converted to Residentially-Oriented Joint Living and Working Quarters as long as each of the following standards is met:
 - a. The total number of Residentially-Oriented Joint Living and Working Quarter units on the subject property after the conversion will not exceed the maximum number of residential units permitted by the underlying zone.

- b. All existing on-site parking spaces are retained for use by the residents, unless existing on-site parking exceeds required parking for all activities on the lot, in which case the number of parking spaces shall not be reduced below the number of spaces prescribed in Chapter 17.116 for all activities on the lot.
 - c. All open space associated with the building is retained for use by the residents, unless existing open space exceeds the requirement of the applicable zone or zones.
 - d. All existing ground-floor commercial space is retained for commercial activities.
 - 2. In no case shall the height, footprint, wall area, or other aspect of the exterior of the building proposed for conversion be expanded to accommodate Residentially-Oriented Joint Living and Working Quarters, except for incidental appurtenances such as elevator shafts, skylights, rooftop gardens, or other facilities listed in Section 17.108.030.
 - 3. If a project is located within the S-4, S-7, or S-8 zone and involves exterior alterations, the design review requirements of those zones shall apply (Sections 17.80.030; 17.84.030, 17.84.040, 17.86.030).
 - 4. In any zone, any project involving over 100,000 square feet of floor area and involving exterior alterations shall be subject to design review pursuant to the design review procedure in Chapter 17.136.
- D. Conditional use permit required in certain instances. In the area prescribed in Subsection A, a project that involves the conversion of an existing building or portion of a building that was originally designed for non-residential occupancy to Residentially-Oriented Joint Living and Working Quarters and does not meet one or more of the requirements of Subsection C(1) above may be permitted upon the granting of a conditional use permit pursuant to the conditional use permit procedure in Chapter 17.134. A conditional use permit may be granted only upon determination that the proposal conforms to the general use permit criteria set forth in the conditional use permit procedure in Chapter 17.134 and to any and all applicable use permit criteria set forth in the particular individual zone regulations.
- E. Non-applicability of certain requirements pertaining to dwelling units. In the area prescribed in Subsection A, the conversion to Residentially-Oriented Joint Living and Working Quarters of a building or portion of a building that was originally designed for non-residential occupancy is not subject to the requirements for off-street parking in Section 17.116.020 (New Parking to Be Provided for New Living Units in Existing Facilities) and is not subject to the open space requirements for new residential dwelling units contained in the applicable zoning district or districts, but is subject to the requirements of Subsection C(1) above for retention of existing parking and open space.

SECTION 4. Except as specifically set forth herein, this ordinance suspends and supercedes all conflicting resolutions, ordinances, plans, codes, laws, and regulations.

SECTION 5. If any section, subsection, sentence, clause or phrase of this Ordinance is for any reason held by a court of competent jurisdiction to be invalid, such decision shall not affect the validity of the remaining portions of this ordinance. The City Council declares that it would have adopted this Ordinance and each section, subsection, sentence, clause and phrase thereof, irrespective of the fact that any one or more section, subsection, sentence, clause, or phrase be declared invalid.

SECTION 6. This ordinance shall become effective as provided in section 216 of the City Charter. This ordinance shall be published once with the names of the City Council Members voting for and against it in the Oakland Tribune, a newspaper which is published in this City and in Alameda County.

NOV 04 2003

In Council, Oakland, California, _____, 2003, Passed By The Following
Vote:

AYES- **BROOKS, BRUNNER, CHANG,
NADEL, REID, QUAN, WAN
AND PRESIDENT DE LA FUENTE - 7**

NOTES- *Ø*

ABSENT- *Ø*

ABSTENTION- *Nadel - 1*

Introduction Date:
OCT 21 2003

ATTEST: *Serrana Antol*
for CEDA FLOYD
City Clerk and Clerk of the Council
of the City of Oakland, California

AN ORDINANCE AMENDING THE OAKLAND PLANNING CODE TO ADD PROVISIONS FOR THE CONVERSION OF EXISTING NON-RESIDENTIAL BUILDINGS TO RESIDENTIALLY-ORIENTED JOINT LIVING AND WORK QUARTERS IN THE DOWNTOWN AREA BOUNDED BY HIGHWAY 980/BRUSH STREET, THE ESTUARY SHORELINE, THE LAKE MERRITT/ESTUARY CHANNEL, THE WESTERN SHORE OF LAKE MERRITT, AND 27TH STREET.

NOTICE AND DIGEST

An ordinance amending the Oakland Planning Code to add provisions for the conversion of existing non-residential buildings to Residentially-Oriented Joint Living and Work Quarters in the downtown area bounded by Highway 980/Brush Street, the Estuary shoreline, the Lake Merritt/Estuary channel, the western shore of Lake Merritt, and 27th Street.

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NOTICE AND DIGEST
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Notice of Publication
An ordinance amending the Oakland Planning Code to add provisions for the conversion of existing non-residential buildings to Residentially-Oriented Joint Living and Work Quarters in the downtown area bounded by Highway 980/Brush Street, the Estuary shoreline, the Lake Merritt / Estuary channel, the western shore of Lake Merritt, and 27th Street.

This Ordinance was introduced at the City Council meeting, Tuesday evening October 21, 2003, and passed to print 7 pages, 1 tab stain. Hearing on final adoption has been scheduled for the City Council meeting Tuesday evening November 4, 2003, 6:00 p.m., at One Frank H. Ogawa Plaza, Council Chambers, on the third floor in Oakland, California.

THREE FULL COPIES ARE AVAILABLE FOR USE AND EXAMINATION BY THE PUBLIC IN THE OFFICE OF THE CITY CLERK AT ONE FRANK H. OGAWA PLAZA, 1ST FLOOR, OAKLAND, CALIFORNIA.

CEDA FLOYD, City Clerk

**The Oakland Tribune, #298761
November 1, 2003**