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2013 JUN 12 PM 3:57

AGENDA REPORT

TO: DEANNA J. SANTANA
CITY ADMINISTRATOR

FROM: Rachel Flynn

SUBJECT: Planning Code Text Amendments

DATE: June 12, 2013

City Administrator

Date

Approval

6/12/13

COUNCIL DISTRICT: City-Wide

RECOMMENDATION

Conduct a Public Hearing and Upon Conclusion, Consider Adopting, as Recommended by the Planning Commission, An Ordinance Amending the Oakland Planning Code to:

1. Update References, Reduce Redundancy, And Clarify Language In Various Chapters Of The Planning Code;
2. Modify Truck Weight Classifications Language To Conform With Industry Standards;
3. Modify The Setback Requirement For The Portion of Buildings Above 55 Feet In Height In The CBD-R Zone;
4. Add Design Review Requirement For Residential Facilities And Historic Properties In The CIX, IG, And IO Zones;
5. Eliminate The Increased Parking Requirement For Expansions Of Activities Across Zone Boundaries; and
6. Add Sidewalk Cafes As A Permitted Facility In The M-Industrial Zones

REASON FOR SUPPLEMENTAL REPORT

At its meeting of June 11, 2013, the CED Committee amended the language of the proposed changes to the Planning Code, at staff's request. The new language is reflected in the revised pages of *Exhibit A* to the proposed Ordinance, which are included with this supplemental report, with new insertions (in bold) as follows:

17.130.060 - Obligation of applicant to defend, indemnify, and hold harmless the City of Oakland.


A. To the maximum extent permitted by law, the applicant shall defend (with counsel reasonably-acceptable to the City), indemnify, and hold harmless the City of

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Oakland, the Oakland City Council, the City of Oakland Redevelopment Agency, the City of Oakland Redevelopment Successor Agency, the Oakland City Planning Commission and its respective agents, officers, volunteers and employees (hereafter collectively called City) from any liability, damages, claim, judgment, loss (direct or indirect), action, causes of action or proceeding (including legal costs, attorneys' fees, expert witness or consultant fees, City Attorney or staff time, expenses or costs) (collectively called "Action") against the City to attack, set aside, void or annul, any land-use related approvals and actions including but not limited to: (1) amendments to the Planning Code, rezonings, and/or General Plan amendments; (2) an approval by the City relating to a development-related application or subdivision and/or a (Lease) Disposition and Development Agreement; or (3) implementation of such an approved development-related-project. The City may elect, in its sole discretion, to participate in the defense of said Action and the applicant shall reimburse the City for its reasonable legal costs and attorneys' fees.

For questions regarding this report, please contact Ann Clevenger, Planner III, at (510) 238-6980.

Respectfully submitted,



Rachel Flynn, Director
Department of Planning and Building

Reviewed by:
Scott Miller, Interim Director
Department of Planning and Building

Prepared by:
Ann Clevenger, Planner III
Zoning Division

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Chapter 17.130 - ADMINISTRATIVE PROCEDURES GENERALLY

Sections:

- 17.130.010 - Title, purpose, and applicability.
- 17.130.020 - Alternative notification procedures.
- 17.130.030 - Notice by mail.
- 17.130.040 - Procedure for resolving tie votes.
- 17.130.050 - Presentation of written and documentary evidence.
- 17.130.060 - Obligation of applicant to defend, indemnify, and hold harmless the City of Oakland.
- 17.130.070 - Uniformly applied development standards automatically imposed as standard conditions of approval for development projects.
- 17.130.080 - City Council consideration of legislative and adjudicatory actions.
- 17.130.090 - Minor land use permits considered concurrently with Major permits.

17.130.050 - Presentation of written and documentary evidence.

Whenever, pursuant to the Oakland Planning Code, ~~a an-appeal-or-matter~~ of original jurisdiction, for which a hearing is required, is pending before the City Council, or City Planning Commission, or the ~~Commission's Residential Appeals Committee,~~ any interested party, while the hearing is open, may submit written and/or documentary evidence to the City Council or, the Commission, or the Committee, whichever is applicable, for its consideration. Whenever, pursuant to the Oakland Planning Code, an appeal for which a hearing is required is pending before the City Council, City Planning Commission, or the Commission's Residential Appeals Committee, the appellant may not submit written and/or documentary evidence not previously submitted in the appeal form itself and presented: (a) prior to the close of the written public comment period for the underlying decision being appealed, in the case of appeals based on a decision by the Zoning Administrator or other administrative decisions, or (b) prior to the close of the City Planning Commission's public hearing for the underlying decision being appealed, in the case of appeals based on decisions made by the City Planning Commission, as applicable.

17.130.060 - Obligation of applicant to defend, indemnify, and hold harmless the City of Oakland.

- A. To the maximum extent permitted by law, the applicant shall defend (with counsel ~~reasonably acceptable to the City~~), indemnify, and hold harmless the City of Oakland, the Oakland City Council, the City of Oakland Redevelopment Agency, the City of Oakland Redevelopment Successor Agency, the Oakland City Planning Commission and its respective agents, officers, volunteers, and employees (hereafter collectively called City) from any liability, damages, claim, judgment, loss (direct or indirect), action, causes of action or proceeding (including legal costs, attorneys' fees, expert witness or consultant fees, City Attorney or staff time, expenses or costs) (collectively called "Action") against the City to attack, set aside, void or annul, any land-use related approvals and actions including but not limited to: (1) amendments to the Planning Code, rezonings, and/or General Plan amendments; (2) an approval by the City relating to a development-related application or subdivision and/or a (Lease) Disposition and Development Agreement; or (3) implementation of such an approved-development-related-project. The City may elect, in its sole discretion, to participate in the defense of said Action and the applicant shall reimburse the City for its reasonable legal costs and attorneys' fees.
- B. Within ten (10) calendar days of the filing of any Action as specified in subsection A above, the applicant shall execute a Letter of Agreement with the City, acceptable to the Office of the City Attorney, which memorializes the above obligations. These obligations and the Letter of Agreement

shall survive termination, extinguishment or invalidation of the approval. Failure to timely execute the Letter of Agreement does not relieve the applicant of any of the obligations contained in this Section or any other requirements or conditions of approval that may be imposed by the City.

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17.130.080 - City Council consideration of legislative and adjudicatory actions.

When a development application requires both legislative and adjudicatory actions, the entire application shall be considered by the City Council for final action. The City Council has the authority to consider and revise as appropriate (accept, reject, or modify) the adjudicatory land use decisions of the Planning Commission, regardless of whether an appeal to the City Council is filed challenging such adjudicatory land use decisions.

17.130.090 – Minor land use permits considered concurrently with Major permits.

A. Any Minor land use related permit and/or approval that is related to a development application that also includes any Major land use related permit and/or approval shall be considered concurrently with the Major land use related permit and/or approval, and shall follow all procedural requirements associated with City Planning Commission decisions. In this case, the entire application shall initially be considered by the City Planning Commission and may be appealed to the City Council, in accordance with the requirements for Major land use related permit and/or approval or discretionary actions.

B. Any Minor land use related permit referred to the City Planning Commission for initial decision in order to be considered concurrently with any Major land use related permit and/or approval shall still be considered a Minor land use related permit and/or approval, and the required findings for said Minor land use related permit and/or approval shall apply.