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OFFICE OF THE CITY CLERK
OAKLAND
2005 MAY 12 PM 7:11

CITY OF OAKLAND *Agenda Report*

TO: Office of the City Administrator
ATTN: Deborah Edgerly
FROM: Community and Economic Development Agency
DATE: May 24, 2005

RE: **AN ORDINANCE CONDITIONALLY VACATING PORTIONS OF THOMAS L. BERKLEY WAY, WILLIAMS STREET, AND 19th STREET BETWEEN SAN PABLO AVENUE AND TELEGRAPH AVENUE FOR THE UPTOWN OAKLAND MIXED USE PROJECT AND QUIT CLAIMING THE UNDERLYING FEE INTERESTS IN THE VACATED RIGHTS-OF-WAY TO THE OAKLAND REDEVELOPMENT AGENCY**

SUMMARY

An ordinance has been prepared conditionally vacating portions of Thomas L. Berkley Way (formerly 20th Street), Williams Street, and 19th 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. The Redevelopment Agency will retain ownership of the Uptown Oakland building sites and the abutting vacated portions of the streets. The proposed building sites will occupy approximately eighty-five percent (85%) of the two blocks currently bounded by these streets. The proposed vacations of public street right-of-way would provide land area that is part of the Uptown Project including a new public park, construction of a new mid-block street (as yet unnamed) connecting Williams Street with 19th Street and Thomas L. Berkley Way, reconstruction of Williams Street closer to 19th Street, and construction of three new low-rise mixed-use residential/ commercial buildings. The resulting rights-of-way will maintain safe traffic flow and pedestrian access (refer to the attached Exhibits A and B).

The process for vacating public right-of-way is prescribed by the California Streets and Highways Code (section 8300 et seq.). Staff has completed the public announcement requirements: site posting, newspaper publication, and utility company notifications (refer to the attached Exhibit C). Two sequential public hearings by the City Council are now required to complete the vacation process. The first meeting of the Council would, by resolution, adopt findings required by the Streets and Highways Code and the Public Resources Code and also set a following hearing to receive public testimony. The second meeting of the Council would receive public testimony and complete the first reading of the proposed vacation ordinance. In a companion report, staff recommends that the Council schedule the first public hearing for the June 7 agenda. In this report, staff recommends that the Council schedule the second public hearing for the June 21 agenda. As required by City Charter, the final reading of the proposed vacation ordinance would be scheduled for the July 19 Council agenda. This scheduling will assist the project with obtaining discretionary approvals for inclusion with a bond-funding application in mid-July.

FISCAL IMPACT

Staff costs for processing the proposed street vacation will be covered by fees set by the Master Fee Schedule and paid by the applicant and will be deposited in the General Purpose Fund (1010). The Redevelopment Agency would acquire title to the underlying fee interests in the vacated public rights-of-way from the City without cost. The City would acquire title to the public park from the Redevelopment Agency without cost. The City's standard subdivision agreement will require that public infrastructure

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improvements (replacement sewer main, pavement, sidewalks, curbs, gutters, street lighting, etc.) are bonded and constructed by the developer and warranted for future maintenance for one year without cost to the City.

BACKGROUND

Project Infrastructure Requirements

The Uptown Oakland Environmental Impact Report (EIR) and the developer's land use application (Planned Unit Development) identified four public infrastructure elements that are necessary for the viable development of the mixed-use project:

- new construction of a *two-block public street* (New Street) transecting Williams Street and connecting 19th Street to Thomas L. Berkley Way, which would be completed by the developer without cost to the City as a condition of approving the re-subdivision of the abutting parcels and would be dedicated by the Redevelopment Agency to the City; and
- new construction of a *public park* fronting on the new public street, 19th Street, and Williams Street, which would be completed by the developer without cost to the City as a condition of approving the proposed re-subdivision of the abutting parcels and would be dedicated by the Redevelopment Agency to the City through the subdivision map; and
- re-construction of *Williams Street shifting closer to 19th Street* and re-configuration of *Williams Street allowing bi-directional traffic flow*, which would be completed by the developer without cost to the City as a condition of approving the proposed re-subdivision of the abutting parcels; and
- net reduction of existing right-of-way widths (*narrower sidewalks and curbside parking lanes*) along 19th Street (two feet), Williams Street (six feet eight inches), and Berkley Way (nine feet), which would be vacated by the City to the Redevelopment Agency without cost through the proposed vacation ordinance, and

The land areas needed for the four proposed Uptown Oakland building sites are dependent upon the incorporation of the vacated public rights-of-way shown in the Exhibit A. The Redevelopment Agency will offset the proposed vacation of fourteen feet four inches of right-of-way along the north side of Williams Street with a dedication of seven feet eight inches of restorative right-of-way from the parcels abutting the south side of Williams Street. The resulting pavement, sidewalk, and parking lane widths for 19th Street, Williams Street, and Thomas L. Berkley Way are shown in Exhibit B.

No existing subsurface utility lines are located within the proposed vacated rights-of-way, and therefore, no newly dedicated public easements are needed. The EIR identified that a replacement public sewer main will be needed in Williams Street and New Street to serve the new buildings.

Transfer of Right-Of-Way Ownership

Staff's review of historical records indicates that the three public streets pre-date the original subdivision of the two blocks in 1876. Consequently, the City owns the underlying fee interest in the right-of-way. Staff is recommending that the Council quit claim the land area to the Redevelopment Agency without valuable consideration (\$0 transfer of ownership).

KEY ISSUES AND IMPACTS

Developable Land Area

The proposed mixed-use buildings will fully occupy the land areas of the four proposed construction sites (Tentative Map parcels 1, 2, 3, and 4). The land areas of the existing parcels, as currently bounded by the adjoining streets, will be reduced by approximately 13,250 square feet for dedication of the new mid-block street and by approximately 4,750 square feet for dedication of restorative right-of-way for Williams Street. The reduction of approximately 18,000 square feet of land area from the existing parcels would be restored by the proposed vacation of approximately 20,500 square feet right-of-way. The proposed public park will provide an additional 25,000 square feet of land area for open space.

The Public Works Agency and the Alameda County Transit Authority have reviewed the proposed street designs and have concurred that the reductions in the widths of the right-of-way are consistent with the safe flow of traffic and handicapped accessibility by pedestrians and patrons. A future bike lane delineation (lane striping) on Thomas L. Berkley Way would not be impacted.

Conditional Approval of the Vacation

Staff is recommending that the proposed vacation ordinance be conditioned on “triggering events” that are tied to the sequencing of approvals for the re-subdivision of the adjoining parcels. This would assure that ownership of the vacated rights-of-way would be re-conveyed to the City without cost in the unlikely event that the Uptown Oakland project is not completed with the following time frame:

- vacation of the public rights-of-way would become effective upon approval of the subdivision Vesting Tentative Map (July 2005); and
- vacation of the public rights-of-way would be voided, with title and use of the vacated streets re-conveyed to the City without cost, should the subdivision Final Map not be approved by the Council within two years of the Council’s approval of the Vesting Tentative Map; and
- vacation of the public rights-of-way would be voided, with title and use of the vacated streets re-conveyed to the City without cost, should construction of the bonded public infrastructure improvements not be completed and approved by the City within five years of Council’s approval of the multiple Final Map (October 2005), with an allowance for the City Administrator to extend the expiration for good cause.

SUSTAINABLE OPPORTUNITIES

Economic

The Uptown Oakland redevelopment project will provide opportunities for professional services and construction related jobs for the Oakland community. The developer is required to follow City policies for bidding and awarding contracts to Small and Local Business Enterprise firms.

Environmental

Land use approvals and construction permits for public infrastructure improvements and new buildings require that the permittees comply with City ordinances and regional Best Management Practices for reducing nuisance noise, fugitive dust, construction debris disposal, and storm drainage pollutant runoff.

Social Equity

The Uptown Oakland project will provide affordable housing opportunities, will assist the economic revitalization of the downtown redevelopment zone, and will encourage the infusion and recurrence of diverse multi-cultural activities, businesses, and events.

DISABILITY AND SENIOR CITIZEN ACCESS

Public sidewalks and traffic signals that will be newly constructed, replaced, or relocated will conform with Caltrans and City requirements for handicapped accessibility. Access within the public park will similarly comply with state building code and City requirements for handicapped accessibility.

RECOMMENDATIONS

Staff recommends that the Committee accept this report and forward it to the City Council for their scheduled meeting on June 21, 2005, to adopt the proposed ordinance conditionally vacating portions of Thomas L. Berkley Way, Williams Street, and 19th Street between San Pablo Avenue and Telegraph Avenue and quit claiming the underlying fee interest to the Oakland Redevelopment Agency.

ACTION REQUESTED OF THE CITY COUNCIL

Staff recommends that the City Council accept this report and adopt the proposed ordinance conditionally vacating portions of Thomas L. Berkley Way, Williams Street, and 19th Street between San Pablo Avenue and Telegraph Avenue and quit claiming the underlying fee interest to the Oakland Redevelopment Agency.

Respectfully submitted,



CLAUDIA CAPPIO
Development Director
Community and Economic Development Agency

Prepared by:

Raymond M. Derania
Interim City Engineer
Building Services Division

APPROVED FOR FORWARDING TO
THE COMMUNITY AND ECONOMIC
DEVELOPMENT COMMITTEE



OFFICE OF THE CITY ADMINISTRATOR

Attachments: Ordinance - vacation of public rights-of-way and quit claim of underlying fee interest
Exhibit A - location and limits of proposed street vacations
Exhibit B - traffic lane, sidewalk, and parking lane widths
Exhibit C - affidavit certifying notification of a public hearing

Exhibit A

Proposed Street Vacations For The Uptown Oakland Mixed-Use Redevelopment Project Street

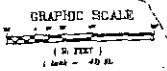
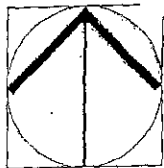
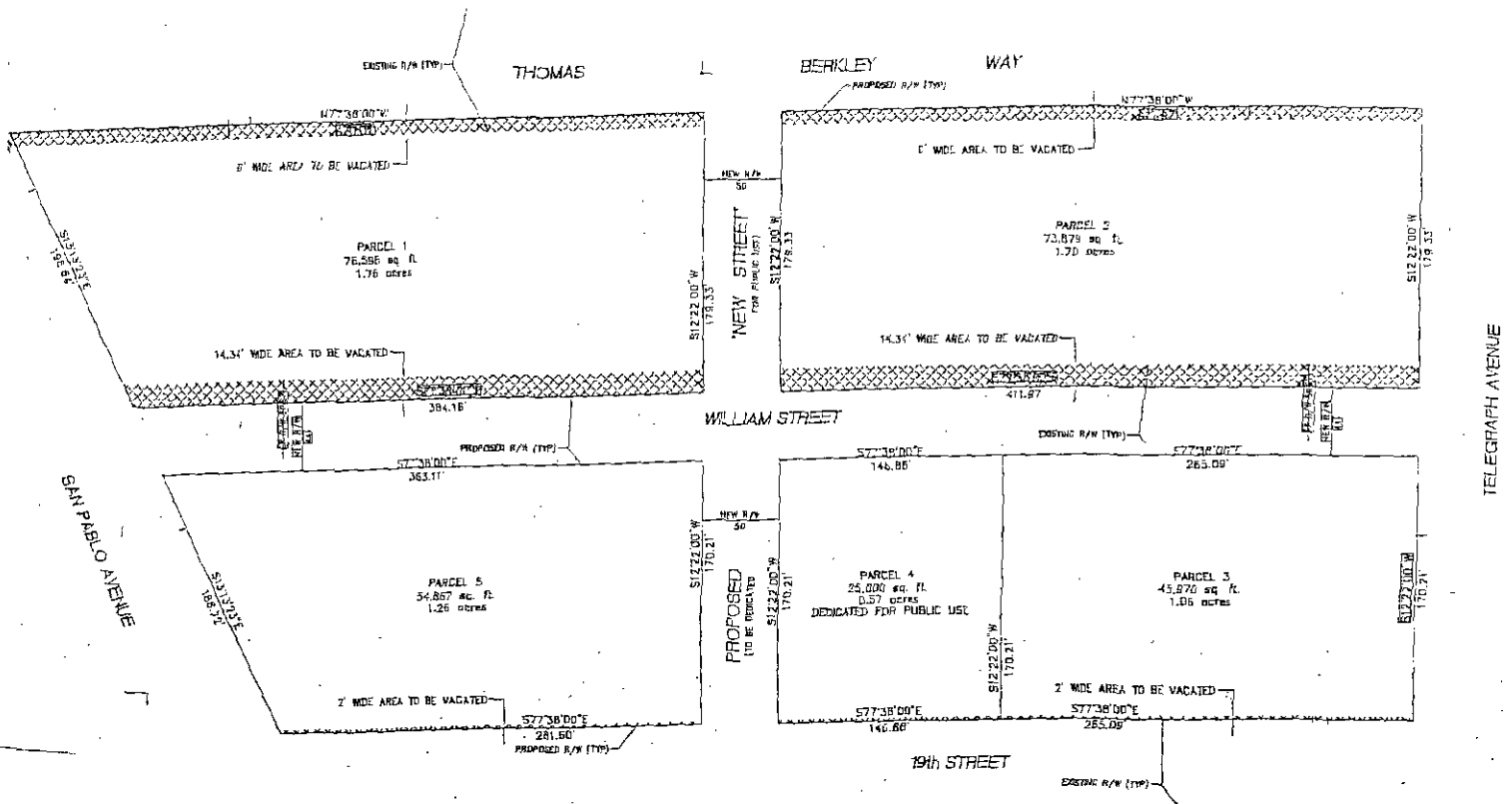


Exhibit B

Proposed Street Reconstructions For Vacated Rights-Of-Way For The Uptown Oakland Mixed-Use Redevelopment Project Street

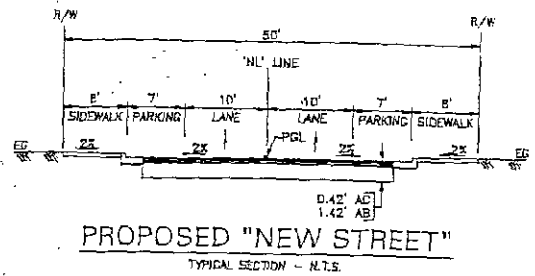
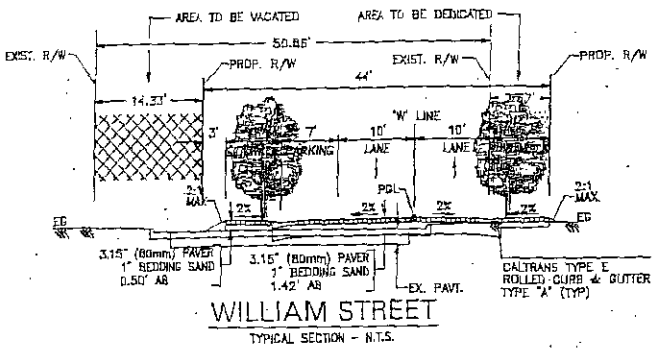
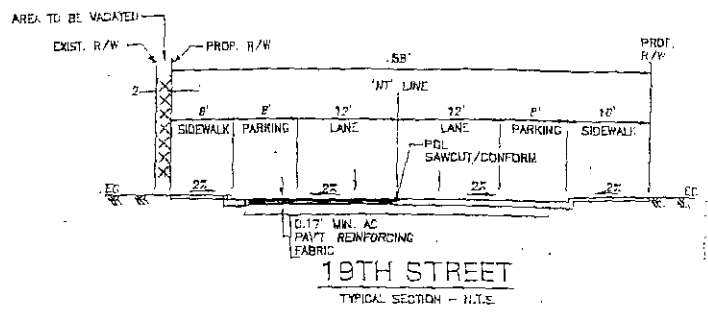
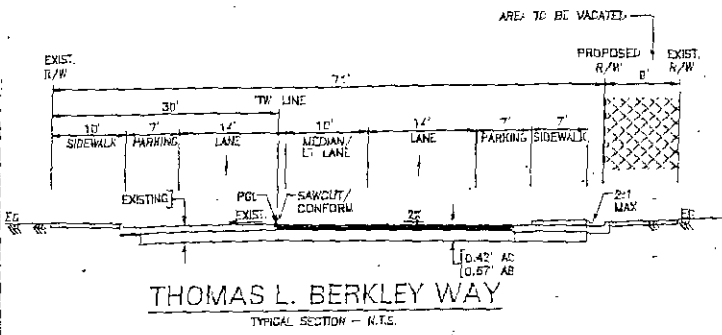


Exhibit C

An Affidavit Certifying Notifications Of A Public Hearing On Proposed Street Vacations For The Uptown Oakland Mixed-Use Redevelopment Project Street

Pursuant to California Streets and Highways Code Section 8322, I hereby certify that the following public notifications did occur on the dates and times and at the locations and for the durations indicated below:

Site Posting

The attached placard was affixed on April 22, 2005, at 9:00 a.m. local time to City street light poles in the public sidewalk at intervals not exceeding 300 feet on Thomas L. Berkley Way, Williams Street, and 19th Street and have remained in place since then advising the public of a hearing on June 7, 2005, at 7:01 p.m., in the Chambers of the Council of the City of Oakland, on the Third Floor of City Hall, at One Frank H. Ogawa Plaza to schedule a meeting on June 21, 2005, at the same time and same location to receive evidence and public testimony on the proposed vacation of portions of the public rights-of-way delineated on the placard.

Newspaper Publication

The attached notice was published in the *Oakland Tribune* on April 21, 2005, and May 2, 2005, advising the public of a hearing on June 7, 2005, at 7:02 p.m., in the Chambers of the Council of the City of Oakland, on the Third Floor of City Hall, at One Frank H. Ogawa Plaza to schedule a meeting on June 21, 2005, at the same time and same location to receive evidence and public testimony on the proposed vacation of portions of the public rights-of-way and further advising the public that a map delineating the portions of the rights-of-way proposed for vacation is available at the Building Services counter on the second floor of the Dalziel Administration building, 250 Frank H. Ogawa Plaza.

date 05/02/05

by Derania
RAYMOND M. DERANIA
Interim City Engineer
Community and Economic Development Agency

Exhibit C

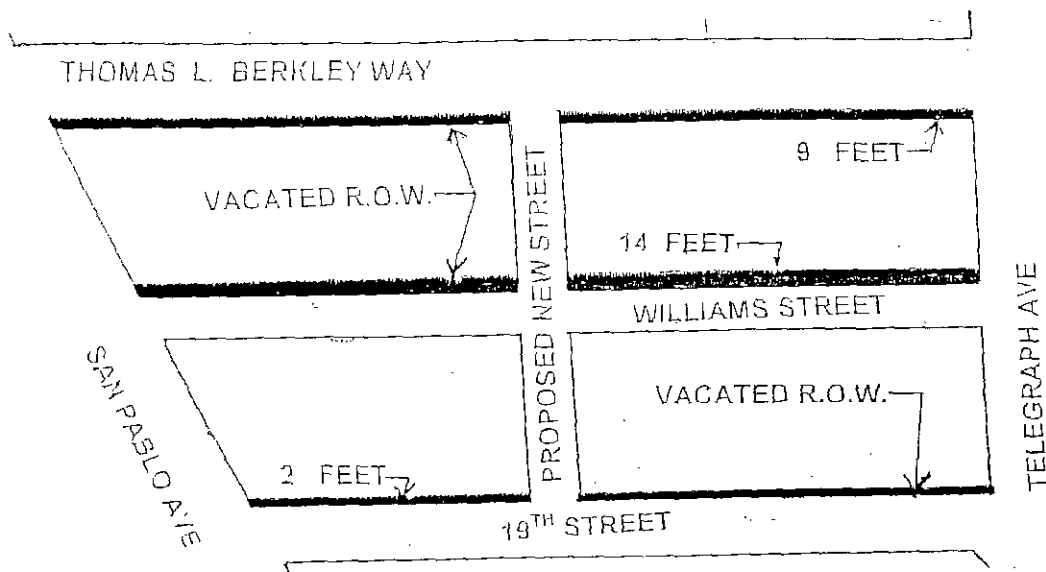
Public Notifications Of A Public Hearing On Proposed Street Vacations For The Uptown Oakland Mixed-Use Redevelopment Project Street



Community & Economic Development Agency
Building Services Division
Dalyel Administration Building
250 Ogawa Plaza - 2nd Floor
Oakland, CA 94612

PUBLIC NOTICE

PUBLIC HEARING ON PROPOSED STREET VACATIONS



Pursuant to California Streets and Highways Code Section 8320 et seq., notice is given to the public that the Council of the City of Oakland intends to conditionally vacate portions of Thomas L. Berkley Way, Williams Street, and 19th Street for use by the Uptown Oakland mixed use redevelopment project and to quit claim the underlying fee interest in the proposed vacation to the Oakland Redevelopment Agency.

Notice is also given to the public that the Council of the City of Oakland will hold a hearing to receive evidence supporting and public comments for the proposed conditional vacation in the Chamber of the City Council, on the Third Floor of City Hall, at One Frank H. Ogawa Plaza, in Oakland, California, on June 7, 2005, at 7:01 p.m. local time.

It is a misdemeanor to deface or to remove this posting. Violators are subject to a fine of \$1,000 and a jail sentence of 6 months.

Exhibit C

Public Notifications Of A Public Hearing On Proposed Street Vacations For The Uptown Oakland Mixed-Use Redevelopment Project Street

PUBLIC NOTICE

Public Hearing for Partial Vacations of Public Streets

Pursuant to California Streets and Highways Code section 8320 et seq., the Council of the City of Oakland will hold a public hearing in the Chamber of the City Council, Third Floor of City Hall, at One Frank H. Ogawa Plaza, in Oakland, California, on June 7, 2005, at 7:01 p.m. local time to receive evidence supporting and public comments for a proposed ordinance conditionally vacating portions of the rights-of-way along Thomas L. Berkley Way, Williams Street, and 19th Street for the Uptown Oakland mixed use redevelopment project and quit claiming the underlying fee interest in the public rights-of-way proposed for vacation to the Oakland Redevelopment Agency without valuable consideration to the City. A map fully delineating the proposed vacations is available at the City of Oakland, Building Services Division, Dalziel Administration Building, Second Floor, 250 Frank H. Ogawa Plaza, Oakland, CA 94612.

The Oakland Tribune, #500382

April 25,

May 2, 2005

FICTITIOUS PUBLIC NOTICE

NOTICE AND DIGEST

ORDINANCE CONDITIONALLY VACATING PORTIONS OF THOMAS L. BERKLEY WAY, WILLIAMS STREET, AND 19th STREET BETWEEN SAN PABLO AVENUE AND TELEGRAPH AVENUE FOR THE UPTOWN OAKLAND MIXED USE REDEVELOPMENT PROJECT AND QUIT CLAIMING THE UNDERLYING FEE INTERESTS IN THE VACATED RIGHTS-OF-WAY TO THE OAKLAND REDEVELOPMENT AGENCY

This ordinance would conditionally vacate narrower lengths of the public right-of-way along the south side of Thomas L. Berkley Way (formerly 20th Street), the north side of Williams Street, and the south side of 19th Street to be incorporated into land area for the Uptown Oakland residential/ commercial construction project, and would quit claim the underlying fee interests, which are owned by the City, to the Oakland Redevelopment Agency for no cost.

Introduced by

Approved for Form and Legality

Councilmember

Farimah Faiz

City Attorney

OAKLAND CITY COUNCIL

Ordinance No. _____ C.M.S.

ORDINANCE CONDITIONALLY VACATING PORTIONS OF THOMAS L. BERKLEY WAY, WILLIAMS STREET, AND 19th STREET BETWEEN SAN PABLO AVENUE AND TELEGRAPH AVENUE FOR THE UPTOWN OAKLAND MIXED USE REDEVELOPMENT PROJECT AND QUIT CLAIMING THE UNDERLYING FEE INTERESTS IN THE VACATED RIGHTS-OF-WAY TO THE OAKLAND REDEVELOPMENT AGENCY

Whereas, pursuant to the California Streets and Highways Code, a hearing has been held in the Chamber of the City Council, on the Third Floor of City Hall, at One Frank H. Ogawa Plaza, in Oakland, California, on June 7, 2005, at 7:01 p.m. local time to receive supporting evidence and public comments for a proposed ordinance conditionally vacating portions of the public rights-of-way along Thomas L. Berkley Way, Williams Street, and 19th Street and quit claiming the underlying fee interest in the vacated public rights-of-way to the Oakland Redevelopment Agency without valuable consideration to the City of Oakland; and

Whereas, pursuant to the California Streets and Highways Code, Government Code, and Public Resources Code, the Council of the City of Oakland (City) has previously made the following findings by Resolution:

- the proposed vacation conforms with the City's adopted General Plan, and
- the proposed vacation does not require dedication of public easements, and
- the location and extent of the proposed vacation was properly noticed to the public, and
- the City owns the underlying fee interest in the public rights-or-way proposed to be vacated, and
- the proposed vacation is categorically exempted from the California Environmental Quality Act, and
- the proposed vacation does not limit public use or impede public access for non-motorized transportation, and
- the proposed vacation will not increase traffic and pedestrian inconvenience nor decrease traffic and pedestrian safety, and
- the hearing to receive supporting evidence and public comments for the proposed vacation and the proposed quit claim was properly noticed to the public; and

Whereas, the Oakland Redevelopment Agency (ORA) has determined that occupancy by privately owned buildings and privately maintained infrastructure of the portions of the public rights-of-way proposed for vacation is essential and the minimum area and dimensions necessary for the development of the Uptown Oakland Mixed Use redevelopment project (Uptown project); and

Whereas, ORA has therefore requested that the City vacate portions of the public rights-of-way along the south side of Thomas L. Berkley Way, the north side of Williams Street, and the north side of 19th Street to facilitate construction of the Uptown project; and

Whereas, ORA has further requested that the City quit claim the underlying fee interest in the vacated public rights-of-way to ORA without valuable consideration to the City; and

Whereas, ORA, the developer, and the Community and Economic Development Agency have proposed a Planned Unit Development land entitlement for the Uptown project that includes occupancy of portions of the public rights-of-way proposed for vacation; and

Whereas, occupancy by the Uptown project of portions of the public rights-of-way proposed for vacation could not be accomplished by alternative methods, measures, or mechanisms; and

Whereas, ORA is continuing to acquire by negotiation and eminent domain proceedings the real properties that abut the proposed vacation along Thomas L. Berkley Way, Williams Street, and 19th Street; and

Whereas, the long-term agreement between ORA and the private developer of the Uptown project, Forest City, will continue to vest ownership with ORA of the public rights-of-way proposed for vacation; and

Whereas, ORA will irrevocably offer for dedication to the City portions of the abutting real properties along the south side of Williams Street to replace public rights-of-way along the north side of Williams Street vacated by the City and will further irrevocably offer for dedication a new street connecting Thomas L. Berkley Way, Williams Street, and 19th Street; and

Whereas, Forest City will construct at no additional expense to the City replacement public infrastructure improvements, including underground utilities, street pavement, sidewalk, curb, and gutter, that will be removed from the vacated right-of-way during construction of the Uptown project; and

Whereas, a map describing and delineating the portions of the public rights-of-way proposed for vacation is attached hereto as Exhibit A; and

Whereas, the City may apply conditions for the vacation of public right-of-way and may instruct the City Clerk not to record a vacation until the conditions have been satisfied.

Now, therefore, the Council of the City of Oakland does ordain as follows:

Ordained, that the conditional vacation of portions of the public rights-of-way along the south side of Thomas L. Berkley Way, the north side of Williams Street, and the north side of 19th Street, as delineated in the attached Exhibit A, is hereby ordered; and be it further

Ordained, that a quit claim of the underlying fee interest in the vacated public rights-of-way to ORA without valuable consideration to the City is hereby ordered; and be it further

Ordained, that the City Clerk shall not file this order of vacation nor the quit claim for recordation with the Alameda County Recorder's Office unless and until the Planning Commission has approved the Vesting Tentative Map for subdivision of the Uptown project; and be it further

Ordained, that this order of vacation and the quit claim shall expire by limitation and become void should the Final Map for subdivision of the Uptown project not be approved by the Council within two years following the date of their recordation by the Alameda County Recorder; and be it further

Ordained, that this order of vacation and the quit claim shall become void should the replacement public infrastructure improvements not be fully constructed and accepted by the City within five years following the date of their recordation; and be it further

Ordained, that the City Administrator, or his or her designee, may extend the expiration of this order of vacation and the quit claim upon demonstration of good cause by the Oakland Redevelopment Agency; and be it further

Ordained, that reversion of the underlying fee interest in the vacated public rights-of-way from ORA to the City shall be without valuable consideration to ORA.

IN COUNCIL, OAKLAND, CALIFORNIA, _____, 2005

PASSED BY THE FOLLOWING VOTE:

AYES - BROOKS, BRUNNER, CHANG, NADEL, QUAN, REID, and PRESIDENT DE LA FUENTE

NOES -

ABSENT -

ABSTENTION -

ATTEST: _____
LATONDA SIMMONS
Interim City Clerk and Clerk of the
Council of the City of Oakland, California