

OFFICE OF THE CITY ATTORNEY
OAKLAND
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Approved as to Form and Legality


Office of the City Attorney

OAKLAND CITY COUNCIL

RESOLUTION NO. 86862 C.M.S.

INTRODUCED BY VICE MAYOR ANNIE CAMPBELL WASHINGTON

RESOLUTION REQUESTING THE CITY PLANNING COMMISSION TO CONSIDER ZONING REGULATION CHANGES TO THE CN-1 NEIGHBORHOOD COMMERCIAL CN – 1 ZONE TO ALLOW THE CITY TO DEEM A USE PERMIT TO BE ABANDONED IF THE USE HAS BEEN DISCONTINUED OR IF THE BUSINESS LICENSE LAPSES FOR MORE THAN ONE YEAR.

WHEREAS, the City of Oakland's business districts strive to create the most diverse set of businesses, providing opportunities for residents to get all of their shopping needs met in single areas, helping to make neighborhoods more walkable; and

WHEREAS, several of Oakland's business districts include properties that are located in the CN-1 Neighborhood Commercial – 1 Zone, a label which establishes which set of regulations apply to that specific business district; and

WHEREAS, the intent of the CN-1 Zone is to maintain and enhance vibrant commercial districts with a wide range of retail establishments serving both short and long term needs in attractive settings oriented to pedestrian comparison shopping; and

WHEREAS, CN-1 zoning regulations currently allow properties that obtain conditional use permits to continue to hold onto the use for which the permit was granted, even when the use has been abandoned or discontinued for long periods of time, preventing new types of businesses to begin using that space for an alternate use; and

WHEREAS, the City seeks to stimulate the economic viability of, encourage new business types in, and advance the pedestrian access throughout the City's business districts; and

WHEREAS, the City Council requests that the City Planning Commission initiate action to change the text of the zoning regulations for the CN-1 Neighborhood Commercial – 1 Zone to allow the City to deem a conditional use permit to be

abandoned if the use has been discontinued or if the business license lapses for more than one year; and

WHEREAS, the purpose of the proposed amendments to the CN-1 zoning regulations is to revitalize Oakland's business districts and enhance mixed use neighborhood commercial centers by enabling new types of businesses to replace uses that have been abandoned or discontinued; and

WHEREAS, Chapter 17.144 of the Oakland Planning Code sets forth the Rezoning and Law Change Procedure, and describes the procedure by which changes may be made in the text of the citywide zoning regulations; and

WHEREAS, Oakland Planning Code section 17.144.030 provides that, upon request of the City Council, the City Planning Commission shall initiate action to change the text of the zoning regulations; now, therefore, be it

RESOLVED: That, in accordance with Oakland Planning Code section 17.144.030, the City Council requests the City Planning Commission to initiate action to change the text of the CN-1 Neighborhood Commercial – 1 zoning regulations to allow the City to deem that a conditional use permit has been abandoned if the use has been discontinued or if the business license lapses for more than one year; and be it

FURTHER RESOLVED: That the City Planning Commission shall consider adopting the following addition to Chapter 17.33 of the Planning Code:

In the CN-1 Zone, in addition to the conditional use permit procedures set forth in Chapter 17.134, the following special provisions shall apply to use permits granted subject to note L4 of table 17.33.01. These provisions shall take precedence over any conflicting provision of Chapter 17.134.

1. Any use permit granted pursuant to this provision shall run with the land and remain valid regardless of a change in the ownership of the property or the use.
2. A use for which a use permit has been granted pursuant to this provision shall be deemed abandoned if either of the following occurs:
 - a. The business license for the use has expired for a period of at least one year; or
 - b. Either:
 - (1) The use for which the use permit was granted has ceased operation; or
 - (2) Other evidence is provided to the City that is found sufficient to show the intent of the permit holder to abandon the use;

- c. And the discontinuance of use has lasted for a continuous period of at least one year.
3. The City shall serve written notice of the apparent abandonment of the holder of the use permit and the property owner at their address of record, along with a copy of this subsection. The one-year period for being deemed abandoned shall not commence until the date notice is served to both individuals (if the two are not the same individual).
 4. At any time during the one year period, the use permit holder and/or property owner may, by renewal of the business license and/or submission to the City of other evidence, submit a request that the City find the use has not been abandoned, or may request an extension of the one-year period for a maximum of one additional year based on a showing of good cause.
 5. Upon receipt of such request from the permit holder, the City shall establish an administrative process with public notice provided upon each administrative decision. This decision is appealable by residents who disagree. The fee for this appeal shall be the same as the current appeal fee in the Master Fee Schedule. The use permit shall continue in effect until the request has been administratively processed and a final decision has been made.
 6. If a use has been deemed abandoned, it may not be resumed without following the procedures of Chapter 17.134 for issuance of a new use permit; and be it

FURTHER RESOLVED: That the City Council wishes to consider legislation within calendar year 2016 that either adds the above described recommended language to the Planning Code or achieves this Resolution's stated goals by similar means.

IN COUNCIL, OAKLAND, CALIFORNIA,

PASSED BY THE FOLLOWING VOTE: SEP 20 2015

AYES - BROOKS, CAMPBELL WASHINGTON, GALLO, GUILLEN, KALB, KAPLAN, ~~REID~~ AND PRESIDENT GIBSON MCELHANEY - 7

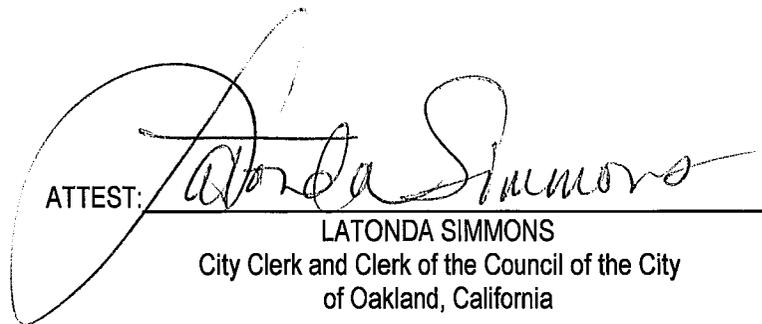
NOES - 0

ABSENT - 0

ABSTENTION - 0

Excused - Reed

ATTEST:


 LATONDA SIMMONS
 City Clerk and Clerk of the Council of the City
 of Oakland, California