

Introduced by

Approved for Form and Legality
OFFICE OF THE CITY CLERK

Fanmah Faiz

Councilmember

2005 MAY 13 PM 4:13
City Attorney

OAKLAND CITY COUNCIL

Resolution No. 79279 C.M.S.

RESOLUTION ADOPTING FINDINGS AND SETTING A HEARING TO RECEIVE SUPPORTING EVIDENCE AND PUBLIC COMMENTS ON A PROPOSED CONDITIONAL VACATION OF 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 A PROPOSED QUIT CLAIM TO THE OAKLAND REDEVELOPMENT AGENCY OF THE UNDERLYING FEE INTERESTS IN THE VACATED RIGHTS-OF-WAY

Whereas, the Community and Economic Development Agency (CEDA) of the City of Oakland (City) has determined with reasonable certainty from a thorough examination of the available historical public records that the public rights-of-way of Thomas L. Berkley Way (formerly 20th Street and Degler Street), Williams Street (formerly 19th Street), and 19th Street (formerly Frederick Street) between San Pablo Avenue and Telegraph Avenue were used as public streets before the abutting real property was originally divided as part of the Hogan Tract subdivision in 1876; and

Whereas, CEDA has determined with reasonable certainty from a thorough examination of the available historical public records that public rights-of-way were not offered for dedication to the City as part of original division of the abutting real property by the Hogan Tract subdivision in 1876; and

Whereas, CEDA has therefore determined with reasonable certainty that the City owns the underlying fee interest in the public rights-of-way of Thomas L. Berkley Way, Williams Street, and 19th Street between San Pablo Avenue and Telegraph Avenue; and

Whereas, the Oakland Redevelopment Agency (ORA) has acquired and is continuing to acquire by negotiation and eminent domain proceedings, as prescribed by state and federal statutes, the abutting real properties bounded by 19th Street, San Pablo Avenue, Thomas L. Berkley Way, Telegraph Avenue, and Williams Street for construction of the Uptown Oakland Mixed-Use redevelopment project (Uptown project); and

Whereas, ORA has entered into a long-term redevelopment agreement with the private developer of the Uptown project, Forest City, to construct privately owned buildings and appurtenant privately maintained infrastructure on these abutting real properties; and

Whereas, the Planning Commission of the City of Oakland will determine at its scheduled meeting on June 1, 2005, in a public hearing for an application by the Uptown project for a Planned Unit Development whether the proposed vacations of portions of Thomas L. Berkley Way, Williams Street, and 19th Street conform with the adopted General Plan of the City of Oakland; and

Whereas, ORA has determined the development of the Uptown project will necessitate that portions of the abutting public rights-of-way along Thomas L. Berkley Way, Williams Street, and 19th Street be occupied by these privately owned buildings and appurtenant privately maintained infrastructure; and

Whereas, pursuant to California Streets and Highways Code Sections 8312 and 8355, ORA has 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, as delineated in the attached Exhibit A; 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, pursuant to the real property subdivision provisions of California Government Code Section 66475 and Oakland Municipal Code Chapter 16.20, ORA will irrevocably offer for dedication to the City portions of the abutting real properties along the south side of Williams Street to replace contiguous public right-of-way vacated by the City in order to retain safe traveled widths of the traffic lanes for private vehicles and public transit and the sidewalk for pedestrians; and

Whereas, pursuant to Oakland Municipal Code Chapter 16.20, the private developer will construct at no additional expense to the City replacement public infrastructure improvements, including new 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, the Public Works Agency of the City has concurred that the reconfigurations in the traveled widths of the existing traffic lanes along Thomas L. Berkley Way, Williams Street, and 19th Street resulting from the vacation of these public rights-of-way will not impede the safe flow of traffic and the safe access by pedestrians, as delineated in the attached Exhibit B; and

Whereas, pursuant to Guidelines Section 15301 – Class I of the California Environmental Quality Act, CEDA has determined that the vacation of these public rights-of-way is categorically exempted; and

Whereas, pursuant to California Streets and Highways Code Sections 8317, 8322, and 8323, facsimiles of the newspaper publication and public posting and an affidavit are attached as Exhibit C confirming that CEDA has completed the statutory requirements for notifying the public of the City's intention to vacate portions of these public rights-of-way and of the public hearing to receive supporting evidence and public comments for the proposed vacation; and

Whereas, pursuant to California Streets and Highways Code Section 8313 and Government Code Section 65402, the Planning Commission of the City has determined that there is no map or diagram nor any expressed policies or provisions preventing the vacation of these portions of public rights-of-way and that the location, purpose, and extent of the vacation therefore conforms with the City's adopted General Plan; and

Whereas, pursuant to California Streets and Highways Code Section 8348, CEDA has notified the serving public utilities and has determined from their written responses that dedication of public easements in the vacated portions of the public rights-of-way to maintain, operate, replace, remove or renew their existing works is not required for public convenience and necessity; and

Whereas, pursuant to California Streets and Highways Code Section 892, CEDA has determined that vacation of portions of the public rights-of-way will not limit public use of or impede public access for non-motorized transportation; and

Whereas, pursuant to California Streets and Highways Code Section 8320, a map may be used to describe fully the portions of public streets to be vacated; and

Whereas, pursuant to California Streets and Highways Code Section 8324, 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 resolve as follows:

Resolved, that the City of Oakland owns the underlying fee interest in Thomas L. Berkley Way, Williams Street, and 19th Street; and be it further

Resolved, that a map is attached hereto as Exhibit A that fully describes and delineates the portions of the public streets proposed for vacation; and it is further

Resolved, that upon determination by the Planning Commission of conformance with the City's adopted General Plan, the proposed vacations of these portions of public rights-of-way will so conform; and be it further

Resolved, that the proposed vacation of these portions of public rights-of-way is categorically exempted from the requirements of the California Environmental Quality Act; and be it further

Resolved, that dedication of public easements to maintain, operate, replace, remove or renew existing works within the proposed portions of the public rights-of-way proposed for vacation is not required for public convenience or necessity; and be it further

Resolved, that the reconfigured traffic lanes and sidewalks resulting from the proposed vacation and companion dedication of public rights-of-way, as delineated in the attached Exhibit B, and proposed reconstruction of replacement public improvements will not increase the inconvenience of the public or decrease the safety of motorized and non-motorized vehicles and pedestrians, and be it further

Resolved, that the proposed vacation of portions of the public rights-of-way does not limit public use of or impede public access for non-motorized transportation; and be it further

Resolved, that the statutory requirements for conspicuous site posting of the proposed vacation and newspaper publication of the pending public hearing of the proposed vacation have been completed; and be it further

Resolved, that a hearing to receive supporting evidence and public comments for a proposed ordinance that would conditionally vacate portions of the public rights-of-way along Thomas L. Berkley Way, Williams Street, and 19th Street and would quit claim the underlying fee interest in the public rights-of-way proposed for vacation to the Oakland Redevelopment Agency without valuable consideration to the City will occur in the Chamber of the City Council, Third Floor of City Hall, at One Frank Ogawa Plaza, in Oakland, California, on June 21, 2005, at 7:01 p.m. local time.

IN COUNCIL, OAKLAND, CALIFORNIA, JUN 07 2005, 2005

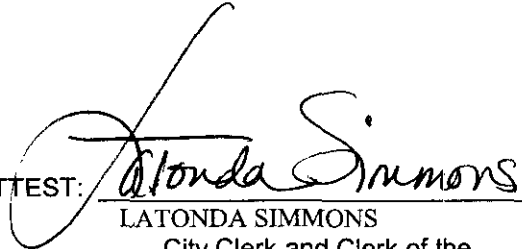
PASSED BY THE FOLLOWING VOTE:

AYES - BROOKS, BRUNNER, CHANG, NADEL, QUAN, REID, ~~AND~~ PRESIDENT DE LA FUENTE,
 AND KERNIGHAN - 8

NOES - 0

ABSENT - 0

ABSTENTION - 0

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