

Introduced by

Councilmember

OFFICE OF THE CITY CLERK
Approved for Form and Legality
OAKLAND

Forw
2005 MAY 13 PM 4:13
City Attorney

OAKLAND CITY COUNCIL

Ordinance No. 12687 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, JUL 19 2005, 2005


PASSED BY THE FOLLOWING VOTE:

AYES - ~~BROOKS~~, BRUNNER, CHANG, KERNIGHAN, NADEL,
REID, QUAN, AND PRESIDENT DE LA FUENTE - 7

NOES - \emptyset

ABSENT - \emptyset

ABSTENTION - BROOKS - 1

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

Introduction Date: JUN 21 2005