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APPROVED AS TO FORM AND LEGALITY

  
OFFICE OF THE CITY ATTORNEY

## OAKLAND CITY COUNCIL

**ORDINANCE NO. \_\_\_\_\_ C.M.S.**

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**ORDINANCE, AS RECOMMENDED BY THE CITY PLANNING COMMISSION, AMENDING: 1) THE OAKLAND ZONING AND HEIGHT AREA MAPS TO (A) MAKE MAP AND HEIGHT DESIGNATION CHANGES FOR THE 3RD TO 7TH STREET AREAS BETWEEN WEST OAKLAND BART AND DOWNTOWN; (B) MAKE MAP DESIGNATION CHANGES FOR THE WEST SIDE OF MANDELA PARKWAY FROM 17TH TO 8TH ST., FOR THE 8TH ST. CORRIDOR FROM MANDELA TO WOOD, AND FOR THE PERALTA/LEWIS/5TH ST. TRIANGLE; (C) MAKE A MAP DESIGNATION CHANGE FOR A PORTION OF ADELINE STREET BETWEEN 18TH AND 19TH; (D) BRING THE REAR PORTION OF THE LOT AT SAN PABLO AVENUE AND 33RD STREET INTO ADJACENT RU-5 ZONE AND 60 FT. HEIGHT AREA; AND (E) MAKE MAP DESIGNATION CHANGES FOR THE WOOD STREET ZONE TO CONVERT DEVELOPMENT AREAS 1-9 INTO NINE SEPARATE ZONING DISTRICTS; AND 2) THE OAKLAND PLANNING CODE TO MOVE THE DEVELOPMENT STANDARDS SUMMARY TABLE FOR WOOD STREET INTO THE D-WS WOOD STREET DISTRICT ZONE CHAPTER (17.101A) AND MAKE MINOR REVISIONS; AND MAKE APPROPRIATE CALIFORNIA ENVIRONMENTAL QUALITY ACT DETERMINATIONS**

**WHEREAS**, in March of 1998, the City adopted the Land Use and Transportation Element (LUTE) of the Oakland General Plan, which contains policies calling for a more user-friendly and easier-to-interpret Planning Code. To comply with this directive, the Bureau of Planning undertakes a periodic update or “clean-up” of the Planning Code to improve consistency, reduce redundancies, and simplify language in key chapters of the Planning Code. In addition, Planning Staff occasionally take note of certain Code Sections, as well as of certain Zoning and Height Area map designations, that are in need of reconsideration, so these provisions are also brought forward for a potential change during a periodic update; and

**WHEREAS**, on January 18, 2017, the City Planning Commission conducted a public hearing to consider various proposed amendments to the Oakland Planning Code intended to facilitate the construction of needed housing units, especially what is sometimes called “missing middle” housing. In addition, several amendments were proposed to the Zoning and Height Area Maps in West Oakland to: a) encourage more retail and other neighborhood-serving ground floor uses along Mandela Parkway, 8th, and 5th Streets; b) support the further rejuvenation of 7th

Street; c) attract more industrial development to the 3rd Street corridor and away from residential neighborhoods; and d) facilitate the construction of much needed housing; and

**WHEREAS**, at the January 18, 2017 hearing, the Planning Commission recommended that the proposed Zoning and Height Area Map changes in West Oakland and amendments to the D-WS Wood Street District Zone Regulations (Chapter 17.101A) be forwarded to the City Council for consideration. The Commission took no action on the other proposed Planning Code amendments at the January 18, 2017 hearing, and instead asked that they come back before the Commission at some future date after staff has completed additional public outreach; and

**WHEREAS**, the Planning Code Text, Zoning Map, and Height Area amendments included in this Ordinance are consistent with the Planning Commission recommendation, and only include (1) West Oakland-focused Zoning Map and Height Area Changes, and (2) D-WS Wood Street Zone Planning Code Text Changes (Chapter 17.101A); and

**WHEREAS**, the City of Oakland's Strategic Planning Division staff has prepared the following Planning Code Text, Zoning Map, and Height Area amendments to: (1) make Zoning Map and Height designation changes for the 3rd to 7th Street areas between West Oakland BART and Downtown; (2) make Zoning Map designation changes for the west side of Mandela Parkway from 17th to 8th Street, for the 8th Street Corridor from Mandela Parkway to Wood Street, and for the Peralta/Lewis/5th St. triangle; (3) make a Zoning Map designation change for a portion of Adeline Street between 18th and 19th; (4) bring the rear portion of the property at San Pablo Avenue and 33rd Street into the adjacent RU-5 Zone and 60 ft. Height Area; (5) make Zoning Map designation changes for the Wood Street Zone to convert Development Areas 1 - 9 into nine separate zoning districts; and (6) move the Development Standards Summary Table For Wood Street into the D-WS Wood Street District Zone Chapter 17.101A in the Oakland Planning Code and make minor revisions in order to further promote the public's health, safety and/or general welfare; and

**WHEREAS**, after a duly noticed public meeting on April 11, 2017, the Community and Economic Development Committee voted to recommend the proposal to the City Council; and

**WHEREAS**, the City Council held a duly noticed public hearing on April 18, 2017 to consider the proposal, and all interested parties were provided an ample opportunity to participate in said hearing and express their views; and

**WHEREAS**, the proposed amendments to the Planning Code Text, Zoning Map, and Height Areas rely on the previous set of applicable CEQA documents including: the Coliseum Area Specific Plan EIR (2015); Broadway Valdez Specific Plan EIR (2014); West Oakland Specific Plan EIR (2014); Central Estuary Area Plan EIR (2013); Land Use and Transportation Element of the General Plan EIR (1998); the Oakland Estuary Policy Plan EIRs (1999, 2006) and Supplemental EIR (2013); the Redevelopment Area EIRs - West Oakland (2003), Central City East (2003), and Coliseum (1995); the 1998 Amendment to the Historic Preservation Element of the General Plan; the 2007-2014 Housing Element Final EIR (2010) and Addendum (2014); and various Redevelopment Plan Final EIRs (collectively, "Previous CEQA Documents"). No further environmental review is required under CEQA Guidelines Sections 15162 and 15163; and

**WHEREAS**, the Previous CEQA Documents provide analysis of the environmental impacts of the proposed amendments and support all levels of approval necessary to implement the Planning Code amendments; and

**WHEREAS**, the proposed amendments to the Planning Code Text, Zoning Map, and Height Areas would not result in any significant effect that has not already been analyzed in the Previous CEQA Documents, and there will be no significant environmental effects caused by the change that have not already been analyzed in the Previous CEQA Documents; and

**WHEREAS**, the City Council hereby finds and determines on the basis of substantial evidence in the record that none of the circumstances necessitating preparation of additional environmental review, as specified in CEQA and the CEQA Guidelines, including, without limitation, Public Resources Code Section 21166 and CEQA Guidelines Sections 15162 and 15163 are present in that (1) there are no substantial changes proposed in the project or the circumstances under which the project is undertaken that would require major revisions of the Previous CEQA Documents due to the involvement of new significant environmental effects or a substantial increase in the severity of previously identified significant effects; and (2) there is no “new information of substantial importance,” as defined in CEQA Guidelines Section 15162(a)(3); and

**WHEREAS**, each as a separate and independent basis, this action is exempt from CEQA pursuant to CEQA Guidelines Sections 15183 (projects consistent with General Plan and Zoning) and 15061(b)(3) (no significant effect on the environment); now, therefore,

**THE COUNCIL OF THE CITY OF OAKLAND DOES ORDAIN AS FOLLOWS:**

**Section 1.** The City Council finds and determines the foregoing recitals to be true and correct and an integral part of the City Council’s decision, and hereby adopts such recitals as findings.

**Section 2.** The City Council finds and determines the adoption of this Ordinance complies with the California Environmental Quality Act (“CEQA”), and relies on the Previous CEQA Documents. Further, the Council finds the adoption of this Ordinance is exempt, pursuant to CEQA Guidelines section 15183 (projects consistent with General Plan and Zoning) and 15061(b)(3) (general rule, no significant effect on the environment). Each of these provides a separate and independent basis for CEQA clearance and when viewed collectively provide an overall basis for CEQA clearance.

**Section 3.** The Environmental Review Officer shall file a Notice of Exemption/Notice of Determination, and an Environmental Declaration under the California Fish and Game Code (Section 711.4) with the County of Alameda.

**Section 4.** Title 17 of the Oakland Planning Code is hereby amended pursuant to *Exhibit A* attached hereto and incorporated by reference herein. Additions to Title 17 of the Oakland Planning Code are shown as underline and omissions are shown as ~~strike through~~.

**Section 5.** The Oakland Zoning and Heights Maps are hereby amended pursuant to *Exhibit B* attached hereto and incorporated by reference herein.

**Section 6.** This Ordinance shall be effective 10 days from the date of final passage by the City Council, but shall not apply to (a) building/construction related permits already issued and not yet expired, or (b) zoning applications approved by the City and not yet expired, or (c) zoning applications deemed complete by the City as of the date of final passage. However, zoning applications deemed complete by the City prior to the date of final passage of this Ordinance may be processed under provisions of these Planning Code amendments if the applicant chooses to do so.

**Section 7.** Nothing in this Ordinance shall be interpreted or applied so as to create any requirement, power, or duty in conflict with any federal or state law.

**Section 8.** If any section, subsection, sentence, clause or phrase of this Ordinance is held to be invalid or unconstitutional, the offending portion shall be severed and shall not affect the validity of the remaining portions which shall remain in full effect.

**Section 9.** This Ordinance serves the public interest and is necessary to protect the health, safety and/or general welfare of the citizens of Oakland, and is enacted pursuant to the City of Oakland’s general police powers, Section 106 of the Charter of the City of Oakland, and Article XI, Sections 5 and 7 of the California Constitution.

**Section 10.** The City Council hereby authorizes the City Administrator or designee to make non-substantive, technical conforming changes (essentially correction of typographical and clerical errors), prior to formal publication of the amendments in the Oakland Planning Code.

IN COUNCIL, OAKLAND, CALIFORNIA, \_\_\_\_\_

**PASSED BY THE FOLLOWING VOTE:**

AYES - BROOKS, CAMPBELL WASHINGTON, GALLO, GIBSON MCELHANEY, GUILLÉN, KALB, KAPLAN, AND PRESIDENT REID

NOES-

ABSENT-

ABSTENTION-

ATTEST: \_\_\_\_\_

LaTonda Simmons  
City Clerk and Clerk of the Council  
of the City of Oakland, California

DATE OF ATTESTATION: \_\_\_\_\_