

2006 JUN -9 PM 10:15

## OAKLAND CITY COUNCIL

ORDINANCE NO. 12758 C.M.S.

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### AN ORDINANCE ADOPTING THE PLANNED WATERFRONT ZONING DISTRICT (PWD-4) FOR THE OAK-TO-NINTH MIXED USE DEVELOPMENT PROJECT

**WHEREAS**, on May 28, 2004, in accordance with the California Environmental Quality Act ("CEQA"), City staff issued a Notice of Preparation stating the City's intent to prepare an Environmental Impact Report ("EIR") for the Oak to Ninth Avenue Mixed Use Development Project; and

**WHEREAS**, as part of the proposed Project, the applicant requested adoption of a new Planned Waterfront Zoning District (PWD-4) to allow for a residential, commercial, open space mixed use development on the Project site; and

**WHEREAS**, on September 1, 2005, the Draft EIR for the Project, SCH #2004062013, was released by the City for a 54-day public review and comment period and on September 28, 2005, October 12, 2005, and October 17, 2005, respectively, the Planning Commission, the Parks and Recreation Advisory Commission, and the Landmarks Preservation Advisory Board held public hearings to provide the public with additional opportunities to comment on the DEIR; and

**WHEREAS**, on December 3, 2005, the Planning Commission conducted a site visit to the Project site; and

**WHEREAS**, on February 1, 2006, the City released the Final EIR for the Project and on June 9, 2006 the City published an addendum to the Final EIR; and

**WHEREAS**, on February 8, 2006, the Parks and Recreation Advisory Commission, and, on January 9, 2006 and February 27, 2006, the Landmarks Preservation Advisory Board, held public hearings on the Project, and

**WHEREAS**, on December 14, 2005 and January 25, 2006, the Design Review Committee of the Planning Commission held public hearings on the Project; and

**WHEREAS**, on January 25, 2006, the Planning Commission held a public hearing to discuss the major environmental and policy issues pertaining to the Project; and

**WHEREAS**, on March 15, 2006, the Planning Commission held a public hearing on the Project and certified the EIR, adopted CEQA Findings and a Statement of Overriding Considerations, adopted a Mitigation Monitoring and Reporting Program, adopted General Findings, recommended adoption of General Plan Amendments, recommended adoption of amendments to the Central City East Redevelopment Area Plan and the Central District Urban

Renewal Plan, recommended adoption of an ordinance rezoning the Project site from M-40 and S-2/S-4 to Planned Waterfront Zoning District-4, Open Space-Region Serving Park, and S-2/S-4, recommended adoption of an ordinance adopting the Planned Waterfront District-4 zoning district, recommended adoption of a Development Agreement ordinance, approved a Preliminary Development Plan, approved Design Guidelines, approved a Vesting Tentative Subdivision Map, and adopted Conditions of Approval; and

**WHEREAS**, on March 15, 2006, the Planning Commission recommended that the City Council adopt the Planned Waterfront Zoning District-4 (PWD-4) Oak-to-Ninth Mixed Use Development Project; and

**WHEREAS**, the notice required by the Oakland Municipal Code section 17.144.060 has been given.

**WHEREAS**, an appeal of the Planning Commission actions was filed on March 24, 2006 by Arthur D. Levy on behalf of Oakland Heritage Alliance, Rajiv Bhatia, John Sutter, East Bay Bicycle Coalition, League of Women Voters of Oakland, Waterfront Action, Coalition of Advocates for Lake Merritt, and Sierra Club Northern Alameda County Regional group; and

**WHEREAS**, on March 28, 2006 the City Council and the Oakland Redevelopment Agency held a public Informational Workshop on the Project and the Project approvals; and

**WHEREAS**, the City Council and the Oakland Redevelopment Agency held a public hearing on June 20, 2006, which was noticed in accordance with legal requirements; and

**WHEREAS**, the appellants and all other interested parties were given the opportunity to participate in the public hearing through oral testimony and the submittal of written comments; and

**WHEREAS**, on June 20, 2006, the City Council fully reviewed, considered, and evaluated the Project EIR, all of the staff reports prepared for the Project including the attachments to the staff reports, public testimony, and all other documents and evidence in the public record on the Project and the appeal;

The Council of the City of Oakland does ordain as follows:

**SECTION 1.** The Planned Waterfront Zoning District (PWD-4) Oak-to-Ninth Mixed Use Development Project (attached as Attachment A) is hereby established.

**SECTION 2.** The City of Oakland's Zoning Code is hereby amended to include the Planned Waterfront Zoning District (PWD-4) Oak-to-Ninth Development Project as Chapter 17.

**SECTION 3.** This Ordinance is based in part on the findings set for the above, the CEQA Findings and Statement of Overriding Considerations Related to Approval of the Oak to Ninth Project, Mitigation Monitoring and Reporting Program, Conditions of Approval, and General Findings Related to Approval of the Oak to Ninth Project attached as Exhibits A-D and incorporated by this reference.

**SECTION 4:** Except as specifically set forth herein, this ordinance suspends and supersedes all conflicting resolutions, ordinance, plans, codes, laws and regulations.

**SECTION 5:** If any provision of this ordinance or application thereof to any person or circumstances is held invalid, the remainder of this ordinance and the application of provisions to other persons or circumstances shall not be affected thereby.

IN COUNCIL, OAKLAND CALIFORNIA, JUL 18 2006, 2006

PASSED BY THE FOLLOWING VOTE:

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

NOES - 0

ABSENT - 0

ABSENTION - 2 Brooks and Quan

Introduction Date: JUN 20 2006

ATTEST:

  
City Clerk and Clerk of the Council  
of the City of Oakland California

**AN ORDINANCE ADOPTING THE PLANNED WATERFRONT  
ZONING DISTRICT (PWD-4) FOR THE  
OAK-TO-NINTH MIXED USE DEVELOPMENT PROJECT**

**NOTICE AND DIGEST**

This Ordinance established the Planned Waterfront Zoning District (PWD-4). The Zoning Regulations and Standards for Development and Use of Property within the Planned Waterfront Zoning District are hereby adopted and attached to this Ordinance as Attachment A. The City of Oakland's Zoning Code is hereby amended to include Chapter 17.\_\_\_\_. , Planned Waterfront Zoning District and Zoning Regulations and Standards for Development and Use of Property within the Oak to Ninth Mixed Use Development Project.