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OAKLAND

2009 NOV -5 PM 4: 22

**To: Chair De La Fuente and Members of the Community and
Economic Development Committee**

**From: Council President Brunner, Councilmember Nadel and
Councilmember Quan**

Date: November 10, 2009

**Re: Item #8 Condominium Conversion - Municipal Code
Amendment**

In response to Councilmember Kernighan's proposal on condominium conversion, we are submitting a proposal that combines inclusionary zoning and condominium conversion.

We recommend that staff return with ordinances to implement the terms outlined in the following pages.

Item # 8
CED Committee
November 10, 2009

Brunner, Nadel, Qúan Condo Proposal 11-10-09	
Units Covered	<ul style="list-style-type: none"> Extend coverage to 2-4 unit buildings. Buildings in which 60% or more of the units are purchased by tenants or existing residents will be exempt from the cap, and the replacement unit requirement (or in-lieu fee). Owners must have owned for at least 5 years
Annual Cap on Conversions	<ul style="list-style-type: none"> 150 units per year A maximum of 150 units in one Council district over a 5 year period. <p>OR</p> <ul style="list-style-type: none"> The number of inclusionary units built in the previous year, whichever is higher
Replacement Rental Units	<ul style="list-style-type: none"> Maintain replacement requirement, but provide a conversion fee alternative. Previously built housing cannot be used as credit for replacement housing Conversion rights may only be generated by buildings that are offering permanent rental units. Publicly assisted units can't be counted Replacement units can never be converted to condos
Conversion Fee (in-lieu of replacement unit)	<p>20% of sales price</p> <p>Funds placed in Affordable Housing Trust Fund to be used for rental housing production, and tenant assistance programs.</p>
Exemptions from Cap	<p>Exempt if building owned as Tenants-in-Common and</p> <ul style="list-style-type: none"> two-thirds (2/3) of the units in the property have been occupied continuously by owners as tenants-in-common of the property as their principal place of residence for at least two years No rental unit on property was removed from the rental market by use of the Ellis Act nor were any of the units vacated by threatened use of the Ellis Act within five (5) years prior to the date of application for the conversion; <ul style="list-style-type: none"> Exempt if 80% of units purchased by tenants Exempt if units sold at 100% AMI or less <ul style="list-style-type: none"> Additional 100 units permitted citywide if located in census tracts with low ownership rates (<20%) and high concentrations of low/mod households (>40% of households with incomes <80% AMI)
Building Improvements Required	<p>Require seismic and energy efficiency upgrades</p> <p>Require code compliance to current standards at the time of conversion.</p>
Tenant Right to Purchase	Right of first refusal for tenants
Tenant Purchase Incentives	15% discount (not required for units already priced for 100% AMI)
Notification	6 months notification for tenants. Referral to housing rights organizations

	Brunner, Nadel, Quan Condo Proposal 11-10-09
Tenant Protections	<p>Lifetime Leases for all tenants</p> <ul style="list-style-type: none"> • The subdivider must offer a lifetime lease to each tenant for the unit in which that tenant resides. • The owner must agree that he or she will not separately sell any unit that is occupied by a tenant who has a lifetime lease, and such proscription on sale will run with the land and bind the subdivider and subsequent owners of the building, as long as any lifetime lease remains in effect. • The lease can only be terminated for a cause pursuant to Oakland or state law in which the tenant is at fault; • In the event that the unit ceases to be covered by Oakland's Rent Adjustment Ordinance, the agreement must provide that subsequent rent increases are limited to those under the Rent Adjustment Ordinance. • The lifetime lease may not be assigned nor sublet by the tenant without the express written consent of the subdivider. • The City will record a deed of trust against any unit in the subdivided property that is subject to a lifetime lease, and permitting release of the deed of trust whenever a tenant with a lifetime lease vacates voluntarily or evicted for cause <p>Relocation assistance of 6 months rent</p> <p>\$1000 moving expenses</p> <p>Referrals to listings of vacant, comparable, available rental units in the City of Oakland</p> <p>Prohibit any landlord retaliation against any tenant or household members of a tenant because of a tenant's use of any remedy provided in the Tenant Rights or Tenant Assistance program causing the tenant to involuntarily quit the premises.(constructive eviction).</p>
Impact and Cost of Building Improvements	<p>No rent increases allowed for an increase in debt service or for any capital improvement legally required for the conversion or undertaken primarily for the purpose of increasing the marketability of the property.</p> <p>No rent increase for Home Owners Association fees.</p> <p>No remodeling of interior without consent of continuing tenant</p> <p>Temporary replacement housing during construction for tenants who consent to interior remodeling.</p>
Ellis Act and Just Cause	<p>A building that is removed from the rental market shall not apply for condo conversion for at least 3 years from the date of the last tenant displacement.</p>
Enforcement	<p>Direct staff to create appropriate enforcement mechanisms</p> <p>Annual report to City Council including location and number of conversions, number of condos purchased by existing tenants or priced at 100% AMI, and tenant assistance provided.</p>

**Brunner, Nadel, Quan Proposal for Ownership Inclusionary Zoning
November 10, 2009**

Term	
Applicability	Projects with over 20 units of for-sale housing (defined as units for which there is a subdivision map)
Trigger Date	Applies to all projects that submit a complete planning application more than 1 year after passage. (Basically all projects in the pipeline are exempt)
Percentage of Units	15% if built on-site, 20% if built off-site
Ownership Target Incomes	At or Below 100% AMI (but pricing set at 35% of 110% AMI which can serve approx 85-100% AMI) Units should be affordable for 45 years for ownership units
In-Lieu Fee	Developer must elect to either <ul style="list-style-type: none"> a) provide 15% affordable ownership units or b) pay an in-lieu housing fee within 2 years of receiving final subdivision maps. <p>The in-lieu fee should be based on 20% of total units.</p> <p>The in lieu fees should be dedicated for affordable housing development for households at or below 60% AMI</p>
Mix & Timing of Units:	Inclusionary units should be built concurrent with the market rate units. Mix of affordable units by size (number of bedrooms) should be proportional to the market rate units.
Tracking and Enforcement	The City should track the implementation and outcomes of inclusionary zoning and strictly enforce it with penalties that are strong enough to dissuade non-compliance. See CEDA staff recommendations in 2006 draft ordinance.
Public Funding	Use of public affordable housing funds prohibited except for transit village projects and affordable projects funded under City NOFA.

2009 NOV -5 PM 5:48

CITY OF OAKLAND



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November 10, 2009

CITY COUNCIL COMMITTEE ON PUBLIC WORKS
Oakland, California

Chairperson and Members of the Committee:

Subject: Scheduling of Committee Meetings

In an effort to keep Committees informed of outstanding items to be reviewed, we will provide you with a list at each meeting. We would like your direction in scheduling these items, and any others you may know of, for Council Committee review.

Public Works Committee – 2nd and 4th Tuesday, 10:30 a.m.-12:00 p.m.; Hearing Room 1
Chair: Nadel; Committee Members: Brooks, Kaplan, Kernighan; Staff: William Uber,
Vitaly Troyan

December 1, 2009

1. A City Resolution Awarding A Construction Contract To Gallagher & Burk, Inc. For The 7th Street, West Oakland Transit Village Project From Union Street To Peralta Street (Project No. G313110) In Accord With The Project Plans And Specifications And Contractor's Bid In The Amount Of Three Million Two Hundred Seventeen Thousand Four Hundred Twenty Six Dollars (\$3,217,426.00) (09-0963)

An Agency Resolution Contributing And Allocating An Amount Not To Exceed Six Hundred Fifty Thousand Dollars (\$650,000.00) From The West Oakland Redevelopment Project To The City Of Oakland Under The Cooperation Agreement To Fund The Construction Of The 7th Street, West Oakland Transit Village Project (Project No. G313110); (09-0963-1)

A City Resolution Accepting And Appropriating A Contribution Of Redevelopment Agency Funds Under The Cooperation Agreement In An Amount Not To Exceed Six Hundred Fifty Thousand Dollars (\$650,000.00) For The Construction Of The 7th Street, West Oakland Transit Village Project (Project No. G313110); And (09-0963-2)

A Resolution Authorizing The City Administrator Or His Designee To Accept And Appropriate One Million Three Hundred Thousand Dollars (\$1,300,000.00) Of American Recovery And

Reinvestment Act Of 2009 (ARRA) Grant Funds For The 7th Street, West Oakland Transit Village Project (Project No. G313110); ((09-0963-3) PWC; from 11/05/09 Rules Comte)

2. Discussion And Possible Action On Draft Principles And Scope For A Citywide Parking Policy; ((09-0966) PWC; from 11/05/09 Rules Comte)
3. Adopt A Resolution Waiving The Competitive Request For Proposal/Qualification Process And Authorizing Amendment No. 4 To Increase The Professional Services Agreement With ELS Architecture And Urban Design For Construction Support Services For The East Oakland Sports Center Project For An Amount Not To Exceed Two Hundred Seventy-Five Thousand Dollars (\$275,000.00), Bringing The Total Contract Amount To Two Million Six Hundred Ninety-Seven Thousand Nine Hundred Eighty-Nine Dollars (\$2,697,989.00); ((09-0967) PWC; from 11/05/09 Rules Comte)
4. Adopt A Resolution Authorizing The City Administrator, Or Designee, To Award A Construction Contract For The Melrose Library Window Rehabilitation Project, In Accord With Specification No. P337310 And With The Contractor's Bid, To Rockridge Builders In The Amount Of One Hundred Thirty-Seven Thousand Six Hundred Eighty-Three Dollars (\$137,683.00); ((09-0968) PWC; from 11/05/09 Rules Comte)
5. Adopt A Resolution Authorizing The City Administrator, Or His Designee, To Award A Construction Contract For The Lion Creek Restoration Project To The Lowest Responsible Bidder/Contractor To Be Named Upon Successful Bidding Of The Project For An Amount Not To Exceed Eight Hundred Thousand Dollars (\$800,000.00), Or If All Bids Submitted Are Non-Responsive, To Reject All Bids, Waive Further Competitive Bidding Requirements, And Negotiate A Contract Within Budget, For An Amount Not To Exceed Eight Hundred Thousand Dollars (\$800,000.00); ((09-0996) PWC; from 11/05/09 Rules Comte)
6. Adopt The Following Pieces Of Legislation:
 - 1) A Resolution 1) Determining Unpaid Assessments For The City's Utility Underground Assessment District No. 2007-232, Piedmont Pines Phase 1; 2) Authorizing And Directing Payment Of Twenty Four Thousand Seven Hundred Thirty Seven Dollars And Thirty Six Cents (\$24,737.36) For Assessments On City Property; 3) Requesting County Auditor To Collect The Remaining Unpaid Assessments; And 4) Determining Annual Assessment For Administrative Costs And Making Determinations With Respect Thereto; And (09-0978)
 - 2) A Resolution 1) Providing For The Issuance Of Not To Exceed Three Million Eight Hundred Thirty Thousand Dollars (\$3,830,000) Of Improvement Bonds Pursuant To The Improvement Bond Act Of 1915 For Utility Underground Assessment District No. 2007-232, Piedmont Pines Phase 1; 2) Approving A Fiscal Agent Agreement; 3) Authorizing Services For The Bonds; 4) Approving A Bond Purchase Agreement And Sale Of The Bonds; 5) Approving Preliminary Official Statement; 6) Approving Continuing Disclosure Agreement; 7) Authorizing Contracting With A Firm To Assist With The Administration Of The Assessment District; And 8) Authorizing Related Actions; ((09-0978-1) PWC & FMC; from 11/05/09 Rules Comte)
7. Report And Recommendation On The United States Department Of Energy Competitive Energy Efficiency And Conservation Block Grant Retrofit Ramp-up Program Funding Opportunity Under The American Recovery And Reinvestment Act (Federal Government's "Stimulus Package"); (PWC; from 11/05/09 Rules Comte)

Report And Resolution To Join The CaliforniaFIRST Pilot Program Of The California Statewide Communities Development Authority To Make Property Tax-Based Financing Available To Oakland Property Owners For Energy Efficiency Improvements And Solar Power Generation Systems And Authorizing The City Administrator To Expend An Amount Up To Twenty Thousand Dollars (\$20,000.00) For Program Setup Fees; ((09-0177) PWC; from 11/05/09 Rules Comte)

8. Resolution Authorizing Quantum Energy Services and Technologies, Inc. (QuEST) To Apply For, And Administer Up To Five Million Dollars (\$5,000,000) Of Energy Efficiency Funding From Pacific Gas And Electric Company's Innovator Pilots Program On Behalf Of The City Of Oakland; And, If Funds Become Available To The City, Authorizing The City Administrator To Apply For, And Accept Program, Grant, Rebate, Or Incentive Funds; And Return to Council for Appropriation; (PWC; from 11/05/09 Rules Comte)

December 15, 2009

1. An Ordinance Amending Chapter 13.08 Of The Oakland Municipal Code To Require The Installation Of Sewage Overflow Valves When A Sewer Lateral Is Replaced Or Repaired; ((09-0946) PWC; from 10/29/09 Rules Comte)

Pending/No Specific Date

1. Informational Report From The Community And Economic Development Agency On Criteria For Selecting Locations For Traffic Signals (From 07-0591 Council 10-02-07)
2. Report From The Department Of Contracting And Purchasing On Policy Regarding The SLBE Requirements For Non-Profit Organizations. (07-1395 From PWC 06-10-08, Item 9)
3. Report From The Public Works Agency On The Litter Enforcement Program (07-1549 PWC 07-22-08)
4. Follow-Up Report From The Public Works Agency On The Mechanism To Assess An Administrative Penalty For Violators Of The Polystyrene Foam Food Service Ware Ordinance And A Review Of The Waste Water Stream Analysis (PWC 10-14-08, Item 3)
5. Follow-Up Report From The Public Works Agency On The Contract Award For The Professional Services Agreement To Implement Energy Savings Measures At The City's Five Swimming Pools Project No. C256516 (07-1632 PWC 10-14-08, Item 4)
6. Action On An Informational Report From Council Member Nadel Analyzing How Oakland And The Oakland Community Would Reduce Oil Consumption By 3% Annually If The Oil Depletion Protocol Were To Be Adopted As Recommended By The Oil Independent Oakland By 2020 Task Force (07-1769 Rules Comte 10-16-08)
7. Resolution From The Department Of Contracting And Purchasing Amending: A) Resolution No. 69687 CMS, Passed February 2, 1993, Authorizing The Local Employment Program, And B) Resolution No. 74762 CMS, Passed January 29, 1999, Authorizing A Pilot Apprenticeship Program, Both Of Which Require Contractors To Hire Oakland Residents To Implement Program Revisions (07-1831, Item 10-1); And

Ordinance Amending Ordinance No. 12388 CMS, Adopted December 18, 2001, To Authorize Revision Of The Local Employment And Apprenticeship Programs By Resolution (07-1831-1, Item 10-2 Cont'd From PWC 01-13-09)

8. Report On Other Cities Of Comparable Size That Are Charging For Impact Fees; And A Legal Analysis On The Use Of Impact Fees For Capital Projects; And The Addition Of Impact Fees To The State And Federal Legislative Agenda; And Information On Other Revenue Generating Fees That Do Not Fall Under New Developments (From 09-09-0230, PWC 05-26-09 Item 4)
9. Report On Other Grant Opportunities For Upgrading New Model Signal Traffic Controllers, And Existing Laws And Policies Concerning Corporate Sponsorships For Maintenance (From 09-0230, PWC 05-26-09, Item 4)
10. Report From The Community And Economic Development Agency On Options For Providing Citywide "On-Call Contracts" For Concrete Grinding With Inclusion Of The Possibilities Of Oakland Citizens Being Trained; 2) Local Hire Clauses; And 3) If The Contract Has To Be A Sole Source (From 09-0339, PWC 05-26-09, Item 8)
11. Informational Report On The Public Works Agency Fiscal Year 2009-2011 Proposed Performance Measures (From 09-0169 PWC 06-09-09, Item 5)
12. Informational Report From The Public Works Agency Director To Support And Facilitate Public Works Committee Discussion On Priorities For The Fiscal Year 2009-2011 Budget Cycle (From 09-0155 PWC 06-09-09, Item 4)
13. Report From The Community And Economic Development Agency On The Procedures For Council Members To Request The Renaming Of Streets (From PWC 06-09-09)
14. Receive A Follow Up Report On Public Works Committee Members' Request For More Information On The Percentage Of The General Fund Allocated To The Public Works Agency As Reported In The Public Works Agency Performance Audit (09-0577; PWC 09-29-09)
15. Receive An Informational Report On The Pacific Gas & Electric's Comprehensive Tree Pruning Program For Trees Under High Voltage Power Lines (09-0674; PWC 09-29-09)
16. Receive An Informational Report From The Public Works Agency Electrical Services Division On The Current Process For Prioritization Of Underground Utility Projects Within The City Of Oakland, With Discussion On The Current "First Come, First Served" Neighborhood Petition Procedure Process (09-0672; PWC 09-29-20-09)

For Tracking Purposes

1. Report From The Community And Economic Development Agency On The Concentration Of Utility Boxes From Different Companies In A Single Location (From 06-1141 PWC 02-27-07)
2. Report From The Community And Economic Development Agency On The Explanation Of Low Number Of Bids Received And Suggestions For Developing Techniques To Administratively Improve Local Business Participation (From 07-0661 PWC 10-24-07, Item 7)
3. Resolution From The Community And Economic Development Agency Granting Kaiser Foundation Hospitals Revocable And Conditional Permits For A New Building At 3701 Broadway To Allow Direction Signs To Encroach On The Public Sidewalk Along Broadway Encroachment (07-0548 Rules Comte 09-20-07 – Item Withdrawn From 09-25-07 PWC; Rules Comte 11-01-07; 11-15-07)

4. Progress Report From The Community And Economic Development Agency On The East Oakland Sports Center Project (Cont'd From 07-1887, PWC 01-27-09, Item 5)
5. Report And Discussion From The Community And Economic Development Agency On Transportation Demands Management Plan (PWC 01-27-09, Item 2 - Kaplan)
6. Follow-Up Report From The Community And Economic Development Agency On The Final Outcomes Of The Negotiations For The Peralta Hacienda Historical Park – Phase 3B Project (From 09-0273 PWC 04-29-09)
7. Follow-Up Report From The Public Works Agency On PG&E's Comprehensive Tree Pruning Program Wherever High Voltage Power Lines Are Located Above Street Trees (From 09-0155 PWC 04-29-09)

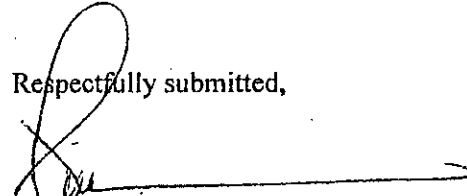
Semi-Annual Reports

1. Report On The 292 Recommendations From The Performance Audit Of The Public Works Agency (From 09-0230 PWC 05-26-09, Item 4)

Annual Reports

1. **Annual** - Report From The Community And Economic Development Agency On The Sidewalk Repair Revolving Fund (From 07-1025 PWC 03-11-08, Item 6)
2. **Annual** - Report From The Public Works Agency Director On The Public Works Agency's Performance Measures (Next Report Scheduled PWC 06-09-09 - 09-0169)
3. **Annual** - Progress Report From The Public Works Agency On Caltrans Maintenance Activities In The City Of Oakland (07-1830 PWC 12-16-08, Item 7)

Respectfully submitted,



For: Dan Lindheim
City Administrator