



City Attorney

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OAKLAND

OAKLAND CITY COUNCIL

2014 JUN 19 PM 5:15

RESOLUTION No. 85065 C.M.S.

Introduced by Councilmember _____

**A RESOLUTION, AS RECOMMENDED BY THE CITY PLANNING COMMISSION,
(A) CERTIFYING THE ENVIRONMENTAL IMPACT REPORT AND MAKING
RELATED CEQA FINDINGS; AND (B) ADOPTING THE BROADWAY VALDEZ
DISTRICT SPECIFIC PLAN AND RELATED GENERAL PLAN AMENDMENTS AND
DESIGN GUIDELINES**

WHEREAS, the Conley Consulting Group authored the Upper Broadway Strategy – A Component of the Oakland Retail Enhancement Plan in September 2007 as part of a citywide retail enhancement strategy to address \$1 billion in sales leakage to neighboring communities; and

WHEREAS, on November 3, 2008, the Oakland City Council adopted Resolution No. 81642 C.M.S. which authorized the City Administrator to enter into a Professional Services contract with Wallace Roberts & Todd LLC to prepare a Specific Plan and Environmental Impact Report for the Broadway Valdez District; and

WHEREAS, as part of the public outreach effort, seven community workshops were held between May 2009 and October 2013, as well as eight Community Stakeholder Group (CSG) meetings, four Technical Advisory Committee (TAC) meetings, and two combined SCG and TAC meetings; and

WHEREAS, the Broadway Valdez District Specific Plan (BVDSPP) includes (a) amendments to the 1998 General Plan to increase the allowable Floor Area Ratios and to update the land use map to accommodate compatible uses; (b) new design guidelines to ensure that future development contributes to the creation of an attractive, pedestrian-oriented district characterized by high quality design and a distinctive sense of place; and

WHEREAS, City Planning staff have proposed (a) four new Broadway Valdez District Commercial zones and one combining zone to replace the existing zoning in the area to implement the BVDSPP, as well as make changes associated to the new Broadway Valdez Commercial zones throughout the Planning Code, as well as related changes to the Zoning and Height Maps; (b) amendments to the Off-Street Parking and the Bicycle Parking Chapters of the Planning Code to have specific parking regulations for the Broadway Valdez District Commercial zones to implement the BVDSPP; and

WHEREAS, the Oakland Master Fee Schedule is proposed to be amended to add a Parking In-Lieu Fee and Open Space In-Lieu fee for the Broadway Valdez District Commercial D-BV zones for the Broadway Valdez District; and

WHEREAS, between October 2013 and December 2013, the Draft Specific Plan and Draft EIR, as well as General Plan Amendments, Zoning Maps, Height Area Maps, Draft Zoning Concepts, and Design Guidelines were presented to the full Planning Commission and various advisory boards, including the Zoning Update and Design Review Committees of the Planning Commission, the Landmarks Preservation Advisory Board, as well as the Bicycle and Pedestrian Advisory Committee, and Parks and Recreation Advisory Committee, each of which provided comments unique to their topic area. At that time, a complete draft of the proposed new Chapter 17.101C D-BV Broadway Valdez District Commercial Zones Regulations was only presented to the Zoning Update Committee at its December 11, 2013 meeting.

WHEREAS, on April 30, 2012, a Notice of Preparation of a Draft Environmental Impact Report (Draft EIR) for the BVDSP was published; and

WHEREAS, two duly noticed Draft EIR scoping hearings were held, one before the LPAB on May 14, 2012 and the second before the City Planning Commission on May 16, 2012, to receive comments on the scope and content of the Draft EIR for the BVDSP; and

WHEREAS, a Notice of Availability/Notice of Release of a Draft EIR was issued on September 20, 2013, along with publication of Draft EIR itself, both of which were made available to the public/governmental agencies for review and comment; and

WHEREAS, three duly noticed public hearings on the Draft EIR were held including: a LPAB public hearing on October 14, 2013, and two City of Oakland Planning Commission hearings on October 16, 2013 and on October 30, 2013; and

WHEREAS, on April 24, 2014, a Notice of Availability/Release of a Final EIR and Specific Plan was issued, and a Final EIR and Specific Plan were published on May 1, 2014, both of which were made available for public review and comment; and

WHEREAS, on May 12, 2014 a duly noticed public hearing was held before the LPAB to consider the Final Draft BVDSP, Related Documents and EIR and the LPAB recommended approval, with minor revisions; and

WHEREAS, on May 21, 2014 a duly noticed public hearing was held before the City Planning Commission to consider the Final Draft BVDSP, Related Documents and EIR; and

WHEREAS, the City Planning Commission, after conducting and closing the public hearing, (a) adopted the required California Environmental Quality Act (CEQA) findings, including certifying the EIR, rejecting alternatives as infeasible, and adopting a Statement of Overriding Considerations; (b) adopted the BVDSP Standard Conditions of Approval and Mitigation Monitoring Program (SCAMMRP); (c) recommended the City Council adopt, as revised at the Planning Commission, the BVDSP, new Design Guidelines and General Plan and Planning Code Amendments based, in part, upon the BVDSP Adoption Findings; and (d) recommended that City Council authorize the City Administrator or designee to make minor ongoing revisions to the adopted Design Guidelines (with major changes to be made by the Planning Commission) and ongoing revisions to Table 8.6 in Chapter 8 of the BVDSP, and to make non-substantive, technical conforming edits to the Planning Code that may have been overlooked in deleting old sections and cross-referencing new sections to the new Broadway Valdez District Commercial

Zones Regulations (which are essentially correction of typographical and/or clerical errors); and

WHEREAS, the BVDSP, Related Documents and EIR was considered at a regular, duly noticed, meeting of the Community and Economic Development Committee of the City Council on June 10, 2014, and the Committee recommended adoption of the Plan, and Related Documents; and

WHEREAS, the BVDSP, Related Documents and EIR were considered at a regular, duly noticed, public hearing of the City Council on June 17, 2014; now, therefore be it

RESOLVED, that the City Council, as the final decision-making body for the lead agency, has independently reviewed, considered and analyzed the BVDSP EIR and the CEQA findings of the City Planning Commission contained in the approved May 21, 2014, City Planning Commission Report; and be it

FURTHER RESOLVED, that the City Council, as the final decision-making body for the lead agency, hereby confirms, adopts and incorporates by reference into this Resolution (as if fully set forth herein) all the CEQA findings contained in the approved May 21, 2014, City Planning Commission Report prior to taking action in approving the BVDSP; and be it

FURTHER RESOLVED, that the City Council adopts and incorporates by reference into this Resolution (as if fully set forth herein), as conditions of approval of the BVDSP, the Standard Conditions of Approval and Mitigation Monitoring Program (SCAMMRP) contained in the approved May 21, 2014, City Planning Commission Report; and be it

FURTHER RESOLVED, that the City Council, hereby adopts the BVDSP and Design Guidelines, based, in part, upon the BVDSP Adoption Findings (incorporated by reference into this Resolution as if fully set forth herein); and further finds and determines that the public safety, health, convenience, comfort, prosperity and general welfare will be furthered by the adoption of the BVDSP; and be it

FURTHER RESOLVED, that the City Council hereby adopts the General Plan amendments as detailed in *Exhibit A* and *Exhibit B*, attached hereto and hereby incorporated by reference, based, in part, upon the BVDSP Adoption Findings (incorporated by reference into this Resolution as if fully set forth herein); and further finds and determines that the public safety, health, convenience, comfort, prosperity and general welfare will be furthered by the adoption of these amendments; and be it

FURTHER RESOLVED, that the City Council hereby authorizes the City Administrator or designee to make (1) minor ongoing revisions to the adopted Design Guidelines for the BVDSP consistent with the BVDSP, General Plan and Oakland Planning Code, but with major revisions to be made by the Planning Commission; (2) ongoing revisions to Table 8.6 in Chapter 8 of the BVDSP ("Action Plan"), to reflect changes in market conditions (e.g., what private development actually occurs) and the availability of City and other funding sources, which could potentially affect timeframes, responsibilities and potential funding mechanisms, without returning to the City Council or Planning Commission; and (3) non-substantive, technical conforming changes (essentially correction of typographical and clerical errors and minor clarifications) to the BVDSP prior to formal publication, without returning to the City Council or City Planning

Commission; and be it

FURTHER RESOLVED, that nothing in this Resolution shall be interpreted or applied so as to create any requirement, power, or duty in conflict with any federal or state law; and be it

FURTHER RESOLVED, that the provisions of this Resolution are severable. If a court of competent jurisdiction determines that a word, phrase, clause, sentence, paragraph, subsection, section, Chapter or other provision is invalid, or that the application of any part of the provision to any person or circumstance is invalid, the remaining provisions of this Resolution [that can be given effect without the invalid provision or application] and the application of those provisions to other persons or circumstances are not affected by that decision. The City Council declares that the City Council would have adopted this resolution irrespective of the invalidity of any particular portion of this Resolution; and be it

FURTHER RESOLVED, that the Environmental Review Officer, or designee, is directed to cause to be filed a Notice of Determination with the appropriate agencies; and be it

FURTHER RESOLVED, that the record before this Council relating to these actions include, without limitation, the following:

1. The BVDSP, Design Guidelines, General Plan and Planning Code Amendments including all accompanying maps, papers and appendices as well as Master Fee Schedule Amendments;
2. all final staff reports, final decision letters and other final documentation and information produced by or on behalf of the City, including without limitation the Environmental Impact Report and supporting technical studies and appendices, and all related/supporting final materials, and all final notices relating to the BVDSP and attendant hearings;
3. all oral and written evidence received by the LPAB, City Planning Commission and City Council during the public hearings on the BVDSP; and all written evidence received by the relevant City Staff before and during the public hearings on the BVDSP;
4. all matters of common knowledge and all official enactments and acts of the City, such as: (a) the General Plan; (b) Oakland Municipal Code, including, without limitation, the Oakland real estate regulations and Oakland Fire Code; (c) Oakland Planning Code; (d) other applicable City policies and regulations; and (e) all applicable state and federal laws, rules and regulations; and be it

FURTHER RESOLVED, that it is the intent of City Council that future adopted Citywide Impact Fees would apply to the BVDSP if the City Council so directs; and be it

FURTHER RESOLVED, that, should environmental and traffic analyses warrant, the City may require the installation of traffic calming measures as a condition of project approval; and be it

FURTHER RESOLVED, that the custodians and locations of the documents or other materials which constitute the record of proceedings upon which the City Council's decision is based, are respectively: (a) Planning and Building Department – Bureau of Planning, 250 Frank H. Ogawa Plaza, Suite 3315, Oakland, California; and (b) Office of the City Clerk, One Frank H. Ogawa Plaza, 1st Floor, Oakland California; and be it

FURTHER RESOLVED, that the recitals contained in this resolution are true and correct and are an integral part of the City Council's decision.

IN COUNCIL, OAKLAND, CALIFORNIA, JUN 17 2014

PASSED BY THE FOLLOWING VOTE:

AYES - ~~BROOKS~~, GALLO, GIBSON MCELHANEY, KALB, KAPLAN, REID, SCHAAF and PRESIDENT KERNIGHAN - 7

NOES - 0

ABSENT - 1 - BROOKS

ABSTENTION - 0

ATTEST:  LaTonda Simmons

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

DATE OF ATTESTATION: June 23, 2014

NOTICE & DIGEST

AN ORDINANCE, AS RECOMMENDED BY THE CITY PLANNING COMMISSION, AMENDING THE (A) OAKLAND PLANNING CODE TO CREATE THE D-BV BROADWAY VALDEZ DISTRICT COMMERCIAL ZONE REGULATIONS AND MAKE CONFORMING CHANGES TO OTHER PLANNING CODE SECTIONS, AS WELL AS ADOPTING ZONING AND HEIGHT AREA MAPS; AND (B) OAKLAND MASTER FEE SCHEDULE (ORDINANCE NO. 13184 C.M.S., AS AMENDED) TO ESTABLISH A PARKING IN LIEU FEE AND OPEN SPACE IN-LIEU FEE

This Ordinance creates (a) four new Broadway Valdez District Commercial zones and one combining zone to replace the existing zoning in the area to implement the Broadway Valdez District Specific Plan (BVDSP), as well as make changes associated to the new Broadway Valdez Commercial zones throughout the Planning Code, as well as related changes to the Zoning and Height Maps; (b) amends the Off-Street Parking and the Bicycle Parking Chapters of the Planning Code to have specific parking regulations for the Broadway Valdez District Commercial zones to implement the BVDSP; and (c) amends the Master Fee Schedule (Ordinance No. 13184 C.M.S., as amended) to establish a Parking In-Lieu fee and an Open Space In-Lieu fee for the Broadway Valdez District Commercial D-BV zones for the Broadway Valdez District

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