

INTRODUCED BY COUNCILMEMBER \_\_\_\_\_

\_\_\_\_\_  
City Attorney

## OAKLAND CITY COUNCIL

ORDINANCE No. \_\_\_\_\_ C.M.S.

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**AN ORDINANCE, AS RECOMMENDED BY THE CITY PLANNING COMMISSION, AMENDING THE OAKLAND PLANNING CODE TO CREATE THE COMMERCIAL INDUSTRIAL MIX CIX-1A BUSINESS ENHANCEMENT ZONE, COMMERCIAL INDUSTRIAL MIX CIX-1B LOW INTENSITY BUSINESS ZONE, COMMERCIAL INDUSTRIAL MIX CIX-1C HIGH INTENSITY BUSINESS ZONE, COMMERCIAL INDUSTRIAL MIX CIX-1D RETAIL COMMERCIAL MIX ZONE, HOUSING AND BUSINESS MIX HBX-4 ZONE, THE “T” COMBINING OVERLAY ZONE REGULATIONS, AND MAKE CONFORMING CHANGES TO OTHER PLANNING CODE SECTIONS, AS WELL AS MAPPING OF A ‘C’ (COMMERCIAL) OVERLAY FOR THE RM-2 ZONED PROPERTIES NEAR THE WEST OAKLAND BART STATION ALONG THE 5<sup>TH</sup> STREET AND CHESTER STREET FRONTAGE AREA, AND ADOPTING ZONING AND HEIGHT AREA MAPS.**

**WHEREAS**, on April 27, 2011 the City of Oakland issued a Request for Proposals to solicit a consulting team to prepare a West Oakland Specific Plan (WOSP) and associated Environmental Impact Report; and

**WHEREAS**, after a competitive bidding process the JRDV International consultant team was selected and the project was initiated; and

**WHEREAS**, the project commenced in July, 2011 and a Steering Committee and a Technical Advisory Committee was established to solicit public input on development of the West Oakland Specific Plan; and

**WHEREAS**, over the course of the project as part of the public outreach effort, twelve Steering Committee meetings, seven Technical Advisory Committee, ten joint Steering Committee and Technical Advisory Committee meetings, and six community workshops/meetings, were held to guide the development of the Specific Plan; and

**WHEREAS**, the West Oakland Specific Plan will be a 20- to 25-year planning document that provides a vision and planning framework for future growth and development within the Plan Area which is generally bounded by Interstate-580 (MacArthur Freeway) to the north, Interstate-980 to the east, and Interstate-880 (Nimitz Freeway) wrapping around the south and west with a

small portion of the Plan Area above I-880 in the East Bay Bridge Shopping Center and below I-880 along the 3rd Street corridor; and

**WHEREAS**, the West Oakland Specific Plan presents an extraordinary opportunity to guide West Oakland's future development in a land use direction that: (a) improves the quality of life for existing and future residents; (b) supports existing businesses and industry while encouraging new development, services and land uses that have significant job generation; (c) promotes Transit-Oriented Development (TOD) at the West Oakland BART Station; (d) encourages residential and commercial mixed-use development along major West Oakland corridors; (e) enhances and preserves West Oakland residential neighborhoods and historic resources; and (f) in recognition of considerable community concerns, offers strategies that minimize the impact of ongoing displacement and gentrification; and

**WHEREAS**, the West Oakland Specific Plan contains recommendations to meet the above-noted objectives and contains recommendations for addressing barriers to community and economic development; and

**WHEREAS**, the West Oakland Specific Plan supports the longstanding vision for West Oakland that contains increased employment opportunities, provides needed goods and services to local residents, supports abundant and affordable housing resources and facilitates sustainable development; and

**WHEREAS**, the West Oakland Specific Plan (WOSP) includes: (a) amendments to the Oakland General Plan to increase the allowable Floor Area Ratios and to update the land use map to accommodate compatible uses; (b) amendments to the 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) five new West Oakland zones and one combining zone to replace the existing zoning in the area to implement the West Oakland Specific Plan, as well as make changes associated to the new West Oakland zones throughout the Planning Code, as well as related changes to the Zoning and Height Maps; and

**WHEREAS**, three duly noticed public hearings on the Draft EIR were held including: a Landmarks Preservation Advisory Board (LPAB) public hearing on February 10, 2014, a City of Oakland Planning Commission hearing on February 24, 2014, and a Parks and Recreation Advisory Commission hearing on March 12, 2014; and

**WHEREAS**, on February 24, 2014, the Draft West Oakland Specific Plan and Draft EIR, as well as General Plan Amendments, Zoning Map, Height Area Map, Draft Zoning Concepts, and Design Guidelines were presented to the full Planning Commission and various advisory boards, including the Landmarks Preservation Advisory Board, as well as the Parks and Recreation Advisory Commission, each of which provided comments unique to their topic area; and

**WHEREAS**, on May 30, 2014, a Notice of Availability/Release of a Final EIR and West Oakland Specific Plan was issued, and a Final EIR and Specific Plan were published on May 30, 2014, both of which were made available for public review and comment; and

**WHEREAS**, on April 30, 2012, a Notice of Preparation of a Draft Environmental Impact Report (Draft EIR) for the West Oakland Specific Plan (WOSP) was published; and

**WHEREAS**, on June 9, 2014 a duly noticed public hearing was held before the LPAB to consider the Final Draft WOSP, Related Documents and EIR and the LPAB recommended approval, with minor revisions; and

**WHEREAS**, on June 11, 2014 a duly noticed public hearing was held before the City Planning Commission to consider the Final Draft WOSP, 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 West Oakland Specific Plan Standard Conditions of Approval and Mitigation Monitoring Program (SCAMMRP); (c) recommended the City Council adopt, as revised at the Planning Commission, the West Oakland Specific Plan, new Design Guidelines and General Plan and Planning Code Amendments based, in part, upon the WOSP 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 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 West Oakland Commercial Zones Regulations (which are essentially correction of typographical and/or clerical errors), and to make nonsubstantive, technical conforming changes (essentially correction of typographical and clerical errors and minor clarifications) to the West Oakland Specific Plan without returning to the City Council or City Planning Commission; and

**WHEREAS**, the West Oakland Specific Plan, Related Documents and EIR was considered at a regular, duly noticed, meeting of the Community and Economic Development Committee of the City Council on July 8, 2014, and the Committee recommended adoption of the Plan and Related Documents; and

**WHEREAS**, the West Oakland Specific Plan, Related Documents and EIR were considered at a regular, duly noticed, public hearing of the City Council on July 15, 2014; and

**WHEREAS**, at said July 15, 2014 hearing, the City Council directed amendments to the West Oakland Specific Plan and Related Documents to: (a) add language from the Broadway Valdez District Specific Plan relating to affordable housing recommendations, (b) prohibit primary recycling facilities in the 3<sup>rd</sup> Street Opportunity Area, and (c) eliminate the proposed Housing and Business Mix General Plan designation and the proposed HBX-4 Zoning designation from the area generally bounded by Ettie, Hannah, 32nd, and 34th Streets; and

**WHEREAS**, these amendments where appropriate have been reflected in the Exhibits associated with this Ordinance; now, therefore

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

**Section 1.** The City Council finds and determines the forgoing recitals to be true and correct and hereby makes them a part of this Ordinance.

**Section 2.** The City Council, as the final decision-making body for the lead agency, has independently reviewed, considered and analyzed the West Oakland Specific Plan EIR and the CEQA findings of the City Planning Commission contained in the approved June 11, 2014, City Planning Commission Report.

**Section 3.** The City Council, as the final decision-making body for the lead agency, hereby confirms, adopts and incorporates by reference into this Ordinance (as if fully set forth herein) all the CEQA findings contained in the approved June 11, 2014, City Planning Commission Report, as amended at the July 15, 2014 City Council public hearing, prior to taking action in approving the amendments to Planning Code, Oakland Zoning Map and Height Area Map.

**Section 4.** The City Council adopts and incorporates by reference into this Ordinance (as if fully set forth herein), as conditions of approval of the West Oakland Specific Plan, the Standard Conditions of Approval and Mitigation Monitoring Program (SCAMMRP) contained in the approved June 11, 2014 City Planning Commission Report.

**Section 5.** Title 17 of the Oakland Planning Code is hereby amended to (a) create new commercial and industrial zones for West Oakland and (b) make conforming changes throughout the Planning Code, as detailed in *Exhibit A*, all attached hereto and hereby incorporated by reference.

**Section 6.** The City Council hereby authorizes the City Administrator or designee to make non-substantive, technical conforming changes (essentially correction of typographical and clerical errors), including omnibus cross-referencing conforming changes through-out the Planning Code, prior to formal publication of the Amendments in the Oakland Planning Code.

**Section 7.** The Oakland Zoning Map and Height Area Maps are hereby amended to map the new commercial and industrial zones and Height Areas as indicated in *Exhibit B* and *Exhibit C* respectively, attached hereto and hereby incorporated herein by reference.

**Section 8.** This Ordinance shall be effective 30 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; (b) to zoning applications approved by the City and not yet expired; or to (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. However, this Ordinance shall not become effective unless and until the City Council's adoption of Resolution No. \_\_\_\_ C.M.S., entitled RESOLUTION APPROVING THE ENVIRONMENTAL DETERMINATIONS FOR, AND ADOPTING, THE FOLLOWING TWO AMENDMENTS TO THE CITY OF OAKLAND GENERAL PLAN: (1) APPROVE CHANGES TO THE GENERAL PLAN DESIGNATIONS IN SUPPORT OF THE WEST OAKLAND SPECIFIC PLAN AS DELINEATED IN EXHIBIT A; AND (2) APPROVE CHANGES TO THE GENERAL PLAN DESIGNATIONS OF (a) ASSESSOR'S PARCEL

NUMBER 0018-0415-001-01 (KNOWN AS “SITE D” OF THE JACK LONDON SQUARE DEVELOPMENT PROJECT, AND GENERALLY BOUNDED BY THE BUILDING KNOWN AS 70 WASHINGTON STREET TO THE SOUTH AND WEST, EMBARCADERO WEST TO THE NORTH, AND BROADWAY TO THE EAST) FROM RDE-1 (RETAIL, DINING, ENTERTAINMENT PHASE 1) TO RDE-2 (RETAIL, DINING, ENTERTAINMENT PHASE 2), AND (b) ASSESSOR’S PARCEL NUMBER 0018-0420-004-01 (KNOWN AS “SITE F-2” OF THE JACK LONDON SQUARE DEVELOPMENT PROJECT, AND GENERALLY BOUNDED BY HARRISON STREET TO THE WEST, EMBARCADERO WEST TO THE NORTH, ALICE STREET TO THE EAST, AND WATER STREET TO THE SOUTH) FROM WCR-1 (WATERFRONT COMMERCIAL RECREATION 1) TO MUD (MIXED USE DEVELOPMENT), AS DELINEATED IN EXHIBIT B.

**Section 9.** 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 10.** The provisions of this Ordinance 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 Ordinance [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 Ordinance irrespective of the invalidity of any particular portion of this Ordinance.

**Section 11.** The City Council adopts and incorporates by reference into this Ordinance (as if fully set forth herein), the Adoption Findings contained in the approved June 11, 2014, City Planning Commission Report, including without limitation finding and determining that the existing zoning for the West Oakland is inadequate and contrary to public interest and that the proposed zoning will implement the policies presented in the West Oakland Specific Plan (as amended by this planning process) and create certainty for the developers and the public regarding the City’s expectations for new development.

**Section 12.** That the record before this Council relating to this Ordinance includes, without limitation, the following:

1. the West Oakland Specific Plan, Design Guidelines, General Plan and Planning Code Amendments including all accompanying maps, papers and appendices;
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 West Oakland Specific Plan and attendant hearings;
3. all oral and written evidence received by the Landmark Preservation Advisory Board, City Planning Commission and City Council during the public hearings on the West Oakland Specific Plan; and all written evidence received by the relevant City Staff before and during the public hearings on the West Oakland Specific Plan;

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;

**Section 13.** 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.

**Section 14.** The Environmental Review Officer, or designee, is directed to cause to be filed a Notice of Determination with the appropriate agencies.

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

**PASSED BY THE FOLLOWING VOTE:**

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

NOES-

ABSENT-

ABSTENTION-

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

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

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