

OAKLAND CITY COUNCIL

ORDINANCE NO. _____ C.M.S.

AN ORDINANCE REZONING PROPERTY IN THE OAK TO NINTH AVENUE MIXED USE DEVELOPMENT PROJECT SITE FROM HEAVY INDUSTRIAL (M-40) TO THE PLANNED WATERFRONT ZONING DISTRICT (PWD-4) AND OPEN SPACE-REGION SERVING PARK (OS-RSP), AND FROM CIVIC CENTER/DESIGN REVIEW COMBINING ZONE (S-2/S-4) TO THE PLANNED WATERFRONT ZONING DISTRICT (PWD-4) AND OPEN SPACE-REGION SERVING PARK (OS-RSP)

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 a rezoning of the portion of the Project site zoned M-40 and S-2/S-4 to PWD-4, OS-RSP, and S-2/S-4 to allow for a residential, commercial, and 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, on March 15, 2006, the Planning Commission recommended that the City Council rezone the portions of the Project site currently zoned M-40 and S-2/S-4 to Planned Waterfront District (PWD-4), Open Space-Region Serving and S-2/S-4; 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 City of Oakland's Zoning Map is hereby amended by rezoning the land in the areas shown on the map attached as Attachment A and incorporated herein by reference as follows:

FROM CURRENT ZONING: M-40 and S-2/S-4

TO: Planned Waterfront Zoning District-4, (PWD-4)
Open Space-Region Serving Park, (OS-RSP), and
Civic Center/Design Review Combining Zone, (S-2/S-4)

SECTION 2. 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 3. The Planning Director is directed to change the Zoning Map pursuant to Chapter 17.144 of the Oakland Municipal Code to conform to the rezoning referenced in Section 1.

IN COUNCIL, OAKLAND CALIFORNIA, _____, 2006

PASSED BY THE FOLLOWING VOTE:

AYES

NOES

ABSENT

ABSTENTION

ATTEST: _____

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

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Attachment A

**Existing Zoning Map
Proposed Zoning Map**

AN ORDINANCE REZONING PROPERTY IN THE OAK TO NINTH AVENUE MIXED USE DEVELOPMENT PROJECT SITE FROM HEAVY INDUSTRIAL (M-40) TO THE PLANNED WATERFRONT ZONING DISTRICT (PWD-4) AND OPEN SPACE-REGION SERVING PARK (OS-RSP), AND FROM CIVIC CENTER/DESIGN REVIEW COMBINING ZONE (S-2/S-4) TO THE PLANNED WATERFRONT ZONING DISTRICT (PWD-4) AND OPEN SPACE-REGION SERVING PARK (OS-RSP)

NOTICE AND DIGEST

This Ordinance rezones property in the Oak to Ninth Avenue Mixed Use Development Project site from M-40 to PWD-4 and OS-RSP, and from S-2/S-4 to PWD-4 and OS-RSP