



STAFF REPORT

Date: December 8, 2015
To: Bryan Montgomery, City Manager
From: Joshua McMurray, Planning Manager

Approved and Forwarded to City Council:


Bryan Montgomery, City Manager

SUBJECT: Main Street Improvement and Development Agreement (DA 02-15) - Waive the first reading and introduce an ordinance approving a Development agreement by and between the City of Oakley and Nature Properties, LLC. for the construction of the Main Street improvements from 2nd Street to 5th Street in association with the Main Street Realignment Project

Summary

This is a request for City Council approval of a Development Agreement (DA 02-15) to waive the first reading and introduce an ordinance approving a Development agreement by and between the City of Oakley and Nature Properties, LLC. for the construction of the Main Street improvements from 2nd Street to 5th Street in association with the Main Street Realignment Project. The Development Agreement would require Nature Properties, LLC. to dedicate the necessary right-of-way for Main Street and construct the first phase of 2-story, mixed-use project in conjunction with the construction of the Main Street Improvements. The project site is within the Downtown Specific Plan (SP-4) Zone District and is specifically within the Downtown Core Area. The project area is located on the north side of Main Street, between 2nd Street and 5th Street, at APN's 035-122-008 and 035-164-002.

Background and Project Description

As has been discussed at previous City Council meetings, the City is currently on the final design phase of the Main Street Realignment project that will improve Main Street from Norcross Lane to 2nd Street. These improvements will continue the existing improvements that were recently constructed, eastward. With this realignment project, the City has been actively engaged with downtown business and property owners. These discussions have centered around the realignment project, the Downtown Revitalization Loan Program and the recently completed Downtown Priority Development Area Study. During these discussions we have been in communication with the property owners that own the two parcels along the north side of Main Street, between 2nd Street and 5th Street. A vicinity map is attached for reference.

The property owners had plans to develop the site with a new mixed-use, retail on the ground floor and office on the second floor, project which was submitted to the City back in 2008. Due to a variety of reasons, including the great recession of the late 2000's, the

application was never brought forward for approval. The property owners are still very much interested in developing their project and as a result of these recent discussions with the City, they would like to enter into a Development Agreement. Staff has attached a conceptual design for the proposed buildings. As part of the proposed Development Agreement, the property owners are required to submit a Design Review application subject to a City Council approval.

Development Agreement Details

The attached Development Agreement outlines the terms that the City and the property owners would be responsible for carrying out. There are two main responsibilities as follows: 1) the City would be responsible for the design and construction of the frontage improvements (curb, gutter, sidewalk and landscaping) on the north side of Main Street, from 2nd Street to 5th Street; and 2) the property owners will be responsible for dedicating the right-of-way needed for the widening Main Street *and* for constructing the first phase of their project to consist of at least a 20,500 square foot mixed-use building with onsite parking and landscaping.

Staff views this proposed Development Agreement as a win-win for both parties. This property is one of the longest, undeveloped stretches of Main Street within the Downtown and the development of a quality, mixed-use project would have several benefits to the community. The first benefit would be the overall aesthetics and safety of Main Street when entering the Downtown from the east. This new building, along with the frontage improvements, will provide a brand new, high-quality "front door" to the Downtown. The new building will also provide new, quality commercial tenant and office spaces that do not exist today. With that said, the new businesses will bring new jobs and vitality to an area of the Downtown that is less busy than the recently redeveloped Oakley Plaza and areas of Main Street just to the east. Lastly, the project would generate property and sales tax revenue for the City.

California Environmental Quality Act (CEQA)

The Main Street Improvements were anticipated in the Downtown Specific Plan Certified Environmental Impact Report (SCH No. 2008112089). The buildings anticipated on APN's: 035-122-008 and 035-164-002 will require a subsequent entitlement and additional CEQA review. The proposed development agreement does not create any new significant impacts.

Findings

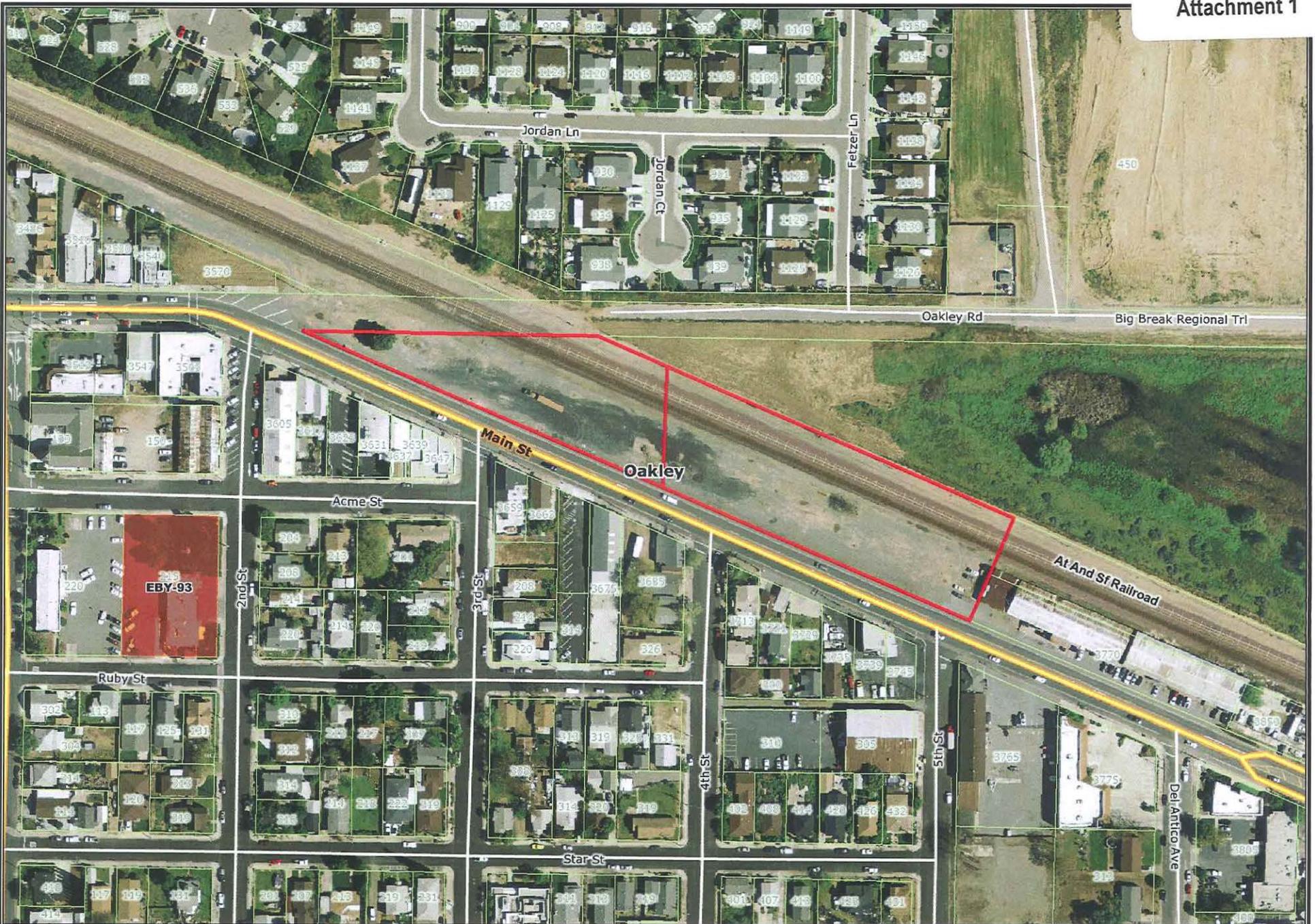
Draft findings are included in the attached ordinance.

Recommendation

Staff recommends the City Council waive the first reading and introduce an ordinance approving a Development agreement by and between the City of Oakley and Nature Properties, LLC. for the construction of the Main Street improvements from 2nd Street to 5th Street in association with the Main Street Realignment Project, as conditioned.

Attachments

1. Vicinity Map
2. Conceptual Plans for the Main Street Retail and Office Project
3. Draft Development Agreement
4. Draft Ordinance



DA 02-15 Vicinity Map

Scale 1:2,122
Contra Costa Internet GIS Map
Printed: Nov 18, 2015 3:54:24 PM





CONCEPTUAL SOUTH ELEVATION

SCALE: 1/16" = 1' - 0"
0' 16' 32' 64'



OAKLEY COMMERCIAL
O A K L E Y , C A L I F O R N I A



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OAKLEY COMMERCIAL

OAKLEY, CALIFORNIA

VICINITY MAP



PROJECT DATA

APN #: 035-122-003, 035-164-002
 LOCATION: MAIN STREET (DDHWAY 4)
 OAKLEY, CA
 GENERAL PLAN: COMMERCIAL DOWNTOWN - CD DISTRICT

FIRST FLOOR (RETAIL)	- 20,067 G.S.F. ±
SECOND FLOOR (OFFICE)	- 19,934 G.S.F. ±
TOTAL	- 40,001 G.S.F. ±
ON-SITE PARKING	- 54 SPACES ±
PARALLEL PARKING	- 31 SPACES ±
TOTAL	- 85 SPACES ±
PARKING PROVIDED	- 85 SPACES ± @ 2,121,000 G.S.F.
TOTAL LOT AREA	- 73,192 S.F. ± (1.68 ACRES) ±

PROJECT TEAM

APPLICANT

NATURE PROPERTIES L.L.C.
 108 BARBARA ROAD
 OAKLAND, CA 94612

PHONE: (510) 364-2000
 CELL: (510) 877-7152
 FAX: (510) 364-4200
 ATTN: FRED OSOZI

ARCHITECT

LOVING AND CAMPOS ARCHITECTS, INC.
 20 YONAGU VALLEY ROAD, STE. 200
 WALNUT CREEK, CA 94596

PHONE: (925) 944-1628
 FAX: (925) 944-1688
 ATTN: PETER STALCOPPE

CIVIL ENGINEER

LUX AND ASSOCIATES
 10 ALFRED NOBEL DRIVE
 BERKELEY, CA 94707

LANDSCAPE ARCHITECT

THOMAS BAAK ASSOCIATES
 302 N. MAIN STREET, SUITE 4
 WALNUT CREEK, CA 94596

PHONE: (925) 934-1388
 FAX: (925) 934-0502
 ATTN: KYLE FROEYER

SHEET INDEX

COVER SHEET

- A-1 CONCEPTUAL SITE PLAN
- A-2 CONCEPTUAL FLOOR PLANS
- A-3 CONCEPTUAL ROOF PLAN AND CROSS SECTION
- A-4 CONCEPTUAL ELEVATIONS
- C-1 STORMWATER TREATMENT PLAN
- C-2 GRADING PLAN
- C-3 UTILITY PLAN
- C-4 DIMENSIONAL AND STRIPING PLAN
- L-1 PRELIMINARY LANDSCAPE PLAN
- L-2 PRELIMINARY LANDSCAPE PLAN

LOVING & CAMPOS
 ARCHITECTS
 20 YONAGU VALLEY ROAD, SUITE 200, WALNUT CREEK, CA 94596

NO.	DESCRIPTION	DATE

2011/9

Recording Requested By:
City of Oakley
And When Recorded Mail To:
City Clerk
City of Oakley
3231 Main Street
Oakley, CA 94561

MAIN STREET IMPROVEMENT AND DEVELOPMENT AGREEMENT
APN's: 035-122-008 and 035-164-002

THIS AGREEMENT is entered into this ____ day of _____, 2015 by and between the City of Oakley, a municipal corporation ("CITY") and Nature Properties, LLC, ("OWNERS").

Recitals

- A. OWNERS own certain parcels of real property located in the City of Oakley and identified as Contra Costa County Assessor's Parcels #035-122-008 and 035-164-002 and described in Exhibit "A" hereof.
- B. CITY is planning to construct certain street and Main Street improvements along Main Street between Norcross Street and 2nd Street as part of the Main Street Realignment Project. Such improvements include street paving, curb, gutter, sidewalk, and landscaping to include but not limited to street trees, plants and shrubs, pots, ground cover, lighting and street furniture) (hereinafter the "Main Street improvements").
- C. City desires to continue Main Street improvements from 2nd Street to 5th Street as part of the Main Street Realignment Project.
- D. CITY would typically fund the construction of the Main Street improvements by applying for and obtaining grants, or by including the cost thereof in its Capital Improvements Budget. However, funding through either of those methods is not imminent and it could be several years before such funding becomes available.
- E. OWNERS are interested in constructing a new, 2-story mixed use retail and office building which would front on the new Main Street alignment and would prefer to proceed with their project in the near term, rather than having to wait for funding to become available for the CITY.
- F. Based upon the representations and promises of the OWNERS contained in this Agreement, CITY is willing to advance funds from idle accounts or other

parts of its budget to construct the Main Street improvements so as to accommodate the OWNERS' wishes to proceed with their project.

- G. OWNERS understand that the CITY will experience an element of monetary damage if they do not proceed as specified in this Agreement, and thus provide the security for their performance as stated herein.

WHEREFORE, THE PARTIES AGREE AS FOLLOWS:

1. CITY will advance funds for the Main Street improvements, consisting of the paving, curb, gutter, sidewalk, landscaping, and street lighting from idle funds or other accounts so that the project can proceed in a timely manner. CITY will install the Main Street improvements as specified above, and issue a Notice of Completion therefor, within eighteen (18) months of the date of this Agreement.
2. OWNERS will dedicate to CITY the property required for the widening and construction of the Main Street public improvements along OWNERS' property frontage. CITY will pay for the plat and legal description and related documents needed for OWNERS to dedicate this property for the Main Street improvement project.
3. OWNERS will process with the CITY an application for the construction of a multi-use building (retail on the first floor, offices on the second floor) of approximately 41,000 square feet (to be constructed in two phases, each phase approximately 20,500 square feet) and will submit a complete Design Review (and Conditional Use Permit if applicable) application for such project within three (3) months of the date of acceptance of this Agreement by the City. The City will expedite the review and approval of this project in concert with the dates specified in this Agreement.
4. CITY will exercise its reasonable discretion in the review and approval or disapproval of the application, using its building design and landscape standards in the same manner as applied to other projects within the downtown area.
5. CITY will not, as part of the application and approval process, require OWNERS to install or pay for the Main Street improvements, consisting of the paving, curb, gutter, sidewalk, landscaping, and lighting abutting their property or in the vicinity.
6. OWNERS will be subject to pay for and install all on-site landscaping as defined by all area within the limits of the property lines of the subject sites to include but not limited to trees, plants and shrubs, pots, ground cover, lighting and site furniture.

7. This Development Agreement does not relieve the OWNERS from any Development Impacts Fees associated with the construction of their multi-use building.
8. OWNERS will complete construction of the First Phase of the building and Main Street improvements as described in Section's 2, and 5 and will obtain an Occupancy Permit from CITY therefor within twelve (12) months of the issuance of the street improvements Notice of Completion
9. Either party may extend the time periods for completion of construction if delays are caused by weather or unforeseen construction complications. Such extensions of time shall be communicated in writing from one party to the other, citing the reason for the extension and the additional time required for compliance. If a party disagrees with any notice of extension, it shall use the dispute resolution provisions stated in this Agreement.
10. If CITY does not complete the Main Street improvements to a standard which would be usable by OWNERS within eighteen (18) months of the date of this agreement for such completion without justifiable extension, OWNERS shall not be required to perform their obligations under this Agreement.
11. If OWNERS do not complete the first phase of building and obtain an Occupancy Permit within twelve (12) months of date for the issuance of the street improvements Notice of Completion for such completion without justifiable extension, then OWNERS agree and acknowledge that CITY has suffered monetary damage by making funds available for the Main Street improvements that otherwise could have been devoted to other CITY purposes or would have been accruing interest. Therefore, the parties agree that the CITY will have suffered liquidated damages in the amount of three hundred thousand Dollars (\$300,000.00). OWNERS agree that they shall be jointly and severally liable to the CITY in that amount if the event that the building construction is not timely completed and this Agreement shall bind them to pay such amount, and shall constitute a lien against the real property in the amount specified herein.
12. In the event of any dispute among the parties, they shall first attempt to resolve any such dispute by informal mediation. The party which has a dispute shall notify the other party and convene a meeting of principals of both sides to discuss the issue in an attempt to resolve the dispute. If such dispute is not resolved at this level, before any litigation may be filed, the matter shall be referred for mediation to the Contra Costa County offices of Judicial Arbitration and Mediation Service ("JAMS*ENDSIPUTE") where each party shall be responsible for one-half the costs of the panelist and of their own costs and professional fees.

13. This Agreement may be assigned by OWNERS to other parties upon approval by the CITY that the potential assignees have the financial wherewithal to comply with this Agreement. This Agreement has been reviewed by both parties and no construction shall be given to this Agreement which disfavors the drafter thereof.

This Agreement may be executed in counterparts each of which is deemed to be an original but all of which together shall constitute one and the same document.

IN WITNESS WHEREOF, the parties hereto have caused this Development Agreement to be executed as of the date and year first above written.

CITY:

Mayor

Date: _____

ATTEST:

Date: _____

Libby Vreonis, City Clerk

Approved as to Form:

Derek P. Cole, City Attorney

DEVELOPER:

Date: _____

Nature Properties, LLC

ORDINANCE NO. XX-15

AN ORDINANCE OF THE CITY OF OAKLEY CITY COUNCIL APPROVING A DEVELOPMENT AGREEMENT BY AND BETWEEN THE CITY OF OAKLEY AND NATURE PROPERTIES, LLC. FOR THE CONSTRUCTION OF THE MAIN STREET IMPROVEMENTS FROM 2ND STREET TO 5TH STREET IN ASSOCIATION WITH THE MAIN STREET REALIGNMENT PROJECT (DA 02-15)

RECITALS

WHEREAS, the City has enacted a Development Agreement Ordinance, Title 9, Chapter 3 of the Municipal Code establishing the procedures and requirements for the consideration of development agreements pursuant to California Government Code Section 65864 et seq.; and

WHEREAS, this is a City initiated Development Agreement (DA 02-15) by and between the City of Oakley and Nature Properties, LLC. for the construction of the Main Street improvements from 2nd Street to 5th Street in association with the Main Street Realignment Project. The Development Agreement would require Nature Properties, LLC. to construct the first phase of 2-story, mixed-use project in conjunction with the construction of the Main Street Improvements. The project site is within the Downtown Specific Plan (SP-4) Zone District and is specifically within the Downtown Core Area. The project area is located on the north side of Main Street, between 2nd Street and 5th Street, at APN's 035-122-008 and 035-164-002; and

WHEREAS, the Main Street Improvements were anticipated in the Downtown Specific Plan Certified Environmental Impact Report (SCH No. 2008112089). The buildings anticipated on APN's: 035-122-008 and 035-164-002 will require a subsequent entitlement and additional CEQA review. The proposed development agreement does not create any new significant impacts; and

WHEREAS, on December 8, 2015, the City Council held a properly noticed public hearing at which it considered the Development Agreement (DA 02-15), Staff Report, Oakley 2020 General Plan, the City's Zoning Ordinance, and all comments received in writing and all testimony received at the public hearing (together the "Record"); and

WHEREAS, the Development Agreement (DA 02-15) is consistent with the Downtown Specific Plan (SP-4) and will provide for orderly growth consistent with the goals, policies, and other provisions of the General Plan; and

WHEREAS, for those reasons, the City has determined that the project is a development for which the Development Agreement is appropriate in order to achieve the goals and objectives of the City's land use planning policies; and

WHEREAS, on the basis of (a) the foregoing Recitals, (b) the City of Oakley 2020 General Plan, (c) the Downtown Specific Plan and certified EIR and (d) the

specific conclusions set forth below, as supported by substantial evidence in the Record.

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

SECTION 1. Findings

Pursuant to Chapter 9.3 of the Oakley Municipal Code, the City Council of the City of Oakley hereby finds and determines as follows:

- A. Regarding the Development Agreement between the City of Oakley and Nature Properties, LLC.:
1. The Main Street Improvements are consistent with the objectives, policies, general land uses and programs specified in the Oakley 2020 General Plan. The Main Street Improvements, from 2nd Street to 5th Street, will provide a much needed improvement to an area of Main Street that has no frontage improvements;
 2. The Main Street Improvements are compatible with the uses authorized in, and the regulations prescribed for, the land use district in which the real property is located in that the frontage improvements are designed in compliance with the Oakley 2020 General Plan and the Downtown Specific Plan;
 3. The Main Street Improvements were anticipated in the Downtown Specific Plan Certified Environmental Impact Report (SCH No. 2008112089). The buildings anticipated on APN's: 035-122-008 and 035-164-002 will require a subsequent entitlement and additional CEQA review. The proposed development agreement does not create any new significant impacts;
 4. For the reasons set forth in Finding 3, the Project will not be detrimental to the health, safety and general welfare; and
 5. The Main Street Improvements will not adversely affect the orderly development of property. The Project will enhance the orderly development of property.

SECTION 2. Approval of the Amendment to the Development Agreement

The City Council hereby approves the Main Street Improvement and Development Agreement (DA 02-15) and authorizes and directs the Mayor to sign it.

SECTION 3. Recordation of Development Agreement

Within ten (10) days after the Mayor executes the Development Agreement, the City Clerk shall submit the Agreement to the County Recorder for recordation.

SECTION 4. Effective Date and Posting

This ordinance shall take effect and be in force thirty (30) days from and after the date of its passage. The City Clerk shall cause the ordinance to be published within fifteen (15) days after its passage in a newspaper of general circulation, or by publishing a summary of the proposed ordinance, posting a certified copy of the proposed ordinance in the City Clerk's Office at least five (5) days prior to the City Council meeting at which the ordinance is to be adopted, and within fifteen (15) days after its adoption, publishing a summary of the ordinance with the names of the Council Members voting for and against the ordinance.

The foregoing ordinance was adopted with the reading waived at a regular meeting of the Oakley City Council on _____, 2015 by the following vote:

AYES:

NOES:

ABSTENTIONS:

ABSENT:

APPROVED:

, Mayor

ATTEST:

Libby Vreonis, City Clerk

Date