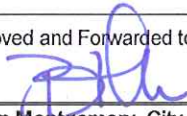




## STAFF REPORT

**Date:** August 8, 2017  
**To:** Bryan Montgomery, City Manager  
**From:** Joshua McMurray, Planning Manager

Approved and Forwarded to City Council:

  
Bryan Montgomery, City Manager

**SUBJECT:** Request by the Applicant to 1) Modify conditions of approval #30 and #31 of Resolution No. 04-17 approved on January 10, 2017 for Design Review (DR03-16) and Variance (VA 02-16) dealing with annexing into the City of Oakley Community Facilities District and funding to maintain Police Services; 2) Amend the Real Property Purchase Agreement dated June 28, 2016 and modified January 10, 2017 which would extend the project completion date from September 1, 2017 to November 30, 2017; and 3) a Request to waive the \$2,000 Developer Deposit required to process this application. The project is located at 3530 Main Street (APN: 037-160-023).

### Summary

The applicant is requesting to 1) Modify conditions of approval #30 and #31 of Resolution No. 04-17 approved on January 10, 2017 for Design Review (DR03-16) and Variance (VA 02-16) dealing with annexing into the City of Oakley Community Facilities District and funding to maintain Police Services; 2) Amend the Real Property Purchase Agreement dated June 28, 2016 and modified January 10, 2017 which would extend the project completion date from September 1, 2017 to November 30, 2017; and 3) a Request to waive the \$2,000 Developer Deposit required to process this application. The project site is designated Commercial Downtown in the Oakley 2020 General Plan and zoned Downtown Specific Plan (SP-4). The Project is located at 3530 Main Street (APN: 037-160-023).

Staff recommends the City Council adopt the Resolution denying the applicants request and affirming the January 10, 2017 approval for the Design Review (DR03-16) and Variance (VA 02-16) and the Real Property Purchase Agreement.

### Background

On June 28, 2016, the City Council approved a Real Property Purchase Agreement with the property owners of 3530 Main Street. The Agreement outlined the purchase of portions of the front and rear of the property. The front of the property was purchased for right of way improvements associated with the Main Street Realignment Project, which required the removal of a portion of the existing building. That removal took place in compliance with the terms of the June 2016 agreement. The rear portion of the property was needed for the future train platform and kiss and ride area that has been discussed over the past few years.

The original June 2016 Agreement required the applicant to install a new, permanent facade on the building within 180 days of August 31, 2016 (the approximate date in which the demolition and temporary facade installation was completed). That would have required the new facade work to be completed by February 27, 2017. At the time, the applicant indicated that the facade of the building is intrinsically tied into the building renovation, as well as the proposed outdoor patio/seating area abutting the new City sidewalk and requested that the City push that original completion date back to tie the facade work completion with the completion of the project as a whole. The applicant agreed to complete the work by September 1, 2017.

The application for Design Review (DR 15-16) and Variance (VA 01-16) was submitted on November 2, 2016 and included the revision to the Real Property Purchase Agreement. The City Council approved the project on January 10, 2017 (Resolution No. 041-17 attached to this report), which included the amendment pushing the completion date of the project back to September 1, 2017.

The City Council also approved an amendment to the Real Property Purchase Agreement that reads as follows, "Any initial annexation fees into the City of Oakley Community Facilities District No. 2015-2 (CFD), the provision of funding to maintain police services or any fees associated with any easements required by the City shall be waived." The intent of this was to waive the initial fees charged to an applicant to annex into the City's CFD and to establish a P-6 Police Services assessment on the property. As a point of reference, these fees total \$4,500 and \$1,750 respectively. The City Council did not waive the requirement that these assessments would be placed on the annual tax bill for the property.

Since the January 10<sup>th</sup> approval, Staff has prepared the information necessary to annex the property into the CFD and to establish a P-6 Police Services assessment on the property. These two items are required as standard Conditions of Approval contained in Resolution No. 04-17. Specifically, they are contained within Conditions #30 and #31. The applicant is not agreeable to both items and has submitted this current application that requests the removal of the conditions from the current approval. As currently approved, Staff can not issue a Final Inspection granting occupancy of the building until these conditions are satisfied.

In addition, the applicant has now requested that the Real Property Purchase Agreement dated June 28, 2016 and modified January 10, 2017 be amended to allow the completion date to be moved from September 1, 2017 to November 30, 2017. Lastly, the applicant has requested that the \$2,000 Developer Deposit required to process this application be waived.

### **Applicant Request**

The applicant is requesting three separate items as follows:

1. Modify conditions of approval #30 and #31 of Resolution No. 04-17 approved on January 10, 2017 for Design Review (DR03-16) and Variance (VA 02-16) dealing

with annexing into the City of Oakley Community Facilities District and funding to maintain Police Services.

2. Amend the Real Property Purchase Agreement dated June 28, 2016 and modified January 10, 2017 which would extend the project completion date from September 1, 2017 to November 30, 2017.
3. Request to waive the \$2,000 Developer Deposit required to process this application.

#### Condition of Approval Modification Request

The applicant is requesting to modify conditions of approval #30 and #31 of Resolution No. 04-17 approved on January 10, 2017 for Design Review (DR03-16) and Variance (VA 02-16) dealing with annexing into the City of Oakley Community Facilities District and funding to maintain Police Services. The applicant's request, included as Attachment #3 to this report, outlines their opinion that they are not subject to either of these conditions of approval.

Conditions #30 and #31 read as follows:

30. Annex the property to the City of Oakley Community Facilities District No. 2015-2 (CFD) for funding the maintenance and operation costs associated with regional, community and neighborhood parks, public area landscaping, street lights and storm water facilities. The applicant shall apply for annexation and provide all information and documents required by the City to process the annexation. All costs of the annexation shall be paid by Applicant. The assessment shall be the per parcel annual amount set by CFD at the time of annexation. Annexation shall be completed prior to the City conducting a final inspection.
31. Participate in the provision of funding to maintain police services by voting to approve a special tax for the parcels created by this subdivision approval. The tax shall be the per parcel annual amount (with appropriate future cost of living adjustment) as established at the time of voting by the City Council. The election to provide for the tax shall be completed prior to filing of the final parcel map. Should the building be occupied prior to the City receiving the first disbursement from the tax bill, the project proponent shall be responsible for paying the pro-rata share for the remainder of the tax year prior to the City conducting a final inspection.

The two conditions of approval are standard conditions placed on development projects that receive entitlements approved by the City Council. Condition #30 would require the property owners vote to approve an annexation into the Community Facilities District that funds the maintenance of public facilities including the landscaping and street maintenance along the project frontage. The cost of this would be \$56.60 a year or \$4.71 a month. Condition #31 creates an assessment on the property to fund police services. The cost of this would be \$1,503.28 a year or \$125.27 a month.

These two conditions are required on any development, regardless if the development is for ground up construction or for a remodel/rebuild. The project approved by the City Council in January 2017 included a remodel of the existing building including a new facade after a portion of the front of the building was removed as well as a new addition to the rear of the structure. Staff has consulted with the City Attorney's office and does not recommend that we modify the conditions of approval to remove conditions #30 and #31.

It should also be noted that when the front and the rear of the property was first acquired, the City paid fair market value for the cost of the land. On a typical development project, the applicant would have been required to install frontage improvements (curb, gutter and sidewalk) along the Main Street frontage. In this case, because the City was designing and going to construct the frontage improvements with the Main Street Realignment Project, the applicant was not required to install or reimburse the City for the improvements currently being made.

#### Amendment to the Real Property Purchase Agreement

As stated above, the applicant has requested that the Real Property Purchase Agreement dated June 28, 2016 and modified January 10, 2017 be amended to allow the completion date to be moved from September 1, 2017 to November 30, 2017.

Originally, the project was supposed to be completed prior the start of construction of the Main Street Realignment Project. That project is well underway and expected to be completed in September of this year. The September 1, 2017 deadline was agreed to, in part, to allow the applicant time to finish the project with minimal impact to the Main Street project.

The applicant is currently installing the brick facade on the front of the building. That portion of the construction has taken longer than expected. There are also several other aspects of the facade that have not been finished and Staff is concerned they will not be finished in time to meet the September 1, 2017 deadline.

To date, the City has issued building permits that involve the brickwork on the front of the building, window and door openings on the front and sides of the building, the rear addition foundation and exterior framing and the structural retrofit to the building. The City just received full architectural drawings for the project as of July 13, 2017. There have been many delays on the project that were out of the control of the City including the brick facade and the time it has taken to submit architectural drawings for the remainder of the project. With all of the facts under consideration, Staff does not recommend the date be modified as requested.

#### Developer Deposit

The applicant has requested that the \$2,000 Developer Deposit required to process this application be waived. The Developer Deposit is an account that Staff uses to charge time and materials to while processing the application. The standard deposit for a Design

Review and Variance application is \$2,900. Staff has agreed to collect a deposit less than that amount due to the fact the project is already approved and the number of issues being discussed are focused to three areas.

For reference, Staff also took in a \$2,000 deposit for the initial project as a majority of the details had been worked out with the Real Property Purchase Agreement. After the initial submittal, there were several meetings needed to discuss the design of the building and now that account is showing a deficit of \$1,492.57. The applicant has indicated that several of the hours Staff charged to the account are not applicable and has not paid the remaining funds to close out that project account since January 2017.

When Staff takes into account what it has taken to process this application (reviewing the request with other City Departments including the City Attorney's office, meeting with Staff and the City Council subcommittee, preparing a Staff Report, preparing public hearing notices and presenting the project to the City Council) there are many hours involved that merit charging the current account. Staff does not recommend the City Council approve the request to waive the current \$2,000 deposit. At the time this Staff Report was written, approximately \$1,000 of the initial deposit has been charged to the account.

### **Environmental Review**

The original project was categorically exempt from the California Environmental Quality Act (CEQA) pursuant to CEQA Guidelines Section 15332 – In-Fill Development Projects. No further environmental review is required for this project.

### **Recommendation**

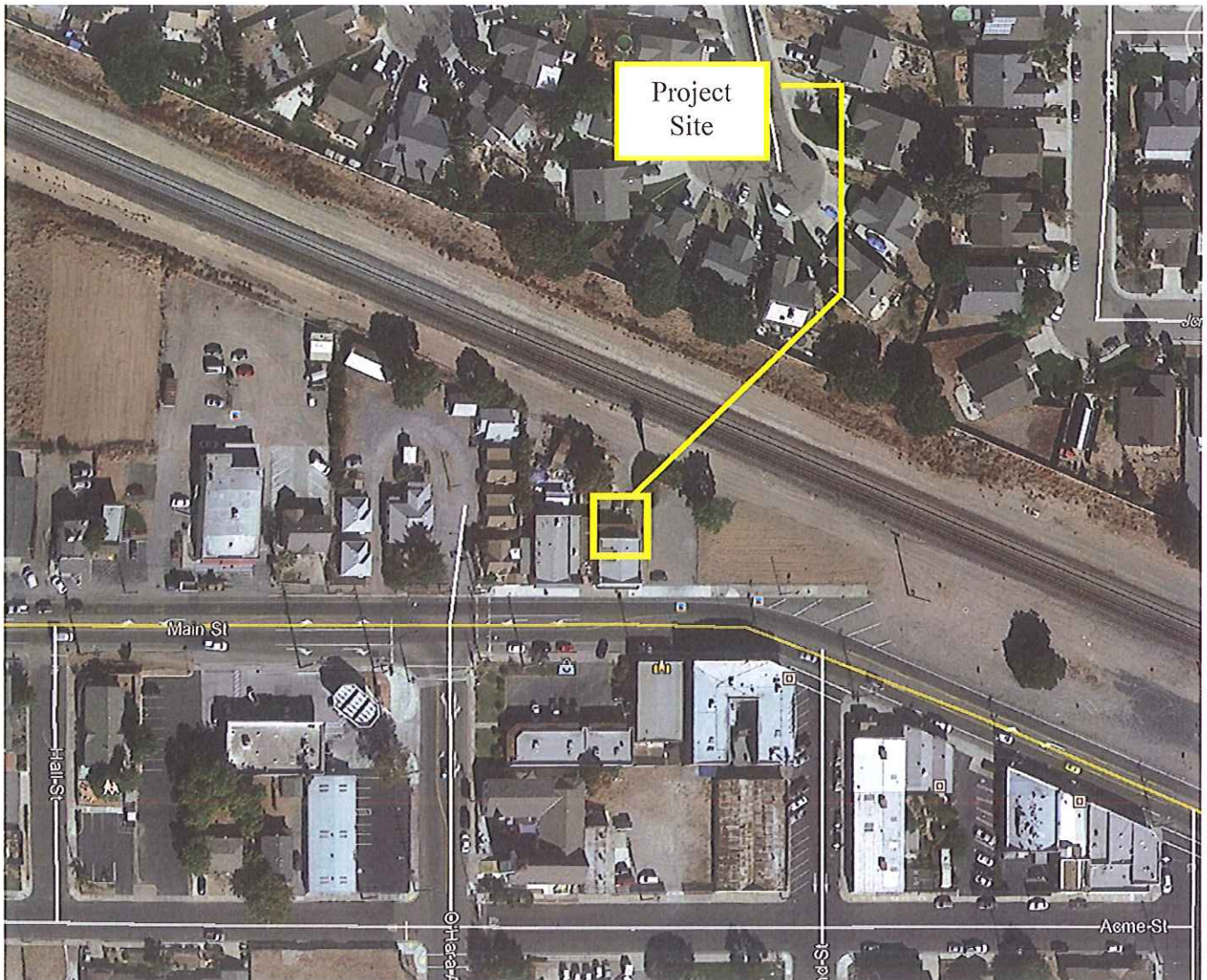
Staff recommends the City Council adopt the Resolution denying the applicants request and affirming the January 10, 2017 approval for the Design Review (DR03-16) and Variance (VA 02-16) and the Real Property Purchase Agreement.

If the City Council chooses to approve any of the requests made by the Applicant, Staff has provided a second (alternate) Resolution that could also be approved.

### **Attachments**

1. Vicinity Map
2. Public Hearing Notice
3. Applicants Request
4. Resolution No. 04-17
5. Real Property Purchase Agreement dated June 28, 2016
6. Amendment to the Real Property Purchase Agreement dated February 28, 2017
7. Proposed Resolution
8. Proposed (Alternate) Resolution

3530 Main Street  
Design Review (DR 03-16) and Variance (VA 02-16)  
Vicinity Map  
(APN's: 037-160-023)





City of Oakley  
3231 Main Street  
Oakley, CA 94561  
[www.oakleyinfo.com](http://www.oakleyinfo.com)

## NOTICE OF PUBLIC HEARING

Notice is hereby given that on **August 8, 2017** at 6:30 p.m., or as soon thereafter as the matter may be heard, the City Council of the City of Oakley will hold a Public Hearing at the Council Chambers located at 3231 Main Street, Oakley, CA 94561 for the purposes of considering a **Request by the Applicant to 1) Modify conditions of approval #30 and #31 of Resolution No. 04-17 approved on January 10, 2017 for Design Review (DR03-16) and Variance (VA 02-16) dealing with annexing into the City of Oakley Community Facilities District and funding to maintain Police Services; 2) Amend the Real Property Purchase Agreement dated June 28, 2016 and modified January 10, 2017 which would extend the project completion date from September 1, 2017 to November 30, 2017; and 3) a Request to waive the \$2,000 Developer Deposit required to process this application. The project is located at 3530 Main Street (APN: 037-160-023).**

**Project Name:** 3530 Main Street Design Review (DR 03-16) and Variance (VA 02-16)

**Project Location:** 3530 Main Street, APN 037-160-023

**Applicant:** Juli Del Barba-Favalora, 300 Brownstone Road, Oakley, CA 94561

**Request:** 1) Modify conditions of approval #30 and #31 of Resolution No. 04-17 approved on January 10, 2017 for Design Review (DR03-16) and Variance (VA 02-16) dealing with annexing into the City of Oakley Community Facilities District and funding to maintain Police Services; 2) Amend the Real Property Purchase Agreement dated June 28, 2016 and modified January 10, 2017 which would extend the project completion date from September 1, 2017 to November 30, 2017; and 3) a Request to waive the \$2,000 Developer Deposit required to process this application. The project is located at 3530 Main Street (APN: 037-160-023).

**CEQA:** The original project was categorically exempt from the California Environmental Quality Act (CEQA) pursuant to CEQA Guidelines Section 15332 – In-Fill Development Projects. No further environmental review is required for this project.

The Staff Report and its attachments will be available for public review, on or after **August 2, 2017** at City Hall, 3231 Main Street, Oakley, CA 94561 or on the City's website [www.oakleyinfo.com/city-meetings/](http://www.oakleyinfo.com/city-meetings/).

Interested persons are invited to submit written comments prior to and may testify at the public hearing. **Written comments may be submitted to Joshua McMurray, Planning Manager at the City of Oakley, 3231 Main Street, Oakley, CA 94561 or by email to [mcmurray@ci.oakley.ca.us](mailto:mcmurray@ci.oakley.ca.us).**

**NOTICE IS ALSO GIVEN** pursuant to Government Code Section 65009(b) that, if this matter is subsequently challenged in Court by you or others, you may be limited to raising only those issues you or someone else has raised at a Public Hearing described in this notice or in written correspondence delivered to the City of Oakley City Clerk at, or prior to, the Public Hearing.

From: dino delbarba <dino.delbarba@cityofoakley.com>  
Subject: Fwd: 3530 Main Street Oakley  
Date: July 16, 2017 at 1:21 PM  
To: Juli Sister <juliesister@cityofoakley.com>

ADDENDUM

Sent from my iPad

Begin forwarded message:

**Subject: 3530 Main Street Oakley**

Applicants are requesting a reconsideration of the application of Conditions of Approval #30 and #31 to the above project. Applicants have concerns and wish to make comments in relation to the purchase agreement, the addendum to the agreement and the Conditions of approval, as the three are intrinsically linked to one another.

Applicants feel that imposing these conditions are in direct conflict with the purchase agreement dated June 28, 2016. The provisions of the purchase agreement allow a credit to the property for any impact fees associated with the property (section 6). While the amendment to the purchase agreement waives the initial annexation to the districts it appears to require the annual assessment payment to the CFD 2015-2, applicants dispute that we should be subject to any assessment fees (initial or ongoing) given the language of the original purchase agreement. The application of these conditions appear to be in conflict with the purchase agreement and the project itself.



But for the City's take of applicants building frontage and rear portions of the property, applicants would not have been required to apply for design review or variance approval from the City.

Applicants feel it is fundamentally unfair to have threaten a take of our property forcing applicants to sell portions of the property that then rendered the building inconsistent with zoning requirements, forcing the applicants to apply for the variance. But for the variance and design review, the City would not have had the legal authority to require the applicants to agree to the condition requiring participation in the assessment district and police services district.

Applicant made an attempt to become informed and have due diligence in regards to this project. Applicants feel it is unfair and a breach of the settlement agreement to require participation in the two assessment districts. Upon applicants research it appears that the there may be different reasons as to what triggers the participation of these districts, none of these triggers where the desire of the applicants, nor upon research did the application of them seem consistent with the County's policy, nor does its application seem as the proper policy for this rehabilitation project as this project is not a NEW structure, nor has its commercial USE by right changed.

Also, it is the applicants desire to clarify that according to the purchase agreement applicants removed the front wall by the deadline of August 31, 2016. The permanent structurally engineered front wall has been erected, permitted, and has passed inspection as of November 2016.

Due to several factors beyond applicants control we are requesting a 90 day extension [from September 1, 2017 to November 30, 2017](#) to complete aesthetic features associated with the facade

improvements, including the bricking, front door and windows, hardscape and other incidentals. Applicants request that if any future extensions are necessary that they be processed in the same manner as building permit extensions are processed.

Applicants are also requesting a refund of the \$2000 application fee required by this hearing. Again, due to issues tied to the purchase agreement, the design review, variance and conditions of approval applicants feel that this fee should not be a burden enforced upon them.

**RESOLUTION NO. 04-17**

**A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF OAKLEY MAKING FINDINGS AND APPROVING THE REQUEST FOR DESIGN REVIEW (DR03-16) FOR A NEW FACADE AND REMODEL OF AN EXISTING 717 SQUARE FOOT BUILDING AND A 705 SQ. FT. ADDITION TO THE REAR OF THE BUILDING, VARIANCE (VA 02-16) FOR A REDUCTION IN THE REAR YARD SETBACK ON A 0.04-ACRE SITE LOCATED AT 3530 MAIN STREET (APN'S: 037-160-023)**

**WHEREAS**, on October 4, 2016, Juli Del Barba-Favalora ("Applicant"), submitted an application for a requesting Design Review (DR 03-16) approval for a new facade and remodel of an existing 717 square foot building. The applicant is proposing a 705 sq. ft. addition to the rear of the building. The front of the building has already been removed in association with the Main Street Improvement Project. The applicant is requesting a Variance (VA 02-16) to place the rear addition at a 0 foot setback where 10 feet would be the minimum required setback. The 0.04-acre project site is designated Commercial Downtown in the Oakley 2020 General Plan and zoned Downtown Specific Plan (SP-4). The Project is located at 3530 Main Street (APN: 037-160-023). ("Project"); and

**WHEREAS**, on November 2, 2016, the project application was deemed complete per Government Code section 65920 et. seq; and

**WHEREAS**, the project is designated as *Commercial Downtown* in the Oakley 2020 General Plan, and zoned SP-4 (Downtown Specific Plan) District; and

**WHEREAS**, on or before December 21, 2016, the Notice of Public Hearing for the project was posted at Oakley City Hall located at 3231 Main Street, outside the gym at Delta Vista Middle School located at 4901 Frank Hengel Way, outside the library at Freedom High School located at 1050 Neroly Road, and at the project site. The notice was also mailed out to all owners of property within a 500-foot radius of the subject property's boundaries, to outside agencies, and to parties requesting such notice; and

**WHEREAS**, the project is exempt from further environmental analysis under the California Environmental Quality Act (CEQA) pursuant to CEQA Guidelines section 15332, "Class 32 – In-Fill Development Projects"; and

**WHEREAS**, on January 10, 2017, the City Council opened the public hearing at which it received a report from City Staff, oral and written testimony from the public and applicant, and deliberated on the project. At the conclusion of its deliberations, the City Council took a vote and adopted this resolution to approve the project, as conditioned, and

**WHEREAS**, if any term, provision, or portion of these Findings or the application of these Findings to a particular situation is held by a court of competent jurisdiction to be invalid, void or unenforceable, the remaining provisions of these Findings, or their

application to other actions related to the Project, shall continue in full force and effect unless amended or modified by the City; and

**WHEREAS**, these Findings are based upon the City's General Plan, the Downtown Specific Plan, the City's Zoning Ordinance, the City's Commercial and Industrial Design Guidelines, and the information submitted to the City Council at its January 10, 2017 meeting, both written and oral, including oral information provided by the applicant, as reflected in the minutes of such meetings, together with the documents contained in the file for the project (hereinafter the "Record"); and

**NOW, THEREFORE, BE IT RESOLVED THAT**, on the basis of the above findings of fact and the entire Record, the City Council makes the following additional findings in support of the approvals:

- A. In regards to the application requesting Design Review (DR 03-16) approval for a new facade and remodel of an existing 717 square foot building. The applicant is proposing a 705 sq. ft. addition to the rear of the building on a 0.04-acre parcel located at 3530 Main Street (APN: 037-160-023):
1. The design, appearance, and manner of development of all properties within the City have a substantial relationship with the characteristics of public and private places that make a community visually interesting, functional, and a source of community pride. The site for the proposed project is adequate in size and shape to accommodate the use in a manner complementary with the land and uses in the area in that the site is approximately 0.04-acres and the Downtown Specific Plan (SP-4) Zoning along with the Oakley Municipal Code allows for the proposed development with the approval of a Design Review application. The new building and site improvements will provide a significant aesthetic upgrade to the property and the surrounding area, and help facilitate the economic development activities of the City;
  2. Development within the City should be in a manner that is of high quality and allow for flexibility of unique solutions to enhance a project's design so that it can be successfully integrated into the existing fabric of the City, while preserving the City's human scale and sense of place.
  3. The quality of life and stabilization of property values are enhanced by project design that meets the criteria set forth in the Downtown Specific Plan, Oakley Design Guidelines, Zoning Ordinance, and General Plan, as applicable. The proposed project will be arranged, designed, constructed, operated, and maintained so as to be compatible with the intended character of the area and will not change the essential character of the area that is intended by the General Plan and the applicable zoning ordinances in that the proposed project for the new facade and remodel of an existing 717 square foot building and the 705 sq. ft. addition to the rear of the

building are permitted in the Downtown Specific Plan. This project would have several benefits to the community. The first benefit would be the overall aesthetics 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 as you take the bend at the Main Street and Second Street intersection when heading west. The new building will also provide a new, quality commercial tenant space. Lastly, the project would generate property and sales tax revenue for the City.

4. Design review is necessary to enhance project design, ensure quality development, maintain or enhance property values, and add to the visual character of the community and public health, safety, and welfare of Oakley residents. The proposed project provides for continued growth and orderly development of the community and is consistent with the various elements and objectives of the General Plan in that it provides a place for new businesses which will bring jobs to the City. The use of the site are a result of Oakley's zoning that allows for commercial lots that can accommodate this type of project; and
- B. In regards to the application requesting a Variance (VA 02-16) to place the rear addition at a 0 foot setback where 10 feet would be the minimum required setback:
1. Approval of the variance would not constitute a grant of special privilege inconsistent with the limitations on other properties in the vicinity and the respective land use district in that the existing lot only 0.04-acres in size. The minimum rear yard setback required is a 10-foot setback, where the applicant is proposing a 0-foot setback. As mentioned earlier, the rear of the property was acquired by the City for a future kiss and ride to be used in conjunction with the train platform to the north of the project site. The attached site plan (Sheet A101 of the plan set) shows the rear of the building at the rear property line, with a 1 foot 6 inch overhang of the canopy as shown on the Roof Plan (Sheet A201 of the plan set). Although the plans do not show anything behind the proposed addition at the rear of the property, a kiss and ride loop to be used in conjunction with the future train platform is anticipated in this location. The building will be situated somewhat in the middle of the plaza area. The proposed 0-foot setback is appropriate in this location, and although the building will be constructed at the rear property line there will still be a sidewalk and landscaping that surrounds the plaza area. This will ensure there is adequate room for pedestrian movement and vehicle visibility in and around the kiss and ride; and
  2. There are special circumstances applicable to the subject property because of its size, shape, topography, location or surrounding that would deprive the subject property of rights enjoyed by other properties in the vicinity if the

strict application of the zoning regulations is required. The existing lot is 0.04-acres in size. The variance would not affect the overall appearance of the development, and in fact will allow for a building addition that will make the building more usable and marketable to high quality tenants which meets the spirit and intent of the Downtown Specific Plan; and

3. Approval of a variance would substantially meet the intent and purpose of the respective land use district in which the subject property is located in that the project will be developed in a manner consistent with the Downtown Specific Plan development standards and the improvements will provide a significant aesthetic upgrade to the property and the surrounding area. The project has taken into account several design elements that align with the spirit and intent of the Downtown Specific Plan in that they have proposed a project designed with a pedestrian scale in mind, making the building pedestrian friendly and adding the street front character that the DSP requires.

C. The project complies with Measure J Growth Management requirements.

**BE IT FURTHER RESOLVED THAT**, on the basis of the above Findings and the Record, the City Council approves of the Applicant's request for Design Review and a Variance, subject to the following Conditions of Approval:

**Conditions of Approval**

Applicant shall comply with the requirements of the Oakley Municipal Code. Any exceptions must be stipulated in these Conditions of Approval. Conditions of Approval are based on the application received by the Planning Division on **October 4, 2016, 2016**, as well as additional information acquired since that time and made part of the project file.

**THE FOLLOWING CONDITIONS OF APPROVAL SHALL BE SATISFIED PRIOR TO THE ISSUANCE OF A BUILDING PERMIT UNLESS OTHERWISE NOTED:**

**Planning Division Conditions**

**General:**

1. This **Design Review (DR 03-16) and Variance (VA 02-16)** is approved, as shown on the plans, date stamped by the Planning Division on **October 4, 2016**, and as modified by the following conditions of approval, subject to final review and approval by the Community Development Director.
2. This approval for **Design Review (DR 03-16) and Variance (VA 02-16)** shall be effectuated within a period of two (2) months from the effective date of this resolution by pulling a building permit and if not effectuated shall expire on **March 10, 2017**.

Prior to said expiration date, the applicant may apply for an extension of time pursuant to the provisions of the Zoning Code.

3. All construction drawings submitted for plan check shall be in substantial compliance with the plans presented to and approved by the City Council on **January 10, 2017**.
4. All conditions of approval shall be satisfied by the owner/developer. All costs associated with compliance with the conditions shall be at the owner/developer's expense.
5. Noise generating construction activities, including such things as power generators, shall be limited to the hours of 7:30 a.m. to 5:30 p.m. Monday through Friday, and shall be prohibited on City, State and Federal Holidays. The restrictions on allowed working days and times may be modified on prior written approval by the Community Development Director.
6. Should archaeological materials be uncovered during grading, trenching or other on- site excavation(s), earthwork within 30 yards of these materials shall be stopped until a professional archaeologist who is certified by the Society of Professional Archaeology (SOPA) has had an opportunity to evaluate the significance of the find and suggest appropriate mitigation(s), if deemed necessary.
7. The applicant shall defend, indemnify, and hold harmless the city or any of its boards, commissions, agents, officers, and employees from any claim, action or proceeding against the city, its boards, commissions, agents, officers, or employees to attack, set aside, void, or annul, the approval of the project. The city shall promptly notify the applicant of any such claim, action or proceeding. The city shall have the option of coordinating the defense. Nothing contained in this condition shall prohibit the city from participating in a defense of any claim, action, or proceeding if the city bears its own attorney's fees and costs, and the city defends the action in good faith.

**Site Plan:**

8. A lighting and photometric plan shall be submitted prior to the issuance of building permits. The minimum requirement shall be one foot of candle light within public parking areas and pedestrian pathways.
9. The trash enclosures shall match Oakley Disposal and City standards and shall provide adequate space to accommodate both trash and recycling. Also, trash enclosures shall be constructed with a roof to match the building design and materials, have metal gates, and when appropriate be surrounded by landscaping with climbing vines on three sides per the review and approval of the Community Development Director.

10. Storage shall be contained inside the building. Storage containers are not allowed and pallets, boxes, cardboard etc. shall not be stored outside.

**Architecture:**

11. Roof-mounted equipment shall be architecturally screened from view.
12. The light fixtures on the commercial building shall be decorative fixtures per the review and approval of the Community Development Director.
13. Anti-graffiti techniques shall be used to the extent feasible on the exposed sides of the building (north, east and west).
14. The north and south parapet walls shall be built out too add some bulk to the parapets per the review and approval of the Community Development Director.
15. Revise the North elevation to include storefront doors and transom windows per the review and approval of the Community Development Director. It is understood that this requirement may happen at a later date in conjunction with the construction of the train platform plaza area.
16. The metal railing around the outdoor seating area shall be decorative and have a historic look and feel.
17. The wood fence around the mechanical equipment needs to be replaced with a more permanent structure per the review and approval of the Community Development Director.
18. The outdoor furniture shall be subject to the review and approval of the Community Development Director.

**Signage:**

19. The proposed signage shall meet the requirements of the Downtown Specific Plan and the City's Zoning Ordinance. All proposed signage shall be reviewed by the Planning and Building Divisions.
20. All signs shall be on permanent structure and of design and material to compliment the proposed commercial building. No signs on the premises shall be animated, rotating or flashing. No flags, pennants, banners, pinwheels or similar items shall be permitted on the premises, with the exception of a United States flag and California state flag.
21. Temporary signage for such things as special events and grand openings shall require a Temporary Use Permit per the review and approval of the Community Development Director.



**Waste Management Plan:**

22. The applicant shall submit a Waste Management Plan that complies with the City of Oakley Construction and Demolition Debris Recycling Ordinance.

***Building Division Conditions***

23. Plans shall meet the currently adopted Uniform Codes as well as the newest T-24 Energy Requirements per the State of California Energy Commission. To confirm the most recent adopted codes please contact the Building Division at (925) 625-7002.
24. An Automatic Life Safety Sprinkler System shall be required in all new construction pursuant to Ordinance 22-06. The Automatic Life Safety Sprinkler Systems in commercial and industrial buildings shall be designed and installed to the standards and requirements found in the most recent version of the NFPA (National Fire Protection Association).
25. Prior to requesting a Certificate of Occupancy from the Building Division all Conditions of Approval required to occupancy must be completed.

***Public Works and Engineering Conditions***

26. Applicant and City shall execute an easement agreement related to encroachments into City owned property and right of way adjacent to the proposed building additions and deck areas prior to issuance of a building permit.
27. Design all public and private pedestrian facilities in accordance with Title 24 (Handicap Access) and the Americans with Disabilities Act.
28. Comply with the requirements of the development impact fees listed below, in addition to those noticed by the City Council in Resolution 85-00 and 08-03. The applicant shall pay the fees in the amounts in effect at the time each building permit is issued.
- A. Traffic Impact Fee (authorized by Ordinance No. 14-00, adopted by Resolution 49-03);
  - B. Regional Transportation Development Impact Mitigation Fee or any future alternative regional fee adopted by the City (authorized by Ordinance No. 14-00, adopted by Resolution No. 73-05);
  - C. Park Land Dedication In-Lieu Fee (adopted by Ordinance No. 03-03);

- D. Park Impact Fee (authorized by Ordinance No. 05-00, adopted by Resolution No. 19-03);
- E. Public Facilities Fee (authorized by Ordinance No. 05-00, adopted by Resolution No. 18-03);
- F. Fire Facilities Impact Fee, collected by the City (adopted by Resolution No. 09-01);
- G. General Plan Fee (adopted by Resolution No. 53-03): and
- H. East Contra Costa County Habitat Conservation Plan Fee (adopted by Resolution No. 112-07 & 124-07).

The applicant should contact the City Engineer prior to constructing any public improvements to determine if any of the required improvements are eligible for credits or reimbursements against the applicable traffic benefit fees or from future developments.

- 29. The applicant shall be responsible for paying the County Recorder's fee for the Notice of Determination as well as the State Department of Fish and Game's filing fee.
- 30. Annex the property to the City of Oakley Community Facilities District No. 2015-2 (CFD) for funding the maintenance and operation costs associated with regional, community and neighborhood parks, public area landscaping, street lights and storm water facilities. The applicant shall apply for annexation and provide all information and documents required by the City to process the annexation. All costs of the annexation shall be paid by Applicant. The assessment shall be the per parcel annual amount set by CFD at the time of annexation. Annexation shall be completed prior to the City conducting a final inspection.
- 31. Participate in the provision of funding to maintain police services by voting to approve a special tax for the parcels created by this subdivision approval. The tax shall be the per parcel annual amount (with appropriate future cost of living adjustment) as established at the time of voting by the City Council. The election to provide for the tax shall be completed prior to filing of the final parcel map. Should the building be occupied prior to the City receiving the first disbursement from the tax bill, the project proponent shall be responsible for paying the pro-rata share for the remainder of the tax year prior to the City conducting a final inspection.
- 32. Applicant shall comply with the drainage fee requirements for Drainage Area 29D as adopted by the County Board of Supervisors. The applicant shall pay the fee in effect at the time of building permit issuance. Certain improvements required by the Conditions of Approval for this development or the Code may be eligible for

credit or reimbursement against the drainage area fee. The developer should contact the City Engineer to personally determine the extent of any credit or reimbursement for which they might be eligible. Any credit or reimbursements shall be determined prior to filing the final map or as approved by the Flood Control District.

### **ADVISORY NOTES**

**PLEASE NOTE ADVISORY NOTES ARE ATTACHED TO THE CONDITIONS OF APPROVAL BUT ARE NOT A PART OF THE CONDITIONS OF APPROVAL. ADVISORY NOTES ARE PROVIDED FOR THE PURPOSE OF INFORMING THE APPLICANT OF ADDITIONAL ORDINANCE REQUIREMENTS THAT MUST BE MET IN ORDER TO PROCEED WITH DEVELOPMENT.**

- A. The applicant/owner should be aware of the expiration dates and renewing requirements prior to requesting building or grading permits.
- B. The project will require a grading permit pursuant to the Ordinance Code.
- C. Comply with the requirements of the Ironhouse Sanitary District.
- D. Comply with the requirements of the East Contra Costa Fire Protection District.
- E. Comply with the requirements of the Diablo Water District.
- F. Comply with the requirements of the Building Inspection Department. Building permits are required prior to the construction of most structures.
- G. This project may be subject to the requirements of the Department of Fish and Game. It is the applicant's responsibility to notify the Department of Fish and Game, PO Box 47, Yountville, California 94599, of any proposed construction within this development that may affect any fish and wildlife resources, per the Fish and Game Code.
- H. This project may be subject to the requirements of the Army Corps of Engineers. It is the applicant's responsibility to notify the appropriate district of the Corps of Engineers to determine if a permit is required, and if it can be obtained.


**PASSED AND ADOPTED** by the City Council of the City of Oakley at a meeting held on the 10<sup>th</sup> of January, 2017 by the following vote:

AYES: Alaura, Hardcastle, Higgins, Pope, Romick  
NOES:  
ABSENT:  
ABSTENTIONS:

APPROVED:

  
Sue Higgins, Mayor

ATTEST:

  
\_\_\_\_\_  
Libby Vreonis, City Clerk

1-12-17  
\_\_\_\_\_  
Date

## REAL PROPERTY PURCHASE AGREEMENT

3530 Main Street, Oakley, California

APN 037-150-023

THIS AGREEMENT is entered into this 20<sup>th</sup> day of June, 2016 by and between the City of Oakley, a municipal corporation ("CITY") and Frederick J. Del Barba and Shirley Ann Del Barba, as trustees, or successor trustees, of the Del Barba Family Trust U/D/T October 24, 1996, as to an undivided one-half interest; Victoria Louse Mann, Julie Ann Favalora, Cynthia N. Del Barba, Dino L. Del Barba, Vicki Mann and Juli Del Barba-Favalora, Co-Trustees of the Dino Del Barba Living Trust, Juli Ann Del Barba-Favalora, as their interest may appear, as to an undivided one-half interest (collectively, "OWNERS").

Recitals

- A. OWNERS own real property described as 3530 main Street, Oakley, California, being APN 037-150-023 ("the property"). This property is improved with a commercial building.
- B. CITY desires to improve Main Street, and a portion of the commercial building will have to be removed to make room for the new right-of-way.
- C. CITY has filed an eminent domain action in Contra Costa Superior Court in order to obtain immediate possession of the property and to demolish the commercial building.
- D. The parties desire to reach an agreement, as specified herein, in lieu of the CITY proceeding with the eminent domain action.

**WHEREFORE, THE PARTIES AGREE AS FOLLOWS:**

1. The parties will open an escrow agreement with Old Republic Title Company for the purchase of the entire lot comprising 3530 Main Street. The purchase price for the property will be One Hundred Ninety-five Thousand Dollars (\$195,000.00). OWNERS shall deliver fee simple title clear and free of all liens and encumbrances. OWNERS shall retain the mineral rights for the entire parcel.
2. The CITY, at its cost and expense, shall prepare and approve legal descriptions which shall create three parcels on the property. The parcels to be created are as depicted on Exhibit "A" attached hereto. The parcel delineated with blue hashmarks, consisting of approximately 1450 square feet, shall constitute the right-of-way for Main Street and shall remain in CITY ownership. The parcel delineated with yellow hashmarks, consisting of approximately 1772 square feet, shall be conveyed by the CITY to OWNERS by grant deed at no cost to OWNERS. The parcel delineated with orange hashmarks, consisting of approximately 2819 square feet, shall continue in the CITY's ownership and to be used in conjunction with a planned railroad passenger platform/station/other public uses. If the train platform/station program/public improvements

- does not proceed, CITY will offer OWNERS a first right of refusal to repurchase that lot. The price to be paid to the CITY for such lot shall be Ninety Thousand (\$90,000.00) Dollars.
3. OWNERS shall be responsible, at their sole cost and expense, for removing the front part of the commercial building clear of the new right-of-way so that no part of the building will intrude into the "blue" parcel by not later than August 31, 2016. Within five (5) calendar days of the date of this Agreement, CITY shall mark the right-of-way line on the building. If the front part of the building is not removed by August 31, 2016, CITY shall have the right, without further compensation to OWNERS, to demolish the entire building. If the OWNERS do timely remove the front part of the building, they shall install, at their own cost and expense, a temporary cover for the front of the building for security and appearance not later than August 31, 2016. OWNERS shall continue to maintain the temporary front until a permanent façade is installed. OWNERS shall have a new permanent front installed on the building no later than 180 calendar days after removal of the old front portion of the building. If they do not do so, the unfinished building shall be subject to abatement by CITY which may include demolition. OWNERS shall be responsible for abatement costs.
  4. OWNERS will, at their own cost and expense, apply for and obtain all permits necessary from CITY for the rehabilitation/remodeling of the remainder of the commercial building. OWNERS shall also, at their own expense, obtain a simple demolition permit from CITY prior to removing the front of the building. Detailed architecture plans shall not be necessary for the demolition permit. OWNERS shall have access to the building for demolition and reconstruction work from CITY-owned property for all the time periods specified in this Agreement. OWNERS shall have the same access for deliveries as is afforded to other commercial properties in the vicinity on Main Street.
  5. The parties understand that the CITY has a façade improvement program whereby grants may be approved by the City Council for properties in the downtown area to help pay for façade improvements. OWNERS may apply for a façade improvement grant, but no determination can be made at this time as to whether the CITY will approve such application until further information is provided by OWNERS as to the type of façade that will be proposed.
  6. OWNERS shall have a credit from CITY from all impact fees imposed by the CITY for future development of the rehabilitated commercial building and any other development which they may propose for the property. This credit shall extend to any future owners on the OWNERS' parcel. Building inspection, plan check, and other fees associated with review and approval of new or rehabilitated buildings are not waived. CITY warrants that the parcel designated with yellow hashmarks is a "buildable parcel" meeting the minimum lot size for a commercial building at that location.
  7. CITY shall be responsible to pay all title and escrow fees associated with this transaction.
  8. Upon close of escrow, CITY shall dismiss the eminent domain action for the acquisition of the property.
  9. The CITY makes no representation about the viability of the concept of rehabilitating the commercial building or its commercial viability thereafter, nor regarding the commercial viability of the "yellow" or potential "orange" parcels. OWNERS rely upon their own information and judgment as to those matters.

10. Both parties have had the opportunity to comment upon the terms of this Agreement, and thus no interpretation shall be given which would favor or disfavor the drafter of this Agreement.
11. This Agreement is intended to be the entire agreement among the parties and is the entire and sole compensation that OWNERS will receive as a result of the Main Street improvement project. Both parties hereby waive and release each other for any other claims or demands for additional compensation.
12. CITY shall provide OWNERS copies of the plat and legal descriptions for the three (3) parcels referenced in item 2 of this agreement. The preparation of all plat and legal descriptions shall be performed by a professional registered and licensed surveyor in State of California and cost of this work shall be paid by the CITY. These plat and legal descriptions will be provided to Old Republic Title Company which will be processing the transaction and will provide the title insurance to both parties. The CITY shall pay the title company costs associated with this transaction.

OWNERS:

Frederick J. Del Barba  
Frederick J. Del Barba

Shirley Ann Del Barba  
Shirley Ann Del Barba

Victoria Louise Mann  
Victoria Louise Mann

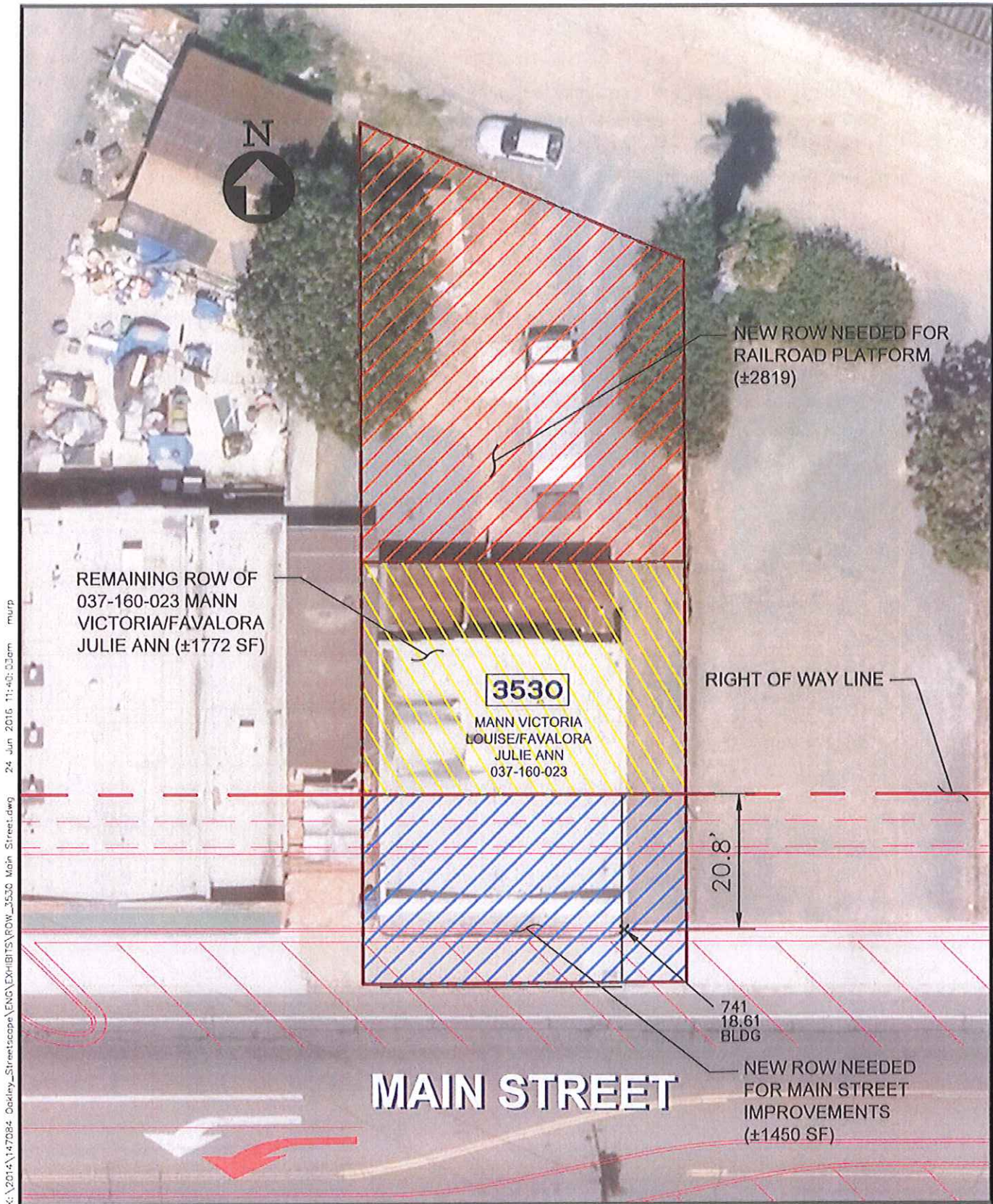
Julie Ann Favalora  
Julie Ann Favalora  
AKA Julie Del Barba Favalora

Cynthia N. Del Barba Trustee  
Cynthia N. Del Barba

Julie Del Barba Favalora for Dino Del Barba Trust  
Dino L. Del Barba

CITY:

Bryan M. Montgomery  
Bryan M. Montgomery, City Manager



K:\2014\147094 Oaklry\_Sirenscape\ENG\EXHIBITS\POW\_3530 Main Street.dwg 24 Jun 2016 11:40:03am murp

**LEGEND:**

— — — — — ROW

JUNE 24, 2016  
SCALE: 1" = 20'



## AMENDMENT TO THE REAL PROPERTY PURCHASE AGREEMENT

This Amendment is entered into by and between the City of Oakley, a municipal corporation ("CITY") and Frederick J. Del Barba and Shirley Ann Del Barba, Trustees of the Del Barba Family Trust U/D/T October 24, 1996, as to an undivided one-half interest; Juli Del Barba-Favalora, a married woman as her sole and separate property, as to an undivided one-half interest, as tenants in common (collectively, "OWNERS")., effective as of the 28 day of February, 2017.

### RECITALS

- A. June 28, 2016, Buyer and Seller executed a Real Property Purchase Agreement for certain real property in the City of Oakley, Contra Costa County, California, as described in the attached agreement, (hereinafter referred to as the "Agreement"); and,
- B. The Owners now desire that the following amendment listed below be made to the Real Property Purchase Agreement; and,
- C. City and Owner now wish to amend the Agreement to amend the June 28, 2016 Real Property Purchase Agreement.

### AGREEMENT

NOW, THEREFORE, in consideration of the mutual covenants, promises and agreements contained herein, City and Owner mutually agree and covenant as follows:

- 1. Except as provided herein, the terms used in this Amendment shall have the same meaning as the same terms have in the Agreement.
- 2. The Agreement is hereby amended as follows:

a. Paragraph 3, is amended as follows:

"OWNERS shall be responsible, at their sole cost and expense, for removing the front part of the commercial building clear of the new right-of-way so that no part of the building will intrude into the "blue" parcel by not later than August 31, 2016. Within five (5) calendar days of the date of this Agreement, CITY shall mark the right-of-way line on the building. If the front part of the building is not removed by August 31, 2016, CITY shall have the right, without further compensation to OWNERS, to demolish the entire building. If the OWNERS do timely remove the front part of the building, they shall install, at their own cost and expense, a temporary cover for the front of the building for security and appearance not later than August 31, 2016. OWNERS shall continue to maintain the temporary front until a permanent facade is installed. OWNERS shall have a new permanent front installed on the building no

later than September 1, 2017. If they do not do so, the unfinished building shall be subject to abatement by CITY which may include demolition. OWNERS shall be responsible for abatement costs. Owner shall also be responsible to pay for any damage to the newly constructed sidewalks and improvements along the property frontage during construction."

b. Paragraph 6, is amended as follows:

"OWNERS shall have a credit from CITY from all impact fees imposed by the CITY for future development of the rehabilitated commercial building and any other development which they may propose for the property. This credit shall extend to any future owners on the OWNERS' parcel. Any initial annexation fees into the City of Oakley Community Facilities District No. 2015-2 (CFD), the provision of funding to maintain police services or any fees associated with any easements required by the City shall be waived. Building inspection, plan check, and other fees associated with review and approval of new or rehabilitated buildings are not waived. CITY warrants that the parcel designated with yellow hashmarks is a "buildable parcel" meeting the minimum lot size for a commercial building at that location."

3. Except as provided herein, all other terms and provisions of the Agreement shall remain in full force and effect.

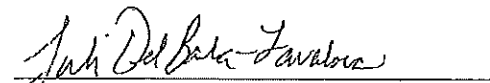
**OWNERS:**



Frederick J. Del Barba

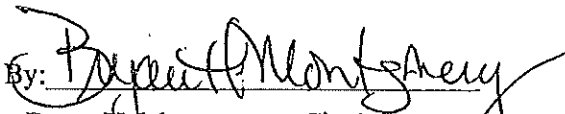


Shirley Ann Del Barba

  
\_\_\_\_\_  
Juli Del Barba-Favalora

**CITY:**

CITY OF OAKLEY

By:   
\_\_\_\_\_  
Bryan H. Montgomery, City Manager

**RESOLUTION NO. XX-17**

**A RESOLUTION OF THE CITY OF OAKLEY CITY DENYING THE REQUEST BY THE APPLICANT TO 1) MODIFY CONDITIONS OF APPROVAL #30 AND #31 OF RESOLUTION NO. 04-17 APPROVED ON JANUARY 10, 2017 FOR DESIGN REVIEW (DR03-16) AND VARIANCE (VA 02-16) DEALING WITH ANNEXING INTO THE CITY OF OAKLEY COMMUNITY FACILITIES DISTRICT AND FUNDING TO MAINTAIN POLICE SERVICES; 2) AMEND THE REAL PROPERTY PURCHASE AGREEMENT DATED JUNE 28, 2016 AND MODIFIED JANUARY 10, 2017 WHICH WOULD EXTEND THE PROJECT COMPLETION DATE FROM SEPTEMBER 1, 2017 TO NOVEMBER 30, 2017; AND 3) A REQUEST TO WAIVE THE \$2,000 DEVELOPER DEPOSIT REQUIRED TO PROCESS THIS APPLICATION. THE PROJECT IS LOCATED AT 3530 MAIN STREET (APN: 037-160-023).**

**WHEREAS**, on July 16, 2017, Juli Del Barba-Favalora ("Applicant"), submitted an application for requesting to 1) Modify conditions of approval #30 and #31 of Resolution No. 04-17 approved on January 10, 2017 for Design Review (DR03-16) and Variance (VA 02-16) dealing with annexing into the City of Oakley Community Facilities District and funding to maintain Police Services; 2) Amend the Real Property Purchase Agreement dated June 28, 2016 and modified January 10, 2017 which would extend the project completion date from September 1, 2017 to November 30, 2017; and 3) a Request to waive the \$2,000 Developer Deposit required to process this application. The project site is designated Commercial Downtown in the Oakley 2020 General Plan and zoned Downtown Specific Plan (SP-4). The Project is located at 3530 Main Street (APN: 037-160-023). ("Project"); and

**WHEREAS**, on July 24, 2017, the project application was deemed complete per Government Code section 65920 et. seq; and

**WHEREAS**, the project is designated as Commercial Downtown in the Oakley 2020 General Plan, and zoned SP-4 (Downtown Specific Plan) District; and

**WHEREAS**, the original project was categorically exempt from the California Environmental Quality Act (CEQA) pursuant to CEQA Guidelines Section 15332 – In-Fill Development Projects. No further environmental review is required for this project; and

**WHEREAS**, on or before July 28, 2017 the Notice of Public Hearing for the project was posted at Oakley City Hall located at 3231 Main Street, outside the gym at Delta Vista Middle School located at 4901 Frank Hengel Way, outside the library at Freedom High School located at 1050 Neroly Road, and at the project site. The notice was also mailed out to all owners of property within a 500-foot radius of the subject property's boundaries, to outside agencies, and to parties requesting such notice; and

**WHEREAS**, on August 8, 2017, the City Council opened the public hearing at which it received a report from City Staff, oral and written testimony from the public, and deliberated on the project. At the conclusion of its deliberations, the City Council took a vote and adopted this resolution to deny the request to modify the project, as revised by the City Council during its deliberations; and

**NOW, THEREFORE, BE IT RESOLVED THAT**, the all conditions and requirements of Resolution No. 04-17 approved on January 10, 2017 for Design Review (DR03-16) and Variance (VA 02-16), the Real Property Purchase Agreement dated June 28, 2016 and modified January 10, 2017 are in full affect and remain unchanged, and the request to waive the \$2,000 Developer Deposit required to process the request is not granted.

**PASSED AND ADOPTED** by the City Council of the City of Oakley at a meeting held on the 8<sup>th</sup> day of August, 2017 by the following vote:

AYES:

NOES:

ABSENT:

ABSTENTIONS:

APPROVED:

\_\_\_\_\_  
Sue Higgins, Mayor

\_\_\_\_\_  
Date

ATTEST:

\_\_\_\_\_  
Libby Vreonis, City Clerk

\_\_\_\_\_  
Date

**RESOLUTION NO. XX-17**

**A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF OAKLEY APPROVING THE ELIMINATION OF CONDITIONS OF APPROVAL NUMBER 30 AND 31 OF CITY COUNCIL RESOLUTION NUMBER 04-17 (3530 MAIN STREET DESIGN REVIEW DR 03-16 AND VARIANCE VA 02-16), AMENDMENTS TO THE REAL PROPERTY PURCHASE AGREEMENT DATED JUNE 28, 2016 AND MODIFIED JANUARY 10, 2017 WHICH WOULD EXTEND THE PROJECT COMPLETION DATE FROM SEPTEMBER 1, 2017 TO NOVEMBER 30, 2017 AND A REQUEST TO WAIVE THE \$2,000 DEVELOPER DEPOSIT**

**WHEREAS**, the City Council approved, with conditions, Design Review (DR03-16) and Variance (VA 02-16) on January 10, 2017 through the adoption of City Council Resolution No. 04-17; and

**WHEREAS**, on July 16, 2017, Juli Del Barba-Favalora ("Applicant"), submitted an application for requesting to 1) Modify conditions of approval #30 and #31 of Resolution No. 04-17 approved on January 10, 2017 for Design Review (DR03-16) and Variance (VA 02-16) dealing with annexing into the City of Oakley Community Facilities District and funding to maintain Police Services; 2) Amend the Real Property Purchase Agreement dated June 28, 2016 and modified January 10, 2017 which would extend the project completion date from September 1, 2017 to November 30, 2017; and 3) a Request to waive the \$2,000 Developer Deposit required to process this application. The project site is designated Commercial Downtown in the Oakley 2020 General Plan and zoned Downtown Specific Plan (SP-4). The Project is located at 3530 Main Street (APN: 037-160-023). ("Project"); and

**WHEREAS**, Condition of Approval Number 30 requires the property owners vote to approve an annexation into the Community Facilities District that funds the maintenance of public facilities including the landscaping and street maintenance along the project frontage; and

**WHEREAS**, Condition of Approval Number 31 creates an assessment on the property to fund police services; and

**WHEREAS**, the applicant has requested Conditions #30 and #31 be removed from Resolution No. 04-17; and

**WHEREAS**, the applicant has requested an amendment to the Real Property Purchase Agreement dated June 28, 2016 and modified January 10, 2017 which would extend the project completion date from September 1, 2017 to November 30, 2017; and

**WHEREAS**, the applicant has requested a waiver of the \$2,000 Developer Deposit required to process this application; and

**NOW, THEREFORE, BE IT RESOLVED** by the City Council of the City of Oakley that Condition of Approval Number 30 and 31 of City Council Resolution 04-17 are hereby

eliminated. That the Real Property Purchase Agreement dated June 28, 2016 and modified January 10, 2017 is hereby amended to extend the project completion date from September 1, 2017 to November 30, 2017. That the \$2,000 developer deposit is hereby waived. The remaining conditions of approval in Resolution 04-17 shall remain in full force and effect.

**PASSED AND ADOPTED** by the City Council of the City of Oakley at a meeting held on the 8<sup>th</sup> of August, 2017 by the following vote:

AYES:

NOES:

ABSENT:

ABSTENTIONS:

APPROVED:

\_\_\_\_\_  
Sue Higgins, Mayor                      Date

ATTEST:

\_\_\_\_\_  
Libby Vreonis, City Clerk                      Date