

**Summary of Changes to the Broadway Valdez District Specific Plan and  
Associated General Plan Amendments, Municipal Code and Planning Code Amendments,  
Zoning Maps, Height Maps and Design Guidelines**

The following summarizes changes made to the Broadway Valdez District Specific Plan and Associated General Plan Amendments, Municipal Code and Planning Code Amendments, Zoning Maps, Height Maps and Design Guidelines since they were previously reviewed by advisory boards and the Planning Commission, and, as indicated, since the May 1, 2014 publication of the Final Specific Plan and the May 12, 2014 Landmarks Preservation Advisory Staff Report (which are generally denoted by **shaded text**).

A. Changes to the BVDSP:

- **Chapter 1 Introduction.** Aspects of the retail analysis have been updated, focusing on retail expenditures, retail sales, and sales leakage, and on auto-related retail sales in the Plan Area. This follow up analysis shows that the conditions found in earlier studies continue to occur, with nearly two-thirds of comparison goods expenditures by Oakland residents being made outside of Oakland because of a lack of shopping opportunities in the city. See Section 1.3 Planning Context.
- **Chapter 2: Planning Context.** Statistics of trade area demographics, household income, per capita income, employment rates, and other localized economic statistics presented in this chapter have been updated. Ultimately, the updated statistics and discussion regarding the comparison goods retail market analysis continue to highlight strong market support for new comparison goods shopping development in the Plan and elsewhere in Oakland, including other parts of Downtown and the Broadway Corridor. See Sections 2.3 Market Condition.
- **Chapter 3 Vision and Goals.** The Vision and Goals chapter has been updated to present modified Plan goals and policies as presented in the other chapters of Final Specific Plan.
- **Chapter 4 Land Use**
  - *Leveraging Existing Assets.* Policy LU-3.2 has been revised to indicate that revitalization efforts in the Plan Area are meant to link not just with those of Downtown Oakland but of the Uptown Entertainment District as well, and referenced the implementation policies related to the Uptown Coordination Area depicted in the Final Specific Plan Figure 8.2 and its associated discussion.
  - *Retail.* More language has been added for the Specific Plan's encouragement of neighborhood-serving retail and independent retail in addition to destination retail. At the end of Policy LU 2.1, the following sentence has been added: "The Broadway Valdez District will include not only destination retail, but neighborhood-serving options such as grocery stores and pharmacies, to serve residential development." And in Policy 9.3 that addresses the North End the following sentence has been added: "Retail development in the North End will allow for neighborhood-serving uses, potentially including grocery stores and pharmacies, which will allow residents to obtain options for healthy food and daily needs."
  - *Active Ground Floor Uses.* In the zoning regulations and Policy LU-10.6 for the Large Opportunity Sites, the North Large Development Site Combining Zone, the active use requirements and exclusion of residential have been modified to only include the front 60 feet of frontage along Broadway. Because these parcels are very deep and in some cases

have frontages on more than one street, residential and other uses are allowed on the ground floor beyond the 60' of frontage along Broadway.

- *Retail Priority Sites.* Figure 4.4 Some of the Retail Priority Sites were broken up into smaller sub areas: for Retail Priority Site 3 from the previous (a) and (b) to now (a), (b), and (c) and Retail Priority Site 4 now has an (a) and (b). After publication of the Specific Plan on May 1, 2014, Retail Priority Site 5 was also further subdivided from the previous (a) and (b) to now (a), (b), and (c), see the main part of the Staff Report, the Overview section, item #5.
- *Entertainment Overlay.* Discussion of a potential Entertainment Overlay has been eliminated from the Plan and therefore the exemption from the Dark Skies requirement is also eliminated.
- *Open Space.* The following incentives in Policy LU-10.9 pertain to Public Open Space: in the Retail Priority Sites, publicly accessible plazas and open space can be counted toward the minimum square footage of retail that is required in order to build residential; a similar open space requirement is allowed as in the Central Business District, where plaza space can count towards a residential development's open space requirement; an in-lieu fee can be paid in a residential project instead of building on site open space, this fee could be used to enhance existing plazas that are currently being used to display auto dealership cars, and to enhance existing open space in the Plan Area.
- *Housing.* More detailed strategies for affordable housing are included in Policy LU-10.9. These include: changes in the Broadway Valdez District zoning will add to these incentives by no longer requiring a Conditional Use Permit (CUP) to have reduced parking for senior housing and allow for reduced parking for affordable housing. A new reduction of open space requirements by right for both senior and affordable housing is included in the zoning as well. The plan calls for new zoning incentives for the Retail Priority Sites that will grant an additional residential bonus to projects providing a certain percentage of affordable housing as part of their overall project or on another Retail Priority Site.

The City is exploring the feasibility of developing a Housing Overlay Zone (HOZ) that would target those areas throughout the city that are most prime for development and could most likely provide community benefits, such as affordable housing or open space. The analysis process will identify an appropriate method for allowing additional heights or density in exchange for the provision of affordable housing or other community benefits.

Further discussion of these implementation strategies is discussed in Chapter 8, Section 8.4 Affordable Housing Implementation Strategy. Additional Sites were added to Figure 8.5 Potentially Competitive Sites for Low Income Housing Tax Credits to further correspond with the city's Housing Element update.

- *Jobs.* In response to comments received after publication of the BVDSP on May 1, 2014 and after the May 12, 2014 LPAB meeting (see Attachment F, Comment 11.2) the following policies will be added to Chapter 4: Land Use under Goal LU-4: "Enhanced economic potential of the Plan Area resulting from the revitalization and redevelopment of existing underutilized areas" (additions/deletions are shown in underline and ~~strikeout~~ text:

Policy LU-4.3: Encourage infill development along Broadway that will improve the corridor's economic vitality, enhance the definition and character of the corridor, and create better pedestrian scale and orientation.

Policy LU-4.4: Encourage a mix of land uses and development that will generate a range of job and career opportunities, including permanent, well-paying, and green jobs that could provide work for local residents.

Policy LU-4.5: Support the provision of local job training opportunities for jobs being developed both in the Planning Area and the region, particularly those accessible via the transit network.

Policy LU-4.6: Support local and/or targeted hiring for contracting and construction jobs for implementation of the Plan (i.e., construction of infrastructure).

Policy LU-4.7: Continue to support job training and readiness services through the Workforce Investment Board by providing information about resources that are available, and encourage that these services are publicized and in a manner that is accessible to Planning Area Oakland residents.

Policy LU-4.8: Encourage local businesses to offer internship, mentoring and apprenticeship programs to high school and college students.

New development on vacant and underutilized lots, and redevelopment of currently developed parcels, should be used to incrementally reconfigure and revitalize the Broadway street frontage. These changes involve a transition from the predominantly automobile-oriented uses that currently characterize the corridor to a more diverse mix of uses. The intent is to both diversify the economic base and to add uses that will attract people to the area on a regular basis, rather than just on the occasion of purchasing or repairing one's car.

Encouraging a mix of land uses that will generate a range of jobs—retail, medical, office and other professional service uses, as well as short term construction jobs—and a range of housing types is a key component of the Plan. The City imposes a number of employment and contracting programs and requirements on City public works projects, as well as private development projects that receive a City subsidy. These include the Local and Small Local Business Enterprise Program, the Local Employment/Apprenticeship Program, Living Wage requirements, and prevailing wage requirements. However, the City of Oakland's programs do not apply to private projects, including sites sold by the City for fair market value, or public works-type projects funded by private parties, including street or sidewalk improvements built as part of a new development. The City has very limited legal authority to impose its employment and contracting programs and requirements on such "private projects." As such, the Plan supports continuing to provide private developers and business owners with information about workforce development programs, including those administered by the City or other organizations, in order to encourage opportunities for the creation of high quality, local jobs and job training programs.

- *Historic Preservation.* A more robust set of policies and incentives to preserve and enhance existing buildings, including those that are not deemed to be CEQA historic resources were added. There are a variety of incentives that have been added in Policy LU-10.9 of the Specific Plan and included in the revised zoning regulations, these include among others: existing buildings to count towards the minimal required square footage of retail before residential is allowed as well as a CEQA Historic Resource's square footage can be counted as double towards obtaining residential, no parking or open space requirements when converting from commercial to residential use or vice versa when it is a Potential Designated Historic Property (PDHP) or CEQA Historic Resource. Also, if a PDHP or a CEQA Historic Resource is incorporated as part of a larger project the area that is incorporated will be exempt from parking and open space requirements.

The original Policy LU-11.2 of the Specific Plan has been eliminated to reduce the emphasis on destination retail taking a priority over adaptive reuse of existing buildings and replaced with the new Policy LU-11.2 Support current efforts to establish a state historic tax credit program and related Policy IMP 5-1. Policy CD-3.15 is now CD-3.16 and was revised to reduce the emphasis on destination retail taking a priority over adaptive reuse of existing buildings and CEQA historic resources, and to help balance these competing goals.

- **Chapter 5 Community Design.** The majority of modifications within this chapter intend to bring more of a balance of destination retail in the Specific Plan and to encourage the protection and re-use of the Plan Area's historic buildings. The language in Policy CD-3.8 is revised to reflect greater flexibility in the Retail Priority Site proposed on the blocks on either side of Waverly Street and to reduce the emphasis on redevelopment of these parcels as a whole.

In Policy CD-2.23 the following has been added: "An additional gateway is the 20th Street entrance/exit to the 19th Street BART Station, which is an existing, established gateway into the Plan Area just south of the Valdez Triangle."

The following text has been added under Neighborhood Streets for 28th Street: "28th Street represents an important pedestrian connection for seniors living in the area. To enhance the pedestrian environment and safety, the stairway that connects 28th Street to Hamilton Place should include landscape and lighting improvements and street trees should be planted along both sides of 28th Street."

The following policy has been added:

*Policy CD-3.10:* Ensure that development on the Retail Priority Site on the west side of Broadway between 24th and 25th streets creates an active, ground-level facade that supports pedestrian activity and further contributes to the creation of a continuous retail frontage along Broadway.

The primary objective on this opportunity site will be to activate the Broadway frontage and further extend northward the strong pedestrian-oriented streetscape that currently exists to the south. The existing Historic Resource, Pacific Kissel Kar salesroom and garage, on half of the Broadway frontage at 24th Street could be incorporated with a new development next door to fill in the vacant parking lot on the half of the Broadway frontage and 25th Street. This will further allow for a continuous retail frontage and pedestrian environment along Broadway.

- **Chapter 6 Circulation.** The following Policies have been added:

- Policy C-3.4 Increase bicycle parking supply in the public realm.
  - In Policy C-5.1 a bullet was added to “Work with businesses to display the next bus arrival times for their customers.”
  - Policy C-5.4 Work with BART on their proposal to update and “rebrand” the 19th Street BART station, including providing signage to provide information about the Broadway Valdez retail district area and other nearby destinations while passengers are on the train and at the station.
  - Policy C-5.5 Work with business-owners to display the next BART arrival times within their businesses.
  - Policy C-6.8 Require residential developments to unbundle the cost of parking from the cost of housing.
  - Policy C-6.9 Establish a parking in-lieu fee program so that developers have the option of either constructing off-street parking consistent with City of Oakland Zoning Code or paying the parking in-lieu fee.
  - Policy C-6.10 Reduce the amount of parking required by the Planning Code.
- **Chapter 7 Infrastructure and Utilities.** Several policies have been added to coordinate with EBMUD including: Policies I-1.2, I-1.5, I-2.1, I-2.2, I-2.5, I-3.1.
  - **Chapter 8 Implementation.** Modifications to this chapter have involved a reorganized presentation of the data, and revisions to the components necessary to implement the Specific Plan. For instance, what was originally referred to as ‘phasing tiers’ in the Implementation chapter have been renamed ‘priority tiers’, in order to emphasize that since the Plan is intended to happen organically, it is hard to predict the exact order or phase in which each implementation item will occur. The Plan instead now has a list of priorities to implement when different sites develop. Public Realm infrastructure are the only items that are now listed and streetscape and bicycle and pedestrian improvements have been moved to higher priorities, along with utilizing existing parking first. A new parking structure would only be considered as part of a larger retail project and the city will consider the potential for some portion of a contribution to the structure if needed to help bring in the first catalyst retail project.
    - The following in Policy IMP-5.1 will be changed to reflect recommendations from the LPAB at its May 12, 2014 meeting, additions are underlined and deletions are in ~~strikeout~~:

**Policy IMP 5-1**

~~Consider~~ The City will pursue developing a package of incentives that will encourage landowners and developers to renovate and/or adaptively reuse historic buildings, especially in the designated Adaptive Reuse Priority Areas. ~~Potential~~ Preservation strategies to be considered should include the following: Facade Improvement Grants; Facade Easements; Transfer of Development Rights (TDR); Extension of the California State Historical Building Code (SHBC); Reduced Fees and Expedited Development Review; Federal Historic Tax Credits; Recognition of Plan Area historic resources that promotes broad community awareness (e.g.; plaque program); Mills Act (Property Tax Abatements); and Relief from Code Requirements.

The following represent some programs and strategies that will be pursued: ~~might be considered~~:

#### FACADE IMPROVEMENT GRANTS

The City ~~could~~ will pursue reestablishment of a Façade Improvement Grant Program to encourage the reuse of eligible buildings specifically for commercial uses that are consistent with the Specific Plan (e.g., ground-floor, active retail).

#### FACADE EASEMENTS

The City ~~could~~ will pursue establishment of a Facade Easement Program to encourage the preservation of building facades in perpetuity.

#### TRANSFER OF DEVELOPMENT RIGHTS (TDR)

The City ~~could~~ will explore establishment of a Transfer of Development Rights (TDR) Program to encourage the reuse of historically significant buildings within the Plan Area.

#### REDUCED FEES AND EXPEDITED DEVELOPMENT REVIEW

The City ~~could~~ will pursue the granting of expedited development review and reduce Planning Department fees for developments including and/or reusing eligible historic resources.

#### DEVELOPMENT INCENTIVES AND RELIEF FROM CODE REQUIREMENTS

Eligible properties could be granted relief from potentially financially burdensome requirements as required in the Oakland development code. These might include parking, open space, and impact fees. The City ~~might also consider~~ will pursue development incentives which could include, but not be limited to, flexibility in development standards, and height and density bonuses.

### *B. Changes to the General Plan (Specific Plan Appendix A)*

Two parcels along the east side of Brook Street have been changed from Mixed Housing Type Residential to Community Commercial. The two parcels are on the northern portion of Brook just below the triangle shaped parcel. The two parcels are vacant and adjacent to the vacant triangle shaped parcel which is adjacent to a commercial use; therefore these parcels are seen as an opportunity site to develop with a commercial use on the ground floor.

### *C. Changes to the Zoning and Height Area Maps (Specific Plan Appendix B)*

- Two parcels along the east side of Brook Street have been changed from their existing height limit of 35' and added to the adjacent 45' height limit, as well as changed from the D-BV-4 to D-BV-3 zone. These are the same two parcels that were mentioned above in the General Plan Amendments to Community Commercial and the reasoning was the same, the two parcels are vacant and adjacent to the vacant triangle-shaped parcel which is adjacent to a commercial use, so the parcels were seen as an opportunity site to develop with a commercial use on the ground floor. The added height will allow for an additional floor of residential to be built above the commercial.
- The triangle-shaped block between Broadway, Piedmont, and I-580 has been changed from Height Area 65' to 85'. The 85' height limit is more compatible with the existing "Saw Mill" building adjacent to I-580 and goes along with the concept on the west side of Broadway allowing for taller buildings as they get closer to the freeway.
- In the North End of the Plan Area, the height areas on the west side of Broadway north of 30th Street have been modified to have a lower permitted height and allow for the formerly proposed maximum height only with a Conditional Use Permit (CUP). The former 135' height area has been changed to 85'

permitted (135' with a CUP), and the former 200' height area has been changed to 135' permitted (200' with a CUP). There will be findings that have to be made to allow for the higher height. In the future, additional CUP findings could be added to require a community benefit/affordable housing in return for the additional height if a Citywide affordable housing and community benefits program is developed. This could be through a Housing Overlay Zone and/or other type of "value capture."

- The parcel along the southeast corner of Webster and Hawthorne was changed from D-BV-3 zone with the N Combining Zone to D-BV-3 with no combining zone in order to allow for greater uses on the ground floor since Webster is not considered a commercial street in this area.
- The parcels just north of 30th Street between Broadway and Brook Street have been changed from height area 65' to height area 85' to allow for a development that could potentially incorporate the existing buildings at the northeast corner of 30th Street and Broadway.
- The two parcels on the south side of 30th Street just behind the historic Firestone Tire & Rubber Service Station, soon to be a CVS Pharmacy, were changed from D-BV-4 to D-BV-3 zone to continue commercial uses a little further past the future CVS.
- Within the Retail Priority Sites Retail Priority Site 3 (a) and (b) was further divided into 3 (a), (b), and (c) in order to allow for more flexibility because of the smaller lots on the southern portion of the Priority Site. And two parcels were removed from Priority Site 3 on the southern portion that faces Valdez Street because one will have the approved Micro Living Unit project and the other is a very small parcel with an existing duplex. The zoning has been changed for this area from D-BV-1 to D-BV-2 and the height area to 85'. After publication of the Specific Plan on May 1, 2014, Retail Priority Site 5 was also further subdivided from the previous (a) and (b) to now (a), (b), and (c), see the main part of the Staff Report, the Overview section, item #5.
- Retail Priority Site 4 has been divided into two parts, (a) and (b) in order to allow for development to occur separately for the parcels that face Valdez because the Acura dealership is thriving right now and it may be a while before it is redeveloped. Therefore it was important that the west side of the site along Valdez Street be able to develop independent of the Acura site.
- Within Retail Priority Site 5(a), the tall parking structure at the northwest corner of 23rd and Waverly has been removed from the Priority Site and changed to the D-BV-2 zone and height area 250'. Because the parking structure will be needed for any new retail that is built there it would not be used for retail in and of itself, so it was removed from the Retail Priority Site.

#### *D. Changes to Design Guidelines (Appendix C)*

The word "landscaping" has been replaced with "planting" in the Design Guidelines and throughout the whole Specific Plan where it was appropriate.

The following Design Guidelines were changed:

- DG 6. Sites Adjacent to I-580: the text "buildings that are visible from I-580 should take into account the Scenic Corridor designation for the interstate, and include aesthetic roof and façade elements" has been added to address views from I-580.
- DG 85 Rooftop Open Space: text has been added to also encourage roof top open space on top of parking garages.
- DG 128 Waverly Street Residential ASI District: has been added.
- DG 161 Unified Design Identity, DG 164 Seating, DG 166 Movable Chairs, and DG 168 Café Furniture: all added that these items should be of high quality.
- DG 170 Shelter Design: added that transit shelters should be transparent.
- DG 180 Trash Receptacles Design: for trash receptacles it was added that they should be self-compacting where feasible.

- DG 192 Tree Grates: it has been added that the existing or future Community Benefit Districts in the Plan Area be directed to help maintain the trees within the grates.
- DG 194 Canopy Clearance and DG 196 Deciduous Trees: language has been added about using Silva Cells or a similar brand to help ensure that new street trees will thrive.

The following will be changed to reflect recommendations from the LPAB at its May 12, 2014 meeting, additions are underlined and deletions are in ~~strikeout~~:

- DG 124 Adaptive Reuse: Change as below:  
When adapting or altering historic resources, ~~consider~~ the following is recommended:
  - ~~Avoid removal of~~ Retain and Repair historic materials or covering historic architectural details with cladding, awnings, or signage.
  - Identify, retain, and preserve architectural materials and features that are important in identifying historic character.
- DG 128 Waverly Street Residential ASI District: a photo will be added to the Design Guidelines of the Waverly Street ASI District.

#### *E. Changes to the Planning Code*

A full draft chapter of the 17.101C D-BV zone was presented at the Zoning Update Committee (ZUC) meeting in December of 2013, which was after the release of the Draft Broadway Valdez District Specific Plan. Further changes have been made since the full draft chapter of the 17.101C D-BV zone was presented at the ZUC. (See Attachment E6 for Chapter 17.101C D-BV zone with substantive changes shown in ~~strike-out~~ and underline after the ZUC meeting; see Attachment E5 for a “Clean” version of the proposed zoning regulations);.

Below are a summary of the more substantive changes:

- In Table 17.101C.01 Permitted and Conditionally Permitted Activities: Automobile and Other Light Vehicle Gas Station and Servicing as well as Automobile and Other Light Vehicle Repair and Cleaning in the D-BV-3 zone is now permitted with a Conditional Use Permit where they were prohibited before.
- The Parking and Bicycle regulations were moved to their proper chapters in the Planning Code, Chapters 17.116 Off-Street Parking and Loading Requirements and 17.117 Bicycle Parking Requirements.
- In Table 17.101C.04 Height, Floor Area Ratio (FAR), Density, and Open Space Regulations: the former 135’ height area has been changed to 85’ permitted (135’ with a CUP), and the former 200’ height area has been changed to 135’ permitted (200’ with a CUP). CUP findings that have to be made to allow for the higher height. In the future, additional CUP findings could be added to require a community benefit/affordable housing in return for the additional height if a Citywide affordable housing and community benefits program is developed. This could be through a Housing Overlay Zone and/or other type of “value capture.”
- Tables 17.101C.05 and 17.101C.06 have been revised that address the minimum square footages required for the Retail Priority Sites and the bonuses received. The minimum square footage of retail area for a residential bonus has been revised to require an equal percentage of retail for all of the Retail Priority Sites. As well as the minimums required for retail on each Retail Priority Site was reduced and the residential bonus was increased in order to help further incentivize the retail to be built. There are now two tiers of minimum percentages that are required. Height, FAR and residential bonus are based on the provision of certain minimum thresholds of retail square footage equal to a percentage of the total area of each Retail Priority Site, which may contain multiple parcels with different owners. As shown in Table 17.101C.05, if 50% of the Retail Priority Site is provided as retail square footage in a project,



then a height, FAR, and residential bonus are established; if 60% of the Retail Priority Site is provided as retail square footage, then a larger residential bonus will be permitted, as well as the right to transfer development rights for those residential units to another parcel or parcels within a Retail Priority Site that could not meet the minimum retail square footage requirements on its/their own. The amount of residential units as a bonus is now tied to the amount of square footage of retail provided, instead of determined by the lot size as in the previous proposal. This allows a clear bonus system tied directly to retail, the more retail square footage that is provided the more housing units that are permitted. Also added is an additional 35% residential bonus is provided if 15% affordable housing is included in the project or built within another Retail Priority Site. An exception is now provided if one cannot meet the minimum retail square footage through a conditional use permit (CUP) with criteria that include, but not limited to; if demonstrated through architectural studies of at least one or more alternative, that a project would be physically infeasible due to operational and/or site constraints if it were to meet the minimum retail square footage specified.

- What counts as retail and what doesn't count has also been slightly modified. Existing buildings can count towards the minimal required square footage of retail before residential is allowed; a CEQA Historic Resource's square footage can be counted as double towards obtaining residential or if it is maintained and not used for retail, the square feet of its footprint can be deducted from the overall square footage of the Retail Priority Site in determining the square footage of retail required. Ground floor public plaza/open space(s) that is on site or adjacent offsite can also count towards the minimum retail square footage to help incentivize providing plaza/open space that can be used by the public.
- And some of the Retail Priority Sites were broken up into smaller sub areas: for Retail Priority Site 3 from the previous (a) and (b) to now (a), (b), and (c) and Retail Priority Site 4 now has an (a) and (b). After publication of the Specific Plan on May 1, 2014, Retail Priority Site 5 was also further subdivided from the previous (a) and (b) to now (a), (b), and (c), see the main part of the Staff Report, the Overview section, item #5.

Substantive revisions from the May 12, 2014 version submitted to the Landmarks Preservation Advisory Board are summarized below. See Attachment E6 for actual revisions.

- In Table 17.101C.01 Permitted and Conditionally Permitted Activities; the following limitation was added to General Food Sales, Full Service Restaurants, Limited Service Restaurant and Café, Fast-Food Restaurant, Alcoholic Beverage Sales, General Retail Sales, Group Assembly, Automobile and Other Light Vehicle Sales and Rental:

L11. Only these activities can be counted towards the retail floor area that is required in order to build residential as a bonus. For General Food Sales Commercial, no more than 5,000 square feet can be counted toward the residential bonus threshold; for Group Assembly Commercial, only a movie theatre that is above the ground floor can be counted toward the residential bonus threshold; for Automobile and Other Light Vehicle Sales and Rental, only the interior showroom space can be counted toward the residential bonus threshold (space for auto repair, interior/outdoor inventory storage, and outdoor sales is not included).

- In Table 17.101C.05 and Table 17.101C.06 the following was added that is shown in underline:  
\*The following contribute to the retail square footage minimums:  
○ Retail floor area (see Limitation L11. in Table 17.101C.01 for all of the complementary activities that count as retail floor area)
- In Table 17.101C.04 and Table 17.101C.06 in the Additional Regulation 8 and 6 respectively, there was language added that open space in-lieu fees shall be deposited with the City of Oakland prior to issuance of a building permit and when fees can be refunded.