Oakland City Planning Commission STAFF REPORT

Case File Numbers ZT10-111, RZ10-112 **December 15, 2010**

Location:	Citywide
Proposal:	Zoning Text amendments and Zoning Map revisions to update the City's commercial and residential zoning districts. This project also includes establishing height maps along the City's corridors and revising the "Guidelines for Determining Project Conformity with the General Plan and Zoning Regulations" to reflect the new zoning designations.
Applicant:	Planning Commission
Planning Permits Required:	Text Amendments and Rezoning
General Plan:	Various
Zoning:	Various
Environmental Determination:	The proposal relies on the previously certified Final Environmental Impact Report (EIR) for the Land Use and Transportation Element of the General Plan (1998); the Final EIR for the 1998 Amendment to the Historic Preservation Element of the General Plan; the 2007-2014 Housing Element Final EIR (scheduled for a certification hearing in November 2010), and various Redevelopment Plan Final EIRs. On a separate and independent basis, the proposal is also exempt from CEQA pursuant to CEQA Guidelines Section 15183 "Projects Consistent with a Community Plan, General Plan or Zoning".
Service Delivery District:	All
City Council District:	All
Status:	Referred to the Planning Commission by the Zoning Update Committee.
Action to be Taken:	Recommendation to the City Council
Staff Recommendation:	Recommend adoption of the proposal to the City Council
For Further Information:	Contact case planner **Neil Gray** at **510-238-3878** or **ngray@oaklandnet.com**

INTRODUCTION

This is the second staff report written for the full Planning Commission regarding the proposed rezoning of the City's commercial and residential areas. This effort consists of the comprehensive development of new residential and commercial zones (see Attachment A) and mapping these zones in accordance with the land use map contained in the Land Use and Transportation Element (LUTE) of the General Plan (see Attachments B and C). The first staff report, prepared for the meeting of November 17, 2010, focused on the proposed rezoning of the City's residential neighborhoods off the City's major corridors. This meeting focuses on the City's commercial districts and residential neighborhoods on the City's major corridors (commercial/corridor neighborhoods). A full background of the rezoning effort and a description of the residential rezoning proposal are contained in Attachment D, the November 17, 2010 staff report to the Planning Commission.

COMMERCIAL/CORRIDOR LUTE POLICIES

The LUTE provides the main policy direction for new zoning districts. The LUTE recommends that the Planning Code be updated to implement the LUTE's vision. A major strategy of the

LUTE includes providing stability to Oakland's lower density residential neighborhoods while strategically directing development to Downtown, major transit corridors like San Pablo Avenue and International Boulevard, the Estuary area, the city's BART stations and AC Transit hubs. The November 17, 2010 staff report described how the proposal maintains the context of the City's residential neighborhoods off the corridors. This staff report describes how the proposal strategically focuses development along the City's corridors such as San Pablo Avenue, International Boulevard, Macarthur Boulevard, and Telegraph Avenue. The goal behind this strategy is to revitalize the City's commercial districts, concentrate development where there is available land and transit, increase transit use, and reduce suburban sprawl. Recognizing that development along the corridors may impact adjacent residential neighborhoods, Policy N-8.5 of the LUTE encourages new development to create appropriate transitions to adjacent lower density residential neighborhoods.

Another theme of the LUTE is to concentrate retail activity in nodes on the corridors and to connect these nodes by longer stretches of high density residential development (see LUTE Policy I/C 3.3). This pattern is intended to create compact, pedestrian oriented districts and avoid the dilution of commercial activity along the City's long corridors. This has implications for the zoning map as well as the new zoning districts.

The LUTE includes a land use map that designates each area of the City with a certain land use classification. The LUTE also contains a description of the intended character of each land use classification, including the type and intensity of allowable future development. The following is the list of the commercial/corridor land use classifications:

- Urban Residential
- Neighborhood Center Mixed Use
- Community Commercial
- Regional Commercial

Detailed descriptions of these classifications from the LUTE, including density and floor area ratio (FAR) ranges, are contained in Attachment E; summaries of the classifications are also contained in the Framework section of this report, below.

APPROACH

Development of New Zones

The basic approach to the development of the new zones is to create zones that implement the policies of each LUTE classification. Consistent with State General Plan Guidelines, each LUTE classification corresponds to one or more new zones. Wherever a particular LUTE classification is mapped, one of the corresponding zones is also mapped. For instance, the Community Commercial LUTE classification has three corresponding new zones: the CC-1, CC-2, and CC-3 zones. Wherever the Community Commercial LUTE classification is mapped, one of these three zones is applied.

Staff analyzed the locations of the different LUTE commercial/corridor classifications and grouped areas into different neighborhood typologies. For instance, the Community Commercial LUTE classification is mapped in three basic types of areas: on the corridors such as Broadway and International Boulevard; at large shopping centers such as Eastmont Mall; and in light

industrial areas such as the west side of 7th Street in West Oakland. Therefore, staff developed the three Community Commercial zones (CC-1, CC-2, and CC-3) so that each of these typologies can be assigned an appropriate zone. Activity and design regulations for each area are based on the intent of the corresponding LUTE classification and the context of the neighborhood in which they are located. A summary of the zones is contained in Attachment F. A detailed description of each zone is contained in the Proposed Zones section, below.

Approach to Mapping the Zones

A consistent citywide methodology was used to develop the maps, taking into consideration the following criteria:

- LUTE Classification. The foremost criterion for how a property is zoned is its designation on the LUTE Land Use Diagram. The overarching goal of the zoning update is to achieve a zoning map that is fully consistent with the Land Use Diagram.
- Strategy Diagram Designation. The LUTE Strategy Diagram designates some areas of Oakland as "Maintain and Enhance" and others as "Grow and Change." For areas with the former designation, an effort was made to assign a zoning district which reflected *existing* intensities.
- Existing Zoning. Within a given LUTE classification, existing zoning was a major factor in determining future zoning, particularly in areas that were rezoned during the 1990s and 2000s, and in commercial areas (such as C-31).
- Existing Land Uses. Extensive field work was conducted as part of the mapping process, especially in areas where the existing zoning does not align with the LUTE Map. In residential areas, existing densities were calculated in order to assign the correct zoning designations. In commercial areas, the existing use mix was evaluated to determine the "best fit" zone for a given LUTE classification. The existing land uses were also analyzed to choose a zone that would minimize the number of nonconforming activities. The result is a much finer-grained zoning map than the current map.
- Community Input. More than 60 public meetings and six Zoning Update Committee (ZUC) meetings have been held to date. The maps and have been continually edited to reflect input from these meetings, as well as written correspondence from residents.

Approach to Regulating Building Height and Intensity

In commercial/corridor areas, development intensity (maximum height, number of floors, floor area ratio, and residential density) is proposed to be regulated using height designations on the zoning map. Each height designation has corresponding maximum number of floors, floor area ratio, and residential density. For instance, if a particular block has a 45-foot height designation, its maximum height is 45 feet, maximum density is one unit per 450 square feet of lot area, maximum floor area ratio is 2.5, and maximum number of stories is four.

These height designations are based on location and context and not by the base zone. In other words, two areas may have the same zoning but different permitted heights and development intensity regulations. This approach provides greater flexibility in the application of a single zone to areas with different height contexts. For instance, the Laurel and Fruitvale Commercial Districts are both proposed to have a CN-2 zoning because they are both intended to remain pedestrian oriented districts, but these areas have different height and intensity regulations

designated on the height map because these areas have very different contexts in terms of street width, transit availability and existing building intensity.

COMMERCIAL/CORRIDOR ZONING FRAMEWORK

The following is a description of each of the proposed commercial/corridor zones, organized by the LUTE land use classifications. The proposed zoning text of the each of these zones is contained in Attachment A. The zones are organized into three basic parts: activity regulations, design standards, and height regulations. A summary of these regulations for each zone is contained in Attachments G, H, and I, respectively.

Urban Residential LUTE Classification Zones

The Urban Residential LUTE classification envisions high density residential neighborhoods with some ground floor commercial activity in appropriate locations. Staff proposes the RU-4 and RU-5 zones to implement the Urban Residential Classification located on the corridors.

RU-4 is intended to be mapped in neighborhoods on the corridors that already have a solid residential character. RU-4 encourages high density, multifamily development and only allows new ground floor commercial construction on corner lots, but not at mid-block locations. This commercial limitation is intended to focus commercial activities at the retail nodes mapped as Neighborhood Center Mixed Use. Allowing new ground floor commercial construction at all locations along the corridors could dilute the commercial presence and decrease the economic viability of the identified retail nodes. Construction with ground floor residential units requires a separation between the sidewalk and the ground floor to preserve privacy and security.

RU-5 is designated for areas that currently contain a concentration of ground floor commercial activities. Staff proposes high density residential activities for these areas and to allow, but not require, ground floor commercial storefronts that contain low impact commercial activities such as small offices, markets, real estate brokers, cafes, and stores. Upper stories are generally preserved for residential activities. The RU-5 zone requires the same ground floor unit street separation as the RU-4 zone.

Neighborhood Center Mixed Use LUTE Classification Zones

The LUTE defines Neighborhood Center Mixed Use areas as vibrant, compact, and pedestrian oriented neighborhood commercial centers with continuous retail street frontage. These areas are generally mapped along the City's transportation corridors. Staff proposes four new zones to implement the Neighborhood Center Mixed Use classification: CN-1, CN-2, CN-3, and CN-4. The first three zones are more pedestrian-oriented and do not permit automotive repair activities.

CN-1 corresponds to Oakland's most well established retail districts, including Rockridge, Piedmont Avenue, and Montclair. These zoning districts are heavily oriented toward retail shopping and new development is required to have commercial space on the ground floor. Of all the proposed commercial districts, CN-1 has the greatest number of limitations on the types of activities that are permitted and conditionally permitted. For example, all restaurants and cafes require a conditional use permit, and uses such as offices, banks, small gyms and copy shops must receive a conditional use permit before they can locate on the ground floor. The

regulations for this zone are similar to those of the current C-27 Village Commercial Zone and C-31 Special Retail Commercial Zone. Proposed design regulations included in this zone would require that new construction have a traditional storefront character. These regulations include a maximum front yard setback, minimum ground floor height, a minimum ground floor façade transparency, and prohibits parking between the sidewalk and principal buildings.

CN-2 is similar to CN-1, but allows a few more neighborhood services on the ground floor without a conditional use permit. For example, restaurants do not require a conditional use permit, and uses such as yoga studios can locate on the ground floor without a use permit. However, like CN-1, ground floor residential activities are not permitted, and the goal is still to create a pedestrian-oriented shopping street, so offices and ground floor residential are discouraged. The storefront design regulations for the CN-2 zone are the same as those for the CN-1 zone. Examples of the CN-2 zone include Telegraph Avenue in the Temescal district, MacArthur Boulevard in the Laurel District, and International Boulevard in the Fruitvale district.

CN-3 is a neighborhood shopping district with fewer restrictions than CN-1 or CN-2. By allowing a greater number of uses, CN-3 provides more options for commercial districts that may currently lack the goods and services available in CN-1 and CN-2, such as grocery stores, banks, and restaurants. The storefront design regulations for the CN-3 zone are the same as those for the CN-1 and CN-2 zones. Residential uses are conditionally permitted on the ground floor. CN-3 is mapped along parts of San Pablo Avenue in North Oakland, and along much of International Boulevard and Foothill Boulevard in East Oakland.

CN-4 is applied to existing small commercial properties in lower density residential neighborhoods. These areas are so small that they don't show up on the LUTE map, but they have supported small businesses for many years. CN-4 businesses are typically auto-oriented, with customers arriving by car rather than on-foot. Service stations are conditionally permitted. Storefront design requirements are not contained in this zone. Examples include the gas stations and convenience stores at off-ramps along Highway 13 and Highway 580.

Community Commercial LUTE Classification Zones

The Community Commercial classification is intended to accommodate a wide variety of commercial activities on the City's transportation corridors, such as larger scale retail and service businesses and automotive related activities. Staff proposes CC-1 through CC-3 to implement this classification.

CC-1 corresponds to Oakland's large auto oriented shopping centers. Auto repair uses are conditionally permitted and new construction could contain some residential construction if part of a larger commercial development. CC-1 areas include Eastmont Mall, Foothill Square, Lincoln Square, Fruitvale Station, and other large retail centers where patrons usually arrive by car.

CC-2 also allows a wide variety of commercial activities and auto repair is conditionally permitted, but CC-2 requires a strong commercial storefront presence, including ground floor height and transparency and parking location requirements. The CC-2 zone requires new construction to have ground floor commercial facilities but allows residential facilities in upper

stories. CC-2 is mapped along major commercial streets like Broadway, Grand Avenue, and parts of San Pablo Avenue.

CC-3 is the most permissive commercial zone, allowing auto repair, heavy commercial uses such as building suppliers, light industrial activities, as well as general commercial activities. This zone does not allow new residential units to avoid conflicts between residential and heavier commercial activities. CC-3 is mapped at locations that are not adjacent to low density residential neighborhoods, including the area north of Downtown between Telegraph and Broadway.

Regional Commercial LUTE Classification Zone

The Regional Commercial LUTE classification is mapped in areas that contain region-drawing facilities such as hotels, big box stores, and major office buildings. The LUTE designates the Regional Commercial classification at two locations: the Hegenberger/Coliseum area and the East BayBridge Shopping Center at the Emeryville border.

CR-1 is the only Regional Commercial zone. The zone is analogous to the existing C-36 zone, which was written for the Hegenberger Corridor. CR-1 permits large scale commercial activities and limits light industrial activities at locations away from Hegenberger Road. Residential activities are not permitted in the CR-1 zone.

COMMERCIAL/CORRIDOR HEIGHT AREA FRAMEWORK

As mentioned in the Approach section, above, height, bulk and intensity regulations are proposed to be regulated separately from the base zoning districts in the commercial/corridor zones. Staff proposes seven height levels with corresponding maximum residential densities, nonresidential floor area ratios and number of floors. These regulations are summarized in Attachment I. The height maximums (35, 45, 60, 75, 90, 120, and 160 feet) were chosen to be just below where "life safety" requirements necessitate a more expensive building type.

These height levels were mapped using the following basic principles:

- Height maximums were set higher on wider corridors to create an appropriate "wall" to contain the street space on the widest streets.
- Height maximums were also set higher near transit (BART stations and AC Transit hubs) to increase transit accessibility and near the Central Business District.
- Height maximums were set lower to preserve intact historic districts, generally Areas of Secondary Importance (ASIs)[1].
- Heights were set lower adjacent to lower density residential neighborhoods and corridors adjacent to a bluff to preserve views.

The following table summarizes the principles used when determining heights on the corridors;

[1] ASIs are historically or visually cohesive areas or property groups identified by City surveys that contain a high proportion of historic buildings. ASIs do not appear eligible and not considered CEQA Historic Resources. There are several ASIs on the corridors and tend to be located at commercial districts where major streets intersect, such as the Fruitvale and Rockridge Commercial Districts. ASIs are distinguished from APIs because APIs appear eligible for the National Register of Historic Places and thus are considered CEQA Historic Resources. The 7th Street commercial district is the only API on a commercial corridor outside of Downtown.

it does not, however, include all contexts and situations.

Condition	Height Maximum	Examples
Wide Street (streets with a right of way > 100 feet such as San Pablo Ave, Telegraph Ave, and International Blvd		
Near a BART Station	75 to 120 feet	Fruitvale, West Oakland BART station areas
At an AC Transit hub (the intersection of two trunk lines) or intersection of two major streets	75 feet	40th Street and Broadway
Not adjacent to a lower density residential neighborhood	75 feet	Telegraph Ave adjacent to Pill Hill
Adjacent to a lower density residential neighborhood	60 feet	Most of San Pablo Avenue
In a historic neighborhood	45 feet	Grand Avenue at the Adams Point neighborhood
Directly adjacent to a bluff	45 feet	Broadway 41st to 45th Streets
Hegenberger Corridor	120 to 160 feet	Hegenberger Road, 98th Avenue
Narrow Streets (streets with a right of way < 100 feet such as College Ave, Macarthur Blvd, and Foothill Blvd		
At an AC transit hub (the intersection of two trunk lines) or intersection of two major streets	60 feet	Macarthur and 73rd Avenue
Not adjacent to a lower density residential neighborhood	60 feet	International Boulevard near 4th Avenue
Adjacent to a lower density residential neighborhood	45 feet	Dimond District
In a historic neighborhood	35 feet	Rockridge

The pattern of major streets adjacent to residential neighborhoods to the rear is common in Oakland due to its history of streetcar lines running along the corridors. Current regulations require a ten-foot setback adjacent to residential neighborhoods and a 30-foot height limit at this setback line. This 30-foot height limit is consistent with the height limit for low density residential neighborhoods. This height limit increases one foot for every foot from the rear setback line. Staff proposes to stengthen this regulation by increasing the required rear setback to fifteen feet for lots that are deeper than 100 feet.

COMMERCIAL/CORRIDOR MAPPING

A proposed set of parcel-specific zoning maps covering the entire city of Oakland is contained in Attachments B and C. Attachment C distinguishes those areas where substantive changes to the zoning are proposed, and those areas where the new zone is similar to the existing zone. Areas where the base use is changing (e.g., a commercial zone is being redesignated as a residential zone, etc.) are shown with a dark-shaded tone.

North Oakland (see Attachments C-1 to C-14)

The commercial/corridors of North Oakland include Broadway, College Avenue, San Pablo Avenue, Telegraph Avenue, Piedmont Avenue, and Martin Luther King Jr. Way. Telegraph Avenue north of Highway 24, Rockridge, and Piedmont Avenue are designated “Maintain and Enhance” on the LUTE Strategy Diagram, but key areas in North Oakland, including the San Pablo Avenue corridor, the Telegraph Avenue south of Highway 24 (in Temescal), the MacArthur corridor, the MLK Jr. corridor (below Children’s Hospital), and the Broadway corridor (below 51st Street) are designated “Grow and Change.”

The zoning changes along these commercial/corridors are guided by LUTE classifications. For instance, the Telegraph corridor includes sections designated on the Land Use Diagram as Urban Residential, Neighborhood Center Mixed Use, and Community Commercial. The existing C-28

zoning on this corridor will be replaced with a more fine-grained mix of RU-4 and RU-5 (in the Urban Residential areas), CN-2 (in the Neighborhood Center areas), and CC-2 (in the Community Commercial areas).

A few of the commercial corridors in North Oakland are proposed for rezoning from a commercial zone to Urban Residential. For example, the Martin Luther King Junior corridor (below 51st Street) will be rezoned from C-30 to a combination of RU-4 and RU-5. The RU-4 designation has been proposed in areas where the existing land use is predominantly residential. The RU-5 designation has been proposed in areas where the existing land use is predominantly commercial.

Land around the MacArthur BART station is generally proposed for S-15 (Transit Oriented Development) zoning. This is the same district that applies in West Oakland and Fruitvale, and it is intended to accommodate high density mixed use development, consistent with the LUTE. Height limits in this area reflect prior planning studies and recent proposals for the BART station, as well as the factors listed earlier in this staff report. The adjacent stretch of MacArthur Boulevard between the BART Station and Emeryville will be rezoned from commercial (C-25 and C-30) to a mix of RU-4 and RU-5, responding both to the LUTE and existing land use patterns.

Proposed zoning on most of the other corridors in North Oakland is comparable to existing zoning and is already consistent with the LUTE. This includes Broadway (to be zoned CC-2, which is similar to the existing C-40 zone but with height limits and more emphasis on pedestrian-oriented design) and San Pablo Avenue (to be zoned CC-2, with CN-3 near the Powell Street intersection in the Golden Gate Commercial District). The proposed zoning on both of these corridors would establish context-sensitive height limits where no height limits at all exist today. In addition, the Piedmont Avenue and College Avenue shopping districts are proposed for CN-1 zoning and 35 foot height limits. This is similar to the existing C-31 zoning.

Maximum heights between 35 and 60 feet are proposed on Telegraph Avenue from 41st Street to the Oakland/Berkeley border. The heights proposed for this area are discussed in the "Key Issues and Impacts" section of this report, below.

North Hills (see Attachments C-15 to C-20)

Commercial uses in the North Hills are limited to the Montclair commercial district, the Claremont Hotel, the Lincoln Square shopping center, and several small "nodes" of retail use (Woodminster Shopping Center, Village Market, Thornhill Shopping Center, etc.). Montclair Village has been zoned CN-1, which is similar to the existing C-27 zone. The other commercial areas have generally been designated with CN zones that more or less correspond with existing designations in terms of permitted activities. Height limits generally range from 35 to 45 feet. The Claremont Hotel has been residentially zoned, consistent with its existing zoning.

West Oakland/ Pill Hill (see Attachments C-21 to C-26)

For the purposes of this staff report, the West Oakland/ Pill Hill area includes those areas bounded by I-580 on the north, I-880 on the west and south, and Harrison Street or Downtown

on the east. The most substantial zoning changes are on San Pablo Avenue and Martin Luther King Junior Way.

San Pablo Avenue presently includes a mix of C-30 and C-40 zoning. Consistent with the LUTE, the corridor has been divided into segments of Community Commercial (CC-2 and CC-3) and Urban Residential (RU-4 and RU-5) zoning. Height limits ranging from 35 to 75 feet have been assigned to the corridor (there are no height limits today). The mapping has been structured to minimize the creation of new non-conforming uses, with RU-4 applied in those areas where the prevailing use is residential (including SROs) and CC-3 applied in areas with concentrations of quasi-industrial and automotive service uses.

Similarly, the segment of Martin Luther King Junior Way from Grand Avenue to 29th Street will be rezoned from commercial (C-30) use to RU-4 and RU-5, implementing the LUTE classification of Urban Residential. Some of the existing "heavier" commercial uses on both the Market Street and MLK corridors would become non-conforming as a result of these changes.

Another change in West Oakland is on the south side of 7th Street between Union and Market, where the existing zoning is M-20. The LUTE classification in this area is Community Commercial. Accordingly, a zone change to CC-3 has been proposed. Most of the existing businesses in this area conform to the CC-3 regulations. At the other end of West Oakland, the East Baybridge Center (e.g., Home Depot, et. al) is proposed for rezoning from M-40 to RC-1, reflecting its designation on the LUTE map as Regional Commercial.

East of I-980 and north of Grand Avenue, zoning in the Pill Hill, Northgate, and Harrison/ Oakland neighborhoods will be changed to match LUTE classifications and better reflect LUTE policy directives. The Broadway and Telegraph corridors in this area are proposed for CC-2 zoning, with height limits that reflect street widths, close proximity to Downtown, and transit access. CC-3 zoning has been applied to the existing cluster of automotive businesses along 24th and 25th Streets north of Downtown. Zoning designations in this area will be further refined and supplemented following the completion of the Upper Broadway Specific Plan.

Grand Lake Neighborhoods (see Attachments C-27 to C-30)

The Grand Avenue corridor at Adams Point has been zoned CN-3 west of Perkins Street and CN-2 east of Perkins Street. This reflects prevailing uses in each area. The area east of Perkins is more retail intensive, while the area west of Perkins includes offices, apartments, and other activities. Height limits are 45 to 60 feet. The proposed zoning designation for the corridor is somewhat more restrictive than existing zoning (C-30), since the existing zoning has no height limit and allows a variety of auto-oriented uses.

Designations in the Grand-Lake commercial district reflect its LUTE classification of Neighborhood Center Mixed Use. This "U-shaped" commercial area includes Grand Avenue between I-580 and Piedmont, Lake Park Avenue, and Lakeshore Avenue between I-580 and Mandana. The proposed zoning would designate Lakeshore as CN-1 with a 35-foot height limit. This is similar to the existing zoning on College and Piedmont Avenues. Proposed zoning on Grand Avenue includes a mix of CN-2 and CN-3, with allowable heights of 45 feet. Lake Park is designated CN-2, with a 60 foot height limit, reflecting its proximity to the elevated I-580 freeway across the street.

Lower Hills (see Attachments C-31 to C-34)

The major commercial/corridor areas of the Lower Hills neighborhoods include the Glenview, Dimond, Laurel and Oakmore-Leimert Commercial Districts. The Glenview Commercial district is currently designated C-30 (with an S-9 overlay) and will be redesignated as CN-1 with a 35-foot height limit. This is the same designation that applies on College and Piedmont Avenues.

The Dimond commercial district at Fruitvale and MacArthur has been designated CN-1. This is similar to the current designation of C-31, but the allowable height has been increased to 45'. The area between Lincoln Avenue and Coolidge Avenue has been redesignated from C-25 to RU-5, again with a 45' height limit. The new zone is somewhat similar to the existing zone in terms of the uses it allows but its ultimate intent is to achieve a more residential character.

Further east, on the three blocks between Coolidge and Midvale, MacArthur is mapped with a combination of RU-4 and RU-5. The RU-4 zone has been mapped to correspond with existing residential uses, which are predominant along this part of the corridor. RU-5 is mapped where commercial uses are predominant. The height limit is 45 feet.

The stretch of Macarthur between Midvale and High Street is the heart of the Laurel district, which is currently zoned C-31. Staff held several meetings in the Laurel neighborhood over the course of the Zoning Update, leading to the proposed designation of this area as CN-2. Proposed height limits are 35 feet except for a 45-foot height limit where MacArthur crosses 35th Avenue and High Street.

The Oakmore-Leimert commercial district has been designated CN-2. This is similar to the existing zoning of C-5.

San Antonio--Lake Merritt to 23rd Avenue (see Attachments C-35 to C-38)

The major commercial/corridor neighborhoods in this area include Eastlake (East 18th Street and Park) and the East 12th/ International Boulevard corridor (including 14th Avenue).

The Eastlake commercial district along Park Boulevard will be rezoned from C-20 to CN-3 with a 45-foot height limit, while the East 18th Street retail area will become CN-2 with a 45-foot height limit. These designations are consistent with staff's zoning and height mapping principles.

More substantial zoning changes are proposed along International Boulevard and East 12th Street, consistent with the LUTE as well as the "Grow and Change" designation. From Lake Merritt east to 5th Avenue, International Boulevard is designated RU-4, with height limits ranging from 35 feet (where historic resources are present) to 75 feet. From 5th Avenue east to 13th Avenue, the CN-3 zone has been applied, replacing C-30 and C-40 zoning. Height limits on this stretch of International range from 35 to 60 feet, with most blocks designated 45 feet. The new zoning is somewhat more restrictive than the existing zoning, particularly in the existing C-40 area around Clinton Square. From 15th Avenue to 22nd Avenue, the proposed zoning

designation on the corridor is RU-5 (with one block of RU-4 corresponding to existing residential uses at 20th Avenue). Heights are in the 45 to 60 foot range.

This area also includes a CC-2 zone along 14th Avenue between E. 12th and E. 18th Streets. The proposed zoning would replace the existing C-20, C-30, and C-40 zones and would establish design review requirements and pedestrian-oriented design standards. Although a wide range of activities would be permitted, some activities permitted by right today (including auto repair) would require a conditional use permit under the new designation.

Fruitvale (see Attachments C-39 to C-42)

The Fruitvale area is located between Interstate 580 and Interstate 880, from 23rd Avenue eastward to around 51st Avenue. The major corridor/commercial districts in this area are located along International Boulevard, Foothill Boulevard, High Street, and Fruitvale Avenue.

International Boulevard has been zoned to correspond with its LUTE classifications. Proposals include CN-3 from 23rd to 26th Avenues, CC-2 from 26th to 31st Avenues, CN-2 from 31st to 38th Avenues (the heart of the Fruitvale shopping area), CN-3 from 38th to 40th Avenues, CC-2 from 40th to 47th Avenues (with CC-1 on the shopping centers at High Street), and RU-5 from 47th to 54th Avenue. Height limits along the corridor range from 45 to 75 feet. This is an increase in allowable height and density for those portions of the corridor that are currently zoned C-28, and is consistent with the LUTE directive to increase density near BART stations and along major bus corridors. The new zoning designations will have varying impacts on development opportunities. A more limited range of commercial activities will be permitted in those C-40 areas to be rezoned RU-5 (e.g., 47th to 54th Avenues), since the LUTE's "vision" is to encourage high-density housing and mixed use development and discourage expansion of automotive services in these areas.

The Foothill corridor is also proposed for substantive change. Presently, the entire corridor from 27th Avenue to 55th Avenue is zoned C-30. The new zoning reflects the General Plan designation of this corridor with alternating segments of Urban Residential and Neighborhood Center Mixed Use. Urban Residential areas have been rezoned to RU-4 and RU-5, with a 45 foot height limit applying in most cases. .The RU-4 zone has been mapped only where the prevailing use is already residential. Blocks zoned RU-5 (for example, 35th to 42nd Avenues) have a mix of commercial and residential uses today; the zone is intended to promote future multi-family development with ground floor retail use and discourage future auto-oriented activities. Neighborhood Center areas on Foothill have been zoned CN-3.

Commercial districts exist along Fruitvale Avenue just below I-580 (to be rezoned from C-30 to CN-3). At a few locations (for example, along 35th Avenue near I-580), CN-4 has been used to acknowledge gas stations and similar highway-oriented uses. Elsewhere in this area, the Fruitvale Station shopping center is proposed as CC-1, reflecting the existing form of development and corrected General Plan designation.

Melrose/Seminary/Coliseum (see Attachments C-53 to C-58)

This area extends eastward from 51st Avenue to 73rd Avenue, below I-580. . This planning area includes Eastmont Mall, the Fairfax and Melrose Districts, and the area around the Oakland

Coliseum. The General Plan shows "Urban Residential" uses along the major corridors, which are MacArthur, Bancroft/Foothill, and International Boulevard. These corridors also include segments designated for "Neighborhood Center Mixed Use" and "Community Commercial."

A number of zoning changes are proposed around the Coliseum BART station area, implementing the LUTE Map and policies supporting Transit Oriented Development. The BART parking lot, which is currently zoned M-20 (Manufacturing), is proposed to be S-15, the Transit-Oriented Development zone. This will support high-density mixed use development with heights up to 75 feet. S-15 is also proposed on the Lion Creek development just north of the station (currently C-25). Across San Leandro Street from BART, a large area abutting the Oakland Coliseum is proposed for rezoning from M-40 (heavy manufacturing) to CR-1 (regional commercial). This change will help support economic development proposals for this area and accommodate future office, regional retail, and hotel development.

As noted earlier, this area is traversed by three major corridors: MacArthur, Foothill/Bancroft, and International.

The segment of MacArthur Boulevard between Seminary and 73rd Avenue includes a small C-20 shopping district at Seminary, and about 12 blocks of R-70 zoning, terminating at Eastmont Mall. The proposed zoning essentially matches the existing zoning, which is already consistent with the LUTE. The Seminary/Mills commercial district is to be zoned CN-3, with a 45-foot height limit. The residential corridor is designated RU-4, with a 35 foot height limit along most of the blocks. The 35-foot limit represents a reduction from what is permitted under R-70. Eastmont Mall is proposed for CC-1 zoning, which is comparable to its existing C-20 designation. A 60' height limit would apply.

The Foothill-Bancroft corridor is shown on the LUTE Map with alternating segments of Urban Residential and Neighborhood Center Mixed Use. The current zoning of the Foothill frontage is C-30, while the current zoning of the Bancroft corridor includes a mix of R-70 and C-30. The proposed zoning reflects LUTE designations. Areas shown on the LUTE Map as "Neighborhood Center Mixed Use" will be zoned CN-3, with height limits ranging from 35 to 45 feet. Areas shown on the LUTE Map as "Urban Residential" are to be zoned RU-4 (where the prevailing existing use is housing) and RU-5 (where the prevailing existing use is commercial). Thus, the future zoning pattern is more complex and fine-grained than the existing zoning. This corridor also includes several blocks of CC-2 zoning east of Havenscourt, extending to Eastmont Mall.

The International Boulevard corridor also includes alternating segments of Urban Residential and Commercial categories on the LUTE Map. Presently, the entire corridor is zoned C-40, with no height limit. The proposal would implement the LUTE by changing the zoning to RU-5 (Urban Residential) between 47th and 54th Avenues, and between 61st and 71st Avenues. Some RU-4 zoning corresponding to existing residential (and public) uses is also included within this area. The area between 54th and 61st Avenues will be rezoned from C-40 to CN-3, while the area from 71st Avenue to 76th Avenue will be rezoned from C-40 to CC-2.

There are no height limits on the International corridor under *today's* zoning. Under the *proposed* zoning, all of International Boulevard will be subject to height limits. Maximum

allowable heights will range from 35 to 75 feet, depending on the presence of historic resources, proximity to lower density uses, and other factors described earlier in this staff report.

Elmhurst/ Far East Oakland (see Attachments C-59 to C-66)

This area extends from 73rd Avenue eastward to the San Leandro border. Its upper boundary is Interstate 580 and its lower boundary is Oakland Airport. Commercial/corridor districts in this area include those along MacArthur and International Boulevards as well as much of the industrial district from the Coliseum eastward.

The International Boulevard corridor includes alternating segments of Community Commercial and Urban Residential LUTE classifications. However, the entire corridor is zoned C-40 today, with no height limit. The new zoning would establish RU-5 from 76th to 81st Avenues, CN-3 from 81st to 85th Avenues, RU-5 from 85th to 89th Avenues, CN-3 from 89th to 97th Avenues, and CC-2 from 98th Avenue to the San Leandro border. The Durant Square shopping center is proposed for CC-1 zoning, while the adjacent mixed commercial-industrial area along 105th Avenue will be rezoned from M-20 to CC-2, consistent with the LUTE.

Maximum heights on International would range from 45 to 60 feet, except at 73rd and 98th Avenues where a 75 foot limit would apply. The proposed zoning would help establish a stronger sense of identity along the corridor by reinforcing various stretches as residential and other stretches as commercial. As noted earlier, concentrating commercial activity at key "nodes" (73rd, 82nd, 98th, etc.) is a major land use and economic development directive of the LUTE.

Along MacArthur, the predominant LUTE classification is Urban Residential, with commercial nodes at 73rd, 90th, and 98thAvenues, and Foothill Square. Much of the corridor was rezoned from commercial to medium-density (R-50) residential in the 1990s. However, the LUTE classification for the residential segments is "Urban Residential" indicating that an increase in allowable density is necessary. Proposed zoning along this corridor is CN-3 from 73rd Avenue to Parker, RU-4 from Parker to 89th Avenue (with RU-5 at 82nd), CN-3 from 89th to 90th, RU-4 from 90th to 96th, CN-3 from 96th to 98th Avenues, and RU-4 from 98th to Foothill. Between Foothill and the San Leandro border, the corridor is commercially zoned (CN-3 and CC-2), which is not substantively different than the existing zoning (C-28 and C-20). The Foothill Square shopping center would be zoned CC-1, which is similar to its existing zoning.

Height limits on MacArthur are generally 45 feet, with 60 feet at 90th and 98th Avenues and Foothill Square. Since many segments of MacArthur are zoned R-50 today, the height limits represent an increase in allowable density. This is consistent with the LUTE directive to accommodate greater density along the corridors while maintaining and enhancing lower density neighborhoods.

The other noteworthy change in Far East Oakland is in the Oakland Airport "Gateway" area along 98th Avenue west of I-880. Much of this area is presently zoned C-36 (Regional Commercial), but has a LUTE classification of Business Mix. To achieve LUTE consistency, rezoning to CIX-2 is proposed. The proposed zone would continue to allow airport-related uses such as hotels, car rental companies, and fee parking. It would also allow regional retail uses and offices. The CIX zone is somewhat more permissive then the C-36 zone, and would allow a

greater number of light industrial and warehouse/distribution uses, similar to the activities that currently occur within this area.

South Hills (see Attachments C-43 to C-52)

There is very little commercial zoning in the South Hills at the present time, and there are only a few areas on the General Plan Map with a commercial designation. These include the Grass Valley Shopping Center, a small shopping center on Keller near Campus Drive, and the lower portion of the former Oak Knoll Naval Hospital. The small commercial pockets in the South Hills have generally been proposed for CN-3 or CN-4 zoning, depending on their proximity to the freeway (properties near freeway typically include gas stations and are CN-4). Oak Knoll has not been rezoned to Community Commercial, despite its designation as such on the General Plan. The site will continue to have residential zoning (as it does today) until base reuse plans have been finalized.

PROPOSED CHANGES TO PARKING REGULATIONS

Staff proposes a few substantive changes to the parking regulations contained in Chapter 17.116. These changes are interim until staff proposes comprehensive overhaul of the parking regulations in the next phase of the zoning update. The changes are proposed as part of this update because members of the Commercial/Corridor Technical Advisory Group indicated that the density envisioned by the LUTE could not be achieved under the current parking requirements. The current regulations largely reflect the parking practices of 1965, when the Planning Code was originally adopted. Since then, the maneuverability of automobiles has significantly improved and innovations such as car sharing, BART, shared parking, and parking demand management schemes have been developed.

Parking and Maneuvering Aisle Dimensions

Staff proposes to update the parking and maneuvering aisle dimension regulations to be consistent with modern zoning practices (see Section 17.116.200 of Attachment J). These regulations are a reflection of current best practices and dimensions currently used in the S-12 parking overlay district that is successfully applied at Adams Point. The following table compares the proposed with the current parking and maneuvering aisle dimension requirements.

COMPARISON OF EXISTING AND PROPOSED PARKING AND MANEUVERING AISLE DIMENSION REQUIREMENTS		
Regulation	**Existing Parking Regulations (except S-12)**	**Proposed Parking Regulations for all Zones**
Minimum size of a regular parking space	18 x 8.5 ft	18 x 8.5 ft
Minimum size of intermediate parking space	No intermediate parking alternative	16.5 x 8 ft
Minimum size of compact space	16 x 7.5 ft	15 x 7.5 ft
Percentage of spaces allowed	Up to one-third may be compact; the rest must be regular	50 % compact, provided that the rest are regular spaces. Or, 75 % intermediate provided that at least half the remaining are regular spaces.
Maneuvering Aisle Width		
Parallel parking	12 ft	11 ft
Parking is at an angle 45	12 ft	12 ft

COMPARISON OF EXISTING AND PROPOSED PARKING AND MANEUVERING AISLE DIMENSION REQUIREMENTS		
Regulation	**Existing Parking Regulations (except S-12)**	**Proposed Parking Regulations for all Zones**
degrees or less		
Parking is at an angle between 45 and 60 degrees	16 ft	15 ft
Parking is at an angle between 60 and 75 degrees	24 ft	18 ft
Parking is at an angle between 75 and 90 degrees	24 ft	21 ft

Parking Reduction

Consistent with the City's "transit first" policies, staff proposes that automobile parking be allowed to be reduced by up to 50 percent on the corridors with the granting of a conditional use permit (see Section 17.116.290 of Attachment J). Approval of the CUP would require meeting a finding that the reduction will not have significant parking impact on the surrounding neighborhood due to a combination of a parking management plan and other factors such as transit proximity. This proposed regulation would only be an interim measure until the parking chapter is comprehensively updated after the rezoning effort. Any staff decision regarding parking could be appealed to the Planning Commission or the City Council.

CHANGES TO PROPOSAL

Text Changes

Height and FAR Maximums on Hillside Lots

Staff proposes two changes to the development regulations for new construction on hillside lots (see Attachment A):

- The maximum floor area ratio for lots greater than 25,000 and less than 43, 560 square feet has been decreased from .35 to .30;
- The maximum floor area ratio for lots 43,560 square feet or greater has been decreased from .25 to .20; and
- The method of measuring maximum height for construction on the front 20 feet of lots with a slope greater than 20 percent has been modified. The original proposal measured height from the finished grade; the new proposal measures height from the finished or existing grade, whichever is lower.

These changes are in response to the concerns of hillside residents regarding the bulkiness of new construction on hillside lots.

Auto Sales in the Community Commercial Zones

This issue is discussed in the Key Issues and Impacts section, below.

35 Height Area*

Staff added a new height category in the Neighborhood Center Mixed Use zones called Height Area 35*. This new height area has been designated in areas with a CN-4 zoning designation and within either a

Hillside Residential, Detached Unit Residential, or Mixed Housing Type LUTE designation. This new category has a height maximum of 35 feet but the density and open space of the residential zone adjacent to a subject parcel. This change was made to assure that the density of a parcel will not exceed the density of its underlying LUTE classification.

Insertions of Illustrations

Staff has inserted illustrations in the text of the zones to make some regulations easier to understand. These graphics are not regulations; they are only illustrative of the text.

Insertion of Zones into Planning Code

Attachment H of the November 17, 2010 staff report showed all the changes to the Planning Code. Staff inadvertently left the text of the proposed zones out of that attachment. Attachment J of this staff report includes the new zones.

Changes to Zoning Map

Attachment K contains the proposed changes to the zoning map since the November 17, 2010 meeting. The following describes these changes.

D-BR zone

The D-BR zone is applied to the Broadway Specific Plan area north of Downtown to preserve this area for pedestrian, oriented ground floor commercial activities, consistent with the intent of the plan. Staff has made minor adjustments to the border of the D-BR zone to correspond to the most recent boundaries of the plan (see Attachment K-1).

Brook Street

The Oakland Heritage Alliance at the November 17, 2010 Planning Commission meeting stated that the east side of Brook Street should be included in the RM-3 zone instead of the proposed CC-2 zone. The Planning Commission agreed with this input and staff has made the adjustment to the proposed zoning map (see Attachment K-1).

30th and 31st Street between Telegraph and I-980

At the November 17, 2010 Planning Commission meeting, the Oakland Heritage Alliance stated that a two block area currently zoned R-80 and designated Urban Residential on the General Plan should be proposed for RU-1 zoning instead of RU-2 zoning as currently proposed. Staff has adjusted the map in this area to respond to OHA's concerns (see Attachment K-2).

Other Changes:

- College Avenue at Keith Avenue. The CN-1 zone has been adjusted at this location to cover the entire Market Hall building. Previous versions of the map showed the border of CN-1 splitting this building (see Attachment K-3).

- Macarthur Boulevard between Wesley Avenue and Barbara Road. This area is proposed to be changed from RM-3 to RM-4 because the greater residential density is appropriate adjacent to I-580 (see Attachment K-4).
- Balmoral Drive Open Space. The area has a LUTE classification of Open Space but previously had an RH-1 designation. Staff proposes the Open Space Resource Conservation zone for the area to correspond the LUTE classification (see Attachment 5).
- 24th Street at Filbert Street. This corner parcel has been included in the adjacent CC-2 zone because it includes a commercial structure (see Attachment 6).
- Campus Drive Open Space. The area has a LUTE classification of Open Space but previously had an RH-1 designation. Staff proposes the Open Space Resource Conservation zone for the area to correspond the LUTE classification (see Attachment 7).
- Area North of Brookpark Rd. This area was inadvertently mapped to be outside of Oakland. Staff adjusted the City border to include the parcels and designated them RH-1 (see Attachment 8).
- Open Space above Foothill Boulevard near Peralta Oaks. Previous maps showed this area to be zoned Open Space Resource Conservation. Staff proposes this designation changed to Open Space Special Use because a water tank is located on the property (see Attachment 9).
- Parcel on Erie Street at Prince Street. This parcel was changed from RD-1 to RU-2 because a multifamily residential building is at the site (see Attachment 10).
- Parcel on Fruitvale Avenue at Galindo. This parcel was changed from CN-4 to RM-1 because it the only parcel in this zone.

ENVIRONMENTAL DETERMINATION

The proposal relies on the previously certified Final Environmental Impact Report (EIR) for the Land Use and Transportation Element of the General Plan (1998); the Final EIR for the 1998 Amendment to the Historic Preservation Element of the General Plan; the 2007-2014 Housing Element Final EIR (certified on November 17, 2010), and various Redevelopment Plan Final EIRs. On a separate and independent basis, the proposal is also exempt from CEQA pursuant to CEQA Guidelines Section 15183 "Projects Consistent with a Community Plan, General Plan or Zoning".

PLANNING CODE MODIFICATIONS

Attachment J contains all the changes required to be made to the Planning Code as a result of the rezoning. There are ramifications throughout the Planning Code whenever a new zone is created or removed. For instance, the parking requirements (Chapter 17.116) and sign regulations (Chapter 104) refer to specific zones, so those chapters require substantial edits to remove references to zones no longer in the code. Staff is proposing a few substantive changes to the Planning Code, mostly in the parking chapter, that came as a result of TAG and staff input (see earlier section of staff report). Staff will detail these changes at the December 15, 2010 Planning Commission Meeting.

MINOR MODIFICATIONS

Staff requests that the Planning Commission authorize staff to make minor changes, clarifications and refinements to the proposal prior to submittal to the City Council. This may be required to clean up language, correct typing errors, or make other minor changes consistent with the intent of the Commission's recommendations. Although not anticipated, staff proposes to bring any staff initiated significant or controversial changes back to the Planning Commission for further recommendation prior to submittal to the City Council.

GENERAL PLAN GUIDELINES

On May 12, 1998, the City Council adopted interim controls that implement the LUTE prior to the adoption of revisions to the Oakland Planning Code. These interim controls are in the "Guidelines for Determining Project Conformity with the General Plan and Zoning Regulations" (General Plan Guidelines). However, the new residential and commercial zones will now implement the Hillside Residential, Detached Unit Residential, Mixed Housing Type Residential, Urban Residential, Neighborhood Center Mixed Use, Community Commercial, and Regional Commercial LUTE classifications. Therefore, staff proposes to replace the text related to these classifications in the General Plan Guidelines that implement the designations with text that refers to the Planning Code (see Attachment L). Staff also proposes to replace existing "best fit zones" in the Estuary Plan Area with the new zones proposed by staff. The existing best fit zones must be removed because they will no longer exist in the Zoning Ordinance.

KEY ISSUES AND IMPACTS

Temescal Height Limits

After a lengthy public process, staff presented a height limit recommendation for Telegraph Avenue from 41st Street to the Berkeley border at the May 16, 2007 meeting of the Zoning Update Committee. Staff recommended a 45-foot height limit in all areas outside Shattuck Avenue and the core historic commercial ASI on Telegraph Avenue between 48th and 51st Streets. Staff also recommended a 35-foot height limit for Shattuck Avenue and the Telegraph commercial ASI. Heights could be increased by 10 feet in any area with the granting of a conditional use permit, a top story step back, and a package of community benefits. The Zoning Update Committee never completed their recommendation regarding staff's proposal.

At the August 4, 2010 Zoning Update Committee meeting, staff continued the 2007 recommendation of a 45-foot height limit along most of Telegraph Avenue in the Temescal District and a 35-foot height limit at the commercial ASI and Shattuck Avenue. The ZUC responded with a recommendation of increasing the proposed height limits for Telegraph Avenue. The ZUC's recommendation responded in part to a number of public speakers supporting taller heights, consistent with LUTE policies regarding development on the corridors, SB 375 and related initiatives to reduce greenhouse gas emissions and link land use decisions to transit planning.

At the October 13, 2010 Zoning Update Committee meeting, staff responded to the ZUC recommendations by updating the height limits from 45 feet (four stories) to 60 feet (five stories) on Telegraph Avenue between 41st Street and the Berkeley border at the locations shown in Attachment M. The height limits were proposed to be raised only on blocks that do not contain a

consistent context of historic homes or store fronts. Staff also proposes to continue the recommendation of a 35-foot height limit on Shattuck Avenue and at Temescal's historic commercial area on Telegraph Avenue between 49th and 51st Street to protect the area's historic scale.

The ZUC recommendation for Telegraph Avenue is consistent with citywide height mapping principles that applied a 60-foot height maximum on wide corridors that are adjacent to lower-density residential neighborhoods. This height limit creates an appropriate street edge to contain the wide street space on Telegraph Avenue. The updated proposal also allows the density that fulfills General LUTE policies encouraging development at major corridors to promote infill development, increase transit use, and revitalize retail districts. Updated regulations requiring a transition to lower density zones behind the corridors would mitigate impacts on these residential neighborhoods (see the Commercial/Corridor Zoning Framework section, above.

It should be noted that the Strategy Diagram in the LUTE designates Telegraph Avenue north of Highway 24 at a "Maintain and Enhance" area while the area south of Highway 24 as a "Grow and Change Area". Following this policy would suggest lower height limits north of Highway 24. Therefore, staff presents an option to lower the height limits to 45 feet north of Highway 24, while maintaining the proposed 60 feet height limits south of Highway 24 with the exception of the core commercial area.

Staff requests the Planning Commission to consider the following three distinct options for Telegraph Avenue from 41st Street to the Berkeley/Oakland border(*):

1) *Provide a 45-foot height limit along Telegraph Avenue (with the exception of the historic core commercial area on the east side between 48th and 51st), consistent with the recommendation that came after the 2007 community process.*
2) *Provide a 45-foot height limit north of Highway 24 (extending roughly 13 blocks to the Berkeley border) where it is a "Maintain and Enhance" area and 60 feet height limits south of Highway 24 with the exception of the historic core commercial area.*
3) *Continue the ZUC recommendation of a 60-foot height limit from 41st Street to the Berkeley border, with the exception of the historic core commercial area and other stretches of consistent historic frontage.*

Auto sales in the Community Commercial Zones

The Oakland Heritage Alliance (OHA) raised a concern at ZUC meetings that Automobile Sales and Rental is a permitted activity in the three Community Commercial zones: CC-1, CC-2, and CC-3. OHA has stated that they are concerned that car lots would interrupt the pattern of historic commercial neighborhoods, particularly on Telegraph Avenue south of I-980.

The Community Commercial LUTE designation states that the desired character and uses in the designation:

> "…may include neighborhood center uses and larger scale commercial uses, such as auto related businesses, business and personal services, health services and medical uses, educational facilities and entertainment uses" (page 150).

The LUTE states that the intent of the Community Commercial LUTE classification is:

> "…to identify, create, maintain, and enhance areas suitable for a wide variety of commercial and institutional operations along the City's major corridors and in shopping districts or centers" (page 150).

The Community Commercial LUTE classification is mapped at major shopping centers such as Foothill Square, Rockridge Shopping Center, Durant Square, and Eastmont Town Center. With the exception of the Rockridge Shopping Center, these areas are proposed to be zoned CC-1, the zone developed explicitly for shopping centers. Community Commercial is also mapped along corridor areas such as Telegraph between the Central Business District and I-980, International Boulevard near Durant Square, High Street and International Boulevard, 14th Avenue near International Boulevard, and San Pablo Avenue near Market Street. These areas are mapped CC-2, a zone that includes pedestrian oriented design regulations that require limited setbacks, storefront windows, and a tall ground floor. Staff proposed permitting auto sales for the following reasons:

- Community Commercial is the most auto oriented land use classification on the corridors and is what distinguishes it from the other corridor classifications, particularly Neighborhood Center Mixed Use;
- The area where auto sales is permitted by right is already being dramatically reduced, since many C-30 and C-40 areas are being rezoned to RU and CN designations;
- Community Commercial is mapped in only a few areas compared to the other LUTE corridor classifications;
- Auto sales is an important tax generator for Oakland; and
- If a conditional use permit is required for auto sales in the Community Commercial zones, auto sales would not be outright permitted on any of the corridors.

Staff recommends the following changes to the proposal:

- *Require a conditional use permit for auto sales in the CC-1 zone because that zone is mapped on large lots appropriate for shopping centers. These lots have the potential to contain major auto sales operations that could have an impact on nearby residential neighborhoods and occupy important opportunity sites.*

State Density Bonus Law

The City is required to follow the State's density bonus law (Gov. Code § 65915, as amended by SB1818(2004) and SB435(2005)). The law provides incentives and concessions to developers

who include certain amounts of affordable housing in their projects.[2] The law requires cities and counties to grant developers density bonuses and concessions of 20 to 35 percent, depending on the amount and type of affordable housing provided. Applicants for an affordable housing development have the option to request relief from one or more development standards in the form of concessions, depending on the amount of affordable housing proposed. The City must approve these concessions unless it adopts findings that 1) the request is not necessary to provide for affordable housing costs, or 2) there would be a specific adverse impact upon the public health and safety, on the physical environment, or on certain types of historic properties, or 3) the concession would be contrary to state or federal law (Gov. Code 65915(d)(1)). Furthermore, under the density bonus law's "economic feasibility" exception, cities can reject an applicant's request for relief from certain development standards unless the applicants show that the waiver or modification is necessary to make the housing units economically feasible (65915(f)).

Members of the public have expressed concern that developers will take advantage of the State density bonus law to build above the height maximums contained in the proposed height map for commercial and corridor zones. Staff understands these concerns given state law mandating density bonuses and requiring concessions unless certain exceptions (noted above) apply, but we do not recommend lowering height limits to accommodate the possibility of a height concession resulting from a density bonus for the following reasons:

- A general lowering of height limits in all parts of the corridors to account for the *possibility* of some affordable housing developments requesting a height bonus would be counter to the LUTE's vision of concentrating development along the City's corridors.
- Under the "economic feasibility" exception, if a height limitation were to preclude utilizing a density bonus, the applicant would need to review its economic and financial projections with staff to establish that the density bonus and height limitation waiver are necessary to make the project economically feasible. In general, it will not be financially feasible for an affordable housing project build above five stories (55 – 60 feet) because construction costs significantly increase above this level due to building code requirements. Most of the major corridors such as San Pablo Avenue and International Boulevard are already proposed to have a five story height limit. Therefore, a developer is most likely to request concessions regarding open space or parking requirements instead of height.
- Staff knows of only one development that has applied for and received a height bonus since the law has been in effect. The development proposal, located on Macarthur Boulevard at High Street, was never constructed.
- Many of the corridors have no height limit at all at the present time. The imposition of a height limit in these areas is already a considerable change from the status quo. Further reducing heights in these areas could impede housing production.
- The City Council can amend the zoning code and/or height limits if height variances through density bonuses becomes an issue in the future.

NEXT STEPS

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[2] Housing developments that create at least five dwelling units or unimproved lots are eligible for density bonuses if either:

1. 5% of the units are affordable to very low income households earning 50% of median or less; or
2. 10% are affordable to lower income households earning 80% of median or less; or
3. 10% are affordable to moderate income households earning 120% of median or less, but only if the project is a common interest development where all of the units, including the moderate-income units, are available for sale to the public; or
4. Qualifying senior and mobile home developments.

Staff has scheduled the rezoning item for a third Planning Commission meeting on January 12, 2011 to review issues that have not been resolved in previous meetings. The Planning Commission has the option of either hearing the item for a third meeting to further discuss the proposal or recommend the proposal to the City Council.

RECOMMENDATIONS:

1. Affirm staff's environmental determination;
2. Recommend that the City Council approves the proposed rezoning, text amendments, and amendments to the General Plan Guidelines;
3. Find that the existing zones and regulations are inadequate and otherwise contrary to the public interest; and
4. Recommend one of the three options for maximum height on Telegraph Avenue in Temescal described the Key Issues and Impacts section, above.

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Approved for forwarding to the
City Planning Commission:

Eric Angstadt
Deputy Director of CEDA

Attachments:
A. Text of proposed residential and commercial zones
B. Proposed zoning and height maps
C. Proposed zoning maps showing changes from existing zoning
D. 11/17/10 Planning Commission staff report (not including attachments)
E. Excerpts from the LUTE describing land use classifications
F. Summary of proposed commercial zones
G. Summary of activity regulations for the commercial/corridor zones
H. Summary of design standards
I. Summary of the height areas
J. Proposed changes throughout the Planning Code
K. Changes to the proposed zoning map made since the November 17, 2010 meeting
L. Proposed changes to the "Guidelines for Determining Project Conformity with the General Plan and Zoning Regulations."
M. Maps of Telegraph Avenue in Temescal