

**CITY OF OAKLAND** FILED  
**AGENDA REPORT** OFFICE OF THE CITY CLERK  
OAKLAND

2007 NOV 29 PM 7:50

TO: Office of the City Administrator  
ATTN: Deborah A. Edgerly  
FROM: Community & Economic Development Agency  
DATE: December 11, 2007

RE: **A Report and Recommendation for a Two Year Work Plan to Bring the Zoning Code into Conformity with the General Plan**

---

## **SUMMARY**

The Community and Economic Development Agency (CEDA) and City Attorney staff have prepared a two year work plan to bring the zoning code into conformity with the Land Use and Transportation Element (LUTE) of the General Plan. This program includes an amendment to the Environmental Impact Report (EIR) prepared and certified in 1998 when the LUTE was adopted. The new zones for each land use designation in the LUTE will be written by CEDA staff. The EIR work will be performed by an outside consultant. General Plan surcharge monies are sufficient to fund the EIR work.

## **FISCAL IMPACT**

The proposed environmental review amendment cost is expected to be approximately \$1.25 million. Sufficient funds have been collected by General Plan Update Project. The staff will propose appropriation of these funds once the City is ready to award a contract.

## **BACKGROUND**

In March 1998, the City of Oakland adopted the Land Use and Transportation Element (LUTE) of its General Plan, including an associated land use map. These documents comprise two of the mandatory elements of the City's General Plan, as required by State Planning and Zoning Law. Consistent with the LUTE and general planning principles, the City's Planning Code and Zoning Map should be consistent with, and implement, the LUTE. The LUTE establishes the City's vision for future development and is the "constitution" for future development of the City.

## **KEY ISSUES AND IMPACTS**

To date, however, the Planning Code and zoning maps have not been comprehensively updated to conform to the LUTE, thereby creating many conflicts between the General Plan, the Planning Code and the Zoning Map. For example, there are several areas of the City where the LUTE encourages more intensive development patterns than are authorized by the Planning Code, such as downtown and along the City's corridors and public transportation routes. Also, some areas

Item: \_\_\_\_\_  
CED Committee  
December 11, 2007

have an industrial zoning designation, but a residential LUTE designation, while other areas are zoned for residential use but are LUTE-designated as commercial or industrial.

To facilitate evaluation of projects pending completion of the Zoning Update, in May 1998, the City Council adopted Interim Controls for Implementation of the General Plan. The Interim Controls (contained in Planning Code Chapter 17.01) provide a process for evaluating and approving projects where the LUTE and the Planning Code are inconsistent. Although the Interim Controls were originally set to expire after three years, they have been extended several times and are currently scheduled to expire on January 1, 2010.

The City's prior efforts to complete the Zoning Update were hampered by competing administration priorities and policy direction. Although a comprehensive update was commenced soon after the LUTE adoption, the previous administration curtailed that effort, instead devoting staff resources to individual development projects. Nonetheless, since 2003, some pieces of the effort have proceeded. Most notably, the City has completed the new Housing Business Mix Zoning District, together with design guidelines that implement the Housing Business Mix General Plan land use designation. Other efforts to draft new zones have been commenced, but not completed, as have some specific neighborhood efforts to tailor zoning to the General Plan. In addition, staff has completed significant work in consolidating and reforming the Planning Code in anticipation of the forthcoming substantive Zoning Update revisions.

## **PROGRAM DESCRIPTION**

### ***Work Plan:***

The LUTE contains 15 Land Use classifications. One of these, the Mixed Use Waterfront District was superseded by the Estuary Policy Plan. Of the 14 remaining classifications one, Housing and Business Mix, has already been brought into conformance by the adoption of the HBX zone in 2006. Two additional classifications, Business Mix and General Industry and Transportation, have proposed zones that had their first public hearing at the Planning Commission on December 5, 2007. This leaves 11 classifications that need new zoning designations written. Staff proposes to complete the work as follows:

June 2008	Adopt Business Mix, General Industrial and Central Business District
December 2008	Adopt Urban Residential, Community Commercial and Neighborhood Center Mixed Use
June 2009	Adopt Regional Commercial, Hillside Residential, Mixed Housing Type and Detached Unit Residential
December 2009	Adopt Institutional, Resource Conservation and Urban Park and Open Space

The EIR work will begin with issuance of an RFP in January 2008 and will proceed concurrently with the preparation of the new zoning text.

***Budget:***

The proposed work plan is estimated to require \$1.25 million to execute. The zoning work will be done by CEDA staff and the EIR work by an outside consultant. Funding for the EIR work is from the General Plan surcharge fee collected on building permits. Collections to this point are sufficient to fund this proposed budget.

***Planning Process:***

From a strictly legal standpoint, the required steps for completing the Zoning Update are the same as for any zoning amendment. The Planning Code establishes various notice and hearing requirements, including a public meeting and recommendation from the Planning Commission and adoption by ordinance before the City Council. In addition to the basic legal requirements, the City's policy and practice is to include additional public meetings, such as those conducted before the Zoning Update Committee of the Planning Commission and review by the Community and Economic Development Committee of the City Council. In accordance with legal requirements and standard City practice, each of the zoning changes described above, at a minimum, would go through the following steps prior to final Council action:

- *Zoning Update Committee Review.* Formal public review of staff recommendations would likely begin at a noticed public meeting of the Zoning Update Committee (ZUC), which is comprised of three members of the Planning Commission. This is not a legally required step, but it is the practice of the Planning Commission to have the ZUC hear most non-project specific zoning changes. The ZUC makes recommendations to the full Planning Commission.
- *Planning Commission Recommendation to Council.* The Planning Commission will hold a noticed public hearing regarding the proposed changes, concluding with recommendations to the City Council. Although the Planning Commission is advisory to the Council (i.e., the Council has full discretion to agree or disagree with the Commission), the Council cannot adopt final zoning and General Plan amendments without the Planning Commission's prior review of and recommendation on the proposal.
- *Community and Economic Development Committee Review.* The Planning Commission's recommendations, together with any staff recommendations, are referred to the Community and Economic Development (CED) Committee of the City Council. This is another step that is not legally required, but is part of adopted City Council policy. The CED Committee will hold a noticed public meeting and make recommendations that are forwarded to the City Council.
- *City Council Action.* The City Council holds a noticed Public Hearing (Introduction/First Reading) on the recommendations forwarded by the Planning Commission. The Council can approve, modify or overturn Planning Commission recommendations, provided any modifications not previously considered by Planning Commission shall be referred back to them as required under local and state law. If the Council votes to approve the proposal, a Second Reading /Final Passage is scheduled, usually at the next regular Council meeting.

In addition, the Planning Commission and/or City Council may choose to hold multiple public meetings and/or request staff (or the Planning Commission) to conduct further review and analysis on specific proposals after they are introduced. Areas of particular complexity or controversy are likely to generate demands for a more extended staff review and additional public meeting processes.

## **SUSTAINABLE OPPORTUNITIES**

Economic: No particular economic opportunities have been identified due to the preliminary stage in the planning process. However, this type of effort, involving property and business owners, public agencies, community groups and others has often resulted in the identification of new business and development opportunities through increased knowledge of the area, planned public improvements, decreasing land use conflicts, etc.

Environmental: No particular environmental opportunities have been identified due to the preliminary stage in the planning process. However, if such a planning process were to be undertaken, completed and approved, the consequent environmental review information will likely inform future City actions concerning clean up of contaminated areas, green building, green business locations, etc.

Social Equity: No particular social equity opportunities have been identified due to the preliminary stage in the planning process. However, it is likely that land use and public improvement discussions during the update process would include pertinent topics such as clean up of contaminated soils and groundwater, access to public parks and open space and reduction in land use conflicts.

## **DISABILITY AND SENIOR CITIZEN ACCESS**

This proposed work plan would not result in any changes to access for seniors or the disabled.

## **RECOMMENDATION AND RATIONALE**

Staff recommends the City Council:

1. Approve the proposed work schedule for updating the zoning code.

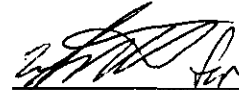
Individual contract(s) for the EIR will return to Council for approval and award as bids are received and firm(s) selected if the Council approves proceeding with the update process.

**ACTION REQUESTED OF THE CITY COUNCIL**

Staff recommends the City Council by motion:

1. Approve the proposed work schedule for updating the zoning code.

Respectfully submitted,




\_\_\_\_\_  
Claudia Cappio

Development Director

Community & Economic Development Agency

Prepared by: Eric Angstadt, Community & Economic  
Development Agency

APPROVED AND FORWARDED TO THE  
COMMUNITY AND ECONOMIC  
DEVELOPMENT COMMITTEE:

  
\_\_\_\_\_  
Office of the City Administrator