Oakland Planning Commission STAFF REPORT

Case File Number ZT15018 **October 21, 2015**

Location:	**Citywide**
Item:	**Review proposed citywide Planning Code amendments, including proposals to**: 1) Revise regulations for Secondary Units; 2) Amend Transitional and Supportive Housing regulations to comply with State law; 3) Revise Home Occupations regulations; 4) Reduce restrictions on Commercial Activities in R-80 Zone; 5) Revise development standards in RM and RU Zones; 6) Allow Custom Manufacturing with Conditional Use Permit (CUP) on the ground floor in CN Zones; 7) Increase minimum ground floor height in RU, CN and CC Zones; 8) Revise CR Zone front setback; 9) Permit 'Group Assembly' and 'Personal Instruction Services' in C-45 Zone; 10) Amend Height and Bulk Standards in CBD Zones; 11) Revise density ranges in HBX Zones; 12) Revise HBX-1 open space and height regulations; 13) Modify density ranges for the 55-ft., 60-ft. and 75-ft. height map areas; 14) Revise development standards in D-CE-3 and D-CE-4 Zones, including allowing a reduction in setbacks through design review; 15) Eliminate CUP for Auto Sales in D-CO-3 when adjacent to Oakport St.; 16) Reduce zones allowing Electroplating Activities; 17) Require sidewalk cafés to maintain at least 50% of sidewalk width for pedestrian purposes; 18) Revise allowed height projections for parapets and other decorative features; 19) Reduce parking standard, clarify allowed height area exceptions, and amend Height and Bulk Standards in the D-LM Zones; 20) Amend procedure for resolving tie votes at the Planning Commission; 21) Allow for more Transfer of Development Rights; 22) Amend code to specify need for timely Planning Commission recommendations; 23) Add provisions regarding inactive Planning applications; 24) Amend major CUP and Design Review thresholds; 25) Revise mini-lot regulations; 26) Standardize thresholds for "large-scale development"; and 27) Make minor Planning Code Text changes to improve clarity. **Review proposed geographically specific Planning Code Text, Zoning Map and Height Area amendments, including proposals to:** 1) Add the Acura dealership block to the D-BV zoned areas where additional height/FAR bonus is available; 2) Amend map designations for the 3rd and 7th St. areas between West Oakland BART and Downtown; 3) Apply D-LM-2 Zone and 85-foot height area to two lots on the north side of 14th St. between Harrison and Alice St.; 4) Apply BV-4 Zone and 85-foot height area to the corner of 23rd and Valley St., and to the eastern half of the 24th/25th St. block; 5) Change height limit for the corner of Broadway, Brook St., and Piedmont Ave. from 45 ft. to 65 ft.; and 6) Apply the CIX-2 Zone to block defined by 47th Ave., E. 12th St., 50th Ave., and San Leandro St., and to certain parcels near I-880 between 45th and 42nd Ave.
Applicant:	City of Oakland
Case File Number:	**ZT15018**
General Plan:	Citywide
Zoning:	Citywide

Environmental Determination:	The proposed amendments to the Planning Code Text, Map and Height Areas rely on the previously set of applicable CEQA documents including: the Coliseum Area Specific Plan EIR (2015); Broadway Valdez Specific Plan EIR (2014); West Oakland Specific Plan EIR (2014); Central Estuary Area Plan EIR (2013); Land Use and Transportation Element of the General Plan EIR (1998); the Oakland Estuary Policy Plan EIRs(1999, 2006) and Supplemental EIR (2013); the Redevelopment Area EIRs- West Oakland (2003), Central City East (2003), Coliseum (1995), and Oakland Army Base (2002); the Historic Preservation Element of the General Plan EIR (1998); the 2007-2014 Housing Element Final EIR (2010) and Addendum (2014); and various Redevelopment Plan Final EIRs (collectively, "Previous CEQA Documents"). No further environmental review is required under CEQA Guidelines Sections 15162 and 15163. Moreover, each as a separate and independent basis, this proposal is also exempt from CEQA pursuant to CEQA Guidelines Sections 15183 (projects consistent with General Plan and Zoning) and 15061(b)(3) (general rule, no significant effect on the environment).
Staff Recommendation:	Review, discuss and recommend approval to the City Council
For Further Information:	Contact **Ed Manasse** at 238-7733 or email emanasse@oaklandnet.com

PROPOSED PLANNING CODE TEXT, MAP AND HEIGHT AREA AMENDMENTS

The Land Use and Transportation Element (LUTE) of the Oakland General Plan contains policy direction calling for a more user-friendly and easier-to-interpret Planning Code. To comply with this directive, the Bureau of Planning undertakes a periodic update or "clean-up" of the Planning Code to improve consistency, reduce redundancies, and simplify language in key chapters of the Planning Code. In addition, Planning Staff occasionally take note of certain Code Sections, as well as of certain Zoning and Height Area map designations, that are in need of reconsideration, so these provisions are also brought forward for a potential change during a periodic update.

The proposed changes to the Planning Code Text, Map, and Height Areas in this current code update fall into two basic categories:

A. Citywide Planning Code Amendments
B. Geographically Specific Planning Code Text, Map, and Height Area Amendments

Project Summary:

A. Citywide Planning Code Amendments:

Proposed changes include the following Citywide Planning Code amendments: 1) Revise regulations for Secondary Units; 2) Amend Transitional and Supportive Housing regulations to comply with State law; 3) Revise Home Occupations regulations; 4) Reduce restrictions on Commercial Activities in R-80 Zone; 5) Revise development standards in RM and RU Zones; 6) Allow Custom Manufacturing with Conditional Use Permit (CUP) on the ground floor in CN Zones; 7) Increase minimum ground floor height in RU, CN and CC Zones; 8) Revise CR Zone front setback; 9) Permit 'Group Assembly' and 'Personal Instruction Services' in C-45 Zone; 10) Amend Height and Bulk Standards in CBD Zones; 11) Revise density ranges in HBX Zones; 12) Revise HBX-1 open space and height regulations; 13) Modify density ranges for the 55-ft., 60-ft. and 75-ft. height map areas; 14) Revise development standards in D-CE-3 and D-CE-4 Zones, including allowing a reduction in setbacks through design review; 15) Eliminate CUP for Auto

Sales in D-CO-3 when adjacent to Oakport St; 16) Reduce zones allowing Electroplating Activities; 17) Require sidewalk cafés to maintain at least 50% of sidewalk width for pedestrian purposes; 18) Revise allowed height projections for parapets and other decorative features; 19) Reduce D-LM parking standard, clarify D-LM allowed height area exceptions, and amend D-LM Height and Bulk Standards; 20) Amend procedure for resolving tie votes at the Planning Commission; 21) Allow for more Transfer of Development Rights; 22) Amend code to specify need for timely Planning Commission recommendations; 23) Add provisions regarding inactive Planning applications; 24) Amend major CUP and Design Review thresholds; 25) Revise mini-lot regulations; and 26) Make other minor Zoning Text changes to improve clarity.

The overall package of proposed citywide Planning Code amendments is further categorized into three basic types:

I. Non-substantive Changes
II. Minor-substantive Changes
III. Substantive Changes

Non-substantive changes include reformatting, reorganizing and improving the internal consistency of the Planning Code. Minor substantive changes include text changes to improve the interpretability, clarity, and flexibility of the Planning Code. Finally, staff proposes substantive Planning Text amendments to improve the standards in the Planning Code. The content of these proposed changes is summarized in the following report. Please see **Attachment A** for the proposed citywide Planning Text amendments (proposed text additions are shown in underline and proposed deletions are shown as ~~strikethrough~~).

B. Geographically Specific Planning Code Text, Map and Height Area Amendments:

Proposed changes include the following geographically specific amendments:1) Add the Acura dealership block to the D-BV zoned areas where additional height/FAR bonus is available; 2) Amend map designations for the 3rd and 7th St. areas between West Oakland BART and Downtown; 3) Apply D-LM-2 Zone and 85-foot height area to two lots on the north side of 14th St. between Harrison and Alice St.; 4) Apply BV-4 Zone and 85-foot height area to the corner of 23rd and Valley St., and to the eastern half of the 24th/25th St. block; 5) Change height limit for the corner of Broadway, Brook St., and Piedmont Ave. from 45 ft. to 65 ft.; and 6) Apply the CIX-2 Zone to block defined by 47th Ave., E. 12th St., 50th Ave., and San Leandro St., and to certain parcels near I-880 between 45th and 42nd Ave.

These proposed changes were presented to the Zoning Update Committee at a public hearing on October 14, 2015. After Planning Commission review, the proposed changes will be presented to the Community and Economic Development Committee of the City Council, and ultimately to the City Council for final review and approval.

CITYWIDE PLANNING CODE AMENDMENTS

I. NON-SUBSTANTIVE CHANGES

The following section summarizes the proposed Non-Substantive changes to the Planning Code.

Staff proposes to:

- Capitalize all Chapter, Section and Subsection references, the names of Activity and Facility Types, the names of Sign types (Business, Residential, etc.), and the names and types of Zoning designations;

- Spell out all number references throughout the Code;
- Remove references to zoning designations previously deleted, including but not limited to: C-5, C-10, C-28, C-31, C-35, and C-55;
- Replace "None" and "0 feet" with "N/A" (Not Applicable) throughout the Code wherever such terms are intending to indicate that a particular regulation does not apply;
- Relocate (without amendment) the recently adopted additional Conditional Use Permit (CUP) findings for Crematories from Chapter 17.103 to Chapter 17.102. This clean-up item creates a new Section in Chapter 17.102 (Section 17.102.440), for the previously adopted Crematory provision. This is a clean-up item included to be consistent with the overall organization and purpose of Chapters 17.102 and 17.103; and
- Make minor word or phrase changes to improve the clarity and internal consistency of the Code.

II. MINOR-SUBSTANTIVE CHANGES

The following section summarizes the proposed Minor-Substantive changes to the Planning Code.

Staff proposes to:

- Revise Chapter 17.01, General Provisions of Planning Code and General Plan Conformity, to reflect the expiration of the City's General Plan Conformity Guidelines, and be consistent with current General Plan and Zoning Determination practices;
- Standardize the activity size threshold at 3,000 square feet differentiating 'Group Assembly' (Section 17.10.380) and 'Personal Instruction and Improvement Services' Activities (Section 17.10.385);
- Revise the definition of Sidewalk Café Nonresidential Facility in Section 17.10.750 to include "dining areas which encroach within the sidewalk or plaza area of the public right-of-way";
- Because Design Review is included as part of any initial Planned Unit Development (PUD) permit approval, clarify throughout the Code that the requirement for design review will not apply to developments at the time of initial granting of a PUD permit. Unless otherwise specified in the PUD permit, any future changes within the PUD will be subject to applicable design review regulations;
- Replace outdated design review threshold language in the R-80, CBD, S-4, S-10, and S-11 Zones with the current citywide standard design review threshold language;
- Standardize the thresholds for design review or CUP throughout the Planning Code that involve 25,000 square feet to specify that all are triggered by a project that is more than 25,000 sf. (rather than 25,000 sf. or more);
- Standardize the minimum width of sidewalks at 6½ feet for the installation of street trees throughout the Zoning Code;
- Remove the phrase "…and not previously used for Civic Activities" from the end of all applicable Activity Table Limitations throughout the Planning Code that include a specification that: "These activities may only be located in an existing ground floor of a Nonresidential Facility that was built prior to the effective date of this Chapter (April 15, 2011)…"
- Remove references to RU-1 from all applicable Activity Table Limitations throughout the Planning Code as being a zone which triggers the same setback and height limitations that apply to projects that abut the RH, RD, and RM Zones. This proposed amendment is intended to

correct a misplacement of the RU-1 Zone within this same lower density Zone category as the RH, RD, and RM Zones. It is not, and therefore should not be regulated the same.

III. SUBSTANTIVE CHANGES

The following section summarizes the proposed substantive changes to the Planning Code (see **Attachment A** for the full text of the proposed Code amendments):

1. **Amendments to the Secondary Unit Regulations (throughout the Planning Code).**
The goal of the proposed amendments is to encourage construction of Secondary Units by reducing the regulatory barriers in the City's current Planning Code language. Secondary Units are considered one way to help address the city's affordable housing crisis. Because Secondary Units are smaller, the average construction cost is much lower than even a typical new affordable apartment project. Another benefit of Secondary Units is that they are increasingly being used as independent living options for elderly family members or homeowners. Also, because Secondary Units go into established neighborhoods, they can contribute to the city's desire to foster more walkable neighborhoods with greater use of bicycling and transit.

   The University of California Center for Community Innovation recently prepared a study titled "Yes in My Backyard: Mobilizing the Market for Secondary Units", which discusses the benefits of and obstacles to Secondary Units in the East Bay. The report notes, however, that local regulations may impede development (see **Attachment B** for letters from homeowners the City has recently received requesting the reduction of regulatory barriers that impede the approval of a Secondary Unit):

   Also, the ***Housing Equity Roadmap*** recently approved by City Council states that:

   "A recent study conducted focusing on the MacArthur BART station area and the Oakland portion of the Ashby BART station area found that Oakland has underutilized the building of secondary dwelling units. A sampling survey of homeowners found that 18 percent of houses already have at least one secondary dwelling unit. Approximately 7 percent of the homeowners surveyed were already planning on building a second unit and another 7 percent were interested but had encountered regulatory and/or financing barriers. The study found that the city's parking requirements were the biggest regulatory barrier to the development of second units, followed by lot setbacks. Under the city's current requirements, 230 homeowners in the studied areas could build a second unit. The study found that with the relaxing of parking requirements, 2,300 homeowners in the studied areas could build a second unit. In addition, through its relations with nonprofit and for-profit financial institutions, the city could help facilitate homeowners' access to capital resources for building a second unit.

   Recommendation: *Oakland should consider facilitating the development of secondary dwelling units by 1) relaxing requirements, such as parking and set-back; and 2) assisting with access to private capital resources."*

   One model staff looked to for the proposed Oakland amendments are the recently adopted Secondary Unit regulation changes in the City of Berkeley. The revised requirements for a Secondary Unit in Berkeley became effective on August 19, 2015, and are outlined below:

1. Maximum size of 750 square feet or 75% of the primary structure, whichever is less.

2. Height - 14 foot maximum height at peak of roof, 10 foot maximum at eave of roof. Not to exceed 10 feet at property line.

3. Setback – 4 foot minimum side and rear setback from property line. No side or rear setback required if Secondary Unit will replace preexisting buildings on the property line.

4. Parking - tandem parking in driveway is allowed (including non-conforming driveways that don't comply with the minimum 2-foot landscaping strip). Proposed Secondary Units that are within one-quarter mile of a BART station and located in an RPP zone will have no additional parking requirement.

In recognition of the potential of Secondary Units as a housing strategy, Planning staff has proposed the following changes to a variety of current zoning regulations in the City of Oakland that constitute a significant barrier to Secondary Unit development, particularly existing parking requirements:

- Parking – Tandem parking regulations would be amended to allow tandem parking for Secondary Units up to the maximum size allowed. Also, proposed Secondary Units that are within one-half (½) mile of a Bay Area Rapid Transit (BART) or Bus Rapid Transit (BRT) Station would have no additional parking requirement. This provision would provide more "low carbon footprint" housing options for residents seeking to utilize transit to meet their daily needs.
- Setback – New Secondary Units would be allowed up to 4 feet from the side and rear lot line if located within 35 feet of the rear property line. Existing accessory structures located outside of the front yard setback would be allowed to convert into a Secondary Unit - regardless of any existing nonconformity as to side setback, rear setback, or height - as long as the existing structure is not modified or added to in any way that increases the level of nonconformity with all applicable zoning regulations; the floor area of the resulting Secondary Unit does not exceed the maximum allowed; and the minimum parking requirement can be met on site.
- Height – Maximum roof height would be increased from 12 to 14 feet, and building walls located within 4 feet of the side or rear lot line would be limited to 10 feet in height, instead of the current 9 feet.

To minimize the impact of Secondary Units on existing residences, staff is proposing to couple the above regulatory relaxations with *a decrease in the overall maximum size of an individual Secondary Unit.* The city's current size limit for a Secondary Unit is larger than what most cities allow, so the proposal is to reduce the maximum size from the current 900 square feet or 50% of the primary structure, whichever is less, to the proposed: 750 square feet or 75% of the primary structure, whichever is less.

2. Amendments to Transitional and Supportive Housing Regulations (throughout the Planning Code).

California State law requires that Transitional and Supportive Housing be permitted in all zones allowing Residential Uses, and not be subject to any restrictions not imposed on similar dwelling types (e.g. Single Family, Multifamily) in the same zone. Therefore, in order to ensure conformance with State law: (a) the current "Service Enriched Permanent Housing" Residential Activity category

is proposed to be replaced throughout the entire Planning Code with a new "Supportive Housing" Residential Activity Type; (b) the definitions of "Transitional Housing" and "Supportive Housing" would be revised to conform to the State definitions; (c) the activity charts for every Zone allowing Residential Uses will be revised to indicate that "Transitional Housing" and "Supportive Housing" are permitted as Residential Activities; and (d) all special standards that previously applied to "Transitional Housing" and "Supportive Housing", including but not limited to differential parking regulations, will be removed to ensure that Transitional and Supportive Housing will only be subject to those restrictions that apply to other residential dwellings of the same facility type.

3. **Amendments to the Planning Code regulations for home-based businesses or "Home Occupations" (Section 17.09.040 [Definitions], Chapter 17.101E [D-CE Central Estuary District Zones Regulations], and Chapter 17.112 [Home Occupation Regulations]).**
In 2013, as part of the Central Estuary Area Plan, and in 2014, as part of the West Oakland Specific Plan, the Home Occupation regulations were modified for properties within these districts to allow (unlike in the rest of the city) business operations in detached garages or accessory structures, and up to 1 non-resident employee. This amendment is intended to allow these same amended Home Occupation regulations in the rest of the city, and thereby make it easier for residents to operate home-based businesses as a means of augmenting their income.

4. **Amendments to the RM Mixed Housing Type Residential Zones Regulations (Chapter 17.17).**
The current maximum density requirements for the RM Zones in Table 17.17.03 include a number of inconsistencies, as well as potentially unnecessary regulatory hurdles. For instance, the RM-2 Zone allows 2 units on lots 4,000 square feet or greater, but states that the maximum conditionally permitted density is 1 unit per 2,500 sq. ft. of lot area. For consistency purposes, the proposed amendments revise the maximum conditionally permitted density for the RM-2 Zone to be at the same ratio as the permitted density, or 1 unit per 2,000 sq. ft. of lot area. Also, to facilitate the creation of more infill housing opportunities, the amendments increase the conditionally permitted density threshold for the RM-3 Zone from 3 units to 4, and for the RM-4 Zone from 5 units to 6. Lastly, the density ranges from RM-2 through RM-4 Zones would be revised to step up in regular 500 sf. increments, such that the RM-2 permitted density would change, as stated above, from the current 1 unit per 2,500 sq. ft. of lot area to: 1 unit per 2,000 sq. ft. of lot area; RM-3 permitted density would remain the same (1 unit per 1,500 sq. ft. of lot area); and RM-4 permitted density would change from the current 1 unit per 1,100 sq. ft. of lot area to: 1 unit per 1,000 sq. ft. of lot area.

Also, as part of the code amendments adopted in concert with the West Oakland Specific Plan, special provisions were created for the RM-2 in the West Oakland District only to allow for: (1) a reduced lot size (from 5,000 sf. to 4,000 sf.); (2) a reduced lot width mean (from 45 feet to 25 feet); and a (3) reduced interior side and street setback (from 5 feet to 4 feet). Staff is proposing to amend the Code to provide for these same provisions across the entire city in the RM-2 Zone. In addition, the lot width mean is proposed to be reduced for the RM-1 Zone from 45 feet to 35 feet; and the interior side and street setback for the RM-1 Zone reduced from 5 feet to 4 feet.

Another code amendment adopted as part of the West Oakland Specific Plan allows for the RM-2 Zone to further reduce the minimum lot area upon the granting of a CUP and an additional finding

that, excluding the subject parcel, the prevalent size of existing lots in the surrounding block is three thousand (3,000) square feet or less. This amendment would provide a similar opportunity for all the RM Zones across the city to further reduce the minimum lot size.

Other amendments to the RM Zones intended to facilitate infill development include changing the 300 sf. per unit open space requirement in the RM-2 Zone to be the same 200 sf. per unit requirement that applies in the RM-3 Zone.

5. Amendments to the RU Urban Residential Zones Regulations (Chapter 17.19).
The density ranges from RU-1 through RU-3 Zones would be standardized into regular increments, such that the RU-1 permitted density would change from the current 1 unit per 1,100 sq. ft. of lot area to: 1 unit per 1,000 sq. ft. of lot area (the same as what is proposed for RM-4); RU-2 permitted density would change from the current 1 unit per 800 sq. ft. of lot area to: 1 unit per 750 sq. ft. of lot area; and RU-3 permitted density would remain the same (1 unit per 450 sq. ft. of lot area).

Also, the open space requirements for the RU-1 and RU-2 Zones would be standardized to be the same as that for the RU-3 Zone (150 sf. per unit).

In addition, the height map density ranges applicable to the RU-4 and RU-5 Zones would be revised to step up in regular 100 sf. increments, such that the existing allowed densities for the 35-foot and 45-foot height map areas would remain the same at 550 sf. per unit and 450 sf. per unit respectively; but the 60-foot height map area would change from 375 sf. per unit to 350 sf. per unit, and the 75-foot height map area would change from 275 sf. per unit to 250 sf. per unit (the same would be applied citywide in all zones subject to a height map).

6. Conditionally Permitted Density.
As a means of encouraging the preservation of older, lower-scale buildings, the proposed amendments provide for a way that the number of living units permitted in certain higher density zones, such as the RU-5 Zone, may be increased upon the acquisition of development rights from nearby lots, subject to the provisions of Section 17.106.050.

7. Amendments to the R-80 High-Rise Apartment Residential Zone Regulations (Chapter 17.30).
In the R-80 Zone, there are currently some outdated restrictions placed upon Restaurants, Convenience Markets, Alcoholic Beverage Sales, and Consumer Service Commercial Activities - such that customer access is only allowed through the *lobby of the facility*, and *no Business Signs or display windows* may be provided for such activities. Also, the maximum floor area devoted to such activities is limited to only *1,500 square feet*. The proposed amendments would remove the current restriction on access location, business signs, and display windows; and the maximum floor area for these commercial activities would be increased from 1,500 sf. to 3,000 sf.

8. Large-Scale Developments.
There are currently a number of inconsistent thresholds throughout the Planning Code that define when a project is considered a "large-scale development". The proposed amendments would standardize the size thresholds for projects requiring a Major Conditional Use Permit as follows:

- In the R-80, S-2, S-15, CIX-1A, CIX-1B, CIX-1C, or CIX-1D Zones - if the project would result in more than 100,000 sf. of new floor area; *and*

- In the CBD, D-LM, D-BV, or D-CO Zones – if the project would result in more than 200,000 sf. of new floor area.

9. **Amendments to the CN Neighborhood Center Commercial Zone Regulations (Chapter 17.33).** Custom Manufacturing is currently conditionally permitted in all of the CN Zones, but in the CN-1 through CN-3 Zones, a limitation is currently indicated that prohibits this activity on the ground floor. This amendment would retain the CUP requirement for Custom Manufacturing, but remove the ground floor prohibition.

10. **Minimum height of ground floor Nonresidential Facilities (throughout the Planning Code).** In the RU, CN and CC Zones, the proposed amendments would change the minimum height for new ground-floor Nonresidential Facilities from 12 feet to 15 feet to be consistent with minimum ground floor commercial heights citywide.

11. **Amendments to the CC Community Commercial Zones Regulations (Chapter 17.35).** In Table 17.35.01 (Permitted and Conditionally Permitted Activities), the CC-3 Zone is shown to prohibit Permanent Residential Activities, but confusingly shown to conditionally permit "Bed and Breakfast Activities". The proposed amendment to Table 17.35.01 would clarify that "Bed and Breakfast Activities" are only conditionally permitted in *an existing Residential Facility that was built prior to the effective date of this Chapter* (since no *new* Residential Facilities are permitted in CC-3). Other proposed changes to Table 17.35.01 for the CC-3 Zone are to add limitations to: General Wholesale Sales; Building Material Sales; and General Warehousing, Storage and Distribution, to indicate that these activities will only permitted upon the granting of a Conditional Use Permit when located on a lot that is within 300 feet of an RH, RD, or RM Zone.

12. **Minimum Front Setback in the CR Regional Commercial Zone Regulations (Chapter 17.37).** As part of the Coliseum Area Specific Plan, the west side of Hegenberger Road was re-zoned to the new D-CO Zones. The CR-1 Zoning that formerly applied to both sides of Hegenberger now only applies to the east side of the street. This amendment changes the minimum front setback requirement from the current "20 feet on parcels facing a right of way of 100 feet or more; 10 feet on parcels facing a right of way that is less than 100 feet wide" to "0/10 feet" to bring the CR Zone into conformance with the adopted standards for the new D-CO Zones.

13. **Amendments to the C-45 Zone Regulations (Chapter 17.56).** In order to make the allowed uses along the portion of Broadway in the Jack London District (from I-880 to the Embarcadero) more consistent with the allowed uses along the portion of Broadway through Downtown, the proposed amendments would make 'Group Assembly' and 'Personal Instruction and Improvement Services' permitted activities (both are currently only allowed with a CUP).

14. **Amendments to the CBD Central Business District Zones Regulations (Chapter 17.58).** Since adoption of the downtown CBD Zones in 2009, the city has adopted the Lake Merritt Station Area Plan, which included new zoning for the Chinatown/Lake Merritt portion of downtown. These new D-LM Zones were adopted in 2014 as part of the Lake Merritt Plan, and include new Height, Bulk, and Intensity Standards that are different than the rest of downtown. The following proposed

amendments to the CBD Zones (in concert with the proposed amendments/corrections to the D-LM Zones described below) will bring these two sets of standards closer into alignment:

- The maximum height in CBD Height Area 3 would be changed from 170 feet to 175 feet and the maximum base height in CBD Height Area 7 from 120 feet to 125 feet to be more consistent with the citywide approach of setting height limits that account for the related zoning requirement for a tall ground floor (at least 15 feet in height);
- A minimum height requirement would be added to CBD Height Area 3: (35 feet);
- In order to encourage more slender towers, current regulations in the downtown CBD Zones limit the size of building floor plates above the base to a range of *50% to 85% of the site area or 10,000 sf., whichever is greater.* While the intent of this regulation is sound, staff is concerned that it may be mandating such small floor plates to act as a regulatory hurdle to the construction of new office buildings. For comparison purposes, the Urban Land Institute released an article in 2011 titled "Pillars of Design", which states that: "Rentable space of 25,000 to 28,000 square feet per floor plate is considered average for office buildings…" In response to this market preference for larger contiguous office floor areas, the proposed amendment would increase the allowed floor plate sizes in the downtown to a range of 65% to 85% of the site area or 15,000 sf., whichever is greater.
- Similarly, staff is concerned that the current "Maximum Average Area of Floor Plates" regulation in the CBD Zones may be mandating smaller floor areas in new buildings than what the market generally prefers. Therefore, since a similar regulation was not adopted as part of the new D-LM Zoning for the Lake Merritt Station Area Planning Area, this regulation is proposed to be deleted from the CBD tower regulations.
- Also, there are proposed amendments intended to bring the CBD tower regulations into closer alignment with the new adopted D-LM Zone standards, including changing maximum tower elevation length in the CBD Height Area 3 from 115 feet to 150 feet and the diagonal length from 145 feet to 180 feet (same as the D-LM standards); and adding the same provision that now applies in the D-LM Zones for a potential increase in the maximum tower elevation length, diagonal length, and average per story lot coverage above the building base upon the granting of a Conditional Use Permit.

Also, in Table 17.58.01 (Permitted and Conditionally Permitted Activities), the CBD-P Zone is shown to conditionally permit Transient Habitation (Hotels). But Limitation L6 is also shown, which is potentially confusing and unnecessary, since L6 states that: "these activities are only permitted upon the granting of a conditional use permit". The proposed amendment to Table 17.35.01 would delete the L6 reference for hotels in the CBD-P, since it is already indicated to be conditionally permitted by the "C" listed in the Table.

15. Amendments to the HBX Housing and Business Mix Commercial Zones Regulations (Chapter 17.65).

The density ranges from HBX-1 through HBX-4 Zones would be revised to step up in regular 100 sf. increments, such that the HBX-1 permitted density would remain the same (1 unit per 1,000 sq. ft. of lot area); HBX-2 permitted density would change from the current 1 unit per 930 sq. ft. of lot area to: 1 unit per 900 sq. ft. of lot area; HBX-3 permitted density would change from the current 1 unit per 730 sq. ft. of lot area to: 1 unit per 800 sq. ft. of lot area and HBX-4 permitted density would change from the current 1 unit per 800 sq. ft. of lot area to: 1 unit per 700 sq. ft. of lot area.

In Section 17.65.100, the maximum height for the HBX-1 Zone is stated to be 35 feet, but a limitation is currently included that a CUP is required for new buildings to exceed 30 feet in height. This limitation is an unnecessary regulatory hurdle that does not apply to any other HBX zone, so the CUP requirement to go from 30 to 35 feet is proposed to be removed.

Similarly, in Section 17.65.120, the current open space requirement for the HBX-1 Zone is 200 square feet per unit, which is higher than any other HBX Zone. This amendment would bring the open space requirement for the HBX-1 Zone into alignment with the HBX-2 and HBX-3 Zones at 150 sf. per unit.

16. **Amendments to the S-10 Scenic Route Combining Zone Regulations (Chapter 17.90).**
In Section 17.90.070, there is a special height restriction on downslope S-10 lots which limits the height of buildings and other facilities to no more than 3 feet above the edge of the roadway. This height restriction does not account for the city's standard allowance for a front yard fence height of at least 3½ feet. To fix this problem, the proposed amendment would exempt any fence, dense hedge, barrier or similar freestanding wall that does not exceed 3½ feet in height above any point on the nearest edge of the roadway from the S-10 downslope height restriction.

17. **Amendments to the Property Development Standards in the S-15 Transit Oriented Development Zones Regulations (Chapter 17.97).**
The open space requirements for the S-15 and S-15W Zones would be reduced in some height map areas to better coordinate with the reduced open space requirements for the transit oriented D-CO-1 Zone that City Council adopted earlier this year as part of the Coliseum Area Specific Plan (the new D-CO-1 Zone replaced the S-15 Zone near the Coliseum BART station).

Also, the height map density ranges applicable to the S-15 and S-15W Zones would be revised to step up in regular 100 sf. increments (the same as would be applied citywide in all zones subject to a height map).

In addition, the use permit criteria for auto fee parking in the S-15 Zones is proposed to be amended to be more consistent with the same findings that the City Council adopted earlier this year for the transit oriented D-CO-1 Zone (Section 17.101.070F) as part of the Coliseum Area Specific Plan.

18. **Amendments to the D-WS Wood Street District Zone Regulations (Chapter 17.101A).**
In 2006, City Council adopted the original Wood Street Zoning District as a separate regulatory document from the rest of the Zoning Code. Over the years, this administrative approach has becoming increasingly confusing to the public and staff, since copies of the separate Wood Street Zoning District document are not always readily available. In 2014, Planning staff received Council approval to transfer the Permitted Activities section of the Wood Street Zoning Regulations from this separate 2006 Zoning document into the citywide Planning Code. The proposed amendments would continue this transfer effort by moving the important Development Standards Summary Table for Wood Street into the D-WS Zoning Chapter.

19. **Amendments to the D-OTN Oak to Ninth District Zone Regulations (Chapter 17.101B).**

Similar to the Wood Street District, the City Council originally adopted the Oak to Ninth Zoning District as a separate regulatory document from the rest of the Zoning Code. In 2014, Planning staff received Council approval to transfer the Permitted Activities section of the Oak to Ninth Zoning Regulations from this separate 2006 Zoning document into the citywide Zoning Code. The proposed amendments would continue this transfer by moving the rest of the Oak to Ninth zoning regulations into the D-OTN Zoning Chapter.

20. Amendments to the D-CE Central Estuary District Zones Regulations (Chapter 17.101E).
In 2013, the City Council adopted the Central Estuary Area Plan and replaced the previous zoning in the Central Estuary Plan Area with the new D-CE Zones in order to implement the Plan objectives. One of the previous zones replaced in the Plan Area, HBX-3, applied to the Jingletown/Elmwood neighborhood in the Central Estuary. A number of the property owners in Jingletown/Elmwood neighborhood had been closely involved in the original creation of the HBX-3 Zone in 2006, and have recently expressed their concern to the City that this HBX zone was not retained for their neighborhood. The primary reason staff has heard as to why the original HBX-3 Zone is still preferred by some of the area property owners is that minimum setbacks were not specified to allow projects more flexibility to respond to site-specific contexts in this unique commercial/industrial/residential mixed neighborhood. Setbacks in the HBX-3 Zone were instead determined whether or not to be necessary through design review, and whether a project is consistent with the "Design Guidelines for the HBX zones" as adopted by the City Council.

In order to address this setback concern, staff is proposing to add a similar setback determination method for the D-CE-3 and D-CE-4 Zones: the minimum front, interior side, street side, and/or rear setbacks will be allowed to be reduced to as little as 0 feet upon the granting of regular design review approval, and upon determination that any smaller dimension will not adversely affect the livability or appropriate development of abutting residential properties.

In addition, despite an allowed height in the D-CE-4 Zone of 75 feet, the allowed density is only 700 sf. per unit - which is significantly lower than is typical in other zones that allow a similar height. Therefore, the proposal would change the allowed density in the D-CE-4 Zone from 700 sf. per unit to 450 sf. per unit.

21. Amendments to the D-LM Lake Merritt Station Area Plan District Zones Regulations (Chapter 17.101G).
In 2014, the City Council adopted the Lake Merritt Station Area Plan and replaced the previous CBD zoning in downtown's Lake Merritt BART Station Area with the new D-LM Zones in order to implement the Plan objectives. One of the unique features of the new D-LM Zoning is the limited number of height area exceptions that can be granted to allow an applicant in a lower height area, such as 85 feet, to apply through a CUP to utilize the height standards in either the 175-foot or 275-foot height area. The proposed amendments are intended to clarify the language in Table 17.101G.04 regarding these height area exceptions; and to make the procedure for application much more clear and easy to understand by separating the description of the application process into its own new Section (17.101G.055).

Also, in coordination with the proposed amendment to the CBD Chapter that would increase the allowed floor plate sizes in the downtown to a range of 65% to 85% of the site area or 15,000 sf., whichever is greater, the D-LM tower regulations would also be amended to increase the allowed floor plate sizes to a range of 65% to 75% of the site area or 15,000 sf., whichever is greater.

22. Amendments to the D-CO Coliseum Area Plan District Zones Regulations (Chapter 17.101H).
In March 2015, the City Council adopted the Coliseum Area Specific Plan and replaced the previous zoning in the Coliseum Area with the new D-CO Zones in order to implement the Plan objectives. At the time of adoption, it was not yet clear what the long-term land use future should be for the properties fronting on Oakport Street adjacent to Highway 880. However, it is now clear through other city actions that formation of a mini-"Auto Row" in this area is compatible with the Coliseum Area planning process. Therefore, the proposed amendments remove the CUP requirement for "Automobile and Other Light Vehicle Sales and Rental" in the D-CO-3 Zone if the activity is located on a parcel adjacent to the Oakport Street right-of-way.

Also, the proposal would amend the parking regulations for the D-CO Zones in Chapter 17.116 (Off-Street Parking and Loading Requirements) to indicate that the unbundling of parking is required for new developments, as indicated in the adopted policies for the Coliseum Area Specific Plan.

Other amendments include adding a minimum front setback of 10 feet for facilities in the D-CO-6 Zone, except for retail and similar facilities oriented toward pedestrian activity.

23. Amendments to the Regulations Applicable to Certain Activities and Facilities (Chapter 17.102).
Amend Section 17.102.180 (Restriction on vertical location of activities in buildings containing both Residential and Nonresidential Activities—Commercial Zones), to specify that a CUP is not required for Commercial Activities approved as a Home Occupation to be conducted within a building above a story occupied by Residential Activities.

Amend Section 17.102.340 (Electroplating Activities in the Industrial Zones), to clarify that Electroplating Activities cannot be located nor expanded within one thousand (1,000) feet from the boundary of any other zone except the IG Zone. The proposed amendment removes CIX-2, M-20, M-30, and M-40 from the zones allowing Electroplating Activities.

24. Amendments to the Special Regulations and Findings for Certain Use Classification (Chapter 17.103).
Amend Section 17.103.090(B)(1) (Standards for Sidewalk Cafes) as follows (proposed additions are shown as double underline and proposed deletions are shown as ~~strikethrough~~):

"Sidewalk Cafes shall not encroach upon any public right-of-way unless a minimum of five and one-half (5½) feet of unobstructed improved sidewalk or fifty percent (50%) of the overall ~~unobstructed~~ improved sidewalk width, whichever is greater, remains available for pedestrian purposes. The minimum distance shall be measured from the portion of the Sidewalk Cafe encroachment which is nearest to any obstruction within the sidewalk area. For purposes of the minimum clear path, parking meters, traffic signs, trees, tree wells, sidewalk planter strips, and all similar obstacles shall constitute obstruction.

This proposed amendment adds a requirement that sidewalk cafes maintain a minimum of 50% of the overall improved sidewalk width for pedestrian purposes. This is to better ensure that an individual sidewalk café does not overly restrict the free flow of pedestrian movement at any one location along a sidewalk - as has happened in front of a few restaurants along Broadway, for instance.

25. Amendments to the General Lot, Density and Area Regulations (Chapter 17.106).
In Section 17.106.030 (Maximum density and Floor-Area Ratio on lots containing both Residential and Nonresidential Facilities), the proposed amendment would add provisions to clarify the already required method for calculating the portion of lot area used in computing density for certain types of mixed use projects in the HBX Zones.

In Section 17.106.040 (Use permit criteria for increased density or Floor-Area Ratio for high-rise Residential Facilities), the proposed amendment would clarify in finding (A) that: "the openness of development, limitation of site coverage, and the design of the facilities effectively compensate for the potential effect of the increase in the number of living units or Floor-Area Ratio upon adjoining properties and the surrounding area". This proposed revision is in place of the existing language that refers instead to compensating for *the potential effect of the added structural bulk* – which may be misunderstood and lead to an erroneous assumption that a use permit for increased density or Floor Area Ratio might pre-require increased height in a project.

In Section 17.106.050, there are internal inconsistencies in the zoning language that need to be clarified. The current title of the section refers to the acquisition of **abutting** development rights, yet the first paragraph in the section text currently refers instead to the acquisition of **nearby** development rights. The proposed amendments are intended to allow for more use of this important Transfer of Development Rights (TDR) tool by changing the Section title (Use permit criteria for increased density or Floor-Area Ratio with acquisition of ~~abutting~~ nearby development rights), and removing the limitation of just *abutting lots* in the Section text and adding instead:"…lots located within three hundred (300) feet". This expansion of the potential use of the TDR provision will hopefully encourage the preservation of more older lower-scale buildings near development sites.

26. Amendments to the Allowed Projections above Height Limits Regulations (Section 17.108.030).
The proposed amendments to Section 17.108.030 are intended to solve certain long-standing issues in this section of the Code that often affect the design of larger, higher density projects. For instance, earlier versions of the city's Planning Code included parapets as one of the allowed projections above height limits. This parapet height allowance was deleted at some point in the past from the Code - most likely in response to its potential use by lower density development, such as one- and two-family dwellings. While the intent of this previous revision was sound, it has had an unintended consequence on the design of many larger buildings, with some projects approved with a nearly featureless flat roofline due to the absence of sufficient height allowance for a parapet or other decorative feature, such as a spire, bell tower, dome, cupola, obelisk, or monument. The proposed amendments would restore parapets as an allowed projection above the height limit, but importantly, *exclude its application to one- and two-family dwellings.*

Also, the current allowed projection above the height limit regulation that applies to other decorative features (such as spires, bell towers, domes, cupolas, obelisks, and monuments) limits the application of the additional height allowance to only 10% of the building footprint, which is often not enough

area to include a fully proportional rooftop design element. The proposed amendments would remove this limit on the amount of building footprint covered by rooftop decorative features, as long as the project as a whole is granted design review approval.

Finally, "rooftop fenced or walled spaces" are currently limited in Section 17.108.030 to only 10% of the building footprint, which is sometimes not enough area for higher density projects to include a significant rooftop open space. The proposed amendments would remove the current footprint limit on rooftop fenced or walled spaces by relocating this provision from Subsection B. to Subsection F. (which already regulates features such as "Rooftop recreational, observation, seating, outdoor dining" etc., and does not include a building coverage limit).

27. Amendments to the Nonconforming Uses Regulations (Chapter 17.114).
As part of the code amendments adopted in 2014 along with the West Oakland Specific Plan, Subsection D. of Section 17.114.050 (Nonconforming Activity—Discontinuance) was added to the Planning Code to specify a strict standard on the resumption of a nonconforming Trucking and Truck-Related Industrial Activity or Recycling and Waste-Related Industrial Activity in the new CIX-1A, CIX-1B, CIX-1C, and CIX-1D Zones (CUP required if the nonconforming activity discontinues active operation for more than 90 days). The proposed amendment would correct an oversight and add a provision to exclude the application of this strict discontinuance standard to the new CIX Zones that include the T Overlay - which is only applied to sites south of Highway 880 in the 3rd Street corridor, an area that the West Oakland Specific Plan specifically highlights as appropriate for Trucking and Truck-Related Industrial Activities.

Also, the proposal would amend Section 17.114.110(C) to correct an oversight and include the new D-CO-1 Zone to the regulation limiting the conversion of nonconforming advertising signs. This is consistent with the code amendments adopted as part of the Coliseum Area Specific Plan, when the intent had been to add the new D-CO-1 Zone to all applicable provisions throughout the Planning Code that apply to the S-15 Zones (the zone D-CO-1 replaced near the Coliseum BART Station).

28. Amendments to the Off-Street Parking and Loading Requirements (Chapter 17.116).
In order to facilitate infill housing opportunities, the following amendments are proposed to reduce or modify some of the parking requirements:

- As mentioned earlier as part of the Secondary Unit changes – Section 17.16.240 (Tandem spaces and berths) is proposed to be amended to allow tandem parking for any Secondary Unit, as long as the floor area of the Secondary Unit does not exceed the maximum allowed (the tandem parking allowance is currently limited only to Secondary Units of 500 sf. or less).
- Also, Section 17.116.060 would be amended to specify that no additional parking space is required for Secondary Units that are located within one-half mile of a BART or BRT Station. This will allow for a greater number of households to be less dependent on an automobile in order to meet their daily needs.

Other proposed parking changes are to:

- Change the multi-family residential parking requirement in the D-LM Zones to match the D-BV-1 and D-BV-2 Zones (½ space for each dwelling unit). As background, the D-LM Zones were adopted in 2014 along with the Lake Merritt Station Area Plan. At that time, the multi-family

residential parking requirement in the new D-LM Zones was reduced to "3/4 space for each dwelling unit"- compared to the "1 space for each dwelling unit" CBD Zone standard that previously applied in the Plan area. However, this D-LM parking requirement was still higher than the new "½ space for each dwelling unit" parking standard that now applies to a large portion of the Broadway Valdez Specific Plan area, or to match the existing allowance for a parking reduction in the CBD Zones to "½ space for each dwelling unit" upon approval of a CUP. Therefore, this proposal would correct this oversight.

- Amend Section 17.116.110(D)(6) to clarify that in the D-BV and D-LM Zones, as in all zones citywide, parking may be reduced or eliminated for certain types of affordable and senior housing projects.
- Amend Section 17.116.170 to include the D-BV and CC Zones in the list of zones allowing: (a) residential parking to be located on another lot located within 300 feet and having at least one owner in common with the former lot; and (b) upon the granting of a CUP, loading berths for any activity on a lot which does not abut all the lots containing the activities served.

29. Amendments to the Administrative Procedures Generally (Chapter 17.130).

Proposed changes include an amendment to the procedure for resolving Planning Commission tie votes in Section 17.130.040. The proposal would provide a bright-line rule that if there is still a deadlock after two votes on a matter in which the City Council is the final decision maker, the item would automatically be forwarded to the City Council (rather than leaving it to the discretion of the Planning Commission Chair).

Also, the proposal is to amend Section 17.130.080 (City Council consideration of legislative and adjudicatory actions) to incorporate existing State law (Government Code Section 65853) into the Zoning Code, which clarifies that if the City Planning Commission has not forwarded a recommendation to the City Council within a reasonable time after receiving a final Planning Staff recommendation, the City Council body may, by written notice, require the City Planning Commission to render its written report within 40 days.

Another proposed amendment involves the addition of a new provision regarding inactive Planning applications (new Section 17.130.100). The Planning Code does not currently specify a method for terminating Planning applications which have been incomplete or on hold for six (6) months or more. Such "on hold" applications are an administrative burden on the Bureau of Planning. The proposed inactive Planning application standard would state that:

Any Planning application which has been incomplete or put on hold by the applicant for six (6) months or more shall be considered inactive. Upon written notification by the Planning Director of such status, the applicant shall bring the application to complete or active status within sixty (60) days. If the application has not achieved complete or active status to the satisfaction of the Planning Director within this sixty (60) day period, the application shall be considered withdrawn.

30. Amendments to the Administrative Appeal Procedure (Chapter 17.132).

Staff proposes to amend Section 17.132.020 to include the same appeal procedure revisions that have previously been added to all other Planning Code sections describing the appeal procedure. These

amendments will make Section 17.132.020 consistent with all other Planning Code sections relating to appeals.

31. Amendments to the Conditional Use Permit Procedure (Chapter 17.134).
The following amendments are proposed to the definition of Major Conditional Use Permits (Section 17.134.020):

- There are currently a number of inconsistent thresholds throughout the Planning Code that define when a project is considered a "large-scale development". For instance, in the CBD Zones Chapter (Section 17.58), the Code currently states that the CUP threshold for a "large" project is one that "involves more than 200,000 square feet of new floor area, or a new building or portion thereof of more than 250 feet in height…" However, in the definition of Major Conditional Use Permits (Section 17.134.020), a large-scale development in the CBD Zones is defined differently as one that "results in more than 100,000 square feet of new floor area…" This proposed amendment would standardize the size thresholds in Section 17.134.020(1)(e) and throughout the Planning Code for projects requiring a Major Conditional Use Permit as follows:
  - In the R-80, S-2, S-15, CIX-1A, CIX-1B, CIX-1C, or CIX-1D Zones - if the project would result in more than 100,000 sf. of new floor area;
  - In the CBD, D-LM, D-BV, or D-CO Zones – if the project would result in more than 200,000 sf. of new floor area.
- A related amendment involves adding the CIX-1A, CIX-1B, CIX-1C, and CIX-1D Zones to the list of zone exceptions to the 25,000 square foot threshold for a major CUP listed in Section 17.134.020(A)(1)(b).
- The proposed amendments to the definition of a Major CUP also include a revision to Section 17.134.020(A)(1)(f) to clarify that the applicable threshold in the new D-LM Zones involves: "Projects that request to be considered for an exception to the D-LM Height Area standards, as specified in Table 17.101G.04, Note 2." This change is intended to clarify the language in Table 17.101G.04 regarding height area exceptions.

Also, the proposal would amend Section 17.134.080 to specify that a CUP shall terminate 2 years from the effective date of its granting unless a different termination date is prescribed (instead of the 1 year currently listed in the code). The 2-year expiration period is consistent with current Planning practice.

Another proposed change is to amend Section 17.134.120 (Limitation on resubmission) to remove the unrelated "applications for hearing" language and clarify the resubmission standard for projects denied by either the Planning Commission or Planning Director.

32. Amendments to the Special Use Permit Review Procedure for the OS Zone (Chapter 17.135).
Amend Section 17.135.040 to make the period for decision by the Landmarks Preservation Advisory Board consistent with the proposed 40-day time period for decision by the Planning Commission in Section 17.130.080.

33. Amendments to the Design Review Procedure (Chapter 17.136).

Staff proposes to add references where necessary to clarify the procedure for demolition in the CIX-1A Zone and the design review procedure for projects in the CIX-1A, CIX-1B, CIX-1C, and CIX-1D Zones.

Also, the proposal would change the maximum size of a Secondary Unit to be consistent with changes proposed in Section 17.103.080 (750 square feet or 75% of the floor area of the primary dwelling unit, whichever is less).

The amendments would also change the method of verifying notice mailing for both Track 3 Small Project and Special Project Design Review from the current Certified Mail to the proposed Certificate of Mailing.

Another proposed amendment would change the Major Design Review language in Section 17.136.040(D) to be consistent with the proposed citywide size thresholds in Section 17.134.020(1)(e) and throughout the Planning Code for projects requiring a Major CUP.

34. Amendments to the Planned Unit Development Procedure (Chapter 17.140).
Staff proposes to amend Sections 17.140.040 and 17.140.110 to provide for a potentially longer time period than just 1 year to be specified for the submission of a final PUD plan.

35. Amendments to the Mini-Lot and Planned Unit Development Regulations (Chapter 17.144).
In 2014, as part of code changes made in concert with the adoption of the West Oakland Specific Plan, the Mini-Lot Development regulations were modified in Section 17.142.012 for the RM-2 Zone in the West Oakland District only to allow the minimum setback requirements for a mini-lot development to be the same as those for a single lot less than 4,000 square feet in size.

The proposal is to allow for these same amended Mini-Lot Regulations in all of the RM-2 zoned areas throughout the city, and thereby ease the regulatory hurdles for small-scale infill subdivisions as a means of increasing the home ownership opportunities for Oakland residents.

36. Amendments to the Rezoning and Law Change Procedure (Chapter 17.140).
As also amended for the Administrative Procedure Chapter (17.130), amend the rezoning and law provisions in Sections 17.144.020 and 17.144.090 to be consistent with State law, specifying that if the Planning Commission has not forwarded a recommendation to the City Council within a reasonable time after receiving a final Planning Staff recommendation, the City Council body may, by written notice, require the City Planning Commission to render its written report within 40 days.

Geographically Specific Planning Code Text, Zoning Map, and Height Area Amendments

37. Amendments to the D-BV Broadway Valdez Commercial District Zones Regulations (Chapter 17.101C).
Since adoption of the Broadway Valdez Specific Plan and the new D-BV Zones in 2014, the pace of development in the Plan Area has accelerated- with over 1,950 new housing units and nearly 300,000 square feet of new commercial activity already applied for, approved, or constructed. In order to build on the Plan's success and encourage even more future retail, Additional Regulation 1 for Table 17.101C.06 (Retail Priority Sites) is proposed to be amended to add the "Acura block" (defined by

Harrison, 24th, Valdez, and 27th Street) to the sites that qualify for an additional height and FAR bonus if a project includes more than the minimum retail square footage required (see **Attachment A**).

38. Apply the BV-4 Zone and Height Map to the northwest corner of 23rd and Valley Street, and to the eastern half of the 24th/25th St. block between Broadway and Telegraph, to encourage adaptive re-use and infill, and prioritize ground floor uses for retail, art galleries, and other compatible activities.

Staff proposes to apply the D-BV-4 Zone and Height Map to the northwest corner of 23rd and Valley Street and to the eastern half of the 24th/25th Street block between Telegraph and Broadway (see **Attachment C**). The goal is to include more compatible areas along the west side of Broadway into the successful regulatory structure established by the D-BV Zones. This will encourage adaptive re-use and infill in these areas, and allow for the application of regulations that prioritize the ground floor of any new and existing buildings in the area for more retail, art galleries, artist studios and other compatible uses.

Currently, the eastern half of the 24th/25th Street block is zoned CC-3. If rezoned to D-BV-4 as proposed, the limitations that will apply in this area would:

- prohibit Health Care Civic and Administrative Civic Uses on the ground floor (both are outright permitted in CC-3);
- prohibit Medical Service and Consultative & Financial Commercial Uses on the ground floor (both are also outright permitted in CC-3); and
- prohibit Administrative Commercial Uses on the ground floor from the center of the block to the street edge along 25th Street (again this use is currently outright permitted in CC-3).

These use restrictions would encourage more retail, art galleries, and other compatible uses on the ground floor, thereby facilitating a more complete extension of the Art Murmur district to Broadway than has occurred to date.

Also, the northwest corner of 23rd and Valley Street and the eastern half of the 24th/25th Street block between Broadway and Telegraph have seen little to no new investment in recent times. There are currently many open parking areas, empty buildings, and underused sites in the area. Extending the adjacent D-BV-4 Zone and 85-foot height area would encourage adaptive re-use and infill in these areas.

39. Revise the zoning designations for the 3rd and 7th St. areas between West Oakland BART and Downtown to:

- consolidate the CIX-1A and -1B zoned areas along 3rd Street into larger districts;
- restore the previous M-30 zoning to a block at 2nd and Brush to address a nonconforming status erroneously created in 2014 for a live/work complex; and
- split the current CC-3 zoning along 7th into CC-2 for the parcels facing 7th Street and CC-3 for areas next to and under I-880 (see **Attachment D**).

40. Change the height limit for the corner of Broadway, Brook St., and Piedmont Ave. from 45 ft. to 65 ft. to be more in scale with the height limits allowed on the other corners at this intersection.

Prior to 2014, the height limit that applied to the corner of Broadway, Brook St., and Piedmont Avenue was 75 feet. Staff proposes to increase the height limit for this important corner from the current 45 feet to 65 feet (see **Attachment E**), due to a reconsideration of the urban design appropriateness of restricting one corner of this important gateway intersection to a dramatically lower height map designation compared to the surrounding intersection parcels (which vary in height map area from 85 feet to 200 feet).

41. Apply the D-LM-2 Zone and Height Map to two parcels on the north side of 14th Street between Harrison and Alice Streets.

Staff proposes to extend the boundary of the D-LM-2 Zone and the LM-85 Height Area along the northern side of 14th Street between Harrison and Alice Street to include an adjacent parking lot and one-story building that was not originally included in the D-LM rezoning in 2014 (see **Attachment F**). This map change will form a straighter and more logical boundary line between D-LM-2 and the adjacent CBD-C Zone to the north.

42. Apply the CIX-2 Zone to the block defined by 47th Ave., E. 12th St., 50th Ave., and San Leandro St.; and to certain parcels near Interstate 880 between 45th Ave. and 42nd Ave. where the current zone boundary does not follow parcel and street lines.

In the area surrounding the block defined by 47th Avenue, E. 12th Street, 50th Ave., and San Leandro St., there is currently no clearly defined edge between residential and industrial areas, and these two uses interweave and overlap among individual parcels. This land use pattern has resulted in heavy truck traffic with its associated noise and fumes directly affecting the surrounding residential neighborhood. Staff proposes to change the zoning for this block from the city's heaviest industrial zone, IG (General Industrial), to the lighter industrial zone, CIX-2 (Commercial Industrial Mix-2), in order to help establish a more clearly defined boundary between heavy and light industrial land uses (see **Attachment G**). Currently, the boundary between these industrial land use types is not well established. This map amendment seeks to further clarify this edge and transition to lighter commercial uses in proximity to the adjacent residential areas.

In addition, staff proposes to adjust the zone boundary between IG and CIX-2 for certain parcels near Interstate 880 between 45th Avenue and 42nd Avenue, to establish a more logical zoning boundary that follows parcel and street lines.

ENVIRONMENTAL DETERMINATION

The proposed amendments to the Planning Code Text, Zoning Map and Zoning Height Areas rely on the previously certified set of applicable CEQA documents including: the Coliseum Area Specific Plan EIR (2015); Broadway Valdez Specific Plan EIR (2014); West Oakland Specific Plan EIR (2014); Central Estuary Area Plan EIR (2013); Land Use and Transportation Element of the General Plan EIR (1998); the Oakland Estuary Policy Plan EIRs (1999, 2006) and Supplemental EIR (2013); the Redevelopment Area EIRs- West Oakland (2003), Central City East (2003), Coliseum (1995), and Oakland Army Base (2002); the 1998 Amendment to the Historic Preservation Element of the General Plan; the 2007-2014 Housing Element Final EIR (2010) and Addendum (2014); and various Redevelopment Plan Final EIRs (collectively, "Previous CEQA Documents"). No further environmental review is required under CEQA Guidelines Sections 15162 and 15163. Moreover, each as a separate and independent basis, this proposal is also exempt from CEQA pursuant to CEQA Guidelines Sections 15183 (projects consistent with General Plan and Zoning) and 15061(b)(3) (general rule, no significant effect on the environment).

The proposed amendments to the Planning Code Text, Zoning Map and Zoning Height Areas would not result in any significant effect that has not already been analyzed in the Previous CEQA Documents, and

there will be no significant environmental effects caused by the change that have not already been analyzed in the Previous CEQA Documents. As a result, none of the circumstances necessitating preparation of additional environmental review, as specified in CEQA and the CEQA Guidelines, including, without limitation, Public Resources Code Section 21166 and CEQA Guidelines Sections 15162 or 15163 are present in that: (1) there are no substantial changes proposed in the project or the circumstances under which the project is undertaken that would require major revisions of the Previous CEQA Documents due to the involvement of new significant environmental effects or a substantial increase in the severity of previously identified significant effects; and (2) there is no "new information of substantial importance," as defined in CEQA Guidelines Section 15162(a)(3). In addition, each as a separate and independent basis, this action is exempt from CEQA pursuant to CEQA Guidelines Sections 15183 (projects consistent with General Plan and Zoning) and 15061(b)(3) (no significant effect on the environment).

KEY ISSUES AND IMPACTS

The proposed Code amendments described in this staff report are intended to clean up and better organize the Planning Code by making edits that clarify sections that are currently unclear, and making more substantive changes to make the Code more consistent with industry standards and good development practices.

Completing this code clean-up is a staff priority since other Code amendment initiatives that will come before the Planning Commission and City Council in 2016, including but not limited to a proposed update of the City's parking regulations, will need to incorporate and build upon these clean-up items.

RECOMMENDATIONS

1. Affirm staff's environmental determination;
2. Recommend that the City Council approve the proposed Planning Code Text, Map, and Height Area amendments; and
3. Find that existing regulations being amended or deleted are inadequate and otherwise contrary to the public interest.

Prepared by:

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Approved by:

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Approved for forwarding to the
City Planning Commission by:

Rachel Flynn, Director - Department of Planning and Building

ATTACHMENTS:

A. Proposed Planning Code Text Amendments
B. Letters from homeowners the City has received recently requesting the reduction of regulatory barriers that impede the approval of a Secondary Unit
C. Proposed Zoning Map and Height Area Amendment to the northwest corner of 23rd and Valley Street, and to the eastern half of the 24th/25th St. block near Broadway
D. Proposed Zoning Map Amendment to the 3rd Street to 7th Street areas between the West Oakland BART station and Downtown
E. Proposed Zoning Height Area Amendment to the corner of Broadway, Brook Street, and Piedmont Avenue
F. Proposed Zoning Map and Height Area Amendment to two parcels on the north side of 14th Street between Harrison and Alice Streets
G. Proposed Zoning Map Amendment to the block defined by 47th Ave., E. 12th St., 50th Ave., and San Leandro St.; and to certain parcels near I-880 between 45th Ave. and 42nd Ave.