

**CITY OF OAKLAND**  
**COUNCIL AGENDA REPORT**

FILED  
OFFICE OF THE CITY CLERK  
OAKLAND

2004 JUL -1 PM 8:19

TO: Office of the City Administrator  
ATTN: Deborah Edgerly  
FROM: Community and Economic Development Agency  
DATE: July 13, 2004

RE: Consideration of a Planned Development Zoning District Procedure Ordinance - Adding Chapter 17.139 to the Oakland Planning Code and making related changes (Recommendation from the Planning Commission)

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**SUMMARY**

The Planning Commission has forwarded, for City Council consideration, an ordinance which establishes the Planned Development Zoning Districts (PDZD). This ordinance creates a process which will allow the City to re-zone site specific areas within the City of Oakland and apply specially drafted zoning regulations to facilitate well-planned and integrated residential, commercial and mixed-use communities on those sites. Once this ordinance is adopted, re-zoning to a site specific PDZD could be initiated by either the City Council or private property land-owners and must be approved by the City Council, after appropriate environmental review is conducted. Once a specific area is rezoned to a PDZD, future development cannot occur without submittal and approval of Preliminary and Final Development Plans by the City Planning Commission, or, on appeal, the City Council.

Existing Planned Unit Development regulations (Oakland Planning Code Chapters 17.122 and 17.140) will remain in place. The draft ordinance now before the Council represents an additional land use planning tool for large scale, integrated developments. Adoption of this ordinance does not commit the City to rezone any specific property nor authorize any development; rather, it merely establishes a detailed process and set of requirements to consider such in the future. This enabling legislation is thus similar in purpose to other existing "procedural" regulations, such as the Development Agreement Procedures (Oakland Planning Code Chapter 17.138), Planned Unit Development Procedures (Chapter 17.140), and Rezoning and Law Change Procedures (Chapter 17.144).

Item: 8  
CED Committee  
July 13, 2004

## **FISCAL IMPACT**

This is a procedural amendment to the Oakland Zoning Code and does not have any direct fiscal impact. If enacted by ordinance, this zoning procedure would be processed through an application and fees would be charged to offset the staff time and other costs of processing the application.

## **BACKGROUND**

At its May 19 and June 2, 2004 meetings, the Planning Commission considered the proposed ordinance which establishes a new zoning district called the Planned Development Zoning Districts (PDZD). The Commission took action recommending the ordinance to the City Council for adoption. As part of its review, the Commission incorporated the following changes into the proposed ordinance, and these are reflected in the draft now before the City Council:

- incorporate more and broader noticing procedures, including a minimum 500 foot radius for notification rather than 300 feet, 20 day notice if an EIR or negative declaration is prepared (as compared to the typical 10 days) and 30 days if the project is exempt from CEQA, and notification of occupants in addition to owners;
- a requirement for a community meeting; and
- deleting the prohibition on issuing a certificate of occupancy if the next phase of development is not underway (because other enforcement mechanisms are adequate).

## **Purposes of the Planned Development Zoning District**

The ordinance now before the City Council represents an additional land use planning tool for large scale, integrated developments. Adoption of this ordinance does not commit the City to rezone any specific property nor authorize any development; rather, it merely establishes a detailed process and set of requirements to consider such in the future. This enabling legislation is thus similar in purpose to other existing “procedural” regulations, such as the Development Agreement Procedures (Oakland Planning Code Chapter 17.138), Planned Unit Development Procedures (Chapter 17.140), and Rezoning and Law Change Procedures (Chapter 17.144).

The purposes of the Planned Development Zoning District (“PDZD” or “District”) are to:

- A. Promote and encourage comprehensive, phased planning for large areas over a multi-year period by designing the site as a whole, rather than incrementally.

- B. Ensure that each phase of the multi-year development is compatible with and integrated into each of the past and future phases of such development, through the legislative enactment of development standards and regulations.
- C. Establish a mechanism to fund public infrastructure necessary for the development over a defined period of time.
- D. Encourage innovative design and use of large areas of property.
- E. Provide the City with flexibility to establish appropriate zoning ordinance standards and provisions for the development of areas logically related to one another while including sufficient controls to achieve the goals and objectives of the General Plan and any other City adopted plans or policies that apply to the property.
- F. To alert individuals seeking to develop property within a PDZD of the requirement to prepare a Preliminary Development Plan consistent with the zoning of the PDZD.
- G. To enable the City Council to confirm the district-wide development requirements and standards by ordinance, thereby providing confirmation of applicable planning policies and objectives.

The text of the PDZD Ordinance notes the intent of the City Council that integrated development in the City may be achieved either by establishment of a Planned Development Zoning District through rezoning, or through the issuance of Planned Unit Development Permit, pursuant to Chapters 17.122 and 17.140.

#### **Content of the Planned Development Zoning District Procedure Ordinance.**

The draft PDZD Ordinance attached to this Staff Report outlines information and criteria in the following categories that must be submitted by applicants when requesting rezoning of specific property to a PDZD:

- Land Use Regulations
- Property Development Standards
- Application Criteria
- Procedure for Rezoning Property to PDZD
- Required Maps, Plans, and Studies Rezoning to PDZD
- Required Graphics for Rezoning to PDZD
- Proposed Development Standards for PDZD
- Proposed Design Guidelines for PDZD
- PDZD Application - Approval Procedures
- Required Findings for PDZD Approval
- Preliminary Development Plan – Submittal, Contents and Approval
- Final Development Plan – Submittal, Contents and Approval

- Appeal Procedures; Modifications
- Final Development Plan Final Design Review
- Enforcement

### **Planned Development Zoning District Overview**

A re-zoning to PDZD allows for the development of one or more parcels in a distinct, mixed-use, residential, industrial, or commercial project, in accordance with an adopted final development plan. Development within the PDZD would likely occur in phases over a multi-year period and require the construction of public and private improvements (including, but not limited to, roadways, sidewalks, infrastructure, public services and utilities, both on and off site). The PDZD Ordinance establishes a threshold for a District of (1) two (2) acres; or (2) five hundred (500) residential units; or (3) five hundred thousand (500,000) square feet of commercial space; or (4) five hundred thousand (500,000) square feet of mixed uses.

The site specific PDZD zoning approval would establish an exclusive list of allowable land uses for the development (that must not be prohibited by the Planning Code), and whether such uses are permitted or permitted with a conditional use permit. In addition, the PDZD zoning would set forth property development standards for the area to which the zoning has been applied and these standards would supersede standards in the zoning ordinance that would otherwise apply to the allowed uses.

Required maps, plans, and studies for site specific PDZD include provision of a district map, site context map, land use program, and a public services and facilities map. In addition, a preliminary environmental and biological assessment is required along with an initial traffic study, geological and hydrological assessment and topographic map. A preliminary phasing plan and preliminary public facilities financing plan are also required. District planning improvements would also likely include the development of parks and open space, and the treatment of hardscape areas in public plazas and gathering places. After approval of the PDZD, development within the District could also require General Plan Amendments, Tentative Tract Maps, and use permits or other discretionary approvals, in accordance with standard City procedures, such as notice, public input, decision, and appeal. Development within the PDZD must be consistent with an approved a Preliminary and Final Development Plan for the District.

### **Development within PDZD**

A PDZD would provide zoning regulations to facilitate an overall site specific planning framework. These regulations include property development standards and density and intensity standards as would be found in all other zoning districts. Approval of a PDZD requires that a comprehensive and cohesive plan would be developed for a distinct land area taking into account the need for substantial infrastructure improvements and the contemplated phasing of development over an extended time period.

In order to foster comprehensive planning development in the City an application for a proposed PDZD may contain one or more land use areas.

The standards and process requirements for the establishment of a PDZD would be similar to the current requirements related to the creation of a Planned Unit Development (PUD). Review and approval would be required for a Preliminary Development Plan (PDP) and a Final Development Plan (FDP), setting forth standards for the District and providing details on site development infrastructure, utilities, roadways, buildings, design of buildings, landscaping and open space.

### **Major Differences Between the Current PUD Procedures and the PDZD**

The key differences between a planned unit development and a planned district zone are that:

- The PDZD establishes legislative policy regarding the appropriate land use for a large piece of land whereas the planned unit development permit is a project-specific entitlement;
- The PDZD would be implemented over a multi-year period in phases whereas the planned unit development is usually a shorter-term project;
- The flexibility of the PDZD approach allows for the development of a comprehensive, integrated development plan that would not be possible within the context of the zoning ordinance's existing development standards. As an example, the City's PUD process now allows exemptions from only certain development standards; variation from other standards also requires a variance. For the Leona Quarry Project, side yard standards fell within the exemption but retaining wall height required a variance. For the Jack London Development, the C-45 zoning provided some appropriate land uses but others required a specific prohibition (like drive-through establishments and commercial laundry facilities.) If the PDZD process were applied, all the development standards would be drafted specific to the site and no variance procedure would be required. Although some of these site specific standards may be similar to the surrounding zoning, the framework for development would be flexible to allow as much variation as necessary to assure an integrated, comprehensive project.

Practically, the development standards and requirements of a PDZD would be applied like the standards in any zone. The key difference would be that the standards and requirements would be tailored to the development being contemplated, the physical characteristics and constraints of the land area under review, and other relevant factors. This tool allows for flexibility and provides the City with another way to further the goals and policies of the General Plan.

### **Preliminary and Final Development Plan**

A Preliminary Development Plan (PDP) would define and establish the schematic basis for planning, design, circulation, infrastructure and other major development standards and requirements for the District. This process would involve review of preliminary grading plans, public improvement plans, land use plans, subdivision maps, the overall height, bulk and massing of building envelopes, density and building intensity and other important information such as environmental constraints within the District. A more site specific Final Development Plan (FDP) would be prepared and submitted for approval as portions of a development reach the final design phase. The FDP would include final site infrastructure and grading plans, building plans and elevations, including height, massing and architectural elements, and landscape design and specifications. The PDZD would also allow the PDP and FDP processes to be combined in one submittal.

The ordinance requires a professional design team consisting of a registered civil engineer, licensed architect, planner or licensed building designer, and other such qualified professionals that the City may determine appropriate, to prepare the PDP and FDP. Other actions instituted as part of a PDZD application (such as preparation of a subdivision map, lot line adjustment, and/or a conditional use permit) may also be submitted concurrently with a Preliminary Development Plan application.

### **Zoning Amendment**

A proposal to establish a site specific PDZD is an application to rezone a project area for development. Approval of rezoning would require action by the Planning Commission with final action by the City Council and subject to appropriate environmental review.

### **Design Review**

Design guidelines will be approved as part of the approval of a PDZD. Similar to the existing PUD ordinance, once a Final Development Plan is approved, no further design review approvals will be required, except if major amendments to the building designs were submitted.

### **Required Fees**

As part of the PDZD application process fees required per Oakland's Master Fee Schedule shall be submitted at the time of applications for the rezoning to the PDZD and the Preliminary and/or Final Development Plans and/or other planning and subdivision approvals.

## **KEY ISSUES AND IMPACTS**

### **PDZD in Relation to Environmental Review under the California Environmental Quality Act.**

The Planning Commission had questions about how this process would fit in with the review and consideration of potentially significant environmental impacts under the California Environmental Quality Act (CEQA). Consideration of an application for a PDZD would be considered a “project” under CEQA, exactly like an amendment to the zoning ordinance or like any other application to re-zone property. Thus, an environmental review process would be required, culminating in a determination about how to comply with CEQA. Given the large scale of project that this enabling ordinance would apply to, it is likely that in most cases an EIR would be required. However, each request for a PDZD rezoning will be evaluated on a case-by-case basis.

### **Initiation of a PDZD Application**

The draft ordinance provides that an application for a PDZD may be made by a single property owner or authorized agent, a majority of property owners in the proposed district, by the City or by the Redevelopment Agency. The draft ordinance further provides that the Planning Director, at his or her discretion, may require other land parcels to be incorporated into the proposed district. This administrative decision of the Planning Director may be appealed to the Planning Commission. This overall procedure follows the same authority currently in the Zoning Code for re-zoning applications.

### **PDZD in Relation to Redevelopment Agency Actions.**

Another comment raised the point about whether this kind of process would encourage the use of eminent domain or change such authority by the City or Redevelopment Agency. Certainly if a specific site is within a redevelopment project area an eminent domain process could be used as it may currently be used under the existing regulations. Oakland has used this approach to property acquisition and control on rare occasions, preferring to negotiate an agreed upon price for the land or some other arrangement such as owner participation. If eminent domain were used the decision to move forward would also be part of the overall range of actions necessary to implement the project and thus be subject to public scrutiny, including review under CEQA. This ordinance does not change the City’s or Agency’s eminent domain authority or powers.

### **Time Frame for Project Implementation Under the PDZD.**

The nine year time frame that the PDZD would be in effect has also been called into question. This time period is not unusual for a multi-phased, large scale project. Staff believes that sufficient review procedures have been included for the Commission, and the public, to monitor how a PDZD is being implemented and whether or not it remains in the City's interest to extend the time period required for completion. Extensions are not automatic.

### **More Extensive Public Notification and Community Participation Options.**

The draft ordinance provides that an application for a PDZD may be made by (a) a single property owner or authorized agent; (b) owners representing a majority of the acreage, if the property is not under single ownership; or (c) by the City Council. The draft ordinance further provides that the Planning Director, at his or her discretion, may require all property owners join in the application. This administrative decision of the Planning Director may be appealed to the Planning Commission. This overall procedure generally follows the same authority currently in the Planning Code for re-zoning applications.

## **SUSTAINABLE OPPORTUNITIES**

Economic: This enabling ordinance will not have a direct economic impact on the City. Project applicants will be responsible for all costs of processing the application. The implementation of this ordinance will likely have positive benefits on the City with regard to fostering comprehensive well integrated development projects.

Environmental: This enabling ordinance will have positive impacts on the environment by fostering comprehensive and well-integrated development projects that take account of any public improvements or mitigation measures in a manner that is phased appropriately with the development and consistent with adopted City policies and objectives.

Social Equity: This enabling ordinance will assure adequate and extensive opportunities for surrounding communities to participate in the proposed PDZD process through more extensive notification procedures and community meetings.

## **DISABILITY AND SENIOR CITIZEN ACCESS**

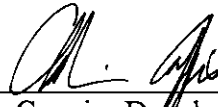
This enabling ordinance, in and of itself, does not detrimentally affect disability or senior citizen access. The new development that may occur as the result of this process will comply with all local and other requirements concerning disabled access.



**ACTION REQUESTED OF THE CITY COUNCIL**

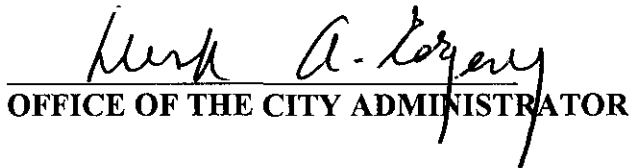
To introduce for first reading the ordinance entitled "An Ordinance Adopting Oakland Planning Code Chapter 17.139 (Planned Development Zoning District Procedure) and Making Related Changes to Oakland's Master Fee Schedule and Chapter 17.152 (Enforcement).

Respectfully submitted,



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Claudia Cappio, Development Director  
Community and Economic Development  
Agency

APPROVED AND FORWARDED TO  
THE CED COMMITTEE



\_\_\_\_\_  
OFFICE OF THE CITY ADMINISTRATOR

Enclosures:

1. Draft Ordinance and Attachment A
2. Revised, Redlined City Planning Commission recommended Ordinance
3. June 2, 2004 City Planning Commission Report (including Attachments)

FILED  
OFFICE OF THE CITY CLERK  
INTRODUCED BY COUNCILMEMBER \_\_\_\_\_

APPROVED AS TO FORM AND LEGALITY  
*Heather Rose*  
CITY ATTORNEY

2004 JUL -1 PM 8:19

**ORDINANCE NO. \_\_\_\_\_ C.M.S.**

**AN ORDINANCE ADOPTING OAKLAND PLANNING CODE CHAPTER 17.139  
(PLANNED DEVELOPMENT ZONING DISTRICT PROCEDURE) AND  
MAKING RELATED CHANGES TO OAKLAND'S MASTER FEE SCHEDULE  
AND CHAPTER 17.152 (ENFORCEMENT)**

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**WHEREAS**, the Planned Development Zoning District ("PDZD") Procedure is an enabling ordinance which authorizes a process to establish specific Planned Development Zoning Districts to be applied to site specific areas within the City of Oakland, and is not, in and of itself, a new zoning district; and

**WHEREAS**, the current Oakland Planning Code ("OPC") regulates large-scale, integrated developments through a permit for Planned Unit Developments ("PUD"); and

**WHEREAS**, the key differences between a PUD permit and a PDZD are that the PDZD establishes legislative policy regarding the appropriate land use for a large piece of land whereas the PUD permit is a project-specific entitlement; the PDZD would be implemented over a multi-year period in phases whereas the PUD is a shorter-term project; and the flexibility of the PDZD allows for the development of a comprehensive, integrated development plan that would not be possible within the context of the OPC's existing development standards; and

**WHEREAS**, adoption of this Ordinance would be in the public interest as it provides an additional development tool to effectively implement large scale developments through a comprehensive, integrated zoning mechanism. In this way, the City would be able to use this approach, if desired and if appropriate, to further the goals and objectives of the General Plan; and

**WHEREAS**, on May 19, 2004, the City Planning Commission held a duly noticed hearing to consider adopting the PDZD Procedure Ordinance, as an amendment to the OPC; and

**WHEREAS**, the public hearing was continued until June 2, 2004, and after the close of the hearing, the City Planning Commission recommended that the City Council adopt the PDZD Procedure Ordinance, as amended; and

**WHEREAS**, on July 13, 2004, the City Council's Community & Economic Development Committee considered the PDZD Procedure Ordinance; and

**WHEREAS**, the City Council subsequently held a duly noticed hearing to consider adopting the PDZD Procedure Ordinance, as an amendment to the OPC;

**COMMUNITY & ECONOMIC  
DEVELOPMENT CMTE**

JUL 6 2004

**NOW, THEREFORE, the Council of the City of Oakland does ordain as follows:**

**SECTION 1.** The City Council finds and determines the foregoing recitals to be true and correct and hereby makes them a part of this ordinance.

**SECTION 2.** The City Council finds and determines, for the reasons stated in the City Council Agenda Report, the adoption of this ordinance is exempt from CEQA under Sections 1506 1(b)(3) and/or 15378 of the State CEQA Guidelines. The Development Director is authorized to file a Notice of Exemption with Alameda County.

**SECTION 3.** The OPC is hereby amended to add Chapter 17.139, PDZD Procedure, as set forth in Attachment A of this document, which is hereby incorporated by reference as if fully set forth herein.

**SECTION 4.** This ordinance, pursuant to Charter section 216, shall be effective immediately if approved by six members of the City Council; otherwise, it shall be effective upon the seventh day after final adoption.

**SECTION 5.** If any section, subsection, phrase, word or provision of this ordinance or the application thereof to any person or circumstances is held invalid, the remainder of this ordinance and the application of such provisions to other persons or circumstances shall not be affected thereby.

**SECTION 6.** The City of Oakland Master Fee Schedule, Ordinance No. 9336 C.M.S., as amended, is further amended to read as follows:

“Community and Economic Development, Planning & Zoning

A. Applications under the Oakland Zoning Regulations (42511)

4. Planned Unit Development and Planned Development Zoning District (Preliminary Development Plan)

5. Planned Unit Development and Planned Development Zoning District (Final Development Plan)”

**SECTION 7.** OPC section 17.152.070A is amended to read as follows:

“A, Any member of the public, city official, including any City Councilmember, City Planning Commissioner or city employee, may file a complaint with the City Planning Department and request that revocation proceedings be commenced to revoke or amend any zoning permit held or issued pursuant to the following sections of the Zoning Regulations:

1. 17.112.010 through 17.112.060;
2. 17.134.010 through 17.134.120;

- 3. 17.136.010 through 17.136.130;
- 4. 17.139.010 through 17.139.160
- 54. 17.140.010 through 17.140.120;
- 65. 17.142.010 through 17.142.090;
- 76. 17.146.010 through 17.146.060; and,
- 87. 17.148.010 through 17.148.110.”

In Council, Oakland, California, 2004, Passed By The Following

Vote:

AYES-                    BROOKS, BRUNNER, CHANG, NADEL, REID,  
                                  QUAN, WAN, AND PRESIDENT DE LA FUENTE

NOTES-

ABSENT-

ABSTENTION-

ATTEST: \_\_\_\_\_  
                  CEDA FLOYD  
                  City Clerk and Clerk of the Council  
                  of the City of Oakland, California

HPA

**ATTACHMENT A**

**PLANNED DEVELOPMENT ZONING DISTRICT PROCEDURE  
(PDZD)**

**OAKLAND PLANNING CODE CHAPTER 17.139**

Sections

**17.139.010 Purposes.**

The purposes of the Planned Development Zoning District (“PDZD” or “District”) are to:

- A. Promote and encourage comprehensive planning for large areas in phases in a multi-year development by designing the site as a whole, rather than incrementally.
- B. Ensure that each phase of the multi-year development is compatible with and integrated into each of the past and future phases of such development.
- C. Establish a mechanism to fund public infrastructure necessary for the development over a defined period of time.
- D. Encourage innovative design and use of large areas of property.
- E. Provide the City with flexibility to establish appropriate zoning ordinance standards and provisions for the development of areas logically related to one another while including sufficient controls to achieve the goals and objectives of the General Plan and any other City adopted plans or policies that apply to the property.
- F. To alert individuals seeking to develop property that is already within a PDZD of the requirement to prepare a Preliminary Development Plan consistent with the zoning of the PDZD.

It is the intent of the City Council that an integrated development may be achieved either through rezoning to Planned Development Zoning District pursuant to this Chapter, or through the issuance of Planned Unit Development Permit pursuant to Chapters 17.122 and 17.140.

**17.139.020 Land Use Regulations.**

A use in existence on the property on the date an application for rezoning to PDZD is submitted, shall only be allowed to continue on the property if it is operated in compliance with and pursuant to the nonconforming use regulations of Chapter 17.114, unless the existing use is allowed pursuant to the approved PDZD for the property. Any permitted or conditional use authorized by this Title 17 may be included in a PDZD. The PDZD zoning approval shall

establish an exclusive list of allowable land uses for the property, and shall specify whether such uses shall be permitted or permitted with a conditional use permit.

### **17.139.030 Property Development Standards.**

The PDZD zoning shall set forth the property development standards for the area to which the zoning has been applied. The standards set forth in the District shall supersede, without limitation, the standards for permitted and conditionally permitted uses, and for other requirements of this Title 17 except as specifically provided for by this Chapter. An applicant for rezoning to PDZD shall not be required to apply for and obtain a Planned Unit Development permit pursuant to Chapters 17.122 and 17.140.

### **17.139.040 Application.**

A. Minimum Size. A District shall have a minimum size of (1) two (2) acres; or (2) five hundred (500) residential units; or (3) five hundred thousand (500,000) square feet of commercial space; or (4) five hundred thousand (500,000) square feet of mixed uses.

B. Initiation. Except as otherwise provided in Section 17.139.060(L), an application to reclassify property to PDZD submitted by a property owner(s) or authorized agent shall include a site specific Preliminary Development Plan. If the City Council initiates the rezoning of property to PDZD, a site specific Preliminary Development Plan for that property may be submitted subsequent to the approval of the rezoning. In the case of a property owner-initiated application, if the property is not under single ownership, owners representing a majority of the acreage shall join in the application, which application shall include a map showing the extent of the property ownerships; provided, however, that the Planning Director may require that all owners join in the application. The Planning Director's decision in this regard may be appealed to the Planning Commission within ten days of the date of the decision in accordance with section 17.139.140. The decision of the Planning Commission shall be final and not appealable. The City shall process only one application for a rezoning to PDZD at a time for the same property(ies).

C. Ownership. For purposes of this section, the holder of a written option to purchase; any governmental agency, including the Redevelopment Agency of the City; or a redeveloper under contract with the Redevelopment Agency shall be deemed the owner of the property(ies) that is the subject of the application.

### **17.139.050 Procedure for Rezoning Property to PDZD.**

A. Process. Applications for rezoning property to PDZD shall be filed and processed in accordance with Chapter 17.144.

B. Application. Applications for a rezoning submitted by property owners or their agents, shall be initiated by submitting the following:

1. A completed planning application form signed by a majority of the property owners unless the Planning Director or Planning Commission requires all owners

to sign the form pursuant to section 17.139.040B, or authorized the authorized agent(s) of such owner(s).

2. The required fee(s) pursuant to the Master Fee Schedule.
3. Two copies of preliminary title report(s) dated within the last sixty days.
4. The standard information listed in section 17.139.060, both in print and electronic format (if available), unless the Planning Director requires less information because the standard information is not available or not necessary to evaluate the application for rezoning. Additional copies of these plans and materials shall be submitted for public review purposes as determined necessary by the Planning Director.
5. Any other information, plans or maps required by the Planning Director.

C. **Community Meeting.** Within thirty days of notification by the Planning Director that the application for rezoning is complete, or thirty days prior to any California Environmental Quality Act “Scoping Session” that may be held by the City Planning Commission, whichever is earlier, the applicant shall conduct a community meeting in a public building centrally located, to inform the public that the application has been submitted and to discuss with the public the contents of the application of the proposed rezoning to the PDZD, the proposed preliminary development plan, if submitted, and any proposed development schedule. The applicant shall mail notice to all property owners and occupants within the proposed District and within five hundred feet of the proposed District, and all community groups that appear on the Planning Department’s mailing list, City Planning Commission agenda subscribers and those media outlets that have requested notice twenty days prior to the date of the community meeting informing the recipients of the time, date, location, and purpose of the meeting. The applicant shall also caused to be published in a newspaper of general circulation notice of the community meeting twenty days prior to said meeting. The applicant shall furnish a certificate of compliance with this section to the Planning Director.

### **17.139.060 Required Maps, Plans, and Studies for Rezoning to PDZD.**

In addition to the plans and materials required to accompany an application for rezoning pursuant to Chapter 17.144, an application for rezoning to a PDZD shall include a statement of the purpose of the proposed District, relationship of the District to, and how the District implements, the goals, programs, objectives, and policies of the General Plan and any other City-adopted plans or policies that apply to the property; and the following information which shall be submitted in sufficient detail to inform the City about the environmental setting of the site proposed for rezoning:

A. **District Map.** A boundary survey map showing the proposed District boundaries, acreage of the District, and the relationship of the District to uses and structures and streets within a minimum 300 foot radius of the District boundaries.

B. Site Context Map. A map and/or aerial photo of the proposed District and at least 500 feet beyond its boundaries showing sufficient topographic data to clearly indicate the character of the terrain, ridgelines and creeks, including protected creeks per OMC Chapter 13.16; the type, location and condition of mature trees, including trees protected pursuant to OMC Chapter 12.36; historic resources pursuant to the City's Historic Preservation Element Policy 3.8 or as defined in Section 15064.5 of Title 22 of the California Code of Regulations, and other natural vegetation, and the location of existing development.

C. Land Use Program. The proposed land use program (in table format), with acreage, residential density and/or commercial intensity calculations, including minimum and maximum total residential units; minimum and maximum non-residential square footage including live work units and work live units; and the minimum acreage for open space, public uses, parking structures and any other uses included in the District; and a comparison of the proposed pattern of land use with the existing use of the land.

D. Public Services and Facilities. A description of the proposed location, extent and intensity of essential public facilities and services such as public and private streets and transit facilities, pedestrian access, bikeways, sanitary sewer service, water service, storm drainage structures, solid waste disposal, and other utilities; and a table comparing the description to the existing location, extent, and intensity of such essential public facilities and services.

E. Preliminary Biological Assessment. A mapping of wetlands, habitat areas, protected trees, and creeks by a qualified biologist, hydrologist or other qualified licensed professional; and a proposed program for the conservation, development, utilization, and mitigation of such resources. The biological assessment shall include a survey, if such survey is determined to be required by a City-approved biologist, conducted in accordance with established California Department of Fish and Game guidelines, for potential candidate, sensitive, or special status species identified in the general plan, other local or regional plans, policies, or regulations, or by the California Department of Fish and Game or U.S. Fish and Wildlife Service, both in breeding habitat and adjacent upland estivation habitat, with appropriate mitigation, including avoidance and minimization measures. If a survey has not been completed at the time of application submittal, it shall be completed, if feasible, prior to publication of a draft environmental impact report or (mitigated) negative declaration. If surveys are determined not to be required, documentation for this determination prepared by a City-approved biologist shall be submitted.

F. Preliminary Environmental Assessment. Identification of environmentally sensitive characteristics including a preliminary hazardous materials assessment, if necessary, including without limitation identification of sites, and clean-up status, under Government Code section 65962.5 .

G. Preliminary Traffic Study. A study prepared by a certified traffic or transportation planner or engineer examining levels of service within the District and in the area adjacent to and surrounding the District; conceptual parking and loading; bicycle access and storage; and emergency access.

H. Preliminary Geological Assessment and Topographic Map. An evaluation of any geological hazards by a licensed geotechnical engineer including a map depicting known geological



hazards, including without limitation, landslides, Alquist-Priolo Special Study Zone, or Seismic Hazards, and any other geotechnical data required by the City. A map shown at contour intervals not to exceed two feet for natural slopes of two percent or less and five feet for natural slopes of more than two percent, with contour lines covered at least fifty feet beyond the District boundaries. A general grading concept plan for the District shall estimate the total acres of cut and fill of all slopes and the amount of imported/exported fill. A slope classification map/summary depicting slopes as follows: less than 10%; between 10-20%; between 20 -30%, and greater than 30%. Included with the Map shall be an assessment of the impact of the mapped conditions on the proposed uses in the PDZD.

I. Preliminary Hydrological Assessment. An assessment of streams, creeks, wetlands, overland flow and other hydrological conditions.

J. Phasing Plan. A plan generally depicting projected development timeframes, including quantitative data, such as population, housing units, land use acreage, and other data sufficient to illustrate the relationship between the phasing of development and the provision of public facilities and services.

K. Preliminary Public Facilities Financing Plan. A plan prepared by a qualified consultant that explains how streets, water, wastewater, solid waste, and parks will be provided in conformance with City standards and the proposed providers of such services. The plan must demonstrate to the satisfaction of the City Manager or his/her designee, that completion of all necessary infrastructure and public facility improvements concurrently with completion of the development shown on the Final Development Plan is economically, legally and physically feasible. The determination of completeness shall be made by reviewing the following components:

- (1) Identification of public improvements required to complete each phase of the Plan as well as the entire Plan in accordance with the general plan and City standards.
- (2) Detailed cost analysis of required public improvements.
- (3) Method of financing required public improvements.
- (4) Implementation and phasing schedule correlated with construction of the Final Development Plan.
- (5) Plan for receiving approval of all regulatory agencies including proposed timeline for submittal and approvals.
- (6) Evidence of ability to complete improvements in a satisfactory and timely manner.

L. Other. If a Preliminary Development Plan is not submitted with the application for rezoning, the Planning Director may require such other information as is necessary to perform a complete evaluation of the impacts of development of the proposed PDZD on the environment, mitigation measures and fair share allocations of such, and on the need for public facilities and services. Other studies, plans or programs, as may be necessary, to address plans, policies, and objectives of the General Plan, Oakland Planning Code, and other City adopted plans and policies applicable to the District, may also be required.

### **17.139.070 Required Graphics for Rezoning to PDZD.**

The application shall include graphics with appropriate notes showing existing conditions and generally showing:

- A. Land use designations for each distinct area within the District (“Land Use Area”), the information required by Section 17.139.060(C), and the existing General Plan land use designations for areas adjacent to and within 500 feet of the District.
- B. Public circulation system (including traffic, transit and pedestrian plan; street standards and cross sections, pedestrian paths and bikeways, and linkages to adjacent properties).
- C. Public facilities such as public buildings, schools, open space, and parks.
- D. Preliminary public infrastructure plan, including the proposed location of major infrastructure components such as sanitary sewer, water, storm drainage, utilities, walkways, bikeways, and other public facilities and services proposed to be located within the District.
- E. Development phasing plan and schedule.

### **17.139.080 Proposed Development Standards for PDZD.**

The application shall propose development standards for the District in table format and compare such standards to the development standards applicable to existing uses, including, without limitation:

- A. Permitted uses and conditionally permitted uses. All uses that are neither permitted nor conditionally permitted shall be prohibited within the District.
- B. Site coverage expressed as a percentage of each parcel and as a percentage of the entire District including proposed setbacks, yards, and height limits.
- C. Building development standards including setbacks within the building profile and height limits
- D. Minimum and maximum residential densities expressed in units per acre and commercial intensity expressed in floor area ratios.
- E. Off-street parking requirements, including location and screening.
- F. Private and public open space.
- G. Other standards as required by the Planning Director.

### **17.139.090 Proposed Design Guidelines for PDZD.**

A. The applicant shall propose design guidelines, which shall establish the design parameters for the District and shall include, without limitation, the following:

1. Architectural character
2. Balconies and private outdoor spaces
3. Awnings and canopies
4. Signage and graphics
5. Textures, materials and color palette
6. Landscaping
7. Lighting, security and equipment
8. Streetscape
9. Bulk and height
10. Scale

B. The design guidelines for residential facilities shall create a building or set of buildings that are well related to the surrounding area; will protect, preserve, or enhance desirable neighborhood characteristics; will be sensitive to the topography and landscape; will conform in all significant respects to the Oakland General Plan; and, if situated on a hill, will ensure that the design and massing of the proposed building relates to the grade of the hill.

C. The design guidelines for nonresidential facilities and signs shall insure that the proposal will help achieve or maintain a group of facilities which are well related to one another; which will result in a well-composed design, with consideration given to site, landscape, bulk, height, arrangement, texture, materials, colors and appurtenances; will be of a quality and character which harmonizes with, and serves to protect the value of, private and public investments in the area; and will conform in all significant respects with the Oakland General Plan.

D. The design guidelines for historic resources (as defined pursuant to the City's Historic Preservation Element Policy 3.8 or as defined in Section 15064.5 of Title 22 of the California Code of Regulations), shall be reviewed by the Landmarks Preservation Advisory Board for its recommendations to the City Planning Commission.

### **17.139.100 Planned Development Zoning District Application - Approval.**

A. The Planning Commission shall conduct a public hearing to consider the District Application. At least thirty days prior to the hearing, or at least twenty days prior to the hearing if a negative declaration or environmental impact report is prepared for the project, mailed notice of the hearing shall be sent to the following:

1. The applicant(s) ;

2. All property owners within the District and within five hundred feet of the boundaries of the District as shown on the latest equalized property tax assessment role;
3. Each local agency proposed to provide water, sanitary sewer, streets, roads, schools, or other essential facilities or services within the District;
4. All occupants within the District and within five hundred feet of the boundaries of the District; and
5. All community groups that appear on the Planning Department's mailing list.

In addition, at least twenty days prior to the hearing, a notice of the hearing shall be caused to be published in a newspaper of general circulation; posted in at least three public places adjacent to the District; and posted on one or more signs on the property that is the subject of the rezoning. The number, size, and format of the signs shall be determined by the Planning Director based upon the size and configuration of the property so as to provide notice to persons viewing the property from any of its sides.

Furthermore, in addition to aforementioned noticing requirements, other means of notice that is typically done for Planning Commission hearings shall also be provided, including without limitation, posting on the City's website, providing notice to agenda subscribers and media outlets that requested such notice, and posting of the agenda on City Hall bulletin boards.

The Planning Director may require the applicant to provide mailed, published, or posted notice of the public hearing. If this requirement is imposed upon the applicant, the applicant shall provide a certificate of compliance with this section no later than ten days prior to the hearing. If the City elects to do such noticing, the applicant shall reimburse the City for its noticing costs.

- B. The Planning Commission shall make the findings required by section 17.139.110 by recommending to the City Council approval, approval in modified form, or denial of the application.
- C. The City Council shall conduct a public hearing to consider the Planned Development Zoning District application. At least thirty days prior to the hearing, or at least twenty days prior to the hearing if a negative declaration or environmental impact report is prepared for the project, mailed notice of the hearing shall be sent to the following:
  1. The applicant(s) all;
  2. All property owners within the District and within five hundred feet of the boundaries of the District as shown on the latest equalized property tax assessment role;
  3. Each local agency proposed to provide water, sanitary sewer, streets, roads, schools, or other essential facilities or services within the District;

4. All occupants within the District and within five hundred feet of the boundaries of the District; and
5. All community groups that appear on the Planning Department's mailing list.

In addition, at least twenty days prior to the hearing, notice of the hearing shall be caused to be published in a newspaper of general circulation and posted in at least three public places adjacent to the District; and posted on one or more signs on the property that is the subject of the rezoning, in a substantially enlarged format . The number, size, and format of the signs shall be determined by the Planning Director based upon the size and configuration of the property so as to provide notice to persons viewing the property from any of its sides.

Furthermore, in addition to aforementioned noticing requirements, other means of notice that is typically done for City Council hearings shall also be provided, including without limitation, posting on the City's website, providing notice to agenda subscribers and media outlets that requested such notice, and posting of the agenda on City Hall bulletin boards.

The Planning Director may require the applicant to provide mailed, published, or posted notice of the public hearing. If this requirement is imposed upon the applicant, the applicant shall provide a certificate of compliance with this section no later than ten days prior to the hearing. If the City elects to do such noticing, the applicant shall reimburse the City for its noticing costs.

- D. Approval of the Planned Development Zoning District shall be by ordinance. The City Council may approve, modify, or disapprove the application. The applicant(s) shall submit an original print and electronic copy of the final, adopted District as modified and copies of the original as required by the Planning Director, to the City within fifteen days of the City Council's action.

### **17.139.110 Findings Required for Planned Development Zoning District Approval.**

- A. A decision of the City Council to rezone property to PDZD shall be based upon the following findings of fact:
  1. The District is consistent with the City's General Plan and any other adopted City plans or policies that apply to the property, as such are amended prior to, or in conjunction with, the application for rezoning.
  2. The phasing of development ensures that all public facilities necessary to serve the District will be completed prior to, or concurrently with, completion of the development proposed within the District.

3. Adequate financing mechanisms have been identified for the infrastructure and public facilities required to serve the anticipated residents and businesses within the District.
4. The location, design, size and uses will result in an attractive, healthful, efficient, integrated and stable environment for living, shopping, or working.
5. In the case of a District amendment, the following additional finding shall be made: The proposed amendment is consistent with the approved PDZD and will not create internal inconsistencies within the existing PDZD.

B. The approval of an application for rezoning to Planned Development Zoning District by the City Council shall include approval of the following documents:

1. Development standards described in section 17.139.080;
2. Design guidelines described in section 17.139.090;
3. A phasing plan described in section 17.139.060(J);
4. Graphic representations of the information described in section 17.139.070;
5. A preliminary public facilities financing plan described in section 17.139.060(K);

and

6. A land use program described in section 17.139.060(C).

The approved District shall be referred to as Planned Development Zoning District – [name of project] and such shall be permanently maintained and reasonably accessible.

### **17.139.120 Preliminary Development Plan – Submittal, Contents and Approval.**

- A. Development of each Land Use Area within a Planned Development Zoning District requires submittal and approval of a Preliminary Development Plan and a Final Development Plan. More than one Land Use Area may be included in a Preliminary Development Plan. Both the Preliminary and Final Development Plans shall be prepared by a professional design team consisting of a registered civil engineer, or licensed architect, planner or licensed building designer, and other qualified professionals that the City may require. Other applications required by the project’s PDZD (e.g., subdivision map, lot line adjustment, conditional use permit) may be submitted concurrently with a Preliminary Development Plan application. Fees required per Oakland’s Master Fee Schedule shall be submitted at the time of applications for the Preliminary and/or Final Development Plans and/or other planning and subdivision approvals.
- B. A Preliminary Development Plan shall include the following in sufficient detail to indicate intent and impact and shall include an update of information submitted pursuant

to Section 17.139.060 if changed conditions or new information require modification of that information:

1. Streets, driveways, sidewalks, pedestrian and bike ways, and off-street parking and loading areas, including integration with surrounding uses;
2. Location and approximate dimensions of structures;
3. Utilization of property for residential and non-residential use;
4. Estimated population;
5. Reservations for public uses, including schools, parks, playgrounds, and other open spaces;
6. Major landscaping features, including trees protected by OMC Chapter 12.36, as it may be amended;
7. Creeks protected by OMC Chapter 13.16, as it may be amended; or as identified by the Site Context Map submitted pursuant to Section 17.139.060B;
8. Historic resources pursuant to the City's Historic Preservation Element Policy 3.8 or as defined in Section 15064.5 of Title 22 of the California Code of Regulations; and
9. Drainages and elevations clearly establishing the scale, character, and relationship of buildings, streets, and open spaces.

If development within the Land Use Area is proposed for a period of four years or longer, information pertaining to those portions of the project planned for construction more than four years from the date of the submittal, may be shown in a generalized, schematic fashion on the Preliminary Development Plan.

- C. A tabulation of the land area and gross floor area to be devoted to various uses and a calculation of the average residential density per net acre and per net residential acre.
- D. A construction, occupancy, and phasing plan.
- E. Whenever a Preliminary Development Plan includes historic resources (as defined pursuant to the City's Historic Preservation Element Policy 3.8 or as defined in Section 15064.5 of Title 22 of the California Code of Regulations), the Director of Planning shall refer the proposal to the Landmarks Preservation Advisory Board for its recommendations to the City Planning Commission.

The Planning Commission shall hold at least one public hearing on the Preliminary Development Plan. Notice of the hearing shall be given by the City Clerk or Planning Director in the same manner as public hearings for an application to re-zone property to District, pursuant to Section 17.139.100. The Planning Director shall forward the Preliminary Development Plan to the City Engineer for review no later than 10 days after a determination that the submitted Plan is complete. The Planning Commission shall hold a public hearing on the Preliminary Development Plan no later than seventy-five days after the Plan is sent to the City Engineer or within forty-five (45) days of receiving a report from the City Engineer, whichever is earlier. The Planning Commission shall approve the Preliminary Development Plan if it finds that the Plan is in substantial conformance with the Planned Development Zoning District for the property. The Planning Commission shall disapprove the Preliminary Development Plan if it finds that the Plan is not in substantial conformance with the Planned Development Zoning District and that it is not possible to require such changes therein or impose such conditions of approval as are reasonably necessary to ensure conformity to said District. The determination of the Planning Commission shall become final ten calendar days after the date of decision unless appealed to the City Council in accordance with Section 17.139.140. In the event the last date of appeal falls on a weekend or holiday when City offices are closed, the next date such offices are open for business shall be the last date of appeal.

- F. A Land Use Area shall be in substantial conformance with the Planned Development Zoning District for the property if the Area varies by up to ten percent from the Area, measured in acres, shown on the District graphics but the minimum and maximum residential units, minimum and maximum non-residential square footage, minimum and maximum live-work and work-live square footage and minimum acreage for open space and public uses in the District are maintained. In addition, a residential Land Use Area shall be in substantial conformance with the Planned Development Zoning District for the property if residential density varies within the Area from the density designated on graphics approved as part of the District, but the residential density ranges designated for that Land Use Area are maintained.
- G. If the Preliminary Development Plan satisfies the requirements for a Final Development Plan, the Preliminary Development Plan may also serve as a Final Development Plan, and the applicant shall not be required to file a separate Final Development Plan for that Land Use Area.

### **17.139.130 Final Development Plan – Submittal, Contents and Approval.**

- A. Unless an extension is granted pursuant to subsection (F), a Final Development Plan shall be submitted no later than two years after the final approval of a Preliminary Development Plan. The Final Development Plan shall include all information contained in the Preliminary Development Plan plus the following in sufficient detail to fully indicate the operation and appearance of all development shown on the Final Development Plan:



1. The location of all public infrastructure that provides water, sewage, and drainage facilities and other utility services;
2. The location of all private infrastructure that provides gas, electric, and other utility services;
3. Detailed building plans and elevations;
4. Landscape plans prepared by a landscape architect;
5. The character and location of signs;
6. Improvement plans for all public and private streets, driveways, sidewalks, pedestrian and bike ways, and off-street parking and loading areas;
7. Grading or other earth-moving plans; and
8. The public facilities financing plan approved as part of the Preliminary Development Plan modified as necessary to reflect changed conditions or new information.

If the Final Development Plan is not submitted within two years of the date of approval of the Preliminary Development Plan, the Preliminary Development Plan shall be void and of no further force and effect unless an extension is approved pursuant to subsection (F).

- B. An applicant shall submit all legal documents required for dedication or reservation of land and for the creation of homeowners' associations, and all bonds or other forms of financial assurances acceptable to the City required for timely completion of public improvements required to be completed by the applicant (including without limitation, for guaranteeing 100% of the costs of completion and faithful performance of the work), with the Final Development Plan.
- C. The Planning Director shall forward the Final Development Plan to the City Engineer for review no later than 10 days after a determination that the submitted Plan is complete. The Planning Commission shall hold a public hearing on the Final Development Plan no later than seventy-five days after the Plan is sent to the City Engineer or within forty-five (45) days of receiving a report from the City Engineer, whichever is earlier.
- D. Whenever a Final Development Plan includes historic resources (as defined pursuant to the City's Historic Preservation Element Policy 3.8 or as defined in Section 15064.5 of Title 22 of the California Code of Regulations), the Director of Planning shall refer the proposal to the Landmarks Preservation Advisory Board for its recommendations to the City Planning Commission.

The Planning Commission shall hold at least one public hearing on the Final Development Plan. Notice of the hearing shall be given in the manner provided in Section 17.139.100. The Planning Commission shall approve the Final Development

Plan if it finds that the Plan is in substantial conformance with the Preliminary Development Plan and the Planned Development Zoning District for the property. The Planning Commission shall disapprove the Final Development Plan if it finds that the Plan is not in substantial conformance with either the Preliminary Development Plan or the Planned Development Zoning District and that it is not possible to require such changes therein or impose such conditions of approval as are reasonably necessary to ensure conformity. If the Planning Commission disapproves the Final Development Plan, it may, in its sole discretion, allow the applicant to revise and resubmit the Final Development Plan once within 60 days of the action disapproving the Final Development Plan, to respond to the Commission's concerns. The applicant may submit a written waiver of the right to revise and resubmit the Final Development Plan at any time within the 60-day period. If the applicant then revises and resubmits the Final Development Plan, the Planning Commission shall hold at least one public hearing in the same manner as stated above for the initially submitted Final Development Plan. The decision of the Planning Commission on the Final Development Plan or the revised and resubmitted Final Development Plan shall be final, unless appealed to the City Council within ten calendar days of the date of the decision in accordance with Section 17.139.140. In the event the last date of appeal falls on a weekend or holiday when City offices are closed, the next date such offices are open for business shall be the last date of appeal.

- E. If the applicant submits a written waiver of the right to revise and resubmit the Final Development Plan then the date of such waiver shall be the date of decision for purposes of calculating the date from which an appeal may be filed. If either no such waiver is submitted, or if the applicant fails to submit a revised Final Development Plan, then the Planning Commission's decision to disapprove the Final Development Plan shall be final at the end of the 60-day period unless appealed to the City Council within ten calendar days of that date in accordance with Section 17.139.140.
- F. An applicant may request a written extension of the two-year time limit to submit a Final Development Plan for a maximum of two years at any time prior to the expiration of the two-year period. The Planning Director may approve, modify, or deny such request upon the applicant demonstrating good cause. The decision of the Planning Director may be appealed to the Planning Commission within ten days of the date of the decision in accordance with Section 17.139.140. The decision of the Planning Commission shall be final and not appealable. Prior to the expiration of any extension granted by the Planning Director, an applicant may request a second written extension of the two-year time limit to submit a Final Development Plan. This second request shall be referred to the Planning Commission. The Planning Commission may approve, modify or deny such proposal for a maximum of two years upon the applicant demonstrating good cause. *The decision of the Planning Commission shall be final and not appealable.*
- G. Approval of a Final Development Plan shall expire and be of no further force and effect (1) if three years after the approval of the Plan substantial construction pursuant to a building permit has not commenced; or (2) if construction has not continued in conformance with the approved phasing plan, as determined by the Planning Director . The decision of the Planning Director may be appealed to the Planning Commission

within ten days of the date of the decision in accordance with Section 17.139.140. The decision of the Planning Commission shall be final and not appealable.

An applicant may request a written extension of the Final Development Plan for three years at any time prior to the expiration of the date of approval of the Final Development Plan. The Planning Director may approve, modify, or deny such request upon the applicant demonstrating good cause. The decision of the Planning Director may be appealed to the Planning Commission within ten days of the date of the decision in accordance with Section 17.139.140. The decision of the Planning Commission shall be final and not appealable.

Prior to the expiration of any extension granted by the Planning Director, an applicant may request a second written extension of the Final Development Plan. This second request shall be referred to the Planning Commission. The Planning Commission may approve, modify or deny such proposal for a maximum of three years upon the applicant demonstrating good cause. The decision of the Planning Commission shall be final and not appealable. For good cause shown by the applicant(s), the Planning Commission may, at a public hearing, grant one additional and final extension of the Final Development Plan for up to three years if an application for an extension is filed prior to the expiration of the date of the previous extension granted by the Planning Commission. The decision of the Planning Commission shall be final and not appealable.

### **17.139.140 Appeal Procedures; Modifications.**

A. Within ten calendar days after the date of a final decision by the City Planning Commission on a Preliminary or Final Development Plan, an appeal from said decision may be taken to the City Council by the applicant, the permit holder, or any other interested party. In the event the last date of appeal falls on a weekend or holiday when City offices are closed, the next date such offices are open for business shall be the last date of appeal. Such appeal shall be made on a form prescribed by the Commission and shall be filed with the City Clerk. The appeal shall state specifically wherein it is claimed there was an error or abuse of discretion by the Commission or wherein its decision is not supported by the evidence in the record. Upon receipt of the appeal, the Council shall set the date for consideration thereof. After setting the hearing date, the Council, prior to hearing the appeal, may refer the matter back to the Planning Commission for further consideration and advice. Appeals referred to the Planning Commission shall be considered by the Commission at its next available meeting. Any such referral shall be only for the purpose of issue clarification and advice. In all cases, the City Council shall retain jurisdiction and, after receiving the advice of the Planning Commission, shall hold a hearing on and decide the appeal.

B. The City Clerk shall notify the Secretary of the City Planning Commission of the receipt of said appeal and of the date set for consideration thereof; and said Secretary shall, not less than ten days prior thereto, give written notice to: the applicant; the appellant in those cases where the applicant is not the appellant; adverse party or parties, or to the attorney, spokesperson, or representative of such party or parties; other interested groups and neighborhood associations who have requested notification; and to similar groups and individuals as the Secretary deems appropriate, of the date and place of the hearing on the appeal.

C. In considering the appeal, the Council shall:

1. For Preliminary Development Plans: Determine whether the Preliminary Development Plan substantially conforms to the PDZD for the property. The City Council shall approve the Preliminary Development Plan if it finds that the Plan is in substantial conformance with the Planned Development Zoning District for the property. The City Council shall disapprove the Preliminary Development Plan if it finds that the Plan is not in substantial conformance with the Planned Development Zoning District and that it is not possible to require such changes therein or impose such conditions of approval as are reasonably necessary to ensure conformity to said District.
2. For Final Development Plans: Determine whether the Final Development Plan substantially conforms to the PDZD for the property and to the Preliminary Development Plan. The City Council shall approve the Final Development Plan if it finds that the Plan is in substantial conformance with the Preliminary Development Plan and the Planned Development Zoning District for the property. The City Council shall disapprove the Final Development Plan if it finds that the Plan is not in substantial conformance with either the Preliminary Development Plan or Planned Development Zoning District and that it is not possible to require such changes therein or impose such conditions of approval as are reasonably necessary to ensure conformity.

For both Preliminary and Final Development Plans, the decision of the City Council shall be made by resolution and shall be final. The City Council shall vote on the appeal within thirty (30) days after its first hearing of the appeal. If the Council is unable to decide the appeal at that meeting, it shall appear for a vote on each regular meeting of the Council thereafter until decided.

- D. Minor modifications to an approved Preliminary or Final Development Plan may be approved by the Planning Director if such modifications are consistent with the purposes and general character of the Preliminary or Final Development Plan and are not of such size, importance or unique nature as to require Planning Commission review. The decision of the Planning Director shall be final, unless appealed to the Planning Commission within ten calendar days of the date of the decision in accordance with the procedures in Section 17.139.140. In the event the last date of appeal falls on a weekend or holiday when City offices are closed, the next date such offices are open for business shall be the last date of appeal. The decision of the City Planning Commission is final and not appealable.

Except for minor modifications described above, and the extensions described in Sections 17.139.130(F) and (G), all other modifications, and any amendments to the Planned Development Zoning District or Final Development Plan shall be processed in the same manner as the original application proposed for amendment and shall be subject to the same procedural requirements.

### **17.139.150 Final Development Plan Final Design Review.**

Final Development Plan Final Design Review shall be required as part of the approval process for a Final Development Plan. After design review approval, no further design review approvals of the Land Use Area shall be required except to the extent that the application for Final Design Review did not provide adequate information regarding one or more uses within the Land Use Area to allow for Final Design Review. The procedure for Final Development Plan Final Design Review shall follow the schedule outlined in Section 17.136.060. Final Development Plan Final Design Review shall be limited to a determination of whether or not the proposed design substantially conforms to the design guidelines approved as part of the Preliminary Development Plan. Remodels and additions to the buildings and sites within a Land Use Area after issuance of a certificate of occupancy shall be conducted pursuant to Section 17.136.060.

### **17.139.160 Enforcement.**

The provisions in Chapter 17.152 shall apply to a violation of any of the terms and conditions of any Planned Development Zoning District, Final Development Plan or permits issued to implement the PDZD or Final Development Plan.

  
**COMMUNITY & ECONOMIC  
DEVELOPMENT CMTE**

**JUL 6 2004**

HPM

## **NOTICE AND DIGEST**

### **AN ORDINANCE ADOPTING OAKLAND PLANNING CODE CHAPTER 17.139 (PLANNED DEVELOPMENT ZONING DISTRICT PROCEDURE) AND MAKING RELATED CHANGES TO OAKLAND'S MASTER FEE SCHEDULE AND CHAPTER 17.152 (ENFORCEMENT)**

By this ordinance, the Oakland City Council adopts procedures that enable the creation of site specific Planned Development Zoning Districts, which will facilitate large-scale, integrated development, at site specific areas within Oakland. The Ordinance also makes related changes to the Master Fee Schedule and Chapter 17.152 (Enforcement).

**CITY PLANNING COMMISSION PUBLIC REVIEW DRAFT**  
**MAY 19, 2004 REVISED JUNE 2, 2004**

**PLANNED DEVELOPMENT ZONING DISTRICT PROCEDURE**  
**(PDZD)**  
**CHAPTER 17.139**

Sections

**17.139.010 Purposes.**

The purposes of the Planned Development Zoning District (“PDZD” or “District”) are to:

- A. Promote and encourage comprehensive planning for large areas in phases in a multi-year development by designing the site as a whole, rather than incrementally, ~~thereby providing certainty to developers of sites which may contain one or more challenging characteristics.~~
- B. Ensure that each phase of the multi-year development is compatible with and integrated into each of the past and future phases of such development.
- C. Establish a mechanism to fund public infrastructure necessary for the development over a defined period of time.
- D. Encourage innovative design and use of large areas of property, ~~which may contain unique characteristics such as environmentally sensitive areas; underutilized features; and historically significant uses.~~
- E. Provide the City with flexibility to establish appropriate zoning ordinance standards and provisions for the development of areas logically related to one another while including sufficient controls to achieve the goals and objectives of the General Plan and any other City adopted plans or policies that apply to the property.
- F. To alert individuals seeking to develop property that is already within a PDZD of the requirement to prepare a Preliminary Development Plan consistent with the zoning of the PDZD.

It is the intent of the City Council that an integrated development may be achieved either through rezoning to Planned Development Zoning District pursuant to this Chapter, or through the issuance of Planned Unit Development Permit pursuant to Chapters 17.122 and 17.140.

**COMMUNITY & ECONOMIC  
DEVELOPMENT CMTE**  
**JUL 6 2004**

### **17.139.020 Land Use Regulations.**

A use in existence on the property on the date an application for rezoning to PDZD is submitted, shall only be allowed to continue on the property if it is operated in compliance with and pursuant to the nonconforming use regulations of Chapter 17.114, unless the existing use is allowed pursuant to the approved PDZD for the property. Any permitted or conditional use authorized by this Title 17 may be included in a PDZD. The PDZD zoning approval shall establish an exclusive list of allowable land uses for the property, and shall specify whether such uses shall be permitted or permitted with a conditional use permit.

### **17.139.030 Property Development Standards.**

The PDZD zoning shall set forth the property development standards for the area to which the zoning has been applied. The standards set forth in the District shall supersede, without limitation, the standards for permitted and conditionally permitted uses, and for other requirements of this Title 17 except as specifically provided for by this Chapter. An applicant for rezoning to PDZD shall not be required to apply for and obtain a Planned Unit Development permit pursuant to Chapters 17.122 and 17.140.

### **17.139.040 Application.**

A. Minimum Size. A District shall have a minimum size of (1) two (2) acres; or (2) five hundred (500) residential units; or (3) five hundred thousand (500,000) square feet of commercial space; or (4) five hundred thousand (500,000) square feet of mixed uses.

B. Initiation. Except as otherwise provided in Section 17.139.060(L), an application to reclassify property to PDZD submitted by a property owner(s) or authorized agent shall include a site specific Preliminary Development Plan. If the City Council initiates the rezoning of property to PDZD, a site specific Preliminary Development Plan for that property may be submitted subsequent to the approval of the rezoning. In the case of a property owner-initiated application, if the property is not under single ownership, owners representing a majority of the acreage shall join in the application, which application shall include a map showing the extent of the property ownerships; provided, however, that the Planning Director may require that all owners join in the application. The Planning Director's decision in this regard may be appealed to the Planning Commission within ten days of the date of the decision in accordance with section 17.139.140. The decision of the Planning Commission shall be final and not appealable. The City shall process only one application for a rezoning to PDZD at a time for the same property(ies).

C. Ownership. For purposes of this section, the holder of a written option to purchase; any governmental agency, including the Redevelopment Agency of the City; or a redeveloper under contract with the Redevelopment Agency shall be deemed the owner of the property(ies) that is the subject of the application.



### **17.139.050 Procedure for Rezoning Property to PDZD.**

A. Process. Applications for rezoning property to PDZD shall be filed and processed in accordance with Chapter 17.144.

B. Application. Applications for a rezoning submitted by property owners or their agents, shall be initiated by submitting the following:

1. A completed planning application form signed by a majority of the property owners unless the Planning Director or Planning Commission requires all owners to sign the form pursuant to section 17.139.040B, or authorized the authorized agent(s) of such owner(s).
2. The required fee(s) pursuant to the Master Fee Schedule.
3. Two copies of preliminary title report(s) dated within the last sixty days.
4. The standard information listed in section 17.139.060, both in print and electronic format (if available), unless the Planning Director requires less information because the standard information is not available or not necessary to evaluate the application for rezoning. Additional copies of these plans and materials shall be submitted for public review purposes as determined necessary by the Planning Director.
5. Any other information, plans or maps required by the Planning Director.

C. Community Meeting. Within thirty days of notification by the Planning Director that the application for rezoning is complete, or thirty days prior to any California Environmental Quality Act "Scoping Session" that may be held by the City Planning Commission, whichever is earlier, the applicant shall conduct a community meeting in a public building centrally located, to inform the public that the application has been submitted and to discuss with the public the contents of the application of the proposed rezoning to the PDZD, the proposed preliminary development plan, if submitted, and any proposed development schedule. The applicant shall mail notice to all property owners and occupants within the proposed District, and all property owners within five hundred feet of the proposed District, and all community groups that appear on the Planning Department's mailing list, fourteen days prior to the date of the community meeting informing the recipients of the time, date, location, and purpose of the meeting. The applicant shall furnish a certificate of compliance with this section to the Planning Director.

### **17.139.060 Required Maps, Plans, and Studies for Rezoning to PDZD.**

In addition to the plans and materials required to accompany an application for rezoning pursuant to Chapter 17.144, an application for rezoning to a PDZD shall include a statement of the purpose of the proposed District, relationship of the District to, and how the District implements, the goals, programs, objectives, and policies of the General Plan and any other City-adopted plans or policies that apply to the property; and the following information which shall be

submitted in sufficient detail to inform the City about the environmental setting of the site proposed for rezoning:

A. District Map. A boundary survey map showing the proposed District boundaries, acreage of the District, and the relationship of the District to uses and structures and streets within a minimum 300 foot radius of the District boundaries.

B. Site Context Map. A map and/or aerial photo of the proposed District and at least 300 feet beyond its boundaries showing sufficient topographic data to clearly indicate the character of the terrain, ridgelines and creeks, including protected creeks per OMC Chapter 13.16; the type, location and condition of mature trees, including trees protected pursuant to OMC Chapter 12.36; historic resources pursuant to the City's Historic Preservation Element Policy 3.8 or as defined in Section 15064.5 of Title 22 of the California Code of Regulations, and other natural vegetation, and the location of existing development.

C. Land Use Program. The proposed land use program (in table format), with acreage, residential density and/or commercial intensity calculations, including minimum and maximum total residential units; minimum and maximum non-residential square footage including live work units and work live units; and the minimum acreage for open space, public uses, parking structures and any other uses included in the District; and a comparison of the proposed pattern of land use with the existing use of the land.

D. Public Services and Facilities. A description of the proposed location, extent and intensity of essential public facilities and services such as public and private streets and transit facilities, pedestrian access, bikeways, sanitary sewer service, water service, storm drainage structures, solid waste disposal, and other utilities; and a table comparing the description to the existing location, extent, and intensity of such essential public facilities and services.

E. Preliminary Biological Assessment. A mapping of wetlands, habitat areas, protected trees, and creeks by a qualified biologist, hydrologist or other qualified licensed professional; and a proposed program for the conservation, development, utilization, and mitigation of such resources. The biological assessment shall include a survey, if such survey is determined to be required by a City-approved biologist, conducted in accordance with established California Department of Fish and Game guidelines, for potential candidate, sensitive, or special status species identified in the general plan, other local or regional plans, policies, or regulations, or by the California Department of Fish and Game or U.S. Fish and Wildlife Service, both in breeding habitat and adjacent upland estivation habitat, with appropriate mitigation, including avoidance and minimization measures. If a survey has not been completed at the time of application submittal, it shall be completed, if feasible, prior to publication of a draft environmental impact report or (mitigated) negative declaration. If surveys are determined not to be required, documentation for this determination prepared by a City-approved biologist shall be submitted.

F. Preliminary Environmental Assessment. Identification of environmentally sensitive characteristics including a preliminary hazardous materials assessment, if necessary, including without limitation identification of sites, and clean-up status, under Government Code section 65962.5 .

G. Preliminary Traffic Study. A study prepared by a certified traffic or transportation planner or engineer examining levels of service within the District and in the area adjacent to and surrounding the District; conceptual parking and loading; bicycle access and storage; and emergency access.

H. Preliminary Geological Assessment and Topographic Map. An evaluation of any geological hazards by a licensed geotechnical engineer including a map depicting known geological hazards, including without limitation, landslides, Alquist-Priolo Special Study Zone, or Seismic Hazards, and any other geotechnical data required by the City. A map shown at contour intervals not to exceed two feet for natural slopes of two percent or less and five feet for natural slopes of more than two percent, with contour lines covered at least fifty feet beyond the District boundaries. A general grading concept plan for the District shall estimate the total acres of cut and fill of all slopes and the amount of imported/exported fill. A slope classification map/summary depicting slopes as follows: less than 10%; between 10-20%; between 20 -30%, and greater than 30%. Included with the Map shall be an assessment of the impact of the mapped conditions on the proposed uses in the PDZD.

I. Preliminary Hydrological Assessment. An assessment of streams, creeks, wetlands, overland flow and other hydrological conditions.

J. Phasing Plan. A plan generally depicting projected development timeframes, including quantitative data, such as population, housing units, land use acreage, and other data sufficient to illustrate the relationship between the phasing of development and the provision of public facilities and services.

K. Preliminary Public Facilities Financing Plan. A plan prepared by a qualified consultant that explains how streets, water, wastewater, solid waste, and parks will be provided in conformance with City standards and the proposed providers of such services. The plan must demonstrate to the satisfaction of the City Manager or his/her designee, that completion of all necessary infrastructure and public facility improvements concurrently with completion of the development shown on the Final Development Plan is economically, legally and physically feasible. The determination of completeness shall be made by reviewing the following components:

- (1) Identification of public improvements required to complete each phase of the Plan as well as the entire Plan in accordance with the general plan and City standards.
- (2) Detailed cost analysis of required public improvements.
- (3) Method of financing required public improvements.
- (4) Implementation and phasing schedule correlated with construction of the Final Development Plan.
- (5) Plan for receiving approval of all regulatory agencies including proposed timeline for submittal and approvals.
- (6) Evidence of ability to complete improvements in a satisfactory and timely manner.

L. Other. If a Preliminary Development Plan is not submitted with the application for rezoning, the Planning Director may require such other information as is necessary to perform a complete evaluation of the impacts of development of the proposed PDZD on the environment, mitigation measures and fair share allocations of such, and on the need for public facilities and services.

Other studies, plans or programs, as may be necessary, to address plans, policies, and objectives of the General Plan, Oakland Planning Code, and other City adopted plans and policies applicable to the District, may also be required.

### **17.139.070 Required Graphics for Rezoning to PDZD.**

The application shall include graphics with appropriate notes showing existing conditions and generally showing:

- A. Land use designations for each distinct area within the District (“Land Use Area”), the information required by Section 17.139.060(C), and the existing General Plan land use designations for areas adjacent to and within ~~300~~ 500 feet of the District.
- B. Public circulation system (including traffic, transit and pedestrian plan; street standards and cross sections, pedestrian paths and bikeways, and linkages to adjacent properties).
- C. Public facilities such as public buildings, schools, open space, and parks.
- D. Preliminary public infrastructure plan, including the proposed location of major infrastructure components such as sanitary sewer, water, storm drainage, utilities, walkways, bikeways, and other public facilities and services proposed to be located within the District.
- E. Development phasing plan and schedule.

### **17.139.080 Proposed Development Standards for PDZD.**

The application shall propose development standards for the District in table format and compare such standards to the development standards applicable to existing uses, including, without limitation:

- A. Permitted uses and conditionally permitted uses. All uses that are neither permitted nor conditionally permitted shall be prohibited within the District.
- B. Site coverage expressed as a percentage of each parcel and as a percentage of the entire District including proposed setbacks, yards, and height limits.
- C. Building development standards including setbacks within the building profile and height limits
- D. Minimum and maximum residential densities expressed in units per acre and commercial intensity expressed in floor area ratios.
- E. Off-street parking requirements, including location and screening.
- F. Private and public open space.
- G. Other standards as required by the Planning Director.

### **17.139.090 Proposed Design Guidelines for PDZD.**

A. The applicant shall propose design guidelines, which shall establish the design parameters for the District and shall include, without limitation, the following:

1. Architectural character
2. Balconies and private outdoor spaces
3. Awnings and canopies
4. Signage and graphics
5. Textures, materials and color palette
6. Landscaping
7. Lighting, security and equipment
8. Streetscape
9. Bulk and height
10. Scale

B. The design guidelines for residential facilities shall create a building or set of buildings that are well related to the surrounding area; will protect, preserve, or enhance desirable neighborhood characteristics; will be sensitive to the topography and landscape; will conform in all significant respects to the Oakland General Plan; and, if situated on a hill, will ensure that the design and massing of the proposed building relates to the grade of the hill.

C. The design guidelines for nonresidential facilities and signs shall insure that the proposal will help achieve or maintain a group of facilities which are well related to one another; which will result in a well-composed design, with consideration given to site, landscape, bulk, height, arrangement, texture, materials, colors and appurtenances; will be of a quality and character which harmonizes with, and serves to protect the value of, private and public investments in the area; and will conform in all significant respects with the Oakland General Plan.

### **17.139.100 Planned Development Zoning District Application - Approval.**

A. The Planning Commission shall conduct a public hearing to consider the District Application. At least ten-thirty days prior to the hearing, or at least fourteen days prior to the hearing if a negative declaration or environmental impact report is prepared for the project, the City Clerk or Planning Director shall cause to be mailed a notice of the hearing shall be sent to the following:

1. ~~The applicant(s) and all property owners within the District;~~

2. All property owners within the District and owners within three five hundred feet of the boundaries of the District as shown on the latest equalized property tax assessment role; and
3. Each local agency proposed to provide water, sanitary sewer, streets, roads, schools, or other essential facilities or services within the District;
4. All occupants within the District and within five hundred feet of the boundaries of the District; and
5. All community groups that appear on the Planning Department's mailing list.

In addition, at least fourteen days prior to the hearing, the Planning Director shall cause a notice of the hearing shall be caused to be published in a newspaper of general circulation; and posted in at least three public places adjacent to the District; and posted on one or more signs on the property that is the subject of the rezoning. The number, size, and format of the signs shall be determined by the Planning Director based upon the size and configuration of the property so as to provide notice to persons viewing the property from any of its sides.

The Planning Director may require the applicant to provide mailed, published, or posted notice of the public hearing. If this requirement is imposed upon the applicant, the applicant shall provide a certificate of compliance with this section no later than ten days prior to the hearing. If the City elects to do such noticing, the applicant shall reimburse the City for its noticing costs.

~~(including one substantially enlarged notice on the subject property).~~

~~If, however, the conditions set forth in Section 17.130.020 apply, alternative notification procedures discussed therein may replace or supplement these procedures.~~

- B. The Planning Commission shall make the findings required by section 17.139.110 by recommending to the City Council approval, approval in modified form, or denial of the application.
- C. The City Council shall conduct a public hearing to consider the Planned Development Zoning District application. At least thirtyten days prior to the hearing, or at least fourteen days prior to the hearing if a negative declaration or environmental impact report is prepared for the project, the City Clerk or Planning Director shall cause to be mailed a notice of the hearing shall be sent to the following:
  1. The applicant(s) ~~and all property owners within the District;~~
  2. All property owners within the District and owners within five three hundred feet of the boundaries of the District as shown on the latest equalized property tax assessment role; and

3. Each local agency proposed to provide water, sanitary sewer, streets, roads, schools, or other essential facilities or services within the District; -
4. All occupants within the District and within five hundred feet of the boundaries of the District; and
5. All community groups that appear on the Planning Department's mailing list.

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In addition, at least ~~fourteen~~ ten days prior to the hearing, ~~the City Clerk or Planning Director shall cause a notice of the hearing shall be caused to be published in a newspaper of general circulation and posted in at least three public places adjacent to the District; and posted on one or more signs on the property that is the subject of the rezoning, in a substantially enlarged format (including one substantially enlarged notice on the subject property). The number, size, and format of the signs shall be determined by the Planning Director based upon the size and configuration of the property so as to provide notice to persons viewing the property from any of its sides .~~

The Planning Director may require the applicant to provide mailed, published, or posted notice of the public hearing. If this requirement is imposed upon the applicant, the applicant shall provide a certificate of compliance with this section no later than ten days prior to the hearing. If the City elects to do such noticing, the applicant shall reimburse the City for its noticing costs.

~~If, however, the conditions set forth in Section 17.130.020 apply, alternative notification procedures discussed therein may replace or supplement these procedures.~~

- D. Approval of the Planned Development Zoning District shall be by ordinance. The City Council may approve, modify, or disapprove the application. The applicant(s) shall submit an original print and electronic copy of the final, adopted District as modified and copies of the original as required by the Planning Director, to the City within fifteen days of the City Council's action.

### **17.139.110 Findings Required for Planned Development Zoning District Approval.**

- A. A decision of the City Council to rezone property to PDZD shall be based upon the following findings of fact:
  1. The District is consistent with the City's General Plan and any other adopted City plans or policies that apply to the property, as such are amended prior to, or in conjunction with, the application for rezoning.

2. The phasing of development ensures that all public facilities necessary to serve the District will be completed prior to, or concurrently with, completion of the development proposed within the District.
3. Adequate financing mechanisms have been identified for the infrastructure and public facilities required to serve the anticipated residents and businesses within the District.
4. The location, design, size and uses will result in an attractive, healthful, efficient, integrated and stable environment for living, shopping, or working.
5. ~~The development standards, design guidelines, public facilities and services, and phasing plan for the District allow development of the District without the required variances and exceptions that may otherwise be required if the regulations of Chapters 17.122 and 17.140 applied to the property.~~
6. In the case of a District amendment, the following additional finding shall be made: The proposed amendment is consistent with the approved PDZD and will not create internal inconsistencies within the existing PDZD.

B. The approval of an application for rezoning to Planned Development Zoning District by the City Council shall include approval of the following documents:

1. Development standards described in section 17.139.080;
  2. Design guidelines described in section 17.139.090;
  3. A phasing plan described in section 17.139.060(J);
  4. Graphic representations of the information described in section 17.139.070;
  5. A preliminary public facilities financing plan described in section 17.139.060(K);
- and
6. A land use program described in section 17.139.060(C).

The approved District shall be referred to as Planned Development Zoning District – [name of project] and such shall be permanently maintained and reasonably accessible.

### **17.139.120 Preliminary Development Plan – Submittal, Contents and Approval.**

- A. Development of each Land Use Area within a Planned Development Zoning District requires submittal and approval of a Preliminary Development Plan and a Final Development Plan. More than one Land Use Area may be included in a Preliminary Development Plan. Both the Preliminary and Final Development Plans shall be prepared by a professional design team consisting of a registered civil engineer, or licensed architect, planner or licensed building designer, and other qualified professionals that the



City may require. Other applications required by the project's PDZD (e.g., subdivision map, lot line adjustment, conditional use permit) may be submitted concurrently with a Preliminary Development Plan application. Fees required per Oakland's Master Fee Schedule shall be submitted at the time of applications for the Preliminary and/or Final Development Plans and/or other planning and subdivision approvals.

- B. A Preliminary Development Plan shall include the following in sufficient detail to indicate intent and impact and shall include an update of information submitted pursuant to Section 17.139.060 if changed conditions or new information require modification of that information:
1. Streets, driveways, sidewalks, pedestrian and bike ways, and off-street parking and loading areas, including integration with surrounding uses;
  2. Location and approximate dimensions of structures;
  3. Utilization of property for residential and non-residential use;
  4. Estimated population;
  5. Reservations for public uses, including schools, parks, playgrounds, and other open spaces;
  6. Major landscaping features, including trees protected by OMC Chapter 12.36, as it may be amended;
  7. Creeks protected by OMC Chapter 13.16, as it may be amended; or as identified by the Site Context Map submitted pursuant to Section 17.139.060B;
  8. Historic resources pursuant to the City's Historic Preservation Element Policy 3.8 or as defined in Section 15064.5 of Title 22 of the California Code of Regulations; and
  9. Drainages and elevations clearly establishing the scale, character, and relationship of buildings, streets, and open spaces.

If development within the Land Use Area is proposed for a period of four years or longer, information pertaining to those portions of the project planned for construction more than four years from the date of the submittal, may be shown in a generalized, schematic fashion on the Preliminary Development Plan.

- C. A tabulation of the land area and gross floor area to be devoted to various uses and a calculation of the average residential density per net acre and per net residential acre.
- D. A construction, occupancy, and phasing plan.
- E. The Planning Commission shall hold at least one public hearing on the Preliminary Development Plan. Notice of the hearing shall be given by the City Clerk or Planning

Director in the same manner as public hearings for an application to re-zone property to District, pursuant to Section 17.139.100. The Planning Director shall forward the Preliminary Development Plan to the City Engineer for review no later than 10 days after a determination that the submitted Plan is complete. The Planning Commission shall hold a public hearing on the Preliminary Development Plan no later than seventy-five days after the Plan is sent to the City Engineer or within forty-five (45) days of receiving a report from the City Engineer, whichever is earlier. The Planning Commission shall approve the Preliminary Development Plan if it finds that the Plan is in substantial conformance with the Planned Development Zoning District for the property. The Planning Commission shall disapprove the Preliminary Development Plan if it finds that the Plan is not in substantial conformance with the Planned Development Zoning District and that it is not possible to require such changes therein or impose such conditions of approval as are reasonably necessary to ensure conformity to said District. The determination of the Planning Commission shall become final ten calendar days after the date of decision unless appealed to the City Council in accordance with Section 17.139.140. In the event the last date of appeal falls on a weekend or holiday when City offices are closed, the next date such offices are open for business shall be the last date of appeal.

- F. A Land Use Area shall be in substantial conformance with the Planned Development Zoning District for the property if the Area varies by up to ten percent from the Area, measured in acres, shown on the District graphics but the minimum and maximum residential units, minimum and maximum non-residential square footage, minimum and maximum live-work and work-live square footage and minimum acreage for open space and public uses in the District are maintained. In addition, a residential Land Use Area shall be in substantial conformance with the Planned Development Zoning District for the property if residential density varies within the Area from the density designated on graphics approved as part of the District, but the residential density ranges designated for that Land Use Area are maintained.
- G. If the Preliminary Development Plan satisfies the requirements for a Final Development Plan, the Preliminary Development Plan may also serve as a Final Development Plan, and the applicant shall not be required to file a separate Final Development Plan for that Land Use Area.

### **17.139.130 Final Development Plan – Submittal, Contents and Approval.**

- A. Unless an extension is granted pursuant to subsection (F), a Final Development Plan shall be submitted no later than two years after the final approval of a Preliminary Development Plan. The Final Development Plan shall include all information contained in the Preliminary Development Plan plus the following in sufficient detail to fully indicate the operation and appearance of all development shown on the Final Development Plan:
  - 1. The location of all public infrastructure that provides water, sewage, and drainage facilities and other utility services;

2. The location of all private infrastructure that provides gas, electric, and other utility services;
3. Detailed building plans and elevations;
4. Landscape plans prepared by a landscape architect;
5. The character and location of signs;
6. Improvement plans for all public and private streets, driveways, sidewalks, pedestrian and bike ways, and off-street parking and loading areas;
7. Grading or other earth-moving plans; and
8. The public facilities financing plan approved as part of the Preliminary Development Plan modified as necessary to reflect changed conditions or new information.

If the Final Development Plan is not submitted within two years of the date of approval of the Preliminary Development Plan, the Preliminary Development Plan shall be void and of no further force and effect unless an extension is approved pursuant to subsection (F).

- B. An applicant shall submit all legal documents required for dedication or reservation of land and for the creation of homeowners' associations, and all bonds or other forms of financial assurances acceptable to the City required for timely completion of public improvements required to be completed by the applicant (including without limitation, for guaranteeing 100% of the costs of completion and faithful performance of the work), with the Final Development Plan.
- C. The Planning Director shall forward the Final Development Plan to the City Engineer for review no later than 10 days after a determination that the submitted Plan is complete. The Planning Commission shall hold a public hearing on the Final Development Plan no later than seventy-five days after the Plan is sent to the City Engineer or within forty-five (45) days of receiving a report from the City Engineer, whichever is earlier.
- D. The Planning Commission shall hold at least one public hearing on the Final Development Plan. Notice of the hearing shall be given in the manner provided in Section 17.139.100. *The Planning Commission shall approve the Final Development Plan if it finds that the Plan is in substantial conformance with the Preliminary Development Plan and the Planned Development Zoning District for the property.*

The Planning Commission shall disapprove the Final Development Plan if it finds that the Plan is not in substantial conformance with either the Preliminary Development Plan or the Planned Development Zoning District and that it is not possible to require such changes therein or impose such conditions of approval as are reasonably necessary to ensure conformity. If the Planning Commission disapproves the Final Development Plan, it may, in its sole discretion, allow the applicant to revise and resubmit the Final

Development Plan once within 60 days of the action disapproving the Final Development Plan, to respond to the Commission's concerns. The applicant may submit a written waiver of the right to revise and resubmit the Final Development Plan at any time within the 60-day period. If the applicant then revises and resubmits the Final Development Plan, the Planning Commission shall hold at least one public hearing in the same manner as stated above for the initially submitted Final Development Plan. The decision of the Planning Commission on the Final Development Plan or the revised and resubmitted Final Development Plan shall be final, unless appealed to the City Council within ten calendar days of the date of the decision in accordance with Section 17.139.140. In the event the last date of appeal falls on a weekend or holiday when City offices are closed, the next date such offices are open for business shall be the last date of appeal.

- E. If the applicant submits a written waiver of the right to revise and resubmit the Final Development Plan then the date of such waiver shall be the date of decision for purposes of calculating the date from which an appeal may be filed. If either no such waiver is submitted, or if the applicant fails to submit a revised Final Development Plan, then the Planning Commission's decision to disapprove the Final Development Plan shall be final at the end of the 60-day period unless appealed to the City Council within ten calendar days of that date in accordance with Section 17.139.140.
- F. An applicant may request a written extension of the two-year time limit to submit a Final Development Plan for a maximum of two years at any time prior to the expiration of the two-year period. The Planning Director may approve, modify, or deny such request upon the applicant demonstrating good cause. The decision of the Planning Director may be appealed to the Planning Commission within ten days of the date of the decision in accordance with Section 17.139.140. The decision of the Planning Commission shall be final and not appealable. Prior to the expiration of any extension granted by the Planning Director, an applicant may request a second written extension of the two-year time limit to submit a Final Development Plan. This second request shall be referred to the Planning Commission. The Planning Commission may approve, modify or deny such proposal for a maximum of two years upon the applicant demonstrating good cause. The decision of the Planning Commission shall be final and not appealable.
- G. Approval of a Final Development Plan shall expire and be of no further force and effect (1) if three years after the approval of the Plan substantial construction pursuant to a building permit has not commenced; or (2) if construction has not continued in conformance with the approved phasing plan, as determined by the Planning Director. The decision of the Planning Director may be appealed to the Planning Commission within ten days of the date of the decision in accordance with Section 17.139.140. The decision of the Planning Commission shall be final and not appealable.

A certificate of occupancy shall not be issued for completed construction unless and until construction has commenced on the next project in accordance with the phasing plan. The Planning Director may waive this requirement upon a showing of good cause by the applicant. The Planning Director's decision may be appealed to the Planning Commission within ten days of the date of the decision in accordance with Section 17.139.140. The decision of the Planning Commission shall be final and not appealable.

An applicant may request a written extension of the Final Development Plan for three years at any time prior to the expiration of the date of approval of the Final Development Plan. The Planning Director may approve, modify, or deny such request upon the applicant demonstrating good cause. The decision of the Planning Director may be appealed to the Planning Commission within ten days of the date of the decision in accordance with Section 17.139.140. The decision of the Planning Commission shall be final and not appealable.

Prior to the expiration of any extension granted by the Planning Director, an applicant may request a second written extension of the Final Development Plan. This second request shall be referred to the Planning Commission. The Planning Commission may approve, modify or deny such proposal for a maximum of three years upon the applicant demonstrating good cause. The decision of the Planning Commission shall be final and not appealable. For good cause shown by the applicant(s), the Planning Commission may, at a public hearing, grant one additional and final extension of the Final Development Plan for up to three years if an application for an extension is filed prior to the expiration of the date of the previous extension granted by the Planning Commission. The decision of the Planning Commission shall be final and not appealable.

### **17.139.140 Appeal Procedures; Modifications.**

A. Within ten calendar days after the date of a final decision by the City Planning Commission on a Preliminary or Final Development Plan, an appeal from said decision may be taken to the City Council by the applicant, the permit holder, or any other interested party. In the event the last date of appeal falls on a weekend or holiday when City offices are closed, the next date such offices are open for business shall be the last date of appeal. Such appeal shall be made on a form prescribed by the Commission and shall be filed with the City Clerk. The appeal shall state specifically wherein it is claimed there was an error or abuse of discretion by the Commission or wherein its decision is not supported by the evidence in the record. Upon receipt of the appeal, the Council shall set the date for consideration thereof. After setting the hearing date, the Council, prior to hearing the appeal, may refer the matter back to the Planning Commission for further consideration and advice. Appeals referred to the Planning Commission shall be considered by the Commission at its next available meeting. Any such referral shall be only for the purpose of issue clarification and advice. In all cases, the City Council shall retain jurisdiction and, after receiving the advice of the Planning Commission, shall hold a hearing on and decide the appeal.

B. The City Clerk shall notify the Secretary of the City Planning Commission of the receipt of said appeal and of the date set for consideration thereof; and said Secretary shall, not less than ten days prior thereto, give written notice to: the applicant; the appellant in those cases where the applicant is not the appellant; adverse party or parties, or to the attorney, spokesperson, or representative of such party or parties; other interested groups and neighborhood associations who have requested notification; and to similar groups and individuals as the Secretary deems appropriate, of the date and place of the hearing on the appeal.

C. In considering the appeal, the Council shall:

1. For Preliminary Development Plans: Determine whether the Preliminary Development Plan substantially conforms to the PDZD for the property. The City Council shall approve the Preliminary Development Plan if it finds that the Plan is in substantial conformance with the Planned Development Zoning District for the property. The City Council shall disapprove the Preliminary Development Plan if it finds that the Plan is not in substantial conformance with the Planned Development Zoning District and that it is not possible to require such changes therein or impose such conditions of approval as are reasonably necessary to ensure conformity to said District.
2. For Final Development Plans: Determine whether the Final Development Plan substantially conforms to the PDZD for the property and to the Preliminary Development Plan. The City Council shall approve the Final Development Plan if it finds that the Plan is in substantial conformance with the Preliminary Development Plan and the Planned Development Zoning District for the property. The City Council shall disapprove the Final Development Plan if it finds that the Plan is not in substantial conformance with either the Preliminary Development Plan or Planned Development Zoning District and that it is not possible to require such changes therein or impose such conditions of approval as are reasonably necessary to ensure conformity.

For both Preliminary and Final Development Plans, the decision of the City Council shall be made by resolution and shall be final. The City Council shall vote on the appeal within thirty (30) days after its first hearing of the appeal. If the Council is unable to decide the appeal at that meeting, it shall appear for a vote on each regular meeting of the Council thereafter until decided.

- D. Minor modifications to an approved Preliminary or Final Development Plan may be approved by the Planning Director if such modifications are consistent with the purposes and general character of the Preliminary or Final Development Plan and are not of such size, importance or unique nature as to require Planning Commission review. The decision of the Planning Director shall be final, unless appealed to the Planning Commission within ten calendar days of the date of the decision in accordance with the procedures in Section 17.139.140. In the event the last date of appeal falls on a weekend or holiday when City offices are closed, the next date such offices are open for business shall be the last date of appeal. The decision of the City Planning Commission is final and not appealable.

Except for minor modifications described above, and the extensions described in Sections 17.139.130(F) and (G), all other modifications, and any amendments to the Planned Development Zoning District or Final Development Plan shall be processed in the same manner as the original application proposed for amendment and shall be subject to the same procedural requirements.

### **17.139.150 Final Development Plan Final Design Review.**

Final Development Plan Final Design Review shall be required as part of the approval process for a Final Development Plan. After design review approval, no further design review approvals of the Land Use Area shall be required except to the extent that the application for Final Design Review did not provide adequate information regarding one or more uses within the Land Use Area to allow for Final Design Review. The procedure for Final Development Plan Final Design Review shall follow the schedule outlined in Section 17.136.060. Final Development Plan Final Design Review shall be limited to a determination of whether or not the proposed design substantially conforms to the design guidelines approved as part of the Preliminary Development Plan. Remodels and additions to the buildings and sites within a Land Use Area after issuance of a certificate of occupancy shall be conducted pursuant to Section 17.136.060.

### **17.139.160 Enforcement.**

The provisions in Chapter 17.152 shall apply to a violation of any of the terms and conditions of any Planned Development Zoning District, Final Development Plan or permits issued to implement the PDZD or Final Development Plan.

**Location:** City-wide Ordinance

**Proposal:** **Planned Development Zoning District Procedure Ordinance.**

Planning Commission consideration of the zoning text amendment to add a Planned Development Zoning District (PDZD) Procedure as Oakland Planning Code Chapter 17.139

**Applicant:** Planning Division

**Case File** ZS04-217

**Number:**

**General Plan:** The proposed PDZD would apply city-wide.

**Zoning:** The proposed PDZD would apply to various zoning districts city-wide.

**Environmental Determination:** The adoption of a Planned Development Zoning District Procedure Ordinance has been found not to be subject to CEQA since (1) it is exempt from environmental review under the "general rule" (Guidelines section 15061(b)(3) – no possibility of significant environmental impact) and (2) adoption of the ordinance is not a "project" since there is no possibility that the ordinance will produce a significant impact on the environment (Guidelines section 15378).

**Historic Status:** Properties within a potential Planned Development Zoning District may contain historic resources, structures and/or identified City Landmarks.

**Service Delivery** City-wide:

**District:**

**City Council** City-wide.

**District:**

**Status:** Continued Public Hearing for an application to establish a Planned Development Zoning District Procedure Ordinance submitted by the Development Director.

**Action to be Taken:** The Planning Commission will take public testimony concerning the PDZD Procedure, review and consider the proposal and make a recommendation to the City Council. Final action to adopt the amendment rests with the City Council.

**For further information:** Contact: Development Director Claudia Cappio at 510 238-2229; email: ccappio@oaklandnet.com

## SUMMARY

At their May 19, 2004 meeting, the Planning Commission considered an enabling ordinance which authorizes a process to establish site specific Planned Development Zoning Districts (PDZD) to be applied to unique, site specific areas within the City of Oakland. This ordinance creates a process which will allow the City to apply specially drafted zoning regulations to facilitate well-planned and integrated residential, commercial and mixed-use communities. Once this enabling ordinance is adopted, re-zoning to a site specific PDZD could be initiated by either



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the City Council or private property land-owners and must be approved by the City Council, after appropriate environmental review is conducted. Once a specific area is rezoned to a PDZD, future development cannot occur without submittal and approval of Preliminary and Final Development Plans by the City Planning Commission, or, on appeal, the City Council. Existing Planned Unit Development regulations (Oakland Planning Code Chapters 17.122 and 17.140) will remain in place.

Commissioners requested that the proposed ordinance be revised to:

- incorporate more and broader noticing procedures including a minimum 500 foot radius for notification rather than 300 feet, 14 day notice if an EIR or negative declaration is prepared (as compared to 10 days) and 30 days if the project is exempt from CEQA, and notification of occupants in addition to owners;
- a requirement for a community meeting; and
- additional discretion for the Planning Director to waive the prohibition on issuing a certificate of occupancy if the next phase of development is non underway.

These changes have been drafted, as well as some others, and are reflected in underline and strikeout form in the attached draft ordinance. The Commission is requested to review these changes and recommend that the revised ordinance be forwarded to the City Council for their review and consideration.

### **Purposes of the Planned Development Zoning District**

The proposal now before the Commission represents an additional land use planning tool for large scale, integrated developments. Adoption of this enabling ordinance does not commit the City to rezone any specific property nor authorize any development; rather, it merely establishes a detailed process and set of requirements to consider such in the future. This enabling legislation is thus similar in purpose to other existing "procedural" regulations, such as the Development Agreement Procedures (Oakland Planning Code Chapter 17.138), Planned Unit Development Procedures (Chapter 17.140), and Rezoning and Law Change Procedures (Chapter 17.144).

The purposes of the Planned Development Zoning District ("PDZD" or "District") are to:

- A. Promote and encourage comprehensive, phased planning for large areas over a multi-year period by designing the site as a whole, rather than incrementally.
- B. Ensure that each phase of the multi-year development is compatible with and integrated into each of the past and future phases of such development, through the legislative enactment of development standards and regulations.
- C. Establish a mechanism to fund public infrastructure necessary for the development over a defined period of time.

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- D. Encourage innovative design and use of large areas of property.
  - E. Provide the City with flexibility to establish appropriate zoning ordinance standards and provisions for the development of areas logically related to one another while including sufficient controls to achieve the goals and objectives of the General Plan and any other City adopted plans or policies that apply to the property.
  - F. To alert individuals seeking to develop property within a PDZD of the requirement to prepare a Preliminary Development Plan consistent with the zoning of the PDZD.
  - G. To enable the City Council to confirm the district-wide development requirements and standards by ordinance, thereby providing confirmation of applicable planning policies and objectives.

The text of the PDZD Ordinance notes the intent of the City Council that integrated development in the City may be achieved either by establishment of a Planned Development Zoning District through rezoning, or through the issuance of Planned Unit Development Permit, pursuant to Chapters 17.122 and 17.140.

#### **Content of the Planned Development Zoning District Procedure Ordinance**

The draft PDZD Ordinance attached to this Staff Report outlines information and criteria in the following categories that must be submitted by applicants when requesting rezoning of specific property to a PDZD:

Land Use Regulations

Property Development Standards

Application Criteria

Procedure for Rezoning Property to PDZD

Required Maps, Plans, and Studies Rezoning to PDZD

Required Graphics for Rezoning to PDZD

Proposed Development Standards for PDZD

Proposed Design Guidelines for PDZD

PDZD Application - Approval Procedures

Required Findings for PDZD Approval

Preliminary Development Plan – Submittal, Contents and Approval

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Final Development Plan – Submittal, Contents and Approval

Appeal Procedures; Modifications

Final Development Plan Final Design Review

Enforcement

### Staff Findings Pertaining to Proposed Revisions and Other Issues Raised

*Proposed Revisions.* At the May 19, 2004 meeting, a number of comments were received regarding the need to for more extensive public notice as part of the proposed PDZD process. The draft ordinance has been amended to incorporate the following public noticing components:

- In Section 17.139.050C, a requirement for a community meeting has been added.
- The public noticing period has been increased to a minimum of fourteen days if a Negative Declaration or Environmental Impact Report has been prepared, or to thirty days if no environmental document is required (Section 17.139100A and C). The shorter notice where EIRs and Negative Declarations are involved is appropriate because the environmental documents themselves are subject to a 30-45 day public review period for EIRs and 21-30 days for negative declarations.
- A 500 foot radius rather than 300 feet is required for noticing of surrounding properties.
- Signs must be posted on the property of a minimum size.
- Community groups and occupants of properties within the District and within 500 feet of the District are included on the public notice list.

In addition, the following other revisions have been included to respond to both public and Commission comments:

- The submittal requirements (17.139.060) has been modified so it is clearer that only a preliminary level of information and analysis are required as the process is initiated, to determine the environmental setting of the property.
- The required finding referencing variances or exceptions has been deleted (Section 17.139.010 A.5), as well as references to unique or challenging properties (Section 17.139.010).
- The Planning Director has been given the discretion of waiving the requirement for a Certification of Occupancy prior to starting the next phase of development. Such a decision could be appealed to the Planning Commission (17.139.130 G).

*Other Issues.* The Commission had questions about how this process would fit in with the review and consideration of potentially significant environmental impacts under the California Environmental Quality Act (CEQA). Consideration of an application for a PDZD would be considered a “project” under CEQA, exactly like an amendment to the zoning ordinance. Thus,

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an environmental review process would be required culminating in a determination about how to comply with CEQA. Given the large scale of project that this enabling ordinance would apply to, it is likely that in most cases an EIR would be required. However, each request for a PDZD rezoning will be evaluated on a case-by-case basis.

Another comment raised the point about whether this kind of process would encourage the use of eminent domain or change such authority by the City or Redevelopment Agency. Certainly if a specific site is within a redevelopment project area an eminent domain process could be used, as it may currently be used under the existing regulations. Oakland has used this approach to property acquisition and control on rare occasions, preferring to negotiate an agreed upon price for the land or some other arrangement such as owner participation. If eminent domain were used the decision to move forward would also be part of the overall range of actions necessary to implement the project and thus be subject to public scrutiny, including review under CEQA. This ordinance does not change the City's or Agency's eminent domain authority or powers.

The 9 year time frame that the PDZD would be in effect has also been called into question. This time period is not unusual for a multi-phased, large scale project. Staff believes that sufficient review procedures have been included for the Commission, and the public, to monitor how a PDZD is being implemented and whether or not it remains in the City's interest to extend the time period required for completion. Extensions are not automatic.

Staff also met with some community members who expressed interest in incorporating a requirement for a "charrette" design and planning process into this draft ordinance. An attachment to this report explains how such a process could work and provides an example of such a process used in Pleasant Hill. While staff appreciates how such a process could add valuable information and comments to a PDZD, it may not always be appropriate. If the Commission desires to include this type of measure, staff suggests that it do so by example under the community meeting section.

## **PROBABLE ENVIRONMENTAL EFFECTS**

The adoption of this enabling PDZD Procedure ordinance is not subject to CEQA because there is no possibility that adoption of the ordinance will result in a significant impact on the environment. First, under the general rule (Guidelines section 15061(b)(3)), there is no possibility of a significant environmental impact. Second, action by a public agency is a "project" subject to CEQA only if the action might result in a physical change in the environment. An action that produces no physical change to the environment is not subject to CEQA. The adoption of the PDZD enabling legislation is not necessarily a first step in development and will not necessarily result in a change in the physical environment. Adoption of the PDZD Procedure Ordinance merely adds a land use tool that can, but might not be, used to facilitate development, which can be otherwise undertaken under existing land use regulations. (See Section 15378 of the CEQA Guidelines; and City of Agoura Hills v. Local Agency Formation Commission.) For example, applicants can currently request a PUD permit, a rezoning, or development of a specific plan for an area. This PDZD ordinance creates an

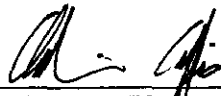
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alternative vehicle to achieve such, through a detailed process and set of requirements that must be followed. However, it should be noted that the proposal to rezone a specific area to a specific PDZD zone is a "project for purposes of CEQA and such may be approved by the City Council only after completion of appropriate environmental review.

**RECOMMENDED COMMISSION ACTION:**

- 1) Take public testimony concerning the proposed Planned Development Zoning District Procedure Ordinance, as revised (June 2, 2004 version)
- 2) Consider the Planned Development Zoning District Procedure Ordinance and provide comments pertaining to planning, policy, environmental or other issues.
- 3) Recommend that the City Council adopt the PDZD Procedure Ordinance, as it may be modified by the Planning Commission, because it would be in the public interest to provide an additional development tool to effectively implement large scale developments through a comprehensive, integrated zoning mechanism. In this way, the City would be able to use this approach, if desired and if appropriate, to further the goals and objectives of the General Plan

Respectfully Submitted by,



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CLAUDIA CAPPIO  
Development Director

*Attachments:*

Revised Draft Planned Development Zoning District (PDZD) Procedure Ordinance ( dated June 2, 2004.)  
Pleasant Hill BART Station Charrette Information  
May 19, 2004 City Planning Commission Report



Contra Costa County  
Community Development Department  
Redevelopment Division

The Pleasant Hill BART  
Station Design Charrette

*Also, Mark De Santis is the  
County supervisor who represents Pleasant Hill*

## Answers to Frequently Asked Questions

### What is a Charrette?

A Charrette is the most efficient and effective method for deriving policy and design solutions through mutual consensus, without compromising quality. A Charrette is a three to seven day period of intense design work involving all key participants, including designers, local citizens, land and business owners, and agencies and officials, all of whom will contribute to the development of a detailed and finished design. This shared achievement creates a momentum that enables the project to survive future political and economic challenges.

The Charrette presents an alternative to the otherwise time-consuming, linear, and sequential design process, which typically occurs in most design projects. The conventional process can take anywhere from several months to a year. In contrast, the Charrette method streamlines this process, condensing the duration of design time down to about a week, by bringing all those who have influence on a project's design together in the same place.

The Charrette was developed as a means of eliciting the participation and direct involvement of all those having a vested interest in the overall development of the project. The Charrette team establishes a full working office on or near the site, complete with drafting equipment, supplies, computers, copiers, and fax machines. Design, engineering, production, marketing, sales, and all levels of management are assembled for the session. Members of the design team allot time throughout the week to meet with local citizens, officials, and approval board representatives, to incorporate their concerns. Thus, the Charrette produces a plan that reflects mutual authorship and a vision shared by all participants.

Officials, having contributed to the design, are now in a position to both understand and support the final plan. The Charrette creates an atmosphere of a town meeting or workshop; it becomes the medium to inform and educate the public, encompass their contributions, clarify design decisions, and moderate any conflicts that arise in the ensuing approval process.

Working on the site is also an invaluable aid to efficiency and creativity. Team members can simply lay down their pens and walk outside to see the configurations of existing roads, buildings, trees and wetlands. Most importantly, simultaneous brainstorming and negotiation during a Charrette can positively change minds and facilitate unexpected concepts or solutions to problems. Usually, ideas generated and considered are far greater in number and value than those under conventional planning methods. A superior product is achieved during this unique, shared effort, adding immeasurably to the potential for the project's long-term success.

### Who should participate?

Anyone and everyone is invited to participate in this exciting process. The entire process is open to

the public. To make the Charrette a success, we need a broad turn-out of community members. Stakeholders for this project include anyone that could potentially be affected by the new development, including neighborhood residents, BART users, local business owners, employees working in the area, property owners, local government agencies, community leaders and activists. We invite anyone with an interest in the project to participate as fully as their schedule allows. We literally can't do this without you.

### **What if I can't attend every meeting?**

Just come to as many as you can. Even attending one meeting is better than none. To really participate in a meaningful way, you will need to be there in person. We will make sure that, at the beginning of each workshop, we will bring attendees up to speed about what happened at the previous meetings. You can also drop by the Design Studio at Embassy Suites (at 1345 Treat Blvd. Walnut Creek) at any time between 9:00 AM and 9:00 PM from February 22nd through February 27th to see what is going on and watch as the plan is created.

You can also log-on to [www.co.contra-costa.ca.us/depart/cd/charrette](http://www.co.contra-costa.ca.us/depart/cd/charrette) or go to the Contra Costa County main page ([www.co.contra-costa.ca.us](http://www.co.contra-costa.ca.us)) and look under "What's New." If you simply cannot attend the workshops, we are working with Contra Costa TV to video-tape the sessions for later replay on Channel 19. And of course, you may always send us paper or electronic mail with any input.

### **Why is it important for me to participate?**

The Charrette is a unique process that literally takes the ideas, opinions, input, insights and concerns of the people who participate into consideration, to create a better plan than one developed in isolation. By participating in this process, you really can make a difference!

### **Who is supporting the process?**

This event has generated excitement among many local leaders. Among them, Contra Costa County Supervisors Donna Gerber and Mark DeSaulnier and BART Director Dan Richard have taken leadership roles in the project. The process is also supported by Millennium Partners, a development company that will be working with BART and the County to implement the final results of the Charrette.

### **Who is on the Charrette team?**

There is a multi-disciplinary team of professional consultants assembled for this project, all of whom have extensive experience and expertise in a variety of different specialty areas. The team includes:

- Lennertz Coyle & Associates, Architects and Town Planners ([www.lcaarchitects.com](http://www.lcaarchitects.com))
- Peter Katz, Author and New Urbanism Consultant
- Fehr & Peers Associates, Transportation Planners

- Nelson / Nygaard, Transit Consultants
- Strategic Economics, Urban Economic Development Consultants
- CSG Advisors Incorporated, Financial Advisors
- Communities By Design, Community Outreach Consultants
- Ove Arup, Bridge Design/Engineering

Some of the work for the Charrette will be done individually by team members, some by small teams focused on particular issues, and some by the whole group working together. All will be present and participating in the actual Charrette between February 22 - 27, 2001.

### **What parts of the Pleasant Hill BART station area will be covered in the Charrette?**

The focus of the Charrette will be the BART-owned property at the Pleasant Hill BART station, specifically the “permanent” surface parking lots on the northwest and southeast sides of the stations itself. These are parcels 11 and 12 (as defined in the Specific Plan). Don’t worry about the 1,294 or so spaces on those lots disappearing (permanent replacement spaces will be provided on-site with structured parking).

The Charrette will also look at ultimate uses of the Las Juntas Swim Club property and the preliminary design concepts for the proposed pedestrian/bicycle bridges over Treat Boulevard. Other related topics will be addressed as they arise through the Charrette process.

### **Are there limitations on what can be proposed?**

The only limitations that will restrict the Charrette process are that there will be development on the BART land as set forth in the Pleasant Hill BART Specific Plan, that the development will be consistent with the basic concept of transit-oriented development, and that the design for the development will be reasonably consistent with the precepts of new urbanism. Certainly, there are a number of things that could affect either the final product of the Charrette or what is actually built, such as policies set out in the Specific Plan or any contractual development rights that BART may have. Those things, however, will not limit what the Charrette participants and team can consider or recommend.

### **What will happen at the kick-off meeting on January 16<sup>th</sup>, 2001?**

On January 16th, from 7:00 - 9:00 PM, at the Embassy Suites Hotel in Walnut Creek (across from the BART station at 1345 Treat Blvd.), there will be an important “kick-off” meeting for the Charrette. The purpose of the kick-off meeting is to introduce the team and the project, and to invite as much input as possible from attending stakeholders. Highlights of the meeting will include an explanation of the principles of New Urbanism that will guide the design of the project, a clarification of how this process relates to previous public processes, brief reports on the existing economic and transportation conditions around the site, and small group work with stakeholders to learn about the issues of concern. The meeting will conclude with a look at the next steps in the process, and an invitation to attend the Charrette in February.



## **What will happen during the Charrette from February 22nd to 27th, 2001?**

The Pleasant Hill BART Charrette is a six-day intensive process that will take place between February 22nd and 27th. During that time, all of the professional consultants will work diligently in an on-site design studio to produce a master plan for the Pleasant Hill BART Station Area. While stakeholders are invited to stop in at any time - the Design Studio will be open from 9:00 AM to 9:00 PM from February 22nd through February 27th at the Embassy Suites Hotel – the best times to participate are during the three public workshops:

- The first workshop will be held on Thursday, Feb. 22<sup>nd</sup> from 6:30pm – 9:00pm,
- The second workshop will be on Saturday, Feb. 24<sup>th</sup> from 4:30pm - 6:30pm, and
- The final public workshop will be on Tuesday, Feb. 27<sup>th</sup> from 6:30pm – 9:00pm. The draft final plan and perspective drawings will be presented at this meeting.

All workshops will be held at the Embassy Suites Hotel, 1345 Treat Blvd., in Walnut Creek. If you cannot make it to one or more of the events, you are still invited to participate as much as you are able.

## **How does the Charrette relate to the Pleasant Hill BART Station Area Specific Plan?**

The Charrette builds off of the policies, objectives, and standards of the Pleasant Hill BART Specific Plan, an amendment of which was adopted by the Contra Costa Board of Supervisors on October 6, 1998. While the Specific Plan provides a framework, the Charrette master plan will be more detailed than the Specific Plan, including refined designs for streets and parking lots, public open spaces, building massing and character, and allowed uses. The goal of the current charrette is to conclude with a land use plan and design that would serve as the basis for the BART property developer to proceed with an application for rezoning the site.

## **How is this process different from the last “charrette?”**

The term “charrette” is now being applied to many kinds of public processes, and is not always used appropriately. Many of these processes lack several critical factors that make true Charrettes so effective. Charrettes always attempt to include a broad range of stakeholders, including those that are in a position to implement the plan. Charrettes work in short feed-back loops, and participants quickly see their suggestions incorporated into an evolving masterplan. Charrettes allow the inclusion of a broad range of issues that will affect the plan. And finally, Charrettes are conducted by an interdisciplinary team that can provide expertise in many disciplines. The interaction between these professionals, and the collaborative interaction between the professionals and the stakeholders, creates a synergy that produces real-world solutions that work on many levels.

## **How will the participants be guaranteed that the results of this planning process will be honored?**

Unfortunately, there is never a guarantee. Circumstances including the regional context, local economic markets, transportation dynamics, and politics can change. By analyzing and understanding these dynamic conditions the results of the charrette will more accurately reflect current conditions. Historically, however, the plans that have been honored over time are the ones that have represented the vision of many parties. A true collaborative process inspires and empowers people, and results in a plan that meets the needs of all stakeholders, including the citizens, the business community, local governmental agencies, and the developer. The best way to guarantee that this plan gets implemented is to help us spread the word about the process in order to get good participation in which everyone's interests are considered.

### **What is meant by the term "new urbanism?"**

In the late 1980s, a new approach to the creation and revitalization of communities began to emerge in North America. Based on the development patterns used prior to World War II, the New Urbanism seeks to reintegrate the components of modern life - housing, workplace, shopping and recreation - into compact, pedestrian-friendly, mixed-use neighborhoods linked by transit and set in a larger regional open space framework. The New Urbanism is an alternative to suburban sprawl, a form of low-density development that consists of large, single-use "pods"-office parks, housing subdivisions, apartment complexes, shopping centers-all of which must be accessed by private automobile.

The major principles of New Urbanism are:

- All development should be in the form of compact, walkable neighborhoods and/or districts. Such places should have clearly defined centers and edges. The center should include a public space - such as a square, green or an important street intersection - and public buildings - such as a library, church or community center, a transit stop and retail businesses.
- Neighborhoods and districts should be compact (typically no more than one quarter mile from center to edge) and detailed to encourage pedestrian activity without excluding automobiles altogether. Streets should be laid out as an interconnected network (usually in a grid or modified grid pattern), forming coherent blocks where building entrances front the street rather than parking lots. Public transit should connect neighborhoods to each other, and the surrounding region.
- A diverse mix of activities (residences, shops, schools, workplaces and parks, etc.) should occur in proximity. Also, a wide spectrum of housing options should enable people of a broad range of incomes, ages, and family types to live within a single neighborhood/district. Large developments featuring a single use or serving a single market segment should be avoided.
- Civic buildings, such as government offices, churches and libraries, should be sited in prominent locations. Open spaces, such as parks, playgrounds, squares, and greenbelts should be provided in convenient locations throughout a neighborhood.

*(Text from the Congress for the New Urbanism: <http://www.cnu.org>)*

### **How can I get more information?**

For more information, please contact:

Jim Kennedy

Redevelopment Director  
Contra Costa County  
651 Pine Street, 4<sup>th</sup> Floor, North Wing  
Martinez, CA 94553

phone: (925) 335-1275

fax: (925) 335-1265

email: [jkenn@cd.co.contra-costa.ca.us](mailto:jkenn@cd.co.contra-costa.ca.us)

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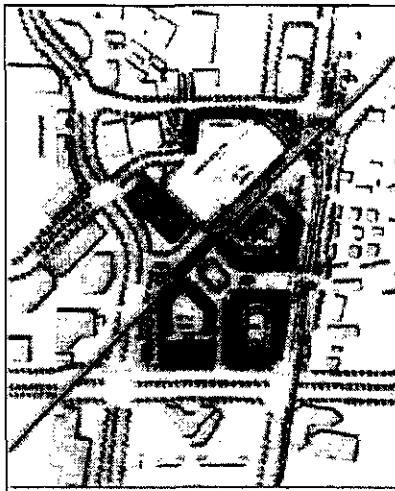
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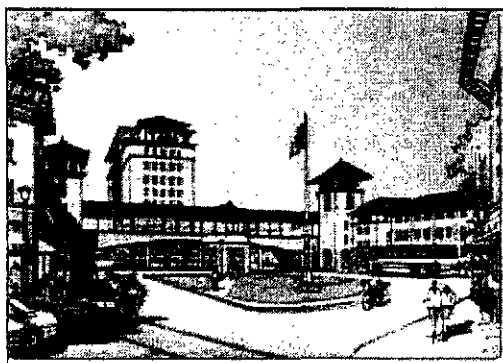
### **Pleasant Hill BART Station, Contra Costa County, California**

In February 2001, LCA Town Planning & Architecture led a seven-day Design Charrette in Contra Costa County, California. Focused on the Bay Area Rapid Transit property at the Pleasant Hill Station, this is the region's first transit-oriented development project. The Charrette was attended by community members who would potentially be affected by the new development, including neighborhood residents, BART users, local business owners, government agencies, citizen leaders and activists.



[click image to enlarge](#)

The most important issues at the Pleasant Hill BART Station Area Master Plan were: the design of the future development on BART property, vehicle traffic, open spaces and greenways for pedestrians and cyclists, maintained parking capacity for both BART patrons and residents, new services and facilities for area residents, and a mix of uses within the site.



*View of Station Green and redesigned BART station*

The LCA team's design includes a large public plaza adjacent to the BART Station, surrounded by ground-floor retail and offices, with townhomes facing the Iron Horse Regional Bike Trail and Mt. Diablo on the horizon. The County is currently negotiating with developers on the construction of a first phase of three 12-story buildings that include offices, housing, retail and civic uses.

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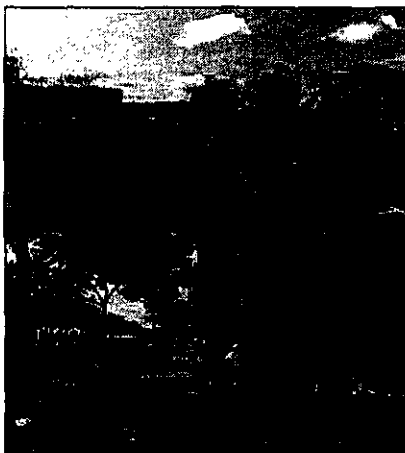
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[Sustainability](#)

[Who We Are](#)  
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
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*Before and After  
Rendering 1*  
click image to enlarge



*Before and After Rendering 2*  
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321 SW 4th Avenue, Suite 800 | Portland, OR 97204 | P: 503-228-9240 | F: 503-228-2010

**Location:** City-wide Ordinance

**Proposal:** **Planned Development Zoning District Procedure Ordinance.**

Planning Commission consideration of the zoning text amendment to add a Planned Development Zoning District (PDZD) Procedure as Oakland Planning Code Chapter 17.139

**Applicant:** Planning Division

**Case File** ZS04-217

**Number:**

**General Plan:** The proposed PDZD would apply city-wide.

**Zoning:** The proposed PDZD would apply to various zoning districts city-wide.

**Environmental Determination:** The adoption of a Planned Development Zoning District Procedure Ordinance has been found not to be subject to CEQA since (1) it is exempt from environmental review under the "general rule" (Guidelines section 15061(b)(3) – no possibility of significant environmental impact) and (2) adoption of the ordinance is not a "project" since there is no possibility that the ordinance will produce a significant impact on the environment (Guidelines section 15378).

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**Service Delivery District:** City-wide.

**City Council District:** City-wide.

**Status:** An application to establish a Planned Development Zoning District Procedure Ordinance has been submitted by the Development Director.

**Action to be Taken:** The Planning Commission will take public testimony concerning the PDZD Procedure, review and consider the proposal and make a recommendation to the City Council. Final action to adopt the amendment rests with the City Council.

**For further information:** Contact: Development Director Claudia Cappio at 510 238-2229; email: ccappio@oaklandnet.com

## SUMMARY

The Planning Division has drafted, for Planning Commission consideration, an enabling ordinance which authorizes a process to establish site specific Planned Development Zoning Districts (PDZD) to be applied to unique, site specific areas within the City of Oakland. This ordinance creates a process which will allow the City to apply specially drafted zoning regulations to facilitate well-planned and integrated residential, commercial and mixed-use communities. Once this enabling ordinance is adopted, re-zoning to a site specific PDZD could

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be initiated by either the City Council or private property land-owners and must be approved by the City Council, after appropriate environmental review is conducted. Once a specific area is rezoned to a PDZD, future development cannot occur without submittal and approval of Preliminary and Final Development Plans by the City Planning Commission, or, on appeal, the City Council. Existing Planned Unit Development regulations (Oakland Planning Code Chapters 17.122 and 17.140) will remain in place. The proposal now before the Commission represents an additional land use planning tool for large scale developments that include unique physical or environmental characteristics. Adoption of this enabling ordinance does not commit the City to rezone any specific property nor authorize any development; rather, it merely establishes a detailed process and set of requirements to consider such in the future. This enabling legislation is thus similar in purpose to other existing "procedural" regulations, such as the Development Agreement Procedures (Oakland Planning Code Chapter 17.138), Planned Unit Development Procedures (Chapter 17.140), and Rezoning and Law Change Procedures (Chapter 17.144).

### **Purposes of the Planned Development Zoning District**

The purposes of the Planned Development Zoning District ("PDZD" or "District") are to:

- A. Promote and encourage comprehensive, phased planning for large areas over a multi-year period by designing the site as a whole, rather than incrementally thereby providing certainty to developers of sites which may contain one or more challenging physical or other characteristics.
- B. Ensure that each phase of the multi-year development is compatible with and integrated into each of the past and future phases of such development, through the legislative enactment of development standards and regulations.
- C. Establish a mechanism to fund public infrastructure necessary for the development over a defined period of time.
- D. Encourage innovative design and use of large areas of property which may contain unique characteristics such as environmentally sensitive areas; underutilized features; and historically significant uses.
- E. Provide the City with flexibility to establish appropriate zoning ordinance standards and provisions for the development of areas logically related to one another while including sufficient controls to achieve the goals and objectives of the General Plan and any other City adopted plans or policies that apply to the property.
- F. To alert individuals seeking to develop property within a PDZD of the requirement to prepare a Preliminary Development Plan consistent with the zoning of the PDZD.
- G. To enable the City Council to confirm the district-wide development requirements and standards by ordinance, thereby providing confirmation of applicable planning policies and objectives.

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The text of the PDZD Ordinance notes the intent of the City Council that integrated development in the City may be achieved either by establishment of a Planned Development Zoning District through rezoning, or through the issuance of Planned Unit Development Permit, pursuant to Chapters 17.122 and 17.140.

### **Content of the Planned Development Zoning District Procedure Ordinance**

The draft PDZD Ordinance attached to this Staff Report outlines information and criteria in the following categories that must be submitted by applicants when requesting rezoning of specific property to a PDZD:

- Land Use Regulations
- Property Development Standards
- Application Criteria
- Procedure for Rezoning Property to PDZD
- Required Maps, Plans, and Studies Rezoning to PDZD
- Required Graphics for Rezoning to PDZD
- Proposed Development Standards for PDZD
- Proposed Design Guidelines for PDZD
- PDZD Application - Approval Procedures
- Required Findings for PDZD Approval
- Preliminary Development Plan – Submittal, Contents and Approval
- Final Development Plan – Submittal, Contents and Approval
- Appeal Procedures; Modifications
- Final Development Plan Final Design Review
- Enforcement

### **Planned Development Zoning District Overview**

A re-zoning to PDZD allows for the development of one or more parcels in a distinct, mixed-use, residential or commercial project, in accordance with an overall concept plan. Development within the PDZD would likely occur in phases over a multi-year period and require the



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construction of public and private improvements (including, but not limited to, roadways, sidewalks, infrastructure, public services and utilities, both on and off site). The PDZD Ordinance establishes a threshold for a District of (1) two (2) acres; or (2) five hundred (500) residential units; or (3) five hundred thousand (500,000) square feet of commercial space; or (4) five hundred thousand (500,000) square feet of mixed uses.

The site specific PDZD zoning approval would establish an exclusive list of allowable land uses for the development (that must not be prohibited by the Planning Code), and whether such uses are permitted or permitted with a conditional use permit. In addition, the PDZD zoning would set forth property development standards for the area to which the zoning has been applied and these standards would supersede standards in the zoning ordinance that would otherwise apply to the allowed uses.

Required maps, plans, and studies for site specific PDZD include provision of a district map, site context map, land use program, and a public services and facilities map. In addition, a preliminary environmental and biological assessment is required along with an initial traffic study, geological and hydrological assessment and topographic map. A preliminary phasing plan and preliminary public facilities financing plan are also required. District planning improvements would also likely include the development of parks and open space, and the treatment of hardscape areas in public plazas and gathering places. After approval of the PDZD, development within the District could also require General Plan Amendments, Tentative Tract Maps, and use permits or other discretionary approvals, in accordance with standard City procedures, such as notice, public input, decision, and appeal. Development within the PDZD must be consistent with an approved a Preliminary and Final Development Plan for the District.

#### *Development within PDZD*

A PDZD would provide an overall site specific planning framework and set of development standards. Approval of a PDZD requires that a comprehensive and cohesive plan would be developed for a distinct land area taking into account the need for substantial infrastructure improvements and the contemplated phasing of development over an extended time period. In order to foster comprehensive planning development in the City an application for a proposed PDZD may contain one or more land use areas.

The standards and process requirements for the establishment of a PDZD would be similar to the current requirements related to the creation of a Planned Unit Development (PUD). Review and approval would be required for a Preliminary Development Plan (PDP) and a Final Development Plan (FDP), setting forth standards for the District and providing details on site development infrastructure, utilities, roadways, buildings, design of buildings, landscaping and open space.

The key differences between a planned unit development and a planned district zone are that the PDZD establishes legislative policy regarding the appropriate land use for a large piece of land whereas the planned unit development permit is a project-specific entitlement; the PDZD would be implemented over a multi-year period in phases whereas the planned unit development is a shorter-term project; and the flexibility of the District allows for the development of a

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comprehensive, integrated development plan that would not be possible within the context of the zoning ordinance's existing development standards. As an example, the City's PUD process now allows exemptions from only certain development standards; variation from other standards also requires a variance. For the Leona Quarry Project, side yard standards fell within the exemption but retaining wall height required a variance. If the PDZD process were applied, all the development standards would be drafted specific to the site and no variance procedure would be required. Although some of these site specific standards may be similar to the surrounding zoning, the framework for development would be flexible to allow as much variation as necessary to assure an integrated, comprehensive project.

Practically, the development standards and requirements of a PDZD would be applied like the standards in any zone. The key difference would be that the standards and requirements would be tailored to the development being contemplated, the physical characteristics and constraints of the land area under review, and other relevant factors. This tool allows for flexibility and provides the City with another way to further the goals and policies of the General Plan.

#### *Preliminary and Final Development Plan*

A Final Development Plan will guide development within the District. All development within the District must be consistent with the Final Development Plan. A Preliminary Development Plan would define and establish the schematic basis for planning, design, circulation, infrastructure and other major development standards and requirements for the District. This process would involve review of preliminary grading plans, public improvement plans, land use plans, subdivision maps, the overall height, bulk and massing of building envelopes, density and building intensity and other important information such as environmental constraints within the District. A more site specific Final Development Plan (FDP) would be prepared and submitted for approval as portions of a development reach the final design phase. The FDP would include final site infrastructure and grading plans, building plans and elevations, including height, massing and architectural elements, and landscape design and specifications. The PDZD would also allow the PDP and FDP processes to be combined in one submittal.

The ordinance requires a professional design team consisting of a registered civil engineer, licensed architect, planner or licensed building designer, and other such qualified professionals that the City may determine appropriate, to prepare the PDP and FDP. Other actions instituted as part of a PDZD application (such as preparation of a subdivision map, lot line adjustment, and/or a conditional use permit) may also be submitted concurrently with a Preliminary Development Plan application.

#### *Zoning Amendment*

A proposal to establish a site specific PDZD is an application to rezone a project area for development. Approval of rezoning would require action by the Planning Commission with final action by the City Council and subject to appropriate environmental review.

#### *Design Review*

Design guidelines will be approved as part of the approval of the PDZD. Similar to the existing PUD ordinance, once a Final Development Plan was approved, no further design review approvals would be required, except if major amendments to the building designs were submitted.

Required Fees

As part of the PDZD application process fees required per Oakland's Master Fee Schedule shall be submitted at the time of applications for the rezoning to the PDZD and the Preliminary and/or Final Development Plans and/or other planning and subdivision approvals.

**PROBABLE ENVIRONMENTAL EFFECTS**

The adoption of this enabling PDZD Procedure ordinance is not subject to CEQA because there is no possibility that adoption of the ordinance will result in a significant impact on the environment. First, under the general rule (Guidelines section 15061(b)(3)), there is no possibility of a significant environmental impact. Second, action by a public agency is a "project" subject to CEQA only if the action might result in a physical change in the environment. An action that produces no physical change to the environment is not subject to CEQA. The adoption of the PDZD enabling legislation is not necessarily a first step in development and will not necessarily result in a change in the physical environment. Adoption of the PDZD Procedure Ordinance merely adds a land use tool that can, but might not be, used to facilitate development, which can be otherwise undertaken under existing land use regulations. (See Section 15378 of the CEQA Guidelines; and City of Agoura Hills v. Local Agency Formation Commission.) For example, applicants can currently request a PUD permit, a rezoning, or development of a specific plan for an area. This PDZD ordinance creates an alternative vehicle to achieve such, through a detailed process and set of requirements that must be followed. However, it should be noted that the proposal to rezone a specific area to a specific PDZD zone is a "project for purposes of CEQA and such may be approved by the City Council only after completion of appropriate environmental review.

**RECOMMENDED COMMISSION ACTION:**

- 1) Take public testimony concerning the proposed Planned Development Zoning District Procedure Ordinance.
- 2) Consider the Planned Development Zoning District Procedure Ordinance and provide comments pertaining to planning, policy, environmental or other issues.
- 3) Recommend that the City Council adopt the PDZD Procedure Ordinance, as it may be *modified by the Planning Commission*, because it would be in the public interest to provide an additional development tool to effectively implement large scale developments through a comprehensive, integrated zoning mechanism. In this way,

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the City would be able to use this approach, if desired and if appropriate, to further the goals and objectives of the General Plan

Respectfully Submitted by,



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CLAUDIA CAPPIO  
Development Director

*Attachments:*

Draft Planned Development Zoning District (PDZD) Procedure Ordinance

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COMMUNITY & ECONOMIC  
DEVELOPMENT CMTE  
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