

CITY OF OAKLAND
AGENDA REPORT

2009 JUL -2 PM 7:16

TO: Office of the City Administrator
ATTN: Dan Lindheim
FROM: Community and Economic Development Agency
DATE: July 7, 2009

RE: A Supplemental Report Regarding a Public Hearing, Report and Ordinance, Recommended by the Planning Commission, to: (a) Amend the Planning Code to Create Four New Zones for the Central Business District and Make Related Text Amendments; (b) Amend the Zoning Maps to Include the New Central Business District Zones and Height/Bulk/Intensity Areas for the Central Business District; and (c) Amend the Document "Guidelines For Determining Project Conformity with the General Plan and Zoning Regulations" To Reflect the Above Changes

SUMMARY

On June 23, 2009, the CED Committee voted three in favor and one abstention to forward the proposed ordinance to the City Council with these changes and requirements:

- The committee asked staff to provide a timeframe for when they will present proposed findings for the demolition of historic properties and proposed view corridor regulations for the Central Business District to the CED Committee.
- Remove the site of the proposed project located at 1443 Alice Street (see *Attachment A*) from the rezoning proposal (this site includes two separate tax parcels: 1443 Alice Street and 1434 Harrison Street).
- Remove the site of the project located at 222 19th Street (see *Attachment A*) from the rezoning proposal.

KEY ISSUES AND IMPACTS

Staff supports the CED Committee recommendation to complete work on view corridors and demolition findings as soon as possible. Work has begun on demolition findings and should be to Council before the end of the calendar year. The view corridor requirements will take longer than the demolition findings because they require more research. We expect the view corridors will be at Council for adoption by the end of this fiscal year, June 2010. These dates may change depending on factors that staff cannot control such as the number of hearings required by the Zoning Update Committee, Landmarks Board, and/or the Planning Commission.

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Until these proposals are adopted, staff will evaluate the view and historic resource impacts of new development through the analysis required by CEQA.

Removing the 1443 Alice Street and 222 19th Street sites from the proposal would require the following:

- Amending Exhibit A of the Ordinance by reinstating the C-55 Central Core Commercial Zone (Chapter 17.62) and the R-90 Downtown Apartment Residential Zone (Chapter 17.32) into the proposed text amendments to the Planning Code;
- Amending Exhibit B (the proposed zoning map) and Exhibit C (the proposed height map) to retain the zoning designations that currently apply to the two subject sites. This would require amending these maps to designate:
 - The C-55 Central Core Commercial Zone and S-17 Residential Open Space Combining Zone to 1434 Harrison Street (the Planning Commission's recommendation for this site is the CBD-C zone and Height Area 5);
 - The R-90 Downtown Apartment Residential Zone and S-17 Residential Open Space Combining Zone to 1443 Alice Street (the Planning Commission's recommendation for this site is the CBD-C zone and Height Area 2); and
 - The R-90 Downtown Apartment Residential Zone, S-4 Design Review Combining Zone, and S-17 Residential Open Space Combining Zone to 222 19th Street (the Planning Commission's recommendation for this site is the CBD-R zone and Height Area 4).
- Amending Exhibit D of the Ordinance so that the "Guidelines for Determining Project Conformity with the General Plan and Zoning Designations" remain applicable to the two subject development sites.

If introduced, the detailed revisions to the ordinance, which reflect the above, will be presented by staff in a supplemental report for the second reading of the proposal.

Analysis

The CED Committee recommended that the 1443 Alice Street and 222 19th Street sites be excluded from the rezoning out of concern that any statement of future zoning would prejudice the City's evaluation of the current development proposals at these sites. At prior Planning Commission hearings this possibility was discussed and the Planning Commission stated, on the record, that they would consider the projects on their merits with no regard to any new zoning designations at the sites. The Planning Commission further recommended that existing development proposals with complete applications, including those at 1443 Alice Street and 222 19th Street, be allowed to continue under the existing zoning regulations. This continues the City's past practice of exempting complete applications from changes to zoning regulations. Section 6 of the ordinance proposed to the CED Committee codifies this by stating that the new

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regulations would not apply to “zoning applications deemed complete by the City as of the date of final passage” of the ordinance.

Staff believes that the proposed language in Section 6 adequately protects the current projects. Staff is concerned that following the CED Committee recommendation by excluding the project sites from the proposal would set a precedent for future rezoning efforts that could have adverse effects on zoning consistency. Exempting these specific sites would also create the following issues:

- The sites would become an ongoing administrative problem by requiring the City to closely monitor the status of their development applications;
- The City would be required to rezone the sites as soon as the current projects are either adjudicated or terminated;
- The proposal would create a discontinuity between the development rules for these small areas and the rest of downtown; and
- Staff does not know of any other comprehensive rezoning proposal in Oakland that excluded specific project sites.

As mentioned, the current base zoning for the sites are R-90 for the 222 19th Street site and R-90 and C-55 for the 1443 Alice Street properties. A comparison of the building intensity regulations proposed by the Planning Commission and in the current regulations is contained in the following two tables. The second column of each table would be the regulations applied under the CED Committee recommendation and the third column would be the regulations applied under the Planning Commission recommendation.

222 19th Street Development Proposal: Comparison of Current Intensity Regulations and Planning Commission Recommended Regulations

	Current regulations	Planning Commission recommended proposal
Height maximum	No Height Limit	275 feet ¹
Floor Area Ratio (FAR) maximum	7.7 (20.0 ²)	14.0
Maximum density	One unit per 127.5 square feet of lot area for a regular dwelling unit ³	One unit per 90 square feet of lot area
¹ The maximum height of the base of a building is 85 feet; a building can reach this maximum height with a reduction in bulk above the base. ² The maximum FAR of 7.0 allowed for the site in the R-90 zone may be increased to 20.0 upon the granting of an interim conditional use permit through the process defined in the document “Guidelines for Determining Project Conformity with the General Plan and Zoning Regulations”. FAR is total floor area on a lot divided by the lot area. ³ These maximum density requirements may be increased to one unit per 89 square feet of lot area upon the granting of an interim conditional use permit.		

1443 Alice Street Development Proposal: Comparison of Current Intensity Regulations and Planning Commission Recommended Regulations

	Current regulations	Planning Commission recommended proposal	
		1443 Alice St. side of the proposal	1434 Harrison St. side of the proposal
Height maximum	No Height Maximum	85 feet	400 feet ¹
Floor Area Ratio (FAR) maximum	7.0 (20 ²)	6.0	17.0
Maximum density	One unit per 150 square feet of lot area for a regular dwelling unit ³	One unit per 200 square feet of lot area	One unit per 90 square feet of lot area
¹ The maximum height of the base of a building is 85 feet; a building can reach this maximum height with a reduction in bulk above the base. ² The maximum FAR of 7.0 allowed for the site in the R-90 zone may be increased to 20.0 upon the granting of an interim conditional use permit through the process defined in the document "Guidelines for Determining Project Conformity with the General Plan and Zoning Regulations". FAR is total floor area on a lot divided by the lot area. ³ These maximum density requirements may be increased to one unit per 89 square feet of lot area upon the granting of an interim conditional use permit.			

ACTION REQUESTED OF THE CITY COUNCIL

Staff recommends that the City Council adopt an ordinance that contains the recommendations made by staff to the CED Committee at their June 23, 2009 meeting, which **includes** the two subject parcels. This includes:

1. Adding a new Oakland Planning Code Chapter 17.58 "Central Business District Zones Regulations" that creates the following four new zones: "Central Business District Residential Zone", "Central Business District Pedestrian Retail Commercial Zone", "Central Business District General Commercial Zone", and "Central Business District Mixed Commercial Zone";
2. Making amendments to the Planning Code related to the creation of the new zones.
3. Amending the City's zoning maps to apply these zones and height/bulk/intensity areas in the part of the City that is currently classified "Central Business District" on the LUTE land use map;
4. Amending the document "Guidelines for Determining Project Conformity with the General Plan and Zoning Regulations" to reflect the creation of the new zones;
5. Future development of a view corridor analysis for the CBD and new findings required for the demolition of historic resources.

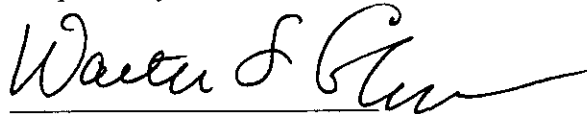
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ALTERNATIVE ACTION

The City Council could adopt the CED Committee motion (**to exclude** the two subject parcels), which includes:

1. Adding a new Oakland Planning Code Chapter 17.58 "Central Business District Zones Regulations" that creates the following four new zones: "Central Business District Residential Zone", "Central Business District Pedestrian Retail Commercial Zone", "Central Business District General Commercial Zone", and "Central Business District Mixed Commercial Zone";
2. Making amendments to the Planning Code related to the creation of the new zones.
3. Amending the City's zoning maps to apply these zones and height/bulk/intensity areas in the part of the City that is currently classified "Central Business District" on the LUTE land use map, **excluding** 1443 Alice Street and 222 19th Street;
4. Amending the document "Guidelines for Determining Project Conformity with the General Plan and Zoning Regulations" to reflect the creation of the new zones; and
5. Future development of a view corridor analysis for the CBD and new findings required for the demolition of historic resources.

Respectfully submitted,

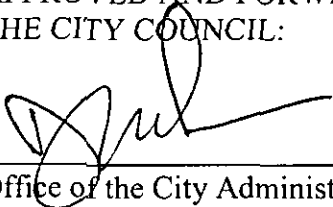


Walter S. Cohen, Director
Community and Economic Development Agency

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Prepared by:
Neil Gray, Planner III
Planning and Zoning/Strategic Planning

APPROVED AND FORWARDED TO
THE CITY COUNCIL:



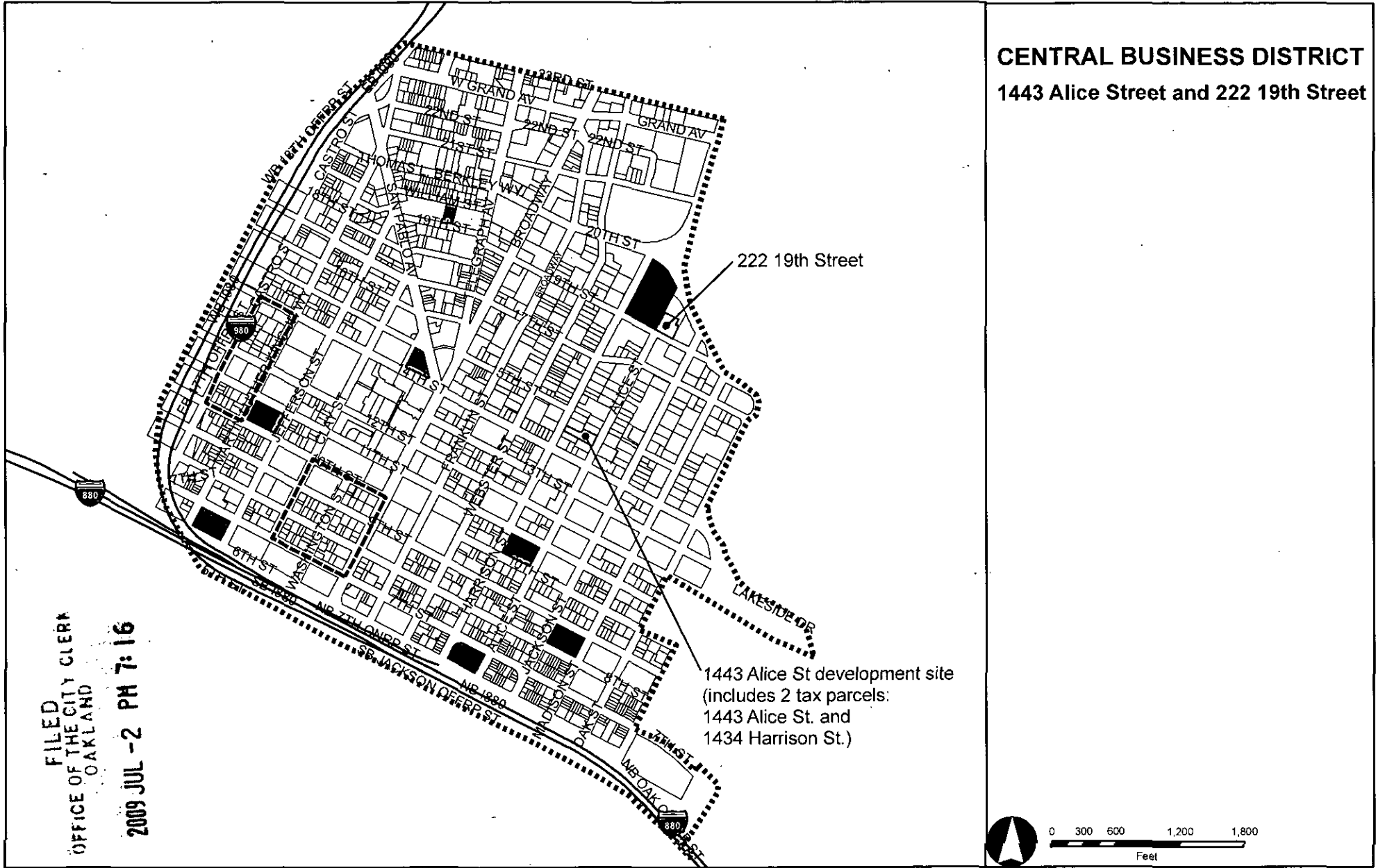
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Attachments:

A. Map of subject development sites.

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Attachment A



CENTRAL BUSINESS DISTRICT 1443 Alice Street and 222 19th Street

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OAKLAND
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1443 Alice St development site
(includes 2 tax parcels:
1443 Alice St. and
1434 Harrison St.)

222 19th Street

