

CITY OF OAKLAND

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OF THE CITY CLERK
OAKLAND

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AGENDA REPORT

TO: Sabrina B. Landreth
City Administrator

FROM: William Gilchrist
Director, PBD

SUBJECT: Rezoning of 4432-4434 and 4444
Telegraph Avenue

DATE: December 18, 2017

City Administrator Approval

Date:

1/11/18

RECOMMENDATION

Staff Recommends That The City Council Conduct A Public Hearing And Upon Conclusion, Consider Adopting, As Recommended By The Oakland City Planning Commission:

- 1) **An Ordinance To Rezone Portions Of Two Parcels Located At 4432-4434 And 4444 Telegraph Avenue From The RM-1 Mixed Housing Type Residential Zone To The CN-2 Neighborhood Center Zone; And**
- 2) **Related California Environmental Quality Act (CEQA) Findings.**

EXECUTIVE SUMMARY

This proposal is to rezone portions of two parcels located at 4432-4434 and 4444 Telegraph Avenue from the RM-1 Mixed Housing Type Residential Zone (RM-1 Zone) to the CN-2 Neighborhood Center Zone (CN-2 Zone). The rezoning would occur for a 25 – 35 foot portion at the rear of the parcels. The purpose of the rezoning is to eliminate the Zoning boundary running through the parcels and existing building, and create a uniform line that follows the rear property lines such that consistent Zoning regulations would apply to the entire property.

On November 1, 2017, the Planning Commission conducted a public hearing. The Planning Commission heard public comment and voted 7-0 to recommend that the City Council adopt the California Environmental Quality Act (CEQA) findings and approve the rezoning, subject to the findings and conditions of approval (**Attachment A**).

BACKGROUND / LEGISLATIVE HISTORY

Property and Site Descriptions

The subject properties are located at 4432-4434 and 4444 Telegraph Avenue between 44th and 45th Streets. The parcel located at 4432-4434 Telegraph is an interior lot with an L-shape that also fronts onto 44th Street. The parcel located at 4444 Telegraph Avenue is a corner lot with frontage on Telegraph Avenue and 45th Street. Both parcels are commercial properties with

Item: _____
CED Committee
January 23, 2018

available parking on 4444 Telegraph Avenue. Adjacent to the site to the east is an AT&T central office substation at 479-45th Street, and a single-family dwelling at 492-44th Street.

2011 Zoning Update

Prior to 2011, the subject sites were zoned C-28 Commercial Shopping District Zone with the rear portions located in the R-35 Zone Special One-Family Residential Zone. The Zoning boundary, at that time, still bisected the lots, but seemed to follow the rear of the building located at 4432-4434 Telegraph Avenue.

In 2011, the City Council adopted new Zoning districts for most of the City to conform to the Land Use and Transportation Element (LUTE) of the Oakland General Plan. As part of Oakland's Zoning update effort, extensive field work was conducted as part of the mapping process. The result was generally a much finer-grained Zoning map and new Zoning text that considered what was occurring "on the ground" and parcel-specific Zoning. As part of this effort, staff in some cases did change the Zoning maps to eliminate Zoning boundaries through parcels.

Current Zoning

Most of the parcels are in the CN-2 Zone; however, the rear 25-35 feet is in RM-1 Zone (**Attachment B**). On 4432-4434 Telegraph Avenue, the current Zoning boundary bisects an existing commercial building, ignores the "flag" portion of the lot, and retains the residential Zoning at the rear of the parcel adjacent to the AT&T switching station. More specifically, 4,620 square feet or 40 percent of the 11,445 square foot parcel is in the RM-1 Zone. The other parcel located at 4444 Telegraph Avenue is also bisected by the Zoning boundary and abuts the AT&T switching station at the rear. Of the 7,400 square foot lot, 1,801.25 square feet or 24 percent is in the RM-1 Zone.

Section 17.154.060 of the Planning Code permits the owner of a lot to assume that all the regulations applying in any Zone covering 50 percent or more of the lot area apply to the entire lot. However, this option cannot apply to the two Telegraph Avenue parcels unless the entire lot of land is included in such Zone by the shifting of the affected zone boundary by no more than 30 feet. In this case, the Zoning boundary would need to move an additional five feet for the parcels to be considered under one Zone.

ANALYSIS AND POLICY ALTERNATIVES

The project applicant submitted a proposal to rezone a 25 – 35 foot portion at the rear of parcels located at 4432-4434 and 4444 Telegraph Avenue from the RM-1 Zone to the CN-2 Zone (**Attachment C**). The Zoning adjustment would 1) create uniform Zoning that follows the rear property lines, 2) reflect the fact that all parcels front onto a major arterial, 3) acknowledge the major Essential Service Activity located at the rear of one of the parcels, 4) provide for an existing building to be one Zone, and 5) address the "flag" portion of the interior lot. Staff is supportive of the rezoning proposal for the reasons noted above.

The City Council has one alternative in considering the rezoning action as noted below.

<i>Alternative # 1: Take No Action</i>	This alternative would result in no action on the rezoning by the City Council. The parcels and existing building would remain bisected by the Zoning boundary and both the RM-1 and CN-2 Zoning would apply.
<i>Pro to Approving Project</i>	As noted below in the <i>Fiscal Impact</i> section, taking no action on the proposal could potentially reduce the positive fiscal impact of the parcels being under one consistent Zoning.
<i>Cons/Reasons for Rejecting Alternative #1</i>	Taking no action would result in two lots continuing to have split Zoning when all other parcels fronting Telegraph Avenue between 40th and 51st Street have one Zoning boundary along the rear property line. In addition, inaction would result in a hardship for the existing owner as the uses in the existing building would be subject to both the residential and commercial Zoning regulations. Specifically, in the RM-1 Zone, commercial uses are already limited, and uses that may be allowed must be granted by a Conditional Use Permit.

FISCAL IMPACT

The rezoning does not request or require public funds, and approval would result in no direct costs to the City. Furthermore, it is possible that the rezoning could result in a positive fiscal impact as the parcels and existing buildings will be subject to one set of Zoning regulations.

PUBLIC OUTREACH / INTEREST

Notice of the Planning Commission meeting regarding the rezoning was publicly noticed at the site; sent to all properties owners within a 300-foot radius of the site; sent to all interested CEQA parties; and placed in the local newspaper (***Attachment D***). The project was considered at a public hearing before the Planning Commission on November 1, 2017. Staff received one comment in opposition to the rezoning (***Attachment E***). This comment included concerns regarding solar access and shadows, privacy, and the size and possible impacts of a future development on the site.

COORDINATION

Several City departments were consulted in the preparation of this report including the Planning and Building Department, the City Administrator's Office, the Controller's Bureau, and the Office of the City Attorney.

SUSTAINABLE OPPORTUNITIES

Economic: The rezoning will likely result in a positive fiscal impact as the parcels and existing buildings will be subject to one set of Zoning regulations.

Environmental: The proposed rezoning meets the intent of the CN-2 Neighborhood Center Commercial Zone, which encourages commercial uses that contribute to a vibrant pedestrian environment. Larger parcels all subject to one Zone would best accommodate this intent.

Social Equity: The proposed rezoning would result in lots fronting Telegraph Avenue that are entirely located within one Zone and along the rear property line in the same manner as every other Telegraph Avenue fronting parcel between 40th and 51st Street.

CEQA

The proposal relies on the previously certified Final Environmental Impact Report (EIR) for the LUTE (1998). On a separate and independent basis, the proposal is also exempt from CEQA pursuant to CEQA Guidelines Section 15183: "Projects Consistent with a Community Plan, General Plan or Zoning".

ACTION REQUESTED OF THE CITY COUNCIL

Staff recommends that the City Council take public testimony, close the public hearing, and adopt, as recommended by the Oakland City Planning Commission:

1) An Ordinance to rezone portions of two parcels located at 4432-4434 and 4444 Telegraph Avenue from the RM-1 Mixed Housing Type Residential Zone to the CN-2 Neighborhood Center Zone and adopting related CEQA findings.

For questions regarding this report, please contact Michael Bradley, Planner II at (510) 238-6935.

Respectfully submitted,



William Gilchrist
Director, Department of Planning and Building

Reviewed by:
Darin Ranelletti, Deputy Director
Bureau of Planning

Prepared by:
Michael Bradley, Planner II
Bureau of Planning

Attachments (5):

- A: *November 1, 2017 Planning Commission Staff Report including Findings for Approval and Conditions of Approval (without attachments)*
- B: *Site Maps*
- C: *Applicant Summary and Context Photographs*
- D: *Public Notices*
- E: *Public Comment*

Location: 4432 - 4444 Telegraph Avenue (See map on reverse)

Assessor's Parcel Number: APN: 013-1099-025-01 & 013-1099-028-00

Proposal: To adjust the Zoning boundary approximately 25-35 feet to the boundary of the parcels to conform the Zoning with the majority of the parcels.

Applicant: Randall Reed
Contact Person/ Randall Reed
Phone Number: (510)715-0521

Owner: Ronald Reed TR & Randall R Reed & L Williams, The Salk Trust

Case File Number: PLN17404

Planning Permits Required: Rezoning from RM-1 Mixed Housing Type Zone to CN-2 Neighborhood Center Zone.

General Plan: Neighborhood Center Mixed Use and Mixed Housing Type Residential
Zoning: CN-2 Neighborhood Center Zone and RM-1 Mixed Housing Type Residential Zone

Environmental Determination: The proposal relies on the previously certified Final Environmental Impact Report (EIR) for the Land Use and Transportation Element of the General Plan (1998). On a separate and independent basis, the proposal is also exempt from CEQA pursuant to CEQA Guidelines Section 15183 "Projects Consistent with a Community Plan, General Plan or Zoning".

Historic Status: Not a Potential Designated Historic Property; Survey Rating: Ec3

City Council District: 1

Date Filed: 7/19/17

Action to be Taken: Receive public comments and (1) recommend to the City Council adoption of staff's environmental determination; and (2) recommend to the City Council approval of the rezoning.

Finality of Decision: All the Planning Commission's recommendations related to the environmental determination and the project will automatically be considered by the City Council at a later date, for its independent review, consideration, and final action, and thus no appeal of these actions is necessary. However, all interested parties must exhaust their administrative remedies by raising any and all issues and/or evidence at this public hearing or in a writing received by the Project Planner no later than 4:00 p.m. on November 1, 2017.

For Further Information: Contact case planner **Michael Bradley** at (510) 238-6935 or mbradley@oaklandnet.com

CITY OF OAKLAND PLANNING COMMISSION



Case File: PLN17404
Applicant: Randall Reed
Address: 4432 & 4444 Telegraph Avenue
Zone: CN-2, RM-1

SUMMARY

This proposal is to rezone portions of two parcels located at 4432, 4434, and 4444 Telegraph Avenue from the RM-1 Mixed Housing Type Residential Zone to the CN-2 Neighborhood Center Zone. The rezoning would occur for a 25-35 foot portion at the rear of the parcels. The purpose of the Zoning adjustment is to eliminate the Zoning boundary running through the parcels and create a uniform line that follows the rear property lines such that consistent zoning regulations would apply to the entire property.

Staff recommends that the Planning Commission review and consider taking the following actions: (1) recommend to the City Council, adoption of staff's environmental determination; and (2) recommend to the City Council, approval of the Rezoning.

PROPERTY AND SITE DESCRIPTIONS

The subject properties are 4432-4434 and 4444 Telegraph Avenue between 44th and 45th Streets (*Attachment A*). The parcel located at 4432-4434 Telegraph is an interior lot with an L-shape that also fronts onto to 44th Street. The parcel located at 4444 Telegraph Avenue is a corner lot with frontage of Telegraph Avenue and 45th Street. Both parcels are commercial properties with available parking on 4444 Telegraph Avenue. Adjacent to the site to the east is an AT&T central office substation at 479-45th Street and a single-family dwelling at 492-44th Street (*Attachment B*).

GENERAL PLAN ANALYSIS

The subject parcels are primarily located in the Neighborhood Center Mixed Use classification of the Land Use and Transportation Element (LUTE) of the General Plan. However, a small portion at the rear of 4432-4434 and 4444 Telegraph is located within the Mixed Housing Type Residential classification. The Neighborhood Center Mixed Use classification is intended to identify, create, maintain, and mixed use neighborhood commercial centers. These centers are typically characterized by smaller scale pedestrian-oriented, continuous street frontage with a mix of retail, housing, office, active open space, eating and drinking places, personal and business services, and smaller scale educational, cultural, or entertainment uses. The Mixed Housing Type classification is intended to create, maintain, and enhance residential areas typically located near the City's major arterials and characterized by a mix of single family homes, townhouses, small multi-unit buildings, and neighborhood businesses where appropriate.

This proposal would not alter the General Plan land use classifications or the Land Use Diagram for the site but would Rezone the parcels, as further discussed below in the *Zoning Analysis* section of the report. As has been acknowledged by the City (and the courts), General Plan land use diagrams are intended to be diagrammatic, rarely reflect parcel specific conditions and often do not run exactly with the property boundaries. Specifically, the 1998 Land Use Diagram was drawn in a very "broad brush" manner and was designed to be printed at a small scale, allowing the entire city to fit on an 11" x 17" sheet to be folded and inserted in the back of the Plan document.

The proposal would implement the Neighborhood Center Mixed Use General Plan designation which is consistent with all parcels that front onto Telegraph Avenue, which is a major City arterial.

ZONING ANALYSIS

Prior to 2011, the subject sites were zoned C-28 with the rear portions located in the R-35 Zone. The Zoning boundary, at that time, still bisected the lots, but seemed to follow the rear of the building located at 4432-4434 Telegraph Avenue.

In 2011, the Oakland City Council adopted new Zoning districts for most of the City to conform to the LUTE. As part of Oakland's Zoning update effort, extensive field work was conducted as part of the mapping process. The result was generally a much finer-grained Zoning map and new Zoning text that considered what was occurring "on the ground" and parcel-specific Zoning. As part of this effort, staff in some cases did change the Zoning maps to eliminate Zoning boundaries through parcels.

Currently, the boundary bisects an existing commercial building, ignoring the "flag" portion of one of the lots fronting onto 44th Street, and retaining the residential zoning of the parcel that backs up onto an AT&T switching station. Currently most of the parcels are in the CN-2 Zone; however, the rear 25-35 feet is in RM-1 Zone. Specifically, the parcel located at 4432-4434 Telegraph Avenue is 11,445 square feet in size, with 4,620 square feet in the RM-1 Zone (40%). The parcel located at 4444 Telegraph Avenue is 7,400 square feet in size, with 1,801.25 square feet in the RM-1 Zone (24%).

This proposal is to rezone a 25-35 foot portion at the rear of parcels located at 4432, 4434, and 4444 Telegraph Avenue from the RM-1 Mixed Housing Type Residential Zone to the CN-2 Neighborhood Center Zone. Section 17.154.060 of the Planning Code, permits the owner of a lot to assume that all the regulations applying in any Zone covering fifty percent (50%) or more of the lot area apply to that Zoning to the entire lot. However, this option does not apply unless the entire lot of land could be included in such Zone by shifting the affected zone boundary by not more than thirty (30) feet. In this case, the Zoning boundary would need to move between an additional 5' or 35' to be considered all in one Zone, hence the need for a Rezoning to create consistent zoning across the entire property.

The adjustment of the Zoning would create uniform Zoning that follows the rear property lines and reflects the fact that all parcels front onto a major arterial, and there is a major Essential Service Activity located at the rear of one of the parcels, and provides for the existing building all in one Zone, and accommodates the flag portion of the interior lot.

ENVIRONMENTAL DETERMINATION

The proposal relies on the previously certified Final Environmental Impact Report (EIR) for the Land Use and Transportation Element of the General Plan (1998). On a separate and independent basis, the proposal is also exempt from CEQA pursuant to CEQA Guidelines Section 15183 "Projects Consistent with a Community Plan, General Plan or Zoning".

CONCLUSION

The proposed Rezoning meets the intent of the CN-2 Neighborhood Center Commercial Zone, will further the overall objectives of the General Plan, and is generally compatible with the surrounding area.

RECOMMENDATION FOR PLANNING COMMISSION:

Staff recommends that the Planning Commission:

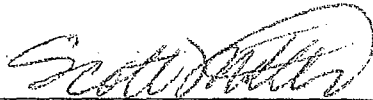
1. Recommend to the City Council, adoption of staff's environmental determination;
2. Recommend to the City Council, approval of the Rezoning from the RM-1 Zone to the CN-2 Zone, subject to the requirements and findings contained in this staff report.

Prepared by:



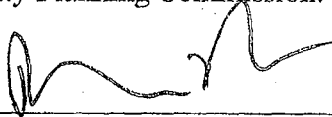
Michael Bradley
Planner II

Reviewed by:



Scott Miller
Zoning Manager

Approved for forwarding to the
City Planning Commission:



Darin Ranelletti, Deputy Director
Bureau of Planning

ATTACHMENTS:

- A. Site Maps
- B. Context Photographs
- C. Applicant Summary
- D. Public Notices

FINDINGS FOR APPROVAL**FINDINGS FOR APPROVAL:**

This proposal meets all the required findings under Section 17.144 Rezoning and Law Change Procedures, as set forth below, and which are required to approve your application. Required findings are shown in **bold type**; reasons your proposal satisfies them are shown in normal type.

SECTION 17.144 REZONING AND LAW CHANGE PROCEDURE FINDINGS:**1. Proper and timely notice regarding the City's intent to rezone the project site was provided in accordance with Section 17.144:**

The City provided newspaper notice of the public hearings by the Planning Commission to consider the rezoning in the Oakland Tribune on October 13, 2017, and provided notice of the proposed action to the entities listed below through public hearings to consider 4432-4444 Telegraph Avenue Rezoning and related actions, which were sent via mail to property owners both within the Project area and up to 300 feet beyond the Project area boundaries, posted along the Project site boundaries, email notices were sent to interested parties and notices were also placed on the Environmental Review and Project page of the City's website.

2. The Commission shall consider whether the existing zone or regulations are inadequate or otherwise contrary to the public interest.

Three parcels are located between 44th and 45th Streets on Telegraph. The parcel at the corner of 45th and Telegraph is mostly located in the CN-2 Zone; however, a portion is in the RM-2 Zone. This parcel could take advantage of Planning Code Section 17.154.060 as the Zoning boundary could be adjusted less than 30' to include the entire lot. Furthermore, major utility (AT&T switching center) is located behind the parcel. The interior parcel is a "flag" with a portion on Telegraph and a portion on 44th Street. This parcel and existing building have been bisected by the Zoning boundaries and could not take advantage of Section 17,154.060 as the boundary would need to move 35' and not 30' to accommodate the entire lot. The third lot at the corner of Telegraph and 44th Street is all in one lot. City staff finds that the existing zones are inadequate and represent a hardship to the owner who must contend with two competing Activity Types (Residential and Commercial) through the length of an existing building. Furthermore, the proposal is contrary to the public interest which is to provide smaller scale pedestrian-oriented, continuous street frontage with a mix commercial and residential uses. Furthermore, the commercial areas directly across the side streets have zoning which follows the property line.

California Environmental Quality Act

The proposed Rezoning is exempt under California Environmental Quality Act (CEQA) Guidelines Section 15183. This Section states that projects that are consistent with the existing general plan policies for which an Environmental Impact Report (EIR) was certified shall not require additional environmental review, except to examine project-specific significant effects that are peculiar to the project. The environmental impacts of any subsequent projects will be evaluated on a case-by-case basis, which is outside the scope of this environmental determination as a Project has not been submitted. The Project will not alter the General Plan land use classifications but instead will provide site-specific zoning

FINDINGS

consistent with the intent of the Neighborhood Center classification, the existing uses, and realities on the parcel.

Furthermore, on a separate and independent basis, potential impacts associated with the Rezoning were considered under previous EIRs. No new impacts are proposed or will occur; therefore, reliance on the previous EIRs satisfies any requirements under CEQA.

FINDINGS

CONDITIONS OF APPROVAL
PLN17404

STANDARD CONDITIONS:

1. Approved Use

The project shall be constructed and operated in accordance with the authorized use as described in the approved application materials, and the approved plans the plans dated **July 19, 2017** and submitted on **July 19, 2017**, as amended by the following conditions of approval and mitigation measures, if applicable (“Conditions of Approval” or “Conditions”).

2. Effective Date, Expiration, Extensions and Extinguishment

This Approval shall become effective immediately, unless the Approval is appealable, in which case the Approval shall become effective in ten calendar days unless an appeal is filed. Unless a different termination date is prescribed, this Approval shall expire **two years** from the Approval date, or from the date of the final decision in the event of an appeal, unless within such period all necessary permits for construction or alteration have been issued, or the authorized activities have commenced in the case of a permit not involving construction or alteration. Upon written request and payment of appropriate fees submitted no later than the expiration date of this Approval, the Director of City Planning or designee may grant a one-year extension of this date, with additional extensions subject to approval by the approving body. Expiration of any necessary building permit or other construction-related permit for this project may invalidate this Approval if said Approval has also expired. If litigation is filed challenging this Approval, or its implementation, then the time period stated above for obtaining necessary permits for construction or alteration and/or commencement of authorized activities is automatically extended for the duration of the litigation.

3. Compliance with Other Requirements

The project applicant shall comply with all other applicable federal, state, regional, and local laws/codes, requirements, regulations, and guidelines, including but not limited to those imposed by the City’s Bureau of Building, Fire Marshal, and Public Works Department. Compliance with other applicable requirements may require changes to the approved use and/or plans. These changes shall be processed in accordance with the procedures contained in Condition #4.

4. Minor and Major Changes

- a. Minor changes to the approved project, plans, Conditions, facilities, or use may be approved administratively by the Director of City Planning
- b. Major changes to the approved project, plans, Conditions, facilities, or use shall be reviewed by the Director of City Planning to determine whether such changes require submittal and approval of a revision to the Approval by the original approving body or a new independent permit/approval. Major revisions shall be reviewed in accordance with the procedures required for the original permit/approval. A new independent permit/approval shall be reviewed in accordance with the procedures required for the new permit/approval.

5. Compliance with Conditions of Approval

- a. The project applicant and property owner, including successors, (collectively referred to hereafter as the “project applicant” or “applicant”) shall be responsible for compliance with all the Conditions of Approval and any recommendations contained in any submitted and approved

CONDITIONS OF APPROVAL

technical report at his/her sole cost and expense, subject to review and approval by the City of Oakland.

- b. The City of Oakland reserves the right at any time during construction to require certification by a licensed professional at the project applicant's expense that the as-built project conforms to all applicable requirements, including but not limited to, approved maximum heights and minimum setbacks. Failure to construct the project in accordance with the Approval may result in remedial reconstruction, permit revocation, permit modification, stop work, permit suspension, or other corrective action.
- c. Violation of any term, Condition, or project description relating to the Approval is unlawful, prohibited, and a violation of the Oakland Municipal Code. The City of Oakland reserves the right to initiate civil and/or criminal enforcement and/or abatement proceedings, or after notice and public hearing, to revoke the Approval or alter these Conditions if it is found that there is violation of any of the Conditions or the provisions of the Planning Code or Municipal Code, or the project operates as or causes a public nuisance. This provision is not intended to, nor does it, limit in any manner whatsoever the ability of the City to take appropriate enforcement actions. The project applicant shall be responsible for paying fees in accordance with the City's Master Fee Schedule for inspections conducted by the City or a City-designated third-party to investigate alleged violations of the Approval or Conditions.

6. **Signed Copy of the Approval/Conditions**

A copy of the Approval letter and Conditions shall be signed by the project applicant, attached to each set of permit plans submitted to the appropriate City agency for the project, and made available for review at the project job site at all times.

7. **Blight/Nuisances**

The project site shall be kept in a blight/nuisance-free condition. Any existing blight or nuisance shall be abated within 60 days of approval, unless an earlier date is specified elsewhere.

8. **Indemnification**

- a. To the maximum extent permitted by law, the project applicant shall defend (with counsel acceptable to the City), indemnify, and hold harmless the City of Oakland, the Oakland City Council, the Oakland Redevelopment Successor Agency, the Oakland City Planning Commission, and their respective agents, officers, employees, and volunteers (hereafter collectively called "City") from any liability, damages, claim, judgment, loss (direct or indirect), action, causes of action, or proceeding (including legal costs, attorneys' fees, expert witness or consultant fees, City Attorney or staff time, expenses or costs) (collectively called "Action") against the City to attack, set aside, void or annul this Approval or implementation of this Approval. The City may elect, in its sole discretion, to participate in the defense of said Action and the project applicant shall reimburse the City for its reasonable legal costs and attorneys' fees.
- b. Within ten (10) calendar days of the filing of any Action as specified in subsection (a) above, the project applicant shall execute a Joint Defense Letter of Agreement with the City, acceptable to the Office of the City Attorney, which memorializes the above obligations. These obligations and the Joint Defense Letter of Agreement shall survive termination, extinguishment, or invalidation of the Approval. Failure to timely execute the Letter of Agreement does not relieve the project applicant of any of the obligations contained in this Condition or other requirements or Conditions of Approval that may be imposed by the City.

CONDITIONS OF APPROVAL

9. Severability

The Approval would not have been granted but for the applicability and validity of each and every one of the specified Conditions, and if one or more of such Conditions is found to be invalid by a court of competent jurisdiction this Approval would not have been granted without requiring other valid Conditions consistent with achieving the same purpose and intent of such Approval.

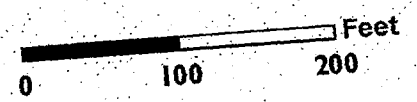


Planning & Building Department
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Existing Zoning

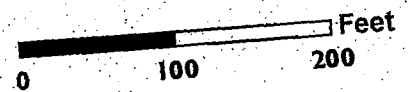
4432 - 4444 Telegraph Avenue





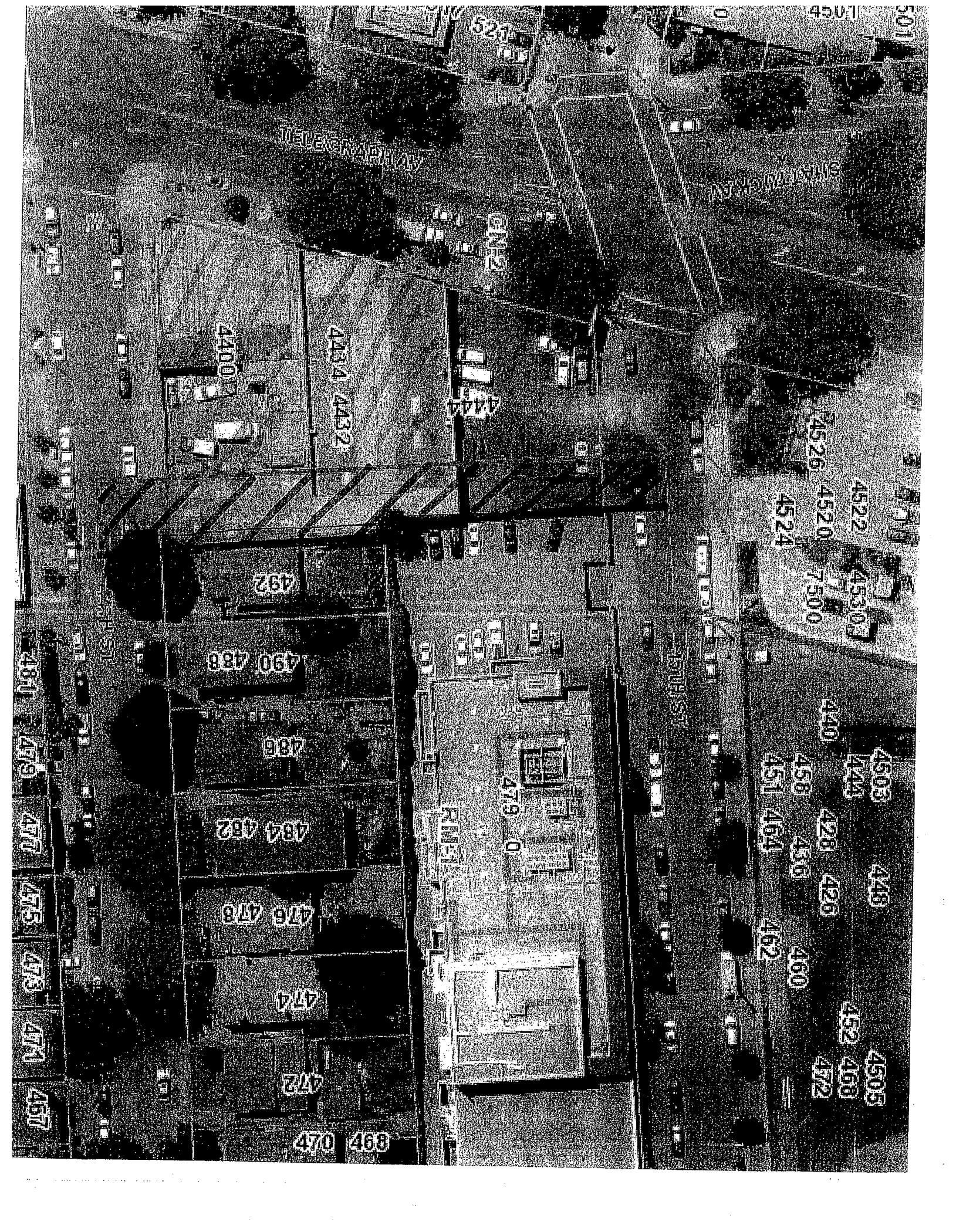
Proposed Zoning

4432 - 4444 Telegraph Avenue



Planning & Building Department
November 1, 2012





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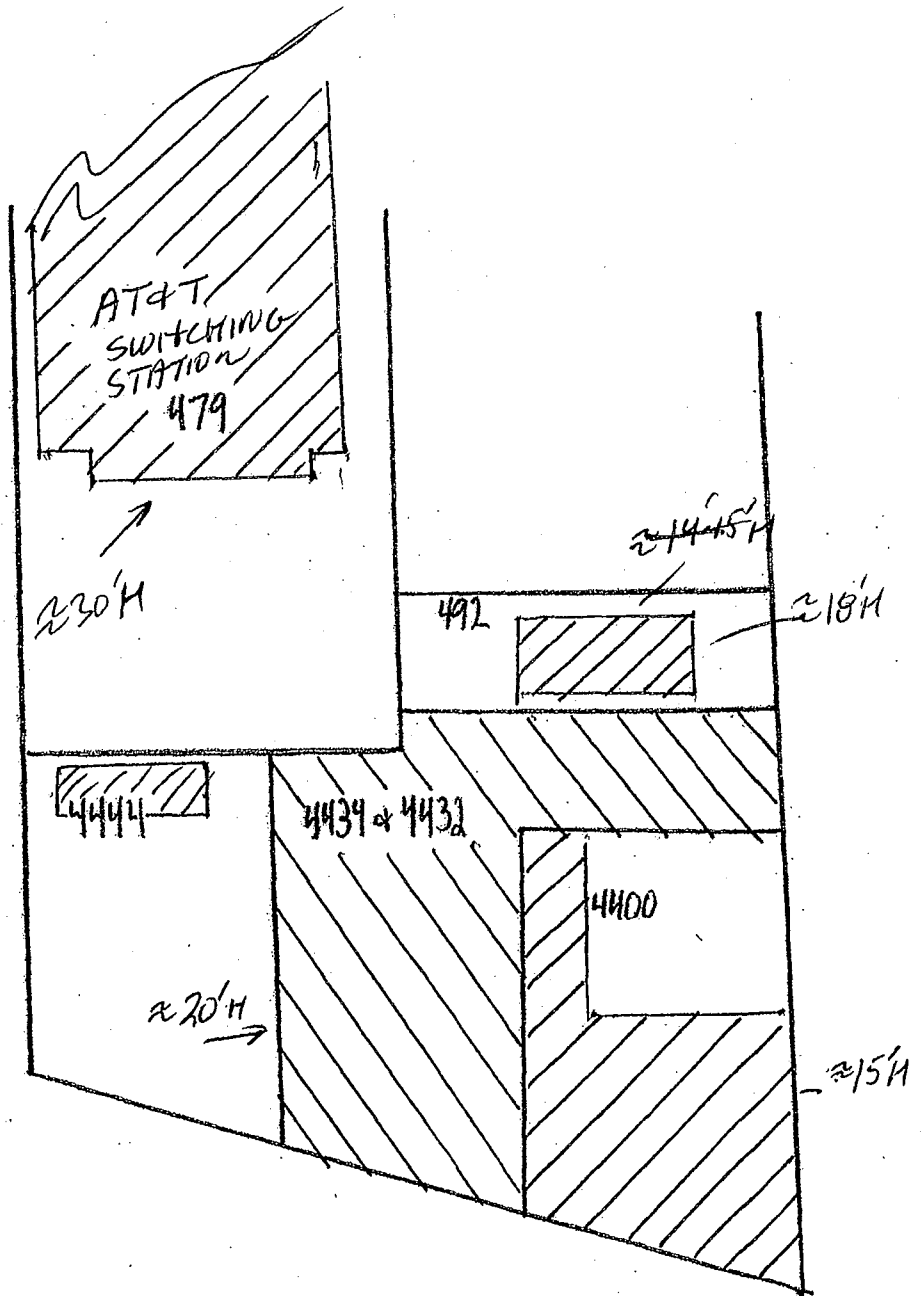
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Buildings On Site Plan

For some unknown reason, the rear portion of the two parcels at 4444, 4432 and 4430 Telegraph Ave. are zoned differently than the front portion of these parcels.

When our area of Telegraph Ave. was rezoned to C28, the rear portions of these parcels continued to be zoned differently than the front. At the time of the rezoning, we were informed by staff that the C28 zone would be pushed to the rear of our parcels so they would match surrounding parcels. This includes the parcel immediately north (McDonalds) and the parcel immediately south (the Kyoro Cultural Center). Unfortunately, this did not happen, and the C28 zone jogged sharply towards Telegraph Ave (just on our parcels) and then jogged back (after our parcels)

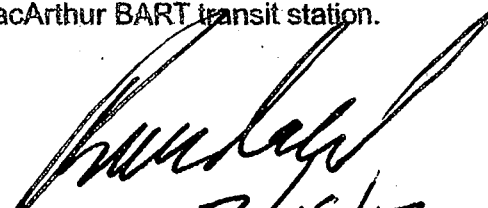
A rationale for this is not clear. The Eastern boundary for McDonalds abuts a high school and the Kyoro Cultural Center's Eastern boundary abuts residential property. The majority of our parcels' Eastern boundary abuts an AT&T switching station, with a portion sharing a boundary with a residential dwelling.

When C28 was most recently rezoned, part of our Eastern boundary was shifted West. This western shift moved the zoning line to the Western edge of our parcel as it runs behind 4400 Telegraph. This is our single story, flat roofed commercial addition facing 44th street. This addition was apparently built before zoning was implemented in Oakland, and has always been commercial. Per our conversations with Ed Menendez and Darin Ranelletti, it was, and is currently city policy to have parcels in only one zone. Instead of pushing the zone line East to the Eastern edge of our parcels (which would conform to city policy as well as our neighbors' parcels), the subdividing of our parcels into two zones was exacerbated. Now our entire portion behind 4400 Telegraph is zoned residential. Both Ed and Darin have explained that this should not have happened and that we should have ended up with both of our parcels zoned to match the rest of our area of Telegraph.

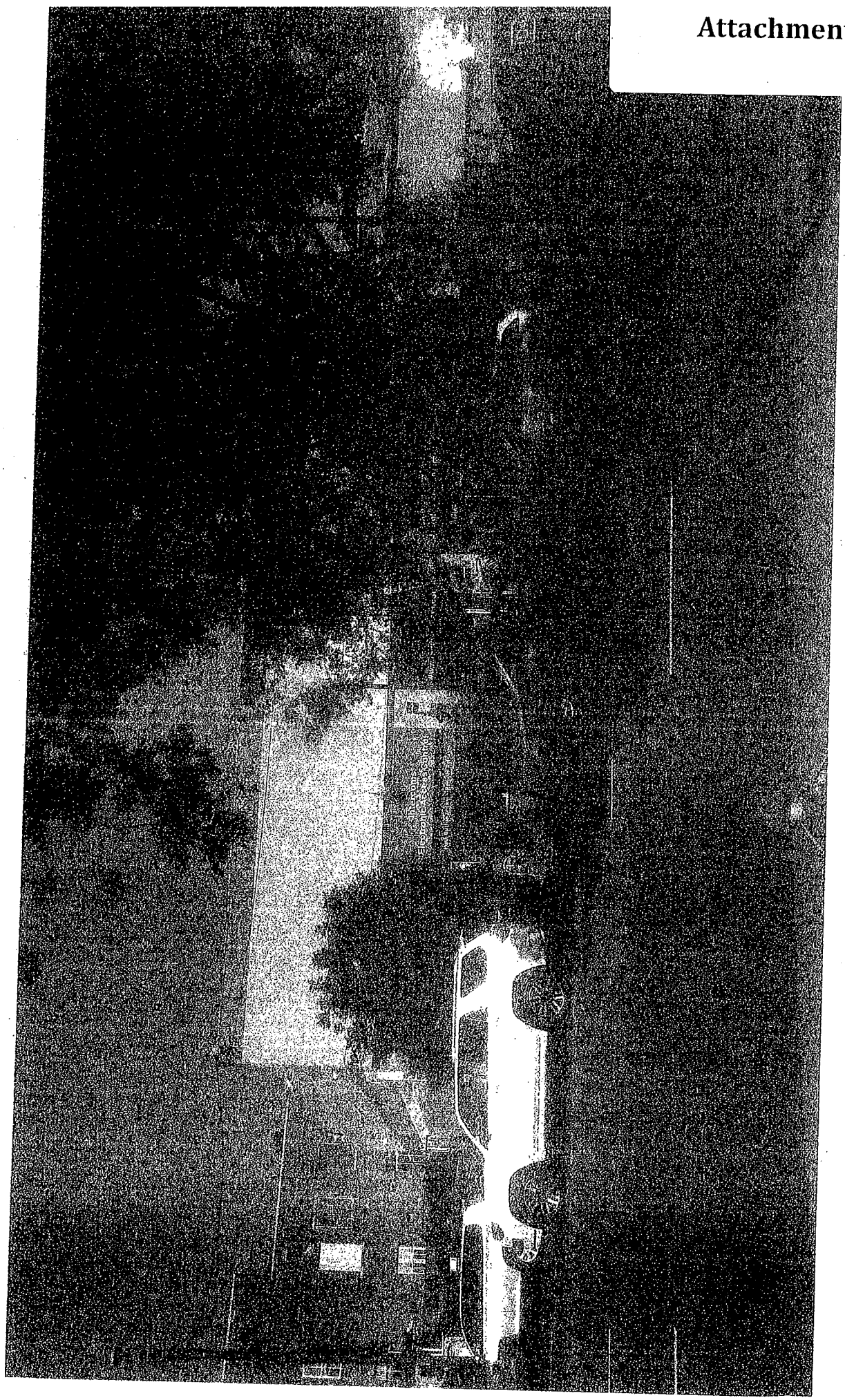
We request that the multi zoning of our parcels be corrected and that the majority zone of our parcels be applied to their entirety.

This is important to us since multiple zones severely devalues our property and diminishes the possibility of developing dense housing on our site. This devaluation of our property will hinder, if not prevent, us from ever developing or selling the property.

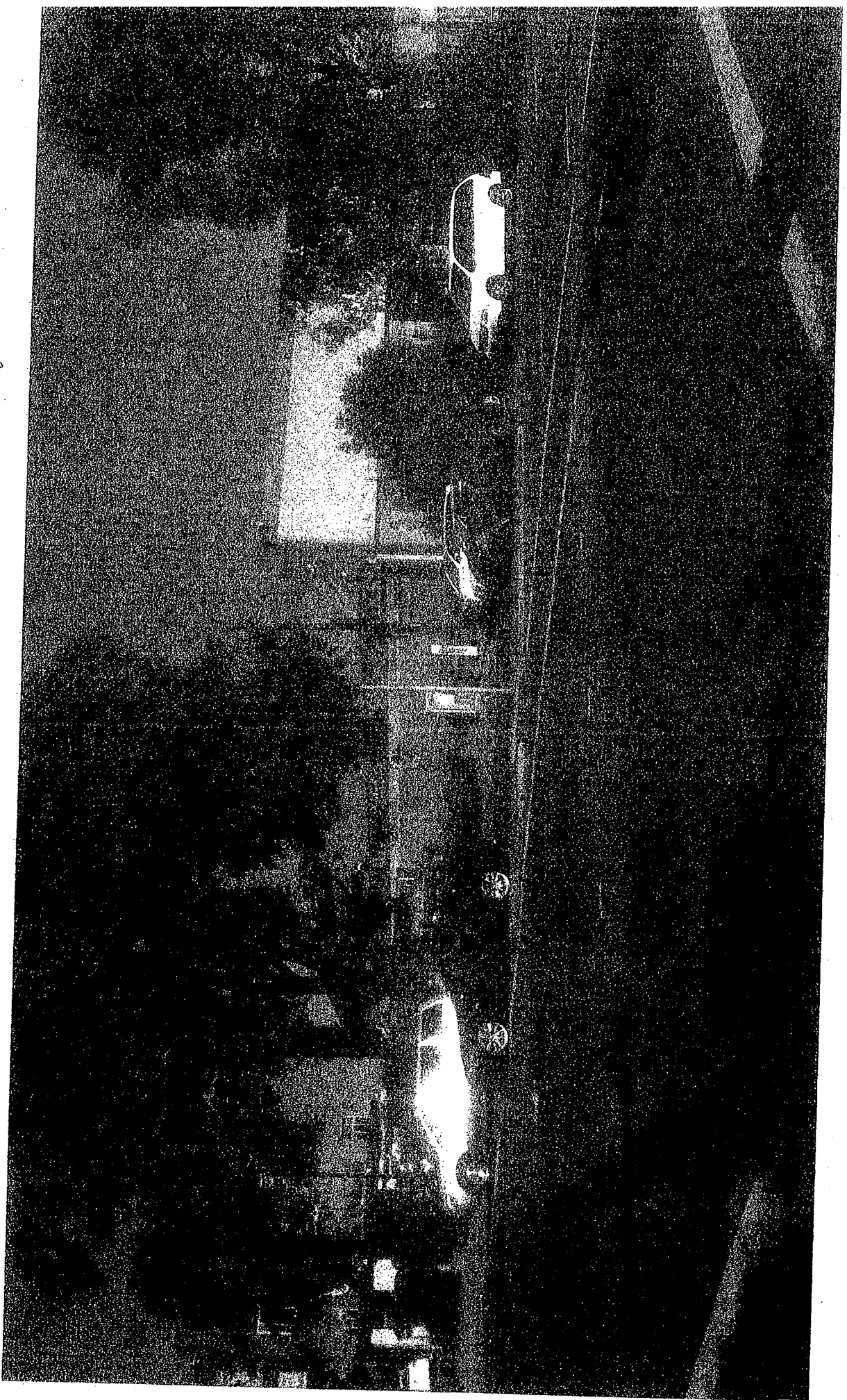
The ability to have the option of repurposing the property to a higher use not only increases the direct value to us, the current owner of the property, but it also increases the value to Oakland as well. It has been well publicized that Oakland currently suffers from a severe housing shortage and correcting the zoning would allow for the potential of a five story, dense housing construction on a site only a few blocks from the new MacArthur BART transit station.


7/18/17

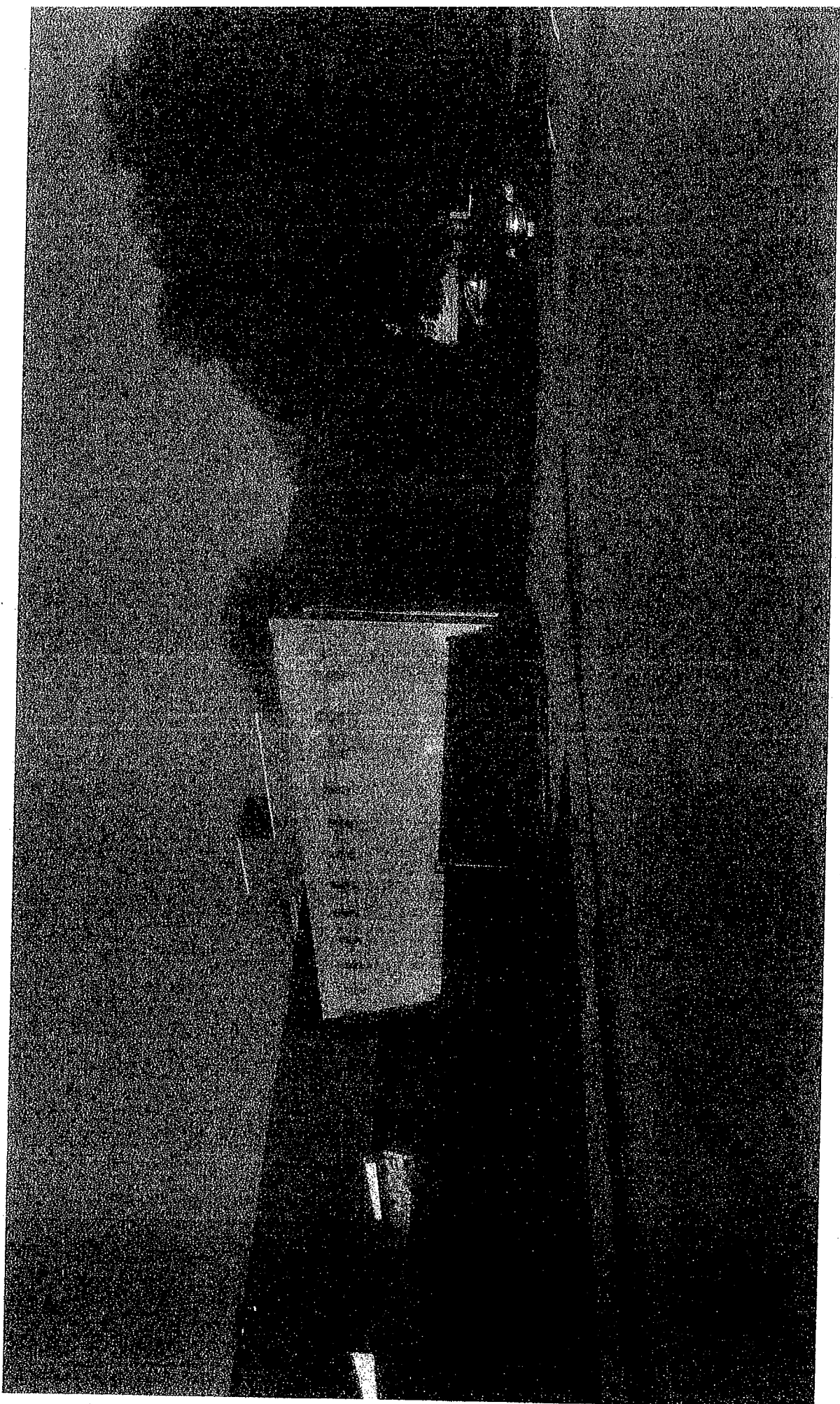
TELEGRAPH VIEW



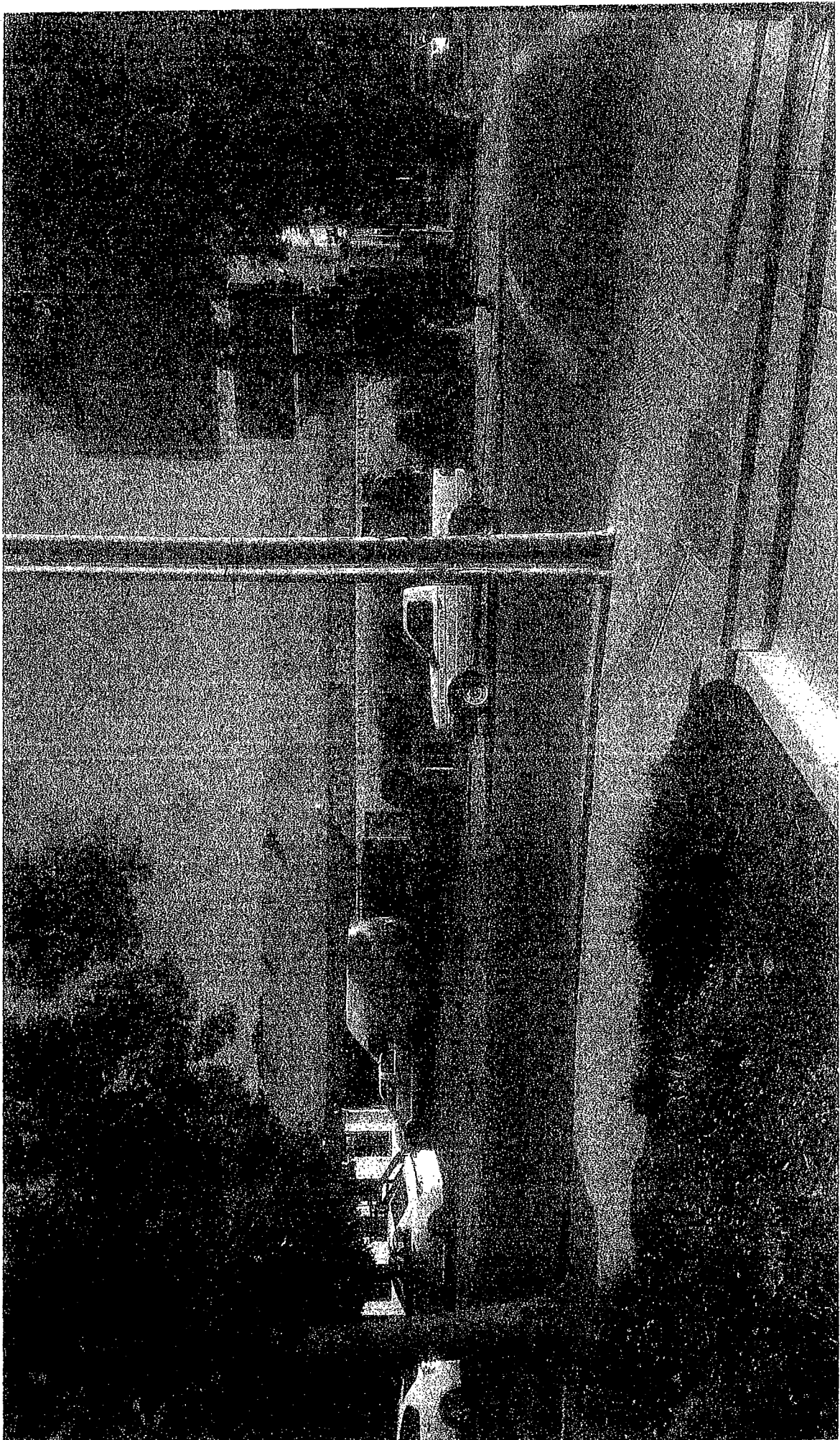
View from intersection of 45th Street & New York Ave



44th STREET VIEW



View From 45th - St.





CITY OF OAKLAND
BUREAU OF PLANNING
 250 Frank H. Ogawa Plaza, Suite 2114, Oakland, CA 94612-2031
 Phone: 510-238-3911 Fax: 510-238-4730
PLANNING COMMISSION PUBLIC NOTICE

Location:	4432 - 4444 Telegraph Avenue
Assessor's Parcel Number:	013-1099-025-01 & 013-1099-028-00
Proposal:	To adjust the Zoning boundary approximately 25-35 feet to the boundary of the parcels to conform the Zoning with the majority of the parcels.
Applicant / Phone Number:	Randall Reed (510) 715-0521
Owner:	Ronald Reed TR & Randall R Reed & L Williams, The Salk Trust
Case File Number:	PLN17404
Planning Permits Required:	Rezoning from RM-1 Mixed Housing Type Zone to CN-2 Neighborhood Center Zone.
General Plan:	Neighborhood Center Mixed Use and Mixed Housing Type Residential
Zoning:	CN-2 Neighborhood Center Zone and RM-1 Mixed Housing Type Residential Zone
Environmental Determination:	The proposal relies on the previously certified Final Environmental Impact Report (EIR) for the Land Use and Transportation Element of the General Plan (1998); On a separate and independent basis, the proposal is also exempt from CEQA pursuant to CEQA Guidelines Section 15183 "Projects Consistent with a Community Plan, General Plan or Zoning".
Historic Status:	Not a Potential Designated Historic Property; Survey Rating: Ec3
City Council District:	1
Date Filed:	7/19/17
Action to be Taken:	Receive public comments and (1) recommend to the City Council adoption of staff's environmental determination; and (2) recommend to the City Council approval of the rezoning.
Finality of Decision:	All of the Planning Commission's recommendations related to the environmental determination and the project will automatically be considered by the City Council at a later date, for its independent review, consideration, and final action, and thus no appeal of these actions is necessary. However, all interested parties must exhaust their administrative remedies by raising any and all issues and/or evidence at this public hearing or in a writing received by the Project Planner no later than 4:00 p.m. on November 1, 2017.
For Further Information:	Contact case planner Michael Bradley at (510) 238-6935 or by email at mbradley@oaklandnet.com .

Your comments and questions, if any, should be directed to the Bureau of Planning, 250 Frank H. Ogawa Plaza, 2nd Floor, Oakland, California 94612-2031 at or prior to the public hearing to be held on **November 1, 2017**, at Oakland City Hall, Council Chambers, 1 Frank H. Ogawa Plaza, Oakland, California 94612. The public hearing will start at 5:00 p.m.

If you challenge the Planning Commission decision on appeal and/or in court, you will be limited to issues raised at the public hearing or in correspondence delivered to the Bureau of Planning, at, or prior to, the public hearing on this case. If you wish to be notified of the decision of any of these cases, please provide the case planner with a regular mail or email address.

Please note that the description of the application found above is preliminary in nature and that the project and/or such description may change prior to a decision being made. Except where noted, once a decision is reached by the Planning Commission on these cases, they are appealable to the City Council. **Such appeals must be filed within ten (10) calendar days of the date of decision by the Planning Commission and by 4:00 p.m.** An appeal shall be on a form provided by the Bureau of Planning, and submitted to the same at 250 Frank H. Ogawa Plaza, Suite 2114, to the attention of the Case Planner. The appeal shall state specifically wherein it is claimed there was error or abuse of discretion by the City of Oakland or wherein the decision is not supported by substantial evidence and must include payment in accordance with the City of Oakland Master Fee Schedule. Failure to file a timely appeal will preclude you from challenging the City's decision in court. The appeal itself must raise every issue that is contested along with all the arguments and evidence previously entered into the record prior to or at the public hearing mentioned above. Failure to do so will preclude you from raising such issues during the appeal hearing and/or in court.

POSTING DATE: October 13, 2017

IT IS UNLAWFUL TO ALTER OR REMOVE THIS NOTICE WHEN POSTED ON SITE

**NOTICE OF PUBLIC HEARING FOR THE REZONING OF
PARCELS 4432-4434 and 4444 TELEGRAPH AVENUE OAKLAND, CA**

Notice is hereby given that on **November 1, 2017, at 6:00 p.m. in the City Council Chambers, City Hall, 1 Frank H. Ogawa Plaza**, the Oakland City Planning Commission will conduct a public hearing to consider and make recommendations to City Council, including a Rezoning for the two parcels located at 4432-4434 and 4444 Telegraph Avenue.

This proposal is a Rezone of two parcels located at 4432-4434, and 4444 Telegraph Avenue from the RM-1 Mixed Housing Type Residential Zone to the CN-2 Neighborhood Center Zone. The Rezone would occur for a 25-35 foot portion at the rear of the parcels.

Members of the public are welcome to attend the hearing, and to provide either written or oral comments. If you challenge the environmental determination or other actions in court, you may be limited to raising only those issues raised at the public hearing described above or in written correspondence directed to Michael Bradley at the City of Oakland, Planning and Building Department, 250 Frank H. Ogawa Plaza, Suite 2214, Oakland, CA 94612, or via email at mbradley@oaklandnet.com, and received by 4:00 p.m. on November 1, 2017.

Copies of the Staff Report and related documents are available for distribution to interested parties at no charge at the City of Oakland Bureau of Planning, 250 Frank H. Ogawa Plaza, Suite 2114, Oakland, CA 94612, Monday through Friday, 8:30 a.m. to 4:00 p. m. except Wednesday 9:30 a.m. to 4:00 p.m.


If you have any questions, please contact Michael Bradley, Planner II, at (510)238-6935 or mbradley@oaklandnet.com.

Bureau of Planning
October 11, 2017

OT 6043855 Oct. 13, 2017

I certify that on October 12, 2017 the notices called under the Oakland Zoning and Subdivision Regulations for the following cases were placed into the U.S. Mail system:

CASE FILE NO:	STREET ADDRESS:
1. PLN17372	6501 Pine Needle Dr - 10/18 Re-notice & 11/1 - MG
2. PLN17374	1138 Drury Rd - 10/18 Re-notice & 11/1 - MG
3. PLN16236	5812 San Pablo Ave - DT
4. PLN17404	4432-4444 Telegraph Ave - MCB
5. PLN17041	701-735 105 th Ave - MBA
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Jonathan Arnold 
(NAME OF PERSON PLACING NOTICES IN MAIL)

October 12, 2017
(DATE)




444 Telegraph Avenue
PLN 177404

44/NCB
46

STATE OF CALIFORNIA DEPARTMENT OF PUBLIC UTILITIES FOR PUBLIC UTILITIES

I certify that on **October 13, 2017** the notices called under the Oakland Zoning and Subdivision Regulations for the following cases were placed into the U.S. Mail system:

CASE FILE NO:	STREET ADDRESS:
1. PLN17404	4432-4444 Telegraph Ave CEQA Mailing
2. ZA17007	Interim Development Controls CEQA Mailing
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Jonathan Arnold 
 (NAME OF PERSON PLACING NOTICES IN MAIL)

October 13, 2017
 (DATE)



4432-4444 Telegraph Avenue
PLN17404

#4/MCB
46

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**Mailing List for CEQA NOTICES
(2-20-15)**

City of Alameda
Planning Department
2263 Santa Clara Avenue, Room 120
Alameda, CA 94501

City of Piedmont
Planning Department
120 Vista Avenue
Piedmont, CA 94611

County of Alameda
Planning Department
224 West Winton Avenue, Room 111
Hayward, CA 94544

Matthew Bomberg
Alameda Co. Transportation Commission
1111 Broadway, Suite 800
Oakland, CA 94607

California Dept. of Water Resources
Attn: DPLA Environmental Review
P.O. Box 942836
Sacramento, CA 94236-0001

California Highway Patrol
3601 Telegraph Avenue
Oakland, CA 94609

Alameda County Dept. of Env. Health
Hazardous Materials Division
1131 Harbor Bay Parkway
Alameda, CA 94502

Nathan Landau
AC Transit
Long Range Planning Division
1600 Franklin Street, Suite 1700
Oakland, CA 94612

Oakland Chamber of Commerce
475 14th Street
Oakland, CA 94612

City of Emeryville
Planning/Redevelopment Agency
1330 Park Avenue
Emeryville, CA 94608

City & County of San Francisco
Planning Department
1660 Mission Street, 5th Floor
San Francisco, CA 94103

Environmental Protection Agency
Region 9
75 Hawthorne Street
San Francisco, CA 94105

Bob Fletcher
California Air Resources Board
P.O. Box 2815
Sacramento, CA 95812

Metropolitan Transportation Commission
Attn: Environmental Staff
101 8th Street
Oakland, CA 94612

Bay Conservation & Development Comm.
Environmental Planning Department
455 Golden Gate Ave, Suite 10600
San Francisco, CA 94102

Val Joseph Menotti
Deputy Planning Manager – Stations
BART, LKS-16
300 Lakeside Drive, 16th Floor
Oakland, CA 94612

City of Berkeley
Planning Director
2118 Milvia Street
Berkeley, CA 94704

City of San Leandro
Planning Division
835 East 14th Street
San Leandro, CA 94577

County of Alameda
Public Works Agency
399 Elmhurst Street
Hayward, CA 94544

Port of Oakland
Environmental Planning Division
530 Water Street
Oakland, CA 94607

Federal Aviation Administration
Chief, Air Space & Proc.
Branch AWP 530
P.O. Box 92007
Los Angeles, CA 90009

Waste Management of Alameda
County
172 98th Avenue
Oakland, CA 94603

Local Agency Formation Commission of
Alameda County (LAFCO)
1221 Oak Street, Room 555
Oakland, CA 94612

Janet Laurain
Environmental Specialist
Adams Broadwell Joeseph & Cardozo
601 Gateway Boulevard, Suite 1000
South San Francisco, CA 94080

State Lands Commission
Environ. Planning & Mgmt. Division
100 Howe Avenue, Suite 100
South Sacramento, CA 95825-8202

Montclair Newspaper
1516 Oak Street
Alameda, CA 94501

Melinda Pagadwan
Caltrans, Transportation Planning
111 Grand Avenue
Oakland, CA 94623

Oakland Heritage Alliance
446 17th Street, Suite 301
Oakland, CA 94612

EBMUD, Office of Water Recycling
Attn: Linda Hu
P.O. Box 24055, MS 702
Oakland, CA 94623-1055

Attn: Ms. Cheryl Widell
P.O. Box 942896
Sacramento, CA 94296

State Geologist
Attn: John Parrish
801 K Street, MS 12-30
Sacramento, CA 95814

Dept. of Toxic Substances Control
Attn: Manager
700 Heinz Ave., Bldg. F, Suite 200
Berkeley, CA 94710-2721

Oakland Tribune
c/o Laura Counts
1970 Broadway
Oakland, CA 94612

Jim R. Allison
Planning Manager Capital Corridor Joint
Powers Authority
300 Lakeside Drive, 14th Floor
Oakland, CA 94612

No. California Carpenters Regional Council
c/o Katie Boyd
Research Department
265 Hegenberger Road, Suite 220
Oakland, CA 94621

Oakland Unified School District
1000 Broadway, Suite 680
Oakland, CA 94607

East Bay Regional Park District
Attn: Brad Olson
P.O. Box 5381
Oakland, CA 94605-0381

Regional Water Quality Control Board
c/o Dale Bowyer
1515 Clay Street, Suite #1400
Oakland, CA 94612

East Bay Express
c/o Bob Gammon
120 3rd Street
Oakland, CA 94607

Deputy Director of Oakland News
c/o Jane Powell
2708 Sunset Avenue
Oakland, CA 94601

Association of Bay Area Governments
Ezra Rapport
Executive Director
P.O. Box 2050
Oakland, CA 94604-2050

Chris Joseph, Principal
CAJA Environmental Services, LLC.
11990 West San Vicente Blvd,
Suite 200
Los Angeles, CA 90049

Kenneth Katzoff
Katzoff & Riggs
1500 Park Avenue, Suite 300
Emeryville, CA 94608

Michael VanVeber Dyett, AICP
Dyett & Bhatia
755 Sansome Street, Suite 400
San Francisco, CA 94111

Communities for a Better Environment
1904 Franklin Street, Suite 600
Oakland, CA 94612

CA Department of Fish & Game
Habitat Conservation
7329 Silverado Trail
Napa, CA 94556

Governor's Office of Planning &
Research - State Clearinghouse Unit
1400 10th Street, Room 121
Sacramento, CA 95814

Oakland Public Library
Social Science and Documents
125 14th Street
Oakland, CA 94612

Alison Kirk, AICP
Senior Environmental Planner
Bay Area Air Quality Management District
939 Ellis Street
San Francisco, CA 94109

Alameda County Clerk-Recorder
1106 Madison Street
Oakland, CA 94607

Amtrak
c/o Patrick Merrill
Assistant Vice President
Policy & Development
245 - 2nd St.
Oakland, CA 94607

State Water Resources Control Board
Division of Water Quality
P.O. Box 100
Sacramento, CA 95812-0100

California Department of Fish & Game
Delta Bay Region
7329 Silverado Trail
Napa, CA 94556

U. S. Fish & Wildlife Service
Sacramento Fish & Wildlife Office
2800 Cottage Way, Room W-2605
Sacramento, CA 95825

U. S. Army Corps. of Engineers
Regulatory Functions Branch
1455 Market Street, 16th Floor
San Francisco, CA 94103-1398

William Kirkpatrick
East Bay Municipal Utility District
Water System Distribution Planning
P.O. Box 24055, MS 701
Oakland, CA 94623-1055

Pacific Gas & Electric Company
1919 Webster Street
Oakland, CA 94612

800-40-LOCK (5625)

Need a better SECURITY

www.ReedsOthers.com

273-700

SECURITY KEYS

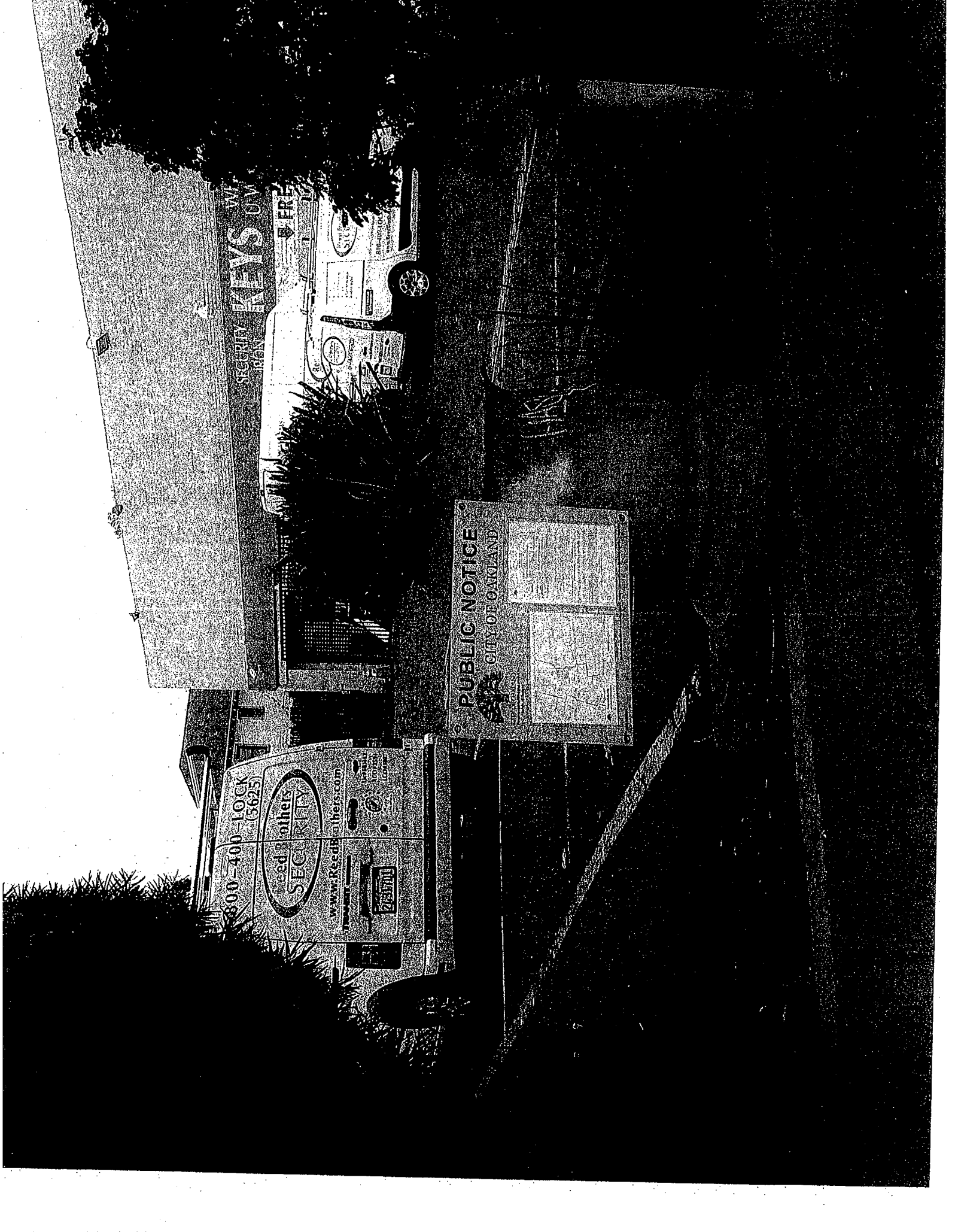
IRON

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PUBLIC NOTICE

CITY OF OAKLAND

NOTICE TO THE PUBLIC
REGARDING THE
REMOVAL OF
STREET LIGHTS
IN THE CITY OF OAKLAND



EMERALD LAKE AND NOTICE

1

2

EMERALD

Notice is hereby given that on **February 6, 2018, at 6:00 p.m. in the City Council Chambers, City Hall, 1 Frank H. Ogawa Plaza**, the Oakland City Council will conduct a public hearing to consider adopting as recommended by the Oakland City Planning Commission an Ordinance for a Rezoning for the two parcels located at 4432-4434 and 4444 Telegraph Avenue.

This proposal is a Rezone of two parcels located at 4432-4434, and 4444 Telegraph Avenue from the RM-1 Mixed Housing Type Residential Zone to the CN-2 Neighborhood Center Zone. The Rezone would occur for a 25-35 foot portion at the rear of the parcels. The purpose of the Zoning boundary adjustment is to eliminate the Zoning boundary running through the parcels and create a uniform line that follows the rear property lines.

Members of the public are welcome to attend the hearings, and to provide either written or oral comments. If you challenge the environmental determination or other actions in court, you may be limited to raising only those issues raised at the public hearing described above or in written correspondence directed to Michael Bradley at the City of Oakland, Planning and Building Department, 250 Frank H. Ogawa Plaza, Suite 2214, Oakland, CA 94612, or via email at mbradley@oaklandnet.com, and received by 4:00pm on January 16, 2018.

Copies of the Staff Report and related documents are available for distribution to interested parties at no charge at the City of Oakland Bureau of Planning, 250 Frank H. Ogawa Plaza, Suite 2114, Oakland, CA 94612, Monday through Friday, 8:30 a.m. to 4:00 p. m. except Wednesday 9:30 a.m. to 4:00 p.m.

If you have any questions, please contact Michael Bradley, Planner II, at (510)238-6935 or mbradley@oaklandnet.com.

Office of the City Administrator
Bureau of Planning
December 19, 2017

City of Oakland Planning Commission

10/29/17

Attention Michael Bradley

RE: PLN 17404 Zoning boundary relocation at 44432 Telegraph

Dear Michael Bradley

Thank you for agreeing to take my written comments on the proposed zoning changes at the Reed Brothers property. I would like these comments to be recorded and shared with the planning commission as part of the process.

I have been a property owner adjacent to the properties in question since 1987. The neighborhood has changed quite a bit over that time and with that change there have been substantial developmental problems for the local residents. The primary problems for the houses near Telegraph are noise and parking abuse and air quality. The lack of control over the sources of these problems has created a serious degradation of quality of life for the residents in the immediate area.

The Reed Brothers property is made up of contiguous buildings on a lot that has clearly been merged from previously separate lots. If one looks at the texture the primary structure "A" (see attached diagram), the building extends to the back of the lot (east) and is divided by the current zoning line. I take no exception to moving the zoning line at structure "A" to the east at the property line that is shared by the AT&T building. Building A is clearly part of the Telegraph commercial texture with its primary frontage on Telegraph.

Building "B" however is connected to the residential texture, and is made from different materials, obviously at a different time. As you can see in the diagram the frontage and scale of the building address the 44th street residential texture, and it shares a property line with the first house on the block. It is most likely this lot was not originally part of property A or part of the commercial zoning. I strongly oppose allowing this piece, occupied by building B, to become zoned as CN-2. If it is one property connected to 4432-4444 building the property should be divided or the variance/rezoning denied.

The reasons are as follows:

- The height limitations of CN -2 will allow a building to cast shadows and rob the properties to the east of valuable daylight
- The properties to the east will lose the privacy of their back yards as the CN-2 allows mixed use residential which means typically 4-5 floors over the podium, 55'-65' high producing sightlines down into those spaces.
- The most likely development of the site will be residential over commercial space, a podium building. With the shape and width of building B the most probable use of the building B site will be a service ally to 44th street with dumpsters and trash pick up servicing the main building. The noise and smell of the trash will make living next to the building much worse than the current conditions.

Across the street from Building B is the Koryo Village strip mall. The City of Oakland allowed the developer to locate their trash pick-up at the back of the property adjacent to the residential zone. The

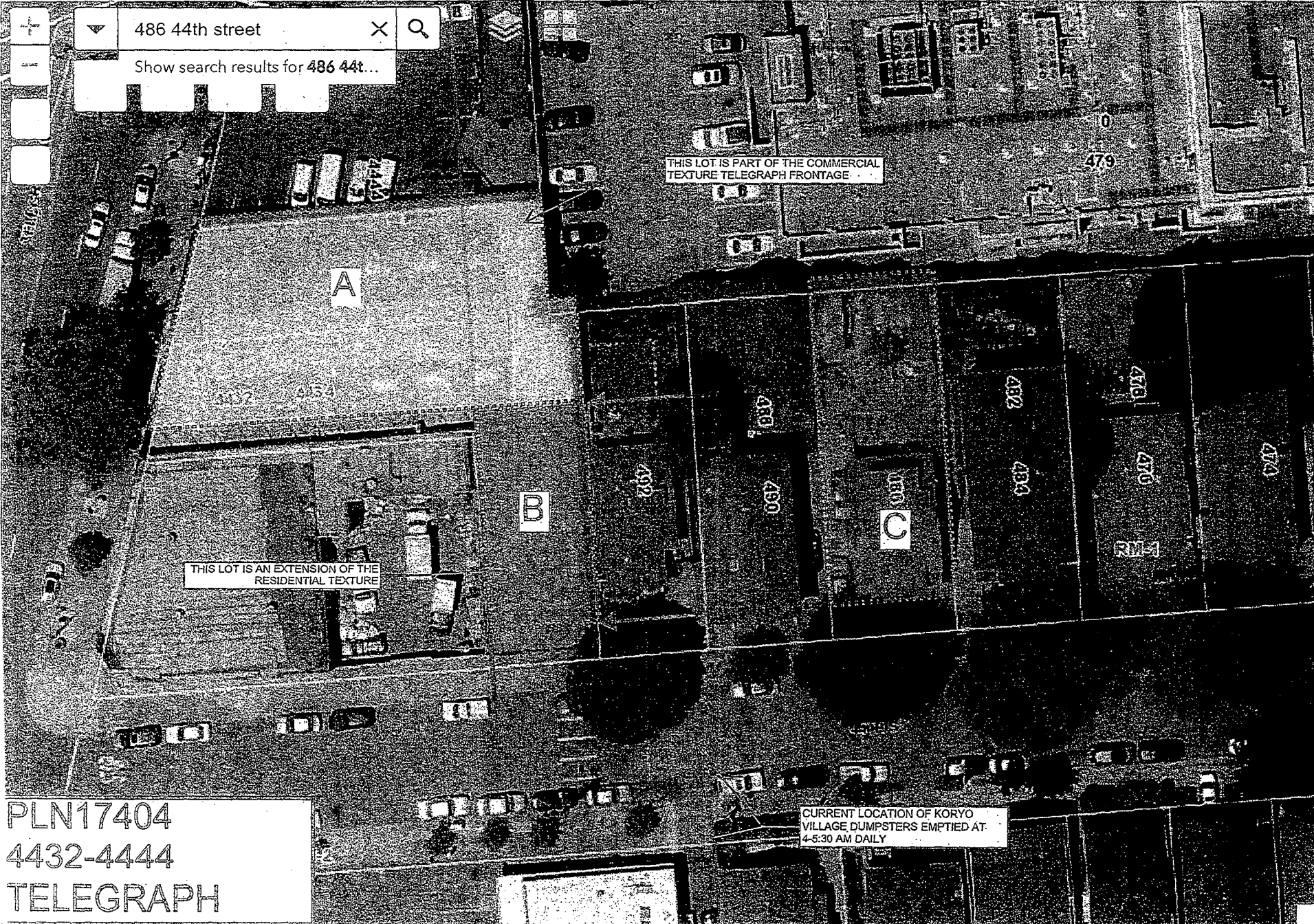
trucks come at 4:30 to 5:30 every morning and pick up trash and recycling, dumping containers full of bottles into the trucks. The front bedroom of my property is no longer functional as a bedroom from the continual disturbance. In addition the strip mall houses restaurants one of which is a BBQ restaurant. In other municipalities restaurant's that are adjacent to residential must have exhaust systems that effectively treat the air with what's known as a "smog hog". It is quite often that I am not able to open the windows without the house filling with BBQ smoke. There has been no such protection in this neighborhood

Finally the increased density has brought consistent parking abuse. There may be nothing possible to do but by example the attached photo was taken the evening of writing this letter and is typical of a weekend night. Even worse people actually pull into the driveway fully and park.

The lack of controls imposed by the previous zoning requirements have greatly lessened the livability of my property and hurt the property value as well. I strongly urge you to consider the proposed zoning change as an obvious indicator of the sale of this property for development and the consequences of that will ensue. Wise and responsible development is necessary but poor development will have lasting destructive results.

Sincerely,

David Friedlaender AIA



486 44th street

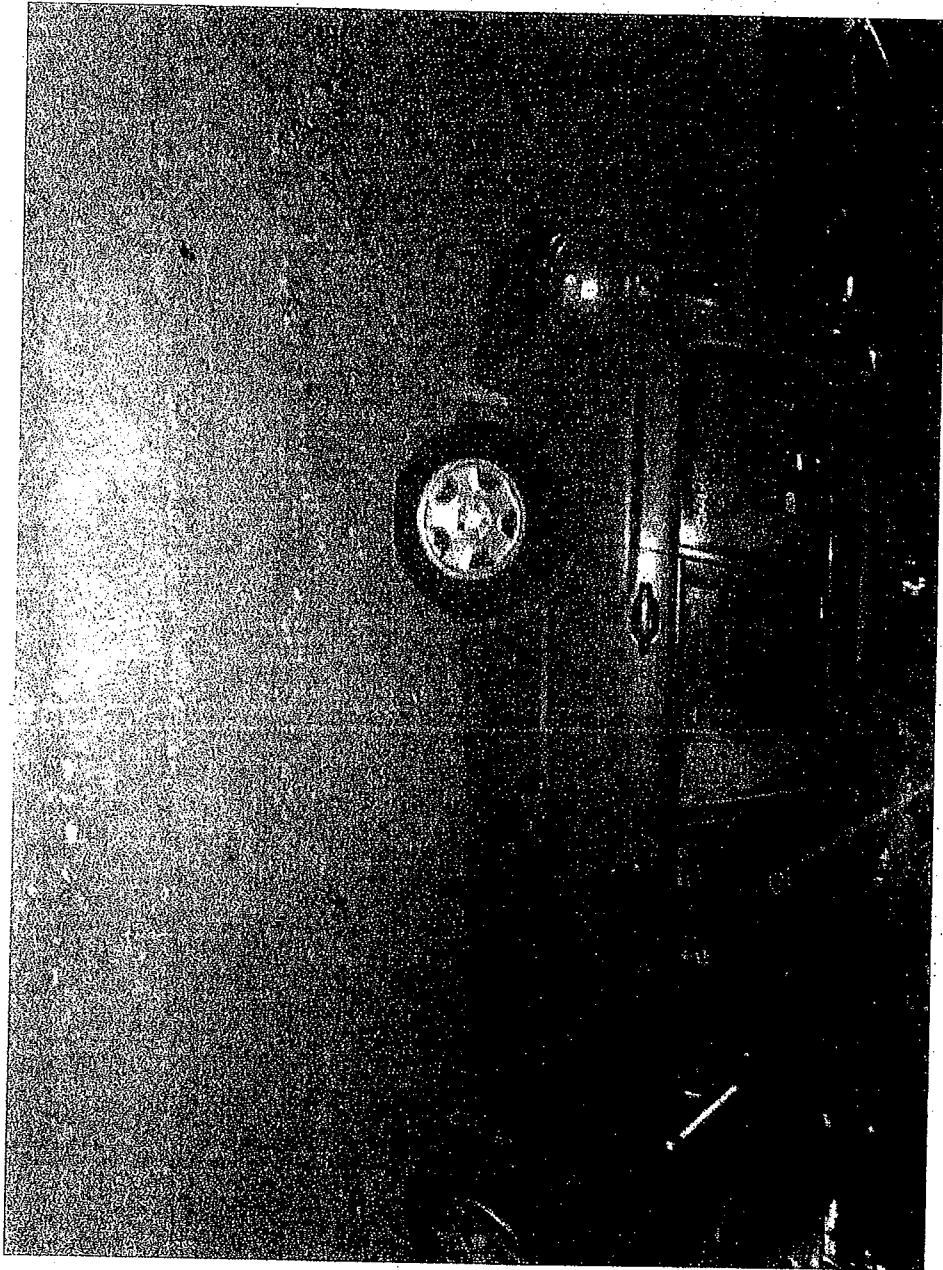
Show search results for 486 44t...

THIS LOT IS PART OF THE COMMERCIAL TEXTURE TELEGRAPH FRONTAGE

THIS LOT IS AN EXTENSION OF THE RESIDENTIAL TEXTURE

CURRENT LOCATION OF KORYO VILLAGE DUMPSTERS EMPTIED AT: 4-5:30 AM DAILY

PLN17404
4432-4444
TELEGRAPH



2018 JAN 12 AM 9:24 **OAKLAND CITY COUNCIL**

ORDINANCE No. _____ C.M.S.

AN ORDINANCE, TO REZONE PORTIONS OF TWO PARCELS LOCATED AT 4432-4434, AND 4444 TELEGRAPH AVENUE FROM THE RM-1 MIXED HOUSING TYPE RESIDENTIAL ZONE TO THE CN-2 NEIGHBORHOOD CENTER ZONE AND TO ADOPT RELATED CALIFORNIA ENVIRONMENTAL QUALITY ACT (CEQA) FINDINGS

WHEREAS, the applicant owns properties located at 4432-4434 and 4444 Telegraph Avenue in the City of Oakland, Alameda County; and

WHEREAS, the applicant proposes to rezone portions of two parcels located at 4432-4434 and 4444 Telegraph Avenue from the RM-1 Mixed Housing Type Residential Zone (RM-1 Zone) to the CN-2 Neighborhood Center Zone (CN-2 Zone); and

WHEREAS, prior to 2011, the subject sites were zoned C-28 Commercial Shopping District Zone (C-28 Zone) with the rear portions located in the R-35 Special One-Family Residential Zone (R-35 Zone); and

WHEREAS, the Zoning boundary, at that time, still bisected the lots, but seemed to follow the rear of the building located at 4432-4434 Telegraph Avenue; and

WHEREAS, in 2011, the Oakland City Council adopted new Zoning districts for most of the City to conform to the Land Use and Transportation Element (LUTE) of the General Plan and as part of the Zoning update effort, extensive field work was conducted as part of the mapping process resulting generally in a much finer-grained Zoning map and new Zoning text that considered what was occurring "on the ground" and parcel-specific Zoning; and

WHEREAS, currently, the boundary bisects an existing commercial building, ignoring the "flag" portion of one of the lots fronting onto 44th Street, and retaining the residential zoning of the parcel that backs up onto an AT&T switching station; and

WHEREAS, currently most of the parcels are in the CN-2 Zone; however, the rear 25-35 feet is in the RM-1 Zone; and

WHEREAS, the adjustment of the Zoning would create uniform Zoning that follows the rear property lines, reflects the fact that all parcels front onto a major arterial, acknowledges a major Essential Service Activity is located at the rear of one of the parcels, provides for the existing building to be in one Zone, and accommodates the flag portion of the interior lot; and

WHEREAS, on November 1, 2017 the City Planning Commission conducted a duly noticed public hearing to consider the rezoning and, after conducting and closing the public hearing, recommended that the City Council adopt the California Environmental Quality Act CEQA findings and rezoning, subject to the requirements and findings contained in the staff report ("City Planning Commission Report"); and

WHEREAS, after a duly noticed public meeting on January 23, 2018, the Community and Economic Development Committee of the City Council voted to approve staff's recommendation and forward the recommendation to the City Council; and

WHEREAS, the City Council held a duly noticed public hearing on February 6, 2018 to consider the Project; and

WHEREAS, the City Council independently reviewed and considered the findings made by the Planning Commission for approval of the rezoning of the properties from the RM-1 Mixed Housing Type Residential Zone to the CN-2 Neighborhood Center Zone, and hereby affirms said findings; and

WHEREAS, the proposal relies on the previously certified Final Environmental Impact Report (EIR) for the LUTE (1998), and on a separate and independent basis, the proposal is also exempt from CEQA pursuant to CEQA Guidelines Section 15183 "Projects Consistent with a Community Plan, General Plan or Zoning"; and 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 adopts and incorporates them into this Ordinance.

Section 2. The City Council hereby adopts the proposed rezoning of portions of two parcels located at 4432-4434 and 4444 Telegraph Avenue from the RM-1 Mixed Housing Type Residential Zone to the CN-2 Neighborhood Center Zone, as detailed in *Exhibit A*, attached hereto and hereby incorporated by reference, based in part upon the findings contained in the approved City Planning Commission Report and the City Council Agenda Report.

Section 3. The City Council has reviewed the proposal and the CEQA exemptions described in the approved City Planning Commission Report and the City Council Agenda Report and independently finds and determines that this action relies on the previously certified Final Environmental Impact Report (EIR) for the LUTE and on a separate and independent basis, the proposal is also exempt from CEQA pursuant to CEQA Guidelines Section 15183 "Projects Consistent with a Community Plan, General Plan or Zoning". The Environmental Review Officer or designee shall file a Notice of Exemption with the appropriate agencies.

Section 4. The provisions of this Ordinance are severable, and if any section, subsection, sentence, clause, phrase, paragraph, provision, or part of this Ordinance, or the application of this Ordinance to any person, is for any reason held to be invalid, preempted by state or federal law, or unconstitutional by decision of any court of competent jurisdiction, such decision shall not affect the validity of the remaining portions of the ordinance. It is hereby declared to be the legislative intent of the City Council that this Ordinance would have been adopted had such provisions not been included or such persons or circumstances been expressly excluded from its coverage.

Section 5. The record before this Council relating to this Ordinance include, without limitation, the following:

1. The July 19, 2017 Rezoning application, as may be amended or supplemented, and all related materials, including all accompanying maps, papers and appendices;
2. All final staff reports, final decision letters, and other final documentation and information produced by or on behalf of the City, including all related/supporting final materials, and all final notices relating to the Project and attendant hearings;

3. All oral and written evidence received by the Oakland Planning Commission, City Administrator's Office, and City Council during the public hearings on the Project as well as all written evidence received by the relevant City Staff before and during the public hearings on the Project; and
4. All matters of common knowledge and all official enactments and acts of the City, such as: (a) the General Plan; (b) Oakland Municipal Code; (c) Oakland Planning Code; (d) other applicable City policies and regulations; and (e) all applicable state and federal laws, rules and regulations.

Section 6. Except as specifically set forth herein, this ordinance suspends and supersedes all conflicting resolutions, ordinances, plans, codes, laws and regulations.

Section 7. If any provisions of this ordinance or application thereof to any person or circumstances are held invalid, the remainder of this ordinance and the application of provisions to the other persons or circumstances shall not be affected thereby.

Section 8. Pursuant to Section 216 of the Charter of the City of Oakland, this Ordinance shall become effective immediately upon final adoption if it receives six or more affirmative votes; otherwise it shall become effective upon the seventh day after final adoption by the Council of the City of Oakland.

Section 9. The custodians and locations of the documents or other materials which constitute the record of proceedings upon which the City Council's decision is based, are respectively: (a) Planning and Building Department, Bureau of Planning, 250 Frank H. Ogawa Plaza, Suite 2114, Oakland, California; (b) City Administrator's Office, One Frank H. Ogawa Plaza, 1st Floor, Oakland, California; and (c) Office of the City Clerk, One Frank H. Ogawa Plaza, 1st Floor, Oakland, California.

Section 10. The recitals contained in this Ordinance are true and correct and are an integral part of the City Council's decision.

IN COUNCIL, OAKLAND, CALIFORNIA, _____

PASSED BY THE FOLLOWING VOTE:

AYES- BROOKS, CAMPBELL WASHINGTON, GALLO, GIBSON MCELHANEY, GUILLEN, KALB, KAPLAN,
AND PRESIDENT REID

NOES-

ABSENT-

ABSTENTION-

ATTEST: _____
LaTonda Simmons
City Clerk and Clerk of the Council
of the City of Oakland, California

DATE OF ATTESTATION: _____

NOTICE & DIGEST

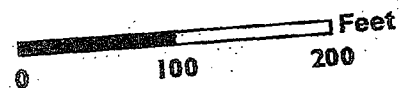
AN ORDINANCE, TO REZONE PORTIONS OF TWO PARCELS LOCATED AT 4432-4434, AND 4444 TELEGRAPH AVENUE FROM THE RM-1 MIXED HOUSING TYPE RESIDENTIAL ZONE TO THE CN-2 NEIGHBORHOOD CENTER ZONE AND TO ADOPT RELATED CALIFORNIA ENVIRONMENTAL QUALITY ACT (CEQA) FINDINGS

This Ordinance is to rezone portions of two parcels located at 4432-4434 and 4444 Telegraph Avenue from the RM-1 Mixed Housing Type Residential Zone (RM-1 Zone) to the CN-2 Neighborhood Center Zone (CN-2 Zone). The rezoning would occur for a 25 – 35 foot portion at the rear of the parcels. The purpose of the rezoning is to eliminate the Zoning boundary running through the parcels and existing building, and create a uniform line that follows the rear property lines such that consistent Zoning regulations would apply to the entire property.

EXHIBIT A



Existing Zoning
4432 - 4444 Telegraph Avenue



Planning & Building Department
November 1, 201



EXHIBIT A



Proposed Zoning
4432 - 4444 Telegraph Avenue



Planning & Building Department
November 1, 2011

