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OFFICE OF THE CITY CLERK
OAKLAND

CITY OF OAKLAND

AGENDA REPORT

2009 APR 30 PM 6:42

TO: Office of the City Administrator
ATTN: Dan Lindheim
FROM: Community and Economic Development Agency
DATE: May 12, 2009

RE: **A Report and Ordinance, Recommended by the City Planning Commission, Amending the Zoning Maps for a Period of Two Years to add the S-4 Design Review Combining Zone to the M-40 Heavy Industrial Zone in the Area where the Central Estuary Plan is in Progress**

SUMMARY

The proposal maps the S-4 Design Review Combining Zone (S-4 Zone) on M-40 zones in the Central Estuary Planning Area. Over the counter design review will be available for small renovation projects, façade improvements and new buildings less than 1,000 square feet. Projects over 1,000 square feet will be administratively reviewed by case planners; projects that are over 25,000 square feet will go to the Planning Commission for review. This proposal would be an interim measure, lasting two years from the date of adoption by the City Council. The City Planning Commission recommended adoption of the interim controls on April 15, 2009.

FISCAL IMPACT

There would be no adverse fiscal impact on the General Fund. The actions in this report would yield a very small increase in revenues to the Development Service Fund 2415.

BACKGROUND

This proposal is similar to measures taken by the Planning Commission and City Council in 2008 for commercial corridors when the City-wide zoning update process or the Broadway Retail Plan were in progress. The intent is to provide some discretionary review of projects in areas without such review while specific planning efforts are underway.

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Previous S-4 mapping amendments

On January 15, 2008, the Oakland City Council adopted, as an emergency interim ordinance lasting until January 15, 2009, the S-4 Zone on the zoning districts of Upper Broadway, from Hawthorne Avenue to Interstate 580; from 38th Street to College Avenues; and from the area northeast of the intersection of Broadway and Pleasant Valley Road, to View Place. The City Council also approved a similar proposal to apply S-4 design review procedures citywide to C-30 and C-40 zoning districts.

PROJECT DESCRIPTION

This proposal will amend the Zoning Maps by adding the S-4 Design Review Combining Zone to the M-40 Heavy Industrial zone in areas designated as part of the Central Estuary Plan as shown in *Exhibit A* to the proposed ordinance. The effect of this proposal is that small renovation projects, façade improvements and new buildings less than 1,000 square feet will be reviewed at the zoning counter; projects over 1,000 square feet will be administratively reviewed by case planners; and projects over 25,000 square feet will go to the Planning Commission for review.

PROPERTY AND ZONING DESCRIPTION

The intention of the S-4 Zone, as codified in Chapter 17.80 of the Oakland Municipal Code, is

“...to create, preserve, and enhance the visual harmony and attractiveness of areas which require special treatment and the consideration of relationships between facilities, and is typically appropriate to areas of special community, historical, or visual significance.”

Planning and Zoning staff use the City’s *Small Project Design Guidelines* handbook to regulate different types of construction in four design review procedures. Each procedure reviews different types of construction; the first three are performed administratively, at the discretion of the Director of City Planning, while the fourth, Major Design Review, requires project review by the City Planning Commission in a public hearing.

The four design review procedures and their construction types are:

1. *Design Review Exemption:*

- construction within the building envelope
- additions outside the building envelope which measure less than 10% of total floor area or footprint on the site

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2. *Small Project Design Review*

- repair or replacement of existing building components
- Additions outside the building envelope that equal *more* than 10% of total floor area or footprint on the site, but *less* than 1,000 square feet (or 100% of the total floor area or footprint on site, whichever is less)
- changes to storefronts or street-facing facades
- new or modified signs or awnings

3. *Regular Design Review:*

- construction or alteration of structures requiring a conditional use permit or variance
- additions that are outside the existing building envelope and which exceed 1,000 square feet or 100% of the total floor area or footprint on site, whichever is less

4. *Major Design Review:*

- construction of more than 25,000 square feet of new floor area
- applications requiring an Environmental Impact Report

KEY ISSUES AND IMPACTS

1. Time of review

Currently, a new or rehabilitated industrial or other facility in a M-40 zone is cursorily reviewed over the zoning counter, without any design review. If the proposed S-4 Zone is adopted, new and rehabilitated non-residential facilities in the M-40 zones of the Central Estuary Plan area would instead be evaluated under one of the four design review procedures currently used by the Planning and Zoning Division, described above.

If the proposed S-4 Zone is adopted, applications for design review for commercial buildings would likely average the same length of time as is typical for residential design review applications:

- *Design Review Exemption:* over the zoning counter (approximately 30 minutes)
- *Small Project Design Review:* over the zoning counter (approximately 30 minutes)
- *Regular Design Review:* assigned to a staff planner (approximately two months)
- *Major Design Review:* assigned to staff planner (review period varies)

Costs of fees

The City of Oakland charges fees for design review by planning staff; these fees are updated yearly in the Master Fee Schedule which is presently being revised for 2009-2010. Currently, fees for the four design review procedures (for new construction) are:

- *Design Review Exemption:* \$ 300
- *Small Project Design Review:* \$ 845¹
- *Regular Design Review:* \$ 2,465²
- *Major Design Review:* \$ 3,300²

If the proposal were to be adopted, applicants of new and rehabilitated industrial, commercial or other buildings will be required to pay these fees, depending on the appropriate type of design review procedure. Currently, applicants for industrial, commercial and other buildings do not pay design review fees.

The City Planning Commission recommended adoption of these interim controls on April 15, 2009.

ENVIRONMENTAL DETERMINATION

The proposal relies on the previously adopted 1998 LUTE Environmental Impact Report. The proposal is exempt under CEQA Guidelines section 15061(b)(3): "General Rule", which states a project is exempt from CEQA if there is no possibility that the activity in question will have a significant effect on the environment. Staff finds the "General Rule" applies because the proposed regulation would have no change in the development intensity of the area, the proposal does not address residential density or floor area ratio, and the proposal contains no change in regulations regarding height, setback, open space or other regulations that have an effect on the environment. The proposed regulation is more stringent than the current zoning and regulatory controls, because it requires the planning staff to review the aesthetics of new and renovated industrial or other facilities, when no similar review is currently required.

¹ This figure is an average of the current fees for two tracks of Small Project Design Review: Track I—\$722.93; Track 2—\$967.35.

² These figures presume a single permit for new construction, exempt from CEQA, with no other administrative actions (i.e. variances, etc). Permits for rehabilitation are approximately \$500 less than those for new construction. The "Zoning Permit Fees" pamphlet available at the City's zoning counter contains a full description.

SUSTAINABLE OPPORTUNITIES

Economic: None identified at present.

Environmental: None identified at present.

Social Equity: None identified at present.

DISABILITY AND SENIOR CITIZEN ACCESS

No changes to disability and/or senior citizen access.

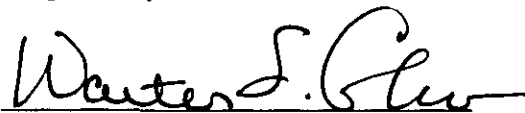
RECOMMENDATION(S) AND RATIONALE

Staff recommends that the Council amend the zoning map, for an interim period of two years, to add the S-4 Design Review Combining Zone to the M-40 zones in the Central Estuary Plan area of the City.

ACTION REQUESTED OF THE CITY COUNCIL

That the City Council adopt the ordinance amending the zoning map.

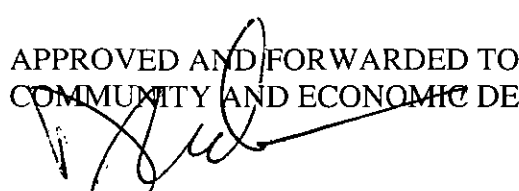
Respectfully submitted,



Walter S. Cohen, Director

Community & Economic Development Agency

APPROVED AND FORWARDED TO THE
COMMUNITY AND ECONOMIC DEVELOPMENT COMMITTEE:



Office of the City Administrator

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APPROVED AS TO FORM AND LEGALITY

Mark S. Wald

INTRODUCED BY COUNCILMEMBER _____

City Attorney

OAKLAND CITY COUNCIL
ORDINANCE No. _____ C.M.S.

INTERIM ORDINANCE, RECOMMENDED BY THE PLANNING COMMISSION, AMENDING THE ZONING MAPS FOR TWO YEARS TO ADD THE S-4 DESIGN REVIEW COMBINING ZONE TO THE M-40 HEAVY INDUSTRIAL ZONE IN THE AREA WHERE THE CENTRAL ESTUARY PLAN IS IN PROGRESS

WHEREAS, the S-4 Design Review Combining Zone ("S-4 Zone"), as codified in Chapter 17.80 of Oakland Planning Code (OPC), is intended to create, preserve, and enhance the visual harmony and attractiveness of areas which require special treatment and the consideration of relationships between facilities, in areas which are of special community, historical, or visual significance; and

WHEREAS, the S-4 Zone requires that no Local Register Property, Building Facility, Mixed Use Development, Telecommunications Facility, Signs or other associated structures shall be constructed, established, or altered in exterior appearance, unless plans for the proposal have been approved pursuant to the design review procedure in OPC Chapter 17.136; and

WHEREAS, Oakland has begun a specific plan process in the Central Estuary area; and

WHEREAS, until such time as the City adopts new zoning and/or a specific plan for the major industrial areas along the Estuary, this interim proposal will be in effect for two years from date of passage; and

WHEREAS, the Land Use and Transportation Element of the Oakland General Plan places priority on the successful and attractive development of the transportation corridors; and

WHEREAS, on April 15, 2009 the Planning Commission held a duly noticed public hearing and at its conclusion, forwarded, without change, the proposal to map the S-4 Design Review Combining Zone on the major streets to the Community and Economic Development Committee of the City Council and the City Council; and

WHEREAS, the provisions of the California Environmental Quality Act (CEQA) have been satisfied and the proposal relies on (a) the previously certified Final Environmental Impact Report for the Land Use and Transportation Element of the General Plan, adopted in 1998; and (b) as a separate and independent basis, the proposal is also exempt under CEQA Guidelines section 15061(b)(3): "General Rule", which states a project is exempt from CEQA if there is no

possibility that the activity in question will have a significant effect on the environment; now therefore

THE COUNCIL OF THE CITY OF OAKLAND DOES ORDAIN AS FOLLOWS:

Section 1. The recitals above are true and correct and are an integral part of this Ordinance.

Section 2. This Ordinance complies with the California Environmental Quality Act for the reasons stated above and the Environmental Review Officer shall file a Notice of Determination/Exemption with the County.

Section 3. The zoning maps shall be amended to apply the S-4 Design Review Combining Zone to the area currently zoned M-40 as generally shown in Exhibit A, attached hereto and incorporated by reference.

Section 4. This Ordinance shall be effective upon adoption, subject to the provisions of Section 216 of the Charter of the City of Oakland, but shall not apply to building/construction-related permits already issued and not yet expired, zoning applications approved by the City and not yet expired, or to zoning applications deemed complete by the City as of the effective date.

Section 5. This ordinance shall remain in place and be effective for a continuous two-year period from the effective date of this ordinance, or until the City Council adopts permanent, industrial zoning and/or a specific plan for the area, whichever comes first.

Section 6. If any 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.

IN COUNCIL, OAKLAND, CALIFORNIA, _____, 20_____

PASSED BY THE FOLLOWING VOTE:

AYES- BROOKS, DE LA FUENTE, KAPLAN, KERNIGHAN, NADEL, QUAN, REID, and PRESIDENT BRUNNER
NOES-

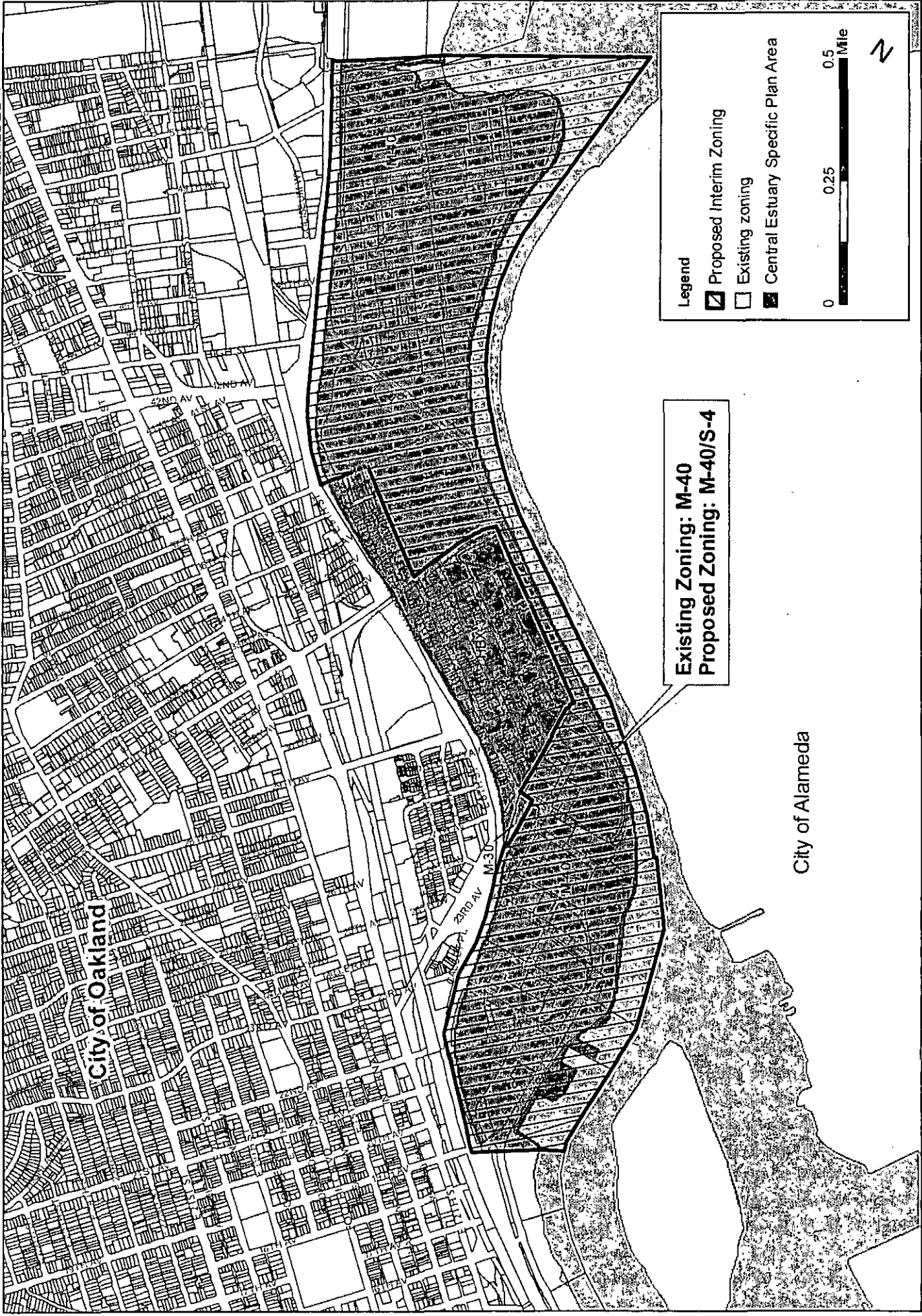
ABSENT-

ABSTENTION-

ATTEST: _____




LaTonda Simmons
City Clerk and Clerk of the Council
of the City of Oakland, California

DATE OF ATTESTATION: _____



Existing Zoning: M-40
 Proposed Zoning: M-40/S-4

Legend

-  Proposed Interim Zoning
-  Existing zoning
-  Central Estuary Specific Plan Area

0 0.25 0.5 Mile

N

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MPW

NOTICE AND DIGEST

INTERIM ORDINANCE, RECOMMENDED BY THE PLANNING COMMISSION, AMENDING THE ZONING MAPS FOR TWO YEARS TO ADD THE S-4 DESIGN REVIEW COMBINING ZONE TO THE M-40 HEAVY INDUSTRIAL ZONE IN THE AREA WHERE THE CENTRAL ESTUARY PLAN IS IN PROGRESS

ADOPTION OF THIS ORDINANCE WILL RESULT IN DESIGN REVIEW OF NEW CONSTRUCTION AND ALTERATION OF INDUSTRIAL AND COMMERCIAL BUILDINGS IN THE M-40 HEAVY INDUSTRIAL ZONE IN THE CENTRAL ESTUARY SPECIFIC PLAN AREA FOR A PERIOD OF TWO YEARS.