



FILED  
OFFICE OF THE CITY CLERK  
OAKLAND

16 APR 21 PM 4:28

# Agenda Memo

**CITY HALL - ONE FRANK H. OGAWA PLAZA, 2<sup>ND</sup> FLOOR - OAKLAND - CALIFORNIA - 94612**

**FROM:**

**ABEL GUILLEN**

Councilmember District 2

(510) 238-7002

FAX (510) 238-6910

E-mail: [aguillen@oaklandnet.com](mailto:aguillen@oaklandnet.com)

**DAN KALB**

Councilmember District 1

(510) 238-7001

FAX (510) 238-6910

E-mail: [dkalb@oaklandnet.com](mailto:dkalb@oaklandnet.com)

**TO:** Members of the Community and Economic Development Committee

---

**SUBJECT:** Amendments to transient habitation development operations

**DATE:** April 26, 2016

---

**RECOMMENDATION**

Councilmembers Guillen and Kalb recommend that the City Council adopts the following resolution:

RESOLUTION TO ISSUE AN OFFICIAL STATEMENT OF POLICY RELATED TO IMPLEMENTING OAKLAND MUNICIPAL CODE AND OAKLAND PLANNING CODE REGARDING CONDITIONAL USE PERMIT AND MAJOR VARIANCE APPLICATIONS FOR TRANSIENT HABITATION DEVELOPMENT OPERATIONS

**EXECUTIVE SUMMARY**

Councilmembers Guillén and Kalb are asking the City Council to approve a resolution that City Planning Department and City Planning Commission initiate actions to amend Chapter 17.134.020 of the Oakland Planning Code, adding category 17.134.020. A.2.a.xii. Transient Habitation Commercial activities, to the list of planning activities requiring a Major Conditional Use Permit. Additionally, the proposed resolution requests that the City Planning Department and City Planning Commission initiate actions to amend Chapter 17.103.050 of the Oakland Planning Code to evaluate supplemental criteria when reviewing applications for conditional

Item: \_\_\_\_\_  
CED Committee  
April 26, 2016

use permits, such as the impact of the employees of the hotel or motel on the demand in the City for housing, public transit, and social services, taking into account the anticipated wages and benefits in the business plan, and whether a business plan and/or other legally binding documents for each development demonstrates the applicant's commitment and ability to comply with the Oakland Minimum Wage Law, (including without limitation, provisions for Paid Sick Leave) in implementing the project, and that anticipated wages and benefits will be paid to the employees of the hotel or motel, and a signed letter by the verified legal representative of the entity proposing said development attesting that the foregoing information is complete, true and correct.

Furthermore, the resolution requests that in addition to initiating action on the aforementioned amendment to Chapter 17.134.020, the City Planning Commission consider an amendment to section 17.58.01 of the Oakland Planning Code to make the status of Transient Habitation Commercial activities in the CBD-C zone consistent with other zones in the Central Business District and throughout the City.

### **ANALYSIS**

Oakland is facing a widening crisis of income inequality, a lack of sufficient affordable housing, and displacement of working-class residents and communities of color. The quality of the jobs provided by the economic development currently occurring in Oakland will have a significant effect on whether this crisis is mitigated or exacerbated and economic development, including hotel development, has the potential to provide a large number of jobs with good wages and benefits, but also conversely can generate a large number of poverty-wage jobs.

Transient habitation commercial development activities are currently not required to obtain a major conditional use permit in downtown Oakland, the Lake Merritt Station Area, or the Coliseum Area unless they are very large – over 100,000 square feet. Additionally, certain zoning areas within downtown exclude transient habitation commercial developments from requiring any conditional use permit, major or minor.

Residents in the City of Oakland also have a right to know and provide input on transient habitation developments regardless of their size or scope of the development project.

### **PUBLIC OUTREACH/INTEREST**

There is strong support for the resolution from hotel, foodservice, and gaming workers (Unite Here Local 2850) and the Alameda Labor Council, representing thousands of workers, many of whom not only work, but live in Oakland.

Item: \_\_\_\_\_  
CED Committee  
April 26, 2016

**COORDINATION**

Representatives of the Planning and Zoning Department, City Administration and City Attorneys were consulted in preparing this resolution.

**COST SUMMARY/ IMPLICATIONS**

No fiscal impact.

**SUSTAINABLE OPPORTUNITIES**

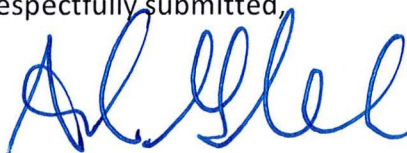
**Economic:** Adopting proposed resolution could facilitate assessment of current economic conditions within the city at the time of each application and adopt guidelines that best correspond to those conditions.

**Environmental:** Requiring all projects to go through Planning Commission review can provide additional opportunities to identify mitigation measures that only residents in proximity to a project could be aware of.

**Social Equity:** City of Oakland already has requirements that promote social and economic equity. Reaffirming those requirements and having all developers adhere to the unified rules will bolster progress on this important issue.

For questions regarding this report, please contact Maria Henderson, Office of Councilmember Guillen, [MAHenderson@oaklandnet.com](mailto:MAHenderson@oaklandnet.com), Phone: (510) 238-7021 or Olga Bolotina, Office of Councilmember Kalb, [Obolotina@oaklandnet.com](mailto:Obolotina@oaklandnet.com), Phone: (510) 238-7240.

Respectfully submitted,



Councilmember Guillén



Councilmember Kalb

16 APR 21 PM 4:28

Approved as to Form and Legality

  
City Attorney's Office

## OAKLAND CITY COUNCIL

RESOLUTION NO. \_\_\_\_\_ C.M.S.

INTRODUCED BY COUNCILMEMBERS ABEL GUILLÉN AND DAN KALB

**RESOLUTION TO ISSUE AN OFFICIAL STATEMENT OF POLICY RELATED TO IMPLEMENTING OAKLAND MUNICIPAL CODE AND OAKLAND PLANNING CODE REGARDING CONDITIONAL USE PERMIT AND MAJOR VARIANCE APPLICATIONS FOR TRANSIENT HABITATION DEVELOPMENT OPERATIONS**

**WHEREAS**, Oakland is facing a widening crisis of income inequality, a lack of sufficient affordable housing, and displacement of working-class residents and communities of color; and

**WHEREAS**, the quality of the jobs provided by the economic development currently occurring in Oakland will have a significant effect on whether this crisis is mitigated or exacerbated; and

**WHEREAS**, economic development, including hotel development, has the potential to provide a large number of jobs with good wages and benefits, but also conversely can generate a large number of poverty-wage jobs; and

**WHEREAS**, the Oakland Municipal Code § 5.92.050(F), authorizes City officials, to the maximum extent permitted by law, to consider an employer's record of noncompliance with the Oakland Minimum Wage, (including, without limitation, provisions for Paid Sick Leave) in making decisions about land use approvals and other entitlements to expand or operate within the City; and

**WHEREAS**, Hotel developments can have substantial effects not only on the entire City, but on the nearby neighborhoods and should require review by the Planning Commission just as other significant developments do.

**WHEREAS**, Section 17.103.050 of the Oakland Planning Code requires that a Conditional Use Permit for a hotel or motel may be granted only if "the proposal considers the impact of the employees of the hotel or motel on the demand in Oakland for housing, public transit and social services"; now, therefore, be it

**RESOLVED:** That the Oakland City Council intends and desires to ensure that detailed, thorough and deliberate consideration is given to the existing provisions set

forth in Municipal Code § 5.92.050(f) and criteria outlined for any Conditional Use Permit in Planning Code § 17.103.050 that, among other factors, requires any proposal for Transient Habitation Commercial activities to consider the impact of the employees of the hotel or motel on the demand in the City for housing, public transit, and social services; and be it

**FURTHER RESOLVED:** That the Oakland City Council hereby requests that the City Planning Department and City Planning Commission initiate actions to amend Chapter 17.134.020 of the Oakland Planning Code as indicated in Exhibit A, adding category 17.134.020.A.2.a.xii. Transient Habitation Commercial activities, to the list of planning activities requiring a Major Conditional Use Permit; and be it

**FURTHER RESOLVED:** That the Oakland City Council hereby requests that the City Planning Department and City Planning Commission initiate actions to amend Chapter 17.103.050 of the Oakland Planning Code as indicated in Exhibit B, supplementing existing Conditional Use permit criteria with the following criteria in section 17.103.050 A.:

2. That the proposal analyzes the following:
  - a. The impact of the employees of the hotel or motel on the demand in the City for housing, public transit, and social services, taking into account the anticipated wages and benefits in the business plan and/or other legally binding documents; and;
  - b. Whether a business plan and/or other legally binding documents for each development demonstrates the applicant's commitment and ability to comply with the Oakland Minimum Wage Law, (including without limitation, provisions for Paid Sick Leave) in implementing the project, and that anticipated wages and benefits will be paid to the employees of the hotel or motel;
  - c. A signed letter by the verified legal representative of the entity proposing said development attesting that the foregoing information is complete, true and correct;

; and be it

**FURTHER RESOLVED:** That the Oakland City Council hereby requests that, in addition to initiating action on the aforementioned amendment to Chapter 17.134.020, the City Planning Commission consider an amendment to section 17.58.01 of the Oakland Planning Code to make the status of Transient Habitation Commercial activities in the CBD-C zone consistent with other zones in the Central Business District and throughout the City as indicated in Exhibit C.

IN COUNCIL, OAKLAND, CALIFORNIA,

PASSED BY THE FOLLOWING VOTE:

AYES -

NOES -

ABSENT -

ABSTENTION -

ATTEST:

---

LATONDA SIMMONS  
City Clerk and Clerk of the Council of the

City of Oakland, California

16 APR 21 PM 4:28

## EXHIBIT A

### 17.134.020 Definition of major and minor conditional use permits.

- A. **Major Conditional Use Permit.** A conditional use permit is considered a major conditional use permit if it involves any of the following:
1. **Thresholds.** Any project requiring a conditional use permit that meets any of the following size thresholds:
    - a. The actual project site (including only portions of the lot actually affected by the project) exceeds one (1) acre.
    - b. Nonresidential projects involving more than twenty-five thousand (25,000) square feet of floor area, except in the R-80, CBD-R, CBD-P (when not combined with the S-7 Zone), CBD-C, CBD-X, S-2, S-15, D-CO, or D-LM Zones.
    - c. Residential projects requiring a conditional use permit for density resulting in a total number of living units as follows:
      - i. Three (3) or more dwelling units in the RM-2 Zone;
      - ii. Seven (7) or more dwelling units in the RM-3 or RM-4 Zone.
    - d. Residential projects requiring a conditional use permit to exceed the basic or permitted density resulting in seven (7) or more dwelling units in the RU or CBD-R Zones.
    - e. Large-Scale Developments. Any development which is located in the R-80, CBD-R, CBD-P (when not combined with the S-7 Zone), CBD-C, CBD-X, S-2, S-15, D-CO, or D-LM Zones and results in more than one hundred thousand (100,000) square feet of new floor area.
    - f. Projects that request to be considered for an exception to the D-LM Height/Bulk/Intensity Area standards, as described in Table 17.101G.04, Note 2.
  2. **Uses.** Any project requiring a conditional use permit that involves any of the following activity or facility types except where the proposal involves only accessory parking, the resumption of a discontinued nonconforming activity, or an addition to an existing activity which does not increase the existing floor area by more than twenty percent (20%):
    - a. **Activities:**
      - i. Residential Care Residential;
      - ii. Emergency Shelter Residential;
      - iii. Extensive Impact Civic;
      - iv. Fast-food Restaurant Commercial;
      - v. Convenience Market Commercial;
      - vi. Alcoholic Beverage Sales Commercial, or sale of alcoholic beverages at any full-service restaurant in a location described by Subsection 17.103.030.B;
      - vii. Heavy/High Impact Industrial;
      - viii. Small Scale Transfer and Storage Hazardous Waste Management;

- ix. Industrial Transfer/Storage Hazardous Waste Management;
- x. Mining and Quarrying Extractive;
- xi. Special Health Care Civic Activities.
- xii. Transient Habitation Commercial activities.

b. Facilities:

- i. Drive-Through;
- ii. Advertising Sign, except when the facility meets the requirements of Section 17.11.090.

3. **Special Situations.** Any project requiring a conditional use permit that involves any of the following situations:

- a. A project requiring development of an Environmental Impact Report (EIR);
- b. A single establishment containing a Commercial or Industrial Activity, or portion thereof, which is located in any Residential Zone and occupies more than five thousand (5,000) square feet of floor area, except where the proposal involves only the resumption of a nonconforming activity;
- c. Off-Street Parking Facilities in the C-40, CBD-P, CBD-C, CBD-X, S-2, and D-LM Zones serving fifty (50) or more vehicles;
- ~~d. Transient Habitation Commercial Activities in the C-40 and C-45 Zones;~~
- de. Monopole Telecommunications Facilities in, or within three hundred (300) feet of the boundary of, any Residential or HBX Zone;
- ef. A project in the OS Zone listed as requiring a major conditional use permit in Chapter 17.11;
- fg. An Electroplating Activity as defined in Section 17.09.040 subject to the provisions of Section 17.102.340;
- gh. A Telecommunications Facility in or within one hundred (100) feet of the boundary of any Residential Zone, HBX Zone, or the D-CE-3 or D-CE-4 Zone;
- hi. A Telecommunications Facility whose antennas and equipment are not fully concealed from view within three hundred (300) feet of the boundary of the RH, RD, RM, RU-1, or RU-2 Zones, HBX Zones, or the D-CE-3 or D-CE-4 Zone.

B. **Minor Conditional Use Permit.** A minor conditional use permit is a conditional use permit which does not involve any of the purposes listed in Subsection A. of this Section.



## EXHIBIT B

### 17.103.050 Transient Habitation Commercial Activities.

- A. Conditional Use Permit or Major Variance for any Transient Habitation Commercial Activity may only be granted upon determination that the proposal conforms to the general use permit criteria (see Section 17.134.050) and to all of the following additional use permit criteria:
1. That the proposal is consistent with the goal of attracting first-class, luxury hotels in downtown, along the waterfront, near the airport, along the I-880 freeway, in a specific plan area, and/or in an area with a concentration of amenities for hotel patrons, including but not limited to restaurant, retail, recreation, open space and exercise facilities, and is well-served by public transit;
  2. ~~That the proposal considers the impact of the employees of the hotel or motel on the demand in the City for housing, public transit, and social services;~~
  2. That the proposal analyzes the following:
    - a. The impact of the employees of the hotel or motel on the demand in the City for housing, public transit, and social services, taking into account the anticipated wages and benefits in the business plan and/or other legally binding documents; and;
    - b. Whether a business plan and/or other legally binding documents for each development demonstrates the applicant's commitment and ability to comply with the Oakland Minimum Wage Law, (including without limitation, provisions for Paid Sick Leave) in implementing the project, and that anticipated wages and benefits will be paid to the employees of the hotel or motel;
    - c. A signed letter by the verified legal representative of the entity proposing said development attesting that the foregoing information is complete, true and correct;
  3. That the proposed development will be of an architectural and visual quality and character which harmonizes and enhances the surrounding area, and that such design includes:
    - a. Site planning that insures appropriate access and circulation, locates building entries which face the primary street, provides a consistent development pattern along the primary street, and insures a design that promotes safety for its users;
    - b. Landscaping that creates a pleasant visual corridor along the primary streets with a variety of local species and high quality landscape materials;
    - c. Signage that is integrated and consistent with the building design and promotes the building entry, is consistent with the desired character of the area, and does not detract from the overall streetscape;

- d. The majority of the parking located either to the side or rear of the site, or where appropriate, within a structured parking facility that is consistent, compatible and integrated into the overall development;
  - e. Appropriate design treatment for ventilation of room units as well as structured parking areas; and prominent entry features that may include attractive porte-cocheres;
  - f. Building design that enhances the building's quality with strong architectural statements, high quality materials particularly at the pedestrian level, and appropriate attention to detail;
  - g. Lighting standards for hotel buildings, grounds and parking lots that are not overly bright and direct the downward placement of light.
- 4. That the proposed development provides adequately buffered loading areas and to the extent possible, are located on secondary streets;
  - 5. The proposed operator of the facility shall be identified as part of the project description at the time of application.
- B. See Chapter 17.157 for Deemed Approved Hotel regulations.

EXHIBIT C

17.58.040 Permitted and conditionally permitted activities

Table 17.58.01: Permitted and Conditionally Permitted Activities

Activities	CBD-R	CBD-P	CBD-C	CBD-X	Additional regulations
...					
Transient habitation	C	C(L6)	<u>PC</u>	C	17.103.050