

City of Oakland Zoning Update
Commercial/Corridor Technical Advisory Group
Memorandum: Draft Commercial/Corridor Zoning Framework
Technical Advisory Group (TAG) Meeting #3: September 1, 2009

INTRODUCTION

Staff presented a list of proposed zones at the May 14, 2009 TAG meeting that included one or more zones designed to implement each General Plan land use classification found on the City's corridors and commercial areas. The Urban Residential classification would be implemented by two zoning designations (RU-3 and RU-4); Neighborhood Center Mixed Use would be implemented by four zoning designations (CN-1 to CN-4); Community Commercial would be implemented by three designations (CC-1 to CC-3); and Regional Commercial would be implemented by one designation (CR-1). Attachment A, the memo written for the May 14th TAG meeting, contains a general description of these zones.

This memo contains detailed proposed activity and design regulations for each of these zones and contains a potential framework for height regulations for the Commercial areas and major corridors.

ACTIVITY REGULATIONS

Chapter 17.10 of the Planning Code lists and describes 52 classes of activities that can be performed on a parcel of land, such as Permanent Residential, General Retail Sales, and Full Service Restaurants. Chapter 17.10 is Attachment B of this memo. Every zone in the Planning Code lists each of these activities as either permitted, conditionally permitted (allowed upon the granting of a Conditional Use Permit), or not permitted. For instance, if General Retail Sales is listed as "permitted" in the CN-1 zone, then activities such as bike shops, hardware stores, or clothing stores would be permitted in all neighborhoods of the City designated with the CN-1 zone. Sometimes activities may be permitted with certain limitations, such as the activity must take place on the ground floor, or has a size limitation, etc.

Attachment C of this memo is a detailed listing of the proposed activity regulations for each of the proposed zones. The following section summarizes the activity regulations proposed for each zone.

Urban Residential Zones

The draft of the zoning update includes two proposed zones to implement the Urban Residential General Plan land use classification: RU-3 and RU-4. RU-3 would be designated in areas that currently have a predominantly residential character; conversely, RU-4 would be designated in areas with a commercial character. RU-4 would usually be

designated in areas that currently have commercial zoning, such as San Pablo Avenue and International Boulevard.

In general, both zones would reserve upper stories for residential activities to preserve the residential focus intended by the Urban Residential General Plan designation. The ground floor of a building could include residential activities or small, local-serving or low-impact commercial activities such as offices, restaurants, retail stores or doctor's offices. Any ground floor commercial activities over 5,000 square feet would require a conditional use permit to carefully review design and potential impact on residents.

The RU-3 zone would only allow new commercial activities on the ground floor of corner lots or in existing commercial facilities. Newly constructed commercial facilities would only be allowed at street intersections. These limitations are designed to focus commercial activities at retail nodes, particularly areas with a Neighborhood Center Mixed Use General Plan designation. In contrast, the proposed RU-4 zone allows commercial activities in the ground floors of any lot; this is intended to enhance the existing commercial character of the area with new buildings and construction.

The current residential zoning designations on the corridors, generally the R-60, R-70, and R-80 zones, have significantly greater restrictions than the proposed zones. On the other hand, the proposal would have greater upper story commercial restrictions in Urban Residential General Plan designated areas with a current commercial zoning.

Neighborhood Center Mixed Use Zones

The four proposed zones that implement the Neighborhood Center Mixed Use General Plan land use classification are designed to accommodate the different contexts found in the commercial areas of the City. CN-1 would be applied to the neighborhoods with the greatest customer demand and most consistent retail, neighborhood service, and restaurant presence. These areas require the tightest controls on ground floor activities to preserve their commercial success. CN-2 would be applied to commercial districts that are established, but do not have yet have the consumer demand to support the most restrictive regulations found in the CN-1 zone. CN-3 would be applied to areas with a less consistent retail pattern. The CN-3 areas include a combination of underperforming retail centers and established commercial areas characterized by non-retail uses (such as small local-serving offices). CN-4 would be designated in very small neighborhood commercial districts that are generally surrounded by low- or medium-density residential areas that are off the City's main corridors. In many cases, the CN-4 districts are so small that they do not appear as commercial areas on the General Plan Land Use Map.

CN-1: The activity regulations for the CN-1 zone would be very similar to those of the current C-31 zone (mapped in Rockridge, Piedmont, and other locations) and C-27 zone (located in Monclair Village). Active retail and consumer uses would be permitted on the ground floor, while less active uses such as residential and administrative activities would require a conditional use permit. A broad range of commercial and residential activities would be permitted by right in upper stories. Other features of the proposal include the following:

- Commercial Activities and most Civic Activities over 5,000 square feet would require a conditional use permit. The C-31 zone currently has as 7,500 square foot threshold;
- Ground floor Personal Instruction and Improvement and Small Scale Entertainment Commercial Activities (exercise class space, driving schools, etc.), Medical Service Commercial Activities (doctors office, dental offices, medical labs, etc) Consultative and Financial Services (real estate offices, banks, etc) would require a conditional use permit;
- All Full Service Restaurant and Limited Service Restaurant and Cafe Commercial Activities would require a conditional use permit;
- General Food Sales (e.g. markets and grocery stores with sizable fresh meat and produce section, or bakeries) businesses less than 5,000 square feet would be permitted on the ground floor. The C-31 zone currently requires a use permit for these activities;
- Automotive repair and service stations would not be permitted; and
- New construction would be required to have ground floor commercial facilities.

CN-2: The CN-2 zone would have similar activity regulations as the CN-1 zone with the following exceptions: the CN-2 zone would not require a conditional use permit to establish businesses as General Food Sales (full service restaurant), or, on the ground floor, Medical (doctor's office), or Consultative & Financial (real estate office, bank).

CN-3: The activity regulations in the CN-3 zone would be similar to the CN-2 zone, with the following exceptions:

- The CN-3 zone would allow Administrative Activities (offices) on the ground floor of a building;
- New ground floor residential facilities in the CN-3 zone could be constructed on an interior (i.e., non-corner) lot upon the granting of a conditional use permit; and
- In the CN-3 zone, a conditional use permit would only be required for a General Food Sales business (grocery store) that has over 15,000 square feet of floor area, rather than limit the business to 5,000 square feet, as is proposed in the CN-1.

CN-4: The activity regulations in the CN-4 zone would be similar to the CN-3 zone except gas and service stations would be allowed upon the granting of a conditional use permit and all new businesses over 5,000 square feet would require a conditional use permit, including grocery stores. Gas stations would be conditionally permitted in CN-4 subject to locational standards, such as adjacency to freeway off-ramps or location on a major arterial street.

The main differences between the CN-4 zone and the existing local commercial zones (C-5, C-10, and C-20) is that the proposed CN-4 zone permits a greater variety of low impact commercial activities such as Administrative, Broadcasting and Recording Service, Personal Instruction and Improvement and Small Scale Entertainment, and similar activities.

The following table summarizes these major differences between the proposed CN zones:

Table 1: Major Differences between the Proposed Activity Regulations in the CN Zones

	CN-1	CN-2	CN-3	CN-4
Square footage CUP¹ requirement	A business over 5,000 sf requires a CUP	A business over 5,000 sf requires a CUP	A business over 5,000 sf requires a CUP (except groceries over 15,000 sf require a CUP)	A business over 5,000 sf requires a CUP
CUP requirement for ground floor: <ul style="list-style-type: none"> • Personal Instruction & Improvement • Small Scale Entertainment • Medical Service • Consultative and Financial Services 	Yes	No	No	No
CUP requirement for all restaurants	Yes	No	No	No
Automotive repair and service stations	Not permitted	Not permitted	Not permitted	Service stations permitted upon the granting of a CUP ²

¹CUP is a conditional use permit.

² Subject to locational standards, such as adjacency to freeway off-ramps or location on a major arterial street.

Community Commercial Zones

The Community Commercial General Plan land use classification is intended to accommodate a wider variety of commercial activities than the CN zones, such as larger scale retail and service businesses, ground floor offices, and auto related activities. Staff proposes three zones to implement this classification: CC-1, CC-2 and CC-3.

CC-1 would be mapped to include shopping centers on and off the corridors and would allow a variety of community-serving commercial activities. CC-2 would be mapped on the corridors and have similar activity regulations as CC-1. Both would allow offices, restaurants, stores, and service activities and would allow auto repair and gas stations upon the granting of a conditional use permit. New construction of ground floor residential facilities would not be allowed in the CC-2 zone; ground floor residential construction would only be allowed in the CC-1 zone if it is part of a larger commercial development. The main difference between the CC-1 and CC-2 zones would be in the proposed design regulations, described on page 5.

CC-3 would allow the broadest types of commercial activities, allowing auto repair, heavy commercial uses such as building suppliers, a limited range of light industrial activities, as well as general commercial activities. Warehousing would be allowed upon the granting of a conditional use permit in the CC-3 zone. This zone would not allow residential development.

These activity regulations proposed for the CC zones differ with the City's current general Commercial zones, such as the C-30 District Thoroughfare and C-40 Community Thoroughfare commercial zones, in a few key respects. Both the C-30 and C-40 zones permit Auto Repair and Cleaning, whereas the proposed CC-1 and CC-2 zones would require a conditional use permit for these businesses. The current general commercial zones do not require new construction to contain ground floor commercial space; each of the proposed CC zones would require ground floor commercial construction.

Regional Commercial Zone

Staff proposes a new zone, CR-1, to implement the Regional Commercial General Plan designation. This classification is intended to accommodate region-serving activities such as hotels, large scale entertainment, sports activities, and "big box" retail stores. The majority of the designation is located on Hegenberger Road and Coliseum Way, near the Airport and Coliseum sports complex. CR-1 would have similar activity regulations as the existing C-36 Gateway Commercial Zone that is currently applied to that area: General Food Sales, Full Service Restaurants, Retail Sales and other general commercial types of activities would be permitted and industrial activities that do not front on Hegenberger Road would be conditionally permitted. Staff proposes one change to the existing activity regulations: Personal Instruction and Improvement and Small-Scale Entertainment Activities (exercise/yoga studios, small theaters, etc.) are proposed to be permitted in the CR-1 zone while they currently require a conditional use permit in the C-36 zone.

DESIGN REGULATIONS

The proposed design regulations are intended to promote, where appropriate, pedestrian-oriented, and economically vibrant commercial areas, while at the same time limiting the impact of new construction on the existing residential areas adjacent to the commercial corridors. The table of proposed design regulations is contained in Attachment D. It contains eight types of design regulations:

1. Minimum ground floor height;
2. Parking, automobile access, and active space location requirements;
3. Ground floor transparency requirements for storefronts;
4. Maximum front setbacks in commercial neighborhoods;
5. Minimum height of new buildings
6. Minimum grade separation for ground floor residential units
7. Transitions to adjacent low- and medium-density residential zones
8. *Minimum* front and side yard setbacks

Minimum Ground Floor Height

A minimum ground floor height of 15 feet is a critical part of what makes a building have a scale that feels comfortable for pedestrians and provides a successful retail space. This minimum ground floor height would be required for all the zones except the CC-1 zone, CC-3 zone and the CR-1 zone. These zones do not include this requirement to provide flexibility for the variety of commercial uses and facilities that would be established at these locations.

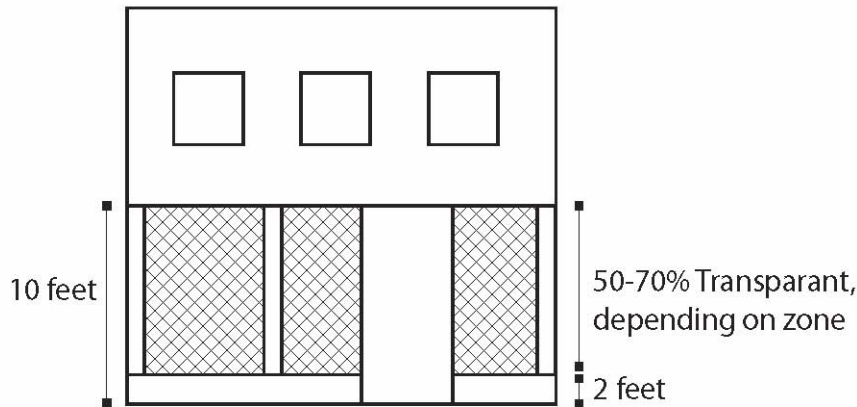
Parking, Automobile Access and Active Space Requirements

Parking in front of a building tends to detract from the visual interest of the street and weakens the continuity of an active presence at the edge of the sidewalk. This consistent presence will be critical in maintaining and building successful shopping districts on the corridors and promoting visually interesting, multi-family neighborhoods. Therefore, staff proposes new regulations that prohibit: 1) parking between a principal building and the right of way; and 2) indoor parking and other inactive space such as storage areas and mechanical rooms to be located within the front 30 feet of a new building. These regulations would be applied to every zone except the CN-4 (the zone applied to local commercial areas), CC-1, CC-3, and CR-1 zones. It would *not* be applied to these zones for the following reasons:

- The regulation is not practical in the CN-4 areas because they conditionally permit service stations and CN-4 areas would be applied to small shopping nodes surrounded by residential districts;
- New shopping centers in the CC-1 zones will require a certain degree of automobile orientation. Note that new design guidelines are currently being developed by the Planning Division staff, addressing the design of shopping centers;
- The heavy commercial and automotive repair activities in the CC-3 zone will require site plan flexibility; and
- The CR-1 zone allows parking in front of buildings to provide flexibility for large scale retailers and hotels on the significant sized lots on Hegenberger Avenue.

Transparency

Large storefront windows are another critical feature of a successful commercial district because they promote browsing opportunities, create a connection to the street, and increase security. Staff, therefore, proposes a percentage window requirement for commercial storefronts within an “area of transparency” between the two- and ten-foot level of a building (see figure, below). Seventy percent of this area would be required to be transparent within the CN-1, CN-2, CN-3, and CC-2 zones because these zones are envisioned to contain the most significant and continuous storefront presence. Fifty percent would be required within the RU-3, RU-4, and CN-4 zones. There would be no requirement in the CC-1, CC-3, and CR-1 zones because these zones would be implemented in areas where a retail street presence is not as critical.



Maximum Front Setbacks

Construction near the sidewalk further creates comfortable pedestrian scale by establishing a street edge or “wall” and a unified street space. Storefronts up to the sidewalk also provide more exposure to the products within a business. Therefore, staff proposes a maximum front setback of five feet in the main commercial corridor zones: CN-1, CN-2, CN-3, and CC-2. This setback requirement would be required over 75 percent of the lot line and has further exceptions for plazas and outdoor seating.

Minimum Height of New buildings

The General Plan has many policies directing the City to focus building intensity along the major corridors to encourage transit use, revitalize retail districts, and allow stability in the City’s lower density residential neighborhoods. Therefore, staff proposes that all new buildings constructed in zones along the widest corridors such as Telegraph Avenue, San Pablo Avenue, Broadway, and International Boulevard be at least 35 feet in height.

Minimum Grade Separation

Another design proposal would institute a 2.5 foot minimum separation between the street level and the floor of residential units with corridor frontage to allow privacy for residents and further establish a comfortable pedestrian space at the street. This regulation would be required in all zones that allow ground floor residential units except the CC-1 zone. An exception is provided for this zone because any residential units would be expected to be on the interior of a large shopping center site, away from a major corridor.

Transitions to adjacent residential buildings

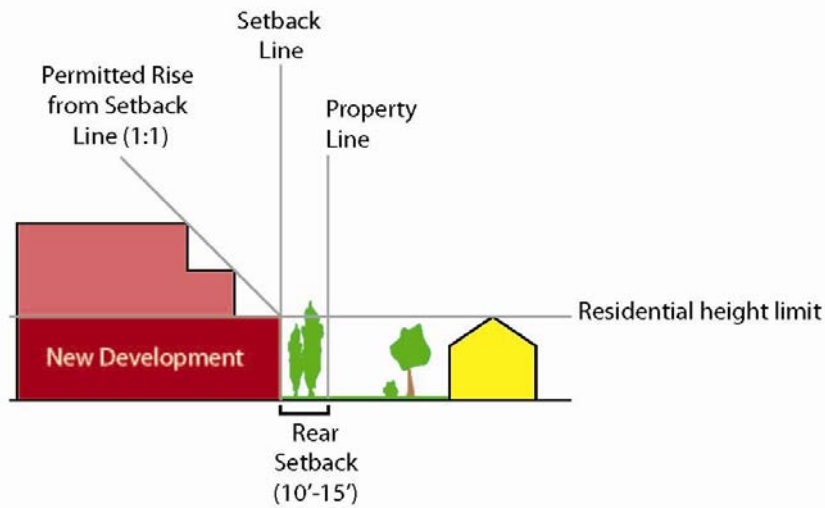
As mentioned, the General Plan emphasizes larger-scale development along the City’s corridors. At the same time, most of the City’s major corridors back up to lower-density residential neighborhoods. Therefore, a successful development pattern depends on effective transitions from larger scale developments on the corridors to the smaller homes behind. Staff proposes that new construction adjacent to low- and medium-density

neighborhoods be required to have a rear yard setback of ten percent of lot depth, with the setback requirement never being less than ten- or more than fifteen-feet. Table 2, below, provides examples of setback requirement for commercially zoned lots adjacent to low- and medium-density neighborhoods:

Table 2: Setbacks adjacent to residential Neighborhoods

Lot Depth	Minimum setback adjacent to low- and middle-density neighborhoods
70	10 feet
80	10 feet
90	10 feet
100	10 feet
110	11 feet
120	12 feet
130	13 feet
140	14 feet
150	15 feet
160	15 feet
170	15 feet
180	15 feet

Staff further proposes that the height maximum at this setback line be the same as that of the adjacent zone. Height could increase one foot for every foot away from the setback line. The following figure graphically describes the proposal:



Minimum Front and Side Yard Setbacks

A minimum setback would only be required in the Regional Commercial zone (RC-1) to reflect existing regulations in the C-36 zone. The minimum required front and side setback would be 20ft on Hegenberger Road, 98th Avenue and Edgewater Drive; the required setback would be 10ft elsewhere. This setback would allow for landscaping and buffering between the street/sidewalk and the site that would enhance the visual environment of the street and reduce the visibility of any parking lot.

FRAMEWORK FOR MAXIMUM HEIGHT, RESIDENTIAL DENSITY, AND FLOOR AREA RATIO REGULATIONS

Staff proposes a “height map” that would be independent of the zoning map to ensure that maximum heights are tailored to reflect the built context of different areas. This height map would be overlaid upon the zoning map to allow areas with the same zoning designation in different parts of the City to have different height requirements. The technique of having a height map separate from the zoning map is applied in several cities besides Oakland, which just adopted a height map in its Central Business District-- such as San Francisco, Portland, and Seattle.

The height map would contain different height levels mapped according to several factors, such as: width of street; access to major transit modes including BART and high-frequency AC Transit lines; proximity to downtown; adjacency of low density residential uses or zones; and context of historic buildings.

Staff proposes that five levels of height maximum be established for the corridors: 35 feet, 45 feet, 75 feet, 90 feet, and 120 feet. The 120-foot height classification would be reserved for Hegenberger Road. These height levels correspond with different construction types in the Building Code.

Staff proposes two other building intensity regulations for the commercial/corridor areas: maximum residential density and maximum nonresidential floor area ratio. The nonresidential floor area ratio is the square footage of commercial facilities constructed on a lot divided by the lot area. The General Plan states that the nonresidential floor area ratio cannot be more than 4.0 for areas with a Neighborhood Center Mixed Use or Regional Commercial designation or 5.0 for areas with a Community Commercial designation. The General Plan allows a maximum density of 125 units per acre or one unit per 261 square feet of lot area¹. The General Plan states that the maximum residential density and nonresidential FAR are not appropriate for all areas. One of the functions of the rezoning process is to decide what level of building intensity is appropriate for which areas of the commercial corridor.

Staff is in the process of developing nonresidential FAR and density maximums that correspond to the height levels described above. Staff will present these proposed regulations at the next TAG meeting.

--

Attachment A: Memo from May 14, 2009 TAG meeting
Attachment B: Planning Code Chapter 17.10 “Use Classifications”
Attachment C: draft Permitted Activities
Attachment D: draft Design Standards

¹ $43560/125 = 348 * .75$ (allowance for streets, etc.) = 261 SF