

November 9, 2009

Location:	Citywide
Proposal:	Discussion of Historic Preservation Issues in the rezoning of the City's Commercial and Residential General Plan land use designations.
Applicant:	City Planning Commission
Planning Permits Required:	Rezoning; Zoning Text Amendment
General Plan:	Hillside Residential, Detached Unit Residential, Mixed Housing Type Residential, Urban Residential, Neighborhood Center Mixed Use, Community Commercial, Regional Commercial.
Zoning:	Various
Service Delivery District:	All
City Council District:	All
Action to be Taken:	Discuss and identify issues
For Further Information:	Contact case planner Neil Gray at 510-238-3878 or ngray@oaklandnet.com .

SUMMARY

As discussed in a Director's Report at the October 19, 2009 Landmarks Preservation Advisory Board (LPAB) meeting, the City is currently in the process of updating the City's Planning Code to be consistent with the policies contained in the General Plan. The City is currently focusing on rezoning the commercial corridors and residential neighborhoods, which is most of Oakland's land area. One key issue identified in the Director's report is the preservation of Oakland's historic resources in these areas. The purposes of this meeting are to solicit input from the community and the LPAB regarding staff proposals and identify issues regarding historic preservation on the corridors and in the City's residential neighborhoods.

BACKGROUND

Oakland has a rich and diverse resource base of historic buildings and neighborhoods. The City's major corridors contain a series of historic commercial neighborhoods that were generally developed at the intersections of major streets and transit stops, especially streetcar and trolley stops. These districts were the commercial center of surrounding residential development. Traditional storefront patterns with buildings containing significant detailing, durable materials, large display windows, transom windows, and tall ground floors are major architectural features of these nodes. The Rockridge, Fruitvale, Temescal, Dimond, 7th Street, Golden Gate, Laurel, and Fairfax Commercial Districts are all examples of this pattern of development. The unique and attractive environments typical of these historic commercial districts have made them valuable centers of economic activity.

The City also has many notable historic residential neighborhoods. These neighborhoods represent the development patterns of the times they were built. For instance, the Oakland Point residential neighborhood in West Oakland was developed with Victorian buildings because they were constructed beginning around 1875 after Central Pacific located major train service yards in the area. Similarly, the Jingletown neighborhood in East Oakland was developed with Victorian buildings because California Cotton Mills became a large employer in the late 1800's. North Oakland contains excellent examples of Arts and Crafts, California Bungalow, and Craftsman style homes because they were the preferred architectural style during the construction boom that occurred after the 1906 earthquake. Like historic commercial districts, several historic residential neighborhoods have become some of the most desirable areas in Oakland.

There are also a number of individual buildings and properties throughout Oakland that are historically significant on their own. Examples of these include historic landmarks such as the Oakland Museum, Julia Morgan designed homes, historic churches, the Safeway Creamery, and scores of other properties.

The City's current effort to rezone residential neighborhoods, commercial districts, and corridors provides a framework to build upon current regulations that protect these historic resources (Attachment A contains a summary of the overall zoning effort). This report summarizes the City's regulatory framework for historic preservation, existing zoning regulations, and some initial proposals that could be included in the zoning update. Staff requests that the LPAB and the public provide comments regarding these proposals and provide input about other possible proposals that could be part of the rezoning effort.

REGULATORY FRAMEWORK

Land Use and Transportation Element of the General Plan

In March of 1998, the City of Oakland adopted the Land Use and Transportation Element (LUTE) of the General Plan and an associated land use map. These documents are the City's primary land use policy documents for the City. In broad terms, the documents direct

development from stable, lower density residential neighborhoods to the City's downtown and the corridors. Policies in the LUTE state that more intense development along the corridors and Downtown will support public transit and create successful retail nodes. While the LUTE emphasizes development in these areas, it also references the importance of historic resources to the character and economy of the City. Any historic preservation proposals would need to be evaluated and balanced according to the policies contained in the LUTE.

The Historic Preservation Element of the General Plan

The Historic Preservation Element (HPE) of the General Plan, adopted in 1994 (amended in 1998), provides a strategy to preserve the City's historically rated properties and neighborhoods. The HPE established a rating system for historic neighborhoods and individual buildings. Individual historic buildings are rated from A (highest importance) to E (no particular interest)¹. The element also establishes the criteria and process to establish a landmark property. Historic neighborhoods are separated into two categories: Areas of Primary Importance (API's) and Areas of Secondary Importance (ASI's). APIs are historically or visually cohesive areas that appear eligible for the National Register of Historic Places. These areas contain a high proportion of individual properties rated "C" or greater; at least two-thirds of the properties in an API must contribute to its principal historical or architectural theme. ASIs are similar to APIs except: 1) they do not appear eligible to be on the National Register, and 2) they require two-thirds of the properties to be either "potential contributors" or contributors to the principal historical or architectural theme of the area.

The HPE also contains goals, policies and actions that govern how the City will treat historic properties and neighborhoods. The following highlights those policies and actions that can be directly implemented through the Planning Code and, therefore, the rezoning process. The policies are underlined and the actions implementing the policies are indented. The list notes where a policy has been already been addressed by the City in the zoning ordinance.

Policy 2.4 Landmark and Preservation District Regulations.

Demolitions and removals involving Landmarks or Preservation Districts will generally not be permitted or be subject to postponement unless certain findings are made. Demolition or removal of more important Landmarks and of most Preservation District properties will normally not be permitted without the required findings, while demolition or removal of less important Landmarks will be subject only to postponement.

- a) Alterations or new construction involving Landmarks or Preservation Districts will normally be approved if they are found to meet the Secretary of the Interior's Standards for the Treatment of Historic Properties or if certain other findings are made.
- b) Findings for approval of demolitions, removals, alterations, or new construction involving Landmarks or Preservation Districts will seek to balance preservation of these properties with other concerns.

¹ A = Highest Importance, B = Major Importance, C = Secondary Importance, D = Minor Importance, E = No particular interest.

- c) Specific regulatory provisions are set forth in the tables entitled “Demolition and Removal Regulations for Landmarks and Preservation Districts” and “Alteration and New Construction Regulations for Landmarks and Preservation Districts.”

Action 2.4.1 Landmark and Preservation District Design Guidelines. Develop and adopt design guidelines for Landmarks and Preservation Districts.

- *Subsection 17.136.070(E) and Section 17.136.075 of the Planning Code (see Attachment B) implement a) through regulations regarding the demolition of Landmarks.*
- *Subsections 17.136.070(B) and (C) of the Planning Code (see Attachment B) require a design review procedure for the demolition or alteration to Landmarks or Preservation Districts.*
- *Sections 17.136.025 to 17.136.050 (see Attachment B) contain numerous findings and requirements for alterations to historic neighborhoods, Potential Designated Historic Properties, and Local Register Properties.*
- *Subsection 17.136.070(D) of the Planning Code (see Attachment B) contains Design Review findings required for the alternation or demolition of Landmarks or Preservation Districts.*
- *The “Proposals for Discussion” section, below, contains a discussion of proposed design guidelines for historic resources and findings required for the demolition of historic buildings.*

Policy 2.6: Preservation Incentives

Action 2.6.3: Transferable Development Rights. Amend the Zoning Regulations to provide transferable development rights to Landmarks and Preservation Districts and to establish areas where properties are eligible to receive transferred development rights. Investigate establishing a marketing mechanism for transferable development rights.

Action 2.6.5: Additional Conditionally Permitted Uses for Landmarks and Preservation Districts. Investigate additional zoning amendments to broaden the range of conditionally permitted activities for Landmarks and Preservation Districts in certain zones.

- *The recently adopted Central Business District zones allow Bed and Breakfast facilities in historic homes.*
- *The “Proposals for Discussion” section, below, contains proposals for a Transfer of Development Rights program and additional permitted activities in historic buildings.*

Policy 3.5: Historic Preservation and Discretionary Permit Approvals.

For additions or alteration to Heritage Properties or Potential Designated Historic Properties requiring discretionary City permits, the City will make a finding that: 1) the design matches or is compatible with, but not necessarily identical to, the property’s existing or historical design; or 2) the proposed design comprehensively modifies and is at least equal in quality to the existing design and is compatible with the character of the neighborhood; or 3) the existing design is undistinguished and does not warrant retention and the proposed design is compatible with the character of the neighborhood.

For any project involving complete demolition of Heritage Properties or Potential Designated Historic Properties (PDHPs) requiring discretionary City permits, the City will make a finding that: (1) the design quality of the proposed project is at least equal to that of the original structure and is compatible with the character of the neighborhood; or (2) the public benefits of the proposed project outweigh the benefit of retaining the original structure; or (3) the existing design is undistinguished and does not warrant retention and the proposed design is compatible with the character of the neighborhood.

Action 3.5.1: Design Guidelines for Discretionary Permit Approvals. Amend existing design guidelines for non-Landmark or non-Preservation District design review applications to reflect Policy 3.5. Develop and adopt design guidelines for design review situations where no such guidelines presently exist.

Action 3.5.2: Standard Conditions for Discretionary Permit Approvals. Develop standard conditions of approval that apply Policy 3.5 to projects requiring discretionary City permit approvals other than design review, and that require conformity with Action 3.5.1's design guidelines.

- *The alterations and additions findings of the policy have been implemented in the Central Business District in Section 17.136.055 (see Attachment B) of the Planning Code.*
- *Both the sets of findings in the policy are regularly part of the design review process for demolitions, additions, and alterations.*
- *See the "Proposals for Discussion" section for a further discussion of proposed guidelines to implement the policy.*

Policy 3.9 Consistency of Zoning with Existing or eligible Preservation Districts:

a) Unless necessary to achieve some other Oakland General Plan goal or policy which is greater significance, the base zone of existing or eligible Preservation Districts shall not encourage demolition or removal of a district's contributing or potentially contributing properties nor encourage new construction that is incompatible with these properties; b) The City will always consider including a historic preservation component in area wide or specific plans. As part of any amendment to the zoning regulations, the impact on historic properties will be evaluated.

Action 3.9.1: Zoning Study and Possible Zoning Amendments. Identify which potential Preservation Districts are eligible for Preservation District designation. Review the zoning requirements of each existing or eligible Preservation District to identify (a) any characteristics of the existing zoning inconsistent with preservation of the district's contributing or potentially contributing properties; (b) any zoning text changes, including creation of new zones, which should be adopted to remove such inconsistencies; and (c) specific zoning map changes needed for each area. Enact any recommended zoning text and map changes.

The Zoning Ordinance contains two Preservation District zoning designations: the S-7 Preservation Combining Zone and the S-20 Historic Preservation District Combining Zone (See Attachment C). Both these zones provide protections against the demolition of historic buildings and require special design review findings for new construction and alterations to historic buildings. Sheffield Village in the North Hills and Oak Center in

West Oakland both have an S-20 designation. The S-7 district is designated in various areas, including the 7th Street commercial district, the Belleview-Statens Apartment District adjacent to Lake Merritt, Old Oakland, and Preservation Park in Downtown. The City considers and analyzes all community requests to designate the S-7 or S-20 preservation district for an area.

The “Proposals for Discussion” section, below, discusses how staff further proposes to consider a district’s historic status in designating a particular zone and height maximum.

PROPOSALS FOR DISCUSSION

Staff requests that the LPAB review and comment on the following proposals and/or suggest other historic preservation proposals relevant to the rezoning process. Each proposal is followed by the policy that it would implement.

Demolition Findings

On October 19, 2009, The Landmarks Preservation Advisory Board (LPAB) recommended that the Planning Code be amended to include several requirements for a historic building to be demolished. The recommendations include new findings required for the demolition of historic buildings and are a direct reflection of policies and actions contained in the HPE. Different findings are required for Local Register Properties² and “C” rated properties that do not contribute to an API and all properties that contribute to an ASI.

Staff proposes to take the LPAB recommendations to the Zoning Update Committee (ZUC) and the Planning Commission. These recommendations will also be used as a framework for recommendations that staff will make to the ZUC and Planning Commission.

This recommendation implements Policy 2.4(b) and (c).

Design Guidelines

The Planning and Zoning Division are currently in the process of developing design guidelines for one- and two-unit dwellings, multifamily construction, and buildings located along the City’s commercial corridors. Design guidelines are intended to complement zoning regulations by providing descriptive design guidance at a level of detail and length that would not be appropriately adopted as Code. Staff proposes that design guidelines for construction of new buildings in historic districts and alteration of historic buildings be included in these documents. The Secretary of Interior Standards for the Treatment of Historic Properties is also proposed to be discussed in these guidelines.

This recommendation implements Policies 2.4(b) and (c) and 3.5.

² Local Register Properties include: landmarks, properties that contribute to an S-7, S-20, or API district, A and B rated properties, and properties on Preservation Study List.

Transfer of Development Rights

Staff proposes that a Transfer of Development Rights (TDR) program be considered for the corridors and downtown. A TDR program could reduce the incentive to demolish a historic structure by allowing developers of other sites to purchase its development rights for height, density, or floor area ratio. For instance, if a height limit in an area is 45 feet and the height of a historic building in that zone is 35 feet, the owner could potentially construct up to 10 feet taller than the existing building. In this case, a developer proposing a development at another part of the City with a 60 foot height limit could pay the property owner of the historic property to agree to never construct over 35 feet on that property. These 10 feet would then be transferred so the new development would have a height limit of 70 feet (10 feet greater than the original 60 foot height limit). This transfer reduces the incentive to demolish the historic building because a developer could not construct a building taller than already exists on the property.

This recommendation implements Policy 2.6 (Action 2.6.3).

Zoning and Height Limits at Historic Neighborhoods

Staff will propose lower height limits in ASIs and APIs to assure that new construction is compatible with existing buildings and to reduce the incentive to demolish contributors to historic districts. Staff believes that reduced heights along with demolition findings and a TDR program will produce significant protection for historic resources on the corridors.

Like all low density residential districts, the zones proposed in low density historic residential districts will have height limits consistent with existing context. This zoning will reduce the incentive to demolish historic structures.

Finally, the rezoning will preserve all existing S-7 and S-20 historic districts.

This recommendation implements Policy 3.6 (Action 3.9.1).

Allowing Additional Activities in Historic Resources

With the exception of Downtown, Bed and Breakfast facilities that accommodate more than three guests are regulated the same as hotels and motels. This limits bed and breakfast operations from being located outside of downtown and the Hegenberger corridor. Staff proposes that bed and breakfast facilities be conditionally permitted under some circumstances in historic buildings in residential zones.

Staff further proposes that some commercial activities be conditionally permitted to locate in existing nonresidential structures in some residential neighborhoods. This proposal will help encourage existing historic non-residential facilities to be reused and also help discourage their demolition for an alternative use. Occupying these historic buildings will also encourage their upkeep.

This recommendation implements Policy 2.6 (Action 2.6.5).

RECOMMENDATION

Staff requests that the LPAB and the public consider the proposals discussed above and provide input to staff.

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Approved for forwarding to the
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Attachments

- A: October 19, 2009 Director's report to the LPAB regarding the rezoning process
- B: Excerpts from the Planning Code regarding historic preservation
- C: S-7 and S-20 zones