

Location:	Central Business District
Proposal:	<ol style="list-style-type: none"> 1) Amend the zoning regulations to create four new zones and a height/bulk/intensity map for the Central Business District (CBD); 2) Amend the Zoning Maps to include the new CBD zones; 3) Amend the document “Guidelines for Determining Project Conformity with the General Plan and Zoning Regulations” to reflect the new CBD zones; and 4) Text amendments related to the creation of the new CBD zones.
Applicant:	City Planning Commission
General Plan:	Central Business District (CBD)
Existing Zoning:	R-80 High-Rise Apartment Residential; R-90 Downtown Apartment Residential Zone; C-40 Community Thoroughfare Commercial; C-45 Community Shopping Commercial Zone C-51 Central Business Service Commercial Zone; C-52 Old Oakland Commercial; C-55 Central Core Commercial S-2 Civic Center; S-4 Design Review Combining; S-7 Preservation Combining; S-8 Urban Street Combining; S-17 Residential Open Space Combining Zones
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) and the Housing Element Update Initial Study/Mitigated Negative Declaration (2004).
Case File Number:	RZ08060, ZT08054
Action to be taken:	Discuss and make recommendation to the Planning Commission.
For further information:	Contact: Neil Gray at 238-3878 or email ngray@oaklandnet.com

SUMMARY

This report provides staff recommendations regarding the rezoning of the Central Business District (CBD). Staff anticipates that the meeting that is the subject of this report will result in a recommendation regarding CBD rezoning to the full Planning Commission. In this report, staff recommends regulations regarding preservation of CBD historic resources, including a “fine grain” height map approach, and other modifications to the height map. Staff further presents the recommendations of the Landmarks Preservation and Advisory Board regarding the preservation of CBD historic resources.

OVERVIEW/BACKGROUND

This report provides staff recommendations and alternatives for the remaining major issues concerning the proposed rezoning of the Central Business District (CBD). Staff anticipates that the meeting that is the subject of this report will result in a recommendation regarding the CBD rezoning to the full Planning Commission.

The rezoning of the CBD is part of a larger program to revise the Oakland zoning ordinance to conform to the 1998 General Plan, and to provide a more effective and forward-thinking Code. CBD rezoning was initiated in January 2008. There have been several community workshops, a walking tour, and multiple meetings of the ZUC during 2008. Most recently, on October 29, 2008, a discussion between groups that have been most active in providing input at public meetings was held regarding the proposed rezoning. These groups included the Chinese Chamber of Commerce, Oakland Heritage Alliance, Old Oakland Neighbors, Oakland Builders Association (OBA), Coalition of Advocates for Lake Merritt (CALM), and East Bay Housing Organizations (EBHO). This discussion focused on four issues (see Key Issues and Impacts, below). The staff report and summary notes for this meeting are contained in Attachments A and B, respectively.

Landmarks Preservation Advisory Board (LPAB)

The LPAB has held a series of meetings, including a joint meeting with the ZUC on October 6, 2008, to formulate advice for the ZUC and the Planning Commission regarding preservation of historic resources in the CBD. On January 12, 2009, the LPAB formulated recommendations regarding a fine grain height approach to the Central Business District. This included recommendations regarding:

In the short term:

- a. Implementation of a “fine grain” height map approach. The summary and text of these recommendations are presented Attachments C. This includes recommendations for new design review processes and findings for:
 - New construction in Areas of Primary Importance (API’s)¹ and Areas of Secondary Importance (ASI’s)¹;
 - Alterations to buildings that contribute to an API’s and ASI’s; and
 - Alterations and additions to historic properties not in an API or ASI.
- b. The ZUC reevaluate the southwest portion of the Lakeside Apartment District API such that the dramatic height difference between 55 feet and 400 feet is significantly reduced.
- c. The maximum tower dimensions along Lakeside Drive between 11th and 17th Street be reduced from those originally proposed by staff. The current proposal allows a 55-foot base with a tower up to 170 feet; requires that the footprint of the tower be no more than 50 percent of the site; and allows a maximum tower average floor plate up to 10,000 square feet. The proposal further requires that towers are sited in such a way that preserves views to the

¹ APIs and ASIs are historically or visually cohesive areas or property groups identified by City surveys that contain a high proportion of historic buildings. APIs appear eligible for the National Register of Historic Places, ASIs do not.

lake through at least one-third of the area above the base. The LPAB recommends that this amount be increased to 50 percent; the Board further recommended that no building dimension parallel to the lake be allowed to be greater than 70 feet (see Issue Area 1 on Attachment D).

- d. Provide open space and parking space requirement relief for developments that involve the rehabilitation historic buildings. This recommendation allows the rehabilitation of historic buildings when it otherwise may be impractical. For instance, rehabilitating an historic building can require additional open space or parking, particularly if the proposal includes new residential units. Often times, however, the historic building covers an entire site, making additional open space or parking impractical.
- e. Allow the conversion of historic buildings to bed and breakfast hotels and relax activity regulations in historic buildings. This recommendation would encourage the rehabilitation of buildings through adaptive reuse.
- f. Adopt new findings regarding demolition of historic buildings that implement the findings described in the Historic Preservation Element and implement more restrictive demolition and alteration findings.
- g. Define “design quality” and “equal in quality”.

In the intermediate term:

- a. Map and Zone historic Vistas, focal points (terminus of vistas), and gateways for Protection.
- b. Provide development standards that take into consideration existing parcel frontage widths and height to width ratios of existing buildings in historic districts.
- c. Provide development standards that take into consideration transitions of small scale historic resources to large scale new construction. This could be integrated with guidelines for the location of towers when adjacent to a historic resource.

In the long term:

- a. Explore adding height to historic resource buildings, without loss of the building’s historic status.
- b. Expand the Mills Act Program in the CBD.

KEY ISSUES AND IMPACTS

The following analysis focuses on staff recommendations for the four issues discussed at the October 29, 2008 workshop. These issue areas are:

- Height maximum south of 17th Street near Lake Merritt;
- Height maximum north of 17th Street near Lake Merritt;
- The greater Chinatown area; and
- Techniques to preserve and protect downtown historic resources.

The following is a description of the four issues, presents staff recommendations from the October 29, 2008 meeting, and describes staff’s current recommendations. Staff also presents further refinements to the proposal.

Issue 1

Issue 1 concerns the maximum height regulations south of the Essex residential tower (see Issue Area 1 on Attachment D). This area includes the following characteristics:

- The area to the south of 14th Street primarily contains approximately 40- to 87-foot tall government buildings, including the historically rated main branch of the Oakland Public Library and Alameda County Courthouse;
- Lakeside Drive north of 14th Street and south of 17th Street features a mix of historic and more recently constructed buildings such as the approximately 128-foot tall Scottish Rite Temple, 36 – 50-foot tall historic apartment buildings, and 12-16 story modern apartment buildings. Overall, the heights of buildings vary significantly from an approximately 25-foot-tall apartment building on the corner of 17th Street and Lakeside Drive to the approximately 170-foot tall apartment buildings at 1503 and 1515 Lakeside Drive; and
- A large portion of the area is considered an API by the City of Oakland Office of Heritage Survey.

October 29, 2008 Recommendation: Staff proposed the following alternatives at the October 29, 2008 ZUC meeting:

ALTERNATIVES FOR ISSUE 1			
	Alternative 1	Alternative 2	Alternative 3
Height Area	1	2	2
Maximum Height			
Building base	55 ft	55 ft	55 ft
Total	55 ft	170 ft	275 ft
Average per story lot coverage above the base	NA	50% of site area or 7,500 sf, whichever is greater	50% of site area or 7,500 sf, whichever is greater
Maximum average area of tower floor plate	NA	10,000 sf	10,000

Staff recommended Alternative 2 after analyzing the solar access, view, skyline, contextual, and development potential impacts of the proposal (see Attachment A for the full analysis).

New Recommendation: Staff continues to recommend this alternative with one change to the height map (see Modification J in Attachment E). This modification extends Height Area 1, the height area with a 55-foot height limit, to two parcels on Lakeside Drive near the intersection of Lakeside Drive and 14th Street. This modification was made to create a more appropriate transition to the Camron-Stanford House, a landmarked Victorian building in Lakeside Park.

Issue 2

Issue 2 concerns the maximum heights in the area shown as Issue Area 2 in Attachment D. This area includes the 220-foot tall Essex building, Snow Park, and a historic neighborhood known as the 244 Lakeside Drive Group. This area contains an API created by a cluster of A1+ rated

residential properties, including the Regillus building, 244 Lakeside Drive, Schilling Gardens, and the Schilling House Garage. An A1+ historic rating is the City’s highest rating for a historic building. All of these properties are on the Preservation Study List. The garden and the buildings within the group are also contributors to the Lake Merritt Historic District. According to the City’s Sanborn Maps, The Regillus is 110 feet tall and 244 Lakeside Drive is 131 feet tall. The area also includes the landmarked, 70-foot tall Lake Merritt Hotel.

There are two potentially developable sites in this area: the Schilling Gardens site and the parking lot at the corner of Alice and 17th Street. Schilling Gardens may be considered a potential development site because even though it is a historically rated property; the City currently has an application on file to develop the site.

October 29, 2008 Recommendation: Staff recommended Alternative 2 amongst the following three alternatives:

ALTERNATIVES FOR ISSUE 2			
	Alternative 1	Alternative 2	Alternative 3
Height Area	3	4	5
Maximum Height			
Building base	80 ft	100 ft	110 ft
Total	275 ft	400 ft	Unlimited
Average per story lot coverage above the base	NA	75% of site area	75% of site area
Maximum average area of tower floor plate	15,000	20,000 sf	25,000

New Recommendation: Staff proposes to modify the previous recommendation by including the Regillus building and 244 Lakeside Drive into a new height area 1a with an 85-foot height maximum (see Modification G in Attachment E). This height maximum contributes to the preservation of these A1+ rated historic buildings. Staff did not include the Schilling Gardens in this new 85-foot height area (shown as Height Area 1a in Attachment F) to provide an appropriate height transition to the taller office buildings in the Kaiser Center.

Issue 3

Issue 3 concerns maximum height in the Greater Chinatown Residential/Lake Merritt BART Station Area (see Issue Area 3 on Attachment D). This area generally consists of low level single-family homes and apartment buildings, urban parks, the MetroCenter (headquarters for the Metropolitan Transportation Commission and the Association of Bay Area Governments), and the Lake Merritt BART Station. The 7th Street/Harrison Square Residential District API is also located in this area. This historic district contains a high concentration of late 19th and early 20th historic structures that vary in quality but together constitute a neighborhood with a consistent historic character.

October 29, 2008 Recommendation: Staff recommended this area be designated Height Area 3 at the October 29, 2008 ZUC meeting. Staff proposed that the Lake Merritt BART Area Specific Plan further study and refine the regulations for this area due to the area’s complex mix of historic neighborhoods and density potential related to transit oriented development.

New Recommendation: Staff continues to recommend that this area be designated Height Area 3 and be further studied and refined during the Lake Merritt BART Area Specific Plan.

Issue 4

The fourth issue concerns the preservation of historic buildings in downtown. Staff did not make recommendations regarding this issue for the October 29, 2008 meeting. New staff recommendations include an expansion of the “fine grain” approach to the height map; new design review requirements for construction in APIs; design review requirements for Designated Historic Properties (DHPs) and Potentially Designated Historic Properties (PDHPs)¹; and incentives for preserving historic properties.

Expansion of the “Fine Grain” approach

Staff proposes an expansion of the fine grain approach to the height map. This approach applies height limitations to preserve or allow appropriate construction in historic areas. Staff proposes expanding Height Area 1 (at 55 feet, the height area with the lowest maximum height of any proposed height area) to cover nearly all the APIs where a certain height is a defining historic characteristic of the district. Attachments G and H contain the proposed height map, the location of all the APIs, and the location of APIs where height is a character defining feature. Modifications D, E, G, and I on Attachment E represent expansions of Height Area 1 to most of the APIs where height is a character defining feature. This expansion includes the 17th Street retail area. Exceptions to this approach include:

- *The Chinatown (7th Street/Harrison Square) residential district.* This area was not included in Height Area 1 because it will be analyzed in greater detail as part of the Lake Merritt BART Station Specific Plan;
- *The southern part of the Lafayette Square District.* This block was not included in Height Area 1 because of its inconsistent development pattern and development sites. Staff does propose that this district be designated Height Area 1a, a new height area with an 85-foot height maximum (see Modification F, Attachment E for this area). Height Area 2 (55-foot maximum base height, 170-foot total maximum height) was the previous recommendation;
- *The southwest area of the Lakeside Apartment District* (see Modification K, Attachment E for this area). Staff recommends Height Area 1a (85-foot height limit) to transition from the 55-foot height limit in the Lakeside Apartment District to the 400-foot height limit along 14th Street. This transition was requested by neighborhood residents and the LPAB. Staff recommends that the two parcels in the API on Alice Street near 14th Street remain in Height Area 4 (400-foot height limit above an 85-foot base) to accommodate development potential in that area;
- *Eleven parcels along Grand Avenue in the Cathedral District* (see Modification B, Attachment E). This area was not included in Height Area 1 because it has an inconsistent development pattern and Grand Avenue requires taller buildings to define its wide right-of-way. Staff proposes Height Area 1a (85-foot height limit) for this area; and

¹ DHPs include Landmarks and contributors or potential contributors to APIs and ASIs. PDHPs include properties with a historic rating of “A”, “B”, or “C” or contribute to an API or ASI.

- *The King District* (See Attachment H). Staff recommends that this area stay in Height Area 5 because there is potential to build upper story additions above these one to three story commercial buildings.

Staff further recommends that any proposed construction that would result in a height greater than the prevalent height in any API where height is a character defining feature be required to be heard in front of the LPAB and meet the following findings:

- There are appropriate transitions to neighboring contributing historic buildings, if any;
- The new construction is compatible with the existing district in terms of massing, scale, siting, rhythm, composition, patterns of openings, quality of material, and level of detailing;
- The new construction provides high visual interest that reflects the level and quality of visual interest of the district contributors; and
- The new construction does not reduce the visual cohesiveness of the district.
- The proposal meets Secretary of Interior's standards for the treatment of historic resources.

In general, the APIs with a prevalent height context in downtown have been designated as Height Area 1 (55-foot height limit) and their prevalent height is about 35 feet, the approximate height of two-story Victorian homes. Therefore, staff recommendations would usually allow an approximately two story addition above the existing structure.

Note that Old Oakland has an approximately 35 foot height context and has had a 50-foot height limit for many years. This approach has not resulted in Old Oakland losing its historic status as an API.

Other Design Review Requirements

Staff proposes the following other design review processes and findings:

- A. All new construction in an API would be required to be heard in front of the LPAB and meet the following findings:
- The new construction is compatible with the existing district in terms of massing, siting, rhythm, composition, patterns of openings, quality of material, and level of detailing;
 - New building frontage widths and rhythm are consistent with that of the district;
 - Entrances reflect patterns similar to the street;
 - The new construction provides high visual interest that reflects the level and quality of visual interest of the district contributors;
 - The proposal meets Secretary of Interior's standards for the treatment of historic resources.

- B. Additions to APIs requiring full design review where construction would not result in a height above a prevalent district height, if any, would be decided administratively after consultation with Historic Preservation staff. This type of project would be required to meet the following findings:
- There are appropriate transitions to neighboring DHP or PDHPs, if any;
 - The proposal is compatible with the character of the existing building and the API in terms of massing, siting, rhythm, composition, patterns of openings, quality of material, and level of detailing;
 - The proposal provides high visual interest that reflects the level and quality of visual interest of the building and the API; and
 - The proposal does not reduce the visual cohesiveness of the building or the API.
 - The proposal meets Secretary of Interior's standards for the treatment of historic resources.
- C. All new construction in an ASI (Attachment I is a map of the ASIs) would be decided administratively after consultation with Historic Preservation staff. The construction would be required to: 1) be compatible with the existing district in terms of massing, siting, rhythm, composition, patterns of openings and facades, quality of material, visual interest, and level of detailing, and 2) not have an impact on the ASI would modify its inclusion as an ASI. A uniquely designed project that could not meet these findings may be approved if it meets additional findings assuring quality design. This alternative process would require a hearing in front of the LPAB.
- D. Additions to contributors to ASIs and DHPs and PDHPs outside an API would be decided administratively after consultation with Historic Preservation staff. These projects would be required to meet the following findings:
1. For upper story additions, the addition is stepped back at least 5 feet at the front façade;
 2. There are appropriate transitions to neighboring DHPs or PDHPs, if any;
 3. The proposal is compatible with the character of the existing building and the ASI, if applicable, in terms of massing, siting, rhythm, composition, patterns of openings, quality of material, and level of detailing;
 4. The proposal provides high visual interest that reflects the level and quality of visual interest of the building and the ASI, if applicable;
 5. The proposal does not reduce the visual cohesiveness of the building or the API/API, if applicable;
 6. The proposal does not have an impact on the ASI would modify its inclusion as an ASI; and
 7. If the project does not meet a finding, the project may be approved after a hearing in front of the LPAB. This process would only be available to projects with extraordinary architectural interest.
- E. Over the counter design review or any repairs of facades of a DHP or PDHP would include consultation with Historic Preservation Staff and meet the following finding: The character

defining features of the building are either not affected or repaired based on the original feature of the building. If repair is not feasible, then the replacement matches the historical feature unless consultation with historic preservation staff determines that the proposal will preserve its character defining appearance.

Major Differences between Staff and LPAB fine grain approach

The following summarizes some of the significant differences between staff and the LPAB recommendations regarding the fine grain height approach.

Staff's proposal allows height to buildings that contribute to an API or ASI, where height is a character defining context of the district, up the maximum of the underlying height area. This height would require special design review findings, including a requirement that the addition adheres to Secretary of Interior's Standards for the treatment of historic resources. In these areas, this would normally allow a two-story height increase from about 35 to 55 feet¹. The LPAB recommends that any height over the prevalent height of the district only be allowed if it cannot be seen from the sidewalk on the opposite side of the street. The LPAB also recommends a base height limit at the prevalent height and conditionally permits a one story or 25 percent increase over the prevalent height of the district, whichever is greater.

Staff does not include findings requiring that additions to buildings rated "A" or "B" neither impair the building eligibility for National Register of Historic Places nor impact the building in a way that would modify the property's highest level of designation. Staff does not include these findings because buildings with either of these ratings would require intense scrutiny under the California Environmental Quality Act (CEQA).

Finally, staff recommends that all additions above a building that is a contributor to an ASI, PDHP, or DHP be stepped back five feet from the façade to create a clear distinction between the old and new construction. The LPAB only requires setbacks in districts where height is a character defining feature. Staff makes this recommendation to assure there is a clear break between an addition and the original building or the contextual height and the height above.

Other Historic Preservation Recommendations

The following are other recommendations from staff:

- Provide open space and parking space requirement relief for developments that involve the rehabilitation of historic buildings. This recommendation allows the rehabilitation of historic buildings when it otherwise may be impractical. For instance, rehabilitating an historic building can require additional open space or parking, particularly if the proposal includes new residential units. Often times, however, the historic building covers an entire site, making additional open space or parking impossible;
- Allow the conversion of historic buildings to bed and breakfast hotels and relax activity regulations in historic buildings. This recommendation would encourage the rehabilitation of buildings through adaptive reuse;

¹ Exceptions where the height limit would be over 55 feet include areas of the Chinatown residential district, part of the Lafayette Square District, the southwest area of the Lakeside Apartment District, eleven parcels along Grand Avenue in the Cathedral District, and the King District.

- Implement findings in the Historic Preservation Element regarding demolition of historic buildings into the zoning ordinance.

In the longer term, staff recommends that historic preservation of historic vistas be studied, the S-7 Historic District be applied to APIs in the CBD, and expansion of the Mills Act Program into the CBD. These recommendations can be implemented in a future phase of the rezoning of downtown.

Zoning map

Staff proposes one change to the zoning maps since the October 29, 2008 ZUC workshop. Attachment J shows the CBD-P zone extended on 17th Street down to Harrison Street. This proposal would extend the 17th Street retail district to storefronts to the east.

RECOMMENDATION

Staff recommends that the ZUC recommend to the Planning Commission adoption of the proposed height and zoning maps (see Attachments E and J, respectively) and zoning text (Attachment K). Staff further recommends that the ZUC recommend adoption of the concepts for historic preservation proposed by staff in this report. Staff has yet to write text for the proposed regulations for historic resources. Therefore, staff also recommends that the ZUC direct staff to write text reflecting the staff's proposed regulations.

Prepared by:

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Approved for forwarding to the
Zoning Update Committee of the
City Planning Commission

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ATTACHMENTS:

- A. Staff report for October 29, 2008 ZUC workshop
- B. Summary of the October 29, 2008 ZUC workshop
- C. Summary of LPAB recommendations regarding preservation of historic resources.
- D. Map of issue areas
- E. Map of proposed modifications to Height Map
- F. Proposed Height Map
- G. Height Map showing APIs
- H. Height map showing APIs where height is a character defining context
- I. Map showing all ASIs and APIs
- J. Proposed Zoning map
- K. Proposed Zoning text
- L. Public comments since October 29, 2008 ZUC workshop **Attachment Part 2**