

Oakland City Planning Commission
Design Review Committee

STAFF REPORT

Case File Numbers DC20.02; ZT01-351; RZ01-352

August 22, 2001

Location:	Citywide
Proposal:	Zoning text changes and related zoning map changes for revised development standards and design review program for one and two unit residential facilities.
Applicant:	City of Oakland
Environmental Determination:	Exempt; Section 15061(b)(3), State CEQA Guidelines, "general rule", no possibility of significant effect on the environment.
Action to be Taken:	Recommendation on draft zoning text to City Planning Commission.
For further information:	Contact case planner Christopher Buckley at (510) 238-6983.

SUMMARY

Since 1996, the City of Oakland has been investigating revisions to its zoning standards and design review program for one and two unit residences. On July 25, 2001, the City Planning Commission reviewed and heard public testimony on a conceptual proposal for these revisions that had been endorsed by the City Council on May 29, 2001. As part of its endorsement, the Council directed that draft zoning text and map changes implementing the proposal be brought to the Council in early October, 2001. A comparison of the existing and proposed zoning standards is in Attachment A. The proposed process framework, including applicability of design guidelines, is summarized in Attachment B.

The proposed zoning text changes (Attachment C) and map changes (Attachment D) are being submitted to the City Planning Commission's Design Review Committee for public comment and for Committee review and recommendation to the full Commission. The Commission is scheduled to hold a formal public hearing on the changes on September 5, 2001 and make a recommendation to the City Council. The Council's Community and Economic Development Committee is tentatively scheduled to consider the text and map changes on October 9, 2001. The Council's first and second readings of the ordinance adopting the text and map changes are tentatively scheduled for October 23, 2001 and November 6, 2001.

The Council-endorsed proposal is set forth on pages 5-13 of the attached May 8, 2001 staff report to the Council's Community and Economic Development Committee (CEDC) which is Attachment E. Letters received since the Council action on May 29, 2001 and through August 7, 2001 are in Attachment F.

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Key features of the proposal include:

CONDITIONS OF APPROVAL

1. A new "Mediated Design Review" procedure to be adopted as a pilot program in City Council District One and the S-14 Zone (1991 Firestorm Area) which would replace existing design review procedures in these areas with a mediated process to resolve issues between the project sponsor and neighbors. The City Planning Commission and City Council would review the pilot program after six months and again after one year; after the one year review, the Council would decide whether to retain it, modify it and/or apply it to other areas;
2. Requiring "Regular" Design Review for all projects with floor area over 3,500 square feet as part of the S-14/District One pilot program; this will include full notice to neighbors and opportunity to appeal the staff decision to the Planning Commission (see Attachment A of the May 8, 2001 CEDC staff report for descriptions of existing design review procedures);
3. Revised development standards that would apply citywide for building heights, setbacks, landscaping, fences, parking and other design elements, including a new lot coverage standard; and
4. Design guidelines to promote improved and more consistent decision making where design review is required.

The new standards are somewhat more restrictive than the existing standards in order to address, using objective zoning criteria, design issues that are now mostly addressed through design review. Many of the new standards are based on those now successfully used for sloping hillside sites in the S-14 Fire Area Zone; these S-14 provisions would thus be expanded for all sites over 20 percent slope citywide.

The design guidelines would mostly be based on the existing S-14 guidelines and Special Residential Design Review guidelines and criteria (see Attachment A to the May 8, 2001 CEDC staff report) but with greater specificity and objectiveness.

BACKGROUND

See the "Background" section of the May 8, 2001 CEDC staff report (Attachment E) for a complete overview of the project prior to the City Council's latest actions.

OVERVIEW OF THE ZONING TEXT AND MAP CHANGES

Zoning Text Changes

The zoning text changes consist of the following:

(1) Changes to Development Standards.

The revised development standards are intended to address such issues as: houses that are too large and too close together—affecting views, privacy, and solar access; overly prominent garage doors and driveways; inadequate landscaping; and potentially blighting elements such as excessive front yard paving, security bars and tall front yard fences. Attachment A provides a comparison of all the proposed changes

to development standards. These include revisions to existing standards for such elements as height, setbacks, fences, parking and landscaping. They also include new standards for:

- lot coverage on level sites in low and medium density zones;
- building length facing side lot lines on sloped sites;
- garage and carport widths and locations;
- pavement and parking in street fronting yards; and
- exterior security bars on street elevations.

The new and revised standards are in the text changes for individual zones (Chapters 17.11A through 17.98) and for the general regulations in Chapters 17.102 through 17.124.

The S-14 Zone's development standards are being deleted because all of them are being applied citywide, sometimes with modifications, through changes to the other individual zones and to the general regulations.

(2) New "Mediated Residential Design Review".

A key provision of the proposal is a new "Mediated Residential Design Review" procedure, which would use mediation between the project sponsor and neighbors to resolve design issues, especially those related to building mass and bulk, and view, privacy and solar access impacts on adjacent properties. The procedure has several important features that distinguish it from current procedures, especially those now used in the S-14 Zone:

- Consultation between the project sponsor and neighbors prior to application submittal;
- A more focused process that emphasizes impacts on adjacent properties rather than more general building design issues; and
- More certain time limits for completing the design review process.

Specific provisions include:

- Prior to application submittal, referral of plans by the project sponsor to neighboring property owners for their review, including signatures acknowledging that they have reviewed the plans;
- Following application submittal, notice to neighboring property owners advising them of their right to request mediation to address any design issues concerning the proposal;
- A 30-day mediation period, with mediation costs shared equally among participants, and a report to planning staff on the results;
- Decision by planning staff with a 30-day time limit if no mediation and a 75-day time limit with mediation; and

- Appeal possible only if one side (applicant vs. adjacent owners) refused mediation; in this case, anyone on the opposing side could appeal the staff decision to the City Planning Commission.

Mediated Residential Design Review would be available in City Council District One (North Oakland) and the S-14 Zone and apply to 1-2 unit new construction projects or upper floor additions which do not result in buildings over 3,500 square feet in floor area (excluding below grade areas and up to 440 square feet of garage or carport area). The existing "Regular" Design Review procedure would apply to projects resulting in over 3,500 square feet of floor area.

Additions and alterations that do not involve upper floor additions or result in over 3,500 square feet would be processed under the existing Special Residential Design Review (SRDR) procedure. This will eliminate neighbor notification for such projects in the S-14 Zone but represent no procedural changes for such projects in the portions of District One outside S-14. SRDR exemptions will also apply -- additions and alterations that do not increase the footprint, floor area or wall area over ten percent and which match the existing building will be exempt from design review.

The new procedural framework is set forth in a new "S-18 Mediated Residential Design Review Combining Zone" (see new Chapter 17.101B). The S-18 Zone would be mapped as an overlay zone covering the existing S-14 Zone area and all of Council District One.

The Mediated Residential Design Review procedure is set forth in a new Chapter 17.147. The existing procedural sections of the S-14 Zone are deleted since they would be replaced by the S-18 Zone provisions.

The existing procedures for Conditional Use Permits (Chapter 17.134) Design Review (Chapter 17.136), and Variances (Chapter 17.148) have minor amendments to reflect the new Mediated Residential Design Review Procedure and changes to the S-14 procedures. The variance procedure also has a new finding (see Section 17.148.050(A) that requires "Regular" Design Review findings to be made for the elements of the proposal (e.g. elements such as buildings, fences, driveways, garages and carports, etc.) requiring the variance. Another new variance finding addresses potential bulk impacts and solar access, view and privacy impacts on adjacent properties. A similar new finding has been added for Conditional Use Permits (see Section 17.134.050E).

(3) Definitions.

Various definitions have been revised, added to, or deleted from Section 17.09.040. Many of these apply existing S-14 definitions to the entire City, eliminating several dual sets of definitions for S-14 and areas outside S-14.

The most significant new and revised definitions are those for "finished grade", "height", "lot coverage", "street to setback gradient" and "upper story".

Zoning Map Changes

The proposed zoning map changes apply the new S-18 Mediated Residential Design Review Combining Zone to the existing S-14 Zone and City Council District One.

KEY ISSUES AND IMPACTS.

Changes and Clarifications to Council-Endorsed Proposal.

The draft zoning text reflects the proposal endorsed by the City Council on May 29, 2001. Certain items required clarification or greater detail than was decided by the City Council. The items where staff has developed further detail or proposed minor changes are discussed below.

(1) Lot coverage limits.

The Council endorsed a 40% lot coverage limit for level sites (less than 20 percent slope), in all zones excluding garages, but this was subject to adjustment pending further analysis. The new standard for building length limits facing side lot lines, proposed for sloped sites, was to be considered for level sites as well, in combination with the lot coverage limits.

The proposal set forth in the draft zoning text instead uses a sliding scale of lot coverage limits that is summarized as follows:

<u>Zone</u>	<u>Min. Lot Size (sq. ft.)</u>	<u>No. of Regular Dwelling Units</u>	<u>Proposed Lot Coverage Limit</u>
R-1	43,560	1 reg. unit per lot	15%
R-10	25,000	1 reg. unit per lot	20%
R-20	12,000	1 reg. unit per lot	25%
R-30	5,000	1 reg. unit per lot	40%
R-35	5,000	2 units per lot w/Conditional Use Permit (CUP)	40% (50% w/CUP)
R-36	5,000	2 units per lot over 4,000 sq. ft.; 3+ units w/CUP	40% (50% w/CUP)
R-40	5,000	Same as R-36	40% (50% w/CUP)
R-50	4,000	Same as R-36	40% (50% w/CUP)

The above limits would apply only to projects that are on sites less than 20 percent slope and result in one or two units per lot. They would not apply to projects resulting in three or more units per lot or to any project on a site of 20 percent slope or more.

It should be noted that other cities apply lot coverage limits citywide on sloped sites as well as flat sites. Reasons to limit lot coverage on sloped sites are: to allow maximum water percolation to prevent erosion and landslides; and to promote large planted areas that retain the natural landscaped character of hill areas. However, application of lot coverage limits to sloped sites was not part of the Council-endorsed proposal.

The term "lot coverage" in the zoning text's definitions section includes all structures over six feet above finished grade, including: garages; other accessory structures; and projections such as desks, balconies and bay windows; but excluding non-habitable accessory structures of less than 120 square feet that do not require a building permit.

The new building length limits for sloped sites are not proposed to be combined with the lot coverage limits. Staff felt that these building length limits were primarily relevant to sloped lots where views are a major issue.

In formulating the above proposal, staff surveyed the lot coverage limits used for 1-2 unit residential zones in nearby cities. The results of this survey are as follows:

Albany

- 50% lot coverage limit.
- Applies to all structures higher than 6', except open-roofed structures such as trellises.

Berkeley

- 40% lot coverage limit; 45% for corner lots; 30% if in Environmental Safety Zone.
- Applies to all walled structures plus decks, porches, stairs and landings.

El Cerrito

- 50% lot coverage limit.
- Applies to all structures.

Hayward

- 40% lot coverage limits.
- Applies to all structures with exterior walls or similar roof-supporting devices.

Piedmont

- 40% lot coverage limit for structures; 70% limit for impervious surfaces.
- 40% limit applies to all structures except swimming pools.

San Leandro

- 33 1/3% lot coverage limit where minimum lot size is 8,000 square feet; 50% elsewhere.

Walnut Creek

- 25% lot coverage limit where minimum lot size is 15,000 square feet; 30% with 12,000 square feet minimum lot size; 35% with 10,000 square feet minimum lot size; 20% elsewhere.

- Applies to all structures except swimming pools, spas and roof overhangs up to 4'.

- (2) Method for determining increased height limits toward center of lot.

The Council-endorsed proposal sets a height limit at side yard setback lines (26' on slopes below 20 percent; 30' on slopes 20 percent or more) that increases at a 45 degree angle (1:1 upslope) toward the center of the lot up to a prescribed maximum height (32' on slopes below 20 percent and on 20-40 percent downslopes; 36' on downslopes 40 percent or more; and 35' on upslopes 20 percent or more).

The proposed zoning text instead uses a simpler definition -- stating that the height limit is the lower of the Council-endorsed numbers, but that projects can go up to the higher limit if there is a pitched roof sloped at least 1:3 (rise:run) and (to discourage mansard roofs) no more than 2:1. The pitched roof approach is already used in the R-36 zone and in cities such as Seattle. Staff believes that the pitched roof approach is easier to understand than the Council-endorsed approach and accomplishes the same objectives, i.e. to minimize solar access impacts on neighboring properties and reduce building bulk by encouraging designs with sloped roofs.

(3) Changes to Council-endorsed height limits for slopes below 20 percent.

The Council-endorsed height limit for slopes below 20 percent in zones R-1 through R-50 is 26 feet, increasing to 32 feet as described in Item 2 above. The draft zoning text changes these limits to 25 feet and 30 feet, except in the R-36 Zone where the existing 30 foot height limit (35 feet for pitched roofs with a Conditional Use Permit) is retained.

Staff is recommending the 25/30 foot limits so that they do not exceed the existing 30 foot maximum height for slopes less than 20 percent. The 25/30 foot limits will still allow a two story building with raised basement and attic.

(4) Requiring Mediated Design Review for upper story deck additions over ten feet in depth that face one or two unit residences across side or rear lot lines.

The Council-endorsed proposal required Mediated Design Review for "upper story additions", but did not specify whether such additions included open structures such as decks. The proposed zoning text requires Mediated Design Review for deck additions greater than ten feet in depth, because they can have significant view and privacy impacts on neighbors.

(5) Renters' Participation in Mediation

The Council-endorsed proposal allowed both owners and renters of adjacent properties to request and participate in mediation. However, the Council asked that the role of renters be further evaluated. The proposed zoning text only allows renters to participate in mediation if they are authorized to act as owners' agents.

The reason for this is that during mediation, owners and renters of the same property could take opposing positions. Since owners have the longer term interest, staff believes that it is

more appropriate for owners to be designated interested party, but allow owners to authorize renters to participate on their behalf.

Other Issues.

- (1) Proposed 42" wall and fence heights in street fronting yards and prohibition of exterior security bars on street-facing elevations.

The existing standards are 6' fence and wall heights in street-fronting yards and no restrictions on security bars. Several speakers at the Commission's July 25, 2001 meeting and at previous community meetings on these proposals were concerned that the proposed standards would compromise security in high-crime neighborhoods. The standards were proposed because tall front yard fences and exterior security bars are a major source of visual blight in some parts of Oakland and communicate a message that the community is unsafe and undesirable.

The proposed standards would still allow interior security bars, as well as security bars and 8' walls and fences on side or rear elevations where most break-ins occur. Six foot fences would still be allowed in street-fronting yards with a Conditional Use Permit.

- (2) Design Guidelines.

For maximum effectiveness, the proposed zoning text and map changes will need revisions to some of the existing design review guidelines and in some cases new guidelines as set forth in Attachment B. Staff has begun developing the new and revised guidelines, but they may not be adopted until 1-3 months after the effective date of the zoning text and map changes in order to allow time for the guidelines to be developed and reviewed with stakeholders and the community at large. Staff believes that the existing design guidelines can continue to be used for this relatively brief period without compromising the integrity of the new program.

CONCLUSION

This project has been underway for many years. Its completion will mark a major step forward in response to extensive ongoing zoning and design review issues related to single family homes and duplexes. The proposal:

- Addresses the issues of height and bulk, which are very important now that houses are being built to maximum envelopes -- both in the hills and flatlands -- as land values and preferred house sizes have increased.
- Simplifies and improves Oakland's system of zoning standards by citywide application of the standards that have worked so well in the S-14 Zone.
- Adds standards for garages and parking that are needed to protect the character of older traditional neighborhoods.
- Adds S-14 based parking standards to ensure adequate off-street parking in hill areas with narrow streets where fire safety and the potential for rapid evacuation is critical.

- Establishes a mediation process on a trial basis where neighbors and applicants are encouraged to talk early, and work together on compromise solutions, within a time-limited process.

RECOMMENDATION

Recommend to the City Planning Commission that it:

- (1) Affirm the environmental determination; and
- (2) Recommend adoption of the zoning text and map changes to the City Council.

Respectfully submitted:

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Attachments:

- A. Comparison of Existing and Proposed Zoning Standards.
- B. Proposed Review Processes and Design Guidelines.
- C. Zoning text changes.
- D. Zoning map changes.
- E. May 8, 2001 staff report to City Council Community and Economic Development Committee.
- F. Letters received from May 29, 2001 through August 7, 2001.