

Zoning Update Committee

October 15, 2003

Michael Lighty, Chair

Nicole Franklin

Anne E. Mudge

Location:	Areas within and around the Fruitvale, MacArthur, West Oakland, and Coliseum Bay Area Rapid Transit (BART) Stations.
Proposal:	To amend the Zoning Ordinance to replace the existing S-15, Transit Oriented Development Zone (Chapter 17.100), with a new chapter recommended to be named the Transit Oriented Development Mixed Use (TOD) Zone and to amend the Zoning and General Plan maps around the Coliseum, Fruitvale, West Oakland, and MacArthur Bay Area Rapid Transit (BART) stations.
Case File Number:	ZT 03-480/GP 03-481
Applicant:	City Planning Commission
Staff recommendation:	Review and discuss the proposed changes to the Zoning Ordinance and the General Plan and Zoning Maps.
For further information:	Contact Neil Gray , Strategic Planning, at 510-238-3878 or email ngray@oaklandnet.com

ZONING CODE UPDATE PROCESS

This is one of a series of monthly meetings that will be held by the Zoning Update Committee (ZUC) to discuss proposed revisions to the Oakland Planning Code. The revisions to the code are necessary for conformance with the land use policies that were adopted in the *Land Use and Transportation Element* of the General Plan in March 1998. Staff is revising the existing zoning code to implement policies contained in the General Plan and creating new zoning districts that correspond to General Plan land use map. These changes in the zoning code implement policies involving areas with General Plan classifications of Housing and Business Mix, Business Mix, and General Industrial and Transportation. The new regulations also implement policies for transit corridors and the subject of this staff report, transit oriented districts (TODs).

Staff has prepared draft regulations for TODs and amendments to the Zoning and General Plan maps. The draft regulations are intended to replace the existing S-15 Transit Oriented Zone that was prepared for the Fruitvale Transit Village and has also been applied to areas around the West Oakland BART Station. This staff report has been written to provide a platform to discuss with the Zoning Update Committee proposed changes to the Zoning Ordinance and General Plan and Zoning Maps before presenting them to the public.

BACKGROUND

Transit oriented districts (TODs), described by the City's General Plan as areas with significant opportunities for pedestrian oriented, compact, mixed use developments around transit hubs, provide a significant opportunity for Oakland to make the critical connection between land use and transportation. The principle intent of developing transit oriented districts is to create a land use pattern that will decrease auto trips in favor of transit, pedestrian, and bicycle use. This strategy of development around

transit hubs achieves regional and citywide goals of increasing transit ridership, and reducing automobile trips, congestion, sprawl, and air pollution.

Characteristics of TODs that achieve this intent are as follows:

- Higher density housing and/or employment within approximately one-half mile from a transit hub. For Oakland, a transit hub generally involves a Bay Area Rapid Transit (BART) Station and accompanying AC Transit stops. Higher density development within one-half a mile radius of a transit hub increases transit ridership and decreases car trips by placing residents and employees within “easy walking distance” from a transit facility as described in BART’s “Transit Oriented Development Guidelines”, (Guidelines), published in June, 2003.
- Mixed use developments with neighborhood serving commercial. Mixed used development that includes high density housing and neighborhood serving commercial activities in the same building decreases car trips two ways: 1) allows people the opportunity to shop, live, or work in the same area and 2) allows transit users to run errands near their transit stop, decreasing the need to take a car to run errands after work. Neighborhood services also benefit the community near the TOD and generally do not require cars for customers to visit. Large scale commercial activities are generally discouraged because they require cars to load purchased items.
- Pedestrian orientation. Wide sidewalks; visual interest at the ground level of buildings; ground level commercial activity; and amenities such as public art, fountains, plazas, landscaping; and other methods make people more comfortable walking to a station site rather than driving a car.
- Bicycling facilities. Bicycling facilities such as racks, lockers, and dedicated lanes, provide an option for people to ride a bicycle rather than drive a car.
- Multi-modal transportation facilities. Site planning that provides easy access for several forms of transportation such as trains, buses, park and ride, bicycling, and walking increase transportation options.
- Affordable housing. Affordable housing gives a transit option to those who may choose not to own a car for financial reasons.
- Reduced Automobile Parking. Limiting parking gives priority to other forms of station access besides automobiles.

Prior City efforts to establish TODs.

The General Plan identifies nine potential transit oriented districts (TODs) located around each of the existing Bay Area Rapid Transit (BART) Stations and the Eastmont Mall. In response to the General Plan intent of creating TODs around these stations and transit hubs, the City has focused on spurring development around the Coliseum, West Oakland, Fruitvale, and MacArthur BART station areas, the sites with the most available land and where there is the most opportunity to develop. The following is a brief review of the City’s efforts to spur and shape development around these sites.

Existing S-15, Transit Oriented Development Zone. The City Council adopted the existing S-15, Transit Oriented Zone in 1996 to guide development at the Fruitvale Transit Village. The S-15 was later applied to the West Oakland Station area. The designation encourages high density, mixed use zones through the use of residential density and commercial FAR incentives. Staff is now proposing to amend this designation and apply it to new parts of the City. The “Need to revise existing Zoning and General Plans maps” section, below, describes the reasons behind these efforts.

Coliseum Station. The City of Oakland’s Planning and Redevelopment Departments, in collaboration with BART, prepared a Coliseum/Oakland Airport Concept Plan that was accepted by the Planning Commission on May 7, 2003. The plan separates the Coliseum station area into three parts: the existing BART station surface parking lot northeast of the station building; the area bounded by 66th and 69th Avenues and Snell and Hawley Streets that is north of the station (the location of the existing 178 unit Coliseum Gardens Housing Complex); and the area west of San Leandro Street. The concept plan

proposes a pedestrian oriented “transit village” including 400 multi-family units with approximately 20,000 square feet of ground floor neighborhood serving commercial space for the BART parking lot; up to 480 residential units, social service facilities, and a new park for the redeveloped Coliseum Gardens site; and regional commercial activities such as offices, research and development, hotel, entertainment or office uses for the area west of San Leandro Street. Phase I of the Coliseum Garden development was approved by the Planning Commission on June 4, 2003.

West Oakland Transit Village. The West Oakland Transit Village Study was undertaken in 1998 by a tri-agency team consisting of the City of Oakland Community and Economic Development Agency, the Oakland Housing Authority, and BART to explore the possibilities of creating a transit village around the West Oakland BART station. The study resulted in an Action Report, which was reviewed by the Planning Commission and the City Council in February 2002. The report promotes the following development principles:

- 50 dwelling units per acre average;
- Three to four story buildings;
- Underground or enclosed parking;
- Buildings located near street frontage;
- Retail frontage at specific locations;
- Retail development and plaza connecting with station entry;
- Landscaping to buffer existing lower density housing from new development;
- Building articulation to create a village like scale;
- Parking facilities located at edges of neighborhood; and
- Buildings that are flexible to hold either commercial or community facilities.

The study also identifies two “catalyst sites”, sites considered to have the potential to attract and support new private sector development adjacent to the station, and eight “opportunity sites”, vacant or underutilized sites in the station vicinity. One of the catalyst sites, the Mandela Gateway property north of 7th Street, has already begun construction; the other site, known as the Mandela Transit Village, is southeast of the station and received Planning Commission approval on August 6, 2003.

Fruitvale Transit Village. The Fruitvale Transit Village is a mixed use residential, retail, office and social service development adjacent to the Fruitvale BART Station and commercial district. Largely complete, its construction was a result of a partnership between the Spanish Speaking Unity Council, the community, the City, and BART. In 1996, the City Council adopted the S-15, Transit Oriented Zone to accommodate and guide the development of the Fruitvale Transit Village. The existing S-15 is discussed in detail throughout this report.

MacArthur Station Area. BART and the City’s Redevelopment Agency have recently issued a request for proposals (RFP) for a private developer to construct a transit oriented development around the MacArthur BART Station. Through an extensive community planning process, BART and the City have developed a vision to construct a dense residential development with neighborhood serving commercial uses that both functions as a focal point for community and is integrated into surrounding neighborhoods. The RFP states that the City and BART have the following goals for the new development:

- Create a vibrant mixed-use community which includes housing, retail, and community services;
- Increase ridership for BART and for the other transit services in the area through the provision of housing and employment centers adjacent to transit;
- Improve linkages between the station and the surrounding community and generally revitalize the area surrounding the station;
- Provide transit patrons and community residents with additional opportunities to purchase goods and services;

- Enhance City and local community development efforts and strengthen existing neighborhood serving businesses;
- Provide employment opportunities through construction and the operation of businesses around the station; and
- Improve access to the station.

Responses to the RFP are due on November 15, 2003.

Other governmental efforts to guide development around BART Stations

BART Guidelines. BART has adopted Guidelines that describe their vision for transit oriented development. This document envisions station areas where pedestrians have the greatest priority in terms of access followed by transit, bicycles, and automobile pick-up and drop-off. The document envisions vehicles entering and parking at the station area would having the lowest priority.

The document encourages pedestrian orientation through such features as the use of limited setbacks; wide sidewalks; visually interesting facades; removal of surface parking; and direct pedestrian connections between the BART Station and critical intersections. The document also encourages bicycle parking facilities and connections to existing bicycle networks.

Alameda County Congestion Management Agency (CMA). The CMA is in the process of defining elements that make up a successful TOD. The elements under development include:

- Moderately high density residential development with affordable housing;
- Commercial activities in a small-town, pedestrian oriented, Main Street format limited to local serving neighborhood scale businesses;
- Townhouses, condominiums, apartments and high density single family homes;
- One parking space per residential unit;
- Commercial Parking not fronting on streets;
- Streets designed to slow motor vehicle traffic, while creating shade, safety and visual interest for bicyclists and pedestrians; and
- Local bus and Car Share services.

Need to revise existing Zoning and General Plans maps

Staff is proposing to amend the existing S-15 Transit Oriented Zone to include additional standards encouraging the pedestrian orientation, ground level commercial, pedestrian amenities, reduced setbacks, and bicycle facilities that have become accepted features of Transit Oriented Development. These features are also contained in the plans and other documents described in this section. The existing zoning map needs modification because only the West Oakland and Fruitvale station areas are currently designated S-15, Transit Oriented Zone despite the City's progress in encouraging TODs at the MacArthur and Coliseum BART station areas. The General Plan map also requires updating because the station areas do not have consistent General Plan land use designations.

Therefore, staff is presenting a proposed new TOD Zone and amendments to the Zoning and General Plan Maps for review and discussion of the Zoning Update Committee. The new ordinance keeps or simplifies some of the existing language in the existing S-15 Zone and has the following features not contained in the existing S-15 Zone:

- A Conditional Use Permit requirement for housing on the ground floor with accompanying criteria;
- Restrictions on the size of grocery and retail stores;

- Explicitly permitting BART to construct parking facilities to serve the station;
- Restrictions on the construction of single family homes and duplexes;
- Design review criteria for all new developments;
- Increased conditionally permitted density for mixed use development;
- A minimum density requirement;
- A conditionally permitted maximum height of 90'-0" compared to the existing maximum height of 55'-0";
- No conditional use permit required for providing more parking than required by the Zoning Ordinance; and
- A maximum parking provision.

Many of these differences are discussed the "Significant Issue Areas" section, below. Also refer to Attachment A, the proposed TOD Zone; Attachment B, the existing S-15 Zone; and Attachment C, a table summarizing and comparing the proposed and existing zones.

Staff report content

This staff report includes:

- An overview of General Plan policies and objectives related transit oriented development;
- A description of the new TOD ordinance;
- A comparison with the current S-15 zoning designation;
- A review of General Plan land use and zoning classifications around the Coliseum, Fruitvale, West Oakland, and MacArthur station areas;
- Policy questions for consideration by the ZUC with staff recommendations; and
- Recommendations regarding new Zoning and General Plan boundaries and designations.

GENERAL PLAN POLICIES, OBJECTIVES, AND LANGUAGE REGARDING TODs

In the preamble of the *Land Use and Transportation Element* of the General Plan, Transit Oriented Districts are discussed as some of the "Places that Make Oakland Work." In that section, TODs are designated to take advantage of the opportunities presented by Oakland's eight BART Stations and the Eastmont Mall. The section also describes TODs as supporting City and regional goals of fostering sustainable development by linking transit with compact, mixed use developments in areas with easy pedestrian and bicycle access. TODs are also designated in the General Plan as some of the City's "important corridors," areas designated to be viable "nodes" of activity containing a vital mix of commercial, housing, and transportation.

The proposed zoning and general plan amendments are consistent with the following objectives and policies contained in the LUTE:

Objective T2 Provide mixed use, transit oriented development that encourages public transit use and increases pedestrian and bicycle trips at major transportation nodes.

Objective N8 Direct urban density and mixed use housing development to locate near transit or commercial corridors.

Policy N8.1 Developing Transit Villages. "Transit Village" areas should consist of attached multi-story development on properties near or adjacent to BART stations or other well-used or high volume transfer facilities, such as light rail, train, ferry stations, or multiple-bus transfer locations. While residential

units should be encouraged as part of any transit village, other uses may be included where they will not negatively affect the residential living environment.

Policy T2.1 Encouraging Transit Oriented Development. Transit-oriented development should be encouraged at existing or proposed transit nodes, defined by the convergence of two or more modes of public transit such as BART, bus, shuttle service, light rail or electric trolley, ferry, and inter-city or commuter rail.

Policy T2.2 Guiding Transit Oriented Development. Transit oriented developments should be pedestrian oriented, encourage night and day time use, provide the neighborhood with needed goods and services, contain a mix of land uses, and be designed to be compatible with the character of surrounding neighborhoods.

Policy T2.3 Promoting Neighborhood Services. Promote neighborhood-servicing commercial development within one-quarter to one-half mile of established transit routes and nodes.

Policy T2.5 Linking Transportation and Activities. Link transportation facilities and infrastructure improvements to recreational uses, job centers, commercial nodes, and social services (i.e. hospitals, parks, or community centers).

SIGNIFICANT ISSUE AREAS

This section highlights significant features of the new zone for which staff requests input from the Zoning Update Committee.

Question 1: Should residential activities on the ground floor be permitted by right, conditionally permitted, or prohibited? (Sections 17.100.030 and 17.100.060)

As discussed, pedestrian orientation and mixed use development are critical features of TODs. Ground floor commercial activities achieve both of these goals by creating browsing opportunities, a scale appropriate for pedestrians, and a commercial component to residential development. Ground level commercial activities also avoid privacy issues created by ground level residential units. Because of these reasons, ground floor commercial activities are an important feature of the Coliseum concept plan, the West Oakland Transit Village, the Fruitvale Transit Village, and BART's and the CMA's TOD guidelines. However, requiring commercial activities on the ground floor of every building may not be economically feasible and commercial storefronts that are not appropriately designed could detract from pedestrian interest.

➤ Staff recommendation:

- Only allow residential activities on the ground level with a conditional use permit; and
- Adopt the following conditional use permit criteria for residential activities on the ground floor:
 - 1) The proposal will not weaken the concentration and continuity of retail facilities at ground level, and will not impair the retention or creation of an important shopping frontage;
 - 2) The proposed ground level shall have a pedestrian oriented design. For the purposes of this finding, pedestrian oriented design may include such measures as indentation and articulation in plane on the bottom floor; providing well defined entrances; defining a pedestrian scale through the use of canopies, trellises, and color and materials that contrast with upper floors; or other features;
 - 3) Any ground floor residential units shall be protected from privacy impacts resulting from their location adjacent to the right of way; and

- 4) For developments on sites greater than one-half an acre: the development shall have a significant retail component somewhere on site.

Criterion 1) assures that developers are given the flexibility to place residential facilities on the ground floor under appropriate circumstances. Criterion 2) assures that ground level residential facilities will not detract from pedestrian interest. Criterion 3) mitigates privacy impacts of pedestrian activities on residents living at ground level. The last criterion assures that residentially oriented TODs have a mixed use component by requiring large developments to have a commercial component.

Note that staff recommends all nonresidential activities as opposed to only commercial activities be permitted by right on the ground floor, thus allowing ground floor civic activities and does not recommend a prohibition on residential facilities on the ground level. Staff believes that this allowance is appropriate because retail facilities on the bottom floor of all buildings in the TOD zone are not economically feasible at this time. Further, civic facilities can, in general, be easily converted to commercial it becomes feasible in the future. Note also that Section 17.100.090 contain design regulations for ground level non-residential activities that assure pedestrian orientation for these facilities.

Finally, staff recommends that the ordinance require that all developments over a half an acre have some retail component. This assures that larger developments meet the mixed use intent of TODs.

Question2: Should restrictions be placed on the size of commercial activities? (Section 17.100.030)

Staff believes that large stores are not compatible with a “transit village” concept. Large stores require expansive parking lots that reduce pedestrian orientation and visual interest and a general shift in the design focus of TODs from pedestrians and bicyclists to cars. Large scale retail facilities also tend to increase car activity because they attract customers beyond the local transit village who require cars to load merchandise.

- **Staff recommendation:** Staff recommends the following restrictions on the size of commercial activities:

Activity	Restriction
General Retail Sales	30,000 square feet of floor area
Grocery Store	60,000 square feet of floor area
Large scale combined retail and grocery sales	Not allowed

The restriction on grocery stores to 60,000 square feet allows urban grocery stores but disallows the extremely large grocery stores that require extensive parking and can dominate a large amount of land. The 30,000 square foot retail store maximum allows a significant retail space but is not large enough to attract “big box” retail stores that attract auto use. Similarly, large scale combined retail and grocery stores require large parking lots to accommodate car use.

Question 3: Should auto fee parking lots be conditionally permitted? (Sections 17.31.030 and 17.100.070)

At its August 6, 2003 meeting, the Planning Commission recommended conditionally permitting auto fee parking in the S-15 zone. These changes were made in conjunction with approval of the Mandela Transit Village project, a mixed use project that included a fee parking structure at a site at the corner of 5th Street and Mandela Parkway. The Planning Commission recommended auto fee parking in the TOD Zone with the following criteria:

1. Auto fee parking shall be part of a larger development that contains a significant amount of commercial and/or residential facilities;
2. Auto fee parking may only be contained in an at least a three level structured parking facility that replaces an existing at grade parking facility
3. The new parking structure may represent no more than a 75 percent increase of existing parking at the site;
4. Auto fee parking could only be allowed at a site if it has been specifically designated by a plan or study sponsored by the City of Oakland designed to promote transit oriented development;
5. The facility or facilities containing the residential and/or commercial activities shall be adjacent to the street and the auto fee parking shall be behind and substantially visually obstructed from the principal street(s) by the residential and/or commercial facility or facilities; and
6. The project shall be consistent with the General Plan's goals, objectives, and policies that promote transit oriented development and districts.

➤ **Staff recommendation: Conditionally permit auto fee parking with the conditions recommended by the Planning Commission at the August 6, 2003 meeting.**

With the criteria listed above, conditionally permitting auto fee parking would implement the General Plan policies and objectives listed above that promote transit oriented districts. The first, second, and third criteria assure the concentration of auto fee parking in a parking structure to free up land to accommodate the compact, mixed use development encouraged by the General Plan near transit centers. The fourth condition assures that the structured parking would be only one element of an overall plan or study that promotes transit oriented development. The fifth condition requires that the residential and/or commercial structure would have the most visible presence on the street, assuring that the visual character of transit oriented districts be consistent with the pedestrian oriented, mixed-use areas envisioned by the General Plan. The final two criteria gives assurance that the development would promote the transit oriented development goals of the General Plan.

At the August 6th meeting, Commissioner Mudge expressed concern that the criteria may be too restrictive and that auto fee parking may be appropriate under wider circumstances to support transit by providing park and ride opportunities. Staff believes that a balance needs to be struck between providing enough parking spaces to support transit and the desire to create livable areas that do not have the negative impacts that parking structures may have on a community. To achieve this balance, staff placed a provision in Section 17.100.040 explicitly allowing BART to build parking lots that serve transit patrons. This allows BART to provide the amount of parking required to support its transit system (see Section 17.100.080 for design criteria for BART parking facilities). Further, allowing increased residential density, commercial intensity, and pedestrian orientation within walking distance from BART stations and AC Transit hubs will make up for some of the ridership lost by limiting fee parking.

Question 4: What design criteria should apply to all new development? (Section 17.100.090)

Attractive urban spaces and pedestrian oriented construction are critical to encouraging people to walk to and from transit stations and meet the intent of the General Plan of making transit areas showcases for the City. These features are also required to meet the intent of the proposed TOD Zoning designation, the General Plan, the BART Guidelines, the CMA guidelines.

➤ **Staff recommendation: Adopt the following design related regulations for all new development:**

1. A requirement for twelve foot wide sidewalks;
2. A requirement to install street trees;
3. Restrictions on blank walls;

4. A requirement for windows or display areas at the front of nonresidential facilities in the space between two and eight feet above grade. This zone would be required to cover at least 50 percent of the length of the façade;
5. A provision requiring articulated facades, repeating window patterns, awnings or other features that create visual interest and scale;
6. A requirement for a well defined entrance;
7. A provision requiring all plans to be prepared by a licensed architect;
8. A requirement that all new development contain pedestrian amenities such as public art; street furniture on the sidewalk or adjacent to the sidewalk for the use of the public; fountains on the sidewalk or space adjacent sidewalk for the enjoyment of the public; a kiosk containing a public bulletin board, newsstand, or food sales; a plaza; other feature; and
9. A requirement that the design of any new building be compatible with other structures in the zone and be consistent with the purpose section of the proposed zone.

Wide sidewalks and street trees are critical in creating spaces for comfortable pedestrian passage. Street trees are also one of the most important elements of creating an attractive streetscape and provide shade for pedestrians. The zone of transparency requirement provides pedestrians opportunities to browse at displays or look at activity inside businesses. Requirements three, four, and five assure that storefronts develop at a traditional, pedestrian oriented scale. The requirement that plans are prepared by licensed architects gives assurance that designs reflect a baseline level of competence and quality. The eighth requirement assures that developments provide amenities that enhance the pedestrian experience. The final requirement assures compatibility with the surrounding and the intent of TODs.

Question 5: What should be the maximum allowed residential density and should there be minimum densities at TODs? (17.100.160)

Staff believes that higher density housing is one of the most important elements of a successful TOD plan. Higher density maximizes the number of residents within walking distance to a transit hub, thus increasing transit use and encourages a mixed income tenant base. Density also makes commercial ventures economically feasible and activates station area activity. Higher density residential development is consistent with the General Plan, MacArthur RFP, Coliseum Plan, BART and CMA Guidelines, West Oakland Transit Village Study, and a generally accepted feature of any TOD.

➤ **Staff recommendation: Staff recommends the following density requirements for all new development:**

Density	Existing S-15 square feet of lot area per unit	Proposed square feet of lot area per unit	Proposed Units per gross acre	Proposed Units per net acre
Maximum permitted density, interior lot	450	450	72	96
Maximum permitted density on corner lot or lot that faces a park	405	405	81	108
Maximum conditionally permitted density (only allowed for mixed use development)	360	275	119	157
Minimum density for developments on sites greater than 5,000 square feet	NA	1,100	30	40
Single family homes and duplexes	Allowed	NA	Not allowed	Not Allowed

As shown in the above table, staff proposes continuing the by right density of one unit per 450 square feet of lot area (96 units per net acre) allowed in the existing S-15 Zoning designation but increasing the

conditionally permitted density from one unit per 360 square feet of lot area to one unit per 275 square feet of lot area for mixed use development. This difference in densities allows a greater incentive to develop the mixed use projects encouraged in the General Plan. The figure of one unit per 275 square feet of lot area for maximum conditionally permitted density was chosen because that is the maximum density allowed under the Neighborhood Center Mixed Use General Plan classification, the classification staff is recommending for TODs (see the Existing Conditions and Proposed Changes to the General Plan and Zoning Land Use Maps section, below).

Staff is further proposing a *minimum* density to assure that low density development is not proposed in TODs. Staff recommends one unit per 1,100 square feet (40 units per net acre) as a minimum because, according to BART, this is the minimum density that supports transit use. This minimum density is consistent with the densities proposed for West Oakland or the Coliseum TODs (the MacArthur RFP only states that development should maximize density in context with the surrounding neighborhood). Note also that Staff recommends not allowing new single family homes or duplexes because they do not provide the density required to support transit facilities and would be out of scale with the more intense development intended for TODs.

Question 6: What should be the maximum permitted height in the new TOD zone? (Section 17.100.180)

The existing S-15 zone allows a 45'-0" height that can be increased to 55'-0" if a project includes one foot of building setback from the front property line for each foot of building height above forty-five feet. However, this height limitation cannot accommodate the development intensity the City encourages at TODs. Further, varied heights may be appropriate for different locations at BART station areas. For instance, part of the West Oakland TOD is between a freeway and elevated BART tracks while another part is adjacent to a residential neighborhood dominated by Victorian single family homes and duplexes. In this case, a greater height may be appropriate closer to the freeways but not next to the residential neighborhood. Similarly, one side of the proposed Coliseum TOD is adjacent to an area designated by the General Plan for single family homes while others are adjacent to industrial neighborhoods. Obviously, different heights are appropriate for these contrasting contexts. One side of the station parking lot at the MacArthur site is adjacent to approximately 30'-0" tall commercial buildings on Telegraph Avenue while a BART platform and a freeway are in the middle of the station site. In this case, it may be appropriate to have shorter construction near Telegraph Avenue and taller construction near the platform.

- **Staff recommendation: Staff recommends a maximum permitted height of 45'-0" and a conditionally permitted height of 90'-0".**

Conditionally permitting a height of up to 90'-0" gives staff discretion to take specific site conditions into mind when evaluating development projects. In order to give direction to designers and staff reviewing projects, staff recommends the TOD zone include the following considerations in determining the appropriate height of a building:

- Proximity to a BART Station platform;
- A project's adjacency to a freeway;
- A project's location at the corner of a block;
- The height is sensitive to the context of the surrounding neighborhood and adjacent structures;
- The project includes upper story setbacks from the property lines; and
- The proposed height has been specifically designated by a City sponsored plan or study designed to promote a transit oriented district as defined by the General Plan.

Note that these are not criteria, only considerations that staff or the Planning Commission may take into account by when determining an appropriate height of a particular development. With these

considerations, staff believes that construction will be at an appropriate height depending on site specific conditions. As a further protection to neighboring structures, staff recommends a provision prohibiting construction over 30'-0" on lots adjacent to the R-10 through R-50 residential zones unless each foot above that height is set back from the minimum setback line at least one foot. Staff is further proposing 10'-0" setbacks for rear and side yards adjacent to these residential zones (see the "What should be the required setbacks in the new TOD zone?" section, below).

Question 7: What should be the required setbacks in the new TOD zone? (Section 17.100.190)

The following compares the existing and proposed setback regulations:

Location	Existing S-15 regulations	Proposed TOD regulations
Minimum front yard setback	None required ¹	None required ¹
Interior side yard setback	None required ²	None required, ^{2,3}
Corner side yard setback	None required ⁴	None required ⁴
Rear yard setback	None required ⁵	None required ^{5,6}

¹However, a setback is required where part of frontage on the same side of a block is in a residential zone. In this case, the required front yard setback is half that of the adjacent residential zone.

²However, setback is only required if opposite a required living room window.

³A 5'-0" setback is required when adjacent to a lot in residential zones R-10 through R-60.

⁴However, a setback is only required if adjacent to a key lot in a residential zone. In this case, the required front yard setback is half that of the adjacent residential zone.

⁵However, a 10'-0" rear yard setback is required for residential facilities.

⁶A 10'-0" setback is required adjacent to residential zones R-10 through R-60.

The existing S-15 regulations were adopted to encourage a consistent street wall at the front property line. This adds to pedestrian comfort by enclosing, defining, and providing a sense of continuity to the streetscape. Limited setbacks also provide visual interest by bringing pedestrians closer to buildings and display areas. Limited setbacks are recommended by the West Oakland Transit Village Study, and the CMA and BART Guidelines. Setbacks are not mentioned in the General Plan, MacArthur RFP, or the Coliseum Concept Plan but pedestrian orientation is emphasized in each of these documents and limited front yard setback is a standard element of a pedestrian oriented commercial district.

Note that the proposed setback requirements strengthen existing provisions to provide appropriate transitions from residential neighborhoods and mitigate the impacts on residential zones from more intense development in the TOD zone. For instance, the new regulation require increased setback when adjacent to residential zones. This, coupled with the height restrictions for development adjacent to residentially zoned properties described in the "Maximum Height" section, below, provides significant protection for the light, air, and privacy of existing residential properties. The new ordinance also includes a provision encouraging a limited front yard setback. A limited front yard setback is not required in order to account for site specific conditions.

- **Staff recommendation: Staff recommends continuing the setbacks in the existing S-15 Zone as shown in the table above.**

Question 8: What should the parking requirements be in the new TOD Zone? (Section 17.100.210)

This section continues several of the provisions of the existing S-15 zone that allow 1) the sharing of required parking spaces between activities that demand parking at different hours; 2) permit accessory parking on a different parcel than the principle activity; 3) restrict front yard parking; and 4) discourages front yard parking or driveways onto a principle commercial street.

However, staff does recommend changes to the existing regulations that limit the number of accessory parking spaces a development is allowed to provide. The thinking behind controlling the number of accessory parking spaces within a TOD Zone is that abundant parking makes it convenient for residents and visitors to use their cars rather than transit, bikes, or walking. Large parking lots also consume land that could be used for building area, open space, or other uses. Parking lots can also provide an unfriendly environment for pedestrians and transit users. Finally, abundant parking can significantly increase the cost of a typical unit. Limiting parking is encouraged by the CMA and BART Guidelines and is implied by the General Plan's emphasis on pedestrian orientation.

The existing S-15 states that a conditional use permit is required to provide more parking than required by the Zoning Ordinance (one-half a parking space per unit for residential, no parking for non-residential activities). Staff believes the existing regulations are ineffective in limiting the number of parking spaces in TODs because in the past applicants have dismissed the option of providing this minimal parking as infeasible, requested a conditional use permit, and provided a number of parking spaces that exceed even standard commercial zones.

➤ **Staff recommendation: Staff recommends the following:**

- 1) Keeping the existing parking minimum of the S-15 Regulations;
- 2) Allowing by right up to one parking space per residential unit;
- 3) Allowing by right the minimum number of parking spaces required for nonresidential activities in the C-31 Zone. The C-31 Zone is the designation for commercial districts such as the Laurel District, Piedmont Avenue, and Rockridge. Some typical parking requirements for this designation include one parking space per 600 square feet of floor area for retail sales and one space per 300 square feet of floor area for restaurants or grocery stores.
- 4) Requiring a variance for parking more than the maximum stated in items 3) and 4).

This recommended change provides more flexibility in the number of parking spaces a developer may provide but fulfills the intent of a TOD by placing a realistic maximum to the number of parking spaces a development may contain.

RECOMMENDED CHANGES TO THE GENERAL PLAN

In reviewing the various General Plan land use categories, staff has determined that "Neighborhood Center Mixed Use" is the most appropriate category for TODs. According to the General Plan, this classification is intended to "identify, create, maintain, and enhance mixed use neighborhood commercial centers. These areas are typically characterized by smaller scale pedestrian-oriented, continuous street frontage with a mix of retail, housing, office, active open space, eating and drinking places, personal and business services, and smaller scale educational, cultural, or entertainment uses."

Staff believes that this is the most appropriate designation because the mixed use, pedestrian oriented district described by this designation is consistent with the TOD concept and is what the General Plan, the Coliseum Concept Plan, the West Oakland Transit Village Study, the redevelopment agency, BART, and the congestion management agency envision for pedestrian oriented development.

However, this designation contains a maximum commercial floor area ratio (FAR) of only 4.0 while the current S-15 Zone and the proposed TOD Zone both contain a maximum conditionally permitted FAR of 6.0 for mixed use development. The limited FAR for the Neighborhood Center Mixed Use category is a reflection that the designation is intended for smaller scale neighborhoods such as Rockridge, Piedmont Avenue, and the Laurel District, not for the higher intensity development appropriate for TODs. Therefore, staff recommends that language be added to the description of Neighborhood Center Mixed Use in the General Plan that includes a short passage that contains a description of TODs, language regarding TODs appropriateness in this designation, an explanation that a higher FAR of 6.0 may be appropriate for TODs in the Neighborhood Center Mixed Use designation.

- **Staff Recommendations:** (1) Amend the General Plan land use map and designate the areas around the four BART stations “Neighborhood Center Mixed Use,” and (2) Amend the General Plan text to increase the Floor Area Ratio from 4.0 to 6.0 in the areas designated “Neighborhood Center Mixed Use” around the four BART stations mentioned in this report.

EXISTING CONDITIONS AND PROPOSED CHANGES TO THE GENERAL PLAN AND ZONING LAND USE MAPS

The following provides staff’s recommendations regarding changes to the Zoning and General Plan maps. Note that Attachment D contains maps showing the proposed changes.

Areas appropriate for a TOD zoning

Although the General Plan designates transit oriented development around each of the BART Stations and the Eastmont Town Center, staff recommends that the zoning and general plan maps only designate TODs around the MacArthur, Fruitvale, West Oakland, and Coliseum BART Stations at this time. Staff recommends this because the vicinity of the remaining stations (12th Street City Center, 19th Street, Lake Merritt, and Rockridge) are already largely developed and have their own unique and established development context. Further, the General Plan recommendations for these areas are largely a continuation of their existing development patterns; therefore, it is appropriate that the existing Zoning and General Plan designations remain as they are. While not recommending that the Downtown BART stations be designated TOD at this time, staff does believe that an easing of the parking requirements for the areas near Downtown stations should be studied for future consideration to encourage transit use and promote the City’s transit first policies. The Eastmont Town Center area has not been sufficiently studied or had enough community involvement for the establishment of TOD development standards at this time. Further, the Eastmont Town Center does not have a BART Station; therefore, different development standards than those proposed for the Coliseum, Fruitvale, West Oakland, and MacArthur sites may be appropriate at that location.

- **Staff Recommendation:** Apply to new TOD Zone to the MacArthur, Fruitvale, West Oakland, and Coliseum BART Stations.

Changes recommended for Coliseum Station area

Summary:

	BART Parking lot and sites across Hawley Street	Coliseum Gardens Site	Area west of San Leandro Street
Current Zoning	<i>M-20, Light Industrial</i>	<i>M-30, General Industrial and R-70, High Density Residential</i>	<i>M-40, Heavy Industrial</i>
Current General Plan	<i>Community Commercial except Housing and Business Mix across Hawley St.</i>	<i>Housing and Business Mix; Open Space; General Industrial and Transportation.</i>	<i>General Industrial and Transportation</i>
Current Land Uses	<i>BART Station/BART parking lot/Industrial Activities across Hawley</i>	<i>128 Unit Coliseum Gardens housing complex</i>	<i>Industrial Activities</i>

Recommendation	<i>Rezone TOD and give Neighborhood Center Mixed Use (NCMU) General Plan Designation.</i>	<i>Do not rezone or change General Plan Designation at this time.</i>	<i>Do not rezone or change General Plan Designation at this time.</i>
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As described previously, the Coliseum Concept Plan separates the station area into three parts: the Coliseum Gardens, north of the station, the BART Station parking lot, and the area west of San Leandro Street. The Coliseum Gardens is currently zoned M-30, General Industrial adjacent to San Leandro Street and R-70, High Density Residential, further northeast. The Coliseum Gardens site was designated by the Plan as a predominantly residential development while the area east of San Leandro was designated to have a range of regional commercial activities such as office, research and development, entertainment, and large scale retail space. These types of development patterns are not consistent with the mixed use, neighborhood serving commercial, activities envisioned for the proposed TOD designation. The Plan does propose relocating BART’s parking lot and develop in its place a transit village containing mixed use development with residential units over ground level commercial activities consistent with the proposed TOD zoning designation.

- **Staff Recommendation:** Staff recommends that the existing BART Station, including the parking lot be changed from its existing Zoning designation of M-20, Light Industrial to TOD. Staff further recommends that this area be given a Neighborhood Center Mixed Use General Plan designation.

Changes recommended for MacArthur BART Station area

Summary:

	BART Station and Parking Lot	Telegraph Ave between W. MacArthur and 41st Ave.	MLK between W. MacArthur and 41st Ave.
Current Zoning	<i>R-70</i>	<i>C-28, Community Shopping District Zone.</i>	<i>C-10, Local Retail Zone on west side of MLK; C-30, District Thoroughfare Commercial Zone on east side of MLK</i>
Current General Plan	<i>NCMU</i>	<i>NCMU</i>	<i>General Industrial and Transportation</i>
Current Land Uses	<i>BART Station and parking lot.</i>	<i>Underutilized commercial sites/vacant lots/church.</i>	<i>Vacant lots and multifamily residential activities.</i>
Recommendation	<i>Rezone TOD and leave NCMU designation.</i>	<i>Rezone TOD and leave NCMU designation.</i>	<i>Rezone TOD and leave NCMU designation.</i>

Station and Parking Lot. Staff believes that the BART Station and parking lot are appropriate for the new TOD designation because the goals stated in the RFP, described above, are consistent with the intent of the new TOD designation.

Staff also believes that the Telegraph Avenue and Martin Luther King Way sites would benefit from the TOD designation because they are areas where the redevelopment agency plans future transit oriented development. These areas contain vacant lots, underutilized commercial sites, medium density residential buildings, and churches. Applying the TOD zone to these areas along with financial support from the Redevelopment Agency could revitalize these areas and provide a connection and transition from the neighborhoods to the TOD.

- **Staff Recommendation:** Apply the new TOD zone and NCMU designation to the BART parking lot and adjacent segments of Martin Luther King Way and Telegraph Avenue.

Changes recommended for Fruitvale Transit Village

Summary:

Fruitvale Station Area	
Current Zoning	<i>S-15, Transit Oriented Development Zone</i>
Current General Plan	<i>Predominantly NCMU, one parcel on southeast corner is Mixed Housing Type Residential (MHTR).</i>
Current Land uses	<i>BART Station/Fruitvale Transit Village/ commercial/senior housing</i>
Recommendation	<i>Replace existing S-15 boundary with the new TOD designation; change one area from Mixed Housing Type Residential to NCMU.</i>

As mentioned, the Fruitvale Transit Village has largely developed as a mixed use, pedestrian oriented development adjacent to the BART Station. The current S-15, Transit Oriented Zone designation, currently bounds the transit village except for several parcels that are generally across the street from its northern boundary. Staff believes that the new TOD designation should follow the same boundaries as the existing S-15 to continue the Transit Village concept at that location. The area has an NCMU General Plan land use designation except for one parcel on the south east corner of the S-15 boundary that is designated Mixed Housing Type Residential. Staff recommends a General Plan Amendment changing the designation of that parcel to NCMU for the following reasons:

- This designation is consistent with the rest the Fruitvale Transit Village and the other proposed TOD areas;
- The proposed TOD designation and the existing S-15 designations have several permitted activities that, according the City's "Guidelines for Determining Project Conformity with the General Plan and Zoning Regulations", are not allowed in the S-15 District; and
- The proposed TOD designation and the existing S-15 designations have maximum densities significantly higher than the General Plan allows in the Mixed Housing Type Residential designation.

- **Staff Recommendation:** Replace existing S-15 boundary with the new TOD designation; change one area from Mixed Housing Type Residential to NCMU.

Changes recommended for West Oakland Transit Village

Summary:

West Oakland Station area	
Current Zoning	<i>S-15, Transit Oriented Development Zone</i>
Current General Plan	<i>NCMU, Business Mix, Community Commercial.</i>
Current Land Uses	<i>BART Station and parking lot/industrial properties/surface parking lot/service station/post office training facility.</i>
Recommendation	<i>Replace existing S-15 boundary to the proposed TOD except extend TOD to five industrial parcels at southwest of current boundary.</i>

The West Oakland Station area is currently designated S-15, Transit Oriented Zone, consistent with the boundaries of the West Oakland Transit Village study. Staff believes that the new TOD boundary should be consistent with the existing S-15 boundary except for five parcels at southwest of current boundary. These parcels are a logical extension of the TOD Zone because they are underutilized industrial properties that are near the BART Station and adjacent to the proposed TOD zone.

- **Staff Recommendation:** Replace existing S-15 boundary to the proposed TOD except extend TOD to five industrial parcels at southwest of current boundary.

RECOMMENDATIONS

Staff recommends that Zoning Update Committee review the proposed draft changes to the Zoning Ordinance and the General Plan and zoning maps and provide comments and direction to staff.

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Approved for forwarding to the
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City Planning Commission

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ATTACHMENTS:

- A. Proposed TOD Zone
- B. Existing S-15 Zone
- C. Comparison of existing S-15 and proposed TOD Zones
- D. Proposed Changes to Zoning and General Plan Maps
- E. NCMU General Plan Classification