

Location:	Citywide
Proposal:	Review proposed Planning Code amendments regulating Transient Habitation Commercial Activities (Hotels). The major substantive changes include: 1) amending Planning Code Section 17.134.020(A)(2)(a) to include Transient Habitation Commercial Activities; 2) amending the Central Business District-Commercial Zone (CBD-C) and Wood Street District Zone – 8 (D-WS-8) to require a Conditional Use Permit for Transient Habitation Commercial Activities; and 3) requiring the additional Findings in Planning Code Section 17.103.050 for several Zoning Districts where this was omitted for Transient Habitation Commercial Activities.
Applicant:	City of Oakland
Case File Number:	ZA18009
General Plan:	Citywide
Zoning:	Citywide
Environmental Determination:	<p>The proposed amendments to the Planning Code rely on the previous set of applicable California Environmental Quality Act documents including: the Coliseum Area Specific Plan EIR (2015); Broadway Valdez Specific Plan EIR (2014); West Oakland Specific Plan EIR (2014); Central Estuary Area Plan EIR (2013); Wood Street EIR (2005), Transportation Element of the General Plan EIR (1998); the Oakland Estuary Policy Plan EIRs (1999, 2006) and Supplemental EIR (2013); the Redevelopment Area EIRs- West Oakland (2003), Central City East (2003), and Coliseum (1995); the 1998 Amendment to the Historic Preservation Element of the General Plan; the 2007-2014 Housing Element Final EIR (2010) and Addendum (2014); and various Redevelopment Plan Final EIRs (collectively, "Previous CEQA Documents").</p> <p>No further environmental review is required under CEQA Guidelines Sections 15162 and 15163. Moreover, each as a separate and independent basis, this proposal is also exempt from CEQA pursuant to CEQA Guidelines Sections 15183 (projects consistent with General Plan and Zoning) and 15061(b)(3) (general rule, no significant effect on the environment).</p>
Actions to be Taken:	To receive public comments; review and discuss the proposal.
Staff Recommendation	Recommendation of approval to the Oakland City Council
For Further Information:	Contact case planner Heather Klein at (510) 238-3659 or hklein@oaklandnet.com

SUMMARY

The purpose of this report is to review with the Planning Commission proposed amendments to the Oakland Planning Code related to Transient Habitation Commercial Activities. The proposed amendments are the result of direction by the City Council to the Bureau of Planning. Specifically, on May 3, 2016, in response to an application for the construction of a hotel, the Oakland City Council passed Resolution 86163 C.M.S. noting the following:

- Oaklanders are facing widening income inequality;
- Hotels and other economic development activities have the potential to provide a large number of jobs with good wages and benefits;

- Oakland Municipal Code § 5.92 .050(F) authorizes the City to consider an employer's record of noncompliance with the Oakland Minimum Wage;
- Hotels can have a substantial effect on neighborhoods as well as the entire City and should require Planning Commission review; and
- The Findings in Planning Code Section 17.103.050 for approval of a hotel require demonstration that the proposal consider impacts of employees on the demand for housing, public transit and social services.

In the Resolution, the City Council asked the Bureau of Planning to initiate actions amending the Planning Code to require that Transient Habitation Commercial Activities require a Major Conditional Use Permit (CUP) and draft additional Findings related to consideration of wages and benefits in a business plan, or legally binding document; commitment from the employer to comply with labor laws, the City's minimum wage and sick leave law; and submit a signed letter by the legal representative of the employer noting compliance with these laws before approving new hotel projects.

Due to the Bureau's ongoing staff shortage, the need to thoroughly consider not just hotels but other low wage commercial sectors, and the possible legal ramifications of the Council's proposal, staff is proposing an interim measure which would require:

- A CUP for the two remaining Zones where Transient Habitation Commercial Activities are currently outright permitted,
- Application of a Major CUP to these activities, and
- Application of the additional Section 17.103.050 Findings for seven Zones which previously only needed to meet the general CUP Findings.

PROPOSED CITYWIDE PLANNING CODE AMENDMENTS

The following section summarizes the proposed substantive changes to the Planning Code (*Attachment A*). No changes are proposed to the Zoning Map.

1. *Amend the definition of a Major Conditional Use Permit in Planning Code Section 17.134.020(A)(2)(a) to include Transient Habitation Commercial Activities.*
2. *Amend Table 17.58.01 in Planning Code Section 17.58.040 for the Central Business District-Commercial Zone (CBD-C) from a permitted activity to a conditionally permitted activity for Transient Habitation Commercial Activities.*
3. *Amend Table 17.101A.01 in Planning Code Section 17.101A.020 for the Wood Street District Zone – 8 (D-WS-8) from a permitted activity to a conditionally permitted activity for Transient Habitation Commercial Activities.*
4. *Amend the Planning Code to require the additional Findings in Planning Code Section 17.103.050 for Transient Habitation Commercial Activities in the following Zones.*
 - *C-40 Community Thoroughfare Commercial Zone*
 - *C-45 Community Shopping Commercial Zone*
 - *CIX-1A through CIX-1D Industrial Zones*

ANALYSIS

General Plan Analysis

The proposed Planning Code changes are consistent with and balance the following policies described in the Land Use and Transportation Element (LUTE) of the Oakland General Plan.

Objective I/C1: Expand and retain Oakland's job base and economic strength.

Policy I/C1.8: Providing support amenities near employment centers. Adequate cultural, social, and support amenities designed to serve the needs of workers in Oakland should be provided within close proximity of employment centers.

Objective D4: Increase the economic vitality of downtown.

Objective D12: Make downtown Oakland a regional destination for innovative learning programs, cultural resources, art, and entertainment.

Objective D9: Emphasize the establishment, promotion, and retention of commercial businesses that serve the needs of downtown workers and residents.

Policy D13: Providing parking. An adequate quantity of car bicycle and truck parking, which has been designed to enhance the pedestrian environment, should be provided to encourage housing development and the economic vitality of commercial, office, entertainment and mixed use areas.

Specifically, the proposed Planning Code changes recognize the need for hotels and would not prohibit them in these areas. Instead, staff is proposing these changes to ensure that the regulations are consistent, and that the same criteria is applied across the City when considering the possible traffic, design, access, loading and queuing impacts of hotel uses on the City and in neighborhoods.

Zoning Analysis

Only two Zoning Districts in the City (CBD-C and D-WS-8) allow Transient Habitation Commercial Activities as a permitted use. The CBD-C Zone is mapped in several Downtown pockets, including Old Oakland, City Center up to San Pablo and 18th Street, and West Grand down to 15th Street (*Attachment B*). The original purpose was to encourage hotels in support of the Convention Center and Downtown as a visitor and entertainment area. The D-WS-8 Zone is bounded by West Grand, 20th Street, Wood Street and Frontage Road. Per the Draft and Final Environmental Impact Reports for the Wood Street Project, Development Area Eight was intended for 264 residential units and 13,200 square feet of private open space. However, many other Civic and Commercial Activities were also permitted including Transient Habitation Commercial Activities. The 2.01 acre site is currently vacant but was approved in October of 2014 for 235 residential units with ground floor commercial space. City staff have discussed the hotel regulation proposal with the owners of this parcel, and they have indicated the intention to move forward with the approved project. As such, the proposal to amend the D-WS-8 Zone is a formality.

Again, the purpose of the proposed hotel regulation changes is to ensure that the regulations are consistent and that the same decision criteria is applied across the City for these activities. Furthermore, the proposal recognizes that the most appropriate forum for a discussion of the potential benefits and impacts of Transient Habitation Commercial Activities is a public hearing before the Planning Commission as opposed to a staff-level decision.

Finally, the City has approved two hotels since 2016 (a Marriott on Jefferson and a Hampton Inn on 11th Street). As of the publication of this report, the Planning Commission has continued discussions of a hotel project along Mandela Parkway near Emeryville. Staff is currently reviewing one other hotel project near Telegraph Avenue and West Grand.

Staff is proposing, consistent with other zoning changes, that the amendments shall not apply to: (a) building/construction related permits already issued and not yet expired, or (b) zoning applications approved by the City and not yet expired, or (c) zoning applications deemed complete by the City as of the date of final passage.

ENVIRONMENTAL REVIEW

The proposed amendments to the Planning Code rely on the previous set of applicable California Environmental Quality Act (CEQA) documents including: the Coliseum Area Specific Plan EIR (2015); Broadway Valdez Specific Plan EIR (2014); West Oakland Specific Plan EIR (2014); Central Estuary Area Plan EIR (2013); Wood Street EIR (2005), Transportation Element of the General Plan EIR (1998); the Oakland Estuary Policy Plan EIRs (1999, 2006) and Supplemental EIR (2013); The Redevelopment Area EIRs- West Oakland (2003), Central City East (2003), and Coliseum (1995); the 199 Amendment to the Historic Preservation Element of the General Plan; the 2007-2014 Housing Element Final EIR (2010) and Addendum (2014); and various Redevelopment Plan Final EIRs (collectively, "Previous CEQA Documents"). No further environmental review is required under CEQA Guidelines Sections 15162 and 15163.

The proposed amendments to the Planning Code would not result in any significant effect that has not already been analyzed in the Previous CEQA Documents, and there will be no significant environmental effects caused by the change that have not already been analyzed in the Previous CEQA Documents. As a result, none of the circumstances necessitating preparation of additional environmental review, as specified in CEQA and the CEQA Guidelines, including, without limitation, Public Resources Code Section 21166 and CEQA Guidelines Sections 15162 or 15163 are present in that: (1) there are no substantial changes proposed in the project or the circumstances under which the project is undertaken that would require major revisions of the Previous CEQA Documents due to the involvement of new significant environmental effects or a substantial increase in the severity of previously identified significant effects; and (2) there is no "new information of substantial importance," as defined in CEQA Guidelines Section 15162(a)(3).

Moreover, each as a separate and independent basis, this proposal is also exempt from CEQA pursuant to CEQA Guidelines Sections 15183 (projects consistent with General Plan and Zoning) and 15061(b)(3) (general rule, no significant effect on the environment).

STAFF RECOMMENDATIONS

City Council, the Planning Commission and staff acknowledge the benefits that hotels bring to the City. However, these uses also require a thorough and thoughtful review of the potential impacts to Oakland's workers, citizens, and urban aesthetic quality as well as other impacts. Requiring a Major CUP for these uses and ensuring that all Zones that require a CUP reference the appropriate additional findings will ensure that hotels are being evaluated consistently.

Therefore, staff recommends that the Planning Commission:

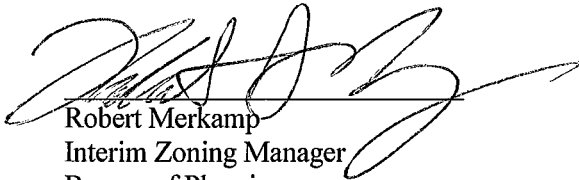
1. Affirm staff's environmental determination;
2. Find that the existing regulations being amended are inadequate, inconsistent or otherwise contrary to the public interest; and
3. Recommend that the City Council approve the proposed Planning Code amendments related to Transient Habitation Commercial Activities.

Prepared by:



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Approved by:



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Approved for forwarding to the
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ATTACHMENTS:

- A. Full text of the proposed Planning Code changes (redline)
- B. Existing D-WS-8 and CBD-C Zoning areas

Chapter 17.54 C-40 COMMUNITY THOROUGHFARE COMMERCIAL ZONE REGULATIONS

Sections:

17.54.060 Conditionally permitted activities.

The following activities, as described in the use classifications in Chapter 17.10, may be permitted upon the granting of a Conditional Use Permit pursuant to the Conditional Use Permit procedure in Chapter 17.134:

- A. Residential Activities:
 - Residential Care, except when occupying a One-Family Dwelling Residential Facility
 - Emergency Shelter
- B. Civic Activities:
 - Extensive Impact
 - Utility and Vehicular (communications equipment installations and exchanges, only)
 - Special Health Care Civic Activities
- C. Commercial Activities:
 - Check Cashier and Check Cashing
 - Fast-Food Restaurant
 - Convenience Market
 - Alcoholic Beverage Sales
 - Mechanical or Electronic Games
 - Group Assembly
 - Personal Instruction and Improvement Services
 - Transient Habitation (See Section 17.103.050)
 - Animal Care
 - Animal Boarding
 - Undertaking Service
- D. Industrial Activities:
 - Light
- E. Agricultural and Extractive Activities:
 - Plant Nursery
 - Extensive Agriculture (see Section 17.54.090)

Chapter 17.58 CBD CENTRAL BUSINESS DISTRICT ZONES REGULATIONS

Sections:

17.58.040 Permitted and conditionally permitted activities.

17.58.040 Permitted and conditionally permitted activities.

Table 17.58.01: Permitted and Conditionally Permitted Activities

Activities	CBD-R	CBD-P	CBD-C	CBD-X	Additional Regulations
Commercial Activities					
Transient Habitation	C	C(L6)	CP	C	17.103.050

Limitations:

L6. These activities are only permitted upon the granting of a Conditional Use Permit (see Chapter 17.134 for the CUP procedure). In addition to the criteria contained in Section 17.134.050, when these activities are located within thirty (30) feet of the front of the ground floor of the principal building (with the exception of incidental pedestrian entrances that lead to one of these activities elsewhere in the building), the proposed activities must also meet the criteria contained in Note L5, above.

Chapter 17.73 CIX, IG AND IO INDUSTRIAL ZONES REGULATIONS

Sections:

17.73.020 Permitted and conditionally permitted activities and facilities.

Table 17.73.020: Permitted and Conditionally Permitted Activities and Facilities

Activity Types	Zones									Additional Regulations
	CIX-1A	CIX-1B	CIX-1C	CIX-1D	CIX-1	CIX-2	IG	IO	T	
Commercial Activities										
Transient Habitation	C	C	C	C	—	—	—	—		17.103.050

Chapter 17.101A - D-WS WOOD STREET DISTRICT ZONES REGULATIONS
Sections:

17.101A.020 Permitted and conditionally permitted activities.

Table 17.101A.01: Permitted and Conditionally Permitted Activities

Activities	Zones									Additional Regulations
	D-WS-1	D-WS-2	D-WS-3	D-WS-4	D-WS-5	D-WS-6	D-WS-7	D-WS-8	D-WS-9	
Commercial Activities										
Transient Habitation	—	—	—	—	—	—	—	CP	—	17.103.050

Chapter 17.134 CONDITIONAL USE PERMIT PROCEDURE

Sections:

17.134.020 Definition of major and minor conditional use permits.

17.134.020 Definition of major and minor conditional use permits.

A. **Major Conditional Use Permit.** A Conditional Use Permit (CUP) is considered a Major Conditional Use Permit if it involves any of the following:

2. **Uses.** Any project requiring a Conditional Use Permit that involves any of the following activity or facility types except where the proposal involves only accessory parking, the resumption of a discontinued nonconforming activity, or an addition to an existing activity which does not increase the existing floor area by more than twenty percent (20%):

a. **Activities:**

vii. Transient Habitation Commercial;

viii. Heavy/High Impact Industrial;

~~ix.~~ Small Scale Transfer and Storage Hazardous Waste Management;

ix. Industrial Transfer/Storage Hazardous Waste Management;

xi. Mining and Quarrying Extractive;

xii. Special Health Care Civic Activities.

3. **Special Situations.** Any project requiring a Conditional Use Permit that involves any of the following situations:

~~d.~~ Transient Habitation Commercial Activities in the C-40 and C-45 Zones;

~~de.~~ Monopole Telecommunications Facilities in, or within three hundred (300) feet of the boundary of, any Residential or HBX Zone;

~~ef.~~ A project in the OS Zone listed as requiring a major conditional use permit in Chapter 17.11;

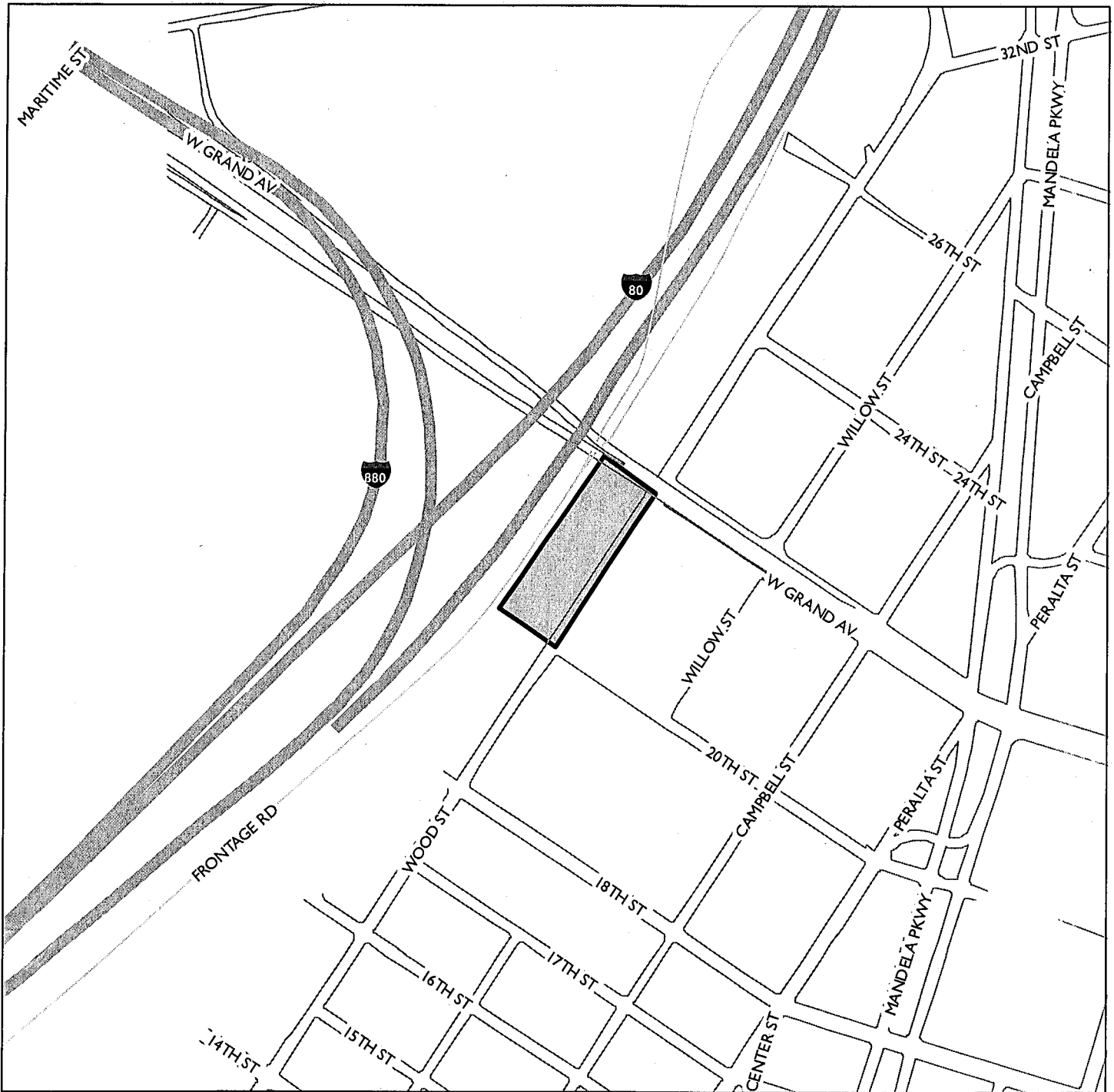
~~fg.~~ An Electroplating Activity as defined in Section 17.09.040 subject to the provisions of Section 17.102.340;

~~gh.~~ A Telecommunications Facility in or within one hundred (100) feet of the boundary of any Residential Zone, HBX Zone, or the D-CE-3 or D-CE-4 Zone;

~~hi.~~ A Telecommunications Facility whose antennas and equipment are not fully concealed from view within three hundred (300) feet of the boundary of the RH, RD, RM, RU-1, or RU-2 Zones, HBX Zones, or the D-CE-3 or D-CE-4 Zone.

B. **Minor Conditional Use Permit.** A Minor Conditional Use Permit is a Conditional Use Permit which does not involve any of the purposes listed in Subsection A. of this Section.

CITY OF OAKLAND PLANNING COMMISSION



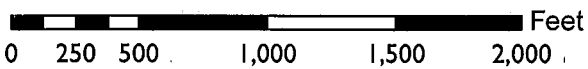
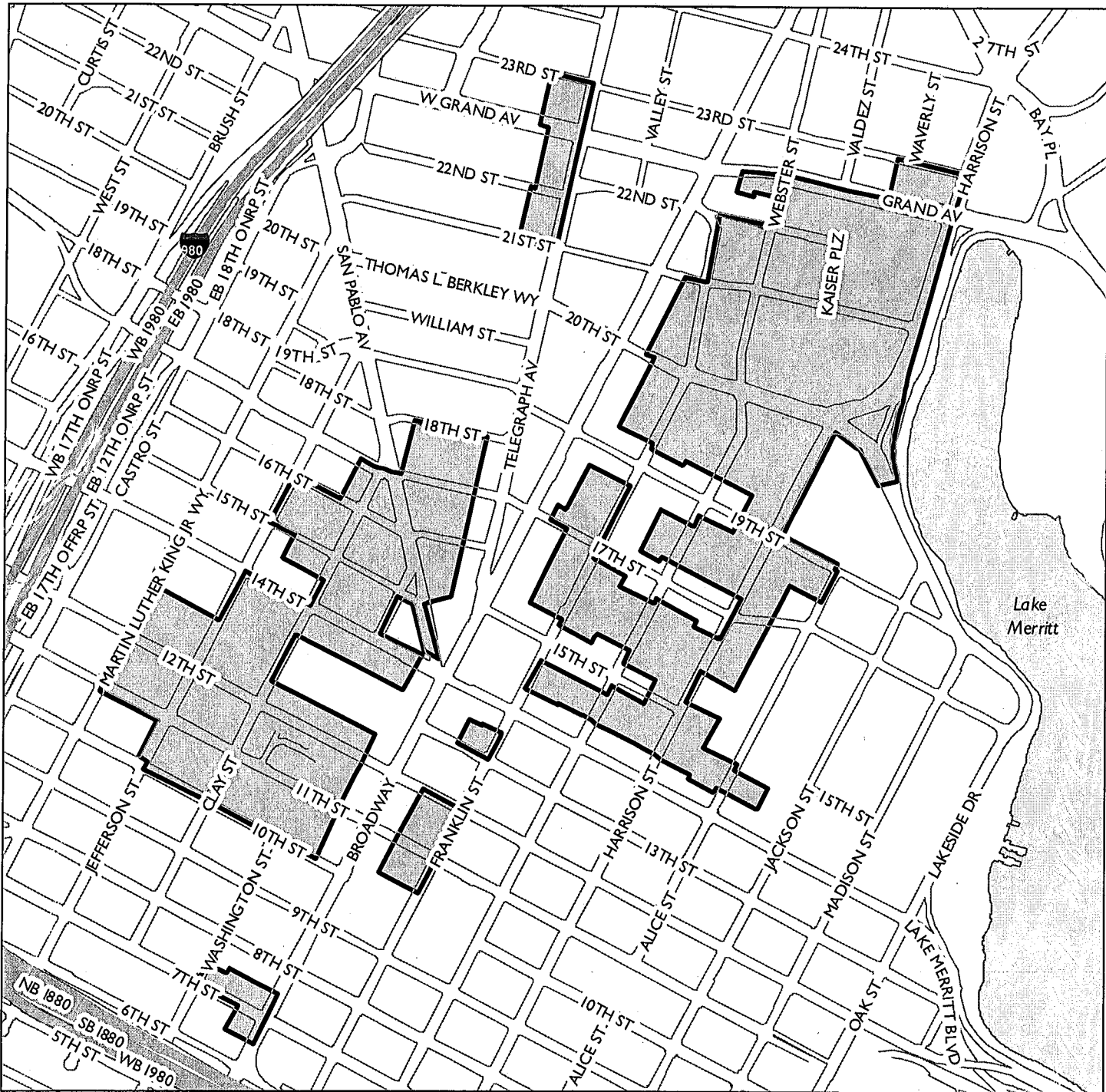
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D-WS-8 Zone

Attachment B

CITY OF OAKLAND PLANNING COMMISSION



CBD-C Zones

ATTACHMENT B