



ALAMEDA COUNTY COMMUNITY DEVELOPMENT AGENCY  
PLANNING DEPARTMENT

STAFF REPORT

TO: PLANNING COMMISSION

HEARING DATE: November 07, 2011

GENERAL INFORMATION

**PROPOSAL:** Resolution recommending approval of a Specific Plan Amendment creating a Conditional Use Permit process to allow less restrictive development standards relating to ground floor retail, floor to area ratio and parking requirements in the Ashland/Cherryland Business District plan.

**APPLICANT:** County of Alameda

**ZONING DISTRICT:** Not applicable

**SPECIFIC PLAN DESIGNATION:** *Ashland Cherryland Business District (ACBD) Specific Plan*

**ENVIRONMENTAL REVIEW:** General Rule Exemption pursuant to the California Environmental Quality Act (CEQA) Guidelines, Article 5, Section 15061.b.3 "The activity is covered by the general rule that CEQA applies only to projects, which have the potential for causing a significant effect on the environment. Where it can be seen with certainty that there is no possibility that the activity in question may have a significant effect on the environment, the activity is not subject to CEQA."

RECOMMENDATION

That the Planning Commission review this staff report, take public testimony, and adopt the proposed amendments as outlined in Option 1 below, allowing for projects that do not meet minimum Floor Area Ratio (FAR), ground floor retail requirements, or maximum on-site parking requirement of the TA (Transit Access) land use district of the *ACBD Specific Plan* to apply for a Conditional Use Permit with special findings.

BACKGROUND

At the October 03, 2011 Planning Commission hearing, the Commission expressed support for a comprehensive update to the *Ashland Cherryland Business District (ACBD) Specific Plan*, and in the mean time, for preparing a minor modification to the TA (Transit Access) land use designation, allowing for a Conditional Use Permit process for those project proposals that do not meet the TA designation rules of Floor Area Ratio, maximum allowed parking, or minimum percentage of ground floor retail.

The testimony at the hearing included concerns over the eroding of sustainability principles in the *ACBD Specific Plan*, over the potential for “spot zoning” given that the proposed CUP relief language is intended to allow a path for approval of certain projects that do not fit the current development rules in the TA land use designation, and the resulting greater reliance on single-mode (personal vehicle) transportation due to the relaxed rules on allowable parking and Floor Area Ratios. Additionally, there were lingering concerns that a project proposal could meet the additional CUP findings and still fall short of meeting the policies and goals for a mixed-use business corridor at East 14<sup>th</sup> Street / Mission Blvd.

Testimony from proponents of a new Tiburcio Vasquez health center on East 14<sup>th</sup> Street within a TA designation included that the center could not be built with the current development standards in the TA designation. The speakers stated that the project could be shown to be beneficial to the commercial corridor, the Ashland Area, and the unincorporated community, and that requiring special findings from a Conditional Use Permit process could be beneficial to maintaining a community level of comfort that this would be the case. The proponents of the health center had recommendations for what those findings could be.

As part of an intermediate solution to updates needed to the *ACBD Specific Plan*, the Planning Commission recommended a limited duration of three years for Option One presented in the staff report, as well as changes to the findings for Option One from what was originally proposed by Staff. The changes, which carried on a four-to-one vote (Ready dissented), are listed below (additions shown in **underline bold font**; deletions shown in ~~strike through font~~):

#### **OPTION #1 – Introduce an exception clause into the plan (none currently exists)**

##### 1.61 Exceptions to the *ACBD Specific Plan*

The Conditional Use Permit process shall be utilized in cases where exceptions to the *ACBD Specific Plan* are proposed (3.2 Land Use Policies and Programs) in order to facilitate implementation of the plan goals and objectives. This exception will only apply to numerical standards (see attachment) for parking requirements, the allowable percentage of ground floor retail, and floor to area ratio (FAR). **This exceptions clause shall expire and be of no force or effect three (3) years from the date of implementation.** Special *ACBD Specific Plan* findings, in addition to the standard CUP findings, shall be made before such an exception can be granted.

1. Is the granting of the Use Permit necessary to allow development to occur?
2. Does the project result in significant positive Economic Development impacts such as:
  - a. Increase sales tax and/or property tax revenue; **or**
  - b. Provide living wage jobs; **or**
  - c. Provide a needed service or product not available nearby in the corridor; **or**
  - d. **Include local hiring practices and/or apprenticeship program?**
3. Are there project amenities and exceptional design features integrated into the project to support *ACBD Specific Plan* sustainability goals? ~~Several of the following components shall be incorporated into the project to make this finding, including but not limited to:~~
  - a. ~~Green building/ LEED certification (level to be determined)~~
  - b. ~~Bicycle friendly (racks/showers/lockers) to encourage employees/clients to ride, not drive~~
  - c. ~~Commuter friendly (transit passes, shuttle service to/from BART, CarShare)~~
  - d. ~~Bay Friendly landscaping practices~~
  - e. ~~Include local hiring practices and/or apprenticeship program~~
  - f. ~~GHG reduction measures (parking lot shading, solar panels etc.)~~
4. Does the project promote the goals and land use objectives of the Eden General Plan regarding primary and secondary uses?

## CONFORMANCE WITH THE CALIFORNIA ENVIRONMENTAL QUALITY ACT

The proposed amendment to *ACBD Specific Plan* would create a Conditional Use Permit process to review proposals for development within the Transit Access land use designation that do not meet current maximum on-site parking regulations, minimum Floor Area Ratio, and minimum commercial ground floor area regulations. No specific actions will occur following adoption of the proposed language amendment to allow for CUP review. The *Specific Plan* language modifications, limited to allowing for a CUP process within the TA land use designation, create a procedure whereby private parties may apply for a Conditional Use Permit to develop property that does not meet current development standards in the TA land use designation, only if certain findings can be made that the development is consistent with the sustainability, economic development, and land use pattern principles, policies, and goals of the *ACBD Specific Plan*. Each such case that may come forward following adoption of the language modifications would be subject to its own CEQA environmental review.

Therefore, the proposal for modifications to existing language in the *ACBD Specific Plan* would be eligible for the General Rule Exemption pursuant to the California Environmental Quality Act (CEQA) Guidelines, Article 5, Section 15061.b.3 “The activity is covered by the general rule that CEQA applies only to projects, which have the potential for causing a significant effect on the environment. Where it can be seen with certainty that there is no possibility that the activity in question may have a significant effect on the environment, the activity is not subject to CEQA.”

### PUBLIC TESTIMONY

In addition to the public comments listed above, at the October 26, 2011, Unincorporated Services Committee meeting, several members of the public spoke in opposition to the proposed language modifications, and a few spoke in favor of the proposed language modifications. The community members and the arguments in opposition and in support were along the same lines as those community members and arguments at the Planning Commission hearing of October 03, 2011.

Also, at the October 03, 2011, Planning Commission hearing, one community member brought in a survey of about fifty index cards stating that a bike-able, walkable E. 14<sup>th</sup> is more than a nice vision. It is a necessity, and stating that they need local jobs, local services, and a bike-able, walkable E. 14<sup>th</sup> Street.

At the time of writing this staff report, Planning Department staff received a letter from AC Transit Agency, dated November 07, 2011, stating opposition to adopting the Specific Plan language changes to allow for a Conditional Use Permit process. Given that the letter was received within hours of publishing of this staff report, Planning Department staff has not had an opportunity to respond to the letter.

### DISCUSSION

Staff understands the concerns from members of the community who have expressed doubt that the proposed language change would suffice in ensuring that projects adhere to the principles of compact development that encourages multi-modal means of transportation and commercial activity along the East 14<sup>th</sup> Street / Mission Blvd. corridor. However, Planning Department staff considers that the special findings for the Conditional Use Permit, even as modified at the previous Planning Commission hearing, would continue to require a higher standard of review and justification for approval that is consistent with the sustainability, economic development, and land use principles of the *ACBD Specific Plan*. Because a proponent would seek approval of special consideration through a Conditional Use Permit process for a project that does not meet certain current development standards, the benefits of the project would have to be clearly stated and its merits found to complement the vision and principles of the *Specific Plan*, or else the CUP would be denied.

The Planning vision and principles in place during the original writing of the *Specific Plan* promoted a walkable, pedestrian oriented boulevard with a multitude of transit options available to residents, workers and shoppers. Similar to land use planning principles today, the *Specific Plan* emphasizes the importance of reduced dependence on the automobile, promotes transit oriented development and seeks to create bustling neighborhoods that have an intensive mix of residential, commercial and retail uses.

The implementation methods in the *ACBD Specific Plan*, such as development standards and land use restrictions, can be vague, missing, or at times incompatible with realistic development potential. Transit-oriented developments have not been built along the E.14th Street/Mission Street corridor, and public transit along this portion of E.14<sup>th</sup> Street / Mission Blvd. has not intensified in the 15 years since the inception of the specific plan. While some of the tools for realizing the vision may be open to reconsideration because of the difficulty in implementation during the life of the specific plan thus far, the general principles for economic, environmental, and socially equitable sustainability are not. The ongoing regional exercise pursuant to SB 375 and the preparation of the Sustainable Communities Strategy, as well as the renewal of Alameda County Measure B in 2012 speak to state and region-wide trends toward sustainable development, further reinforcing the vision from the specific plan of 16 years ago.

*Existing Language in the ACBD Specific Plan Regarding Relationship to Zoning Ordinance and Organizational Structure*

**1.4 RELATIONSHIP TO THE ALAMEDA COUNTY ZONING ORDINANCE**

According to State law, a specific plan may be administered as, and thus have the force of, zoning. Policies and regulations developed by the Ashland and Cherryland Business Districts Specific Plan take precedent over and replace standard zoning and the provisions of the Alameda County Zoning Ordinance for the Plan Area. Where the Specific Plan is silent, or perceived to be silent, provisions of the Zoning Ordinance will apply. The County's Site Development Review process may impose more, but not less, restrictive requirements where appropriate. Violation of the provisions of the Ashland and Cherryland Business Districts Specific Plan shall constitute a violation of the Zoning Ordinance, and enforcement of the provisions of the Specific Plan shall be done in the same manner as enforcement of the provisions of the Zoning Ordinance. Amendment to the land use policies of the Specific Plan shall be made in the same manner and according to the procedures established for amendments to the Zoning Ordinance.

**1.6 STRUCTURE OF THE SPECIFIC PLAN**

The Ashland and Cherryland Business Districts Specific Plan is intended to inform property owners, business owners, developers, investors, and public agencies about permitted land uses, appropriate community design, including new construction and rehabilitation of existing buildings, and public projects, as well as setting overall land use and development policies for the Plan Area. The Specific Plan is divided into several functional elements, as follows:

*Introduction*

This Element states the general purpose of the Specific Plan and its authority under State law. It also describes the geographical area which the Specific Plan governs and identifies the length of time which it assumes as a planning guide. The Introduction also explains the relationship of the Specific Plan to the County General Plan, The Zoning Ordinance, and to other County plans, regulations, policies, and actions.

### *Goals and Objectives*

This Element presents the primary goals of the community for the various business districts that guide recommended policies and projects.

### *Land Use*

The Land Use Element presents the land use plan for the identified business districts and outlines the revitalization objectives and strategies most critical to each individual business district. The Land Use Element also establishes specific land use regulations and criteria that will be used to implement policies for mixed-use development and to review requests for changes in land use.

### *Design Guidelines*

The Design Guidelines Element provides property owners and developers with a set of principles that will be used in reviewing project design through the Site Development Review process. These guidelines address issues of site design, new buildings, rehabilitations and conversions, and commercial signs.

### *Existing Language for the TA Land Use Designation:*

#### 3.2.1.1 TA: Transit Access

##### *Objective*

The -TA, Transit Access designation establishes a minimum level of transit-oriented development as a condition of planning approval in the immediate vicinity of transit and bus stops. The -TA designation is meant to create a mixture of residential, commercial and employment opportunities that benefit from and are supportive of high access transit service.

##### *Applicability and Zoning Map Symbol*

The -TA, Transit Access designation is applied to properties fronting or across the street from the approximately 250 foot length of a light rail transit stop, or from that same distance if it contains a bus stop providing service levels at or higher than 10 minute intervals during peak hours. The -TA designation is shown on the Zoning Map by a -TA symbol.

##### *Land Use Regulations*

Properties with the -TA, Transit Access designation are limited to development, as illustrated by the following examples, that includes specialty or support retail, workplace commercial, office or higher density residential as the primary use. Auto and vehicle dependent businesses, such as service centers and car washes, are prohibited, as well as those that are predominantly oriented to dispatch services and storage.

##### *Prohibited Uses*

- o dispatch service businesses such as taxi, ambulance, glass installation, key repair, etc.;
- o animal boarding;
- o auto sales;

- o auto painting and auto body shops, single-use car washes, major vehicle repair, quick vehicle servicing such as tire or muffler installation, oil change, lubrication, gasoline service stations except where incorporated within a parking structure, and vehicle storage;
- o building materials and services, excluding hardware stores not exceeding 5,000 square feet of gross floor area;
- o grocery and other food or beverage stores exceeding 10,000 square feet of gross floor area;
- o plant nurseries and other businesses with large areas for storing merchandise;
- o any drive-through facility (exceptions where drive-through facilities are not the primary method of selling or servicing require conditional use approval);
- o on-site assembly except for small scale custom operations;
- o mini-warehouse or storage facilities, whether in buildings or within fenced areas;
- o truck stops, junk yards, cold storage facilities; and
- o convalescent care facilities.

*Development Regulations*

All new development on properties with the -TA, Transit Access designation must adhere to the following regulations:

- o support and specialty retail for all or a significant portion, and in no case less than 50%, of ground floor space;
- o minimum floor area to site area ratio (FAR) of 0.75:1 for new, non-residential development, the purpose being to create more intense development oriented to pedestrian use;
- o special consideration, as PUD, when development includes underground or parking structure, special pedestrian amenities such as plazas or access pathways, transit facilities, or a mix of residential and commercial uses (such development projects also may qualify for special redevelopment funding assistance);
- o height restrictions, based on a 45 degree slope line from the property line, for frontage immediately adjacent to properties zoned for lower density residential development (where there is no roadway or other public right-of-way separation between property lines);
- o minimum height limit for commercial street frontage of 25 feet (can be a false front), and maximum height as set by restrictions of fire department equipment and visual impacts analysis;
- o residential densities permitted to a maximum of 50 dwelling units to the acre; and
- o parking for commercial uses not to exceed 3.5 spaces per 1000 net leasable square feet, and, for residential uses, not to exceed 1.1 per unit.

*Illustrative Examples*

- o Workplace commercial and office uses
  - . corporate and independent law, insurance and real estate offices
  - . design professionals
  - . computer companies, including small scale custom assembly
  - . public service
  - . storefront, walk-in real estate, travel agent, tax preparation
  - . out-patient health services
  
- o Specialty and Support Retail
  - . jewelry, clothing, gifts
  - . restaurant, cafe, carry-out food service
  - . office supply
  - . clothing
  - . books
  - . pharmacy
  - . customer service bank

The relationship to the Alameda County Zoning Ordinance and the organizational structure of the *ACBD Specific Plan* would be slightly modified with new language stating that a Conditional Use Permit process with special findings is allowable for properties within the Transit Access land use designation to consider development that does not meet certain existing development standards.

All existing land use restrictions and development standards in the TA land use designation would remain, except, if a Conditional Use Permit is granted, consideration for modifications to Floor Area Ratio, maximum on-site parking requirements, and minimum commercial ground floor area would be approved.

*CUP Consideration Limited to Projects within the TA Land Use Designation:*

The Conditional Use Permit process and findings that the Planning Commission has so far recommended limits the use of the Conditional Use Permit process to projects located within the Transit Access land use designation, and requires special findings, in addition to the already required Conditional Use Permit findings, to ensure that a project will adhere to the *ACBD Specific Plan* sustainability goals.

Each project that does not meet current TA designation development standards of: 1) maximum allowed on-site parking for commercial uses of 3.5 spaces per 1,000 net leasable square feet, and, for residential uses, not exceed 1.1 per unit; 2) minimum floor area to site area ratio (FAR) of 0.75:1 for new, non-residential development, the purpose being to create more intense development oriented to pedestrian use; or 3) support and specialty retail for all or a significant portion and in no case less than 50% of ground floor space, must show that: A) the only way that the project could occur is if the CUP for special dispensation is granted; B) the project provides significant positive economic development impacts to the local area; C) the project provides physical amenities and exceptional design features that support specific plan sustainability goals; and D) the project promotes the goals and land use objectives of the Eden General Plan regarding primary and secondary uses.

Each project proposal would continue to be compared to the other developments standards, existing land use limitations, and existing design guidelines applicable to the TA land use designation in the *ACBD Specific Plan*, and in the *Eden General Plan*.

Even though the Planning Commission considered that the originally listed design components not to be necessary to list as part of the additional findings, these and other components are the types of physical amenities that the County would be seeking when determining whether a project complies with the sustainability principles, policies, and goals of the *ACBD Specific Plan*. A project seeking relief from existing *ACBD Specific Plan* regulations would need to mitigate impacts with project-specific features. Current sustainability and economic development trends include building to LEED certified levels, accommodating bicyclists, providing shuttle service to/from BART, hiring local residents, providing space for community/local businesses, reducing demand for passenger parking over a five year period, and offsetting increases in green house gasses with additional shade trees or overhead solar panels in parking lots. These components would continue to be used when reviewing project proposals that seek dispensation from the otherwise three required development standards listed above. These physical components and design features do not constitute a burdensome hurdle to development, since the project proposal could always comply with the current development standards and not have to apply for a CUP or pass the special findings for sustainability that implement the principles, policies and goals of the *ACBD Specific Plan*.

Intermediate Language Change Relative to Comprehensive Update to ACBD Specific Plan:

The proposed language change would be a short-term solution to the issue of development in the TA land use district. Conditional Use Permits within the TA land use district would adhere to the *ACBD Specific Plan* vision to increase the urban, commercial corridor look, feel, and functionality of Mission Blvd / East 14<sup>th</sup> Street. As an intermediate solution, this Conditional Use Permit process would expire three years from the date of approval. The intent is to allow development along the Ashland / Cherryland commercial corridor that adheres to the vision for sustainability and economic development in the specific plan, while allowing County staff the opportunity to substantially complete an update of the existing *ACBD Specific Plan* and those components that make its vision difficult to realize.

A complete review of the *ACBD Specific Plan* is in the Planning Department's near term goals. The *ACBD Specific Plan* could be improved with a significant community participation process since many of the issues, concerns, and leadership in the ACBD area have changed since its inception. While the community at large agrees with the vision and principles of the plan, the implementation methods deserve to be revisited. For example, there is a concern with infill within existing neighborhoods and a desire to place new residential units instead of within neighborhoods, along the County's major commercial corridors, many in the ACBD area. The focus on regional planning in light of Senate Bill 375 also requires us to look at our commercial corridors differently, as activity nodes with more mixed use, more housing and jobs. Some of these issues that are not addressed in the *Specific Plan* could benefit from such an approach.

## PROPOSED LANGUAGE CHANGES

Section 1.4" Relationship to the Alameda County Zoning Ordinance" of the *ACBD Specific Plan* would be modified to read as follows (new text shown in **bold underline font**):

### 1.4 RELATIONSHIP TO THE ALAMEDA COUNTY ZONING ORDINANCE

According to State law, a specific plan may be administered as, and thus have the force of, zoning. Policies and regulations developed by the Ashland and Cherryland Business Districts Specific Plan take precedent over and replace standard zoning and the provisions of the Alameda County Zoning Ordinance for the Plan Area. Where the Specific Plan is silent, or perceived to be silent, provisions of the Zoning Ordinance will apply. The County's Site Development Review process may impose more, but not less, restrictive requirements where appropriate. Violation of the provisions of the Ashland

and Cherryland Business Districts Specific Plan shall constitute a violation of the Zoning Ordinance, and enforcement of the provisions of the Specific Plan shall be done in the same manner as enforcement of the provisions of the Zoning Ordinance. Amendment to the land use policies of the Specific Plan shall be made in the same manner and according to the procedures established for amendments to the Zoning Ordinance, **except as provided for a Conditional Use Permit process with certain findings when development within the TA (Transit Access) land use designation does not meet certain development standards of that land use designation, as listed in Section 1.6 “Structure of the Specific Plan”, subsection “Exceptions to the Ashland and Cherryland Business Districts Specific Plan”.**

Also, a new section would be added within Section 1.6 “Structure of the Specific Plan”, after the “Land Use” and before the “Design Guidelines” subsections, to read as follows (new text shown in **bold underline font**):

**Exceptions to the Ashland and Cherryland Business Districts Specific Plan**

**The Conditional Use Permit process shall be utilized in cases where exceptions to the Transit Access (TA) land use designation of the ACBD Specific Plan are proposed (3.2.1.1 “TA: Transit Access”) in order to facilitate implementation of the plan goals and objectives. These exceptions will only apply to numerical standards for parking requirements, the allowable percentage of ground floor retail, and floor to area ratio (FAR). This exceptions clause shall expire and be of no force or effect three (3) years from the date of implementation. Special TA land use designation findings, in addition to the standard Conditional Use Permit findings, shall be made before such an exception can be granted.**

**The TA land use designation findings are:**

1. **Is the granting of the Use Permit necessary to allow development to occur?**
2. **Does the project result in significant positive Economic Development impacts such as:**
  - a. **Increase sales tax and/or property tax revenue; or**
  - b. **Provide living wage jobs; or**
  - c. **Provide a needed service or product not available nearby in the corridor; or**
  - d. **Include local hiring practices and/or apprenticeship program?**
3. **Are there project amenities and exceptional design features integrated into the project to support ACBD Specific Plan sustainability goals?**
4. **Does the project promote the goals and land use objectives of the Eden General Plan regarding primary and secondary uses?**

Section 3.2.1.1 “TA: Transit Access” would be modified within the “Development Regulations” subsection, to read as follows (new text shown in **bold underline font**):

“Development Regulations”

All **additions of 1,000 sq. ft or more, or** new development **of any size,** on properties with the –TA, Transit Access designation must adhere to the following regulations:

- except as provided for a Conditional Use Permit process with certain findings, as listed in Section 1.6 “Structure of the Specific Plan”, subsection “Exceptions to the Ashland and Cherryland Business Districts Specific Plan”, support and specialty retail for all or a significant portion, and in no case less than 50%, of ground floor space;
- except as provided for a Conditional Use Permit process with certain findings, as listed in Section 1.6 “Structure of the Specific Plan”, subsection “Exceptions to the Ashland and Cherryland Business Districts Specific Plan”, minimum floor area to site area ratio (FAR) of 0.75:1 for new, non-residential development, the purpose being to create more intense development oriented to pedestrian use;

[...]

- except as provided for a Conditional Use Permit process with certain findings, as listed in Section 1.6 “Structure of the Specific Plan”, subsection “Exceptions to the Ashland and Cherryland Business Districts Specific Plan”, parking for commercial uses not to exceed 3.5 spaces per 1000 net leasable square feet, and, for residential uses, not to exceed 1.1 per unit.

## CONCLUSION

That the Planning Commission review this report, take public testimony, and adopt the attached resolution recommending to the Board of Supervisors that they adopt the CEQA General Rule Exemption and approve the *ACBD Specific Plan* language amendments to allow a Conditional Use Permit process with special findings for development projects in the Transit Access land use designation that do not meet certain existing development standards, as outlined in the Attachment A.

## ATTACHMENTS

- ACBD excerpts, Section 3-2 Land Use Policies and Programs (17 pages)
- Eden General Plan excerpts describing primary/secondary uses
- AC Transit letter dated November 07, 2011
- Planning Commission Resolution
- Attachment A

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Planning Director

### 3.2 LAND USE POLICIES AND PROGRAMS

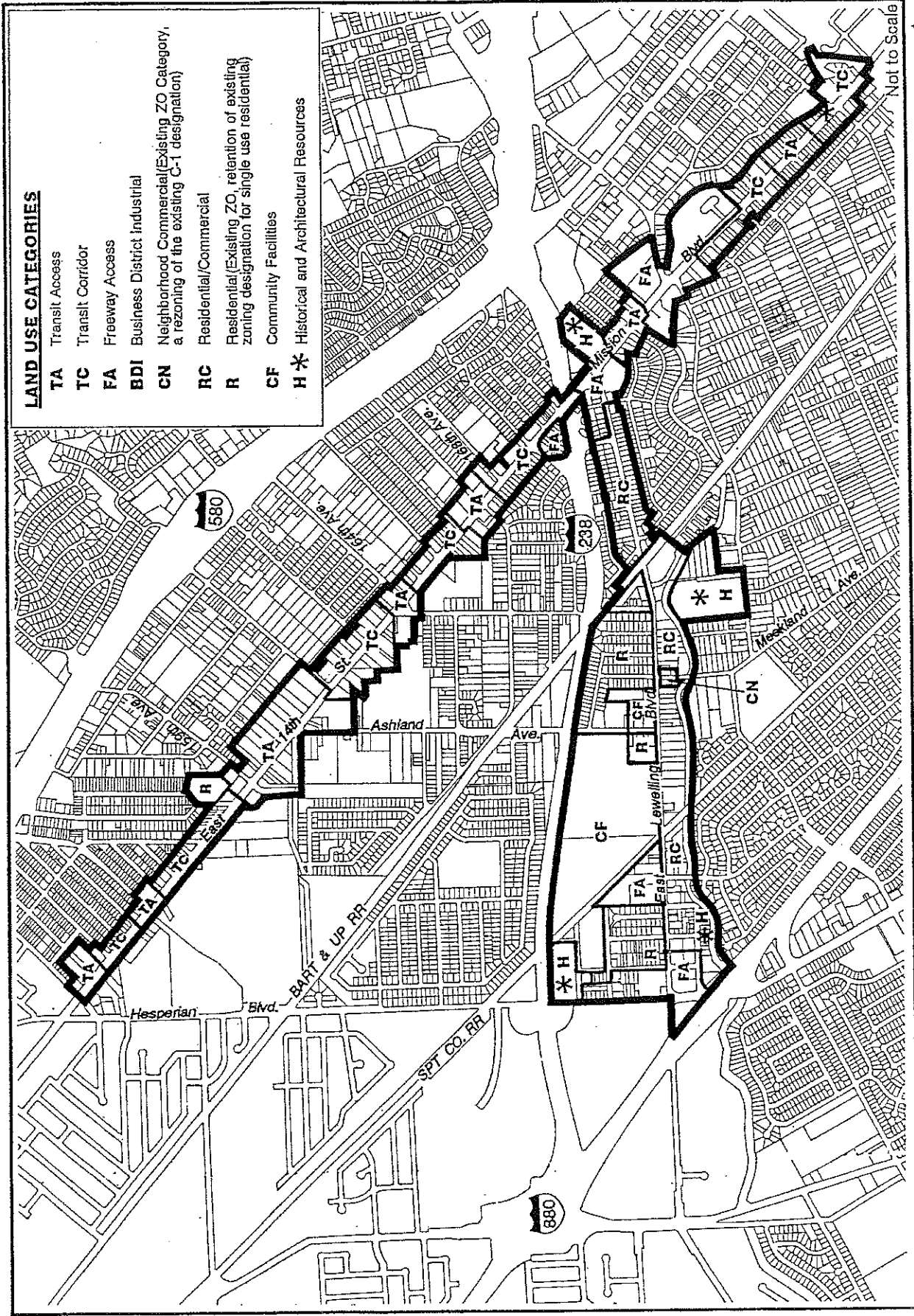
The following land use policies and programs are developed to implement plan goals and objectives for economic revitalization of business districts, protection and enhancement of residential areas, and, in particular, use of East 14th Street/Mission Boulevard as a transit oriented place.

*existing zoning ignores the complexity of older places*

#### 3.2.1 LAND USE REGULATIONS

##### *Policy*

- o Modify existing commercial zoning in the Plan Area, through a revision to the Zoning Ordinance, to allow more intensive infill development, to allow a mix of uses appropriate to individual conditions within each business district, and to preserve uses that are of value to the public realm such as schools and historic and cultural resources.
- o Provide for transit supportive development along the East 14th Street/Mission Boulevard corridor. Transit supportive development includes a mixture of residential, commercial and employment opportunities that will promote and utilize high access transit service, and that will limit conflicts between vehicles, pedestrians, and transit operations. Transit supportive development shall be required in the immediate vicinity of transit stops.
- o Existing zoning categories shall be used for single use residential and small, single use convenience commercial designations.



**LAND USE**

ASHLAND CHERRYLAND BUSINESS DISTRICTS SPECIFIC PLAN  
Alameda County Planning Department, 1995

Figure 3.2



Not to Scale

- o Conditional use permits shall continue to be required in all business districts for those businesses identified as being categorically of concern to public health and safety and that can be materially detrimental to the public welfare or injurious to property or improvements in the area. By way of clarification, residential uses in commercial use areas, however, shall be considered conforming uses, contributing to the overall mixed-use character of each business district.

*Program*

The zoning designations, as described below and illustrated in Figure 3-2, shall be adopted together with the Specific Plan as the recognized zoning for the Plan Area.

3.2.1.1.1 TA: Transit Access

*Objective*

The -TA, Transit Access designation establishes a minimum level of transit-oriented development as a condition of planning approval in the immediate vicinity of transit and bus stops. The -TA designation is meant to create a mixture of residential, commercial and employment opportunities that benefit from and are supportive of high access transit service.

*more flexible regulations to take advantage of  
high transit access locations*

*Applicability and Zoning Map Symbol*

The -TA, Transit Access designation is applied to properties fronting or across the street from the approximately 250 foot length of a light rail transit stop, or from that same distance if it contains a bus stop providing service levels at or higher than 10 minute intervals during peak hours. The -TA designation is shown on the Zoning Map by a -TA symbol.

### *Land Use Regulations*

Properties with the -TA, Transit Access designation are limited to development, as illustrated by the following examples, that includes specialty or support retail, workplace commercial, office or higher density residential as the primary use. Auto and vehicle dependent businesses, such as service centers and car washes, are prohibited, as well as those that are predominantly oriented to dispatch services and storage.

#### *Prohibited Uses*

- o dispatch service businesses such as taxi, ambulance, glass installation, key repair, etc.;
- o animal boarding;
- o auto sales;
- o auto painting and auto body shops, single-use car washes, major vehicle repair, quick vehicle servicing such as tire or muffler installation, oil change, lubrication, gasoline service stations except where incorporated within a parking structure, and vehicle storage;
- o building materials and services, excluding hardware stores not exceeding 5,000 square feet of gross floor area;
- o grocery and other food or beverage stores exceeding 10,000 square feet of gross floor area;
- o plant nurseries and other businesses with large areas for storing merchandise;
- o any drive-through facility (exceptions where drive-through facilities are not the primary method of selling or servicing require conditional use approval);

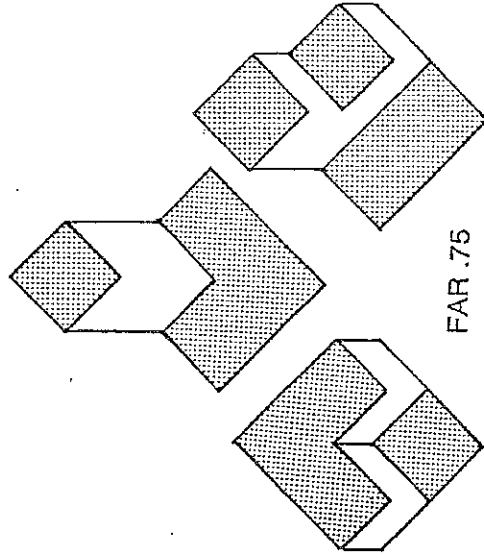
*restrict uses that do not need to be near transit nodes*

- o on-site assembly except for small scale custom operations;
- o mini-warehouse or storage facilities, whether in buildings or within fenced areas;
- o truck stops, junk yards, cold storage facilities; and
- o convalescent care facilities.

*Development Regulations*

All new development on properties with the -TA, Transit Access designation must adhere to the following regulations:

- o support and specialty retail for all or a significant portion, and in no case less than 50%, of ground floor space;
- o minimum floor area to site area ratio (FAR) of 0.75:1 for new, non-residential development, the purpose being to create more intense development oriented to pedestrian use;
- o special consideration, as PUD, when development includes underground or parking structure, special pedestrian amenities such as plazas or access pathways, transit facilities, or a mix of residential and commercial uses (such development projects also may qualify for special redevelopment funding assistance);
- o height restrictions, based on a 45 degree slope line from the property line, for frontage immediately adjacent to properties zoned for lower density residential development (where there is no roadway or other public right-of-way separation between property lines);
- o minimum height limit for commercial street frontage of 25 feet (can be a false front), and maximum height as set by restrictions of fire department equipment and visual impacts analysis;



*the same total floor area can be configured in different ways; FAR is a way to regulate development intensity*

- o residential densities permitted to a maximum of 50 dwelling units to the acre; and
- o parking for commercial uses not to exceed 3.5 spaces per 1000 net leasable square feet, and, for residential uses, not to exceed 1.1 per unit.

*Illustrative Examples*

- o Workplace commercial and office uses
  - . corporate and independent law, insurance and real estate offices
  - . design professionals
  - . computer companies, including small scale custom assembly
  - . public service
  - . storefront, walk-in real estate, travel agent, tax preparation
  - . out-patient health services
- o Specialty and Support Retail
  - . jewelry, clothing, gifts
  - . restaurant, cafe, carry-out food service
  - . office supply
  - . clothing
  - . books
  - . pharmacy
  - . customer service bank

3.2.1.2 TC: Transit Corridor

*Objective*

The -TC, Transit Corridor designation is to establish a development context that is supportive of the more intensively developed Transit Access (-TA) Areas, and that benefits by having frontage, along a high access transit system corridor, between Transit Access Areas.

### *Applicability and Zoning Map Symbol*

The -TC, Transit Corridor designation is applied to all properties with frontage along East 14th Street/Mission Boulevard, with the exception of a few sites larger than 40,000 square feet that have close proximity to direct freeway access. The -TC designation is shown on the Zoning Map by a -TC map symbol.

### *Land Use Regulations*

The -TC, Transit Corridor designation allows small and larger scale, high intensity retail and office as primary uses, as well as certain types of walk-in storefront office and health care and professional office uses illustrated in the next section, below. Mixed-use development, with residential as a conforming secondary use, is highly desirable and is encouraged. Uses currently allowed by C-1 commercial zoning, including auto sales, parts, and auto service businesses, can be approved as conditional uses. Guiding land use concepts for defining the -TC, Transit Corridor designation are summarized as follows:

- o predominant use character shall be storefront retail with professional office or residential use located on upper stories and to the rear of sites; and
- o ground floor offices are for walk-in, non-appointment types of uses and are not to detract from retail intensity.

### *Development Regulations*

-TC, Transit Corridor development shall adhere to the following development regulations, subject to approval through the Site Development Review process:

*land use regulations that allow some additional types of businesses between transit stops*

- o auto parts, sales and service commercial, as conditional uses, shall either be located in walk-in storefront type retail space or, where roll-up door, drive-in entries are required, on portions of the site not directly visible to street;
- o drive-through facilities, such as for pharmacy drop-offs and pick-ups, can be provided where they are not the primary method of selling or servicing and where they are not located between the building and the street frontage;
- o site design shall be primarily responsive to pedestrian access, including the location of a main entry on or adjacent to public sidewalk, and locating all or a major portion of the building frontage at or near the street edge;
- o parking for commercial and office can met by on-street spaces to a maximum of 2,500 square feet of lease space; retail development greater than 2,500 square feet is required to provide parking in a ratio of 2 spaces per thousand net square feet; if and when a parking authority or parking district is established in a business district, parking requirements can be met, in whole or in part, through in-lieu fees to support development and maintenance of off-site facilities; and
- o parking for residential uses shall be accommodated on-site and is not to exceed 1.25 spaces per dwelling unit.

*Illustrative Examples*

- o high Intensity retail and office uses include:
  - . restaurant, cafe and prepared foods
  - . jewelry
  - . pet supplies, veterinary clinic

*pedestrian access remains a critical element*

- . clothing
- . books
- . food service, sit-down and carry out
- . pharmacy
- . bank

o walk-in, storefront office:

- . public service agencies, legal aid, outreach programs
- . real estate
- . travel agent
- . tax preparation, etc

o small staff health care and professional office:

- . dentist
- . doctor
- . optometrist
- . chiropractor
- . acupuncture,
- . psychologist,
- . personal care (hair, nails, skin)
- . architect, and other design professionals

### 3.2.1.3 FA: Freeway Access

#### *Objective*

The -FA, Freeway Access designation is to provide a degree of flexibility, within the Plan Area, for larger scale, freeway related commercial development, where there is direct freeway access and where appropriate sites are available or can be created.

### *Applicability*

The -FA, Freeway Access designation is applied in the West Eden Business District, at the north edge of the Cherryland Creekside Business District, and in the Four Corners Business District to certain larger properties and areas where there is a reasonable expectation for future land assembly and where there is direct freeway access.

*the vitality of two of the business districts is directly related to freeway access*

### *Land Use Regulations*

The -FA, Freeway Access designation allows large scale, general commercial land uses that benefit from freeway access and exposure.

### *Development Regulations*

All new development on properties with the -FA, Freeway Access designation, must adhere to the following requirements and standards:

- o minimum landscape of 10% of total site area for planting;
- o professional and workplace office is a permitted, secondary use for upper stories or back-of-site locations;
- o residential development is permitted as a conditional use; and
- o parking requirements are 4/1000 square feet for retail and office uses; on-street spaces can be included to supplement this requirement.

### *Illustrative Examples*

- o drugstore, variety store, general store, super store, etc.;
- o home improvement/hardware center, furniture, computer and electronics

- o equipment sales, third party repairs, etc.;
- o plant nursery;
- o auto sales, trade-ins, specialty used car dealerships, auto service center; and
- o fast food (drive through); gasoline, etc. as part of larger complex or as a conditional use when less than 5,000 square feet of floor area.

3.2.1.4 BDI: Business District Industrial

*Objective*

The -BDI, Business District Industrial designation is to allow certain supportive, small scale light industrial and manufacturing functions, where there are appropriate conditions, adjacent to business commercial areas.

*Applicability and Zoning Map Symbol*

The -BDI, Business District Industrial designation is applied to properties where edge conditions such as a freeway, a railroad, or a wide roadway, provide adequate separation from adjacent development which otherwise could be negatively impacted by such an adjacent land use. It is shown on the Zoning Map by a -BDI symbol.

*Land Use Regulations*

The -BDI, Business District Industrial designation recognizes the supportive value of certain light industrial and manufacturing operations on the overall market orientation of certain nearby commercial activities or to the general area of a community. The intent of the regulations is to protect surrounding properties from the potentially blighting effects of noise, odor, and appearance and to insure the health and safety of the

*the west eden business district could accommodate increased light industrial development*

surrounding area. These regulations are comparable to those required by industrial park zoning and are characterized by the following concerns:

- o enclosed uses only, no open site storage or work areas;
- o risk factor criteria provided for materials to be used;
- o smoke and odor emission control equipment must be provided; and
- o not permitted directly adjacent to residential uses.

*Illustrative Examples*

- o auto body work;
- o cabinet making;
- o spray painting;
- o computer or small machine assembly;
- o de facto line work; and
- o trades and crafts workshops

3.2.1.5 RC: Residential/Commercial

*Objectives*

The -RC, Residential/Commercial designation is to allow storefront or free-standing service retail or office space at the street frontage, as a permitted use, for larger properties or for properties on area-serving arterials in districts where residential is the primary land use.

*allowing land use changes, over time, in certain areas*

The -RC designation also is used for areas which have already been developed for residential use and where changed conditions would make a new, hybrid type of higher density residential and commercial use more desirable. Examples of such areas include one along a formerly residential street that now carries high volumes of traffic, and one adjacent to a freeway constructed through an established residential neighborhood.

In the vicinity of schools, businesses that provide goods and services oriented to student customers, such as eating places or convenience stores, should not be permitted where they encourage crossing a street in mid-block. Such businesses should be permitted only at or near corners where there is a signalized pedestrian crossing.

*Applicability and Zoning Map Symbol*

The -RC, Residential/Commercial, mixed-use designation is applied to properties in predominantly residential areas where service retail or office is supported by through traffic or by a sufficient resident or day time population. It is shown on the Zoning Map by a -RC symbol.

*Land Use Regulations*

The -RC, Residential/Commercial, mixed-use designation recognizes that certain types of retail and office uses on busy streets can be a local amenity in that they serve as a neighborhood gathering place, and can reduce trips outside the neighborhood for convenience items. Such businesses are a traditional part of older residential areas, and they are especially appropriate near a middle school or a high school. The intent of the following regulations is to allow, as a non-conditional use, specialty retail and office uses in combination with higher density or apartment type residential development on the same property. These regulations are as follows:

- o commercial development, as a secondary use, must be either in conjunction with residential, or, as a single use, commercial development must be reviewed as a planned unit development of a

type and design that does not adversely impact adjacent residential uses, local schools, or other neighborhood uses;

- o residential development does not necessarily have to include commercial development;
- o higher residential development densities are preferred (15-25 dwelling unit/acre); single unit residential development on sites larger than 5,000 square feet shall be reviewed as a conditional use; and
- o commercial use in combination with residential development is to be located in a ground floor space, either free standing or as a part of a larger, residential development, with direct pedestrian visibility and access from a public sidewalk.

*Illustrative Examples*

- o residential over the corner store; and
- o barber shop, ice cream store, or bicycle store at the street edge with a garden apartment building at the back of, or as the predominant development on a larger, deep lot.

3.2.1.6 CF: Community Facilities

*Objectives*

The -CF, Community Facilities designation is to identify community serving development, such as public or private schools, churches, meeting halls, and parks with buildings where the sites function as more than open space. Such facilities should be recognized as being part of the public life of the community and should not be available for redevelopment without a higher level of public review.

*making certain community facilities a permanent land use*

### *Applicability and Zoning Map Symbol*

The -CF, Community Facilities designation is applied to all public use facilities, whether publicly or privately owned, and is shown on the Zoning Map by a -CF symbol. Land Use Regulations

The -CF, Community Facility designation means that places such as schools, churches, and meeting halls are a part of the public realm and that these properties shall not be readily available for any other type of development.

### *Illustrative Examples*

- o recreational buildings such as a gym or a swim center;
- o assembly halls and public meeting facilities;
- o schools;
- o churches; and
- o community centers.

### 3.2.1.7 H: Historical and Architectural Resources

#### *Objectives*

The -H, Historical and Architectural Resources designation is to recognize and protect sites and buildings that are cultural resources for the community. It is used to identify a place that, at the very least, has local archaeological, historical, or architectural significance. The designation serves to encourage the conservation of such places through rehabilitation, adaptive reuse, preservation, and restoration.

*a land use category to recognize valued cultural resources*

### *Applicability and Zoning Map Symbol*

The -H, Historical and Architectural Resources designation is not the result of a professional historical or architectural resources inventory and are based on the judgment of staff and local, amateur historians. The designations should be revised when such a professional cultural resources inventory is prepared, possibly as part of the General Plan update. The Ashland, Cherryland Business Districts Specific Plan does not contain a preservation element, but the designation does reflect policies recognizing structures and places in the Plan Area which have historical or cultural merit, and which serve as cultural resources for the community.

### *Land Use Regulations*

The -H, Historical and Architectural Resources designation is not a land use category. It does, however, mean that design review, through the Site Development Review process, is automatically required for any change, including painting, and that alternative codes for historic structures may be used in applying for any permits. The designation also applies to established landscaping, which cannot be removed or altered without design review. Site preparation and construction activities shall allow for adequate identification, documentation and, where appropriate, preservation of historic and archaeological artifacts and features.

### *Illustrative Examples*

- o Meek Estate
- o Holy Ghost Hall
- o San Lorenzo Pioneer Cemetery

## PROHIBITED USES

The following list of businesses and commercial activities within the Plan Area are prohibited as contributing to conditions of blight within a redevelopment area:

- o bookstores that display or sell pornographic material
- o massage studios and services
- o tattoo services and offices
- o pawn shops

### 3.2.2 LAND USE CHANGES

#### *Policy*

A change in land use from residential to commercial for an individual property or properties within a commercial business district shall be supported when the change creates a more viable site for commercial development within an existing business district and a more rational edge between the business district and the adjacent residential neighborhood.

#### *Program*

In several of the business districts, small lot sizes make desirable new development infeasible or existing commercial development has resulted in isolated residential properties along some of the side streets. In some places there are jagged edges between commercial and residential districts. Under such circumstances, land use change can be beneficial to both districts.

The intent in approving a land use change from residential to commercial is to allow the formation of larger-sized properties where necessary to create opportunities for new commercial development that can revitalize a

*certain conditions can justify a change in existing land uses*

the Mission Boulevard at Mattox Road District is located within an earthquake hazard area called an Alquist-Priolo Hazard Zone. The parcels within this zone must be developed according to the constraints of the *Alquist-Priolo Earthquake Fault Zoning Act*, as described in the Public Safety Element.

Creating Districts will provide the Eden Area with valuable meeting places for the community. Channeling new development to the Districts should be a primary focus of the economic development activities of the County Community Development and Redevelopment Agencies. One of the projects planned by the Redevelopment Agency will be the placement of 10 historic markers in the sidewalk along Lewelling Boulevard, at the locations of former and current historic buildings. The creation of successful, new commercial and residential centers can draw in additional private investment. The resulting vital Districts will serve as community spaces where locals come to eat, shop, play and socialize.

d. Special Precincts

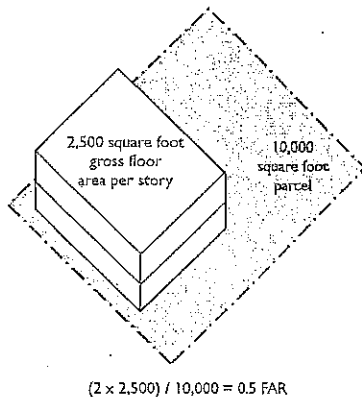
A Special Precinct is a portion of the Eden Area where unique and necessary uses are located. There is one Special Precinct in the Eden Area, the Grant Avenue Industrial Area, which lies at the western end of the San Lorenzo community and is a large concentration of industrial uses located between residential uses and the San Francisco Bay. The Grant Avenue Industrial Area is separated from surrounding neighborhoods by the westernmost set of Union Pacific Railroad tracks. The Grant Avenue Industrial Area is a Special Precinct that should be preserved because it provides a home for industrial uses that benefit the Eden Area and the rest of Alameda County.

C. *Land Use Designations*

Land use designations indicate the intended future use of each parcel of land within the Eden Area. Land use designations are policy statements with the force of a regulation. They are developed to provide both a vision of the organization of uses in the future and a flexible structure to allow for changes in

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EDEN AREA GENERAL PLAN  
LAND USE ELEMENT

economic conditions and community visions. In other words, designations should generally state what the future use should be but should not be so specific as to diminish the value of the land. The General Plan Land Use Designation Map shown in Figure 3-3 illustrates the allowed types of land uses throughout the Eden Area. Acreages of each land use designation are presented in Table 3-2.



*Illustration of Floor Area Ratio*

For each land use designation, the uses allowed and the standards of population density and building intensity are specified. Development intensity for residential land uses is reflected as an average number of dwelling units per gross acre. For non-residential designations, including General Commercial, Research and Development/Office, Industrial and Public designations, intensity is expressed as an average Floor Area Ratio (FAR). FAR is a ratio of the total building floor area in proportion to the size of the building's lot. For example, if a 10,000-square-foot lot has one two-story building and the gross area of each story is 2,500 square feet, the building has a total gross area of 5,000 square feet and a FAR of 0.5.

In the Eden Area, there are also certain parcels that are allowed to have both residential and commercial uses. On these parcels, the primary and secondary uses are identified. Unless it is otherwise stated, the primary use must occur on the parcel and the secondary use is optional. For example, if a parcel is designated as General Commercial with a secondary use of Medium Density Residential, the General Commercial use must be located on the parcel and the residential use is allowed but not required. On these parcels, new development may occur at the maximum density allowed in the residential designation and to the maximum FAR for commercial development. Neighborhood-serving commercial uses, such as grocery and convenience stores, salons, professional offices, restaurants, drug stores, dry cleaners, day care centers and banks, are desired in these areas.

The secondary use designation allows property owners to develop a vertically "mixed use" project, such as residential or office uses over retail, or to develop a horizontal mix of uses on their parcel with separate buildings for different

TABLE 3-2 ACRES BY LAND USE DESIGNATION

Land Use Designation	Number of Acres	Allowed Density/ Intensity <sup>a,b</sup>
Low Density Residential (LDR)	1,136.1	0-9 DU/AC
Low-Medium Density Residential (LMDR)	371.9	7-12 DU/AC
Medium Density Residential (MDR)	683.4	10-22 DU/AC
Medium-High Density Residential (MHDR)	15.5	22-43 DU/AC
High Density Residential (HDR)	9.4	43-86 DU/AC
Medium Density Residential and General Commercial as a Secondary Use (MDR/GC)	8.3	10-22 DU/AC 1.0 FAR
Medium-High Density Residential and General Commercial as a Secondary Use (MHDR/GC)	7.4	22-43 DU/AC 1.0 FAR
High Density Residential and General Commercial as a Secondary Use (HDR/GC)	7.5	43-86 DU/AC 1.0 FAR
General Commercial (GC)	46.0	1.0 FAR
General Commercial and Low-Medium Density Residential as a Secondary Use (CG/LMDR)	6.4	1.0 FAR 7-12 DU/AC
General Commercial and Medium Density Residential as a Secondary Use (GC/MDR)	59.6	1.0 FAR 10-22 DU/AC
General Commercial and Medium-High Density Residential as a Secondary Use (GC/MHDR)	71.5	1.0 FAR 22-43 DU/AC
General Commercial and High Density Residential as a Secondary Use (GC/HDR)	38.8	1.0 FAR 43-86 DU/AC
Light Industrial (I)	116.8 <sup>c</sup>	0.5 FAR
Research and Development/Office (R&D/O)	116.8 <sup>c</sup>	1.0 FAR
San Lorenzo Specific Plan Area (SLSPA)	28.7	19.5 DU/AC (average for the District) 230,000 square feet of C&P
Public (Pub)	207.5	1.5 FAR
Park (P)	77.6	N/A
School (S)	210.9	N/A
<b>Total Acres</b>	<b>3,094.7</b>	

<sup>a</sup> DU/AC stands for dwelling units per acre.

<sup>b</sup> FAR stands for Floor Area Ratio.

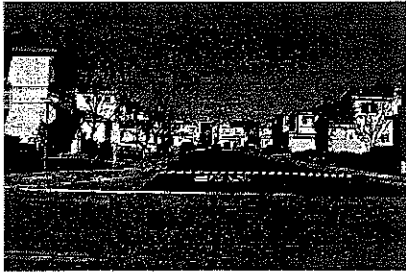
<sup>c</sup> The acreage for both Industrial and Research and Development/Office covers the same parcels as these two designations are used simultaneously in this General Plan. Thus, this acreage is only counted once in the Total Acreage for the Eden Area.

Source: Design, Community & Environment.

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uses. The secondary use designations primarily occur on major arterial roadways and are intended to provide flexibility for property owners to develop their property in ways that meet changing economic conditions and to encourage vibrant Corridors and Districts with a mix of uses.

The Land Use Designation Map is implemented through the Zoning Ordinance, which provides more specific classifications than this General Plan. Thus, the specific density ultimately allowed on each parcel may be lower than the maximum density identified in the applicable land use designation due to site constraints or other County regulations. In some cases, more than one zoning district may be consistent with a single land use designation. Other parts of the Alameda County General Ordinance Code, particularly the Subdivision Ordinance, provide additional development standards. Under State law, all County ordinances and regulations must be consistent with the General Plan.



*Medium density residential development*

At this time, the Eden Area is substantially built out. Though there are individual sites that are either vacant or abandoned, most parcels currently have some form of development already in place. For this reason, the General Plan recognizes that the existing land use on a site may be different from the intended future use on a parcel. On these parcels, the uses may remain in place until such time as the property is redeveloped, at which point new development should reflect the land use regulation in this plan.

#### **1. Residential Designations**

All of the following land use designations are categorized as residential land uses with specific density requirements. Every residential land use designation allows dedicated affordable housing units so long as the buildings match the density requirements. Uses such as community centers, parks, schools, places of worship, care centers and home occupations may also be permitted in residential areas.



Service Development and Planning Department  
1600 Franklin Street, Oakland CA 94612

November 7, 2011

Ken Carbone, Chair, and Members of the Alameda County Planning Commission  
Alameda County Planning Department  
224 W. Winton Ave., Room 111  
Hayward, Ca. 94544

Dear Chair Carbone and Members of the Planning Commission:

**Proposed ACBD Conditional Use Permit:** On behalf of AC Transit, I am writing to urge the Commission to disapprove the proposed Conditional Use Permit (CUP) for the Alameda Cherryland Business District (ACBD) Plan area discussed by the Planning Commission on October 3. The proposed CUP substantially weakens the ACBD, which represents a pioneering transit-oriented plan. The CUP would be weakening the ACBD even as cities and counties throughout the Bay Area, particularly along this corridor, are embracing transit-oriented development as a core planning concept.

The CUP would allow small buildings to be set in large parking lots by allowing exceptions to the Plan's minimum floor area and maximum parking requirements. Such development is contrary to the transit-oriented planning completed by the ACBD and is pedestrian-hostile, transit-hostile and unlikely to generate future growth along the corridor. Commercial development principles now prioritize pedestrian and transit integration and friendliness, and strive to reduce the priority for automobile use.

Given the age of the ACBD, Alameda County plans, quite appropriately, to undertake a comprehensive review of the Plan to bring it up-to-date with changes in the economy, etc. Accordingly, major changes to plan should follow, not precede the development of a new plan and passage of the proposed CUP represents a challenge to the plan-update process. Unfortunately, it also represents a challenge to the transit-forward approach of the ACBD.

Zoning codes generally make provision for exceptional circumstances, understanding that no set of regulations can anticipate every contingency. Those provisions are written so they are only applicable in a very small number of exceptional cases. If the Commission feels it is important to create such exceptions in the ACBD Plan, they should be as narrowly tailored and specific as possible. Given the potentially sweeping CUP findings, we are concerned about the impacts that this variance will ultimately have on overall corridor-level development and the integrity of the original Plan.

**Transit Service and Land Use Planning:** The ACBD's land use districts are based on proximity to transit. This is a sound planning principle which is becoming increasingly common on transit corridors throughout the East Bay.

November 7, 2011

ACBD Letter

Page 2

Due to budget cuts, AC Transit has been forced to reduce service in the Ashland-Cherryland area and elsewhere. The current levels of bus service, here and elsewhere, are should not ever be considered a permanent level of service for any given corridor. AC Transit considers Line 99 on East 14<sup>th</sup> St.—Mission St. as a “Major Corridor” route. As such, our target for Major Corridor routes is service every 15 minutes or more frequently during peak hours, a target which is currently unmet; however, this remains our target level of service for implementation when conditions permit.

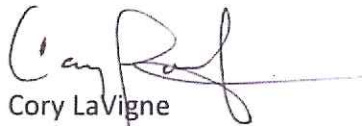
If transit ridership increased in this corridor in the future, it would necessitate an increase in service to accommodate the additional riders. Even though higher frequency service is not possible today, with intensified land uses, increased service could become possible in the future. Transit-friendly development patterns are critical to supporting increased service. By contrast, if transit-supportive land use controls like the ACBD are undermined, and a transit-hostile development occurs, the likelihood of increased ridership and increased service is diminished. The relationship of development and transit is a known planning success story and, as evidenced by the City of Fremont General Plan update, is increasingly being recognized by cities along this corridor.

#### **Planning on the International/East 14<sup>th</sup> St. /Mission Blvd. corridor**

Following the lead of the ACBD, each of the five cities along the International Blvd. /East 14<sup>th</sup> St./Mission Blvd. corridor, has moved to make its zoning along the corridor —sustainable and transit-oriented. Oakland has adopted the International Boulevard Transit Oriented Development Plan to match East Oakland development to the planned Bus Rapid Transit. San Leandro has adopted the award winning Downtown Transit Oriented Development Strategy as well as developed the South Area Strategy, focusing growth along E. 14<sup>th</sup> Street. Hayward has adopted a transit-oriented specific plan for Mission Boulevard, and is preparing a form-based code to assure pedestrian-friendly development.

Regional policy and market demand are both moving towards transit-oriented, pedestrian-friendly development. We urge the Commission to reject the proposed CUP and we look forward to working with Planning staff and the Commission to review and update the ACBD. If you have any questions about this letter, please contact Nathan Landau, [nlandau@actransit.org](mailto:nlandau@actransit.org) or 891-4792.

Sincerely,



Cory LaVigne

Director of Service Development and Planning

THE COUNTY PLANNING COMMISSION OF ALAMEDA COUNTY  
HAYWARD, CALIFORNIA

RESOLUTION NO. 11-XX - AT MEETING HELD NOVEMBER 07, 2011

RESOLUTION RECOMMENDING APPROVAL OF A SPECIFIC PLAN AMENDMENT  
CREATING A CONDITIONAL USE PERMIT PROCESS TO ALLOW LESS RESTRICTIVE  
DEVELOPMENT STANDARDS RELATING TO GROUND FLOOR RETAIL, FLOOR TO  
AREA RATIO AND PARKING REQUIREMENTS IN THE ASHLAND/CHERRYLAND  
BUSINESS DISTRICT PLAN.

Introduced by Commissioner  
Seconded by Commissioner

**WHEREAS** the Planning Commission did hold a public hearing on the proposed updates to the *Ashland and Cherryland Business Districts Specific Plan* to allow a Conditional Use Permit process with certain findings for development located within the TA (Transit Access) land use designation if the development does not conform to development standards of: 1) maximum allowed on-site parking for commercial uses of 3.5 spaces per 1,000 net leasable square feet, and, for residential uses, not exceed 1.1 per unit; 2) minimum floor area to site area ratio (FAR) of 0.75:1 for new, non-residential development, the purpose being to create more intense development oriented to pedestrian use; or 3) support and specialty retail for all or a significant portion and in no case less than 50% of ground floor space; and

**WHEREAS** this Commission did find on that date that the *Specific Plan* language change was necessary and appropriate, and recommended this amendment to the Board of Supervisors for approval after an appropriate process as prescribed by law; and

**WHEREAS** the proposed amendment to *ACBD Specific Plan* would create a Conditional Use Permit process to review proposals for development within the Transit Access land use designation that do not meet current maximum on-site parking regulations, minimum Floor Area Ratio, and minimum commercial ground floor area regulations, only if certain findings can be made that the development is consistent with the sustainability, economic development, and land use pattern principles, policies, and goals of the *ACBD Specific Plan*; and

**WHEREAS** part of the Commission's finding and recommendation to the Board of Supervisors is that the *Specific Plan* language change is exempt from environmental analysis under the CEQA pursuant to CEQA Guidelines, Section 15061(b)(3), which states that "where it can be seen with certainty that there is no possibility that the activity in question may have a significant effect on the environment" the project is exempt from CEQA; and

**WHEREAS** this Planning Commission held a duly noticed public hearing to consider this recommendation for the *Ashland and Cherryland Business districts Specific Plan* Conditional Use Permit process for Transit Access land use designations when development projects do not conform to certain existing development standards, at the hour of 6:00 p.m. on Monday, the 7th day of November, 2011, in the Auditorium of the Alameda County Building, 224 W. Winton Avenue, Hayward, California; and

**WHEREAS** the Planning Commission is authorized and obligated to make recommendations to the Board of Supervisors on matters of Zoning Ordinance or *Specific Plan* amendments related to planning and zoning; and

**WHEREAS** the Planning Commission believes that the proposed Use Permit process is a reasonable and necessary amendment to the ACBD plan to allow much needed development to occur, with the understanding that findings must be made in consideration of ACBD sustainability goals; and

**WHEREAS** the testimony submitted in writing and at the public hearing and items in the public record have been considered by the Planning Commission prior to this action; and

**WHEREAS** the complete record for this process is in the custody of the Alameda County Planning Department, and may be found at Room 111, 224 West Winton Avenue, Hayward, California 94544.

**NOW, THEREFORE,**

**BE IT RESOLVED** that this Planning Commission finds and recommends that the Board of Supervisors does also find, on the basis of the whole record before it, that there is no substantial evidence in the record that the project will have a significant effect on the environment and that the CEQA Guidelines, Section 15061(b)(3) General Rule Exemption reflects the lead agency's independent judgment and analysis; and

**BE IT FURTHER RESOLVED** that this Planning Commission does hereby recommend approval of the *ACBD Specific Plan* language amendments to allow a Conditional Use Permit process with special findings for development projects in the Transit Access land use designation that do not meet certain existing development standards, as outlined in Attachment A.

**ADOPTED BY THE FOLLOWING VOTE:**

**AYES:**

**NOE:**

**EXCUSED:**

**ABSENT:**

**ABSTAINED:**

ALBERT LOPEZ, PLANNING DIRECTOR AND SECRETARY,  
ALAMEDA COUNTY PLANNING COMMISSION

## ATTACHMENT A

### *ASHLAND AND CHERRYLAND BUSINESS DISTRICTS SPECIFIC PLAN*

#### **CONDITIONAL USE PERMIT PROCESS FOR TRANSIT ACCESS LAND USE DESIGNATIONS WHEN DEVELOPMENT PROJECTS DO NOT CONFORM TO CERTAIN EXISTING DEVELOPMENT STANDARDS**

#### **PROPOSED LANGUAGE CHANGES**

Section 1.4” Relationship to the Alameda County Zoning Ordinance” of the *ACBD Specific Plan* would be modified to read as follows (new text shown in **bold underline font**):

#### **1.4 RELATIONSHIP TO THE ALAMEDA COUNTY ZONING ORDINANCE**

According to State law, a specific plan may be administered as, and thus have the force of, zoning. Policies and regulations developed by the Ashland and Cherryland Business Districts Specific Plan take precedent over and replace standard zoning and the provisions of the Alameda County Zoning Ordinance for the Plan Area. Where the Specific Plan is silent, or perceived to be silent, provisions of the Zoning Ordinance will apply. The County’s Site Development Review process may impose more, but not less, restrictive requirements where appropriate. Violation of the provisions of the Ashland and Cherryland Business Districts Specific Plan shall constitute a violation of the Zoning Ordinance, and enforcement of the provisions of the Specific Plan shall be done in the same manner as enforcement of the provisions of the Zoning Ordinance. Amendment to the land use policies of the Specific Plan shall be made in the same manner and according to the procedures established for amendments to the Zoning Ordinance, **except as provided for a Conditional Use Permit process with certain findings when development within the TA (Transit Access) land use designation does not meet certain development standards of that land use designation, as listed in Section 1.6 “Structure of the Specific Plan”, subsection “Exceptions to the *Ashland and Cherryland Business Districts Specific Plan*”.**

Also, a new section would be added within Section 1.6 “Structure of the Specific Plan”, after the “Land Use” and before the “Design Guidelines” subsections, to read as follows (new text shown in **bold underline font**):

#### **Exceptions to the *Ashland and Cherryland Business Districts Specific Plan***

**The Conditional Use Permit process shall be utilized in cases where exceptions to the Transit Access (TA) land use designation of the *ACBD Specific Plan* are proposed (3.2.1.1 “TA: Transit Access”) in order to facilitate implementation of the plan goals and objectives. These exceptions will only apply to numerical standards for parking requirements, the allowable percentage of ground floor retail, and floor to area ratio (FAR). This exceptions clause shall expire and be of no force or effect three (3) years from the date of implementation. Special TA land use designation findings, in addition to the standard Conditional Use Permit findings, shall be made before such an exception can be granted.**

#### **The TA land use designation findings are:**

- 1. Is the granting of the Use Permit necessary to allow development to occur?**
- 2. Does the project result in significant positive Economic Development impacts such as:**

- a. **Increase sales tax and/or property tax revenue; or**
  - b. **Provide living wage jobs; or**
  - c. **Provide a needed service or product not available nearby in the corridor; or**
  - d. **Include local hiring practices and/or apprenticeship program?**
3. **Are there project amenities and exceptional design features integrated into the project to support ACBD Specific Plan sustainability goals?**
4. **Does the project promote the goals and land use objectives of the Eden General Plan regarding primary and secondary uses?**

Section 3.2.1.1 “TA: Transit Access” would be modified within the “Development Regulations” subsection, to read as follows (new text shown in **bold underline font**):

“Development Regulations”

All **additions of 1,000 sq. ft or more, or** new development **of any size,** on properties with the –TA, Transit Access designation must adhere to the following regulations:

- **except as provided for a Conditional Use Permit process with certain findings, as listed in Section 1.6 “Structure of the Specific Plan”, subsection “Exceptions to the Ashland and Cherryland Business Districts Specific Plan”,** support and specialty retail for all or a significant portion, and in no case less than 50%, of ground floor space;
  - **except as provided for a Conditional Use Permit process with certain findings, as listed in Section 1.6 “Structure of the Specific Plan”, subsection “Exceptions to the Ashland and Cherryland Business Districts Specific Plan”,** minimum floor area to site area ratio (FAR) of 0.75:1 for new, non-residential development, the purpose being to create more intense development oriented to pedestrian use;
- [...]
- **except as provided for a Conditional Use Permit process with certain findings, as listed in Section 1.6 “Structure of the Specific Plan”, subsection “Exceptions to the Ashland and Cherryland Business Districts Specific Plan”,** parking for commercial uses not to exceed 3.5 spaces per 1000 net leasable square feet, and, for residential uses, not to exceed 1.1 per unit.