



**ALAMEDA COUNTY COMMUNITY DEVELOPMENT AGENCY
PLANNING DEPARTMENT**

STAFF REPORT

TO: PLANNING COMMISSION

HEARING DATE: October 5th, 2020 – continued from the September 8th meeting, which abruptly ended due to a technical issue with the Zoom webinar platform.

GENERAL INFORMATION:

ITEM: **Zoning Ordinance and zoning map amendments - Castro Valley General Plan** Implementation Project (Phase I). Review the Public Hearing Draft Zoning Ordinance Amendments, a set of targeted revisions to the Alameda County Zoning Ordinance and Zoning Maps intended to implement the community vision, goals, and land uses directed by the *Castro Valley General Plan*, adopted in 2012.

APPLICANT: County of Alameda Planning Department

ZONING: Various

GENERAL PLAN DESIGNATION: Castro Valley Area General Plan

ENVIRONMENTAL REVIEW: The proposed Zoning Ordinance district and map amendments are considered to be exempt from further environmental review pursuant to California Environmental Quality Act (CEQA) Guidelines Section 15183. Section 15183 applies to actions that are consistent with an adopted general plan for which an environmental impact report (EIR) was prepared and certified and where there are no potential environment effects peculiar to the proposed action and/or any involved site. A project or action meeting the criteria of Section 15183 does not require additional environmental review.

RECOMMENDATION: Review and discuss the Public Review Draft Zoning Ordinance Amendments, take public testimony, and make a formal recommendation concerning the proposed amendments to the Board of Supervisors.

PROJECT BACKGROUND:

In 2016, the County hired Lisa Wise Consulting, Inc. (LWC) to lead a team of consultants in the *Castro Valley General Plan* Implementation (Project). The project was to be undertaken in two phases: (1) the current phase, which is mostly a zoning ordinance consistency exercise, and (2) a major update of the Central Business District Specific Plan.

Phase I is nearing completion. Attached are a series of zoning text amendments (Public Hearing Draft, 54-page handout), including: 1) Residential Zones and Standards, 2) Commercial/Other Zones and Standards, 3) Standards for Specific Uses and Procedures, and 4) Zoning Map. Upon completion of Phase I staff anticipates initiating Phase II which is likely to be a multi-year process.

PUBLIC HEARING DRAFT ZONING ORDINANCE AMENDMENTS:

The ordinance revisions contained in this report are a result of policies, goals and actions described in the 2012 Castro Valley General Plan (CVGP). Many of the ordinance changes pertain to specific land use districts or certain uses where additional regulation and certain land use results were desirable. The CVGP identified changes to zoning districts (and in many cases the creation of new zoning districts) to implement various policies contained in the document, in mostly residential but also some commercial, public, and open space zoning districts.

The implementation of the Castro Valley General Plan has been in progress for many years, and the CVMAC has been the main forum for public hearings, getting input from community members and making changes to draft language. In the table below, the left-hand column contain input received by CVMAC on specific amendment language, and the right-hand column summarizes edits made to the document in response to those comments. The Public Hearing Draft provides the detailed zoning amendments for each of these topic areas.

The CVMAC has been reviewing the items in the table below throughout most of 2019 and advanced the item to the Planning Commission by recommending approval of the amendments on February 24, 2020. Community support for the project appears to be high as there has been little community opposition to the proposed amendments with a couple of exceptions. The changes proposed to the Public Facilities zone (PF) are being opposed by the Castro Valley Sanitary District (CVSAN) and they have submitted multiple letters expressing their concern as to how the new PF zone could impact their operations. Their letters are attached. Also, the City of Hayward has expressed concern about new language in the Neighborhood Commercial (CN) zone that could impact residential uses on a parcel they own within the County’s jurisdiction. Specifics on their concerns follow in the table below.

Also, since the September 8th meeting, staff has reviewed the ordinance more thoroughly and has concerns regarding some sections of the new ordinance, also discussed below.

CVMAC Direction	Public Hearing Draft Edit
Residential Zones and Standards	
<p>RMF and RMX Zones.</p> <ul style="list-style-type: none"> • <i>Setbacks.</i> Consider reduction to setbacks, or a zero lot line, to facilitate condominium/townhouse development. • <i>Height.</i> Consider increasing height to allow for increased density. 	<p>Changes below only apply to multi-family buildings. For other building types, the Residential Design Standards and Guidelines supersede the zoning code.</p> <ul style="list-style-type: none"> • <i>RMF Zone.</i> Subsection 17.51.030.H (Yards) - Reduced front yard from 20 feet to 10 feet, and rear yard from 20 feet to 15 feet. Eliminated side setbacks for townhomes where they share common walls. Subsection 17.51.030.I (Height) -

CVMAC Direction	Public Hearing Draft Edit
	<p>Increased maximum building height from 25 feet to 35 feet.</p> <ul style="list-style-type: none"> • <i>RMX Zone</i>. Section 17.51.040.H (Yards) – Reduced front yard from 20 feet to 10 feet, and rear yard from 20 feet to 10 feet. Eliminated side setbacks for townhomes where they share common walls. Subsection 17.51.040.I (Height) – Increased maximum building height changed from 25 feet to 45 feet.
<p>Hillside Overlay.</p> <ul style="list-style-type: none"> • Clarify that lot size standards to apply to new subdivisions only. • Exclude steep slopes from net lot size calculation. • Allow a reduced front setback with site development review. 	<ul style="list-style-type: none"> • Section 17.51.010.B (Applicability) and Section 17.51.010.C (Design Standards and Guidelines) establishes the applicability of development standards. • Added Subsection 17.51.010.D.2 (Minimum Lot Size Calculations), which excludes portions of a site with slope >30% from the lot size calculation • Modified Subsection 17.51.010.E (Front Setback Adjustment for Parking) to require Site Development review for reduction in front setback.
<p>Large Family Day Care. Remove Large Family Day Care as a permitted use in residential zones.</p>	<p>Retained Large Family Day Care use in residential zones, consistent with new State law (SB 234, effective 1/1/2020). Removed Specific to Use standard for Large Family Day Cares in Subsection 17.52.XXX.B (Large Family Day Cares) and all subsequent references.</p>
<p>Day Care Centers (formerly Child Care Center). [addressed in conjunction with Large Family Day Cares] Revise parking requirements (research other Bay Area jurisdictions) and limit outdoor playtime hours.</p>	<p>Modified Chapter 17.04 (Definitions).</p> <ul style="list-style-type: none"> • Revised definition of “Community Facility” to exclude nursery schools • Added definition of “Day Care Center” <p>Modified Section 17.52.XXX (Day Care Centers in Castro Valley).</p> <ul style="list-style-type: none"> • Revised Standards for Day Care Centers Subsection 17.52.XXX.D (Parking and Screening) to require one parking space per every 2 employees, 1 space per company vehicle, and 1 space per 10 kids.

CVMAC Direction	Public Hearing Draft Edit
	<ul style="list-style-type: none"> • Revised Standards for Day Care Centers Subsection 17.52.XXX.B (Operating Requirements) to allow outdoor play beginning at 7:00 a.m., rather than 6:30 a.m. <p>Add “Day Care Centers” as a conditionally permitted use (previously allowed as conditional use under “community facility”- no change to use allowance), in the following districts.</p> <ul style="list-style-type: none"> • <i>R-3 Zone</i>. Section 17.14.030 (Conditional Uses). • <i>RMF Zone</i>. Subsection 17.51.030.E (Conditional Uses). • <i>RMX Zone</i>. Subsection 17.51.040.E (Conditional Uses). <p>Add “Day Care Centers” as a permitted use (previously allowed as Child Care Facility” or “community facility”- no change to use allowance) in the following districts:</p> <ul style="list-style-type: none"> • <i>C-O Zone</i>. Section 17.34.020 (Permitted Uses). • <i>C-N Zone</i>. Section 17.36.020 (Permitted Uses). • <i>CC Zone</i>. Subsection 17.51.050.B (Permitted Uses).
<p>Schools and Churches. Allow schools and churches as a conditional use in residential zones.</p>	<p>Deleted “School” as a separate permitted use and instead allow schools and churches as a conditional use under “Community facilities” for the following zones:</p> <ul style="list-style-type: none"> • <i>RSL Zone</i>. Allow “community facilities” under Subsection 17.51.020.D (Conditional Uses). • <i>RMF Zone</i>. Delete “schools” from Subsection 17.51.030.C (Permitted Uses), and allow “community facilities” under Subsection 17.51.030.E (Conditional Uses) • <i>RMX Zone</i>. Delete “schools” from Subsection 17.51.040.C (Permitted Uses),

CVMAC Direction	Public Hearing Draft Edit
	<p>and allow “community facilities” under Subsection 17.51.040.E (Conditional Uses)</p> <p>R-1 and R-3 already list “Community facilities” as a conditional use – no change.</p>
<p>Parking Lots (use). Remove cross-reference to Section 17.08.040C “...as regulated in Section 17.08.040.C” in Castro Valley districts, as it is unnecessary.</p>	<ul style="list-style-type: none"> • <i>RMF Zone.</i> Deleted reference from Subsection 17.51.030.E (Conditional Uses) • <i>RMX Zone.</i> Deleted reference from Subsection 17.51.040.E (Conditional Uses) • <i>CC Zone.</i> Deleted reference from Subsection 17.51.050.C (Conditional Uses) • <i>PF Zone.</i> Deleted reference from Subsection 17.51.060.B (Permitted Uses).
Commercial/Other Zones and Standards	
<p>C-N Zone. Remove residential uses in C-N; County confirmed General Plan policy language as an error.</p>	<p>Removed Subsection 17.36.020.E, which allowed residential uses with a maximum density of 22 units per acre.</p>
<p>PF Zone.</p> <ul style="list-style-type: none"> • Require that PF be publicly owned. • Reduce height from 60 feet to 45 feet. • Remove “service yard” as an allowed use. 	<ul style="list-style-type: none"> • Revised Subsection 17.51.060.A (Intent) to state the district is for use on “publicly owned property, including publicly owned land with uses managed and/or operated by a non-profit entity.” • Height. Modified Subsection 17.51.060.F (Height) • Service Yard. Removed use from Subsection 17.51.060.B (Permitted Uses)
<p>Flex Space and Uses. Consider allowing flex spaces and uses in commercial districts.</p>	<p>Added new “artisan/maker space” use definition to Chapter 17.04 (Definitions).</p> <p>Add Artisan/maker spaces as a permitted use in the following districts:</p> <ul style="list-style-type: none"> • <i>C-O Zone.</i> Section 17.34.020. Modified Section 17.34.010.A (intent) to include reference to retail, service, and small-scale production in Castro Valley. • <i>C-N Zone.</i> Section 17.36.020 • <i>C-2 Zone.</i> Section 17.40.020.
<p>Unattended Collection Boxes. Remove all references to unattended collection boxes.</p>	<p>Reference is correct - no change.</p>

CVMAC Direction	Public Hearing Draft Edit
Specific to Use	
<p>Auto Repair.</p> <ul style="list-style-type: none"> • Consider revisions to overnight parking provisions and outdoor repairs. • Maintenance. Require “maintenance of asphalt, paving, and striping in good repair” 	<ul style="list-style-type: none"> • Added to Subsection 17.52.XXX.C (Operating Requirements) requiring “Repair of automobiles must be performed within enclosed buildings only.” • Revised Subsection 17.52.XXX.G.2 (Long-Term Overnight Parking) to prohibit vehicles from being stored in the front of the lot overnight “for a period of longer than two days in any seven-day period”, unless under active repair (instead of a total prohibition). • Added Subsection 17.52.XXX.G.3 (On-Street Parking) to prohibit on-street parking from being used to store vehicles associated with Auto Repair uses. • Added Subsection 17.52.XXX.H (Automobile Sales Prohibited) to prohibit automobile sales on-site. • <i>Maintenance.</i> Direct edit to Subsection 17.52.XXX.F (Site Maintenance)
<p>Check Cashing. Require replacement of glass damaged by etching and graffiti.</p>	<p>Revised Section 17.52.XXX.D (Check Cashing Uses in Castro Valley) to add “The business or property must replace or repair any windows or doors damaged by etching or graffiti.”</p>
<p>Drive-In Businesses.</p> <ul style="list-style-type: none"> • Remove requirement for hours of operation. • Modify buffer requirement for drive-in lanes • Clarify that restrooms are not required. 	<ul style="list-style-type: none"> • Deleted Subsection 17.52.XXX.B.2 (Hours of Operation). • Revised Subsection 17.52.XXX.C (Drive-in lanes) to “Drive-in lanes that are located less than 50 feet from residential uses must be separated from existing residential uses...” • Revised Section 17.52.XXX.F (Restroom locations) to “restrooms (if required)”
<p>Small Restaurants. Allow restaurants of all sizes by right in CC zone and do not regulate small and large restaurants differently.</p>	<p>Deleted Section 17.52.XXX (Small Restaurants in Castro Valley). Remove reference to “small restaurants” in CC zone in Subsection 17.51.050.B (Permitted Uses).</p>
Procedures	

CVMAC Direction	Public Hearing Draft Edit
<p>Home Occupation.</p> <ul style="list-style-type: none"> • Revise to clarify staff review process and when a permit is issued. • Revise number of employees allowed. 	<ul style="list-style-type: none"> • Review performed when issuing business license. • Revised Subsection 17.52.210.A to allow a maximum of one offsite employee.
<p>Design Review. Clarify recommendation process and where the Director or the Planning Commission is the review authority.</p>	<p>Revised Section 17.54.295.D (Design Review Responsibilities) to clarify recommendation process so that CVMAC makes design review recommendations to the Planning Director.</p> <p>If the planning director is not the final review authority, the planning director shall forward the CVMAC recommendation to the review authority.</p> <p>Deleted Subsection 17.54.295.D.2 (Review Authority)</p>
<p>Zoning Map</p>	
<p>Former Caltrans 238 Parcels. Remove parcels from current implementation effort, as the area is identified by the County for a future planning effort.</p>	<p>Identified parcels have been removed from the Zoning Map.</p>
<p>Madison Specific Plan Area. Identify which parcels should have a 40,000 square foot lot size requirement per the Madison Specific Plan Area, rather than the smaller size requirement proposed by the Public Review Draft.</p>	<p>County has identified parcels. Lot size requirements have been revised to have a 40,000 square foot minimum.</p>

CONCERN RAISED BY OTHER AGENCIES

As mentioned above there has been concern expressed by both CVSAN and the City of Hayward about how the proposed re-zonings may impact property they own or control in the County’s jurisdiction. An explanation of those concerns and possible solutions are presented below.

- CVSAN – Has expressed concern that disallowing service yards and the proposed vehicle weight restrictions in the PF - Public Facilities zone could hamper their operations at their proposed corporation yard. The CVMAC recommended service yard and vehicle weight restrictions in the PF zone that preclude service yards and vehicles over 14,000 lbs Gross Vehicle Weight (GVW). The term “service yard” has not been defined in the draft. CVMAC believed a service yard use and such large vehicles could impact adjacent neighbors and is more akin to an industrial use. Although not a topic of this item, CVSAN has an application pending to construct a new facility on a site with the proposed PF designation and, in addition to administrative functions, the application includes service bays with a variety of vehicles, some exceeding the limits proposed.

For reference, the language in question is excerpted below, the full language of the PF zone is contained in the draft ordinance (attached in the PC packet)

17.51.060 – Public Facility Districts.

A. Intent. Public Facility districts, hereinafter designated as PF, are established to support existing and proposed public and institutional uses on publicly owned property, including publicly owned land with uses managed and/or operated by a non-profit entity. The PF district implements and is consistent with the Public Facilities land use classification of the Castro Valley General Plan.

B. Permitted uses.

...

7. Public agency facilities;¹

8. Public education facilities;¹

9. Public school district facilities;¹

...

¹ Service yards, storage of commercial vehicles, or maintenance of large trucks or equipment exceeding 14,000 lbs Gross Vehicle Weight (GVW) are not permitted. Public safety equipment and vehicles are exempt.

For reference, the CVGP policy language pertaining to the new PF zone follows below:

- Public Facilities (PF) zone description: The purpose of this designation is to provide locations for uses that support government, civic, cultural, health and infrastructure aspects of the community. These facilities have been located in a manner intended to best serve Castro Valley and the rest of the County. The designation indicates public ownership as well as public use and covers uses such as the water treatment plant, fire stations, police stations, post offices, libraries, hospitals and publicly-owned office buildings. Public uses may include ancillary non-public uses that support the primary use. Public uses are scattered throughout Castro Valley. Public uses are also allowed in areas with residential and commercial designations. The maximum FAR for Public uses is 1.5
- Action 4.4-4 Public Facilities Zoning District. Establish a Public Facilities Zoning District that would apply to existing and proposed public and institutional uses such as Eden Medical Center.
- Policy 9.1-4 Land for Public Services. Ensure that appropriately located land is designated for provision of public utilities and services.

Staff believes the language proposed to limit service yards in the PF zone, and the restrictions on vehicle weight, do not have a firm basis in the CVGP, as there is no language in the document that mentions anything about limiting certain aspects of the use that may be found to be objectionable. The same could be said for the restriction only applying to some service yards and not others, as the impacts would be similar. Along similar lines, the exception for public safety uses does not appear to have a rational basis as the impacts for public safety trucks and equipment may be similar in nature to the trucks and equipment used by others. In their correspondence CVSAN also claims their operations are made available 24 hours for emergency use as needed. If, as a result of the exceptions, only the CVSAN site is subject to the service yard limitations then it could constitute impermissible spot zoning targeted at CVSAN's operations. Should the footnote remain, it should be moved to the body of the ordinance.

In order to address the concerns of the CVMAC about certain public facilities uses, yet not restrict them outright, staff believes one of the options below to require a Conditional Use Permit for service yards might be an appropriate measure. The options proposed by staff are:

- (1) Adopt the PF language as is and keep the restrictions on service yard and vehicle weights as proposed by the CVMAC, (2) Omit the language on service yards and vehicle weight restrictions on certain uses, allowing “Service Yard” for all uses in the PF zone, or (3) allow uses such as the service yard or vehicles over a certain size with approval of a Conditional Use Permit (CUP). A CUP is a common approach to regulate uses that require more oversight and regulation, and could satisfy the CVMAC concern that such uses are not appropriate in some areas. A CUP would include a public hearing at the CVMAC and their advisory recommendation prior to being considered at the Board of Zoning Adjustments.
- City of Hayward – Has expressed concerns that a site they control that contains several affordable residential units could be rendered non-conforming if the language in the CN – Neighborhood Commercial zoning district is adopted as currently written. There is some debate as to whether the current General Plan designation on their property allows residential uses; the issue is unclear since the General Plan designation is CNM – Neighborhood Commercial Mixed-Use which allows up to 22 units/acre (ostensibly a mixed use zone), but the proposed CN zoning allows no residential uses. The CVMAC has made clear they believe neighborhood commercial uses within established neighborhoods should not be vulnerable to redevelopment as residential uses, thus the omission of residential uses in the CN zone. The contradiction between the General Plan and zoning suggests an error was made when the General Plan was adopted in 2012, and should be corrected when possible.

The City of Hayward has held a series of community meetings to consider land use on several properties they own, including one proposed to be rezoned CN, and they are intent on preserving the residential use on this property. The City believes the CNM General Plan designation that allows residential uses should be the guiding land use principle for their site, and the City has been willing to continue to work with the County to determine a path forward. Notably, there seems to be broad support for maintaining the residential use on this property. There is currently no CNM zone being planned for Castro Valley.

- Options include (1) Encourage the City to continue to work with the unincorporated community to identify the appropriate land use designation for their site, or (2) defer adopting the CN zone until the General Plan and zoning discrepancies can be resolved. It should be noted that the proposed zoning map takes this latter approach and does not currently rezone the parcel in question.

OTHER STAFF CONCERNS

Role of the CVMAC – In the ordinance there are two sections that require the CVMAC to review and approve projects, with a recommendation to the Planning Director. The “shall review” language occurs in 17.08.110(B) pertaining to the Site Development Review process for projects exceeding stipulated Floor Area Ratios (FAR), and in section 17.54.295(D)(1) related to Design Review in Castro Valley. This language extends authority to the CVMAC in excess of what is permitted by the Government Code as the code provisions creating the CVMAC (and all other MACs) have them advising the Board, not the Planning Director and MACs are not administrative zoning bodies. The language in the ordinance has been amended to clarify the CVMAC role as providing an advisory recommendation.

Public Facilities (PF) zone – unrelated to the above concerns on the PF zone, staff would like to see language in the new zone to conform to the CVGP language which includes lands under public ownership as well as public use. A simple edit to the ordinance corrects for this inconsistency.

Floor Area Ratios (FAR) in the R-1 zone – while not inconsistent with the General Plan, the introduction of an FAR provision is not called out in the CVGP as an action item, and was not considered in that document’s Environmental Impact Report (EIR). Since we are using the CVGP EIR as a basis to adopt the attached ordinance, there is some inherent risk in including the FAR provisions

CONCLUSION:

Phase I of the CVGP implementation makes zoning district changes and zoning map changes anticipated by the 2012 General Plan and EIR. New districts, new standards for certain uses, and a new zoning map are actions needed to implement policies/actions in the CVGP. Staff recommends that the Planning Commission recommend approval of the proposed zoning amendments to implement the *Castro Valley General Plan* to the Board of Supervisors.

Attachments:

1. Castro Valley Public Hearing Draft Zoning Ordinance Amendments
2. Draft Ordinance making text changes to Zoning Ordinance
3. Castro Valley General Plan Implementation Zoning Maps
4. CVSAN correspondence

Also available on the project website at: <http://www.acgov.org/cda/planning/landuseprojects/index.htm>.

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