

Location:	Citywide
Assessor’s Parcel Number(s):	N/A
Proposal:	Planning Code and Zoning map amendments designating areas eligible and ineligible for Senate Bill (SB) 79 height and density standards within transit-oriented development zones and designating site exclusions consistent with Government Code Section 65912.161(b)(1)(A) [sites meeting 50% of SB 79 standards], (b)(1)(B)(ii) [sites in predominantly low-resource areas with 40% aggregate SB 79 density] and (b)(1)(F) [local register properties].
Applicant:	City of Oakland, Bureau of Planning
Contact Person/ Phone Number:	N/A
Owner:	N/A
Case File Number:	ZA26001
Planning Permits Required:	No permits required. The Planning Commission is requested to make recommendations regarding the proposed zoning for City Council consideration.
General Plan:	Citywide
Zoning:	Citywide; all areas within ½ mile of Tier 1 and Tier 2 transit-oriented development stops, as defined by SB 79.
Proposed Environmental Determination:	The proposed zoning map and Planning Code amendments are statutorily exempt from the California Environmental Quality Act under Government Code Section 65912.160(c)(2) [ordinance implementing Senate Bill 79].
Historic Status:	N/A
City Council District:	Citywide
Finality of Decision:	Planning Commission will receive public comment, discuss, and make recommendations to the City Council.
For Further Information:	Contact Case Planner Rebecca Lind at (510) 238-3472 or by email at rlind@oaklandca.gov

CITY OF OAKLAND PLANNING COMMISSION

SUMMARY

State law SB 79 (the Abundant and Affordable Homes Near Transit Act) was signed by the governor on October 10, 2025, and goes into effect on July 1, 2026. As of that date, areas within ½ mile of each of Oakland’s designated transit stops will be designated as a transit-oriented development (TOD) zone and any parcels within the designated TOD zones could vest for development using higher density standards for specific eligible uses. Oakland studied 48 designated TOD zones located throughout the downtown and along International Blvd. The parcels within these TOD zones that are zoned for residential, mixed-use and commercial activities will be eligible for higher density development based on SB 79 regulations.

SB 79 also includes provisions allowing cities to exclude some of these parcels from the SB 79 requirements. An exclusion would suspend implementation of the new SB 79 development standards in qualifying areas and allow the substitution of existing Oakland zoning until 2032, one year after the next state-required update to the City’s Housing Element. In the absence of adopted exclusions, SB 79, once effective, would override local zoning wherever it does not comply with new state requirements in TOD zone areas, thereby allowing higher density development in neighborhood areas where the existing zoning might appropriately qualify for exemption.

Staff reviewed the requirements for exclusions and prepared Planning Code amendments (see *Attachment A*) and Zoning Map changes to adopt several permitted exclusions and implement the SB 79 provisions for properties that remain eligible for the SB 79 overriding standards. Adoption of the exclusions under these proposed Planning Code and map amendments would give the City additional time to plan for the increased density permitted by SB 79 as part of the General Plan Update Phase 2 and to consider alternative TOD plans that are better informed by the context of the surrounding neighborhoods.

BACKGROUND

The impetus for this work program is the recent adoption of State law, SB 79 (the Abundant and Affordable Homes Near Transit Act,) which increases density, height, floor area ratios and potential concessions for new housing development within the ½ mile area surrounding designated transit stops defined as Transit Oriented Development (TOD) zones.

- ◆ Applicability to Oakland
 - Oakland has 8 BART stations, and 38 Bus Rapid Transit (BRT) stops in the City limits along the AC Transit Tempo line, running from International Boulevard to Downtown, that qualify as SB 79 TOD zones.
 - Transit stops are categorized as Tier 1 (BART) or Tier 2 (BRT Tempo). (See **Table 1**)
 - One additional Tier 1 transit stop (Ashby BART Station) is outside City limits but parcels within its ½ mile TOD Zone are within Oakland City limits. This brings the total number of Tier 1 TOD Zones studied to 39.
 - Similarly, one Tier 2 transit stop, BRT Tempo’s Durant Ave stop is outside City limits but parcels within the ½ mile TOD Zone reside within City limits. This brings the total number of Tier 2 TOD Zones studied to 39.

Table 1 Tiers of Transit Oriented Development Stops in Oakland

Tier	Types of Transit	Applied to Oakland
Tier 1	Heavy Rail Very high frequency commuter rail	All BART Stations
Tier 2	Light Rail Transit High-frequency commuter rail Bus Rapid Transit (BRT)	AC Transit Tempo

◆ Standards.

- The standards mandated by SB 79 regulations depend on both the Tier classification of the transit stop and the distance from the TOD stop’s entry. These new standards are summarized below. See **Table 2**.
- Local governments will be prohibited from imposing height limits and maximum density requirements that are less than those specified by SB 79 for projects within the specified distance of a Tier One or Tier Two TOD stop unless specific exclusions are adopted by ordinance ninety days prior to July 1, 2026, to allow sufficient time for State HCD review and local implementation.
- Moreover, SB 79 projects will be able to apply the State density bonus on top of the SB 79 overriding densities listed below with allowed concessions and waivers for additional height and relaxations for setbacks, open space, etc., creating still greater density for the eligible sites than SB 79 or the State density bonuses alone would provide.

Table 2: SB 79 Density Standards

SB 79 Range	Height Limit*	Max Density	Floor Area Ratio
• Tier 1 - Adjacent (200’)	95 feet	160 du/ac	4.5
• Tier 1- Quarter mile	75 feet	120-du/ac	3.5
• Tier 1- Half mile	65 feet	100 du/ac	3
• Tier 2 - Adjacent (200’)	85 feet	140 du/ac	4
• Tier 2 - Quarter mile	65 feet	100 du/ac	3
• Tier 2 - Half mile	55 feet	80 du/ac	2.5

*Projects may be up to the height permitted by SB 79, or up to the local height limit, whichever is greater

See **Attachment B** Maps 1-40 of Tier 1 and 2 TOD Zones.

◆ Exclusions

SB 79 allows local jurisdictions to adopt exclusions, based on specific criteria, that provide flexibility for cities like Oakland that already have substantial zoned capacity in the designated TOD zones.

- Some exclusions apply to individual parcels while others apply to entire TOD zones.
- An adopted SB 79 exclusion would suspend implementation of the standards summarized in **Table 2** and allow the substitution of existing Oakland zoning until 2032, one year after the next required update to the Housing Element.
- New regulations, consistent with SB 79, would be required prior to the expiration date in order to maintain local tailoring of SB 79’s application.

◆ Alternative Plan

SB 79 regulations also allow development of an Alternative Plan (**Gov. Code § 65912.161(a)**)

- Because of the complex requirements in State law, there is not sufficient time for the City to prepare and review an Alternative Plan prior to the SB 79 effective date of July 1, 2026, so that option is

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not being considered currently. Adoption of exclusions prior to the SB 79 effective date would give the City the opportunity to consider an Alternative Plan in the future.

- An Alternative Plan would need to accommodate the overall density mandated by SB 79 for TOD zones.
- The Alternative Plan could replace the default height and density increases surrounding Tier 1 and Tier 2 TOD stops and
- The Alternative Plan could allow for a more tailored density and height approach based on local development priorities neighborhood character, and land use conditions.

PROJECT DESCRIPTION

The proposed ordinance adds Chapter 17.86 to the Oakland Planning Code. It includes provisions to bring the Planning Code into conformance with SB 79 and provisions to adopt qualified exclusions to the new SB 79 development standards.

- ◆ *A new S-8 Combining Zone* The project proposes amending the Planning Code to add a new Chapter 17.86 S-8 Abundant and Affordable Homes Near Transit (Senate Bill 79) Combining Zone Regulations. See *Attachment A* Chapter 17.86 S-8 Abundant and Affordable Homes Near Transit (Senate Bill 79) Combining Zone Regulations.
- ◆ *Testing for Applicable Exclusions* The project analyzes three exclusions that satisfy the required SB79 exclusion criteria.
 - Exclusion 1. Allows exclusion of sites when existing zoning allows density and residential floor area ratios at no less than 50 percent of the standards specified in SB 79. (**Gov. Code Sec. 65912.161(b)(1)(A)**).
 - Exclusion 2. Allows exclusion of sites in a TOD Zone that is primarily a low-resource area¹ and has Oakland zoning densities that allow for at least 40 percent of the aggregate density allowed for the TOD zone as specified in SB 79. (**Gov. Code Sec. 65912.161(b)(1)(B)(ii)**).
 - Exclusion 3. Allows exclusion of sites in a TOD zone when the parcel includes a historic resource designated as of January 1, 2025, on a local register. (**Gov. Code Sec. 65912.161(b)(1)(F)**).

PROPERTY DESCRIPTION

The proposed Zoning Amendment would apply Citywide.

GENERAL PLAN ANALYSIS

General Plan Update

- ◆ The City is currently engaged in an ongoing, robust General Plan Update. In Fall 2021, the City of Oakland kicked off a two-phased process to update the General Plan, a visionary blueprint for the City's future development over the next 20 years.
 - With this 2045 General Plan Update (GPU), the City's goal is to advance its commitment to creating a "fair and just" city (Oakland Municipal Code Section 2.29.170.1) and undo past

¹ A low-resource area is a designation created by the State of California Tax Credit Allocation Committee and Department of Housing and Community Development as a component of the state opportunity area maps. The State first created the opportunity maps in 2017 to inform how to award low-income housing tax credits and have since annually updated the maps. The opportunity maps score neighborhoods across eight economic and educational indicators, plus one environmental burden indicator, and designate areas as low-, moderate-, high-, and highest-resource depending on the score relative to other neighborhoods in the same region.

harms and inequities through implementing more robust and equitable goals, policies, and actions related to the City’s physical development.

- GPU Phase 1 was completed in 2023 and included updates to the Housing Element and Safety Element, and adoption of the City’s first Environmental Justice Element (EJ Element). GPU Phase 1 resulted in upzoning in many areas of the City and demonstrates City support for increased housing capacity
- Phase 2 of the General Plan Update is currently underway. It includes updates to the Land Use and Transportation Element (LUTE) that will evaluate additional density in areas subject to SB 79. Adoption of Phase 2 of the General Plan date is anticipated in late Spring of 2027
- Analysis
 - The recommended exclusions will give the City time needed to carefully analyze during the current General Plan Update process exactly which areas within the SB 79 TOD Zones have the potential to be upzoned and to further implementation with community input.
 - A Racial Equity Impact Analysis (REIA) conducted during the General Plan Update process will help ensure that policies, programs, and actions will prioritize historically marginalized communities and maximize equitable outcomes.
 - The GPU process is ongoing and already encompasses the type of planning needed to address implementation of SB79.
 - GPU Phase 1 resulted in upzoning in many areas of the City and demonstrates City support for increased housing capacity.
 - The Land Use Element work program will include consideration of density requirements while incorporating other local priorities.
 - The GPU process will provide public involvement guided by a comprehensive, collaborative, accessible, inclusive, and equity-driven public engagement approach that focuses on engaging communities historically underrepresented and excluded from traditional planning processes—which are often the most negatively impacted by City policies—while also being inclusive of the City as a whole.

□ Environmental Justice Element (EJ Element)

◆ Environmental Justice Policies

The City’s Environmental Justice Element (EJ Element) “serves as the foundation for achieving equity and environmental justice when planning for future growth and development in Oakland.” The EJ Element identifies communities that are disproportionately impacted by environmental justice issues and proposes goals, policies, and objectives to reduce the unique or compounded health risks in these communities. It also contains a comprehensive table of actions to achieve those goals and objectives, many of which have already been implemented.

- *Policy EJ-8.1 Meaningful, Relevant Engagement. Design and implement public engagement processes and events that emphasize participation from low-income communities and communities of color; that are driven by resident priorities, that are easily accessible and understandable and that provide meaningful opportunities for participants to influence outcomes.*
- Analysis:
 - The SB79 development densities and other standards provide an incentive for development and an additional source of needed housing. However, this new State regulation can benefit greatly from additional input by local communities who shall be impacted.
 - The majority of the City’s designated transit stops, and TOD Zones are low resource areas.

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- Policy EJ 8.1 of the EJ Element will be better serviced if these areas are excluded from immediate implementation of the SB 79 standards and evaluated as part of the City’s General Plan Update process. The proposed exclusions provide an opportunity to for greater public input through the General Plan Update public review process, including greater participation for communities of color.
- *Policy EJ-7.1 Complete Neighborhoods. Promote “complete neighborhoods”— where residents have safe and convenient access to goods and services on a daily or regular basis—that address unique neighborhood needs, and support physical activity, including walking, bicycling, active transportation, recreation, and active play.*
- Analysis
 - The recommended exclusions will allow additional time to update the City’s development regulations consider how “complete neighborhoods that address community needs and services can be provided in conjunction with new housing.
- *Policy EJ-7.2 Accessible Neighborhoods. Encourage active modes of transportation and transit accessibility by supporting neighborhoods that provide access to a range of daily goods, services, and recreational resources within comfortable walking or biking distance. Encourage transit providers to prioritize, establish and maintain routes to jobs, shopping, schools, parks and healthcare facilities that are convenient to EJ Communities.*
- Analysis
 - The action strategies for the EJ Element refer this Policy to the LUTE General Plan Update Phase 2 process for implementation.
 - *EJ-A.26 As part of the LUTE update in Phase 2, include policies that promote a fine-grained neighborhood land use pattern that encourages walking, biking, and getting around without a car.*

The recommended exclusions would implement these action strategies by providing the opportunity to fold the fine-grained analysis of the SB 79 density requirements into the ongoing General Plan Update process. This action would allow greater input from the community and allow additional review of how the denser housing could be located to support neighborhoods.

□ Downtown Oakland Specific Plan

- ◆ The Downtown Oakland Specific Plan was adopted in 2024 and upzoned a number of areas.
 - Analysis
 - The downtown does not have a uniform zoning density but allows for lower density in historic districts and higher density along the core of the downtown and the Broadway spine.
 - The DOSP is an example of a current land use plan that illustrates how the City would address the goals of SB 79 through the General Plan Update process.

□ Housing Element and Specific Plans

- ◆ The Housing Element and various Specific Plans the City has adopted over the years, such as the Central Estuary Plan, Broadway Valdez District Specific Plan, West Oakland Specific Plan, Coliseum Area Specific Plan, and the Lake Merritt Station Area Plan have all increased density around the Tier 1 and Tier 2 TOD Zones.
 - Analysis
 - The results of these planning efforts are reflected in the current zoned capacity at Coliseum, 19th Street, 12th Street, and Lake Merritt.
 - This upzoning used a more fine-grained approach and demonstrates Oakland’s experience with this approach. If exclusions are adopted a similar process would

be used to address implementation of SB79 in the downtown while considering local conditions and priorities.

ZONING ANALYSIS

The proposed Ordinance to implement SB 79 and adopt applicable exclusions to this new state law meets the Citywide priority of a responsive trustworthy government because it will provide the City the time needed to carefully analyze the exclusions during the current General Plan Update process to consider exactly which areas within the SB 79 TOD Zones have the potential to be upzoned.

The City of Oakland has demonstrated its long-standing policy support for higher density housing development in the downtown and other areas served by transit.

- ◆ Since 2013, the City has adopted 6 Specific and Area Plans that have all increased density around the Tier 1 and Tier 2 TOD Zones – including the Central Estuary Plan, Broadway Valdez District Specific Plan, West Oakland Specific Plan, Coliseum Area Specific Plan, Lake Merritt Station Area Plan, and Downtown Oakland Specific Plan.
- ◆ The City’s downtown core areas around transit stops already have an aggregate capacity for housing that is two to three times above SB 79 requirements.
- ◆ These Specific Plan adoptions and rezonings are the reason Oakland’s zoning in all of the low resource area TOD zones exceeds 40% of the SB 79 capacity and in many cases, it exceeds 100% of the SB 79 aggregate densities.

□ Exclusion 1

- ◆ Criteria: This exclusion applies to sites within a zoning designation permitting density and residential floor area ratio (FAR) at no less than 50 percent of the development standards specified under SB79, Government Code Section 65912.157(a).
 - This exclusion applies to any parcel with sufficient density in any TOD zone, including high resource TOD zones such as MacArthur, Rockridge and the Ashby BART Station TOD parcels within Oakland City limits
 - Application of this exclusion requires evaluating how Oakland zoning designations compare to the density and residential FAR standards provided in SB 79 (See Table 2 above).
 - If a zoning designation’s development standards for density and residential FAR exceed 50 percent of the SB 79 standard for the TOD zone, then all parcels with that Oakland zoning designation may be excluded.
 - Oakland already provides for high levels of density. As a result, many existing zoning designations qualify for this exclusion. However, lower density residential designations like RH Hillside Residential, RD Detached Residential, and Mixed Housing Type Residential, which are prevalent throughout Oakland’s residential neighborhoods, do not qualify.
 - SB 79 defines residential FAR to mean the ratio of net habitable square footage dedicated to residential use to the area of the lot. For example, if local zoning allows residential development to occur with full coverage of the lot with no setback requirements and allows for three stories of development, then the residential FAR would be 3.0.
 - Most Oakland zoning designations do not include a residential FAR requirement. The few that do are for low density hillside designations, which do not qualify for this exclusion. In the absence of residential FAR standards, staff relied on standards for maximum number of stories to confirm that a residential proposal could exceed 50 percent of SB 79 residential FAR standards. Staff also evaluated setback requirements to ensure that setbacks would not constrain the ability to exceed SB 79 residential FAR standards. The zoning designations identified as qualifying for this exclusion also do not impose any maximum lot coverage standards.
- ◆ Analysis of existing zoning within all TOD zones confirmed that parcels in the following Oakland zoning designations allow for densities exceeding 60 dwelling units per acre and allow for

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residential FAR in excess of 1.75 FAR, and therefore are eligible for exclusion if within one quarter mile of a Tier 1 TOD Station:

- Urban Residential RU-3, RU-4, and RU-5
 - Neighborhood Commercial CN-1, CN-2, CN-3, CN-4 (all height areas except 35*)
 - Community Commercial CC-1, CC-2, CC-3 (all height areas)
 - Regional Commercial CR-2 (all height areas)
 - Housing and Business Mix HBX-3 and HBX-4
 - Medical Center Commercial S-1
 - Transit-Oriented Development Commercial S-15 and S-15W (all height areas)
 - Oak-to-Ninth District D-OTN
 - Broadway Valdez District D-BV-2, D-BV-3, D-BV-4 (all height areas except 45*)
 - Central Estuary District D-CE-3 and D-CE-4
 - Lake Merritt Station Area District D-LM (all height areas)
 - Coliseum Area District D-CO-1, D-CO-2
 - Downtown District D-DT-P, D-DT-C, D-DT-CX, D-DT-R, D-DT-RX and D-DT-CPW (all height areas except Height Area 1, Height Area 2, Height Area 5, and Height Area 12).
- ◆ In addition to all of the zoning designations listed above, parcels in the following Oakland zoning designations allow for densities exceeding 50 dwelling units per acre and allow for residential FAR in excess of 1.5 FAR, and therefore are eligible for exclusion if further than a quarter mile but within one-half mile of a Tier 1 TOD Station:
- Urban Residential RU-2
 - Housing and Business Mix HBX-2
- ◆ The density and residential floor area ratio standards for parcels within one-quarter mile of a Tier 2 TOD Station is also 50 dwelling per acre and 1.5 FAR, and therefore the list of zoning designations excluded is same as for parcels between a quarter mile and one-half mile of a Tier 1 TOD Station.
- ◆ In addition to all of the zoning designations listed above, parcels in the following Oakland zoning designations allow for densities exceeding 40 dwelling units per acre and allow for residential FAR in excess of 1.25 FAR, and therefore are eligible for exclusion if further than a quarter mile but within one-half mile of a Tier 2 TOD Station:
- Urban Residential RU-1
 - Housing and Business Mix HBX-1
 - Height Area 5 of Downtown District D-DT-P, D-DT-C, D-DT-CX, D-DT-R, D-DT-RX, D-DT-CPW

See *Attachment C* Analysis of Density and FAR Oakland Zoning Designations Exclusion 1 for further analysis of the applicable density for Oakland zoning designations and comparison to SB 79 standards for purpose of evaluation of Exclusion 1. *Attachment D* Maps of Tier 1 Parcels Qualified for Exclusion 1 with Zoning Designations allowing 50% of SB 79 Capacity shows maps of all parcels qualified for Exclusion 1 with zoning designations allowing 50% of SB 79 capacity.

□ **Exclusion 2**

- ◆ **Criteria:** This exclusion applies to an entire TOD Zone if the aggregate density of the Oakland zoning allows no less than 40 percent of the aggregate density allowed by SB 79. Gov. Code Section 65912.161(b)(1)(B)(ii).
- Applies only to low resource areas.
 - Evaluates density calculated for each parcel in a TOD zone based on lot size and density/acre.
 - Densities are designated for each of 3 geographical areas around the transit stop (See Table 2 p.3)
 - the core area (200 feet),
 - the area ¼ mile for the stop, and

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- the area ½ mile from the stop.
- The aggregate density is the average of the density allowed on each parcel in each of these three areas.
- To determine qualification for exclusion the aggregate density for the entire TOD under Oakland density is summarized as a percentage of SB79 density.
- ◆ Analysis for Tier I TOD Zones:
 - The entirety of the Tier 1 Zones in low resource areas that allow residential, mixed use and/or commercial use qualify for exclusion.
 - The aggregate density for all eligible parcels in these TOD Zones exceeds 40% of the required SB79 density.
 - This includes all eligible parcels in 6 of the 9 Oakland Tier I (BART Station) TOD Zones including 19th St, 12th St/City Center, West Oakland, Lake Merritt, Fruitvale and Coliseum.
 - The aggregate percentages range from 70% at West Oakland BART to 307% for the 12th Street BART Station.
 - Oakland zoning aggregate density exceeds SB79 requirements in four of the BART Tier 1 TOD Zones for 19th St, 12th St/City Center, Lake Merritt, and Coliseum. The aggregate percentages range from 190% at West Oakland BART to 307% for the 12th Street BART Station.
- ◆ Implications for Tier 1 TOD Zones Without Adoption of Exclusion 2
 - Because 4 of the Tier 1 TOD Zones already exceed the aggregate density of SB 79, they would meet the requirements of an alternative plan. However, as is the case with many other California jurisdictions, Oakland does not have the time needed to create an alternative plan for all of the SB 79 TOD Zones within the City at this time. Therefore, the exclusions are being used.
 - The densities within these 4 TOD Zones are not uniform as in the SB 79 densities, but more fine-grained to reflect historic districts, such as Old Oakland, and lower density neighborhoods.
 - The additional 2 Tier 1 TOD Zones at West Oakland BART and Fruitvale BART are at 70% and 72% of SB 79 densities.
 - Staff will need additional time and community input to analyze which additional parcels should be upzoned to meet the 100% aggregate density of SB 79 for an Alternative Plan.
 - Without using the exclusions, the City would lose the opportunity to evaluate and engage public input concerning which areas should be higher density and others lower density in order to meet the 100% aggregate density required by SB 79.

Table 3
Exclusion 2 Tier I TOD Zones
Low Resource Area with Oakland Zoning Density of at Least 40% of SB79 Density

Oakland Tier 1 TOD Zone BART Stations	Criteria for Exemption 1) Low Resource Area 2) Aggregate Capacity is Greater than 40% of the SB 79 Capacity		Oakland Aggregate Capacity in Dwelling Units	SB 79 Aggregate Capacity in Dwelling Units
	Low Resource	Qualifying Percentage		
Map 1. Ashby Parcels in Oakland	No			
Map 2 Rockridge BART	No			
Map 3 MacArthur BART	No			
Map 4 19 th St. BART	Yes	286.58%	115,921	40,450
Map 5 12 th St BART	Yes	306.57%	118,425	38,629
Map 6 West Oakland BART	Yes	69.56%	15,913	22,876
Map 7 Lake Merritt BART	Yes	253.62%	79,675	31,415
Map 8 Fruitvale BART	Yes	72.24%	28,554	39,529
Map 9 Coliseum BART	Yes	190.39%	68,128	35,784

See *Attachment E* Summary of the Density of Tier 1 TOD Zones shows a summary of the Density and FAR of Tier 1 TOD Zones by Geographical Area and *Attachment F* Data Analysis of Capacity Based on Oakland Zoning Compared to SB79 Standards in Tier 1 TOD Zones for 6 BART Stations.

Analysis for Tier 2 TOD Zones:

- All of the Tier 2 TOD Zones in low resource areas that allow residential, mixed use and/or commercial use qualify for exclusion. (See **Table 4**)
- The aggregate density for all eligible parcels in each of these TOD Zones exceeds 40% of the required SB79 density.
- The percentages range from 465% for the 86th Ave BMT Tempo stop TOD to 417% for the 14th St. Northbound BMT Tempo stop TOD.
- The aggregate Oakland density for 14 Tier 2 TOD Zones exceeds SB79 requirements.
- It is important to note that 14 of these Tier 2 TOD Zones also exceed SB79 requirements with density ranges from 142% at 5th Ave Southbound BRT Tempo stop TOD, to 417% for the 14th St. Northbound BRT Tempo stop TOD.
- ♦ Implications for Tier 2 TOD Zones Without Adoption of Exclusion 2
 - Because 14 of the Tier 2 TOD Zones already exceed the aggregate density of SB 79, they would meet the requirements of an alternative plan. But the City does not have the time needed to create an alternative plan for all of SB 79 TOD Zones within the City at this time. Therefore, the exclusions are being used. The densities within these 14 TOD Zones are not uniform as in the SB 79 densities, but more fine-grained to reflect historic districts and lower density neighborhoods.
 - The additional 25 Tier 2 TOD Zones range from 46% to 95% of SB 79 densities. Staff will need sufficient time and community input to analyze which additional parcels should be upzoned to meet the 100% aggregate density of SB 79 for an alternative plan.

- Without using the exclusions, the City would lose the opportunity to evaluate and receive public input concerning which areas should be higher density and others lower density in order to meet the 100% aggregate density required by SB 79.

**Table 4
Exclusion 2 Tier 2 TOD Zones
Low Resource Area with Oakland Zoning Density of at Least 40% of SB79 Density**

Oakland Tier 2 TOD Zone (AC Transit Tempo Stops)	Criteria for Exclusion1) 2) Aggregate Capacity is Greater than 40% of the SB 79 Capacity		Oakland Capacity in Dwelling Units	SB 79 Capacity in Dwelling Units
	Low Resource	Qualifying Capacity		
Map 10 Uptown Oakland SB	Yes	380.15%	99,812	26,256
Map 11 Uptown Oakland NB	Yes	410.91%	102,925	25,048
Map 12 14 th St. NB	Yes	416.55%	110,614	26,555
Map 13 14 th St. SB	Yes	406.70%	102,037	25,089
Map 14 City Center NB	Yes	400.18%	100,460	25,104
Map 15 City Center SB	Yes	376.51%	94,787	25,175
Map 16 Harrison St NB	Yes	414.13%	105,612	25,502
Map 17 Harrison St SB	Yes	397.25%	101,223	25,481
Map 18 Madison St NB	Yes	394.12%	86,658	21,988
Map 19 Madison St. SB	Yes	380.61%	89,098	23,409
Map 20 2 nd Ave NB	Yes	195.66%	42,075	21,504
Map 21 2 nd Ave SB	Yes	216.23%	45,336	20,967
Map 22 5 th Ave NB	Yes	160.02%	37,658	23,533
Map 23 5 th Ave SB	Yes	142.25%	33,297	23,408
Map 24 10 th Ave NB	Yes	92.00%	20,412	22,186
Map 25 10 th Ave SB	Yes	95.38%	17,846	18,710
Map 26 14 th Ave. SB	Yes	62.97%	10,541	16,739
Map 27 14 th Ave NB	Yes	61.20%	11,343	18,533
Map 28 20 th Ave	Yes	92.74%	17,119	18,459
Map 29 24 th Ave	Yes	75.52%	22,787	30,174
Map 30 28 th Ave	Yes	83.56%	27,519	32,934
Map 31 31 st Ave	Yes	88.53%	29,712	33,563
Map 32 Fruitvale	Yes	91.70%	30,515	33,278
Map 33 39 th Ave	Yes	91.47%	28,457	31,112
Map 34 High	Yes	69.52%	18,182	26,153
Map 35 48 th Ave	Yes	91.89%	20,118	21,893
Map 36 54 th Ave	Yes	72.47%	17,225	23,776

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Map 37 Seminary	Yes	62.42%	17,444	27,945
Map 38 63 rd Ave	Yes	68.82%	23,304	33,864
Map 39 67 th Ave	Yes	53.00%	17,385	32,804
Map 40 73 rd Ave	Yes	63.71%	22,204	34,850
Map 41 77 th Ave	Yes	50.02%	15,958	31,901
Map 42 82 nd Ave	Yes	47.79%	15,198	31,801
Map 43 86 th Ave	Yes	46.45%	15,783	33,980
Map 44 90 th Ave	Yes	47.38%	15,822	33,395
Map 45 95 th Ave	Yes	46.69%	15,936	34,135
Map 46 98 th Ave	Yes	61.42%	20,567	33,484
Map 47 103 rd Ave	Yes	64.21%	18,335	28,554
Map 48 Durant Ave parcels in Oakland	Yes	66.54%	9,976	14,993

See **Attachment G** Summary Qualifying of the Density of Tier 2 TOD Zones and **Attachment H** Analysis of Capacity Based on Oakland Zoning Compared to SB79 Standards in Tier 2 TOD Zones for 39 Stops. See **Attachment B** Maps of all Parcels Qualified for Exclusion 2, TOD Zones Low Resource Area with Oakland Zoning Density of at Least 40% of SB 79 Density.

- Exclusion 3** This exclusion applies to all parcels with local historic resources within TOD zones, including both high and low resource areas. Some of these parcels also qualify for exclusion under Exclusion 1 and/or 2, However there are historic resources, particularly in high resource areas that only qualify under this Exclusion 3. This exclusion would defer SB 79 regulations applicable to those parcels. See **Attachment I** Map of Existing Local Register of Historic Resources Sites in Tier 1 and Tier 2 TOD Zones.
 - ◆ **Criteria:** Sites with a historic resource designated on a local register as of January 1, 2025. (Gov. Code Sec. 65912.161(b)(1)(F))
 - Policy 3.8 of the City of Oakland Historic Preservation Element, an element of the General Plan, defines the Local Register of Historic Resources.
 - The Local Register includes: Designated Historic Properties
 - All Oakland Landmarks.
 - All S-7 and S-20 preservation district combining zone properties.
 - All “Potentially Designated Historic Properties” (PDHP) that have an existing survey rating of “A” or “B” or are located within Areas of Primary Importance (APIs).
 - Heritage Properties including PDHP properties rated “C” if the properties are in and/or are contributor to an Area of Secondary Importance (ASI) and are designated by the Landmarks Board and City Council.
 - Preservation Study List Properties.
 - ◆ **Conclusion**
 - The Historic Resource exclusion is available for all parcels within both Tier 1 and Tier 2 TOD Zone that are a local register property.
 - The exclusion allows these parcels to be reviewed using current standards in the underlying zoning and current Planning Code review protocol.
- S-8 Combining Zone** is an amendment to the Planning Code that adds a new Chapter 17.86 S-8 Abundant and Affordable Homes Near Transit (Senate Bill 79) Combining Zone Regulations. The code provides consistency between the Oakland Planning Code and State Law.

- ◆ S-8 Combining District Summary
 - Includes all parcels of land that are within one-half mile of Tier 1 and Tier 2 Transit-Oriented Development Zones, regardless of their zoning designation.
 - Evaluates whether a parcel is eligible under the provisions of SB 79 as a site zoned for residential, mixed, or commercial development.
 - Applies exclusions to certain sites that would otherwise be eligible for SB 79 but qualify for an identified exclusion as described in California Government Code Section 65912.161.
 - Defines eligible projects, eligible sites, ineligible sites, excluded sites and covered sites regulated by SB 79.
 - Identifies zones eligible to combine with the S-8 provisions.
 - Amends the zoning map to show which sites are eligible and ineligible for SB79 regulations and which sites are excluded.
 - Clarifies that excluded parcels are regulated by the underlying zoning.
 - The exclusions shall be applied comprehensively; a site shall be mapped as excluded if it is designated as excluded under any of the exclusions, i.e. Exclusion 1, 2, or 3.

See *Attachment A* for Chapter 17.86 S-8 Abundant and Affordable Homes Near Transit (Senate Bill 79) Combining Zone Regulations.

ENVIRONMENTAL DETERMINATION

The proposed zoning map and Planning Code amendments are statutorily exempt from the California Environmental Quality Act under Government Code Section 65912.160(c)(2) [ordinance implementing Senate Bill 79].

KEY ISSUES AND IMPACTS

Adopting the allowed exclusions for SB 79 qualified properties and suspending implementation of the SB 79 development standards until as late as 2032, one year after the next required update to the Housing Element, would allow the City to plan for the required SB 79 density during the current Land Use and Transportation Element General Plan Update and the next Housing Element Update, and to develop an Oakland-specific “Alternative Plan” as permitted by SB 79. If the City adopts the allowed exclusions for SB 79 qualified properties, sites in a TOD zone Land subject to SB79 would continue to be developed under existing zoning on an interim basis until the City adopted new standards consistent with SB 79. Properties that do not meet the qualifications for an exclusion under SB 79 would be able to utilize the increased height and densities allowed under SB 79.

- ◆ Staff recommends adoption of three exclusions based on analysis of how SB 79 will affect Oakland development capacity and current planning policies and work programs.
- ◆ *Development Capacity in Transit Zones subject to SB 79*
 - The staff analysis determined that most parcels within Oakland’s designated TOD zones meet the SB 79 density criteria for exclusion.
 - The analysis also determined that the housing capacity allowed by current zoning meets the required SB 79 thresholds to allow adoption of the exclusions and maintain significant capacity in the short term.
 - For parcels in TOD zones subject to Exclusion 1, existing zoning provides 50% of the SB 79 capacity.

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- For TOD zones subject to Exclusion 2, staff analysis determined that out of a total of 48 TOD Zones (9 Tier 1 Zones and 39 Tier 2 Zones).
- 6 Tier 1 TOD Zones are within a low resource area, and 3 Tier 1 TOD Zones are not within a low resource area.
- All of the Tier 2 TOD Zones are within a low resource area.
- All of the 6 Tier 1 TOD Zones and the 39 Tier 2 TOD Zones that are within a low resource area exceed the aggregate 40% densities required by SB 79.
- 4 Tier 1 TOD Zones exceed the SB 79 aggregate densities by 190% to 307% and the other 2 Tier 1 TOD Zones at 70% and 72% aggregate densities of SB 79.
- 14 Tier 2 TOD zones exceed the SB 79 aggregate densities by 142% to 417% and the remaining TOD Zones range from 46% to 95% of the aggregate densities of SB 79.
- This density/capacity allowed by current zoning gives the City the option to apply the exclusions that are available by State Law and plan more carefully for TOD areas during the General Plan Update.
- City Staff anticipate a comprehensive review to evaluate where upzones are appropriate within TOD Zones.
 - A fine-grained approach would consider where higher and lower densities can be applied to achieve the aggregate density required under SB 79 and still address local issues.
 - The land subject to SB 79 is a large area of the City that has very different land uses, neighborhoods, and existing building scales.
 - All types of land uses could be considered (not just housing).
 - Different types of transportation modes could also be considered (such as walking, biking, and bus services with less frequencies).
 - The review would also evaluate how the denser housing could support neighborhoods and consider issues such as:
 - Whether additional neighborhood amenities, such as day and nighttime use and neighborhood services, could be supported.
 - Whether specific changes in Low Resource areas are consistent with the goals of the City's EJ Element.
 - Staff also want to incorporate the public feedback received from Phase 1 of the GPU as well as the continued feedback from GPU Phase 2 to then look at creating an alternative plan for SB 79 implementation.
 - Applying the exclusions that are available by State Law, will give staff the time to go through this public engagement process and review these TOD Zone areas more comprehensively.

If the City decides not to adopt the available exclusions, parcels within the designated TOD zones would be eligible for development entitlements based on SB 79 development standards starting July 1, 2026. The parcels that currently have zoning with maximum densities lower than the SB 79 standard would be eligible for higher density development. Generally, neighborhood parcels farther from the TOD stations would be most affected and parcels within the high-density core areas would be least affected.

RECOMMENDATION:

Staff requests that the Planning Commission:

Recommend that the City Council Conduct A Public Hearing And, Upon Conclusion, Adopt An Ordinance:

- 1) Amending Title 17 Of The Oakland Municipal Code (The Planning Code) To Add Chapter 17.86 S-8 Abundant and Affordable Homes Near Transit (Senate Bill 79) Combining Zone Regulations Identifying Sites Eligible And Ineligible Or Excluded From The Senate Bill 79 Property Development Standards;
- 2) Making Related Oakland Zoning Map Amendments to Designate Parcels Within The S-8 Combining Zone And To Identify Whether Such Designated Parcels Are Eligible For Or Excluded From The Senate Bill 79 Property Development Standards; And
- 3) Making Appropriate California Environmental Quality Act Findings.

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ATTACHMENTS:

- A. Chapter 17.86 S-8 Abundant and Affordable Homes Near Transit (Senate Bill 79) Combining Zone Regulations
- B. Maps Numbered #1 through #40 Tier 1 and 2 TOD Zones and all Parcels Qualified for Exclusion 2, TOD Zones Low Resource Area with Oakland Zoning Density of at Least 40% of SB 79 Density
- C. Analysis of Density and FAR Oakland Zoning Designations Exclusion 1
- D. Maps of Tier 1 and Tier 2 Parcels Qualified for Exclusion 1 with Zoning Designations allowing 50% of SB79 Capacity
- E. Summary of the Density of Tier 1 TOD Zones

- F.** Data Analysis of Capacity Based on Oakland Zoning Compared to SB79 Standards in Tier 1 TOD Zones for 6 BART Stations
- G.** Summary Qualifying of the Density and FAR of Tier 2 TOD Zones
- H.** Analysis of Capacity Based on Oakland Zoning Compared to SB79 Standards in Tier 2 TOD Zones for 39 Stops
- I.** Map of Existing Local Register of Historic Resources Sites in Tier I and Tier 2 TOD Zones