

Zoning Update Committee

November 19, 2003

*Michael Lighty, Chair
Nicole Franklin
Anne E. Mudge*

Location:	Citywide
Proposal:	<ol style="list-style-type: none"> 1) Continued discussion of amendments to Chapter 17.10, Land Use Classifications; and 2) Consideration of the final draft text and maps for the Housing & Business Mix Zoning Districts (renamed HBX-1, HBX-2, and HBX-3); 3) Consideration of amendments to Chapter 17.102.190, Joint Living and Working Quarters
Applicant:	City Planning Commission
Staff recommendation:	<ol style="list-style-type: none"> 1) Review and make final recommendations for the proposed Business and Housing Mix zoning district text and maps; 2) Review and make final recommendations on the amended Land Use Classifications and Joint Living and Working Quarters; and 3) Forward a recommendation to the Planning Commission.
For further information:	Contact Margot Lederer Prado Strategic Planning, at 510-238-6766 or email mprado@oaklandnet.com

PART I LAND USE CLASSIFICATIONS

Staff prepared a preliminary set of revisions to the Land Use Classifications and presented these to the Zoning Update Committee on both September 25, 2003 and October 15, 2003. Staff has also been working with stakeholders from the industrial community (West Oakland Commerce Association (WOCA) and Industry and Labor Alliance of Oakland (ILAO)) on amendments to the industrial classifications and, to a minor extent, to the commercial classifications as well. See Attachment A for the latest draft of the amended Land Use Classifications pertinent to Industrial Land Use classifications only. A summary of the discussion about land use classifications from October 15th is included within Attachment A. Since that time, staff has made further revisions, although the document is not yet ready to be considered “final.” Some questions remain to be answered.

Changes to Commercial and Industrial Land Use Classifications

1. Should the existing commercial zoning districts, C-5 through C-60, be amended with the five new land use classifications at the same time that the new Housing and Business Mix and Industrial zones are adopted?

Five new commercial classifications are being proposed. They are:

- Taxi and Light Fleet-based Service
- Self-Storage

- Building Materials Sales and Service
- Wholesale Building Materials Sales and Service
- Therapeutic Massage Service (currently found in Section 17.09)

Four commercial and industrial land use classifications have been deleted due to the incorporation of those activities within other, more descriptive or appropriate activity types. They are:

- Convenience Sales and Service
- Retail Business Supply
- Transportation and Warehouse
- Scrap Operation

Some of the new categories replace the deleted classifications, and others are incorporated within other more appropriate categories.

Staff Recommendation: Staff recommends approval of these new use classifications and listing them in the proposed Housing and Business Mix and the proposed Industrial zoning districts. These changes can be made to the other Commercial zoning districts later on in the Zoning Update Program.

Amendments to Accessory Use Section 17.10

- 2. Should the Accessory Use Section 17.10 (H) be amended to allow the administrative office of a firm engaged in a manufacturing activity to be less than fifty (50%) percent within the General Industrial areas; or should the percentage of office and or retail sales use within that zone be limited in the district regulations?**

The limiting of office and retail sales use of productive floor area within the IG-General Industrial zones was discussed at length in the March and April 2003 sessions of the ZUC. The stakeholders within the IBX and CIX (future west Oakland Commercial and Industrial Business Mix) were less concerned about the erosion of manufacturing space in those districts and more concerned about retention of active production space in IG.

Staff Recommendation: Add limitations to the use of office space within the IG-General Industrial district in the district regulations and do not amend Section 17.10.040., aside from the recommended additions (N 1-4) regarding regulation of live entertainment within existing restaurants.

Distinctions between Light and General Manufacturing

- 3. Should the proposed definitions for Light and General Manufacturing be recommended for adoption?**

At the October 15th ZUC meeting, there seemed to be agreement on the definitions for Custom and Heavy Manufacturing, but not on the definitions of Light and General Manufacturing. Staff is submitting revisions to the Industrial Land Use Activity section, but without substantial amendments to its prior version (Attachment A). Staff has included these two definitions in the amended Use Classifications for consideration by the ZUC. The confusion between distinguishing Light from

General is important to resolve, considering that some districts allow Light but prohibit General (all HBX and some C districts), and that General Manufacturing is Conditionally Permitted in the IBX Light Industrial Zone, but Light Industrial is permitted without any additional use permit.

Staff recommendation: Discuss the proposed definitions for Light and General Manufacturing, but reserve a final decision for the December 17th 2003 ZUC discussion on Industrial zoning districts in order to involve the full participation of industrial property owners, and consider the inclusion of some more specific examples of Light and General activities for clarification.

Clarification of Business and Communication Services

4. Should the Retail Business Supply definition be deleted and the definition be subsumed in two other categories: General Retail (for products which are end to consumer items) and Business and Communication Services?

This classification was discussed with WOCA in length. Currently there is no clear category for some common activities occurring in Oakland such as recording and film production studios. The print and photographic production industry has changed in recent years, moving increasingly towards computer oriented digital services and resulting in a lighter impact due to technology used. Therefore, some uses which may have been not desirable within lighter commercial areas may be compatible. This new definition includes these uses.

Staff recommendation: Delete the Retail Business Supply use classification and consider the four proposed sub-classifications proposed in Attachment A of this report to incorporate new industries, including:

- A. Facility Cleaning and Maintenance Services
- B. Digital and Print Production
- C. Media Production
- D. Mailing Services

Clarification of Retail and General Wholesale Sales

5. Should the differences between General Retail Sales and General Wholesale Sales be distinguished as a percentage of floor area designated to each, with General Wholesale Sales determined as no more than 25% of floor area devoted to retail sales?

The clarification of the percentage of retail space devoted to sales permitted within the General Wholesale Sales classification will assist planners in making the distinction between where retail may be permitted but General Wholesale Sales is not.

Staff recommendation: Staff recommends using a percentage designation for maximum retail sales within the definition of General Wholesale Sales (17.10.430) in order to clarify the difference.

PART II. PROPOSED HOUSING AND BUSINESS MIX ZONING DISTRICTS

BACKGROUND

Staff has been working with the Zoning Update Committee over the past 18 months on the creation of a new zoning district for the Housing and Business Mix General Plan category. The project was delayed slightly when it was decided that staff would not be working on a comprehensive revision of the zoning code, including a whole new set of Land Use Classifications, but would be using as much of the existing code as possible. The proposed Housing and Business Mix text is a hybrid of using many of the sections found in the existing zoning code, but modified for this particular zoning district, and presenting the land use classifications in a table format, a new way of presenting this information.

The Zoning Update Committee reviewed the initial proposals for the new Housing and Business Mix zoning districts (HBX-1 and HBX-2) on October 30, 2002 and January 30, 2003. A number of property owners, developers, and business owners from these areas participated in these sessions. On January 30, 2003, a proposal for a third Housing and Business Mix zoning district (HBX-3) was proposed for the Residential Mixed Use area designated in the Estuary Policy Plan, commonly known as the Kennedy Tract. This new district, HBX-3, has been incorporated in the final draft zoning text (Attachment A) and is shown on the proposed zoning maps (Attachment F).

Five community meetings were held in September and October, 2003 to discuss the proposed zoning districts and maps for the HBX districts. These meetings were held in North Oakland, West Oakland, Eastlake, Kennedy Tract/Fruitvale, and in East Oakland. A summary of those meeting is included as Attachment E.

Staff has made amendments to the final regulations based on public input from the community meetings, and comments received from other planning and zoning staff who were trying out the new regulations on recent project applications. Attachment C is a table that staff prepared showing the comments received, a short discussion of the issue, staff's proposed recommendations, and a column for the ZUC's recommendation. The changes to the original text in Attachment A are underlined or crossed out. Where there is a large section added, the words "new section" appears at the beginning of the section.

KEY ISSUES AND AMENDMENTS TO PRIOR DRAFTS BASED ON PUBLIC COMMENTS

District Names

The name of these zoning districts has come up in discussions held with community members as well as the Planning & Zoning Division staff. The original decision to name these districts Business and Housing Mix came from comments made by the business community that there would be a preferential emphasis on the *residential* activities in the districts, over the *business* activities. However, staff believes that the proposed regulatory language clearly gives an equal weight to both land uses and allows a broad range of residential, commercial and some light industrial activities. Staff recommends that the name of the zoning districts be formally changed to Housing and Business Mix, consistent with the name of the General Plan designation for simplification.

HBX-1 will refer to those Housing & Business Mix areas as shown on the General Plan map that will likely remain as one-and two unit residential patterns and which are more likely to retain a mixture of residential and light industrial uses. It is generally mapped in some parts of Central Oakland and in East Oakland where residential intensities are low to medium density.

HBX-2 is primarily intended to serve the Housing & Business Mix areas that currently contain a mixture of industrial and residential uses, with a tendency towards medium density residential and commercial joint living working quarters. HBX-2 districts are located primarily mapped in North and West, and in Eastlake. HBX-2 is differentiated from HBX-1 by the allowable floor area ratio (FAR), residential density, setbacks and yard requirements.

HBX-3 is intended to serve the Residential Mixed Use (RMU) area of the Estuary, near the Park Street Bridge. It is an area that is already transitioning from a traditional heavy industrial area with waterfront access to a mixed use area, with some industrial facilities and long-standing artist quarters as well as new residential development.

This document shall hereafter reflect staff's recommendation, contingent upon acceptance by the ZUC.

Land Use Regulations

Auto Uses

One item discussed at community meetings relative to the proposed regulations was the new prohibition on auto repair including body and paintwork in these districts. In particular, those attending the meeting in the Eastlake District (5th Avenue to 14th Avenue; E 8th Street to E 12th Street) who represented auto activity owners or operators were concerned about the loss of their right to operate and to sell their businesses in the future to another operator. Auto owners believe they have provided a consistent and valuable commercial service, are located within the Central City, and are providing a convenient service for those customers who work Downtown. In addition to hearing the concerns of auto owners and operators, staff received no less than five e-mail letters from residents of this area who did not speak up at the meeting, but who were concerned about the negative impact of existing auto uses in that neighborhood.

The Eastlake District includes no fewer than 6 different zoning districts including M-10, M-20, M-30, C-40, R-40, and R-50. Many of these auto businesses are located on E.12th Street, which was designated Housing and Business Mix on the General Plan. However, after further field investigations, staff concluded that the E.12th Street corridor is more compatible with the general plan designation of Neighborhood Center Mixed Use, and that E 12th Street in Eastlake should be rezoned to a lower intensity commercial zone (C-28 Local Shopping Center) which promotes mixed use developments and neighborhood commercial uses. Currently, Auto Repair is a conditionally permitted use in C-28 and C-30, whereas it is a permitted use in the current zoning of C-40.

The HBX-2 district, which is proposed for the remaining Eastlake neighborhood mentioned above, would allow existing businesses to continue to operate and be sold for the exact same use as a legal, non-conforming status and would prohibit additional new businesses. However, a new auto use could locate along E 12th if the findings of the conditional use permit found it to be

a compatible and desirable use. Those already in operation on E.12th can continue as legal non-conforming businesses or become legally conforming through the conditional use permit approval process to conform to the new C-28 zoning district. Staff believes that assisting owners to understand their rights under Section 17.114, Non-Conforming Uses, will relieve some of their concerns about their security to continue operating in the future as they are operating now.

General Manufacturing

The only community comments (received in writing) requesting mapping changes to the proposed HBX maps came from industrial users who would like to remain in an industrial zone and have their General Plan designation be changed to an Industrial category. Comments received by staff are in Attachment C, the Issues and Decision Table.

General Manufacturing uses are prohibited in HBX, but are conditionally permitted in the proposed Light Industrial districts. Existing uses are allowed to continue through Section 17.114 Non-Conforming Uses, but their expansion is limited to necessary improvements to meet health and safety requirements. The original General Plan “best fit” Conformity Guidelines, adopted in 1999, was indexed as “silent” in regards to General Manufacturing. This means that a business that was zoned M-30 and which expanded in 1999 would have been entitled to do so. These Guidelines were amended in May of 2001. General Manufacturing is now shown as “Prohibited (X)” in the Guidelines, consistent with the intent of the district.

Development Standards

The attached table (Issues and Decisions- Attachment C), is intended as a summary of the significant changes which are being considered since the January 22, 2003 Zoning Update Committee discussion and the community meeting discussions regarding the **HBX** Districts. Refer to the proposed District Chapter (Attachment B) for the full regulation.

PART III JOINT LIVING WORKING QUARTERS

On July 30, 2003 the Zoning Update Committee considered proposed changes to Section 17.102.090 of the zoning code which describes Joint Living Working Quarters. At that meeting the ZUC accepted staff’s recommendation, based on discussion with city building staff and stakeholders in the live/work and arts and development community, to create two classifications of JWLQ Facility Types, known as :

Live Work Category I

“Category I Live/Work Unit” A unit specifically created to accommodate both residential and nonresidential activities but that emphasizes accommodating the residential activity. Any percentage of floor area in a Category I Live/Work Unit can be devoted to residential activities. A Category I Live/Work Unit is considered a residential facility.

Work Live Category II

“Category II Work/Live Unit” A unit specifically created to be used for both nonresidential and residential activities but that emphasizes accommodating the nonresidential activity. This type of

unit only contains incidental residential accommodations, has no less than two-thirds of floor area devoted to work activities, and contains an active business. A Category II Live/Work Unit is considered a nonresidential facility.

KEY ISSUES

Location of JWLQ

The intent of creating two distinct classifications of JWLQ facility types is to distinguish between those which can revert to strictly residential uses and still be compatible with the underlying zoning distinct in which they are located, and those which must retain the non-residential character and not be allowed to become residential facilities. Live Work Category I is therefore intended to be allowed in all higher density residential zones (where some commercial activities are permitted), all C zones and in mixed use districts (Housing and Business Mix zones).

Work Live Category II facilities are conditionally allowed only in general commercial areas which allow custom and light manufacturing, including heavy commercial zones, mixed use zones (Business and Housing Mix) and Light Industrial Zones (those zones mapped within the Business Mix General Plan).

Parking Requirements

Staff received a number of comments at the meetings (Kennedy Tract and East Oakland) requesting that a parking requirement be applied to JWLQ conversions as well as for new construction. Staff is currently recommending a standard of 1.2 parking spaces/unit, similar to the S-12 Overlay District standard for Adams Point, which is the highest requirement of any medium-high density residential or mixed use zone. Staff recommends continuing the zero parking requirements for conversions, due to the original intent of the 1991 ordinance, which was to encourage the rehabilitation of underused and vacant commercial spaces, and to support facilities for artists.

RECOMMENDATIONS:

- 1) Review and discuss the draft Land Use Classifications, with the final review scheduled for December 17th in order to accommodate comments on the proposed Light and General Industrial definitions before forwarding to the Planning Commission; and.
- 2) Review and discuss the final zoning text and zoning maps for the Housing & Business Mix Zoning Districts and Land Use Classifications; and
- 3) Review and discuss the final draft amendments to the Joint Working and Living Quarters.

Prepared by:

MARGOT LEDERER PRADO, AICP
Planner III
Strategic Planning

Approved for forwarding to the
Zoning Update Committee of the
City Planning Commission

MARGARET STANZIONE
Strategic Planning Coordinator

ATTACHMENTS

- A. Decision Chart from October 15, 2003 ZUC discussion on Land Use Classifications; and Revised Commercial and Industrial Land Use Classifications and Decision Chart
- B. Final Draft Housing & Business Mix Zoning District (HBX)
- C. Issues and Decision Table : BHX
- D. Summary of Community Comments: HBX meetings
- E. Community Correspondence
- F. Proposed HBX Maps – draft October 2003
- G. Proposed Amendments to Section 17.102.090, Joint Working Living Quarters (JWLQ)