

Zoning Update Committee

Michael Lighty, Chair

Nicole Franklin

Anne E. Mudge

September 25, 2003

Location:	Citywide
Proposal:	Revisions to the land use classifications in Chapter 17.10 of the Oakland Planning Code.
Applicant:	City Planning Commission
Staff recommendation:	Review and discuss the proposed land use classifications and definitions.
For further information:	Contact Heather Coleman , Strategic Planning, at 510-238-6417 or email hcoleman@oaklandnet.com .

BACKGROUND**Zoning Update Process**

This is one of a series of monthly meetings that will be held by the Zoning Update Committee (ZUC) to discuss proposed revisions to the Oakland Planning Code. The revisions to the code are necessary for conformance with the land use policies that were adopted in the *Land Use and Transportation Element* of the General Plan in March 1998.

On March 28, 2002 and again on June 19, 2002, staff presented the ZUC a proposed list of proposed land use definitions based on those developed by the consultant, and received the ZUC's support of these draft definitions (See Attachment B). The proposed new land use definitions were part of a comprehensive revision to the Oakland Planning Code. Since this time, the scope and direction of the Zoning Update project has been modified. Rather than a complete overhaul of the existing Planning Code, staff will focus on revising and updating the code and creating new zoning regulations for those areas of the city where there are no existing zoning districts that correspond to General Plan policy. These areas include the Housing and Business Mix, Business Mix, and General Industrial and Transportation General Plan land use classifications, as well as transit station areas and transit corridors. The revised approach, endorsed by the ZUC in May, 2003, and subsequently by the full Planning Commission and City Council, also includes adopting zoning maps and zoning text simultaneously, and conducting community outreach on the map and text changes as early as possible.

Staff has prepared draft regulations for the industrial and Housing and Business Mix areas, and will be taking maps and zoning text to the community this fall to solicit input from owners and residents in the affected areas. In order to present the proposed regulations to the community, staff needed to nail down the list of land uses to be regulated. In addition, there is a great need to improve and modernize the industrial use classifications in the Planning Code to reflect modern businesses.

Need for Updating Existing Land Use Definitions

The Planning Code was adopted in 1965 and contained most of the land use definitions that are still used today. A few land use categories have been added over the years, usually as particular uses became problematic. For example, the category Convenience Market was differentiated from General Food Sales in the late 1970's as convenience markets were becoming more prevalent and the community was

becoming aware of negative impacts sometimes associated with them. The land use definitions are located in Chapter 17.10 of the Planning Code and are grouped into residential, civic, commercial, manufacturing, and agricultural and extractive classifications.

The land use definitions are the “meat and potatoes” of zoning implementation, particularly at the public information counter, where staff must make many determinations of zoning classification and compliance every day. The existing land use definitions in Chapter 17.10 fulfill this function. However, some of the uses listed are antiquated, relating to an older economy, and many common new land uses, such as self-storage or research and development, are not included at all. In addition, there have always been certain uses that are not explicitly listed and don’t obviously fall into a particular category, such as ambulance services, towing operations, or sound studios. Furthermore, there is room for much greater clarity in the definitions in order to make them easier for the public to understand and quicker for new staff to learn. Some definitions contain convoluted sentences that are difficult to read and interpret.

Revised Approach to Updating the Definitions

The new set of land uses categories and definitions presented to the ZUC in June, 2002 were designed to modernize the land uses and make them easier to understand. These goals can still be accomplished through a revision to the existing land use definitions in Chapter 17.10. Staff proposes a text amendment to Chapter 17.10 that is based on the following approach:

- Overhaul the existing industrial classifications. The industrial definitions are some of the most outdated and in need of revision.
- Move certain uses currently located in civic or commercial categories, but that are heavier impact or more industrial in nature to the “Industrial” group of uses. For example, Transport and Warehousing, Scrap Operation, recycling collection centers, and seaports are moved to the industrial use classifications.
- Update and clarify the existing commercial and civic land use definitions where appropriate. For example, identify classifications for chronically difficult to classify uses, or those that aren’t explicitly addressed in the current code. Eliminate or minimize overlap between categories.
- Where greater differentiation is needed between uses, create subcategories of existing land use classifications in order to avoid having to revise the entire list of permitted and conditional uses in the existing commercial and residential zoning districts. For example, if Group Assembly is currently conditionally permitted in the C-40 zone, it will still be conditionally permitted. However, there will be subcategories of Group Assembly that may be regulated differently as we write new zones or get the opportunity to re-examine old ones.
- Provide examples of each use in order to make classification easier for staff and the public. List uses that are excluded in the definition because they are covered in a different classification. List definitions, examples, and exclusions in separate sentences.

Stakeholder Input

Staff met and corresponded with land and business owners in the industrial and Housing and Business Mix areas. In particular, the West Oakland Commerce Association (WOCA) and the Industrial-Labor Alliance of Oakland (ILAO) have been very involved with the Zoning Update project, and have made specific suggestions regarding the text of the land use classifications (See Attachment C). These groups are working with the definitions from June, 2002 that would have been part of the complete overhaul of the Planning Code and members still support a more comprehensive text revision. Although the land use definitions recommended by staff and the industrial stakeholders are thus based on somewhat different starting texts, staff believes that they are substantively very similar and that the stakeholders’ concerns

have been incorporated into the proposed definitions. Prior to the ZUC meeting, staff will contact the stakeholder groups again to discuss any remaining issues.

GENERAL PLAN POLICY FRAMEWORK

The 1998 Land Use and Transportation Element includes an implementation agenda that contains the following objectives for zoning consistency with the General Plan and for revisions to the Planning Code:

- *To develop regulations sensitive to existing and potential land uses and development types in Oakland, including the various activities described in all Plan Elements and the City's Economic Development Strategy.*
- *To create a "user-friendly" document by minimizing the complexity of regulations.*

The proposed text amendment forwards the above objectives and facilitates the Zoning Update process. It will help clarify existing land use definitions by adding examples and breaking down long, confusing sentences where possible; creating subclassifications where it would be beneficial to regulate them differently; and modernizing the definitions to reflect current business types. At the same time, by maintaining many of existing categories, it will avoid unnecessarily creating nonconforming uses and will provide continuity for the many land use cases and determinations that have been made for particular properties in the past.

PROJECT DESCRIPTION AND RATIONALE

The proposed project is a text amendment to Chapter 17.10, Use Definitions, of the Oakland Planning Code. The proposed text amendments are included with this report as Attachment A. The proposed text amendments follow the approach described above under "Background/ Revised Approach To Updating The Definitions": overhauling and updating the industrial use classifications; clarifying existing commercial and civic land use categories where possible while minimizing disruption to existing zoning districts; and improving the format and language of the land use definitions in order to make them easier to use. This section of this staff report describes the specific proposed changes and the rationale behind them. Staff recommends that the ZUC focus primarily on the proposed changes to the industrial classifications, where the proposed revisions are most comprehensive and the need for overhaul is the greatest.

General Issues

Modernization

Existing code: The existing Planning Code was adopted in 1965 and contained most of the land use definitions that are still used today. Some of the uses are antiquated and do not reflect modern industries.

Proposed revisions: The proposed amendments would update the land use classifications to reflect new business and industries that are not addressed by the current code. For example, a new classification called "Research and Development" describes high-technology and biotechnology research and development activities.

Providing Examples

Existing Code: Some of the existing definitions list examples of the business types they describe. However, additional examples would be helpful.

Proposed Revision: The proposed format would list more examples of each activity type than are currently included. This is intended to help staff and the public classify land uses more easily. Listing examples should also help promote consistency of interpretation. The list of examples for each land use category will contain the words “includes but is not limited to” to make it clear that additional types of businesses could fall within the category.

Members of the WOCA board expressed concern that listing examples of the different manufacturing activity types would lead to too much specificity in the definitions, effectively “boxing in” the manufacturing of certain products to certain use categories when in actuality, such manufacturing can be done at a range of scales and with different impacts. Staff believes that including the phrase “includes but is not limited to,” will help make it clear that the lists of examples are not exclusive or exhaustive. In addition, staff proposes adding text allowing for a determination of manufacturing activity type by the Director of City Planning based on factors such as scale of operation, volume of truck deliveries, and amount of hazardous materials used in production.

Format

Existing Code: In the existing code, land use definitions are mixed with examples and exclusions, sometimes leading to convoluted sentences that are hard to decipher. (See the existing definition of “General Retail Sales” in Attachment A for an example).

Proposed revision: In the attached draft text amendment, definitions, examples, and exclusions are called out separately (Again, see the proposed definition of General Retail Sales). In the attached draft, most of the commercial classifications have been put into this format. The intent is to put all land use definitions into this format, which will require some additional work by staff prior to finalization of the definitions.

Classification of Combinations of Principal Activities

Section 17.10.050 describes how land uses should be classified when a proposed use could fit into more than one category. This section needs updating because the language is confusing. Staff identifies this as an area of additional work.

Accessory Activities

Existing code: Accessory activities are described in Section 17.10.040. This section lists a very broad range of accessory activities, including: off-street parking and loading; production of goods occupying up to 3,000 square feet where the goods are sold at retail by the same firm on the same or other sites; administrative offices on the site of manufacturing activities; temporary construction activities; and real estate offices on the sites of subdivisions. In each land use definition, there is a general reference to Section 17.10.040, but because the specific accessory activities relevant to a particular use aren’t mentioned, the allowed accessory uses are easily missed.

Proposed revision: Thresholds may need to be established for the amount of floor area that can be taken up by certain accessory uses if they are considered to be accessory. For example, the existing code says that storage is considered an accessory use to a commercial activity on the same site, but there is no limit on the amount of storage area compared to sales display area for a retail store. Staff has received applications to conduct General Retail Sales where a large portion of the indoor space will actually be used for warehousing. In such cases, a quantitative threshold would have been useful. On the other hand, establishing a quantitative threshold may be too constraining, as different types of retail operations have different ratios of storage to display area. In addition, there could be more obvious referencing between the individual land use definitions and the accessory uses section (Section 17.10.040). These are identified as future potential revisions.

- *Does the Zoning Update Committee support the staff recommendations for:*
- *The overall approach of revising and updating the existing land use definitions?*
 - *Listing more examples in each definition?*
 - *Distinguishing definitions, examples, and exclusions within the text of each classification?*
 - *Examining future improvements to the section on classification of combinations of activities and the section on accessory uses?*

Code Clarifications - Civic and Commercial Uses

Staff proposes minor revisions to the Civic and Commercial use classifications intended to clarify the definitions by avoiding overlap between different classifications, providing more examples, listing uses that are currently not explicitly addressed, or updating the definitions to be consistent with related state regulations. The proposed changes are described below.

Limited Child Care Civic

Existing code: Childcare for up to twelve children is classified as “Limited Child Care,” which is permitted outright almost everywhere except the industrial zones. Childcare for thirteen or more children is classified as “Community Education Civic,” which is permitted outright in fewer locations than Limited Child Care.

Proposed revision: The threshold defining Limited Child Care is raised from twelve to fourteen children, in order to be consistent with the regulatory thresholds maintained by the State of California.

Health Care Civic

Existing code: The Health Care Civic category includes a range of medical and mental health services. The category includes: hospitals and health clinics; skilled nursing, extended care, and residential care facilities providing on-site medical care; nonresidential centers providing psychological or family counseling services to individuals or groups; and inpatient or outpatient treatment for mental illness, substance abuse, and addiction. The definition also includes support services and case management provided in conjunction with Service-Enriched Permanent Housing and Transitional Housing Residential Activities.

One thing that has been confusing to planners and the public alike is that there is overlap between the Health Care Civic classification and the Medical Service Commercial classification. Health clinics and doctor’s office, as well as psychological counseling or case management, seem to fall into both categories.

Another confusing item is that emergency hospitals operated by a public agency are listed under the category “Utility and Vehicular Civic” while other hospital uses are listed under “Health Care Civic.”

Proposed revision: The Health Care Civic Activities definition is clarified to state that it includes health services provided by hospitals, public agencies, and non-profit agencies. Other medical and psychological clinics will continue to be classified as “Medical Service Commercial.”

Emergency hospitals are moved to be in the same category as other hospitals under Health Care Civic Activities.

Extensive Impact Civic

Existing code: The Extensive Impact Civic category contains an extremely broad range of uses, including colleges, cemeteries, golf courses, auditoriums and bandstands, garbage dumps, recycling collection centers, military installations, major mail processing centers, and correctional facilities. They also include several uses related to transportation and shipping, including docks and wharves operated by a public agency, and railroad and bus terminals. Extensive Impact Civic Activities require a conditional use permit in almost every zone.

Proposed revisions: Uses that are more similar in function and impact to industrial activities are moved to the industrial section. These include: rail terminals, public and public utility corporation or truck yards; and truck terminals operated by a public agency. In other cases, a distinction was made between passenger transportation facilities, which remain in the Extensive Impact Civic category, and freight-related transportation activities, which are moved to the Industrial group. Recycling activities are also moved to the Industrial group of classifications.

General Food Sales

Existing code: The existing definition of General Food Sales Commercial includes both restaurants and grocery stores. Fast food restaurants, alcoholic beverage sales, and convenience markets are classified separately. Vehicular Food Vending is described under the Fast Food restaurant classification.

Proposed revision: As recommended by the consultant and presented in the draft use classifications in June, 2002, the General Food Sales category will contain a number of subclassifications: Restaurant, Limited Service Restaurant, Fast Food Restaurant, Vehicular Food Vending, Grocery, and Convenience Market. Groceries and restaurants have a different character from one another, and differentiating them allows the city to specify different regulations for the two uses if desired in the future. Adding the subclassification "Limited Service Restaurant" helps define establishments such as delis and cafes that do not offer full table service and may serve items in disposable containers, while differentiating them from fast food restaurants, which share some of these characteristics but are associated with a greater number of negative impacts – such as littering, loitering, and parking – that are of concern to the community. Fast Food Restaurants and Convenience Markets will be subject to the same special regulations that they are currently subject to. Alcoholic Beverage Sales remain a separate classification because of the number of special requirements that pertain to them and the number of cross references within the existing code.

Convenience Sales and Service

Existing code: This classification includes both the retail sale of small personal convenience items and the "provision of personal convenience services which are typically needed frequently or recurrently." They include drug stores, barber and beauty shops, laundromats, and newsstands. This classification may have described a type of convenience sales that was more prevalent in the past, before the emergence of auto-oriented convenience markets, which became a separate land use category in the late 1970s when there were community concerns with their impacts. There is a great deal of overlap between the Convenience Sales and Service category and the General Personal Service and General Retail Sales categories, which leads to confusion at the counter. Convenience Sales and Service has become a redundant category.

Proposed revision: Delete "Convenience Sales and Service" and subsume the use examples into either "General Retail Sales" (drug stores, newsstands, etc.) or "General Personal Service" (laundromats, barber and beauty shops, nail salons, etc.) classifications.

Group Assembly

Existing Code: Group Assembly Commercial is defined as “the provision of cultural, entertainment, educational, and athletic services... to assembled groups of spectators or participants.” This classification encompasses a broad range of activities with varying impacts, anything from instructing Tai Chi to a few individuals to operation of a large dance club. Group Assembly requires a conditional use permit in almost every zone.

Proposed revision: Staff proposes creating subclassifications of the Group Assembly classification in order to differentiate uses that may have different characteristics and impacts. This will establish a structure that can be used in the future if there is a desire to regulate the different subclassifications differently. For example, it might be determined that small instruction studios, such as yoga or dance studios, are an appropriate use in a neighborhood commercial shopping district and should be permitted outright, whereas a trade school might be less in keeping with the desired retail and service character and require a conditional use permit, and large-scale commercial recreation might not be appropriate to the small-scale neighborhood commercial character at all.

Business and Communication Services

Existing code: Sound studios, though not explicitly listed, have traditionally been classified by the Planning Department as Business and Communication Services.

Proposed revision: Staff proposes creating a subcategory of Business and Communication Services for sound studios and other recording and media production studios.

Research Service and Medical Service

Existing code: Research Service Commercial Activities include industrial or scientific research, other than medical testing and analysis and routine product testing. All medical testing and analysis services are instead classified as Medical Service Commercial Activities. This makes sense when patients are being examined or tested on-site in conjunction with other medical services. However, another type of medical diagnostic laboratory that tests samples sent from other locations exists and is more appropriately classified as Research Service Commercial. Medical Service Commercial Activities are allowed in almost all the commercial zones, far more locations than Research Service Commercial is allowed. It makes sense to continue to allow laboratory testing oriented to patient visitation or associated with medical offices in Oakland’s local commercial districts, but it makes less sense to allow laboratory-only operations in these areas.

Proposed revision: A clarifying phrase is added to the Research Service Commercial definition to include medical testing and analysis where there are no on-site patients and the testing and analysis is not associated with an adjacent medical office. A similar phrase is added to Medical Service Commercial in order to exclude such independent diagnostic laboratories.

Therapeutic Massage

Existing code: The existing code contains a definition of “Massage Service Activity,” but this is located in Chapter 17.09, the general definitions chapter, rather than in Chapter 17.10 with the other land use classifications are located. A conditional use permit is required for “Massage Service Activity” throughout the city.

Proposed revision: Staff proposes relocating massage services to Chapter 17.10 so that it becomes an official land use category and calling it “Therapeutic Massage Services.” This change will also require determining which zones the use may be permitted or conditionally permitted in.

General Wholesale Sales

Existing code: The existing General Wholesale Sales definition includes the storage and on-site sale of goods to other firms for resale. The definition also includes “the storage of goods on the premises and their transfer therefrom to retail outlets of the same firm.” There is overlap in the latter part of this definition and the existing category of Transportation and Warehousing (or the proposed category Warehousing, Storage and Distribution).

Proposed revision: Staff proposes to delete the phrase about storage and transfer of goods from this definition in order to avoid overlap with the proposed Warehousing, Storage and Distribution classification. If both storage/warehousing and wholesale sales occur on a site, there will need to be a determination of which use is primary. As recommended by the consultant, there will also be a new use category for a warehouse with accessory store, and if wholesale sales activities do not exceed a certain size threshold, they may be classified in this new category.

Construction Sales and Service

Existing code: The existing definition includes two somewhat disparate uses: 1) construction and incidental storage activities performed by construction contractors on lots other than construction sites, and 2) the retail or wholesale sales of materials used in the construction of buildings, other than paint, fixtures, or hardware (sale of paint, fixtures and hardware is classified as General Retail Sales). The first type of activity is not oriented to customer traffic, and may include outdoor storage of construction equipment and materials, and is more appropriate in industrial areas of the city. The second type may also involve some outdoor storage, as in the case of a lumber yard, but is oriented to customer sales and services, and could be appropriate in some commercial areas and lighter industrial areas.

Proposed revision: Staff proposes to move construction operations, including storage of equipment and materials, parking of fleets, and offices (except where office is the only use), into a new land use category called “Construction Operations” within the Industrial classifications. The title of the classification “Construction Sales and Service” is changed to “Building Materials Sales and Service” to reflect the fact that there is a change in meaning, as it no longer includes contractors’ yards. The sale of hardware and building materials is classified in three categories:

- The General Retail Sales classification would apply to small hardware stores. The list of building-related items that can be included in the Retail Sales definition is expanded from “paint, fixtures, and hardware,” to include small hand and power tools, floor and wall coverings, plants and garden supplies, and other small home improvement items. The General Retail Sales classification will also include retail showrooms such as cabinetry and tile showrooms. (There may be a need to define the maximum floor area occupied by accessory storage for such showrooms, in order that they be truly retail instead of warehouse operations).
- The Building Materials Sales and Service classification would describe a large home improvement center, lumber yard, or other establishment that sells bulkier building materials such as lumber, sheetrock, stone, windows and solar panels, plumbing, heating, electrical, and mechanical equipment, and bagged soil amendments. This classification also includes the custom cutting of materials such as wood, stone, or glass for on-site sale. Where an establishment includes both hardware and other smaller items listed under General Retail Sales and the bulkier materials under Building Materials Sales and Service, it is classified as Building Materials Sales and Service. This category provides a place for a type of store that is becoming increasingly common, the large home improvement center, such as a Home Depot or Lowe’s.

- The Bulk Building Materials Sales and Service category would be a new category created to describe the sale of bulk building or landscaping supplies primarily or exclusively to contractors or where the materials for sale are stored primarily outside. Examples include sales of loose soil and gravel, wholesale heating, air conditioning and mechanical equipment, and wholesale sheetrock sales. The addition of this category is based on a suggestion by WOCA members. Whereas general home improvement items are more oriented to customer traffic and could be appropriate in some commercial or mixed zones, the bulk building materials sales will be more appropriate only in industrial locations.

Automotive Sales, Rental, and Delivery

Existing code: The existing definition includes the sale and rental of motor vehicles. It also includes “the retail or wholesale sale or rental, from the premises, of any type of goods where orders are placed predominantly by telephone or mail order with delivery being provided by motor vehicle.”

Proposed revision: This category is clarified to include the sale or rental of passenger-oriented motor vehicles and exclude the sale or rental of commercial trucks or heavy equipment. The passenger-oriented vehicles are generally those with gross vehicle weight ratings under 10,000 lbs., though they also include recreational vehicles, which may be heavier. Another exception to this general size threshold is the rental of consumer-oriented moving vans and trailers on a short-term basis. The title of this classification is revised to include leasing and exclude delivery services. Delivery services relying on a fleet of three or more vehicles are proposed to be moved to a new category called “Taxi and Light Fleet-Based Services.”

Automotive Servicing and Automotive Repair and Cleaning

Existing code: These two categories both have to do with the servicing and repair of motor vehicles, but the Automotive Servicing classification involves refueling and minor services that can typically take place at a service station while a customer waits. Besides refueling, the existing definition lists oil changing and the sale and servicing of tires, batteries, accessories, and replacement items. Automotive Repair includes the major repair or painting of motor vehicles, as well as the car washing. It has sometimes been difficult to make determinations at the counter about which category a proposed auto repair activity should be in. The definition does not include a size threshold for the type of vehicle that can be serviced.

Proposed revision: The revised definitions exclude the repair and servicing of commercial trucks or heavy equipment from both Automotive Servicing and Automotive Repair and Cleaning, and move them to the category “Truck and Other Heavy Vehicle Repair, Refueling, and Service” located within the Industrial land uses.

The title of Automotive Servicing is changed to Automotive Service Station in order to emphasize that this category is intended to include only light repairs that are conducted at service stations, and can typically be performed while customers wait.

Staff proposes creating three subcategories of Automotive Repair and Cleaning, because the City may want to regulate them differently in the future. In particular, in the proposed BHX zone, general automotive repair is proposed to be permitted, but auto body repair and painting is not proposed to be permitted. The three proposed subcategories of Automotive Repair and Cleaning are:

- Cleaning and detailing
- Repair
- Body work and painting

Taxi and Other Fleet-Based Services

Existing code: Taxicab operations and ambulance services aren't specifically listed in the existing use classifications, and it has therefore been difficult to classify them. The Planning Department has made the interpretation that ambulance services are classified as Medical Service Commercial Activities, though Medical Service Commercial Activities are more typically doctor and dental offices, with patient visitation and without vehicle fleets and the potential impacts associated with such fleets. In the existing code, delivery services are included with automotive sales and rental, even though they operate differently.

Proposed revision: Staff proposes adding a new land use category that describes the parking, dispatching, and accessory offices for passenger transportation services, local delivery services, and other businesses that rely on fleets of smaller vehicles as opposed to heavy trucks.

Animal Care

Existing code: The existing definition includes all animal care, treatment, and boarding services.

Proposed revision: The proposed definition would differentiate between veterinary offices and animal care and grooming, which typically occur within enclosed facilities, and kennels, which typically include outdoor facilities and are more likely to generate noise impacts or other impacts to nearby properties.

Transportation and Warehousing

Existing code: The existing definition includes all warehousing and storage, freight handling, shipping, and trucking services. Though not explicitly listed, self-storage and mini-storage have traditionally been interpreted by the Planning Department to fall within this category.

Proposed revision: Staff proposes moving all transportation and warehousing uses to the Industrial group of classifications, except for self-storage, which is a more consumer-oriented type of business and should remain within the Commercial classifications. Staff proposes creating a number of different categories of industrial transportation and warehousing uses (See discussion under "Warehousing, Storage, and Distribution Activities," and "Transportation-related uses").

Scrap Operation

Existing code: Scrap Operation Commercial Activities includes "the storage and sale, from the premises, or dismantling or other processing of used or waste materials which are not intended for reuse in their original form." It also includes the dismantling of motor vehicles to obtain parts.

Proposed revision: This use has characteristics and impacts that make it more in keeping with the Industrial use classifications. It is relocated to Industrial under "Salvage/ Junk Yards," which is a subcategory of "Outdoor Storage." Intermediate processing of recyclable materials is moved to "Intermediate Processing" under "Recycling and Waste-Related Activities."

- *Does the Zoning Update Committee support the recommended revisions to the Civic and Commercial land use definitions described above?*

Industrial Classifications – Changes

Manufacturing:

Existing Code: In the existing code, there are four types of manufacturing activities: Custom, Light, General, and Heavy Manufacturing. They are distinguished by the materials and methods used in the manufacturing process, and the products produced. Each classification contains long lists of materials and products that are included in the category. Some of the materials and products listed are not frequently processed or produced anymore, such as feathers, sauerkraut, and shoe polish. The manufacturing classifications are also distinguished by the type of process they employ: Custom Manufacturing typically uses hand tools or custom processes; Light Manufacturing usually entails assembly of pre-manufactured components.

Proposed revisions: Staff proposes to keep the same basic four manufacturing classifications – custom, light, general, and heavy – but update them to reflect modern industries. Staff proposes replacing the existing definitions with those proposed by the consultant to the Zoning Update process and presented to the ZUC in June, 2002, but with revisions in wording where needed. Custom Manufacturing still involves the use of hand tools and small-scale equipment. Light Manufacturing involves the manufacture of finished parts or products, primarily from previously prepared materials. General Manufacturing involves the manufacturing of products from extracted or raw materials, or recycled or secondary materials, or bulk storage and handling of such products and materials, and also involves large-scale production. Heavy Manufacturing includes explosives manufacturing, petroleum and coal products manufacturing and refining; animal slaughtering; and any manufacturing use with large-scale facilities for outdoor oil and gas storage.

Light vs. General Manufacturing

One substantive change that had been proposed by the consultant is to define food processing as General Manufacturing. In the existing code, processing, assembling, and packaging, of food and beverages is classified as Light Manufacturing, except for the processing of certain items -- fish, meat, sauerkraut, vinegar, and yeast – which are classified as General Manufacturing. With the proposed change, all food processing would become General Manufacturing. One rationale for this is that food processing typically involves high volumes of trucking and distribution, and typically generates smells. (Even smells that many people think are desirable, such as coffee or bread, can be intrusive if they are pervasive.)

However, the re-classification of food production raises concerns and highlights some broader difficulties in classifying the manufacturing activities. If food and beverage processing is changed from Light Manufacturing to General Manufacturing, some existing businesses may become non-conforming and would be subject to the rules and regulations for non-conforming uses in Chapter 17.114 of the Planning Code. Non-conforming uses are allowed to continue as long as there is not a break of more than a year in their operations, but they are limited in the degree to which they may expand. Where a business goes from being permitted outright to conditionally permitted, it could still expand with a conditional use permit. In discussions with the industrial stakeholders, it was noted that the impacts of an operation may depend in some cases more on the scale of the operation than the materials used in production. There are some existing smaller-scale food operations that could be considered Light Manufacturing. One solution that was discussed was setting a size threshold that would delineate light and general food processing operations. There are some bakeries and small-scale meat packaging businesses in Oakland that occupy approximately 30,000 square feet of manufacturing space, so 30,000 square feet was suggested as a threshold. Staff also suggested a 25,000-square foot threshold, since this is a threshold used elsewhere in the proposed regulations. This is the approach shown in the attached draft text, though further research and discussion on this issue may be useful.

The draft definitions endorsed by the boards of WOCA and ILAO get around this classification problem by collapsing light and general manufacturing into a single category simply titled “Manufacturing,” which is defined to include the production of all items not included under Custom or Heavy Manufacturing. This approach gets at the difficulty of classifying by either size of operations or by

goods/materials used or produced. However, in the proposed Housing and Business Mix and industrial zones, Light and General Manufacturing are proposed to be regulated differently. In some zones, Light Manufacturing is appropriate but General Manufacturing is not. Below are the draft proposed use regulations for Light and General Manufacturing in the proposed new industrial or mixed-use zones:

	BHX (Housing and Business Mix)	IR (Industrial-Residential Transition)	IO (Business Park)	IBX (Light Industrial)	IG (General Industrial and Transportation)
Custom Manufacturing	P	P	P	P	P
Light Manufacturing	P if under 25,000 sq. ft., C if > 25,000 sq. ft.	P if under 25,000 sq. ft., C if > 25,000 sq. ft.	P	P	P
General Manufacturing	---	---	---	C	P
Heavy Manufacturing	---	---	---	---	C

P = Permitted

C = Conditionally Permitted

--- = Not Permitted

While neither size thresholds nor materials lists offer a perfect way to distinguish light and general manufacturing operations, there is still a need to distinguish them. Light Manufacturing uses can be significantly different than general manufacturing in terms of noise, odor, vibration, and other impacts. Light manufacturing uses are generally operated in a way that adjacent property owners do not experience noise, odor, vibration etc., whereas general manufacturing uses often have noise, odor, or vibration that are perceived by adjacent properties. Light manufacturing uses are easily compatible with office and sometimes even residential uses, where general manufacturing uses are typically not.

Staff proposes an approach that would continue to keep Light and General Manufacturing as two separate classifications, each with a definition as well as a list of examples, but also build in some explicit flexibility in the classification of a particular manufacturing operation. The attached text amendment includes text stating that the Director of City Planning may determine that a use is classified in a more or less intensive manufacturing category based on the following factors:

- Scale of the activity, including: volume of input or output; floor or site area devoted to manufacturing; size of equipment used
- Amount of outdoor activities
- Volume of truck activity
- Air emissions
- Noise, vibration, dust, or odors generated
- Amount of toxic or hazardous materials used in or resulting from production

General vs. Heavy Manufacturing

In the existing land use definitions, Heavy Manufacturing Activities include only the most hazardous or noxious processes or materials. It includes the production of acid, explosives, fertilizer, gas, glue, cement, lime, and gypsum. It also includes the following processes: animal slaughtering, leather tanning, fat rendering, petroleum refining, radioactive material handling, and storage and distribution of gas and other petroleum products.

WOCA and ILAO have recommended specific additions to the list of products and processes in the Heavy Manufacturing classification (See Attachment C). Their recommended list serves to update the definition by adding products like urethane and printing ink manufacture. However, the recommended list serves not only as an update, but in some areas, represents a substantive change, where a product or process previously classified as General Manufacturing is now proposed to be classified as Heavy Manufacturing. In particular, sawmills, paper mills, metals manufacturing, and the manufacture of paints or dyes are moved from General to Heavy Manufacturing.

As indicated in the chart above, Heavy Manufacturing activities are proposed to be conditionally permitted only in the IG zone, and prohibited everywhere else. Transferring wood and paper mills, metals manufacturing, and the production of paint and dyes from General to Heavy Manufacturing would mean that they are allowed in fewer locations, and any existing operations could go from being conditionally permitted to not permitted at all in the IBX zone, or from permitted to conditionally permitted if in the IG zone.

Shifting certain manufacturing uses into higher-impact categories may be appropriate, given changes in the economy as well as greater concern with environmental hazards. However, such substantive changes in the definitions and the consequent allowability of certain industries should be carefully considered before adoption, particularly with regard to the status of any existing industries in Oakland. Staff proposes preliminarily adopting most of the list recommended by WOCA and ILAO, but continuing to work with the groups to investigate the classification of manufacturing uses, and report back to the ZUC at the scheduled October 15th meeting.

Warehousing, Storage, and Distribution

Existing Code: A single land use category, Transportation and Warehousing, includes all activities related to warehousing and storage, freight handling, shipping, and trucking. It also includes self-storage uses. Transportation and Warehousing is located within the Commercial rather than industrial land use classifications, even though it is typically found in and only permitted in industrial zones.

Proposed Revision: Self-storage facilities are retained under the Commercial land uses. All other transportation and warehousing activities are moved to the group of Industrial classifications and are divided into a number of sub-groups.

Warehousing, Storage, and Distribution activities includes primarily indoor storage of goods. A subcategory of Warehousing, Storage, and Distribution is a warehouse with accessory store. The size of an accessory store is proposed to be limited to the greater of 20% of the size of the warehousing operation or 5,000 square feet. This subcategory is called out because while some on-site retail is often part of industrial businesses, the primary purpose of the zone is for industrial, not retail uses. While a warehouse with a small store may be appropriate in certain industrial areas, too much traffic generated by retail customers could negatively impact surrounding industrial operations.

While many businesses may include both indoor and outdoor storage of goods, there was deemed to be a need to distinguish those that include primarily outdoor storage. This item was discussed at the March 19, 2003 and April 30, 2003 ZUC meetings, and it was decided to create a separate category for outdoor storage. Uses that consist predominantly of outdoor storage are more appropriate in the industrial zones, rather than the mixed residential and industrial zones, or where industrial uses abut residential uses. Outdoor storage activities may need to be more thoroughly screened than indoor warehouses. In the proposed definitions, Outdoor Storage is a separate land use category distinguished from warehousing by the amount of site area occupied by outdoor storage: 30% or more. The site area counted as outdoor storage does not include parking and loading areas. Under the general category of Outdoor Storage, there are a number of subcategories that describe what is stored, and identify certain items that may need special regulation. The proposed subcategories are General Outdoor Storage, Salvage/Junk Yard, Container Storage, and Oil and Gas Storage.

One question that arises is how to classify a use that meets both the “Outdoor Storage” definition and another use. Staff recommends that when the use is primarily storage, it is classified as outdoor storage, and when another activity is primary, it should be in that category.

Transportation-Related Activities

Existing code: All trucking and shipping-related activities are listed under the Transportation and Warehousing Commercial Activities classification. Seaports, rail yards, and public corporation truck yards are all located under the “Extensive Impact Civic” category.

Proposed revisions: The industrial stakeholders have called attention to the range of operations related to trucking and shipping. For example, WOCA members pointed out that truck storage and dispatch operations with no on-site freight need to be distinguished from truck terminals with on-site freight storage and transfer. The proposed definitions use the transportation categories recommended by the consultant, with additional categories or descriptions where recommended by the industrial groups. The proposed categories include Regional Freight Transportation, which includes the subcategories of rail yards and ports, and a general category called Trucking, which will include truck terminals, truck yards, truck weigh stations, and truck and other heavy vehicle sales and service.

The transportation classifications include some uses that were previously classified as civic activities. Seaports, rail yards, and public corporation truck yards are all moved from the “Extensive Impact Civic” category to the Transportation category.

The transportation categories now also include sales and servicing of trucks and other heavy vehicles. In the existing code, the category Automotive Repair and Cleaning included repair and cleaning services for all motor vehicles. In the revised definitions, servicing and repair of heavy vehicles is distinguished from servicing and repair of lighter, passenger-oriented vehicles.

Recycling

Recycling activities are moved to the Industrial group of uses. This is consistent with the draft land uses developed by the consultant and endorsed by the ZUC in 2002. Large recycling collection centers tend to have impacts that make them most appropriate in industrial zones. Three subcategories of recycling activities are proposed: small recycling collection centers, large recycling collection centers, and intermediate processing facilities. The first two categories are currently under “Extensive Impact Civic,” while the third category is new and describes some activities previously grouped with “Scrap Operation Commercial.”

Research and Development

Existing code: The classification “Research Service Commercial Activities” generally describes industrial or scientific research, excluding medical testing.

Proposed revision: This is a new land use category that describes a type of business that was less prevalent when the Planning Code was adopted in 1965, but is important today. It is a use that the City of Oakland's Economic Development Agency is trying to attract. (The importance of defining high technology is evidenced by a recent business journal article. The City of San Francisco has created a 21-person task force that will have six months to craft a new land use definition describing biotechnology uses). Staff looked at the definitions that several other cities with high tech and biotech companies use, and based the proposed definition on one used by South San Francisco. The use involves scientific research activities and testing and product development. Examples are high technology and biotechnology firms. The definition says that production should be limited to the purposes of product development and testing, rather than re-sale. The industrial groups (WOCA and ILAO) raised the issue that some biotechnology research involves very hazardous materials, and asked to have those activities classified by the National Institute of Health as Risk Group 3 or 4 excluded from the definition. Where Risk Group 3 or 4 materials are involved, these activities should instead be classified as "Heavy/High Impact Manufacturing," a classification that is proposed to be prohibited in all zones except the IG zone, where it will be conditionally permitted. The use permit process will allow evaluation of any proposed hazardous activity on a case-by-case basis.

Construction Operations

Existing code: The category Construction Sales and Service Commercial Activity describes "construction and incidental storage activities performed by construction contractors on lots other than construction sites." This category also includes retail or wholesale sale of materials used in the construction of buildings, except for paint, fixtures, and hardware.

Proposed revision: Contractors' yards and other activities performed by construction contractors are separated from sales of building materials and moved to the industrial classifications as their own land use category. Sales of building materials is more a commercial use, where contractors yards are more appropriate to industrial areas.

➤ ***Does the ZUC support the recommended changes to the industrial use classifications? In particular:***

- ***Shifting large-scale food processing from Light to General Manufacturing with a general size threshold of 25,000 square feet?***
- ***Shifting primary metals manufacture, paper and pulp mills, and paint and dye manufacturing from General to Heavy Manufacturing?***
- ***Creating separate categories for warehousing and outdoor storage?***
- ***Establishing a size threshold of 5,000 square feet for accessory stores located within a warehousing operation?***
- ***Shifting rail yards and ports from the Civic to the Industrial group of classifications?***
- ***Distinguishing a number of different classifications related to transportation and freight?***

RECOMMENDED ADDITIONAL WORK

Staff is presenting an outline of substantive changes as well as minor clarifications of the existing land use regulations that will allow the forward development of the new zoning districts. Staff would like to identify some areas of minor additional clarification to the land use classifications that are yet to be completed. Staff proposes that this additional work be completed prior to the full text being forwarded to the full Planning Commission for public hearing:

- Review Section 17.10.050, "Classification of Combinations of Principal Activities" and clarify language where appropriate.

- Review and improve Section 17.10.040, “Accessory activities.” Establish a threshold, if appropriate, for storage uses accessory to retail. Develop more obvious references between the accessory uses section and the individual land use definitions in order to make code users more aware of typical accessory uses and any relevant thresholds.
- Continue to put land uses in the format of separating definition, examples, and exclusions. Make format consistent across the entire use definitions chapter.
- Examine the potential implications of shifting more manufacturing uses into more intensive classifications (from Light to General Manufacturing, or from General to Heavy Manufacturing). Continue to work with the industrial stakeholders and other interested parties.
- Address issues raised in the upcoming community meetings if they pertain to the land use classifications.

➤ *Does the ZUC support the additional work recommended above?*

RECOMMENDATIONS

Staff recommends that Zoning Update Committee review the proposed revised land use classifications and provide comments and direction to staff.

Prepared by:

HEATHER COLEMAN, Planner III
Strategic Planning

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

MARGARET STANZIONE, Planner IV
Strategic Planning Coordinator

Attachments:

- A. Draft Proposed Revised Land Use Classifications
- B. Staff Report to Zoning Update Committee, June 19, 2002
- C. Draft recommendations on land use definitions from West Oakland Commerce Association (WOCA) and Industrial-Labor Alliance of Oakland (ILAO)