

Zoning Update Committee*Michael Lighty, Chair**Nicole Franklin**Anne E. Mudge***December 7, 2005***Item #3*

Location:	Citywide
Proposal:	ZUC Review of Industrial Land Use Policy Alternatives and Criteria for General Plan Amendments for the Conversion of Industrial Land to Residential Uses.
Applicant:	City Planning Commission
Case File Number	ZT05-xxx
Staff recommendation:	Review and discuss final recommendations to be forwarded to the full Planning Commission on Nov 7 th (evening meeting); and to forward such recommendations to the Community & Economic Development Committee of City Council at their December 13, 2005 meeting.
For further information:	Contact: Margot Lederer Prado, Redevelopment Division at 238-6766 or email mprado@oaklandnet.com

SUMMARY

This report forwards additional information and recommendations, following discussion of this subject of conversion of industrial land to residential uses. Background on this subject can be found in that report, as well as within the Zoning Update Committee Archives for the following dates:

April 16, 2002; March 19, 2003; April 16, 2003; April 30, 2003; May 19, 2004; December 17, 2004; May 2005. Also relevant is the discussion on Work Live on July 30, 2004.

The Planning Commission heard this item originally on June 1st, concerned about the increasing number of general plan amendments being requested for conversion of industrial land, and with concern that there were no guidelines or procedures to help guide their decisions on these applications. The June 1st report was followed by the report on further research conducted by staff over a four-month period and presented to the Planning Commission on November 16th. (See Attachment A-Minutes from November 16, 2005). The Commission has been asked to forward recommendations to the Community & Economic Development Committee meeting on December 13, 2005, on two principal topics:

- I. Identification of areas in the City that should be designated with an “industrial protection status” through zoning and general plan designation, and identification of areas in which applications for conversions to residential or mixed use may be considered on a case-by-case basis.
- II. Recommendations for Criteria for General Plan Amendments for Conversion of industrially-designated land to residential or mixed use designations, and identification of appropriate location of this Criteria within regulation and procedures for reviewing such decisions.

In addition staff recommends a new CIX-2 Zone (Commercial & Light Industrial district, allowing mixed use), to be created and adopted parallel to the current Planning Division proposed schedule for final review of industrial zones (January 2006). This new district would allow the “Transition” of individual larger parcels to mixed use within light industrially – designated general plan areas (Business Mix) with restrictions. A rezoning to this new industrial-mixed use district would not be allowed in any General Industrial & Transportation general plan designation which will have the future IG-District (General Industrial) designation.

Creation of a new zone will limit, but expedite and clarify the conversion process for both the Commissioners and the public. It will give clear guidelines regarding the eligibility of any project as well as the development standards and land use restrictions that must be adhered to, as preliminarily outlined on Page 3 of this Report. Full development of the CIX-2 regulations shall be presented to the Planning Commission in January, 2006 along with other Industrial zones for adoption into Code. In addition to the new CIX-2 zone, staff recommends the application of “CIX” Commercial and Light Industrial Business Mix” to some areas of the Estuary in order to provide zoning standards in that area, which currently has a conflict (M-30 or M-40 zoning within the Light Industrial 2 Estuary Plan designation). CIX has been designed to allow a full breadth of light industrial uses while accommodating appropriate market transition to commercial activities, especially in areas which have visibility from major boulevards and freeways. (See Map Exhibit Attachment C). The allowance of rezoning applications will be limited to larger parcels of at least five acres or more which can accommodate buffering to provide a quality residential environment while not limiting the operations of neighboring industrial uses.

To make these decisions, the Commission should review the research and mapping alternatives which were presented by staff on December 16, 2005 in detail, reviewing individual sub-areas and their propensity to remain in productive use, or similarly, their propensity towards transition to other uses.

BACKGROUND

The Zoning Update Committee heard reports and reviewed the proposed district recommendations for four new Industrial zones on April 21, 2002, March 19, 2003, April 16 and 30, 2003 and December 17, 2004. General community meetings were held in East Oakland in the fall of 2003, and a community meeting was held in West Oakland in January 2004 regarding this topic. Final recommendations were made to the ZUC in December 2004. Planning staff are currently working with the refinement of these regulations.

The new industrial zones proposed are:

PROPOSED ZONING DISTRICT	GENERAL PLAN DESIGNATION & CURRENT MAPPING	CURRENT “COMPARABLE” ZONING DISTRICT
Commercial and Light Industrial Business Mix (CIX)	Business Mix portion within West Oakland and LL1 of Estuary	M-10/ M-20 Limited allowance of “M-30” type activities if located at a stated distance from any residential or open space zone.

	area/West Oakland. Also proposed in this Report for LL2 and portions of LL3.	
Light Industrial Business Mix (IBX)	Business Mix- portions within Central and East Oakland only	M-20 More liberal allowance of “M-30” type activities if located at a stated distance from any residential or open space zone.
Industrial Office (IO)	Business Mix- portion within the Edgewater Dr area near Airport.	M-20 Requires more yard setbacks and large minimum lot size to encourage campus-type facilities.
General Industrial (IG)	General Industrial and Transportation. Generally proposed along the San Leandro St corridor, except in the Coliseum area.	M-30 and M-40 (Heavy Manufacturing and Hazardous Waste Transfer and Storage activities allowed conditionally and only if more than 300 feet from any residential zone)

KEY ISSUES:

Items for Discussion are:

1. Discussion of Baseline (existing General Plan) and Alternatives 1 & 2

On November 16th the Planning Commissioners discussed the need to provide clear policy direction to the City Council and private business and development community on the short and long range repercussions of the mapping alternatives for industrial land. Staff was asked to provide more detail about the existence of (legal non-conforming) residences in the various sub-areas, which will be presented as an exhibit on December 7th. Staff was also asked to present information on the City’s Truck Routes relative to the Sub-areas, which also will be presented as an exhibit on December 7th. Generally the Commissioners asked for additional time to understand the details in the report and to become more familiar with the various sub-areas before selecting or amending the Alternatives presented. The Zoning Update Committee meeting on the 7th of December will provide an opportunity for more extensive discussion. Commissioners urged the business community to attend public meetings on this topic, and to inform the Commissioners about the realities of the sub-area in which they are located.

2. Proposed new CIX-2 (Commercial & Light Industrial Mixed Use) Zone for “Transition” projects

Given the presence of proposed conversion projects in West Oakland (Sub-Area 15); Estuary (Sub-Area 11A); Central Oakland (Sub-Area 1); and recently approved project in Sub-Area 8, it is important to create an alternative that can be supported by the full Commission. The Commission expressed its concern to create policy and to do so expediently, but to conduct a quality detailed discussion about the immediate impacts of the changes such decisions could trigger for both businesses and any in-coming residents. Staff proposes the following amended

Mapping Alternative No. 3, based on Commission feedback, and refining alternatives in “Transition” areas such that only a genuine “mixed-use” project may be approved with a minimum of 50% commercial space, in order to continue supportive commercial environment.

Residential zoning (R-30, 50, 60, 70, 80) will not be approved in such conversion applications, as they do not allow support commercial development. Instead, applications for rezoning to CIX-2 Mixed Use Zone should be allowed, with the following requirements. An alternative to the creation of a new CIX-zone would be the amendment of the existing C-60 Heavy Service Commercial Zone, which is currently out of date to today’s requirements and mapped in very few areas of the City.

The *Proposed CIX-2 Zone* would be mapped on an individually-requested rezoning application basis only on properties located within the Business Mix General Plan designation or Light Industrial (3) areas of the Estuary Plan, as identified through this current Mapping Alternative No 3 for “Transition” to mixed use. A minimum requirement for 50% commercial in any mixed use project shall be required, and the allowable land uses shall include those commonly found in the area which are identified as appropriate to continue in a mixed use/ industrial environment, including warehouses containing wholesale activities, custom and light manufacturing-conditionally permitted if over 25,000 sf. In addition, a unique set of development standards can be applied, in order to buffer existing neighboring industrial uses from the new proposed mixed use development which may include standards for fencing, orientation of balconies and other residentially-serving open space away from the industrial uses, acknowledgement of neighboring truck and yard activities etc.

The new *CIX-2* zone could be applied as a “best fit” zone for a particular development with a discretionary Conditional Use Permit before the Planning Commission as part of the Rezoning application. These re-zonings should be approved at a minimum of 5 acres to avoid “spot zoning” and in order to appropriate apply the “buffering” for the industrial users adjacent to the project. The outcome of this action would be:

- ❑ Enable the “Transitions” of key properties that are appropriate for mixed use development in key areas, such as major boulevards, without amending the general plan of Business Mix or Light Industrial (Estuary designation);
- ❑ Restrict such Rezoning to larger key parcels (five acres minimum) which can accommodate a quality residential environment while still retaining a strong commercial component (guidelines of 50%) to support local jobs and economic development;.
- ❑ Development standards for the following:
 - Minimum of five acre development proposal;
 - Driveways in mixed use developments shall avoid direct adjacency with existing neighboring driveways accommodating truck travel
 - Fences around mixed-use development shall be at a minimum of 10 feet and shall be solid, so as to deflect noise and emission impact for residents from neighboring industrial activities;
 - Balconies and other forms of open space and pedestrian travel paths shall be inwardly oriented so as to avoid direct adjacency with industrial parcels adjacent to the project.
 - Parking on the ground floor shall not constitute “commercial” space for the purposes of the suggested 50% minimum requirement.

- Other development standards as may be suggested by the business community and agreed upon at the November 7th ZUC meeting.

In addition, the *proposed CIX-2* text shall reflect and acknowledge the operational characteristics of industrial businesses allowed in the existing Commercial and Light Industrial (CIX), Business Mix Light Industrial (IBX) or General Industrial (IG) zone which it abuts. This is suggested in addition to nuisance disclosures or easements required of the developer for both rental and for sale residential units during the Conditional Use Permit process. Staff suggests that the 50% minimum requirement for commercial be a guideline, and not necessarily rigidly translated into a square foot equation, but gauged by the Commission as providing a substantial contribution of commercial activity, especially at on the ground floor street frontage.

Staff Recommendation for Mapping Alternative 3:

Based on the points of view expressed by the Commissioners on November 16th, staff recommends the following Alternatives, to be accompanied by the creation of an HBX-4 zone allowed conditionally through a Rezoning and Conditional Use Permit application in “Transition” areas:

Recommendation: Amend Alternative 1 to become Alternative 3 as follows:

West Oakland Sub-Area 15 (“Upper Mandela”) Remains in Light Industrial use, with new CIX zoning, allowing for a broad range of commercial uses while protecting the continued existence of Light Industrial activities and prohibiting residential activity including prohibition on rezonings to CIX-2 in order to preserve opportunities for new commercial including retail or light industrial facilities. conditionally permitted commercial work live facilities with approval of a discretionary Conditional Use Permit.

West Oakland Sub-Area 16 (“Lower Mandela”): Continue as Light Industrial, with new CIX zoning, while accepting individual applications for CIX-2 zoning on particular parcels which are on major boulevards with major capital improvements, including Mandela Parkway and West Grand Avenue.

West Oakland Sub-Area 17 (3rd and Market area): Continue as Light Industrial (LL1 per Estuary Plan) with adoption of new CIX zoning. Rezoning to CIX-2 residential prohibited, due to predominance of trucks along the 3rd Street corridor relating to Port and commercial activity.

Central Oakland Sub-Area 11: Transition area allowing individual rezonings to CIX-2, assuming adherence to the Criteria proposed in this document. Alternatively, this particular area could also become a “Community Commercial” corridor, accompanied by C-40 zoning, which would allow the heavy service commercial activities and some light industrial, such as small machine shops and auto body repair facilities, but light industrial activities would not constitute the predominant use.

Central Oakland Sub-Area 11A (Embarcadero through Park Street Bridge): This area should be delineated as three distinct areas:

- a) Embarcadero/ 16th through 22nd Avenue- regional commercial area, with hotels, offices and regionally-serving and water-dependent commercial uses;
- b) 22nd Avenue through 23rd at Kennedy, allowing applications for the new CIX-2 zone but not allowing a general plan amendment to a strictly residential designation; and

- c) 23rd Avenue/Park Street to Fruitvale Avenue/Kennedy Tract, now designed as Residential Mixed Use in the Estuary Plan, already earmarked to be rezoned as Housing & Business Mix (HBX-3) with no minimum commercial requirement; and
- d) Lower Fruitvale Avenue through High Street. Retain in light industrial and commercial uses, to be rezoned as CIX to encourage commercial uses conveniently located near I-880.

Central Oakland Sub-Area 1: Retain as light industrial as an essential contributor to the continuity of the San Leandro Street industrial corridor, and do not allow any re-zonings to other uses in this area. (See Alternative 3a.)

Central Oakland Sub-Area 2: Retain in General Industrial and reinforce with IG-Industrial Protection zoning, prohibiting the further conversion of existing buildings on existing parcels with industrial activities to work live.

Central Oakland Sub-Area 4: Delineate into two distinct areas:

- 4 a) Tidewater to the Estuary. Allow the development of commercial and residential mixed use using the *CIX-2* zone, with at least 50% of the total land area dedicated to commercial, but may in this area; accommodate water-serving commercial or civic activities due to adjacency to the Estuary.
- 4b) Tidewater east to I-880. Continue in light industrial uses, applying “IO” zoning, consistent with the Edgewater area, encouraging the planned development of additional industrial or office or regional commercial facilities, as per the original direction of the Estuary Plan.

East Oakland Sub-Area 5: Continue in General Industrial with “IG” zoning, allowing no conversions to Work Live or rezonings to *CIX-2*.

East Oakland Sub-Area 6: Continue in General Industrial with “IG” zoning, allowing no conversions to Work Live or rezonings to *CIX-2*...

East Oakland Sub-Area 7: Continue in General Industrial & Transportation with “IG” zoning, allowing no conversions to Work Live or rezonings to *CIX-2*. Review the edge of this Sub- Area relative to Area 12, to insure all industrially oriented properties and rail areas are included in 7.

East Oakland Sub Area 8: Continue in General Industrial and Transportation, to the boundary of the property recently rezoned to a Residential zone. Prohibit Work Live conversions or rezonings to *CIX-2*.

East Oakland Sub Area 9: Retain in General Industrial & Transportation Zoning for the entire area with IG zoning, acknowledging the presence of active rail spurs and the importance of the area as an industrial business park to support activities which depend upon and compliment the growth of Oakland Airport. Allow no conversions to Work Live or rezonings to *CIX-2*.

East Oakland Sub Area 10: Allow the Transition through applications for *CIX-2* zoning for larger parcels, which protects existing businesses through IBX/ Light Industrial zoning.

East Oakland/Coliseum Sub Area 12: Continue as Regional Commercial General Plan designation and support the exclusive zoning of the area in C-36, Gateway Commercial zoning

district, allowing no conversions or transitions to residential use on the west side of San Leandro Street, and guiding all residential uses to the east side of San Leandro Street.

East Oakland/ Airport Sub-Area 13: Retain in Business Mix Light Industrial designation and apply IO/Industrial Business Park zoning, allowing and encouraging regional commercial uses on the I-880 frontage. Port jurisdiction for land use.

East Oakland/ Airport Sub-Area 14: Continue in Business Mix General Plan designation, allowing light industrial as well as regionally serving commercial uses. Port jurisdiction for land use.

2. General Plan Criteria

The general Criteria proposed by Staff at the November 16, 2005 meeting (see Attachment B) were generally acknowledged as a good beginning and inclusive of the principal areas of concern. Some criteria are worthy of consideration but need refinement, particularly those regarding the protection of areas as future jobs-producing land, which may need discussion time at the ZUC on December 7th. A review of currently proposed wording at the ZUC is recommended, with input from the public, in particular the business community is suggested. Staff recommends the following alternatives for the regulatory placement of the Criteria.

Placement	Pros	Cons
Amend General Plan to include Guidelines (Legislative Action)	The General Plan needs amendments to accommodate new development in Jack London. Could be accommodated in singular action. Could combine with other amendments of the General Plan including FAR guidelines.	Environmental Impact must be reviewed, and could trigger costs to the City for consultant work. General Plan is not currently on-line, and is referred to by staff and applicants for “guidance” only, therefore less often adhered to than regulatory text (Code).
Create “100” Series Zoning Bulletin with Criteria	Easy to implement and can be accepted by Planning Commission as guidelines, and not adopted by City Council in legislative action	Not binding on applicants. 100 Series is not often familiar to Council members and the public, is too “hidden” as one in a long series of historical and often out of date documents.
Separate Ordinance passed by City Council	High visibility as a direct Council action and can be seen as initiated by Council, therefore deterring further developer-initiated General Plan Amendments not meeting this criteria.	Not visible within Code and therefore could be missed by new planners and not visible to developers via the web.
Staff Recommendation:	Most easily accessed as its is	Must cross reference

Include in the Zoning Code within the Administrative Procedures (17.XXX) Legislative Action.	its own discrete section and can be cross referenced within the new CIX or IBX districts and within the new HBX-4 district.	geographic areas where Criteria Guidelines may be applied, and map must be kept current with this section, if changes are made in future.
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RECOMMENDATIONS

Staff recommends that the Zoning Update Committee:

- Create an Industrial Land Use Protection Area alternative from the map alternatives presented by staff, and direct staff to design such an alternative as an exhibit for the December 13, 2005 CED Committee meeting
- Direct staff to create an CIX-2 zone, which would allow, by discretionary individual application, the rezoning of a parcel of at least five acres in size, to a mixed use development with at least 50% commercial use and including development standards that support the continuing operation of industrial uses in the area;
- Review and make amendments to the wording of the attached Criteria for General Plan Amendments;
- Forward a suggestion to the City Council on how to regulate such guidelines in the General Plan or Zoning Code, or by separate ordinance; and
- Recommend a schedule for the final review and adoption of the proposed industrial zoning districts and Joint Work Live Quarters regulation.

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

CLAUDIA CAPPIO
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ATTACHMENTS:

- A. Minutes from Zoning Update Committee Meeting of 12.17.04
- B. General Plan Amendment Criteria
- C. Alternative No 3 and 3b- Industrial Map
- D. Correspondence Received Nov 17-Dec 1, 2005
- E. Vancouver Mixed Use District Regulations