

Zoning Update Committee

*Michael Lighty, Chair
Nicole Franklin
Glen Jarvis*

March 19, 2003

Regular Meeting



CONVENE

4:15 P.M.

**Hearing Room 1, City Hall,
One Frank H. Ogawa Plaza**

ROLL CALL

Present: Jarvis, Lighty

Absent: Franklin

Staff: Gould, Stanzione, Lederer-Prado- CEDA, Planning and Zoning
Truxaw, City Attorney's Office

WELCOME BY THE CHAIR

Vice Chair Franklin welcomed all to the meeting and explained the conduct of the meeting.

APPROVAL OF MINUTES

No Quorum to approve minutes
(Chair Lighty was not on Committee April, 2002)

DISCUSSION

None

CORRESPONDENCE

The Committee was provided with copies of all correspondence received. All correspondence related to the items on the agenda.

OPEN FORUM

No one addressed the Commission

AGENDA ITEM

Margot Lederer Prado presented the staff report

The following people provided written and/or oral comments or yielded their time to others:

Marianne Dreisbach, Industrial Labor Alliance Organization

(Yielding their time to Marianne Dreisbach: Jeff Eandi, Eandi Metal Works; John Swinnerton, Hilltop Cold Storage; Marc Madden, Schairer Steel; Tomer Steinberg; John Pienta, Oakland Intermodal Terminals; Zika Zivanovic, Wes-Co Industries; Bill Aboudi; Nancie Hinks, Yolo Enterprises; Polly Mendes, Creative Wood; Russell Chaplan; Stephen Harrington, Fast Lane; Ron Dreisbach; Bob Connor; Jason Dreisbach, Dreisbach Enterprises; Val Nunes; Al Pelton, Oakland Intermodal Terminals)

ILAO submitted written comments. They remarked on the differences between East and West Oakland and suggested that the proposed Business Mix zoning district (IBX) is too homogeneous and cannot properly represent the specific interests of both areas. It was cited that trucking activities between the two areas are very different. Additionally, Joint Work/Live uses may be regulated differently in East and West Oakland as well. There are good reasons to have an IBX-1 and an IBX-2 because one area is more industrial than the other. IBX-1 should be more diverse and less restrictive than IBX-2 (West Oakland) and allow more uses, similar to the M-30 district.

It should allow the movement of the market while supporting the industrial base. ILAO supports permitting Truck Sales in both IBX and IG, and clearly permitting Truck Terminals in IBX. Generally ILAO supported staff's current recommendations, with the exception that Self-Storage be prohibited in the General Industrial (IG) district.

While the need for maritime support services is increasing with the expansion of the Port of Oakland, the supply of industrial land appears to be diminishing. ILAO pointed out that the industrial sector creates jobs. For instance, two to three auxiliary jobs are created for every single job in the food processing industry. ILAO supports industrial employment that provides a good wage and a career ladder for its workers, which provides job training and is an economic cushion in poor economic times

ILAO believes that the regulations place more emphasis on mitigating impacts to residential uses rather than the protection of industrial land. She spoke about the symbiotic relationship between industry and its neighboring community. Industry provides jobs to neighboring residents. At the same time, there is a high cost to industry itself from the impact of neighboring communities. Industrial properties are subject to high crime, blight, and dumping. Industrial property owners themselves clean up household trash and appliances dumped within the boundaries of their property.

ILAO supports the proposed Health & Safety Protection Zone proposed by staff. However, they oppose the proposed Operational Standards, specifically the limitations on hours of operation in the HBX District.

Michael Barry, Real Estate Broker, Colliers International

Mr. Barry gave a descriptive tour of the properties along the San Leandro Corridor, pointing out the nature and size of the businesses which could be affected by the new regulations. It was estimated that 3.5 million square feet of industrial businesses on 204 acres could be affected by the proposed requirements. He described the lease process and noted that most tenant lease deals were negotiated over a 2-4 month period. The additional time imposed by a Conditional Use Permit could cause undue constraints on the occupancy of vacant facilities.

David Johnson, West Oakland Commerce Association (WOCA)

Mr. Johnson noted that he did not have sufficient time to review the proposed IR district in relation to the existing S-16 district and could not comment on those. He reiterated that the proposed regulations should be simplified and that they are too complicated. He mentioned that both WOCA and ILAO felt that the proposed IBX zoning district should really be two separate districts, to reflect the differences between Central/East and West Oakland. He noted that the IBX district serves as an incubator for businesses and that it should allow a diversity of uses. He also encouraged a discussion about Height and Floor Area Ratio (FAR) limits.

Rusty Snow

Mr. Snow discussed his vision for West Oakland. He proposed allowing higher and better uses in the IBX district, similar to South Market in San Francisco, where you find high tech companies, big box stores, joint live/work facilities, and coffee shops. The zoning cannot be too restrictive or owners will not be able to lease their buildings to higher and better issues. He mentioned that IBX was anti-business development and growth. A Conditional Use Permit is almost like a “Not Permitted” to businesses because they do not want to go through the review process. He stated that he did not agree with the provisions of IBX, specifically some of the land uses, the height limits and the FARs, which he considers to be too low.

John Protopappas, Madison Park, Developer

Mr. Protopappas agreed to the requirement of a Conditional Use Permit in IBX and IR for new Joint Work/Live facilities, but objected to allowing conversions only of existing industrial buildings in the General Industrial (IG) zones. He believes that it is too difficult to convert some of those old buildings and there are limited opportunities for other uses. He cited several examples of buildings that are not likely to be used for industrial uses. He had other comments about joint live/work uses, but will save them for a later meeting. He agreed with the comments made by Marianne Dreisbach and stated that he found the language in the proposed zoning code confusing and not very helpful and suggested that staff find an easier way.

Rick Wiederhorn, Planning Director, Port of Oakland

Mr. Wiederhorn presented a hard copy of a PowerPoint presentation and in his comments addressed concerns for the adherence to the General Plan policies supporting Port expansion. He noted that the Port works under the regulatory authority of several other agencies, including the State Lands Commission, the Bay Conservation Development Commission (BCDC) and the Federal Aviation Authority. He had three points:

- ❑ That the Port retain jurisdictional land use authority over its own lands, as in the existing zoning code and zoning map;
- ❑ That the proposed zoning code and its impacts on Port-related services uses (e.g., trucking, warehouses)
- ❑ That the proposed Code is too complex. There are a variety of concerns, including freedom for truck and rail-dependent services, security issues, night time operations, and the perception of loss of industrial land.

He indicated that Port-related services should be close to the Port. He cited the “Port Services Location Study” which indicated that another 70 acres would be necessary to support Port activities.

Casey Wallace, Pacific Paper Tube

Mr. Wallace reported that he moved his paper tube manufacturing business from 7th Street, West Oakland last year to its current location at 98th Avenue in East Oakland. The new location is within the General Industrial & Transportation general plan designation and is proposed to be zoned with the IG zoning district. However, the property is adjacent to a residential zone and directly abuts several residential backyards. The new Buffer Requirements could affect this property should the property be significantly re-developed.

Staff Note: New buffer requirements do not affect existing properties. Existing buffer requirements mandate a 10 foot yard between any industrial or commercial use and a residential zone, in addition to either a 5.5 ft wall or 5.5 feet of dense landscaping to provide screening. The new regulations require at least 8 feet of a solid masonry wall plus a 5 foot landscape area

with trees planted approximately every 20 feet along the property boundary adjacent to the residential zone.

Thomas McCoy, WOCA

Mr. McCoy spoke representing the IBX Zoning Sub-Committee of WOCA. He commented on the IR-Industrial/Residential zone, the IBX zoning districts, and the need to simplify the proposed regulations. He emphasized that they need to be clear and easy to read. He indicated that in the proposed IBX zoning district, there are 72 land uses that are Permitted; and another 32 that need Conditional Use Permits. He expressed concern that the City was trying to accomplish too much with the zoning update project and that the existing zones (M-10 through M-40) were understandable. He noted that there is a need to have two IBX districts to reflect the different needs and conditions of East and West Oakland. For example, IBX in West Oakland should reflect the desire and demand for higher uses including retail and office. WOCA wants to encourage wholesalers with store facilities such as Costco in its industrial area. He also disagreed with the proposed height limits and floor area ratios.

John Nelson, Oakland Metropolitan Chamber of Commerce

Mr. Nelson spoke on behalf of the Chamber of Commerce and submitted comments in writing. He supports General Plan policies about minimizing negative impacts from industrial land, but is concerned about the ultimate loss of industrial land. It was requested that staff tabulate the amount of acreage that is available now and available as a result of proposed new zoning. He also advocated for more simplicity in the regulations. He believes that the proposed zoning provides less certainty; it should be minimizing discretionary actions. The Chamber wants to encourage and retain industrial businesses in Oakland.

Bob Tuck, Atlas Heating and Co-Chair, West Oakland Redevelopment Political Action Committee

Mr. Tuck also noted that there are “two flavors” of IBX being advocated by WOCA. He recommended that staff amend the definition of “*Truck Repair, Refueling, and Other Heavy Vehicle Sales and Service*” and raise the tonnage limit from 10,000 lbs (4.5 tons) to 14,000 lbs (7 tons) as the former includes many contractor type pick up trucks such as those used by his own mechanical contracting business. These trucks are commonly used and should not be grouped together with tractor trailers and 18-wheelers. He also recommended that staff eliminate the proposed “IR” district from the maps where there is already the proposed BHX district serving as a buffer between residential neighborhoods and the industrial Business Mix areas (e.g., in the Clawson neighborhood). He also noted a concern with the wording of the General Performance Standards regarding “an increase in the degree of nonconformity” as triggering compliance.

Staff Note: The requirement of adherence to the General Performance Standards is an existing part of the Zoning Code (17.120) and the current proposal does not alter the actual performance measures, but rather clarifies the point of measurement of the various indicators.

Don McConnell, Niman Ranch, Inc.

Mr. McConnell gave the background of the move of the Niman Ranch distribution facility from the South of Market area in San Francisco, where they were pushed out due to gentrification of the area, to the Eastlake area (Housing & Business Mix general plan area off E.12th Street). While they do not feel this area of Oakland is a target area for gentrification, they are concerned with the proposed Limitations on Hours of Operation proposed for new development in the proposed BHX zoning district. They operate their distribution activities early in the mornings

beginning at approximately 5:00 a.m. Neighborhood/Industry conflicts have not been an issue with them since their move to Oakland. They prefer to employ locally whenever possible, and where they are able to employ from the immediate surrounding neighborhood, they see a symbiotic relationship flourishing where workers have no transportation difficulties, lessening tardiness. In addition, their resident/employees provide voluntary stewardship of the area, thereby reducing potential vandalism and crime.

Linda Hothem, Pacific American Services

Ms Hothem operates several industrial businesses along the San Leandro corridor and has a long-time existing work-live complex within the General Industrial & Transportation (GIT) general plan classification. Her businesses amount to over one million square feet of office/industrial space with 200 employees. Ms. Hothem supports joint work/live conversions in the industrial zoning area, and advocates that an amnesty program be initiated which would give rights on a parcel by parcel basis to both legalize and possibly expand units within the entitlement for that parcel only. She also noted that industry continuously has to suffer negative impacts of residential dumping, litter and graffiti upon the perimeters of industrial properties, and that industrial owners routinely clean the City's rights-of-way where such nuisances affect their facilities.

George Burt, WOCA

Mr. Burt relayed the history of the Zoning Update and the vision of the General Plan Congress. Mr. Burt commented that the new regulations should be visionary and a positive set of regulations for the future because the market place has changed since the General Plan was adopted in 1998. There are many changes in land uses from the current manufacturing zones (M Zones) and the regulations are too complicated. What happened to allowing retail uses in these zones?

Philip Banta, Architect

Mr. Banta spoke on the Joint Work/Live issue and noted the perceived friction for the regulation of these uses in the GIT areas. He recommended that specific parcels with existing work/live facilities (conversions) be allowed to remain as legal uses so that owners could improve and expand on a parcel limited basis. There is little chance that new industrial facilities would develop on those parcels which already have a work/live facility. He added that allowing additional new units on these parcels will assist the owners in funding the necessary building code improvements.

Thomas Dolan, Architect

Mr. Dolan spoke about joint work/live uses. He noted that there is much to be learned from the mistakes made in San Francisco where the new residents adopted a NIMBY attitude about the surrounding industrial area which, eventually, eroded the industrial or commercial potential of the area. Oakland should welcome work/live residents fleeing such gentrification. He also mentioned that "real" work/live acts as an incubator for new businesses and such uses can lead to a larger commercial or industrial business when successful. Mr. Dolan mentioned the proposed future Cotton Mill project and the Peralta Studios in West Oakland as examples of "real" work/live. He stressed the need to clarify the definitions of joint work/live and joint live/work and urged the Commission to allow existing facilities in IG to be legitimized through an amnesty process on a parcel-by-parcel basis. He advocates for future conversion of industrial facilities in IG to joint work/live through the Conditional Use Permit process. He volunteered to provide information in the future regarding a "binding nuisance" clause and a disclaimer easement

mechanism for new residents or businesses that would grant entitlements to existing industrial operators in the vicinity of the property.

Commissioner Comments

After public comments were received, Chair Lighty announced that the major policy issues would be considered at the April 16th ZUC meeting. He recommended that the meeting be held in a more informal setting in Hearing Room 3. He requested that the maps be available and encouraged a more informal exchange between stakeholders and Commissioners. They also suggested that this meeting could include other members of the full Planning Commission. During that meeting they would take issues off the table which were not controversial and therefore concentrate on areas of contention between staff recommendations and the stakeholders.

Chair Lighty further commented that he thought there was merit for two IBX districts: one for East and one for West Oakland. He also asked about issues which could be resolved through standards (such as site specific standards) to avoid the complication of use permits.

Commissioner Jarvis spoke about the need to simplify the process. He acknowledged the differences between East and West Oakland, particularly as it relates to trucking activities. There should be a separation from industrial uses for the residential zones, but not a separation from the residential uses in the "C" districts. (The new Health & Safety Protection Overlay District would not be mapped where Industrial zones IBX and IG border commercial zones). He also is concerned that work/live not interfere with industrial activities. Commissioner Jarvis advocates buffering (planted landscape and fencing) between residential and industrial uses. He noted that we all live with hazardous materials in our daily lives, but that businesses needed to reinforce their practices to satisfy not just the Fire Department but also their insurance carriers.

Commissioner Lighty had no objections to the proposed Health and Safety Zone, but commented that the proposed operation standards and buffering requirements are overdone and should be revised so that businesses could successfully operate. He suggested these issues be complaint-driven and enforced through regulation and be referred to mediation where a specific issue arises. He stated his support for the preservation of industrial land and manufacturing jobs in East Oakland, but sees that West Oakland is different. The dilemma is to avoid the path of South of Market, San Francisco and to continue to let light industrial uses operate while trying to make the area attractive for higher and better uses.

Commissioner Lighty suggested that WOCA make a presentation to the ZUC about their vision for West Oakland, particularly the IBX and IR zoning districts. He believed that the land use regulations for East Oakland appeared to be pretty settled. He deferred the discussion of joint work/live issues to the June 18 ZUC meeting dedicated to that topic. Commissioner Jarvis agreed, but said we need to continue looking at the buffering standards.

ADJOURNMENT 6:15 p.m.

MARGARET STANZIONE
Project Manager
Zoning Code Update Project