



Zoning Update Committee

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

**September 25, 2003
Special Meeting**

CONVENE **4:30 P.M.**
**Hearing Room 1, City Hall,
One Frank H. Ogawa Plaza**

ROLL CALL

Present: Lighty, Mudge
Absent: Franklin
Staff: Gould, Stanzione, Ralston, Coleman - CEDA, Planning and Zoning;
Truxaw – City Attorney’s Office

WELCOME BY THE CHAIR

Chair Lighty welcomed all to the meeting and explained the conduct of the meeting.

APPROVAL OF MINUTES None

DISCUSSION None

CORRESPONDENCE None

OPEN FORUM

AGENDA ITEM #1

David Ralston, Strategic Planner, gave a PowerPoint presentation on the proposed new RUX-Urban Residential Corridor Mixed Use zone.

PUBLIC SPEAKERS

Roy Alper – Suggested that this proposal be used as a starting point for the transit corridors with Residential General Plan land use designations. He discussed that the zoning regulations in the existing commercial zones do not work and the R-80 residential zone does not allow enough commercial land uses. He stated that overall he was pleased with the proposal but also encouraged staff to look at the City’s “Transit First Policy of 1996.” He also recommended that staff consider rezoning the R-50 areas to R-60, R-70, or R-80 to be consistent with Urban Residential land use designation, and look at “Growth and Change” areas and use this new zone in those areas as it can be a catalyst for new development.

Andy Getz – Expressed delight in first draft of this proposed zoning district but said the devil is in the details. For example, page 3 – the CUP for ground floor residential on back street does not make sense. Also, the 5,000 SF size threshold for commercial/civic land uses could be problematic as many pharmacies, gyms, bookstores, etc. are larger than 5,000 SF. Requiring a CUP will remove predictability for developers and could be a disincentive for encouraging new

commercial. He went on to comment on the development standards: the 10 foot front yard setback is counter intuitive to urban streets; for design review, he suggested that in Pasadena they have a system where if you meet specified criteria you go straight to building permits; if you do not meet the requirements, then you are required to get a CUP. He thought that this was a good way to obviate design review and the public process and mentioned that it was successful in Pasadena for spurring development. Further, provisions for driveway access are too restrictive and do not achieve the desired goal. He questioned the language regarding the nonconforming use section and mentioned that it does not read the way staff presented it. He asked for clarification on the size threshold issue and whether that pertained to the use or facility. Overall he said that the standards need to be written to encourage the type of development it says is desired.

Jacquee Castain – Highlighted the example of Allen Temple Arms an all senior housing project at 80th/82nd. She said this is a good example of what she and her neighbors want to see. She also raised the issue of contaminated lots. Auto repair shops such as at 83rd/84th are some of the worst blighted conditions in district; fumes are making people sick and they want those uses gone. 84th/85th laundromat became dry cleaning and the chemicals used in the cleaning process cause cancer. There are often concentrations of many uses that cause pollution and have health issues.

ZUC RESPONSE AND DISCUSSION

Commissioner Mudge - asked for clarification on non-conforming section 17.31.240 and whether the nonconforming uses are actually facilities – if the use is conditionally permitted or permitted it is not nonconforming. She said the driveway language seems ok – they are discouraged and not prohibited, but the excess parking language is too vague and not workable as a standard. Clarification was also requested for the 10 foot front and side yard setback and the wide sidewalk. Finally, it was mentioned that the areas proposed for this new zone seemed very “patchwork.”

Commissioner Lighty – encouraged staff to come up with workable language regarding excess parking. The intent is good. He also said the driveway language is ok. On the commercial use size threshold of 5,000 square feet., he asked if the intent is to have smaller businesses. (Staff responded “yes” that was the intent, but the key question is how much of a disincentive would a CUP be?)

Commissioner Mudge – responded that if a project meets the use permit criteria, the CUP is generally granted. CUPs are not necessarily a disincentive.

Commissioner Lighty – emphasized the zoning text should be explicit about goals such as for parking restrictions – no parking at front but accommodate shallow lots. Also, the wording of front yard setback is misleading and he asked staff to revise the language. Questions were also raised about why retail business supply stores were prohibited (usually sell to other businesses and tend to be larger than desired for this zone) and about restrictions on custom manufacturing uses in this mixed use zone. He believed that artisan production on the ground floor would be a good use.

The Chair directed staff to make revisions to the text of the proposed new zoning district and go to the Planning Commission without returning to the ZUC. The Chair did request that the ZUC

look at the final mapping recommendation. Staff offered to take the ZUC on a tour of the intended mapping areas and the ZUC said “yes.”

Marge Stanzione, Strategic Planning Coordinator, explained the process that would be followed to begin adoption of the zone.

AGENDA ITEM #2

Heather Coleman, Strategic Planner, presented an overview and highlights of the proposed changes to the land use definitions in Chapter 17.10. The approach is to update and modernize the existing land use classifications and focus in particular on the industrial land uses, since these definitions are most out of date, and it is in the industrial areas where the City is proposing new zoning districts. Certain land uses that are currently included in the civic or commercial classifications are relocated to the industrial classifications. For the commercial land use classifications, the recommended approach is to create subcategories of existing categories where needed and minimize disruption to the existing commercial zoning districts. Staff reviewed the land use classifications that are proposed to be changed and described recent conversations with the industrial community, particularly with regard to food processing activities.

PUBLIC SPEAKERS

Jacquee Castain

Ms. Castain stated that there are over 700 toxic sites in East Oakland, and only two have been cleaned up. She referred to a specific site, an electroplating plant at 87th Avenue. A dry cleaning plant is nearby, too. In East Oakland, there are many locations where industrial uses are located very close to residential uses, and their needs to be greater separation between the uses. Housing needs to be located away from these toxic materials. In the neighborhood, there is a lot of turnover because no one wants to live there because of the toxics. People are selling their homes or renting them out rather than live in them.

Marianne Dreisbach – Industry and Labor Alliance of Oakland (ILAO)

Ms. Dreisbach referred to a recent Atlantic Monthly article that described how city permitting and land use regulations are squeezing industrial land and driving out middle class jobs. In Oakland, land that is currently zoned M-30 (General Industrial) is getting squeezed. Some M-30 zoned land is proposed as BHX (Business and Housing Mix). Other M-30 zoned land is becoming IBX (Light Industrial), making some businesses located within the area conditionally permitted where they are currently permitted. The M-30 zone is the most robust industrial area that Oakland has.

Ms. Dreisbach discussed food manufacturing. She noted that food manufacturing is a core industry that the City has formally decided it wants to pursue. She disagreed with the statement in the staff report that food manufacturing should be classified as General Manufacturing rather than Light Manufacturing because it has odors and tends to generate significant truck traffic. Food processing does not usually have odors. There is not a correlation between the use (food processing) and the number of trucks. There are already performance standards to address potential impacts such as odors. There are designated truck routes, and dock limits in the proposed BHX zone, to address issues with trucks.

Ms. Dreisbach described the nature of the food processing industry in Oakland. Big food manufacturers such as Mother’s Cookies aren’t locating here. What is coming is small food

processing operations, making items like fruit yogurt, noodles, or burritos. These are specialty products with a local audience or ethnic foods. The conditional use permit process is confusing to people, and can be especially confusing to immigrants. The BHX zone should allow food manufacturing up to 25,000 square feet [of processing area]. If food processing is changed from Light Manufacturing to General Manufacturing, then General Manufacturing should be permitted outright rather than conditionally permitted in the IBX zone. ILAO will oppose a use permit requirement for food processing in IBX.

Regarding the re-classification of certain uses from General Manufacturing to Heavy Manufacturing, ILAO would like to continue to work with staff and with WOCA on this issue. Ms. Driesbach said that ILAO agreed with the proposed definitions for warehousing and transportation.

ILAO is opposed to the proposed Section 17.10.095 that would empower the Director of City Planning to reclassify manufacturing activities. This section should be deleted in its entirety.

Andy Getz – West Oakland Commerce Association

WOCA has been working extensively on the land use classifications. Mr. Getz stated that there should be three main objectives that apply not only to the land use classifications but to all parts of the code: 1) clarity and understandability, 2) predictability, and 3) protecting existing businesses. WOCA embraced and was working with the set of 118 classifications that were prepared by the consultant to the Zoning Update, rather than the 53 classifications in the existing code. WOCA still believes that the new list of classifications is superior. WOCA is concerned that the proposed approach could have the unintended consequence of creating many nonconforming uses.

WOCA specifically opposes the proposed Section 17.10.095, which it believes would allow any manufacturing use to be reclassified and remove all predictability.

Rusty Snow – West Oakland Commerce Association

Mr. Snow stated that he agreed with the statements made by Mr. Getz. He said that WOCA spent many hours and months reviewing the land use classifications and voting on them. He said that he wished to have more communication with whoever was drafting the proposed text amendments. He recommended to the Committee that the land use classifications not be rushed. After all, these regulations could be in place for another 20 or 30 years.

Mr. Snow also stated that he was opposed to the establishment of size thresholds within the land use definitions. Instead, he supports the use of performance standards to address potential impacts of industrial operations.

David Perez

Mr. Perez owns an auto body shop on Martin Luther King, Jr. Way in the C-30 zone and wants to be able to expand his operation. He understands the City's concerns with auto body shops. However, auto body shops are already subject to the guidelines of Bay Area Air Quality for air emissions. He pointed out that his shop is a small business like any other.

ZUC RESPONSE AND DISCUSSION

Commissioner Mudge commented that the use classifications are very complex, and that she didn't feel she could do justice to all the proposed changes at this meeting. She asked staff a

clarifying question: whether the threshold of 25,000 square feet distinguishing Light and General Manufacturing applied only to food processing. Staff responded that that was correct.

Regarding the proposed Section 17.10.095 granting discretion in the classification of manufacturing uses to the Director of City Planning, Commissioner Mudge stated that she understands the concerns expressed by the speakers. In addition, because there are no quantitative thresholds stated in this section, it can have the appearance of arbitrariness. However, she is also concerned about relying on performance standards. She is of the opinion that the proposed Section 17.10.095 would be beneficial to the industries. In her experience, Planning and Zoning staff tends to use good judgment and understand the needs of the industries. She pointed out that flexibility in the regulations can be an advantage. She also pointed out that there is some discretion in many zoning decisions and determinations.

Commissioner Lighty stated that he is opposed to the proposed Section 17.10.095 because it allows anyone to request a change in the classification of a particular business. It is more desirable to craft better definitions that will minimize ambiguity. He stated that the proposed section represented a failure to craft adequate definitions.

Commissioner Lighty also talked about the importance of preserving industrial land. If the proposed regulations are too restrictive, then we are heading down the wrong road. He believes that industrial uses will have a very hard time obtaining conditional use permits. The proposed Health and Safety zone will address the use of toxic materials.

Regarding food processing, Commissioner Lighty stated that he agreed with Marianne Dreisbach and opposes relocating food manufacturing from Light to General Manufacturing. A size threshold should not be used to differentiate food processing activities into two separate use classifications. He stated that we can't identify or quantify impacts during the land use classification process. Instead, the City should create clearly defined land uses, and create performance standards for each zoning districts.

Commissioner Mudge responded that size *can* be a rational basis for regulating land uses and impacts.

The Commissioners directed staff to meet with the industrial stakeholders and try to work out remaining issues regarding the land use classifications.

Commissioner Lighty commented that we should have a whole meeting dedicated to land use classifications.

The item was continued to the meeting of October 15, 2003.

ADJOURNMENT 6:30 pm

MARGARET STANZIONE
Strategic Planning Coordinator
Zoning Update Project Manager