

CITY OF SAN LEANDRO

MEMORANDUM

DATE: March 1, 2012

TO: Mayor Cassidy and Members of the Rules Committee

FROM: Chris Zapata
City Manager

VIA: Luke Sims
Community Development Director

BY: Kathleen Livermore
Senior Planner

SUBJECT: Discussion of Modification of Proposed Changes to Industrial Districts related to Assembly Uses, Commercial Recreation and Entertainment Activities

BACKGROUND: At its February 21, 2012 meeting, the City Council approved Zoning Amendments relative to Commercial Districts and continued, to March 19, 2012 Zoning Amendments relative to Industrial Districts. The City Council also voted to refer the matter of changes in the Industrial Districts to the Rules Committee for further discussion and analysis of potential alternatives and options that would accomplish the objective to preserve the integrity of the City's industrial areas while offering opportunities sufficient opportunities for commercial recreation and entertainment activities in designated industrial zones that are appropriate and compatible.

The recommendation of staff at the February 21, 2012 City Council meeting was to create land use classifications for the Industrial Limited (Assembly Use), Industrial General (Assembly Use) and Industrial Park (Assembly Use) Zoning Districts. These Assembly Use Overlay Districts would include Commercial Recreation, Entertainment Activities and Assembly Uses, as Conditionally Permitted Uses within these overlay portions of the industrial zone.

Please see the matrixes and definitions below. Maps will be available at the Rules Committee meeting.

Existing Zoning Code

| | Commercial Recreation | Entertainment Activities |
|--------------------|-------------------------|--------------------------|
| Industrial Limited | Conditionally permitted | Conditionally permitted |
| Industrial General | Not allowed | Conditionally permitted |
| Industrial Park | Conditionally permitted | Conditionally permitted |

Proposed Zoning Changes

| | Commercial Recreation | Entertainment Activities | Assembly Uses |
|---------------------------------|-------------------------|--------------------------|-------------------------|
| Industrial Limited | Not allowed | Not allowed | -Not allowed |
| Industrial General | Not allowed | Not allowed | Not allowed |
| Industrial Park | Not allowed | Not allowed | Not allowed |
| Industrial Limited (AU Overlay) | <u>CUP [new]</u> | <u>CUP [new]</u> | <u>CUP [new]</u> |
| Industrial General (AU Overlay) | <u>CUP [new]</u> | <u>CUP [new]</u> | <u>CUP [new]</u> |
| Industrial Park (AU Overlay) | <u>CUP [new]</u> | <u>CUP [new]</u> | <u>CUP [new]</u> |

Assembly Uses. Meeting, recreational, social facilities of a private or non-profit organization primarily for use by member or guests, or facilities for religious worship and incidental religious education (but not including schools as defined in this section). This classification includes union halls, social clubs, fraternal organizations, and youth centers.

Commercial Recreation. Provision of participant or spectator recreation or entertainment. This classification includes amusement parks, bowling alleys, ice/roller skating rinks, golf courses, miniature golf courses, and scale-model courses.

Entertainment Activities. Regulations pertaining to Entertainment Activities, defined as a use classification by this Code, apply to the following activities where they occur on a scheduled basis three (3) or more days during a calendar year on the site of any permitted or conditionally permitted use, excluding activities for the non-profit, charitable or educational purposes of public or private institutional uses.

- A. A musical, theatrical, wrestling, dance recital, cabaret, or comedy act performed by one (1) or more persons, regardless of whether performers are compensated;
- B. Any form of dancing by patrons or guests at a business establishment not otherwise regulated as either a "Dance Hall" or an "Instruction and Improvement Services" use classification;
- C. A fashion show, except when conducted within an enclosed building used primarily for the manufacture or sale of clothing;

- D. *Any form of recorded entertainment using amplified recorded music, such as karaoke systems;*
- E. *Televised events, with such features as "big screen" projection systems.*

Staff's recommendation would effectively preclude Commercial Recreation and Entertainment Activities from the balance of the Industrial Limited (IL), and Industrial Park (IP) Zoning Districts and would preclude entertainment uses from the balance of all three of the industrial zones (IG, IL and IP). It should be noted that current zoning does not allow Commercial Recreation as a Conditionally Permitted Use in the Industrial General Zoning District. It is the opinion of City staff that these suggested revisions are sound from a planning perspective and are in keeping with the City's ongoing process of systematically reviewing and updating the Zoning Code to conform to City policy and appropriate land use principles.

In response to the City Council's direction, the Community Development Department and the City Attorney's Office have developed some additional proposals and considerations to assist the Rules Committee in its review of the proposed zoning code amendment and the larger zoning issues:

1. **Commercial Recreation Is Not Currently Allowed the Industrial General Zoning District.** Staff acknowledges that there may have been some misunderstanding at the City Council hearing as to the current allowed uses in the Industrial Zone Districts. To clarify, Commercial Recreation is not currently permitted nor conditionally permitted in the Industrial General Zoning District. Commercial Recreation is currently conditionally permitted in the Industrial Limited and Industrial Park Zoning Districts. Entertainment Activities are currently conditionally permitted in each of the Industrial Districts.

Depending on what proposal the Rules Committee recommends to the City Council will dictate whether the proposal will need to be referred back to the Planning Commission for consideration. If the modifications are a substantial change from the prior proposal then another review by the Planning Commission is needed; if the change is not substantial the City Council can take action without further Planning Commission review. (Government Code 65857.)

2. **Accessory Use.** There was public testimony, at both the Planning Commission and City Council hearings, that new businesses in the industrial area should have the opportunity for their employees to have access to recreational activities in proximity to their businesses. The opportunity for businesses to incorporate commercial recreation activities within their business developments could currently be considered as an accessory use, when in conjunction with a Permitted Use in the Zoning District, and would not be impacted by the proposed amendment. For example, Industry, Research and Development is considered a Permitted Use in each of the Industrial Districts. A high – tech business like Google would be considered an Industry, Research and Development Use. If a Google-type industry proposed, as part of their campus, recreational activities such as an arcade room, a rock climbing wall, yoga classes, aerobics and zumba classes, these could all be considered accessory to the permitted use of Industry, Research and Development in the Industrial Limited, Industrial General and Industrial Park Zoning Districts. Community Development Department staff has a history of creatively working with high tech businesses to create desirable working environments that fit the needs of the industry. Two examples of this

include: 1) North Face has an employee cafeteria with outdoor dining. 2) Otis Spunkmeyer used to have a full court basketball facility that has been absorbed by their business uses.

3. **Wages.** A goal for the Industrial Area is to promote job creation and high wage opportunities. Policy 7.03 of the General Plan states the following: *TECH-SECTOR RECRUITMENT: Attract and retain technology ("high tech") companies by improving technology infrastructure, targeting such companies through marketing, supporting incubator and start up firms, and maintaining development regulations which facilitate the adaptive reuse of older industrial buildings.* There is a significant difference in typical wages for employees engaged in Commercial Recreation versus Manufacturing or High Tech activities. Commercial Recreation and Entertainment Activities workers make between \$30,000 to \$50,000 per year while Manufacturing and High Tech workers make between \$58,000 and \$88,000 per year. This is a rough calculation based on data from the California Economic Development Department from 2010.

Another source, the Bureau of Labor Statistics, indicates that Commercial Recreation and Entertainment Activities workers made about \$16.61 per hour, while Manufacturing workers made about \$23.78 per hour, seasonally adjusted, and Computer systems design and related services made about \$40.78 per hour in November of 2011. The number of employees per square foot would also tend to have much fewer employees per square foot for Commercial Recreation and Entertainment Activities while Manufacturing and High Tech would have greater employment densities.

4. **Industrial standards and infrastructure.** Commercial Recreation and Entertainment Activities in the Industrial Districts face some practical obstacles with respect to existing infrastructure. In many instances, the existing industrial building stock and infrastructure were built for industrial purposes. For example, buildings are generally constructed for industrial and manufacturing occupancies, parking fields are designed and striped for industrial parking requirements, and street lighting is designed for industrial purposes. There is also the basic land use conflict that could arise with 24/7 trucking uses operating side by side with large spectator or assembly type occupancies. These obstacles are addressed by staff's proposed recommendation.

This memorandum provides additional background and amplification of some issues that were not thoroughly explored at the Planning Commission meetings in December of 2011 and January of 2012. We look forward to further discussion at the Rules Committee.

RECOMMENDATIONS:

1. Staff recommends that Commercial Recreation, Entertainment Activities and Assembly Uses be consolidated in the Industrial Limited (Assembly Use), Industrial General (Assembly Use), and Industrial Park (Assembly Use) Zoning Districts as Conditionally Permitted Uses. These uses would be effectively precluded from balance of the Industrial Limited, Industrial General and Industrial Park Districts that is not meet the 8 criteria thereby qualifying it for the Assembly Use Overlay.

2. The Committee may also consider that staff be directed to initiate a review of the current Assembly Use Criteria, established in 2007, for possible modifications to and/or expansion of the Assembly Use area, for future consideration by the Planning Commission and City Council.

Reference Material

Assembly Use Overlay Criteria

- ***Site is not located along a major commercial corridor*** (identified as E. 14th Street and Marina Boulevard between San Leandro Boulevard and Merced Street);
- ***Site is not located within the following General Plan Focus Areas: Downtown, Bayfair, Marina Blvd/SOMAR, or West San Leandro*** (each of these Focus Areas is governed by one or more of the following, which governs future development – special study/guidelines, special overlay district, or location within a redevelopment area);
- ***Site is not located in a regional-serving retail area*** (identified as Greenhouse Marketplace, Westgate, Marina Square, and ‘old’ Target site);
- ***Site is not located inside the ½-mile study area identified for the Downtown Transit-Oriented Development (TOD) Strategy;***
- ***Site abuts or is within ¼ mile of an arterial street*** (as identified in the Circulation Element of the General Plan);
- ***Site is not located in a Residential Zone*** (Assembly uses are already conditionally permitted in residential zones, so would not produce new areas for assembly uses to locate if considered);
- ***Site is not considered public land, and is not zoned Public Service (PS), Open Space (OS), or Commercial Recreation (CR); property is not owned by an Exempt Public Agency, or leased/owned by a public utility*** (these areas represent properties and uses that are unlikely to change);
- ***Overlay Area must allow a contiguous area greater than or equal to two acres.*** (This figure was derived from research indicating that large assembly uses require a minimum 2-acre site to accommodate bigger building size and to allow for adequate on-site parking. Staff is not recommending that a minimum acreage be included as part of the Zoning Code text amendments, and suggests that future applications for amendments to the Assembly Use overlay that may be less than 2-acres in size be given flexibility in a manner that would conform to the Religious Land Use and Institutionalized Persons Act [RLUIPA].)