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**Title:** Staff Report for Consideration of Zoning Amendments Pertaining to Miscellaneous Changes to the NA -2, SA-2, DA-3, IL, IG and IP Zoning Districts and Creation of IL (AU), IG (AU), and IP (AU) Zoning Districts Related to Assembly Uses, Commercial Recreation, Cultural Institutions and Entertainment Activities

**Sponsors:** Luke Sims

**Indexes:**

**Code sections:**

**Attachments:** 1. Excerpt of the Minutes for Planning Commission Regular Meeting, December 15, 2011, 2. Excerpt of the Draft Minutes for Planning Commission Special Meeting, January 26, 2012, 3. Planning Commission Staff Report dated December 15, 2011, without attachments, 4. Planning Commission Staff Report dated January 26, 2012, without attachments, 5. Negative Declaration, 6. Initial Study, 7. Map 1 Map Highlighting NA-2, SA-2, DA-3 Zoning Districts, 8. Map 2 Map Highlighting IL, IG and IP Zoning Districts, 9. Map 3 Map Highlighting CN, CN (AU), CC, CC (AU), CR, CRM, NA-1, NA-2, SA-1, SA-2, SA-3, DA-1, DA-2, and DA-5 Zoning Districts, 10. Map 4 Map Highlighting IL (AU), IG (AU) and IP (AU) Zoning Districts, 11. Material from Dan Dillman at December 15, 2011 Planning Commission meeting, 12. Material from Chris Crow at December 15, 2011 Planning Commission meeting

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Staff Report for Consideration of Zoning Amendments Pertaining to Miscellaneous Changes to the NA-2, SA-2, DA-3, IL, IG and IP Zoning Districts and Creation of IL (AU), IG (AU), and IP (AU) Zoning Districts Related to Assembly Uses, Commercial Recreation, Cultural Institutions and Entertainment Activities.

**RECOMMENDATIONS**

The Planning Commission reviewed this matter at its December 15, 2011 and January 26, 2012 meetings. At the December 15, 2011 meeting, the Planning Commission voted to recommend the City Council approve the proposed changes to Article 6 Commercial Districts; the Planning Commission voted to not recommend staff's proposal regarding Article 7 Industrial Districts; and the Planning Commission voted (5-2) to recommend review of an alternative approach to regulating Commercial Recreation and Entertainment Activities in the Industrial Districts if the City Council chooses to pursue such limitations. At the January 26, 2012 special meeting, the Planning Commission did not support staff's recommendation regarding the alternative approach.

Staff recommends that the City Council:

- A. Take public testimony on the proposed Zoning Code Amendments;

- B. Adopt the Negative Declaration; and
- C. Adopt the Ordinance approving the Zoning Code Amendments related to Sections 2-624, 2-630, 2-640 of Article 6; and Sections 2-704, 2-706, 2-708, 2-710, 2-712 and 2-714 of Article 7 of the City of San Leandro Zoning Code.

## **BACKGROUND**

Staff recommends several revisions to the Zoning Code relating to Assembly Uses, Commercial Recreation, Cultural Institutions and Entertainment Activities. These revisions would add Assembly Uses to the NA-2 and SA-2 Commercial Districts, add Cultural Institutions to the DA-3 Commercial District, delete Commercial Recreation and Entertainment Activities from the IL, IG and IP Industrial Districts, create the IL (AU), IG (AU) and IP (AU) Industrial Districts, and specify Assembly Uses, Commercial Recreation and Entertainment Activities as Conditionally Permitted Uses in the new IL (AU), IG (AU), and IP (AU) Districts. These revisions will continue to preserve the integrity of the City's industrial areas for purely industrial uses while conditionally permitting those commercial recreation and entertainment activities in the AU Zoning Districts that are appropriate and compatible.

At the December 15, 2011 Planning Commission meeting, staff recommended the removal of Commercial Recreation and Entertainment Activities as Conditionally Permitted Uses in the IL, IG and IP Districts. The Commission did not approve the recommendation. Commissioners then passed a motion (5-2) that if the City Council chooses to pursue limitations on Commercial Recreation and Entertainment Activities in industrial districts, that staff should develop a "nuanced" approach to the limitations. At the January 26, 2012 special meeting, the Planning Commission did not support staff's proposal for an alternative "nuanced" approach to Commercial Recreation and Entertainment Activities.

## **Analysis**

In a recent review of the Zoning Code, staff determined that some additional commercial districts should include Assembly Uses as conditionally permitted uses. This is desired to improve the overall land use compatibility with respect to Assembly Uses in commercial zoning districts. It also increases the number of properties that could be considered for Assembly Uses.

San Leandro has had extensive community input related to reevaluating various commercial districts along East 14th Street. These included the North Area Plan (early 1990's), the East 14th Street South Area Development Strategy (2002-2004), and the Downtown Transit-Oriented Development Strategy (2005-2007). These efforts resulted in the creation of North Areas 1 and 2, South Areas 1-3 and Downtown Areas 1-6.

Among other things, each of these efforts looked at core commercial areas to protect and retain for vibrant retail activity. Other commercial areas were considered as important and viable locations for multi-family and mixed-use development, as well as retail and office uses. The areas proposed for residential areas included the North Area 2, South Area 2 and Downtown Areas 2-5. The rezoning performed during the adoption of the Downtown Transit-Oriented Development Strategy included Assembly Uses as conditionally permitted uses in the DA-2, DA-3 and DA-4 Districts. Staff now recommends the NA-2 and SA-2 Districts, which specifically contemplate residential uses, have Assembly Uses added as a conditionally permitted use. This change would improve the overall land use compatibility within the commercial districts identified.

The North Area 2 District is located on East 14th Street from Georgia Way to the northern City border. The South Area 2 District is located on East 14th Street from Sybil Avenue to 136th Avenue. Please see the attached map to see these various zoning districts.

The 1999-2002 General Plan Update represented another extensive community engagement process with a 52 member General Plan Advisory Committee advising the Planning Commission and City Council on the General Plan Update. As part of this process, the core values of the industrial districts as a major industrial, technology and office employment center were established. One example in the General Plan is Goal 7: Industrial and Office Districts. Goal 7 states: *Continue to develop a strong and healthy industrial and office employment base in the community.* 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.* Also, Policy 10.04 states the following: *INDUSTRIAL SANCTUARY: Protect the City’s major industrial areas from encroachment by uses that are potentially incompatible with existing viable industrial activities, or which may inhibit the ability of industry to operate effectively.* These General Plan goals and policies speak to the importance of the industrial area as a sanctuary for viable industrial activities to operate effectively, and retain high quality employment, especially in the tech sector.

Staff is recommending that Commercial Recreation and Entertainment Activities be removed as a Conditionally Permitted Use from the Industrial Districts, except for properties in the AU industrial areas, to retain the industrial and employment base that the industrial districts represent. The short term gains of employment with commercial recreation or entertainment activities conflict with the long term goals of stable employment and future higher wage jobs industrial areas attract. The 52-member General Plan Advisory Committee wanted to protect the limited resource of the industrial area which is especially restricted when we examine the City’s high tech industrial opportunities.

There is no record of any existing Commercial Recreation or Entertainment Activities uses in the industrial districts. Also, staff has prepared a map that illustrates the various commercial districts throughout the City where Commercial Recreation and/or Entertainment Activities are permitted by right, or by permit. Commercial Recreation is permitted or conditionally permitted in the following districts: CC, CC (AU), CR, CRM, NA-1, NA-2, SA-1, SA-3, and DA-1. Entertainment Activities are permitted or conditional permitted in the following districts: CN, CN (AU), CC, CC (AU), CR, NA-1, NA-2, SA-1, SA-2, SA-3, DA-1, DA-2, and DA-5. These properties provide considerable opportunities for commercial recreation and entertainment activities.

Following the December 15, 2011 Planning Commission meeting, staff carefully considered the comments of the Planning Commission. And, in response, staff proposes to add sections 2-710, 2-712 and 2-714 to explicitly state the Permitted and Conditionally Permitted Uses, Uses Requiring Administrative Review, and Temporary Uses Requiring Administrative Review for I (AU) districts. The uses would be the same as those uses currently found in the IL, IG and IP zones. In addition, Assembly Uses, Commercial Recreation and Entertainment Activities would be added as Conditionally Permitted Uses in the IL (AU), IG (AU) and IP (AU) Districts. There are 70 properties designated IL (AU) representing 23.55 acres; 17 properties designated IG (AU) representing 84.31 acres; and 28 properties designated IP (AU) representing 21.27 acres. This is a total of 115 properties representing 129.13 acres.

This proposal provides a balanced, citywide approach to providing traditional industrial employment opportunities while maintaining flexibility in attracting commercial recreation and entertainment uses in a diversity of other zoning districts and properties.

Because these changes are less restrictive than what staff had originally recommended, this issue was agendaized for the Planning Commission special January meeting without additional public notice. Also, there would be no change in the findings of the Initial Study and Negative Declaration.

### **Committee Review and Actions**

- City Council Business and Housing Development Committee was provided a brief presentation on September 8, 2011.

### **Applicable General Plan Policies**

- **Goal 7:** Continue to develop a strong and healthy industrial and office employment base in the community.
- **Policy 7.03: 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.
- **Policy 10.04: INDUSTRIAL SANCTUARY:** Protect the City’s major industrial areas from encroachment by uses that are potentially incompatible with existing viable industrial activities, or which may inhibit the ability of industry to operate effectively.

### **Environmental Review**

A Negative Declaration was prepared for these Zoning Code Amendments. A “Notice of Public Review and Intent to Adopt a Proposed Negative Declaration” was prepared on October 28, 2011. The 20-day public review period for the Initial Study and Negative Declaration began on October 28 and concluded on November 16, 2011. No comments on the Initial Study and Negative Declaration were received.

### **Board/Commission Review and Actions**

Because the Board of Zoning Adjustments decides matters related to Zoning Code regulations, these updates were presented to the Board of Zoning Adjustments on November 3, 2011. The Board members agreed with the proposed changes to the Commercial Districts. Some Board members were concerned about the proposed changes to the Industrial Districts. They felt that flexibility of land use in industrial districts was warranted in these economic times, citing examples of City Beach and the Saddle Rack in the City of Fremont. (City Beach is a multi-use commercial recreation facility and Saddle Rack is a country western bar.) Concepts raised in San Leandro by Design were also discussed.

The Planning Commission held a public hearing on December 15, 2011. A Special Planning Commission meeting was held on January 26, 2011 to elicit Planning Commission input on the

revised approach.

### **Summary of Public Outreach Efforts**

Legal requirements for notification of this meeting included posting of the meeting agenda at City Hall a minimum of 72 hours in advance of the meeting date and notice in a paper of general circulation 10 days prior to the hearing. Notification of this meeting included publication of a legal notice in the Daily Review and posting of the meeting agenda at City Hall.

On November 3, 2011, the Board of Zoning Adjustments received a staff report on these proposed amendments as an informational item.

The Planning Commission held a noticed, Public Hearing on December 15, 2011. An additional Special Planning Commission meeting was held on January 26, 2012, which was not publicly noticed but local media (i.e., San Leandro Times, San Leandro Patch and Daily Review) were notified over 48 hours prior to the meeting.

### **ATTACHMENTS**

- Excerpt of the Minutes for Planning Commission Regular Meeting, December 15, 2011
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- Material from Chris Crow at December 15, 2011 Planning Commission meeting
- Material from Dan Dilman at December 15, 2011 Planning Commission meeting

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