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**Title:** Staff Report for Consideration of Zoning Code Amendments Pertaining to Various Changes to the Industrial Limited, Industrial General and Industrial Park Zoning Districts and Creation of Industrial Limited (Assembly Use Overlay), Industrial General (Assembly Use Overlay), and Industrial Park (Assembly Use Overlay) Zoning Use Designation Lists Related to Assembly Uses, Commercial Recreation and Entertainment Activities (Agenda item was continued from the February 21, 2012 City Council meeting.)

**Sponsors:** Luke Sims

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**Attachments:** 1. Table 1 Existing Zoning Code and Proposed Zoning Changes, 2. Maps for City Council 3-19-12, 3. FAQs zoning code changes 031912.PDF

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Staff Report for Consideration of Zoning Code Amendments Pertaining to Various Changes to the Industrial Limited, Industrial General and Industrial Park Zoning Districts and Creation of Industrial Limited (Assembly Use Overlay), Industrial General (Assembly Use Overlay), and Industrial Park (Assembly Use Overlay) Zoning Use Designation Lists Related to Assembly Uses, Commercial Recreation and Entertainment Activities (Agenda item was continued from the February 21, 2012 City Council meeting.)

**RECOMMENDATIONS**

At the February 21, 2012 meeting, the City Council approved Zoning Code Amendments in the Commercial Districts related to Assembly Uses and Cultural Institutions. The City Council closed the public hearing, did not take action on the proposed changes in the Industrial Districts related to Assembly Uses, Commercial Recreation and Entertainment Activities, referred the matter to the City Council Rules and Communications Committee for further study, and scheduled continuation of the agenda item to the City Council’s March 19, 2012 regular meeting. At the City Council Rules and Communications Committee meeting on March 1, 2012, the Committee considered clarifications to the February 21, 2012 staff report for this item and heard public testimony. After discussion, the Committee referred the matter back to the City Council as a whole, without recommendation, for further discussion at the March 19, 2012 regular meeting.

Staff recommends that the City Council:

- A. Adopt the Negative Declaration; and

- B. Adopt the Ordinance approving the Zoning Code Amendments related to 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, which adopts the recommended changes to the Industrial Zones.
- C. Direct staff to review the current Assembly Use Overlay Criteria for possible modification and area expansion.

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

## BACKGROUND

The Planning Commission reviewed the proposed zoning amendments 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 did 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 to be developed by staff. At the Commission's January 26, 2012 special meeting, staff presented the alternate approach and the Planning Commission did not support staff's recommendation.

At the February 21, 2012 City Council public hearing for this item, staff recommended certain revisions to the Zoning Code related to Assembly Uses, Commercial Recreation and Entertainment Activities. Such revisions will continue to preserve the integrity of the City's industrial areas for industrial uses while conditionally permitting commercial recreation and entertainment activities in the Assembly Use Overlay Zoning Districts that are appropriate and compatible.

The revisions would:

- Delete Commercial Recreation from the Industrial Limited (IL) and Industrial Park (IP) Districts;
- Delete Entertainment Activities from the Industrial Limited (IL), Industrial General (IG) and Industrial Park (IP) Districts;
- Create the Industrial Limited (Assembly Use Overlay) (IL [AU]), Industrial General (Assembly Use Overlay) (IG [AU]) and Industrial Park (Assembly Use Overlay) (IP [AU]) Zoning Use Designation Lists; and
- Specify Assembly Uses, Commercial Recreation and Entertainment Activities as Conditionally Permitted Uses in the use designation lists for IL (AU), IG (AU) and IP (AU) Districts.

The City Council closed the public hearing, referred the matter to the City Council Rules and Communications Committee for further review and discussion and continued the agenda item to the City Council meeting of March 19, 2012. At the March 1, 2012 City Council Rules and Communications Committee meeting staff presented the staff report with clarifications. Staff clarified that Commercial Recreation is not currently a Conditionally Permitted Use in the Industrial General Zoning District (IG). This is the largest industrial zone in San Leandro and is shown in deep purple on the zoning maps.

Staff also discussed from a planning perspective how primary versus Accessory Uses are treated in

the industrial districts, elaborated on wage differentials in Commercial Recreation and Tech Sector jobs, and discussed industrial standards and infrastructure in industrial districts.

The City Council Rules and Communications Committee recommended that the proposed staff recommendations be referred back to the entire City Council, without a Committee recommendation, for consideration at the March 19, 2012 meeting. The Committee also recommended the City Council consider directing staff to review the Assembly Use Overlay Criteria for possible modification and/or expansion of the Assembly Use area for future consideration by the Planning Commission and City Council.

## **Analysis**

The attached tables graphically explain the provisions of the existing Zoning Code as well as the proposed changes to the Zoning Code. Definitions of Assembly Uses, Commercial Recreation and Entertainment Activities are also provided, in addition to the eight (8) Assembly Use Overlay Criteria.

Definitions:

***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.

The eight (8) Objective Criteria for the Assembly Use Overlay established in 2007:

- **Site is not located along a major commercial corridor;**
- **Site is not located within the following General Plan Focus Areas: Downtown, Bayfair, Marina Blvd/SOMAR, or West San Leandro;**
- **Site is not located in a regional-serving retail area;**
- **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;**
- **Site is not located in a Residential Zone;**
- **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;**
- **Overlay Area must allow a contiguous area greater than or equal to two acres.**

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.

To assist the City Council in its review of the proposed zoning code amendments and related zoning issues, staff offers the following:

1. **Commercial Recreation Is Not Currently Allowed in the Industrial General Zoning District.** Commercial Recreation is not currently permitted nor conditionally permitted in the Industrial General Zoning District. Commercial Recreation is conditionally permitted in the Industrial Limited and Industrial Park Zoning Districts. Entertainment Activities are conditionally permitted in each of the Industrial Districts. The proposed zoning amendment would allow for Commercial Recreation opportunities as conditionally permitted uses in the new Industrial General (AU) Zoning District.
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. Currently, businesses could incorporate commercial recreation activities within their business developments as accessory uses when such commercial recreation activities are part of a Permitted Use in the Zoning District; such opportunities would not be impacted by the proposed amendments. For example, Industry, Research and Development is considered a Permitted Use in each of the Industrial Districts. A high - tech business (such as Google or Oracle) would be considered an Industry, Research and Development Use. Therefore, if Google or Oracle proposed, as part of a business campus in any of the Industrial Districts, recreational activity uses such as a rock climbing wall, gym or exercise rooms for yoga classes, aerobics or spinning classes such uses 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 working with high

tech businesses to create desirable working environments that fit the needs of the applicant.

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 are significant wage differences between employees engaged in Commercial Recreation activities and 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. These are estimates based on data from the California Economic Development Department from 2010.

The Bureau of Labor Statistics indicates that Commercial Recreation and Entertainment Activities workers made on average \$16.61 per hour, while Manufacturing workers made on average \$23.78 per hour, seasonally adjusted. According to estimates from November 2011, Computer systems design and related services made on average \$40.78 per hour.

The number of employees per square foot tend to be fewer for Commercial Recreation and Entertainment Activities, compared to Manufacturing and High Tech activities, which again on average show greater per square foot 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. Basic land use conflicts could also arise between 24/7 trucking uses operating next to large spectator or assembly type occupancies. Staff’s proposed recommendation addresses these obstacles by allowing Commercial Recreation uses in buffer areas between industrial uses and all other uses.

There is no record of any existing Commercial Recreation or Entertainment Activities uses in the industrial districts.

## **Maps**

The attached maps provide a visual illustration of existing conditions and staff’s proposed Zoning Code Amendments.

**Map 1: Existing Zoning Map.** The Existing Zoning Map is provided as a general reference starting point.

**Map 2: Existing Industrial Zones.** This map shows the existing industrial zones, including all overlay districts, within the City of San Leandro.

**Map 3: Existing Conditions for Commercial Recreation.** This map shows the existing industrial areas where Commercial Recreation is Conditionally Permitted.

**Map 4a: Comparison of Commercial Recreation in Industrial Areas, Existing Zoning Versus Proposed Zoning.** This map shows the comparison of areas to be removed as opportunities for Commercial Recreation (shown in a crosshatch) compared to the proposed opportunities (outline in black bold line.) There are 293 parcels and 270 acres in the current condition; there would be 117 parcels and 131 acres in the proposed condition.

**Map 4b: Comparison of Entertainment Activities in Industrial Areas, Existing Zoning Versus Proposed Zoning.** This map shows the comparison of areas to be removed as opportunities for Entertainment Activities (shown in a crosshatch) compared to the proposed opportunities (outline in bold black lines). There are 980 parcels and 1,720 acres in the current condition; there would be 117 parcels and 131 acres in the proposed condition.

**Map 5: Commercial Recreation and Entertainment Activities Conditionally Permitted in Industrial and/or Commercial Areas.** There are 663 parcels and 904 acres that would allow Commercial Recreation in these Industrial and Commercial areas. There are 981 parcels and 964 acres that would allow Entertainment Activities in these Industrial and Commercial areas.

- Commercial Recreation is permitted or conditionally permitted in the following districts:
  1. Commercial Community (CC),
  2. Commercial Community (Assembly Use Overlay) (CC [AU]),
  3. Commercial Recreation (CR),
  4. Commercial-Regional Mall (C-RM),
  5. North Area 1 (NA-1),
  6. North Area 2 (NA-2),
  7. South Area 1 (SA-1),
  8. South Area 3 (SA-3), and
  9. Downtown Area 1 (DA-1).
  
- Entertainment Activities are permitted or conditional permitted in the following districts:
  1. Commercial Neighborhood (CN),
  2. Commercial Neighborhood (Assembly Use Overlay) (CN [AU]),
  3. Commercial Community (CC),
  4. Commercial Community (Assembly Use Overlay) (CC [AU]),
  5. Commercial Recreation (CR),
  6. North Area 1 (NA-1), North Area 2 (NA-2), South Area 1 (SA-1), South Area 2 (SA-2), South Area 3 (SA-3), Downtown Area 1 (DA-1), Downtown Area 2 (DA-2), and Downtown Area 5 (DA-5).

These properties provide considerable opportunities for commercial recreation and entertainment activities.

### **Committee Review and Actions**

- City Council Business and Housing Development Committee was provided a brief presentation on September 8, 2011.
  
- City Council Rules and Communications Committee was provided a presentation on March 1, 2012.

### **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.

The Planning Commission held a public hearing on December 15, 2011. A Special Planning Commission meeting was held on January 26, 2012 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**

- Table 1: Existing Zoning Code and Proposed Zoning Changes
- Map 1: Existing Zoning Map
- Map 2: Existing Industrial Zones
- Map 3: Existing Condition for Commercial Recreation
- Map 4a: Comparison of Commercial Recreation in Industrial Areas, Existing Zoning Versus Proposed Zoning
- Map 4b: Comparison of Entertainment Activities in Industrial Areas, Existing Zoning Versus Proposed Zoning
- Map 5: Commercial Recreation and Entertainment Activities Conditionally Permitted in Industrial and/or Commercial Areas.

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