

CITY OF OAKLAND

AGENDA REPORT

FILED
OFFICE OF THE CITY CLERK
OAKLAND

2008 FEB 28 PM 4:48

TO: Office of the City Administrator
ATTN: Deborah A. Edgerly
FROM: Community and Economic Development Agency
DATE: March 11, 2008

Re: **Public Hearing and An Ordinance Amending The Oakland Planning Code To:**

- (1) Add Chapter 17.73 "CIX-1, CIX-2, IG And IO Industrial Zones", Creating The Following Four New Zones: Commercial Industrial Mix-1, Commercial Industrial Mix-2, General Industrial And Industrial Office;**
- (2) Amend The City's Zoning Maps To Map These Proposed Zones In Areas In The City That Currently Have The General Plan Land Use Designations Of Business Mix And General Industrial/Transportation;**
- (3) Amend Chapter 17.10 "Use Classifications";**
- (4) Add Chapter 17.100 "S-19 Health And Safety Protection Overlay Zone" and Amend Zoning Map to Add Overlay;**
- (5) Amend Chapter 17.120 "Performance Standards";**
- (6) Amend "Guidelines for Determining Project Conformity with the General Plan and Zoning Regulations" to Reflect the New Zones**

SUMMARY

Staff and the Planning Commission recommend the adoption of the attached ordinance that creates four new zoning districts: CIX-1 (Commercial Industrial Mix-1), CIX-2 (Commercial Industrial Mix-2), IG (General Industrial) and IO (Industrial Office). This ordinance also includes the following actions associated with the adoption of these four new zones: amendments to the City's Zoning Maps to map the proposed zones in areas with the Business Mix or General Industrial/Transportation General Plan designations; amendments to the Oakland Municipal Code (O.M.C.) Chapter 17.10 "Use Classifications"; a new O.M.C Chapter 17.100 "S-19 Health and Safety Overlay Zone"; amendments to O.M.C Chapter 17.120 "Performance Standards"; and modifications to the document "Guidelines for Determining Project Conformity with the General Plan and Zoning Regulations". These proposed amendments are the result of work done with extensive public input to bring the City's industrial zoning districts in conformance with the General Plan. The initial phase of that work occurred from 2002 to 2004 and the effort resumed in September 2007.

Overall, there was general agreement expressed at the January 16, 2008 Planning Commission meeting that the proposed new zones, mapping, and related zoning regulations adequately addressed the issues, and thus implemented the General Plan. As detailed in this report below, there were three main areas of controversy related to the transition between industrial and residential areas, regulations regarding recycling uses and work/live space. Staff acknowledges that discussion should continue with regard to operational standards for recycling uses and

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regulations regarding work/live and flexible space citywide. Nonetheless, staff recommends that the City Council adopt the current proposal, which staff believes addresses the areas of controversy with reasonable compromises, to allow the new industrial zones to move forward. Staff also recommends that the City Council confirm the Planning Commission's direction to staff to continue exploring these issues with interested stakeholders and bring back to the Commission/Council any further refinements that may be necessary.

FISCAL IMPACT

Adoption of this ordinance may have indirect positive impacts on City revenue. The proposal should facilitate development by providing more efficient permitting processes. More development would result in increased property taxes, sales taxes and other revenue.

BACKGROUND

The City's Land Use and Transportation Element of the General Plan (LUTE) was adopted in 1998 after many years of public comment and discussion (hereafter referred to as "General Plan"). The Estuary Policy Plan of the General Plan (EPP) was adopted in June 1999. Following adoption of the General Plan and Estuary Policy Plan, efforts were initiated to update the City's zoning regulations to be in conformance with these plans. At over ten public hearings, from approximately April 2002 through May 2004, the Zoning Update Committee (ZUC) of the Planning Commission heard presentations on the new industrial zoning districts proposed to be mapped in areas with Business Mix and General Industrial General Plan land use designations. In June 2004, a decision was made to postpone meetings on the industrial zones until further notice.

A *separate* but related discussion regarding the City's overall industrial land use policy was initiated by the Planning Commission in June 2005, in response to a concern for the growing number of individual applications for general plan amendments in industrial areas. Policy issues regarding the City's industrial lands, which were divided into 17-sub areas to facilitate discussion, were considered at eight public hearings between November 2005 and June 2007 at the ZUC, and at the Planning Commission on February 13, 2008. This item is scheduled to be heard by the City Council on February 19, 2008. The discussion on citywide industrial land use policy is **not** the subject of this report. The focus of this report is adopting ordinances to implement the General Plan designations of Business Mix and General Industrial/Transportation.

Based on direction from the ZUC, City Council and the Mayor's Office to update the zoning code to be in conformance with the General Plan, staff from the Strategic Planning Division and Business Development Services have worked together to complete work on new industrial zones. Per the ZUC's request, at their September 19, 2007 meeting, staff re-examined previously discussed drafts of industrial districts zoning text, land use activity classifications and related zoning regulations that had been the product of extensive discussions at over 10 public hearings that took place roughly between April 2002 and May 2004. Staff presented these earlier drafts,

with some proposed revisions to the ZUC on October 17, 2007. The ZUC recommended that the drafts be forwarded for consideration by the full Planning Commission.

At the December 5, 2007 Planning Commission meeting, the Commissioners were presented with drafts of the revised zoning text for four new industrial zones, proposed mapping of the four new zones, proposed revisions to corresponding industrial use classification activity types (Oakland Planning Code, Chapter 17.10); a proposed new Health and Safety Overlay Zone, and proposed revisions to General Performance Standards (Oakland Planning Code, Chapter 17.120). The Commissioners were also asked for policy direction regarding work/live in the industrially-zoned areas. After hearing extensive public testimony, the Planning Commission directed staff to return to the Commission on January 16, 2008 with final drafts of all of the items presented with changes based on public testimony and any further written comments received in the interim. The Commission also directed staff to not consider mapping the proposed zones within the Estuary Policy Plan area; provide more specific recommendations regarding appropriate buffering for certain uses; and provide a recommendation for work/live in the industrially-zoned areas.

Based on the Commission's direction to solicit additional feedback to the extent feasible prior to the January 16, 2008 Planning Commission meeting, staff held two informal stakeholder discussion sessions on the topics of regulation of recycling uses and on work/live on December 17th and 18th, respectively—issues which merited further input based on public testimony at the December 5th Planning Commission meeting.

At the January 16, 2008 Planning Commission meeting, the Commissioners received the staff report and heard public testimony. While the Commissioners acknowledged that there was not a clear consensus regarding the issues of work/live and buffering for primary recycling uses, they supported staff's proposal and recommended forwarding it to the City Council for consideration (with a minor revision to change the maximum driveway width allowed from 25 feet to 35 feet). A copy of the Planning Commission staff report for January 16, 2008 is provided as **Attachment A**.

KEY ISSUES AND IMPACTS

As set forth in the General Plan implementation program and in the Oakland Planning Code (Chapter 17.01 "General Provisions of the Planning Code and Conformity with the General Plan"), the City's existing zoning regulations should be made consistent with the General Plan. The current industrial zoning districts and associated regulations were never updated following the adoption of the General Plan in 1998. In fact, some of the zoning regulations have not substantially changed since the Planning Code was adopted in 1965. As such, the existing industrial zoning regulations do not effectively implement the goals and policies for the Business Mix and General Industrial/Transportation land use designations. The current zones do not encourage the development of desired job-creating industrial uses because they do not reflect

present-day industrial uses; additionally, the existing industrial zones do not adequately provide protections for neighboring residentially zoned areas.

Overall, there was general agreement expressed at the January 16, 2008 Planning Commission meeting that the proposed new zones, mapping, and related zoning regulations adequately addressed these issues, and thus implemented the General Plan. However, there were three main areas of controversy that are detailed below.

Transition Between Industrial and Residential Areas

There are many areas in the City with Business Mix and/or General Industrial/Transportation designations that are directly adjacent to residentially zoned areas. This raises issues of land use compatibility. Staff is proposing that 300 feet from existing residential zones be considered the area of concern for buffering neighboring residential uses from potential off-site impacts from businesses within the new industrial zones. Three hundred feet is approximately the distance of a standard city block. Thus, the regulations for several uses were standardized to require a conditional use permit (CUP) if located within a distance of 300 feet from a residential zone. *The restrictions would only apply to the portion of any parcel that is located within the 300-foot distance, as measured from the boundary of an adjacent residential zone; it would not apply to any portion of the parcel that is located beyond the 300-foot distance.*

For uses with higher potential for off site impacts, such as primary recycling centers and truck intensive uses, more stringent buffering distances are proposed. For truck intensive uses (e.g., Freight/Truck Terminals, Truck Yards and Truck and Other Heavy Vehicle Service, Repair and Refueling), the area of concern will be 600 feet from existing residential zones in CIX-1 (i.e., prohibited within 600 feet and a conditional use permit is required beyond 600 feet). In addition, West Oakland has additional restrictions on truck related uses that are contained in O.M.C. Chapter 17.102 and no change to these additional restrictions is recommended. For Primary Recycling Collection Centers, the proposal is to prohibit such uses within 300 feet of a residential zone and require a conditional use permit if located between 300 and 600 feet of a residential zone in CIX-1, CIX-2 and IG; the use is prohibited in IO (see following section for detailed discussion of recycling uses). Furthermore, the areas where industrial and residential zones abut one another are further protected through required compliance with the citywide performance standards (O.M.C. Ch. 17.120) and the new proposed "S-19 Health and Safety Protection Overlay Zone" (which specifically covers the 300-foot transitional area and prohibits highly hazardous uses such as electroplating). Recycling uses are discussed in more detail in the following section.

There is still considerable debate over the appropriate distance(s) for the area of concern as described above. In general, the business interests believe that 300 feet from residential areas is too great a distance. Public health advocates, in general, feel 300 feet is too narrow an area of concern and that 600 feet would be more appropriate. Staff believes that 300 feet represents a reasonable compromise between the positions, adequately addresses concerns about health and other potential off site impacts, and does not unduly restrict business generation activities. A

300 foot buffer from existing residential zones comprises approximately 18% of the land with a Business Mix designation and 3% of land with General Industrial designation. In total, 6.5% of the City's industrially designated lands fall within 300 feet of existing residential zones.

Recycling Uses

The proposed new industrial zones and revisions to the land use classification of industrial activity types introduce three new activity types for recycling uses in order to better define and regulate these uses. Satellite Recycling Collection Centers are generally characterized as activities for donation/redemption of non-hazardous recyclable materials, occupying facilities smaller than 500 square feet. Primary Recycling Collection Centers are defined as large facilities, greater than 500 square feet that accept recyclable non-hazardous material from the public or other entities for donation or redemption. Finally, Intermediate Recycling Processing Facilities are activities that collect, process and manufacture recyclable materials into some other end product but do not accept materials from the public. Primary Recycling Collection Centers and Intermediate Recycling Processing Facilities uses are currently regulated under O.M.C. Ch. 17.10 Part 2, Civic Activity Types as "Extensive Impact Civic Activities" and Part 4, Manufacturing Activity Types as "General Manufacturing".

Some people have identified concerns about potential off-site impacts of Primary Recycling Collection Centers located near residential zones such as traffic generation, noise, dumping and other associated nuisances. Staff acknowledges that there is a higher potential for Primary Recycling Collection Centers to have off-site impacts to neighboring residential areas. Therefore, as noted above, staff proposes prohibiting such uses within 300 feet of a residential zone and requiring a conditional use permit if the use is located between 300 and 600 feet of a residential zone in CIX-1, CIX-2 and IG; the use is prohibited in IO. In addition, The Planning Commission directed staff to develop a set of operational standards that would apply to all new Primary Recycling Collection Centers. These operational standards would be developed in consultation with residents, the recycling industry and other affected stakeholders. When complete, these operational standards would be brought to the Planning Commission and City Council as revisions to the Oakland Planning Code for adoption.

As expressed at the various public hearings, informal stakeholder sessions and in correspondence received, some believe that the prohibited distance should be lowered to 150 feet for Primary Recycling Collection Centers; others believe that the distance should be increased to 600 feet. Staff believe that prohibiting such uses within 300 feet and requiring a conditional use permit between 300 and 600 feet for Primary Recycling Collection Centers is a reasonable compromise, particularly when considered in conjunction with the protections afforded by the new proposed "S-19 Health and Safety Protection Overlay", the existing performance standards (O.M.C. Ch. 17.120 "Performance Standards"), and the operational standards that will be required by all primary recycling uses as conditions of approval that will be developed at a later date.

Based on comments received, two issues regarding recycling uses still appear controversial. The first issue is that some people feel the same prohibition should apply to both Primary Recycling

Collection Centers and Intermediate Recycling Processing Facilities. Staff does not believe that the same restrictions are needed for Intermediate Recycling Processing Facilities because the source of potential impacts from a Primary Recycling Collection Center (e.g., the high level of traffic, noise and associated impacts from accepting materials from the public for redemption/donation) is by definition not allowed at an Intermediate Recycling Processing Facility. In addition, the creation of the activity classification of Intermediate Recycling is designed to help encourage an emerging green industry sector concerned with transforming recycled materials into new end products.

The second issue of concern is that there should be greater restrictions placed on the location of Primary Recycling Collection Centers. There is a group that believes primary recycling activities should be prohibited outright within 600 feet of residential zones. Staff recommends the proposed regulations, including the direction to develop City-wide performance standards for recyclers, as a reasonable compromise between competing positions.

Work/Live

The debate over the definition and regulation of live/work and work/live space is complex and contentious. The General Plan indicates that Business Mix and General Industrial areas should not have a residential component. The General Plan does not contain many references to space that combines living and working uses. One area where it is mentioned is in the section on implementation strategies for West Oakland. This section discusses “live/work” space as encouraged for the edges of Business Mix. Given that statement, staff proposes that work/live space be allowed with a conditional use permit within 300 feet of an existing residential zone in CIX-1 and CIX-2 only, as defined and regulated in a new section of the proposed draft. An exception exists for conversions of existing buildings in all four zones with a CUP for historical buildings (rated A or B per the City’s Cultural Heritage Survey) which otherwise may not be physically suitable for contemporary industrial enterprises.

To date, opinions are still very divided among stakeholders, ranging from those who believe that work/live space should be allowed everywhere within the CIX-1 and CIX-2 areas with a conditional use permit and those who believe that it should not be allowed anywhere within the industrial areas, or limited to an area within 150 feet from existing residential zones. The staff proposal for the new industrial zones is designed to be compatible with what guidance is in the General Plan and to allow for the new industrial zones to move forward toward adoption.

Staff acknowledges that the discussion regarding the need for affordable flexible space, particularly for the artist community of the City, is one that needs further study. Therefore, staff requests that the City Council confirm the Planning Commission’s direction to staff to continue exploring the issue with interested stakeholders with an eye toward a more nuanced City-wide procedure for regulating flexible spaces in all zones. This effort, if staff is so directed, is likely to be a lengthy process. Staff recommends that the City Council adopt the current proposal to allow the new industrial zones to move forward, while also exploring further refinements.

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GENERAL PLAN ANALYSIS

This section describes the regulatory context of the four industrial zones (CIX-1, CIX-2, IG and IO) with respect to the General Plan. As stated above, the proposed zones are intended to implement the Business Mix and General Industrial/Transportation General Plan designations. The intent, desired character and maximum intensity envisioned by the General Plan for these designations are summarized in the table below.

Table 1. Summary of Selected General Plan Land Use Designations

General Plan Designation	Intent	Desired Character	Maximum Intensity
Business Mix	Create, preserve and enhance areas of the City that are appropriate for a wide variety of business and related commercial and industrial establishments. High impact industrial uses including those that have hazardous materials on-site may be allowed provided they are adequately buffered from residential areas. High impact or large scale commercial retail uses should be limited to sites with direct access to the regional transportation system.	These areas may accommodate a mix of businesses such as light industrial, manufacturing, food processing, commercial, bioscience and biotechnology, research and development, environmental technology, business and health services, air, truck and rail-related transportation services, warehouse and distribution facilities, office and other uses of similar business character.	Maximum floor-to-area ratio (FAR) 4.0; in some locations, zoning should establish lower intensities to establish or maintain campus-like business settings. In others, uses and development standards should offer maximum flexibility. In areas where higher impact uses are located, buffering strategies will need to be developed.
General Industrial/Transportation	To recognize, preserve, and enhance areas of the City for a wide variety of businesses and related establishments that may have the potential to create off-site impacts such as noise, light/glare, truck traffic, and odor. These areas are characterized by sites with good freeway, rail, seaport and/or airport access.	A wide variety of uses are included, such as heavy industrial and manufacturing uses, transportation, railyards, maritime terminals, distribution and warehousing, food processing, heavy impact research and development facilities, and other uses of similar or supporting character.	Maximum overall FAR is 2.0

Source: City of Oakland General Plan, Land Use & Transportation Element, p.152, p.153.

The proposed zones are consistent with the General Plan for the following reasons:

- The permitted and conditionally permitted activities and facilities in the CIX-1, CIX-2 and IO zones allows for a variety of light industrial and commercial activities, generally incorporating what is currently allowed in M-10, M-20, M-30 and S-16 zones, which is consistent with the intent of the Business Mix General Plan designation. The permitted and conditionally permitted activities and facilities in the IG zone includes a wide variety of heavy industry and manufacturing uses, generally incorporating what is currently allowed in the M-40 zone, which is consistent with the intent of the General Industrial/Transportation General Plan designation.

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- The maximum nonresidential floor area ratio (FAR) in CIX-1, CIX-2 and IO is 4.0 (by right if located greater than 300 feet from a residential zone or with the granting of a conditional use permit if within 300 feet of a residential zone) which is within the maximum FAR allowed under the General Plan for Business Mix. The maximum FAR in IG is 2.0 (by right if located greater than 300 feet from a residential zone or with the granting of a conditional use permit if within 300 feet of a residential zone), which is within the maximum allowed under the General Plan for General Industrial/Transportation.
- Heavy Industry activities and activities involving hazardous waste management are generally not permitted in the CIX-1, CIX-2 and IO zones; in addition, the new proposed S-19 Health and Safety Overlay Zone (Chapter 17.100) would require that the Fire Department review any business that proposes to use, process or store hazardous materials which would be located within 300 feet of a residential zone. This new overlay zone, discussed in more detail below, would be mapped within all CIX-1, CIX-2, IG and IO zones.

PROGRAM DESCRIPTION

This section provides a description of the six components of this proposal to:

1. Add a new O.M.C. Chapter 17.73 "CIX-1, CIX-2, IG And IO Industrial Zones", creating the following four new industrial zones: Commercial Industrial Mix-1, Commercial Industrial Mix-2, General Industrial And Industrial Office;
2. Amend the City's zoning maps to map these proposed zones in areas in the City that currently have the General Plan Land Use Designations Of Business Mix and General Industrial/Transportation;
3. Amend O.M.C. Chapter 17.10 "Use Classifications";
4. Add a new O.M.C. Chapter 17.100 "S-19 Health And Safety Protection Overlay Zone and Amend Zoning Map to Add Overlay;
5. Amend O.M.C. Chapter 17.120 "Performance Standards"
6. Amend the "Guidelines for Determining Project Conformity with the General Plan and Zoning Regulations" to reflect the new zones.

As stated in the attached ordinance, the effective date for this proposal is 30 days from date of final passage by the City Council, in order to provide time for the proposed changes to the Planning Code to be made and for City staff to be trained in the new regulations. However, the new regulations shall not apply to building/construction related permits already issued and not yet expired, or to zoning applications approved by the City and not yet expired, or to zoning applications deemed complete by the City as of the date of final passage. However, zoning applications deemed complete by the City prior to the date of final passage of this Ordinance may be processed under provisions of these new Planning Code amendments if the applicant so chooses.

Summary Of Proposed Industrial Zones

As shown in **Exhibit A** of the attached ordinance, a new chapter, 17.73 “CIX-1, CIX-2, IG And IO Industrial Zones”, is proposed to be added to O.M.C. Title 17, Planning. This chapter is intended to eventually replace O.M.C. Chapters 17.66 “M-10 Special Industrial Zone Regulations”, 17.68 “M-20 Light Industrial Zone Regulations”, 17.70 “M-30 General Industrial Zone Regulations”, 17.72 “Heavy Industrial Zone Regulations” and 17.98 “S-16 Industrial-Residential Transition Combining Zone Regulations”; however, since there are areas with General Plan designations other than those designated as Business Mix or General Industrial/Transportation that include the aforementioned M-zone or S-16 zoning overlay districts, these chapters cannot be replaced until the zones in their associated General Plan designation are updated as part of the citywide zoning update process.

The CIX-1 (Commercial and Industrial Mix-1), CIX-2 (Commercial Industrial Mix-2), and IO (Industrial Office) zones are all zones that are consistent with the Business Mix General Plan designation. The IG (General Industrial) zone is applied to the General Industrial & Transportation General Plan designation. The following is a brief description of the zones:

- **CIX-1 (Commercial and Industrial Mix-1).** The CIX-1 zone is intended to allow a wide range of commercial and industrial activities, and to limit the establishment or expansion of general or heavy manufacturing uses. This zone allows a broad range of both general and heavy-service commercial and light industrial activities, while limiting truck intensive uses (e.g., freight/truck terminals, truck yards and truck and other heavy vehicle service, repair and refueling) to areas beyond 600 feet of a residential zone with the granting of a conditional use permit. Residential uses are prohibited in this zone.
- **CIX-2 (Commercial Industrial Mix-2).** The CIX-2 zone is intended to create, preserve and enhance areas that are appropriate for lighter industrial activities but which may allow heavier impact activities where they will not impact residential uses. This zone allows heavy service commercial, custom and light industrial activities. It also allows trucking-related uses, with the exception that Truck Terminals require a conditional use permit if located within 300 feet of a residential zone and Truck Yards require a conditional use permit everywhere in the zone. Residential uses are prohibited in this zone.
- **IG (General Industrial).** The IG zone is intended to create, preserve and enhance areas of the City that can accommodate a wide variety of industrial establishments that may have the potential to generate off-site impacts. Conditionally allows heavy industrial uses which meet citywide performance standards, buffering standards, and other health and safety criteria as determined by the Fire Department. This zone also includes seaport and airport uses. This zone prohibits residential uses.
- **IO (Industrial Office)** The IO zone is intended to create and support areas with a wide range of businesses and related commercial and industrial activities supporting multi-story industrial development on large lots in a campus-like setting. The IO zone is intended to promote office business park industrial, new “clean-tech” energy and

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scientific development, and technology-related warehousing activities. This zone prohibits residential uses.

Mapping of the Proposed Industrial Zones

Staff recommends that the City Council adopt the proposed amendments to the City’s zoning map to reflect the four proposed new zones where the General Plan is mapped as either Business Mix or General Industrial/Transportation, as shown in **Exhibit B** (of the attached ordinance) and summarized in Table 2.

Table 2. Summary of Proposed Mapping of New Zones to Implement General Plan Designations

General Plan Designation	Mapped to Proposed Zoning District(s)
Business Mix	CIX-1: for areas in West Oakland CIX-2: for areas in Central and East Oakland IO: preliminarily for some areas in Central and East Oakland
General Industrial/Transportation	IG: primarily East Oakland, Port and Airport areas

Areas which are not mapped at this time include:

- **Areas within the Estuary Policy Plan.** At their January 16, 2008 meeting, the Planning Commission recommended that the new proposed zones not be mapped in the Estuary Policy Plan area primarily because the floor-area-ratios (FARs), and to a lesser extent the intended uses of the new zones, were not consistent with their corresponding Estuary Policy Plan designations. The Commissioners directed staff to work on modifying the new zones to develop regulations that are consistent with the Estuary Policy Plan. Staff recommends that the City Council agree that staff should continue to work on developing zoning regulations for the Estuary Policy Plan areas.
- **Areas that have a different General Plan (other than Business Mix or General Industrial/Transportation) and an underlying M-zone.** Staff proposes to address this at a later date, as each of the remaining General Plan designations and their corresponding zoning districts are updated as part of the citywide zoning update.
- **Areas that staff believes to be mapped incorrectly (e.g., “Scribner’s errors).** Staff is compiling a list of small areas (e.g., one to several parcels in size) that require additional study of apparent discontinuities between General Plan designations, zoning district and existing conditions. Staff intends to address all these types of mapping corrections at a later date, as part of citywide zoning update.

Revisions to Use Classifications Industrial Activity Types

As shown in **Exhibit A** of the attached ordinance, revisions to the existing chapter of the Oakland Planning Code, O.M.C. 17.10 “Use Classifications”, Part 4., “Industrial Activity Types” related to the new industrial zones are proposed. The current Oakland Planning Code only has seven categories of industrial activity types. The proposed revisions expand and refine the industrial activity types to a total of 25 activities and subcategories that are more representative of modern/present-day industrial uses, and outmoded uses and examples were deleted, with the intent to provide staff and property owners clearer definitions of the types of uses allowed in various zoning districts.

All non-industrial activity types (e.g., Residential Activity Types, Commercial Activity Types and Agricultural and Extractive Activity Types) will be addressed when updates to their corresponding zoning districts and General Plan designations are being considered at subsequent meetings, in order to ensure that the stakeholders most closely tied to the particular uses up for discussion may be included. The only non-industrial activities that were addressed by the proposed revisions are Ch. 17.10.500 "Transport and Warehousing Commercial Activities" and Ch. 17.10.530 "Scrap Operation Commercial Activities", which are being recommended to move to the Industrial Activity Type category.

The Planning Commission broadly considered and discussed the overall set of proposed revisions to the use classification industrial activity types. Since the Planning Commission's recommendation to forward the entire package of proposed amendments to the Planning Code and Zoning Maps to the City Council at their January 16, 2008 meeting, staff is now recommending one additional change to the definition of Ch. 17.10.581 "Research and Development Industrial Activities" and an associated change to Ch. 17.10.580 "Heavy/High Impact Industrial Activities". Specifically, the definition of Research and Development was revised to include one additional category of materials categorized as "Risk Group 3", that may be used by national biotechnology laboratories approved for National Institute of Health experiments; previously the definition only allowed "Risk Groups 1 and 2". The definition of Heavy/High Impact Manufacturing Activities was revised to only refer to Risk Group 4, rather than "Risk Group 3 and 4", in order to remove the overlap between definitions (as shown on pp. 4-5 in Exhibit A of the attached Ordinance). National Institute of Health Risk Groups 1, 2 and 3 are considered "low community risk". The intent of the revision is to encourage research and development uses and allow the low community risk categories, while regulating high community risk "Risk Group 4" more stringently (under Heavy/High Impact Manufacturing Activities). This additional change is consistent with the direction of the Planning Commission.

New Proposed Health And Safety Overlay Zone

The intent of the Health and Safety Protection Zone (Exhibit A) is to route businesses which may use, store or process chemicals that could pose environmental risks, directly to the Fire Department Hazardous Materials division for clearance, rather than have land use planners determine the nature and risks of commercial/ industrial uses. The Fire Department now has the discretion to review any such land use activities, per the Certified Unified Program Agency (CUPA) ordinance, lead agency authority. However, in practicality, the Fire Department does not have the means for such referrals now. The referral to the OFD Hazardous Material Program would be made when the business seeks to obtain a Zoning Clearance as part of the business license process, or during a CUP or other Planning permit application. A distance of 300 feet from any residential, open space or institutional zone as the appropriate mapping of the zone of referral was determined by the Hazardous Material Program Supervisor as acceptable (**Exhibit B** of the attached ordinance).

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Upon referral to this zone any one of the following recommendations may be made by the Fire Department Staff:

- a. Business may proceed with the Zoning Clearance or other process, with no plan required by Fire, with a notation of such made in the Permit Tracking System (PTS) under the site address; or
- b. Require a Risk Management Plan, or
- c. Require a Hazardous Materials Business Plan; or
- d. Limit or prohibit the storage or use of specific hazardous materials; or specific processes that use hazardous materials; or
- e. Require containment measures for storage or use of hazardous materials; or
- f. Limit the location for storage or use of hazardous materials.

Revisions To Performance Standards (Chapter 17.120)

The existing Zoning Code has Performance Standards regulations (O.M.C. Chapter 17.120) that provide a platform for the regulation of common impacts from noise, dust, air particulates, odor, etc. The existing language has not been substantially altered in the attached proposed new version (**Exhibit A** of the attached ordinance). It has been made more specific for businesses by stating the standard for the measurement and where it should be measured. Activities in all industrial zones would be required to conform to the industrial noise standards for all lot lines that internally abut another industrial zone. Any industrially zoned properties must conform to the appropriate residential receiving levels at any lot line where they abut a residential zone, which is a change from existing regulations which reference noise levels that may be received from any residential, civic or open space activities. The performance standards have been cross-referenced to those sections of the Code which are the enforcement authority for the standards (e.g., cross-reference to the City's Noise Ordinance and the Construction Noise Ordinance).

Performance standard regulations are administered, in practicality, on a complaint-driven basis, whereby a call from a community or local business owner is made to the Fire Department or Code Enforcement. Some industries (typically the largest and heaviest users) are subject primarily to the authority of the Bay Area Quality Management District, which issues its permit to operate, and are not enforced by a local authority.

Current regulations, per Section 17.120.020 of the Zoning Code, specifically state "conforming activities existing on the effective date of the current code or of a subsequent rezoning that applies more restrictive performance standards to such activities are not required to comply with the performance standards. However, no operations should be so changed as to result in a greater degree of nonconformity with respect to such standards." Staff recommends adding the following threshold to quantify an example of an increased degree of nonconformity with respect to performance standards only (as defined in Sect. 17.114.080.C "Activity Nonconforming for Other Reasons"): whenever a business adds more than 20 percent of production (i.e., non-administrative) floor area, it be required to come into compliance with current code in regards to

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noise, vibrations, smoke and particulate matter, odorous matter, humidity, heat, cold, and glare and electrical disturbance.

This chapter will be brought before the Planning Commission and then to City Council to adopt further substantive changes to the noise standards, with associated changes to the City's Noise Ordinance, to conform these regulations to the City's current practice and policy.

General Plan Conformity Guidelines

On May 12, 1998, the City Council adopted interim controls that implement the General Plan prior to the adoption of revisions to the Oakland Planning Code (which were most recently extended on December 7, 2007). These interim controls are in a document entitled "Guidelines for Determining Project Conformity with the General Plan and Zoning Regulations". However, the new zones will now implement the General Plan Business Mix and General Industrial / Transportation designations. Therefore, staff proposes to replace text in the Guidelines that implement the General Plan designations with text that refers to the Planning Code (**Exhibit C** of the attached ordinance).

ENVIRONMENTAL DETERMINATION

Several past environmental documents discussed and evaluated the environmental impacts associated with this proposal and reliance on them satisfies any requirements under the California Environmental Quality Act (CEQA), and no further environmental review is required under CEQA Guidelines sections 15162 and 15163. As a separate and independent basis, CEQA Guidelines Section 15183 "Projects Consistent with a Community Plan, General Plan or Zoning" also provides CEQA clearance. Those environmental documents include the previously certified Final Environmental Impact Report for the Land Use and Transportation Element of the General Plan, adopted 1998 (General Plan EIR); and the Environmental Impact Reports for the Central City East Redevelopment Plan, the Coliseum Redevelopment Plan, and the West Oakland Redevelopment Plan. These documents have been furnished to the City Council and Planning Commission at previous meetings. Copies may be obtained at the City of Oakland Planning and Zoning Division at 250 Frank H. Ogawa Plaza, Ste. 3315, Oakland CA 94612 or online at the City of Oakland Planning and Zoning Division website at: <http://www.oaklandnet.com/government/ceda/revised/planning.html>, and clicking on the "Zoning Update" link. This section describes how these documents are applicable to the proposal.

A. General Plan EIR

The General Plan EIR evaluated the environmental impacts of the proposal and anticipated future reliance on it for actions that were consistent with it and intended to implement it. Reliance on the General Plan EIR is appropriate as stated on page I-4 of that document:

"The EIR may also be used at a future date by the Planning Commission and City Council to evaluate the environmental impacts of subsequent actions that are

consistent with the Land use and Transportation Element or are intended to implement the Land Use and Transportation Element.”

Further, the changes to the ordinance and zoning map being proposed were evaluated by the General Plan EIR. The General Plan EIR specifically states that the document may be used to evaluate the environmental impacts of “amendments of the Zoning Ordinance and Zoning Map for General Plan consistency.” This General Plan EIR contains several mitigation measures that reduce development impacts proposed by the General Plan to less than significant and identify others as unavoidable or irreversible. Staff has considered and incorporated the mitigations into the proposal.

B. Relevant Redevelopment Plan EIRs

The Central City East Redevelopment Plan (2003), the Coliseum Redevelopment Plan (1995, amended 1997), and the West Oakland Redevelopment Plan (2003) and their associated certified EIRs cover areas proposed for the new industrial zones. The redevelopment plans are broad documents that do not contain specific projects, but direct and target funding sources toward affordable housing, general housing and business improvements, infrastructure, and environmental improvements. The EIRs identify potential impacts of these investments in the project area. Any mitigation required by the EIRs have been considered and incorporated into this proposal to mitigate potential impacts.

SUSTAINABLE OPPORTUNITIES

Economic: Adoption of the ordinance will be positive for the local economy since updating the zoning to be in conformance with the General Plan will provide greater certainty for property owners and businesses regarding the City’s development regulations for the industrially zoned areas, and increase the likelihood that greater investment and job opportunities will be created in these areas.

Environmental: Adoption of the ordinance, which includes required separation between adjacent residential zones from industrial uses with the potential for greater off-site impacts, as well as a mechanism to reinforce oversight by the City’s Fire Department for uses within 300 feet of any residential zone that may involve hazardous substances, through the Health and Safety Protection Zoning Overlay, will be positive for the environment.

Social Equity: Adoption of the proposed ordinance would be positive with regards to social equity. As noted above, the adoption of the proposed ordinance would provide a measure of certainty regarding the City’s development regulations in its industrial zones; this certainty will increase the likelihood that property-owners and businesses will develop job-creating industrial opportunities in the area. Moreover, the proposed ordinance includes required separation distances and additional City oversight for uses that are likely to have greater off-site impacts in areas where industrially zoned and residentially zoned lands are adjacent to each other.

Item: _____

Community and Economic Development Committee

March 11, 2008

DISABILITY AND SENIOR CITIZEN ACCESS

These proposed ordinance amendments will not change access issues for the disabled or for senior citizens.

RECOMMENDATION(S) AND RATIONALE

The proposed ordinance amendments will:

- Update the industrial zoning regulations to reflect present-day industrial uses and the types of uses that the City of Oakland would like to encourage;
- Balance the need to adequately address concerns about health, safety and other potential off site impacts and the desire to not unduly restrict business and job-generating activities;
- Provide a reasonable compromise to address allowing flexible space (e.g., work/live) in the four new zones that remains compatible with guidance in the General Plan while also exploring further refinements; and
- Implement the General Plan by establishing and mapping new industrial zoning districts, as well as other zoning text amendments, that are in conformance with the Business Mix and General Industrial/Transportation land use designations of the General Plan and other land use policies of the General Plan.

Therefore, staff recommends that the City Council approve adoption of the proposed ordinance.

ACTION REQUESTED OF THE CITY COUNCIL

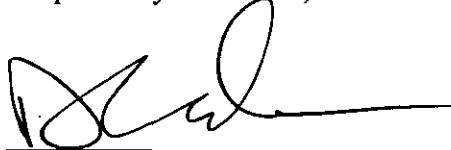
Staff recommends that the City Council adopt and Ordinance which:

1. Adds a new O.M.C. Chapter 17.73 "CIX-1, CIX-2, IG And IO Industrial Zones", creating the following four new industrial zones: Commercial Industrial Mix-1, Commercial Industrial Mix-2, General Industrial And Industrial Office;
2. Amends the City's zoning maps to map these proposed zones in areas in the City that currently have the General Plan Land Use Designations Of Business Mix and General Industrial/Transportation;
3. Amends O.M.C. Chapter 17.10 "Use Classifications";
4. Adds a new O.M.C. Chapter 17.100 "Health And Safety Protection Overlay Zone and Amend Zoning Map to Add Overlay;

Item: _____

5. Amends Chapter 17.120 "Performance Standards"
6. Amends the "Guidelines for Determining Project Conformity with the General Plan and Zoning Regulations" to reflect the new zones.

Respectfully submitted,



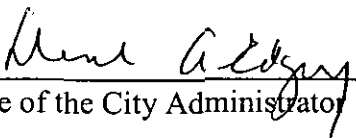
Dan Lindheim
Director
Community & Economic Development Agency

Reviewed by: Eric Angstadt,
Strategic Planning Manager

Prepared by:
Alisa Shen, Planner III
Planning and Zoning Division, CEDA

Margot Lederer Prado, AICP
Industrial & Brownfields Specialist, CEDA

APPROVED AND FORWARDED TO THE
COMMUNITY AND ECONOMIC DEVELOPMENT COMMITTEE:


Office of the City Administrator

Attachment(s):

- A. Planning Commission Staff Report for January 16, 2008 (w/o attachments)

Oakland City Planning Commission**STAFF REPORT**

Case File Number ZT 07398

January 16, 2008

Location:	Areas in the City with Business Mix and General Industrial General Plan Land Use Designations (See Attachment D)
Proposal:	Consider proposed Revisions to Oakland Planning Code to: <ol style="list-style-type: none"> (1) Add Chapter 17.73 "CIX-1, CIX-2, IG and IO Industrial Zones", which is intended to replace Chapters 17.66 "M-10 Special Industrial Zone Regulations", 17.68 "M-20 Light Industrial Zone Regulations", 17.70 "M-30 General Industrial Zone Regulations", 17.72 "Heavy Industrial Zone Regulations" and 17.98 "S-16 Industrial-Residential Transition Combining Zone Regulations"; (2) Amend the City's Zoning Maps to map these proposed zones in areas in the city that currently have the General Plan Land Use Designations of Business Mix and General Industrial/Transportation; areas with the General Plan land use designations described above are generally located in parts of West Oakland and Central and East Oakland, generally south of International Boulevard; (3) Amend Chapter 17.10 "Use Classifications" to include more detailed examples and be more reflective of prevailing types of non-residential uses; (4) Add Chapter 17.21 "Health and Safety Overlay Zone which, if applied, would enforce the Fire Department's existing mandate to review activities that involve the use or storage of hazardous materials or waste within 300-feet of any residential zone; (5) Amend Chapter 17.120 "General Performance Standards" to be more specific about where a stated standard should be measured; and, (6) Consider a Proposal for Regulations Regarding Work/Live in the Industrially-Zoned Areas
Applicant:	Planning Commission
Planning Permits Required:	Zoning Text Amendments, Zoning Map Amendments.
General Plan:	Business Mix and General Industrial General Plan Land Use Designations
Zoning:	Primarily focused on, but not limited to the industrial zones: M-10 Special Industrial Zone, M-20 Light Industrial Zone, M-30 General Industrial Zone, M-40 Heavy Industrial Zone, and S-16 Industrial-Residential Transition Combining Zone.
Environmental Determination:	This proposal relies on the previously certified Final Environmental Impact Reports (EIRs) for the Land Use and Transportation Element of the General Plan (1998); the EIRs for the West Oakland (2003), Central City East (2003), and the Coliseum (1995, amended 1997) Redevelopment Areas.
Service Delivery District:	Metro, 1, 3, 4, 5 and 6
City Council district:	2, 3, 5 6 and 7
Date Filed:	9/13/07
Status:	Heard by Zoning Update Committee on 9/10/07 and 10/17/07. Heard by full Planning Commission on 12/5/07. Recommended by full Planning Commission to be brought back for consideration at 1/16/08 Planning Commission meeting.
Staff Recommendation:	Recommendation to City Council.
For further information:	Contact Margot Lederer Prado, Business Development at (510) 238-6766 or by email at mprado@oaklandnet.com or Alisa Shen, Strategic Planning at (510) 238-2166 or by email at ashenshen@oaklandnet.com.

SUMMARY

Based on the direction received from the Planning Commission at their 12/05/07 meeting, this staff report presents revised versions of the following for consideration and discussion by the full Planning Commission:

1. Draft zoning text for four new industrial zones: Commercial Industrial Mix-1 (CIX-1), Commercial Industrial Mix-2 (CIX-2), General Industrial (IG), and Industrial Office (IO) to implement the Business Mix and General Industrial/Transportation General Plan designations, including a proposal for regulations regarding work/live in the industrially-zoned areas.
2. Proposed mapping of the four new zones in areas with the General Plan designations listed above.
3. Proposed revisions to corresponding industrial use classification activity types (Oakland Planning Code, Chapter 17.10); any revisions to non-industrial use classification activity types (e.g. residential, commercial, civic, etc.) will be considered when their corresponding zoning districts are updated.
4. A proposed new Health and Safety Overlay Zone
5. Proposed revisions to Performance Standards (Oakland Planning Code, Chapter 17.120)

BACKGROUND

The City's Land Use and Transportation Element of the General Plan (LUTE) was adopted in 1998 after many years of public comment and discussion (hereafter referred to as General Plan). The Estuary Policy Plan of the General Plan (EPP) was adopted in June 1999. From April 2002 through May 2004, the ZUC heard presentations on new industrial zoning districts proposed to be mapped in the Business Mix and General Industrial General Plan land use designations. In June 2004, a decision was made to postpone further meetings on the industrial zones until further notice.

In June 2005, a separate but related discussion regarding the City's industrial land use policy was initiated by the Planning Commission, in response to a concern for the growing number of individual applications for general plan amendments in industrial areas. Staff of CEDA Business Development Services subdivided the City's industrial lands into 17 sub-areas for mapping and discussion purposes, and conducted extensive land use and economic analyses. Business Development staff presented analyses of these sub-areas relative to future zoning proposals at three ZUC meetings: December 13, 2006 (sub-areas 11 & 11a), January 17th (sub-areas 11, 11a, 4 and 17) and February 14, 2007 (West Oakland sub-areas 15 & 16).

In the summer of 2007, based on direction from the ZUC and the Mayor's Office to continue updating the citywide zoning to be consistent with the General Plan, staff of the Strategic Planning Division and Business Development Services have been working together to resume discussions of industrial zones with the goal of building upon the extensive work accomplished previously and completing the task in an expedient manner. Per request by the ZUC at their September 19th meeting, staff brought back the latest versions of the previously discussed drafts of industrial districts zoning text, land use classifications and related zoning regulations that had been the product of extensive discussion at over 10 public hearings that took place roughly between April 2002 and May 2004 for consideration at their subsequent meeting on October 17, 2007. Staff requested direction from the ZUC Commissioners regarding whether to continue with the existing draft of industrial zoning regulations (May 19, 2004 draft), as well as to provide direction on how to address performance, operational and buffering standards (e.g. as part of the industrial zoning district chapter regulations, exist as a separate overlay zone, be addressed in the

citywide performance standards, or some combination), and whether to allow work/live in the proposed industrial zones following the approach staff recommended or an alternate approach.

At the 10/17/07 Zoning Update Committee (ZUC), the Commissioners received the staff report and heard testimony from the public. Overall, the Commissioners supported bringing the latest versions of the previously discussed draft zoning text, mapping, land use classifications and related regulations, with any with any proposed revisions, as staff would see as appropriate at the present time, forward to the full Planning Commission. The Commissioners supported keeping the health and safety zone as an overlay as long as there was a clear reference to the overlay in the zoning district text itself. Regarding the issue of work/live, the ZUC requested that staff bring back a proposed definition separate from the zoning chapter for consideration by the full Planning Commission.

At the 12/05/07 Planning Commission meeting, the Commissioners were presented with drafts of the zoning text for four new industrial zones, proposed mapping of the four new zones, proposed revisions to corresponding industrial use classification activity types (Oakland Planning Code, Chapter 17.10); a proposed new Health and Safety Overlay Zone; proposed revisions to General Performance Standards (Oakland Planning Code, Chapter 17.120); the Commissioners were also asked for policy direction regarding work/live in the industrially-zoned areas. After hearing extensive public testimony, the Planning Commission directed staff to return to the Commission on January 16, 2008 with more finalized drafts of all of the items presented, based on public testimony heard and further comments received in the interim (See Attachment A). In addition, the Commission directed staff to:

- Postpone decisions on areas within the Estuary Policy Plan area at this time;
- Provide more specific recommendations regarding appropriate buffering for certain uses;
- Provide a recommendation for work/live in the industrially-zoned areas.

Based on the Commission’s direction to solicit additional feedback to the extent feasible prior to the January 16, 2008 Planning Commission meeting, staff held two informal stakeholder discussion sessions on the topics of regulation of recycling uses and on work/live on December 17th and 18th, respectively— issues which merited further input based on public testimony at the December 5th Planning Commission meeting.

GENERAL PLAN ANALYSIS

This section describes the regulatory context of the four industrial zones (CIX-1, CIX-2, IG and IO) with respect to the General Plan. As stated above, the proposed zones are intended to implement the Business Mix and General Industrial/Transportation General Plan designations. The intent, desired character and maximum intensity envisioned by the General Plan for these designations are summarized in the table below.

Table 1. Summary of Selected General Plan Land Use Designations

General Plan Land Use Designation	Intent	Desired Character	Maximum Intensity
Business Mix	Create, preserve and enhance areas of the city that are appropriate for a wide variety of business and related commercial and industrial establishments. High impact industrial uses including those that have hazardous materials on-site may be allowed provided they are	These areas may accommodate a mix of businesses such as light industrial, manufacturing, food processing, commercial, bioscience and biotechnology, research and development, environmental technology, business and health services, air, truck and rail-related	Maximum FAR 4.0; in some locations, zoning should establish lower intensities to establish or maintain campus-like business settings. In others, uses and development

General Plan Land Use Designation	Intent	Desired Character	Maximum Intensity
(Business Mix cont'd)	adequately buffered from residential areas. High impact or large scale commercial retail uses should be limited to sites with direct access to the regional transportation system.	transportation services, warehouse and distribution facilities, office and other uses of similar business character.	standards should offer maximum flexibility. In areas where higher impact uses are located, buffering strategies will need to be developed.
General Industrial/Transportation	To recognize, preserve, and enhance areas of the City for a wide variety of businesses and related establishments that may have the potential to create off-site impacts such as noise, light/glare, truck traffic, and odor. These areas are characterized by sites with good freeway, rail, seaport and/or airport access.	A wide variety of uses are included, such as heavy industrial and manufacturing uses, transportation, railyards, maritime terminals, distribution and warehousing, food processing, heavy impact research and development facilities, and other uses of similar or supporting character.	Maximum overall FAR is 2.0

Source: City of Oakland General Plan, Land Use & Transportation Element, p.152, p.153.

The proposed zones are consistent with the General Plan for the following reasons:

- The permitted and conditionally permitted activities and facilities in the CIX-1, CIX-2 and IO zones allows for a variety of light industrial and commercial activities, generally incorporating what is currently allowed in M-10, M-20, M-30 and S-16 zones, which is consistent with the intent of the Business Mix General Plan designation. The permitted and conditionally permitted activities and facilities in the IG zone includes a wide variety of heavy industry and manufacturing uses, generally incorporating what is currently allowed in the M-40 zone, which is consistent with the intent of the General Industrial/Transportation General Plan designation.
- The maximum nonresidential floor area ratio (FAR) in CIX-1, CIX-2 and IO is 4.0 (by right if located greater than 300 feet from a residential zone or with the granting of a conditional use permit if within 300 feet of a residential zone) which is within the maximum FAR allowed under the General Plan for Business Mix. The maximum FAR in IG is 2.0 (by right if located greater than 300 feet from a residential zone or with the granting of a conditional use permit if within 300 feet of a residential zone), which is within the maximum allowed under the General Plan for General Industrial/Transportation.
- Heavy Industry activities and activities involving hazardous waste management are generally not permitted in the CIX-1, CIX-2 and IO zones; in addition, the new proposed Health and Safety Overlay Zone (Chapter 17.21) would require that the Fire Department review any business that proposes to use, process or store hazardous materials which would be located within 300 feet of an R-zone or open space zone. This new overlay zone, discussed in more detail below, would be mapped within all CIX-1, CIX-2, IG and IO zones.

DESCRIPTION OF PLANNING AREAS

The areas proposed for the new zones are areas that have been previously identified by the Business Mix or General Industrial/Transportation General Plan land use designations as primarily appropriate for a range of commercial and industrial uses. A detailed description of these areas is not included in this report, but these areas are depicted on the enclosed Maps.

SUMMARY OF PROPOSED INDUSTRIAL ZONES

The CIX-1 (Commercial and Industrial Mix-1), CIX-2 (Commercial Industrial Mix-2), and IO (Industrial Office) zones are all zones that are consistent with the Business Mix General Plan designation. The IG (General Industrial) zone is applied to the General Industrial & Transportation General Plan designation. The following is a brief description of the zones:

- **CIX-1 (Commercial and Industrial Mix-1).** The CIX-1 zone is intended to allow a wide range of commercial and industrial activities, and to limit the establishment or expansion of general or heavy manufacturing uses. This zone allows a broad range of both general and heavy-service commercial and light industrial activities, while limiting truck intensive uses (e.g. freight/truck terminals, truck yards and truck and other heavy vehicle service, repair and refueling) to areas beyond 600 feet of a residential zone with the granting of a conditional use permit. Residential uses are prohibited in this zone.
- **CIX-2 (Commercial Industrial Mix-2).** The CIX-2 zone is intended to create, preserve and enhance areas that are appropriate for lighter industrial activities but which may allow heavier impact activities where they will not impact residential uses. This zone allows heavy service commercial, custom and light industrial activities. It also allows trucking-related uses, with the exception that Truck Terminals require a conditional use permit if located within 300 feet of a residential zone and Truck Yards require a conditional use permit everywhere in the zone. Residential uses are prohibited in this zone.
- **IG (General Industrial).** The IG zone is intended to create, preserve and enhance areas of the City that can accommodate a wide variety of industrial establishments that may have the potential to generate off-site impacts. Conditionally allows heavy industrial uses which meet citywide performance standards, buffering standards, and other health and safety criteria as determined by the Fire Department. This zone also includes seaport and airport uses. This zone prohibits residential uses.
- **IO (Industrial Office)** The IO zone is intended to create and support areas with a wide range of businesses and related commercial and industrial activities supporting multistory industrial development on large lots in a campus-like setting. The IO zone is intended to promote office business park industrial, new "clean-tech" energy and scientific development, technology-related warehousing activities. This zone prohibits residential uses.

At their 12/5/07 meeting, the Planning Commission directed staff to bring back a revised draft of the zoning text chapter presented to date. The draft zoning chapter includes changes based on feedback staff received at the 12/5/07 meeting, as well as additional comments sent directly to staff or received at two stakeholder sessions since the 12/5/07 Planning Commission meeting. The attached draft zoning chapter (**Attachment B**) is provided as "clean" version, as well as a version that shows strikeout/underline to highlight changes made from version presented at the 12/5/07 Planning Commission meeting. Changes consisting of correcting typos, minor formatting or similar non-substantive changes have not been called out in the attached draft.

In particular, the Planning Commission directed staff to make a proposal regarding buffering distances for certain uses and addressing the issue of work/live facilities in the new industrial zones. As requested by the Planning Commission, maps showing 150-, 300- and 600-foot distances from areas adjacent to areas designated as General Plan Business Mix and General Industrial/Transportation are provided in **Attachment C**; these maps are illustrative and provided for discussion purposes only.

Staff proposes the following:

- **Buffering:** Staff is proposing that 300 feet from existing residential zones be the area of concern for buffering the neighboring residential uses from potential off site impacts from business activities within the new zones. Three hundred feet is approximately the distance of a standard city block. Therefore, the regulations for several uses were standardized to a buffering distance of 300 feet from a residential zone, within which a conditional use permit will be required (as described in the list of revisions below). For uses with high potential for off site impacts, currently primary recycling centers and truck intensive uses, more stringent buffering distances are proposed. For truck intensive uses (e.g. freight/truck terminals, truck yards and truck and other heavy vehicle service, repair and refueling), this distance will continue to be 600 feet from existing residential zones in CIX-1 (i.e., prohibited within 600 feet and CUP required beyond 600 feet). For primary recycling collection centers, the proposal is to prohibit such uses within 300 feet of a residential zone and require a conditional use permit if between 300 and 600 feet of a residential zone in CIX-1, CIX-2 and IG; the use is prohibited in IO.

- **Work/live:** The General Plan indicates that Business Mix and General Industrial areas should not have a residential component. The General Plan does not contain many references to space that combines living and working uses. One area where it is mentioned is in the section on implementation strategies for West Oakland. This section discusses "live/work" space as encouraged for the edges of Business Mix. Given that statement, staff proposes that work/live space be allowed with a Conditional Use Permit within 300 feet of an existing residential zone in CIX-1 and CIX-2 only, as defined and regulated in a new section of the proposed draft. An exception exists for conversions of existing buildings in all four zones with a CUP for historical buildings (rated A or B per the City's Cultural Heritage Survey) which otherwise may not be physically suitable for contemporary industrial enterprises.

The debate over the definition and regulation of live/work and work/live space is complex and contentious. The staff proposal for the new industrial zones is designed to be compatible with what guidance is in the General Plan and to allow for the new industrial zones to move forward toward adoption. Staff would also recommend the Planning Commission direct staff to continue exploring the issue with interested stakeholders with an eye towards a more nuanced City-wide procedure for regulating flexible spaces in all zones. This effort, if staff is directed to commence it, is likely to be a lengthy process. Staff recommends the Planning Commission recommend to City Council the current proposal in the interim to allow the new industrial zones to move forward.

A summary list of changes made from version presented at December 5, 2007 Planning Commission meeting is presented below. Due to deletions/additions to some of the notes to Table 17.33.020 "Permitted and Conditionally Permitted Uses and Facilities" and Table 17.33.030 "Property Development Standards", some re-numbering of the notes were required. Changes in numbering have not been called out in the list below; if changes have been made to the content of a note or limitation, the note is referenced by its former numbering from the 12/5/07 draft version as well as its revised numbering in the current draft presented.

List of Changes to Draft Chapter:

1. Revised language of statements of 17.33.010 D, E and F to read as follows:

- D. Preserve areas with good freeway, rail, seaport, and/or airport access for business and industrial uses;
 - E. Prohibit residential uses and limit commercial uses in general industrial areas so that a maximum amount of the City's land base is preserved for industrial uses, and so that industrial uses may operate without impacting those activities;
 - F. Locate high impact industrial uses away from residential areas; ~~and adequately buffer industrial uses from residential areas~~
2. Revised language of summary of intent of CIX-1 and CIX-2 zones to read as follows:
- A. **CIX-1 Commercial Industrial Mix 1 Zone.** The CIX-1 zone is intended to create, preserve, and enhance the industrial areas of West Oakland that are appropriate for a wide variety of businesses and related commercial and industrial establishments. This zone is intended to accommodate existing older industries and provide flexibility in order to anticipate new technologies. ~~Joint living/working quarters will be conditionally permitted and~~ Large-scale commercial and retail uses will be limited to sites with direct access to the regional transportation system.
- B. **CIX-2 Commercial Industrial Mix 2 Zone.** The CIX-2 zone is intended to create, preserve, and enhance areas of the Central and Eastern portions of the City that are appropriate for a wide variety of heavy commercial and industrial establishments. ~~Heavy industrial u~~ Uses with greater off-site impacts may be permitted provided they meet specific performance standards and are buffered from residential areas. ~~Joint living/working quarters may be conditionally permitted where they do not impact the viable operation of adjacent industrial uses.~~
3. Table 17.33.020 Commercial Uses, Convenience Market changed to allowed with conditional use permit (from "P") in CIX-1.
4. Table 17.33.020 Commercial Uses, Medical Service: changed to permitted outright (from limitation requiring CUP if within 300 feet of a residential zone) in CIX-1.
5. Table 17.33.020 Commercial Uses: Construction Sales and Service: changed to limitation requiring CUP if within 300 feet of a residential zone in CIX-2 (from "C" everywhere in zone).
6. Table 17.33.020 changed subheading from "Manufacturing Uses" to "Industrial Uses"
7. Table 17.33.020 Industrial Uses, General Manufacturing: changed to limitation of a conditional use permit is required if within 300 feet of a residential zone in CIX-1 and in CIX-2 (from "C").
8. Table 17.33.020 Industrial Uses, Construction Operations: changed permissions in CIX-1, CIX-2 and IG to "L4" (from "P") and in IO to "C" (from "P").
9. Table 17.33.020 Industrial Uses, Self- or mini-storage: changed to allowed with conditional use permit (from "P") in CIX-1 and CIX-2.
10. Table 17.33.020 Industrial Uses, Warehousing and Storage Distribution, D. Container Storage: changed to prohibited (from "P") in IO.

11. Table 17.33.020 Industrial Uses, Warehousing and Storage Distribution, E. Salvage/Junk Yard: added word "Automotive" so it reads as "Automotive Salvage/Junk Yard" to more clearly match definition.
12. Limitation notes, formerly L3 through L6, were standardized into one limitation note (now #L3) requiring a conditional use permit if beyond 300 feet; this limitation note applies to Mechanical or Electronic Games, Construction Sales and Service, Automotive Repair and Cleaning, Automotive Fee Parking, General Manufacturing, Construction Operations, General Outdoor Storage (under Warehousing, Storage and Distribution), Container Storage (under Warehousing, Storage and Distribution), Automotive Salvage and Junk Yards (under Warehousing, Storage and Distribution), and Intermediate Recycling Processing Facility (under Recycling & Waste Related Activities).

As noted above, due to revisions in limitation notes, the numbering of subsequent limitation notes has been changed accordingly.

13. L6. (formerly "L10.") modified to read:
 - L6. A conditional use permit is required a) if within 300 feet of a residential zone, and b) if located anywhere in the district when accessory outdoor repair and service activity exceeds 350% of floor site area.

14. As agreed to at the December 5, 2007 Planning Commission meeting, deleted "L14" (limitation note #14 of Table 17.33.020: Permitted and Conditionally Permitted Uses and Facilities) relating to additional regulations for Truck-Related Activities in West Oakland since the zoning chapter already included provisions to prohibit truck terminals, yards, and heavy service, repair and refueling, as primary activities within 600 feet of any residential zone, combined with a requirement for a conditional use permit beyond 600 feet of any residential zone.

~~L14. Special regulations applying to Truck Related Activities in the West Oakland Community Development District:~~

- ~~A. In the CIX-1 District a Conditional Use Permit is required for all Truck and Truck-related activities as described in Sections 17.10.630 (Regional Freight Transportation A & B) or 17.10.640 (Trucking and Truck Related Activities A-E) and which are located within 300 feet of a residential zone boundary.~~
- ~~B. Restrictions on Truck Parking. A Conditional Use Permit is required for any activity that operates or stores on-site three or more "Medium Weight" Trucks (minimum weight 14,000 pounds) and which abuts a residential zone, or is directly across a street, alley, or path from a residential or open space zone.~~

15. Table 17.33.020 Recycling & Waste Related Activities: changed permitted and conditionally permitted uses and created new limitation note for Primary Collection Centers as shown below. The conditional use permit required by the new limitation note (L10) would include a minimum level of operational standards.

		CIX-1	CIX-2	IG	IO
	Recycling & Waste Related Activities				
A.	Satellite Recycling Collection Centers	PC	PC	PC	PC
B.	Primary Collection Centers	L9 L10	PL10	PL10	--

C.	Intermediate Recycling Processing Facility	L9 L3	PL3	P L3	PC
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L10. Prohibited within 300 feet of a residential zone; a conditional use permit is required within 300 to 600 feet of a residential zone; permitted if beyond 600 feet of a residential zone boundary.

16. Created new limitation note (L11) regarding Hazardous Materials Production, Storage & Waste-Related Activities references requiring a CUP for electroplating activities and deleted reference to "Hazardous Materials CUP criteria Section 17.102.340 Special regulations applying to electroplating activities in the M-20, M-30, and M-40 zones"
17. Facility Types: Sidewalk Cafe: changed from prohibited in all four zones to: "C" in CIX-1 and CIX-2 and added reference to Section 17.102.335 under "Additional Regulations" column.
18. Facility Types: Telecommunications, Monopole Telecommunications: changed from prohibited to "C" in CIX-1 and CIX-2.
19. Floor area ratio (FAR) changed from 2.0 in CIX-1, CIX-2 and IO and FAR 1.0 in IG with conditionally permitted FAR to 4.0 in CIX-1, CIX-2 and IO and 2.0 in IG to the following:
 - If you are greater than 300 feet from any residential zone boundary 4.0 FAR is allowed by right in CIX-1, CIX-2 and IO and 2.0 in IG;
 - If you are within 300 feet of any residential zone then 2.0 FAR is allowed by right, 4.0 FAR with a conditional use permit in CIX-1, CIX-2 and IO; 1.0 FAR is allowed by right in IG with 2.0 FAR with a conditional use permit AND must follow conditions in note #2; note #2 was revised to reference the 300 foot distance to be consistent with the regulations outlined above, in addition, non-substantive changes were made in the phrasing of the language requiring a conditional use permit and the formatting of the bulleted list was changed to a numbered list.
20. Deleted references to "Category I Live Work Facilities", "Category II Work Live Facilities", "Minimum Usable Open Space for Category II Work Live Quarters" and their associated notes #6 and #7. See revision #28 below regarding new subsection on work/live units in the industrial zones.
21. Added reference to Table 17.33.030: Property Development Standards, Site Landscaping and Parking Lot Landscaping that % in table refer to % of lot area.
22. Street tree requirement in Table 17.33.030 Property Development Standards and associated notes revised for clarity and consistency.
23. "Trees in Yards" requirement Table 17.33.030 Property Development Standards deleted due to redundancy/conflict with preceding street tree requirement.
24. Added word "maximum" to clarify that driveway width in Table 17.33.030 refers to the maximum driveway width.
25. Revised note #13 (formerly #15) to be consistent with Table 17.33.030 Pedestrian Walkways to reflect that required pedestrian walkways apply to all industrial zones.
26. Table 17.33.030 Property Development Standards, note #3: corrected reference to zoning regulations to read "17.108.010" instead of "17.108.110"

27. Revised first sentence for Table 17.33.030 Property Development Standards, note #6 (formerly #8) to read:

All new projects which involve the construction of a new building on a vacant lot, or the expansion or replacement of existing building footprint by more than twenty (20%) percent such that the floor area to site ratio exceeds 35%, shall comply with the landscape requirements. Landscaping shall consist of pervious surface with lawn, ground cover, shrubs, permeable paving materials, and/or trees and which is irrigated and maintained. See also 17.124 Landscaping and Screening Standards.

28. Added text to sentence fragment for Table 17.33.030 Property Development Standards, note 15 (formerly 17) to read:

15. A reduced buffer requirement may be permitted with the provision of a solid wood or articulated masonry wall of at least 8 feet in height in combination with a reduced buffer width as well as fewer trees and shrubs at a standard appropriate for minimizing the incompatibility between uses. The planting requirement may be eliminated if appropriate and approved by the Planning Director. The fence or wall design shall be approved by the Planning Director.

29. Created new subsection (17.33.040) for Special Regulations for work/live units in the industrial zones.

30. Added reference to existing regulations on off-street parking and modified parking and loading dock restrictions to refer only to areas w/in 300 feet of residential zone for section 17.33.050 (formerly 17.33.040) to read:

17.33.050 Parking and Loading Dock Restrictions

A. Off-street parking and loading shall be provided as prescribed in the off-street parking and loading requirements in Chapter 17.116.

B. Parking for new development shall be located at the rear of the site or at the side of the building in the CIX-1, CIX-2, and IO except for drop-off areas, which may be at the entry, except where access to existing loading docks and/or rail lines is required. New truck loading docks shall not be located closer than 50 feet from property line as measured from the subject dock to any property boundary if located within 300 feet of a residential zone, unless such a distance requirement will impede direct access to a rail line. Truck docks shall be located such that trucks do not encroach into the public right of way. All existing loading docks are not subject to this requirement.

MAPPING OF PROPOSED ZONES

Staff proposes to amend the City's zoning map that identify locations for the four proposed zones. As shown in **Attachment D**, and summarized in Table 2 below, these zones are generally proposed to be located where the General Plan is mapped as either Business Mix or General Industrial/Transportation. In addition, 7 specific policy questions related to mapping the proposed zones were presented at the 12/5/07 Planning Commission meeting. The decisions regarding these 7 areas are included as part of the proposed mapping recommendations and are described in Attachment D; amendments to the General Plan that are included as part of the mapping recommendations will be brought to the Planning Commission for consideration at a later meeting. Furthermore, per direction by the Planning Commission at their 12/5/07 meeting, areas within the Estuary Policy Plan area and additional requests from the public regarding General Plan and zoning changes for specific parcels are not being addressed at

this time; the latter are being compiled by staff and will be addressed as part of the overall citywide zoning update process at a later date.

Table 2. Summary of Proposed Mapping of New Zones to Implement General Plan Designations

General Plan Designation	Mapped to Proposed Zoning District(s)
Business Mix	CIX-1: for areas in West Oakland CIX-2: for areas in Central and East Oakland IO: preliminarily for some areas in Central and East Oakland
General Industrial/Transportation	IG: primarily East Oakland, Port and Airport areas

REVISIONS TO USE CLASSIFICATIONS ACTIVITY TYPES

At their 12/5/07 meeting, the Planning Commission directed staff to bring back a revised draft of the revisions to the industrial land use classification activity types presented. The draft zoning chapter includes changes based on feedback staff received at the 12/5/07 meeting, as well as additional comments sent directly to staff or received at two stakeholder sessions since the 12/5/07 Planning Commission meeting. The attached document (**Attachment E**) is provided as “clean” version, as well as a version that shows strikeout/underline to highlight changes made from version presented at the 12/5/07 Planning Commission meeting. Changes consisting of correcting typos, minor formatting or similar non-substantive changes have not been called out in the attached draft.

As noted at the 12/5/07 Planning Commission meeting, staff is only presenting the industrial land use classifications (or “activity types”) for review and consideration by the Planning Commission at this time. All non-industrial activity types (e.g. Residential Activity Types, Commercial Activity Types and Agricultural and Extractive Activity Types) will be addressed when updates to their corresponding zoning districts are being considered at subsequent meetings in order to ensure that all stakeholders most closely tied to the particular uses up for discussion may be included. The only non-industrial activities that are being addressed are 17.10.500 “Transport and Warehousing Commercial Activities” and 17.10.530 “Scrap Operation Commercial Activities”, which are being recommended to move to the Industrial Activity Type category (See section 17.10.610. in Attachment E).

A summary list of all changes made from version presented at December 5, 2007 Planning Commission meeting is presented below.

List of Changes to Draft Revisions to Industrial Activity Types:

1. Modified language in first sentence for 17.10.600 Construction Operations Industrial Activities to read “Construction Operations Activities include enclosed and unenclosed facilities and accessory yards for construction and incidental storage activities and/or fabrication activities performed by construction contractors on lots other than construction sites.”

2. Added sentence to second paragraph of 17.10.610B. General Outdoor Storage to clarify that certain specific types of uses that may include outdoor storage are excluded so it now reads:
B. General Outdoor Storage

Outdoor Storage Activities includes principal outdoor storage of items for more than 24 hours where such storage activities occupy more than 30% of the site area. The principal storage of goods and materials, equipment or vehicles; as well as the storage of operating equipment for warehouses, such as forklifts, pallets, and racks. This classification excludes outdoor storage uses that are more specifically described in this chapter, including, but not limited to container storage, salvage and junk yards and oil and gas storage.

3. Added word "Automotive" to 17.10.620E. Salvage/Junk Yards so it reads as "Automotive Salvage/Junk Yard" to more clearly match definition.
4. Corrected numbering for Regional Freight Transportation to be 17.10.620 instead of 17.10.630; all other subsequent numbering also corrected.
5. Clarified language for 17.10.630B. Truck Yard (*formerly 17.10.640B.*) to refer to public and private towing operations.
6. Clarified language for 17.10.630 D. Truck and Other Heavy Vehicle Sales, Rental and Leasing (*formerly 17.10.640D.*) to include the "...accessory repair and servicing of related equipment and parts"
7. Revised language for 17.10.640 A. (*formerly 17.10.650A.*) "Satellite Recycling Center" to read: **Satellite Recycling Collection Centers.**
An activity accepting recyclable non-hazardous materials directly from the public by donation, redemption, or purchase at facilities less than five hundred (500) square feet in area that generally do not use power-driven processing equipment.

Satellite collection centers may include mobile recycling units, bulk reverse vending machines, kiosk type units, and/or unattended containers placed for the donation of recyclable materials. These facilities are generally located in, or associated with supermarkets and shopping centers. Most, though not all, satellite collection centers are set up pursuant to requirements of the California Beverage Container Recycling and Litter Reduction Act of 1986, which requires establishment of such centers in all "Convenience Zones" (CZ) in California, defined as the area within ½ mile of all supermarkets to collect beverage containers made from materials such as aluminum, glass, plastic, and bimetal for recycling.
8. Revised language for 17.10.640C. (*formerly 17.10.650C.*) "Intermediate processing facilities ~~typically do not trade directly with~~ accept materials from but may sell goods to the public.

PROPOSED HEALTH AND SAFETY OVERLAY ZONE

The Health and Safety Protection Zone (**Attachment F**) was originally proposed in 2003 (see March 19, 2003 ZUC archives for staff report) as a way to route businesses which may use, store or process chemicals that could pose environmental risks, directly to Fire Department Hazardous Materials division for clearance, rather than have land use planners determining the nature and risks of commercial/ industrial uses. The Fire Department now has the discretion to review any such land use activities, per the Certified Uniform Program ordinance (CUPA), lead agency authority. However, in practicality, the Fire Department does not have the vehicle for such referrals now. The referral to Fire Hazardous Material Program would be made when the business seeks to obtain a Zoning Clearance as part of the business license process, or during a CUP or other Planning permit application. The distance of 300 ft from any residential, open space or institutional zone as the appropriate mapping of the zone of referral was determined by the Hazardous Material Program Supervisor as acceptable.

Upon referral to this zone any one of the following recommendations may be made by the Fire Staff:

- a. Business may proceed with the Zoning Clearance or other process, with no plan required by Fire and a notation of such made in the PTS system under the site address; or

- b. Require a Risk Management Plan, or
- c. Require a Hazardous Materials Business Plan; or
- d. Limit or prohibit the storage or use of specific hazardous materials; or specific processes that use hazardous materials; or
- e. Require containment measures for storage or use of hazardous materials; or
- f. Limit the location for storage or use of hazardous materials.

REVISIONS TO GENERAL PERFORMANCE STANDARDS (CHAPTER 17.120)

The existing Zoning Code has Performance Standards regulations (Chapter 17.120) that provide a platform for the regulation of common impacts from noise, dust, air particulates, odor etc. The existing language has not been substantially altered in the attached proposed new version (**Attachment G**): It has been made more specific for a business by stating the standard for the measurement and where it should be measured. Activities in all Industrial Zones would be required to conform to the Industrial Noise Standards for all lot lines that internally abut another industrial zone. Any industrially zoned properties must conform to the appropriate residential receiving levels at any lot line where they abut a residential zone, which is a change from existing regulations which reference noise levels that may be received from any residential, civic or open space activities. The performance standards have been cross-referenced to other sections of the Code which are the enforcement authority for the standards (e.g. cross-reference to the City's Noise Ordinance and the Construction Noise Ordinance).

Performance standard regulations are administered in practicality on a complaint-driven basis, whereby a call is made from a community or local business owner to the Fire Department or Code Enforcement. Some industries (typically the largest and heaviest users) are subject primarily to the authority of the Bay Area Quality Management District, which issues its permit to operate, and are not enforced by a local authority.

The current regulation per Section 17.120.020 of the Zoning Code specifically states that conforming activities existing on the effective date of the current code or of a subsequent rezoning that applies more restrictive performance standards to such activities are not required to comply with the performance standards. However, no operations should be so changed as to result in a greater degree of nonconformity with respect to such standards. Staff recommends adding the following threshold to quantify an example of an increased degree of nonconformity with respect to performance standards only (as defined in 17.114.080.C "Activity Nonconforming for Other Reasons"): whenever a business adds more than 20 percent of production (e.g. non-administrative) floor area, it be required to come into compliance with current code in regards to noise, vibrations, smoke and particulate matter, odorous matter, humidity, heat, cold, and glare and electrical disturbance.

This chapter will, in the future, be brought before the Planning Commission and City Council to adopt further substantive changes to the noise standards and associated changes to the City's Noise Ordinance to conform these to the City's current practice and policy.

PROPOSAL FOR REGULATIONS FOR WORK/LIVE (IN INDUSTRIAL ZONES)

See discussion on draft zoning chapter for staff proposal for work/live above.

GENERAL PLAN CONFORMITY GUIDELINES

On May 12, 1998, the City Council adopted interim controls that implement the General Plan prior to the adoption of revisions to the Oakland Planning Code. These interim controls are in a document entitled "Guidelines for Determining Project Conformity with the General Plan and Zoning Regulations". However, the new zones will now implement the General Plan Business Mix and General Industrial/Transportation designations. Therefore, staff proposes to replace text in the Guidelines that implement the General Plan designations with text that refers to the Planning Code (**Attachment H**).

ENVIRONMENTAL DETERMINATION

Several past environmental documents discussed and evaluated the environmental impacts associated with this proposal and reliance on them satisfies any requirements under the California Environmental Quality Act (CEQA), as specified by CEQA Guidelines Section 15183 "Projects Consistent with a Community Plan, General Plan or Zoning". Those environmental documents include the previously certified Final Environmental Impact Report for the Land Use and Transportation Element of the General Plan, adopted 1998 (General Plan EIR); and the Environmental Impact Reports for the Central City East Redevelopment Plan, the Coliseum Redevelopment Plan, and the West Oakland Redevelopment Plan. (See Attachment I for mitigation monitoring programs for these documents). This section describes how these documents are applicable to the proposal.

A. General Plan EIR

The General Plan EIR evaluated the environmental impacts of the proposal and anticipated future reliance on it for actions that were consistent with it and intended to implement it. Reliance on the General Plan EIR is appropriate as stated on page I-4 of that document:

The EIR may also be used at a future date by the Planning Commission and City Council to evaluate the environmental impacts of subsequent actions that are consistent with the Land use and Transportation Element or are intended to implement the Land Use and Transportation Element.

Further, the changes to the ordinance and zoning map being proposed were evaluated by the General Plan EIR. The General Plan EIR specifically states that the document may be used to evaluate the environmental impacts of "amendments of the Zoning Ordinance and Zoning Map for General Plan consistency". This General Plan EIR contains several mitigation measures that reduce development impacts proposed by the General Plan to less than significant and identify others as unavoidable or irreversible. Staff has considered and incorporated the mitigations into the proposal.

C. Relevant Redevelopment Plan EIRs

The Central City East Redevelopment Plan (2003), the Coliseum Redevelopment Plan (1995, amended 1997), and the West Oakland Redevelopment Plan (2003) and their associated certified EIRs cover areas proposed for the new industrial zones. The redevelopment plans are broad documents that do not contain specific projects, but direct and target funding sources towards affordable housing, general housing and business improvements, infrastructure, and environmental improvements. The EIRs identify potential impacts of these investments in the project area. Any mitigation required by the EIRs have been considered and incorporated into this proposal to mitigate potential impacts.

KEY ISSUES AND RECOMMENDATIONS

Staff recommends that the Commission recommend to the City Council to adopt the following:

1. The draft zoning chapter for the four new industrial zones.
2. Proposed mapping of the new zones as outlined above in Mapping of Proposed Zones section.
3. Revisions to use classification industrial activity types (Planning Code, Chapter 17.10).
4. New Health and Safety Protection Overlay Zone.
5. Revisions to Performance Standards (Planning Code, Chapter 17.120).

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Approved for forwarding to the
City Planning Commission:

Dan Lindheim
Interim Director
Community and Economic Development Agency

ATTACHMENTS:

- A. Draft minutes from 12/05/07 Planning Commission Meeting
- B. Draft zoning text for four new industrial zones
 - “Clean” version with no ~~strikeout~~/underline
 - Track changes version showing changes from 12/05/07 version in ~~strikeout~~/underline
- C. Maps illustrating 150-, 300- and 600-foot distances for areas with General Plan Business Mix and General Industrial/Transportation General Plan land use designations from adjacent zones
- D. Proposed mapping of the four new zones in areas with Business Mix and General Industrial/Transportation General Plan designations
- E. Proposed revisions to corresponding industrial use classification activity types (Oakland Planning Code, Chapter 17.10)
 - “Clean” version with no ~~strikeout~~/underline
 - Track changes version showing changes from 12/05/07 version in ~~strikeout~~/underline
- F. Proposed new Health and Safety Protection Overlay Zone
- G. Proposed revisions to Performance Standards (Oakland Planning Code, Chapter 17.120)
- H. Revisions to General Plan Conformity Guidelines
- I. Mitigation Monitoring Programs from Relevant EIRs
 - General Plan EIR
 - Central City East Redevelopment Plan EIR
 - Coliseum Redevelopment Plan EIR
 - West Oakland Redevelopment Plan EIR
- J. Related correspondence received

Mark P. Wald
City Attorney

INTRODUCED BY COUNCILMEMBER _____

OFFICE OF THE CITY CLERK
OAKLAND

2000 FEB 28 PM 4:45

OAKLAND CITY COUNCIL

ORDINANCE No. _____ C.M.S.

AN ORDINANCE AMENDING THE OAKLAND PLANNING CODE TO: (1) ADD CHAPTER 17.73 "CIX-1, CIX-2, IG AND IO INDUSTRIAL ZONES", WHICH WILL CREATE THE FOLLOWING FOUR NEW ZONES: COMMERCIAL INDUSTRIAL MIX-1, COMMERCIAL INDUSTRIAL MIX-2, GENERAL INDUSTRIAL AND INDUSTRIAL OFFICE; (2) AMEND THE CITY'S ZONING MAPS TO MAP THESE PROPOSED ZONES IN AREAS IN THE CITY THAT CURRENTLY HAVE THE GENERAL PLAN LAND USE DESIGNATIONS OF BUSINESS MIX AND GENERAL INDUSTRIAL / TRANSPORTATION; (3) AMEND CHAPTER 17.10 "USE CLASSIFICATIONS"; (4) ADD CHAPTER 17.100 "S-19 HEALTH AND SAFETY PROTECTION OVERLAY ZONE" AND AMEND ZONING MAP TO ADD OVERLAY; (5) AMEND CHAPTER 17.120 "PERFORMANCE STANDARDS"; AND (6) AMEND THE "GUIDELINES FOR DETERMINING PROJECT CONFORMITY WITH THE GENERAL PLAN AND ZONING REGULATIONS" TO REFLECT THE NEW ZONES.

WHEREAS, in March of 1998 the City adopted the Land Use and Transportation Element of the General Plan (LUTE); and

WHEREAS, the development standards contained in a city's zoning code and zoning maps should directly implement the intent for each of these land use classifications contained in the LUTE; and

WHEREAS, Business Mix and General Industrial/Transportation are land use designations in the LUTE; and

WHEREAS, the existing industrial zoning districts and land use classification activity types have not been updated to implement the land use policies of the Business Mix and General Industrial/Transportation land use designations since the LUTE was adopted in 1998; and

WHEREAS, the intent of the Business Mix and General Industrial/Transportation LUTE designations is to create, preserve and enhance areas of the city that are appropriate for a wide variety of commercial and industrial uses, while also providing protections against potential nuisances where industrial and residential areas neighbor each other; and

WHEREAS, City Planning staff has proposed adding four new zones: CIX-1, CIX-2, IG and IO; updated associated industrial land use classification activity types; added a health and safety protection overlay zone; and amended performance standards to implement the Business Mix and General Industrial/Transportation LUTE designations; and

WHEREAS, the “Guidelines for Determining Project Conformity with the General Plan and Zoning Regulations” (hereafter “Guidelines”) was adopted by the City Council on May 6, 1998 and subsequently amended November 3, 1999, August 8, 2001, December 5, 2001, July 15, 2003, January 4, 2006 and extended December 4, 2007; and

WHEREAS, the Guidelines describe the procedure for deciding whether a project is consistent with the LUTE and the procedure to follow when the Zoning Regulations and LUTE conflict; and

WHEREAS, various community meetings, and duly noticed meetings before the City Planning Commission’s Zoning Update Committee and City Planning Commission were held; and

WHEREAS, after a duly noticed public hearing, the City Planning Commission voted unanimously on January 16, 2008 to recommend to the City Council it adopt the four new proposed industrial zoning designations, amendments to the industrial land use classification activity types, proposed new health and safety protection overlay zone, amendments to the performance standards, amendments to the “Guidelines for Determining Project Conformity with the General Plan and Zoning Regulations,” and amendments to the zoning maps to reflect the new zones; now, therefore;

THE COUNCIL OF THE CITY OF OAKLAND DOES ORDAIN AS FOLLOWS:

Section 1. The City Council finds and determines the forgoing recitals to be true and correct and hereby makes them a part of this Ordinance.

Section 2. Title 17 of the Oakland Planning Code is hereby amended to: 1) add a new Chapter 17.73 “CIX-1, CIX-2, IG And IO Industrial Zones”, which will create the following four new industrial zones: Commercial Industrial Mix-1, Commercial Industrial Mix-2, General Industrial And Industrial Office; 2) amend Chapter 17.10 “Use Classifications”; 3) add a new Chapter 17.100 “S-19 Health And Safety Protection Overlay Zone”; and 4) amend Chapter 17.120 “Performance Standards”, as detailed in **Exhibit A**, attached hereto and hereby incorporated herein by reference.

Section 3. The Oakland Zoning Map is hereby amended to map the four new industrial zones and new Health and Safety Protection Zoning overlay as indicated in **Exhibit B**, attached hereto and hereby incorporated herein by reference.

Section 4. The “Guidelines for Determining Project Conformity with the General Plan and Zoning Regulations” is hereby amended as reflected in **Exhibit C**, attached hereto and hereby incorporated herein by reference.

Section 5. Prior to adopting this Ordinance, the City Council independently finds and determines that this action complies with CEQA because the City is relying on previously certified EIRs and no further environmental review is required under CEQA Guidelines sections 15162 and 15163. As a separate and independent basis, this Ordinance is consistent with CEQA Guidelines section 15183. The Environmental Review Officer is directed to cause to be filed a Notice of Determination with

the appropriate agencies.

Section 6. This Ordinance shall be effective 30 days from the date of final passage by the City Council, but shall not apply to building/construction related permits already issued and not yet expired, or to zoning applications approved by the City and not yet expired, or to zoning applications deemed complete by the City as of the date of final passage. However, zoning applications deemed complete by the City prior to the date of final passage of this Ordinance may be processed under provisions of these Planning Code amendments if the applicant chooses to do so.

Section 7. Nothing in this Ordinance shall be interpreted or applied so as to create any requirement, power, or duty in conflict with any federal or state law.

Section 8. If any section, subsection, sentence, clause or phrase of this Ordinance is held to be invalid or unconstitutional, the offending portion shall be severed and shall no affect the validity of the remaining portions which shall remain in full effect.

Section 9. That the record before this Council relating to this Ordinance includes, without limitation, the following:

1. the application, including all accompanying maps and papers;
2. all relevant plans and maps;
3. all final staff reports, decision letters and other documentation and information produced by or on behalf of the City;
4. all oral and written evidence received by the City staff, Planning Commission and City Council before and during the public hearings on the application;
5. all matters of common knowledge and all official enactments and acts of the City, such as (a) the General Plan and the General Plan Conformity Guidelines; (b) Oakland Municipal Code, including, without limitation, the Oakland real estate regulations, Oakland Fire Code; (c) Oakland Planning Code; (d) other applicable City policies and regulations; and, (e) all applicable state and federal laws, rules and regulations.

Section 10. That the custodians and locations of the documents or other materials which constitute the record of proceedings upon which the City Council's decision is based are respectively: (a) Community & Economic Development Agency, Planning & Zoning Division, 250 Frank H. Ogawa Plaza, Suite 3315, Oakland, CA.; and (b) Office of the City Clerk, 1 Frank H. Ogawa Plaza, 1st floor, Oakland, CA; and be it

IN COUNCIL, OAKLAND, CALIFORNIA, _____

PASSED BY THE FOLLOWING VOTE:

AYES- BROOKS, BRUNNER, CHANG, KERNIGHAN, NADEL, QUAN, REID, and PRESIDENT DE LA FUENTE

NOES-

ABSENT-

ABSTENTION-

ATTEST: _____

LaTonda Simmons
City Clerk and Clerk of the Council
of the City of Oakland, California

DATE OF ATTESTATION: _____

MW

NOTICE AND DIGEST

AN ORDINANCE AMENDING THE OAKLAND PLANNING CODE TO: (1) ADD CHAPTER 17.73 "CIX-1, CIX-2, IG AND IO INDUSTRIAL ZONES", CREATING THE FOLLOWING FOUR NEW ZONES: COMMERCIAL INDUSTRIAL MIX-1, COMMERCIAL INDUSTRIAL MIX-2, GENERAL INDUSTRIAL AND INDUSTRIAL OFFICE; (2) AMEND THE CITY'S ZONING MAPS TO MAP THESE PROPOSED ZONES IN AREAS IN THE CITY THAT CURRENTLY HAVE THE GENERAL PLAN LAND USE DESIGNATIONS OF BUSINESS MIX AND GENERAL INDUSTRIAL/TRANSPORTATION; (3) AMEND CHAPTER 17.10 "USE CLASSIFICATIONS"; (4) ADD CHAPTER 17.100 "S-19 HEALTH AND SAFETY PROTECTION OVERLAY ZONE AND AMEND ZONING MAP TO ADD OVERLAY; (5) AMEND CHAPTER 17.120 "PERFORMANCE STANDARDS"; AND (6) AMEND THE "GUIDELINES FOR DETERMINING PROJECT CONFORMITY WITH THE GENERAL PLAN AND ZONING REGULATIONS" TO REFLECT THE NEW ZONES.

Adoption of this ordinance will result in the establishment of: four new industrial zones (CIX-1, CIX-2, IG and IO) that will implement the General Plan; revisions to related definitions of industrial land uses (e.g. "use classification activity types") that are more representative and descriptive of present-day industrial uses; a new health and safety overlay zone to reinforce oversight of activities that involve hazardous waste or materials; and amendments to the City's zoning maps to map the proposed four new zones and one overlay zone to areas in the City that currently have the General Plan Business Mix or General Industrial/Transportation land use designations. This ordinance also amends citywide performance standards to reflect the four new zones to be more specific with regards to where a referenced standard should be measured from; as well as adding a threshold when an existing business will need to comply with the stated regulations. Finally, this ordinance makes changes to the "Guidelines for Determining Project Conformity with the General Plan and Zoning Regulations to reflect that the new zones and not the contents of this document will regulate zones within areas with General Plan Business Mix and General Industrial/Transportation land use designations.

Title 17

PLANNING

Additions to Title 17 of the Oakland Planning Code are shown as underline and omissions are shown as ~~strike through~~. Additional changes made after Planning Commission review (January 16, 2008) are shown in ~~gray~~ on p.4 and p.5 of this exhibit).

Planning Code Chapters Amended:

- 17.10 Use Classifications
- 17.73 CIX-1, CIX-2, IG and IO Industrial Zones
- 17.100 S-19 Health and Safety Protection Overlay Zone
- 17.120 Performance Standards

Chapter 17.10

USE CLASSIFICATIONS

Part 4 Manufacturing Activity Types

Sections:

- 17.10.540 General Description of ~~Manufacturing~~ Industrial Activities.
- 17.10.550 Custom Manufacturing Industrial Activities.
- 17.10.560 Light Manufacturing Industrial Activities.
- 17.10.570 General Manufacturing Industrial Activities.
- 17.10.580 Heavy/High Impact Manufacturing Industrial Activities.
- ~~17.10.585 Small Scale Transfer and Storage Hazardous Waste Management Activities.~~
- ~~17.10.586 Industrial Transfer/Storage Hazardous Waste Management Activities.~~
- ~~17.10.587 Residuals Repositories Hazardous Waste Management Activities.~~
- 17.10.581 Research and Development Industrial Activities.
- 17.10.582 Construction Operations Industrial Activities.
- 17.10.583 Warehousing, Storage, and Distribution Industrial Activities.
- 17.10.584 Regional Freight Transportation Industrial Activities.
- 17.10.585 Trucking and Truck-Related Industrial Activities.
- 17.10.586 Recycling and Waste-Related Industrial Activities.
- 17.10.587 Hazardous Materials Production, Storage and Waste Management Industrial Activities.

Part 4

Manufacturing Activity Types

- 17.10.540 General Description of ~~Manufacturing~~ Industrial Activities.

Manufacturing Industrial Activities include the on-site production of goods by methods other than agricultural and extractive in nature; the provisions of warehousing and storage, freight handling, shipping, and trucking services; and the storage, transportation, and processing of recyclable or waste materials, and hazardous materials. They also include certain activities accessory to the above, as specified in Section 17.10.040. (Prior planning code § 2400)

17.10.550 Custom Manufacturing Industrial Activities.

Custom Manufacturing Activities include the small-scale production of artisan and/or custom products-f
ollowing activities. This activity typically includes the production of finished parts or products by hand, involving
the use of hand tools and small-scale equipment within enclosed buildings. Custom Manufacturing Industrial
Activities do not produce noise, vibration, air pollution, fire hazard or noxious emission that will disturb or en-
danger neighboring properties. They also include certain activities accessory thereto, as specified in Section
17.10.040.

This classification includes, but is not limited to, the production of:

A. ~~Manufacturing, compounding, processing, assembling, packaging, treatment, or fabrication of the~~
following products:

Beverages (including alcoholic) and food (excluding the production of highly pungent, odor-
causing items, such as vinegar and yeast) with ten thousand (10,000) square feet or less of floor
area;

~~Cameras and photographic equipment, but excluding film;~~

Custom sign-making;

~~Custom clothing; and hair products~~

Custom furniture building and refinishing;

~~Sewing garments from pre-cut pieces~~

Professional, scientific, measuring, and controlling instruments;

~~Musical instruments, but excluding pianos and organs;~~

Medical, dental, optical and orthopedic instruments and appliances, and similar items;

Handicraft, art objects, and jewelry

B. ~~Printing, publishing, pattern-making, and sign-making.~~

(Prior planning code § 2410)

17.10.560 Light Manufacturing Industrial Activities.

Light Manufacturing Activities include the following activities manufacturing, compounding, processing,
assembling, packaging, or treatment of components or products, primarily from previously prepared materials,
and typically within enclosed buildings. Light Manufacturing Industrial Activities do not produce noise, vibration,
air pollution, fire hazard or noxious emission that will disturb or endanger neighboring properties. This classifica-
tion also includes certain activities accessory thereto, as specified in Section 17.10.040.

A. ~~Manufacturing, compounding, processing, assembling, packaging, treatment, or fabrication of~~
articles of merchandise, other than the products listed in Sections 17.10.550, 17.10.570, or 17.10.580, from the
following prepared materials:

~~Asbestos~~

~~Cellophane~~

~~Cork~~

~~Fabrics and fibers~~

~~Feathers~~

~~Fur~~

~~Hair~~

~~Leather~~

~~Paper~~

~~Plastics~~

~~Rubber~~

~~Straw~~

~~Textiles~~

~~Wood, but excluding operation of a planing mill~~

B. ~~Photographic developing.~~

C. ~~Manufacturing, compounding, processing, assembling, packaging, treatment, or fabrication of the~~
following products:

This classification includes, but is not limited to, the production or assembly of:

Production apparel manufacturing;

Computer and electronic products;

Pharmaceutical production;

Beverages, but excluding (including alcoholic) and food (excluding the production of highly pungent, odor-causing items, such as vinegar and yeast) with ten thousand (10,000) square feet or more of floor area;

Business machines

Ceramics, other than handcraft

Clothing and other textile products, other than custom clothing

Cosmetics

Electrical and electronic equipment, and appliances, and components; other than the products listed in Section 17.10.550;

Furniture and fixtures and related products;

Food, but excluding fish, meat, sauerkraut, vinegar, and yeast

Ice

Pens, pencils, and artists' materials

Pharmaceuticals production

Pianos and organs

Small metal tools and products, other than those listed in Section 17.10.550;

Sporting and athletic goods

Tobacco

Toiletries

(Prior planning code § 2411)

17.10.570 General Manufacturing Industrial Activities.

General Manufacturing Activities include the following activities: manufacturing, compounding, processing, assembling, packaging or treatment of products from extracted, raw, recycled or secondary materials; they may have some or all activities conducted outdoors. This classification excludes all activities under Intermediate Recycling Processing Facilities. The Zoning Administrator or his/her designee may place an activity that otherwise fits this description, but does not produce noise, vibration, air pollution, fire hazard, or noxious emission that will violate standard in Chapter 17.120, or an other federal, State or local standards into the Light Manufacturing Industrial Activities classification. They also include certain activities accessory thereto, as specified in Section 17.10.040.

The classification includes, but is not limited to:

A. — Manufacturing, compounding, processing, assembling, packaging, treatment, or fabrication of articles of merchandise, other than the products listed in Sections 17.10.550, 17.10.560, or 17.10.580, from the following materials:

Chemicals manufacturing (except for the chemical products listed under Heavy Manufacturing);

Clay

Glass manufacturing;

Graphite

Metal foundries;

Stone

B. — Cotton ginning;

C. — Shipbuilding;

D. — Sugar refining;

E. — Wood planing or sawing, product manufacturing;

F. — Wool pulling or scouring;

G. — Manufacturing, compounding, processing, assembling, packaging, treatment, or fabrication of the following products:

Aircraft

Alcoholic beverages
 Asphalt
 Barrels and casks
 Boilers
 Concrete
 Charcoal, lampblack, and fuel briquettes
 Disinfectants
 Dyes/stuff
 Emery cloth and sandpaper
 Exterior and packing materials
 Film
 Fish, meat, sauerkraut, vinegar, and yeast
 Heavy machinery and machine tools equipment and manufacturing
 Insect poison
 Matches
 Monuments
 Motor vehicles
 Oil cloth and linoleum
 Paint
 Porcelain
 Salt
 Shoe polish and stove polish;
Paper finishing;
Pipe production facilities;
Textile mills;
Tire retreading and recapping;
Wood product manufacturing

(Prior planning code § 2414)

17.10.580 Heavy/High Impact Manufacturing Industrial Activities.

Heavy Manufacturing Activities include high impact or hazardous manufacturing processes the following activities. They also include certain activities accessory thereto, as specified in Section 17.10.040.

This classification includes, but is not limited to:

Any manufacturing use with large-scale facilities for outdoor oil and gas storage;
Any biotechnology research, development or production activities involving materials defined by the National Institute of Health as Risk Group 2 or Restricted Agents (commonly known as bio-safety level 4);

Battery manufacturing and storage;
Lime and gypsum products manufacturing;
Non-ferrous metals production, processing, smelting and refining;
Painting, coating and adhesive manufacturing;
Synthetic dye and pigment manufacturing;
Urethane and other open-cell foam product manufacturing;
Petroleum and coal products manufacturing and refining;
Primary metal smelting;
Vinegar, yeast and other pungent, odor-causing items production;

A. Manufacturing, compounding, processing, assembling, packaging, treatment, or fabrication of articles of merchandise from the following raw materials:

Bones
 Garbage, offal, and dead animals

B. Fat rendering.

C. Petroleum refining.

- ~~D. Radioactive material handling~~
~~E. Stocking or slaughtering of animals~~
~~F. Storage and distribution of natural and liquid gas and other petroleum derivatives in bulk.~~
~~G. Leather tanning;~~
~~H. Manufacturing, compounding, processing, assembling, packaging, treatment, or fabrication of the following products:~~
~~Acid~~
~~Cement, lime, gypsum, and plaster of paris and asphalt manufacturing;~~
~~Explosives manufacturing;~~
~~Fertilizer and other agricultural chemical manufacturing~~
~~Gas~~
~~Glue~~

(Prior planning code § 2415)

~~17.10.585 Small Scale Transfer and Storage Hazardous Waste Management Activities.~~

~~Small Scale Transfer and Storage Hazardous Waste Management Activities include treatment facilities with waste streams small enough to be exempt from manifest requirements as described in California Health and Safety Code, Division 20, Chapter 6.5, Article 6. Wastes from any given generator must not exceed a total volume of five gallons or a total weight of fifty (50) pounds. (Ord. 12072 § 5 (part), 1998)~~

~~17.10.586 Industrial Transfer/Storage Hazardous Waste Management Activities.~~

~~Industrial Transfer/Storage Hazardous Waste Management Activities include any treatment facility which is not a Small Scale Transfer and Storage Facility or Residual Repository. (Ord. 12072 § 5 (part), 1998)~~

~~17.10.587 Residuals Repositories Hazardous Waste Management Activities.~~

~~Residuals Repositories Hazardous Waste Management Activities include treatment facilities for collection of residual wastes defined as residues from other treatment facilities after treatment, and other irreducible stabilized or detoxified hazardous wastes. (Ord. 12072 § 5 (part), 1998)~~

17.10.581 Research and Development Industrial Activities.

Research and development activities include scientific research for the design, development, engineering, and testing of high technology electronic, industrial or scientific products in advance of full-scale manufacturing of final products. The only manufacturing uses in this classification consist of the creation of prototype products, plans, or designs for the primary purpose of research, development, or evaluation, rather than sale. They also include certain activities accessory thereto, as specified in Section 17.10.040. This classification excludes manufacturing uses, wholesale and storage uses, repair and retail sales, except as an accessory use as specified in Section 17.10.040; this classification also excludes the on-site production of products for sale, and biotechnology laboratories approved for National Institute of Health experiments using Risk Group 4 or Restricted Agents (commonly known as bio-safety level 4) (Section 17.10.580 Heavy/High Impact Manufacturing Activities).

This classification includes, but is not limited to biotechnology firms, "clean-tech"/energy, environmental, electronic research firms, or pharmaceutical research laboratories.

17.10.582 Construction Operations Industrial Activities.

Construction Operations Activities include enclosed and unenclosed facilities and accessory yards for construction and incidental storage activities and/or fabrication activities performed by construction contractors on lots other than construction sites. They also include certain activities accessory thereto, as specified in Section 17.10.040.

This classification includes, but is not limited to, the storage and custom cutting of stone for interior applications, roofing and plumbing component storage and equipment storage for environmental contractors.

17.10.583 Warehousing, Storage, and Distribution Industrial Activities.

This classification includes five (5) sub-classifications as described below:

A. General Warehousing, Storage and Distribution The warehousing and storage, primarily within enclosed buildings, of commercial goods (other than primary storage of hazardous materials), and the associated distribution activities that occur on-site prior to delivery of goods to wholesale and retail outlets or direct shipment to customers. These activities may also include ancillary truck parking and dispatching; and accessory outdoor storage areas where outdoor storage, not including parking and loading areas, does not occupy more than 30% of the total site area. This classification may include on-site sale of goods and merchandise if the activity is accessory to the above, as specified in Section 17.10.040.

This classification includes, but is not limited to wholesale distributors of large furnishings, food products and auto parts.

B. General Outdoor Storage Outdoor Storage Activities includes principal outdoor storage of items for more than 24 hours where such storage activities occupy more than 30% of the site area. The principal storage of goods and materials, equipment or vehicles; as well as the storage of operating equipment for warehouses, such as forklifts, pallets, and racks. This classification excludes outdoor storage uses that are more specifically described in this chapter, including, but not limited to container storage, salvage and junk yards and oil and gas storage.

This classification includes, but is not limited to construction trailers, outdoor sheds or accessory portable structures, secondary sites for storage of building materials that are not for resale on-site.

C. Self- or Mini Storage Self- or mini storage consist of storage in small individual spaces, on average of 400 square feet or less that are exclusively and directly accessible to a specific tenant, offered on a monthly or other limited basis, and available to the general public.

D. Container Storage. Container Storage includes the storage, repair, and "pre-tripping" of shipping containers, including refrigerated shipping containers, on open lots. Includes minor repair and cleaning of containers, and may include the rehabilitation of containers for other uses.

E. Automotive Salvage/Junk Yards Storage and dismantling of vehicles and equipment for sale of parts.

17.10.584 Regional Freight Transportation Industrial Activities.

Regional Freight Transportation Activities include the provision of freight handling and shipping services by water and rail. They include the inter- and intra-regional transportation of goods. They also include certain activities accessory to the above, as specified in Section 17.10.040. (Prior planning code § 2387)

A. Seaport. The accommodation of freight service and operations by ship. This classification includes piers, wharves & docks, marine terminals, container and break-bulk storage areas (where container storage is an accessory, rather than principal activity), related inter-modal facilities, and support services such as port and harbor operations and navigational services.

B. Rail yard. Accommodation of freight service and operations by rail.

17.10.585 Trucking and Truck-Related Industrial Activities.

Trucking and Truck-Related Activities include the provision of freight handling and shipping services by trucks as well as parking, maintenance, and services for trucks and other heavy vehicles and equipment. They also include certain activities accessory to the above, as specified in Section 17.10.040. (Prior planning code § 2387)

A. Freight/Truck Terminal. The accommodation of local or worldwide freight by truck. This classification includes facilities used primarily for transfer, breaking-down, and/or consolidation of freight, as well as parking and dispatch of trucks.

B. Truck Yard. Parking, dispatch, refueling, and incidental repair of trucks, buses, or other fleets of heavy vehicles, where there is no on-site freight storage or transfer. This classification includes corporation yards operated by public and private towing operations. This classification does not include local courier and delivery services; towing operations as an accessory activity to Automotive Repair and Cleaning (Section 17.10.480)

C. Truck Weigh Stations. The weighing of commercial trucks in truck weighing facilities.

D. Truck and Other Heavy Vehicle Sales, Rental, and Leasing. Sales, rental, and leasing of medium and heavy trucks, truck tractors, construction or agricultural equipment, buses, commercial boats, heavy equipment, and other commercial vehicles that have gross vehicle weight ratings greater than 14,000 pounds, including the sale, installation, accessory repair and servicing of related equipment and parts. This classification does not include vehicle dismantling or salvage and tire re-treading or recapping (See Salvage/Junk Yards, Section 17.10.620).

E. Truck and Other Heavy Vehicle Service, Repair, and Refueling. Repair, fueling, and other servicing of medium and heavy trucks, truck tractors, construction or agricultural equipment, buses, boats, heavy equipment, and similar vehicles that generally have gross vehicle weights greater than 14,000 pounds, including the sale, installation, and servicing of related equipment and parts. This classification includes fueling stations, repair shops, body and fender shops, wheel and brake shops, engine repair and rebuilding, welding, major painting service, tire sales and installation, and upholstery shops for trucks and other heavy vehicles. This classification does not include vehicle dismantling or salvage (See Salvage/Junk Yards, Section 17.10.610E).

17.10.586 Recycling and Waste-Related Industrial Activities

Recycling and Waste-Related Activities include recycling collection, intermediate processing, and other activities related to the storage and processing of used and waste materials.

A. Satellite Recycling Collection Centers. An activity accepting recyclable non-hazardous materials directly from the public by donation, redemption, or purchase at facilities less than five hundred (500) square feet in area that generally do not use power-driven processing equipment.

Satellite collection centers may include mobile recycling units, bulk reverse vending machines, kiosk type units, and/or unattended containers placed for the donation of recyclable materials. These facilities are generally located in, or associated with supermarkets and shopping centers. Most, though not all, satellite collection centers are set up pursuant to requirements of the California Beverage Container Recycling and Litter Reduction Act of 1986, which requires establishment of such centers in all "Convenience Zones" (CZ) in California, defined as the area within ½ mile of all supermarkets, to collect beverage containers made from materials such as aluminum, glass, plastic, and bimetal for recycling.

B. Primary Recycling Collection Centers. An activity accepting recyclable non-hazardous materials by donation, redemption, or purchase at facilities occupying an area of more than five hundred (500) square feet that are not operated incidental to a host use and that may have a permanent building. Primary collection centers typically use power-driven equipment to sort and condense material for shipment to an intermediate processor or other user. Primary collection centers may have a combination of outdoor processing and storage.

C. Intermediate Recycling Processing Facility. An activity serving as a collection point for receiving, processing, storage, and distribution of large quantities of recyclable materials delivered from recycling collection centers or other sources. Processing of most or all material typically occurs inside a building, using mechanical and/or chemical processing equipment to alter the physical form of incoming material. Processed materials may be stored in outdoor areas prior to sale to manufacturers or other end users. Intermediate processing facilities do not accept materials from but may sell goods to the public. This

classification does not include facilities that handle or process hazardous materials and solid waste facilities and transfer stations.

17.10.587 Hazardous Materials Production, Storage, and Waste Management Industrial Activities.

A. Small Scale Transfer and Storage Hazardous Waste Management Activities. Small Scale Transfer and Storage Hazardous Waste Management Activities include treatment facilities with waste streams small enough to be exempt from manifest requirements as described in California Health and Safety Code, Division 20, Chapter 6.5, Article 6. Wastes from any given generator must not exceed a total volume of five gallons or a total weight of fifty (50) pounds. (Ord. 12072 § 5 (part), 1998)

B. Industrial Transfer/Storage Hazardous Waste Management Activities. Industrial Transfer/Storage Hazardous Waste Management Activities include any treatment facility which is not a Small Scale Transfer and Storage Facility or Residual Repository. (Ord. 12072 § 5 (part), 1998)

C. Residuals Repositories Hazardous Waste Management Activities. Residuals Repositories Hazardous Waste Management Activities include treatment facilities for collection of residual wastes defined as residues from other treatment facilities after treatment, and other irreducible stabilized or detoxified hazardous wastes. (Ord. 12072 § 5 (part), 1998)

D. Oil and Gas Storage. Oil and Gas Storage includes tank farms and outdoor facilities for the bulk storage and handling of fuel and lubricating oils, gasoline and natural gas.

Chapter 17.73CIX-1, CIX-2, IG AND IO INDUSTRIAL ZONESSections:

<u>17.73.010</u>	<u>Title, Purpose, and Applicability</u>
<u>17.73.020</u>	<u>Permitted and Conditionally Permitted Uses and Facilities</u>
<u>17.73.030</u>	<u>Property Development Standards</u>
<u>17.73.040</u>	<u>Special Regulations for Work/Live Units in the Industrial Zones</u>
<u>17.73.050</u>	<u>Parking and Loading Dock Restrictions</u>
<u>17.73.060</u>	<u>Referral to Other Applicable Regulations</u>

17.73.010 Title, Purpose, and Applicability

The provisions of this chapter shall be known as the industrial zones regulations. This chapter establishes regulations for the (CIX-1) Commercial Industrial Mix-1, (CIX-2) Commercial Industrial Mix-2, (IG) General Industrial, (IO) and Industrial Office.

These industrial zoning districts are intended to create, preserve, and enhance areas for industrial uses, including manufacturing, scientific and product-related research and development, construction, transportation, warehousing/storage/distribution, recycling/waste-related activities, clean technology, and similar uses. The primary purposes of these areas are to support Oakland's economic base and to provide employment opportunities. The specific purposes of these industrial districts are to:

- A. Provide a diversified economic base and a wide range of employment opportunities;
- B. Maximize Oakland's regional role as a transportation, distribution, and communications hub;
- C. Support Port operations and expansion by providing land for Port services such as trucking, warehousing, and distribution;
- D. Preserve areas with good freeway, rail, seaport, and/or airport access for business and industrial uses;
- E. Prohibit residential uses and limit commercial uses in General Industrial (IG) areas so that a maximum amount of the City's land base is preserved for industrial uses, and so that industrial uses may operate without impacting those activities;
- F. Locate high impact industrial uses away from residential areas; and
- G. Allow heavy-impact or large scale commercial retail uses on sites with direct access to the regional transportation system.

- A. CIX-1 Commercial Industrial Mix 1 Zone. The CIX-1 zone is intended to create, preserve, and enhance the industrial areas of West Oakland that are appropriate for a wide variety of businesses and related commercial and industrial establishments. This zone is intended to accommodate existing older industries and provide flexibility in order to anticipate new technologies. Large-

scale commercial and retail uses will be limited to sites with direct access to the regional transportation system.

- B. **CIX-2 Commercial Industrial Mix 2 Zone.** The CIX-2 zone is intended to create, preserve, and enhance areas of the Central and Eastern portions of the City that are appropriate for a wide variety of heavy commercial and industrial establishments. Uses with greater off-site impacts may be permitted provided they meet specific performance standards and are buffered from residential areas.
- C. **IG General Industrial Zone.** The IG zone is intended to create, preserve and enhance areas of the City that are appropriate for a wide variety of businesses and related commercial and industrial establishments that may have the potential to generate off-site impacts such as noise, light/glare, odor, and traffic. This zone allows heavy industrial and manufacturing uses, transportation facilities, warehousing and distribution, and similar and related supporting uses. Uses that may inhibit such uses, or the expansion thereof, are prohibited. This district is applied to areas with good freeway, rail, seaport, and/or airport access.
- D. **IO Industrial Office Zone.** The IO zone is intended to create and support areas of the City that are appropriate for a wide variety of businesses and related commercial and industrial establishments in a campus-style setting. Development and performance standards in this district are more restrictive and accommodate large-parcel development in an attractive, well-landscaped setting. Future development shall reflect large-scale office, research and development, light industrial, wholesaling and distribution, and similar and related supporting uses.

17.73.020 Permitted and Conditionally Permitted Uses and Facilities

The following table lists the permitted, conditionally permitted, and prohibited uses and facilities in the CIX-1, CIX-2, IG and IO zones. The descriptions of these uses are contained in Chapter 17.10.

- “P” designates permitted uses and facilities in the corresponding zone.
- “C” designates uses and facilities that are permitted only upon the granting of a conditional use permit (see Chapter 17.134) in the corresponding zone.
- “L” designates uses and facilities subject to certain limitations listed at the bottom of the Table.
- “-” designates uses and facilities that are prohibited in the corresponding zone.

Table 17.73.020: Permitted and Conditionally Permitted Uses and Facilities

Use	Zones				Additional Regulations
	CIX-1	CIX-2	IG	IO	
Residential Uses	All residential uses prohibited in each zone				
Civic Uses					
Essential Service	C	C	C	C	
Limited Child-Care	=	=	=	=	
Community Assembly	P	C	=	C	
Community Education	P	C	=	C	
Nonassembly Cultural	P	C	=	C	
Administrative	P	C	=	C	
Health Care	P	=	=	=	
Special Health Care	C	C	=	=	
Utility and Vehicular	P	C	C	C	
Extensive Impact	C	C	C	C	
Telecommunication	P	P	P	P	See Chapter 17.128
Commercial Uses					
General Food Sales	P	C (1.1)	C (1.1)	P (1.1)	See Section 17.102.210
Convenience Market	C	C	=	C	
Fast Food Restaurant	C	C	=	C	
Alcoholic Beverage Sales	L2	C	=	=	
Convenience Sales and Service	P	P	=	P	
Mechanical or Electronic Games	L3	=	=	=	See Section 17.102.210
Medical Service	P	C	=	C	
General Retail Sales	P	=	=	=	Retail allowed as an accessory use only in CIX-2 and IO per Section 17.10.040
Large-Scale Combined Retail and Grocery Sales	=	=	=	=	
General Personal Service	P	=	=	=	
Consultative and Financial Services	P	=	=	=	
Check Cashier and Check Cashing	=	=	=	=	
Consumer Laundry and Repair Service	P	C	=	=	
Group Assembly	P (1.7)	C (1.8)	C (1.8)	C (1.8)	
Administrative	P	P	L9	P	
Business and Communication Service	P	P	P	P	
Retail Business Supply	P	P	P	C	
Research Service	P	P	C	P	
General Wholesale Sales	P	P	P	P	No retail ancillary activities allowed in IG or IO.
Transient Habitation	=	=	=	=	
Construction Sales and Service	L3	L3	=	=	
Automotive Sales, Rental, and Delivery	P	C	=	C	

Table 17.73.020: Permitted and Conditionally Permitted Uses and Facilities

Uses		Zones				Additional Regulations
		CIX-1	CIX-2	IG	IQ	
	Automotive Servicing	P	P	P	=	If located within (150) feet of any residential zone boundary is pursuant to the design review procedure in Chapter 17.136.
	Automotive Repair and Cleaning	L3	L3	P	=	If located within (150) feet of any residential zone boundary is pursuant to the design review procedure in Chapter 17.136.
	Automotive Tire Parking	L3	P	P	P	
	Animal Care	L4	C	C	=	
	Undertaking Service	P	C	C	=	
Industrial Uses:						
	Custom Manufacturing	P	P	P	P	
	Light Manufacturing	P	P	P	P	
	General Manufacturing	L3	L3	P	=	
	Heavy Manufacturing	=	=	C	=	
	Research and Development	P	P	P	P	
	Construction Operations	L3	L3	L3	C	
Warehousing, Storage and Distribution						
A.	General Warehousing, Storage and Distribution	P	P	P	P	No retail component allowed in IG or IQ. See Section 17.73.060
B.	General Outdoor Storage	C	L3	P	P	
C.	Self or Mini Storage	C	C	=	C	
D.	Container Storage	=	L3	P	=	
E.	Automotive Salvage and Junk Yards	=	=	L3	=	
Regional Freight & Transportation:						
A.	Seaport	=	=	P	C	
B.	Rail Yard	=	C	P	=	
Trucking & Trucking-related Activities:						
A.	Freight/Truck Terminal	L5	L3	P	=	If located within (150) feet of any residential zone boundary is pursuant to the design review procedure in Chapter 17.136.
B.	Truck Yard	L5	C	P	C	
C.	Truck Weigh Stations	=	P	P	=	
D.	Truck & Other Heavy Vehicle Sales, Rental & Leasing	L6	P	P	P	
E.	Truck & Other Heavy Vehicle Service, Repair, and Refueling	L5	P	P	=	

Table 17.73.020: Permitted and Conditionally Permitted Uses and Facilities

Uses		Zones				Additional Regulations
		CIX-1	CIX-2	IG	IO	
Recycling & Waste Related Activities						
A.	Satellite Recycling Collection Centers	C	C	C	C	
B.	Primary Collection Centers	L10	L10	L10	=	
C.	Intermediate Recycling Processing Facility	L3	L3	L3	C	
Hazardous Materials Production, Storage & Waste-Related Activities						L11 See also Health & Safety Protection Zone (S-19)
A.	Small Scale Transfer and Storage	=	C	C	=	
B.	Industrial Transfer/Storage	=	=	C	=	
C.	Residuals Repositories	=	=	C	=	
D.	Oil and Gas Storage	=	=	L2	=	
Agricultural and Extractive Uses						
	Plant nursery	P	P	P	=	
	Crop and animal raising	=	=	C	=	See Section 17.102.220
	Mining and Quarrying Extractive	=	=	C	=	

Facility Types		Zones				Additional Regulations
		CIX-1	CIX-2	IG	IO	
Residential Facilities		All residential uses prohibited in each zone				
Nonresidential Facilities						
	Enclosed Nonresidential	P	P	P	P	
	Open Nonresidential	P	P	P	P	
	Sidewalk Cafe	C	C	=	=	See Section 17.102.335
	Drive-In Nonresidential	=	=	=	=	
	Drive-Through Nonresidential	C	C	C	C	See Section 17.102.290
	Shopping Center Facility	=	=	=	=	
Telecommunications						
	Micro Telecommunications	P	P	P	P	See Chapter 17.128
	Mini Telecommunications	P	P	P	P	
	Macro Telecommunications	C	C	P	P	
	Monopole Telecommunications	C	C	P	P	
	Tower Telecommunications	=	=	P	P	
Signs						
	Residential Signs	=	=	=	=	See Chapter 17.104
	Special Signs	P	P	P	P	
	Development Signs	P	P	=	=	
	Realty Signs	P	P	P	P	
	Civic Signs	P	P	P	P	
	Business Signs	P	P	P	P	
	Advertising Signs	=	=	=	=	

Limitations:

- L1. Limited to location on a ground floor in CIX-2, IG and IO. Over 5,000 sf floor area requires a conditional use permit in CIX-2, IG, and IO.
- L2. Prohibited within 300 feet of a residential zone and requires a conditional use permit elsewhere throughout the zone. (Conditional use permit is required in CIX-2).
- L3. A conditional use permit is required if within 300 feet of a residential zone; Permitted if beyond 300 feet of a residential zone.
- L4. A conditional use permit is required if the use involves any of the following: a) outdoor yard activities; or b) ancillary overnight boarding.
- L5. Prohibited within 600 feet of a residential zone. A conditional use permit is required elsewhere throughout the zone.
- L6. A conditional use permit is required a) if within 300 feet of a residential zone, and b) if located anywhere in the district when outdoor repair and service activity exceeds 50% of site area.
- L7. A conditional use permit is required for entertainment uses.
- L8. Entertainment, educational and athletic services are not permitted.
- L9. Administrative activities accessory to an existing industrial activity are limited to twenty (20) percent of floor area in IG.
- L10. Prohibited within 300 feet of a residential zone; a conditional use permit is required within 300 to 600 feet of a residential zone; permitted if beyond 600 feet of a residential zone boundary.
- L11. A conditional use permit is required for electroplating activities.

17.73.030 Property Development Standards

Table 17.73.030 contains the property development standards for all zones within this Chapter.

Table 17.73.030: Property Development Standards

Development Standards	Zones				Additional Requirements
	CIX-1	CIX-2	IG	IO	
Minimum Lot Frontage	25 ft	25ft	25ft	100ft	1
Minimum Lot Width	25 ft	25ft	25ft	100ft	1
Minimum Lot Area (square feet)	5,000 sf	10,000 sf	10,000 sf	25,000 sf	1
Floor-Area Ratio (FAR)					
Greater than 300 feet of a residential zone boundary	4.0	4.0	2.0	4.0	
Within 300 feet of a residential zone boundary	2.0	2.0	1.0	2.0	2
Maximum Height	None	55 ft	None	55 ft	3,4
Minimum Front Yard Setback	0 ft	0 ft	0 ft	20 ft	5
Minimum Rear Yard Setback	0 ft				5
Minimum Interior Side Yard Setback	0 ft				5
Minimum Street Side Yard Setback Of A Corner Lot	10 ft	10 ft	10 ft	20 ft	5

Table 17.73.030: Property Development Standards (cont'd)

Development Standards	Zones				Additional Regulations
	CIX-1	CIX-2	IG	IO	
Site Landscaping (% of lot area)	5%	5%	5%	15%	6, 7
Parking Lot Landscaping (% of lot area)	10%	10%	10%	10%	8
Street Trees	Required	Required	See also note 10	Required	9
Site and Driveway Access – Minimum Distance from any residential or open space boundary	50 ft	50 ft	50 ft	50 ft	11
Driveway Width Maximum	35 ft	35 ft	35 ft	35 ft	12
Pedestrian Walkway	Required	Required	Required	Required	13
Minimum Fence Height in Yards adjacent to Residential or Open Space Zones	8 ft	8 ft	8 ft	8 ft	14
Maximum Fence Height in Yards adjacent to Residential or Open Space Zones	15 ft	15 ft	15 ft	15 ft	14, 15

Additional Regulations Noted in Table 17.73.02:

1. See Sections 17.106.010 and 17.106.020 for exceptions to street frontage, lot width and lot area regulations.
2. A conditional use permit to exceed the permitted floor area ratio (FAR) may be allowed, as shown in parentheses above in Table 17.31.030, upon determination that the proposal conforms to the conditional use permit criteria set forth in the conditional use permit procedure in Chapter 17.134; and to all of the following additional criteria:
 - a. Additional intensity does not subject residentially zoned areas within 300 feet to significant adverse impacts related to: truck traffic; nighttime operations; noise; vehicular traffic; hazardous materials exposure and risk; air emissions; blockage of sunlight to private open space areas; or other such environmental impacts;
 - b. The site is located on a major arterial, freeway, rail line or other location that has adequate capacity to handle the intensity and type of traffic volume.
 - c. If adjacent to a residential or open space zone boundary the proposed development has a step back of one foot to every one foot of height, beginning with a maximum height of 30 feet at all required yard setbacks; and
 - d. All new development activities meet the Performance Standards in 17.120.
3. Except as otherwise provided in Section 17.108.030 (Allowed Projections above Height Limits), Chapter 17.128 (Telecommunications Regulations), and Subsection 17.108.010 on lots lying along a boundary of certain residential zones. See Section 17.104.020 for maximum height of signs.
4. The height of materials stored in any outdoor yards may be no higher than eight (8) feet within the required rear or side yard setback along the property line. However, materials may be stacked up to the height of the wall, and may be stacked within the required yard area if a solid masonry wall eight (8) to ten (10) feet in height and buffer planting is installed. The aisle width and mate-

- rial composition of all stored material, and the ultimate height of all outdoor materials stored beyond the 10 foot yard requirement, shall be according to the Fire Code regulations.
5. See 17.108.040, 17.108.070, 17.108.090, 17.108.100, 17.108.110, and 17.108.130 for minimum front, side, and rear yards in commercial and industrial zones which may be across from, abut or be adjacent to a residential zone or alley. Accessory structures or other facilities allowed within the yards and setbacks is in sections 17.108.130.
 6. All new projects which involve the construction of a new building, or the expansion or replacement of existing building footprint by more than twenty (20%) percent such that the floor area to site ratio exceeds 35%, shall comply with the landscape requirements. Landscaping shall consist of pervious surface with lawn, ground cover, shrubs, permeable paving materials, and/or trees and which is irrigated and maintained. See also 17.124 Landscaping and Screening Standards.
 7. In the IO district, the minimum front yard setback area required shall, except for driveways, walkways, and allowable signs, be developed as open landscaped areas with lawn, ground cover, shrubs, trees or decorative and permeable paving materials, subject to the standards for required landscaping and screening in Chapter 17.124.
 8. Parking Lot Landscaping applies only to lots associated with new construction with more than 25,000 sf floor area. Shade trees shall be provided at a ratio of 1 tree for every 10 spaces through the parking lot. A minimum of 10 percent of a surface parking lot shall be landscaped accompanied by an irrigation system that is permanent, below grade and activated by automatic timing controls which may be provided entirely in permeable surfacing in lieu of irrigated landscaping if approved through Design Review. Parking lots located adjacent to a public right-of-way shall include screening consisting of a minimum of five (5) foot deep planted area or a three (3) foot tall opaque, concrete, or masonry wall. Chain link, cyclone, and barbed wire fencing is prohibited in all cases.
 9. For all projects requiring a building permit, street trees are required. In addition to the general landscaping requirements set forth above, a minimum of one fifteen-gallon tree, or substantially equivalent landscaping consistent with city policy and as approved by the Director of City Planning, shall be provided for every twenty (20) feet of street frontage or portion thereof and, if a curbside planting strip exists, for every twenty-five (25) feet of street frontage. On streets with sidewalks where the distance from the face of the curb to the outer edge of the sidewalk is at least six and one-half feet, the trees to be provided shall include street trees to the satisfaction of the Tree Division.
 10. The street tree requirement noted above shall apply only to properties in the IG zone that have frontage on San Leandro Street, 98th Avenue, 66th Avenue, and Hegenberger Road.
 11. Applies to new development; or expansion of industrial or commercial buildings by more than 20 percent floor area; or b) addition or expansion of an existing building so that the building to land ratio exceeds 35 percent, whichever is greater; and all new driveway projects. This requirement may be waived administratively if such distance requirement will impede direct access to a rail line.
 12. Driveway shall not exceed 35 feet in width without obtaining approval from the Engineering Department of Building Services through the Driveway Appeal Process.
 13. A clearly defined and lighted walkway, at least four (4) feet wide, shall be provided between the main building entry and a public sidewalk for all new development. On-site walkways shall be separated from on-site automobile circulation and parking areas by landscaping, a change in paving material, or a change in elevation.
 14. Applies to all property lines in industrial zones, except those fronting a public street, which directly abut a residential or open space zone. All buffering Requirements apply to new development; or expansion of an industrial or commercial building by more than 20 percent floor area or b) addition or expansion of an existing building so that the building to land ratio exceeds 35 percent, whichever is greater.

15. A reduced buffer requirement may be permitted with the provision of a solid wood or articulated masonry wall of at least 8 feet in height in combination with a reduced buffer width as well as fewer trees and shrubs at a standard appropriate for minimizing the incompatibility between uses. The planting requirement may be eliminated if appropriate and approved by the Planning Director. The fence or wall design shall be approved by the Planning Director.

17.73.040 Special Regulations for Work/Live Units in the Industrial Zones

A. Applicability. A work/live unit in the industrial zones must meet all applicable regulations contained in this section. Regulations in this section supersede regulations contained in Section 17.102.190 relating to the conversion of buildings originally designed for commercial or industrial activities into joint living and working quarters for work/live units in the industrial zones only.

B. Definition. A "work/live unit" means a room or suite of rooms that are internally connected maintaining a common household that includes: (1) cooking space and sanitary facilities that satisfy the provisions of other applicable codes, and (2) adequate working space reserved for, and regularly used by, one or more persons residing therein. A work/live unit accommodates a primary nonresidential activity with an accessory residential component.

C. Conditional use permit required.

1. Establishment of a work/live unit for new construction and conversion of existing buildings is only permitted upon determination that the proposal conforms to the conditional use permit criteria set forth in the conditional use permit procedure in Chapter 17.134 on lots that are both: 1) in the CIX-1 or CIX-2 zones and 2) within three-hundred feet of a residential zone.
2. Establishment of a work/live unit through the conversion of an existing building which is rated "A" or "B," by the City's Cultural Heritage Survey, is permitted in all industrial zones with the granting of a conditional use permit pursuant to the conditional use permit procedure in Chapter 17.134.

D. Regular design review required. Establishment of a work/live unit shall only be permitted upon determination that the proposal conforms to the regular design review criteria set forth in the design review procedure in Chapter 17.136 and to all of the following additional criteria:

1. That the exterior of a new building containing primarily work/live units in the industrial zones has a commercial or industrial appearance. This includes, but is not necessarily limited to, the use of nonresidential building styles or other techniques;
2. That units on the ground floor or level of a building have a business presence on the street. This includes, but is not necessarily limited to, providing roll up doors at the street or storefront style windows that allow interior space to be visible from the street, a business door that is oriented towards the street, a sign or other means that identifies the business on the door and elsewhere, a prominent ground floor height, or other techniques;
3. That the layout of nonresidential floor areas within a unit provides a functional and bona fide open area for working activities;
4. That the floor and site plan for the project include an adequate provision for the delivery of items required for a variety of businesses. This may include, but is not necessarily limited to, the following:
 - a. Service elevators designed to carry and move oversized items,
 - b. Stairwells wide and/or straight enough to deliver large items,
 - c. Loading areas located near stairs and/or elevators and
 - d. Wide corridors for the movement of oversized items; and
5. That the floor and site plan for the project provide units that are easily identified as businesses and conveniently accessible by clients, employees and other business visitors.

E. Activity, parking, loading, open space, and unit size standards for work/live units. The following table contains the activities allowed in a work/live unit; the minimum size of an industrial work/live unit; and the parking, loading and open space required for each work/live unit:

Table 17.73.040.C Activity, parking, loading, open space, and unit size standards for work/live units.

Standard	Requirement	Notes
Activities allowed in a work/live unit	Same permitted and conditionally permitted activities as described in Section 17.73.020 for the applicable base zone.	
Required parking	One parking space per unit plus one additional unassigned visitor or employee parking space per five work/live units	1, 3
Required loading	Square feet of facility	Requirement
	Less than 10,000 square feet	No berth required
	10,000--69,999 square feet	One berth
	70,000--130,000 square feet	Two berths
	Each additional 200,000 square feet	One additional berth
Required usable open space	75 square feet of usable open space per unit	2, 3
Minimum size of unit	No individual unit shall be less than eight hundred (800) square feet of floor area	

Notes:

1. See Chapter 17.116 for other off-street parking standards.
2. All required usable open space shall meet the usable open standards contained in Chapter 17.126, except that all usable open space work/live units may be provided above ground. Further, each square foot of private usable open space equals two square feet towards the total usable open space requirement.
3. Parking and open space standards apply to new construction. For conversion of existing buildings, maintaining existing parking and open space is required.

F. A work/live unit shall consist of a maximum of one-third residential floor area with the remaining floor area to be used for the primary non-residential activity. All required plans for the creation of industrial work/live units shall: (1) delineate areas designated to contain residential activities and areas designated to contain nonresidential activities, and (2) contain a table showing the square footage of each unit devoted to residential and nonresidential activities.

G. Work/live space shall be considered Commercially/ Industrially Oriented Joint Living and Working Quarters under the Building Code. Any building permit plans for the construction or establishment of work/live units shall: (1) clearly state that the proposal includes Commercially/Industrially Joint Living and Working Quarters and (2) label the units intended to be these units as Commercially/ Industrially Joint Living and Working Quarters. This requirement is to assure the City applies building codes that allow industrial activities in work/live units in the industrial zones.

H. Each unit shall contain at least one tenant that operates a business within that unit. That tenant shall possess a valid and active City of Oakland Business Tax Certificate to operate a business out of the unit.

I. For any work/live unit, a statement of disclosure shall be: (1) provided to prospective owners or tenants before a unit or property is rented, leased, or sold, and (2) recorded with the County of

Alameda as a Notice of Limitation and in any other covenant, conditions and restrictions associated with a facility. This statement of disclosure shall contain the following acknowledgments:

1. The unit is in a nonresidential facility that allows commercial and/or industrial activities that may generate odors, truck traffic, vibrations, noise and other impacts at levels and during hours that residents may find disturbing.

2. Each unit shall contain at least one tenant that operates a business within that unit. This tenant must possess an active City of Oakland Business Tax Certificate for the operation out of the unit.

J. Each building with a work/live unit shall contain a sign that: (1) is permanently posted; (2) is at a common location where it can be frequently seen by all tenants such as a mailbox, lobby, or entrance area; (3) is made of durable material; (4) has a minimum dimension of nine by eleven inches and lettering at least one-half an inch tall. This sign shall contain the following language: "This development contains work/live units. As such, please anticipate the possibility of odors, truck traffic, noise or other impacts at levels and hours that residents may find disturbing."

K. The development of work/live units in the industrial zones shall not be considered adding housing units to the City's rental supply, nor does it create "conversion rights" under the City's condominium conversion ordinance, O.M.C. Chapter 16.36, nor are the development standards for work/live units intended to be a circumvention of the requirements of the City's condominium conversion ordinance, O.M.C. Chapter 16.36.

17.73.050 Parking and Loading Dock Restrictions

A. Off-street parking and loading shall be provided as prescribed in the off-street parking and loading requirements in Chapter 17.116.

B. Parking for new development shall be located at the rear of the site or at the side of the building in the CIX-1, CIX-2, and IO except for drop-off areas, which may be at the entry, except where access to existing loading docks and/or rail lines is required. New truck loading docks shall not be located closer than 50 feet from property line as measured from the subject dock to any property boundary if located within 300 feet of a residential zone, unless such a distance requirement will impede direct access to a rail line. Truck docks shall be located such that trucks do not encroach into the public right of way. All existing loading docks are not subject to this requirement.

17.73.060 Referral to Other Applicable Regulations

The following table contains referrals to other regulations that may apply:

Table 17.73.03: Referral to Other Regulations

<u>Subject</u>	<u>Section</u>
<u>Required number, dimensions, and location of parking spaces; maneuvering aisle dimensions, and related regulations</u>	<u>17.116</u>
<u>Sign regulations</u>	<u>17.104.20</u> <u>17.104.060</u>
<u>Buffering regulations, including the buffering of parking, loading, glare, and storage from other properties</u>	<u>17.110</u>
<u>Landscaping and screening, including street trees</u>	<u>17.66.140A</u> <u>17.108.040</u> <u>17.124</u> <u>17.68.130A</u>

EXHIBIT A

Subject	Section
Recycling space requirements	17.118
Nonconforming uses and facilities	17.114
Joint living and working quarters	17.102.190
Performance standards regarding the control of noise, odor, smoke, and other objectionable impacts	17.120
The demolition of living units and the conversion of a living unit to a Nonresidential Use	17.102.230
Accessory Uses	17.10.040
Fence and retaining wall standards, including location, height, and materials	17.108.040
Expanding a use into adjacent zones	17.102.110
Application of zoning regulations to lots divided by zone boundaries	17.210.070
Landmarks	17.05
Special Restrictions on Establishments Selling Alcoholic Beverages (not low or medium residential zones)	17.102.210
Regulations applying to tobacco-oriented activities (not low or medium residential zones)	17.102.350
Microwave dishes and energy production facilities	17.102.240
Special regulations applying to adult entertainment activities (not low or medium residential zones)	17.102.160
Special regulations applying to massage service activities (not low or medium residential zones)	17.102.170
Buffering regulations for lots with three or more required parking space. This includes the screening of parking, loading, place, and storage from residential properties and zones	17.110.030
Buffer Regulations for commercial and industrial uses next to residential and open space zones	17.110
Special regulations applying to electroplating activities	17.102.340
S-19 Health and Safety Protection Overlay Zone	17.100

Chapter 17.100S-19 HEALTH AND SAFETY PROTECTION OVERLAY ZONESECTIONS17.100.010 Title, Purpose and Applicability17.100.020 Definitions17.100.030 Zones with Which the S-19 May Be Combined17.100.040 Prohibited Land Uses17.100.050 General Standards17.100.060 Regulations Required by Other Agencies17.100.010 Title, Purpose and Applicability

The intent of the Health & Safety Protection Overlay Zone is to promote the public health, safety and welfare by ensuring that activities which use hazardous material substances or store hazardous materials, hazardous waste, or explosives locate in appropriate locations and develop in such a manner as not to be a serious threat to the environment, or to public health, particularly to residents living adjacent to industrial areas where these materials are commonly used, produced or found.

17.100.020 Definitions

For the purposes of this regulation, the following definitions apply:

- A. Hazardous Material. Hazardous material is defined as that which could exhibit one or more of the hazard characteristics defined in the California Fire Code (CFC), which generally means, any material that, because of its quantity, concentration, or physical or chemical characteristics, poses a significant present or potential hazard to human health and safety or to the environment if released into the workplace or the environment (H.S.C. §25503.5a).
- B. Hazardous Waste. Hazardous waste is defined as any hazardous material whose intended original purpose is no longer applicable for its use, or a waste that meets federal or state criteria for ignitability, corrosivity, reactivity or toxicity, or is specifically listed by the federal or state law or regulations (40 C.F.R., part 240 et. seq.).
- C. Explosives. Explosives are defined as chemicals that cause a sudden, almost instantaneous release of pressure, gas and heat when subjected to sudden shock, pressure, or high temperatures; or a material or chemical, other than a blasting agent, that is commonly used or intended to be used for the purpose of producing an explosive effect (29 C.F.R.).

17.100.030 Zones with Which the S-21 May Be Combined

- A. The standards of this overlay zone shall apply to the following zoning districts:
1. Housing and Business Mix zones;
 2. CIX-1 (Commercial Industrial Mix-1) zone;

3. CIX-2 (Commercial Industrial Mix-2) and IG (General Industrial) and IO (Industrial Office) zoning districts that are within three hundred (300) feet from any residential, open space, or institutional zone boundary.

B. The standards of this overlay zone shall apply to the following facility types:

1. All new nonresidential facilities or activities
2. Any nonresidential facility which has lost its legal non-conforming status
3. Any existing facility or activity where the usable floor area is expanded by more than twenty (20%) percent after the effective date of the adoption of this Ordinance.
4. Any alteration or expansion of a facility or activity, such that it requires a new Risk Management Plan or other Hazardous Materials Business Plan.

17.100.040 Prohibited Land Uses

The following land use activities are prohibited within the Health and Safety Protection Overlay Zone:

- A. Electroplating;
- B. Hazardous Waste Management, Industrial/Transfer Storage; and Residuals Repositories;
- C. Activities which involve manufacturing, storing or use of explosives

17.100.050 General Standards

The following additional regulations shall apply within the S-21 Health and Safety Protection Zone:

- A. Storage and use of all hazardous materials and hazardous waste shall be reviewed and approved by the Fire Department prior to commencement of operation or any alteration of activity. A risk management plan may also be required, per the Certified Program Uniform Assistance (CUPA) ordinance (O.M.C. 8.42).
- B. No storage or use of hazardous materials and waste can be located within 300 feet of a residential institutional or open space zoning district without written approval or consent of the Fire Department.

17.100.060 Regulations Required by Other Agencies

A. The following regulations may be required by the Fire Department, City of Oakland:

1. Process Hazard Analysis
2. Risk Management Plan
3. Local Hazardous Materials Business Plan

B. In addition the Fire Department may establish any of the following limitations:

1. Limitations on the location for storage or use of hazardous material;
2. Containment measures for storage or use of hazardous materials;
3. Limitations or prohibitions on the storage or use of specific hazardous materials; or specific processes that use or combine hazardous materials.

C. The foregoing shall not prevent compliance with other requirements that may be imposed under other federal, state or local rules, statutes, codes or regulations.

Chapter 17.120

PERFORMANCE STANDARDS

SECTIONS

17.120.010	Title, Purpose, and Applicability
17.120.020	Existing Activities
17.120.030	Proof of Compliance
17.120.040	Measurements
17.120.050	Noise
17.120.060	Vibration
17.120.070	Smoke
17.120.080	Particulate Matter and Air Contaminants
17.120.090	Odor
17.120.110	Humidity, Heat, Cold and Glare
17.120.120	Electrical Disturbance

17.120.010 Title, Purpose, and Applicability

The provisions of this chapter shall be known as the performance standards. The purpose of these standards is to control dangerous or objectionable environmental effects of all activities. These standards shall apply to the indicated activities in the zones and situations specified herein. (Ord. 11895 & 6, 1996; prior planning code & 7700)

17.120.020 Existing Activities

Activities existing on the effective date of the Zoning regulations, or of a subsequent rezoning or other amendment thereto applying more restrictive performance standards to such activities, shall not be required to change their operations to comply with the performance standards. However, their operations shall not be so changed as to result in a greater degree of nonconformity with respect to such standards, except as otherwise authorized under Section 17.102.310 and the development agreement procedure in Chapter 17.138. (Prior planning code & 7701) For existing activities meeting the definition specified in Section 17.114.080C, an expansion greater than 20 percent of production (e.g. non-administrative) floor area is one example of a change in operations that shall be considered an increase in the degree of non-conformity.

17.120.030 Proof of Compliance

The Director of City Planning may require the applicant for a building permit or business license to submit such information with respect to proposed machinery, processes, products, or environmental effects as may be necessary to demonstrate the ability of the proposed activities to comply with applicable performance standards. Such required information may include reports to expert consultants. Any such requirement, and any determination by the Director as to sufficiency of proof, may be appealed pursuant to the administrative appeal procedure in Chapter 17.132 (Prior planning code & 7703).

17.120.040 Measurements

When measurements are necessary, levels of dangerous or objectionable environmental effects shall be measured in accordance with accepted engineering practice. (Prior planning code & 7704)

17.120.050 Noise

All activities shall be so operated that the noise level inherently and regularly generated by these activities across real property lines shall not exceed the applicable values indicated in subsections A, B, or C as modified where applicable by the adjustments indicated in subsection D, E, or F. Further noise restrictions are outlined in Section 8.18.010 of the Oakland Municipal Code.

A. **Residential and Civic Zone Noise Level Standards.** The maximum allowable noise levels received by ~~any residential zone or by any legal residential activity, school, child care, health care or nursing home, public open space which is existing on or prior to the date of the adoption of these amendments, and similarly sensitive land use~~ are described in Table 17.120.01.

Table 17.120.01 establishes the maximum allowable receiving noise level standards:

Table 17.120.01: Maximum Allowable Receiving Noise Level Standards - Residential and Civic

Cumulative Number of Minutes in Either the Daytime or Night-time One Hour Time Period	Daytime 7 a.m. to 10 p.m.	Nighttime 10 p.m. to 7 a.m.
20	60	45
10	65	50
5	70	55
1	75	60
0	80	65

B. **Commercial Noise Level Standards.** The maximum allowable noise levels received by any ~~commercial land use activity within any commercial zone (including the Housing and Business Mix (HBX) zone) land use~~ are described in Table 17.120.02

Table 17.120.02 establishes the maximum allowable receiving noise level standards:

Table 17.120.02: Maximum Allowable Receiving Noise Level Standards

Cumulative Number of Minutes in Either the Daytime or Night-time One Hour Time Period	Anytime
20	65
10	70
5	75
1	80
0	85

C. **Manufacturing, Industrial, Agricultural and Extractive Noise Level Standards.** The maximum allowable noise levels received by any land use activity within any industrial, manufacturing or mining and quarrying land use zone are described in Table 17.120.03

Table 17.120.03 establishes the maximum allowable receiving noise level standards:

Table 17.120.03: Maximum Allowable Receiving Noise Level Standards

Cumulative Number of Minutes in Either the Daytime or Night-time One Hour Time Period	Anytime
20	70
10	75
5	80
1	85
0	90

- D. In the event the measured ambient or noise level exceeds the applicable noise level standard in any category above, the stated applicable noise level shall be adjusted so as to equal the ambient noise level.
- E. Each of the noise level standards specified above in subsections A, B, and C shall be reduced by five dBA for a simple tone noise such as a whine, screech, or hum, noise consisting primarily of speech or music, or for recurring impulse noise such as hammering or riveting.
- F. ~~Legal Nonconforming Residential Facilities.~~ The applicable receiving noise level standard under subsection A of this section shall be increased by five dBA for legal nonconforming residential facilities located in the M-30, M-40, or any other zone as provided in Section 17-114.010.
- G.F. **Noise Measurement Procedures.** Utilizing the "A" weighing scale of the sound level meter and the "slow" meter response (use "fast" response for impulsive type sounds), the noise level shall be measured at a position or positions at any point on the receiver's property. In general, the microphone shall be located four to five feet above the ground; ten feet or more from the nearest reflective surface, where possible. However, in those cases where another elevation is deemed appropriate, the latter shall be utilized. If the noise complaint is related to interior noise levels, interior noise measurements shall be made within the effected residential unit. The measurements shall be made at a point at least four feet from the wall, ceiling or floor nearest the noise source, with windows in the normal seasonal configuration.
- H.G. **Temporary Construction or Demolition Which Exceed the Following Noise Level Standards.**
 1. The daytime noise level received by any residential, commercial, or industrial land use which is produced by any nonscheduled, intermittent, short-term construction or demolition operation (less than ten days) or by any repetitively scheduled and relatively long-term construction or demolition operation (ten days or more) shall not exceed the maximum allowable receiving noise level standards described in Table 17.120.04

Table 17.120.04 establishes the maximum allowable receiving noise level standards:

Table 17.120.04: Maximum Allowable Receiving Noise Level Standards

Long-term or Short-term Operation	Daily 7 a.m. to 7 p.m.	Weekends 9 a.m. to 8 p.m.
Short-Term Operation		
Residential	80	65
Commercial, Industrial	85	70
Long-term Operation		
Residential	65	55
Commercial, Industrial	70	60

2. The nighttime noise level received by any land use and produced by any construction or demolition activity between weekday hours of seven p.m. and seven a.m. or between eight p.m. and nine a.m. on weekends and federal holidays shall not exceed the applicable nighttime noise level standards outlined in this section.
- I-H. Residential Air Conditioning Units and Refrigeration Systems. The exterior noise level associated with a residential air conditioning unit or refrigeration systems shall not exceed fifty (50) dBA with the exception that systems installed prior to the effective date of this section shall not exceed fifty-five (55) dBA.
- J-I. Commercial Refrigeration Units, Stationary and mobile commercial refrigeration units shall not produce a noise level greater than the noise level standards set forth in this section. Between the hours of ten p.m. and seven a.m., a mobile refrigeration unit shall not be located within two hundred (200) feet of any ~~legally occupied residential facility~~ residential zone boundary unless such unit is within an enclosure which reduces the noise level outside the enclosure to no more than sixty (60) dBA and reduces vibration to a level below the vibration perception threshold set forth in Section 17.120.060.
- K-J. Commercial Exhaust Systems. Unnecessary noise caused by exhaust from ventilation units, or other air control device shall not produce a noise level greater than the noise level standards set forth in this section between the hours of ten p.m. and seven a.m. and shall not be located within two hundred (200) feet of any ~~legally occupied residential facility~~ residential zone boundary unless such unit is within an enclosure which reduces the noise level outside the enclosure to no more than sixty (60) dBA and reduces vibration to a level below the vibration perception threshold set forth in Section 17.120.060. (Ord. 11895 & 7, 1996: prior planning code & 7710)

17.120.060 Vibration

All activities, except those located within the IG or M-40 zone, or in the IG or M-30 zone-more than four hundred (400) feet from any ~~legal residential occupied property~~, residential zone boundary shall be so operated as not to create a vibration which is perceptible without instruments by the average person at or beyond any lot line of the lot containing such activities. Ground vibration caused by motor vehicles, trains, and temporary construction or demolition work is exempted from this standard. (Ord. 11895 & 8, 1996: prior planning code & 7711)

17.120.070 Smoke

All Commercial, Manufacturing and Industrial Activities located in the M-10, S-3, or S-13 zone, or in any HBX or CIX zone shall be so operated as not to emit visible smoke as dark as Ringlemann number 2 or its equivalent opacity for more than three minutes in any one-hour period, and visible smoke as dark as Ringlemann number 1 or its equivalent opacity for more than an additional seven minutes in any one-hour period. Darker or more opaque smoke is prohibited at any time. (Prior planning code & 7712)

17.120.080 Particulate Matter and Air Contaminants

All Commercial and Manufacturing and Industrial Activities which are located in a residential zone or the M-10, M-20, S-3, ~~or~~ S-13 zone, or any HBX or CIX-1 zone, or which are located in the M-30, CIX-2, IG or IO zone within four hundred (400) feet of any boundary of a residential zone, shall be so operated as not to emit particulate matter of air contaminants which are readily detectable without instruments by the average person at or beyond any lot line of the lot containing such activities. (Prior planning code & 7713)

17.120.090 Odor

When located in the zones specified below, all Commercial, Industrial and Manufacturing Activities shall be so operated as not to emit matter causing unpleasant odors which are perceptible by the average person at the points of determination described in Table 17.120.05

Table 17.120.05 establishes the maximum allowable receiving noise level standards:

Table 17.120.05: Points of Determination for Odor

Zones in Which Activities are Located	Point of Determination
Any residential zone, M-10, M-20, S-3, or S-13, <u>HBX-1, HBX-2, HBX-3, or CIX-1</u>	At or beyond any lot line of the lot containing the activities of the lot containing the activities.
M-30, <u>CIX-2, IG or IO</u> zone if within 400 feet of any boundary of a residential zone	At or beyond any boundary of the nearest residential zone.

(Prior planning code & 7714)

17.120.110 Humidity, Heat, Cold and Glare

When located in the zones specified below, all Commercial, Industrial and Manufacturing Activities shall be so operated as not to produce humidity, heat, cold, or glare which is perceptible without instruments by the average person at the points of determination described in Table 17.120.06:

Table 17.120.06 establishes the maximum allowable receiving noise level standards:

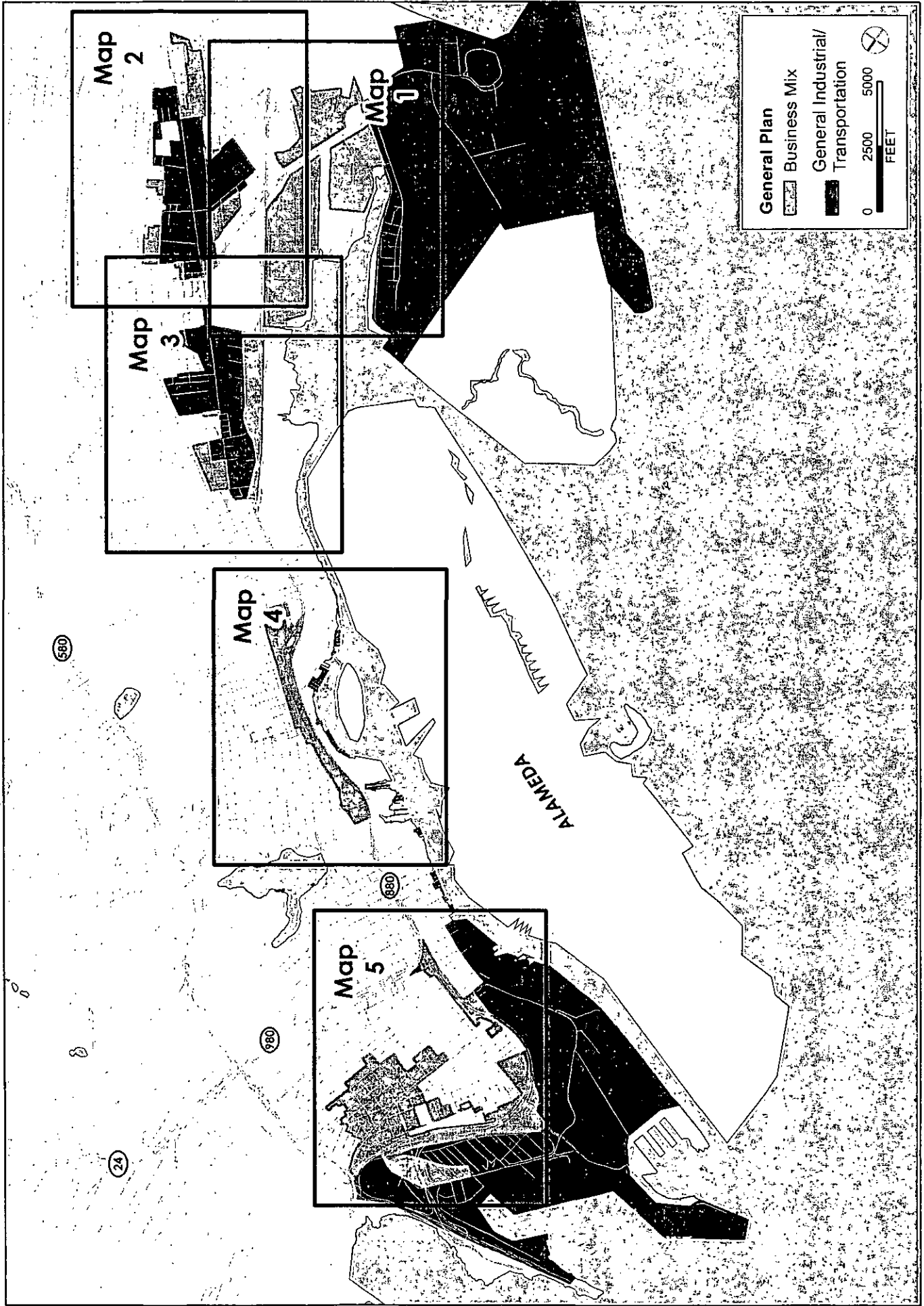
Table 17.120.06: Points of Determination for Humidity, Heat, Cold and Glare

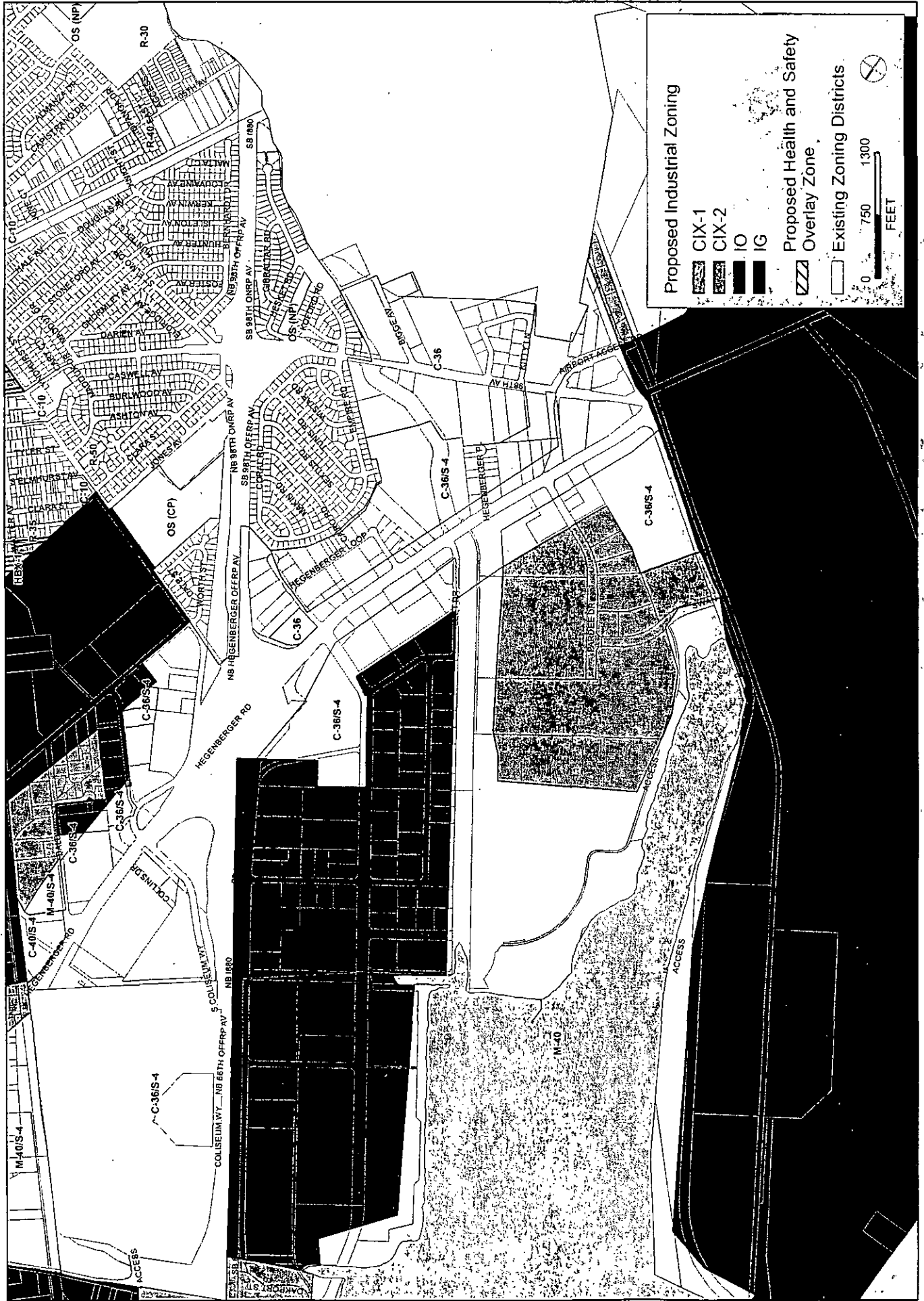
Zones in Which Activities are Located	Point of Determination
Any residential zone, M-10, M-20, S-3, or S-13, <u>HBX-1, HBX-2, HBX-3, or CIX-1</u>	At or beyond any lot line of the lot containing the activities.
M-30, <u>CIX-2, IG or IO</u> zone if within 400 feet of any residential zone	At the nearest boundary of a residential zone.

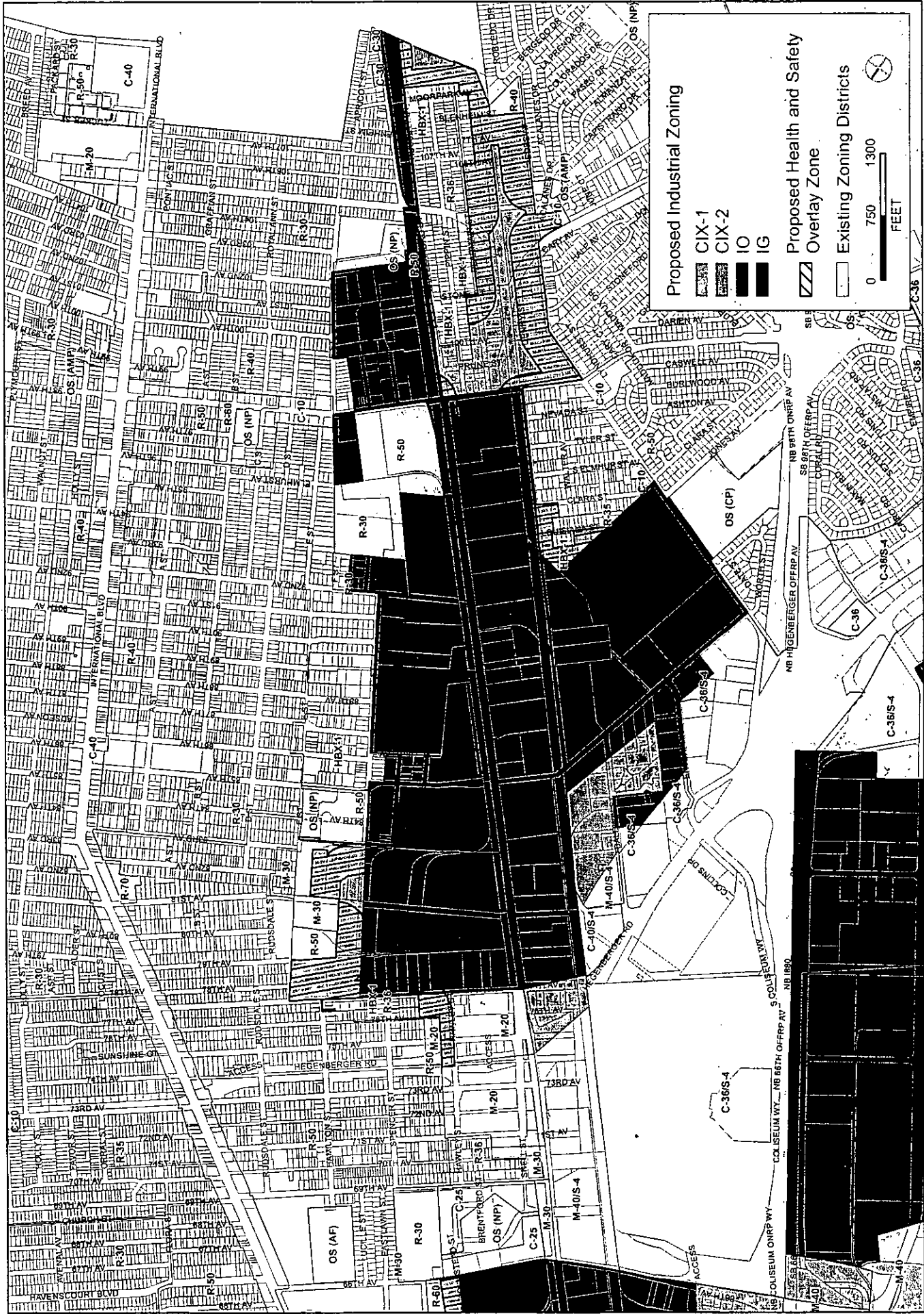
(Prior planning code & 7715)

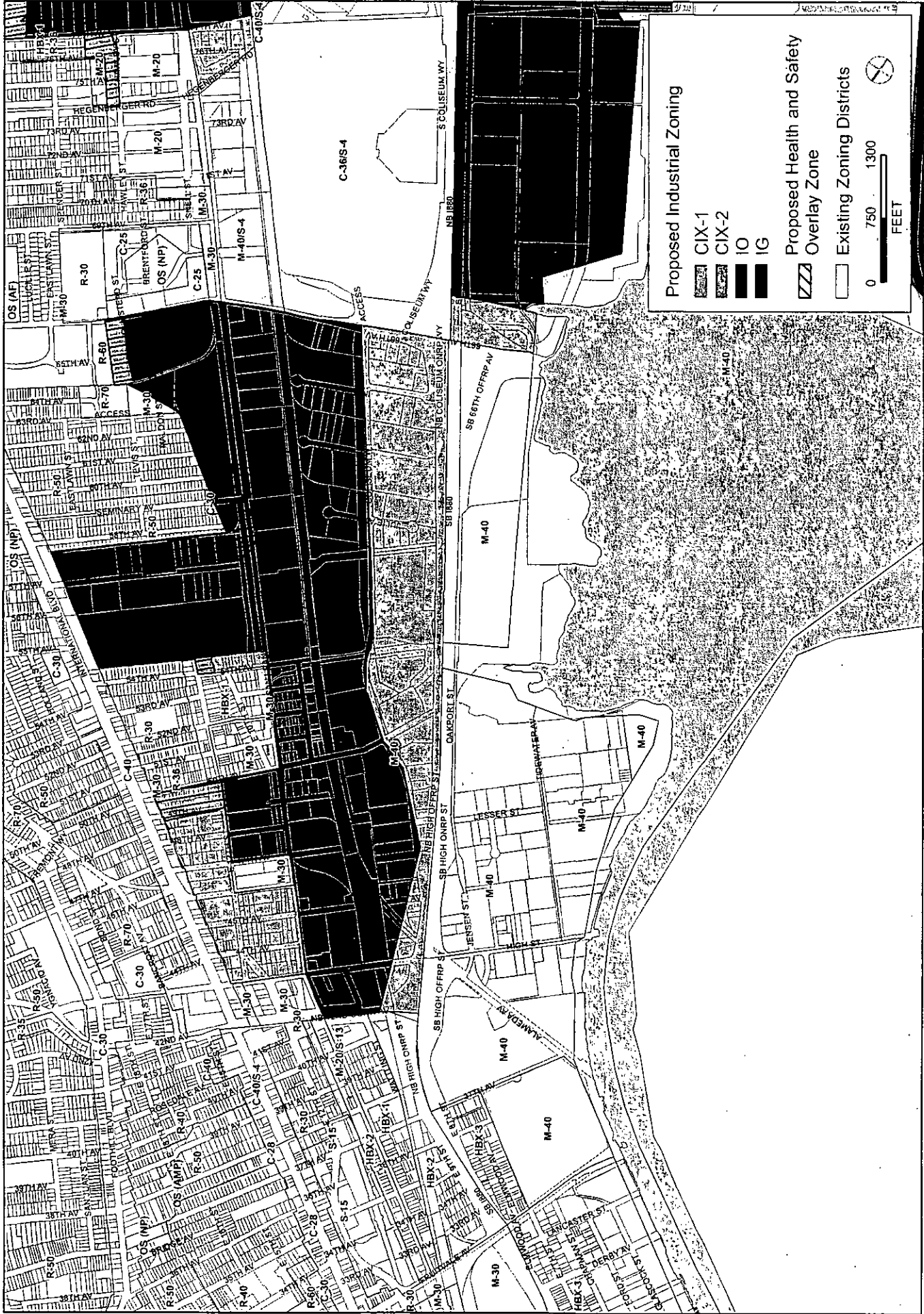
17.120.120 Electrical Disturbance

All Commercial, Industrial and Manufacturing Activities located in a residential zone or the M-10, M-20, S-3, S-13, HBX or CIX-1 zone, or located in the CIX-2, IG or M-30 or M-40 zone and within four hundred (400) feet of any boundary of a residential zone, shall be so operated as not to cause electrical disturbance adversely affecting the operation of any equipment on any other lot. (Prior planning code & 7716)













Guidelines for Determining Project Conformity With the General Plan and Zoning Regulations

Adopted by the
City of Oakland
City Planning Commission

May 6, 1998

Amended November 3, 1999 (100-31)
Amended August 8, 2001
Amended December 5, 2001
Amended July 15, 2003
(*Minor typographical changes May 28, 2004*)
Amended October 31, 2006
Amended

many additional policies that exist in the City's General Plan Elements *are not* listed here. The Checklist and Appendix contain most policies that seem to be immediately relevant to land use decision-making, however it may be necessary to consult the Elements themselves for additional guidance or to resolve complex questions. For any given project, go through the checklist to determine whether any of these policies apply. If so, consult the policy to determine whether the project conforms. If none of these policies applies to the project, the conformity determination will be based solely on land use and intensity, as discussed above. However, if any of these policies do apply, the project must conform to them in order to conform to the General Plan.

For example, a hotel is proposed along upper Broadway in North Oakland in an area designated Community Commercial by the General Plan and zoned C-40. A hotel is a Transient Habitation Commercial Activity, which is conditionally permitted in the C-40 Zone. According to Table 2, the General Plan is silent on Transient Habitation Commercial Activities in the Community Commercial Land Use Classification. Suppose the calculated FAR of the hotel is 2.5; the Community Commercial designation allows an FAR up to 5.0. Thus, the hotel passes the land use and intensity tests, so it appears that the zoning would prevail and the hotel would be conditionally permitted. However, consulting the checklist in Table 4, we find the question "Does the project involve development of a hotel or motel? If yes, see policy N1.7." Policy N1.7 is entitled "Locating Hotel and Motels", and states:

"Hotels and motels should be encouraged to locate downtown, along the waterfront, near the airport, or along the I-880 corridor. *No new hotels or motels should be located elsewhere in the city*, however, the development of 'bed-and-breakfast' type lodgings should be allowed in the neighborhoods, provided that the use and activities of the establishment do not adversely impact nearby areas, and parking areas are screened." [emphasis added].

Thus, it can be clearly seen that the proposed hotel would conflict with this policy, and would therefore not conform to the General Plan. As stipulated in Planning Code Section 17.01.120, the project is not allowed and no application may be accepted. The project sponsor has four options: change the project to conform (e.g. change the project from a hotel to some other use), apply for a General Plan amendment (in this case it would be an amendment to the text of Policy N1.7), find another site where the General Plan allows hotels. If the project sponsor believes that staff's determination regarding General Plan conformity is in error, the sponsor may appeal the determination to the City Planning Commission.

1. "Best Fit Zone" and Other Possible Zones

Under the conditional use permit provided by Section 17.01.100B of the Planning Code the project in question is to be subject to the "best fit zone" from the Zoning Regulations. Such "best fit zones" (and "other possible zones") are identified in Table 5 or 5A for the various General Plan Land Use Classifications. Where more than one "best fit zone" is identified for a particular Land Use Classification, Section 17.100B stipulates that "the Director of City Planning shall determine which zone to apply, with consideration given to the characteristics of the proposal and the surrounding area and any relevant provisions of the General Plan." The Director's determination of "best fit zone" cannot be appealed to the City Planning Commission under Section 17.01.080, because it is made in conjunction with a conditional use permit, which allows appeals under the conditional use permit procedures.

In the case where the project sponsor opts for a rezoning, or for a General Plan amendment to match the current zoning, the "best fit zone" or "other possible zones" are allowed in determining which zone or General Plan Land Use Classification to use. The City Planning Commission and City Council make the ultimate determination of which zone to apply since a rezoning requires passage of an ordinance by the Council with a recommendation from the Commission. Specifically, Section 17.144.060 of the Rezoning and Law Change Procedure provides that the Commission "shall consider whether the existing zone ... [is] inadequate or otherwise contrary to the public interest and may approve, modify, or disapprove the application." "If the project sponsor requests one of these other possible zones, the application should fully explain why this other zone is considered preferable to the "best fit zone."

CHARTS, TABLES AND CHECKLISTS

TABLE 2: LAND USE		GENERAL PLAN LAND USE CLASSIFICATIONS													
ZONING ACTIVITY AND FACILITY TYPES ✓ Conforms w/ General Plan GP Silent or Unclear X Clearly Does not Conform	Hillside Residential	Detached Unit Residential	Mixed Housing Type Residential	Urban Residential	Neighb. Center Mixed Use	Community Commercial	Regional Commercial	Business Mix***	Gen. Industrial***	Institutional	Central Business District	Mixed-Use Water f (See Table 5A)	Housing Bus. Mix***	Open Space: RCA	Open Space (Other)
	Residential Activities:														
Permanent	✓	✓	✓	✓	✓	✓	✓	XNA	X	✓	✓		NA		
Semi-Transient	X	X	X				X	XNA	XNA				NA	X	X
Civic Activities:															
Essential Service								-NA	-NA				NA		
Limited Child-Care								XNA	XNA				NA		
Nursing Home								XNA	XNA	✓			NA	X	X
Community Assembly	✓	✓	✓	✓	✓	✓	✓	XNA	XNA	✓	✓		NA		
Community Education	✓	✓	✓	✓	✓	✓		XNA	XNA	✓	✓		NA		
Non-Assembly Cult.	✓	✓	✓	✓	✓	✓	✓	-NA	XNA	✓	✓		NA		
Administrative					✓	✓	✓	-NA	-NA	✓	✓		NA		
Residential Care								XNA	XNA	✓			NA	X	X
Health Care						✓		XNA	XNA	✓			NA	X	X
Utility and Vehicular								-NA	-NA				NA		
Extensive Impact								-NA	-NA				NA		
Commercial Activities:															
General Food Sales	✓	✓	✓	✓	✓	✓	✓	-NA	-NA		✓		NA		
Convenience Market						✓		-NA	XNA				NA	X	X
Fast-Food Restaurant	X	X	X					-NA	-NA				NA	X	X
Alcohol Bev. Sales								-NA	-NA				NA		
Convenience Sale/Sv.				✓	✓	✓		-NA	XNA		✓		NA	X	X
Mech. or Elect. Games								-NA	-NA				NA	X	X
Medical Service						✓		XNA	XNA	✓			NA	X	X
General Retail Sales	✓	✓	✓	✓	✓	✓	✓	-NA	XNA		✓		NA	X	X
General Personal Svc.					✓	✓	✓	-NA	XNA				NA	X	X
Consult. Finan Svc.	X	X				✓	✓	-NA	XNA		✓		NA	X	X
Consmr Laundry/Rep.	X	X				✓	✓	XNA	-NA				NA	X	X
Group Assembly	X	X				✓	✓	-NA	-NA		✓		NA	X	X
Administrative	X	X			✓	✓	✓	-NA	XNA		✓		NA	X	X
Business/Communic.	X	X			✓	✓	✓	XNA	XNA				NA	X	X
Retail Business Sup.	X	X				✓	✓	XNA	XNA				NA	X	X

Guidelines for Determining Project Conformity
Adopted May 6, 1998

Oakland City Planning Commission

TABLE 2: LAND USE	GENERAL PLAN LAND USE CLASSIFICATIONS														
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Research Service	X	X						✓NA	✓NA				NA	X	X
Gen. Wholesale Sales	X	X	X	X	X			✓NA	✓NA				NA	X	X
Trans Habitation/B&B							✓	NA	✗NA		✓		NA	X	X
Construct Sale/Serv.	X	X	X	X	X			NA	NA	X			NA	X	X
Auto Sale/Rent/Deliv.	X	X	X	X		✓	✓	✓NA	NA				NA	X	X
Automotive Servicing	X	X	X			✓	✓	NA	NA				NA	X	X
Auto Repair/Cleaning	X	X	X	X	X	✓		NA	✓NA		X		NA	X	X
Auto Fee Parking	X	X	X					NA	NA		✓		NA	X	X
Transport/Warehouse	X	X	X	X	X			✓NA	✓NA		X		NA	X	X
Animal Care								NA	NA				NA		
Undertaking Service	X	X	X					NA	NA				NA	X	X
Scrap Operation	X	X	X	X	X	X	X	✓NA	✓NA	X	X		NA	X	X
Manufacturing/Activ.															
Custom	X	X	X	X	X			✓NA	✓NA	X			NA	X	X
Light	X	X	X	X	X			✓NA	✓NA	X			NA	X	X
General	X	X	X	X	X	X	X	✓NA	✓NA	X	X		NA	X	X
Heavy	X	X	X	X	X	X	X	NA	✓NA	X	X		NA	X	X
Agricultural/Extract.															
Plant Nursery								NA	NA				NA	X	X
Crop/Animal Raising								NA	NA				NA		
Mining and Quarrying								NA	NA				NA	X	X
Residential Facilities:															
One-Family Dwelling	✓	✓	✓					✗NA	✗NA				NA		
One-Fam. /Secondary	✓	✓	✓					✗NA	✗NA				NA	X	X
One-Fam. w/ Second	✓	✓	✓					✗NA	✗NA				NA	X	X
Two-Family Dwelling	X	X	✓					✗NA	✗NA				NA	X	X
Multi-Family Dwelling	X	X	✓	✓	✓	✓	✓	✗NA	✗NA	✓	✓		NA	X	X
Rooming House								✗NA	✗NA				NA	X	X
Mobile Home								✗NA	✗NA				NA	X	X
Downtown Live Work *	X	X	X	✓	✓	✓	X	✗NA	✗NA	✓	✓		NA	X	X
Nonresidential Facil:															
Enclosed				✓	✓			NA	NA				NA		
Open								NA	NA				NA		

TABLE 2: LAND USE ZONING ACTIVITY AND FACILITY TYPES ✓ Conforms w/ General Plan GP Silent or Unclear X Clearly Does not Conform	GENERAL PLAN LAND USE CLASSIFICATIONS														
	Hillside Residential	Detached Unit Residential	Mixed Housing Type Residential	Urban Residential	Neighb. Center Mixed Use	Community Commercial	Regional Commercial	Business Mix***	Gen. Industrial***	Institutional	Central Business District	Mixed-Use Water f (See Table 5A)	Housing Bus. Mix***	Open Space:RCA	Open Space (Other)
Drive-In	X	X	X					-NA	-NA				NA	X	X
Sidewalk Cafe				✓	✓	✓	✓	-NA	-NA		✓		NA	X	X
Shopping Center**	X	X	X	X		✓	✓	-NA	-NA				NA	X	X
Drive-Through	X	X	X		X	✓	✓	-NA	-NA				NA	X	X
Signs:															
Residential								-NA	-NA				NA	X	X
Special								-NA	-NA				NA		
Development								-NA	-NA				NA	X	X
Realty								-NA	-NA				NA	X	X
Civic								-NA	-NA				NA		
Business								-NA	-NA				NA		
Advertising								-NA	-NA				NA	X	X
Telecommunications:															
Micro								-NA	-NA				NA		
Mini								-NA	-NA				NA		
Macro								-NA	-NA				NA		
Monopole								-NA	-NA				NA		
Tower								-NA	-NA				NA	X	X
Accessory/Activ./Facil.:															
Live/work			✓					NA	-NA	X	✓*		NA	X	X

* Downtown building conversions to Live/Work are governed by a June 1999 ordinance which regulates and designates a specific downtown area for this type of conversion, regardless of General Plan Land Use Classification. See "Residentially-Oriented Live Work" regulations.

** "Shopping Center" is defined as a Non-residential facility type, but is not listed as permitted or conditionally permitted in any zone. This definition is used in conjunction with 1000' foot rule for Fast-Food Restaurants (Section 17.102.210(E)(1)).

***The permitted, conditionally permitted, and prohibited activities for the Housing and Business Mix, Business Mix, and General Industry and Transportation General Plan classifications are always determined by the underlying zoning designation. The HBX-1 and HBX-2 zoning designations have been adopted by the City Council to implement these Housing and Business Mix LUTE General Plan classifications.

The Mixed Use Waterfront Classification is superseded by the Estuary Policy Plan Land Use Classifications. See Table 2A.

TABLE 3

MAXIMUM INTENSITY ALLOWED

GENERAL PLAN LAND USE CLASSIFICATIONS	MAXIMUM INTENSITY ALLOWED				
	Nonresidential	Residential*			
	Maximum Floor Area Ratio	Maximum Density in Principal Units per Gross Acre	Assumed Net- to-Gross Ratio*	Maximum Density in Principal Units per Net Acre	Minimum Square Feet of Site Area per Principal Unit
Hillside Residential	NA	5	75%	6.67	6,530
Detached Unit Residential	NA	11	75%	14.67	2,969
Mixed Housing Type Residential**	NA	30**	75%	40.0**	1,089**
Urban Residential	NA	125	75%	166.67	261
Neighborhood Center Mixed Use	4.0	125	75%	166.67	261
Community Commercial	5.0	125	75%	166.67	261
Regional Commercial	4.0	125	75%	166.67	261
Business Mix	4.0 NA***	NA	NA	NA	NA
General Industrial & Transportation	2.0 NA***	NA	NA	NA	NA
Institutional	8.0	125	75%	166.67	261
Central Business District	20.0	300	60%	500.0	87
Mixed Use Waterfront District	See Table 3A	See Table 3A	See Table 3A	See Table 3A	See Table 3A
Housing & Business Mix***	NA	NA	NA	NA	NA
Resource Conservation	NA	NA	NA	NA	NA
Urban Park & Open Space	NA	NA	NA	NA	NA

* If it appears in any given situation that the net-to-gross ratio is significantly different than given here, an individual calculation should be made for the site in question, following the procedure explained in the Density/Intensity Section (C2) of this report.

** In the Mixed Housing Type Residential classification, no project can have a higher density than allowed by its current zoning without a major variance or a rezoning. Under no situation can a project exceed the maximum density permitted under the General Plan, even if the density allowed by the current zoning is greater than the General Plan.

***The density and nonresidential floor area ratio for the Housing and Business Mix, Business Mix, and General Industry and Transportation General Plan classifications are always determined by the underlying zoning designation. The HBX-1 and HBX-2 Zoning designations have been adopted by the City Council to implement these Housing and Business Mix LUTE General Plan classifications.

NA = Not Applicable