



## ACTION CALENDAR

June 13, 2006

**LINDA MAIO**  
Councilmember  
District 1

**TO:** Honorable Mayor and Members of the City Council

**FROM:** Councilmembers Linda Maio and Laurie Capitelli

**SUBJECT:** Changes to West Berkeley Zoning

### **RECOMMENDATION:**

Refer to the Planning Commission the request that the City make changes to the West Berkeley zoning to achieve more rational use of space and facilitate arts and crafts uses to locate in the M district.

### **BACKGROUND:**

A group of stakeholders in West Berkeley have been meeting informally to suggest changes to the West Berkeley zoning that would enable owners and occupants greater ability to configure and lease spaces while maintaining the intent of the existing zoning. The proposed changes are also intended to enhance the arts. What is proposed is the result of a coming together of different perspectives with the aim of making small changes to the zoning ordinance for the benefit of West Berkeley, particularly the business and arts community.

### **SUGGESTED CHANGES:**

Proposed changes for consideration in West Berkeley Industrial Zoning, to allow for more rational use of space and enhance the ability of arts/craft to locate in West Berkeley.

1. Provide for the demolition of industrial space in the M district.

1.a. Allow the demolition of existing manufacturing/warehousing space in the M district, provided that it is replaced by an equivalent amount of new space for the same uses.

MULI and MM districts allow this transformation. They require use permits for the removal of floor area used for manufacturing or warehousing, and make replacement of the space a required finding for granting the permit.

(MULI's provision relates to loss of the space on site to other uses with replacement elsewhere, while MM's applies to replacement on site.)

Such a provision in the M district would allow transition of obsolete buildings to newer industrial spaces, in instances in which demand for the new space was sufficient to induce demolition and

construction.

*Note on drafting such a provision: there does not currently appear to be any explicit language either allowing for, with a use permit or other conditions, or disallowing demolition (removal of space) in the M district (though there is for MM and MULI). Perhaps there is language concerning demolitions somewhere else in the overall zoning ordinance.*

1. b. Allow the owner to replace either the current level of manufacturing/arts space or the maximum allowable given current parking requirements in the zoning ordinance, whichever is smaller, and pay no mitigation. If the owner elects to replace a smaller amount of space, then the owner would pay a mitigation fee proportional to the lost manufacturing/arts space. Limit the allowed reduction in replacement space to 25%. Use the mitigation fee to help develop additional affordable manufacturing/arts space elsewhere in West Berkeley.

2. Correct, clarify, and amend conversion (division of space) provisions in the M district for building spaces with 15,000 or fewer square feet.

2.a. Table 23.E.72.050 specifies the types of approval necessary to divide larger buildings into smaller spaces. In its first row, columns two and three are inadvertently reversed. They should read as:

Initial Space Being Divided into 2 or 3 Spaces

Initial Space	Smallest space <10,000 s.f.)	Smallest space
>10,000 sq ft		
0 - 15,000 s.f.	Z.C.	N.A.

The third column is the one "Not Applicable," because 15,000 s.f. cannot be divided into 2 or 3 spaces that are all larger than 10,000 s.f.

2.b. Clarify that "N.A. means "Not Applicable," rather than "Not Allowed" as the N.A. was understood by some as not allowed. > indicates "more than." < indicates "less than."

2.c. Change the review for dividing spaces of less than 15,000 s.f. into 4 or more spaces in the M district from a use permit with ZAB public hearing to an Administrative Use Permit (AUP in column four of the same row of the table immediately above.) Smaller buildings would more easily be allowed and there would be quicker review for division into smaller spaces.

Change the review for dividing spaces of less than 15,000 s.f. into 4 or more spaces in the MULI district from a use permit with ZAB public hearing to an Administrative Use Permit (column four, row 1 of table 23E.80.050). Again, smaller buildings would be allowed more easily and there would be quicker review for division into smaller spaces.

3. In the MM district, change the conversion (division of space) table 23E.76.050 so that it matches exactly the revised M district table as revised in #2 above.

This includes: in the first row of the table, reversing Z.C. and N.A., clarifying the meaning of N.A., revising rules for dividing space into 4 or more spaces to require AUP (not a hearing), and changing the first column to 0-15,000 s.f. rather than 0-25,000. Second row, first column, would become

15,001 (in place of 25,001) to 39,999 s.f. New table thus reads:

0-15,000	Z.C.	N.A.	AUP
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15,000-39,999 remainder is unchanged.

These changes again make an easier review process for division of smaller buildings into 4 or more spaces (and correct an error), but they limit that to the same smaller size structures that apply in the M and MULI districts.

4. Allow change of use from manufacturing or warehousing space to arts and crafts studios in M, MM and MULI districts, with approval of an AUP, for those arts and crafts that fit into manufacturing categories as enumerated in the zoning ordinance and in all sizes of buildings. This change could be allowed without a requirement of replacement for the manufacturing or warehousing space removed, as is presently required (for MM replacement space provision is Findings 23E.76.090G; for MULI see findings 23.e.80.090.D.1 and D.3; for MU-R, see findings 23.e.84.090.E2.

*The current "replacement" provision effectively prohibits changes of use from manufacturing to arts.* Retaining an AUP requirement will help insure that there is sufficient review to allow only true arts/crafts uses. We would retain the requirements for a public hearing and ZAB action in cases where very large buildings are proposed to change from manufacturing to arts: over 30,000 s.f. in MULI and over 40,000 in M and MM.

5. In the M and MM districts, lot sizes are restricted to a minimum of 40,000 s.f. (see M, 23E.72.070 C and MM, 23E.76.070 C. *The proposed change sets this minimum at 20,000 s.f.*

Smaller developers/manufacturers who might redevelop smaller properties are sometimes inhibited by the current minimum, which may be beyond their financing capability, development capacity, or confidence in finding occupants.

7. The M district, but not the MULI or MM allows mini-storage uses. Delete this use. It is a waste of precious space and a use that could be provided in other jurisdictions nearby that do not have the same competition for space from the University, etc. We already have a good deal of storage space in Berkeley.

8. In the MULI district, removal or change of use of industrial space that is ordinarily limited to 25% of any structure, may be further allowed provided it is replaced elsewhere (23E80.090.D.1). Alternatively, provided there are special circumstances regarding the building or site that make it infeasible to reuse, it may be removed with the provision of a reasonable amount of replacement elsewhere or payment of a reasonable mitigation fee. The City Attorney's office apparently stated (re: Cortauld) that the provision as written meant that if reuse of the subject building was infeasible, no replacement or mitigation payment was required. This unintended interpretation should be explicitly excluded and the partial replacement or mitigation explicitly provided for, by changing the language in whatever way necessary.

9. Limit potential harmful impacts.

9.a. Establish a two-year sunset provision for all the changes except the correction of the errors in 2a,

2b, and 7 and the prohibition in 8. Review any changes that have occurred until that time. Council to consider making the provisions permanent at that point, provided they have led to the promotion of continuing manufacturing and arts and crafts uses as intended.

9.b. Set a cap for any losses of manufacturing space due to the changes in zoning during the period, triggering reversion of the sunset items to their current form if the cap is equaled -until Council takes further action.

**FINANCIAL IMPLICATIONS:**

Such changes could add to the tax base by enabling smaller spaces to be leased more readily.

**CONTACT PERSONS:**

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