

RESOLUTION NO. 65,210–N.S.

AMENDING THE WEST BERKELEY PLAN AND, BY REFERENCE, THE GENERAL PLAN

WHEREAS, the City of Berkeley (“City”) adopted the West Berkeley Plan in 1993; and adopted Zoning Ordinance amendments to implement that Plan in 1999; and

WHEREAS, beginning in 2007, the City Council requested that staff revise regulations in West Berkeley to allow flexibility in zoning restrictions to facilitate development of large multi-parcel sites and to encourage building reuse and expansion; and

WHEREAS, the West Berkeley Project was developed to meet these goals while remaining consistent with the primary goals and objectives of the West Berkeley Plan; and

WHEREAS, in addition to various Zoning Ordinance revisions, the West Berkeley Project includes revisions to the Land Use Chapter of the West Berkeley Plan, Section VII. *Land Use Regulations of the West Berkeley Plan – For Adoption in Principle* to reflect the proposed changes to zoning regulations; and

WHEREAS, the West Berkeley Plan is incorporated by reference into the General Plan, and therefore such revisions are also amendments to the General Plan; and

WHEREAS, the Planning Commission discussed the West Berkeley Project at approximately 30 meetings in 2008, 2009 and 2010, held two public hearings and, on October 13, 2010 through a series of eight motions, recommended (7-2-0) (Ayes: Clarke, Eisen, Gurley, Novosel, Pollack, Samuels, Stoloff. Noes: Dacey, Poschman) that the City Council certify the Final EIR and adopt the Zoning Ordinance and West Berkeley Plan amendments; and

WHEREAS, the City Council held duly noticed public hearings on January 25 and February 8, 2011, the public hearings were continued to February 22 and March 22, 2011, and the public hearing was closed on March 22, 2011; and

WHEREAS, the proposed amendments to the West Berkeley Plan Land Use Chapter, Section VII. *Land Use Regulations of the West Berkeley Plan – For Adoption in Principle* are consistent with the Purposes of the West Berkeley Plan, including maintaining the full range of land uses and economic activities, maintaining the ethnic and economic diversity, and maintaining and improving the quality of life; and

WHEREAS, the proposed amendments are also consistent with West Berkeley Plan goals and policies, including, but not limited to allowing modification to zoning regulations to improve the West Berkeley industrial business climate, to attract emerging business sectors, and to retain, to the degree feasible, the economic diversity of West Berkeley businesses, and especially space for artists and crafts-people and jobs for residents of Berkeley who may be underemployed or unemployed; and

WHEREAS, the West Berkeley Plan states that the Plan is a living document and should be reconsidered and changed as appropriate, over time; and

WHEREAS, the proposed amendments to the West Berkeley Plan support the proposed zoning amendments included as part of the West Berkeley Project; and

WHEREAS, the City has prepared, in conformance with the California Environmental Quality Act (CEQA), an Environmental Impact Report, and the City Council adopted a Resolution certifying the Final EIR, adopting the Mitigation Monitoring Program and making all required findings pursuant to CEQA; and

WHEREAS, all documents constituting the record of this proceeding are and shall be retained by the City of Berkeley Planning and Development Department, Land Use Planning Division, at 2120 Milvia Street, Second Floor, Berkeley, California.

NOW THEREFORE, BE IT RESOLVED that West Berkeley Plan shall be amended as shown on Attachments A and B of this Resolution.

BE IT FURTHER RESOLVED that the West Berkeley Plan is part of the General Plan and that the General Plan is hereby also amended by reference.

The foregoing Resolution was adopted by the Berkeley City Council on March 22, 2011 by the following vote:

Ayes: Anderson, Capitelli, Maio, Moore, Wengraf, Wozniak and Bates.

Noes: Arreguin and Worthington.

Absent: None.

  
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Tom Bates, Mayor

Attest:   
\_\_\_\_\_  
Mark Numairville, CMC, Deputy City Clerk

## PROPOSED AMENDMENTS TO THE WEST BERKELEY PLAN

### REVISIONS ARE PROPOSED TO SECTION VII, "LAND USE REGULATIONS OF THE WEST BERKELEY PLAN – FOR ADOPTION IN PRINCIPLE"

The following text and proposed modifications represent pages 42 through 58 of the West Berkeley Plan (December 1993).

#### VII. Land Use District Regulations of the West Berkeley Plan--for Adoption in Principle

##### Status of the Regulations

The land use regulations below are central to the West Berkeley Plan. They spell out generally what uses are permitted and prohibited in each of the districts created by the Plan, what allowable height and bulk standards would be, and set forth a series of regulatory concepts for special situations. These include limits on changes of use of manufacturing facilities, on buffers between residential and heavy manufacturing sites, and other issues. They are much of what the framers of the West Berkeley Plan understand to be the content of the Plan.

Nevertheless, these regulations are proposed for adoption in principle only, rather than adoption as an amendment to Berkeley's General Plan (as the rest of the document is). They are proposed in this way for technical reasons. Development regulations such as these should ultimately reside in the Zoning Ordinance, and will be found there once West Berkeley's zoning is brought into conformity with the Plan. City staff anticipates that the zoning will be drafted and approved next year. The procedure for adopting the zoning changes should be relatively streamlined, as it will be relying on the West Berkeley Plan Environmental Impact Report as environmental documentation. If these regulations were adopted as part of the General Plan, any change to them, however minor, would require a General Plan amendment. Such amendments are--because of state planning law--procedurally complex, and limited in number.

For these reasons, adoption of this section in principle is recommended. Such adoption will make clear that zoning provisions should closely follow the Plan, while assuring the most appropriate and expeditious procedure for enacting and amending that zoning.

#### **2011 Update:**

On March 22, 2011, the City Council modified certain text in the Zoning Ordinance related to implementing the West Berkeley Plan, modified this "Land Use Regulation section of the West Berkeley Plan consistent with these zoning changes, and certified the West Berkeley Project EIR for these changes [give ordinance number]. These changes occur in West Berkeley Plan Section VII, with each change followed with the text "(Action 2011)."

- *District permitted and prohibited uses*
- *B. Special Situations and Regulations*
- 2010 Update Note: *Table 1-5 Recommended Development Standards by Zone* (Plan page 53), which was prepared to assist with development of zoning regulations has not been updated and should not be considered a reliable source for zoning designations. Correct zoning designations are available in the City of Berkeley Zoning Ordinance, in the appropriate zoning district text.

#### **DISTRICT PERMITTED AND PROHIBITED USES**

(See also Special Situations section)

Generally Permitted and Prohibited Uses

**Manufacturing District** ("Pink")

See also Development Standards, Manufacturing/Residential Buffers for regulations affecting certain sites

Permitted Uses (see Development Standards chart for sizes of projects requiring Administrative Use Permit, Use Permit with Public Hearing) See Zoning Ordinance for definitions of and discretionary levels for each use (added 2011)

- Arts & Crafts Uses (workspaces only, not live-work)
- Alternative Fueling Stations (added 2011)
- Auto body & painting
- Automobile dismantling ("junkyards")
- Auto repair
- Bus, Cab, truck, and public utility depots
- Composting
- Construction yards and associated offices
- Farms and Agricultural establishments
- Industrial Product Sales (Gases & Chemicals)
- Manufacturing: Food processing, textiles, apparel, lumber & wood products, furniture, paper & allied products, printing (exclusive of publishing); asphalt products, leather products (exclusive of primary production of leather); stone, clay, and glass products; fabricated metals, industrial machinery, electrical machinery & electronics, transportation equipment, scientific instruments, miscellaneous manufacturing.
- Recyclable materials collection points, exclusive of facilities handling primarily hazardous waste
- Parking lots (for uses located in the district)
- Self-storage ("mini-storage") (removed 2011)
- Warehouses
- Wholesale trade and distribution
- Warehouse-based non-store retail (added 2011)

Conditionally Permitted Uses (Public Hearing required regardless of project size) (removed 2011)

- Chemicals, including pharmaceuticals (exclusive of the manufacturing of alkalis, chlorine, chemical warfare gases, DDT, chloroform, fertilizers, and explosives)
- Parking structures
- Primary metals, including smelting and refining

Ancillary Uses (Uses permitted only as an integral part of manufacturing or wholesale trade site) (removed 2011)

- Factory Outlets (for products manufactured on site)
- Laboratories
- Offices
- Services to Buildings and Dwellings (Added 2011)
- Visual and Aural Arts Production (Added 2011)
- Alternative Fueling/Charging Stations (Added 2011)

### Prohibited Uses--Manufacturing District

- Banks and financial establishments
- Gasoline stations
- Group quarters residences
- Hazardous waste transfer stations & disposal facilities (freestanding facilities)
- Hotels and motels
- Laboratories (freestanding)
- Live-work
- Manufacturing: Tobacco products, alkalies, chlorine, chemical warfare gases, DDT, pesticides, chloroform, fertilizers, explosives; primary production of leather; petroleum refining, products of petroleum and coal not elsewhere classified; tires, inner tubes, synthetic rubber, asbestos products, ordnance and accessories, reprocessing of nuclear cores & scrap
  - Offices (freestanding)
- Publishing
- Residences
- Restaurants
- Retail establishments, except permitted factory outlets
- Schools and day care facilities
- Mini-Storage (Added 2011)

### **Mixed Manufacturing District ("Blue")**

See also Development Standards, Large Site Development Process (Zoning Ordinance sections modified 2011); Manufacturing/Residential Buffers (regulations affecting frontage along portions of 7th St., Dwight Way)

Permitted Uses (see Development Standards chart for sizes of projects requiring Administrative Use Permit, Use Permit with Public Hearing) See Zoning Ordinance for definitions of, and discretionary levels for each use (added 2011)

- Alternative Fueling/Charging Stations (Added 2011)
- Arts & Crafts Uses (workspaces only, not live-work)
- Auto body & painting
- Automobile dismantling ("junkyards")
- Auto repair
- Bus, Cab, truck, and public utility depots
- Childcare (Added 2011)
- Composting
- Construction yards and associated offices
- Farms and Agricultural establishments
- Industrial Product Sales (Gases & Chemicals)
- Manufacturing: Food processing, textiles, apparel, lumber & wood products, furniture, paper & allied products, printing (exclusive of publishing); asphalt products, leather products (exclusive of primary production of leather); stone, clay, and glass products; fabricated metals, industrial machinery, electrical machinery & electronics, transportation equipment, scientific instruments, miscellaneous manufacturing.
- Parking Lots (for uses located in the district)
- Recyclable materials collection points, exclusive of facilities handling primarily hazardous waste
- Research and Development as defined in the Zoning Ordinance (added 2011)
- Services to Buildings and Dwellings (Added 2011)

- ~~◦ Visual and Aural Arts Production (Added 2011)~~
- ~~◦ Warehouses~~
- ~~◦ Warehouse-based Non-store Retail (Added 2011)~~
- ~~◦ Wholesale trade and distribution~~

~~Uses Always Requiring Public Hearing (regardless of project size) (deleted 2011)~~

- ~~◦ Chemicals, including pharmaceuticals (exclusive of the manufacturing of alkalies, chlorine, chemical warfare gases, DDT, chloroform, fertilizers, and explosives)~~
- ~~◦ Parking structures~~
- ~~◦ Primary metals, including smelting and refining~~

~~Ancillary Uses (Uses permitted only as an integral part of manufacturing or wholesale trade site) (deleted 2011)~~

- ~~◦ Factory Outlets (for products manufactured on site)~~
- ~~◦ Laboratories on the ground floor~~
- ~~◦ Offices on the ground floor~~

~~Upper story Uses (Uses permitted on the second story or above) (deleted 2011)~~

- ~~◦ Laboratories (other than ancillary)~~
- ~~◦ Offices (other than ancillary)~~
- ~~◦ Publishing~~

Prohibited Uses

- Banks and financial establishments
- Gasoline stations except Alternative Fueling/Charging Stations
- Group quarters residences
- Hazardous waste transfer stations & disposal facilities (freestanding facilities)
- Hotels and motels
- ~~◦ Laboratories on the ground floor (not part of a manufacturing district) (deleted 2011)~~
- Live-work
- Manufacturing: Tobacco products, alkalies, chlorine, chemical warfare gases, DDT, pesticides, chloroform, fertilizers, explosives; primary production of leather; petroleum refining, products of petroleum and coal not elsewhere classified; tires, inner tubes, synthetic rubber, asbestos products, ordnance and accessories, reprocessing of nuclear cores & scrap
- Offices on the ground floor, not part of a manufacturing facility
- Residences
- Restaurants
- Retail establishments, except permitted factory outlets
- Schools and day care facilities
- Self-storage ("mini-storage")

## Mixed Use/Light Industrial District ("Green")

See also Development Standards; Conversions from Manufacturing to Other Uses; Live-Work Development

Permitted Uses (~~see Development Standards chart for sizes of projects requiring Administrative Use Permit, Use Permit with Public Hearing~~) See Zoning Ordinance for definitions of, and discretionary levels for each use (added 2011)

### 1. Industrial & Agricultural Uses

- Arts and Crafts (workspaces only, live-work limited)
- Alternative Fueling Stations (added 2011)
- Auto repair
- Bus, Cab, truck, and public utility depots
- Construction yards & associated offices
- Farms & agricultural establishments
- Manufacturing: Food processing (e.g. bakeries, wineries); textiles, apparel, furniture, lumber & wood products, printing and publishing; stone, clay, and glass products; industrial machinery; electrical machinery & electronics (except production of semiconductors and related devices); scientific instruments; miscellaneous manufacturing
- Manufacturing Repair and Service
- Recyclable materials collection points, exclusive of facilities handling primarily hazardous waste
- Research and Development as defined in Zoning Ordinance(added 2011)
- Vocational Schools (providing training for uses in district)
- Warehouses
- Warehouse-based Non-store Retail (added 2011)
- Wholesale trade and distribution

### 2. Offices and Services

- Offices—General, medical, and professional (see Conversions from manufacturing to other uses)

### 3. Retail

- Building Materials and Garden Supplies—
- Business Services (not to exceed 3,000 sq.ft.)—Services to Buildings and Dwellings (added 2011)

### 4. Other Uses

Parking lots

~~Uses Always Requiring Public Hearing (regardless of project size) (deleted 2011)~~

- Alternative Fueling/Charging Stations (added 2011)
- Auto body and painting
- Day Care/Childcare (modified 2011)
- Live-Work (Manufacturing and Arts & Crafts uses only)
- Manufacturing of leather products, rubber products, plastic products, paper products, fabricated metals
- Parking structures
- Restaurants
- Schools (other than Vocational Schools described above)
- Shelters for Homeless Persons
- Truck and Utility Trailer Rental and Leasing (added 2011)

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- Visual and Aural Arts Production (modified 2011)

Uses Permitted in Selected Locations—portions of Mixed Use/Light Industrial district north of Gilman St. and west of 3rd St. (Southern Pacific RR) (deleted 2011)

- Laboratories (not part of manufacturing facilities)\*
- Manufacture of pharmaceuticals

#### Prohibited Uses--Mixed Use/Light Industrial District

- Banks and Financial establishments (public service)
- Gasoline stations except Alternative Fueling/Charging Stations (added 2011)
- Group Quarters other than Shelters for Homeless Persons
- Hazardous waste transfer stations & disposal facilities (freestanding facilities)
- Hotels and Motels
- Manufacturing—All uses prohibited in Manufacturing zone and Chemicals (except pharmaceuticals in selected locations), petroleum products, primary metals processing (e.g. "foundries"), production of semiconductors and related devices, transportation equipment and primary production of leather, rubber, plastic, or paper
- Residences (live/work conditionally permitted, see above)
- Retail stores, except as listed above
- Self-storage ("mini-storage")

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\*Pending further study when Hazard Ranking System is developed for rezoning. Certain types of laboratories may be inappropriate for these locations.

#### **Mixed Use/Residential District**

See also Development Standards, Conversions from Manufacturing to Other Uses, Permitted Uses, Live-Work

Permitted Uses (see Development Standards chart for sizes of projects requiring Administrative Use Permit, Use Permit with Public Hearing) See Zoning Ordinance for definitions of, and discretionary levels for each use (added 2011)

##### 1. Residential

- Residences—Single-family, Multi-family, Group Quarters
- Day Care/Childcare (modified 2011)
- Schools

##### 2. Industrial & Agricultural

- Arts and Crafts (workspaces only)
- Farms and Agricultural establishments
- Manufacturing Repair and Service
- Recyclable materials collection points, exclusive of facilities handling primarily hazardous waste
- Warehouses
- Warehouse-based Non-store Retail (added 2011)
- Wholesale trade and distribution

##### 3. Retail



- Building Materials and Garden Supplies
- ~~Business Services—Services to Buildings and Dwellings (added 2011)~~
- Food Stores (not to exceed 5,000 sq.ft.)
- Cleaners, laundries, and laundromats

#### 4. Other Uses

Parking lots (for uses located in the district)

#### ~~Uses Always Requiring Public Hearing—(regardless of project size) (deleted 2011)~~

- Auto body, auto painting, auto repair (with setbacks from residential use)  
Bus, Cab, truck, and public utility depots
- Construction yards and associated offices
- Live-work (work activities those permitted in district)
- Manufacturing— Food processing (e.g. bakeries, wineries), clothing & textile production, furniture production, wood products, printing and publishing; stone, clay, and glass products; industrial machinery, electrical machinery & electronics (except production of semiconductors and related devices), scientific instruments, miscellaneous manufacturing, leather products, rubber products, plastic products, paper products
- Restaurants
- Visual and Aural Arts Production (modified 2011)

#### Prohibited Uses

- Banks and financial establishments (public service)
- Gasoline stations except Alternative Fueling/Charging stations (added 2011)
- Hazardous waste transfer stations & disposal facilities (freestanding facilities)
- Hotels and motels  
Laboratories\* (deleted 2011)
- Manufacturing—All uses prohibited in Manufacturing zone and Chemicals (including pharmaceuticals), lumber milling, petroleum products, primary metals processing, production of semiconductors and related devices, primary production of leather, rubber, plastic, or paper (e.g. pulp mills)
- Retail stores, except as listed above

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\*Pending further study when Hazard Ranking System is developed for rezoning. Certain types of laboratories may be appropriate for this district

**Commercial District** ("Red") (See also Development Standards, Live-Work)

Generally Permitted Uses (see Development Standards chart for sizes of projects requiring Administrative Use Permit, Use Permit with Public Hearing) See Zoning Ordinance for definitions of, and discretionary levels for each use (added 2011)

1. Retail

- Barber shops, beauty salons, and other hair cuteries
- Gasoline stations
- Hotels and motels
- Cleaners, laundries, and laundromats
- Restaurants
- Retail stores (all types)

2. Residential

- Day Care
- Schools

3. Live-Work

- Live-work (work activities those permitted in district)

4. Offices

- Banks and financial establishments
- Business Services (above the ground floor in designated commercial nodes)
- Offices—General, Medical, and Professional (above the ground floor in designated commercial nodes)

5. Industrial and Agricultural

- Arts and Crafts (workspaces)
- Auto body, auto painting, and auto repair
- Farms and agricultural establishments
- Wholesale trade and distribution

6. Other Uses

Parking lots (for uses located in the district)

~~Uses Always Requiring Public Hearing (regardless of project size) (deleted 2011)~~

- Construction yards and associated offices
- Manufacturing—Food processing, printing and publishing, wood products, furniture making, stone, clay, and glass products  
Parking structures
- Recyclable materials collection points, exclusive of facilities handling primarily hazardous waste
  - Residential uses—single family, multi-family, and group quarters (above the ground floor in designated commercial nodes)

## **Prohibited Uses--Commercial District**

- Bus, Cab, truck, and public utility depots
- Hazardous waste transfer stations & disposal facilities (freestanding facilities)
- Laboratories (freestanding)
- Manufacturing (other than uses specified above)

## **Residential Districts**

See also Development Standards

Permitted Uses in All Residential Zones—R1A, R-3, R-4

- Parks, playgrounds, playlots
- Day care for six or fewer children

Uses Requiring a Public Hearing (regardless of project size) in All Residential Zones

- Churches, Community Centers, and Libraries
- Day Care
- Food stores (less than 3,000 sq.ft.)
- Cleaners, laundries, and laundromats
- Residences—1 unit, 2 unit
- Schools

Uses Requiring a Public Hearing (regardless of project size) in R-3, R-4 zones only, not permitted in R-1A zones

- Group Quarters
- Medical buildings and hospitals
- Multiple dwellings

Uses Requiring a Public Hearing (regardless of project size) in R-4 zone only, not permitted in R-1A and R-3 zones

- Hotels and motels
- Institutions and offices
- Retail ancillary to hotels, motels, institutions and offices

Uses Prohibited in All Residential Zones

- All other uses—agricultural, other retail, manufacturing, wholesaling

Note: Most of the "residential core" area of West Berkeley between Dwight and Camelia (excluding University Ave.) and 6th St. and the San Pablo commercial strip is zoned R-1A. However, parts of the blocks on either side of University Ave. are zoned R-3 or R-4.

## B. Special Situations and Regulations

### Change of Use from Manufacturing and Industrial Uses to Other Uses

**Rationale:** The West Berkeley Plan's regulation of "conversions" (technically "changes of use") from manufacturing and wholesale trade is a central element of the Plan's land use concept. In the Mixed Use/Light Industrial ("Green") zone in particular, the conversion limits seek to maintain the industrial character of the area, without completely blocking other uses there. The district description above makes clear how—in many respects—the Light Industrial district is the key manufacturing and industrial district in West Berkeley. Staff estimates that the district contains at least 2.2 million square feet of privately owned manufacturing and wholesaling space, in dozens and dozens of buildings, which range in size from a few thousand square feet to the 162,000 square feet of Utility Body. This district—in contrast with the Manufacturing and Mixed Manufacturing districts—contains a substantial percentage of manufacturers and wholesalers which rent rather than own their space, putting them at much greater risk of displacement.

If no limits on the conversion of manufacturing space were enforced here, widespread displacement of manufacturing would be possible, contrary to the Plan's economic development and land use policy. On the other hand, if the City were to seek to protect manufacturers' spaces in the absence of such a rule, the list of permitted uses in the district would have to be much more restrictive. Thus, given the existence of limits on conversion, the Plan can be much more permissive about allowing certain uses as new construction (e.g. offices) while maintaining the area as an industrial district. The conversion limitation approach allows change, but regulates its pace and scope. Indeed, if the full 25% of space allowed to convert actually were to convert (an admittedly unlikely occurrence), some 550,000 square feet of space would be changed to office or other uses. If this 550,000 square feet were to convert, some 40% of the district's current space would be non-manufacturing/wholesaling, about the maximum level at which the district could still be called "industrial."

The issue is also relevant in the Mixed Use/Residential district, although this district is both smaller and designed to be less protective of manufacturing. In this district, the Plan calls for conversions of manufacturing/wholesaling buildings of 10,000 square feet or more to be reviewed for their impact on the industrial character of the area. Specific criteria will be proposed in the West Berkeley rezoning proposal.

#### **2011 Updates:**

- **Arts and Crafts, Non-store Retail and Contractors, as defined in the Zoning Ordinance are allowed uses within the Protected Spaces (including Warehouse, Wholesale Trade, Manufacturing and Material Recovery Enterprise)**
- **Research and Development, as defined and regulated in the Zoning Ordinance, if allowed in the MU-LI and MM districts, and may be allowed in Wholesale Trade and Warehouse protected space if allowed by zoning.**

**Regulation:** "Conversion" (Change of Use) of Manufacturing or Wholesaling Space in Mixed Use/Light Industrial District

Scope of Regulation—Changes of buildings currently or last used for manufacturing, wholesale trade, or warehouse uses to any other use, except manufacturing, wholesale trade, or warehouse use.

Limit on Change of Use—The change of use of any manufacturing, wholesale trade, or warehouse use to a use other than manufacturing, wholesale trade or warehousing would be limited to 25% of the floor area of the building now used for purposes other than offices, laboratories, properly approved live-work spaces, or properly approved retail space.

**Example:** Thus in a manufacturing site with 100,000 square feet of space (other than office), 25,000 could be converted (with a Use Permit) to other uses permitted in the district. No further conversion would be permitted.

Hardship Exception—Buildings which are uneconomic to maintain in at least 75% industrial use could be converted to other uses permitted in the district with a Use Permit granted by the Zoning Adjustments

Board after a Public Hearing. The Board would be required to find that there are exceptional physical circumstances pertaining to the building, which do not pertain to most other buildings in the district, which make it impossible to reuse for industrial purposes. The simple fact that other uses would be more profitable is not adequate for this Use Permit.

### **Heavy Manufacturing/Residential Buffers**

**Rationale:** The intent of this regulation is to maintain a minimum distance of 150 feet between residential and "heavy" manufacturing uses in order to mitigate environmental impacts, such as noise, odor, vibration and glare, which would interfere with reasonable residential use and to provide a workable environment for these manufacturers.

#### **Regulation:**

Affected Districts--Mixed Use/Residential; Mixed Use/Light Industrial; Mixed Manufacturing; Manufacturing

#### Mixed Use-Residential

- No new residential use may be established within 150 feet of any property in a manufacturing district (i.e. Manufacturing, Mixed-Manufacturing); nor within 150' of existing "heavy" manufacturer in any zone. Additions to existing residential uses permitted at a "reasonable" level - standards to be set forth in the rezoning unless a Use Permit is obtained. (added 2011)
- No new or expanded manufacturing use may be established within 150 feet of an existing residential use, unless Performance Standards are met and a Use Permit is obtained.

#### Manufacturing; Mixed-Manufacturing; Mixed Use-Light Industrial Districts

- No new or expanded manufacturing use may be established within 150 feet of a residential property located in the Mixed Use-Residential zone, unless Performance Standards are met and a Use Permit is obtained.
- No new or expanded manufacturing use may be established within 150 feet of an existing residential use regardless of zone, unless Performance Standards are met and a Use Permit is obtained.

Note: Residential uses are prohibited in the Manufacturing, Mixed Manufacturing, and Mixed Use/Light Industrial district.

## Large Site Development Process

**Rationale:** West Berkeley has a few large sites—sites of 5 acres or more under a single ownership—which present special challenges and opportunities for planning and development in West Berkeley. These large sites—such as the Miles or (ex)Colgate property—are of a scale where they have a major impact on the area around them, and noticeable impacts on West Berkeley as a whole. They also may require modification of the uses and development standards in a district to facilitate a feasible large scale project.

For these reasons, the West Berkeley Plan incorporates a concept of a Large Site Development Process. While the process remains to be defined, the concept is that a special approval process would be used for certain projects. Because of the importance of these projects, the Planning Commission would be involved in the process. The process would also provide a formal mechanism for early citizen input.

The rezoning will propose a Zoning Ordinance amendment to provide for a Master Plan Permit. It would be a middle ground alternative between the Use Permit and the Development Agreement. While a master permit could be issued for a multi-building project, there would be a procedure for review of individual buildings at their time of construction. This alternative could incorporate many of the master planning features of a Development Agreement, but would be acted upon under the procedures of the Zoning Ordinance, rather than as a separate contract.

It is important to note that no special process would be required of large scale projects which conform in all substantive respects to the uses and development standard of their district. Such a project, however large, would require simply the normal Use Permit(s) and environmental review (an Environmental Impact Report or other appropriate documentation).

**2011 Update: The Master Use Permit (MUP) section of the Zoning Ordinance (Chapter 23B.36) is modified. The Regulations noted in the Plan are no longer accurate. Please reference the proposed revisions to Chapter 23B.36 for the updated Master Use Permit regulations.**

**Regulation:** Projects which are eligible for the Large Site Development Process are those which:

- On sites of at least 5-4 (modified 2011) acres; and
- Proposing to incorporate uses which would not otherwise be permitted in the district; or
- Requesting an “alternative” land use entitlement, such as a Development Agreement. Another possibility is a Master Plan Permit, whereby a single permit would be issued for the development of a number of buildings and/or uses within a given range.

## Performance Standards

**Rationale:** The West Berkeley Plan incorporates the concept of “performance standards.” Performance standards differ from traditional zoning development standards in that they regulate the impacts of land uses—noise, odor, vibration, etc. By contrast, traditional zoning standards deal with the physical form of building—building mass, height, yards (setbacks), lot coverage, parking, etc. Performance standards set maximum permissible levels for the release of the item they regulate—e.g. X decibels of noise. Such performance standards are an integral part of Portland’s “Industrial Sanctuary” zoning policy, and are used in Oakland and many other communities.

Performance standards become particularly important in a context where disparate uses are close together—like West Berkeley. When differing districts abut each other, performance standards limiting noxious environmental impacts can help substitute for the absence of distance between uses. The sometimes difficult industrial/residential interface is a particularly salient site.

While manufacturing is typically the primary focus of performance standards, other types of business such as construction, transportation, laboratories, and nightclubs can have off-site impacts, and therefore are appropriate as subjects of performance standard regulation.

**Regulation:** To be included in rezoning

### **Live-Work Development**

**Rationale:** Live-work space has become an increasingly important element of the West Berkeley built environment. More and more people, in an ever-widening variety of fields, are interested in combining their living and working sites. Originally targeted by state legislation to artists and craftspeople, live-work now serves many more occupations. Originally envisioned as occurring in converted warehouses, in recent years there have been newly constructed purpose built live-work buildings as well. There are now over a dozen legally permitted live-work sites in West Berkeley, with 4 more projects (ranging in size from 1 large unit to 17 units) under construction, as of September, 1993. Given strong interest by both space users and developers, additional live-work developments--particularly new construction developments--are likely.

Live-work is generally a positive presence in Berkeley and West Berkeley, but it must be carefully regulated so that it does not cause negative impacts. Live-work generates life in neighborhoods which are otherwise moribund at night, increasing activity and safety. It can provide workspaces which do not need to be commuted to. Some live-work still houses artists, a culturally important but often economically marginal segment of the population.

Live-work originally grew up in the interstices of economically marginal industrial areas. However, in 1990s West Berkeley, both built space and land is scarce, highly prized, and competitive. This means that live-work uses have the potential of displacing or being physically incompatible with manufacturing, especially "heavier" manufacturing. These potentials for incompatibility have grown as live-work has gained new constituencies, who are not always as tolerant of the pre-existing industrial land uses as artists and craftspeople tended to be. Some developers of live-work have complained about the activities of manufacturing uses which long predated the live-work project. In those parts of West Berkeley which combine industrial and residential uses (in the Mixed Use/Residential district), existing residents are concerned about the visual, parking, and economic impacts of new live-work developments in the area.

**Regulatory Concept:** The West Berkeley Plan intends to regulate live-work along 2 dimensions. First is location: live-work is permitted in the Mixed Use/Residential districts (where historically most live-work has occurred) and the Commercial district; restricted to artists and craftspeople in the Mixed Use/Light Industrial district; and barred outright in the Manufacturing, Mixed Manufacturing, and Residential districts (although in the last home occupations are permitted). These provisions keep live-work out of the "heavy" manufacturing districts, where there are great physical incompatibilities. Live-work is restricted in the Light Industrial district to help maintain the industrial character of that area, but allow that live-work which is most likely to be compatible.

The second dimension of regulation is new development standards for live-work, covering such matters as height, bulk (total permitted amount of construction), parking, open space, and other issues, particularly for newly constructed live-work spaces. There are also general construction standards for live-work--one is what requirement should there be for live/work projects to provide and/or contribute to the provision of affordable live-work spaces. Another is what the approval process requirements should be for live-work projects, and how these requirements should relate to residential and commercial permit thresholds. Because of the complexity of these issues, specific proposals for them will be presented as part of the rezoning of West Berkeley.

## PROPOSED AMENDMENTS TO THE WEST BERKELEY PLAN

### REVISIONS ARE PROPOSED TO SECTION VII, "LAND USE REGULATIONS OF THE WEST BERKELEY PLAN – FOR ADOPTION IN PRINCIPLE"

The following text and proposed modifications represent pages 42 through 58 of the West Berkeley Plan (December 1993).

#### VII. Land Use District Regulations of the West Berkeley Plan--for Adoption in Principle

##### Status of the Regulations

The land use regulations below are central to the West Berkeley Plan. They spell out generally what uses are permitted and prohibited in each of the districts created by the Plan, what allowable height and bulk standards would be, and set forth a series of regulatory concepts for special situations. These include limits on changes of use of manufacturing facilities, on buffers between residential and heavy manufacturing sites, and other issues. They are much of what the framers of the West Berkeley Plan understand to be the content of the Plan.

Nevertheless, these regulations are proposed for adoption in principle only, rather than adoption as an amendment to Berkeley's General Plan (as the rest of the document is). They are proposed in this way for technical reasons. Development regulations such as these should ultimately reside in the Zoning Ordinance, and will be found there once West Berkeley's zoning is brought into conformity with the Plan. City staff anticipates that the zoning will be drafted and approved next year. The procedure for adopting the zoning changes should be relatively streamlined, as it will be relying on the West Berkeley Plan Environmental Impact Report as environmental documentation. If these regulations were adopted as part of the General Plan, any change to them, however minor, would require a General Plan amendment. Such amendments are--because of state planning law--procedurally complex, and limited in number.

For these reasons, adoption of this section in principle is recommended. Such adoption will make clear that zoning provisions should closely follow the Plan, while assuring the most appropriate and expeditious procedure for enacting and amending that zoning.

#### **2011 Update:**

On March 22, 2011, the City Council modified certain text in the Zoning Ordinance related to implementing the West Berkeley Plan, modified this "Land Use Regulation section of the West Berkeley Plan consistent with these zoning changes, and certified the West Berkeley Project EIR for these changes [give ordinance number], These changes occur in West Berkeley Plan Section VII, with each change followed with the text "(Action 2011)."

- *District permitted and prohibited uses*
- *B. Special Situations and Regulations*
- 2010 Update Note: *Table 1-5 Recommended Development Standards by Zone* (Plan page 53), which was prepared to assist with development of zoning regulations has not been updated and should not be considered a reliable source for zoning designations. Correct zoning designations are available in the City of Berkeley Zoning Ordinance, in the appropriate zoning district text.

#### **DISTRICT PERMITTED AND PROHIBITED USES**

(See also Special Situations section)

Generally Permitted and Prohibited Uses

**Manufacturing District** ("Pink")



See also Development Standards, Manufacturing/Residential Buffers for regulations affecting certain sites

Permitted Uses See Zoning Ordinance for definitions of and discretionary levels for each use (added 2011)

- Arts & Crafts Uses (workspaces only, not live-work)
- Alternative Fueling Stations (added 2011)
- Auto body & painting
- Automobile dismantling ("junkyards")
- Auto repair
- Bus, Cab, truck, and public utility depots
- Composting
- Construction yards and associated offices
- Farms and Agricultural establishments
- Industrial Product Sales (Gases & Chemicals)
- Manufacturing: Food processing, textiles, apparel, lumber & wood products, furniture, paper & allied products, printing (exclusive of publishing); asphalt products, leather products (exclusive of primary production of leather); stone, clay, and glass products; fabricated metals, industrial machinery, electrical machinery & electronics, transportation equipment, scientific instruments, miscellaneous manufacturing.
- Recyclable materials collection points, exclusive of facilities handling primarily hazardous waste
- Parking lots (for uses located in the district)
- (removed 2011)
- Warehouses
- Wholesale trade and distribution
- Warehouse-based non-store retail (added 2011)

(removed 2011)

- Chemicals, including pharmaceuticals (exclusive of the manufacturing of alkalis, chlorine, chemical warfare gases, DDT, chloroform, fertilizers, and explosives)
- Parking structures
- Primary metals, including smelting and refining

(removed 2011)

- Factory Outlets (for products manufactured on site)
- Laboratories
- Offices
- Services to Buildings and Dwellings (Added 2011)
- Visual and Aural Arts Production (Added 2011)
- Alternative Fueling/Charging Stations (Added 2011)

## Prohibited Uses--Manufacturing District

- Banks and financial establishments
- Gasoline stations
- Group quarters residences
- Hazardous waste transfer stations & disposal facilities (freestanding facilities)
- Hotels and motels
- Laboratories (freestanding)
- Live-work
- Manufacturing: Tobacco products, alkalis, chlorine, chemical warfare gases, DDT, pesticides, chloroform, fertilizers, explosives; primary production of leather; petroleum refining, products of petroleum and coal not elsewhere classified; tires, inner tubes, synthetic rubber, asbestos products, ordnance and accessories, reprocessing of nuclear cores & scrap
  - Offices (freestanding)
- Publishing
- Residences
- Restaurants
- Retail establishments, except permitted factory outlets
- Schools and day care facilities
- Mini-Storage (Added 2011)

## **Mixed Manufacturing District ("Blue")**

See also Development Standards, Large Site Development Process (Zoning Ordinance sections modified 2011); Manufacturing/Residential Buffers (regulations affecting frontage along portions of 7th St., Dwight Way)

Permitted Uses) See Zoning Ordinance for definitions of, and discretionary levels for each use (added 2011)

- Alternative Fueling/Charging Stations (Added 2011)
- Arts & Crafts Uses (workspaces only, not live-work)
- Auto body & painting
- Automobile dismantling ("junkyards")
- Auto repair
- Bus, Cab, truck, and public utility depots
- Childcare (Added 2011)
- Composting
- Construction yards and associated offices
- Farms and Agricultural establishments
- Industrial Product Sales (Gases & Chemicals)
- Manufacturing: Food processing, textiles, apparel, lumber & wood products, furniture, paper & allied products, printing (exclusive of publishing); asphalt products, leather products (exclusive of primary production of leather); stone, clay, and glass products; fabricated metals, industrial machinery, electrical machinery & electronics, transportation equipment, scientific instruments, miscellaneous manufacturing.
- Parking Lots (for uses located in the district)
- Recyclable materials collection points, exclusive of facilities handling primarily hazardous waste
- Research and Development as defined in the Zoning Ordinance (added 2011)
- Services to Buildings and Dwellings (Added 2011)

- Visual and Aural Arts Production (Added 2011)
- Warehouses
- Warehouse-based Non-store Retail (Added 2011)
- Wholesale trade and distribution

(deleted 2011)

- Chemicals, including pharmaceuticals (exclusive of the manufacturing of alkalis, chlorine, chemical warfare gases, DDT, chloroform, fertilizers, and explosives)
- Parking structures
- Primary metals, including smelting and refining

(deleted 2011)

- Factory Outlets (for products manufactured on site)
- Laboratories on the ground floor
- Offices on the ground floor

(deleted 2011)

- Laboratories (other than ancillary)
- Offices (other than ancillary)
- Publishing

#### Prohibited Uses

- Banks and financial establishments
- Gasoline stations except Alternative Fueling/Charging Stations
- Group quarters residences
- Hazardous waste transfer stations & disposal facilities (freestanding facilities)
- Hotels and motels
- (deleted 2011)
- Live-work
- Manufacturing: Tobacco products, alkalis, chlorine, chemical warfare gases, DDT, pesticides, chloroform, fertilizers, explosives; primary production of leather; petroleum refining, products of petroleum and coal not elsewhere classified; tires, inner tubes, synthetic rubber, asbestos products, ordnance and accessories, reprocessing of nuclear cores & scrap
- Offices on the ground floor, not part of a manufacturing facility
- Residences
- Restaurants
- Retail establishments, except permitted factory outlets
- Schools and day care facilities
- Self-storage ("mini-storage")

## **Mixed Use/Light Industrial District ("Green")**

See also Development Standards; Conversions from Manufacturing to Other Uses; Live-Work Development

Permitted Uses (See Zoning Ordinance for definitions of, and discretionary levels for each use (added 2011))

### 1. Industrial & Agricultural Uses

- Arts and Crafts (workspaces only, live-work limited)
- Alternative Fueling Stations (added 2011)
- Auto repair
- Bus, Cab, truck, and public utility depots
- Construction yards & associated offices
- Farms & agricultural establishments
- Manufacturing: Food processing (e.g. bakeries, wineries); textiles, apparel, furniture, lumber & wood products, printing and publishing; stone, clay, and glass products; industrial machinery; electrical machinery & electronics (except production of semiconductors and related devices); scientific instruments; miscellaneous manufacturing
- Manufacturing Repair and Service
- Recyclable materials collection points, exclusive of facilities handling primarily hazardous waste
- Research and Development as defined in Zoning Ordinance(added 2011)
- Vocational Schools (providing training for uses in district)
- Warehouses
- Warehouse-based Non-store Retail (added 2011)
- Wholesale trade and distribution

### 2. Offices and Services

- Offices—General, medical, and professional (see Conversions from manufacturing to other uses)

### 3. Retail

- Building Materials and Garden Supplies—
- Services to Buildings and Dwellings (added 2011)

### 4. Other Uses

Parking lots

(deleted 2011) ◦ Alternative Fueling/Charging Stations (added 2011)

- Auto body and painting
- Childcare (modified 2011)
- Live-Work (Manufacturing and Arts & Crafts uses only)
- Manufacturing of leather products, rubber products, plastic products, paper products, fabricated metals
- Parking structures
- Restaurants
- Schools (other than Vocational Schools described above)
- Shelters for Homeless Persons
- Truck and Utility Trailer Rental and Leasing (added 2011)
- Visual and Aural Arts Production (modified 2011)

(deleted 2011)

- Laboratories (not part of manufacturing facilities)\*
- Manufacture of pharmaceuticals

#### Prohibited Uses--Mixed Use/Light Industrial District

- Banks and Financial establishments (public service)
- Gasoline stations except Alternative Fueling/Charging Stations (added 2011)
- Group Quarters other than Shelters for Homeless Persons
- Hazardous waste transfer stations & disposal facilities (freestanding facilities)
- Hotels and Motels
- Manufacturing—All uses prohibited in Manufacturing zone and Chemicals (except pharmaceuticals in selected locations), petroleum products, primary metals processing (e.g. "foundries"), production of semiconductors and related devices, transportation equipment and primary production of leather, rubber, plastic, or paper
- Residences (live/work conditionally permitted, see above)
- Retail stores, except as listed above
- Self-storage ("mini-storage")

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\*Pending further study when Hazard Ranking System is developed for rezoning. Certain types of laboratories may be inappropriate for these locations.

#### **Mixed Use/Residential District**

See also Development Standards, Conversions from Manufacturing to Other Uses, Permitted Uses, Live-Work

Permitted Uses See Zoning Ordinance for definitions of, and discretionary levels for each use (added 2011)

##### 1. Residential

- Residences—Single-family, Multi-family, Group Quarters
- Childcare (modified 2011)
- Schools

##### 2. Industrial & Agricultural

- Arts and Crafts (workspaces only)
- Farms and Agricultural establishments
- Manufacturing Repair and Service
- Recyclable materials collection points, exclusive of facilities handling primarily hazardous waste
- Warehouses
- Warehouse-based Non-store Retail (added 2011)
- Wholesale trade and distribution

##### 3. Retail

- Building Materials and Garden Supplies

- Services to Buildings and Dwellings (added 2011)
- Food Stores (not to exceed 5,000 sq.ft.)
- Cleaners, laundries, and laundromats

#### 4. Other Uses

Parking lots (for uses located in the district)

(deleted 2011)

- Auto body, auto painting, auto repair (with setbacks from residential use)  
Bus, Cab, truck, and public utility depots
- Construction yards and associated offices
- Live-work (work activities those permitted in district)
- Manufacturing— Food processing (e.g.bakeries, wineries), clothing & textile production, furniture production, wood products, printing and publishing; stone,clay,and glass products; industrial machinery, electrical machinery & electronics (except production of semiconductors and related devices), scientific instruments, miscellaneous manufacturing,leather products, rubber products, plastic products, paper products
- Restaurants
- Visual and Aural Arts Production (modified 2011)

#### Prohibited Uses

- Banks and financial establishments (public service)
- Gasoline stations except Alternative Fueling/Charging stations (added 2011)
- Hazardous waste transfer stations & disposal facilities (freestanding facilities)
- Hotels and motels  
(deleted 2011)
- Manufacturing—All uses prohibited in Manufacturing zone and Chemicals (including pharmaceuticals), lumber milling, petroleum products, primary metals processing, production of semiconductors and related devices, primary production of leather, rubber, plastic, or paper (e.g. pulp mills)
- Retail stores, except as listed above

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\*Pending further study when Hazard Ranking System is developed for rezoning. Certain types of laboratories may be appropriate for this district

**Commercial District** ("Red") (See also Development Standards, Live-Work)

Generally Permitted Uses ( See Zoning Ordinance for definitions of, and discretionary levels for each use (added 2011)

1. Retail

- Barber shops, beauty salons, and other hair cuteries
- Gasoline stations
- Hotels and motels
- Cleaners, laundries, and laundromats
- Restaurants
- Retail stores (all types)

2. Residential

- Day Care
- Schools

3. Live-Work

- Live-work (work activities those permitted in district)

4. Offices

- Banks and financial establishments
- Business Services (above the ground floor in designated commercial nodes)
- Offices—General, Medical, and Professional (above the ground floor in designated commercial nodes)

5. Industrial and Agricultural

- Arts and Crafts (workspaces)
- Auto body, auto painting, and auto repair
- Farms and agricultural establishments
- Wholesale trade and distribution

6. Other Uses

Parking lots (for uses located in the district)

(deleted 2011)

- Construction yards and associated offices
- Manufacturing—Food processing, printing and publishing, wood products, furniture making, stone, clay, and glass products
- Parking structures
- Recyclable materials collection points, exclusive of facilities handling primarily hazardous waste
  - Residential uses—single family, multi-family, and group quarters (above the ground floor in designated commercial nodes)

### **Prohibited Uses--Commercial District**

- Bus, Cab, truck, and public utility depots
- Hazardous waste transfer stations & disposal facilities (freestanding facilities)
- Laboratories (freestanding)
- Manufacturing (other than uses specified above)

### **Residential Districts**

See also Development Standards

Permitted Uses in All Residential Zones—R1A, R-3, R-4

- Parks, playgrounds, playlots
- Day care for six or fewer children

Uses Requiring a Public Hearing (regardless of project size) in All Residential Zones

- Churches, Community Centers, and Libraries
- Day Care
- Food stores (less than 3,000 sq.ft.)
- Cleaners, laundries, and laundromats
- Residences—1 unit, 2 unit
- Schools

Uses Requiring a Public Hearing (regardless of project size) in R-3, R-4 zones only, not permitted in R-1A zones

- Group Quarters
- Medical buildings and hospitals
- Multiple dwellings

Uses Requiring a Public Hearing (regardless of project size) in R-4 zone only, not permitted in R-1A and R-3 zones

- Hotels and motels
- Institutions and offices
- Retail ancillary to hotels, motels, institutions and offices

Uses Prohibited in All Residential Zones

- All other uses—agricultural, other retail, manufacturing, wholesaling

Note: Most of the "residential core" area of West Berkeley between Dwight and Camelia (excluding University Ave.) and 6th St. and the San Pablo commercial strip is zoned R-1A. However, parts of the blocks on either side of University Ave. are zoned R-3 or R-4.



## B. Special Situations and Regulations

### Change of Use from Manufacturing and Industrial Uses to Other Uses

**Rationale:** The West Berkeley Plan's regulation of "conversions" (technically "changes of use") from manufacturing and wholesale trade is a central element of the Plan's land use concept. In the Mixed Use/Light Industrial ("Green") zone in particular, the conversion limits seek to maintain the industrial character of the area, without completely blocking other uses there. The district description above makes clear how—in many respects—the Light Industrial district is the key manufacturing and industrial district in West Berkeley. Staff estimates that the district contains at least 2.2 million square feet of privately owned manufacturing and wholesaling space, in dozens and dozens of buildings, which range in size from a few thousand square feet to the 162,000 square feet of Utility Body. This district—in contrast with the Manufacturing and Mixed Manufacturing districts—contains a substantial percentage of manufacturers and wholesalers which rent rather than own their space, putting them at much greater risk of displacement.

If no limits on the conversion of manufacturing space were enforced here, widespread displacement of manufacturing would be possible, contrary to the Plan's economic development and land use policy. On the other hand, if the City were to seek to protect manufacturers' spaces in the absence of such a rule, the list of permitted uses in the district would have to be much more restrictive. Thus, given the existence of limits on conversion, the Plan can be much more permissive about allowing certain uses as new construction (e.g. offices) while maintaining the area as an industrial district. The conversion limitation approach allows change, but regulates its pace and scope. Indeed, if the full 25% of space allowed to convert actually were to convert (an admittedly unlikely occurrence), some 550,000 square feet of space would be changed to office or other uses. If this 550,000 square feet were to convert, some 40% of the district's current space would be non-manufacturing/wholesaling, about the maximum level at which the district could still be called "industrial."

The issue is also relevant in the Mixed Use/Residential district, although this district is both smaller and designed to be less protective of manufacturing. In this district, the Plan calls for conversions of manufacturing/wholesaling buildings of 10,000 square feet or more to be reviewed for their impact on the industrial character of the area. Specific criteria will be proposed in the West Berkeley rezoning proposal.

#### 2011 Updates:

- **Arts and Crafts, Non-store Retail and Contractors, as defined in the Zoning Ordinance are allowed uses within the Protected Spaces (including Warehouse, Wholesale Trade, Manufacturing and Material Recovery Enterprise)**
- **Research and Development, as defined and regulated in the Zoning Ordinance, if allowed in the MU-LI and MM districts, and may be allowed in Wholesale Trade and Warehouse protected space if allowed by zoning.**

**Regulation:** "Conversion" (Change of Use) of Manufacturing or Wholesaling Space in Mixed Use/Light Industrial District

Scope of Regulation—Changes of buildings currently or last used for manufacturing, wholesale trade, or warehouse uses to any other use, except manufacturing, wholesale trade, or warehouse use.

Limit on Change of Use—The change of use of any manufacturing, wholesale trade, or warehouse use to a use other than manufacturing, wholesale trade or warehousing would be limited to 25% of the floor area of the building now used for purposes other than offices, laboratories, properly approved live-work spaces, or properly approved retail space.

**Example:** Thus in a manufacturing site with 100,000 square feet of space (other than office), 25,000 could be converted (with a Use Permit) to other uses permitted in the district. No further conversion would be permitted.

Hardship Exception—Buildings which are uneconomic to maintain in at least 75% industrial use could

be converted to other uses permitted in the district with a Use Permit granted by the Zoning Adjustments Board after a Public Hearing. The Board would be required to find that there are exceptional physical circumstances pertaining to the building, which do not pertain to most other buildings in the district, which make it impossible to reuse for industrial purposes. The simple fact that other uses would be more profitable is not adequate for this Use Permit.

### **Heavy Manufacturing/Residential Buffers**

**Rationale:** The intent of this regulation is to maintain a minimum distance of 150 feet between residential and "heavy" manufacturing uses in order to mitigate environmental impacts, such as noise, odor, vibration and glare, which would interfere with reasonable residential use and to provide a workable environment for these manufacturers.

**Regulation:**

Affected Districts--Mixed Use/Residential; Mixed Use/Light Industrial; Mixed Manufacturing; Manufacturing

Mixed Use-Residential

- No new residential use may be established within 150 feet of any property in a manufacturing district (i.e. Manufacturing, Mixed-Manufacturing); nor within 150' of existing "heavy" manufacturer in any zone. Additions to existing residential uses permitted at a "reasonable" level - standards to be set forth in the rezoning unless a Use Permit is obtained. (added 2011)
- No new or expanded manufacturing use may be established within 150 feet of an existing residential use, unless Performance Standards are met and a Use Permit is obtained.

Manufacturing; Mixed-Manufacturing; Mixed Use-Light Industrial Districts

- No new or expanded manufacturing use may be established within 150 feet of a residential property located in the Mixed Use-Residential zone, unless Performance Standards are met and a Use Permit is obtained.
- No new or expanded manufacturing use may be established within 150 feet of an existing residential use regardless of zone, unless Performance Standards are met and a Use Permit is obtained.

Note: Residential uses are prohibited in the Manufacturing, Mixed Manufacturing, and Mixed Use/Light Industrial district.

## Large Site Development Process

**Rationale:** West Berkeley has a few large sites—sites of 5 acres or more under a single ownership—which present special challenges and opportunities for planning and development in West Berkeley. These large sites—such as the Miles or (ex)Colgate property—are of a scale where they have a major impact on the area around them, and noticeable impacts on West Berkeley as a whole. They also may require modification of the uses and development standards in a district to facilitate a feasible large scale project.

For these reasons, the West Berkeley Plan incorporates a concept of a Large Site Development Process. While the process remains to be defined, the concept is that a special approval process would be used for certain projects. Because of the importance of these projects, the Planning Commission would be involved in the process. The process would also provide a formal mechanism for early citizen input.

The rezoning will propose a Zoning Ordinance amendment to provide for a Master Plan Permit. It would be a middle ground alternative between the Use Permit and the Development Agreement. While a master permit could be issued for a multi-building project, there would be a procedure for review of individual buildings at their time of construction. This alternative could incorporate many of the master planning features of a Development Agreement, but would be acted upon under the procedures of the Zoning Ordinance, rather than as a separate contract.

It is important to note that no special process would be required of large scale projects which conform in all substantive respects to the uses and development standard of their district. Such a project, however large, would require simply the normal Use Permit(s) and environmental review (an Environmental Impact Report or other appropriate documentation).

**2011 Update: The Master Use Permit (MUP) section of the Zoning Ordinance (Chapter 23B.36) is modified. The Regulations noted in the Plan are no longer accurate. Please reference the proposed revisions to Chapter 23B.36 for the updated Master Use Permit regulations.**

**Regulation:** Projects which are eligible for the Large Site Development Process are those which:

- On sites of at least 4 (modified 2011) acres; and
- Proposing to incorporate uses which would not otherwise be permitted in the district; or
- Requesting an “alternative” land use entitlement, such as a Development Agreement. Another possibility is a Master Plan Permit, whereby a single permit would be issued for the development of a number of buildings and/or uses within a given range.

## Performance Standards

**Rationale:** The West Berkeley Plan incorporates the concept of “performance standards.” Performance standards differ from traditional zoning development standards in that they regulate the impacts of land uses—noise, odor, vibration, etc. By contrast, traditional zoning standards deal with the physical form of building—building mass, height, yards (setbacks), lot coverage, parking, etc. Performance standards set maximum permissible levels for the release of the item they regulate—e.g. X decibels of noise. Such performance standards are an integral part of Portland’s “Industrial Sanctuary” zoning policy, and are used in Oakland and many other communities.

Performance standards become particularly important in a context where disparate uses are close together—like West Berkeley. When differing districts abut each other, performance standards limiting noxious environmental impacts can help substitute for the absence of distance between uses. The sometimes difficult industrial/residential interface is a particularly salient site.

While manufacturing is typically the primary focus of performance standards, other types of business such as construction, transportation, laboratories, and nightclubs can have off-site impacts, and therefore are

appropriate as subjects of performance standard regulation.

**Regulation:** To be included in rezoning

### **Live-Work Development**

**Rationale:** Live-work space has become an increasingly important element of the West Berkeley built environment. More and more people, in an ever-widening variety of fields, are interested in combining their living and working sites. Originally targeted by state legislation to artists and craftspeople, live-work now serves many more occupations. Originally envisioned as occurring in converted warehouses, in recent years there have been newly constructed purpose built live-work buildings as well. There are now over a dozen legally permitted live-work sites in West Berkeley, with 4 more projects (ranging in size from 1 large unit to 17 units) under construction, as of September, 1993. Given strong interest by both space users and developers, additional live-work developments--particularly new construction developments--are likely.

Live-work is generally a positive presence in Berkeley and West Berkeley, but it must be carefully regulated so that it does not cause negative impacts. Live-work generates life in neighborhoods which are otherwise moribund at night, increasing activity and safety. It can provide workspaces which do not need to be commuted to. Some live-work still houses artists, a culturally important but often economically marginal segment of the population.

Live-work originally grew up in the interstices of economically marginal industrial areas. However, in 1990s West Berkeley, both built space and land is scarce, highly prized, and competitive. This means that live-work uses have the potential of displacing or being physically incompatible with manufacturing, especially "heavier" manufacturing. These potentials for incompatibility have grown as live-work has gained new constituencies, who are not always as tolerant of the pre-existing industrial land uses as artists and craftspeople tended to be. Some developers of live-work have complained about the activities of manufacturing uses which long predated the live-work project. In those parts of West Berkeley which combine industrial and residential uses (in the Mixed Use/Residential district), existing residents are concerned about the visual, parking, and economic impacts of new live-work developments in the area.

**Regulatory Concept:** The West Berkeley Plan intends to regulate live-work along 2 dimensions. First is location: live-work is permitted in the Mixed Use/Residential districts (where historically most live-work has occurred) and the Commercial district; restricted to artists and craftspeople in the Mixed Use/Light Industrial district; and barred outright in the Manufacturing, Mixed Manufacturing, and Residential districts (although in the last home occupations are permitted). These provisions keep live-work out of the "heavy" manufacturing districts, where there are great physical incompatibilities. Live-work is restricted in the Light Industrial district to help maintain the industrial character of that area, but allow that live-work which is most likely to be compatible.

The second dimension of regulation is new development standards for live-work, covering such matters as height, bulk (total permitted amount of construction), parking, open space, and other issues, particularly for newly constructed live-work spaces. There are also general construction standards for live-work--one is what requirement should there be for live/work projects to provide and/or contribute to the provision of affordable live-work spaces. Another is what the approval process requirements should be for live-work projects, and how these requirements should relate to residential and commercial permit thresholds. Because of the complexity of these issues, specific proposals for them will be presented as part of the rezoning of West Berkeley.