

CITY OF OAKLAND**AGENDA REPORT**

2006 OCT -5 PM 3:49

TO: Office of the City Administrator
ATTN: Deborah A. Edgerly
FROM: the Community and Economic Development Agency
DATE: October 17, 2006

RE: **Public Hearing and Supplemental Report Regarding:**

Resolution Amending the Land Use and Transportation Element of the General Plan to Clarify and Refine the Housing and Business Mix General Plan Classification Boundaries; and

An Ordinance 1) Adopting Amendments to the Zoning Regulations that Create Three New Housing and Business Mix (HBX) Zoning Designations; 2) Adopting a Design Guidelines Manual Associated With the New HBX Zoning Designations; 3) Amending the Zoning Maps to Include the New HBX Zones; and 4) Amending the Document "Guidelines for Determining Project Conformity with the General Plan and Zoning Regulations" to Reflect the New Zones.

SUMMARY

The Committee members voted unanimously at the September 12th meeting to schedule a hearing on this proposal at the October 17, 2006 City Council meeting. A few issues were raised at the meeting by Committee members, a Councilmember, and the public. These issues are addressed below.

This ordinance and resolution provide development standards for areas of the City with a Housing and Business Mix General Plan land use classification or Residential Mixed Use Estuary Policy Plan land use classification. The proposed zoning designations, design guidelines manual, and changes to the Zoning and General Plan maps will provide development standards for areas of the City that are experiencing significant development interest. The Planning Commission and staff recommend adoption of the proposal because it will benefit both the affected neighborhoods and the development community. Neighborhoods will benefit through the creation of attractive and well designed buildings, an appropriate building scale, and a vibrant streetscape. The proposal will benefit the development community by establishing clear City expectations for new development and an efficient approval process.

Staff presented this proposal to the Community and Economic Development Committee on September 12, 2006. At that meeting, staff noted that, by state law, the part of the ordinance related to General Plan amendments needed to be removed and placed into a resolution. The new resolution and ordinance are attached.

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City Council
October 17, 2006

KEY ISSUES AND IMPACTS

The following is a list of requests and concerns that were expressed at the at the September 12 meeting. Issues are in **bold** and staff responses are in regular type.

1. **Councilmember Brunner expressed concern that the HBX proposal was being addressed separate from the industrial conversion discussion. As such, she requested that staff prepare an overlay map showing the proposed HBX zones with the industrial subareas.**

The requested maps are shown in Attachment A. Staff did not present the HBX proposal with the industrial discussion because the rezoning is not a industrial conversion proposal. Nearly all the areas have a *Housing and Business Mix General Plan designation and have allowed housing since the adoption of the General Plan in 1998.* The proposal only provides development standards for these areas that already allow housing. Many of these areas have an industrial zoning designation but the General Plan takes precedence over zoning. Several of these areas have already seen significant residential construction activity.

Staff brought the proposal to the Council at this time because there is considerable development pressure in these areas and it is becoming increasingly difficult for staff to evaluate these projects without a set of development criteria. Finally, the Council has made requests to staff to update the zoning maps to reflect the General Plan as quickly as possible; the HBX proposal is an important step toward completing this mapping effort.

2. **Councilmember Brunner requested that the S-18 (mediated residential design review combining zone regulations) zoning overlay district be included with the HBX zones.**

As mentioned at the September 12th meeting, the exclusion of the S-18 combining zone was a mapping error. The S-18 zones have been included in the proposal currently in front of the City Council. There is a proposal pending before the Planning Commission that would remove the S-18 combining zone from the zoning ordinance. If this is ultimately adopted by the City Council, the S-18 combining zone would be removed from the HBX zones.

3. **Councilmember Brunner requested a community meeting in her district regarding the HBX proposal.**

A community meeting was held in District 1 on September 28, 2006. Concerns were raised about the maximum height allowed on Lowell Street and the side setback regulations. Staff is preparing changes to address these concerns. The changes will be presented in a supplemental report to the City Council.

4. Councilmember Brunner requested a list of people involved in the HBX zoning process.

The following is a list of people who attended various meetings with staff regarding the HBX proposal. Note: This does not include miscellaneous interested parties or those who attended community meetings.

Albert Sukoff
Bill Lightener
Bruce Beasley
Andrew Detsch
Emma Neale
Karin Payson
Kathryn Porter
Kathy Kuhner
Luigi Barassi
Marianne Dreisbach
Michael Stewart

Michael Kuhner
Rose Black
Phil Banta
Russell Sheppard
Shan Masuda
Tom Dolan
Bob Tuck
Ellen Wyrick-Parkinson
George Burt
Marcel Diallo

5. Councilmember Chang expressed concern that there was a contradiction between the zones' intent to allow more intense development and the focus of the design guidelines manual on existing context.

Neither the guidelines nor the regulations state that a new development should match the context of existing development. The guidelines manual does provide several guidelines and techniques to *gracefully transition from an existing context to the new, more intense development pattern* envisioned by the General Plan and the intent of the zones. The guidelines also provide massing techniques to mitigate light and air impacts of new construction on existing buildings. These goals for the guidelines are listed in the introduction section that state that an overall intent of this manual is to guide and transition into a more intense development pattern than has traditionally existed in HBX neighborhoods. Several guidelines and objectives refer to transitioning from existing contexts or development patterns, such as:

Design Objective #1: Create a development pattern that encloses the street space by defining a street wall and street section while providing transitions from existing patterns and respecting the light and air of residential properties, if present.

Guideline 1.1: Design the front setback to establish a street wall and transition from the front yard setback pattern.

Guideline 1.2: Provide appropriate transitions from front yard setback contexts.

Guideline 1.5: Design interior side setbacks that provide appropriate light and air to neighboring residential development.

Guideline 4.2: Avoid abrupt transitions in height and scale from a neighboring property.

Guideline 4.3: Use open areas, building modulation, or other methods to transition from the rhythm and scale of traditional residential streets.

Further, the manual is very careful about how it defines neighborhood patterns or contexts and allows exceptions to transitioning under certain circumstances. Page three of the guidelines state:

Several guidelines allude to transitioning from a neighborhood development pattern. However, due to the nature of HBX zoned neighborhoods, most new developments will not have a development pattern from which to transition. For the purpose of this manual, only solid and discernable neighborhood development patterns on the same block or street must be considered in a design. A development should not be required to transition from a spotty or inconsistent neighborhood pattern.

Occasionally, accommodations are not necessary or practical even when there is a solid or discernable development pattern because either 1) adjacent lots are underutilized, in disrepair, or proposed for redevelopment or 2) the neighborhood as a whole is transforming into a different development character. The case planner and the Zoning Administrator will determine if any such factors are present. If this determination is made, a new development should be designed to be appropriate for the anticipated neighborhood character.

- 6. Councilmember Chang stated that he preferred the aspect of past versions of the HBX regulations that did not allow the establishment of new auto repair in the HBX-2 zone but did allow for the expansion of those that are existing. The current version allows new auto repair upon the granting of conditional use permit.**

Staff has changed the proposed HBX-2 regulations to disallow new auto repair facilities but conditionally permit the expansion of existing establishments.

- 7. Marcel Diallo, a West Oakland resident living in the "Lower Bottoms" neighborhood requested that the east side of Pine Street between 8th and 12th Streets be amended to have a Housing and Business Mix General Plan classification and an HBX-2 zoning designation because of the mix of uses in the area. Mr. Diallo also stated that this change would facilitate his vision of the street as mixed use corridor with businesses that promote the culture, music, art, and neighborhoods of African Americans.**

Staff visited the neighborhood and found it to have the mix of industrial and residential properties consistent with Housing and Business Mix General Plan designation and the HBX-2 Zone. Part of this rezoning would also provide an appropriate transition between residential neighborhoods to the east and industrially zoned land to the west. Therefore, staff proposes that the east side of Pine Street between 8th and 12th Streets be rezoned to the HBX-2 zone and be given a Housing and

Business Mix General Plan designation. Mr. Diallo maintains that he had previously made this request to the Planning Commission.

8. **Councilmember Nancy Nadel spoke at the meeting and expressed concern that the proposal does not contain enough incentives for ground floor retail activities or a front yard setback requirement for landscaping.**

Ground floor retail activities

The Planning Commission and staff believe that a street presence of nonresidential activities is critical in order to establish a connection to the public realm and pedestrian orientation. Therefore, the proposal contains the following incentives and requirements to provide ground floor nonresidential activities, including retail:

- Section 17.65.090 states that a project gets a density and floor area ratio bonus when at least 20 percent of its floor area is devoted to nonresidential activities; generally nonresidential activities occur on the ground floor;
- Section 17.65.160 requires that buildings with work/live units have work/live units with a street level presence; and
- Section 17.65.090 states that a project gets a density and floor area ratio bonus when at least 50 percent of street frontage contains retail activities. Only lots that are 50 feet in depth or less qualify for this bonus.

Front yard setback landscaping

Staff strengthened the language in the Design Guideline Manual concerning provisions for landscaping in a front yard setback. The proposed language, contained in Guideline 1.1 of the Manual, is shown below. New language is underlined, deleted language is in ~~strikeout~~:

Guideline 1.1: Design the front setback to establish a street wall and transition from the front yard setback pattern. In cases where there is not an established pattern of setbacks (see the introduction for how to determine a pattern), a limited front yard setback should be designed so that a street edge or “wall” creates a comfortable pedestrian scale and unifies the street space. ~~For larger lots (lots with a street frontage of more than 50 feet), this may consist of a maximum five foot front setback, an area just large enough to provide an entrance feature and/or landscaping that creates a pleasing transition from the public to the private space. Residential developments should have an approximately five foot setback to accommodate landscaping. This area could also contain an entrance feature, porch area, stairs, or other element to activate and create a transition to the street. This five foot setback may not be appropriate if it will break up a solid context of no setback on the street.~~ A somewhat larger front setback area of up to fifteen feet may be appropriate for

smaller lots (lots with a street frontage of 50 feet or less) to accommodate a landscaped yard, front stairs, and occasional visitor parking.

Section 17.65.140 of the proposed zones contains limitations on the amount of paved front yard permitted and incentives to provide paving that allows landscaping:

Type of lot	Maximum percent of surface in street fronting yards allowed to be paved	Notes
Corner lots	30 percent	
Through lots	40 percent for lots with 50 feet or less of street frontage; otherwise 25 percent.	
Interior lots	50 percent	1

Note:

1. The maximum on interior lots that have 50 feet or less street frontage may increase to 75 percent if all driving surfaces are paved with permeable materials that allow landscaping on the driveway. To qualify for this bonus, the paving shall contain landscaping that is permanently maintained and includes a system of automatic irrigation.

Finally, Guideline 8.1 of the manual states:

The entire length of street facing areas of a lot, except for driveways, buildings, walkways, and signs shall be generously landscaped. The maintenance of these areas is the responsibility of the property owner and is critical to providing attractive neighborhoods. Where there is enough width between the property line and the sidewalk, landscaping should be provided between the front property line and the back edge of the sidewalk.

RECOMMENDATION(S) AND RATIONALE

Staff recommends adopting the proposed ordinance and resolution adopting the proposed amendments to the zoning text, General Plan map, zoning maps, and the document "Guidelines for Determining Project Conformity with the General Plan and Zoning Regulations".

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City Council
October 17, 2006

ACTION REQUESTED OF THE CITY COUNCIL

Staff recommends that the City Council approve the attached ordinance and resolution.

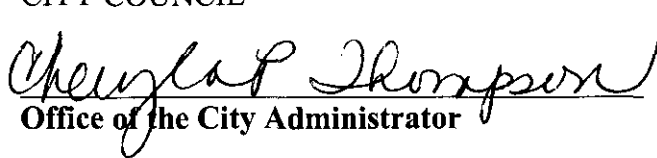
Respectfully submitted,



Claudia Cappio
Development Director, CEDA

Prepared by:
Neil Gray, Planner III
Planning and Zoning Division

APPROVED AND FORWARDED TO THE
CITY COUNCIL



Cheryl P. Thompson
Office of the City Administrator





Attachments:

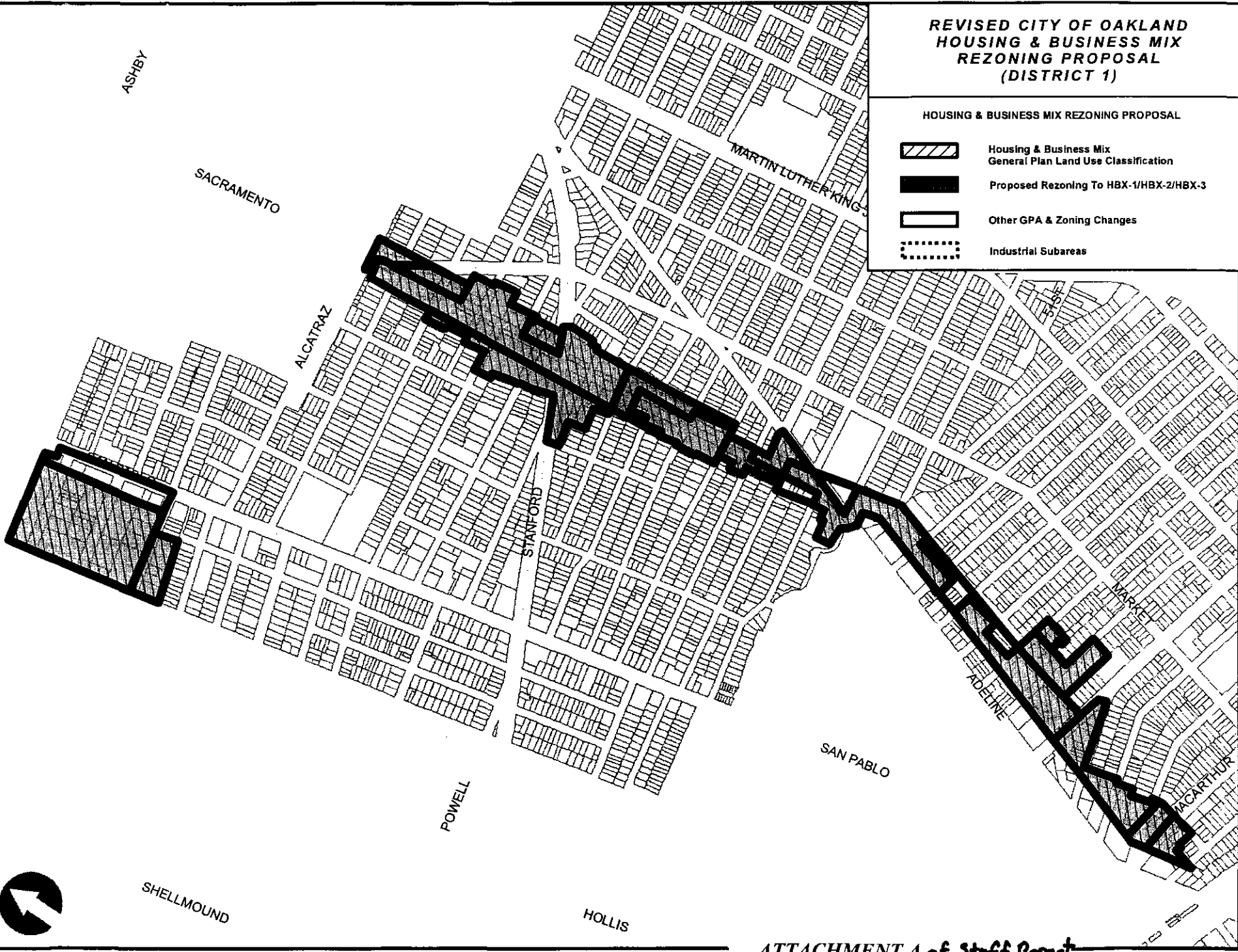
- A. Maps showing industrial subareas with HBX proposal

Item: _____
City Council
October 17, 2006

**REVISED CITY OF OAKLAND
HOUSING & BUSINESS MIX
REZONING PROPOSAL
(DISTRICT 1)**





HOUSING & BUSINESS MIX REZONING PROPOSAL

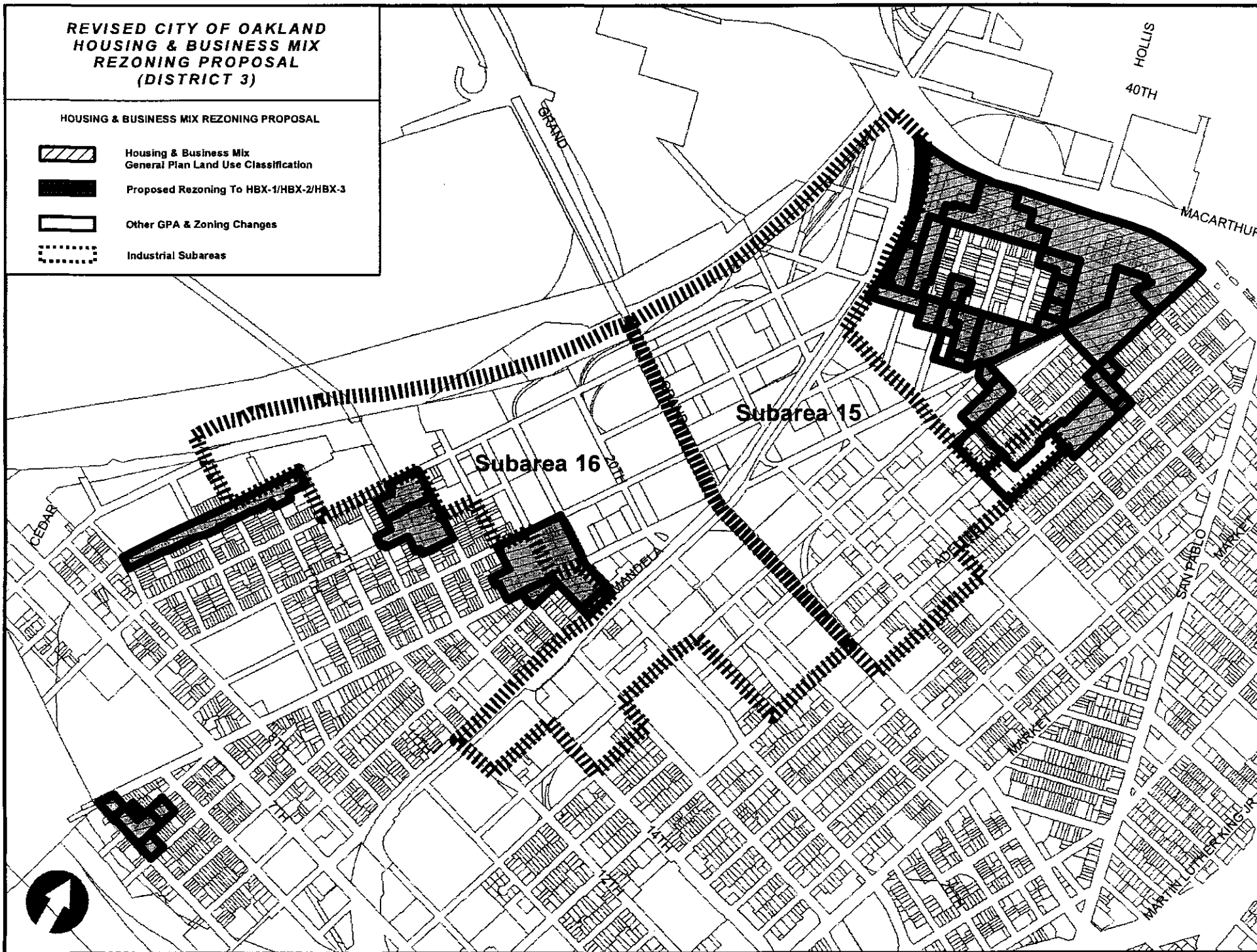
-  Housing & Business Mix
General Plan Land Use Classification
-  Proposed Rezoning To HBX-1/HBX-2/HBX-3
-  Other GPA & Zoning Changes
-  Industrial Subareas



**REVISED CITY OF OAKLAND
HOUSING & BUSINESS MIX
REZONING PROPOSAL
(DISTRICT 3)**





HOUSING & BUSINESS MIX REZONING PROPOSAL

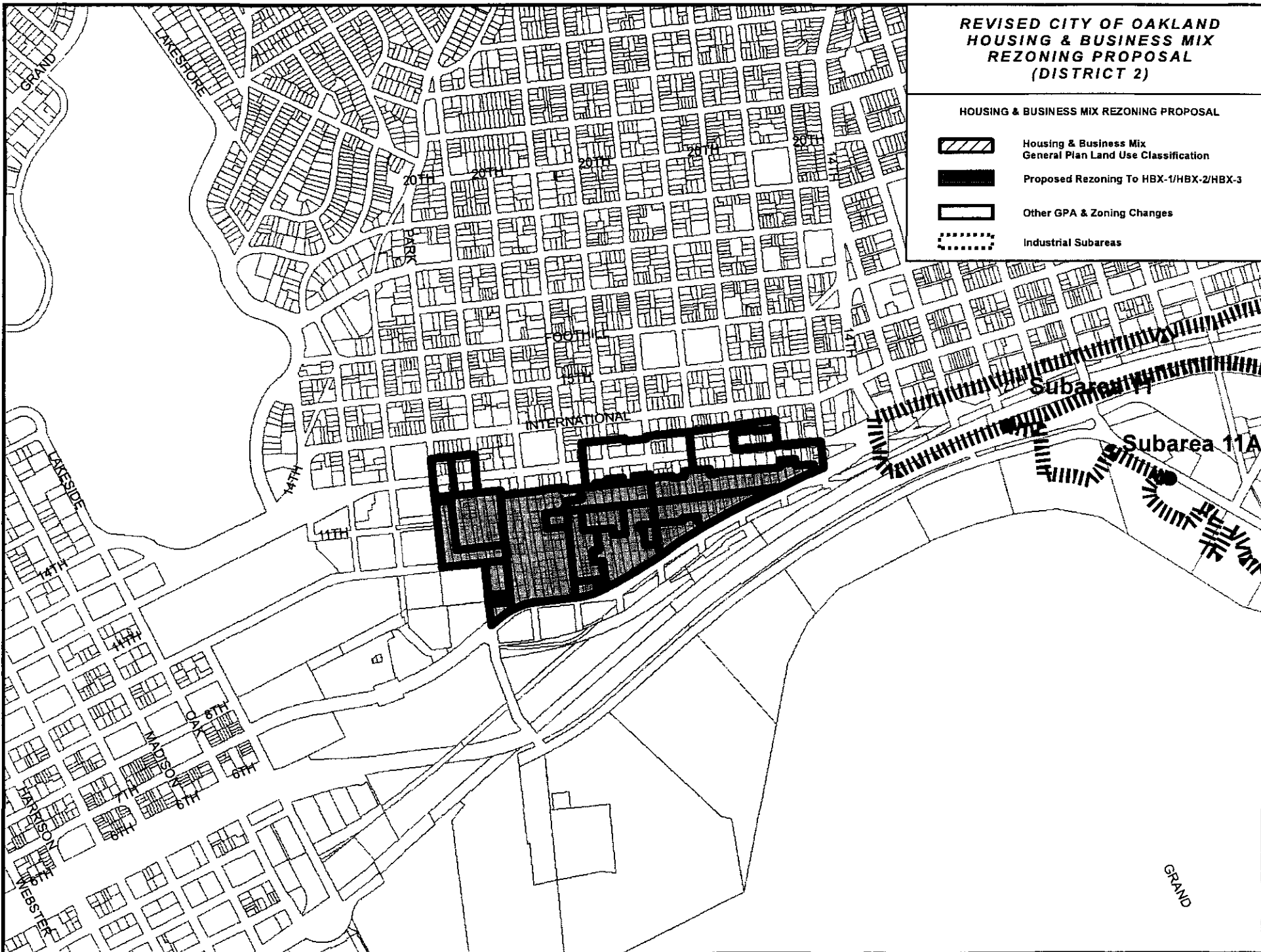
-  Housing & Business Mix
General Plan Land Use Classification
-  Proposed Rezoning To HBX-1/HBX-2/HBX-3
-  Other GPA & Zoning Changes
-  Industrial Subareas



**REVISED CITY OF OAKLAND
HOUSING & BUSINESS MIX
REZONING PROPOSAL
(DISTRICT 2)**





HOUSING & BUSINESS MIX REZONING PROPOSAL

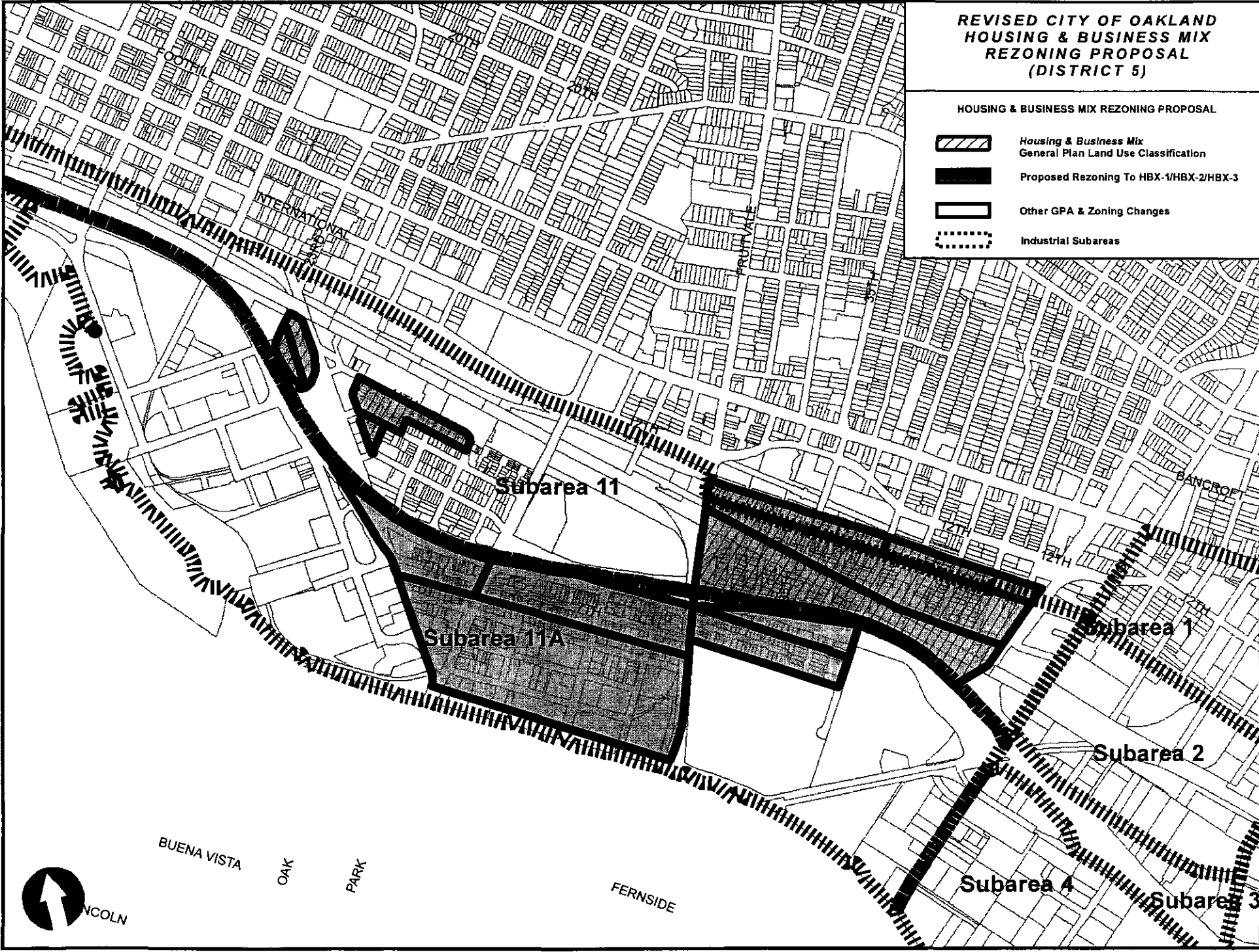
-  Housing & Business Mix
General Plan Land Use Classification
-  Proposed Rezoning To HBX-1/HBX-2/HBX-3
-  Other GPA & Zoning Changes
-  Industrial Subareas



**REVISED CITY OF OAKLAND
HOUSING & BUSINESS MIX
REZONING PROPOSAL
(DISTRICT 5)**





HOUSING & BUSINESS MIX REZONING PROPOSAL

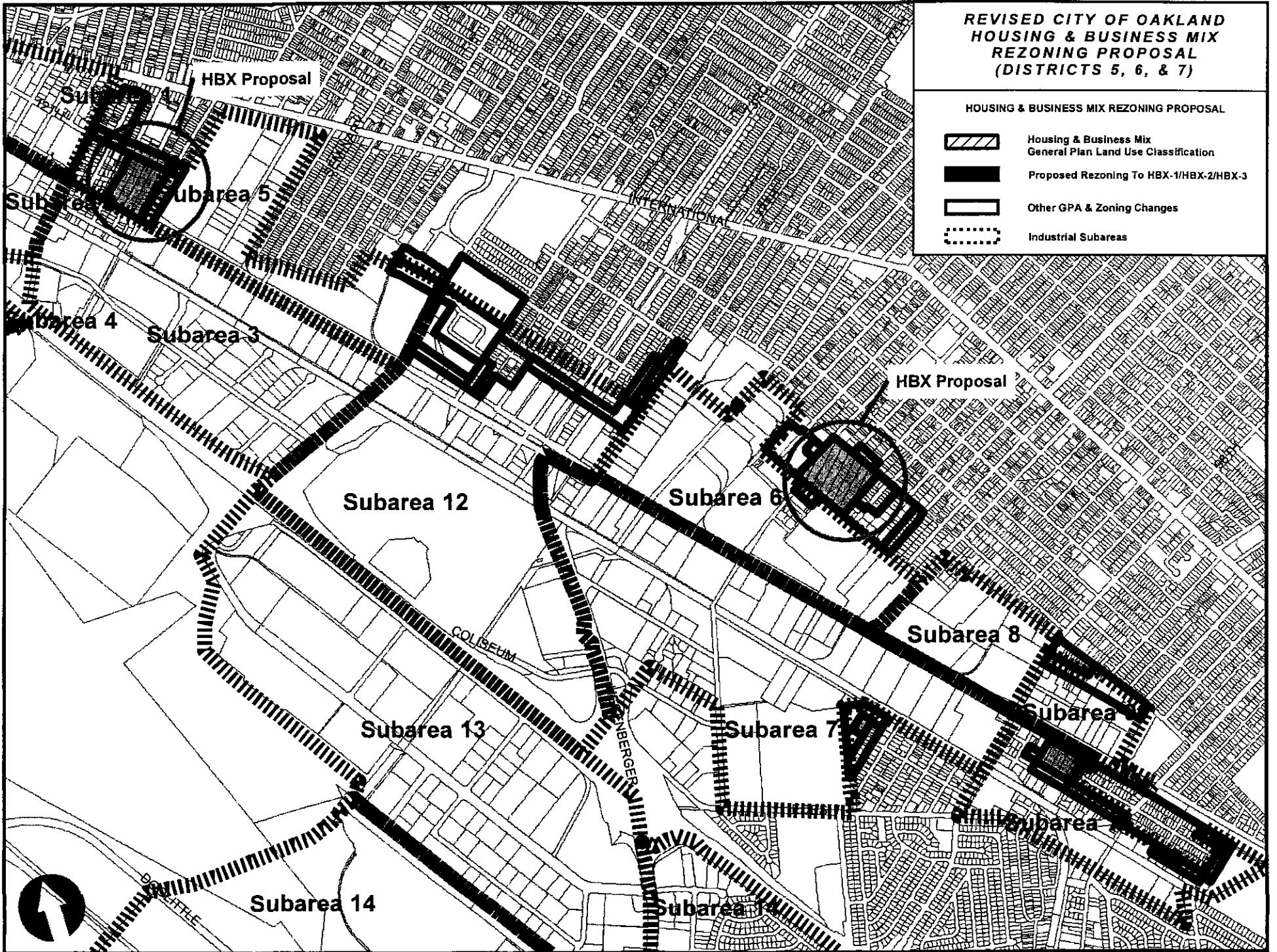
-  Housing & Business Mix
General Plan Land Use Classification
-  Proposed Rezoning To HBX-1/HBX-2/HBX-3
-  Other GPA & Zoning Changes
-  Industrial Subareas



**REVISED CITY OF OAKLAND
HOUSING & BUSINESS MIX
REZONING PROPOSAL
(DISTRICTS 5, 6, & 7)**





HOUSING & BUSINESS MIX REZONING PROPOSAL

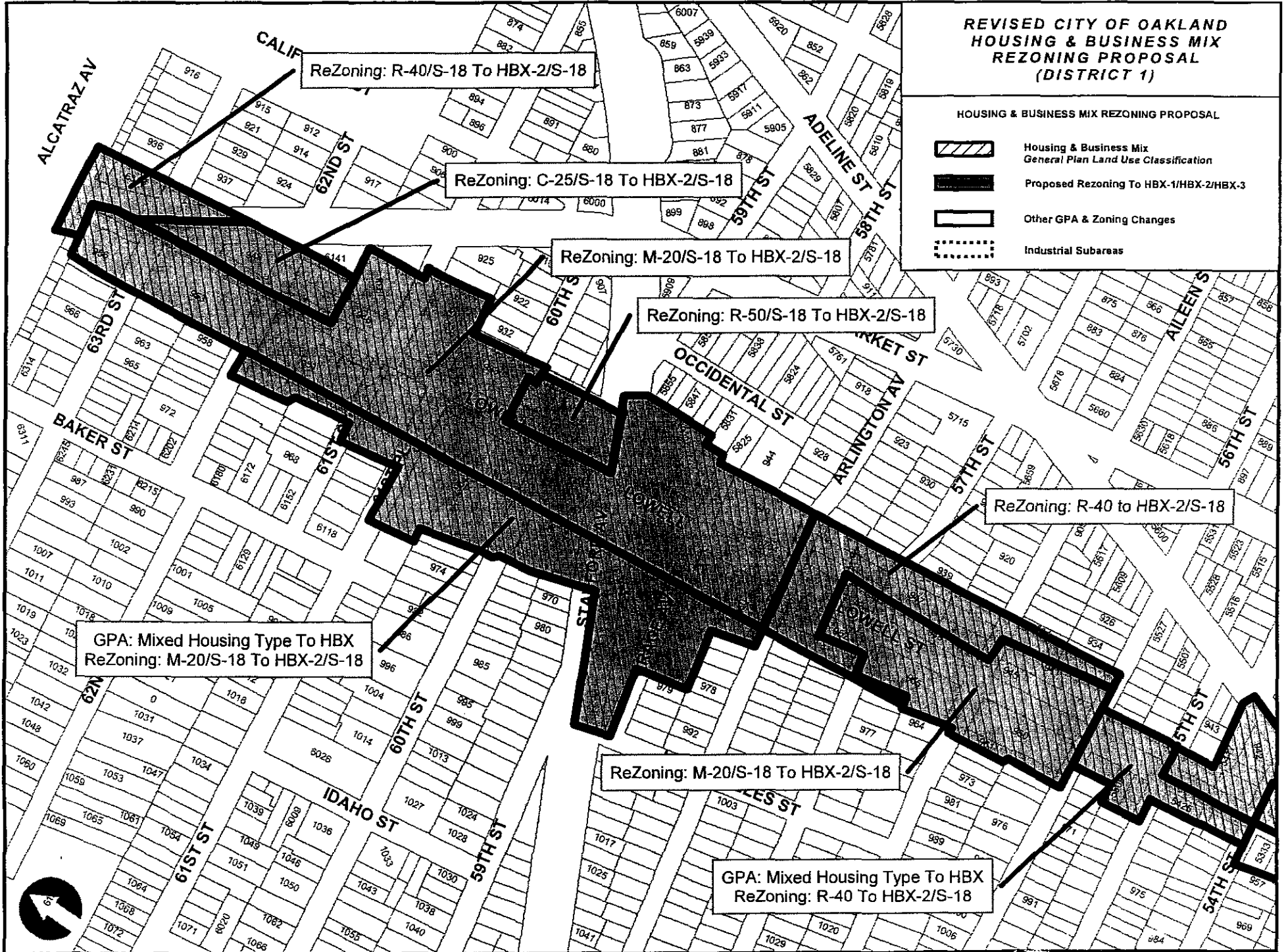
-  Housing & Business Mix
General Plan Land Use Classification
-  Proposed Rezoning To HBX-1/HBX-2/HBX-3
-  Other GPA & Zoning Changes
-  Industrial Subareas



**REVISED CITY OF OAKLAND
HOUSING & BUSINESS MIX
REZONING PROPOSAL
(DISTRICT 1)**

HOUSING & BUSINESS MIX REZONING PROPOSAL

-  Housing & Business Mix
General Plan Land Use Classification
-  Proposed Rezoning To HBX-1/HBX-2/HBX-3
-  Other GPA & Zoning Changes
-  Industrial Subareas



ReZoning: R-40/S-18 To HBX-2/S-18

ReZoning: C-25/S-18 To HBX-2/S-18

ReZoning: M-20/S-18 To HBX-2/S-18

ReZoning: R-50/S-18 To HBX-2/S-18

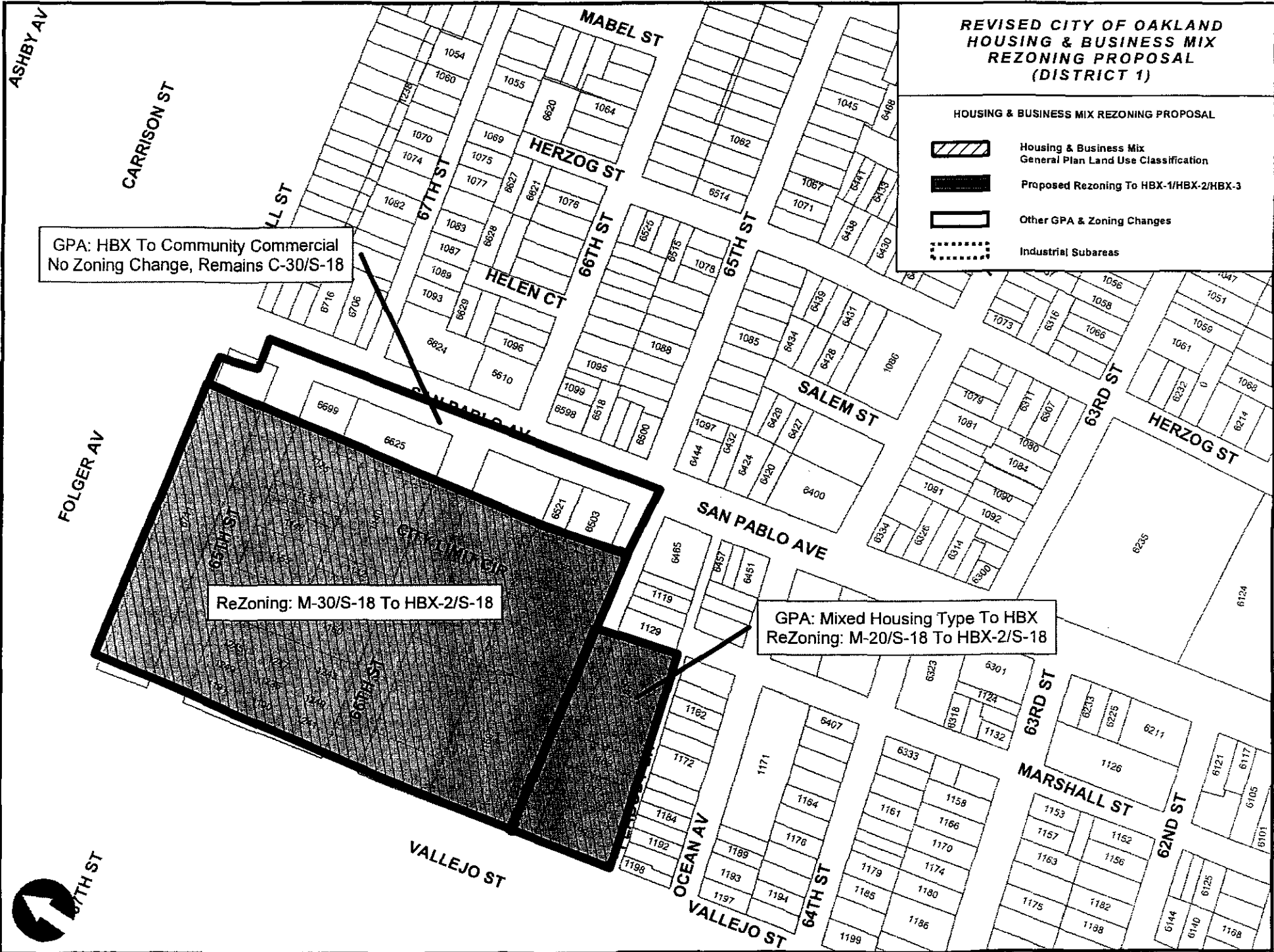
ReZoning: R-40 to HBX-2/S-18

GPA: Mixed Housing Type To HBX
ReZoning: M-20/S-18 To HBX-2/S-18

ReZoning: M-20/S-18 To HBX-2/S-18





GPA: Mixed Housing Type To HBX
ReZoning: R-40 To HBX-2/S-18





**REVISED CITY OF OAKLAND
HOUSING & BUSINESS MIX
REZONING PROPOSAL
(DISTRICT 1)**

HOUSING & BUSINESS MIX REZONING PROPOSAL

-  Housing & Business Mix
General Plan Land Use Classification
-  Proposed Rezoning To HBX-1/HBX-2/HBX-3
-  Other GPA & Zoning Changes
-  Industrial Subareas





GPA: HBX To Community Commercial
No Zoning Change, Remains C-30/S-18

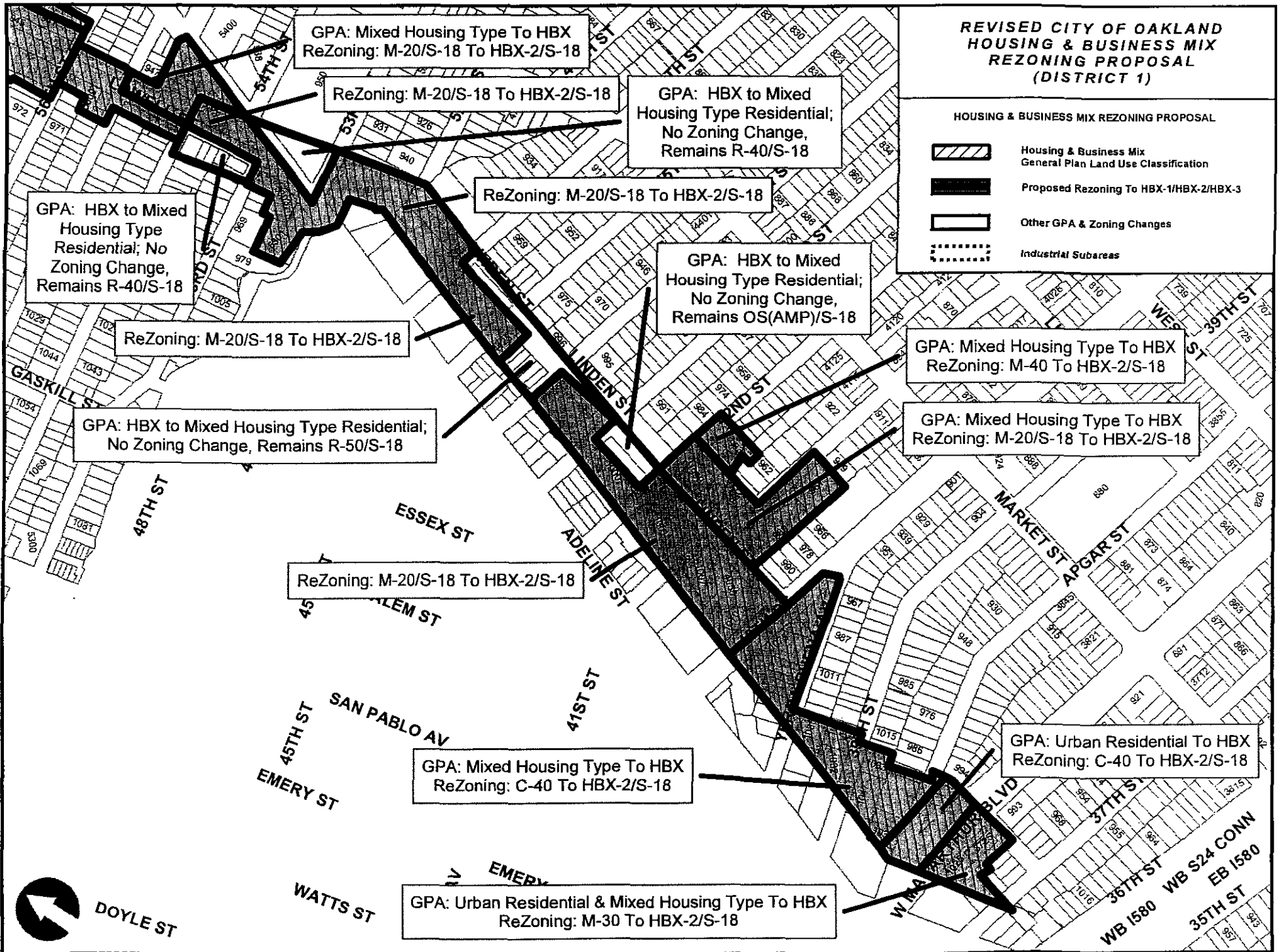
ReZoning: M-30/S-18 To HBX-2/S-18

GPA: Mixed Housing Type To HBX
ReZoning: M-20/S-18 To HBX-2/S-18

**REVISED CITY OF OAKLAND
HOUSING & BUSINESS MIX
REZONING PROPOSAL
(DISTRICT 1)**





HOUSING & BUSINESS MIX REZONING PROPOSAL

-  Housing & Business Mix General Plan Land Use Classification
-  Proposed Rezoning To HBX-1/HBX-2/HBX-3
-  Other GPA & Zoning Changes
-  Industrial Subareas



**REVISED CITY OF OAKLAND
HOUSING & BUSINESS MIX
REZONING PROPOSAL
(DISTRICT 3)**

HOUSING & BUSINESS MIX REZONING PROPOSAL

-  Housing & Business Mix
General Plan Land Use Classification
-  Proposed Rezoning To HBX-1/HBX-2/HBX-3
-  Other GPA & Zoning Changes
-  Industrial Subareas

GPA: Mixed Housing Type Residential to HBX
ReZoning: C-10 to HBX-2

ReZoning: M-30 to HBX-2

ReZoning: R-36 to HBX-2

ReZoning: R-36 to HBX-2

ReZoning: R-36 to HBX-2

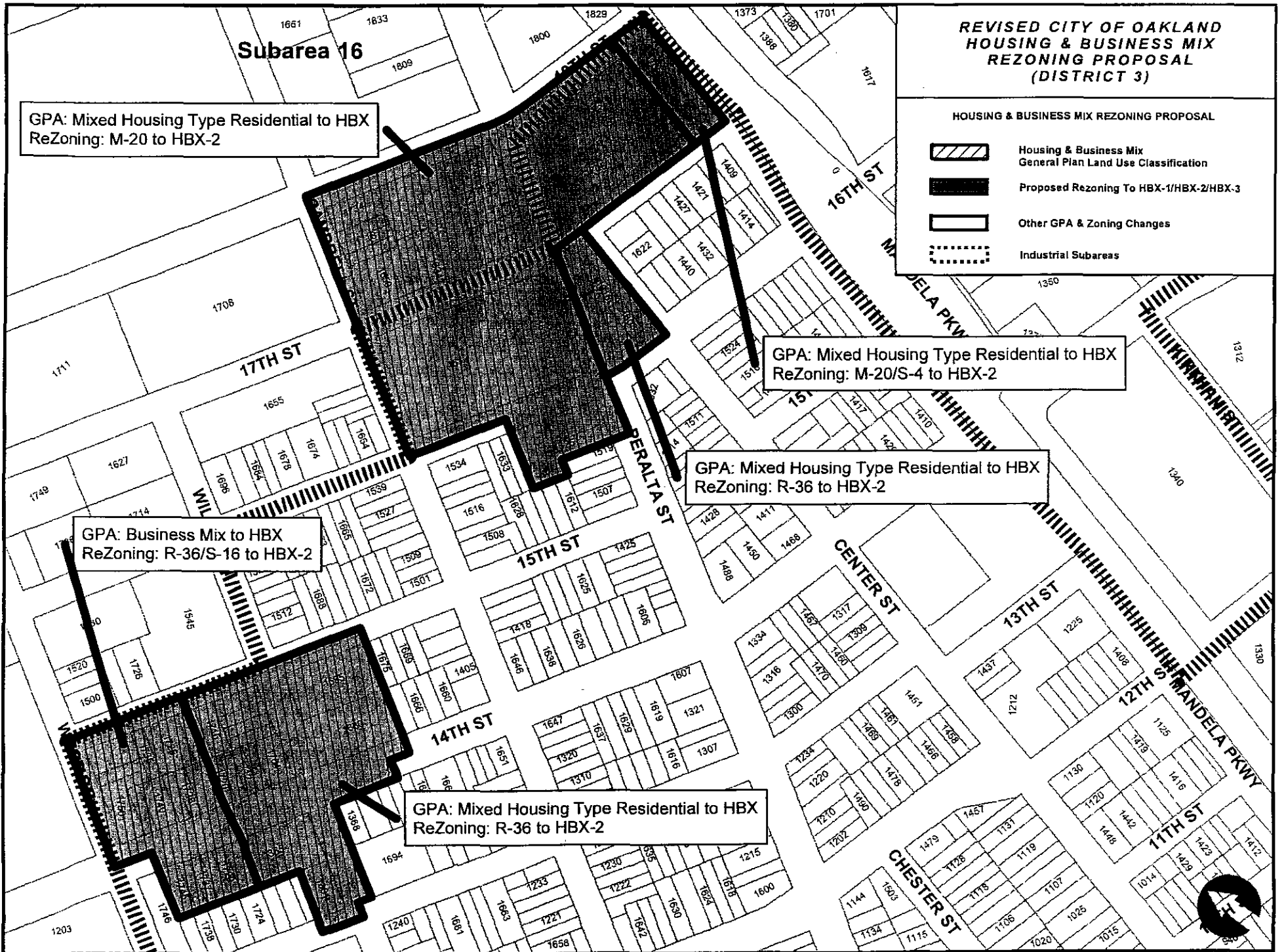
GPA: HBX to Mixed
Housing Type Residential
No Zoning Change,
Remains R-36

GPA: Mixed Housing Type Residential to HBX
ReZoning: R-36 to HBX-2

GPA: HBX to Mixed Housing Type Residential
No Zoning Change, Remains R-36





GPA: HBX to Business Mix

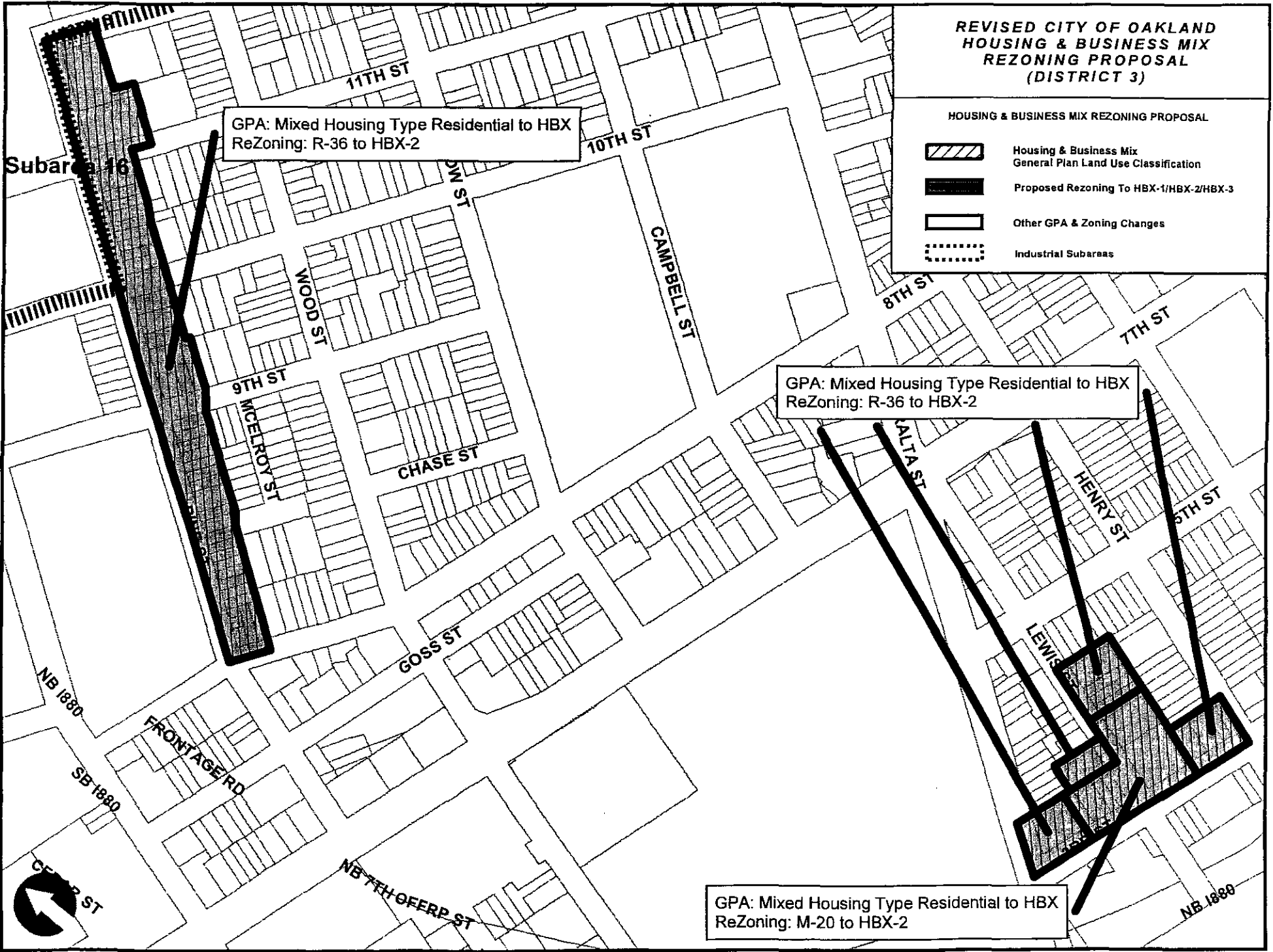
Subarea 15



**REVISED CITY OF OAKLAND
HOUSING & BUSINESS MIX
REZONING PROPOSAL
(DISTRICT 3)**

HOUSING & BUSINESS MIX REZONING PROPOSAL

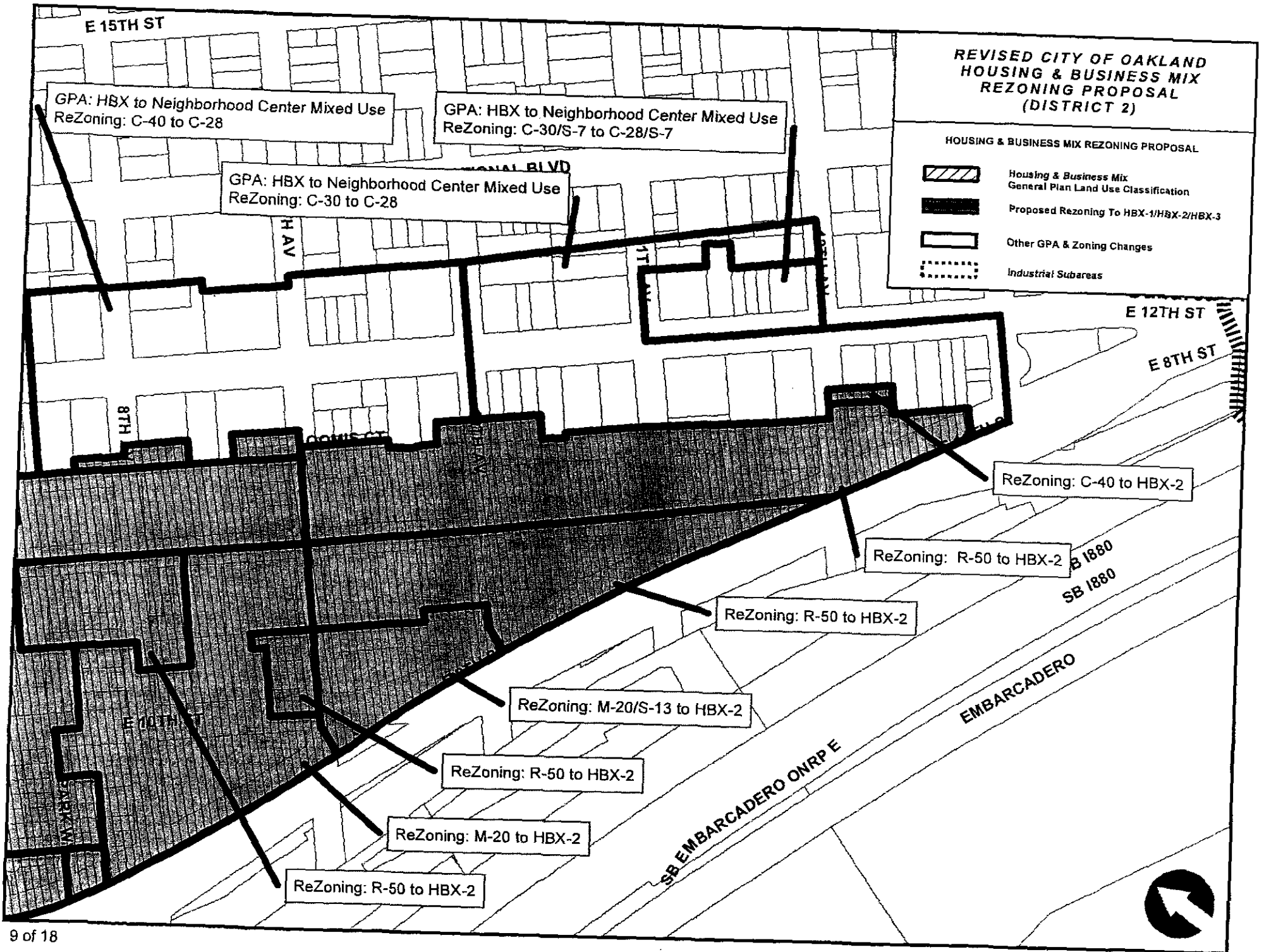
-  Housing & Business Mix
General Plan Land Use Classification
-  Proposed Rezoning To HBX-1/HBX-2/HBX-3
-  Other GPA & Zoning Changes
-  Industrial Subareas



GPA: Mixed Housing Type Residential to HBX
ReZoning: R-36 to HBX-2





GPA: Mixed Housing Type Residential to HBX
ReZoning: R-36 to HBX-2

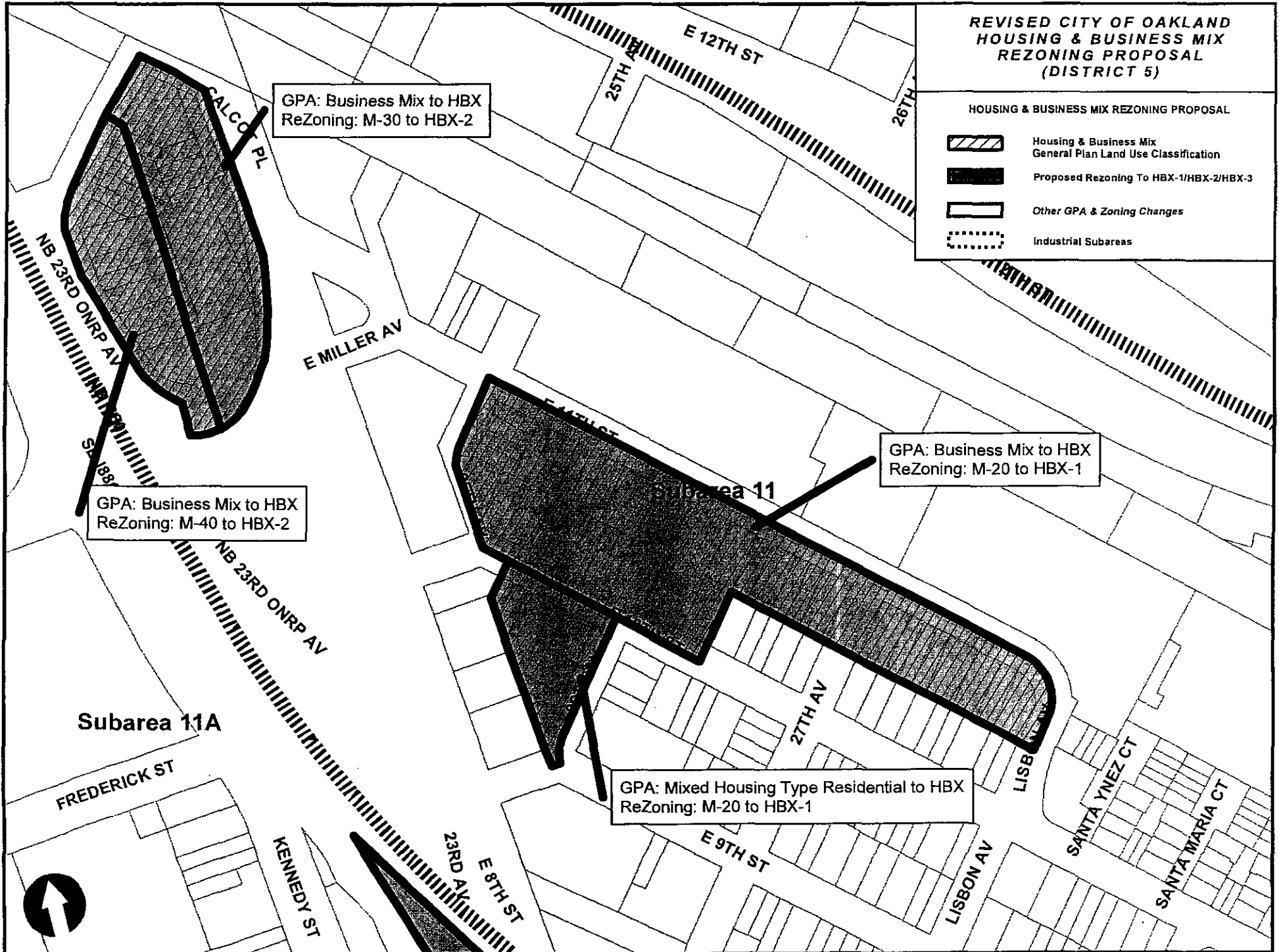
GPA: Mixed Housing Type Residential to HBX
ReZoning: M-20 to HBX-2



**REVISED CITY OF OAKLAND
HOUSING & BUSINESS MIX
REZONING PROPOSAL
(DISTRICT 5)**

HOUSING & BUSINESS MIX REZONING PROPOSAL

-  Housing & Business Mix
General Plan Land Use Classification
-  Proposed Rezoning To HBX-1/HBX-2/HBX-3
-  Other GPA & Zoning Changes
-  Industrial Subareas



GPA: Business Mix to HBX
ReZoning: M-30 to HBX-2

GPA: Business Mix to HBX
ReZoning: M-40 to HBX-2

GPA: Business Mix to HBX
ReZoning: M-20 to HBX-1





GPA: Mixed Housing Type Residential to HBX
ReZoning: M-20 to HBX-1

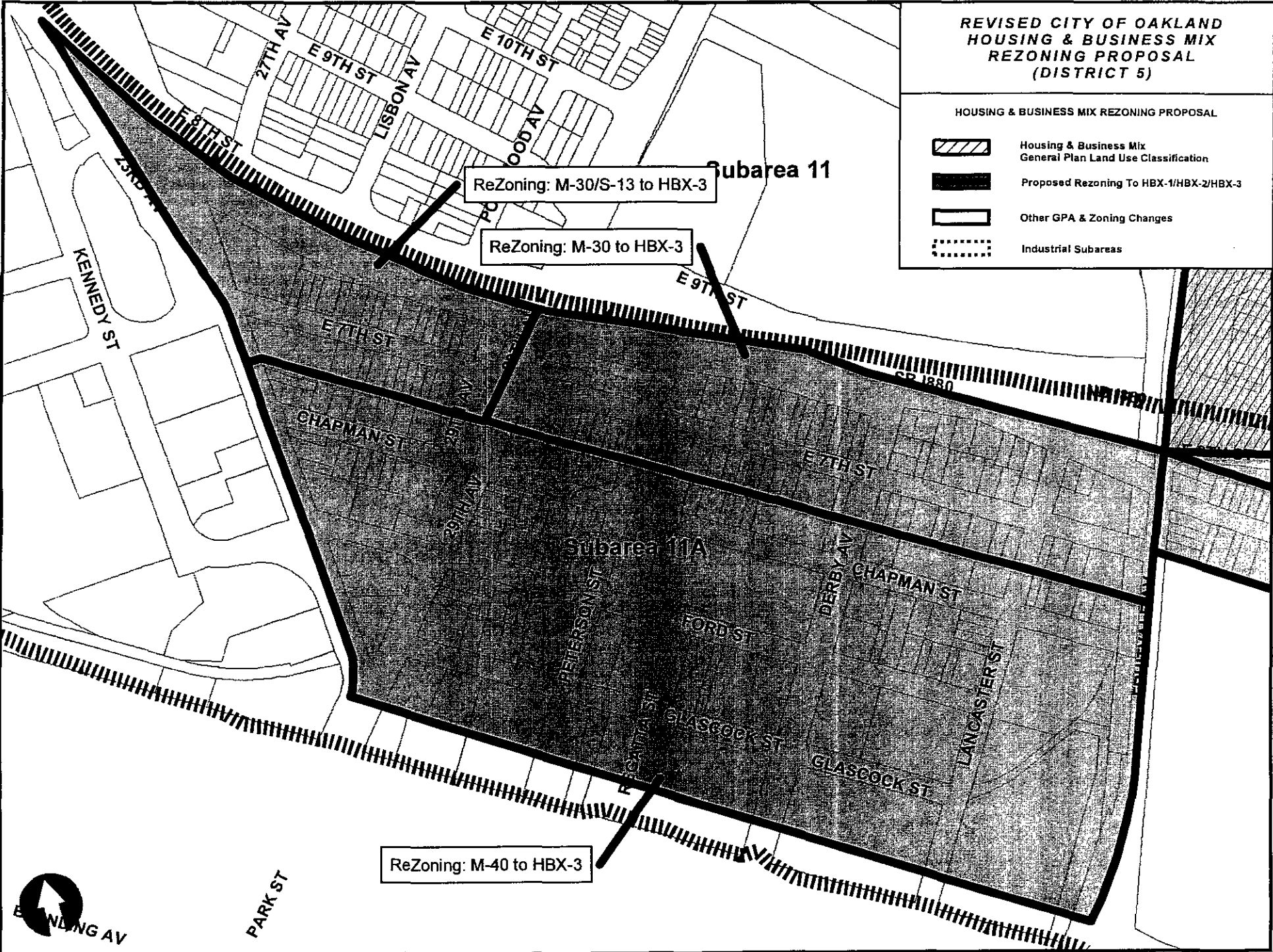
Subarea 11A



REVISED CITY OF OAKLAND
HOUSING & BUSINESS MIX
REZONING PROPOSAL
(DISTRICT 5)





HOUSING & BUSINESS MIX REZONING PROPOSAL

-  Housing & Business Mix
General Plan Land Use Classification
-  Proposed Rezoning To HBX-1/HBX-2/HBX-3
-  Other GPA & Zoning Changes
-  Industrial Subareas



**REVISED CITY OF OAKLAND
HOUSING & BUSINESS MIX
REZONING PROPOSAL
(DISTRICT 5)**

HOUSING & BUSINESS MIX REZONING PROPOSAL

-  Housing & Business Mix General Plan Land Use Classification
-  Proposed Rezoning To HBX-1/HBX-2/HBX-3
-  Other GPA & Zoning Changes
-  Industrial Subareas

GPA: Neighborhood Center Mixed Use to HBX
ReZoning: M-20/S-13 to HBX-2

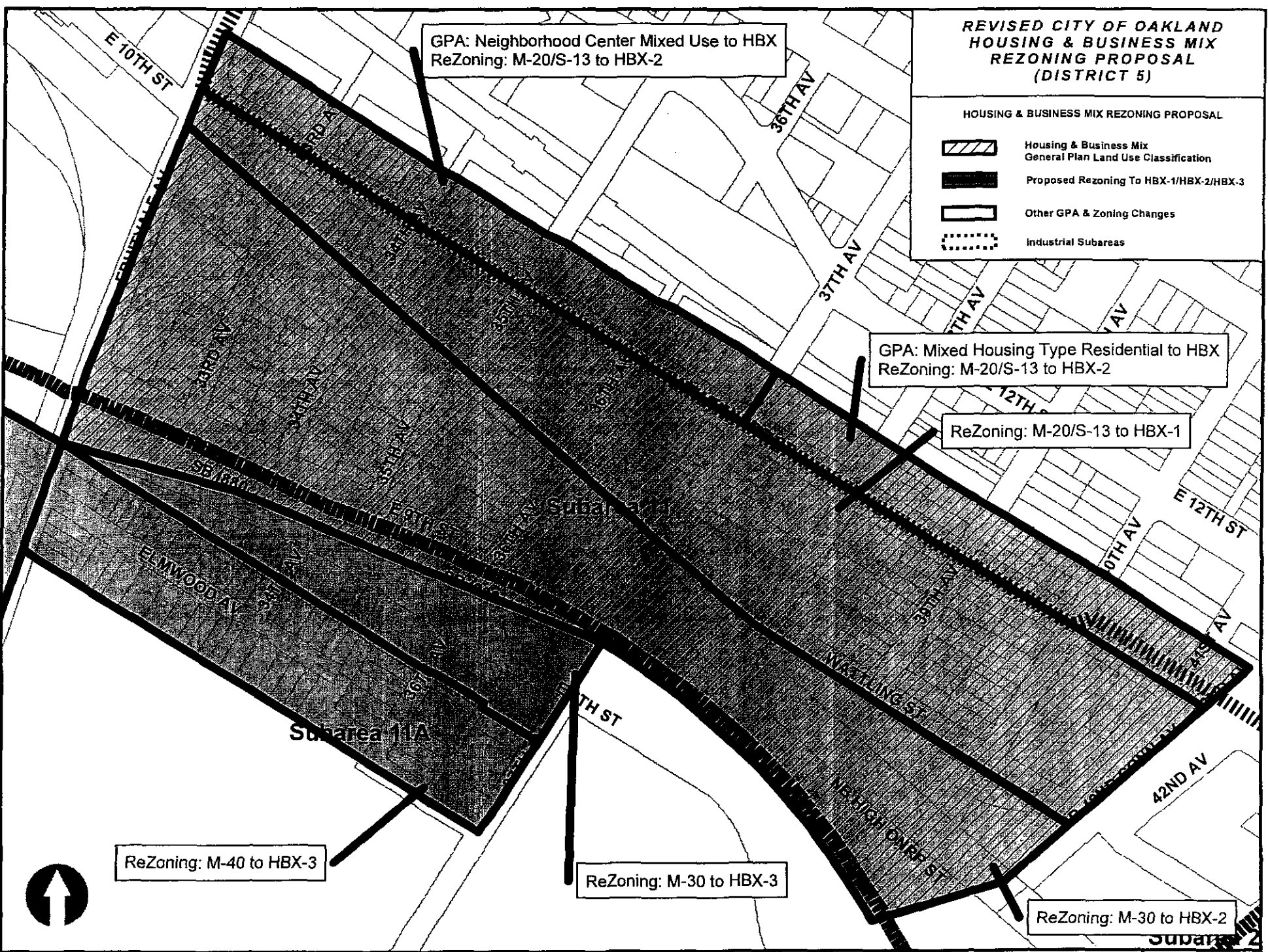
GPA: Mixed Housing Type Residential to HBX
ReZoning: M-20/S-13 to HBX-2

ReZoning: M-20/S-13 to HBX-1

ReZoning: M-40 to HBX-3





ReZoning: M-30 to HBX-3

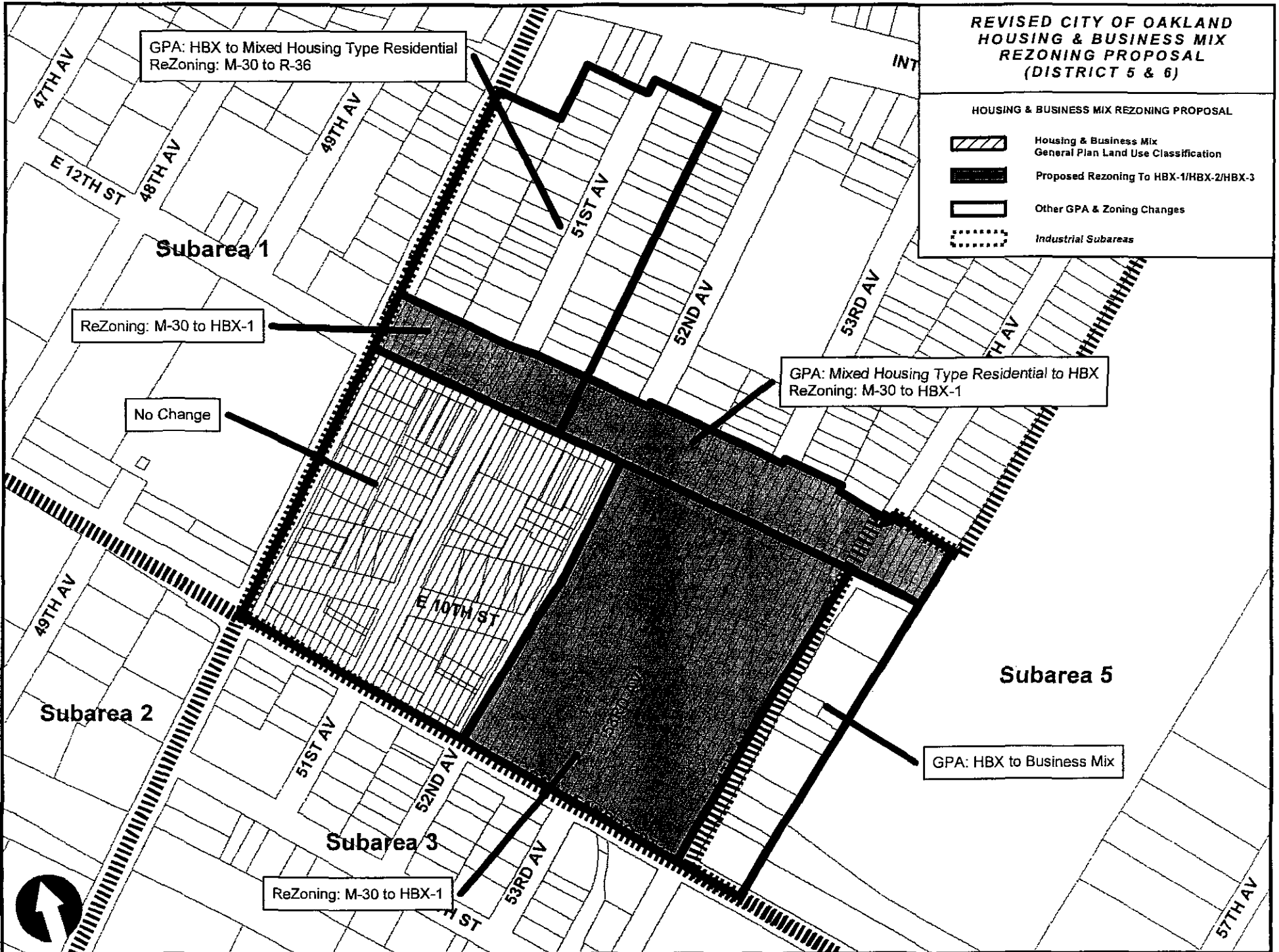
ReZoning: M-30 to HBX-2



**REVISED CITY OF OAKLAND
HOUSING & BUSINESS MIX
REZONING PROPOSAL
(DISTRICT 5 & 6)**

HOUSING & BUSINESS MIX REZONING PROPOSAL

-  Housing & Business Mix
General Plan Land Use Classification
-  Proposed Rezoning To HBX-1/HBX-2/HBX-3
-  Other GPA & Zoning Changes
-  Industrial Subareas



GPA: HBX to Mixed Housing Type Residential
ReZoning: M-30 to R-36

ReZoning: M-30 to HBX-1

No Change





GPA: Mixed Housing Type Residential to HBX
ReZoning: M-30 to HBX-1

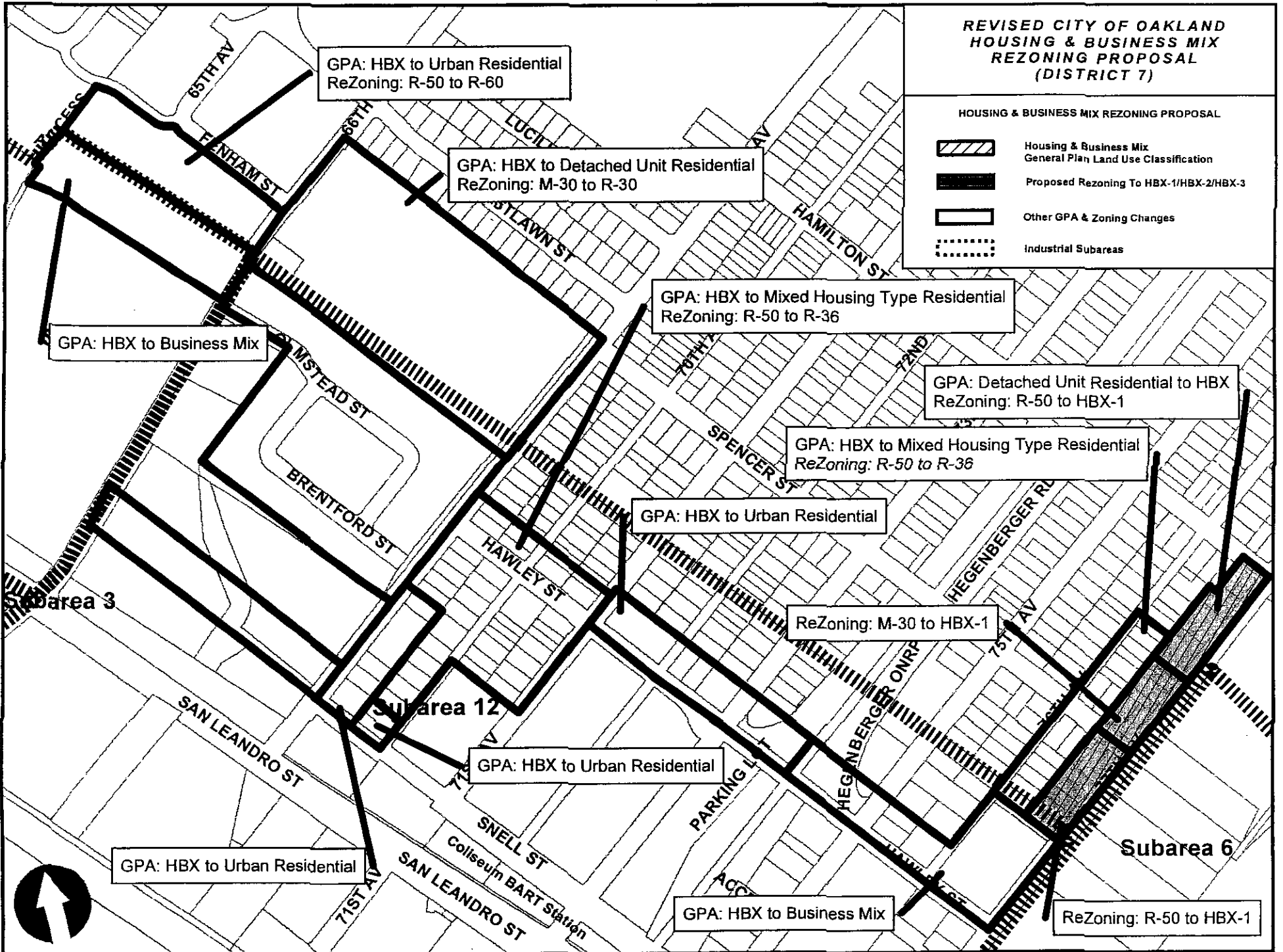
GPA: HBX to Business Mix

ReZoning: M-30 to HBX-1

**REVISED CITY OF OAKLAND
HOUSING & BUSINESS MIX
REZONING PROPOSAL
(DISTRICT 7)**





HOUSING & BUSINESS MIX REZONING PROPOSAL

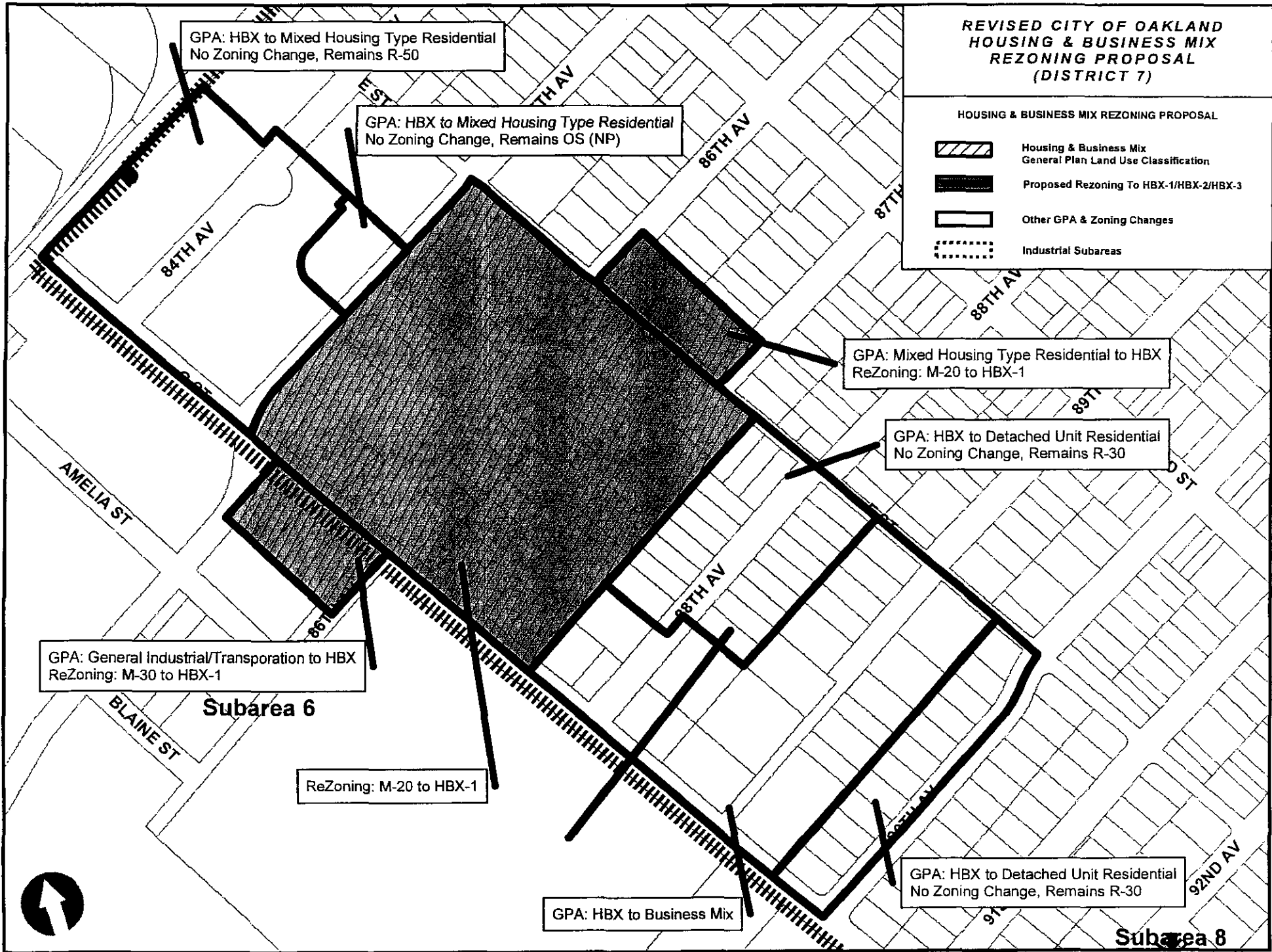
-  Housing & Business Mix General Plan Land Use Classification
-  Proposed Rezoning To HBX-1/HBX-2/HBX-3
-  Other GPA & Zoning Changes
-  Industrial Subareas



**REVISED CITY OF OAKLAND
HOUSING & BUSINESS MIX
REZONING PROPOSAL
(DISTRICT 7)**

HOUSING & BUSINESS MIX REZONING PROPOSAL

-  Housing & Business Mix General Plan Land Use Classification
-  Proposed Rezoning To HBX-1/HBX-2/HBX-3
-  Other GPA & Zoning Changes
-  Industrial Subareas



GPA: HBX to Mixed Housing Type Residential
No Zoning Change, Remains R-50

GPA: HBX to Mixed Housing Type Residential
No Zoning Change, Remains OS (NP)

GPA: Mixed Housing Type Residential to HBX
ReZoning: M-20 to HBX-1

GPA: HBX to Detached Unit Residential
No Zoning Change, Remains R-30

GPA: General Industrial/Transportation to HBX
ReZoning: M-30 to HBX-1

Subarea 6

ReZoning: M-20 to HBX-1

GPA: HBX to Business Mix





GPA: HBX to Detached Unit Residential
No Zoning Change, Remains R-30

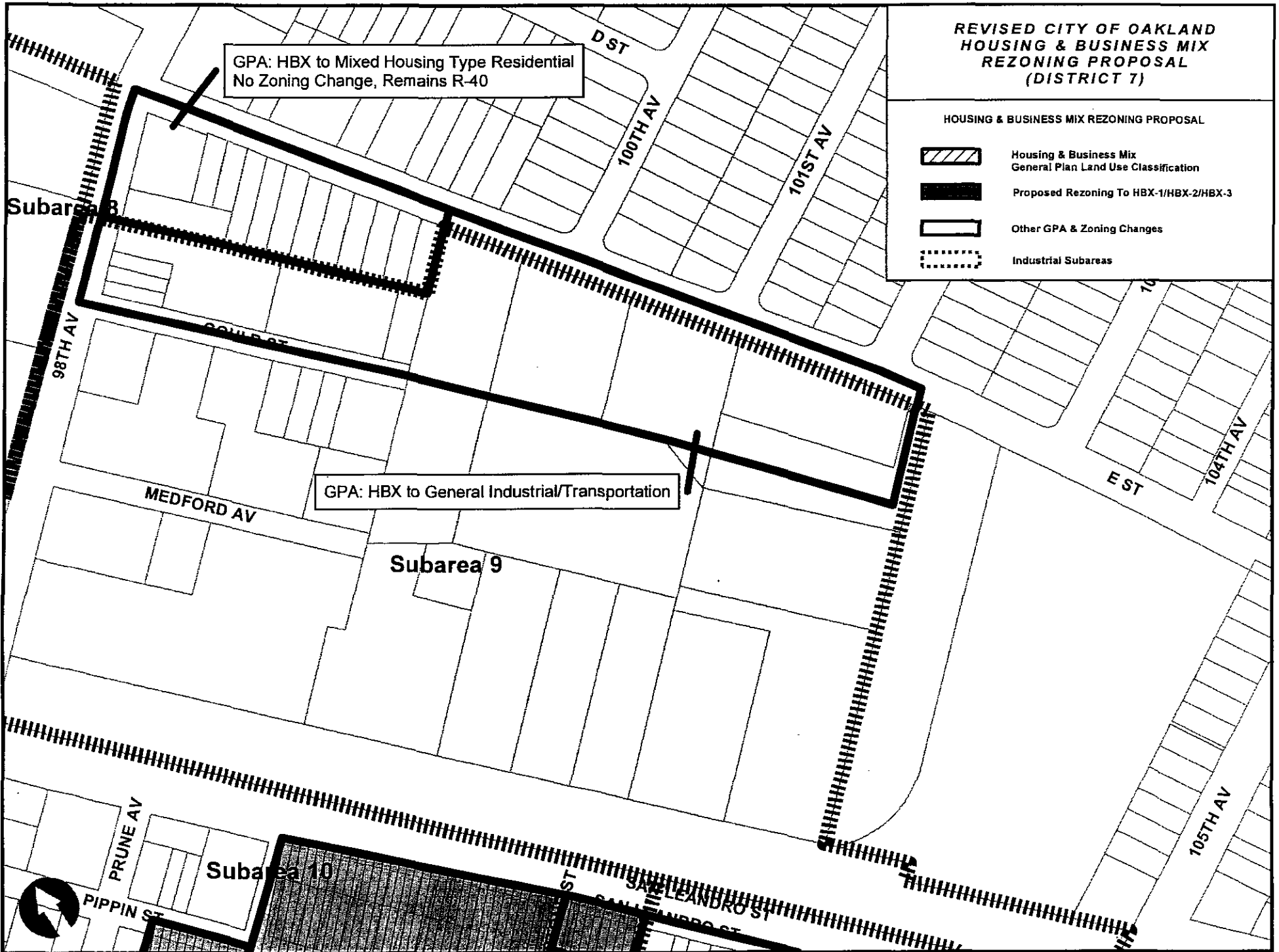
Subarea 8



**REVISED CITY OF OAKLAND
HOUSING & BUSINESS MIX
REZONING PROPOSAL
(DISTRICT 7)**

HOUSING & BUSINESS MIX REZONING PROPOSAL

-  Housing & Business Mix
General Plan Land Use Classification
-  Proposed Rezoning To HBX-1/HBX-2/HBX-3
-  Other GPA & Zoning Changes
-  Industrial Subareas







GPA: HBX to Mixed Housing Type Residential
No Zoning Change, Remains R-40

GPA: HBX to General Industrial/Transportation

REVISED CITY OF OAKLAND
HOUSING & BUSINESS MIX
REZONING PROPOSAL
(DISTRICT 7)

HOUSING & BUSINESS MIX REZONING PROPOSAL

-  Housing & Business Mix
General Plan Land Use Classification
-  Proposed Rezoning To HBX-1/HBX-2/HBX-3
-  Other GPA & Zoning Changes
-  Industrial Subareas

Subarea 7

GPA: HBX to Business Mix

ReZoning: M-30 to HBX-1

GPA: HBX to Mixed Housing Type Residential
ReZoning: R-30 to R-35

CLARA ST

S ELMHURST AV

WALTER AV

TYLER ST

NEVADA ST





OSCAR AV

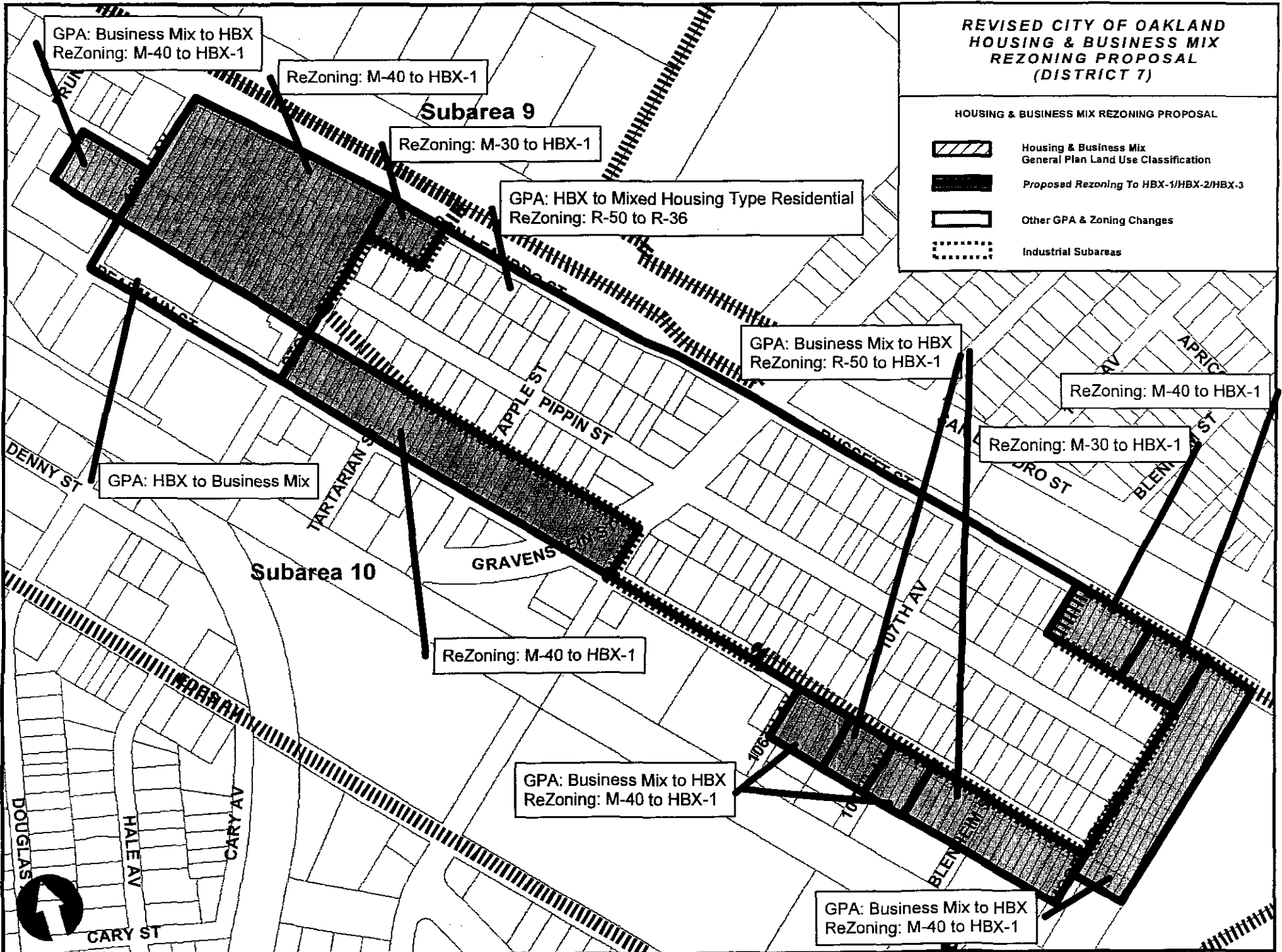
Subarea 10



**REVISED CITY OF OAKLAND
HOUSING & BUSINESS MIX
REZONING PROPOSAL
(DISTRICT 7)**

HOUSING & BUSINESS MIX REZONING PROPOSAL

-  Housing & Business Mix General Plan Land Use Classification
-  Proposed Rezoning To HBX-1/HBX-2/HBX-3
-  Other GPA & Zoning Changes
-  Industrial Subareas



2006 OCT -5 PM 3:49

REVISED—SHOWS CHANGES FROM 9/12/06
CITY COUNCIL MEETING. DELETIONS ARE IN
STRIKEOUT. ADDITIONS ARE UNDERLINED

APPROVED AS TO FORM AND LEGALITY

DRAFT

INTRODUCED BY COUNCILMEMBER _____

City Attorney

OAKLAND CITY COUNCIL

ORDINANCE No. _____ C.M.S.

~~AN ORDINANCE TO~~ 1) ADOPTING ~~PROPOSED~~ AMENDMENTS TO THE ZONING REGULATIONS THAT CREATE THREE NEW HOUSING AND BUSINESS MIX (HBX) ZONING DESIGNATIONS; 2) ADOPTING A DESIGN REVIEW GUIDELINES MANUAL ASSOCIATED WITH THE NEW HBX ZONING DESIGNATIONS; 3) AMENDING THE ZONING MAPS TO INCLUDE THE NEW HBX ZONES; 4) ~~MAKE MINOR REVISIONS AND CLARIFICATIONS TO THE GENERAL PLAN MAP TO REFINE THE HOUSING AND BUSINESS MIX GENERAL PLAN CLASSIFICATION BOUNDARIES;~~ AND 4) AMENDING THE DOCUMENT "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 in June 1999 the City adopted the Estuary Policy Plan to apply specific policies for the Estuary Planning area; and

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

WHEREAS, the document "Guidelines for Determining Project Conformity with the General Plan and Zoning Regulations" (Conformity Guidelines) was adopted by the City Council on May 6, 1998 and subsequently amended; and

WHEREAS, the Conformity Guidelines describes the procedure for deciding whether a project is consistent with the LUTE and Estuary Policy Plan and the procedure to follow when the Zoning Regulations and LUTE or Estuary conflict; and

WHEREAS, Housing and Business Mix is a land use classification in the LUTE and Residential Mixed Use is a land use classification in the Estuary Policy Plan; and

WHEREAS, there is no current zoning designation in the Zoning Regulations Planning Code that directly provides development standards or design guidelines for the Housing and Business Mix LUTE or the Residential Mixed Use Estuary Plan classifications; and

WHEREAS, the document “HBX Design Guidelines Manual” and three new zoning designations, the HBX-1, HBX-2, and HBX-3 zones, have been drafted by planning staff; and

WHEREAS, the new zones and design guidelines manual provide flexible zoning standards appropriate for areas with varied development contexts; and

WHEREAS, staff has added HBX-1 and HBX-2 designations to the zoning map to implement the Housing and Business Mix LUTE classifications; and

WHEREAS, staff has added the HBX-3 designation to the zoning map to implement the Residential Mixed Use Estuary Policy Plan land use classification; and

WHEREAS, the document “~~Guidelines for Determining Project Conformity with the General Plan and Zoning Regulations~~” 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, and January 4, 2006; and

WHEREAS, the “~~Guidelines for Determining Project Conformity with the General Plan and Zoning Regulations~~”, adopted by the City Council May 12, 1998, describes the procedure for deciding whether a project is consistent with the LUTE and Estuary Policy Plan and the procedure to follow when the Zoning Regulations and LUTE or Estuary conflict; and

WHEREAS, adoption of this ordinance will assure the consistency of the zoning, with the LUTE and Estuary Policy Plan in areas designated either in the Housing and Business Mix LUTE or Residential Mixed Use Estuary Policy Plan land use classification; and

WHEREAS, after a duly noticed public hearing, the City Planning Commission voted unanimously on April 4, 2006 to recommend to the City Council it adopt the proposed zoning Regulations designations, “HBX Design Guidelines Manual,” amendments to the Conformity “Guidelines for Determining Project Conformity with the General Plan and Zoning Regulations”; and amendments to the LUTE, Estuary Policy Plan, and zoning maps; and

WHEREAS, an associated resolution containing amendments to the LUTE land use diagram, a map in the General Plan’s Land Use and Transportation Element, is being considered along with this ordinance;

WHEREAS it has been the standard policy and practice for the Planning Commission to have the authority to amend planning related guidelines; and

WHEREAS, 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). 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); the Oakland Estuary Policy Plan Environmental Impact Report, adopted 1998 (Estuary Plan EIR); the West Oakland Redevelopment Plan Environmental Impact Report, adopted 2003; and the Housing Element Update Initial Study/Mitigated Negative Declaration, adopted 2003. There are no peculiar aspects to this project that have not already been considered in these environmental documents. Furthermore, the proposed map changes are exempt under CEQA Guidelines section 15061(b)(3), known as the "General Rule", which states a project is exempt from CEQA if there is no possibility that the activity in question will have a significant effect on the environment. ~~the~~ provisions of the California Environmental Quality Act (CEQA) have been satisfied; now, therefore

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

Section 1. The Oakland Zoning Regulations Planning Code ~~is~~are hereby amended to add a new Chapter 17.65, Housing and Business Mix Zones Regulations, and to make other related changes to the Oakland Zoning Regulations Planning Code, as detailed in Attachment ~~in~~-A, hereby incorporated by reference.

Section 2. The HBX Design Guidelines Manual is hereby adopted as set forth in Attachment B.

Section 3. The designation and location of zones and zone boundaries on the City of Oakland zoning maps are hereby amended as set forth in Attachment C.

~~**Section 4.** The designation and location of land use classifications in the Land Use and Transportation Plan Diagram, a map in the General Plan's Land Use and Transportation Element, are hereby amended as set forth in Attachment C.~~

~~**Section 5.** The Conformity document "Guidelines for Determining Project Conformity with the General Plan and Zoning Regulations" is hereby amended as set forth in Attachment D.~~

Section 5. The Planning Commission shall have the authority to amend the "HBX Design Guidelines Manual" and the Conformity Guidelines.

Section 6. The Development Director is hereby directed to execute and cause to be recorded in the Recorder's Office of the County of Alameda a notice of this rezoning ~~and amendments to the City of Oakland General Plan~~ and zoning text amendment.

Section 7. This Ordinance complies with the California Environmental Quality Act.

Section 8. This Ordinance shall be effective upon adoption, subject to the provisions of Section 216 of the Charter of the City of Oakland, but shall not apply to construction-related permits already issued and not yet expired or to zoning applications approved by the City and not yet expired for which construction-related permits have not yet been issued. Zoning applications

deemed complete by the City but which do not comply with the provisions of this Ordinance, may only be permitted upon the granting of a conditional use permit pursuant to the conditional use permit procedure in Chapter 17.134 of the Municipal Code.

Section 9. If any provisions of this Ordinance or application thereof to any person or circumstances are held invalid, the remainder of this Ordinance and the application of provisions to other persons or circumstances shall not be affected thereby.

IN COUNCIL, OAKLAND, CALIFORNIA, _____, 20_____

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
Council of the City of Oakland, California

Attachment A of Ordinance
Zoning Text Changes
(Revised since September 12, 2006 CED Meeting)

(Deleted Text is shown as ~~strikeout~~. New Text is shown as underlined. Text added to or deleted from the code since the September 12, 2006 CED Meeting in highlight)

Chapter 17.65
HOUSING AND BUSINESS MIX (HBX) COMMERCIAL ZONES REGULATIONS

- 17.65.010 Title, purpose, and applicability.
- 17.65.020 Required design review process.
- 17.65.030 Permitted and conditionally permitted activities.
- 17.65.040 Permitted and conditionally permitted facilities.
- 17.65.050 Special regulations for self storage facilities.
- 17.65.060 Minimum lot area width and frontage.
- 17.65.070 Maximum density.
- 17.65.080 Maximum floor area ratio.
- 17.65.090 Maximum density and floor-area ratio for mixed use projects.
- 17.65.100 Maximum height.
- 17.65.110 Different maximum floor area ratio and height regulations in special situations.
- 17.65.120 Minimum yards.
- 17.65.130 Minimum usable open space.
- 17.65.140 Landscaping, paving, and buffering.
- 17.65.150 Outdoor storage.
- 17.65.160 Special Regulations for HBX Work/Live Facility Type.
- 17.65.170 Special Regulations for HBX Live/Work Facility Type.
- 17.65.180 Special regulations for mini-lot and planned unit developments.
- 17.65.190 Other zoning provisions.

17.65.010 Title, purpose, and applicability.

The provisions of this chapter shall be known as the Housing and Business Mix Commercial Zones Regulations. This chapter establishes land use regulations for the HBX-1, HBX-2 and HBX-3 zones. The purposes of the Housing and Business Mix zones are to:

- Allow for mixed use districts that recognize both residential and business activities.
- Establish development standards that allow residential and business activities to compatibly co-exist.
- Provide a transition between industrial areas and residential neighborhoods.
- Encourage development that respects environmental quality and historic patterns of development.
- Foster a variety of small, entrepreneurial, and flexible home-based businesses.

Housing and Business Mix 1 (HBX-1) Zone. The HBX-1 zone is intended to provide development standards that provide for the compatible coexistence of industrial and heavy commercial activities and medium density residential development. This zone recognizes the equal importance of housing and business.

Housing and Business Mix 2 (HBX-2) Zone. The HBX-2 zone is intended to provide development standards for areas that have a mix of industrial, heavy-certain commercial and

medium to high density residential development. This zone recognizes the equal importance of housing and business.

Housing and Business Mix 3 (HBX-3) Zone. The HBX-3 zone is intended to provide development standards for areas that have a mix of industrial, heavy commercial and higher density residential development. This zone is intended to promote housing with a strong presence of commercial and industrial activities.

17.65.020 Required design review process.

A. Conformance to the “HBX Design Guideline Manual” is required for any change to the exterior of a building that requires a building permit in the HBX-1, HBX-2, and HBX-3 zones.

B. Where there is a conflict between the design review criteria contained in Section 17.136.070 and the design objectives contained in the “HBX Design Guideline Manual” the design objectives in the “HBX Design Guideline Manual” shall prevail.

C. Approval pursuant to the design review procedure (see Chapter 17.136) is required for:

1. An over eight (8) foot increase in the height of a building, not including allowed projections above the height limits listed in 17.108.030;
2. Any new construction of a principal building facility;
3. The creation of any HBX work/live unit or HBX live/work unit (see Sections 17.65.160 and 17.65.170). This requirement shall apply for both 1) conversions of existing facilities to contain either of these units and 2) the new construction of buildings that contain either of these units;
4. A 20 percent or 10,000 square foot increase, whichever is less, in the footprint or square footage of a building;

C. No Signs or Micro Telecommunications Facilities shall be constructed or established, or altered or painted a new color in such a manner as to affect exterior appearance unless:

1. Plans for such a proposal have been approved pursuant to the design review procedure in Chapter 17.136;
2. Plans for any Micro Telecommunications Facility have been approved pursuant to the telecommunications regulations in Chapter 17.128; and
3. Plans for any Sign have been approved pursuant to the sign regulations in Chapter 17.104. However, design review approval is not required for Realty Signs, Development Signs, holiday decorations, and displays behind a display window; and it is not required, except as otherwise provided in Subsection 17.114.110C, for mere changes of copy, including cutouts, on signs the customary use of which involves periodic changes of copy.

17.65.030 Permitted and conditionally permitted activities.

The following table lists the permitted, conditionally permitted, and prohibited activities in the HBX-1, HBX-2, and HBX-3 zones. The descriptions of these activities are contained in Chapter 17.10. A legally constructed facility shall be allowed to contain or be converted to contain any activities listed as permitted in the table below if they meet all applicable regulations.

“P” designates permitted activities in the corresponding zone.

“C” designates activities that are permitted only upon the granting of a conditional use permit (see Chapter 17.134) in the corresponding zone.

“L” designates activities subject to certain limitations listed at the bottom of the table.

“--” designates uses that are prohibited in the corresponding zone.

Activity	Regulations			Additional Regulations
	HBX-1	HBX-2	HBX-3	
<i>Residential Activities</i>				

Activity	Regulations			Additional Regulations
	HBX-1	HBX-2	HBX-3	
Permanent Residential	P	P	P	
Residential Care occupying a One-Family Dwelling Residential Facility	P	P	P	17.102.212
Residential Care not occupying a One-Family Dwelling Residential Facility	C	C	C	17.102.212
Service-Enriched Permanent Housing	C	C	C	17.102.212
Transitional Housing	C	C	C	17.102.212
Emergency Shelter	C	C	C	17.102.212
Semi-Transient Residential	C	C	C	17.102.212
Civic Activities				
Essential Service	C	C	C	
Limited Child-Care	P	P	P	
Community Assembly	P(L1)	P(L1)	P(L1)	
Community Education	C	C	C	
Nonassembly Cultural	P(L2)	P(L2)	P(L2)	
Administrative	P(L2)	P(L2)	P(L2)	
Health Care	C	C	C	
Special Health Care	C	C	C	17.102.410
Utility and Vehicular	C	C	C	
Extensive Impact	C	C	C	
Telecommunication	C	C	C	17.128
Commercial Activities				
General Food Sales	P(L3)	P(L3)	P(L3)	
Convenience Market	C	C	C	17.102.210
Fast-Food Restaurant	--	--	--	
Alcoholic Beverage Sales	C	C	C	17.102.210
Convenience Sales and Service	P	P	P	
Mechanical or Electronic Games	C	C	C	17.102.210
Medical Service	P(L2)	P(L2)	P(L2)	
General Retail Sales	P	P	P	
Large-Scale Combined Retail and Grocery Sales	--	--	--	
General Personal Service	P	P	P	
Consultative and Financial Service	P(L2)	P(L2)	P(L2)	
Check Cashier and Check Cashing	--	--	--	
Consumer Laundry and Repair Service	P	P	P	
Group Assembly	C	C	C	
Administrative	P(L2)	P(L2)	P(L2)	
Business and Communication Service	P	P	P	
Retail Business Supply	P	P	P	
Research Service	P(L2)(L4)	P(L2)(L4)	P(L2)(L4)	
General Wholesale Sales	P(L2)	P(L2)	P(L2)	
Transient Habitation	--	--	--	17.102.370
Construction Sales and Service	P(L5)	P(L5)	P(L5)	
Automotive Sales, Rental, and Delivery	--	--	--	
Automotive Servicing	C(L6)	--	--	
Automotive Repair and Cleaning	C(L6)	--	--	
Automotive Fee Parking	--	--	--	
Transport and Warehousing	P(L7)	P(L7)	P(L7)	
Animal Care	C(L8)	C(L8)	C(L8)	
Undertaking Service	--	--	--	
Scrap Operation	--	--	--	17.102.210
Manufacturing activities				
Custom Manufacturing	P(L2)	P(L2)	P(L2)	17.120
Light Manufacturing	P(L2)(L4)	P(L2)(L4)	P(L2)(L4)	17.120
General Manufacturing	--	--	--	

Activity	Regulations			Additional Regulations
	HBX-1	HBX-2	HBX-3	
Heavy Manufacturing	--	--	--	
Small Scale Transfer and Storage	--	--	--	
Hazardous Waste Management	--	--	--	
Industrial Transfer/Storage Hazardous Waste Management	--	--	--	
Residuals Repositories Hazardous Waste Management	--	--	--	
<u>Agricultural and Extractive activities</u>				
Plant Nursery	C	C	C	
Crop and Animal raising	--	--	--	
Mining and Quarrying Extractive	--	--	--	
<u>Accessory off-street parking serving prohibited activities</u>	C	C	C	17.102.110

Limitations:

- L1- The total floor area devoted to these activities by a single establishment shall only exceed ten thousand (10,000) square feet upon the granting of a conditional use permit (see Chapter 17.134).
- L2- The total floor area devoted to these activities by a single establishment shall only exceed twenty-five thousand (25,000) square feet upon the granting of a conditional use permit (see Chapter 17.134).
- L3- The total floor area devoted to a grocery store shall only exceed twenty-five thousand (25,000) square feet upon the granting of a conditional use permit (see Chapter 17.134). The total floor area devoted to a restaurant shall only exceed three thousand (3,000) square feet upon the granting of a conditional use permit (see Chapter 17.134).
- L4- Not including accessory activities, this activity shall take place entirely within an enclosed building. Other outdoor activities shall only be permitted upon the granting of a conditional use permit (see Chapter 17.134).
- L5- This activity shall be only permitted upon the granting of a conditional use permit (see Chapter 17.134) if it is the principal activity on a lot that is 25,000 square feet or larger or covers 25,000 square feet or more of lot area.
- L6- A nonconforming Automotive Servicing or Automotive Repair and Cleaning Commercial Activity in the HBX-1 zone may be extended, and the facilities accommodating or serving such activity may be altered or otherwise changed upon the granting of a conditional use permit (see Chapter 17.134) and approval pursuant to the design review procedure (see Chapter 17.136). This conditional use permit and design review approval may be granted only upon determination that the proposal is adequately buffered from the street and surrounding residential activities through landscaping and fencing. See 17.114 for general regulations regarding nonconforming uses.
~~This activity shall take place entirely within an enclosed building and not involve open storage of goods or materials. Approval pursuant to the design review procedure (see Chapter 17.136) is required. A conditional use permit and design review approval may be granted only upon determination that the proposal is adequately buffered from the street and surrounding residential activities through landscaping and fencing.~~
- L7- Warehousing is permitted if the total floor area by a single establishment does not exceed twenty-five thousand (25,000) square feet. Floor areas over twenty-five thousand (25,000) square feet are only permitted upon the granting of a conditional use permit (see Chapter 17.134). Outdoor storage as a principal activity is only permitted upon the granting of a conditional use permit (see Chapter 17.134). Container storage, oil and gas storage, freight terminals, corporation yards, truck terminals, and truck services as primary activities are not permitted. Also, see Section 17.65.050 for special regulations regarding self storage establishments.
- L8- Dog or cat kennels are not permitted.

17.65.040 Permitted and conditionally permitted facilities.

The following table lists special regulations relating to certain facilities. The descriptions of these facilities are contained in Chapter 17.10.

“P” indicates that the facility is permitted in the corresponding zone.

“C” indicates that the facility is only permitted upon the granting of a conditional use permit (see Chapter 17.134) in the corresponding zone.

“--” designates uses that are prohibited in the corresponding zone.

Facility Types	Zone	
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	HBX-1	HBX-2	HBX-3	Additional Regulations
<u>Residential Facilities</u>				
One-Family Dwellings	P	P	P	
One-Family Dwelling with Secondary Unit	P	P	P	17.102.360
Two-Family Dwelling	P	P	P	
Multifamily Dwelling	P	P	P	
Rooming House	P	P	P	
Mobile Home	--	--	--	
HBX Live/Work Facility	P	P	P	17.65.170
<u>Nonresidential Facilities</u>				
Enclosed Nonresidential	P	P	P	
Open Nonresidential	C	C	C	
Sidewalk Café	P	P	P	17.102.335
Drive-In Nonresidential	P	P	P	
Drive-Through Nonresidential	C	C	C	17.102.290
Shopping Center Facility	--	--	--	
HBX Work/Live Facility	P	P	P	17.65.160
<u>Telecommunications Facilities</u>				
Micro Telecommunications	P	P	P	17.128
Mini Telecommunications	P	P	P	17.128
Macro Telecommunications	C	C	C	17.128
Monopole Telecommunications	C	C	C	17.128
Tower Telecommunications	--	--	--	
<u>Sign Facilities</u>				
Residential Signs	P	P	P	
Special Signs	P	P	P	
Development Signs	P	P	P	
Realty Signs	P	P	P	
Civic Signs	P	P	P	
Business Signs	P	P	P	
Advertising Signs	--	--	--	

17.65.050 Special regulations for self storage establishments.

A. For the purposes of this Chapter, a "self storage establishment" means an establishment that provides storage in small individual spaces that are exclusively and directly accessible to a specific tenant, offered on a monthly or other limited basis, and available to the general public. Generally, the individual storage spaces are 400 square feet or less.

B. No more than twenty percent of the total floor area on a lot shall be occupied by self storage establishments.

C. No project that includes a self storage establishment shall have any floor area devoted to self storage within 20 feet of the building frontage.

D. Projects that include self storage establishments shall have a minimum fifty (50) percent of lot frontage occupied by Convenience Sales and Service, General Food Sales, General Retail Sales, and/or General Personal Service Commercial Activities on the ground floor. These ground floor activities shall not be directly associated with the self storage establishment at the site.

17.65.060 Minimum lot area width and frontage.

The following table contains the minimum lot area, width, and frontage requirements for the zones in this chapter.

Standard	Zone		
	HBX-1	HBX-2	HBX-3
Minimum lot area	4,000 sf	4,000 sf	4,000 sf
Minimum lot width	35 ft	35 ft	35 ft

Standard	Zone		
	HBX-1	HBX-2	HBX-3
Minimum lot frontage	35 ft	35ft	35 ft

Note:

See Sections 17.106.010 and 17.106.020 for exceptions to lot area, width and street frontage regulations. Lots that do not meet the standards described above may be developed if they meet the requirements described in Subsection 17.106.010A and all other applicable requirements.

17.65.070 Maximum density.

The following table contains the maximum number of residential units allowed per lot for the zones in this chapter.

Zone	HBX-1	HBX-2	HBX-3
1,000 sf of lot area per unit	930 sf of lot area per unit	730 sf of lot area per unit	

Notes:

1. See 1) Chapter 102,360 for regulations regarding secondary units; 2) Chapter 17.107 for affordable housing density incentives; and 3) Section 17.106.060 for increased density for senior housing.
2. New construction on a vacant lot that is greater than 5,000 square feet shall only result in a total of one unit on the lot upon the granting of a conditional use permit (see 17.134) in the HBX-2 and HBX-3 zones. This requirement does not apply to the expansion of the floor area or other alteration of an existing Single Family Dwelling.
3. See Section 17.65.090 for how to calculate density in mixed use projects.

17.65.080 Maximum floor area ratio.

A. The following table contains the maximum floor area ratios (FARs) for all structures for the zones in this chapter:

Standard	Zone		
	HBX-1	HBX-2	HBX-3
When lot is abutting street right of way less than 80 ft wide			
Maximum FAR	1.0	2.6	2.6
When lot is abutting street right of way 80 ft wide or more			
Maximum FAR	1.0	3.4	3.4

Notes:

1. Under no circumstances shall a project exceed these FARs for all structures or the nonresidential FARs listed in subsection B.
2. See Section 17.65.110 for situations when exceeding the maximum FAR may be permitted.
3. See Section 17.65.090 for how to calculate FAR in mixed use projects.

B. The following table contains the maximum floor area ratios (FARs) for nonresidential facilities for the zones in this chapter.

Standard	Zone		
	HBX-1	HBX-2	HBX-3
Nonresidential FAR	1.0	3.0	1.0

Notes:

1. Under no circumstances shall a project exceed the nonresidential FAR listed in this table or the FAR for all structures in subsection A.
2. See Section 17.65.090 for how to calculate FAR in mixed use projects.

17.65.090 Maximum density and floor area ratio for mixed use projects.

A. This section shall only apply to the following two types of mixed use projects:

1. Projects that have at least twenty (20) percent of its total floor area devoted to nonresidential facilities; or

2. Projects that:

- Are on lots that are fifty (50) feet wide or less; and
- Have a minimum fifty (50) percent of lot frontage occupied by ground floor

Convenience Sales and Service, General Food Sales, General Retail Sales, and/or General Personal Service Commercial Activities. This commercial floor area must be at least 20 feet deep measured from the building frontage and be within an enclosed building. Projects on through lots require this minimum fifty (50) percent on only the longest lot frontage to qualify as a mixed use project for this section.

B. For projects described in subsection A, the maximum number of units permitted on a lot shall not be affected by the nonresidential floor area provided on the same lot. Conversely, for these projects, the maximum floor area allowed on a lot shall not be affected by the number of living units provided on the same lot. For projects described in subsection A, this subsection supercedes the requirements in Section 17.106.030.

C. Section 17.106.030 describes how to calculate density and floor area ratio for mixed use projects not included in subsection A.

17.65.100 Maximum height.

The following table contains the maximum heights for the zones in this chapter.

<u>Standard</u>	<u>Zone</u>		
	<u>HBX-1</u>	<u>HBX-2</u>	<u>HBX-3</u>
<u>Maximum height</u>	<u>30 ft</u>	<u>45 ft when the lot abuts a street right of way that is less than 80 ft wide; 55 feet when the lot abuts a street right of way that is 80 ft wide or more</u>	<u>55 ft</u>

Notes:

1. Buildings shall have a 30 foot maximum height at the setback line associated with any rear or interior side lot line that abut a lot in the R-1 through R-50 zones. This maximum height shall increase one foot for every foot of distance from this setback line. Also, see Section 17.108.030 for allowed projections above height limits and Section 17.108.020 for increased height limits for civic buildings.
2. See Section 17.65.110 for situations when exceeding these maximum heights may be permitted.

17.65.110 Different maximum floor area ratio and height regulations in special situations.

A. Structures in the following locations may be constructed to a maximum height of 85 feet:

1. Anywhere on a lot that both a) abuts a street right of way that is 80 feet wide or more and b) is 25,000 square feet or more; or

2. On lots adjacent to, or directly across the street from, a freeway right of way. On these lots, only the 125 feet of the lot closest to the freeway are eligible for the 85 foot maximum height.

B. For lots eligible for additional height under location 2. in subsection A, above, any floor area above the generally prescribed maximum height listed in Section 17.65.100 shall not be counted towards the maximum floor area ratio for all structures listed in Subsection 17.65.080A. However, any nonresidential floor area shall be counted towards the maximum nonresidential floor area ratio listed in Subsection 17.65.080B.

C. Any structure greater than the maximum FAR and height listed in Section 17.65.080 and Section 17.65.100, respectively, is permitted only upon approval pursuant to the design review procedure (see Chapter 17.136) and in conformance to the "Design Guidelines for the HBX zones" as a whole. In particular, the project shall conform to Guideline 4.6 of that document.

17.65.120 Minimum yards and courts.

A. Minimum yards shall be consistent with the "Design Guidelines for the HBX zones" as adopted by the City Council.

B. A minimum ten foot rear yard depth is required when a rear lot line abuts any portion of a lot in a residential zone. Also, see Section 17.108.110 for reduced required rear yard depth next to an alley.

C. See Section 17.108.080 for the required interior side yard width on a lot containing two or more living units and opposite a legally required living room window.

D. When the rear yard of a reversed corner lot abuts a key lot that is in a residential zone, the required street side yard width of the reversed corner lot is one-half of the minimum front yard depth required on the key lot (see illustration 1-12a).

E. Courts. On each lot containing a residential facility, courts shall be provided when and as required by Section 17.108.120.

17.65.130 Minimum usable open space.

The following table contains the minimum usable open space requirements per dwelling unit for the zones in this chapter.

<u>Zone</u>		
<u>HBX-1</u>	<u>HBX-2</u>	<u>HBX-3</u>
<u>200 sf/unit</u>	<u>150 sf/unit</u>	<u>150 sf/unit</u>

Note:

Usable open space is only required on lots with two units or more, and not required for single family homes with secondary units. Each square foot of private usable open space equals two square feet towards the total usable open space requirement. All usable open space shall meet the standards contained in Chapter 17.126, except that group usable open space may be located anywhere on the lot, and may be located entirely on the roof of any building on the site.

17.65.140 Landscaping, paving, and buffering.

A. A landscaping and buffering plan shall be submitted for every project that requires approval pursuant to the design review procedure. The landscaping and buffering plan shall contain the following:

1. Landscaping and buffering that is consistent with the "Design Guidelines for the HBX Zones" as adopted by the City Council;
2. An automatic system of irrigation for all landscaping shown in the plan;
3. A minimum of one fifteen-gallon tree, or substantially equivalent landscaping as approved by the Director of City Planning, for every twenty (20) feet of street frontage or portion thereof. 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 shall be street trees to the satisfaction of the City's Tree Division.
4. At least one fifteen (15) gallon tree in the parking lot for every six parking spaces for projects that involve new or existing parking lots of 3,000 square feet or greater.
5. At least five feet of distance from the parking lot to the front and street side property lines shall be required for parking lots of 3,000 square feet or greater. Where parking stalls face into this required area, the width of the required area shall be increased by two feet unless wheel stops are installed.

B. The following table contains the maximum percent of surface area that may be paved in all street fronting yards located within 15 feet of the property line, excluding areas containing structures.

<u>Type of lot</u>	<u>Maximum percent of surface in street fronting yards allowed to be paved</u>	<u>Notes</u>
<u>Corner lots</u>	<u>30 percent</u>	
<u>Through lots</u>	<u>40 percent for lots with 50 feet or less of street frontage; otherwise 25 percent.</u>	

Type of lot	Maximum percent of surface in street fronting yards allowed to be paved	Notes
Interior lots	50 percent	1

Note:

1. The maximum on interior lots that have 50 feet or less street frontage may increase to 75 percent if all driving surfaces are paved with permeable materials that allow landscaping on the driveway. To qualify for this bonus, the paving shall contain landscaping that is permanently maintained and includes a system of automatic irrigation.

17.65.150 Outdoor storage.

The outdoor storage of materials shall not exceed sixteen feet in height on a lot. Further, outdoor storage may not be higher than eight feet if both 1) the storage is within 15 feet from any property line of a lot containing residential activities and 2) the storage faces any windows of a residential facility. Outdoor storage may also not be higher than eight feet if it is within 15 feet from the front property line. The height of all outdoor storage shall also be restricted according to the Fire Code regulations. Sites with outdoor storage shall be screened in conformance to the "Design Guidelines for the HBX zones" as adopted by the City Council.

17.65.160 Special Regulations for HBX Work/Live Facilities.

A. Regulations in this section do not supercede regulations contained in Section 17.102.195 relating to the conversion of buildings originally designed for commercial or industrial activities into joint living and working quarters.

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

Standard	Requirement	Note										
Activities allowed in an HBX work/live unit	Same permitted and conditionally permitted activities as described in Section 17.65.030 and any activity that would qualify as a home occupation in a residential facility (see Chapter 17.112).											
Required parking	One parking space per unit plus one additional unassigned visitor or employee parking space per five HBX work/live units.	1										
Required loading	<table border="1"> <thead> <tr> <th>Square feet of facility</th> <th>Requirement</th> </tr> </thead> <tbody> <tr> <td>Less than 25,000 sf</td> <td>No berth required</td> </tr> <tr> <td>25,000—69,999 sf</td> <td>One berth</td> </tr> <tr> <td>70,000—130,000 sf</td> <td>Two berths</td> </tr> <tr> <td>Each additional 200,000 sf</td> <td>One additional berth</td> </tr> </tbody> </table>	Square feet of facility	Requirement	Less than 25,000 sf	No berth required	25,000—69,999 sf	One berth	70,000—130,000 sf	Two berths	Each additional 200,000 sf	One additional berth	2
Square feet of facility	Requirement											
Less than 25,000 sf	No berth required											
25,000—69,999 sf	One berth											
70,000—130,000 sf	Two berths											
Each additional 200,000 sf	One additional berth											
Required usable open space	75 square feet of usable open space per unit	3										
Minimum size of unit	1,000 square feet	4										

Notes:

- See Chapter 17.116 for other off-street parking standards.
- Chapter 17.116 contains other off-street loading standards. However, the minimum height or length of a required berth listed in Chapter 17.116 may be reduced upon the granting of design review approval and upon determination that such smaller dimensions are ample for the size and type of trucks or goods that will be foreseeably involved in the loading operations of the activity served. This design review requirement shall supercede the requirement for a conditional use permit stated in Section 17.116.220.
- All required usable open space shall meet the usable open standards contained in Chapter 17.126 except all usable open space for HBX 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.
- See subsection P for exceptions to this requirement.

C. At least two-thirds of the floor area for each HBX work/live unit shall be designated for and devoted to nonresidential activities, with two exceptions:

1. Up to half of the floor area of the unit may be devoted to residential floor area if each of the following are true:

- The majority of the nonresidential floor area for the unit is at a public street level and directly accessible to the public street;
- The unit has no residential floor area at the ground level; and
- The ground floor entrance is clearly designated as a business entrance.

2. Up to 45 percent of the floor area of a unit may be devoted to residential floor area if there are two entrances into a unit, one adjacent to the residential space, the other adjacent to the nonresidential space. To qualify for this additional floor area, the nonresidential entrance shall be clearly designated as a business entrance separate from the residential entrance and be directly accessible by the public.

D. All required plans for the creation of HBX Work/Live Facilities 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.

E. For HBX work/live units, residential and nonresidential floor areas shall be designated according to the following standards:

1. Residential floor area shall be considered areas containing bedrooms, sleeping areas, kitchens (not including kitchenettes).

2. Nonresidential floor area shall include floor areas designated for working.

3. The floor area of stairs and balconies shall not be considered floor area for the purpose of this subsection.

4. Bathrooms shall be counted as residential floor area if its access requires walking through areas designated as residential floor area. Conversely, a bathroom shall be counted as a nonresidential area if its access requires walking through an area designated as nonresidential. Half of the floor area of a bathroom that can be directly accessed from both nonresidential and residential floor areas shall be considered residential floor area; the remainder shall be considered nonresidential floor area.

5. The Planning Director shall determine the designation of the floor area when the above standards do not clearly do so.

F. Nonresidential floor area and residential floor area shall be located on separate floors (including mezzanines) or be separated by an interior wall. However, a kitchen may be open to a nonresidential floor area if either:

- It is on a different floor (including mezzanines) as the rest of the residential floor area; or
- The kitchen is adjacent to and directly accessible from a residential floor area.

In these unpartitioned kitchens, the following areas shall be considered to be residential floor area: the counters, cabinets, sink and appliances in the area that will function as a kitchen and the floor area that is four feet in front of these items.

G. Each HBX work/live unit shall contain no more than one fully equipped kitchen. An HBX work/live unit may contain a second kitchenette to serve the nonresidential floor area. For the purposes of this section a kitchenette shall be considered a space with a counter that is no more than 20 square feet, a sink, and an area for a refrigerator. No stovetop or oven (excluding microwave ovens) shall be permitted in a kitchenette.

H. Each HBX work/live unit shall have at least one public entrance that is directly adjacent to nonresidential floor area. A visitor traveling through this business entrance shall not be required to pass through any residential floor area in order to enter into the nonresidential area of the unit.

I. Any building permit plans for the construction or establishment of HBX Work/Live Facilities shall 1) clearly state that the proposal includes work/live facilities and 2) label the units

intended to be work/live units as work/live units. This requirement is to assure the City applies building codes appropriate for a live/work facility.

J. 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.

K. For any HBX Work/Live Facility, 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) in any 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 light 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.

L. Each building with an HBX 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. Further, City of Oakland regulations require that each unit have a tenant that 1) operates a business from that unit and 2) possesses an active City of Oakland Business Tax Certificate for this business.

M. HBX Work/Live Facilities shall be considered a nonresidential facilities and counted towards the nonresidential floor area ratio, not the residential density.

N. The development of HBX work/live units in an HBX zone shall not be considered adding housing units to the City's rental supply and does not create 'conversion rights' under the City's condominium conversion ordinance, Chapter 16.36. The development standards for HBX work/live units are not intended to be a circumvention of the requirements of the City's condominium conversion ordinance, Chapter 16.36.

O. Twenty-five (25) percent of the number of HBX work/live units in a building shall qualify for certain exceptions to the standards contained in this section. An HBX work/live unit shall only qualify for the exceptions if both:

- More than seventy-five (75) percent of the total floor of the building containing the unit is devoted to nonresidential facilities; and

- The unit proposed for the exceptions are not on the ground floor of a building.

These exceptions shall only include the following:

1. A unit does not need to have a floor area of at least 1,000 square feet. However the floor area of the unit shall not be greater than 800 square feet;

2. No unassigned visitor parking spaces are required; and

3. The maximum amount of floor area of a unit designated for residential activities is raised to no more than 50 percent.

P. Design Review Criteria. Design review approval for HBX Work/Live Facilities may be granted only upon determination that the proposal conforms to the following criteria:

1. That the exterior of a new building containing primarily HBX work/live units 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, whenever feasible, a building containing HBX work/live units has nonresidential activities and nonresidential floor area on the ground floor and at street fronting elevations.

3. That units on the ground floor of a building have nonresidential floor area that is directly accessible from and oriented towards the street.

4. That units on the ground floor of a building have a business presence on the street. This includes, but is not necessarily limited to, providing storefront style windows, interior space visible to 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.

5. That the layout of nonresidential floor areas within a unit provides a functional and bona fide open area for working activities.

6. 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.

7. 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.

17.65.170 Special Regulations for HBX Live/Work Facility.

A. Regulations in this section do not supercede 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.

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

Standard	Requirement	Note	
Activities allowed in an HBX live/work unit	Same permitted and conditionally permitted activities as described in Section 17.65.030 and any activity that would qualify as a home occupation in a residential facility (see Chapter 17.112).		
Required parking	One parking space per unit.	1	
Required Loading	Square feet of facility	2	
	Less than 50,000 sf		No berth required
	50,000—149,999 sf		One berth
	150,000—299,999 sf		Two berths
	Each additional 300,000 sf	One additional berth	
Permitted Density	Same as Section 17.65.070		
Required usable open space	Same as Section 17.65.130		

Notes:

- 1. See Chapter 17.116 for other off-street parking requirements.
- 2. Chapter 17.116 contains other off-street loading requirements. However, the minimum height or length of a required berth listed in Chapter 17.116 may be reduced upon the granting of design review approval (see Chapter 17.136) and upon determination that such smaller dimensions are ample for the size and type of trucks or goods that will be foreseeably involved in the loading operations of the activity served. This design review requirement shall supercede the requirement for a conditional use permit stated in Section 17.116.220.

C. The amount of floor area in an HBX live/work unit designated for and devoted to residential is not restricted.

D. Any building permit plans for the construction of HBX Live/Work Facilities shall 1) clearly state that the proposal includes live/work facilities and 2) label the units intended to be

live/work units. This requirement is to assure the City applies building codes appropriate for a live/work facility.

E. For any HBX Live/Work Facility, 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) in any covenant, conditions, and restrictions associated with a facility. This statement of disclosure shall contain an acknowledgment that the property is in a facility that allows commercial and/or light industrial activities that may generate odors, truck traffic, vibrations, noise and other impacts at levels and during hours that residents may find disturbing.

F. Each building with an HBX live/work 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 live/work units. As such, please anticipate the possibility of odors, truck traffic, noise or other impacts at levels and hours that residents may find disturbing.

G. HBX Live/Work Facilities shall be considered residential facilities, shall be counted towards the residential density, not the nonresidential floor area ratio, and may create 'conversion rights' under the City's condominium conversion ordinance, Chapter 16.36. The same requirements contained in the City's condominium conversion ordinance that relate to residential units shall apply to HBX live/work units.

H. Design Review Criteria. Design review approval for HBX live/work units may be granted only upon determination that the proposal conforms to the following criteria:

1. That the layout of nonresidential floor areas within a unit provides a functional and bona fide open area for working activities;

2. That, where appropriate for the type of businesses anticipated in the development, 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.

17.65.180 Special regulations for mini-lot and planned unit developments.

A. Mini-Lot Developments. In mini-lot developments, certain regulations otherwise applying to individual lots in the HBX-1, HBX-2, and HBX-3 zones may be waived or modified when and as prescribed in Section 17.102.320.

B. Planned Unit Developments. Large integrated developments shall be subject to the planned unit development regulations in Chapter 17.122 if they exceed the sizes specified therein. In developments which are approved pursuant to said regulations, certain uses may be permitted in addition to those otherwise allowed in the HBX-1, HBX-2, and HBX-3 zones, and certain of the other regulations applying in said zones may be waived or modified.

17.65.190 Other zoning provisions.

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

B. Home Occupations. Home occupations shall be subject to the applicable provisions of the home occupation regulations in Chapter 17.112.

C. Nonconforming Uses. Nonconforming uses and changes therein shall be subject to the nonconforming use regulations in Chapter 17.114.

D. General Provisions. The general exceptions and other regulations set forth in Chapter 17.102 shall apply in the in the HBX-1, HBX-2, and HBX-3 zones.

E. Recycling Space Allocation Requirements. The regulations set forth in Chapter 17.118 shall apply in the HBX-1, HBX-2, and HBX-3 zones.

17.09.040 Definitions.

“Access facility width” means the width of the paved roadway surface curb-to-curb or edge-to-edge, exclusive of shoulders.

“Accessory activity” means an activity which is incidental to, and customarily associated with, a specified principal activity, and which meets the applicable conditions set forth in Section 17.10.040.

“Accessory facility” means a facility, other than a Sign, which is incidental to, and customarily associated with, a specified principal facility, and which meets the applicable conditions set forth in Section 17.10.070.

“Activity” means the performance of a function or operation.

“Activity type” means a type of activity which is specially described as such by the use classifications in Chapter 17.10 on the basis of common functional characteristics and similar effects on other uses, and which is designated throughout the zoning regulations by a special name each word of which starts with a capital letter.

“Adult entertainment activity” means any commercial activity, whether conducted intermittently or full-time, which primarily involves the sale, display, exhibition, or viewing of books, magazines, films, photographs, or other materials, distinguished or characterized by an emphasis on matter depicting, describing, or relating to human sex acts, or by emphasis on male or female genitals, buttocks, or female breasts.

“Alcoholic beverage” means alcohol, spirits, liquor, wine, beer, or any liquid or solid containing alcohol, spirits, wine, or beer, which contains one-half of one percent or more of alcohol by volume and which is fit for beverage purposes either alone or when diluted, mixed, or combined with other substances.

“Alcoholic beverage license overconcentrated areas” means a police beat with crime rates that exceed the city median by twenty (20) percent or more or a census tract in which the per capita number of on-sale or off-sale retail Alcoholic Beverage Sales licenses exceeds the Alameda County median.

“Alley” means a dedicated public way intended primarily to provide secondary vehicular access to abutting properties.

“Alteration” means any enlargement; addition; relocation; repair; remodeling; change in number of living units; development of or change in an open area; development of or change in a Sign, by painting or otherwise; or other change in a facility, but excluding painting except as provided above for Signs, ordinary maintenance for which no building permit is required, and demolition or removal.

“Ambient noise level” means the all-encompassing noise level associated with a given environment, being a composite of sounds from all sources, excluding any alleged offensive noise. In this context, the ambient noise level constitutes the normal or existing level of environmental noise at a given location.

“‘A’ weighted sound level” means the total sound level in decibels of all sound as measured with a sound level meter with a reference pressure of twenty (20) micropascals using the ‘A’ weighted network (scale) at slow response. The unit of measurement shall be defined as dBA or dB(a).

“Area Damaged by the 1991 Firestorm” means all of that area situated: beginning at the intersection of Claremont Avenue and the westerly line of the University of California, Berkeley campus, thence southerly along said westerly property line of the University of California campus to Grizzly Peak Boulevard; thence southeasterly on Grizzly Peak Boulevard to the most westerly line of the Robert Sibley Volcanic Regional Preserve; thence due south to Skyline Boulevard;

thence westerly on Skyline Boulevard to Broadway Terrace; thence southwest on Broadway Terrace to Farallon Way; thence southwest on Farallon Way and the extension of Farallon Way to Pinehaven Road; thence westerly on Pinehaven Road to Broadway Terrace; thence southerly on Broadway Terrace to Uranus Avenue; thence east on Uranus Avenue to Sherwood Drive; thence south on Sherwood Drive to Taurus Avenue; thence west on Taurus Avenue approximately six hundred fifty (650) feet to a path connecting Taurus Avenue and Capricorn Avenue; thence south along said path to Capricorn Avenue; thence south on Capricorn Avenue to Florence Terrace; thence north and west on Florence Terrace and an extension of Florence Terrace across Highway 13 to Estates Drive; thence west on Estates Drive to Masonic Avenue; thence south on Masonic Avenue to Amy Drive; thence southwest on Amy Drive to Harbord Drive; thence southeast on Harbord Drive to Maxwelton Road; thence southwest on Maxwelton Road to the Oakland-Piedmont border; thence northwest along said Oakland-Piedmont border to Clarewood Drive; thence northwest on Clarewood Drive to Broadway Terrace; thence west on Broadway Terrace to Margarido Drive; thence north and east on Margarido Drive to Rockridge Boulevard South; thence west on Rockridge Boulevard South to Rockridge Boulevard; thence west on Rockridge Boulevard to Broadway; thence north on Broadway to Golden Gate Avenue; thence north on Golden Gate Avenue to Chabot Road; thence along the extension of Golden Gate Avenue to the Oakland-Berkeley border; thence along said Oakland-Berkeley border to the intersection of said Oakland-Berkeley border with Claremont Avenue; thence northeast on Claremont Avenue to the point of beginning.

“Attic” means a space between the roof framing and the floor of such space and which is excluded from the definition of “story.”

“Basement” means the area below the lowest level of a building and which is excluded from the definition of “story.”

“Bedroom” means any habitable room, regardless of its designation on building plans, which meets both of the following criteria:

1. The room may legally function as a bedroom in that it complies with, or is required by the Building Official to comply with, all applicable laws and regulations pertaining to sleeping rooms, including, but not limited to, the requirements of the Oakland Building Code for light and ventilation in habitable rooms and emergency egress from sleeping rooms; and the Oakland Housing Code definition of “sleeping room.”

2. The room may logically function as a bedroom, with consideration given to its function and physical relationship to the remainder of the living unit.

“Berth” means an area, exclusive of docks, designated to accommodate a motor vehicle during loading or unloading of goods.

“Buildable area” means the portions of a lot on which a building can be located as per the provisions of this code.

“Building” means a structure having a roof supported by columns or walls.

“Buildable envelope” means the volume of space for buildings and other structures as defined by the minimum setbacks, and the maximum allowable height.

“Collective household” means a group of at least two, but not more than five, persons who are *unrelated by blood, marriage, or adoption, living together as an independent housekeeping unit.*

“Commercial zone” means any zone the name of which begins with the letter “C.”

“Common driveway” means a driveway having a width of no less than twelve (12) feet and providing a shared access alternative to, and across existing legal lots which have street frontage, regardless of lot ownership. At the discretion of the Director of Public Works, based on considerations described in the City Planning Commission guidelines, the street entrance portion of the common driveway may be located within the public right-of-way. In calculating aggregate residential density, the area of the common driveway shall be excluded from the total area of the lots crossed by the common driveway.

“Corner lot” (see illustration I-1) means a lot bounded on two or more adjacent sides by streets, by private ways described in Section 17.106.020, or by portions of such streets or ways, having an angle of intersection of one hundred thirty-five (135) degrees or less.

“Court” means an area between two walls on the same lot, measured for a specified distance, in a horizontal plane, perpendicularly from either of such walls; located on the same lot as said walls; and open and unobstructed except for the facilities allowed therein by Section 17.108.130.

“Day” means calendar day.

“Decibel (dB)” means a unit for measuring the amplitude of sounds, equal to twenty (20) times the logarithm to the base ten of the ratio of the pressure of the sound measured to the reference pressure, which is twenty (20) micropascals.

“Dependent parking space” means a parking space which can only be accessed by driving across another parking space. (See also “Independent parking space” and “Tandem parking” in this section.)

“Designated landmark” means a facility, portion thereof, or group of facilities which has a special character, interest, or value and which has been established as a landmark pursuant to Section

17.102.030 and the rezoning and law change procedure in Chapter 17.144.

“Designated landmark site” means a lot or other site which contains a designated landmark and which has been established pursuant to Section 17.102.030 and the rezoning and law change procedure in Chapter 17.144.

“Development control map” means a map or set of maps, with supporting text, regulating the precise location, height, bulk, design, or nature of activities or facilities.

“Display surface (area of)” means the area of the smallest plane figure which can be made to include all of the idea, advertisement, identification, or information intended to be conveyed by a Sign, including any trim or other material or color forming an integral part of the display or used to differentiate the Sign from the background against which it is placed, but excluding uprights or other structural members which are not a part of the display. With respect to multifaced Signs, the area of all such faces shall be included except where the context refers to only one face.

“Dormer” (see illustration I-0) means a roofed structure projecting from a sloping roof and containing a window or ventilating louver.

“Driveway” means the way or means of vehicular access from that portion of a street used for vehicular travel to the parking, loading, or other vehicular activity on the adjacent property, including the portion of the sidewalk lying within said way or means of access. (Note that this differs from the definition of “Driveway” at Section 12.04.240 of the Oakland Municipal Code, which only includes that portion lying within the street right-of-way.)

“Dwelling unit” means a room or suite of rooms including one and only one kitchen, except as otherwise provided in Section 17.102.270, and designed or occupied as separate living quarters for one of the persons or groups specified in Section 17.102.260.

“Earthen berm” means a mound or embankment of earth, together with necessary retaining structures.

“Edge of the pavement” means the edge of that part of a street, alley or private way described in Section 17.106.020 having an improved surface used for vehicle travel and parking, including gutters, but not including a raised curb or sidewalk.

“Efficiency dwelling unit” means a dwelling unit containing only a single habitable room other than a kitchen, or containing a total of less than five hundred (500) square feet of floor area.

“Electroplating activity” means the electrochemical process of depositing a thin metallic coating of one metal on top of a different metal by passing an electrical current into a piece of metal immersed in chemical solutions comprised of caustics, acids, cyanides or other bonding chemicals, and causing a metallic coating to bond with the object to be plated. Such activities are classified as General Manufacturing Activities and are subject to the provisions of Section 17.102.340.

“Enclosed retaining wall” means a retaining wall located on a lot such that it is visually shielded by other permanent structures and cannot be seen from public streets and adjacent lots.

“Existing grade” means the natural grade or the revised grade due to prior development of a lot.

“Facility” means a structure, open area, or other physical contrivance or object.

“Facility type” means a type of facility which is specially described as such by the use classifications in Chapter 17.10 on the basis of common functional characteristics and similar effects on other uses, and which is designated throughout the zoning regulations by a special name each word of which starts with a capital letter.

“Family” means one person, or a group of people living together as a single housekeeping unit, together with incidental domestic servants and temporary nonpaying guests.

“Family foster care home” means a residential activity providing twenty-four (24) hour care for six or fewer foster children in a residential facility that is the residence of the foster parents, including their family, in whose care the foster children have been placed.

“Finished grade” means:

1. Natural grade exterior to all buildings or structures created by any proposed development in all those situations not covered by subsection 2 of this definition;

2. A revised grade exterior to all buildings or structures created by any proposed development where the revised grade is achieved under a city grading permit, subdivision approval, or conditional use permit or other special zoning approval, or through officially approved work in a public right-of-way.

“Flashing illumination (of a Sign)” means illumination of a Sign wherein such illumination is not maintained constant in intensity, color, and pattern during all times the Sign is activated.

“Floor Area”

1. “Floor area,” for all projects except those with one or two dwelling units on a lot, means the total of the gross horizontal areas of all floors, including usable basements and cellars, below the roof and within the outer surfaces of the main walls of principal or accessory buildings or the center lines of party walls separating such buildings or portions thereof, or within lines drawn parallel to and two feet within the roof line of any building or portion thereof without walls, but excluding the following:

- a. Areas used for off-street parking spaces or loading berths and driveways and maneuvering aisles relating thereto;

- b. Areas which qualify as usable open space under the standards for required usable open space in Chapter 17.126;

- c. In the case of Nonresidential Facilities: arcades, porticoes, and similar open areas which are located at or near street level, which are accessible to the general public, and which are not designed or used as sales, display, storage, service, or production areas.

2. “Floor area,” (see illustration I-2b) for all projects with one or two dwelling units on a lot, means the total square footage of all levels of all buildings on the lot. Levels shall be measured horizontally from the outside surface of exterior walls and supporting columns. The amount of floor area in each building shall be determined by the following criteria:

- a. Floor area shall include all enclosed shafts, including stairwells, ventilation shafts and similar vertical shafts; the floor area of such shafts shall consist of the horizontal projection into the shaft of surrounding floor area; and

- b. Floor area shall not include:

- i. Unenclosed living areas such as balconies, decks and porches;

- ii. Carports that are unenclosed on two or more sides;

- iii. Up to four hundred forty (440) square feet within an attached or detached garage or carport that is enclosed on three or more sides;

- iv. Nonhabitable accessory structures not requiring a building permit of less than one hundred twenty (120) square feet;

- v. Unfinished understories, attics and basements; and
- vi. Any portion of finished basements with a height of six feet or less, as measured from finished grade at the exterior perimeter of the building to the finish floor elevation above; those portions of finished basements with a height greater than six feet shall be considered floor area.

“Floor Area of a marina” means the space dedicated to the docking or mooring of marine vessels.

“Floor-area ratio” (see illustration I-3) means the number resulting from division of the floor area on a lot by the lot area.

“Footprint” means the horizontal area as seen in plan, measured from outside of all exterior walls and supporting columns. It includes residences, garages, covered carports, and accessory structures, but not trellises, patios, and areas of porch, deck and balcony less than thirty (30) inches from finished grade.

“Frequency” means the number of oscillations per second, or pitch, of a sound, with a greater frequency corresponding to a higher pitch.

“Frontage” means a front lot line; also the length thereof.

“Front lot line” (see illustration I-2) means:

1. On an interior lot: any abutting street line, except where an interior lot has more than one abutting street line, the Director of City Planning shall select one of the street lines as the front lot line; such selection shall conform with any neighborhood patterns.

2. On a corner lot: the shorter of any adjacent two abutting street lines, or portions thereof, which intersect at an angle of not less than forty-five (45) degrees but not more than one hundred thirty-five (135) degrees; provided that if such street lines, or portions thereof, are equal in length the owner or developer of the lot may select either as the front lot line. If adjacent street lines, or portions thereof, of a corner lot intersect at an angle of less than forty-five (45) degrees, both such street lines or portions thereof shall be deemed front lot lines.

“Front yard” (see illustration I-2) means a yard measured into a lot from its front lot line or lines. Except where a front yard is prescribed only for certain kinds of facilities, a required front yard shall extend the full width of the lot between its side lot lines.

“Full-service restaurant” means a place which is regularly and in a bona fide manner used and kept open for the serving of at least lunch and dinner to guests for compensation and which has suitable kitchen facilities connected therewith, containing conveniences for cooking an assortment of foods which may be required for such meals. The sale or service of sandwiches (whether prepared in a kitchen or made elsewhere and heated up on the premises) or snack foods shall not constitute a full-service restaurant.

“Gable end” (see illustration I-0) means the end of a gable, gambrel, gablet, jerkinhead, shed, or similar roof consisting of a generally triangular shaped wall or vertical plane at the end of the roof and inscribed by the edges of the roof planes and a line connecting the bases of the roof planes.

“Gradient” means the difference in elevation between defined reference points divided by the horizontal distance between these points.

“Habitable room” means a space in a living unit intended for living, sleeping, eating, or cooking, including, but not limited to, living rooms, dining rooms, bedrooms, kitchens, dens, family rooms, finished recreation rooms, and enclosed porches suitable for year-round use. Specifically excluded are bathrooms, water closets, hallways, foyers, storage closets, pantries, laundries, utility rooms, unfinished attics and basements, balconies, open porches, garages, and other unfinished spaces used for storage. See Section 17.102.280 for rules for determining the number of habitable rooms in a Residential Facility.

“HBX live/work unit” means a room or suite of rooms that are internally connected and has a residential occupancy of not more than four persons 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. An HBX live/work unit accommodates both residential and nonresidential activities. An HBX live/work unit meets all applicable regulations contained in section 17.65.170.

“HBX work/live unit” means a room or suite of rooms that are internally connected and has a residential occupancy of not more than four persons 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. An HBX work/live unit accommodates both residential and nonresidential activities but emphasizes the accommodation of commercial activities. An HBX work/live unit meets all applicable regulations contained in section 17.65.160.

Chapter 17.10

USE CLASSIFICATIONS

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17.10.705 HBX Live/Work Facilities.

HBX Live/Work Facilities include permanently fixed buildings, or those portions thereof, that accommodate or are intended to accommodate one or more HBX live/work units.

17.10.775 HBX Work/Live Facilities.

HBX Work/Live Facilities include permanently fixed buildings, or those portions thereof, each of which contains HBX work/live units. They also include certain facilities accessory to the above, as specified in Section 17.10.070.

17.102.180 Restriction on vertical location of activities in buildings containing both Residential and Nonresidential Activities--Commercial zones.

In all commercial zones, no Commercial or Manufacturing Activity shall be conducted within any building above any story thereof occupied wholly or partly by Residential Activities, except upon the granting of a conditional use permit pursuant to the conditional use permit procedure in Chapter 17.134. However, this requirement shall not apply to nonresidential activities within HBX Work/Live Facilities.

17.102.230 Special regulations applying to the demolition of a facility containing rooming units or to the conversion of a living unit to a Nonresidential Activity--Nonresidential zones.

A. Conditional Use Permit Requirement. The demolition of a facility containing, or intended to contain, rooming units or the conversion of a living unit from its present or last previous use by a Permanent Residential Activity, a Semi-Transient Residential Activity, or a Transient Habitation Commercial Activity to its use by a nonresidential activity other than Transient Habitation Commercial is ~~not only~~ permitted in any nonresidential zone ~~except~~ upon the granting of a conditional use permit pursuant to the conditional use permit procedure in Chapter 17.134. The only exception to this requirement is conversions in the HBX-1, HBX-2, or HBX-3 zones. Such permit may be granted only upon determination that the proposed demolition or conversion conforms to the general use permit criteria set forth in the conditional use permit procedure and to at least one of the following use permit criteria:

17.106.030 Maximum density and floor-area ratio on lots containing both Residential and Nonresidential Facilities.

A. Portion of Lot Area Used in Computing Density in the Central Business District and the Jack London District. For mixed use projects in the central business district and Jack London district, the allowable intensity of development may be measured according to the maximum FAR allowed by the zone without a separate residential density calculation, provided the maximum number of units pursuant to the residential density allowed by the General Plan and Estuary Policy Plan is not exceeded. (The central business district is that area identified as part of the Land Use and Transportation Element Land Use Diagram of the General Plan. The Jack London district is that area identified as part of the Estuary Policy Plan and adopted as part of the General Plan.)

B. Portion of Lot Area Used in Computing Density in Areas Other than the Central Business District, Jack London District, and the HBX zones. This subsection applies to projects in a zone where a nonresidential floor area ratio is generally prescribed except:

- Mixed use projects in the ~~For mixed use projects located in areas other than the Central Business District;~~
- Mixed use projects in the ~~and Jack London District;~~ and
- Projects in the HBX-1, HBX-2, or HBX-3 zones in the situations described in 17.65.090A.

~~, in which a maximum floor area ratio is generally prescribed for Nonresidential Facilities, n~~No portion of lot area used to meet the density requirements for a Residential Facility shall be used as a basis for computing, through such floor area ratio, the maximum amount of floor area for any Nonresidential Facility on the same lot. See Section 17.65.090B for the portion of the lot area used for computing density in the HBX zones in the situations described in 17.65.090A.

17.114.080 Nonconforming activity--Allowed alterations and extensions.

A. Nonresidential Activity Nonconforming Because It Is Not a Permitted Activity. Except as otherwise provided in Section 17.114.060, a nonresidential activity which is nonconforming wholly or partly because it is not itself a permitted activity where it is located may be extended, and the facilities accommodating or serving such activity may be altered or otherwise changed, subject to the requirements normally applying to uses where the activity is located and subject to the following provisions and exceptions:

1. Except as otherwise provided in subsection (A)(3) of this section, the floor area and overall outside dimensions of any building, or portion thereof, devoted to such activity shall not be increased; no open parking, loading, sales, display, service, production, or storage area accommodating or serving such activity shall be relocated or increased in size; and no such building or open area shall be wholly reconstructed. However, in the case of an establishment classified as an Alcoholic Beverage Sales Commercial Activity, the total floor area, open areas, or outside building dimensions occupied by the establishment may be increased as long as the amount of space actually devoted to the sale of alcoholic beverages is not increased by more than twenty (20) percent of that already existing.

2. In the case of an establishment classified as an Alcoholic Beverage Sales Commercial Activity, the percentage of actual floor area devoted to the sale of alcoholic beverages shall not be increased by more than twenty (20) percent of that already existing, except upon the granting of a conditional use permit pursuant to the conditional use permit procedure in Chapter 17.134.

3. New, wholly reconstructed, enlarged, or relocated structures or open areas devoted to off-street parking or loading serving such activity may be provided wherever Automotive Fee Parking Commercial Activities are permitted or, upon the granting of a conditional use permit pursuant to the conditional use permit procedure in Chapter 17.134, wherever Automotive Fee Parking Commercial Activities are conditionally permitted. In residential zones, such facilities for off-street parking may be provided in the situations, and subject to the conditions, prescribed in Section 17.102.100.

4. New Signs may be provided for such activity, but the aggregate area of display surface of all Signs serving such activity shall not be increased. All Signs shall be subject to the limitations, other than aggregate area of display surface, normally applying to Signs where they are located.

5. During any five-year period, beginning on or after the effective date of the zoning regulations or of any subsequent rezoning or other amendment thereto which makes such activity thus nonconforming, the aggregate cost of all alterations for which a building or sign permit is required, and which are intended for any activity subject to this subsection, shall not exceed twenty-five (25) percent of the replacement cost, as estimated by the Inspectional Services Department, of the facilities accommodating or serving such activity at the beginning of said period. However, the cost of alterations ordered by any governmental agency or permitted by Section 17.114.060 shall be exempt from said maximum cost.

6. No facility accommodating a nonconforming Automotive Servicing or Automotive Repair and Cleaning Commercial Activity shall be altered or painted a new color in such a manner as to affect exterior appearance, unless plans for such a proposal shall have been approved pursuant to the design review procedure in Chapter 17.136.

7. A nonconforming Automotive Servicing or Automotive Repair and Cleaning Commercial Activity in the HBX-1 zone may be extended, and the facilities accommodating or serving such activity may be altered or otherwise changed upon the granting of a conditional use permit and approval pursuant to the design review procedure (see Chapter 17.136). This conditional use permit and design review approval may be granted only upon determination that the proposal is adequately buffered from the street and surrounding residential activities through landscaping and fencing.

17.116.110 Special exemptions to parking requirements.

The provisions of this section shall apply to all activities in all zones except Residential Activities occupying One-Family, Two-Family or Multifamily Residential Facilities located within the S-12 residential parking combining zone, where the provisions of Section 17.94.040 shall apply.

A. Discretionary Reduction for Senior Citizen Housing and Dormitories. In senior citizen housing where living units are regularly occupied by not more than two individuals at least one of whom is sixty (60) years of age or older or is physically handicapped regardless of age, or in a dormitory, fraternity, or similar facility, the number of parking spaces prescribed in Section 17.116.060 may be reduced by not to exceed seventy-five (75) percent upon the granting of a conditional use permit pursuant to the conditional use permit procedure in Chapter 17.134 and upon determination that the proposal conforms to the use permit criteria set forth in subsections A or B, and C of this section:

1. In the case of senior citizen housing where living units are regularly occupied by not more than two individuals at least one of whom is sixty (60) years of age or older or is physically handicapped regardless of age, that such occupancy is guaranteed, for a period of not less than fifty (50) years, by appropriate conditions incorporated into the permit;

2. In the case of a dormitory, fraternity, or similar facility, that the occupants are prevented from operating a motor vehicle because they are not of driving age or by other special restriction, which limitation of occupancy by nonqualifying drivers is assured by appropriate conditions incorporated into the permit;

3. That due to the special conditions referred to above, and considering the availability, if any, of public transportation within convenient walking distance, the reduced amount of parking will be adequate for the activities served, and that the reduction will not contribute to traffic congestion or impair the efficiency of on-street parking.

B. Discretionary Reduction of Total Requirements with Shared Parking Area. For a joint off-street parking area which serves two or more nonresidential activities in any zone, or Residential Activities in the R-90, C-28, C-31, C-45, C-51, or C-55 zone, and which meets the conditions set forth in Section 17.116.180, the total parking requirement for the sharing activities may be reduced by not to exceed fifty (50) percent upon the granting of a conditional use permit pursuant to the conditional use permit procedure in Chapter 17.134 and upon determination that the typical utilization of the parking area would be staggered to such an extent that the reduced number of spaces would be adequate to serve all such activities.

C. Discretionary Waiver or Reduction in Districts Providing Common Parking Areas. The off-street parking requirements specified above for nonresidential activities in any zone, or for Residential Activities in the R-90, C-28, C-31, C-45, C-51, or C-55 zone, may be waived or reduced by the Director of City Planning when said activities are located within a municipal parking district or assessment district the function of which is to provide off-street parking, upon a finding that, in consideration of existing or prospective municipal parking facilities, such waiver or reduction would not substantially contribute to traffic congestion or imp air the efficiency of on-street parking. Any determination on such waiver or reduction shall be subject to appeal pursuant to the administrative appeal procedure in Chapter 17.132. (Prior planning code § 7519)

D. The number of parking spaces and loading births required for all activities taking place in HBX work/live and HBX live/work units is determined in Sections 17.65.160 and 17.65.170, respectively.