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CITY OF OAKLAND FILED
AGENDA REPORT OFFICE OF THE CITY CLERK
OAKLAND

2008 FEB 28 PM 4:55

TO: Office of the City Administrator
ATTN: Deborah A. Edgerly
FROM: Community & Economic Development Agency
DATE: March 4, 2008

RE: **Supplemental Report and Recommendations To Adopt a Motion Establishing a City-wide Industrial Land Use Policy**

SUMMARY

This Supplemental Report provides a three-part response to Council's direction at the February 19, 2008 City Council meeting: (i) it reaffirms staff's original recommendation and provides additional arguments in support of those recommendations; (ii) it provides an alternative recommendation for Council consideration, which preserves the spirit of Councilmember Reid's proposal while not requiring City initiated General Plan amendments; and (iii) it provides the requested maps delineating the various "industrial subareas"

Staff continues to support the original recommendation of considering General Plan amendments on a project basis subject to specific detailed criteria, *and not on an ad hoc basis as per prior practice*. Four arguments are presented in opposition to making General Plan amendments on a subarea basis: (i) the subareas were not designed as discrete planning areas; (ii) the City would grant valuable entitlements without identifying or negotiating specific City benefits; (iii) the City would pay the costs for the changes; and (iv) the City would have legal expenses for any challenges to the changes.

While staff continues to support its original recommendation, an alternative is presented for Council consideration: (i) for Council to designate the types of General Plan amendments they might favorably consider for each of the subareas designated in the Reid amendment for changed land use designations; and (ii) for Council to proceed with requests for General Plan amendments only in response to specific project requests. This would respond to three of the four staff objections detailed in the supplemental report.

BACKGROUND

Prior to the initiation of the Industrial Policy discussion in June 2005, the Planning Commission and City Council were considering projects requesting General Plan amendments on a project by project basis without an adopted set of criteria for evaluating such conversions. The Planning Commission requested policy guidance from the City Council regarding how such industrial conversion requests should be evaluated. Staff presented a report to the Community and Economic Development (CED) Committee in November 2005, which for discussion purposes, divided the industrial lands into 17 subareas and recommended a set of criteria for evaluation of

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conversion requests. The CED Committee did not forward the report to the full Council and requested further evaluation of the subareas.

At its September 2006 meeting the City Council agreed that subareas 2, 6, 7 and 14 remain industrial, subareas 3 and 13 be industrial but allow retail along the freeway and that subarea 4, from Tidewater Avenue to the freeway, be kept industrial. All other areas were returned to the Planning Commission for additional discussion.

The Planning Commission and the Zoning Update Committee of the Planning Commission considered these areas but did not make any recommendation regarding the General Plan designation of these areas. The Planning Commission also did not make any recommendations on criteria for the evaluation of projects requesting General Plan amendments.

POLICY DESCRIPTION

Staff recommended, and continues to recommend, that the City Council retain all subareas as industrial but allow projects to request General Plan amendments for conversion of industrial land to residential uses based on an adopted set of evaluation criteria (Attachment A). The criteria will provide direction to staff, the Planning Commission and the development community on what types of evidence the Council is likely to consider in deciding on the granting of General Plan amendments. Staff recommends these criteria be developed through a public process culminating with formal adoption by the City Council.

The use of adopted criteria for evaluating General Plan amendments is consistent with the implementation policies of the General Plan (Implementation Policy a3) which have not, to date, been adopted. The suggested findings for amendments contained in the General Plan are currently the only guidance for evaluation of proposals. Staff recommends criteria be developed with regard to industrial conversions to deal with specific aspects of this type of conversion.

Staff recommends that specific criteria for evaluating projects be developed in the following areas: (i) economic benefit; (ii) environmental benefit; (iii) community benefit; and (iv) compatibility with surrounding uses. These criteria would allow a proposed project to be evaluated based on its benefit to the City on multiple dimensions. Economic and community benefits are two areas that are not currently evaluated in a systemic way as part of project review. The environmental benefits are discussed to some extent in CEQA review, but most CEQA evaluation is oriented toward lessening adverse impacts rather than benefits gained. Finally, compatibility with surrounding uses is the planning analysis tool that is currently the main basis of evaluation.

Staff continues to recommend against using the subareas as the basis for General Plan amendments for the following reasons:

- 1 The subareas were not designed to be planning areas. The subareas were defined based on employment and economic variables more than on dimensions that would be of greater interest to land use planning.
- 2 The City gives away an entitlement without any specific return. When amendments are requested by a project the City can negotiate a specific set of improvements or community benefits as part of the project as long as there is a nexus.
- 3 The City pays the cost of the amendments, both in staff costs to process and CEQA review.
- 4 The City would pay the costs for any legal challenge to the CEQA review or amendment findings. If a project requests the amendments that project's proponent has to indemnify the City and pay to defend the City if the approvals are challenged in court. Signature Properties had to do this for the Oak to Ninth legal challenges.

POLICY ALTERNATIVE

Councilmember Reid proposed a motion at the February 19, 2008 meeting calling for the City to initiate General Plan amendments in several subareas. Staff recommends against this proposal, supports its original recommendation, but offers for consideration an alternative approach consistent with the intent of the Reid amendment:

Instead of the City initiating General Plan amendments, Council would indicate, by each subarea listed in the Reid amendment, the type or types of amendments they are willing to consider if suggested by a project sponsor. Staff would proceed to develop criteria for evaluation of projects requesting amendments as per the original staff recommendation. This alternative would respond to three of the four (#2, #3 and #4) objections outlined above. It does not address the staff concern over the use of subareas not designed for planning purposes as the basis of land use decisions.

Staff has prepared a draft alternative motion (Attachment B) that combines the approach outlined above with the subarea by subarea instructions contained in Councilmember Reid's motion that was distributed at the February 19, 2008 meeting. This motion, if adopted, would indicate which types of amendments, if any, would be considered in each of the subareas while also directing staff to develop evaluation criteria for any projects that requests amendments.

ACTION REQUESTED OF THE CITY COUNCIL

Alternative A

Staff recommends that Council adopt an Industrial Land Use Policy statement that:

Amendments to the General Plan to allow conversion of industrially designated land to other uses should be restricted to projects that meet specified General Plan amendment criteria.

Further, that staff be directed to develop such criteria and required findings through a public process, present them to Planning Commission and return to Council for adoption.

A draft motion is included as Attachment A.

Alternative B:

Staff recommends that Council adopt an Industrial Land Use Policy statement that:

Amendments to the General Plan to allow conversion of industrially designated land to other uses should be restricted to the project types identified on the attached list (Exhibit A) for each identified subarea. A detailed listing of the boundaries of each subarea is maintained by the City of Oakland Community and Economic Development Agency.

Further, that staff be directed to develop such criteria and required findings through a public process, present them to Planning Commission and return to Council for adoption.

A draft alternative motion is included as Attachment B.

Respectfully submitted,



Dan Lindheim
Director
Community & Economic Development Agency

Prepared by: Eric Angstadt, Community &
Economic Development Agency

Attachments:

- A Draft Motion Industrial Land Use Policy
- B Draft Alternative Motion Industrial Land Use Policy

APPROVED AND FORWARDED TO THE
CITY COUNCIL:


Office of the City Administrator

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Proposed Motion of Oakland City Council

Industrial Land Use Policy

The City Council adopts the following policy statement regarding Industrial Land Use:

Amendments to the General Plan to allow conversion of industrially designated land to other uses should be restricted to projects that meet specified General Plan amendment criteria.

Further, that staff be directed to develop such criteria and required findings through a public process, present them to Planning Commission and return to Council for adoption.

IN COUNCIL, OAKLAND, CALIFORNIA,

PASSED BY THE FOLLOWING VOTE:

AYES – BRUNNER, KERNIGHAN, NADEL, QUAN, BROOKS, REID, CHANG AND
PRESIDENT DE LA FUENTE

NOES –

ABSENT –

ABSTENTION –

ATTEST: _____

LATONDA SIMMONS
City Clerk and Clerk of the Council
of the City of Oakland, California

Proposed Alternative Motion of Oakland City Council

Industrial Land Use Policy

The City Council adopts the following policy statement regarding Industrial Land Use:

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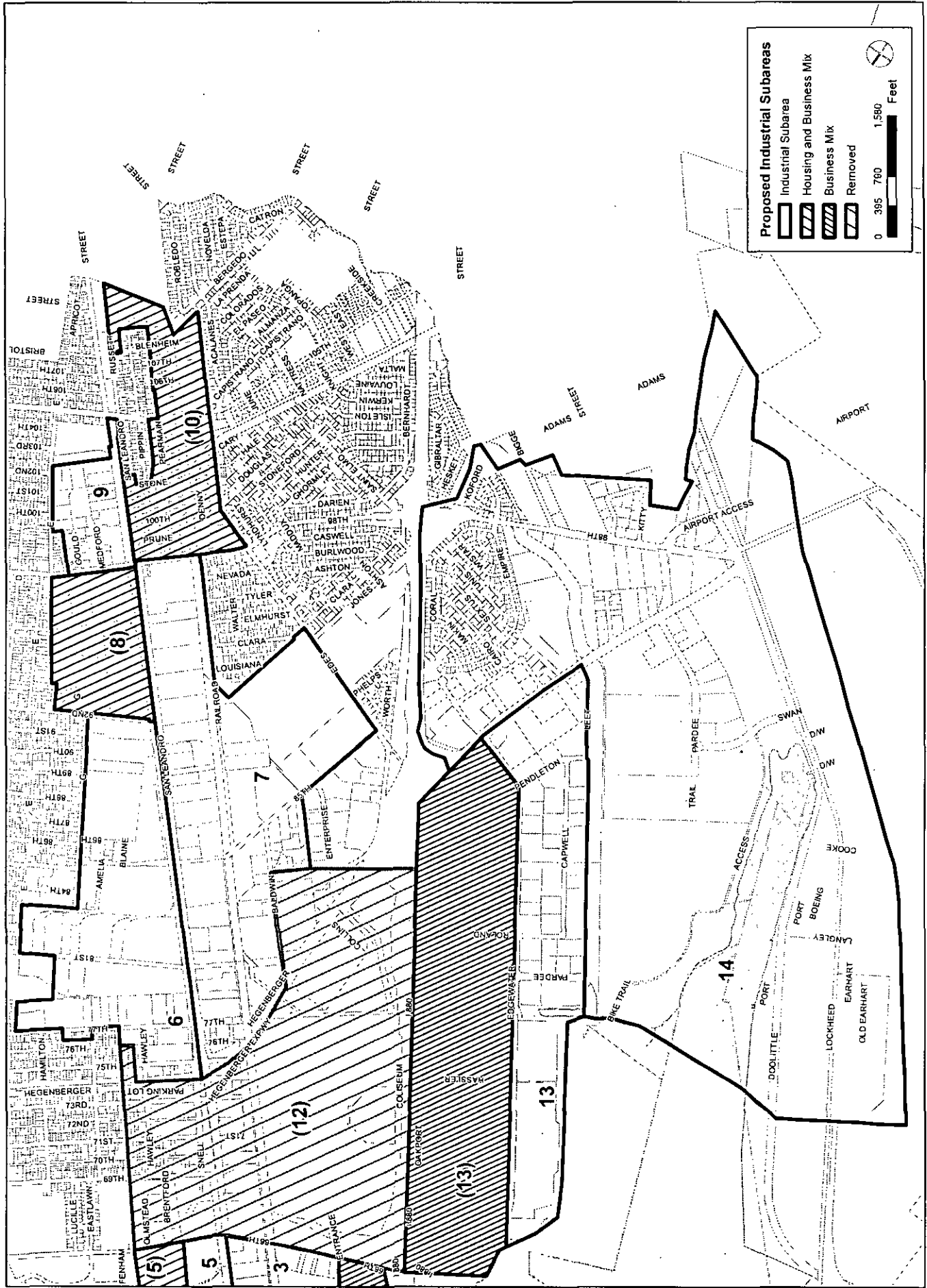
ABSTENTION –

ATTEST: _____

LATONDA SIMMONS
City Clerk and Clerk of the Council
of the City of Oakland, California

Exhibit A
To
Alternative Motion

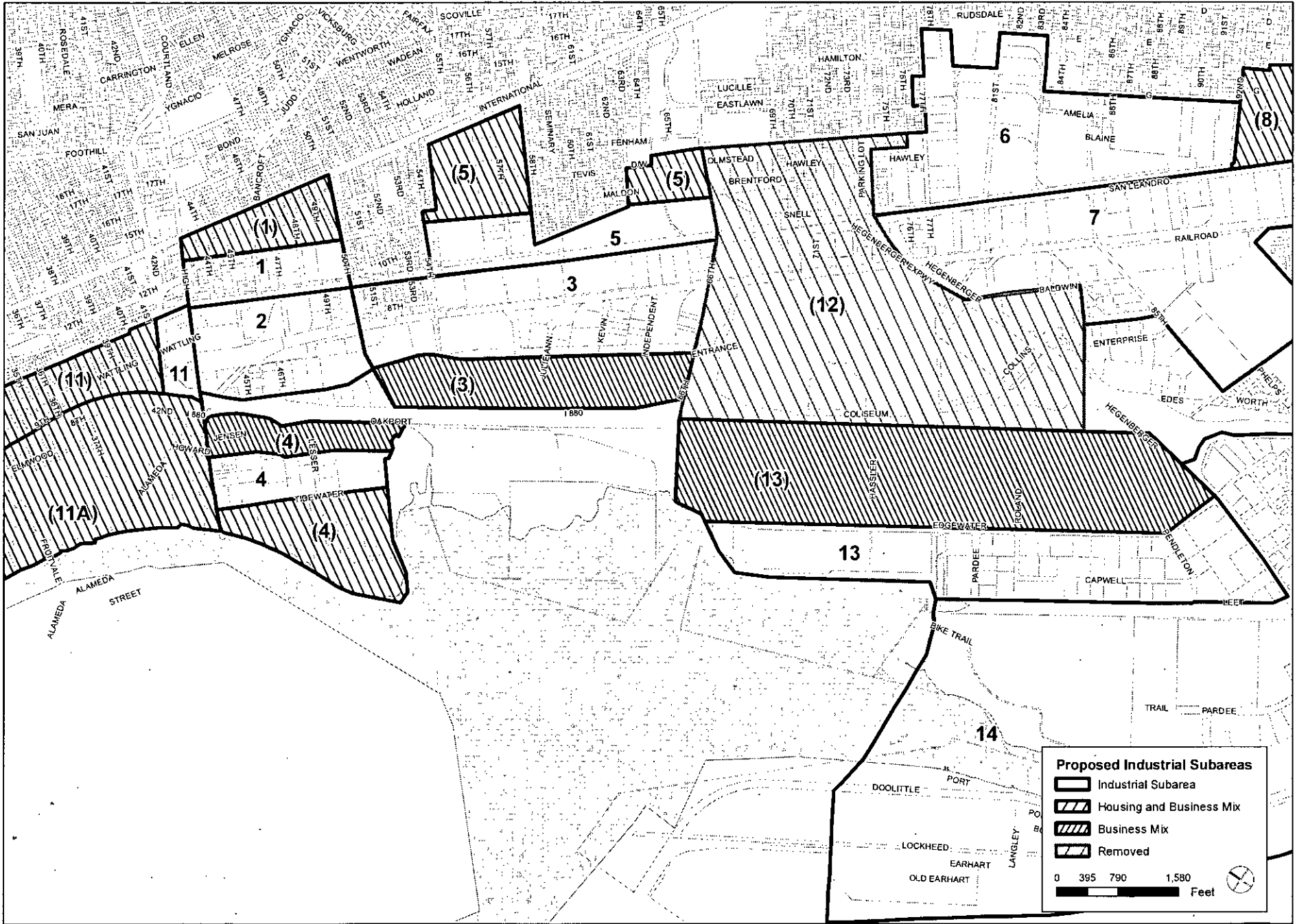
Subarea	Possible Amendments
1	Residential between E. 12 th to International
2	None – Keep Industrial
3	Commercial along Freeway
4	Residential between Tidewater Avenue and Estuary
5	Residential between E. 12 th to International
6	None – Keep Industrial
7	None – Keep Industrial
8	Residential
9	None – Keep Industrial
10	Residential/Commercial Mixed Use
11	Residential towards Fruitvale BART Station
12	Already Commercial – No longer an industrial area
13	Commercial along Freeway
14	None – Keep Industrial
15	None – Keep Industrial
16	None – Keep Industrial
17	None – Keep Industrial

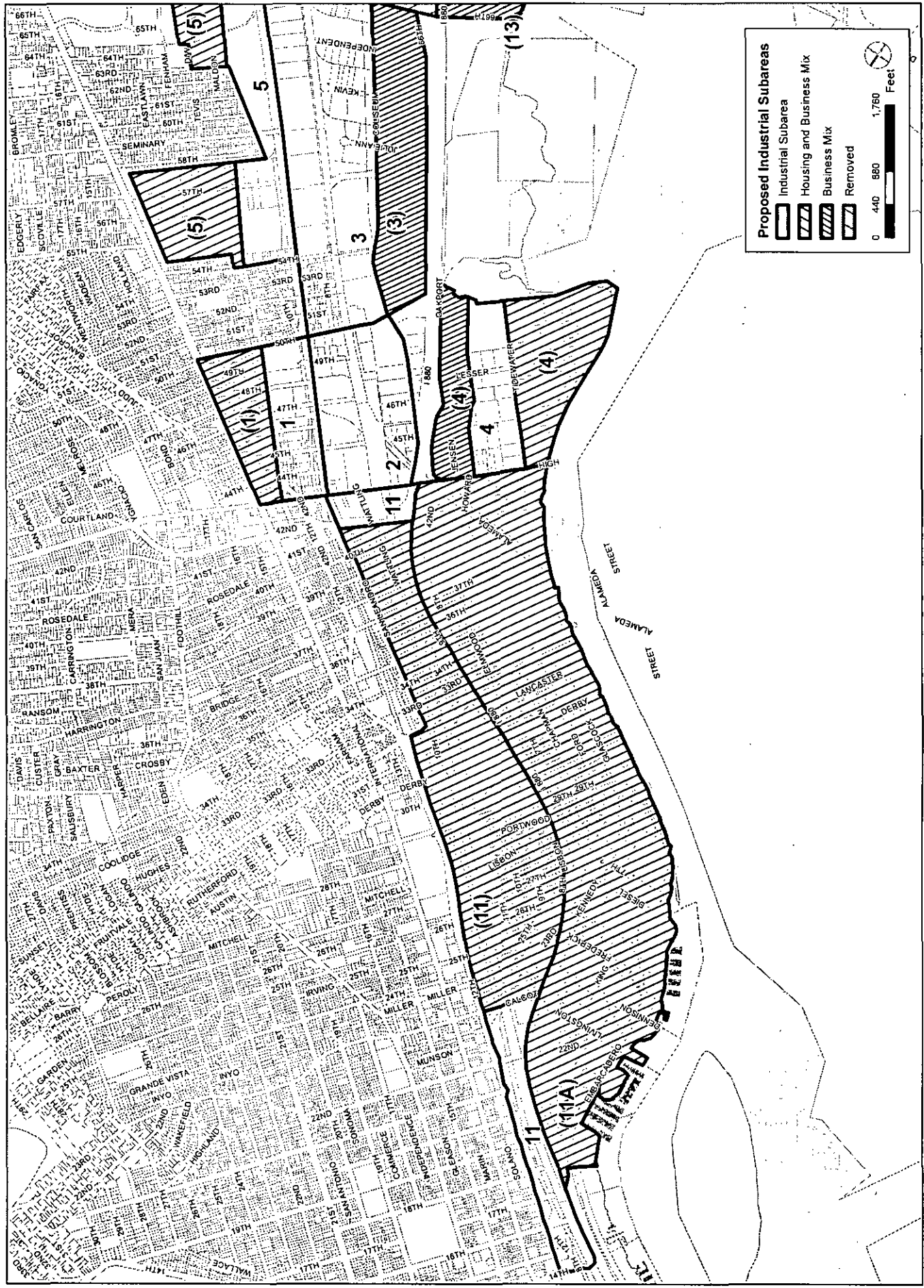


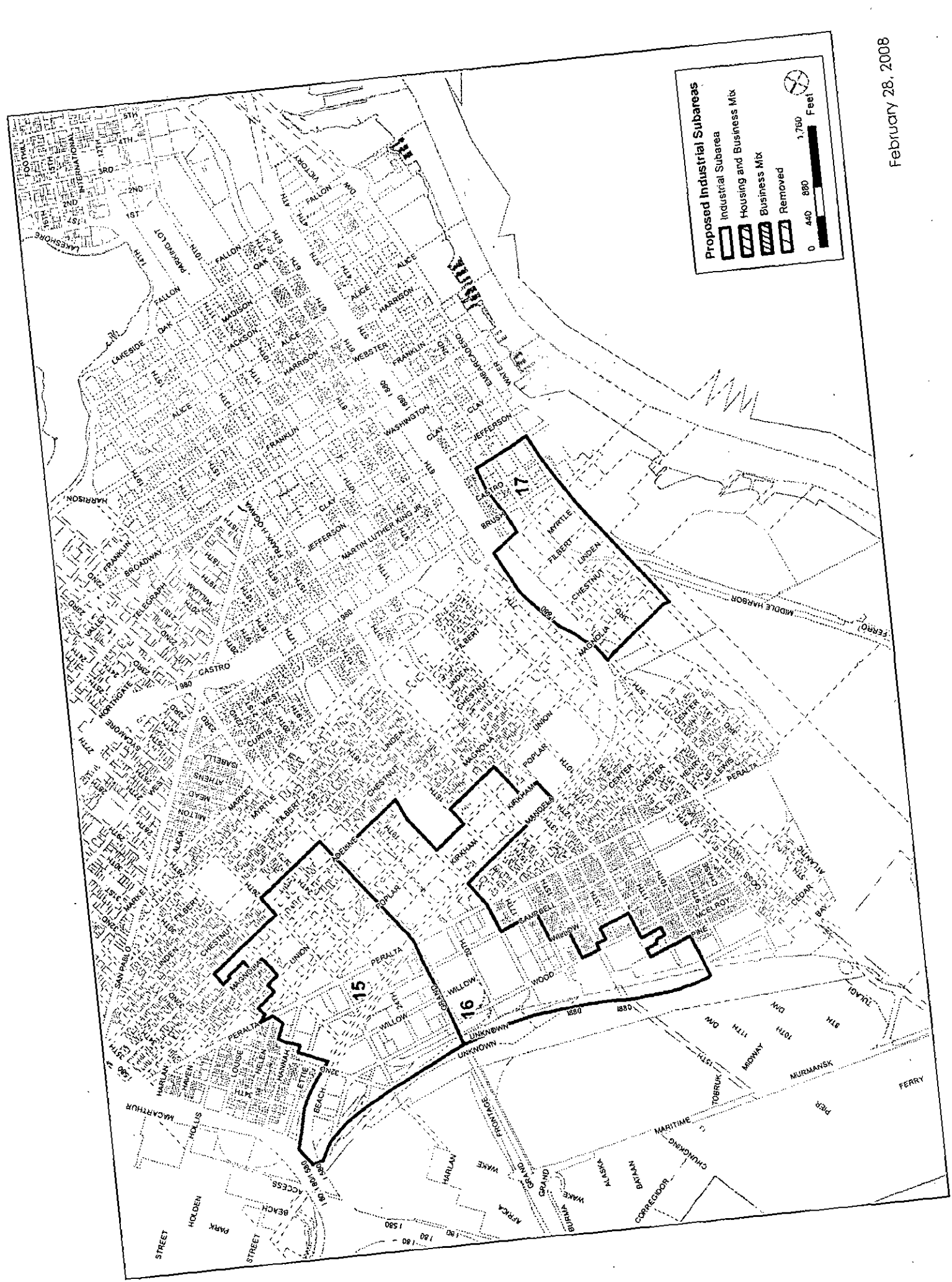
Industrial Subareas
Map 1 of 4

Community and Economic
Development Agency

February 28, 2008







Proposed Industrial Subareas

- Industrial Subarea
- Housing and Business Mix
- Business Mix
- Removed

0 440 880 1,760 Feet

February 28, 2008



U.S. DEPARTMENT OF THE INTERIOR
BUREAU OF LAND MANAGEMENT