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REVISED

APPROVED AS TO FORM AND LEGALITY

*Mark P. Waller* *James A. Hencio*  
City Attorney

INTRODUCED BY COUNCILMEMBER \_\_\_\_\_

## OAKLAND CITY COUNCIL

ORDINANCE No. 12772 C.M.S.

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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.

**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 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**, 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, "HBX Design Guidelines Manual," amendments to the Conformity Guidelines; 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; now, therefore

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

**Section 1.** The Oakland Zoning Regulations 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, as detailed in Attachment 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 Conformity Guidelines 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 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.

**OCT 31 2006**

IN COUNCIL, OAKLAND, CALIFORNIA, \_\_\_\_\_, 20\_\_\_\_\_

**PASSED BY THE FOLLOWING VOTE:**

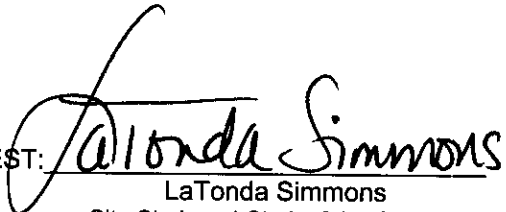
AYES- ~~BRUNNER, CHANG, KERNIGHAN, NADEL, QUAN, REID, and PRESIDENT DE LA FUENTE~~ -6

NOES- 0

ABSENT- 0

ABSTENTION- 0

Excused - Brooks, Chang - 2

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

Introduction Date: **OCT 17 2006**

## Attachment A of Ordinance

### Zoning Text Changes

(Deleted Text shown as ~~strikeout~~. New text is shown as underlined)

#### 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, 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 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	
<b><u>Residential Activities</u></b>				
<u>Permanent Residential</u>	P	P	P	
<u>Residential Care occupying a One-Family Dwelling Residential Facility</u>	P	P	P	17.102.212
<u>Residential Care not occupying a One-</u>	C	C	C	17.102.212

Activity	Regulations			Additional Regulations
	HBX-1	HBX-2	HBX-3	
Family Dwelling Residential Facility				
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
<b>Civic Activities</b>				
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
<b>Commercial Activities</b>				
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
<b>Manufacturing activities</b>				
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	=	=	=	
Heavy Manufacturing	=	=	=	
Small Scale Transfer and Storage	=	=	=	
Hazardous Waste Management	=	=	=	
Industrial Transfer/Storage Hazardous	=	=	=	

Activity	Regulations			Additional Regulations
	HBX-1	HBX-2	HBX-3	
Waste Management				
Residuals Repositories Hazardous Waste Management	==	==	==	
<b><u>Agricultural and Extractive activities</u></b>				
Plant Nursery	C	C	C	
Crop and Animal raising	==	==	==	
Mining and Quarrying Extractive	==	==	==	
<del>Accessory off-street parking serving prohibited activities</del>	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.
- 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			Additional Regulations
	HBX-1	HBX-2	HBX-3	
<b><u>Residential Facilities</u></b>				
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	==	==	==	

Facility Types	Zone			Additional Regulations
	HBX-1	HBX-2	HBX-3	
HBX Live/Work Facility	P	P	P	17.65.170
<b>Nonresidential Facilities</b>				
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
<b>Telecommunications Facilities</b>				
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	--	--	--	
<b>Sign Facilities</b>				
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
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
<b>When lot is abutting street right of way less than 80 ft wide</b>			
Maximum FAR	1.0	2.6	2.6
<b>When lot is abutting street right of way 80 ft wide or more</b>			
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.

Standard	Zone		
	HBX-1	HBX-2	HBX-3
Maximum height	30 ft	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	55 ft

**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>	
<u>Interior lots</u>	<u>50 percent</u>	<u>1</u>

**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:

<u>Standard</u>	<u>Requirement</u>	<u>Note</u>	
<u>Activities allowed in an HBX work/live unit</u>	<u>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).</u>		
<u>Required parking</u>	<u>One parking space per unit plus one additional unassigned visitor or employee parking space per five HBX work/live units.</u>	<u>1</u>	
<u>Required loading</u>	<u>Square feet of facility</u>	<u>Requirement</u>	
	<u>Less than 25,000 sf</u>		<u>No berth required</u>
	<u>25,000–69,999 sf</u>		<u>One berth</u>
	<u>70,000—130,000 sf</u>		<u>Two berths</u>
	<u>Each additional 200,000 sf</u>	<u>One additional berth</u>	
<u>Required usable open space</u>	<u>75 square feet of usable open space per unit</u>	<u>3</u>	
<u>Minimum size of unit</u>	<u>1,000 square feet</u>	<u>4</u>	

**Notes:**

1. See Chapter 17.116 for other off-street parking standards.
2. 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.
3. 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.
4. 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 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:

<u>Standard</u>	<u>Requirement</u>	<u>Note</u>										
<u>Activities allowed in an HBX live/work unit</u>	<u>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).</u>											
<u>Required parking</u>	<u>One parking space per unit.</u>	<u>1</u>										
<u>Required Loading</u>	<table border="1"> <thead> <tr> <th><u>Square feet of facility</u></th> <th><u>Requirement</u></th> </tr> </thead> <tbody> <tr> <td><u>Less than 50,000 sf</u></td> <td><u>No berth required</u></td> </tr> <tr> <td><u>50,000--149,999 sf</u></td> <td><u>One berth</u></td> </tr> <tr> <td><u>150,000—299,999 sf</u></td> <td><u>Two berths</u></td> </tr> <tr> <td><u>Each additional 300,000 sf</u></td> <td><u>One additional berth</u></td> </tr> </tbody> </table>	<u>Square feet of facility</u>	<u>Requirement</u>	<u>Less than 50,000 sf</u>	<u>No berth required</u>	<u>50,000--149,999 sf</u>	<u>One berth</u>	<u>150,000—299,999 sf</u>	<u>Two berths</u>	<u>Each additional 300,000 sf</u>	<u>One additional berth</u>	<u>2</u>
<u>Square feet of facility</u>	<u>Requirement</u>											
<u>Less than 50,000 sf</u>	<u>No berth required</u>											
<u>50,000--149,999 sf</u>	<u>One berth</u>											
<u>150,000—299,999 sf</u>	<u>Two berths</u>											
<u>Each additional 300,000 sf</u>	<u>One additional berth</u>											
<u>Permitted Density</u>	<u>Same as Section 17.65.070</u>											
<u>Required usable open space</u>	<u>Same as Section 17.65.130</u>											

**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 Maxwellton Road; thence southwest on Maxwellton 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.

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- 17.10.020 Definitions.**
- 17.10.030 Listing of activity classifications.**
- 17.10.040 Accessory activities.**
- 17.10.050 Classification of combinations of principal activities.**
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- 17.10.110 Permanent Residential Activities.**
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- 17.10.410 **Retail Business Supply Commercial Activities.**
- 17.10.420 **Research Service Commercial Activities.**
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- 17.10.450 **Construction Sales and Service Commercial Activities.**
- 17.10.460 **Automotive Sales, Rental, and Delivery Commercial Activities.**
- 17.10.470 **Automotive Servicing Commercial Activities.**
- 17.10.480 **Automotive Repair and Cleaning Commercial Activities.**
- 17.10.490 **Automotive Fee Parking Commercial Activities.**
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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 Central Business District;~~
- ~~Mixed use projects in the 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, a~~ 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.

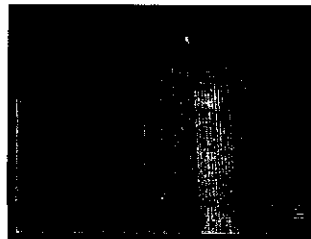
C. Discretionary Waiver or Reduction in Districts Providing Common Parking Areas. The off-street parking requirements specified above for nonresidential activities in any zone, or for Residential Activities in the R-90, C-28, C-31, C-45, C-51, or C-55 zone, may be waived or reduced by the Director of 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 impair 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.

**Attachment B of Ordinance**  
Design Guidelines Manual

**HOUSING AND BUSINESS MIX**  
Design Guidelines Manual

November 7, 2006



# DRAFT

## HBX Design Guidelines Manual

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## **INTRODUCTION**

### Why is there a Design Guidelines Manual for the Housing and Business Mix (HBX) zones?

The Land Use Element of the General Plan states that:

“The Housing and Business Mix (HBX) classification identifies areas of the city where a complex mix of residences and businesses has evolved due to converging historic development patterns”

This convergence has resulted in a context characterized by complex and inconsistent development patterns, making rigid and prescriptive zoning requirements ineffective as the sole regulatory tool to allow for well designed developments. Therefore, strict requirements are avoided in the Zoning Ordinance and massing, scale and site planning issues are addressed in a design guidelines manual, which provides greater flexibility and provides for site specific design solutions.

### Overall intent of the HBX Design Guidelines Manual

The overall intent of this manual is to:

- Guide and transition into a more intense development pattern than has traditionally existed in HBX neighborhoods;
- Allow freedom to create buildings of varied designs and styles;
- Develop attractive streetscapes and urban spaces;
- Allow the compatible coexistence of residential and nonresidential activities; and
- Promote innovative building designs that exist compatibly with traditional development patterns.



*Industrial activities adjacent to a home in the Kennedy tract area of the Estuary.*

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## HBX Design Guidelines Manual

### Organization of the Manual

This manual is organized into four sections: Site Planning, Building Design, Corner Buildings, and Landscape and Buffering; each section contains one or more Design Objectives to achieve the overall intent of the Manual. Specific guidelines are provided to achieve a corresponding Design Objective.

The following is a review of the design objectives contained in this manual:

- 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.
- Design Objective #2:** Site parking to maintain an attractive streetscape and preserve on-street parking.
- Design Objective #3:** Integrate functional open space into the design of the site.
- Design Objective #4:** Use design techniques to scale buildings appropriate to their location.
- Design Objective #5:** Consider a variety of architectural styles.
- Design Objective #6:** Provide visual interest to street facing areas.
- Design Objective #7:** Provide visual emphasis to buildings at street corners.
- Design Objective #8:** Provide well designed landscaping and buffering for street fronting yards, parking areas, nonresidential activities, and parking podiums.

### How should this Manual be used?

Conformance with this manual and the design review criteria contained in Section 17.136.070 of the Zoning Ordinance is required to receive City approval for construction in the HBX-1, HBX-2, and HBX-3 zones. The project must conform to the design objectives of the manual. Guidelines



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## **HBX Design Guidelines Manual**

provide methods to fulfill an associated design objective; however, they are not intended to restrict innovation, imagination and variety in design. An alternative design will be considered if it achieves the desired objectives of the manual to the same extent as their associated guidelines.

### Context and neighborhood pattern

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.

### Amendments to the Manual

Amendments to this manual may be proposed by any party and must be approved by the City of Oakland Planning Commission.

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## HBX Design Guidelines Manual

### SITE PLANNING

Site planning refers to the placement and relationship of buildings, open spaces, parking and service areas on a site. A designer should carefully arrange building footprints, open spaces, roadways, driveways, circulation access points, and parking in response to the specific site and surrounding area conditions and opportunities, such as the size and shape of lots, the size and scale of nearby buildings, the site's location at prominent streets, and other features.

**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.**

A setback establishes the footprint of a building by providing the required distance between buildings and the front, rear, and side property lines. Rigid setback requirements are not prescribed in the zoning ordinance because of the varied development patterns found within areas with an HBX designation. Instead, flexible setback guidelines are contained in this section to respond to the varied development contexts in the HBX zones.

#### Front Setback and Orientation

*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. 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 sometimes 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.

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## HBX Design Guidelines Manual

Note that the public right of way can be used for some or all of these setbacks so long as an area for a minimum eight foot wide sidewalk remains (six feet for the walking area and two feet for a planting strip). Construction, landscaping, or development in the right of way may require an encroachment permit from the City of Oakland.

*Guideline 1.2: Provide appropriate transitions from front yard setback contexts.* If a street has an established front yard setback pattern (see the introduction for how to determine a pattern) farther away from the front property line, larger developments (generally proposals on lots with a street frontage of more than 50 feet) should transition to a new context closer to the street. The following are two design techniques to consider:

- Providing an equivalent front yard setback adjacent to the context, then reducing it as the distance increases from the existing pattern; or
- Providing open spaces such as landscaped areas and driveways adjacent to the neighboring context to mark an end to the setback pattern and establish a new pattern. These open spaces should be at least 15 feet wide.

Smaller developments (proposals on lots with a street frontage of 50 feet or less) can unify the streetscape pattern (see the introduction for how to determine a pattern and context) by transitioning between adjacent front yard setback contexts. The following design techniques can achieve this transition:

- Provide a front yard setback that is midway between the front yard setbacks of adjacent properties. For instance, if buildings on the two neighboring properties on both sides of the development have front yard setbacks of five and 15 feet, respectively, consider providing a ten foot front yard setback; or
- Step or stagger the façade of the subject property between the setbacks of the two neighboring properties. For instance, in the example of adjacent five and 15 foot front yard setbacks, half of the property could match the 15 foot setback of the adjacent lot, and the other half could match the five foot setback of the other



Guideline 1.2: Transitioning from front yard setback contexts

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lot. Intermediate steps, such as at seven and 13 feet, would also provide an appropriate transition.

### Rear setback

*Guideline 1.3: Preserve the collective rear yard open area for residential development.* A series of adjacent rear yards on a block collectively contribute to an overall open and airy environment. This collective open space also provides solar access for adjacent residential properties.

The preservation of the rear yard open area is most important for residential properties or properties available for residential development. Therefore, new development should respect and contribute to the collective open area with a rear yard setback of at least ten feet when adjacent to residential, vacant, or underutilized parcels. However, a well designed parking podium to the property line may be constructed (see Guideline 8.5 for appropriate wall designs) to the property line to accommodate required parking. This podium should be no higher than ten feet unless twelve feet is required to accommodate a mechanical lift.

Further, new construction should take into account the light and air of single family homes, duplexes, or similar small scale residential development that exist to the rear, particularly if that existing property does not enjoy a back yard of 20 feet deep or greater. This can be achieved through limiting building height near the neighboring properties, stepping back upper stories, providing courtyards at the rear of portion of the building, or other methods.

Note, however, that the more intense urban development envisioned by this document will affect the light and air of existing properties. The case review planner must carefully balance the intent of this document to encourage more intense development patterns and construction that is compatible with existing traditional neighborhoods.

In general, residential facilities (other than parking podiums) should not be closer than ten feet from the rear property line to preserve the light and air for new units. A possible exception to this requirement is when a freeway, railroad, or BART line is directly to the rear. If there is a

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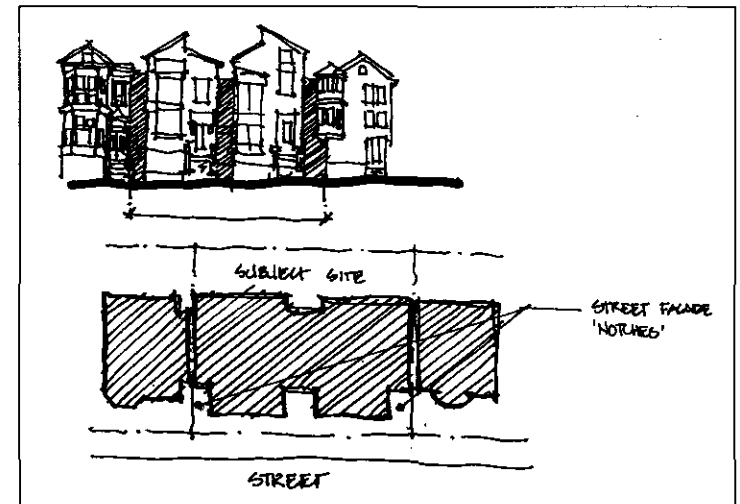
nonresidential building to the rear or other building with a blank wall, the mass can also be shifted to this ten foot rear yard space if it allows for more light and air to adjacent residential properties at other locations on the lot. In this case, the design of a building should provide light and air to new units through the use of courtyards or other methods.

### Interior side setback and spacing between buildings

*Guideline 1.4: Provide limited interior side setbacks and spacing between buildings toward the front of a property if there is not an established context on the street.* In general, a new development should provide limited interior side setbacks that are visible from the street if there is 1) no established street pattern of interior yard setbacks on a street or 2) an established pattern of no interior side yard setbacks (see the introduction for how to determine a pattern). This siting provides an effective street wall, eliminates areas for dumping garbage, and adds a measure of safety by minimizing unsafe dark areas near the street.

Where there is an established pattern that creates a rhythm of buildings on the street (see the introduction for how to determine a pattern), a developer should either transition to a new rhythm or continue the existing rhythm. The following are two suggested design techniques to create a transition:

- On larger lots, provide open areas that are at least 15 feet wide and that contain recreational space or driveways adjacent to the neighboring lot to effectively mark an end to the existing rhythm. This method frees a development to establish a new rhythm;
- Provide a shallow notch adjacent to building façades to create a pattern of vertical separation, or shadow line to reflect the existing rhythm of the street and building modulation (see Guideline 4.3, below). On larger lots, a development could transition to its own pattern as the distance from the existing pattern increases (see illustration, below).
- Provide the same interior yard setback as on the street. For large developments, buildings with similar widths and separation as found on the street provide an effective transition. A development



*Guideline 1.5: Street Fronting "Notches"*

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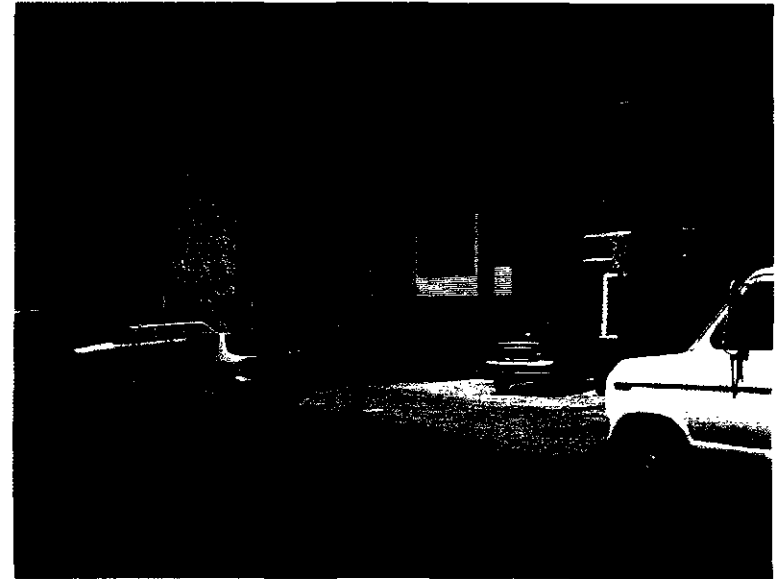
could transition to its own pattern as the distance from the existing pattern increases.

*Guideline 1.5: Design interior side setbacks that provide appropriate light and air to neighboring residential development.* This guideline describes techniques that developments can use to mitigate light and air impacts on single family homes and duplexes with windows facing the sides of a new development. Each of these features should be placed at locations that provide the light and air to building openings on neighboring properties. The methods include providing:

- Setbacks, driveways, and recreational space that leave open areas between a property line and a proposed building;
- Limited building height near the neighboring properties;
- Stepped back upper stories;
- Open courtyards on the ground or at upper stories;
- Roofs that slope away from the neighboring property;
- Light wells opposite the windows and/or existing light wells of the neighboring property;
- Other effective techniques.

Another method includes shifting mass away from the single family home or duplex towards adjoining properties that have nonresidential development or buildings with blank walls facing the site. Mass can also be shifted towards larger scale multi-family developments with light well at the location of the windows on the other lot. This shifting of mass towards other sides of a lot can allow for a combination of courtyards, setbacks, or stepbacks, and light wells adjacent to the small scale development.

The combination of methods to use depends on the subject site and the adjoining sites. The wider lots (lots that are wider than 50 feet) have the most site plan flexibility. These lots should mitigate through the use of setbacks, upper story courtyards, height limitations, and/or stepbacks at locations that allow light and air to a neighboring property. Locating open areas such as yards, driveways, or parking areas next to the neighboring property also buffers the light and air impacts of larger developments. Note that any parking areas or driveways should have a landscaping and



*Guideline 1.5: New development should respect the light and air of neighboring residential properties.*

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fencing buffer to mitigate vehicle noise and glare from headlights to the adjacent property.

As a development site becomes narrower and smaller it becomes more challenging to provide mitigations for neighboring properties while preserving development potential. No "one size fits all" solution exists for the varied site contexts that will be found in the HBX zones. Therefore, a designer needs to carefully analyze the site and context and creatively use the design tools described above or other techniques to mitigate the impacts of new development. Further, if the neighboring single family home, duplex, or other structure is eight feet or more away from the new construction, then no further mitigation is required. Often times, providing this eight foot separation will not be feasible on narrow lots; in this case a developer should employ the methods described in this section. The eight foot separation is not a requirement of these guidelines. However, providing this separation assures a developer that no more mitigation of the light and air to the sides of neighboring homes will be required.

When the eight foot separation is not provided, the design review planner must carefully balance the intent of these guidelines to 1) encourage more intense development and 2) provide buildings that are compatible with small scale residential development patterns (see the introduction for how to determine a pattern).

Note, however, that the light and air of existing properties will be affected by new development; the same amount of light and air a neighboring property enjoyed prior to a development cannot be preserved after the development is constructed. The intent of these guidelines to direct a more intense development pattern cannot be achieved without disturbing the light and air of existing development. Therefore, this guideline accounts for a reduction of light and air to neighboring properties that will result from new development in the dense urban environment envisioned by this document.

Finally, on the narrower lots, a well designed parking podium to the property line may be constructed (see Guideline 8.5 for appropriate wall designs) to the property line to accommodate parking requirements.

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This podium should be no higher than ten feet unless twelve feet is required to accommodate a mechanical lift.

### Design Objective #2: Site parking to maintain an attractive streetscape and preserve on-street parking.

**Guideline 2.1: Reduce the visibility of parking areas.** For developments on larger lots (lots with a street frontage of more than 50 feet) and corner lots, a site plan should incorporate techniques to reduce the visibility of parking from the street, such as:

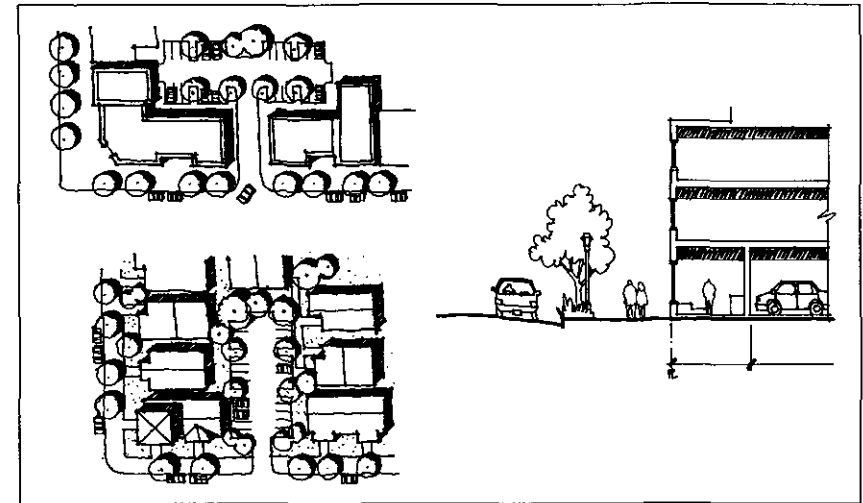
- Place a parking “podium”, an enclosed ground level garage area, behind another type of facility such as a lobby, business, joint living and working quarter, or living unit;
- Provide parking areas behind buildings;
- Cluster parking spaces in one location to reduce its presence throughout a development and reduce the number of garage doors;
- Provide subterranean parking; and
- Site parking entrances at the side or rear of a lot.

Guideline 6.1 describes techniques to provide visual interest to blank parking podium walls when they are unavoidable due to site constraints.

For developments on smaller lots (lots with a street frontage of 50 feet or less), a developer can provide subterranean parking and/or provide garages at the ground floor of a structure (see Design Objective #5 for guidelines regarding garage door and façade design). Structures with ground floor parking should have living space directly above the garages. Placing required parking in the front of a lot is not a preferred parking technique for new construction.

See Guideline 8.3 for appropriate landscaping and paving for driveways and parking lots.

**Guideline 2.2: Dimension curb cuts to maximize on-street parking spaces.** Parking should be dimensioned to maximize the availability of on-street parking spaces. Where possible, parking spaces should be either clustered



Guideline 2.1: Examples of preferred parking techniques on large lots.



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or provided through an alley that leads to garages at the rear of the units. Where a series of curb cuts is unavoidable due to site constraints, provide at least 20 feet of full height curb length between curb cuts on a site to preserve on-street parking between driveways. Where feasible, this amount of curb length should also be provided between a curb cut on a new development and that of adjacent properties.

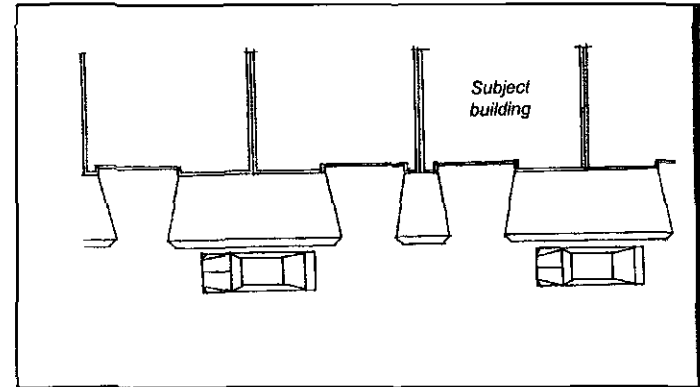
### **Design Objective #3: Integrate functional open space into the design of the site.**

*Guideline 3.1: Place required open space at locations convenient to residential units and prominent common areas.* Unlike most zones in the City, the HBX zone allows all required usable open space to be private and provided above the ground. This allows the designer flexibility to gracefully integrate open space into the design of a building that is convenient for the use of residents and promotes social interaction amongst residents. Potential areas for private and group open space include:

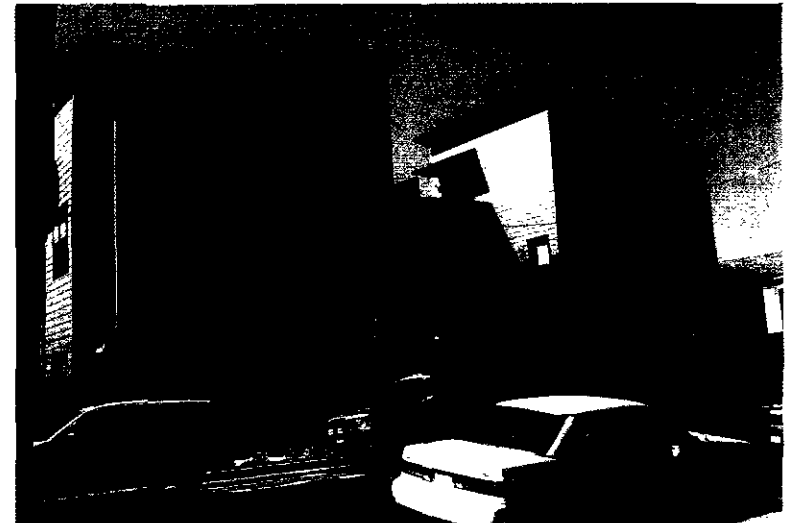
- Spaces between roof forms;
- Rear and front upper story stepbacks;
- Rear yard setbacks;
- Common courtyards;
- Open areas along commonly traveled pedestrian routes; and
- Other methods.

Group usable open space can also be used to transition from the height, scale, and setback context of adjacent lots and, with appropriate landscaping, as a screening and privacy buffer for neighboring properties.

Usable open spaces should be oriented towards living units, windows, and balconies to promote activity and provide security.



*Guideline 2.2: Curb cuts that maximize on street parking spaces.*



*Guideline 3.1: The private usable open space above the garages of this duplex is convenient to both units and incorporated into the design of the building.*

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### BUILDING DESIGN

This section provides specific guidance regarding the design of a building in terms of height, scale, and architectural elements.

#### **Height and Scale**

Scale is the appearance of the size of a building or its elements relative to their surroundings. The scale of building can be adjusted depending on how different masses, forms, or shapes of a building are proportioned. For instance, a large building can be proportioned to have a scale that relates to smaller buildings through the use of bands, projections, cornices, setbacks, or windows. Similarly, a tall building can be scaled to relate to pedestrians through the use of a prominent base, storefront windows, or a canopy.

#### **Design Objective #4: Use design techniques to scale buildings appropriate to their location.**

As mentioned, HBX areas have a convergence of development patterns that has resulted in buildings of varied heights and scales. The HBX regulations encourage investment by allowing the construction of buildings that will have a larger scale than this development pattern; this introduces yet another development type into these areas. This section provides guidelines and techniques to appropriately scale new construction into this complex streetscape pattern.

*Guideline 4.1: Use design techniques to provide a building with an appropriate scale.* The scale of a building plays an important urban design role. Urban environments depend on buildings to provide the appropriate “walls” to define the street space. Buildings facing each other across a wide street should have a larger scale to properly unify or define the public space. Conversely, buildings with too great a perceived height can overwhelm and loom over a narrow street. Therefore, the appropriate

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scale of a building depends, in part, on the width of the public space between buildings on opposite sides of a street.

This guideline provides different methods to treat the scale of a building. When a development is located on a narrow right of way (a right of way less than 80 feet wide), the methods should be employed above about the 35 to 40 foot level of a building; on a wide right of way (a right of way 80 feet or greater) the methods can be used above about the 45 foot level. Methods to significantly reduce the scale of a building are not necessary along very wide right of ways of 100 feet or greater.

The following are methods that can be used to reduce the scale of a building at a street facing facade. As with all the guidelines in this document, other creative methods that provide a pleasing architectural composition and achieve the design objective are encouraged. These methods should be employed in the HBX-2 and HBX-3 zones, where greater heights are permitted.

Stepping back from the front façade about one foot for every two vertical feet provides an effective reduction in scale. A strong horizontal feature such as a cornice line where the building begins its stepback creates an additional reduction in scale. Note that stepbacks repeated at several sequential stories can create an awkward wedding cake or ziggurat appearance that may need to be varied and architecturally treated.

Reducing the amount of façade area above a horizontal element through the use of varied roof forms, vertical articulations, or other methods also reduces the scale of a building. On larger lots, this method can also create interesting variation and rooflines at the streetscape, create opportunities for decks, and provide solar access to units within the development and on neighboring lots.

Another technique is to place tall structures behind smaller street facing buildings. This allows for tall structures that do not impact the street.



*Guideline 4.1: Upper story stepbacks reduce the scale of a building appropriate for the width of a street and neighboring buildings.*

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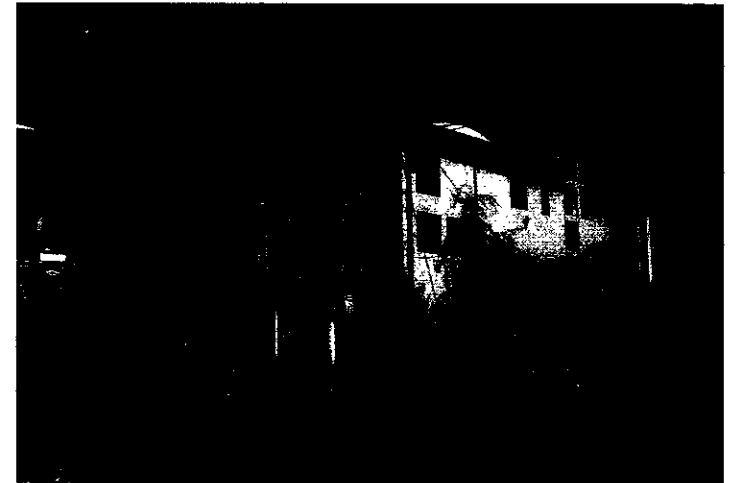
Coupled with other techniques, changing the materials and textures, and providing a progressively light color application to upper stories can also reduce the perceived height of a building.

This reduction of scale described in this section can occur at a higher level at the end of a block because larger scaled structures at corners serve to frame the streetscape and set the tone for a neighborhood (see Design Objective #7).

*Guideline 4.2: Avoid abrupt transitions in height and scale from a neighboring property. A designer should apply methods to avoid an abrupt transition from adjacent shorter intact buildings, particularly residential buildings. Several techniques can be used to avoid this abrupt transition, including:*

- Providing a partial upper story setback adjacent to the shorter neighboring buildings, particularly toward the front of the proposed building;
- On larger lots, providing open areas that are at least 15 feet wide and that contain recreational space or driveways adjacent to the neighboring lot.
- Using a sloping roof to transition from neighboring structures;
- Providing a strong horizontal element such as a prominent cornice line at the same height as neighboring buildings;
- Modulating building heights near neighboring structures.

*Guideline 4.3: Use open areas, building modulation, or other methods to transition from the rhythm and scale of traditional residential streets. In HBX areas, larger developments on wide lots will frequently be proposed next to traditional turn of the century residential developments of single family homes and duplexes on small lots. Adjacent to these patterns (see the introduction for how to determine a pattern), a façade should be broken up and scaled to reflect this existing context through massing, modulation, window patterns, colors, textures, strong entries, varied and*



*Guidelines 4.1 and 4.2: Variations in roofs height and upper story setbacks reduce the scale of this building and provide a transition to the neighboring smaller scale property.*



*Guideline 4.2: Open areas can provide an effective transition in scale.*

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visually interesting materials, and detailing. Notches, such as described in Guideline 1.4, can also be used to mass or modulate a building façade. On larger lots, a development can transition to a greater scale and different rhythm as the distance from the traditional pattern increases. A development could also provide open areas that are at least 15 feet wide and that contain recreational space or driveways adjacent to the neighborhood pattern. This technique marks the beginning of a new pattern.

*Guideline 4.4: Emphasize human scale design and an active streetscape.* The term “human scale” refers to the use of architectural elements to provide a building that is proportionate to human scale, particularly at the street level. Activating the street involves providing a visual, transitional, and/or operational connection between the sidewalk and what goes on within the building. It also involves providing ground level activities that attract pedestrians. If emphasis is placed on the human scale and activating the street, buildings will convey a sense that the neighborhood is an inviting, vibrant, pleasant, and safe environment for pedestrians. Consider the following methods to compose a human scaled façade and create an active streetscape:

- Provide a ground level ceiling height greater than the upper stories;
- Provide visually interesting details on street facing ground levels that contrast with the upper stories. For instance, entrances, exterior light fixtures, changes in materials, colors, and textures add interest and give a human scale to street-level building facades;
- Modulate the façade of buildings into human-scale intervals;
- Design a regular cadence of storefront sized windows and entrances at the front facade;
- Locate nonresidential activities facing the street and at street level, including the nonresidential activities within work/live units;
- Provide transparent glazing for nonresidential activities facing the street, including the nonresidential activities within work/live units.



*Guidelines 4.2 and 4.3: Techniques that transition from the pattern on the street.*

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- Locate overhead cover along the sidewalk for pedestrian comfort such as front porches, canopies, awnings, or arcades;
- Provide prominent stoops;
- Provide a prominent front entrance;
- Provide second story stepbacks;
- Avoid blank walls (see Guideline 6.1);
- Other methods.

*Guideline 4.5: Clearly identify the main entrance from the street. A main entrance should be clearly identifiable from the street. Techniques a designer should consider to clearly identify a main entrance include, but are not limited to, projecting or recessing the entrance, or providing a porch, awning, or lobby feature.*

*Guideline 4.6: Provide heights above the increased maximum height and floor area ratio (FAR) when it benefits the neighborhood and improves the site planning of a project. The zoning ordinance allows buildings to be above the increased maximum height and FAR on lots that are both 1) greater than 25,000 square feet and 2) on streets that at least 80 feet wide. Approval of this height requires approval through the design review procedure and conformance to this guideline and must accomplish specific design objectives that benefit the neighborhood and improve the site planning of a project. Specifically, the additional height must achieve at least one of following objectives:*

- Mitigate light and air impacts to and transition from the scale of nearby small scale residential buildings by massing development towards nonresidential buildings. A greater height at one part of a site allows for shorter heights near smaller scale homes;
- Shield the neighborhood from noise and visual impacts from an elevated freeway or BART tracks.

Taller buildings also provide greater site planning and massing flexibility that create an opportunity for a more integrated and efficient site plan and more architectural interest. For instance, taller buildings at a site allow for:

- Variations in massing and heights;



*Guidelines 4.5 and 4.6:  
Example of developments  
that activate the street and  
have clearly identifiable front  
entrances.*

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- Area for centrally located and usable open space;
- Parking placed away from the street;
- A more efficient circulation plan;
- Breaking up a façade to open up the interior of a site to the public areas; and
- Ground floor treatments that provide a more pedestrian friendly environment.

Applications for developments that require a departure from the height regulations requires an accurately scaled axonometric drawing of the proposal and the surrounding context to demonstrate how the massing of the project responds to its location and the site plan benefits from the flexibility afforded by the additional height. These developments also require a shadow study to assess the solar impact on the surrounding area.

### **Architectural Style and Façade Elements**

#### **Design Objective #5: Consider a variety of architectural styles.**

*Guideline 5.1: The design review process should be receptive to a variety of design styles.* The intermixing of industrial, commercial, modern, multi-family, and Victorian style buildings commonly found in areas with an HBX zoning designation provides designers a unique opportunity to design buildings with various styles, materials, roof forms, and textures. The design review process should encourage the design of visually attractive buildings that add richness and variety to the neighborhood. Designers should not be limited to any particular architectural style.

*Guideline 5.2: Provide appropriate references to historic architecture.* Copying designs from other eras can produce architecture that appears false and artificial. Ornamentation and features that refer to period styles in a manner that appears “tacked-on” or artificially thin are discouraged. Designers who voluntarily decide to reference historic styles are encouraged to take cues from the roof forms, windows, and proportions from noteworthy traditional architecture and incorporate them into a contemporary design.

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### Design Objective #6: Provide visual interest to street facing areas.

*Guideline 6.1: Avoid blank walls at street front facades.* Blank walls deaden the streetscape, reduce the visual interest of buildings, and increase safety concerns by removing “eyes on the street”. This guideline describes several methods to bring visual interest to street facing facades.

The generous placement of windows is encouraged at street fronting facades. To create visual interest, the placement and style of windows should contribute to a coherent and appealing composition on the façade. Also, recessed windows provide shadow lines and depth to a façade.

In addition to providing windows at facades, consider the following methods to avoid blank walls: articulating and massing the façade to create a series of smaller forms and incorporating elements such as entrances, bay windows, roof brackets, cornices, and columns.

Blank walls at the ground level are particularly discouraged because they deaden the pedestrian space and remove visual interest at the most visible part of a building. When sections of blank walls are unavoidable at the ground level due to site constraints, several design methods can be employed to increase visual interest, including:

- Providing grill or art work, benches, façade articulations, lighting, canopies, awnings, or other features;
- Installing a vertical trellis in front of the wall with climbing vines or plant materials;
- Installing trees in front of the wall;
- Providing a landscaped or raised planter bed in front of the wall, including plant materials that could grow to obscure the wall’s surface;
- Providing special lighting, a canopy, or awning;
- Using of varied colors and materials.

*Guideline 6.2: Integrate garages doors into the architecture of a building.* Because the garage door is usually the largest opening on a building, care should be taken to make it an attractive feature and integrate it into the



*Guideline: Use articulations and windows to provide visual interest.*



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design of the development. Guideline 2.1 describes preferred garage door and parking locations. The following provides guidance to provide attractive garage doors:

- Recessing the door from the front façade to create shadow lines;
- Choosing a garage door with a design and with materials that complement the architecture of the building; Placing windows on the garage door;
- Recessing the bottom floor façade containing the garage door from the upper stories;
- Placing living space above the garage;
- Placing a landscaped trellis around the garage door;
- Using materials that provide visual interest;
- Providing garage doors with a width proportionate with the scale of the structure. This may require separating wide garage doors into smaller sized doors on smaller projects.

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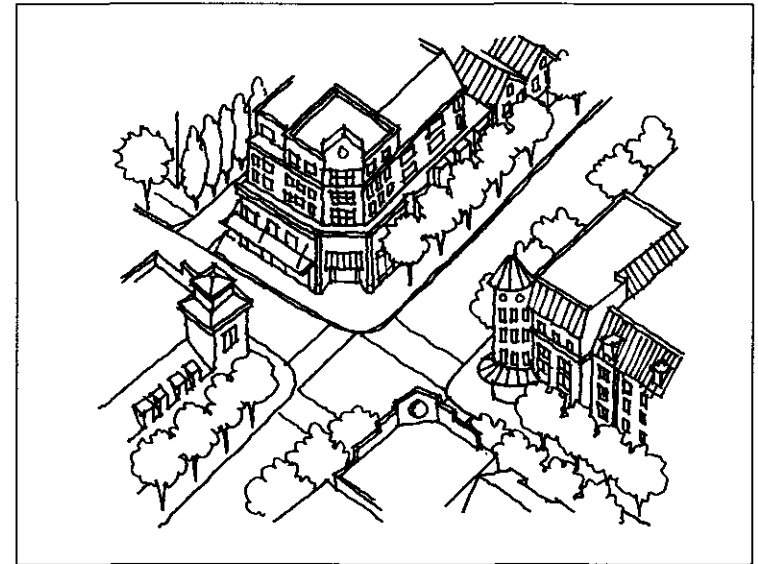
## HBX Design Guidelines Manual

### CORNER BUILDINGS

**Design Objective #7: Provide visual emphasis to buildings at street corners.**

*Guideline 7.1: Provide emphasis to buildings at street corners through decreased front and street side setbacks and greater scale and visual interest. Corner buildings play a strong urban design role because they set the character of a neighborhood and frame the streetscape. Designers can recognize this prominent role through some of the following methods:*

- Using a building height and scale that is greater than but not overwhelming to neighboring buildings;
- Treating both street facing facades with equal visual interest: as much as possible, both sides of a corner building should be relate to the street as a front facade;
- Adding additional architectural detailing than other buildings on the street; and
- Designing a prominent architectural feature at the corner of the lot nearest the intersection.



*Guideline 7.1: Visual Prominence on Corner Buildings*

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### LANDSCAPE AND BUFFERING

**Design Objective #8: Provide well designed landscaping and buffering for street fronting yards, parking areas, nonresidential activities, and parking podiums.**

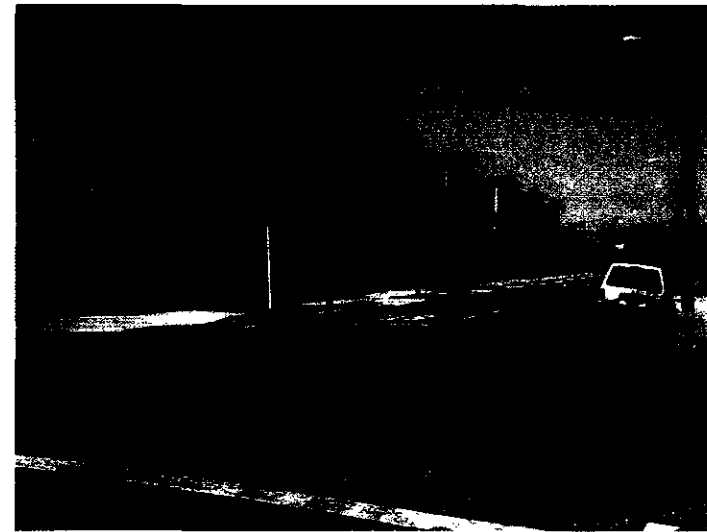
*Guideline 8.1: Landscape street yard areas.* The entire length of street facing areas of a lot, except for driveways, buildings, walkways, and signs shall be generously landscaped. The maintenance of these areas is the responsibility of the property owner and is critical to providing attractive neighborhoods. 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.

*Guideline 8.2: Provide street trees consistent with the neighborhood.* The HBX regulations require one street tree per twenty feet of street frontage or portion thereof. When possible, the trees should be consistent with other street trees in the neighborhood. However, all street trees must be from the approved street tree list of the Public Works Agency, Tree Division.

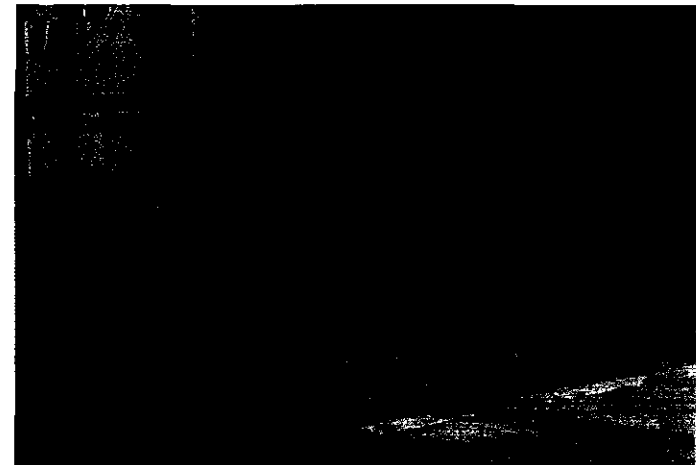
*Guideline 8.3: Provide landscaping and buffering for parking lots and driveways.* The perimeter of parking lots and driveways should be visually screened from the street, other activities on the lot, and abutting properties by either buildings or a combination of dense landscaping or solid walls.

Also, the HBX regulations state that a tree shall be provided for every six parking spaces for projects that involve new or existing parking lots of 3,000 square feet or greater. Rows of canopy trees should be evenly distributed throughout the lot to shade surface parking and reduce heat build-up. Planter islands parallel to the parking spaces provide locations for trees to effectively canopy a parking lot. The use of light-colored materials is also encouraged to help reduce heat islands.

Pervious landscaped paving materials such as grasscrete are encouraged to allow landscaping, soften the appearance of outdoor parking areas, and decrease off-site runoff. Other decorative paving materials such as



*Guideline 8.2: Street trees are an important part of a successful streetscape.*



*Guideline 8.3: Landscaped paving softens the appearance of outdoor parking areas and decreases off-site runoff.*

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stamped concrete or faux brickwork can also soften the appearance of driveways and parking areas.

*Guideline 8.4: Provide landscape and architectural wall buffers for commercial and industrial activities.* Providing the appropriate buffering between properties is critical in allowing the various activities in the HBX zones to coexist compatibly. Therefore, lots that contain commercial or industrial activities (not including those in live/work units) and new residential construction next to existing commercial or industrial properties should provide sufficient landscaping and buffering to mitigate noise and visual impacts to the residential activities.

A method to consider is constructing a minimum eight foot high masonry wall in front of an approximately five foot wide area of landscaping, including a row of trees that will grow above an eight foot level, at the property lines adjacent to residential properties. Other techniques will be considered that have an equivalent buffering and screening effect.

Outdoor storage near the front property line of a nonresidential property should be visually buffered from the street through combination of masonry walls and dense landscaping. The wall towards the front of the property should be no higher than eight feet tall and be visually softened through the use of landscaping, vines, contrasting textures, articulation, colors, or other methods. Landscaping, including trees, should be incorporated into the buffering method. Walls up to 10 feet may be allowed if they are set back at least 15 feet from the front property line.

Note that neither chain link nor barbed wire is an appropriate material for fences.

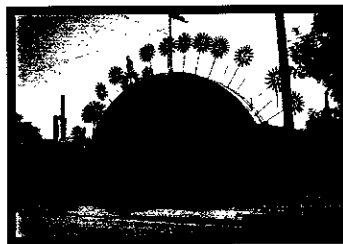
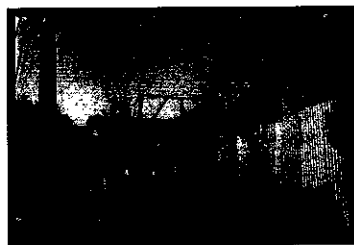
*Guideline 8.5: Use high quality design on the walls of a parking podium that faces an adjacent residential activity.* Guidelines 1.3 and 1.5 state that a well designed parking podium to the rear and side property lines may be an appropriate design for some developments. Developments employing this design should use a combination of the following techniques to mitigate the visual impacts of a wall to neighboring properties:

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- Vines draping over the wall;
- Scoring or modulating the wall to be consistent with the architecture of the building;
- The use of visually interesting materials with contrasting textures, appearance, and color.

November 7, 2006



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

**HOUSING & BUSINESS MIX REZONING PROPOSAL**



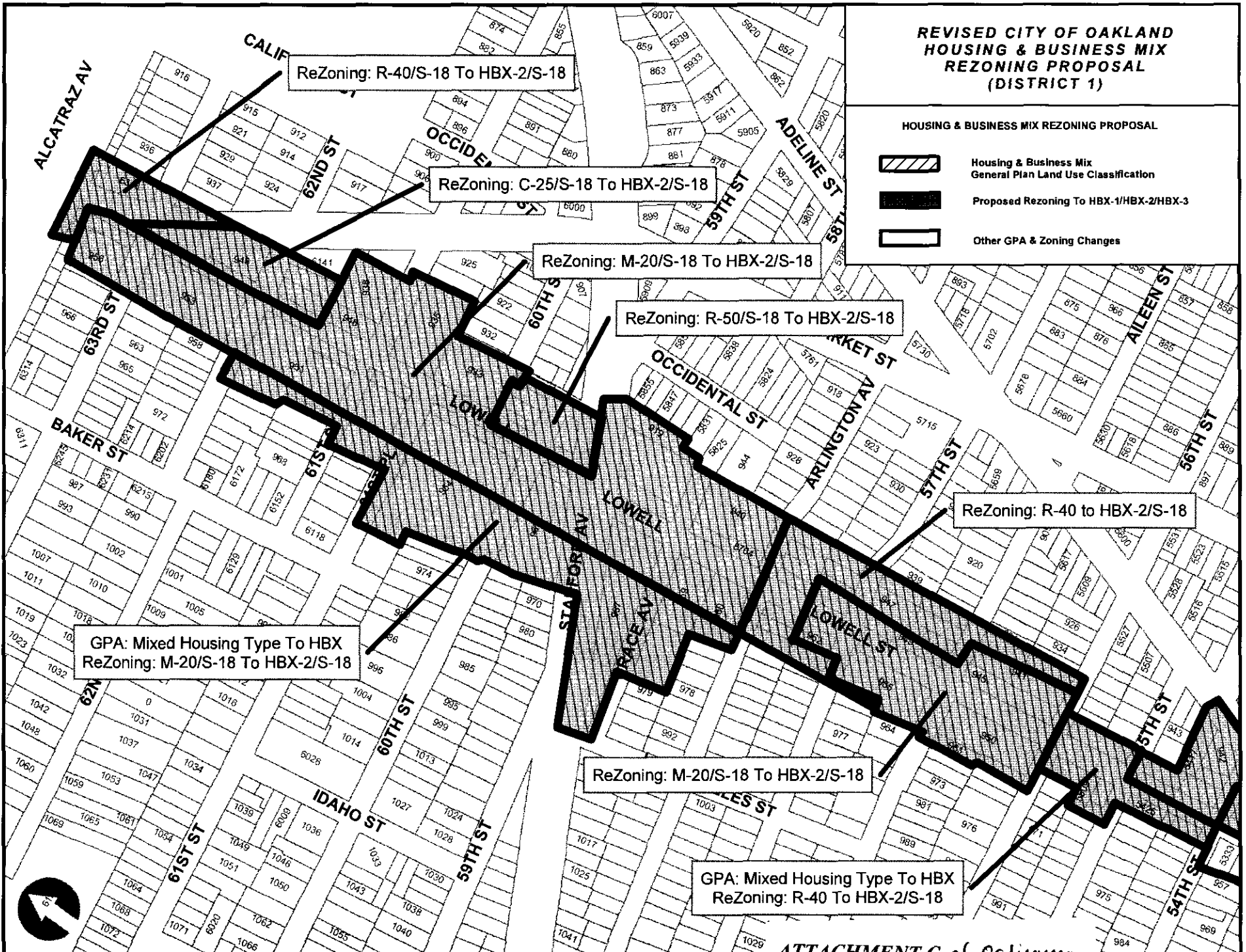
Housing & Business Mix  
General Plan Land Use Classification



Proposed Rezoning To HBX-1/HBX-2/HBX-3



Other GPA & Zoning Changes



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

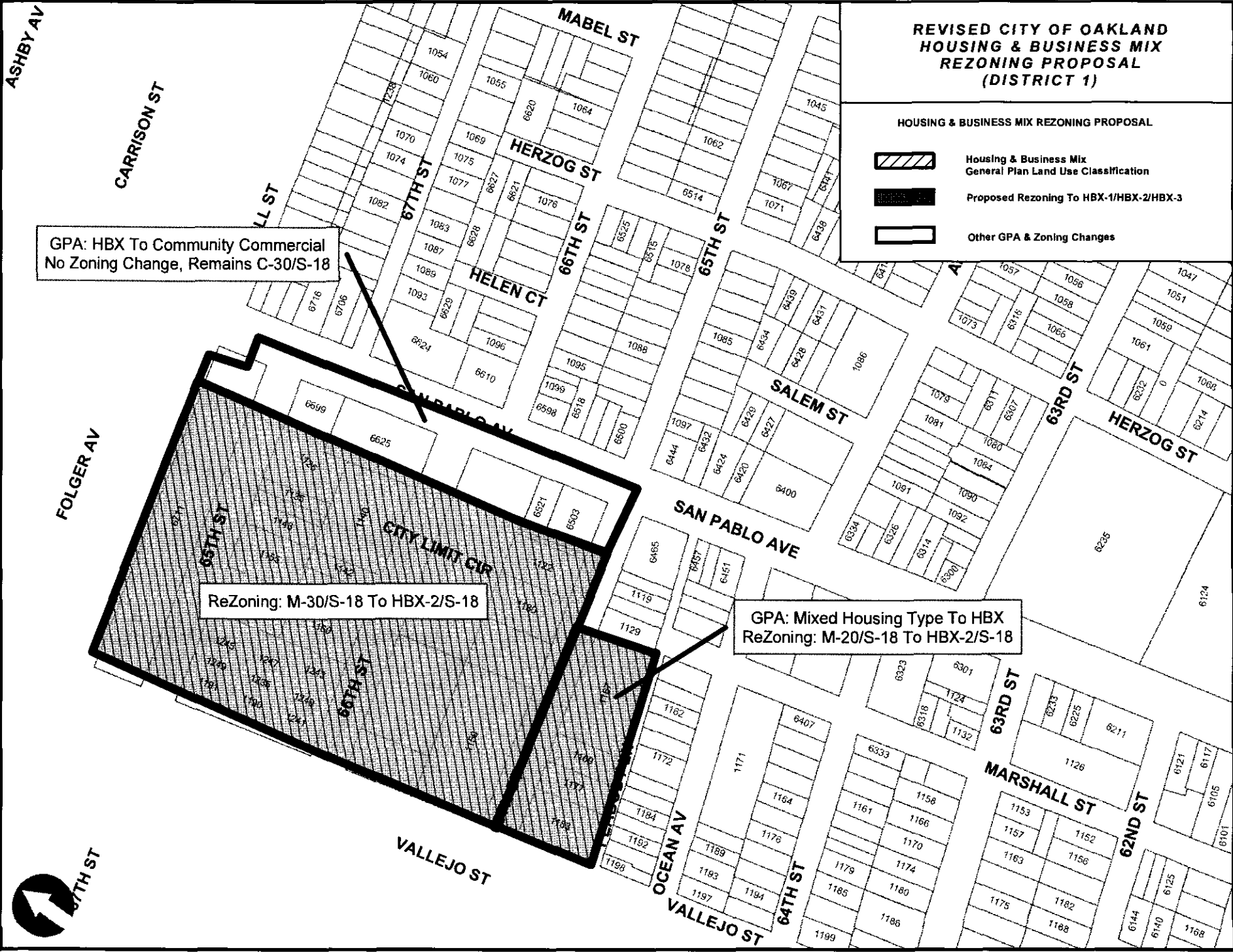
ReZoning: R-40 to HBX-2/S-18

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

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**



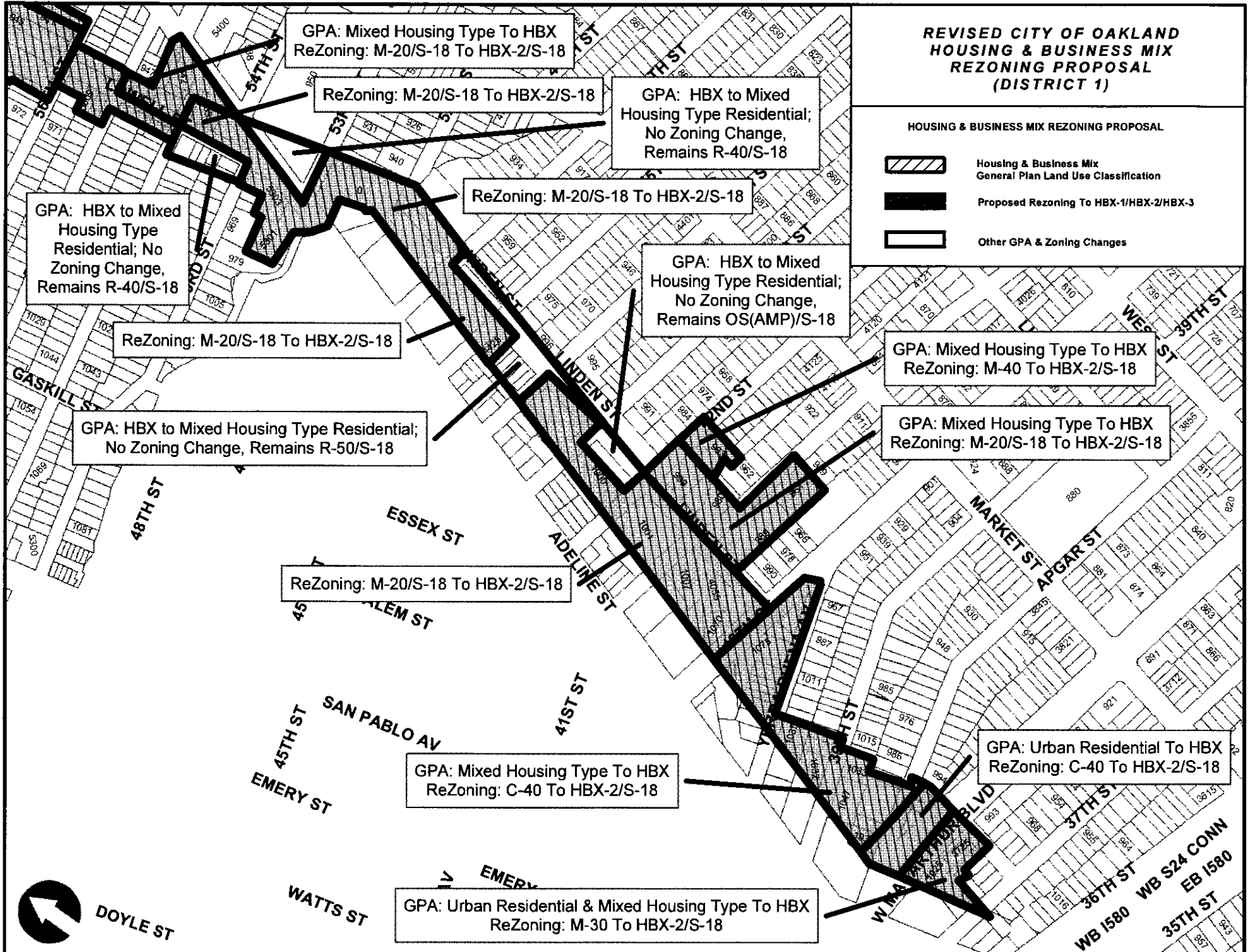
Housing & Business Mix  
General Plan Land Use Classification



Proposed Rezoning To HBX-1/HBX-2/HBX-3






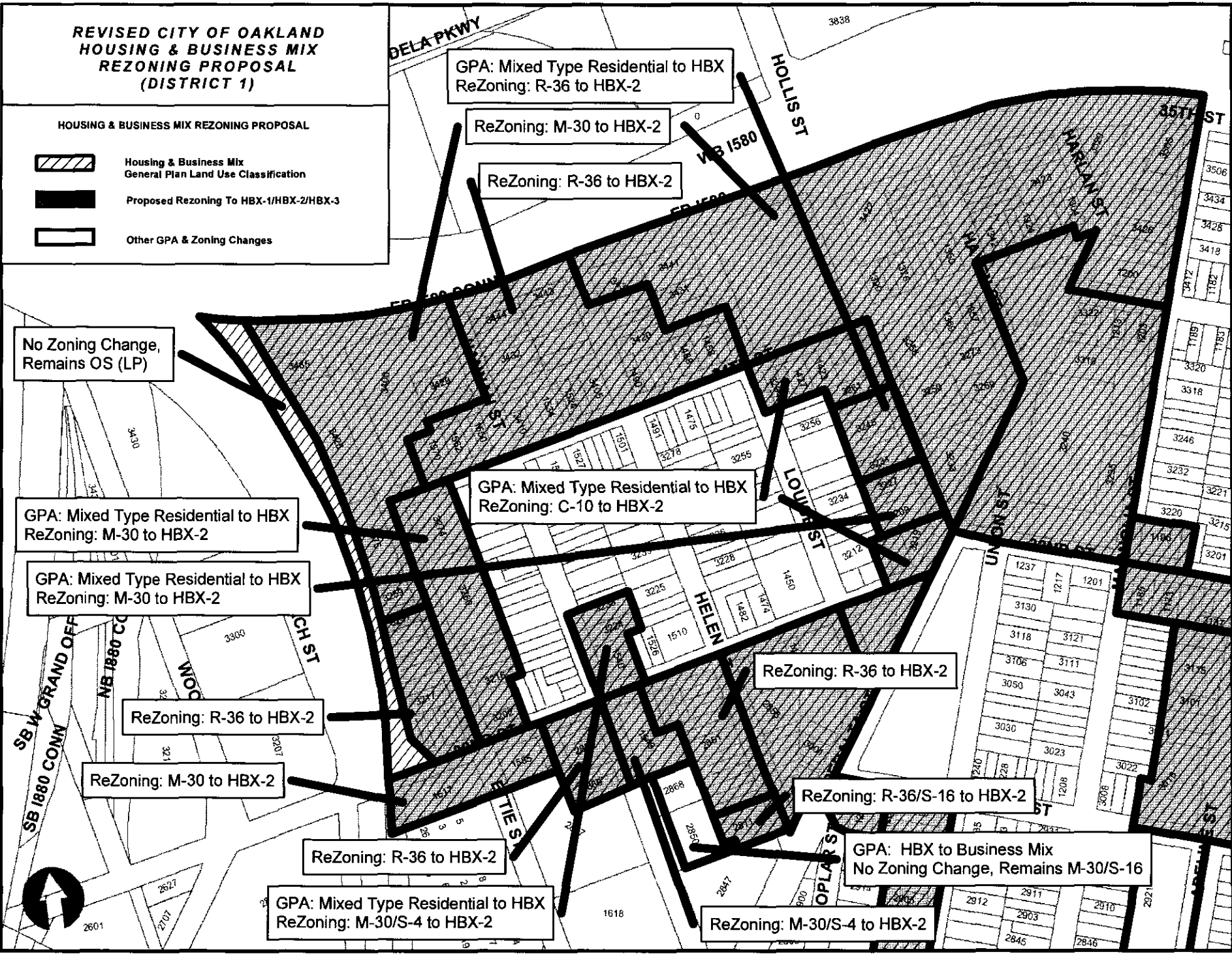
Other GPA & Zoning Changes



**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



No Zoning Change,  
Remains OS (LP)

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

ReZoning: M-30 to HBX-2

ReZoning: R-36 to HBX-2

GPA: Mixed Type Residential to HBX  
ReZoning: M-30 to HBX-2

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

GPA: Mixed Type Residential to HBX  
ReZoning: M-30 to HBX-2

ReZoning: R-36 to HBX-2

ReZoning: R-36 to HBX-2

ReZoning: M-30 to HBX-2

ReZoning: R-36/S-16 to HBX-2

ReZoning: R-36 to HBX-2

GPA: HBX to Business Mix  
No Zoning Change, Remains M-30/S-16

GPA: Mixed Type Residential to HBX  
ReZoning: M-30/S-4 to HBX-2

ReZoning: M-30/S-4 to HBX-2

**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

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

**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

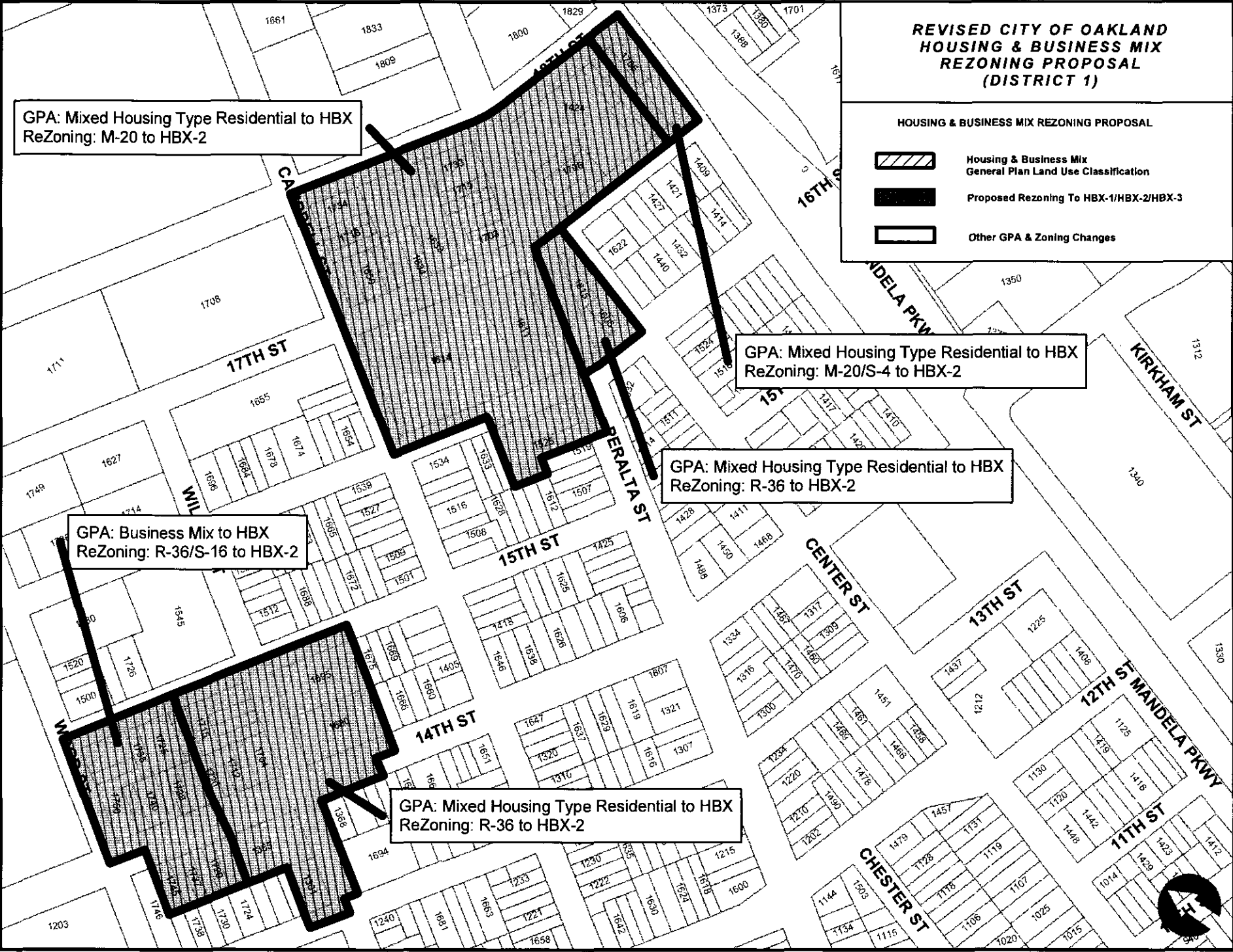
GPA: Mixed Housing Type Residential to HBX  
ReZoning: M-20 to HBX-2

GPA: Mixed Housing Type Residential to HBX  
ReZoning: M-20/S-4 to HBX-2

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

GPA: Business Mix to HBX  
ReZoning: R-36/S-16 to HBX-2

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



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HOUSING & BUSINESS MIX  
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(DISTRICT 1)**

**HOUSING & BUSINESS MIX REZONING PROPOSAL**



Housing & Business Mix  
General Plan Land Use Classification



Proposed Rezoning To HBX-1/HBX-2/HBX-3

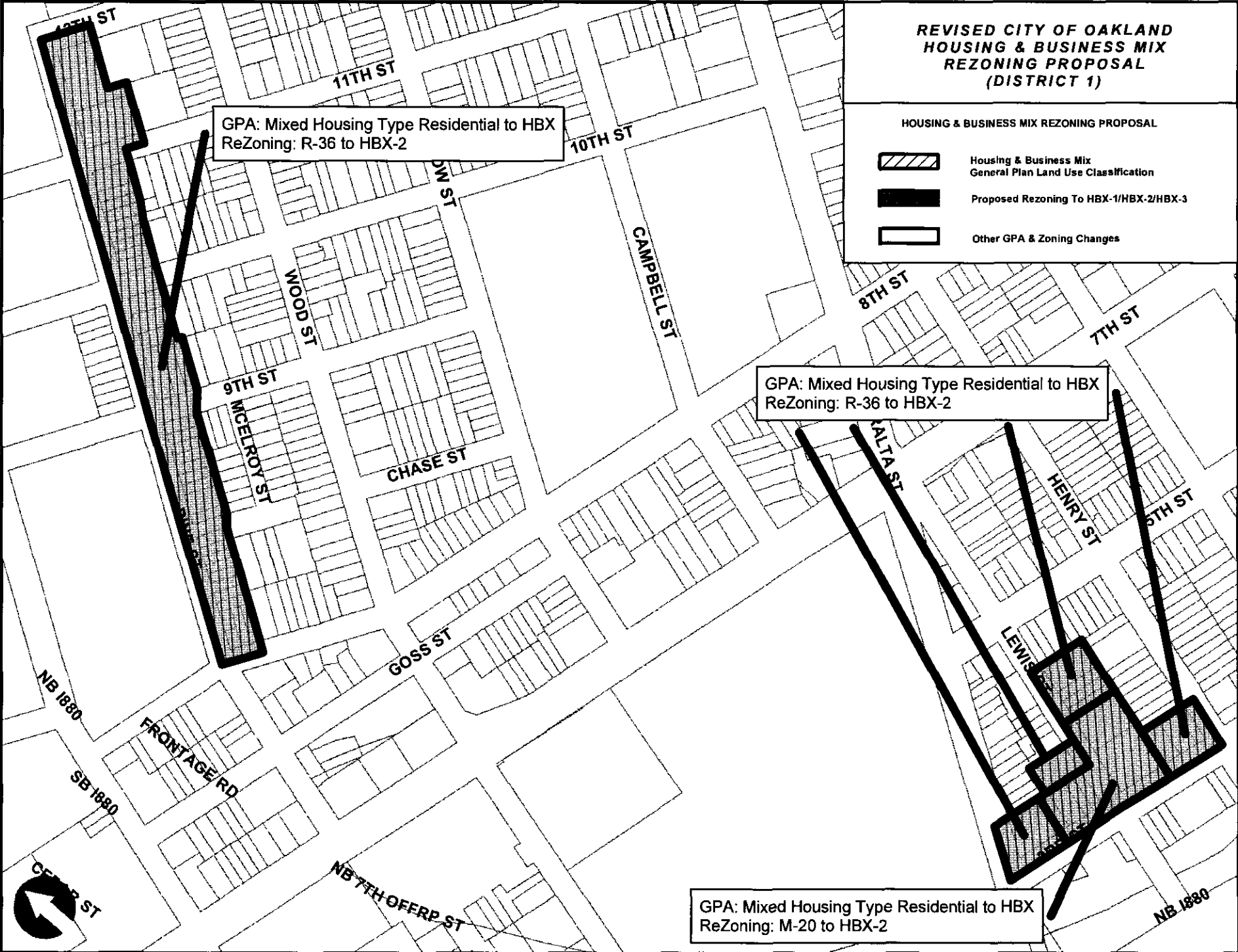


Other GPA & Zoning Changes

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

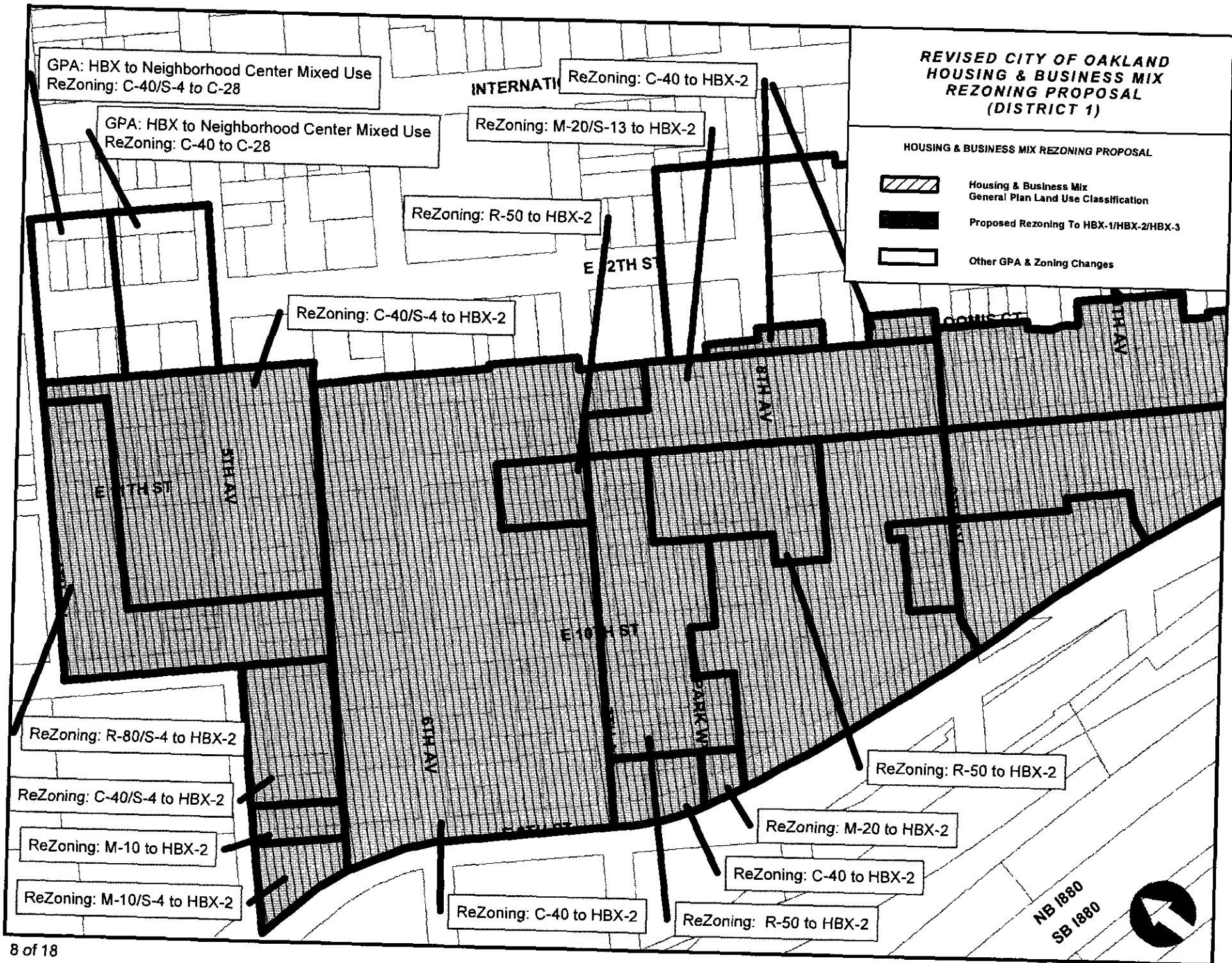
GPA: Mixed Housing Type Residential to HBX  
ReZoning: M-20 to HBX-2



**REVISED CITY OF OAKLAND  
HOUSING & BUSINESS MIX  
REZONING PROPOSAL  
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**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



GPA: HBX to Neighborhood Center Mixed Use  
ReZoning: C-40/S-4 to C-28

GPA: HBX to Neighborhood Center Mixed Use  
ReZoning: C-40 to C-28

INTERNATIONAL BLVD  
ReZoning: C-40 to HBX-2

ReZoning: M-20/S-13 to HBX-2

ReZoning: R-50 to HBX-2

E 2TH ST

ReZoning: C-40/S-4 to HBX-2

E 4TH ST

5TH AV

6TH AV

E 10TH ST

5TH AV

7TH AV

ReZoning: R-80/S-4 to HBX-2

ReZoning: C-40/S-4 to HBX-2

ReZoning: M-10 to HBX-2

ReZoning: M-10/S-4 to HBX-2

ReZoning: R-50 to HBX-2

ReZoning: M-20 to HBX-2

ReZoning: C-40 to HBX-2

ReZoning: C-40 to HBX-2




ReZoning: R-50 to HBX-2

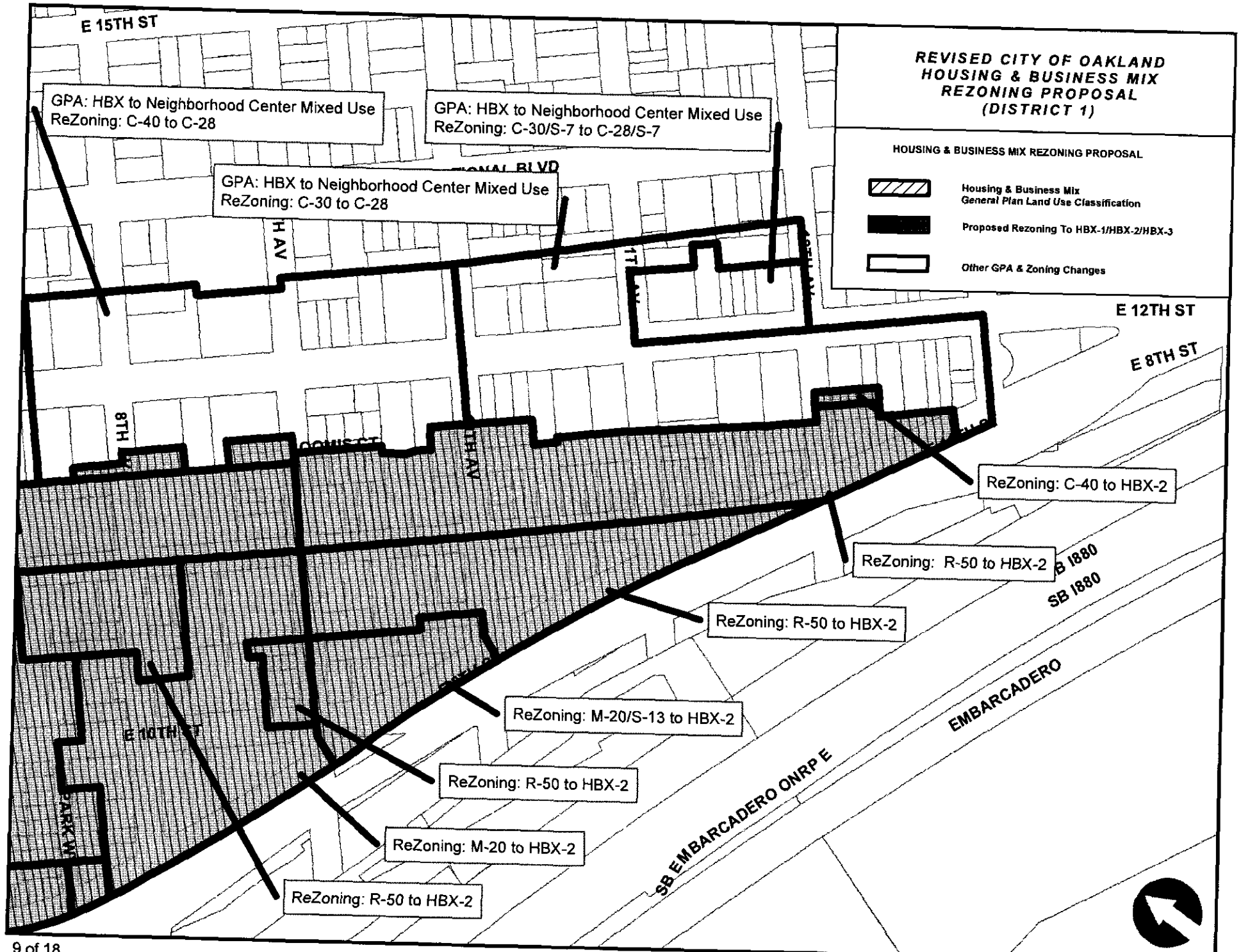
NB 1880  
SB 1880



**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



**REVISED CITY OF OAKLAND  
HOUSING & BUSINESS MIX  
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**HOUSING & BUSINESS MIX REZONING PROPOSAL**



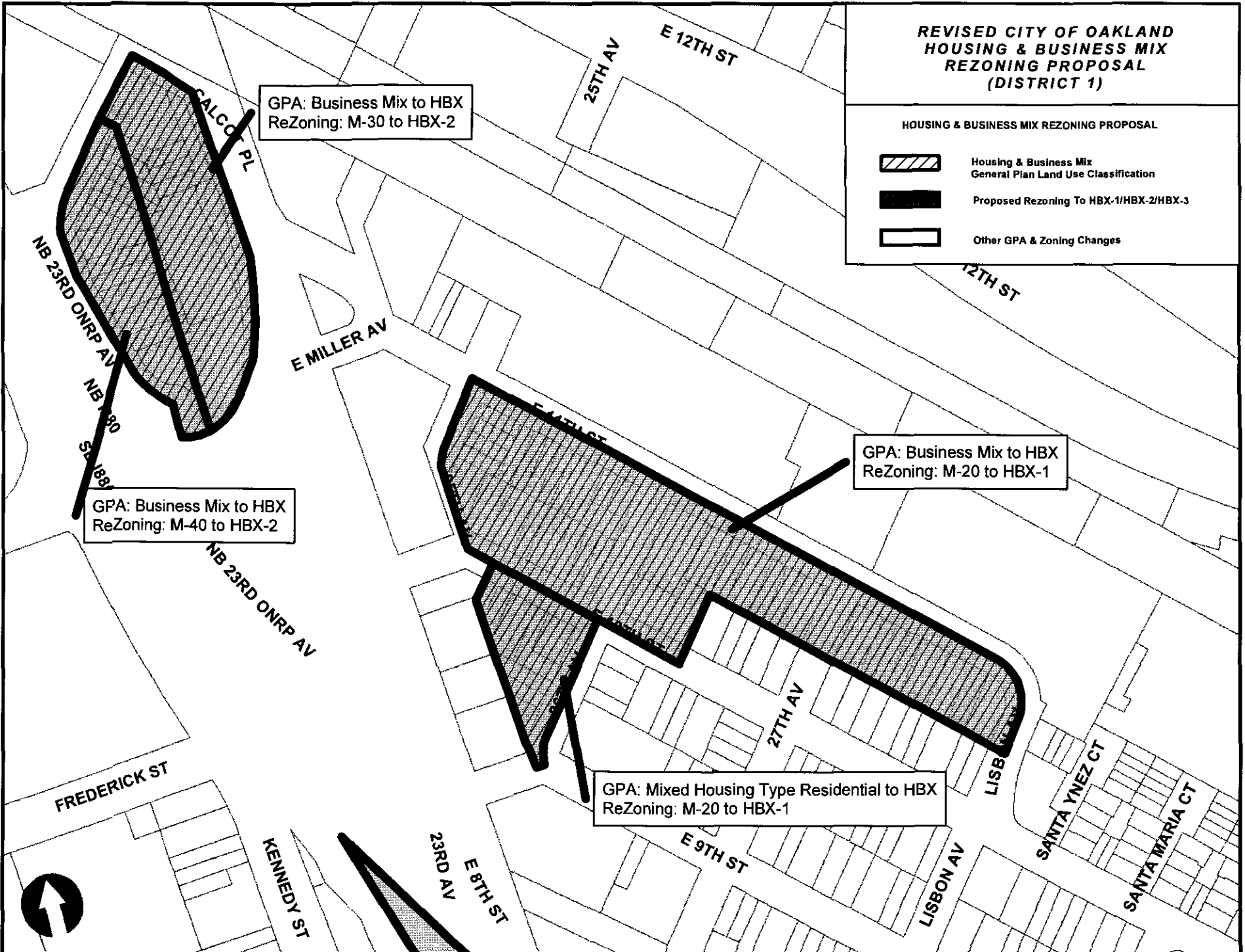
Housing & Business Mix  
General Plan Land Use Classification



Proposed Rezoning To HBX-1/HBX-2/HBX-3



Other GPA & Zoning Changes



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





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HOUSING & BUSINESS MIX  
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**HOUSING & BUSINESS MIX REZONING PROPOSAL**



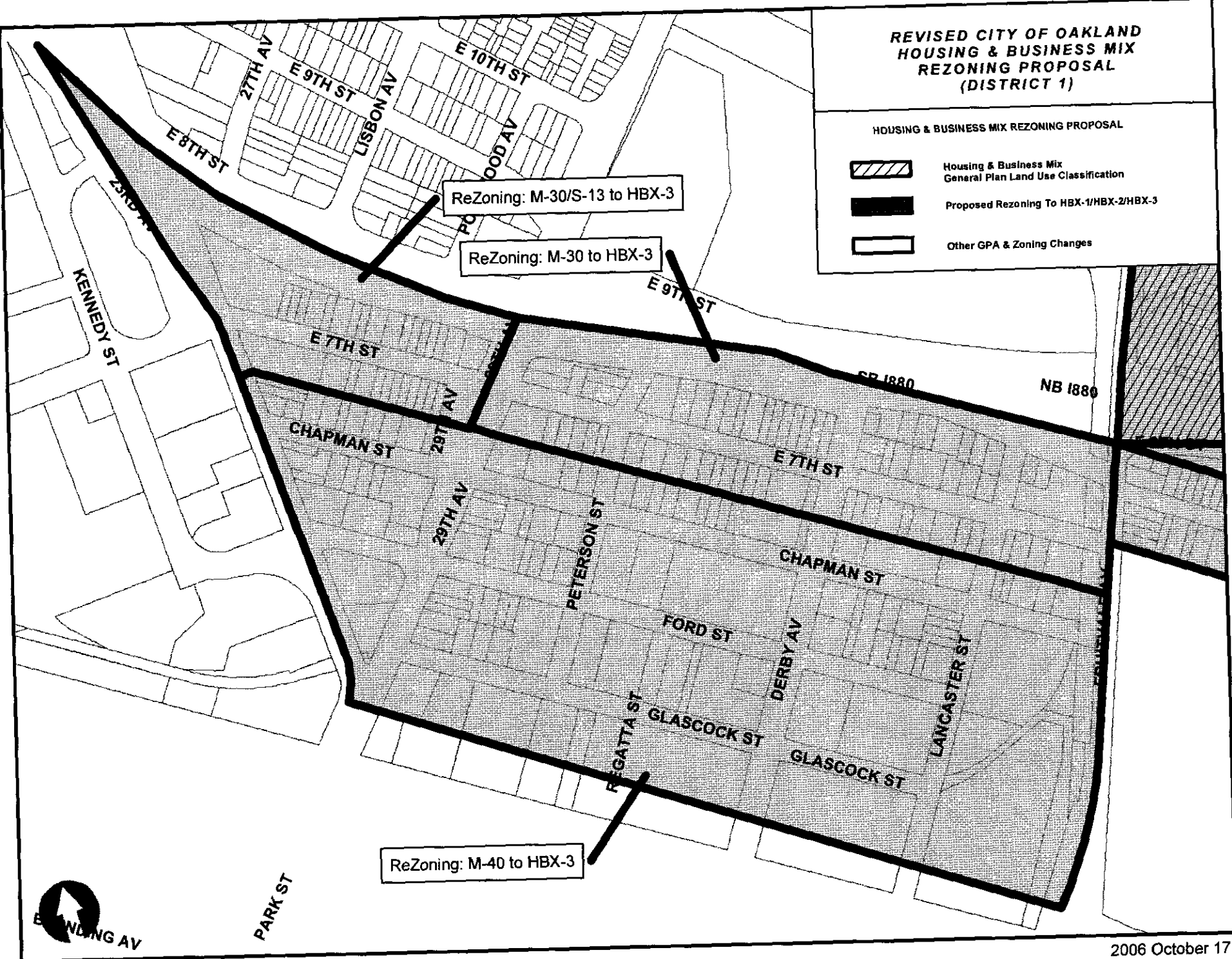
Housing & Business Mix  
General Plan Land Use Classification



Proposed Rezoning To HBX-1/HBX-2/HBX-3






Other GPA & Zoning Changes



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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

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

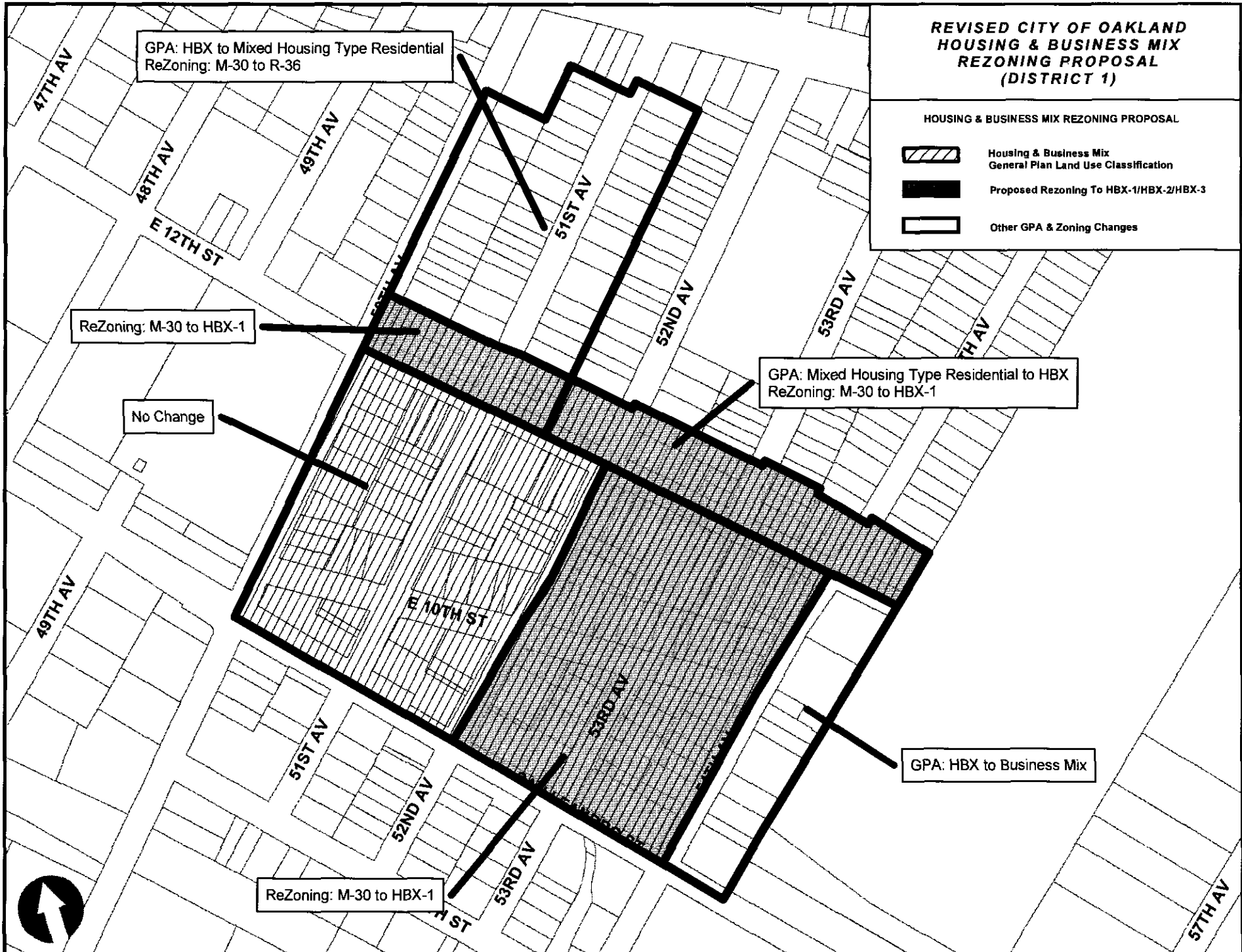
ReZoning: M-30 to HBX-2



**REVISED CITY OF OAKLAND  
HOUSING & BUSINESS MIX  
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**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



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

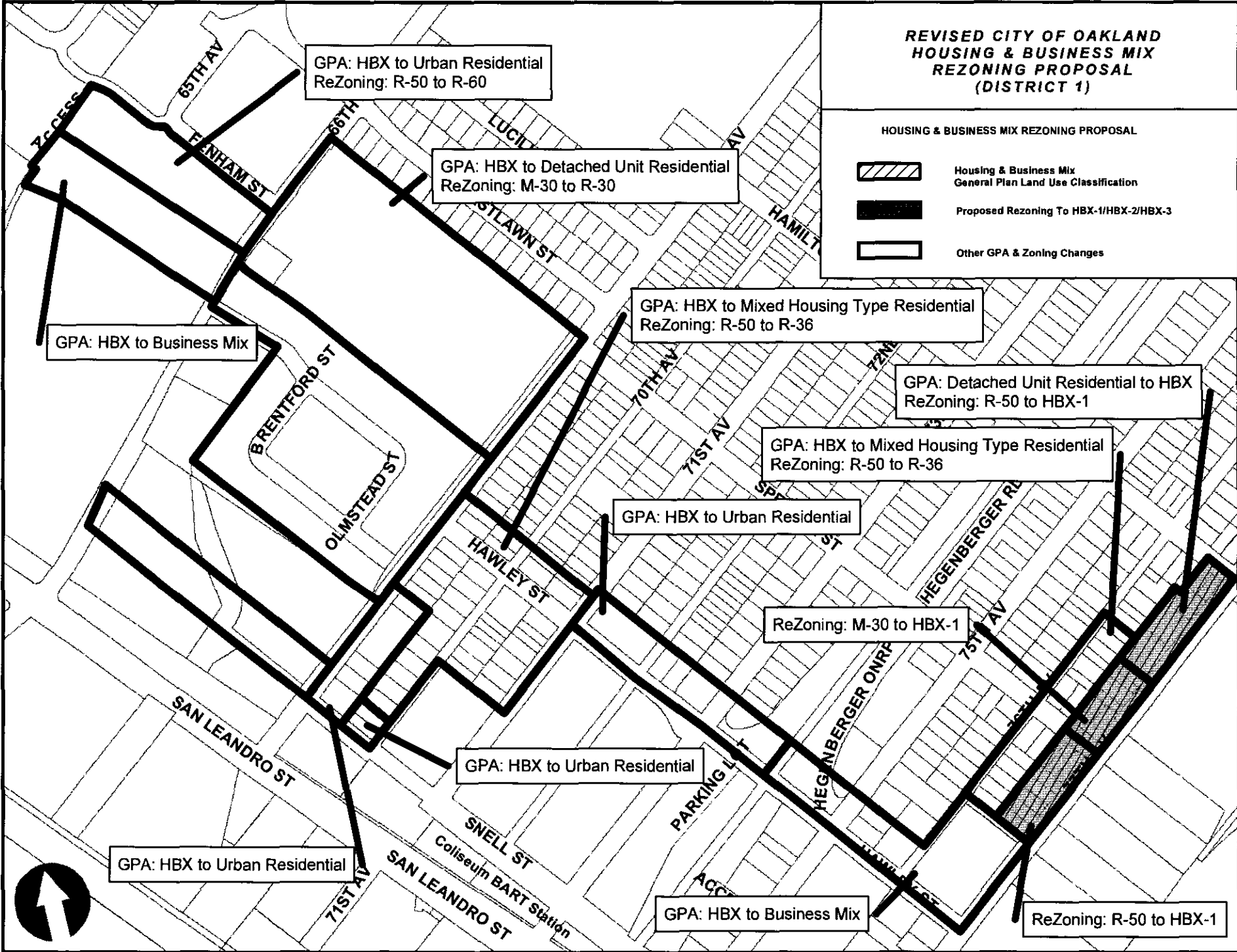
ReZoning: M-30 to HBX-1

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  
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**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

GPA: HBX to Urban Residential  
ReZoning: R-50 to R-60

GPA: HBX to Detached Unit Residential  
ReZoning: M-30 to R-30

GPA: HBX to Mixed Housing Type Residential  
ReZoning: R-50 to R-36

GPA: HBX to Business Mix

GPA: Detached Unit Residential to HBX  
ReZoning: R-50 to HBX-1

GPA: HBX to Mixed Housing Type Residential  
ReZoning: R-50 to R-36

GPA: HBX to Urban Residential

ReZoning: M-30 to HBX-1

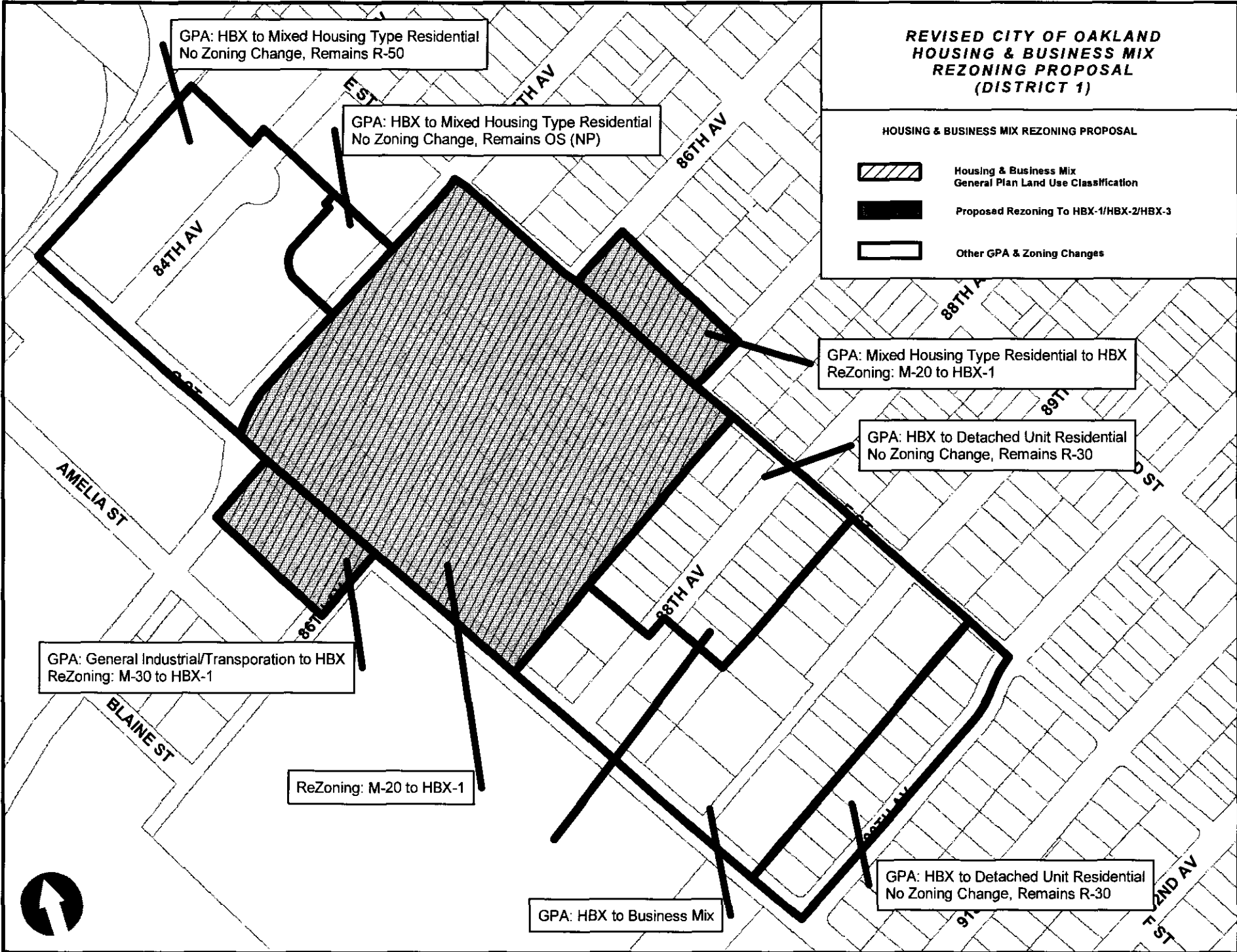
GPA: HBX to Urban Residential

GPA: HBX to Urban Residential

GPA: HBX to Business Mix




ReZoning: R-50 to HBX-1





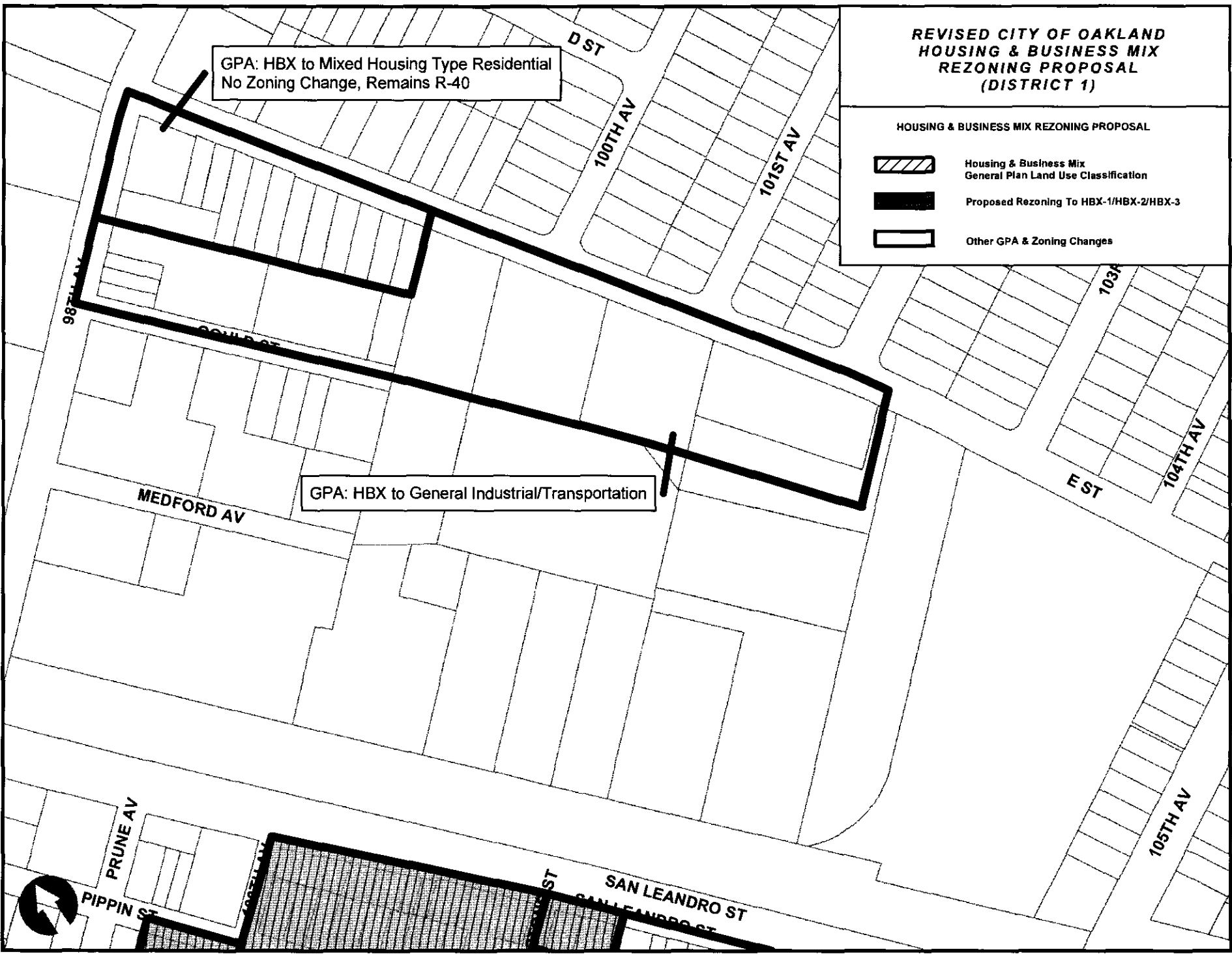
**REVISED CITY OF OAKLAND  
HOUSING & BUSINESS MIX  
REZONING PROPOSAL  
(DISTRICT 1)**

**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

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  
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(DISTRICT 1)**

**HOUSING & BUSINESS MIX REZONING PROPOSAL**



Housing & Business Mix  
General Plan Land Use Classification



Proposed Rezoning To HBX-1/HBX-2/HBX-3



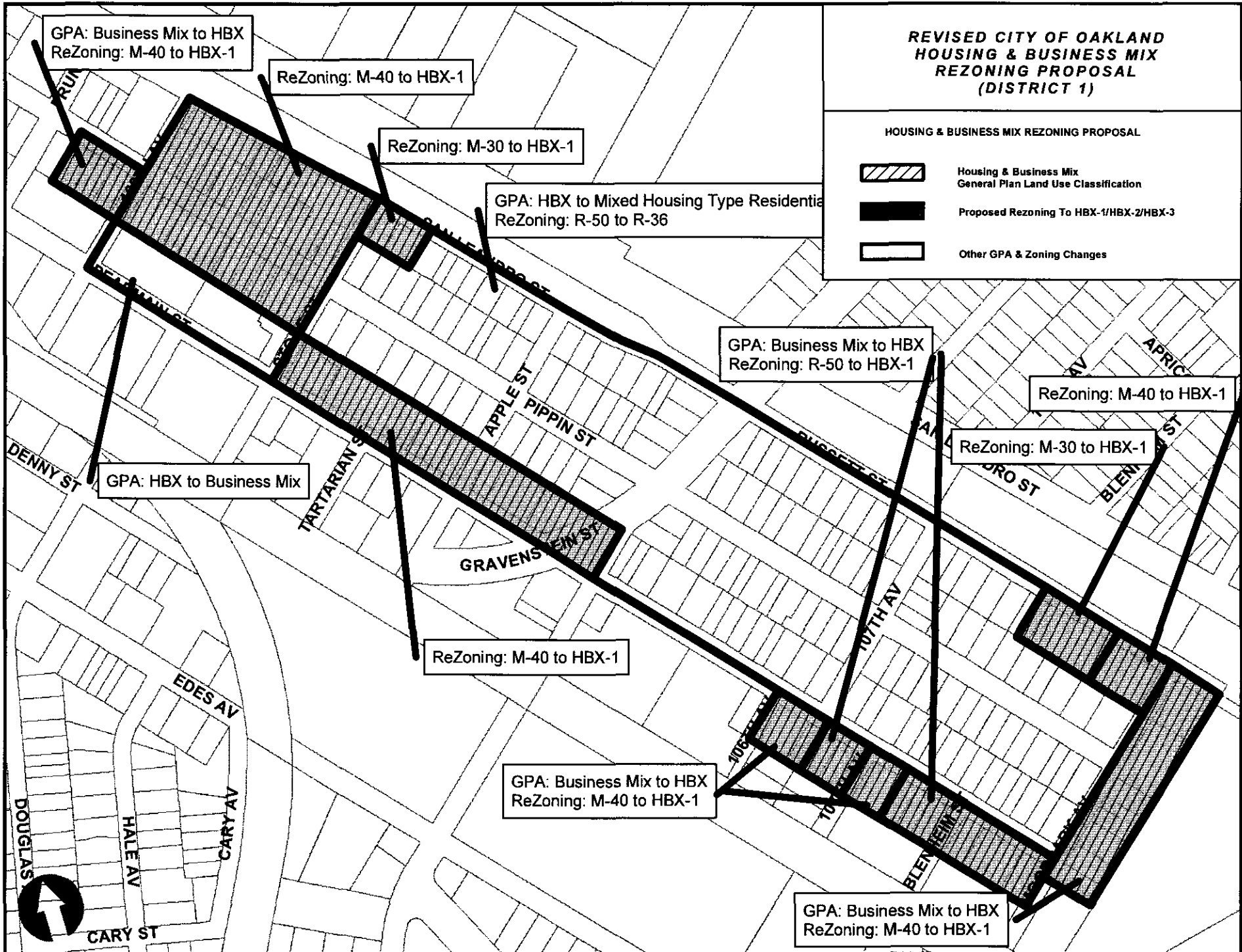
Other GPA & Zoning Changes

GPA: HBX to Business Mix

ReZoning: M-30 to HBX-1

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







**Attachment D of Ordinance**  
Amendments to “Guidelines for  
Determining Project Conformity with the General Plan  
and Zoning Regulations”

(Deleted Text is shown as ~~strikeout~~. New Text is shown as double underline.)



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

Adopted by the  
City of Oakland  
City Planning Commission

May 6, 1998

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

**Guidelines for Determining Project Conformity  
With the General Plan and Zoning Regulations  
Oakland City Planning Commission  
May 6, 1998  
~~Revised November 3, 1999 (100-31)~~  
~~Revised August 8, 2001~~  
~~Revised December 5, 2001~~  
~~Revised July 15, 2003~~  
(Minor typographical changes May 28, 2004)**

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## UNDERSTANDING THE GUIDELINES

### A. OVERVIEW

This document, Guidelines for Determining Project Conformity, describes the procedure for deciding whether a project is consistent with the General Plan. The document also describes the procedure to follow when the Zoning Regulations and General Plan conflict.

Because the General Plan was adopted more recently than Zoning Regulations, the General Plan and Zoning Regulations may conflict. As a result, some projects may be consistent with Zoning Regulations but inconsistent with the General Plan. When a conflict occurs between Zoning Regulations and the General Plan, the General Plan controls. There are three criteria used to determine whether a project is consistent with the General Plan. They are:

1. Is the proposed activity and facility type permitted under the General Plan? (Refer to Table 2 or 2A)
2. Is the proposed intensity (Floor Area Ratio for non-residential projects) or density (dwelling units per gross acre for residential projects) less than or equal to the maximum permitted by the General Plan? (Refer to Table 3 or 3A)
3. Is the project consistent with relevant General Plan policies? (Refer to Checklist 4)

If the answer to any of the foregoing questions is no, an application for the project will not be processed unless the Director of City Planning makes a determination that the project is consistent with the written goals and policies of the General Plan. The Director would need to make the finding that the land use map shows only the predominant use or average density for the area and that for an individual parcel or small area a different use or density may be appropriate. Additionally, the Director would have to find that the proposal conforms to all of the general use permit criteria, as well as to any and all other applicable use permit criteria pursuant to Section 17.134.050 of the Oakland Planning Code.

If the answer to each of the foregoing questions is yes or the General Plan does not address the issue (i.e., is silent), it must next be determined whether the project is permitted under the Zoning Regulations. Questions are:

1. Is the proposed activity and facility type permitted under the Zoning regulations?
2. Is the project consistent with other regulations of the zone?

If the answer to questions 1 and 2 is yes, the permitting procedure prescribed by the Zoning Regulations is followed (i.e., permitted outright or a conditional use permit required).


If the answer to question 1 is no, a "best fit zone" must be selected by reference to Table 5. There are two situations where Table 5 is used to select a "best fit zone": (1) where the General Plan allows the activity/facility type, but the Zoning Regulations prohibit it (known as "express conflict"); and (2) where the General Plan is silent on the issue, and the Zoning Regulations prohibit the activity/facility type. Where a "best fit zone" is required, the project proponent must apply for either an interim use permit or rezoning.

This is an overview of the procedure for determining consistency with the general Plan. It is not meant to replace the more detailed guidelines that follow. To determine whether a specific proposal is consistent with the General Plan, the Director of City Planning will apply the following Guidelines. The Director's decision is appealable to the City Planning Commission as described in the Planning Code.

**PROJECT CONSISTENCY WITH GENERAL PLAN AND ZONING/SUBDIVISION REGULATIONS**  
 (Zoning/Subdivision Regulations prevail unless there is an express conflict)

**ZONING/SUBDIVISION REGULATIONS**

		Permitted	Conditionally Permitted	Not Permitted
<b>GENERAL PLAN</b>	<b>Clearly Conforms</b>	Permitted Outright	Conditional Use Permit (normal process)	Not Allowed Apply for General Plan Amendment and Rezone to "Best Fit" Zone <sup>1</sup>
	<b>General Plan is Silent or Not Clear on Conformity</b>	Permitted Outright	Conditional Use Permit (normal process)	Not Allowed  Options <sup>2</sup> : Modify project to conform to Zoning or Rezone to "Best Fit" Zone <sup>1</sup> or Variance
	<b>Clearly Does Not Conform</b>	Express Conflict between Zoning and General Plan; General Plan Prevails		Not Allowed  Options <sup>2</sup> : Modify project to conform to General Plan and Zoning or Apply for General Plan Amendment and Rezoning to "Best Fit" Zone <sup>1</sup>

 = Express conflict between Zoning and General Plan; General Plan prevails.

<sup>1</sup> Where a rezoning occurs, the regulations of the new zone would apply, including any requirements for a Conditional Use Permit.

<sup>2</sup> Where none of the options are feasible, the project sponsor should be directed to the Business Retention and Attraction section for assistance in locating an appropriate alternate site.

## **B. BACKGROUND**

On March 24, 1998, the City Council passed Resolution No. 74129 C.M.S. approving the new Land Use and Transportation Element of the Oakland General Plan. That resolution stipulates that

"Until the City's zoning regulations are updated, the City shall apply land use designations, zoning controls and subdivision controls as specified by the planning code and subdivision regulations, except where such action would expressly conflict with the updated General Plan. Where an express conflict does arise, the City will apply the updated General Plan policies and land use designation."

On May 12, 1998, the City Council passed Ordinance No. 12054 C.M.S. adopting interim controls for implementing the General Plan prior to the adoption of revisions to the Oakland Planning Code. This ordinance adds Chapter 17.01 to the Planning Code entitled "General Provisions of Planning Code and General Plan Conformity".

Subsequently, other Elements of the Oakland General Plan have been prepared and adopted by the Oakland City Council. Each of these Elements is also to be implemented on the basis of interim controls until final zones, zoning controls, subdivision, and environmental controls are adopted through the Zoning update process. Recently adopted General Plan Elements are: the Estuary Policy Plan (June 8, 1999, City Council Resolution No. 75037 C.M.S.), the Historic Preservation Element (amended July 21, 1998, Resolution No. 74403 C.M.S.), and the Bicycle Master Plan, also an Element of the General Plan, (July 20, 1999, Resolution No. 75148 C.M.S.) The General Plan Guidelines for determining General Plan Conformity have been revised to reflect these recent adoptions.

Section 17.01.060 of the Planning Code directs the City Planning Commission to "adopt guidelines for determining the General Plan conformity of any specific proposal. Such guidelines shall address activity and facility types, density and intensity of development, and relevant General Plan policies. They shall also identify the 'best fit' zones of the Zoning Regulations, and other possible zones, corresponding to the Land Use Classifications of the General Plan."

Section 17.01.070 of the Planning Code stipulates that "the Director of City Planning shall determine whether any specific proposal conforms with the General Plan. The Director shall use the guidelines adopted pursuant to Section 17.01.060 in making this determination. Any interested party may request that this determination be made in writing, upon payment of a fee as prescribed in the City Master Fee Schedule."

Section 17.01.080 of the Planning Code provides that "within ten calendar days of a written determination by the Director of City Planning pursuant to Section 17.01.070, an appeal of said determination may be taken to the City Planning Commission by the applicant or any other interested party. Such appeal shall be accompanied by a fee as prescribed in the City Master Fee Schedule, and shall be processed in accordance with the Administrative Appeal Procedure."

These are the guidelines mandated by Section 17.01.060 of the Planning Code, to be used by staff in determining Project Conformity with the General Plan for all projects.

## **C. PROCEDURES**

The interim controls define an "express conflict" as "any situation where a proposal clearly conforms with the General Plan but is not permitted by the Zoning and/or Subdivision Regulations, or where a proposal clearly does not conform with the General Plan but is permitted or conditionally permitted by the Zoning and/or Subdivision Regulations." They also specify procedures to be followed in each case. These procedures, and, in some cases, project sponsor options, are summarized in Flow Chart 1.

There are three possibilities under the General Plan Elements: the project may be determined to "clearly conform", to "clearly not conform", or the General Plan may be silent or not clear as to conformity. In the Zoning and/or Subdivision Regulations, a project may be permitted outright, conditionally permitted, or not permitted. Therefore, nine possible combinations exist for evaluating for Zoning and/or Subdivision Regulations status and General Plan conformity.

### **1. Discussion of "Express Conflict" between the General Plan and Zoning**

An "express conflict" exists where the project clearly conforms to the General Plan, but is not permitted by the Zoning and/or Subdivision Regulations, or where the project clearly does not conform to the General Plan, but is permitted or conditionally permitted by the Zoning and/or Subdivision Regulations.

In the case where the project clearly conforms to the General Plan, but is not allowed by the Zoning and/or Subdivision Regulations, the project may be allowed upon the granting of a conditional use permit. Section 17.01.100B of the Planning Code stipulates that this shall be processed as either a minor or major conditional use permit, in accordance with the regular conditional use permit procedures of the Zoning Regulations. In addition to the general use permit criteria, the following three special findings must be made:

- That the proposal is clearly appropriate in consideration of the characteristics of the proposal and the surrounding area;
- That the proposal is clearly consistent with the intent and desired character of the relevant Land Use Classification or Classifications of the General Plan and any associated policies;
- That the proposal will clearly promote implementation of the General Plan.

Since the proposal is not permitted under the Zoning Regulations, there would be no set development standards for evaluating it (e.g. height limit, setback, density, parking requirements, etc.). Therefore, Section 17.01.100B stipulates that the proposal shall be subject to the provisions of the "best fit zone" corresponding to the General Plan Land Use Classification in which the site is located (see Section B.5. below). However, the project sponsor may alternatively elect to apply for a rezoning to the "best fit zone" or other possible zone instead of a conditional use permit.

The only exception to this procedure is for proposals within the Mixed Housing Type Residential General Plan Classification, where no project can have a higher density than allowed by its current zoning without a major variance or a rezoning. Under no situation, however, can a project exceed the maximum density permitted under the General Plan, even if the density allowed by the current zoning is greater than the General Plan.

### **2. Examples of "No Express Conflict" between the General Plan and Zoning**

In the case where the project clearly does not conform to the General Plan, *even if the Zoning and/or Subdivision Regulations permit it*, the project is not allowed and no application may be accepted. The project sponsor may modify the project to conform to the General Plan, or apply for a General Plan Amendment. In addition, the determination that the project does not conform to the General Plan may be appealed to the City Planning Commission pursuant to Section 17.01.080.

In some cases, the proposed project may be consistent with the surrounding land uses and appropriate for the area, but not be permitted by the General Plan. It is recognized that the General Plan land uses are broadly applied to areas and that its details are largely illustrative of the Plan's written goals and policies. It is quite possible that slightly different versions would service those goals and policies just as well, or even better. Because the map is generalized, and does not necessarily depict the accuracy of each parcel or very small land area, a determination of project consistency could be requested of the Director of City Planning. The applicant would need to demonstrate that a predominant use, or average density, different from that shown on the map would be appropriate for a relatively small area and that the project is in conformance with the written goals and policies of the General Plan. The project may be allowed upon the granting of an interim conditional use permit or a conditional use permit. Written notice of the Director's determination would be sent to all property owners within 300 feet of the property involved. The Director's determination may be appealed to the City Council pursuant to Section 17.01.080 B.

If the project clearly conforms with the General Plan or the General Plan is silent or not clear, and the project is permitted and/or conditionally permitted by the Zoning and/or Subdivision Regulations, there is no "express conflict" and the normal Zoning and/or Subdivision process applies.

Similarly, if the project clearly does not conform to the General Plan and is not allowed by the Zoning and/or Subdivision Regulations, there is no "express conflict". In this case, the project is not allowed, and no application

may be accepted, since General Plan variances are not an option. To continue, the project sponsor has two choices: elect to modify the project to conform to the General Plan and existing Zoning; or apply for a General Plan Amendment and rezoning to the "best fit zone" or other possible zone. If the Director of Planning and Zoning issues a determination that the proposed project does not conform to the General Plan and the project sponsor disagrees with that determination, the project sponsor may appeal the determination of nonconformity with the General Plan to the City Planning Commission.

There is also no "express conflict" if the General Plan is silent or not clear and the Zoning and/or Subdivision Regulations do not allow the project. In this case, the project sponsor may modify the project to fit the zone, apply for a rezoning to the "best fit zone" or other possible zone, or apply for a variance, (since no variance from the General Plan would be involved).



## APPLICATION OF GUIDELINES TO DETERMINE PROJECT CONFORMITY

In making a determination of Project Conformity with the General Plan, the following factors shall be evaluated:

- The General Plan Land Use Classification and Zoning District within which the proposed project is located
- The Zoning Land use classification of the project (activity and facility type)
- The Project intensity (residential density and/or nonresidential floor area ratio)
- Relevant General Plan policies from all adopted Elements.

In order to "clearly conform" to the General Plan, a project must be found to clearly conform by all relevant factors. If the project is found to clearly not conform in any one factor, then the entire project is in nonconformance. Note that if none of the General Plan policies identified in Section B4 apply to the project, this factor should not be considered in the conformity determination; in this case, only land use and project intensity would be considered.

### A. General Plan Land Use Classification and Zoning District Determination

To determine the correct General Plan Land Use Classification and Zoning District for the project proposal, determine the proposed project's location on either the General Plan Land Use Diagram or Estuary Policy Plan Land Use Diagram and the City's official Zoning Map. The General Plan Land Use Classifications are broad and indicate the kinds of development expected in any given area of the city. The Zoning District will assist in determining if the intent of the District is similar to that of the General Plan. These two elements will give the reviewer an initial understanding of possible conformity. The flow chart on the next page is intended to assist in this effort, beginning with the General Plan Land Use Classification and Zoning District. However, each project must also be evaluated according to the next three factors below, for a complete understanding of the potential project's conformity status.

#### **FLOW CHART 1: Determining a Project's Conformity with the General Plan and Zoning Regulations**

<p style="text-align: center;"><b>FIRST:</b></p> <p>▪ Is the project located within the Port's jurisdiction?</p>	<p><b>If YES:</b> Send Applicant to Port Planning, 530 Water Street</p>
<p><b>If NO, follow steps 1 through 4</b></p>	
<p><i>IDENTIFY PROJECT</i> <b>Location:</b></p>	<p><b>Zoning:</b> <b>General Plan Designation:</b></p>
<p><i>ASSESS PROJECT ELEMENTS</i></p> <ol style="list-style-type: none"> <li>1. <b>Identify the project's activity and facility type.</b> See Section 2, and Table 2 or 2A.</li> <li>2. <b>Calculate the project's density or intensity.</b> See Section 3, and Table 3 or 3A.</li> <li>3. <b>Identify relevant General Plan Policies.</b> See Section 4 and Checklist 4. The actual text of many policies are located in the appendix, or you can consult the Elements themselves.</li> </ol>	
<p><i>SUMMARIZE FINDINGS</i></p> <p><b>Does the project conform to the General Plan Land Use Classification, density or intensity standards, and relevant Plan policies?</b></p> <p><b>Does the project conform to Zoning activities or facilities, density/intensity*, and other regulations of the zone?</b>      * The General Plan ultimately controls application of density/intensity.</p>	

Then choose A, B, or C below to determine the appropriate action:

<b>A. IF THE PROJECT CONFORMS TO THE GENERAL PLAN:</b>
And the project is permitted by zoning, Then the project is permitted outright
And the project would normally require a Conditional Use Permit (CUP), then it is permitted with approval of a CUP.
<b>But the project is not permitted by zoning; this is an express conflict with the General Plan.</b> The project can only be allowed with an Interim CUP or an approved application for a Rezoning. <i>See Table 5 for "Best Fit Zones" for the rezoning.</i>

<b>B. IF THE GENERAL PLAN IS SILENT:</b>
And the project is permitted by zoning. Then the project is permitted outright.
And the project would normally require a CUP, then it is permitted with approval of a CUP
<b>But the project is not permitted by zoning,</b> the project must be modified to conform to zoning, or apply for a rezoning. <i>See Table 5 for "Best Fit Zones"</i>

<b>C. IF THE PROJECT DOES NOT CONFORM TO THE GENERAL PLAN:</b>
<b>Even if the project is permitted by zoning, it is not allowed.</b> <b>This is an express conflict with the General Plan.</b> Options: Modify the project to conform to the General Plan, apply for a General Plan Amendment, or apply for a General Plan conformity determination from the Director of City Planning (an interim CUP is required).
<b>And even if the project would normally require a CUP, it is not allowed. This is an express conflict with the General Plan.</b> Options: Modify the project to conform to the General Plan, apply for a General Plan Amendment, or apply for a General Plan conformity determination from the Director of City Planning. In all cases a CUP is still required.
<b>And if the project is not permitted by zoning, it is not allowed.</b> Options: Modify the project to conform to both the General Plan and Zoning, or apply for a General Plan Amendment and a Rezoning. <i>See Table 5 for "Best Fit Zones"</i>

## B. Land Use Activity and Facility Types

Determine the activity and facility type of the proposal, referring to Chapter 17.10 of the Zoning Regulations if necessary. Then determine the General Plan Land Use Classification of the site, referring to the Land Use Diagram of the Land Use and Transportation Element or the Land Use Diagram of the Estuary Policy Plan, as appropriate. Consult Table 2 or 2A to determine the status of this activity and facility type in this Land Use Classification.

For residential uses, both the activity type (usually Permanent Residential) and the facility type must be found to "clearly conform" for the project to clearly conform with respect to land use, since residential density and housing type are explicitly addressed in many of the Land Use Classifications. For nonresidential uses, the primary concern is the activity type, since the Land Use Classifications do not generally address the form of nonresidential structures. In other words, if the nonresidential activity type clearly conforms, and the General Plan is silent on the nonresidential facility type, the use may still be determined to clearly conform.

In the event that either the activity or facility type is found to clearly not conform to the General Plan according to Table 2 or 2A, the entire use does not conform and must be modified accordingly or rejected.

### **C. Density or Intensity**

Intensity of development is measured by floor area ratio (FAR) for nonresidential projects and dwelling unit density for residential projects, as explained in Zoning Code Bulletin No. C-002, issued April 20, 2000 by the Community and Economic Development Agency, Planning and Zoning. Tables 3 and 3A give the allowable FAR and density for each Land Use Classification.

#### **1. Nonresidential Floor Area Ratio**

The calculation of floor area ratio for nonresidential projects is explained in Zoning Code Bulletin No. C-002, issued April 20, 2000 by the Community and Economic Development Agency, Planning and Zoning. If the result exceeds the FAR allowed in the relevant Land Use Classification, the project clearly does not conform. If it is equal or less, the project clearly does conform.

Note, however, that the maximum FAR specified by the General Plan might not be allowed in particular cases. For example, in the Central Business District, an FAR of 20.0 is specified. However, the description of the Central Business District Land Use Classification states that "in some areas ... such as the Broadway spine, the highest FAR may be encouraged, while in other areas such as near Lake Merritt and Old Oakland, lower FARs may be appropriate." Thus, a project that was within the FAR limit of 20.0 in the CBD might still not be able to comply with the special use permit criteria of Section 17.01.100B, depending on its location within the downtown area. The policies for the downtown and its various sub-areas should also be consulted (see Section 4 below).

#### **2. Residential Density**

Residential density is somewhat more complicated, because the General Plan specifies density as "principal units per gross acre". Gross acreage includes all land in the neighborhood, including streets and parks. To calculate permitted density on a particular parcel, this gross density figure must be translated to net density. To complicate matters further, there is not a consistent net-to-gross ratio for the entire City. It ranges from more than 80% in some parts of the hills to less than 60% downtown. Overall, an average net-to-gross ratio of 75% is assumed, except downtown where 60% is assumed, and is used in Table 3 or 3A to determine net density limits.

However, if it appears in any given situation that the net-to-gross ratio is significantly different than indicated in Table 3 or 3A, an individual calculation should be made for the site in question. This is done as follows:

- a. Draw a 1,000-foot square centered on the site.
- b. Calculate the total area of all developable land, exclusive of streets or parkland, within that square.
- c. Divide the area determined in step 2 by 1,000,000 square feet (the total area of a 1,000-foot square). The result is the net-to-gross ratio for this area, expressed as a fraction. (Multiply by 100 to get a percent figure.)
- d. Divide the maximum "principal units per gross acre" of the relevant Land Use Classification by the net-to-gross ratio determined in step 3. The result is the maximum principal units per net acre.

- e. Divide 43,560 (the number of square feet in an acre) by the figure determined in step 4 to get the number of square feet of lot area per dwelling unit. This is the way density is calculated in the Zoning Regulations.
- f. Divide the site area by the number determined in step 5, rounding to the nearest whole number. This is the maximum number of principal units permitted on the site by the General Plan.

For example, suppose that the site is 10,000 square feet and is located in the Mixed Housing Type Residential Land Use Classification, which allows up to 30 principal units per gross acre. Here is a possible scenario:

- a. Draw the 1,000-foot square on a parcel map of the area, centered on the site.
- b. Calculate developable area. Suppose the result is 780,000 square feet.
- c. Divide 780,000 by 1,000,000. The result is 0.78, for a net-to-gross ratio of 78%. ( $780,000 / 1,000,000 = 0.78$ .  $0.78 \times 100 = 78$ )
- d. Divide 30 principal units per gross acre by 0.78. The result is 38.46. This is the allowable number of principal units per net acre. ( $30 / 0.78 = 38.46$ )
- e. Divide 43,560 square feet per acre by 38.46 units per acre. The result is 1,132.6 square feet of site area per unit. ( $43,560 / 38.46 = 1,132.6$ )
- f. Divide the site area of 10,000 square feet by 1,132.6 square feet of site area per unit. The result is 8.83, which rounds to 9. ( $10,000 / 1,132.6 = 8.83$  rounded to 9). Thus a maximum of 9 units is allowable on this site under the General Plan.

### 3. Subdivisions in the Hillside Residential Land Use Classification

In addition to maximum residential density, subdivision lot sizes are specified for the Hillside Residential Land Use Classification. The description of this classification states that "typical lot sizes range from approximately 8,000 square feet to one acre in size." Further, Policy N7.3, entitled "Hill Area Subdivision", reads:

"At least 8,000 square feet of lot area per dwelling unit should be required when land in the hill area is subdivided. Lots smaller than 8,000 square feet may be created only when this ratio is maintained for the parcel being divided."

This policy is interpreted to mean that the average lot size of any subdivision in the Hillside Residential Land Use Classification shall not be less than 8,000 square feet. However, this policy is only intended to apply to large, unsubdivided parcels. As a general rule, the policy would apply to subdivisions of five lots or more requiring a tract map, but not to subdivisions of four lots or fewer requiring a parcel map. In the latter case, the provisions of the Zoning and Subdivision Regulations regarding minimum lot size would prevail.

When a large parcel in the Hillside Residential area is subdivided, it must conform to the minimum lot size specified in the Zoning Regulations, the prevailing lot size specified in the Subdivision Regulations, and the 8,000 square foot minimum average lot size specified in Policy N7.3. If the average lot size of the proposed subdivision is less than 8,000 square feet, the project clearly does not conform to the General Plan and is not allowed. If the average lot size is 8,000 square feet or more, there is no General Plan problem and the Zoning and Subdivision Regulations prevail. The conditional use permit provided by Section 17.01.100B would not be allowed in this situation, since it is not the intent of the General Plan to permit subdivisions with lots smaller than would otherwise be allowed under current regulations.

### 4. Mixed Use Projects

The density for Mixed Use Projects in the Central Business District and Jack London District is calculated pursuant to Ordinance No. 12349 C.M.S. dated July 24, 2001 amending the Oakland Planning Code Section 17.106.030.

## D. General Plan Policy

Checklist 4 lists policies from various General Plan elements that have been identified for use in screening projects for General Plan conformity. The policies listed in Checklist 4 are written in full form in the Appendix, however

*Guidelines for Determining Project Conformity* *Oakland City Planning Commission*  
*Adopted May 6, 1998*

~~Revised November 3, 1999, August 8, 2001, December 5, 2001, July 15, 2003 (typographical changes May 28, 2004)~~

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

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

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

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

#### **1. "Best Fit Zone" and Other Possible Zones**

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

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

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

TABLE 2: LAND USE  ZONING ACTIVITY AND FACILITY TYPES ✓ Conforms w/ General Plan GP Silent or Unclear X Clearly Does not Conform	GENERAL PLAN LAND USE CLASSIFICATIONS												Mixed-Use Water f (See Table 5A)	Housing Bus. Mix***	Open Space:RCA	Open Space (Other)
	Hillside Residential	Detached Unit Residential	Mixed Housing Type Residential	Urban Residential	Neighb. Center Mixed Use	Community Commercial	Regional Commercial	Business Mix	Gen. Industrial	Institutional	Central Business District					
Retail Business Sup.	X	X				✓	✓	✓	✓					NA	X	X
Research Service	X	X						✓	✓					NA	X	X
Gen. Wholesale Sales	X	X	X	X	X			✓	✓					NA	X	X
Trans Habitation/B&B							✓		X		✓			NA	X	X
Construct Sale/Serv.	X	X	X	X	X					X				NA	X	X
Auto Sale/Rent/Deliv.	X	X	X	X		✓	✓	✓						NA-X	X	X
Automotive Servicing	X	X	X			✓	✓							NA	X	X
Auto Repair/Cleaning	X	X	X	X	X	✓			✓		X			NA-X	X	X
Auto Fee Parking	X	X	X								✓			NA-X	X	X
Transport/Warehouse	X	X	X	X	X			✓	✓		X			NA	X	X
Animal Care														NA		
Undertaking Service	X	X	X											NA	X	X
Scrap Operation	X	X	X	X	X	X	X	✓	✓	X	X			NA	X	X
<b>Manufacturing Activ.:</b>																
Custom	X	X	X	X	X			✓	✓	X				✓NA	X	X
Light	X	X	X	X	X			✓	✓	X				✓NA	X	X
General	X	X	X	X	X	X	X	✓	✓	X	X			NA-X	X	X
Heavy	X	X	X	X	X	X	X		✓	X	X			NA-X	X	X
<b>Agricultural/Extract.:</b>																
Plant Nursery														NA	X	X
Crop/Animal Raising														NA		
Mining and Quarrying														NA	X	X
<b>Residential Facilities:</b>																
One-Family Dwelling	✓	✓	✓					X	X					✓NA		
One-Fam. /Secondary	✓	✓	✓					X	X					NA	X	X
One-Fam. w/ Second	✓	✓	✓					X	X					NA	X	X
Two-Family Dwelling	X	X	✓					X	X					✓NA	X	X
Multi-Family Dwelling	X	X	✓	✓	✓	✓	✓	X	X	✓	✓			✓NA	X	X
Rooming House								X	X					NA	X	X
Mobile Home								X	X					NA	X	X
Downtown Live Work *	X	X	X	✓	✓	✓	X	X	X	✓	✓			NA-X	X	X
<b>Nonresidential Facil.:</b>																
Enclosed				✓	✓									NA		

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

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

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

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

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



**TABLE 2A: ESTUARY POLICY PLAN LAND USE CLASSIFICATIONS**

TABLE 2A: ESTUARY LAND USE ZONING REGULATIONS ACTIVITY AND FACILITY TYPES*	Jack London District								0-9	San Antonio/Fruitvale										
	Light Indust.1	Off Price Retail 1	Ret. Dine, Entert 1	Ret. Dine, Entert 2	Produce Market	W. Commrc. Rec. 1	Mixed Use Dist.	W. Mixed U. Dist.	W. Warehouse Dist.	Plan. W. Devel. -1	W. Commrc. Rec. 2	Light Indust 2	Plan. W. Devel. 2	Resid. Mixed U.	Heavy Ind.	Gen. Commerce. 1	Plan. W. Dist. 3	Gen. Commerce. 2	Light Indust. 3	
<b>Residential Activity</b>																				
<b>Permanent</b>		✓	X	✓	✓	X	✓	✓	✓	✓	X		✓	NA	X	X	X	X	X	X
<b>Semi-Transient</b>		✓	X	✓	✓	X	✓	✓	✓	✓	X		✓	NA	X	X	X	X	X	X
<b>All Residential Care categories</b>		✓	X	✓	✓	X	✓	✓	✓	✓	X		✓	NA	X	X	X	X	X	X
<b>Civic Activities:</b>																				
<b>Essential Service</b>														NA						
<b>Limited Child Care</b>											X		X	NA	X		X			X
<b>Community Assembly</b>						✓				✓			X	NA	X		X			X
<b>Community Education</b>			X	X	X					✓	X		X	NA	X	X	X	X	X	X
<b>Non-Assembly Cultural</b>			✓	✓	✓	✓				✓				NA						
<b>Administrative</b>														NA						
<b>Health Care</b>	X	X	X	X	X	X	X	X	X	X	X	X	X	NA-X	X	X	X	X	X	X
<b>Utility and Vehicular</b>			X	X	X	X		X	X	X	X		✓	NA-X	✓		✓			✓
<b>Extensive Impact</b>														NA						
<b>Telecommunications</b>														NA						
<b>Commercial Activities:</b>																				
<b>General Food Sales</b>		✓	✓	✓	✓	✓	✓	✓	✓	✓			✓	NA		✓		✓		
<b>Convenience Market</b>													✓	NA						
<b>Fast-Food Restaurant</b>			*	*										NA						
<b>Alcoholic Beverage Sales</b>														NA						
<b>Convenience Sales and Service</b>														NA						
<b>Mechanical or Electronic Games</b>														NA						
<b>Medical Service</b>													X	NA	X	X	X	X	X	X
<b>Gen. Retail Sales</b>		✓	✓	✓	✓	✓	✓	✓	✓	✓				NA		✓		✓		
<b>Gen. Personal Service</b>		✓	✓	✓	✓	✓	✓	✓	✓	✓				NA		✓		✓		
<b>Consult./Financial Service</b>				✓		✓								NA		✓	✓	✓		
<b>Consumer Laundry/Repair Svc.</b>													✓	NA						✓
<b>Group Assembly</b>			✓	✓		✓				✓				NA		✓		✓		
<b>Administrative</b>			✓	✓	✓	✓		✓		✓				NA		✓	✓	✓		
<b>Business/Communications Svc.</b>													✓	NA		✓	✓	✓	✓	✓
<b>Retail Bus. Supply</b>													✓	NA		✓	✓	✓	✓	✓

Guidelines for Determining Project Conformity  
 Adopted May 6, 1998

TABLE 2A: ESTUARY LAND USE ZONING REGULATIONS ACTIVITY AND FACILITY TYPES*	Jack London District								O-9	San Antonio/Fruitvale										
	Light Indust.1	Off Price Retail 1	Ret. Dine, Eatert 1	Ret. Dine, Eatert 2	Produce Market	W. Commrc. Rec. 1	Mixed Use Dist.	W. Mixed U. Dist.	W. Warehouse Dist.	Plan. W. Devel. -1	W. Commrc. Rec. 2	Light Indust 2	Plan. W. Devel. 2	Resid. Mixed U.	Heavy Ind.	Gen. Commerce. 1	Plan. W. Dist. 3	Gen. Commerce. 2	Light Indust. 3	
Research Service														NA				✓		✓
Gen. Wholesale Sales		✓	X	X	✓	X	✓	X	✓			✓	✓	NA-X	✓	✓	✓	✓	✓	✓
Transient Habitation/B&B		✓	✓		✓					✓	✓		X	NA	X	✓				
Construction Sales/Service			X	X		X		X					✓	NA	✓	✓	✓	✓	✓	✓
Auto (Boat) Sales/Rental/Delivery				X		X		X		✓			✓	NA-X		✓		✓	✓	✓
Auto (Boat) Servicing				X		X		X				✓	✓	NA-X	✓	✓		✓	✓	✓
Auto (Boat) Repair/Cleaning						X	X	X	X			✓	✓	NA-X	✓	✓	X	✓	✓	✓
Auto (Boat) Parking – Fee						X		X					✓	NA-X		✓		✓	✓	✓
Transport/Warehousing	✓		X	X	✓	X		X				✓	✓	✓NA	✓	✓	✓	✓	✓	✓
Animal Care														NA						
Undertaking Service														NA						
Scrap Operation	X	X	X	X	X	X	X	X	X	X	X	X	X	NA-X		X	X	X	X	X
Manufacturing Activ.:																				
Custom Manufacturing	✓				✓		✓		✓	✓		✓	✓	✓NA	✓	✓	✓	✓	✓	✓
Light Manufacturing	✓		X	X	✓	X	✓	X	✓	✓		✓	✓	✓NA	✓	✓	✓	✓	✓	✓
General Manufacturing		X	X	X	X	X	X	X	X		X		✓	NA-X	✓					
Heavy Manufacturing	X	X	X	X	X	X	X	X	X	X	X	X	✓	NA-X	✓	X	X	X	X	X
Agricultural/Extract.:																				
Plant Nursery														NA						
Crop and Animal Raising	X	X	X	X	X	X	X	X	X	X	X	X	X	NA-X	X	X	X	X	X	X
Mining/Quarrying	X	X	X	X	X	X	X	X	X	X	X	X		NA-X		X	X	X	X	X
Residential Facilities:																				
One Family Dwelling	✓	✓	X	✓	✓	✓	✓	✓	✓		X	✓	X	✓NA	X	X	X	X	X	X
One Family Dwelling/Secondary	✓	✓	X	✓	✓	✓	✓	✓	✓		X	✓	X	✓NA	X	X	X	X	X	X
One Family Dwelling/Second	✓	✓	X	✓	✓	✓	✓	✓	✓		X	✓	X	✓NA	X	X	X	X	X	X
Two Family Dwelling	✓	✓	X	✓	✓	✓	✓	✓	✓		X	✓	X	✓NA	X	X	X	X	X	X
Multi-Family Dwelling	✓	✓	X	✓	✓	✓	✓	✓	✓		X	✓	X	✓NA	X	X	X	X	X	X
Rooming House											X		X	NA	X	X	X	X	X	X
Downtown Live/Work*	✓	✓	X	✓	✓	X	✓	X	✓	X	X	X	X	NA-X	X	X	X	X	X	X
Mobile Home	X	X	X	X	X	X	X	X	X	X	X	X	X	NA-X	X	X	X	X	X	X

TABLE 2A: ESTUARY LAND USE ZONING REGULATIONS ACTIVITY AND FACILITY TYPES*	Jack London District								O-9	San Antonio/Fruitvale										
	Light Indust. 1	Off Price Retail 1	Ret. Dine, Entert 1	Ret. Dine, Entert 2	Produce Market	W. Commrc. Rec. 1	Mixed Use Dist.	W. Mixed U. Dist.	W. Warehouse Dist.	Plan. W. Devel. -1	W. Commrc. Rec. 2	Light Indust 2	Plan. W. Devel. 2	Resid. Mixed U.	Heavy Ind.	Gen. Commerce. 1	Plan. W. Dist. 3	Gen. Commerce. 2	Light Indust. 3	
<b>NON-RESIDENTIAL FACILITIES</b>																				
Enclosed														NA						
Open			✓	✓		✓			✓					NA						
Drive-in					X	X		X						NA						
Sidewalk Café		✓	✓	✓	✓	✓	✓	✓	✓	✓		X	NA	X						
Shopping Center/Fast Food					X	X								NA						
Drive Through					X	X		X						NA						
<b>SIGNS</b>																				
Residential			X			X				X				NA	X	X	X	X	X	X
Special														NA						
Development														NA						
Realty														NA						
Civic														NA						
Business														NA						
Advertising														NA						
<b>TELECOMMUNICATIONS FAC.</b>														NA						
Micro														NA						
Mini														NA						
Macro														NA						
Monopole														NA						
Tower														NA						
<b>ACCESSORY ACTIV./FACILITY</b>														NA						
Live/Work		✓	X	✓	✓	X	✓		✓	✓	X	✓		NA	X	X	X	X	X	X

\* See Estuary Policy Plan: Policy JL 1.2 for a description of allowable uses.

\*\*The permitted, conditionally permitted, and prohibited activities for the Residential Mixed Use classification are always determined by the underlying zoning designation. The HBX-3 zoning designation has been adopted by the City Council to implement the Residential Mixed Use Estuary Policy Plan classification.

NA = Not Applicable

TABLE 3

GENERAL PLAN LAND USE CLASSIFICATIONS	MAXIMUM INTENSITY ALLOWED				
	Nonresidential	Residential*			
	Maximum Floor Area Ratio	Maximum Density in Principal Units per Gross Acre	Assumed Net- to-Gross Ratio*	Maximum Density in Principal Units per Net Acre	Minimum Square Feet of Site Area per Principal Unit
Hillside Residential	NA	5	75%	6.67	6,530
Detached Unit Residential	NA	11	75%	14.67	2,969
Mixed Housing Type Residential**	NA	30**	75%	40.0**	1,089**
Urban Residential	NA	125	75%	166.67	261
Neighborhood Center Mixed Use	4.0	125	75%	166.67	261
Community Commercial	5.0	125	75%	166.67	261
Regional Commercial	4.0	125	75%	166.67	261
Business Mix	4.0	NA	NA	NA	NA
General Industrial & Transportation	2.0	NA	NA	NA	NA
Institutional	8.0	125	75%	166.67	261
Central Business District	20.0	300	60%	500.0	87
Mixed Use Waterfront District	See Table 3A	See Table 3A	See Table 3A	See Table 3A	See Table 3A
Housing & Business Mix***	<del>3.0</del> NA	<del>30</del> NA	<del>75%</del> NA	<del>40.0</del> NA	<del>1,089</del> NA
Resource Conservation	NA	NA	NA	NA	NA
Urban Park & Open Space	NA	NA	NA	NA	NA

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

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

\*\*\*The density and nonresidential floor area ratio for the Housing and Business Mix classification are always determined by the underlying zoning designation. The HBX-1 and HBX-2 zoning designations have been adopted by the City Council to implement the Housing and Business Mix LUTE classification.

NA = Not Applicable

TABLE 3A: DENSITY/INTENSITY	MAXIMUM INTENSITY ALLOWED				
	Nonresidential	Residential*			
ESTUARY POLICY PLAN LAND USE CLASSIFICATIONS	Maximum Floor Area Ratio	Maximum Density in Principal Units per Gross Acre	Assumed Net-to-Gross Ratio*	Maximum Density in Principal Units per Net Acre	Minimum Square Feet of Site Area per Principal Unit
Light Industrial – 1	2.0	30	75%	40.0	1,089
Off Price Retail – 1	2.0	30	75%	40.0	1,089
Retail, Dining Entertainment (Phase 1)	Avg. 3.5 over area	NA	NA	NA	NA
Retail, Dining, Entertainment (Phase 2)	7.0 per parcel	125	75%	166.67	261
Produce Market	1.0 per parcel	30	75%	40.0	1,089
Waterfront Commercial Recreation – 1	Avg. 3.0 over area	NA	NA	NA	NA
Mixed Use District	5.0 per parcel	125	75%	166.67	261
Waterfront Mixed Use	2.0 per parcel	40	75%	53.33	817
Waterfront Warehouse District	5.0 per parcel	100	75%	133.33	327
Planned Waterfront Development – 1	1.0 per private parcel, Avg. 1.0 on remaining	30 per private, Avg. 30 on other	75%	40.0	1,089
W. Commercial Rec. 2	Avg. 1.0	NA	NA	NA	NA
Light Industrial – 2	2.0 per parcel	30	75%	40.0	1,089
Plan. Water Devel. – 2	2.0 per parcel	40	75%	53.33	817
Resid. Mixed Use – 1**	<del>1.0 per parcel</del> NA	<del>40</del> NA	<del>75%</del> NA	<del>53.33</del> NA	<del>817</del> NA
Heavy Industrial – 1	0.75 per parcel	NA	NA	NA	NA
Gen. Commercial – 1	1.0 per parcel	NA	NA	NA	NA
Plan Water District 3	0.5 per parcel	NA	NA	NA	NA
General Commercial – 2	1.0 per parcel	NA	NA	NA	NA
Light Industrial – 3	0.5 per parcel	NA	NA	NA	NA

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

\*\*\*The density and nonresidential floor area ratio for the Residential Mixed Use classification are always determined by the underlying zoning designation. The HBX-3 zoning designation has been adopted by the City Council to implement the Residential Mixed Use Estuary Policy Plan classification.

NA = Not Applicable

## CHECKLIST 4: IDENTIFYING GENERAL PLAN POLICIES WITH SPECIFIC DEVELOPMENT IMPLICATIONS

*Note: Planning staff should become familiar with all General Plan goals, objectives, and policies. This checklist is intended to assist in quickly locating those with the most specific development implications. (LUT = Land Use and Transportation Element) The full text of the policies is included in the Appendix attached.*

Yes	No	Policy Directory
		Does the project have a transportation or parking component or affect street development? If yes, see Transportation and Transit-Oriented Development Policies: T2.1, T2.2, T3.3, T3.8, T4.7, T4.9, T6.2, and T6.4.
		Is the project in the downtown area? If yes, see LUT- Downtown policies D1.3, D1.4, D1.5, D1.7, D1.9, D1.10, D1.12, D2.1, D3.2, D6.2, D8.1, D8.2, D8.4, D9.1, D10.2, D10.3, D10.6, D11.2, D12.3, D12.4
		Does the project involve a 'regional-type' commercial business? If yes, see LUT-Industry and Commerce and Neighborhood policies I/C3.1, N1.4
		Does the project involve large-scale office or institutional development? If yes, see LUT-Downtown and Neighborhood policies D8.1, N1.9, N2.4
		Does the project involve development of a hotel or motel? If yes, see LUT-Neighborhood policy N1.7
		Does the project include residential development? If yes, see LUT-Neighborhood policies N3.9, N7.1, N7.2, N8.2, and Open Space, Conservation, and Recreation Element policy OS4.2
		Is the project in the hill area? If yes, see LUT-Neighborhood policy N7.3, and Open Space, Conservation, and Recreation Element policy OS1.3
		Does the project include a secondary unit? If yes, see LUT-Neighborhood policies N3.3, N7.2; and interim zoning regulations.
		Does the project involve an existing institution (college, university) or is it located on a golf course, cemetery, or EBMUD watershed? If yes, see Open Space, Conservation, and Recreation Element policies OS3.1, OS3.3, OS3.4
		Could the project affect a street or bicycle facility? If yes, see BMP policies: 1, 2, 2.3, 2.5, 3, 3.1, 4, 4.2, 4.3, 4.4, 5, 5.4, 6, 7, 7.8, 8, 8.1, 8.2, and 10.
		Is The Project in the Waterfront Area? If Yes, see Estuary Plan Policies: JL 1, 1.1, 3, 4, 4.3, 5, 6, 8.2, 12.3, 12.4, 12.5, 15.1, 15.2, OAK 1.2, 2.1, 2.2, 2.4, 3.1, 4.1, 4.2, 4.3, 4.4, 4.5, 6, 8, 9, SAF 1, 2, 2.1, 3, 3.2, 3.3, 4, 4.1, 5, 5.1, 6, 6.1, 7, 7.1, 7.3, 8, 8.2.
		Does the project involve a "Designated Historic Property" (DHP) or "Potential Designated Historic Property" (PDHP)?* If yes, see Historic Preservation Element policies 1.2, 1.3, 2.2, 2.4, 2.6, 3.1, 3.2, 3.3, 3.5, 3.8, 3.9

\* Consult the Oakland Cultural Heritage Survey or Screen 203 ("Update/Query Parcel Historic Data") for this property in the Permit Tracking System (PTS).

**TABLE 5: BEST FIT ZONES FOR THE GENERAL PLAN LAND USE CLASSIFICATIONS**

ZONES THAT CORRESPOND TO GENERAL PLAN LAND USE CLASSIFICATIONS ● = "Best Fit" Zones ○ = Other Possible Zones	Hillside Residential	Detached Unit Residential	Mixed Housing Type Residential	Urban Residential	Neighb. Center Mixed Use	Community Commercial	Regional Commercial	Business Mix	General Industrial	Institutional	Central Business District	Mix-use Waterf.: See TABLE 5A	Housing/ Bus. Mix*	Open Space: RCA	Open Space : Other
	OS (RCA) OS (Rsrce Cons)													NA	●
OS (*) Open Space (All other)													NA		●
R-10 Estate	●	○	○	○									⊖ NA		
R-20 Low Density	●	○	○	○									⊖ NA		
R-30 One-Family		●	○	○	○								⊖ NA		
R-35 Special One Family			●	○	○								⊖ NA		
R-36 Small Lot			●	○	○								⊖ NA		
R-40 Garden Apartment			●	○	○								⊖ NA		
R-50 Medium Density			●	○	○								⊖ NA		
R-60 Medium High density				●	○	○							NA		
R-70 High Density				●	○	○							NA		
R-80 High-Rise Apartment				●	○	○							NA		
R-90 Downtown Apartment											●		NA		
C-5 Neighborhood			●	○	●								⊖ NA		
C-10 Local Retail			●	○	●								⊖ NA		
C-20 Shopping Center					○	○							⊖ NA		
C-25 Office				●	○	○							NA		
C-27 Village				○	●								NA		
C-28 Commercial Shopping				○	●								NA		
C-30 District Thoroughfare						○							NA		
C-31 Special Retail				○	●								NA		
C-35 District Shopping													NA		
C-36 Boulevard Service						●	●				○		NA		
C-40 Community Thorough						●	●				○		NA		
C-45 Community Shopping						●	●				○		NA		
C-51 Central Business Service											●		NA		
C-52 Old Oakland											●		NA		
C-55 Central Core											●		NA		
C-60 City Service								●	○				NA		
M-10 Special Industry								●					⊖ NA		
M-20 Light								●					⊖ NA		
M-30 General								○	●				NA		
M-40 Heavy								○	●				NA		
S-1 Medical Center						○				●			NA		
S-2 Civic Center										●	○		NA		
S-3 Research center								●					NA		
S-4 Design Review													NA		
S-13 Mixed Use													● NA		
S-15 Transit Oriented Devel.					●	○	○						NA		

\*There are no best fit zones for the Housing and Business Mix LUTE classification. The HBX-1 and HBX-2 zoning designations have been adopted by the City Council to implement the Housing and Business Mix LUTE classification.

NA = Not Applicable

**TABLE 5A: BEST FIT ZONES FOR THE ESTUARY PLAN LAND USE CLASSIFICATIONS**

ZONES THAT CORRESPOND TO ESTUARY PLAN LAND USE CLASSIFICATIONS ● = "Best Fit" Zones ○ = Other Possible Zones	Jack London District								0-9	San Antonio/Fruitvale										
	Light Indust. 1	Off Price Retail 1	Ret. Dine, Entert 1	Ret. Dine, Entert 2	Produce Market	W. Commrc. Rec. 1	Mixed Use Dist.	W. Mixed U. Dist.	W. Warehouse Dist.	Plan. W. Devel. -1	W. Commrc. Rec. 2	Light Indust 2	Plan. W. Devel. 2	Resid. Mixed U. **	Heavy Ind.	Gen. Commerce. 1	Plan. W. Dist. 3	Gen. Commerce. 2	Light Indust. 3	
OS (RCA) OS (Rsree Cons Area)																				
OS (*) Open Space (All other)	○	○	○	○	○	○	○	○	○	○	○	○	○	⊖ NA	○	○	○	○	○	○
R-10 Estate														NA						
R-20 Low Density														NA						
R-30 One-Family														NA						
R-35 Special One Family														NA						
R-36 Small Lot														NA						
R-40 Garden Apartment														● NA						
R-50 Medium Density														● NA						
R-60 Medium High density														NA						
R-70 High Density														NA						
R-80 High-Rise Apartment														NA						
R-90 Downtown Apartment														NA						
C-5 Neighborhood														NA						
C-10 Local Retail														NA						
C-20 Shopping Center														⊖ NA						
C-25 Office														NA						
C-27 Village					●			●	●					NA						
C-28 Commercial Shopping Dist.		●							●					NA						
C-30 District Thoroughfare														NA						
C-31 Special Retail		●			●			●						NA						
C-35 District Shopping		●				●			○					NA		○				
C-36 Boulevard Service														NA		○				
C-40 Community Thoroughfare		○								●				NA		●		●		
C-45 Community Shopping			●	●	○	●	●	●	●	●	●			NA		○		○		
C-51 Central Business Service														NA						
C-52 Old Oakland														NA						
C-55 Central Core														NA						
C-60 City Service										●				NA				●		●
M-10 Special Industry	●	●			○		●	●	●	●	●	○	○	⊖ NA				●		○
M-20 Light	●	●							●	○	●	○	○	⊖ NA	○			●		●
M-30 General	○										●	●	●	⊖ NA	●		●			●
M-40 Heavy												●	●	NA	●		○			
S-1 Medical Center														NA						
S-2 Civic Center														NA						
S-3 Research center														NA				●		
S-4 Design Review			●	●	●	●		●	●					NA						
S-13 Mixed Use	●	●			○		●	●	●		●	●	●	⊖ NA						
S-15 Transit Oriented Devel.														NA						
(S-16 Industrial/Residential Transition)														(●) NA						

\* All water's edge properties have an Open Space Designation. See Estuary Policy Plan Figures II--3 and II--4 and policies.

\*\*There are no best fit zones for the Residential Mixed Use Estuary Policy Plan classification. The HBX-3 zoning designation has been adopted by the City Council to implement the Residential Mixed Use Estuary Plan classification.

NA = Not Applicable



## APPENDIX

### General Plan Policies with Specific Development Implications

This list is not exhaustive, and is not meant to summarize all of the policies in the General Plan Elements. Rather, this list contains policies that highlight clear implications for land use decision-making. Consult the General Plan Elements if necessary.

#### A. LAND USE AND TRANSPORTATION ELEMENT

##### INDUSTRY AND COMMERCE (I/C)

###### **Policy I/C2.2: Reusing Abandoned Buildings**

The reuse of abandoned buildings by non-traditional activities should be encouraged where the uses are consistent with, and will assist in the attainment of, the goals and objectives of the General Plan.

###### **Policy I/C3.1: Locating Commercial Businesses**

Commercial uses, which serve long term retail needs of regional consumers and which primarily offer durable goods, should be located in areas adjacent to the I-880 freeway or at locations visible or amenable to high volumes of vehicular traffic, and accessible by multiple modes of transportation.

###### **Policy I/C3.5 Promoting Culture, Recreation, and Entertainment**

Cultural, recreational, and entertainment uses should be promoted within the downtown, particularly in the vicinity of the Fox and Paramount Theaters, and within the Jack London Square area.

###### **Policy I/C4.1 Protecting Existing Activities**

Existing industrial, residential, and commercial activities and areas which are consistent with long term land use plans for the City should be protected from the intrusion of potentially incompatible land uses.

###### **Policy I/C4.2 Minimizing Nuisances**

The potential for new or existing industrial or commercial uses, including seaport and airport activities, to create nuisance impacts on surrounding residential land uses should be minimized through appropriate siting and efficient implementation and enforcement of environmental and development controls.

##### TRANSPORTATION AND TRANSIT-ORIENTED DEVELOPMENT (T)

###### **Policy T1.5: Locating Truck Services**

Truck services should be concentrated in areas adjacent to freeways and near the seaport and airport, while ensuring the attractiveness of the environment for visitors, local businesses and nearby neighborhoods.

###### **Policy T2.1 Encouraging Transit-Oriented Development**

Transit-oriented development should be encouraged at existing or proposed transit nodes, defined by the convergence of two or more modes of public transit such as BART, bus, shuttle service, light rail or electric trolley, ferry, and inter-city or commuter rail. (See the vision for each of Oakland's BART stations and Eastmont Town Center in the LUT Element).

###### **Policy T2.2 Guiding Transit-Oriented Development**

Transit-oriented developments should be pedestrian oriented, encourage night and day times use, provide the neighborhood with needed goods and services, contain a mix of land uses, and be designed to be compatible with the character of surrounding neighborhoods.

###### **Policy T3.3 Allowing Congestion Downtown**

For intersections within Downtown and for those that provide direct access to downtown locations, the City should accept a lower level of service and a higher level of traffic congestion than is accepted in other parts of Oakland. The desired pedestrian oriented nature of downtown activity and the positive effect of traffic congestion in promoting the use of transit or other methods of travel should be recognized.

**Policy T3.8 Screening Downtown Parking**

Cars parked in downtown lots should be screened from public view through the use of ground floor storefronts, parks and landscaping, or other pedestrian friendly, safe, and other attractive means.

**Policy T4.1 Incorporating Design Features For Alternative Travel**

The City will require new development, rebuilding, or retrofit to incorporate design features in their projects that encourage the use of alternative modes of transportation such as transit, bicycling, and walking.

**Policy T4.7 Reusing Abandoned Rail Lines**

Where rail lines (including siding and spurs) are to be abandoned, first consideration should be given to acquiring the line for transportation and recreational uses, such as bikeways, footpaths, or public transit.

**Policy T4.9 "Gateway" Public Access Area**

The City, in concert with the East Bay Regional Park District, Port of Oakland, Oakland Base Reuse Authority, and the Bay Conservation and Development Commission, should support development of a "gateway" public park area at the terminus of the San Francisco/Oakland Bay Bridge east span that is reachable by auto, bicycle, or walking. (See also OSCAR).

**Policy T6.2 Improving Streetscapes**

The City should make major efforts to improve the visual quality of streetscapes. Design of the streetscape, particularly in neighborhoods and commercial centers, should be pedestrian oriented, include lighting, directional signs, trees, benches, and other support facilities.

**Policy T6.4 Rebuilding Freeways**

In the event of a major disaster, necessitating reconstruction of the I-880 freeway, the freeway should be rebuilt below ground in the downtown/Jack London square area.

**DOWNTOWN (D)****Policy D1.3: Planning for Chinatown**

The unique character of Chinatown, as a walkable center for Asian-American culture, a regional destination point, and a district with a mixed housing type residential component, should be supported and encouraged.

**Policy D1.4: Planning for Old Oakland**

Old Oakland should be respected and promoted as a significant historic resource and character-defining element, with Washington Street as its core. Residential development in Old Oakland should be of mixed housing type, with ground floor retail where feasible.

**Policy D1.5: Planning for the Gateway District**

New development and rehabilitation in the Gateway district should contribute to greater neighborhood cohesion and identity, emphasizing mixed housing type and urban density residential development.

**Policy D1.7: Planning for the Gold Coast**

The Gold Coast should be recognized and conserved as an established neighborhood providing urban density housing in a unique urban setting.

**Policy D1.9: Planning for the Channel Park Residential Area.**

The area between the Channel Park Arts, Educational, and Cultural Center and the waterfront should be developed as a walkable urban residential district, incorporating commercial development and open space as appropriate to take advantage of the cultural and recreational amenities provided by the center and the channel to the estuary, and easy transportation by BART.

**Policy D1.10: Planning for the Jack London District.**

Pedestrian-oriented entertainment, live-work enterprise, moderate-scale retail outlets, and office should be encouraged in the Jack London Waterfront area.

**Policy D1.12 Planning for the Produce Market Area** (see Estuary Plan Policy JL-4)

The Produce Market should be recognized as California's last example of an early twentieth century produce market. Should the wholesale distribution of produce be relocated to another site, the character and vitality of this unique district should be encouraged in its reuse if economically viable.

**Policy D2.1 Enhancing the Downtown**

Downtown development should be visually interesting, harmonize with its surroundings, respect and enhance important views in and out of the downtown, respect the character, history, and pedestrian orientation of the downtown, and contribute to an overall attractive skyline.

**Policy D3.2 Incorporating Parking Facilities**

New parking facilities for cars and bicycles should be incorporated into the design of any project in a manner that encourages and promotes safe pedestrian activity.

**Policy D6.2 Reusing Vacant or Underutilized Buildings**

Existing vacant or underutilized buildings should be reused. Repair and rehabilitation, particularly of historic or architecturally significant structures should be strongly encouraged. However, where reuse is not economically feasible, demolition and other measures should be considered. (Landmark and Preservation District properties must follow Policy 2.4 of the Historic Preservation Element).

**Policy D8.1: Locating Office Development**

New large-scale office development should primarily be located along the Broadway corridor south of Grand Avenue, with concentrations at the 12<sup>th</sup> Street and 19<sup>th</sup> Street BART stations. The height of office development should respect the Lake Merritt edge. Small-scale offices should be allowed throughout the downtown, including in the downtown neighborhoods, when compatible with the character of surrounding development.

**Policy D8.2: Respecting Public Parks**

Future office development on Harrison Street opposite Lakeside Park and Snow Park should provide ground level, landscaped, open space to soften the edge between Public Park land and the office core. This space should be clearly accessible to office workers and the public.

**Policy D8.4: Developing the Broadway Spine**

The Broadway spine, particularly near the 12<sup>th</sup> Street/City Center BART station, should be the primary location of new public office development.

**Policy D9.1: Concentrating Commercial Development**

Concentrate region-serving or "destination" commercial development in the corridor around Broadway between 12<sup>th</sup> and 21<sup>st</sup> Streets, in Chinatown, and in the Jack London District. Ground floor locations for commercial uses that encourage a pedestrian-friendly environment should be encouraged throughout the downtown.

**Policy D10.2: Locating Housing**

Housing in the downtown should be encouraged in identifiable districts, within walking distance of the 19<sup>th</sup> Street, 12<sup>th</sup> Street/City Center, and Lake Merritt BART stations to encourage transit use, and in other locations where compatible with surrounding uses.

**Policy D10.3: Framework for Housing Densities.**

Downtown residential areas should generally be within the Urban Density Residential and Central Business District density range, where not otherwise specified. The height and bulk should reflect existing and desired district character, the overall city skyline, and the existence of historic structures or areas.

**Policy D10.6 Creating Infill Housing**

Infill housing that respects surrounding development and the streetscape should be encouraged in the downtown to create or strengthen distinct districts.

**Policy D11.2: Locating Mixed-Use Development**

Mixed-use development should be allowed in commercial areas, where the residential component is compatible with the desired commercial function of the area.

**Policy D12.3: Locating Entertainment Activities**

Large-scale entertainment uses should be encouraged to concentrate in the Jack London Waterfront and within the Broadway corridor area. However, existing large-scale facilities in the Downtown should be utilized to the fullest extent possible.

**Policy D12.4: Locating Smaller Scale Entertainment Activities**

Small-scale entertainment uses, such as small clubs, should be allowed to locate in the Jack London Waterfront area and to be dispersed throughout downtown districts, provided the City works with area residents and businesses to manage the impacts of such uses.

**NEIGHBORHOODS (N)****Policy N1.4: Locating Large Scale Commercial Activities.**

Commercial uses, which serve long term retail needs of regional consumers and which primarily offer high volume goods, should be located in areas visible or amenable to high volumes of traffic. Traffic generated by large-scale commercial developments should be directed to arterial streets and freeways and not adversely affect nearby residential streets.

**Policy N1.7: Locating Hotels and Motels.**

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

**Policy N1.8: Making Compatible Development.**

The height and bulk of commercial development in the "Neighborhood Mixed Use Center" and "Community Commercial" areas should be compatible with that which is allowed for residential development.

**Policy N1.9: Locating Major Office Development**

While office development should be allowed in commercial areas in the neighborhoods, the City should encourage major office development to locate in the downtown.

**Policy N2.4: Locating Services along Major Streets**

New large-scale community, government, and institutional uses should be located outside of areas that are predominantly residential. Preferably, they should be located along major thoroughfares with easy access to freeways and public transit or in the Downtown.

**Policy N3.3: Facilitating Development of Second Units (see also N7.1 and N7.2)**

One accessory housing unit (also known as second or secondary unit) per property should be permitted outright in all residential zones, provided it meets the setback requirements for the primary structure, is clearly secondary to the primary structure, is compatible with other structures on the site and in the vicinity, and the property owner lives on-site. The permitting procedures and performance criteria applied to these units should facilitate construction of units, and not be prohibitive in their requirements. Accessory units should be allowed when a new primary residence is being constructed or may be added to properties with an existing residence.

**Policy N3.9: Orienting Residential Development.**

Residential developments should be encouraged to face the street, and orient their units to desirable sunlight and views, while avoiding unreasonably blocking sunlight and views for neighboring buildings, respecting the privacy needs of residents of the development and surrounding properties, providing for sufficient conveniently located on-site open space, and avoiding undue noise exposure.

**Policy N7.1: Ensuring Compatible Development**

New residential development in Detached Unit and Mixed Housing Type areas should be compatible with the density, scale, design, and existing or desired character of surrounding development.

**Policy N7.2: Defining Compatibility**

*Guidelines for Determining Project Conformity  
Adopted May 6, 1998*

*Revised November 3, 1999, August 8, 2001, December 5, 2001, July 15, 2003 (typographical changes May 28, 2004)*

*Oakland City Planning Commission*

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Infrastructure availability, environmental constraints and natural features, emergency response and evacuation times, street width and function, prevailing lot size, predominant development type and height, scenic values, distance to public transit, and desired neighborhood character are among the factors that could be taken into account when developing and mapping zoning designations or determining "compatibility". These factors should be balanced with the citywide need for additional housing.

**Policy N7.3: Hill Area Subdivision**

At least 8,000 square feet of lot area per dwelling unit should be required when land in the hill area is subdivided. Lots smaller than 8,000 square feet may be created only when this ratio is maintained for the parcel being divided.

**Policy N8.2: Making Compatible Interfaces Between Densities**

The height of development in Urban Residential and other higher density residential areas should step down as it nears lower density residential areas to minimize conflicts at the interface between the different types of development.

**B. BICYCLE MASTER PLAN (BMP)**

**BMP Policy 1: Create, enhance and maintain the recommended bikeway network.**

- **Action 1.12: Diagonal Parking**  
Discourage the installation of diagonal or 90-degree parking on streets included in the recommended bikeway network. Replace existing diagonal or 90-degree parking on streets included in the recommended bikeway network with parallel parking or off-street parking where feasible.

**BMP Policy 2: Establish design and maintenance standards for all streets that recognize the needs of bicyclists.**

- **Action 2.3: Public Utilities**  
When locating or relocating public utilities, design the placement of boxes, hydrants, curbs, poles and other objects so that they do not interfere with bicycle travel.
- **Action 2.5: Automobile Parking**  
Whenever new on-street automobile parking spaces are created, especially the conversion of parallel parking to diagonal parking, the potential detrimental effects on cyclists should be considered.

**BMP Policy 3: Make efforts to obtain, redevelop, or encourage private redevelopment of unused railroad, utility, and other right-of-ways as linked, multi-use Class I bicycle paths or trails.**

**BMP Policy 4: Include provisions for safe and direct bicycle access to special development areas and key corridors.**

- **Action 4.2: Broadway Corridor**  
Designate Broadway from Caldecott Field to Jack London Square as a transit/bicycle corridor promenade. Incorporate bicycle facilities in any development or redevelopment projects with ¼ mile of Broadway whenever feasible.

**BMP Policy 5: Promote secure and conveniently located bicycle parking at destinations throughout Oakland.**

**BMP Policy 6: Support improved bicycle access to public transportation.**

**BMP Policy 8: Insure that the needs of bicyclists are considered in the design of new development and redevelopment projects.**

- **Action 8.2: Drive-up windows**  
Drive-up windows, drive-in services and take-out services, excluding car washes, should provide full access to bicyclists.

**BMP Policy 10: Prior to the implementation of bikeway projects, affected residents, merchants and property owners shall be notified in writing of the potential impacts.**

## **C. ESTUARY POLICY PLAN ELEMENT**

Note: The Open Space designation applies to the shoreline of every waterfront property.

### **JACK LONDON DISTRICT (JL)**

**Retail, Dining, and Entertainment District Policy JL-1:** Reinforce retail, dining, and entertainment uses along the waterfront, and extend these uses along Broadway to create a regional entertainment destination.

**Retail, Dining, and Entertainment District Policy JL-1.1:** Expand commercial uses along the entire five-block frontage of lower Broadway.

**Retail, Dining, and Entertainment District Policy JL-1.2:** Intensify Phase I of Jack London Square.

Comment: Several more focused development directives are found with this policy. The following bullet point illustrates one particular directive regarding food carts and kiosks. Existing Zoning Regulations define this type of service as "fast food", for purposes of Zoning administration.

- Additional kiosks and retail extensions in the plaza adjacent to the existing Barnes and Noble bookstore. The kiosks, food carts, etc., should help to intensify activity on a daily basis, and provide patrons with high quality food service and an attractive environment for outdoor eating, with views to the water.

**Off Price Retail District Policy JL-3:** Encourage the expansion of off-price retail establishments west of Broadway.

**Produce District Policy JL- 4:** Preserve the historic character of the Produce District, and encourage activities that create a viable urban mixed-use district.

**Produce District Policy JL-4.3** Encourage the location of a farmers market along Franklin Street.

**Mixed Use District Policy JL-5:** Encourage the development of a mix of uses including housing within a context of commercial, and light industrial/manufacturing uses, and ancillary parking generally outside the existing boundaries of the historic district (API) and east to the Lake Merritt channel.

**Waterfront Warehouse District Policy JL-6:** Encourage the preservation and adaptive reuse of existing buildings and new infill development to provide joint living and working quarters, residential, light industrial, wholesale, office, and compatible uses that preserve and respect the District's unique character.

**Shoreline Access and Public Spaces Policy JL-8.2:** Create new open spaces that expand the opportunities to view, appreciate, and enjoy the water's edge.

**Regional Circulation, Local Street Improvements, and Parking Policy JL-12.3:** Reinforce a food and market orientation on Franklin Street.

**Regional Circulation, Local Street Improvements, and Parking Policy JL-12.4:** Develop significant pedestrian improvements along Webster Street that create a strong link to the waterfront.

**Regional Circulation, Local Street Improvements, and Parking Policy JL-12.5:** 2nd and 3rd Streets: Reinforce Second Street and Third Street as an east-west connector for pedestrian, vehicular and bicycle movement.

**Regional Circulation, Local Street Improvements, and Parking Policy Policy JL-15.1:** Provide Class II bike lanes on Second Street and portions of Third Street near Mandela Parkway.

**Regional Circulation, Local Street Improvements, and Parking Policy Bicycle Circulation Policy JL-15.2:** Establish bike lanes on Washington Street.

## **OAK TO NINTH AVENUE DISTRICT (OAK)**

**Shoreline Access and Public Spaces Policy OAK-1.2:** Provide for continuous pedestrian and bicycle movement along the water's edge.

**Shoreline Access and Public Spaces Policy OAK-2.1:** Expand Estuary Park. Encourage Aquatic Sports within the mouth of Lake Merritt Channel.

**Shoreline Access and Public Spaces Policy OAK-2.2:** Create a major new park on the east side of the mouth of the Lake Merritt Channel, at the Estuary.

**Shoreline Access and Public Spaces Policy OAK-2.4:** Establish a large park in the existing area of the Ninth Avenue Terminal. Establish a location for large civic events and cultural activities. A new park of significant size should be created in the area.

**Shoreline Access and Public Spaces Policy OAK-3.1:** Create a system of public open spaces that flanks both sides of Lake Merritt Channel.

**Land Use Policy OAK-4.1:** Preserve and expand the existing Fifth Avenue Point community as a neighborhood of artists and artisan studios, small businesses, and water-dependent activities.

**Land Use Policy OAK-4.2:** Promote the development of educational and cultural interpretive facilities (Oak to 9<sup>th</sup>).

**Land Use Policy OAK-4.3:** Facilitate the relocation of break-bulk cargo operations from the Ninth Avenue Terminal.

**Land Use Policy OAK-4.4:** Promote development of commercial-recreational uses in the vicinity of the Crescent Park and Clinton Basin.

**Land Use Policy OAK-4.5:** North of the Embarcadero, encourage a mixed-use district while maintaining viable industrial uses.

**Regional Circulation and Local Street Improvements Policy OAK-6:** Explore the future potential for a major new BART Station and major parking facility on BART property at Fifth Avenue and East 8<sup>th</sup> Street.

**Regional Circulation and Local Street Improvements Policy OAK-8:** Enhance Fifth Avenue as the principal pedestrian and vehicular linkage to the public open space surrounding the mouth of the Lake Merritt Channel.

**Regional Circulation and Local Street Improvements Policy OAK-9:** Improve the Embarcadero east of Oak Street as a multi-modal landscaped parkway with bicycle, pedestrian and vehicular facilities.

## **SAN ANTONIO/FRUITVALE DISTRICT (SAF)**

**Embarcadero Cove Policy SAF-1:** Encourage the development of water-oriented commercial uses within Embarcadero Cove.

**Brooklyn Basin Policy SAF-2:** Maintain the industrial character and role of Brooklyn Basin as a place for food processing and manufacturing, and retain light industrial uses.

**Brooklyn Basin Policy SAF-2.1:** Encourage development of compatible office, support commercial and institutional uses.

**Con-Agra Policy SAF-3:** Encourage heavy industry in the vicinity of the Con-Agra plant to continue, while providing for the transition to a mix of new uses.

**Con-Agra Policy SAF-3.2:** Redevelop the area with a mixture of waterfront-oriented residential and/or commercial activities, which are compatible with the scale and character of surrounding areas.

**Con-Agra Policy SAF-3.3:** Provide for strong links to surrounding areas and orient new development to the water.

**Kennedy Tract Policy SAF-4:** Encourage the preservation and expansion of the affordable residential neighborhood in the Kennedy Tract.

**Kennedy Tract Policy SAF-4.1:** Provide for a mixture of compatible uses with emphasis on a variety of affordable housing types, while maintaining the area's character of small-scale buildings.

**Owens-Brockway Policy SAF-5:** Retain the existing industrial use of the Owens-Brockway site.

**Owens-Brockway Policy SAF-5.1:** Improve the compatibility between industrial and residential uses, and enhance the relationship of the plant with the waterfront.

**42<sup>nd</sup> and High Street Policy SAF-6:** Encourage the reuse of existing warehouse properties south of Alameda Avenue and west of High Street for high-quality retail uses that complement adjacent commercial uses.

**42<sup>nd</sup> and High Street Policy SAF-6.1:** Provide for new commercial activities adjacent to the 42<sup>nd</sup> Street interchange.

**East of High Street Policy SAF-7:** East of High Street, maintain existing viable industrial and service-oriented uses, and encourage the intensification of underutilized and vacant properties.

**East of High Street Policy SAF-7.1** South of Tidewater Avenue, provide for continued industrial use, but also encourage new research and development and light industrial activities which are compatible with the adjacent EMBUD Oakport Facility and EBRPD's Martin Luther King Jr. Regional Shoreline Park.

**East of High Street Policy SAF-7.3:** At the 66<sup>th</sup> Avenue interchanges, encourage development of commercial uses that can benefit from proximity to freeway interchanges and serve both regional and local markets.

**Shoreline Access and Public Space Policy SAF-8:** Develop a continuously accessible shoreline, extending from Ninth Avenue to Damon Slough.

**Shoreline Access and Public Space Policy SAF-8.2:** Develop a major new public park at Union Point.

## **D. OSCAR ELEMENT**

Note: The Open Space designation applies to the shoreline of every waterfront property.

### **Policy OS1.3: Relate New Development to Slope**

Limit intensive urban development to areas where the predominant slope is less than 15 percent. Design development on slopes between 15 and 30 percent to minimize alteration of natural landforms. Strongly discourage development on slopes greater than 30 percent. To the extent permitted by law, when land is subdivided into two or more lots, retain areas with slopes over 30 percent as private, public, or common open space.

### **Policy OS3.1: University, College, and Institutional Open Space**

Retain open space at Oakland's universities, colleges, and other institutions where such open space provides recreational, aesthetic, conservation, or historic benefits. Where such spaces are publicly owned, as at the community colleges, support the permanent retention of athletic fields and other recreational areas as open space. Such areas should not be converted to development unless they are replaced in kind with comparable areas or facilities in the immediate vicinity.

### **Policy OS3.3: Golf Course and Cemetery Open Space**

Retain golf courses and cemeteries as open space areas.

### **Policy OS3.4: East Bay Municipal Utility District Open Space**

Retain EBMUD watershed land and reservoirs as open space and promote their joint use for recreation.



**Policy OS4.2: Protection of Residential Yards**

Recognize the value of residential yards as a component of the City's open space system and discourage excessive coverage of such areas by buildings or impervious surfaces.

**E. HISTORIC PRESERVATION ELEMENT**

**Policy 1.2: Potential Designated Historic Properties**

The City considers any property receiving an existing or contingency rating from the Reconnaissance or Intensive Surveys of "A" (highest importance), "B" (major importance), or "C" (secondary importance) and all properties determined by the Surveys to contribute or potentially contribute to an Area of Primary or Secondary Importance to warrant consideration for possible preservation. Unless already designated as Landmarks, Preservation Districts, or Heritage properties pursuant to Policy 1.3, such properties will be called "Potential Designated Historic Properties."

**Policy 1.3: Designated Historic Properties**

The City will designate significant older properties which definitively warrant preservation as Landmarks, Preservation Districts or Heritage Properties. The designations will be based on a combination of Historical and Architectural Inventory Ratings, National Register of Historical Places criteria, and special criteria for Landmarks and Preservation District eligibility. Landmarks, properties, which contribute or potentially contribute to Preservation Districts, and Heritage Properties, will be called "Designated Historic Properties".

**Policy 2.2: Landmark and Preservation District Eligibility Criteria**

Landmarks and Preservation Districts will be classified according to importance, with three classes of Landmarks and two classes of Preservation Districts. Properties eligible for each of these classifications will be as follows: (*see Historic Preservation Element Pg. 4-3*)

**Policy 2.4: Landmark and Preservation District Regulations**

- (a) Demolitions and removals involving Landmarks or Preservation Districts will generally not be permitted or be subject to postponement unless certain findings are made. Demolition or removal of more important Landmarks and of most Preservation District properties will normally not be permitted without the required findings, while demolition or removal of less important Landmarks will be subject only to postponement.
- (b) Alterations or New Construction involving Landmarks or Preservation Districts will normally be approved if they are found to meet the Secretary of the Interior's Standards for the Treatment of Historic Properties or if certain other findings are made.
- (c) Findings for approval of demolitions, removals, alterations or New Construction involving Landmarks or Preservation Districts will seek to balance preservation of these properties with other concerns.
- (d) Specific regulatory provisions are set forth in the tables entitled "Demolition and Removal Regulations for Landmarks and Preservation Districts" and "Alteration and New Construction Regulations for Landmarks and Preservation Districts".

(*See Historic Preservation Element Table 4-1, page 4-10 and Table 4-2, page 4-12*)

**Policy 2.6: Preservation Incentives**

Landmarks and all property contributing or potentially contributing to a Preservation District will be eligible for the following preservation incentives: (iv) Broader range of permitted or conditionally permitted uses;  
*See Historic Preservation Element Action 2.6.5, page 4-27*)

**Policy 3.1: Avoid or Minimize Adverse Historic Preservation Impacts Related To Discretionary City Actions.**

The City will make all reasonable efforts to avoid or minimize adverse effects on the Character-Defining Elements of existing or Potential Designated Historic Properties which could result from private or public projects requiring discretionary City actions.

**Policy 3.2: Historic Preservation and City-Owned Properties**

To the extent consistent with other Oakland General Plan objectives, the City will ensure that all City-owned or controlled properties warranting preservation will, in fact, be preserved. All City-owned or controlled properties which may be eligible for Landmark or Heritage Property designation or as contributors or potential contributors to a Preservation District will be considered for such designation.

**Policy 3.3: Designated Historic Property Status For Certain City-Assisted Properties.**

To the extent consistent with other General Plan Goals, Policies and Objectives, as a condition for providing financial assistance to projects involving existing or Potential Designated Historic Properties, the City will require that complete application be made for such properties to receive the highest local designation for which they are eligible prior to issuance of a building permit for the project or transfer of title (for City-owned or controlled properties), whichever comes first. However, Landmark or Preservation District applications will not be required for projects which are small-scale or do not change exterior appearance.

**Policy 3.5: Historic Preservation and Discretionary Permit Approvals.**

For additions or alteration to Heritage Properties or Potential Designated Historic Properties requiring discretionary City permits, the City will make a finding that: (1) the design matches or is compatible with, but not necessarily identical to, the property's existing or historical design; or (2) the proposed design comprehensively modifies and is at least equal in quality to the existing design and is compatible with the character of the neighborhood; or (3) the existing design is undistinguished and does not warrant retention and the proposed design is compatible with the character of the neighborhood.

For any project involving complete demolition of Heritage Properties or Potential Designated Historic Properties requiring discretionary City permits, the City will make a finding that: (1) the design quality of the proposed project is at least equal to that of the original structure and is compatible with the character of the neighborhood; or (2) the public benefits of the proposed project outweigh the benefit of retaining the original structure; or (3) the existing design is undistinguished and does not warrant retention and the proposed design is compatible with the character of the neighborhood.

**Policy 3.8: Definition Of "Local Register Of Historical Resources" And Historic Preservation "Significant Effects" For Environmental Review Purposes.**

For purposes of environmental review under the California Environmental Quality Act, the following properties will constitute the City of Oakland's Local Register of Historical Resources (Any property listed on the California Register of Historical Resources or officially determined to be eligible for listing on the California Register of Historical Resources is also considered a "Historical Resource" pursuant to Section 21084.1 of the California Environmental Quality Act):

- 1) All Designated Historic Properties, and
- 2) Those Potential Designated Historic Properties that have an existing rating of "A" or "B" or are located within an Area of Primary Importance.

Until complete implementation of Action 2.1.2 (Re-designation), the Local Register of Historical Resources will also include the following designated properties: Oakland Landmarks, S-7 Preservation Combining Zone properties, and Preservation Study List properties.

Complete demolition of a Historical Resource will normally be considered a significant effect that cannot be mitigated to a level less than significant and will, in most cases, require preparation of an Environmental Impact Report.

A proposed addition or alteration to a Historical Resource that has the potential to disqualify a property from Landmark or Preservation District eligibility or may have substantial adverse effects on the property's Character-Defining Elements will normally, unless adequately mitigated, be considered to have a significant effect.

**Policy 3.9: Consistency of Zoning with Existing or Eligible Preservation Districts**

(a) Unless necessary to achieve some other Oakland General Plan goal or policy which is of greater significance, the base zone of existing or eligible Preservation Districts shall not encourage demolition or removal of a district's contributing or potentially contributing properties nor encourage new construction that is incompatible with these properties.

(b) The City will always consider including a historic preservation component in area wide or specific plans. As part of any amendment to the Zoning Regulations, the impact on historic properties will be evaluated.

MPW

## NOTICE AND DIGEST

**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.**

This ordinance provides 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.

*John Adams*

**Attachment A of Ordinance**  
**Zoning Text Changes**  
**(As Revised in October 17, 2006 City Council Meeting)**

(Deleted Text is shown as ~~strikeout~~. New Text is shown as underlined.)

**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, 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 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	HBX-1	HBX-2	HBX-3

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

	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	--	--	--	
Plant Nursery	C	C	C	
Crop and Animal raising	--	--	--	
Mining and Quarrying Extractive	--	--	--	

**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- Except on Lowell Street, 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.
- 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.

	HBX-1	HBX-2	HBX-3	Additional Regulations
One-Family Dwellings	P	P	P	
One-Family Dwelling with Secondary Unit	P	P	P	17.102.360

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

**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.

	<b>HBX-1</b>	<b>HBX-2</b>	<b>HBX-3</b>
<b>Minimum lot area</b>	4,000 sf	4,000 sf	4,000 sf
<b>Minimum lot width</b>	35 ft	35 ft	35 ft
<b>Minimum lot frontage</b>	35 ft	35 ft	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.

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:

	HBX-1	HBX-2	HBX-3
<b>When lot is abutting street right of way less than 80 ft wide</b>			
Maximum FAR	1.75	2.6	2.6
<b>When lot is abutting street right of way 80 ft wide or more</b>			
Maximum FAR	1.75	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	HBX-1	HBX-2	HBX-3
Nonresidential FAR	1.75	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.

	<b>HBX-1</b>	<b>HBX-2</b>	<b>HBX-3</b>
<b>Maximum height</b>	30 ft	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	55 ft

**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. Side Yard--Interior Lot Line.

1. The minimum side yard width along each interior side lot line abutting a side lot line of a lot containing one or two dwelling units shall be five feet. This requirement shall only apply to lots with frontage on Lowell Street.

2. 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.

200 sf/unit	150 sf/unit	150 sf/unit

**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.

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
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**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:

<u>Activities allowed in an HBX work/live unit</u>	<u>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).</u>		
<u>Required parking</u>	<u>One parking space per unit plus one additional unassigned visitor or employee parking space per five HBX work/live units.</u>		1
<u>Required loading</u>	<u>Less than 25,000 sf</u>	<u>No berth required</u>	2
	<u>25,000--69,999 sf</u>	<u>One berth</u>	
	<u>70,000—130,000 sf</u>	<u>Two berths</u>	
	<u>Each additional 200,000 sf</u>	<u>One additional berth</u>	
<u>Required usable open space</u>	<u>75 square feet of usable open space per unit</u>		3
<u>Minimum size of unit</u>	<u>1,000 square feet</u>		4

**Notes:**

1. See Chapter 17.116 for other off-street parking standards.
2. 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.
3. 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.
4. 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 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:

<u>Activities allowed in an HBX live/work unit</u>	<u>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).</u>									
<u>Required parking</u>	<u>One parking space per unit.</u>	<u>1</u>								
<u>Required Loading</u>	<table border="1"> <tr> <td><u>Less than 50,000 sf</u></td> <td><u>No berth required</u></td> </tr> <tr> <td><u>50,000--149,999 sf</u></td> <td><u>One berth</u></td> </tr> <tr> <td><u>150,000—299,999 sf</u></td> <td><u>Two berths</u></td> </tr> <tr> <td><u>Each additional 300,000 sf</u></td> <td><u>One additional berth</u></td> </tr> </table>	<u>Less than 50,000 sf</u>	<u>No berth required</u>	<u>50,000--149,999 sf</u>	<u>One berth</u>	<u>150,000—299,999 sf</u>	<u>Two berths</u>	<u>Each additional 300,000 sf</u>	<u>One additional berth</u>	<u>2</u>
<u>Less than 50,000 sf</u>	<u>No berth required</u>									
<u>50,000--149,999 sf</u>	<u>One berth</u>									
<u>150,000—299,999 sf</u>	<u>Two berths</u>									
<u>Each additional 300,000 sf</u>	<u>One additional berth</u>									
<u>Permitted Density</u>	<u>Same as Section 17.65.070</u>									
<u>Required usable open space</u>	<u>Same as Section 17.65.130</u>									

**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 Maxwellton Road; thence southwest on Maxwellton 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 Bbusiness Ddistrict;~~
- Mixed use projects in the -and Jack London Ddistrict; 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, nNo~~ 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 impair 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.

# AMENDMENT TO COLISEUM AREA REDEVELOPMENT PLAN LAND USE MAP

