



FILED  
OFFICE OF THE CITY CLERK  
OAKLAND

2017 MAR 30 PM 5:31

# AGENDA REPORT

**TO:** Sabrina B. Landreth  
City Administrator

**FROM:** Darin Ranelletti  
Acting Director, PBD

**SUBJECT:** Amendments to Oakland's Secondary  
Unit Regulations

**DATE:** March 24, 2017

City Administrator Approval

*[Handwritten signature]*

Date: 3/30/17

## RECOMMENDATION

**Staff Recommends That The City Council Conduct A Public Hearing And Upon Conclusion Adopt An Ordinance, As Recommended By The City Planning Commission, Amending The Oakland Planning Code To: 1) Revise Regulations For Secondary Units To Comply With State Law; 2) Create and Map A New Zoning Overlay That Identifies Areas In The City Where New Category Two Secondary Units Are Not Permitted; 3) Make Minor Changes In Various Chapters Of The Planning Code; And 4) Make Appropriate California Environmental Quality Act Determinations**

## EXECUTIVE SUMMARY

Adoption of the proposed Ordinance Amendments will accomplish the following:

- All Secondary Units standards in the Oakland Planning Code are proposed to be brought into compliance with California State law.
- Amendments are proposed beyond the minimum required by State law to further reduce the regulatory barriers to the development of Secondary Units - which are considered one way to help address the city's housing shortage and escalating costs.
- A new Zoning Map overlay (S-9) would be created and mapped that identifies areas in the city where Secondary Units will not be allowed due to their location, in whole or part, in a designated "Very High Fire Hazard Severity Zone", and on a narrow street or long cul-de-sac that does not meet minimum emergency access standards.
- A definition for the term "Transit Accessible Area" would be added to Section 17.09.040 of the Planning Code. The City has need for this definition unrelated to Secondary Units, since it is a currently undefined term in Section 17.116.110 - Special Parking Exemptions and Reductions - which is part of the new parking regulations recently adopted by the City Council. This proposed change is a cleanup amendment.

Item: \_\_\_\_\_  
CED Committee  
April 11, 2017

Revisions to the City's Secondary Unit regulations are proposed in response to the following changes in State law and direction by the City Council:

1. On February 16, 2016, the City Council adopted Ordinance No. 13357 C.M.S., which revised the City's Secondary Unit regulations. The purpose of the changes was to encourage construction of more Secondary Units, and thereby help address the city's housing shortages and escalating costs. As part of the final adoption, Council directed staff to prepare further amendments to the Secondary Unit regulations, including a clarification that the City's zoning regulations do not invalidate stricter regulations that may be imposed by a homeowners' association's Covenants, Conditions, and Restrictions (CC&Rs).
2. Subsequently, on January 1, 2017, California Senate Bill (SB) 1069 (Wieckowski) and Assembly Bill (AB) 2299 (Bloom) went into effect, rendering the City's existing Secondary Unit regulations null and void until an ordinance is adopted that fully complies with State law. The Bureau of Planning is currently issuing permits for Secondary Units under interim regulations required by State law. These interim regulations have not yet been tailored to meet Oakland's needs, and consequently may be more restrictive in many cases than those Oakland had previously adopted in 2016.

The Secondary Unit amendments discussed in this report include changes to align City regulations with new State law, changes that conform to Council direction (where not superseded by State law); and other changes that help clarify the Secondary Units regulations or further encourage Secondary Units by reducing more regulatory barriers in the City's Planning Code. The proposed Planning Code Text amendments fall into two categories: (1) Secondary Unit-Related Changes, and (2) Minor Code Amendments.

**Secondary Unit-related changes include:**

1. Amendments to the City's Secondary Unit regulations to comply with changes in State law, including:
  - a. Creation of two separate categories of Secondary Units:
    - i. "Category One" - those entirely within the building envelope of an existing One-Family Dwelling Facility or detached accessory structure; and
    - ii. "Category Two" - those that involve construction of a new structure, or an addition to the footprint or building envelope of an existing structure.
  - b. Ministerial approval of all Secondary Units.
  - c. Ministerial approval of all Secondary Units within existing residences or accessory structures with independent exterior access, and setbacks and emergency access sufficient for fire safety - with no additional requirements regarding parking, size, setbacks, design or other restrictions.
  - d. Elimination of parking requirements for all "Category Two" Secondary Units located in the following areas:
    - i. Within one-half mile of a public transit stop;
    - ii. In an historic district;

- iii. In an area where on-street parking permits are required but not offered to the occupant of the secondary unit;
  - iv. Within one block of a dedicated car share space.
- e. Allowance for tandem parking and other parking configurations.
  - f. Elimination of requirements for separate utility connections for "Category One" Secondary Units (within existing residences or accessory structures), and elimination of requirement for fire sprinklers if primary unit does not require them.
2. Amendments in response to City Council's direction to staff in February 2016 to prepare recommendations on proposed further amendments to the Secondary Unit regulations.

**Minor Code Amendments include:**

1. Code changes to improve consistency, reduce redundancies, and clarify language in the Planning Code.

**BACKGROUND / LEGISLATIVE HISTORY**

***Project History***

On February 16, 2016, the City Council adopted Ordinance No. 13357 C.M.S., which revised the City's Secondary Unit regulations. The purpose of those amendments was to encourage construction of more Secondary Units in the City of Oakland, and thereby help address the city's housing shortages and escalating costs. Between March 16, 2016, when the City's revised Secondary Unit regulations became effective, and December 31, 2016, the City issued planning approvals for **111 new Secondary Units** (compared with only **26** over the same length of time before approval of the amendments). As part of the final adoption, Council directed staff to prepare further amendments to the Secondary Unit regulations, including clarification that the City's zoning regulations do not invalidate stricter regulations that may be imposed by a homeowners' association's CC&Rs.

On January 1, 2017, SB 1069 and AB 2299 went into effect with a similar purpose to the City's February 16, 2016 changes - to streamline the approval and production of Secondary Units. Due to a clause in this new State legislation, until the City adopts a Secondary Unit ordinance that complies with State law, the City's existing Secondary Unit regulations are null and void, and only state standards may be enforced.

On January 18, 2017, the City Planning Commission conducted a public hearing and recommended Council approval of: 1) a new Secondary Unit ordinance that complies with State Law; 2) a new zoning overlay that identifies where Secondary Units are not allowed due to their location, in whole or part, in a designated "Very High Fire Hazard Severity Zone", and on a narrow street or long cul-de-sac that does not meet minimum emergency access standards; and 3) miscellaneous minor changes in various Chapters of the Planning Code (see **Attachment A**).

## **ANALYSIS AND POLICY ALTERNATIVES**

The following section summarizes the proposed substantive changes to the Planning Code Text and Zoning Map:

### **I. CITYWIDE PLANNING CODE AMENDMENTS**

#### **1. Amend the City's Secondary Unit regulations to comply with changes in State law, including:**

- i. ***Creation of two separate categories of Secondary Units: "Category One" - those entirely within the building envelope of an existing One-Family Dwelling Facility or detached accessory structure; and "Category Two" - those that involve construction of a new structure, or an addition to the footprint or building envelope of an existing structure.***

New State law imposes a different set of standards for Secondary Units that will be constructed entirely within an existing One-Family Dwelling Facility or detached accessory structure; and those that will involve construction of a new structure or an exterior addition to an existing structure. Jurisdictions are limited in their ability to regulate Secondary Units that are constructed completely within the building envelope of an existing home or accessory structure ("Category One"). Jurisdictions have more latitude in regulating the location, design and other features of a Secondary Unit created in a new structure or addition to an existing structure ("Category Two").

State law authorizes jurisdictions to designate areas where "Category Two" Secondary Units may be permitted. Staff has determined that Secondary Units located in a "Very High Fire Hazard Severity Zone" and accessed via streets less than 20 feet wide or dead-end streets longer than 600 feet in length present life safety issues related to emergency access. These emergency access standards are consistent with minimum requirements in the Oakland Municipal Code for Fire Apparatus Access Roads (Chapter 15.12), and for blind streets (Section 16.16.025). The proposed Planning Code Text and Zoning Map amendments therefore prohibit all new "Category Two" Secondary Units located in these high risk areas due to potential impacts on traffic flow and public safety (See Part II of this Section for a discussion of the proposed S-9 Zone Map amendment).

- ii. ***Ministerial approval of all Secondary Units.***

Currently the Planning Code defines two tiers of Secondary Units requiring different levels of review: applications for Secondary Units 500 square feet or less are processed as a design review exemption, and applications for Secondary Units between 500 and 750 square feet require small project design review. To comply with State law, the proposed amendments will require that *all* Secondary Units meeting the regulations of Section 17.103.080, regardless of size, be permitted by right as a design review exemption.

- iii. ***Ministerial approval of all Secondary Units within existing residences or accessory structures with independent exterior access and setbacks and***

***emergency access sufficient for fire safety, with no additional requirements regarding parking, size, setbacks, design or other restrictions.***

Under State law, the City must ministerially approve applications for "Category One" Secondary Units (i.e., those located entirely within an existing One-Family Dwelling Facility or detached accessory structure, and with independent exterior access and side and rear setbacks sufficient for fire safety), without regard to other development standards that would typically apply. For example, State law prohibits the City from imposing requirements regarding parking, size, setbacks, design review, or other restrictions for "Category One" Secondary Units. State law only allows jurisdictions to limit these permits for health and safety purposes (i.e., to comply with Building Code standards and fire safety).

On January 18, 2017, the City Planning Commission recommended the following amendment to staff's originally proposed definition of a "Category One" Secondary Unit:

**Definition.** Category One Secondary Units are those that are located entirely within a One-Family Dwelling Facility or detached accessory structure that was legally in existence prior to January 1, 2017; and involve no expansion or exterior modification of the existing structure footprint. Other defining characteristics of Category One Secondary Units are: a) independent exterior access from the existing One-Family Dwelling Facility, and b) existing side and rear setbacks sufficient for fire safety.

Staff does **not** recommend adoption of this amended definition for a Category One Secondary Unit, because it is inconsistent with State law and would allow the exterior volume of a single-family residence or accessory structure to be increased in size within this more permissive Secondary Unit category.

The definition of a "Category One" Secondary Unit is based on the following provision of State law: "...if the unit is contained within the existing space of a single-family residence or accessory structure...." Gov. Code, § 65852.2(e) (emphasis added).

It is staff's opinion that the term "existing space" in State law is most appropriately defined as the space within an existing "building envelope", which in the Oakland Planning Code means: "the exterior surface of a building, consisting of such elements as the foundation, walls, windows, roof, doors, floors, and other attached features. An increase in the building envelope shall be defined as an increase in the exterior size, footprint, or height of a building; or the enclosure or conversion into living area of any open balcony, deck, porch, or unenclosed understory."

If the definition of a "Category One" Secondary Unit is defined *only* as a change in building footprint, and not as a change in building envelope, then even Secondary Units involving upper story additions would have to be allowed by right without regard to parking, size, setbacks, design review, or other restrictions, so long as the footprint of the building remains the same. Instead, staff recommends the following alternative revision to the definition of a "Category One" Secondary Unit, consistent with State law:

**Definition.** Category One Secondary Units are those that are located entirely within a One-Family Dwelling Facility or detached accessory structure that was legally in

existence prior to January 1, 2017; and involve no expansion or exterior modification of the existing ~~building envelope, structure.~~ Other defining characteristics of Category One Secondary Units are: a) independent exterior access from the existing One-Family Dwelling Facility, and b) existing side and rear setbacks sufficient for fire safety.

- iv. ***Elimination of parking requirements for all "Category Two" Secondary Units located in the following areas:***
- a. ***Within one-half mile of a public transit stop***
  - b. ***In an historic district***
  - c. ***In an area where on-street parking permits are required but not offered to the occupant of the secondary unit***
  - d. ***Within one block of a dedicated car share space***

In the time since the previous amendments to the Secondary Unit regulations went into effect in March 2016 until SB 1069 and AB 2299 went into effect on January 1, 2017, Planning Staff have been exempting Secondary Unit applications from parking requirements when they are within: (i) one-half (1/2) mile of a BART Station, BRT Station, or Major Transit Stop; (ii) one-half (1/2) mile of a designated rapid bus line not located on Telegraph Avenue; (iii) one-quarter (1/4) mile of a designated rapid bus line located on Telegraph Avenue; or (iv) one-half (1/2) mile of the transit hub at the intersection of Lakeshore Avenue and Lake Park Avenue.

SB 1069 and AB 2299 expand the area that is exempt from parking requirements for Secondary Units. New State law requires that the City shall exempt any Secondary Units from parking if they are located within one-half (1/2) mile of a public transit stop, regardless of how frequently the transit arrives.

The proposed amendments update the Secondary Unit ordinance to comply with these new State law requirements, and exempt Secondary Units from parking requirements when they are: (a) within one-half (1/2) mile of a public transit stop; (b) in a "historic district" (which in Oakland, means: Areas of Primary Importance (API) or Areas of Secondary Importance (ASI), as defined in the Historic Preservation Element of the General Plan); (c) in an area that requires on-street parking permits but does not offer them to the occupant of a Secondary Unit, or (d) within one block of a dedicated car share parking space.

In addition, under State law, at most, only one space per unit or per bedroom may be required, and the parking requirement may be provided as tandem parking on an existing driveway or in setback areas, unless the City makes specific findings. See subsection v. below for additional details.

- v. ***Allowance for tandem parking and other parking configurations.***

Currently, the Planning Code allows tandem parking (one car parked behind another) in some locations, but prohibits it in others. Staff recommends amendments to the Planning Code to comply with State law, which requires jurisdictions to allow any parking spaces required for Secondary Units to be provided as tandem parking on an existing driveway

or in a required setback (unless the City makes specific findings that such parking is not feasible based upon specific site or regional topographical or fire and life safety conditions).

State law also requires that if a covered parking structure is demolished to construct a Secondary Unit, any required replacement parking may be located in any configuration on the same lot as the Secondary Unit (including covered, uncovered, tandem or mechanical lift).

- vi. ***Elimination of requirements for separate utility connections for "Category One" Secondary Units (within existing residences or accessory structures), and elimination of requirement for fire sprinklers if primary unit does not require them.***

Currently, the Planning Code allows tandem parking (one car parked behind another) in some locations, but prohibits it in others. Staff recommends amendments to the Planning Code to comply with State law, which requires jurisdictions to allow any parking spaces required for Secondary Units to be provided as tandem parking on an existing driveway or in a required setback (unless the City makes specific findings that such parking is not feasible based upon specific site or regional topographical or fire and life safety conditions).

State law also requires that if a covered parking structure is demolished to construct a Secondary Unit, any required replacement parking may be located in any configuration on the same lot as the Secondary Unit (including covered, uncovered, tandem or mechanical lift).

2. **Respond to the City Council's February 16, 2016 direction to staff to prepare recommendations on proposed further amendments to the Secondary Unit regulations, including but not limited to:**

- i. ***"Clarifying amendments that state the City's zoning regulations do not invalidate stricter regulations that may be imposed by a homeowners association's Covenants, Conditions, and Restrictions (CC&Rs);"***

**Recommendation:**

Staff supports adoption of such an amendment, since it would clarify the following existing regulation (proposed change shown in underline):

**17.07.040 Applicability of zoning regulations.**

- D. Private Agreements. The zoning regulations are not intended to abrogate, annul, or impair any easement, covenant, or other agreement between parties, including but not limited to homeowners association's Covenants, Conditions, and Restrictions (CC&Rs). However, where the zoning regulations impose a greater restriction or higher standard than that required by such agreement, the zoning regulations shall control, except as otherwise authorized under the development agreement procedure in Chapter 17.138.

- ii. ***“Clarifying amendments that establish a procedure as a courtesy to homeowners associations - such as the Lakeshore Homes Association in District 2 – that requires additional submittal requirements for Secondary Units, including evidence that the proposed new unit complies with applicable CC&Rs;”***

**Recommendation:**

For the reasons discussed below, staff does **not** recommend adoption of submittal requirements for Secondary Units that include evidence that the proposed new unit complies with applicable CC&Rs. On June 22, 2016, the City Planning Commission expressly rejected this proposal as well, and supported staff's recommendation that this Council directive be addressed administratively through a courtesy notice that can be included in the Planning permit application materials.

CC&Rs are private contracts between a homeowners association (HOA) and property owners, and they typically establish standards for maintenance, exterior displays and other uses of property. These standards generally help maintain property values and ensure that all residents can enjoy the community equally. CC&Rs are not the same as zoning laws, which are set by local governments. They may cover some of the same issues as zoning laws, but they may also be more or less restrictive.

Agreeing to CC&Rs is voluntary, since anyone who does not agree can opt not to buy the property. Because CC&Rs are voluntary, they may be more restrictive than zoning ordinances.

- iii. ***“Evaluating the designation of the Harrison-Oakland-MacArthur area as a Transit Hub for purposes of relaxing off-site parking requirements for Secondary Units within ½ mile of the intersection of Oakland Avenue and MacArthur Boulevard/Santa Clara Avenue”.***

**Recommendation:**

As stated earlier in this report, SB 1069 and AB 2299 expand the area that is exempt from parking requirements for Secondary Units. The new State law requires that the City exempt any Secondary Units from parking if they are within one-half (1/2) mile of public transit, regardless of how frequently the transit arrives. Therefore, staff has determined that the designation of the Harrison-Oakland-MacArthur area as a Transit Hub is no longer necessary for purposes of relaxing off-site parking requirements for Secondary Units.

However for other purposes, Staff recommends adding the following definition for the term “Transit Accessible Area” to the Planning Code. The City has a need for this definition unrelated to Secondary Units, since it is a term mentioned frequently in the new parking regulations recently adopted by the city:

**“Transit Accessible Area”** means the area within one-half (1/2) mile of a: (1) BART Station; (2) BRT Station; (3) designated rapid bus line; or (4) transit stop served by a frequency of service interval of fifteen (15) minutes or less during the morning and afternoon peak commute periods.



**3. Identify additional amendments beyond those directed by Council that would help to clarify or improve the City's Secondary Units regulations:**

In addition to the Council directed items above, Staff is proposing other amendments to the Secondary Unit regulations that are intended to help clarify the existing Secondary Units regulations, and further encourage Secondary Units by reducing regulatory barriers in the City's Planning Code (proposed changes shown in ~~strikeout~~ and underline).

- i. *Amend the City's definition of a Secondary Unit in Section 17.09.040 to more closely align with the State definition of an Accessory Dwelling Unit:*

**17.09.040 Definitions.**

"Secondary Unit" means an attached or detached accessory subordinate dwelling unit that is located on the same lot as a larger One-Family Dwelling facility; primary dwelling unit, provides complete independent living facilities for one or more persons, including permanent provisions for living, sleeping, eating, cooking, and sanitation; is either attached or detached, and meets the standards and criteria of Section 17.103.080.

The above recommended definition removes the examples included in the Planning Commission report of how a Secondary Unit can be created due to the possibility that such a list may lead to confusion, since it was not intended to be inclusive of all possible scenarios of how a Secondary Unit can be created.

- ii. *Amend the definition of Two-Family Dwelling Residential Facilities in Section 17.10.670 to clarify that One-Family Dwelling with Secondary Unit Facilities are not the same as Two-Family Dwellings:*

**17.10.670 Two-Family Dwelling Residential Facilities.**

Two-Family Dwelling Residential Facilities include permanently fixed buildings, or those portions thereof, which accommodate or are intended to accommodate Residential Activities and each of which contains two (2) dwelling units; but exclude the One-Family Dwelling with Secondary Unit Residential Facilities described in Section 17.10.650. They also include certain facilities accessory to the above, as specified in Section 17.10.070.

- iii. *Amend Limitations #L1 and #L7 for Table 17.35.02 in Section 17.35.040 to clarify that a new Secondary Unit Facility is permitted in the CC-3 Zone when there is no more than one existing Primary Unit on a lot:*

**17.35.040 Permitted and conditionally permitted facilities.**

**Limitations on Table 17.35.02:**

**L1.** See Chapter 17.114 — Nonconforming Uses, for additions and alterations to legal nonconforming Residential Facilities. A Secondary Unit ~~is~~ may be permitted when there is ~~an no more than one (1) existing One-Family Dwelling Primary Unit~~ on a lot, subject to the provisions of Section 17.103.080.

**L7.** All new Residential Facilities are prohibited in the CC-3 Zone, except for Secondary Units that meet all requirements set forth in Section 17.103.080 and are located on a lot

with an existing One-Family Dwelling, as indicated in Limitation L1 above, and for those facilities serving a permitted or conditionally permitted Emergency Shelter Activity, as indicated in Table 17.35.01.

- iv. *Amend the Permitted and Conditionally Permitted Facilities chart for the CBD Zones (Table 17.58.02 in Section 17.58.050) to add Limitation #L1 references, which clarify that a new Secondary Unit Facility is permitted throughout the entire Downtown area when there is no more than one existing Primary Unit on a lot:*

**17.58.050 Permitted and conditionally permitted facilities.**

**Table 17.58.02: Permitted and Conditionally Permitted Facilities**

Activities	Zones				Additional Regulations
	CBD-R	CBD-P	CBD-C	CBD-X	
<b>Residential Facilities</b>					
One-Family Dwelling	<del>=(L1)</del>	<del>-(L1)</del>	<del>-(L1)</del>	<del>-(L1)</del>	
One-Family Dwelling with Secondary Unit	<del>=(L1)</del>	<del>-(L1)</del>	<del>-(L1)</del>	<del>-(L1)</del>	17.103.080

**Limitations:**

**L1.** See Chapter 17.114, Nonconforming Uses, for additions and alterations to legal nonconforming Residential Facilities. A Secondary Unit is ~~only~~ permitted when there is an no more than one (1) existing One-Family Dwelling Primary Unit on a lot, subject to the provisions of Section 17.103.080.

- v. *Amend Limitation #L3 for Table 17.97.02 in Section 17.97.050 to clarify that a new Secondary Unit Facility is permitted in the S-15 and S-15W Zones when there is no more than one existing Primary Unit on a lot, or when one new conditionally permitted Primary Dwelling is constructed in the S-15 Zone:*

**17.97.050 Permitted and conditionally permitted facilities.**

**Limitations on Table 17.97.02:**

**L3.** A Secondary Unit that meets all requirements set forth in Section 17.103.080 is may be permitted in conjunction with an existing One-Family Dwelling in the S-15 and S-15W Zones, or conditionally permitted in conjunction with a new One-Family Dwelling in the S-15 Zone.

- vi. *Amend Section 17.103.080(A)(5) to clarify an existing regulation in Section 17.108.130, which states that a detached Secondary Unit is only allowed to project into or locate within a minimum side or rear yard if 50% or more of the horizontal area of any required rear yard is left open and uncovered by buildings and other similar structures:*

**17.103.080 One-Family Dwelling with Secondary Unit Residential Facilities.**

54. **Setbacks.** Except as specified in Subsections a. and b. below, ~~in Subsection 6. below for the conversion of existing detached accessory structures,~~ the minimum setback requirements for a Category Two Secondary Unit shall be as prescribed in the applicable individual zone regulations; ~~or as prescribed for a~~
- a. A detached Category Two Secondary Unit that conforms to the provisions located within a minimum Yard or Court in Subsection U. of Section 17.108.130 is allowed to project into or locate within the minimum side or rear yard, but no closer than four (4) feet from the side or rear lot line, and only if the facility also conforms to the following restriction in and the first paragraph of Section 17.108.130:
    - i. In no case shall more than fifty percent (50%) of the horizontal area of any required minimum rear yard be covered by facilities, other than trees, that extend more than six (6) feet above grade.
  - b. A Category Two Secondary Unit located above a garage and conforming with maximum height and all other applicable regulations shall not be required to have a side or rear setback of more than five (5) feet.

- vii. Amend Section 17.108.130(U) to allow a detached Secondary Unit to project into a minimum side or rear yard outside of just the rear 35 feet of the lot, as long as the structure remains 6 feet from the primary dwelling unit:

**17.108.130 Exceptions to required openness of minimum yards and courts.**

Facilities	Allowed Projection Into or Location Within Minimum Required Yard or Court, Subject to the Further Restrictions Indicated in This Section's First Paragraph (Blanks indicate that facility is not allowed.)				
	Front Yard	Side Yard on Street Side of Corner Lot	Side Yard Along Interior Side Lot Line	Rear Yard (But see coverage limit in first paragraph.)	Court
U. Detached Secondary Units.		Anywhere in above yards, provided that <u>the facility was legally in existence prior to January 1, 2017; or in other cases if:</u> 1. The facility is <u>located at least six (6) feet from within thirty-five (35) feet of the rear lot line the primary dwelling unit on the lot,</u> and is not located closer than four (4) feet from the side or rear lot line; and 2. The wall height of the facility within four (4) feet of the side or rear lot line does not exceed ten (10) feet in height to the top of the plate above finished grade. In areas greater than four (4) feet from the side or rear lot line <u>but within a required yard,</u> the wall height of the facility may only extend above ten (10) feet the extent necessary to allow gable ends, dormers, sheds, or similar roof elements, <del>(any shed roof slopes down toward the closest lot line; if equal distant to nearby lot lines, the with any shed roof sloping esdown toward the lot line facing the longest façade);</del> and 3. The roof height, for roofs with a maximum 8 in 12 slope, does not exceed fourteen (14) feet above finished grade, except for incidental decorative features or minor appurtenances such as flues.			

The existing limitation of just the rear 35 feet for the allowance for a detached Secondary Unit structure to project into a minimum side or rear yard can unnecessarily restrict the placement of a detached Secondary Unit, especially when a lot is very deep. The proposed amendments would provide applicants with more site plan options by only specifying that any new construction of a detached Secondary Unit be located at least 6 feet from the primary dwelling unit.

Other minor amendments proposed above to Section 17.108.130(U) are intended to clarify existing regulations.

- viii. *Increase the maximum size of "Category Two" Secondary Units to 800 square feet or 75% of the primary unit, whichever is less.*

Some applicants have complained that the previously adopted reduction in maximum size allowed for a Secondary Unit (from 900 square feet to 750 square feet) has made it infeasible for them to fit a second bedroom into the design of their proposed Secondary Unit, and therefore made their Secondary Unit project less viable. In response, the proposed amendments include a small increase in the allowed maximum size of "Category Two" Secondary Units to 800 square feet or 75% of the primary unit, whichever is less.

- ix. *Require that Secondary Units be occupied for terms of 30 days or more.*

A significant intent of relaxing regulations for Secondary Units is to provide additional opportunities to create needed permanent housing. In particular, Secondary Units have the capacity to be rented more affordably because creating a Secondary Unit does not require acquiring new land. The public has expressed concern that the Planning Code's current definition of Permanent Residential Activities, which only requires occupancy for seven (7) or more days, allows Secondary Units to be rented on a short-term basis rather than providing more permanent housing for residents.

The Planning Division is currently developing regulations to address concerns about short-term rentals. In the meantime, State law expressly allows jurisdictions to require that Secondary Units be occupied for terms of 30 days or more. To preserve Secondary Units for permanent housing, these amendments include an occupancy requirement for all Secondary Units of thirty (30) days or longer.

## II. GEOGRAPHICALLY SPECIFIC ZONING MAP AMENDMENTS

Proposed Secondary Unit changes include the following Zoning Map amendments:

- 1. Create a new Zoning Map overlay (S-9) that identifies areas in the city where the street pavement width and/or cul-de-sac length are not conforming to minimum emergency access standards; and such narrow streets and long cul-de-sacs are located, in whole or part, in a designated "Very High Fire Hazard Severity Zone". The initial purpose of this new overlay would be to prohibit new Category Two Secondary Units in specific areas due to impacts on traffic flow and public safety.**

The City's current Secondary Unit regulations (now superseded by State law) included both a minimum pavement width standard and a total length of dead-end street standard to ensure that Secondary Units are only allowed in areas with the carrying capacity and infrastructure to support the use. With SB 1069 and AB 2299 now effective, the City's existing Secondary Unit regulations, including the existing provisions regarding minimum pavement width and total length of dead-end street, are null and void.

Item: \_\_\_\_\_  
CED Committee  
April 11, 2017

Under State law, jurisdictions are permitted to designate areas where Secondary Units involving a new structure or an addition to an existing structure are permitted. In order for the City to prohibit these "Category Two" Secondary Units in areas where the street pavement width and/or cul-de-sac length do not meet emergency access standards, staff recommends adoption of a new zoning overlay to clearly define where "Category Two" Secondary Units are not permitted due to traffic flow and public safety concerns.

The proposed new S-9 combining zone has been mapped according to the following criteria:

- *Areas accessed by streets with a pavement width of less than 20 feet* – (from the Oakland Fire Code (OMC Chapter 15.12) which states that: "Fire apparatus access roads shall be all weather roads with a minimum width of 20 feet...");
- *Areas accessed by cul-de-sacs (blind streets) with a length over 600 feet* – (from OMC Section 16.16.025(D), which states that: "Blind streets shall not be over 600 feet in length unless it includes means of a secondary access...");
- *Areas designated by the California Department of Forestry and Fire Protection (CAL FIRE) as a Very High Fire Hazard Severity Zone* – (from the California Department of Forestry and Fire Protection (CAL FIRE), who identifies Very High Fire Hazard Severity Zones within Local Responsibility Areas (LRA), including the City of Oakland. Mapping of Very High Fire Hazard Severity Zones is based on data and models of potential fuels over a specified time horizon and their associated expected fire behavior and burn probabilities to quantify the likelihood of vegetation fire exposure to buildings).

Each of the criteria above were mapped by staff as layers in the City's GIS system in order to specifically identify areas where the street pavement width is less than 20 feet and/or cul-de-sac length is over 600 feet; **and** where the area is located, in whole or part, in a "Very High Fire Hazard Severity Zone," as designated by CAL FIRE. The result of this map layering exercise is the area for the proposed new S-9 Combining Zone. The initial purpose of this new S-9 Zone would be to prohibit new "Category Two" Secondary Units in areas with substandard emergency access and high risk of fire exposure.

### **FISCAL IMPACT**

Implementation of these Secondary Unit changes will be a routine component of project review administered by the Department of Planning and Building, which collects fees for such review as established in the Master Fee Schedule. Staff will inform the public of the new regulations as part of all applicable inquiries and apply the new regulations as part of all applicable Planning applications. If adopted by City Council, there will be no impact on costs to the City.

## **PUBLIC OUTREACH / INTEREST**

Prior to and since the January 18<sup>th</sup> City Planning Commission public hearing on this item, Staff has met multiple times with interested parties to discuss the proposed changes to Secondary Unit regulations.

## **COORDINATION**

This report and legislation have been reviewed by the Office of the City Attorney and by the Controller's Bureau.

## **SUSTAINABLE OPPORTUNITIES**

***Economic:*** The amendments to Secondary Unit regulations are intended encourage the construction of more Secondary Units, and thereby help address the city's housing shortage and escalating costs.

***Environmental:*** One of the benefits of Secondary Units is that because they go into established neighborhoods, they can contribute to the city's desire to foster more walkable neighborhoods with greater use of bicycling and transit.

***Social Equity:*** The amendments to Secondary Unit regulations may help some people facing economic challenges to continue to live in the community.

## **CEQA**

Pursuant to Public Resources Code Section 21080.17, the adoption of an ordinance to implement Government Code Section 65852.2 is exempt from the California Environmental Quality Act (CEQA). Similarly, the ministerial approval of Secondary Unit applications would not be a "project" for CEQA purposes, and environmental review would not be required prior to approving individual applications.

In addition, the proposed amendments to the Planning Code rely on the previous set of applicable CEQA documents including: the Coliseum Area Specific Plan EIR (2015); Broadway Valdez Specific Plan EIR (2014); West Oakland Specific Plan EIR (2014); Central Estuary Area Plan EIR (2013); Land Use and Transportation Element of the General Plan EIR (1998); the Oakland Estuary Policy Plan EIRs (1999, 2006) and Supplemental EIR (2013); the Redevelopment Area EIRs - West Oakland (2003), Central City East (2003), and Coliseum (1995); the 1998 Amendment to the Historic Preservation Element of the General Plan; the 2007-2014 Housing Element Final EIR (2010) and Addendum (2014); and various Redevelopment Plan Final EIRs (collectively, "Previous CEQA Documents"). No further environmental review is required under CEQA Guidelines Sections 15162 and 15163.

The proposed amendments to the Planning Code would not result in any significant effect that has not already been analyzed in the Previous CEQA Documents, and there will be no

significant environmental effects caused by the change that have not already been analyzed in the Previous CEQA Documents. As a result, none of the circumstances necessitating preparation of additional environmental review, as specified in CEQA and the CEQA Guidelines, including, without limitation, Public Resources Code Section 21166 and CEQA Guidelines Sections 15162 or 15163 are present in that: (1) there are no substantial changes proposed in the project or the circumstances under which the project is undertaken that would require major revisions of the Previous CEQA Documents due to the involvement of new significant environmental effects or a substantial increase in the severity of previously identified significant effects; and (2) there is no "new information of substantial importance," as defined in CEQA Guidelines Section 15162(a)(3). Further, each as a separate and independent basis, this action is exempt from CEQA pursuant to CEQA Guidelines Sections 15183 (projects consistent with General Plan and Zoning) and 15061(b)(3) (no significant effect on the environment).

### **ACTION REQUESTED OF THE CITY COUNCIL**

Staff Recommends That The City Council Conduct A Public Hearing And Upon Conclusion Adopt An Ordinance, As Recommended By The City Planning Commission, Amending The Oakland Planning Code Text and Zoning Map To: 1) Revise Regulations For Secondary Units To Comply With State Law; 2) Create and Map A New Zoning Overlay That Identifies Areas In The City Where New Category Two Secondary Units Are Not Permitted; 3) Make Minor Changes In Various Chapters Of The Planning Code; And 4) Make Appropriate California Environmental Quality Act Determinations

For questions regarding this report, please contact Ed Manasse, Strategic Planning Manager at (510) 238-7733.

Respectfully submitted,



---

DARIN RANELLETTI  
Interim Director, Dept. of Planning and Building

Prepared by:  
Ed Manasse, Strategic Planning Manager

### **Attachments (3):**

- A. Planning Commission Staff Report (without attachments) – January 18, 2017
- B. Proposed Planning Code Text Amendments
- C. Maps of proposed new S-9 Zoned areas where no new "Category Two" Secondary Units would be allowed

Item: \_\_\_\_\_  
CED Committee  
April 11, 2017



FILED  
OFFICE OF THE CITY CLERK  
OAKLAND

2017 MAR 30 PM 5: 32

# ATTACHMENT A

**Location:** Citywide

**Item:** Review proposed citywide Planning Code amendments regulating Secondary Units, including those changes required to comply with California Senate Bill (SB) 1069 and Assembly Bill (AB) 2299, which went into effect January 1, 2017. The major substantive requirements of SB 1069 and AB 2299 include: 1) Ministerial approval of all Secondary Units within existing residences or accessory structures located within a single-family residential zone with independent exterior access and setbacks sufficient for fire safety; 2) Elimination of parking requirements for all other Secondary Units located in the following areas: within half mile of public transit, in an historic district, in an area where on-street parking permits are required but not offered to occupant of secondary unit, and within one block of a dedicated car share space; 3) Allowance for tandem parking and other parking configurations so long as they do not infringe on health or safety concerns; and 4) Elimination of requirements for separate utility connections for Secondary Units within existing residences or accessory structures, and requirement for fire sprinklers if primary unit does not require them. Other proposed changes to Secondary Unit regulations include, but are not limited to: a) Require that Secondary Units be rented for terms of 30 days or more; and b) Increase the allowed maximum size of Secondary Units that are not completely within existing residence or accessory structure to 800 sq. ft. or 75% of the primary unit, whichever is less. **Review proposed geographically specific Zoning Map amendments, including proposal to:** 1) create a new Zoning Map overlay that identifies areas in the city where street pavement widths and/or cul-de-sac lengths are not conforming to minimum standards. The initial purpose of this new overlay would be to prohibit new Secondary Units in specific areas due to safety concerns.

**Applicant:** City of Oakland

**Case File Number:** ZA16031

**General Plan:** Citywide

**Zoning:** Citywide

**Environmental Determination:**

The proposed amendments to the Planning Code rely on the previous set of applicable CEQA documents including: the Coliseum Area Specific Plan EIR (2015); Broadway Valdez Specific Plan EIR (2014); West Oakland Specific Plan EIR (2014); Central Estuary Area Plan EIR (2013); Land Use and Transportation Element of the General Plan EIR (1998); the Oakland Estuary Policy Plan EIRs (1999, 2006) and Supplemental EIR (2013); the Redevelopment Area EIRs- West Oakland (2003), Central City East (2003), Coliseum (1995), and Oakland Army Base (2002); the Historic Preservation Element of the General Plan EIR (1998); the 2007-2014 Housing Element Final EIR (2010) and Addendum (2014); and various Redevelopment Plan Final EIRs (collectively, "Previous CEQA Documents"). No further environmental review is required under CEQA Guidelines Sections 15162 and 15163. Moreover, each as a separate and independent basis, this proposal is also exempt from CEQA pursuant to Public Resources Code Section 21080.17 and CEQA Guidelines Sections 15183 (projects consistent with General Plan and Zoning) and 15061(b)(3) (general rule, no significant effect on the environment).

**Staff Recommendation:** Review, discuss and recommend approval to the City Council

**For Further Information:** Contact Ed Manasse at 238-7733 or email [emanasse@oaklandnet.com](mailto:emanasse@oaklandnet.com)

**SUMMARY**

These proposed changes to the City's Secondary Unit regulations are in response to direction by the City Council and changes in State law, as follows:

1. On February 16, 2016, the City Council adopted Ordinance No. 13357 C.M.S., which revised the City's Secondary Unit regulations. The purpose of the regulation changes was to encourage construction of more Secondary Units, and thereby help address the city's housing shortages and escalating costs. As part of the final adoption, Council directed staff to prepare further amendments to the Secondary Unit regulations, including to clarify that the City's zoning regulations do not invalidate stricter regulations that may be imposed by a homeowners' association's Covenants, Conditions, and Restrictions (CC&Rs);
2. On January 1, 2017, California Senate Bill (SB) 1069 and Assembly Bill (AB) 2299 went into effect with a similar purpose to the City's 2016 amendments - to encourage the construction of more Secondary Units. Due to a clause in the State legislation, until the City adopts a Secondary Unit ordinance that complies with State law, the City's existing Secondary Unit regulations are null and void, and only state standards may be enforced.

The Secondary Unit amendments discussed in this report include changes to align City regulations with new State law, changes that conform to Council direction (where not superseded by SB 1069 and AB 2299); and other changes that help clarify the Secondary Units regulations or further encourage Secondary Units by reducing more regulatory barriers in the City's Planning Code. Finally, staff has listed other optional amendments the Planning Commission may want to consider to address concerns expressed by some members of the public.

**BACKGROUND**

On February 16, 2016, the City Council adopted Ordinance No. 13357 C.M.S., which revised the City's Secondary Unit regulations. The purpose of the regulation changes was to encourage construction of more Secondary Units, and thereby help address the city's housing shortages and escalating costs. In the nine months since the City's revised Secondary Unit regulations became effective, the City has issued planning approvals for 111 new Secondary Units (compared with only 26 in the preceding nine months). As part of the final adoption, Council directed staff to prepare further amendments to the Secondary Unit regulations, including to clarify that the City's zoning regulations do not invalidate stricter regulations that may be imposed by a homeowners' association's Covenants, Conditions, and Restrictions (CC&Rs).

On January 1, 2017, California Senate Bill (SB) 1069 and Assembly Bill (AB) 2299 went into effect with a similar purpose to the City's February 16, 2016 changes - to streamline housing production and encourage the construction of more Secondary Units. Due to a clause in this new legislation, until the City adopts a Secondary Unit ordinance that complies with State law, the City's existing Secondary Unit regulations are null and void, and only state standards may be enforced.

In response, staff has prepared this report, which includes proposed recommendations and amendments to the City's existing Secondary Unit regulations. After Planning Commission review, the proposed Planning Code amendments will be considered by the City Council at a public hearing for final review and approval.

**ANALYSIS**

The following section summarizes the proposed substantive changes to the Planning Code Text and Zoning Map:

## I. CITYWIDE PLANNING CODE AMENDMENTS

### 1. Amend the City's Secondary Unit regulations to comply with changes in State law (SB 1069 and AB 2299), including:

- i. *Creation of two separate categories of Secondary Units: (Category One) those entirely within the building envelope of an existing One-Family Dwelling Facility or detached accessory structure; and (Category Two) those that involve construction of a new structure or an exterior addition or alteration to an existing structure.*

New State law imposes different sets of regulations to Secondary Units that will be constructed entirely within the building envelope of an existing One-Family Dwelling Facility or detached accessory structure; and those that will involve construction of a new structure or an exterior addition or alteration to an existing structure. Jurisdictions are limited in their ability to regulate Secondary Units that will be constructed completely within the existing building envelope of an existing home or accessory structure ("Category One"). Jurisdictions have more latitude in regulating the design and other features of a Secondary Unit created in a new structure or addition or alteration to an existing structure ("Category Two").

- ii. *Ministerial approval of all Secondary Units.*

Currently the Planning Code defines two tiers of Secondary Units requiring different levels of review; applications for Secondary Units 500 square feet or less are processed as a design review exemption, and applications for Secondary Units between 500 and 750 square feet require small project design review. To comply with State law, the proposed amendments will require that all Secondary Units meeting the regulations of Section 17.103.080, regardless of size, be permitted by right as a design review exemption.

- iii. *Ministerial approval of all Secondary Units within existing residences or accessory structures with independent exterior access and setbacks and emergency access sufficient for fire safety, with no additional requirements regarding parking, size, setbacks, design or other restrictions.*

Under State law, the City must ministerially approve permits applications for a "Category One" Secondary Unit (i.e., located entirely within an existing One-Family Dwelling Facility or detached accessory structure) that has independent exterior access and side and rear setbacks sufficient for fire safety, without regard to other development standards that would typically apply. For example, State law prohibits the City from imposing requirements regarding parking, size, setbacks, design review, or other restrictions for "Category One" Secondary Units. State law allows jurisdictions to limit these permits only for health and safety purposes (i.e., to comply with Building Code standards and fire safety).

In addition to requiring Secondary Units to comply with Building Code standards for health and safety, Staff has determined that Secondary Units located on streets less than 26 feet wide or on dead-end streets longer than 600 feet present life safety issues related to emergency access. These standards are consistent with Oakland Municipal Code Section 16.16.025. The proposed amendments therefore prohibit new "Category Two" Secondary Units in these areas. (All existing Secondary Units in these areas would be grandfathered in).

In regards to "Category One" Secondary Units, State law limits the standards a local agency may use to evaluate the units, but does allow a city to designate areas where Secondary Units are permitted or not permitted, based on such factors as the potential impact of Secondary Units on traffic flow and public safety. Therefore, staff recommends adoption of a new zoning overlay to clearly define where Secondary Units are not permitted due to safety concerns (see discussion of the proposed new zoning overlay in Section II of this report).

- iv. *Elimination of parking requirements for all "Category Two" Secondary Units located in the following areas:*
- a. *Within one-half mile of a public transit stop*
  - b. *In an historic district*
  - c. *In an area where on-street parking permits are required but not offered to the occupant of the secondary unit*
  - d. *Within one block of a dedicated car share space*

Since the previous amendments to the Secondary Unit regulations went into effect in March 2016, Planning Staff have been exempting Secondary Unit applications from parking requirements when they are within: (i) one-half (1/2) mile of a BART Station, BRT Station, or Major Transit Stop; (ii) one-half (1/2) mile of a designated rapid bus line not located on Telegraph Avenue; (iii) one-quarter (1/4) mile of a designated rapid bus line located on Telegraph Avenue; or (iv) one-half (1/2) mile of the transit hub at the intersection of Lakeshore Avenue and Lake Park Avenue.

SB 1069 and AB 2299 expand the area that is exempt from parking requirements for Secondary Units. New State law requires that the City exempt any Secondary Units from parking if they are located within one-half (1/2) mile of a public transit stop, regardless of how frequently the transit arrives.

The proposed amendments update the Secondary Unit ordinance to comply with these State law requirements, and exempt Secondary Units from parking requirements when they are: (a) within one-half (1/2) mile of a public transit stop; (b) in a "historic district" (which in Oakland, means: Areas of Primary Importance (API) or Areas of Secondary Importance (ASI), as defined in the Historic Preservation Element of the General Plan); (c) in an area that requires on-street parking permits but does not offer them to the occupant of a Secondary Unit, or (d) within one block of a dedicated car share parking space.

- v. *Allowance for tandem parking and other parking configurations.*

Currently, the Planning Code allows tandem parking (one car parked behind another) in some locations, but prohibits it in others. Staff recommends amendments to the Code to comply with State law, which requires jurisdictions to allow any parking spaces required for Secondary Units to be provided as tandem parking on an existing driveway or in required setbacks (unless the City makes specific findings that such parking is not feasible based upon specific site or regional topographical or fire and life safety conditions).

State law also requires that if a covered parking structure is demolished to construct a Secondary Unit, any required replacement parking may be located in any configuration on the same lot as the Secondary Unit (including covered, uncovered, tandem or mechanical lift).

- vi. *Elimination of requirements for separate utility connections for “Category One” Secondary Units (within existing residences or accessory structures), or requirement for fire sprinklers if primary unit does not require them.*

SB 1069 and AB 2299 intend to reduce excessive fees for utility connections that discourage homeowners from creating Secondary Units. Under the new State law, a utility company may not require separate utility connections for Secondary Units entirely within the building envelope of an existing One-Family Dwelling Facility or detached accessory structure. Fees for any utility connections required for “Category Two” Secondary Units must be proportionate to the unit’s burden on the utility.

State law also requires that jurisdictions only require fire sprinklers for a Secondary Unit if they are required for the Primary Unit on the property. Although the Planning Code does not regulate fire sprinklers or utility connections, Staff has included this information in the proposed amendments to ensure that the applicant, Building Division and utility companies are informed.

2. **Follow the City Council’s direction to staff to prepare recommendations on proposed further amendments to the Secondary Unit regulations, including but not limited to:**

- i. *“Clarifying amendments that state the City’s zoning regulations do not invalidate stricter regulations that may be imposed by a homeowners association’s Covenants, Conditions, and Restrictions (CC&Rs);”*

**Recommendation:**

Staff supports adoption of such an amendment, since it would simply clarify the following existing regulation (proposed change shown in underline):

**17.07.040 Applicability of zoning regulations.**

D. Private Agreements. The zoning regulations are not intended to abrogate, annul, or impair any easement, covenant, or other agreement between parties, including but not limited to homeowners association’s Covenants, Conditions, and Restrictions (CC&Rs). However, where the zoning regulations impose a greater restriction or higher standard than that required by such agreement, the zoning regulations shall control, except as otherwise authorized under the development agreement procedure in Chapter 17.138.

- ii. *“Clarifying amendments that establish a procedure as a courtesy to homeowners associations - such as the Lakeshore Homes Association in District 2 – that requires additional submittal requirements for Secondary Units, including evidence that the proposed new unit complies with applicable CC&Rs;”*

**Recommendation:**

Staff has explored the following policy options to address this Council directive:

- a. Add a courtesy notice to the Planning permit application materials, advising applicants to check with their HOA about their proposed project prior to its submittal to the City; or
- b. Add a courtesy notice to the Planning permit application materials, advising applicants to check with their HOA about whether any provision in their CC&Rs would preclude implementation of their proposed project if approved by the Planning Bureau; or
- c. Add a Zoning Code amendment requiring pre-approval by an HOA for any proposal involving an applicable CC&R provision prior to submittal of the proposal to the City.

For the reasons discussed below, staff does **not** recommend adoption of policy option c., above (i.e., a Zoning Code amendment requiring pre-approval by an HOA). On June 22, 2106, the City Planning Commission expressly rejected this proposal as well, and supported staff's recommendation that this Council directive be addressed administratively through a courtesy notice that can be included in the Planning permit application materials (policy option a. or b., above).

CC&Rs are private contracts between a homeowners association (HOA) and property owners, and they typically establish standards for maintenance, exterior displays and other use of property. These standards generally help maintain property values and ensure that all residents can enjoy the community equally. CC&Rs are not the same as zoning laws, which are set by local governments. They may cover some of the same issues as zoning laws, but they may also be more or less restrictive.

Agreeing to CC&Rs is voluntary, since anyone who does not agree can opt not to buy the property. Because CC&Rs are voluntary, they may be more restrictive than zoning ordinances.

- iii. *“Evaluating the designation of the Harrison-Oakland-MacArthur area as a Transit Hub for purposes of relaxing off-site parking requirements for Secondary Units within ½ mile of the intersection of Oakland Avenue and MacArthur Boulevard/Santa Clara Avenue”.*

**Recommendation:**

As stated earlier in this report, SB 1069 and AB 2299 expand the area that is exempt from parking requirements for Secondary Units. The new State law requires that the City exempt any Secondary Units from parking if they are within one-half (1/2) mile of public transit, regardless of how frequently the transit arrives. Therefore, staff does not recommend the designation of the Harrison-Oakland-MacArthur area as a Transit Hub for purposes of relaxing off-site parking requirements for Secondary Units, since the provision it would amend in Section 17.103.080 has been superseded by changes in State law.

However for other purposes, Staff recommends moving forward with the proposal to add a definition for the term “Transit Accessible Area” to Section 17.09.040 (Definitions) of the Planning Code. The City has need for this definition unrelated to Secondary Units, since it is a term mentioned frequently in the new parking regulations recently adopted by the city.

**3. Identify additional amendments beyond those directed by Council that would help to clarify or improve the City’s Secondary Units regulations:**

In addition to the Council directed items above, Staff is proposing other amendments to the Secondary Unit regulations that are intended to help clarify the existing Secondary Units regulations, and further encourage Secondary Units by reducing regulatory barriers in the City’s Planning Code (proposed changes shown in ~~strikeout~~ and underline).

- i. *Amend the definition of Secondary Unit in Section 17.09.040 to better explain the various methods of Secondary Unit creation:*

**17.09.040 Definitions.**

"Secondary Unit" means an attached or detached accessory subordinate dwelling unit that is located on the same lot as a larger One-Family Dwelling facility; provides complete independent living facilities for one or more persons, including permanent provisions for living, sleeping, eating, cooking, and sanitation; is either attached or detached, and meets the standards and criteria of Section 17.103.080. A Secondary Unit can be created by either:

1. Converting a portion of the One-Family Dwelling facility;
  2. Adding new floor area to the One-Family Dwelling facility;
  3. Converting an existing detached structure; or
  4. Constructing a new detached structure.
- ii. *Amend the definition of Two-Family Dwelling Residential Facilities in Section 17.10.670 to clarify that One-Family Dwelling with Secondary Unit Facilities are not the same as Two-Family Dwellings:*

**17.10.670 Two-Family Dwelling Residential Facilities.**

Two-Family Dwelling Residential Facilities include permanently fixed buildings, or those portions thereof, which accommodate or are intended to accommodate Residential Activities and each of which contains two (2) dwelling units; but exclude the One-Family Dwelling with Secondary Unit Residential Facilities described in Section 17.10.650. They also include certain facilities accessory to the above, as specified in Section 17.10.070.

- iii. *Amend Limitations #L1 and #L7 for Table 17.35.02 in Section 17.35.040 to clarify that a new Secondary Unit Facility may be permitted in the CC-3 Zone when there is no more than one existing Primary Unit on a lot:*

**17.35.040 Permitted and conditionally permitted facilities.**

**Limitations on Table 17.35.02:**

**L1.** See Chapter 17.114 — Nonconforming Uses, for additions and alterations to legal nonconforming Residential Facilities. A Secondary Unit is ~~may be permitted~~ when there is ~~an no more than one (1)~~ existing One-Family Dwelling Primary Unit on a lot, subject to the provisions of Section 17.103.080.

**L7.** All new Residential Facilities are prohibited in the CC-3 Zone, except for Secondary Units that meet all requirements set forth in Section 17.103.080 and are located on a lot with an existing One-Family Dwelling, as indicated in Limitation L1 above, and for those facilities serving a permitted or conditionally permitted Emergency Shelter Activity, as indicated in Table 17.35.01.

- iv. *Amend the Permitted and Conditionally Permitted Facilities chart for the CBD Zones (Table 17.58.02 in Section 17.58.050) to add Limitation #L1 references, which clarify that a new Secondary Unit Facility may be permitted throughout the entire Downtown area when there is no more than one existing Primary Unit on a lot:*

**17.58.050 Permitted and conditionally permitted facilities.**

**Table 17.58.02: Permitted and Conditionally Permitted Facilities**

Activities	Zones				Additional Regulations
	CBD-R	CBD-P	CBD-C	CBD-X	
<b>Residential Facilities</b>					
One-Family Dwelling	<del>—(L1)</del>	<del>—(L1)</del>	<del>—(L1)</del>	<del>—(L1)</del>	
One-Family Dwelling with Secondary Unit	<del>—P(L1)</del>	<del>—(L1)</del>	<del>—(L1)</del>	<del>—(L1)</del>	17.103.080



**Limitations:**

**L1.** See Chapter 17.114, Nonconforming Uses, for additions and alterations to legal nonconforming Residential Facilities. A Secondary Unit is ~~only~~ permitted when there is ~~an~~ ~~no~~ ~~more than one~~ ~~(1)~~ existing One-Family Dwelling Primary Unit on a lot, subject to the provisions of Section 17.103.080.

- v. *Amend Limitation #L3 for Table 17.97.02 in Section 17.97.050 to clarify that a new Secondary Unit Facility may be permitted in the S-15 and S-15W Zones when there is no more than one existing Primary Unit on a lot, or when one new conditionally permitted Primary Dwelling is constructed in the S-15 Zone:*

**17.97.050 Permitted and conditionally permitted facilities.**

**Limitations on Table 17.97.02:**

**L3.** A Secondary Unit that meets all requirements set forth in Section 17.103.080 ~~is~~ ~~may be~~ permitted in conjunction with ~~:-a)~~ an existing One-Family Dwelling in the S-15 and S-15W Zones, or b) a conditionally permitted new One-Family Dwelling in the S-15 Zone.

- vi. *Amend Section 17.103.080(A)(5) to clarify an existing regulation in Section 17.108.130, which states that a detached Secondary Unit is only allowed to project into or locate within a minimum side or rear yard if 50% or more of the horizontal area of any required rear yard is left open and uncovered by buildings and other similar structures:*

**17.103.080 One-Family Dwelling with Secondary Unit Residential Facilities.**

- 54. **Setbacks.** Except as specified ~~in Subsection a. below, in Subsection 6. below for the conversion of existing detached accessory structures,~~ the minimum setback requirements for a Category Two Secondary Unit shall be as prescribed in the applicable individual zone regulations; ~~or as prescribed for a~~

a. A detached Category Two Secondary Unit that conforms to the provisions located within a minimum Yard or Court in Subsection U. of Section 17.108.130 is allowed to project into or locate within the minimum side or rear yard, but no closer than four (4) feet from the side or rear lot line, and only if the facility also conforms to the following restriction in and the first paragraph of Section 17.108.130:

i. In no case shall more than fifty percent (50%) of the horizontal area of any required minimum rear yard be covered by facilities, other than trees, that extend more than six (6) feet above grade.

- vii. *Amend Section 17.108.130(U) to allow a detached Secondary Unit to project into a minimum side or rear yard outside of just the rear 35 feet of the lot, as long as the structure remains 6 feet from the primary dwelling unit:*

**17.108.130 Exceptions to required openness of minimum yards and courts.**

Facilities	Allowed Projection Into or Location Within Minimum Required Yard or Court, Subject to the Further Restrictions Indicated in This Section's First Paragraph (Blanks indicate that facility is not allowed.)

	Front Yard	Side Yard on Street Side of Corner Lot	Side Yard Along Interior Side Lot Line	Rear Yard (But see coverage limit in first paragraph.)	Court
U. Detached Secondary Units.		<p>Anywhere in above yards, provided that the facility was legally in existence prior to January 1, 2017; or in other cases if:</p> <ol style="list-style-type: none"> <li>1. The facility is located at least six (6) feet from within thirty five (35) feet of the rear lot line the primary dwelling unit on the lot, and is not located closer than four (4) feet from the side or rear lot line; and</li> <li>2. The wall height of the facility within four (4) feet of the side or rear lot line does not exceed ten (10) feet in height to the top of the plate above finished grade. In areas greater than four (4) feet from the side or rear lot line but within a required yard, the wall height of the facility may only extend above ten (10) feet the extent necessary to allow gable ends, dormers, sheds, or similar roof elements, <del>(any shed roof slopes down toward the closest lot line; if equal distant to nearby lot lines, the with any shed roof slopinges down toward the lot line facing the longest façade);</del> and</li> <li>3. The roof height, for roofs with a maximum 8 in 12 slope, does not exceed fourteen (14) feet above finished grade, except for incidental decorative features or minor appurtenances such as flues.</li> </ol>			

The existing limitation of just the rear 35 feet for the allowance for a detached Secondary Unit structure to project into a minimum side or rear yard can be unnecessarily restrictive to an applicant’s site plan options in some cases, especially when the subject lot is very deep. The proposed amendments would provide applicants with more site plan options by only specifying that any new construction of a detached Secondary Unit be located at least 6 feet from the primary dwelling unit.

Other minor amendments proposed above to Section 17.108.130(U) are intended to clarify existing regulations.

viii. *Increase the maximum size of “Category Two” Secondary Units to 800 square feet or 75% of the primary unit, whichever is less.*

Some applicants have complained that the previously adopted reduction in maximum size allowed for a Secondary Unit (from 900 square feet to 750 square feet) has made it infeasible for them to fit a second bedroom into the design of their proposed Secondary Unit, and therefore made their Secondary Unit project must less viable because of it. In response, Staff recommends a small increase to 800 square feet to help address the concerns of these applicants, while also remaining true to the original purpose of reducing the size down from 900 square feet, which was to minimize the potential for off-site impacts on neighbors. To encourage Secondary Units to meet their intent by remaining accessory to the One-Family Dwelling Facility while allowing sufficient space for a second bedroom, the proposed amendments increase the allowed maximum

size of "Category Two" Secondary Units to 800 square feet or 75% of the primary unit, whichever is less.

ix. *Require that Secondary Units be occupied for terms of 30 days or more.*

A significant intent of relaxing regulations for Secondary Units is to provide additional opportunities to create additional needed housing. In particular, Secondary Units have the capacity to be rented more affordably because creating a Secondary Unit does not require acquiring new land. The public has expressed concern that the Planning Code's current definition of Permanent Residential Activities, which only requires occupancy for seven (7) or more days, allows Secondary Units to be rented on a short-term basis rather than providing more permanent housing for residents.

The Planning Division is currently developing regulations to address concerns about short-term rentals. In the meantime, State law expressly allows jurisdictions to require that Secondary Units be occupied for terms of 30 days or more. To preserve Secondary Units for permanent housing, these amendments include an occupancy requirement for all Secondary Units of thirty (30) days or longer.

## II. GEOGRAPHICALLY SPECIFIC ZONING MAP AMENDMENTS

Proposed Secondary Unit changes include the following Zoning Map amendments:

- 1. Create a new Zoning Map overlay (S-9) that identifies areas in the city where the street pavement width and/or cul-de-sac length are *not* conforming to minimum City standards; and such narrow streets and long cul-de-sacs are located, in whole or part, in a designated "Very High Fire Hazard Severity Zone". The initial purpose of this new overlay would be to prohibit new Secondary Units in specific areas due to safety concerns.**

The City's current Secondary Unit regulations (now superseded by State law) included both a minimum pavement width standard and a total length of dead-end street standard to ensure that Secondary Units are only allowed in areas with the carrying capacity and infrastructure to support the use. With SB 1069 and AB 2299 now effective, the City's existing Secondary Unit regulations, including the existing provisions regarding minimum pavement width and total length of dead-end street, are null and void. In order for the City to continue to prohibit Secondary Units in these areas where the street pavement width and/or cul-de-sac length are not meeting emergency access requirements, staff recommends adoption of a new zoning overlay to clearly define where Secondary Units are not permitted due to safety concerns.

The proposed new S-9 combining zone was mapped according to the following criteria:

- *Areas accessed by streets with a pavement width of less than 26 feet* – (from Oakland Municipal Code (OMC) Section 16.16.025(C)(1), which states that: "With lot frontage on both sides of the street, pavement width shall not be less than 26 feet.");
- *Areas accessed by cul-de-sacs (blind streets) with a length over 600 feet* – (from OMC Section 16.16.025(D), which states that: "Blind streets shall not be over 600 feet in length unless it includes means of a secondary access and shall not be less than 50 feet in right-of-way width and not less than 26 feet in pavement width.");
- *Areas designated by the California Department of Forestry and Fire Protection (CAL FIRE) as a Very High Fire Hazard Severity Zone* – (from the California Department of Forestry and Fire Protection (CAL FIRE), who identifies Very High Fire Hazard Severity Zones within Local Responsibility Areas (LRA), including the City of Oakland. Mapping of Very High

Fire Hazard Severity Zones is based on data and models of potential fuels over a specified time horizon and their associated expected fire behavior and burn probabilities to quantify the likelihood of vegetation fire exposure to buildings).

The criteria above were mapped by staff as layers in the City's GIS system in order to specifically identify areas where the street pavement width is less than 26 feet and/or cul-de-sac is over 600 feet in length; *and* where the area is located, in whole or part, in a "Very High Fire Hazard Severity Zone," as designated by CAL FIRE. The result of this mapping process is the area for the proposed new S-9 Combining Zone. The initial purpose of this new S-9 Zone would be to prohibit new Secondary Units in areas with substandard emergency access and risk of fire exposure.

## **ENVIRONMENTAL DETERMINATION**

The proposed amendments to the Planning Code Text rely on the previous set of applicable CEQA documents including: the Coliseum Area Specific Plan EIR (2015); Broadway Valdez Specific Plan EIR (2014); West Oakland Specific Plan EIR (2014); Central Estuary Area Plan EIR (2013); Land Use and Transportation Element of the General Plan EIR (1998); the Oakland Estuary Policy Plan EIRs (1999, 2006) and Supplemental EIR (2013); the Redevelopment Area EIRs- West Oakland (2003), Central City East (2003), and Coliseum (1995); the 1998 Amendment to the Historic Preservation Element of the General Plan; the 2007-2014 Housing Element Final EIR (2010) and Addendum (2014); and various Redevelopment Plan Final EIRs (collectively, "Previous CEQA Documents"). No further environmental review is required under CEQA Guidelines Sections 15162 and 15163. Moreover, each as a separate and independent basis, this proposal is also exempt from CEQA pursuant to CEQA Guidelines Sections 15183 (projects consistent with General Plan and Zoning) and 15061(b)(3) (general rule, no significant effect on the environment).

The proposed amendments to the Planning Code Text would not result in any significant effect that has not already been analyzed in the Previous CEQA Documents, and there will be no significant environmental effects caused by the change that have not already been analyzed in the Previous CEQA Documents. As a result, none of the circumstances necessitating preparation of additional environmental review, as specified in CEQA and the CEQA Guidelines, including, without limitation, Public Resources Code Section 21166 and CEQA Guidelines Sections 15162 or 15163 are present in that: (1) there are no substantial changes proposed in the project or the circumstances under which the project is undertaken that would require major revisions of the Previous CEQA Documents due to the involvement of new significant environmental effects or a substantial increase in the severity of previously identified significant effects; and (2) there is no "new information of substantial importance," as defined in CEQA Guidelines Section 15162(a)(3). In addition, each as a separate and independent basis, this action is exempt from CEQA pursuant to Public Resources Code section 21080.17 and CEQA Guidelines Sections 15183 (projects consistent with General Plan and Zoning) and 15061(b)(3) (no significant effect on the environment).

**RECOMMENDATIONS**

1. Affirm Staff's environmental determination;
2. Find that existing regulations being amended are inadequate and otherwise contrary to the public interest; and
3. Recommend that the City Council approve the proposed Planning Code Text and Zoning Map amendments related to Secondary Units.

Prepared by:

---

Ed Manasse, Strategic Planning Manager

Approved for forwarding to the  
City Planning Commission by:

---

Darin Ranelletti, Interim Director - Department of Planning and Building

**ATTACHMENTS:**

- A. Full text of the proposed Secondary Unit Code amendments
- B. Map of proposed new S-9 Zone areas where no new Secondary Units would be allowed (*consisting of areas accessed by streets with a pavement width of less than 26 feet and/or by cul-de-sacs with a length over 600 feet; and designated by CAL FIRE as being, in whole or part, within a Very High Fire Hazard Severity Zone*)

# **ATTACHMENT B**

FILED  
OFFICE OF THE CITY CLERK  
OAKLAND

2017 MAR 30 PM 5:32

**Title 17 PLANNING**

**Chapters:**

Chapter 17.74 - S-1 MEDICAL CENTER COMMERCIAL ZONE REGULATIONS

Chapter 17.76 - S-2 CIVIC CENTER COMMERCIAL ZONE REGULATIONS

Chapter 17.78 - S-3 RESEARCH CENTER COMMERCIAL ZONE REGULATIONS

Chapter 17.80 - S-4 DESIGN REVIEW COMBINING ZONE REGULATIONS

Chapter 17.82 - S-6 MOBILE HOME COMBINING ZONE REGULATIONS

Chapter 17.84 - S-7 PRESERVATION COMBINING ZONE REGULATIONS

Chapter 17.88 - S-9 FIRE SAFETY PROTECTION COMBINING ZONE REGULATIONS

Chapter 17.90 - S-10 SCENIC ROUTE COMBINING ZONE REGULATIONS

Chapter 17.92 - S-11 SITE DEVELOPMENT AND DESIGN REVIEW COMBINING ZONE REGULATIONS

Chapter 17.94 - S-12 RESIDENTIAL PARKING COMBINING ZONE REGULATIONS

Chapter 17.97 - S-15 TRANSIT-ORIENTED DEVELOPMENT COMMERCIAL ZONES REGULATIONS

Chapter 17.99 - S-17 DOWNTOWN RESIDENTIAL OPEN SPACE COMBINING ZONE REGULATIONS

Chapter 17.100A - S-19 HEALTH AND SAFETY PROTECTION COMBINING ZONE REGULATIONS

Chapter 17.100B - S-20 HISTORIC PRESERVATION DISTRICT COMBINING ZONE REGULATIONS

**Chapter 17.07 TITLE, PURPOSE AND SCOPE OF THE ZONING REGULATIONS**

**Sections:**

17.07.040 Applicability of zoning regulations.

**17.07.040 Applicability of zoning regulations.**

- C. **Duplicated or Conflicting Regulation or Restriction.** Where any provision, condition or requirement imposed by, or pursuant to, the zoning regulations and any other provision of any other applicable law, ordinance, resolution, rule or regulation, whether set forth in, or pursuant to, this Ceode, the Oakland Building Code or Oakland Housing Code, or in any other law, ordinance, resolution, rule, regulation, term, or requirement, imposes overlapping or contradictory regulations, or contains restrictions covering any of the same subject matter, that provision which is more restrictive or imposes higher standards shall control, except as otherwise expressly provided in the zoning regulations or elsewhere in the Oakland Municipal Code. No provision of this Ceode shall be construed to abrogate, annul or impair any restriction covering any of the same subject matter that is more restrictive or imposes higher development standards except as otherwise expressly provided in the zoning regulations.
- D. **Private Agreements.** The zoning regulations are not intended to abrogate, annul, or impair any easement, covenant, or other agreement between parties, including but not limited to homeowners association's Covenants, Conditions, and Restrictions (CC&Rs). However, where the zoning regulations impose a greater restriction or higher standard than that required by such agreement, the zoning regulations shall control, except as otherwise authorized under the development agreement procedure in Chapter 17.138.



**Chapter 17.09 DEFINITIONS**

**Sections:**

17.09.040 Definitions.

**17.09.040 Definitions.**

"**Dwelling unit**" means a room or suite of rooms including ~~one (1) and only one (1) kitchen,~~ except as otherwise provided in Section 17.102.270, and designed or occupied as separate living quarters for one ~~(1) person or family;~~ or, where the facility occupied is a One-Family Dwelling, such family and not more than three (3) boarders, roomers, or lodgers where access to all rooms occupied by such boarders, roomers, or lodgers is had through the main entrance of the dwelling unit.

"**Regular dwelling unit**" means any dwelling unit other than an efficiency dwelling unit or a Secondary Unit.

"**Secondary Unit**" means an attached or detached accessory subordinate dwelling unit that is located on the same lot as a larger One-Family Dwelling facility; primary dwelling unit, provides complete independent living facilities for one or more persons, including permanent provisions for living, sleeping, eating, cooking, and sanitation; is either attached or detached, and meets the standards and criteria of Section 17.103.080.

"**Transit Accessible Area**" means the area within one-half (1/2) mile of a: (1) BART Station; (2) BRT Station; (3) designated rapid bus line; or (4) transit stop served by a frequency of service interval of fifteen (15) minutes or less during the morning and afternoon peak commute periods.

**Chapter 17.10 USE CLASSIFICATIONS**

**Sections:**

**Article II - Activity Types**

Part 1 - Residential Activity Types

**Article III - Facility Types**

Part 1 - Residential Facility Types

**Article II Activity Types**

**Part 1 Residential Activity Types**

17.10.114 Supportive Housing Residential Activities.

17.10.116 Transitional Housing Residential Activities.

**17.10.114 Supportive Housing Residential Activities.**

Supportive Housing Residential Activities include housing: (a) with no limit on length of stay; (b) that is linked to an onsite or offsite service that assist the supportive housing resident in retaining the housing, improving his or her health status, and maximizing his or her ability to live and, when possible, work in the community; and (c) that is occupied by the following target population (as defined in subdivision (g) of Government Code Section 65582):

- A. Adults with low incomes having one or more disabilities, including mental illness, HIV or AIDS, substance abuse, or other chronic health conditions and may, among other populations, include adults, emancipated minors, families with children, elderly persons, young adults aging out of the foster care system, individuals exiting from institutional settings, veterans, and homeless people; or
- B. Individuals eligible for services provided under the Lanterman Developmental Disabilities Services Act (Division 4.5 (commencing with Section 4500) of the Welfare and Institutions Code), who include individuals with a disability that originated before the individual was eighteen (18) years old, but not including handicapping conditions that are solely physical in nature.

This classification also includes certain activities accessory to the above, as specified in Section 17.10.040. Supportive Housing shall only be subject to those restrictions that apply to other residential dwellings of the same facility type in the same zone (Government Code Section 65583(a)(5)).

**17.10.116 Transitional Housing Residential Activities.**

Transitional Housing Residential Activities (per State of California Government Code 65582(h), as may be amended) include housing configured as rental housing developments, but operated under program requirements that call for the termination of assistance and recirculation of the assisted unit to another eligible program recipient at some predetermined future point in time, which shall be no less than six (6) months from beginning of assistance.

This classification also includes certain activities accessory to the above, as specified in Section 17.10.040. Transitional Housing shall only be subject to those restrictions that apply to other residential dwellings of the same facility type in the same zone (Government Code Section 65583(a)(5)).

### **Article III Facility Types**

#### **Part 1 Residential Facility Types**

17.10.670 Two-Family Dwelling Residential Facilities.

#### **17.10.670 Two-Family Dwelling Residential Facilities.**

Two-Family Dwelling Residential Facilities include permanently fixed buildings, or those portions thereof, which accommodate or are intended to accommodate Residential Activities and each of which contains two (2) dwelling units; but exclude the One-Family Dwelling with Secondary Unit Residential Facilities described in Section 17.10.650. They also include certain facilities accessory to the above, as specified in Section 17.10.070.

**Chapter 17.19 RU URBAN RESIDENTIAL ZONES REGULATIONS**

**Sections:**

17.19.040 Permitted and conditionally permitted facilities.

**17.19.040 Permitted and conditionally permitted facilities.**

**Table 17.19.02: Permitted and Conditionally Permitted Facilities**

Facilities	Zones					Additional Regulations
	RU-1	RU-2	RU-3	RU-4	RU-5	
<b>Residential Facilities</b>						
One-Family Dwelling	P	P	P	-(L1)	-(L1)	
One-Family Dwelling with Secondary Unit	P	P	P	-(L1)	-(L1)	17.103.080

**Limitations on Table 17.19.02:**

**L1.** See Chapter 17.114, Nonconforming Uses, for additions and alterations to legal nonconforming Residential Facilities. In the RU-4 and RU-5 Zones, a Secondary Unit is may be-permitted when there is an no more than one (1)-existing One-Family Dwelling Primary Unit on a lot, subject to the provisions of Section 17.103.080.

**Chapter 17.33 CN NEIGHBORHOOD CENTER COMMERCIAL ZONES REGULATIONS**

**Sections:**

17.33.040 Permitted and conditionally permitted facilities.

**17.33.040 Permitted and conditionally permitted facilities.**

**Table 17.33.02: Permitted and Conditionally Permitted Facilities**

Facilities	Zones				Additional Regulations
	CN-1	CN-2	CN-3	CN-4	
<b>Residential Facilities</b>					
One-Family Dwelling	—(L1)	—(L1)	—(L1)	—(L1)	
One-Family Dwelling with Secondary Unit	—(L1)	—(L1)	—(L1)	—(L1)	17.103.080

**Limitations on Table 17.33.02:**

L1. See Chapter 17.114 — Nonconforming Uses, for additions and alterations to legal nonconforming Residential Facilities. A Secondary Unit ~~is~~ may be permitted when there is ~~an~~ no more than one (1) existing One-Family Dwelling Primary Unit on a lot, subject to the provisions of Section 17.103.080.

**Chapter 17.35 CC COMMUNITY COMMERCIAL ZONES REGULATIONS**

**Sections:**

17.35.040 Permitted and conditionally permitted facilities.

**17.35.040 Permitted and conditionally permitted facilities.**

**Table 17.35.02: Permitted and Conditionally Permitted Facilities**

Facilities	Zones			Additional Regulations
	CC-1	CC-2	CC-3	
<b>Residential Facilities</b>				
One-Family Dwelling	—(L1)	—(L1)	—(L1)(L7)	
One-Family Dwelling with Secondary Unit	—(L1)	—(L1)	—(L1)(L7)	17.103.080

**Limitations on Table 17.35.02:**

**L1.** See Chapter 17.114 — Nonconforming Uses, for additions and alterations to legal nonconforming Residential Facilities. A Secondary Unit ~~is~~ may be permitted when there is an ~~no~~ more than one (1) existing One-Family Dwelling Primary Unit on a lot, subject to the provisions of Section 17.103.080.

**L7.** All new Residential Facilities are prohibited in the CC-3 Zone, except for Secondary Units that meet all requirements set forth in Section 17.103.080 and are located on a lot with an existing One-Family Dwelling, as indicated in Limitation L1 above, and for those facilities serving a permitted or conditionally permitted Emergency Shelter Activity, as indicated in Table 17.35.01.

**Chapter 17.65 HBX HOUSING AND BUSINESS MIX COMMERCIAL ZONES REGULATIONS**

**Sections:**

17.65.130 Landscaping, paving, and buffering.

**17.65.130 Landscaping, paving, and buffering.**

- A. Submittal and approval of a landscaping and buffering plan for the entire site is required for the establishment of a new building facility (see Section 17.09.040 for definition), excluding Secondary Units, ~~of five hundred (500) square feet or less,~~ and for additions to existing building facilities of over five hundred (500) square feet.
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 (1) 15-gallon tree, or substantially equivalent landscaping as approved by the Director of City Planning, for every twenty-five (25) 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 (6½) feet, the trees shall be street trees to the satisfaction of the City's Tree Division.
  4. At least one (1) 15-gallon tree in the parking lot for every six (6) parking spaces for projects that involve new or existing parking lots of three thousand (3,000) square feet or greater.
  5. A minimum of five (5) feet of landscaping shall be required adjacent to the front and street side property lines for parking lots of three thousand (3,000) square feet or greater. Where parking stalls face into this required area, the width of the required landscaping area shall be increased by two (2) feet unless wheel stops are installed.

**Chapter 17.58 CBD CENTRAL BUSINESS DISTRICT ZONES REGULATIONS**

**Sections:**

17.58.050 Permitted and conditionally permitted facilities.

**17.58.050 Permitted and conditionally permitted facilities.**

**Table 17.58.02: Permitted and Conditionally Permitted Facilities**

Activities	Zones				Additional Regulations
	CBD-R	CBD-P	CBD-C	CBD-X	
<b><i>Residential Facilities</i></b>					
One-Family Dwelling	<del>—(L1)</del>	<del>—(L1)</del>	<del>—(L1)</del>	<del>—(L1)</del>	
One-Family Dwelling with Secondary Unit	<del>—P(L1)</del>	<del>—(L1)</del>	<del>—(L1)</del>	<del>—(L1)</del>	17.103.080

**Limitations:**

**L1.** See Chapter 17.114, Nonconforming Uses, for additions and alterations to legal nonconforming Residential Facilities. A Secondary Unit is ~~only~~ permitted when there is an ~~no~~ ~~more than one (1) existing One-Family Dwelling Primary Unit~~ on a lot, subject to the provisions of Section 17.103.080.



**Chapter 17.88 S-9 FIRE SAFETY PROTECTION COMBINING ZONE REGULATIONS**

**Sections:**

17.88.010 Title, Purpose and Applicability.

17.88.020 Definitions.

17.88.030 Zones with which the S-9 Zone may be combined.

17.88.040 Prohibited land uses.

**17.88.010 Title, Purpose and Applicability.**

The intent of the S-9 Fire Safety Protection Combining Zone is to promote the public health, safety and welfare by ensuring that activities that are located, in whole or part, within Very High Fire Hazard Severity Zones, and accessed from streets or cul-de-sacs that do not meet emergency access standards, develop in such a manner as not to be a serious threat to public health or safety.

**17.88.020 Definitions.**

For the purposes of this regulation, the following definitions apply:

A. **Very High Fire Hazard Severity Zones.** Very High Fire Hazard Severity Zones are identified by the California Department of Forestry and Fire Protection (CAL FIRE) within Local Responsibility Areas (LRA), including the City of Oakland. Mapping of Very High Fire Hazard Severity Zones (VHFHSZ) is based on data and models of potential fuels over a given time horizon and their associated expected fire behavior and burn probabilities to quantify the likelihood of vegetation fire exposure to buildings.

**17.88.030 Zones with which the S-9 Zone may be combined.**

The S-9 Zone may be combined with any other zone.

**17.88.040 Prohibited land uses.**

The following land use activities or facilities are prohibited within the S-9 Fire Safety Protection Combining Zone:

A. **Category Two Secondary Units, as defined in Section 17.103.080.**

**Chapter 17.94 S-12 RESIDENTIAL PARKING COMBINING ZONE REGULATIONS**

**Sections:**

17.94.030 Activities to which S-12 Zone regulations apply.

17.94.040 Off-street parking regulations—Residential Activities.

17.94.060 Parking spaces.

17.94.070 Maneuvering aisles.

**17.94.030 Activities to which S-12 Zone regulations apply.**

The driveway regulations set forth in Section 17.94.080, the on-street parking regulations set forth in Section 17.94.100, and the related review and approval by the City Traffic Engineer set forth in Section 17.94.120, shall apply to all activities located in the S-12 Zone. All other provisions of the S-12 Zone shall apply only to Residential Activities located in the S-12 Zone and occupying any One-Family Dwelling, ~~One-Family Dwelling with Secondary Unit~~, Two-Family Dwelling, or Multifamily Dwelling Residential Facility. The off-street parking requirements of all other activities located in the S-12 Zone shall be as set forth in Chapter 17.116.

(Ord. 12501 § 66, 2003: prior planning code § 6652)

**17.94.040 Off-street parking regulations—Residential Activities.**

Except as otherwise provided in Sections 17.116.020 and 17.116.030, and subject to the calculation rules set forth in Section 17.116.050, the following amounts of off-street parking are required for all Residential Activities located in the S-12 Zone and occupying any One-Family Dwelling, ~~One-Family Dwelling with Secondary Unit~~, Two-Family Dwelling, or Multifamily Dwelling Residential Facility. Such required parking shall be developed and maintained pursuant to the provisions of Section 17.94.050 through 17.94.090, unless an alternate parking layout is approved pursuant to Section 17.94.110. The special exceptions to parking requirements set forth in Section 17.116.110 shall not apply in the S-12 Zone.

**17.94.060 Parking spaces.**

The requirements of this Section shall apply only to Residential Activities located in the S-12 Zone and occupying any One-Family Dwelling, ~~One-Family Dwelling with Secondary Unit~~, Two-Family Dwelling, or Multifamily Dwelling Residential Facility, and supersede the parking space dimensions set forth in Section 17.116.200 and the tandem space requirements set forth in Section 17.116.240.

- C. Location of Parking Spaces. On any lot located in the S-12 Zone and containing a One-Family Dwelling, ~~One-Family Dwelling with Secondary Unit~~, Two-Family Dwelling, or Multifamily Dwelling Residential Facility, no parking spaces shall be located between the front lot line and the front wall of the facility or its projection across the lot, except upon the granting of a conditional use permit pursuant to the conditional use permit procedure in Chapter 17.134 and upon determination that:

**17.94.070 Maneuvering aisles.**

The requirements of this Section shall apply only to Residential Activities located in the S-12 Zone and occupying any One-Family Dwelling, ~~One-Family Dwelling with Secondary Unit,~~ Two-Family Dwelling, or Multifamily Dwelling Residential Facility, and supersede the requirements for Maneuvering Aisles set forth in Section 17.116.210.

**Chapter 17.97 S-15 TRANSIT-ORIENTED DEVELOPMENT ZONES REGULATIONS**

**Sections:**

17.15.050 Permitted and conditionally permitted facilities.

**17.97.050 Permitted and conditionally permitted facilities.**

**Table 17.97.02: Permitted and Conditionally Permitted Facilities**

Facilities	Zones		Additional Regulations
	S-15	S-15W	
<b>Residential Facilities</b>			
One-Family Dwelling	C	—(L2)	
One-Family Dwelling with Secondary Unit	—(L3)	—(L3)	17.103.080

**Limitations on Table 17.97.02:**

**L3.** A Secondary Unit that meets all requirements set forth in Section 17.103.080 ~~may be~~ is permitted in conjunction with an existing One-Family Dwelling in the S-15 and S-15W Zones, or conditionally permitted in conjunction with a new One-Family Dwelling in the S-15 Zone.

**Chapter 17.101C D-BV BROADWAY VALDEZ DISTRICT COMMERCIAL ZONES REGULATIONS**

**Sections:**

17.101C.040 - Permitted and conditionally permitted facilities.

**17.101C.040 - Permitted and conditionally permitted facilities.**

**Table 17.101C.02: Permitted and Conditionally Permitted Facilities**

Facilities	Zones				Combining Zone*	Additional Regulations
	D-BV-1	D-BV-2	D-BV-3	D-BV-4	N	
<b>Residential Facilities</b>						
One-Family Dwelling	-(L1)	-(L1)	-(L1)	-(L1)	-(L1)	
One-Family Dwelling with Secondary Unit	-(L1)	-(L1)	-(L1)	-(L1)	-(L1)	17.103.080

**Limitations on Table 17.101C.02:**

L1. See Chapter 17.114 — Nonconforming Uses, for additions and alterations to legal nonconforming Residential Facilities. A Secondary Unit ~~is~~ may be permitted when there is an ~~no~~ ~~more than one (1) existing One-Family Dwelling Primary Unit~~ on a lot, subject to the provisions of Section 17.103.080.

**Chapter 17.101E D-CE CENTRAL ESTUARY DISTRICT ZONES REGULATIONS**

**Sections:**

17.101E.040 Permitted and conditionally permitted facilities.

17.101E.050 Property development standards.

**17.101E.040 Permitted and conditionally permitted facilities.**

**Table 17.101E.02: Permitted and Conditionally Permitted Facilities**

Facilities	Zones						Additional Regulations
	D-CE-1	D-CE-2	D-CE-3	D-CE-4	D-CE-5	D-CE-6	
<b>Residential Facilities</b>							
One-Family Dwelling	-(L1)	-(L1)	P	-(L1)	-(L1)	-(L1)	
One-Family Dwelling with Secondary Unit	-(L1)	-(L1)	P	-(L1)	-(L1)	-(L1)	17.103.080

**Limitations on Table 17.101E.02:**

**L1.** See Chapter 17.114 - Nonconforming Uses, for additions and alterations to legal nonconforming Residential Facilities. A Secondary Unit ~~is may be permitted~~ when there is ~~an no~~ more than one (1) existing One-Family Dwelling Primary Unit on a lot, subject to the provisions of Section 17.103.080.

**17.101E.050 Property development standards.**

**A. Zone Specific Standards.** Table 17.101E.03 below prescribes development standards specific to individual zones. The number designations in the "Additional Regulations" column refer to the regulations listed at the end of the Table. "N/A" designates the standard is not applicable to the specified zone.

**Table 17.101E.03 Property Development Standards**

**Additional Regulations for Table 17.101E.03:**

**13.** Any new principal residential building or addition over five hundred (500) square feet requires submittal and approval of a landscaping and buffering plan for the entire site, excluding Secondary Units ~~of five hundred (500) square feet or less.~~ The landscaping and buffering plan shall contain the following:

**Chapter 17.101G D-LM LAKE MERRITT STATION AREA DISTRICT ZONES REGULATIONS  
Sections:**

17.101G.040 Permitted and conditionally permitted facilities.

**17.101G.040 Permitted and conditionally permitted facilities.**

**Table 17.101G.02: Permitted and Conditionally Permitted Facilities**

Facilities	Zones					Additional Regulations
	D-LM-1	D-LM-2	D-LM-3	D-LM-4	D-LM-5	
<b>Residential Facilities</b>						
One-Family Dwellings	—(L1)	—(L1)	—(L1)	—(L1)	—(L1)	
One-Family Dwelling with Secondary Unit	—P(L5)	—P(L5)	—P(L5)	—P(L5)	—P(L5)	17.103.080
Two-Family Dwelling	P	P(L5)	P(L5)	P(L5)	P(L5)	

**Limitations:**

**L1.** See Chapter 17.114, Nonconforming Uses, for additions and alterations to legal nonconforming Residential Facilities.

**L5.** A Secondary Unit that meets all requirements set forth in Section 17.103.080 is only permitted in conjunction with an existing One-Family Dwelling. Also, a Two-Family Dwelling that meets all applicable requirements set forth in the Planning and Building Codes is only permitted if it is as the result of an approved conversion of an existing One-Family Dwelling.

**Chapter 17.103 SPECIAL REGULATIONS AND FINDINGS FOR CERTAIN USE CLASSIFICATIONS**

**Sections:**

Article VI - Residential Facilities

**Article VI Residential Facilities**

17.103.080 One-Family Dwelling with Secondary Unit Residential Facilities.

**17.103.080 One-Family Dwelling with Secondary Unit Residential Facilities.**

~~**A. Development Standards.**~~ The following regulations shall apply to the construction, establishment, or alteration of Secondary Units wherever permitted, ~~or conditionally permitted,~~ as specified in each individual zone:

**A. Regulations Applying to All Secondary Units.**

1. **Ministerial Approval.** An application for a Secondary Unit shall be granted ministerial approval when it complies with all applicable zoning regulations, including but not limited to all provisions in this Section (17.103.080).
2. **Occupancy Requirement.** Occupancy of a Secondary Unit shall be on a thirty (30) days or longer basis only.
3. **Sale of Unit.** A Secondary Unit shall not be sold separately from the existing One-Family Dwelling Facility on the same lot.
4. **Parking Configuration.** If a covered parking structure is demolished to construct a Secondary Unit, any required replacement parking may be located in any configuration (including covered, uncovered, tandem or mechanical lift).
5. **Fire Sprinklers.** A Secondary Unit shall not be required to provide fire sprinklers if they are not required for the existing One-Family Dwelling Facility on the same lot.
6. **Compliance with Building and Fire Codes.** Unless specified otherwise, a Secondary Unit shall comply with all code and permit requirements imposed by other affected departments, including but not limited to, the requirement for a building permit.

**B. Category One: Secondary Units Entirely within an Existing One-Family Dwelling Facility or Existing Detached Accessory Structure.**

1. **Definition.** Category One Secondary Units are those that are located entirely within a One-Family Dwelling Facility or detached accessory structure that was legally in existence prior to January 1, 2017; and involve no expansion of the existing building envelope. Other defining characteristics of Category One Secondary Units are: a) independent exterior access from the existing One-Family Dwelling Facility, and b) existing side and rear setbacks sufficient for fire safety.
2. **Exemption from Nonconformity Regulations.** An application for a Category One Secondary Unit shall be granted ministerial approval when it is entirely within the building envelope of a One-Family Dwelling Facility or detached accessory structure that was legally in existence prior to January 1, 2017, regardless of the normally



required prohibition on residential living quarters within a detached accessory structure located in a minimum Yard or Court in Subsection K. of Section 17.108.130; and regardless of any existing nonconformity as to setback or height of the detached accessory structure or primary dwelling facility.

3. **Utility Connections.** A new or separate utility connection shall not be required directly between a Category One Secondary Unit and the utility, and no related connection fee or capacity charge shall be required.
4. **Parking.** Regardless of any provisions to the contrary in the applicable individual zone regulations and in Chapter 17.116, no additional parking shall be required for a Category One Secondary Unit.

### **C. Category Two: All Other Secondary Units.**

1. **Definition.** Category Two Secondary Units are those that: a) are not entirely within the building envelope of a One-Family Dwelling Facility or detached accessory structure that was legally in existence prior to January 1, 2017; and b) involve either construction of a new structure, or an exterior addition to an existing structure. ~~Other Uses on Property.~~ A Secondary Unit shall only be permitted on a lot that contains one (1) primary dwelling unit. A Secondary Unit may be approved and constructed at the same time or after the approval and construction of the primary dwelling unit.
2. ~~**Sale of Unit.** A Secondary Unit shall not be sold separately from the primary dwelling unit on the same lot.~~
23. **Maximum Permitted Floor Area.** The floor area of a Category Two Secondary Unit shall not exceed eight hundred (800) ~~seven hundred fifty (750)~~ square feet or seventy-five percent (75%) of the floor area of the primary dwelling unit, whichever is less, except that Secondary Units of up to five hundred (500) square feet in floor area are permitted regardless of the size of the primary dwelling unit.
34. **Required Parking.** Except as specified in Subsection a. below, the minimum parking requirements for a Category Two Secondary Unit shall be as prescribed in the applicable individual zone regulations and in Chapter 17.116. Tandem parking may be permitted according to the regulations in Section 17.116.240.
  - a. Secondary Units that are located on sites within: (i) one-half (1/2) mile of a public BART Station, BRT Station, or Major Transit Stop; (ii) an Area of Primary Importance (API) or Area of Secondary Importance (ASI), as defined in the Historic Preservation Element of the General Plan; one-half (1/2) mile of a designated rapid bus line not located on Telegraph Avenue; (iii) an area where on-street parking permits are required but not offered to the occupant of a Secondary Unit; one-quarter (1/4) mile of a designated rapid bus line located on Telegraph Avenue; or (iv) one (1) block of a dedicated car share parking space one-half (1/2) mile of the transit hub at the intersection of Lakeshore Avenue and Lake Park Avenue shall have no additional parking requirement. For the purposes of this Chapter, a "Major Transit Stop" is defined consistent with California Public Resources Code Section 21064.3, as may be amended; and means a site containing an existing rail transit station, a ferry terminal served by either a bus or rail transit service, or the intersection of two (2) or more major bus routes with a frequency of service interval of fifteen (15) minutes or less during the morning and afternoon peak commute periods.

~~b. For new or newly legalized Secondary Units established after the effective date of this Subsection and located within a Residential Parking Permit area, a Residential Parking Permit shall not be issued to the occupant(s) of the Secondary Unit except that the verified occupant(s) of the Secondary Unit may be issued no more than one (1) of the permits associated with the primary dwelling unit. This Subsection only applies to Secondary Units located on sites near transit as defined in Subsection a. above.~~

~~45. **Setbacks.** Except as specified in Subsections a. and b. below, in Subsection 6. Below, for the conversion of existing detached accessory structures, the minimum setback requirements for a Category Two Secondary Unit shall be as prescribed in the applicable individual zone regulations; or as prescribed for a~~

~~a. A detached Category Two Secondary Unit that conforms to the provisions located within a minimum Yard or Court in Subsection U. of Section 17.108.130 is allowed to project into or locate within the minimum side or rear yard, but no closer than four (4) feet from the side or rear lot line, and only if the facility also conforms to the following restriction in and the first paragraph of Section 17.108.130:~~

~~i. In no case shall more than fifty percent (50%) of the horizontal area of any required minimum rear yard be covered by facilities, other than trees, that extend more than six (6) feet above grade.~~

~~b. A Category Two Secondary Unit located above a garage and conforming with maximum height and all other applicable regulations shall not be required to have a side or rear setback of more than five (5) feet.~~

~~6. **Conversion of an Existing Detached Accessory Structure.** A detached accessory structure legally in existence prior to the effective date of this amended Code Section and located outside of the front yard setback, may be converted into a Secondary Unit, regardless of the normally required prohibition on residential living quarters within a detached accessory structure located in a minimum Yard or Court in Subsection K. of Section 17.108.130, or any existing nonconformity as to side setback, rear setback, or height, as long as:~~

~~a. The existing structure is not modified or added to in any way that increases the level of nonconformity with all applicable zoning regulations, including but not limited to, all provisions in this Section;~~

~~b. The floor area of the resulting Secondary Unit does not exceed the maximum allowed in this Section; and~~

~~c. The minimum parking requirement can be met on-site.~~

~~7. **Fire Flow and Water Pressure.** A Secondary Unit may be permitted only if the fire flow and water pressure in the adjoining street meets the minimum requirements as determined by the Fire Marshal.~~

~~58. **Emergency Access—Multiple Vehicular Outlets.** A Category Two Secondary Unit shall only may be permitted only on a lot which has frontage on a through street, or a dead-end street that has a total length of less than six hundred (600) three hundred (300) feet. For the purposes of this Subsection, the total length of a dead-end street shall be the distance from the intersection with the nearest through street to the farthest opposite end of the street right-of-way, or private access easement (as defined by Section 16.32.010 of the Oakland Municipal Code) if the private access easement is connected to said dead-end street.~~

~~69. **Emergency Access—Minimum Pavement Width.** A Category Two Secondary Unit shall only may be permitted only if all streets connecting the lot to the nearest arterial street (as designated by the City of Oakland General Plan Land Use and Transportation Element) have a minimum pavement width of at least ~~twenty-four (24) feet~~. The minimum pavement width limitation may be reduced to a minimum of ~~twenty (20) feet~~, upon the granting of a conditional use permit, pursuant to the criteria in Subsection B. of this Section, and the conditional use permit procedure in Chapter 17.134.~~

~~10. **Public Sanitary Sewer.** A Secondary Unit may be permitted only if it is served by a public sanitary sewer.~~

~~74. **Architectural Compatibility.** The A Category Two Secondary Unit shall be clearly subordinate to the primary dwelling unit in size and location. Also, the exterior materials of a Category Two Secondary Unit shall match or be visually compatible with that of the primary dwelling unit, including the siding material, roof shape and/or pitch, roofing material, trim material and design, and window types.~~

~~12. **Compliance with Building and Fire Codes.** All Secondary Units shall comply with all other code and permit requirements imposed by all other affected departments, including but not limited to, fire separation, sound separation, egress, utility access, and the requirement for a building permit.~~

~~813. **Review Procedure.** An application for a Category Two Secondary Unit of up to five hundred (500) square feet shall be granted ministerial approval within one hundred twenty (120) days of receipt as specified in Section 17.136.025 upon confirmation of compliance with all applicable zoning regulations, including but not limited to, all provisions in this Section. The ~~five hundred (500) square-foot floor area threshold~~ for a Secondary Unit may only be exceeded, up to a maximum size of ~~seven hundred fifty (750) square feet or seventy-five percent (75%) of the floor area of the primary dwelling unit, whichever is less~~, upon the granting of Small project design review, pursuant to the Small project design review procedure in Section 17.136.030.~~

~~94. **Utility Connections.** If a new or separate utility connection is required directly between a Category Two Secondary Unit and the utility, the related connection fee or capacity charge must be proportional to the burden of the Secondary Unit upon the water or sewer system.~~

~~B. **Use Permit Criteria for Secondary Units Accessed Via Narrow Streets.** A conditional use permit for a Secondary Unit accessed from the nearest arterial street via a street with a minimum pavement width of between ~~twenty (20) and twenty-four (24) feet~~ may only be granted upon determination that the proposal conforms to the general use permit criteria set forth in the general use permit procedure in Chapter 17.134 and to all of the following additional use permit criteria:~~

- ~~1. That there is adequate emergency access to the lot as determined by the Fire Marshall;~~
- ~~2. That the portions of the street that have a pavement width of less than ~~twenty-four (24) feet~~ are not located on a dead-end street;~~
- ~~3. That if on-street parking is permitted on portions of the street that have a pavement width of less than ~~twenty-four (24) feet~~, that there exist a level and hard surface shoulders with a combined additional width of at least ~~eight (8) feet~~;~~

4. ~~That if on-street parking is prohibited on portions of the street that have a pavement width of less than twenty-four (24) feet, that the restricted parking areas are clearly marked with official City installed no-parking signs and/or red curbs, pursuant to the provisions of the Oakland Traffic Code (Title 10 of the Oakland Municipal Code).~~

**Chapter 17.108 GENERAL HEIGHT, YARD, AND COURT REGULATIONS**

**Sections:**

17.108.130 Exceptions to required openness of minimum yards and courts.

**17.108.130 Exceptions to required openness of minimum yards and courts.**

Facilities	Allowed Projection Into or Location Within Minimum Required Yard or Court, Subject to the Further Restrictions Indicated in This Section's First Paragraph (Blanks indicate that facility is not allowed.)				
	Front Yard	Side Yard on Street Side of Corner Lot	Side Yard Along Interior Side Lot Line	Rear Yard (But see coverage limit in first paragraph.)	Court
U. Detached Secondary Units.			Anywhere in above yards, provided that <u>the facility was legally in existence prior to January 1, 2017; or in other cases if:</u> 1. The facility is <u>located at least six (6) feet from within thirty-five (35) feet of the rear lot line</u> the primary dwelling unit on the lot, and is not located closer than four (4) feet from the side or rear lot line; and 2. The wall height of the facility within four (4) feet of the side or rear lot line does not exceed ten (10) feet in height to the top of the plate above finished grade. In areas greater than four (4) feet from the side or rear lot line <u>but within a required yard</u> , the wall height of the facility may only extend above ten (10) feet the extent necessary to allow gable ends, dormers, sheds, or similar roof elements, <del>(any shed roof slopes down toward the closest lot line; if equal distant to nearby lot lines, the</del> <u>with any shed roof sloping</u> es down toward the lot line facing the longest façade); and 3. The roof height, for roofs with a maximum 8 in 12 slope, does not exceed fourteen (14) feet above finished grade, except for incidental decorative features or minor appurtenances such as flues.		

**Chapter 17.116 OFF-STREET PARKING AND LOADING REQUIREMENTS**

**Sections:**

Article II - Off-Street Parking Requirements

Article III – Reductions in Required Parking

**Article II Off-Street Parking Requirements**

17.116.060 Off-street parking—Residential Activities.

**17.116.060 Off-street parking—Residential Activities.**

**A. Minimum and Maximum Parking for Permanent and Semi-Transient Residential Activities.**

1. **Minimum Parking.** Except as otherwise provided in Article III and elsewhere in this Title, the following amounts of off-street parking are required for all Permanent and Semi-Transient Residential Activities when located in the indicated zones and occupying the specified facilities:

Residential Facility Type	Zone	Total Required Parking
One-Family Dwelling with Secondary Unit.	RH and RD Zones, except when combined with the S-12 Zone.	One (1) space for the Secondary Unit unless the lot already contains a total of at least three (3) spaces or is located in a transit accessible area pursuant to Section 17.103.080; however, when combined with the S-11 Zone, the requirement shall be one (1) space for each bedroom in any Secondary Unit, up to a maximum requirement of two (2) spaces per Secondary Unit. See Section 17.103.080.
	CBD, S-2, and D-LM Zones, except when combined with the S-11 or S-12 Zone.	No additional space required for the Secondary Unit.

Residential Facility Type	Zone	Total Required Parking
	Any other zone, except when combined with the S-11 or S-12 Zone.	One (1) space for the Secondary Unit, <u>except that no parking shall be required if located as specified in Section 17.103.080, unless the lot already contains a total of at least two (2) spaces or is located in a transit accessible area pursuant to Section 17.103.080; however, when combined with the S-11 Zone, the requirement shall be one (1) space for each bedroom in any Secondary Unit, up to a maximum requirement of two (2) spaces per Secondary Unit. See Section 17.103.080.</u>
	Any zone combined with the S-11 Zone.	One (1) space for each bedroom in the Secondary Unit, up to a maximum requirement of two (2) spaces per Secondary Unit, <u>except that no parking shall be required if located as specified in Section 17.103.080.</u>
	Any zone combined with the S-12 Zone.	One (1) space for each bedroom in the Secondary Unit, <u>except that no parking shall be required if located as specified in Section 17.103.080. See Section 17.94.040.</u>

**Article III - Exemptions and Reductions in Required Parking**

**17.116.110 Special parking exemptions and reductions.**

The provisions of this Section apply to all facilities and zones in all or specified zones, except One-Family Dwelling, ~~One-Family Dwelling with Secondary Unit~~, Two-Family Dwelling, or Multifamily Dwelling Residential Facilities located within the S-12 Residential Parking Combining Zone, where the provisions of Section 17.94.040 shall apply.

B. **Affordable Housing.** For zones that have a base parking minimum in Section 17.116.060(A) of three-quarter (3/4) space per dwelling unit or more, the parking requirement for affordable housing restricted for low, very low, and moderate income households, (as defined in California Government Code Section 50052.5 and in Oakland Planning Code Section 17.107.020) is the following:

1. One-half (1/2) space per affordable housing unit if within a Transit Accessible Area; and

2. Three-quarters (3/4) space per affordable housing unit if not within a Transit Accessible Area.

**C. Parking Reduction through Demand Management Measures.** The following are the percentages that parking requirements are reduced for Multifamily Dwelling Residential Facilities of ten (10) or more dwelling units through implementation of the listed parking demand management measures. The parking reduction percentages for the demand management measures described below can be added together to create a greater parking reduction, but cannot create more than a fifty percent (50%) reduction. These reductions cannot be combined with the parking reductions described in other Subsections of Article III, except for the reduction described in Subsection B, above. A notice describing the demand management measure(s) required shall be permanently posted in a common area of the building such as a lobby or mailroom that is clearly visible to residents.

1. **Transit Accessible Areas.** A project that is within a Transit Accessible Area receives a 30 percent (30%) reduction in the parking requirement. This reduction cannot be applied to the parking ratio for affordable housing that already receives a reduction under B(1), above.

**J. Secondary Units.** No additional parking shall be required for a Secondary Unit if located as specified in Section 17.103.080.

#### **Article IV Standards for Required Parking and Loading Facilities**

17.116.240 Tandem spaces and berths.

#### **17.116.240 Tandem spaces and berths.**

No required loading berths shall be tandem. One required parking space on any lot containing both one (1) unit and fewer than three (3) required off-street parking spaces may be tandem. On any lot containing three (3) or more required off-street parking spaces, or containing required spaces for two (2) or more dwelling units, required parking spaces shall not be tandem, except that:

A. In any zone, tandem parking may be permitted for a One-Family Dwelling with Secondary Unit Residential Facility, unless the City finds that tandem parking is not feasible due to specific topographical conditions.

B. In the S-11 Zone, tandem parking may be permitted for fifty percent (50%) of the required parking spaces for a One-Family Dwelling or One-Family Dwelling with Secondary Unit Residential Facility.

CB. In the S-12 Zone, tandem parking may be permitted for One-Family Dwelling, One-Family Dwelling with Secondary Unit, Two-Family Dwelling, and Multi-family Dwelling Residential Facilities under the provisions of Section 17.94.060.

C. In any zone, except when combined with the S-11 or S-12 Zones, tandem parking may be permitted for two (2) of the required spaces on a lot containing a One-Family Dwelling with Secondary Unit Residential Facility if the floor area of the Secondary Unit does not exceed the maximum allowed in Section 17.103.080.



**Chapter 17.136 DESIGN REVIEW PROCEDURE**

**Sections:**

17.136.025 Exemptions from design review.

17.136.030 Small project design review.

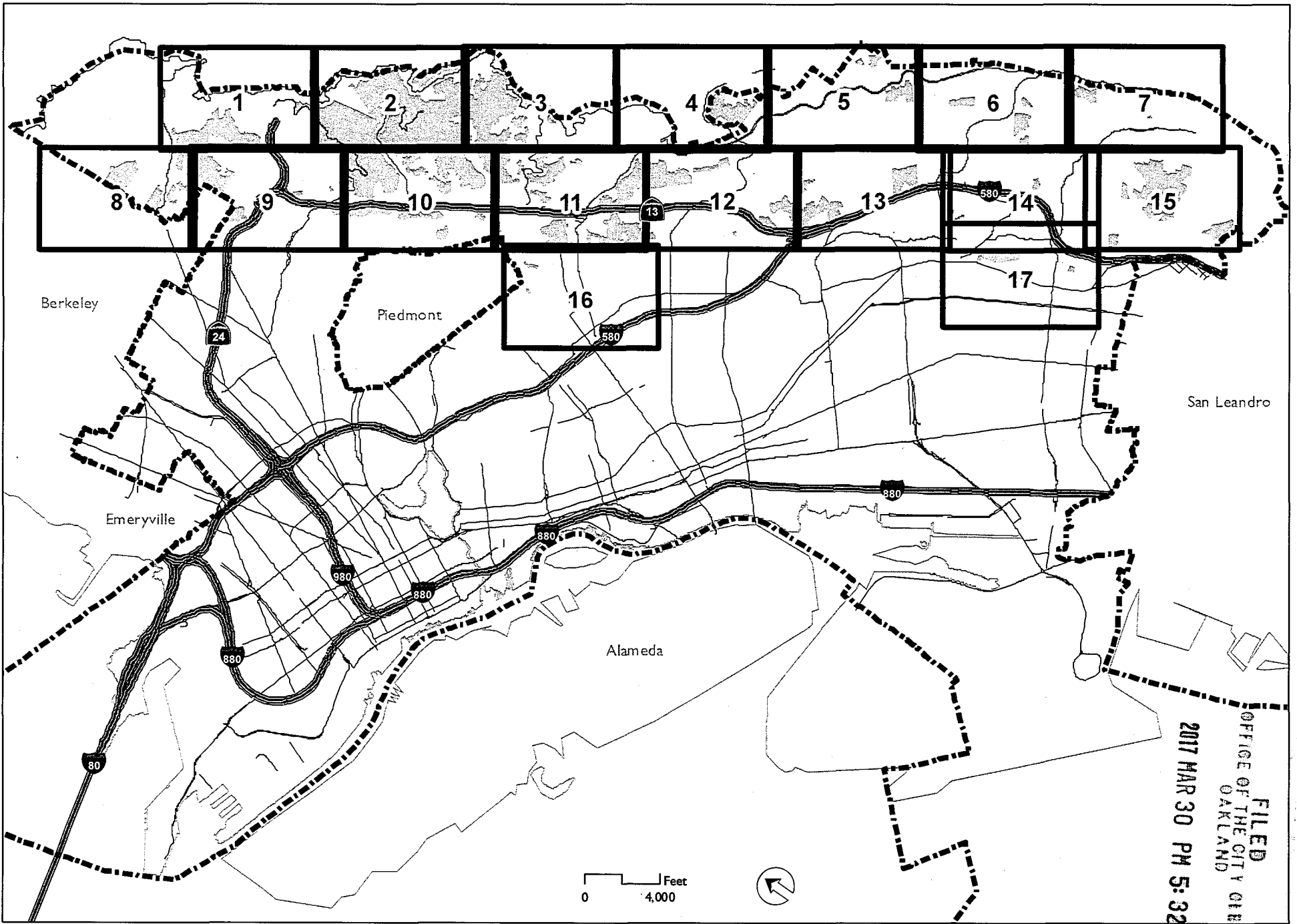
**17.136.025 Exemptions from design review.**

- A. Applicability. A proposal will be exempt from design review if it meets each of the provisions set forth below. All such determinations are final and not appealable:
  - 2. The proposal does not require ~~Regular dDesign rReview~~, a conditional use permit or variance, pursuant to the zoning regulations of Title 17 of the Oakland Planning Code;
- B. Definition. The following types of work are exempt from design review, pursuant to all provisions in Section 17.136.025(A):
  - 1. Additions or Alterations.
    - d. ~~Secondary Units, of five hundred (500) square feet or less on a lot with only one existing or proposed primary dwelling unit, pursuant to all regulations in Section 17.103.080;~~

**17.136.030 Small project design review.**

- B. Definition of "Small Project". Small Projects are limited to one or more of the following types of work:
  - 1. Additions or Alterations.
    - d. ~~Secondary Units of more than five hundred (500) square feet in floor area, but not exceeding seven hundred fifty (750) square feet or seventy-five percent (75%) of the floor area of the primary dwelling unit, whichever is less, pursuant to all regulations in Section 17.103.080;~~
    - de. For Commercial, Civic, or Industrial Facilities and the non-residential portions of mixed-use development projects, changes to storefronts or street-fronting facades, such as: (i) replacement or construction of doors, windows; bulkheads and nonstructural wall infill, or (ii) restoration of documented historic fabric.

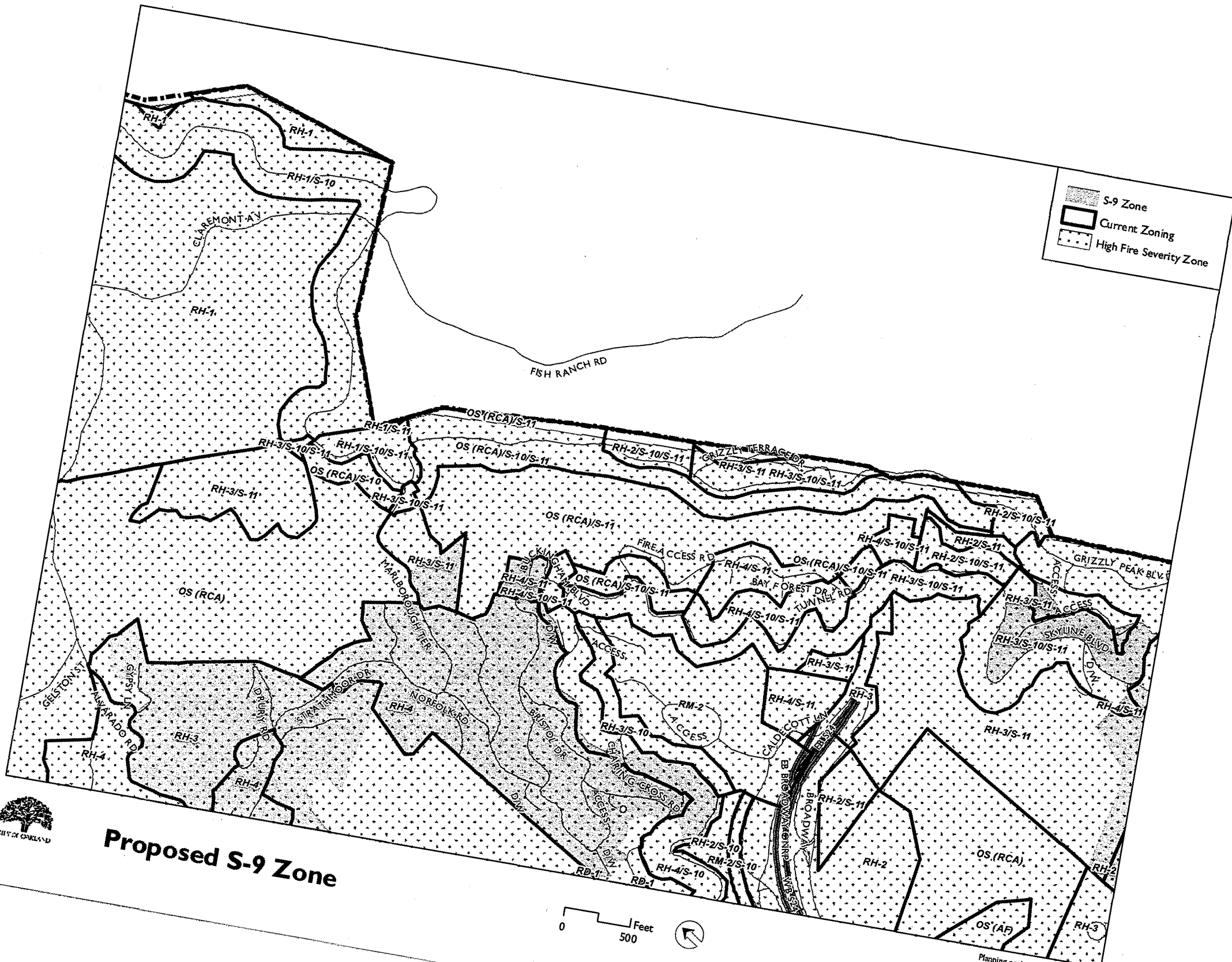
# **ATTACHMENT C**






# Proposed S-9 Zone

Planning and Building Department  
March 2017

Index Map



	S-9 Zone
	Current Zoning
	High Fire Severity Zone






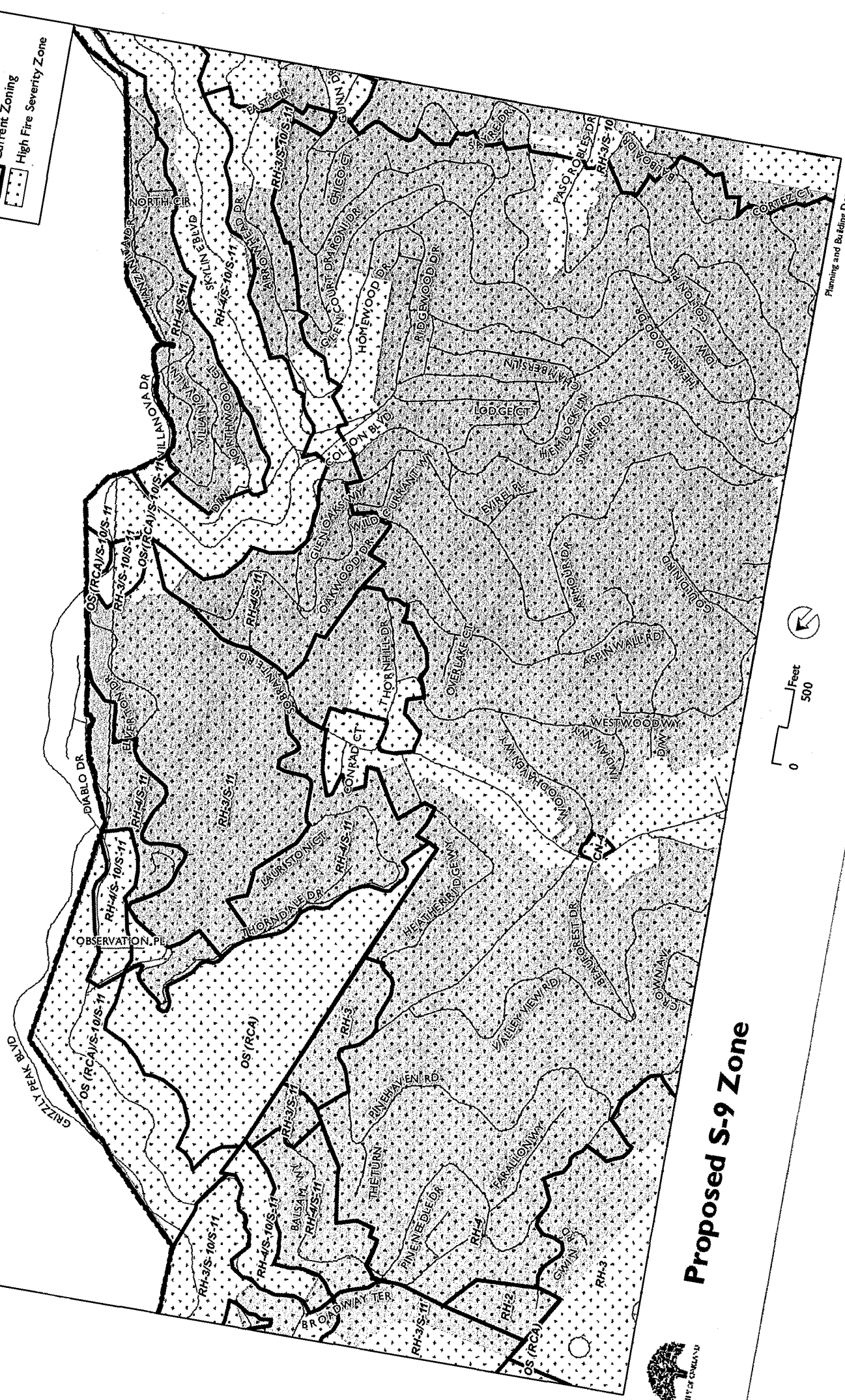
# Proposed S-9 Zone



Planning and Building Department  
March 2017

Map I

 S-9 Zone  
 Current Zoning  
 High Fire Severity Zone






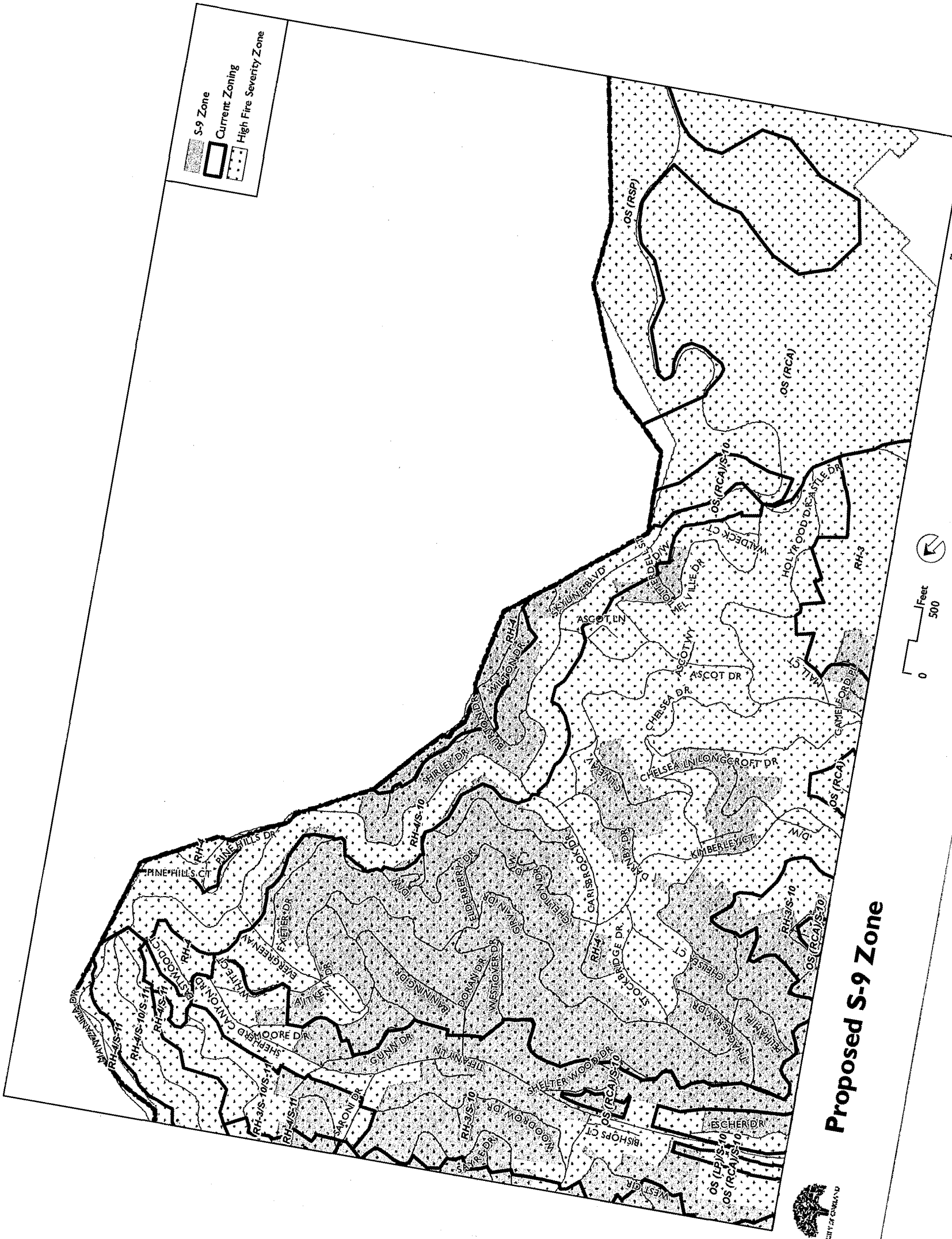
## Proposed S-9 Zone



Planning and Building Department  
 March 2017

Map 2

 S-9 Zone  
 Current Zoning  
 High Fire Severity Zone



**Proposed S-9 Zone**

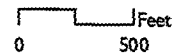


Planning and Building Department  
 March 2017

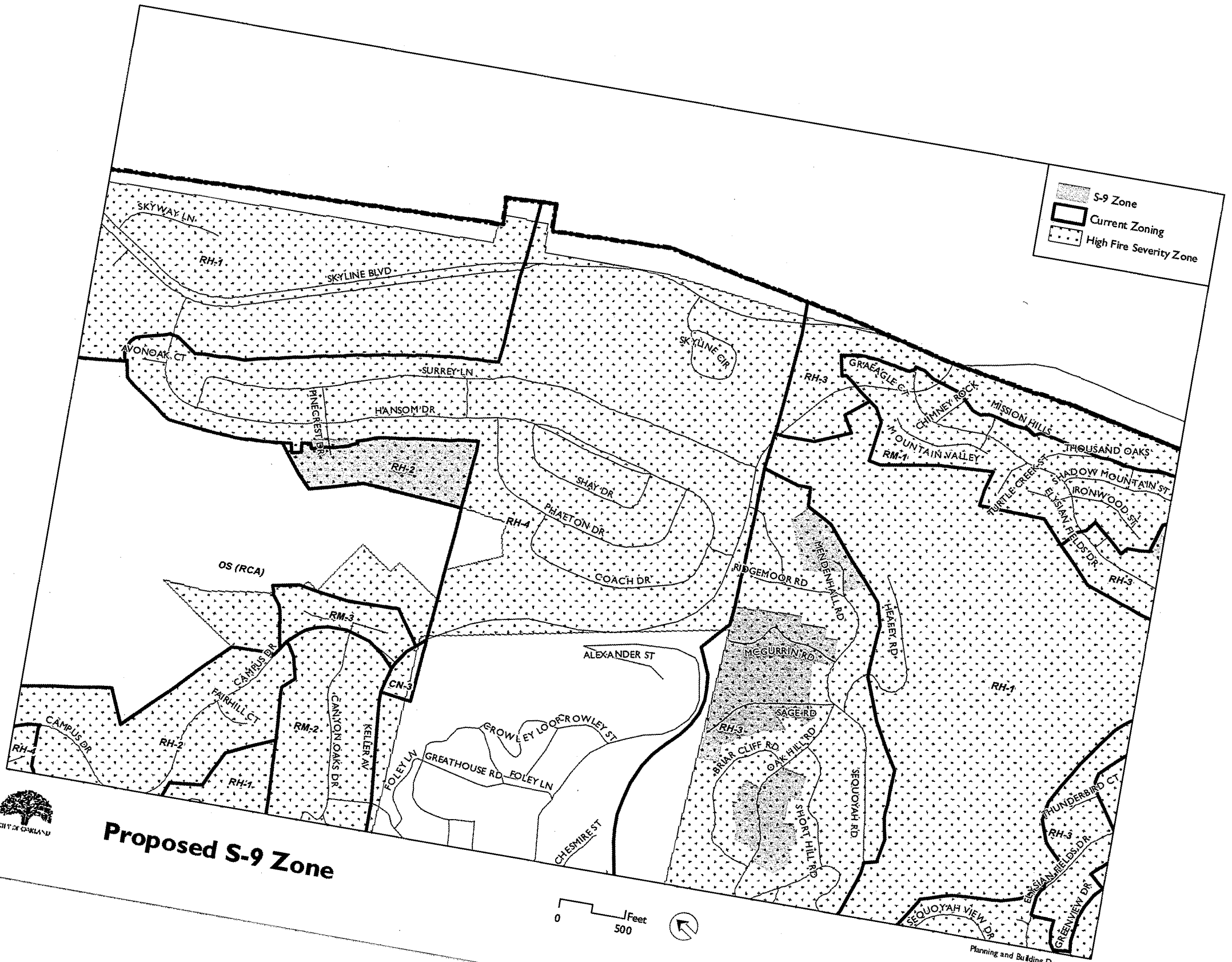


CITY OF OAKLAND

# Proposed S-9 Zone



Planning and Building Department  
March 2017






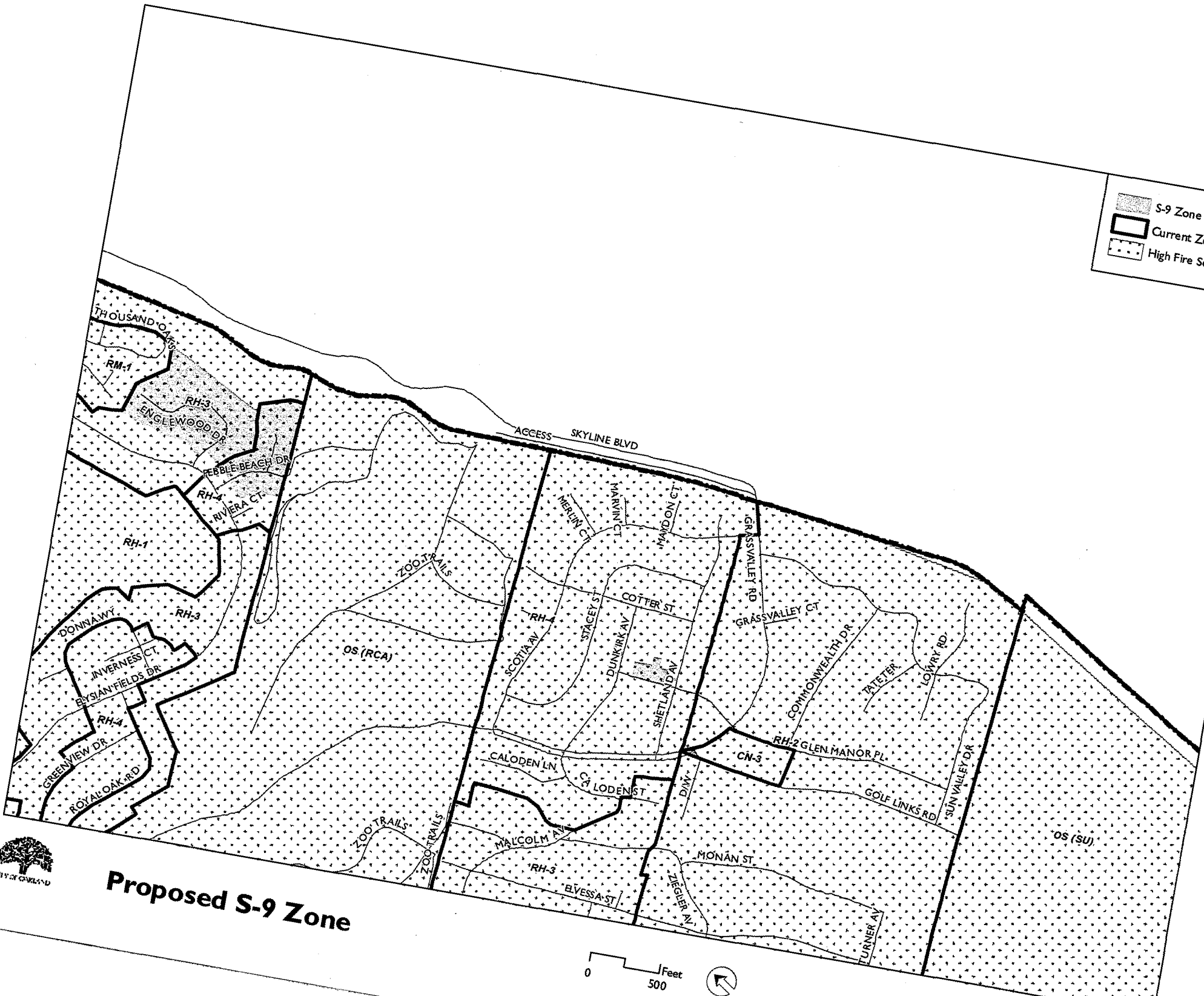
# Proposed S-9 Zone



Planning and Building Department  
March 2017



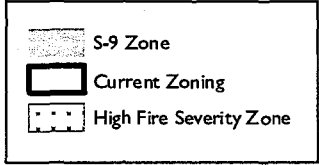
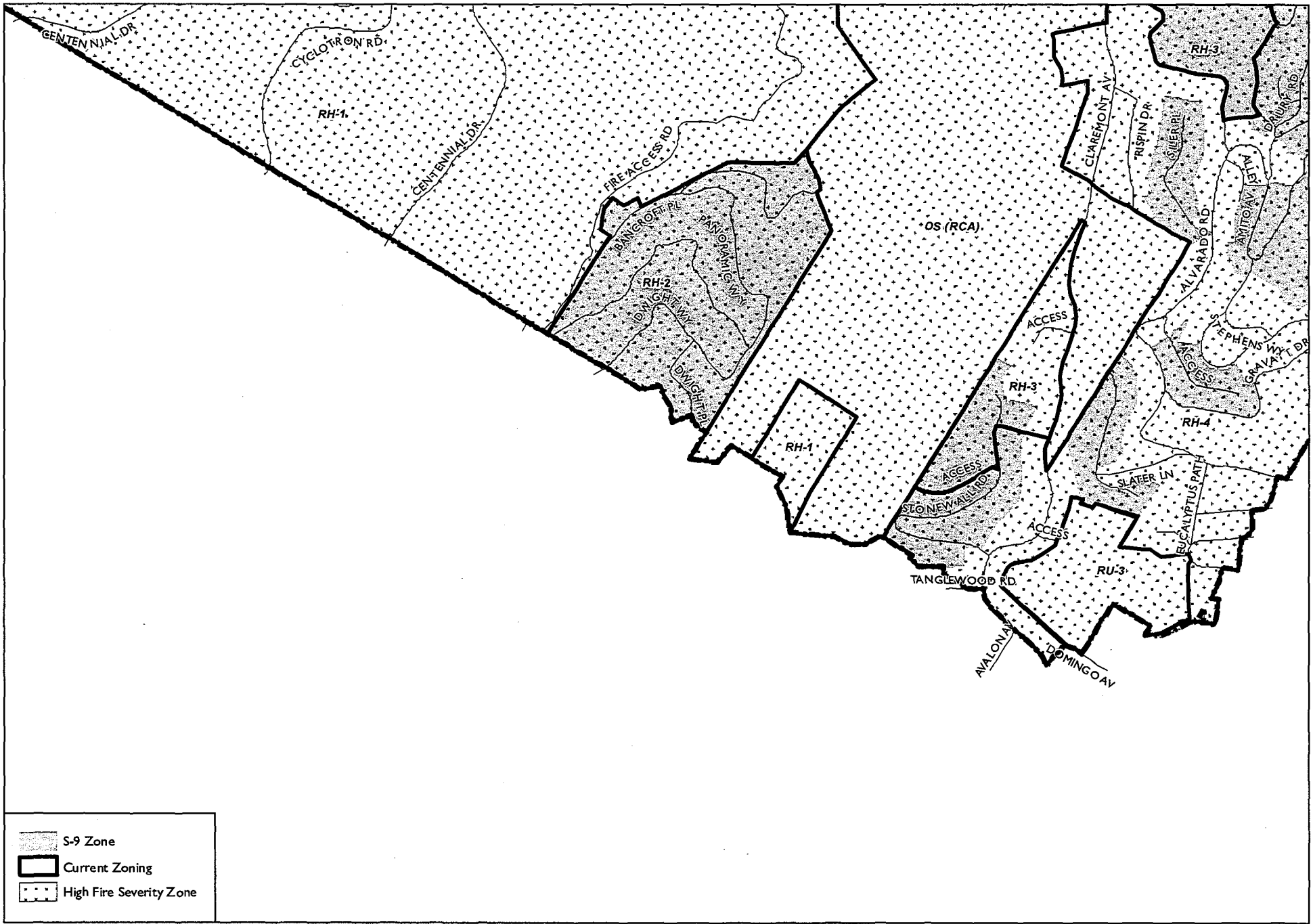
 S-9 Zone  
 Current Zoning  
 High Fire Severity Zone



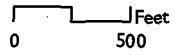
**Proposed S-9 Zone**



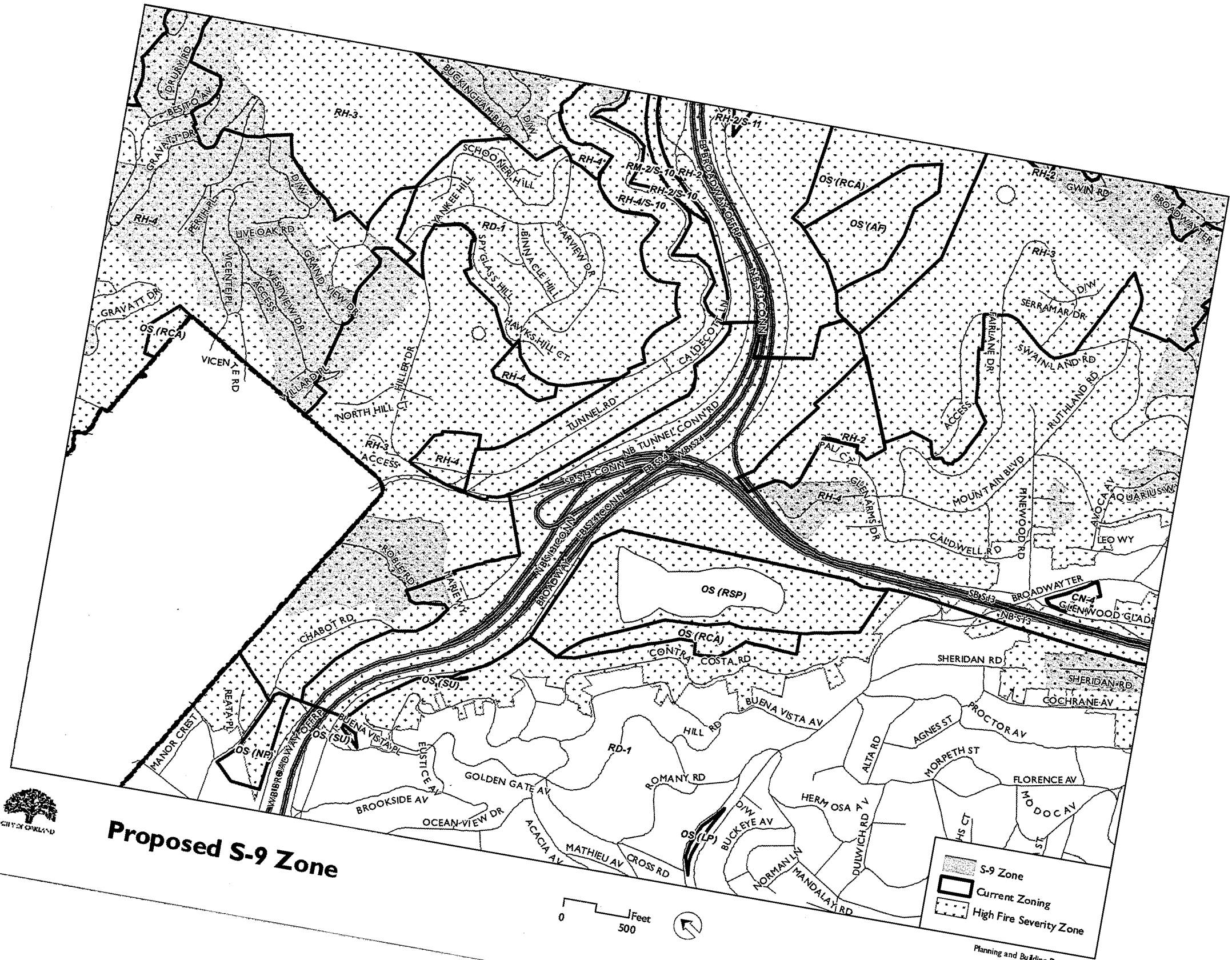
Planning and Building Department  
March 2017



# Proposed S-9 Zone



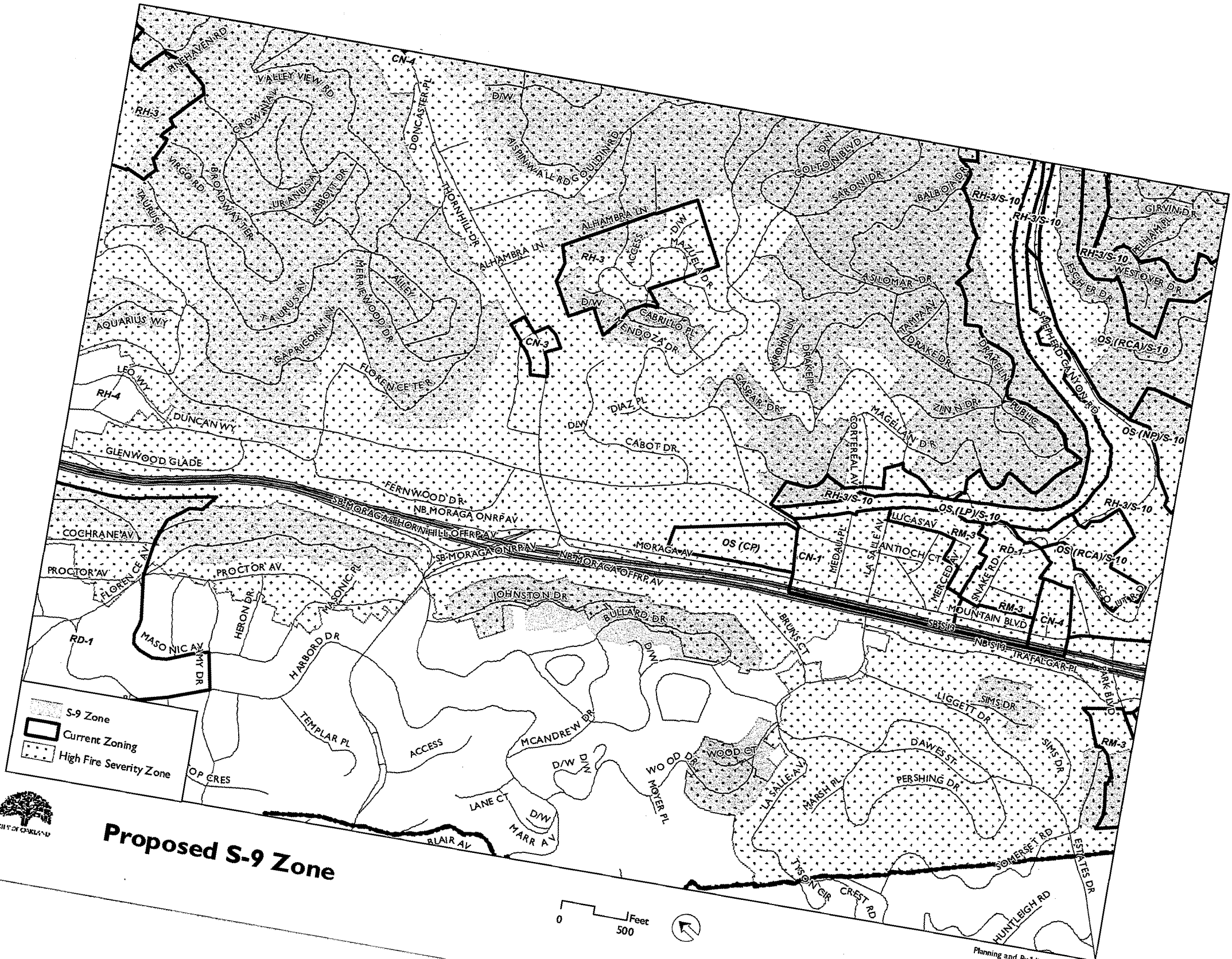
Planning and Building Department  
March 2017



# Proposed S-9 Zone

	S-9 Zone
	Current Zoning
	High Fire Severity Zone

Planning and Building Department  
March 2017



# Proposed S-9 Zone



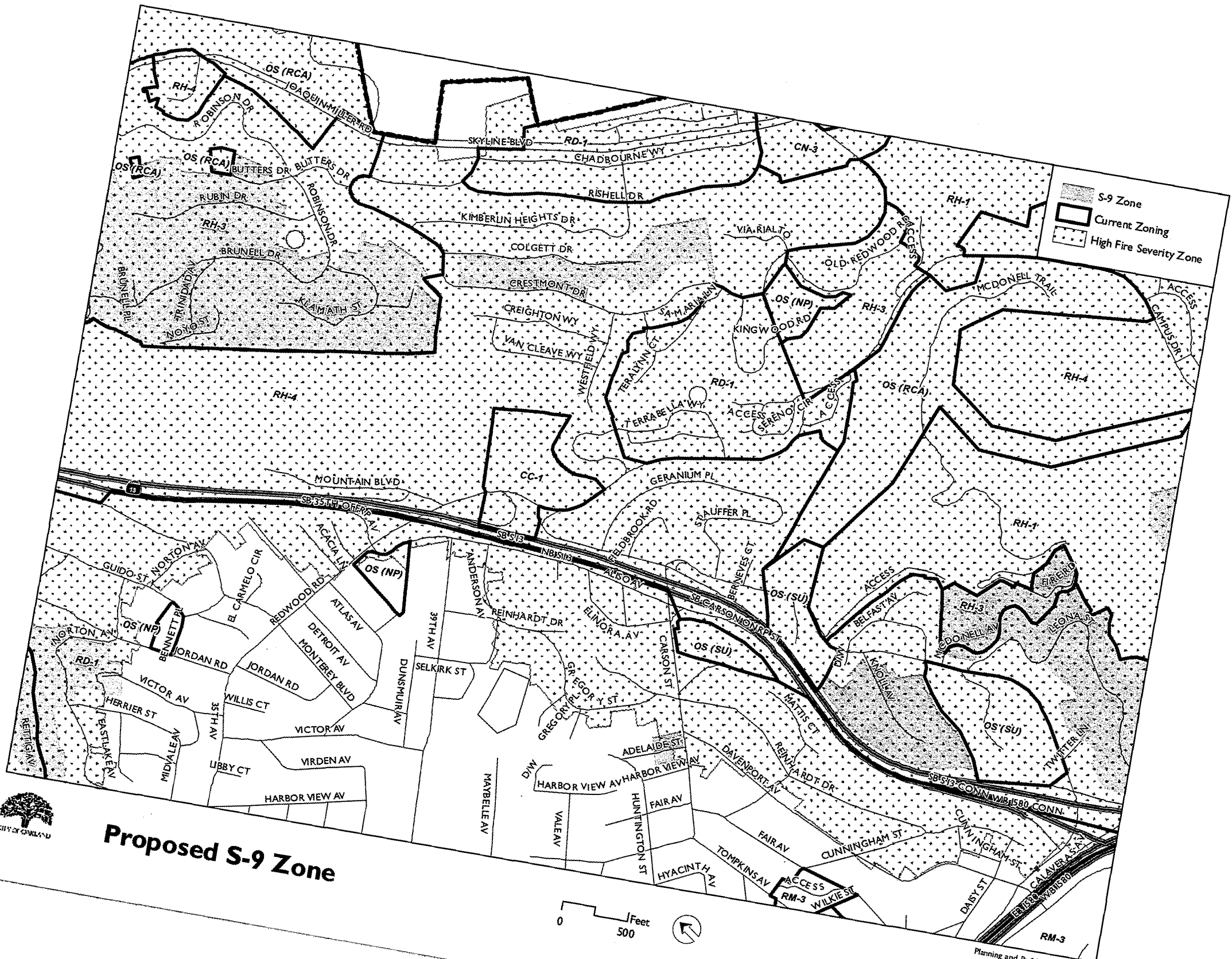
Planning and Building Department  
March 2017



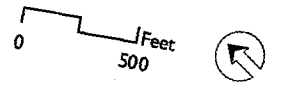
**Proposed S-9 Zone**



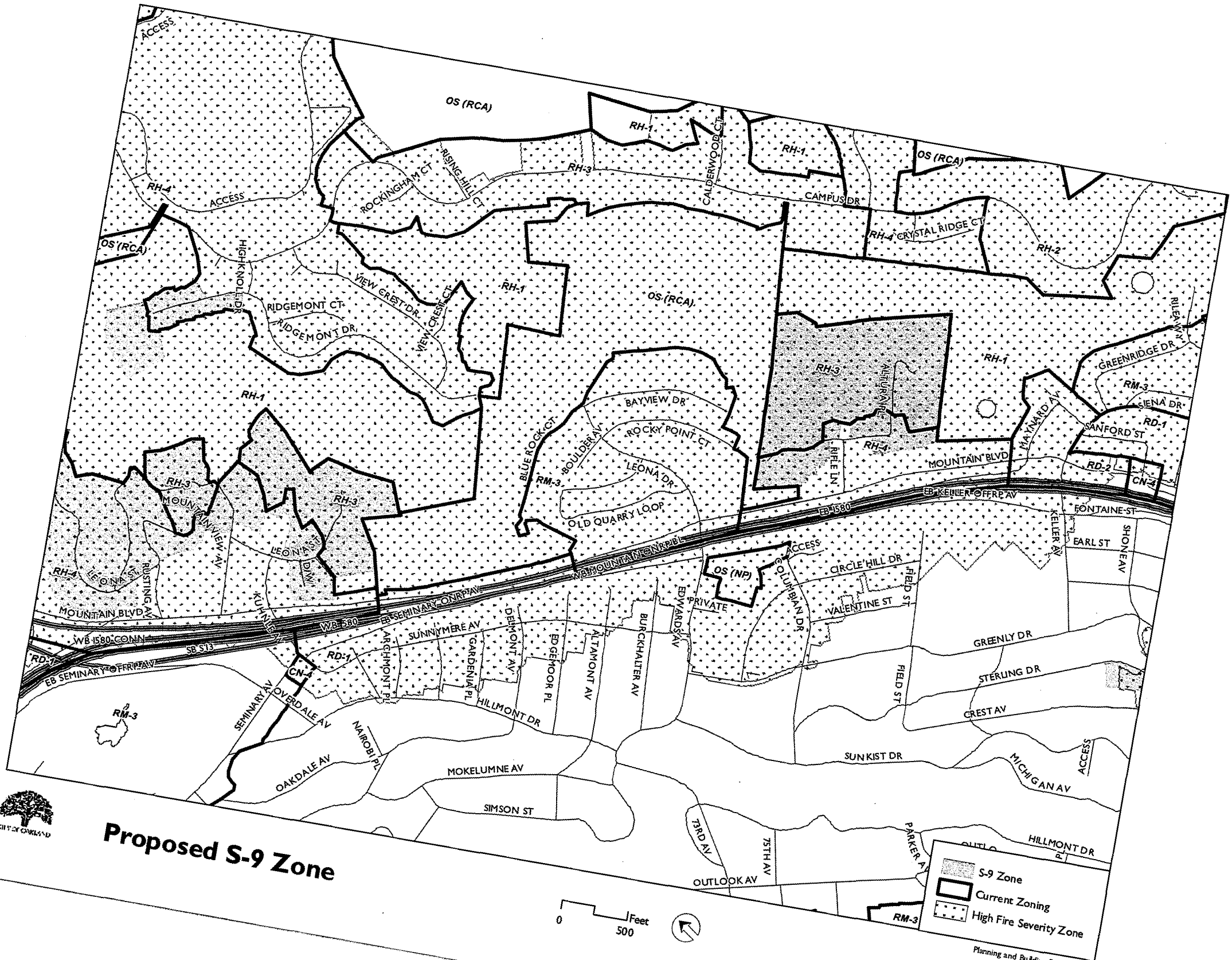
CITY OF OAKLAND



# Proposed S-9 Zone



Planning and Building Department  
March 2017



CITY OF OAKLAND

# Proposed S-9 Zone

	S-9 Zone
	Current Zoning
	High Fire Severity Zone

Planning and Building Department  
March 2017

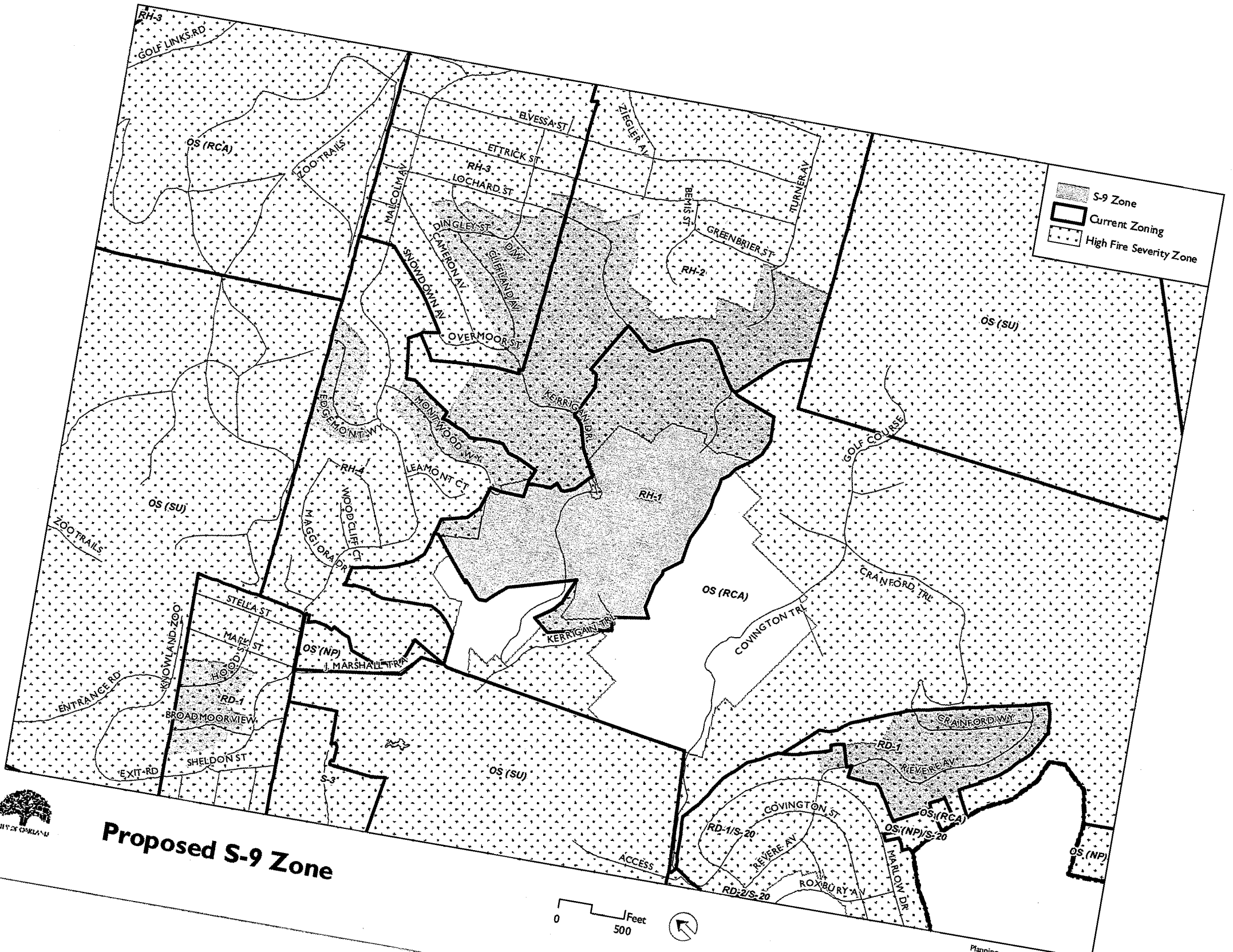


CITY OF COWLAND

# Proposed S-9 Zone

Planning and Building Department  
March 2017





# Proposed S-9 Zone

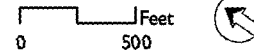
Planning and Building Department  
March 2017

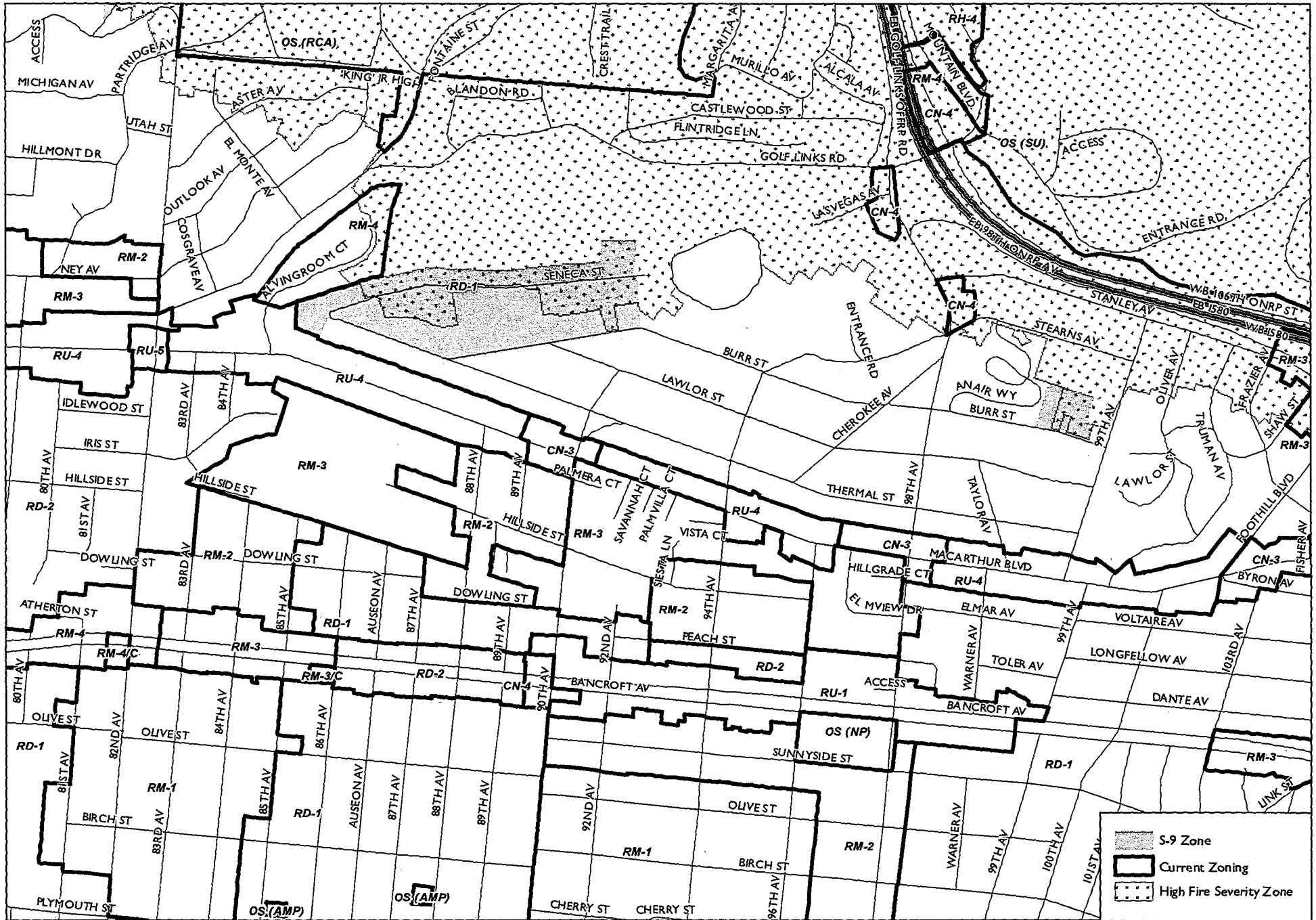


Planning and Building Department  
March 2017



# Proposed S-9 Zone

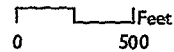




Planning and Building Department  
March 2017



# Proposed S-9 Zone



2017 MAR 30 PM 5:32

**DRAFT**

CITY ATTORNEY'S OFFICE

## OAKLAND CITY COUNCIL

**ORDINANCE NO. \_\_\_\_\_ C.M.S.**

---

**ORDINANCE, AS RECOMMENDED BY THE CITY PLANNING COMMISSION, AMENDING THE OAKLAND PLANNING CODE TO: 1) REVISE REGULATIONS FOR SECONDARY UNITS TO COMPLY WITH STATE LAW; 2) CREATE AND MAP A NEW ZONING OVERLAY THAT IDENTIFIES AREAS IN THE CITY WHERE NEW CATEGORY TWO SECONDARY UNITS ARE NOT PERMITTED; 3) MAKE MINOR CHANGES IN VARIOUS CHAPTERS OF THE PLANNING CODE; AND 4) MAKE APPROPRIATE CALIFORNIA ENVIRONMENTAL QUALITY ACT DETERMINATIONS**

**WHEREAS**, housing in California is becoming increasingly unaffordable, and the availability of housing is a substantial concern for individuals of all demographics, ages, and income groups in communities throughout the City of Oakland; and

**WHEREAS**, the 2015-2023 Housing Element of the City's General Plan specifically includes policies to encourage the construction of Secondary Units in single-family zones and recognizes these units as a source of affordable housing; and

**WHEREAS**, the housing affordability crisis threatens the public health, safety, and/or welfare of our citizenry; and

**WHEREAS**, recognizing the severity of the housing affordability crisis, on February 16, 2016, the City Council adopted Ordinance No. 13357 C.M.S., which revised the City's Secondary Unit regulations to streamline the process of approval. As part of the final adoption, Council directed staff to prepare further amendments to the Secondary Unit regulations, including a clarification that the City's zoning regulations do not invalidate stricter regulations that may be imposed by a homeowners' association's Covenants, Conditions, and Restrictions (CC&Rs); and

**WHEREAS**, in September 2016, Governor Brown signed into law Senate Bill 1069 and Assembly Bill 2299, amending Government Code section 65852.2, and relating to the creation of accessory dwelling units (Secondary Units). These new bills were intended to address the housing crisis by easing regulatory barriers, thereby encouraging homeowners to build Secondary Units, and providing additional rental housing supply in California; and

**WHEREAS**, on January 1, 2017, SB 1069 and AB 2299 went into effect, rendering the City's existing Secondary Unit regulations null and void until an ordinance is adopted that fully complies with State law. The Bureau of Planning is currently issuing permits for Secondary Units under interim regulations required by State law. These interim regulations have not yet been tailored to meet the City's needs, and consequently may be more restrictive in some cases than the previous Secondary Unit regulations Oakland adopted in 2016; and

**WHEREAS**, changes to the California Government Code require that the City update its Secondary Unit regulations; and

**WHEREAS**, the City of Oakland's Strategic Planning Division staff has prepared the following amendments to the Oakland Planning Code and Zoning Map to: (a) bring the City's Secondary Unit regulations into full compliance with California State law, and address the Council's direction from February 16, 2016 (where not superseded by State law); (b) reduce regulatory barriers to the development of Secondary Units; (c) identify areas of the city where Secondary Units involving new construction or addition are not permitted due to impacts on traffic flow and public safety; and (d) clarify language in various chapters of the Planning Code; and

**WHEREAS**, the proposed amendments comply with Government Code Section 65852.2, which establishes standards for the development of accessory dwelling units so as to increase the supply of affordable housing; and

**WHEREAS**, Article XI, Section 5 of the California Constitution provides that the City, as a home rule charter city, has the power to make and enforce all ordinances and regulations in respect to municipal affairs, and Article XI, Section 7, empowers the City to enact measures that protect the health, safety, and/or welfare of its residents; and

**WHEREAS**, Section 106 of the Oakland City Charter provides that the City has the right and power to make and enforce all laws and regulations with respect to municipal affairs; and

**WHEREAS**, the City desires to further the public health, safety and/or welfare by bringing the City's Planning Code into compliance with new State law; and

**WHEREAS**, on January 18, 2017, at a duly noticed public hearing, the Planning Commission recommended approval of the proposed changes to Secondary Unit regulations and miscellaneous minor changes in various Chapters of the Planning Code; and

**WHEREAS**, after a duly noticed public meeting on April 11, 2017, the Community and Economic Development Committee voted to recommend the proposal to the City Council; and

**WHEREAS**, the City Council held a duly noticed public hearing on April 18, 2017 to consider the proposal, and all interested parties were provided an ample opportunity to participate in said hearing and express their views; and

**WHEREAS**, the adoption of an ordinance to implement Government Code section

65852.2 is exempt from CEQA under Public Resources Code section 21080.17. Similarly, the ministerial approval of Secondary Unit applications would not be a “project” for CEQA purposes, and environmental review would not be required prior to approving individual applications; and

**WHEREAS**, in addition, the proposed amendments to the Planning Code and Zoning Map rely on the previous set of applicable CEQA documents including: the Coliseum Area Specific Plan EIR (2015); Broadway Valdez Specific Plan EIR (2014); West Oakland Specific Plan EIR (2014); Central Estuary Area Plan EIR (2013); Land Use and Transportation Element of the General Plan EIR (1998); the Oakland Estuary Policy Plan EIRs (1999, 2006) and Supplemental EIR (2013); the Redevelopment Area EIRs - West Oakland (2003), Central City East (2003), and Coliseum (1995); the 1998 Amendment to the Historic Preservation Element of the General Plan; the 2007-2014 Housing Element Final EIR (2010) and Addendum (2014); and various Redevelopment Plan Final EIRs (collectively, “Previous CEQA Documents”). No further environmental review is required under CEQA Guidelines Sections 15162 and 15163; and

**WHEREAS**, the Previous CEQA Documents provide analysis of the environmental impacts of the proposed amendments and support all levels of approval necessary to implement the Planning Code and Zoning Map amendments; and

**WHEREAS**, the proposed amendments to the Planning Code and Zoning Map would not result in any significant effect that has not already been analyzed in the Previous CEQA Documents, and there will be no significant environmental effects caused by the change that have not already been analyzed in the Previous CEQA Documents; and

**WHEREAS**, the City Council hereby finds and determines on the basis of substantial evidence in the record that none of the circumstances necessitating preparation of additional environmental review, as specified in CEQA and the CEQA Guidelines, including, without limitation, Public Resources Code Section 21166 and CEQA Guidelines Sections 15162 and 15163 are present in that (1) there are no substantial changes proposed in the project or the circumstances under which the project is undertaken that would require major revisions of the Previous CEQA Documents due to the involvement of new significant environmental effects or a substantial increase in the severity of previously identified significant effects; and (2) there is no “new information of substantial importance,” as defined in CEQA Guidelines Section 15162(a)(3); and

**WHEREAS**, each as a separate and independent basis, this action is exempt from CEQA pursuant to CEQA Guidelines Sections 15183 (projects consistent with General Plan and Zoning) and 15061(b)(3) (no significant effect on the environment); now, therefore,

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

**Section 1.** The City Council finds and determines the foregoing recitals to be true and correct and an integral part of the City Council’s decision, and hereby adopts such recitals as findings.

**Section 2.** The City Council finds and determines the adoption of this Ordinance is

exempt from CEQA under Public Resources Code Section 21080.17. Similarly, the ministerial approval of Secondary Unit applications would not be a “project” for CEQA purposes, and environmental review would not be required prior to approving individual applications. In addition, the City Council finds and determines the adoption of this Ordinance complies with CEQA in reliance on the Previous CEQA Documents. Further, the Council finds the adoption of this Ordinance is exempt from CEQA pursuant to CEQA Guidelines Section 15183 (projects consistent with General Plan and Zoning) and 15061(b)(3) (general rule, no significant effect on the environment). Each of these provides a separate and independent basis for CEQA clearance and when viewed collectively provide an overall basis for CEQA clearance

**Section 3.** The Environmental Review Officer shall file a Notice of Exemption/Notice of Determination, and an Environmental Declaration under the California Fish and Game Code (Section 711.4) with the County of Alameda.

**Section 4.** Title 17 of the Oakland Planning Code is hereby amended pursuant to *Exhibit A* attached hereto and incorporated by reference herein. Additions to Title 17 of the Oakland Planning Code are shown as underline and omissions are shown as ~~strikethrough~~.

**Section 5.** The Oakland Zoning and Height Maps are hereby amended pursuant to *Exhibit B* attached hereto and incorporated by reference herein.

**Section 6.** This Ordinance shall be effective 10 days from the date of final passage by the City Council, but shall not apply to (a) building/construction related permits already issued and not yet expired, or (b) zoning applications approved by the City and not yet expired, or (c) zoning applications deemed complete by the City as of the date of final passage. However, zoning applications deemed complete by the City prior to the date of final passage of this Ordinance may be processed under provisions of these Planning Code and Zoning Map amendments if the applicant chooses to do so.

**Section 7.** Nothing in this Ordinance shall be interpreted or applied so as to create any requirement, power, or duty in conflict with any federal or state law.

**Section 8.** If any section, subsection, sentence, clause or phrase of this Ordinance is held to be invalid or unconstitutional, the offending portion shall be severed and shall not affect the validity of the remaining portions which shall remain in full effect.

**Section 9.** This Ordinance serves the public interest and is necessary to protect the health, safety and/or general welfare of the citizens of Oakland, and is enacted pursuant to the City of Oakland’s general police powers, Section 106 of the Charter of the City of Oakland, Government Code Section 65852.2, and Article XI, Sections 5 and 7 of the California Constitution.

**Section 10.** The City Council hereby authorizes the City Administrator or designee to make non-substantive, technical conforming changes (essentially correction of typographical and clerical errors), prior to formal publication of the amendments in the Oakland Planning Code.

**Section 11.** The City Clerk of the City of Oakland is hereby directed to transmit this

Ordinance with Exhibits to the Department of Housing and Community Development within 60 days of adoption.

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

PASSED BY THE FOLLOWING VOTE:

AYES - BROOKS, CAMPBELL WASHINGTON, GALLO, GIBSON MCELHANEY, GUILLÉN,  
KALB, KAPLAN, AND PRESIDENT REID

NOES-

ABSENT-

ABSTENTION-

ATTEST: \_\_\_\_\_

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

DATE OF ATTESTATION: \_\_\_\_\_



**EXHIBIT A**

**TO THE APRIL 18, 2017 CITY  
COUNCIL**

**AMENDMENTS TO OAKLAND'S  
SECONDARY UNIT  
REGULATIONS**

**Title 17 PLANNING**

**Chapters:**

Chapter 17.74 - S-1 MEDICAL CENTER COMMERCIAL ZONE REGULATIONS

Chapter 17.76 - S-2 CIVIC CENTER COMMERCIAL ZONE REGULATIONS

Chapter 17.78 - S-3 RESEARCH CENTER COMMERCIAL ZONE REGULATIONS

Chapter 17.80 - S-4 DESIGN REVIEW COMBINING ZONE REGULATIONS

Chapter 17.82 - S-6 MOBILE HOME COMBINING ZONE REGULATIONS

Chapter 17.84 - S-7 PRESERVATION COMBINING ZONE REGULATIONS

Chapter 17.88 - S-9 FIRE SAFETY PROTECTION COMBINING ZONE REGULATIONS

Chapter 17.90 - S-10 SCENIC ROUTE COMBINING ZONE REGULATIONS

Chapter 17.92 - S-11 SITE DEVELOPMENT AND DESIGN REVIEW COMBINING ZONE REGULATIONS

Chapter 17.94 - S-12 RESIDENTIAL PARKING COMBINING ZONE REGULATIONS

Chapter 17.97 - S-15 TRANSIT-ORIENTED DEVELOPMENT COMMERCIAL ZONES REGULATIONS

Chapter 17.99 - S-17 DOWNTOWN RESIDENTIAL OPEN SPACE COMBINING ZONE REGULATIONS

Chapter 17.100A - S-19 HEALTH AND SAFETY PROTECTION COMBINING ZONE REGULATIONS

Chapter 17.100B - S-20 HISTORIC PRESERVATION DISTRICT COMBINING ZONE REGULATIONS

**Chapter 17.07 TITLE, PURPOSE AND SCOPE OF THE ZONING REGULATIONS**

**Sections:**

17.07.040 Applicability of zoning regulations.

**17.07.040 Applicability of zoning regulations.**

- C. **Duplicated or Conflicting Regulation or Restriction.** Where any provision, condition or requirement imposed by, or pursuant to, the zoning regulations and any other provision of any other applicable law, ordinance, resolution, rule or regulation, whether set forth in, or pursuant to, this Ceode, the Oakland Building Code or Oakland Housing Code, or in any other law, ordinance, resolution, rule, regulation, term, or requirement, imposes overlapping or contradictory regulations, or contains restrictions covering any of the same subject matter, that provision which is more restrictive or imposes higher standards shall control, except as otherwise expressly provided in the zoning regulations or elsewhere in the Oakland Municipal Code. No provision of this Ceode shall be construed to abrogate, annul or impair any restriction covering any of the same subject matter that is more restrictive or imposes higher development standards except as otherwise expressly provided in the zoning regulations.
- D. **Private Agreements.** The zoning regulations are not intended to abrogate, annul, or impair any easement, covenant, or other agreement between parties, including but not limited to homeowners association's Covenants, Conditions, and Restrictions (CC&Rs). However, where the zoning regulations impose a greater restriction or higher standard than that required by such agreement, the zoning regulations shall control, except as otherwise authorized under the development agreement procedure in Chapter 17.138.

EXHIBIT A TO THE APRIL 18, 2017 CITY COUNCIL  
AMENDMENTS TO OAKLAND'S SECONDARY UNIT REGULATIONS

**Chapter 17.09 DEFINITIONS**

**Sections:**

17.09.040 Definitions.

**17.09.040 Definitions.**

"**Dwelling unit**" means a room or suite of rooms including ~~one (1) and only one (1) kitchen,~~ except as otherwise provided in Section 17.102.270, and designed or occupied as separate living quarters for one ~~(1) person or family;~~ or, where the facility occupied is a One-Family Dwelling, such family and not more than three (3) boarders, roomers, or lodgers where access to all rooms occupied by such boarders, roomers, or lodgers is had through the main entrance of the dwelling unit.

"**Regular dwelling unit**" means any dwelling unit other than an efficiency dwelling unit or a Secondary Unit.

"**Secondary Unit**" means an attached or detached accessory subordinate dwelling unit that is located on the same lot as a larger One-Family Dwelling facility; primary dwelling unit, provides complete independent living facilities for one or more persons, including permanent provisions for living, sleeping, eating, cooking, and sanitation; is either attached or detached, and meets the standards and criteria of Section 17.103.080.

"**Transit Accessible Area**" means the area within one-half (1/2) mile of a: (1) BART Station; (2) BRT Station; (3) designated rapid bus line; or (4) transit stop served by a frequency of service interval of fifteen (15) minutes or less during the morning and afternoon peak commute periods.

**Chapter 17.10 USE CLASSIFICATIONS**

**Sections:**

**Article II - Activity Types**

Part 1 - Residential Activity Types

**Article III - Facility Types**

Part 1 - Residential Facility Types

**Article II Activity Types**

**Part 1 Residential Activity Types**

17.10.114 Supportive Housing Residential Activities.

17.10.116 Transitional Housing Residential Activities.

**17.10.114 Supportive Housing Residential Activities.**

Supportive Housing Residential Activities include housing: (a) with no limit on length of stay; (b) that is linked to an onsite or offsite service that assist the supportive housing resident in retaining the housing, improving his or her health status, and maximizing his or her ability to live and, when possible, work in the community; and (c) that is occupied by the following target population (as defined in subdivision (g) of Government Code Section 65582):

- A. Adults with low incomes having one or more disabilities, including mental illness, HIV or AIDS, substance abuse, or other chronic health conditions and may, among other populations, include adults, emancipated minors, families with children, elderly persons, young adults aging out of the foster care system, individuals exiting from institutional settings, veterans, and homeless people; or
- B. Individuals eligible for services provided under the Lanterman Developmental Disabilities Services Act (Division 4.5 (commencing with Section 4500) of the Welfare and Institutions Code), who include individuals with a disability that originated before the individual was eighteen (18) years old, but not including handicapping conditions that are solely physical in nature.

This classification also includes certain activities accessory to the above, as specified in Section 17.10.040. Supportive Housing shall only be subject to those restrictions that apply to other residential dwellings of the same facility type in the same zone (Government Code Section 65583(a)(5)).

**17.10.116 Transitional Housing Residential Activities.**

Transitional Housing Residential Activities (per State of California Government Code 65582(h), as may be amended) include housing configured as rental housing developments, but operated under program requirements that call for the termination of assistance and recirculation of the assisted unit to another eligible program recipient at some predetermined future point in time, which shall be no less than six (6) months from beginning of assistance.

**EXHIBIT A TO THE APRIL 18, 2017 CITY COUNCIL  
AMENDMENTS TO OAKLAND'S SECONDARY UNIT REGULATIONS**

This classification also includes certain activities accessory to the above, as specified in Section 17.10.040. Transitional Housing shall only be subject to those restrictions that apply to other residential dwellings of the same facility type in the same zone (Government Code Section 65583(a)(5)).

**Article III Facility Types**

**Part 1 Residential Facility Types**

17.10.670 Two-Family Dwelling Residential Facilities.

**17.10.670 Two-Family Dwelling Residential Facilities.**

Two-Family Dwelling Residential Facilities include permanently fixed buildings, or those portions thereof, which accommodate or are intended to accommodate Residential Activities and each of which contains two (2) dwelling units; but exclude the One-Family Dwelling with Secondary Unit Residential Facilities described in Section 17.10.650. They also include certain facilities accessory to the above, as specified in Section 17.10.070.

EXHIBIT A TO THE APRIL 18, 2017 CITY COUNCIL  
AMENDMENTS TO OAKLAND'S SECONDARY UNIT REGULATIONS

**Chapter 17.19 RU URBAN RESIDENTIAL ZONES REGULATIONS**

**Sections:**

17.19.040 Permitted and conditionally permitted facilities.

**17.19.040 Permitted and conditionally permitted facilities.**

**Table 17.19.02: Permitted and Conditionally Permitted Facilities**

Facilities	Zones					Additional Regulations
	RU-1	RU-2	RU-3	RU-4	RU-5	
<b>Residential Facilities</b>						
One-Family Dwelling	P	P	P	-(L1)	-(L1)	
One-Family Dwelling with Secondary Unit	P	P	P	-(L1)	-(L1)	17.103.080

**Limitations on Table 17.19.02:**

**L1.** See Chapter 17.114, Nonconforming Uses, for additions and alterations to legal nonconforming Residential Facilities. In the RU-4 and RU-5 Zones, a Secondary Unit is may ~~be permitted~~ when there is an no more than one (1) existing One-Family Dwelling Primary Unit ~~on a lot~~, subject to the provisions of Section 17.103.080.

EXHIBIT A TO THE APRIL 18, 2017 CITY COUNCIL  
AMENDMENTS TO OAKLAND'S SECONDARY UNIT REGULATIONS

**Chapter 17.33 CN NEIGHBORHOOD CENTER COMMERCIAL ZONES REGULATIONS**

**Sections:**

17.33.040 Permitted and conditionally permitted facilities.

**17.33.040 Permitted and conditionally permitted facilities.**

**Table 17.33.02: Permitted and Conditionally Permitted Facilities**

Facilities	Zones				Additional Regulations
	CN-1	CN-2	CN-3	CN-4	
<b>Residential Facilities</b>					
One-Family Dwelling	—(L1)	—(L1)	—(L1)	—(L1)	
One-Family Dwelling with Secondary Unit	—(L1)	—(L1)	—(L1)	—(L1)	17.103.080

**Limitations on Table 17.33.02:**

**L1.** See Chapter 17.114 — Nonconforming Uses, for additions and alterations to legal nonconforming Residential Facilities. A Secondary Unit ~~is~~ may be permitted when there is an ~~no~~ ~~more than one (1) existing One-Family Dwelling Primary Unit~~ on a lot, subject to the provisions of Section 17.103.080.



EXHIBIT A TO THE APRIL 18, 2017 CITY COUNCIL  
AMENDMENTS TO OAKLAND'S SECONDARY UNIT REGULATIONS

**Chapter 17.35 CC COMMUNITY COMMERCIAL ZONES REGULATIONS**

**Sections:**

17.35.040 Permitted and conditionally permitted facilities.

**17.35.040 Permitted and conditionally permitted facilities.**

**Table 17.35.02: Permitted and Conditionally Permitted Facilities**

Facilities	Zones			Additional Regulations
	CC-1	CC-2	CC-3	
<b>Residential Facilities</b>				
One-Family Dwelling	—(L1)	—(L1)	—(L1)(L7)	
One-Family Dwelling with Secondary Unit	—(L1)	—(L1)	—(L1)(L7)	17.103.080

**Limitations on Table 17.35.02:**

**L1.** See Chapter 17.114 — Nonconforming Uses, for additions and alterations to legal nonconforming Residential Facilities. A Secondary Unit ~~is may be~~ permitted when there is an no more than one (1) existing One-Family Dwelling Primary Unit on a lot, subject to the provisions of Section 17.103.080.

**L7.** All new Residential Facilities are prohibited in the CC-3 Zone, except for Secondary Units that meet all requirements set forth in Section 17.103.080 and are located on a lot with an existing One-Family Dwelling, as indicated in Limitation L1 above, and for those facilities serving a permitted or conditionally permitted Emergency Shelter Activity, as indicated in Table 17.35.01.

**Chapter 17.65 HBX HOUSING AND BUSINESS MIX COMMERCIAL ZONES REGULATIONS**

**Sections:**

17.65.130 Landscaping, paving, and buffering.

**17.65.130 Landscaping, paving, and buffering.**

- A. Submittal and approval of a landscaping and buffering plan for the entire site is required for the establishment of a new building facility (see Section 17.09.040 for definition), excluding Secondary Units, ~~of five hundred (500) square feet or less,~~ and for additions to existing building facilities of over five hundred (500) square feet.
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 (1) 15-gallon tree, or substantially equivalent landscaping as approved by the Director of City Planning, for every twenty-five (25) 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 (6½) feet, the trees shall be street trees to the satisfaction of the City's Tree Division.
  4. At least one (1) 15-gallon tree in the parking lot for every six (6) parking spaces for projects that involve new or existing parking lots of three thousand (3,000) square feet or greater.
  5. A minimum of five (5) feet of landscaping shall be required adjacent to the front and street side property lines for parking lots of three thousand (3,000) square feet or greater. Where parking stalls face into this required area, the width of the required landscaping area shall be increased by two (2) feet unless wheel stops are installed.

EXHIBIT A TO THE APRIL 18, 2017 CITY COUNCIL  
AMENDMENTS TO OAKLAND'S SECONDARY UNIT REGULATIONS

**Chapter 17.58 CBD CENTRAL BUSINESS DISTRICT ZONES REGULATIONS**

**Sections:**

17.58.050 Permitted and conditionally permitted facilities.

**17.58.050 Permitted and conditionally permitted facilities.**

**Table 17.58.02: Permitted and Conditionally Permitted Facilities**

Activities	Zones				Additional Regulations
	CBD-R	CBD-P	CBD-C	CBD-X	
<b><i>Residential Facilities</i></b>					
One-Family Dwelling	<del>—(L1)</del>	<del>—(L1)</del>	<del>—(L1)</del>	<del>—(L1)</del>	
One-Family Dwelling with Secondary Unit	<del>—P(L1)</del>	<del>—(L1)</del>	<del>—(L1)</del>	<del>—(L1)</del>	17.103.080

**Limitations:**

**L1.** See Chapter 17.114, Nonconforming Uses, for additions and alterations to legal nonconforming Residential Facilities. A Secondary Unit is ~~only~~ permitted when there is an ~~no~~ ~~more than one (1) existing One-Family Dwelling Primary Unit~~ on a lot, subject to the provisions of Section 17.103.080.

**Chapter 17.88 S-9 FIRE SAFETY PROTECTION COMBINING ZONE REGULATIONS**

**Sections:**

17.88.010 Title, Purpose and Applicability.

17.88.020 Definitions.

17.88.030 Zones with which the S-9 Zone may be combined.

17.88.040 Prohibited land uses.

**17.88.010 Title, Purpose and Applicability.**

The intent of the S-9 Fire Safety Protection Combining Zone is to promote the public health, safety and welfare by ensuring that activities that are located, in whole or part, within Very High Fire Hazard Severity Zones, and accessed from streets or cul-de-sacs that do not meet emergency access standards, develop in such a manner as not to be a serious threat to public health or safety.

**17.88.020 Definitions.**

For the purposes of this regulation, the following definitions apply:

A. **Very High Fire Hazard Severity Zones.** Very High Fire Hazard Severity Zones are identified by the California Department of Forestry and Fire Protection (CAL FIRE) within Local Responsibility Areas (LRA), including the City of Oakland. Mapping of Very High Fire Hazard Severity Zones (VHFHSZ) is based on data and models of potential fuels over a given time horizon and their associated expected fire behavior and burn probabilities to quantify the likelihood of vegetation fire exposure to buildings.

**17.88.030 Zones with which the S-9 Zone may be combined.**

The S-9 Zone may be combined with any other zone.

**17.88.040 Prohibited land uses.**

The following land use activities or facilities are prohibited within the S-9 Fire Safety Protection Combining Zone:

A. **Category Two Secondary Units, as defined in Section 17.103.080.**

**Chapter 17.94 S-12 RESIDENTIAL PARKING COMBINING ZONE REGULATIONS**

**Sections:**

- 17.94.030 Activities to which S-12 Zone regulations apply.
- 17.94.040 Off-street parking regulations—Residential Activities.
- 17.94.060 Parking spaces.
- 17.94.070 Maneuvering aisles.

**17.94.030 Activities to which S-12 Zone regulations apply.**

The driveway regulations set forth in Section 17.94.080, the on-street parking regulations set forth in Section 17.94.100, and the related review and approval by the City Traffic Engineer set forth in Section 17.94.120, shall apply to all activities located in the S-12 Zone. All other provisions of the S-12 Zone shall apply only to Residential Activities located in the S-12 Zone and occupying any One-Family Dwelling, ~~One-Family Dwelling with Secondary Unit~~, Two-Family Dwelling, or Multifamily Dwelling Residential Facility. The off-street parking requirements of all other activities located in the S-12 Zone shall be as set forth in Chapter 17.116.

(Ord. 12501 § 66, 2003: prior planning code § 6652)

**17.94.040 Off-street parking regulations—Residential Activities.**

Except as otherwise provided in Sections 17.116.020 and 17.116.030, and subject to the calculation rules set forth in Section 17.116.050, the following amounts of off-street parking are required for all Residential Activities located in the S-12 Zone and occupying any One-Family Dwelling, ~~One-Family Dwelling with Secondary Unit~~, Two-Family Dwelling, or Multifamily Dwelling Residential Facility. Such required parking shall be developed and maintained pursuant to the provisions of Section 17.94.050 through 17.94.090, unless an alternate parking layout is approved pursuant to Section 17.94.110. The special exceptions to parking requirements set forth in Section 17.116.110 shall not apply in the S-12 Zone.

**17.94.060 Parking spaces.**

The requirements of this Section shall apply only to Residential Activities located in the S-12 Zone and occupying any One-Family Dwelling, ~~One-Family Dwelling with Secondary Unit~~, Two-Family Dwelling, or Multifamily Dwelling Residential Facility, and supersede the parking space dimensions set forth in Section 17.116.200 and the tandem space requirements set forth in Section 17.116.240.

- C. Location of Parking Spaces. On any lot located in the S-12 Zone and containing a One-Family Dwelling, ~~One-Family Dwelling with Secondary Unit~~, Two-Family Dwelling, or Multifamily Dwelling Residential Facility, no parking spaces shall be located between the front lot line and the front wall of the facility or its projection across the lot, except upon the granting of a conditional use permit pursuant to the conditional use permit procedure in Chapter 17.134 and upon determination that:

EXHIBIT A TO THE APRIL 18, 2017 CITY COUNCIL  
AMENDMENTS TO OAKLAND'S SECONDARY UNIT REGULATIONS

**17.94.070 Maneuvering aisles.**

The requirements of this Section shall apply only to Residential Activities located in the S-12 Zone and occupying any One-Family Dwelling, ~~One-Family Dwelling with Secondary Unit,~~ Two-Family Dwelling, or Multifamily Dwelling Residential Facility, and supersede the requirements for Maneuvering Aisles set forth in Section 17.116.210.

EXHIBIT A TO THE APRIL 18, 2017 CITY COUNCIL  
AMENDMENTS TO OAKLAND'S SECONDARY UNIT REGULATIONS

**Chapter 17.97 S-15 TRANSIT-ORIENTED DEVELOPMENT ZONES REGULATIONS**

**Sections:**

17.15.050 Permitted and conditionally permitted facilities.

**17.97.050 Permitted and conditionally permitted facilities.**

**Table 17.97.02: Permitted and Conditionally Permitted Facilities**

Facilities	Zones		Additional Regulations
	S-15	S-15W	
<b>Residential Facilities</b>			
One-Family Dwelling	C	—(L2)	
One-Family Dwelling with Secondary Unit	—(L3)	—(L3)	17.103.080

**Limitations on Table 17.97.02:**

**L3.** A Secondary Unit that meets all requirements set forth in Section 17.103.080 may be is permitted in conjunction with an existing One-Family Dwelling in the S-15 and S-15W Zones, or conditionally permitted in conjunction with a new One-Family Dwelling in the S-15 Zone.

EXHIBIT A TO THE APRIL 18, 2017 CITY COUNCIL  
AMENDMENTS TO OAKLAND'S SECONDARY UNIT REGULATIONS

**Chapter 17.101C D-BV BROADWAY VALDEZ DISTRICT COMMERCIAL ZONES  
REGULATIONS**

**Sections:**

17.101C.040 - Permitted and conditionally permitted facilities.

**17.101C.040 - Permitted and conditionally permitted facilities.**

**Table 17.101C.02: Permitted and Conditionally Permitted Facilities**

Facilities	Zones				Combining Zone*	Additional Regulations
	D-BV-1	D-BV-2	D-BV-3	D-BV-4	N	
<b>Residential Facilities</b>						
One-Family Dwelling	-(L1)	-(L1)	-(L1)	-(L1)	-(L1)	
One-Family Dwelling with Secondary Unit	-(L1)	-(L1)	-(L1)	-(L1)	-(L1)	17.103.080

**Limitations on Table 17.101C.02:**

**L1.** See Chapter 17.114 — Nonconforming Uses, for additions and alterations to legal nonconforming Residential Facilities. A Secondary Unit ~~is~~ may be permitted when there is ~~an~~ no ~~more than one (1) existing~~ One-Family Dwelling Primary Unit on a lot, subject to the provisions of Section 17.103.080.



EXHIBIT A TO THE APRIL 18, 2017 CITY COUNCIL  
AMENDMENTS TO OAKLAND'S SECONDARY UNIT REGULATIONS

**Chapter 17.101E D-CE CENTRAL ESTUARY DISTRICT ZONES REGULATIONS**

**Sections:**

17.101E.040 Permitted and conditionally permitted facilities.

17.101E.050 Property development standards.

**17.101E.040 Permitted and conditionally permitted facilities.**

**Table 17.101E.02: Permitted and Conditionally Permitted Facilities**

Facilities	Zones						Additional Regulations
	D-CE-1	D-CE-2	D-CE-3	D-CE-4	D-CE-5	D-CE-6	
<b>Residential Facilities</b>							
One-Family Dwelling	-(L1)	-(L1)	P	-(L1)	-(L1)	-(L1)	
One-Family Dwelling with Secondary Unit	-(L1)	-(L1)	P	-(L1)	-(L1)	-(L1)	17.103.080

**Limitations on Table 17.101E.02:**

**L1.** See Chapter 17.114 - Nonconforming Uses, for additions and alterations to legal nonconforming Residential Facilities. A Secondary Unit ~~is may be permitted~~ when there is an no more than one (1) existing One-Family Dwelling Primary Unit on a lot, subject to the provisions of Section 17.103.080.

**17.101E.050 Property development standards.**

**A. Zone Specific Standards.** Table 17.101E.03 below prescribes development standards specific to individual zones. The number designations in the "Additional Regulations" column refer to the regulations listed at the end of the Table. "N/A" designates the standard is not applicable to the specified zone.

**Table 17.101E.03 Property Development Standards**

**Additional Regulations for Table 17.101E.03:**

**13.** Any new principal residential building or addition over five hundred (500) square feet requires submittal and approval of a landscaping and buffering plan for the entire site, excluding Secondary Units ~~of five hundred (500) square feet or less.~~ The landscaping and buffering plan shall contain the following:

**EXHIBIT A TO THE APRIL 18, 2017 CITY COUNCIL  
AMENDMENTS TO OAKLAND'S SECONDARY UNIT REGULATIONS**

**Chapter 17.101G D-LM LAKE MERRITT STATION AREA DISTRICT ZONES REGULATIONS  
Sections:**

17.101G.040 Permitted and conditionally permitted facilities.

**17.101G.040 Permitted and conditionally permitted facilities.**

**Table 17.101G.02: Permitted and Conditionally Permitted Facilities**

Facilities	Zones					Additional Regulations
	D-LM-1	D-LM-2	D-LM-3	D-LM-4	D-LM-5	
<b>Residential Facilities</b>						
One-Family Dwellings	-(L1)	-(L1)	-(L1)	-(L1)	-(L1)	
One-Family Dwelling with Secondary Unit	<del>-(L1)</del> P(L5)	<del>-(L1)</del> P(L5)	<del>-(L1)</del> P(L5)	<del>-(L1)</del> P(L5)	<del>-(L1)</del> P(L5)	17.103.080
Two-Family Dwelling	P	P(L5)	P(L5)	P(L5)	P(L5)	

**Limitations:**

**L1.** See Chapter 17.114, Nonconforming Uses, for additions and alterations to legal nonconforming Residential Facilities.

**L5.** A Secondary Unit that meets all requirements set forth in Section 17.103.080 is ~~only~~ permitted in conjunction with an existing One-Family Dwelling. Also, a Two-Family Dwelling that meets all applicable requirements set forth in the Planning and Building Codes is ~~only~~ permitted if it is as the result of an approved conversion of an existing One-Family Dwelling.

**Chapter 17.103 SPECIAL REGULATIONS AND FINDINGS FOR CERTAIN USE  
CLASSIFICATIONS**

**Sections:**

Article VI - Residential Facilities

**Article VI Residential Facilities**

17.103.080 One-Family Dwelling with Secondary Unit Residential Facilities.

**17.103.080 One-Family Dwelling with Secondary Unit Residential Facilities.**

~~A. Development Standards.~~ The following regulations shall apply to the construction, establishment, or alteration of Secondary Units wherever permitted, ~~or conditionally permitted,~~ as specified in each individual zone:

A. Regulations Applying to All Secondary Units.

1. Ministerial Approval. An application for a Secondary Unit shall be granted ministerial approval when it complies with all applicable zoning regulations, including but not limited to all provisions in this Section (17.103.080).
2. Occupancy Requirement. Occupancy of a Secondary Unit shall be on a thirty (30) days or longer basis only.
3. Sale of Unit. A Secondary Unit shall not be sold separately from the existing One-Family Dwelling Facility on the same lot.
4. Parking Configuration. If a covered parking structure is demolished to construct a Secondary Unit, any required replacement parking may be located in any configuration (including covered, uncovered, tandem or mechanical lift).
5. Fire Sprinklers. A Secondary Unit shall not be required to provide fire sprinklers if they are not required for the existing One-Family Dwelling Facility on the same lot.
6. Compliance with Building and Fire Codes. Unless specified otherwise, a Secondary Unit shall comply with all code and permit requirements imposed by other affected departments, including but not limited to, the requirement for a building permit.

B. Category One: Secondary Units Entirely within an Existing One-Family Dwelling Facility or Existing Detached Accessory Structure.

1. Definition. Category One Secondary Units are those that are located entirely within a One-Family Dwelling Facility or detached accessory structure that was legally in existence prior to January 1, 2017; and involve no expansion of the existing building envelope. Other defining characteristics of Category One Secondary Units are: a) independent exterior access from the existing One-Family Dwelling Facility, and b) existing side and rear setbacks sufficient for fire safety.
2. Exemption from Nonconformity Regulations. An application for a Category One Secondary Unit shall be granted ministerial approval when it is entirely within the building envelope of a One-Family Dwelling Facility or detached accessory structure

**EXHIBIT A TO THE APRIL 18, 2017 CITY COUNCIL  
AMENDMENTS TO OAKLAND'S SECONDARY UNIT REGULATIONS**

that was legally in existence prior to January 1, 2017, regardless of the normally required prohibition on residential living quarters within a detached accessory structure located in a minimum Yard or Court in Subsection K. of Section 17.108.130; and regardless of any existing nonconformity as to setback or height of the detached accessory structure or primary dwelling facility.

3. Utility Connections. A new or separate utility connection shall not be required directly between a Category One Secondary Unit and the utility, and no related connection fee or capacity charge shall be required.
4. Parking. Regardless of any provisions to the contrary in the applicable individual zone regulations and in Chapter 17.116, no additional parking shall be required for a Category One Secondary Unit.

**C. Category Two: All Other Secondary Units.**

1. Definition. Category Two Secondary Units are those that: a) are not entirely within the building envelope of a One-Family Dwelling Facility or detached accessory structure that was legally in existence prior to January 1, 2017; and b) involve either construction of a new structure, or an exterior addition to an existing structure. ~~Other Uses on Property.~~ A Secondary Unit shall only be permitted on a lot that contains one (1) primary dwelling unit. A Secondary Unit may be approved and constructed at the same time or after the approval and construction of the primary dwelling unit.
2. ~~Sale of Unit.~~ A Secondary Unit shall not be sold separately from the primary dwelling unit on the same lot.
23. Maximum Permitted Floor Area. The floor area of a Category Two Secondary Unit shall not exceed eight hundred (800) ~~seven hundred fifty (750)~~ square feet or seventy-five percent (75%) of the floor area of the primary dwelling unit, whichever is less, ~~except that Secondary Units of up to five hundred (500) square feet in floor area are permitted regardless of the size of the primary dwelling unit.~~
34. Required Parking. Except as specified in Subsection a. below, the minimum parking requirements for a Category Two Secondary Unit shall be as prescribed in the applicable individual zone regulations and in Chapter 17.116. Tandem parking may be permitted according to the regulations in Section 17.116.240.
  - a. Secondary Units that are located on sites within: (i) one-half (1/2) mile of a public BART Station, BRT Station, or Major Transit Stop; (ii) an Area of Primary Importance (API) or Area of Secondary Importance (ASI), as defined in the Historic Preservation Element of the General Plan; one-half (1/2) mile of a designated rapid bus line not located on Telegraph Avenue; (iii) an area where on-street parking permits are required but not offered to the occupant of a Secondary Unit; one-quarter (1/4) mile of a designated rapid bus line located on Telegraph Avenue; or (iv) one (1) block of a dedicated car share parking space one-half (1/2) mile of the transit hub at the intersection of Lakeshore Avenue and Lake Park Avenue shall have no additional parking requirement. For the purposes of this Chapter, a "Major Transit Stop" is defined consistent with California Public Resources Code Section 21064.3, as may be amended; and means a site containing an existing rail transit station, a ferry terminal served by either a bus or rail transit service, or the intersection of two (2) or more major bus routes with a frequency of service interval of fifteen (15) minutes or less during the morning and afternoon peak commute periods.

EXHIBIT A TO THE APRIL 18, 2017 CITY COUNCIL  
AMENDMENTS TO OAKLAND'S SECONDARY UNIT REGULATIONS

- ~~b. For new or newly legalized Secondary Units established after the effective date of this Subsection and located within a Residential Parking Permit area, a Residential Parking Permit shall not be issued to the occupant(s) of the Secondary Unit except that the verified occupant(s) of the Secondary Unit may be issued no more than one (1) of the permits associated with the primary dwelling unit. This Subsection only applies to Secondary Units located on sites near transit as defined in Subsection a. above.~~
- 45. Setbacks.** Except as specified in Subsections a. and b. below, in Subsection 6. Below, for the conversion of existing detached accessory structures, the minimum setback requirements for a Category Two Secondary Unit shall be as prescribed in the applicable individual zone regulations; or as prescribed for a
- a. A detached Category Two Secondary Unit that conforms to the provisions located within a minimum Yard or Court in Subsection U. of Section 17.108.130 is allowed to project into or locate within the minimum side or rear yard, but no closer than four (4) feet from the side or rear lot line, and only if the facility also conforms to the following restriction in and the first paragraph of Section 17.108.130:
    - i. In no case shall more than fifty percent (50%) of the horizontal area of any required minimum rear yard be covered by facilities, other than trees, that extend more than six (6) feet above grade.
  - b. A Category Two Secondary Unit located above a garage and conforming with maximum height and all other applicable regulations shall not be required to have a side or rear setback of more than five (5) feet.
- ~~6. Conversion of an Existing Detached Accessory Structure. A detached accessory structure legally in existence prior to the effective date of this amended Code Section and located outside of the front yard setback, may be converted into a Secondary Unit, regardless of the normally required prohibition on residential living quarters within a detached accessory structure located in a minimum Yard or Court in Subsection K. of Section 17.108.130, or any existing nonconformity as to side setback, rear setback, or height, as long as:~~
- ~~a. The existing structure is not modified or added to in any way that increases the level of nonconformity with all applicable zoning regulations, including but not limited to, all provisions in this Section;~~
  - ~~b. The floor area of the resulting Secondary Unit does not exceed the maximum allowed in this Section; and~~
  - ~~c. The minimum parking requirement can be met on site.~~
- ~~7. Fire Flow and Water Pressure. A Secondary Unit may be permitted only if the fire flow and water pressure in the adjoining street meets the minimum requirements as determined by the Fire Marshal.~~
- 58. Emergency Access—Multiple Vehicular Outlets.** A Category Two Secondary Unit shall only may be permitted only on a lot which has frontage on a through street, or a dead-end street that has a total length of less than six hundred (600) three hundred (300) feet. For the purposes of this Subsection, the total length of a dead-end street shall be the distance from the intersection with the nearest through street to the farthest opposite end of the street right-of-way, or private access easement (as defined by Section 16.32.010 of the Oakland Municipal Code) if the private access easement is connected to said dead-end street.

EXHIBIT A TO THE APRIL 18, 2017 CITY COUNCIL  
AMENDMENTS TO OAKLAND'S SECONDARY UNIT REGULATIONS

- ~~69. **Emergency Access—Minimum Pavement Width.** A Category Two Secondary Unit shall only ~~may be permitted only~~ if all streets connecting the lot to the nearest arterial street (as designated by the City of Oakland General Plan Land Use and Transportation Element) have a minimum pavement width of at least ~~twenty-four (24) feet~~. The ~~minimum pavement width limitation may be reduced to a minimum of twenty (20) feet~~, upon the granting of a conditional use permit, pursuant to the criteria in Subsection B. of this Section, and the conditional use permit procedure in Chapter 17.134.~~
- ~~40. **Public Sanitary Sewer.** A Secondary Unit may be permitted only if it is served by a public sanitary sewer.~~
- ~~744. **Architectural Compatibility.** The Category Two Secondary Unit shall be clearly subordinate to the primary dwelling unit in size and location. Also, the exterior materials of a Category Two Secondary Unit shall match or be visually compatible with that of the primary dwelling unit, including the siding material, roof shape and/or pitch, roofing material, trim material and design, and window types.~~
- ~~12. **Compliance with Building and Fire Codes.** All Secondary Units shall comply with all other code and permit requirements imposed by all other affected departments, including but not limited to, fire separation, sound separation, egress, utility access, and the requirement for a building permit.~~
- ~~843. **Review Procedure.** An application for a Category Two Secondary Unit of up to five hundred (500) square feet shall be granted ministerial approval within one hundred twenty (120) days of receipt as specified in Section 17.136.025 upon confirmation of compliance with all applicable zoning regulations, including but not limited to, all provisions in this Section. The ~~five hundred (500) square foot floor area threshold for a Secondary Unit may only be exceeded, up to a maximum size of seven hundred fifty (750) square feet or seventy-five percent (75%) of the floor area of the primary dwelling unit, whichever is less, upon the granting of Small project design review, pursuant to the Small project design review procedure in Section 17.136.030.~~~~
- ~~94. **Utility Connections.** If a new or separate utility connection is required directly between a Category Two Secondary Unit and the utility, the related connection fee or capacity charge must be proportional to the burden of the Secondary Unit upon the water or sewer system.~~
- ~~B. **Use Permit Criteria for Secondary Units Accessed Via Narrow Streets.** A conditional use permit for a Secondary Unit accessed from the nearest arterial street via a street with a minimum pavement width of between twenty (20) and twenty-four (24) feet may only be granted upon determination that the proposal conforms to the general use permit criteria set forth in the general use permit procedure in Chapter 17.134 and to all of the following additional use permit criteria:~~
- ~~1. That there is adequate emergency access to the lot as determined by the Fire Marshall;~~
  - ~~2. That the portions of the street that have a pavement width of less than twenty-four (24) feet are not located on a dead-end street;~~
  - ~~3. That if on-street parking is permitted on portions of the street that have a pavement width of less than twenty-four (24) feet, that there exist a level and hard surface shoulders with a combined additional width of at least eight (8) feet;~~

**EXHIBIT A TO THE APRIL 18, 2017 CITY COUNCIL  
AMENDMENTS TO OAKLAND'S SECONDARY UNIT REGULATIONS**

- ~~4. That if on-street parking is prohibited on portions of the street that have a pavement width of less than twenty-four (24) feet, that the restricted parking areas are clearly marked with official City installed no parking signs and/or red curbs, pursuant to the provisions of the Oakland Traffic Code (Title 10 of the Oakland Municipal Code).~~

EXHIBIT A TO THE APRIL 18, 2017 CITY COUNCIL  
AMENDMENTS TO OAKLAND'S SECONDARY UNIT REGULATIONS

**Chapter 17.108 GENERAL HEIGHT, YARD, AND COURT REGULATIONS**

**Sections:**

17.108.130 Exceptions to required openness of minimum yards and courts.

**17.108.130 Exceptions to required openness of minimum yards and courts.**

Facilities	Allowed Projection Into or Location Within Minimum Required Yard or Court, Subject to the Further Restrictions Indicated in This Section's First Paragraph (Blanks indicate that facility is not allowed.)				
	Front Yard	Side Yard on Street Side of Corner Lot	Side Yard Along Interior Side Lot Line	Rear Yard (But see coverage limit in first paragraph.)	Court
U. Detached Secondary Units.		<p>Anywhere in above yards, provided that <u>the facility was legally in existence prior to January 1, 2017; or in other cases if:</u></p> <p>1. The facility is <u>located at least six (6) feet from within thirty-five (35) feet of the rear lot line</u> the primary dwelling unit on the lot, and is not located closer than four (4) feet from the side or rear lot line; and</p> <p>2. The wall height of the facility within four (4) feet of the side or rear lot line does not exceed ten (10) feet in height to the top of the plate above finished grade. In areas greater than four (4) feet from the side or rear lot line <u>but within a required yard</u>, the wall height of the facility may only extend above ten (10) feet the extent necessary to allow gable ends, dormers, sheds, or similar roof elements, <del>(any shed roof slopes down toward the closest lot line; if equal distant to nearby lot lines, the</del> <u>with any shed roof sloping</u>es down toward the lot line facing the longest façade); and</p> <p>3. The roof height, for roofs with a maximum 8 in 12 slope, does not exceed fourteen (14) feet above finished grade, except for incidental decorative features or minor appurtenances such as flues.</p>			



**EXHIBIT A TO THE APRIL 18, 2017 CITY COUNCIL  
AMENDMENTS TO OAKLAND'S SECONDARY UNIT REGULATIONS**

**Chapter 17.116 OFF-STREET PARKING AND LOADING REQUIREMENTS**

**Sections:**

Article II - Off-Street Parking Requirements

Article III – Reductions in Required Parking

**Article II Off-Street Parking Requirements**

17.116.060 Off-street parking—Residential Activities.

**17.116.060 Off-street parking—Residential Activities.**

**A. Minimum and Maximum Parking for Permanent and Semi-Transient Residential Activities.**

1. **Minimum Parking.** Except as otherwise provided in Article III and elsewhere in this Title, the following amounts of off-street parking are required for all Permanent and Semi-Transient Residential Activities when located in the indicated zones and occupying the specified facilities:

Residential Facility Type	Zone	Total Required Parking
One-Family Dwelling with Secondary Unit.	<del>RH and RD Zones, except when combined with the S-12 Zone.</del>	<del>One (1) space for the Secondary Unit unless the lot already contains a total of at least three (3) spaces or is located in a transit-accessible area pursuant to Section 17.103.080; however, when combined with the S-11 Zone, the requirement shall be one (1) space for each bedroom in any Secondary Unit, up to a maximum requirement of two (2) spaces per Secondary Unit. See Section 17.103.080.</del>
	CBD, S-2, and D-LM Zones, except when combined with the <u>S-11</u> or S-12 Zone.	No additional space required for the Secondary Unit.

**EXHIBIT A TO THE APRIL 18, 2017 CITY COUNCIL  
AMENDMENTS TO OAKLAND'S SECONDARY UNIT REGULATIONS**

<b>Residential Facility Type</b>	<b>Zone</b>	<b>Total Required Parking</b>
	Any other zone, except when combined with the <u>S-11</u> or <u>S-12</u> Zone.	One (1) space for the Secondary Unit, <u>except that no parking shall be required if located as specified in Section 17.103.080, unless the lot already contains a total of at least two (2) spaces or is located in a transit accessible area pursuant to Section 17.103.080; however, when combined with the S-11 Zone, the requirement shall be one (1) space for each bedroom in any Secondary Unit, up to a maximum requirement of two (2) spaces per Secondary Unit. See Section 17.103.080.</u>
	<u>Any zone combined with the S-11 Zone.</u>	<u>One (1) space for each bedroom in the Secondary Unit, up to a maximum requirement of two (2) spaces per Secondary Unit, except that no parking shall be required if located as specified in Section 17.103.080.</u>
	Any zone combined with the S-12 Zone.	<u>One (1) space for each bedroom in the Secondary Unit, except that no parking shall be required if located as specified in Section 17.103.080. See Section 17.94.040.</u>

**Article III - Exemptions and Reductions in Required Parking**

**17.116.110 Special parking exemptions and reductions.**

The provisions of this Section apply to all facilities and zones in all or specified zones, except One-Family Dwelling, ~~One-Family Dwelling with Secondary Unit~~, Two-Family Dwelling, or Multifamily Dwelling Residential Facilities located within the S-12 Residential Parking Combining Zone, where the provisions of Section 17.94.040 shall apply.

**B. Affordable Housing.** For zones that have a base parking minimum in Section 17.116.060(A) of three-quarter (3/4) space per dwelling unit or more, the parking requirement for affordable housing restricted for low, very low, and moderate income households, (as defined in California Government Code Section 50052.5 and in Oakland Planning Code Section 17.107.020) is the following:

1. One-half (1/2) space per affordable housing unit if within a Transit Accessible Area; and

**EXHIBIT A TO THE APRIL 18, 2017 CITY COUNCIL  
AMENDMENTS TO OAKLAND'S SECONDARY UNIT REGULATIONS**

2. Three-quarters (3/4) space per affordable housing unit if not within a Transit Accessible Area.

**C. Parking Reduction through Demand Management Measures.** The following are the percentages that parking requirements are reduced for Multifamily Dwelling Residential Facilities of ten (10) or more dwelling units through implementation of the listed parking demand management measures. The parking reduction percentages for the demand management measures described below can be added together to create a greater parking reduction, but cannot create more than a fifty percent (50%) reduction. These reductions cannot be combined with the parking reductions described in other Subsections of Article III, except for the reduction described in Subsection B, above. A notice describing the demand management measure(s) required shall be permanently posted in a common area of the building such as a lobby or mailroom that is clearly visible to residents.

1. **Transit Accessible Areas.** A project that is within a Transit Accessible Area receives a 30 percent (30%) reduction in the parking requirement. This reduction cannot be applied to the parking ratio for affordable housing that already receives a reduction under B(1), above.

J. Secondary Units. No additional parking shall be required for a Secondary Unit if located as specified in Section 17.103.080.

**Article IV Standards for Required Parking and Loading Facilities**

17.116.240 Tandem spaces and berths.

**17.116.240 Tandem spaces and berths.**

No required loading berths shall be tandem. One required parking space on any lot containing both one (1) unit and fewer than three (3) required off-street parking spaces may be tandem. On any lot containing three (3) or more required off-street parking spaces, or containing required spaces for two (2) or more dwelling units, required parking spaces shall not be tandem, except that:

A. In any zone, tandem parking may be permitted for a One-Family Dwelling with Secondary Unit Residential Facility, unless the City finds that tandem parking is not feasible due to specific topographical conditions.

B. In the S-11 Zone, tandem parking may be permitted for fifty percent (50%) of the required parking spaces for a One-Family Dwelling or One-Family Dwelling with Secondary Unit Residential Facility.

CB. In the S-12 Zone, tandem parking may be permitted for One-Family Dwelling, One-Family Dwelling with Secondary Unit, Two-Family Dwelling, and Multi-family Dwelling Residential Facilities under the provisions of Section 17.94.060.

C. In any zone, except when combined with the S-11 or S-12 Zones, tandem parking may be permitted for two (2) of the required spaces on a lot containing a One-Family Dwelling with Secondary Unit Residential Facility if the floor area of the Secondary Unit does not exceed the maximum allowed in Section 17.103.080.

**EXHIBIT A TO THE APRIL 18, 2017 CITY COUNCIL  
AMENDMENTS TO OAKLAND'S SECONDARY UNIT REGULATIONS**

**Chapter 17.136 DESIGN REVIEW PROCEDURE**

**Sections:**

17.136.025 Exemptions from design review.

17.136.030 Small project design review.

**17.136.025 Exemptions from design review.**

- A. Applicability. A proposal will be exempt from design review if it meets each of the provisions set forth below. All such determinations are final and not appealable:
  - 2. The proposal does not require ~~Regular~~ ~~Design~~ ~~Review~~, a conditional use permit or variance, pursuant to the zoning regulations of Title 17 of the Oakland Planning Code;
- B. Definition. The following types of work are exempt from design review, pursuant to all provisions in Section 17.136.025(A):
  - 1. Additions or Alterations.
    - d. ~~Secondary Units of five hundred (500) square feet or less on a lot with only one existing or proposed primary dwelling unit, pursuant to all regulations in Section 17.103.080;~~

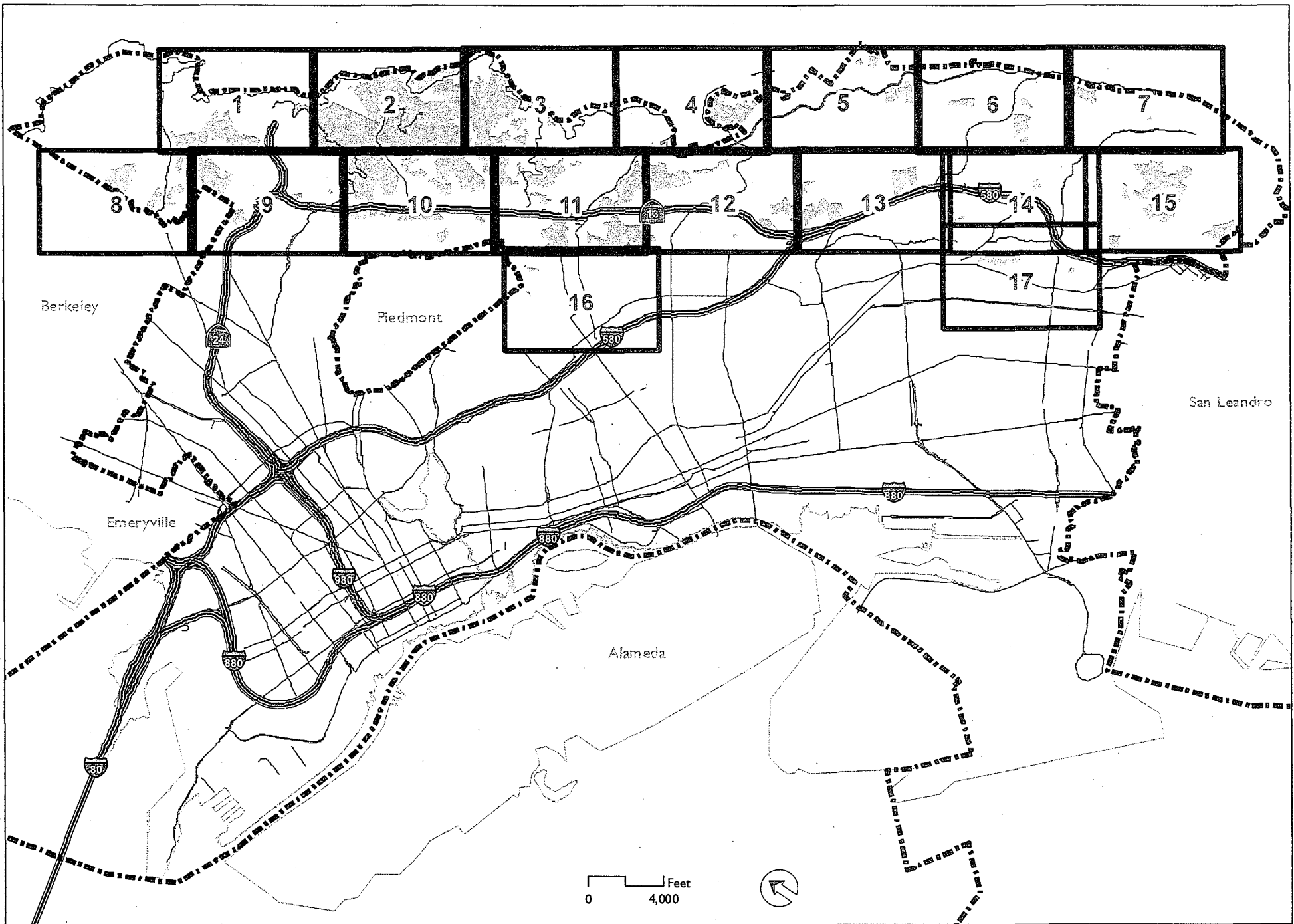
**17.136.030 Small project design review.**

- B. Definition of "Small Project". Small Projects are limited to one or more of the following types of work:
  - 1. Additions or Alterations.
    - d. ~~Secondary Units of more than five hundred (500) square feet in floor area, but not exceeding seven hundred fifty (750) square feet or seventy five percent (75%) of the floor area of the primary dwelling unit, whichever is less, pursuant to all regulations in Section 17.103.080;~~
    - de. For Commercial, Civic, or Industrial Facilities and the non-residential portions of mixed-use development projects, changes to storefronts or street-fronting facades, such as: (i) replacement or construction of doors, windows; bulkheads and nonstructural wall infill, or (ii) restoration of documented historic fabric.

**EXHIBIT B**

**TO THE APRIL 18, 2017 CITY  
COUNCIL**

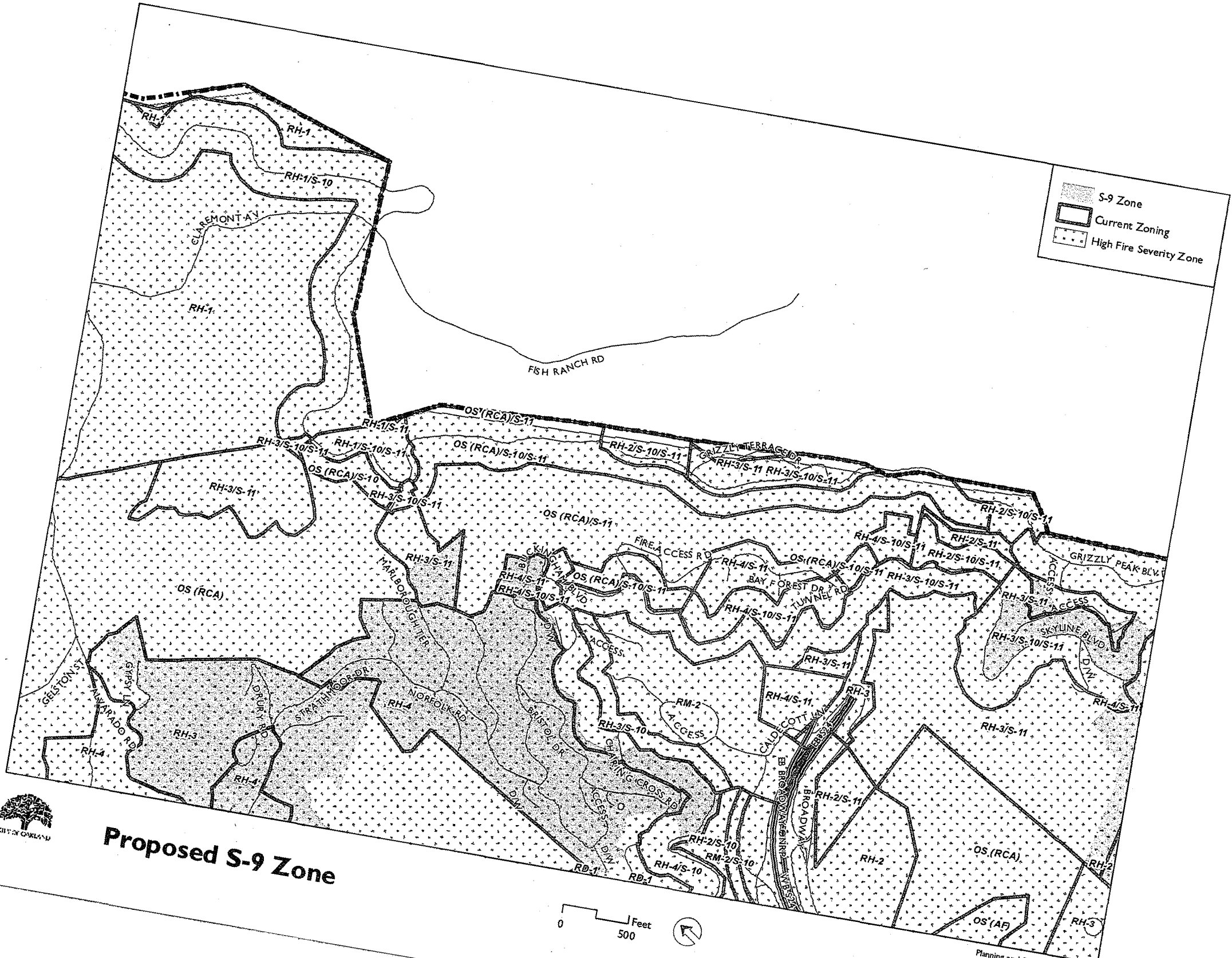
**AMENDMENTS TO OAKLAND'S  
SECONDARY UNIT  
REGULATIONS**

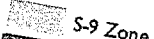

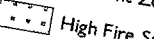


# Proposed S-9 Zone

Planning and Building Department  
March 2017

Index Map



 S-9 Zone  
 Current Zoning  
 High Fire Severity Zone

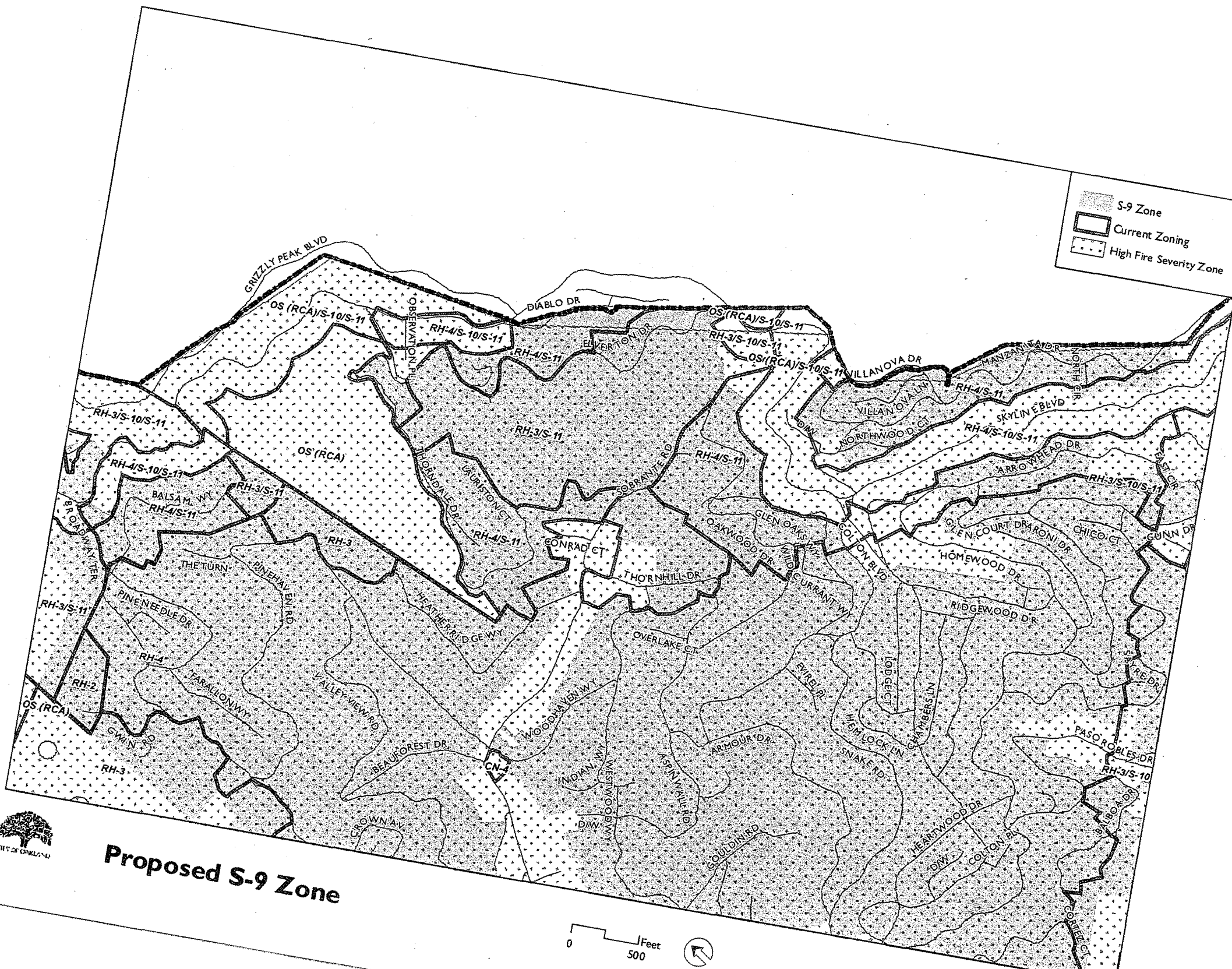
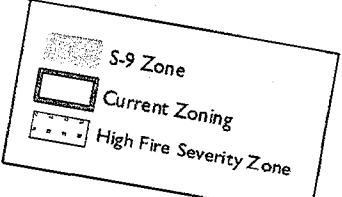


**Proposed S-9 Zone**



Planning and Building Department  
March 2017

**Map I**

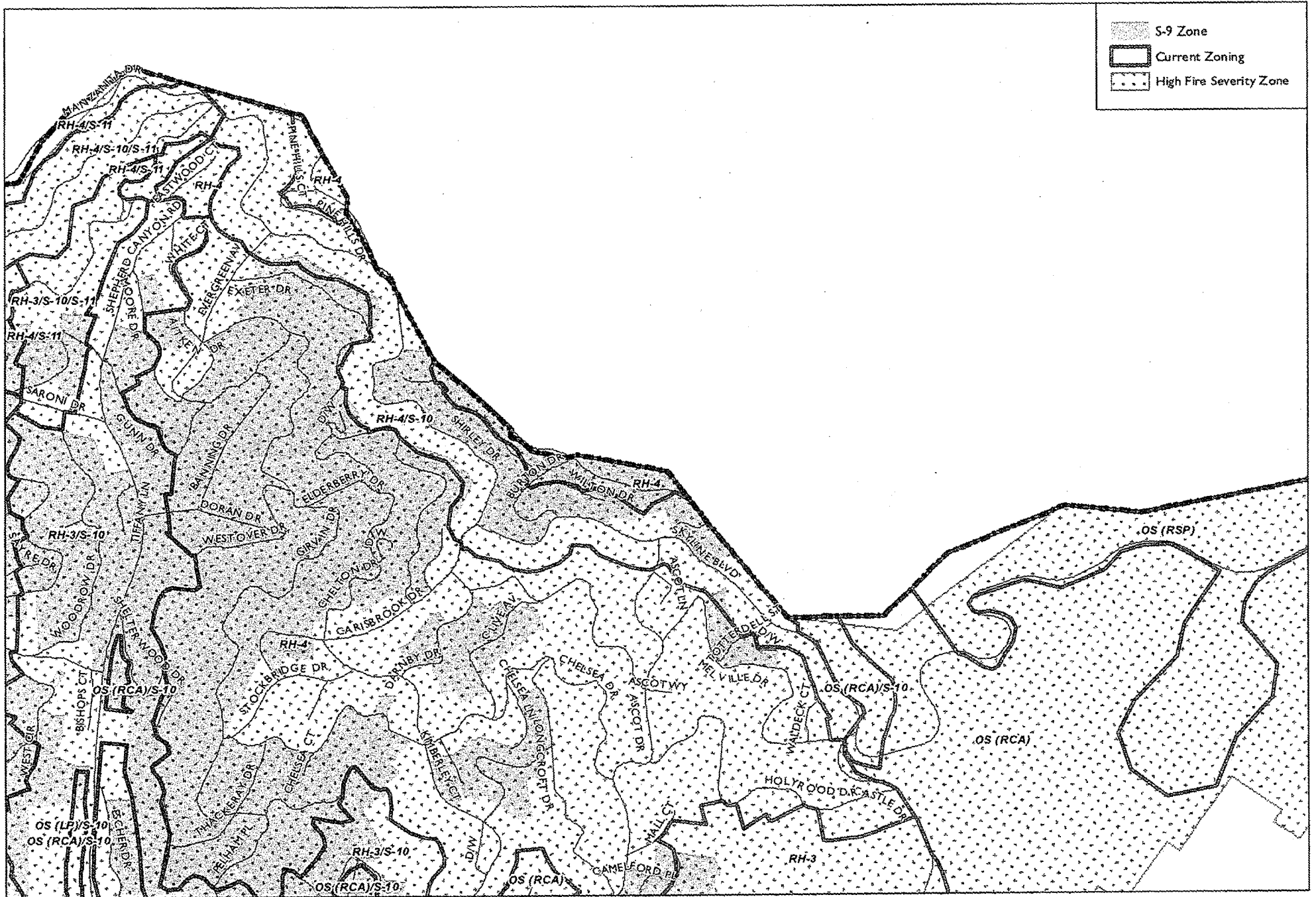


# Proposed S-9 Zone



Planning and Building Department  
March 2017





Planning and Building Department  
March 2017

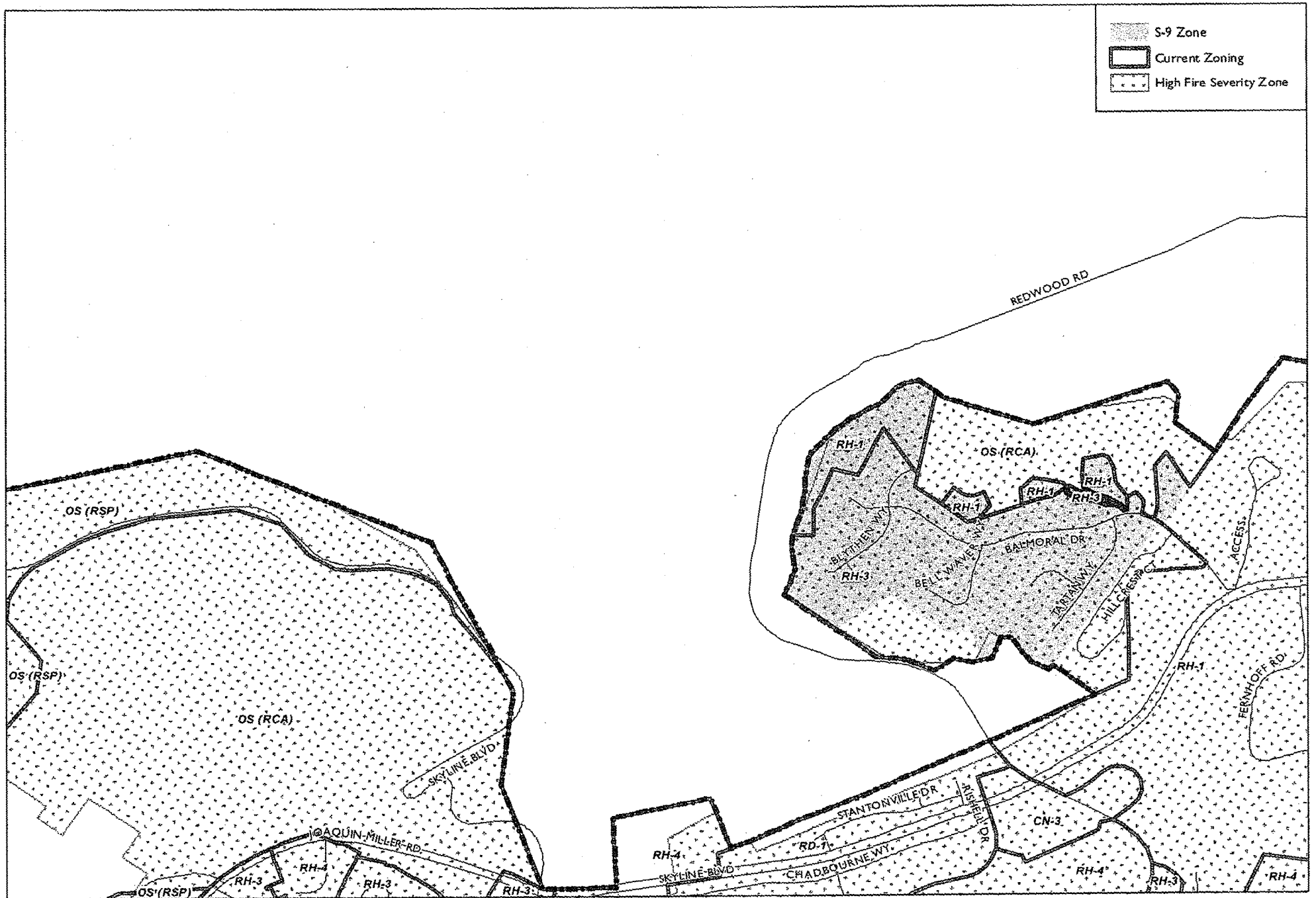


## Proposed S-9 Zone

0 500 Feet



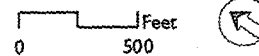
Map 3



Planning and Building Department  
March 2017



# Proposed S-9 Zone



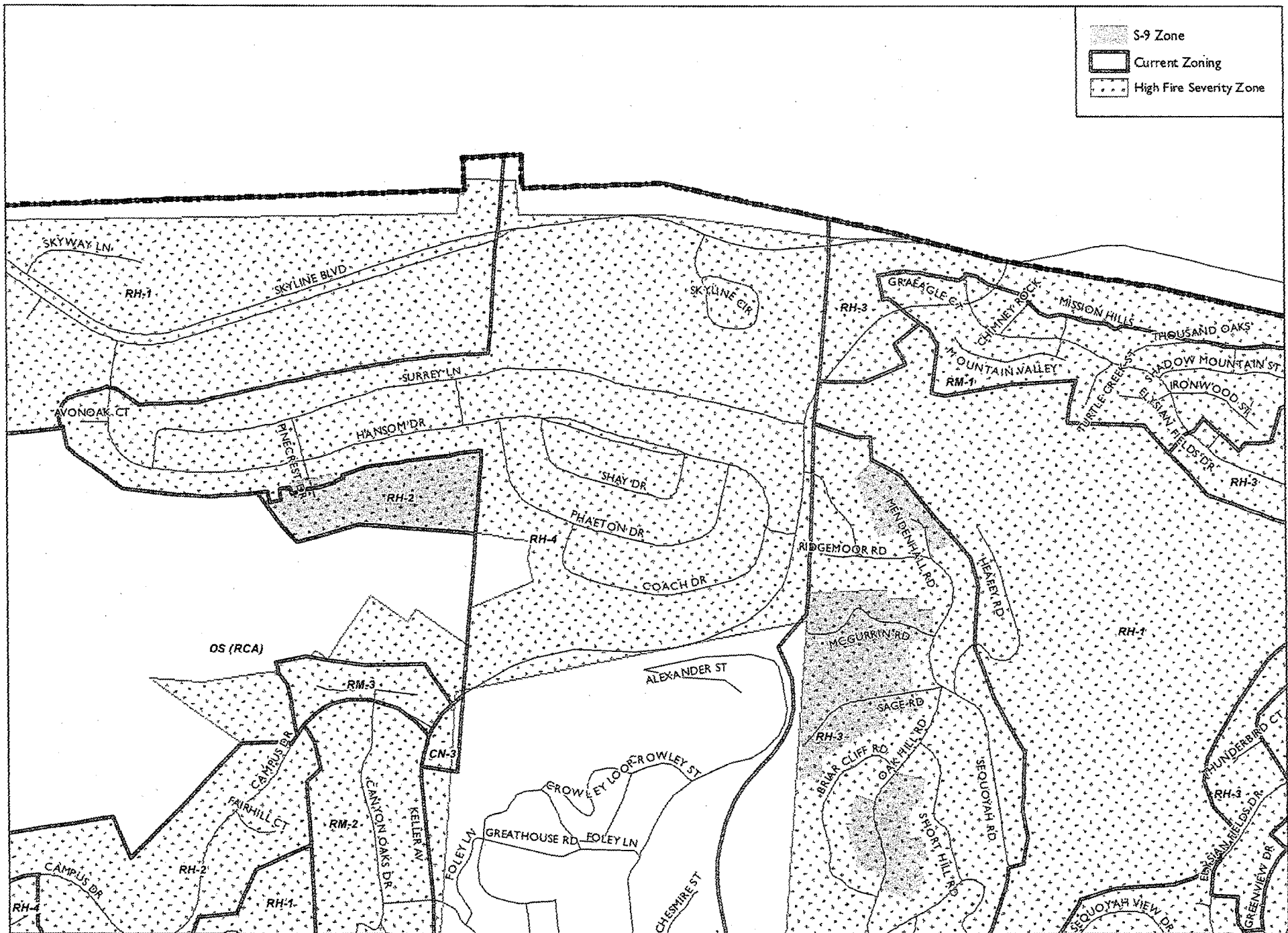


CITY OF OAKLAND

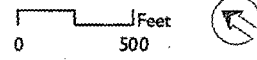
# Proposed S-9 Zone



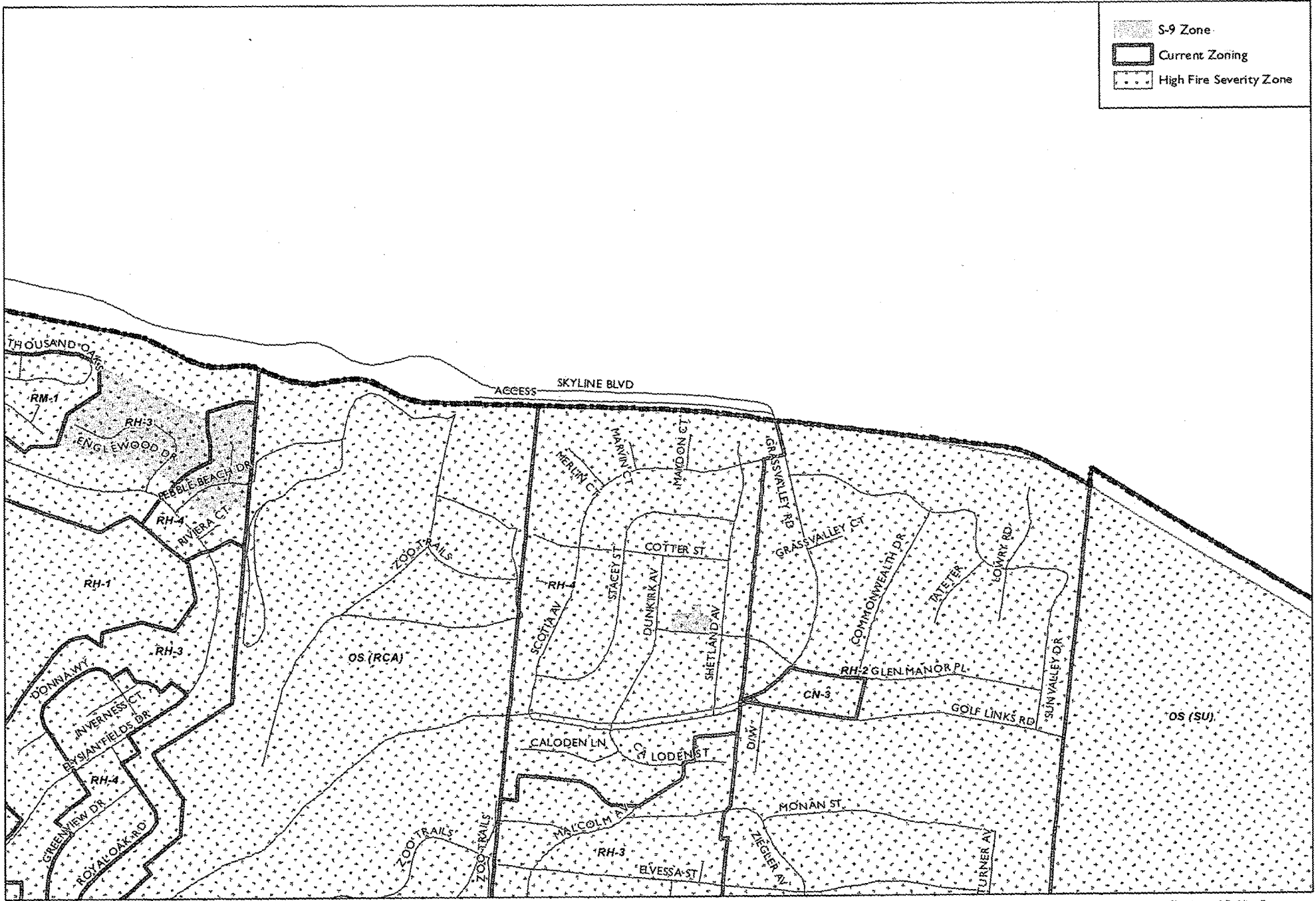
Planning and Building Department  
March 2017



# Proposed S-9 Zone



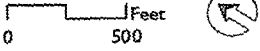
Planning and Building Department  
March 2017

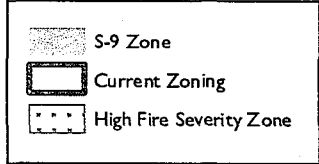


Planning and Building Department  
March 2017

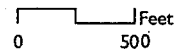


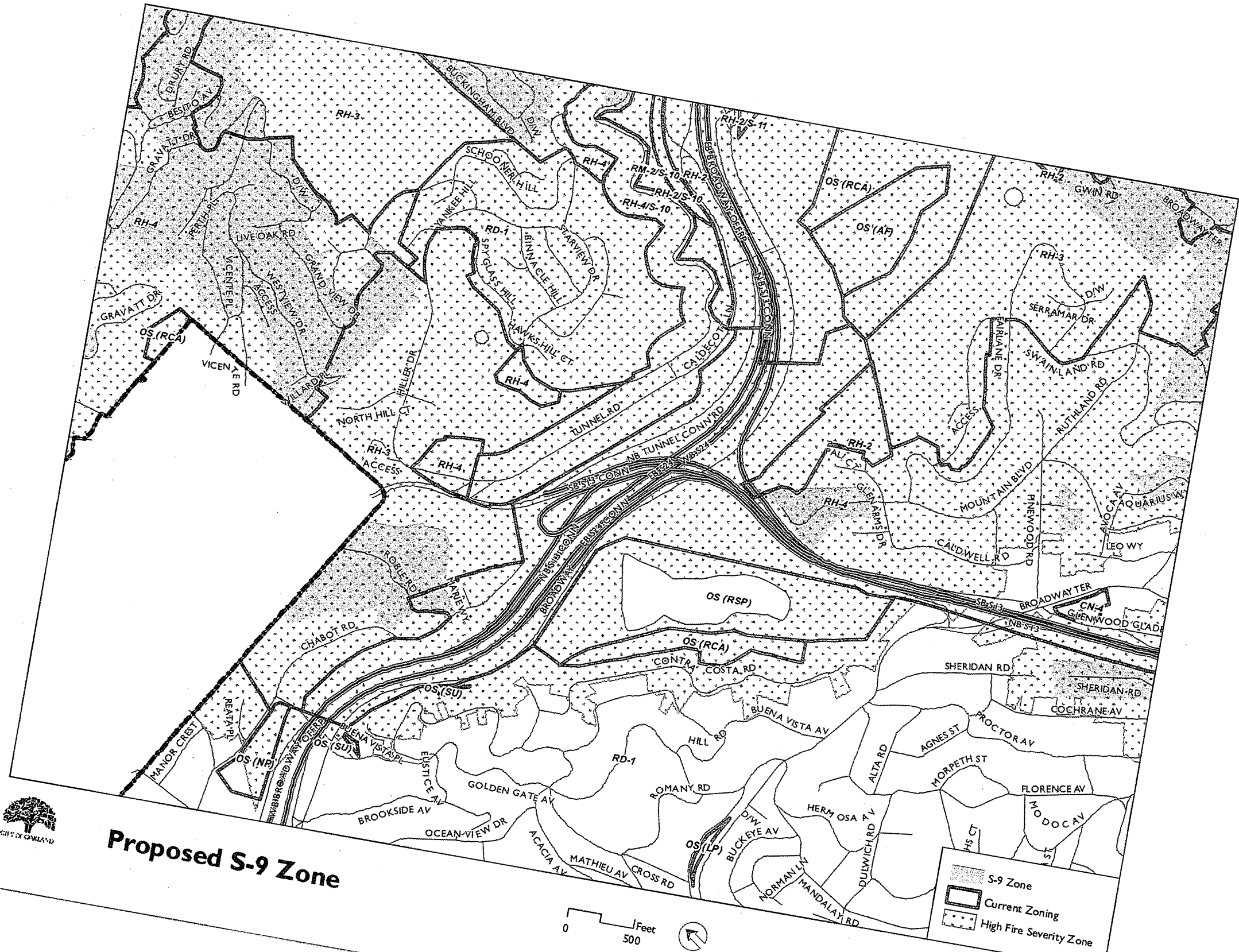
**Proposed S-9 Zone**





# Proposed S-9 Zone

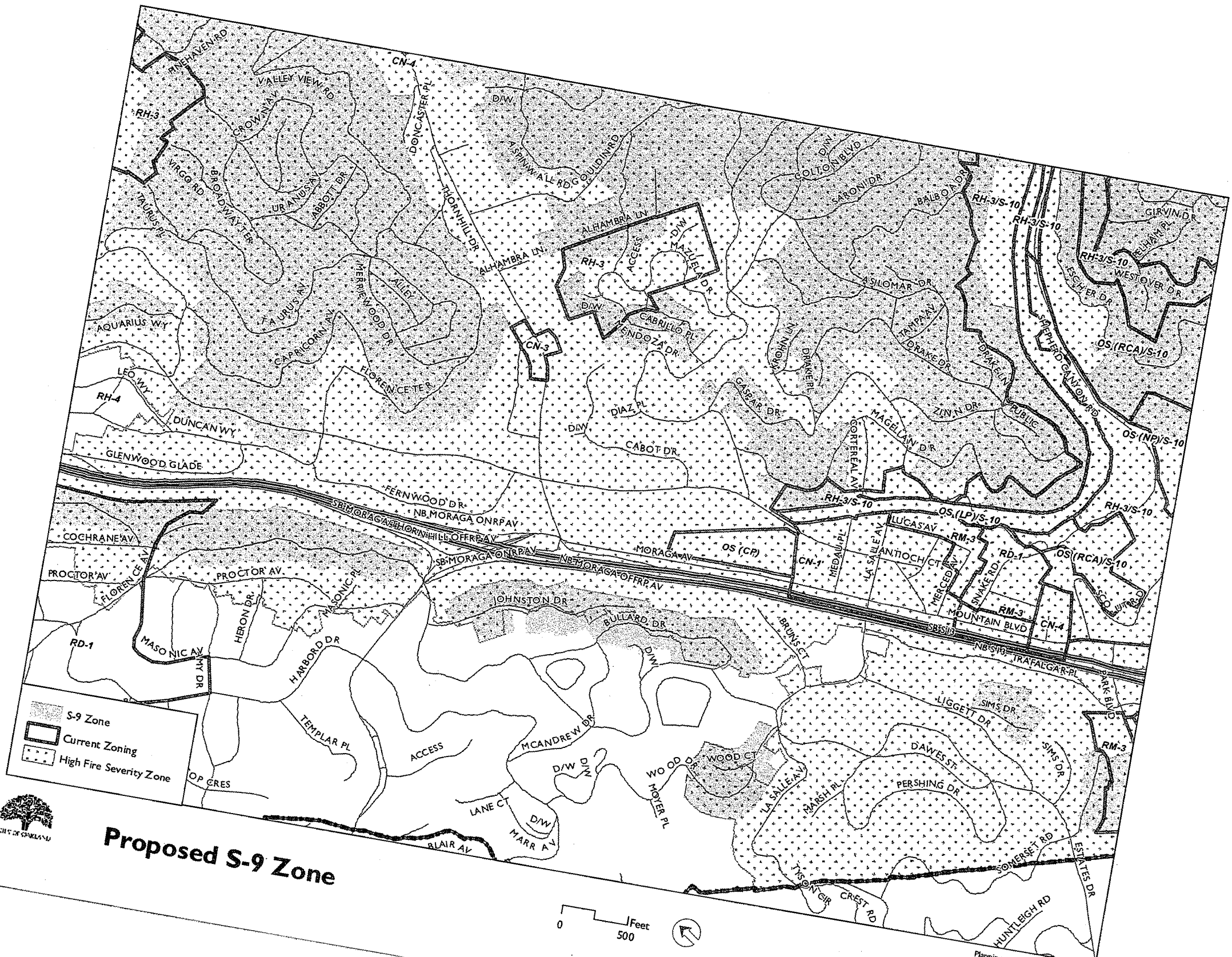




# Proposed S-9 Zone



Planning and Building Department  
March 2017






**Proposed S-9 Zone**

Planning and Building Department  
 March 2017

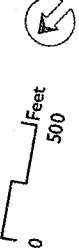




-  S-9 Zone
-  Current Zoning
-  High Fire Severity Zone

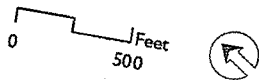


# Proposed S-9 Zone

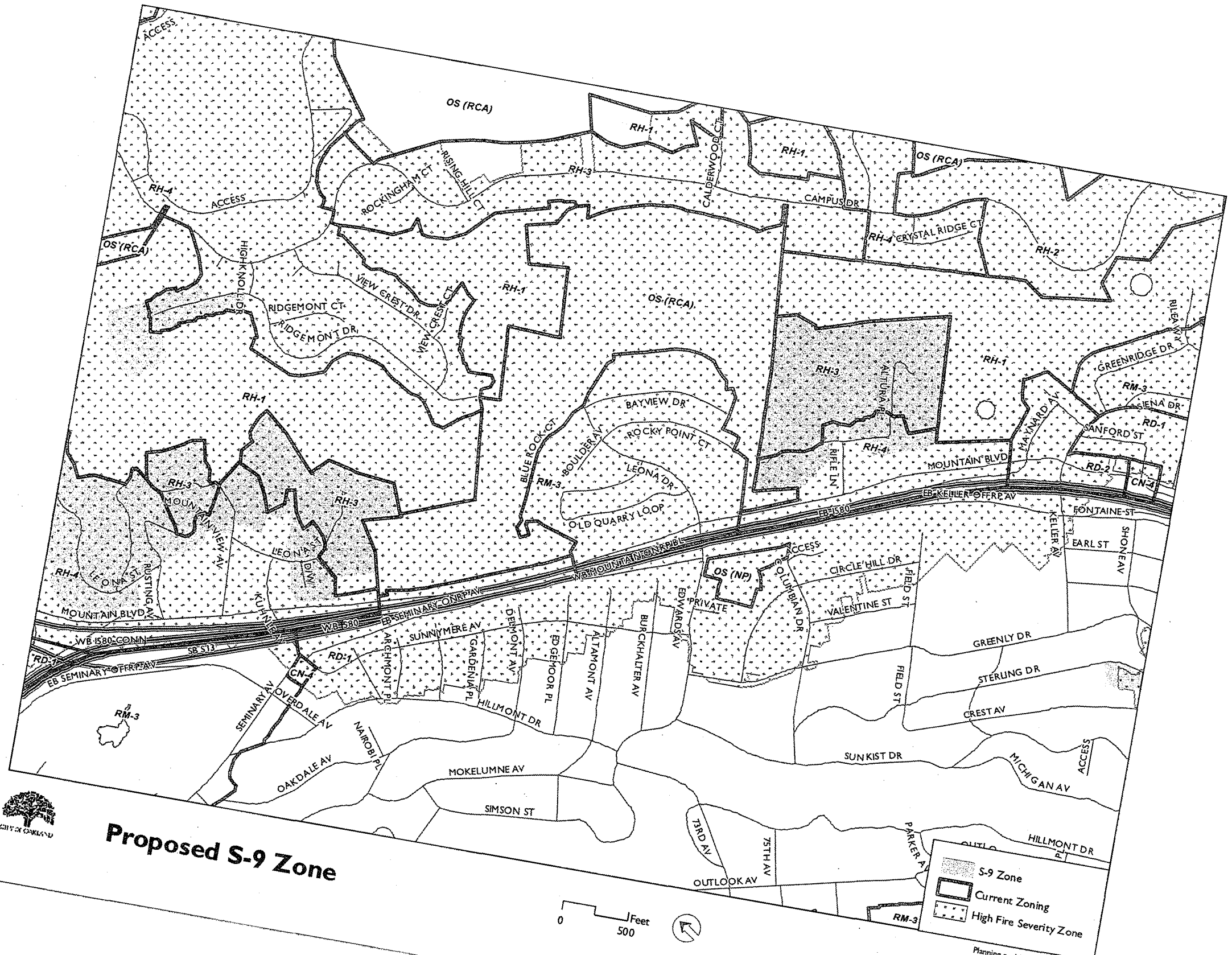




**Proposed S-9 Zone**



Planning and Building Department  
March 2017



# Proposed S-9 Zone

	S-9 Zone
	Current Zoning
	High Fire Severity Zone

Planning and Building Department  
March 2017



# Proposed S-9 Zone



Planning and Building Department  
March 2017



# Proposed S-9 Zone



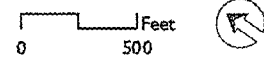
Planning and Building Department  
March 2017

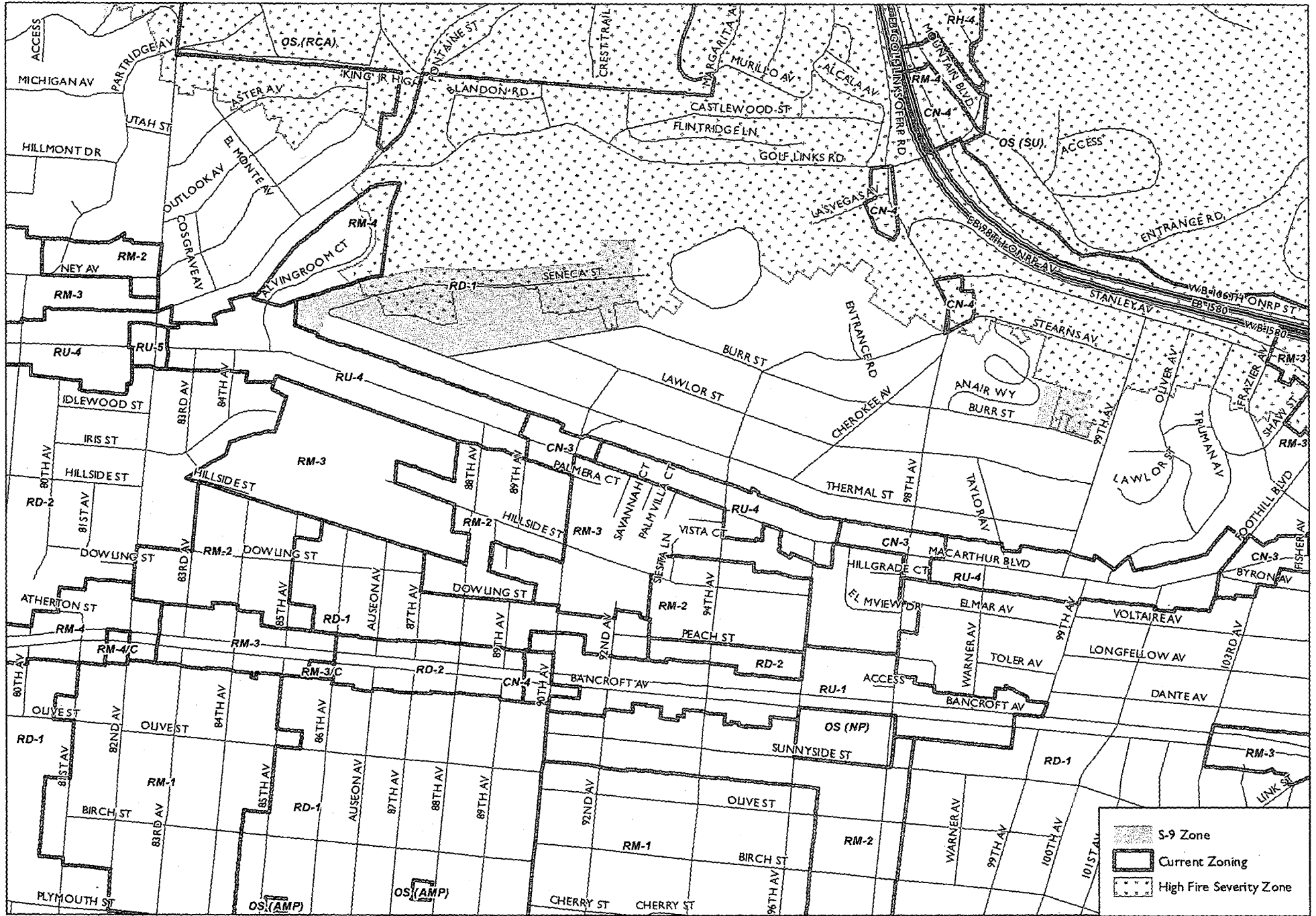


Planning and Building Department  
March 2017



# Proposed S-9 Zone

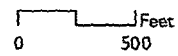




Planning and Building Department  
March 2017



# Proposed S-9 Zone



## NOTICE AND DIGEST

**AN ORDINANCE, AS RECOMMENDED BY THE CITY PLANNING COMMISSION, AMENDING THE OAKLAND PLANNING CODE TO: 1) REVISE REGULATIONS FOR SECONDARY UNITS TO COMPLY WITH STATE LAW; 2) CREATE AND MAP A NEW ZONING OVERLAY THAT IDENTIFIES AREAS IN THE CITY WHERE NEW CATEGORY TWO SECONDARY UNITS ARE NOT PERMITTED; 3) MAKE MINOR CHANGES IN VARIOUS CHAPTERS OF THE PLANNING CODE; AND 4) MAKE APPROPRIATE CALIFORNIA ENVIRONMENTAL QUALITY ACT DETERMINATIONS**

This Ordinance would amend Secondary Unit regulations in the Oakland Planning Code to comply with changes in State law, including but not limited to: creation of two separate categories of Secondary Units: "Category One" - those entirely within the building envelope of an existing One-Family Dwelling Facility or detached accessory structure; and "Category Two" - those that involve construction of a new structure or an addition to the building envelope of an existing structure; ministerial approval of all Secondary Units; elimination of parking requirements for all "Category Two" Secondary Units when located: within one-half mile of a public transit stop, in an historic district, in an area where on-street parking permits are required but not offered to the occupant of the secondary unit, or within one block of a dedicated car share space; allowance for tandem parking and other parking configurations; elimination of requirements for separate utility connections for "Category One" Secondary Units; and elimination of requirements for fire sprinklers if the primary unit does not require them. Amendments are also proposed beyond the minimum required by State law to further reduce the regulatory barriers to the development of Secondary Units.

Secondly, this Ordinance would create a new Zoning Map overlay (S-9) that identifies areas in the city where the street pavement width and/or cul-de-sac length are not conforming to minimum emergency access standards; and such narrow streets and long cul-de-sacs are located, in whole or part, in a designated "Very High Fire Hazard Severity Zone". The initial purpose of this new zoning overlay would be to prohibit new "Category Two" Secondary Units in specific areas due to impacts on traffic flow and public safety.

Finally, the Ordinance includes miscellaneous minor changes throughout the Planning Code intended to improve consistency, reduce redundancies, and clarify language, such as the addition of a definition for the term "Transit Accessible Area" to Section 17.09.040 of the Planning Code. The City has a need for this definition unrelated to Secondary Units, since it is a currently undefined term in Section 17.116.110 - Special Parking Exemptions and Reductions - which is part of the new parking regulations recently adopted by City Council.