

**CITY OF OAKLAND**  
**AGENDA REPORT**

OFFICE OF THE CITY CLERK

2006 OCT 16 PM 5:07

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

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

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

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

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**SUMMARY**

The first supplemental staff report regarding the proposed HBX zones stated a community meeting was held in District 1 on September 28, 2006 that would require modifications to the HBX proposal. Concerns at this meeting included the maximum height allowed on Lowell Street, side setback regulations, and design review appeals to the City Council. This supplemental report describes staff recommendations regarding these concerns. The supplemental report also addresses a few minor typographical errors in the proposed text amendments.

**KEY ISSUES AND IMPACTS**

The following is a list of recommendations regarding the HBX proposal:

1. Staff recommends correcting a typographical error in the table listing allowed activities. That table shows that Automotive Servicing and Automotive Repair and Cleaning are conditionally permitted activities in the HBX-1 zone. The table was intended to show these as prohibited activities while allowing expansion of existing facilities with a conditional use permit. Staff further recommends not allowing any expansion of existing automotive repair on Lowell Street in North Oakland. See Attachment A for the proposed changes.

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2. Staff proposes to place the new HBX zones in the table of contents of the Planning Code. This change is contained in Attachment A.
3. At the October 17, 2006 meeting, the community preferred a lower height along Lowell Street than the 45 foot maximum height allowed in the HBX-2 zone. The community believed that 45 foot tall buildings would overwhelm the street and surrounding lower scale development. Therefore, staff recommends designating this area as HBX-1, where there is a 30 foot height limit. This change is shown in Attachment B.
4. The community expressed concerns that there were no prescribed side setback regulations in the HBX zones to protect the light and air of single family homes. Staff avoided prescriptive setback requirements because the varied development patterns and mix of activities in HBX zones makes prescribed zoning standards with stringent regulations impractical and cumbersome. With these varied contexts, each regulation in a traditional zoning ordinance would require confusing exceptions, use permits, and findings that would complicate the process and still not provide clear direction to developers and staff. Staff instead proposes a flexible guidelines manual to direct development location.

Staff believes that the community concerns are addressed in this Design Guideline Manual. Guideline 1.5—Design interior side setbacks that provide appropriate light and air to neighboring residential development—provides a detailed menu of methods to protect the light and air of small scale residential properties. These methods include:

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

This method also provides flexibility to place building mass where it least impacts small scale residential development and towards industrial and commercial facilities or larger scale residential development.

The full text of Guideline 1.5 is shown in Attachment C.

5. Concerns were also expressed regarding Council's ability to hear appeals of design review decisions. The Regular Design Review appeal process proposed for the HBX zones are the same as that for the rest of the zones: projects 25,000 square feet or larger are decided by the

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*Planning Commission and can be appealed to the Council; projects less than 25,000 square feet are decided administratively and can only be appealed to the Planning Commission. Similarly, appeals for projects requiring variances or conditional use permits that are decided administratively can only be appealed to the Planning Commission.*

Planning staff is currently proposing revisions to the design review process that includes changes to the appeal process. Staff recommends that the Council review the Regular Design Review appeal procedure for all the zones with this proposal. Staff does not recommend that an exception be made for the HBX zones in the current design review procedures because these types of exceptions make the zoning ordinance more complicated and cumbersome than it already is. Also, making an exception for the HBX zones would make small additions appealable to the Council, crowding already busy City Council agendas. By keeping the threshold at 25,000 square feet, only moderately sized projects could be appealed to the Council (25,000 square feet is the size of a small market or about a 15 to 20 unit apartment building).

#### **RECOMMENDATION(S) AND RATIONALE**

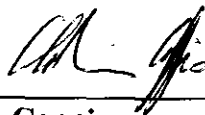
Staff recommends adopting the proposed modifications to the zoning maps and zoning adopting the proposed amendments to the zoning text, General Plan map, zoning maps, and the document "Guidelines for Determining Project Conformity with the General Plan and Zoning Regulations".

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**ACTION REQUESTED OF THE CITY COUNCIL**

Staff recommends that the City Council approve the attached modifications to the HBX proposal.

Respectfully submitted,



**Claudia Cappio**  
Development Director, CEDA

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

APPROVED AND FORWARDED TO THE  
CITY COUNCIL

  
**Office of the City Administrator**

Attachments:

- A. Changes to the proposed zoning text.
- B. Changes to the proposed zoning map.
- C. Excerpt from the *Design Guideline Manual* relating to interior side setbacks.

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**ATTACHMENT A**  
Changes to the Proposed Zoning Text

(Changes are highlighted; additions are underlined; deletions are in ~~strikeout~~)

**TITLE 17**

**PLANNING**

**Chapters:**

- 17.01 General Provisions of Planning Code and General Plan Conformity
- 17.03 City Planning Commission
- 17.05 Landmarks Preservation Advisory Board
- 17.07 Title, Purpose and Scope of the Zoning Regulations
- 17.09 Definitions
- 17.10 Use Classifications
- 17.11 OS Open Space Zoning Regulations
- 17.11 R-1 One Acre Estate Residential Zone Regulations
- 17.12 R-10 Estate Residential Zone Regulations
- 17.14 R-20 *Low Density Residential Zone Regulations*
- 17.16 R-30 One-Family Residential Zone Regulations
- 17.18 R-35 Special One-Family Residential Zone Regulations
- 17.20 R-36 Small Lot Residential Zone Regulations
- 17.22 R-40 Garden Apartment Residential Zone Regulations
- 17.24 R-50 Medium Density Residential Zone Regulations
- 17.26 R-60 Medium-High Density Residential Zone Regulations
- 17.28 R-70 High Density Residential Zone Regulations
- 17.30 R-80 *High-Rise Apartment Residential Zone Regulations*
- 17.32 R-90 Downtown Apartment Residential Zone Regulations
- 17.34 C-5 Neighborhood Commercial Zone Regulations
- 17.36 C-10 Local Retail Commercial Zone Regulations
- 17.38 C-20 Shopping Center
- 17.40 C-25 Office Commercial Zone Regulations
- 17.42 C-27 Village Commercial Zone Regulations
- 17.44 C-28 Commercial Shopping District Zone Regulations
- 17.46 C-30 District Thoroughfare Commercial Zone Regulations
- 17.48 C-31 Special Retail Commercial Zone Regulations
- 17.50 C-35 District Shopping Commercial Zone Regulations
- 17.52 C-36 Gateway Boulevard Service Commercial Zone Regulations
- 17.54 C-40 Community Thoroughfare Commercial Zone Regulations
- 17.56 C-45 Community Shopping Commercial Regulations
- 17.58 C-51 Central Business Service Commercial Zone Regulations
- 17.60 C-52 Old Oakland Commercial Zone Regulations
- 17.62 C-55 Central Core Commercial Zone Regulations
- 17.64 C-60 City Service Commercial Zone Regulations
- 17.65 Housing and Business Mix (HBX) Commercial Zones Regulations

**17.65.030 Permitted and conditionally permitted activities.**

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

“P” designates permitted activities in the corresponding zone.

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

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

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

Activity	Regulations			Additional Regulations
	HBX-1	HBX-2	HBX-3	
<b>Residential Activities</b>				
Permanent Residential	P	P	P	
Residential Care occupying a One-Family Dwelling Residential Facility	P	P	P	17.102.212
Residential Care not occupying a One-Family Dwelling Residential Facility	C	C	C	17.102.212
Service-Enriched Permanent Housing	C	C	C	17.102.212
Transitional Housing	C	C	C	17.102.212
Emergency Shelter	C	C	C	17.102.212
Semi-Transient Residential	C	C	C	17.102.212
<b>Civic Activities</b>				
Essential Service	C	C	C	
Limited Child-Care	P	P	P	
Community Assembly	P(L1)	P(L1)	P(L1)	
Community Education	C	C	C	
Nonassembly Cultural	P(L2)	P(L2)	P(L2)	
Administrative	P(L2)	P(L2)	P(L2)	
Health Care	C	C	C	
Special Health Care	C	C	C	17.102.410
Utility and Vehicular	C	C	C	
Extensive Impact	C	C	C	
Telecommunication	C	C	C	17.128
<b>Commercial Activities</b>				
General Food Sales	P(L3)	P(L3)	P(L3)	
Convenience Market	C	C	C	17.102.210
Fast-Food Restaurant	--	--	--	
Alcoholic Beverage Sales	C	C	C	17.102.210
Convenience Sales and Service	P	P	P	
Mechanical or Electronic Games	C	C	C	17.102.210
Medical Service	P(L2)	P(L2)	P(L2)	
General Retail Sales	P	P	P	
Large-Scale Combined Retail and Grocery Sales	--	--	--	
General Personal Service	P	P	P	
Consultative and Financial Service	P(L2)	P(L2)	P(L2)	
Check Cashier and Check Cashing	--	--	--	
Consumer Laundry and Repair Service	P	P	P	
Group Assembly	C	C	C	
Administrative	P(L2)	P(L2)	P(L2)	
Business and Communication Service	P	P	P	
Retail Business Supply	P	P	P	
Research Service	P(L2)(L4)	P(L2)(L4)	P(L2)(L4)	

Activity	Regulations			Additional Regulations
	HBX-1	HBX-2	HBX-3	
General Wholesale Sales	P(L2)	P(L2)	P(L2)	
Transient Habitation	--	--	--	17.102.370
Construction Sales and Service	P(L5)	P(L5)	P(L5)	
Automotive Sales, Rental, and Delivery	--	--	--	
Automotive Servicing	C--(L6)	--	--	
Automotive Repair and Cleaning	C--(L6)	--	--	
Automotive Fee Parking	--	--	--	
Transport and Warehousing	P(L7)	P(L7)	P(L7)	
Animal Care	C(L8)	C(L8)	C(L8)	
Undertaking Service	--	--	--	
Scrap Operation	--	--	--	17.102.210
<b>Manufacturing activities</b>				
Custom Manufacturing	P(L2)	P(L2)	P(L2)	17.120
Light Manufacturing	P(L2)(L4)	P(L2)(L4)	P(L2)(L4)	17.120
General Manufacturing	--	--	--	
Heavy Manufacturing	--	--	--	
Small Scale Transfer and Storage Hazardous Waste Management	--	--	--	
Industrial Transfer/Storage Hazardous Waste Management	--	--	--	
Residuals Repositories Hazardous Waste Management	--	--	--	
<b>Agricultural and Extractive activities</b>				
Plant Nursery	C	C	C	
Crop and Animal raising	--	--	--	
Mining and Quarrying Extractive	--	--	--	
<b>Accessory off-street parking serving prohibited activities</b>	C	C	C	17.102.110

**Limitations:**

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




terminals, corporation yards, truck terminals, and truck services as primary activities are not permitted. Also, see Section 17.65.050 for special regulations regarding self storage establishments.

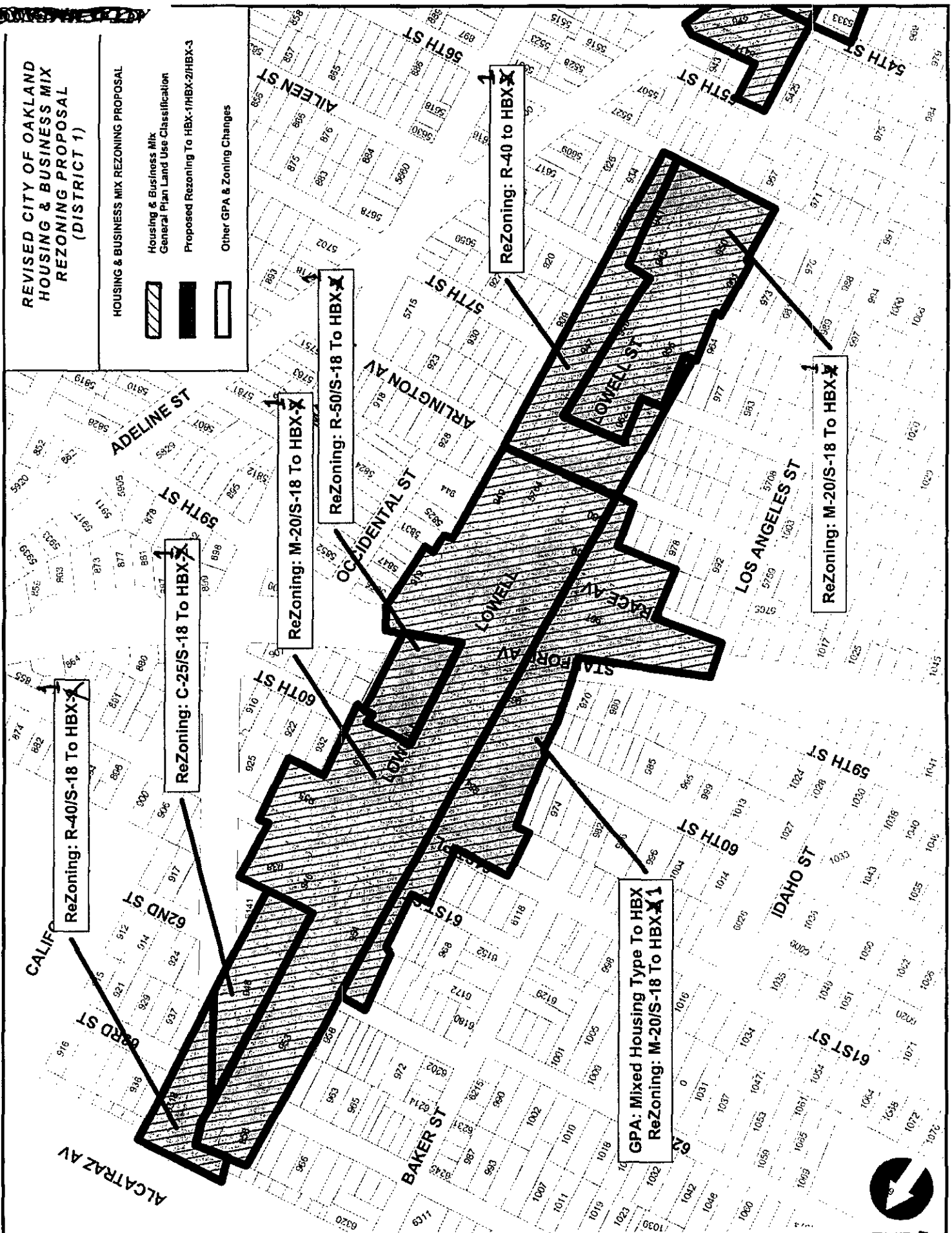
*L8- Dog or cat kennels are not permitted.*



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

HOUSING & BUSINESS MIX REZONING PROPOSAL

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



ReZoning: R-40/S-18 To HBX

ReZoning: C-25/S-18 To HBX

ReZoning: M-20/S-18 To HBX

ReZoning: R-50/S-18 To HBX

ReZoning: R-40 to HBX

GPA: Mixed Housing Type To HBX  
ReZoning: M-20/S-18 To HBX 1

ReZoning: M-20/S-18 To HBX



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

**HOUSING & BUSINESS MIX REZONING PROPOSAL**



Housing & Business Mix  
General Plan Land Use Classification



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



Other GPA & Zoning Changes

GPA: Mixed Housing Type To HBX  
ReZoning: M-20/S-18 To HBX-1

ReZoning: M-20/S-18 To HBX-1

GPA: HBX to Mixed  
Housing Type Residential;  
No Zoning Change,  
Remains R-40/S-18

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

GPA: HBX to Mixed  
Housing Type  
Residential; No  
Zoning Change,  
Remains R-40/S-18

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

GPA: HBX to Mixed  
Housing Type Residential;  
No Zoning Change,  
Remains OS(AMP)/S-18

GPA: Mixed Housing Type To HBX  
ReZoning: M-40 To HBX-2

GPA: HBX to Mixed Housing Type Residential;  
No Zoning Change, Remains R-50/S-18

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

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

GPA: Mixed Housing Type To HBX  
ReZoning: C-40 To HBX-2

GPA: Urban Residential To HBX  
ReZoning: C-40 To HBX-2

GPA: Urban Residential & Mixed Housing Type To HBX  
ReZoning: M-30 To HBX-2



DOYLE ST

WATTS ST

## ATTACHMENT C

### Excerpt from the Design Guideline Manual Relating to Interior Side Setbacks

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

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



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

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

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

As a development site becomes narrower and smaller it becomes more challenging to provide mitigations for neighboring properties while preserving development potential. No "one size fits all" solution exists for the varied site contexts that will be found in the HBX zones. Therefore, a designer needs to carefully analyze the site and context and creatively use the design tools described above or other techniques to mitigate the impacts of new development. Further, if the neighboring single family home, duplex, or other structure is eight feet or more

away from the new construction, then no further mitigation is required. Often times, providing this eight foot separation will not be feasible on narrow lots; in this case a developer should employ the methods described in this section. The eight foot separation is not a requirement of these guidelines. However, providing this separation assures a developer that no more mitigation of the light and air to the sides of neighboring homes will be required.

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

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

*Finally, on the narrower lots, a well designed parking podium to the property line may be constructed (see Guideline 8.5 for appropriate wall designs) to the property line to accommodate parking requirements. This podium should be no higher than ten feet unless twelve feet is required to accommodate a mechanical lift.*