

2007 DEC -6 PM 5: 07

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

To: Office of the City/Agency Administrator  
Attn: Deborah Edgerly  
From: Community and Economic Development Agency  
Date: December 18, 2007  
RE: **Supplemental Report And Public Hearing Regarding Adopting An Interim Ordinance Amending the Zoning Regulations for Three Years or Until the City Council Adopts Permanent Regulations to A) Create the S-5 Broadway Retail Frontage Interim Combining Zone Regulations (S-5 Zone) and B) Amend the Zoning Maps to Include the S-5 Zone on and near Broadway from 23<sup>rd</sup> Street to Hawthorne Avenue.**

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**SUMMARY**

On November 27, 2007, staff presented a report to the Community and Economic Development Agency regarding progress made on the City's retail enhancement strategy, the proposed development of a specific plan for upper Broadway, and an interim set of zoning controls for Broadway between 23<sup>rd</sup> Street and Hawthorne Avenue. At that meeting, these items were presented in the same report. For the December 18, 2007 City Council meeting, the interim zoning proposal is in this staff report; a second supplemental staff report is contained in the same agenda item regarding the progress of the retail enhancement strategy and available funding for a proposed Specific Plan for Upper Broadway.

The interim zoning proposal would give the City an opportunity to develop the Specific Plan designed to create a regional retail center along this stretch of Broadway. The proposed S-5 overlay zone would preserve the ground floor of buildings for storefront businesses that generate pedestrian activities such as retail sales, consumer service businesses, and medical services.

As proposed at the November 27, 2007 CED Committee meeting, new auto repair, auto servicing, and light industrial activities would not be allowed in the proposed overlay zone and new auto sales would be conditionally permitted under very limited circumstances where temporary relocation is required as part of a plan to eventually relocate from Broadway Auto Row. At the meeting, Councilmember Brunner requested that the new regulations allow new auto sales with the granting of a conditional use permit from the City without the requirement for an eventual relocation out of Broadway Auto Row.

This supplemental report addresses this issue.

Item: \_\_\_\_\_  
City Council  
December 18, 2007

## **FISCAL IMPACT**

Staff does not identify any direct additional fiscal impacts from the supplemental proposal.

## **KEY ISSUES AND IMPACTS**

Staff has amended the proposed ordinance to conditionally permit automobile sales without a requirement for an eventual relocation out of Broadway Auto row. This recommendation will provide the City flexibility to evaluate new auto sales proposals for consistency with the retail enhancement strategy and allow new businesses where appropriate. This discretion is important because sales taxes revenue from car sales is a significant revenue source for the City.

Based upon information that came to staff's attention after publication of the original staff report, staff also recommends a few other changes to the ordinance. The only substantive change includes an increase in the minimum height of new ground floor commercial construction from 12 to 14 feet. This additional height creates a more prominent retail presence and a more human scaled ground floor. The remaining changes include grammatical corrections and clarifications in the zoning text, including changing the word "adjacent" to "abut[ing]" which more accurately reflects staff intention to have the regulations apply to contiguous property (thus narrowing the scope of the regulations).

## **DISABILITY AND SENIOR CITIZEN ACCESS**

Any development resulting from the proposed requirements would be required to comply with the Americans with Disabilities Act.

## **RECOMMENDATION AND RATIONALE**

Staff recommends that the City Council adopt the proposed revised ordinance with the changes noted for the reasons described above.

**ACTION REQUESTED OF THE CITY COUNCIL/REDEVELOPMENT  
AGENCY**

Staff recommends that the City Council adopt an ordinance, with changes proposed in this report, amending the Zoning Regulations to: a) create the S-5 Broadway Retail Frontage Interim Combining Zone Regulations (S-5 Zone); and b) amend the Zoning Maps to include the S-5 Zone and near Broadway from 23<sup>rd</sup> Street to Hawthorne Avenue.

Respectfully submitted,

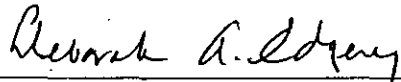


\_\_\_\_\_  
Claudia Cappio, Development Director  
Community and Economic Development Agency

Prepared by:

Neil Gray, Planner III  
Strategic Planning Division, Planning and Zoning

APPROVED FOR FORWARDING TO THE  
COMMUNITY AND ECONOMIC DEVELOPMENT COMMITTEE:



\_\_\_\_\_  
Office of the City/Agency Administrator

2007 DEC -6 PM 5:07

APPROVED AS TO FORM AND LEGALITY

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

City Attorney

## OAKLAND CITY COUNCIL

ORDINANCE No. \_\_\_\_\_ C.M.S.

**INTERIM ORDINANCE AMENDING THE ZONING REGULATIONS FOR THREE YEARS OR UNTIL THE CITY COUNCIL ADOPTS PERMANENT REGULATIONS TO A) CREATE THE S-5 BROADWAY RETAIL FRONTAGE INTERIM COMBINING ZONE REGULATIONS (S-5 ZONE) AND B) AMEND THE ZONING MAPS TO INCLUDE THE S-5 ZONE ON AND NEAR BROADWAY FROM 23<sup>RD</sup> STREET TO HAWTHORNE AVENUE.**

**WHEREAS**, Oakland lacks adequate retail facilities in key categories; experiences a significant degree of retail leakage; community retailing desires are not met, and national retailers are significantly underrepresented in Oakland; and

**WHEREAS**, Oakland stores sell \$1 billion less than Oakland residents demand for comparison retail goods; and

**WHEREAS**, Oakland currently captures only twenty-four percent of the trade area's retail sales for comparison goods, compared to other City's such as San Leandro, Berkeley, and Alameda, which capture about forty-eight percent of their potential retail sales, indicating that Oakland has the potential to capture millions of dollars of sales tax revenue currently leaking out to neighboring cities and a portion of those that leak outside the trade area; and

**WHEREAS**, these conditions exist despite that Oakland is well-positioned to attract retail both geographically and from a standpoint of overall household income; and

**WHEREAS**, on February 6, 2007, the City Council directed staff to enter into a contract with the Conley Consulting Group to conduct a Citywide Retail Recruitment Strategy and Implementation Plan and to initially analyze retail opportunities for Upper Broadway because of properties for sale and probable relocation of existing auto dealerships to the former Oakland Army Base; and

**WHEREAS**, the Conley Consulting Group has outlined strategies for the redevelopment of the Upper Broadway/Auto Row area to create a pedestrian oriented retail center; and

**WHEREAS**, a key component of all the strategies is to adopt a specific plan that would provide

MPW

an area-wide set of development regulations and requirements that would accommodate new retail development and infrastructure improvements to the Upper Broadway/Auto Row area; and

**WHEREAS**, the existing zoning regulations are inadequate and otherwise contrary to the public interest and an interim ordinance is necessary to assure that the ground floor of new and existing construction is preserved for pedestrian oriented retail businesses until such time that a specific plan is adopted; and

**WHEREAS**, adoption of Chapter 17.81 of the Oakland Planning Code (S-5 Broadway Retail Frontage Interim Combining Zone) would assure that the ground floor of new and existing construction is preserved for pedestrian oriented retail businesses until such time that a specific plan is adopted; and

**WHEREAS**, the Zoning Update Committee at its meeting of October 17, 2007 recommended forwarding the proposed Chapter 17.81 (S-5 Broadway Retail Frontage Interim Combining Zone Regulations) and recommended approval of the proposal to amend the zoning maps to include the S-5 zone on Broadway from 23<sup>rd</sup> Street to Hawthorne Avenue to the full Planning Commission; and

**WHEREAS**, the Community and Economic Development Committee of the City Council recommended adoption of the S-5 zone with certain modifications after a duly noticed meeting on November 27, 2007; and

**WHEREAS**, the Planning Commission recommended adoption of the S-5 zone to the City Council after a duly noticed public hearing at their November 28, 2007 meeting; and

**WHEREAS**, the provisions of the California Environmental Quality Act (CEQA) have been satisfied and the proposal relies on the following environmental documents to satisfy any requirements under the California Environmental Quality Act (CEQA): the previously certified Final Environmental Impact Report for the Land Use and Transportation Element of the General Plan, adopted 1998 (General Plan EIR) and the Broadway/MacArthur/San Pablo Redevelopment Plan Environmental Impact Report, adopted 2000; and

**WHEREAS**, as a separate and independent basis, the proposal is also exempt from CEQA under CEQA Guidelines section 15061(b)(3), known as the "General Rule", that states a project is exempt from CEQA if there is no possibility that the activity in question will have a significant effect on the environment; now, therefore

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

**Section 1.** The Oakland Planning Code is hereby amended to add a new Chapter 17.81 (S-5 Broadway Retail Frontage Interim Combining Zone Regulations) to the Oakland Planning Code, as detailed in Exhibit A, hereby incorporated by reference.

**Section 2.** The designation and location of zones and zone boundaries on the City of Oakland zoning maps are hereby amended as set forth in Exhibit B.

**Section 3.** This Ordinance complies with the California Environmental Quality Act.

**Section 4.** This Ordinance shall be effective upon adoption, subject to the provisions of Section 216 of the Charter of the City of Oakland, but shall not apply to building/construction-related permits already issued and not yet expired, zoning applications approved by the City and not yet expired, or to zoning applications deemed complete by the City as of the effective date.

**Section 5.** If any provisions of this Ordinance or application thereof to any person or circumstances are held invalid, the remainder of this Ordinance and the application of provisions to other persons or circumstances shall not be affected thereby.

**Section 76.** The recitals are true and correct and an integral part of this ordinance.

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

**PASSED BY THE FOLLOWING VOTE:**

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

NOES-

ABSENT-

ABSTENTION-

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

**REVISED**

**EXHIBIT A**

**AMENDMENTS TO OAKLAND PLANNING CODE**

Chapter 17.81 S-5 Broadway Retail Frontage Interim Combining Zone Regulations is added to the Planning Code to read as follows. Proposed additions to the zone since the November 28, 2007 Community and Economic Development Committee are shown in underline; deletions are shown in strikeout.

“Chapter 17.81 S-5 Broadway Retail Frontage Interim Combining Zone Regulations

**Sections:**

**17.81.010 Title, purpose, and applicability.**

**17.81.020 Expiration for S-5 zone.**

**17.81.030 Zones with which the S-5 zone may be combined.**

**17.81.040 Relationship to base zone.**

**17.81.050 Required design review process.**

**17.81.060 Permitted and conditionally permitted activities.**

**17.81.070 Special regulations regarding facilities on the ground level of principal facilities.**

**17.81.080 Special ground floor height regulation.**

**17.81.090 Building location.**

**17.81.100 Special regulations applying to new construction over 10,000 square feet.**

**17.81.010 Title, purpose, and applicability.**

The provisions of this chapter shall be known as the S-5 Broadway retail frontage interim combining zone regulations. The S-5 zone is intended to create, preserve, and enhance ground level retail opportunities on the commercial areas of Broadway north of the Central Business District. These interim regulations anticipate the adoption of more comprehensive and detailed regulations and a plan to attract retail opportunities on this area of Broadway.

**17.81.020 Expiration for S-5 zone.**

The regulations contained in the S-5 zone shall remain in place and be effective for a continuous period of three years from the date of the adoption of the regulations or until the City Council adopts permanent regulations, whichever comes first.

**17.81.030 Zones with which the S-5 zone may be combined.**

The S-5 zone may be combined with any commercial zone.

**17.81.040 Relationship to base zone.**

The regulations in the S-5 zone are supplementary to the regulations applying in the zone or zones with which the S-5 zone is combined. Whenever any provision of the S-5 zone imposes overlapping or contradictory regulations with those contained in the applicable base zone, or contains restrictions covering any of the same subject

matter, the provision within the S-5 zone shall control, except as otherwise expressly provided in the zoning regulations.

**17.81.050 Required design review process.**

Except for projects that are exempt from design review as set forth in Section 17.136.025, no Local Register Property, Building Facility, ~~Mixed-Use Development~~, Telecommunications Facility, Signs or other associated structure in the S-5 combining zone shall be constructed, established, or altered in exterior appearance, unless plans for the proposal have been approved pursuant to the design review procedure in Chapter 17.136, and when applicable, the Telecommunications regulations in Chapter 17.128, or the Sign regulations in Chapter 17.104.

**17.81.060 Permitted and conditionally permitted activities.**

The following table lists activities permitted, conditionally permitted, and prohibited in the S-5 zone. The descriptions of these activities are contained in Chapter 17.10.

“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 activities that are prohibited in the corresponding zone.

Activity	Regulations	Additional Regulations
<b>Residential Activities</b>		
Permanent Residential	C(L1)	
Residential Care occupying a One-Family Dwelling Residential Facility	C(L1)	17.102.212
Residential Care not occupying a One-Family Dwelling Residential Facility	C(L1)	17.102.212
Service-Enriched Permanent Housing	C(L1)	17.102.212
Transitional Housing	C(L1)	17.102.212
Emergency Shelter	--	17.102.212
Semi-Transient Residential	--	17.102.212
<b>Civic Activities</b>		
Essential Service	P	
Limited Child-Care	C(L1)	
Community Assembly	C(L1)	
Community Education	P(L1)	
Nonassembly Cultural	P	
Administrative	P(L1)	
Health Care	C	
Special Health Care	--	17.102.410
Utility and Vehicular	--	
Extensive Impact	--	
Telecommunication	P	17.128
<b>Commercial Activities</b>		
General Food Sales	P	
Convenience Market	C	17.102.210
Fast-Food Restaurant	C	
Alcoholic Beverage Sales	C	17.102.210
Convenience Sales and Service	P	
Mechanical or Electronic Games	--	17.102.210
Medical Service	P(L2)	
General Retail Sales	P	



Activity	Regulations	Additional Regulations
Large-Scale Combined Retail and Grocery Sales	--	
General Personal Service	P	
Consultative and Financial Service	P	
Check Cashier and Check Cashing	--	
Consumer Laundry and Repair Service	P	
Group Assembly	C	
Administrative	P(L1)	
Business and Communication Service	P	
Retail Business Supply	C	
Research Service	--	
General Wholesale Sales	--	
Transient Habitation	--	17.102.370
Construction Sales and Service	--	
Automotive Sales, Rental, and Delivery	--(L3)	
Automotive Servicing	--	
Automotive Repair and Cleaning	--	
Automotive Fee Parking	C	
Transport and Warehousing	--	
Animal Care	C	
Undertaking Service	--	
Scrap Operation	--	17.102.210
<b>Manufacturing activities</b>		
Custom Manufacturing	--	
Light Manufacturing	--	
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	--	
Crop and Animal raising	--	
Mining and Quarrying Extractive	--	
Accessory off-street parking serving prohibited activities	C	17.102.110

**Limitations:**

- L1- These activities shall not be located on the ground floor of a building on a lot with a property line adjacent that abuts the Broadway right of way except for incidental pedestrian entrances that lead to one of these activities in stories above the ground floor.
- L2- These activities may only be located on the ground floor of a building on a lot with that has a property line adjacent to abutting the Broadway right of way upon the granting of a conditional use permit (see Chapter 17.134), and shall conform to the additional criteria contained in Section 17.25.030. However, incidental pedestrian entrances that lead to one of these activities in stories above the ground floor are permitted without the granting of a conditional use permit.
- L3- Existing businesses legally performing Automotive Sales, Rental, and Delivery Commercial Activities within the S-5 zone may expand and/or relocate within the S-5 zone upon the granting of a conditional use permit. Automotive Sales, Rental, and Delivery Commercial Activities are prohibited in all other instances. A conditional use permit for Automotive Sales, Rental, and Delivery Commercial Activity may be granted only upon determination that the proposal conforms to the general use permit criteria set forth in the conditional use permit procedure in Chapter 17.134 and the following additional criterion:

~~1. That the operation of the activity is temporary and the conditional use permit is required to accommodate the eventual relocation of the business performing the Automotive Sales and Service Activity to a location outside the S-5 zone.~~

**17.81.070 Special regulations regarding facilities on the ground level of principal facilities.**

A. This section shall only apply to lots ~~with that have~~ a property line adjacent ~~abutting to the~~ Broadway right of way.

B. For the purposes of this section, the front of a building shall be that side facing Broadway and is within 50 feet of the lot line ~~adjacent abutting the~~ Broadway right of way.

C. Except upon the granting of a conditional use permit (see subsection E), only principal nonresidential facilities (excluding joint living and working quarters) shall be located within the front thirty (30) feet of the ground floor of any new principal facility located on a corner lot ~~that that is adjacent abuts to the~~ Broadway right of way.

D. Except upon the granting of a conditional use permit (see subsection E), only principal nonresidential facilities (excluding joint living and working quarters) and a maximum one driveway shall be located within the front thirty (30) feet of the ground floor of any new principal facility located on an interior lot that is adjacent abuts the to Broadway right of way. This driveway shall be a maximum nineteen (19) feet in width and lead to parking that is at least thirty feet (30) from the front of the building.

E. Upon the granting of a conditional use permit pursuant to the conditional use permit procedure in Chapter 17.134, twenty (20) percent of the width of the front thirty (30) feet of the ground floor of a new principal facility may contain required parking. This conditional use permit may be granted only upon determination that the proposal conforms to the general use permit criteria set forth in the conditional use permit procedure in Chapter 17.134 and the following additional criterion:

1. That the requirements contained in subsections C or D are infeasible due to lot dimensions, topographic features, or other site constraints.

F. The ground level of Broadway facing facades of new principal facilities shall have a store front appearance defined by at least the following design elements:

1. An ample amount of street-facing ground level building facade comprised of clear, non-reflective windows that allow views of indoor commercial space. This includes:

a. A minimum of sixty (60) percent of the front building facade between 3.5 feet and 10 feet in height comprised of clear, non-reflective windows that allow views of indoor commercial space or product display areas. The total area of the front building facade shall not include the area with the driveway;

b. The bottom of any window or product display window being no more than four (4) feet above the ~~adjacent abutting~~ sidewalk; and

c. Product display windows used to satisfy that are a minimum height of 4.5 feet and internally lighted.

2. A prominent and primary entrance feature facing Broadway; and

3. An area designated for signage.

**17.81.080 Special ground floor height regulation.**

The minimum height from the grade to the ground floor ceiling of newly constructed principal facilities shall be ~~twelve fourteen~~ (14) feet. This regulation does not apply to additions to existing buildings.

**17.81.090 Building location.**

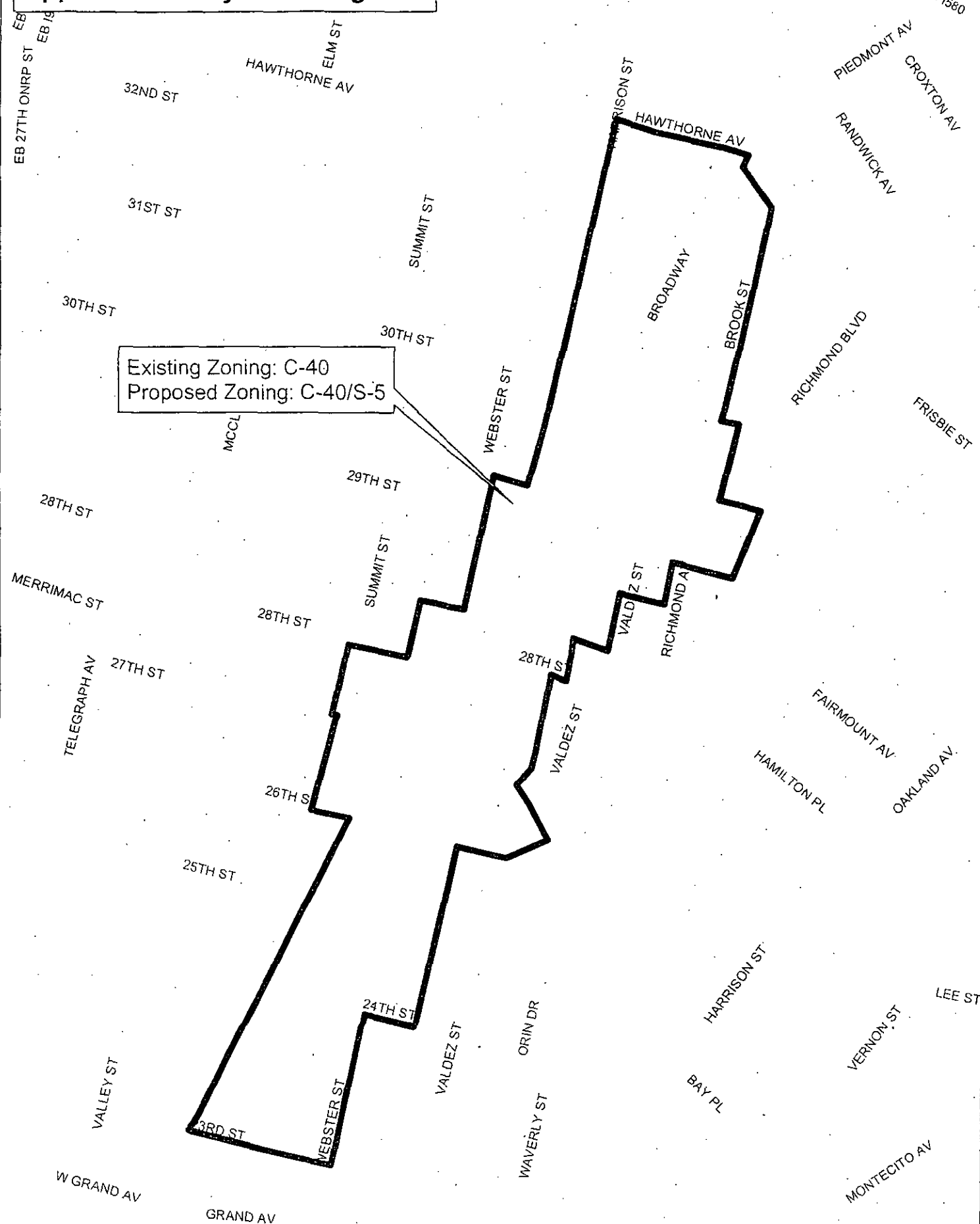
The entire building façade that faces Broadway shall be located within five (5) feet of the sidewalk. This standard shall not apply to plazas, recessed entrances, parks, or space designed to accommodate sidewalk seating areas for restaurants, cafes, and similar businesses. No more than 50 percent of a building frontage shall qualify for the exception for plazas, recessed entrances, or sidewalk seating areas.

**17.81.100 Special regulations applying to new construction over 10,000 square feet.**

New construction shall only exceed ten thousand (10,000) square feet upon the granting of a conditional use permit pursuant to the conditional use permit procedure in Chapter 17.134."

# Exhibit B: Existing & Proposed Upper Broadway Rezoning

Existing Zoning: C-40  
Proposed Zoning: C-40/S-5



2007 DEC -6 PM 5:07

REVISED

APPROVED AS TO FORM AND LEGALITY

*Mark P. Wald*

City Attorney

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

## OAKLAND CITY COUNCIL

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

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**INTERIM ORDINANCE AMENDING THE ZONING REGULATIONS FOR THREE YEARS OR UNTIL THE CITY COUNCIL ADOPTS PERMANENT REGULATIONS TO A) CREATE THE S-5 BROADWAY RETAIL FRONTAGE INTERIM COMBINING ZONE REGULATIONS (S-5 ZONE) AND B) AMEND THE ZONING MAPS TO INCLUDE THE S-5 ZONE ON AND NEAR BROADWAY FROM 23<sup>RD</sup> STREET TO HAWTHORNE AVENUE.**

**WHEREAS**, Oakland lacks adequate retail facilities in key categories; experiences a significant degree of retail leakage; community retailing desires are not met, and national retailers are significantly underrepresented in Oakland; and

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**WHEREAS**, Oakland currently captures only twenty-four percent of the trade area's retail sales for comparison goods, compared to other City's such as San Leandro, Berkeley, and Alameda, which capture about forty-eight percent of their potential retail sales, indicating that Oakland has the potential to capture millions of dollars of sales tax revenue currently leaking out to neighboring cities and a portion of those that leak outside the trade area; and

**WHEREAS**, these conditions exist despite that Oakland is well-positioned to attract retail both geographically and from a standpoint of overall household income; and

**WHEREAS**, on February 6, 2007, the City Council directed staff to enter into a contract with the Conley Consulting Group to conduct a Citywide Retail Recruitment Strategy and Implementation Plan and to initially analyze retail opportunities for Upper Broadway because of properties for sale and probable relocation of existing auto dealerships to the former Oakland Army Base; and

**WHEREAS**, the Conley Consulting Group has outlined strategies for the redevelopment of the Upper Broadway/Auto Row area to create a pedestrian oriented retail center; and

**WHEREAS**, a key component of all the strategies is to adopt a specific plan that would provide

an area-wide set of development regulations and requirements that would accommodate new retail development and infrastructure improvements to the Upper Broadway/Auto Row area; and

**WHEREAS**, the existing zoning regulations are inadequate and otherwise contrary to the public interest and an interim ordinance is necessary to assure that the ground floor of new and existing construction is preserved for pedestrian oriented retail businesses until such time that a specific plan is adopted; and

**WHEREAS**, adoption of Chapter 17.81 of the Oakland Planning Code (S-5 Broadway Retail Frontage Interim Combining Zone) would assure that the ground floor of new and existing construction is preserved for pedestrian oriented retail businesses until such time that a specific plan is adopted; and

**WHEREAS**, the Zoning Update Committee at its meeting of October 17, 2007 recommended forwarding the proposed Chapter 17.81 (S-5 Broadway Retail Frontage Interim Combining Zone Regulations) and recommended approval of the proposal to amend the zoning maps to include the S-5 zone on Broadway from 23<sup>rd</sup> Street to Hawthorne Avenue to the full Planning Commission; and

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**WHEREAS**, the Planning Commission recommended adoption of the S-5 zone to the City Council after a duly noticed public hearing at their November 28, 2007 meeting; and

**WHEREAS**, the provisions of the California Environmental Quality Act (CEQA) have been satisfied and the proposal relies on the following environmental documents to satisfy any requirements under the California Environmental Quality Act (CEQA): the previously certified Final Environmental Impact Report for the Land Use and Transportation Element of the General Plan, adopted 1998 (General Plan EIR) and the Broadway/MacArthur/San Pablo Redevelopment Plan Environmental Impact Report, adopted 2000; and

**WHEREAS**, as a separate and independent basis, the proposal is also exempt from CEQA under CEQA Guidelines section 15061(b)(3), known as the "General Rule", that states a project is exempt from CEQA if there is no possibility that the activity in question will have a significant effect on the environment; now, therefore

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

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**Section 2.** The designation and location of zones and zone boundaries on the City of Oakland zoning maps are hereby amended as set forth in Exhibit B.

**Section 3.** This Ordinance complies with the California Environmental Quality Act.

**Section 4.** This Ordinance shall be effective upon adoption, subject to the provisions of Section 216 of the Charter of the City of Oakland, but shall not apply to building/construction-related permits already issued and not yet expired, zoning applications approved by the City and not yet expired, or to zoning applications deemed complete by the City as of the effective date.

**Section 5.** If any provisions of this Ordinance or application thereof to any person or circumstances are held invalid, the remainder of this Ordinance and the application of provisions to other persons or circumstances shall not be affected thereby.

**Section 6.** The recitals are true and correct and an integral part of this ordinance.

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

**PASSED BY THE FOLLOWING VOTE:**

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

NOES-

ABSENT-

ABSTENTION-

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

**REVISED**

**EXHIBIT A**

**AMENDMENTS TO OAKLAND PLANNING CODE**

Chapter 17.81 S-5 Broadway Retail Frontage Interim Combining Zone Regulations is added to the Planning Code to read as follows.

“Chapter 17.81 S-5 Broadway Retail Frontage Interim Combining Zone Regulations

**Sections:**

**17.81.010 Title, purpose, and applicability.**

**17.81.020 Expiration for S-5 zone.**

**17.81.030 Zones with which the S-5 zone may be combined.**

**17.81.040 Relationship to base zone.**

**17.81.050 Required design review process.**

**17.81.060 Permitted and conditionally permitted activities.**

**17.81.070 Special regulations regarding facilities on the ground level of principal facilities.**

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**17.81.090 Building location.**

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**17.81.020 Expiration for S-5 zone.**

*The regulations contained in the S-5 zone shall remain in place and be effective for a continuous period of three years from the date of the adoption of the regulations or until the City Council adopts permanent regulations, whichever comes first.*

**17.81.030 Zones with which the S-5 zone may be combined.**

The S-5 zone may be combined with any commercial zone.

**17.81.040 Relationship to base zone.**

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**17.81.050 Required design review process.**

Except for projects that are exempt from design review as set forth in Section 17.136.025, no Local Register Property, Building Facility, Telecommunications Facility, Sign or other associated structure in the S-5 combining zone shall be constructed, established, or altered in exterior appearance, unless plans for the proposal have been approved pursuant to the design review procedure in Chapter 17.136, and when applicable, the Telecommunications regulations in Chapter 17.128, or the Sign regulations in Chapter 17.104.

**17.81.060 Permitted and conditionally permitted activities.**

The following table lists activities permitted, conditionally permitted, and prohibited in the S-5 zone. The descriptions of these activities are contained in Chapter 17.10.

“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 activities that are prohibited in the corresponding zone.

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

Activity	Regulations	Additional Regulations
Consultative and Financial Service	P	
Check Cashier and Check Cashing	--	
Consumer Laundry and Repair Service	P	
Group Assembly	C	
Administrative	P(L1)	
Business and Communication Service	P	
Retail Business Supply	C	
Research Service	--	
General Wholesale Sales	--	
Transient Habitation	--	17.102.370
Construction Sales and Service	--	
Automotive Sales, Rental, and Delivery	C	
Automotive Servicing	--	
Automotive Repair and Cleaning	--	
Automotive Fee Parking	C	
Transport and Warehousing	--	
Animal Care	C	
Undertaking Service	--	
Scrap Operation	--	17.102.210
<b>Manufacturing activities</b>		
Custom Manufacturing	--	
Light Manufacturing	--	
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	--	
Crop and Animal raising	--	
Mining and Quarrying Extractive	--	
<b>Accessory off-street parking serving prohibited activities</b>	C	17.102.110

**Limitations:**

- L1- These activities shall not be located on the ground floor of a building on a lot with a property line that abuts the Broadway right of way except for incidental pedestrian entrances that lead to one of these activities in stories above the ground floor.
- L2- These activities may only be located on the ground floor of a building on a lot that has a property line abutting the Broadway right of way upon the granting of a conditional use permit (see Chapter 17.134), and shall conform to the additional criteria contained in Section 17.25.030. However, incidental pedestrian entrances that lead to one of these activities in stories above the ground floor are permitted without the granting of a conditional use permit.

**17.81.070 Special regulations regarding facilities on the ground level of principal facilities.**

A. This section shall only apply to lots that have a property line abutting the Broadway right of way.

B. For the purposes of this section, the front of a building shall be that side facing Broadway and is within 50 feet of the lot line abutting the Broadway right of way.

C. Except upon the granting of a conditional use permit (see subsection E), only principal nonresidential facilities (excluding joint living and working quarters) shall be located within the front thirty (30) feet of the ground floor of any new principal facility located on a corner lot that abuts the Broadway right of way.

D. Except upon the granting of a conditional use permit (see subsection E), only principal nonresidential facilities (excluding joint living and working quarters) and a maximum one driveway shall be located within the front thirty (30) feet of the ground floor of any new principal facility located on an interior lot that abuts the Broadway right of way. This driveway shall be a maximum nineteen (19) feet in width and lead to parking that is at least thirty feet (30) from the front of the building.

E. Upon the granting of a conditional use permit pursuant to the conditional use permit procedure in Chapter 17.134, twenty (20) percent of the width of the front thirty (30) feet of the ground floor of a new principal facility may contain required parking. This conditional use permit may be granted only upon determination that the proposal conforms to the general use permit criteria set forth in the conditional use permit procedure in Chapter 17.134 and the following additional criterion:

1. That the requirements contained in subsections C or D are infeasible due to lot dimensions, topographic features, or other site constraints.

F. The ground level of Broadway facing facades of new principal facilities shall have a store front appearance defined by at least the following design elements:

1. An ample amount of street-facing ground level building facade comprised of clear, non-reflective windows that allow views of indoor commercial space. This includes:

a. A minimum of sixty (60) percent of the front building façade between 3.5 feet and 10 feet in height comprised of clear, non-reflective windows that allow views of indoor commercial space or product display areas. The total area of the front building façade shall not include the area with the driveway;

b. The bottom of any window or product display window being no more than four (4) feet above the abutting sidewalk; and

c. Product display windows used to satisfy that are a minimum height of 4.5 feet and internally lighted.

2. A prominent and primary entrance feature facing Broadway; and

3. An area designated for signage.

#### **17.81.080 Special ground floor height regulation.**

The minimum height from the grade to the ground floor ceiling of newly constructed principal facilities shall be fourteen (14) feet. This regulation does not apply to additions to existing buildings.

#### **17.81.090 Building location.**

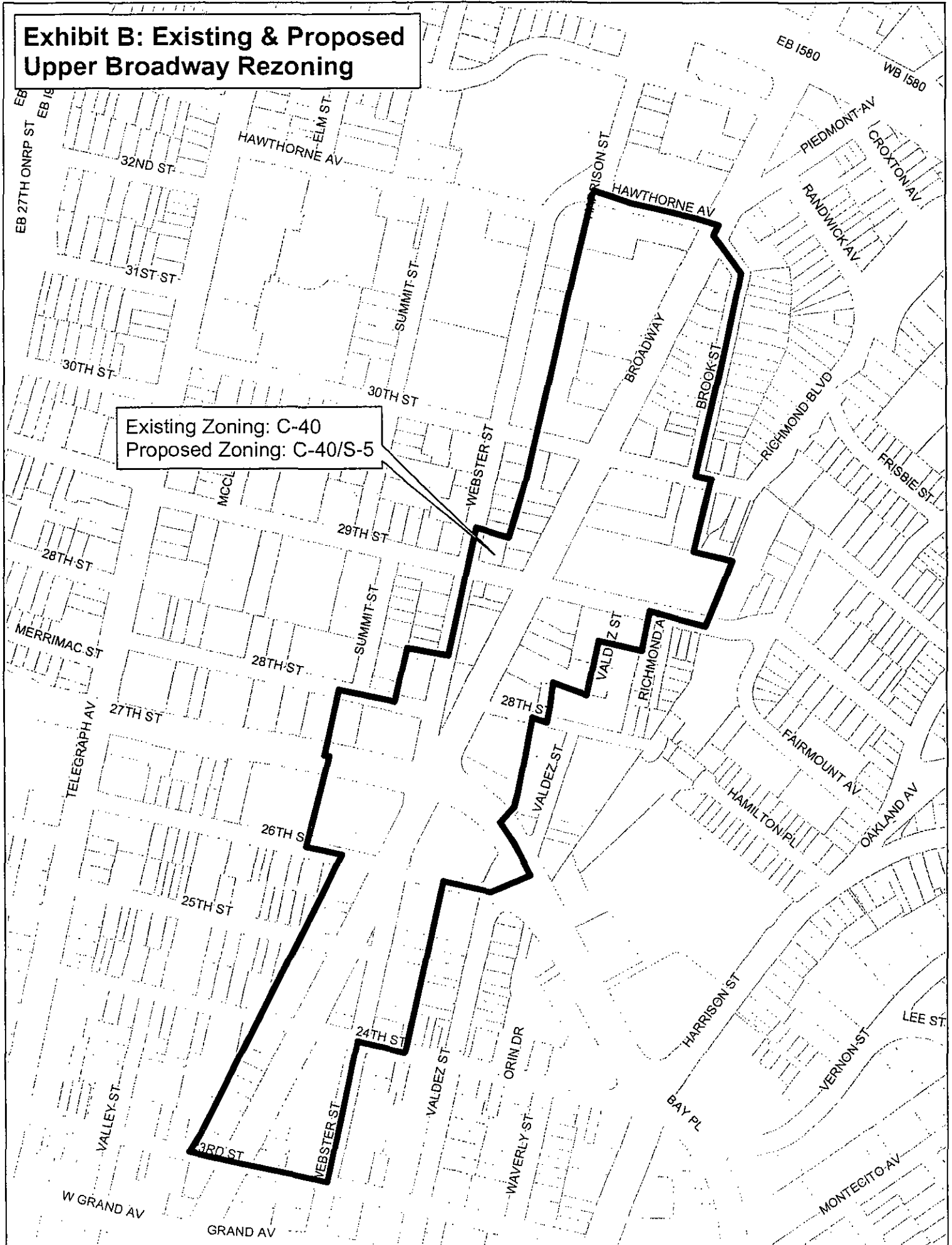
The entire building façade that faces Broadway shall be located within five (5) feet of the sidewalk. This standard shall not apply to plazas, recessed entrances, parks, or space designed to accommodate sidewalk seating areas for restaurants, cafes, and similar businesses. No more than 50 percent of a building frontage shall qualify for the exception for plazas, recessed entrances, or sidewalk seating areas.

#### **17.81.100 Special regulations applying to new construction over 10,000 square feet.**

New construction shall only exceed ten thousand (10,000) square feet upon the granting of a conditional use permit pursuant to the conditional use permit procedure in Chapter 17.134.

# Exhibit B: Existing & Proposed Upper Broadway Rezoning

Existing Zoning: C-40  
Proposed Zoning: C-40/S-5



# Exhibit B: Existing & Proposed Upper Broadway Rezoning

Existing Zoning: C-40  
Proposed Zoning: C-40/S-5

