

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

2011 JAN 13 PM 1:11

**TO:** Office of the City Administrator  
**ATTN:** Dan Lindheim  
**FROM:** Community and Economic Development Agency  
**DATE:** January 25, 2011

**RE:** A Public Hearing And Upon Conclusion, Adoption Of An Ordinance To: 1) Extend The Broadway Retail Frontage Interim Combining Zone Regulations In Oakland Planning Code Chapter 17.101C Through February 15, 2013 Or Until City Council Adoption Of The Broadway/Valdez District Specific Plan, Whichever Comes First, And 2) Make Other Changes To The D-BR Zone Text, Including The D-BR Zone May Be Combined With Any Other Zone, Not Just A Commercial Zone, As Recommended By The City Planning Commission. The D-BR Zone Is Currently Located From 23<sup>rd</sup> Street In The South; Highway 580 In The North; Webster Street And Lots On Or Near Broadway In The West; And Brook Street, Portions Of Valdez Street, 27<sup>th</sup> Street, And Harrison Street In The East.

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**SUMMARY**

The proposed text amendments extend the effective date of the existing D-BR Broadway Retail Frontage Interim Combining Zone regulations (Planning Code Chapter 17.101.C) through February 15, 2013 or until the Council adopts a specific plan for the Broadway/Valdez District, whichever comes first; and make other minor text changes to clarify the applicability of the interim overlay within the proposed Specific Plan focus area. The proposed ordinance will have no direct fiscal impact on the City.

The D-BR Interim Combining Zone currently applies to areas on or near Broadway Auto Row from 23rd Street to Hawthorne Street, and to portions of the Valdez Street triangle between Broadway and 27<sup>th</sup> Street. The interim regulations were originally adopted on January 15, 2008 in order to give the City time to develop a Specific Plan that would include an area-wide set of development regulations and requirements to facilitate the development of a regional retail center in the Broadway/Valdez District area; and to ensure that no uses that conflict with the retail district envisioned by the City could be established while the Specific Plan was being developed. The current process to develop a Specific Plan for this area was initiated in April 2009 and is now anticipated to be completed in late 2012. The D-BR Interim Combining Zone is currently set to expire on February 5, 2011.

Staff proposes to extend the effective date of the interim regulations in order to continue to ensure that no projects that conflict with the Specific Plan vision can occur while the Plan is being developed.

Item: \_\_\_\_\_  
Community and Economic Development Committee  
January 25, 2011

## FISCAL IMPACT

The proposed ordinance will have no direct fiscal impact on the City. Existing staffing will be sufficient to process development applications regulated by the proposed zoning code amendments which are the subject of this report. No additional costs are expected to be incurred by the Development Service Fund.

## BACKGROUND

In 2007, the Conley Consulting Group prepared a report for the City Redevelopment Agency titled "*Upper Broadway Strategy, a Component of the Oakland Retail Enhancement Strategy*," which included recommendations about how to attract retail businesses to Oakland, and identified the Broadway Auto Row area as having the potential to develop into a regional retail district. Interim regulations for a portion of the upper Broadway corridor were adopted in January 2008 in order to give the City time to develop a Specific Plan that would include an area-wide set of development regulations and requirements to facilitate the development of a regional retail center in the Broadway/Valdez District area; and to ensure that no uses that conflicted with the retail district envisioned by the City could be established while the Specific Plan was being developed. The D-BR Combining Zone sets restrictions on allowed uses and design standards (among other requirements), in order to preserve new ground level facilities and activities for retail use consistent with the retail district envisioned by the City. The interim regulations were originally adopted for a three-year period or until the City Council adopted permanent regulations, whichever came first.<sup>1</sup>

The process to develop and adopt a Specific Plan for the Broadway/Valdez District was initiated in 2009. More time than originally projected is needed to complete the Specific Plan for the following reasons:

- The Specific Planning process was without a project lead for several months earlier this year due to staffing cuts in the Planning and Zoning Division owing to City budget shortfalls. A new project lead and supporting staff were identified this fall; and
- City staff and the consultant team have been in the process of carefully revising the schedule and scope of the project, taking into account the significant changes in the overall economy that have occurred since 2007, particularly in the retail market.

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<sup>1</sup> The interim regulations, adopted and effective Jan 15, 2008, established the S-5 Broadway Retail Frontage Interim Combining District Zone for a 3-year period (Ordinance No. 12850 C.M.S.); Ordinance No. 12859 C.M.S., adopted and effective on February 5, 2008, established 3-year interim regulations which amended the S-5 Zone to apply to an expanded area; the name and chapter number of the S-5 Zone was later changed to "17.101C. D-BR Broadway Retail Frontage Interim Combining District Zone", in order to be consistent with the naming convention and location in the Planning Code of other zoning regulations that applied to specific geographic areas (i.e. O.M.C. Chapters 17.101A through 17.101.D relating to the Wood Street, Oak-to-Nimh, Broadway Retail and Kaiser Permanente Districts, respectively).

Item: \_\_\_\_\_

Community and Economic Development Committee  
January 25, 2011

The new project lead and supporting staff are seeking to extend the effective date of the interim regulations until February 15, 2013, or until the City Council adopts the Broadway/Valdez District Specific Plan, whichever comes first. On January 19, 2011, the Planning Commission recommended approval of the proposal. The Planning Commission staff report is included as *Attachment A* of this agenda report.

### KEY ISSUES AND IMPACTS

The proposal would extend through February 15, 2013, the restrictions on establishing new automobile repair, sales, rental and industrial businesses, and additional design standards. As noted, existing businesses could continue to operate; new auto sales and rental activities would need a conditional use permit; and new auto repair and industrial activities would be prohibited. Staff believes it continues to be appropriate to have regulations in place to facilitate the regional retail center envisioned by the City Council that will reduce the City's significant deficit of retail sales.

### SUSTAINABLE OPPORTUNITIES

**Economic:** The current proposal and eventual development of a specific plan encourages retail activity on Upper Broadway. This will increase employment and raise sales taxes.

**Environmental:** The current proposal and eventual development of a specific plan encourages infill development near transit lines. This type of development reduces regional congestion and pollution.

**Social Equity:** The current proposal encourages retail activity, and an eventual specific plan will create job opportunities for local residents.

### DISABILITY AND SENIOR CITIZEN ACCESS

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

### RECOMMENDATION(S) AND RATIONALE


Staff recommends that the City Council adopt the proposed ordinance for the reasons described above.

**ACTION REQUESTED OF THE CITY COUNCIL**

Staff requests that the City Council adopt an ordinance to:

- (1) Extend the effective date of the D-BR Broadway Retail Frontage District Interim Combining Zone regulations through February 13, 2013 or until the Council adopts a specific plan for the Broadway/Valdez District, whichever comes first; and
- (2) Make other minor text changes to clarify the applicability of the D-BR interim overlay within the Specific Plan focus area.

Respectfully submitted,



Walter S. Cohen, Director  
Community and Economic Development Agency

Reviewed By: Eric Angstadt, Deputy Director  
Community and Economic Development Agency

Prepared by:  
Alisa Shen, Planner III  
Planning and Zoning Division

**APPROVED AND FORWARDED TO THE  
COMMUNITY AND ECONOMIC DEVELOPMENT COMMITTEE:**

  
\_\_\_\_\_  
Office of the City Administrator

Attachment A: January 12, 2011 report to the Planning Commission, including Attachment A (Map of existing D-BR Combining Zone), and Attachment B (proposed Planning Code text amendments) to the Planning Commission report.

Item: \_\_\_\_\_  
Community and Economic Development Committee  
January 25, 2011

<b>Location:</b>	From 23rd Street to the south; Hawthome Street to the north; Webster Street and lots on or near Broadway in the west; and Brook St., portions of Valdez Street, 27th St., and Harrison Street to the east. (See Attachment A)
<b>Proposal:</b>	To extend the Broadway Retail Frontage Interim Combining Zone regulations in Chapter 17.101C through February 15, 2013 or until final adoption of the Broadway/Valdez District Specific Plan, whichever comes first.
<b>Applicant:</b>	City Planning Commission
<b>Owners:</b>	Various
<b>Planning Permits Required:</b>	Zoning Text Amendment
<b>General Plan:</b>	Community Commercial, Urban Residential, and Mixed Housing Type
<b>Zoning:</b>	D-BR (combined with various base zones)
<b>Environmental Determination:</b>	Several past environmental documents discussed and evaluated the environmental impacts associated with this proposal and reliance on them satisfies any requirements under the California Environmental Quality Act (CEQA), as specified by CEQA Guidelines Section 15183 "Projects Consistent with a Community Plan, General Plan or Zoning". Those environmental documents include, but are not limited to, the previously certified Final Environmental Impact Report (EIR) for the Land Use and Transportation Element of the Oakland General Plan, adopted in 1998.
<b>Service Delivery District:</b>	2
<b>City Council District:</b>	2
<b>Action to be Taken:</b>	Recommendation by the Planning Commission to the City Council.
<b>Staff Recommendation:</b>	Approve the proposal and forward the proposed Zoning Text Amendments to the City Council for adoption.
<b>For Further Information:</b>	Contact case planner Ed Manasse at 510-238-7733 or <a href="mailto:emanasse@oaklandnet.com">emanasse@oaklandnet.com</a> .

## SUMMARY

Staff proposes to extend the effective date of the D-BR Broadway Retail Frontage Interim Combining Zone Regulations (D-BR Combining Zone) through February 15, 2013 or until the City Council adopts the Broadway/Valdez District Specific Plan, whichever comes first. The D-BR Interim Combining Zone is currently set to expire on February 5, 2011. The D-BR Interim Combining Zone currently applies to areas on or near Broadway from 23rd Street to Hawthome Street and to areas in the Valdez triangle between Broadway and 27<sup>th</sup> Street. The interim regulations were originally adopted in order to give the City time to develop a Specific Plan to facilitate the development of a regional retail center along this stretch of Broadway and within the Valdez triangle. The D-BR Combining Zone sets restrictions on allowed uses (among other requirements), in order to preserve new ground level facilities and activities for retail use consistent with the retail district envisioned by the City.

The current process to develop a Specific Plan for the Broadway/Valdez District area was initiated in April 2009 and is now anticipated to be completed in late 2012. Thus, staff proposes to extend the effective date of the interim regulations so that no projects that conflict with the Specific Plan vision can occur while the Plan is being developed; no other changes to the already adopted zone are currently contemplated.

## BACKGROUND

in 2007, the Conley Consulting Group prepared a report for the City Redevelopment Agency titled "Upper Broadway Strategy, a Component of the Oakland Retail Enhancement Strategy", which included recommendations about how to attract retail businesses to Oakland, and identified the Broadway Auto Row area as having the potential to develop into a regional retail district.<sup>1</sup> Interim regulations for a portion of the upper Broadway corridor were adopted in January 2008 in order to give the City time to develop a Specific Plan that would include an area-wide set of development regulations and requirements to facilitate the development of a regional retail center in the Broadway/Valdez District area; and to ensure that no uses that conflicted with the retail district envisioned by the City could be established while the Specific Plan was being developed. The interim regulations were originally adopted for a three-year period or until the City Council adopted permanent regulations, whichever came first.<sup>2</sup>

A summary of the key interim regulations for the Broadway/Valdez District area (O.M.S. Ch.17.101C) that are currently in place and set to expire in January 2011 is provided below:

- New automobile repair or industrial businesses are not allowed. Existing businesses can continue to operate;
- New automobile sales or rental businesses are only allowed upon the granting of a conditional use permit. Existing businesses can continue to operate;
- Regulations in the combining zone supersede regulations on the same subject in the base zone;
- Design review approval is required for all new construction;
- New construction must include ground-level commercial space that is at least thirty (30) feet deep and covers the length of the front facade. However, the regulations conditionally permit twenty percent (20%) of the frontage be used for parking activities to allow some site plan flexibility. In addition, to help ensure a store front appearance and a scale comfortable for pedestrians, the following is required:
  - A minimum amount of window area on the frontage;
  - A minimum fourteen (14) foot ground floor height; and
  - A maximum five (5) foot setback from Broadway.
- A conditional use permit is required for new construction with a floor area over 10,000 square feet. This regulation allows staff to review larger projects to assure they are consistent with the regional retail vision the City has for the planning area.

A map illustrating the current location of the D-BR Combining Zone is provided (Attachment A).

The process to develop and adopt a Specific Plan for the Broadway/Valdez District was initiated in 2009. More time than originally projected is needed to complete the Specific Plan for the following reasons:

- (1) The Specific Planning process was without a project lead for several months earlier this year due to staffing cuts in the Planning and Zoning Division owing to City budget shortfalls. A new project lead and supporting staff were identified this fall; and

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<sup>1</sup> Conley Consulting Group, et. al. "Upper Broadway Strategy, a Component of the Oakland Retail Enhancement Strategy", Last Updated September 11, 2007.

<sup>2</sup> The interim regulations, adopted and effective Jan 15, 2008, established the S-5 Broadway Retail Frontage Interim Combining District Zone for a 3-year period (Ordinance No. 12850 C.M.S.); Ordinance No. 12859 C.M.S., adopted and effective on February 5, 2008, established 3-year interim regulations which amended the S-5 Zone to apply to an expanded area; the name and chapter number of the S-5 Zone was later changed to "17.101C. D-BR Broadway Retail Frontage Interim Combining District Zone", in order to be consistent with the naming convention and location in the Planning Code of other zoning regulations that applied to specific geographic areas (i.e. O.M.C. Chapters 17.101A through 17.101.D relating to the Wood Street, Oak-to-Ninth, Broadway Retail and Kaiser Permanente Districts, respectively).

(2) City staff and the consultant team have been in the process of carefully revising the schedule and scope of the project, taking into account the changes in the overall economy that have occurred since 2007, particularly in the retail market.

Thus, the new project lead and supporting staff are seeking to extend the effective date of the interim regulations until February 15, 2013, or until the City Council adopts the Broadway/Valdez District Specific Plan, whichever comes first.

## **SUMMARY OF PROPOSAL**

Staff proposes to extend the effective date of the existing D-BR Broadway Retail Frontage Interim Combining District Zone regulations; and to make other minor text changes to clarify the applicability of interim overlay within the Specific Plan focus area (full text of the Zone with proposed amendments, shown in ~~strikeout~~/underline, is provided in Attachment B).

The primary changes to Zoning Chapter 17.101C are as follows. (Additions to the code are underlined; deletions are in ~~strikeout~~):

## **CHAPTER 17.101C**

### **D-BR BROADWAY RETAIL FRONTAGE DISTRICT INTERIM COMBINING DISTRICT-ZONE REGULATIONS**

#### **17.101C.010** Title, purpose, and applicability.

The provisions of this chapter shall be known as the D-BR Broadway Retail Frontage District Interim Combining District-Zone Regulations. The D-BR zone is intended to create, preserve, and enhance ground level retail opportunities within the Broadway/Valdez District area 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 within the Broadway/Valdez Retail District area. ~~on-this-area-of-Broadway-~~

#### **17.101C.020** Expiration for D-BR zone.

The regulations contained in the D-BR zone shall remain in place and be effective through February 15, 2013 ~~for-a-continuous-period-of-three-years-from-the-date-of-the-adoption-of-the-regulations~~ or until the City Council adopts a specific plan for the Broadway/Valdez District, permanent-regulations; whichever comes first.

#### **17.101C.030** Zones with which the D-BR zone may be combined.

The D-BR zone may be combined with any commercial-other zone.

## **ENVIRONMENTAL DETERMINATION**

Several past environmental documents discussed and evaluated the environmental impacts associated with this proposal and reliance on them satisfies any requirements under the California Environmental Quality Act (CEQA), as specified by CEQA Guidelines Section 15183 "Projects Consistent with a Community Plan, General Plan or Zoning". Those environmental documents include, but are not limited to, the previously certified Final Environmental Impact Report for the Land Use and Transportation Element of the General Plan, adopted in 1998 (General Plan EIR). The General Plan EIR evaluated the

environmental impacts of the proposal and anticipated future reliance on it for actions that were consistent with it and intended to implement it. Reliance on the General Plan EIR is appropriate as stated on page 1-4 of that document:


*“The EIR may also be used at a future date by the Planning Commission and City Council to evaluate the environmental impacts of subsequent actions that are consistent with the Land use and Transportation Element or are intended to implement the Land Use and Transportation Element.”*

**KEY ISSUES AND IMPACTS**


The proposal would extend for another two years (through February 15, 2013) the restrictions on establishing new automobile repair, sales, rental and industrial businesses. As noted, existing businesses could continue to operate; new auto sales and rental activities would need a conditional use permit; and new auto repair and industrial activities would be prohibited. Staff believes it continues to be appropriate to have regulations in place to facilitate the regional retail center envisioned by the City Council that will reduce the City’s significant deficit of retail sales. Therefore, staff recommends that the Planning Commission approve the proposal and forward the proposed Zoning Text Amendments to the City Council for adoption.

**RECOMMENDATION(S):** Approve the proposal and recommend to the City Council to adopt the proposed Zoning Text Amendments.

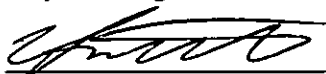
Prepared by:

  
\_\_\_\_\_  
Alisa Shen  
Planner III

Approved by:

  
\_\_\_\_\_  
EDWARD MANASSE  
Strategic Planning Manager

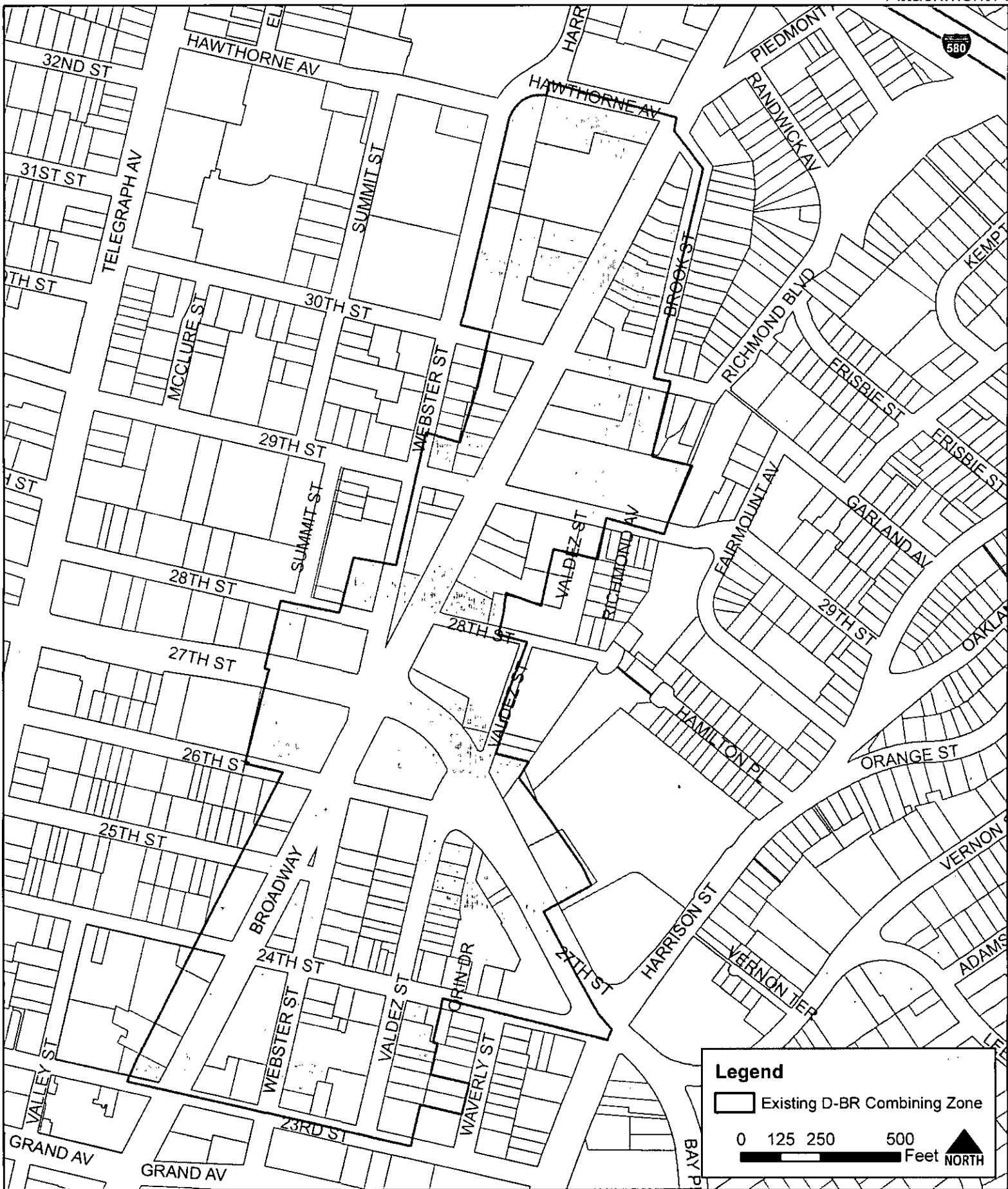
Approved for forwarding to the City Planning Commission:

  
\_\_\_\_\_  
ERIC ANGSTADT  
Deputy Director, Community and Economic Development Agency


**ATTACHMENT(S):**


- A. Map of existing D-BR Combining Zone
- B. Text of D-BR regulations





**Legend**

 Existing D-BR Combining Zone

0 125 250 500 Feet 



# D-BR Combining Zone

**AMENDMENTS TO OAKLAND PLANNING CODE**

The following are proposed text changes to the Planning Code. Additions to the code are underlined; deletions are in ~~strikeout~~.

**Title 17**

**PLANNING**

**Chapters:**

**17.101C D-BR Broadway Retail Frontage District Interim Combining ~~District-Zone~~ Regulations**

## CHAPTER 17.101C

### **D-BR BROADWAY RETAIL FRONTAGE DISTRICT INTERIM COMBINING DISTRICT-ZONE REGULATIONS**

Sections:

- 17.101C.010 Title, purpose, and applicability.
- 17.101C.020 Expiration for D-BR zone.
- 17.101C.030 Zones with which the D-BR zone may be combined.
- 17.101C.040 Relationship to base zone.
- 17.101C.050 Required design review process.
- 17.101C.060 Permitted and conditionally permitted activities.
- 17.101C.070 Special regulations regarding facilities on the ground level of principal facilities.
- 17.101C.080 Special ground floor height regulation.
- 17.101C.090 Building location.
- 17.101C.100 Special regulations applying to new construction over 10,000 square feet.

17.101C.010 Title, purpose, and applicability.

The provisions of this chapter shall be known as the D-BR Broadway Retail Frontage District Interim Combining District Zone Regulations. The D-BR zone is intended to create, preserve, and enhance ground level retail opportunities within the Broadway/Valdez District area 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 within the Broadway/Valdez District area, on-this-area-of-Broadway.

17.101C.020 Expiration for D-BR zone.

The regulations contained in the D-BR zone shall remain in place and be effective through February 15, 2013, for-a-continuous-period-of-three-years-from-the-date-of-the-adoption-of-the-regulations or until the City Council adopts a specific plan for the Broadway/Valdez District, pormanont-regulations, whichever comes first.

17.101C.030 Zones with which the D-BR zone may be combined.

The D-BR zone may be combined with any other commercial-zone.

17.101C.040 Relationship to base zone.

The regulations in the D-BR zone are supplementary to the regulations applying in the zone or zones with which the D-BR zone is combined. Whenever any provision of the D-BR 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 D-BR zone shall control, except as otherwise expressly provided in the zoning regulations.

17.101C.050 Required design review process.

Except for projects that are exempt from design review as set forth in Section 17.136.025, no Designated Historic Property, Potentially Designated Historic Property, Building Facility, Telecommunications Facility, Sign or other associated structure in the D-BR 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 17.125, or the Sign regulations in Chapter 17.104.

**17.101C.060 Permitted and conditionally permitted activities.**

Table 17.101C.01 lists activities permitted, conditionally permitted, and prohibited in the D-BR 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.

Table 17.101C.01 Permitted and Conditionally Permitted Activities		
Activity	Regulations	Additional Regulations
<i>Residential Activities</i>		
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
Bed and Breakfast		
<i>Civic Activities</i>		
Essential Service	P	
Limited Child-Care	C (L1)	
Community Assembly	C (L1)	
Recreational 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	--	
<i>Commercial Activities</i>		

Table 17.101C.01 Permitted and Conditionally Permitted Activities		
Activity	Regulations	Additional Regulations
General Food Sales	P	
Full Service Restaurant	P	
Limited Service Restaurant and Café	P	
Convenience Market	C	17.102.210
Fast-Food Restaurant	C	
Alcoholic Beverage Sales	C	17.102.210
Mechanical or Electronic Games	--	17.102.210
Medical Service	P (L2)	
General Retail Sales	P	
Large-Scale Combined Retail and Grocery Sales	--	
Consumer Service	P	
Consultative and Financial Service	P	
Check Cashier and Check Cashing	--	
Consumer Cleaning and Repair Service	P	
Consumer Dry Cleaning Plant	C	
Group Assembly	C	
Personal Instruction and Improvement and Small Scale Entertainment	C	
Administrative	P (L1)	
Business, Communication, and Media Service	P	
Broadcasting and Recording Service	P	
Retail Business Activity	C	
Research Center	--	
General Wholesale Sales	--	
Transient Habitation	--	17.102.370
Building Material Sales	--	
Automobile and Other Light Vehicle Sales and Rental	C	
Automobile and Other Light Vehicle Gas Station and Servicing	--(L3)	17.114.050 (A)
Automotive and Other Light Vehicle Repair and Cleaning	--(L3)	17.114.050 (A)
Taxi and Light Fleet-Based Service	--	
Automotive Fee Parking	C	
Transport and Warehousing	--	

Table 17.101C.01 Permitted and Conditionally Permitted Activities		
Activity	Regulations	Additional Regulations
Animal Care	C	
Animal Boarding	C	
Undertaking Service	--	
Scrap Operation	--	17.102.210
<i>Industrial Activities</i>	All Industrial Activities prohibited in these zones	
<i>Agricultural and Extractive Activities</i>	All Agricultural and Extractive Activities prohibited in these zones	
<i>Off-street parking serving activities other than those listed above or in Section 17.74.030, subject to the conditions set forth in Section 17.102.100</i>	C	17.102.100
<i>Additional activities which are permitted or conditionally permitted in an adjacent zone, on lots near the boundary thereof, subject to the conditions set forth in Section 17.102.110.</i>	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 or 27<sup>th</sup> Street 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 or 27<sup>th</sup> Street 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.  
(Ord. 12850 § 2 Exh. A (part), 2008)
- L3- Reestablishment of a discontinued, legal non-conforming Automobile and Other Light Vehicle Gas Station and Servicing activity and/or an Automotive and Other Light Vehicle Repair and Cleaning activity may only must-occur no later than six (6) months after discontinuation of such a activity, per Section 17.114.050(A).

**17.101C.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 either the Broadway, Valdez Street, 24th Street, 26th Street, 27th Street, or Bay Place right of way.

B. For the purposes of this section, the front of a building on lots abutting more than one street shall be that side facing the most prominent street. The following is a ranking of the prominence of streets in the D-BR zone, from most prominent to least prominent: Broadway, 27th Street, Bay Place, Valdez Street, 24th Street, 26th Street, and then all other streets.

C. Except upon the granting of a conditional use permit (see subsection E of this section), 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 non-residential 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 (30) 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 (20%) 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 of this section are infeasible due to lot dimensions, topographic features, or other site constraints.

F. The ground level of Broadway-facing façades of new principal facilities shall have a storefront 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 (60%) of the front building façade between three and one half (3 ½) feet and ten (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 four and one half (4 ½) feet and internally lighted.

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

3. An area designated for signage.

#### **17.101C.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.

#### **17.101C.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 fifty (50) percent (50%) of a building frontage shall qualify for the exception for plazas, recessed entrances, or sidewalk seating areas.


#### **17.101C.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.

FILED  
OFFICE OF THE CITY CLERK  
OAKLAND

APPROVED AS TO FORM AND LEGALITY

INTRODUCED BY COUNCIL MEMBER \_\_\_\_\_

  
\_\_\_\_\_  
City Attorney

# OAKLAND CITY COUNCIL

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

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AN ORDINANCE TO 1) EXTEND THE BROADWAY RETAIL FRONTAGE INTERIM COMBINING ZONE REGULATIONS IN OAKLAND PLANNING CODE CHAPTER 17.101C THROUGH FEBRUARY 15, 2013 OR UNTIL CITY COUNCIL ADOPTION OF THE BROADWAY/VALDEZ DISTRICT SPECIFIC PLAN, WHICHEVER COMES FIRST; AND 2) MAKE CHANGES TO THE D-BR ZONE TEXT, INCLUDING THE D-BR ZONE MAY BE COMBINED WITH ANY OTHER ZONE, NOT JUST A COMMERCIAL ZONE, AS RECOMMENDED BY THE CITY PLANNING COMMISSION. THE D-BR ZONE IS CURRENTLY LOCATED FROM 23<sup>RD</sup> ST. IN THE SOUTH; HIGHWAY 580 IN THE NORTH; WEBSTER ST. AND LOTS ON OR NEAR BROADWAY IN THE WEST; AND BROOK ST., PORTIONS OF VALDEZ ST., 27<sup>TH</sup> ST., AND HARRISON ST. IN THE EAST.

WHEREAS, in 2007, the Conley Consulting Group prepared a report for the City Redevelopment Agency titled "*Upper Broadway Strategy, a Component of the Oakland Retail Enhancement Strategy*", which included recommendations about how to attract new retail businesses to Oakland, and identified the upper Broadway corridor as having the potential to develop into a regional retail district; and

WHEREAS, on January 15, 2008, the Oakland City Council adopted interim regulations for a portion of the upper Broadway corridor in order to give the City time to develop a Specific Plan that would include an area-wide set of development regulations and requirements to facilitate the development of a regional retail center in the Broadway/Valdez area; and to ensure that no uses that conflicted with the retail district envisioned by the City could be established while the Specific Plan was being developed.; and

WHEREAS, Ordinance No. 12850 C.M.S. was adopted by the City Council on January 15, 2008 as a 3-year interim control lasting until January 15, 2010, which established the S-5 Broadway Retail Frontage Interim Combining Zone, and applied the S-5 Interim Combining Zone on the Broadway corridor from 23rd Street to the south and Hawthorne Street to the north, in order to ensure that no uses that conflicted with the retail district envisioned could be established while the City developed a Specific Plan for the Broadway Auto Row and Valdez Street area; and

WHEREAS, on February 5, 2008, the Oakland City Council also adopted Ordinance No. 12859 C.M.S. as a 3-year interim control lasting until February 5, 2010, which amended the text of the S-5 Interim Combining Zone to require new construction to contain ground floor commercial



space, and amended the Zoning Map to expand the S-5 Interim Combining Zone to include the east side of Webster Street between 30th Street and Hawthorne Avenue, and an area around Valdez and 27th Streets; and

**WHEREAS**, on March 16, 2010, the Oakland City Council adopted Ordinance No.12999 C.M.S., which adopted various Planning Code text amendments - including changing the name of the S-5 Interim Combining Zone to the D-BR Interim Combining Zone, and changing the Oakland Planning Code chapter name and number to the “17.101C. D-BR Broadway Retail Frontage Interim Combining Zone” in order to be consistent with the naming convention and location in the Planning Code of other zoning regulations that applied to specific geographic areas (i.e. Planning Code Chapters 17.101A through 17.101.D relating to the Wood Street, Oak-to-Ninth, Broadway Retail and Kaiser Permanente Districts, respectively); and

**WHEREAS**, the D-BR Combining Zone sets restrictions on allowed uses and design standards (among other requirements), in order to preserve new ground level facilities and activities for retail use consistent with the retail district envisioned by the City; and

**WHEREAS**, the D-BR Combining Zone is currently set to expire on February 5, 2011; and

**WHEREAS**, more time than was originally projected is needed to complete the Specific Plan due to budget cuts in the Planning and Zoning Division that resulted in a several month gap in project staffing, and to the process currently underway by the new project lead and supporting staff to carefully revise the schedule and scope of the project, taking into account the major changes in the overall economy that have occurred since 2007, particularly in the retail market; and

**WHEREAS**, this extension of the interim D-BR controls is necessary in order to continue to ensure that uses and building and site design that conflict with the retail district envisioned by the City could be established while the Specific Plan was being developed; and

**WHEREAS**, several past environmental documents discussed and evaluated the environmental impacts associated with this proposal and reliance on them satisfies any requirements under the California Environmental Quality Act (CEQA), as specified by CEQA Guidelines Section 15183 “Projects Consistent with a Community Plan, General Plan or Zoning”. Those environmental documents include, but are not limited to, the previously certified Final Environmental Impact Report for the Land Use and Transportation Element of the General Plan, adopted in 1998; now, therefore

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

Section 1. The City Council finds and determines that the recitals above are true and correct and are an integral part of this Ordinance.

Section 2. Planning Code Chapter 17.101C (D-BR Broadway Retail Frontage Interim Combining District Zone Regulations) of the Oakland Planning Code is hereby amended as

detailed in Exhibit A, hereby incorporated by reference.

**Section 3.** The controls imposed by this ordinance shall remain in place and be effective through February 15, 2013 or until the City Council adopts a Specific Plan for the Broadway/Valdez District Area, whichever comes first.

**Section 4.** For the term of this ordinance, as set for the in Section 3 above, the provisions of this ordinance shall govern, and to the extent there is any conflict between the provisions of this ordinance and the provisions of any other City code, ordinance, resolution or policy, all such conflicting provisions shall be suspended.

**Section 5.** This ordinance shall be effective immediately upon its adoption by the City Council, subject to the provisions of Section 213 of the Charter of the City of Oakland, but shall not apply to building/construction-related permits already issued and not yet expired.

**Section 6.** This Ordinance complies with the California Environmental Quality Act.

**Section 7.** If any provision of this ordinance or the application thereof to any person or circumstances is held invalid, the remainder of this ordinance and the application of such provisions to other persons or circumstances shall not be affected thereby.

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

PASSED BY THE FOLLOWING VOTE:

AYES- BROOKS, BRUNNER, DE LA FUENTE, KAPLAN, KERNIGHAN, NADEL, SCHAAF, 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: \_\_\_\_\_

**AMENDMENTS TO OAKLAND PLANNING CODE**

The following are proposed text changes to the Planning Code. Additions to the code are underlined; deletions are in ~~strikeout~~.

**Title 17**

**PLANNING**

**Chapters:**

**17.101C D-BR Broadway Retail Frontage District Interim Combining District-Zone Regulations**

## CHAPTER 17.101C

### **D-BR BROADWAY RETAIL FRONTAGE DISTRICT INTERIM COMBINING DISTRICT-ZONE REGULATIONS**

Sections:

17.101C.010 Title, purpose, and applicability.

17.101C.020 Expiration for D-BR zone.

17.101C.030 Zones with which the D-BR zone may be combined.

17.101C.040 Relationship to base zone.

17.101C.050 Required design review process.

17.101C.060 Permitted and conditionally permitted activities.

17.101C.070 Special regulations regarding facilities on the ground level of principal facilities.

17.101C.080 Special ground floor height regulation.

17.101C.090 Building location.

17.101C.100 Special regulations applying to new construction over 10,000 square feet.

17.101C.010 Title, purpose, and applicability.

The provisions of this chapter shall be known as the D-BR Broadway Retail Frontage District Interim Combining District-Zone Regulations. The D-BR zone is intended to create, preserve, and enhance ground level retail opportunities within the Broadway/Valdez Retail District area 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 within the Broadway/Valdez Retail District area. on-this-area-of-Broadway.

17.101C.020 Expiration for D-BR zone.

The regulations contained in the D-BR zone shall remain in place and be effective through February 15, 2013, for a continuous period of three years from the date of the adoption of the regulations or until the City Council adopts a specific plan for the Broadway/Valdez Retail District, permanent regulations, whichever comes first.

17.101C.030 Zones with which the D-BR zone may be combined.

The D-BR zone may be combined with any other commercial-zone.

17.101C.040 Relationship to base zone.

The regulations in the D-BR zone are supplementary to the regulations applying in the zone or zones with which the D-BR zone is combined. Whenever any provision of the D-BR 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 D-BR zone shall control, except as otherwise expressly provided in the zoning regulations.

17.101C.050 Required design review process.

Except for projects that are exempt from design review as set forth in Section 17.136.025, no Designated Historic Property, Potentially Designated Historic Property, Building Facility, Telecommunications Facility, Sign or other associated structure in the D-BR 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 17.125, or the Sign regulations in Chapter 17.104.

17.101C.060 Permitted and conditionally permitted activities.

Table 17.101C.01 lists activities permitted, conditionally permitted, and prohibited in the D-BR 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.

Table 17.101C.01 Permitted and Conditionally Permitted Activities		
Activity	Regulations	Additional Regulations
<i>Residential Activities</i>		
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
Bed and Breakfast		
<i>Civic Activities</i>		
Essential Service	P	
Limited Child-Care	C (L1)	
Community Assembly	C (L1)	
Recreational 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	--	
<i>Commercial Activities</i>		

Table 17.101C.01 Permitted and Conditionally Permitted Activities		
Activity	Regulations	Additional Regulations
General Food Sales	P	
Full Service Restaurant	P	
Limited Service Restaurant and Café	P	
Convenience Market	C	17.102.210
Fast-Food Restaurant	C	
Alcoholic Beverage Sales	C	17.102.210
Mechanical or Electronic Games	--	17.102.210
Medical Service	P (L2)	
General Retail Sales	P	
Large-Scale Combined Retail and Grocery Sales	--	
Consumer Service	P	
Consultative and Financial Service	P	
Check Cashier and Check Cashing	--	
Consumer Cleaning and Repair Service	P	
Consumer Dry Cleaning Plant	C	
Group Assembly	C	
Personal Instruction and Improvement and Small Scale Entertainment	C	
Administrative	P (L1)	
Business, Communication, and Media Service	P	
Broadcasting and Recording Service	P	
Retail Business Activity	C	
Research Center	--	
General Wholesale Sales	--	
Transient Habitation	--	17.102.370
Building Material Sales	--	
Automobile and Other Light Vehicle Sales and Rental	C	
Automobile and Other Light Vehicle Gas Station and Servicing	--(L3)	17.114.050 (A)
Automotive and Other Light Vehicle Repair and Cleaning	--(L3)	17.114.050 (A)
Taxi and Light Fleet-Based Service	--	
Automotive Fee Parking	C	
Transport and Warehousing	--	

Table 17.101C.01 Permitted and Conditionally Permitted Activities		
Activity	Regulations	Additional Regulations
Animal Care	C	
Animal Boarding	C	
Undertaking Service	--	
Scrap Operation	--	17.102.210
<i>Industrial Activities</i>	All Industrial Activities prohibited in these zones	
<i>Agricultural and Extractive Activities</i>	All Agricultural and Extractive Activities prohibited in these zones	
<i>Off-street parking serving activities other than those listed above or in Section 17.74.030, subject to the conditions set forth in Section 17.102.100</i>	C	17.102.100
<i>Additional activities which are permitted or conditionally permitted in an adjacent zone, on lots near the boundary thereof, subject to the conditions set forth in Section 17.102.110.</i>	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 or 27<sup>th</sup> Street 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 or 27<sup>th</sup> Street 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.  
(Ord. 12850 § 2 Exh. A (part), 2008)
- L3- Reestablishment of a discontinued, legal non-conforming Automobile and Other Light Vehicle Gas Station and Servicing activity and/or an Automotive and Other Light Vehicle Repair and Cleaning activity may only must-occur no later than six (6) months after discontinuation of such a activity, per sSection 17.114.050(A).

**17.101C.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 either the Broadway, Valdez Street, 24th Street, 26th Street, 27th Street, or Bay Place right of way.
- B. For the purposes of this section, the front of a building on lots abutting more than one street shall be that side facing the most prominent street. The following is a ranking of the prominence of streets in the D-BR zone, from most prominent to least prominent: Broadway, 27th Street, Bay Place, Valdez Street, 24th Street, 26th Street, and then all other streets.
- C. Except upon the granting of a conditional use permit (see subsection E of this section), 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 non-residential 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 (30) 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 (20%) 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 of this section 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 (60%) of the front building façade between three and one half (3 ½) feet and ten (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 four and one half (4 ½) feet and internally lighted.

2. A prominent and primary entrance feature facing Broadway; and
3. An area designated for signage.

#### **17.101C.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.

#### **17.101C.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 fifty (50) percent (50%) of a building frontage shall qualify for the exception for plazas, recessed entrances, or sidewalk seating areas.

#### **17.101C.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.



## NOTICE AND DIGEST

**A PUBLIC HEARING AND UPON CONCLUSION, ADOPTION OF AN ORDINANCE TO: 1) EXTEND THE BROADWAY RETAIL FRONTAGE INTERIM COMBINING ZONE REGULATIONS IN OAKLAND PLANNING CODE CHAPTER 17.101C THROUGH FEBRUARY 15, 2013 OR UNTIL CITY COUNCIL ADOPTION OF THE BROADWAY/VALDEZ DISTRICT SPECIFIC PLAN, WHICHEVER COMES FIRST; AND 2) MAKE OTHER CHANGES TO THE D-BR ZONE TEXT, INCLUDING THE D-BR ZONE MAY BE COMBINED WITH ANY OTHER ZONE, NOT JUST A COMMERCIAL ZONE, AS RECOMMENDED BY THE CITY PLANNING COMMISSION. THE D-BR ZONE IS CURRENTLY LOCATED FROM 23<sup>RD</sup> ST. IN THE SOUTH; HIGHWAY 580 IN THE NORTH; WEBSTER ST. AND LOTS ON OR NEAR BROADWAY IN THE WEST; AND BROOK ST., PORTIONS OF VALDEZ ST., 27<sup>TH</sup> ST., AND HARRISON ST. IN THE EAST.**

This ordinance extends the **D-BR Broadway Retail Frontage Interim Combining Zone (DB-R Zone, Oakland Planning Code Chapter 17.101C)** through February 15, 2013 or until City Council adoption of the **Broadway/Valdez District Specific Plan**, whichever comes first; and makes other zoning text changes to the **D-BR Zone Chapter text**, including the **D-BR Zone** may be combined with any other zone, not just a commercial zone.