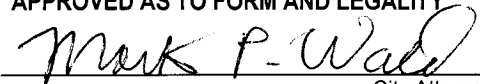


FILED  
OFFICE OF THE CITY CLERK  
OAKLAND

08 JAN -3 PM 3:09

APPROVED AS TO FORM AND LEGALITY

  
City Attorney

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

**OAKLAND CITY COUNCIL**  
**ORDINANCE NO. 12859 - C.M.S.**

---

**INTERIM ORDINANCE AMENDING THE ZONING REGULATIONS FOR THREE YEARS OR UNTIL THE CITY COUNCIL ADOPTS PERMANENT REGULATIONS TO: A) EXPAND THE S-5 BROADWAY RETAIL FRONTAGE INTERIM COMBINING ZONE (S-5 ZONE) ON THE ZONING MAPS TO INCLUDE THE EAST SIDE OF WEBSTER STREET BETWEEN 30<sup>TH</sup> STREET AND HAWTHORNE AVENUE AND AN AREA NEAR VALDEZ AND 27<sup>TH</sup> STREETS AND B) AMEND THE TEXT OF THE S-5 ZONE IN THE PLANNING CODE TO REQUIRE NEW CONSTRUCTION TO CONTAIN GROUND FLOOR COMMERCIAL SPACE AT THESE EXPANDED AREAS.**

**WHEREAS**, Oakland lacks adequate retail facilities in key categories; experiences a significant degree of retail leakage; with community retailing desires are not being 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 Oakland being 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**, in the document "Upper Broadway Strategy, a Component of the Oakland Retail

Enhancement Strategy (Upper Broadway Strategy)”, 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 ensure 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 1) adoption of the S-5 Broadway Retail Frontage Interim Combining Zone Regulations (S-5 Zone) into the Planning Code and 2) amending the Zoning Maps to include this new zone on and near Broadway from 23<sup>rd</sup> Street to Hawthorne Avenue to ensure 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**, after a duly noticed public hearing at its November 28, 2007 meeting, the Planning Commission recommended that the City Council amend the Planning Code and zoning maps to include the S-5 zone; and

**WHEREAS**, after a duly notice public hearing at its December 18, 2007 meeting, the City Council voted to: 1) introduce amendments to the Planning Code and zoning maps to include the S-5 zone and 2) pursue Alternative 1 of the Upper Broadway Strategy; and

**WHEREAS**, some areas designated for inclusion in a specific plan in Alternative 1 of the Upper Broadway Strategy were not proposed to be designated as the S-5 zone on the zoning maps in the ordinance voted on by the City Council at their December 18, 2007 meeting, but should be so included; 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.** Chapter 17.81 (S-5 Broadway Retail Frontage Interim Combining Zone Regulations) of the Oakland Planning Code is hereby amended as detailed in Exhibit A, hereby incorporated by reference.

**Section 2.** The designation and location of the S-5 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, FEB 5 2008

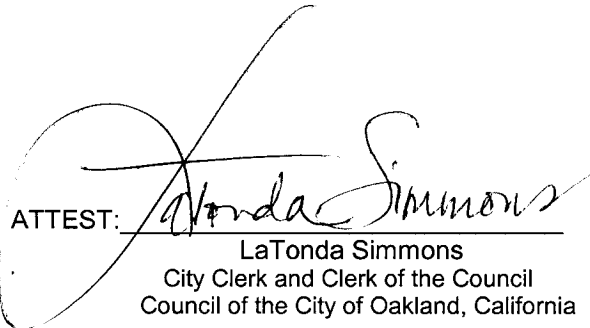
**PASSED BY THE FOLLOWING VOTE:**

AYES- BROOKS, BRUNNER, CHANG, KERNIGHAN, NADEL, QUAN, REID, and PRESIDENT DE LA FUENTE - 8

NOES- 0

ABSENT- 0

ABSTENTION- 0

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

Introduction Date: JAN 15 2008

DATE OF ATTESTATION: February 8, 2008

mpw

**EXHIBIT A**

**AMENDMENTS TO OAKLAND PLANNING CODE**

Section 17.81.070 of the S-5 Broadway Retail Frontage Interim Combining Zone Regulations in the Oakland Planning Code is amended as follows. Proposed additions to the zone are shown in underline; deletions are shown in ~~strikeout~~.

**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 either the Broadway, Valdez Street, 24<sup>th</sup> Street, 26<sup>th</sup> Street, 27<sup>th</sup> 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 Broadway the most prominent street. The following is a ranking of the prominence of streets in the S-5 zone, from most prominent to least prominent: Broadway, 27<sup>th</sup> Street, Bay Place, Valdez Street, 24<sup>th</sup> Street, 26<sup>th</sup> Street, and then all other streets.

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.

# Exhibit B Expansion of Proposed S-5 Retail Frontage Interim Combining Zone

**Existing Zoning: C-40**  
**Proposed Zoning: C-40/S-5**  
(already heard by City Council)

**Existing Zoning: S-1**  
**Proposed Zoning: S-1/S-5**  
(New Proposal)

**Existing Zoning: R-80**  
**Proposed Zoning: R-80/S-5**  
(New Proposal)

**Existing Zoning: C-30**  
**Proposed Zoning: C-30/S-5**  
(New Proposal)

**Existing Zoning: R-90**  
**Proposed Zoning: R-90/S-5**  
(New Proposal)

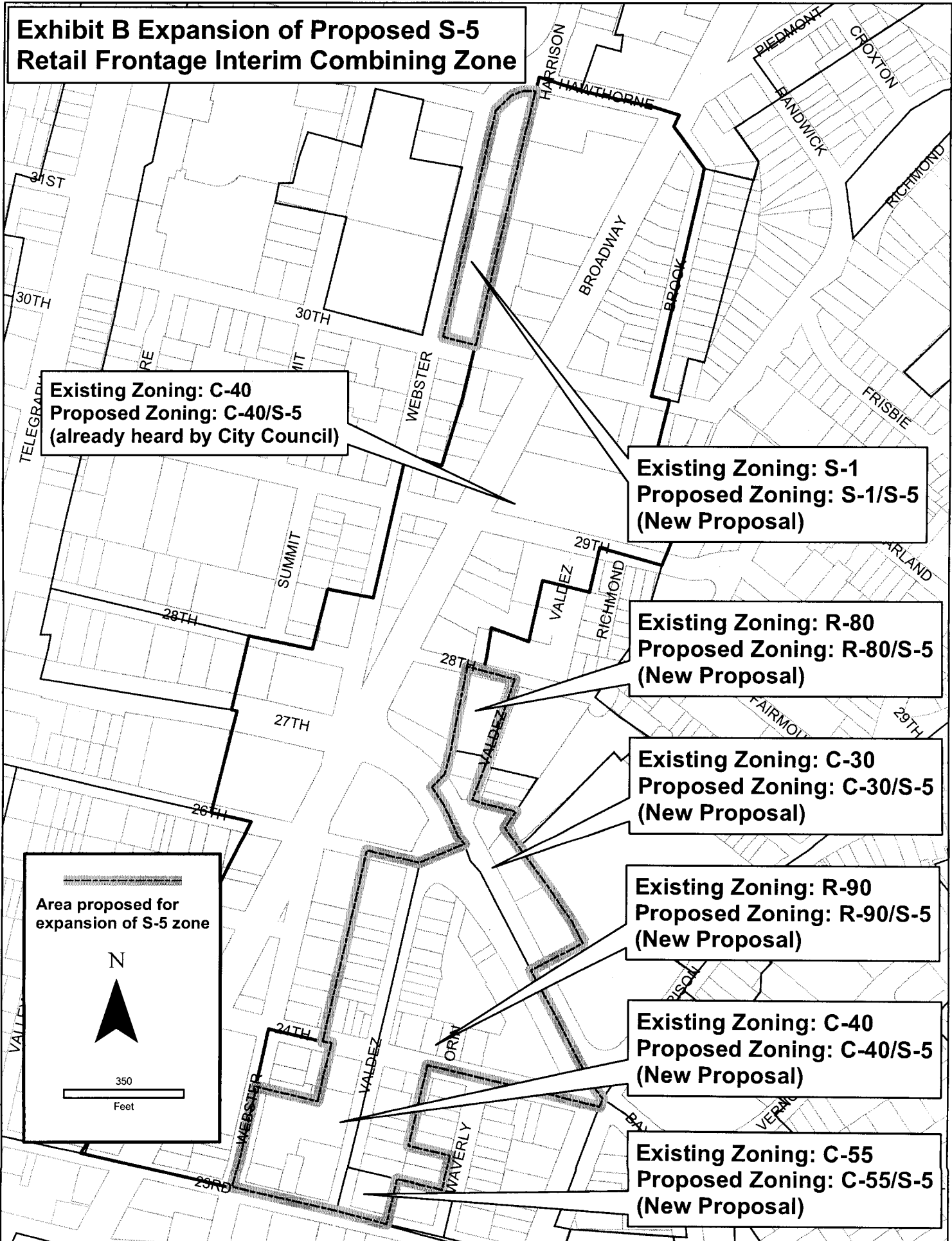
**Existing Zoning: C-40**  
**Proposed Zoning: C-40/S-5**  
(New Proposal)

**Existing Zoning: C-55**  
**Proposed Zoning: C-55/S-5**  
(New Proposal)

Area proposed for expansion of S-5 zone

N

350  
Feet



## NOTICE AND DIGEST

**INTERIM ORDINANCE AMENDING THE ZONING REGULATIONS FOR THREE YEARS OR UNTIL THE CITY COUNCIL ADOPTS PERMANENT REGULATIONS TO: A) EXPAND THE S-5 BROADWAY RETAIL FRONTAGE INTERIM COMBINING ZONE (S-5 ZONE) ON THE ZONING MAPS TO INCLUDE THE EAST SIDE OF WEBSTER STREET BETWEEN 30<sup>TH</sup> STREET AND HAWTHORNE AVENUE AND AN AREA NEAR VALDEZ AND 27<sup>TH</sup> STREETS AND B) AMEND THE TEXT OF THE S-5 ZONE IN THE PLANNING CODE TO REQUIRE NEW CONSTRUCTION TO CONTAIN GROUND FLOOR COMMERCIAL SPACE AT THESE EXPANDED AREAS.**

This ordinance expands where the S-5 zone is designated on the zoning maps and makes related text amendments to the S-5 zone in the Planning Code.