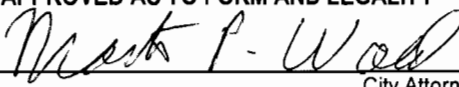


2010 JUL -8 PM 2: 50
INTRODUCED BY COUNCILMEMBER _____


City Attorney

OAKLAND CITY COUNCIL
ORDINANCE No. 13030 C.M.S.

AN EMERGENCY ORDINANCE, PURSUANT TO CHARTER SECTION 213, TO TAKE EFFECT IMMEDIATELY UPON INTRODUCTION AND ADOPTION, WHICH EXTENDS INTERIM CONTROLS ESTABLISHED UNDER ORDINANCE NO. 12885 C.M.S. AND NO. 12852 C.M.S. FOR AN ADDITIONAL TWO YEARS OR UNTIL THE CITY COUNCIL ADOPTS PERMANENT REGULATIONS, APPLYING THE S-4 DESIGN REVIEW COMBINING ZONE WHICH REQUIRES NEW OR REHABILITATED BUILDING FACILITIES TO FOLLOW ESTABLISHED DESIGN REVIEW PROCEDURES, TO:

- A) THOSE C-10, C-30, C-35 AND C-40 ZONED AREAS WHICH ARE DESIGNATED IN THE GENERAL PLAN AS NEIGHBORHOOD CENTER COMMERCIAL, COMMUNITY COMMERCIAL, OR URBAN RESIDENTIAL; AND**
- B) UPPER BROADWAY – FROM HAWTHORNE AVENUE TO INTERSTATE 580, AND FROM 38TH STREET TO COLLEGE AVENUE, AND TO THE COMMUNITY COMMERCIAL GENERAL PLAN AREAS NORTHEAST OF THE INTERSECTION OF BROADWAY AND PLEASANT VALLEY TO VIEW PLACE.**

WHEREAS, on January 15, 2008, the Oakland City Council adopted Ordinance No. 12852 C.M.S. as a 1-year interim control lasting until January 15, 2009, which applied the S-4 Combining Zone on the zoning districts of Upper Broadway, from Hawthorne Avenue to Interstate 580; from 38th Street to College Avenue (excepting the area around Kaiser Hospital); and from the area northeast of the intersection of Broadway and Pleasant Valley, to View Place (including the Safeway shopping center at Broadway and Pleasant Valley); and

WHEREAS, on July 15, 2008, the Oakland City Council also adopted Ordinance No. 12885 C.M.S. as a 2-year interim control lasting until July 15, 2010, which applied the S-4 Zone to many of the city's other major commercial corridors- such as International Boulevard, Foothill Boulevard, Grand Avenue, Telegraph Avenue, and San Pablo Avenue; and

WHEREAS, the S-4 Zone, as codified in Chapter 17.80 of the Oakland Planning Code, requires design review for the construction or alteration of commercial development; and

WHEREAS, the portions of Upper Broadway, International Boulevard, Foothill Boulevard, MacArthur Boulevard, San Pablo Avenue and Telegraph Avenue which are currently zoned C-10, C-30, C-35, C-40, or R-50, would not require design review of commercial development without the continued application of the S-4 Design Review Combining Zone; and

WHEREAS, the interim S-4 controls on the major commercial corridors were established by the Council to provide temporary land use regulation pending the completion of the citywide zoning update, which will likely include some form of commercial design review in the permanent zoning controls for the major corridors, including upper Broadway; and

WHEREAS, this extension of interim S-4 controls is necessary to protect the public health, safety and welfare because many underlying commercial zones do not currently require design review for non-residential (i.e., “commercial”) buildings and adopting this ordinance, and mapping the S-4 zone to the major corridors, including Upper Broadway, will give staff additional discretionary review over proposed developments on these major thoroughfares, and thus maintain the quality of commercial development on the corridors until permanent controls could be put in place; and

WHEREAS, certain findings were made to support adoption of Ordinance No. 12852 C.M.S. and No. 12885 C.M.S. and those findings are still true and correct; 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). These documents include the Final Environmental Impact Report (EIR) for the Land Use and Transportation Element (LUTE) of the Oakland General Plan, certified in 1998; the Initial Study/Mitigated Negative Declaration for the 2004 Housing Element Update, certified in 2004, and the EIR for Amendments to the Historic Preservation Element of the General Plan, certified in 1998; and

WHEREAS, as a separate and independent basis, the proposal is also exempt from CEQA pursuant to CEQA Guidelines Sections 15183 (Projects Consistent with a Community Plan, General Plan, or Zoning) and /or 15061(b)(3) (General Rule—no possibility of significant environmental impact); 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. This Ordinance complies with the California Environmental Quality Act for the reasons stated above.

Section 3. The zoning maps shall be amended to apply the S-4 Design Review Combining Zone to parcels on Broadway within: (A) the C-40 zone between Hawthorne and Interstate 580; and the C-40 zone between 38th Street and College Avenue; and the C-30 zone northeast of the intersection of Broadway and Pleasant Valley; and the R-50 zone on Pleasant Valley to View Place, as generally shown in Exhibit A, attached hereto and incorporated by reference; and (B) to those areas currently zoned C-10, C-30, C-35 and C-40 and designated in the 1998 Land Use and Transportation Element of the Oakland General Plan as Neighborhood Center Commercial, Community Commercial and Urban Residential; and as generally shown in Exhibit B, attached

hereto and incorporated by reference.

Section 4. No building, zoning or other permit that has been issued for any building or structure for which rights to proceed with said building or structure have not vested pursuant to the provisions of State law shall proceed without complying with this ordinance. Further, no building, zoning or other permit for any building or structure shall be issued by any department, agency, employee or agent of the City of Oakland to allow for any building or structure, without complying with the requirements of Section 3, above. No use which has not vested prior to the date of this Ordinance shall commence in violation of the provisions of this Ordinance.

Section 5. The controls imposed by this ordinance shall remain in place and be effective for a continuous two year period from the effective date of this ordinance, or until the City Council adopts permanent controls for design review on the commercial corridors, whichever comes first.

Section 6. For the term of this ordinance, as set for the in Section 5 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 7. 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.

Section 8. This Ordinance is enacted pursuant to the City of Oakland’s general police powers, Sections 106 and 213 of the Charter of the City of Oakland, and Article XI of the California Constitution.

Section 9. 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, JUL 20 2010, 20

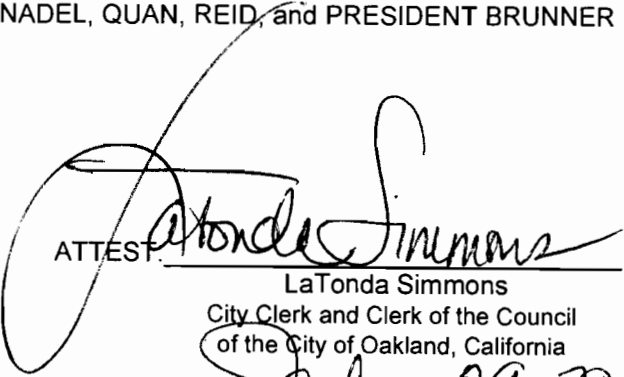
PASSED BY THE FOLLOWING VOTE:

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

NOES- 0

ABSENT- 0

ABSTENTION- 0

ATTEST: 
LaTonda Simmons
City Clerk and Clerk of the Council
of the City of Oakland, California
DATE OF ATTESTATION: July 29, 2010

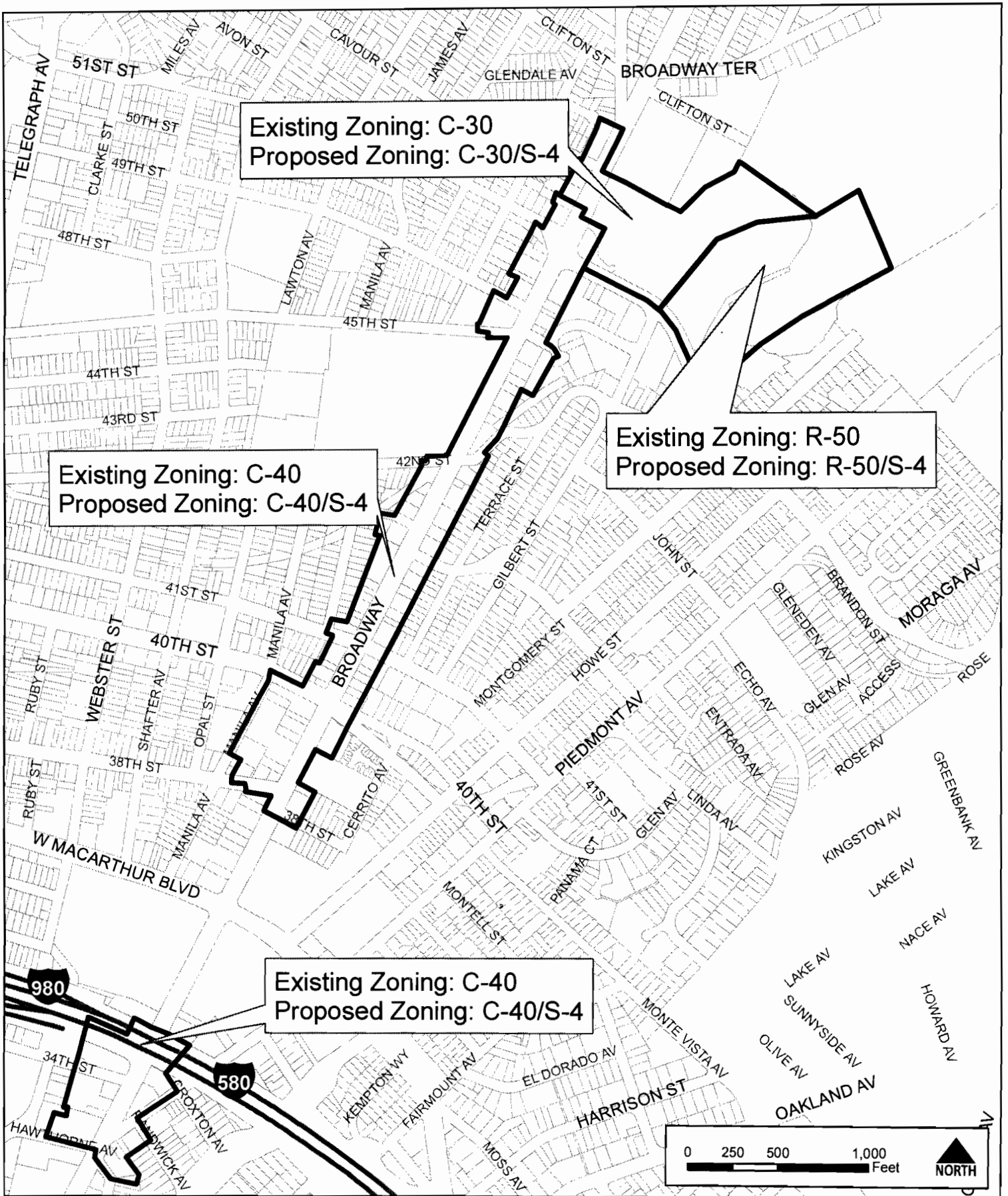


Exhibit A
S-4 Overlay Zone
 Upper Broadway

City Council
 July 20, 2010

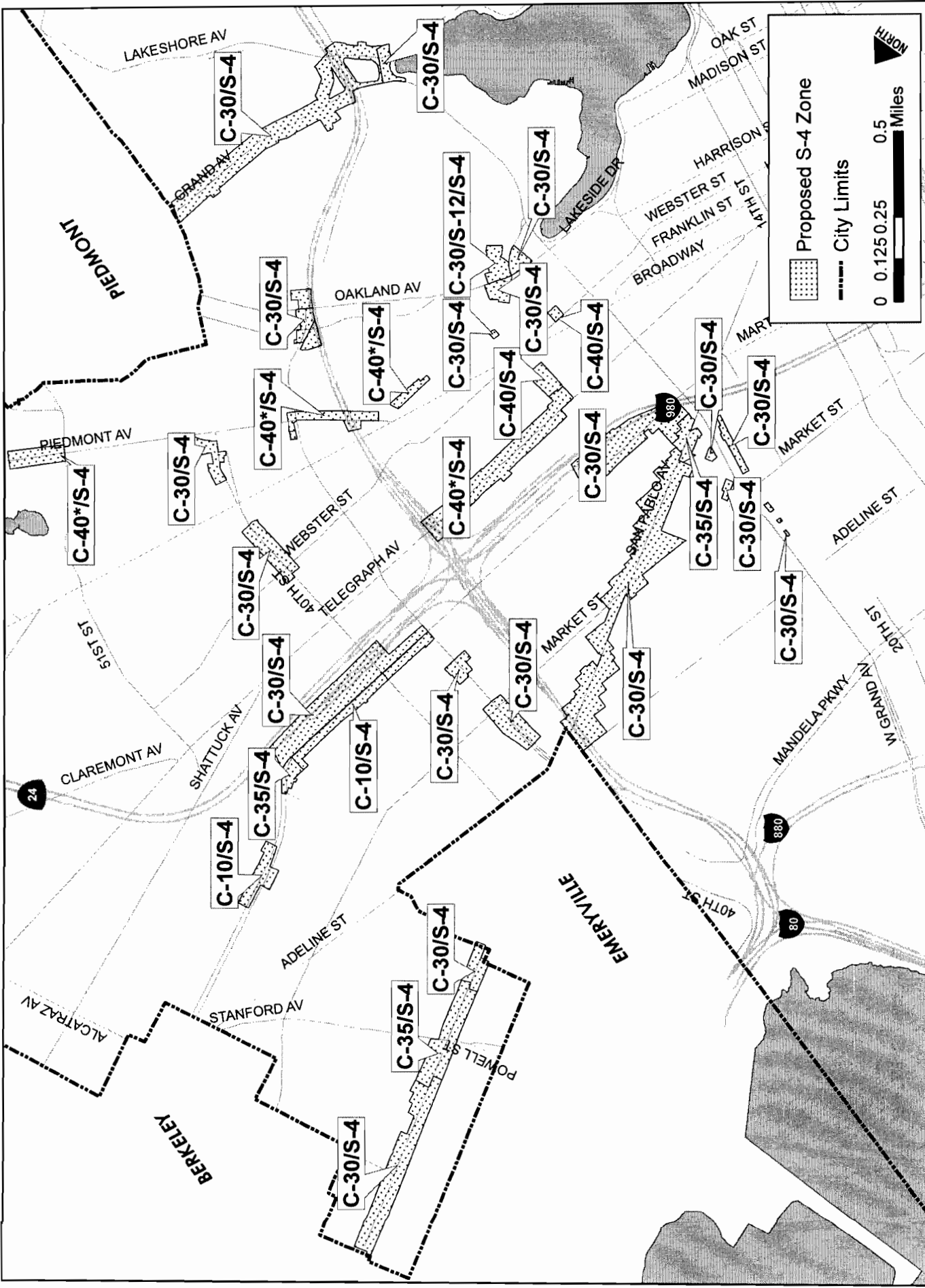
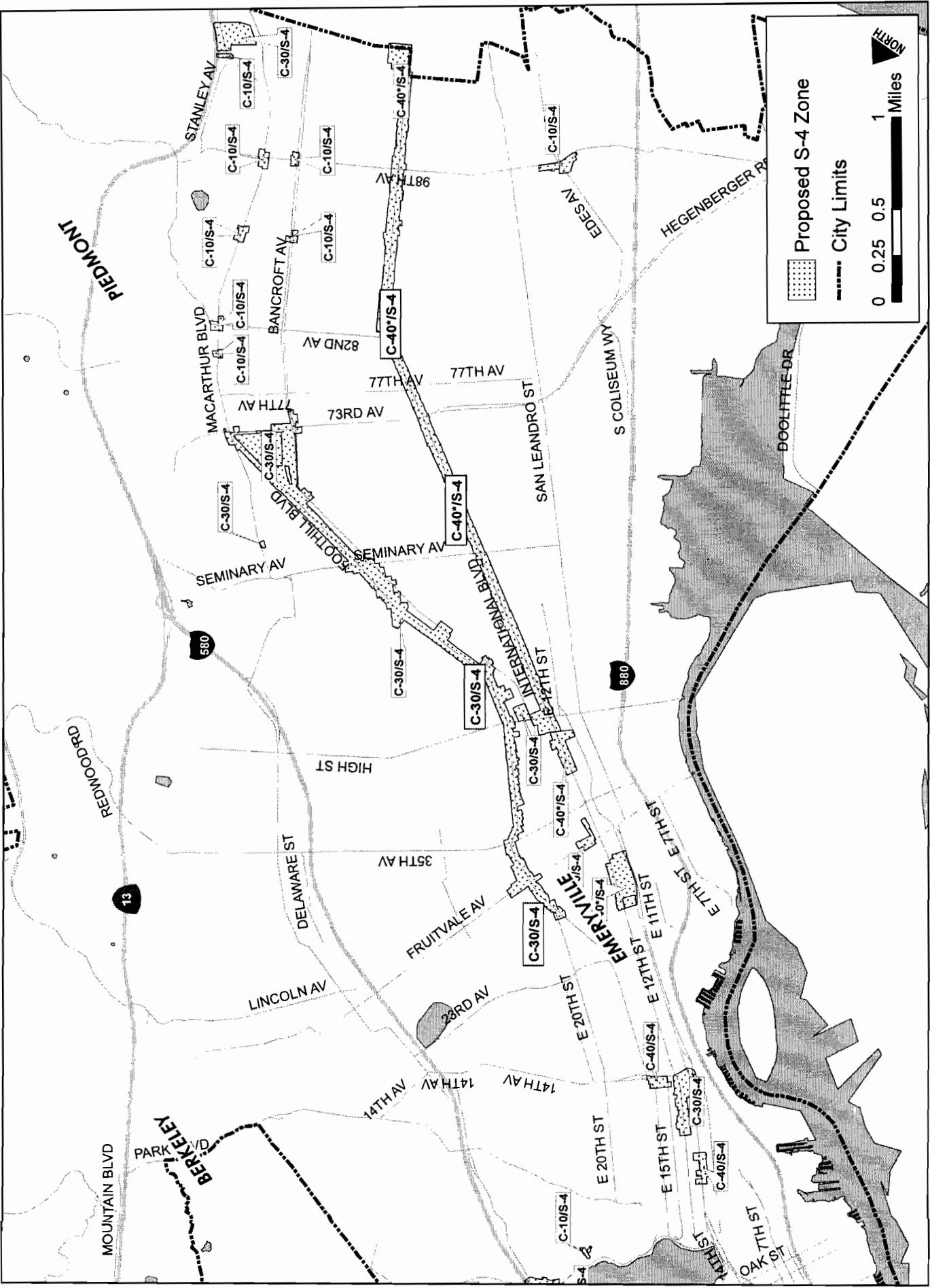


Exhibit B
Commercial areas proposed for S-4 Design Review Combining Zone
For Illustrative Purposes Only





City Council
July 20, 2010

Exhibit B
Commercial areas proposed for S-4 Design Review Combining Zone
For Illustrative Purposes Only



MPLW

NOTICE AND DIGEST

AN EMERGENCY ORDINANCE, PURSUANT TO CHARTER SECTION 213, TO TAKE EFFECT IMMEDIATELY UPON INTRODUCTION AND ADOPTION, WHICH EXTENDS INTERIM CONTROLS ESTABLISHED UNDER ORDINANCE NO. 12885 C.M.S. AND NO. 12852 C.M.S. FOR AN ADDITIONAL TWO YEARS OR UNTIL THE CITY COUNCIL ADOPTS PERMANENT REGULATIONS, APPLYING THE S-4 DESIGN REVIEW COMBINING ZONE WHICH REQUIRES NEW OR REHABILITATED BUILDING FACILITIES TO FOLLOW ESTABLISHED DESIGN REVIEW PROCEDURES, TO:

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This interim ordinance amends the zoning maps to apply the S-4 Design Review Combining Zone (Chapter 17.80 in the Oakland Planning Code) to:

(A) upper Broadway – from Hawthorne Avenue to Interstate 580; and from 38th Street to College Avenue; and to the area designated in the 1998 Land Use and Transportation Element of the Oakland General Plan as Community Commercial northeast of the intersection of Broadway and Pleasant Valley, to View Place; and

(B) to those areas currently zoned C-10, C-30, C-35 and C-40 and designated in the 1998 Land Use and Transportation Element of the Oakland General Plan as Neighborhood Center Commercial, Community Commercial and Urban Residential.

All new construction and rehabilitation of commercial and other non-residential buildings will require the design review procedures codified in Chapter 17.136 of the Oakland Planning Code.