

**AGENDA**

**LANDMARKS PRESERVATION  
ADVISORY BOARD  
OAKLAND, CA 94612**

**LANDMARKS PRESERVATION  
ADVISORY BOARD MEMBERS:**

**Christopher Andrews, Vice-Chair  
Peter Birkholz  
Stafford Buckley  
Eleanor Casson  
Frank Flores  
Valerie Garry, Chair  
Mary E. MacDonald**

**May 12, 2014  
  
Regular Meeting 6 PM  
City Hall  
Sergeant Mark Dunakin  
Hearing Room 1  
One Frank Ogawa Plaza  
Oakland, California 94612**

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This meeting is wheelchair accessible. To request materials in alternative formats, or to request an ASL interpreter or assistive listening device, contact Betty Marvin at 510-238-6879, bmarvin@oaklandnet.com, or TDD 510-238-3254 at least three working days before the meeting. Please refrain from wearing scented products to this meeting so those with chemical sensitivities may attend.  
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**A. ROLL CALL**

**B. OPEN FORUM**

**C. APPROVAL OF MINUTES of February 10, 2014**

**D. INTRODUCTION OF NEW LANDMARKS BOARD MEMBERS:  
Stafford Buckley, Eleanor Casson, Frank Flores**

**E. NEW BUSINESS**

**1. DeFremery House, 1651 Adeline Street:** Informational presentation by YHLA Architects regarding recent physical assessment and proposed exterior and structural rehabilitation at DeFremery House, Oakland Landmark #56 (LM 81-230), built 1863-64, currently used as recreation center in DeFremery Park.

## 2. Broadway Valdez District Specific Plan and EIR

<b>Location:</b>	The Broadway Valdez District Specific Plan Area (“Plan Area”) is located at the north edge of Oakland’s Central Business District. The Plan Area, which includes land along both sides of Broadway, extends 0.8 miles from Grand Avenue to I-580. The Plan Area includes approximately 95.5 acres, including 35.1 acres in public right-of-way and 60.4 acres of developable land.
<b>Proposal:</b>	Conduct a public hearing to provide cultural-resource related comments on the Final Environmental Impact Report (FEIR), Final Specific Plan, and associated General Plan amendments, Municipal Code and Planning Code amendments, Zoning Maps, Height Maps and Design Guidelines (collectively called “Related Actions”).
<b>Applicant:</b>	City of Oakland
<b>Case File Number:</b>	<b>ZS12046, ER120005, GP13268, ZT13269, RZ13270</b>
<b>General Plan:</b>	Central Business District, Community Commercial, Neighborhood Center Commercial, Urban Residential, Mixed Housing Type Residential, Institutional
<b>Zoning:</b>	CBD-P, CBD-C, CC-2, CC-2/D-BR, CN-2/D-BR, RU-3/D-BR, RU-4/D-BR, RM-3/D-BR, RM-4/D-BR
<b>Environmental Determination:</b>	All comments that were received during the DEIR public comment period have been compiled and responded to in the Response to Comments (RTC) Document, along with changes and clarifications to the Draft Environmental Impact Report (DEIR). The RTC Document, together with the DEIR, constitutes the Final EIR (FEIR) for the Specific Plan.
<b>Historic Status:</b>	The Plan Area includes cultural/historic resources that include CEQA Historic Resources and may be eligible for, or are on an historical resource list (including the California Register of Historic Resources, the National Register of Historical Resources, and/or the Local Register); as well as several cultural/historic resources designated by the City of Oakland as Areas of Primary Importance (API); Areas of Secondary Importance (ASI); properties individually rated A, B, C, or D; and Landmark properties.
<b>Service Delivery District:</b>	2
<b>City Council District:</b>	3
<b>Status:</b>	The RTC/FEIR and Specific Plan will be released on May 1, 2014.
<b>Action to be Taken:</b>	Receive public and Board member cultural-resource related comments on the FEIR, Final Specific Plan and Related Actions.
<b>Finality of Decision:</b>	N/A
<b>For Further Information:</b>	Contact project planner Laura Kaminski at <b>510-238-6809</b> or <a href="mailto:lkaminski@oaklandnet.com">lkaminski@oaklandnet.com</a> Project website: <a href="http://www.oaklandnet.com/bvdsp">www.oaklandnet.com/bvdsp</a>

**F. OLD BUSINESS**

**G. BOARD REPORTS**

Latham plaza and fountain – public meeting May 8

**H. SUB-COMMITTEE REPORTS**

West Oakland Specific Plan: LPAB representatives (Andrews, Garry, MacDonald).

**I. ANNOUNCEMENTS**

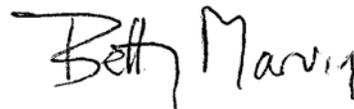
**J. SECRETARY REPORTS**

Oakland Auditorium-Kaiser Convention Center – request for tour  
Latham plaza and fountain  
Cathedral Building, tenant improvements for ground-floor bar

**K. UPCOMING**

Emerald Views / Schilling Garden  
Coliseum Area Specific Plan  
General Electric plant demolition  
Glenview School rehab or replacement  
Children’s Hospital DEIR, July 14  
Camron-Stanford House landscape/lighting  
Claremont Hotel entry area

**L. ADJOURNMENT**



**BETTY MARVIN, Acting Secretary**

**NEXT REGULAR MEETING: June 9, 2014**

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The Landmarks Board welcomes public comment on all agenda items. The Board requests that speakers limit comments to no more than three minutes. Correspondence received by the Monday prior to the meeting will be included in the Board’s agenda packet.

**Landmarks Preservation Advisory Board  
250 Frank H. Ogawa Plaza, Suite 3315  
Oakland, CA 94612  
Fax 510-238-6538**

**Draft MINUTES**

**LANDMARKS PRESERVATION  
ADVISORY BOARD  
OAKLAND, CA 94612**

**LANDMARKS PRESERVATION  
ADVISORY BOARD MEMBERS:**

**Christopher Andrews, Vice-Chair  
Peter Birkholz  
Valerie Garry, Chair  
Mary E. MacDonald  
Daniel Schulman**

**February 10, 2014  
Regular Meeting 6 PM  
  
City Hall  
Sergeant Mark Dunakin  
Hearing Room 1  
One Frank Ogawa Plaza  
Oakland, California 94612**

**A. ROLL CALL**

Board members present: Andrews, Birkholz, Garry, MacDonald, Schulman  
Staff present: Marvin.

**B. OPEN FORUM**

William Eugene (Gene) Morrison, of Westlake Christian Terrace, reported graffiti on the YWCA building at 1515 Webster Street, a city landmark. He had notified Code Enforcement. Paint was on the top story and the mural on the base had been extended up onto the brick. "Reuse is ok if it's done with some respect."

Garry thanked him for bringing up a "very timely issue" in view of the recent graffiti at the Oakland [Kaiser] Auditorium. Removal had to be done in ways that would not further damage historic materials, and it was always better to protect the buildings from tagging in the first place.

Naomi Schiff announced Oakland Heritage Alliance's upcoming tour of Bruce Beasley's studio in South Prescott. She said that OHA "takes a dim view of LED billboards at the foot of the Bay Bridge" and recommended the website [sceniceastbay.org](http://sceniceastbay.org).

**C. APPROVAL OF MINUTES of January 13, 2014**

Moved by Schulman, seconded by Birkholz, 4 ayes (MacDonald arrived later).

**D. LANDMARK OF THE MONTH**

**Landmark of the Month** – other buildings, landscapes, and areas of note:

presentation by Board member Peter Birkholz on 489-99 23rd St./2276 Telegraph Av., 1923, Clay Burrell, architect

Birkholz said he had "always wondered about this building," and then became interested in the architect. The building has a long-time owner who is a "good steward of the building"; because the taxes are low, it is not a likely Mills Act candidate. It is one of "master architect" Clay N. Burrell's many mixed-use buildings developed at the center of Oakland's splendid rail system of the 1920s – "he was an urbanist." Burrell's grandfather was president of the California Bridge Company. His well-known Oakland buildings include the California Hotel, Cox Cadillac, the White Building, the Gold's Gym building at 586-618 Grand Avenue, the Oakland Tabernacle at 408 West Grand, and many more, generally classical or Mediterranean in style.

**E. NEW BUSINESS**

**1. West Oakland Specific Plan: Draft Plan and Draft EIR**

<b>Location:</b>	<b>West Oakland Specific Plan Area</b> is generally bounded by Interstate-580 (MacArthur Freeway) to the north, Interstate-980 to the east, and the re-located Interstate-880 (Nimitz Freeway) wrapping around the south and west. A small portion of the plan area is in the East Bay Bridge Shopping Center and below I-880 near Linden Street.
<b>Proposal:</b>	Public Hearing on the cultural resource aspects of the Draft Environmental Impact Report and the Draft West Oakland Specific Plan.
<b>Applicant:</b>	City of Oakland
<b>Case File Numbers:</b>	ER12-0018, GP14-010, RZ14-011, ZS14-012, ZT14-013
<b>General Plan:</b>	Neighborhood Center, Mixed Housing Type, Institutional, Urban Open Space, Urban Residential, Business Mix, Community Commercial, Housing and Business Mix, Regional Commercial, Light Industry 1 (Estuary Plan Area).
<b>Zoning:</b>	RM-1, RM-2, RM-3, RM-4, RM-4/C, RU-1, RU-2, RU-3, RU-5, OS-(LP), OS-(NP), OS-(AMP), OS-(AF), OS-(CP), CC-1, CC-2, CC-3, C-40, HBX-2, CR-1, M-30, IG, CIX-1, S-4, S-7, S-S-15, S-19, S-20, Wood Street.
<b>Environmental Determination:</b>	An Environmental Impact Report was prepared as part of the West Oakland Specific Plan.
<b>Historic Status:</b>	The Plan Area includes cultural/historic resources that may be eligible for, or are on an historical resource list (including the California Register of Historic Resources, the National Register of Historical Resources, and/or the Local Register); and several cultural/historic resources designated locally as Areas of Primary Importance (API); Areas of Secondary Importance (ASI); properties individually rated A, B, C, or D; and Landmark properties.
<b>Service Delivery District:</b>	1, 2
<b>City Council District:</b>	3, and a small portion of 1
<b>Status:</b>	A Draft Plan and Draft Environmental Impact Report (DEIR) was published for a 45-day review period starting on January 29, 2014 and ending on March 17, 2014 at 5:00 p.m.
<b>Action to be Taken:</b>	Receive public and Board member comments on the Draft Environmental Impact Report.
<b>Finality of Decision:</b>	N/A
<b>Further Information:</b>	Contact project planner Ulla-Britt Jonsson at <b>510-238-3322</b> or <a href="mailto:ujonsson@oaklandnet.com">ujonsson@oaklandnet.com</a> Project message line: <b>510-238-3322</b> Project email address: <a href="mailto:westoaklandspecificplan@oaklandnet.com">westoaklandspecificplan@oaklandnet.com</a> Project website: <a href="http://www.oaklandnet.com/r/wosp">www.oaklandnet.com/r/wosp</a>

Planner Ed Manasse stated that the West Oakland Specific Plan and DEIR, three years in the making, was formally released on January 29, starting a 45-day comment period ending March 17. He summarized the staff report. Overall goals and goals for each opportunity area have been developed with input from Steering Committee, Technical Advisory Committee, and many other members of the community. The plan provides a transportation and land use framework for development of key underutilized parcels while protecting existing residential neighborhoods. General Plan and Zoning amendments are proposed, notably greater use of the Housing and Business Mix zone to achieve clearer boundaries between industry and homes. Plan components include design guidelines, transportation enhancements, overlay zones, and strategies for retaining existing assets, for example a Business Enhancement overlay that would encourage reuse of existing buildings to retain space for arts and other activities needing large and affordable spaces. The Draft Environmental Impact Report finds that with adherence to City Standard Conditions of Approval and Preservation Element policies there will be no adverse effect on historical resources (as defined for CEQA: Local Register level) under any of the alternatives, from No Project to Maximum Theoretical Buildout.

Public Speakers: Jabari Herbert advocated an African-American theme for the Mandela Transit Village, which would pay homage to Slim Jenkins, the Pullman Porters, et al., as the Transit Village brings back the mixed-use character of 7th Street.

Naomi Schiff said the Brotherhood of Sleeping Car Porters building should be landmarked. The City should go beyond lip service to the importance of 7th Street, and develop programs so local businesses can afford to locate there. She appreciated the DEIR “skirting around historic buildings,” but the definition of CEQA resources [Local Register] adopted in 1998 was too narrow and “should be revisited.”

Subcommittee Report: Chris Andrews reported that “the plan has evolved” in recognizing that West Oakland “isn’t a neighborhood” and that its many neighborhoods can provide a useful framework for looking at such a large project. He felt that “the community seems to be more involved” than earlier in the process; still more could be done to disseminate the plan and get feedback from stakeholders. The City and consultants appear to “look on historic resources as not just interesting artifacts but as having great value to economic development,” but there must be specific mechanisms to promote preservation, enhancement, and reuse. Valerie Garry noted that the plan now looks broadly at quality of life, a benefit for people who now live in West Oakland and an attraction for others: as the population grows, it will be a challenge to integrate preservation. Mary MacDonald remained concerned about intensity and height of proposed development, especially the project on the BART lot next to South Prescott, and asked if the neighborhood had commented. Project staff noted that present height limits are far higher than the 60’ recommended in the plan.

Board Discussion: Daniel Schulman was less troubled by tall buildings near BART than by the BART noise: how realistic were soundproofing proposals? He appreciated the plan’s hands-off approach to residential neighborhoods. He suggested modifying the City’s off-street parking requirements, which either prevent creation of needed units in existing buildings or lead to paving of yards, to the detriment of neighborhood character. Manasse said the City was aware of both issues: BART has the ability to finance improvements like soundproofing through an assessment district, and “if we can’t address the sound, we won’t be able to attract development.” The City “would be open to a zoning amendment” on parking.

Peter Birkholz suggested some sort of pre-approval for in-law units without parking, as well as for sustainability features like solar panels on houses. Sustainability could be built into the plan with recommendations for solar panels on BART’s structures or “wind farms along the freeway instead of

billboards.” He wanted more emphasis on supporting existing neighborhoods, and asked about neighborhood-oriented transportation, not just San Francisco-serving BART. Manasse described the streetcar loop(s) proposed in the plan, linking West Oakland to Broadway and several BART stations, and possibly also to the Army Base.

Birkholz asked about the relation of the plan’s proposed grocery store sites on West Grand to businesses already taking shape such as People’s Grocery, and about coordination with the Oakland Unified School District. Currently school enrollment is down and the issue is what to do with underused facilities; in the future developers may need to pay school impact fees as population grows and demand for schools goes back up.

Garry noted that the plan mentions the Green Building Ordinance: its application must be “tailored to historic buildings and Oakland’s distinctive building stock.” Design guidelines also must be very specific to each neighborhood, “almost street by street,” to insure that additions and new construction are compatible with the context and do not destroy character defining features of buildings or neighborhoods. The plan says a great deal about not demolishing, but more needs to be said about compatible infill. She cited Secretary of the Interior’s Standard #9 on additions and new construction. Design guidelines were needed for the residential neighborhoods, not just the opportunity areas. “The City has to do what it can so people can afford to preserve,” e.g., expand the Mills Act program and promote State historic tax credits. She cited the California Hotel as a first-rate historic rehabilitation tax credit project.

Andrews noted that the opportunity sites are all at the junctions of neighborhoods, and that creates tension. The plan had come a long way in acknowledging West Oakland’s neighborhoods, but he was still looking for a vision that pulls transportation, schools, and all the other issues together “as a catalyst for the neighborhood.” West Oakland has been a “gated community” between the freeways. The initiative for the plan came from a transportation grant. The plan addresses transportation and other ways to tie West Oakland back to the rest of the city. The plan has to be able to develop as circumstances change.

Garry said the plan document is just the beginning. She praised it as “the most complete package of thoughtful planning I’ve seen in Oakland.” Andrews agreed to represent the Board at the Planning Commission hearing on February 24. Manasse said comments from tonight’s hearing were received as part of the comment process.

**F. OLD BUSINESS - Action Items: Follow-up on January Goal Setting Meeting, in conjunction with review of Certified Local Government Annual Report: adoption of 2014 goals.** Goals drafted by Garry and Marvin based on last month’s discussion were reviewed and adopted: moved by Andrews, seconded by Birkholz, 4 ayes, 1 abstention (Schulman).

**G. BOARD REPORTS**

Garry described the graffiti incident at the Auditorium in the last week of January. After the 12th Street construction finished, the area became a homeless campsite and the terra cotta niches were tagged. Garry, Marvin, and tile expert Riley Doty met with Public Works at the site to discuss the need to clean using the gentlest means possible and to secure the site against future vandalism. Birkholz noted similar problems at the Veterans’ Building. Garry mentioned a Massachusetts program for “curatorship” of publicly owned buildings in parks. Individuals or organizations can apply through a RFP process to occupy these buildings in exchange for maintaining and rehabilitating them. Andrews noted an article on similar programs in other states.

**H. SUB-COMMITTEE REPORTS**

West Oakland Specific Plan (Andrews, Garry, MacDonald): see E, New Business, above.

**I. ANNOUNCEMENTS**

2014 meeting schedule: April Board meeting is scheduled for April 7 because the second Monday is the first night of Passover. Members confirmed that a quorum can be present on the 7th (in Council Chamber).

Birkholz announced a SF AIA tour of terra cotta and metal restoration at the Timothy Pflueger Pacific Telephone building in San Francisco on March 12 and a workshop on metal restoration at the state preservation conference at Asilomar in May.

**J. SECRETARY REPORTS**

Board vacancies/appointments: no news. Daniel Schulman, whose term expires with this meeting, was thanked and congratulated for his years of service on the Board.

FPPC Form 700, disclosure of financial interests, is due to City Clerk on April 1. Filing is also required on assuming or leaving office.

Inquiries have come in over the past month about the old Chabot Observatory, Glenview School, Fire Station 24, and the Kwik-Way on Lake Park. Goal of looking after public buildings appears to have been well chosen.

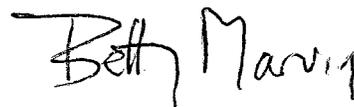
Oakland Heritage Alliance Partners in Preservation awards ceremony takes place February 20. The City is receiving an award for the Mills Act program. Schulman added that the award to Oakland Wiki recognizes extensive Oakland history contributions by former Board chair Neal Parish.

**K. UPCOMING**

Emerald Views / Schilling Garden, probably April  
Latham plaza and fountain restoration proposal  
General Electric plant demolition  
Children's Hospital EIR, late 2014; design review probably July  
Coliseum redevelopment, March or April. Andrews and Schulman noted talk about sports venues elsewhere, downtown and/or Howard Terminal

(Non-)Landmark of the Month: Garry will report on the old Chabot Observatory next time. Birkholz proposed a presentation on the City's Feather River Camp.

**L. ADJOURNMENT by consensus at 8:30. Next regular meeting March 10, 2014**



**BETTY MARVIN, Acting Secretary**

**Landmarks Preservation Advisory Board  
Goals for 2014**

Drafted by Betty Marvin and Valerie Garry, based on discussion at January 13, 2014, meeting; reviewed and adopted at February 10, 2014 meeting

**Protection:**

1. Insure protection and reuse of historic Oakland Auditorium and other City properties

**Advocacy:**

- 1 Support State Preservation Tax Credit initiative
- 2 Support State Sustainable Preservation plan

**Education:**

1. Educate the public about economic benefits of preservation, from Mills Act to business value of historic interiors
2. Promote appreciation of the whole range of local resources and neighborhoods, not only landmarks
3. Pursue Board training opportunities in preservation, conservation, advocacy, and local government responsibilities (CEQA, role of planning commissions, economic revitalization)

**Procedure:**

1. Schedule formal subcommittee reports in Board hearings on action items
2. Send representatives to Planning Commission and City Council meetings to present Board's recommendations on agenda items and report back
3. Add a Landmarks motto to agenda documents: "Advocate, Educate, Protect Historic Resources"

## Letter of Nomination

April 16, 2014

The Honorable City Council  
One City Hall Plaza, Second Floor  
Oakland, CA 94612

Dear President Reid and members of the City Council:

Pursuant to City Charter section 601, the Mayor, hereby appoints the following persons as members of the following Board or Commission, subject to the City Council's confirmation:

### **LANDMARKS PRESERVATION ADVISORY BOARD**

**Stafford Buckley** Mayoral appointment to the landscape architect seat to serve the term beginning February 22, 2013 and ending February 21, 2016, filling the seat previously held by Anna Naruta.

**Frank Flores** Mayoral appointment to the Real Estate Seat to serve the term beginning February 22, 2012 and ending February 21, 2015, filling the seat previously held by John Goins III.

**Eleanor Casson** Mayoral appointment to a non-designated seat to serve the term beginning February 22, 2014 and ending February 21, 2017, filling the seat previously held by Daniel Schulman.

Thank you for your assistance in this matter.

Sincerely,

Jean Quan  
Mayor

## OAKLAND CITY COUNCIL

RESOLUTION No. \_\_\_\_\_ C.M.S.

**RESOLUTION CONFIRMING THE MAYOR'S APPOINTMENTS OF STAFFORD BUCKLEY, FRANK FLORES, AND ELEANOR CASSON AS MEMBERS OF THE LANDMARKS PRESERVATION ADVISORY BOARD**

**WHEREAS**, Section 601 of the City Charter provides that members of City boards and commissions shall be appointed by the Mayor subject to confirmation by the affirmative vote of five members of the City Council; and

**WHEREAS**, Ordinance No. 8883 C.M.S., passed October 4, 1973, and amended by Ordinance No. 11776, passed March 14, 1995 establishes the Landmarks Preservation Advisory Board to identify historic landmarks in Oakland, conduct design review hearings on historic properties, and advise the City Planning Commission and City Council on preservation; and

**WHEREAS**, the Landmarks Preservation Advisory Board consists of seven (7) members including one architect, one landscape architect or city planner, one real estate broker with significant experience in historic real estate, and one historian, and two other members, each serving 3-years terms but not more than two consecutive three year terms; and

**WHEREAS**, the Honorable Mayor Jean Quan has appointed Frank Flores to the Landmarks Preservation Advisory Board to the seat for a person with significant experience in real estate, Stafford Buckley to the Landmarks Preservation Advisory Board to the seat for a person with significant experience in landscape architecture, and appointed Eleanor Casson to the Landmarks Preservation Advisory Board to a non-designated seat, each to serve a three year term subject to confirmation by the City Council; now therefore be it

**RESOLVED**, that pursuant to City Charter section 601, the City Council hereby confirms the Mayor's appointment of Stafford Buckley for a three year term beginning February 22, 2013 and ending February 21, 2016 filling the seat previously held by Anna Naruta and the appointment of Frank Flores for a three year term beginning February 22, 2012 and ending February 21, 2015 filling the seat previously held by John Goins III and Eleanor Casson for a three year term beginning February 22, 2014 and ending February 21, 2017, filling the seat previously held by Daniel Schulman

**IN COUNCIL, OAKLAND, CALIFORNIA,  
PASSED BY THE FOLLOWING VOTE:**

AYES – BROOKS, GALLO, GIBSON MCELHANEY, KALB, KAPLAN, REID, SCHAAF AND  
PRESIDENT KERNIGHAN

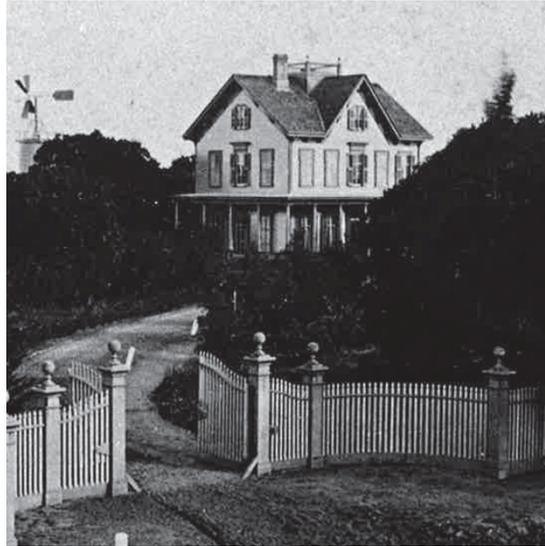
NOES –  
ABSTENTIONS-  
ABSENT-

**ATTEST:**

\_\_\_\_\_  
LATONDA SIMMONS  
City Clerk and Clerk of the Oakland City Council

# DeFremery House Recreation Center

1651 Adeline Street, Oakland, CA



DeFremery House circa 1873 by Carelton Watkins

## Exterior Rehabilitation Property Assessment Report

May 1, 2014

### I. Project Background:

The recreation center at Oakland's DeFremery Park is located in what is perhaps the oldest surviving home in the city. It has served city residents as a recreation center now for over a century. Recent exterior maintenance work, along with a pair of termite reports and a window survey, uncovered numerous areas of exterior wood damage, along with concerns that standard maintenance procedures alone may not be adequate to protect this resource.

In order to better understand the nature of the exterior rehabilitation work required to maintain the building in a sound condition, the City of Oakland commissioned this report. The report's goal is to comprehensively assess the condition of the building's exterior and sub-grade components, prioritize repair and stabilization recommendations and provide probably construction costs.

### II. Project History:

The DeFremery House, a City of Oakland landmark, was constructed for James DeFremery in 1863-64 in the Gothic/Italianate style on a large estate in what was later to become West Oakland. Based upon visual inspections by our team, and recently confirmed by the photograph above, the original two-story house with its evenly spaced, tall windows, spacious attic and 'widow's walk' was limited to what is now surrounded by the colonnaded porch. This is the "original house."

The two rear extensions of the original house were early additions that were generally designed to match many of the details of the original house. These two “wings” may have been constructed at the same time, or perhaps a few years apart. Advances in construction techniques, larger, more ornate fireplaces and large bay windows found at the wings, all suggest these additions date from a slightly later Victorian period; likely the 1870’s or 1880’s.



DeFremery House served as a USO center during WWI circa 1943



From city records, it appears the spacious property was known as “The Grove” until 1907 when the City of Oakland purchased the property for a public park. Since 1907, the city altered the interior on several occasions to better function for a variety of public programs. Despite these changes, many original features remain. Although the house exterior appears largely as it did when purchased in 1907. A single story “social hall” and “connector” was constructed at the rear (west side) of the

house by the USO in 1944 when the house served as a social club during WWII.

Ongoing maintenance and security concerns have resulted in perhaps the most significant changes to the building’s exterior since 1907. It would appear that very early in the city’s tenure as owner, the ten tall ground floor windows facing onto the colonnaded porch were partly or completely filled in, as were several second floor windows at the front of the house. From our research it would appear the tall ground floor windows originally opened vertically into wall pockets above the top of the windows and allowed open access between each room and the porch. This ease of access was likely a security concern from early on - prompting this original feature to be abandoned and the window sills raised or completely closed in.

Older photographs of the colonnaded porch appear generally consistent with what is seen today. However, photographs from the 1940’s clearly show that the lower portions of the porch were re-built in a simplified style that did not match the original. This reconstruction may have taken place in the 1920’s or 30’s. In 1984, all lower portions of the porch, (below the column bases), were again re-built; this time to appear more consistent with the original porch. The north side of the porch was converted into a ramp to meet accessibility requirements at this time as well.



De Fremery House - c. 1905

DeFremery House at ‘The Grove’ about 1905



DeFremery Recreation Center about 1970

Also in 1984, a stair and landing off the north wing were constructed and a new fire escape stair to the second floor was added at the south wing to provide additional exiting for the public.

In our assessment of the windows and review of historical photographs, it appears that most of the existing operable window sash are not original and were greatly modified or replaced over the last century.

Window replacements and modifications were likely related to ongoing maintenance issues and security concerns. In many cases, however, the original jambs, sills and trim remain intact. A wide variety in window divisions – particularly on the south and east sides of the house – suggest divisions were removed or added over time to provide cost effective repairs, despite the lack of consistency or historical accuracy.

The simple ship-lap siding on the house may be original in parts, but several areas where building paper is visible behind the siding, and use of straight-grain siding, strongly suggest that much of the original material has already been replaced as a part of ongoing maintenance.

We understand the current wood shake shingle roofing was installed in 2010 and it is perhaps during this re-roofing that vestiges of the original 'widow's walk' platform was removed.

### III. Assessment Findings and Recommendations

On Monday, April 7, 2014, Andy Carpentier with YHLA Architects and Jim Spaulding with BCE Preservation Consulting spent the day assessing the condition of the building envelope and other exterior appurtenances, such as porches and stairs. The purpose of this investigation was to better understand the root causes of recent water and termite damage as well as aid the city in prioritizing maintenance and rehabilitation work aimed at reducing or eliminating these causes. Specific areas of damage that require remediation and rehabilitation are outlined below:

#### A. Sub-Grade Areas

Findings: Conditions witnessed under the colonnaded porch point to poorly detailed perimeter shear wall and porch reconstruction work as a leading cause of recent termite infestation and minor structural damage. As part of this work carried out in 1984, the original home's perimeter foundation system was replaced with a continuous poured

Sub-grade area under the colonnaded porch



concrete foundation wall. The top of this wall is located on average about 24" above the basement level floor, but about 30" below grade at the outer edge of the porch. This grade difference was handled by sloping soil under the porch from the porch's outer edge to the foundation wall at the inner edge. Atop the foundation wall, a wood framed pony wall faced with plywood supports the exterior walls of the original house. Due to the fact that the relatively loose soil is sloped inward, towards the new foundation wall, wet soil conditions have tended to direct both moisture and loose soil towards the foundation. In several areas, the soil height has exceeded the height of the foundation and is currently in direct contact with the wood-framed pony wall. Because the soil here is low, it retains moisture the longest and directs it into the basement area under the house. In addition, because the basement and space under the porch is not well ventilated, the soil tends to stay damp long after the soil outside has dried out. This has lead to ideal conditions for wood decay to occur at the base of the pony wall and for subterranean termites to take full advantage of moist lumber in direct contact with soil. Additionally, we found evidence of wildlife living under the porch.

One additional area of major sub-grade damage was discovered at the south side of the building that connects the social hall to the house. A downspout on the south side of that structure is disconnected and water from it continues to thoroughly soak the siding, below-



Sub-grade damage at the connector building

floor framing and soil. Soil is piled up against one side of the social hall in this area as well. Although the wood sills and pony wall framing under the social hall and connector building are far closer to the adjacent soil than current code allows, we found little evidence of decay, termite damage or structural deficiencies; though access was restricted due to the limited height of the crawl space under the social hall and connector.

Standing-height, dirt floor basement areas under the house appeared generally to be dry with the exception of some wet soil along the newer foundation walls near the porch and under the south wing near the entry doors. One former window to the sub-grade area located adjacent to the sub-grade entryway was covered by the fire escape and appears to be in a state of deterioration. The area under the south wing contained a variety of items stored directly on the soil.



Sub-grade damage in the basement. Soil in contact with wood.

The entry doors to the sub-grade area are constructed of plywood which is beginning to delaminate and decay.

Relatively minor areas of decay in the sub-grade areas were additionally identified in the termite reports of 2006 by Omega Termite Control and 2014 by Paratex Termite. We understand Paratex provided chemical treatment of termite infested areas in March of this year. All decayed areas listed in these reports appear to remain.

Recommendation: There are several options available to rectify the sloping soil condition. One that is likely most effective would be to cover the existing sloping soil areas under the porch with a thin reinforced concrete slab and create a sloped concrete drainage swale below the base of the foundation wall to safely convey any water from the porch or adjacent planting beds to a sump pump located in the basement. Additional venting should also be added to both the area below the porch and the basement to allow greater air movement that will allow moisture in these sub-areas to dissipate more readily. Any wet or damaged plywood and wood framing should be removed and replaced.

At the connector building, soil should be removed from against the social hall and the downspout reconnected and checked to ensure it is working properly. Damaged siding and wall framing below the floor should be removed and replaced – ideally with pressure-treated lumber.

Stored material located under the house should be removed and all sub-grade areas with dirt floors should be kept clean. Piled dirt located at the south end of the south wing should be removed to ensure wood column bases in this area do not come into contact with soil. The former window to the sub-grade area should be removed and the opening filled with masonry.

The entry doors to the sub-grade area should be replaced with storm doors that are more appropriate for the level of exposure they receive.

An access door to sub-grade areas located under the colonnaded porch should be added.

Other minor sub-grade areas of decay and soil/wood contact areas identified in the termite reports referenced above should be replaced/repared and the underlying causes of the decay, namely wood in contact with soil or leaking water, rectified.

## **B. Colonnaded Porch**

Findings: Stylistic differences between the more neoclassical inspired colonnaded porch and the more Gothic style house it surrounds, suggest portions of the porch may also be from a slightly later period in the 19<sup>th</sup> century. Although the solid wood columns and upper portions of the porch appear to be original to the house, the lower portions of the porch and columns have evidently been reconstructed on several occasions.

Although the current porch, dating from 1984, may have the appearance of the original, the construction detailing employed has led not only to rapid water-related deterioration of the porch itself, but also appears to funnel rainwater towards the building's foundation. The latest reconstruction was associated with the foundation work which included new concrete piers located below the porch at each column. The 2 x 6 tongue-and-groove redwood decking is not consistent with typical 1 x 3 fir decking used in the 19<sup>th</sup> century and the direction of the decking is contrary to logic in terms of directing water to the edge of the porch. The relatively flat slope of the porch decking adds to moisture retention concerns that invariably lead to ongoing maintenance issues. The flat slope may have been built intentionally to accommodate accessibility requirements.



Recent porch repairs

The framing that supports the porch appears to be pressure-treated lumber. The framing is viable though the metal joist hangers used are rusting badly. The cause is likely a combination of moisture retention in the sub-grade area and chemical deterioration caused by the pressure-treated lumber. The skirting on the face of the porch is also framed with what appears to be pressure-treated lumber, however, the lower portions of the framing and painted skirting are in direct contact with the soil and the skirting at least is beginning to deteriorate.



Porch framing, concrete piers and skirting in soil

The column plinths, (square bases), were constructed of painted plywood and solid trim elements. These elements were not designed to repel water and the inner hidden portions of the wood were not sealed. The interior of the plinths do not appear to be vented. Therefore, moisture is able to readily penetrate to the hidden and interior areas and cause the untreated wood to retain moisture and decay. This condition leads to the need for regular maintenance and component replacement. Likewise, the wood balustrades do not appear to be designed to repel moisture and the end-grain of the baluster bottoms soak up water and readily decay. Stair and ramp areas associated with the porch are experiencing similar degrees of ongoing deterioration and maintenance.



Column plinth decay

Fortunately, the columns themselves do not show significant signs of deterioration, though the surface finish of many are in need of some rehabilitation. It would appear that some of

the running entablature trim was replaced with much simplified trim on the east face of the porch. At the porch corners, the difference in trim profiles is quite apparent.

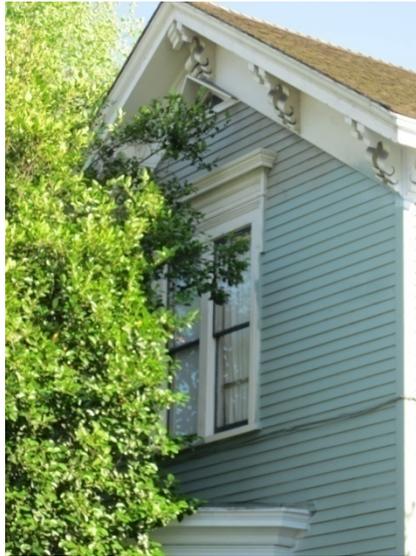
Recommendations: Because the lower porch areas are of relatively new construction and were not designed to withstand the elements without excessive degrees of costly ongoing maintenance, we recommend that the lower porch be entirely replaced. The replacement should not only retain the design elements of the original Victorian era porch, but also be carefully redesigned to limit water retention and provide a durable solution to withstand the weather and public use. Additionally we recommend the porch skirting be raised above the ground and sufficient spacing added between boards to allow for ample ventilation of the sub-grade areas. Wire mesh should be added to all ventilation openings to minimize unwanted access to the area.

Some of the original wood columns are dented and many coats of paint have left the finish rough and uneven. As warranted, columns should be chemically stripped on-site, filled as needed with a soft epoxy filler and refinished.

Although not a priority, the simplified entablature trim on the front side of the porch should be replaced with a duplicate of the original molding.

### C. Siding and Trim Repairs

Findings: It would appear from observations that most, if not all of the shiplap siding on the house has been replaced over the years and that very little of the original siding remains. Asphaltic building paper located behind the siding as a means of providing increased weatherproofing appears to have been added in the 20<sup>th</sup> Century. The vast majority of the wood trim on the house appears to be original, although some areas of patching and full-on replacement were observed.



Windows and siding at the north wing

The existing siding and trim appear to be generally weather-tight, without any significant amounts of moisture entering the walls.

Siding and trim on the north side of the house generally appear to be in serviceable condition.



Siding at the east elevation

Siding and trim on the south side of the house show signs of deterioration in some areas warranting a level of remediation or replacement. Examinations of both siding and

trim on this elevation revealed a number of failures. These included rusted connectors and areas of wood decay at these rusted connectors, loosely attached siding and trim, trim and siding pulling away from the wall surface, dropped window sills, improper flashings, rough "alligatored" paint finishes and the likely presence of lead-based coatings. In a few areas below the south-facing bay window, some trim is missing. A number of what appear to be replacement siding planks are not from vertical grain lumber as is recommended for exterior siding.

Siding and trim located on the east and west sides of the house also appear to require some level of remediation or replacement, though to a far lesser degree than the south facing elevation.

Telephone and data wiring appears in great quantities – especially on the walls outside the second floor windows. Some plumbing lines are also located on the exterior of the original house.

The siding and trim at the Social Hall and connector building generally appear to be in serviceable condition. Of concern here is the fact that the siding is touching or in close proximity to grade and some decay is in evidence.

Recommendations: Since the majority of the exterior siding does not appear to be original in nature and continued replacement with new matching wood siding will not negatively alter the overall significance or appearance of the historic property, where warranted, damaged exterior siding should be replaced.

Prior to any siding removal and replacement however, planks should be evaluated to determine if the degree of physical damage, in the form of cracks and decay warrant repair or replacement. Existing siding that simply needs additional connectors to secure it, or where rough paint finishes are present, should not be replaced. Where decayed areas around rusted connectors can be readily removed, consolidated and filled, and where cracks are minor, siding should be repaired rather than replaced. Where cracking and/or decay are extensive enough to suggest replacement would be far simpler than repair, siding may be replaced with good quality, vertical grain cedar. Where flat-grain siding (where grain patterns are visible through the paint finish) is found to be damaged, it should be replaced with a good quality, vertical grain siding as it will be likely to weather far longer.

Wood trim around doors, windows, corners, bases and at rooflines appear mostly to be original to the building. They are considered 'character defining features' according to the *Secretary of the Interior's Standards for Preservation*, and, to the extent feasible, should be retained and repaired as



Siding, pipes and wiring

necessary. In the few areas where original trim is missing or deteriorated beyond repair using epoxy consolidators and resins, in-kind replacements are permissible if carefully duplicated to match original profiles. In a number of locations, trim and window sills are loose, detached or displaced and should be carefully repositioned securely into their former location prior to finishing. Where original trim has been replaced in the past with painted plywood or other materials not well suited to exterior environments, such trim, when damaged should be replaced with solid, back-primed wood that is more consistent with original material.

Paint build-up is a process that occurs naturally as a building ages. "Alligatoring", loss of trim detail and other forms of paint build-up can become somewhat unsightly at both siding and trim and can require more frequent maintenance. However, finish conditions such as these are reversible with chemical strippers (never use heat to strip paint on historic buildings) and should not, in and of themselves, be used as a basis for removal and replacement.

Weather resistant flashings – such as at window heads and other susceptible water infiltration areas - should be carefully reviewed. Damaged or ineffective flashing should be removed and replaced with new flashings that will effectively carry water away from building elements.

Telephone and data lines that have been run on the exterior of the house to date should either be removed, if they are not active lines, or should be carefully re-routed to the interior in order not only to reduce exterior wall penetrations but also protect this infrastructure.

#### D. Window Repairs



Windows at the south wing and original house facing south

Findings: Photographic evidence suggests windows on the original house primarily consisted of shuttered, 2-over-4 and 2-over-6 pane, double-hung windows. Sophisticated wall pockets located above these windows likely allowed for maximum operability. The shutters appear to have been removed early in the 20<sup>th</sup> Century. Windows on the north and south wings, in contrast, originally appear to be large one-over-one standard double-hung windows with some two-over-two windows in evidence at the rear of the north wing. Windows found at the social hall and connector are more in keeping to the simple style prevalent in the 1940's and are typically three units across and three high; the bottom row of these windows having been closed with plywood in the past, presumably for security reasons.

Although the majority of window frames, trim and sills appear to be original to the building, the majority of the operable sash in the historic house appear to have been replaced or modified to some extent over time and many no longer operate as they were designed. Windows are frequently either painted closed or contain numerous locking devices and few appear to be opened on a regular basis. Some original frames with rope-and-pulley operators have been replaced with spring-and-cable systems. Evidence of original windows with extremely thin horizontal muntins have been found. These thin dividing members would have been highly effective in minimizing the effect of horizontal glass divisions, however, due to their meager size, not many have survived.

After making our initial assessment of window conditions, our team was able to review a proposal by Wooden Window, dated January 20, 2014. Their limited assessment was found generally to be in accord with our own findings regarding the condition of the windows, though our team appears to have identified greater areas of damage.

Recommendations: The original frames, trim and sills should be repaired as needed and maintained. Trim and sills that are separating from their frames should be carefully repositioned in order to re-establish a water-tight assembly. Operable sash that are identified as original should likewise be carefully repaired and maintained to the extent feasible.

Whenever practicable, serviceable replacement sash should likewise be repaired and retained. We have however, identified a number of replacement sash and modified original sash that are clearly no longer serviceable and should be replaced. Replacement sash should be manufactured of quality materials and match original sash as nearly as possible. Window repairs should additionally include restoring sash operation to facilitate ventilation as well as emergency egress. Fixed security screens over windows should be removed. Lastly, security measures should be reviewed and appropriate measures taken to ensure a clean and consistent means for securing the sash.

## E. Stair Repairs

Findings: Connections between the exterior replacement stair & landing and the north wing; and between the fire escape stair and the south wing lack proper flashings. This has resulted in areas of decay at the wings adjacent to these additions.

All the exterior stairs are showing areas of wood decay.

Recommendations: Wood decayed structural and finish portions of the wings near the connection points should be removed and replaced with new, sound materials. Ideally, these more recent structures should be pulled away from the wings in order to minimize the problematic connections. Short of relocating these structures, flashings should be added with the aim of eliminating moisture infiltration at the connections.



Fire escape at the south wing

Decayed areas of all the exterior stairs and landings should be removed and repaired prior to painting. Where portions of stairs and landings are in contact with grade, improved detailing to raise wood areas above grade are recommended.

#### F. Roof Maintenance

Findings: The roof was replaced a few years ago and looks to be in excellent condition. It appears the original 'widow's walk' platform was removed at that time. The new redwood gutters also appear to be in good condition, however they do not appear to have been thoroughly coated with a thick waterproof product as is recommended for longevity. Moist leaf and debris build-up in the gutters was observed, which will lead to gutters becoming decayed without the proper coating.

Recommendation: Thoroughly clean the shaped redwood gutters and coat the inside with a thick, flexible sealant made for this purpose as a means of ensuring these new gutters will serve the building for many years.

#### G. Lighting

Findings: Although the exterior lighting found at various locations around the exterior of the building serves the purpose, these basic, utilitarian fixtures are not in keeping with the historic flavor of the property and generally detract from its overall appearance.

Recommendation: Provide new, durable light fixtures that will complement the historic nature of the property and use energy efficient LED lamps.

#### H. Widow' Walk

Findings: Photographic evidence clearly shows a balustered 'widow's walk' with a flagpole at the apex of the roof dating back to at least the early 1870's. It appears that it was intact when the house was purchased by the city in 1907. The flagpole and baluster were removed by the 1920's but the platform existed until perhaps as recently as 2010. A steep stair located in the attic that once lead to this platform now leads only to a hatch that allows access to the side of the roof.

Recommendations: Because very few, if any 'widow's walks' appear on houses in Oakland, or on the West Coast for that matter, and due to its prominent and visible location atop this historic house, it is considered a significant 'character defining element' and thus should be retained. Because this, now removed, element is relatively small and easy to construct, and because the original stair that serve to access it has been retained, it is recommended that this character defining feature be reconstructed.

### IV. Requirements and Resources for the Stabilization and Repair of Historic Structures

Because the DeFremery House is a listed City of Oakland Landmark, sufficient care must be taken when making repairs to ensure that historic character defining elements of the property are not removed damaged or replaced. This approach ensures that the historic integrity of the property, for which it was determined eligible for landmark status, is retained for posterity.

In order to accomplish this goal, rehabilitation efforts recommended in this report should be undertaken in accordance with the *Secretary of the Interior's Standards for Rehabilitation*. Highlights of these standards include the following:

- The historic character of a property will be retained and preserved. The removal of distinctive materials or alterations of features, spaces and spatial relationships that characterize a property will be avoided.
- Distinctive materials, features, finishes and construction techniques or examples of craftsmanship that characterize a property will be preserved.
- Deteriorated historic features will be repaired rather than replaced. Where the severity of deterioration requires replacement of a distinctive feature, the new feature will match the old in design, color, texture and, where possible, materials. Replacement of missing features will be substantiated by documentary and physical evidence.
- Chemical or physical treatments, if appropriate, will be undertaken using the gentlest means possible. Treatments that cause damage to historic materials will not be used.

In addition, the National Parks Service has published a series of Preservations Briefs as guides to maintaining historic properties. Three of these briefs in particular may be useful in rehabilitation work outlined in this report. They included:

- Preservation Brief #09 *The Repair of Historic Wooden Windows*
- Preservation Brief #39 *Controlling Unwanted Moisture in Historic Buildings*
- Preservation Brief #45 *Preserving Historic Wooden Porches*

## V. Rehabilitation Priorities

Because we understand funding sources for all the scopes of work recommended in Section II may not be readily available at one time, the list of rehabilitation priorities provided below may be helpful in phasing the work. The list is divided into five priority categories based upon the property's perceived exposure – in terms of both weather and liability.

<u>Priority 1</u>	<u>R.O.M. Costs</u>
• Rectification of the sloped soil conditions under the colonnaded porch.	\$ 24,000
• Installation of a drainage system and sump pump under the colonnaded porch.	\$ 6000
• Installation of additional foundation venting.	\$ 7500
• Removal of soil and planting adjacent to wood portions of the building.	\$ 2000

- Repair of the downspout connection at the connector building. \$ 500
  - Removal and replacement of termite damaged or decayed structural wood members and exterior siding near the base of the building. \$ 13,000
  - Removal and replacement of decayed structural and finish wood members on the building adjacent to the north wing porch and south wing fire escape. In addition, new flashings should be added where these elements connect to the building to minimize water infiltration. \$ 8500
  - Repair of miscellaneous decay areas identified in the two termite reports. \$ 18,000
- Priority 1 Cost Total: **\$ 79,500**

### Priority 2

- Removal and replacement of decayed wood at all exterior stairs and fire escape. \$ 11,000
  - Wood trim and siding stabilization, repair and replacement as needed to ensure the walls are watertight prior to finishing. \$ 65,000
- Priority 2 Cost Total: **\$ 76,000**

### Priority 3

- Removal and replacement of the lower portions of the colonnaded porch with designs that not only are more consistent with the original porch design but also minimize water infiltration and retention so as to reduce the level of required maintenance. \$ 86,000
  - Install new, concealed metal flashings at window heads and other non-critical areas of the house in order to further minimize water infiltration and wood decay. \$ 2500
  - Repair and, where warranted, replacement of windows, frames and trim. \$ 74,000
- Priority 3 Cost Total: **\$162,500**

Priority 4

- Removal of exterior exposed telephone and data wiring and any unused exterior plumbing pipes; as well as sealing up wall penetrations associated with these exposed elements. \$ 2500
  - Repair of the colonnaded porch columns prior to finishing. \$ 8000
- Priority 4 Total Cost: **\$ 10,500**

Priority 5

- Removal of stored items from the sub-grade areas that may be a source of future termite or animal infestations. \$ 1000
  - Replacement of the simplified entablature trim at the front of the colonnaded porch. \$ 2500
  - Coat the redwood gutters. \$ 2500
  - Replace exterior light fixtures with more compatible fixtures. \$ 2500
  - Reconstruct the 'widow's walk' at the roof. \$ 12,500
  - Consider reinstalling original style, full-length windows on the ground floor with wood shutters that could be used to secure these windows. \$ 45,000
- Priority 5 Total Cost: **\$ 66,000**

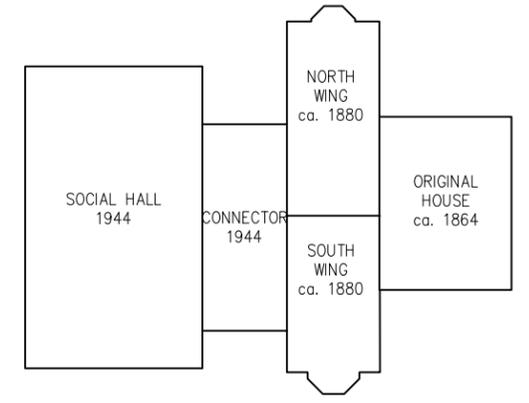
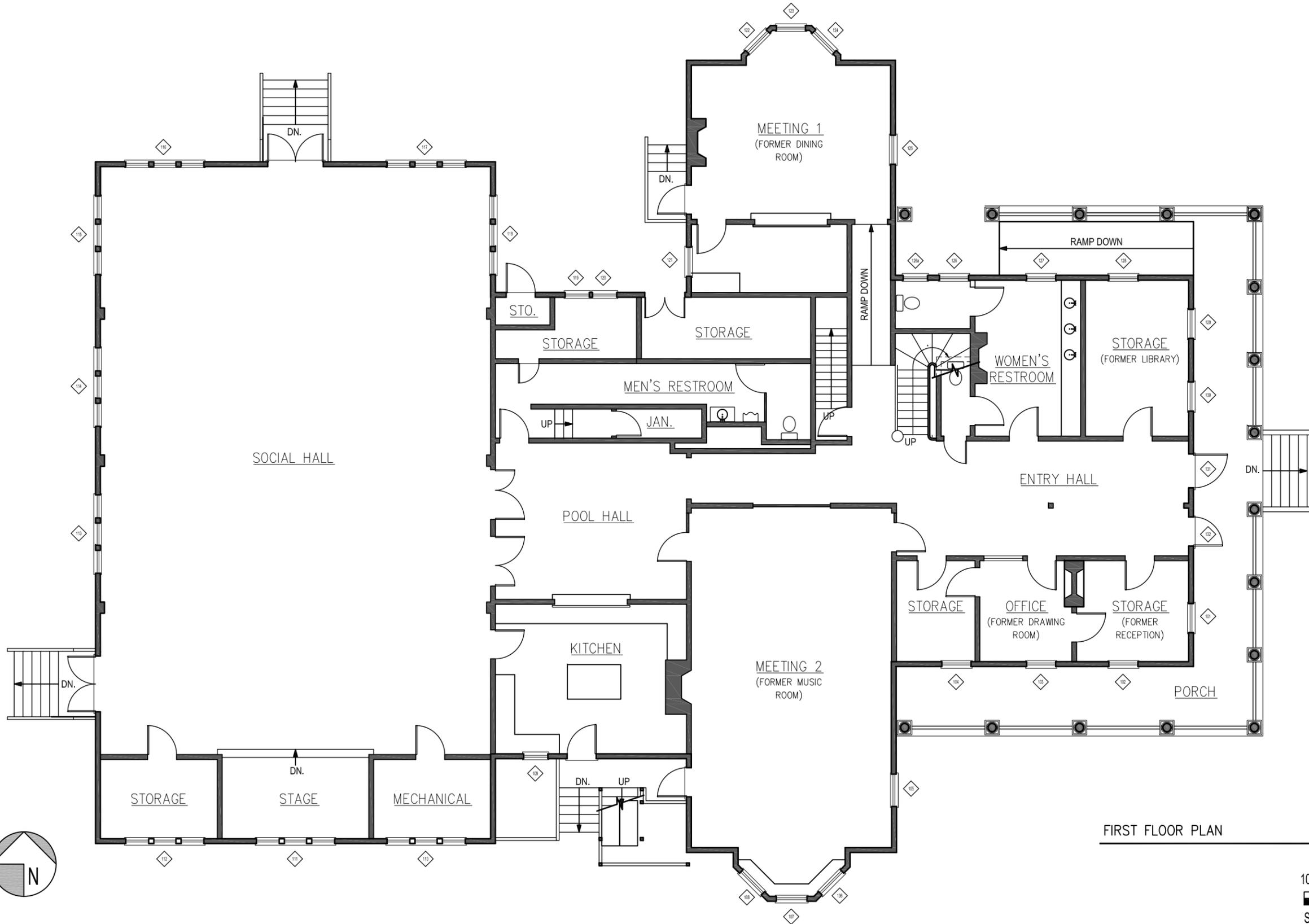
**Total Rehabilitation Cost: \$ 394,500**

- Notes:
1. Cost of priming and painting work is not included. Scope of painting work depends on the scope selected from the list above.
  2. We recommend carrying a 10% contingency for unforeseen conditions.

**VI. Immediate Repair Scope:**

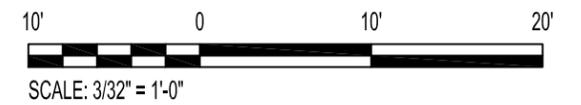
During a meeting with City of Oakland staff on April 29, the architect was directed to proceed with drawings and specifications for the following rehabilitation scopes of work:

- All Priority 1 scopes of work.
- Wood trim and siding stabilization work from Priority 2.
- Exterior painting and repair and replacement of windows from Priority 3.



KEY PLAN

FIRST FLOOR PLAN

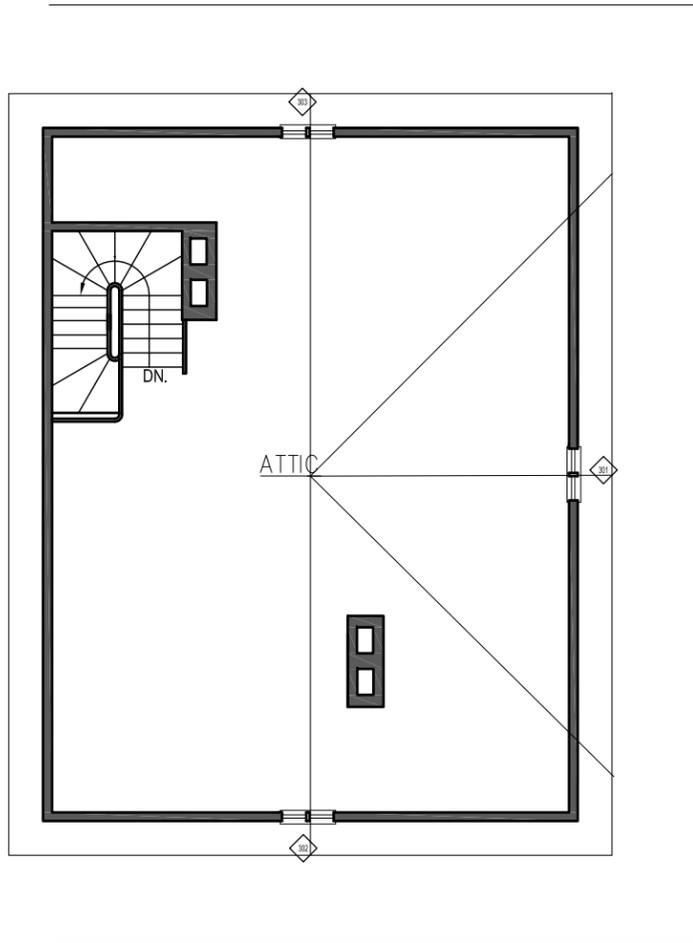


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OAKLAND, CA

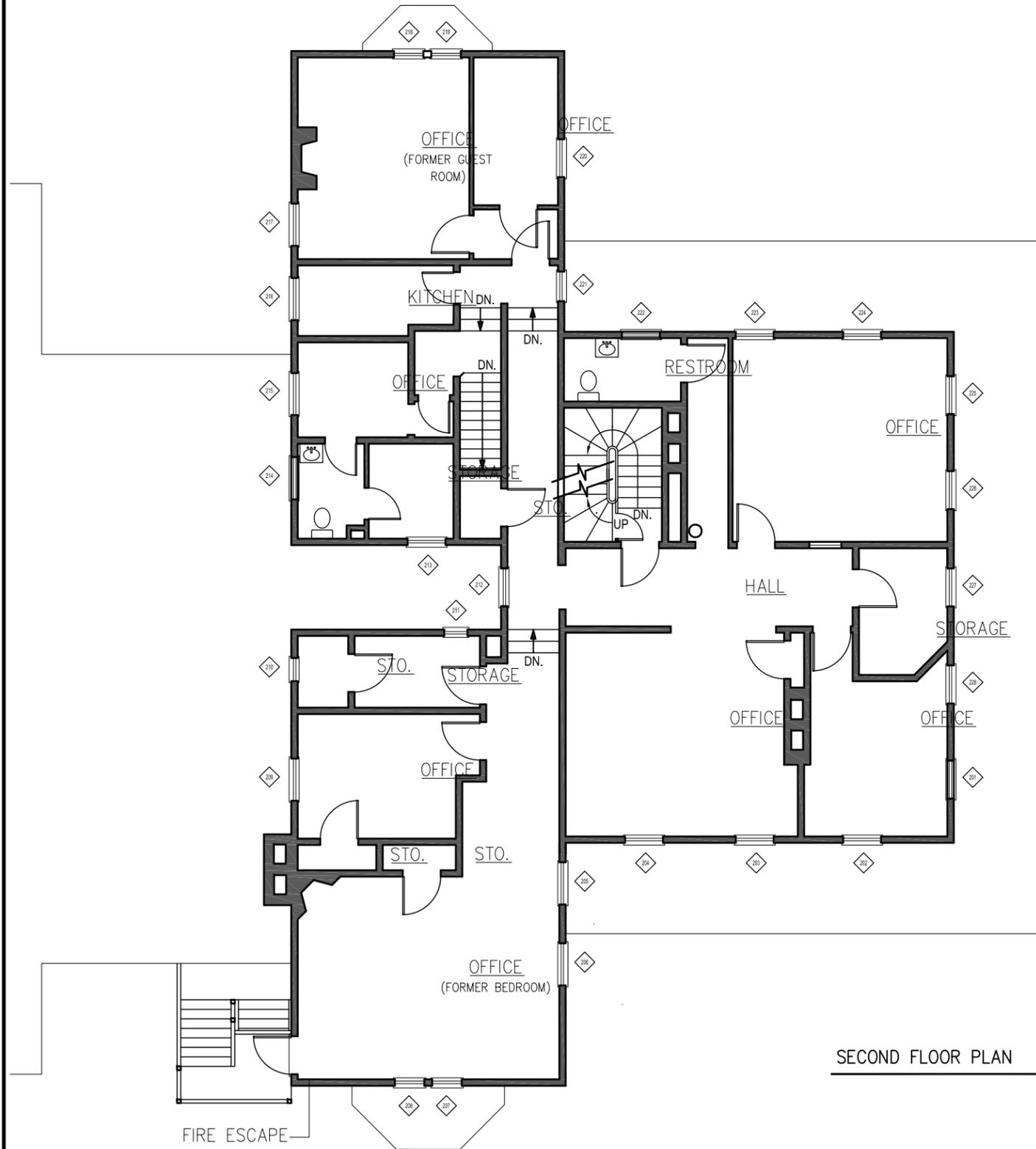
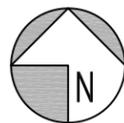
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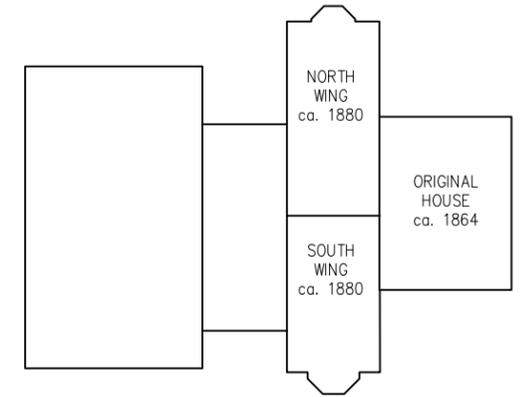
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ATTIC FLOOR PLAN



SECOND FLOOR PLAN



KEY PLAN



<b>Location:</b>	The Broadway Valdez District Specific Plan Area ("Plan Area") is located just to the north of Oakland's Central Business District. The Plan Area, which includes land along both sides of Broadway, extends 0.8 miles from Grand Avenue to I-580. The Plan Area includes approximately 95.5 acres, including 35.1 acres in public right-of-way and 60.4 acres of developable land.
<b>Proposal:</b>	Conduct a public hearing to provide cultural-resource related comments on the Final Environmental Impact Report (FEIR), Final Specific Plan, and associated General Plan amendments, Municipal Code and Planning Code amendments, Zoning Maps, Height Maps and Design Guidelines (collectively called "Related Actions").
<b>Applicant:</b>	City of Oakland
<b>Case File Number:</b>	<b>ZS12046, ER120005, GP13268, ZT13269, RZ13270</b>
<b>General Plan:</b>	Central Business District, Community Commercial, Neighborhood Center Commercial, Urban Residential, Mixed Housing Type Residential, Institutional
<b>Zoning:</b>	CBD-P, CBD-C, CC-2, CC-2/D-BR, CN-2/D-BR, RU-3/D-BR, RU-4/D-BR, RM-3/D-BR, RM-4/D-BR
<b>Environmental Determination:</b>	All comments that were received during the Draft Environmental Impact Report (DEIR) public comment period have been compiled and responded to in the Response to Comments (RTC) Document, along with changes and clarifications to the DEIR. The RTC Document, together with the DEIR, constitutes the Final EIR (FEIR) for the Specific Plan.
<b>Historic Status:</b>	The Plan Area includes cultural/historic resources that include CEQA Historic Resources and may be eligible for, or are on an historical resource list (including the California Register of Historic Resources, the National Register of Historical Resources, and/or the Local Register); as well as several cultural/historic resources designated by the City of Oakland as Areas of Primary Importance (API); Areas of Secondary Importance (ASI); properties individually rated A, B, C, or D; and Landmark properties.
<b>Service Delivery District:</b>	2
<b>City Council District:</b>	3
<b>Status:</b>	The Final Specific Plan and RTC/FEIR was released on May 1, 2014.
<b>Action to be Taken:</b>	Receive public and Board member cultural-resource related comments on the FEIR, Final Specific Plan and Related Actions.
<b>Finality of Decision:</b>	N/A
<b>For Further Information:</b>	Contact project planner Laura Kaminski at 510-238-6809 or lkaminski@oaklandnet.com Project website: <a href="http://www.oaklandnet.com/bvdsp">www.oaklandnet.com/bvdsp</a>

**SUMMARY**

The purpose of this Landmarks Preservation Advisory Board public hearing to provide cultural-resource related comments on the FEIR, Final Specific Plan, and associated General Plan amendments, Municipal Code and Planning Code amendments, Zoning Maps, Height Maps and Design Guidelines (collectively called “Related Actions”).<sup>1</sup>

This staff report includes the CEQA findings for the Broadway Valdez District Specific Plan (BVDSP) in **Attachment A**, which include certification of the Final Environmental Impact Report (FEIR), rejection of alternatives as infeasible, and a Statement of Overriding Considerations; an excerpt of the relevant cultural resources-related impacts and Standard Conditions of Approval and mitigation measures for the Project from Table 2-1 of the EIR as **Attachment B**; the BVDSP Adoption Findings in **Attachment C**; the draft General Plan Amendments as **Attachment D**; the Planning Code Amendments as **Attachment E** (a new zoning chapter for the Broadway Valdez District and conforming changes to other parts of the Planning Code); a summary of responses to Specific Plan Comments as **Attachment F**; a summary of changes to the Specific Plan and Related Actions since last reviewed by advisory boards and the Planning Commission as **Attachment G**; and a list and map of CEQA resources in the Plan Area as **Attachment H**. These documents are also available for review on the City’s website at: [www.oaklandnet.com/bvdsp](http://www.oaklandnet.com/bvdsp).

The BVDSP, Design Guidelines, General Plan and Planning Code amendments, Zoning Map, Height Map and the Final EIR were previously furnished separately to the LPAB, and are available to the public, through the City’s websites:

BVDSP, Design Guidelines, General Plan and Planning Code amendments, Zoning Map, Height Map:  
[www.oaklandnet.com/bvdsp](http://www.oaklandnet.com/bvdsp)

Final EIR: <http://www2.oaklandnet.com/Government/o/PBN/OurServices/Application/DOWD009157>

Limited copies of the Final EIR, BVDSP and Design Guidelines are also available, at no charge, at the Oakland Planning Division office, 250 Frank Ogawa Plaza, Suite 3315, Oakland, California 94612.

**OVERVIEW**

The discussion below provides a project description, brief history of the BVDSP and EIR public participation and planning process and General Plan conformity analysis.

**1. Project Description**

The Broadway Valdez District Specific Plan (“Specific Plan”) will be a 25-year planning document that provides a vision and planning framework for future growth and development within the Plan Area, which runs along Oakland’s Broadway corridor between Grand Avenue and I-580. The overarching goal of the Broadway Valdez District Specific Plan (“Specific Plan”) is to create a destination retail district

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<sup>1</sup> The Draft EIR, Draft Specific Plan, and associated Draft General Plan amendments, Zoning Concept, Zoning Maps, Height Maps and Design Guidelines were presented at the October 14, 2013 Landmarks Preservation Advisory Board Meeting. The staff report and attachments for the October 14, 2013 meeting is available online at: [www.oaklandnet.com/bvdsp](http://www.oaklandnet.com/bvdsp).

within the Plan Area, which runs along Oakland's Broadway corridor between Grand Avenue and I-580, that addresses the City's deficiency in comparison goods shopping and to transition the Plan Area to a more sustainable mix of uses that contribute to the vitality, livability, and identity of Downtown Oakland, and address residents' shopping needs.

The Plan provides a comprehensive vision for the Plan Area along with goals, policies and development regulations to guide the Plan Area's future development and serves as the mechanism for insuring that future development is coordinated and occurs in an orderly and well-planned manner. The Specific Plan does not propose specific private developments, but for the purposes of environmental review, establishes the Broadway Valdez Development Program, which represents the maximum feasible development that the City has projected can reasonably be expected to occur in the Plan Area over the Plan's 25-year planning period. In total, the Broadway Valdez Development Program includes approximately 3.7 million square feet of development, comprised of 695,000 square feet of office space, 1,114,000 square feet of restaurant/ retail space, 1,800 residential units, a new 180-room hotel and 6,420 parking spaces. In order to achieve the destination retail district and mixed use neighborhood vision, the BVDSP proposes a series of improvements related to transportation, affordable housing, historic resource preservation and enhancement, streetscape, plaza, parking and utility infrastructure. These recommended plan improvements are summarized in Chapter 8, Table 8.6 of the BVDSP.

The BVDSP also includes a robust set of policies and incentives to preserve and enhance existing buildings, including those that are not deemed to be CEQA historic resources. These policies and incentives comprise "Historic Preservation Sub-Alternative B" which was analyzed in the Draft EIR. The BVDSP, in combination with Historic Preservation Sub-Alternative B is now "the Project" that City staff is recommending for adoption. For ease of administrative purposes, the changes noted above have been made to the May 2014 Final Draft Specific Plan.

Concurrent, but separately, the project also includes adoption of the Related Actions).

## **2. Public Participation and Planning Process**

In 2006-2007, Oakland commissioned two retail enhancement studies, the Citywide Retail Enhancement Strategy (Conley, 2006) and the companion Upper Broadway Strategy – A Component of the Oakland Retail Enhancement Strategy (Conley, 2007), which identified the City's need to reestablish major destination retail in Oakland as being critical to stemming the retail leakage and associated loss of tax revenue that the City suffers annually. These reports also identified the Broadway Valdez District as the City's best opportunity to re-establish a retail core with the type of comparison shopping that once served Oakland and nearby communities, and that the City currently lacks.

In January 2009, the City of Oakland received a funding grant from the Metropolitan Transportation Commission (MTC) to study the Broadway Valdez District Specific Plan Area for potential destination retail, housing and Transit-Oriented Development (TOD). The Specific Plan process commenced upon the receipt of the funding agreement from MTC.

As part of the public outreach effort, seven community workshops were held between May 2009 and October 2013. Initial workshops focused on developing a shared vision statement for the area, and subsequent workshops involved: a review of three alternatives; a re-launch workshop after the plan was

delayed due to City budget issues; a “Words to Paper” workshop where groups presented their vision for the Plan Area; a presentation of the Draft Plan Concept; and finally, a presentation of the Draft Specific Plan. In addition to the public workshops there were approximately eight Community Stakeholder Group (CSG) meetings, four Technical Advisory Committee (TAC) meetings, and two combined CSG and TAC meetings.

### **3. Previous Review by Advisory Boards and the Planning Commission**

Between October 2013 and December 2013, the Draft Broadway Valdez District Specific Plan and Draft Environmental Impact Report (DEIR), including General Plan Amendments, Zoning Maps, Height Area Maps, Draft Zoning Concepts, and Design Guidelines were presented to advisory boards, including the Zoning Update and Design Review Committees of the Planning Commission, as well as the Bicycle and Pedestrian Advisory Committee, and Parks and Recreation Advisory Committee, each of which provided comments unique to their topic area. To date, a complete draft of the proposed new Chapter 17.101C D-BV Broadway Valdez District Commercial Zones Regulations has only been presented to the Zoning Update Committee, an advisory board to the Planning Commission at its December 11, 2013 meeting.

Three duly noticed public hearings on the DEIR were held including: a City of Oakland Landmarks Preservation Advisory Board (LPAB) public hearing on October 14, 2013, and two City of Oakland Planning Commission hearings on October 16, 2013 and on October 30, 2013. Both the LPAB and the Planning Commission provided additional comments.

### **4. Addressing Comments Received during the Previous Public Review Period**

Staff received numerous comments on the Draft Broadway Valdez District Specific Plan, Draft Environmental Impact Report (DEIR) and Related Actions during the previous public review period. Plan-related major comments/responses are organized by category and provided in **Attachment F**. Often more than one person or agency had the same comment so these have been summarized into more general comments. Based on direction received at the various previously mentioned meetings, hearings, and written comments, staff has made changes to the Broadway Valdez District Specific Plan and related documents, and a summary of these changes is presented below. Also, CEQA-related comments are separately addressed in the Final EIR/Response to Comment document. Key changes made to the Broadway Valdez District Specific and Related Actions *since they were previously reviewed by advisory boards and the Planning Commission* are discussed in the following section, related to the proposed new chapter to the Planning Code for the Broadway Valdez District, as well as in the Key Issues section of this staff report. A detailed list of changes made to the Specific Plan and Related Actions are provided in **Attachment G**.

### **5. Changes Made Since the May 1, 2014 Release of the Final Draft Broadway Valdez District Specific Plan**

The following change has been made to the Final Draft Broadway Valdez Specific Plan since it was released on May 1, 2014: Retail Priority Site 5B has been split into two sites, “5B” and “5C” such that Retail Priority Site 5 now has a total of three Retail Priority Sub-Areas: 5A, 5B and 5C. This change affects Figures 4.4, 4.5 and Appendix B.4 in the Specific Plan.

**6. Proposed New Chapter to the Planning Code for the Broadway Valdez District: 17.101C D-BV Broadway Valdez District Commercial Zones Regulations**

At the time the Draft Specific Plan was published, it only included a draft concept of the proposed new zoning. As noted above, a complete draft chapter of the 17.101C D-BV Zones was presented at the Zoning Update Committee (ZUC) meeting in December 2013, which was after the release of the Draft Specific Plan. Further changes have been made since the complete draft chapter of the 17.101C D-BV Zones was presented at the ZUC, see **Attachment G** for a summary of these changes. Therefore, an overview of the key components of the complete zoning chapter of 17.101C D-BV is provided here. The complete draft of the Chapter, Zoning Map and Height Map are provided in **Attachment E**.

**a. Overview (Section 17.101C.010 – Title, intent, and description)**

The Draft Specific Plan proposes four (4) new district-specific zoning classifications that would replace the existing zoning. These district-specific zones follow a nomenclature established by the City in other districts, such as the Wood Street District, Oak to Ninth, and the Kaiser Permanente Medical Center areas. The new Broadway Valdez zone districts are identified by the descriptive prefix of “D-BV” which signifies “District - Broadway Valdez.”

In summary, the four (4) new district-specific zoning classification would be as follows: **D-BV-1** Retail Priority Sites would be the most restrictive regarding uses and ground floor uses in particular; **D-BV-4** Mixed Use would be the least restrictive regarding uses; **D-BV-2** Retail would require that ground floor uses consist of retail, restaurant, entertainment, or arts activities; and **D-BV-3** Mixed-Use Boulevard would allow for a wider range of ground floor office and other commercial activities than in D-BV-2.

**D-BV-4** Mixed Use would allow the widest range of uses on the ground floor, including both residential and commercial businesses. D-BV-1 Retail Priority Sites would only allow residential uses if a project were to include at least 50% of the square footage of the Retail Priority Site to be retail.

An additional combining zone called the “N - North Large Development Site” is included on some large parcels/blocks that are within the D-BV-3 zone. These sites have large vacant or underutilized properties and are fairly deep and/or with dual street frontage. More active ground floor uses within the 60 feet that fronts Broadway are required.

**Retail Priority Sites and Incentives:** As noted above, to help achieve the Draft Plan’s goal of promoting the Plan Area as a retail destination, the Draft Plan’s land use concept includes a series of “Retail Priority Sites,” which are implemented by the proposed new zoning district D-BV-1 Retail Priority Sites (see **Attachment E**). Retail Priority Sites may contain multiple parcels with different owners. The regulatory framework of D-BV-1 is intended to ensure that larger sites and opportunity areas, particularly within the Valdez Triangle, are reserved primarily for new, larger retail development to accommodate consumer goods retail, at least on the ground floor. In addition to size, the Retail Priority Sites are also well served by transit, have excellent vehicular access, and are in areas of good visibility. The Specific Plan proposes to use a combination of incentives and regulation to achieve its retail objectives on the Retail Priority Sites. The main incentive is that the right to develop residential would be a bonus upon development of a retail project of a specified size; additional incentives apply for retail projects that are larger than the minimum requirement, with additional residential bonus and the ability to transfer the development rights of those

units to other parcels that cannot meet the minimum retail square footage required in that Retail Priority Site to build residential. An additional residential bonus of 35% is granted if 15% affordable housing is provided as part of the project, either within that Retail Priority Site or on another Retail Priority Site. See Key Issues below for a more detailed discussion on the Retail Priority Sites.

**b. Permitted and conditionally permitted activities (Section 17.101C.030)**

The permitted and conditionally permitted activities table 17.101C.01 lists what activities are permitted, conditionally permitted, and prohibited. There also are limitations that can be added to these allowances. Specific uses are highlighted below.

**i. Permanent Residential and Transient Habitation (hotel):**

- In the D-BV-1 zone both Residential and Transient Habitation would require a Conditional Use Permit (CUP) and only as a bonus to a retail project that includes at least 50% of the square footage of the Retail Priority Site to be retail on the ground floor but can also be above the ground floor (as stated in **Attachment E**, Tables 17.101C.05 and 17.101C.06).
- In the D-BV-2 zone Residential is not permitted on the ground floor within 50 feet of any street-abutting property line. Transient Habitation requires a CUP.
- In the D-BV-3 zone Residential requires a CUP if located on the ground floor and within 60 feet of any street-abutting property line facing Broadway, 27<sup>th</sup> Street, or Piedmont Avenue. Transient Habitation requires a CUP
- In the D-BV-4 zone Residential is permitted on the ground floor. Transient Habitation is not permitted.
- In the N Combining zone - Residential is not permitted on the ground floor within 60 feet of any street-abutting property line facing Broadway. Transient Habitation requires a CUP

**ii. General Food Sales (grocery store, not a restaurant), Consumer Service (pharmacy), and Custom Manufacturing:**

- In the D-BV-1 zone General Food Sales, Consumer Service and Custom Manufacturing if new construction and larger than 5,000 square feet, these uses would only be permitted with a CUP as part of a retail project that includes at least 50% of the square footage of the Retail Priority Site as retail (as stated in **Attachment E**, Tables 17.101C.05 and 17.101C.06). The reason for this restriction is because these activities are not considered to be comparison goods retail and do not provide the same type of tax revenue.
- For Consumer Service: in the D-BV-3 and N Combining zones it is permitted; in the D-BV-2 zone if it is on the ground floor it requires a CUP; and in D-BV-4 if it is over 5,000 square feet it requires a CUP.

- For Custom Manufacturing: in the D-BV-2 and N Combining zones a CUP is required; and in the D-BV-3 and D-BV-4 zones it is permitted above the ground floor and requires a CUP on the ground floor.

iii. Automobile and Other Light Vehicle Sales and Rental:

- In the D-BV-1 zone is permitted with a CUP as part of a retail project that includes at least 50% of the square footage of the Retail Priority Site as retail (as stated in Attachment E, Tables 17.101C.05 and 17.101C.06), and can include an accessory auto repair.
- In the D-BV-2, D-BV-3, D-BV-4 and N Combining Zones is permitted with a CUP and can include an accessory auto repair.
- All of the zones require additional criteria that would need to be met to approve the CUP that include, but not limited to: no outside open car sales and/or inventory lots; inventory will be stored either inside or on top of the dealership building, at an offsite location that is outside of the D-BV-1, D-BV-2, or D-BV-3 zone, or within an existing structured parking facility; will not weaken the concentration and continuity of retail facilities at ground level; and will not interfere with the movement of people along an important pedestrian street.

iv. Automotive Fee Parking:

- In all zones is permitted as an accessory to an allowed principal use in order to allow for shared parking and permitted with a CUP as a primary use multi-story parking garage to serve nearby businesses.

v. Activity Restrictions on the Ground Floor:

- There are a number of ground floor prohibited activities in the D-BV-1 zone; in the D-BV-2 zone if within 50 feet of any street abutting properly line; and in the N Combining zone if within 60 feet Broadway. These restrictions on the ground floor are to allow for more active uses on the ground floor, there are less restriction on the uses and the zoning number gets higher. The N Combining zone has similar restrictions to the D-BV-2 zone because these are considered large opportunity sites that will more likely be built as new construction for specific more active uses.
- There are a number of ground floor activities that are a CUP in the D-BV-1 zone; in the D-BV-2 zone; in the D-BV-3 zone if within 60 feet of Broadway, 27th Street, and Piedmont; and in the N Combining zone within 60 feet of Broadway.

c. **Permitted and Conditionally Permitted Facilities (Section 17.101C.040)**

- Micro Living Quarters – is permitted with a conditional use permit in the D-BV-2 zone and in the D-BV-3 zone in the area to the southeast of Harrison Street and Bay Place.

**d. Property Development Standards (Section 17.101C.050)**

i. Zone Specific Standards (Section 17.101C.050A)

- Minimum Front Setback – In the N combining zone, a 4-foot front setback would be required on those blocks that are vacant or have an established 4-foot front setback. The reason for this is to provide for a wider sidewalk.

ii. Height, Floor Area Ratio (FAR), Density, and Open Space (Section 17.101C.050B)

- Proposed Height Limits - Proposed height limits would remain the same or be reduced along the northeastern portion of the Plan Area; increased height limits are proposed in areas west of Broadway, near the elevated I-580 freeway and Alta Bates Summit Medical Center, ranging from 85 to 135 feet permitted and 135– 200 feet with a CUP (formerly 75 feet), as well as in the southern portion of the Plan Area between Broadway and Valdez Street north of 23rd Street (with a height maximum of 250 feet instead of the existing 120 feet); there is also the potential for certain portions of the Valdez Triangle (in the Retail Priority Sites) that will have a “by right” height maximum of 45 feet, to have increased height limits ranging from 200 feet to 250 feet, provided that at least 50% of the square footage of the Retail Priority Site that is included in a development proposal is retail.
- Minimum Height – Minimum height will be measured in stories instead of feet, with 2-story minimums in the 45- and 65-foot height limits and 3-story minimums in the 85-foot and taller height limits.
- Height Area 45\* – No residential densities are listed because this height area falls within the Retail Priority Sites and residential is only allowed as part of a retail project that includes at least 50% of the square footage of the Retail Priority Site as retail (as stated in Attachment E, Tables 17.101C.05 and 17.101C.06).
- Minimum Usable Open Space – These proposed requirements are similar to the Central Business District Zoning open space requirements that allow for a combination of different types of open space in order to fulfill a total open space square footage per residential unit:
  - A new type of open space for an interior community room that could include a movie room, kitchen, and/or gym. Only 1/3 of open space required can be used for this type.
  - In-lieu fee: Open space requirements may be reduced or waived with a CUP with payment of an in-lieu fee to be used for new public open space/plaza(s) or existing public open space/plaza(s) improvements.
  - Senior and Affordable Housing: reduced open space requirements apply for all height areas.
  - Conversion of Historic Resource building from commercial to residential requires no useable open space.

iii. Retail Priority Sites Minimum Square Footage of Retail Area for Residential Facilities or Taller Non-Residential Facilities (Section 17.101C.050C)

Table 17.101C.05 defines for each Retail Priority Site the amount of retail square footage that would be required in order to develop residential facilities. Table 17.101C.06 then further defines the residential bonus and heights that would be allowed.

- The following contribute to the retail square footage minimums:
  - Retail floor area.
  - Internal pedestrian stairs, corridors, and circulation
  - Ground floor public plaza/open space(s) that is on site or adjacent offsite
- Utilization of existing buildings towards new retail floor area can count toward the retail square footage. In the case of a CEQA Historic Resource:
  - New retail square footage in a CEQA Historic Resource can count double towards the retail square footage required to obtain a residential bonus; or
  - If a CEQA Historic Resource is maintained and not used for retail, the square feet of its footprint can be deducted from the overall square footage of the Retail Priority Site in determining the square footage of retail required.
- Square footage of the following do not count towards the retail square footage minimum:
  - Loading dock
  - Parking
  - Driveways, ramps, and circulation for cars and trucks

iv. Retail Priority Sites: Height, Floor Area Ratio (FAR) and Residential Bonus

Height, FAR and residential bonus are based on the provision of certain minimum thresholds of retail square footage equal to a percentage of the total area of each Retail Priority Site, which may contain multiple parcels with different owners. As shown in Table 17.101C.05, if 50% of the Retail Priority Site is provided as retail square footage in a project, then a height, FAR, and residential bonus are established; if 60% of the Retail Priority Site is provided as retail square footage, then a larger residential bonus will be permitted, as well as the right to transfer development rights for those residential units to another parcel or parcels within a Retail Priority Site that could not meet the minimum retail square footage requirements on its/their own. An additional 35% residential bonus is provided if 15% affordable housing is included in the project or built within another Retail Priority Site. An exception is provided if one cannot meet the minimum retail square footage through a conditional use permit (CUP) with criteria that include, but not limited to; if demonstrated through architectural studies of at least one or more alternative, that a project would be physically infeasible due to operational and/or site constraints if it were to meet the minimum retail square footage specified.

v. 17.101C.060 – Micro Living Quarters

- Micro Living Quarters Definition: a multiple-tenant building with an average net-floor area of 175 square feet but a minimum size of 150 square feet. Bathroom facilities are included within each living quarter but cooking facilities are not allowed within each living quarter. A shared kitchen is required on each floor, the maximum number units are not prescribed but the size of the units and the FAR shall dictate the limits.

**e. Changes to Other Planning Code Chapters, 17.116 Off-Street Parking and Loading Requirements and 17.117 Bicycle Parking Requirements**

In addition to the new Zoning Chapter for the Broadway Valdez Specific Plan, there are also changes proposed to Chapter 17.116 Off-Street Parking and Loading Requirements and Chapter 17.117 Bicycle Parking Requirements. These were previously shown to the Zoning Update Committee as part of the Zoning Chapter for ease of review purposes, but have now been moved to their proper chapter so they are grouped with the other parking regulations in the Planning Code.

vi. Parking Requirements – New parking requirements for the Broadway Valdez District are proposed, these include:

- Reduced residential parking, from existing 1 parking space per unit to:
  - 0.5 spaces per unit in the D-BV-1 and D-BV-2 zones.
  - 0.75 spaces per unit in the D-BV-3, D-BV-4 zones, and N combining zone.
- Reduced residential senior parking without a CUP, which is currently required and new reduced parking for affordable housing:
  - 0.25 spaces per unit in all zones without a CUP.
- Conversion of Historic Resource from commercial to residential and vice versa:
  - 0 spaces per unit in all zones without a CUP.
- Requirement of unbundled parking for sale or rental of parking spaces in multifamily dwelling residential facilities of 10 units or more.
- Reduced commercial activity parking from existing requirements. Also, a new way of defining parking requirements if for a ground floor use or upper floor use in order to allow for easy change of activities within a floor. Existing requirements limit certain new activities that could require more parking than the old activity for which the facility was constructed for. Also allows for shared use of parking for different activities on the same floor level (ground versus upper).
  - 1 space/500 sq. ft. of ground floor area for commercial activity
  - 1 space/1,000 sq. ft. of upper floor area for commercial activity
  - Existing parking varies: restaurant/grocery store 1 space/200 sq. ft., retail/consumer service, medical 1 space/400 sq. ft., administrative/consultative financial services 1 space/600 sq. ft.
  - Minimum square footage of floor area before parking required is relaxed, now requiring 10,000 square feet (existing varies from 3,000 – 5,000 square feet),
- In-lieu fee, parking space requirements for both residential and commercial activities may be reduced or waived with a CUP with the payment of an in-lieu fee to be used for increasing parking supply or decreasing the demand for parking. As a result, no variances will be allowed for reduced parking.

Also previously shown to the ZUC are increased bicycle parking requirements which also have been moved to their proper chapter so they are grouped with the other bicycle parking regulations in Chapter 17.117 Bicycle Parking Requirements.

vii. Bicycle Parking Requirements – Increasing bicycle parking requirements for the Broadway Valdez District are proposed in all D-BV zones:

- Residential

- Short term – 1 space/15 dwelling unit, minimum 2 spaces (existing 1 space/20 dwelling units)
- Long term – 1 space/2 dwelling units, minimum 2 spaces (existing 1 space/4 dwelling units)
- Commercial
  - Short term: Retail – greater of: 2 spaces 1 space/3,000 sq. ft. (existing 1 space/5,000 sq. ft.)
  - Short term: Office – greater of: 2 spaces or 1 space/15,000 sq. ft. (existing 1 space/20,000 sq. ft.)
  - Long term: Food Sales/Restaurants/Retail – greater of: 2 spaces or 1 space/8,000 sq. ft. (existing 1 space/12,000 sq. ft.)
  - Long term: Office: – greater of: 2 spaces or 1 space/8,000 sq. ft. (existing 1 space/10,000 sq. ft.)

## **7. General Plan Conformity Analysis**

The BVDSP and Related Actions are consistent with and further advance the Oakland General Plan – including the LUTE (as described above); Open Space, Conservation and Recreation (OSCAR); Historic Preservation; Safety; and Housing Elements; as well as the Bicycle and Pedestrian Master Plans, as discussed in detail in the BVDSP Adoption Findings, **Attachment C**.

### **KEY ISSUES**

This section highlights key issues concerning the BVDSP related to the proposed Retail Priority Sites; historic resources; affordable housing and displacement; parking; and proposed fees.

#### ***Retail Priority Sites***

Staff has received comments about the proposed Retail Priority Sites regarding their location and the minimum retail square footage requirements before a “bonus” to build residential units may be received.

The Retail Priority Sites were identified based on a number of factors including:

- Market studies identifying the Valdez Triangle/Broadway Valdez District as a good site for a comparison goods-based retail district, and stipulating that there needs to be a critical mass of at least 700,000 square feet of primarily comparisons good retail for such a district to sustain itself;
- Location at “gateways” to the Valdez Triangle (e.g. along Broadway at Grand Avenue and 27<sup>th</sup> and at the 24<sup>th</sup>/27<sup>th</sup>/Harrison Street/Bay Place intersection) in close proximity to other activity generators in the area such as the “Art Murrmur/Gallery District” and Whole Foods;
- Landowner intentions for their properties; and
- Groupings of properties susceptible to change due to vacancy, dereliction, or absence of existing development.

There are many challenges to realizing the City Council-directed vision to establish a comparison goods, destination retail district in the Broadway Valdez to help to address the major sales tax leakage Oakland continues to experience.<sup>2</sup> These challenges include: the elimination of the Redevelopment Agency and

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<sup>2</sup> Comparison goods are those goods that consumers typically spend extra effort (i.e., “shop around”) in order to get a better price or to find the precise brand or style they want. Typically, comparison goods are costlier than “convenience goods” (e.g., items

resultant lack of funding to assist in parcel aggregation or fund improvements; numerous land owners; small parcel sizes; high land values where residential development “out-prices” retail development; and limited land control by the City.

Given these challenges, land use regulation and incentives are key tools to realize the BVDSP vision. The concept to provide the right to build residential units as a bonus for including specific thresholds of retail as part of a proposed development in the Retail Priority Sites is proposed as the best option because residential typically “out-prices” retail development, and most of the City already allows for either residential only or residential and retail together “as-of-right”. Because of this liberal allowance of residential in almost every commercial zoning district, the City is at a disadvantage to obtain retail development. Other options explored included creating a commercial zone that would not allow any residential at all. However, this option was not pursued because it was decided that allowing residential development in some manner would not only complement the retail development, as well as provide the incentive to make the retail development happen since the residential component would be more lucrative. Specifically, the proposed Retail Priority Site regulations and “residential bonus”:

- Addresses issue of residential development “out-pricing” retail development because residential can command a higher land value by requiring substantial retail square footage to access the residential bonus;
- Encourages different landowners within Retail Priority Sites (some of which contain multiple parcels with different landowners) to work together/aggregate their sites to propose a sizeable comparison goods retail project that will allow them to build high residential densities;
- Is equitable and fair because it treats all of the sites equally, applying the same percentage of floor area ratio (FAR) as the minimum retail square footage requirement for an overall project before permitting a residential bonus;
- The number of residential units that are given as a bonus are based on the retail square footage that is provided, the higher the number of retail square footage the higher the number of residential units that is allowed, this is in order to provide even more incentive to build a larger retail square footage;
- Allows for transfer of development rights from Retail Priority Sites that provide a larger amount of retail than the base minimum, in order to transfer the residential bonus units and height from one retail priority site to a different parcel(s) within the same retail priority site or to a different retail priority site with a Conditional Use Permit (CUP). Bonus units can only be transferred to a parcel that cannot meet the minimum retail square footage required in that Retail Priority Site to build residential;
- A 35% residential bonus will be provided if 15% of the total Dwelling Units of a Residential Housing Development are affordable;

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that are generally widely distributed and relatively inexpensive, and include items such as groceries, toiletries, alcoholic and soft drinks, tobacco products, candy, magazines, and newspapers) are more durable in nature, and are less frequently purchased. Comparison retailers offer goods such as general merchandise, clothing, jewelry, toys, books, sporting goods, home furnishings, appliances and electronics. See Chapter 2 of the BVDSP for more detailed information.

- Includes an exception if one cannot meet the minimum retail square footage through a conditional use permit (CUP) with criteria that include, but are not limited to: demonstrating through architectural studies of at least one or more alternatives, that a project would be physically infeasible due to operational and/or site constraints if it were to meet the minimum retail square footage specified.

Additional detail about the rationale for the Retail Priority Sites regulatory framework is provided in **Attachment F**; full text of the proposed BVDSP zoning regulations is provided in **Attachment E**.

### *Historic Resources*

Staff has received comments expressing concern about the potential removal of historic resources in the Valdez area and requested revisions to Plan to reflect retention of various buildings such as the homes on Waverly Street, Harrison Street, the Newsom Apartments, and Biff's II Coffee Shop/JJs, among others.

The BVDSP identifies Retail Priority Sites (large opportunity sites in the Valdez Triangle Sub-Area) and Large Development Opportunity Sites (large opportunity sites in the North End Sub-Area) [on parcels that contain CEQA Historic Resources as shown in Figure 4.4-2 of the DEIR (see **Attachment H**). Within the Retail Priority Sites, there are seven CEQA Historic Resources, including: the former Biff's Coffee Shop at the southwest corner of 27th Street and Valdez; the Newsom Apartments at the southwest corner of Valdez Street and 24th Street; the Seventh Church of Christ Science at 2333 Harrison Street; the Pacific Nash Co. Auto Sales and Garage at the southeast corner of Broadway and 24th Street; as well as at the Dinsmore Brothers Auto Accessories Building, Kiel (Arthur) Auto Showroom, and the J.E. French Dodge Showroom, located at the southwestern portion of the block along Broadway between 23rd Street and 24th Street.<sup>3</sup> Within the Large Opportunity Sites, there is one Local Register of Historic Resources (also a CEQA Historic Resource), which is the former Connell GMC Pontiac Cadillac auto showroom at the southwest intersection of Broadway and Hawthorne Avenue. Areas of Secondary Importance (ASI's) are not considered an historic resource under CEQA.

As noted above, the BVDSP identified areas as "Retail Priority Sites" because they have attributes that are important for attracting new comparison goods retail including their large size and location at "gateways" to the Valdez Triangle in close proximity to other activity generators in the area such as the "Art Murrur/Gallery District" and Whole Foods. Multiple sites were identified to increase the chances that a "critical mass" of retail space will be developed since it is not possible to predict what retail development will actually occur. The Final Draft BVDSP includes multiple incentives to reuse existing buildings (including those that are not considered CEQA historic resources) as part of a proposed retail development project in order to attain a bonus of the right to build residential units. These incentives, which are discussed in more detail on page 10 of this staff report, include:

- Allowing the square footage of an existing building that is incorporated as part of a project to count towards the minimum required square footage of retail before residential is allowed;

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<sup>3</sup> The Dinsmore Brothers Auto Accessories Building, Kiel (Arthur) Auto Showroom, and the J.E. French Dodge Showroom were already analyzed as part the already approved, Broadway West Grand Mixed Use Project. As currently approved, this project would rehabilitate and reuse these historic resources (in addition to reusing 2366- 2398 Valley Street / 467 24th Street, and demolishing 440-448 23rd Street which not located in a Retail Priority Site). The 2004 EIR and subsequent addenda for the Broadway West Grand Mixed Use Project identified significant and unavoidable impacts to these historic resources, and recommended mitigation measures to reduce such impacts.

- If the existing building is a CEQA Historic Resource, double the amount of its square footage will count if it is used for retail; or, if it is maintained and not used for retail, the square feet of its footprint can be deducted from the overall square footage of retail required for the Retail Priority Site before residential is allowed;
- No parking or open space requirements when converting from commercial to residential use or vice versa when it is a Potential Designated Historic Property (PDHP) or CEQA Historic Resource;
- If a PDHP or a CEQA Historic Resource is incorporated as part of a larger project, the area that is incorporated will be exempt from parking and open space requirements.

The BVDSP does not mandate the physical demolition, destruction, relocation, or alteration of any properties, historic or otherwise. Conversely, it is legally problematic to outright prohibit demolition, destruction, relocation, or alteration of any properties, historic or otherwise without payment of just compensation.

Eliminating Retail Priority Sites and/or absolutely prohibiting the demolition or significant alteration of any CEQA historic resource on private property in the Plan Area would result in either much smaller areas of a Retail Priority Site being available due to site constraints, making potential large retail development projects less feasible. It would also result in a reduced development program of retail and office, thus reducing employment opportunities (both short-term construction jobs as well as permanent jobs) and revenues (sales, property and other taxes), lessening economic spin off activities and not promoting an appropriate jobs/housing balance. Furthermore, absolutely prohibiting the demolition or significant alteration of any CEQA historic resource on private property would provide special treatment to the Plan Area over all other areas in the City, which would not facilitate development in the Plan Area. It would also be inconsistent with the City's existing regulations regarding the alteration of a historic property in Central Business District Zones (OMC 17.136.055) or demolition or removal of a Designated or Potentially Designated Historic Property (OMC 17.136.075). These regulations already provide a measure of protection for CEQA and other historic resources by providing a procedure that a project applicant must follow in order to alter or demolish a historic property, which includes demonstrating that certain conditions exist to make reuse infeasible or provide equal or better replacement structure(s), among other requirements.

Notwithstanding, a project applicant could potentially demolish or alter a CEQA historic resource in the Plan Area if he/she eventually met the requirements under the City's existing regulations with a project that met the existing zoning. Absent any restrictions, the project would likely be a residential project since residential development usually "out-prices" or can command a higher land value than retail development. The proposed BVDSP policies and regulations that include multiple incentives to reuse existing buildings (including those that are not considered CEQA historic resources), are actually more protective of CEQA historic resources and other existing buildings than current regulations.

Additional detail about historic resources is provided in **Attachment F**; full text of the proposed BVDSP zoning regulations is provided in **Attachment E**.

*Affordable Housing and Displacement*

Staff has received comments expressing that the Specific Plan should have more provisions requiring affordable housing and preventing displacement resulting from the redevelopment of existing residential properties in the Plan Area.

The provision of affordable housing choices is a concern and goal for the City of Oakland and must be addressed comprehensively, on a citywide basis. The Plan does not include an inclusionary housing policy for affordable housing in just the Broadway Valdez District Specific Plan Area because this would create a burden in the Plan Area relative to the rest of the City, and would effectively disincentive residential development in the Plan Area. The proposed update to the City's Housing Element includes policies to:

- Explore the feasibility of Housing Incentive Zoning whereby community benefits, such as affordable housing, would be required in exchange for additional height or density; and
- Explore implementing a housing impact fee and notes the importance of funding a nexus study to determine the feasibility of the fee, and an appropriate fee structure. The City will be issuing a Request for Proposals (RFP) during the Housing Element planning period for an impact fee study that will consider transportation, infrastructure, and affordable housing.<sup>4</sup>

In response to comments received, the BVDSP has been revised to strengthen provisions relating to affordable housing, including the policies noted above that are proposed for the Housing Element Update. Related Planning Code amendments have been revised to include: reduced parking requirements and open space requirements "as-of-right" for senior and affordable housing; as well as the potential for an additional residential bonus to projects providing a certain percentage of affordable housing as part of their overall project or on another Retail Priority Site.

Regarding the issue of potential displacement, as noted in the BVDSP EIR, there are approximately 94 residential units (some currently vacant) in areas identified as Retail Priority Sites in the Specific Plan. While not a CEQA issue, concern over the socio-economic effects of potential displacement of these existing residential units, and affordable housing in general, is a policy issue that is addressed in the Specific Plan and proposed Planning Code amendments, as well as in the process underway to update the City's Housing Element.<sup>5</sup>

In addressing displacement relative to the Broadway Valdez District, a balancing of Plan objectives must be considered. For example, there are many areas in the City, including areas just outside the Plan Area boundaries (which were rezoned as part of the Citywide Zoning Update to allow for higher density housing) that are suitable for residential development. In contrast, there is less flexibility in terms of sites that are suitable for the type and critical mass of destination retail development that would contribute to significantly addressing retail sales leakage. Necessary attributes for comparison goods retail development include: large sites that are located in proximity to "proven" activity generators (e.g. Whole

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<sup>4</sup> The 2015-2023 Housing Element Update is scheduled to be heard at the May 7, 2014 Planning Commission hearing.

<sup>5</sup> CEQA only requires analysis and mitigation of potentially substantial adverse changes in the physical environment (Public Resources Code §§ 21151, 21060.5, 21068). Adoption and development under the BVDSP is considered less-than-significant with respect to potential displacement of housing units and residents and the construction of associated replacement housing. See BVDSP FEIR, Chapter 5, Master Response 5.2 for more detail.

Foods) and/or have good visibility; and spaces with high floor-to-ceiling heights that have few supporting columns breaking up the space (which are needed for residential development and thus it is difficult to have residential directly above this type of retail space). The BVDSP identified several potential Retail Priority Sites for several reasons: the City has limited land control in the Valdez Triangle, the BVDSP identified that a critical mass of at least 700,000 square feet of retail development was needed to sustain a retail district, and the City cannot predict what development will actually occur. The BVDSP does not mandate development of any properties in the Plan Area; development could occur with or without the specific plan. However, the BVDSP has been revised to include stronger policies and incentives to preserve or adaptively reuse existing buildings located in Retail Priority Sites, and to provide affordable housing (described in more detail above). Thus, any new development that does occur could potentially provide new affordable housing, in addition to market rate housing, sales tax-generating retail development and jobs.

Additional detail about affordable housing and displacement is provided in **Attachment F**; full text of the proposed BVDSP zoning regulations is provided in **Attachment E**.

### ***Parking***

Chapter 6, Section 6.4 of the BVDSP includes 21 policies that support two overarching goals to have “a well-managed parking supply that supports Plan Area businesses and stimulates economic growth while not promoting excessive driving”; and to have incentives that encourage non-auto travel for Plan Area residents, workers, shoppers and visitors. The policy recommendations include, but are not limited to: exploring the formation of a Transportation and Parking Management Agency (TPMA) to coordinate all transportation demand management (TDM) efforts; establishing a Parking Benefits District to manage parking supply and generate revenue to increase parking supply and/or improve circulation and transportation in the Plan Area; encouraging the use of existing parking and shared parking, and other TDM measures.

As recommended by the BVDSP, new parking requirements for the Broadway Valdez District are proposed as part of changes to Planning Code Chapters 17.116 Off-Street Parking and Loading Requirements and 17.117 Bicycle Parking Requirements. These changes consist of reduced parking requirements for residential development, as well as reductions for senior housing, affordable housing, commercial development; parking is required to be unbundled for sale or rental in multifamily residential facilities of ten units or more; increased bicycle parking requirements; and the option to pay a voluntary parking in-lieu fee instead of providing code-required parking spaces. These changes are discussed in detail above on pages 6-12 of this staff report (except for the parking in-lieu fee, which is also discussed in the following section).

The BVDSP also includes a policy in Chapter 8 Implementation to: “Provide public funding assistance for comparison goods retail parking” (Policy IMP-1.12), which would only be in conjunction with the appropriate retail project. The recommended approach is to provide funding assistance for the development of parking as part of, or near to, larger-scale, retail development(s) with multiple comparison goods tenants. Particularly in the early phases, parking availability is critical for attracting retailers and shoppers. Retail parking needs to be conveniently located within or close to the retail development, and dedicated to supporting retail shopping. The area’s central, urban location and the availability of public transit reduce the amount of parking otherwise needed, but do not replace the need for parking to support destination retail shopping. A public garage could be developed and operated as a

freestanding garage or as part of a large retail project. Larger-scale retail development with multiple comparison goods tenants is the type that will require the most public funding for building structured parking, and is the type most needed to achieve the necessary critical mass of comparison goods shopping in the Valdez Triangle. Public funding for parking may be less critical for development of a freestanding retail tenant or a smaller project, so that the use of public funding for building parking should take into account market and development feasibility considerations specific to the project and types of retail tenants. Given the differences in development feasibility and the City's objective of establishing comparison goods shopping, public funding for parking in conjunction with, and at the same as, retail development will need to be prioritized to support a mix of comparison goods retail tenants.

### ***Proposed Voluntary In-Lieu Fees***

The BVDSP includes recommendations to develop voluntary parking and open space in-lieu fees.<sup>6</sup> The proposed in-lieu fees would be a voluntary fee for those developments that choose not to provide code-required parking or open space onsite (because of site constraints, financial feasibility, or both). The purpose of these fees would provide more flexibility to developers, as well as to provide funding to support the transportation policies, projects, and programs called for in the LUTE of the Oakland General Plan to improve public health, economic and community development, equity of access, and environmental sustainability. The parking in-lieu fees would be used for improvements that would increase parking supply or decrease parking demand, including, but not limited to: the construction of new parking spaces, the leasing of private parking spaces, bicycle and pedestrian improvements or transportation demand management programs. The open space in-lieu fees collected would be used for improving existing plazas or for new plazas/open space within the Plan Area. As a result, no variances will be allowed for reduced parking or open space.

## **ENVIRONMENTAL REVIEW**

An Environmental Impact Report (EIR) has been prepared for the Broadway Valdez District Specific Plan (BVDSP). The BVDSP does not propose specific private developments, but for the purposes of environmental review, establishes the Broadway Valdez Development Program, which represents the maximum feasible development that the City has projected can reasonably be expected to occur in the Plan Area over a 25 year planning period. In total, the Broadway Valdez Development Program includes approximately 3.7 million square feet of development, comprised of 695,000 square feet of office space, 1,114,000 square feet of restaurant / retail space, 1,800 residential units, a new 180-room hotel and 6,420 parking spaces.

The EIR was provided to the Planning Commission under separate cover, and is available to the public, through the City's website:

<http://www2.oaklandnet.com/Government/o/PBN/OurServices/Application/DOWD009157>.

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<sup>6</sup> The BVDSP also includes a recommendation to study the feasibility of development impact fees for transportation, infrastructure and/or housing. As noted above, the proposed Housing Element Update also includes a policy that states that the City will be issuing a Request for Proposals (RFP) during the Housing Element planning period for an impact fee study that will consider transportation, infrastructure, and affordable housing. Development and adoption of potential impact fees will move forward on a separate track from the adoption of the BVDSP. If adopted, the impact fee(s) would apply to the BVDSP.

The EIR is also available at no charge at the Oakland Planning and Building Department, Strategic Planning Division, 250 Frank Ogawa Plaza, Suite 3315, Oakland, California, 94612.

A summary of the environmental review for the project is as follows:

- The Notice of Preparation (NOP) of an Environmental Impact Report (EIR) was published on April 30, 2012;
- An EIR Scoping meeting was held before the Landmarks Preservation Advisory Board on May 14, 2012;
- An EIR Scoping meeting was held before the Planning Commission on May 16, 2012;
- The public comment period on the NOP closed on May 30, 2012;
- A "Notice of Availability / Notice of Release of a Draft EIR" was issued on September 20, 2013;
- The Draft EIR was published on September 20, 2013;
- A Landmarks Preservation Advisory Board Meeting (LPAB) on the Draft EIR was held on October 14, 2013;
- Two Planning Commission hearings on the Draft EIR were held on October 16, 2013 and on October 30, 2013;
- The public comment period on the Draft EIR closed on November 12, 2013 (which was extended from the original closing date of November 4, 2013 after the Planning Commission decided to hold a second meeting on the Draft EIR, as noted above);
- A "Notice of Availability/Release of a Final EIR" and the Final EIR was published on May 1, 2014;

The following are actions anticipated as part of the environmental review for the project:

- This LPAB meeting to provide cultural-resource related comments on the Final EIR;
- Planning Commission certification of the Final EIR to be recommended at the May 21, 2014 public hearing;
- Meetings of the Community and Economic Development Committee of the City Council and full City Council to consider certification of the Final EIR on June 10, 2014 and June 17, 2014, respectively.

### **Less-than-Significant Impacts**

As detailed in Chapter 4 of the EIR, the following environmental topics included issue areas where there were no impacts or less than significant impacts with incorporation of Project mitigation measures, or where indicated, through the implementation of Standard Conditions of Approval (which are an integral part of the SCAMMRP): Aesthetics, Air Quality, Biology, Cultural Resources, Geology and Geohazards, Greenhouse Gases, Hazards and Hazardous Materials, Hydrology and Water Quality, Land Use, Noise, Population and Housing, Public Services, Transportation and Utilities/Service Systems. See **Attachment A: CEQA Adoption Findings** for a description of the less than significant impacts and applicable SCA and mitigation measure(s).

### **Significant and Unavoidable Environmental Impacts**

The proposed BVDSP will result in significant and unavoidable impacts associated with the following environmental topics: Aesthetics, Shadow and Wind; Air Quality; Cultural Resources; Greenhouse Gases;

Noise and Transportation. Therefore, in order to approve the proposed BVDSP, the City will have to adopt Statements of Overriding Consideration for these significant unavoidable impacts, finding that the benefits of the Project outweigh any significant and unavoidable impacts. A discussion of significant and unavoidable environment impacts related to Aesthetics, Shadow and Wind (that impact Cultural Resources) and Cultural Resources is provided below; for a discussion of all other environmental topics where significant and unavoidable impacts were found see **Attachment A: CEQA Findings**.

- **Aesthetics, Shadow and Wind AES-4 (Shadow), AES-5 (Wind), AES-6 (Cumulative Shadow and Wind):** Adoption and development under the Specific Plan could result in substantial new shadow that could shade the Temple Sinai. Although Mitigation Measure AES-4 would require a shadow study to evaluate the shadowing effects, it cannot be known with certainty that a project redesign would eliminate the potential for new significant shading on the Temple Sinai's stained glass windows in the southern portion of its eastern facade for early morning hours (prior to 9 a.m.) in the spring, summer and fall, when new shadow from parcels across Webster Street to the northeast (anticipated for buildout at 65 feet) could extend south enough to shade them. Therefore, the impact is conservatively deemed significant and unavoidable. Adoption and development under the Specific Plan has the potential to result in adverse wind conditions in cases where structures 100 feet in height or taller are proposed for development. Although Mitigation Measure AES-5 would require a wind study to evaluate the effects of proposed development, it cannot be known with certainty that a project redesign would eliminate the potential for new adverse wind impacts. Therefore, the impact is conservatively deemed significant and unavoidable. For the reasons listed above, adoption and development under the Specific Plan is conservatively deemed to result in significant cumulative wind, and shadow impacts. Therefore, adoption and development under the Specific Plan, in combination with other past, present, and reasonably foreseeable future projects within and around the Plan Area, also is conservatively deemed significant and unavoidable.

- **Cultural Resources CUL-1 (project), CUL-5 (cumulative):** The Plan Area contains 20 individual properties that meet the definition of the City of Oakland's Local Register and are considered Historic Resources for purposes of environmental review under CEQA, including three A rated buildings, 10 buildings with existing or proposed B ratings, two buildings on the Preservation Study List, one Heritage Property, and two building in an API historic district. Many of these resources have multiple and overlapping designations. These properties are all identified as historical resources for CEQA purposes. These resources are shown in Draft EIR Tables 4.4-1, 4.4-2, and Table 4.4-3 (shown below) and mapped on Figure 4.4-2 (see **Attachment H**).

There are no buildings listed in, or determined eligible for listing in, the National Register in the Plan Area. There are no National Historic Landmarks (NHLs) in the Plan Area. No properties within the Plan Area are listed in or determined eligible for listing in the California Register.

There is one California Historical Landmark in the Plan Area: CHL 676, the site of Saint Mary's College, which existed from 1889 to 1928 on the parcel now occupied by 3093 Broadway. This site is not listed in the California Register, because only those CHL's numbered 770 and higher are automatically listed in this register, and this one has not been separately nominated.

There are two Preservation Study List properties in the Plan Area:

- Packard & Maxwell Don Lee Western Auto Bldg. at 2355 Broadway (Packard Lofts)
- First Presbyterian Church at 2601-19 Broadway.

There is one Heritage Property in the Plan Area:

- The former Biff's II Coffee Shop at 315 27th Street. Biff's is on the City's Local Register by virtue of Landmarks Board Determination of Eligibility on 1/13/97, which is equivalent to Heritage Property status. An EIR prepared by the City in 1997 for a proposed Chevron/McDonald's project at this site also identified Biff's Coffee Shop as a historic resource for CEQA purposes.

Of these CEQA Historic Resources, seven are located within the Retail Priority Areas: the former Biff's Coffee Shop, the Newsom Apartments, the Seventh Church of Christ Science, the Pacific Nash Co. Auto Sales and Garage, the Dinsmore Brothers Auto Accessories Building, Kiel (Arthur) Auto Showroom, and the J.E. French Dodge Showroom. There is also one Local Register of Historic Resources within the Large Opportunity Sites, the former Connell GMC/Pontiac/Cadillac auto showroom.

The BVDSP does not mandate the physical demolition, destruction, relocation, or alteration of any properties, historic or otherwise. However, adoption and development under the Specific Plan potentially could result in the physical demolition, destruction, relocation, or alteration of historical resources that are listed in or may be eligible for listing in the federal, state, or local registers of historical resources (which are described above). Adoption and development under the Specific Plan combined with cumulative development in the Plan Area and its vicinity, including past, present, existing, approved, pending, and reasonably foreseeable future development, would contribute considerably to a significant adverse cumulative impact to cultural resources. Implementation of proposed Specific Plan policies and proposed zoning incentives to preserve or adaptively reuse existing buildings, Oakland Planning Code 17.136.075 (Regulations for Demolition or Removal of Designated Historic Properties and Potentially Designated Historic Properties), SCA 52, 53, 54, 56 and 57, as well as Mitigation Measure CUL-1 would reduce potential impacts, but not to a less-than-significant level for the Plan Area and its vicinity (see also Key Issues section above for more detail about the proposed BVDSP policies and zoning regulations).<sup>7</sup>

### **CEQA Alternatives**

Chapter 5 of the Draft EIR includes the analysis of four potentially feasible alternatives to the proposed project that meet the requirements of CEQA, which include a reasonable range of alternatives to the Project that would feasibly attain many of the Project's basic objectives, and avoid or substantially lessen

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<sup>7</sup> Five of the CEQA historic resources within the BVDSP were already analyzed as part the already approved, Broadway West Grand Mixed Use Project. As currently approved, this project would rehabilitate and reuse four historic resources including 2335-37 Broadway, 2343 Broadway, 2345 Broadway, and 2366- 2398 Valley Street / 467 24th Street. The project would demolish one historic resource at 440-448 23rd Street. The 2004 EIR and subsequent addenda for the Broadway West Grand Mixed Use Project identified significant and unavoidable impacts to these historic resources, and recommended mitigation measures to reduce such impacts.

many of the Project's significant environmental effects. These alternatives include: Alternative 1: the No Project Alternative, Alternative 2: the Partially Mitigated Alternative, Alternative 3: Maximum Theoretical Buildout Alternative and two Historic Preservation Sub-Alternatives, which were considered in combination with Alternative 2: the Partially Mitigated Alternative. As presented in the EIR, the alternatives were described and compared with each other and with the proposed project.

- **No Project Alternative 1** — Under the No Project Alternative, the Specific Plan would not be adopted, and therefore the Broadway Valdez Development Program would not occur. However, the No Project Alternative does include reasonably foreseeable development that could occur even without adoption and development under the Specific Plan. This includes certain already approved but not built projects in the Plan Area (Broadway West Grand Mixed-Use Project, Parcel B), as well as development that would reasonably be expected to occur in the Plan Area in accordance with existing plans, zoning, and regulatory framework.
- **Partially Mitigated Alternative 2** - Under the Partially Mitigated Alternative, the Plan Area would be developed at a reduced intensity (roughly 25 percent of the non-residential development compared with the Broadway Valdez Development Program). The mix of uses would shift such that a higher percentage of residential development would occur compared to commercial (retail and office) development. In addition, this alternative would be considered in combination with limitations of Historic Preservation Sub-Alternative A or B, which is described in greater detail below.
- **Maximum Theoretical Buildout Alternative 3** – The Maximum Theoretical Buildout Alternative evaluates the theoretical possibility that every parcel would be built out to the new maximum level permissible under the General Plan and Planning Code regulations as revised through adoption of the Specific Plan. Under this alternative, the Plan Area would be developed at an increased density/intensity (roughly 300 percent of the residential development and 200 percent of non-residential development assumed in the Broadway Valdez Development Program). All other aspects of the Plan would occur with this Alternative.
- **Historic Preservation Sub-Alternatives**
  - a. **Historic Preservation Sub-Alternative A:** The development restrictions and limitations of sub-alternative A could also be used in combination with the Specific Plan (“the Project”) or the Partially Mitigated Alternative 2 and thus were classified as a sub-alternative to provide for this flexibility. (As noted in the Project Description above, the BVDSP, in combination with Historic Preservation Sub-Alternative B is now “the Project” that City staff is recommending for adoption and is therefore not rejected as infeasible). The intent of this sub-alternative is to avoid the SU historic resources impacts identified for the Plan. Under this sub-alternative, development on sites with historic resources would be prohibited and thus no identified historic resources within the Plan Area would be demolished or significantly altered. In addition, allowable heights on the parcel bounded by Webster, 29th Street, Broadway, and 28th Street would be reduced such that new development within that parcel would avoid adversely shading the stained glass windows of the Temple Sinai during morning worship periods. In this case, all other aspects of the Specific Plan or Partially Mitigated Alternative would occur if combined with this sub-alternative.
  - b. **Historic Preservation Sub-Alternative B:** The intent of this sub-alternative is to reduce but not eliminate the Significant and Unavoidable historic resources impacts identified for the Plan. Under this sub-alternative, the Plan would be revised to include a more robust set of policies and

incentives to preserve and enhance existing buildings, including those that are not deemed to be CEQA historic resources. The May 2014 Final Broadway Valdez District Specific Plan would remove the policy that explicitly states that new development that furthers Specific Plan goals to provide destination retail uses will take precedence over adaptive reuse on Retail Priority Sites, and would add a policy to support efforts to establish a State Historic Rehabilitation Tax Credit program; and the proposed zoning for the Broadway Valdez District would include incentives for adaptive reuse, as discussed above.

The set of selected alternatives above are considered to reflect a “reasonable range” of feasible alternatives in that they include reduced scenarios that lessen and/or avoid significant and unavoidable effects, as well as less-than-significant effects, of the Specific Plan and generally would align with the basic objectives of the Plan, which the City would assess when it considers the merits of the Plan and the alternatives. The Plan is specific to the geography of the Broadway Valdez District; therefore this analysis does not consider an off-site alternative. A fully mitigated alternative that avoids nearly all of the SU impacts of the Plan is discussed in this analysis but is not evaluated in detail because it would be substantially inconsistent with the Specific Plan’s basic objectives to achieve a “dynamic and active neighborhood” that is a “retail destination.”

After the No Project Alternative 1, the Environmentally Superior Alternative is the Partially Mitigated Alternative in combination with Historic Preservation Sub-Alternative A. This alternative would avoid several SU impacts that would occur with the Plan and with the other alternatives (other than the No Project Alternative). Specifically, as with the No Project Alternative, the Partially Mitigated Alternative would avoid the conservative SU Aesthetics impact (AES-5), conservative SU Greenhouse Gases impact (GHG-1), SU Noise impacts (NOI-5 and NOI-6), and many of the Transportation impacts would no longer occur. Furthermore, when combined with Historic Preservation Sub-Alternative A, the conservative SU Aesthetics impacts (AES-4 and AES-6), and SU Cultural Resources impacts (CUL-1 and CUL-5), would no longer occur.

The alternatives and Historic Preservation Sub-Alternative A are being rejected in favor of the Project because they do not meet the basic project objectives to allow a development program that would facilitate the transformation of the Plan Area into an attractive, regional destination for retailers, shoppers, employers and visitors that serves in part the region’s shopping needs and captures sales tax revenue for reinvestment in Oakland. Additionally, legal or other considerations make the alternatives and sub-alternative infeasible. Therefore, a Statement of Overriding Considerations is recommended for adoption despite the Project’s significant and unavoidable impacts (see **Attachment A**).

### **Responses to Draft EIR Comments (Final EIR)**

City staff received comments on the Draft EIR from six public agencies. Additional oral comments were provided at the Landmarks Preservation Advisory Board meeting on October 14, 2014 and at the Planning Commission hearings on October 16, 2013 and October 30, 2013. Responses to all of the comments provided by agencies, organizations and individuals are provided in the Final EIR/Response to Comment document, including certain revisions and changes to text in the Draft EIR. None of these changes to the Draft EIR involve a new significant environmental impact, a substantial increase in the severity of an environmental impact, or a feasible mitigation measure or alternative considerably different from that presented in the Draft EIR. Recirculation of the Draft EIR is not warranted.

In sum, City Planning staff recommends the Planning Commission adopt the CEQA findings in **Attachment A**, which include certification of the EIR, rejection of alternatives as infeasible, and a Statement of Overriding Considerations. See **Attachment F** for responses to non-CEQA related issues.

### **Level of Analysis and Streamlining Future Environmental Review**

The EIR is intended to assess the environmental impacts of the proposed BVDSP. Generally, a “project-level” environmental review was used to analyze impacts associated with the BVDSP.

The City intends to use the streamlining/tiering provisions of CEQA to the maximum feasible extent, so that future environmental review of specific projects are expeditiously undertaken without the need for repetition and redundancy, as provided in CEQA Guidelines section 15152 and elsewhere. Specifically, pursuant to CEQA Guidelines Section 15183, streamlined environmental review is allowed for projects that are consistent with the development density established by zoning, community plan, specific plan, or general plan policies for which an EIR was certified, unless such a project would have environmental impacts peculiar/unique to the project or the project site. Likewise, Public Resources Code section 21094.5 and CEQA Guidelines Section 15183.3 also provides for streamlining of certain qualified, infill projects. In addition, CEQA Guidelines Sections 15162-15164 allow for the preparation of a Subsequent (Mitigated) Negative Declaration, Supplemental or Subsequent EIR, and/or Addendum, respectively, to a certified EIR when certain conditions are satisfied. Moreover, California Government Code section 65457 and CEQA Guidelines section 15182 provide that once an EIR is certified and a specific plan adopted, any residential development project, including any subdivision or zoning change that implements and is consistent with the specific plan is generally exempt from additional CEQA review under certain circumstances. The above are merely examples of possible streamlining/tiering mechanisms that the City may pursue and in no way limit future environmental review of specific projects.

When a specific public improvement project or development application comes before the City, the proposal will be subject to its own, project-specific, environmental determination by the city that either: 1) the action’s environmental effects were fully disclosed, analyzed, and as needed, mitigated within the BVDSP EIR; 2) the action is exempt from CEQA; 3) the action warrants preparation of a (Mitigated) Negative Declaration; or 4) the action warrants preparation of a supplemental or subsequent focused EIR limited to certain site-specific issues. Again, the above are merely examples of possible streamlining/tiering mechanisms that the City may pursue and in no way limit future environmental review of specific projects.

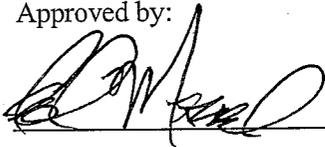
**RECOMMENDATIONS:**

Staff recommends that the Landmarks Preservation Advisory Board take public testimony, close the public hearing, and provide cultural-resource related comments on the Final Environmental Impact Report (FEIR), Final Specific Plan, and associated Related Actions.

Prepared by:

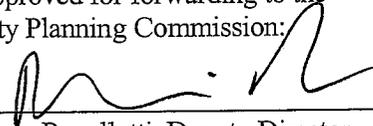
  
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Laura Kaminski, Planner II and  
Alisa Shen, Planner III

Approved by:

  
\_\_\_\_\_

Ed Manasse  
Strategic Planning Manager

Approved for forwarding to the  
City Planning Commission:

  
\_\_\_\_\_

Darin Ranelletti, Deputy Director  
Bureau of Planning

NOTE: The BVDSP, Design Guidelines and the Final EIR were previously furnished separately to the Landmarks Preservation Advisory Board, and are available to the public, through the City's website:

BVDSP and Design Guidelines: [www.oaklandnet.com/bvdsp](http://www.oaklandnet.com/bvdsp)

Final EIR: <http://www2.oaklandnet.com/Government/o/PBN/OurServices/Application/DOWD009157>

Limited copies of the Final EIR, BVDSP and Design Guidelines are also available, at no charge, at the Oakland Planning Division office, 250 Frank Ogawa Plaza, Suite 3315, Oakland, California 94612.

**ATTACHMENTS**

- A. CEQA Findings: Certification of the Supplemental EIR, Rejection of Alternatives and Statement of Overriding Considerations For the Broadway Valdez District Specific Plan
- B. Excerpt of Table 2-1 from BVDSP Draft EIR (Aesthetics and Cultural Resources Impacts, Mitigation Measures and Applicable Standard Conditions of Approval only)
- C. BVDSP Adoption Findings
- D. Proposed General Plan Text Amendment
  - D1. Existing General Plan Map
  - D2. Proposed General Plan Map
- E. Planning Code Amendments
  - E1. Existing Zoning Map
  - E2. Proposed Zoning Map
  - E3. Existing Height Area Map
  - E4. Proposed Height Area Map
  - E5. Proposed Planning Code Chapter 101.C. D-BV Broadway Valdez Commercial Zones Regulations (“Clean Version”)
  - E6. Proposed Planning Code Chapter 101.C. D-BV Broadway Valdez Commercial Zones Regulations (Showing Additions/~~Deletions~~ Made Since December 13, 2013 ZUC Meeting)
  - E7. Proposed Changes to Chapter 17.116 Off-Street Parking and Loading Requirements
  - E8. Proposed Changes to Chapter 17.117 Bicycle Parking Requirements
  - E9. Proposed Deletion of Chapter 17.101.C. D-BR Broadway Retail Frontage District Interim Combining Zone Regulations (to be replaced with Attachment E.5)
- F. Summary of Responses to Specific Plan Comments
- G. Summary of Changes to the Specific Plan and Related Actions Since Reviewed Previously By Advisory Boards and the Planning Commission
- H. Map of Plan Area CEQA Historic Resources and Proposed Retail Priority Sites

**CEQA FINDINGS:**

**Certification of the EIR, Rejection of Alternatives and  
Statement of Overriding Considerations for the Broadway Valdez District Specific Plan**

**I. INTRODUCTION**

1. These findings are made pursuant to the California Environmental Quality Act (Pub. Res. Code section 21000 et seq; "CEQA") and the CEQA Guidelines (Cal. Code Regs. title 14, section 15000 et seq.) by the City of Oakland Planning Commission in connection with the Environmental Impact Report (EIR) prepared for the Broadway Valdez District Specific Plan (BVDSP or Project), a 25-year planning document that provides goals, policies and development regulations to guide the Plan Area's future development and serves as the mechanism for insuring that future development is coordinated and occurs in an orderly and well-planned manner.
2. These CEQA findings are attached and incorporated by reference into each and every staff report, resolution and ordinance associated with approval of the Project.
3. These findings are based on substantial evidence in the entire administrative record and references to specific reports and specific pages of documents are not intended to identify those sources as the exclusive basis for the findings.

**II. PROJECT DESCRIPTION**

4. Broadway Valdez District Specific Plan encompasses the area along both sides of Broadway, extends 0.8 miles from Grand Avenue to I-580. The Plan Area includes approximately 95.5 acres, including 35.1 acres in public right-of-way and 60.4 acres of developable land. The BVDSP provides a comprehensive vision for the Plan Area along with goals, policies and development regulations to guide the Plan Area's future development and serves as the mechanism for insuring that future development is coordinated and occurs in an orderly and well-planned manner. The BVDSP divides the Plan Area into two distinct but interconnected subareas: the Valdez Triangle and the North End. Each of these subareas is proposed to have a different land use focus that responds to specific site conditions and development contexts in order to create and reinforce distinct neighborhood identities and provide variety to development along this section of Broadway. The BVDSP would promote the development of a destination retail district within the Valdez Triangle Subarea that is focused on comparison goods retailers and takes advantage of its adjacency to the Uptown and "Art Murmur Gallery Districts," and its accessibility to transit and regional routes. The BVDSP would also encourage development of a complementary mix of entertainment, office, and residential uses within the Valdez Triangle. The BVDSP envisions the North End Subarea as an attractive, mixed-use district that would link the Downtown to the Piedmont Avenue, Pill Hill, and North Broadway areas, and be integrated with the adjoining residential and medical districts. In order to achieve the destination retail district and mixed use neighborhood vision, the BVDSP proposes a series of improvements related to transportation, affordable housing, historic resource preservation and enhancement, streetscape, plaza, parking and utility infrastructure. These recommended plan improvements are summarized in Chapter 8, Table 8.6 of the BVDSP.

The BVDSP also includes a robust set of policies and incentives to preserve and enhance existing buildings, including those that are not deemed to be CEQA historic resources. These policies and incentives comprise "Historic Preservation Sub-Alternative B" which was analyzed in the Draft EIR. The BVDSP, in combination with Historic Preservation Sub-Alternative B is now "the Project" that City staff is recommending for adoption. For ease of administrative purposes, the changes noted above have been made to the May 2014 Final Draft Specific Plan.

Concurrent, but separately, the project also includes changes to the General Plan (text and map changes); Municipal Code and Planning Code amendments; Zoning Maps and Height Maps; and new design guidelines (collectively called "Related Actions") to help implement the BVDSP vision and goals.

General Plan Changes: With respect to the General Plan, proposed General Plan Amendments include:

- Much of the Community Commercial land use designation would be maintained or expanded to those areas that were formerly designated Institutional throughout the North End subarea;
- The Central Business District designation would be expanded further north to encompass most of the Valdez Triangle;
- Areas along Brook Street and Richmond Avenue would be designated Mixed Housing Type Residential to protect existing residential uses, and;
- A small area between Harrison Street and Bay Place that is currently designated as Urban Residential and Neighborhood Center Mixed Use would be designated Community Commercial.

In addition, the maximum floor area ratio (FAR) for areas with the Community Commercial General Plan land use designation within the Broadway Valdez District Specific Plan area only would be increased to 8.0 (all other areas in the City designated as Community Commercial would still retain the maximum FAR of 5.0).

Planning Code and Map Changes: The BVDSP proposes four (4) new district-specific zoning classifications that would replace the existing zoning. These district-specific zones follow a nomenclature established by the City in other districts, such as the Wood Street District, Oak to Ninth, and the Kaiser Permanente Medical Center areas. The new Broadway Valdez zone districts are identified by the descriptive prefix of “D-BV” which signifies “District - Broadway Valdez.” The four (4) new district-specific zoning classification would be as follows: D-BV-1 Retail Priority Sites would be the most restrictive regarding uses and ground floor uses in particular; D-BV-4 Mixed Use would be the least restrictive regarding uses; D-BV-2 Retail would require that ground floor uses consist of retail, restaurant, entertainment, or arts activities; and D-BV-3 Mixed-Use Boulevard would allow for a wider range of ground floor office and other commercial activities than in D-BV-2. D-BV-4 Mixed Use would allow the widest range of uses on the ground floor, including both residential and commercial businesses. D-BV-1 Retail Priority Sites would only allow residential uses if a project were to include a certain size/type of retail component. An additional combining zone called “N North Large Development Site” is included on some large parcels/blocks that are within the D-BV-3 zone. These sites have large vacant or underutilized properties and are fairly deep and/or with dual street frontage. More restrictions with more active ground floor uses within the 60 feet that fronts Broadway are required. The BVDSP prioritizes the development of retail uses in designated areas of the Valdez Triangle called “Retail Priority Sites” by only allowing residential activities in these areas as a bonus to developments providing a specified minimum amount of larger format retail space that is suitable for comparison goods retail. These new zoning districts would require changes to the City’s Zoning Map. The BVDSP also proposes changes in height limits, which would be regulated by a new Height Map for the Broadway Valdez District Plan Area. In addition to the (4) new district-specific zoning districts, the BVDSP also proposes a new parking in-lieu and open space in-lieu fees, where a project applicant can voluntarily choose to pay an in-lieu fee instead of providing the amount of parking spaces or open space that is required by the new zoning districts.

Design Guidelines: The BVDSP includes detailed design guidelines for future development in the Plan Area. In general, these design guidelines aim to influence the pattern, scale, character and quality of future development. The BVDSP includes guidelines for both the public realm, which includes public right-of-ways, streets, and plazas, and for private developments. The Design Guidelines for the BVDSP provide qualitative guidance and graphic and photographic examples that will complement the development regulations included in the new Broadway Valdez District zoning districts. The Guidelines are intended to give residents, building designers, property owners, and business owners a clear guide to achieving development that improves the area’s livability while retaining its character. The Design Guidelines are one component of a full menu of implementation mechanisms (described in more detail in Chapter 8 of the Draft Specific Plan) that together will help achieve the BVDSP’s goals and policies. They will complement other regulatory mechanisms to give residents, building designers, property owners, and business owners a clear guide to achieving high quality development.

Municipal Code Changes: The BVDSP proposes to revise the City of Oakland’s Master Fee Schedule to include a new parking in-lieu fee and a new open space in-lieu fee (described above).

### III. ENVIRONMENTAL REVIEW OF THE PROJECT

5. Pursuant to CEQA and the CEQA Guidelines, a Notice of Preparation (NOP) of an EIR was published on **April 30, 2012**. The NOP, which included notice of the EIR scoping sessions mentioned below, was distributed to state and local agencies, published in the Oakland Tribune, mailed and emailed to individuals who have requested to specifically be notified of official City action on the project and mailed to property owners both within the Project area and up to 300 feet beyond the Project area boundaries. On **May 14, 2012**, the Landmarks Preservation Advisory Board conducted a duly noticed EIR scoping session concerning the scope of the EIR. On, **May 16, 2012**, the Planning Commission conducted a duly noticed EIR scoping session concerning the scope of the EIR. The public comment period on the NOP ended on **May 30, 2012**.

6. A Draft EIR was prepared for the Project to analyze its environmental impacts. Pursuant to CEQA and the CEQA Guidelines, a Notice of Availability/Notice of Release and the Draft EIR was published on **September 20, 2013**. The Notice of Availability/Notice of Release of the Draft EIR was distributed to appropriate state and local agencies, published in the Oakland Tribune, posted at four locations throughout the project area, mailed and e-mailed to individuals who have requested to specifically be notified of official City actions on the project, and mailed to property owners both within the Project area and up to 300 feet beyond the Project area boundaries. Copies of the Draft EIR were also distributed to appropriate state and local agencies, City officials including the Planning Commission, and made available for public review at the Planning and Building Department (250 Frank H. Ogawa Plaza, Suite 3315) and on the City's website. A duly noticed Public Hearing on the Draft EIR was held at the **October 14, 2013** meeting of the Landmarks Preservation Advisory Board, and at the **October 16, 2013** and **October 30, 2013** meetings of the Planning Commission. The Draft EIR was properly circulated in excess of the required 45-day public review period. The public comment period on the Draft EIR closed on **November 12, 2013** (which was extended from the original closing date of November 4, 2013 after the Planning Commission decided to hold a second meeting on the Draft EIR, as noted above).

7. The City received written and oral comments on the Draft EIR. The City prepared responses to comments on environmental issues and made changes to the Draft EIR. The responses to comments, changes to the Draft EIR, and additional information were published in a Final EIR/Response to Comment document on **May 1, 2014**. The Draft EIR, the Final EIR and all appendices thereto constitute the "EIR" referenced in these findings. The Final EIR was made available for public review on **May 1, 2014**, twenty (20) days prior to the duly noticed **May 21, 2014**, Planning Commission public hearing. The Notice of Availability/Notice of Release of the Final EIR was distributed on **April 24, 2014** to those state and local agencies who commented on the Draft EIR, posted at four locations throughout the project site, mailed and e-mailed to individuals who have requested to specifically be notified of official City actions on the project, and mailed to property owners both within the Project area and up to 300 feet beyond the Project area boundaries. Copies of the Draft EIR and Final EIR were also distributed to those state and local agencies who commented on the Draft EIR, City officials including the Planning Commission, and made available for public review at the Planning and Building Department (250 Frank H. Ogawa Plaza, Suite 3315), and on the City's website. Pursuant to CEQA Guidelines, responses to public agency comments have been published and made available to all commenting agencies-- through notice, publication and distribution of the Final EIR/Response to comments Document -- at least 10 days prior to the public hearing considering certification of the EIR and the Project. The Planning Commission has had an opportunity to review all comments and responses thereto prior to consideration of certification of the EIR and prior to taking any action on the proposed Project.

### IV. THE ADMINISTRATIVE RECORD

8. The record, upon which all findings and determinations related to the approval of the Project are based, includes the following:

- a. The EIR and all documents referenced in or relied upon by the EIR.

- b. All information (including written evidence and testimony) provided by City staff to the Planning Commission and Landmarks Preservation Advisory Board relating to the EIR, the approvals, and the Project.
- c. All information (including written evidence and testimony) presented to the Planning Commission and Landmarks Preservation Advisory Board by the environmental consultant and sub-consultants who prepared the EIR or incorporated into reports presented to the Planning Commission and Landmarks Preservation Advisory Board.
- d. All information (including written evidence and testimony) presented to the City from other public agencies relating to the Project or the EIR.
- e. All final information (including written evidence and testimony) presented at any City public hearing or City workshop related to the Project and the EIR.
- f. For documentary and information purposes, all City-adopted land use plans and ordinances, including without limitation general plans, specific plans and ordinances, together with environmental review documents, findings, mitigation monitoring programs and other documentation relevant to planned growth in the area.
- g. The Standard Conditions of Approval for the Project and Mitigation Monitoring and Reporting Program for the Project.
- h. All other documents composing the record pursuant to Public Resources Code section 21167.6(e).

9. The custodian of the documents and other materials that constitute the record of the proceedings upon which the City's decisions are based is the Director of the Planning and Building Department, or his/her designee. Such documents and other materials are located at 250 Frank H. Ogawa Plaza, Suite 3315, Oakland, California, 94612.

## **V. CERTIFICATION OF THE EIR**

10. In accordance with CEQA, the Planning Commission certifies that the EIR has been completed in compliance with CEQA. The Planning Commission has independently reviewed the record and the EIR prior to certifying the EIR and approving the Project. By these findings, the Planning Commission confirms, ratifies, and adopts the findings and conclusions of the EIR as supplemented and modified by these findings. The EIR and these findings represent the independent judgment and analysis of the City and the Planning Commission.

11. The Planning Commission recognizes that the EIR may contain clerical errors. The Planning Commission reviewed the entirety of the EIR and bases its determination on the substance of the information it contains.

12. The Planning Commission certifies that the EIR is adequate to support all actions in connection with the approval of the Project and all other actions and recommendations as described in the **May 21, 2014**, Planning Commission staff report and exhibits/attachments. The Planning Commission certifies that the EIR is adequate to support approval of the Project described in the EIR, each component and phase of the Project described in the EIR, any variant of the Project described in the EIR, any minor modifications to the Project or variants described in the EIR and the components of the Project.

## **VI. ABSENCE OF SIGNIFICANT NEW INFORMATION**

13. The Planning Commission recognizes that the Final EIR incorporates information obtained and produced after the DEIR was completed, and that the Final EIR contains additions, clarifications, and modifications. The Planning Commission has reviewed and considered the Final EIR and all of this information. The Final EIR does not add significant new information to the Draft EIR that would require recirculation of the EIR under CEQA. The new information added to the EIR does not involve a new significant environmental impact, a substantial increase in the

severity of a previously identified significant environmental impact, or a feasible mitigation measure or alternative considerably different from others previously analyzed that the City declines to adopt and that would clearly lessen the significant environmental impacts of the Project. No information indicates that the Draft EIR was inadequate or conclusory or that the public was deprived of a meaningful opportunity to review and comment on the Draft EIR. Thus, recirculation of the EIR is not required.

14. The Planning Commission finds that the changes and modifications made to the EIR after the Draft EIR was circulated for public review and comment do not individually or collectively constitute significant new information within the meaning of Public Resources Code section 21092.1 or the CEQA Guidelines section 15088.5.

## **VII. STANDARD CONDITIONS OF APPROVAL AND MITIGATION MONITORING AND REPORTING PROGRAM**

15. Public Resources Code section 21081.6 and CEQA Guidelines section 15097 require the City to adopt a monitoring or reporting program to ensure that the mitigation measures and revisions to the Project identified in the EIR are implemented. The Standard Conditions of Approval and Mitigation Monitoring and Reporting Program ("SCAMMRP") is attached and incorporated by reference into the May 21, 2014 Planning Commission staff report prepared for the approval of the Project, is included in the conditions of approval for the Project, and is adopted by the Planning Commission. The SCAMMRP satisfies the requirements of CEQA.

16. The standard conditions of approval (SCA) and mitigation measures set forth in the SCAMMRP are specific and enforceable and are capable of being fully implemented by the efforts of the City of Oakland, the applicant, and/or other identified public agencies of responsibility. As appropriate, some standard conditions of approval and mitigation measures define performance standards to ensure no significant environmental impacts will result. The SCAMMRP adequately describes implementation procedures and monitoring responsibility in order to ensure that the Project complies with the adopted standard conditions of approval and mitigation measures.

17. The Planning Commission will adopt and impose the feasible standard conditions of approval and mitigation measures as set forth in the SCAMMRP as enforceable conditions of approval. The City has adopted measures to substantially lessen or eliminate all significant effects where feasible.

18. The standard conditions of approval and mitigation measures incorporated into and imposed upon the Project approval will not themselves have new significant environmental impacts or cause a substantial increase in the severity of a previously identified significant environmental impact that were not analyzed in the EIR. In the event a standard condition of approval or mitigation measure recommended in the EIR has been inadvertently omitted from the conditions of approval or the SCAMMRP, that standard condition of approval or mitigation measure is adopted and incorporated from the EIR into the SCAMMRP by reference and adopted as a condition of approval.

## **VIII. FINDINGS REGARDING IMPACTS**

19. In accordance with Public Resources Code section 21081 and CEQA Guidelines sections 15091 and 15092, the Planning Commission adopts the findings and conclusions regarding impacts, standard conditions of approval and mitigation measures that are set forth in the EIR and summarized in the SCAMMRP. These findings do not repeat the full discussions of environmental impacts, mitigation measures, standard conditions of approval, and related explanations contained in the EIR. The Planning Commission ratifies, adopts, and incorporates, as though fully set forth, the analysis, explanation, findings, responses to comments and conclusions of the EIR. The Planning Commission adopts the reasoning of the EIR, staff reports, and presentations provided by the staff as may be modified by these findings.

20. The Planning Commission recognizes that the environmental analysis of the Project raises controversial environmental issues, and that a range of technical and scientific opinion exists with respect to those issues. The Planning Commission acknowledges that there are differing and potentially conflicting expert and other opinions regarding the Project. The Planning Commission has, through review of the evidence and analysis presented in the record, acquired a

better understanding of the breadth of this technical and scientific opinion and of the full scope of the environmental issues presented. In turn, this understanding has enabled the Planning Commission to make fully informed, thoroughly considered decisions after taking account of the various viewpoints on these important issues and reviewing the record. These findings are based on a full appraisal of all viewpoints expressed in the EIR and in the record, as well as other relevant information in the record of the proceedings for the Project.

21. As a separate and independent basis from the other CEQA findings, pursuant to Public Resources Code section 21083.3 and Guidelines section 15183, the Planning Commission finds: (a) the project is consistent with Land Use and Transportation Element (LUTE) of the General Plan (EIR certified in March 1998); (b) the Housing Element of the General Plan (EIR certified in January 2011); (c) the Estuary Policy Plan (EIR certified in November 1998); and (d) the Historic Preservation Element of the General Plan (EIR certified in May 1998); (e) feasible mitigation measures identified in the foregoing were adopted and have been, or will be, undertaken; (f) this EIR evaluated impacts peculiar to the project and/or project site, as well as off-site and cumulative impacts; (g) uniformly applied development policies and/or standards (hereafter called "Standard Conditions of Approval") have previously been adopted and found to, that when applied to future projects, substantially mitigate impacts, and to the extent that no such findings were previously made, the City Planning Commission hereby finds and determines that the Standard Conditions of Approval (or "SCA") substantially mitigate environmental impacts (as detailed below); and (h) no substantial new information exists to show that the Standard Conditions of Approval will not substantially mitigate project and cumulative impacts.

## **IX. SIGNIFICANT BUT MITIGABLE IMPACTS**

22. Under Public Resources Code section 21081(a)(1) and CEQA Guidelines sections 15091(a)(1) and 15092(b), and to the extent reflected in the EIR, the SCAMMRP, and the City's Standard Conditions of Approval, the Planning Commission finds that changes or alterations have been required in, or incorporated into, the components of the Project that mitigate or avoid potentially significant effects on the environment. The following potentially significant impacts will be reduced to a less than significant level through the implementation of Project mitigation measures, or where indicated, through the implementation of Standard Conditions of Approval (which are an integral part of the SCAMMRP):

23. Aesthetics: Implementation of the Specific Plan and Related Actions proposed as part of the project would allow for increased land use densities and intensities possibly impacting the area's existing visual quality. However, application of SCA 12; SCA 13; SCA 15; SCA 17 and SCA 18-21, which address landscaping improvements and utilities and other improvements in the right-of-way reduce the project's potential impacts on existing visual quality to a less than significant level. Any potential impact of new lighting will be reduced to a less than significant level through implementation of SCA 40 which requires approval of plans to adequately shield lighting to prevent unnecessary glare onto adjacent properties. Moreover, compliance with various policies and goals contained in the City's general plans and mitigation measures contained in the Land Use and Transportation Element EIR, Housing Element EIR, and Historic Preservation Element EIR would ensure there would not be significant adverse aesthetic impacts with respect to visual quality or scenic public vistas.

24. Air Quality: The BVDSP includes goals that address reduced trip generation and are consistent with the goals of the 2010 Bay Area Clean Air Plan (CAP). Furthermore, future development facilitated by BVDSP would include commercial and residential land uses that would be required to comply with SCA 25, *Parking and Transportation Demand Management*, if a proposed project generated 50 or more net new AM or PM peak hour vehicle trips. Therefore, development under the Specific Plan would not be considered to fundamentally conflict with CAP, and would be considered to have a less-than-significant impact with regard to transportation control measures in the CAP. Additionally, the potential exposure of new residents to toxic air contaminants (TAC) poses a risk, however, application of the City's SCA B which would entail the preparation of site-specific health risk assessments, would reduce TAC exposure to new sensitive receptors a less-than-significant level. There are no sources of odor identified by the City's database of potential odor generating facilities sources within the Plan Area. Thus, the potential for sensitive receptors within the Plan Area to be impacted by substantial objectionable odors affecting a substantial number of people would be less than significant.

25. Biology: Implementation of the Specific Plan and Related Actions proposed as part of the project would allow for increased land use densities and intensities possibly impacting the area's biological resources. However, application of SCA 43 – 47, which address tree protection actions; SCA 35 which addresses hazards best management practices; SCA 55, SCA 75, SCA 80, SCA 83, which address erosion and sedimentation control, stormwater management and creek protection; and SCA D, which addresses bird collision reduction, reduce the project's potential impacts to biological resources to a less-than-significant level.

26. Cultural Resources: Implementation of the Specific Plan and Related Actions proposed as part of the project would allow for increased land use densities and intensities possibly impacting the area's archeological or paleontological resources, or disturb human remains. However, application of SCA 52, SCA 53 and SCA 54 would reduce the project's potential impacts the aforementioned resources to a less-than-significant level.

27. Geology Soils and Geohazards: Implementation of the Specific Plan and Related Actions proposed as part of the project would allow for increased land use densities and intensities possibly exposing people to seismic or geologic hazards. However, application of SCA 58 and SCA 60, which require geologic and soils reports under certain circumstances would reduce the project's potential impacts the aforementioned resources to a less-than-significant level.

28. Greenhouse Gases: The proposed project would not fundamentally conflict with a plan, policy, or regulation adopted for the purpose of reducing greenhouse gas (GHG) emissions. The project would allow for a diverse mix of land uses and transportation and infrastructure improvements that provide stronger connections to transit, reflective of some of the strategies in place to reduce greenhouse gas emissions. Specifically, adoption and development under the Specific Plan would not conflict with the ECAP, current City Sustainability Programs, or General Plan policies or regulations regarding GHG reductions and other local, regional and statewide plans, policies and regulations that are related to the reduction of GHG emissions and relevant to the Specific Plan. Further, adoption and development under the Specific Plan would be subject to all the regulatory requirements including the City's approach to reducing GHG emissions (and significant GHG emissions impacts, if applicable) by requiring the preparation and implementation of project-specific GHG Reduction Plans (SCA F), which would reduce GHG emissions of the adoption and development under the Specific Plan to the greatest extent feasible. SCAs also include conditions to address adherence to best management construction practices and equipment use (SCA A and SCA 41) and minimize post construction stormwater runoff that could affect the ability to accommodate potentially increased storms and flooding within existing floodplains and infrastructure systems (SCA 55, SCA 75, and SCA 83), to reduce demand for single occupancy vehicle travel (SCA 25), to increase landscaping to absorb CO<sub>2</sub>e emissions (SCA 12, SCA 13, SCA 15, SCA 17, SCA 18, and SCA 46), and facilitate waste reduction and recycling (SCA 36). Overall, adoption and development under the Specific Plan would not conflict with any applicable plans, policies or regulations adopted with the intent to reduce GHG emissions. The impact would be less than significant.

29. Hazards and Hazardous Materials: Implementation of the Specific Plan and Related Actions proposed as part of the project would allow for increased land use densities and intensities that possibly would involve use of hazardous materials as part of routine transport of materials, building demolition or construction, or the operations of certain businesses. However, the use of construction best management practices which would be required to be implemented as part of construction and required by SCA 35, *Hazards Best Management Practices*, along with SCA 41, *Asbestos Removal in Structures*, SCA 63 and SCA 65, *Lead-Based Paint/Coatings, Asbestos, or PCB Occurrence Assessment*; SCA 64, *Environmental Site Assessment Reports Remediation*; and SCA 67, *Health and Safety Plan per Assessment* would minimize the potential adverse effects to groundwater and soils; SCA 68, *Best Management Practices for Soil and Groundwater Hazards*, and SCA 69, *Radon or Vapor Intrusion from Soil or Groundwater Sources*. Furthermore, adoption and development under the Specific Plan would be required to comply with the City's SCA 66, *Other Materials Classified as Hazardous Waste*, and SCA 74, *Hazardous Materials Business Plan*, which outlines the guidance for transporting hazardous materials safely to and from the project sites, in addition to SCA 61, *Site Review by Fire Services Division*, to ensure overall compliance of projects for hazardous materials. Moreover, compliance with various policies, and goals contained in the City's general plans and other regulatory requirements would ensure there would not be significant adverse hazards and hazardous materials impacts.

30. Hydrology/Water Quality: Adoption and development under the Specific Plan could include construction activities that employ excavation, soil stockpiling, grading, and use of hazardous chemicals, such as fuels and oil. Construction could also occur along the day-lighted portion of Glenn Echo Creek north of Grand Avenue along Harrison Street. All of the Plan Area except for a small area in the easternmost part located along Glenn Echo Creek is outside of the 100-year flood zone. The Plan area would not be susceptible to mudflow, seiche waves or inundation from tsunamis.

Implementation of the following Standard Conditions of Approval: 34 or 55 *Erosion and Sedimentation Control Plan*; SCA 75, *Stormwater Pollution Prevention Plan*; SCA 78, *Site Design Measures for Post-Construction Stormwater Management*; SCA 79, *Source Control Measures to Limit Stormwater Pollution*; SCA 80, *Post-construction Stormwater Pollution Management Plan*; SCA 81, *Maintenance Agreement for Stormwater Treatment Measures*; SCA 82, *Erosion, Sedimentation, and Debris Control Measures*; SCA 85, *Creek Monitoring*; and SCA 86, *Creek Landscaping Plan*, and SCA 89 *Regulatory Permits and Authorizations* and SCA 91 *Structures within a Floodplain* would ensure that development under the BVDSF would not result in significant impacts as a result of runoff/erosion, groundwater depletion and/or flooding/hazards, and would have a less than significant impact on hydrology and water quality. Furthermore, adherence to the Standard Conditions of Approval and compliance with the City of Oakland Grading Ordinance; the Creek Protection, Stormwater Management, and Discharge Control Ordinance would reduce the potential impact to a less-than-significant level.

31. Land Use: Although the Specific Plan would allow for taller buildings, the adoption and development under the Specific Plan would not physically divide the community. Although, as described above, adoption and development under the Specific Plan would result in a change in land use patterns throughout the Plan Area, the transition would occur incrementally over time. In addition, the developed Plan Area would represent a strengthening and revitalization of the community represented in the larger area including the residential, institutional, entertainment and downtown office uses surrounding the Plan Area. When considered in the context of this portion of the City, the transition of land use and land use intensity would benefit and serve the needs of land uses adjacent and nearby. A more active and pedestrian friendly environment would serve to enhance connections within the Plan Area, as well as to, and between, the surrounding neighborhoods. Therefore, the Specific Plan would enhance connectivity in the community rather than result in a perceived or physical division. The General Plan's existing policy directions on compatible land uses would apply to future development under the Specific Plan. Conformance to the General Plan, including Land Use and Transportation Element policies (*Policy N1.8, Policy N2.1, Policy N5.2, Policy N7.1, Policy N7.2 and Policy N8.2*) would discourage development of incompatible land uses or land uses that would result in a division within an established community. Implementation of Specific Plan policies and General Plan policies, including but not limited to those described above, means that no significant land use impacts related to land use incompatibility or the physical division of an established community would occur as a result of the adoption and development under the Specific Plan.

32. Noise: Project construction and operation would potentially increase construction noise levels and excessive ground borne vibration. Implementation of SCA 28, 29, 30, 39 and 57 would reduce impacts from construction noise and vibration. SCA have been developed by the City of Oakland over the past decade to reduce construction noise impacts. SCA 28 restricts the hours and days of construction activity. SCA 29 requires contractors to implement a construction noise reduction program. SCA 30 establishes construction noise complaint procedures, while SCA 39 and SCA 57 establish a set of site-specific noise attenuation measures to address noise from pile driving, and to establish threshold levels of vibration and cracking that could damage fragile historic buildings during construction. These SCA are comprehensive in their content and for practical purposes represent all feasible measures available to mitigate construction noise. Implementation of these measures would reduce construction impacts associated with extreme noise actions and vibration to less than significant levels. Any noise from new ventilation equipment on the new residential construction would be required to comply with the stationary noise provisions of Chapter 17 of the Oakland Municipal Code and would reduce impacts to a less-than-significant level. Moreover, compliance with various policies, and goals contained in the City's general plans and other regulatory requirements would ensure there would not be significant adverse noise impacts with respect to construction noise.

33. Population and Housing: Because of: (a) the role of the Specific Plan in facilitating development that fulfills key components of the General Plan's vision for the Downtown Showcase District, (b) the relatively small magnitude of Specific Plan-induced population and employment growth within the cumulative, citywide context, (c) the overall balance of growth of both jobs and housing anticipated in Oakland in the future, and (d) the Plan Area's location adjacent to Oakland's already developed Central Business District, the adoption and development under the Specific Plan would have a less than significant impact in inducing substantial population growth in a manner not contemplated by the General Plan, either directed by facilitating development of housing or businesses, or indirectly through infrastructure improvements.

34. Public Services: Future development allowed under the BVDSP could result in additional residents and employees. This potential increase in population would result in increased demand for the City's fire, police, and school services. These impacts will be reduced to a less than significant level through the implementation of SCA 4, SCA 71 and SCA 73, conditions which require building plans for development to be submitted to Fire Services for review and approval that the project adequately addresses fire hazards, and that construction equipment has spark arrestors. Moreover, compliance with various policies, and goals contained in the City's general plans and other regulatory requirements would ensure there would not be significant adverse public services impacts.

35. Traffic and Transportation:<sup>1</sup>

- a) Intersection #13 (MacArthur Boulevard/Piedmont Avenue): The development under the Specific Plan would degrade the MacArthur Boulevard/Piedmont Avenue intersection (Intersection #13) from LOS D to LOS E (Significant Threshold #1) during the weekday PM peak hour under Existing Plus Project conditions.. Implementation of Mitigation TRANS-1 including: providing an additional through lane on the eastbound MacArthur Boulevard approach (currently temporarily closed for construction of Kaiser Hospital; expected to open in 2014 after completion of that construction); modifying the northbound approach from the current configuration which provides one right-turn lane and one shared through/left lane to provide one right-turn lane, one through lane, and one left-turn lane; and upgrading intersection signal equipment, optimizing signal timing at this intersection, and coordinating signal timing changes with the adjacent intersections that are in the same signal coordination group would reduce this impact to a less than significant level.
- b) Intersection #17 (Lake Park Avenue/Lakeshore Avenue): The development under the Specific Plan would degrade overall intersection operations from LOS E to LOS F and increase intersection average delay by four seconds or more (Significant Threshold #2) at the Lake Park Avenue/Lakeshore Avenue intersection (Intersection #17) during the weekday PM peak hour under Existing Plus Project conditions. Implementation of Mitigation TRANS-3 including optimizing signal timing at this intersection, and coordinating signal timing changes with the adjacent intersections that are in the same signal coordination group would reduce this impact to a less than significant level.
- c) Intersection #36 (24th Street/Broadway): The development under the Specific Plan Project would add more than 10 peak-hour trips to 24th Street/Broadway intersection (Intersection #36) which would meet peak-hour signal warrant (Significant Threshold #6) under Existing Plus Project, 2020 Plus Project, and 2035 Plus Project conditions. Implementation of Mitigation TRANS-4/TRANS-9/TRANS-23 including optimizing signal timing at this intersection, and coordinating signal timing changes with the adjacent intersections that are in the same signal coordination group would reduce this impact to a less than significant level.
- d) Intersection #39 (23rd Street/Broadway): The development under the Specific Plan Project would add more than 10 peak-hour trips to 23rd Street/Broadway intersection (Intersection #39) which would meet peak-hour signal warrant (Significant Threshold #6) under Existing Plus , 2020 Plus Project, and 2035 Plus Project conditions. Implementation of Mitigation TRANS-5/TRANS-11/TRANS-25 including optimizing signal timing at this

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<sup>1</sup> In addition to the mitigation measures listed, the SCA that apply to transportation and circulation including: SCA 20 (Improvements in the Public Right-Of-Way - General), SCA 21 (Improvements in the Public Right-Of-Way - Specific), SCA 25 (Parking and Transportation Demand Management), SCA 33 (Construction Traffic and Parking) would also reduce the potentially significant impacts listed to less than significant.

intersection, and coordinating signal timing changes with the adjacent intersections that are in the same signal coordination group would reduce this impact to a less than significant level.

- e) Intersection #8 (40th Street/Telegraph): The development under the Specific Plan would increase the total intersection v/c ratio by 0.03 or more and increase the v/c ratio for a critical movement by 0.05 or more (Significant Threshold #5) during the weekday PM peak hour at the 40th Street/Telegraph Avenue intersection (Intersection #8) under 2035 conditions. Implementation of Mitigation TRANS-15 including providing permitted-protected operations on the eastbound and westbound approaches; optimizing signal timing; and coordinating signal timing changes at this intersection with the adjacent intersections that are in the same signal coordination group would reduce these impacts to a less than significant level.
- f) Intersection #11 (West MacArthur Boulevard/Telegraph Avenue): The development under the Specific Plan would increase the total intersection v/c ratio by 0.03 or more and increase the v/c ratio for a critical movement by 0.05 or more (Significant Threshold #5) at an intersection operating at LOS F during the weekday PM peak hour at the West MacArthur Boulevard/Telegraph Avenue intersection (Intersection #11) under 2035 conditions. Implementation of Mitigation TRANS-16 including providing protected left-turn phase(s) for the northbound and southbound approaches; optimizing signal timing; and coordinating signal timing changes at this intersection with the adjacent intersections that are in the same signal coordination group would reduce these impacts to a less than significant level.
- g) Transit, Vehicle/Bicycle/Pedestrian/Bus Rider Safety, Consistency with Adopted Policies or Plans Supporting Alternative Transportation, Construction-Period Impacts; Changes in Air Traffic Patterns: with implementation of applicable SCA and policies in the BVDSP, development under the Specific Plan would result in less than significant impacts for all of the aforementioned issue areas, and no mitigation measures are required.

36. Utilities/Service Systems: New construction under the BVDSP would result in increased solid waste, stormwater and wastewater generation, as well as energy usage. These impacts will be reduced to a less than significant level through the implementation of SCA 36, which requires solid waste reduction and recycling and SCA 75, 80 and 91, which require project applicants to submit stormwater pollution prevention plans, to confirm the state of repair of the City's surrounding stormwater and sanitary sewer system, and to make the necessary infrastructure improvements to accommodate the proposed project. Additionally, SCA H and SCA I require compliance with the City's Green Building Ordinance. Moreover, compliance with various policies, and goals contained in the City's general plans and other regulatory requirements would ensure there would not be significant adverse utilities/service systems impacts.

## **X. SIGNIFICANT AND UNAVOIDABLE IMPACTS**

37. Under Public Resources Code sections 21081(a)(3) and 21081(b), and CEQA Guidelines sections 15091, 15092, and 15093, and to the extent reflected in the EIR and the SCAMMRP, the Planning Commission finds that the following impacts of the Project remain significant and unavoidable, notwithstanding the imposition of all feasible Standard Conditions of Approval and mitigation measures as set forth below.

38. Aesthetics, Shadow and Wind AES-4 (Shadow), AES-5 (Wind), AES-6 (Cumulative Shadow and Wind): Adoption and development under the Specific Plan could result in substantial new shadow that could shade the Temple Sinai. Although Mitigation Measure AES-4 would require a shadow study to evaluate the shadowing effects, it cannot be known with certainty that a project redesign would eliminate the potential for new significant shading on the Temple Sinai. Therefore, the impact is conservatively deemed significant and unavoidable. Adoption and development under the Specific Plan has the potential to result in adverse wind conditions in cases where structures 100 feet in height or taller are proposed for development. Although Mitigation Measure AES-5 would require a wind study to evaluate the effects of proposed development, it cannot be known with certainty that a project redesign would eliminate the potential for new adverse wind impacts. Therefore, the impact is conservatively deemed significant and unavoidable. For the reasons listed above, adoption and development under the Specific Plan is conservatively deemed to result in significant cumulative

wind, and shadow impacts. Therefore, adoption and development under the Specific Plan, in combination with other past, present, and reasonably foreseeable future projects within and around the Plan Area, also is conservatively deemed significant and unavoidable. These significant and unavoidable impacts are overridden as set forth below in the Statement of Overriding Considerations.

39. Air Quality AIR-1 (Construction Emissions), AIR-2 (Operational Emissions), AIR-4 (Gaseous TACs): Construction associated with adoption and development under the Specific Plan would result in average daily emissions in excess of 54 pounds per day of ROG. Even with the inclusion of SCA A (Construction Related Air Pollution Controls) and Recommended Measure AIR-1, it cannot reliably be demonstrated that ROG emissions from application of architectural coatings associated with adoption and development under the Specific Plan would be reduced to 54 pounds per day or less. To assess full buildout of the Broadway Valdez Development Program under this threshold, which is intended for project-level analysis, aggressive and conservative assumptions were employed and thus yielded a conservative result. Therefore, the impact is conservatively deemed significant and unavoidable. Adoption and development under the Specific Plan would result in operational average daily emissions of more than 54 pounds per day of ROG, NOX, or PM<sub>2.5</sub>; 82 pounds per day of PM<sub>10</sub>; or result in maximum annual emissions of 10 tons per year of ROG, NOX, or PM<sub>2.5</sub> or 15 tons per year of PM<sub>10</sub>. Although implementation of SCA 25 and Recommended Measure AIR-2 would reduce environmental effects on air quality, adoption and development under the Specific Plan still would contribute substantially to an existing air quality violation (ozone precursors and particulate matter). Therefore, even with implementation of Recommended Measure AIR-2, this impact would remain significant and unavoidable for emissions of ROG, NOX, and PM<sub>10</sub>. To assess full buildout of the Broadway Valdez Development Program under this threshold, which is intended for project-level analysis, aggressive and conservative assumptions were employed and thus yielded a conservative result. Therefore, the significant and unavoidable determination is considered conservatively significant and unavoidable. Adoption and development under the Specific Plan could generate substantial levels of Toxic Air Contaminants (TACs) under cumulative conditions resulting in (a) a cancer risk level greater than 100 in a million, (b) a non-cancer risk (chronic or acute) hazard index greater than 10.0, or (c) annual average PM<sub>2.5</sub> of greater than 0.8 micrograms per cubic meter as a result of project operations. Although, due to the BAAQMD's permitting requirements, residual risk for a given generator would be less than 10 in one million, and although implementation of Mitigation Measure AIR-4 would substantially reduce potential cancer risks associated with DPM, the degree to which multiple sources, if concentrated on one area, would maintain cumulative risks to below 100 in one million cannot be assured. Therefore, the impact is conservatively deemed significant and unavoidable. These significant and unavoidable impacts are overridden as set forth below in the Statement of Overriding Considerations.

40. Cultural Resources CUL-1 (project), CUL-5 (cumulative): Adoption and development under the Specific Plan could result in the physical demolition, destruction, relocation, or alteration of historical resources that are listed in or may be eligible for listing in the federal, state, or local registers of historical resources. Adoption and development under the Specific Plan combined with cumulative development in the Plan Area and its vicinity, including past, present, existing, approved, pending, and reasonably foreseeable future development, would contribute considerably to a significant adverse cumulative impact to cultural resources. Implementation of proposed Specific Plan policies, Oakland Planning Code 17.136.075 (*Regulations for Demolition or Removal of Designated Historic Properties and Potentially Designated Historic Properties and Potentially Designated Historic Properties*), SCA 52, 53, 54, 56 and 57, as well as Mitigation Measure CUL-1 would reduce potential impacts, but not to a less-than-significant level for the Plan Area and its vicinity. These significant and unavoidable impacts are overridden as set forth below in the Statement of Overriding Considerations.

41. Greenhouse Gases GHG-1 (project-level): Adoption and development under the Specific Plan would produce greenhouse gas emissions that exceed 1,100 metric tons of CO<sub>2</sub>e per year and that would exceed the project-level threshold of 4.6 metric tons of CO<sub>2</sub>e per service population annually. Although future projects under the Specific Plan would be subject to SCA F, GHG Reduction Plan, and SCA 25, Parking and Transportation Demand Management, according to the specific applicability criteria, and GHG emissions would be reduced through project-by-project implementation of project-specific reduction measures, it cannot be guaranteed that sufficient reductions can be achieved. Therefore, the impact is conservatively deemed significant and unavoidable. This significant and unavoidable impact is overridden as set forth below in the Statement of Overriding Considerations.

42. Noise NOI-5 (traffic noise), NOI-6 (cumulative) and NOI-7 (cumulative): Traffic generated by adoption and development under the Specific Plan could substantially increase traffic noise levels in the Plan Area. Traffic generated by adoption and development under the Specific Plan, in combination with traffic from past, present, existing, approved, pending and reasonably foreseeable future projects, could substantially increase traffic noise levels in the Plan Area; and construction and operational noise levels in combination with traffic from past, present, existing, approved, pending and reasonably foreseeable future projects, could increase ambient noise levels. Adoption and development under the Specific Plan could result in stationary noise sources, such as rooftop mechanical equipment and back-up generators; that when combined with noise from traffic generated by adoption and development under the Specific Plan; as well as from past, present, existing, approved, pending and reasonably foreseeable future projects; could substantially increase noise levels at sensitive land uses in the Plan Area. These significant and unavoidable impacts are overridden as set forth below in the Statement of Overriding Considerations.

43. Traffic and Transportation TRANS-2, TRANS-7 and TRANS-17:<sup>2</sup> The development under the Specific Plan would degrade the *Perry Place/I-580 Eastbound Ramps/ Oakland Avenue* intersection (**Intersection #15**) from LOS E to LOS F and increase intersection average delay by four seconds or more during the weekday PM peak hour under Existing Plus Project and 2020 Plus Project conditions. Under Cumulative Year 2035 plus Project conditions, development under the Specific Plan would increase the total intersection v/c ratio by 0.03 or more, and increase the v/c ratio for a critical movement by 0.05 or more at this intersection, which would operate at LOS F during the weekday PM peak hour. These significant and unavoidable impacts are overridden as set forth below in the Statement of Overriding Considerations.

44. Traffic and Transportation TRANS-6, TRANS-12 and TRANS-26: The development under the Specific Plan Project would add more than 10 peak-hour trips to *23rd Street/Harrison Street* intersection (**Intersection #40**) which would meet peak-hour signal warrant under Existing Plus Project, 2020 Plus Project and 2035 Plus Project conditions. With implementation of Mitigation Measure TRANS-6, this intersection may improve to LOS A during both weekday PM and Saturday peak hours under Existing Plus Project conditions; and may improve to LOS B during the weekday PM peak hour and LOS A during the Saturday peak hour under 2020 Plus Project and 2035 Plus Project conditions. However, the specific improvements of MM TRANS-6 may result in potential secondary impacts at Grand Avenue/Harrison Street intersection (Intersection #52) under Existing Plus Project, 2020 Plus Project and 2035 Plus Project conditions. Therefore, the impact is conservatively deemed significant and unavoidable. These significant and unavoidable impacts are overridden as set forth below in the Statement of Overriding Considerations.

45. Traffic and Transportation TRANS-8 and TRANS-19: The development under the Specific Plan would increase the total intersection v/c ratio by 0.03 or more and increase the v/c ratio for a critical movement by 0.05 or more during the weekday PM peak hour which would operate at LOS F under 2020 conditions, and during the weekday PM and Saturday peak hours which would operate at LOS F under 2035 conditions at the *Lake Park Avenue/Lakeshore Avenue* intersection (**Intersection #17**). These significant and unavoidable impacts are overridden as set forth below in the Statement of Overriding Considerations.

46. Traffic and Transportation TRANS-10 and TRANS-24: The development under the Specific Plan would increase the total intersection v/c ratio by 0.03 or more and increase the v/c ratio for a critical movement by 0.05 or more at an intersection operating at LOS F during the weekday AM and PM peak hours at the *27th Street/24th Street/Bay Place/Harrison Street* intersection (**Intersection #37**) under 2020 conditions. Development under the Specific Plan would also would increase the total intersection v/c ratio by 0.03 or more and increase the v/c ratio for a critical movement by 0.05 or more at an intersection operating at LOS F during the weekday AM and PM peak hours and degrade overall intersection operations from LOS E to LOS F and increase intersection average delay by four seconds or more during the Saturday peak hour under 2035 conditions. These significant and unavoidable impacts are overridden as set forth below in the Statement of Overriding Considerations.

47. Traffic and Transportation TRANS-13 and TRANS-27: The development under the Specific Plan would increase the v/c ratio for the total intersection by 0.03 or more and increase the v/c ratio for a critical movement by 0.05 or more at the

<sup>2</sup> In addition to the mitigation measures listed, the SCA that apply to transportation and circulation including: SCA 20 (Improvements in the Public Right-Of-Way - General), SCA 21 (Improvements in the Public Right-Of-Way - Specific), SCA 25 (Parking and Transportation Demand Management), SCA 33 (Construction Traffic and Parking) would also apply to all of the significant and unavoidable impacts listed.

*West Grand Avenue/Northgate Avenue* intersection (**Intersection #47**) which would operate at LOS F during the weekday PM peak hour under 2020 Plus Project and 2035 Plus Project conditions. These significant and unavoidable impacts are overridden as set forth below in the Statement of Overriding Considerations.

48. Traffic and Transportation TRANS-14: The development under the Specific Plan would increase the v/c ratio for a critical movement by 0.05 or more during the weekday PM and Saturday peak hours at the *51st Street/Pleasant Valley Avenue/Broadway* intersection (**Intersection #7**) under 2035 conditions. This significant and unavoidable impact is overridden as set forth below in the Statement of Overriding Considerations.

49. Traffic and Transportation TRANS-18: The development under the Specific Plan would increase the total intersection v/c ratio by 0.03 or more at an intersection operating at LOS F during the Saturday peak hour at the *Grand Avenue/Lake Park Avenue/Santa Clara Avenue* (**Intersection #16**) intersection under 2035 conditions. This significant and unavoidable impact is overridden as set forth below in the Statement of Overriding Considerations.

50. Traffic and Transportation TRANS-20: The development under the Specific Plan would degrade overall intersection operations from LOS E to LOS F and increase intersection average delay by four seconds or more during the weekday PM peak hour at the *Piedmont Avenue/Broadway and Hawthorne Avenue/Brook Street/Broadway* intersections (**Intersections #20 and #21**) under 2035 conditions. This significant and unavoidable impact is overridden as set forth below in the Statement of Overriding Considerations.

51. Traffic and Transportation TRANS-21: The development under the Specific Plan would increase the v/c ratio for the total intersection by 0.03 or more and increase the v/c ratio for a critical movement by 0.05 or more at the *27th Street/Telegraph Avenue* intersection (**Intersection #29**) which would operate at LOS F during the weekday PM peak hour under 2035 conditions. With the implementation of Mitigation Measure TRANS-21, the total intersection v/c ratio would be reduced during the weekday PM peak hour. However, it would not be reduce the increase in v/c ratio for critical movements to 0.05 or less. This significant and unavoidable impact is overridden as set forth below in the Statement of Overriding Considerations.

52. Traffic and Transportation TRANS-22: The development under the Specific Plan would degrade overall intersection operations from LOS E to LOS F and increase intersection average delay by four seconds or more during the weekday PM peak hour and at the *27th Street/ Broadway* intersection (**Intersection #30**) under 2035 conditions. This significant and unavoidable impact is overridden as set forth below in the Statement of Overriding Considerations.

53. Traffic and Transportation TRANS-28: The development under the Specific Plan would degrade intersection operations from LOS D to LOS F and increase intersection average delay by four seconds or more during the weekday PM peak hour at the *Grand Avenue/Broadway* intersection (**Intersection #49**) in 2035. This significant and unavoidable impact is overridden as set forth below in the Statement of Overriding Considerations.

54. Traffic and Transportation TRANS-29: The development under the Specific Plan would degrade from LOS E or better to LOS F or increase the v/c ratio by 0.03 or more for segments operating at LOS F on the following CMP or MTS roadway segments:

- MacArthur Boulevard in both eastbound and westbound directions between Piedmont Avenue and I-580 in 2020 and 2035.
- Grand Avenue in the eastbound direction from Adeline Street to MacArthur Boulevard, and in westbound direction from Harrison Street to San Pablo Avenue in 2035.
- Broadway in the northbound direction from 27th Street to College Avenue, and in the southbound direction from Piedmont Avenue to 27th Street in 2035.
- Telegraph Avenue in the northbound direction from MacArthur Boulevard to Shattuck Avenue in 2035.
- San Pablo Avenue in the southbound direction from Market Street to 27th Street in 2035.
- Harrison Street in the northbound direction from 27th Street to Oakland Avenue in 2035.

Although traffic operations on these adversely affected roadway segments would improve with the implementation of Mitigation Measures TRANS-1, TRANS-10, TRANS-13 through TRANS-16, TRANS-20, TRANS-22, TRANS-24, TRANS-27 and TRANS-28, they would continue to operate at LOS F. These significant and unavoidable impacts are overridden as set forth below in the Statement of Overriding Considerations.

55. **Traffic and Transportation - Previously Identified Impacted Intersections:** The City of Oakland has previously identified intersections which were found to have significant and unavoidable traffic-related impacts from recently published EIRs or traffic studies for development projects. These intersections (see Appendix G the Draft EIR, hereby incorporated by reference as if fully set forth herein) were identified in the Draft EIR in order to provide more information about potential traffic-related impacts and to provide CEQA clearance for future projects. No feasible mitigation measures were identified for these intersections, and while a Transportation Impact Study may still be required, in accordance with standard City policy and practice, the impacts are nevertheless significant and unavoidable. These significant and unavoidable impacts are overridden as set forth below in the Statement of Overriding Considerations.

## XI. FINDINGS REGARDING ALTERNATIVES

56. The Planning Commission finds that specific economic, social, environmental, technological, legal and/or other considerations make infeasible the alternatives to the Project described in the EIR for the reasons stated below. And that despite the remaining significant unavoidable impacts, the Project should nevertheless be approved, as more fully set forth in Section XII below, Statement of Overriding Considerations.

57. The EIR evaluated a reasonable range of alternatives to the project that was described in the Draft EIR. Of the six alternatives considered, two were not analyzed in detail as explained in the Draft EIR. The two alternatives that were not analyzed in detail in the Draft EIR include: a) Off-site Alternative and b) Fully Mitigated Alternative. The Planning Commission adopts the EIR's analysis and conclusions eliminating these two alternatives from further consideration. Each reason given in the EIR for rejecting an alternative constitutes a separate and independent basis for finding that particular alternative infeasible, and, when the reasons are viewed collectively, provides an overall basis for rejecting an alternative as being infeasible. The four potentially feasible alternatives analyzed in detail in the EIR represent a reasonable range of potentially feasible alternatives that reduce one or more significant impacts of the Project or provide decision makers with additional information. These alternatives include: Alternative 1: the No Project Alternative, Alternative 2: the Partially Mitigated Alternative, Alternative 3: Maximum Theoretical Buildout Alternative and two Historic Preservation Sub-Alternatives, which were considered in combination with Alternative 2: the Partially Mitigated Alternative. As presented in the EIR, the alternatives were described and compared with each other and with the proposed project. After the No Project Alternative (1), Alternative (2) the Partially Mitigated Alternative in combination with Historic Preservation Sub-Alternative A was identified as the environmentally superior alternative.

58. The Planning Commission certifies that it has independently reviewed and considered the information on the alternatives provided in the EIR and in the record. The EIR reflects the Planning Commission's independent judgment as to alternatives. The Planning Commission finds that the Project provides the best balance between the City's goals and objectives and the Project's benefits as described in the Staff Report and in the Statement of Overriding Considerations below. While the Project may cause some significant and unavoidable environmental impacts, mitigation measures and the City's SCAs identified in the EIR mitigate these impacts to the extent feasible. The four potentially feasible alternatives proposed and evaluated in the EIR are rejected for the following reasons. Each individual reason presented below constitutes a separate and independent basis to reject the project alternative as being infeasible, and, when the reasons are viewed collectively, provide an overall basis for rejecting the alternative as being infeasible.

59. **Alternative 1: No Project:** Under the No Project Alternative, the Specific Plan would not be adopted, and therefore the Broadway Valdez Development Program would not occur. However, the No Project Alternative does include reasonably foreseeable development that could occur even without adoption and development under the Specific Plan. This includes certain already approved but not built projects in the Plan Area (Broadway West Grand Mixed-Use Project, Parcel B), as well as development that would reasonably be expected to occur in the Plan Area in accordance with existing plans, zoning, and regulatory framework. The No Project Alternative would result in a reduction of approximately one million square feet of retail, 580,000 square feet of office, and 400 housing units as compared to the Project. The No Project Alternative would reduce some of the SU impacts identified with the Plan to less than significant. Under the No Project Alternative, the conservative SU Aesthetics impact (AES-5), conservative SU Greenhouse Gases impact

(GHG-1), SU Noise impacts (NOI-5 and NOI-6), and many of the Transportation impacts would no longer occur. No impacts would be greater than those identified with the Plan. The No Project Alternative was rejected as infeasible because it does not meet most of the basic project objectives including:

- a. Facilitating the transformation of the Plan Area into an attractive, regional destination for retailers, shoppers, employers and visitors that serves in part the region's shopping needs and captures sales tax revenue for reinvestment in Oakland (since retail development is drastically reduced, below the recommended "critical mass" needed to sustain a retail district);
- b. Recommending design standards and guidelines to promote a well-designed neighborhood that integrates high quality design of the public and private realms to establish a socially and economically vibrant, and visually and aesthetically distinctive identity for the Broadway Valdez District;
- c. Providing a framework and identifying potential funding mechanisms to realize needed transportation, streetscape and infrastructure improvements in the Broadway Valdez District to achieve a balanced and complete circulation network of "complete streets" that accommodates the internal and external transportation needs of the Plan Area by promoting walking, biking, and transit while continuing to serve automobile traffic;
- d. Not updating the zoning which includes incentives for affordable housing, the preservation and enhancement of existing buildings of historical and architectural merit, shared parking and transportation demand management measures; and/or
- e. It would result in a reduced development program of retail, office and housing, as noted above, thus reducing employment opportunities (both short-term construction jobs as well as permanent jobs) and revenues (sales, property and other taxes), lessening economic spin off activities and not promoting an appropriate jobs/housing balance.

60. Alternative 2: Partially Mitigated: Under the Partially Mitigated Alternative, the Plan Area would be developed at a reduced intensity (roughly 25 percent of the non-residential development compared with the Broadway Valdez Development Program). The mix of uses would shift such that a higher percentage of residential development would occur compared to commercial (retail and office) development. All other aspects of the Specific Plan would be adopted with this Alternative. The Partially Mitigated Alternative would result in a reduction of approximately 990,000 square feet of retail and 400,000 square feet of office, as compared to the Project. Overall, the Partially Mitigated Alternative, excluding Historic Preservation Sub-Alternative A (which is discussed below), would reduce but not avoid the conservative SU aesthetics and cultural resources impacts; all other impacts would be similar but less severe when compared to Plan impacts. The Partially Mitigated Alternative was rejected as infeasible because:

- a. The reduction in retail and office development would defeat the primary objectives of facilitating the transformation of the Plan Area into an attractive, regional destination for retailers, shoppers, employers and visitors that serves in part the region's shopping needs and captures sales tax revenue for reinvestment in Oakland;
- b. It would result in a reduced development program retail and office, as described above, thus reducing employment opportunities (both short-term construction jobs as well as permanent jobs) and revenues (sales, property and other taxes), lessening economic spin off activities and not promoting an appropriate jobs/housing balance; and/or
- c. Even with the reduced development, a number of air and transportation impacts still remain significant and unavoidable.

61. Historic Preservation Sub-Alternative A: The development restrictions and limitations of sub-alternative A could also be used in combination with the Specific Plan ("the Project") and thus were classified as a sub-alternative to provide for this flexibility. (As noted earlier in Section II. Project Description above, the BVDSP, in combination with Historic Preservation Sub-Alternative B is now "the Project" that City staff is recommending for adoption and is therefore not rejected as infeasible). The intent of Historic Preservation Sub-Alternative A is to avoid the SU historic resources impacts

identified for the Plan. Under this sub-alternative, development on sites with historic resources would be prohibited and thus no identified historic resources within the Plan Area would be demolished or significantly altered. Historic Preservation Sub-Alternative A would reduce the development program of retail by between approximately 140,000 and 226,000 square feet and reduce office by approximately 32,000 square feet, as compared to the Project. In addition, allowable heights on the parcel bounded by Webster, 29th Street, Broadway, and 28th Street would be reduced such that new development within that parcel would avoid adversely shading the stained glass windows of the Temple Sinai during morning worship periods. Historic Preservation Sub-Alternative A is rejected as infeasible because:

- a. The aspect of Historic Preservation Sub-Alternative A to absolutely prohibit the demolition or significant alteration of any CEQA historic resource on private property would provide special treatment to the Plan Area over all other areas in the City, which would not facilitate development in the Plan Area;
- b. The aspect of Historic Preservation Sub-Alternative A to absolutely prohibit the demolition or significant alteration of any CEQA historic resource on private property is inconsistent with the City's existing regulations regarding the alteration of a historic property in Central Business District Zones (OMC 17.136.055) or demolition or removal of a Designated or Potentially Designated Historic Property (OMC 17.136.075). These regulations outline a procedure that a project applicant must follow in order to alter or demolish a historic property which includes demonstrating certain conditions exist to make reuse infeasible or provide equal or better replacement structure(s), among other requirements;
- c. The existing City regulations referenced above already provide adequate protection for CEQA and other historic resources;
- d. The aspect of Historic Preservation Sub-Alternative A to absolutely prohibit the demolition or significant alteration of any CEQA historic resource on private property is legally problematic as it may result in an unconstitutional "taking of property without payment of just compensation;"
- e. Key sites identified by the BVDSP as "Retail Priority Sites" because of their size or location at "gateways" to the Valdez Triangle would either not be available or much smaller areas of a site would be available due to site constraints, making potential large retail development projects less feasible; and/or
- f. It would result in a reduced development program of retail and office, as noted above, thus reducing employment opportunities (both short-term construction jobs as well as permanent jobs) and revenues (sales, property and other taxes), lessening economic spin off activities and not promoting an appropriate jobs/housing balance.

62. Partially Mitigated Alternative in Combination with the Historic Preservation Sub-Alternative A: The Partially Mitigated Alternative and Historic Preservation Sub-Alternative A are discussed in item 60 and 61 above. The Partially Mitigated Alternative in combination with Historic Preservation Sub-Alternative A would result in a reduction of approximately 990,000 square feet of retail and 400,000 square feet of office, as compared to the Project.<sup>3</sup> The Partially Mitigated Alternative in combination with Historic Preservation Sub-Alternative A was rejected as infeasible because of reasons cited in item 60. "a" through "c" above and in item 61. "a" through "f" above.

63. Alternative 3: Maximum Theoretical Buildout: The Maximum Theoretical Buildout Alternative evaluates the theoretical possibility that every parcel would be built out to the new maximum level permissible under the General Plan and Planning Code regulations as revised through adoption of the Specific Plan. Under this alternative, the Plan Area would be developed at an increased density/intensity (roughly 300 percent of the residential development and 200 percent of non-residential development assumed in the Broadway Valdez Development Program). All other aspects of the Plan

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<sup>3</sup> The Partially Mitigated Alternative in combination with Historic Preservation Sub-Alternative A would result in the same total reduction in office and retail square footage as the Partially Mitigated Alternative excluding Historic Preservation Sub-Alternative A because the overall intent of the Partially Mitigated Alternative is to reduce development to the extent that most of the transportation impacts are avoided; it is assumed that the increment of retail and office square footage not built under Historic Preservation Sub-Alternative A, would be built elsewhere in the Plan Area.

would occur with this Alternative. Overall, because the Maximum Theoretical Build-out Alternative assumes an increment of growth substantially greater than the Plan, many impacts would be similar but the intensity of the impact (whether less than significant or significant and unavoidable) would be comparatively greater. The Maximum Theoretical Buildout Alternative 3 is rejected as infeasible because:

- a. All environmental impacts were significantly more severe than the Project under Alternative 3;
- b. Build-out of each site to the maximum intensity is unrealistic given historical and projected development patterns; and/or
- c. The infrastructure necessary to support development would be cost prohibitive and have secondary impacts themselves.

## **XII. STATEMENT OF OVERRIDING CONSIDERATIONS**

64. The Planning Commission finds that each of the following specific economic, legal, social, technological, environmental, and other considerations and the benefits of the Project separately and independently outweigh the remaining significant unavoidable adverse impacts discussed above in Section X, and is an overriding consideration independently warranting approval. The remaining significant unavoidable adverse impacts identified above are acceptable in light of each of the overriding considerations that follow. Each individual benefit/reason presented below constitutes a separate and independent basis to override each and every significant unavoidable environmental impact, and, when the benefits/reasons are viewed collectively, provide an overall basis to override each and every significant unavoidable environmental impact.

65. The BVDSP updates the goals and policies of the General Plan, and provides more detailed guidance for specific areas within the Broadway Valdez District.

66. The BVDSP builds upon two retail enhancement studies, the *Citywide Retail Enhancement Strategy* (Conley, 2006) and the companion *Upper Broadway Strategy – A Component of the Oakland Retail Enhancement Strategy* (Conley, 2007), which identified the City's need to reestablish major destination retail in Oakland as being critical to stemming the retail leakage and associated loss of tax revenue that the City suffers annually. These reports also identified the Broadway Valdez District as the City's best opportunity to re-establish a retail core with the type of comparison shopping that once served Oakland and nearby communities, and that the City currently lacks.

67. The BVDSP provides a policy and regulatory framework to achieve one of the primary objectives to transform the Plan Area into an attractive, regional destination for retailers, shoppers, employers and visitors that serves in part the region's shopping needs and captures sales tax revenue for reinvestment in Oakland.

68. The BVDSP would create employment opportunities (both short-term construction jobs as well as permanent jobs), increase revenues (sales, property and other taxes), and promote spin off activities (as Plan workers spend some of their income on goods in the Plan area).

69. The BVDSP Development Program promotes increased densities housing in close proximity to employment generating land uses supports the City and regional objectives for achieving a jobs/housing balance and transit-oriented development.

70. The BVDSP design guidelines will ensure that future development contributes to the creation of an attractive, pedestrian-oriented district characterized by high quality design and a distinctive sense of place.

71. The BVDSP identifies a series of needed and desired improvements related to transportation, affordable housing, historic resource preservation and enhancement, streetscape, plaza, parking and utility infrastructure and regulatory tools, policies and potential funding mechanisms to realize those improvements.

**BROADWAY VALDEZ DISTRICT SPECIFIC PLAN EIR - TABLE 2-1 (Excerpt)  
SUMMARY OF IMPACTS, MITIGATION MEASURES, STANDARD CONDITIONS OF APPROVAL AND RESIDUAL EFFECTS**

Environmental Impact	Standard Conditions of Approval and Mitigation Measures	Level of Significance after application of Mitigation
<b>Aesthetics, Shadow and Wind</b>		
<b>Impact AES-1:</b> Adoption and development under the Specific Plan would not adversely affect scenic public vistas or views of scenic resources (Criteria 1 and 2). (Less than Significant)	None Required	Less than Significant
<b>Impact AES-2:</b> Adoption and development under the Specific Plan would not substantially degrade the existing visual character or quality of the site and its surroundings (Criterion 3). (Less than Significant)	None Required	Less than Significant
<b>Impact AES-3:</b> Adoption and development under the Specific Plan would result in new sources of light or glare which would not substantially and adversely affect day or nighttime views in the area (Criterion 4). (Less than Significant)	<b>Standard Condition of Approval 40:</b> <i>Lighting Plan</i>	Less than Significant
<b>Impact AES-4:</b> Adoption and development under the Specific Plan could result in substantial new shadow that would shade solar collectors, passive solar heaters, public open spaces, or historic resources or otherwise result in inadequate provision of adequate light (Criteria 5 through 9). (Conservatively Significant and Unavoidable)	<b>Mitigation Measure AES-4: Shadow Analysis.</b> Project sponsors for projects proposed for development on the parcel bounded by Webster Street, 29th Street, Broadway, and 29th Street shall conduct a shadow analysis to evaluate the shadowing effects of the proposed project on the stained glass windows on the eastern façade of the Temple Sinai. Should the initial shadow analysis reveal new shading would occur on the stained glass windows of the Temple Sinai during morning worship periods, the project sponsor shall, if feasible, modify project designs and reduce proposed building heights, as necessary, until a revised shadow analysis demonstrates that new shading on Temple Sinai would not materially impair this resource's historic significance (i.e., would avoid Temple Sinai's stained glass windows during morning worship periods, which are generally from 7:30 a.m. to 12:00 p.m.).	Conservatively Significant and Unavoidable
<b>Impact AES-5:</b> Adoption and development under the Specific Plan has the potential to result in adverse wind conditions (Criterion 10). (Conservatively Significant and Unavoidable)	<b>Mitigation Measure AES-5: Wind Analysis.</b> Project sponsors proposing buildings 100 feet tall or taller within the portion of the Plan Area designated Central Business District shall conduct detailed wind studies to evaluate the effects of the proposed project. If the wind study determines that the proposed project would create winds exceeding 36 mph for more than one hour during daylight hours during the year, the project sponsor shall develop and implement a wind reduction plan and incorporate measures to reduce such potential effects, as necessary, until a revised wind analysis demonstrates that the proposed project would not create winds in excess of this threshold. Examples of measures that such projects may incorporate, depending on the site-specific conditions, include structural and landscape design features and modified tower designs: wind protective structures or other apparatus to redirect downwash winds from tall buildings, tree plantings or dense bamboo plantings, arbors, canopies, lattice fencing, etc.	Conservatively Significant and Unavoidable
<b>Impact AES-6:</b> Adoption and development under the Specific Plan, in combination with other past, present, and reasonably foreseeable future projects within and around the Plan Area, would result in significant cumulative wind, and shadow impacts. (Conservatively Significant and Unavoidable)	<b>Mitigation Measure AES-6:</b> Implement Mitigation Measures AES-4 and AES-5.	Conservatively Significant and Unavoidable

**BROADWAY VALDEZ DISTRICT SPECIFIC PLAN EIR - TABLE 2-1 (Excerpt)  
SUMMARY OF IMPACTS, MITIGATION MEASURES, STANDARD CONDITIONS OF APPROVAL AND RESIDUAL EFFECTS**

Environmental Impact	Standard Conditions of Approval and Mitigation Measures	Level of Significance after application of Mitigation
<b>Cultural Resources</b>		
<p><b>Impact CUL-1: Adoption of and development under the Specific Plan could result in the physical demolition, destruction, relocation, or alteration of historical resources that are listed in or may be eligible for listing in the federal, state, or local registers of historical resources (Criterion 1). (Significant and Unavoidable)</b></p>	<p><b>Standard Condition of Approval 56:</b> <i>Property Relocation Rather than Demolition</i>; and <b>57:</b> <i>Vibrations Adjacent to Historic Structures</i></p> <p><b>Mitigation Measure CUL-1:</b></p> <p><b>a) Avoidance, Adaptive Reuse, or Appropriate Relocation of Historically Significant Structures.</b></p> <ul style="list-style-type: none"> <li>• <i>Avoidance.</i> The City shall ensure, where feasible, that all future development activities allowable under the Specific Plan, including demolition, alteration, and new construction, would avoid historical resources (i.e., those listed on federal, state, and local registers).</li> <li>• <i>Adaptive Reuse.</i> If avoidance is not feasible, adaptive reuse and rehabilitation of historical resources shall occur in accordance with the <i>Secretary of Interior's Standards for the Treatment of Historic Properties</i>.</li> <li>• <i>Appropriate Relocation.</i> If avoidance or adaptive reuse <i>in situ</i> is not feasible, SCA 56, <i>Compliance with Policy 3.7 of the Historic Preservation Element (Property Relocation Rather than Demolition)</i>, shall be implemented, as required. Projects that relocate the affected historical property to a location consistent with its historic or architectural character could reduce the impact less than significant (Historic Preservation Element Action 3.8.1), unless the property's location is an integral part of its significance, e.g., a contributor to a historic district.</li> </ul> <p><b>b) Future Site-specific Surveys and Evaluations.</b></p> <p>Although the Plan Area has been surveyed by the City of Oakland's OCHS and as part of the Broadway Valdez Specific Plan effort by ESA in 2009, evaluations and ratings may change with time and other conditions. There may be previously unidentified historical resources which would be affected by future development activities. For any future projects on or immediately adjacent to buildings 50 years old or older between 2013 and 2038, which is the build-out horizon for the Specific Plan (i.e., by the end of the Plan period, buildings constructed prior to 1988), the City shall require specific surveys and evaluations of such properties to determine their potential historical significance at the federal, state, and local levels. Intensive-level surveys and evaluations shall be completed by a qualified architectural historian who meets the <i>Secretary of the Interior's Standards</i>. For all historical resources identified as a result of site-specific surveys and evaluations, the City shall ensure that future development activities avoid, adaptively reuse and/or appropriately relocate such historical resources in accordance with measure "a" (Avoidance, Adaptive Reuse, or Appropriate Relocation of Historically Significant Structures), above. Site-specific surveys and evaluations that are more than 5 years old shall be updated to account for changes which may have occurred over time.</p> <p><b>c) Recordation and Public Interpretation.</b></p> <p>If measure "a" (Avoidance, Adaptive Reuse, or Appropriate Relocation of Historically Significant Structures) is determined infeasible as part of a future project, the City shall evaluate the feasibility and appropriateness</p>	<p>Significant and Unavoidable</p>

**BROADWAY VALDEZ DISTRICT SPECIFIC PLAN EIR - TABLE 2-1 (Excerpt)  
SUMMARY OF IMPACTS, MITIGATION MEASURES, STANDARD CONDITIONS OF APPROVAL AND RESIDUAL EFFECTS**

Environmental Impact	Standard Conditions of Approval and Mitigation Measures	Level of Significance after application of Mitigation
<b>Cultural Resources (cont.)</b>		
<p><b>Impact CUL-1 (cont.)</b></p>	<p>of recordation and public interpretation of such resources prior to any construction activities which would directly affect them. Should City staff decide recordation and or public interpretation is required, the following activities would be performed:</p> <ul style="list-style-type: none"> <li>• <i>Recordation.</i> Recordation shall follow the standards provided in the National Park Service’s Historic American Building Survey (HABS) program, which requires photo-documentation of historic structures, a written report, and/or measured drawings (or photo reproduction of original plans if available). The photographs and report would be archived at the Oakland Planning Department and local repositories, such as public libraries, historical societies, and/or the Northwest Information Center at Sonoma State University. The recordation efforts shall occur prior to demolition, alteration, or relocation of any historic resources identified in the Plan Area, including those that are relocated pursuant to measure “a” (Avoidance, Adaptive Reuse, or Appropriate Relocation of Historically Significant Structures). Additional recordation could include (as appropriate) oral history interviews or other documentation (e.g., video) of the resource.</li> <li>• <i>Public Interpretation.</i> A public interpretation or art program would be developed by a qualified historic consultant or local artist in consultation with the Landmarks Preservation Advisory Board and City staff, based on a City-approved scope of work and submitted to the City for review and approval. The program could take the form of plaques, commemorative markers, or artistic or interpretive displays which explain the historical significance of the properties to the general public. Such displays would be incorporated into project plans as they are being developed, and would typically be located in a publicly accessible location on or near the site of the former historical resource(s). Public interpretation displays shall be installed prior to completion of any construction projects in the Plan Area.</li> </ul> <p>Photographic recordation and public interpretation of historically significant properties does not typically mitigate the loss of resources to a less-than-significant level [CEQA Section 15126.4(b)(2)].</p> <p><b>d) Financial Contributions.</b></p> <p>If measure “a” (Avoidance, Adaptive Reuse, or Appropriate Relocation of Historically Significant Structures) and measure “b” (Future Site-specific Surveys and Evaluations) are not satisfied, the project applicant shall make a financial contribution to the City of Oakland, which can be used to fund other historic preservation projects within the Plan Area or in the immediate vicinity. Such programs include, without limitation, a Façade Improvement Program or a Property Relocation Assistance Program.</p>	

**BROADWAY VALDEZ DISTRICT SPECIFIC PLAN EIR - TABLE 2-1 (Excerpt)  
SUMMARY OF IMPACTS, MITIGATION MEASURES, STANDARD CONDITIONS OF APPROVAL AND RESIDUAL EFFECTS**

Environmental Impact	Standard Conditions of Approval and Mitigation Measures	Level of Significance after application of Mitigation
<b>Cultural Resources (cont.)</b>		
<b>Impact CUL-1 (cont.)</b>	<p>This mitigation would conform to Action 3.8.1(9) of the Historic Preservation Element of the City of Oakland General Plan. Contributions to the fund(s) shall be determined by staff at the time of approval of site-specific project plans based on a formula to be determined by the Landmarks Preservation Advisory Board. However, such financial contribution, even in conjunction with measure “c” (Recordation and Public Interpretation), would not reduce the impacts to less-than-significant levels.</p> <p>Only avoidance of direct effects to historic resources, as would be achieved through measure “a” (Avoidance, Adaptive Reuse, or Appropriate Relocation of Historically Significant Structures), and measure “b” (Future Site-specific Surveys and Evaluations) would reduce the impacts to historic resources to a less-than-significant level. Therefore, if demolition or substantial alteration of historically significant resources is identified by the City as the only feasible option for development in the Plan Area, even with implementation of measure “c” (Recordation and Public Interpretation) and measure “d” (Financial Contributions), the impact of adoption of and development under the Specific Plan would be considered significant and unavoidable.</p>	
<b>Impact CUL-2:</b> Adoption of and development under the Specific Plan could result in significant impacts to unknown archaeological resources (Criterion 2). (Less than Significant)	<b>Standard Condition of Approval 52:</b> <i>Archaeological Resources</i>	Less than Significant
<b>Impact CUL-3:</b> Adoption of and development under the Specific Plan could directly or indirectly destroy a unique paleontological resource or site or unique geologic feature (Criterion 3). (Less than Significant)	<b>Standard Condition of Approval 54:</b> <i>Paleontological Resources</i>	Less than Significant
<b>Impact CUL-4:</b> Adoption of and development under the Specific Plan could disturb human remains, including those interred outside of formal cemeteries (Criterion 4). (Less than Significant)	<b>Standard Condition of Approval 52:</b> <i>Archaeological Resources; and 53: Human Remains</i>	Less than Significant
<b>Impact CUL-5:</b> Adoption of and development under the Specific Plan, combined with cumulative development in the Plan Area and its vicinity, including past, present, existing, approved, pending, and reasonably foreseeable future development, would contribute considerably to a significant adverse cumulative impact to cultural resources. (Significant and Unavoidable)	<p><b>Standard Condition of Approval 52:</b> <i>Archaeological Resources; and 53: Human Remains; 53: Human Remains; 54: Paleontological Resources; 56: Property Relocation Rather than Demolition; and 57: Vibrations Adjacent to Historic Structures</i></p> <p><b>Mitigation Measure CUL-5:</b> Implement Mitigation Measure CUL-1.</p>	Significant and Unavoidable (Historic Resources) for Cumulative Impact



### Broadway Valdez District Specific Plan and Related Actions Adoption Findings

In addition to the California Environmental Quality Act (CEQA) findings, there are additional findings which the Commission must make in recommending the *Broadway Valdez District Specific Plan* (BVDSPP) and Related Actions to the City Council, as detailed below.

The City Planning Commission finds and determines:

1. The *BVDSPP* is consistent with Policy A3 of the Land Use and Transportation Element (LUTE) of the Oakland General Plan: “Develop General Plan amendment cycles and related procedures.” Specifically:
  - a. Policy A3 of the General Plan LUTE states that the City will amend its General Plan, up to four times per year per mandatory element, subject to specific findings including: a) how the amendment advances Plan implementation; b) how it is consistent with the policies in the Element; c) any inconsistencies that would need to be reconciled; and d) examination of citywide impacts to determine if the amendment is contrary to achievement of citywide goals. As detailed below, the *General Plan* amendments proposed by the *BVDSPP* advance Policy A3 of the General Plan LUTE by amending the General Plan to be consistent with the *BVDSPP* Area.
  - b. The *BVDSPP* and associated General Plan text and map amendments, zoning regulations and Design Guidelines (Related Actions) are consistent with and further advance the Oakland General Plan including the LUTE. By way of example and not by limitation, the following summary lists the major goals and policies of the LUTE and discusses how the *BVDSPP* and Related Actions are consistent with these goals and policies:
    - As discussed in Chapter 4.9 of the *BVDSPP* EIR (hereby incorporated by reference throughout these findings, as if fully set forth herein), the General Plan LUTE identifies five “Showcase Districts”, each representing a dynamic area of regional importance in the City Of Oakland targeted for continued growth. These places contain the facilities, transportation system, communication network and infrastructure to support far-reaching economic activities. The Plan Area falls within Oakland’s Downtown Showcase District intended to promote a mixture of vibrant and unique districts with around-the-clock activity, continued expansion of job opportunities, and growing residential population.
    - As discussed in Chapter 4.9 of the *BVDSPP* EIR, the General Plan LUTE organizes the City into six general planning areas, each with distinct sets of key geographic areas targeted for community and economic expansion. The Plan Area falls within the Central/Chinatown planning area’s Auto Row target area for improvement strategies. Goals and policies within the LUTE focus on the need to develop business attraction strategies for the area with the intent to support existing automobile dealership activities while developing complementary uses and improving physical conditions of pedestrian and bicycle facilities. The LUTE also identifies a strategy objective of growth and change for the Broadway Corridor.
    - Transportation and Transit-Oriented Development objectives and policies to encourage alternative means of transportation; to include bikeways and pedestrian walks in new streets; and to improve the visual quality of streetscapes. Applicable *LUTE* Transportation-related policies include, but are not limited to, *Policies T3.5, T3.6, T3.7, T4.1 and T6.2*. These

policies are listed in Chapter 4.13 of the BVDSP EIR (hereby incorporated by reference throughout these findings, as if fully set forth herein).

- Neighborhood objectives and policies to ensure compatible development in terms of density, scale, design and existing or desired character of surrounding development; and to recognize and support the identification of distinct neighborhoods. The General Plan's existing policy directions on compatible land uses would apply to future development under the Specific Plan, including, but not limited to: *Policies N1.8, N2.1, N5.2, N7.1, N7.2 and N8.2*. These policies are listed in Chapter 4.9 of the BVDSP EIR.

The *BVDSP* includes goals, policies and actions that promote the transformation of the Plan Area into an attractive, regional retail destination and a "complete" mixed-use neighborhood with higher density development that is walkable, bikeable and transit-friendly. The proposed General Plan and Planning Code amendments, Design Guidelines, applicable Standard Conditions of Approval and CEQA mitigation measures serve to implement the *BVDSP* goals, policies and actions by creating a regulatory framework that incentivizes retail development, higher density residential development, reduces parking requirements, and provides development standards, design guidelines, and other requirements for well-designed, compatible infill development, among other components as discussed below.

2. The BVDSP and Related Actions are consistent with and further advance the Oakland General Plan including the LUTE (as described above), Open Space, Conservation and Recreation (OSCAR), Historic Preservation, Safety, and Housing Elements, as well as the Bicycle and Pedestrian Master Plans. By way of example and not by limitation, the following summary lists the major goals and policies of these elements of the General Plan and discusses how the *BVDSP* and Related Actions are consistent with these goals and policies.
  - a. The BVDSP is consistent with policies of the Bicycle Master Plan to include provisions for safe and direct bicycle access to special development areas and key corridors; to support improved bicycle access to public transportation; and to insure that the needs of bicyclists are considered in the design of new development. Chapter 5 Community Design, Chapter 6 Circulation and the Design Guidelines of the *BVDSP*, the proposed Planning Code amendments, as well as the applicable Standard Conditions of Approval and CEQA mitigation measures for the BVDSP include goals and policies and standards that support completing the bicycle network as envisioned in the Bicycle Master Plan and providing enhanced bicycle facilities and bicycle parking. Applicable *LUTE* Transportation-related policies are listed in Chapter 4.13 of the BVDSP EIR. The BVDSP would be consistent with the Bicycle Master Plan *Policies 1A, 1B, 1C and 1D*.
  - b. The BVDSP is consistent with policies of the Pedestrian Master Plan to include provisions for safe and direct pedestrian access between "activity centers" throughout the city; to support improved pedestrian access to public transportation; and to insure that the needs of pedestrians are considered in the design of new development. Chapter 5 Community Design, Chapter 6 Circulation and the Design Guidelines of the *BVDSP*, the proposed Planning Code amendments, as well as the applicable Standard Conditions of Approval and CEQA mitigation measures for the BVDSP include goals and policies and standards that support improvements to pedestrian environment such as improvements that enhance safety and visual quality (e.g. crosswalks, wider sidewalks, bulbouts, pedestrian-scaled lighting and other streetscape amenities). Applicable *LUTE* Transportation-related policies are listed in Chapter 4.13 of the EIR. The BVDSP would be consistent with the Pedestrian Master Plan *Policies 1.1, 1.2, 1.3, 2.1, 2.3 and 3.2*.

- c. The BVDSP is consistent with the policies of the OSCAR of the General Plan to protect the visual quality of Oakland's visual resources; promote land use patterns and densities which improve regional air quality; to expand existing transportation systems management to reduce congestion; to require implementation of best practices during construction to minimize dust emissions; to encourage the use of energy-efficient construction; to protect habitat; to control urban runoff; and to minimize soil contamination hazards through appropriate storage and disposal of toxic substances. Applicable OSCAR-related policies include, but are not limited to, *Policies OS-4.4, OS-9.3, OS-10.1, OS-10.2, OS-10.3, OS-11.1; Policies CO-6.1, CO-7.1, CO-7.3, CO-7.4, CO-9.1, CO-11.1, CO-11.2, CO-12.1, CO-12.3 through CO-12.6, CO-13.2 through CO-13.4; and, Policies REC-3.1 and 3.3.*<sup>1</sup> These policies are listed in Chapters 4.1, 4.2, 4.3, 4.6, 4.8 and 4.12 of the EIR (hereby incorporated by reference throughout these findings, as if fully set forth herein). Chapter 6 Circulation, Chapter 7 Infrastructure & Utilities and the Design Guidelines of the BVDSP include goals and policies and standards support the OSCAR policies referenced above. In addition, the applicable Standard Conditions of Approval and CEQA mitigation measures for the BVDSP also support the OSCAR policies referenced above.
- d. The BVDSP is consistent with the policies of the *Historic Preservation Element (HPE)* to encourage the reuse of existing buildings and building materials; to incentivize the preservation of historic resources; and to avoid or minimize adverse historic preservation impacts. Chapter 4 Land Use, Chapter 5 Community and the Design Guidelines of the BVDSP, as well as the proposed Planning Code amendments include goals and policies and standards to preserve and enhance existing buildings, including those that are not deemed to be a historic resource under CEQA. In addition, the applicable Standard Conditions of Approval and CEQA mitigation measures for the BVDSP also support the HPE policies referenced below. Applicable *Historic Preservation Element*-related policies include, but are not limited to, *Policies 2.1, 2.6, 3.1, 3.3, 3.6 and 3.9.* These policies are listed in Chapters 4.4 of the EIR (hereby incorporated by reference throughout these findings, as if fully set forth herein).
- e. The BVDSP is consistent with the policies of the *Safety Element* to enforce and update local ordinances and to comply with regional orders that would reduce the risk of storm-induced flooding; and to continue to strengthen city programs that seek to minimize the storm-induced flooding; and to maintain and enhance the city's capacity for emergency response. Applicable *Safety Element*-related policies include, but are not limited to, *Policies GE-2, FL-1, FL-2, FL-4, FI-3, HM-1 and HM-3.* These policies are listed in Chapters 4.7 and 4.8 of the EIR (hereby incorporated by reference throughout these findings, as if fully set forth herein). Chapter 7 Infrastructure & Utilities and the Design Guidelines of the BVDSP, and the applicable Standard Conditions of Approval and CEQA mitigation measures for the BVDSP include goals and policies and requirements that support the Safety Element policies referenced above.
- f. The BVDSP is consistent with the goals and policies of the *Housing Element* to provide adequate sites for housing for all income groups, to conserve and improve older housing and neighborhoods, and to promote sustainable development and sustainable communities. Chapter 4 Land Use and Chapter 8 Implementation of the BVDSP, as well as the proposed Planning Code

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<sup>1</sup> Although the City has remained short of its stated goal of 4.0 ac. of local-serving parkland per 1,000 resident standard since 1994, the City nevertheless exceeds the overall parkland standard of 10 total acres per 1,000 residents. The City exceeded this standard in 2012, with 15.2 acres of parkland per 1,000 residents.

amendments include goals and policies and strategies to support and incentivize the provision of affordable housing. Applicable *Housing Element*-related policies include, but are not limited to Policies 4.1, 4.3, 5.1, and 5.5. These policies are listed in Chapters 4.11 of the EIR (hereby incorporated by reference throughout these findings, as if fully set forth herein).

3. There are no inconsistencies between the *BVSDP Plan* and the Oakland General Plan which need to be reconciled and the *BVSDP* is consistent with and will further advance achievement of citywide goals, as detailed herein and in the May 21, 2014 Staff Report to the City Planning Commission.
4. The *BVSDP* and Related Actions are consistent with and further advance other related plans, including the *Broadway/MacArthur/San Pablo Redevelopment Plan*, *Central District Urban Renewal Plan* and the *Energy and Climate Action Plan*. By way of example and not by limitation, the following summary lists the major goals and policies the above-mentioned plans and discusses how the *BVSDP* is consistent with them.
  - a. The *Broadway/MacArthur/San Pablo Redevelopment Plan* includes goals related to stimulating infill development, adaptive reuse and preservation of existing building stock, new business and employment opportunities, and revitalization of commercial areas. Applicable goals include, but are not limited to Goal A, B, C and G. These goals are listed in Chapter 4.9 of the EIR.
  - b. *Central District Urban Renewal Plan* goals related to strengthening the Project Area's historical role as a major retail center for the Metropolitan Oakland Area and establishment as an important cultural entertainment center. Applicable goals include, but are not limited to Goal A, B and C. These goals are listed in Chapter 4.9 of the EIR.
  - c. The *Energy and Climate Action Plan* includes Priority Actions that apply to improving transportation and land use integration and promoting alternative energy use and green building. Applicable "Priority Actions" include, but are not limited to *PA 1, PA 7, PA 31, PA 37, PA 46, PA 50*. These Priority Actions are listed in Chapter 4.6 of the EIR.

The *BVSDP* provides a vision and planning framework that envisions the Plan Area's transformation into a vibrant, sustainable and economically prosperous neighborhood and retail destination, which is consistent with the *Broadway/MacArthur/San Pablo Redevelopment Plan* and the *Central District Urban Renewal Plan*. Chapters 4 Land Use, 5 Community Design, 7 Infrastructure & Utilities, the Design Guidelines, and the applicable Standard Conditions of Approval and CEQA mitigation measures for the *BVSDP* include goals, policies and requirements that are consistent with the *ECAP*'s Priority Actions regarding transportation and land use integration and promoting alternative energy use and green building.

5. Adoption of the *BVSDP Plan* meets the provisions of California Government Code Section 65351 et. seq., specifically:
  - a. The City provided "opportunities for the involvement of citizens, California Native American Indian tribes, public agencies, public utility companies, and civic, education, and other community groups, through public hearings and at public workshops" (Government Code section 65351). Specifically, seven community workshops were held between May 2009 and July 2013; the *BVSDP Concept* was presented to the Landmarks Preservation Advisory Board

- and Planning Commission in May 2012; between October and December 2013 the Draft BVDSP and Related Actions were presented to the Zoning Update Committee and Design Review Committee of the Planning Commission, as well as the Bicycle and Pedestrian Advisory Committee, the Parks and Recreation Advisory Commission, the Landmarks Preservation Advisory Board and to the Planning Commission.
- b. In addition to providing newspaper notice in the Oakland Tribune of various public hearings, the City also provided notice of hearings in compliance with Government Code Section 65352 through (1) the April 30, 2012, Notice of Preparation of the Environmental Impact Report; (2) the September 20, 2013, Notice of Availability/Notice of Release of the Draft EIR and Draft *BVDSP and Related Actions*; and (3) the April 23, 2014, Notice of Availability/Notice of Release of the Final EIR and public hearings to consider adoption of the *BVDSP and Related Actions*, which were sent to:
- The neighboring cities of Alameda, Berkeley, Emeryville, Piedmont, San Francisco, San Leandro; the County of Alameda; the County of San Francisco; the Port of Oakland;
  - The Oakland Unified School District;
  - The Local Agency Formation Commission;
  - The Association of Bay Area Governments; the Metropolitan Transportation Commission; the Regional Water Quality Control Board;
  - East Bay Municipal Utility District, (which was consulted during the preparation of the *Broadway Valdez District Specific Plan*, and which has commented on the Draft EIR).
  - The Bay Area Air Quality District (which was consulted during the preparation of the *Broadway Valdez District Specific Plan*);
  - Property owners both within the Project area and up to 300 feet beyond the Project area boundaries;
  - Individuals who specifically requested to be notified about the project; and
  - There are no California Native American tribes with traditional lands in Oakland's jurisdiction; however, a notice to the Native American Heritage Commission was sent by staff. There are no Federal agencies with "operations or lands" that would be significantly affected by adopting the *BVDSP*; There is no branch of the US Armed Forces that have military installations or airspace that could be affected by adopting the *BVDSP*.
6. That the *BVDSP* and related zoning regulations are adequate and promote the public interest and the existing zoning is inadequate and contrary to the public interest because it does not implement various provisions of the LUTE and the *BVDSP*, in part, for the reasons stated herein and in the May 21, 2014, Staff Report to the City Planning Commission.

**AMENDMENTS TO CITY of OAKLAND GENERAL PLAN, LAND USE & TRANSPORTATION ELEMENT (LUTE)**

The following are proposed text changes to the General Plan, Land Use & Transportation Element. Additions to the Plan are underlined; deletions are in ~~strikeout~~. Maps showing the existing General Plan Land Use Map and the proposed General Plan Land Use Map for the Broadway Valdez District Specific Plan Area are provided on the following pages as Attachments D1 and D2.

**Oakland General Plan, Land Use & Transportation Element (LUTE)**

**Chapter 3: Policies in Action**

**The Land Use Diagram**

**Land Use Classifications**

**Community Commercial**

**Intent:** The Community Commercial Classification is intended to identify, create, maintain, and enhance areas suitable for a wide variety of commercial and institutional operations along the City's major corridors and in shopping districts or centers.

**Desired Character and Uses:** Community Commercial areas may include neighborhood center uses and larger scale retail and commercial uses, such as auto related businesses, business and personal services, health services and medical uses, education facilities, and entertainment uses. Community Commercial areas can be complemented by the addition of urban residential development and compatible mixed use development.

**Intensity/Density:** Except as indicated below, the maximum FAR for this classification is 5.0. Maximum residential density is 125 units per gross acre.

- Within the Broadway Valdez District Specific Plan area, the maximum FAR for this classification is 8.0.

**Policy Framework Basis for the Classification:** Neighborhood Goals; Neighborhood Objectives N1, N2, N3, N6, N8, N9, N10, N11, and related policies. Industry and Commerce Goals; Industry and Commerce Objectives I/C 1, I/C 2, and I/C 3, I/C 5. Transportation Objective T2.





**AMENDMENTS TO CITY of OAKLAND ZONING MAP, HEIGHT AREA MAP AND  
PLANNING CODE**

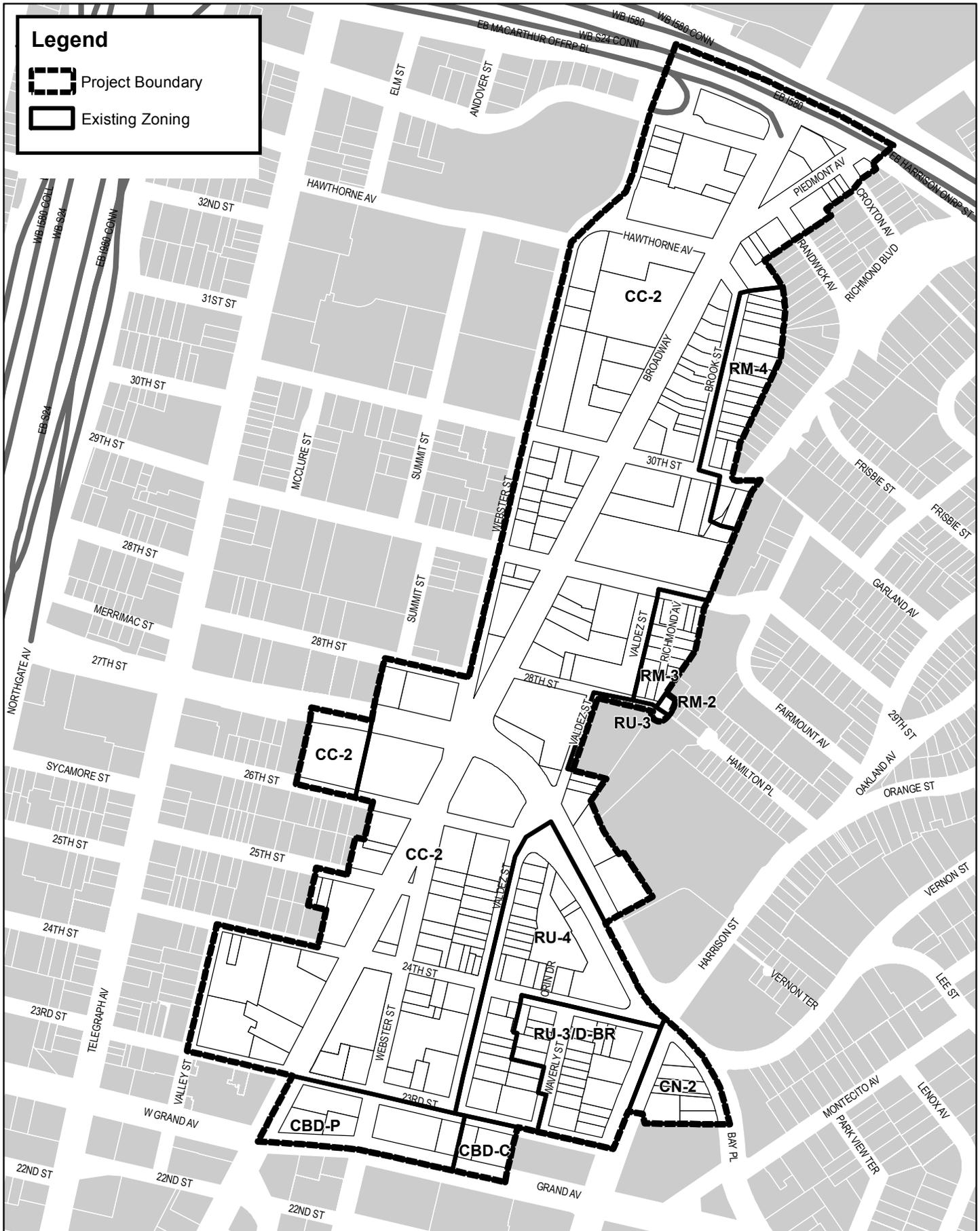
Throughout the City of Oakland Planning Code Chapter 17, there will be omnibus changes, such as every time D-BR zone is mentioned it will be replaced with D-BV zone.

The following is a list of all of the attachments included in Attachment E:

- E1. Existing Zoning Map
- E2. Proposed Zoning Map
- E3. Existing Height Area Map
- E4. Proposed Height Area Map
- E5. Proposed Planning Code Chapter 101.C. D-BV Broadway Valdez Commercial Zones Regulations (“Clean Version”)
- E6. Proposed Planning Code Chapter 101.C. D-BV Broadway Valdez Commercial Zones Regulations (Showing Additions/~~Deletions~~ Made Since December 13, 2013 ZUC Meeting)
- E7. Proposed Changes to Chapter 17.116 Off-Street Parking and Loading Requirements
- E8. Proposed Changes to Chapter 17.117 Bicycle Parking Requirements
- E9. Proposed Deletion of Chapter 17.101.C. D-BR Broadway Retail Frontage District Interim Combining Zone Regulations (to be replaced with Attachment E.5)

Legend

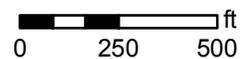
-  Project Boundary
-  Existing Zoning

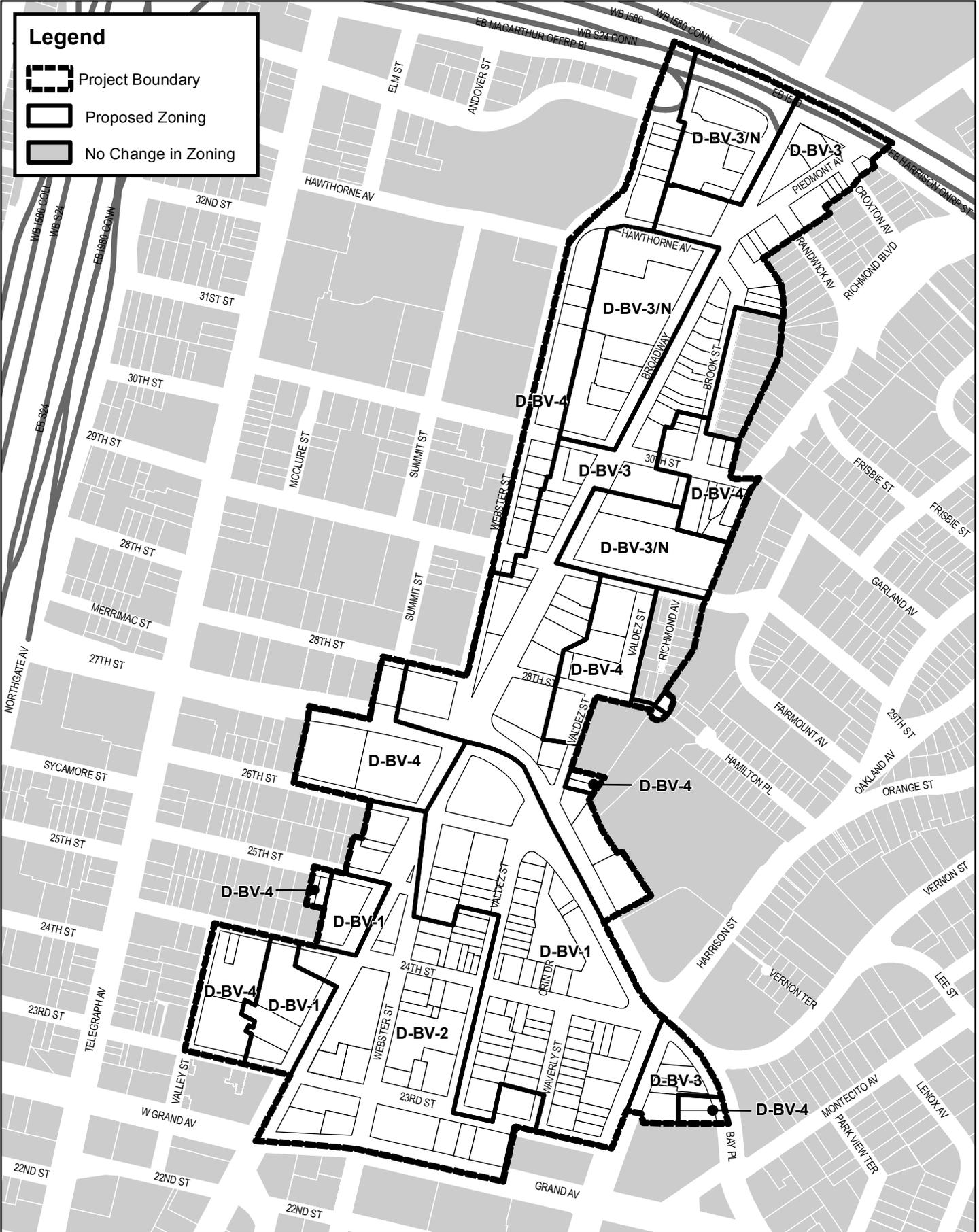


Planning and Building Department May 12, 2014



**Broadway Valdez District Specific Plan**  
**Existing Zoning**





**Legend**

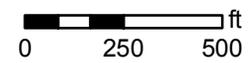
- Project Boundary
- Proposed Zoning
- No Change in Zoning

Planning and Building Department May 12, 2014



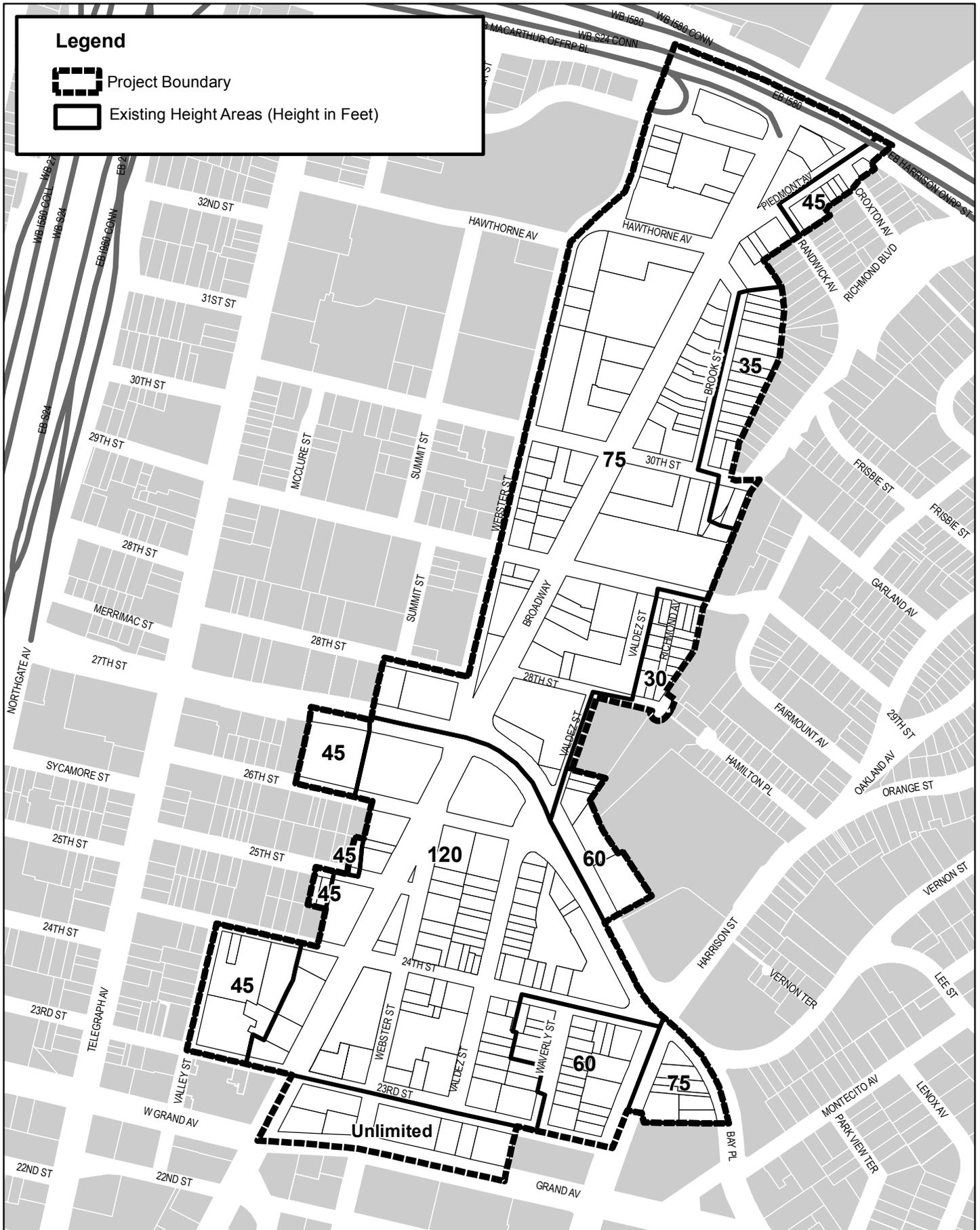
# Broadway Valdez District Specific Plan

## Proposed Zoning



**Legend**

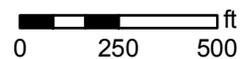
-  Project Boundary
-  Existing Height Areas (Height in Feet)



Planning and Building Department May 12, 2014



**Broadway Valdez District Specific Plan**  
Existing Height Areas

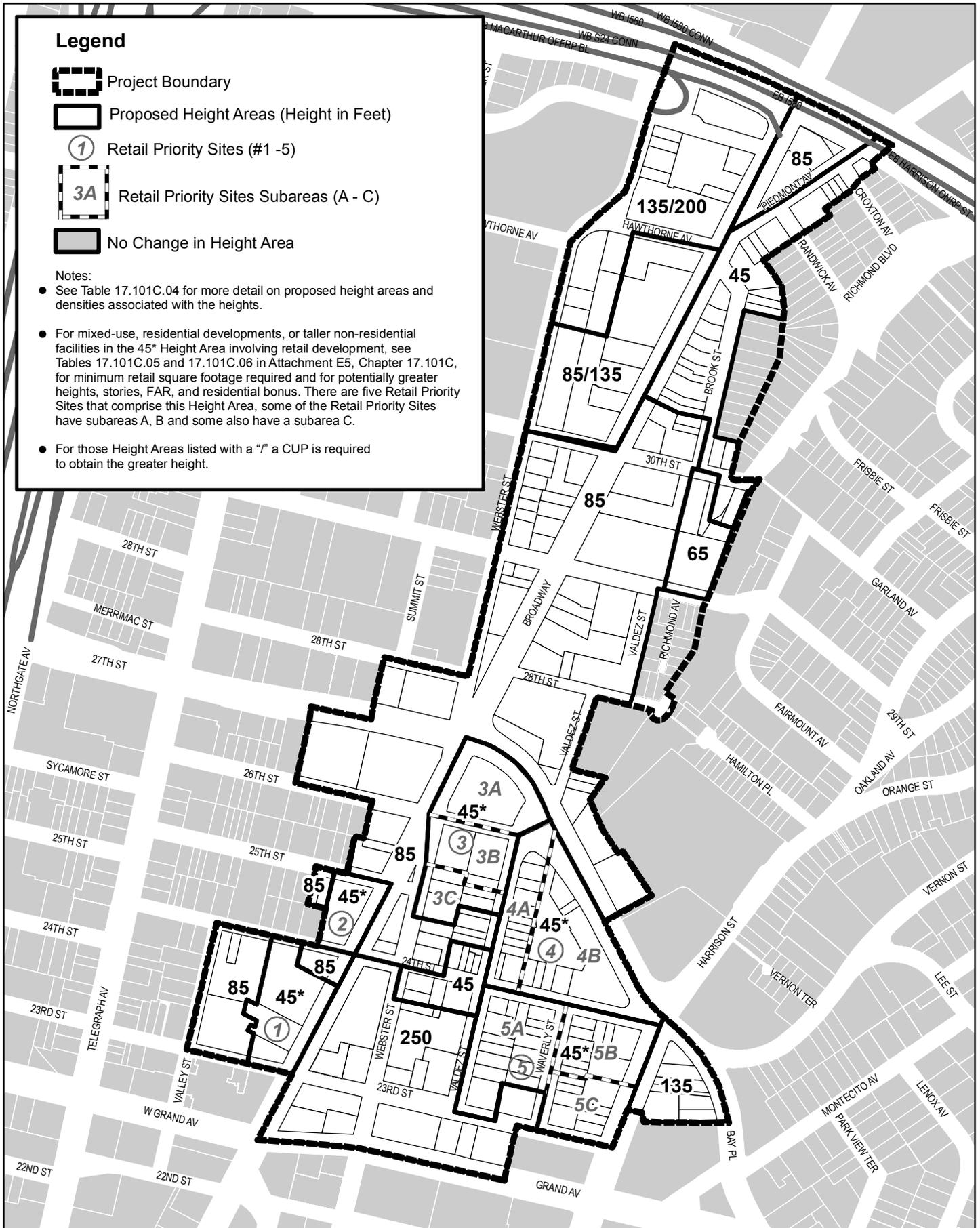


**Legend**

-  Project Boundary
-  Proposed Height Areas (Height in Feet)
-  Retail Priority Sites (#1 - 5)
-  Retail Priority Sites Subareas (A - C)
-  No Change in Height Area

**Notes:**

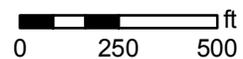
- See Table 17.101C.04 for more detail on proposed height areas and densities associated with the heights.
- For mixed-use, residential developments, or taller non-residential facilities in the 45\* Height Area involving retail development, see Tables 17.101C.05 and 17.101C.06 in Attachment E5, Chapter 17.101C, for minimum retail square footage required and for potentially greater heights, stories, FAR, and residential bonus. There are five Retail Priority Sites that comprise this Height Area, some of the Retail Priority Sites have subareas A, B and some also have a subarea C.
- For those Height Areas listed with a "f" a CUP is required to obtain the greater height.



Planning and Building Department May 12, 2014



**Broadway Valdez District Specific Plan**  
**Proposed Height Areas**



Proposed Planning Code Chapter 101.C. D-BV Broadway Valdez Commercial Zones Regulations (“Clean Version”) to replace Chapter 17.101.C. D-BR Broadway Retail Frontage District Interim Combining Zone Regulations.

Title 17 - PLANNING

## Chapter 17.101C- D-BV BROADWAY VALDEZ DISTRICT COMMERCIAL ZONES REGULATIONS

### Sections:

- 17.101C.010 - Title, intent, and description.
- 17.101C.020 - Required design review process.
- 17.101C.030 - Permitted and conditionally permitted activities.
- 17.101C.040 - Permitted and conditionally permitted facilities.
- 17.101C.050 - Property development standards.
- 17.101C.055– Micro Living Quarters
- 17.101C.060 - Special regulations for mini-lot and planned unit developments.
- 17.101C.070 - Other zoning provisions.

### 17.101C.010 - Title, intent, and description.

**A. Title and Intent.** The intent of the Broadway Valdez District Commercial (D-BV) Zones is to implement the Broadway Valdez District Specific Plan (BVDSP). The Specific Plan area is divided into two subareas: the Valdez Triangle and the North End. These regulations shall apply to the D-BV zones.

1. The intent for the Valdez Triangle regulations is to:

- a. Create a recognized Oakland destination that provides a mix of uses that contributes to around-the-clock activity with people present both day and night, and on weekdays and weekends.
- b. Create a destination retail district that addresses the City's need for comparison goods shopping complemented with local-serving retail, dining, entertainment, office, and service uses.
- c. Encourage, support, and enhance a mix of small, medium, and large scale retail, commercial, dining, entertainment, arts, cultural, offices, residential, services, public plazas, and visitor uses.
- d. Encourage and enhance a pedestrian-oriented streetscape with street-fronting retail and complementary dining and entertainment uses.
- e. Establish a pedestrian, bicycle, and transit oriented district that accommodates vehicular access.

2. The intent for the North End regulations is to:

- a. Create an attractive, mixed-use boulevard that links the Downtown and Valdez Triangle areas to the Pill Hill, Piedmont and North Broadway areas, and is integrated with the adjoining residential and health care-oriented neighborhoods.

- b. Encourage horizontally or vertically mixed use development that complements the Valdez Triangle and address the needs of adjoining and nearby neighborhoods with the potential of serving some regional needs close to I-580.
- c. Encourage uses that complement and support the adjoining medical centers, such as professional and medical office uses, medical supplies outlets, and visitor and workforce housing.
- d. Encourage existing and new automotive sales that incorporate an urban format with a showroom and repair shop that provides car storage either in a structured garage or in an off-site location.

**B. Description of Zones.** This Chapter establishes land use regulations for the following four zones:

1. **D-BV-1 Broadway Valdez District Retail Priority Sites Commercial Zone - 1.** The intent of the D-BV-1 zone is to establish Retail Priority Sites in the Broadway Valdez District Specific Plan Area in order to encourage a core of comparison goods retail with a combination of small, medium and large scale retail stores. Priority Sites 3 and 5 are further divided into subareas a, b, and c and Priority Site 4 into a and b as shown in the Height Area Map. Each Retail Priority Site and subarea will have a specified minimum square footage of retail required prior to residential or transient habitation activities and facilities being permitted.
2. **D-BV-2 Broadway Valdez District Retail Commercial Zone - 2.** The intent of the D-BV-2 zone is to create, maintain, and enhance areas of the Broadway Valdez District Specific Plan Area for ground-level, retail, restaurants, entertainment, and art activities with pedestrian-oriented, active storefront uses. Upper story spaces are intended to be available for a wide range of office and residential activities.
3. **D-BV-3 Broadway Valdez District Mixed Use Boulevard Commercial Zone - 3.** The D-BV-3 zone is intended to create, maintain, and enhance areas with direct frontage and access along Broadway, 27<sup>th</sup> Street, Piedmont Avenue, and Harrison Street. A wider range of ground-floor office and other commercial activities are allowed than permitted in the D-BV-2 zone with upper-story spaces intended to be available for a broad range of residential and office or other commercial activities. Mixed uses could either be vertical and/or horizontal.
4. **D-BV-4 Broadway Valdez District Mixed Use Commercial Zone - 4.** The D-BV-4 zone is intended to create, maintain, and enhance areas that do not front Broadway, 27<sup>th</sup> Street, Piedmont Avenue, or Harrison Street, and allows the widest range of uses on the ground floor including both residential and commercial businesses. Upper-story spaces are intended to be available for a broad range of residential or commercial activities.

**C. Description of Combining Zone.** This Chapter establishes land use regulations for the following combining zone:

1. **N North Large Development Site Combining Zone.** The intent of the N combining zone is to encourage more active commercial uses on those sites that have deeper lots that front along Broadway. Incentives for large developments are included. When an above primary zone is combined with the N combining zone, the N Combining Zone permitted uses supersede those of the primary zone.

**17.101C.020 - Required design review process.**

Except for projects that are exempt from design review as set forth in Section 17.136.025, no Building Facility, Designated Historic Property, Potentially Designated Historic Property, Telecommunications Facility, Sign, or other associated structure 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.

**17.101C.030 - Permitted and conditionally permitted activities.**

Table 17.101C.01 lists the permitted, conditionally permitted, and prohibited activities in the D-BV zones. The descriptions of these activities are contained in Chapter 17.10. Section 17.10.040 contains permitted accessory activities.

"P" designates permitted activities in the corresponding zone.

"C" designates activities that are permitted only upon the granting of a Conditional Use permit (CUP) in the corresponding zone (see Chapter 17.134 for the CUP procedure).

"L" designates activities subject to certain limitations or notes listed at the bottom of the table.

"—" designates activities that are prohibited except as accessory activities according to the regulations contained in Section 17.010.040.

**Table 17.101C.01: Permitted and Conditionally Permitted Activities**

Activities	Zones				Combining Zone*	Additional Regulations
	D-BV-1	D-BV-2	D-BV-3*	D-BV-4	N*	
<b>Residential Activities</b>						
Permanent	C(L2)(L3)	P(L1)(L3)(L4)	P(L1)(L3)(L5)	P(L1)	P(L1)(L3)(L6)	
Residential Care	—	C(L1)(L3)(L4)	C(L1)(L3)(L5)	C(L1)	C(L1)(L3)(L6)	17.103.010
Service-Enriched Permanent Housing	—	C(L1)(L3)(L4)	C(L1)(L3)(L5)	C(L1)	C(L1)(L3)(L6)	17.103.010
Transitional Housing	—	C(L1)(L3)(L4)	C(L1)(L3)(L5)	C(L1)	C(L1)(L3)(L6)	17.103.010
Emergency Shelter	—	—	—	—	—	17.103.010
Semi-Transient	—	—	—	—	—	
Bed and Breakfast	—	C	C	C	C	17.10.125
<b>Civic Activities</b>						
Essential Service	P	P	P	P	P	
Limited Child-Care Activities	P(L4)	P(L6)	P(L5)	P	P(L6)	
Community Assembly	C(L4)	C	C	C	C	
Recreational Assembly	P	P	P	P	P	
Community Education	P(L4)	P(L7)	P(L5)	P	P	
Nonassembly Cultural	P	P	P	P	P	
Administrative	P(L4)	P(L6)	P(L5)	P	P(L6)	
Health Care	C(L4)	P(L6)	P(L5)	P	P(L6)	
Special Health Care	—	—	C(L8)(L9)	C(L8)	C(L8)(L9)	17.103.020
Utility and Vehicular	C	C	C	C	C	
Extensive Impact	C	C	C	C	C	
<b>Commercial Activities</b>						
General Food Sales	P(L10)	P	P	P	P	
Full Service Restaurants	P	P	P	P	P	

Activities	Zones				Combining Zone*	Additional Regulations
	D-BV-1	D-BV-2	D-BV-3*	D-BV-4	N*	
Limited Service Restaurant and Cafe	P	P	P	P	P	
Fast-Food Restaurant	C	C	C	C	C	17.103.030 and 8.09
Convenience Market	—	C	C	C	—	17.103.030
Alcoholic Beverage Sales	C	C	C	C	C	17.103.030 and 17.114.030
Mechanical or Electronic Games	—	—	—	—	—	
Medical Service	C(L4)	P(L6)	P(L5)	P	P(L6)	
General Retail Sales	P	P	P	P	P	
Large-Scale Combined Retail and Grocery Sales	—	—	—	—	—	
Consumer Service	C(L10)(L11)	P(L7)(L11)	P(L11)	P(L11)(L12)	P	
Consultative and Financial Service	P(L4)	P(L6)	P	P	P(L5)	
Check Cashier and Check Cashing	—	—	—	—	—	
Consumer Cleaning and Repair Service	P(L7)	P(L12)	P(L12)	P(L12)	P(L5)	
Consumer Dry Cleaning Plant	—	—	—	—	--	
Group Assembly	C(L4)(L13)	C(L13)	C(L13)	C(L13)	C(L13)	
Personal Instruction and Improvement Services	P(L7)	P(L7)	P	P	P(L5)	
Administrative	P(L4)	P(L6)	P(L5)	P	P(L6)	
Business, Communication, and Media Services	P(L4)	P(L7)	P	P	P(L5)	
Broadcasting and Recording Services	P(L4)	P(L6)	P(L5)	P	P(L6)	
Research Service	C(L4)	P(L6)	P(L5)	P	P(L6)	
General Wholesale Sales	—	—	—	—	—	
Transient Habitation	C(L2)	C	C	—	C	
Building Material Sales	—	—	—	—	—	
Automobile and Other Light Vehicle Sales and Rental	C(L14)	C(L14)	C(L14)	C(L14)	C(L14)	
Automobile and Other Light Vehicle Gas Station and Servicing	—(L15)	—(L15)	C(L5)	—(L15)	—(L15)	
Automobile and Other Light Vehicle Repair and Cleaning	—(L15)	—(L15)	C(L5)	—(L15)	—(L15)	
Taxi and Light Fleet-Based Services	—	—	—	—	—	
Automotive Fee Parking	P(L16)	P(L16)	P(L16)	P(L16)	P(L16)	
Animal Boarding	—	—	—	C	—	
Animal Care	—	C(L9)	P(L5)	P	P(L6)	
Undertaking Service	—	—	—	—	—	
<b>Industrial Activities</b>						
Custom Manufacturing	C(L10)	C	P(L5)	P(L7)	C	17.120

Activities	Zones				Combining Zone*	Additional Regulations
	D-BV-1	D-BV-2	D-BV-3*	D-BV-4	N*	
Light Manufacturing	—	—	—	—	—	
General Manufacturing	—	—	—	—	—	
Heavy/High Impact	—	—	—	—	—	
Research and Development	—	—	—	—	—	
Construction Operations	—	—	—	—	—	
Warehousing, Storage, and Distribution						
A. General Warehousing, Storage and Distribution	—	—	—	—	—	
B. General Outdoor Storage	—	—	—	—	—	
C. Self-or Mini Storage	—	—	—	—	—	
D. Container Storage	—	—	—	—	—	
E. Salvage/Junk Yards	—	—	—	—	—	
Regional Freight Transportation	—	—	—	—	—	
Trucking and Truck-Related	—	—	—	—	—	
Recycling and Waste-Related						
A. Satellite Recycling Collection Centers	—	—	—	—	—	
B. Primary Recycling Collection Centers	—	—	—	—	—	
Hazardous Materials Production, Storage, and Waste Management	—	—	—	—	—	
<b>Agriculture and Extractive Activities</b>						
Crop and animal raising	—	—	—	C(L17)	—	
Plant nursery	—	—	C(L5)	C	—	
Mining and Quarrying	—	—	—	—	—	
<b>Accessory off-street parking serving prohibited activities</b>	C(L7)	C(L7)	C(L5)	C	C(L5)	17.116.075
<b>Activities that are listed as prohibited or conditionally permitted on nearby lots in an adjacent zone</b>	C(L7)	C(L7)	C(L5)	C	C(L5)	17.102.110

\*If the primary zone (D-BV-3) also has the N Combining Zone, the N regulations supersede the primary zone.

**Limitations on Table 17.101C.01:**

**L1.** Residential Care is only permitted upon the granting of a Conditional Use Permit (see Chapter 17.134 for the CUP procedure) when not located in a One-Family Dwelling Residential Facility. No Residential Care, Service-Enriched Permanent Housing, Transitional Housing, or Emergency Shelter Residential Activity shall be located closer than three hundred (300) feet from any other such activity. See Section 17.103.010 for other regulations regarding these activities.

**L2.** These activities are only permitted upon the granting of a Conditional Use Permit (see Chapter 17.134 for the CUP procedure). In addition to the CUP criteria contained in Section 17.134.050 activities for new construction of these activities must meet each of the following additional criteria:

- a. A minimum square footage of retail is part of the overall project, see Tables 17.101.01C.05 and 17.101.01C.06; and
- b. The retail encompasses a significant portion of the first floor but can also be part of the second floor and third floor. Incidental pedestrian entrances that lead to other activities in the building are permitted.

**L3.** See Section 17.101C.02 for limitations on the construction of new Residential Facilities.

**L4.** These activities are not permitted if located on the ground floor of a building and within fifty (50) feet of any street-abutting property line; incidental pedestrian entrances that lead to one of these activities elsewhere in the building are exempted from this restriction.

**L5.** If located on the ground floor of a building and within sixty (60) feet from any street-abutting property line facing Broadway, 27<sup>th</sup> Street, or Piedmont Avenue right of way, these activities are only permitted upon the granting of a Conditional Use Permit (see Chapter 17.134 for the CUP procedure), Incidental pedestrian entrances that lead to one of these activities elsewhere in the building are exempted from this Conditional Use Permit requirement. In addition to the CUP criteria contained in Section 17.134.050 these ground floor activities must also meet each of the following additional criteria:

1. That the proposal will not detract from the character desired for the area;
2. That the proposal will not impair a generally continuous wall of building facades;
3. That the proposal will not weaken the concentration and continuity of retail facilities at ground level, and will not impair the retention or creation of an important shopping frontage;
4. That the proposal will not interfere with the movement of people along an important pedestrian street; and
5. That the proposal will conform in all significant respects with the Broadway Valdez District Specific Plan.

**L6.** These activities are prohibited if located on the ground floor of a building and within sixty (60) feet from any street-abutting property line facing Broadway right of way. However, incidental pedestrian entrances that lead to one of these activities in stories above the ground floor are exempt from this restriction.

**L7.** These activities are only permitted upon the granting of a Conditional Use Permit (see Chapter 17.134 for the CUP procedure) when located on the ground floor of a street fronting building. Incidental pedestrian entrances that lead to one of these activities elsewhere in the building are exempted from this Conditional Use Permit requirement. In addition to the CUP criteria contained in Section 17.134.050, these conditionally permitted ground floor activities must also meet each of the additional criteria contained in L5.

**L8.** These activities are limited to areas north of Hawthorne Street and west of Broadway. No new or expanded Special Health Care Civic Activity shall be located closer than two thousand five hundred (2,500) feet from any other such activity or five hundred (500) feet from any K-12 school or Transitional Housing, Enriched Housing, or Licensed Emergency Shelters Civic Activity. See Section 17.103.020 for further regulations regarding Special Health Care Civic Activities.

**L9.** These activities are prohibited if located on the ground floor of a building and within sixty (60) feet from any street-abutting property line facing Broadway right of way, however, incidental pedestrian entrances that lead to one of these activities in stories above the ground floor are exempt from this restriction. If these activities are located above the ground floor or beyond sixty (60) feet of Broadway they are only permitted upon the granting of a Conditional Use Permit (CUP) (see Chapter 17.134 for the CUP procedure), and shall conform to the CUP criteria contained in Section 17.134.050.

**L10.** If greater than 5,000 square feet, these activities are not allowed in new construction unless combined within a retail project that meets the requirement of Table 17.101C.05 and 17.101C.06.

**L11.** See Section 17.102.170 for special regulations relating to massage services. Also, no new or expanded laundromat shall be located closer than five hundred (500) feet from any existing laundromat. See Section 17.102.450 for further regulations regarding laundromats.

**L12.** The total floor area devoted to these activities on the ground floor by any single establishment may only exceed five-thousand (5,000) square feet upon the granting of a Conditional Use Permit (see Chapter 17.134 for the CUP procedure). In addition to the CUP criteria contained in Section 17.134.050, these conditionally permitted ground floor activities must also meet the additional criteria contained in L5.

**L13.** No new or expanded adult entertainment activity shall be located closer than one thousand (1,000) feet to the boundary of any residential zone or three hundred (300) feet from any other adult entertainment activity. See Section 17.102.160 for further regulations regarding adult entertainment activities.

**L14.** These activities can only include an enclosed showroom and an accessory auto repair; and are only permitted 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 to each of the following additional criteria:

1. That these activities are only permitted in the D-BV-1 zone as part of a retail project that meets the requirement of Table 17.101C.05 and 17.101C.06;
2. That there will be no outside inventory lots;
3. That auto inventory will be stored either:
  - a. inside or on top of the dealership building; or
  - b. located at an offsite location that is outside of the D-BV-1, D-BV-2, or D-BV-3 zones; or
  - c. within an existing structured parking facility that is within the D-BV-1, D-BV-2, or D-BV-3 zones; or within a new structured parking facility that is within the D-BV-3 zone;
4. That the proposal will not detract from the character desired for the area;
5. That the proposal will not impair a generally continuous wall of building facades;
6. That the proposal will not weaken the concentration and continuity of retail facilities at ground level, and will not impair the retention or creation of an important shopping frontage;
7. That the proposal will not interfere with the movement of people along an important pedestrian street; and
8. That the proposal will conform in all significant respects with the Broadway Valdez District Specific Plan.

**L15.** 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 occur no later than six (6) months after discontinuation of such a activity, per Section 17.114.050(A).

**L16.** Automotive Fee Parking is allowed as an accessory use to an allowed principal use. Automotive Fee Parking may also be allowed as a primary use in a multi-story parking garage to serve nearby businesses upon the granting of a Conditional Use Permit (see Chapter 17.134 for the CUP procedure). In addition to the CUP criteria contained in Section 17.134.050, these conditionally permitted ground floor activities must also meet each of the additional criteria contained in L5.

**L17.** Crop and Animal Raising is only permitted upon the granting of a Conditional Use Permit (see Chapter 17.134 for the CUP procedure). In addition to the CUP criteria contained in Section 17.134.050, this activity must meet each of the following additional criteria:

- 1.** The proposal will not adversely affect the livability or appropriate development of abutting properties and the surrounding neighborhood in terms of noise, water and pesticide runoff, farming equipment operation, hours of operation, odor, security, and vehicular traffic;
- 2.** Agricultural chemicals or pesticides will not impact abutting properties or the surrounding neighborhood; and
- 3.** The soil used in growing does not contain any harmful contaminants and the activity will not create contaminated soil.

**17.101C.040 - Permitted and conditionally permitted facilities.**

Table 17.101C.02 lists the permitted, conditionally permitted, and prohibited facilities in the D-BV zones. The descriptions of these facilities are contained in Chapter 17.10.

"P" designates permitted facilities in the corresponding zone.

"C" designates facilities that are permitted only upon the granting of a Conditional Use Permit (CUP) in the corresponding zone (see Chapter 17.134 for the CUP procedure).

"L" designates facilities subject to certain limitations listed at the bottom of the Table.

"—" designates facilities that are prohibited.

**Table 17.101C.02: Permitted and Conditionally Permitted Facilities**

Facilities	Zones				Combining Zone*	Additional Regulations
	D-BV-1	D-BV-2	D-BV-3*	D-BV-4	N	
<b>Residential Facilities</b>						
One-Family Dwelling	—(L1)	—(L1)	—(L1)	—(L1)	—(L1)	
One-Family Dwelling with Secondary Unit	—(L1)	—(L1)	—(L1)	—(L1)	—(L1)	17.103.080
Two-Family Dwelling	—(L1)	—(L1)	—(L1)	P(L3)	—(L1)	
Multifamily Dwelling	C(L2)	P(L3)	P(L4)	P	P(L5)	
Rooming House	C(L2)	P(L3)	P(L4)	P	P(L5)	
Micro Living Quarters		C(L3)(L7)	C(L4)(L6)(L7)	—	—	17.101C.055
Mobile Home	—	—	—	—	—	
<b>Nonresidential Facilities</b>						
Enclosed Nonresidential	P	P	P	P	P	
Open Nonresidential	C(L8)	C(L8)	C(L8)	C(L8)	C(L8)	
Sidewalk Cafe	P	P	P	P	P	17.103.090
Drive-In	—	—	—	—	—	
Drive-Through	—	—	C(L9)	—	—	17.103.100
<b>Telecommunications Facilities</b>						
Micro Telecommunications	P(L10)	P(L10)	P(L10)	P(L10)	P(L10)	17.128
Mini Telecommunications	P(L10)	P(L10)	P(L10)	P(L10)	P(L10)	17.128
Macro Telecommunications	C	C	C	C	C	17.128
Monopole Telecommunications	—	—	—	—	—	17.128
Tower Telecommunications	—	—	—	—	—	17.128
<b>Sign Facilities</b>						
Residential Signs	P	P	P	P	P	17.104
Special Signs	P	P	P	P	P	17.104
Development Signs	P	P	P	P	P	17.104
Realty Signs	P	P	P	P	P	17.104
Civic Signs	P	P	P	P	P	17.104
Business Signs	P	P	P	P	P	17.104
Advertising Signs	—	—	—	—	—	17.104

\*If the primary zone (D-BV-3) also has the N Combining Zone, the N regulations supersede the primary zone.

**Limitations on Table 17.101C.02:**

**L1.** See Chapter 17.114 — Nonconforming Uses, for additions and alterations to legal nonconforming Residential Facilities.

**L2.** When located in a Retail Priority Site, construction of new Residential Facilities is only permitted upon the granting of a Conditional Use Permit (see Chapter 17.134 for the CUP procedure) and when part of a larger project with a minimum square footage of retail, see Tables 17.101C.05 and 17.101C.06.

**L3.** Construction of new ground floor Residential Facilities is only permitted upon the granting of a Conditional Use Permit (see Chapter 17.134 for the CUP procedure) when located on the ground floor of a building. Incidental pedestrian entrances that lead to one of these activities elsewhere in the building are exempted from this Conditional Use Permit requirement.

**L4.** Construction of new ground floor Residential Facilities within sixty (60) feet from any street-abutting property line facing Broadway 27<sup>th</sup> Street, or Piedmont right of way, is only permitted upon the granting of a Conditional Use Permit (see Chapter 17.134 for the CUP procedure), Incidental pedestrian entrances that lead to one of these activities elsewhere in the building are exempted from this Conditional Use Permit requirement.

**L5.** Construction of new ground floor Residential Facilities within sixty (60) feet from any street-abutting property line facing Broadway right of way is prohibited, however, incidental pedestrian entrances that lead to one of these activities in stories above the ground floor are exempt from this restriction.

**L6.** In the D-BV-3 zone, Micro Living Quarters may only be located in the area to the southeast of Harrison Street and Bay Place.

**L7.** Micro Living Quarters may only be permitted upon the granting of a Conditional Use Permit (CUP) pursuant to the Conditional Use Permit procedure in Chapter 17.134. See 17.101C.055 for the definition of Micro Living Quarters.

1. The number of off-street parking spaces, bicycle parking, and amount of open space required for Micro Living Quarters shall be based on the requirements for a comparative Rooming House residential facility type in the corresponding zone.
  - a. Due to the location of the zones that allow Micro Living Quarters within a ¼ mile of a BART station, an AC Transit trunk line, the B on Broadway shuttle, as well as park and publicly accessible open space areas, the parking and open space requirements for Micro Living Quarters may be reduced, modified, or waived by the Director of City Planning or approving body, subject to the provisions in subsection 2b below.
  - b. Any determination on a waiver or reduction in the parking requirement; or reduction or modification to the open space requirement, including but not limited to allowing any amount of the open space to be located on the roof, shall be based upon finding as part of the Conditional Use Permit procedure specified in subsection C below that:
    - i. Any waiver or reduction in off-street parking requirements would not substantially contribute to traffic congestion or impair the efficiency of on-street parking; and
    - ii. One or more of the following substitutions for car parking or combination thereof may be used, as prescribed by the Director of City Planning or approving body:
      - aa. Bicycle parking above existing City requirements;
      - bb. Assistance with public transportation passes for residents;

- cc. Providing access to car-share on site or nearby;
  - dd. Other transit-oriented measures to support alternative modes of travel other than by car; and
  - iii. The provision for sunlight, fresh air, and usable open space on site or in close vicinity would be sufficient to ensure a desirable living arrangement.
2. Micro Living Quarters shall only be allowed as part of an application for new construction of a multi-tenant building, or alteration of an existing Potentially Designated Historic Property (PDHP) or property listed in the City of Oakland's Local Register of Historical Resources as defined in Policy 3.8 of Oakland's General Plan Historic Preservation Element that is a nonresidential facility or multifamily dwelling residential facility.
  3. Shared recreational area, with seating or other similar amenities, shall be required in the interior of the Micro Living Quarter building equaling a minimum of five (5) square feet per individual Micro Living Quarter or two hundred fifty (250) sq. ft., whichever is greater. A shared kitchen may be open to shared recreation area if it is adjacent to and directly accessible from such shared kitchen facilities. Kitchen counters, cabinets, sinks and appliances, and the floor area that encompasses an assemblage of these items shall not be included in the calculation of minimum required shared recreational area. Shared laundry facilities or other similar utilitarian spaces shall also not be included in the calculation of minimum required shared recreational area. The minimum width in this shared recreational area shall be twelve (12) feet. The interior shared recreational area shall be accessible to all tenants of the Micro Living Quarter building.
  4. All common space including but not limited to shared kitchens, interior recreational area, and outdoor open space, shall be maintained by the building management.
  5. Demolition of a property listed in the City of Oakland's Local Register of Historical Resources as defined in Policy 3.8 of Oakland's General Plan Historic Preservation Element is not allowed in order to build Micro Living Quarters.
  6. **Use Permit Criteria.** A Conditional Use Permit for Micro Living Quarters may only be granted 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 to each of the following additional use permit criteria:
    - a. That the proposal will not detract from the character desired for the area;
    - b. That the proposal will not impair a generally continuous wall of building facades;
    - c. That the proposal will not weaken the concentration and continuity of retail facilities at ground level, and will not impair the retention or creation of an important shopping frontage;
    - d. That the proposal will not interfere with the movement of people along an important pedestrian street; and
    - e. That the proposal will conform in all significant respects with the Broadway Valdez District Specific Plan.
- L8.** No conditional use permit is required for Open Nonresidential Facilities to accommodate either seasonal sales or special event activities.
- L9.** A drive through is only permitted upon the granting of a Conditional Use Permit (see Chapter 17.134 for the CUP procedure) and is not permitted to enter or exit onto Broadway, 27<sup>th</sup> Street, Harrison Street, or Piedmont Avenue. No new or expanded Fast-Food Restaurants with Drive-Through Nonresidential Facilities shall be located closer than five hundred (500) feet of an elementary school, park, or playground. See Sections 17.103.030 and 17.103.100 for further regulations regarding Drive-Through Nonresidential Facilities.
- L10.** See Section 17.128.025 for restrictions on Telecommunication Facilities near residential or HBX zones.

**17.101C.050 - Property development standards.**

- A. **Zone Specific Standards.** Table 17.101C.03 below prescribes development standards specific to individual zones. The number designations in the "Additional Regulations" column refer to the regulations listed at the end of the Table. "—" indicates that a standard is not required in the specified zone.

**Table 17.101C.03: Property Development Standards**

Development Standards	Zones				Combining Zone*	Additional Regulations
	D-BV-1	D-BV-2	D-BV-3*	D-BV-4		
<b>Minimum Lot Dimensions</b>						
Width mean	100 ft	50 ft	25 ft	25 ft	100ft	1
Frontage	100 ft	50 ft	25 ft	25 ft	100 ft	1
Lot area	10,000 sf	7,500 sf	4,000 sf	4,000	10,000 sf	1
<b>Minimum/Maximum Setbacks</b>						
Minimum front	0 ft	0 ft	0 ft	0 ft	0/4 ft	2, 3
Maximum front	5 ft	5 ft	10 ft	N/A	5ft	4
Minimum interior side	0 ft	0 ft	0 ft	0 ft	0 ft	5, 6
Minimum street side	0 ft	0 ft	0 ft	0 ft	0 ft	7
Rear (Residential Facilities)	10/15 ft	10/15 ft	10/15 ft	10/15 ft	10/15 ft	8, 9
Rear (Nonresidential Facilities)	0/10/15 ft	0/10/15 ft	0/10/15 ft	0/10/15 ft	0/10/15 ft	9
<b>Design Regulations</b>						
Minimum ground floor nonresidential facade transparency	55%	55%	55%	N/A	55%	10
Minimum height of ground floor nonresidential facilities	15 ft	15 ft	15 ft	15 ft	15 ft	11
Parking and driveway location requirements	Yes	Yes	Yes	No	Yes	12
Ground floor active space requirement	Yes	Yes	Yes	No	Yes	13
<b>Height, Floor Area Ratio, Density, and Open Space Regulations</b>	See Tables 17.101C.05 and 17.101C.06	See Table 17.101C.04				
<b>Minimum Required Parking</b>	See Chapter 17.116 for automobile parking. See Sections 17.116.080, 17.116.082, and 17.116.110 for additional parking regulations for the D-BV zone and Chapter 17.117 for bicycle parking					
<b>Courtyard Regulations</b>	See Section 17.108.120					

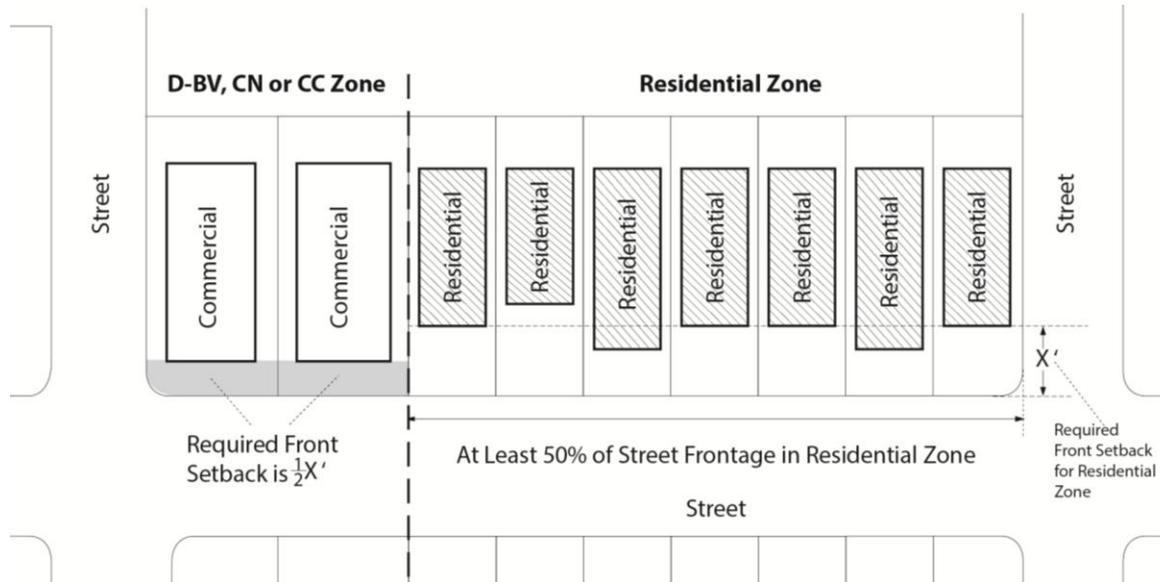
\*If the primary zone (D-BV-3) also has the N Combining Zone, the N regulations supersede the primary zone.

**Additional Regulations for Table 17.101C.03:**

1. See Sections 17.106.010 and 17.106.020 for exceptions to lot area, width mean, and street frontage regulations.
2. If fifty percent (50%) or more of the frontage on one side of the street between two intersecting streets is in any residential zone and all or part of the remaining frontage is in any commercial or industrial zone, the required front setback of the commercially or industrially zoned lots is one-half of the minimum front setback required in the residential zone. If fifty percent (50%) or more of the total frontage is in more than

one residential zone, then the minimum front setback on the commercially or industrially zoned lots is one-half of that required in the residential zone with the lesser front setback (see Illustration for Table 17.101C.03 [Additional Regulation 2], below).

Illustration for Table 17.101C.03 [Additional Regulation 2]  
\*for illustration purposes only



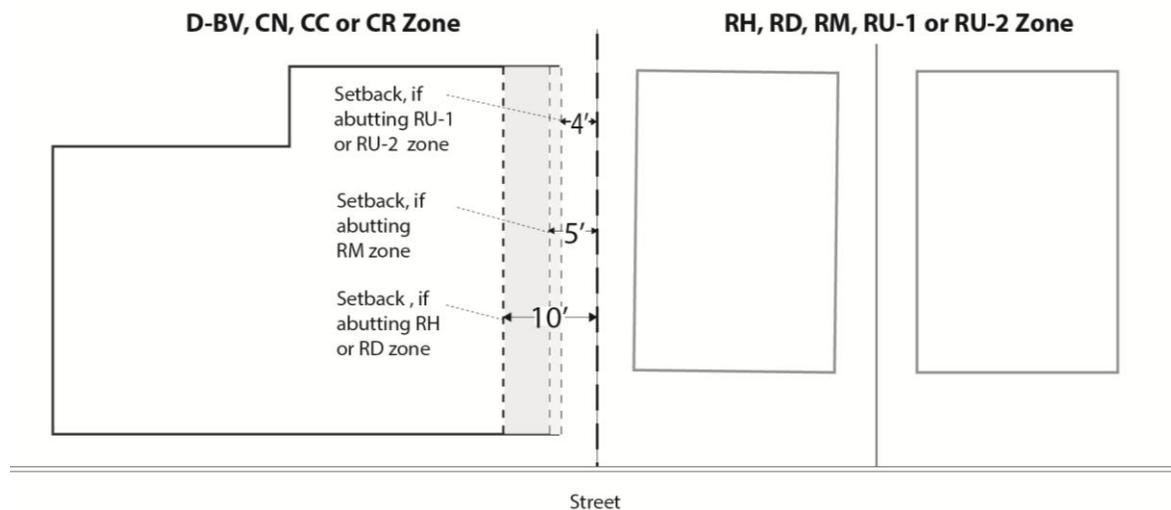
3. For the minimum front yard requirement in the N combining zone, it is four (4) feet from Broadway if the rest of the block fronting Broadway is either vacant or has a four (4) foot front setback. Otherwise the front setback shall follow the existing front setback of the existing on the block.

4. The following notes apply to the maximum front yard requirement:

- a. The requirements only apply to the construction of new principal buildings.
- b. The requirements do not apply to lots containing Recreational Assembly, Community Education, Utility and Vehicular, or Extensive Impact Civic Activities or Automobile and Other Light Vehicle Gas Station and Servicing Commercial Activities as principal activities.
- c. Maximum yards apply to seventy-five percent (75%) of the street frontage on the principal street and fifty percent (50%) on other streets, if any. All percentages, however, may be reduced to fifty percent (50%) upon the granting of Regular Design Review approval (see Chapter 17.136 for the design review procedure). In addition to the CUP criteria contained in Section 17.136.035, the proposal to reduce to fifty percent (50%) must also meet each of the following additional criteria:
  - i. The additional yard area abutting the principal street is designed to accommodate publicly accessible plazas, cafes, or restaurants;
  - ii. The proposal will not impair a generally continuous wall of building facades;
  - iii. The proposal will not weaken the concentration and continuity of retail facilities at ground-level, and will not impair the retention or creation of an important shopping frontage; and
  - iv. The proposal will not interfere with the movement of people along an important pedestrian street.

5. Wherever an interior side lot line abuts an interior side lot line of any lot located in an RH or RD zone, the setback of the abutting portion of its side lot line is ten (10) feet. In the case where an interior side lot line abuts an interior side lot line in an RM zone, the setback of the abutting portion of its side lot line is five (5) feet. In the case where an interior side lot line abuts a side yard of an RU-1 or RU-2 lot, a side setback of four (4) feet is required(see Illustration for Table 17.101C.03 [Additional Regulation 5], below). Also, see Section 17.108.130 for allowed projections into setbacks.

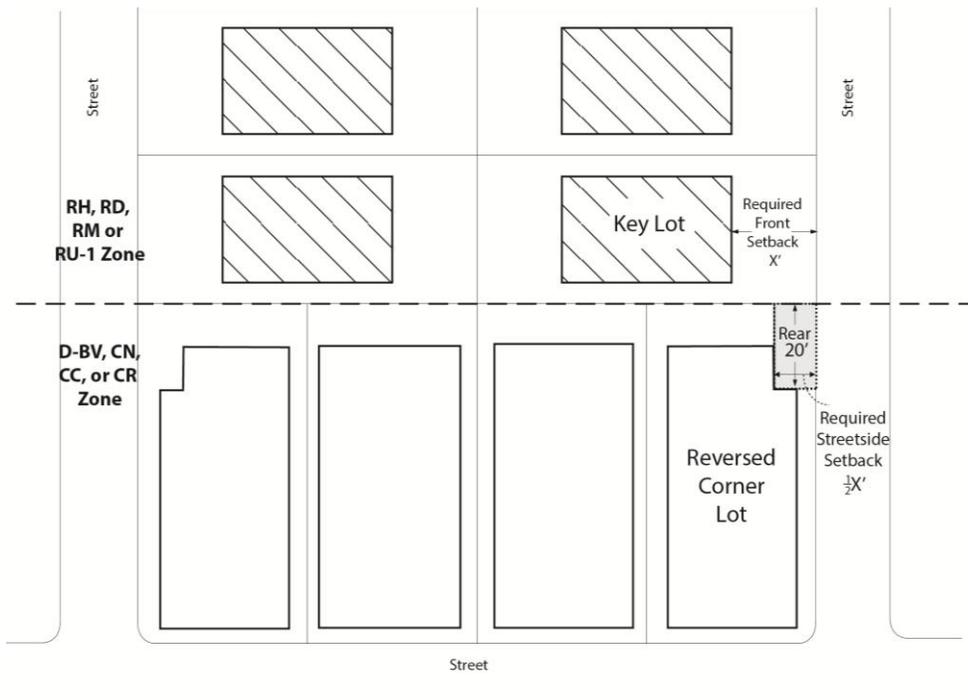
Illustration for Table 17.101C.03 [Additional Regulation 5]  
\*for illustration purposes only



6. See Section 17.108.080 for the required interior side and rear yard setbacks on a lot containing two (2) or more living units and opposite a legally required living room window.

7. When the rear yard of a reversed corner lot abuts a key lot that is in an RH, RD, or RM zone or the RU-1 zone, the required street side yard setback in the rear twenty (20) feet of the reversed corner lot is one-half (1/2) of the minimum front yard required on the key lot (see Illustration for Table 17.101C.03 [Additional Regulation 7], below). Also, see Section 17.108.130 for allowed projections into the setbacks.

Illustration for Table 17.101C.03 [Additional Regulation 7]  
 \*for illustration purposes only

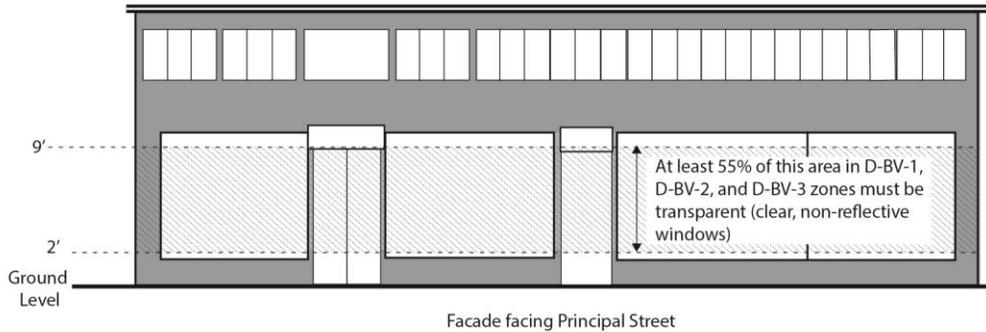


8. Wherever a rear lot line abuts an alley, one-half (1/2) of the right-of-way width of the alley may be counted toward the required minimum rear setback; provided, however, that the portion of the minimum rear setback actually on the lot itself shall not be so reduced to less than ten (10) feet. Also, see Section 17.108.130 for allowed projections into setbacks.

9. When a rear lot line is adjacent to an RH, RD, or RM zone or the RU-1 zone, the required rear setback for both residential and nonresidential facilities is ten (10) feet if the lot depth is one-hundred (100) feet or less and fifteen (15) feet if the lot depth is more than one-hundred (100) feet. When a rear lot line is not adjacent to an RH, RD, or RM zone or the RU-1 zone, the required rear setback is ten (10) feet for residential facilities and there is no required setback for nonresidential facilities.

10. This percentage of transparency is only required for principal buildings that include ground floor nonresidential facilities and only apply to the facade facing the principal street. The regulations only apply to facades located within twenty (20) feet of a street frontage. The area of required transparency is between two (2) feet and nine (9) feet in height of the ground floor and must be comprised of clear, non-reflective windows that allow views out of indoor activity space or lobbies (see Illustration for Table 17.101C.03 [Additional Regulation 10], below). Areas required for garage doors shall not be included in the calculation of facade area (see Note 12 for limitations on the location of parking access). Glass block does not qualify as a transparent window. Exceptions to this regulation may be allowed by the Planning Director for unique facilities such as convention centers, gymnasiums, parks, gas stations, theaters and other similar facilities.

Illustration for Table 17.101C.03 [Additional Regulation 10]  
\*for illustration purposes only



11. This height is required for all new principal buildings and is measured from the sidewalk grade to the second story floor.

12. For the new construction of principal buildings in the D-BV-1, D-BV-2, D-BV-3 zone, and N combining zone, access to parking and loading facilities through driveways, garage doors, or other means shall not be from the principal street when alternative access is available from another location such as a secondary frontage or an alley. Where this is not feasible, every reasonable effort shall be made to share means of vehicular access with abutting properties. Open parking areas shall not be located between the sidewalk and a principal building.

13. For the new construction of principal buildings in the D-BV-1, D-BV-2, D-BV-3 zone, and N combining zone, ground level parking spaces, locker areas, mechanical rooms, and other non-active spaces shall not be located within 30 feet from the front of the principal building except for incidental entrances to such activities elsewhere in the building. Exceptions to this regulation may be permitted by the Planning Director for utilities and trash enclosures that cannot be feasibly placed in other locations of the building. Driveways, garage entrances, or other access to parking and loading facilities may be located on the ground floor of this area as regulated by Note 12, above.

B. **Height, Floor Area Ratio (FAR), Density, and Open Space.** Table 17.101C.04 below prescribes height, Floor Area Ratio (FAR), density, and open space standards associated with the Height Areas described in the Zoning Maps. The number designations in the "Additional Regulations" column refer to regulations below the table.

**Table 17.101C.04 Height, Floor Area Ratio (FAR), Density, and Open Space Regulations**

Regulation	Height Area								Additional Regulations
	45	45*	65	85	85/135	135	135/200	250	
<b>Maximum Height</b>									
Building Base Max. Height	N/A	N/A	N/A	N/A	N/A /65 ft	65 ft	65/85ft	85 ft	1, 2, 3
Maximum Height Total	45 ft	45 ft	65 ft	85 ft	85/135 ft	135 ft	135/ 200 ft	250 ft	1, 2, 3
Maximum number of stories (not including underground construction)	4	4	6	8	8/13	13	13/19	24	3
<b>Minimum Height</b>									
Minimum number of stories (not including underground construction)	2	N/A	2	3	3	3	3	3	2, 4
Conditionally permitted minimum number of stories (not including underground construction)	N/A	N/A	N/A	2	2	2	2	2	2
<b>Maximum Residential Density (square feet of lot area required per dwelling unit)</b>									
Regular units	450	N/A	375	275	275/200	200	200/ 150	90	3, 5, 6
Rooming units	225	N/A	185	135	135/100	100	100/75	45	3, 5, 6
<b>Maximum Micro Living Quarters FAR</b>	2.5	N/A	N/A	4.5	N/A	6.0	N/A	8.0	5, 6
<b>Maximum Nonresidential FAR (excluding Micro Living Quarters)</b>	2.5	2.5	3.5	4.5	4.5/6.0	6.0	6.0/8.0	10.0	3, 6
<b>Minimum Usable Open Space</b>									
Area: on each lot containing residential facilities of two or more units, usable open space shall be provided for such facilities at a rate stated per dwelling unit	100 sf	N/A	100 sf	75 sf	75 sf	75 sf	75 sf	75 sf	7, 8, 9
Area: on each lot containing residential facilities of two or more units, usable open space shall be provided for such facilities at a rate stated per rooming unit	50 sf	N/A	50 sf	38 sf	38 sf	38 sf	38 sf	38 sf	7, 8, 9
Area: on each lot containing senior of affordable housing units, usable open space shall be provided for such facilities at a rate stated per dwelling unit or rooming unit	30 sf	N/A	30 sf	30 sf	30 sf	30 sf	30 sf	30 sf	7, 8, 9
Area: Conversion of Historic Resource building from commercial to residential, usable open space shall be provided for such facilities at a rate stated per dwelling or rooming unit	0 sf	N/A	0 sf	0 sf	0 sf	0 sf	0 sf	0 sf	9
<b>Size and shape of open space:</b> An area of contiguous space shall be of such size and shape that a rectangle inscribed within it shall have no dimension less than the dimensions shown below:									
Private Open Space: is accessible from a single unit	10 ft for space on the ground floor and 4 ft on other floors								7, 8, 9
Rooftop: a type of group open space, includes decks, swimming pools, spas and landscaping located on the rooftop and accessible to all tenants	15 ft								7, 8, 9

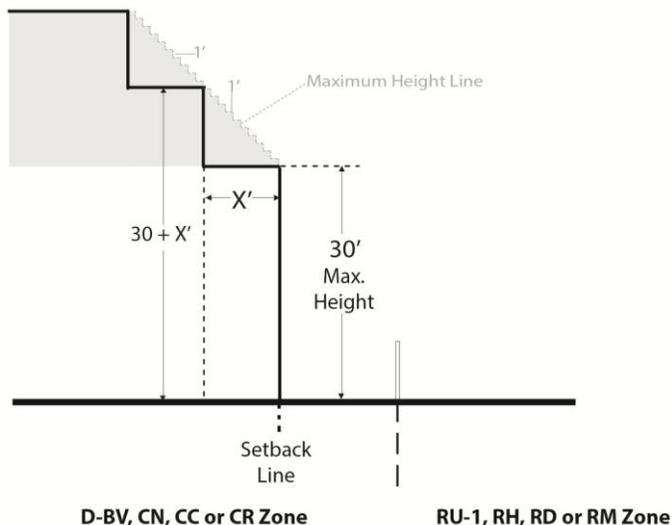
Regulation	Height Area								Additional Regulations
	45	45*	65	85	85/135	135	135/200	250	
Courtyard: a type of group open space that can be located anywhere within the subject property	15 ft								7, 8, 9
Private Group Community Room: a type of interior group space that could include a movie room, kitchen, and/or gym	10 ft (1/3 of the required usable open space can be used for this type)								7, 8, 9
Public Ground-Floor Plaza: a type of group open space (see Section 17.127.030) located at street level and adjacent to the building frontage. Plazas are publicly accessible during daylight hours and are maintained by the property owner. Plazas shall be landscaped and include pedestrian and other amenities, such as benches, fountains and special paving	10 ft								7, 8, 9

\*See Tables 17.101C.05 and 17.101C.06 for minimum retail square footage required and for potentially greater heights, stories, FAR, and residential bonus for mixed use, residential developments, or taller non-residential facilities in the Height Area 45\* when part of a large project that involves major retail development.

**Additional Regulations for Table 17.101C.04:**

1. Buildings shall have a thirty (30) foot maximum height at the setback line associated with any rear or interior side lot line that abut a lot in an RH, RD, RM or RU-1 zone; this maximum height shall increase one foot for every foot of distance away from this setback line (see Illustration for Table 17.101C.04 [Additional Regulation 1], below). Also, see Section 17.108.030 for allowed projections above height limits and Section 17.108.020 for increased height limits for civic buildings.

Illustration for Table 17.101C.04 [Additional Regulation 1]  
\*for illustration purposes only



2. See Tables 17.101C.05 and 17.101C.06 for minimum retail square footage required and for potentially greater heights, stories, FAR, and residential bonus for mixed use, residential developments, or taller non-residential facilities in the Height Area 45\* when part of a large project that involves major retail development. There are five (5) Retail Priority Sites that comprise Height Area 45\*. Priority Sites 3 and 5 are further divided into subareas a, b, and c, and Priority Site 4 is divided into subareas a and b.

Each Priority Site and subarea has a specified minimum square footage of retail required prior to residential activities and facilities being permitted as well as taller non-residential facilities.

3. The numbers to the right of the slash (/) are only permitted upon the granting of a Conditional Use Permit (see Chapter 17.134 for the CUP procedure).

4. The allowed projections into the height limits contained in Section 17.108.030 are not counted towards the height minimum.

5. See Chapter 17.107 for affordable and senior housing incentives. A Secondary Unit may be permitted when there is no more than one unit on a lot, subject to the provisions of Section 17.103.080. Also applicable are the provisions of Section 17.102.270 with respect to additional kitchens for a dwelling unit, and the provisions of Section 17.102.300 with respect to dwelling units with five (5) or more bedrooms.

6. For mixed use projects the allowable intensity of development shall be measured according to both the maximum nonresidential Floor Area Ratio (FAR) allowed by the zone and the maximum residential density allowed by the zone. The total lot area shall be used as a basis for computing both the maximum nonresidential FAR and the maximum residential density.

7. The following apply to open space standards:

- a. Areas occupied by vents or other structures which do not enhance usability of the space shall not be counted toward the listed dimension.
- b. Openness. There shall be no obstructions above the space except for devices to enhance its usability, such as pergola or awning structures. There shall be no obstructions over ground-level private usable open space except that not more than fifty percent (50%) of the space may be covered by a private balcony projecting from a higher story. Above-ground-level private usable open space shall have at least one exterior side open and unobstructed, except for incidental railings or balustrades, for eight (8) feet above its floor level.
- c. Usability. A surface shall be provided which prevents dust and allows convenient use for outdoor activities. Such surface shall be any practicable combination of lawn, garden, flagstone, wood planking, concrete, asphalt or other serviceable, dust free surfacing. Slope shall not exceed ten percent (10%). Off-street parking and loading areas, driveways, and service areas shall not be counted as usable open space. Adequate safety railings or other protective devices shall be erected whenever necessary for space on a roof, but shall not be more than four (4) feet high.
- d. Accessibility. Usable open space, other than private usable open space, shall be accessible to all the living units on the lot. It shall be served by any stairway or other accessway qualifying under the Oakland Building Code as an egress facility from a habitable room. Private usable open space may be located anywhere on the lot except that ground-level space shall not be located in a required minimum front yard and except that above-ground-level space shall not be located within five feet of an interior side lot line. Above-ground-level space may be counted even though it projects beyond a street line. All private usable open space shall be adjacent to, and not more than four feet above or below the floor level of, the living unit served. Private usable open space shall be accessible to only one living unit by a doorway to a habitable room or hallway.
- e. Landscaping requirements. At least fifty percent (50%) of rooftop or courtyard usable open space area shall include landscaping enhancements. At least thirty percent (30%) of public ground floor plaza shall include landscaping enhancements. Landscaping enhancements shall consist of permanent features, such as trees, shrubbery, decorative planting containers, fountains, boulders or artwork (sculptures, etc.) The remainder of the space shall include user amenities such as seating, decorative paving, sidewalk cafes, or playground structures.

8. In-Lieu Fee: The open space requirements of this Section may be reduced or waived upon the granting of a Conditional Use Permit (see Chapter 17.134 for the CUP procedure) and payment of an in-lieu fee to the City of Oakland to be used to pay for new public open space/plaza(s) or existing public

open space/plaza(s) improvements. The open space in-lieu fee shall be as set forth in the Master Fee Schedule.

9. .Notwithstanding anything to the contrary contained in the Planning Code, variances may not be granted relating to (a) a reduction and/or elimination of any open space; or (b) a reduction and/or elimination of any open space serving any activity, or if already less than currently required open space, shall not be reduced further below the requirements prescribed for such activity in this Chapter, as the granting of a CUP (see Chapter 17.134 for the CUP procedure) and payment of the in-lieu fee shall be the sole means of reducing or eliminating open space.

**C. Retail Priority Sites Minimum Square Footage of Retail Area for Residential Facilities Bonus.** Table 17.101C.05 below prescribes the minimum square footage of retail area required for each Retail Priority Site before a residential or transient habitation activity or facility, or taller non-residential or mixed use facility is allowed. The number designations in the "Additional Regulations" column refer to regulations below the table.

<b>Table 17.101C.05 Retail Priority Sites Minimum Square Footage of Retail Area for Residential Facilities Bonus</b>					
<b>Regulation</b>	<b>Minimum Retail Area (SF) Required to Develop Residential Facilities Bonus*</b>				<b>Additional Regulations</b>
	<b>50% of Retail Priority Site Area</b>	<b>Retail SF/ Residential Unit Bonus</b>	<b>60% of Retail Priority Site Area</b>	<b>Retail SF/ Residential Unit Bonus</b>	
<b>Retail Priority Site 1</b>	38,706 sf	125 Retail SF	46,447 sf	100 Retail SF	1, 2, 3, 4, 5
<b>Retail Priority Site 2</b>	15,572 sf	125 Retail SF	18,686 sf	100 Retail SF	1, 2, 3, 4, 5
<b>Retail Priority Site 3</b>					
3 (a)	22,745 sf	125 Retail SF	27,293 sf	100 Retail SF	1, 2, 3, 4, 5
3 (b)	22,388sf	125 Retail SF	26,865 sf	100 Retail SF	1, 2, 3, 4, 5
3 (c)	17,738sf	125 Retail SF	21,285 sf	100 Retail SF	1, 2, 3, 4, 5
3 (a) and (b)	45,133 sf	125 Retail SF	54,158 sf	100 Retail SF	1, 2, 3, 4, 5
3 (b) and (c)	40,126 sf	125 Retail SF	48,150 sf	100 Retail SF	1, 2, 3, 4, 5
<b>Retail Priority Site 4</b>					
4 (a)	23,465 sf	125 Retail SF	28,157 sf	100 Retail SF	1, 2, 3, 4, 5
4 (b)	54,567 sf	125 Retail SF	65,480 sf	100 Retail SF	1, 2, 3, 4, 5
4 (a) and (b)	78,032 sf	125 Retail SF	93,637 sf	100 Retail SF	1, 2, 3, 4, 5
<b>Retail Priority Site 5</b>					
5 (a)	45,905 sf	125 Retail SF	55,086 sf	100 Retail SF	1, 2, 3, 4, 5
5 (b)	26,769 sf	125 Retail SF	32,122 sf	100 Retail SF	1, 2, 3, 4, 5
5 (c)	21,935 sf	125 Retail SF	26,322 sf	100 Retail SF	1, 2, 3, 4, 5
5 (a) and (b)	72,674 sf	125 Retail SF	87,208 sf	100 Retail SF	1, 2, 3, 4, 5
5 (b) and (c)	48,704 sf	125 Retail SF	58,444 sf	100 Retail SF	1, 2, 3, 4, 5
5 (a), (b), and (c)	94,609 sf	125 Retail SF	113,530 sf	100 Retail SF	1, 2, 3, 4, 5

\*The following contribute to the retail square footage minimums:

- Retail floor area
- Internal pedestrian stairs, corridors, and circulation
- Ground floor public plaza/open space(s) that is on site or adjacent offsite

Utilization of existing buildings towards new retail floor area can count toward the retail square footage. In the case of a CEQA Historic Resource:

- New retail square footage in a CEQA Historic Resource can count double towards the retail square footage required to obtain a residential bonus; or
- If a CEQA Historic Resource is maintained and not used for retail, the square feet of its footprint can be deducted from the overall square footage of the Retail Priority Site in determining the square footage of retail required.

Square footage of the following do not count towards the retail square footage minimum:

- Loading dock
- Parking
- Driveways, ramps, and circulation for cars and trucks

#### **Additional Regulations for Table 17.101C.05:**

1. See additional regulations in Table 17.101C.06: Retail Priority Sites: Height, Floor Area Ratio (FAR), Residential Bonus, and Open Space.

2. If a project is phased, the minimum retail portion must be built first or concurrently with any residential portion. Any additional residential bonus units that are dependent on additional retail square footage may also only be built after the retail project or concurrently. If determined by the Director of City Planning, an applicant may be required to submit a financial guarantee, in a form and manner acceptable to the City, that the retail space will be built as part of the conditions of approval of the project.

3. An applicant that provides a retail project that equals at least 60% of the square footage of the Retail Priority Site may transfer the development rights of residential bonus units and height from one retail priority site to a different parcel(s) within the same retail priority site or to a parcel(s) within a different retail priority site upon the granting of a Conditional Use Permit (CUP). A CUP to transfer development rights of residential bonus units may be granted only upon determination that the proposal conforms to the general use permit criteria contained in Section 17.134.050 and to each of the following additional criteria:

- a. That the applicant has acquired development rights from the owner(s) of parcels within a Retail Priority Site zone, restricting the number of residential units which may be developed thereon so long as the facilities proposed by the applicant are in existence;
- b. That the owners of all such lots shall prepare and execute an agreement, approved as to form and legality by the City Attorney and filed with the Alameda County Recorder, incorporating such restriction;
- c. That the proposed location and site planning of any transferred residential bonus units will not make infeasible future construction of the minimum retail square footage required at that Retail Priority Site;
- d. Bonus units can only be transferred to a parcel that cannot meet the minimum retail square footage required in that Retail Priority Site to build residential;
- e. The transferred residential units must include retail space on the ground floor as per the requirements of the D-BV-1 Broadway Retail Priority Sites Zone; and
- f. Retail floor area that existed prior to the effective date of this chapter (month/day, 2014) cannot count towards the retail square footage needed for transfer of development rights for residential bonus units to other Retail Priority Sites.

4. For a bonus of residential units, the State Density Bonus can be applied by providing affordable housing units (see California Government Code, Section 65915-65918, as implemented by Chapter 17.101 of the Oakland Planning Code) or an applicant can utilize the following residential bonus within a Retail Priority Zone. However, these cannot be combined. The affordable units can be built on site or on another site within any D-BV zone. The residential bonus shall not be included when determining the number of target units that must be affordable to the relevant income group. If 15% of the total Dwelling Units of a Residential Housing Development are affordable, an additional residential bonus of thirty-five percent (35%) will be granted when an applicant for a Residential Housing Development seeks, and agrees to construct, at least any one of the following categories (which are defined in Section 17.107.020 (K), the following definitions in Section 17.107.020 (A)(B)(J)(M) also apply, and all of the provisions of Sections 17.107.110 – 17.107.114 must be met):

- a. Lower Income Households; or
- b. Very Low Income Households; or
- c. A common interest development as defined in Section 1351 of the California Civil Code, for persons and families of Moderate Income, provided that all units in the development are offered to the public for purchase.

5. In the Retail Priority Areas, an exception to the minimum retail square footage required to receive the bonus right to residential units may be granted only upon determination that the proposal conforms to the general use permit criteria contained in Section 17.134.050, to any applicable use permit criteria set forth in Table 17.101C.01 L2, and to each of the following additional criteria:

- a. The applicant submits an architectural study, prepared by a qualified architectural firm, that demonstrates at least one or more alternatives would be physically infeasible due to operational and/or site constraints if it were to meet the minimum retail square footage specified;
- b. Strict compliance with the minimum retail square footage would preclude an effective design solution improving livability, operational efficiency, or appearance; and
- c. The project will remain consistent with the Broadway Valdez District Specific Plan goals and policies related to retail development as well as its Design Guidelines.

**D. Retail Priority Sites: Height, Floor Area Ratio (FAR), Residential Bonus, and Open Space.** Table 17.101C.06 below prescribes height, FAR, residential bonus, and open space, standards associated with the minimum retail area required in the Retail Priority Sites described in Table 17.101C.05 above. The number designations in the "Additional Regulations" column refer to regulations below the table.

<b>Table 17.101C.06: Retail Priority Sites: Height, Floor Area Ratio (FAR), Residential Bonus, and Open Space</b>			
Regulation	Percentage (%) of Retail Area Equals the Square Footage of Retail Required from Table 17.101C.05 to Develop Residential Facilities or Taller Non-Residential Facilities*		
	50% of Retail Priority Site	60% of Retail Priority Site	Additional Regulations
<b>Maximum Height</b>			
Building Base Max. Height	85 ft	85 ft	
Maximum Height Total	200 ft	200/250ft	1, 2
Maximum number of stories (not including underground construction)	19	19/24	1, 2
<b>Height Minimum</b>	N/A	N/A	
<b>Maximum Residential Bonus (retail square feet required per dwelling unit)</b>			
Regular Units	125	100	2, 3, 4
Rooming Units	100	75	2, 3
<b>Maximum Nonresidential FAR</b>	8.0	8.0/10.0	1, 2
<b>Minimum Usable Open Space</b>			
Area: on each lot containing residential facilities of two or more units, usable open space shall be provided for such facilities at a rate stated per dwelling unit	75 sf	75 sf	5, 6, 7
Area: on each lot containing residential facilities of two or more units, usable open space shall be provided for such facilities at a rate stated per rooming unit	38 sf	38 sf	5, 6, 7
Area: on each lot containing senior of affordable housing units, usable open space shall be provided for such facilities at a rate stated per dwelling unit or rooming unit	30 sf	30 sf	5, 6, 7
Area: Conversion of Historic Resource building from commercial to residential, usable open space shall be provided for such facilities at a rate stated per dwelling or rooming unit	0 sf	0 sf	7
<b>Size and shape of open space:</b> An area of contiguous space shall be of such size and shape that a rectangle inscribed within it shall have no dimension less than the dimensions shown below:			
Private Open Space: is accessible from a single unit	10 ft for space on the ground floor and 4 ft on other floors		5, 6, 7
Rooftop: a type of group open space, includes decks, swimming pools, spas and landscaping located on the rooftop and accessible to all tenants	15 ft		5, 6, 7
Courtyard: a type of group open space that can be located anywhere within the subject property	15 ft		5, 6, 7
Private Group Community Room: a type of interior group space that could include a movie room, kitchen, and/or gym	10 ft (1/3 of the required usable open space can be used for this type)		5, 6, 7
Public Ground-Floor Plaza: a type of group open space (see Section 17.127.030) located at street level and adjacent to the building frontage. Plazas are publicly accessible during daylight hours and are maintained by the property owner. Plazas shall be landscaped and include pedestrian and other amenities, such as benches, fountains and special paving	10 ft		5, 6, 7

\*The following contribute to the retail square footage minimums:

- Retail floor area
- Internal pedestrian stairs, corridors, and circulation
- Ground floor public plaza/open space(s) that is on site or adjacent offsite

Utilization of existing buildings towards new retail floor area can count toward the retail square footage. In the case of a CEQA Historic Resource:

- New retail square footage in a CEQA Historic Resource can count double towards the retail square footage required to obtain a residential bonus; or
- If a CEQA Historic Resource is maintained and not used for retail, the square feet of its footprint can be deducted from the overall square footage of the Retail Priority Site in determining the square footage of retail required.

Square footage of the following do not count towards the retail square footage minimum:

- Loading dock
- Parking
- Driveways, ramps, and circulation for cars and trucks

#### **Additional Regulations for Table 17.101C.06:**

1. An applicant that provides a retail project that equals at least 60% of the square footage of the Retail Priority Site shall also be granted a maximum height of 200 feet and an FAR of 8.0, or if within 100' of 23<sup>rd</sup> Street the maximum height can go up to 250 feet and a FAR of 10.0.
2. See additional regulations in Table 17.101C.05 numbers 2 – 5.
3. See Chapter 17.107 for affordable and senior housing incentives. A Secondary Unit may be permitted when there is no more than one unit on a lot, subject to the provisions of Section 17.103.080. Also applicable are the provisions of Section 17.102.270 with respect to additional kitchens for a dwelling unit, and the provisions of Section 17.102.300 with respect to dwelling units with five (5) or more bedrooms.
4. The overall number of residential units cannot exceed the General Plan density allowance of 87 square feet of lot area per principal unit.
5. The following apply to open space standards:
  - a. Areas occupied by vents or other structures which do not enhance usability of the space shall not be counted toward the listed dimension.
  - b. Openness. There shall be no obstructions above the space except for devices to enhance its usability, such as pergola or awning structures. There shall be no obstructions over ground-level private usable open space except that not more than fifty percent (50%) of the space may be covered by a private balcony projecting from a higher story. Above-ground-level private usable open space shall have at least one exterior side open and unobstructed, except for incidental railings or balustrades, for eight (8) feet above its floor level.
  - c. Usability. A surface shall be provided which prevents dust and allows convenient use for outdoor activities. Such surface shall be any practicable combination of lawn, garden, flagstone, wood planking, concrete, asphalt or other serviceable, dust free surfacing. Slope shall not exceed ten percent (10%). Off-street parking and loading areas, driveways, and service areas shall not be counted as usable open space. Adequate safety railings or other protective devices shall be erected whenever necessary for space on a roof, but shall not be more than four (4) feet high.
  - d. Accessibility. Usable open space, other than private usable open space, shall be accessible to all the living units on the lot. It shall be served by any stairway or other accessway qualifying under the Oakland Building Code as an egress facility from a habitable room. Private usable open space may be located anywhere on the lot except that ground-level space shall not be

located in a required minimum front yard and except that above-ground-level space shall not be located within five feet of an interior side lot line. Above-ground-level space may be counted even though it projects beyond a street line. All private usable open space shall be adjacent to, and not more than four feet above or below the floor level of, the living unit served. Private usable open space shall be accessible to only one living unit by a doorway to a habitable room or hallway.

- e. Landscaping requirements. At least fifty percent (50%) of rooftop or courtyard usable open space area shall include landscaping enhancements. At least thirty percent (30%) of public ground floor plaza shall include landscaping enhancements. Landscaping enhancements shall consist of permanent features, such as trees, shrubbery, decorative planting containers, fountains, boulders or artwork (sculptures, etc.) The remainder of the space shall include user amenities such as seating, decorative paving, sidewalk cafes, or playground structures.

6. In-Lieu Fee: The open space requirements of this Section may be reduced or waived upon the granting of a Conditional Use Permit (see Chapter 17.134 for the CUP procedure) and payment of an in-lieu fee to the City of Oakland. The open space in-lieu fee shall be as set forth in the Master Fee Schedule.

7. Notwithstanding anything to the contrary contained in the Planning Code, variances may not be granted relating to (a) a reduction and/or elimination of any open space; or (b) a reduction and/or elimination of any open space serving any activity, or if already less than currently required open space, shall not be reduced further below the requirements prescribed for such activity in this Chapter, as the granting of a CUP (see Chapter 17.134 for the CUP procedure) and payment of the in-lieu fee shall be the sole means of reducing or eliminating open space.

#### **17.101C.055 – Micro Living Quarters.**

A. **Definition.** For the purposes of the D-BV zone chapter only, the following definition is added as a facility type. Definitions for other facility types are contained in the Oakland Planning Code Chapter 17.10.

1. **“Micro Living Quarters”** mean one or more rooms located in a multiple-tenant building having an average net floor area of one hundred seventy-five (175) square feet, but a minimum size of one hundred fifty (150) square feet of net floor area, and occupied by a permanent residential activity. Bathroom facilities, which include toilet and sink, as well as shower and/or bathtub, are required to be located within each individual Micro Living Quarter. Cooking facilities are not allowed to be located within each individual Micro Living Quarter, and shared kitchen facilities are required within close proximity on the same building floor. The maximum number of Micro Living Quarters within a building shall not be regulated by residential density limits in the corresponding zone, but instead shall be established through the application of the Micro Living Quarters required average size (one hundred seventy five (175) square feet); the Floor Area Ratio (FAR) limits specified in the corresponding zone; all other applicable development regulations establishing the buildable envelope in the corresponding zone including, but not limited to, maximum height and minimum setbacks; and the requirements of the Building and Fire Codes.

#### **17.101C.060 - Special regulations for mini-lot and planned unit developments.**

- A. Mini-Lot Developments. In mini-lot developments, certain regulations that apply to individual lots in the D-BV zones may be waived or modified when and as prescribed in Section 17.142
- B. Planned Unit Developments. Large integrated developments shall be subject to the Planned Unit Development regulations in Chapter 17.142 if they exceed the sizes specified therein. In developments which are approved pursuant to said regulations, certain uses may be permitted in

addition to those otherwise allowed in the D-BV zones, and certain of the other regulations applying in said zone may be waived or modified.

(Ord. No. 13064, § 2(Exh. A), 3-15-2011)

**17.101C.070 - Other zoning provisions.**

- A. Home Occupations. Home occupations shall be subject to the applicable provisions of the home occupation regulations in Chapter 17.112
- B. Nonconforming Uses. Nonconforming uses and changes therein shall be subject to the nonconforming use regulations in Chapter 17.114
- C. General Provisions. The general exceptions and other regulations set forth in Chapters 17.102, 17.104, 17.106, and 17.108 shall apply in the D-BV zones.
- D. Recycling Space Allocation Requirements. The regulations set forth in Chapter 17.118 shall apply in the D-BV zones.
- E. Landscaping and Screening Standards. The regulations set forth in Chapter 17.124 shall apply in the D-BV zones.
- F. Buffering. All uses shall be subject to the applicable requirements of the buffering regulations in Chapter 17.110 with respect to screening or location of parking, loading, storage areas, control of artificial illumination, and other matters specified therein.

(Ord. No. 13064, § 2(Exh. A), 3-15-2011)

Substantive revisions from the December 11, 2013 version submitted to the Zoning Update Committee are shown with additions underlined; deletions are in ~~strikeout~~

## Title 17 - PLANNING

## Chapter 17.101C- D-BV BROADWAY VALDEZ DISTRICT COMMERCIAL ZONES REGULATIONS

### Sections:

- 17.101C.010 - Title, intent, and description.
- 17.101C.020 - Required design review process.
- 17.101C.030 - Permitted and conditionally permitted activities.
- 17.101C.040 - Permitted and conditionally permitted facilities.
- 17.101C.050 - Property development standards.
- 17.101C.055– Micro Living Quarters
- 17.101C.060 - Special regulations for mini-lot and planned unit developments.
- 17.101C.070 - Other zoning provisions.

### 17.101C.010 - Title, intent, and description.

**A. Title and Intent.** The intent of the Broadway Valdez District Commercial (D-BV) Zones is to implement the Broadway Valdez District Specific Plan (BVDSP). The Specific Plan area is divided into two subareas: the Valdez Triangle and the North End. These regulations shall apply to the D-BV zones.

1. The intent for the Valdez Triangle regulations is to:

- a. Create a recognized Oakland destination that provides a mix of uses that contributes to around-the-clock activity with people present both day and night, and on weekdays and weekends.
- b. Create a destination retail district that addresses the City's need for comparison goods shopping complemented with local-serving retail, dining, entertainment, office, and service uses.
- c. Encourage, support, and enhance a mix of small, medium, and large scale retail, commercial, dining, entertainment, arts, cultural, offices, residential, services, public plazas, and visitor uses.
- d. Encourage and enhance a pedestrian-oriented streetscape with street-fronting retail and complementary dining and entertainment uses.
- e. Establish a pedestrian, bicycle, and transit oriented district that accommodates vehicular access.

2. The intent for the North End regulations is to:

- a. Create an attractive, mixed-use boulevard that links the Downtown and Valdez Triangle areas to the Pill Hill, Piedmont and North Broadway areas, and is integrated with the adjoining residential and health care-oriented neighborhoods.
- b. Encourage horizontally or vertically mixed use development that complements the Valdez Triangle and address the needs of adjoining and nearby neighborhoods with the potential of serving some regional needs close to I-580.

- c. Encourage uses that complement and support the adjoining medical centers, such as professional and medical office uses, medical supplies outlets, and visitor and workforce housing.
- d. Encourage existing and new automotive sales that incorporate an urban format with a showroom and repair shop that provides car storage either in a structured garage or in an off-site location.

**B. Description of Zones.** This Chapter establishes land use regulations for the following four zones:

1. **D-BV-1 Broadway Valdez District Retail Priority Sites Commercial Zone - 1.** The intent of the D-BV-1 zone is to establish Retail Priority Sites in the Broadway Valdez District Specific Plan Area in order to encourage a core of comparison goods retail with a combination of small, medium and large scale retail stores. Priority Sites 3 and 5 are further divided into subareas a, b, and c ~~b~~ and Priority Site 4 into a and b as shown in the Height Area Map. Each Retail Priority Site and subarea will have a specified minimum square footage of retail required prior to residential or transient habitation activities and facilities being permitted.
2. **D-BV-2 Broadway Valdez District Retail Commercial Zone - 2.** The intent of the D-BV-2 zone is to create, maintain, and enhance areas of the Broadway Valdez District Specific Plan Area for ground-level, retail, restaurants, entertainment, and art activities with pedestrian-oriented, active storefront uses. Upper story spaces are intended to be available for a wide range of office and residential activities.
3. **D-BV-3 Broadway Valdez District Mixed Use Boulevard Commercial Zone - 3.** The D-BV-3 zone is intended to create, maintain, and enhance areas with direct frontage and access along Broadway, 27<sup>th</sup> Street, Piedmont Avenue, and Harrison Street. A wider range of ground-floor office and other commercial activities are allowed than permitted in the D-BV-2 zone with upper-story spaces intended to be available for a broad range of residential and office or other commercial activities. Mixed uses could either be vertical and/or horizontal.
4. **D-BV-4 Broadway Valdez District Mixed Use Commercial Zone - 4.** The D-BV-4 zone is intended to create, maintain, and enhance areas that do not front Broadway, 27<sup>th</sup> Street, Piedmont Avenue, or Harrison Street, and allows the widest range of uses on the ground floor including both residential and commercial businesses. Upper-story spaces are intended to be available for a broad range of residential or commercial activities.

**C. Description of Combining Zone.** This Chapter establishes land use regulations for the following combining zone:

1. **N North Large Development Site Combining Zone.** The intent of the N combining zone is to encourage more active commercial uses on those sites that have deeper lots that front along Broadway. Incentives for large developments are included. When an above primary zone is combined with the N combining zone, the N Combining Zone permitted uses supersede those of the primary zone.

**17.101C.020 - Required design review process.**

Except for projects that are exempt from design review as set forth in Section 17.136.025, no Building Facility, Designated Historic Property, Potentially Designated Historic Property, Telecommunications Facility, Sign, or other associated structure 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.

**17.101C.030 - Permitted and conditionally permitted activities.**

Table 17.101C.01 lists the permitted, conditionally permitted, and prohibited activities in the D-BV zones. The descriptions of these activities are contained in Chapter 17.10. Section 17.10.040 contains permitted accessory activities.

"P" designates permitted activities in the corresponding zone.

"C" designates activities that are permitted only upon the granting of a Conditional Use permit (CUP) in the corresponding zone (see Chapter 17.134 for the CUP procedure).

"L" designates activities subject to certain limitations or notes listed at the bottom of the table.

"—" designates activities that are prohibited except as accessory activities according to the regulations contained in Section 17.010.040.

**Table 17.101C.01: Permitted and Conditionally Permitted Activities**

Activities	Zones				Combining Zone*	Additional Regulations
	D-BV-1	D-BV-2	D-BV-3*	D-BV-4	N*	
<b>Residential Activities</b>						
Permanent	C(L2)(L3)	P(L1)(L3)(L4)	P(L1)(L3)(L5)	P(L1)	P(L1)(L3)(L6)	
Residential Care	—	C(L1)(L3)(L4)	C(L1)(L3)(L5)	C(L1)	C(L1)(L3)(L6)	17.103.010
Service-Enriched Permanent Housing	—	C(L1)(L3)(L4)	C(L1)(L3)(L5)	C(L1)	C(L1)(L3)(L6)	17.103.010
Transitional Housing	—	C(L1)(L3)(L4)	C(L1)(L3)(L5)	C(L1)	C(L1)(L3)(L6)	17.103.010
Emergency Shelter	—	—	—	—	—	17.103.010
Semi-Transient	—	—	—	—	—	
Bed and Breakfast	—	C	C	C	C	17.10.125
<b>Civic Activities</b>						
Essential Service	P	P	P	P	P	
Limited Child-Care Activities	P(L4)	P(L6)	P(L5)	P	P(L6)	
Community Assembly	C(L4)	C	C	C	C	
Recreational Assembly	P	P	P	P	P	
Community Education	P(L4)	P(L7)	P(L5)	P	P	
Nonassembly Cultural	P	P	P	P	P	
Administrative	P(L4)	P(L6)	P(L5)	P	P(L6)	
Health Care	C(L4)	P(L6)	P(L5)	P	P(L6)	
Special Health Care	—	—	C(L8)(L9)	C(L8)	C(L8)(L9)	17.103.020
Utility and Vehicular	C	C	C	C	C	
Extensive Impact	C	C	C	C	C	
<b>Commercial Activities</b>						
General Food Sales	P(L10)	P	P	P	P	
Full Service Restaurants	P	P	P	P	P	
Limited Service Restaurant and Cafe	P	P	P	P	P	
Fast-Food Restaurant	C	C	C	C	C	17.103.030 and 8.09

Activities	Zones				Combining Zone*	Additional Regulations
	D-BV-1	D-BV-2	D-BV-3*	D-BV-4	N*	
Convenience Market	—	C	C	C	—	17.103.030
Alcoholic Beverage Sales	C	C	C	C	C	17.103.030and 17.114.030
Mechanical or Electronic Games	—	—	—	—	—	
Medical Service	C(L4)	P(L6)	P(L5)	P	P(L6)	
General Retail Sales	P	P	P	P	P	
Large-Scale Combined Retail and Grocery Sales	—	—	—	—	—	
Consumer Service	C(L10)(L11)	P(L7)(L11)	P(L11)	P(L11)(L12)	P	
Consultative and Financial Service	P(L4)	P(L6)	P	P	P(L5)	
Check Cashier and Check Cashing	—	—	—	—	—	
Consumer Cleaning and Repair Service	P(L7)	P(L12)	P(L12)	P(L12)	P(L5)	
Consumer Dry Cleaning Plant	—	—	—	—	—	
Group Assembly	C(L4)(L13)	C(L13)	C(L13)	C(L13)	C(L13)	
Personal Instruction and Improvement Services	P(L7)	P(L7)	P	P	P(L5)	
Administrative	P(L4)	P(L6)	P(L5)	P	P(L6)	
Business, Communication, and Media Services	P(L4)	P(L7)	P	P	P(L5)	
Broadcasting and Recording Services	P(L4)	P(L6)	P(L5)	P	P(L6)	
Research Service	C(L4)	P(L6)	P(L5)	P	P(L6)	
General Wholesale Sales	—	—	—	—	—	
Transient Habitation	C(L2)	C	C	—	C	
Building Material Sales	—	—	—	—	—	
Automobile and Other Light Vehicle Sales and Rental	C(L14)	C(L14)	C(L14)	C(L14)	C(L14)	
Automobile and Other Light Vehicle Gas Station and Servicing	—(L15)	—(L15)	C(L5)— (L15)	—(L15)	—(L15)	
Automobile and Other Light Vehicle Repair and Cleaning	—(L15)	—(L15)	C(L5)— (L15)	—(L15)	—(L15)	
Taxi and Light Fleet-Based Services	—	—	—	—	—	
Automotive Fee Parking	P(L16)	P(L16)	P(L16)	P(L16)	P(L16)	
Animal Boarding	—	—	—	C	—	
Animal Care	—	C(L9)	P(L5)	P	P(L6)	
Undertaking Service	—	—	—	—	—	
<b>Industrial Activities</b>						
Custom Manufacturing	C(L10)	C	P(L5)	P(L7)	C	17.120
Light Manufacturing	—	—	—	—	—	
General Manufacturing	—	—	—	—	—	
Heavy/High Impact	—	—	—	—	—	
Research and Development	—	—	—	—	—	

Activities	Zones				Combining Zone*	Additional Regulations
	D-BV-1	D-BV-2	D-BV-3*	D-BV-4	N*	
Construction Operations	—	—	—	—	—	
Warehousing, Storage, and Distribution						
A. General Warehousing, Storage and Distribution	—	—	—	—	—	
B. General Outdoor Storage	—	—	—	—	—	
C. Self-or Mini Storage	—	—	—	—	—	
D. Container Storage	—	—	—	—	—	
E. Salvage/Junk Yards	—	—	—	—	—	
Regional Freight Transportation	—	—	—	—	—	
Trucking and Truck-Related	—	—	—	—	—	
Recycling and Waste-Related						
A. Satellite Recycling Collection Centers	—	—	—	—	—	
B. Primary Recycling Collection Centers	—	—	—	—	—	
Hazardous Materials Production, Storage, and Waste Management	—	—	—	—	—	
<b>Agriculture and Extractive Activities</b>						
Crop and animal raising	—	—	—	C(L17)	—	
Plant nursery	—	—	C(L5)	C	—	
Mining and Quarrying	—	—	—	—	—	
<b>Accessory off-street parking serving prohibited activities</b>	C(L7)	C(L7)	C(L5)	C	C(L5)	17.116.075
<b>Activities that are listed as prohibited or conditionally permitted on nearby lots in an adjacent zone</b>	C(L7)	C(L7)	C(L5)	C	C(L5)	17.102.110

\*If the primary zone (D-BV-3) also has the N Combining Zone, the N regulations supersede the primary zone.

**Limitations on Table 17.101C.01:**

**L1.** Residential Care is only permitted upon the granting of a Conditional Use Permit (see Chapter 17.134 for the CUP procedure) when not located in a One-Family Dwelling Residential Facility. No Residential Care, Service-Enriched Permanent Housing, Transitional Housing, or Emergency Shelter Residential Activity shall be located closer than three hundred (300) feet from any other such activity. See Section 17.103.010 for other regulations regarding these activities.

**L2.** These activities are only permitted upon the granting of a Conditional Use Permit (see Chapter 17.134 for the CUP procedure). In addition to the CUP criteria contained in Section 17.134.050 activities for new construction of these activities must meet each of the following additional criteria:

- a. A minimum square footage of retail is part of the overall project, see Tables 17.101.01C.05 and 17.101.01C.06; and
- b. The retail encompasses a significant portion of the first floor but can also be part of the second floor and third floor. Incidental pedestrian entrances that lead to other activities in the building are permitted.

~~c.—A residential project or transient habitation project that includes the ground floor can be incorporated into a large project with a minimum square footage of retail as a horizontal mixed-use development.~~

**L3.** See Section 17.101C.02 for limitations on the construction of new Residential Facilities.

**L4.** These activities are not permitted if located on the ground floor of a building and within fifty (50) feet of any street-abutting property line; incidental pedestrian entrances that lead to one of these activities elsewhere in the building are exempted from this restriction.

**L5.** If located on the ground floor of a building and within sixty (60) feet from any street-abutting property line facing Broadway, 27<sup>th</sup> Street, or Piedmont Avenue right of way, these activities are only permitted upon the granting of a Conditional Use Permit (see Chapter 17.134 for the CUP procedure), Incidental pedestrian entrances that lead to one of these activities elsewhere in the building are exempted from this Conditional Use Permit requirement. In addition to the CUP criteria contained in Section 17.134.050 these ground floor activities must also meet each of the following additional criteria:

1. That the proposal will not detract from the character desired for the area;
2. That the proposal will not impair a generally continuous wall of building facades;
3. That the proposal will not weaken the concentration and continuity of retail facilities at ground level, and will not impair the retention or creation of an important shopping frontage;
4. That the proposal will not interfere with the movement of people along an important pedestrian street; and
5. That the proposal will conform in all significant respects with the Broadway Valdez District Specific Plan.

**L6.** These activities are prohibited if located on the ground floor of a building and within sixty (60) feet from any street-abutting property line facing Broadway right of way. However, incidental pedestrian entrances that lead to one of these activities in stories above the ground floor are exempt from this restriction.

**L7.** These activities are only permitted upon the granting of a Conditional Use Permit (see Chapter 17.134 for the CUP procedure) when located on the ground floor of a street fronting building. Incidental pedestrian entrances that lead to one of these activities elsewhere in the building are exempted from this Conditional Use Permit requirement. In addition to the CUP criteria contained in Section 17.134.050, these conditionally permitted ground floor activities must also meet each of the additional criteria contained in L5.

**L8.** These activities are limited to areas north of Hawthorne Street and west of Broadway. No new or expanded Special Health Care Civic Activity shall be located closer than two thousand five hundred (2,500) feet from any other such activity or five hundred (500) feet from any K-12 school or Transitional Housing, Enriched Housing, or Licensed Emergency Shelters Civic Activity. See Section 17.103.020 for further regulations regarding Special Health Care Civic Activities.

**L9.** These activities are prohibited if located on the ground floor of a building and within sixty (60) feet from any street-abutting property line facing Broadway right of way, however, incidental pedestrian entrances that lead to one of these activities in stories above the ground floor are exempt from this restriction. If these activities are located above the ground floor or beyond sixty (60) feet of Broadway they are only permitted upon the granting of a Conditional Use Permit (CUP) (see Chapter 17.134 for the CUP procedure), and shall conform to the CUP criteria contained in Section 17.134.050.

**L10.** If greater than 5,000 square feet, these activities are not allowed in new construction unless combined within a retail project that meets the requirement of Table 17.101C.05 and 17.101C.06.

**L11.** See Section 17.102.170 for special regulations relating to massage services. Also, no new or expanded laundromat shall be located closer than five hundred (500) feet from any existing laundromat. See Section 17.102.450 for further regulations regarding laundromats.

**L12.** The total floor area devoted to these activities on the ground floor by any single establishment may only exceed five-thousand (5,000) square feet upon the granting of a Conditional Use Permit (see Chapter 17.134 for the CUP procedure). In addition to the CUP criteria contained in Section 17.134.050, these conditionally permitted ground floor activities must also meet the additional criteria contained in L5.

**L13.** No new or expanded adult entertainment activity shall be located closer than one thousand (1,000) feet to the boundary of any residential zone or three hundred (300) feet from any other adult entertainment activity. See Section 17.102.160 for further regulations regarding adult entertainment activities.

**L14.** These activities can only include an enclosed showroom and an accessory auto repair; ~~of a limited size;~~ and are only permitted 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 to each of the following additional criteria:

1. That these activities are only permitted in the D-BV-1 zone as part of a retail project that meets the requirement of Table 17.101C.05 and 17.101C.06;
2. That there will be no outside ~~open car sales and/or~~ inventory lots;
3. That auto inventory will be stored either:
  - a. inside or on top of the dealership building; or
  - b. located at an offsite location that is outside of the D-BV-1, D-BV-2, or D-BV-3 zones; or
  - c. within an existing structured parking facility that is within the D-BV-1, D-BV-2, or D-BV-3 zones; or within a new structured parking facility that is within the D-BV-3 zone;
4. That the proposal will not detract from the character desired for the area;
5. That the proposal will not impair a generally continuous wall of building facades;
6. That the proposal will not weaken the concentration and continuity of retail facilities at ground level, and will not impair the retention or creation of an important shopping frontage;
7. That the proposal will not interfere with the movement of people along an important pedestrian street; and
8. That the proposal will conform in all significant respects with the Broadway Valdez District Specific Plan.

**L15.** 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 occur no later than six (6) months after discontinuation of such a activity, per Section 17.114.050(A).

**L16.** Automotive Fee Parking is allowed as an accessory use to an allowed principal use. Automotive Fee Parking may also be allowed as a primary use ~~in if: (a) plans for~~ a multi-story parking garage to serve nearby businesses ~~upon the granting of a Conditional Use Permit (see Chapter 17.134 for the CUP procedure). In addition to the CUP criteria contained in Section 17.134.050, these conditionally permitted ground floor activities must also meet each of the additional criteria contained in L5. are approved pursuant to the design review procedure in Chapter 17.136, or (b) plans for an interim auto fee surface lot to serve nearby businesses are approved pursuant to the administrative permit procedure in Chapter~~

~~xx. Auto fee surface lots may only approved with limitations, including but not limited to the need to renew such Permit on a yearly basis and to serve nearby businesses.~~

**L17.** Crop and Animal Raising is only permitted upon the granting of a Conditional Use Permit (see Chapter 17.134 for the CUP procedure). In addition to the CUP criteria contained in Section 17.134.050, this activity must meet each of the following additional criteria:

1. The proposal will not adversely affect the livability or appropriate development of abutting properties and the surrounding neighborhood in terms of noise, water and pesticide runoff, farming equipment operation, hours of operation, odor, security, and vehicular traffic;
2. Agricultural chemicals or pesticides will not impact abutting properties or the surrounding neighborhood; and
3. The soil used in growing does not contain any harmful contaminants and the activity will not create contaminated soil.

**17.101C.040 - Permitted and conditionally permitted facilities.**

Table 17.101C.02 lists the permitted, conditionally permitted, and prohibited facilities in the D-BV zones. The descriptions of these facilities are contained in Chapter 17.10.

"P" designates permitted facilities in the corresponding zone.

"C" designates facilities that are permitted only upon the granting of a Conditional Use Permit (CUP) in the corresponding zone (see Chapter 17.134 for the CUP procedure).

"L" designates facilities subject to certain limitations listed at the bottom of the Table.

"—" designates facilities that are prohibited.

**Table 17.101C.02: Permitted and Conditionally Permitted Facilities**

Facilities	Zones				Combining Zone*	Additional Regulations
	D-BV-1	D-BV-2	D-BV-3*	D-BV-4	N	
<b>Residential Facilities</b>						
One-Family Dwelling	—(L1)	—(L1)	—(L1)	—(L1)	—(L1)	
One-Family Dwelling with Secondary Unit	—(L1)	—(L1)	—(L1)	—(L1)	—(L1)	17.103.080
Two-Family Dwelling	—(L1)	—(L1)	—(L1)	<del>P(L3)</del> —(L4)	—(L1)	
Multifamily Dwelling	C(L2)	P(L3)	P(L4)	P	P(L5)	
Rooming House	C(L2)	P(L3)	P(L4)	P	P(L5)	
Micro Living Quarters	<del>C(L2)</del> (L7)	C(L3)(L7)	C(L4)(L6)(L7)	—	—	17.101C.055
Mobile Home	—	—	—	—	—	
<b>Nonresidential Facilities</b>						
Enclosed Nonresidential	P	P	P	P	P	
Open Nonresidential	<del>C(L8)</del> P	<del>C(L8)</del> P	<del>C(L8)</del> P	<del>C(L8)</del> P	<del>C(L8)</del> P	
Sidewalk Cafe	P	P	P	P	P	17.103.090
Drive-In	—	—	—	—	—	
Drive-Through	—	—	C(L9)	—	—	17.103.100
<b>Telecommunications Facilities</b>						
Micro Telecommunications	P(L10)	P(L10)	P(L10)	P(L10)	P(L10)	17.128
Mini Telecommunications	P(L10)	P(L10)	P(L10)	P(L10)	P(L10)	17.128
Macro Telecommunications	C	C	C	C	C	17.128
Monopole Telecommunications	—	—	—	—	—	17.128
Tower Telecommunications	—	—	—	—	—	17.128
<b>Sign Facilities</b>						
Residential Signs	P	P	P	P	P	17.104
Special Signs	P	P	P	P	P	17.104
Development Signs	P	P	P	P	P	17.104
Realty Signs	P	P	P	P	P	17.104
Civic Signs	P	P	P	P	P	17.104
Business Signs	P	P	P	P	P	17.104
Advertising Signs	—	—	—	—	—	17.104

\*If the primary zone (D-BV-3) also has the N Combining Zone, the N regulations supersede the primary zone.

**Limitations on Table 17.101C.02:**

**L1.** See Chapter 17.114 — Nonconforming Uses, for additions and alterations to legal nonconforming Residential Facilities.

**L2.** When located in a Retail Priority Site, construction of new Residential Facilities is only permitted upon the granting of a Conditional Use Permit (see Chapter 17.134 for the CUP procedure) and when part of a larger project with a minimum square footage of retail, see Tables 17.101C.05 and 17.101C.06.

**L3.** Construction of new ground floor Residential Facilities is only permitted upon the granting of a Conditional Use Permit (see Chapter 17.134 for the CUP procedure) when located on the ground floor of a building. Incidental pedestrian entrances that lead to one of these activities elsewhere in the building are exempted from this Conditional Use Permit requirement.

**L4.** Construction of new ground floor Residential Facilities within sixty (60) feet from any street-abutting property line facing Broadway 27<sup>th</sup> Street, or Piedmont right of way, is only permitted upon the granting of a Conditional Use Permit (see Chapter 17.134 for the CUP procedure), Incidental pedestrian entrances that lead to one of these activities elsewhere in the building are exempted from this Conditional Use Permit requirement.

**L5.** Construction of new ground floor Residential Facilities within sixty (60) feet from any street-abutting property line facing Broadway right of way is prohibited, however, incidental pedestrian entrances that lead to one of these activities in stories above the ground floor are exempt from this restriction.

**L6.** In the D-BV-3 zone, Micro Living Quarters may only be located in the area to the southeast of Harrison Street and Bay Place.

**L7.** Micro Living Quarters may only be permitted upon the granting of a Conditional Use Permit (CUP) pursuant to the Conditional Use Permit procedure in Chapter 17.134. See 17.101C.055 for the definition of Micro Living Quarters.

1. The number of off-street parking spaces, bicycle parking, and amount of open space required for Micro Living Quarters shall be based on the requirements for a comparative Rooming House residential facility type in the corresponding zone.
  - a. Due to the location of the zones that allow Micro Living Quarters within a ¼ mile of a BART station, an AC Transit trunk line, the B on Broadway shuttle, as well as park and publicly accessible open space areas, the parking and open space requirements for Micro Living Quarters may be reduced, modified, or waived by the Director of City Planning or approving body, subject to the provisions in subsection 2b below.
  - b. Any determination on a waiver or reduction in the parking requirement; or reduction or modification to the open space requirement, including but not limited to allowing any amount of the open space to be located on the roof, shall be based upon finding as part of the Conditional Use Permit procedure specified in subsection C below that:
    - i. Any waiver or reduction in off-street parking requirements would not substantially contribute to traffic congestion or impair the efficiency of on-street parking; and
    - ii. One or more of the following substitutions for car parking or combination thereof may be used, as prescribed by the Director of City Planning or approving body:
      - aa. Bicycle parking above existing City requirements;
      - bb. Assistance with public transportation passes for residents;

- cc. Providing access to car-share on site or nearby;
  - dd. Other transit-oriented measures to support alternative modes of travel other than by car; and
  - iii. The provision for sunlight, fresh air, and usable open space on site or in close vicinity would be sufficient to ensure a desirable living arrangement.
2. Micro Living Quarters shall only be allowed as part of an application for new construction of a multi-tenant building, or alteration of an existing Potentially Designated Historic Property (PDHP) or property listed in the City of Oakland's Local Register of Historical Resources as defined in Policy 3.8 of Oakland's General Plan Historic Preservation Element that is a nonresidential facility or multifamily dwelling residential facility.
  3. Shared recreational area, with seating or other similar amenities, shall be required in the interior of the Micro Living Quarter building equaling a minimum of five (5) square feet per individual Micro Living Quarter or two hundred fifty (250) sq. ft., whichever is greater. A shared kitchen may be open to shared recreation area if it is adjacent to and directly accessible from such shared kitchen facilities. Kitchen counters, cabinets, sinks and appliances, and the floor area that encompasses an assemblage of these items shall not be included in the calculation of minimum required shared recreational area. Shared laundry facilities or other similar utilitarian spaces shall also not be included in the calculation of minimum required shared recreational area. The minimum width in this shared recreational area shall be twelve (12) feet. The interior shared recreational area shall be accessible to all tenants of the Micro Living Quarter building.
  4. All common space including but not limited to shared kitchens, interior recreational area, and outdoor open space, shall be maintained by the building management.
  5. Demolition of a property listed in the City of Oakland's Local Register of Historical Resources as defined in Policy 3.8 of Oakland's General Plan Historic Preservation Element is not allowed in order to build Micro Living Quarters.
  6. **Use Permit Criteria.** A Conditional Use Permit for Micro Living Quarters may only be granted 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 to each of the following additional use permit criteria:
    - a. That the proposal will not detract from the character desired for the area;
    - b. That the proposal will not impair a generally continuous wall of building facades;
    - c. That the proposal will not weaken the concentration and continuity of retail facilities at ground level, and will not impair the retention or creation of an important shopping frontage;
    - d. That the proposal will not interfere with the movement of people along an important pedestrian street; and
    - e. That the proposal will conform in all significant respects with the Broadway Valdez District Specific Plan.

**L8. No conditional use permit is required for Open Nonresidential Facilities to accommodate either seasonal sales or special event activities.**

**L9.** A drive through is only permitted upon the granting of a Conditional Use Permit (see Chapter 17.134 for the CUP procedure) and is not permitted to enter or exit onto Broadway, 27<sup>th</sup> Street, Harrison Street, or Piedmont Avenue. No new or expanded Fast-Food Restaurants with Drive-Through Nonresidential Facilities shall be located closer than five hundred (500) feet of an elementary school, park, or playground. See Sections 17.103.030 and 17.103.100 for further regulations regarding Drive-Through Nonresidential Facilities.

**L10.** See Section 17.128.025 for restrictions on Telecommunication Facilities near residential or HBX zones.

**17.101C.050 - Property development standards.**

A. **Zone Specific Standards.** Table 17.101C.03 below prescribes development standards specific to individual zones. The number designations in the "Additional Regulations" column refer to the regulations listed at the end of the Table. "—" indicates that a standard is not required in the specified zone.

**Table 17.101C.03: Property Development Standards**

Development Standards	Zones				Combining Zone*	Additional Regulations
	D-BV-1	D-BV-2	D-BV-3*	D-BV-4	N	
<b>Minimum Lot Dimensions</b>						
Width mean	100 ft	50 ft	25 ft	25 ft	100ft	1
Frontage	100 ft	50 ft	25 ft	25 ft	100 ft	1
Lot area	10,000 sf	7,500 sf	4,000 sf	4,000	10,000 sf	1
<b>Minimum/Maximum Setbacks</b>						
Minimum front	0 ft	0 ft	0 ft	0 ft	0/4 ft	2, 3
Maximum front	5 ft	5 ft	10 ft	N/A	5ft	4
Minimum interior side	0 ft	0 ft	0 ft	0 ft	0 ft	5, 6
Minimum street side	0 ft	0 ft	0 ft	0 ft	0 ft	7
Rear (Residential Facilities)	10/15 ft	10/15 ft	10/15 ft	10/15 ft	10/15 ft	8, 9
Rear (Nonresidential Facilities)	0/10/15 ft	0/10/15 ft	0/10/15 ft	0/10/15 ft	0/10/15 ft	9
<b>Design Regulations</b>						
Minimum ground floor nonresidential facade transparency	55%	55%	55%	N/A	55%	10
Minimum height of ground floor nonresidential facilities	15 ft	15 ft	15 ft	15 ft	15 ft	11
Parking and driveway location requirements	Yes	Yes	Yes	No	Yes	12
Ground floor active space requirement	Yes	Yes	Yes	No	Yes	13
<b>Height, Floor Area Ratio, Density, and Open Space Regulations</b>	See Tables 17.101C.05 and 17.101C.06	See Table 17.101C.04				
<b>Parking Requirements</b>						
Minimum Residential Parking Requirements (per dwelling unit)	0.5	0.5	0.75	0.75	0.75	14, 15, 16
Senior and Affordable Housing	0.25	0.25	0.25	0.25	0.25	14, 15, 16
Conversion of Historic Resource building from commercial to residential	0	0	0	0	0	17
Minimum Ground Floor Commercial Activity Parking Requirements	1 space/500 sf. of floor area					14, 15
Minimum Upper Floor Commercial Activity Parking Requirements	1 space/1,000 sf of floor area					14, 15
Minimum Total Size of Commercial Activity for which Parking Required	10,000-sf					14, 15
Electric vehicle charging stations requirement	% of spaces required still to be determined, see staff report for discussion of options					

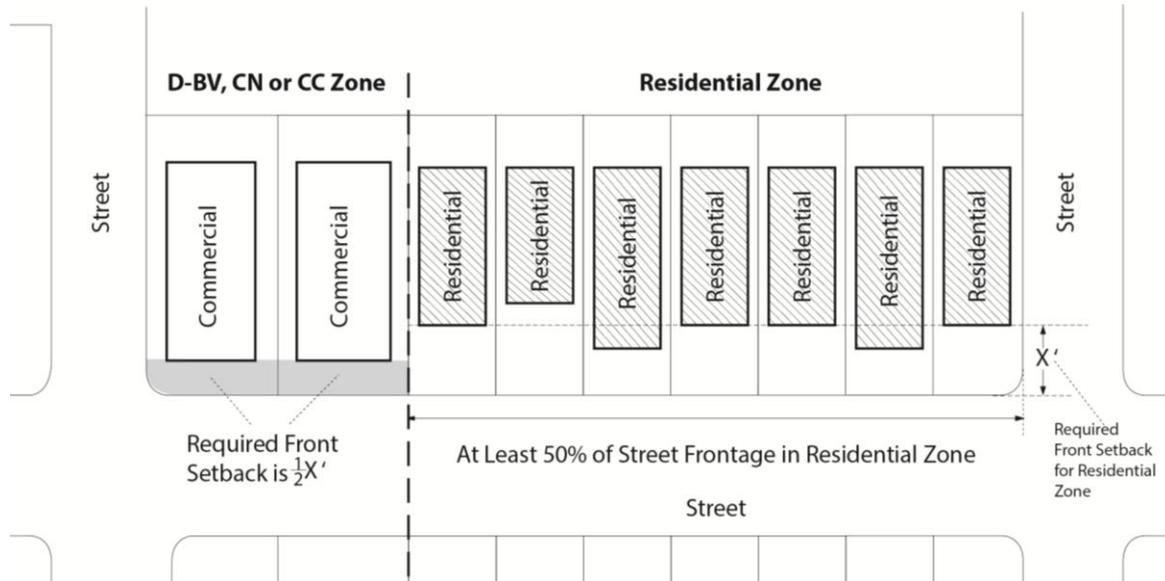
Development Standards	Zones				Combining Zone*	Additional Regulations
	D-BV-1	D-BV-2	D-BV-3*	D-BV-4		
<b>Bicycle Parking Requirements</b>						
Short-term bicycle parking minimums residential	1 space/15 dwelling units Minimum of 2 spaces					
Short-term bicycle parking minimums non-residential	The greater of: 2 spaces or 1 space/every 2,000 sf of ground floor activity and 1 space/every 10,000 sf of upper floor activity					
Long-term bicycle parking minimums residential	1 space/2 dwelling unit Minimum of 2 spaces					
Long-term bicycle parking minimums non-residential	The greater of: 2 spaces or 1 space/every 6,000 sf of ground floor activity and 1 space/every 8,000 sf of upper floor activity					
<b>Minimum Required Parking</b>	See Chapter 17.116 for automobile parking. <a href="#">See Sections 17.116.080, 17.116.082, and 17.116.110 for additional parking regulations for the D-BV zone</a> and Chapter 17.117 for bicycle parking					
<b>Courtyard Regulations</b>	See Section 17.108.120					

\*If the primary zone (D-BV-3) also has the N Combining Zone, the N regulations supersede the primary zone.

**Additional Regulations for Table 17.101C.03:**

1. See Sections 17.106.010 and 17.106.020 for exceptions to lot area, width mean, and street frontage regulations.
2. If fifty percent (50%) or more of the frontage on one side of the street between two intersecting streets is in any residential zone and all or part of the remaining frontage is in any commercial or industrial zone, the required front setback of the commercially or industrially zoned lots is one-half of the minimum front setback required in the residential zone. If fifty percent (50%) or more of the total frontage is in more than one residential zone, then the minimum front setback on the commercially or industrially zoned lots is one-half of that required in the residential zone with the lesser front setback (see Illustration for Table 17.101C.03 [Additional Regulation 2], below).

Illustration for Table 17.101C.03 [Additional Regulation 2]  
\*for illustration purposes only



3. For the minimum front yard requirement in the N combining zone, it is four (4) feet from Broadway if the rest of the block fronting Broadway is either vacant or has a four (4) foot front setback. Otherwise the front setback shall follow the existing front setback of the existing on the block.

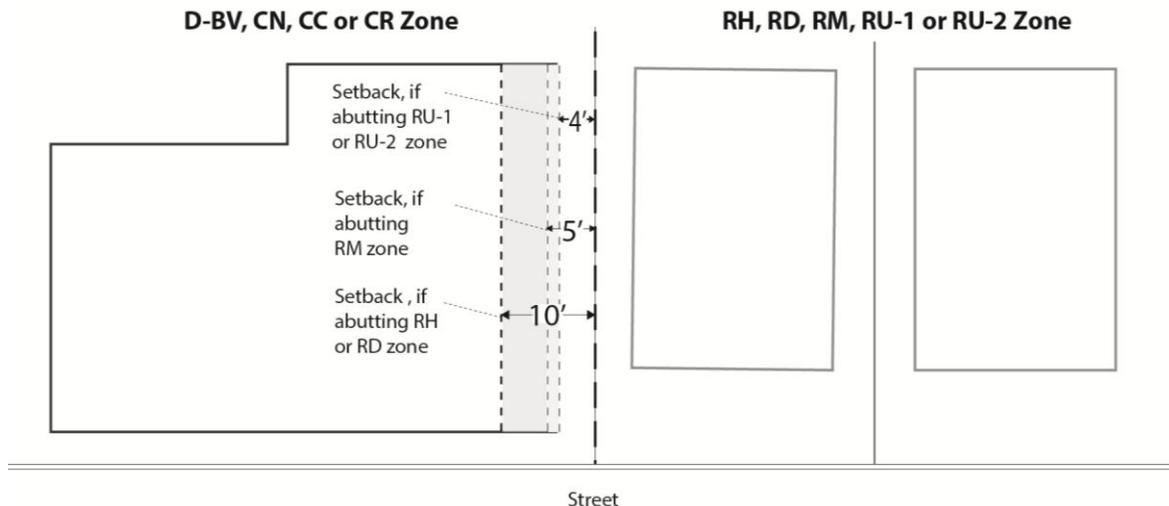
4. The following notes apply to the maximum front yard requirement:

- a. The requirements only apply to the construction of new principal buildings.
- b. The requirements do not apply to lots containing Recreational Assembly, Community Education, Utility and Vehicular, or Extensive Impact Civic Activities or Automobile and Other Light Vehicle Gas Station and Servicing Commercial Activities as principal activities.
- c. Maximum yards apply to seventy-five percent (75%) of the street frontage on the principal street and fifty percent (50%) on other streets, if any. All percentages, however, may be reduced to fifty percent (50%) upon the granting of Regular Design Review approval (see Chapter 17.136 for the design review procedure). In addition to the CUP criteria contained in Section 17.136.035, the proposal to reduce to fifty percent (50%) must also meet each of the following additional criteria:
  - i. The additional yard area abutting the principal street is designed to accommodate publicly accessible plazas, cafes, or restaurants;
  - ii. The proposal will not impair a generally continuous wall of building facades;
  - iii. The proposal will not weaken the concentration and continuity of retail facilities at ground-level, and will not impair the retention or creation of an important shopping frontage; and
  - iv. The proposal will not interfere with the movement of people along an important pedestrian street.

5. Wherever an interior side lot line abuts an interior side lot line of any lot located in an RH or RD zone, the setback of the abutting portion of its side lot line is ten (10) feet. In the case where an interior side lot line abuts an interior side lot line in an RM zone, the setback of the abutting portion of its side lot line is five (5) feet. In the case where an interior side lot line abuts a side yard of an RU-1 or RU-2 lot, a side

setback of four (4) feet is required(see Illustration for Table 17.101C.03 [Additional Regulation 5], below). Also, see Section 17.108.130 for allowed projections into setbacks.

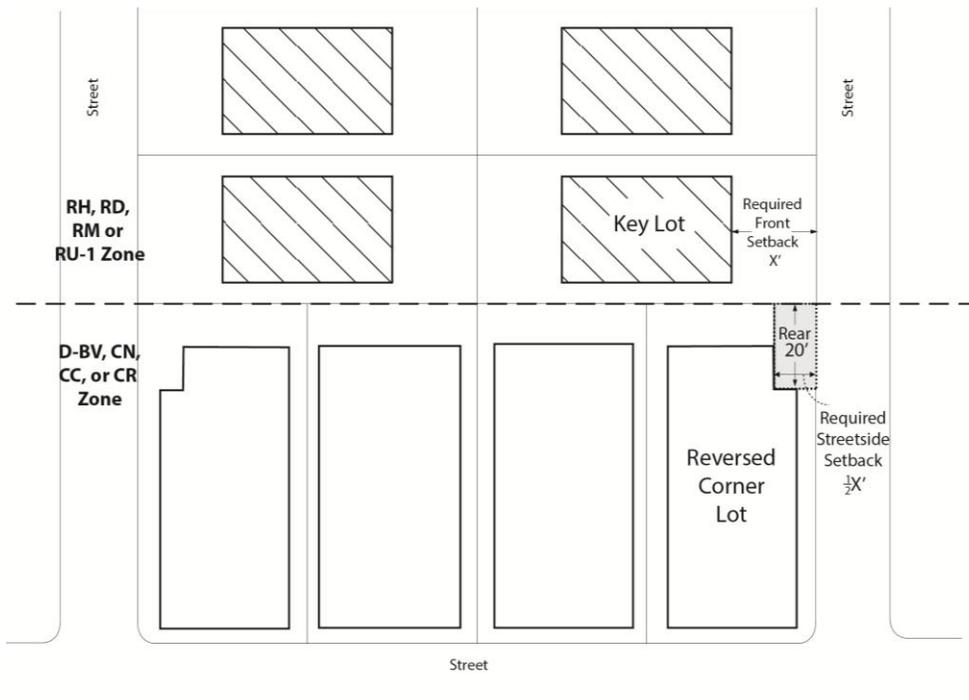
Illustration for Table 17.101C.03 [Additional Regulation 5]  
\*for illustration purposes only



6. See Section 17.108.080 for the required interior side and rear yard setbacks on a lot containing two (2) or more living units and opposite a legally required living room window.

7. When the rear yard of a reversed corner lot abuts a key lot that is in an RH, RD, or RM zone or the RU-1 zone, the required street side yard setback in the rear twenty (20) feet of the reversed corner lot is one-half (½) of the minimum front yard required on the key lot (see Illustration for Table 17.101C.03 [Additional Regulation 7], below). Also, see Section 17.108.130 for allowed projections into the setbacks.

Illustration for Table 17.101C.03 [Additional Regulation 7]  
 \*for illustration purposes only

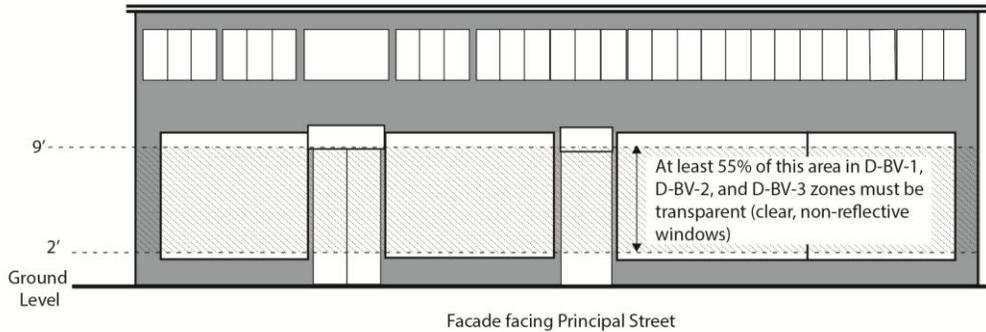


8. Wherever a rear lot line abuts an alley, one-half (1/2) of the right-of-way width of the alley may be counted toward the required minimum rear setback; provided, however, that the portion of the minimum rear setback actually on the lot itself shall not be so reduced to less than ten (10) feet. Also, see Section 17.108.130 for allowed projections into setbacks.

9. When a rear lot line is adjacent to an RH, RD, or RM zone or the RU-1 zone, the required rear setback for both residential and nonresidential facilities is ten (10) feet if the lot depth is one-hundred (100) feet or less and fifteen (15) feet if the lot depth is more than one-hundred (100) feet. When a rear lot line is not adjacent to an RH, RD, or RM zone or the RU-1 zone, the required rear setback is ten (10) feet for residential facilities and there is no required setback for nonresidential facilities.

10. This percentage of transparency is only required for principal buildings that include ground floor nonresidential facilities and only apply to the facade facing the principal street. The regulations only apply to facades located within twenty (20) feet of a street frontage. The area of required transparency is between two (2) feet and nine (9) feet in height of the ground floor and must be comprised of clear, non-reflective windows that allow views out of indoor activity space or lobbies (see Illustration for Table 17.101C.03 [Additional Regulation 10], below). Areas required for garage doors shall not be included in the calculation of facade area (see Note 12 for limitations on the location of parking access). Glass block does not qualify as a transparent window. Exceptions to this regulation may be allowed by the Planning Director for unique facilities such as convention centers, gymnasiums, parks, gas stations, theaters and other similar facilities.

Illustration for Table 17.101C.03 [Additional Regulation 10]  
\*for illustration purposes only



11. This height is required for all new principal buildings and is measured from the sidewalk grade to the second story floor.

12. For the new construction of principal buildings in the D-BV-1, D-BV-2, D-BV-3 zone, and N combining zone, access to parking and loading facilities through driveways, garage doors, or other means shall not be from the principal street when alternative access is available from another location such as a secondary frontage or an alley. Where this is not feasible, every reasonable effort shall be made to share means of vehicular access with abutting properties. Open parking areas shall not be located between the sidewalk and a principal building.

13. For the new construction of principal buildings in the D-BV-1, D-BV-2, D-BV-3 zone, and N combining zone, ground level parking spaces, locker areas, mechanical rooms, and other non-active spaces shall not be located within 30 feet from the front of the principal building except for incidental entrances to such activities elsewhere in the building. Exceptions to this regulation may be permitted by the Planning Director for utilities and trash enclosures that cannot be feasibly placed in other locations of the building. Driveways, garage entrances, or other access to parking and loading facilities may be located on the ground floor of this area as regulated by Note 12, above.

~~14. In-Lieu Fee: The vehicle parking space requirements of this Section may be reduced or waived upon the granting of a Conditional Use Permit (see Chapter 17.134 for the CUP procedure) through payment of an in-lieu fee to the City of Oakland to be used to pay for public parking to meet the parking needs that cannot be supplied on site, or to pay for a Transit Demand Management program and improvements. The parking in-lieu fee shall be as set forth in the Master Fee Schedule.~~

~~15. Mid-block parcels that are less than seventy-five (75) feet in width and front Broadway or 27<sup>th</sup> Street are not required to provide parking on site unless alternative driveway access is available from another location other than from Broadway or 27<sup>th</sup> Street, such as a shared access from an adjoining parcel or from an alley. An in-lieu fee per parking space can also be paid to the City of Oakland instead of providing required parking on the parcel.~~

~~16. Unbundled Parking: The following rules shall apply to the sale or rental of parking spaces in new multifamily dwelling residential facilities of ten (10) units or more:~~

~~a. All off-street parking spaces shall be leased or sold separately from the rental or purchase fees for dwelling units for the life of the dwelling units, such that potential renters or buyers have the option of renting or buying a residential unit at a price lower than would be the case if there were a single price for both the residential unit and the parking space(s).~~

~~b. Potential buyers and renters of affordable units shall have an equal opportunity to buy or rent a parking space on the same terms and conditions as offered to potential buyers and renters of market rate units, at a price proportional to the sale or rental price of the affordable units as compared to comparable market rate units.~~

~~c. Parking spaces shall be offered only to residents of the dwelling units served by the off-street parking, except that any surplus spaces that are not rented or sold may be rented out by the management entity to non-residents with the provision that such spaces must be vacated on 30 days notice if they become needed by residents.~~

~~17. Except upon the granting of a Conditional Use Permit (see Chapter 17.134 for the CUP procedure), no existing parking serving any activity shall be reduced in amount, or if already less than shall not be reduced further below, the requirements prescribed for such activity in this Chapter.~~

**B. Height, Floor Area Ratio (FAR), Density, and Open Space.** Table 17.101C.04 below prescribes height, Floor Area Ratio (FAR), density, and open space standards associated with the Height Areas described in the Zoning Maps. The number designations in the "Additional Regulations" column refer to regulations below the table.

**Table 17.101C.04 Height, Floor Area Ratio (FAR), Density, and Open Space Regulations**

Regulation	Height Area								Additional Regulations
	45	45*	65	85	<u>85/135</u>	135	<u>135/200</u>	250	
<b>Maximum Height</b>									
Building Base Max. Height	N/A	N/A	N/A	N/A	<u>N/A /65 ft</u>	65 ft	65/ <u>85</u> ft	85 ft	1, 2, <u>3</u>
Maximum Height Total	45 ft	45 ft	65 ft	85 ft	<u>85/135 ft</u>	135 ft	<u>135/200</u> ft	250 ft	1, 2, <u>3</u>
Maximum number of stories (not including underground construction)	4	4	6	8	<u>8/13</u>	13	<u>13/19</u>	24	<u>3</u>
<b>Minimum Height</b>									
Minimum number of stories (not including underground construction)	2	N/A	2	3	<u>3</u>	3	3	3	2, 4
Conditionally permitted minimum number of stories (not including underground construction)	N/A	N/A	N/A	2	<u>2</u>	2	2	2	2

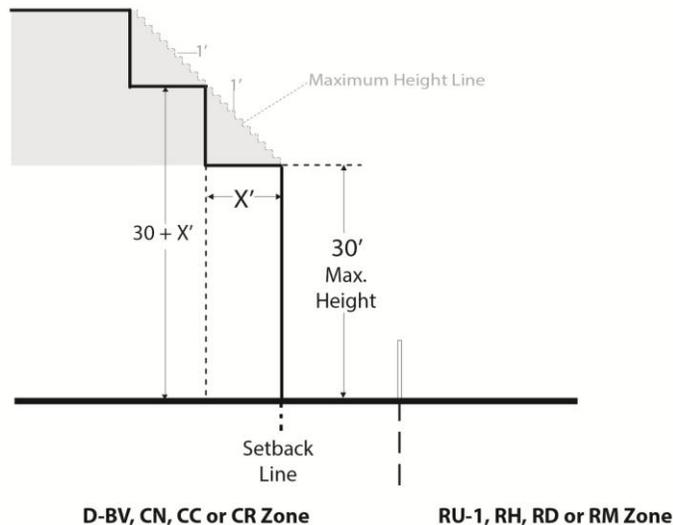
Regulation	Height Area								Additional Regulations
	45	45*	65	85	85/135	135	135/200	250	
<b>Maximum Residential Density (square feet of lot area required per dwelling unit)</b>									
Regular units	450	N/A	375	275	275/200	200	200/150	90	3, 5, 6
Rooming units	225	N/A	185	135	135/100	100	100/75	45	3, 5, 6
<b>Maximum Micro Living Quarters FAR</b>	2.5	N/A	N/A3-5	4.5	N/A	6.0	N/A8-0	8.0	5, 6
<b>Maximum Nonresidential FAR (excluding Micro Living Quarters)</b>	2.5	2.5	3.5	4.5	4.5/6.0	6.0	6.0/8.0	10.0	3, 6
<b>Minimum Usable Open Space</b>									
Area: on each lot containing residential facilities of two or more units, usable open space shall be provided for such facilities at a rate stated per dwelling unit	100 sf	N/A	100 sf	75 sf	75 sf	75 sf	75 sf	75 sf	7, 8, 9
Area: on each lot containing residential facilities of two or more units, usable open space shall be provided for such facilities at a rate stated per rooming unit	50 sf	N/A	50 sf	38 sf	38 sf	38 sf	38 sf	38 sf	7, 8, 9
Area: on each lot containing senior of affordable housing units, usable open space shall be provided for such facilities at a rate stated per dwelling unit or rooming unit	30 sf	N/A	30 sf	30 sf	30 sf	30 sf	30 sf	30 sf	7, 8, 9
Area: Conversion of Historic Resource building from commercial to residential, usable open space shall be provided for such facilities at a rate stated per dwelling or rooming unit	0 sf	N/A	0 sf	0 sf	0 sf	0 sf	0 sf	0 sf	9, 9
<b>Size and shape of open space:</b> An area of contiguous space shall be of such size and shape that a rectangle inscribed within it shall have no dimension less than the dimensions shown below:									
Private Open Space: is accessible from a single unit	10 ft for space on the ground floor and 4 ft on other floors								7, 8, 9
Rooftop: a type of group open space, includes decks, swimming pools, spas and landscaping located on the rooftop and accessible to all tenants	15 ft								7, 8, 9
Courtyard: a type of group open space that can be located anywhere within the subject property	15 ft								7, 8, 9
Private Group Community Room: a type of interior group space that could include a movie room, kitchen, and/or gym	10 ft (1/3 of the required usable open space can be used for this type)								7, 8, 9
Public Ground-Floor Plaza: a type of group open space (see Section 17.127.030) located at street level and adjacent to the building frontage. Plazas are publicly accessible during daylight hours and are maintained by the property owner. Plazas shall be landscaped and include pedestrian and other amenities, such as benches, fountains and special paving	10 ft								7, 8, 9

\*See Tables 17.101C.05 and 17.101C.06 for minimum retail square footage required and for potentially greater heights, stories, FAR, and residential density-bonus for mixed use, or residential developments, or taller non-residential facilities in the Height Area 45\* when part of a large project that involves major retail development.

**Additional Regulations for Table 17.101C.04:**

1. Buildings shall have a thirty (30) foot maximum height at the setback line associated with any rear or interior side lot line that abuts a lot in an RH, RD, RM or RU-1 zone; this maximum height shall increase one foot for every foot of distance away from this setback line (see Illustration for Table 17.101C.04 [Additional Regulation 1], below). Also, see Section 17.108.030 for allowed projections above height limits and Section 17.108.020 for increased height limits for civic buildings.

Illustration for Table 17.101C.04 [Additional Regulation 1]  
\*for illustration purposes only



2. See Tables 17.101C.05 and 17.101C.06 for minimum retail square footage required and for potentially greater heights, stories, FAR, and residential ~~density bonus~~ for mixed use ~~or~~ residential developments, or taller non-residential facilities in the Height Area 45\* when part of a large project that involves major retail development. There are five (5) Retail Priority Sites that comprise Height Area 45\*. Priority Sites 3 and 5 are further divided into subareas a, and b, and c, and Priority Site 4 is divided into subareas a and b. Each Priority Site and subarea ~~will have~~ has a specified minimum square footage of retail required prior to residential activities and facilities being permitted as well as taller non-residential facilities.

3. The numbers to the right of the slash (/) are only permitted upon the granting of a Conditional Use Permit (see Chapter 17.134 for the CUP procedure).

4. The allowed projections into the height limits contained in Section 17.108.030 are not counted towards the height minimum.

5. See Chapter 17.107 for affordable and senior housing incentives. A Secondary Unit may be permitted when there is no more than one unit on a lot, subject to the provisions of Section 17.103.080. Also applicable are the provisions of Section 17.102.270 with respect to additional kitchens for a dwelling unit, and the provisions of Section 17.102.300 with respect to dwelling units with five (5) or more bedrooms.

6. For mixed use projects the allowable intensity of development shall be measured according to both the maximum nonresidential Floor Area Ratio (FAR) allowed by the zone and the maximum residential density allowed by the zone. The total lot area shall be used as a basis for computing both the maximum nonresidential FAR and the maximum residential density.

7. The following apply to open space standards:

- a. Areas occupied by vents or other structures which do not enhance usability of the space shall not be counted toward the listed dimension.

- b. Openness. There shall be no obstructions above the space except for devices to enhance its usability, such as pergola or awning structures. There shall be no obstructions over ground-level private usable open space except that not more than fifty percent (50%) of the space may be covered by a private balcony projecting from a higher story. Above-ground-level private usable open space shall have at least one exterior side open and unobstructed, except for incidental railings or balustrades, for eight (8) feet above its floor level.
- c. Usability. A surface shall be provided which prevents dust and allows convenient use for outdoor activities. Such surface shall be any practicable combination of lawn, garden, flagstone, wood planking, concrete, asphalt or other serviceable, dust free surfacing. Slope shall not exceed ten percent (10%). Off-street parking and loading areas, driveways, and service areas shall not be counted as usable open space. Adequate safety railings or other protective devices shall be erected whenever necessary for space on a roof, but shall not be more than four (4) feet high.
- d. Accessibility. Usable open space, other than private usable open space, shall be accessible to all the living units on the lot. It shall be served by any stairway or other accessway qualifying under the Oakland Building Code as an egress facility from a habitable room. Private usable open space may be located anywhere on the lot except that ground-level space shall not be located in a required minimum front yard and except that above-ground-level space shall not be located within five feet of an interior side lot line. Above-ground-level space may be counted even though it projects beyond a street line. All private usable open space shall be adjacent to, and not more than four feet above or below the floor level of, the living unit served. Private usable open space shall be accessible to only one living unit by a doorway to a habitable room or hallway.
- e. Landscaping requirements. At least fifty percent (50%) of rooftop or courtyard usable open space area shall include landscaping enhancements. At least thirty percent (30%) of public ground floor plaza shall include landscaping enhancements. Landscaping enhancements shall consist of permanent features, such as trees, shrubbery, decorative planting containers, fountains, boulders or artwork (sculptures, etc.) The remainder of the space shall include user amenities such as seating, decorative paving, sidewalk cafes, or playground structures.

8. In-Lieu Fee: The open space requirements of this Section may be reduced or waived upon the granting of a Conditional Use Permit (see Chapter 17.134 for the CUP procedure) and payment of an in-lieu fee to the City of Oakland to be used to pay for new public open space/plaza(s) or existing public open space/plaza(s) improvements. The open space in-lieu fee shall be as set forth in the Master Fee Schedule.

9. ~~Except upon the granting of a Conditional Use Permit (see Chapter 17.134 for the CUP procedure) no existing open space serving any activity shall be reduced in amount, or if already less than shall not be reduced further below, the requirements prescribed for such activity in this Chapter. Notwithstanding anything to the contrary contained in the Planning Code, variances may not be granted relating to (a) a reduction and/or elimination of any open space; or (b) a reduction and/or elimination of any open space serving any activity, or if already less than currently required open space, shall not be reduced further below the requirements prescribed for such activity in this Chapter, as the granting of a CUP (see Chapter 17.134 for the CUP procedure) and payment of the in-lieu fee shall be the sole means of reducing or eliminating open space.~~

**C. Retail Priority Sites Minimum Square Footage of Retail Area for Residential Facilities Bonus.** Table 17.101C.05 below prescribes the minimum square footage of retail area required for each Retail Priority Site before a residential or transient habitation activity or facility, or taller non-residential or mixed use facility is allowed. The number designations in the "Additional Regulations" column refer to regulations below the table.

<b>Table 17.101C.05 Retail Priority Sites Minimum Square Footage of Retail Area for Residential Facilities</b>		
<b>Regulation</b>	<b>Minimum Retail Area (SF) Required to Develop Residential Facilities*</b>	<b>Additional Regulations</b>
Retail Priority Site 1	75,000 sf	4
Retail Priority Site 2	25,000 sf	4
<b>Retail Priority Site 3</b>		
—3 (a)	35,000	4
—3 (b)	25,000 sf	4
—3 (a) and (b)	60,000 sf	4
Retail Priority Site 4	80,000 sf	4
<b>Retail Priority Site 5</b>		
—5 (a)	45,000 sf	4
—5 (b)	80,000 sf	4
—5 (a) and (b)	125,000 sf	4

\*The retail square footage requirement includes the retail space, circulation, and open space/plaza(s) within a retail development but does not include parking square footage.

<b>Table 17.101C.05 Retail Priority Sites Minimum Square Footage of Retail Area for Residential Facilities Bonus</b>					
<b>Regulation</b>	<b>Minimum Retail Area (SF) Required to Develop Residential Facilities Bonus*</b>				<b>Additional Regulations</b>
	<b>50% of Retail Priority Site Area</b>	<b>Retail SF/ Residential Unit Bonus</b>	<b>60% of Retail Priority Site Area</b>	<b>Retail SF/ Residential Unit Bonus</b>	
<b>Retail Priority Site 1</b>	38,706 sf	125 Retail SF	46,447 sf	100 Retail SF	1, 2, 3, 4, 5
<b>Retail Priority Site 2</b>	15,572 sf	125 Retail SF	18,686 sf	100 Retail SF	1, 2, 3, 4, 5
<b>Retail Priority Site 3</b>					
—3 (a)	22,745 sf	125 Retail SF	27,293 sf	100 Retail SF	1, 2, 3, 4, 5
—3 (b)	22,388sf	125 Retail SF	26,865 sf	100 Retail SF	1, 2, 3, 4, 5
—3 (c)	17,738sf	125 Retail SF	21,285 sf	100 Retail SF	1, 2, 3, 4, 5
—3 (a) and (b)	45,133 sf	125 Retail SF	54,158 sf	100 Retail SF	1, 2, 3, 4, 5
—3 (b) and (c)	40,126 sf	125 Retail SF	48,150 sf	100 Retail SF	1, 2, 3, 4, 5

<u>Retail Priority Site 4</u>					
<u>4 (a)</u>	<u>23,465 sf</u>	<u>125 Retail SF</u>	<u>28,157 sf</u>	<u>100 Retail SF</u>	<u>1, 2, 3, 4, 5</u>
<u>4 (b)</u>	<u>54,567 sf</u>	<u>125 Retail SF</u>	<u>65,480 sf</u>	<u>100 Retail SF</u>	<u>1, 2, 3, 4, 5</u>
<u>4 (a) and (b)</u>	<u>78,032 sf</u>	<u>125 Retail SF</u>	<u>93,637 sf</u>	<u>100 Retail SF</u>	<u>1, 2, 3, 4, 5</u>
<u>Retail Priority Site 5</u>					
<u>5 (a)</u>	<u>45,905 sf</u>	<u>125 Retail SF</u>	<u>55,086 sf</u>	<u>100 Retail SF</u>	<u>1, 2, 3, 4, 5</u>
<u>5 (b)</u>	<u>26,769 sf</u>	<u>125 Retail SF</u>	<u>32,122 sf</u>	<u>100 Retail SF</u>	<u>1, 2, 3, 4, 5</u>
<u>5 (c)</u>	<u>21,935 sf</u>	<u>125 Retail SF</u>	<u>26,322 sf</u>	<u>100 Retail SF</u>	<u>1, 2, 3, 4, 5</u>
<u>5 (a) and (b)</u>	<u>72,674 sf</u>	<u>125 Retail SF</u>	<u>87,208 sf</u>	<u>100 Retail SF</u>	<u>1, 2, 3, 4, 5</u>
<u>5 (b) and (c)</u>	<u>48,704 sf</u>	<u>125 Retail SF</u>	<u>58,444 sf</u>	<u>100 Retail SF</u>	<u>1, 2, 3, 4, 5</u>
<u>5 (a), (b), and (c)</u>	<u>94,609 sf</u>	<u>125 Retail SF</u>	<u>113,530 sf</u>	<u>100 Retail SF</u>	<u>1, 2, 3, 4, 5</u>

\*The following contribute to the retail square footage minimums:

- Retail floor area
- Internal pedestrian stairs, corridors, and circulation
- Ground floor public plaza/open space(s) that is on site or adjacent offsite

Utilization of existing buildings towards new retail floor area can count toward the retail square footage. In the case of a CEQA Historic Resource:

- New retail square footage in a CEQA Historic Resource can count double towards the retail square footage required to obtain a residential bonus; or
- If a CEQA Historic Resource is maintained and not used for retail, the square feet of its footprint can be deducted from the overall square footage of the Retail Priority Site in determining the square footage of retail required.

Square footage of the following do not count towards the retail square footage minimum:

- Loading dock
- Parking
- Driveways, ramps, and circulation for cars and trucks

**Additional Regulations for Table 17.101C.05:**

1. See additional regulations in Table 17.101C.06: Retail Priority Sites: Height, Floor Area Ratio (FAR), DensityResidential Bonus, and Open Space.

2. If a project is phased, the minimum retail portion must be built first or concurrently with any residential portion. Any additional residential bonus units that are dependent on additional retail square footage may also only be built after the retail project or concurrently. If determined by the Director of City Planning, an applicant may be required to submit a financial guarantee, in a form and manner acceptable to the City, that the retail space will be built as part of the conditions of approval of the project.

3. An applicant that provides a retail project that equals at least 60% of the square footage of the Retail Priority Site may transfer the development rights of residential bonus units and height from one retail priority site to a different parcel(s) within the same retail priority site or to a parcel(s) within a different retail priority site upon the granting of a Conditional Use Permit (CUP). A CUP to transfer development rights of residential bonus units may be granted only upon determination that the proposal conforms to

the general use permit criteria contained in Section 17.134.050 and to each of the following additional criteria:

- a. That the applicant has acquired development rights from the owner(s) of parcels within a Retail Priority Site zone, restricting the number of residential units which may be developed thereon so long as the facilities proposed by the applicant are in existence;
- b. That the owners of all such lots shall prepare and execute an agreement, approved as to form and legality by the City Attorney and filed with the Alameda County Recorder, incorporating such restriction;
- c. That the proposed location and site planning of any transferred residential bonus units will not make infeasible future construction of the minimum retail square footage required at that Retail Priority Site;
- d. Bonus units can only be transferred to a parcel that cannot meet the minimum retail square footage required in that Retail Priority Site to build residential;
- e. The transferred residential units must include retail space on the ground floor as per the requirements of the D-BV-1 Broadway Retail Priority Sites Zone; and
- f. Retail floor area that existed prior to the effective date of this chapter (month/day, 2014) cannot count towards the retail square footage needed for transfer of development rights for residential bonus units to other Retail Priority Sites.

4. For a bonus of residential units, the State Density Bonus can be applied by providing affordable housing units (see California Government Code, Section 65915-65918, as implemented by Chapter 17.101 of the Oakland Planning Code) or an applicant can utilize the following residential bonus within a Retail Priority Zone. However, these cannot be combined. The affordable units can be built on site or on another site within any D-BV zone. The residential bonus shall not be included when determining the number of target units that must be affordable to the relevant income group. If 15% of the total Dwelling Units of a Residential Housing Development are affordable, an additional residential bonus of thirty-five percent (35%) will be granted when an applicant for a Residential Housing Development seeks, and agrees to construct, at least any one of the following categories (which are defined in Section 17.107.020 (K), the following definitions in Section 17.107.020 (A)(B)(J)(M) also apply, and all of the provisions of Sections 17.107.110 – 17.107.114 must be met):

- a. Lower Income Households; or
- b. Very Low Income Households; or
- c. A common interest development as defined in Section 1351 of the California Civil Code, for persons and families of Moderate Income, provided that all units in the development are offered to the public for purchase.

5. In the Retail Priority Areas, an exception to the minimum retail square footage required to receive the bonus right to residential units may be granted only upon determination that the proposal conforms to the general use permit criteria contained in Section 17.134.050, to any applicable use permit criteria set forth in Table 17.101C.01 L2, and to each of the following additional criteria:

- a. The applicant submits an architectural study, prepared by a qualified architectural firm, that demonstrates at least one or more alternatives would be physically infeasible due to operational and/or site constraints if it were to meet the minimum retail square footage specified;
- b. Strict compliance with the minimum retail square footage would preclude an effective design solution improving livability, operational efficiency, or appearance; and

c. The project will remain consistent with the Broadway Valdez District Specific Plan goals and policies related to retail development as well as its Design Guidelines.

D. Retail Priority Sites: Height, Floor Area Ratio (FAR), DensityResidential Bonus, and Open Space. Table 17.101C.06 below prescribes height, FAR, densityresidential bonus, and open space, standards associated with the minimum retail area required in the Retail Priority Sites described in Table 17.101C.05 above. The number designations in the "Additional Regulations" column refer to regulations below the table.

**Table 17.101C.06: Retail Priority Sites: Height, Floor Area Ratio (FAR), Density, and Open Space**

<b>Table 17.101C.06: Retail Priority Sites: Height, Floor Area Ratio (FAR), Residential Bonus, and Open Space</b>			
<u>Regulation</u>	<u>Percentage (%) of Retail Area Equals the Square Footage of Retail Required from Table 17.101C.05 to Develop Residential Facilities or Taller Non-Residential Facilities*</u>		
	<u>50% of Retail Priority Site</u>	<u>60% of Retail Priority Site</u>	<u>Additional Regulations</u>
<b>Maximum Height</b>			
<u>Building Base Max. Height</u>	85 ft	85 ft	
<u>Maximum Height Total</u>	200 ft	200/250ft	1, 2
<u>Maximum number of stories (not including underground construction)</u>	19	19/24	1, 2
<b>Height Minimum</b>	N/A	N/A	
<b>Maximum Residential Bonus (retail square feet required per dwelling unit)</b>			
<u>Regular Units</u>	125	100	2, 3, 4
<u>Rooming Units</u>	100	75	2, 3
<b>Maximum Nonresidential FAR</b>	8.0	8.0/10.0	1, 2
<b>Minimum Usable Open Space</b>			
<u>Area: on each lot containing residential facilities of two or more units, usable open space shall be provided for such facilities at a rate stated per dwelling unit</u>	75 sf	75 sf	5, 6, 7
<u>Area: on each lot containing residential facilities of two or more units, usable open space shall be provided for such facilities at a rate stated per rooming unit</u>	38 sf	38 sf	5, 6, 7
<u>Area: on each lot containing senior of affordable housing units, usable open space shall be provided for such facilities at a rate stated per dwelling unit or rooming unit</u>	30 sf	30 sf	5, 6, 7
<u>Area: Conversion of Historic Resource building from commercial to residential, usable open space shall be provided for such facilities at a rate stated per dwelling or rooming unit</u>	0 sf	0 sf	7
<b>Size and shape of open space: An area of contiguous space shall be of such size and shape that a rectangle inscribed within it shall have no dimension less than the dimensions shown below:</b>			
<u>Private Open Space: is accessible from a single unit</u>	10 ft for space on the ground floor and 4 ft on other floors		5, 6, 7
<u>Rooftop: a type of group open space, includes decks, swimming pools, spas and landscaping located on the rooftop and accessible to all tenants</u>	15 ft		5, 6, 7
<u>Courtyard: a type of group open space that can be located anywhere within the subject property</u>	15 ft		5, 6, 7
<u>Private Group Community Room: a type of interior group space that could include a movie room, kitchen, and/or gym</u>	10 ft (1/3 of the required usable open space can be used for this type)		5, 6, 7
<u>Public Ground-Floor Plaza: a type of group open space (see Section 17.127.030) located at street level and adjacent to the building frontage. Plazas are publicly accessible during daylight hours and are maintained by the property owner. Plazas shall be landscaped and include pedestrian and other amenities, such as benches, fountains</u>	10 ft		5, 6, 7

**Table 17.101C.06: Retail Priority Sites: Height, Floor Area Ratio (FAR), Residential Bonus, and Open Space**

<u>Regulation</u>	<u>Percentage (%) of Retail Area Equals the Square Footage of Retail Required from Table 17.101C.05 to Develop Residential Facilities or Taller Non-Residential Facilities*</u>		
	<u>50% of Retail Priority Site</u>	<u>60% of Retail Priority Site</u>	<u>Additional Regulations</u>
<u>and special paving</u>			

\*The following contribute to the retail square footage minimums:

- Retail floor area
- Internal pedestrian stairs, corridors, and circulation
- Ground floor public plaza/open space(s) that is on site or adjacent offsite

Utilization of existing buildings towards new retail floor area can count toward the retail square footage. In the case of a CEQA Historic Resource:

- New retail square footage in a CEQA Historic Resource can count double towards the retail square footage required to obtain a residential bonus; or
- If a CEQA Historic Resource is maintained and not used for retail, the square feet of its footprint can be deducted from the overall square footage of the Retail Priority Site in determining the square footage of retail required.

Square footage of the following do not count towards the retail square footage minimum:

- Loading dock
- Parking
- Driveways, ramps, and circulation for cars and trucks

~~\*The minimum retail area square footage required in Table 17.101C.05 for each Retail Priority Site is the basis for the percentage of retail area that the retail must equal. The retail square footage requirement includes the retail space; circulation; and open space(s) within a retail development but does not include parking square footage.~~

**Additional Regulations for Table 17.101C.06:**

1. An applicant that provides a retail project that equals at least 60% of the square footage of the Retail Priority Site shall also be granted a maximum height of 200 feet and an FAR of 8.0, or if within 100' of 23<sup>rd</sup> Street the maximum height can go up to 250 feet and a FAR of 10.0.

2. See additional regulations in Table 17.101C.05 numbers 2 – 5.

3. See Chapter 17.107 for affordable and senior housing incentives. A Secondary Unit may be permitted when there is no more than one unit on a lot, subject to the provisions of Section 17.103.080. Also applicable are the provisions of Section 17.102.270 with respect to additional kitchens for a dwelling unit, and the provisions of Section 17.102.300 with respect to dwelling units with five (5) or more bedrooms.

4. The overall number of residential units cannot exceed the General Plan density allowance of 87 square feet of lot area per principal unit.

~~4. For mixed use projects the allowable intensity of development shall be measured according to both the maximum nonresidential Floor Area Ratio (FAR) allowed by the zone and the maximum residential density allowed by the zone. The total lot area shall be used as a basis for computing both the maximum nonresidential FAR and the maximum residential density.~~

5. The following apply to open space standards:

- a. Areas occupied by vents or other structures which do not enhance usability of the space shall not be counted toward the listed dimension.
  - b. Openness. There shall be no obstructions above the space except for devices to enhance its usability, such as pergola or awning structures. There shall be no obstructions over ground-level private usable open space except that not more than fifty percent (50%) of the space may be covered by a private balcony projecting from a higher story. Above-ground-level private usable open space shall have at least one exterior side open and unobstructed, except for incidental railings or balustrades, for eight (8) feet above its floor level.
  - c. Usability. A surface shall be provided which prevents dust and allows convenient use for outdoor activities. Such surface shall be any practicable combination of lawn, garden, flagstone, wood planking, concrete, asphalt or other serviceable, dust free surfacing. Slope shall not exceed ten percent (10%). Off-street parking and loading areas, driveways, and service areas shall not be counted as usable open space. Adequate safety railings or other protective devices shall be erected whenever necessary for space on a roof, but shall not be more than four (4) feet high.
  - d. Accessibility. Usable open space, other than private usable open space, shall be accessible to all the living units on the lot. It shall be served by any stairway or other accessway qualifying under the Oakland Building Code as an egress facility from a habitable room. Private usable open space may be located anywhere on the lot except that ground-level space shall not be located in a required minimum front yard and except that above-ground-level space shall not be located within five feet of an interior side lot line. Above-ground-level space may be counted even though it projects beyond a street line. All private usable open space shall be adjacent to, and not more than four feet above or below the floor level of, the living unit served. Private usable open space shall be accessible to only one living unit by a doorway to a habitable room or hallway.
  - e. Landscaping requirements. At least fifty percent (50%) of rooftop or courtyard usable open space area shall include landscaping enhancements. At least thirty percent (30%) of public ground floor plaza shall include landscaping enhancements. Landscaping enhancements shall consist of permanent features, such as trees, shrubbery, decorative planting containers, fountains, boulders or artwork (sculptures, etc.) The remainder of the space shall include user amenities such as seating, decorative paving, sidewalk cafes, or playground structures.
6. In-Lieu Fee: The open space requirements of this Section may be reduced or waived upon the granting of a Conditional Use Permit (see Chapter 17.134 for the CUP procedure) and payment of an in-lieu fee to the City of Oakland. The open space in-lieu fee shall be as set forth in the Master Fee Schedule.
7. ~~Except upon the granting of a Conditional Use Permit (see Chapter 17.134 for the CUP procedure) no existing open space serving any activity shall be reduced in amount, or if already less than shall not be reduced further below, the requirements prescribed for such activity in this Chapter. Notwithstanding anything to the contrary contained in the Planning Code, variances may not be granted relating to (a) a reduction and/or elimination of any open space; or (b) a reduction and/or elimination of any open space serving any activity, or if already less than currently required open space, shall not be reduced further below the requirements prescribed for such activity in this Chapter, as the granting of a CUP (see Chapter 17.134 for the CUP procedure) and payment of the in-lieu fee shall be the sole means of reducing or eliminating open space.~~

#### 17.101C.055 – Micro Living Quarters.

- A. **Definition.** For the purposes of the D-BV zone chapter only, the following definition is added as a facility type. Definitions for other facility types are contained in the Oakland Planning Code Chapter 17.10.
1. **“Micro Living Quarters”** mean one or more rooms located in a multiple-tenant building having an average net floor area of one hundred seventy-five (175) square feet, but a minimum size of

one hundred fifty (150) square feet of net floor area, and occupied by a permanent residential activity. Bathroom facilities, which include toilet and sink, as well as shower and/or bathtub, are required to be located within each individual Micro Living Quarter. Cooking facilities are not allowed to be located within each individual Micro Living Quarter, and shared kitchen facilities are required within close proximity on the same building floor. The maximum number of Micro Living Quarters within a building shall not be regulated by residential density limits in the corresponding zone, but instead shall be established through the application of the Micro Living Quarters required average size (one hundred seventy five (175) square feet); the Floor Area Ratio (FAR) limits specified in the corresponding zone; all other applicable development regulations establishing the buildable envelope in the corresponding zone including, but not limited to, maximum height and minimum setbacks; and the requirements of the Building and Fire Codes.

#### **17.101C.060 - Special regulations for mini-lot and planned unit developments.**

- A. Mini-Lot Developments. In mini-lot developments, certain regulations that apply to individual lots in the D-BV zones may be waived or modified when and as prescribed in Section 17.142
- B. Planned Unit Developments. Large integrated developments shall be subject to the Planned Unit Development regulations in Chapter 17.142 if they exceed the sizes specified therein. In developments which are approved pursuant to said regulations, certain uses may be permitted in addition to those otherwise allowed in the D-BV zones, and certain of the other regulations applying in said zone may be waived or modified.

(Ord. No. 13064, § 2(Exh. A), 3-15-2011)

#### **17.101C.070 - Other zoning provisions.**

- A. Home Occupations. Home occupations shall be subject to the applicable provisions of the home occupation regulations in Chapter 17.112
- B. Nonconforming Uses. Nonconforming uses and changes therein shall be subject to the nonconforming use regulations in Chapter 17.114
- C. General Provisions. The general exceptions and other regulations set forth in Chapters 17.102, 17.104, 17.106, and 17.108 shall apply in the D-BV zones.
- D. Recycling Space Allocation Requirements. The regulations set forth in Chapter 17.118 shall apply in the D-BV zones.
- E. Landscaping and Screening Standards. The regulations set forth in Chapter 17.124 shall apply in the D-BV zones.
- F. Buffering. All uses shall be subject to the applicable requirements of the buffering regulations in Chapter 17.110 with respect to screening or location of parking, loading, storage areas, control of artificial illumination, and other matters specified therein.

(Ord. No. 13064, § 2(Exh. A), 3-15-2011)

The following are proposed text changes to Chapter 17.117. Additions to the chapter are underlined; deletions are in ~~strikeout~~.

## Chapter 17.116 OFF-STREET PARKING AND LOADING REQUIREMENTS

### Sections:

Article I - General Provisions

Article II - Off-Street Parking Requirements

Article III - Off-Street Loading Requirements

Article IV - Standards for Required Parking and Loading Facilities

### Article II Off-Street Parking Requirements

17.116.020 Effect on new and existing uses.

17.116.060 Off-street parking—Residential Activities.

17.116.070 Off-street parking—Civic Activities.

17.116.080 Off-street parking—Commercial Activities.

17.116.082 Off-street parking for the D-BV Zones—Commercial Activities.

17.116.090 Off-street parking—Industrial Activities.

17.116.100 Off-street parking—Agricultural and Extractive Activities.

17.116.110 Special exemptions to parking requirements.

#### 17.116.020 Effect on new and existing uses.

(See illustrations I-19a, b.)

- A. New Parking and Loading to Be Provided for New Facilities and Additions to Existing Facilities. Except as otherwise provided in Sections 17.114.030 and Chapter 17.138, new off-street parking and loading as prescribed hereafter shall be provided for activities occupying facilities, or portions thereof, which are constructed, established, wholly reconstructed, or moved onto a new lot after the effective date of the zoning regulations, or of a subsequent rezoning or other amendment thereto establishing or increasing parking or loading requirements for such activities, except to the extent that existing parking or loading exceeds such requirements for any existing facilities. The required amount of new parking and loading shall be based on the cumulative increase in floor area, or other applicable unit of measurement prescribed hereafter, after said effective date; provided, however, that for an activity occupying a facility existing on said effective date, new parking shall be required for said increase to the extent that the total of such existing facility and the added facilities exceeds any minimum size hereafter prescribed for which any parking is required for such activity.
- B. New Parking to Be Provided for New Living Units in Existing Facilities. Except as provided in Section 17.116.110(D)(3) for the conversion of historic buildings in the D-BV Zones, if any facility, or portion thereof, which is in existence on the effective date of the zoning regulations, or of a subsequent rezoning or other amendment thereto establishing or increasing parking or loading requirements for an activity therein, is altered or changed in occupancy so as to result in

an increase in the number of residential living units therein, new off-street parking as prescribed hereafter shall be provided for the added units. However, such new parking need be provided only in the amount by which the requirement prescribed hereafter for the facility after said alteration or change exceeds the requirement prescribed hereafter for the facility as it existed prior to such alteration or change; and such new parking need not be provided to the extent that existing parking exceeds the latter requirement. Other alterations and substitutions or other changes in activities may be made in any facility or portion thereof existing on said date without regard for the parking and loading requirements prescribed hereafter, and new parking and loading shall not be required therefor, except as otherwise provided in subsection A of this section with respect to additions and in subsection C of this section.

- C. Existing Parking and Loading to Be Maintained. No existing parking or loading serving any activity shall be reduced in amount or changed in design, location, or maintenance below, or if already less than shall not be reduced further below, the requirements prescribed hereafter for such activity unless equivalent substitute facilities are provided.
- D. Parking to be Provided for Existing Residential Facilities. When a conditional use permit is required by for the alteration of, or addition to, an existing Residential Facility in order to create a total of five or more bedrooms in any dwelling unit, the off-street parking requirement of Section 17.102.300C shall apply to the entire facility, including the existing facility and any alteration or addition.

**17.116.060 Off-street parking—Residential Activities.**

A. Permanent and Semi-Transient Residential Activities. Except as otherwise provided in Section 17.44.200, Chapter 17.94, Sections 17.102.300, 17.116.020, 17.116.030, and 17.116.110, and subject to the calculation rules set forth in Section 17.116.050, the following amounts of off-street parking are required for all Permanent and Semi-Transient Residential Activities when located in the indicated zones and occupying the specified facilities and shall be developed and maintained pursuant to the provisions of Article IV of this chapter:

Residential Facility Type	Zone	Requirement
One-Family Dwelling.	RH and RD zones, except when combined with the S-12 zone.	Two (2) spaces for each dwelling unit; however, in the S-11 zone, the requirement shall be one space per bedroom with a minimum of two (2) spaces per dwelling unit and a maximum requirement of four (4) spaces per dwelling unit.
	RM-1, except when combined with the S-12 zone.	One and one-half (1½) spaces for each dwelling unit.
	RM-2 zone	One (1) space for each dwelling unit when lot is less than 4,000 square feet in size and/or 45 feet in width, except when combined with the S-12 zone. One and one-half (1½) spaces for each dwelling unit when lot is 4,000 square feet or more in size and/or 45 feet in width, except when combined with the S-12 zone.

	CBD-P zone (when combined with the S-7 zone), except when combined with the S-12 zone.	No spaces required.
	S-15 zone, except when combined with the S-12 zone.	One-half (½)-space for dwelling unit.
	Any other zone, except when combined with the S-12 zone.	One (1) space for each dwelling unit.
	Any zone combined with the S-12 zone.	See Section 17.94.040
One-Family Dwelling with Secondary Unit.	RH, RD, RM-1, and RM-2 zones, except when combined with the S-12 zone.	One (1) space for the secondary unit unless the lot already contains a total of at least three (3) spaces; however, in the S-11 zone the requirement shall be one (1) space for each bedroom in any secondary unit, up to a maximum requirement of two (2) spaces per secondary unit. See Section 17.103.080
	All other zones, except when combined with the S-12 zone.	One (1) space for the secondary unit unless the lot already contains a total of at least two (2) spaces; however, in the S-11 zone the requirement shall be one (1) space for each bedroom in any secondary unit, up to a maximum requirement of two (2) spaces per secondary unit. See Section 17.103.080
	Any zone combined with the S-12 zone.	See Section 17.94.040
Two-Family Dwelling, Multifamily Dwelling.	RD-2, RM-1, RM-2 zones, except when combined with the S-12 zone.	One and one-half (1½) spaces for each dwelling unit.
	CBD-P zone (when combined with the S-7	No spaces required.

	zone), except when combined with the S-12 zone.	
	S-15 zone, except when combined with the S-12 zone.	One-half (½) space for each dwelling unit.
	<u>D-BV-1 and D-BV-2 zones.</u>	<u>One-half (½) space for each dwelling unit. See Section 17.116.110 for further regulations, including but not limited to unbundling of parking and allowances for an in-lieu fee.</u>
	<u>D-BV-3 and D-BV-4 zones.</u>	<u>Three-quarters (3/4) space for each dwelling unit. See Section 17.116.110 for further regulations, including but not limited to unbundling of parking and allowances for an in-lieu fee.</u>
	Any other zone, except when combined with the S-12 zone.	One (1) space for each dwelling unit.
	Any zone combined with the S-12 zone.	See Section 17.94.040
Rooming House.	CBD-P zone (when combined with the S-7 zone).	No spaces required.
	<u>D-BV-1 and D-BV-2 zones</u>	<u>One (1) space for each four rooming units.</u>
	Any other zone.	One (1) space for each two rooming units.
Mobile Home.	CBD-P zone (when combined with the S-7 zone).	No spaces required.
	Any other zone.	One (1) space for each living unit plus one (1) additional space for each four living units.
Bed and	Any zone.	One (1) space for each two units plus the required parking for

Breakfast		a One-Family dwelling in the underlying zone.
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**17.116.080 Off-street parking—Commercial Activities.**

Except as otherwise provided in Sections ~~17.44.200, 17.101.090~~, 17.116.020, 17.116.030, and 17.116.110, and subject to the calculation rules set forth in Section 17.116.050, the following amounts of off-street parking are required for the specified Commercial Activities when located in the indicated zones ([see Section 17.116.082 for D-BV Zone parking requirements](#)) and occupying facilities of the specified sizes, or having the indicated numbers of employees, and shall be developed and maintained pursuant to the provisions of Article IV of this chapter: (See illustration I-18.)

Commercial Activity	Zone	Minimum Total Size for Which Parking Required	Requirement
A. General Food Sales. Full Service Restaurant. Limited Service Restaurant and Cafe. Convenience Market. Alcoholic Beverage Sales.	C-55, CBD-P, CBD-C, CBD-X, S-15.	—	No spaces required.
	C-45, C-51, S-2.	3,000 square feet of floor area.	One space for each 450 square feet of floor area.
	C-5, C-10, C-28, C-31, C-35.	3,000 square feet of floor area.	One space for each 300 square feet of floor area.
	<a href="#">D-BV zones</a>	<a href="#">See Section 17.116.082</a>	<a href="#">See Section 17.116.082</a>
	Any other zone.	3,000 square feet.	One space for each 200 square feet of floor area.
B. Mechanical or Electronic Games. Medical Service. General Retail Sales, except when sales are primarily of bulky merchandise such as furniture or large	CBD-P, CBD-C, CBD-X, and S-15 zones.	—	No spaces required
	C-45 and S-2 zones.	1,000 square feet of floor area.	One (1) space for each 900 square feet of floor area.
	CN zones.	3,000 square feet of floor area.	One (1) space for each 600 square feet of floor area.

appliances.	<a href="#">D-BV zones</a>	<a href="#">See Section 17.116.082</a>	<a href="#">See Section 17.116.082</a>
Consumer Service.	Any other zone.	3,000 square feet of floor area.	One (1) space for each 400 square feet of floor area.
Consumer Cleaning and Repair Service, except when services consists primarily of repair or cleaning of large items such as furniture or carpets.			
General Wholesale Sales, whenever 50 percent or more of all sales on the lot are at retail.			
Undertaking Service.			
C. Consultative and Financial Service.	CBD-P, CBD-C, CBD-X, and S-15 zones.	—	No spaces required.
Administrative.	C-45 and S-2 zones.	10,000 square feet of floor area.	One (1) space for each 1,400 square feet of floor area.
Business, Communication and Media Service.			
Broadcasting and Recording Service			
Research Service.	<a href="#">D-BV zones</a>	<a href="#">See Section 17.116.082</a>	<a href="#">See Section 17.116.082</a>
	Any other zone.	3,000 square feet of floor area.	One (1) space for each 600 square feet of floor area.
D. General Wholesale Sales, whenever less than 50percent of all sales on the lot are at retail.	S-15 zone.	—	No spaces required.
	C-45, CBD-P, CBD-C, CBD-X, and S-2 zones.	10,000 square feet of floor area.	One (1) space for each 1,000 square feet of floor area, or for each three (3) employees, whichever requires fewer spaces.

Building Material Sales	<a href="#">D-BV zones</a>	<a href="#">See Section 17.116.082</a>	<a href="#">See Section 17.116.082</a>
Automotive Sales and Service.  Automobile and Other Light Vehicle Sales and Rental.	Any other zone.	5,000 square feet of floor area.	One (1) space for each 1,000 square feet of floor area, or for each three (3) employees, whichever requires fewer spaces.
E. Group Assembly;  Personal Instruction and Improvement <a href="#">Services</a> .  <del>and Small Scale Entertainment.</del>	CBD-P, CBD-C, CBD-X, and S-15 zones.	—	No spaces required.
	C-45 and S-2 zones.	10,000 square feet of floor area.	One (1) space for each 16 seats in indoor places of assembly with fixed seats, plus one space for each 160 square feet of floor area in indoor places of assembly without fixed seats, plus a number of spaces to be prescribed by the Director of City Planning, pursuant to Section 17.116.040, for outdoor assembly area.
	CN zones.	Total of 75 seats in indoor places of assembly with fixed seats, or 750 square feet of floor area in dance halls or other indoor places of assembly without fixed seats, or 5,000 square feet of outdoor assembly areas.	One (1) space for each eight seats in indoor places of assembly with fixed seats, plus one (1) space for each 80 square feet of floor area in indoor places of assembly without fixed seats, plus a number of spaces to be prescribed by the Director of City Planning, pursuant to Section 17.116.040, for outdoor assembly areas.
	<a href="#">D-BV zones</a>	<a href="#">See Section 17.116.082</a>	<a href="#">See Section 17.116.082</a>
	Any other zone.	Total of 75 seats in indoor places of assembly with fixed seats, or 750 square feet of floor area in dance	One (1) space for each eight seats in indoor places of assembly with fixed seats, plus one space for each 80 feet of floor area in indoor places of assembly without fixed seats, plus a

		halls or other indoor places of assembly without fixed seats, or 5,000 square feet of outdoor assembly areas.	number of spaces to be prescribed by the Director of City Planning, pursuant to Section 17.116.040, for outdoor assembly areas.
F. Transient Habitation.	CBD-P (only when combined with the S-7 zone), and S-15 zones.	—	No spaces required.
	CBD-P, CBD-C, <del>and CBD-X,</del> and <u>D-BV</u> zones.	No minimum.	One (1) space for each unit in a motel and one (1) space for each two units in a hotel.
	<u>D-BV zones</u>	<u>See Section 17.116.082</u>	<u>See Section 17.116.082</u>
	Any other zone.	No minimum.	One (1) space for each unit in a motel and three (3) spaces for each four units in a hotel.
G. General Retail Sales, whenever sales are primarily of bulky merchandise such as furniture or large appliances.  Consumer Cleaning and Repair Service, whenever services consist primarily of repair or cleaning of large items such as furniture or carpets.  Animal care and Animal boarding.	CBD-P, CBD-C, CBD-X, and S-15 zones.	—	No spaces required.
	C-45 and S-2 zones.	10,000 square feet of floor area.	One (1) space for each 1,000 square feet of floor area.
	<u>D-BV zones</u>	<u>See Section 17.116.082</u>	<u>See Section 17.116.082</u>
	Any other zone.	5,000 square feet of floor area.	One (1) space for each 1,000 square feet of floor area.

H. Automobile and Other Light Vehicle Gas Station and Servicing.  Automotive and Other Light Vehicle Repair and Cleaning.  Automotive Fee Parking.	CBD-P, CBD-C, CBD-X, and S-15 zones.	—	No spaces required.
	C-45 and S-2 zones.	10,000 square feet of floor area.	One (1) space for each 1,000 square feet of floor area.
	<a href="#">D-BV zones</a>	<a href="#">See Section 17.116.082</a>	<a href="#">See Section 17.116.082</a>
	Any other zone.	No minimum.	One (1) space for each 1,000 square feet of floor area.
I. Transport and Warehousing.  Taxi and Light Fleet-based Service.	CBD-P, CBD-C, CBD-X.	—	No spaces required.
	<a href="#">D-BV zones</a>	<a href="#">See Section 17.116.082</a>	<a href="#">See Section 17.116.082</a>
	Any other zone.	10,000 square feet of floor area and outdoor storage, processing, or sales area.	One (1) space for each three employees.
J. Scrap Operation.	CBD-P, CBD-C, and CBD-X zones.	—	No spaces required.
	<a href="#">D-BV zones</a>	<a href="#">See Section 17.116.082</a>	<a href="#">See Section 17.116.082</a>
	Any other zone.	10,000 square feet of floor area and outdoor storage, processing or sales area.	One (1) space for each 2,000 square feet of floor area, or for each three employees, whichever requires more spaces; provided that in the case of Scrap Operation Commercial Activities whenever storage and sale, from the premises, or dismantling or other processing of used or waste materials which are not intended for reuse and their original form, when the foregoing are not a part of a manufacturing operation, occupy less than 50 percent (50%) of the floor

			and open area of the firm on a single lot, the parking requirement shall be as prescribed for the other activities engaged in by the same firm on the same lot.
K. Fast-Food Restaurant.	CBD-P, CBD-C, CBD-X, and S-15 zones.	—	No spaces required.
	C-45 zone.	10,000 square feet of floor area.	One (1) space for each 450 square feet of floor area.
	CN and S-2 zones.	2,000 square feet of floor area.	One (1) space for each 300 square feet of floor area.
	<u>D-BV zones</u>	<u>See Section 17.116.082</u>	<u>See Section 17.116.082</u>
	Any other zone.	3,000 square feet of floor area.	One (1) space for each 200 square feet of floor area.

**17.116.082 Off-street parking for the D-BV Zones—Commercial Activities**

Except as otherwise provided in Sections 17.116.020, 17.116.030, and 17.116.110, and subject to the calculation rules set forth in Section 17.116.050, the following amounts of off-street parking are required for Commercial Activities when located in the D-BV zones and occupying facilities of the specified sizes. The required parking spaces shall be developed and maintained pursuant to the provisions of Article IV of this chapter: (See illustration I-18.)

<u>Minimum</u>	<u>Minimum Total Size for Which Parking Required</u>	<u>Requirement</u>
<u>A. Minimum Parking Requirements for Commercial Activities on the ground floor, except for Transient Habitation (see Table 17.116.080).</u>	<u>10,000 square feet of floor area.</u>	<u>One (1) space for each 500 square feet of floor area.</u>
<u>B. Minimum parking requirement for Commercial Activities not on the ground floor, except for Transient Habitation (see Table 17.116.080).</u>	<u>10,000 square feet of floor area.</u>	<u>One (1) space for each 1,000 square feet of floor area.</u>

**17.116.110 Special exemptions to parking requirements.**

The provisions of this section shall apply to all activities in all zones except Residential Activities occupying One-Family, Two-Family or Multifamily Residential Facilities located within the S-12 residential parking combining zone, where the provisions of Section 17.94.040 shall apply.

- A. Discretionary Reduction for Senior Citizen Housing and Dormitories. In senior citizen housing where living units are regularly occupied by not more than two individuals at least one of whom is sixty (60) years of age or older or is physically handicapped regardless of age, or in a dormitory, fraternity, or similar facility, the number of parking spaces prescribed in Section 17.116.060 may be reduced by not to exceed seventy-five percent (75%) upon the granting of a conditional use permit pursuant to the conditional use permit procedure in Chapter 17.134 and upon determination that the proposal conforms to the use permit criteria set forth in subsections A or B, and C of this section:
1. In the case of senior citizen housing where living units are regularly occupied by not more than two individuals at least one of whom is sixty (60) years of age or older or is physically handicapped regardless of age, that such occupancy is guaranteed, for a period of not less than fifty (50) years, by appropriate conditions incorporated into the permit;
  2. In the case of a dormitory, fraternity, or similar facility, that the occupants are prevented from operating a motor vehicle because they are not of driving age or by other special restriction, which limitation of occupancy by nonqualifying drivers is assured by appropriate conditions incorporated into the permit;
  3. That due to the special conditions referred to above, and considering the availability, if any, of public transportation within convenient walking distance, the reduced amount of parking will be adequate for the activities served, and that the reduction will not contribute to traffic congestion or impair the efficiency of on-street parking.
- B. Discretionary Reduction of Total Requirements with Shared Parking Area. For a joint off-street parking area which serves two or more nonresidential activities in any zone, or Residential Activities in the CN, C-45, -or CBD zones, and which meets the conditions set forth in Section 17.116.180, the total parking requirement for the sharing activities may be reduced by not to exceed fifty percent (50%) upon the granting of a conditional use permit pursuant to the conditional use permit procedure in Chapter 17.134 and upon determination that the typical utilization of the parking area would be staggered to such an extent that the reduced number of spaces would be adequate to serve all such activities.
- C. Discretionary Waiver or Reduction in Districts Providing Common Parking Areas. The off-street parking requirements specified above for nonresidential activities in any zone, or for Residential Activities in the CN, C-45, or CBD zones, may be waived or reduced by the Director of City Planning when said activities are located within a municipal parking district or assessment district the function of which is to provide off-street parking, upon a finding that, in consideration of existing or prospective municipal parking facilities, such waiver or reduction would not substantially contribute to traffic congestion or impair the efficiency of on-street parking. Any determination on such waiver or reduction shall be subject to appeal pursuant to the administrative appeal procedure in Chapter 17.132

**D. Each of the following provisions shall apply in the D-BV zones only:**

- 1. In-Lieu Fee. The parking space requirements of this section for the D-BV zones may be reduced or waived upon the granting of a Conditional Use Permit (see Chapter 17.134 for the CUP procedure) and payment of an in-lieu fee to the City of Oakland. The parking in-lieu fee shall be as set forth in the Master Fee Schedule. Parking in-lieu fees shall be deposited with the City of Oakland prior to issuance of a building permit. A parking in-lieu fee may be refunded, without interest, to the person who made such payment, or his assignee or designee, if additional off-street parking spaces are provided for such building or use by others than the City so as to satisfy the parking requirement for which the in-lieu payment was made.**

- To obtain a refund, the required off-street parking spaces must be in place prior to issuance of a certificate of occupancy and before funds are spent or committed by the City.
2. Narrow Parcels. Parcels with a lot width mean of less than fifty (50) feet and fronting Broadway or 27th Street are not required to provide parking on site unless alternative driveway access is available from an alternative location, such as a shared access driveway from an adjoining parcel or from an alley.
  3. Conversion of Historic Buildings. No additional parking spaces are required for the conversion of a Nonresidential Facility to a Residential Facility or vice versa if the Nonresidential or Residential Facility is either a Potentially Designated Historic Property (PDHP) or a property listed in the City of Oakland's Local Register of Historical Resources (see Policy 3.8 of Historic Preservation Element of the Oakland General Plan). If the number of existing parking spaces on the lot is less than required, then that number of parking spaces must be preserved with the conversion. If there are more parking spaces on the lot than required, then the number of spaces can be reduced to the minimum required. Parking spaces shall not be further reduced below the requirement unless payment of an in-lieu fee, as set forth in the Master Fee Schedule, to the City of Oakland is provided.
  4. Affordable Housing. Parking requirements applicable to affordable housing for moderate, low, and very low income households, (as defined in California Government Code Section 50052.5 and in Oakland Planning Code Section 17.107.020), shall be one-quarter (1/4) spaces per dwelling unit. In Subsection 17.116.110(A) of this chapter, Senior Citizen Housing and Dormitories requirements apply but do not require a Conditional Use Permit and the reduced parking requirement is one-quarter (1/4) spaces per dwelling unit.
  5. Unbundled Parking. The following rules shall apply to new Multifamily Dwelling Residential Facilities of ten (10) or more units:
    - a. Off-street parking spaces shall be leased or sold separately from the rental or purchase of dwelling units for the life of the dwelling units, such that potential renters or buyers shall have the option of renting or buying a residential unit at a price lower than would be the case if there were a single price for both the residential unit and the parking space(s).
    - b. Off-street parking spaces serving affordable units as defined in Section 17.107.020 shall be offered to potential buyers and renters at a price proportional to the sale or rental price of the affordable units as compared to comparable market rate units, except when offered to non-residents pursuant to Subsection (c) below.
    - c. Parking spaces shall be offered only to residents of the dwelling units served by the off-street parking, except that any surplus spaces that are not rented or sold may be rented to non-residents with the provision that such spaces must be vacated on 30 days notice if requested by residents to be made available to them.
  6. No Variances. Notwithstanding anything to the contrary contained in the Planning Code, variances may not be granted relating to (a) a reduction and/or elimination of any required parking; or (b) a reduction and/or elimination of any parking spaces serving any activity, or if already less than currently required parking, shall not be reduced further below the requirements prescribed for such activity in this Chapter, as the granting of a CUP (see Chapter 17.134 for the CUP procedure) and payment of the in-lieu fee shall be the sole means of reducing or eliminating such parking.

The following are proposed text changes to Chapter 17.117. Additions to the chapter are underlined; deletions are in ~~strikeout~~.

## **Chapter 17.117 BICYCLE PARKING REQUIREMENTS**

### **Sections:**

Article I. - General Provisions

Article II. - Standards for Required Bicycle Parking

Article III. - Minimum Number of Required Bicycle Parking Spaces

### **Article I. General Provisions**

17.117.010 Title, purpose, and applicability.

17.117.020 Bicycle parking required for new and existing uses.

17.117.030 More than one activity on a lot.

17.117.040 Determination by Director of City Planning.

(Ord. 12884 § 2 (part), 2008)

### **Article II. Standards for Required Bicycle Parking**

17.117.050 Types of required bicycle parking.

17.117.060 Minimum specifications for required bicycle parking.

17.117.070 Location and design of required bicycle parking.

#### **17.117.050 Types of required bicycle parking.**

- A. Long-term Bicycle Parking. Each long-term bicycle parking space shall consist of a locker or locked enclosure providing protection for each bicycle from theft, vandalism and weather. Long-term bicycle parking is meant to accommodate employees, students, residents, commuters, and others expected to park more than two hours.
- B. Short-term Bicycle Parking. Short-term bi-cycle parking shall consist of a bicycle rack or racks and is meant to accommodate visitors, customers, messengers, and others expected to park not more than two hours.

(Ord. 12884 § 2 (part), 2008)

#### **17.117.060 Minimum specifications for required bicycle parking.**

- A. All bicycle parking facilities shall be dedicated for the exclusive use of bicycle parking.
- B. All required short-term bicycle parking spaces shall permit the locking of the bicycle frame and one wheel with a U-type lock, support the bicycle in a stable position without damage to wheels, frame, or components, and provide two (2) points of contact with the bicycle's frame.

- C. All required long-term bicycle parking spaces, with the exception of bicycle lockers, shall permit the locking of the bicycle frame and one wheel with a U-type lock, and support the bicycle in a stable position without damage to wheels, frame, or components.
- D. Bicycle parking facilities shall be securely anchored so they cannot be easily removed and shall be of sufficient strength and design to resist vandalism and theft.
- E. The overall design and spacing of such facilities shall meet the standards of Section 17.117.070 or as may be modified.

(Ord. 12884 § 2 (part), 2008)

#### **17.117.070 Location and design of required bicycle parking.**

Required bicycle parking shall be placed on site(s) as set forth below:

- A. A bicycle parking space shall be at least two and a half (2.5) feet in width by six (6) feet in length to allow sufficient space between parked bicycles.
- B. An encroachment permit may be required from the City to install bicycle parking in the public right-of-way.
- C. Bicycle parking facilities shall not impede pedestrian or vehicular circulation.
  - 1. Bicycle parking racks located on sidewalks should maintain a minimum of five and one half (5.5) feet of unobstructed pedestrian right-of-way outside the bicycle parking space. For sidewalks with heavy pedestrian traffic, at least seven (7) feet of unobstructed right-of-way is required.
- D. Bicycle parking facilities are subject to the following standards:
  - 1. Racks shall be located with at least thirty (30) inches in all directions from any vertical obstruction, including but not limited to other racks, walls, and landscaping. General Food Sales, Full Service Restaurant, Limited Service Restaurant and Cafe, and Large Scale Combined Retail and Grocery Sales Activities are encouraged to locate racks with a thirty-six (36) inch clearance in all directions from any vertical obstruction, including but not limited to other racks, walls, and landscaping.
  - 2. A minimum four (4) foot wide aisle of unobstructed space behind all required bicycle parking shall be provided to allow for adequate bicycle maneuvering.
- E. Bicycle parking facilities within auto parking facilities shall be protected from damage by cars by a physical barrier such as curbs, wheel stops, poles, bollards, or other similar features capable of preventing automobiles from entering the bicycle facility.
- F. Bicycle parking facilities shall be located in highly visible well-lighted areas. In order to maximize security, whenever possible short-term bicycle parking facilities shall be located in areas highly visible from the street and from the interior of the building they serve (i.e. placed adjacent to windows).
- G. The location and design of required bicycle parking shall be of a quality, character and color that harmonize with adjoining land uses. Required bicycle parking shall be incorporated whenever possible into building design or street furniture.
- H. Long-term bicycle parking shall be covered and shall be located on site or within five hundred (500) feet of the main building entrance unless approved by the Director of City Planning with a written Discretionary Waiver. The main building entrance excludes garage entrances, trash room entrances, and other building entrances that are not publicly accessible.
- I. Discretionary Waiver. The long-term bicycle parking location requirement of five hundred (500) feet may be waived in writing by the Director of City Planning when said activities are located within one thousand (1000) feet of a proposed or existing bike station or similar high-capacity

bicycle parking facility. Any determination on such waiver shall be subject to appeal pursuant to the administrative appeal procedure in Chapter 17.132

- J. Whenever any required bicycle parking is proposed to be provided on a lot other than the lot containing the activity served, the owner or owners of both lots shall prepare and execute to the satisfaction of the City Attorney, and file with the Alameda County Recorder, an agreement guaranteeing that such facilities will be maintained and reserved for the activity served, for the duration of said activity.
- K. Short-term bicycle parking shall be placed within fifty (50) feet of the main entrance to the building or commercial use and should be in a well trafficked location visible from the entrance. When the main entrance fronts the sidewalk, the installer may obtain an encroachment permit from the City to install the bicycle parking in the public right-of-way. The main building entrance excludes garage entrances, trash room entrances, and other building entrances that are not publicly accessible.

(Ord. No. 13064, § 2(Exh. A), 3-15-2011; Ord. No. 12939, § 4(Exh. A), 6-16-2009; Ord. 12884 § 2 (part), 2008)

### **Article III. Minimum Number of Required Bicycle Parking Spaces**

17.117.080 Calculation Rules.

17.117.090 Required bicycle parking—Residential activities.

17.117.100 Required bicycle parking—Civic activities.

17.117.110 Required bicycle parking—Commercial activities.

17.117.120 Required bicycle parking—Industrial and all other activities.

17.117.130 Required shower and locker facilities.

17.117.140 Additional considerations for variance determination.

17.117.150 Automobile parking credit.

#### **17.117.080 Calculation Rules.**

- A. If after calculating the number of required bicycle parking spaces a quotient is obtained containing a fraction of one-half ( $\frac{1}{2}$ ) or more, an additional space shall be required; if such fraction is less than one-half ( $\frac{1}{2}$ ), it may be disregarded.
- B. When the bicycle parking requirement is based on number of employees, the number of spaces shall be based on the number of working persons on the lot during the largest shift of the peak season. If the Director of City Planning determines that this number is difficult to verify for a specific facility, then the number of required long-term bicycle parking spaces shall be a minimum of two (2) spaces or five percent (5%) of the amount of required automobile spaces for the proposed facility, whichever is greater.
- C. When the bicycle parking requirement is based on number of seats, in the case of pews or similar facilities, each twenty (20) inches shall be counted as one seat.
- D. The calculation of short-term bicycle parking may include existing racks that are in the public right-of-way and are within fifty (50) feet of the main entrance.

(Ord. No. 12939, § 4(Exh. A), 6-16-2009; Ord. 12884 § 2 (part), 2008)

**17.117.090 Required bicycle parking—Residential activities.**

Subject to the calculation rules set forth in Section 17.117.080, the following minimum amounts of bicycle parking are required for all Residential Activities and shall be developed and maintained pursuant to the provisions of Article II of this chapter:

Type of Activity	Long-term Bicycle Parking Requirement	Short-term Bicycle Parking Requirement
<b>Permanent and Semi-Transient Residential Activities occupying the specified facilities:</b>		
1) One-Family Dwelling.	No spaces required.	No spaces required.
2) One-Family Dwelling with Secondary Unit.	No spaces required.	No spaces required.
3) Two-Family Dwelling.	No spaces required.	No spaces required.
4) Multifamily Dwelling.		
a) With private garage for each unit.	No spaces required.	1 space for each 20 dwelling units. <u>For D-BV zones, 1 space for each 15 dwelling units.</u> Minimum <u>citywide</u> requirement is 2 spaces.
b) Without private garage for each unit.	1 space for each 4 dwelling units. <u>For D-BV zones, 1 space for each 2 dwelling units.</u> Minimum <u>citywide</u> requirement is 2 spaces.	1 space for each 20 dwelling units. <u>For D-BV zones, 1 space for each 15 dwelling units.</u> Minimum <u>citywide</u> requirement is 2 spaces.
c) Senior Housing.	1 space for each 10 dwelling units. Minimum requirement is 2 spaces.	1 space for each 20 dwelling units. Minimum requirement is 2 spaces.
5) Rooming House.	1 space for each 8 residents. Minimum requirement is 2 spaces.	No spaces required.
6) Mobile Home.	1 per 20 units.	No spaces required.

<b>Residential Care, Service-Enriched Permanent, Transitional Housing, and Emergency Shelter Residential Activities occupying the specified facilities:</b>		
7) Residential Care.	1 space for each 20 employees or 1 space for each 70,000 square feet, whichever is greater. Minimum requirement is 2 spaces.	2 spaces.
8) Service-Enriched Permanent Housing.	1 space for each 20 employees or 1 space for each 70,000 square feet, whichever is greater. Minimum requirement is 2 spaces.	2 spaces.
9) Transitional Housing.	1 space for each 8 residents. Minimum requirement is 2 spaces.	1 space for each 20 dwelling units. Minimum requirement is 2 spaces.
10) Emergency Shelter Residential.	1 space for each 20 employees or 1 space for each 70,000 square feet, whichever is greater. Minimum requirement is 2 spaces.	1 space for each 5,000 square feet of floor area. Minimum requirement is 2 spaces.

(Ord. No. 13064, § 2(Exh. A), 3-15-2011; Ord. 12899 § 4, Exh. A (part), 2008; Ord. 12884 § 2 (part), 2008)

(Ord. No. 13064, § 2(Exh. A), 3-15-2011; Ord. No. 12939, § 4(Exh. A), 6-16-2009; Ord. 12884 § 2 (part), 2008)

**17.117.110 Required bicycle parking—Commercial activities.**

Subject to the calculation rules set forth in Section 17.117.080, the following amounts of bicycle parking are required for the specified Commercial Activities and shall be developed and maintained pursuant to the provisions of Article II of this chapter:

Commercial Activity	Long-term Bicycle Parking Requirement	Short-term Bicycle Parking Requirement
<b>Retail</b>		
1. General Food Sales.	1 space for each 12,000 square feet	1 space for each 2,000 square feet of

2. Full Service Restaurant	of floor area. <u>. For D-BV zones, 1 space for each 8,000 square feet of floor area.</u> Minimum <u>citywide</u>	floor area. Minimum requirement is 2 spaces.
3. Limited Service Restaurant and Cafe	requirement is 2 spaces	
4. Fast-Food Restaurant.	1 space for each 12,000 square feet of floor area. <u>For D-BV zones, 1 space for each 8,000 square feet of floor area.</u> Minimum <u>citywide</u>	1 space for each 5,000 square feet of floor area. <u>For D-BV zones, 1 space for each 3,000 square feet of floor area.</u> Minimum <u>citywide</u>
5. Convenience Market		
6. Alcoholic Beverage Sales.	requirement is 2 spaces.	requirement is 2 spaces.
7. Mechanical or Electronic Games.		
8. General Retail Sales.		
9. Large-scale combined retail and grocery sales.		
10. Consumer Service.		
11. Consumer Cleaning and Repair Service.		
12. Consumer Dry Cleaning Plant.		
13. Check Cashier and Check Cashing.		
14. General Wholesale Sales.	1 space for each 12,000 square feet of floor area. Minimum requirement is 2 spaces.	1 space for each 20,000 square feet of floor area. Minimum requirement is 2 spaces.
15. Building Material Sales.		
<b>Office</b>		

1. Consultative and Financial Service.	1 space for each 10,000 square feet of floor area. <u>For D-BV zones, 1 space for each 8,000 square feet of floor area.</u> Minimum <u>citywide</u> requirement is 2 spaces.	1 space for each 20,000 square feet of floor area. <u>For D-BV zones, 1 space for each 15,000 square feet of floor area.</u> Minimum <u>citywide</u> requirement is 2 spaces.
2. Administrative Commercial.		
3. Business, Communication, and Media Service.		
4. Broadcasting and Recording Service.		
<b>Medical</b>		
1. Medical Service.	1 space for each 12,000 square feet of floor area. Minimum requirement is 2 spaces.	1 space for each 5,000 square feet of floor area. Minimum requirement is 2 spaces.
2. Animal Care.		
<b>Auto Related</b>		
1. Automobile and Other Light Vehicle Sales and Rental.	1 space for each 12,000 square feet of floor area. Minimum requirement is 2 spaces.	1 space for each 20,000 square feet of floor area. Minimum requirement is 2 spaces.
2. Automobile and Other Light Vehicle Gas Station and Servicing.	1 space for each 20 employees. Minimum requirement is 2 spaces.	No spaces required.
3. Automotive Repair and Cleaning.		
<b>Other Commercial</b>		
1. Group Assembly.	Number of spaces to be prescribed by the Director of City Planning pursuant to Section 17.117.040	Number of spaces to be prescribed by the Director of City Planning pursuant to Section 17.117.040
2. Personal Instruction and Improvement and	Number of spaces to be prescribed by the Director of City Planning	Number of spaces to be prescribed by the Director of City Planning pursuant

Small Scale Entertainment	pursuant to Section 17.117.040	to Section 17.117.040
3. Research Service.	1 space for each 10,000 square feet of floor area. Minimum requirement is 2 spaces.	1 space for each 40,000 square feet of floor area. Minimum requirement is 2 spaces.
4. Transient Habitation.	1 space for each 20 rentable rooms. Minimum requirement is 2 spaces.	1 space for each 20 rentable rooms. Minimum requirement is 2 spaces.
5. Automotive Fee Parking.	1 space for each 20 automobile spaces. Minimum requirement is 2 spaces.	Minimum of 6 spaces or 1 per 20 auto spaces (parking lots excepted)
6. Undertaking Service.	1 space for each 12,000 square feet of floor area. Minimum requirement is 2 spaces.	2 spaces.
7. Animal Boarding.		

(Ord. No. 13064, § 2(Exh. A), 3-15-2011; Ord. No. 12999, § 4(Exh. A), 3-16-2010; Ord. No. 12939, § 4(Exh. A), 6-16-2009; Ord. 12899 § 4, Exh. A (part), 2008; Ord. 12884 § 2 (part), 2008)

Proposed Deletion of Chapter 17.101.C. D-BR Broadway Retail Frontage District Interim Combining Zone Regulations (to be replaced with Attachment E.5)

Deletions to the chapter are in ~~strikeout~~.

## ~~Chapter 17.101C D-BR BROADWAY RETAIL FRONTAGE DISTRICT INTERIM COMBINING 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.065 Micro living quarters.~~

~~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 Zone Regulations. The D-BR Zone is intended to create, preserve, and enhance ground level retail opportunities within the Broadway/Valdez Retail District area 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.~~

~~(Ord. No. 13059, § 2(Exh. A), 3-1-2011)~~

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

~~The regulations contained in the D-BR Zone shall remain in place and be effective until the City Council adopts a specific plan and new zoning regulations for the Broadway/Valdez Retail District.~~

~~(Ord. No. 13151, § 2(Exh. A), 2-5-2013; Ord. No. 13059, § 2(Exh. A), 3-1-2011)~~

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

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

~~(Ord. No. 13059, § 2(Exh. A), 3-1-2011)~~

**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.~~

~~(Ord. No. 13059, § 2(Exh. A), 3-1-2011)~~

**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 Building Facility, Designated Historic Property, Potentially Designated Historic Property, Telecommunications Facility, Sign, or other associated structure 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.~~

~~(Ord. No. 13151, § 2(Exh. A), 2-5-2013; Ord. No. 13059, § 2(Exh. A), 3-1-2011)~~

**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. Section 17.10.040 contains permitted accessory activities.~~

~~"P" designates permitted activities in the corresponding zone.~~

~~"C" designates activities that are permitted only upon the granting of a conditional use permit (CUP) in the corresponding zone (see Chapter 17.134 for the CUP procedure).~~

~~"L" designates activities subject to certain limitations or notes listed at the bottom of the table.~~

~~"—" designates activities that are prohibited except as accessory activities according to the regulations contained in Section 17.010.040.~~

**Table 17.101C.01 Permitted and Conditionally Permitted Activities**

Activities	D-BR Zone	Additional Regulations
<b>Residential Activities</b>		
<del>—Permanent Residential</del>	<del>C(L1)</del>	
<del>—Residential Care</del>	<del>P(L1)(L2)</del>	<del><u>17.103.010</u></del>
<del>—Service-Enriched Permanent Housing</del>	<del>C(L1)</del>	<del><u>17.103.010</u></del>
<del>—Transitional Housing</del>	<del>C(L1)</del>	<del><u>17.103.010</u></del>

<del>—Emergency Shelter</del>	—	<u>17.103.010</u>
<del>—Semi-Transient Residential</del>	—	<u>17.103.010</u>
<del>—Bed and Breakfast</del>		
<b>Civic Activities</b>		
<del>—Essential Service</del>	P	
<del>—Limited Child Care</del>	C(L1)	
<del>—Community Assembly</del>	C(L1)	
<del>—Recreational Assembly</del>	C(L1)	
<del>—Community Education</del>	P(L1)	
<del>—Nonassembly Cultural</del>	P	
<del>—Administrative</del>	P(L1)	
<del>—Health Care</del>	C	
<del>—Special Health Care</del>	—	<u>17.103.020</u>
<del>—Utility and Vehicular</del>	—	
<del>—Extensive Impact</del>	—	
<b>Commercial Activities</b>		
<del>—General Food Sales</del>	P	
<del>—Full Service Restaurant</del>	P	
<del>—Limited Service Restaurant and Cafe</del>	P	
<del>—Convenience Market</del>	C	<u>17.103.030</u>

—Fast Food Restaurant	C	
—Alcoholic Beverage Sales	C	<u>17.103.030</u> and <u>17.114.030</u>
—Mechanical or Electronic Games	—	
—Medical Service	P(L3)	
—General Retail Sales	P	
—Large Scale Combined Retail and Grocery Sales	—	
—Consumer Service	P(L4)	
—Consultative and Financial Service	P	
—Check Cashier and Check Cashing	—	
—Consumer Cleaning and Repair Service	P	
—Consumer Dry Cleaning Plant	C	
—Group Assembly	C(L5)	
—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	—	

<del>—Transient Habitation</del>	<del>—</del>	<del><u>17.103.050</u></del>
<del>—Building Material Sales</del>	<del>—</del>	
<del>—Automobile and Other Light Vehicle Sales and Rental</del>	<del>€</del>	
<del>—Automobile and Other Light Vehicle Gas Station and Servicing</del>	<del>—(L6)</del>	<del><u>17.114.050 (A)</u></del>
<del>—Automotive and Other Light Vehicle Repair and Cleaning</del>	<del>—(L6)</del>	<del><u>17.114.050 (A)</u></del>
<del>—Taxi and Light Fleet-Based Service</del>	<del>—</del>	
<del>—Automotive Fee Parking</del>	<del>€</del>	
<del>—Animal Care</del>	<del>€</del>	
<del>—Animal Boarding</del>	<del>€</del>	
<del>—Undertaking Service</del>	<del>—</del>	
<del>—Scrap Operation</del>	<del>—</del>	
<b>Industrial Activities</b>	All Industrial Activities prohibited in these zones	
<b>Agricultural and Extractive Activities</b>	All Agricultural and Extractive Activities prohibited in these zones	
<del><b>Off-street parking serving activities other than those listed above or in <u>Section 17.74.030</u>, subject to the conditions set forth in <u>Section 17.116.075</u></b></del>	<del>€</del>	<del>17.116.075</del>
<del><b>Activities that are listed as prohibited, but are permitted or conditionally permitted on nearby lots in an adjacent zone</b></del>	<del>€</del>	<del><u>17.102.110</u></del>

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**Limitations:**

~~L1. No Residential Care, Service-Enriched Permanent Housing, Transitional Housing, or Emergency Shelter Residential Activity shall be located closer than three hundred (300) feet from any other such activity. See Section 17.102.212 for other regulations regarding these activities.~~

~~L2. Residential Care is only permitted upon the granting of a Conditional Use Permit (see Chapter 17.134 for the CUP procedure) when not located in a One-Family Dwelling Residential Facility. No Residential Care, Service-Enriched Permanent Housing, Transitional Housing, or Emergency Shelter Residential Activity shall be located closer than three hundred (300) feet from any other such Activity or Facility.~~

~~L3. 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.~~

~~L4. See Section 17.102.170 for special regulations relating to massage services. Also no new or expanded laundromat shall be located closer than five hundred (500) feet from any existing laundromat. See Section 17.102.450 for further regulations regarding laundromats.~~

~~L5. No new or expanded adult entertainment activity shall be located closer than one thousand (1,000) feet to the boundary of any residential zone or three hundred (300) feet from any other adult entertainment activity. See Section 17.102.160 for further regulations regarding adult entertainment activities.~~

~~L6. 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 occur no later than six (6) months after discontinuation of such a activity, per Subsection 17.114.050.A.~~

~~(Ord. No. 13172, § 3(Exh. A), 7-2-2013; Ord. No. 13151, § 2(Exh. A), 2-5-2013; Ord. No. 13059, § 2(Exh. A), 3-1-2011)~~

### ~~17.101C.065 Micro living quarters.~~

~~A. Definition. For the purposes of the D-BR interim combining zone chapter only, the following definition is added as a facility type. Definitions for other facility types are contained in Chapter 17.10~~

~~1. "Micro-Living Quarters" mean one or more rooms located in a multiple-tenant building having an average net floor area of one hundred seventy-five (175) square feet, but a minimum size of one hundred fifty (150) square feet of net floor area, and occupied by a permanent residential activity. Bathroom facilities, which include toilet and sink, as well as shower and/or bathtub, are required to be located within each individual Micro-Living Quarter. Cooking facilities are not required to be located within each individual Micro-Living Quarter, as long as shared kitchen facilities are provided within close proximity on the same building floor. The maximum number of Micro-Living Quarters within a building shall not be regulated by residential density limits in the corresponding zone, but instead shall be established through the application of the Micro-Living Quarters required average size (one hundred seventy-five (175) square feet); the Floor Area Ratio (FAR) limits specified in the corresponding zone that normally apply only to non-residential facilities; all other applicable development regulations establishing the buildable envelope in the corresponding zone including, but not limited to, maximum height and minimum setbacks; and the requirements of the Building and Fire Codes.~~

~~a. As an exception to the regulations specified elsewhere in the Planning Code, including but not limited to Section 17.102.190, and to the special regulations in Section 17.101C.070 regarding facilities on the ground level of principal facilities, new "work/live" units may be permitted as an accessory facility on the ground floor only of a principal facility containing~~

~~Micro-Living Quarters upon the granting of a conditional use permit for such Micro-Living Quarters facility. Such accessory ground floor "work/live" units must meet all applicable regulations contained in this subsection.~~

- ~~i. Work/Live space shall be considered Commercially Oriented Joint Living and Working Quarters under the Building Code. Any building permit plans for the construction or establishment of Work/Live units shall: (1) clearly state that the proposal includes Commercially Oriented Joint Living and Working Quarters, and (2) label the units intended to be these units as Commercially Oriented Joint Living and Working Quarters. This requirement is to assure the City applies building codes that allow commercial activities in Work/Live units.~~
- ~~ii. Work/Live units are nonresidential facilities and count towards the nonresidential floor area ratio (FAR), not the residential density.~~
- ~~iii. The Work/Live units on the ground floor level of a building shall have a business presence on the street. This includes, but is not necessarily limited to, providing storefront style windows that allow interior space to be visible from the street, a business door that is oriented towards the street, a sign or other means that identifies the business on the door and elsewhere, a prominent ground floor height, or other techniques.~~
- ~~iv. Each Work/Live unit shall have at least one public entrance that is directly adjacent to nonresidential floor area. A visitor entering this business entrance shall not be required to pass through any residential floor area in order to enter into the nonresidential area of the work/live unit.~~
- ~~v. The layout of each Work/Live unit shall have a maximum of one third (1/3) residential floor area (which is considered areas containing bedrooms, sleeping areas, kitchen areas, bathrooms, and hallways serving such areas), and two thirds (2/3) non-residential floor area (which is considered areas designated for working). Non-residential floor area and residential floor area shall be separated by an interior wall, or a partition that can be opened and closed.~~
- ~~vi. Each Work/Live unit shall contain at least one tenant that operates a business within that unit. That tenant shall possess a valid and active City of Oakland Business Tax Certificate to operate a business out of the unit.~~

~~B. General Provisions. Micro-Living Quarters may only be permitted upon the granting of a Conditional Use Permit (CUP) pursuant to the Conditional Use Permit procedure in Chapter 17.134; and may only be located in the Micro-Living Quarters Pilot Program Area, which is defined for the purposes of this chapter only as the portion of D-BR interim combining zone area bound by the Broadway, 26<sup>th</sup> Street, Valdez Street, and 23<sup>rd</sup> Street rights-of-way.~~

- ~~1. The number of off-street parking spaces, bicycle parking, and amount of open space required for Micro-Living Quarters shall be based on the requirements for a comparative rooming house residential facility type in the corresponding zone.~~
  - ~~a. Due to the location of the Micro-Living Quarters Pilot Program Area within a one-quarter (1/4) mile of a BART station, an AC Transit trunk line, the B-on Broadway shuttle, as well as park and publicly accessible open space areas, the parking and open space requirements for Micro-Living Quarters may be reduced, modified, or waived by the Director of City Planning or approving body, subject to the provisions in Subsection 2b below.~~
  - ~~b. Any determination on a waiver or reduction in the parking requirement; or reduction or modification to the open space requirement, including but not limited to allowing any amount of the open space to be located on the roof, shall be based upon finding as part of the conditional use permit procedure specified in Subsection C below that:~~
    - ~~i. Any waiver or reduction in off-street parking requirements would not substantially contribute to traffic congestion or impair the efficiency of on-street parking; and~~

- ~~ii.—One or more of the following substitutions for car parking or combination thereof may be used, as prescribed by the Director of City Planning or approving body:
    - ~~aa.—Bicycle parking above existing City requirements;~~
    - ~~bb.—Assistance with public transportation passes for residents;~~
    - ~~cc.—Providing access to car share on site or nearby;~~
    - ~~dd.—Other transit-oriented measures to support alternative modes of travel other than by car; and~~~~
  - ~~iii.—The provision for sunlight, fresh air, and usable open space on site or in close vicinity would be sufficient to ensure a desirable living arrangement.~~
- ~~2.—Micro Living Quarters shall only be allowed as part of an application for new construction of a multi-tenant building, or alteration of an existing Potentially Designated Historic Property (PDHP) or property listed in the City of Oakland's Local Register of Historical Resources as defined in Policy 3.8 of Oakland's General Plan Historic Preservation Element that is a nonresidential facility or multifamily dwelling residential facility.~~
- ~~3.—Shared recreational area, with seating or other similar amenities, shall be required in the interior of the Micro Living Quarter building equaling a minimum of five (5) square feet per individual Micro Living Quarter or two hundred fifty (250) square feet, whichever is greater. A shared kitchen may be open to shared recreation area if it is adjacent to and directly accessible from such shared kitchen facilities. Kitchen counters, cabinets, sinks and appliances, and the floor area that encompasses an assemblage of these items shall not be included in the calculation of minimum required shared recreational area. Shared laundry facilities or other similar utilitarian spaces shall also not be included in the calculation of minimum required shared recreational area. The minimum width in this shared recreational area shall be twelve (12) feet. The interior shared recreational area shall be accessible to all tenants of the Micro Living Quarter building.~~
- ~~4.—All common space including but not limited to shared kitchens, interior recreational area, and outdoor open space, shall be maintained by the building management company.~~
- ~~5.—Demolition of a property listed in the City of Oakland's Local Register of Historical Resources as defined in Policy 3.8 of Oakland's General Plan Historic Preservation Element is not allowed in order to build Micro Living Quarters.~~
- ~~C.—Use Permit Criteria. A conditional use permit for Micro Living Quarters may only be granted 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 to the following additional use permit criteria:~~
- ~~1.—That the proposal will not detract from the character desired for the area;~~
  - ~~2.—That the proposal will not impair a generally continuous wall of building facades;~~
  - ~~3.—That the proposal will not weaken the concentration and continuity of retail facilities at ground level, and will not impair the retention or creation of an important shopping frontage;~~
  - ~~4.—That the proposal will not interfere with the movement of people along an important pedestrian street; and~~
  - ~~5.—That the proposal will conform in all significant respects with any applicable district plan which has been adopted by the City Council.~~
- ~~(Ord. No. 13151, § 2(Exh. A), 2-5-2013)~~

**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, 23rd 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, Webster Street, Harrison Street, 23rd 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 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 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 percent (60%) of the front building facade between three and one-half (3½) 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 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 abutting sidewalk; and~~
    - ~~c. Product display windows used to satisfy that are a minimum height of four and one-half (4½) feet and internally lighted.~~~~
  - ~~2. A prominent and primary entrance feature facing Broadway; and~~
  - ~~3. An area designated for signage.~~

~~(Ord. No. 13151, § 2(Exh. A), 2-5-2013; Ord. No. 13059, § 2(Exh. A), 3-1-2011)~~

**17.101C.080 Special ground floor height regulation.**

~~The minimum height from the sidewalk 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.~~

~~(Ord. No. 13151, § 2(Exh. A), 2-5-2013; Ord. No. 13059, § 2(Exh. A), 3-1-2011)~~

~~**17.101C.090 Building location.**~~

~~The entire building facade 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 percent (50%) of a building frontage shall qualify for the exception for plazas, recessed entrances, or sidewalk seating areas.~~

~~(Ord. No. 13059, § 2(Exh. A), 3-1-2011)~~

~~**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.~~

~~(Ord. No. 13059, § 2(Exh. A), 3-1-2011)~~

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FOOTNOTE(S):

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~~—(39)—~~

~~**Editor's note**— Ord. No. 13059, § 2(Exh. A), adopted March 1, 2011, amended Chapter 17.101C in its entirety to read as herein set out. Formerly, Chapter 17.101C pertained to D-BR Broadway retail frontage interim combining district zone regulations and derived from Ord. No. 12999, § 4(Exh. A), adopted March 16, 2010, and Ord. No. 13028, § 2(Exh. A), adopted July 20, 2010. [\(Back\)](#)~~

## SUMMARY OF RESPONSES TO SPECIFIC PLAN COMMENTS

The following are a summary of major comments the City has received on the Draft Broadway Valdez Specific Plan and Draft Environmental Impact Report and the City responses. The comments/responses are organized by category, as shown below. The City has considered all comments received even though they might not be specifically listed here. Also, CEQA-related comments are separately addressed in the Final EIR/Response to Comment document.

1. Introduction and Planning Context
2. Housing
3. Historic Preservation
4. Retail Priority Sites
5. Large Opportunity Sites and North End
6. Auto Dealerships
7. Transportation
8. Parking
10. Open Space
11. Jobs/Workforce Housing Development
12. Infrastructure and Utilities
13. Design Guidelines

### **1. Introduction and Planning Context**

Comment 1.1: Update the market study to reflect the significant changes in the economy since the release of the “Upper Broadway Strategy” in 2007 (also known as “the Conley Report”).

Response: A “Market Demand Analysis” was done for the Specific Plan in June 2009/January 2010, that addresses future market potentials for new development for the Plan Area and focuses on the demand for comparison goods retailing with consideration also given to other, related retail/commercial uses, and to residential, office, and hotel uses that could help support the retail development and provide a mix of new uses and activities in the Plan Area. Aspects of the retail analysis were updated in 2010-2013, focusing on retail expenditures, retail sales, and sales leakage, and on auto-related retail sales in the Plan Area. This follow up analysis shows that the conditions found in earlier studies continue to occur, with nearly two-thirds of comparison goods expenditures by Oakland residents being made outside of Oakland because of a lack of shopping opportunities in the city. The Specific Plan was revised to reflect to the update-- See Sections 1.3 Planning Context and Section 2.3 Market Condition.

### **2. Housing**

Comment 2.1: Policies should ensure goal of 15% affordable housing.

Response: Section 4.2.5 Housing includes a statement to “Encourage 15 percent of all new housing units in the Plan Area to be affordable including both units in mixed income developments and units in 100 percent affordable housing developments.” Section 8.4.1 Affordable Housing Objective states “To continue Oakland’s track record of providing affordable housing for its residents, the affordable housing objective of the Specific Plan is to target 15 percent of new units built in the Plan Area for low and moderate income households.”

*Given the dissolution of the Oakland Redevelopment Agency, previously the primary generator of financing for affordable housing, the financing method for new affordable units is uncertain. To address this funding uncertainty, the City is exploring the feasibility of new funding mechanisms to produce affordable housing in the Plan Area and Citywide. The Specific Plan includes recommendations to explore developing new funding sources and other methods to provide affordable housing, such as studying the feasibility of developing a housing impact fee (as well as potential impact fees for transportation and infrastructure), and developing a bonus and incentive system to encourage developers to provide community amenities (discussed in response to Comment 2.2 below).*

*The Specific Plan and related Planning Code amendments have been revised to strengthen policies relating to affordable housing as detailed in the response to Comment 2.2 below. However, the Plan does not include an inclusionary housing policy for affordable housing in just the Broadway Valdez District Specific Plan Area because this would create a burden in the Plan Area relative to the rest of the City, and would effectively act as a disincentive to build within the Plan Area. Also in the Planning Code changes, within the Retail Priority Sites an additional residential bonus of 35% is granted if 15% affordable housing is provided as part of the project, either within that Retail Priority Site or on another Retail Priority Site.*

**Comment 2.2:** Include a detailed “menu of creative options” to create affordable housing that could include strategies like an affordable housing overlay zone.

*Response: The Specific Plan and related Planning Code amendments have been revised to strengthen policies relating to affordable housing. The following incentives for affordable housing are included in the Draft Specific Plan in Chapter 4 Policy LU-10.9 below. Language that was added is shown in underline text. Further discussion of these implementation strategies is discussed in Chapter 8, Section 8.4 Affordable Housing Implementation Strategy and additional sites were added to Figure 8.5 Potentially Competitive Sites for Low Income Housing Tax Credits to further correspond with the City’s Housing Element update.*

*Policy LU-10.9 Develop a variety of bonuses and incentives to attract new businesses and desirable development to the Plan Area, while incorporating clear measurable criteria that ensure community benefits and amenities are delivered to the City.*

*The Plan recommends the creation of a development bonus and incentive program, which would allow a developer to receive additional development rights (via height, FAR, density bonus, residential bonus, or relaxation of other requirements) in exchange for the provision of certain identified benefits or amenities.*

*Providing a “bonus and incentive” program is one of several tools for achieving community-identified benefits or amenities. Providing a development bonus and/or incentive is intended to make the provision of community benefits economically feasible, and incentivize private development to include such benefits. In order for such a program to be implemented immediately, it would have to be voluntary. In order for a program to require the provision of amenities, a nexus study would need to be conducted, which is described in greater detail in Chapter 8, Implementation.*

*The City is currently developing citywide policy on how to fund affordable housing. Among other actions, the City will explore conducting a nexus study, if required, and an economic feasibility study to evaluate new programs to achieve this objective, including, but not limited to, incentive zoning and impact fees for new housing development.*

*It is important that the City develop a carefully crafted bonus and incentive program that results in clear benefits for the community. The program must offer bonuses and incentives that make sense in*

the marketplace so that developers actually make use of them and the desired benefits or amenities are attained. For this reason, the economic feasibility of development must be a determining factor in arriving at the trade-off between development bonuses and incentives, and the amount of community benefits to be provided by a project.

Development incentives are already used in Oakland. For instance, the Central Business District (CBD) zoning incentivizes public plazas by relaxing private open space standards, and incentivizes the provision of additional bicycle parking beyond the minimum required by relaxing auto parking.

The zoning regulations for the Broadway Valdez District, in the separate but related document to the Specific Plan, provide for a number of different types of bonuses and incentives for the Broadway Valdez District. These include:

- Affordable Housing: The City of Oakland Planning Code already includes a California Government Code-mandated bonus and incentive program for the production of housing affordable to a range of incomes, as well as a bonus and incentive program for the creation of senior housing and for the provision of day care facilities. Changes in the Broadway Valdez District zoning will add to these incentives by no longer requiring a Conditional Use Permit (CUP) to have reduced parking for senior housing and allow for reduced parking for affordable housing. A new reduction of open space requirements by right for both senior and affordable housing is included in the zoning as well. The City is exploring zoning incentives for the Retail Priority Sites that would grant an additional residential bonus to projects providing a certain percentage of affordable housing as part of their overall project or on another Retail Priority Site.

In addition, as part of implementation of all of the Specific Plan efforts, the City will explore developing a bonus and incentive program as a way to attain desired community benefits:

- **Affordable Housing and Community Benefits:** The City is exploring the feasibility of developing a Housing Overlay Zone (HOZ) that would target those areas throughout the city that are most prime for development and could most likely provide affordable housing and other community benefits, such as open space. The analysis process will identify an appropriate method for allowing additional heights or density in exchange for the provision of affordable housing and other community benefits. Criteria to consider as part of this analysis are:
  - Study and selection of appropriate policy mechanism(s) to provide the public benefits. The City will conduct a nexus study, if necessary, for the target public benefits mechanism.
  - Quantification of the costs of providing the desired benefits as well as the value of corresponding bonuses and incentives.
  - Creating a potential system of “tiers” of bonuses and incentives given and benefits provided, that could effectively phase requirements, prioritize benefits, and create effective evaluation criteria to improve the program delivery over time.
  - Increasing benefit to developer as more benefits and amenities are added.
  - Numerically linking the financial value of the bonus or incentive given (defined by value of gross floor area added) to the cost of benefit or amenity provided.
  - Establishing a potential “points” system to link incentives and benefits. For example, the City may devise a menu of community benefits and amenities and assign points to each

*item. The points earned then determine the amount of bonus and/or incentive a development may claim.*

- *Identifying the economic feasibility of development to inform the amount of community benefits and amenities to be provided by a particular project in exchange for additional height or density.*
- *Clear direction on the relationship between city-wide mechanisms and the implementation in specific plans, such as the BVDSP.*

**Comment 2.3:** The Final Plan should revise Policy LU-10.10 to require community stakeholder involvement in the development of the bonus and incentive program.

**Response:** *The next steps for the City will be working on this bonus and incentive initiative as part of the Housing Element update, which includes a public process for input, and then further study for programs to be implemented which will also involve even more public input. Adoption of formal enabling legislation will also involve a public process.*

**Comment 2.4:** Provide a more robust exploration of the housing displacement impacts of the plan and relevant mitigations for those impacts.

**Response:**

*Regarding the issue of potential displacement, as noted in the BVDSP EIR, there are approximately 94 residential units (some currently vacant) in areas identified as Retail Priority Sites in the Specific Plan. While not a CEQA issue, concern over the socio-economic effects of potential displacement of these existing residential units, and affordable housing in general, is a policy issue that is addressed in the Specific Plan and proposed Planning Code amendments, as well as in the process underway to update the City's Housing Element.<sup>1</sup>*

*In addressing displacement relative to the Broadway Valdez District, a balancing of Plan objectives must be considered. For example, there are many areas in the City, including areas just outside the Plan Area boundaries (which were rezoned as part of the Citywide Zoning Update to allow for higher density housing) that are suitable for residential development. In contrast, there is less flexibility in terms of sites that are suitable for the type and critical mass of destination retail development that would contribute to significantly addressing retail sales leakage. Necessary attributes for comparison goods retail development include: large sites that are located in proximity to "proven" activity generators (e.g. Whole Foods) and/or have good visibility; and spaces with high floor-to-ceiling heights that have few supporting columns breaking up the space (which are needed for residential development and thus it is difficult to have residential directly above this type of retail space). The BVDSP identified several potential Retail Priority Sites for several reasons: the City has limited land control in the Valdez Triangle, the BVDSP identified that a critical mass of at least 700,000 square feet of retail development was needed to sustain a retail district, and the City cannot predict what development will actually occur. The BVDSP does not mandate development of any properties in the Plan Area; development could occur with or without the specific plan. However, the BVDSP has been revised to include stronger policies and incentives to preserve or adaptively reuse existing buildings located in Retail Priority Sites, and to provide affordable housing (described in more detail in the responses to Comments 2.1 and 2.2 above). Furthermore, proposed zoning changes for the Broadway Valdez District (BVD) include adding to existing incentives in the Planning Code for the*

<sup>1</sup> CEQA only requires analysis and mitigation of potentially substantial adverse changes in the physical environment (Public Resources Code §§ 21151, 21060.5, 21068). Adoption and development under the BVDSP is considered less-than-significant with respect to potential displacement of housing units and residents and the construction of associated replacement housing. See BVDSP FEIR, Chapter 5, Master Response 5.2 for more detail.

production of housing for a range of incomes, for seniors, as well as for the provision of day care facilities. Specifically, the proposed BVD zoning:

- No longer requires a Conditional Use Permit (CUP) to have reduced parking for senior housing;
- Reduces parking requirements for the provision of affordable housing;
- Reduces open space requirements for both senior and affordable housing;
- New zoning incentives for the Retail Priority Sites will grant an additional residential bonus to projects providing a certain percentage of affordable housing as part of their overall project or on another Retail Priority Site.

Thus, any new development that does occur could potentially provide new affordable housing, in addition to market rate housing, sales tax-generating retail development and jobs.

The Specific Plan lists several existing City programs that provide various forms of assistance including: Jobs/Housing Impact Fee and Affordable Housing Trust, Condominium Conversion Ordinance and Residential Rental Adjustment Program. In addition, some other programs that the City is involved in are: City of Oakland Housing Programs that utilize funding support from federal HOME funds and Community Development Block Grant funds, First Time Homebuyer Assistance, tenant protection ordinances that include Rent Adjustment and Just Cause for Eviction, and City staff implements the City's annual Notice of Funding Availability (NOFA) process to make competitive funding awards for affordable housing projects and monitors the City's portfolio.

The Specific Plan is not intended to, nor can it, provide all of the answers to the difficulties associated with providing an adequate supply of affordable housing, ensuring economic equity and improving community-wide health. These goals can only be achieved through diligent, cooperative implementation efforts between existing residents, City staff and elected officials, and developers of the projects envisioned under this Plan.

Comment 2.5: Explore “value recapture” as a method to encourage development of affordable housing through developer incentives – in particular through changes to the proposed height limits that better reflect the market and the need for height and density incentives.

Response: *In the North End of the Plan Area, the height areas on the west side of Broadway north of 30<sup>th</sup> Street have been modified to have a lower permitted height and allow for the formerly proposed maximum height only with a Conditional Use Permit (CUP). There will be findings that have to be made to allow for the higher height. In the future, when a Citywide affordable housing and community benefits program is developed (see response to Comment 2.2 above), an additional CUP finding will be required to provide for a community benefit/affordable housing depending on what is decided for the program. This could be through a Housing Overlay Zone and/or other type of “value recapture.”*

Comment 2.6: Add specific policies to incentivize development on the sites identified as competitive for Low-Income Housing Tax Credits; and provide a fuller explanation of how those sites correspond (or do not correspond) to the city's Housing Element opportunity sites.

Response: *Sites were added to Figure 8.5 Potentially Competitive Sites for Low Income Housing Tax Credits to further correspond with the city's Housing Element update.*

### **3. Historic Preservation**

Comment 3.1: Would like to preserve Biff's building, retain historic resources in the Valdez Triangle, and retain the homes on Waverly Street, Harrison Street, and the Newsom Apartments.

Response: *The Specific Plan and zoning regulations have been revised to now allow for existing buildings to count towards the minimum required square footage of retail before residential is allowed; also, a CEQA Historic Resource's square footage can now be counted as double towards obtaining residential (see Policy LU-10.9). Further changes to the zoning regulations allow for if a CEQA Historic Resource is maintained and not used for retail, the square feet of its footprint can be deducted from the overall square footage of the Retail Priority Site in determining the square footage of retail required. The Specific Plan does not mandate the demolition, destruction, relocation, or alteration of any properties, historic or otherwise in the Plan Area. Because these properties are owned by private owners and not owned by the City, the City cannot absolutely require the buildings to be preserved or prevent them from being demolished. However, there are special, stringent regulations already contained in the City's Planning Code (Section 17.136.075) which regulate the demolition and/or removal of designated historic properties and potentially designated historic properties.*

Comment 3.2: Create incentives for historic preservation and prioritize reuse of commercial auto-related and residential buildings.

Response: *There are a variety of incentives that have been added to Policy LU-10.9 of the Specific Plan and included in the zoning regulations, these include among others: existing buildings to count towards the minimal required square footage of retail before residential is allowed; a CEQA Historic Resource's square footage can be counted as double towards obtaining residential or if it is maintained and not used for retail, the square feet of its footprint can be deducted from the overall square footage of the Retail Priority Site in determining the square footage of retail required; and no parking or open space requirements when converting from commercial to residential use or vice versa when it is a Potential Designated Historic Property (PDHP) or CEQA Historic Resource. Also, if a PDHP or a CEQA Historic Resource is incorporated as part of a larger project the area that is incorporated will be exempt from parking and open space requirements.*

Comment 3.3: Policies LU-11.2 and CD-3.15 contradict the historic preservation goals. Support current efforts to establish a state historic tax credit.

Response: *The original Policy LU-11.2 of the Specific Plan has been eliminated and replaced with the new Policy LU-11.2 Support current efforts to establish a state historic tax credit program and related Policy IMP 5-1. Policy CD-3.15 is now CD-3.16 and was modified as shown below.*

*The below policy was deleted:*

***Policy LU-11.2***

*On Retail Priority Sites, new development that furthers Specific Plan goals to provide destination retail uses will take precedence over adaptive reuse.—*

*While the Plan encourages the preservation and adaptive reuse of buildings of historic and architectural merit, some buildings in the Plan Area are likely to be substantially modified or replaced in order to meet Plan objectives to create destination retail in the Valdez Triangle. In such cases, the City will require developers to explore the feasibility of relocating the resource to an acceptable site consistent with Policy 3.7 in the City's Historic Preservation Element.—*

*Former policy CD-3.15, now Policy CD-3.16, was revised as shown below:*

***Policy CD-3.16***

*New development will be encouraged to protect and re-use many of the area's distinctive historic buildings. as long as such preservation does not impede achievement of the City's primary objective to establish destination retail in the Triangle.—*

*The Triangle has a quite diverse collection of older buildings, some that are designated historic resources, some that contribute to a designated Area of Secondary Importance (ASI), and some that have distinctive character but do not qualify as historic or contributing resources. These buildings include churches, small multi-family buildings, Victorian and bungalow style residential buildings, and automotive garages and showrooms. In addition to designated resources (Figure 2.4), the Triangle also includes two Adaptive Reuse Priority Areas, one along 24<sup>th</sup> Street and the other along Harrison Street.*

~~*While all of these buildings have the potential to make positive contributions to the Triangle's design character, the biggest design challenge will be how to integrate desired retail development and uses with these older buildings. Some, such as the former Biff's coffee shop at 27<sup>th</sup> and Valdez and the Newsum Apartments at 24<sup>th</sup> and Valdez, may be difficult to adapt to retail uses or the desired district character due to limitations presented by their built form. Others, including Biff's and the residential units along Waverly, are located in designated Retail Priority Sites where retail development will be given priority over adaptive reuse if the two objectives are in conflict.*~~

*The urban design strategy in the Triangle will be a balancing act that promotes the protection and re-use of many of the area's historic building resources, but also does not sacrifice the Specific Plan's primary objective to establish major new destination retail in the Triangle. ~~The Plan recognizes that trade-offs will need to be made to realize the vision for the Triangle, and that those trade-offs are likely to include some impacts to historic resources and loss of some of the historic building fabric.~~ The precedent photos on the facing page illustrate a number of different examples of how to adapt and reuse older buildings for new uses. Figures 5.16-5.19 illustrate two fundamental approaches to adaptive reuse, using the existing garage at 24<sup>th</sup> and Webster streets as an example. The first approach works primarily with the existing structure with a focus on restoring historic character and details and making modest changes to accommodate proposed uses (e.g., replacing garage doors with pedestrian entries, removing signage to expose original windows, etc.). The second approach incorporates the first, but also explores how to add onto the existing building by developing vertically to expand the range of uses and site capacity.*

Comment 3.4: The exemption from the Dark Skies in the Entertainment Overlay should be eliminated.

Response: *Discussion of a potential Entertainment Overlay has been eliminated from the Plan and therefore the exemption from the Dark Skies requirement is also eliminated from the Specific Plan.*

Comment 3.5: Harrison Street is not a strong retail street, and has never been one; retail should be concentrated along Broadway, not Harrison Street.

Response: *There already is a significant amount of retail at the intersection of Harrison, 24<sup>th</sup> Street, 27<sup>th</sup> Street, and Bay Place. The Specific Plan is proposing to build upon the success of retail of the Whole Foods at Harrison Street and Bay Place, as well as the Acura Dealership on the opposite side of the street. And, currently there is a 7-11 across the street from Whole Foods on Harrison Street with several more commercial buildings as well as Wheel Works across the street on the other side of Harrison where the Retail Priority Site is proposed. Also see Response 4.2 under Retail Priority Sites below.*

Comment 3.6: Remove Richmond Avenue from the Specific Plan Area.

Response: *The existing zoning of Mixed Housing Type Residential-3 (RM-3) is not changing, so there will be no changes for Richmond Avenue.*

#### 4. Retail Priority Sites

Comment 4.1: Add more fine-grained mapping of Retail Priority Sites.

Response: *The Retail Priority Sites were broken up into smaller sub areas: for Retail Priority Site 3 from the previous (a) and (b) to now (a), (b), and (c); Retail Priority Site 4 now has an (a) and (b); and Retail Priority Site 5 from the previous (a) and (b) to now (a), (b), and (c). After publication of the Specific Plan on May 1, 2014, Retail Priority Site 5 was also further subdivided from the previous (a) and (b) to now (a), (b), and (c), see the main part of the Staff Report, the Overview section, item #5 for a more detailed discussion of the Retail Priority Sites.*

Comment 4.2: Concentrate retail and/or Retail Priority Sites along Broadway.

Response: *One of the primary objectives of the Plan is to support the viability of retail along Broadway by enlivening a series of activity nodes, such as the Valdez Triangle, directly adjacent to the corridor. Retail along Broadway will also benefit from the envisioned secondary retail corridors connecting to it, such as 24<sup>th</sup> Street.*

*In addition, the Plan includes a combination of Retail Priority Sites along Broadway with active retail/commercial use requirements on the ground floor of buildings fronting on the corridor. Sites along Broadway that already had limitations on them, such as the YMCA and the First Presbyterian Church or that are too small, are not included as Retail Priority Sites, but still have an active retail/commercial use requirement on the ground floor.*

Comment 4.3: Eliminate the Waverly Block from the Retail Priority Sites.

Response: *Retail Priority Site 5b (the Waverly Block) is a key Retail Priority Site because of its direct proximity to the existing Whole Foods market at the intersection of Harrison, 24<sup>th</sup> Street, 27<sup>th</sup> Street, and Bay Place. There is demonstrated precedent in the real estate market that retailers want to be located in close proximity to a Whole Foods market to benefit from their customers. The Harrison /27<sup>th</sup> Street intersection is also along a main corridor for access to and from downtown, which brings large visibility to the site that retailers demand. The Plan envisions increased pedestrian activity along 24<sup>th</sup> Street between Whole Foods and the new Hive project (Retail Priority Site 1) at Broadway and 24<sup>th</sup> Street. The Waverly block adjacent to the Harrison /27<sup>th</sup> Street intersection is therefore envisioned as an important retail site that will help anchor the Valdez Triangle.*

Comment 4.4: Add the east side of Webster as a Retail Priority Site.

Response: *This block does not have good visibility to a major thoroughfare, such as Broadway or 27<sup>th</sup> Street, and it is already entitled for a large residential project. The block also has a deed restriction that requires approximately 240 parking spaces be maintained on the site for use by the Ordway Building. Retail or more active type uses such as restaurants will still be required on the ground floor with the zoning regulations.*

Comment 4.5: Keep the Waverly Block as a Retail Priority Site, but only have it develop after all of the other sites have been developed.

Response: *The City of Oakland has limited legal authority to determine when private property can be developed. Such a restriction is legally problematic as it may be considered a taking of property without just compensation.*

Comment 4.6: The Retail Priority Sites standards of square footage are not being evenly applied.

Response: *Table 17.101C.05 Retail Priority Sites Minimum Square Footage of Retail Area for Residential Facilities Bonus has been revised to require an equal percentage of retail for all of the Retail Priority Sites in order to receive residential units as a bonus. The “residential as bonus” provision has been proposed for the Plan’s Retail Priority Sites because residential typically out-prices retail, and most of the City of Oakland already allows for either residential only or residential and retail together by right. Because of this liberal allowance of residential in almost every commercial zone within the City of Oakland, it has put Oakland at a disadvantage for obtaining retail. Other options explored were creating a commercial zone that would not allow residential at all, so the retail would not be out-priced by residential. It was decided that residential would be desired to help complement the retail and excluding residential all together within this zone would not be advantageous for the retail development that would take place. Therefore a unique zone was created to still allow residential within the Retail Priority Sites zone, but only when a minimum retail square footage is provided as an overall project, then a residential bonus is permitted. This will eliminate the problem of residential out-pricing the retail.*

Comment 4.7: Concerned that the retail requirement before residential in the Retail Priority Sites will delay housing sites that are near transit, think there should be a 3 year sunset clause on the regulations.

Response: *There are only five Retail Priority Sites in the Plan Area that include this type of requirement. The rest of the sites in the Plan Area will continue to allow residential without this restriction. The “residential as bonus” provision has been proposed for the Plan’s Retail Priority Sites because residential typically out-prices retail, and most of the City of Oakland already allows for either residential only or residential and retail together by right. Also, the Retail Priority Sites are still allowing for residential - the residential will actually be the incentive for the retail to be built. If there is a sunset clause, property owners are likely to just wait for the 3-year time frame to end, which would only further delay development in the area. In order to help ensure that a project can be built, the Zoning code will potentially allow for an exception of providing less than the minimum retail square footage required through a CUP process. Various findings will need to be met including, but not limited to, an architectural study, prepared by a qualified architectural firm, that demonstrates at least one or more alternatives would be physically infeasible due to operational and/or site constraints if it were to meet the minimum retail square footage specified.*

Comment 4.8: Add how retail in the Broadway Valdez District will relate to retail in the Uptown and downtown.

Response: *The following policy has been added to the Specific Plan: Policy LU-3.2 Ensure close coordination of City revitalization efforts in the Uptown Entertainment District, the area between the existing Downtown core and the Broadway Valdez Plan Area. The Specific Plan had already included former Policy IMP-1.3, now Policy IMP-1.7 Ensure close coordination of City revitalization efforts in the Uptown Entertainment District (approximately bound by 19th Street, Grand Avenue, Telegraph Avenue and Broadway) with similar efforts in the Broadway Valdez District Specific Plan Area.*

## **5. Large Opportunity Sites and North End**

Comment 5.1: Should allow more flexibility of activities allowed on the ground floor.

Response: *In the zoning regulations and Policy LU-10.6 for the Large Opportunity Sites, the North Large Development Site Combining Zone, the active use requirements and exclusion of residential has been modified to only include the front 60 feet of frontage along Broadway. Because these parcels are very deep and in some cases have frontages on more than one street, residential and other uses are allowed on the ground floor beyond the 60’ of frontage along Broadway.*

Comment 5.2: Recommend ensuring neighborhood-serving retail in the North End, such as a grocery store and pharmacy.

Response: *In Chapter 4 at the end of Policy LU 2.1, the sentence has been added “The Broadway Valdez District will include not only destination retail, but neighborhood-serving options such as grocery stores and pharmacies, to serve residential development.” And in Policy 9.3 that addresses the North End the sentence was added “Retail development in the North End will allow for neighborhood-serving uses, potentially including grocery stores and pharmacies, which will allow residents to obtain options for healthy food and daily needs.”*

## **6. Auto Dealerships**

Comment 6.1: Plan is vague on policies for auto dealerships, include more of a conceptual explanation as to how they will be relocated.

Response: *The following policies are in the plan that addresses auto dealerships: Policy IMP-1.15 Allow existing auto dealerships to remain in the Plan Area to the north of 27th Street and retain branding as Broadway Auto Row. Policy IMP-1.16 Develop a strategy for relocating active dealerships from the Valdez Triangle as needed to facilitate comparison goods shopping in the retail district. Policy IMP-1.17 Develop a citywide strategy for auto-related retailing in Oakland. In Table 8.6 the action of these items are to be addressed in the short timeframe.*

## **7. Transportation**

Comment 7.1: Does the current design of the Harrison/24<sup>th</sup> Street, 27<sup>th</sup> Street, Bay Place intersection result in a taking of the parcel at the southwest corner and are other options considered.

Response: *If any portion of private property is needed for improvements to the Harrison/24<sup>th</sup> Street, 27<sup>th</sup> Street, Bay Place intersection, it would be because of required mitigations in the EIR to allow 24<sup>th</sup> Street to return to two-way travel. A second option is provided where instead of 24<sup>th</sup> Street becoming a two-way street, it remains a one way street and the extra right-of-way area is not required; see Section 6.5.8 Intersection Changes and Final EIR at page 4.13-68.*

Comment 7.2: To preserve neighborhoods that surround the development area, route traffic along 27th to the 980 freeway, not to and from 580 on the Harrison/Oakland corridor, and steer traffic away from the lake as much as possible.

Response: *The following two policies in the Plan address this comment: Policy C-4.4 Minimize cut-through traffic on residential streets by implementing traffic calming and Policy CD-2.3 Work with Caltrans to establish a signage program that identifies 27th Street, Broadway and Webster Street as the primary vehicular entrance points to the Valdez Triangle retail district and the north end of Downtown from nearby freeways (i.e., 580, 24, and 980). See also page 6-170 of the BVDSP FEIR.*

## **8. Parking**

Comment 8.1: Create an “in-lieu” parking program where developers can pay a reduced fee rather than the full cost of a parking space, which incentivizes development, reduces parking ratios and use of land for cars, and creates an additional funding source for the City to use for increased parking supply.

Response: *The proposed Planning Code amendments allow for the option of paying an in-lieu fee instead of building parking in Section 17.116.110 of the parking section of the code. And in Chapter*

*6 of the Specific Plan there was added: Policy C-6.9 Establish a parking in-lieu fee program so that developers have the option of either constructing off-street parking consistent with City of Oakland Zoning Code or paying the parking in-lieu fee.*

Comment 8.2: Requiring unbundled parking and offering free transit passes, among other strategies, serve the many goals of the plan, including the City's transit first policy, and are being implemented as requirements throughout the region.

Response: *The proposed Planning Code amendments require the unbundling of parking in Section 17.116.110. And in Chapter 6 of the Specific Plan there was added: Policy C-6.8 Require residential developments to unbundle the cost of parking from the cost of housing.*

*Offering transit passes is mentioned in three different Policies in Chapter 6, which include: Policy C-7.3 for residences, Policy C-7.4 for transit validation for shoppers, and Policy C-7.5 for employers to provide transit passes for employees.*

Comment 8.3: Allow for more flexibility in the minimum parking ratios for residential units.

Response: *The proposed Planning Code amendments in Sections 17.116.060 and 17.116.082 reduce the minimum parking requirements for residential and commercial. And in Chapter 6 of the Specific Plan there was added: Policy C-6.10 Reduce the amount of parking required by the Planning Code.*

Comment 8.4: Concern about funding and triggers for parking garage construction.

Response: *Tables 8.5 and 8.6 originally included an estimated cost for parking garage(s) that was misleading; it was not the intent of the table to indicate the garage cost was to be borne by the City. The Plan does include a policy that says that the City should consider providing funding assistance for comparison goods retail parking. And if a parking structure is built, it is to only be in conjunction with a retail project (see policy below).*

*Policy IMP-1.12 Provide public funding assistance for comparison goods retail parking.*

*Paying for structured parking can be significant hurdle for destination retail development and in the past has been typically funded by the public sector. The 2007 Upper Broadway Strategy identified the need for the City to fund parking development for new comparison goods shopping, as did the feasibility analysis prepared for this Specific Plan. Particularly in the early phases, parking availability is critical for attracting retailers and shoppers. Retail parking needs to be conveniently located within or close to the retail development, and dedicated to supporting retail shopping. The area's central, urban location and the availability of public transit reduce the amount of parking otherwise needed, but do not replace the need for parking to support destination retail shopping.*

*The recommended approach is to provide funding assistance for the development of parking as part of, or near to, larger-scale, retail development(s) with multiple comparison goods tenants. A public garage could be developed and operated as a freestanding garage or as part of a large retail project.*

*Larger-scale retail development with multiple comparison goods tenants is the type that will require the most public funding for building structured parking, and is the type most needed to achieve the necessary critical mass of comparison goods shopping in the Valdez Triangle. Public funding for parking may be less critical for development of a freestanding retail tenant or a smaller project, so that the use of public funding for building parking should take into account market and development feasibility considerations specific to the project and types of retail tenants. Given the differences in*

*development feasibility and the City's objective of establishing comparison goods shopping, public funding for parking in conjunction with, and at the same as, retail development will need to be prioritized to support a mix of comparison goods retail tenants.*

Comment 8.5: Concern about timing and implementation of transportation and parking demand strategies.

Response: *This is included in the short- to mid- timeframe in Table 8.6 Broadway Valdez District Action Plan.*

Comment 8.6: Make use of existing parking first before building additional parking.

Response: *This is discussed in the Specific Plan in Policy C-6.3 Encourage the use of existing parking facilities in the Broadway Valdez District and vicinity. And the proposed Planning Code amendments for Automotive Fee Parking allow it as an accessory use to an allowed principal use to encourage use of existing parking facilities. And the proposed Planning Code amendments allow for the option of paying an in-lieu fee instead of building parking in Section 17.116.110.*

## **9. Bicycle, Pedestrian, and Transit**

Comment 9.1: Because there will be more people coming to shop in the area more bicycle parking should be provided to encourage more bicycling to the area instead of driving.

Response: *The proposed Planning Code amendments in Chapter 17.117 increase the minimum bicycle parking requirements for residential, retail, restaurants, office, and other commercial uses. And in Chapter 6 of the Specific Plan there was added: Policy C-3.4 Increase bicycle parking supply in the public realm.*

Comment 9.2: The Broadway Valdez District should be part of a bike sharing program.

Response: *The Specific Plan already listed Policy C-7.2 (formerly C-6.3) Provide bicycle support facilities such as attendant bicycle parking/bike station, and/or bike sharing/rental program. Additional language was added in Policy C-3.4 for increasing bicycle parking, to encourage participation in Oakland's proposed Bike Share program as an additional alternative for transportation to and from the Broadway Valdez District.*

Comment 9.3: Pedestrian connections to BART and Uptown should be prioritized.

Response: *Policy C-5.3 Revitalization efforts in the Plan Area shall be coordinated with additional efforts to enhance Broadway between the Plan Area and the 19th Street BART station to provide a seamless and welcoming pedestrian connection to and from the BART Station. This policy is listed in the short timeframe in Table 8.6 Broadway Valdez District Action Plan as part of the Destination Retail Strategy.*

Comment 9.4: Medians should be removed to protect pedestrians, with the resulting extra lane space dedicated to walking and biking, including Class I (protected) bike lanes.

Response: *Removal of the medians along Broadway would cause the elimination of existing left turn lanes, causing safety concerns and increased congestion through the blocking traffic in the left lane. In turn, this could also result in delays for AC Transit buses along Broadway. The left turn pockets are also important to cyclists (particularly at 29th St). It's not practical to keep the left turn pockets at the intersections and remove the medians mid-block. The intersections are too close together for transitioning back and forth between these two cross-sections. The potential removal of the medians along Broadway was evaluated and staff determined that it wouldn't provide an improvement over the existing configuration.*

Comment 9.5: Retain focus on sustainable, compact, and historically appropriate development and aggressively pursue planning and funding for public spaces in the Plan Area. Ensure that streetscape improvements create complete streets throughout the district and focus transportation investments on enhancing existing services and modes.

*Response: Numerous policies deal with streetscape improvements and transportation investments in transit, bicycle, and pedestrian modes. In Table 8.6 under C. Destination Retail Strategy, item #10 there is an action to make funding applications to regional agencies to fund public realm improvements in the Valdez Triangle and North End starting in the short time frame and continuing into the mid and long time frame.*

Comment 9.6: Include all elements of the Bicycle Master Plan.

*Response: Included in the Specific Plan is Policy C-3.1 Complete the bicycle network in the Plan Area and surrounding areas as envisioned in City of Oakland's 2007 Bicycle Master Plan. And in Table 8.6 Broadway Valdez District Action Plan, under Streets, Streetscape, and Plazas, item #12 has this action to happen in the short (2014 – 2020) timeframe.*

Comment 9.7: Should prioritize funding of low-cost public realm improvements that encourage non-auto transportation.

*Response: In Table 8.6 Broadway Valdez District Action Plan, numerous public improvements that encourage non-auto transportation fall within the short (2014 – 2020) to mid (2021 -2025) timeframe to occur, including, but not limited to, under F. Streets, Streetscape and Plazas item #12 Bicycle Improvements that has the following action from Policy C-3.2 to happen in the short to mid timeframe: Enhance bicycle facilities (e.g., bicycle signal actuation, bicycle boxes, two-stage turn queue boxes, etc.) at key intersections with high bicycle and automobile traffic. Some other items listed under F. for the short time frame include plaza improvements at 24<sup>th</sup> Street and Harrison; Streetscape improvements to 24<sup>th</sup> Street that include street lights, tree plantings, and street furniture, traffic calming elements and sidewalk reconstruction.*

Comment 9.8: Add note in Policy CD-2.23 that 20th St BART is a natural gateway into the plan area.

*Response: In Policy CD-2.23 the following was added "An additional gateway is the 20th Street entrance/exit to the 19th Street BART Station, which is an existing, established gateway into the Plan Area just south of the Valdez Triangle."*

Comment 9.9: There should be a policy that any streetscape improvements should not preclude a streetcar.

*Response: Policy C-5.6 Ensure that all improvements, including streetscape, to Broadway will not preclude the possibility of future enhanced transit service along the corridor.*

Comment 9.10: The plan should identify that the streetcar may need a dedicated right-of-way.

*Response: The plan did not include this because there is a separate study that is being conducted on the details of a streetcar or other potential that would analyze the different possibilities. Also, this would require a separate traffic study.*

Comment 9.11: Add policy about promoting to shoppers outside of the Plan Area taking transit to the destination retail of the plan.

Response: *The following policy was added to the Specific Plan: Policy C-5.4 Work with BART on their proposal to update and “rebrand” the 19th Street BART station, including providing signage to provide information about the Broadway Valdez retail district area and other nearby destinations while passengers are on the train and at the station.*

Comment 9.12: Policy 6.2 the wayfinding signage program should also emphasize transit.

Response: *Transit was added to the former Policy 6.2, now Policy C-7.1 Implement a comprehensive wayfinding signage program in the Plan Area with an emphasis on pedestrian, bicycle, transit, and parking facilities.*

Comment 9.13: Recommends removing streetcar alignment and stops in all graphics because premature.

Response: *Added a footnote to the graphics “For illustrative purposes only. Options for enhanced transit on Broadway are currently being studied by the City.”*

## **10. Open Space**

Comment 10.1: More open space should be created, a central gathering space should be provided.

Response: *The Specific Plan proposes to improve the existing plazas that the City already owns in the Plan Area to allow them to better serve as open space. These plazas are currently being used to display cars by the auto dealerships, rather than serving as plazas for people to use. The Specific Plan also proposes utilizing reclaimed public right-of-way in several locations to create new public plazas. In addition, it is assumed that larger retail projects will provide open space for shoppers to have space to gather and relax while they are shopping.*

*The following incentives in Policy LU-10.9 pertain to Public Open Space: in the Retail Priority Sites, publicly accessible plazas and open space can be counted toward the minimum square footage of retail that is required in order to build residential; a similar open space requirement is allowed as in the Central Business District, where plaza space can count towards a residential development’s open space requirement; an in-lieu fee can be paid in a residential project instead of building on site open space, this fee could be used to enhance existing plazas that are currently being used to display auto dealership cars, and to enhance existing open space in the Plan Area.*

## **11. Jobs/Workforce Housing Development**

Comment 11.1: First and foremost, the City should consider the value of retaining existing quality jobs in the plan area and workers in the Kaiser and Alta Bates medical districts. It is vitally important that the Final Plan make the jobs/housing connection between the Plan Area’s current workforce, opportunities for new quality jobs, and housing opportunities that people can afford.

Response: *The jobs/housing connection is in the Specific Plan in Policy LU-9.4 Uses that complement and support the adjoining Alta Bates Summit and Kaiser Permanente medical centers, such as professional and medical office uses, medical supplies outlets, and visitor and workforce housing, are strongly recommended.*

*The City of Oakland already has a “Jobs/Housing Impact Fee,” which was established to ensure that certain commercial development projects compensate and mitigate for the increased demand for affordable housing generated by such development projects within the City of Oakland. A fee of \$4.60 per square foot is assessed on new office and warehouse/distribution developments to offset the cost of providing additional affordable housing for new lower-income resident employees who choose*

to reside in Oakland. Fees go into a Housing Trust Fund which is then made available to nonprofits to build affordable housing.

*The Specific Plan and related Planning Code amendments have been revised to strengthen policies relating to affordable housing as detailed in the response to Comment 2.2 above. Also see detailed response to Comment 6.1 above about retaining auto-dealerships in the area. Chapter 8 of the Specific Plan includes a section on an Emphasis Workforce Housing that includes language that states: "Creative ways to finance housing for workforce households is essential to maintaining the diversity of the Plan Area, as well as the entire city. A citywide workforce housing strategy is necessary to address this issue."*

**Comment 11.2:** In order to ensure that the economic development benefits from the Specific Plan benefit Oakland residents, developers of projects within the plan area should: (1) provide career opportunities for area youth in the construction industry by employing local apprentices enrolled in a California State Certified Labor-Management apprenticeship program; (2) pay area standard wages to construction workers employed on projects enabled by the Specific Plan; and 3) strive toward a goal of a minimum of 50% of the construction workforce from the City of Oakland.

**Response:** *The City imposes a number of employment and contracting programs and requirements on City public works projects, as well as private development projects that receive a City subsidy. These include the Local and Small Local Business Enterprise Program, the Local Employment/Apprenticeship Program, Living Wage requirements, and prevailing wage requirements. However, the City of Oakland's programs do not apply to private projects, including sites sold by the City for fair market value, or public works-type projects funded by private parties, including street or sidewalk improvements built as part of a new development. The City has very limited legal authority to impose its employment and contracting programs and requirements on such "private projects."*

*An overarching concept of the Specific Plan relates to achieving "a 'complete' neighborhood and balanced land uses: mixed-use neighborhood that is economically and socially sustainable—providing quality jobs, diverse housing opportunities, and a complementary mix of retail, dining, entertainment, and medical uses" (BVDSP, Chapter 3). This concept is supported by goals and policies in Chapter 4 of the BVDSP that focus on enhancing the economic potential of the Plan Area through revitalizing and redeveloping underutilized areas with a mix of uses, including new businesses that provide high-quality jobs (Goals LU-2, LU-4, Policy LU-2.1). The BVDSP Development Program, an estimate of what potentially could occur in the Plan Area within the 25-year Plan horizon, is anticipated to provide a mix of uses that would accommodate as many as 4,000 new residents and over 5,000 new jobs. This mix of uses would provide a range of job types (retail, medical, office, etc.) and a range of housing types.*

## **12. Infrastructure and Utilities**

**Comment 12.1:** There were numerous comments from East Bay Municipal Utilities District (EBMUD) about coordinating with them for their requirements.

**Response:** *Several policies were added to coordinate with EBMUD including: Policies I-1.2, I-1.5, I-2.1, I-2.2, I-2.5, and I-3.1.*

## **13. Design Guidelines**

**Comment 13.1:** Replace the word "landscaping" with "planting."

Response: The word “landscaping” has been replaced with “planting” in the Design Guidelines and throughout the whole Specific Plan where appropriate.

Comment 13.2: Remove tree grates.

Response: In order to create a uniform streetscape appearance, as well as allowing for easier maneuverability of pedestrians around trees, the tree grate requirement was kept in, but recommendations that the Community Benefits District maintain the grates has been added.

Comment 13.3: On design guidelines 6 should add to the guidelines that developers really think about how buildings look from the I-580 freeway.

Response: DG 6. Sites Adjacent to I-580: the text “buildings that are visible from I-580 should take into account the Scenic Corridor designation for the interstate, and include aesthetic roof and façade elements” has been added to address views from I-580.

Comment 13.4: In the design guideline about rooftop open space wording should be added for roof top open space on top of parking garages as well.

Response: DG 85 Rooftop Open Space: text has been added to also encourage roof top open space on top of parking garages.

Comment 13.5: Should add in Section 3.1.3 about site furnishings and should incorporate the words “high quality” into the guidelines.

Response: Design Guidelines DG 161 Unified Design Identity, DG 164 Seating, DG 166 Movable Chairs, and DG 168 Café Furniture: all added that these items should be of high quality.

Comment 13.6: Design guideline 169 about bus stop, I would like to add the word transparency.

Response: DG 170 Shelter Design: added that transit shelters should be transparent.

Comment 13.7: Former Design guideline 178, now DG 180 should add to use the self-compacting solar powered trash containers.

Response: DG 180 Trash Receptacles Design: for trash receptacles it was added that they should be self-compacting where feasible.

Comment 13.8: Require Silva Cells or equivalent beneath all planted materials.

Response: In both Design Guideline 193 and 195, language was added about using Silva Cells or a similar brand.

**Summary of Changes to the Broadway Valdez District Specific Plan and  
Associated General Plan Amendments, Municipal Code and Planning Code Amendments,  
Zoning Maps, Height Maps and Design Guidelines**

The following summarizes changes made to the Broadway Valdez District Specific Plan and Associated General Plan Amendments, Municipal Code and Planning Code Amendments, Zoning Maps, Height Maps and Design Guidelines since they were previously reviewed by advisory boards and the Planning Commission, and, as indicated, since the May 1, 2014 publication of the Final Specific Plan.

A. Changes to the BVDSP:

- **Chapter 1 Introduction.** Aspects of the retail analysis have been updated, focusing on retail expenditures, retail sales, and sales leakage, and on auto-related retail sales in the Plan Area. This follow up analysis shows that the conditions found in earlier studies continue to occur, with nearly two-thirds of comparison goods expenditures by Oakland residents being made outside of Oakland because of a lack of shopping opportunities in the city. See Section 1.3 Planning Context.
- **Chapter 2: Planning Context.** Statistics of trade area demographics, household income, per capita income, employment rates, and other localized economic statistics presented in this chapter have been updated. Ultimately, the updated statistics and discussion regarding the comparison goods retail market analysis continue to highlight strong market support for new comparison goods shopping development in the Plan and elsewhere in Oakland, including other parts of Downtown and the Broadway Corridor. See Sections 2.3 Market Condition.
- **Chapter 3 Vision and Goals.** The Vision and Goals chapter has been updated to present modified Plan goals and policies as presented in the other chapters of Final Specific Plan.
- **Chapter 4 Land Use**
  - *Leveraging Existing Assets.* Policy LU-3.2 has been revised to indicate that revitalization efforts in the Plan Area are meant to link not just with those of Downtown Oakland but of the Uptown Entertainment District as well, and referenced the implementation polices related to the Uptown Coordination Area depicted in the Final Specific Plan Figure 8.2 and its associated discussion.
  - *Retail.* More language has been added for the Specific Plan's encouragement of neighborhood-serving retail and independent retail in addition to destination retail. At the end of Policy LU 2.1, the following sentence has been added: "The Broadway Valdez District will include not only destination retail, but neighborhood-serving options such as grocery stores and pharmacies, to serve residential development." And in Policy 9.3 that addresses the North End the following sentence has been added: "Retail development in the North End will allow for neighborhood-serving uses, potentially including grocery stores and pharmacies, which will allow residents to obtain options for healthy food and daily needs."
  - *Active Ground Floor Uses.* In the zoning regulations and Policy LU-10.6 for the Large Opportunity Sites, the North Large Development Site Combining Zone, the active use requirements and exclusion of residential have been modified to only include the front 60 feet of frontage along Broadway. Because these parcels are very deep and in some cases

have frontages on more than one street, residential and other uses are allowed on the ground floor beyond the 60' of frontage along Broadway.

- *Retail Priority Sites.* Figure 4.4 Some of the Retail Priority Sites were broken up into smaller sub areas: for Retail Priority Site 3 from the previous (a) and (b) to now (a), (b), and (c) and Retail Priority Site 4 now has an (a) and (b). After publication of the Specific Plan on May 1, 2014, Retail Priority Site 5 was also further subdivided from the previous (a) and (b) to now (a), (b), and (c), see the main part of the Staff Report, the Overview section, item #5.
- *Entertainment Overlay.* Discussion of a potential Entertainment Overlay has been eliminated from the Plan and therefore the exemption from the Dark Skies requirement is also eliminated.
- *Open Space.* The following incentives in Policy LU-10.9 pertain to Public Open Space: in the Retail Priority Sites, publicly accessible plazas and open space can be counted toward the minimum square footage of retail that is required in order to build residential; a similar open space requirement is allowed as in the Central Business District, where plaza space can count towards a residential development's open space requirement; an in-lieu fee can be paid in a residential project instead of building on site open space, this fee could be used to enhance existing plazas that are currently being used to display auto dealership cars, and to enhance existing open space in the Plan Area.
- *Housing.* More detailed strategies for affordable housing are included in Policy LU-10.9. These include: changes in the Broadway Valdez District zoning will add to these incentives by no longer requiring a Conditional Use Permit (CUP) to have reduced parking for senior housing and allow for reduced parking for affordable housing. A new reduction of open space requirements by right for both senior and affordable housing is included in the zoning as well. The plan calls for new zoning incentives for the Retail Priority Sites that will grant an additional residential bonus to projects providing a certain percentage of affordable housing as part of their overall project or on another Retail Priority Site.

The City is exploring the feasibility of developing a Housing Overlay Zone (HOZ) that would target those areas throughout the city that are most prime for development and could most likely provide community benefits, such as affordable housing or open space. The analysis process will identify an appropriate method for allowing additional heights or density in exchange for the provision of affordable housing or other community benefits.

Further discussion of these implementation strategies is discussed in Chapter 8, Section 8.4 Affordable Housing Implementation Strategy. Additional Sites were added to Figure 8.5 Potentially Competitive Sites for Low Income Housing Tax Credits to further correspond with the city's Housing Element update.

- *Historic Preservation.* A more robust set of policies and incentives to preserve and enhance existing buildings, including those that are not deemed to be CEQA historic resources were added. There are a variety of incentives that have been added in Policy LU-10.9 of the Specific Plan and included in the revised zoning regulations, these include among others: existing buildings to count towards the minimal required square footage of

retail before residential is allowed as well as a CEQA Historic Resource's square footage can be counted as double towards obtaining residential, no parking or open space requirements when converting from commercial to residential use or vice versa when it is a Potential Designated Historic Property (PDHP) or CEQA Historic Resource. Also, if a PDHP or a CEQA Historic Resource is incorporated as part of a larger project the area that is incorporated will be exempt from parking and open space requirements.

The original Policy LU-11.2 of the Specific Plan has been eliminated to reduce the emphasis on destination retail taking a priority over adaptive reuse of existing buildings and replaced with the new Policy LU-11.2 Support current efforts to establish a state historic tax credit program and related Policy IMP 5-1. Policy CD-3.15 is now CD-3.16 and was revised to reduce the emphasis on destination retail taking a priority over adaptive reuse of existing buildings and CEQA historic resources, and to help balance these competing goals.

- **Chapter 5 Community Design.** The majority of modifications within this chapter intend to bring more of a balance of destination retail in the Specific Plan and to encourage the protection and re-use of the Plan Area's historic buildings. The language in Policy CD-3.8 is revised to reflect greater flexibility in the Retail Priority Site proposed on the blocks on either side of Waverly Street and to reduce the emphasis on redevelopment of these parcels as a whole.

In Policy CD-2.23 the following has been added: "An additional gateway is the 20th Street entrance/exit to the 19th Street BART Station, which is an existing, established gateway into the Plan Area just south of the Valdez Triangle."

The following text has been added under Neighborhood Streets for 28th Street: "28th Street represents an important pedestrian connection for seniors living in the area. To enhance the pedestrian environment and safety, the stairway that connects 28th Street to Hamilton Place should include landscape and lighting improvements and street trees should be planted along both sides of 28th Street."

The following policy has been added:

*Policy CD-3.10:* Ensure that development on the Retail Priority Site on the west side of Broadway between 24th and 25th streets creates an active, ground-level facade that supports pedestrian activity and further contributes to the creation of a continuous retail frontage along Broadway.

The primary objective on this opportunity site will be to activate the Broadway frontage and further extend northward the strong pedestrian-oriented streetscape that currently exists to the south. The existing Historic Resource, Pacific Kissel Kar salesroom and garage, on half of the Broadway frontage at 24th Street could be incorporated with a new development next door to fill in the vacant parking lot on the half of the Broadway frontage and 25th Street. This will further allow for a continuous retail frontage and pedestrian environment along Broadway.

- **Chapter 6 Circulation.** The following Policies have been added:
  - Policy C-3.4 Increase bicycle parking supply in the public realm.
  - In Policy C-5.1 a bullet was added to "Work with businesses to display the next bus arrival times for their customers."
  - Policy C-5.4 Work with BART on their proposal to update and "rebrand" the 19th Street BART station, including providing signage to provide information about the Broadway

Valdez retail district area and other nearby destinations while passengers are on the train and at the station.

- Policy C-5.5 Work with business-owners to display the next BART arrival times within their businesses.
  - Policy C-6.8 Require residential developments to unbundle the cost of parking from the cost of housing.
  - Policy C-6.9 Establish a parking in-lieu fee program so that developers have the option of either constructing off-street parking consistent with City of Oakland Zoning Code or paying the parking in-lieu fee.
  - Policy C-6.10 Reduce the amount of parking required by the Planning Code.
- **Chapter 7 Infrastructure and Utilities.** Several policies have been added to coordinate with EBMUD including: Policies I-1.2, I-1.5, I-2.1, I-2.2, I-2.5, I-3.1.
  - **Chapter 8 Implementation.** Modifications to this chapter have involved a reorganized presentation of the data, and revisions to the components necessary to implement the Specific Plan. For instance, what was originally referred to as ‘phasing tiers’ in the Implementation chapter have been renamed ‘priority tiers’, in order to emphasize that since the Plan is intended to happen organically, it is hard to predict the exact order or phase in which each implementation item will occur. The Plan instead now has a list of priorities to implement when different sites develop. Public Realm infrastructure are the only items that are now listed and streetscape and bicycle and pedestrian improvements have been moved to higher priorities, along with utilizing existing parking first. A new parking structure would only be considered as part of a larger retail project and the city will consider the potential for some portion of a contribution to the structure if needed to help bring in the first catalyst retail project.

*B. Changes to the General Plan (Specific Plan Appendix A)*

Two parcels along the east side of Brook Street have been changed from Mixed Housing Type Residential to Community Commercial. The two parcels are on the northern portion of Brook just below the triangle shaped parcel. The two parcels are vacant and adjacent to the vacant triangle shaped parcel which is adjacent to a commercial use; therefore these parcels are seen as an opportunity site to develop with a commercial use on the ground floor.

*C. Changes to the Zoning and Height Area Maps (Specific Plan Appendix B)*

- Two parcels along the east side of Brook Street have been changed from their existing height limit of 35’ and added to the adjacent 45’ height limit, as well as changed from the D-BV-4 to D-BV-3 zone. These are the same two parcels that were mentioned above in the General Plan Amendments to Community Commercial and the reasoning was the same, the two parcels are vacant and adjacent to the vacant triangle-shaped parcel which is adjacent to a commercial use, so the parcels were seen as an opportunity site to develop with a commercial use on the ground floor. The added height will allow for an additional floor of residential to be built above the commercial.
- The triangle-shaped block between Broadway, Piedmont, and I-580 has been changed from Height Area 65’ to 85’. The 85’ height limit is more compatible with the existing “Saw Mill” building adjacent to I-

580 and goes along with the concept on the west side of Broadway allowing for taller buildings as they get closer to the freeway.

- In the North End of the Plan Area, the height areas on the west side of Broadway north of 30th Street have been modified to have a lower permitted height and allow for the formerly proposed maximum height only with a Conditional Use Permit (CUP). The former 135' height area has been changed to 85' permitted (135' with a CUP), and the former 200' height area has been changed to 135' permitted (200' with a CUP). There will be findings that have to be made to allow for the higher height. In the future, additional CUP findings could be added to require a community benefit/affordable housing in return for the additional height if a Citywide affordable housing and community benefits program is developed. This could be through a Housing Overlay Zone and/or other type of "value capture."
- The parcel along the southeast corner of Webster and Hawthorne was changed from D-BV-3 zone with the N Combining Zone to D-BV-3 with no combining zone in order to allow for greater uses on the ground floor since Webster is not considered a commercial street in this area.
- The parcels just north of 30th Street between Broadway and Brook Street have been changed from height area 65' to height area 85' to allow for a development that could potentially incorporate the existing buildings at the northeast corner of 30th Street and Broadway.
- The two parcels on the south side of 30th Street just behind the historic Firestone Tire & Rubber Service Station, soon to be a CVS Pharmacy, were changed from D-BV-4 to D-BV-3 zone to continue commercial uses a little further past the future CVS.
- Within the Retail Priority Sites Retail Priority Site 3 (a) and (b) was further divided into 3 (a), (b), and (c) in order to allow for more flexibility because of the smaller lots on the southern portion of the Priority Site. And two parcels were removed from Priority Site 3 on the southern portion that faces Valdez Street because one will have the approved Micro Living Unit project and the other is a very small parcel with an existing duplex. The zoning has been changed for this area from D-BV-1 to D-BV-2 and the height area to 85'. After publication of the Specific Plan on May 1, 2014, Retail Priority Site 5 was also further subdivided from the previous (a) and (b) to now (a), (b), and (c), see the main part of the Staff Report, the Overview section, item #5.
- Retail Priority Site 4 has been divided into two parts, (a) and (b) in order to allow for development to occur separately for the parcels that face Valdez because the Acura dealership is thriving right now and it may be a while before it is redeveloped. Therefore it was important that the west side of the site along Valdez Street be able to develop independent of the Acura site.
- Within Retail Priority Site 5(a), the tall parking structure at the northwest corner of 23rd and Waverly has been removed from the Priority Site and changed to the D-BV-2 zone and height area 250'. Because the parking structure will be needed for any new retail that is built there it would not be used for retail in and of itself, so it was removed from the Retail Priority Site.

#### *D. Changes to Design Guidelines (Appendix C)*

The word "landscaping" has been replaced with "planting" in the Design Guidelines and throughout the whole Specific Plan where it was appropriate.

The following Design Guidelines were changed:

- DG 6. Sites Adjacent to I-580: the text "buildings that are visible from I-580 should take into account the Scenic Corridor designation for the interstate, and include aesthetic roof and façade elements" has been added to address views from I-580.
- DG 85 Rooftop Open Space: text has been added to also encourage roof top open space on top of parking garages.
- DG 128 Waverly Street Residential ASI District: has been added.

- DG 161 Unified Design Identity, DG 164 Seating, DG 166 Movable Chairs, and DG 168 Café Furniture: all added that these items should be of high quality.
- DG 170 Shelter Design: added that transit shelters should be transparent.
- DG 180 Trash Receptacles Design: for trash receptacles it was added that they should be self-compacting where feasible.
- DG 192 Tree Grates: it has been added that the existing or future Community Benefit Districts in the Plan Area be directed to help maintain the trees within the grates.
- DG 194 Canopy Clearance and DG 196 Deciduous Trees: language has been added about using Silva Cells or a similar brand to help ensure that new street trees will thrive.

*E. Changes to the Planning Code*

A full draft chapter of the 17.101C D-BV zone was presented at the Zoning Update Committee (ZUC) meeting in December of 2013, which was after the release of the Draft Broadway Valdez District Specific Plan. Further changes have been made since the full draft chapter of the 17.101C D-BV zone was presented at the ZUC. (See Attachment E6 for Chapter 17.101C D-BV zone with substantive changes shown in ~~strike-out~~ and underline after the ZUC meeting; see Attachment E5 for a “Clean” version of the proposed zoning regulations);.

Below are a summary of the more substantive changes:

- In Table 17.101C.01 Permitted and Conditionally Permitted Activities: Automobile and Other Light Vehicle Gas Station and Servicing as well as Automobile and Other Light Vehicle Repair and Cleaning in the D-BV-3 zone is now permitted with a Conditional Use Permit where they were prohibited before.
- The Parking and Bicycle regulations were moved to their proper chapters in the Planning Code, Chapters 17.116 Off-Street Parking and Loading Requirements and 17.117 Bicycle Parking Requirements.
- In Table 17.101C.04 Height, Floor Area Ratio (FAR), Density, and Open Space Regulations: the former 135’ height area has been changed to 85’ permitted (135’ with a CUP), and the former 200’ height area has been changed to 135’ permitted (200’ with a CUP). CUP findings that have to be made to allow for the higher height. In the future, additional CUP findings could be added to require a community benefit/affordable housing in return for the additional height if a Citywide affordable housing and community benefits program is developed. This could be through a Housing Overlay Zone and/or other type of “value capture.”
- Tables 17.101C.05 and 17.101C.06 have been revised that address the minimum square footages required for the Retail Priority Sites and the bonuses received. The minimum square footage of retail area for a residential bonus has been revised to require an equal percentage of retail for all of the Retail Priority Sites. As well as the minimums required for retail on each Retail Priority Site was reduced and the residential bonus was increased in order to help further incentivize the retail to be built. There are now two tiers of minimum percentages that are required. Height, FAR and residential bonus are based on the provision of certain minimum thresholds of retail square footage equal to a percentage of the total area of each Retail Priority Site, which may contain multiple parcels with different owners. As shown in Table 17.101C.05, if 50% of the Retail Priority Site is provided as retail square footage in a project, then a height, FAR, and residential bonus are established; if 60% of the Retail Priority Site is provided as retail square footage, then a larger residential bonus will be permitted, as well as the right to transfer development rights for those residential units to another parcel or parcels within a Retail Priority Site that could not meet the minimum retail square footage requirements on its/their own. The amount of residential units as a bonus is now tied to the amount of square footage of retail provided, instead of determined by the lot size as in the previous proposal. This allows a clear bonus system tied directly to retail, the more retail square footage that is provide the more housing units that are permitted. Also

added is an additional 35% residential bonus is provided if 15% affordable housing is included in the project or built within another Retail Priority Site. An exception is now provided if one cannot meet the minimum retail square footage through a conditional use permit (CUP) with criteria that include, but not limited to; if demonstrated through architectural studies of at least one or more alternative, that a project would be physically infeasible due to operational and/or site constraints if it were to meet the minimum retail square footage specified.

- What counts as retail and what doesn't count has also been slightly modified. Existing buildings can count towards the minimal required square footage of retail before residential is allowed; a CEQA Historic Resource's square footage can be counted as double towards obtaining residential or if it is maintained and not used for retail, the square feet of its footprint can be deducted from the overall square footage of the Retail Priority Site in determining the square footage of retail required. Ground floor public plaza/open space(s) that is on site or adjacent offsite can also count towards the minimum retail square footage to help incentivize providing plaza/open space that can be used by the public.
- And some of the Retail Priority Sites were broken up into smaller sub areas: for Retail Priority Site 3 from the previous (a) and (b) to now (a), (b), and (c) and Retail Priority Site 4 now has an (a) and (b). After publication of the Specific Plan on May 1, 2014, Retail Priority Site 5 was also further subdivided from the previous (a) and (b) to now (a), (b), and (c), see the main part of the Staff Report, the Overview section, item #5.

**LIST AND MAP OF CEQA RESOURCES IN THE  
BROADWAY VALDEZ DISTRICT SPECIFIC PLAN AREA**

**SUMMARY TABLE OF CEQA HISTORIC RESOURCES WITHIN PLAN AREA  
(BVDSP DEIR: TABLE 4.4-1)**

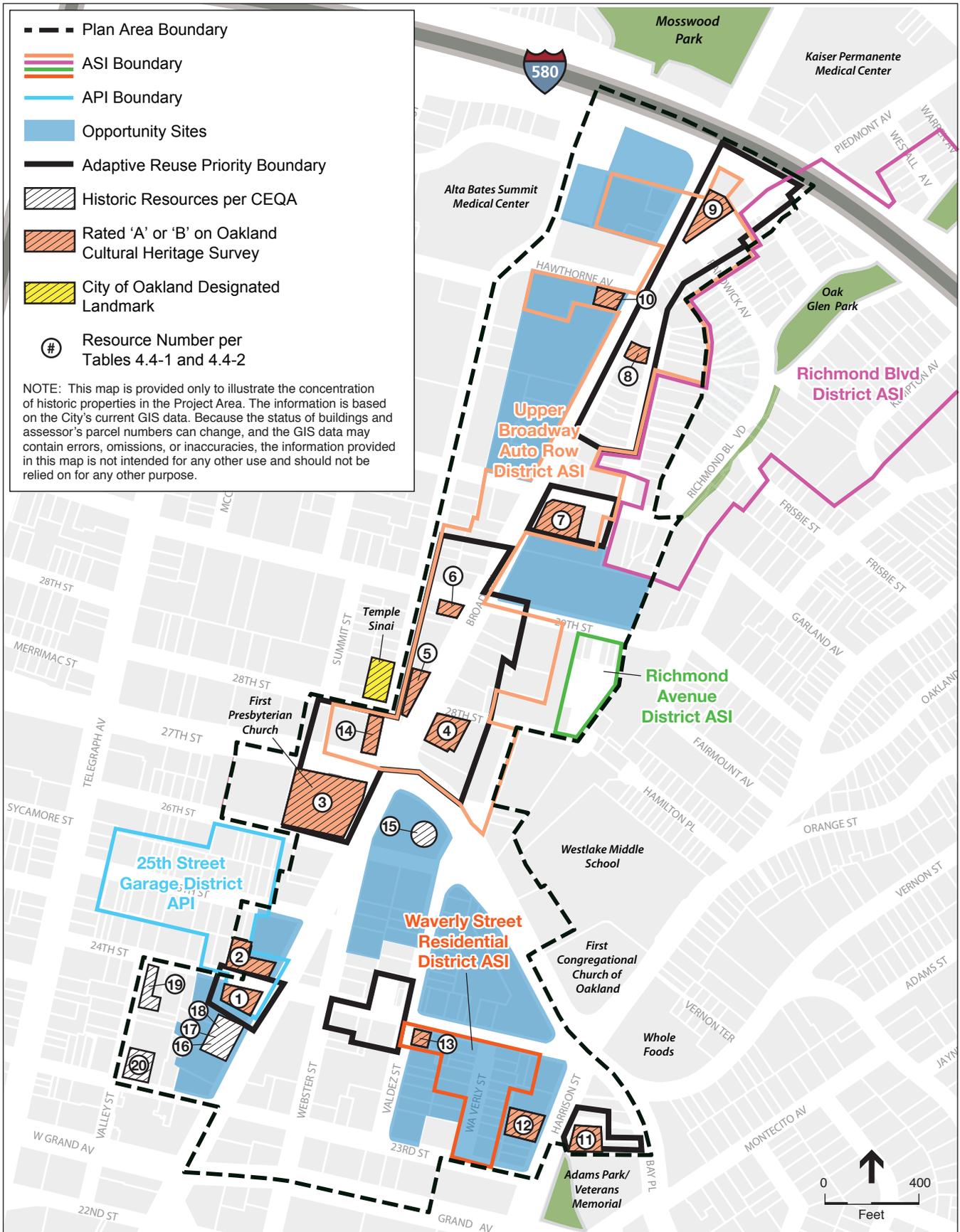
<b>Key #</b>	<b>Street Address</b>	<b>Year Built</b>	<b>Historic Name/Current Name</b>	<b>OCHS Rating/Survey Type</b>
1	2355 Broadway	1913-14	Packard & Maxwell Don Lee Western Auto Bldg / Packard Lofts	B+1+, Study List, API contributor / Intensive Survey
2	2401 Broadway	1913-14	Pacific Kissel Kar salesroom and garage/Oakland Mitsubishi	Eb-1*, API contingency contributor (restoration potential)/ Intensive Survey
3	2601-19 Broadway	1913-14	First Presbyterian Church/same	A3, Study List/ Intensive Survey
4	2740 Broadway	1929	Pacific Nash Co. auto sales and garage/Volkswagen of Oakland	Cb+2+, proposed B rating in 2009 Survey/ Intensive Survey
5	2801-25 Broadway	1916	Arnstein-Field & Lee Star showroom/none	Cb+2+, proposed B-rating in 2009 Survey/ Intensive Survey
6	2863-69 Broadway	1892	Scherman building/none	B*2+/ Intensive Survey
7	2946-64 Broadway	1930	Firestone Tire & Rubber service station/Mercedes Benz of Oakland	B-2+/ Intensive Survey
8	3074 Broadway	1917	Grandjean Burman GM Co-Alzina garage / Window Tinting Plus	B-2+/ Intensive Survey
9	3330-60 Broadway	1917	Eisenback (Leo)-Strough (Val) showroom/Honda of Oakland	B*2+/ Intensive Survey
10	3093 Broadway	1947	Connell GMC Pontiac Cadillac/Bay City Chevrolet	Cb+2+, proposed B rating in 2009 Survey/ Intensive Survey
11	2332 Harrison St	1925-26	YWCA Blue Triangle Club/Lake Merritt Lodge	A3/ Intensive Survey
12	2333 Harrison St	1915-18	Seventh Church of Christ Scientist/unoccupied	A3/ Intensive Survey
13	2346 Valdez St	1909-10	Newsom Apartments/same	B+2+/ Intensive Survey
14	2735 Webster St	1924	Howard Automobile-Dahl Chevrolet showroom /Infiniti of Oakland	Cb+2+, proposed B-rating in 2009 Survey/ Intensive Survey
15	315 27th St	1962-64	Biff's II Coffee Shop/JJ's - /unoccupied	*b+3, Heritage Property, determined eligible as a Landmark status on 1/13/97 / Intensive Survey
25th Street Garage District (existing API)				

**CEQA HISTORIC RESOURCES WITHIN PLAN AREA IDENTIFIED IN A PREVIOUS EIR  
(BVDSP DEIR: TABLE 4.4-2)**

Street Address		Year Built	Historic Name/Current Name	OCHS Rating and Notes
16	2335 Broadway	1920	Dinsmore Brothers Auto Accessories Building/Unoccupied	Eb+3. Heavily altered but with rehabilitation potential. Designed by renowned California architect Julia Morgan / Intensive Survey
17	2343 Broadway	1924-25	Kiel (Arthur) auto showroom/Unoccupied	Ec3. Heavily altered but with rehabilitation potential / Intensive Survey
18	2345 Broadway	1920	J.E. French Dodge showroom/Unoccupied	Eb-3. Heavily altered but with rehabilitation potential / Intensive Survey
19	2366-2398 Valley Street	1936	Art Deco warehouse/none	Cb-2+. Rehabilitation potential / Intensive Survey
20	440-448 23rd Street	1919	Elliot (C.T.) Shop-Valley Auto Garage/Unoccupied	Cb+2+. Rehabilitation potential / Intensive Survey

**CEQA HISTORIC DISTRICT WITHIN THE PLAN AREA  
(BVDSP DEIR: TABLE 4.4-3)**

District Name	District Contributor Name and Address
25th Street Garage District API	Packard & Maxwell Don Lee Western Auto Bldg / Packard Lofts – 2355 Broadway



SOURCE: ESA

Broadway Valdez District Specific Plan . 208522  
**Figure 4.4-2**  
 Historic Resources in the Plan Area