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| Location: | From 23rd Street to the south; Highway 580 to the north; Webster Street and lots on or near Broadway in the west; and Brook St., 27th St., Bay Street, and Harrison Street to the east. (See Attachment A) |
| Proposal: | To extend the D-BR Broadway/Valdez Retail Frontage District Interim Combining Zone regulations in Chapter 17.101C until final adoption of the Broadway/Valdez District Specific Plan and new Zoning Regulations; make minor changes to the D-BR Zone text; modify the Zoning Map to remove the D-BR Combining Zone from existing RM Mixed Housing Type Residential zones; and consider the establishment of a new residential facility type for small-scale housing with the potential for accessory ground floor new Work/Live facility in the D-BR Zone only. |
| Applicant: | Planning Commission |
| Owners: | Various |
| Planning Permits Required: | Zoning Text Amendment ZT12-219 and Rezoning RZ12-222 |
| General Plan: | Community Commercial, Urban Residential, and Mixed Housing Type |
| Zoning: | D-BR (combined with various base zones) |
| Environmental Determination: | Several past environmental documents discussed and evaluated the environmental impacts associated with this proposal and reliance on them satisfies any requirements under the California Environmental Quality Act (CEQA), as specified by CEQA Guidelines Section 15183 "Projects Consistent with a Community Plan, General Plan or Zoning". Those environmental documents include, but are not limited to, the previously certified Final Environmental Impact Report (EIR) for the Land Use and Transportation Element of the Oakland General Plan, adopted in 1998. |
| Service Delivery District: | 2 |
| City Council District: | 2 |
| Action to be Taken: | Recommendation by the Planning Commission to the City Council. |
| Staff Recommendation: | Approve the proposal and forward the proposed Zoning Text Amendments and Rezoning to the City Council for adoption. |
| For Further Information: | Contact Laura Kaminski at 510-238-6809 or lkaminski@oaklandnet.com . |

SUMMARY

Staff proposes to extend the effective date of the D-BR Broadway/Valdez Retail Frontage District Interim Combining Zone Regulations (D-BR Combining Zone) until the City Council adopts the Broadway/Valdez District Specific Plan and new Zoning Regulations. The D-BR Interim Combining Zone is currently set to expire on February 15, 2013. The D-BR Interim Combining Zone currently applies to areas on or near Broadway from 23rd Street to Hawthorne Street and to areas in the Valdez triangle between Broadway and 27th Street. The interim regulations were originally adopted in 2008, in order to give the City time to develop a Specific Plan to facilitate the development of a regional retail center along this stretch of Broadway and within the Valdez triangle. The D-BR Combining Zone sets restrictions on allowed uses (among other requirements), in order to preserve new ground level facilities and activities for retail use consistent with the retail district envisioned by the City.

The current process to develop a Specific Plan for the Broadway/Valdez District area was initiated in April 2009 and is now anticipated to be completed in late 2013. Thus, staff proposes to extend the effective date of the interim regulations so that no projects that conflict with the Specific Plan vision can occur while the Plan is being developed. In addition, minor changes are proposed to the D-BR Zone text, as well as modification to the Zoning Map to remove the D-BR Combining Zone from the existing RM Mixed Housing Type Residential Zones, and consideration of the establishment of a new residential facility type for small-scale housing in the D-BR Zone only.

BACKGROUND

In 2007, the Conley Consulting Group prepared a report for the City Redevelopment Agency titled "Upper Broadway Strategy, a Component of the Oakland Retail Enhancement Strategy", which included recommendations about how to attract retail businesses to Oakland, and identified the Broadway Auto Row area as having the potential to develop into a regional retail district.¹ Interim regulations for a portion of the upper Broadway corridor were adopted in January 2008 in order to give the City time to develop a Specific Plan that would include an area-wide set of development regulations and requirements to facilitate the development of a regional retail center in the Broadway/Valdez District area; and to ensure that no uses that conflicted with the retail district envisioned by the City could be established while the Specific Plan was being developed. The interim regulations were originally adopted for a three-year period or until the City Council adopted permanent regulations, whichever came first.² The interim regulations were then extended on March 1, 2011 until the current expiration date of February 15, 2013.

A summary of the key interim regulations for the Broadway/Valdez District area (O.M.S. Ch.17.101C) that are currently in place and set to expire in February 2013 is provided below:

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

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

² The interim regulations, adopted and effective Jan 15, 2008, established the S-5 Broadway Retail Frontage Interim Combining District Zone for a 3-year period (Ordinance No. 12850 C.M.S.); Ordinance No. 12859 C.M.S., adopted and effective on February 5, 2008, established 3-year interim regulations which amended the S-5 Zone to apply to an expanded area; the name and chapter number of the S-5 Zone was later changed to "17.101C. D-BR Broadway Retail Frontage Interim Combining District Zone", in order to be consistent with the naming convention and location in the Planning Code of other zoning regulations that applied to specific geographic areas (i.e. O.M.C. Chapters 17.101A through 17.101.D relating to the Wood Street, Oak-to-Ninth, Broadway Retail and Kaiser Permanente Districts, respectively). The interim regulations were extended on March 1, 2011 until February 15, 2013 (Ord. No. 13059, C.M.S.).

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

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

- (1) The Specific Planning process was without a project lead for several months in 2010 due to staffing cuts in the Planning and Zoning Division owing to City budget shortfalls; and
- (2) City staff and the consultant team needed to revise the schedule and scope of the project, due to the changes in the overall economy that have occurred since 2007, particularly in the retail market; and
- (3) Additional tasks are now necessary to complete the Specific Plan and Environmental Impact Report (EIR) in order to prepare a legally defensible Environmental Impact Report (EIR) in compliance with the provisions of the California Environmental Quality Act (CEQA) and to expedite implementation of the Specific Plan, including, but not limited to: additional environmental analysis, additional study of financing strategies because of the elimination of Redevelopment, additional intersections at a level to provide environmental clearance, and additional work to create a more detailed development program.

Thus, staff is seeking to extend the effective date of the interim regulations until the City Council adopts the Broadway/Valdez District Specific Plan and new Zoning Regulations.

SUMMARY OF PROPOSAL

Staff proposes to extend the effective date of the existing D-BR Broadway/Valdez Retail Frontage District Interim Combining District Zone regulations; and to make other minor text changes to clarify the applicability of the interim overlay within the Specific Plan focus area.

Examples of text changes include:

- Overall cleanup to conform the language and table layout of the D-BR Zone with the other zoning chapters that were updated in the citywide rezoning in April 2011;
- Making a few activities more permissive, except on the ground floor, such as Limited Child Care, and Community Assembly;
- Making a few other activities more permissive on the ground floor if located behind the front 30 feet facing retail streets, such as Recreational Assembly, Civic Administrative, and Commercial Administrative;
- Making auto fee parking more restrictive by requiring the activity to be located in a parking structure that is 3 stories or more, or below grade;
- Conditionally permit Crop and Animal Raising where it was prohibited in the D-BR Zone before.

An additional change is to consider the establishment of a new Residential Facility type for small-scale rental housing in the D-BR Zone only as a pilot program. This new Residential Facility type would be called "Micro Living Quarters", and would be only permitted with a Conditional Use Permit within the area bounded by 23rd Street, 26th Street, Broadway, and Valdez Street (See **Attachment A** for the map of this boundary). New "Work/Live" units may be permitted as an accessory facility on the ground floor only of a new principal facility containing Micro Living Quarters. The reason for the pilot program is to provide for the potential construction of a new kind of market-rate housing that would be small enough to be "affordable by design". The area that is recommended for the pilot program is mostly outside of the areas being considered as "Retail Priority Areas" in the Broadway/Valdez District Specific Plan. This pilot program area is also ideal since it is within 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 (see Attachment B).

(Full text of the Zone with proposed amendments, shown in strikeout/underline, is provided in **Attachment C**).

Staff also proposes to modify the D-BR Zoning Map to remove the Combining Zone from the existing RM Mixed Housing Type Residential zones (see **Attachment A** for the proposed Zoning Map changes). The reason to remove the D-BR Combining Zone from the RM Zones is that Staff is not planning on changing the zoning in the Specific Plan for these existing lower density residential areas.

ENVIRONMENTAL DETERMINATION

Several past environmental documents discussed and evaluated the environmental impacts associated with this proposal and reliance on them satisfies any requirements under the California Environmental Quality Act (CEQA), as specified by CEQA Guidelines Section 15183 "Projects Consistent with a Community Plan, General Plan or Zoning". Those environmental documents include, but are not limited to, the previously certified Final Environmental Impact Report for the Land Use and Transportation Element of the General Plan, adopted in 1998 (General Plan EIR). The General Plan EIR evaluated the environmental impacts of the proposal and anticipated future reliance on it for actions that were consistent with it and intended to implement it. Reliance on the General Plan EIR is appropriate as stated on page I-4 of that document:

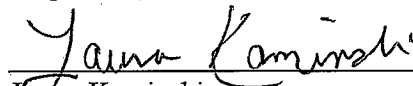
"The EIR may also be used at a future date by the Planning Commission and City Council to evaluate the environmental impacts of subsequent actions that are consistent with the Land use and Transportation Element or are intended to implement the Land Use and Transportation Element."

KEY ISSUES AND IMPACTS

The proposal would extend the D-BR Interim Combining Zone until final adoption of the Broadway/Valdez District Specific Plan and new Zoning Regulations. As noted, existing businesses could continue to operate; new auto sales and rental activities would need a Conditional Use Permit; and new auto repair and industrial activities would be prohibited. Staff believes it continues to be appropriate to have regulations in place to facilitate the regional retail center envisioned by the City Council that will reduce the City's significant deficit of retail sales. Therefore, staff recommends that the Planning Commission approve the proposal and forward the proposed Zoning Text Amendments and Rezoning to the City Council for adoption.

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

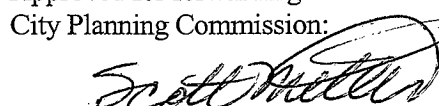
Prepared by:


Laura Kaminski
Planner II

Approved by:

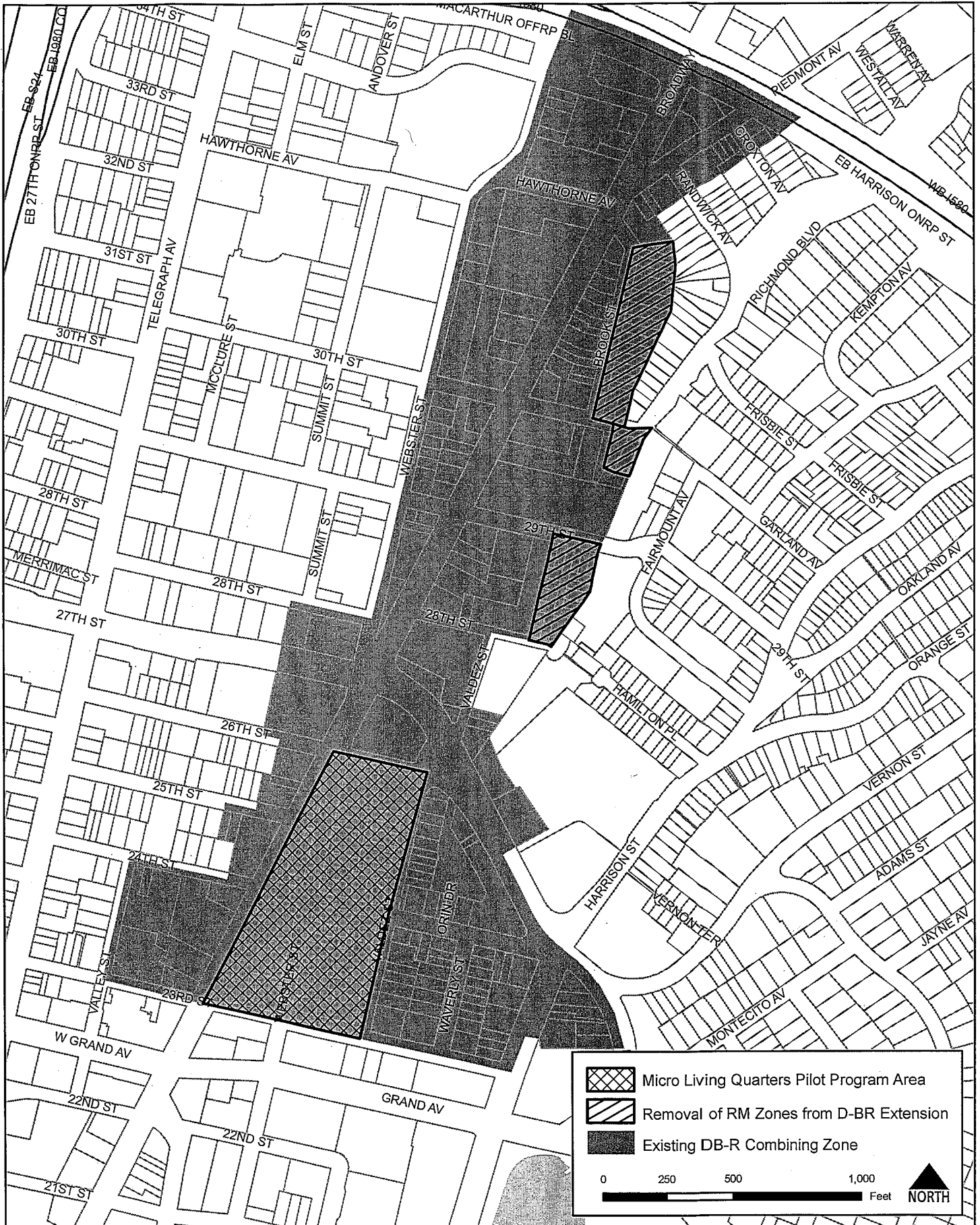

EDWARD MANASSE
Strategic Planning Manager

Approved for forwarding to the
City Planning Commission:


SCOTT MILLER
Interim Planning and Zoning Director

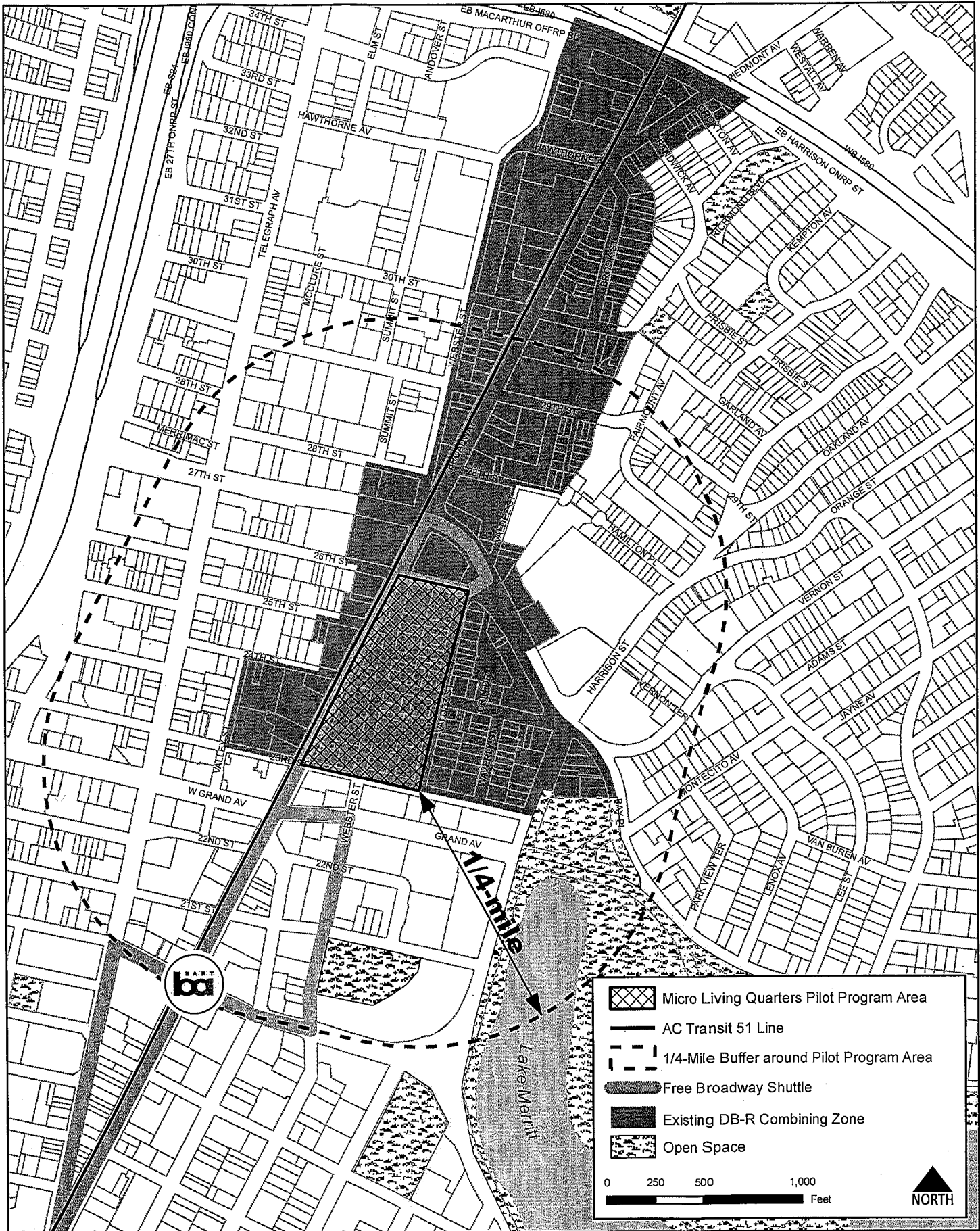
ATTACHMENT(S):

- A. Map of Existing D-BR Combining Zone, Proposed Micro Living Quarters, Removal of RM Zones
- B. Map of Micro Living Quarters Pilot Program Area with ¼ Mile Buffer
- C. Text of D-BR Regulations



D-BR COMBINING ZONE

12/5/2012 Planning Commission



City of Oakland, Department of Planning, Building and Neighborhood Preservation
November 28, 2012



MICRO LIVING QUARTERS PILOT PROGRAM AREA

12/5/2012 Planning Commission

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 through ~~February 15, 2013, or until the City Council adopts a specific plan~~ and new zoning regulations for the Broadway/Valdez Retail District. ~~whichever comes first.~~

(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, Building Facility, Telecommunications Facility, Sign, or other associated structure in the ~~D-BR combining zone~~ shall be constructed, established, or altered in exterior appearance, unless plans for the proposal have been approved pursuant to the design review procedure in Chapter 17.136, and when applicable, the Telecommunications regulations in Chapter 17.1285, or the Sign regulations in Chapter 17.104.

(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) (see) 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 in the corresponding zone except as accessory activities according to the regulations contained in Section 17.010.040.

Table 17.101C.01 Permitted and Conditionally Permitted Activities

| Activities | Zone D-BR | Additional Regulations |
|---|--------------|-------------------------------|
| Residential Activities | | |
| Permanent Residential | C(L1)(L2) | 17.101C.070 |
| Residential Care occupying a One-Family Dwelling Residential Facility | C(L1)(L2) | 17.101C.070 and 17.102.212 |
| Residential Care not occupying a One-Family Dwelling Residential Facility | C(L1) | |
| Service-Enriched Permanent Housing | C(L1)(L2) | 17.101C.070 and 17.102.212 |
| Transitional Housing | C(L1)(L2) | 17.101C.070 and 17.102.212 |
| Emergency Shelter | — | 17.102.212 |
| Semi-Transient Residential | — | 17.102.212 |
| Bed and Breakfast | C(L2) | 17.10.125 |
| Civic Activities | | |
| Essential Service | P | |
| Limited Child-Care | PG(L2+) | |
| Community Assembly | PG(L2+) | |
| Recreational Assembly | PG(L3+) | |
| Community Education | P(L2+) | |
| Nonassembly Cultural | P | |
| Administrative | P(L3+) | |
| Health Care | C | |
| Special Health Care | — | 17.102.390 |

| | | |
|--|--|--------------------|
| Utility and Vehicular | — | |
| Extensive Impact | — | |
| Commercial Activities | | |
| General Food Sales | P | |
| Full Service Restaurant | P | |
| Limited Service Restaurant and Cafe | P | |
| <u>Fast-Food Restaurant</u> | C | 17.102.21 and 8.09 |
| Convenience Market | C | 17.102.210 |
| Fast-Food Restaurant | C | |
| Alcoholic Beverage Sales | C | 17.102.210 |
| Mechanical or Electronic Games | — | 17.102.210 |
| Medical Service | P(L42) | |
| General Retail Sales | P | |
| Large-Scale Combined Retail and Grocery Sales | — | |
| Consumer Service | P | |
| Consultative and Financial Service | P | |
| Check Cashier and Check Cashing | — | |
| Consumer Cleaning and Repair Service | P | |
| Consumer Dry Cleaning Plant | C | |
| Group Assembly | C | |
| Personal Instruction and Improvement Services and Small Scale Entertainment | CP(L4) | |
| Administrative | P(L34) | |
| Business, Communication, and Media Services | P | |
| Broadcasting and Recording Services | P | |
| Retail Business Activity | C | |
| Research Service Center | — | |
| General Wholesale Sales | — | |
| Transient Habitation | — | 17.102.370 |
| <u>Wholesale and Professional</u> Building Material Sales | — | |
| Automobile and Other Light Vehicle Sales and Rental | C | |
| Automobile and Other Light Vehicle Gas Station and Servicing | —(L53) | 17.114.050 (A) |
| Automotive and Other Light Vehicle Repair and Cleaning | —(L53) | 17.114.050 (A) |
| Taxi and Light Fleet-Based Service | — | |
| Automotive Fee Parking | C(L6) | |
| Transport and Warehousing | — | |
| Animal <u>Boarding</u> Care | C | |
| Animal <u>Care</u> Boarding | C | |
| Undertaking Service | — | |
| Scrap Operation | — | 17.102.210 |
| Industrial Activities | All Industrial Activities prohibited in these zones | |
| Agricultural and Extractive Activities | All Agricultural and Extractive Activities prohibited in these | |

| | zones | |
|--|-------|------------|
| Crop and Animal Raising | C(L7) | |
| Plant Nursery | = | |
| Mining and Quarrying | = | |
| Accessory Off-street parking serving prohibited activities, other than those listed above or in Section 17.74.030, subject to the conditions set forth in Section 17.102.100 | C | 17.102.100 |
| Additional activities which <u>that</u> are permitted or conditionally permitted in an adjacent zone, on lots near the boundary thereof, <u>subject to the conditions set forth in Section 17.102.110.</u> | C | 17.102.110 |

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 - These activities shall not be located on the ground floor of a building on a lot with a property line that abuts the facing Broadway or 27th Street right of way, except for incidental pedestrian entrances that lead to one of these activities in stories above the ground floor.

L3 - These activities shall not be located within the front thirty (30) feet of the ground floor of a building facing Broadway or 27th Street right of way, except for incidental pedestrian entrances that lead to one of these activities in stories above the ground floor.

L42 - These activities may only be located on the ground floor of a building on a lot that has a property line abutting the facing Broadway or 27th Street right of way upon the granting of a Conditional Use Permit (CUP) (see Chapter 17.134 for the CUP procedure), 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.

L53 - 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).

L6 - Auto fee parking may only be permitted upon the granting of a Conditional Use Permit (CUP) (see Chapter 17.134 for the CUP procedure), and if it is located in either a parking structure that is at least three stories high or in a below grade parking lot. Auto fee parking is otherwise prohibited.

L7 - Crop and Animal Raising may only be permitted upon the granting of a Conditional Use Permit (CUP) (see Chapter 17.134 for the CUP procedure). In addition to the CUP criteria contained in 17.134.050, this activity must meet the following additional use permit 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.

(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 the Oakland Planning Code Chapter 17.10.

1. “Micro Living Quarters” mean one or more rooms totaling at least one hundred seventy-five (175) square feet of floor area, located in a multiple-tenant building 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 Quarter minimum 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 new 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 residential floor area (which is considered areas containing bedrooms, sleeping areas, kitchen areas, bathrooms, and hallways serving such areas), and two-thirds 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, 26th Street, Valdez Street, and 23rd Street rights of way.

1. No more than two (2) persons shall reside within an individual Micro Living Quarter, which shall be stated on the lease.
2. 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 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 AC Transit 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.
3. Micro Living Quarters shall only be allowed as part of an application for new construction of a multi-tenant building. No existing building shall be allowed to convert into Micro Living Quarters.
4. In addition to any shared kitchens or other similar utilitarian spaces, 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. 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.
5. 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.

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.

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. 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. 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)