

<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 consider certifying the Final Environmental Impact Report (FEIR) on the Broadway Valdez District Specific Plan, and recommending to the City Council adoption of the 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 LPAB, Planning Commission and public comments, close the hearing and consider certifying the FEIR, and recommending to the City Council adoption of the 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 Planning Commission hearing is to receive comments from the LPAB, Planning Commission and the public 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”), before considering the following actions:

- Adoption of 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;
- Adoption of the Standard Conditions of Approval and Mitigation Monitoring Reporting Program (SCAMMRP) in **Attachment B**;
- Recommend the City Council adopt the BVDSP, new Design Guidelines, General Plan and Planning Code Amendments, and Master Fee Schedule amendments based, in part, upon the BVDSP Adoption Findings in **Attachment C**; and
- Authorize staff to make minor ongoing revisions to the adopted Design Guidelines for the Broadway Valdez District and to make non-substantive, technical conforming edits (essentially correction of typographical and/or clerical errors) to the Planning Code that may have been overlooked in deleting old sections and cross-referencing new sections to the new Broadway Valdez District Zones Regulations prior to formal publication of the Amendments in the Oakland Planning Code, and to return to the Planning Commission for major revisions only;
- Authorize staff to make ongoing revisions to the BVDSP Action Plan (Chapter 8, Table 8.6), to reflect changes in market conditions (e.g., what private development actually occurs) and the availability of City and other funding sources, which could potentially affect timeframes, responsibilities and potential funding mechanisms, as part of implementation of the Specific Plan.<sup>1</sup>

This staff report includes 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**; a list and map of CEQA resources in the Plan Area as **Attachment H**; a proposed Parking In-lieu Fee as **Attachment I**; a proposed Open In-lieu Fee as **Attachment J**. 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 Planning Commission, and are available to the public, through the City’s websites:

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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 16<sup>th</sup> and October 30<sup>th</sup>, 2013 Planning Commission meetings. The staff reports and attachments for these meetings are available online at: [www.oaklandnet.com/bvdsp](http://www.oaklandnet.com/bvdsp).

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 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. Comments from the May 12, 2014 Landmarks Preservation Advisory Board Meeting**

The Landmarks Preservation Advisory Board (LPAB) supported the City staff’s historic resource-related changes to the Draft Broadway Valdez District Specific Plan (BV DSP) including the new incentives and policies to encourage the preservation and reuse of existing buildings (including those not deemed to be CEQA historic resources), as outlined in Historic Preservation Sub-Alternative B of the EIR; and the removal of the policy that had allowed new development to take precedence over adaptive reuse. The LPAB made the following recommendations:

- Revise the language in the policy and strategies in Chapter 8, Policy IMP-5.1 to be more “proactive” and “affirmative”;
- Include a photo of the Waverly ASI in the Plan
- Further articulate and refine the Design Guidelines regarding Adaptive Reuse.

A copy of the LPAB comments and recommendations is provided in **Attachment K**. Staff agrees with the recommendations and will make the requested revisions; detailed responses to these comments, as well as revisions made to the BVDSP in response to these comments are provided in **Attachment F** (see response to comments 3.7 and 13.9 specifically) and **Attachment G**.

#### **7. Changes Made Since the May 12, 2014 Landmarks Preservation Advisory Board Meeting**

In addition to changes made in response to recommendations from the LPAB noted above, the BVDSP has been further revised to include additional policies relating to jobs and job training; and the proposed new zoning regulations include a new definition of what constitutes the “retail” that is needed to meet the minimum requirements before a bonus of residential units and/or transfer of development rights is achieved. These changes are provided in **Attachment F** (see response to comments 3.7 and 13.9 related to LPAB recommendations and response 11.2 related to new policies related to jobs/job training) and **Attachment G**.

**8. 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 are 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.)

## **9. 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 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 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 greater the amount of retail square footage, the greater the number of residential units that are allowed, in order to provide an even greater incentive to build a larger amount of 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;

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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 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.

- A 35% residential bonus will be provided if 15% of the total Dwelling Units of a Residential Housing Development are affordable;
- 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 Kissel Kar salesroom 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 Murrmur/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:

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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.

- 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;
- 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. In addition to the protections in existing regulations (mentioned above) to altering or demolishing a historic resource, the proposed BVDSP policies and regulations include multiple incentives to reuse existing buildings (including those that are not considered CEQA historic resources).

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 Foods) and/or have good visibility; and spaces with high floor-to-ceiling heights that have few supporting

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<sup>4</sup> The 2015-2023 Housing Element Update was 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.



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 amount of the proposed parking in-lieu fee is \$20,000 per Code-required parking space not provided. 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 proposed open space in-lieu fee is proposed to be set at \$30 per square foot of open space for all residential projects within the proposed BVDSP Area. 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. The proposed in-lieu fees are discussed in more detail in **Attachments I and J**, respectively.

## **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.

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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 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>.

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;
- A Landmarks Preservation Advisory Board Meeting (LPAB) on the Final EIR, Specific Plan and Related Actions was held on May 12, 2014.

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

- This Planning Commission meeting to consider certification of the Final EIR
- 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**

As discussed below, 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 (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. 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.
- **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.

- **Cultural Resources CUL-1 (project), CUL-5 (cumulative):** Of the 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, 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.<sup>7</sup> These resources are shown in Draft EIR Tables 4.4-1, 4.4-2, and Table 4.4-3 and mapped on Figure 4.4-2 (provided in **Attachment H**). The BVDSP does not mandate the physical demolition, destruction, relocation, or alteration of any properties, historic or otherwise. The Final Draft BVDSP also 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. However, adoption and development under the Specific Plan could still 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 regulations, 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.

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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.

- **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.
- **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.

The EIR also found significant and unavoidable Transportation impacts at the study intersections and roadway segments listed below, including those which have been previously identified in other CEQA documents, as listed below.

- TRANS-2, TRANS-7 and TRANS-17, Intersection #15: *Perry Place/I-580 Eastbound Ramps/Oakland Avenue* (under Existing Plus Project, 2020 Plus Project and 2035 Plus Project conditions)
- TRANS-6, TRANS-12 and TRANS-26, Intersection #40: *23rd Street/Harrison Street* (under Existing Plus Project, 2020 Plus Project and 2035 Plus Project conditions)
- TRANS-8 and TRANS-19, Intersection #17: *Lake Park Avenue/Lakeshore Avenue* (under 2020 Plus Project and 2035 Plus Project conditions)
- TRANS-10 and TRANS-24, Intersection #37 *27th Street/24th Street/Bay Place/Harrison Street* (2020 Plus Project and 2035 Plus Project conditions)
- TRANS-13 and TRANS-27, Intersection #47 *West Grand Avenue/Northgate Avenue* (2020 Plus Project and 2035 Plus Project conditions)
- TRANS-14, Intersection #7: *51st Street/Pleasant Valley Avenue/Broadway* (2035 Plus Project conditions)
- TRANS-18, Intersection #16 *Grand Avenue/Lake Park Avenue/Santa Clara Avenue* (2035 Plus Project conditions)
- TRANS-20, Intersections #20 and #21: *Piedmont Avenue/Broadway and Hawthorne Avenue/Brook Street/Broadway*, respectively (2035 Plus Project conditions)

- TRANS-21, Intersection #29: 27th Street/Telegraph Avenue (2035 Plus Project conditions)
- TRANS-22, Intersection #30: 27th Street/ Broadway (2035 Plus Project conditions)
- TRANS-28, Intersection #49: Grand Avenue/Broadway (2035 Plus Project conditions)
- 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.

*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) 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.

### **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 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.<sup>8</sup> 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.

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<sup>8</sup> As noted earlier in 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.

**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 Planning Commission take public testimony, close the public hearing, and:

1. Adopt the CEQA findings for the *BVDSP* in **Attachment A**, which include certification of the EIR, rejection of alternatives as infeasible, and a Statement of Overriding Considerations;
2. Adopt the Standard Conditions of Approval and Mitigation Monitoring Reporting Program (SCAMMRP) in **Attachment B**;
3. Recommend the City Council adopt the *BVDSP*, Design Guidelines and General Plan and Planning Code Amendments based, in part, upon the *BVDSP* Adoption Findings in **Attachment C**; and
4. Authorize staff to make minor ongoing revisions to the adopted Design Guidelines for the Broadway Valdez District and to make non-substantive, technical conforming edits to the

Planning Code that may have been overlooked in deleting old sections and cross-referencing new sections to the new Broadway Valdez District Commercial Zone Regulations (which are essentially correction of typographical and/or clerical errors) and to return to the Planning Commission for major revisions only.

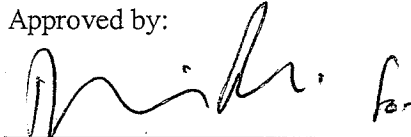
5. Authorize staff to make ongoing revisions to the BVDSP Action Plan (Chapter 8, Table 8.6), to reflect changes in market conditions (e.g., what private development actually occurs) and the availability of City and other funding sources, which could potentially affect timeframes, responsibilities and potential funding mechanisms.

Prepared by:



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 EIR, Rejection of Alternatives and Statement of Overriding Considerations For the Broadway Valdez District Specific Plan
- B. Standard Conditions of Approval/Mitigation Monitoring and Reporting Program (SCAMMRP)
- 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
- I. Proposed Parking In-lieu Fee
- J. Proposed Open In-lieu Fee
- K. Comment Letter from the Landmarks Preservation Advisory Board – May 13, 2014
- L. Comment Letter from East Bay Housing Organizations (EBHO) – May 14, 2014 (received too late for a response in this report)