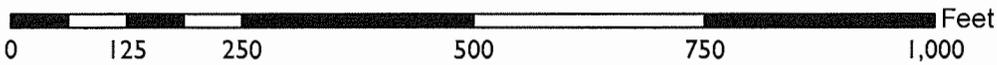


Location:	378 11 th Street (See map on reverse)
Assessor's Parcel Number:	002-0057-020-00
Proposal:	Appeal of an Administrative decision to approve a 114 room, 7 story hotel on a vacant lot in downtown Oakland.
Appellant:	Ty Hudson/ Unite Here Local 2850
Applicant:	Dhruv Patel / Oak 378 LLC
Owners:	Salvation Army
Planning Permits Required:	Minor Conditional Use permits for a new Transient Habitation Commercial Activity and to allow a base height of 85 feet in the D-LM Zone Height Area 275; Regular Design Review for new construction; Minor Variance for one loading berth.
General Plan:	Central Business District
Zoning:	D-LM-3
Environmental Determination:	15332 – In fill projects; 15183- Projects consistent with a Community Plan, General Plan or Zoning; 15183.3 – Streamlining for In fill projects; and 15164 – Addendum to the 2014 certified Lake Merritt Station Area Plan EIR; Each of which provides a separate and independent basis for CEQA compliance.
Historic Status:	Not a Historic Property
Service Delivery District:	Metro
City Council District:	3
Status:	The application was approved by the Zoning Manager on March 15, 2016. The approval was subsequently appealed by the appellant on March 25, 2016.
Action to be Taken:	Decision on appeal
Staff Recommendation:	Deny the appeal thereby upholding the approval of the application
Finality of Decision:	Final. Not administratively appealable.
For Further Information:	Contact case planner Peterson Z. Vollmann at (510) 238-6167 or by email at pvollmann@oaklandnet.com .

CITY OF OAKLAND PLANNING COMMISSION



Case File: PLN15-096-A01
Appellant: Ty Hudson/ Unite Here Local 2850
Applicant: Dhruv Patel / Oak 378 LLC
Address: 378 11th Street
Zone: D-LM-3

SUMMARY

The applicant proposes to construct a new seven story 114 room hotel, classified as a Transient Habitation Commercial Activity in the Planning Code. The proposal would be operated under the Hampton Inn brand. On March 15, 2016 the Zoning Manager approved the Minor Conditional Use Permit, Minor Variance and Design Review application that was required for the proposal, finding that the proposal complied with all the necessary criteria for approval. On March 25, 2016 the approval was appealed to the Planning Commission by Ty Hudson representing Unite Here Local 2850. Pursuant to Section 17.134.060, the appellant must show that there was error or abuse of discretion in the approval of this project. Staff does not believe the appellant has shown that there was error or abuse of discretion and, therefore, recommends that the planning Commission deny the appeal and uphold the Zoning Manager's decision to approve the project.

PROPERTY DESCRIPTION

The subject property is a 10,000 square foot lot located on the north side of 11th Street between Franklin and Webster Streets, and currently consists of a paved surface parking lot.

PROJECT DESCRIPTION

The proposed project is to construct a new seven story commercial hotel (Transient Habitation Commercial) that would include 114 rooms. The establishment of the hotel activity requires a Minor Conditional Use Permit along with the request to allow a base height of 85 feet, a minor variance for one- loading berth, and Regular Design Review for new construction. The permit approvals were granted by the Zoning Manager on March 15, 2016.

ZONING AND GENERAL PLAN ANALYSIS

The site is located in the D-LM-3, Lake Merritt Station District General Commercial Zone. The intent of the D-LM-3 Zone is to create, maintain, and enhance areas of the Lake Merritt Station Area Plan District appropriate for a wide range of ground-floor Commercial Activities. Upper-story spaces are intended to be available for a wide range of Residential, Office, or other Commercial Activities. The site is also located within the D-LM Height Area 275.

Conditional Use Permits

The proposed Transient Habitation Commercial Activity (Hotel) requires a Minor Conditional Use Permit pursuant to Planning Code Section 17.101G.030, and is subject to Special Criteria contained in Planning Code Section 17.103.050.

In addition, in the 275 Height Area of the D-LM Zones, the base height allowance is 45 feet, but is allowed to increase to 85 feet upon the granting of a Minor Conditional Use Permit. The overall height allowance for the area is 275 feet.

The granting of the Minor Use permit for the hotel use was supported largely due to the location downtown in close proximity to the main Broadway spine with many nearby amenities, BART stations and other transit.

The granting of the increase in base height was supported due to the context of the area, as many other buildings in the area are in excess of 45 feet in height without a setback.

Loading Berth Variance

The proposed hotel does not require any parking within the D-LM Zone, however; one loading berth is required since the building is in excess of 50,000 square feet. The applicant requested a Minor Variance to allow the waiver of the one required loading berth.

The granting of the Minor Variance was supported largely due to it being a superior design solution that improves the appearance of the building since it is located at a mid-block location and not on a corner, and the installation of a loading dock would adversely affect the downtown oriented pedestrian oriented nature of the façade that is desired at the ground floor in this location.

Design Review

The new construction of the building also required Regular Design Review, which was supported since the design did a good job of relating to other older buildings in the vicinity with the massing and use of brick veneer while still creating a modern façade.

General Plan Classification

The proposed project is located within the Central Business District General Plan land use classification as well as the Lake Merritt Station Area Specific Plan. The proposal to construct a new hotel within the downtown area is consistent with General Plan and Specific Plan Policies including but not limited to the following:

Policy D2.1: Enhancing the Downtown – Downtown development should be visually interesting, harmonize with its surroundings, respect and enhance important views in and of the downtown, respect the character, history and pedestrian orientation of the downtown, and contribute to an attractive skyline.

Policy D6.1: Developing Vacant Lots – Construction on vacant land or to replace surface parking lots should be encouraged throughout the downtown, where possible.

Policy N1.7: Locating Hotels and Motels – Hotels and motels should be encouraged to locate downtown, along the waterfront, near the airport, or along the I-880 corridor.

LMSAP – LU 17: Intensified Urban Area – Establish the Upper Chinatown Plan district as an intensified urban area for living with new high-density housing and accompanying retail, restaurants, commercial uses, and publicly accessible open spaces.

The proposal is consistent with the Lake Merritt Station Area Specific Plan Design Guidelines by building out the building to the sidewalk edge, concealing any back of house operations from the right of way, containing a tall ground floor that contains a horizontal sightline that is consistent with the adjacent historic building and by using high quality exterior materials.

ZONING MANAGER'S DECISION

On March 15, 2016 the Zoning Manager approved the application to construct the new hotel finding that the proposal complies with all the necessary criteria for approval. Attached is the Zoning Manager's decision letter containing the required findings and the reasons the findings were met (see Attachment B).

BASIS OF THE APPEAL

On March 25, 2016 the appellant, Ty Hudson of Unite Here Local 2850, submitted an appeal of the Zoning Manager's decision to approve the project. The applicant's appeal letter received March 25, 2016 contains arguments challenging the Zoning Manager's approval of the Application (see Attachment C). The appellant's arguments are summarized below. Staff's response to the argument follows.

Appellant's Argument: The appellant argues that the proposed project requires a Major Conditional Use Permit instead of the Minor Conditional Use Permit. The appellant argues that since Section 17.134 of the Planning Code states that "projects that request to be considered for an exception to the D-LM Height/Bulk/Intensity Area standards" are Major Conditional Use Permits.

Staff Response: The proposed project requested a CUP to have a base height increase from 45 feet to 85 feet, which only requires a Minor CUP. The height exceptions that the Code is referring to is when a project is within an 85 foot height area and there is a request for an exception to be allowed to develop a project under a more intense height area such as the height area 175 or 275. Both the base height change and the height exception portions of the table reference the same "note 2", but the allowance of a "greater base height" is not considered an "exception" to the standards as set out in the D-LM Zone. The Planning Bureau was looking to update language in the Code to better clarify this point, but it would not change the applicability of the regulations.

Appellant's Argument: The building exceeds the maximum allowable height. The appellant argues that the height of the building exceeds the 85 foot base height because the top of the building parapet is 87 feet, even though the roof is 82 feet. The appellant also cites language in the staff report that was looking to add parapet back into the Section 17.108 to provide proof that they are not allowed projections.

Staff Response: Section 17.108.030 of the Planning Code cites objects that are allowed to project above the height limit. It has been long standing practice that parapets fall under the category of a "rooftop appurtenance not provided for elsewhere in this section". The request to add the term

parapet back into the Section 17.108 allowed projections was not only to clarify this, but to limit the allowed height projection of them as they are currently allowed as a ten foot projection above the height. Parapets are considered accessory items to a roof and are often required at property line walls for fire protection under the building code, and while not required on the front façade of the building they are generally added to improve the appearance of the building to add additional decorative detailing as well as to shield the required parapets at the side elevations. Parapets could also potentially qualify as a “decorative feature” that would be allowed to project above the height limit; however, the practice has been to use the “rooftop appurtenance” since it provides for a lower height than the decorative feature provision. The appellant is correct that a previous staff report suggested that these projections were not permitted; however this was incorrect. In conclusion, the project does not exceed the applicable height limits because, as noted above rooftop of the building is at 82 feet, which is three feet below the 85 foot base height, and the five foot parapet is allowed projection. The overall maximum height for the site is 275 feet.

Appellant’s Argument: The loading berth variance is not warranted, because it does not meet the intent of the regulation for an off-street loading berth and other hotels in the area of a similar size have loading docks.

Staff Response: While the specific intent of off-street parking and loading is to establish these facilities at off-street locations as stated, there is a more general intent to providing the general needs of parking and loading. In this instance, the decision to grant the variance was due to the negative impact that a loading dock would have upon the façade of the building at this relatively narrow mid-block location, as well as the requirement for a truck to back into the front façade across the sidewalk on this section of 11th Street. Due to the limited scale of this hotel it will operate as more of a boutique hotel in that there are limited on-site amenities given its proximity to other amenities in the surrounding downtown area, and as such there would not be a need for frequent deliveries. The applicant has stated that a majority of the linens will be done on-site and the main need for deliveries will be for food service items which would be similar to the needs of a small restaurant. Even if linens are picked up and delivered this would still represent a minimal need for a full loading berth, which as previously stated would have a severe negative impact upon the front façade of the building.

Appellant’s Argument: The project is not consistent with the CUP criteria for transient habitation commercial activities because it does not provide buffered loading areas, does not identify the operator of the facility, and because the hotel would create low wage jobs that would impact City services.

Staff Response: As previously discussed a variance was granted to waive one off-street loading berth. This was largely due to aesthetic purposes combined with the minimal loading requirements for the project. The purpose behind the CUP finding #4 which states, “That the proposed development provides adequately buffered loading areas and to the extent possible, are located on secondary streets”, is so that there is not an unattractive functional element that would be visible from the public realm. Since the loading berth was eliminated with a Variance, the buffered loading area requirement is moot. As approved the limited deliveries can take place at

curbside locations and would be brought in through the non-descript gates along the side of the building and delivered to the rear of the ground floor.

The appellant also argues that the operator of the hotel was not identified but rather only the hotel brand was identified, which is inconsistent with the requirements for submittal of the application. This argument would be in regard to finding #5 which states, "The proposed operator of the facility shall be identified as part of the project description at the time of application". Staff disagrees with the appellant; the applicant in this instance is the proposed day to day operator of the hotel since they are the one applying for the application. This seemed to be known by the appellant since they looked into other hotels operated by the applicant. The actual intent of this regulation/finding is that the City wants to ensure that the proposed operation will be under a larger umbrella of an hotelier that has a national reputation that will require quality control for the project. This was important due to the proliferation of independently operated motels throughout the City that have been continuing nuisances.

Lastly the appellant has argued that the proposal is inconsistent with the required findings since the operation will create low wage jobs which will create needs for social services in the City. This argument is in regard to finding #2 which states, "That the proposal considers the impact of the employees of the hotel or motel on the demand in the City for housing, public transit, and social services".

The appellant asserts that the project will have significant negative impacts with respect to housing and social services, which appellant believes were not addressed by staff in its decision letter. While staff can agree that higher paying jobs would be beneficial in the form of likely higher wages and worker protection, the project meets the required finding under Planning Code Section 17.103.050 because the proposed development is located near existing transit lines and will create 20-30 new jobs that may be available to Oakland residents and help to reduce the level of unemployment in the City. The appellant argues that there is no way to know that the jobs created would go to existing Oakland residents and that instead would bring in new residents for these jobs who would then not earn enough of a wage to be able to afford the high rents in the area and would then have to rely upon additional City social services. Staff relied upon statements from the applicant that the majority of their employees at their other hotels are Oakland residents to make an assumption that the same would hold true for this proposed hotel. Staff also required the applicant to perform a job fair with an emphasis of recruiting Oakland residents by advertising it in Oakland employment assistance locations. While there is no certain way to ensure that the majority of workers are existing Oakland residents, staff feels that the Condition of Approval included will help to reach that goal. No further requirements would be appropriate for a privately-funded project, which is not requesting any financial or other assistance from the City.

In addition, the appellant argues that alleged violations by the applicant of the City's minimum wage ordinance on an unrelated property should be evaluated as part of the Commission's decision on this appeal. Any such allegations are the subject of a separate and independent

investigation by the City’s Contracts & Compliance department and are not within the purview of the Planning Commission to evaluate in the context of this appeal.

CONCLUSION

The Appellant has not demonstrated that the Zoning Manager’s approval of the proposed Transient Habitation Commercial Activity was granted in error, was an abuse of discretion, or was not supported by evidence in the record. The proposal was granted because the use is appropriate for the downtown location and establishes a good urban design, including the granting of the minor conditional use permits and minor variance.

- RECOMMENDATIONS:**
1. Affirm staff’s environmental determination;
 2. Uphold the Zoning Administrator’s March 15, 2016 decision to approve the application for a Minor Conditional use Permit, Minor Variance, and regular Design Review.

Prepared by:



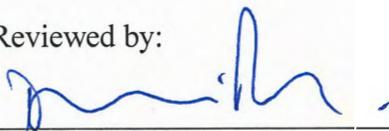
PETERSON Z. VOLLMANN
Planner III

Reviewed by:



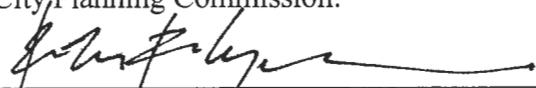
SCOTT MILLER
Zoning Manager
Bureau of Planning

Reviewed by:



DARIN RANELETTI
Deputy Director
Bureau of Planning

Approved for forwarding to the
City Planning Commission:



RACHEL FLYNN, Director
Department of Planning and Building

ATTACHMENTS:

- A. Project Drawings
- B. Zoning Manager’s Decision Letter
- C. Appellant’s Letter

HAMPTON INN DOWNTOWN OAKLAND - CITY CENTER

NEW 7-STORY HOTEL, 114 ROOMS
378 11TH STREET, OAKLAND, CA 94614

DEVELOPER:

OAK 378 LLC.

P.O.BOX 2548

OAKLAND, CALIFORNIA 94614

CONTACT: Dhruv Patel (510)407-0308

C/O

ARCHITECT:

ARCHITECTURAL DIMENSIONS

300 FRANK H. OGAWA PLAZA, SUITE 375

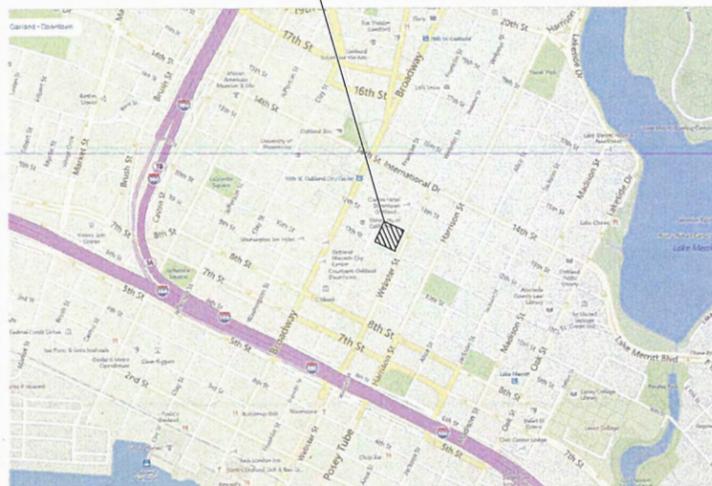
OAKLAND, CALIFORNIA 94612

510.463.8300, FAX: 510.463.8395

SUBMITTED TO:
Oakland Planning Department

FOR:
DESIGN REVIEW AND
CONDITIONAL USE PERMIT

PROJECT LOCATION



VICINITY MAP

N.T.S.

DRAWING INDEX

CS - 1	Cover Sheet
DR - 1	Ground Floor Plan, Section A-A & Project Data
DR - 2	2nd-7th Floor & Roof Plans
DR - 3	West & South Elevations
DR - 4	East & North Elevations
DR - 5	Perspective Views
DR - 6	Materials Board

**ARCHITECTURAL
DIMENSIONS**

300 Frank H. Ogawa Plaza, Suite 375
Oakland, CA 94612
TEL. 510.463.8300 • FAX. 510.463.8395

PROJECT INFO.

HAMPTON INN
378 11TH STREET, OAKLAND, CA 94612

JOB NO.

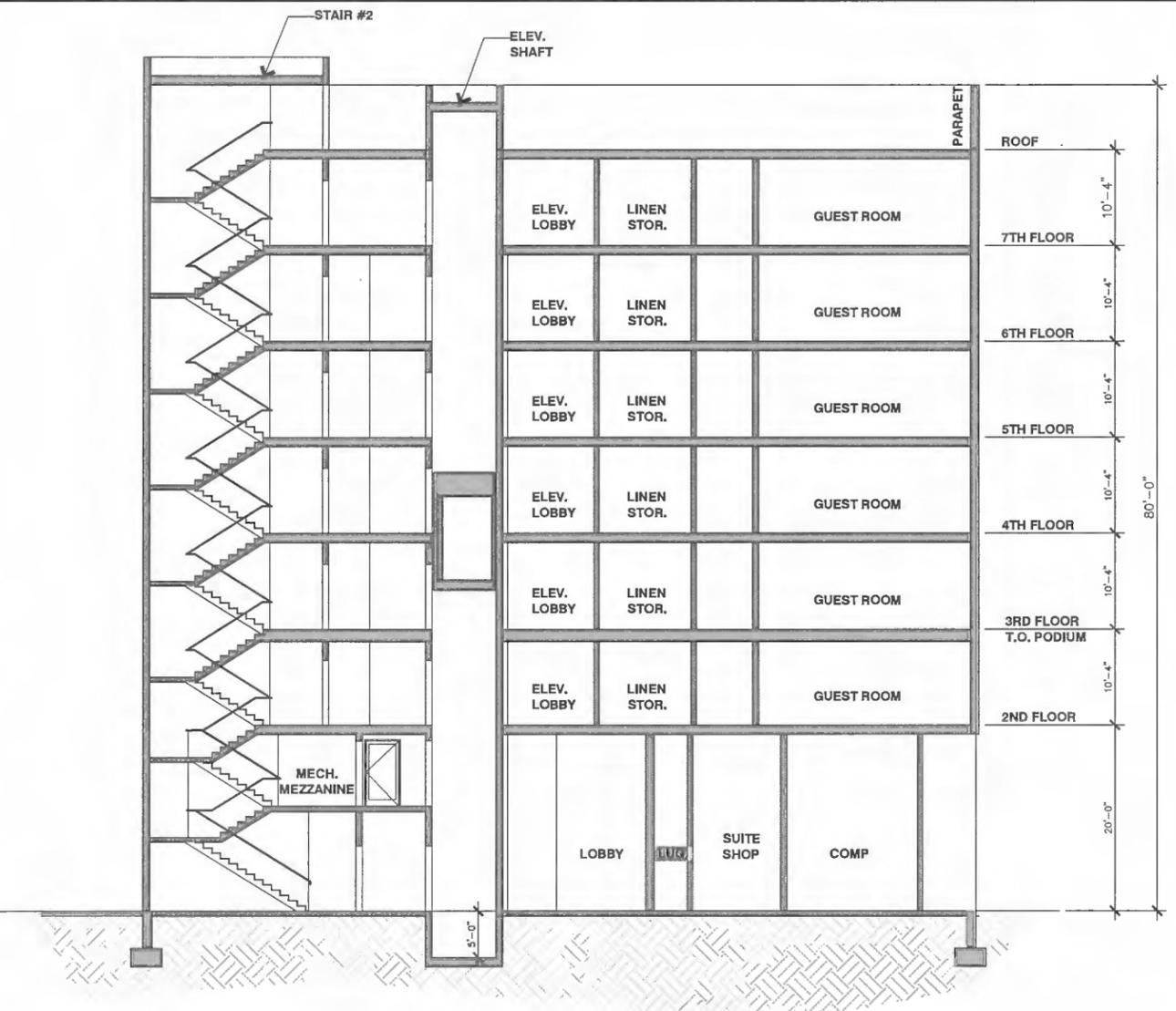
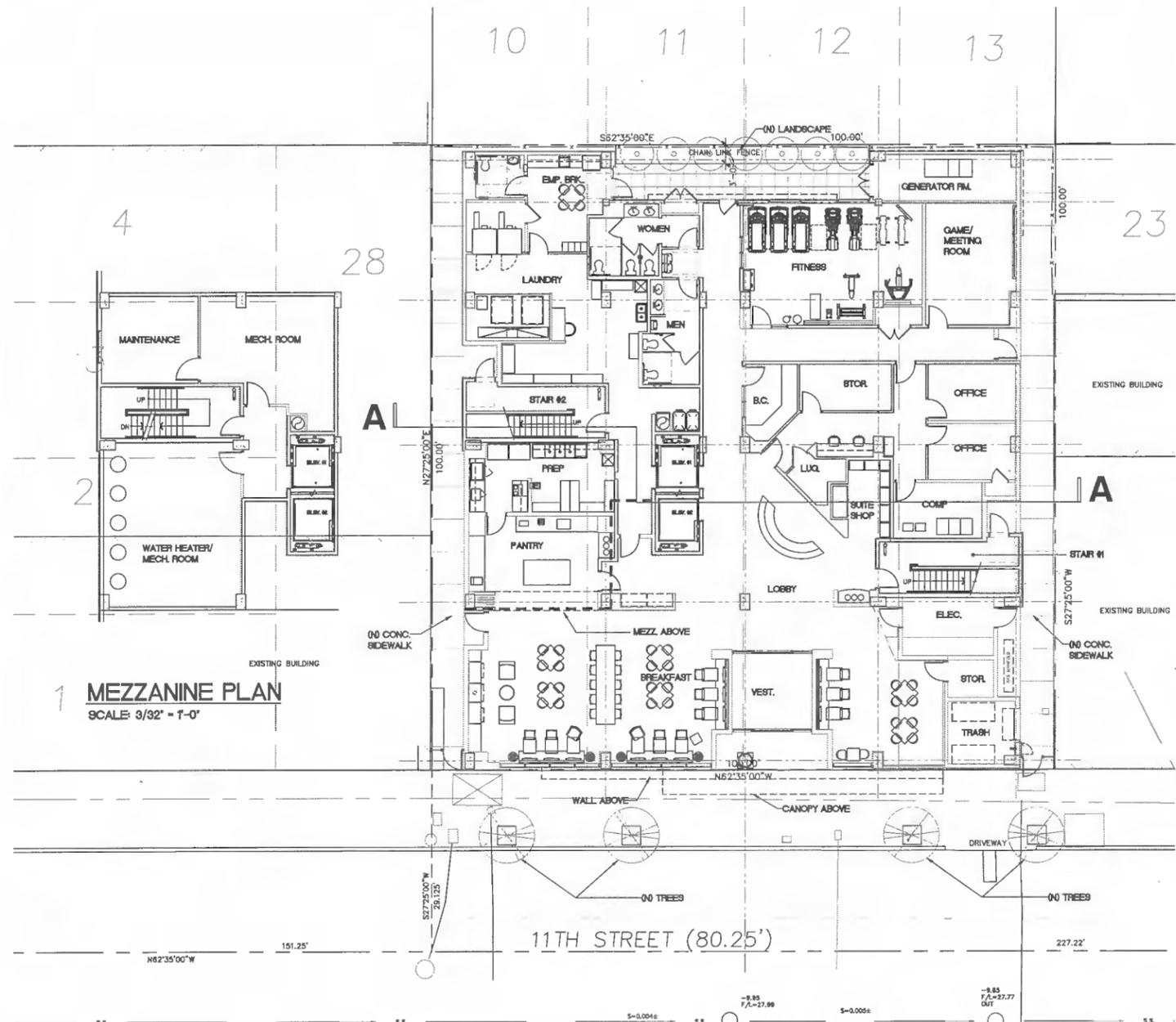
RP003

DATE
06.15.2015

DRAWING NO.

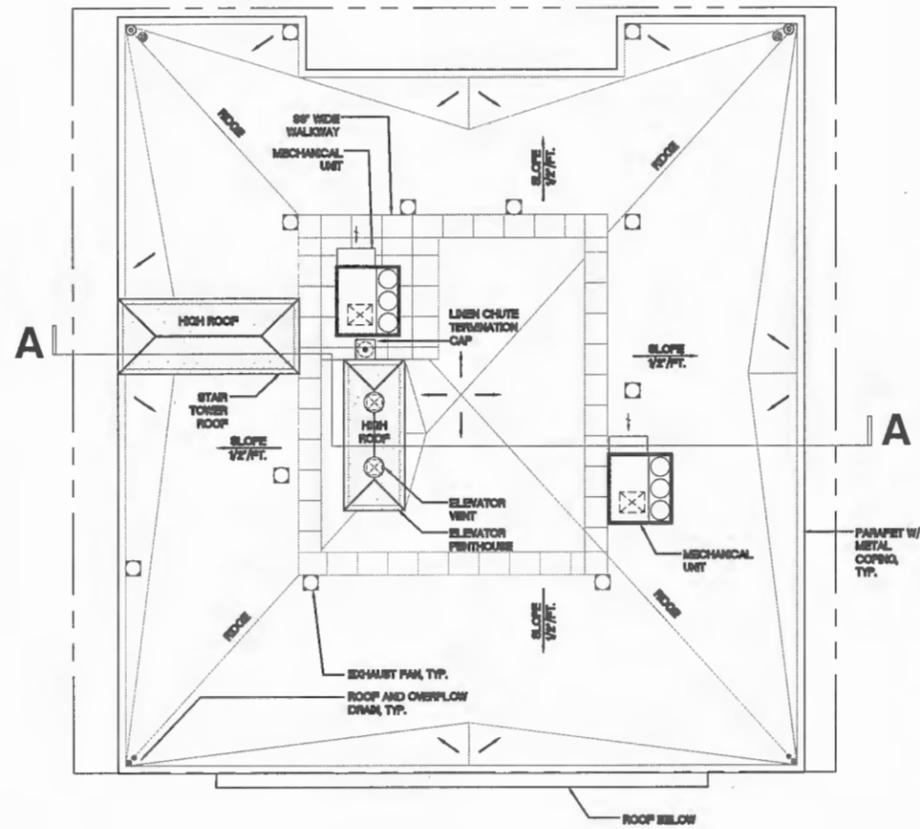
CS-1

ATTACHMENT A

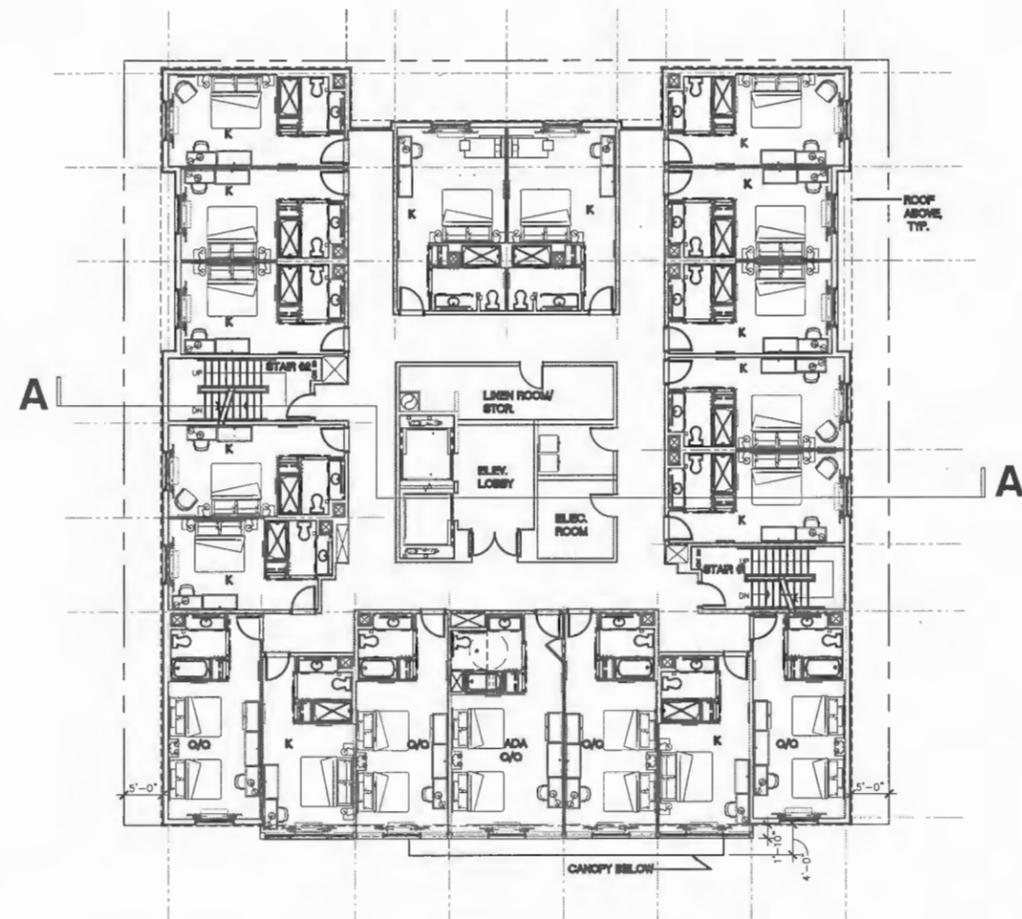


**7 STORY HOTEL
HAMPTON INN
114 ROOMS**

BUILDING AREA:		ROOMS:		
	S.F.	Q/Q	KING	TOTAL
Ground Floor	- 8,436 S.F.			
Mech. Mezzanine	- 1,771 S.F.			
2nd Floor	- 8,655 S.F.	5	14	19
3rd Floor	- 8,655 S.F.	5	14	19
4th Floor	- 8,655 S.F.	5	14	19
5th Floor	- 8,655 S.F.	5	14	19
6th Floor	- 8,655 S.F.	5	14	19
7th Floor	- 8,655 S.F.	5	14	19
Total Area:	62,137 S.F.	TOTAL :	30	84
				114

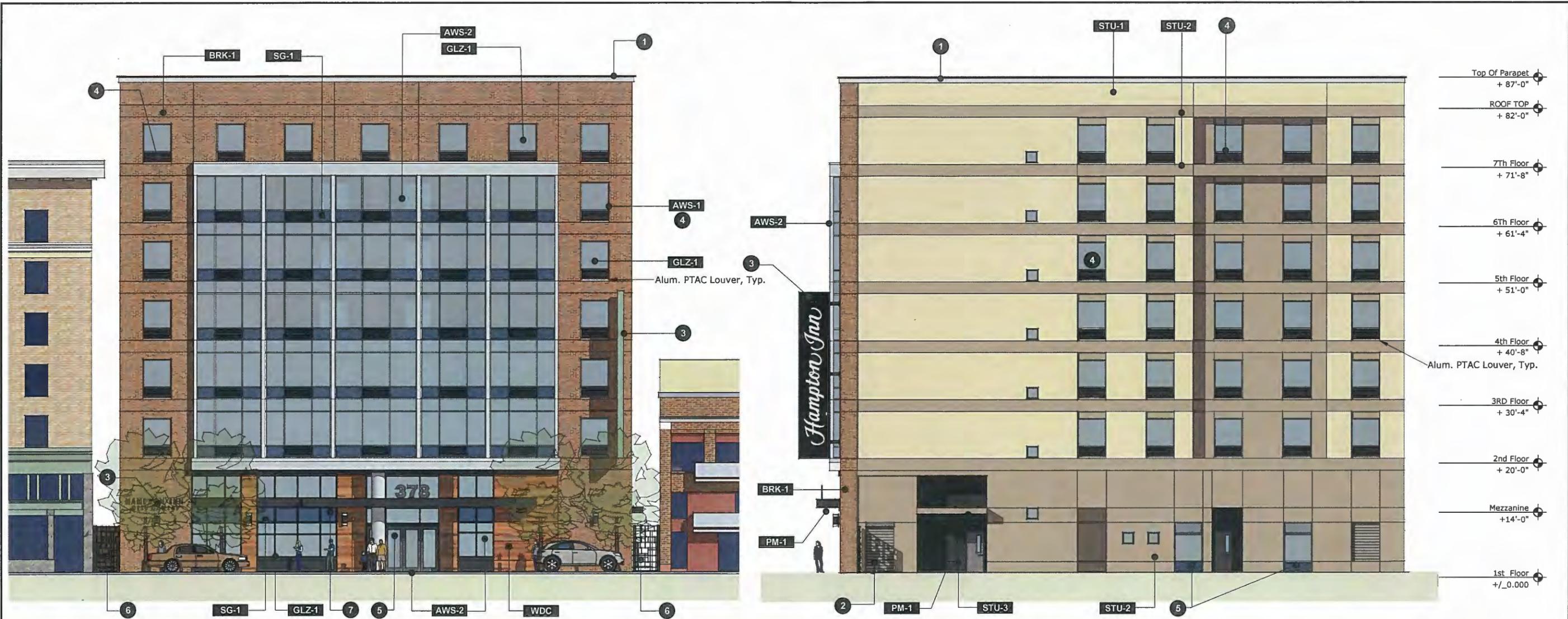


ROOF PLAN
SCALE 3/32" = 1'-0"



2nd - 7th FLOOR PLAN
SCALE 3/32" = 1'-0"





SOUTH (11th Street) ELEVATION

SCALE: 1/8" = 1'-0"

WEST ELEVATION

SCALE: 1/8" = 1'-0"

Material/Finish Legend

(Refer to submitted Colors and Materials Boards for true representation of all proposed finishes.)

- BRK-1** Brick Veneer
- AWS-1** Aluminum Window System
- GLZ-1** Glazing (Vision Glass)
- PM-1** Painted Metal
- AWS-2** Aluminum Curtain Wall
- WDC** Wood Cladding
- STU-1** Painted Smooth Stucco
- STU-2** Painted Smooth Stucco
- STU-3** Painted Smooth Stucco
- SG-1** Spandrel Glass Panel
- AWS-2** Aluminum Storefront

Keynotes

Note: Not all keynotes listed apply to this particular sheet.

- 1** Galvanized Sheet Metal Coping
- 2** Utility Roll-up Door
- 3** Internally illuminated Signage
- 4** Aluminum Windows with Integrated PTAC Louver
- 5** Black Anodized Aluminium Storefront
- 6** Metal Gates
- 7** Entry Canopy

General Exterior Elevation Notes

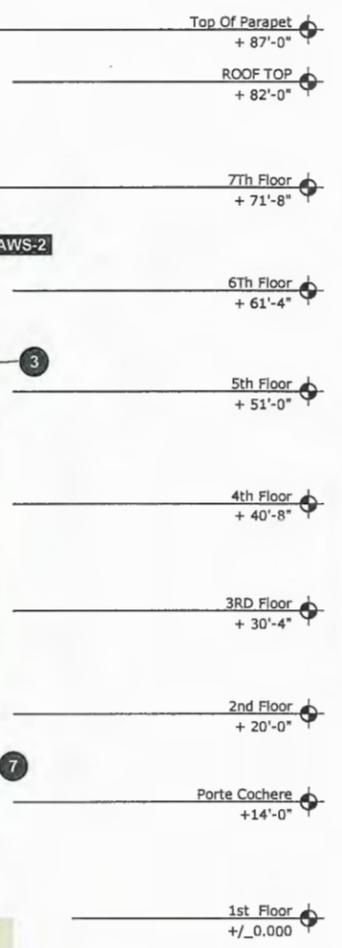
1. Colors indicated on this drawing are approximate and will vary depending on printer/monitor display source. Refer to submitted Colors and Materials Boards for true representation of all proposed finishes.
2. All landscaping indicated on this drawing is diagrammatic and intended only to convey a sense of general landscaped areas.



NORTH ELEVATION
SCALE: 1/8" = 1'-0"



EAST ELEVATION
SCALE: 1/8" = 1'-0"



General Exterior Elevation Notes

1. Colors indicated on this drawing are approximate and will vary depending on printer/monitor display source. Refer to submitted Colors and Materials Boards for true representation of all proposed finishes.
2. All landscaping indicated on this drawing is diagrammatic and intended only to convey a sense of general landscaped areas.

Material/Finish Legend

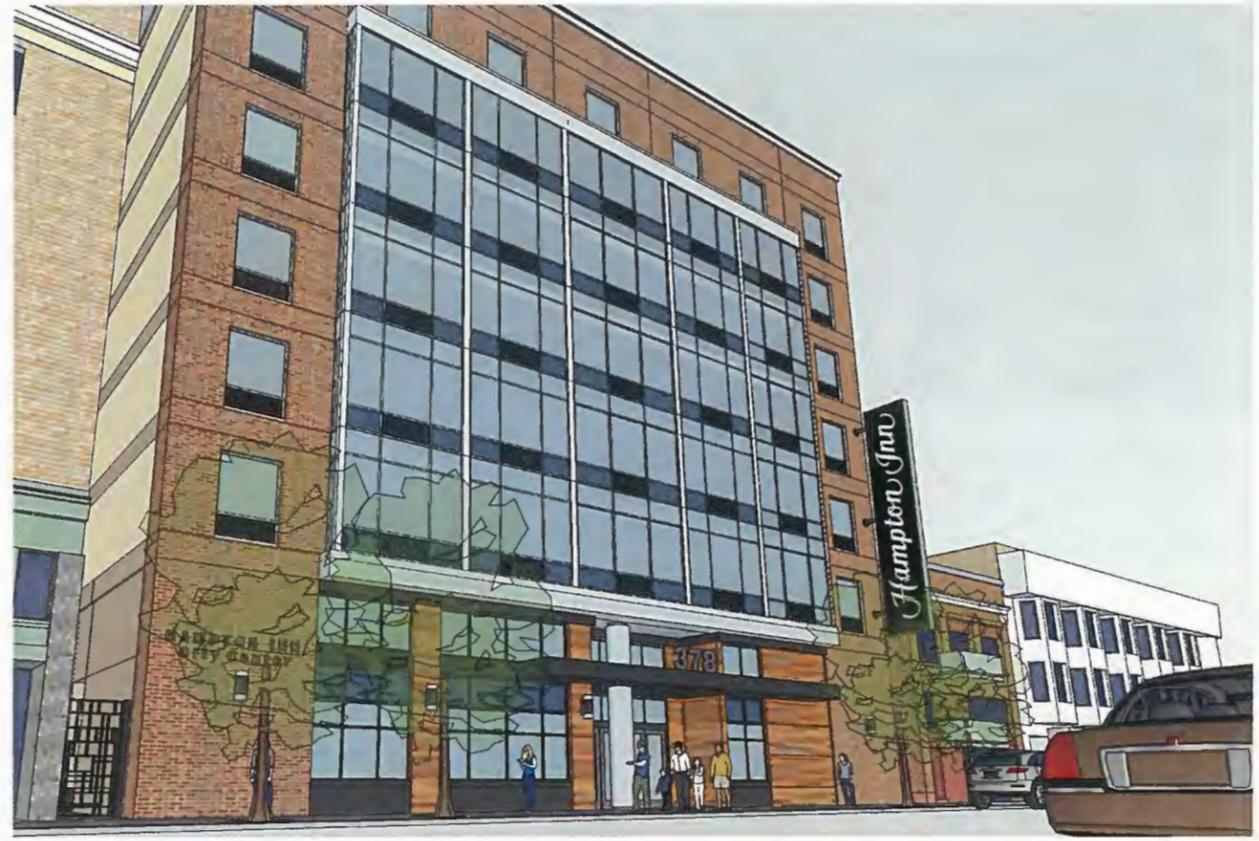
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11th Street Perspectives

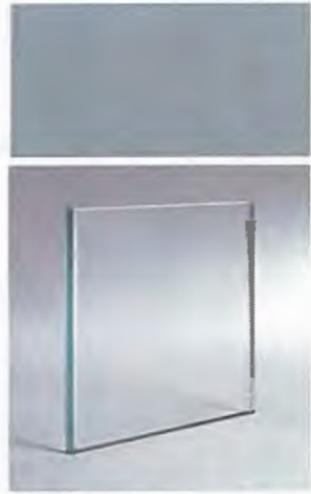
ARCHITECTURAL
DIMENSIONS

300 Frank H. Ogawa Plaza, Suite 375
Oakland, CA 94612
TEL. 510.463.8300 | FAX. 510.463.8395

HAMPTON INN DOWNTOWN - CITY CENTER
378 11TH STREET, OAKLAND, CA 94607

JOB NO.
DATE
06/15/2015

DR-5



VISION GLASS **GLZ-1**

AWS-1 ALUMINUM WINDOW SYSTEM
Clear Anodized Aluminum



SPANDREL PANEL **SG-1**



PAINTED METAL FASCIA **PS-1**



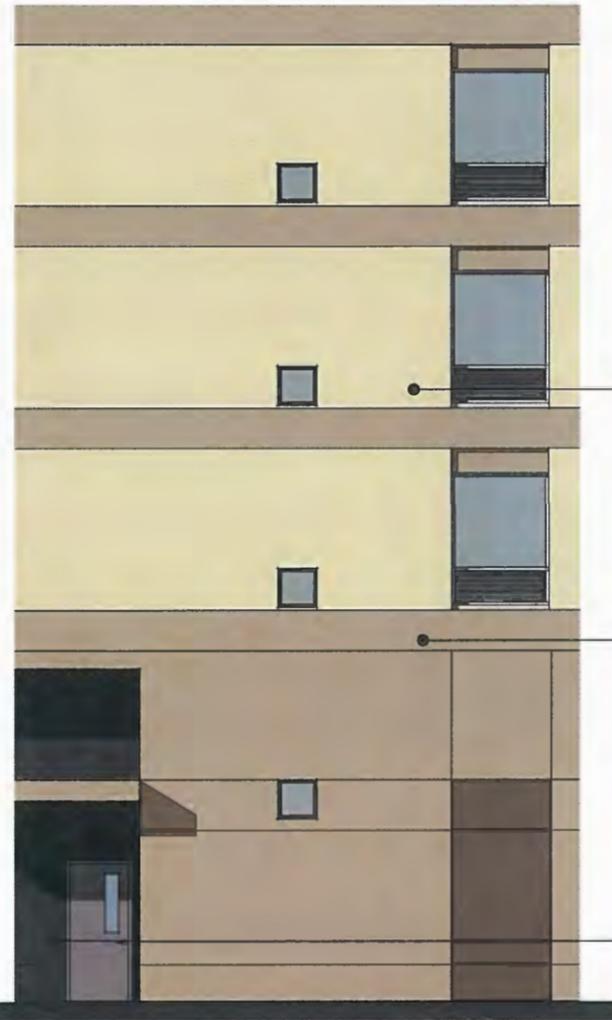
BLACK ANODIZE ALUM. STOREFRONT **AWS-2**



WOOD CLADDING **WDC**



Partial South Elevation



Partial West Elevation

BRK-1 BRICK VENEER



STC-1 PAINTED SMOOTH STUCCO

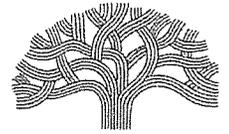


STC-2 PAINTED SMOOTH STUCCO



STC-3 PAINTED SMOOTH STUCCO

CITY OF OAKLAND



DALZIEL BUILDING • 250 FRANK H. OGAWA PLAZA • SUITE 3315 • OAKLAND, CALIFORNIA 94612

Planning and Building Department
Bureau of Planning

(510) 238-3941
FAX (510) 238-6538
TDD (510) 238-3254

Sent via U.S. Mail

March 15, 2016

Dhruv Patel / Oak 378 LLC
PO Box 2548
Oakland, CA 94614

RE: Case File No. PLN15-096, 378 11th Street (APN: 002-0057-020-00)

Dear Applicant:

Your application, as described below, has been **APPROVED** for the reasons stated in Attachment A, which contains the findings required to support this decision. Attachment B contains the Conditions of Approval for the project. This decision is effective ten (10) days after the date of this letter unless appealed as explained below.

The following table summarizes the proposed project:

Proposal:	To construct a 114 room, 7 story hotel on a vacant lot.
Planning Permits Required:	Minor Conditional Use permits for a new Transient Habitation Commercial Activity and to allow a base height of 85 feet in the D-LM Zone Height Area 275; Regular Design Review for new construction; Minor Variance for one loading berth.
General Plan:	Central Business District
Zoning:	D-LM-3
Environmental Determination:	15332 – In fill projects; 15183- Projects consistent with a Community Plan, General Plan or Zoning; 15183.3 – Streamlining for In fill projects; and 15164 – Addendum to the 2014 certified Lake Merritt Station Area Plan EIR; Each of which provides a separate and independent basis for CEQA compliance.
Historic Status:	Non-historic property
Service Delivery District:	Metro
City Council District:	2

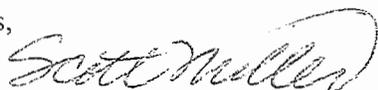
If you, or any interested party, seeks to challenge this decision, an appeal **must** be filed by no later than ten calendar (10) days from the date of this letter, by **4:00 pm on 3/25/16**. An appeal shall be on a form provided by the Planning and Zoning Division of the Community and Economic Development Agency, and submitted to the same at 250 Frank H. Ogawa Plaza, Suite 2114, to the attention of **Pete Vollmann, Planner III**. The appeal shall state specifically wherein it is claimed there was error or abuse

ATTACHMENT B

of discretion by the Zoning Manager or wherein his/her decision is not supported by substantial evidence and must include payment of \$1622.57 in accordance with the City of Oakland Master Fee Schedule. Failure to timely appeal will preclude you, or any interested party, from challenging the City's decision in court. The appeal itself must raise each and every issue that is contested, along with all the arguments and evidence in the record which supports the basis of the appeal; failure to do so may preclude you, or any interested party, from raising such issues during the appeal and/or in court. However, the appeal will be limited to issues and/or evidence presented to the Zoning Manager prior to the close of the previously noticed public comment period on the matter.

If you have any questions, please contact the case planner, **Pete Vollmann, Planner III** at (510) 238-6167 or pvollmann@oaklandnet.com, however, this does not substitute for filing of an appeal as described above.

Very Truly Yours,



SCOTT MILLER
Zoning Manager

cc:

Ty Hudson, UNITE HERE Local 2850
1440 Broadway, Suite 208
Oakland, CA 94612

Attachments:

- A. Findings
- B. Conditions of Approval, including Standard Conditions of Approvals

ATTACHMENT A: FINDINGS

This proposal meets all the required findings under the Section 17.136.050A (Design Review), Sections 17.134.050, 17.103.050 & 17.101G.050 (Conditional Use Permit Criteria) and Section 17.148.050 (Variance Findings) of the Oakland Planning Code (OMC Title 17) as set forth below and which are required to approve your application. Required findings are shown in **bold type**; reasons your proposal satisfies them are shown in normal type:

17.136.050B: REGULAR DESIGN REVIEW CRITERIA FOR NON-RESIDENTIAL FACILITIES

1. **That the proposal will help achieve or maintain a group of facilities which are well related to one another and which, when taken together, will result in a well-composed design, with consideration given to site, landscape, bulk, height, arrangement, texture, materials, colors, and appurtenances; the relation of these factors to other facilities in the vicinity; and the relation of the proposal to the total setting as seen from key points in the surrounding area.**

The proposed project will create a new seven story hotel building at the mid-block point that will have a façade composition consisting largely of brick veneer that will fit in well with the neighboring buildings and will contain an active ground floor façade with a height that is consistent with the neighboring buildings, in particular the historic Hotel Travelers building directly to the west of the site.

2. **That the proposed design will be of a quality and character which harmonizes with, and serves to protect the value of, private and public investments in the area.**

The proposed design will have high quality exterior finishes such as brick veneer and an aluminum and glass curtain wall feature at the central point of the building and topped off with a coping that is appropriate for the modern architecture that also relates to the older buildings in the area. The ground floor will have a double height ceiling to accent the entry point and pedestrian scale of the block and be accented by an attractive wood paneling system flanking the ground level storefronts.

3. **That the proposed design conforms in all significant respects with the Oakland General Plan and with any applicable design review guidelines or criteria, district plan, or development control map which have been adopted by the Planning Commission or City Council.**

The proposed project is located within the Central Business District General Plan land use classification as well as the Lake Merritt Station Area Specific Plan. The proposal to construct a new hotel within the downtown area is consistent with General Plan and Specific Plan Policies including but not limited to the following:

Policy D2.1: Enhancing the Downtown – Downtown development should be visually interesting, harmonize with its surroundings, respect and enhance important views in and of the downtown, respect the character, history and pedestrian orientation of the downtown, and contribute to an attractive skyline.

Policy D6.1: Developing Vacant Lots – Construction on vacant land or to replace surface parking lots should be encouraged throughout the downtown, where possible.

Policy N1.7: Locating Hotels and Motels – Hotels and motels should be encouraged to locate downtown, along the waterfront, near the airport, or along the I-880 corridor.

LMSAP – LU 17: Intensified Urban Area – Establish the Upper Chinatown Plan district as an intensified urban area for living with new high-density housing and accompanying retail, restaurants, commercial uses, and publicly accessible open spaces.

The proposal is consistent with the Lake Merritt Station Area Specific Plan Design Guidelines by building out the building to the sidewalk edge, concealing any back of house operations from the right of way, containing a tall ground floor that contains a horizontal sightline that is consistent with the adjacent historic building and by using high quality exterior materials. The conditions of approval will require that the ground floor expand upon the glazing to meet the required 55% to further enhance the ground floor façade of the building.

SECTION 17.148.050 – MINOR VARIANCE FINDINGS:

- 1. That strict compliance with the specified regulation would result in practical difficulty or unnecessary hardship inconsistent with the purposes of the zoning regulations, due to unique physical or topographic circumstances or conditions of design; or as an alternative in the case of a minor variance, that such strict compliance would preclude an effective design solution improving livability, operational efficiency, or appearance.**

The proposed project is required to provide one off-street loading berth pursuant to Planning Code Section 17.116. Strict compliance with this regulation would preclude an effective design solution improving operational efficiency and appearance. The project site is located mid-block along 11th Street and the addition of a loading berth would require a curb cut across the sidewalk and a loading dock door along the façade of the building which would detract from the pedestrian environment desired for the area as well as the visual quality of the building façade. Typically these loading dock locations would be located along an alley or a side street, neither of which are available in this location. Furthermore, the main need for a loading dock for this particular hotel would be for minor food deliveries for the food service for hotel patrons, which could just as easily be accommodated within an on-street loading situation. The applicant is also looking to enter into an agreement for off-site parking and looking to install a loading zone along the frontage of the hotel to accommodate the potential for valet parking. Conditions of approval will require that the applicant apply to include a commercial Loading zone for early hours as well as a passenger loading zone.

- 2. That strict compliance with the regulations would deprive the applicant of privileges enjoyed by owners of similarly zoned property; or, as an alternative in the case of a minor variance, that such strict compliance would preclude an effective design solution fulfilling the basic intent of the applicable regulation.**

The basic intent of the one required loading berth is to provide a location for loading and unloading of goods for the subject business operation, strict compliance with this regulation would preclude an effective design solution fulfilling the intent of the regulation. Given that the subject hotel operation would only use any designated loading berth for minor deliveries of food for the on-site food service for hotel patrons, the requirement for a loading dock is overly stringent since the loading could just as easily take place curb side in the early hours within a nearby commercial loading zone similar to many other food service businesses within the downtown area, which would also allow for a superior design to the building façade and the public right of way in front of the business.

- 3. That the variance, if granted, will not adversely affect the character, livability, or appropriate development of abutting properties or the surrounding area, and will not be detrimental to the public welfare or contrary to adopted plans or development policy.**

The granting of the variance would not adversely affect the character, livability or appropriate development of abutting properties as the area is envisioned as a pedestrian oriented area, which a

loading berth along the front façade at this location would actually be detrimental to. Many other commercial uses exist in the area without loading berths in order to establish a superior pedestrian environment. Other newer hotel activities within the downtown either have a loading area that is associated with the on-site off-street parking such as the Courtyard or is associated with the convention center and large public parking garage that is associated with the Marriott, both of which create an unattractive street front that would be unacceptable for a smaller site of this size with one street frontage.

4. **That the variance will not constitute a grant of special privilege inconsistent with limitations imposed on similarly zoned properties or inconsistent with the purposes of the zoning regulations.**

The granting of the variance would not constitute a grant of special privilege as other businesses within the area exist without loading berths in order to create a superior pedestrian environment and it is typical to grant Minor Variances that result in a superior design solution without creating any negative impacts as result.

5. **That the elements of the proposal requiring the variance (e.g., elements such as buildings, walls, fences, driveways, garages and carports, etc.) conform with the regular design review criteria set forth in the design review procedure at Section 17.136.050.**

See Design Review findings above.

6. **That the proposal conforms in all significant respects with the Oakland General Plan and with any other applicable guidelines or criteria, district plan, or development control map which have been adopted by the Planning Commission or City Council.**

See finding for General Plan and Design Guideline conformity above.

17.134.050: GENERAL CONDITIONAL USE PERMIT CRITERIA

- A. **That the location, size, design, and operating characteristics of the proposed development will be compatible with, and will not adversely affect, the livability or appropriate development of abutting properties and the surrounding neighborhood, with consideration to be given to harmony in scale, bulk, coverage, and density; to the availability of civic facilities and utilities; to harmful effect, if any upon desirable neighborhood character; to the generation of traffic and the capacity of surrounding streets; and to any other relevant impact of the development.**

The proposed project will fill in an existing vacant surface lot with a new seven story hotel. The scale of the proposed development is appropriate for its setting within the downtown commercial core as well as the fact that there are nearby buildings of a similar or larger scale. The site is located within close proximity of numerous public transit and parking options that could be available to both hotel patrons as well as employees. The addition of the new hotel within the downtown area will help with continuing the growth of Downtown Oakland as a destination.

- B. **That the location, design, and site planning of the proposed development will provide a convenient and functional living, working, shopping, or civic environment, and will be as attractive as the nature of the use and its location and setting warrant.**

The development of a new hotel within downtown will provide a convenient and functional working and shopping environment by being located within close proximity to multiple public transit options and will help enhance Downtown Oakland as a destination. The proposal will also provide for an attractive building that will enhance the image of the area as outlined in the Design Review findings section.

- C. That the proposed development will enhance the successful operation of the surrounding area in its basic community functions, or will provide an essential service to the community or region.**

The development will enhance the successful operation of the area by creating a new hotel within Downtown Oakland and further enhancing the area as a regional destination and slowly becoming a national destination.

- D. That the proposal conforms to all applicable design review criteria set forth in the DESIGN REVIEW PROCEDURE of Chapter 17.136 of the Oakland Planning Code.**

See Design Review findings above.

- E. That the proposal conforms in all significant respects with the Oakland General Plan and with any other applicable plan or development control map which has been adopted by the City Council.**

See finding for General Plan conformity above.

17.103.050: CONDITIONAL USE PERMIT CRITERIA – TRANSIENT HABITATION

- 1. That the proposal is consistent with the goal of attracting first-class, luxury hotels in downtown, along the waterfront, near the airport, along the I-880 freeway, in a specific plan area, and/or in an area with a concentration of amenities for hotel patrons, including but not limited to restaurant, retail, recreation, open space and exercise facilities, and is well-served by public transit;**

The proposal will include a Hampton Inn which is part of the worldwide Hilton hotels chain. The proposal will be located within the downtown area and Lake Merritt Station Plan Area, and is well served by nearby amenities including numerous restaurants, public open spaces, nearby gyms, and numerous public transit options.

- 2. That the proposal considers the impact of the employees of the hotel or motel on the demand in the City for housing, public transit, and social services;**

The proposal will create new jobs that would be available to existing Oakland residents and the operator anticipates that a majority of its employees will be Oakland residents. This assumption is based upon residency of employees at their other hotels in the area, which the operator has stated above 80% of their employees at two other local hotels in Oakland and Alameda are Oakland residents. Available jobs can help to reduce the unemployment rate within Oakland that is still higher than the California State average by and much higher than the local Bay Area average. The project site is located within close proximity to multiple public transit options that are readily available such as BART and three major AC Transit trunk lines with the 1/1R (future BRT line) the 51 line and the 72 line, as well as other AC transit lines. It would not be anticipated that the creation of new jobs in a central location accessible to Oakland residents would create a significant impact upon social services offered by or within the City of Oakland, as the Hotel would be anticipated to create between 20 to 30 new jobs and the Lake Merritt Station Area Specific Plan anticipates the creation of 4,100 new jobs in the area.

- 3. That the proposed development will be of an architectural and visual quality and character which harmonizes and enhances the surrounding area, and that such design includes:**

- a. **Site planning that insures appropriate access and circulation, locates building entries which face the primary street, provides a consistent development pattern along the primary street, and insures a design that promotes safety for its users;**

The proposal will face 11th Street, which is the only street frontage for the site, and will be setback to the sidewalk edge consistent with the development pattern for the area. The large amount of glazing and eyes on the street will promote safety in the area and the waiver of the required loading berth will enhance pedestrian safety in the area as well.

- b. **Landscaping that creates a pleasant visual corridor along the primary streets with a variety of local species and high quality landscape materials;**

The subject is located within a downtown setting which precludes the desire for a setback situation with lush landscaping along the façade of the building. The project will be required to provide street trees and potted plants near the entryway per the Conditions of Approval, which is more appropriate for the setting of the project site.

- c. **Signage that is integrated and consistent with the building design and promotes the building entry, is consistent with the desired character of the area, and does not detract from the overall streetscape;**

The proposal calls for a large blade sign that will enhance the building design and be in character with older hotel buildings in the area as well as the building address boldly displayed on an awning clearly calling out the entry to the hotel lobby.

- d. **The majority of the parking is located either to the side or rear of the site, or where appropriate, within a structured parking facility that is consistent, compatible and integrated into the overall development;**

The proposal does not require any off-street parking and none is being provided on-site.

- e. **Appropriate design treatment for ventilation of room units as well as structured parking areas; and prominent entry features that may include attractive porte-cocheres;**

The room ventilation is situated architecturally into the window pattern of the building so as not to seem tacked on or out of place for facility reasons only. No parking is required or provided on site.

- f. **Building design that enhances the building's quality with strong architectural statements, high quality materials particularly at the pedestrian level and appropriate attention to detail;**

The proposed building provides a high quality design as outlined in the Design Review findings and pays close attention to the ground floor where a wood paneling accent is provided at the entry as a border to the storefront glazing.

- g. **Lighting standards for hotel buildings, grounds and parking lots that are not overly bright and direct the downward placement of light.**

Per the Standard Conditions of Approval all lighting shall have bulbs that are shielded and directed downward.

4. **That the proposed development provides adequately buffered loading areas and to the extent possible, are located on secondary streets;**

The project site only contains one street frontage along 11th Street, so it would have been impossible to provide any buffered loading areas without seriously being detrimental to the frontage of the site with regard to design and a preferred pedestrian environment. As a result staff supported the application of a minor variance to waive the one required off-street loading berth. Given the likely light use of any proposed loading berth primarily for food deliveries early in the day, staff felt that the superior design solution was to waive the requirement and allow loading activities to take place from a curbside loading zone as is typical in most pedestrian oriented commercial environments.

5. **The proposed operator of the facility shall be identified as part of the project description at the time of application.**

The proposed hotel operator has been identified and will be a under the Hampton Inn branch of the Hilton Hotel chain.

17.101.G.050.B.2 – D-LM HEIGHT/INTENSIFY EXCEPTIONS:

- a. **The proposal is consistent with the intent and desired land use character identified in the Lake Merritt Station Area Plan and its associated policies;**

The proposal is consistent with the intent and desired land use character of the site within the LMSAP by developing a hotel within close proximity to the central core of downtown Oakland and local and regional mass transit options. The proposal also intensifies the Upper Chinatown area as described in the General Plan conformity findings above.

- b. **The proposal will promote implementation of the Lake Merritt Station Area Plan;**

The proposal will promote the implementation of the LMSAP by providing a project that is consistent with the Design Guidelines and intensifies the Upper Chinatown area as described in the General Plan conformity findings above.

- c. **The proposal is consistent with the desired visual character described in the Lake Merritt Station Area Plan and Lake Merritt Station Area Design Guidelines, with consideration given to the existing character of the site and surrounding area; and**

The proposed project is consistent with the required Design Review Findings above, and is consistent with the LMSAP Design Guidelines.

CEQA COMPLIANCE FINDINGS

I. Introduction These findings are made pursuant to the California Environmental Quality Act (Public Resources Code section 21000 et seq.; “CEQA”) and the CEQA Guidelines (Cal. Code Regs. title 14, section 15000 et seq.; “CEQA Guidelines”) by the City Planning Commission in connection with the environmental analysis of the effects of implementation of the 378 11th Street project, as more fully described elsewhere in this decision letter and City Of Oakland (“City”)-prepared CEQA Analysis document entitled “Hampton Inn Hotel Project” CEQA Analysis” dated July 23, 2015 (“CEQA Analysis”) (the “Project”). The City is the lead agency for purposes of compliance with the requirements of CEQA. These CEQA findings are attached and incorporated by reference into each and every decision associated with approval of the Project and are based on substantial evidence in the entire administrative record.

II. Adoption of LMSAP and Certification of LMSAP EIR: The City finds and determines that (a) the Oakland City Council on November 18, 2014 adopted Resolution No. 85276 C.M.S. which adopted the Lake Merritt Station Area Plan (“LMSAP”), made appropriate CEQA findings, including certification of the LMSAP Environmental Impact Report (“EIR”); and (b) the LMSAP satisfies the description of “Community Plan” set out in Public Resources Code section 21083.3(e) and in CEQA Guidelines section 15183 as well the description of “Planning Level Document” set out in Public Resources Code section 21094.5 and in CEQA Guidelines section 15183.3. The City Council, in adopting the LMSAP following a public hearing, approved as a part thereof Standard Conditions of Approval (“SCAs”) which constitute uniformly applied development policies or standards (together with other City development regulations) and determined that the uniformly applicable development policies or standards, together with the mitigation measures set out in the LMSAP EIR, would substantially mitigate the impacts of the LMSAP and future projects thereunder.

III. CEQA Analysis Document: The CEQA Analysis and all of its findings, determinations and information is hereby incorporated by reference as if fully set forth herein. The CEQA Analysis concluded that the Project satisfies each of the following CEQA provisions, qualifying the Project for a categorical exemption two separate CEQA statutory exemptions and that the CEQA Analysis constitutes an addendum to the LMSAP EIR, as summarized below and provides substantial evidence to support the following findings.

The City hereby finds that, as set forth below and in the attached CEQA Analysis, the Project is exempt from any additional CEQA Analysis under the “In Fill Projects Categorical Exemption” (CEQA Guidelines §15332), the “Community Plan Exemption” of Public Resources Code section 21083.3 (CEQA Guidelines §15183) and/or the “Qualified Infill Exemption” under Public Resources section 21094.5 (CEQA Guidelines §15183.3) and that the CEQA Analysis also constitutes an Addendum to the LMSAP EIR pursuant to Public Resources Code section 21166 (CEQA Guidelines §15162) and that such Addendum determines that none of the three events requiring subsequent or supplemental environmental analysis as stipulated in Public Resources Code section 21166 have occurred, thus no additional environmental analysis beyond the LMSAP EIR and the CEQA Analysis is necessary. The specific statutory exemptions and the status of the CEQA Analysis as an Addendum are discussed below in more detail.

A. Categorical Exemption – In Fill Projects (CEQA Guidelines §15332): The City finds and determines that, for the reasons set out in Attachment B of the CEQA Analysis, the project is Categorically Exempt pursuant to Section 15332 of the State CEQA Guidelines.

B. Community Plan Exemption; Public Resources Code Section 21083.3 (CEQA Guidelines §15183): The City finds and determines that, for the reasons set out below and in the CEQA Analysis, the Community Plan Exemption applies to the Project. Therefore, no further environmental analysis is required because all of the Project's effects on the environment were adequately analyzed and mitigation measures provided in the LMSAP EIR; there are no significant effects on the environment which are peculiar to the Project or to the parcel upon which it is located not addressed and mitigated in the LMSAP EIR; and there is no new information showing that any of the effects shall be more significant than described in the LMSAP EIR.

As set out in detail in Attachment C to the CEQA Analysis, the City finds that, pursuant to CEQA Guidelines section 15183 and Public Resources Code section 21083.3, the Project is consistent with the development density established by the LMSAP and analyzed in the LMSAP EIR and that there are no environmental effects of the Project peculiar to the Project or the Project Site which were not analyzed as significant effects in the LMSAP EIR; nor are there potentially significant off-site impacts and cumulative impacts not discussed in the LMSAP EIR; nor are any of the previously identified significant effects which, as a result of substantial information not known at the time of certification of the LMSAP EIR, are now determined to present a more severe adverse impact than discussed in the LMSAP EIR. As such, no further analysis of the environmental effects of the Project is required.

C. Qualified Infill Exemption; Public Resources Code Section 21094.5 (CEQA Guidelines §15183.3): The City finds and determines that, for the reasons set forth below and in the CEQA Analysis, a Qualified Infill Exemption applies to the Project and no further environmental analysis is required since all the Project's effects on the environment were adequately analyzed and mitigation measures provided in the LMSAP EIR; the Project will cause no new specific effects not addressed in the LMSAP EIR that are specific to the Project or the Project Site; and there is no substantial new information showing that the adverse environmental effects of the Project are more significant than described in the LMSAP EIR.

The City finds that, pursuant to CEQA Guidelines section 15183.3, the CEQA Analysis contains in Attachment D a written analysis consistent with Appendix M to the CEQA Guidelines examining whether the Project will cause any effects that require additional review under CEQA. The contents of Attachment D documents that the Project is located in an urban area satisfying the requirements of CEQA Guidelines section 15183.3 and satisfies the applicable performance standards set forth in Appendix M to the CEQA Guidelines. It also explains how the effects of the Project were analyzed in the LMSAP EIR; and indicates that the Project incorporates all applicable mitigation measures and SCAs from the LMSAP EIR. Attachment D also determines that the Project will cause no new specific effects not analyzed in the LMSAP EIR; determines that there is no substantial new information showing that the adverse environmental effects of the Project are more significant than described in the LMSAP EIR, determines that the Project will not cause new specific effects or more significant effects, and documents how uniformly applicable development policies or standards (including, without limitation, the SCAs) will mitigate environmental effects of the Project. Based upon the CEQA

Analysis and other substantial evidence in the record, the City finds and determines that no further environmental analysis of the effects of the Project is required.

D. CEQA Analysis Constitutes an Addendum; Public Resources Code Section 21166 (CEQA Guidelines §15164): The City finds and determines that the CEQA Analysis constitutes an Addendum to the LMSAP EIR and that no additional environmental analysis of the Project beyond that contained in the LMSAP EIR is necessary. The City further finds that no substantial changes are proposed in the Project that would require major revisions to the LMSAP EIR because of new significant environmental effects or a substantial increase in the severity of previously identified significant effects; no substantial changes occur with respect to the circumstances under which the Project will be undertaken which will require major revisions of the LMSAP EIR due to the involvement of new significant environmental effects or a substantial increase in the severity of previously identified significant effects; and there is no new information of substantial importance not known and which could not have been known with the exercise of reasonable diligence as of the time of certification of the LMSAP EIR showing that the Project will have one or more significant effects not discussed in the LMSAP EIR; significant effects previously examined will be substantially more severe than shown in the LMSAP EIR, mitigation measures or alternatives previously found not to be feasible would in fact be feasible and would substantially reduce one or more significant effects of the Project; or mitigation measures or alternatives which are considerably different from those analyzed in the LMSAP EIR would substantially reduce one or more significant effects on the environment.

Based on these findings and determinations, the City further finds that no Subsequent or Supplemental EIR or additional environmental analysis shall be required because of the Project. The City has considered the CEQA Analysis along with the LMSAP EIR prior to making its decision on the Project and a discussion is set out in the CEQA Analysis explaining the City's decision not to prepare a Subsequent or Supplemental EIR pursuant to Guidelines sections 15162 and/or 15163.

IV. Severability: The City finds that all three CEQA provisions discussed and determined to be applicable in Section III above are separately and independently applicable to the consideration of the Project and should any of the three be determined not to be so applicable, such determinations shall have no effect on the validity of these findings and the approval of the Project on any of the other grounds.

V. Incorporation by Reference of Statement of Overriding Considerations: The LMSAP EIR identified three areas of environmental effects of the LMSAP that presented significant and unavoidable impacts. Because the Project may contribute to some significant and unavoidable impacts identified in the LMSAP EIR, but a Subsequent and/or Supplemental EIR is not required in accordance with CEQA Guidelines sections 15162, 15163, 15164, 15183 and 15183.3, a Statement of Overriding Considerations is not legally required. Nevertheless, in the interest of being conservative, the Statement of Overriding Consideration for the LMSAP EIR, approved as Section XII of the CEQA Findings adopted by the City Council on November 18, 2014, via Resolution No. 85276 C.M.S., is hereby incorporated by reference as if fully set forth herein.

ATTACHMENT B: CONDITIONS OF APPROVAL

The proposal is hereby approved subject to the following Conditions of Approval:

Part 1: Standard Conditions of Approval – General Administrative Conditions

1. **Approved Use**

The project shall be constructed and operated in accordance with the authorized use as described in the approved application materials, **letter** and the approved plans **dated June 15, 2015**, as amended by the following conditions of approval and mitigation measures, if applicable (“Conditions of Approval” or “Conditions”).

2. **Effective Date, Expiration, Extensions and Extinguishment**

This Approval shall become effective immediately, unless the Approval is appealable, in which case the Approval shall become effective in ten calendar days unless an appeal is filed. Unless a different termination date is prescribed, this Approval shall expire **two years** from the Approval date, or from the date of the final decision in the event of an appeal, unless within such period all necessary permits for construction or alteration have been issued, or the authorized activities have commenced in the case of a permit not involving construction or alteration. Upon written request and payment of appropriate fees submitted no later than the expiration date of this Approval, the Director of City Planning or designee may grant a one-year extension of this date, with additional extensions subject to approval by the approving body. Expiration of any necessary building permit or other construction-related permit for this project may invalidate this Approval if said Approval has also expired. If litigation is filed challenging this Approval, or its implementation, then the time period stated above for obtaining necessary permits for construction or alteration and/or commencement of authorized activities is automatically extended for the duration of the litigation.

3. **Compliance with Other Requirements**

The project applicant shall comply with all other applicable federal, state, regional, and local laws/codes, requirements, regulations, and guidelines, including but not limited to those imposed by the City’s Bureau of Building, Fire Marshal, and Public Works Department. Compliance with other applicable requirements may require changes to the approved use and/or plans. These changes shall be processed in accordance with the procedures contained in Condition #4.

4. **Minor and Major Changes**

- a. Minor changes to the approved project, plans, Conditions, facilities, or use may be approved administratively by the Director of City Planning.
- b. Major changes to the approved project, plans, Conditions, facilities, or use shall be reviewed by the Director of City Planning to determine whether such changes require submittal and approval of a revision to the Approval by the original approving body or a new independent

permit/approval. Major revisions shall be reviewed in accordance with the procedures required for the original permit/approval. A new independent permit/approval shall be reviewed in accordance with the procedures required for the new permit/approval.

5. **Compliance with Conditions of Approval**

- a. The project applicant and property owner, including successors, (collectively referred to hereafter as the “project applicant” or “applicant”) shall be responsible for compliance with all the Conditions of Approval and any recommendations contained in any submitted and approved technical report at his/her sole cost and expense, subject to review and approval by the City of Oakland.
- b. The City of Oakland reserves the right at any time during construction to require certification by a licensed professional at the project applicant’s expense that the as-built project conforms to all applicable requirements, including but not limited to, approved maximum heights and minimum setbacks. Failure to construct the project in accordance with the Approval may result in remedial reconstruction, permit revocation, permit modification, stop work, permit suspension, or other corrective action.
- c. Violation of any term, Condition, or project description relating to the Approval is unlawful, prohibited, and a violation of the Oakland Municipal Code. The City of Oakland reserves the right to initiate civil and/or criminal enforcement and/or abatement proceedings, or after notice and public hearing, to revoke the Approval or alter these Conditions if it is found that there is violation of any of the Conditions or the provisions of the Planning Code or Municipal Code, or the project operates as or causes a public nuisance. This provision is not intended to, nor does it, limit in any manner whatsoever the ability of the City to take appropriate enforcement actions. The project applicant shall be responsible for paying fees in accordance with the City’s Master Fee Schedule for inspections conducted by the City or a City-designated third-party to investigate alleged violations of the Approval or Conditions.

6. **Signed Copy of the Approval/Conditions**

A copy of the Approval letter and Conditions shall be signed by the project applicant, attached to each set of permit plans submitted to the appropriate City agency for the project, and made available for review at the project job site at all times.

7. **Blight/Nuisances**

The project site shall be kept in a blight/nuisance-free condition. Any existing blight or nuisance shall be abated within 60 days of approval, unless an earlier date is specified elsewhere.

8. **Indemnification**

- a. To the maximum extent permitted by law, the project applicant shall defend (with counsel acceptable to the City), indemnify, and hold harmless the City of Oakland, the Oakland City Council, the Oakland Redevelopment Successor Agency, the Oakland City Planning Commission, and their respective agents, officers, employees, and volunteers (hereafter collectively called “City”) from any liability, damages, claim, judgment, loss (direct or indirect), action, causes of action, or proceeding (including legal costs, attorneys’ fees, expert witness or consultant fees, City Attorney or staff time, expenses or costs) (collectively called “Action”) against the City to attack, set aside, void or annul this Approval or implementation

of this Approval. The City may elect, in its sole discretion, to participate in the defense of said Action and the project applicant shall reimburse the City for its reasonable legal costs and attorneys' fees.

- b. Within ten (10) calendar days of the filing of any Action as specified in subsection (a) above, the project applicant shall execute a Joint Defense Letter of Agreement with the City, acceptable to the Office of the City Attorney, which memorializes the above obligations. These obligations and the Joint Defense Letter of Agreement shall survive termination, extinguishment, or invalidation of the Approval. Failure to timely execute the Letter of Agreement does not relieve the project applicant of any of the obligations contained in this Condition or other requirements or Conditions of Approval that may be imposed by the City.

9. **Severability**

The Approval would not have been granted but for the applicability and validity of each and every one of the specified Conditions, and if one or more of such Conditions is found to be invalid by a court of competent jurisdiction this Approval would not have been granted without requiring other valid Conditions consistent with achieving the same purpose and intent of such Approval.

10. **Special Inspector/Inspections, Independent Technical Review, Project Coordination and Monitoring**

The project applicant may be required to cover the full costs of independent third-party technical review and City monitoring and inspection, including without limitation, special inspector(s)/inspection(s) during times of extensive or specialized plan-check review or construction, and inspections of potential violations of the Conditions of Approval. The project applicant shall establish a deposit with the Bureau of Building, if directed by the Building Official, Director of City Planning, or designee, prior to the issuance of a construction-related permit and on an ongoing as-needed basis.

11. **Public Improvements**

The project applicant shall obtain all necessary permits/approvals, such as encroachment permits, obstruction permits, curb/gutter/sidewalk permits, and public improvement ("p-job") permits from the City for work in the public right-of-way, including but not limited to, streets, curbs, gutters, sidewalks, utilities, and fire hydrants. Prior to any work in the public right-of-way, the applicant shall submit plans for review and approval by the Bureau of Planning, the Bureau of Building, and other City departments as required. Public improvements shall be designed and installed to the satisfaction of the City.

12. **Compliance Matrix**

The project applicant shall submit a Compliance Matrix, in both written and electronic form, for review and approval by the Bureau of Planning and the Bureau of Building that lists each Condition of Approval (including each mitigation measure if applicable) in a sortable spreadsheet. The Compliance Matrix shall contain, at a minimum, each required Condition of Approval, when compliance with the Condition is required, and the status of compliance with each Condition. For multi-phased projects, the Compliance Matrix shall indicate which Condition applies to each phase. The project applicant shall submit the initial Compliance Matrix prior to

the issuance of the first construction-related permit and shall submit an updated matrix upon request by the City.

13. **Construction Management Plan**

Prior to the issuance of the first construction-related permit, the project applicant and his/her general contractor shall submit a Construction Management Plan (CMP) for review and approval by the Bureau of Planning, Bureau of Building, and other relevant City departments such as the Fire Department and the Public Works Department as directed. The CMP shall contain measures to minimize potential construction impacts including measures to comply with all construction-related Conditions of Approval (and mitigation measures if applicable) such as dust control, construction emissions, hazardous materials, construction days/hours, construction traffic control, waste reduction and recycling, stormwater pollution prevention, noise control, complaint management, and cultural resource management (see applicable Conditions below). The CMP shall provide project-specific information including descriptive procedures, approval documentation, and drawings (such as a site logistics plan, fire safety plan, construction phasing plan, proposed truck routes, traffic control plan, complaint management plan, construction worker parking plan, and litter/debris clean-up plan) that specify how potential construction impacts will be minimized and how each construction-related requirement will be satisfied throughout construction of the project.

Part 2: Standard Conditions of Approval – Environmental Protection Measures

GENERAL

14. Regulatory Permits and Authorizations from Other Agencies

Requirement: The project applicant shall obtain all necessary regulatory permits and authorizations from applicable resource/regulatory agencies including, but not limited to, the Regional Water Quality Control Board, Bay Area Air Quality Management District, Bay Conservation and Development Commission, California Department of Fish and Wildlife, U. S. Fish and Wildlife Service, and Army Corps of Engineers and shall comply with all requirements and conditions of the permits/authorizations. The project applicant shall submit evidence of the approved permits/authorizations to the City, along with evidence demonstrating compliance with any regulatory permit/authorization conditions of approval.

When Required: Prior to activity requiring permit/authorization from regulatory agency

Initial Approval: Approval by applicable regulatory agency with jurisdiction; evidence of approval submitted to Bureau of Planning

Monitoring/Inspection: Applicable regulatory agency with jurisdiction

AESTHETICS

15. Graffiti Control

Requirement:

- a. During construction and operation of the project, the project applicant shall incorporate best management practices reasonably related to the control of graffiti and/or the mitigation of the impacts of graffiti. Such best management practices may include, without limitation:
 - i. Installation and maintenance of landscaping to discourage defacement of and/or protect likely graffiti-attracting surfaces.
 - ii. Installation and maintenance of lighting to protect likely graffiti-attracting surfaces.
 - iii. Use of paint with anti-graffiti coating.
 - iv. Incorporation of architectural or design elements or features to discourage graffiti defacement in accordance with the principles of Crime Prevention Through Environmental Design (CPTED).
 - v. Other practices approved by the City to deter, protect, or reduce the potential for graffiti defacement.
- b. The project applicant shall remove graffiti by appropriate means within seventy-two (72) hours. Appropriate means include the following:
 - i. Removal through scrubbing, washing, sanding, and/or scraping (or similar method) without damaging the surface and without discharging wash water or cleaning detergents into the City storm drain system.
 - ii. Covering with new paint to match the color of the surrounding surface.
 - iii. Replacing with new surfacing (with City permits if required).

When Required: Ongoing

Initial Approval: N/A

Monitoring/Inspection: Bureau of Building

16. **Landscape Plan**

a. ***Landscape Plan Required***

Requirement: The project applicant shall submit a final Landscape Plan for City review and approval that is consistent with the approved Landscape Plan. The Landscape Plan shall be included with the set of drawings submitted for the construction-related permit and shall comply with the landscape requirements of chapter 17.124 of the Planning Code.

When Required: Prior to approval of construction-related permit

Initial Approval: Bureau of Planning

Monitoring/Inspection: N/A

b. ***Landscape Installation***

Requirement: The project applicant shall implement the approved Landscape Plan unless a bond, cash deposit, letter of credit, or other equivalent instrument acceptable to the Director of City Planning, is provided. The financial instrument shall equal the greater of \$2,500 or the estimated cost of implementing the Landscape Plan based on a licensed contractor's bid.

When Required: Prior to building permit final

Initial Approval: Bureau of Planning

Monitoring/Inspection: Bureau of Building

c. ***Landscape Maintenance***

Requirement: All required planting shall be permanently maintained in good growing condition and, whenever necessary, replaced with new plant materials to ensure continued compliance with applicable landscaping requirements. The property owner shall be responsible for maintaining planting in adjacent public rights-of-way. All required fences, walls, and irrigation systems shall be permanently maintained in good condition and, whenever necessary, repaired or replaced.

When Required: Ongoing

Initial Approval: N/A

Monitoring/Inspection: Bureau of Building

17. **Lighting**

Requirement: Proposed new exterior lighting fixtures shall be adequately shielded to a point below the light bulb and reflector to prevent unnecessary glare onto adjacent properties.

When Required: Prior to building permit final

Initial Approval: N/A

Monitoring/Inspection: Bureau of Building

AIR QUALITY

18. **Construction-Related Air Pollution Controls (Dust and Equipment Emissions)**

Requirement: The project applicant shall implement all of the following applicable air pollution control measures during construction of the project:

- a. Water all exposed surfaces of active construction areas at least twice daily. Watering should be sufficient to prevent airborne dust from leaving the site. Increased watering frequency may be necessary whenever wind speeds exceed 15 miles per hour. Reclaimed water should be used whenever feasible.
- b. Cover all trucks hauling soil, sand, and other loose materials or require all trucks to maintain at least two feet of freeboard (i.e., the minimum required space between the top of the load and the top of the trailer).
- c. All visible mud or dirt track-out onto adjacent public roads shall be removed using wet power vacuum street sweepers at least once per day. The use of dry power sweeping is prohibited.
- d. Pave all roadways, driveways, sidewalks, etc. within one month of site grading or as soon as feasible. In addition, building pads should be laid within one month of grading or as soon as feasible unless seeding or soil binders are used.
- e. Enclose, cover, water twice daily, or apply (non-toxic) soil stabilizers to exposed stockpiles (dirt, sand, etc.).
- f. Limit vehicle speeds on unpaved roads to 15 miles per hour.
- g. Idling times on all diesel-fueled commercial vehicles over 10,000 lbs. shall be minimized either by shutting equipment off when not in use or reducing the maximum idling time to five minutes (as required by the California airborne toxics control measure Title 13, Section 2485, of the California Code of Regulations). Clear signage to this effect shall be provided for construction workers at all access points.
- h. Idling times on all diesel-fueled off-road vehicles over 25 horsepower shall be minimized either by shutting equipment off when not in use or reducing the maximum idling time to five minutes and fleet operators must develop a written policy as required by Title 23, Section 2449, of the California Code of Regulations ("California Air Resources Board Off-Road Diesel Regulations").
- i. All construction equipment shall be maintained and properly tuned in accordance with the manufacturer's specifications. All equipment shall be checked by a certified mechanic and determined to be running in proper condition prior to operation.
- j. Portable equipment shall be powered by electricity if available. If electricity is not available, propane or natural gas shall be used if feasible. Diesel engines shall only be used if electricity is not available and it is not feasible to use propane or natural gas.

19. Stationary Sources of Air Pollution (Toxic Air Contaminants)

Requirement: The project applicant shall incorporate appropriate measures into the project design in order to reduce the potential health risk due to on-site stationary sources of toxic air contaminants. The project applicant shall choose one of the following methods:

- a. The project applicant shall retain a qualified air quality consultant to prepare a Health Risk Assessment (HRA) in accordance with California Air Resources Board (CARB) and Office of Environmental Health and Hazard Assessment requirements to determine the health risk associated with proposed stationary sources of pollution in the project. The HRA shall be submitted to the City for review and approval. If the HRA concludes that the health risk is at or below acceptable levels, then health risk reduction measures are not required. If the HRA concludes the health risk exceeds acceptable levels, health risk reduction measures shall be identified to reduce the health risk to acceptable levels. Identified risk reduction measures shall be submitted to the City for review and approval and be included on the project drawings submitted for the construction-related permit or on other documentation submitted to the City.

- b. The project applicant shall incorporate the following health risk reduction measures into the project. These features shall be submitted to the City for review and approval and be included on the project drawings submitted for the construction-related permit or on other documentation submitted to the City:
 - i. Installation of non-diesel fueled generators, if feasible, or;
 - ii. Installation of diesel generators with an EPA-certified Tier 4 engine or engines that are retrofitted with a CARB Level 3 Verified Diesel Emissions Control Strategy, if feasible.

When Required: Prior to approval of construction-related permit

Initial Approval: Bureau of Planning

Monitoring/Inspection: Bureau of Building

CULTURAL RESOURCES

20. Archaeological and Paleontological Resources – Discovery During Construction

Requirement: Pursuant to CEQA Guidelines section 15064.5(f), in the event that any historic or prehistoric subsurface cultural resources are discovered during ground disturbing activities, all work within 50 feet of the resources shall be halted and the project applicant shall notify the City and consult with a qualified archaeologist or paleontologist, as applicable, to assess the significance of the find. In the case of discovery of paleontological resources, the assessment shall be done in accordance with the Society of Vertebrate Paleontology standards. If any find is determined to be significant, appropriate avoidance measures recommended by the consultant and approved by the City must be followed unless avoidance is determined unnecessary or infeasible by the City. Feasibility of avoidance shall be determined with consideration of factors such as the nature of the find, project design, costs, and other considerations. If avoidance is unnecessary or infeasible, other appropriate measures (e.g., data recovery, excavation) shall be instituted. Work may proceed on other parts of the project site while measures for the cultural resources are implemented.

In the event of data recovery of archaeological resources, the project applicant shall submit an Archaeological Research Design and Treatment Plan (ARDTP) prepared by a qualified archaeologist for review and approval by the City. The ARDTP is required to identify how the proposed data recovery program would preserve the significant information the archaeological resource is expected to contain. The ARDTP shall identify the scientific/historic research questions applicable to the expected resource, the data classes the resource is expected to possess, and how the expected data classes would address the applicable research questions. The ARDTP shall include the analysis and specify the curation and storage methods. Data recovery, in general, shall be limited to the portions of the archaeological resource that could be impacted by the proposed project. Destructive data recovery methods shall not be applied to portions of the archaeological resources if nondestructive methods are practicable. Because the intent of the ARDTP is to save as much of the archaeological resource as possible, including moving the resource, if feasible, preparation and implementation of the ARDTP would reduce the potential adverse impact to less than significant. The project applicant shall implement the ARDTP at his/her expense.

In the event of excavation of paleontological resources, the project applicant shall submit an excavation plan prepared by a qualified paleontologist to the City for review and approval. All significant cultural materials recovered shall be subject to scientific analysis, professional museum curation, and/or a report prepared by a qualified paleontologist, as appropriate, according to current professional standards and at the expense of the project applicant.

When Required: During construction

Initial Approval: N/A

Monitoring/Inspection: Bureau of Building

21. Archaeologically Sensitive Areas – Pre-Construction Measures

Requirement: The project applicant shall implement either Provision A (Intensive Pre-Construction Study) or Provision B (Construction ALERT Sheet) concerning archaeological resources.

Provision A: Intensive Pre-Construction Study.

The project applicant shall retain a qualified archaeologist to conduct a site-specific, intensive archaeological resources study for review and approval by the City prior to soil-disturbing activities occurring on the project site. The purpose of the site-specific, intensive archaeological resources study is to identify early the potential presence of history-period archaeological resources on the project site. At a minimum, the study shall include:

- a. Subsurface presence/absence studies of the project site. Field studies may include, but are not limited to, auguring and other common methods used to identify the presence of archaeological resources.
- b. A report disseminating the results of this research.
- c. Recommendations for any additional measures that could be necessary to mitigate any adverse impacts to recorded and/or inadvertently discovered cultural resources.

If the results of the study indicate a high potential presence of historic-period archaeological resources on the project site, or a potential resource is discovered, the project applicant shall hire a qualified archaeologist to monitor any ground disturbing activities on the project site during construction and prepare an ALERT sheet pursuant to Provision B below that details what could potentially be found at the project site. Archaeological monitoring would include briefing construction personnel about the type of artifacts that may be present (as referenced in the ALERT sheet, required per Provision B below) and the procedures to follow if any artifacts are encountered, field recording and sampling in accordance with the Secretary of Interior's Standards and Guidelines for Archaeological Documentation, notifying the appropriate officials if human remains or cultural resources are discovered, and preparing a report to document negative findings after construction is completed if no archaeological resources are discovered during construction.

Provision B: Construction ALERT Sheet.

The project applicant shall prepare a construction "ALERT" sheet developed by a qualified archaeologist for review and approval by the City prior to soil-disturbing activities occurring on the project site. The ALERT sheet shall contain, at a minimum, visuals that depict each type of artifact that could be encountered on the project site. Training by the qualified archaeologist shall be provided to the project's prime contractor, any project subcontractor firms (including demolition, excavation, grading, foundation, and pile driving), and utility firms involved in soil-disturbing activities within the project site.

The ALERT sheet shall state, in addition to the basic archaeological resource protection measures contained in other standard conditions of approval, all work must stop and the City's Environmental Review Officer contacted in the event of discovery of the following cultural materials: concentrations of shellfish remains; evidence of fire (ashes, charcoal, burnt earth, fire-cracked rocks); concentrations of bones; recognizable Native American artifacts (arrowheads, shell beads, stone mortars [bowls], humanly shaped rock); building foundation remains; trash pits, privies (outhouse holes); floor remains; wells; concentrations of bottles, broken dishes, shoes, buttons, cut animal bones, hardware, household items, barrels, etc.; thick layers of burned building debris (charcoal, nails, fused glass, burned plaster, burned dishes); wood structural remains (building, ship, wharf); clay roof/floor tiles; stone walls or footings; or gravestones. Prior to any soil-disturbing activities, each contractor shall be responsible for ensuring that the ALERT sheet is circulated to all field personnel, including machine operators, field crew,

pile drivers, and supervisory personnel. The ALERT sheet shall also be posted in a visible location at the project site.

When Required: Prior to approval of construction-related permit; during construction

Initial Approval: Bureau of Building

Monitoring/Inspection: Bureau of Building

22. Human Remains – Discovery During Construction

Requirement: Pursuant to CEQA Guidelines section 15064.5(e)(1), in the event that human skeletal remains are uncovered at the project site during construction activities, all work shall immediately halt and the project applicant shall notify the City and the Alameda County Coroner. If the County Coroner determines that an investigation of the cause of death is required or that the remains are Native American, all work shall cease within 50 feet of the remains until appropriate arrangements are made. In the event that the remains are Native American, the City shall contact the California Native American Heritage Commission (NAHC), pursuant to subdivision (c) of section 7050.5 of the California Health and Safety Code. If the agencies determine that avoidance is not feasible, then an alternative plan shall be prepared with specific steps and timeframe required to resume construction activities. Monitoring, data recovery, determination of significance, and avoidance measures (if applicable) shall be completed expeditiously and at the expense of the project applicant.

When Required: During construction

Initial Approval: N/A

Monitoring/Inspection: Bureau of Building

GEOLOGY AND SOILS

23. Construction-Related Permit(s)

Requirement: The project applicant shall obtain all required construction-related permits/approvals from the City. The project shall comply with all standards, requirements and conditions contained in construction-related codes, including but not limited to the Oakland Building Code and the Oakland Grading Regulations, to ensure structural integrity and safe construction.

When Required: Prior to approval of construction-related permit

Initial Approval: Bureau of Building

Monitoring/Inspection: Bureau of Building

HAZARDS AND HAZARDOUS MATERIALS

24. Hazardous Materials Related to Construction

Requirement: The project applicant shall ensure that Best Management Practices (BMPs) are implemented by the contractor during construction to minimize potential negative effects on groundwater, soils, and human health. These shall include, at a minimum, the following:

- a. Follow manufacture's recommendations for use, storage, and disposal of chemical products used in construction;
- b. Avoid overtopping construction equipment fuel gas tanks;
- c. During routine maintenance of construction equipment, properly contain and remove grease and oils;

- d. Properly dispose of discarded containers of fuels and other chemicals;
- e. Implement lead-safe work practices and comply with all local, regional, state, and federal requirements concerning lead (for more information refer to the Alameda County Lead Poisoning Prevention Program); and
- f. If soil, groundwater, or other environmental medium with suspected contamination is encountered unexpectedly during construction activities (e.g., identified by odor or visual staining, or if any underground storage tanks, abandoned drums or other hazardous materials or wastes are encountered), the project applicant shall cease work in the vicinity of the suspect material, the area shall be secured as necessary, and the applicant shall take all appropriate measures to protect human health and the environment. Appropriate measures shall include notifying the City and applicable regulatory agency(ies) and implementation of the actions described in the City's Standard Conditions of Approval, as necessary, to identify the nature and extent of contamination. Work shall not resume in the area(s) affected until the measures have been implemented under the oversight of the City or regulatory agency, as appropriate.

When Required: During construction

Initial Approval: N/A

Monitoring/Inspection: Bureau of Building

HYDROLOGY AND WATER QUALITY

25. Site Design Measures to Reduce Stormwater Runoff

Requirement: Pursuant to Provision C.3 of the Municipal Regional Stormwater Permit issued under the National Pollutant Discharge Elimination System (NPDES), the project applicant is encouraged to incorporate appropriate site design measures into the project to reduce the amount of stormwater runoff. These measures may include, but are not limited to, the following:

- a. Minimize impervious surfaces, especially directly connected impervious surfaces and surface parking areas;
- b. Utilize permeable paving in place of impervious paving where appropriate;
- c. Cluster structures;
- d. Direct roof runoff to vegetated areas;
- e. Preserve quality open space; and
- f. Establish vegetated buffer areas.

When Required: Ongoing

Initial Approval: N/A

Monitoring/Inspection: N/A

26. Source Control Measures to Limit Stormwater Pollution

Requirement: Pursuant to Provision C.3 of the Municipal Regional Stormwater Permit issued under the National Pollutant Discharge Elimination System (NPDES), the project applicant is encouraged to incorporate appropriate source control measures to limit pollution in stormwater runoff. These measures may include, but are not limited to, the following:

- a. Stencil storm drain inlets "No Dumping – Drains to Bay;"
- b. Minimize the use of pesticides and fertilizers;
- c. Cover outdoor material storage areas, loading docks, repair/maintenance bays and fueling areas;

- d. Cover trash, food waste, and compactor enclosures; and
- e. Plumb the following discharges to the sanitary sewer system, subject to City approval:
- f. Discharges from indoor floor mats, equipment, hood filter, wash racks, and, covered outdoor wash racks for restaurants;
- g. Dumpster drips from covered trash, food waste, and compactor enclosures;
- h. Discharges from outdoor covered wash areas for vehicles, equipment, and accessories;
- i. Swimming pool water, if discharge to on-site vegetated areas is not feasible; and
- j. Fire sprinkler test water, if discharge to on-site vegetated areas is not feasible.

When Required: Ongoing

Initial Approval: N/A

Monitoring/Inspection: N/A

27. NPDES C.3 Stormwater Requirements for Small Projects

Requirement: Pursuant to Provision C.3 of the Municipal Regional Stormwater Permit issued under the National Pollutant Discharge Elimination System (NPDES), the project applicant shall incorporate one or more of the following site design measures into the project:

- a. Direct roof runoff into cisterns or rain barrels for reuse;
- b. Direct roof runoff onto vegetated areas;
- c. Direct runoff from sidewalks, walkways, and/or patios onto vegetated areas;
- d. Direct runoff from driveways and/or uncovered parking lots onto vegetated areas;
- e. Construct sidewalks, walkways, and/or patios with permeable surfaces; or
- f. Construct bike lanes, driveways, and/or uncovered parking lots with permeable surfaces.

The project drawings submitted for construction-related permits shall include the proposed site design measure(s) and the approved measure(s) shall be installed during construction. The design and installation of the measure(s) shall comply with all applicable City requirements.

When Required: Prior to approval of construction-related permit

Initial Approval: Bureau of Planning; Bureau of Building

Monitoring/Inspection: Bureau of Building

NOISE

28. Construction Days/Hours

Requirement: The project applicant shall comply with the following restrictions concerning construction days and hours:

- a. Construction activities are limited to between 7:00 a.m. and 7:00 p.m. Monday through Friday, except that pier drilling and/or other extreme noise generating activities greater than 90 dBA shall be limited to between 8:00 a.m. and 4:00 p.m.
- b. Construction activities are limited to between 9:00 a.m. and 5:00 p.m. on Saturday. In residential zones and within 300 feet of a residential zone, construction activities are allowed from 9:00 a.m. to 5:00 p.m. only within the interior of the building with the doors and windows closed. No pier drilling or other extreme noise generating activities greater than 90 dBA are allowed on Saturday.
- c. No construction is allowed on Sunday or federal holidays.

Construction activities include, but are not limited to, truck idling, moving equipment (including trucks, elevators, etc.) or materials, deliveries, and construction meetings held on-site in a non-enclosed area.

Any construction activity proposed outside of the above days and hours for special activities (such as concrete pouring which may require more continuous amounts of time) shall be evaluated on a case-by-case basis by the City, with criteria including the urgency/emergency nature of the work, the proximity of residential or other sensitive uses, and a consideration of nearby residents'/occupants' preferences. The project applicant shall notify property owners and occupants located within 300 feet at least 14 calendar days prior to construction activity proposed outside of the above days/hours. When submitting a request to the City to allow construction activity outside of the above days/hours, the project applicant shall submit information concerning the type and duration of proposed construction activity and the draft public notice for City review and approval prior to distribution of the public notice.

When Required: During construction

Initial Approval: N/A

Monitoring/Inspection: Bureau of Building

29. Construction Noise

Requirement: The project applicant shall implement noise reduction measures to reduce noise impacts due to construction. Noise reduction measures include, but are not limited to, the following:

- a. Equipment and trucks used for project construction shall utilize the best available noise control techniques (e.g., improved mufflers, equipment redesign, use of intake silencers, ducts, engine enclosures and acoustically-attenuating shields or shrouds) wherever feasible.
- b. Except as provided herein, impact tools (e.g., jack hammers, pavement breakers, and rock drills) used for project construction shall be hydraulically or electrically powered to avoid noise associated with compressed air exhaust from pneumatically powered tools. However, where use of pneumatic tools is unavoidable, an exhaust muffler on the compressed air exhaust shall be used; this muffler can lower noise levels from the exhaust by up to about 10 dBA. External jackets on the tools themselves shall be used, if such jackets are commercially available, and this could achieve a reduction of 5 dBA. Quieter procedures shall be used, such as drills rather than impact equipment, whenever such procedures are available and consistent with construction procedures.
- c. Applicant shall use temporary power poles instead of generators where feasible.
- d. Stationary noise sources shall be located as far from adjacent properties as possible, and they shall be muffled and enclosed within temporary sheds, incorporate insulation barriers, or use other measures as determined by the City to provide equivalent noise reduction.
- e. The noisiest phases of construction shall be limited to less than 10 days at a time. Exceptions may be allowed if the City determines an extension is necessary and all available noise reduction controls are implemented.

When Required: During construction

Initial Approval: N/A

Monitoring/Inspection: Bureau of Building

30. Extreme Construction Noise

a. Construction Noise Management Plan Required

Requirement: Prior to any extreme noise generating construction activities (e.g., pier drilling, pile driving and other activities generating greater than 90dBA), the project applicant shall submit a Construction Noise Management Plan prepared by a qualified acoustical consultant for City review and approval that

contains a set of site-specific noise attenuation measures to further reduce construction impacts associated with extreme noise generating activities. The project applicant shall implement the approved Plan during construction. Potential attenuation measures include, but are not limited to, the following:

- i. Erect temporary plywood noise barriers around the construction site, particularly along on sites adjacent to residential buildings;
- ii. Implement “quiet” pile driving technology (such as pre-drilling of piles, the use of more than one pile driver to shorten the total pile driving duration), where feasible, in consideration of geotechnical and structural requirements and conditions;
- iii. Utilize noise control blankets on the building structure as the building is erected to reduce noise emission from the site;
- iv. Evaluate the feasibility of noise control at the receivers by temporarily improving the noise reduction capability of adjacent buildings by the use of sound blankets for example and implement such measure if such measures are feasible and would noticeably reduce noise impacts; and
- v. Monitor the effectiveness of noise attenuation measures by taking noise measurements.

When Required: Prior to approval of construction-related permit

Initial Approval: Bureau of Building

Monitoring/Inspection: Bureau of Building

b. Public Notification Required

Requirement: The project applicant shall notify property owners and occupants located within 300 feet of the construction activities at least 14 calendar days prior to commencing extreme noise generating activities. Prior to providing the notice, the project applicant shall submit to the City for review and approval the proposed type and duration of extreme noise generating activities and the proposed public notice. The public notice shall provide the estimated start and end dates of the extreme noise generating activities and describe noise attenuation measures to be implemented.

When Required: During construction

Initial Approval: Bureau of Building

Monitoring/Inspection: Bureau of Building

31. Construction Noise Complaints

Requirement: The project applicant shall submit to the City for review and approval a set of procedures for responding to and tracking complaints received pertaining to construction noise, and shall implement the procedures during construction. At a minimum, the procedures shall include:

- a. Designation of an on-site construction complaint and enforcement manager for the project;
- b. A large on-site sign near the public right-of-way containing permitted construction days/hours, complaint procedures, and phone numbers for the project complaint manager and City Code Enforcement unit;
- c. Protocols for receiving, responding to, and tracking received complaints; and
- d. Maintenance of a complaint log that records received complaints and how complaints were addressed, which shall be submitted to the City for review upon the City’s request.

When Required: Prior to approval of construction-related permit

Initial Approval: Bureau of Building

Monitoring/Inspection: Bureau of Building

32. Operational Noise

Requirement: Noise levels from the project site after completion of the project (i.e., during project operation) shall comply with the performance standards of chapter 17.120 of the Oakland Planning Code and chapter 8.18 of the Oakland Municipal Code. If noise levels exceed these standards, the activity causing the noise shall be abated until appropriate noise reduction measures have been installed and compliance verified by the City.

When Required: Ongoing

Initial Approval: N/A

Monitoring/Inspection: Bureau of Building

33. Vibration Impacts on Adjacent Historic Structures or Vibration-Sensitive Activities

Requirement: The project applicant shall submit a Vibration Analysis prepared by an acoustical and/or structural engineer or other appropriate qualified professional for City review and approval that establishes pre-construction baseline conditions and threshold levels of vibration that could damage the structures and/or substantially interfere with activities located at 392 11th Street or 1110 Franklin Street. The Vibration Analysis shall identify design means and methods of construction that shall be utilized in order to not exceed the thresholds. The applicant shall implement the recommendations during construction.

When Required: Prior to construction

Initial Approval: Bureau of Building

Monitoring/Inspection: Bureau of Building

TRANSPORTATION/TRAFFIC**34. Construction Activity in the Public Right-of-Way****a. *Obstruction Permit Required***

Requirement: The project applicant shall obtain an obstruction permit from the City prior to placing any temporary construction-related obstruction in the public right-of-way, including City streets and sidewalks.

When Required: Prior to approval of construction-related permit

Initial Approval: Bureau of Building

Monitoring/Inspection: Bureau of Building

b. *Traffic Control Plan Required*

Requirement: In the event of obstructions to vehicle or bicycle travel lanes, the project applicant shall submit a Traffic Control Plan to the City for review and approval prior to obtaining an obstruction permit. The project applicant shall submit evidence of City approval of the Traffic Control Plan with the application for an obstruction permit. The Traffic Control Plan shall contain a set of comprehensive traffic control measures for auto, transit, bicycle, and pedestrian detours, including detour signs if required, lane closure procedures, signs, cones for drivers, and designated construction access routes. The project applicant shall implement the approved Plan during construction.

When Required: Prior to approval of construction-related permit

Initial Approval Public Works Department, Transportation Services Division

Monitoring/Inspection: Bureau of Building

c. *Repair of City Streets*

Requirement: The project applicant shall repair any damage to the public right-of way, including streets and sidewalks caused by project construction at his/her expense within one week of the occurrence of the damage (or excessive wear), unless further damage/excessive wear may continue; in such case, repair shall occur prior to approval of the final inspection of the construction-related permit. All damage that is a threat to public health or safety shall be repaired immediately.

When Required: Prior to building permit final

Initial Approval: N/A

Monitoring/Inspection: Bureau of Building

35. **Bicycle Parking**

Requirement: The project applicant shall comply with the City of Oakland Bicycle Parking Requirements (chapter 17.118 of the Oakland Planning Code). The project drawings submitted for construction-related permits shall demonstrate compliance with the requirements.

When Required: Prior to approval of construction-related permit

Initial Approval: Bureau of Planning

Monitoring/Inspection: Bureau of Building

UTILITY AND SERVICE SYSTEMS

36. **Construction and Demolition Waste Reduction and Recycling**

Requirement: The project applicant shall comply with the City of Oakland Construction and Demolition Waste Reduction and Recycling Ordinance (chapter 15.34 of the Oakland Municipal Code) by submitting a Construction and Demolition Waste Reduction and Recycling Plan (WRRP) for City review and approval, and shall implement the approved WRRP. Projects subject to these requirements include all new construction, renovations/alterations/modifications with construction values of \$50,000 or more (except R-3 type construction), and all demolition (including soft demolition) except demolition of type R-3 construction. The WRRP must specify the methods by which the project will divert construction and demolition debris waste from landfill disposal in accordance with current City requirements. The WRRP may be submitted electronically at www.greenhalosystems.com or manually at the City's Green Building Resource Center. Current standards, FAQs, and forms are available on the City's website and in the Green Building Resource Center.

When Required: Prior to approval of construction-related permit

Initial Approval: Public Works Department, Environmental Services Division

Monitoring/Inspection: Public Works Department, Environmental Services Division

37. **Underground Utilities**

Requirement: The project applicant shall place underground all new utilities serving the project and under the control of the project applicant and the City, including all new gas, electric, cable, and telephone facilities, fire alarm conduits, street light wiring, and other wiring, conduits, and similar facilities. The new facilities shall be placed underground along the project's street frontage and from the project structures to the point of service. Utilities under the control of other agencies, such as PG&E, shall be placed underground if feasible. All utilities shall be installed in accordance with standard specifications of the serving utilities.

When Required: During construction

Initial Approval: N/A

Monitoring/Inspection: Bureau of Building

38. Recycling Collection and Storage Space

Requirement: The project applicant shall comply with the City of Oakland Recycling Space Allocation Ordinance (chapter 17.118 of the Oakland Planning Code). The project drawings submitted for construction-related permits shall contain recycling collection and storage areas in compliance with the Ordinance. For residential projects, at least two cubic feet of storage and collection space per residential unit is required, with a minimum of ten cubic feet. For nonresidential projects, at least two cubic feet of storage and collection space per 1,000 square feet of building floor area is required, with a minimum of ten cubic feet.

When Required: Prior to approval of construction-related permit

Initial Approval: Bureau of Planning

Monitoring/Inspection: Bureau of Building

39. Green Building Requirements

a. Compliance with Green Building Requirements During Plan-Check

Requirement: The project applicant shall comply with the requirements of the California Green Building Standards (CALGreen) mandatory measures and the applicable requirements of the City of Oakland Green Building Ordinance (chapter 18.02 of the Oakland Municipal Code).

- i. The following information shall be submitted to the City for review and approval with the application for a building permit:
 - Documentation showing compliance with Title 24 of the current version of the California Building Energy Efficiency Standards.
 - Completed copy of the final green building checklist approved during the review of the Planning and Zoning permit.
 - Copy of the Unreasonable Hardship Exemption, if granted, during the review of the Planning and Zoning permit.
 - Permit plans that show, in general notes, detailed design drawings, and specifications as necessary, compliance with the items listed in subsection (ii) below.
 - Copy of the signed statement by the Green Building Certifier approved during the review of the Planning and Zoning permit that the project complied with the requirements of the Green Building Ordinance.
 - Signed statement by the Green Building Certifier that the project still complies with the requirements of the Green Building Ordinance, unless an Unreasonable Hardship Exemption was granted during the review of the Planning and Zoning permit.
 - Other documentation as deemed necessary by the City to demonstrate compliance with the Green Building Ordinance.
- ii. The set of plans in subsection (i) shall demonstrate compliance with the following:
 - CALGreen mandatory measures.
 - All pre-requisites per the green building checklist approved during the review of the Planning and Zoning permit, or, if applicable, all the green building measures approved as part of the Unreasonable Hardship Exemption granted during the review of the Planning and Zoning permit.
 - **23 Points** per the appropriate checklist approved during the Planning entitlement process.

- All green building points identified on the checklist approved during review of the Planning and Zoning permit, unless a Request for Revision Plan-check application is submitted and approved by the Bureau of Planning that shows the previously approved points that will be eliminated or substituted.
- The required green building point minimums in the appropriate credit categories.

When Required: Prior to approval of construction-related permit

Initial Approval: Bureau of Building

Monitoring/Inspection: N/A

b. *Compliance with Green Building Requirements During Construction*

Requirement: The project applicant shall comply with the applicable requirements of CALGreen and the Oakland Green Building Ordinance during construction of the project.

The following information shall be submitted to the City for review and approval:

- i. Completed copies of the green building checklists approved during the review of the Planning and Zoning permit and during the review of the building permit.
- ii. Signed statement(s) by the Green Building Certifier during all relevant phases of construction that the project complies with the requirements of the Green Building Ordinance.
- iii. Other documentation as deemed necessary by the City to demonstrate compliance with the Green Building Ordinance.

When Required: During construction

Initial Approval: N/A

Monitoring/Inspection: Bureau of Building

c. *Compliance with Green Building Requirements After Construction*

Requirement: Within sixty (60) days of the final inspection of the building permit for the project, the Green Building Certifier shall submit the appropriate documentation to **Build it Green** and attain the minimum required certification/point level. Within one year of the final inspection of the building permit for the project, the applicant shall submit to the Bureau of Planning the Certificate from the organization listed above demonstrating certification and compliance with the minimum point/certification level noted above.

When Required: After project completion as specified

Initial Approval: Bureau of Planning

Monitoring/Inspection: Bureau of Building

40. Sanitary Sewer System

Requirement: The project applicant shall prepare and submit a Sanitary Sewer Impact Analysis to the City for review and approval in accordance with the City of Oakland Sanitary Sewer Design Guidelines. The Impact Analysis shall include an estimate of pre-project and post-project wastewater flow from the project site. In the event that the Impact Analysis indicates that the net increase in project wastewater flow exceeds City-projected increases in wastewater flow in the sanitary sewer system, the project applicant shall pay the Sanitary Sewer Impact Fee in accordance with the City's Master Fee Schedule for funding improvements to the sanitary sewer system.

When Required: Prior to approval of construction-related permit

Initial Approval: Public Works Department, Department of Engineering and Construction

Monitoring/Inspection: N/A

41. Storm Drain System

Requirement: The project storm drainage system shall be designed in accordance with the City of Oakland's Storm Drainage Design Guidelines. To the maximum extent practicable, peak stormwater runoff from the project site shall be reduced by at least 25 percent compared to the pre-project condition.

When Required: Prior to approval of construction-related permit

Initial Approval: Bureau of Building

Monitoring/Inspection: Bureau of Building

Part 3: Project-Specific Conditions of Approval

42. Expansion of Storefront Glazing

Requirement: The building permit plan set shall include expanded glazing at the 11th Street frontage that will be widened to include at a minimum 55% glazing for the frontage.

When Required: Prior to issuance of building permit

Monitoring/Inspection: Bureau of Planning

43. Promotion of Local Hiring

Requirement: The applicant shall submit a proposal for review and approval by the Economic Development Manager and the Zoning Manager that demonstrates efforts to hold a “job fair” that will advertise job openings to local Oakland residents or otherwise participate in another local job fair if timely for hotel hiring. This may be accomplished by methods including but not limited by posting of a “job fair” at locations such as local Oakland libraries, community centers or employment centers.

When Required: Plan required prior to issuance of building permit

Requirement: Hold “job fair” event as advertised prior to hiring employment staff

When Required: Prior to Final of Building Permit

Monitoring/Inspection: Bureau of Planning

44. Paasenger and Commercial Loading Zones

Requirement: The applicant shall apply to the City of Oakland Transportation Services Division to install a curbside passenger loading zone adjacent to the front entry of the project site. In addition, a “metered commercial” loading zone shall be applied for along the north side of 11th Street in close proximity to the entry of the proposed project frontage.

When Required: Prior to final of building permit

Monitoring/Inspection: Bureau of Planning

Applicant Statement

I have read and accept responsibility for the Conditions of Approval. I agree to abide by and conform to the Conditions of Approval, as well as to all provisions of the Oakland Planning Code and Oakland Municipal Code pertaining to the project.

Name of Project Applicant

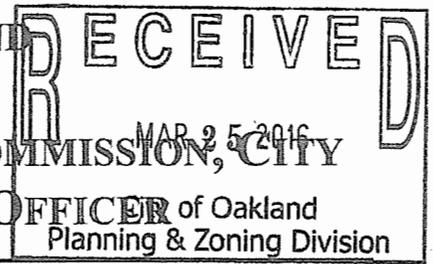
Signature of Project Applicant

Date



CITY OF OAKLAND
APPEAL FORM

FOR DECISION TO PLANNING COMMISSION, CITY
COUNCIL OR HEARING OFFICER of Oakland



PROJECT INFORMATION

Case No. of Appealed Project: PLN15-096
Project Address of Appealed Project: 378 11th Street
Assigned Case Planner/City Staff: Pete Vollmann

APPELLANT INFORMATION:

Printed Name: Ty Hudson Phone Number: 213-509-9114
Mailing Address: 1440 Broadway #208 Alternate Contact Number: 510-893-3181
City/Zip Code Oakland, CA 94612 Representing: UNITE HERE Local 2850
Email: thudson@unitehere.org

An appeal is hereby submitted on:

AN ADMINISTRATIVE DECISION (APPEALABLE TO THE CITY PLANNING COMMISSION OR HEARING OFFICER)

YOU MUST INDICATE ALL THAT APPLY:

- Approving an application on an Administrative Decision
- Denying an application for an Administrative Decision
- Administrative Determination or Interpretation by the Zoning Administrator
- Other (please specify) _____

Please identify the specific Administrative Decision/Determination Upon Which Your Appeal is Based Pursuant to the Oakland Municipal and Planning Codes listed below:

- Administrative Determination or Interpretation (OPC Sec. 17.132.020)
- Determination of General Plan Conformity (OPC Sec. 17.01.080)
- Design Review (OPC Sec. 17.136.080)
- Small Project Design Review (OPC Sec. 17.136.130)
- Minor Conditional Use Permit (OPC Sec. 17.134.060)
- Minor Variance (OPC Sec. 17.148.060)
- Tentative Parcel Map (OMC Section 16.304.100)
- Certain Environmental Determinations (OPC Sec. 17.158.220)
- Creek Protection Permit (OMC Sec. 13.16.450)
- Creek Determination (OMC Sec. 13.16.460)
- City Planner's determination regarding a revocation hearing (OPC Sec. 17.152.080)
- Hearing Officer's revocation/impose or amend conditions (OPC Sec. 17.152.150 &/or 17.156.160)
- Other (please specify) _____

(Continued on reverse)

ATTACHMENT C

Tanya B. Johnson
Signature of Appellant or Representative of
Appealing Organization

3/24/16
Date

TO BE COMPLETED BY STAFF BASED ON APPEAL TYPE AND APPLICABLE FEE

APPEAL FEE: \$ _____

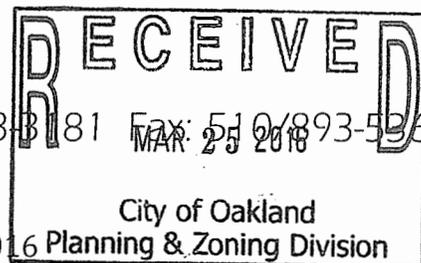
Fees are subject to change without prior notice. The fees charged will be those that are in effect at the time of application submitted. All fees are due at submittal of application.

Below For Staff Use Only

Date/Time Received Stamp Below: _____ Cashier's Receipt Stamp Below: _____

UNITEHERE! Local 2850

1440 Broadway, Suite 208, Oakland, CA 94612 510/893-3181 Fax: 510/893-5362



March 24, 2016

Pete Vollmann
Bureau of Planning
Planning and Building Department
City of Oakland
250 Frank H. Ogawa Plaza, Suite 2114
Oakland, CA 94612

Re: Appeal of Approval of PLN15-096, 378 11th St

Dear Mr. Vollmann:

UNITE HERE Local 2850 hereby appeals the approval of Conditional Use Permits, Design Review, and Minor Variance for the proposed 114-room hotel at 378 11th Street. The approval represents an abuse of discretion on the part of the Zoning Manager for the reasons explained herein.

1. The project requires a Major Conditional Use Permit.

The application has been processed improperly as a Minor Conditional Use Permit. The Planning Code requires a Major CUP for "Projects that request to be considered for an exception to the D-LM Height/Bulk/Intensity Area standards, as described in Table 17.101G.04, Note 2" [17.134.020(A)(f)]. The project is located in Height/Bulk/Intensity Area LM-275, which allows a building base height of 45 feet, with certain exceptions: "up to 85 feet upon granting of CUP and additional findings in Note 2.a, b, c" [Table 17.101G.04]. The building base of the proposed Hampton Inn is higher than 45 feet. The Zoning Manager's approval letter acknowledges the need for a CUP for the exception to the base height limit, but incorrectly classifies it as a Minor CUP, in direct contradiction with Section 17.134.020(A)(f).

I pointed this out in a letter to you on August 17, 2015 (attached). In a subsequent phone conversation, you argued that Section 17.134.020(A)(f) does not refer to height exceptions of the sort sought by the Hampton Inn project, but to a different type of exception. As I explained on the phone, there is nothing in the text of the Code to support this distinction. Your interpretation that the Major CUP requirement applies to some D-LM height exceptions but not to this one is purely arbitrary.

As if to prove my point, approximately two months after my August 17 letter, the Department proposed an amendment to the Planning Code to "clarify" Section 17.134.020(A)(f) and Table 17.101G.04. The "clarification" would have created a

new category of "Exceptions to Standards for Building Base" that would not have triggered the Major CUP requirement, so as to conform to your strained interpretation of the current language. Crucially, this proposed Code amendment did not pass, as it was withdrawn by the Department, along with a number of other proposed Code amendments, in response to opposition from the public. In an email dated October 17, 2015, I objected to this particular proposed amendment on the grounds that it would effectively change the rules mid-way through the consideration of the 378 11th Street project, in order to exempt the project from the Major CUP requirement. At its October 21, 2015, meeting, at which the proposed Code amendments had been scheduled to be considered, the Planning Commission made it clear that it supported the withdrawal of the controversial package of amendments and encouraged the Department to bring forward only a few specified amendments (not including the amendments to 17.134.020 and Table 17.101G.04) instead. (Minor "non-substantive" changes were later made to the phrasing of these sections, but said changes did not create a new category of "Exceptions to Standards for Building Base" that exempted such exceptions from the Major CUP requirement.)

In summary, after I pointed out that this project required a Major CUP, the Department proposed amendments to the Planning Code that would have removed this requirement. Those amendments did not pass and are therefore not the law. To process this application as though these Code amendments had passed is a clear abuse of discretion. We request that the approval of a Minor CUP for this project be vacated and that it be reprocessed as a Major CUP.

2. The building exceeds the maximum allowable height.

Even with a CUP to allow a building base higher than 45 feet, the maximum height of a building base in the LM-275 height area is 85 feet. (Towers up to 275 feet are allowed, but towers require a setback above the base, which the proposed hotel does not have.) The proposed hotel is 87 feet tall, according to the project description and plans included with the CEQA analysis for the project (attached). I pointed this out in my August 17 letter, and you argued in the aforementioned phone conversation that the proposed building's 5-foot parapet is an allowed projection above the height limit. When I pointed out that the word "parapet" appears nowhere in the exhaustive list of allowed projections above height limits in Section 17.108.030 of the Code, you argued that parapets fall under the category of rooftop "appurtenances." An appurtenance is essentially an accessory, and the word "appurtenances" appears only the following list: "chimneys, ventilators, plumbing bent stacks, water tanks, cooling towers, machinery rooms, and other equipment and appurtenances." It is clear from the context that parapets do not belong in this category. Viewed from the street, the parapet is simply part of the façade of the building, and the visual effect is that of an 87-foot building, not an 82-foot building with a 5-foot rooftop appurtenance.

In an apparent attempt to circumvent these objections, the aforementioned package of Code amendments included an amendment that would have added the

word “parapet” to the list of allowed projections above height limits in Section 17.108.030. The staff report for these proposed Code amendments explained this particular proposal as follows:

The proposed amendments to Section 17.108.030 are intended to solve certain long-standing issues in this section of the Code that often affect the design of larger, higher density projects. For instance, earlier versions of the City’s Planning Code included parapets as one of the allowed projections above height limits. This parapet height allowance was deleted at some point in the past from the Code... The proposed amendments would restore parapets as an allowed projection above the height limit...

Like the previously discussed Code amendment, this amendment was withdrawn and has not been passed into law. The Department’s own narrative of the proposed changes makes it clear that, under current law, parapets are not among the allowed projections above the height limits. They used to be, but they were deliberately removed from the list (for reasons the staff report only speculates about). Consequently, the proposed hotel unambiguously exceeds the height limits. To process this application as though parapets were an allowed projection above height limits, when the record clearly shows that they are not, is an obvious abuse of discretion. The approval of the CUP and Regular Design Review should be vacated on this basis.

3. The variance is not warranted and would contravene the basic intent of the Planning Code’s off-street loading requirements.

Section 17.116.140 of the Code requires one off-street loading berth for hotels over 50,000 square feet. The floor area of the proposed hotel is 62,137 square feet, according to the CEQA documents. The Zoning Manager has approved the variance in part on the basis that “strict compliance with this regulation would preclude an effective design solution fulfilling the intent of the regulation.” Staff asserts that the “basic intent of the one required loading berth is to provide a location for loading and unloading of goods for the subject business operation.” However, the Planning Code describes the purpose of the off-street parking and loading requirements as “to require adequate off-street parking and loading, thereby reducing traffic congestion, allowing more efficient utilization of on-street parking, promoting more efficient loading operations, and reducing the use of public streets for loading purposes.” In other words, the intent is not merely “to provide a location for loading and unloading,” but to provide an *off-street* location for the sake of preserving on-street parking, reducing the need for on-street loading, and thereby reducing the effects on traffic of double-parking.

The proposed “design solution”—on-street loading and unloading utilizing a commercial loading zone—obviously does not accomplish the purpose of “reducing the use of public streets for loading purposes.” There are currently four on-street

metered parking spaces in front of the lot at 378 11th Street, which presumably will have to be removed for the hotel's loading needs. By comparison, the nearby Courtyard Marriott hotel has space for four cars in the white-curb loading zone in front of its main entrance on 9th Street, *in addition to* an off-street loading berth for commercial loading and unloading. Approval of the variance is likely to result in competition between passenger loading and commercial loading in the limited curb space in front of the hotel, resulting in traffic congestion due to double parking. The only other solutions would be for the hotel to compete with existing businesses for use of the already-existing commercial loading space on the block, or to remove additional metered parking spaces elsewhere on the block. In any case, the effect runs contrary to the stated purpose of the off-street loading regulations. There is no evidence in the record that this hotel would have less need for loading space than other comparably sized hotels, or that the limited curb space in front of this narrow lot would be enough to accommodate both the passenger and commercial loading needs of a 114-room hotel.

In an attempt to manufacture such a justification, staff characterizes the need for a loading dock as limited to “minor food deliveries for the food service for hotel patrons” and compares the loading needs of the proposed 114-room hotel to those of the small restaurants in the vicinity. On the contrary, loading and unloading needs for hotels are not limited to food supplies, but also include linens for the guest rooms and trash generated by the hotel guests. Most hotels outsource some or all of their laundering of sheets and towels to off-site commercial laundry facilities, which pick up and deliver the linens in large trucks. Many hotels have on-site laundry facilities to ensure their ability to turn around clean linens in time-sensitive situations, but nonetheless outsource the bulk of their daily laundry needs. This hotel would produce 114 rooms worth of dirty linens and 114 rooms worth of trash, in addition to the loading needs of its food-service operation. To compare its loading and unloading needs to the restaurants in the neighborhood is misleading and inappropriate.

The appropriate comparisons are the existing hotels in downtown Oakland. The only tourist hotels in downtown Oakland without off-street loading berths are the Clarion on 13th Street and the Washington Inn on 10th Street. Unlike the proposed Hampton Inn, these hotels are both adaptive-reuse projects housed in historic buildings, making off-street loading impractical if not impossible. More importantly, they are much smaller than the proposed Hampton Inn. The Clarion has 64 rooms and the Washington Inn has 47. According to Alameda County tax records, the Clarion has a floor area of 33,949 square feet, and the Washington Inn has a floor area of 21,621 square feet, which means neither one of them is large enough to require off-street loading under the Code, unlike the proposed Hampton Inn. In arguing that the variance would not constitute “a grant of special privilege inconsistent with limitations imposed on similarly zoned properties or inconsistent with the purposes of the zoning regulations,” staff notes that “other businesses within the area exist without loading berths,” but cites no *comparable* existing business—i.e., no existing hotel of over 50,000 square feet. There is no reason this

lot could not accommodate an off-street loading dock. In fact, such loading docks are common in the immediate vicinity, and there is even already a curb cut in front of where the hotel's trash room would be located, as indicated in the plans. As such, the variance would in fact constitute a grant of special privilege that would be inconsistent both with the requirements placed on similar properties and with the purposes of the zoning regulations. We request that the Planning Commission deny the variance for these reasons, and to maintain the integrity of the zoning regulations.

4. The project is not consistent with the CUP criteria for transient habitation commercial activities.

Section 17.103.050 of the Planning Code establishes special conditional use permit criteria for hotels (transient habitation commercial activities). The proposed hotel is inconsistent with at least three of these criteria.

"That the proposed development provides adequately buffered loading areas and to the extent possible, are located on secondary streets;"

As discussed above, the proposed project does not provide buffered loading areas at all. This hotel-specific CUP criterion is all the more reason the variance to the off-street loading requirements is inappropriate. Staff notes that "the project site only contains one street frontage along 11th Street" and concludes that "it would have been impossible to provide any buffered loading areas without seriously being detrimental to the frontage of the site..." But the only requirement qualified by the phrase "to the extent possible" in the Code section cited above is that the loading be located on secondary streets. That requirement would in fact be impossible to satisfy at this site. The requirement of adequately buffered loading areas is not qualified by this caveat. Nor would it be impossible to satisfy, as demonstrated by the many buildings in downtown Oakland that have small off-street loading docks. The Code does not provide for an exception to this requirement simply because Planning staff thinks that the required loading berth would be detrimental to the design of the building.

"The proposed operator of the facility shall be identified as part of the project description at the time of application."

In reference to this requirement, staff states merely that the "proposed hotel operator has been identified and will be a [sic] under the Hampton Inn branch of the Hilton Hotel chain." To identify the flag or brand of a hotel (Hampton Inn) and the company that owns that brand (Hilton) is not the same thing as to identify the operator of the hotel. For example, the nearby Courtyard hotel operates under a flag owned by Marriott, but the hotel is not operated by Marriott, but by a third-party management company called Interstate. This type of arrangement is very common in the hotel industry, and the clear intent of this section of the Planning Code is that the actual operator of the hotel (not the brand name) be identified at the time of

application. The application itself for the proposed Hampton Inn merely states “yes” in the section devoted to this requirement, but does not actually identify the operator of the hotel. According to the available documents related to this project, there has been no public identification of the proposed hotel operator, either at the time of application or subsequently.

“That the proposal considers the impact of the employees of the hotel or motel on the demand in the City for housing, public transit, and social services;”

Of all the ways in which the proposed Hampton Inn is inconsistent with the requirements of the Planning Code, this is the most central to the concerns of Local 2850, given our fundamental mission to protect and improve the job quality and living standards of hospitality workers in the East Bay. The clear intent of this provision of the Code is to ensure that the City takes into account certain socioeconomic impacts of hotel development, which are related in part to the quality of the jobs offered by the hotel. Oakland residents are suffering from a housing affordability crisis and skyrocketing income inequality, and despite the Affordable Care Act, many are still uninsured or underinsured. Affordable housing subsidies, healthcare subsidies, and other safety-net services are a major burden on our public agencies and on taxpayers. Section 17.103.050(A)(2) of the Planning Code calls for the City to consider a proposed hotel’s impact on these serious issues in determining whether or not the issuance of a CUP (a discretionary permit) is in the interest of the general welfare. Unfortunately, the development application and the staff’s approval letter address this criterion in only the most superficial way possible.

The staff’s basic approach to this question—that the creation of jobs is benefit enough, regardless of the quality of those jobs—renders the criterion virtually meaningless. The primary justification for this approach is the assumption that most or all of the jobs offered at the hotel will be taken by existing Oakland residents who are currently unemployed: “jobs can help to reduce the unemployment rate within Oakland that is still higher than the California State average.” For one thing, this is factually incorrect. According to the Bureau of Labor Statistics’ preliminary estimate for January 2016 (the most recent available), Oakland’s unemployment rate is 4.4%, compared to 5.7% for California as a whole.¹ While any unemployment at all is a serious problem, 4.4% is not a high unemployment rate, and it is actually lower than standard estimates of “full employment” (technically, nonaccelerating inflation rate of unemployment, or NAIRU).² The point here is not to argue that some Oakland communities do not suffer from a serious unemployment problem, but that there is no justification for the assumption that the 20 to 30 jobs offered by the hotel will be taken by 20 to 30

¹ <http://www.bls.gov/regions/west/california.htm> and http://www.bls.gov/regions/west/ca_oakland_md.htm

² <http://www.marketplace.org/2015/09/04/economy/does-51-percent-full-employment>

currently unemployed Oakland residents, as opposed to increasing the overall workforce by 20 to 30 new workers who will need housing and will be attempting to survive the Bay Area's notorious cost of living.

In fact, standard impact analysis of economic development assumes that 20 to 30 new jobs *do* represent 20 to 30 new workers. For example, the City of Oakland recently commissioned a nexus study (attached) for the purposes of determining the appropriate amount of potential impact fees for affordable housing. This study calculates the need for affordable housing funding based on the number of low-wage jobs induced by market-rate housing development. There are essentially two steps to this calculation: (1) determining how many low-wage jobs are created in Oakland per unit of market-rate housing, and then (2) determining how much need for affordable housing is created per low-wage job created in Oakland. For the purposes of analyzing the proposed Hampton Inn, we can skip step 1 and go straight to step 2, since this is not a housing development, and we already know that the hotel "would be anticipated to create between 20 to 30 new jobs," according to staff.

The principals of the applicant, Oak 378 LLC, also own the Holiday Inn Express Oakland Airport and the Hampton Inn Alameda. We know from conversations with workers at these hotels that the applicants pay most of their workers the Oakland minimum wage (or less), which is currently \$12.55/hour. These wages are also documented by a report from the Contracts & Compliance department regarding a minimum wage complaint against the Holiday Inn Express (attached). It is ironic and disturbing that staff unquestioningly cites the applicant's claim that 80% of the workers at their existing hotels are Oakland residents (with no apparent corroboration), but completely ignores actual data (documented by another City department) regarding wages at one of those hotels.

Working full-time (2080 hours per year) for \$12.55/hour, a worker earns an annual gross income of \$26,104, which means he or she could afford to spend a maximum of \$652.60 per month on rent and utilities, according to the methodology employed by the nexus study. The amount of the resulting "affordability gap" depends on the number of working adults and the number of children in the worker's household, but no matter what the household size, this income level would produce some level of demand for affordable housing subsidy. This is precisely the sort of impact on the housing market that Section 17.103.050(A)(2) of the Planning Code requires hotel development proposals to consider. The Department has completely failed to do so in this case.

In addition to the impact on the housing market, Section 17.103.050(A)(2) requires consideration of the hotel's impact on the demand for social services. Given the wages the applicants pay at their existing hotels, the Department could and should perform an analysis of how many of the hotel's workers will be likely to qualify for public assistance in the form of WIC, TANF, and other safety-net services. Apart from wages, we know from conversations with workers at the applicant's existing hotels that non-managerial workers are not provided with health insurance

at all. Earning minimum wage, most if not all of the proposed hotel's workers would qualify for Premium Assistance under Covered California; most would also qualify for Cost Sharing Reductions (an additional form of ACA subsidy); and many would qualify for Medi-Cal. (The specific level of subsidy for each worker would depend on household size.)³

As discussed above, there is substantial evidence that the proposed hotel will have significant negative impacts with respect to housing and social services. Staff dismisses the significance of these negative impacts—and thereby attempts to justify its failure make any attempt to describe or quantify them—by noting that the hotel is expected to provide between 20 and 30 new jobs, out of over 4,000 new jobs expected to be created during the build-out of the Lake Merritt Station Area Specific Plan. But if this type of analysis could be avoided for every individual project that, by itself, represents a small portion of the overall job growth in the City, there would be no way of evaluating the cumulative impacts of development, and the criterion established by Section 17.103.050(A)(2) would be utterly meaningless.

Furthermore, staff ignores the impact that these 20 to 30 low-wage jobs could have on other hotel jobs in downtown Oakland and in the East Bay as a whole. By comparison, the Courtyard hotel about one block away from the proposed Hampton Inn pays housekeepers over \$2/hour more than the applicant's existing hotels, and provides high-quality family health insurance at a cost of \$25/month to the employee. Currently, this means a lower housing "affordability gap," less pressure on various safety-net services, and no need for Medi-Cal or Covered California subsidies. However, competition from a lower-wage competitor such as the proposed Hampton Inn will make it less likely that the Courtyard by Marriott and other relatively high-wage hotels will be able to sustain those higher wages and benefits in the long term. Even in the short term, every guest who stays at the Hampton Inn because its lower labor costs allow lower room rates, means fewer hours for a higher-wage housekeeper at the Courtyard, which means less income and a greater likelihood of reliance on safety-net services. As such, the scale of the proposed Hampton Inn's potential negative impact goes beyond just 20 or 30 workers at the Hampton Inn itself.

Finally, it should be reiterated that the Contracts & Compliance department recently completed an investigation of workers' complaints regarding minimum wage violations at the Holiday Inn Express Oakland Airport, and issued a report that alleges several violations of the City's minimum wage and paid sick days ordinance. The report speaks for itself, but for these purposes it is sufficient to note that one of the findings is that the hotel effectively paid less than minimum wage by failing to pay workers for all hours worked. Wage theft is a serious problem that lowers many workers' real income and thereby exacerbates the pressures on social services and housing affordability. Furthermore, the Contracts & Compliance report constitutes documented evidence of the applicant's labor practices, which should be considered

³ <https://www.coveredca.com/shopandcompare/2016/#incomeGuidelines>

in the City's analysis of the proposed hotel's impacts on housing and social services. The City's minimum wage ordinance authorizes the City "to consider, to the maximum extent permitted by law, an Employer's record of noncompliance with [the minimum wage and paid sick days ordinance] in making City decisions on City contracts and land use approvals and other entitlements to expand or operate within the City." It is difficult to imagine a situation in which such consideration would be more appropriate than in a case such as this, where workers' wage and benefit levels have a direct impact on a required CUP finding. Simply put, the evidence shows that the proposed hotel's impact on the City's affordable housing crisis and on budgets for social services would be negative, and the CUP should be denied for that reason among others.

Conclusion

In summary, the proposed Hampton Inn is inconsistent with the requirements of the Planning Code with respect to height, off-street loading, and the identification of the hotel operator. Furthermore, the Planning Department has failed to consider the impact of the hotel on the demand for housing and social services, which all the evidence suggests would be negative. Finally, the hotel is not eligible for a Minor CUP in the first place, and all of these questions should be considered by the Planning Commission in a hearing on a Major CUP for the project, not decided at the staff level.

Please notify me when this appeal is scheduled for a hearing before the Planning Commission, and please send all notices and any additional information regarding this project to my attention at thudson@unitehere.org.

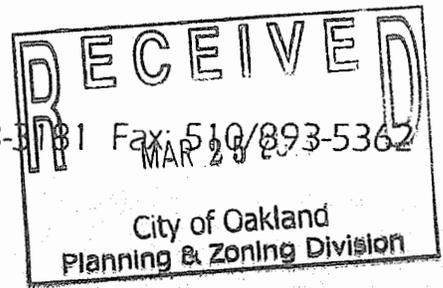
Sincerely,

A handwritten signature in black ink that reads "Ty Hudson". The signature is fluid and cursive, with the first name "Ty" and last name "Hudson" clearly legible.

Ty Hudson
Research Analyst

UNITEHERE! Local 2850

1440 Broadway, Suite 208, Oakland, CA 94612 510/893-3181 Fax: 510/893-5362



August 17, 2015
Case File Number: PLN15096

Mr. Peterson Vollmann
Planning and Zoning Division
Department of Planning and Building
City of Oakland
250 Frank H. Ogawa Plaza, Suite 2114
Oakland, CA 94612

Dear Mr. Vollmann:

I am writing to register UNITE HERE Local 2850's opposition to the proposed Hampton Inn hotel at 378 11th Street (Case File Number PLN15096). Local 2850 represents hotel and food service workers throughout the East Bay, including hundreds of workers at the Marriott City Center and Courtyard by Marriott Downtown Oakland, steps away from the proposed Hampton Inn. Our members will be harmed and their livelihoods will be negatively affected if this project is approved. The proposed project fails in several ways to satisfy the requirements of the Oakland Planning Code, as detailed below.

Fundamentally, the project should not be granted discretionary permits (including conditional use permits and variances) because runs counter to the City's interest—as expressed in Section 17.103.050 of the Code—in ensuring that the City's hospitality industry continues to provide good, family-sustaining jobs for local residents.

Major vs. Minor Conditional Use Permit

According to the public notice for the project, the project requires a Minor Conditional Use Permit for a new Transient Habitation Commercial Activity, Regular Design Review for new construction, and a Minor Variance for one loading berth. We are urging that these entitlements be denied, for reasons that will be detailed below. However, we also object to the determination that it qualifies for a Minor Conditional Use Permit rather than a Major Conditional Use Permit.

The project is below the square footage threshold for a Major Conditional Use Permit in the D-LM-3 zone. However, the Planning Code also requires a Major Conditional Use Permit for "Projects that request to be considered for an exception to the D-LM Height/Bulk/Intensity Area standards." The maximum height for the building base at the project site is 45 feet, unless the project is granted a conditional use permit for a building base up to 85 feet. The proposed project is 87 feet tall, every foot of which is part of the building base, as there is no tower.

It should be noted that the public notice for the project does not indicate that the project requires or has requested any CUP, minor or major, related to the height of the building base, which is problematic in

itself since the CUP for a taller building base requires its own set of findings apart from the general and transient habitation CUP criteria. Furthermore, Section 17.134.020(A)(1) identifies thresholds above which all CUP applications are to be considered Major CUP's, among which thresholds are the "Height/Bulk/ Intensity Area standards" of the D-LM zone. For this reason, apart from our objection to substantive aspects of the project itself, we request as a procedural matter, should Planning staff choose to recommend approval, that the project be considered by the Planning Commission at a public hearing, as required for all Major Conditional Use Permits.

Height Limits

As noted above, the maximum height *with* a conditional use permit for a building base at the project site is 85 feet. At 87 feet, the proposed project exceeds even this higher standard, albeit only slightly. The parapet at the top of the proposed hotel building does not qualify under any of the categories of "allowed projections above height limits" in Section 17.108.030 of the Code, as it is neither an "open railing" nor "open fencing," but a solid brick wall. (Walled spaces projecting above height limits are limited to ten percent of the building's area.) For this reason alone, the project may not be approved as proposed, unless granted a variance. The public notice for the project does not indicate that it is being considered for a height variance.

Hotel employees

Section 17.103.050 of the Code enumerates several special criteria for CUP's for transient habitation commercial activities, among which is "that the proposal considers the impact of the employees of the hotel or motel on the demand in the City for housing, public transit, and social services." The proposal for the hotel in question does not meet this requirement in even the most minimal way. The application makes a gesture towards addressing the public transit part of this requirement, as follows: "majority of the hotels employees will be local, employees will likely utilize transit / city center BART" (*sic*). This is fair enough, given the project site's proximity to the 12th Street BART station, although the project gives no evidence or justification for the assertion that the hotel will primarily employ local residents.

However, the application makes no effort whatsoever to address the impact of the hotel's future employees on the demand for housing and social services. As such, the application should be deemed incomplete. These are serious policy issues which, in light of the acute housing and income inequality crises currently plaguing the Bay Area, should be considered along with *all* discretionary planning approvals. As noted above, in the case of hotel development, the Code *requires* them to be considered.

Because the applicants own and operate two other hotels in the East Bay—the Holiday Inn Express at the Oakland Airport and the Hampton Inn Alameda—we can make reasonable inferences about the effects that the proposed hotel would have on the demand for housing and social services in Oakland, despite their failure to address these issues. A few of our members are former employees of the Hampton Inn Alameda; we have also spoken with current employees at both the Hampton Inn and the Holiday Inn Express. Housekeepers at the Holiday Inn Express have told us they are paid the Oakland minimum wage of \$12.25 per hour, and that they were paid only the state minimum wage of \$9.00 per hour prior to the passage of the Oakland minimum wage. Three of our members who used to work at the Hampton Inn Alameda have told us that, at the time, housekeepers were paid \$8.00 per hour, which was the California minimum wage at the time, and that housemen (the mostly male workers who assist

housekeepers in various ways, among other duties) were paid \$9.00 per hour. One worker at the Holiday Inn Express told us that the week of paid vacation previously provided by the employer was taken away when the Oakland minimum wage went into effect, which would be a violation of the ordinance. We are aware that at least one housekeeper from the Holiday Inn Express has contacted the minimum wage complaint hotline operated by the Lift Up Oakland coalition to report that, when the minimum wage went into effect, the hotel reduced housekeepers' shifts from 8 hours to 6 hours but required them to clean the same number of rooms per shift as before. This is an occupational health and safety hazard, may be a violation of the anti-retaliation provisions of the Oakland ordinance, and certainly has implications for the workers' monthly income. At 30 hours per week, a worker making \$12.25 per hour makes a gross annual income of only \$19,110—scarcely more than what they would have made working 40 hours per week at \$9.00 per hour (\$18,720).

According to the MIT Living Wage Calculator, the minimum wage necessary for a single person with no children to meet his or her basic needs in Alameda County is \$13.35 per hour, if he or she works 2080 hours per year (40 hours per week).¹ This translates to an annual gross income of \$27,771—45% more than what a housekeeper would make working 30 hours per week for \$12.25 per hour at the Holiday Inn Express. Even a childless couple living together needs to make \$21,479 each—12% more than said housekeeper. Two working adults with a one child need to make over \$30,000 each (\$14.60 per hour at 40 hours per week). For a couple with two or more children, or a single parent with any number of children, the wages apparently paid by the applicants at their two existing East Bay hotels are nowhere near what would be required to meet a family's basic needs—for a single parent, not even half. The applicants' apparent practice of paying their housekeepers (who make up the bulk of the workforce at a limited-service hotel like a Hampton Inn) no higher than the legal minimum suggests that the proposed hotel would contribute to the demand for housing and social services in Oakland, adding stress to an already overburdened system.

Social services

Given the gap between the living wage in Alameda County and the wages the applicants pay at their existing hotels, the likely effect on demand for public assistance programs such as SNAP is obvious. Furthermore, in addition to low wages, workers and former workers at the Holiday Inn Express and the Hampton Inn Alameda have reported that they do not receive employer-provided health insurance. Our members who used to work at the Hampton Inn (between 2008 and 2010) say that health insurance was not offered at all. Current workers have told us that the health insurance is so expensive that they don't believe any of their coworkers pay for it. The Employee Handbook for the Hampton Inn Alameda states that employees are responsible for 50% of the monthly premium. We don't know what level of coverage is offered at the applicants' existing hotels, or how much it costs. However, in 2012, the average monthly premium for a small group health insurance plan was over \$400 for the employee and over \$1000 for the employee's family,² rates which are almost certainly higher now. To pay 50% of rates like this is likely to be completely impossible for a worker making minimum wage, meaning that such workers are likely to qualify for and take advantage of subsidies via Covered California and MediCal, or to go uninsured and use County clinics and emergency rooms to obtain needed care. The proposed hotel

¹<http://livingwage.mit.edu/counties/06001>

²<http://healthcoverageguide.org/helpful-tools/charts/state-average-premiums-for-the-small-group-market/>

is likely to increase demand for such subsidies and services and thereby add pressure to State and County budgets.

Housing

MIT's living wage calculations assume that a family with two working adults and one child in Alameda County would need to spend \$1,578 per month for a two-bedroom apartment. As noted above, \$12.25 is over two dollars per hour lower than the wage the two adults would have to earn, even if fortunate enough to work 40 hours per week, to afford this apartment while meeting other basic needs. In Oakland the situation is even worse than in Alameda County as a whole. According to Zumper's national rent report from April of this year, the median *one*-bedroom rent in Oakland is now \$2000 per month. This means that in Oakland, two minimum-wage workers with one or more children would not even be able to afford a one-bedroom apartment, let alone an apartment large enough for a family. Given these numbers, it is impossible not to conclude that a hotel employing housekeepers for \$12.25 per hour would add to the demand in Oakland and throughout Alameda County for subsidized affordable housing.

Oakland simply cannot afford this increased demand. It is widely known that the skyrocketing demand for subsidized affordable housing in Oakland is nowhere near being met, and in the absence of Redevelopment Agencies, it is unclear whether it will be possible to finance anywhere near the amount of affordable housing that Oakland needs. The webpage of Oakland's Housing and Community Development department notes that "most completed affordable housing projects are full and have closed waiting lists."³ Even projects that are still under construction, such as Bridge Housing's AveVista Apartments on Grand Avenue and Mural at MacArthur Station, are no longer accepting applications and have closed their waiting lists.⁴ In the meantime, Oakland is losing formerly affordable units as rent-controlled apartments are rented to new tenants at current market rents. According to researchers Alex Karner and Chris Benner, between 2010 and 2013 there was no net increase in the number of units of rental housing in Oakland affordable to households earning less than \$60,000 per year. At the same time, the number of low-wage jobs in Oakland increased at a rate of 2,400 per year from 2011 to 2014. In the whole East Bay in the same period, the number new low-wage jobs per year was 9,600. Consequently, they found that the average commute length for a new low-wage worker working in Oakland is 41 miles,⁵ a finding which casts doubt on the applicants' claim that the majority of the workers at the proposed Hampton Inn will be local. In the absence of available subsidized housing, the Hampton Inn workers will face a choice between substandard, overcrowded housing and unsustainable commutes. In any case, Oakland's affordable housing crisis will be exacerbated.

Other alarming worker abuses

In speaking with current and former employees at the applicants' hotels, we have found other alarming practices that may not have direct implications regarding housing and social services but which nevertheless should give the City pause. For example, one of our members who used to work at the

³<http://www2.oaklandnet.com/Government/o/hcd/s/AffordableHousingServices/DOWD008891>

⁴<http://www.bridgehousing.com/properties/avevista> and
<http://www.bridgehousing.com/properties/mural>

⁵Dr. Alex Karner and Dr. Chris Brenner, "Guest Commentary: Bay Area is not meeting its affordable housing needs." *Monterey Herald*, June 29, 2015.

Hampton Inn, Consuelo Andrade, has told us that excessive workload caused her and many of her coworkers to get injured on the job. Her report, translated from Spanish, is as follows:

One time a very heavy swinging door closed on my shoulder, knocking me down. Before this, many of us had reported to the managers that this door was very dangerous, but they had never done anything to fix it. It injured my tendon, and I reported it to workers compensation. The doctor told me it was so bad I needed surgery, but at the time I didn't want surgery. The doctor told the company to give me modified duty, and the managers assigned me to clean a door, but they gave me very strong chemicals to strip the paint off the door, and the chemicals made me feel sick and very dizzy. I told them I didn't want to do that, and they fired me, telling me I was no good for the job. When they fired me, they wanted me to sign a document saying that I quit voluntarily, but I refused to sign it. They told me that if I didn't sign it they weren't going to give me my final paycheck, but I still didn't sign it. After that, a manager grabbed my shirt, telling me I had to return my uniform to them. Another worker saw that she was treating me that way and yelled that she was going to call the police if they didn't let me go. My experience working at the Hampton Inn Alameda was very ugly. Even today, it hurts me to push my cart at work because of the injury I suffered at the Hampton Inn.

(Ms. Andrade subsequently obtained a Compromise and Release settlement through the Division of Workers' Compensation.)

In addition to this particularly disturbing story, Ms. Andrade and others have told us about abusive managers who humiliated them, yelled at them until they cried, and shorted workers' pay by one hour each paycheck. Current workers at the Hampton Inn Alameda have reported that workers in some classifications regularly work eight-hour shifts without being allowed to take the thirty-minute meal break mandated by California law.

Effect on workers at existing hotels

All of these issues have implications beyond just the 25 workers that the applicants say they expect to employ at the Hampton Inn. The proposed hotel is less than two blocks from two different hotels—the Marriott City Center and Courtyard by Marriott—where members of Local 2850 have worked very hard over the years to establish wages and benefits that allow them to have a decent, though certainly not lavish, standard of living and to raise their families with dignity. The wages are modest in the context of the Bay Area's cost of living, but they are significantly above the minimum wage. And the benefits provide quality, affordable health care to hundreds of workers and their families. The introduction of a low-road employer like the applicant into the downtown hotel market will put intense pressure on the high-road employers that employ our members, making it difficult if not impossible for our members to maintain the standards they currently enjoy, let alone improve upon them. Our members who work at the Courtyard by Marriott are particularly vulnerable to this low-road competition, as the two hotels would be similar in size and offer a similar level of service. This race to the bottom is likely to have a ripple effect throughout the East Bay hospitality industry. In the long run, therefore, the proposed Hampton Inn will likely put increased pressure on the affordable housing supply and the social safety net on a scale significantly greater than what would be suggested by the 25 employees that would work there.

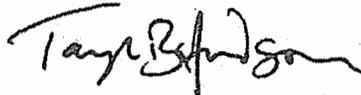
Other inconsistencies with the Planning Code

There are a handful of other ways in which the proposed Hampton Inn does not conform to the requirements of the Planning Code, which I will enumerate here. The design of the hotel does not appear to satisfy the conditional use criteria that prescribe “a variety of local species and high quality landscape materials,” “prominent entry features,” or “strong architectural statements” (Planning Code Section 17.103.050). Nor does it appear to satisfy the requirement of 55% ground-floor façade transparency (Section 17.101G.050, Table 17.101G.03). The special requirement that hotels have “adequately buffered loading areas” (Section 17.103.050) makes the proposed variance allowing the hotel not to provide a single off-street loading space inappropriate. Only two tourist hotels in downtown Oakland—the Clarion and the Washington Inn—lack off-street loading areas. Both are adaptive-reuse projects housed in historic buildings, and both are significantly smaller than the proposed Hampton Inn—64 and 47 rooms respectively. With 114 rooms, the Hampton Inn would presumably have a higher volume of loading and unloading, both of hotel guests and of commercial deliveries.

Conclusion

We believe there is ample reason to deny the discretionary entitlements requested for this project, and we request that the Zoning Manager and Director of Planning and Zoning do just that. That said, we recognize that the labor-related issues we are raising—while established as matters of planning and zoning policy by Section 17.103.050—are somewhat unique to hotel development and may be outside of the usual purview of planners and even of the Planning Commission. As explained above, we believe that, should staff decide to recommend the project, it should be processed as a Major Conditional Use Permit and heard before the Planning Commission, due to its request for a taller building base than is otherwise allowed (indeed, a taller building base than is allowed even with a CUP). Assuming for the sake of argument, however, that this is properly considered a Minor CUP, we believe that the complexity and gravity of the policy issues involved necessitate that the Director of the Planning and Building Department use the discretion granted by Section 17.134.040(B) to refer the project to the Planning Commission rather than acting on it herself. Such referral will allow the project to be considered in a public hearing and for it to be considered on appeal, if necessary, by the City Council, which is the appropriate body to make decisions on this sort of policy issue. In any case, we request that staff neither approve nor recommend approval of the proposed project, for the reasons explained herein.

Sincerely,



Ty Hudson
Research Analyst

Cc: Councilmember Abel Guillen
Rachel Flynn, Director of Planning and Building
Shereda Nosakhare, Deputy Chief of Staff, Office of the Mayor

UNITEHERE! Local 2850

1440 Broadway, Suite 208, Oakland, CA 94612 510/893-3181 Fax: 510/893-5362

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MAR 25 2016
City of Oakland
Planning & Zoning Division

October 19, 2015

Oakland City Council
1 Frank H. Ogawa Plaza
Oakland, CA 94612

Dear Councilmembers:

We understand that you recently received a letter from Sima Patel of Balaji Enterprises regarding Local 2850's advocacy around minimum wage enforcement and hotel development. We would like to take the opportunity to place Ms. Patel's statements in context.

Balaji operates the Holiday Inn Express Oakland Airport and the Hampton Inn Alameda and is proposing to develop a Hampton Inn in downtown Oakland. Local 2850 is opposing the development of the Hampton Inn due to Balaji's track record of low wages, no benefits, and lack of respect for workers at their hotels. We have also been involved, along with partner organizations from the Lift Up Oakland coalition, in investigating complaints from workers about violations of the minimum wage at the Holiday Inn Express. The first such complaint came from a phone call that was made to the Lift Up Oakland complaint hotline. Since then, we have talked with several current and former workers and believe the complaints to be credible. We have and will continue to work with City staff to fully investigate these complaints, and we trust that the facts of the investigation will speak for themselves. Regardless of what the investigation ultimately finds, we are appalled by the workers' reports of Balaji's employment practices.

Ms. Patel's letter accuses Local 2850 of being a "special interest" and asserts that we are "trying to smear [Balaji's] good names in the hopes of turning a land use issue into a labor issue." First of all, we take issue with the idea that advocating for decent wages for low-wage workers makes us a "special interest," and we trust the City Council would take issue with this characterization as well. We were deeply involved in the Lift Up Oakland campaign to pass the Oakland minimum wage, and now we are involved in efforts to make sure that the ordinance is enforced on behalf of hotel and restaurant workers. Coordinating and facilitating this sort of advocacy by and for hotel and food-service workers is the reason we exist as an organization, and Ms. Patel's attempt to paint this as something sinister is telling.

More importantly, Balaji's record of providing low wages and no health benefits *is in fact a land use issue* according to two separate sections of the Oakland Municipal Code, despite Ms. Patel's assertion to the contrary. First, the Oakland minimum wage

ordinance authorizes the City to consider an employer's record of noncompliance with the ordinance in making decisions on land use approvals and other licenses and permits. This is a key enforcement mechanism. If the investigation reveals a record of noncompliance with the minimum wage ordinance, the City can and should deny the conditional use permit (CUP) for their proposed hotel on that basis.

Second, the City's Planning Code requires applications for hotel CUP's to consider "the impact of the employees of the hotel or motel on the demand in the City for housing, public transit and social services." This means that, whether or not the investigation establishes conclusively that the Holiday Inn Express has violated the minimum wage ordinance, Balaji's record of paying most of its workers minimum wage and not providing any form of health insurance should be a significant factor in the City's consideration of the CUP. More employers providing low wages and no benefits means more workers who can't afford housing in Oakland. It means more workers and workers' children who rely on MediCal or ACA subsidies for access to health insurance or, if they are undocumented immigrants, may not have access to health coverage of any kind, and may rely entirely on emergency rooms or County health services. Furthermore, a hotel with this sort of employment practices in downtown Oakland will affect many more workers than the 25 or so that it will directly employ. Hundreds of hotel workers in downtown Oakland and other parts of Oakland and the East Bay make decent wages and have good benefits, and direct competition from a hotel with Balaji's employment practices will endanger those wages and benefits, causing even greater impact with respect to affordable housing and social services in Oakland. This is the sort of impact that this section of the Planning Code was intended to prevent.

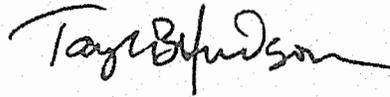
Finally, Ms. Patel's letter voiced objections to an agreement regarding organizing rights and labor peace that we proposed and Balaji rejected. This disagreement between Balaji and the union is not within the purview of the City Council or City staff, but since Ms. Patel raised the issue, I would like to explain it. The document Ms. Patel objects to is called a Card-Check Neutrality Agreement (CCNA), which we know most, if not all, of you are familiar with. A CCNA establishes a fair process by which workers can choose whether or not to organize a union and by which the majority's decision can be recognized and respected; prohibits management from using its inherent power over workers to run a campaign of intimidation against unionization; and eliminates the risk of strikes, boycotts, and other labor disputes during the organizing process.

The prohibition on campaigns of intimidation is what Ms. Patel is referring to when she complains that the agreement "would essentially make it impossible for us to fully discuss our view on unionization with our workforce," as she euphemistically puts it. Despite Ms. Patel's casting of our proposal as an extraordinary burden, these agreements are common, in Oakland and elsewhere. Both the Courtyard by Marriott in downtown Oakland and the Homewood Suites on Embarcadero were developed with such agreements in place, and agreements are in place for a proposed hotel at

City Center (T-5/6) and a privately financed hotel under construction on private land in Emeryville, to name just a few examples.

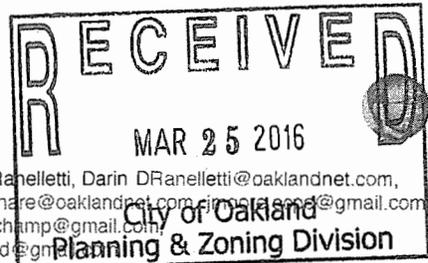
The fate of the proposed hotel is currently in the hands of the planning department. We hope you will urge the administration, particularly the Director of Planning and Building, to take very seriously the issues of poverty, income inequality, and displacement implicated by this development, and not to approve the hotel without first submitting it to a full public hearing before the Planning Commission. Thank you for your attention to this issue, and please let us know if you have any questions.

Sincerely,

A handwritten signature in black ink that reads "Ty Hudson". The signature is written in a cursive style with a long horizontal flourish at the end.

Ty Hudson
Research Analyst

From: Ty Hudson thudson@unitehere.org
Subject: objections to proposed Planning Code amendments (case file #ZA15018)
Date: October 17, 2015 at 3:29 PM
To: emanasse@oaklandnet.com
Cc: Guillen, Abel aguillen@oaklandnet.com, Flynn, Rachel rflynn@oaklandnet.com, Ranelletti, Darin DRanelletti@oaklandnet.com, ccappio@oaklandnet.com, tmoss@oaklandnet.com, Nosakhare, Shereda snosakhare@oaklandnet.com, cims@unitehere.org@gmail.com, nagrajplanning@gmail.com, jahazielbonilla@oaklandpc@gmail.com, amandamonchamp@gmail.com, jmyres.oakplanningcommission@gmail.com, pattילו@pgadesign.com, EW.Oakland@gn



Dear Mr. Manasse:

I am writing to object to parts of the proposed Planning Code amendments scheduled for a hearing before the Planning Commission on Wednesday, October 21st (case file # **ZA15018**). Some of the proposed amendments would have the effect of drastically reducing the public's opportunity for input on very large development projects, and of eliminating the City Council's ability to vote on such projects. Other proposed amendments appear to be specifically intended to eliminate the bases of particular objections that UNITE HERE Local 2850 has raised regarding a particular hotel development project (the proposed Hampton Inn on 11th Street). To include such "fixes" in a 600-page package of amendments to the Code is a highly inappropriate way of dealing with a dispute over a controversial project, and we urge you to remove them from the proposal. Our specific objections to the proposed amendments are as follows.

1. The proposed changes to Section 17.108.030 would add "parapet" to the list of allowed projections above height limits. This is a transparent attempt to get around an objection that we raised to the proposed Hampton Inn hotel on 11th Street. The proposed hotel is 87 feet tall, higher than the 85-foot height limit applicable to the parcel. When I pointed this out (see the attached letter), Planning staff responded that the last five feet are attributable to the parapet, which they claimed was an allowed projection above the height limit. When I pointed out that "parapet" appears nowhere in the long list of allowed projections above height limits, staff responded that parapets fall under the category of "appurtenances." I pointed out that the phrase "other rooftop equipment and appurtenances" appears in a list of such rooftop structures as "chimneys, ventilators, plumbing vent stacks, water tanks, cooling towers [and] machinery rooms." A parapet clearly does not belong among the items in this list, nor does it fit the plain meaning of the word "appurtenance," which means "accessory." To add the word "parapet" to this list after the fact—during a dispute over this particular development—is highly inappropriate.

2. The proposed changes to Section 17.134.020 and Table 17.101G.04 are specifically crafted to allow the proposed Hampton Inn to be approved without a public hearing. Currently, one of the triggers for the requirement of a Major Conditional Use Permit is a "request to be considered for an exception to the D-LM Height/Bulk/Intensity Area Standards." In the zone where the Hampton Inn is proposed, the height limit without a CUP for the base of a building is 45 feet. At 87 feet, the building is clearly above that limit, regardless of whether or not a "parapet" is considered an "appurtenance." As such, it requires a CUP, which according to Section 17.134.020 as currently written, is considered a Major CUP. When I pointed this out (again, see the attached letter), Planning staff responded that those sections of the Code were not meant to be interpreted that way, but they provided no persuasive argument as to how else the language could be interpreted. The proposed Code amendments would have the effect of changing this inconvenient language so as to shield a particular controversial project (the Hampton Inn) from scrutiny by the public or by the City Council. Again, this is not appropriate.

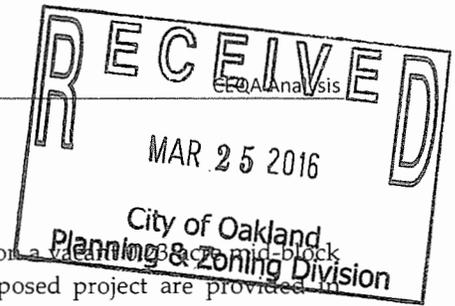
3. Other changes to Section 17.134.020 would have the effect of exempting any number of very large future projects from the same type of public and City Council scrutiny that the Hampton Inn project is attempting to avoid. The proposed amendments would raise the threshold for a Major CUP in certain industrial zones in West Oakland (CIX-1A, CIX-1B, CIX-1C, and CIX-1D), many of which fall within or adjacent to residential neighborhoods, from 25,000 square feet to 100,000 square feet. This means that certain very large (up to 100,000 square feet) high-impact uses such as dry cleaning plants, distribution centers, outdoor storage yards, and auto rental and service centers, which currently require Major CUP's in some or all of these zones, could be allowed in close proximity to people's homes with only a Minor CUP, and thus approvable without a public hearing and not appealable to the City Council. In certain zones in central and East Oakland where the threshold for a Major CUP is already 100,000 square feet, the threshold would be increased to 200,000 square feet, which is simply too high a threshold. And in the Broadway-Valdez zones, the threshold would be increased from 25,000 all the way to 200,000 square feet. There is no reason for these amendments other than to allow very large and potentially impactful and controversial projects to be developed without public hearings and without scrutiny from the public and the City Council.

As noted above, these proposed amendments are only a few of 600 pages worth of amendments, and they may not be the only objectionable ones. We urge the Planning Department to reconsider these particular amendments, and we urge the Planning Commission and City Council to heavily scrutinize the entire package of amendments, and only to approve them if these (and potentially other) objectionable amendments are withdrawn.

Respectfully,

Ty Hudson
Research Analyst
UNITE HERE Local 2850
<http://www.unitehere.org>
cell: 213-509-9114





Proposed Development

The project, as currently proposed, would construct a new 114-unit hotel on a vacant parcel fronting 11th Street. Proposed plans and illustration of the proposed project are provided in **Appendix 1** attached to this document. The proposed building would be seven-stories tall (maximum 87 feet) and would encompass the entire parcel, except for two concrete sidewalks for utility and emergency access/egress on the east and west sides of the building, extending the entire length of the site. The total floor area would be 62,137 square feet.

No on-site parking is proposed; approximately 68 parking spaces would be provided through a license agreement between the project sponsor and the City of Oakland in an existing City-owned parking garage one block west on 11th Street. The hotel would not include major meeting/conference facilities or a restaurant. A fitness room and dining area for hotel guests are proposed.

The exterior finishes of the building are primarily brick veneer, wood cladding (highlighting the main street-level area), and smooth stucco (on the adjacent building-facing sides), with metal detailing for windows, doors, gates exhaust louvres, and awning details. A landscape strip would be incorporated on the rear patio of the building at the ground floor. Four (4) street trees are proposed along the front (11th Street) of the building.

Construction of the project is anticipated to last for up to approximately five months, and involve minimal grading, excavation, and soils exported from the site. It is not anticipated that pile driving would occur or be required for the project.

General Plan, Zoning and Height

The proposed project site is located within the LMSAP Area. The applicable zoning on the site is the "D-LM-3 Lake Merritt Station Area Plan District General Commercial Zone." The intent of the D-LM-3 zone is to create, maintain, and enhance areas of the LMSAP District appropriate for a wide range of ground-floor commercial activities. Upper-story spaces are intended to be available for a wide range of residential and office or other commercial activities. The applicable General Plan land use designation is "Central Business District,"

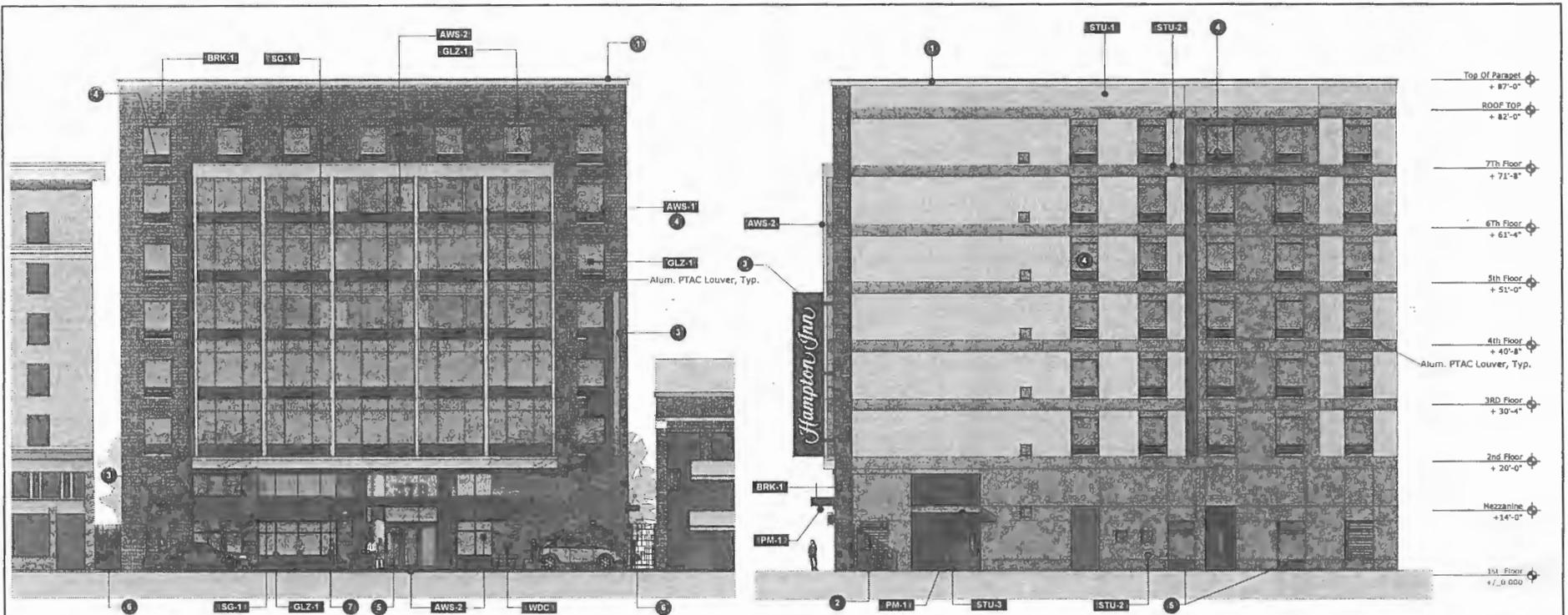
The proposed project site is located within the "land use character district" identified in the LMSAP as "Commercial District," which allows a wide range of ground floor office and other commercial activities. The proposed project site is located in the "High" Height Zone in which buildings could be developed up to 175 feet tall, and up to 275 feet with approval of a conditional use permit.

Surrounding Uses

Surrounding uses abutting the project site include a seven-story residential hotel to the west (toward Franklin), and existing commercial buildings approximately three- and four-stories on the remaining sides. Directly across 11th Street to the south is the ten-story office building housing the East Bay Municipal Utilities District (EBMUD) office building.

Access / Transit

The proposed project site is 1.5 blocks from Broadway. An entrance to the Bay Area Rapid Transit District (BART) 12th Street City Center station entrance (11th and Broadway) is approximately 1.5 blocks from the project site. Multiple transit routes serve the project site, including Alameda-Contra Costa County Transit



SOUTH (11th Street) ELEVATION
SCALE: 1/8" = 1'-0"

WEST ELEVATION
SCALE: 1/8" = 1'-0"

Material/Finish Legend
(Refer to submitted Colors and Materials Boards for true representation of all proposed finishes.)

BRK-1	Brick Veneer
AWS-1	Aluminum Window System
GLZ-1	Glazing (Vision Glass)
PM-1	Painted Metal
AWS-2	Aluminum Curtain Wall
WDC	Wood Cladding
STU-1	Painted Smooth Stucco
STU-2	Painted Smooth Stucco
STU-3	Painted Smooth Stucco
SG-1	Spandrel Glass Panel
AWS-2	Aluminum Storefront

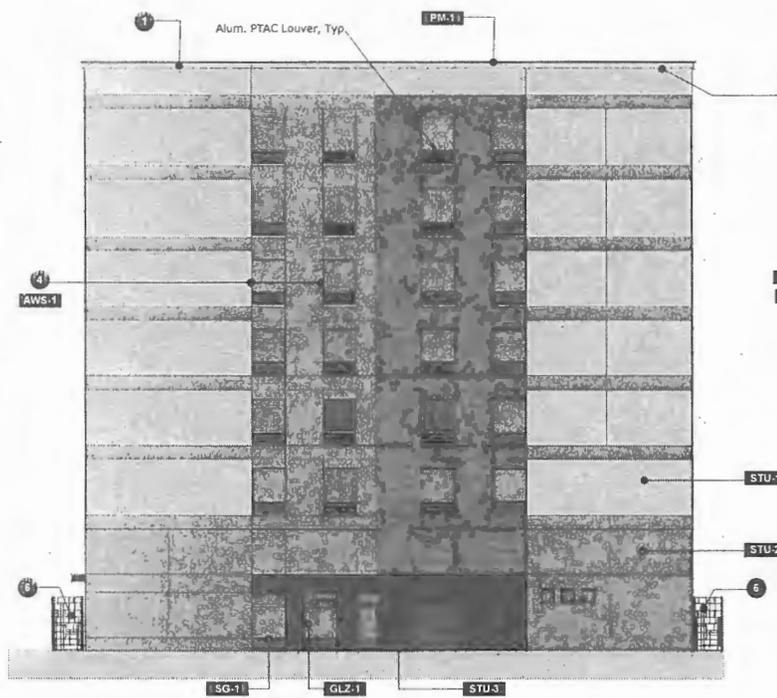
Keynotes

Note: Not all keynotes listed apply to this particular sheet.

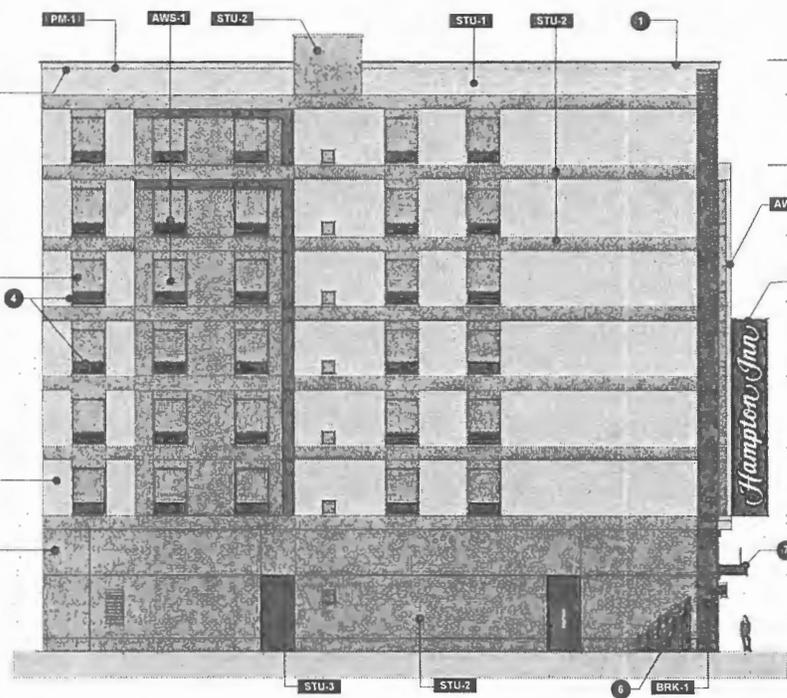
- 1 Galvanized Sheet Metal Coping
- 2 Utility Roll-up Door
- 3 Internally Illuminated Signage
- 4 Aluminum Windows with Integrated PTAC Louver
- 5 Black Anodized Aluminum Storefront
- 6 Metal Gates
- 7 Entry Canopy

General Exterior Elevation Notes

1. Colors indicated on this drawing are approximate and will vary depending on printer/monitor display source. Refer to submitted Colors and Materials Boards for true representation of all proposed finishes.
2. All landscaping indicated on this drawing is diagrammatic and intended only to convey a sense of general landscaped areas.



NORTH ELEVATION
SCALE: 1/8" = 1'-0"



EAST ELEVATION
SCALE: 1/8" = 1'-0"

General Exterior Elevation Notes

- Colors indicated on this drawing are approximate and will vary depending on printer/monitor display source. Refer to submitted Colors and Materials Boards for true representation of all proposed finishes.
- All landscaping indicated on this drawing is diagrammatic and intended only to convey a sense of general landscaped areas.

Material/Finish Legend

(Refer to submitted Colors and Materials Boards for true representation of all proposed finishes.)

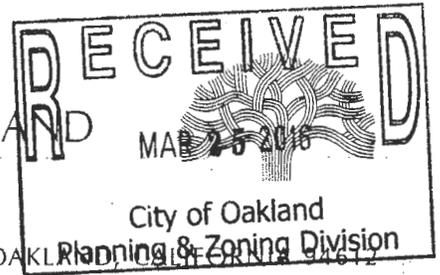
- BRK-1** Brick Veneer
- AWS-1** Aluminum Window System
- GLZ-1** Glazing (Vision Glass)
- PM-1** Painted Metal
- AWS-2** Aluminum Curtain Wall
- WDC** Wood Cladding
- STU-1** Painted Smooth Stucco
- STU-2** Painted Smooth Stucco
- STU-3** Painted Smooth Stucco
- SG-1** Spandrel Glass Panel

Keynotes

Note: Not all keynotes listed apply to this particular sheet

- 1 Galvanized Sheet Metal Coping
- 2 Utility Roll-up Door
- 3 Internally Illuminated Signage
- 4 Aluminum Windows with Integrated PTAC Louver
- 5 Aluminum Storefront System
- 6 Metal Gates
- 7 Entry Canopy

CITY OF OAKLAND



DALZIEL BUILDING • 250 FRANK H. OGAWA PLAZA, SUITE 3341 • OAKLAND, CALIFORNIA 94612

Office of the City Administrator
Contracts & Compliance Division

February 3, 2016

(510) 238-3970
FAX (510) 238-3363
TDD (510) 238-2007

Mr. Robert A. Jones, Esq.
Ogletree Deakins
Steuart Tower, Suite 1300
San Francisco, Ca 94105

**Re: Report re: Investigation into Complaint Against Holiday Inn
Case No. 2015-FF-24**

Dear Balaji Enterprises LLC dba Holiday Inn Express:

Please let this serve as the City of Oakland's Contracts & Compliance Department report on its investigation into the complaint(s) against Holiday Inn under Oakland Municipal Code section 5.92 et seq. This Report addresses complaints made against Holiday Inn Express located at 66 Airport Access Road, Oakland, California owned and operated by Balaji Enterprises LLC dba Holiday Inn Express (hereinafter referred to as "Holiday Inn"). These findings are limited to the facts presented to Contracts & Compliance during its investigation. Since Contracts & Compliance's investigation is limited to Oakland Municipal Code section 5.92 et seq., nothing herein prevents employees from seeking redress from the appropriate enforcement agency for state and federal violations. The City of Oakland, including without limitation to Contracts & Compliance, reserves the right to conduct further investigation(s) into ongoing complaints to ensure compliance with the law.

Claim #1: Employees filed a complaint with Contracts & Compliance ("C&C") asserting Holiday Inn failed to pay employees the local minimum wage pursuant to Oakland Municipal Code section 5.92.

Finding #1: C&C believes that Holiday Inn violated Oakland Municipal Code section 5.92.020 in failing to pay employees for all hours worked at the legally mandated minimum wage of \$12.25 from March 2, 2015 to September 30, 2015.

C&C has determined that after analyzing a reasonable, representative sample, Holiday Inn rounds up or down employee's time punches consistently benefiting the company and thereby

underpaying employees in violation of Measure FF. More specifically, the Detail Reports produced by Holiday Inn document the exact times that employees clock in and clock out for work. Instead of using the Detailed Reports to accurately pay its employees, Holiday Inn then creates a Time Card Report to compensate employees which rounds hours *in its favor*. Based on C&C's investigation and analysis, the average time shorted for each employee is fifty (50) minutes per pay period, with the largest underpayment equating to one hour and thirty minutes (1:30) in a single pay period. (See Attachment A.)

This determination is based on an extensive review of documents, including without limitation to payroll records and paystubs, Detailed Reports and Time Card Reports, observation of business operations, in addition to interviews with employees and representatives of the business.

Remedy #1: Holiday Inn is ordered to immediately cease and desist its rounding practice that fails to compensate employees for all hours worked in violation of Oakland Municipal Code section 5.92.020. Furthermore, Holiday Inn is ordered to pay restitution (back wages) to all impacted employees in the amount of \$6,999.38, less applicable payroll deductions.

In awarding restitution, C&C extrapolated reasonable estimates of the hours underpaid by Holiday Inn through the comparison of Detailed Reports, Time Card Reports and pay records thereby concluding that Holiday Inn must pay restitution for 1:30 hours (one hour and thirty minutes) per pay period per employee at their corresponding rate of pay. A worksheet detailing the gross amount owed to each employee is enclosed as Attachment A.

This determination only covers the employees listed in the attached spreadsheet during the applicable timeframe and in no way waives the rights of current or former employees' rights to file additional complaints with any enforcement agency, including without limitation to the California's Labor Commissioner/Division Labor Standards Enforcement ("DLSE"), Oakland's City Attorney's Office, or C&C..

Holiday Inn shall provide this restitution to the impacted employees identified in Attachment A in the corresponding amounts, less appropriate payroll deductions and withholdings. These payroll checks shall be received by C&C no later than close of business thirty (30) calendar days after receipt of this determination. C&C will distribute these checks to the employees.

Claim #2: Employees filed a complaint with C&C contending Holiday Inn has an inconsistent practice requiring them to provide twelve (12) hours, or at times seventy-two (72) hours' notice in order to use sick leave. Employees also claim that Holiday Inn requires them to submit a doctor's note after using one day of sick leave.

Finding #2: Holiday Inn applies an unreasonable, inconsistent sick leave notice policy in violation of Oakland Municipal Code section 5.92.030(B)(3) and Interpretative Regulation #8. Holiday Inn also violated Oakland Municipal Code section 5.92.030(B)(4) and Interpretive

Regulation #9, in requiring employees to provide a doctor's note after using only one day of accrued sick leave.

C&C comes to this conclusion after conducting numerous employee interviews and analyzing documents (or considering the lack thereof) in reaching this determination. C&C's finding regarding Holiday Inn's inconsistent notice policy and requiring a doctor's note after taking only one day of sick leave not only violates Oakland Municipal Code section 5.92 et seq., but also deters employees from the legitimate use of paid sick leave.

Remedy #2: Holiday Inn is ordered to immediately cease and desist its inconsistent policy and practice regarding employee notice prior to using accrued, paid sick leave. Holiday Inn is ordered to draft and implement a written policy regarding Paid Sick Leave Notice in compliance with Oakland Municipal Code section 5.92.030 and Interpretive Regulation # 8.

Furthermore, Holiday Inn is ordered to immediately cease and desist its policy requiring employees to provide a doctor's note after taking only one day of accrued, paid sick leave. Holiday Inn must implement a written policy in compliance with Oakland Municipal Code section 5.92.030 and Interpretive Regulation # 9.

Holiday Inn shall provide these written policies to all employees within thirty (30) calendar days of the date of this Notice. Additionally, these policies must be provided to C&C.

Holiday Inn shall implement and adhere to these policies or risk an additional investigation by C&C, in addition to the assessment of penalties for ongoing violations of Oakland Municipal Code section 5.92 et seq.

Claim #3: Employees contend that Holiday Inn retaliated against them after the passage of Measure FF by reducing their hours inconsistently.

Finding #3: C&C has made findings of fact as to this claim. C&C finds that Holiday Inn may have violated Oakland Municipal Code section 5.92.050 in reducing only certain employees' hours and directly attributing such reduction to the passage of Measure FF. Investigative interviews, in addition to the review of wage and payroll records, indicate that Holiday Inn decreased the hours of Housekeepers and a Breakfast Bar worker and blamed said decrease solely on the passage of Measure FF.

Remedy #3: Holiday Inn should immediately cease and desist from the practice of reducing certain employees' hours or blaming a reduction in hours on the passage of Measure FF. Furthermore, employees are also directed to redress retaliation through the filing of a complaint with or seek redress through an enforcement agency, including without limitation to California's Labor Commissioner/Division of Labor Standards Enforcement (DLSE) or Oakland's City Attorney's Office or seek consultation with a lawyer. Retaliation is prohibited under California law, including California's Labor Code. The DLSE is a state agency that investigates complaints

of retaliation against workers who exercise their legal rights and it enforces labor standards to ensure employees are not forced to work under substandard, unlawful conditions. The DLSE and/or a Court of law may award additional damages that are not allowable under Oakland Municipal Code section 5.92 et seq.

Claim #4: Employees filed a complaint with C&C alleging Holiday Inn took away accrued, unused vacation after the passage of Measure FF.

Finding #4: C&C has made findings of fact as to this claim. Investigative interviews of several employees substantiate the employees' complaint that Holiday Inn deducted five days of accrued, unused vacation pay after the passage of Measure FF. As part of its investigation and pursuant to Oakland Municipal Code section 5.92.050(B), C&C requested records from Holiday Inn regarding vacation accrual for a two year period of time prior to the effective date of Measure FF. Holiday Inn failed to comply with the request suggesting that such documents were immaterial because they pre-date Measure FF. However, these records were essential to assess whether employees accrued vacation prior to March 2, 2015, which was later taken away by Holiday Inn as alleged by multiple employees. Holiday Inn did not rebut the employees' evidence that it violated Oakland Municipal Code section 5.92 et seq. in taking away accrued, unused vacation.

Remedy #4: Vacation leave, policies, accrual and usage are not part of Oakland Municipal Code section 5.92 et seq., and thus, C&C does not have jurisdiction to investigate and remedy such claims. Such complaints are governed under California law, including California's Labor Code. Holiday Inn employees are strongly encouraged to file a complaint with the appropriate enforcement agency, including California's Labor Commissioner/Division of Labor Standards Enforcement (DLSE) or Oakland's City Attorney's Office since Holiday Inn's action in taking away vested, accrued vacation days may violate California law. Employees may also seek to consult a lawyer to address these potential state law claims.

Claim #5: During the investigation, employees complained that due to a cut back in hours and their subsequent increased workload, they do not take morning and afternoon rest breaks and Holiday Inn does not permit meal breaks. In addition, Holiday Inn's wage records indicate that it paid employees premium pay for purported missed breaks but employees never actually received such compensation.

Finding #5: Meal and rest break claims are not part of Oakland Municipal Code section 5.92 et seq., and thus, C&C does not have jurisdiction to investigate and remedy such claims. Violations of California's Labor Code and Industrial Welfare Commission (IWC) Wage Orders are better addressed through the filing of a complaint with the appropriate enforcement agency, including California's Labor Commissioner/Division of Labor Standards Enforcement (DLSE), Oakland's City Attorney's Office, or through the filing of a civil action in Superior Court.

Claim #6: C&C requested that Holiday Inn produce a notebook that employees claim was maintained on the hotel premises to track employee hours worked when time clock failed.

Finding #6: Holiday Inn withheld and failed to produce this notebook during the investigation despite requests. The City believes a clock-in and clock-out notebook exists because Holiday Inn appears to have inadvertently produced certain pages to C&C. Holiday Inn is obligated under Measure FF to comply with C&C's investigation, which includes complying with its reasonable, relevant document requests. Holiday Inn's actions in withholding this notebook is a blatant violation of Oakland Municipal Code section 5.92.050(E).

Remedy #6: C&C assesses a penalty against Holiday Inn in the amount of \$5,000.00 made payable to the City of Oakland. Holiday Inn must remit payment to C&C within thirty calendar days of the mailing of this Notice of Determination.

C&C believes these findings are fair and reasonable based on its thorough investigation, including employee interviews and a review and analysis of documents produced by Holiday Inn. C&C demands that Holiday Inn come into immediate compliance with Oakland Municipal Code section 5.92 *et seq.* and comply with the remedies herein. Holiday Inn shall not retaliate against any employee for complaining or asserting their rights under Measure FF and/or for participating in this investigation. Employees may also seek redress of the state law claims set forth in this Report in contacting California's Labor Commissioner/Division of Labor Standards Enforcement (DLSE), Oakland's City Attorney's Office, or through the filing of a civil action in Superior Court.

C&C reserves the right to conduct additional investigations, including the monitoring of Holiday Inn's compliance with Measure FF, on its own initiative or pursuant to additional employee complaints.

Please be advised Holiday Inn maintains a right to appeal the findings in this Report. All appeals must be mailed to the following address:

City of Oakland
Contracts & Compliance
250 Frank Ogawa Plaza, Suite 3341
Oakland, California 94612
Attn: Deborah L. Barnes, Director of Contracts & Compliance

An appeal must be received by C&C within twenty-one (21) calendar days¹ of the date of service of this Notice or the Employer shall have waived its rights under this Section. The Request for an Appeal must be in writing and shall contain the following: 1) Full Name and address, and telephone number of the appealing party; 2) Complaint number; 3) A copy of the Notice of Violation; 4) Identification of the Employer designee who will attend the administrative hearing;

¹ If Contract Compliance's Notice of Violation is served via mail, the employer shall have an additional five (5) calendar days to submit an appeal.

5) A written statement setting forth the specific facts and legal arguments supporting the appeal; and 6) A list of all witnesses and exhibits that will be relied upon at the appeal hearing.

Should you have any questions regarding this Report, please do not hesitate in contacting me at dbarnes@oaklandnet.com or (510) 238-6270.

Sincerely,



Mrs. Deborah Lusk-Barnes, Director
Contracts and Compliance, Office of the City Administrator

CC: Office of the City Attorney
Claimants
Matt Berens, Minimum Wage Enforcement Officer
File

Attachments

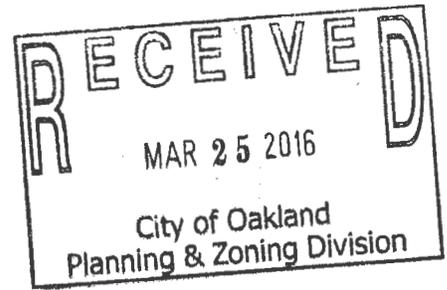
ATTACHMENT - A

Employees	Work Classifications	Wage Rate	Date Hired	Date Ended	* # pay periods	Restitution for rounding	Number of Pay Periods times Restitution
1 Arias, Karla	Breakfast Bar	\$12.25	4/16/2009		14	\$18.38	\$257.25
2 Gomez-Murguia, Jose L.	Breakfast Bar	\$12.25	9/21/2015		1	\$18.38	\$18.38
3 Vasquez, Maria S.	Breakfast Bar	\$12.25	3/6/2015		14	\$18.38	\$257.25
4 Chavis, Miracle	Front Desk	\$13.00	2/20/2015		14	\$19.50	\$273.00
5 Fifita, Lupe	Front Desk	\$13.00	1/23/2015		14	\$19.50	\$273.00
6 Green, Dorothy	Front Desk	\$15.50	12/16/2013		14	\$23.25	\$325.50
7 Kettle, Tiffany	Front Desk	\$13.00	7/25/2013	(on-call)	1	\$19.50	\$19.50
8 Munoz, Roy	Front Desk	\$13.00	7/7/2015	8/28/2015	3	\$19.50	\$58.50
9 Velazquez, Yenny	Front Desk	\$14.50	1/16/2013		1	\$21.75	\$21.75
10 Rios, Aurelio	House Person	\$12.25	12/11/2008		14	\$18.38	\$257.25
11 Guzman, Jose Mauricio	House Person	\$12.25	7/17/2013		14	\$18.38	\$257.25
12 Arevalo-Carrillo, Graciela Elisa	Housekeeping	\$12.25	5/24/2013		14	\$18.38	\$257.25
13 Guzman, Rosa	Housekeeping	\$12.25	3/3/2011		14	\$18.38	\$257.25
14 Hernandez, Martha	Housekeeping	\$13.25	11/8/2012		14	\$19.88	\$278.25
15 Lima, Consuelo	Housekeeping	\$12.25	4/18/2014		14	\$18.38	\$257.25
16 Lopez, Maria	Housekeeping	\$12.25	9/2/2014		14	\$18.38	\$257.25
17 Manzanarez, Guadalupe	Housekeeping	\$12.25	2/4/2014		14	\$18.38	\$257.25
18 Martinez Ramirez, Francisca	Housekeeping	\$12.25	9/22/2015		1	\$18.38	\$18.38
19 Nelson, Cecilia	Housekeeping	\$16.00	2/16/2011		14	\$24.00	\$336.00
20 Ortiz, Ernestina	Housekeeping	\$12.25	8/18/2005		14	\$18.38	\$257.25
21 Quispe Arce, Lucrecia	Housekeeping	\$12.25	7/9/2015	8/28/2015	4	\$18.38	\$73.50
22 Toscano, Erica	Housekeeping	\$12.25	9/4/2013		14	\$18.38	\$257.25
23 Guzman, Fredy	Laundry	\$12.25	7/3/2013		14	\$18.38	\$257.25
24 Mora, Manuel	Maintenance	\$13.00	4/1/1999		13	\$19.50	\$253.50

ATTACHMENT - A

Employees	Work Classifications	Wage Rate	Date Hired	Date Ended	* # pay periods	Restitution for rounding	Number of Pay Periods times Restitution
25 Fonua, Haumole	Night Audit	\$13.00	1/30/2015		2	\$19.50	\$39.00
26 Salazar, Maria	Night Audit	\$14.00	4/1/2015		12	\$21.00	\$252.00
27 Verdugo, Jorge	Night Audit	\$14.00	4/14/2009		14	\$21.00	\$294.00
28 Alemania, Benjamin	Van Driver	\$12.25	8/10/2015		2	\$18.38	\$36.75
29 Armond, Vincent	Van Driver	\$12.25	11/13/2014		14	\$18.38	\$257.25
30 Badalon, Marc	Van Driver	\$12.25	4/16/2015		1	\$18.38	\$18.38
31 Chavez, Patrick	Van Driver	\$12.25	1/18/2012		3	\$18.38	\$55.13
32 Garcia, Rafael	Van Driver	\$12.25	12/14/2004		14	\$18.38	\$257.25
33 Green, Clarence	Van Driver	\$12.25	8/30/2009		12	\$18.38	\$220.50
34 Guzman, Jobani	Van Driver	\$12.25	9/20/2014		12	\$18.38	\$220.50
35 McGehee, Ryan	Van Driver	\$12.25	3/24/2015		13	\$18.38	\$238.88
36 Sargento, Christopher	Van Driver	\$12.25	6/18/2012		1	\$18.38	\$18.38
37 Sroy, Chin	Van Driver	\$12.25	11/5/2014		3	\$18.38	\$55.13
							\$6,999.38

* 3/2 to 9/30/2015



**OAKLAND AFFORDABLE HOUSING IMPACT FEE
NEXUS ANALYSIS**

Prepared for
CITY OF OAKLAND

This Report Prepared by
VERNAZZA WOLFE ASSOCIATES, INC.

and

HAUSRATH ECONOMICS GROUP

March 10, 2016

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EXECUTIVE SUMMARY

The City of Oakland seeks to adopt affordable housing impact fees on new market-rate residential development to fund affordable housing development. In order to establish impact fees, nexus studies are required under California law (the Mitigation Fee Act). Nexus studies must establish the reasonable relationship or connection between new development and the impact fee charged. In the case of affordable housing impact fees, the nexus analysis establishes the link between new market-rate residential development, the growth of employment associated with the consumer expenditures of new residents, and the demand for affordable housing to accommodate the new worker households. The impact fee calculations quantify the cost per new market-rate unit to fund the gap between what moderate- and lower-income worker households can pay for housing and the cost to produce that housing.

The peer-validated methodology for an affordable housing nexus analysis is based on generally accepted economic impact modelling techniques. Major steps in the analysis include the following:

- Define housing prototype projects for new market-rate residential development in Oakland.
- Estimate household income distributions of new market-rate owner and renter households in Oakland, their consumer expenditures, and the employment growth in Oakland supported by their increased spending on services and retail goods.
- Estimate the number of new households associated with this job growth (worker households) and their associated household incomes.
- Estimate the number of new worker households that are moderate income or below.
- Calculate the gap between the cost to develop affordable housing and the ability of moderate- and lower-income households to afford that housing (affordability gap).
- Calculate the maximum legal impact fee per market rate housing unit based on the affordability gap for new worker households associated with that unit.

This report describes the nexus analysis methodology and assumptions and presents the nexus calculations. Table 1 summarizes the results of the study; it identifies the **maximum legal affordable housing impact fees** calculated for the different types of housing development in Oakland. Based on the nexus analysis, the City Council can adopt fees at or below the maximum legal fee amounts identified.

Table 1
Summary of Maximum Legal
Affordable Housing Impact Fees

Type of Residential Development in Oakland	Maximum Legal Impact Fee Per Dwelling Unit
Single-Family Homes - Urban	\$34,833
Single-Family Homes - Hills	\$81,729
Townhomes - Urban	\$44,693
Townhomes - Hills	\$53,258
Multi-Family - Lower/Mid-Rise	\$35,172
Multi-Family - Mid-Rise	\$39,887
Multi-Family - High-Rise	\$50,804

After reviewing the results of nexus analyses and considering the broad range of local policy goals, decision-makers can adopt fees up to the maximum justified by the nexus analysis. Economic feasibility considerations typically result in adopted fees at levels below the maximum legal amounts to avoid affecting the amount and pace of new housing development. To support development of housing for all income levels, impact fee proposals seek to balance the need for more affordable housing with not impeding the construction of new market-rate housing.

Oakland has already adopted a Jobs-Housing Impact Fee which became effective July 1, 2005 on office and warehouse development for developers to contribute to mitigating the increased demand for affordable housing generated by these types of non-residential development. The adoption of a city-wide affordable housing impact fee program for residential development is one of a number of new initiatives and strategies underway to support new affordable housing production and address a range of housing affordability needs in Oakland.

Revenue from new affordable housing impact fees would be deposited into the City's Affordable Housing Trust Fund. The Trust Fund also collects funds from other sources such as the existing Jobs-Housing Impact Fee and the 25 percent allocation of former redevelopment tax increment funds set aside for affordable housing (i.e., "boomerang funds"). Through the Affordable Housing Trust Fund, the City provides funding to affordable housing projects. Through the Trust Fund, fee revenue can be leveraged by a factor of more than 3:1 to produce more affordable units. It is also possible to provide on-site and/or off-site affordable housing development options as alternatives to payment of the impact fee.

CITY OF OAKLAND

AFFORDABLE HOUSING IMPACT FEE NEXUS ANALYSIS

INTRODUCTION AND APPROACH

The City of Oakland seeks to adopt city-wide affordable housing impact fees on new market-rate residential development to fund affordable housing development. The intent of the fees would be for developers to contribute to producing affordable housing to offset the impacts of an increase in demand for affordable housing due to increases in consumer spending and employment associated with new market-rate residential development. Oakland has already adopted a Jobs-Housing Impact Fee effective July 1, 2005 which is based on the demand for affordable housing due to employment growth associated with new office and warehouse/distribution developments.

In order to establish impact fees, nexus studies are required under California law (the Mitigation Fee Act). Nexus studies must establish the reasonable relationship or connection between new development and the impact fee that is charged. In the case of residential development, a nexus study establishes and quantifies a reasonable relationship between new market-rate residential development, the growth of employment associated with the consumer expenditures of new residents, and the demand for affordable housing to accommodate the new worker households. Nexus studies for school impact fees, transportation impact fees, and capital facilities fees are common. Although nexus studies for housing impact fees are less common, a peer-validated methodology exists that establishes a connection between the development of market rate housing and the need to expand the supply of affordable housing. This study is based on this methodology.

The approach for this nexus study is to first quantify the household income and spending of the households moving into new market-rate housing developed in Oakland, and then to estimate the number of new workers at various wage levels hired in Oakland as a result of this increase in economic activity in the City. Many of the new jobs will be at lower-wage rates in retail trade and services. Since many lower-wage households cannot reasonably afford to pay for market rate rental and for-sale housing in Oakland, a housing impact fee can be justified to bridge the difference or “gap” between what the new worker households can afford to pay and the costs of developing new housing units for them. This difference is referred to in this study as the “affordability gap.”

Figure 1 presents a diagram of the nexus connection between the development of new market-rate housing in Oakland and the associated demand for additional affordable housing.

Figure 1

Maximum Legal Affordable Housing Impact Fee Nexus Analysis



NEXUS ANALYSIS METHODOLOGY

The nexus methodology requires a series of linked calculations that are undertaken in four stages. The *first stage* defines the prototypes for new market-rate housing development in Oakland and develops estimates of household incomes for the buyers and renters of the new units. The *second stage* estimates expenditures for retail goods and services by households in the new market-rate housing. The *third stage* estimates the multiplier effects that this new consumer demand would create in terms of employment and labor income within the County, a portion of which can be allocated to the City of Oakland. The *fourth stage* is to estimate the costs of providing housing that is affordable to new worker households in Oakland that are moderate-income and below. The maximum legal affordable housing impact fees are based on those costs.

The ten step-by-step calculations of the four stages are summarized below and detailed in the rest of this report.

Stage I: New Housing, Households, and Incomes

- STEP 1. Define *prototypes for new market-rate residential development* in Oakland. Seven prototypes span a range of building types and market areas. Unit sizes and sales prices and rents are based on recent projects in Oakland.
- STEP 2. Estimate the *household income distributions* of owner and renter households in new market-rate housing development in Oakland. These incomes are based on current market-rate sales prices and rents and assumptions about the relationship between housing costs and household income.

Stage II: Household Consumer Expenditures

- STEP 3. After adjustments to gross household incomes to account for the payment of income taxes and savings, compute total *consumer expenditures of buyer and renter households* for each prototype. The economic model used in this study to forecast induced employment impacts (IMPLAN3) provides consumer expenditure estimates within all of Alameda County, not just the City of Oakland.^{1,2}

¹ The multiplier calculations use IMPLAN3, an input-output economic model developed for the national economy that is customized for a regional and county economy as well. It is assumed that buyers of new housing units and renters of new apartment units in the City of Oakland increase demand for goods and services within Alameda County. This demand is based on the projected incomes of these new buyers and renters. IMPLAN3 translates the increased demand to “induced” job growth.

² If the multiplier analysis tried to focus only on the City of Oakland, results would not be as accurate. The IMPLAN3 model can provide estimates of expenditures for zip codes. However, zip codes do not accurately conform to Oakland’s boundaries and the results is less accurate at the smaller, zip code level.

Stage III: Multiplier Effects of New Consumer Demand

- STEP 4. Estimate the number of *new jobs supported by the increase in spending* on services and retail goods. The IMPLAN3 model generates an estimate of the number of jobs (direct and induced) by worker income categories that are associated with the spending of resident households for each housing development prototype.¹ The nexus analysis focuses on the induced jobs—those jobs supported by the increase in spending on services and retail goods.
- STEP 5. Identify the *new jobs to be located in Oakland* as a share of the increase in induced jobs as calculated for Alameda County.
- STEP 6. Estimate the number of *new households associated with the induced job growth in Oakland* by dividing the number of new jobs by the average number of workers per household with workers in Oakland.
- STEP 7. Estimate the *household incomes of new worker households*. This calculation assumes the additional worker's income is the same as the initial worker's income defined by the IMPLAN3 model.

Stage IV: Cost to Provide Affordable Housing and Maximum Legal Fees

- STEP 8. Estimate the number of *new worker households that are moderate-income or below* whose affordable housing needs should be accommodated in Oakland. Since the focus of this housing impact fee analysis is on affordable housing needs, new worker households above moderate income are not carried forward into the final impact calculations.
- STEP 9. Calculate the *“affordability gap” for households in the different housing affordability categories* (moderate-income, low-income, and very low-income). The affordability gap is defined as the difference between the cost to produce new modest housing units and what households with very-low, low-, and moderate- incomes can afford to pay for housing.
- STEP 10. Then, calculate the *maximum legal affordable housing impact fee per unit* by Oakland prototype by dividing the total aggregate affordability gap for a typical project of each prototype by the number of units assumed for that project.

NEXUS ANALYSIS CALCULATIONS

The following sections describe the nexus analysis calculations, identify assumptions, and present the results. They are ordered according to steps listed above. As identified, Appendix A and Appendix B provide more detailed background on aspects of the analysis.

STEP 1: Residential Development Prototypes

The residential development prototypes establish the types of market rate housing development that are occurring or are expected to occur in Oakland that could potentially be subject to affordable housing impact fees. The prototypes also identify the rents and prices for each expected housing type. While these prototypes are based on actual and proposed developments, they are not intended to represent specific development projects. Instead, they illustrate the types of projects and typical characteristics of new residential development likely to be built in Oakland in the near future.

Based on recent and proposed development, market data, and developer interviews, the Consultant Team constructed rental and for-sale housing prototypes. The for-sale housing prototypes include single-family detached homes and townhomes, with higher and lower market prices depending on submarket and location within the city. The rental housing prototypes include multi-family housing developments at different densities and locations, representing lower/mid-rise, mid-rise, and high-rise apartment developments. Tables 2 and 3 that follow identify the housing prototypes and present the assumptions for unit mix, rents, and prices as of the time of the analysis (mid-2015).

The four single-family detached and townhome development prototypes are described in Table 2.

- ◆ For the *single-family detached* developments, one prototype reflects in-fill homes in the lower price ranges, primarily built in East Oakland. A second prototype consists of larger, more expensive homes built in the Oakland Hills and in Rockridge.
- ◆ For the *townhome* developments, one prototype represents new townhome developments in the lower/mid-level price ranges, primarily being built in West Oakland and nearby parts of North Oakland. The second prototype includes more expensive townhomes built in the North and South Hills.

Table 2
For-Sale Housing Prototypes: Characteristics and Assumptions

Housing Type and Location	Percentage by Unit Type / Size	Bedrooms/ Bathrooms	Unit Size (sq. ft.)	Sales Prices (mid-2015)
H-1A: Single-Family Detached Homes Urban Infill/East Oakland primarily	100%	3 BR/3 BA	1,600	\$405,000
H-1B: Single-Family Detached Homes North/South/Lower Hills, Rockridge	100%	4 BR/3 BA	3,000	\$1,240,000
H-2A: Townhomes / Row Houses Urban Infill/West Oakland and parts of North Oakland	25%	2 BR/2 BA	1,185	\$490,000
	65%	2 BR/2.5 BA	1,370	\$520,000
	<u>10%</u>	<u>3 BR/3 BA</u>	<u>1,550</u>	<u>\$575,000</u>
	100%	<i>Weighted Avg:</i>	1,340	\$518,000
H-2B: Townhomes / Row Houses North Hills, South Hills	10%	2 BR/2.5 BA	1,500	\$630,000
	10%	3 BR/3 BA	1,750	\$740,000
	30%	3 BR/3 BA	2,050	\$775,000
	35%	3+ BR/3 BA	2,200	\$800,000
	<u>15%</u>	<u>4 BR/3 BA</u>	<u>2,500</u>	<u>\$850,000</u>
	100%	<i>Weighted Avg:</i>	2,085	\$777,000

Note: Additional description of the residential development prototypes, including examples of recent and proposed projects, is provided in the Economic Feasibility Study Report.

Source: Hausrath Economics Group

The rental housing development prototypes also vary by building type and location, as described in Table 3.

- ◆ The *lower/mid-rise apartment developments* (three to four floors over podium) typically occur in West Oakland, parts of North Oakland, and East Oakland. Apartment rents are generally lower for this prototype than for the higher density multi-family apartment developments.
- ◆ *Mid-rise apartment developments* (typically five to six floors over podium) are being developed in the Greater Downtown (Downtown, Jack London, and Broadway Valdez), parts of North Oakland, and parts of the Estuary Waterfront. This development prototype typically obtains higher rents than the lower/mid-rise prototype described above.
- ◆ *High-rise developments* in prime locations obtain the highest rents. They are primarily located along/near Lake Merritt, along/near the Estuary, and along Broadway in Downtown and the Jack London District.

Table 3
Rental Housing Prototypes: Characteristics and Assumptions

Housing Type and Location	Percentage by Unit Type/Size	Bedrooms/ Bathrooms	Unit Size (sq. ft.)	Monthly Rents (mid-2015)
H-3: Lower- and Mid-Rise Apartments (3-4 floors over podium) West Oakland/ East Oakland/ parts of North Oakland/a/	15%	Studio	400	\$1,500
	45%	1 BR/1 BA	700	\$2,350
	32%	2 BR/2 BA	900	\$2,900
	<u>8%</u>	<u>3 BR/2 BA</u>	<u>1,200</u>	<u>\$4,000</u>
	100%	<i>Weighted Avg:</i>	760	\$2,530
H-4: Mid-Rise Apartment Development (5-6 floors over podium) Downtown/Jack London/ Broadway Valdez/ parts of North Oakland/a/	17%	Studio	550	\$2,350
	50%	1 BR/1 BA	740	\$2,750
	30%	2 BR/2 BA	1,080	\$3,900
	<u>3%</u>	<u>2+ BR/2 BA</u>	<u>1,200</u>	<u>\$4,400</u>
	100%	<i>Weighted Avg:</i>	825	\$3,080
H-5: High-Rise Apartment Development (Prime Sites) Downtown/Jack London/Broadway Valdez/ parts of Estuary Waterfront	24%	Studio	550	\$2,700
	50%	1 BR/1 BA	840	\$3,700
	25%	2 BR/2 BA	1,100	\$5,200
	<u>1%</u>	<u>3 BR Penthouse</u>	<u>1,800</u>	<u>\$7,200</u>
	100%	<i>Weighted Avg:</i>	845	\$3,870

Note: Additional description of the residential development prototypes, including examples of recent and proposed projects, is provided in the Economic Feasibility Study Report.

/a/ North Oakland includes several different areas which serve different sub-markets. H-3 developments are occurring in the westerly parts of North Oakland near Emeryville and West Oakland. The H-4 developments are being planned in Rockridge and at 51st and Broadway, oriented for a higher-rent consumer.

Source: Hausrath Economics Group

It should be noted that the slowdown in new residential development that characterized both the state and the nation also impacted the City of Oakland. There was very little, new market-rate residential construction in Oakland during the period 2008-2014, and the housing market recently began showing signs of recovery in 2013-2015.

STEP 2: Household Incomes of Buyers and Renters

The sales prices and rents of the new single-family homes, townhomes, and apartment units are used to estimate the potential incomes of buyers and renters who would move into new units in each of the prototype housing projects. Threshold incomes needed to purchase or rent units are based on standards used in the housing industry. Tables 4 and 5 present information on the estimated household incomes of buyers of single-family detached homes, buyers of townhomes, and renters of apartment units. Income information is estimated for each prototype development.

Table 4
Household Income Calculations for Prototype For-Sale Homes

Unit Type	H-1: Single-Family Detached		H-2: Townhomes / Row Houses							
	A. Urban Infill/ East Oakland primarily	B. North, South, Lower Hills, Rockridge	A. Urban Infill/West Oakland and parts of North Oakland			B. North Hills, South Hills				
	3 BR/3BA	4 BR/3BA	2 BR/ 2 BA	2 BR/ 2.5 BA	3 BR/ 3 BA	2 BR/ 2.5 BA	3 BR/ 3 BA	3 BR/ 3 BA	3+ BR/ 3 BA	4 BR/ 3 BA
Sales Prices (mid-2015)	\$405,000	\$1,240,000	\$490,000	\$520,000	\$575,000	\$630,000	\$740,000	\$775,000	\$800,000	\$850,000
Down Payment/a/	\$81,000	\$248,000	\$98,000	\$104,000	\$115,000	\$126,000	\$148,000	\$155,000	\$160,000	\$170,000
Loan Amount	\$324,000	\$992,000	\$392,000	\$416,000	\$460,000	\$504,000	\$592,000	\$620,000	\$640,000	\$680,000
Monthly Debt Service/b/	\$1,570	\$4,594	\$1,900	\$2,016	\$2,229	\$2,443	\$2,869	\$3,005	\$3,102	\$3,296
Annual Debt Service	\$18,843	\$55,129	\$22,798	\$24,194	\$26,753	\$29,312	\$34,430	\$36,058	\$37,221	\$39,547
Annual Property Taxes/c/	\$4,788	\$14,658	\$5,792	\$6,147	\$6,797	\$7,447	\$8,748	\$9,161	\$9,457	\$10,048
Annual Maintenance Costs/d/	\$4,050	\$12,400	\$5,750	\$5,900	\$6,175	\$7,650	\$8,200	\$8,375	\$8,500	\$8,750
Fire and Hazard Insurance/e/	\$1,418	\$4,340	\$1,715	\$1,820	\$2,013	\$2,205	\$2,590	\$2,713	\$2,800	\$2,975
Annual Costs	\$29,098	\$86,527	\$36,055	\$38,061	\$41,737	\$46,614	\$53,967	\$56,307	\$57,978	\$61,320
Household Income/f/	\$96,994	\$288,424	\$120,184	\$126,869	\$139,124	\$155,379	\$179,890	\$187,689	\$193,260	\$204,401

/a/ 20% downpayment assumed. Market rate buyers are assumed to finance 80% of the sales prices.

/b/ 30-year loan at 4.125% annual interest rate for all for-sale prototypes except single-family homes in the Hills/Rockridge areas – for which a lower Jumbo loan rate of 3.750% applies. (August 21, 2015 Wells Fargo Website - FNMA Loan <https://www.wellsfargo.com/mortgage/rates/>)

/c/ 1.35% of sales price (based on the average property tax rate across all tax rate areas in the City of Oakland).

/d/ Annual maintenance and repair allowance estimated at 1% of sales price.

/e/ Annual fire and hazard insurance estimated at 0.35% of sales price.

/f/ Assumes 30% of gross annual household income allocated to housing costs.

Sources: Vernazza Wolfe Associates Inc. and Hausrath Economics Group.

Table 5
Household Income Calculations for Prototype Rental Housing Development

Unit Type	Studio	1 BR/1 BA	2 BR/2 BA	3 BR/2 BA
H-3: Lower- and Mid-Rise Apartments				
(West Oakland/East Oakland/ parts of North Oakland)				
Average Monthly Rent (mid-2015)	\$1,500	\$2,350	\$2,900	\$4,000
Annual Housing Rent	\$18,000	\$28,200	\$34,800	\$48,000
Household Income^{/a/}	\$60,000	\$94,000	\$116,000	\$160,000
H-4: Mid-Rise Apartment Developments				
(Downtown/Jack London/Broadway Valdez/ parts of North Oakland)				
Average Monthly Rent (mid-2015)	\$2,350	\$2,750	\$3,900	\$4,400
Annual Housing Rent	\$28,200	\$33,000	\$46,800	\$52,800
Household Income^{/a/}	\$94,000	\$110,000	\$156,000	\$176,000
H-5: High-Rise Developments				
(Downtown/Jack London/Broadway Valdez/ parts of Estuary Waterfront)				
Average Monthly Rent (mid-2015)	\$2,700	\$3,700	\$5,200	\$7,200
Annual Housing Rent	\$32,400	\$44,400	\$62,400	\$86,400
Household Income^{/a/}	\$108,000	\$148,000	\$208,000	\$288,000

^{/a/} Assumes 30% of gross annual household income allocated to rent.

Sources: Vemazza Wolfe Associates Inc. and Hausrath Economics Group

The IMPLAN3 Model that was used to generate household expenditure estimates and associated induced jobs requires input in terms of household income categories or ranges. The average household income results for the Oakland development prototypes are in Tables 4 and 5. These fall into the IMPLAN3 Model income categories as shown in Tables 6 and 7.

Table 6
Household Income Distributions Used in IMPLAN3 Analysis of For-Sale Prototypes

Household Income Level	H-1: Single-Family Detached Homes		H-2: Townhomes/Row Houses	
	A. Urban Infill/ East Oakland primarily	B. North, South, Lower Hills/ Rockridge	A. Urban Infill/West Oakland and parts of North Oakland	B. North Hills, South Hills
	Distribution of Households by Income Level Categories			
Less than \$10,000	0%	0%	0%	0%
\$10,000-\$15,000	0%	0%	0%	0%
\$15,000-\$25,000	0%	0%	0%	0%
\$25,000-\$35,000	0%	0%	0%	0%
\$35,000-\$50,000	0%	0%	0%	0%
\$50,000-\$75,000	0%	0%	0%	0%
\$75,000-\$100,000	100%	0%	0%	0%
\$100,000-\$150,000	0%	0%	100%	0%
Over \$150,000	0%	100%	0%	100%
Total	100%	100%	100%	100%

Sources: Vernazza Wolfe Associates Inc. and Hausrath Economics Group

Table 7
Household Income Distributions Used in IMPLAN3 Analysis of Rental Prototypes

Household Income Level	H-3: Lower/Mid-Rise Apts.	H-4: Mid-Rise Apts.	H-5: High-Rise Apts.
	West Oakland/East Oakland/parts of North Oakland	Downtown/Jack London/Broadway Valdez/parts of North Oakland	Downtown/Jack London/Broadway Valdez/parts of Estuary Waterfront
	Distribution of Households by Income Level Categories		
Less than \$10,000	0%	0%	0%
\$10,000-\$15,000	0%	0%	0%
\$15,000-\$25,000	0%	0%	0%
\$25,000-\$35,000	0%	0%	0%
\$35,000-\$50,000	0%	0%	0%
\$50,000-\$75,000	15%	0%	0%
\$75,000-\$100,000	45%	17%	0%
\$100,000-\$150,000	32%	50%	74%
Over \$150,000	8%	33%	26%
Total	100%	100%	100%

Sources: Vernazza Wolfe Associates Inc. and Hausrath Economics Group

Job Growth, Demand for Affordable Housing, and Maximum Legal Affordable Housing Impact Fees

STEPS 3, 4, and 5: Household Consumer Spending and Job Growth

The growth of household consumer expenditures by new buyer and renter households (based on their household incomes in the prior step) are estimated and translated into induced job growth via the IMPLAN3 input-output model. The model uses economic data specific to Alameda County to estimate the multiplier effects of additional spending and jobs deriving from the demand for goods and local services (including government) that households in the new housing would generate. These multiplier effects are referred to as “induced” growth. The model simultaneously accounts for all purchases and expenditures throughout the county’s economy and is useful in defining economic impacts from exogenous changes, such as growth in expenditures associated with new residential developments.³

A portion of the countywide job growth estimated by the model is allocated to Oakland. According to the Association of Bay Area Governments (ABAG), the City of Oakland currently accounts for 28 percent of the total employment in Alameda County, and this share is projected to remain the same through 2025⁴. Consequently, this nexus study allocates 28 percent of the induced worker impacts (predicted by the IMPLAN3 Model for Alameda County) to the City of Oakland.

STEPS 6 and 7: New Worker Households and Household Incomes

Next, the analysis includes two calculations to convert from additional workers to a focus on worker households so as to be able to consider their housing demand. First, the number of induced jobs in Oakland is converted to the number of new households that they represent by dividing the number of new workers holding the new jobs by the average number of workers per household for Oakland households with workers (1.48 from the U. S. Census Bureau).⁵ Second, worker incomes (based on the IMPLAN3 model analysis) are adjusted to estimate worker household incomes, assuming that the income of other workers in the household is similar to the income of the induced worker.⁶

³ In economics, an input-output model is a quantitative economic technique that represents the interdependencies between different industries and sectors of the economy. Use of the IMPLAN3 Model for this analysis is further described in **Appendix A**, summarizing the IMPLAN methodology, defining induced growth, and presenting tables summarizing the induced employment impacts from development of each new housing prototype.

⁴ ABAG, *Projections 2013* shows that jobs in Oakland account for 28 percent of total employment in Alameda County in both 2015 and 2025.

⁵ The adjustment factor used in this study is 1.48, from the U. S. Census Bureau, 2009-2013 American Community Survey 5-Year Estimate of the number of workers per household for Oakland households with workers. This factor is appropriate for this analysis as it is calculated for households with workers and excludes households without workers.

⁶ It is assumed that the income of other workers is the same as the induced worker in the household, so income results from the IMPLAN3 Model are weighted by 1.48, to reflect the number of workers per household.

STEPS 8 and 9: Demand for Affordable Housing and the Affordability Gap

Some of the new households will require affordable housing, particularly since the increase in jobs is generally in the lower-wage-paying sectors, such as retail sales and services. The distribution of new households among household income categories is used to identify households with demand for affordable housing based on those with incomes in the moderate, low, and very low income categories (using City of Oakland definitions). Since the focus of the nexus study is on increases in the need for affordable housing, new worker households above moderate income are not carried forward into the final calculations.

Separately, analysis is done to calculate the “affordability gap” for households in the different housing affordability categories (moderate-income, low-income, and very low-income).⁷ The affordability gap is defined as the difference between the cost to produce new, modest housing units and what households with very-low, low, and moderate incomes can afford to pay for housing.

STEP 10: Maximum Legal Affordable Housing Impact Fees

Having calculated the affordability gap at different income levels (see above) and having estimated the number of worker households requiring affordable housing, it is possible to calculate the total funds needed to bridge the gap between the costs of developing new affordable housing and what new lower- and moderate-income households can afford to pay.⁸ This total gap figure is calculated for representative housing projects for each market-rate housing prototype. Then the total gap amount for the project is divided by the number of new housing units to identify the average affordability gap per new market-rate unit built. The average affordability gap per unit identifies the maximum fee amount per unit that can be justified on the basis of the nexus calculations.

STEPS 3 – 10: Nexus Calculations for Housing Development Prototypes

The nexus calculations (Steps 3-10) completed for each housing development prototype are presented on the pages that follow. For each prototype, the calculations are done for a representative development project in terms of number of units built (20 to 220 units depending on the prototype). Table 8 on the next page summarizes the job growth and affordable housing impacts that can be linked to new housing development. The bottom row in the table presents the results of the calculations for each housing development prototype, in terms of the **maximum legal housing impact fee per unit** that can be justified by the nexus analysis.

⁷ Appendix B defines the Affordability Gap and presents the assumptions and calculations for rental and for-sale housing affordability gaps by household income group.

⁸ The aggregate affordability gap is computed by multiplying the number of households requiring affordable housing in each of three income categories (very low-, low- and moderate-income) by the corresponding gap calculation for each income group. There are no extremely low-income worker households projected by the nexus analysis model.

Table 8
Summary of Job Growth and Affordable Housing Impacts
Linked to New Residential Development

	Single-Family Homes		Townhomes		Multi-Family Apartments		
	Urban H-1A	Hills H-1B	Urban H-2A	Hills H-2B	Lower/Mid-Rise H-3	Mid-Rise H-4	High-Rise H-5
Number Units in Project	20	100	30	30	120	180	220
Impacts of Project:							
Job Growth in Oakland	4.77	56.94	9.20	11.13	28.98	49.52	77.05
Worker Households in Oakland	3.22	38.47	6.22	7.52	19.58	33.46	52.06
Demand from Very Low-, Low-, and Moderate-Income Worker Households	2.52	29.99	4.87	5.86	15.31	26.15	40.71
Total Affordability Gap	\$696,653	\$8,172,932	\$1,340,802	\$1,597,744	\$4,220,650	\$7,179,697	\$11,176,967
Average Affordability Gap per Unit	\$34,833	\$81,729	\$44,693	\$53,258	\$35,172	\$39,887	\$50,804
Maximum Legal Affordable Housing Impact Fee per Unit	\$34,833	\$81,729	\$44,693	\$53,258	\$35,172	\$39,887	\$50,804

Note: The numbers shown are not rounded, to retain consistency among the different measures of impacts and consistency with the calculations in Tables 9 through 15.
Source: Tables 9-15

The nexus calculations for each housing development prototype are presented in Tables 9-15 that follow. The calculations in each table show the following:

- Induced job growth in Oakland supported by increases in spending by new residents of new market-rate housing (columns 2, 3, and 5 in the tables).
- New worker households associated with induced job growth, and worker household incomes (columns 4 and 6 in the tables).
- Affordable housing demand from new worker households, by affordability group (columns 7 and 8).
- The funds needed to bridge the affordability gap between the costs of developing new affordable housing and what lower-and moderate-income households can afford to pay (total affordability gap in column 9).
- **Maximum legal affordable housing impact fee per unit** that can be justified by the nexus calculations (column 10).

Table 9
Calculations of Affordability Gap and Maximum Legal Affordable Housing Impact Fees
Prototype H-1A: Single-Family Detached Homes in Urban Infill Locations, East Oakland primarily

(1)	(2)	(3)	(4)	(5)	(6)	(7)	(8)	(9)	(10)
Worker Wage Category	Total Induced Jobs for Project of 20 units/a/	Jobs Accommodated in Oakland/b/	Oakland Worker Households/c/	Average Worker Wages/d/	Worker Household Income/e/	Demand from New Very Low-, Low- and Moderate-income Households	Affordability Group/f/	Total Affordability Gap/g/	Maximum Legal Affordable Housing Impact Fee per Unit/h/
Less than \$10,000	0.00	0	0	n/a	n/a				
\$10,000-\$15,000	0.00	0	0	n/a	n/a				
\$15,000-\$25,000	2.28	0.64	0.43	\$23,778	\$35,191	0.43	Very Low-Income	\$182,233	
\$25,000-\$35,000	1.84	0.52	0.35	\$29,501	\$43,661	0.35	Low-Income	\$132,580	
\$35,000-\$50,000	6.71	1.88	1.27	\$44,218	\$65,442	1.27	Moderate-Income	\$278,673	
\$50,000-\$75,000	2.49	0.70	0.47	\$58,405	\$86,440	0.47	Moderate-Income	\$103,167	
\$75,000-\$100,000	1.20	0.34	0.23	\$87,463	\$129,445				
\$100,000-\$150,000	2.51	0.70	0.48	\$115,656	\$171,171				
Over \$150,000	0.00	0	0	n/a	n/a				
Total	17.03	4.77	3.22	\$55,549	\$82,213	2.52		\$696,653	\$34,833

Assumptions:

20	number of units in development project for prototype H-1A
28%	percent of Alameda County jobs located in Oakland (current and projected by ABAG <i>Projections 2013</i>)
1.48	number of wage earners per household with workers in Oakland (2009 - 2013 American Community Survey, 5-Year Estimates, U.S. Census Bureau)

Notes:

- /a/ Results of IMPLAN3 input-output model. Project assumes development of 20 units of prototype H-1A.
- /b/ Total induced jobs multiplied by the percent of Alameda County jobs located in Oakland.
- /c/ Jobs in Oakland divided by wage earners per household with workers.
- /d/ Results of IMPLAN3 input-output model and analysis of data from the California Labor Market Information Division. (See Appendix A.)
- /e/ Average worker income multiplied by the number of wage earners in households with workers.
- /f/ Demand from Oakland households (earlier column) with incomes in the moderate, low, and very-low income categories based on City of Oakland household income threshold incomes for an average size household of 2.5 persons: Very Low Income (\$39,525), Low Income (\$63,580), and Moderate Income (\$95,370).
- /g/ Number of households multiplied the by average affordability gap for applicable income group. (See Appendix B for background on the affordability gap analysis and calculations.)
- /h/ Total affordability gap divided by number of new units in the project (20 units for prototype H-1A).

Source: Vernazza Wolfe Associates, Inc. and ADE, Inc.

Table 10
Calculations of Affordability Gap and Maximum Legal Affordable Housing Impact Fees
Prototype H-1B: Single-Family Detached Homes in North/South/Lower Hills and Rockridge

(1)	(2)	(3)	(4)	(5)	(6)	(7)	(8)	(9)	(10)
Worker Wage Category	Total Induced Jobs for Project of 100 units/a/	Jobs Accommodated in Oakland/b/	Oakland Worker Households/c/	Average Worker Wages/d/	Worker Household Income/e/	Demand from New Very Low-, Low- and Moderate-income Households	Affordability Group/f/	Total Affordability Gap/g/	Maximum Legal Affordable Housing Impact Fee per Unit/h/
Less than \$10,000	0.00	0	0	n/a	n/a				
\$10,000-\$15,000	0.00	0	0	n/a	n/a				
\$15,000-\$25,000	24.60	6.89	4.65	\$23,778	\$35,191	4.65	Very Low-Income	\$1,968,197	
\$25,000-\$35,000	21.17	5.93	4.00	\$29,551	\$43,736	4.00	Low-Income	\$1,523,885	
\$35,000-\$50,000	80.05	22.41	15.14	\$44,246	\$65,485	15.14	Moderate-Income	\$3,322,789	
\$50,000-\$75,000	32.72	9.16	6.19	\$58,545	\$86,647	6.19	Moderate-Income	\$1,358,061	
\$75,000-\$100,000	15.68	4.39	2.97	\$87,643	\$129,711				
\$100,000-\$150,000	29.13	8.16	5.51	\$115,861	\$171,474				
Over \$150,000	0.00	0	0	n/a	n/a				
Total	203.34	56.94	38.47	\$56,147	\$83,098	29.99		\$8,172,932	\$81,729

Assumptions:

100	number of units in development project for prototype H-1B
28%	percent of Alameda County jobs located in Oakland (current and projected by ABAG <i>Projections 2013</i>)
1.48	number of wage earners per household with workers in Oakland (2009 - 2013 American Community Survey, 5-Year Estimates, U.S. Census Bureau)

Notes:

- /a/ Results of IMPLAN3 input-output model. Project assumes development of 100 units of prototype H-1B.
- /b/ Total induced jobs multiplied by the percent of Alameda County jobs located in Oakland.
- /c/ Jobs in Oakland divided by wage earners per household with workers.
- /d/ Results of IMPLAN3 input-output model and analysis of data from the California Labor Market Information Division. (See Appendix A.)
- /e/ Average worker income multiplied by the number of wage earners in households with workers.
- /f/ Demand from Oakland households (earlier column) with incomes in the moderate, low, and very-low income categories based on City of Oakland household income threshold incomes for an average size household of 2.5 persons: Very Low Income (\$39,525), Low Income (\$63,580), and Moderate Income (\$95,370).
- /g/ Number of households multiplied by average affordability gap for applicable income group. (See Appendix B for background on the affordability gap analysis and calculations.)
- /h/ Total affordability gap divided by number of new units in the project (100 units for prototype H-1B).

Source: Vernazza Wolfe Associates, Inc. and ADE, Inc.

Table 11
Calculations of Affordability Gap and Maximum Legal Affordable Housing Impact Fees
Prototype H-2A: Townhomes/Row Houses in Urban Infill, West Oakland, and parts of North Oakland

(1)	(2)	(3)	(4)	(5)	(6)	(7)	(8)	(9)	(10)
Worker Wage Category	Total Induced Jobs for Project of 30 units/a/	Jobs Accommodated in Oakland/b/	Oakland Worker Households/c/	Average Worker Wages/d/	Worker Household Income/e/	Demand from New Very Low-, Low- and Moderate-income Households	Affordability Group/f/	Total Affordability Gap/g/	Maximum Legal Affordable Housing Impact Fee per Unit/h/
Less than \$10,000	0.00	0	0	n/a	n/a				
\$10,000-\$15,000	0.00	0	0	n/a	n/a				
\$15,000-\$25,000	4.31	1.21	0.82	\$23,778	\$35,191	0.82	Very Low-Income	\$344,968	
\$25,000-\$35,000	3.51	0.98	0.66	\$29,499	\$43,659	0.66	Low-Income	\$252,663	
\$35,000-\$50,000	13.03	3.65	2.47	\$44,237	\$65,471	2.47	Moderate-Income	\$541,004	
\$50,000-\$75,000	4.87	1.36	0.92	\$58,451	\$86,507	0.92	Moderate-Income	\$202,167	
\$75,000-\$100,000	2.35	0.66	0.44	\$87,482	\$129,473				
\$100,000-\$150,000	4.78	1.34	0.90	\$115,662	\$171,180				
Over \$150,000	0.00	0.00	0	n/a	n/a				
Total	32.86	9.20	6.22	\$55,575	\$82,251	4.87		\$1,340,802	\$44,693

Assumptions:

30	number of units in development project of prototype H-2A
28%	percent of Alameda County jobs located in Oakland (current and projected by ABAG Projections 2013)
1,48	number of wage earners per household with workers in Oakland (2009 - 2013 American Community Survey, 5-Year Estimates, U.S. Census Bureau)

Notes:

- /a/ Results of IMPLAN3 input-output model. Project assumes development of 30 units of prototype H-2A.
- /b/ Total induced jobs multiplied by the percent of Alameda County jobs located in Oakland.
- /c/ Jobs in Oakland divided by wage earners per household with workers.
- /d/ Results of IMPLAN3 input-output model and analysis of data from the California Labor Market Information Division. (See Appendix A.)
- /e/ Average worker income multiplied by the number of wage earners in households with workers.
- /f/ Demand from Oakland households (earlier column) with incomes in the moderate, low, and very-low income categories based on City of Oakland household income threshold incomes for an average size household of 2.5 persons: Very Low Income (\$39,525), Low Income (\$63,580), and Moderate Income (\$95,370).
- /g/ Number of households multiplied the by average affordability gap for applicable income group. (See Appendix B for background on the affordability gap analysis and calculations.)
- /h/ Total affordability gap divided by number of new units in the project (30 units for prototype H-2A).

Source: Vernazza Wolfe Associates, Inc. and ADE, Inc.

Table 12
Calculations of Affordability Gap and Maximum Legal Affordable Housing Impact Fees
Prototype H-2B: Townhomes/Row Houses in North Hills/South Hills

(1)	(2)	(3)	(4)	(5)	(6)	(7)	(8)	(9)	(10)
Worker Wage Category	Total Induced Jobs for Project of 30 units/a/	Jobs Accommodated in Oakland/b/	Oakland Worker Households/c/	Average Worker Wages/d/	Worker Household Income/e/	Demand from New Very Low-, Low- and Moderate-income Households	Affordability Group/f/	Total Affordability Gap/g/	Maximum Legal Affordable Housing Impact Fee per Unit/h/
Less than \$10,000	0.00	0	0	n/a	n/a				
\$10,000-\$15,000	0.00	0	0	n/a	n/a				
\$15,000-\$25,000	4.81	1.35	0.91	\$23,778	\$35,191	0.91	Very Low-Income	\$384,767	
\$25,000-\$35,000	4.14	1.16	0.78	\$29,551	\$43,736	0.78	Low-Income	\$297,908	
\$35,000-\$50,000	15.65	4.38	2.96	\$44,246	\$65,485	2.96	Moderate-Income	\$649,579	
\$50,000-\$75,000	6.40	1.79	1.21	\$58,545	\$86,647	1.21	Moderate-Income	\$265,490	
\$75,000-\$100,000	3.06	0.86	0.58	\$87,643	\$129,711				
\$100,000-\$150,000	5.70	1.59	1.08	\$115,861	\$171,474				
Over \$150,000	0.00	0.00	0	n/a	n/a				
Total	39.75	11.13	7.52	\$56,147	\$83,098	5.86		\$1,597,744	\$53,258

Assumptions:

30	number of units in development projects of prototype H-2B
28%	percent of Alameda County jobs located in Oakland (current and projected by ABAG <i>Projections 2013</i>)
1.48	number of wage earners per household with workers in Oakland (2009 - 2013 American Community Survey, 5-Year Estimates, U.S. Census Bureau)

Notes:

- /a/ Results of IMPLAN3 input-output model. Project assumes development of 30 units of prototype H-2B.
- /b/ Total induced jobs multiplied by the percent of Alameda County jobs located in Oakland.
- /c/ Jobs in Oakland divided by wage earners per household with workers.
- /d/ Results of IMPLAN3 input-output model and analysis of data from the California Labor Market Information Division. (See Appendix A.)
- /e/ Average worker income multiplied by the number of wage earners in households with workers.
- /f/ Demand from Oakland households (earlier column) with incomes in the moderate, low, and very-low income categories based on City of Oakland household income threshold incomes for an average size household of 2.5 persons: Very Low Income (\$39,525), Low Income (\$63,580), and Moderate Income (\$95,370).
- /g/ Number of households multiplied the by average affordability gap for applicable income group. (See Appendix B for background on the affordability gap analysis and calculations.)
- /h/ Total affordability gap divided by number of new units in the project (30 units for prototype H-2B).

Source: Vernazza Wolfe Associates, Inc. and ADE, Inc.

Table 13
Calculations of Affordability Gap and Maximum Legal Affordable Housing Impact Fees
Prototype H-3: Lower and Mid-Rise Rental Apartments in West Oakland, East Oakland, and Parts of North Oakland

(1)	(2)	(3)	(4)	(5)	(6)	(7)	(8)	(9)	(10)
Worker Wage Category	Total Induced Jobs for Project of 120 units/a/	Jobs Accommodated in Oakland/b/	Oakland Worker Households/c/	Average Worker Wages/d/	Worker Household Income/e/	Demand from New Very Low-, Low- and Moderate-income Households	Affordability Group/f/	Total Affordability Gap/g/	Maximum Legal Affordable Housing Impact Fee per Unit/h/
Less than \$10,000	0	0	0	n/a	n/a				
\$10,000-\$15,000	0	0	0	n/a	n/a				
\$15,000-\$25,000	13.56	3.80	2.57	\$23,778	\$35,191	2.57	Very Low-Income	\$1,085,142	
\$25,000-\$35,000	11.11	3.11	2.10	\$29,506	\$43,668	2.10	Low-Income	\$799,723	
\$35,000-\$50,000	40.93	11.46	7.74	\$44,229	\$65,459	7.74	Moderate-Income	\$1,699,195	
\$50,000-\$75,000	15.34	4.29	2.90	\$58,434	\$86,482	2.90	Moderate-Income	\$636,590	
\$75,000-\$100,000	7.40	2.07	1.40	\$87,486	\$129,479				
\$100,000-\$150,000	15.16	4.24	2.87	\$115,683	\$171,211				
Over \$150,000	0	0	0	n/a	n/a				
Total	103.50	28.98	19.58	\$55,631	\$82,334	15.31		\$4,220,650	\$35,172

Assumptions:

120	number of units in development project for prototype H-3
28%	percent of Alameda County jobs located in Oakland (current and projected by ABAG Projections 2013)
1.48	number of wage earners per household with workers in Oakland (2009 - 2013 American Community Survey, 5-Year Estimates, U.S. Census Bureau)

Notes:

- /a/ Results of IMPLAN3 input-output model. Project assumes development of 120 units of prototype H-3.
- /b/ Total induced jobs multiplied by the percent of Alameda County jobs located in Oakland.
- /c/ Jobs in Oakland divided by wage earners per household with workers.
- /d/ Results of IMPLAN3 input-output model and analysis of data from the California Labor Market Information Division. (See Appendix A.)
- /e/ Average worker income multiplied by the number of wage earners in households with workers.
- /f/ Demand from Oakland households (earlier column) with incomes in the moderate, low, and very-low income categories based on City of Oakland household income threshold incomes for an average size household of 2.5 persons: Very Low Income (\$39,525), Low Income (\$63,580), and Moderate Income (\$95,370).
- /g/ Number of households multiplied the by average affordability gap for applicable income group. (See Appendix B for background on the affordability gap analysis and calculations.)
- /h/ Total affordability gap divided by number of new units in the project (120 units for prototype H-3).

Source: Vernazza Wolfe Associates, Inc. and ADE, Inc.

Table 14
Calculations of Affordability Gap and Maximum Legal Affordable Housing Impact Fees
Prototype H-4: Mid-Rise Rental Apartments in Downtown/Jack London/Broadway Valdez/and parts of North Oakland

(1)	(2)	(3)	(4)	(5)	(6)	(7)	(8)	(9)	(10)
Worker Wage Category	Total Induced Jobs for Project of 180 units/a/	Jobs Accommodated in Oakland/b/	Oakland Worker Households/c/	Average Worker Wages/d/	Worker Household Income/e/	Demand from New Very Low-, Low- and Moderate-income Households	Affordability Group/f/	Total Affordability Gap/g/	Maximum Legal Affordable Housing Impact Fee per Unit/h/
Less than \$10,000	0	0	n/a	\$0	\$0				
\$10,000-\$15,000	0	0	n/a	\$0	\$0				
\$15,000-\$25,000	22.60	6.33	4.28	\$23,778	\$35,191	4.28	Very Low-Income	\$1,808,313	
\$25,000-\$35,000	18.75	5.25	3.55	\$29,518	\$43,687	3.55	Low-Income	\$1,349,672	
\$35,000-\$50,000	69.90	19.57	13.22	\$44,238	\$65,472	13.22	Moderate-Income	\$2,901,407	
\$50,000-\$75,000	26.99	7.56	5.11	\$58,481	\$86,552	5.11	Moderate-Income	\$1,120,304	
\$75,000-\$100,000	12.99	3.64	2.46	\$87,542	\$129,562				
\$100,000-\$150,000	25.64	7.18	4.85	\$115,734	\$171,287				
Over \$150,000	0	0	0	n/a	n/a				
Total	176.87	49.52	33.46	\$55,783	\$82,259	26.15		\$7,179,696	\$39,887

Assumptions:

- 180** number of units in development project for prototype H-4.
- 28%** percent of Alameda County jobs located in Oakland (current and projected by ABAG *Projections 2013*)
- 1.48** number of wage earners per household with workers in Oakland (2009 - 2013 American Community Survey, 5-Year Estimates, U.S. Census Bureau)

Notes:

- /a/ Results of IMPLAN3 input-output model. Project assumes development of 180 units of prototype H-4.
- /b/ Total induced jobs multiplied by the percent of Alameda County jobs located in Oakland.
- /c/ Jobs in Oakland divided by wage earners per household with workers.
- /d/ Results of IMPLAN3 input-output model and analysis of data from the California Labor Market Information Division. (See Appendix A.)
- /e/ Average worker income multiplied by the number of wage earners in households with workers.
- /f/ Demand from Oakland households (earlier column) with incomes in the moderate, low, and very-low income categories based on City of Oakland household income threshold incomes for an average size household of 2.5 persons: Very Low Income (\$39,525), Low Income (\$63,580), and Moderate Income (\$95,370).
- /g/ Number of households multiplied the by average affordability gap for applicable income group. (See Appendix B for background on the affordability gap analysis and calculations.)
- /h/ Total affordability gap divided by number of new units in the project (180 units for prototype H-4).

Source: Vernazza Wolfe Associates, Inc. and ADE, Inc.

Table 15
Calculations of Affordability Gap and Maximum Legal Affordable Housing Impact Fees
Prototype H-5: High-rise Rental Apartments on Prime Sites in Downtown/Jack London/Broadway Valdez/parts of Estuary Waterfront

(1)	(2)	(3)	(4)	(5)	(6)	(7)	(8)	(9)	(10)
Worker Wage Category	Total Induced Jobs for Project of 220 units/a/	Jobs Accommodated in Oakland/b/	Oakland Worker Households/c/	Average Worker Wages/d/	Worker Household Income/e/	Demand from New Very Low-, Low- and Moderate-income Households	Affordability Group/f/	Total Affordability Gap/g/	Maximum Legal Affordable Housing Impact Fee per Unit/h/
Less than \$10,000	0	0	n/a	\$0	\$0				
\$10,000-\$15,000	0	0	n/a	\$0	\$0				
\$15,000-\$25,000	35.24	9.87	6.67	\$23,778	\$35,191	6.67	Very Low-Income	\$2,819,597	
\$25,000-\$35,000	29.16	8.17	5.52	\$29,515	\$43,682	5.52	Low-Income	\$2,099,444	
\$35,000-\$50,000	108.90	30.49	20.60	\$44,240	\$65,475	20.60	Moderate-Income	\$4,520,272	
\$50,000-\$75,000	41.86	11.72	7.92	\$58,481	\$86,552	7.92	Moderate-Income	\$1,737,654	
\$75,000-\$100,000	20.15	5.64	3.81	\$87,534	\$129,550				
\$100,000-\$150,000	39.86	11.16	7.54	\$115,723	\$171,270				
Over \$150,000	0	0	0	n/a	n/a				
Total	275.18	77.05	52.06	\$55,751	\$82,511	40.71		\$11,176,967	\$50,804

Assumptions:

220	number of units in development project for prototype H-5.
28%	percent of Alameda County jobs located in Oakland (current and projected by ABAG <i>Projections 2013</i>)
1.48	number of wage earners per household with workers in Oakland (2009 - 2013 American Community Survey, 5-Year Estimates, U.S. Census Bureau)

Notes:

- /a/ Results of IMPLAN3 input-output model. Project assumes development of 220 units of prototype H-5.
- /b/ Total induced jobs multiplied by the percent of Alameda County jobs located in Oakland.
- /c/ Jobs in Oakland divided by wage earners per household with workers.
- /d/ Results of IMPLAN3 input-output model and analysis of data from the California Labor Market Information Division. (See Appendix A.)
- /e/ Average worker income multiplied by the number of wage earners in households with workers.
- /f/ Demand from Oakland households (earlier column) with incomes in the moderate, low, and very-low income categories based on City of Oakland household income threshold incomes for an average size household of 2.5 persons: Very Low Income (\$39,525), Low Income (\$63,580), and Moderate Income (\$95,370).
- /g/ Number of households multiplied by the average affordability gap for applicable income group. (See Appendix B for background on the affordability gap analysis and calculations.)
- /h/ Total affordability gap divided by number of new units in the project (220 units for prototype H-5).

Source: Vernazza Wolfe Associates, Inc. and ADE, Inc.

IMPACT FEE PROGRAM AND POLICY CONSIDERATIONS

The results of the nexus analysis identify the maximum legal affordable housing impact fees that could be charged on new market-rate housing development in Oakland. Based on the nexus analysis, the City Council can adopt affordable housing impact fees at or below the maximum legal fee amounts identified.

After reviewing the results of nexus analyses and considering the broad range of local policy goals, decision-makers can adopt fees up to the maximum justified in the nexus analysis. Economic feasibility considerations typically result in adopted fees at levels below the maximum legal amounts to avoid affecting the amount and pace of new housing development. To support development of housing for all income levels, impact fee proposals seek to balance the need for more affordable housing with not impeding the construction of new market-rate housing.

Economic Feasibility Considerations

As another component of the City's Impact Fee Study, the Consultant Team analyzed the economic feasibility of new development in Oakland. The analysis provides a basis for creating an impact fee program that can be implemented without adversely affecting Oakland's ability to attract new development. The representative housing development prototypes analyzed in this nexus analysis are the same as those analyzed in the economic feasibility analysis. The economic feasibility analysis is presented in a separate report: *Economic Feasibility Study for Oakland Impact Fee Program*.

Consideration of Transportation and Capital Facilities Impact Fees in Addition to Affordable Housing Impact Fees

In addition to the adoption of affordable housing impact fees, Oakland also is considering new impact fees for transportation and capital facilities. It is important that the impacts on development feasibility of affordable housing fee options be considered in combination with the magnitudes of other proposed impact fees also under consideration.

Fee Revenue Deposited in Affordable Housing Trust Fund

Revenue from affordable housing impact fees would be deposited into the City's Affordable Housing Trust Fund. The Trust Fund also collects funds from other sources such as the existing Jobs-Housing Impact Fee and the 25 percent allocation of former redevelopment tax increment funds set aside for affordable housing (i.e., "boomerang funds"). Through the Affordable Housing Trust Fund, the City provides funding for affordable housing. Through the Trust Fund, fee revenue can be leveraged by a factor of more than 3:1 to produce more affordable units.

On-Site Affordable Housing Option Possible

As an alternative to payment of affordable housing impact fees, development projects could be allowed to provide affordable units on-site as a part of the market-rate development. If an on-site option is adopted, the City should establish a policy that specifies the number or share of affordable units and the income targeted for those units.

Comparing the options of (a) payment of an impact fee or (b) development of affordable units on-site, there are advantages of each approach to consider.

- ◆ Advantages of payment of impact fees to fund affordable housing:
 - May produce more total funding for affordable housing by leveraging local housing trust funds to attract outside funding sources.
 - Can serve lower income groups as on-site affordable housing is generally targeted to higher income groups.
 - On-site services to residents are often provided in affordable housing developments (such as computer training, after school programs, etc.).
- ◆ Advantages of on-site development of affordable housing in market-rate projects:
 - Affordable housing is built along with market-rate housing and may be available more quickly.
 - May provide access to more neighborhoods, possibly those with more amenities and better public services.

Affordable Housing Impact Fees As Part of Broader Housing Equity Strategy and Initiatives in Oakland

Adoption of affordable housing impact fees on residential development is one of a number of initiatives and new strategies underway to support affordable housing production and address a range of housing affordability needs in Oakland. In 2015, the City developed the *Oakland Housing Equity Roadmap* to provide a comprehensive action plan and policy framework for addressing Oakland's housing crisis. The Action Plan provides detailed strategies targeted to build new affordable housing, prevent displacement of long-time residents, and improve housing habitability and health while maintaining housing affordability. Adoption of a financially feasible housing impact fee program to increase revenues for building new affordable housing is one of the strategies recommended.

ADMINISTRATIVE ISSUES

The City is advised to adjust the affordable housing impact fees annually. An adjustment mechanism updates the fees to compensate for changes in development costs. Routinely published cost indices are used for these annual adjustments. This adjustment would likely start after the three year phase-in, and the target fee is reached.

The construction cost index or building cost index published in the Engineering News Record (ENR) are the most widely used to update other types of impact fees. The indices measure changes in building material and labor costs (skilled labor for the building cost index and unskilled labor for the construction cost index). ENR publishes a San Francisco cost index, a California cost index, and a national 20-city average index.

In addition to revising the fee annually for inflation, the City is encouraged to update the housing impact nexus study every five years, or at the very least, update the housing affordability gap used in the basic model. The purpose of these updates is to ensure that the fee is still based on a cost-revenue structure that remains applicable to the Oakland housing market. In this way, the fee will more accurately reflect any potential structural changes in the relationships between affordable prices and rents, market-rate prices and rents, and development costs.

APPENDIX A

IMPLAN METHODOLOGY AND INDUCED JOBS AND WAGES

MULTIPLIER IMPACT ANALYSIS METHODOLOGY OVERVIEW

The multiplier analysis to identify induced jobs and wages was done using the IMPLAN3 Model. The IMPLAN model is an economic data set that has been used for over 35 years to measure the economic impacts of new investments and spending using the industrial relationships defined through an Input-Output Model. The IMPLAN model can estimate economic impacts resulting from changes in industry output, employment, income, and other measures. The latest version of this model is referred to as IMPLAN3. For this study, the IMPLAN3 Model's calculations are based on increases in household incomes as a result of new housing development. Before estimating the growth of consumer expenditures by new residents, the model adjusts gross income to account for the payment of income taxes and for savings.

The input/output analysis using the IMPLAN3 Model was conducted by Applied Development Economics (ADE), a Bay Area economics consulting firm, for Vernazza Wolfe Associates. ADE conducted two separate analyses. The first analysis estimated the household demand for retail goods and personal services that would be generated by the growth of households facilitated by development of new market-rate housing. This demand is based on the projected incomes of the new buyers and renters. The second analysis estimated the multiplier effects that this new household demand would create in terms of employment and labor income.

For this analysis, the input-output model used data specific to Alameda County in order to estimate the multiplier effects resulting from the households that rent or buy new housing units in Oakland. In this case, the multiplier effects derive from new demand for goods and local services (including government) that new households would generate within Alameda County. It does not account for economic impacts generated during the construction period, or any economic impacts that would occur outside of the county.

The economic impacts estimated for this study by the model fall into two categories - direct and induced impacts. For this analysis, the direct impacts represent the household income brought into the community by new residents. The Induced impacts represent the potential effects resulting from household spending at local establishments by the new workers hired as a result of increased household expenditures. These impacts affect all sectors of the economy, but primarily affect retail businesses, health services, personal services providers, and government services. The employment estimates provided by the IMPLAN3 Model cover all types of jobs, including full- and part-time jobs.⁹

⁹ Because the direct impacts come from household spending, and not from business activity and the demand for commodities and services from suppliers to business operations, the indirect effects were not calculated for this study.

Analysis to Estimate Household Demand and Increased Consumer Expenditures

The first analysis undertaken by the IMPLAN3 Model estimated the household demand for retail goods and personal services. It is assumed that buyers and renters of new housing units in Oakland increase demand for goods and services within Alameda County. This demand is based on the projected incomes of renters and owners for each prototype. The IMPLAN3 Model's calculations are based on changes in household income, which adjusts the gross income to account for the payment of income taxes and savings.

Analysis to Estimate Multiplier Effects from New Household Demand

The second step in the analysis is to estimate the induced impacts, or multiplier effects of new household spending in terms of jobs and wage income. The jobs and income calculations are focused on the induced jobs that would be created through local spending by the new households. The input-output model estimates the job impacts by detailed industry sector. Then, the analysis took the detailed industry impact estimates and distributed them by occupational category. The occupational employment data used in the analysis came from the California Employment Development Department (EDD) Labor Market Information Division.

Occupational Analysis

After converting the industry level employment data into employment by occupation, the income distribution of new workers was calculated using the occupational wage data for the Oakland-Fremont-Hayward Metropolitan Division that includes Alameda and Contra Costa Counties. The average wage by occupation was used to make this calculation. The 2015 (first quarter) occupational wage data used in the analysis comes from California's EDD.

SUMMARY TABLES OF INDUCED EMPLOYMENT IMPACTS

Tables A-1 through A-7 summarize the induced employment impacts for development projects for each of the housing development prototypes. The tables identify the total number of induced jobs and the number of jobs and mean annual wages per job by occupation.

Table A-1
Summary of Induced Employment Impacts by Occupation
Prototype H-1A: Single-Family Detached Homes in Urban Infill Locations (East Oakland, primarily)

SOC Code	Occupational Title	Mean Annual Wage	Induced Jobs
	Total all occupations		17.03
11-0000	Management Occupations	\$132,921	0.86
13-0000	Business and Financial Operations Occupations	\$85,001	0.89
15-0000	Computer and Mathematical Occupations	\$102,401	0.34
17-0000	Architecture and Engineering Occupations	\$99,815	0.17
19-0000	Life, Physical, and Social Science Occupations	\$88,094	0.15
21-0000	Community and Social Services Occupations	\$55,951	0.39
23-0000	Legal Occupations	\$112,338	0.12
25-0000	Education, Training, and Library Occupations	\$60,666	0.52
27-0000	Arts, Design, Entertainment, Sports, and Media Occupations	\$59,672	0.28
29-0000	Healthcare Practitioners and Technical Occupations	\$107,400	1.20
31-0000	Healthcare Support Occupations	\$39,944	0.58
33-0000	Protective Service Occupations	\$57,796	0.42
35-0000	Food Preparation and Serving-Related Occupations	\$23,778	2.28
37-0000	Building and Grounds Cleaning and Maintenance Occupations	\$33,118	0.56
39-0000	Personal Care and Service Occupations	\$27,917	1.27
41-0000	Sales and Related Occupations	\$46,670	2.09
43-0000	Office and Administrative Support Occupations	\$44,134	2.76
45-0000	Farming, Fishing, and Forestry Occupations	\$28,395	0.02
47-0000	Construction and Extraction Occupations	\$62,313	0.28
49-0000	Installation, Maintenance, and Repair Occupations	\$56,039	0.60
51-0000	Production Occupations	\$41,629	0.34
53-0000	Transportation and Material Moving Occupations	\$42,568	0.94

Note: The calculations assume a development project of prototype H-1A with 20 units.

Source: ADE, Inc., data from IMPLAN3 input-output model and California Labor Market Information Division.

Table A-2
Summary of Induced Employment Impacts by Occupation
Prototype H-1B: Single-Family Homes in North/South/Lower Hills and Rockridge

SOC Code	Occupational Title	Mean Annual Wage	Induced Jobs
	Total all occupations		203.34
11-0000	Management Occupations	\$132,921	10.20
13-0000	Business and Financial Operations Occupations	\$85,001	11.27
15-0000	Computer and Mathematical Occupations	\$102,401	4.33
17-0000	Architecture and Engineering Occupations	\$99,815	2.37
19-0000	Life, Physical, and Social Science Occupations	\$88,094	2.03
21-0000	Community and Social Services Occupations	\$55,951	4.65
23-0000	Legal Occupations	\$112,338	1.61
25-0000	Education, Training, and Library Occupations	\$60,666	7.71
27-0000	Arts, Design, Entertainment, Sports, and Media Occupations	\$59,672	3.32
29-0000	Healthcare Practitioners and Technical Occupations	\$107,400	13.00
31-0000	Healthcare Support Occupations	\$39,944	6.11
33-0000	Protective Service Occupations	\$57,796	6.06
35-0000	Food Preparation and Serving-Related Occupations	\$23,778	24.60
37-0000	Building and Grounds Cleaning and Maintenance Occupations	\$33,118	6.63
39-0000	Personal Care and Service Occupations	\$27,917	14.33
41-0000	Sales and Related Occupations	\$46,670	24.78
43-0000	Office and Administrative Support Occupations	\$44,134	33.57
45-0000	Farming, Fishing, and Forestry Occupations	\$28,395	0.20
47-0000	Construction and Extraction Occupations	\$62,313	3.82
49-0000	Installation, Maintenance, and Repair Occupations	\$56,039	7.15
51-0000	Production Occupations	\$41,629	4.07
53-0000	Transportation and Material Moving Occupations	\$42,568	11.51

Note: The calculations assume a development project of prototype H-1B with 100 units

Source: ADE, Inc., data from IMPLAN3 input-output model and California Labor Market Information Division.

Table A-3
Summary of Induced Employment Impacts by Occupation
Prototype H-2A: Townhomes/Row Houses
In Urban Infill Locations (West Oakland and Parts of North Oakland)

SOC Code	Occupational Title	Mean Annual Wage	Induced Jobs
	Total all occupations		32.86
11-0000	Management Occupations	\$132,921	1.63
13-0000	Business and Financial Operations Occupations	\$85,001	1.73
15-0000	Computer and Mathematical Occupations	\$102,401	0.66
17-0000	Architecture and Engineering Occupations	\$99,815	0.33
19-0000	Life, Physical, and Social Science Occupations	\$88,094	0.29
21-0000	Community and Social Services Occupations	\$55,951	0.74
23-0000	Legal Occupations	\$112,338	0.23
25-0000	Education, Training, and Library Occupations	\$60,666	1.08
27-0000	Arts, Design, Entertainment, Sports, and Media Occupations	\$59,672	0.53
29-0000	Healthcare Practitioners and Technical Occupations	\$107,400	2.26
31-0000	Healthcare Support Occupations	\$39,944	1.08
33-0000	Protective Service Occupations	\$57,796	0.83
35-0000	Food Preparation and Serving-Related Occupations	\$23,778	4.31
37-0000	Building and Grounds Cleaning and Maintenance Occupations	\$33,118	1.06
39-0000	Personal Care and Service Occupations	\$27,917	2.41
41-0000	Sales and Related Occupations	\$46,670	4.10
43-0000	Office and Administrative Support Occupations	\$44,134	5.35
45-0000	Farming, Fishing, and Forestry Occupations	\$28,395	0.03
47-0000	Construction and Extraction Occupations	\$62,313	0.54
49-0000	Installation, Maintenance, and Repair Occupations	\$56,039	1.14
51-0000	Production Occupations	\$41,629	0.66
53-0000	Transportation and Material Moving Occupations	\$42,568	1.84

Note: The calculations assume a development project of prototype H-2A with 30 units.

Source: ADE, Inc., data from IMPLAN3 input-output model and California Labor Market Information Division.

Table A-4
Summary of Induced Employment Impacts by Occupation
Prototype H-2B: Townhomes/Row Houses in North Hills/South Hills

SOC Code	Occupational Title	Mean Annual Wage	Induced Jobs
	Total all occupations		39.75
11-0000	Management Occupations	\$132,921	1.99
13-0000	Business and Financial Operations Occupations	\$85,001	2.20
15-0000	Computer and Mathematical Occupations	\$102,401	0.85
17-0000	Architecture and Engineering Occupations	\$99,815	0.46
19-0000	Life, Physical, and Social Science Occupations	\$88,094	0.40
21-0000	Community and Social Services Occupations	\$55,951	0.91
23-0000	Legal Occupations	\$112,338	0.31
25-0000	Education, Training, and Library Occupations	\$60,666	1.51
27-0000	Arts, Design, Entertainment, Sports, and Media Occupations	\$59,672	0.65
29-0000	Healthcare Practitioners and Technical Occupations	\$107,400	2.54
31-0000	Healthcare Support Occupations	\$39,944	1.19
33-0000	Protective Service Occupations	\$57,796	1.19
35-0000	Food Preparation and Serving-Related Occupations	\$23,778	4.81
37-0000	Building and Grounds Cleaning and Maintenance Occupations	\$33,118	1.30
39-0000	Personal Care and Service Occupations	\$27,917	2.80
41-0000	Sales and Related Occupations	\$46,670	4.84
43-0000	Office and Administrative Support Occupations	\$44,134	6.56
45-0000	Farming, Fishing, and Forestry Occupations	\$28,395	0.04
47-0000	Construction and Extraction Occupations	\$62,313	0.75
49-0000	Installation, Maintenance, and Repair Occupations	\$56,039	1.40
51-0000	Production Occupations	\$41,629	0.80
53-0000	Transportation and Material Moving Occupations	\$42,568	2.25

Note: The calculations assume a development project of prototype H-2B with 30 units.

Source: ADE, Inc., data from IMPLAN3 input-output model and California Labor Market Information Division.

Table A-5
Summary of Induced Employment Impacts by Occupation
Prototype H-3: Lower and Mid-Rise Rental Apartments
West Oakland, East Oakland, and Parts of North Oakland

SOC Code	Occupational Title	Mean Annual Wage	Induced Jobs
	Total all occupations		39.75
11-0000	Management Occupations	\$132,921	1.99
13-0000	Business and Financial Operations Occupations	\$85,001	2.20
15-0000	Computer and Mathematical Occupations	\$102,401	0.85
17-0000	Architecture and Engineering Occupations	\$99,815	0.46
19-0000	Life, Physical, and Social Science Occupations	\$88,094	0.40
21-0000	Community and Social Services Occupations	\$55,951	0.91
23-0000	Legal Occupations	\$112,338	0.31
25-0000	Education, Training, and Library Occupations	\$60,666	1.51
27-0000	Arts, Design, Entertainment, Sports, and Media Occupations	\$59,672	0.65
29-0000	Healthcare Practitioners and Technical Occupations	\$107,400	2.54
31-0000	Healthcare Support Occupations	\$39,944	1.19
33-0000	Protective Service Occupations	\$57,796	1.19
35-0000	Food Preparation and Serving-Related Occupations	\$23,778	4.81
37-0000	Building and Grounds Cleaning and Maintenance Occupations	\$33,118	1.30
39-0000	Personal Care and Service Occupations	\$27,917	2.80
41-0000	Sales and Related Occupations	\$46,670	4.84
43-0000	Office and Administrative Support Occupations	\$44,134	6.56
45-0000	Farming, Fishing, and Forestry Occupations	\$28,395	0.04
47-0000	Construction and Extraction Occupations	\$62,313	0.75
49-0000	Installation, Maintenance, and Repair Occupations	\$56,039	1.40
51-0000	Production Occupations	\$41,629	0.80
53-0000	Transportation and Material Moving Occupations	\$42,568	2.25

Note: The calculations assume a development project of prototype H-3 with 120 units.

Source: ADE, Inc., data from IMPLAN3 input-output model and California Labor Market Information Division.

Table A-6
Summary of Induced Employment Impacts by Occupation
Prototype H-4: Mid-Rise Rental Apartments
Downtown, Jack London, Broadway-Valdez, and Parts of North Oakland

SOC Code	Occupational Title	Mean Annual Wage	Induced Jobs
	Total all occupations		176.87
11-0000	Management Occupations	\$132,921	8.84
13-0000	Business and Financial Operations Occupations	\$85,001	9.47
15-0000	Computer and Mathematical Occupations	\$102,401	3.62
17-0000	Architecture and Engineering Occupations	\$99,815	1.89
19-0000	Life, Physical, and Social Science Occupations	\$88,094	1.63
21-0000	Community and Social Services Occupations	\$55,951	4.01
23-0000	Legal Occupations	\$112,338	1.28
25-0000	Education, Training, and Library Occupations	\$60,666	6.10
27-0000	Arts, Design, Entertainment, Sports, and Media Occupations	\$59,672	2.87
29-0000	Healthcare Practitioners and Technical Occupations	\$107,400	11.90
31-0000	Healthcare Support Occupations	\$39,944	5.66
33-0000	Protective Service Occupations	\$57,796	4.75
35-0000	Food Preparation and Serving-Related Occupations	\$23,778	22.60
37-0000	Building and Grounds Cleaning and Maintenance Occupations	\$33,118	5.76
39-0000	Personal Care and Service Occupations	\$27,917	12.82
41-0000	Sales and Related Occupations	\$46,670	21.83
43-0000	Office and Administrative Support Occupations	\$44,134	28.94
45-0000	Farming, Fishing, and Forestry Occupations	\$28,395	0.17
47-0000	Construction and Extraction Occupations	\$62,313	3.07
49-0000	Installation, Maintenance, and Repair Occupations	\$56,039	6.19
51-0000	Production Occupations	\$41,629	3.55
53-0000	Transportation and Material Moving Occupations	\$42,568	9.92

Note: The calculations assume a development project of prototype H-4 with 180 units.

Source: ADE, Inc., data from IMPLAN3 input-output model and California Labor Market Information Division.

Table A-7
Summary of Induced Employment Impacts by Occupation
Prototype H-5: High-Rise Rental Apartments on Prime Sites
Downtown, Jack London, Broadway-Valdez, and Parts of Estuary Waterfront

SOC Code	Occupational Title	Mean Annual Wage	Induced Jobs
	Total all occupations		275.18
11-0000	Management Occupations	\$132,921	13.72
13-0000	Business and Financial Operations Occupations	\$85,001	14.70
15-0000	Computer and Mathematical Occupations	\$102,401	5.62
17-0000	Architecture and Engineering Occupations	\$99,815	2.92
19-0000	Life, Physical, and Social Science Occupations	\$88,094	2.53
21-0000	Community and Social Services Occupations	\$55,951	6.23
23-0000	Legal Occupations	\$112,338	1.98
25-0000	Education, Training, and Library Occupations	\$60,666	9.50
27-0000	Arts, Design, Entertainment, Sports, and Media Occupations	\$59,672	4.46
29-0000	Healthcare Practitioners and Technical Occupations	\$107,400	18.54
31-0000	Healthcare Support Occupations	\$39,944	8.81
33-0000	Protective Service Occupations	\$57,796	7.34
35-0000	Food Preparation and Serving-Related Occupations	\$23,778	35.24
37-0000	Building and Grounds Cleaning and Maintenance Occupations	\$33,118	8.94
39-0000	Personal Care and Service Occupations	\$27,917	19.97
41-0000	Sales and Related Occupations	\$46,670	34.10
43-0000	Office and Administrative Support Occupations	\$44,134	45.01
45-0000	Farming, Fishing, and Forestry Occupations	\$28,395	0.26
47-0000	Construction and Extraction Occupations	\$62,313	4.74
49-0000	Installation, Maintenance, and Repair Occupations	\$56,039	9.59
51-0000	Production Occupations	\$41,629	5.52
53-0000	Transportation and Material Moving Occupations	\$42,568	15.44

Note: The calculations assume a development project of prototype H-5 with 220 units.

Source: ADE, Inc., data from IMPLAN3 input-output model and California Labor Market Information Division.

APPENDIX B

HOUSING AFFORDABILITY GAP ANALYSIS

Estimating the housing affordability gap is necessary to calculate the maximum legal housing impact fees. The affordability gap is used to calculate the cost of developing affordable housing for new worker households with lower and moderate incomes (see Step 9 of the nexus methodology). This Appendix presents the analytic steps taken to calculate the housing affordability gap and the results of the calculations.

The housing affordability gap is defined as the difference between what extremely low-, very low-, low-, and moderate-income households can afford to pay for housing and the costs of developing new, modest housing units for those households. Calculating the housing affordability gap involves the following three steps:

1. Estimating affordable rents and housing prices for households in targeted income groups.
2. Estimating development costs of building new, modest housing units, based on current costs and additional market data.
3. Calculating the difference between what renters and owners can afford to pay for housing and the development costs of rental and ownership units.

Each step is described in the sections that follow.

ESTIMATING AFFORDABLE RENTS AND SALES PRICES

The first step in calculating the housing affordability gap is to determine the maximum amount that households at the targeted income levels can afford to pay for housing. For eligibility purposes, most affordable housing programs define extremely low-income households as those earning approximately 30 percent or less of area median income (AMI), very low-income households as those earning approximately 50 percent or less of AMI, low-income households as those earning between 51 and 80 percent of AMI, and moderate-income households as those earning between 81 and 120 percent of AMI. In order to ensure that the calculations to define affordability do not overstate affordability for the categories defined by ranges, this analysis does not use the top incomes for the low- and moderate-income groups, 80% and 120% respectively, but uses lower threshold incomes for those groups.

Table B-1 presents the unit types and household sizes used in the gap analysis. Table B-2 provides the income assumptions that are used.

Table B-1
Unit Types and Household Sizes
Used in Housing Affordability Gap Analysis

Unit Type	Rental Household Size	Ownership Household Size
Studio	1 person	NA
1-bedroom	2 person	1.5 person
2-bedroom	3 person	3 person
3- bedroom	4 person	4 person
4- bedroom	5 person	5 person

Source: Vernazza Wolfe Associates Inc.

Table B-2
Income Assumptions by Tenure
Used in Affordability Gap Analysis

Income Category	Percent of Area Median Income Assumed in Gap Calculations/a/
Rental Housing	
Extremely Low-Income	30%
Very Low-Income	50%
Low-Income/b/	60%
Moderate-Income/c/	110%
Ownership Housing	
Very Low-Income	50%
Low-Income/b/	70%
Moderate-Income/c/	110%

/a/ Area median income for the City of Oakland

/b/ Although the Affordability Gap calculations use 60% (for rental) and 70% (for owners) of AMI for affordability gap calculations, the Housing Impact Fee calculations for rental housing still include households up to 80% AMI as low-income.

/c/ Although the Affordability Gap calculations use 110% of AMI for both rental and ownership affordability gap calculations, the Housing Impact Fee calculations still include households up to 120% AMI as moderate-income.

Source: Vernazza Wolfe Associates Inc.

Table B-3 shows the incomes used for both the rental and ownership gap calculations for the different affordable income categories. Table B-4 demonstrates the rents that are affordable at each income level used in this study. The maximum affordable monthly rent is calculated as 30 percent of gross monthly household income, minus a deduction for utilities. The utility allowance is included in both the rental and ownership affordability calculations. Assumptions used in the calculation of utility costs are based on schedules provided by the Oakland Housing Authority (based on unit sizes) and information from the US Census on utilities commonly used in rental and ownership housing units.

Table B-3
City of Oakland Income Limits
By Tenure for Affordability Gap Analysis

Income Category	Number of Persons in Household					
	1	1.5	2	3	4	5
Rental Housing						
Extremely Low Income (30% AMI)	\$19,500	NA	\$22,300	\$25,100	\$27,850	\$30,100
Very Low Income (50% AMI)	\$32,550	NA	\$37,200	\$41,850	\$46,450	\$50,200
Low Income (60% AMI)	\$39,060	NA	\$44,640	\$50,220	\$55,740	\$60,240
Moderate Income (110% AMI)	\$71,995	NA	\$82,280	\$92,565	\$102,850	\$111,100
Ownership Housing						
Very Low Income (50% AMI)	\$32,550	\$34,875	\$37,200	\$41,850	\$46,450	\$50,200
Low Income (70% AMI)	\$44,610	\$47,790	\$50,970	\$57,340	\$63,670	\$68,800
Moderate Income (110% AMI)	\$71,995	\$77,138	\$82,280	\$92,565	\$102,850	\$111,100

Note: 30%, 50%, 60%, and 70% of AMI income limits provided by the City of Oakland based on the 2015 HOME Income Limits. 110% of AMI calculated based on median household incomes provided by the City of Oakland.

Sources: City of Oakland; Vernazza Wolfe Associates, Inc., 2015.

Table B-4
Affordable Rent Calculations by Income Level and Unit Type

	Studio	1 BR	2 BR	3 BR	4 BR
Household Size (Persons per HH)	1	2	3	4	5
Extremely Low Income (30% AMI)					
Maximum Household Income at 30% AMI	\$19,500	\$22,300	\$25,100	\$27,850	\$30,100
Maximum Monthly Housing Cost/a/	\$488	\$558	\$628	\$696	\$753
Utility Deduction/b/	\$34	\$40	\$49	\$60	\$74
Maximum Available for Rent/c/	\$454	\$518	\$579	\$636	\$679
Maximum Available for Rent (Unit Type)	\$454	\$518	\$579	\$636	\$679
Very Low Income (50% AMI)					
Maximum Household Income at 50% AMI	\$32,550	\$37,200	\$41,850	\$46,450	\$50,200
Maximum Monthly Housing Cost/a/	\$814	\$930	\$1,046	\$1,161	\$1,255
Utility Deduction/b/	\$34	\$40	\$49	\$60	\$74
Maximum Available for Rent/c/	\$780	\$890	\$997	\$1,101	\$1,181
Maximum Available for Rent (Unit Type)	\$780	\$890	\$997	\$1,101	\$1,181
Low Income (60% AMI)					
Maximum Household Income at 60% AMI	\$39,060	\$44,640	\$50,220	\$55,740	\$60,240
Maximum Monthly Housing Cost/a/	\$977	\$1,116	\$1,256	\$1,394	\$1,506
Utility Deduction/b/	\$34	\$40	\$49	\$60	\$74
Maximum Available for Rent/c/	\$943	\$1,076	\$1,207	\$1,334	\$1,432
Maximum Available for Rent (Unit Type)	\$943	\$1,076	\$1,207	\$1,334	\$1,432
Moderate Income (110% AMI)					
Maximum Household Income at 110% AMI	\$71,995	\$82,280	\$92,565	\$102,850	\$111,100
Maximum Monthly Housing Cost/a/	\$1,800	\$2,057	\$2,314	\$2,571	\$2,778
Utility Deduction/b/	\$34	\$40	\$49	\$60	\$74
Maximum Available for Rent/c/	\$1,766	\$2,017	\$2,265	\$2,511	\$2,704
Maximum Available for Rent (Unit Type)	\$1,766	\$2,017	\$2,265	\$2,511	\$2,704

/a/ 30 percent of maximum monthly household income.

/b/ Assumptions used in the calculation of utility costs are based on schedules by unit size provided by the Oakland Housing Authority and information from the US Census on utilities commonly used in rental and ownership housing units.

/c/ Maximum monthly housing cost minus utility deduction.

Sources: City of Oakland, 2015; Oakland Housing Authority, 2014; Vernazza Wolfe Associates, Inc. 2015

Table B-5 presents the affordable homeownership calculations which are more complex than the affordable rental housing calculations. Very low-income and low-income homeowners are assumed to pay a maximum of 30 percent of gross monthly income on total housing costs, and moderate-income households are assumed to pay 35% of gross monthly income on total housing costs. The maximum affordable price for for-sale housing is then calculated based on the total monthly mortgage payment that a homeowner could afford, using standard loan terms used by CalHFA programs and many private lenders for first-time homebuyers, including a five percent down payment.

Table B-5
Affordable Sales Price Calculations by Income Level and Unit Type

Income Level and Unit Type/a/	Affordable Sales Price/b/
Very Low-Income Households (50% AMI)	
1 Bedroom	\$61,657
2 Bedroom	\$87,572
3 Bedroom	\$104,663
4 Bedroom	\$118,596
Low-Income Households (70% AMI)	
1 Bedroom	\$109,641
2 Bedroom	\$145,124
3 Bedroom	\$168,642
4 Bedroom	\$187,702
Moderate-Income Households (110% AMI)	
1 Bedroom	\$266,445
2 Bedroom	\$333,318
3 Bedroom	\$377,900
4 Bedroom	\$413,660

/a/ The sales price table differs from the rental table in that a studio unit is not included for the sales calculations. This reflects the fact that there are no studio units developed for sale in single-family detached or townhouse development in the Oakland housing market.

/b/ Assumes 30% of gross annual household income allocated to housing costs. Affordable sales prices are based on a number of assumptions, including standard loan terms for first-time homebuyers used by CalHFA programs and many private lenders:

- Downpayment: 5%
- Mortgage term: 30-year fixed rate
- Interest rate: 4.125%
- Property mortgage insurance: 0.89% of sales price
- Property insurance: 0.35% of sales price
- Property maintenance reserve: \$300 per month

Source: Vernazza Wolfe Associates Inc.

ESTIMATING HOUSING DEVELOPMENT COSTS

The second step in calculating the housing affordability gap is to estimate the cost of developing new, modest housing units. Modest housing is defined slightly differently for rental and ownership housing. For rental housing, the costs and characteristics of modest housing are similar to recent projects developed in Oakland by the affordable rental housing development sector. Modest for-sale housing is assumed to be similar to modest sized and priced single-family homes developed in Oakland.

The calculation of housing development costs used in the housing affordability gap analysis requires several steps. Because the gap covers both rental housing and for-sale housing, it is necessary to estimate costs for each separately. Table B-6 presents development costs for rental and ownership housing.

Rental Housing Development Costs

No one rental housing project is used to model rental housing development costs. Costs used in this Study are more “synthetic” in nature and depend on multiple data sources. The determination of new rental unit development costs relied on two steps. First, it is necessary to develop costs per square foot. For this analysis, pro formas from four Oakland, affordable, family rental developments were examined.¹⁰ The average development cost per square foot is \$515/SF for mid-rise multi-family development.

The second step is to determine the size of rental units (in square feet). This rounded size estimate is undertaken for all unit sizes - studio units through four-bedroom units. Once unit sizes are determined, the same square foot cost measure is applied to each unit size to develop estimates of rental housing development costs for each unit size included in the analysis.¹¹

For-Sale Housing Development Costs

To model for-sale housing development costs, there were fewer examples to consider. However, two recent modest developments in East Oakland were studied – Arcadia Park in East Oakland and a recent Habitat for Humanity development on Edes Avenue and adjacent streets, also in East Oakland. The City of Oakland provided a pro forma for the Habitat for Humanity homes. For Arcadia Park, this study used initial sales price information, provided by DataQuick (to provide the basis for estimating total development costs). Again, average costs per SF were estimated. Based on this information, a development cost of \$400/SF was estimated and used in

¹⁰ These projects include developments at 3706 San Pablo, West Grand and Brush, Phase I at 94th and International, and 1701 MLK.

¹¹ In reality, square foot costs are not the same across unit sizes. For example, they are generally higher for smaller units and lower for larger units. However, for the purpose of this study, the cost measure developed was an average across several different unit sizes.

the analysis.¹² Rounded unit size information for the one- through four-bedroom units included in the gap analysis was based on the Habitat for Humanity homes.¹³

Table B-6
Unit Types, Sizes, and Costs Used in Housing Affordability Gap Analysis

Unit Type by Number of Bedrooms	Unit Size (net SF)	Development Costs
Rental Housing Development Cost @ \$515 per Net SF		
(mid-rise multi-family development)		
Studio	500	\$257,500
1	600	\$309,000
2	850	\$437,750
3	1,200	\$618,000
4	1,500	\$772,500
For-Sale Housing Development Cost @ \$400 per Net SF		
(modest, single-family home development)		
1	900	\$360,000
2	1,150	\$460,000
3	1,450	\$580,000
4	1,500	\$600,000

Sources: Vernazza Wolfe Associates, Inc., City of Oakland Housing Pro Formas, and DataQuick Sales Data.

CALCULATING THE HOUSING AFFORDABILITY GAP

The final step in the analysis is to calculate the housing affordability gap, or the difference between what renters and owners can afford to pay and the total cost of developing new units. The purpose of the housing affordability gap calculation is to help determine the fee amount that would be necessary to cover the cost of developing housing for extremely low-, very low-, low-, and moderate-income households.¹⁴ The calculation does not assume the availability of any other source of housing subsidy because not all "modest" housing is built with public subsidies, and because tax credits and tax-exempt bond financing are highly competitive programs that will not always be available to developers of modest housing units.

¹² The Habitat for Humanity costs includes prevailing wages.

¹³ Arcadia Park homes are all three-bedroom units and are slightly larger than the three-bedroom, Habitat for Humanity homes. Arcadia Park homes have three bathrooms, and Habitat for Humanity homes average two bathrooms per unit.

¹⁴ Although the affordability gap calculations are done for developing housing for extremely low-, very low-, low-, and moderate-income households, the nexus calculations do not use the gap amounts for extremely low-income households as the IMPLAN3 Model results do not identify worker households in that category.

Table B-7 shows the housing affordability gap calculations for rental housing units. For each rental unit type and income level, the gap is defined as the difference between the per-unit cost of development and the supportable debt per unit. The supportable debt is calculated based on the net operating income generated by an affordable monthly rent, incorporating assumptions about operating expenses, reserves, vacancy and collection loss, and market-rate mortgage terms. Because household sizes are not uniform and the type of units each household may occupy is variable, the housing affordability gap is calculated by averaging the housing affordability gaps for the unit sizes (studios through four-bedroom units).

**Table B-7
Rental Housing Affordability Gap Calculations**

Income Level and Unit Type	Unit Size (SF)	Maximum Monthly Rent/a/	Annual Income	Net Operating Income/b/	Available for Debt Service/c/	Supportable Debt/d/	Development Costs/e/	Affordability Gap
Extremely Low-Income (30% AMI)								
Studio	500	\$454	\$5,442	(\$2,330)	\$0	\$0	\$257,500	\$257,500
1 Bedroom	600	\$518	\$6,210	(\$1,601)	\$0	\$0	\$309,000	\$309,000
2 Bedroom	850	\$579	\$6,942	(\$905)	\$0	\$0	\$437,750	\$437,750
3 Bedroom	1,200	\$636	\$7,635	(\$247)	\$0	\$0	\$618,000	\$618,000
4 Bedroom	1,500	\$679	\$8,142	\$235	\$235	\$3,106	\$772,500	\$769,394
Average Affordability Gap/f/								\$478,329
Very Low-Income (50% AMI)								
Studio	500	\$780	\$9,357	\$1,389	\$1,111	\$14,695	\$257,500	\$242,805
1 Bedroom	600	\$890	\$10,680	\$2,646	\$2,117	\$27,990	\$309,000	\$281,010
2 Bedroom	850	\$997	\$11,967	\$3,869	\$3,095	\$40,923	\$437,750	\$396,827
3 Bedroom	1,200	\$1,101	\$13,215	\$5,054	\$4,043	\$53,465	\$618,000	\$564,535
4 Bedroom	1,500	\$1,181	\$14,172	\$5,963	\$4,771	\$63,082	\$772,500	\$709,418
Average Affordability Gap/f/								\$438,919
Low-Income (60% AMI)								
Studio	500	\$943	\$11,310	\$3,245	\$2,596	\$34,321	\$257,500	\$223,179
1 Bedroom	600	\$1,076	\$12,912	\$4,766	\$3,813	\$50,420	\$309,000	\$258,580
2 Bedroom	850	\$1,207	\$14,478	\$6,254	\$5,003	\$66,157	\$437,750	\$371,593
3 Bedroom	1,200	\$1,334	\$16,002	\$7,702	\$6,162	\$81,472	\$618,000	\$536,528
4 Bedroom	1,500	\$1,432	\$17,184	\$8,825	\$7,060	\$93,351	\$772,500	\$679,149
Average Affordability Gap/f/								\$413,806
Moderate-Income (110% AMI)								
Studio	500	\$1,766	\$21,191	\$12,631	\$10,105	\$133,613	\$257,500	\$123,887
1 Bedroom	600	\$2,017	\$24,204	\$15,494	\$12,395	\$163,897	\$309,000	\$145,103
2 Bedroom	850	\$2,265	\$27,182	\$18,322	\$14,658	\$193,819	\$437,750	\$243,931
3 Bedroom	1,200	\$2,511	\$30,135	\$21,128	\$16,903	\$223,499	\$618,000	\$394,501
4 Bedroom	1,500	\$2,704	\$32,442	\$23,320	\$18,656	\$246,683	\$772,500	\$525,817
Average Affordability Gap/f/								\$286,648

Note: The calculations do not assume the availability of any other sources of housing subsidy because not all "modest" housing is built with public subsidies, and tax credits and tax-exempt bond financing are highly competitive programs that will not always be available to developers of modest housing units.

/a/ Affordable rents are based on City of Oakland's 2015 Income Limits. These are net rents, since utility costs have been deducted.

/b/ Amount available for debt. Assumes 5% vacancy and collection loss and \$7,500 per unit for operating expenses and reserves.

/c/ Assumes 1.25 Debt Coverage Ratio.

/d/ Assumes 5.38%, 30 year loan. Calculations based on annual payments.

/e/ Assumes development cost of \$515 per net square foot on rental units.

/f/ Calculated as the simple average across all unit sizes because of variability in the relationship between household size and the type of unit occupied.

Sources: Vernazza Wolfe Associates, Inc., and selected Oakland Rental Housing Pro Formas.

Table B-8 shows the housing affordability gap calculations for ownership units.¹⁵ For each unit type, the gap is calculated as the difference between the per-unit cost of development and the affordable sales price at each income level. As with rental housing, the average housing affordability gap for each income level is calculated by averaging the housing affordability gaps across unit sizes.

Table B-8				
For-Sale Housing Affordability Gap Calculations				
Income Level and Unit Type	Unit Size (SF)	Affordable Sales Price/a/	Development Costs/b/	Affordability Gap/c/
Very Low-Income (50% AMI)				
1 Bedroom	900	\$61,657	\$360,000	\$298,343
2 Bedroom	1,150	\$87,572	\$460,000	\$372,428
3 Bedroom	1,450	\$104,663	\$580,000	\$475,337
4 Bedroom	1,500	\$118,596	\$600,000	\$481,404
Average Affordability Gap/d/				\$406,878
Low Income (70% of AMI)				
1 Bedroom	900	\$109,641	\$360,000	\$250,359
2 Bedroom	1,150	\$145,124	\$460,000	\$314,876
3 Bedroom	1,450	\$168,642	\$580,000	\$411,358
4 Bedroom	1,500	\$187,702	\$600,000	\$412,298
Average Affordability Gap/d/				\$347,223
Moderate Income (110% of AMI)				
1 Bedroom	900	\$266,445	\$360,000	\$93,555
2 Bedroom	1,150	\$333,318	\$460,000	\$126,682
3 Bedroom	1,450	\$377,900	\$580,000	\$202,100
4 Bedroom	1,500	\$413,660	\$600,000	\$186,340
Average Affordability Gap/d/				\$152,169

Note: The calculations do not assume the availability of any other sources of housing subsidy because not all "modest" housing is built with public subsidies, and tax credits and tax-exempt bond financing are highly competitive programs that will not always be available to developers of modest housing units.

/a/ See Table A-5.

/b/ Assumes \$400/SF for development costs.

/c/ Calculated as the difference between affordable sales price and development cost.

/d/ Calculated as the simple average across all unit sizes because of variability in the relationship between household size and the type of unit occupied.

Sources: Vernazza Wolfe Associates, Inc., Habitat for Humanity pro forma, and DataQuick Sales Data.

¹⁵ The affordability gap for ownership housing is not calculated for the extremely low-income category.

Finally, Table B-9 presents the tenure-neutral estimates of the housing affordability gap for extremely low-, very low-, low-, and moderate-income households by averaging the rental and ownership gaps for each income group. The calculated average affordability gap per household is \$478,329 for extremely low-income households, \$422,898 for very low-income households, \$380,514 for low-income households, and \$219,409 for moderate-income households. The housing affordability gap is highest for extremely low-income households because they have the least money to spend on housing costs. The gap is also higher for rental housing due to the higher development cost per square foot in comparison to for-sale development costs.¹⁶

Table B-9
Combined Average Affordability Gap by Income Group

Income Level	Rental Gap	Ownership Gap	Combined Average Affordability Gap
Extremely Low-Income (30% AMI)	\$478,329	NA	\$478,329
Very Low-Income (50% AMI)	\$438,919	\$406,878	\$422,898
Low-Income (60% - 70% AMI)	\$413,806	\$347,223	\$380,514
Moderate-Income (110% AMI)	\$286,648	\$152,169	\$219,409

Source: Vernazza Wolfe Associates, Inc. 2015.

¹⁶ As identified earlier in this appendix, the development of rental housing assumes mid-rise multi-family development which is higher cost per square foot than development of modest, single-family homes as ownership housing.