

Case File No. CV10116

Location:	522-20th Street (Thomas Berkley Way) (APN 08-0645-006-00)
Assessors Parcel Number:	
Proposal:	Temporary surface auto-fee parking (four years), with up to 49 parking spaces
Applicant:	Terra Linda Development Services, LLC
Owner:	Patrick White
Planning Permits Required:	Minor Conditional Use Permit for Auto-Fee Parking with fewer than 50 parking spaces; Minor Variance for a surface parking lot where the zoning provisions require auto-fee parking lots to be enclosed or in structured garages.
General Plan:	Central Business District
Zoning:	CBD-X
Environmental Determination:	Exempt, CEQA sections: 15304, Minor Alterations to land; 15311, Accessory Structures; 15332-Infill Development Projects.
Historic Status:	Not a PDHP; vacant
Service Delivery District:	I – Downtown/West Oakland/Harbor
City Council district:	3
Date Filed:	May 7, 2010
Staff Recommendation:	Decision based on staff report
Finality of Decision:	Appealable to City Council within 10 days of final action on the project.
For further information:	Contact case planner Catherine Payne at (510) 238-6168 or cpayne@oaklandnet.com .

SUMMARY

Terra Linda Development Services, LLC., on behalf of Patrick White, has submitted an application for a minor variance to allow a surface auto-fee parking lot for up to 49 spaces at 522-20th Street (also known as Thomas Berkley Way), in the Central Business District (CBD). The use is proposed on a temporary basis (four years) on a site that is currently entitled for highrise residential development (Project Case REV070014). Auto fee parking requires a conditional use permit in the CBD, but is only allowed if in a multi-story garage or underground. Therefore, a variance is also required to allow for a surface parking lot in lieu of a structure.

CITY OF OAKLAND PLANNING COMMISSION



0 125 250 500 750 1,000 Feet



Case File: CV10-116 (related to REV07-0014)
Applicant: Terra Linda Development Services, LLC
Address: 522- 20th Street
Zone: CBD-X

Case File No. CV10116**PROJECT SITE AND SURROUNDING AREA**

The 4,500 square foot site is located in downtown Oakland on 20th Street between San Pablo and Telegraph Avenues (across from the Uptown project) and is currently vacant. The site was most recently used as a surface parking lot for 40 spaces. The parking lot was improved without necessary permits. The site was previously developed with a commercial building and used as retail until it was demolished in 2000. The recently constructed Uptown residential project is located directly across the street from the subject property. Additional surrounding land uses include small retail businesses, offices, and residential facilities that vary in height from 2 to 23 stories. The project is located within a few blocks of the 19th Street BART station and is served by multiple AC Transit lines. The General Plan designation for the site is Central Business District (as described in more detail in this staff report), which anticipates a mix of high-density, urban, residential uses with business oriented development.

BACKGROUND

The 4,500 square foot site is located in downtown, immediately north of the Uptown site. The site was previously developed with a commercial building and contained retail uses until the building was demolished in 2000. Since that time, the site has been used for auto-fee parking. In 2005, the property was entitled for a 5-story building with up to 20 residential units located above 20 parking spaces and 1,700 square feet of ground floor commercial space. The project was revised to include only 18 units in 2005 and permits are extended through December 31, 2011.

Temporary Conditional Use Permit Proposal

The application considered in this report is part of the interest in temporary activities in Oakland. This interest triggered research into and development of a temporary use permit proposal previously considered by the Planning Commission. The City of Oakland does not currently address temporary permits; however, without regulations for temporary permits, there is no standardized method for considering and regulating temporary uses in general, and for ensuring their removal after a specified period of time. To date, the Planning Commission has declined to make a recommendation regarding the temporary conditional use permit regulation proposal and requested staff to conduct further study regarding a standardized approach.

Public Comment from Previous Consideration of Proposal

This item previously was scheduled for consideration by the Planning Commission on January 19, 2011. However, the Planning Commission requested continuance of the item until such time as a proposal for temporary conditional use permits would be considered by the Planning Commission. Although the Planning Commission did not consider the item, public comments were heard. In general, public comments expressed support for this specific proposal, noting the need for auto-fee parking to serve nearby employment centers and entertainment venues in the

Case File No. CV10116

area. There has been opposition expressed for surface parking lots downtown, even where such uses would be required to terminate within a specified timeframe

PROJECT DESCRIPTION

The proposed project is a temporary surface auto-fee parking lot at 522-20th Street in the CBD. The project includes up to 20 marked spaces and can accommodate up to 49 vehicles with valet services. The proposal is to accommodate the surface parking lot for up to four (4) years on the expectation that the economy will improve enough to allow investment into a residential project similar to the one approved by the Planning Commission in 2005. The site is currently paved and fenced, and has one curb cut providing site ingress and egress. The proposed new features would include restriping (paint) and a pay station for when valet services are not available.

GENERAL PLAN ANALYSIS*Land Use and Transportation Element*

The proposed project site is located within the Central Business District (CBD) land use designation of the Land Use and Transportation Element (LUTE). The intent of the CBD classification is "to encourage, support and enhance the downtown area as a high density mixed use urban center of regional importance and a primary hub for business, communications, office, government, high technology, retail, entertainment, and transportation in Northern California." Although auto-fee parking is a necessary land use in a densely developed business district, the LUTE specifically discourages surface parking (see below). Specific policies that relate to the proposed project include the following (staff analysis of application to project is in indented, italicized text following each policy):

- **Policy D3.2: Incorporating Parking Facilities:** New parking facilities for cars and bicycles should be incorporated into the design of any project in a manner that encourages and promotes safe pedestrian activity.
 - *The project relies on existing curb cuts and ingress and egress points located on 20th Street.*
- **Policy D6.1: Developing Vacant Lots:** Construction on vacant land or to replace surface parking lots should be encouraged throughout downtown, where possible.
 - *The proposed project would be temporary and would not impede planned development of the site. The site was previously entitled for a moderate-density residential project; however, due to the poor economy, the applicant is not able to finance the planned project at this time. Although the proposed surface parking lot is antithetical to the goals of the LUTE, the use would be temporary and consistent with previous but unauthorized use of the site.*

Case File No. CV10116

- **Policy D9.1: Concentrating Commercial Development:** Concentrate region-serving or “destination” commercial development in the corridor around Broadway between 12th and 21st streets, In Chinatown, and along the Jack London Waterfront. Ground floor locations for commercial uses that encourage a pedestrian-friendly environment should be encouraged throughout the downtown.
 - *Extending use of the proposed project site as surface parking would not contribute to concentrating region-serving and destination commercial development in the Broadway corridor. However, the use would be temporary during an economic time when few other land use activities are actively supporting this goal.*

ZONING ANALYSIS

The proposed project is located in the CBD-X zoning district. Auto fee parking is conditionally permitted in the district but is required to be in a parking structure that is a minimum of three stories high or below grade. Accordingly, the proposed temporary *surface parking lot* requires both a minor conditional use permit (for auto-fee parking with fewer than 50 parking spaces) and a minor variance (from zoning limitations and additional criteria that require auto-fee parking to be enclosed or below grade). Due to policy considerations, staff has elevated such downtown applications to the Planning Commission.

ENVIRONMENTAL REVIEW

The California Environmental Quality Act (CEQA) does not apply to denial of a project, pursuant to CEQA Guidelines Section 15270. Therefore, no environmental review is required should the Planning Commission deny the proposed 522-20th Street surface auto-fee parking lot proposal.

However, if approved, based on the size and location of the project site, staff has concluded that the auto-fee parking project also satisfies the infill exemption allowed under CEQA Section 15332. The infill exemption criteria follow with a brief summary of staff's analysis included in bold text:

- a) The project is consistent with the applicable general plan designation and all applicable general plan policies as well as with applicable zoning designation and regulations;
As demonstrated in the General Plan Analysis section of this report, the application is generally consistent with all applicable General Plan policies and the Central Business District designation. The Zoning Analysis and Required Findings sections demonstrate that, with approval of the CUP and Variance, the project would be consistent with the Planning Code.

Case File No. CV10116

- b) The proposed development occurs within city limits on a project site of no more than five acres substantially surrounded by urban uses;

The project occupies less than one-half acre (0.1 acre). The site is located within a developed neighborhood in Oakland and is currently occupied by a vacant surface parking lot. The project is surrounded by commercial and urban residential land uses.

- c) The project site has no value as habitat for endangered, rare or threatened species;

The project site hosts no known endangered, rare, or threatened species and is currently occupied by a paved parking lot.

- d) Approval of the project would not result in any significant effects relating to traffic, noise, air quality, or water quality;

This project would generate a maximum of 49 hour peak-hour trips distributed through multiple (three, at a minimum) intersections. The project would not result in any measurable change to level of service at any of the affected intersections.

- e) The site can be adequately served by all required utilities and public services.

The project site is located in a highly urbanized area within Oakland. The site can be served by utility and public services.

KEY ISSUES AND IMPACTS

Recommendation

Staff recommends denial of the 522-20th Street surface parking lot application. However, because the Planning Commission has discretion to make findings for approval, staff has included alternative findings for approval and conditions of approval, in addition to findings for denial. This allows the Planning Commission the option of either denying or approving the project. This project is very similar to a recent application at 1331 Harrison Street, which deadlocked (3-3) at the Planning Commission meeting of June 16, 2010 and was subsequently approved by the City Council on July 20, 2010. That parking lot was approved for a period of four years.

Site Previously Used as Surface Auto-Fee Parking

The proposed project is the renewed use of the 522-20th Street site as a surface parking lot. The parking lot has existed on the site since 2000 (although it was never subject to a required conditional use permit or variance for the auto-fee parking use). The site is paved and has an existing curb cut to provide site access and egress.

Case File No. CV10116

The project would be temporary, involve minimal improvements and would provide tax revenue for the City of Oakland. At the same time, a surface parking lot contributes to a blighted and under-utilized appearance in the Central Business District.

- *Staff recommendation: If the Planning Commission wishes to consider approval of the proposed project, staff recommends requiring a landscape buffer along the perimeter of the site adjacent to 20th Street, and temporary lighting of the site during the evening hours. The buffer should include taller plants (such as attractive vines on the existing chain link fencing) to reduce the appearance of the surface parking use. In addition, plant containers should be of high quality materials and construction and should be attractive. This would reduce the appearance of blight and enhance safety.*
- *Staff recommendation: Staff recommends including strict conditions of approval ensuring a limited, four year timeframe for the use, and guaranteeing removal of the use upon termination of the permit.*

No Surface Auto-Fee Parking in CBD

The current Central Business District (CBD) zoning regulations allow auto-fee parking in the downtown subject to a conditional use permit; however, limitations and additional criteria require auto-fee parking to be enclosed in a structure of at least three stories or to be located below grade. In summary, *surface* auto-fee parking is not permitted without a variance. Although the conditional use permit and variance application is the appropriate tool for seeking an approval in this instance, the CBD regulations were adopted recently and were closely crafted and vetted by key decision makers and the community. The restriction on surface parking is a specific, contemporary objective of the current regulations.

As a result, the proposed project is inconsistent with the Planning Code's intent regarding surface auto-fee parking in the CBD. However, the use would be temporary and would not ultimately restrict development of a higher and better use for the site.

- *Staff recommendation: If the Planning Commission wishes to consider approval of the proposed project, staff recommends including strict conditions of approval ensuring a limited, four year timeframe for the use, and guaranteeing removal of the use upon termination of the permit.*

Temporary Uses

The Planning Commission recently reviewed and discussed a proposed Planning Code Amendment that would allow temporary use permits in Oakland and has asked staff for more information before making a recommendation to the City Council. Currently, temporary permits are processed on a case-by-case basis and conditions of approval are included to control the timeframe. There is no standardized process to consider, approve and terminate temporary uses.

Case File No. CV10116

In addition, the City Attorney's Office has advised staff that failure to diligently and timely enforce requirements to eliminate uses may result in the uses becoming permanent through a property owner's acquisition of vested rights. As a result, contrary to the Commission's, and even a current applicant's intention, such uses could run with the land to future owners. Although the Planning Commission has reviewed proposed temporary use regulations, there is currently no consensus regarding support for such regulations.

- *Staff recommendation: If the Planning Commission wishes to consider approval of the proposed project, staff recommends including strict conditions of approval ensuring a limited, four year timeframe for the use, and a method and means for guaranteeing removal of the use upon termination of the permit.*

RECOMMENDATION

Staff believes that the proposed project is inconsistent with adopted land use policy, as noted throughout this report. However, as previously mentioned, the proposed project is consistent with the recently approved 1331 Harrison Street project (case file CV09197). Staff recommends denial of the project application due to the inconsistencies with policy; however, staff is providing the Planning Commission with the option to approve or deny the application (and, as such, staff has provided findings for either approval or denial and conditions of approval for Planning Commission consideration). Staff recommends that the Planning Commission:

- 1) Hold a public hearing and receive public testimony regarding the proposed project;

Following closure of the public hearing, the Planning Commission can either:

- 2.1) Affirm staff's environmental determination that denial of the project is not subject to CEQA, pursuant to CEQA Guidelines Section 15270, Projects Which are Disapproved;
- 2.2) Consider denial of the Minor Conditional Use Permit and the Minor Variance based on the attached findings for denial (Attachment B).

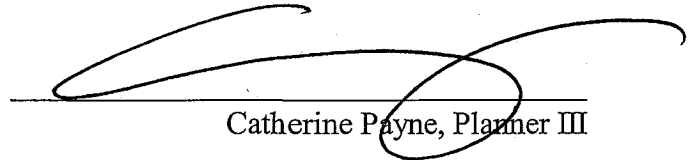
Or:

- 3.1) Affirm staff's environmental determination that approval of the project is subject to an exemption from CEQA, relying on sections: 15304, Minor Alterations to land; 15311, Accessory Structures, and 15332, Infill Development Projects.
- 3.2) Consider approval of the Minor Conditional Use Permit and the Minor Variance, based on the attached findings for approval (Attachment C). If Findings for

Case File No. CV10116

Approval are made, the Conditions of Approval (Attachment D) should also be adopted.

Prepared by:



Catherine Payne, Planner III

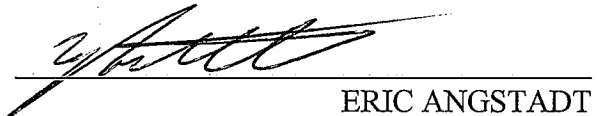
Respectfully submitted:



SCOTT MILLER

Zoning Manager, Planning and Zoning Division

Approved for Forwarding to the
Planning Commission:



ERIC ANGSTADT

Deputy Director, Community and Economic Development Agency

Attachments:

- A. Project Plans
- B. Findings for Denial
- C. Findings for Approval
- D. Conditions of Approval
- E. Public Comment (email correspondence)

Case File No. CV10116

ATTACHMENT A: PROJECT PLANS

ATTACHMENT B: FINDINGS FOR DENIAL

Staff believes the 522-20th Street temporary surface parking lot proposal does not meet the required findings for compliance with Oakland Planning Code Sections 16.136.050B (Regular Design Review Criteria for Non-Residential Facilities), 17.134.050 (Conditional Use Permit), and 17.148.050 (Variance Criteria), as set forth below. Required findings are shown in **bold type**; explanations as to why these findings can or cannot be made are in normal type. The project's conformance with the following findings is not limited to the discussion below, but is also included in all discussions in this report and elsewhere in the record.

Planning Code Section 17.136.050B (Regular Design Review Criteria for Non-Residential Facilities and Signs):

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. Only elements of design which have some significant relationship to outside appearance shall be considered, except as otherwise provided in Section 17.136.060;

The proposed surface parking would potentially prolong the blighted appearance of the property. Although staff recommends the inclusion of design features to reduce blight and improve the aesthetic quality of the site, this site would continue to be vacant a building—an important massing tool for ensuring the presence and arrangement of buildings designed to promote and enhance the downtown area.

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 surface parking would potentially prolong the blighted appearance of the property. Surface parking, with no architectural mass, would not complement the surrounding buildings and investment in the Uptown area.

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.

As demonstrated in the administrative record, this project does not conform to the General Plan, Planning Code and design objectives for the CBD zoning district. Although auto-fee parking is permitted, surface parking is not allowed in the CBD.

Planning Code Section 17.134.050 (Conditional Use Permit)

A CUP is required for auto-fee parking located in the CBD zoning districts.

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.

Although the operating characteristics of the proposed auto-fee parking lot are compatible with the intensive development of the Central Business District, the design is not compatible. A surface parking lot results in an underutilized, potentially blighted appearance in an area that should appear densely and attractively developed.

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.

Although the proposed auto-fee parking lot is convenient and functional in the context of the intensive development of the Central Business District, the appearance of the use is not attractive. A surface parking lot results in an underutilized, potentially blighted appearance in an area that should appear densely and attractively developed.

D. That the proposal conforms to all applicable design review criteria set forth in the design review procedure at Section 17.136.050.

The proposed project does not conform to all applicable design review criteria (see findings for Section 17.136.050.B above).

Section 17.148.050 (Minor Variance from Zoning Limitations and Additional Criteria):

1. 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.

Case File No. CV10116

The CBD zoning regulations require new auto-fee parking activities to be enclosed in a three-story (minimum) structure or located below grade. Because the proposal is for temporary auto-fee parking, it is unreasonable to expect structured parking. However, surface parking can contribute to blight, especially in the downtown area, and the CBD regulations are intended to limit blight. In summary, the proposed project could prolong a blighted condition, inconsistent with the intent of the zoning regulations and inconsistent with current Planning and Zoning Division practice of denying temporary permits, in part because there is no mechanism for ensuring their removal after a specified time period.

2. 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 CBD zoning regulations require auto-fee parking to be enclosed in a three-story (minimum) structure or located below grade. Because the proposal is for temporary auto-fee parking, it is unreasonable to expect structured parking. However, surface parking can contribute to blight, especially in the downtown area, and the CBD regulations are intended to limit blight. In summary, the proposed project could prolong a blighted condition, inconsistent with the intent of the zoning regulations and inconsistent with current Planning and Zoning Division practice of denying temporary permits.

Case File No. CV10116

**ATTACHMENT C:
ALTERNATIVE: OPTIONAL FINDINGS FOR APPROVAL**

The Planning Commission finds that the 522-20th Street temporary surface parking lot proposal meets the required findings for compliance with Oakland Planning Code Sections 16.136.050B (Regular Design Review Criteria for Non-Residential Facilities), 17.134.050 (Conditional Use Permit), and 17.148.050 (Variance Criteria), as set forth below. Required findings are shown in **bold type**; explanations as to why these findings can or cannot be made are in normal type. The project's conformance with the following findings is not limited to the discussion below, but is also included in all discussions in this report and elsewhere in the record.

Planning Code Section 17.136.050B (Regular Design Review Criteria for Non-Residential Facilities and Signs):

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. Only elements of design which have some significant relationship to outside appearance shall be considered, except as otherwise provided in Section 17.136.060;

The proposed conditions of approval require art panels or other attractive buffering features along 20th Street that would soften the appearance of the surface parking and would provide an aesthetically appealing street frontage on a temporary basis for the duration of the project.

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 conditions of approval require art panels or other attractive buffering features along 20th Street that would soften the appearance of the surface parking and would provide an aesthetically appealing street frontage on a temporary basis for the duration of the project.

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 project includes auto-fee parking, a conditionally permitted use in the Planning Code and consistent with the Oakland General Plan. In addition, the proposed conditions of approval require features intended to provide an aesthetically pleasing frontage along the public Right-of-Way, consistent with the objectives of the design review criteria.

Planning Code Section 17.134.050 (Conditional Use Permit)

A CUP is required for auto-fee parking located in the CBD zoning districts.

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 surface auto-fee parking use is temporary and would not hinder future and long-term development compatible with the existing and desired neighborhood character.

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 proposed surface auto-fee parking use is temporary and would not hinder future and long-term development of convenient, functional and attractive development. In addition, the temporary parking use enhances convenient access to nearby shopping and work opportunities, and conditions of approval require an attractive buffer to reduce the appearance of the surface parking use.

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 proposed surface auto-fee parking use is temporary and would not hinder future and long-term development that would enhance the surrounding area and provide community functions and essential services. In addition, the temporary parking use is a community function and essential service.

D. That the proposal conforms to all applicable regular design review criteria set forth in the regular design review procedure at Section 17.136.050;

Consistent with the findings of Section 17.136.050, the proposed surface auto-fee parking complies with the applicable design review criteria (see above).

i. That the proposal conforms in all significant respects with the Oakland General Plan and with any other applicable guidelines or criteria, district plan or

Case File No. CV10116

development control map which has been adopted by the Planning Commission or City Council. (Ord. 12376 § 3 (part), 2001: prior planning code § 9204)

The proposed surface auto-fee parking use is temporary and would not hinder future and long-term development consistent with the Oakland General Plan. In addition, the temporary parking use will serve essential services.

Section 17.148.050 (Minor Variance from Zoning Limitations and Additional Criteria):

A. With the exception of variances for adult entertainment activities or sign facilities, a variance may be granted only upon determination that all of the following conditions are present:

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 surface auto-fee parking use is temporary. It is unrealistic to expect a temporary use to be enclosed in a three-story structure or to be located below grade. The surface parking design solution allows the site to be both useful to the community and retain value during difficult economic times. The conditions of approval require elements to be incorporated into the proposed plan that will improve the appearance of the surface parking lot.

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 proposed surface auto-fee parking use is temporary. It is unrealistic to expect a temporary use to be enclosed in a three-story structure or to be located below grade. The surface parking design solution allows the site to be both useful to the community and retain value during difficult economic times. The conditions of approval require elements to be incorporated into the proposed plan that will improve the appearance of the surface parking lot.

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 proposed surface auto-fee parking use is temporary. It is unrealistic to expect a temporary use to be enclosed in a three-story structure or to be located below grade. The surface parking design solution allows the site to be both useful to the community and retain value during

Case File No. CV10116

difficult economic times. The conditions of approval require elements to be incorporated into the proposed plan that will improve the appearance of the surface parking lot.

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 proposed project, a temporary surface auto-fee parking lot, is somewhat unique in Oakland. Because the proposed use would be temporary, the grant of any privilege is short-term and should not affect long-term satisfaction of the objectives of the Planning Code and zoning regulations for this site.

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.

The proposed project conforms to the design review criteria, as demonstrated above. The proposed conditions of approval require an aesthetic treatment facing the public Right-of-Way that would both reduce any appearance of blight related to the surface parking, and would provide an aesthetically appealing street frontage.

Case File No. CV10116

**ATTACHMENT D:
CONDITIONS OF APPROVAL**

522-20th Street (case file CV10116)

Approved Use

Ongoing

- a) The project shall be constructed and operated in accordance with the authorized use as described in the application materials, **staff report dated May 18, 2011**, and the plans dated **June 27, 2006** and submitted on **May 7, 2010**, and as amended by the following conditions. Any additional uses or facilities other than those approved with this permit, as described in the project description and the approved plans, will require a separate application and approval. Any deviation from the approved drawings, Conditions of Approval or use shall required prior written approval from the Director of City Planning or designee.

II.b) This action by the **City Planning Commission** ("this Approval") includes the approvals set forth below. This Approval includes: **Minor Conditional Use Permit and Minor Variance for 522-20th Street, under Municipal Code Sections 17.134.050 and 17.148.050, respectively.**

1. Effective Date, Expiration, Extensions and Extinguishment

Ongoing

Unless a different termination date is prescribed, this Approval shall expire **two years** from the approval date, 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 permit, 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 for this project may invalidate this Approval if the said extension period has also expired.

2. Scope of This Approval; Major and Minor Changes

Ongoing

The project is approved pursuant to the **Planning Code** only. Minor changes to approved plans may be approved administratively by the Director of City Planning or designee. Major changes to the approved plans shall be reviewed by the Director of City Planning or designee to determine whether such changes require submittal and approval of a revision to the approved project by the approving body or a new, completely independent permit.

3. Conformance with other Requirements

Prior to issuance of a demolition, grading, P-job, or other construction related permit

Case File No. CV10116

- b) The project applicant shall comply with all other applicable federal, state, regional and/or local laws/codes, requirements, regulations, and guidelines, including but not limited to those imposed by the City's Building Services Division, the City's Fire Marshal, and the City's Public Works Agency. 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 of Approval 3.
- c) The applicant shall submit approved building plans for project-specific needs related to fire protection to the Fire Services Division for review and approval, including, but not limited to automatic extinguishing systems, water supply improvements and hydrants, fire department access, and vegetation management for preventing fires and soil erosion.

4. Conformance to Approved Plans; Modification of Conditions or Revocation

Ongoing

- a) Site shall be kept in a blight/nuisance-free condition. Any existing blight or nuisance shall be abated within 60-90 days of approval, unless an earlier date is specified elsewhere.
- b) The City of Oakland reserves the right at any time during construction to require certification by a licensed professional that the as-built project conforms to all applicable zoning requirements, including but not limited to approved maximum heights and minimum setbacks. Failure to construct the project in accordance with approved plans may result in remedial reconstruction, permit revocation, permit modification, stop work, permit suspension or other corrective action.
- c) Violation of any term, **Conditions of Approval**, or project description relating to the Approvals 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 Approvals or alter these **Conditions of Approval** if it is found that there is violation of any of the **Conditions of Approval** 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 Conditions of Approval.

5. Signed Copy of the Conditions of Approval

With submittal of a demolition, grading, and building permit

A copy of the approval letter and **Conditions of Approval** shall be signed by the property owner, notarized, and submitted with each set of permit plans to the appropriate City agency for this project.

6. Indemnification

Ongoing

- a) To the maximum extent permitted by law, the applicant shall defend (with counsel acceptable to the City), indemnify, and hold harmless the City of Oakland, the Oakland City Council, the City of Oakland Redevelopment Agency, the Oakland City Planning Commission and its respective agents, officers, and employees (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, (1) an approval by the City relating to a development-related application or subdivision or (2) implementation of an approved development-related project. The City may elect, in its sole discretion, to participate in the defense of said Action and the 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 applicant shall execute a Letter Agreement with the City, acceptable to the Office of the City Attorney, which memorializes the above obligations. These obligations and the Letter of Agreement shall survive termination, extinguishment or invalidation of the approval. Failure to timely execute the Letter Agreement does not relieve the applicant of any of the obligations contained in this condition or other requirements or conditions of approval that may be imposed by the City.

7. Compliance with Conditions of Approval

Ongoing

The project applicant shall be responsible for compliance with the recommendations in any submitted and approved technical report and all the Conditions of Approval set forth below at its sole cost and expense, and subject to review and approval of the City of Oakland.

8. Severability

Ongoing

Approval of the project 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.

9. Job Site Plans

Ongoing throughout demolition, grading, and/or construction

At least one (1) copy of the stamped approved plans, along with the Approval Letter and Conditions of Approval, shall be available for review at the job site at all times.

Case File No. CV10116

5. Agreeing that the applicant, the property owner and any project operator(s) (including any heirs, successors or assigns) waives any right to such notice or hearing;
 6. Agreeing that any violation of the terms and conditions of this permit shall be subject to assessment and penalties, as specified in OMC Chapter 1.12;
 7. Acknowledging that no permit extensions shall be allowed and, under no circumstances, shall the approved use continue beyond the termination date of this permit; and
 8. Agreeing not to contest any code enforcement actions taken if the land use is not immediately discontinued and/or related improvements are not immediately removed in accordance with the approved plan, or there is any other violation of terms and conditions relating to the limited duration of this permit.
- e. Provision of a bond or other financial security in a for and amount, acceptable to the City of Oakland, to ensure removal of the permitted use and improvements upon permit termination, which security shall be a minimum of \$40,000, but which may be increased as determined necessary by the City (e.g., to reflect engineer's estimates for removal or other increased costs) .







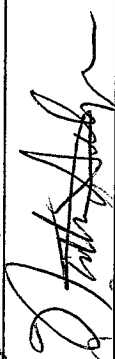
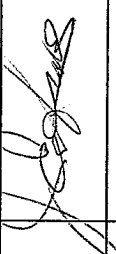

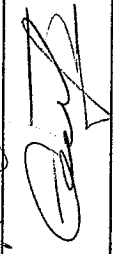
Case File No. CV10116

Case File No. CV10116

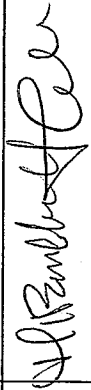
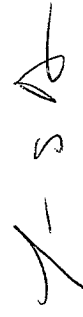

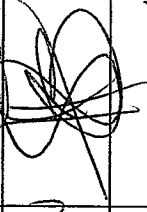




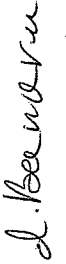

**ATTACHMENT E:
Public Comments (email correspondence)**

We, the undersigned, use the parking lot at 522 20th St. on a daily basis and support the permitting of it to remain an active parking lot. We park

here for work and for city business and would be greatly inconvenienced by its closing. Please vote to issue the owner a temporary use permit.

Petition for Parking Lot to remain at 522 20th St., Oakland, CA					
Date	Name	Organization/ Affiliation	Signature	Comments	
1/10/11	MARY ANN MINGE	SEIU		I WANT MY SPOT!!	
1/10/11	Vanessa Yasul	SEIU-UHW		keep the lot! happier staff :)	
1/10/11	Lisset Morales-Santoyo	SEIU-UHW		Keep the lot!	
1/10/11	DAVID TSO	SEIU-UHW		Keep the lot! We need parking!	
1/10/11	MATT STROLIA	SEIU-UHW		We already lost a parking lot before	
1/10/11	Scott Elson	SEIU-UHW			
1/10/11	Nathan Selzer	SEIU-UHW		We desperately need this parking lot!	
1/10/11	JANET ESTEVES	SEIU-UHW		WE NEED THIS LOT	
1/10/11	Linda Cordon	SEIU-UHW			
1/10/11	Sofiya Starikova	SEIU-UHW		WE need this LOT!	


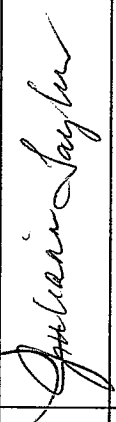



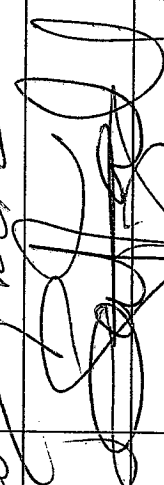


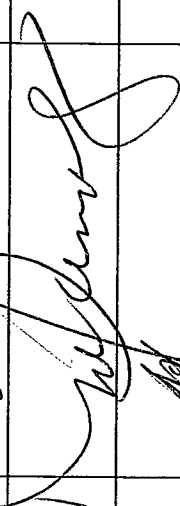

We, the undersigned, use the parking lot at 522 20th St. on a daily basis and support the permitting of it to remain an active parking lot. We park here for work and for city business and would be greatly inconvenienced by its closing. Please vote to issue the owner a temporary use permit.

Petition for Parking Lot to remain at 522 20th St., Oakland, CA				
Date	Name	Organization/ Affiliation	Signature	Comments
1/10/11	Miranda Cheuk	SEIU-UHW		This lot is important to us - please don't close it!
1/10/11	Soan Allen	SEIU-UHW		Please keep this lot open
1/10/11	Edgard Cajun	SEIU-UHW		No other parking is available in 10 blocks - keep it open
1/10/11	Jordencia Armenta	SEIU-UHW		Keep it open!
1/10/11	Lisa Cox	SEIU-UHW		very important! A lot of us work late night, suffer to have lot close to our office
1/10/11	Rolando Cisneros	SEIU-UHW		We need a place to park
1/10/11	Andrey Martinez	SEIU-UHW		Keep it open!
1/10/11	Pham Loe	SEIU-UHW		It's important to keep the lot open for communication of our unit - please!
1/10/11	Dana Bonaru	SEIU-UHW		Keep it open!
1/10/11	Hector H. Jimenez Cardenas	SEIU-UHW		Community Organizations are counting on your support - keep it open!




We, the undersigned, use the parking lot at 522 20th St. on a daily basis and support the permitting of it to remain an active parking lot. We park

here for work and for city business and would be greatly inconvenienced by its closing. Please vote to issue the owner a temporary use permit.



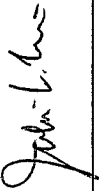





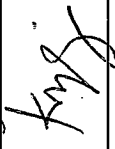
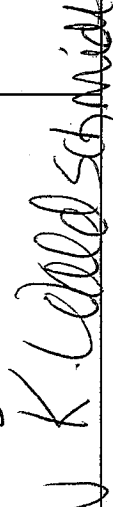
Petition for Parking Lot to remain at 522 20th St., Oakland, CA

Date	Name	Organization/ Affiliation	Signature	Comments
1/10/2011	KHELA CAMPOS	SEIU		
1/10/2011	Juliana Taylor	SEIU UHW		
1/10/11	Wendy Howell	SEIU - UHW		
1/10/11	BENIGNO DELGADO	SEIU UHW		
1/10/11	Corne Picole	SEIU UHW		
1/10/11	Camille Farrell	UHW		
1/10/11	Stella Fung Wong	UHW		
1/10/11	Penny A. Gil	UHW		
1/10/11	Ed Mercado	SEIU - UHW		
1/10/11	Francisco Flores	SEIU - UHW		





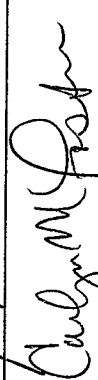





We, the undersigned, use the parking lot at 522 20th St. on a daily basis and support the permitting of it to remain an active parking lot. We park here for work and for city business and would be greatly inconvenienced by its closing. Please vote to issue the owner a temporary use permit.

Petition for Parking Lot to remain at 522 20th St., Oakland, CA				
Date	Name	Organization/ Affiliation	Signature	Comments
1-10-11	Maria Unzueta	SEIU-UHW	Maria Unzueta	
1/10/11	Myriam Escamilla	SEIU-UHW		
1/10/11	Radmila Moody	SEIU-UHW	R. Moody	
1/10/11	Wendy Oglesby	SEIU-UHW	Wendy Oglesby	Required
1/10/11	Sophi Hak-	SEIU-UHW		
1/10/11	Samati Banks	SEIU-UHW	Samati Banks	It's not safe to walk to far from my place of work to my car.
1/10/11	Lynette Gaddi	SEIU-UHW		
1/10/11	Rasheda Anderson	SEIU-UHW	Rasheda Anderson	losing this lot is not an option.
1/10/11	Katy McKenzie	SEIU-UHW	Katy McKenzie	
1/10/11	Swan Steck	SEIU-UHW	Swan Steck	

We, the undersigned, use the parking lot at 522 20th St. on a daily basis and support the permitting of it to remain an active parking lot. We park here for work and for city business and would be greatly inconvenienced by its closing. Please vote to issue the owner a temporary use permit.



Petition for Parking Lot to remain at 522 20th St., Oakland, CA				
Date	Name	Organization/ Affiliation	Signature	Comments
1/10/11	Davijera Sapie	SEIU UHW		
1/10/11	Pattu Gleni	SEIU UHW Kaiser		
1/10/11	Jwira Lewis	SEIU UHW		
1/10/11	Chris Buckles	SEIU UHW		
1/10/11	Rachel Harkin	SEIU UHW		SAVE THE LOT!!!
1/10/11	Mary Sacramento	SEIU UHW		Save the lot!!!
1/10/11	Eric Yile	SEIU UHW		
1/10/11	Lannon Sullivan	SEIU UHW		
1/10/11	Katherine Dejeans	SEIU UHW		
1/10/11	Kimberly Schmidt	SEIU UHW		

We, the undersigned, use the parking lot at 522 20th St. on a daily basis and support the permitting of it to remain an active parking lot. We park here for work and for city business and would be greatly inconvenienced by its closing. Please vote to issue the owner a temporary use permit.

Petition for Parking Lot to remain at 522 20th St., Oakland, CA					
Date	Name	Organization/ Affiliation	Signature	Comments	
1/10/11	Christina Flood	SEIU- UHW			
1/10	TRANS STERN	SEIU- UHW			
1/10	Vu Nguyen	SEIU UHW			
1/10	Tompaz McEllean	SEIU UHW			
1/10/11	Carlyn Foster	SEIU-UHW			
1/10/11	Wynn Grestakova	SEIU-UHW			
1/10/11	Varissa Aycock	SEIU-UHW			
1/10/11	Paul Anson	SEIU-UHW			
1/10/11	KUNSE WEEKES	SEIU-UHW			
1/10/11	Gurpreet Dhoot	SEIU-UHW			

We, the undersigned, use the parking lot at 522 20th St. on a daily basis and support the permitting of it to remain an active parking lot. We park

here for work and for city business and would be greatly inconvenienced by its closing. Please vote to issue the owner a temporary use permit.

Petition for Parking Lot to remain at 522 20th St., Oakland, CA				
Date	Name	Organization/ Affiliation	Signature	Comments
1/10/11	Ulysses Madison	SEIU- UAW	Ulysses Madison	All staff vote.
1/10/11	Rachel Kinney	SEIU-UAW	Rachel Kinney	Please keep the lot open for UAW!
1/10/11	NEAL MELTON	SEIU-UAW		
1/10/11	Ashley Starnets	SEIU-UAW	In support of my coworkers, Ashley Starnets	Supporting co-workers, & daily parkers at 522 20th St.
1/10/11	David Bonner	SEIU-UAW	David Bonner	
1/10/11	Max Ardas	SEIU-UAW		
1/10/11	DONNA MAPP	SEIU-UAW	Donna Mapp	With all our signatures hope you will change your heart
1/10/11	Velvet Hwang	SEIU-UAW	Velvet Hwang	
1/10/11	Yoss Schmitz	SEIU-UAW	Yoss Schmitz	
1-10-11	Frank McKinney	Funny SEIU-UAW	Frank McKinney	

Payne, Catherine

From: Val Tagawa [vtagawa@seiu-uhw.org]**Sent:** Sunday, January 09, 2011 8:12 PM**To:** Payne, Catherine; dboxer@gmail.com; veinvtruong@gmail.com; blake.huntsman@seiu1021.org; sgalvez@phi.org; michail.colbruno@gmail.com; mzmdesignworks@gmail.com; vincegibbs.opc@gmail.com**Subject:** Douglas Parking 522 20th St. Oakland

Planning Commission, Thank you for giving me the opportunity to share with you my perspective on the possible parking lot closure on 533 20th St. I work in Oakland and use the parking lot for safety reasons. Due to the nature of my job, I consistently arrive early in the morning, consistently leave and return during the day, and consistently work late into the night. The attendant (Ron) who is employed by the current vendor has always been accommodating and has become a part of my safety network. This is an important factor. As I understand it, the crime levels in Oakland drastically rises, while OPD suffered a recent reduction of force. Hard working, law abiding citizens are more at risk of the criminal elements pervasive in Oakland. Having a safety network is key while working in Oakland. Having to walk (mostly alone) a longer distance is a threat to many who rely on this particular parking lot.

I hope you will seriously consider voting to issue the current vendor the permit required to remain open. Thank for your consideration on this matter. If you have any questions, please feel free to contact me at the number below.

Val M. Tagawa
(510) 915-4249