

Case File Number PUD03552, PUDF03553 and ER30022

LPAB August 12, 2013

Attachment E: 12/1/04 Planning Commission Staff Report

Oakland City Planning Commission

Case File Numbers: PUD03552, PUDF03553, ER030022

	Location:	Two blocks bounded by West Grand Avenue and 24 th Streets.
	Proposal:	Redevelopment of the site with a phased mixed 421 condominiums, 30,000 square feet of ground space, and 670 structured parking spaces.
	Project Sponsor:	Signature Properties, Inc.
	Owners:	Negherbon Lincoln Mercury, Inc.; Signature at Tyler Hunt; Craig Hertz
	Planning Permits Required:	Planned Unit Development (Preliminary Development Plan), Design Review, Condition inconsistency between zoning classification and use designation, Variances for the construction units and a reduction in the number of required Tentative Parcel Map.
	General Plan:	Central Business District/Community Commercial
	Zoning:	C-40 Community Thoroughfare Commercial Zone/ Core Commercial Zone/C-60 City Service Center Design Review Combining Zone/S-17 Downtown Space Combining Zone
	Environmental Determination:	Final EIR published on November 19, 2004.
	Historic Status:	Site includes seven buildings considered cultural CEQA.
	Service Delivery District:	II – North Oakland/North Hills
	City Council District:	3
	For further information:	Contact case planner Lynn Warner at 510-231lwarner@oaklandnet.com

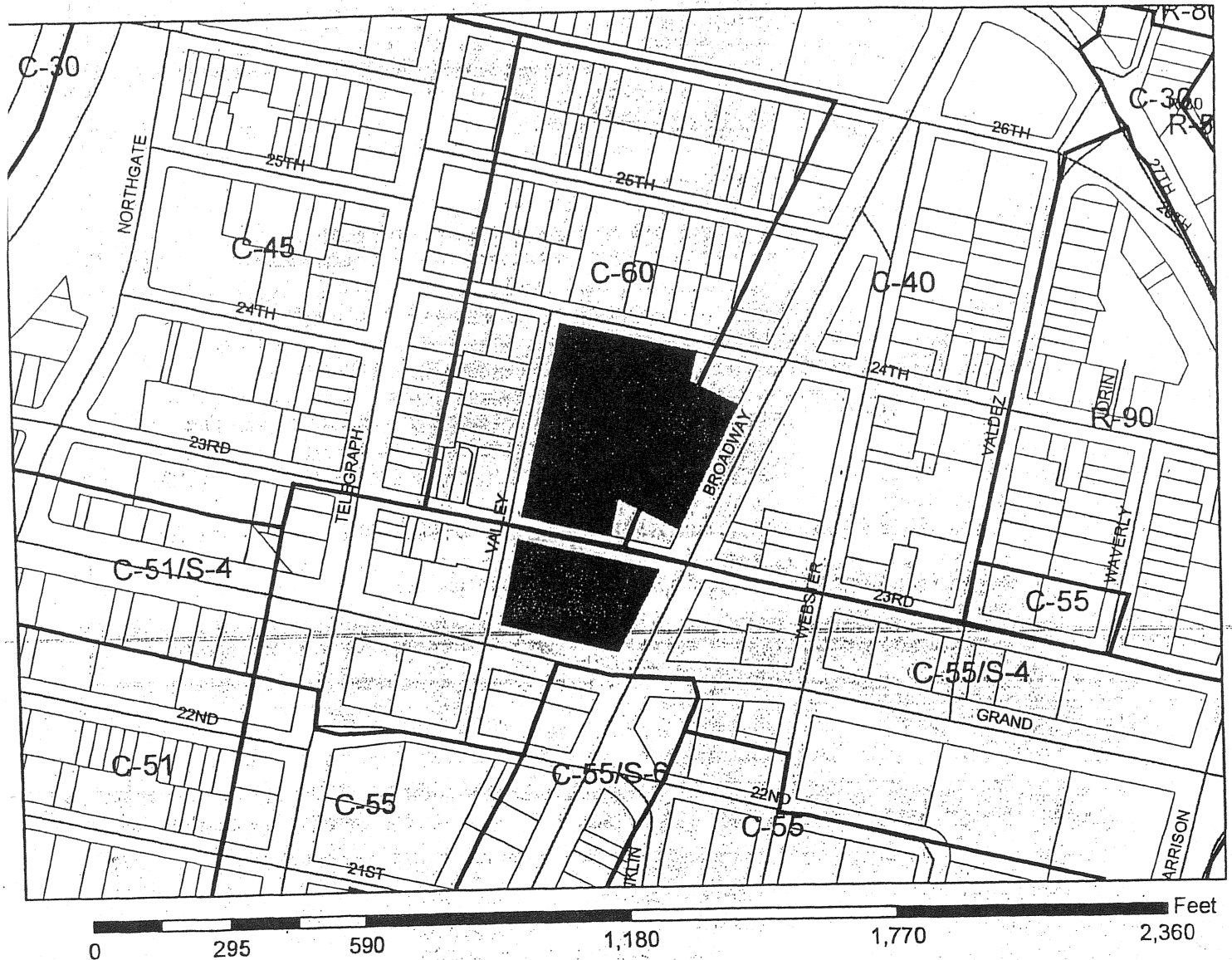
SUMMARY

The mixed-use project is located on a two-block site bounded by V Broadway, 24th and Valley Streets. The approximately 5-acre site is located off Broadway Auto Row and is surrounded by a mix of commercial and almost two-block project site is currently comprised of auto-related sales parking, small-scale retail and commercial services, and 16 residential units is proposing a phased redevelopment of the site with 421 condominiums, ground-floor, neighborhood-serving commercial space on West Grand Avenue and 670 structured parking spaces.

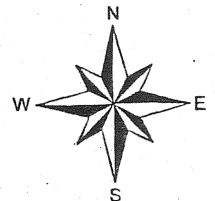
A Draft EIR was published on August 26, 2004 and the public review and comment period ended on October 8, 2004. A Final EIR responding to the comments received was published on November 19, 2004. In response to the comments received the project revised the design to demolish the building facade at the southeast corner of Broadway and Valley Street intersection that was previously proposed for retention and instead retain the building at 2335 Broadway, which was originally designed by Julia Morgan.

Staff recommends approval of the project subject to the conditions, requirements and findings contained in this staff report.

CITY OF OAKLAND PLANNING COMMISSION



Case File: ER03-0022, PUD03-552 & PUDF03-553
Applicant: Signature Properties
Location: Mixed Use Project involving two block
area bounded by West Grand Ave, Broadway,
24th St, and Valley St.
Zone: C-40; C-60; C-55/S-4/S-17



PROJECT SITE AND SURROUNDING AREA

The approximately 5-acre site is bounded by West Grand Avenue, Broadway, Valley and 24th Streets. The almost two-block project site is comprised of auto-related sales and services, surface parking, small-scale retail and commercial services, and 16 residential units. The site includes all lots on both blocks, with the exception of one lot housing a Saturn dealer at the southwest corner of Broadway and 24th Street. In addition, a parcel at Broadway and 23rd Street, occupied by the Lucky Goldfish store, is not currently under the control of the project sponsor, but may be acquired and included as part of the project. The project site is located at the southern end of Broadway Auto Row and is surrounded by a mix of commercial and residential uses. Buildings in the surrounding area range in height from one to ten stories. There are seven CEQA cultural resources located on the project site. The project site is also adjacent to, but not within, the 25th Street Garage District (see Environmental Review section below).

PROJECT DESCRIPTION

Signature Properties is currently proposing a phased redevelopment of the site with up to 421 condominiums, 30,000 square feet of ground-floor commercial space on West Grand Avenue and Broadway, and 670 structured parking spaces (544 residential and 126 commercial). The project site consists of almost two entire blocks, which are designated Parcel A and Parcel B. Parcel A is the block bounded by West Grand Avenue, Broadway, Valley and 23rd Streets, and would be developed in Phase I of the project. Parcel B is the block bounded by West Grand Avenue, Broadway, Valley, 23rd and 24th Streets, and would be developed in Phase II of the project. Up to 13 existing buildings on the entire site (if the Lucky Goldfish parcel is acquired) would be demolished, but the facades of two buildings would be retained and incorporated into the project development. The previous project design would have retained the facades of the two buildings at the corners of the 23rd/Valley Street intersection. In response to the comments received on the Draft EIR, the project sponsor has revised the design to demolish one of the building facades at the southeast corner of the 23rd/Valley Street intersection previously proposed for retention and instead preserve the façade of the building at 2335 Broadway, which was originally designed by noted architect Julia Morgan. Therefore, the facades of the building at the northeast corner of the 23rd/Valley Street intersection (440-448 23rd Street) and the building at 2335 Broadway would be retained as part of the revised project. Five cultural resources would be demolished and two would have the facades preserved; none of the identified cultural resources would be preserved in their entirety.

The proposed buildings are between six and seven stories tall, with a maximum height of about 84 feet to the top of the parapet wall. This height would provide a transition between the high-rise office buildings and the smaller scale commercial and residential structures in the surrounding area. The residential levels will be constructed on a podium over the retail and parking levels. The parking levels will be partially lined by commercial space and residential units. The proposed flats and townhouses range in size from approximately 754 to 2,118 square feet and are a combination of one-, two-, and three-bedroom units. Most of the ground-floor units on Parcel B have street entrances. Vehicle access and loading berths will be provided on 23rd and 24th Streets. Open space will be provided via a combination of private balconies and

common interior courtyards at the podium level. The project sponsor is also proposing to widen portions of Valley Street adjacent to the project, and to provide curb bulb-outs along the Broadway, Valley, and 23rd Street project frontages.

GENERAL PLAN ANALYSIS

There are two General Plan designations for the project site: Central Business District and Community Commercial. The Central Business District designation, which applies to Parcel A, allows a maximum floor area ratio (FAR) of 20.0 (which includes both residential and nonresidential floor area). The Community Commercial designation, which applies to Parcel B, allows a maximum FAR of 5.0, and a maximum residential density of 166.67 units per net acre. The combined FAR for Parcel A is 4.1, the FAR for Parcel B is 0.06, and the residential density for Parcel B is 85 units per acre. The proposed project is within the allowable FAR and residential density for each parcel, and the uses are consistent with the General Plan designations. In addition, the project implements several General Plan Land Use and Transportation Element policies related to the provision of infill, mixed-use development in close proximity to mass transit (including Policies D2.1, D3.1, D3.2, D6.2, D10.1, D10.5). Therefore, the project is consistent with the intensity and uses allowed by the General Plan land use designations, as well as with several General Plan policies.

ZONING ANALYSIS

~~There are several zoning designations for the site including: C-40 Community Thoroughfare Commercial/C-55 Central Core Commercial/C-60 City Service Commercial/S-4 Design Review/S-17 Downtown Residential Open Space.~~ All of these zoning districts permit the proposed uses except for the C-60 zone, which does not allow residential or retail uses. However, because the uses are consistent with the Community Commercial General Plan land use designation they are allowed with an interim Conditional Use Permit. The *Guidelines for Determining Project Conformity with the General Plan and Zoning Regulations* include the C-40 zone as a possible best-fit zone for the Community Commercial land use designation. Staff has applied the C-40 zone as the best-fit zone for the portion of Parcel B currently zoned C-60 because the rest of Parcel B is currently zoned C-40. The FAR is within the maximum FAR allowed of 7.7 for Parcel A, and 3.3 for Parcel B. The density is within the maximum allowable residential density of 1 unit per 450 square feet of lot area for Parcel B.

The proposed project will require the following planning approvals: a Planned Unit Development (PUD) (including both a Preliminary Development Plan (PDP) and a Final Development Plan (FDP)), a Conditional Use Permit (for inconsistency between the existing zoning classification and the General Plan designation), Design Review, Variances for the construction of new live-work units and a reduction in the number of required loading spaces, and a Tentative Parcel Map. All applicable criteria for these entitlements have been analyzed and appropriate findings have been made as part of this staff report.

Planned Unit Development

A Planned Unit Development (PUD) is required in order to accommodate the phasing of the proposed mixed-use project. The project sponsor has submitted both Preliminary Development Plan (PDP) and Final Development Plan (FDP) applications to develop the two blocks of the project in two overlapping construction phases. The first phase of construction would entail the redevelopment of Parcel A with 132 condominiums and 135 resident parking spaces, as well as approximately 21,300 square feet of ground-floor commercial space with 61 commercial parking spaces. The project sponsor anticipates that construction of Parcel A would begin by March 2005 and be completed by September 2006. The second phase of construction would entail the redevelopment of Parcel B with 289 condominiums and 409 resident parking spaces, as well as approximately 8,500 square feet of ground-floor commercial space with 65 commercial parking spaces. The anticipated schedule for Parcel B is for construction to begin by April 2006 and to be completed by March 2009. Except for interior finish work, most of the construction activity on Parcel A will be completed before construction activity commences on Parcel B.

Conditional Use Permit

A Conditional Use Permit is required per Section 17.01.100 of the Planning Code for the inconsistency between the existing zoning and general plan land use designations for the site. Except for the Broadway frontage of the site, which is zoned C-40 Community Thoroughfare Commercial, Parcel B is zoned C-60 City Service Commercial. As previously discussed, this zoning classification is inconsistent with the General Plan land use designation of Community Commercial because it does not allow residential uses. Therefore, applying the best-fit zone of C-40 would make the zoning for the rest of Parcel B consistent with both the existing General Plan land use designation for the site, and with the existing zoning for the Broadway frontage of the site.

Design Review

Design review is required for residential projects with three or more units on a lot. The project design breaks up the building massing by incorporating different materials, styles, and colors. The architectural styles include a combination of traditional and modern design elements, which is compatible with the mix of styles in the surrounding area. The proposed exterior building materials include stucco, brick veneer, concrete, stone veneer, aluminum panels, metal railing, balconies, and grills, metal and glass canopies, and fiberglass and aluminum windows. Proposed colors include a range of earth tones as well as muted red, orange, and blue tones.

The project design has been reviewed several times by the Design Review Committee, the Landmarks Preservation Advisory Board, the Planning Commission, and at a community meeting. The project sponsor has revised the project design several times in order to address comments received throughout the review process. Design changes made include: altering the transitions between the different portions of the buildings, changing some of the architectural styles, emphasizing the tower element at the corner of Broadway and West Grand, adding bay windows to the Valley Street and 23rd Street elevations, and incorporating facades of historic buildings into the design where feasible. Staff believes that the current design is attractive and

appropriate for the area, which includes buildings with a variety of designs, for uses.

Variances

Variances are required for the construction of new live-work units and a reduction in required loading spaces. The project sponsor would like the flexibility to create 1 unit on a portion of the ground floor of the building along West Grand Avenue. Units could operate businesses from their residences that include on-site employees and, if constructed, these units would replace a portion of the commercial space proposed along Grand Avenue project frontage, and would have to meet the applicable requirements related to parking, unit size, etc. that are in place at the time of issuance. Under the existing Planning Code the construction of new live-work units is not allowed except in the S-16 Industrial-Residential Transition Combining Zone, a zoning overlay district. Live-work units (or joint living and working quarters) are a residential occupancy of a building originally designed for non-residential occupancy, in other words the conversion of an existing building to residential uses. Staff has recommended an expansion of the areas where new joint living and working quarters are allowed. The Planning Code Update Committee, and expects to revise the Planning Code in the near future. The project sponsor is of facility in order to accommodate market demand and to take advantage of a reduction in vehicle trips that these units provide by combining workplace and residential facility type will further important General Plan Land Use and Transportation Element goals such as developing live-work spaces and providing variety in housing types. Downtown Oakland is one of the areas being considered. The proposed facility type is different from any existing live-work facility type currently allowed by the Planning Code. The project sponsor requests different requirements related to floor area, parking, and open space. Staff recommends a variance to allow the construction of up to 6 new live-work units as part of the project. The project would allow the project sponsor the flexibility to provide a combination of live-work units and neighborhood-serving commercial space at the ground floor of the building with the street level. A variance for the construction of new live-work units was granted for the T-10 mixed-use project, which is part of the City Center Planned Unit Development.

In addition, per Section 17.116 of the Planning Code, two residential loading berths and one commercial loading berth are required to serve Parcel A, but only one residential loading berth and one commercial berth are provided. Staff believes that a minor variance for a residential loading berth is warranted since the building would adequately accommodate residential loading through provision of one berth, and meeting the code requirement for an additional berth would negatively impact the layout of the parking garage. Other variances for a reduction in the number of required loading berths have been granted for similar projects.

Tentative Parcel Map

A Tentative Parcel Map is required in order to create condominiums. The proposed parcel map (TPM 8530) is an administrative-level determination and will not come before the Planning Commission.

ENVIRONMENTAL REVIEW

The project has undergone review to assess its potential environmental impacts. Based on the results of an Initial Study, a staff determination was made to prepare an Environmental Impact Report (EIR). A Notice of Preparation was issued on March 5, 2004 and several comments were received on the scope of the EIR. The Draft EIR analysis focused on potential impacts of the project on aesthetics, transportation, air quality, noise, cultural resources, hazardous materials, and shadow. Topics excluded from further review as part of the Initial Study checklist include: agricultural resources, biological resources, geology and soils, some hazardous materials issues, hydrology and water quality, land use and planning, mineral resources, population and housing, public services, recreation, and utilities and service systems. The Draft EIR comment period began on August 26 and ended on October 8, 2004.

A Final EIR was prepared that responded to all the comments received on the Draft EIR. The Final EIR, published on November 19, 2004, was provided under separate cover for review and consideration by the Planning Commission, and is available to the public at the Planning Department office. The Final EIR included some minor revisions to the project description as noted previously. In addition, a variant of the Partial Preservation Alternative was analyzed to determine the environmental impacts of preserving three buildings on Broadway instead of the two buildings at the corner of the 23rd/Valley Street intersection that were originally proposed. Finally, Mitigation Measure E.5 was modified to include an additional measure to reduce the cumulative impact of the project on cultural resources. Significant impacts identified in the Final EIR are discussed in detail below.

Significant and Unavoidable Impacts

The Draft EIR analysis identified significant and unavoidable impacts on cultural resources. The project would result in either demolition or substantial alteration of up to 13 existing buildings on the site. Of these buildings, seven would qualify as cultural resources. These buildings include: 1) 2335 Broadway, 2) 2343 Broadway, 3) 2345 Broadway, 4) 2366-2398 Valley Street, 5) 439 23rd Street, 6) 440-448 23rd Street, and 7) 441-449 23rd Street. The location of these buildings is shown in the attached figure (see Attachment B) from the Draft EIR. The historic significance ratings for these buildings are shown in the attached table (see Attachment C) from the Draft EIR. Although retaining the facades at 440-448 and 441-449 23rd Street would somewhat reduce the loss of these cultural resources, the buildings would be substantially altered. Constructing several stories of residential units above the retained facades would result in a substantial adverse effect on each building's character-defining elements and would render them no longer eligible for listing in the California Register. The proposed mitigation measures (E.3a through E.3f) would require the project sponsor to prepare a Historic American Building

Survey for each of the seven affected buildings, prepare a history of the role played by the buildings in the history of automobile sales and repair in Oakland, incorporate historic interpretive elements into the project, salvage architectural elements from the buildings, curate materials and reports at the Oakland History Room, and make any or all of the buildings available for those who may wish to relocate them. Although these mitigation measures would reduce the impacts of the project on cultural resources, they would not be mitigated to less-than-significant levels. The demolition or alteration of these cultural resources would also result in cumulative project impacts in conjunction with other proposed and approved projects in the general vicinity such as the Uptown Mixed-Use project, the Thomas L. Berkley Square project, and the Bay Place project. The proposed project, in combination with these other projects, would eliminate a total of 15 cultural resources in north downtown Oakland.

As mentioned previously, the Final EIR included a modified project description that would retain the façade of the building at 2335 Broadway instead of the building at 440-448 23rd Street proposed in the previous project description. In addition, Mitigation Measure E.5 related to cumulative impacts of the project on cultural resources was modified to include an additional measure to reduce the cumulative impact of the project on cultural resources. The additional measure would require the project sponsor to contribute \$125,000 to the City's Façade Improvement Fund for cumulative impacts on cultural resources in downtown Oakland and the vicinity. The contribution would be earmarked for improving facades of buildings identified as cultural resources in the downtown area according to the General Plan Historic Preservation Element of the Oakland Cultural Heritage Survey. The amount of the contribution was determined by the Planning Director based on the average amount of façade improvement grant awarded (\$25,000) by the Fund and the number of buildings that will be demolished by the project (5). The revised project would not substantially change the EIR's conclusions regarding the project's impact on cultural resources. There would still be significant, unavoidable impacts related to demolition or alteration of seven buildings identified as cultural resources under CEQA. Incorporation of the facades of certain historic buildings as part of the project would not mitigate the project impact or the cumulative impact of the loss of those buildings to a less-than-significant level.

Significant Impacts that Can Be Mitigated to Less-Than-Significant Levels

The Draft EIR analysis also identified significant impacts that could be mitigated to less-than-significant levels on transportation, air quality, noise, cultural resources, and hazardous materials. These impacts and proposed mitigation measures are briefly summarized below:

Transportation: Increased traffic generated by the project would affect levels of service at local intersections under future 2010 and cumulative 2025 conditions. The project sponsor will be required to contribute its fair share to optimize the signal timing at the West Grand Avenue/Telegraph Avenue intersection. In addition, the project sponsor will be required to contribute its fair share to altering the signalization at the Broadway/West Grand Avenue intersection, and for installation of traffic signals at the 24th Street/Telegraph Avenue intersection. Finally, the project sponsor shall prepare a construction management plan for

review and approval by the City Traffic Engineering Division to reduce the impacts of construction-period traffic and parking.

Air Quality: Construction activities would generate short-term emissions of criteria pollutants. The project sponsor shall be required to implement standard dust control procedures.

Noise: Construction activities would generate short-term noise. The project sponsor shall require its construction contractor to limit the time of construction activities as required by the City, to implement noise control techniques, to prepare site-specific noise attenuation measures, and to submit measures to respond to and track complaints about construction noise.

Cultural Resources: Archaeological artifacts, human remains, or fossils may be encountered during project construction activities. The project sponsor is required to conduct an archival cultural resource evaluation prior to construction activity in order to determine whether there are areas of the project site that are likely to contain archaeological resources. In addition, work shall be halted by the project sponsor immediately if human remains or fossils are encountered and appropriate professionals shall be contacted to evaluate any find.

Hazardous Materials: Contaminated soil, groundwater, and/or building materials may be encountered during construction activities and require disposal. In order to avoid impacts due to exposure to these materials, the project sponsor shall prepare a pre-demolition survey for asbestos-containing materials, prepare an asbestos abatement plan, submit documentation showing removal of any asbestos, implement a lead-based paint abatement plan, submit documentation that any lead has been removed from the site, remove any PCB-containing materials, remove the underground storage tank from the site, develop a worker health and safety plan, provide documentation that all applicable regulatory agency clearances have been granted, analyze the soil to be disposed of, stockpile soil safely, and prepare a soil management plan if necessary. In addition, the project sponsor shall be required to implement best management practices to avoid the release of any hazardous materials used during construction activities.

Project Alternatives

As required by the California Environmental Quality Act, several alternatives that would avoid or substantially lessen the significant unavoidable impacts of the project were analyzed in the Draft EIR. These included a No Project Alternative, a Full Preservation Alternative, and a Partial Preservation Alternative. Under the No Project Alternative, the project would not be undertaken and none of the impacts of the project would occur. This alternative would neither meet the project sponsor's objectives, nor the City's objectives to provide new infill housing in the downtown area in close proximity to transit opportunities. Under the Full Preservation Alternative, all seven buildings on the site that are identified as cultural resources would be retained and reused for commercial space as part of the project. No new construction would occur above the retained structures in order to avoid altering their historic significance. This alternative would not result in any significant unavoidable impacts, but would result in 25 percent fewer residential units than the proposed project. The Partial Preservation Alternative would retain and reuse the three historic buildings at the intersection of 23rd/Valley Streets: 441-

449 23rd Street, 439 23rd Street, and 440-448 23rd Street. As with the Full Preservation Alternative, no new construction would occur above the retained structures. This alternative would minimize, but would not fully avoid, the significant unavoidable impacts of the project on cultural resources. The alternative would also reduce the number of residential units by ten percent. The Draft EIR also discusses other project alternatives that were not further analyzed.

As previously discussed, the Final EIR included a variant to the Partial Preservation Alternative, identified as the Broadway Alternative, which would preserve the three buildings located at 2335, 2343, and 2345 Broadway instead of the three buildings evaluated for preservation in the original Partial Preservation Alternative, which included 441-449 23rd Street, 439 23rd Street, and 440-448 23rd Street. This alternative was added in response to comments received on the Draft EIR that requested preservation of the building at 2335 Broadway, which was originally designed by Julia Morgan. As noted in the Draft EIR, although the project alternatives would reduce some of the project impacts, ~~none of them~~ ^{they} would ^{not} fully avoid the significant unavoidable impacts of the project on cultural resources. *Partial Preservation*

CEQA Findings and Statement of Overriding Considerations

The findings to certify that the Final EIR has been prepared in compliance with CEQA and a Statement of Overriding Considerations for the approval of the project are included as Attachment B to this staff report. In addition, these findings are supported by a feasibility analysis which analyzed the potential for reusing the seven existing buildings on the site that were identified in the EIR as cultural resources, and for incorporating them into the project design. The analysis discusses the economic, operational, and design reasons that the project cannot be feasibly redesigned to retain additional building facades or entire buildings. Portions of the feasibility analysis are included in Attachment C. The full text of the analysis including all of the appendices is available at the Planning Department office.

CONCLUSION

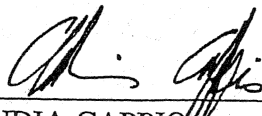
Staff believes that the proposed project includes a number of benefits such as revitalizing an underutilized site on a major street corridor with active uses, providing infill housing in close proximity to mass transit, providing neighborhood-serving commercial space for the surrounding area, and retaining two historic building facades as part of the project design. Staff acknowledges that the project will also result in the demolition of five additional buildings identified as cultural resources. However, Mitigation Measure E.5 from the Mitigation Monitoring and Reporting Program requires the project sponsor to make a substantial contribution to the City's Façade Improvement Fund for its cumulative impacts on cultural resources. As discussed in the attached Statement of Overriding Considerations, staff believes that the benefits of the project outweigh the adverse impacts of the project. Therefore, staff recommends that the Planning Commission:

- 1) Adopt the CEQA findings for the Broadway/West Grand mixed-use project contained in Attachment B, which include certification of the EIR, rejection of alternatives as infeasible, and a Statement of Overriding Considerations; and
- 2) Adopt the attached conditions of approval for the proposed project including the Mitigation Monitoring and Reporting Program; and
- 3) Approve the applications for the Planned Unit Development (Preliminary Development Plan and Final Development Plan), Design Review, Conditional use Permit, and Variances subject to the attached findings and conditions of approval,

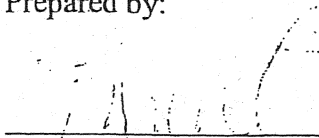
with the proposed minor text additions to COA 5 as distributed to the commission.

Respectfully submitted:

Staff is available for questions and the project sponsor's team will give a brief overview of the revised project.


CLAUDIA CAPRIO
Development Director

Prepared by:


LYNN WARNER
Planner IV, Major Development Projects

Attachments: A. Project Plans
B. CEQA Findings and Statement of Overriding Considerations
C. Feasibility Analysis of Reusing Existing Buildings

FINDINGS FOR APPROVAL

This proposal meets the required findings under Oakland Municipal Code Sections 17.01.100 (Criteria for proposals in conflict with zoning regulations but in conformance with General Plan), 17.134.050 (Conditional Use Permit Criteria), 17.136.070 (Design Review Criteria), 17.140.080 (Planned Unit Development Criteria), 17.140.060 (Planning Commission Action for Final Planned Unit Development), 17.148.050 (Variance Criteria), and Government Code Section 65589.5(j) (Reducing Density for Housing Developments) as set forth below. Required findings are shown in **bold** type; explanations as to why these findings can 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.

Section 17.01.100 (Criteria for proposals in conflict with zoning regulations but in conformance with General Plan):

1. **That the proposal is clearly appropriate in consideration of the characteristics of the proposal and the surrounding area.**

The project is appropriate for the site because it has been designed to be compatible with development in the surrounding area, which includes a variety of uses and building types. The uses and intensity of the proposed project are consistent with the General Plan designations for the site.

2. **That the proposal is clearly consistent with the intent and desired character of the relevant land use classification or classifications of the General Plan and any associated policies.**

The uses and intensity of the proposed project are consistent with the existing Community Commercial General Plan land use designation for Parcel B on the site, which allows residential and commercial uses. In addition, the project is consistent with several General Plan Land Use and Transportation Element policies that encourage infill, mixed-use projects in close proximity to mass transit facilities.

3. **That the proposal will clearly promote implementation of the General Plan. Any such proposal shall be subject to the provisions of the "best fit zone" corresponding to the land use classification in which the proposal is located, as determined in accordance with the guidelines adopted pursuant to Section 17.01.060. If there is more than one "best fit zone" the Director of City Planning shall determine which zone to apply, with consideration given to the characteristics of the proposal and the surrounding area and any relevant provisions of the General Plan.**

The proposed project will clearly promote implementation of the General Plan regulations and policies for this site, because it is consistent with the uses and intensity allowed by the General Plan land use designations. Because the existing C-60 zoning classification for a portion of the project site on Parcel B is inconsistent with the Community

Commercial General Plan designation, the applicable "best fit zone" that has been determined to apply to this portion of the site is the C-40 Community Thoroughfare Commercial Zone. It is one of the possible "best-fit" zones identified in the *Guidelines for Determining Project Conformity with the General Plan and Zoning Regulations*. The C-40 zone was selected as the "best-fit" zone because it makes the most sense since the rest of Parcel B is already zoned C-40.

Section 17.134.050 (Conditional Use Permit Criteria):

1. **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 location, size, design, and operating characteristics of the project will be compatible with the surrounding neighborhood, which includes a variety of building heights, forms, architectural styles, and materials. The scale, bulk, coverage and density of the project are similar to other recent mixed-use projects that have been approved in the general vicinity and are compatible with existing surrounding development. With implementation of the required mitigation measures, the project will not result in any significant impacts on the neighborhood other than the unavoidable impacts on cultural resources that were identified in the EIR for the project.

2. **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 mixed-use project is attractive and has been designed to be compatible with the location. The project will provide living and shopping opportunities that are close to the downtown area and are accessible by public transportation.

3. **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 project will enhance the surrounding area by redeveloping an underutilized site with an attractively designed mixed-use project. The project will revitalize the area by providing active uses that serve the surrounding community.

4. **That the proposal conforms to all applicable design review criteria set forth in the design review procedure at Section 17.136.070.**

The project conforms to all applicable design review criteria as discussed below.

Section 17.136.070 (Design Review Criteria):

1. **That the proposed design will create a building or set of buildings that are well related to the surrounding area in their setting, scale, bulk, height, materials, and textures.**

The proposed project will include several buildings that will be well related to the surrounding area in their setting, scale, bulk, height, materials, and textures. The surrounding area contains a mix of residential and commercial uses in buildings ranging in height from one to ten stories. The project's building heights, ranging from six to seven stories, will fit within the scale of the surrounding area. In addition, the architectural design, massing, and materials of the project will relate to the variety of styles in the surrounding area.

2. **That the proposed design will protect, preserve, or enhance desirable neighborhood characteristics.**

The proposed project will enhance the character of this area of Oakland by redeveloping an underutilized site with attractively designed buildings that provide a mix of residential and neighborhood-serving commercial uses for the surrounding neighborhood.

3. **That the proposed design will be sensitive to the topography and landscape of the area.**

The project will not affect the topography or landscape of the area. The site is a flat, infill site.

4. **That, if situated on a hill, the design and massing of the proposed building relates to the grade of the hill.**

The proposed project will be located on a flat infill site and will not be situated on a hill.

5. **That the proposed design conforms in all significant respects with the Oakland General Plan and with any applicable district plan or development control map which has been adopted by the City Council.**

The proposed project is consistent with the General Plan land use designations for the site as discussed above and elsewhere in this staff report. The project is consistent with the design goals and policies of the General Plan by providing infill mixed-use development in close proximity to mass transit. The project is also consistent with the existing and "best fit" zoning classifications for the site as previously discussed.

Section 17.140.080 Planned Unit Development Permit

- A. That the location, design, size, and uses are consistent with the Oakland Comprehensive Plan and with any other applicable plan, development control map, or ordinance adopted by the City Council.**

The proposed project includes a mix of residential and commercial uses that are consistent with the Central Business District General Plan and Community Commercial land use designations. The project is also consistent with the intensity allowed by the General Plan and with several policies regarding provision of infill mixed-use projects in close proximity to mass transit. With approval of the Planned Unit Development, which includes variances for the construction of new live-work units, as well as a reduction in the number of required loading spaces, the project is consistent with the Planning Code.

- B. That the location, design, and size are such that the development can be well integrated with its surroundings, and, in the case of a departure in character from surrounding uses, that the location and design will adequately reduce the impact of the development.**

The design and size of the project are appropriate for the location and compatible with the surrounding area, which includes a wide variety of uses, building heights, and building types. The project reflects the character of the surrounding area through its mix of uses and variety of architectural styles and building forms.

- C. That the location, design, size, and uses are such that traffic generated by the development can be accommodated safely and without congestion on major streets and will avoid traversing other local streets.**

The proposed project will generate some additional traffic at a few intersections. However, the EIR determined that with implementation of the required mitigation measures the cumulative traffic impacts of the project will be less than significant.

- D. That the location, design, size, and uses are such that the residents or establishments to be accommodated will be adequately served by existing or proposed facilities and services.**

The proposed project site is located in a developed area that is adequately served by existing utilities and service systems including water supply, wastewater treatment, storm water drainage, and solid waste disposal as documented in the Initial Study prepared for the EIR. The proposed project will also provide additional services for the area and improvements to the existing infrastructure.

- E. That the location, design, size, and uses will result in an attractive, healthful, efficient, and stable environment for living, shopping, or working, the beneficial effects of which environment could not otherwise be achieved under the zoning regulations.**

The proposed project is an attractive mixed-use development that will benefit the surrounding area by redeveloping an underutilized site with active uses, providing housing in close proximity to the downtown and public transportation, and providing neighborhood-serving commercial uses.

- F. That the development will be well integrated into its setting, will not require excessive earth moving or destroy desirable natural features, will not be visually obtrusive and will harmonize with surrounding areas and facilities, will not substantially harm major views for surrounding residents, and will provide sufficient buffering in the form of spatial separation, vegetation, topographic features, or other devices.**

As demonstrated in the project EIR, the proposed project will not require excessive earth moving or harm major views. The project has been designed to be compatible with the variety of building heights and forms in the surrounding area and will provide sufficient buffering in the form of landscaping.

Section 17.140.060 (Planning Commission Action for Final Planned Unit Development):

The proposal conforms to all applicable criteria and standards and conforms in all substantial respects to the preliminary development plan, or, in the case of the design and arrangement of those portions of the plan shown in generalized, schematic fashion, it conforms to applicable design review criteria.

The proposed Final Development Plan for Parcels A and B conforms to all applicable criteria and standards and is consistent with the Preliminary Development Plan for the project. The design is attractive and appropriate for the location.

Section 17.148.050 (Variance Criteria for a Reduction in the Number of Required Loading Berths and for the Construction of New Live-work Units):

- 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.**

Strict compliance with the zoning regulations related to loading berths would preclude an effective design solution that improves operational efficiency. Strict adherence to the regulations would result in an impractical layout and would reduce the amount of parking available in the garage. In addition, the construction of new live-work units will provide variety in housing type, will allow flexibility for the project sponsor to best utilize the ground-floor space depending on the commercial viability, and is consistent with proposed revisions to the zoning regulations.

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.**

Strict compliance with the loading regulations for Parcel A would result in inefficient layout and would reduce the amount of space available in the garage for parking. However, the project will still provide one residential and one commercial loading berth which is sufficient to serve the building. Several other projects in the downtown area have had variances granted for a reduction in the number of loading berths provided. In addition, a variance for the construction of new live-work units has recently been approved for another project in the downtown area. As discussed previously, the Planning Code will be revised in the near future to allow for the construction of new live-work units.

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.**

Granting the variances will not adversely affect the character, livability, or appropriate development of the abutting properties or the surrounding area. The intent of the zoning regulations will be met through the provision of adequate residential and commercial loading facilities to serve the building, and the construction of new live-work units will enhance the area by providing variety in housing type and another way to activate the street edge.

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 variance will not constitute a grant of special privilege inconsistent with limitations imposed on other similarly zoned properties. Similar variances have been granted to other projects in the general vicinity for construction of new live-work units and for a reduction in the number of loading berths. The variance will not be inconsistent with the purposes of the planning code regulations as upcoming Planning Code revisions will include the provision for the construction of new live-work units, and a sufficient number of residential and commercial loading berths will be provided to serve the site.

Findings Pursuant to State Government Code Section 65589.5 (j)

Pursuant to Government Code section 65589.5(j), the Planning Commission finds that the proposed housing development cannot have its density reduced because:

- (a) The project is consistent with the general plan and zoning regulations; and

- (b) There is no specific, adverse impact upon the public health or safety as a result of the project.

According to Government Code section 65589.5 (j), if a "housing" project is consistent with a City's General Plan and zoning ordinance, and does not present a threat to public health and safety at its current density, a lower density project cannot be considered as a feasible alternative. Thus, it is not legally feasible to reduce the density of a "housing" project that meets the requirements of Government Code section 65589.5 (j). Under the statute, a "housing" project is defined as residential units only or mixed use developments in which nonresidential uses are limited to neighborhood serving commercial uses on the first floor of buildings. As described elsewhere in this report, the proposed housing project (which is a mixed use development that proposes neighborhood serving commercial uses on the first floor) is consistent with the City General Plan and zoning regulations (pursuant to the granting of variances relating to the construction of new live-work units and a reduction in the number of required loading berths) and there is no specific, adverse impact on the public's health and safety as a result of the project. As defined by the statute, a "specific, adverse impact" means a significant, quantifiable, direct and unavoidable impact, based upon objective, identified written public health or safety standards, policies or conditions as they existed on the date the application was deemed complete." Thus, the proposed housing project cannot have its density reduced.

CONDITIONS OF APPROVAL

Modifications to the Conditions of Approval as directed by the City Planning Commission at the December 1, 2004 meeting are indicated in underlined type for additions and ~~cross-out type~~ for deletions.

1. Approved Use

a. Ongoing

This action by the City Planning Commission ("this Approval") includes the approvals set forth below. This Approval includes:

1. A Planned Unit Development (including a Preliminary Development Plan and Final Development Plan); and
2. A Conditional Use Permit for the inconsistency between the C-60 zoning classification and the Community Commercial General Plan land use designation; and
3. Design Review Approval; and
4. Variances for construction of up to 6 new live-work units, and a reduction in the number of required loading berths.

b. Ongoing.

The project shall be constructed and operated in accordance with the authorized use as described in this staff report and the plans dated November 2, 2004 and as amended by the following conditions of approval. Any additional uses other than those approved with this permit, as described in the project description, will require a separate application and approval.

2. Effective Date, Expiration, and Extensions

a. Ongoing through project completion.

These approvals shall become effective upon satisfactory compliance with these conditions. These approvals for the project site shall expire on December 1, 2006 unless actual construction of the first phase of the project has begun under necessary permits by this date. The approvals for the second phase of the project shall expire on December 1, 2008 unless actual construction of the second phase has begun under necessary permits by this date. Upon written request and payment of appropriate fees prior to the expiration of the approvals, the Zoning Administrator may grant a one-year extension of these dates, with additional extensions subject to approval by the Planning Commission.

b. Prior to issuance of building permit

The project sponsor shall submit a Construction Phasing and Management Plan, incorporating all applicable conditions of approval. The plan shall also include the following additional measures and standards:

- a. A site security and safety plan to assure that grading and construction activities are adequately secured during off-work hours.
- b. A fire safety management plan for all phases of work, including provisions for access, water, and other protection measures during grading and construction activities.
- c. A construction period litter/debris control plan to ensure the site and surrounding area is kept free of litter and debris.

c. *Prior to issuance of certificate of occupancy.*

Final inspection and a certificate of occupancy for any unit or other structure within a phase, as set forth above, shall not be issued until (a) all landscaping and on and off-site improvements for that phase are completed in accordance with this Approval, or (b) until cash, an acceptably rated bond, a certificate of deposit, an irrevocable standby letter of credit or other form of security (collectively "security"), acceptable to the City Attorney, has been posted to cover all costs of any unfinished work related to landscaping and public improvements plus 25 percent within that phase, unless already secured by a subdivision improvement agreement approved by the City. For purposes of these Conditions of Approval, a certificate of occupancy shall mean a final certificate of occupancy, not temporary or conditional, except as the City determines may be necessary to test utilities and services prior to issuance of the final certificate of occupancy.

3. Scope of This Approval

a. *Ongoing.*

The project is approved pursuant to the Planning Code only and shall comply with all other applicable codes and requirements imposed by other affected departments, including but not limited to the Building Services Division and the Fire Marshal. Minor changes to the approvals may be approved administratively by the Planning Director; major changes to the approvals, shall be subject to review and approval by the City Planning Commission.

4. Mitigation Monitoring and Reporting Program

a. *Ongoing.*

The following mitigation measures shall be incorporated into the project. The measures are taken directly from the environmental impact report for the Broadway-West Grand Mixed-Use Project. For each measure, this Mitigation Monitoring and Reporting Program (MMRP) indicates the entity (generally, an agency or department within the City of Oakland) that is responsible for carrying out the measure ("Responsible Implementing Entity"); the actions necessary to ensure compliance with the applicable measure ("Monitoring Action(s)") and the entity responsible for monitoring this compliance ("Monitoring Responsibility"); and the time frame during which monitoring must occur ("Monitoring Timeframe").

B. Transportation, Circulation, and Parking

Impact B.2: Traffic generated by the project would affect traffic levels of service at local intersections under future (2010) conditions.

Mitigation Measure B.2: The project sponsor shall contribute its fair share to alteration of the traffic signal cycle length and optimization of the traffic signal timing at the signalized intersection of West Grand Avenue / Telegraph Avenue. Optimization of traffic signal timing shall include determination of allocation of green time for each intersection approach in tune with the relative traffic volumes on those approaches, and coordination with signal phasing and timing of adjacent intersections that are part of signal systems on West Grand Avenue and Telegraph Avenue.

The project sponsor shall contribute its fair share toward the cost of optimization of all traffic signals on West Grand Avenue between San Pablo Avenue and Broadway, and on Telegraph Avenue between Broadway and West Grand Avenue. The project volumes would comprise about 2.3 percent of the increase in traffic volume during the a.m. peak hour between existing conditions and 2010 volumes.

Given that the project sponsor is responsible for only a portion of this mitigation measure, implementation of this set of improvements will be funded fully by one or a combination of the following means:

- a. Prior to project completion the project sponsor shall contribute to the City its fair share of the cost of signalization improvements to address cumulative impacts of the project. Prior to payment of the contributions the City will create a mechanism to receive the fair share contributions from the project sponsor. The City Public Works Agency shall implement the measures as necessary to address cumulative impacts of the project.
- b. Prior to project completion the project sponsor shall fully fund the costs of the signalization improvements and shall be reimbursed through other fair-share contributions as future projects that exceed the City's thresholds of significance occur. Prior to the time the project sponsor provides these funds, the City and the project sponsor will create a mechanism for this reimbursement.

Responsible Implementing Entity: Oakland Public Works Agency, Traffic Engineering Division

Monitoring Action(s): Public Works Agency, Traffic Engineering Division to determine cost of signal optimization; Oakland Community and Economic Development Agency (CEDA), Planning Division to determine fair-share contribution to this cost and ensure that project sponsor funds this share.

Monitoring Responsibility: CEDA, Planning Division; Public Works Agency, Traffic Engineering Division

Monitoring Timeframe: Prior to issuance of certificate of occupancy for Parcel B (north of Grand Avenue).

Impact B.3: Traffic generated by the project would affect traffic levels of service at local intersections under cumulative (2025) conditions.

Mitigation Measure B.3a: The project sponsor shall contribute its fair share to alteration of the traffic signal cycle length and optimization of the traffic signal timing at the signalized intersection of West Grand Avenue / Telegraph Avenue. Optimization of traffic signal timing shall include determination of allocation of green time for each intersection approach in tune with the relative traffic volumes on those approaches, and coordination with signal phasing and timing of adjacent intersections that are part of signal systems on West Grand Avenue and Telegraph Avenue.

The project sponsor shall contribute its fair share toward the cost of optimization of all traffic signals on West Grand Avenue between San Pablo Avenue and Broadway, and on Telegraph Avenue between Broadway and West Grand Avenue. The proposed project would contribute about 1.4 percent in the a.m. peak hour and 3.4 percent in the p.m. peak hour to the traffic volume increase between the existing and Year 2025 cumulative conditions.

Given that the project sponsor is responsible for only a portion of this mitigation measure, implementation of this set of improvements will be funded fully by one or a combination of the following means:

- a. Prior to project completion the project sponsor shall contribute to the City its fair share of the cost of signalization improvements to address cumulative impacts of the project. Prior to payment of the contributions the City will create a mechanism to receive the fair share contributions from the project sponsor. The City Public Works Agency shall implement the measures as necessary to address cumulative impacts of the project.
- b. Prior to project completion the project sponsor shall fully fund the costs of the signalization improvements and shall be reimbursed through other fair-share contributions as future projects that exceed the City's thresholds of significance occur. Prior to the time the project sponsor provides these funds, the City and the project sponsor will create a mechanism for this reimbursement.

Responsible Implementing Entity: Oakland Public Works Agency, Traffic Engineering Division

Monitoring Action(s): Public Works Agency, Traffic Engineering Division to determine cost of signal optimization; Oakland Community and Economic Development Agency (CEDA), Planning Division to determine fair-share contribution to this cost and ensure that project sponsor funds this share.

Monitoring Responsibility: CEDA, Planning Division; Public Works Agency, Traffic Engineering Division

Monitoring Timeframe: Prior to issuance of certificate of occupancy for Parcel B (north of Grand Avenue).

Mitigation Measure B.3b: The project sponsor shall contribute its fair share to alteration of the traffic signal cycle length, optimization of the traffic signal timing, and provision of protected left turn phases on the northbound and southbound approaches, at the signalized intersection of Broadway / West Grand Avenue. Optimization of traffic signal timing shall include determination of allocation of green time for each intersection approach in tune with the relative traffic volumes on those approaches, and coordination with signal phasing and timing of adjacent intersections that are part of signal system on West Grand Avenue.

The project sponsor shall contribute its fair share toward the cost of optimization of all traffic signals on West Grand Avenue between San Pablo Avenue and Broadway, and on Telegraph Avenue between Broadway and West Grand Avenue. The proposed project would contribute about 4.2 percent of the cumulative traffic volume increase between the existing and Year 2025 cumulative conditions.

Given that the project sponsor is responsible for only a portion of this mitigation measure, implementation of this set of improvements will be funded fully by one or a combination of the following means:

- a. Prior to project completion the project sponsor shall contribute to the City its fair share of the cost of signalization improvements to address cumulative impacts of the project. Prior to payment of the contributions the City will create a mechanism to receive the fair share contributions from the project sponsor. The City Public Works Agency shall implement the measures as necessary to address cumulative impacts of the project.
- b. Prior to project completion the project sponsor shall fully fund the costs of the signalization improvements and shall be reimbursed through other fair-share contributions as future projects that exceed the City's thresholds of significance occur. Prior to the time the project sponsor provides these funds, the City and the project sponsor will create a mechanism for this reimbursement.

Responsible Implementing Entity: Oakland Public Works Agency, Traffic Engineering Division

Monitoring Action(s): Public Works Agency, Traffic Engineering Division to determine cost of signal optimization; Oakland Community and Economic Development Agency (CEDA), Planning Division to determine fair-share contribution to this cost and ensure that project sponsor funds this share.

Monitoring Responsibility: CEDA, Planning Division; Public Works Agency, Traffic Engineering Division

Monitoring Timeframe: Prior to issuance of certificate of occupancy for Parcel B (north of Grand Avenue).

Mitigation Measure B.3c: The project sponsor shall contribute its fair share to installation of a traffic signals at the unsignalized intersection of 24th Street / Telegraph Avenue. Installation of traffic signals shall include optimizing signal phasing and timing

(i.e., allocation of green time for each intersection approach) in tune with the relative traffic volumes on those approaches, and coordination with signal phasing and timing of adjacent intersections.

The project sponsor shall contribute its fair share toward the cost of installation of the traffic signal. The proposed project would contribute about 4.8 percent of the cumulative traffic volume increase between the existing and Year 2025 cumulative conditions.

Given that the project sponsor is responsible for only a portion of this mitigation measure, implementation of this set of improvements will be funded fully by one or a combination of the following means:

- a. Prior to project completion the project sponsor shall contribute to the City its fair share of the cost of signalization improvements to address cumulative impacts of the project. Prior to payment of the contributions the City will create a mechanism to receive the fair share contributions from the project sponsor. The City Public Works Agency shall implement the measures as necessary to address cumulative impacts of the project.
- b. Prior to project completion the project sponsor shall fully fund the costs of the signalization improvements and shall be reimbursed through other fair-share contributions as future projects that exceed the City's thresholds of significance occur. Prior to the time the project sponsor provides these funds, the City and the project sponsor will create a mechanism for this reimbursement.

Responsible Implementing Entity: Oakland Public Works Agency, Traffic Engineering Division

Monitoring Action(s): Public Works Agency, Traffic Engineering Division to determine cost of traffic signal installation; Oakland Community and Economic Development Agency (CEDA), Planning Division to determine fair-share contribution to this cost and ensure that project sponsor funds this share.

Monitoring Responsibility: CEDA, Planning Division; Public Works Agency, Traffic Engineering Division

Monitoring Timeframe: Prior to issuance of certificate of occupancy for Parcel B (north of Grand Avenue).

Impact B.11: Project construction would affect traffic flow and circulation, parking, and pedestrian safety.

Mitigation Measure B.11: The project sponsor and construction contractor shall meet with the Traffic Engineering Division of the Oakland Public Works Agency and other appropriate City of Oakland agencies to determine traffic management strategies to reduce, to the maximum extent feasible, traffic congestion and the effects of parking demand by construction workers during construction of this project and other nearby projects that could be simultaneously under construction. The project sponsor shall

develop a construction management plan for review and approval by the City Traffic Engineering Division. The plan shall include at least the following items and requirements: traffic control, including truck scheduling to avoid peak traffic hours, detour signs and other warning devices as needed, lane closure procedures, and designated construction routes; any transit stop relocations; provisions for construction worker parking management to ensure no impacts to on-street parking; identification of parking eliminations and any relocation of parking for employees and public parking during construction; notification procedures for adjacent property owners and public safety personnel regarding deliveries, detours, and lane closures; accommodation of pedestrian flow; location of construction staging areas; identification and monitoring of haul routes to minimize traffic and pedestrian impacts and to identify and correct any damage; and a complaint response and tracking process, including identification of an onsite complaint manager.

Responsible Implementing Entity: Oakland Public Works Agency, Traffic Engineering Division

Monitoring Action(s): Public Works Agency, Traffic Engineering Division to meet with project sponsor to discuss construction-period traffic management and shall review and approve construction management plan submitted by project sponsor. Traffic Engineering Division shall notify Oakland Community and Economic Development Agency (CEDA), Planning Division, of acceptance of construction management plan when plan is determined adequate.

Monitoring Responsibility: CEDA, Planning Division; Public Works Agency, Traffic Engineering Division

Monitoring Timeframe: Prior to issuance of each demolition, grading, or building permit.

C. Air Quality

Impact C.1: Activities associated with demolition, site preparation and construction would generate short-term emissions of criteria pollutants, including suspended and inhalable particulate matter and equipment exhaust emissions.

Mitigation Measure C.1a: During construction, the project sponsor shall require the construction contractor to implement the following measures required as part of BAAQMD's basic dust control procedures required for sites of less than four acres. These include: watering all active construction areas at least twice daily; covering all trucks hauling soil, sand, and other loose materials or require all trucks to maintain at least two feet of freeboard; paving or application of water three times daily or of (non-toxic) soil stabilizers on all unpaved access roads, parking areas and staging areas at construction sites; daily street sweeping (with water sweepers) of all paved access roads, parking areas and staging area at construction sites if visible soil material is observed; and daily street sweeping (with water sweepers) if visible soil material is carried onto adjacent public streets.

Responsible Implementing Entity: Oakland Community and Economic Development Agency (CEDA), Building Services Division

Monitoring Action(s): CEDA, Building Services Division shall conduct spot-checks as deemed necessary throughout construction period.

Monitoring Responsibility: CEDA, Building Services Division

Monitoring Timeframe: Throughout the construction period.

Mitigation Measure C.1b: In accordance with standard City practices, to minimize water quality impacts, the project sponsor shall be required to comply with applicable standards and regulations of the City of Oakland. In addition, the following standard measures shall be implemented to avoid impacts related to stormwater or water quality: grading of unpaved areas shall be done in such a manner as to control surface drainage and redirect surface water away from areas of activity during excavation and construction, and the project shall be required to comply with provisions of the Clean Water Act, if applicable, with regard to preparing a storm water discharge plan.

Responsible Implementing Entity: Project Sponsor; Oakland Public Works Agency, Environmental Services Division

Monitoring Action(s): Environmental Services Division shall review final grading, excavation, and building plans to ensure compliance with applicable standards and regulations. Environmental Services Division shall conduct spot-checks as deemed necessary throughout construction period.

Monitoring Responsibility: Public Works Agency, Environmental Services Division

Monitoring Timeframe: Environmental Services Division shall review plans for compliance prior to issuance of any grading, excavation, or building permits. Environmental Services Division shall verify compliance with applicable rules and regulations throughout construction period.

D. Noise

Impact D.1: Construction activities would intermittently and temporarily generate noise levels above existing ambient levels in the project vicinity.

Mitigation Measure D.1a: The project sponsor shall require construction contractors to limit standard construction activities as required by the City Building Department. Such activities are generally limited to between 7:00 a.m. and 7:00 p.m. Monday through Friday, with pile driving and/or other extreme noise generating activities greater than 90 dBA limited to between 8:00 a.m. and 4:00 p.m. Monday through Friday, with no extreme noise generating activity permitted between 12:30 and 1:30 p.m. No construction activities shall be allowed on weekends until after the building is enclosed, without prior authorization of the Building Services Division, and no extreme noise generating activities shall be allowed on weekends and holidays.

Responsible Implementing Entity: Project Sponsor; Oakland Community and Economic Development Agency (CEDA), Building Services Division

Monitoring Action(s): Project sponsor shall prepare and submit for review and approval a site-specific construction noise control plan.

Monitoring Responsibility: CEDA, Building Services Division

Monitoring Timeframe: Review and approve noise control plan prior to the issuance of demolition, grading, excavation, or building permits. Monitor and respond to noise complaints throughout construction period.

Mitigation Measure D.1b: To reduce daytime noise impacts due to construction, the project sponsor shall require construction contractors to implement the following measures: Equipment and trucks used for project construction shall employ the best available noise control techniques; impact tools (e.g., jack hammers, pavement breakers, and rock drills) used for project construction shall be hydraulically or electrically powered wherever possible; where use of pneumatic tools is unavoidable, an exhaust muffler on the compressed air exhaust shall be used. External jackets on the tools themselves shall be used where feasible. Quieter procedures shall be used, such as drills rather than impact equipment, whenever feasible; stationary noise sources shall be located as far from adjacent receptors as possible, and they shall be muffled and enclosed within temporary sheds, incorporate insulation barriers, or other measures to the extent feasible.

Responsible Implementing Entity: Project Sponsor; Oakland Community and Economic Development Agency (CEDA), Building Services Division

Monitoring Action(s): Project sponsor shall prepare and submit for review and approval a site-specific construction noise control plan.

Monitoring Responsibility: CEDA, Building Services Division

Monitoring Timeframe: Review and approve noise control plan prior to the issuance of demolition, grading, excavation, or building permits. Monitor and respond to noise complaints throughout construction period.

Mitigation Measure D.1c: To further mitigate potential other extreme noise generating construction impacts, a set of site-specific noise attenuation measures shall be completed under the supervision of a qualified acoustical consultant. Prior to commencing construction, a plan for such measures shall be submitted for review and approval by the City to ensure that maximum feasible noise attenuation will be achieved. These attenuation measures shall include as many of the following control strategies as feasible: Erect temporary plywood noise barriers around the construction site, particularly along the western boundary along Valley Street to shield the adjacent multi-family residential buildings; implement "quiet" pile-driving technology, where feasible, if pile-driving becomes necessary (it is not currently proposed); use noise control blankets on the building structure as the building is erected to reduce noise emission from the site; evaluate the feasibility of noise control at the receivers by temporarily improving the

noise reduction capability of adjacent buildings; and monitor the effectiveness of noise attenuation measures by taking noise measurements.

Responsible Implementing Entity: Project Sponsor; Oakland Community and Economic Development Agency (CEDA), Building Services Division

Monitoring Action(s): Project sponsor shall prepare and submit for review and approval a site-specific construction noise control plan.

Monitoring Responsibility: CEDA, Building Services Division

Monitoring Timeframe: Review and approve noise control plan prior to the issuance of demolition, grading, excavation, or building permits. Monitor and respond to noise complaints throughout construction period.

Mitigation Measure D.1d: Along with the submission of construction documents, the project sponsor shall submit to the City Building Department a list of measures to respond to and track complaints pertaining to construction noise. These measures shall include: a procedure for notifying the City Building Division staff and Oakland Police Department; a plan for posting signs on-site pertaining to permitted construction days and hours and complaint procedures and who to notify in the event of a problem; a listing of telephone numbers (during regular construction hours and off-hours); the designation of an on-site construction complaint manager for the project; notification of neighbors within 300 feet of the project construction area at least 30 days in advance of pile-driving or other extreme noise-generating activities about the estimated duration of the activity; and a preconstruction meeting shall be held with the job inspectors and the general contractor/on-site project manager to confirm that noise mitigation and practices (including construction hours, neighborhood notification, posted signs, etc.) are completed.

Responsible Implementing Entity: Project Sponsor; Oakland Community and Economic Development Agency (CEDA), Building Services Division

Monitoring Action(s): Project sponsor shall prepare and submit for review and approval a site-specific construction noise control plan.

Monitoring Responsibility: CEDA, Building Services Division

Monitoring Timeframe: Review and approve noise control plan prior to the issuance of demolition, grading, excavation, or building permits. Monitor and respond to noise complaints throughout construction period.

E. Cultural Resources

Impact E.1: Construction of the proposed project could cause substantial adverse changes to the significance of currently unknown cultural resources at the site, potentially including an archaeological resource pursuant to CEQA Guidelines Section 15064.5 or CEQA Section 21083.2(g), or the disturbance of any human remains, including those interred outside of formal cemeteries.

Mitigation Measure E.1a: An archival cultural resource evaluation shall be implemented prior to the start of construction or other ground-disturbing activities to identify whether historic or unique archaeological resources exist within the project site. The archival cultural resource evaluation, or "sensitivity study," shall be conducted by a cultural resource professional approved by the City who meets the Secretary of the Interior's Professional Qualifications Standards for Prehistoric and Historical Archaeology.

The purpose of the archival cultural resource evaluation is to: (1) identify documentation and studies to determine the presence and location of potentially significant archaeological deposits; (2) determine if such deposits meet the definition of a historical resource under CEQA Guidelines Section 15064.5 or a unique archaeological resource under CEQA Section 21083.2(g); (3) guide additional archaeological work, if warranted, to recover the information potential of such deposits; and (4) define an archaeological monitoring plan, potentially including pre-construction subsurface archaeological investigation if warranted. If excavation is the only feasible means of data recovery, such excavation shall be in accord with the provisions of CEQA Guidelines Section 15126.4(b)(3)(C). Any additional archaeological work and or monitoring shall be pursuant to a plan approved by the City. If a pre-constructing testing program is deemed necessary by the qualified professional as a result of the archival study, it shall be guided by the archival study and shall use a combination of subsurface investigation methods (including backhoe trenching, auguring, and archaeological excavation units, as appropriate).

Representatives of established local Chinese-American organizations (including the Chinese Historical Society of America and the Oakland Asian Cultural Center) shall be invited to participate in a focused community review of the archival cultural resource evaluation prior to any subsequent recovery of potential resources or prior to the start of construction, whichever is earlier. The City shall consider the community comments in its review and approval of any plan for additional archaeological work or monitoring.

Should an archaeological artifact be discovered on-site during project construction, all activities within a 50-foot radius would be halted until the findings can be fully investigated by a qualified archaeologist to evaluate the find and assess the significance of the find according to the CEQA definition of a historical or unique archaeological resource. If the deposit is determined to be significant, the project sponsor and the qualified archaeologist shall meet to determine the appropriate avoidance measures or other appropriate mitigation, subject to approval by the City of Oakland, which shall assure implementation of appropriate mitigation measures recommended by the archaeologist. Should archaeologically significant materials be recovered, the qualified archaeologist would recommend appropriate analysis and treatment, and would prepare a report on the findings for submittal to the Northwest Information Center.

If historic or unique archaeological resources associated with the Chinese community are identified within the project site and are further determined to be unique, the City shall

consult with representatives of an established local Chinese-American organization(s) regarding the potential use of the archaeological findings for interpretive purposes.

Responsible Implementing Entity: Project Sponsor; Oakland Community and Economic Development Agency (CEDA), Planning Division

Monitoring Action(s): Project sponsor shall prepare and submit to Planning Division for review and approval an archival cultural resource evaluation. Project sponsor shall contact qualified archaeologist in the event that artifacts are discovered during construction. Archaeologist shall consult with Planning Division and with representatives of local Chinese-American community regarding any such discovery and shall undertake data recovery as warranted based on the nature of the discovery.

Monitoring Responsibility: CEDA, Planning Division

Monitoring Timeframe: Review and accept archival cultural resource evaluation prior to the start of any ground-disturbing activities. Direct data recovery, as applicable, in the event that artifacts are discovered during the construction period.

Mitigation Measure E.1b: In the event that human skeletal remains are uncovered at the project site during construction or ground-breaking activities, all work would immediately halt and the Alameda County Coroner would be contacted to evaluate the remains, and follow the procedures and protocols pursuant to Section 15064.5 (e)(1) of the CEQA Guidelines. If the County Coroner determines that the remains are Native American, the City will contact the California Native American Heritage Commission (NAHC), pursuant to subdivision (c) of Section 7050.5 of the Health and Safety Code, and all excavation and site preparation activities will cease within a 50-foot radius until appropriate arrangements are made.

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.

Responsible Implementing Entity: Project Sponsor; Oakland Community and Economic Development Agency (CEDA), Planning Division; Alameda County Coroner; Native American Heritage Commission

Monitoring Action(s): Project sponsor shall contact coroner in the event that human remains are encountered. Agencies shall respond to any such discovery as applicable.

Monitoring Responsibility: CEDA, Planning Division; Alameda County Coroner; Native American Heritage Commission

Monitoring Timeframe: Throughout construction period.

Impact E.2: The proposed project may adversely affect unidentified paleontological resources at the site.

Mitigation Measure E.2: The project sponsor shall notify a qualified paleontologist of unanticipated discoveries, who shall document the discovery as needed, evaluate the potential resource, and assess the significance of the find under the criteria set forth in Section 15064.5 of the CEQA Guidelines. In the event of an unanticipated discovery of a breas, true, and/or trace fossil during construction, excavations within 50 feet of the find shall be temporarily halted or diverted until the discovery is examined by a qualified paleontologist (per Society of Vertebrate Paleontology standards (SVP 1995,1996)). The paleontologist shall notify the appropriate agencies to determine procedures that would be followed before construction is allowed to resume at the location of the find. If the City determines that avoidance is not feasible, the paleontologist shall prepare an excavation plan for mitigating the effect of the project on the qualities that make the resource important, and such plan shall be implemented. The plan shall be submitted to the City for review and approval.

Responsible Implementing Entity: Project Sponsor; Oakland Community and Economic Development Agency (CEDA), Planning Division

Monitoring Action(s): Project sponsor shall contact qualified paleontologist in the event that fossils are discovered during construction. Paleontologist shall direct data recovery, as warranted based on the discovery.

Monitoring Responsibility: CEDA, Planning Division

Monitoring Timeframe: Direct data recovery, as applicable, in the event that fossils are discovered during the construction period.

Impact E.3: The project would result in demolition or substantial alteration of seven buildings that qualify as historic resources, as defined in Section 15064.5. These buildings include: 1) 2335 Broadway, 2) 2343 Broadway; 3) 2345 Broadway, 4) 2366-2398 Valley Street, 5) 439 23rd Street, 6) 440-448 23rd Street, and 7) 441-449 23rd Street.

Mitigation Measure E.3a: Record each of the seven affected historic resources in accordance with procedures of the Historic American Building Survey (HABS) through measured drawings, large-format photographs and written histories in a combined document, to be archived locally at the Oakland History Room (OHR) of the Oakland Public Library with copies to OCHS and the Northwest Information Center (NWIC). Portions of the metal facades on 2335-2345 Broadway shall be selectively demolished to determine if any original fabric from the 1920s exists behind them, as visual evidence suggests. If the selective demolition reveals sufficient evidence of historic fabric, all metal facades shall be carefully removed and all original facades photographed for the HABS documentation effort. If no original fabric exists, these buildings shall be photographed as they currently appear.

Responsible Implementing Entity: Project Sponsor; Oakland Community and Economic Development Agency (CEDA), Planning Division; Oakland Cultural Heritage Survey

Monitoring Action(s): Project sponsor shall contract with qualified architectural historian or preservation architect to prepare historical documentation and shall submit the documentation as specified in the mitigation measure.

Monitoring Responsibility: CEDA, Planning Division

Monitoring Timeframe: Verify that appropriate documentation has been prepared prior to the issuance of demolition permit(s).

Mitigation Measure E.3b: Prepare a history of the development of automobile sales and repair in Oakland, and the role played by the buildings on the project site in that history, that incorporates oral history, documentary research, and architectural information; this history could utilize non-written media and production techniques, including video photography. The resulting report, in brochure or other form, shall be made available at local libraries and museums.

Responsible Implementing Entity: Project Sponsor; Oakland Community and Economic Development Agency (CEDA), Planning Division; Oakland Cultural Heritage Survey

Monitoring Action(s): Project sponsor shall contract with qualified architectural historian or preservation architect to prepare historical documentation and shall submit the documentation as specified in the mitigation measure.

Monitoring Responsibility: CEDA, Planning Division

Monitoring Timeframe: Verify that appropriate documentation has been prepared prior to the issuance of demolition permit(s).

Mitigation Measure E.3c: Incorporate interpretive elements including real historic material from the site where feasible, such as signs and placards that describe the history of the area and the historic buildings to be demolished, into public areas and street frontages proposed as part of the project.

Responsible Implementing Entity: Project Sponsor; Oakland Community and Economic Development Agency (CEDA), Planning Division; Oakland Cultural Heritage Survey

Monitoring Action(s): Review building plans for evidence of incorporation of interpretative elements in the project design.

Monitoring Responsibility: CEDA, Planning Division

Monitoring Timeframe: Prior to the issuance of building permit(s).

Mitigation Measure E.3d: Salvage architectural elements from the historic buildings to be demolished, including hardware, doors, paneling, fixtures, and equipment, and incorporate these elements into new construction on the project site where feasible.

Responsible Implementing Entity: Project Sponsor; Oakland Community and Economic Development Agency (CEDA), Planning Division; Oakland Cultural Heritage Survey

Monitoring Action(s): Project sponsor shall contract with qualified architectural historian or preservation architect to conduct appropriate salvage of architectural elements and shall prepare report documenting same and addressing how elements will be incorporated for submittal to Planning Division.

Monitoring Responsibility: CEDA, Planning Division

Monitoring Timeframe: Verify that appropriate documentation has been prepared prior to the issuance of demolition permit(s).

Mitigation Measure E.3e: Curate all materials, notes, and reports at the Oakland History Room, and submit copies to the NWIC.

Responsible Implementing Entity: Project Sponsor; Oakland Community and Economic Development Agency (CEDA), Planning Division

Monitoring Action(s): Project sponsor shall contract with qualified architectural historian or preservation architect to prepare historical documentation and shall submit the documentation as specified in the mitigation measure.

Monitoring Responsibility: CEDA, Planning Division

Monitoring Timeframe: Verify that appropriate documentation has been submitted to the Oakland History Room and the NWIC prior to the issuance of first occupancy permit(s).

Mitigation Measure E.3f: Make any or all of the historic buildings proposed for demolition available at no cost to a qualified individual or organization that may wish to relocate one or more of the buildings to a nearby site consistent with the early automotive history of Oakland.

Responsible Implementing Entity: Project Sponsor; Oakland Community and Economic Development Agency (CEDA), Planning Division

Monitoring Action(s): Project sponsor shall contact Oakland Heritage Alliance regarding the availability for relocation of the historical resources on the project site. Sponsor shall also publish advertisement(s) or notice(s) regarding the availability at no cost (with new owner to pay relocation costs) for relocation of the buildings identified as historical resources that are proposed for demolition. Options for noticing include, but are not limited to, placement of at least one display ad in a newspaper of general circulation; placement of at least one display ad in at least three East Bay real estate publications; and/or placement of at least one display ad in a local historic preservation newsletter.

Monitoring Responsibility: CEDA, Planning Division

Monitoring Timeframe: Verify that appropriate contact and advertising has been prepared prior to the issuance of demolition permit(s).

Impact E.5: The proposed project, in combination with cumulative development including new construction and other alterations to historic resources in the project vicinity, would result in cumulative impacts to historic resources.

Mitigation Measure E.5: The project sponsor would contribute \$125,000 to the City's Facade Improvement Fund for cumulative impacts on historic resources in downtown Oakland and the vicinity. The amount of the contribution was determined by the Planning Director based on the average amount of facade improvement grant awarded (\$25,000) by the Fund and the number of buildings that will be demolished by the project (5). Although the Facade Improvement Fund is not limited to historic buildings, the project's contribution would be earmarked especially for improving facades of buildings in the downtown area identified as historic resources according to the General Plan Historic Preservation Element or the Oakland Cultural Heritage Survey.

Responsible Implementing Entity: Oakland Community and Economic Development Agency (CEDA), Planning Division

Monitoring Action(s): CEDA, Planning Division to determine fair-share contribution and ensure that project sponsor funds this amount.

Monitoring Responsibility: CEDA, Planning Division; Oakland Cultural Heritage Survey

Monitoring Timeframe: Verify that agreed-upon fee has been paid prior to the issuance of demolition permit(s).

F. Hazardous Materials

Impact F.1: Disturbance and release of contaminated soil, groundwater, or building materials during demolition and construction phases of the project could expose construction workers, the public, or the environment to adverse conditions related to hazardous substance handling.

Mitigation Measure F.1a: A pre-demolition survey for asbestos-containing materials (ACMs) shall be performed prior to demolition of all structures to be demolished. The survey shall include sampling and analysis of suspected ACMs identified in the 1997 and 2000 Phase I investigations and areas that were previously not surveyed (439 23rd Street, 449 23rd Street, and 461 24th Street).

Responsible Implementing Entity: Project Sponsor; Oakland Public Works Agency, Environmental Services Division

Monitoring Action(s): Project sponsor shall contract with a qualified environmental professional to prepare ACM survey(s) and shall submit same to Public Works Agency, Environmental Services Division for review and acceptance. Environmental Services

Division shall notify CEDA Planning Division and Building Services Division of its acceptance of the survey(s).

Monitoring Responsibility: Public Works Agency, Environmental Services Division.

Monitoring Timeframe: Prior to the issuance of demolition permit(s).

Mitigation Measure F.1b: An asbestos abatement plan developed by a state-certified asbestos consultant shall be prepared. All asbestos-containing materials (ACMs) shall be removed and appropriately disposed of in accordance with the asbestos abatement plan prior to demolition of the existing buildings in accordance with federal and State construction worker health and safety regulations, the regulations and notification requirements of the Bay Area Air Quality Management District (BAAQMD).

Responsible Implementing Entity: Project Sponsor; Oakland Public Works Agency, Environmental Services Division

Monitoring Action(s): Project sponsor shall contract with a qualified environmental professional to prepare an asbestos abatement plan, if deemed necessary by the consultant and by the Public Works Agency, Environmental Services Division. Environmental Services Division shall review the plan and shall notify CEDA Planning Division and Building Services Division of its acceptance of the plan(s).

Monitoring Responsibility: Public Works Agency, Environmental Services Division.

Monitoring Timeframe: Prior to the issuance of demolition permit(s).

Mitigation Measure F.1c: The applicant shall submit for review and approval written documentation that any asbestos-containing materials (ACMs) have been removed from the project site prior to the start of any demolition activities. A licensed asbestos firm shall conduct the removal of ACMs in accordance with BAAQMD's Regulation 11 Rule 2.

Responsible Implementing Entity: Project Sponsor; Oakland Public Works Agency, Environmental Services Division

Monitoring Action(s): Project sponsor shall submit documentation specified in mitigation measure to Public Works Agency, Environmental Services Division. Environmental Services Division shall review the plan and shall notify CEDA Planning Division and Building Services Division of its acceptance of the documentation.

Monitoring Responsibility: Public Works Agency, Environmental Services Division.

Monitoring Timeframe: Prior to the issuance of demolition permit(s).

Mitigation Measure F.1d: The project sponsor shall implement a lead-based paint abatement plan, which shall include the following components: development of an abatement specification approved by a Certified Project Designer; a site Health and Safety Plan, as needed; containment of all work areas to prohibit off-site migration of paint chip debris; removal of all peeling and stratified lead-based paint on building surfaces and on non-building surfaces to the degree necessary to safely and properly

complete demolition activities per the recommendations of the survey. The demolition contractor shall be identified as responsible for properly containing and disposing of intact lead-based paint on all equipment to be cut and/or removed during the demolition; appropriate removal of paint chips by vacuum or other approved method; collection, segregation, and profiling waste for disposal determination; and appropriate disposal of all hazardous and non-hazardous waste.

Responsible Implementing Entity: Project Sponsor; Oakland Public Works Agency, Environmental Services Division

Monitoring Action(s): Project sponsor shall contract with a qualified environmental professional to prepare a lead-paint abatement plan, if deemed necessary by the consultant and by the Public Works Agency, Environmental Services Division. Environmental Services Division shall review the plan and shall notify CEDA Planning Division and Building Services Division of its acceptance of the plan(s).

Monitoring Responsibility: Public Works Agency, Environmental Services Division.

Monitoring Timeframe: Prior to the issuance of demolition permit(s).

Mitigation Measure F.1e: The applicant shall demonstrate to the satisfaction of the Fire Department, Office of Emergency Services, that the site has been investigated for the presence of lead and does not contain hazardous levels of lead.

Responsible Implementing Entity: Project Sponsor; Oakland Public Works Agency, Environmental Services Division

Monitoring Action(s): Project sponsor shall submit documentation specified in mitigation measure to Public Works Agency, Environmental Services Division, and to the Oakland Fire Department. Environmental Services Division and Fire Department shall review the plan and shall notify CEDA Planning Division and Building Services Division of their acceptance of the documentation.

Monitoring Responsibility: Public Works Agency, Environmental Services Division.

Monitoring Timeframe: Prior to the issuance of demolition, grading, excavation, and/or building permit(s), as applicable.

Mitigation Measure F.1f: In the event that electrical equipment or other PCB-containing materials are identified prior to demolition activities they shall be removed and disposed of by a licensed transportation and disposal facility in a Class I hazardous waste landfill.

Responsible Implementing Entity: Project Sponsor; Oakland Public Works Agency, Environmental Services Division

Monitoring Action(s): Project sponsor shall contract with a qualified environmental professional to assess the project site for the presence of PCBs and, if warranted by the assessment, to prepare an abatement plan for PCBs. This plan shall be submitted for review and acceptance by the Public Works Agency, Environmental Services Division.

Environmental Services Division shall review the plan and shall notify CEDA Planning Division and Building Services Division of its acceptance of the plans.

Monitoring Responsibility: Public Works Agency, Environmental Services Division.

Monitoring Timeframe: Prior to the issuance of demolition permit(s).

Mitigation Measure F.1g: The underground storage tank present along the west side of Broadway shall be removed prior to construction activities in the immediate area. The Alameda County Local Oversight Program (LOP) shall be contacted to oversee removal and determine appropriate remediation measures. Removal of the UST shall require, as deemed necessary by the LOP, over-excavation and disposal of any impacted soil that may be associated with such tanks to a degree sufficient to the oversight agency. In the event that additional USTs are encountered the same procedures described above shall apply.

Responsible Implementing Entity: Project Sponsor; Oakland Public Works Agency, Environmental Services Division

Monitoring Action(s): Project sponsor shall contract with a qualified environmental professional to remove the underground storage tank. The qualified environmental professional shall submit to the Public Works Agency, Environmental Services Division, a removal plan prior to the start of work, and shall submit documentation of the tank removal upon completion. Environmental Services Division shall review the plan and shall notify CEDA Planning Division and Building Services Division of its acceptance of the documentation.

Monitoring Responsibility: Public Works Agency, Environmental Services Division.

Monitoring Timeframe: Prior to the issuance of demolition, grading, excavation, and/or building permit(s), as applicable.

Mitigation Measure F.1h: The project applicant shall develop and implement a project-specific worker Health and Safety Plan that contains, at a minimum, a description of contamination; decontamination procedures, the nearest hospital, and emergency notification procedures.

Responsible Implementing Entity: Project Sponsor; Oakland Public Works Agency, Environmental Services Division

Monitoring Action(s): Project sponsor shall contract with a qualified environmental professional to prepare site-specific worker Health and Safety Plan. Environmental Services Division shall review the plan and shall notify CEDA Planning Division and Building Services Division of its acceptance of the plan.

Monitoring Responsibility: Public Works Agency, Environmental Services Division.

Monitoring Timeframe: Prior to the issuance of demolition, grading, excavation, and/or building permit(s), as applicable.

Mitigation Measure F.1i: The applicant shall provide written verification that the appropriate State, Federal, or County authorities have granted all required clearances and confirmed compliance with all applicable conditions imposed by said authorities, for all previous contamination at the site, if applicable.

Responsible Implementing Entity: Project Sponsor; Oakland Public Works Agency, Environmental Services Division

Monitoring Action(s): Project sponsor shall submit documentation specified in mitigation measure to Public Works Agency, Environmental Services Division. Environmental Services Division shall review the plan and shall notify CEDA Planning Division and Building Services Division of its acceptance of the documentation.

Monitoring Responsibility: Public Works Agency, Environmental Services Division.

Monitoring Timeframe: Prior to the issuance of demolition, grading, excavation, and/or building permit(s), as applicable.

Impact F.2: Improper disposal of contaminated soil components from the demolition and excavation phases of the project could expose construction workers, the public, or the environment to adverse conditions.

Mitigation Measure F.2a: The sponsor shall perform additional soluble lead analyses of soil prior to on-site reuse or off-site disposal to confirm the acceptability for reuse and/or classification of the soils as a California hazardous waste material. If the soils are classified as a California hazardous waste, the project sponsor shall dispose of the soils at a Class I disposal facility in California or an out of state non-RCRA facility permitted to accept wastes at concentrations of the excavated soils.

Responsible Implementing Entity: Project Sponsor; Oakland Public Works Agency, Environmental Services Division

Monitoring Action(s): Project sponsor shall contract with a qualified environmental professional to conduct sampling of soils excavated from the project site. The qualified environmental professional shall prepare recommendations for disposal of excavated soils as deemed necessary based on the results of sampling. The project sponsor shall submit to the Public Works Agency, Environmental Services Division, documentation regarding the handling of excavated soils. The Environmental Services Division shall notify the Community and Economic Development Agency, Planning Division, of its receipt and acceptance of the documentation.

Monitoring Responsibility: Public Works Agency, Environmental Services Division.

Monitoring Timeframe: Prior to the issuance of demolition, grading, excavation, and/or building permit(s), as applicable.

Mitigation Measure F.2.b: Soil generated by construction activities shall be stockpiled onsite in a safe and secure manner, and sampled prior to reuse or disposal at an

appropriate facility. Specific sample procedures (i.e. frequency, etc.) for reuse and disposal shall be determined within a Soil Management Plan.

Responsible Implementing Entity: Project Sponsor; Oakland Public Works Agency, Environmental Services Division

Monitoring Action(s): Project sponsor shall contract with a qualified environmental professional to conduct sampling of soils excavated from the project site. The qualified environmental professional shall prepare recommendations for disposal of excavated soils as deemed necessary based on the results of sampling. The project sponsor shall submit to the Public Works Agency, Environmental Services Division, documentation regarding the handling of excavated soils. The Environmental Services Division shall notify the Community and Economic Development Agency, Planning Division, of its receipt and acceptance of the documentation.

Monitoring Responsibility: Public Works Agency, Environmental Services Division.

Monitoring Timeframe: Prior to the issuance of demolition, grading, excavation, and/or building permit(s), as applicable.

Mitigation Measure F.2c: Per the regulatory standards of the City Environmental Services Division of the Public Works Agency, the project sponsor shall sample the soil on the site to determine whether any further remediation is required. Based on the test results, the project sponsor shall submit any and all applicable documentation and plans required by the Regional Water Quality Control Board, the Alameda County Public Health Department, and the City's Fire Department, Office of Emergency Services, regarding remediation of any remaining contaminated soil and/or groundwater that may be identified on the site. These documents and plans shall be submitted to the Environmental Services Division, and shall demonstrate to the satisfaction of each agency with jurisdiction that all applicable standards and regulations have been met for the construction and site work to be undertaken pursuant to the permit. If warranted, the project sponsor must develop and submit for review by the Environmental Services Division a Soil and Groundwater Management Plan for construction and development activities at the site. The plan shall include, as required, any special health and safety precautions to mitigate worker exposure to contaminated soils, dust control measures to prevent the generation of dust that could migrate off-site, stormwater runoff controls to minimize migration of soils to storm drains, measures to ensure the proper treatment and disposal of groundwater during dewatering activities, steps for ensuring compliance with applicable state and federal regulations governing the transportation and disposal of hazardous wastes, and general protocol for addressing any unexpected hazardous materials conditions in the subsurface encountered during construction.

Responsible Implementing Entity: Project Sponsor; Oakland Public Works Agency, Environmental Services Division; Regional Water Quality Control Board; Alameda County Public Health Department; and Oakland Fire Department.

Monitoring Action(s): Project sponsor shall contract with a qualified environmental professional to conduct sampling of soil and, if deemed necessary, groundwater on the

project site. The qualified environmental professional shall prepare recommendations for disposal of excavated soils as deemed necessary based on the results of sampling. The project sponsor shall submit to the Public Works Agency, Environmental Services Division, and to other applicable agencies as described in the mitigation measure, documentation regarding the testing results. If deemed necessary by the Environmental Services Division, the project sponsor shall contract with a qualified environmental professional to prepare a Soil and Groundwater Management Plan. The Environmental Services Division shall notify the Community and Economic Development Agency, Planning Division, of its receipt and acceptance of the documentation, including, if required, the Soil and Groundwater Management Plan.

Monitoring Responsibility: Public Works Agency, Environmental Services Division.

Monitoring Timeframe: Prior to the issuance of demolition, grading, excavation, and/or building permit(s), as applicable.

Impact F.3: Hazardous materials used on-site during construction activities (i.e. solvents) could be released to the environment through improper handling or storage.

Mitigation Measure F.3: The use of construction best management practices shall be implemented as part of construction to minimize the potential negative effects to groundwater and soils. These shall include the following: follow manufacturer's recommendations on use, storage and disposal of chemical products used in construction; avoid overtopping construction equipment fuel gas tanks; during routine maintenance of construction equipment, properly contain and remove grease and oils; and properly dispose of discarded containers of fuels and other chemicals.

Responsible Implementing Entity: Project Sponsor; Oakland Public Works Agency, Environmental Services Division

Monitoring Action(s): Environmental Services Division shall conduct spot-checks as deemed necessary throughout construction period.

Monitoring Responsibility: Public Works Agency, Environmental Services Division

Monitoring Timeframe: Environmental Services Division shall verify compliance with applicable rules and regulations throughout construction period.

5. Design Review Requirements

a. *Prior to issuance of building permit*

The final design elements listed below shall be submitted for review and approval by the Planning Director prior to issuance of the building permit. The Planning Director may exercise his/her standard authority to refer the final design to the Design Review Committee or to the Planning Commission.

- a. Windows shall be articulated to provide a two-inch minimum recess from the building façade in order to create a sufficient shadow line and articulation. The final window schedules and details shall be submitted for review and approval.

- b. The materials and installation methods shall be detailed to provide a high-quality, durable, and attractive building façade, particularly at the base of the buildings. Full-size material mock-ups shall be provided as deemed necessary, particularly for the brick veneer, stone, and aluminum panels. Final material selections and installation details for all exterior design elements including canopies, grilles, balconies, gates, etc. shall be submitted for review and approval.
- c. The final colors must be submitted for review and approval.
- d. More detailed elevations of the courtyards, and of the sides of the building on Parcel B that are located adjacent to the Lucky Goldfish Building at 2301 Broadway, must be submitted for review and approval.

6. Modification of Conditions or Revocation

a. Ongoing.

The City reserves the right, after notice and public hearing, to alter Conditions of Approval or revoke this conditional use permit if it is found that the approved facility is violating any of the Conditions of Approval or the provisions of the Zoning Regulations, or operates as or causes a public nuisance.

7. Recording of Conditions of Approval and Mitigation Monitoring Plan

a. Prior to issuance of building permit or commencement of activity.

The project sponsor shall execute and record with the Alameda County Recorder's Office a copy of these conditions of approval and the mitigation monitoring plan on a form approved by the Zoning Administrator. Proof of recordation shall be provided to the Zoning Administrator.

8. Reproduction of Conditions and Mitigations on Building Plans

a. Prior to issuance of a grading or building permit.

These conditions of approval and the Mitigation Monitoring Plan shall be reproduced on page one of all plans submitted for a grading or building permit for this project.

9. Indemnification

a. Ongoing.

The project sponsor shall defend, indemnify, and hold harmless the City of Oakland, its agents, officers, and employees from any claim, action, or proceeding (including legal costs and attorney's fees) against the City of Oakland, its agents, officers or employees to attack, set aside, void or annul, an approval by the City of Oakland, the Office of Planning and Building, Planning Commission, or City Council. The City shall promptly notify the project sponsor of any claim, action or proceeding and the City shall cooperate fully in such defense. The City may elect, in its sole discretion, to participate in the defense of said claim, action, or proceeding.

10. Recycling Space Allocation Requirements

a. Prior to issuance of building permit

The design, location and maintenance of recycling collection and storage areas shall comply with the provision of the Oakland City Planning Commission "Guidelines for the

Development and Evaluation of Recycling Collection and Storage Areas", Policy 100-28 and with the recycling space requirements of the Planning Code. The recycling location and area shall be clearly delineated on the building permit plans.

11. Lighting Plan

a. Prior to issuance of building permit

A lighting plan for the exterior of the project shall be submitted for review and approval by the Planning Director. The lighting plan shall include the appearance and location of all exterior and lighting fixtures or standards, and said lighting shall be installed such that it is adequately shielded and does not cast glare onto adjacent properties.

12. Landscape and Streetscape Plans

a. Prior to issuance of building permit.

The project sponsor shall submit a detailed landscaping plan to the Planning Director for review and approval prior to the issuance of any building permits. This plan shall include:

- a. Details and specifications for landscaping features such as street furniture, rocks, and any water features.
- b. Detailed irrigation plans, planting details such as species, location, number and sizes of the plant materials, and the specifications for planting.
- c. Street tree planting specifications. Consistent street tree species must be provided on the street frontages with the species to be approved by the Office of Parks and Recreation.

13. Signage Plan

a. Prior to issuance of building permit

The project sponsor shall submit a conceptual signage plan for the project for review and approval by the Planning Director.

14. Water, Wastewater and Storm Sewer Service

a. Prior to issuance of building permit

The project sponsor shall provide the necessary information to the Public Works Agency, Design and Construction Services Division to confirm the existing capacity of the water, wastewater and storm service systems that serve the project site and the projected project demand. The project sponsor shall be responsible for payment of the required installation or hookup fees to the affected service providers. The project sponsor shall also be responsible for payment of sewer and/or storm water improvement fees as required by the Public Works Agency.

15. Special Inspector

a. Throughout construction

The project sponsor may be required to pay for on-call special inspector(s) as needed during the times of most intense construction or as directed by the Building Official. Prior

to issuance of the demolition permit, the project sponsor shall establish a deposit with the Building Services Division to fund a special inspector who shall be available as needed, as determined by the Building Official or the Planning Director.

16. Litter Control

a. *Prior to issuance of building permit*

A litter control plan that ensures that the premises and surrounding area are kept free of litter shall be submitted to and approved by the Zoning Administrator. The Plan shall include, but not be limited to:

- Distribution of proposed locations of litter receptacles on site and in the public right-of-way; and
- A management schedule for keeping the premises and surrounding area in a one-block radius free from litter originating from the operation of the future commercial activities; and
- Sweeping and trash collection of the premises, the public sidewalk, and the gutter area of the public street immediately adjacent to the project, as needed to keep the area free of litter.

17. Exterior Pay Phones

a. *On-going*

There shall be no exterior pay telephones located on the project site without obtaining a pay phone permit.

18. Master Improvement Plan and Improvements in the Public Right-of-Way

a. *Prior to Finalization of P-Job for First Phase of Project*

The project sponsor shall submit a detailed improvement plan prepared by a licensed Civil Engineer, with all conditions and requirements as set forth in these Conditions of Approval for the private property and the public rights of way, including but not limited to curbs, gutters, pedestrian ways, sewer laterals, storm drains, street trees, paving details, locations of transformers and other above ground utility structures, the design, specifications and locations of the water pumping facilities required by the East Bay Municipal Utility District (EBMUD), street lighting, on-street parking and accessibility improvements required to comply with all applicable City standards, including the approved landscape plans, the design of the pedestrian paths, and the street tree locations and planting specifications. This plan shall be reviewed and approved by the City Engineer and used as the confirmation of compliance with all phases of the project.

19. Electrical Facilities

a. *Prior to installation*

All electrical and telephone facilities, fire alarm conduits, street light wiring, and similar facilities shall be placed underground. Electric and telephone facilities shall be installed in accordance with standard specifications of the servicing utilities. Street lighting and fire alarm facilities shall be installed in accordance with the standard specifications of the Building Services Division.

20. Tentative Parcel Map**a. *Prior to issuance of building permit***

The project requires approval of a Tentative Parcel Map in order to create condominiums. The Final Parcel Map must be submitted within two years of the date the Tentative Parcel Map is approved.

21. Construction of New Live-Work Units**a. *Prior to issuance of building permit***

The proposed construction of up to 6 new live-work units would be subject to any additional Planning Code requirements (e.g. related to parking, unit size, etc.) that may be adopted by the City prior to issuance of building permits.

22. Waste Reduction and Recycling Plan**a. *Prior to issuance of building permit***

The project sponsor shall submit a "Waste Reduction and Recycling Plan," and a plan to divert 50 percent of the solid waste generated by the construction and operation of the project, to the Public Works Agency for review and approval, pursuant to City of Oakland Ordinance No. 12253.

23. Dust Control**a. *Prior to commencement of construction activity***

In order to minimize impacts on air quality and water quality from dust associated with construction, the project sponsor shall not commence construction activity on Parcel B until grading activities on Parcel A have been completed. This will ensure that there will be no soil disturbance of more than four acres at any given time during project construction.

24. Car Share Parking**a. *Prior to issuance of certificate of occupancy***

The project sponsor shall allocate a number of parking spaces in the project parking garage(s) to be determined by the Planning Director to be available for the City Carshare parking program.

APPROVED BY:

City Planning Commission: December 1, 2004 (date) 6 ayes, 0 noes, 1 abstention (vote)

City Council: _____ (date) _____ (vote)

