

Case File Number: PUD03552, PUDF03553 and ER030022**August 12, 2013**

Location:	Portion of site (Parcel B) bounded by Broadway, 23rd Street, Valley Street, and 24th Street (Parcel A is under construction).
Proposal:	Public hearing related to proposed revision to adopted Planned Unit Development for site (proposed revisions include decreased residential units, increase in commercial space, new site planning and related changes) and consideration of Addendum #3 to certified 2004 EIR.
Applicant:	Signature Development Group (510) 251-9270 (Jamie Choy)
Owner:	Signature Development Group
Planning Permits Required:	Revision to PUD, Design Review, CUP for Fast Food and Auto Fee Parking, variance for unenclosed facility for auto-fee parking, and for custom manufacturing, Tentative Tract Map, Demolition of historic structure
General Plan:	Community Commercial
Zoning:	CC-2 Community Commercial Zone; D-BR Broadway Retail Frontage District Interim Combining Zone
Environmental Determination:	Consideration of Addendum #3 to certified 2004 EIR
Historic Status:	Site includes five buildings considered historic resources under CEQA, all of which were previously approved for demolition; Current proposal is for demolition of one historic building (440-48 23 rd Street--Cb+2+), rehabilitation of one building (2366-98 Valley Street --C3), and rehabilitation of and second-story addition to three buildings: 2335-37 Broadway (Eb+3); 2343 Broadway (Ec3); and 2345 Broadway (Eb-3)..
Service Delivery District:	II – North Oakland/North Hills
City Council District:	3 – Gibson McElhaney
Action to be Taken:	Make recommendation to City Planning Commission
Finality of Decision:	N/A; advisory only to City Planning Commission
For further information:	Contact case planner Catherine Payne at (510) 238-6168 or cpayne@oaklandnet.com

SUMMARY

The purpose of this report is to provide staff design review analysis of a proposed amendment to the Planned Unit Development (PUD) Final Development Permit (FDP) for the Broadway-West Grand project (PUDF03553). In summary, the applicant proposes reducing the number of residential units (from 351 to a maximum of 105 units) from the approved PUD and increasing the commercial uses (from 27,700 to 94,300 square feet), as well as changing the site planning, phasing and related project features for the entire Parcel B site. Additionally, the applicant proposes adding a second story above three historic buildings on Broadway, which were previously approved for demolition. Consistent with previous approvals, the proposed amendment would continue to allow demolition of a historic façade as was previously approved in 2008. The first phase of this project (Parcel A), which

CITY OF OAKLAND PLANNING COMMISSION



Case File: ER030022
Applicant: Signature Development Group
Address: Portion of site (Parcel B) bounded by Broadway,
23rd Street, Valley Street and 24th Street
Zone: CC-2/D-BR

includes high-density residential uses with ground-floor commercial uses is completed and occupied.

Staff recommends the Landmarks Board recommend approval of the Project to the City Planning Commission because the proposal meets (a) the Design Review findings for the four buildings 2335-37 Broadway, 2343 Broadway, 2345 Broadway and 2366-98 Valley Street; and (b) the Planning Code demolition findings for Potentially Designated Historic Properties for 440-48 23rd Street.

PROJECT SITE AND SURROUNDING AREA

The approximately 3.5-acre site is Parcel B of the approved "Broadway-West Grand" project, and is located on the block bounded by 23rd Street, Valley Street, 24th Street, and Broadway. The project site is comprised of the former Negherbon Auto Center, surface vehicle lots, and a few older warehouse buildings. The site is located at the southern end of Broadway Auto Row and is surrounded by a mix of commercial and residential uses.

PROJECT DESCRIPTION

Signature Development Group is proposing changes to the previously approved and amended PUD and FDP for Parcel B of the Broadway-West Grand project (the block bounded by West Grand Avenue, Valley Street, 24th Street, and Broadway). Development of Parcel A is completed and occupied. At this time, proposed changes include new site planning and architectural design and massing, as well as changes to the density/intensity of development on Parcel B. The evolution of land use entitlements for the project can be summarized as follows:

- *Original PUD and FDP (2004)*: The previously approved FDP (approved in 2004) for Parcel B included 289 residential units, 8,500 square feet of ground-floor commercial space, and 474 parking spaces (409 residential spaces, 65 commercial spaces); The maximum building height was 84 feet (seven stories). Many ground-floor units had entrances from the street. Vehicle access and loading berths were provided on 23rd and 24th Streets. The 2004 FDP included demolition of all five historic buildings on-site, with retention of two historic facades (the Julia Morgan façade at 2337 Broadway and the brick façade at 440-448 23rd Street). The certified EIR analyzed a Parcel B project including up to 343 residential units, 18,700 square feet of commercial space, and 475 parking spaces. Both the 2004 EIR and the Planning Commission determined that the demolition of the five historic structures and the effective loss of 2337 Broadway and 440-448 23rd Street would constitute a significant unavoidable impact and the Planning Commission adopted a Statement of Overriding Considerations.
- *Approved First Amendment to FDP (2006)*: The first approved amendment to the Parcel B project allowed development of 367 residential units (including replacement of 16 existing apartments currently located on the site), 27,700 square feet of commercial space (including replacement of 9,000 square feet of existing commercial space currently

located on the site), and 489 parking spaces. The maximum building height was 193 feet (16 stories), although the majority of the site would be occupied by four- to seven-story buildings. No changes were proposed related to historic resources. An addendum to the EIR was filed and approved by the Planning Commission that addressed the substantive changes to the project.

- *Approved Second Amendment to FDP (2008)*: The second approved amendment to the Parcel B FDP included redesign of the originally approved Phases One and Two. This amendment did not affect the two parcels located on Broadway. The redesign of Phases I and II included a redesign of the building(s), as well as demolition of the historic façade at 440-448 23rd Street due to the poor condition of the brick and financial infeasibility of maintaining the façade due to the planned wood construction type at the site (See Engineering Report Attachment E). It should be noted that the LPAB is currently being asked to reconfirm the demolition findings made in 2008 for the same action. The building redesign generally maintained the site planning, massing, land use density and intensity, and style of the approved project. However, the proposed building type and layout were entirely different from the originally approved plan. The amendment included demolition of the historic brick façade located at 440-448 23rd Street.
- *Current (Third) Proposed Amendment to PUD and FDP (2013 Modified Project)*: The current (third) proposed amendment to the PUD and FDP includes a redesign of the PUD for Parcel B. Features of the current proposal are described below:
 - *Site Planning*: The current proposal creates a neighborhood block integrated with the surrounding neighborhood, maintaining and preserving most buildings on the site (including preservation of four of the five existing historic resources) and providing an internal gathering space to support the neighborhood and proposed PUD uses. To achieve this, the current proposal includes preserving the buildings along Broadway and locating new buildings along the block perimeters, and locating parking and outdoor flex space within the interior of the block. The current proposal retains seven buildings on-site (six buildings facing Broadway, and one at the corner of Valley and 24th Streets), while providing three new wood-frame buildings along 23rd, Valley and 24th Streets. Buildings facing Broadway would be commercial while buildings facing 23rd, Valley and 24th Streets would be residential (the proposed mid-block building would be a commercial building). The project includes a reduction in residential units from 351 to 105 units and an increase in commercial intensity from 27,700 to 104,063 square feet. Commercial uses are concentrated in the eastern portion of the site (near Broadway) and residential uses face 23rd, Valley and 24th Streets. Residential units face street frontages and parking is located behind the residential uses.
 - *Building Type*: The three new buildings are all three-story wood construction. Residential building lobby entries are from the street (although unit entrances are from double-loaded internal hallways). Ground-floor units are located at the front property line and have patios along the front property lines. The project includes maintaining seven existing buildings on-site, including renovation and rehabilitation of four historic buildings (three located on Broadway and one on the

corner of Valley and 24th Streets). The project would demolish two existing buildings on-site, including 440-448 23rd Street, a historic resource, which was previously approved for demolition in 2008.

- *Building Layout:* New residential buildings are located along the front property lines on Valley and 24th Streets. New residential buildings include ground-floor units and lobby entrances from the street sides. A new commercial office building is located in the interior of the block, providing a buffer between commercial and residential uses located along 24th Street. Parking is located interior to the site.
- *Massing:* All proposed new street-facing buildings are three stories, with vertical and horizontal projections and recesses breaking down the horizontal bulkiness. Façade materials are also used to reduce massing and provide visual interest. The building located at the interior of the site is two stories tall.
- *Building Height:* The proposed buildings have a maximum height of 38 feet (three stories).
- *Facades:* The proposed façades for the new buildings are contemporary in style. Finishes include stucco, thin brick veneer, painted cement plaster board, lap siding, anodized aluminum windows, and anodized sun shades. The facades along Broadway are planned to be rehabilitated to their historic designs: the applicant proposes removing false fronts to reveal (and, if feasible, repair and rehabilitate) historic facades.
- *Points of Entry (access and egress):* The proposed project includes a cross-block vehicular access “alley” from 23rd to 24th Street with a dead-end parking area located between the “alley” and Broadway. Buildings on Broadway would have ground-floor commercial uses accessible to the public from Broadway. Residential buildings would have lobby entrances from street frontages.
- *Historic Buildings:* The original project approvals allowed demolition of all five buildings discussed here. At this time, the applicant proposes the following:
 - 2335-37, 2343 and 2345 Broadway: The proposal includes keeping the three historic, attached buildings on Broadway, rehabilitating the historic facades, and adding a single second story over the three buildings. The proposed second story is set back eight feet from the front of the existing one-story buildings, is simple and subtle in design, and includes window design that harmonizes with the rhythm and pattern of the historic facades below. In addition, the addition would add new skylights in the buildings.
 - 2366-98 Valley Street: The proposal includes rehabilitating the historic building on the corner of Valley and 24th Streets.
 - 440-48 23rd Street: As approved under the second amendment to the FDP, and now again at this time, the applicant proposes removal of the façade located at 440-448 23rd Street. 440-448 23rd Street is a historic resource with a local rating of Cb+2+ and was approved for demolition in the 2008 amendment to the Final Development Permit. Demolition of this building was considered a significant and unavoidable impact at the time of EIR certification in December 2004. A previous addendum found no additional or increased environmental impact related to demolition of the subject façade.

Summary of Historic Building Status through Project History

	OCHS Rating	2004 Approval	2006 Approval	2008 Approval	Current Proposal
2335-37 Broadway	Eb+3	Demolish building; rehabilitate facade	Same as 2004	Same as 2004	Retain building; rehabilitate facade, add 2 nd story
2343 Broadway	Ec3	Demolish building	Same as 2004	Same as 2004	Retain building; rehabilitate facade, add 2 nd story
2345 Broadway	Eb-3	Demolish building	Same as 2004	Same as 2004	Retain building; rehabilitate facade, add 2 nd story
2366-98 Valley Street	C3	Demolish building	Same as 2004	Same as 2004	Retain building; rehabilitate both street-fronting facades
440-48 23 rd Street	Cb+2+	Demolish building; rehabilitate facade	Same as 2004	Demolish building and facade	Demolish building and facade; Same as 2008

GENERAL PLAN ANALYSIS

The project site is located within the Community Commercial land use classification of the General Plan. This designation is intended to “identify, create, maintain, and enhance areas suitable for a wide variety of commercial and institutional operations along the City’s major corridors and in shopping districts or centers” (LUTE, p. 150). The Community Commercial land use classification allows a maximum floor area ratio (FAR) of 5.0, and a maximum residential density of 166.67 units per net acre. The proposed residential density is 33 units per acre, well within the allowable General Plan residential density. The proposed non-residential FAR is 1.8, well within the allowable General Plan intensity for non-residential development.

Historic Preservation Element of the General Plan

The LPAB is tasked with making the following findings for rehabilitation of historic structures and making a recommendation to the decision-making body (indented italicized text provides staff analysis).

Standards for Rehabilitation:

1. A property shall be used as it was historically or be given a new use that requires minimal change to its distinctive materials, features, spaces, and spatial relationships.

The three buildings proposed for façade rehabilitation and second-story addition would host commercial uses historically and currently appropriate to the location facing Broadway. The building to be rehabilitated on the corner of 24th and Valley Streets would be occupied by residential uses.

2. The historic character of a property shall be retained and preserved. The removal of distinctive materials or alteration of features, spaces, and spatial relationships that characterize a property shall be avoided.

The intent of the rehabilitation of four building facades is to retain and preserve the rich character of Broadway and the surrounding area. The proposed plans indicate that the applicant intends to keep the historic features, spaces, and spatial relationships of the historic facades intact. Conditions of Approval can be applied to the project to ensure compliance.

3. Each property shall be recognized as a physical record of its time, place, and use. Changes that create a false sense of historical development, such as adding conjectural features or elements from other historic properties, shall not be undertaken.

The proposed façade rehabilitation plans relate fairly accurately to the original plans (see Attachment B: Historic Drawings). Conditions of Approval can be applied to the project to ensure compliance.

4. Changes to a property that have acquired historic significance in their own right shall be retained and preserved.

The proposed façade rehabilitation plans relate fairly accurately to the original plans (see Attachment B: Historic Drawings). Conditions of Approval can be applied to the project to ensure compliance.

5. Distinctive materials, features, finishes, and construction techniques or examples of craftsmanship that characterize a property shall be preserved.

Conditions of Approval can be applied to the project to ensure compliance. See below.

6. Deteriorated historic features shall be repaired rather than replaced. Where the severity of deterioration requires replacement of a distinctive feature, the new feature shall match the old in design, color, texture, and, where possible, materials. Replacement of missing features shall be substantiated by documentary and physical evidence.

The plans indicate that the applicant intends to repair or match existing historic features. Conditions of Approval can be applied to the project to ensure compliance.

7. Chemical or physical treatments, if appropriate, shall be undertaken using the gentlest means possible. Treatments that cause damage to historic materials shall not be used.

Conditions of Approval can be applied to the project to ensure compliance. See below.

8. Archeological resources shall be protected and preserved in place. If such resources must be disturbed, mitigation measures shall be undertaken.

The Mitigation Monitoring and Reporting Program adopted in connection with the 2004 certified EIR and previously filed addenda ensures compliance. See Attachment F.

9. New additions, exterior alterations, or related new construction shall not destroy historic materials, features, and spatial relationships that characterize the property. The new work

shall be differentiated from the old and shall be compatible with the historic materials, features, size, scale and proportion, and massing to protect the integrity of the property and its environment.

The proposed second story facing Broadway would not adversely affect the ability to rehabilitate the existing ground-floor facades. The design of the proposed second story is appropriately muted yet compatible with the historic rhythm and pattern of the historic facades.

10. New additions and adjacent or related new construction shall be undertaken in such a manner that, if removed in the future, the essential form and integrity of the historic property and its environment would be unimpaired.

The proposed second story would only affect the integrity of the roof. Addition and/or demolition of the proposed second story addition would not affect the integrity of the historic facades facing Broadway.

ZONING ANALYSIS

The proposed project is a revision to an approved PUD. Proposed revisions shall be evaluated against the approved PUD and the existing zoning districts: Community Commercial-2 (CC-2) and the Broadway Retail Frontage District Interim Combining Zone (D-BR) regulations. The CC-2 zone is intended to create, maintain, and enhance areas with a wide range of commercial businesses with direct frontage and access along the City's corridors and commercial areas. The D-BR zone is intended to create, preserve, and enhance ground level retail opportunities with the Broadway/Valdez Retail District area north of the Central Business District (located southeast of the site). The project shall be analyzed for PUD and zoning compliance as part of consideration of the merits of the project and consideration of entitlements.

Table 1: Zoning Analysis

Criteria	Req'd Adopted PUD	Req'd CC-2	Req'd D-BR	Proposed	Analysis
Allowable uses					
• Permanent Residential	P (ground floor and above)	P/C (on ground floor)	C	Proposed on ground-floor and above (but not on Broadway)	Complies: within adopted PUD allowance
• Full Service Restaurant	P	P	P		Complies
• General Food Sales	P	P	P		Complies
• Limited Service Restaurant	P	P	P		Complies
• Fast Food Restaurant	—	C	C	Proposed mobile food vending at a fixed site on Broadway	CUP required

• General Retail Sales	P	P	P		Complies
• Consultative and Financial Service	P	P	P		Complies
• Consumer Service	P	P	P		Complies
• Group Assembly	P	C	C	Open and enclosed activities including live music proposed; fitness studio > 5k sf	Complies: within adopted PUD allowance
• Personal Instruction	P	P	P/C (on ground floor facing Broadway)		Complies: within adopted PUD allowance
• Alcoholic Beverage Sales (c)	--	C	C	Bar proposed near Broadway	Requires CUP
• Administrative	P	P	P (L3)		Complies: within adopted PUD allowance
• Auto Fee Parking		C	C In pkg. structure (below grade or in >3-story building)	Proposed in addition to required commercial parking	Minor CUP for use and minor variance for open facility type required
• Custom Manufacturing	--	C	--	Commissary kitchen, custom t-shirt design, food fabrication	Variance required
Facilities					
• Residential multi-family		P			
• Enclosed non-res		P			
• Open nonres		P			
• Sidewalk cafe		P			
Yard – Front min/max	None required	0'/10'		0'	Meets reg's.
Yard – Interior Lot Line Setback for Residential Facilities	None required	0'		0' (and not opposite required living room windows)	Meets reg's.
Yard – rear res	None required	10'/15'			Complies; PUD allows relaxation
Yard – rear nonres	None required	0'/10'/15'			Complies; PUD allows relaxation
Ground floor nonres façade transparency		55%		Existing	NA

Ground floor nonres floor-to-ceiling ht			12'		Existing	NA
Ground floor active space			Yes 30' feet from front			Complies
Parking location			Off main street			Vehicular access from Broadway requires variance
Height		193'	120' & 11 stories on Broadway/45' and 4 stories on Valley		38' max for new construction	Meets reg's.
Usable Open Space		75 sf. private/unit; 150 sf. group/unit	30 sf/ private/unit; 150 sf. group/unit		65 sf/unit (private and group)	Complies with current underlying zoning
Parking	Commercial	1 space per 400 sf./over 3k sf.; 60 spaces; 1 loading per PUD	New: • Restaurant = 1/200 sf above 3k sf) • Retail = 1/1k sf above 3k sf) • 2 loading (25-49.9k sf)		110 spaces (1 space/1k sf); 1 loading	Meets pkg. reg's. (approx. 56 required, 110 provided)
	Res.	1 space / unit 1 loading per PUD	1 space/unit & 1 loading 50-149k sf		98 spaces 1 loading	Meets pkg. reg's.
Bike Parking	Comm.	Long-term: 1 space per 10k sf (most conservative) Short-term: 1 space per 20k sf (most conservative)				TBD
	Res.	Long-term: 1 space per 4 du Short-term: 1 space per 20k sf				TBD
Residential Density		1 unit / 415 sq. ft (367 units)	1 unit/450 sf (45' ht. area)	--	1 unit / 1,555 sf (98 units)	Complies
Nonresidential FAR		1.8	5.0 (120' ht. area)	--	1.8 FAR (104,063 sf)	Complies

Demolition Findings for Potentially Designated Historic Properties

Demolition of 440-48 23rd Street would need to comply with Planning Code Section 17.136.075 Regulations for demolition or removal of designated historic properties and potentially designated historic properties. In 2008, the Planning Commission found that (finding in *italics*):

- D. Regular Design Review Approval for the demolition or removal of any structure rated "C" by the by the Oakland Cultural Heritage Survey or contributes to an Area of Secondary Importance (ASI) as determined by the Oakland Cultural Heritage Survey may be granted only if the proposal conforms to the general design review criteria, all other applicable design review criteria, and to either: 1., 2., or 3., below:
1. The design quality of the proposed replacement project is at least equal to that of the original structure and the proposed replacement project is compatible with the character of the neighborhood; or
 2. The public benefits of the proposed replacement project outweigh the benefit of retaining the original structure and the proposed replacement project is compatible with the character of the neighborhood; or
As was found in 2008 by the Planning Commission, the proposed project would provide attractive, increased high-density housing near downtown and mass transit. The public benefit of attractive, environmentally sound and reasonably priced residential development near downtown Oakland can be considered to outweigh the benefit of retaining the historic façade should the costs of retention be passed on to the residents of the project.
 3. The existing design is undistinguished and does not warrant retention and the proposed design is compatible with the character of the neighborhood.

In 2010, the City of Oakland adopted new demolition findings (see Attachment I). The proposed project qualifies for the Demolition Findings for Category III Historic Properties. Specifically, staff requests the LPAB to consider making the following finding:

Finding 1: The design quality of the proposed replacement project is at least equal to that of the original structure and the proposed replacement project is compatible with the character of the neighborhood.

Consistent with the required finding, the applicant has submitted an analysis (see Attachment I) that demonstrates that the proposed project is attractive and inviting and will blend into the surrounding neighborhood in terms of massing and articulation. In summary, the new brick cladding reflects the exterior material of the existing 440-448 23rd Street, a historic resource. Although taller by several stories, both the Valley and 23rd Street elevations are divided into distinct bays divided by protruding pilasters that reflect, but do not mimic the existing historic resource. The elevations are further detailed in brick at the headers (8") and sills (4") of the windows and at the openings for the porches and balconies. Corner brick pieces will be used to wrap pilasters and columns with the look of full brick. An 8" cornice brings the elevations to visual closure at the roof. The existing historic structure is a single story building, which would not be able to provide the residential density

necessary for the overall project. The proposed density would have to be accommodated in a three story structure with two new floors above the existing one-story building. Even if the upper two floors were setback, the historic structure would be overwhelmed and it would lose its integrity of design, feeling, and association. Since the existing building has also lost its setting due to the loss of the Area of Secondary Importance, the design quality with incorporation of the building into the project would be less than the original structure.

CALIFORNIA ENVIRONMENTAL QUALITY ACT

The Planning Commission certified an EIR for the existing PUD on December 1, 2004. The EIR considered an envelope of development that included up to 343 residential units, 18,700 square feet of commercial space, and 475 parking spaces.

In 2006, the first approved amendment to the FDP included a net increase of eight (8) residential units and 14 parking spaces over the development envelope considered in the EIR.

In 2008, the second approved amendment to the FDP involved demolition of the façade of a historic building for which demolition of the building had already been approved (while maintaining the existing façade as part of the originally approved project). The previously certified EIR considered the complete demolition of the historic resource, including the façade, and found it to be a significant unavoidable impact. Preservation of the façade was not mandated under the EIR. Removal of the façade would not increase the severity of the already identified significant unavoidable impact.

As stated previously, in 2004, an EIR for the project was certified. The environmental analysis was updated in 2006 and again in 2008 using an Addendum. An Addendum is appropriate, indeed required, when none of the circumstances that require a supplemental or subsequent EIR pursuant to CEQA Guidelines Section 15162 have occurred, specifically:

- There are no substantial changes proposed in the project which would result in new significant environmental effects or a substantial increase in the severity of previously identified significant effects;
- There are no substantial changes with respect to project circumstances which would result in new significant environmental effects or a substantial increase in the severity of previously identified significant effects; and
- There is no new information of substantial importance which would result in new significant environmental effects, a substantial increase in the severity of previously identified significant effects, previously infeasible mitigation measures or alternatives now found to be feasible, or new mitigation measures or alternatives which are considerably different from previous ones that would substantially reduce environmental effects.

Here, for the 2013 Modified Project, the City believes that none of the circumstances described above have occurred since 2004. Hence, the City is precluded from preparing a supplemental or subsequent EIR. The appropriate CEQA documentation would be an Addendum. Under CEQA, rehabilitation of and addition to the four buildings previously approved for demolition and demolition of buildings previously approved for demolition would not result in a new significant impact or a substantially more severe significant impact than that of the demolition that was analyzed in the certified EIR and previous addenda. The Project Description and Cultural Resource sections of Addendum #3 for the 2013 Modified Project are provided in Attachment C.

Addendum #3 includes the applicable mitigation measures from the 2004 EIR, applicable standard conditions of approval (which did not exist at the time of the original approvals) that update or replace some 2004 mitigation measures, and one revision to a 2004 mitigation measure (see Attachment C for complete list of potential environmental impacts to cultural resources and mitigation measures/standard conditions that reduce the significance of those potential impacts to less than significant levels). Note that EIR Mitigation E.5 is revised because the original mitigation measure addresses the original project (including the demolition of five historic buildings) and requires a contribution of \$25,000 to the Façade Improvement Program per historic resource to be demolished; the revision addresses the change from demolishing five to demolishing only one resource, and requires a contribution of \$68,750. (see discussion below).

DESIGN AND RELATED ISSUES

Design

The design of Parcel B successfully breaks up the site by maintaining and preserving many existing buildings while siting distinctly separate new buildings on vacant portions of the site to create an organic neighborhood that is sensitive to the historic and land use context of the surrounding area. Specific design issues include the following:

- Site Planning:
 - Broadway dead-end: The dead-end parking alley running perpendicular to Broadway is an existing driveway. The driveway is a vestige of the auto-sales use that was previously located at the site. The current zoning regulations discourage vehicular access from major arterial streets like Broadway. Because there is access proposed from 23rd and 24th Streets, staff believes that there should be no driveway access from Broadway. Therefore, this parking area (which may also accommodate Group Assembly Commercial uses) would only be accessible to vehicles from within the site, although the area would be accessible to pedestrians (and visually accessible) from Broadway.
 - Group Assembly Commercial events: Group Assembly Commercial land uses are permitted in PUDs in Oakland. The applicant proposes to share use of the parking area with community assembly commercial uses such as entertainment (flex space). The project is designed to protect the residential uses from possible noise and light effects by providing office and parking uses as a buffer between the

entertainment and residential uses. Staff supports this aspect of the project site planning.

- Office building: The proposed project includes an office building located adjacent to and behind the proposed residential building on 24th Street and the remaining commercial buildings facing Broadway. Although the office building appears to be awkwardly sited in relationship to those buildings (due to close proximity); however, it would provide a buffer between the group assembly commercial uses discussed above, and the residential uses facing 24th Street. Staff supports this layout.
- Specific Land Uses:
 - Fast Food Restaurant: The applicant currently proposes that 2337 Broadway and the immediately adjacent parking lot area be used as a Fast Food Restaurant. The specific proposal is to have an indoor physical space that would operate as a food court (providing seating, restrooms, a cashier station) with rotating mobile food vendors located immediately adjacent to the space (and on private property in fixed parking spaces) providing food service for a unique dining experience. Staff supports the unique and desirable dining use at this location and would condition the project to ensure the proposed use is not substituted by a chain Fast Food Restaurant at any time in the future.
 - Auto-Fee Parking: In addition to the required commercial parking to be provided at-grade, the applicant proposes additional parking spaces to be available to the public through open, at-grade auto-fee parking. Auto-fee parking requires a conditional use permit, and a variance is required for not providing the auto-fee parking in a multi-story or below-grade enclosed structure. It should be noted that the auto-fee parking would also be used as group assembly space during low-demand times (see discussions above and below). Staff supports the provision of additional parking (beyond what is required in a destination commercial area) and the flex use of the parking for events that tie into the Art Murmur and other activities in the surrounding area.
 - Residential on Ground Floor: The applicant proposes residential uses on the ground floor facing 23rd, Valley and 24th Streets. Although not in compliance with the D-BR zoning regulations, ground-floor residential uses are consistent with the approved project PUD and with the surrounding context. Staff supports the residential uses on the ground floor, as proposed.
 - Group Assembly: The applicant proposed using the auto-fee parking area as a flex space to be used alternatively for group assembly uses such as entertainment during Art Murmur events and other cultural festivals. The use would be located in an open facility interior to the block and buffered by non-residential uses. This is a desirable and complementary use to the Art Murmur Arts District and supports the use.
- Building Design:
 - 23rd/Valley Streets corner: The design for the building at 23rd and Valley is attractive and inviting and will blend into the surrounding neighborhood in terms

of massing and articulation. The new brick cladding reflects the exterior materials of the existing 440-448 23rd Street, a historic resource. Although taller by several stories, both the Valley and 23rd Street elevations are divided into distinct bays divided by protruding pilasters that reflect, but do not mimic, the existing historic resource. The elevations are further detailed in brick at the headers (8") and sills (4") of the windows and at the openings for the porches and balconies. Corner brick pieces will be used to wrap pilasters and columns with the look of full brick. An 8" cornice brings the elevations to visual closure at the roof. .

- Rehabilitation of historic facades: Staff supports the proposed renovation and rehabilitation of three historic facades along Broadway and one building on the corner of 24th and Valley Streets, consistent with the historic plans (see Attachment B).
- Ground-floor patios on Valley Street: The building located on Valley Street has ground-floor units located at the front property line, contributing to "eyes on the street". However, the at-grade patios are fenced. Staff would support designing the fencing to continue to provide a private-public barrier while also providing the appearance of openness between the public and private realms. Examples of this would include lowering the height of the fencing or raising the height of the ground-floor to three feet above grade. In addition, the horizontal fencing on the ground floor, while attractive, may be problematic from a crime deterrent standpoint (i.e., footholds for climbing).
- Design Review Findings: The Planning Commission will be asked to make the following design review findings for the proposed project (staff analysis is in italics following each criteria):

17.136.050 - Regular design review criteria.

Regular design review approval may be granted only if the proposal conforms to all of the following general design review criteria, as well as to any and all other applicable design review criteria:

A. For Residential Facilities.

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 buildings are all two or three stories, consistent with the surrounding area. In addition, the buildings create an edge at the perimeter of the block, supporting the urban, built-out context of the surrounding neighborhood. The buildings will be clad with a mix of cement board, brick and stucco that is consistent with the variety of materials apparent in the surrounding area.

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

The proposed buildings are all two or three stories, consistent with the surrounding area. In addition, the buildings create an edge at the perimeter of the block, supporting the urban, built-out context of the surrounding neighborhood. The buildings will be clad with a mix of

cement board, brick and stucco that is consistent with the variety of materials apparent in the surrounding area.

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

The site is a fairly flat, urban site in a developed area. The project is designed to fit into the neighborhood context in terms of building heights and urban hardscaping.

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

Not applicable.

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

The project is consistent with the zoning and General Plan design guidelines and allowances.

B. For Nonresidential Facilities and Signs.

1. That the proposal will help achieve or maintain a group of facilities which are well related to one another and which, when taken together, will result in a well-composed design, with consideration given to site, landscape, bulk, height, arrangement, texture, materials, colors, and appurtenances; the relation of these factors to other facilities in the vicinity; and the relation of the proposal to the total setting as seen from key points in the surrounding area. Only elements of design which have some significant relationship to outside appearance shall be considered, except as otherwise provided in Section 17.136.060

The design of Parcel B successfully breaks up the site by maintaining and preserving many existing buildings while siting distinctly separate new buildings on vacant portions of the site to create an organic neighborhood that is sensitive to the historic and land use context of the surrounding area.

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

The design of Parcel B successfully breaks up the site by maintaining and preserving many existing buildings while siting distinctly separate new buildings on vacant portions of the site to create an organic neighborhood that is sensitive to the historic and land use context of the surrounding area.

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

The project is consistent with the zoning and General Plan design guidelines and allowances.

C. For Local Register Properties that are not Landmarks or located in the S-7 or S-20 zone:

1. That for additions or alterations, the proposal will not substantially impair the visual, architectural, or historic value of the affected site or facility. Consideration shall be given to design, form, scale, materials, texture, lighting, landscaping, Signs, and any other relevant design element or effect, and, where applicable, the relation of the above to the original design of the affected facility.

Not applicable.

D. For Potential Designated Historic Properties that are not Local Register Properties: That for additions or alterations,

1. The design matches or is compatible with, but not necessarily identical to, the property's existing or historical design; or

The proposed second-story addition to the buildings on Broadway is set back from the existing building facades, is subdued, yet carries forward the same window rhythm as the existing buildings. In this way, the addition supports the existing building design without overshadowing it or otherwise detracting from it.

2. The proposed design comprehensively modifies and is at least equal in quality to the existing design and is compatible with the character of the neighborhood; or
3. The existing design is undistinguished and does not warrant retention and the proposed design is compatible with the character of the neighborhood.

E. For Retaining Walls,

1. That the retaining wall is consistent with the overall building and site design and respects the natural landscape and topography of the site and surrounding areas;

2. That the retaining wall is responsive to human scale, avoiding large, blank, uninterrupted or undesigned vertical surfaces;

3. That the retaining wall respects the natural topography, avoiding obvious scars on the land;

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

Not applicable.

The proposed 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, balconies and shading devices, and a variety of window types. Proposed colors include a range of earth tones as well as muted red, orange, and yellow tones.

Staff generally believes that the proposed design is relatively attractive, well-modulated, and compatible with the surrounding area. In addition, staff believes that the adopted conditions of approval adequately address outstanding design issues such as refinement of exterior colors and materials, design of usable open space, window selection and details, and ground floor design and details.

Historic Façade

The existing façade located at 440-448 23rd Street is a feature of a historic building. It was previously approved for demolition by the Planning Commission in 2008. It is proposed for demolition for similar reasons as it was proposed for demolition in 2008: financial infeasibility of repairing and maintaining the façade given the condition of the brick and the limitations of the wood construction type of the proposed building at that location (see Attachment E to this report for 2008 engineering report). The EIR identified the demolition of the building, even whilst retaining the façade, as a significant impact that could not be mitigated to a less-than-significant level; however, the approved project included retention of the facade. The 2008 and current proposal to remove the façade, when considered under CEQA, would not result in an increase in the severity of the impact previously analyzed. Therefore, this change to the project would not result in a need for supplemental environmental review under CEQA. However, staff does find that the change would constitute the loss of a historic feature beyond that which was previously approved in 2004 (although studied and approved in 2008). Therefore, staff believes that, should this change be approved, conditions of approval should be applied to the amendment requiring compensation for the irrevocable loss of the historic façade, similar to the conditions adopted for the same action in 2008:

- *Revision to 2004 Mitigation Measure E.5:* Prior to issuance of demolition permit for the historic façade located at 440-448 23rd Street, the applicant shall provide a financial contribution of \$68,750 to the Façade Improvement Program.¹
Condition y: A demolition permit for the historic façade located at 440-448 23rd Street shall not be issued until issuance of a building permit for the core and shell of the approved project.

Rehabilitation of Four Historic Buildings

The proposed plans show rehabilitation of four historic buildings on site. To ensure rehabilitation of the buildings to Secretary of the Interior Standards, the following conditions of approval are recommended to be imposed on the Project:

- *Condition a:* Prior to developing a specific proposal for rehabilitation of the historic facades, the applicant shall conduct investigative demolition of the currently covered facades. The investigative demolition shall be reviewed by the staff planner and historic preservation staff prior to the development of the actual proposed rehabilitation. The investigative demolition shall be photographed for the record.
- *Condition b:* To the extent feasible, the rehabilitation of the historic facades shall comply with the Secretary of the Interior's Standards. Historic preservation staff shall review the proposed rehabilitations to evaluate compliance with the Secretary of Interior's Standards and a determination of compliance shall be made by the Zoning Manager (in consult with Historic Preservation staff). If non-compliance with some or all of the rehabilitation standards is evident in the plans, the project sponsor shall submit a report demonstrating

¹ In 2008, the City arrived at \$68,750 by multiplying the entire linear footage of the project, 772 linear feet, by \$280/foot(the standard used by the City of Oakland Façade Grant).

that compliance with said standard(s) is infeasible and the reasons why for review and approval by the Zoning Manager.

- Condition c: All proposed materials for rehabilitation of the historic resources, including tile, marble, brick, cornice materials, obscure glass, signage etc. to be reviewed by the staff planner and historic preservation staff, with final consideration by the Zoning Manager, prior to building permit sign-off.

Addition to Three Historic Buildings Facing Broadway

The proposed plans include a second story addition, set back eight (8) feet from the front of the three historic buildings on Broadway. The overall design of the proposed second story is appropriately utilitarian, subtle and muted yet the location and rhythm of the window openings are compatible with and reflect the historic rhythm and pattern of the historic facades of the existing buildings.

CONCLUSION

Staff recommends the Landmarks Preservation Advisory Board:

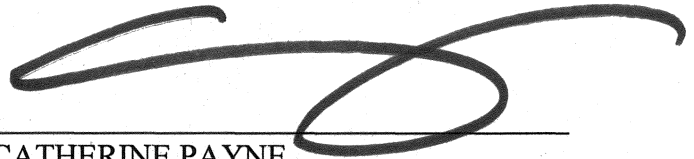
- A. Receive any testimony from the applicant and interested citizens and close the public hearing;
- B. Recommend approval of the Project to the City Planning Commission because the proposal meets (a) the Design Review findings for the four buildings 2335-37 Broadway, 2343 Broadway, 2345 Broadway and 2366-98 Valley Street; and (b) the Planning Code demolition findings for Potentially Designated Historic Properties for 440-48 23rd Street.
- C. Forward to the City Planning Commission any other recommendations related to the design of the Project as it relates to historic resources.

Respectfully submitted:



SCOTT MILLER
Zoning Manager

Prepared by:



CATHERINE PAYNE
Planner III

Attachments:

- A. Project Plans
- B. Historic Drawings of Building Façades Proposed for Rehabilitation
- C. Addendum sections (Introduction, Project Description. Cultural Resources and Cultural Resource Mitigation Measures/Standard Conditions)
- D. 2004 Certified EIR Cultural Resources Section
- E. 12/1/04 Planning Commission Staff Report
- F. 11/1/06 Planning Commission Staff Report
- G. 5/12/08 LPAB Staff Report (includes Engineer's Report)
- H. 6/4/08 Planning Commission Report with Findings
- I. Findings Required for the Demolition of Historic Properties – Category III