

Case File Number: PUD03552, PUDF03553, TTM8318 and ER030022

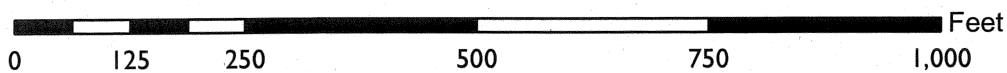
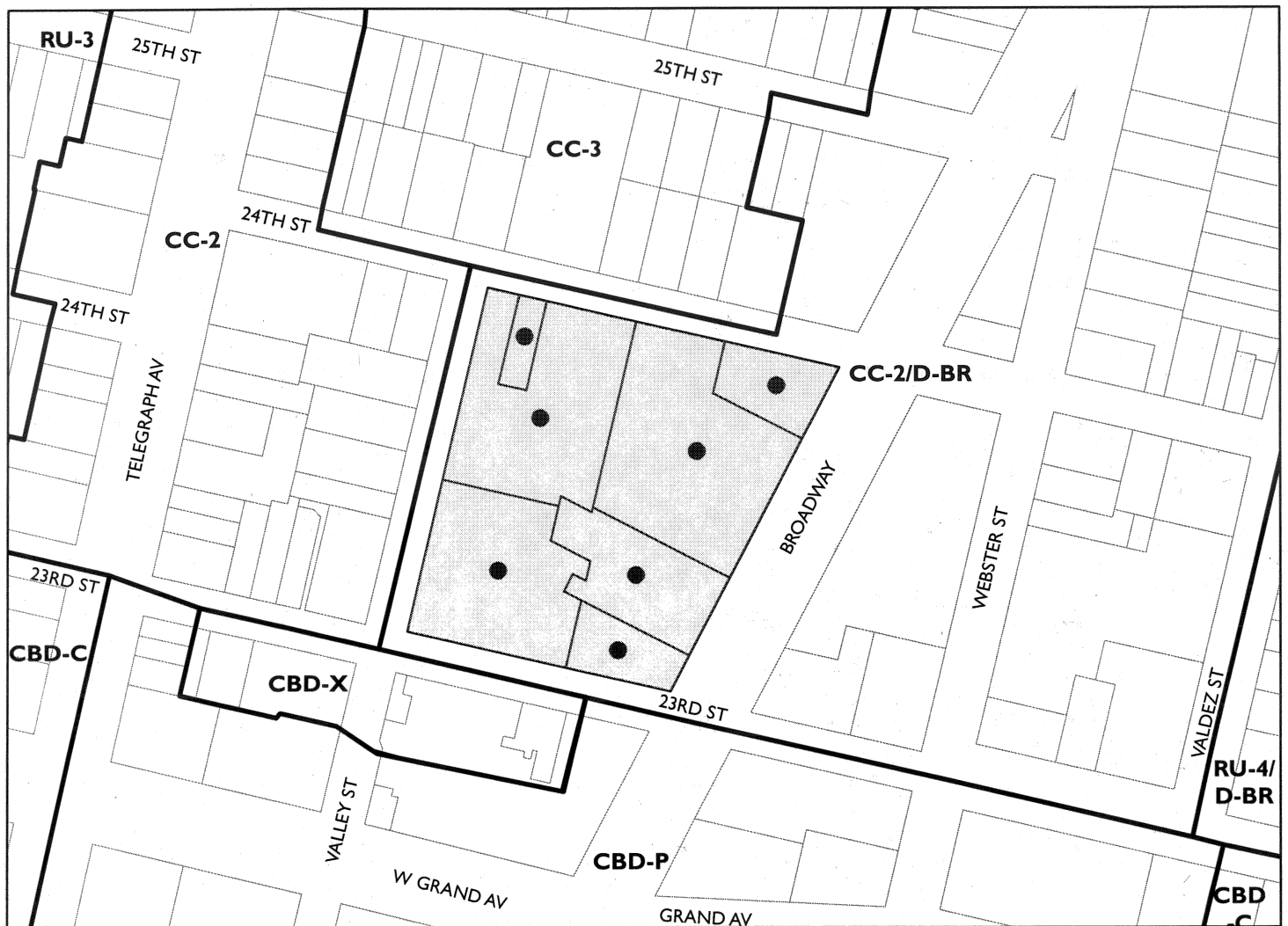
August 28, 2013

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:	Consider approval of planning permits and adoption of Addendum #3.
Finality of Decision:	Appealable to City Council in ten days
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 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
(Parcel A is under construction)
Zone: CC-2 / D-BR

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

Staff recommends the Planning Commission approve the project and Addendum #3, subject to the attached findings and conditions.

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.

BACKGROUND

The Design Review Committee of the Planning Commission (DRC) reviewed the project and made comments on June 26, 2013. The Landmarks Preservation Advisory Board (LPAB) reviewed the project and made a recommendation on August 12, 2013.

June 26th Design Review Committee Comments

The DRC made the following comments at their meeting on June 26, 2013. Staff response, where relevant is below each comment in italics:

- a. The DRC expressed general support for project.
- b. The DRC supports the emphasis on retail uses and frontages on Broadway.
- c. Because entire project now honors historic context, the DRC is not prepared to fight to keep 440-448 23rd Street.
 - i. Is it possible to save façade facing 23rd Street?
The applicant has provided documentation indicating that it would be prohibitively expensive to retail the facades both based on the required engineering and resulting building design.
 - ii. Incorporate some brick into building.
The project now incorporates a substantial amount of brick in the façade at the corner of 440-448 23rd Street.
- d. The 23rd and Valley Street corner should be more monumental (a gateway to project).
As redesigned, the project includes a more monumental design at the corner of 440-448 23rd Street, including a taller cornice, brick finish and larger window openings, in particular.
- e. Planting areas are narrow.
The planting areas are 3 feet deep, allowing adequate space for plant wells.

- f. Porch railings on Valley Street still need work (horizontal railing looks better but could result in safety issues).

The porch railings have been replaced by brick on the upper stories and have been redesigned on the ground floor to include a backing to prevent trespassing.

- g. The DRC appreciates all street frontages being active.

- h. The existing driveway on Broadway is not a concern, particularly if it is used as a visual gateway to the project.

The driveway will provide pedestrian access to the site and will only be accessible to vehicular food vendors and emergency vehicles, otherwise. The separation between buildings at that location is enhanced with trees to appear inviting.

- i. What happens to Broadway buildings if they cannot be rehabilitated?

Conditions of approval require staff-level review of any changes to the façade and building designs (historic preservation as well as zoning staff).

- j. Identify bike parking.

Bike parking is located within the residential garages and adjacent to the commercial buildings, as shown in Attachment A.

- k. How many trees can be provided within site and along perimeter? [Project proponent identified limitations for trees in public ROW]

There are emergency access limitations to providing substantial trees along the perimeter of the project site. The applicant will consider planting a bosque of trees in the triangular seating area behind and adjacent to the commercial building at 2337-2345 Broadway.

- l. How will stormwater treatment/retention be addressed?

The alley from Broadway and planting areas surrounding new buildings are stormwater treatment areas.

- m. Public Comments:

- i. Naomi Schiff: Provide retail at 440-448 23rd Street to tie into context of surrounding neighborhood; does the 2004 consideration of that building apply to the current proposal?

Although the 2004 PUD plans call for retention of the building facade, the certified EIR analyzed demolition of the building. The current proposal is a revision to the project and is being evaluated for the change from the most recently approved, revised project to the current proposal. That is the purpose of the Planning Commission consideration of the revision.

*August 12th Landmarks Preservation Advisory Board Comments*LPAB Board Recommendations*Board Secretary Meeting Memo*

At their regularly scheduled meeting on August 12, 2013, the LPAB unanimously moved to:

- 1) Make the following modifications to recommended staff Condition b, which applies to the three Broadway buildings, 2335-37 Broadway, 2343 Broadway, 2345 Broadway and to the Valley Street Lofts, 2366-98 Valley Street.

Condition b: To the extent feasible, the rehabilitation of the four historic facades, 2335-37 Broadway, 2343 Broadway, 2345 Broadway and 2366-98 Valley Street 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~~ an LPAB Sub-Committee (Garry, Andrews) with a report to the full Landmarks Board. If non-compliance with some or all of the rehabilitation standards is evident in the plans, the project sponsor shall submit a report demonstrating that compliance with said standard(s) is infeasible and the reasons why, for review and approval by the ~~Zoning Manager~~ Landmarks Preservation Advisory Board, prior to building permit sign-off.

- 2) The Board finds that the proposed building at 440-48 23rd Street does not meet the required demolition findings and needs additional design work. Add the following Condition of Approval:

The LPAB sub-committee shall work with the applicant to make change/modifications to the 440-48 23rd Street proposed building to meet the Category III demolition finding:

'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,'

with a report to the full Landmarks Board.

- 3) The Board supports the revision to the 2004 Mitigation Measure E.5, as outlined in the staff report:

'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.

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.'

Additional Conditions for Consideration

(following Investigative Demolition of the three Broadway Historic Buildings)

The Board also discussed Conditions recommended by the Façade Grant Program Administrator for the three historic buildings along Broadway which are receiving approximately \$250,000 in façade grant money. The Board acknowledged that since the investigative demolition has not been completed to determine what the existing materials are underneath the 'modernized' skin façade, it would be speculative to condition the project for specific replacement materials. Although the recommendations may be a good, the recommendations are premature until what is underneath is known. The Board consensus is to recommend the following conditions for *consideration* following the investigative demolition:

- a. The transoms shall be done in wood;
- b. The storefronts shall be powder coated aluminum with front centered glass, and three differentiated storefront frame colors amongst the three facades;
- c. All three storefronts shall provide bases to the storefront windows so that the storefront glazing does not come down to the sidewalk; and
- d. All façade components shall be restored or provide replication of damaged or missing features.

LPAB Board Discussion

Four Historic Buildings to be retained:

Broadway Historic Buildings: The Board cannot make the design review findings for these three buildings as the proposed designs in the set of drawings are conceptual. Until investigative demolition is completed, any proposed design is speculative. The Board also has concerns with the proposed conceptual designs and some of the materials selected in these conceptual drawings.

- 1) The drawings indicate 'new shaped foam cornice' for a Julia Morgan building.
Assuming that the cornice needs replacement, the cornice material should be better in quality than foam.
- 2) The original Julia Morgan had two entrances and was symmetrical; one off-center entrance is currently proposed.
- 3) The current drawings indicate a base wall for the Julia Morgan, but do not indicate the material.

The proposed condition requires compliance with the Secretary of the Interior's Standards. This cannot be determined until the investigative work is complete. At this point, any proposed design is sketchy.

2366-98 Valley Street: The Board stated that the building needs maintenance; however this is not articulated in the drawings. Historic Preservation Staff recommends that a Historic Architect outline the maintenance processes for the concrete walls and decorative features on the building exterior. Staff also recommends that the maintenance meet Secretary of Interior Standard #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.'

440-48 23rd Street Replacement Proposal

The quality of the proposal is not equal to the quality of the building proposed for demolition. The Board consensus is that there is a glaring loss created by the demolition of the building and that the new proposal does not meet the required Demolition finding with respect to design. While there is a good effort to create a building that is respectful of the original building with respect to materials, and the proportions are good, there needs to be additional design elements that show regard for the original design. The arches and their rhythm are powerful design features, which are not reinterpreted and/or incorporated in the proposed design. This needs additional work to meet the Demolition design finding.

Planning and Zoning Staff Discussion

The LPAB indicated that they were unable to make the demolition findings for 440-448 23rd Street because the proposed design is not better than the existing design. However, staff believes that, based on the findings made by Carey & Co. (see Attachment C.i), the proposed design is distinguished, at least equal to that of the original structure, and architecturally supports the surrounding neighborhood. For this reason, staff recommends that the Planning Commission make the demolition findings for 440-448 23rd Street.

The LPAB also indicated that they were unable to make the design review findings for the four historic structures to remain on-site because not enough information could be provided prior to exploratory demolition of the existing facades. Plans indicate that the applicant intends to rehabilitate the facades to the Secretary of the Interior Standards, and plans are consistent with available historic information about the buildings (see Attachment C.b). For this reason, staff recommends that the Planning Commission make the design review findings for the historic structures included in this report.

In general, staff supports the conditions of approval recommended by the LPAB and Historic Preservation staff and has included them in the proposed conditions of approval included in this report. However, regarding the LPAB recommendation for revisions to the previously proposed "condition b", staff recommends that the conditions of approval should not require any additional discretionary review but should include opportunity for the LPAB to review and comment, therefore staff recommends that the Planning Commission consider a further revision that would read as follows (redline/strikeout shows changes from LPAB recommendation):

Condition b: To the extent feasible, the rehabilitation of the four historic facades, 2335-37 Broadway, 2343 Broadway, 2345 Broadway and 2366-98 Valley Street shall comply with the Secretary of the Interior's Standards. Historic preservation staff and an LPAB subcommittee (Garry, Andrews) shall review the proposed rehabilitations to evaluate compliance with the Secretary of Interior's Standards and provide a recommendation to the Planning Director or his/her designee who shall make a determination of compliance. ~~an LPAB Sub-Committee (Garry, Andrews).~~ Both the LPAB subcommittee report and the Planning Director or his/her designee's compliance determination shall be forwarded to the full Landmarks Board for informational purposes. If non-compliance with some or all of the rehabilitation standards is evident in the plans, the project sponsor shall submit a report demonstrating that compliance with said standard(s) is infeasible and the reasons

why, for review and approval by the Planning Director or his/her designee ~~Landmarks Preservation Advisory Board~~, prior to building permit sign-off.

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 C.g). 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.

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 approved addenda ensure compliance. See 2004 EIR.

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 (to be considered at a future date)
• 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)				Located on-site
	Res.	Long-term: 1 space per 4 du Short-term: 1 space per 20k sf				Located in garage

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 C.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. (See the enclosed detailed CEQA findings.) 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 the Standard Conditions of Approval/Mitigation Monitoring and Reporting Program (SCAMMRP)). 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).

Copies of Addendum #3 and the 2004 EIR (via CD) have been separately provided to the City Planning Commission and are also available to the public at <http://www2.oaklandnet.com/Government/o/PBN/OAK041274> and at 250 Frank Ogawa Plaza, Suite 3315, Oakland, CA 94612 during normal business hours.

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.

- Bar: The applicant proposes a possible bar to be located on Lot C of the TTM (corner of Broadway and 23rd Street). The use would be located away from the quieter residential uses to the west, and would be synergistic with Art Murmur Arts District activities. A separate Major Cup would be considered at a later date for this potential use.
- Custom Manufacturing: The applicant proposes possible custom-manufacturing uses, such as a commissary and/or t-shirt printing shop that could be located on lots C and F of the TTM (along Broadway). These uses would be consistent with historic custom manufacturing uses in the neighborhood and would support the Art Murmur Arts District food- and art-related activities.
- 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).

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 four historic facades, 2335-37 Broadway, 2343 Broadway, 2345 Broadway and 2366-98 Valley Street shall comply with

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).

the Secretary of the Interior's Standards. Historic preservation staff and an LPAB subcommittee (Garry, Andrews) shall review the proposed rehabilitations to evaluate compliance with the Secretary of Interior's Standards and provide a recommendation to the Planning Director or his/her designee who shall make a determination of compliance. Both the LPAB subcommittee report and the Planning Director or his/her designee's compliance determination shall be forwarded to the full Landmarks Board for informational purposes. If non-compliance with some or all of the rehabilitation standards is evident in the plans, the project sponsor shall submit a report demonstrating that compliance with said standard(s) is infeasible and the reasons why, for review and approval by the Planning Director or his/her designee, prior to building permit sign-off.

- 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 Planning Director or his/her designee, 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.

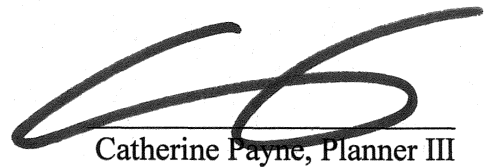
CONCLUSION

Staff recommends the Planning Commission:

- A. Receive any testimony from the applicant and interested citizens and close the public hearing;
- B. Approve Addendum #3 to the Broadway-West Grand EIR, based on the attached findings.
- C. Based on the attached findings and subject to the attached conditions, including the SCAMMRP, approve the Project, including:
 1. Revision to PUD03552 and PUDF03553;
 2. Variances for custom manufacturing activity and for an unclosed facility for auto-fee parking;
 3. Conditional Use Permits for fast food and auto fee activities;
 4. Demolition of historic resources for 440-448 23rd Street;
 5. Tentative Tract Map 8318; and
 6. Design review.


Respectfully submitted:

Prepared by:




Catherine Payne, Planner III

Approved by:



Scott Miller
Zoning Manager

Approved for forwarding to the
City Planning Commission



Rachel Flynn, Director
Department of Planning and Building

Attachments:

- A. Project Plans
- B. TTM8318
- C. 8/12/13 LPAB Staff Report (with attachments)
 - a. Project Plans
 - b. Historic Drawings of Building Facades Proposed for Rehabilitation
 - c. Addendum sections (Introduction, Project Description, Cultural Resources)
 - 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
- D. 6/26/13 DRC Staff Report (with attachments)

NOTE:

Copies of Addendum #3 and the 2004 EIR (via CD) have been separately provided to the City Planning Commission and are also available to the public at <http://www2.oaklandnet.com/Government/o/PBN/OAK041274> and at 250 Frank Ogawa Plaza, Suite 3315, Oakland, CA 94612 during normal business hours.

