

Location:	3001-3039 Broadway (APN's: 009-0705-004-00; - 005-00; -006-00; & -007-00)
Proposal:	Public Hearing on the Draft Environmental Impact Report to obtain comments on the environmental analysis related to the proposed commercial development at the northwest corner of Broadway & 30 th Street. The project would redevelop the existing 1.9 acre parking lot (formerly used as a surface lot for a used auto dealership and currently being used as temporary construction parking for Alta Bates) with the new construction of a one-story approximately 36,000 square foot development that would include a Sprouts Farmers Market grocery store of approximately 26,000 square feet and approximately 10,000 square feet of additional ground floor commercial space. The project would contain auto access off of 30 th Street and provide 162 parking spaces in both ground level parking (18 spaces) and a rooftop parking deck (144 spaces).
Applicant:	Lowney Architects
Contact Person:	Ken Lowney - (510)836-5400
Owner:	30 th & Broadway LLC (Portfolio Development Partners LLC)
Planning Permits Required:	Major Conditional Use permits (New Construction in excess of 10,000 square feet, Alcohol Sales, and a Master Sign Program), Regular Design Review for new construction, Minor Variances for exceeding the maximum front setback of 10 feet for more than 50% of the frontage to create a plaza, for not meeting the minimum conditionally permitted building height of 25 feet, and required loading berths (2 required; 1 proposed), and a Tentative Parcel Map for merging four lots into one.
General Plan:	Community Commercial
Zoning:	CC-2, Community Commercial Zone – 2 (Height Area – 75) D-BR, Broadway Retail Frontage Zone
Environmental Determination:	Draft Environmental Impact Report was published for a 45-day review period from August 16, 2013 to September 30, 2013.
Historic Status:	Vacant Lot
Service Delivery District:	2
City Council District:	3
Action to be Taken:	Receive public and Planning Commission comments on the Draft Environmental Impact Report

SUMMARY

Ken Lowney Architects, on behalf of 30th & Broadway LLC (Portfolio Development Partners LLC), has filed an environmental review application to begin review and consideration of a proposal to develop a commercial project on an existing 1.9 acre parking lot that would include a new 36,000 square foot development that would include a 26,000 square foot Sprouts Farmer's Market grocery store and an additional 10,000 square feet of ground floor commercial. The site is currently a vacant asphalt parking lot that was previously used as part of a used car dealership, but is currently being used as temporary construction parking for Alta Bates. The proposal would

include auto access off of 30th Street with parking located behind the storefronts on the ground floor (18 spaces) and also located on the roof deck of the building (144 stalls) for a total of 162 off-street parking stalls. The loading will occur to the side and rear of the commercial spaces with a loading truck exit onto Broadway, which will only be used by departing trucks.

The City is the Lead Agency pursuant to the California Environmental Quality Act (CEQA) and has the responsibility to prepare the Environmental Impact Report (EIR) for the Project. Staff published a Notice of Preparation (NOP) of an EIR on July 27, 2012. A scoping session was held before the Oakland Planning Commission on August 29, 2012. Also, on June 26, 2013, the project was considered before the Planning Commission's Design Review Committee.

The Notice of Availability for the Draft EIR was prepared and released on August 16, 2013 beginning a 45 day public comment period. The public comment period ends on September 30, 2013.

Comments on the Draft EIR may be made at the September 11, 2013 public hearing or in writing to the Department of Planning & Building, Planning Division, to the attention of Peterson Vollmann. Written comments must be received prior to the comment period deadline (4:00 p.m. on September 30, 2013). After all comments are received, a Final EIR/Response to Comments document will be prepared and the Planning Commission will consider certification of the Final EIR at a later meeting.

The purpose of this hearing is to solicit comments on the adequacy of specific environmentally-related information, issues and analysis contained in the document. This meeting is not intended to take comments on the merits of the Project and no decisions will be made on the EIR or proposed Project at this hearing. Specifically, comments on the Draft EIR should focus on the adequacy of the EIR in discussing possible impacts on the physical environment, ways in which potential adverse effects might be minimized, and alternatives to the Project in light of the EIR's purpose to provide useful and accurate information about such factors.

SITE DESCRIPTION

Existing Site Conditions

The proposed project site is a 1.9 acre (83,143 square feet) lot at 3001 – 3039 Broadway at the northwestern corner of the intersection of Broadway and 30th Street in the Broadway Auto Row area of the City. The site is currently vacant and void of any permanent structures, and only contains asphalt paving and striping for the previous used car dealership that occupied the location and is now being used temporarily as construction parking for Alta Bates.

The western end of the site is a tall concrete retaining wall which is the back side of the adjacent skilled nursing facility for seniors.

The northern boundary of the site adjoins another asphalt parking lot for the northern adjacent Bay City car dealership that operates at the corner of Broadway and Hawthorne Street.

Surrounding Area

The project site is located in the Broadway Auto Row Commercial District in Oakland at the intersection of Broadway and 30th Street. The surrounding area includes a mix of health-related institutional, automotive sales and service, and commercial entertainment and dining uses.

The project site is also located within the northern end of the proposed Broadway Valdez Specific Plan (BVDSP) area, for which the City is preparing a vision and planning framework for the future growth and development of the area along Broadway between I-580 to the north and Grand Avenue to the south.

PROJECT DESCRIPTION

The Project involves the development of a new, one-story development with 36,000 square feet of high volume retail space and associated parking. Specifically, the proposed development would include a 26,000 square-foot retail grocery store anchor tenant, Sprouts Farmers Market, and an additional 10,000 square feet of ground floor commercial space. All retail areas would be oriented along Broadway and would be primarily accessed through a public plaza connected to the sidewalk along Broadway (the development would be located within one single structure though visibly appearing as two separate buildings from the street – the DEIR refers to the project as two separate buildings at times, which will be clarified in the Final EIR/Response to Comment Document). Public-realm amenities proposed include landscaping, a public gathering area with café style seating for customers, as well as a plaza and garden seating for customers on the rooftop level. A total of 162 parking spaces would be provided in both the ground level parking area (18 spaces behind the retail tenant spaces), and on a rooftop parking deck accessed from an internal ramp (144 spaces). All vehicular access to the project site would be from a driveway on 30th Street, and service vehicles/trucks would exit the site and internal loading dock area via a driveway on Broadway.

GENERAL PLAN

The General Plan's Land Use and Transportation Element (LUTE) classifies the project site as being located in a Community Commercial General Plan area. This land use classification is intended to 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 and centers. The Community Commercial districts may include Neighborhood Center uses and larger scale retail and commercial uses, such as auto related businesses, business and personal services, health services and medical uses, educational facilities, and entertainment uses.

ZONING COMPLIANCE

The subject property is located within a CC-2, Community Commercial Zone-2, and is within a Height/Intensity Area 75. 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 75 Height/Intensity Area allows a Floor Area Ratio (FAR) of 4.0 and a building height of 75 feet, and requires a minimum of 35 feet, which may be reduced to 25 feet upon the granting of a conditional use permit. The current proposal has an FAR of less than 1.0 and is well within the maximum allowed.

The property is also located within the D-BR, Broadway Retail Frontage Combining Zone, which is intended to create, preserve, and enhance ground level retail opportunities within the Broadway/Valdez Retail District area north of the Central Business District. These interim regulations anticipate the adoption of more comprehensive and detailed regulations and a plan to attract retail opportunities within the Broadway/Valdez Retail District area which is currently under development with the Broadway Valdez District Specific Plan process that is ongoing.

Conditional Use Permits

The proposed project would require approval of a number of Conditional Use permits, including without limitation the following:

- New development in excess of 10,000 square feet (*Planning Code 17.101C.100*)
- Alcohol Beverage Sales (*Planning Code 17.35.030*)
- Master Sign Program (*Planning Code 17.104.070*)

Minor Variances

The proposed project would require approval of a number of Minor Variances, including without limitation the following:

Building Height – Section 17.35.050C of the Oakland Planning Code requires that new construction fronting on a right of way 100' or greater in width shall have a minimum building height of 35 feet, or reduced to 25 feet with a Conditional Use permit. The proposed roof height of the building would be less than 25 feet and thus would require the granting of a Minor Variance for approval.

Front Setback – Section 17.35.050A of the Oakland Planning Code requires that new construction not contain a setback of greater than 10 feet for 75% of the property frontage, and this may be reduced to 50% upon the granting of a Conditional Use permit. Similarly, Section 17.101C.090 of the Oakland Planning Code requires that any building fronting on Broadway shall not contain a setback more than five feet from the sidewalk except for plazas and only 50% of the frontage may qualify for the plaza exception. The proposed project would be setback more

than ten feet (and more than five feet from the sidewalk) for more than 50% of the frontage, and thus would require the granting of a Minor Variance.

Loading – Section 17.116.140 of the Oakland Planning Code requires that two off-street loading berths be provided for developments between 25,000 – 49,999 square feet. The proposed project is including one loading berths and hence a Minor Variance for one loading berth would be required.

SUBDIVISION ORDINANCE

The proposed development requires a Tentative Parcel Map to merge four parcels into one.

ENVIRONMENTAL REVIEW PROCESS

Scope

The City is the Lead Agency pursuant to CEQA and has the responsibility to prepare the EIR for the Project. Staff published the NOP on July 27, 2012. A scoping session was held before the Oakland Planning Commission on August 29, 2012. The following environmental topics are addressed in detail in the Draft EIR, and other topics (Agriculture and Forestry Resources, Mineral Resources, Population, Housing and Employment, Public Services, and Recreation) were also addressed in the Draft EIR (see Draft EIR page 4.14-1):

- A. Aesthetics, Shadow and Wind
- B. Air Quality
- C. Biological Resources
- D. Cultural Resources
- E. Geology, Soils and Geohazards
- F. Greenhouse Gases and Climate Change
- G. Hazards and Hazardous Materials
- H. Hydrology and Water Quality
- I. Land Use, Plans and Policies
- J. Noise
- K. Transportation and Circulation
- L. Utilities and Service Systems

Potentially Significant Impacts Identified in the Draft EIR

All impacts, City Standard Conditions of Approval and mitigation measures identified in the Draft EIR are summarized in Table 2-1 (see Attachment B) at the end of Chapter 2 (Summary) of the Draft EIR. Table 2-1 also identifies the level of significance of the impact after City Standard Conditions of Approval and recommended mitigation measures are implemented. Other than the impacts discussed below, all of the environmental effects of the Project can be reduced to less

than significant levels through implementation of Standard Conditions of Approval or recommended mitigation measures.

The Draft EIR identifies the following **Significant and Unavoidable** environmental impacts related to Transportation and Circulation and Greenhouse Gases:

Transportation & Circulation

The proposed Project would result in one significant and unavoidable traffic impact at one intersection under "Cumulative 2035 plus Project". While the DEIR identifies recommended mitigation measures at this intersection, the measure would not reduce the impact to less than significant.

- **Impact TRANS-3:** The proposed project would increase the V/C ratio for a critical movement by 0.05 or more during the weekday PM peak hour and increase the total intersection V/C ratio by 0.03 or more and increase the V/C ratio for a critical movement by 0.05 or more during the Saturday peak hour at the 27th Street/ 24th Street/ Bay Place/ Harrison Street intersection (Intersection #11), which would operate at LOS F under 2035 conditions.

Greenhouse Gases

The proposed project would result in one significant and unavoidable impact related to greenhouse gases. A reduction of 411 MT CO₂e per year is required to reduce the Project's GHG emissions to below the significance threshold of 1,100 MT.

The proposal also exceeds the 4.6 MT CO₂e per service population annually, which for this project would only include the employees of the project. A particular shortcoming of the efficiency threshold in accurately capturing the potentially net positive GHG effect of this Project is that it fails to factor in the context of the project site. The Project is infill in an existing mixed use area of established residential neighborhoods in the surrounding area and notable employment hubs (Pill Hill two blocks west/northwest and Kaiser Permanente campus three to four blocks north). Theoretically, if the existing nearby residential and employment population was factored as service population, especially those located within a walkable radius of the store (approximately 4-5 blocks or one-quarter mile), the Project's GHG emissions would not likely exceed the 4.6 MT CO₂e per service population threshold. The development is also located within a priority development area with respect to the Sustainable Communities plan developed for the Bay Area pursuant to SB 375 which has been implemented to reduce greenhouse gas emissions through the planning process.

However, because the immediately surrounding residential or employment population cannot be included as service population and it cannot be confirmed with quantification guaranteeing that GHG SCA-1 would achieve emissions reduction below significance thresholds, the impact is conservatively considered significant and unavoidable because no feasible reduction measures from the City's Greenhouse Reduction Plan Standard Condition of Approval (GHG SCA-1) were identified to address this level of reduction with this project other than the applicant's purchasing

of carbon credits pursuant to GHG SCA-1, which may not be feasible in the future, as discussed below.

- **Impact GHG-1:** The Project would produce greenhouse gas emissions that exceed 1,100 metric tons of CO₂e per year and that would exceed 4.6 metric tons of CO₂e per service population annually.

Foreseeing the future market for and cost of purchasing carbon credits over 40 years, or even in the nearer term, is not possible at this time with any level of certainty. The potential exists for the cost to become prohibitive in the future and render the Project financially infeasible. However, at this time GHG SCA 1, including namely the purchase of carbon credits, will be fully applicable since all other measures that could achieve substantive reductions are considered infeasible or the emissions reduction that would be gained would not be substantial.

However, at some point in the future, the project sponsor could establish that the continued purchase of carbon credits would no longer be financially feasible, making the Project financially infeasible. Also at some point in the future, the project sponsor could provide actual operating data from the Project (after a certain duration of operation determined by the City) that shows the Project's GHG emissions are lower than estimated in this EIR and less than the significance threshold. Moreover, if the City revises its SCA related to GHG reduction or adopts new or amended policies or standards for assessing and mitigating GHG emissions impacts, the project sponsor would obtain any benefit of those changes and have the ability to request that the City consider a modification to the Project's conditions of approval to maintain consistent with the current City GHG reduction policies and requirements at that time.

Project Alternatives

Chapter 5 of the Draft EIR includes the analysis of five alternatives to the Proposed Project that meet the requirements of CEQA, which include a reasonable range of alternatives to the Project that would feasibly attain most of the Project's basic objectives, and avoid or substantially lessen many of the Project's significant environmental effects. The five CEQA alternatives analyzed in Chapter 5 include:

- Alternative 1 - Mixed Use Alternatives A & B with Grocery – This alternative includes two variants. Alternative 1A considers 150 multifamily units built above a 28,000 square-foot grocery store and two local-serving retail spaces on the ground/first level. Overall, the tallest portions of the building would be six levels and up to 75 feet tall above grade (compared to one-story with an upper-level parking deck and 40 feet tall with the Project), with one lower level underground. Specifically, on the north portion of the project site, residences would be built in five levels above the ground/first level retail and a lower parking level. The south portion of the project site would be two levels above the ground/first level retail. Alternative 1B considers 225 multifamily units built above a 26,000 square-foot grocery store and three local-serving retail spaces on the ground/first

level. The building would be six levels and up to 75 feet tall above grade and would not include a lower level underground (which is only proposed with Alternative 1A).

- Alternative 2 – Mixed Use Alternative without Grocery – Alternative 2 is similar to Alternative 1, except that the 225 dwelling units would be built above 20,000 square feet of local serving retail on the ground floor instead of the proposed grocery store anchor tenant. The building would be six levels and up to 75 feet tall above grade for this alternative and would not contain a lower level underground.
- Alternative 3 – Office & Retail Alternative – Alternative 3 considers 100,000 square feet of general office spaces built above 10,000 square feet of local-serving retail space on the ground/first level. The tallest portions of the building would be five levels and approximately 60 feet tall above grade (compared to one-story with an upper-level parking deck and 40 feet tall with the Project; and compared to six levels and up to 75 feet tall with Alternatives 1A, 1B and 2). Alternative 3 assumes that the office space would cover the full building footprint to the building's edge; it would not be specially configured for natural light access as was done for the upper level residential units in Alternatives 1B and 2.

Retail and office parking would be provided on the ground/first and second levels, because it is assumed that the 201 parking spaces (34 retail and 167 office) could be combined and configured onto those two levels.

- Alternative 4 – Grocery Store Only (Fully Mitigated) – This alternative was developed to achieve full mitigation of the two significant and unavoidable impacts. Alternative 4 considers a 20,000 square-foot grocery store as a stand-alone activity on the project site. No local-serving retail spaces or other uses would occur on the site, except for circulation and operations spaces necessary to support the grocery store. Alternative 4 would be configured like the Project, with an upper level parking lot of 100 spaces. Compared to the Project, Alternative 4 has 16,000 fewer square feet and 62 fewer parking spaces (though incorrectly referenced as 58 fewer stalls in the DEIR). This could allow the development to be configured with a smaller footprint, allowing some portion of the project site to be improved but not built on, such as surface parking areas with storm water landscaping improvements, or additional outdoor gathering areas.
- Alternative 5 - No Project/No Build Alternative - CEQA requires a “no Project” alternative to be considered in the EIR. This Alternative is consistent with the existing environmental setting presented throughout Chapter 4 of the EIR, and the site would remain a paved parking lot in its existing condition.

The Environmentally Superior Alternative is Alternative 4 – Grocery Store Only (Fully Mitigated). Alternative 4 is the environmentally superior alternative because it would avoid and substantially reduce the significant and unavoidable impacts associated with traffic and greenhouse gases with the Project and that would continue to exist with each of the other alternatives (except the No Project Alternative).

PUBLICATION AND DISTRIBUTION OF THE DRAFT EIR

The Draft EIR was made available for public review on August 16, 2013. The Notice of Availability for the Draft EIR was mailed to property owners within 300 feet of the Project area, distributed to State and local agencies, posted on the Project site, and mailed to Interested Parties. The Notice of Availability is attached to this report (see Attachment C). Copies of the Draft EIR were also previously distributed to City officials, including the Planning Commission, and is available at the Department of Planning & Building, Planning Division (250 Frank H. Ogawa Plaza, Suite 3315), and the City's website at:

<http://www2.oaklandnet.com/Government/o/PBN/OurServices/Application/DOWD009157>

CONCLUSION

All comments received on the Draft EIR will be considered by the City prior to finalizing the EIR and making a decision on the Project. Comments on the Draft EIR should focus on the adequacy of the EIR in discussing possible impacts on the physical environment, ways in which potential adverse effects might be minimized, and alternatives to the Project in light of the EIR's purpose to provide useful and accurate information about such factors. The public hearing on September 11, 2013 is not intended for public comments on the Project merits or the Project's detailed design. Comments on the Draft EIR may be made at the September 11, 2013 public hearing or in writing to the Department of Planning & Building, Planning Division, to the attention of Peterson Vollmann. Written comments must be received prior to the comment period deadline (4:00 p.m. on September 30, 2013). After all comments are received, the City will prepare a Final EIR/Response to Comments document will be prepared and the Planning Commission will consider certification of the Final EIR at a future meeting date. Staff will return to the full Planning Commission for action on the development entitlements.

RECOMMENDATION

- 1) Receive public and Planning Commission comments on the Draft EIR.
- 2) Close the public hearing with respect to receipt of oral comments; written comments will be accepted until 4:00 pm on Monday, September 30, 2013.

Prepared by:



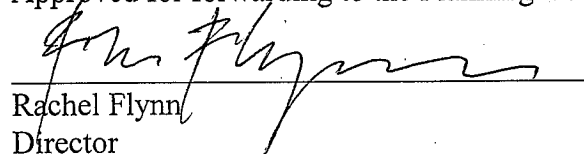
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Approved by:



Scott Miller
Zoning Manager
Planning and Zoning Division

Approved for forwarding to the Planning Commission:



Rachel Flynn
Director
Department of Planning & Building

Attachments:

- A. Project Plans
- B. Summary Table (DEIR Table 2-1)
- C. Notice of Availability (NOA)
- D. Summary of Alternatives (DEIR Tables 5-1 & 2)

Note:

The Draft EIR was provided under separate cover for review and consideration by the Planning Commission, and is available to the public at the Planning Division office at 250 Frank H. Ogawa Plaza, Suite 3315, Oakland, CA 94612 and on the City's website at:

<http://www2.oaklandnet.com/Government/o/PBN/OurServices/Application/DOWD009157>