

**1205 FRANKLIN STREET,
2ND AND 3RD FLOOR
OAKLAND, CA 94612**

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Revision Record

2025.02.04	CLIENT REVIEW

OFFICE
CONVERSION
TO STORAGE

1205 FRANKLIN STREET,
OAKLAND, CA 94612
APN: 2-51-4
ZONING: CDB-P (NO CHANGED)

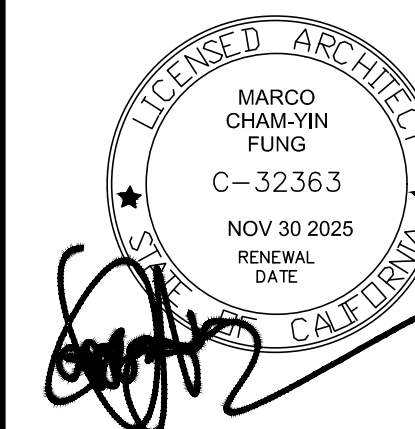
Date	Project No.
01.31.2025	2022.025
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TITLE SHEET

Sheet No.	A001
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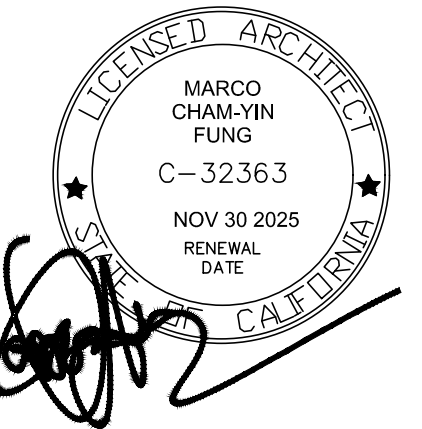


FLOOR PLAN:
1ST FLOOR

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A201

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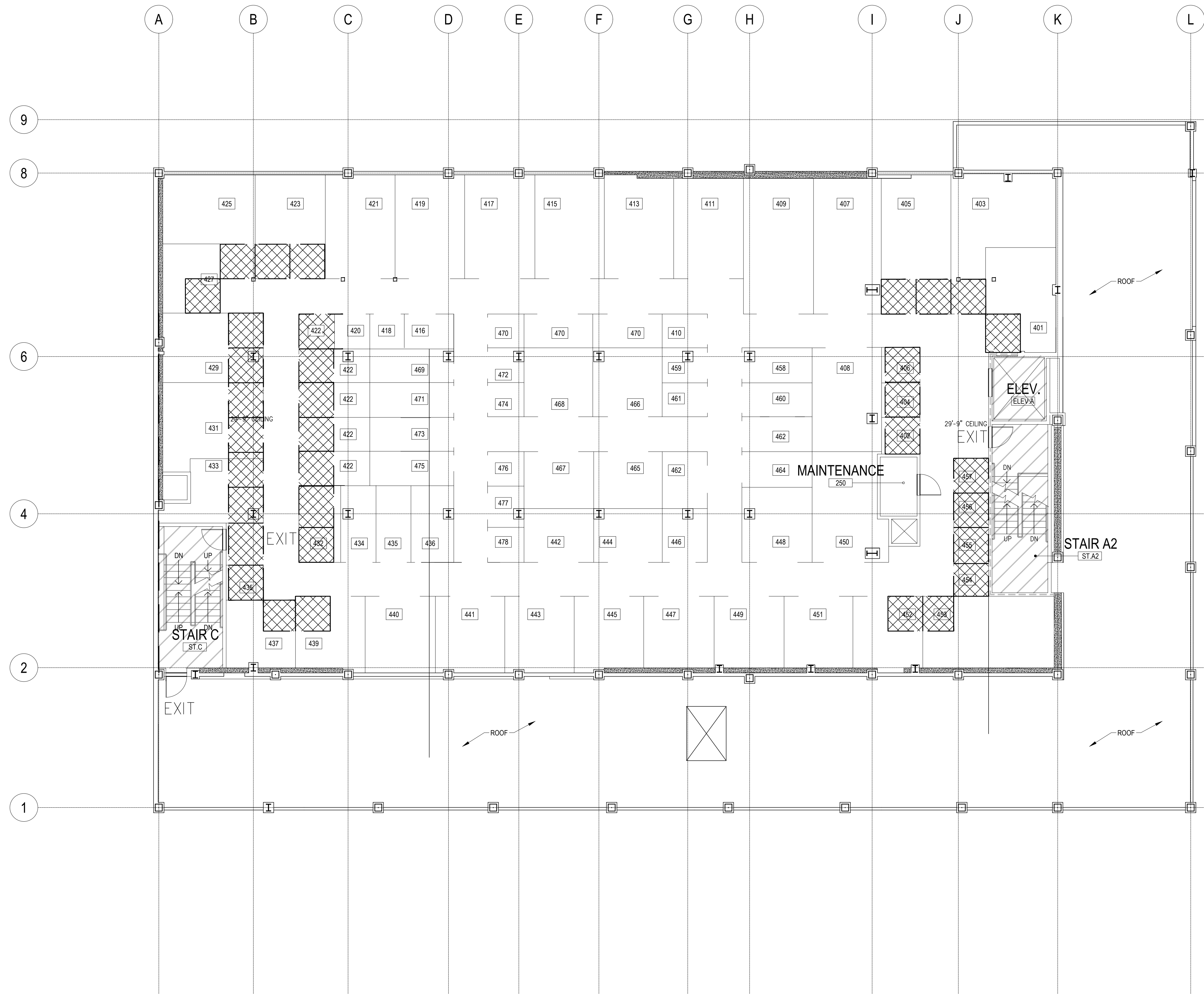
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**1205 Franklin Street
Variance Application Attachment**

A. PROPERTY AND PROJECT DESCRIPTION

The project site at 1205 Franklin Street is improved with a 4-story plus basement building and is located Downtown, occupying approximately the southwest quadrant of the block bounded by Franklin, 12th and 13th Streets and Broadway (the, “**Property**”). The Property is in the CBD-P Zoning District and Height Area 7.

The 4-story, 60,410 square foot (“**sf**”) building currently consists of retail, office, and storage uses. Project sponsor proposes a change of use of the office space (6,737 sf) to self-storage. No exterior construction is proposed to the building and the building envelope will not be altered.

This is an application for a development project pursuant to the Permit Streamlining Act (Section 65920 *et seq.* of the California Government Code).

B. ACTIONS REQUESTED – MAJOR VARIANCE

In the CBD-P Zoning District, Self-/Mini-Storage is not permitted. Project Sponsor seeks a major variance to permit Self-/Mini-Storage at the Property allowing the expansion of the existing Self-/Mini-Storage use at the Property.

C. GENERAL VARIANCE FINDINGS

Under Planning Code Section 17.148.050, the Planning Commission, may only approve an application for a major variance if the facts presented are such to establish the following:

- 1. That strict compliance with the specified regulations would result in practical difficulty or unnecessary hardship inconsistent with the purpose of the Zoning Regulations, due to unique physical or topographic circumstances or conditions of design; or, as an alternative in the case of a minor variance, that such strict compliance would preclude an effective design solution improving livability, operational efficiency, or appearance;**

The existing building at the Property is a potentially historic resource. The building was constructed in 1912. A variance is necessary to prevent a significant loss of use of floor area within the building, a result which is not due to the applicant’s own actions or the actions of the predecessor in interest. Due to the physical layout of the existing potentially historic building, unnecessary hardship would result if Self-/Mini-Storage were not permitted as proposed by the Project. The majority of the building is existing Self-/Mini-Storage use that was established in 2004 (Planning Department Case No. VM04-060) and was expanded within the existing building in 2016 (Planning Department Case No. ZW1600617). The Project would allow for further expansion of the existing Self-/Mini-Storage use within the existing building.

The second and third floors consist of 5 separate office spaces. All spaces have been vacant at various times. While a couple of the office spaces are currently occupied (Units 200 and 325), both leases expire in the near-term and have pre-negotiated redevelopment language that specify the steps the Property Owner would take to ensure the Tenant's business is not impacted. Due to physical constraints of the upper floor office spaces, it is not programmatically feasible to retain either office space while converting the remaining of the floors to Self/Mini Storage. Given the existing long-standing vacancies within the building, as well as the significant vacancy in the Oakland office broadly, and the existing redevelopment language in the two existing leases, the impact to existing tenants is minimal and will not impact the generation of business tax for the City.

Without a variance to allow Self-/Mini-Storage, the vacant upper floor office spaces will generate no business tax revenue. This hardship limits the utility of the site.

- 2. That strict compliance with the regulations would deprive the applicant of privileges enjoyed by owners of similarly zoned property; or as an alternative in the case of a minor variance, that such strict compliance would preclude an effective design solution fulfilling the basic intent of the applicable regulation;**

The majority of the Property has been used for almost 20 years as Self-/Mini-Storage (Planning Department Case No. VM04-060). Project Sponsor seeks a major variance to allow expansion of Self-/Mini-Storage in the remainder of the upper office floors. The Project proposes no exterior changes to the potentially historic building and restricts lockers from being placed within 5' of the exterior window walls. Strict adherence to the Planning Code would preclude an effective solution to maintain the existing potentially historic building's shape, size, and bulk.

- 3. That the variance, if granted, will not adversely affect the character, livability, or appropriate development of abutting properties of the surrounding area, and will not be detrimental to the public welfare or contrary to adopted plans or development policy;**

The majority of the Property has been used for nearly 20 years as Self-/Mini-Storage (Planning Department Case No. VM04-060). The Project proposes a change of use of the remainder of the upper floors of the building currently office use to Self-/Mini-Storage. The proposed Project will not be detrimental to the public welfare or contrary to development policy. The Project will be complementary to the thousands of dwelling units developed and to be developed Downtown surrounding the Property. Within an approximate 5-block radius, i.e., the area bounded by 7th, Madison and 17th Streets and Martin Luther King Junior Way, there are 15 projects with 711 units constructed/under construction, 647 units approved, and 995 units proposed for a total of 2,353 new dwelling units. (See **Exhibit A.**) In addition, in the area encompassing approximately two blocks further north of the 5-block radius, there are 9 projects with 1,3796 units that are being constructed/under construction, 307 units approved, and 620 units proposed for a total of 2,303 new dwelling units. (See **Exhibit B.**) Within approximately a half a mile of the

Project site there are 4,653 new or proposed dwelling units. And in the long-term, the pending Downtown Oakland Specific Plan envisions adding 29,100 new homes, 20,000,000 sf of new commercial space, 1,300,000 sf of new institutional space, and 260,000 sf new industrial space by 2040 within the plan area. ([DOSF](#), p. 38.) The proposed Self-/Mini-Storage will complement the new uses that come Downtown and the existing uses Downtown needing extra space for storage of items.

4. That the variance will not constitute a grant of a special privilege inconsistent with limitations imposed on similarly zoned properties or inconsistent with the purpose of the Zoning Regulations;

Granting of the major variance to allow Self-/Mini-Storage for the remainder of the upper floors of the existing building will not constitute a grant of a special privilege inconsistent with the underlying zoning. The CBD-P Zoning District is intended to be available for a wide range of residential activities. While the Self-/Mini-Storage itself is not a residential activity it will serve the thousands of residential dwelling units that are being constructed or in the pipeline. (Oakland's Housing Pipeline Gushes after Years of Drought, *SAN FRANCISCO BUSINESS TIMES*, November 30, 2017; available here: <https://www.bizjournals.com/sanfrancisco/news/2017/11/30/oakland-housing-pipeline-apartments-condos.html>, last visited March 14, 2022.) Per the discussion above, the proposed use will be complementary to the new housing units in the immediate vicinity.

5. That the elements of the proposal requiring the variance (e.g., elements such as buildings, walls, fences, driveways, garages and carports, etc.) conform with the Regular Design Review criteria set forth in the design review procedure at Section 17.136.050;

The Project's major variance is operational in nature and does not impact the existing potentially historic building's design or programmatic layout for vehicular access. The Project will maintain the driveway and parking features as existing. The exterior façade of the potentially historic building will be maintained, and no exterior alterations are proposed.

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

The change of use to Self-/Mini-Storage will serve the numerous residential and mixed-use projects within the vicinity containing thousands of new dwelling units that have been recently constructed or are in the pipeline. Many of those units do not have robust storage options for their residents.

The Project will be complementary to the existing and proposed development surrounding the Property. The Project will affirmatively promote, is consistent with, and will not adversely affect the General Plan, specifically Land Use and Transportation, as follows:

Land Use and Transportation Element

Policy I/C1.8: Providing Support Amenities Near Employment Centers. Adequate cultural, social, and support amenities designed to serve the needs of workers in Oakland should be provided within close proximity to employment centers.

Policy I/C1.9: Locating Industrial and Commercial Area Infrastructure. Adequate public infrastructure should be ensured within existing and proposed industrial and commercial areas to retain viable existing uses, improve the marketability of existing vacant or underutilized sites, and encourage future use and development of these areas with activities consistent with the goals of this Plan.

OBJECTIVE I/C3: ENSURE THAT OAKLAND IS ADEQUATELY SERVED BY A WIDE VARIETY OF COMMERCIAL USES, APPROPRIATELY SITED TO PROVIDE FOR COMPETITIVE RETAIL MERCHANDISING AND DIVERSIFIED OFFICE USES, AS WELL AS PERSONAL AND PROFESSIONAL SERVICES

Policy I/C3.6: Expanding Private Businesses and Government in Oakland. The City should encourage the expansion of private business services and government sectors within Oakland.

Oakland has a rich and diverse range of neighborhood commercial centers, which serve the local needs of residents, business, and visitors. Some commercial centers are in need of assistance, and some neighborhoods have no viable commercial activity at all. The Property has been used for Self-/Mini-Storage since 2004 and will preserve that use. The Project seeks change of use for spaces that have been vacant for multiple years, with some vacancies pre-dating the Covid-19 pandemic.

OBJECTIVE I/C4: MINIMIZE LAND USE COMPATIBILITY CONFLICTS IN COMMERCIAL AND INDUSTRIAL AREAS THROUGH ACHIEVING A BALANCE BETWEEN ECONOMIC DEVELOPMENT VALUES AND COMMUNITY VALUES

Some areas of the City have established land uses that have difficulty co-existing as good neighbors (for examples, a manufacturing business located next door to a residence). One of this Element's innovations is the establishment of Housing and Business mix areas that recognize that

some businesses can co-exist with adjoining housing, while others cannot. The land use classifications in Chapter 3 provide additional detail.

Policy I/C4.1: Protecting Existing Activities. Existing industrial, residential, and commercial activities and areas which are consistent with long term land use plans for the City should be protected from the intrusion of potentially incompatible land uses.

OBJECTIVE T2: PROVIDE MIXED USE, TRANSIT-ORIENTED DEVELOPMENT THAT ENCOURAGES PUBLIC TRANSIT USE AND INCREASES PEDESTRIAN AND BICYCLE TRIPS AT MAJOR TRANSPORTATION NODES

Policy T2.5: Linking Transportation and Activities. Link transportation facilities and infrastructure improvements to recreational uses, job centers, commercial nodes, and social services (i.e., hospitals, parks, or community centers).

OBJECTIVE D5: ENHANCE THE SAFETY AND PERCEPTION OF SAFETY DOWNTOWN AT ALL HOURS

Increased activity Downtown reduces opportunities for crime and the perception of crime. Providing exciting living opportunities in downtown districts also helps to increase security by assuring the presence of people and “eyes on the street” twenty-four hours a day.

Policy D5.1 Encouraging Twenty-Four Hour Activity. Activities and amenities that encourage pedestrian traffic during the work week, as well as evenings and weekends should be promoted.

OBJECTIVE D6: ELIMINATE BLIGHT CAUSED BY UNDERUTILIZED PROPERTIES

Policy D6.2: Reusing Vacant or Underutilized Buildings. Existing vacant or underutilized buildings should be reused. Repair and rehabilitation, particularly of historic or architecturally significant structures, should be strongly encouraged. However, where reuse is not economically feasible, demolition and other measures should be considered.

OBJECTIVE D9: EMPHASIZE THE ESTABLISHMENT, PROMOTION, AND RETENTION OF COMMERCIAL BUSINESSES THAT SERVE THE NEEDS OF DOWNTOWN WORKERS AND RESIDENTS

Oakland continues to strive to attract commercial businesses to support active office and housing environments in Downtown.

Policy D9.2: Meeting Daily Needs. Downtown residents should have access to goods and services to meet their daily and long term needs within the downtown area.

OBJECTIVE N1: PROVIDE FOR HEALTHY, VITAL, AND ACCESSIBLE COMMERCIAL AREAS THAT HELP MEET LOCAL CONSUMER NEEDS IN THE NEIGHBORHOODS.

Commercial activity is essential to vital and dynamic neighborhoods.

Downtown Oakland Specific Plan

Policy LU-1.2 - Preservation of Industrial Land Uses: Revise zoning and amend the General Plan to preserve and enhance industrial areas downtown. Include policies and regulations to protect existing and encourage more production, distribution, and repair (PDR) uses.

The project proposes a modest expansion of an existing industrial, self-storage operation, helping maintain a diversity and balance of uses downtown.

Policy LU-2.3 - Adaptive Reuse Provisions: Draft and adopt an adaptive reuse provisions in the Planning Code that facilitate the reuse of older and underutilized buildings by relaxing typical building and zoning requirements and by providing flexibility in the approval and permitting process when buildings are converted to new uses. Encourage the use of the California Historical Building Code (CHBC).

The project proposes adaptive reuse of low quality, low demand office space in downtown. The project would enhance the contribution the existing building makes to the downtown economy.

Oakland City Planning Commission**STAFF REPORT****Case File Number VM04-060****April 7, 2004**

6.	Location:	406-412 12th Street (APN 002-0051-004-00)
	Proposal:	Conversion of previous industrial use to self-storage, exterior rehabilitation with first floor retail and upper floors office along street frontage.
	Applicant:	John Protopappas, Madison Park Financial LLC
	Owner:	John Protopappas, Madison Park Financial LLC
	Case File Number:	VM04-060
	Planning Permits Required:	Major Variance to allow conversion of previous industrial use to self-storage, retail and office, Design Review of exterior rehabilitation (Landmarks Preservation Advisory Board).
	General Plan:	Central Business District
	Zoning:	C-55 – Central Core Commercial, S-17 – Downtown Residential Open Space Combining Zone
	Environmental Determination:	Exempt per Sections 15331 and 15332 of the State CEQA Guidelines.
	Historic Status:	PDHP, API contributor to the Downtown Historic District, minor importance, potentially secondary importance; National Register contributor to Downtown Historic District; OCHS Rating: Dc1+; Considered an Historic Resource under CEQA.
	Service Delivery District:	Downtown Metro
	City Council District:	2
	Status:	Landmark Preservation Advisory Board recommendation: Design Review Approval with Conditions;
	Action to be Taken:	Approve subject to Conditions and Findings
	Finality of Decision:	<i>Appealable to City Council</i>
	For further information:	Contact case planner Joann Pavlinec at (510) 238-6344 or by email at jpavlinec@oaklandnet.com

SUMMARY

This project, located at 406-412 12th Street, The Tribune Press Building, is before the Planning Commission for review and evaluation of a Major Variance application to permit conversion of previous industrial use space, located in the interior ‘core’ portion of the building, to self-storage, with the exterior street frontage space of the building along 12th and Franklin Streets for use as first floor retail with offices above, and a Design Review application to rehabilitate the historic building exterior. The building is a Potential Designated Historic Property as a Contributor to an Area of Primary Importance and is determined eligible for the National Register as a contributor to the Downtown Historic District. The proposed exterior rehabilitation has been reviewed by the Landmarks Preservation Advisory Board (LPAB) for design recommendations to the Planning Commission. The LPAB recommends Approval, with conditions. Staff is recommending Approval, with attached conditions, of the Major Variance and Design Review based on the attached Findings. Included in these findings is the rationale that the historic

importance of this building coupled with physical constraints and furthering the General Plan policies constitute a basis for the variance.

PROJECT LOCATION AND DESCRIPTION

The Tribune Press building is located south of and adjacent to the Tribune Tower on the northwest corner of 12th and Franklin Streets. It is presently vacant and has been for approximately twelve years. The proposal for rehabilitation of the historic building includes approximately 2,800 square feet of retail space along the building street frontage perimeter, 6,700 square feet of office space on the second and third floor street frontage perimeters and 45,300 square feet of document and self-storage in the building interior, previously used as industrial space for the Oakland Tribune's press operations. Please note that the drawings reflect that the second and third floor perimeter space along 12th Street west of the historic lobby/stairs is proposed as storage space. Staff has suggested and the applicant has agreed to change this perimeter space from storage space to office space (the above square footages reflect the use as office space). The exterior of the building will be rehabilitated to reflect its historical significance under the U. S. Secretary of Interior Standards. It is a contributor in the National Register Downtown Historic District.

GENERAL PLAN ANALYSIS

The General Plan Land Use and Transportation Element (LUTE) classifies the property within the Central Business District. The Central Business District classification is intended to encourage, support, and enhance the downtown area as a high density mixed-use urban center of regional importance and a primary hub for business communication, office, government, high technology, retail, entertainment, and transportation in Northern California. This classification includes a mix of large-scale offices, commercial, urban (high-rise) residential, institutional, open space, cultural, educational, arts, entertainment, service, community facilities, and visitor uses.

The goals for the downtown area include expansion of the role that the district plays in the lives of local residents and surrounding communities. Key components of the vision for Downtown are support for growth in office activity and increasing the population through new Downtown housing. The LUTE Downtown objectives and policies seek to revitalize and reuse underutilized properties, respect historic resources and provide approaches to supporting both residential and commercial activity in the Downtown. This proposal responds to all of these goals. In addition, the LUTE provides maximum flexibility for a wide variety of land uses in the Downtown.

However, the Transport/Warehousing Commercial Activity (including document and self-storage) in the Guidelines for Determining Project Conformity with the General Plan and Zoning Regulations adopted by the Planning Commission in 1998, is determined to "Clearly not Conform" in the Central Business District. Despite the proposal's Non-Conforming designation for document and self-storage, the proposal, in its entirety (retail, office and storage), is strongly supported by more specific General Plan Objectives and Policies, including:

Objective I/C2	Maximize the usefulness of existing abandoned or underutilized industrial buildings and land.
Policy I/C2.2	Reusing Abandoned Buildings. The reuse of abandoned industrial buildings by non-traditional activities should be encouraged where the uses are consistent with, and will assist in the attainment of the goals and objectives of all elements of the Plan.
Policy I/C3.4	Strengthening Vitality. The vitality of existing neighborhood mixed use and community commercial areas should be strengthened and preserved.
Objective D6	Eliminate blight caused by underutilized properties.
Policy D6.2	Reusing Vacant or Underutilized Buildings Existing vacant or underutilized buildings should be reused. Repair and rehabilitation, particularly of historic or architecturally significant structures, should be strongly encouraged. However, where reuse is not economically feasible, demolition and other measures should be considered.
Objective D8	Build on the current office nodes near the 12 th and 19 th Street BART stations to establish these locations as the principal center for office development in the city.
Objective D9	Emphasize the establishment, promotion, and retention of commercial businesses that serve the needs of downtown workers and residents.
Policy D9.2	Meeting Daily Needs Downtown residents should have access to goods and services to meet their daily and long term needs within the downtown area.
Objective D11	Foster mixed use developments to help create a diverse, lively and vibrant downtown.
Policy D11.1	Promoting Mixed-Use Development. Mixed-use developments should be encouraged in the downtown for such purposes as to promote its diverse character, provide for needed goods and services, support local art and culture, and give incentive to reuse existing vacant or underutilized structures.
Policy N9.7	Creating Compatible but Diverse Development Diversity in Oakland's built environment should be as valued as the diversity in population. Regulations and permit processes should be geared toward creating compatible and attractive development, rather than "cookie cutter" development.

Policy N9.8

Preserving History and Community

Locations that create a sense of history and community within the City should be identified and preserved where feasible.

The project's document and self-storage component allows the reuse of the building to be economically feasible. The storage component allows the remaining perimeter space along the street frontages of the building to be used as retail and office space. The three proposed uses and the building rehabilitation meet numerous General Plan Policies, including:

- Reuses an abandoned building;
- Prevents demolition of a historic resource;
- Strengthens vitality of downtown with pedestrian oriented retail and office development;
- Builds on the current office node near the 12th Street BART station;
- Enhances pedestrian use by replacing the sidewalk;
- Promotes mixed-use development;
- Creates compatible but diverse uses;
- Preserves a sense of history;
- Eliminates blight;
- Meets business needs and supports residential uses downtown, with document and self-storage availability.

ZONING ANALYSIS

The site is zoned C-55, Central Core Commercial, and S-17, Downtown Residential Open Space Combining Zone. The C-55 Zone is intended to preserve and enhance a very high-intensity regional center of employment, shopping, culture, and recreation, appropriate to the core of the central district. The proposed uses are retail, office and storage. In the C-55 zone, the proposed retail and office uses are permitted commercial activities. Document and self-storage use (Transport/Warehousing Commercial Activities) is neither a permitted nor a conditionally permitted commercial activity in this zone; therefore, a variance is required.

Currently the building is approximately 54,600 sq. ft., and the application proposes to add about 10,380 sq. feet of floor area. This additional square footage (infill of floors) would be located in the 5-story core area of the building on the first and second floors (Please see Sheets A3.2 and A3.1.). As discussed earlier in this report the combined proposed uses will meet the intent of the C-55 Zone since the reuse of this abandoned building will contribute to the area by providing employment, shopping, and rehabilitation of a cultural resource, the Tribune Press Building. The reuse of the core industrial area with document and self-storage is the economic component of the proposal that allows for the rehabilitation of a historic resource and the above zoning consistent uses to occur.

The existing Tribune Press Building core has a unique physical design, irregular floor levels that do not align with the remainder of the building that constrains typical adaptive reuse activities for the Central Business District. However, the physical constraints do not affect the proposed storage use. This building's existing physical condition includes very specific physical constraints that would not be characteristic of other properties in this zone, but that could support the granting of this variance request.

The owner is "deprived of privileges enjoyed by similar properties" because zoning allows for high-density, large-scale, high-rise structures at this location. However, in order to construct such a building with new construction or to add onto the existing building, the existing historic building would have to be demolished or the historic characteristics of the existing building would likely be compromised with a substantial addition, thereby destroying or impairing the historic significance of this building.

Typical attributes of storage facilities will not adversely affect the area, due to the exterior perimeter uses, retail and offices, that provide pedestrian vitality. Additionally, the management of the storage facility itself will lessen any potential adverse affects by limiting access hours, providing a mix of space sizes including some long-term storage areas that will reduce access demand to the building, and provide an on-site attendant for the facility during normal business hours. Additionally, recommended Condition of Approval #27 prohibits the storage of any hazardous materials.

Parking

Per Section 17.116.080, Off-Street Parking for Commercial Activities, there are no parking spaces required for Transport/Warehousing in the C-55 Zone. In other zones one space is required for each three employees. The facility, however, must accommodate vehicle drop-off and pick up of storage items. The facility will provide two on-site parking spaces for storage facility clients. These parallel parking spaces are located in the 25' wide existing driveway (Please See insert following A1.3) and would be time limited (See Condition of Approval #25). Currently the on-street parking is not metered, although meter poles are present. Staff is recommending that a separate Commission recommendation be forwarded to the Public Works Agency and City Council that the on-street parking spaces on Franklin Street to each side of the driveway be sized for trucks and metered and signed to limit parking time to 20 minutes. Staff is further recommending that the remainder of the on-street parking spaces along both Franklin and 12th Streets be metered and signed to limit parking to one hour, in order to better serve the proposed retail uses (See Recommendation #3 and Condition of Approval #26).

The self-storage facility will have one employee on-site during normal business hours. Access during non-business hours will be by automated access. Access will be limited to weekdays and Saturdays 8 AM to 6 PM. The mix of proposed storage space sizes, including large areas for long-term archival document storage and smaller areas for self-storage, will also help to reduce access demand to the facility.

Design Review

Per Section 17.102.030 of the Oakland Zoning Code, design review is required for any alteration that affects the exterior appearance of any designated Landmark site. Per Section 17.136.040 of

the Oakland Zoning Code, whenever an application for exterior alterations to a designated landmark site is submitted for review, the proposal shall be referred to the Landmarks Preservation Advisory Board (LPAB) for its recommendations.

Per Section 17.102.030C. the LPAB would have to make the following design review findings, both 1 and 2, or both of the criteria set forth in 3:

1. That the proposal will not adversely affect the exterior features of the designated landmark, nor, when subject to control as specified in the designating ordinance for a publicly owned landmark, its major interior architectural features;
2. That the proposal will not adversely affect the special character, interest, or value of the landmark and its site, as viewed both in themselves and in their setting;
3. If the proposal does not conform to the criteria set forth in 1 and 2:
 - a. That the designated landmark or portion thereof is in such condition that it is not architecturally feasible to preserve or restore it, or
 - b. That, considering the economic feasibility of alternatives to the proposal, and balancing the interest of the public in protecting the designated landmark or portion thereof, and the interest of the owner of the landmark site in the utilization thereof, approval is required by consideration of equity.

Renovation Proposal

The applicant is proposing exterior modifications for reuse as a mixed-use building.

Exterior walls are scored stucco and concrete with a concrete foundation and composition roof. Details include a modillion cornice, Tuscan pilasters and entablature on the ground floor and upper level, regularly-spaced punched windows. Currently visible alterations include ground floor bay infill and upper window infill.

Currently as shown on the attached photographs, most of the building's first floor storefront windows, including transoms, marble bases, and original operable canvas storefront awnings and awning boxes were completely removed and the openings infilled (1955) during an expansion of the press facility. Most of the original pilasters were left in place, although some of the capitals and pilasters were damaged or removed. New pilasters and capitals will replace the missing elements, as needed. All of the original upper wood windows have been replaced. The existing aluminum windows will be replaced with commercial grade single hung metal windows with a bronze anodized finish. The projecting upper cornice and horizontal belt course between the base and upper two floors appear to be substantially intact; however, the portion of the cornice where the fire escape (to be removed) is currently located along Franklin Street will need to be replaced. Also, areas of the lower cornice are missing and need to be replaced. The applicant proposes to recreate the transom windows with an etched glass, a typical method to simulate prism glass (see detail A Sheet, A3.3).

In addition to painting the building, the applicant is proposing the following modifications:

First Floor:

- Storefronts (enframed with existing pilasters):

- Open up and install;
 - new aluminum storefronts, with painted finish;
 - new plaster spandrels, 1'-6" in height and recessed from the enframed opening;
 - new clerestory windows of etched glass (see detail A on Sheet A3.3);
 - granite base;
- Entries:
 - Franklin Street: marquee, natural finish wood frame doors, and signage on transom clear glass;
 - 12th Street: Natural wood frame doors and signage on transom clear glass;
- Awnings: dark green canvas fabric, standard shape with valence, located below transom;

Upper Floors:

- Open up infilled windows, and replace all windows with aluminum single hung windows, factory painted;
- Add metal blade sign mounted at historic location along 12th Street;

Signage:

- Add metal blade sign mounted at historic location along 12th Street;
- Signage on transom clear glass at main entries along 12th and Franklin Streets;

Lighting: Exterior lighting has not been proposed.

A materials and colors board has been submitted for review at the meeting.

Landmarks Board Design Review – January 12, 2004

The LPAB reviewed this proposal for Design Review at their January 12, 2004 meeting. They unanimously recommended to follow the staff recommendations for approval (see Attachment A) deleting the requirement for the additional marquee (See Condition of Approval #18) and adding a condition that staff investigate and make the determination after reviewing the lease requirements and the truck size requirements if the current garage opening could be divided into two bays with a pilaster to match the existing placed as the divider (See Condition of Approval #24).

The applicant has discussed the addition of the pier to the garage with staff. The actual current opening is 21 feet, per the plan drawings. Adding a post (two feet wide) would reduce openings to two 9-1/2' wide openings. The zoning regulations call for a minimum twelve (12) feet wide driveway for all warehousing and transport activities. In addition to these proposed activities, the driveway is currently used by trucks associated with the adjacent Tribune Building. This use is part of a 10 year lease with an additional 10 year option. The amount of traffic between the current Tribune Building truck use and parking in conjunction with the proposed storage use warrants that the opening remain at its 21 foot width to accommodate the practical day-to-day operations, turning radii and clearances.

KEY ISSUES

- **SELF-STORAGE USE AT THIS LOCATION**

The interdependence of design and use plays an important role in consideration of the applicant's request to use the core area for document and self-storage use. Therefore, it is important to review the history of the building, especially with respect to its historic significance and its previous uses' functional physical design to meet those uses.

Functional Design of Building

Built in 1912, the Tribune Press Building is representative of an early 20th century theater and store building. The earliest name associated with the property is the Pantages Theater, later the Hippodrome Theater and the Roosevelt Theater (please see attached photos). The building's design is notable for the way the five-story height of the auditorium and fly tower are set back from the street as a penthouse, above and behind the three-story commercial street frontages. It was remodeled in 1946 and thereafter from a theater to a newspaper printing plant.

The building's original unique conditions of design, a five-story auditorium set back from the property line and surrounded by a three-story commercial street frontage building, and its evolution, present constraints to its current reuse potential. These physical constraints are particularly important when viewed in the light of the important historic status of the building where major physical alterations would likely impair or alter its historic significance. The original design program for a theater, a large voluminous open space set back from the street frontage offered flexible space when the building was remodeled to a newspaper printing plant. It appears that this industrial use took advantage of the core's open space by inserting floors that met the functional height requirements for machinery used by the Tribune press and its operations, rather than aligning with the floor heights of the three-story commercial street frontage of the building. Currently the interior core five floors do not (in most cases) align with the original three floors of the three-story commercial street frontage perimeter space.

In summary both the original design and the most recent remodeled press plant redesign of the core, place greater constraints on economic feasibility for the building's reuse than a more generic building composition would. The proposal for reuse of this industrial space as document and self-storage directly responds to General Plan policy that encourages reuse of abandoned industrial buildings with non-traditional activities where the uses are consistent with, and will assist in the attainment of the goals and objectives of all elements of the General Plan, including the important policy of retaining and rehabilitating historically significant buildings. As outlined earlier in this report, the document and self-storage use is consistent with and assists in the attainment of goals and objectives of the General Plan, including historic preservation, adaptive reuse, and providing services for downtown businesses and residences.

Document and Self-Storage Design/Use Typology

In order to understand the impacts of document and self-storage on the C-55 zone and the Central Business District, it is useful to look at the storage activity and its design and activity characteristics.

- *Storage facilities are viewed as a low traffic and low pedestrian generating use. While the low traffic use is advantageous to the downtown area, the low pedestrian generating*

use is not aligned with General Plan policies that call for pedestrian-oriented uses. However, this concern is balanced by the exterior perimeter uses, which will provide first floor retail and second and third floor office space, both of which will promote pedestrian activity and therefore strengthen the vitality of this area.

- *Self-storage facilities typically have a warehouse appearance with no windows or blocked-off windows.*

These attributes would not be considered desirable or appropriate in this highly visible central business district location. However, the original design addressed this same problem when the building was constructed as a theater, also an activity that requires solid walls to control ambient light, by providing retail and office space which do require a fenestrated façade along the perimeter of the building. Therefore, the adverse impact of a warehouse appearance in the central business district is eliminated because the building design provides an exterior wrap along its street frontages of pedestrian-friendly transparent façades for the retail and office space uses.

In summary, although the proposed storage use technically does appear to advance General Plan policy, the proposed exterior rehabilitation improvements and the proposed street frontage uses such as office and retail actually do advance the General Plan policy by providing pedestrian-oriented activities and by providing a building façade that invites pedestrian interaction with display windows of the retail uses, both of which strengthen area vitality. This solution eliminates any adverse affects the storage use may have on the surrounding area while still addressing the existing physical building constraints of the core, which prohibit typical uses for the central business district, with a storage use that will work with the constraints and will also provide a service to the central business district.

- **QUALITY OF THE PROPOSED FAÇADE REHABILITATION**

Currently, most of the building's storefront windows, including transoms, marble bases, and original operable canvas storefront awnings and awning boxes are completely removed and the openings infilled (1955) during an expansion of the press facility. Some of the capitals and pilasters are damaged or removed.

The applicant proposes to install new storefronts, clerestory windows of etched glass – a typical method to simulate prism glass, a granite base along the first floor, and canvas fabric awnings. New capitals and pilasters will replace the missing elements, as needed. Portions of the cornices will be repaired/replaced, as needed. Entries would include natural finish wood frame doors with signage on transom clear glass. On the upper exterior floors, all of the infilled windows would be opened up and infilled with aluminum single hung factory painted windows. A metal blade sign would be mounted at the historic sign location along 12th Street.

The LPAB found that with conditions, the proposed exterior rehabilitation met the design review findings for alterations to a Landmark site. The Board complimented the applicant for turning the building around and bringing it back to life with this proposal.

- **CONTRIBUTION OF THE PROJECT TO REVITALIZATION OF THE IMMEDIATE AREA**

Although a large percentage of the square footage would be dedicated to self-storage, the exterior appearance and use of the rehabilitated building along its street frontage perimeter space would be pedestrian friendly first floor retail with offices above. The proposed office space supports General Plan policy to build on the current office node near the 12th Street BART station and strengthen this location as a principal center for office development in the City. The first floor proposed retail supports the General Plan policy to establish businesses that serve the needs of downtown workers and residents.

The proposed storage use itself, although not pedestrian friendly, will provide services called for in General Plan policies to provide accessory services for both business offices and residents. The storage component of the project will offer space for document storage to businesses located in the downtown area. The storage component may also be of particular importance in establishing the residential use in downtown, in light of the fact that downtown residential units are oftentimes smaller in size and additional storage space in a nearby location is a desirable option.

The vacant building is in serious need of rehabilitation and revitalization and in its current state it is not a benefit to the Central Business District. The creative solution for the document and self-storage use component would make the reuse and rehabilitation of the historic resource economically feasible, provide use for an abandoned building, and add retail and office space to the downtown. Overall, all three proposed uses in conjunction with the exterior rehabilitation would strengthen the vitality of the Central Business District as an office node and residential location, contributing to the revitalization of the immediate area.

- **RETENTION OF A HISTORIC RESOURCE**

The Tribune Press building has remained vacant for twelve years. With this proposal, an existing abandoned historic resource would be reused, rather than demolished. This is a particularly important consideration, since current zoning allows for a high-density, high-rise structure at this location. However, in order to construct such a building with demolition of the existing building, or to substantially add onto the existing building, the historic characteristics of the existing structure would be likely compromised to a degree that would conflict with the continued ability to maintain its historic status as a contributor to the Downtown Historic District. Additionally due to the building's unique original use as a theatre and more recently as a newspaper printing plant with core floor levels that do not align with the remainder of the building, this functional physical design limits typical adaptive reuses that a more generic space might easily lend itself to.

The General Plan LUTE and Historic Preservation Element encourage incentives for reuse of existing vacant or underutilized structures. Granting of the Major Variance would provide an economic use for the building 'core' that would allow the owner/applicant to retain and reuse the historic resource, rehabilitate the exterior to its historic significance, and provide for street frontage perimeter use of retail and office, all of which respond to General Plan Policy.

SUMMARY

Placing the Tribune Press Building back into service will benefit the Tribune Tower's historic tie to the City's past, fulfill the intention of the C-55 zone to preserve and enhance a very high-intensity regional center of employment, shopping, and culture by providing retail and office space along the street frontage perimeter of the building, and meet numerous General Plan policies as outlined in this report.

And while the proposed component of retail and office street frontage perimeter uses and the exterior rehabilitation will most visibly and positively impact the surrounding area and strengthen everyday vitality in this area, the interior core storage space, despite the fact that it is not a permitted use, will strengthen the downtown by bringing a service-oriented use to both downtown businesses and residences. It will serve a demand for document storage to downtown offices and will also provide a service for the Mayor's 10K Program for residential dwelling units in the downtown by providing storage space for these typically smaller units where storage may be limited. The storage use is a creative use for an historic building design type that physically constrains typical adaptive reuses. The General Plan promotes creating compatible but diverse development, gearing regulations toward creating compatible and attractive development, and mixed-use developments that provide for needed services and give incentives to reuse existing vacant or underutilized structures. This Major Variance to allow a storage component would do all of the above and would provide economic feasibility for the rehabilitation and reuse of this historic resource.

RECOMMENDATION

1. Affirm the environmental determination, for this project, providing for an exemption from CEQA review.
2. Approve the Major Variance and Design Review subject to the attached findings and conditions of approval.
3. Recommend that prior to issuance of a building permit, staff make the following recommendations to the Public Works Agency and to City Council:
 - a. that the on-street parking spaces on Franklin Street to each side of the driveway be sized for trucks and metered and signed to limit parking time to 20 minutes;
 - b. that the remainder of the on-street parking spaces along both Franklin and 12th Streets be metered and signed to limit parking to one hour, in order to better serve the proposed retail uses.

Respectfully submitted:

CLAUDIA CAPPIO
Development Director

Prepared by:

Joann Pavlinec, Planner III
Historic Preservation
Major Projects

ATTACHMENTS

- A. LPAB Staff Recommendations (which have been included in the Conditions of Approval)
- B. Photographs
- C. Proposal Drawings, including plans, sections, elevations, details, etc.

REF: PlanningCommissionReports-406-412 12th Street

FINDINGS FOR APPROVAL

As discussed below and in the main body of the accompanying staff report, the proposal meets the required findings under the following:

- Planning Code Section 17.102.030B (Landmark Design Review Findings);
- Planning Code Section 17.148.050 – Major Variance for conversion of previous industrial use to storage, retail and office.

Section 17.148.050 (Major Variance Criteria) for conversion of previous industrial use to storage space

According to Section 17.148.050, a variance may be granted only upon determination that all of the following conditions are present:

- 1. That strict compliance with the specified regulation would result in practical difficulty or unnecessary hardship inconsistent with the purposes of the zoning regulations, due to unique physical or topographic circumstances or conditions of design;**

The existing physical building design, floor levels of the interior core that do not align with floor levels of the exterior perimeter space, constrains and limits uses permitted in the zoning regulations. In order to reuse the building with permitted uses, such as office or residential where floors would need to align, would require significant building structural renovations, presenting practical difficulty and unnecessary hardship. Also, conditions of design, a historic resource, limit significant additions or demolition which would be required for economically feasible reuse of the site under the specified regulations.

Built in 1912, the Tribune Press Building is representative of an early 20th century theater and store building. The building's design is notable for the way the five-story height of the auditorium and fly tower are set back from the street as a penthouse, above and behind the three-story commercial street frontages. It was remodeled in 1946 and after from a theater to a newspaper printing plant.

The building's original unique conditions of design, a five story auditorium set back from the property line and surrounded by a three-story commercial street frontage building, and its evolution, present constraints to its current reuse potential. The original design program for a theater, a large voluminous open space set back from the street frontage offered flexible space when the building was remodeled to a newspaper printing plant. It appears that this industrial use took advantage of the core's open space by inserting floors that met the functional height requirements for machinery, used by the Tribune press, and its operations, rather than aligning with the floor heights of the three-story commercial street frontage of the building. Currently the interior core five floors do not (in most cases) align with the original three floors of the three-story commercial street frontage perimeter space.

In summary both the original design and the most recent remodeled press plant redesign of the core, place greater constraints on economic feasibility for the building's reuse than a more generic building space, typical of this zone, would.

2. That strict compliance with the regulations would deprive the applicant of privileges enjoyed by owners of similarly zoned property;

Due to physical constraints of the design and historic status of the existing building, two conditions not enjoyed by owners of similarly zoned properties, the applicant is deprived of privileges by owners of similarly zoned property, if required to pursue permitted uses for this zone.

Current zoning allows for a high-density, high-rise structure at this location. Desired downtown uses of the upper floors for office or residential space are not feasible with irregular and discontinuous floor levels. Strict compliance with permitted uses for this site would require the applicant to make significant structural alterations to the existing conditions of design, the core floor heights, in order to align all the floors. The cost of modifying the floor heights without a significant addition to the three to five-story building to offset the cost is not economically feasible. Also, a significant addition cannot be pursued because it would compromise the historic characteristics of the existing building. Alternatively the applicant could pursue demolition of the existing historic building to eliminate the existing conditions that prohibit reuse with a permitted use for this zone. This would require replacement of the existing building with a building of the scale permitted at this site. This alternative would require demolition of a historic resource. Neither of these alternatives is therefore feasible.

Strict compliance with the regulations for permitted uses would require extensive structural modification to the building or demolition of an historic resource. The Tribune Press building has remained vacant for twelve years and the current owner/applicant has wrestled with the reuse constraints over the past several years, exploring options for reuse with permitted uses. The currently proposed creative solution of storage, which requires the Major Variance, is not dependent on continuous, aligned floor heights and therefore permits the economic reuse of the building as designed. In addition, this proposal benefits the City by retaining an existing abandoned historic resource that would be reused, rather than demolished.

3. That the variance, if granted, will not adversely affect the character, livability, or appropriate development of abutting properties or the surrounding area, and will not be detrimental to the public welfare or contrary to adopted plans or development policy;

Although a large percentage of the square footage would be dedicated to document and self-storage, the exterior appearance and use of the rehabilitated building along its street frontage perimeter space would be pedestrian friendly first floor retail with offices above. The first floor retail space provides a building façade that invites pedestrian interaction with display windows of the retail uses and pedestrian-oriented activities that will strengthen area vitality. Also, the first floor retail will establish businesses that serve the needs of downtown workers and residents. The proposed second and third floor perimeter office space builds on the current

office node near the 12th Street BART station and strengthens this location as a principal center for office development in the city.

The Tribune Press building has remained vacant for twelve years, and therefore currently detracts from the surrounding area. Placing the Tribune Press Building back into service will not only benefit the Tribune Tower's historic tie to the City's past, fulfill the intention of the C-55 zone to preserve and enhance a very high-intensity regional center of employment, shopping, and culture by providing retail and office space along the street frontage perimeter of the building, and meet numerous General Plan policies as outlined below:

- Reuses an abandoned building;
- Prevents demolition of a historic resource;
- Strengthens vitality of downtown with pedestrian oriented retail and office development;
- Builds on the current office node near the 12th Street BART station;
- Enhances pedestrian use by replacing the sidewalk;
- Promotes mixed-use development;
- Creates compatible but diverse uses;
- Preserves a sense of history;
- Eliminates blight;
- Meets business needs and supports residential uses downtown, with document and self-storage availability.

And while the proposed retail and office perimeter uses and the exterior rehabilitation will most visibly and positively impact the surrounding area and strengthen everyday vitality in this area, the proposed interior core storage space that requires the Major Variance will strengthen the downtown by bringing a service-oriented use to both downtown businesses and residences.

Parking concerns have been addressed and storage facilities are viewed as a low traffic generating use. The low traffic use is advantageous to the downtown area. Additionally the mix of proposed storage space sizes, including large areas for long-term archival document storage and smaller areas for self-storage, will help to reduce access demand, and traffic, to the facility. The facility will have an on-site employee during regular business hours.

In addition, the applicant is removing asphalt covering over the sidewalk and replacing the existing sidewalk with a new sidewalk. This will improve the pedestrian access to the Tribune Press Building and to the surrounding area.

Finally, the Conditions of Approval prohibit storage of hazardous materials.

4. That the variance will not constitute a grant or special privilege inconsistent with limitations imposed on similarly zoned properties or inconsistent with the purposes of the zoning regulations.

Approval of the Major Variance will not constitute a grant or special privilege inconsistent with limitations imposed on similarly zoned properties because the storage use is located only in the core area of the building where due to conditions of design, it is not feasible to utilize the space for permitted uses in this zone.

Approval of the Major Variance will not be inconsistent with the purposes of the C- 55 zoning regulations. The C-55 Zone is intended to preserve and enhance a very high-intensity regional center of employment, shopping, culture, and recreation, appropriate to the core of the central district. The combined proposed uses (retail, office and storage) will meet the intent of the C-55 Zone since the reuse of this currently abandoned building will contribute to the area by providing employment, shopping, and rehabilitation of a cultural resource, the Tribune Press Building. The reuse of the core industrial area with document and self-storage is the economic component of the proposal that allows for the rehabilitation of a historic resource.

Section 17.102.030B (Landmark Design Review Findings)

Design Review is required for designated landmark sites under Section 17.102.030B of the Planning Code. Design Review approval may be granted subject to the determination the proposal conforms to 1) and 2) below or to one or both of the criteria in 3).

- 1. That the proposal will not adversely affect the exterior features of the designated landmark, nor, when subject to control as specified in the designating ordinance for a publicly owned landmark, its major interior architectural features;**

The proposal would rehabilitate the building to its historical significance. Missing storefront windows, including clerestories of etched glass – a typical method to simulate prism glass, a granite base along the first floor, and canvas fabric awnings would be replaced. New capitals and pilasters to match the existing would replace missing elements, as needed. Portions of the cornices would be repaired/replaced, as needed. On the upper floors, all of the infilled windows would be opened up and infilled with aluminum single hung factory painted windows. A metal blade sign would be mounted at the historic sign location along 12th Street. The rehabilitation would match existing materials and design where replacement/repair is needed and overall would use high-quality, durable materials.

- 2. That the proposal will not adversely affect the special character, interest, or value of the landmark and its site, as viewed both in themselves and in their setting;**

The building is in serious need of rehabilitation and revitalization and in its current state it is not a benefit to the Central Business District. The proposal would reuse and rehabilitate this historic resource, eliminate an abandoned building, and add retail and office space to this downtown setting. Overall, the proposed exterior rehabilitation in conjunction with the reuse would strengthen the character of the landmark and its site, and would contribute and revitalize the surrounding area. In addition, the applicant is removing asphalt covering over the sidewalk and replacing the existing sidewalk with a new sidewalk. This will improve the pedestrian access to the Tribune Press Building and to the surrounding area.

CONDITIONS OF APPROVAL

Modifications to the Conditions of Approval as directed by the City Planning Commission at the **April 7, 2004** meeting are indicated in underlined type for additions and ~~cross-out type~~ deletions.

STANDARD CONDITIONS

1. Approved Use.

a. Ongoing.

The project shall be constructed and operated in accordance with the authorized use as described in this staff report and the materials and color board and plans dated February 27, 2004 and as amended by the following conditions. Any additional uses or facilities other than those approved with this permit, as described in the project description and approved plans, will require a separate application and approval

2. Effective Date, Expiration, and Extensions

a. Ongoing.

This permit shall become effective upon satisfactory compliance with these conditions. This permit shall expire on April 7, 2006 or the date two years after approval of the project by the City Council in the event the project's permits are appealed to the City Council, unless actual construction or alteration, or actual commencement of the authorized activities in the case of a permit not involving construction or alteration, has begun under necessary permits by this date. Upon written request and payment of appropriate fees submitted no later than the expiration date, the Zoning Administrator may grant a one-year extension of this date, with additional extensions subject to approval by the City Planning Commission.

3. Scope of This Approval; Major and Minor Changes

a. Ongoing.

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

4. Modification of Conditions or Revocation

a. Ongoing.

The City Planning Commission reserves the right, after notice and public hearing, to alter Conditions of Approval or revoke this conditional use permit if it is found that the approved use or facility is violating any of the Conditions of Approval, any applicable codes, requirements, regulation, guideline or causing a public nuisance.

5. Recording of Conditions of Approval

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

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

6. Reproduction of Conditions on Building Plans

a. Prior to issuance of building permit.

These conditions of approval shall be reproduced on page one of any plans submitted for a building permit for this project.

7. Indemnification

a. Ongoing.

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

8. Waste Reduction and Recycling

a. Prior to issuance of building permit

The applicant may be required to complete and submit a "Waste Reduction and Recycling Plan," and a plan to divert 50 percent of the solid waste generated by the construction and operation of the project, to the Public Works Agency for review and approval, pursuant to City of Oakland Ordinance No. 12253. Contact the City of Oakland Environmental Services Division of Public Works at (510) 238-7073 for information.

9. Recycling Space Allocation Requirements

a. Prior to issuance of building permit

The design, location and maintenance of recycling collection and storage areas must substantially comply with the provision of the Oakland City Planning Commission "Guidelines for the Development and Evaluation of Recycling Collection and Storage Areas", Policy 100-28. A minimum of two cubic feet of storage and collection area shall be provided for each dwelling unit and for each 1,000 square feet of commercial space.

10. Electrical Facilities.

a. Prior to installation.

All new electric and telephone facilities, fire alarm conduits, streetlight wiring, and similar facilities shall be placed underground. Electric and telephone facilities shall be installed in accordance with standard specifications of the servicing utilities. Street lighting and fire alarm facilities shall be installed in accordance with the standard specifications of the Building Services Department.

12. Public Improvements

a. Prior to issuance of building permit for the structure

The applicant shall submit public improvement plans that meet City specifications for modifications, repairs, and improvements to curbs, gutters, street trees, and sidewalks made necessary or planned by the project. Specifications regarding sidewalk widths, street tree spacing, and any other required streetscape elements will be provided to the applicant.

b. Prior to receiving first occupancy permit

The applicant shall pay for and install all modifications, repairs, and improvements to curbs, gutters, street trees, and sidewalks made necessary or planned by the project.

SPECIFIC PROJECT CONDITIONS

13. Approved set of drawings per LPAB review

a. Ongoing

The final treatment of the exterior including the selection of all materials (including window sash and awnings), colors and textures shall be as shown on the plans (dated 12/1/03, A3.3, A3.5 – 12/17/03) and the color and materials board (dated 'Received 12/17/03'), subject to the following Conditions of Approval. Any modifications or changes shall be reviewed and approved by the Development Director prior to issuance of a building permit.

14. Minor changes to approved design review

a. Ongoing

Minor changes to the approved plans shall be submitted to and approved by the Development Director prior to issuance of a building permit and/or prior to the construction of the changes.

15. Lighting/Signage Program

a. Prior to issue of a building permit

No signs or lights shall be installed without the approval of the Development Director; a signage program including sign type, materials, size, location, and lighting and mounting hardware, if applicable, and an exterior lighting plan, including the fixtures' finish, color, size, location and catalogue cuts shall be reviewed and approved by the Development Director prior to issuance of the building permit.

16. Metal/steel storefront spandrels

a. Prior to issuance of a building permit

The storefront spandrel material shall be revised to metal/steel. The applicant shall submit drawings for review and approval by the Development Director prior to issuance of a building permit.

17. Addition of pilaster

a. Prior to issuance of a building permit

A pilaster and capital, to match the existing first floor pilasters and capitals, shall be added to the base at the termination of the building mid-block along Franklin Street.

18. Marquee details

a. Prior to issuance of a building permit

Details of the marquee shall be located at both the Franklin Street and the 12th Street facade main entries shall be submitted for review and approval by the Development Director prior to issuance of the building permit.

19. Roof cornice repairs

a. Prior to issuance of a building permit

The roof cornice shall be repaired and/or restored to match the existing and to be continuous. The building permit drawings shall indicate areas where this will be necessary, along with a note(s) indicating methods/materials for repair/restoration.

20. Trim cornice repairs

a. Prior to issuance of a building permit

The trim cornice between the building base and the upper building shall be repaired/restored to match the existing and to be continuous. The building permit drawings shall indicate areas where this will be necessary along with a note(s) indicating methods/materials for repair/restoration.

21. Storefront wall section

a. Prior to issuance of a building permit

The building permit drawings shall include a revised wall section to incorporate the pilaster and all layers of the bay and enframed storefront elements, with notes. Building permit drawing elevations shall be revised to indicate that all pilasters are of equal width and to show returns on pilaster base.

22. Awnings

a. Prior to issuance of building permit

Awnings shall be separate over individual storefront bays, located at the storefront spandrel, above the storefront and below the transom, of canvas fabric to match the color on the Materials and Color Board, dark green. Any awning signage shall be incorporated with the signage program as described in Condition of Approval #15.

23. Depth of upper level window replacements in wall assembly

a. Prior to issuance of building permit

The new upper level window replacements shall be set in the wall to be located to provide the greatest recess possible from the front face of the building. Wall Section #1 on Sheet A3.5 shall be modified to reflect this. The depth of the window recess shall be reviewed and approved by the Development Director, prior to issuance of a building permit.

24. Investigate dividing garage opening into two bays

a. Prior to Planning Commission Review

Staff shall investigate and make the determination, after reviewing the lease requirements and the truck size requirements, if the current garage opening could be divided into two bays with a pilaster to match the existing placed as the divider. If such investigation finds that the garage opening cannot be safely divided, then the final plans shall reflect the current proposal.

25. Designated/time limited on-site parking spaces

a. Ongoing

The applicant shall submit drawings that reflect two on-site, time-limited to 20 minutes, parking spaces located in the driveway. The applicant shall place signage at conspicuous locations within the driveway stating this limitation. If future problems arise with parking space, the applicant shall establish a management and monitoring plan for client access to the storage facility.

26. On-street parking recommendations

a. Prior to issuance of a building permit

If on-street parking is approved, as recommended in the staff report (Recommendation #3), the applicant shall work with the City to insure that the on-street parking has been addressed as described and the applicant shall pay the full cost of signs and installation. If the on-street parking is approved, the building permit site plan drawings shall include on- street parking information as described in the recommendation.

27. Storage of Hazardous Materials

a. Ongoing

The storage facility shall be limited to non-hazardous materials. Toxic, flammable and other hazardous materials are not permitted for storage in these facilities.

28. Hazardous Materials Assessment and Reporting Program

a. Prior to issuance of a building permit

The applicant shall provide evidence from the City's Fire Department, Office of Emergency Services, indicating compliance with the City of Oakland Hazardous Material Assessment and Reporting Program, pursuant to City Ordinance No. 12323.

29. Asbestos Removal

a. Prior to issuance of a building permit

The applicant shall submit for review and approval by the Planning and Zoning Division, written documentation that any asbestos containing materials (ACMs) have been removed from the project site prior to the start of any demolition activities. A licensed asbestos abatement firm in accordance with the BAAQMD's Regulation 11 shall conduct the removal of ACMs, Rule 2.

30. Hours of Operation

a. Ongoing

~~As indicated on the application for the project, The hours of operation for the proposed activity, access to the storage facility, shall be limited to between 8 AM and 6 PM, Mondays through Saturdays.~~ 8 AM and 8 PM, daily. Signs shall be clearly posted at the site to note hours. Any change in hours and days of operation will require review and approval by the Development Director. Any change may be forwarded to the Planning Commission for review and approval at the discretion of the Development Director for an amendment to this permit.

31. Utility Shielding/Rooftop Utilities

a. Prior to issuance of a building permit

The applicant shall submit for review and approval by the Planning and Zoning Division, plans and sections showing the location of any and all utilities, transformers, and the like located on the building and roof and visible from any public right of way. All utilities shall be screened from view from any public right of way.

32. Public Improvements Plan

a. Prior to issuance of a building permit

The applicant shall submit Public Improvement Plans for adjacent public rights-of-way showing all proposed improvements and compliance with conditions of approval and City requirements, including but not limited to curbs, gutters, sewer laterals, storm drains, street trees, paving details, locations of transformers and other above-ground utility structures, the design specifications, locations of facilities required by the East Bay Municipal Utility District (EBMUD), street lighting, on-street parking and accessibility improvements compliant with applicable standards, and any other improvements or requirements for the project as provided for in this approval. Encroachment permits shall be obtained as necessary for any applicable improvements. The Planning and Zoning Division, Building Services Division and the Public Works Agency will review and approve designs and specifications for the improvements. Improvements shall be completed prior to issuance of certificate of occupancy.

33. Revision of drawings to reflect office space west of lobby

a. Prior to issuance of a building permit

The building permit plans shall be revised to reflect perimeter office space on the second and third floors west of the historic lobby/stairs along 12th Street.

ATTACHMENT A (The Conditions below have already been incorporated
into the Conditions of Approval.)

Staff recommends that the LPAB:

- Receive any testimony from the applicant and interested citizens;
- Discuss outlined design issues of concern and develop a recommendation on these and any other issues raised by the Board;
- Determine that the proposal, with specific direction on design issues outlined above and on any issues raised by the Board, meets the design criteria;
- Recommend approval of the proposal, subject to the recommended Conditions of Approval (attached).

CONDITIONS OF APPROVAL

1. The final treatment of the exterior including the selection of all materials (including window sash and awnings), colors and textures shall be as shown on the plans (dated 12/1/03, A3.3, A3.5 – 12/17/03) and the color and materials board (dated ‘Received 12/17/03’), subject to the following Conditions of Approval. Any modifications or changes shall be reviewed and approved by the Development Director prior to issuance of a building permit.
2. Minor changes to the approved plans shall be submitted to and approved by the Development Director prior to issuance of a building permit and/or prior to the construction of the changes.
3. No signs or lights shall be installed without the approval of the Development Director; a signage program including sign type, materials, size, location, and lighting and mounting hardware, if applicable, and an exterior lighting plan, including the fixtures’ finish, color, size, location and catalogue cuts shall be reviewed and approved by the Development Director prior to issuance of the building permit.
4. The storefront spandrel material shall be revised to metal/steel. The applicant shall submit drawings for review and approval by the Development Director prior to issuance of a building permit.
5. A pilaster and capital, to match the existing first floor pilasters and capitals, shall be added to the base at the termination of the building mid-block along Franklin Street.
6. ~~Details of the A~~ ~~marquee shall be located at both the Franklin Street and the 12th Street~~ ~~façade~~ main entries shall be submitted for review and approval by the Development Director prior to issuance of the building permit.
7. The roof cornice shall be repaired and/or restored to match the existing and to be continuous. The building permit drawings shall indicate areas where this will be necessary, along with a note(s) indicating methods/materials for repair/restoration.
8. The trim cornice between the building base and the upper building shall be repaired/restored to match the existing and to be continuous. The building permit

drawings shall indicate areas where this will be necessary along with a note(s) indicating methods/materials for repair/restoration.

9. The building permit drawings shall include a revised wall section to incorporate the pilaster and all layers of the bay and enframed storefront elements, with notes. Building permit drawing elevations shall be revised to indicate that all pilasters are of equal width and to show returns on pilaster base.
10. Awnings shall be separate over individual storefront bays, located at the storefront spandrel, above the storefront and below the transom, of canvas fabric to match the color on the Materials and Color Board, dark green. Any awning signage shall be incorporated with the signage program as described in Condition of Approval #3.
11. The new upper level window replacements shall be set in the wall to be located to provide the greatest recess possible from the front face of the building. Wall Section #1 on Sheet A3.5 shall be modified to reflect this. The depth of the window recess shall be reviewed and approved by the Development Director, prior to issuance of a building permit.
12. Staff shall investigate and make the determination, after reviewing the lease requirements and the truck size requirements, if the current garage opening could be divided into two bays with a pilaster to match the existing placed as the divider.

APPROVED BY:

City Planning Commission: April 7, 2004 (date) 7 ayes, 0 noes, 1 abstention - to approve (vote)
City Council: _____ (date) _____ (vote)

SHEET A1.2 OF _____ SHEETS	Drawn _____ Scale _____ Date 4/26/04	PRESS BUILDING REMODEL 412 12th STREET, OAKLAND, CALIFORNIA FOR TRIBUNE TOWER, LLP	BASEMENT PLAN	Gary Gunther/Architect 641 Norvell Street El Cerrito, CA 94530 (510) 526-2498		REVISIONS
	Job _____	_____	_____	_____	_____	



ELEVATOR SPECIFICATION:
THYSEN KRUP SEVILLE 25 PLAN 2
5 STOP

1 BASEMENT PLAN
1/8"=1'-0"

GROSS AREA: 18,368 SF
NET AREA: 18,292 SF
STORAGE AREA: 16,543 SF
ACCESSORY AREA: 1749 SF

WALL LEGEND

-  (E) CONC. WALLS
 (N) 2-HR METAL STUD WALLS (11)
AR 1
 (N) 1-HR METAL STUD WALLS (15)
AR 1
 (N) CONC. WALLS
 (E) CONC. WALLS
W/ (N) FURRING (20)
AR 1

JOB CITY

Sheet
A1.2
Of Sheets

REVISIONS	BY
1. PARK SVC 6/21/04	GG
2. PLAN CHECK 7/9/04	GG



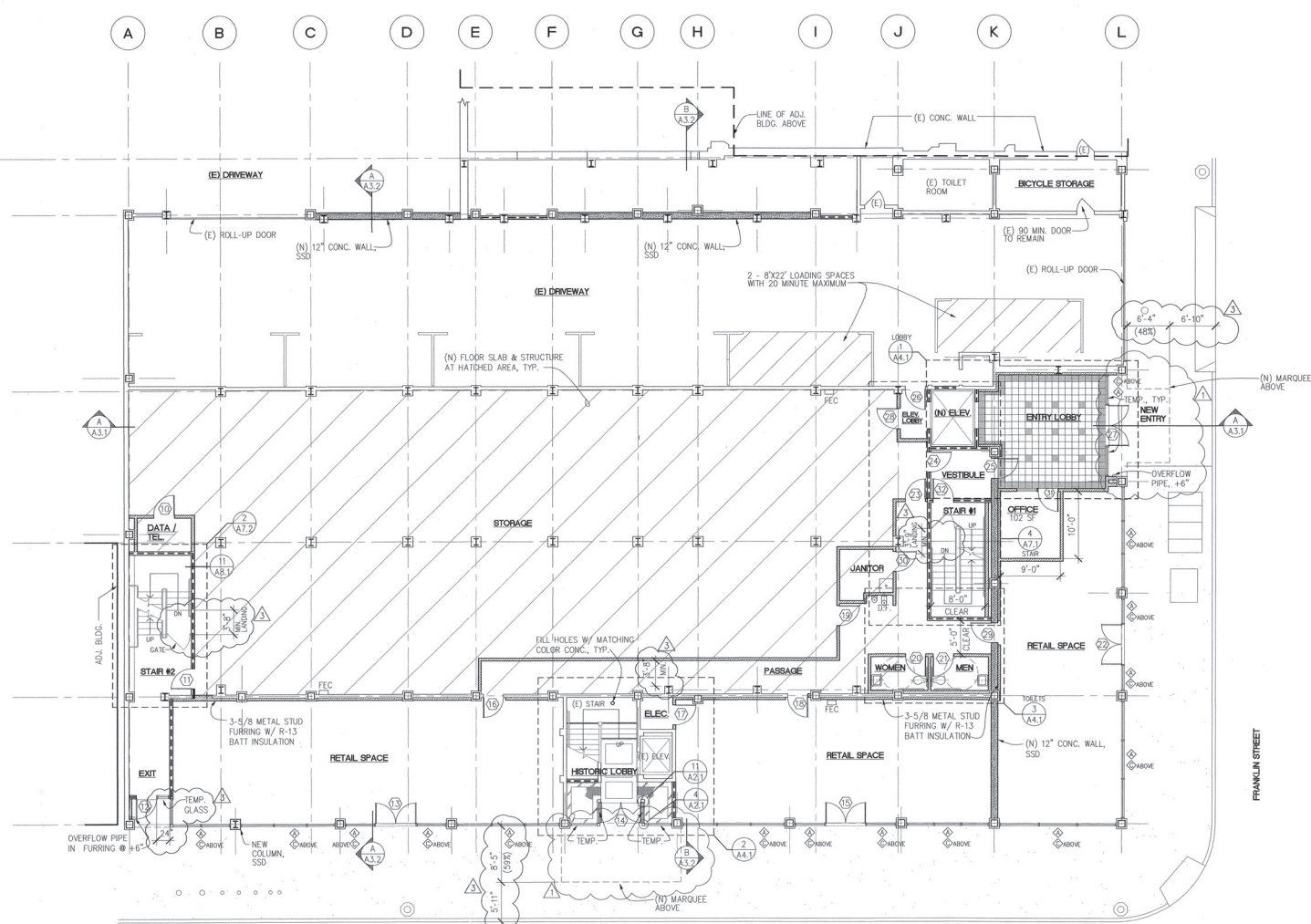
Cary Quinlan/Architect
641 Norval Street
El Cerrito, CA 94530
(925) 526-2498

FIRST FLOOR PLAN

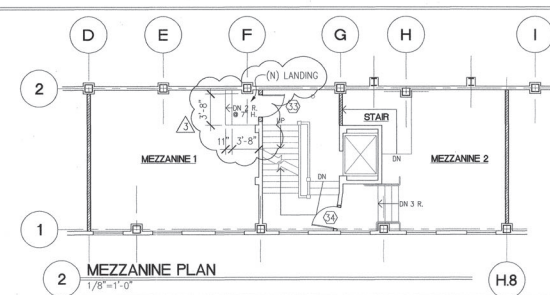
PRESS BUILDING REMODEL
412 12TH STREET OAKLAND, CALIFORNIA
FOR TRIBUNE TOWER, LLP

Date: 4/26/04
Scale: 1/4"=1'-0"
Drawn:
Job:
Sheet:
A13
Of _____ Sheets

APPROVED
CITY OF OAKLAND
DEVELOPMENT SERVICES
PLAN CHECK SECTION
FOR THE PRESS BUILDING REMODEL
412 12TH STREET OAKLAND, CALIFORNIA
FOR TRIBUNE TOWER, LLP
DATE: 7/26/04
BY: [Signature]



1 FIRST FLOOR PLAN
1/8"=1'-0"



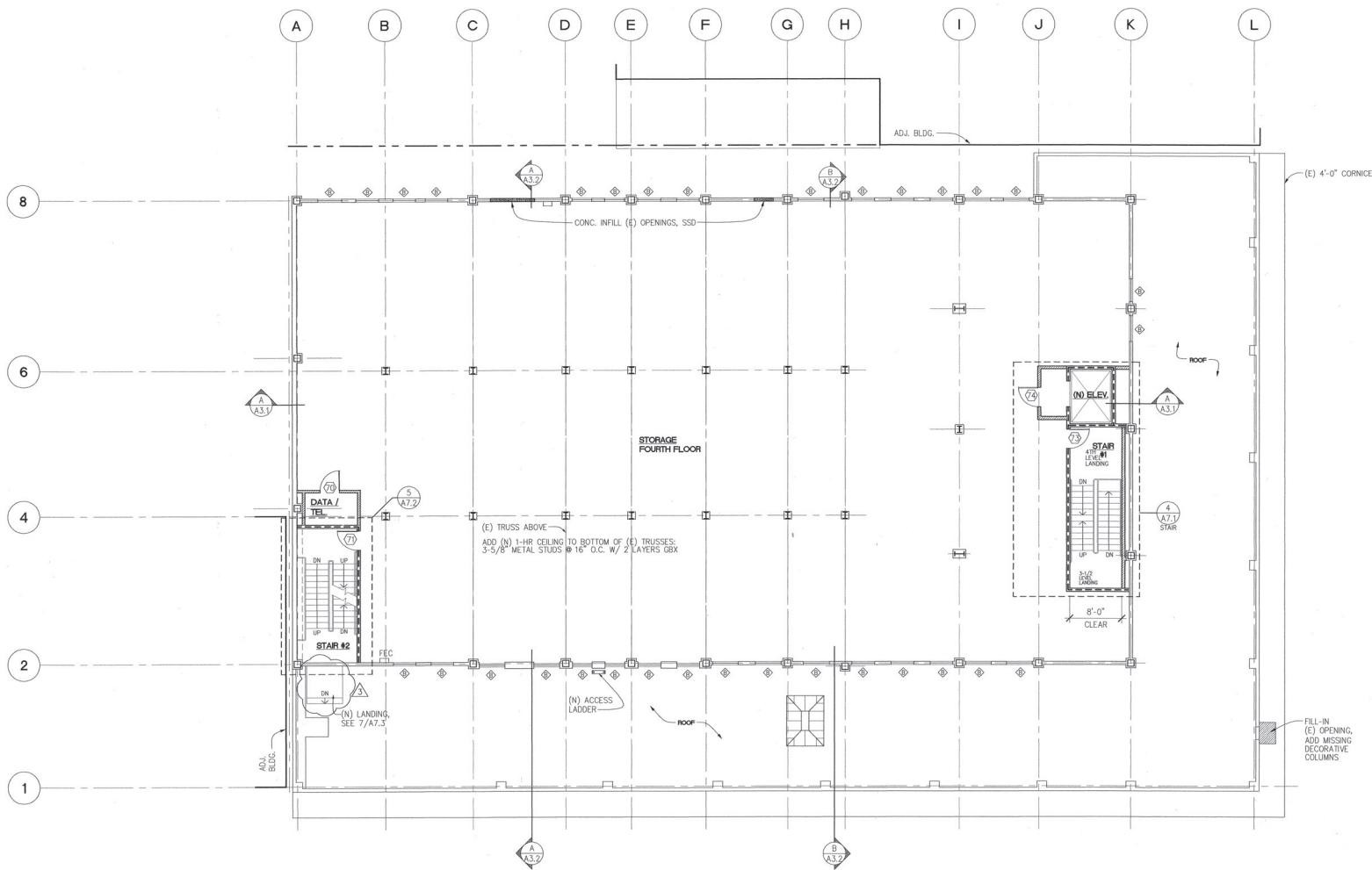
2 MEZZANINE PLAN
1/8"=1'-0"

GROSS AREA: 10,358 SF
NET AREA: 9456 SF
NET STORAGE AREA: 4497 SF
NET RETAIL AREA: 3479 SF
NET OFFICE AREA: 102 SF
NET ACCESSORY AREA: 2058 SF
DRIVEWAY AREA: 3990 SF

WALL LEGEND

- (E) CONC. WALLS
- (N) 2-HR METAL STUD WALLS (11 A8.1)
- (N) 1-HR METAL STUD WALLS (15 A8.1)
- (N) CONC. WALLS
- (E) CONC. WALLS W/ (N) FURRING (20 A8.1)
- (N) WINDOW WALLS (18 A8.1)

JOB SITE



1 FOURTH FLOOR PLAN
1/8"=1'-0"

GROSS AREA: 9211 SF
NET AREA: 9146 SF
STORAGE AREA: 8651 SF
ACCESSORY AREA: 495 SF

WALL LEGEND

- (E) CONC. WALLS
- (N) 2-HR METAL STUD WALLS
- (N) 1-HR METAL STUD WALLS
- (N) CONC. WALLS
- (E) CONC. WALLS W/ (N) FURRING

JOB SITE

REVISIONS	BY
1. PARK SVC	GG
2. 6/21/04	GG
3. PLAN CHECK	GG
4. 7/9/04	GG



Gary Quinter/Architect
641 Norval Street
El Cerrito, CA 94530
(510) 326-2466

APPROVED
CITY OF OAKLAND
DEVELOPMENT SERVICES
PLAN CHECK STATION
For and with Compliance
with Ordinance
RECEIVED 08/04/04 1:17 PM
Date: 7/20/04

FOURTH FLOOR PLAN

PRESS BUILDING REMODEL
412 12th STREET, OAKLAND, CALIFORNIA
FOR TRIBUNE TOWER, LLP

Date	4/26/04
Scale	1/4"=1'-0"
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Job	
Sheet	A16
Of	Sheets

Case File Number PLN22069

October 4, 2023

Location:	406 12th Street (1205 Franklin Street)- See enclosed map - Note: Located in the area defined within the Black Arts Movement and Business District (BAMBD) per Resolution 85958.
Assessor's Parcel Number:	002 005100400
Proposal:	Conversion of a portion of the ground floor retail spaces and 2 nd and 3 rd floor office spaces of the building to a self-storage use.
Applicant:	Justin Zucker c/o Reuben, Junius & Rose
Contact Person / Phone Number	Justin Zucker / (415) 567-90000
Owner:	TC I 1205 Franklin, LLC
Case File Number:	PLN22069
Planning Permits Required:	Major Variance to allow a Self- or Mini-Storage Industrial Activity in the CBD-P Zone where this use is prohibited.
General Plan:	Central Business District
Zoning:	Central Business District Pedestrian Retail Commercial (CBD-P) Zone
Proposed Environmental Determination:	State CEQA Guidelines Section 15270: Projects which are disapproved.
Historic Status:	Pantages-Hippodrome Theatre Building or Pantages Hippodrome Theatre Building or Tribune Press Building; Potentially Designated Historic Property with an Oakland Cultural Heritage Survey Rating of Dc1+; contributor to the Downtown Historic Area of Primary Importance (API); contributor to the National Register Downtown Historic District; and determined eligible for the National Register as a
City Council District:	2 contributor to the Downtown Historic District.
Finality of Decision:	Appealable to City Council within 10 days.
For Further Information:	Contact case Planner Heather Klein at (510) 238-3659 or hklein@oaklandca.gov

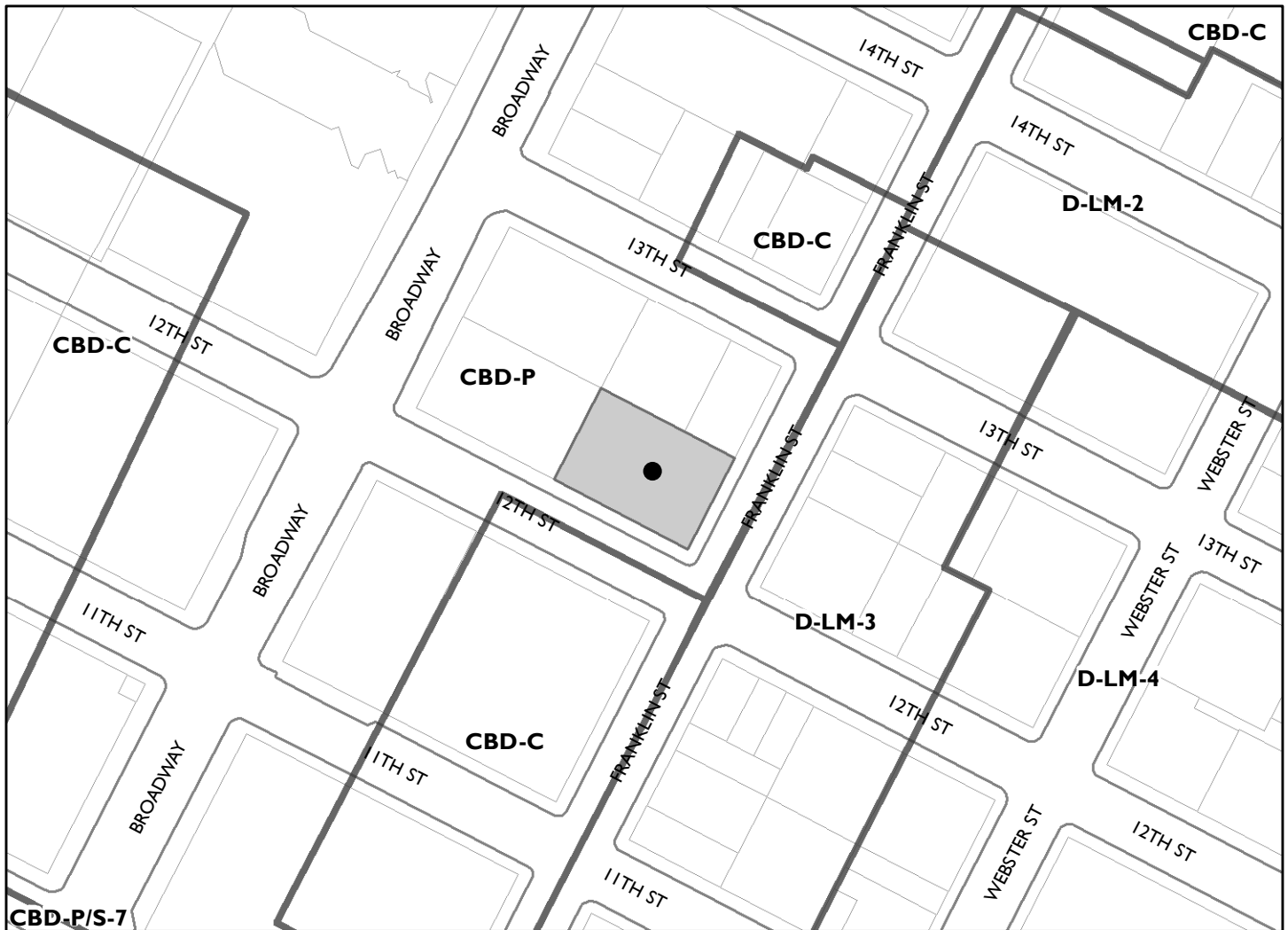
SUMMARY

The Project Applicant submitted a Planning application on April 6, 2022, to convert approximately 12,300 square-feet of retail and office space as well as a portion of the drive aisle to self-storage, a Self- or Mini-Storage Industrial Activity (*Attachment B*).

The Project Site is located in the Central Business District Pedestrian Retail Commercial (CBD-P) Zone. Per Planning Code Section 17.58.040 and Table 17.58.01, a Self- or Mini-Storage Industrial Activity is prohibited in the CBD-P Zone. As such, a Major Variance would be required to allow an activity type which is prohibited. Major Variances require consideration by the Planning Commission, and specific findings need to be made for their approval.

Self- or Mini-Storage Industrial Activities “consists of storage in small individual spaces, on average of 400 square feet or less that are exclusively and directly accessible to a specific tenant, offered on a monthly or other limited basis, and available to the general public.” The Self- or Mini-Storage Industrial activity type was created in 2008 as part of the industrial zoning update to conform the Planning Code with the Land Use and Transportation Element (LUTE) of the General Plan adopted in 1998. Self-storage is not

CITY OF OAKLAND PLANNING COMMISSION



0 100 200 400 600 800 Feet



Case File: PLN22069
Applicant: Justin Zucker / Reuben Junius and Rose, LLC
Address: 406 12th/ 1205 Franklin
Zone: CBD-P

considered a commercial activity per the Planning Code, or an active or pedestrian-friendly use based on their general operating characteristics, including:

- low employment;
- limited use of the space since the items placed in these units are not frequently needed or accessed; and
- limited street front or pedestrian activity since they typically have a warehouse appearance with no windows or blocked-off windows, and no visible activity from the outside to the inside of the facility.

Staff has reviewed the proposal and has found that it does not meet the General Plan objectives or policies, the applicable Specific Plan policies, or the required Major Variance Findings (**Attachment A**) as detailed in the staff report below. Therefore, staff recommends denial of the Project.

BACKGROUND

Project Site

The building was built in 1912 as a theater (Pantages-Hippodrome Theatre), and remodeled in 1946 into a newspaper printing plant (Tribune Press Building).

In 2004, an application for Regular Design Review and a Major Variance was submitted (Case File VM04060) for rehabilitation of the exterior historic façade and to allow conversion of 45,300 square feet of the previous newspaper printing plant industrial area, located in the interior ‘core’ portion of the building, to self-storage. The proposal included retention of the retail spaces at the ground level along 12th and Franklin Streets and the office spaces along the perimeter of the building on the second and third floors. Those permits were approved by the Planning Commission on April 7, 2004, with recommendations made by the Landmarks Preservation Advisory Board (“LPAB”) (**Attachment C**). The approved building permit plans show storage space occupying approximately:

- 16,500 square-feet in the basement;
- 4,500 square-feet on the ground floor surrounded by 3,500 square-feet of retail;
- 7,900 square-feet on the 2nd floor surrounded by 4,000 square-feet of office;
- 8,000 square-feet on the 3rd floor surrounded by 4,000 square-feet of office; and
- 8,600 square-feet on the 4th floor in the penthouse area (**Attachment D**).

In November of 2016, Scott Miller, the previous Zoning Manager, sent an email stating that a proposal to convert the driveway aisle (approximately 4,000 square-feet or 9% of the floor area) off Franklin Street to self-storage with no exterior changes could be handled administratively as a minor revision with no formal Zoning permit (**Attachment E**). A building permit was submitted in 2017, but this permit was not approved or issued and is considered inactive (**Attachment F**).

Industrial Zoning Update

In 2007, staff began a zoning update process to achieve consistency between the Oakland Planning Code and the industrial and transportation objectives and policies in the LUTE. This Code update included revisions to the Manufacturing Activities in the Planning Code to include additional activity types. One of these changes was to create the “Warehousing, Storage, and Distribution Industrial Activities” category and a sub-Activity for “Self- or Mini-Storage”, where previously this use would likely have been under the Transport and Warehousing Commercial Activity. The new industrial zoning regulations were adopted by City Council in June of 2008 per Ordinance C.M.S. 12875.

PROPERTY AND SURROUNDING AREA DESCRIPTION

The proposed Project site is located in Downtown Oakland at the corner of 12th and Franklin Streets within an existing, three-story building with a two-story penthouse above. The building is a contributor to the National Register Downtown Historic District, an Area of Primary Importance. It is considered a Potentially Designated Historic Property (PDHP) with an Oakland Cultural Heritage Survey rating of Dc1+, and is determined eligible for the National Register as a contributor to the Downtown Historic District.

The surrounding area includes 2- to 16-story buildings which are a mix of historic and contemporary architecture. These buildings include office, retail, personal service, and banking with residential uses on the upper floors in several buildings.

PROJECT DESCRIPTION

The proposal is to convert approximately 12,300 square-feet of retail and office to self-storage (*Attachment B*). Specifically,

- 975 square-feet of retail space and 3,900 square feet of drive aisle on the ground floor and are oriented towards, or are in close relationship to, the street;
- 3,818 square-feet of office space on the 2nd floor; and
- 3,664 square-feet of office space on the 3rd floor.

No detailed interior floor plans of the storage unit design or corridors was provided. No changes are proposed to the exterior of the building.

GENERAL PLAN ANALYSIS

The Project site is located in the “Central Business District” land use classification of the LUTE. The intent of the Central Business District classification is “to encourage, support, and enhance the downtown as a high-density mixed use urban center of regional importance and a primary hub for business, communications, office, government, high technology, retail, entertainment and transportation is northern California.” The desired character and uses “includes a mix of large-scale offices, commercial, urban (high-rise) residential, institutional, open space, cultural, educational, arts, entertainment, service, community facilities, and visitor uses.”

The LUTE also notes that: “The Central Business District classification allows an exciting mix of urban residential living combined with a wide range of business operations. The Downtown should be the focus of high density and intensity activities that can take advantage of the transportation infrastructure and communications network.” Furthermore, “Key components of the vision for Downtown are support for growth in office activity and increasing the population through new Downtown housing. Expanding the number of downtown residents will also support employment and will enhance Downtown as a seven-days a week, 24- hour-a-day destination.”

The LUTE Downtown Goals include the following:

- To promote downtown Oakland’s position as a dynamic economic center for the region.
- To serve as a primary communications, office, government, high technology, retail, entertainment, and transportation hub for Northern California.

- To become a premier location in the region for urban residential living, by building upon existing neighborhoods, and by promoting and expanding a pedestrian-friendly, diverse and exciting range of housing, social, cultural, and arts opportunities.
- To further develop, support, revitalize, and promote the district, attractive urban character of each of the downtown districts, and to respect historic resources.

Applicable LUTE Objectives and Policies include the following:

Objective D3 Create a pedestrian-friendly downtown.

Policy D3.1 Promoting Pedestrians. Pedestrian-friendly commercial areas should be promoted.

Policy D5.1 Encouraging Twenty-Four Hour Activity. Activities and amenities that encourage pedestrian traffic during the work week, as well as evenings and weekends should be promoted.

Policy D9.1 Concentrating Commercial Development. Concentrate region-serving or "destination" commercial development in the corridor around Broadway between 12th and 21st streets, in Chinatown, and along the Jack London Waterfront. Ground floor locations for commercial uses that encourage a pedestrian-friendly environment should be encouraged throughout the downtown.

Policy N9.9 Respecting Architectural Integrity. The City encourages rehabilitation efforts which respects the architectural integrity of a building's original style.

Policy N11.3 Requiring Strict Compliance with Variance Criteria. As variances are exceptions to the adopted regulations and undermine those regulations when approved in large numbers, they should not be granted lightly without strict compliance with defined conditions, including evidence that hardship will be caused by unique physical or topographic constraints and the owner will be deprived privileges enjoyed by similar properties, as well as the fact that the variance will not adversely affect the surrounding area nor will it grant special privilege to the property. In those instances where large numbers of variances are being requested, the City should review its policies and regulations and determine whether revisions are necessary.

As the Project would not result in active ground floor uses, increased jobs, twenty-four-hour activity, or a pedestrian-friendly environment, it is inconsistent with the LUTE policies and intended vision for Downtown. This is further discussed in the *Key Issues* section below.

DRAFT DOWNTOWN OAKLAND SPECIFIC PLAN AND ZONING TEXT ANALYSIS

Downtown Oakland Specific Plan

Staff began the process of preparing a specific plan for Downtown Oakland in July 2015. The Downtown Oakland Specific Plan ("DOSP") would include the Project Site.

The DOSP is expected to be adopted this fall and has had extensive input from residents and businesses over the past eight years and been the subject of over 20 public hearings. The current version of the DOSP Character Map, which implements the vision of the Downtown Plan and identifies the type of environment envisioned for each downtown neighborhood, district and corridor, has the Project Site located in the Central Core or Mixed Use Downtown Core.

"The future vision of the Central Core area continues to be a hub for people of all ages, cultures, and incomes to meet, work, and live. New mixed-use development offers affordable and mixed-income housing options, a variety of workplaces, and neighborhood-serving commercial uses. Local and Black owned businesses, including a vibrant entertainment scene, thrive in the Black Arts Movement and Business

District, which influences the design of public art, signage, shopfronts, and streetscape design (particularly along 14th Street), providing a distinct identity.”

“The “Mixed Use, Downtown Core” character area would encourage a walkable urban area of interconnected, treelined, mixed-use city center streetscapes with the most intense mix of uses centering on commercial office uses, with some housing choices in medium-to-large footprint buildings with non-residential ground floors at the sidewalk, that provides a focal point to reinforce and enhance the vibrant, walkable city core.”

The DOSP also notes that “Based on feedback collected during the Specific Plan process, “affordable arts & culture space” was identified as a priority community-benefiting use for Jack London, KONO, and the Central Core,” and that “Affordable commercial & neighborhood retail space was also identified as a priority use for the Central Core, Uptown, Chinatown, and Old Oakland.”

The relevant DOSP strategies and policies to the Project include:

Economic Opportunity Outcome E-2 Downtown provides affordable, accessible space for businesses and community organizations, and sustains employment opportunities across a broad array of job skills.

Culture Keeping Outcome C-3 Oakland’s artists and creative community are able to find workspaces, performance spaces, and galleries in downtown that they can access and afford and see their work integrated into the built environment and public domain.

Culture Keeping -1.6 Adopt regulations that help preserve and adapt historic buildings downtown, in order to help retain and create new spaces for arts and culture uses.

Land Use Outcome LU-1 Development and design serve Oakland’s diverse needs, contribute to improved conditions for all, and enhance downtown and its neighborhoods’ authentic, creative, and dynamic local character.

Downtown Oakland Specific Plan Text Amendments

Per the draft Zoning Map and Zoning Text Amendments, the Project Site would be in the Downtown District Pedestrian Commercial (“D-DTP”) Zone. “The intent of the D-DT-P Zone is to create, maintain, and enhance the downtown core for pedestrian-oriented and active uses on the ground floor. Upper stories are intended for a wide range of commercial and residential activities.” A Self-storage Industrial Activity would continue to be prohibited in this future Zone if adopted.

Again, the DOSP’s intended vision is to provide affordable ground floor uses for a wide range of businesses and organizations, increase job creation and intensified urban area in order to create a dynamic environment. The Project would not support this vision, instead creating a street frontage devoid of life and activity, and therefore is inconsistent with the DOSP.

LAKE MERRITT STATION AREA PLAN ANALYSIS

The Lake Merritt Station Area Plan (“LMSAP”) was adopted by City Council in December of 2014. The LMSAP is a 25-year plan to guide future development and includes several key objectives such as

- Increasing activity and vibrancy of the area;
- Improving safety and pedestrian-orientation; and
- Increasing the number of jobs and developing the local economy.

While the Project is not located in the LMSAP, it is located just outside it across Franklin Street. Staff believes that policies in the LMSAP are relevant given that the remaining seven blocks of 12th Street, not in the DOSP, are part of the LMSAP and set the intention for rest of the corridor. These policies include:

LU-3 Ground floor commercial uses. Expand active commercial uses, including retail and restaurants, throughout the Planning Area.

LU-5 Flexibility in active ground floor uses. Maintain flexibility in active ground floor use requirements to ensure not only commercial but also cultural uses continue to activate the area.

LU-18 Intensified urban area. Establish the Upper Chinatown Plan District as an intensified urban area for living with new high-density housing and accompanying retail, restaurants, commercial uses, and publicly accessible open spaces.

Again, since the Project would not result in active ground floor uses, increased jobs or an intensified urban area, it is inconsistent with the LMSAP policies and intended vision for the area.

ZONING ANALYSIS

The Project site is currently in the CBD-P Zone which is “intended to create, maintain, and enhance areas of the Central Business District for ground-level, pedestrian-oriented, active storefront uses. Upper story spaces are intended to be available for a wide range of office and residential activities.”

In each zone, the Planning Code describes the activities which are permitted outright, conditionally permitted and prohibited. Per Planning Code Section 17.58.040 and Table 17.58.01, Self- or Mini-Storage Industrial Activity is prohibited in the CBD-P Zone. Per Planning Code Section 17.148.020, a Major Variance is required to allow activity types which are prohibited, and per Section 17.148.040, this permit necessitates consideration by the Planning Commission.

Staff has reviewed the proposal, and a self-storage activity, both on the ground floor and above, does not meet the intent of the CBD-P Zone as it is not an active or pedestrian-oriented use with office above. Staff has included the Findings for a Major Variance later in this report. As detailed in **Attachment A**, staff has not been able to meet the required Variance Findings.

ENVIRONMENTAL DETERMINATION

Staff evaluated the Project and determined that the Project is not approvable based on the General Plan’s objectives and policies, the Specific Plans’ policies, the intent of the CBD-P Zoning and staff’s inability to meet the Major Variance Findings. Staff recommends denial of the Project. Pursuant to the California Environmental Quality Act (“CEQA”) Section 15270, projects which are disapproved will not result in a significant physical impact on the environment and are not subject to further environmental review.

KEY ISSUES***2004 Major Variance Approval***

As noted above, a Major Variance was approved by the Planning Commission to allow a portion of the interior of the building to be converted to self-storage. In the staff report, the planner noted several reasons for recommending approval of the 2004 proposal (***Attachment C***).

First, the concern that the self-storage use was not aligned with LUTE policies that call for pedestrian-oriented uses was addressed by the retention of active exterior perimeter uses, which included first floor retail and second and third floor office space. Both retained exterior spaces would promote pedestrian activity, create synergy with other commercial businesses and services, and therefore, strengthen the vitality of this Downtown area. Furthermore, providing retail and office spaces that wrap the storage use along the street frontages would create pedestrian-friendly transparent façades and serve to cloak the self-storage activity.

Second, the 2004 proposal included a major rehabilitation of a historic building that had been vacant for 12 years and of which a majority of the historic character-defining features had been removed. As such, the building was at risk for demolition. Reusing and rehabilitating the historic resource as part of the 2004 proposal met several other important LUTE and Historic Preservation Element goals and policies, including providing incentives for reuse. On balance, the 2004 proposal was a creative solution that advanced City policies related to preservation while providing those active spaces.

Third, the original design of the building as a theater with an auditorium penthouse, along with the change to the former newspaper printing plant industrial use, presented constraints to its reuse potential, especially given the building's historic status. The 2004 staff report noted that "the interior core five floors do not (in most cases) align with the original three floors of the three-story commercial street frontage perimeter space," and that "adjusting the floor levels to be at the same level as the perimeter would require significant building structural renovations." The 2004 staff report presented this as a practical difficulty and unnecessary hardship.

Fourth, while the 2004 proposal would provide retail and office street frontage/perimeter uses, and the exterior rehabilitation would most visibly and positively impact the surrounding area and strengthen everyday vitality in this area, the storage use would also provide a service and support demand for the existing and future residences and businesses.

In sum, the 2004 proposal met numerous General Plan policies, most importantly those regarding putting a vacant historic building back into productive use and provide pedestrian-oriented uses and activity at the ground floor and upper floor perimeters to strengthen the vitality of the area. This was seen as an appropriate adaptive re-use proposal addressing the constraints of the building and its risk for demolition.

Applicant 2022 Major Variance Findings

The Applicant submitted Major Variance Findings with their application for staff's consideration (***Attachment B***). The Applicant's reasons for the Planning Commission to approve the Major Variance include the small ground floor spaces with no kitchen or bathrooms, the long-standing vacancy of these spaces, and the fact that the project will provide a service that meets the neighborhood needs.

Staff disagrees that that these are acceptable reasons to grant the Major Variance Findings.

First, the Project proposes the removal of the perimeter retail and office uses which were noted in the 2004 proposal as important in meeting the overall LUTE policies, improving vitality in the area, and as a reason for granting the previous Major Variance. There are four retail spaces located on the ground floor of the

building. Two of these spaces are currently occupied with a personal-service businesses (shoe repair and a nail salon). Per **Attachment B**, both of these occupied retail spaces are smaller than the ones proposed for conversion. Furthermore, none have kitchens but all four have access to bathrooms located in the corridor to the rear. The office spaces above also have access to bathrooms. However, the applicant seems to imply that we should permit Major Variances for any small space that does not include a kitchen or bathroom. This is not a Finding.

All the spaces are of an adequate size, and likely affordable to the types of businesses that the DOSP envisioned - including local retailers; artists; galleries and other cultural space including those associated with the Black Arts Movement and Business District (BAMBD)¹; non-profits, incubators, or ‘pop-up’ uses. These are viable commercial spaces and the conversion of these would be inconsistent with the BAMBD which is intended to “animate the public space, rejuvenate the streetscape, improve local business viability, improve public safety, and bring diverse people together in celebration of this Cultural District.”

Second, the vacancy of these spaces (3-5 years) is not an adequate reason to eliminate the future potential for pedestrian-oriented and active uses required by the General Plan and Specific Plans for a non-active, non-pedestrian use. While the pandemic did result in the loss of retail tenants and an increase in office vacancies, this proposal would not strengthen the vitality of the area or help retain or support other nearby businesses. Also, it is contrary to LUTE policies and the zoning for the Project site. The loss of business tax generation for a limited period of time should not be the reason for granting a Major Variance when doing so would be contrary to legislative requirements for the Project site. Again, the applicant seems to imply that staff should approve Major Variances solely if a space has been vacant for a number of years. This is not a Finding required for a Major Variance.

Third, the re-use and revitalization of the historic building was another major reason for approving the 2004 Major Variance. However, that reason is no longer applicable. The building received historic Federal Tax Credits and was rehabilitated to the Secretary of the Interior’s Standards. The building is no longer abandoned and is no longer at risk for demolition. The application of the General Plan policies regarding a vacant or underutilized buildings do not apply to these individual spaces. To apply those policies in this way would be a major precedent for other vacant retail and office spaces in Downtown, creating large streetscapes devoid of pedestrian activity or the ability to revert to other uses later.

Finally, while increasing the storage space would expand the services for residences and business, there are more appropriate places in the City for these uses. The Housing and Business Mix Zones, Commercial Industrial 1 and 2 Zones, and IG Zone, which are located approximately two miles away, or the proposed new Downtown District Planned Waterfront Development Commercial (D-DT-CPW) Zone in Jack London Square to implement the DOSP, which is less than one mile would conditionally permit self-storage.

Scott Miller Email

As noted above, the email written by then Zoning Manager Scott Miller in 2016 was never acted upon, and since then several years have passed. While current staff is unsure how this determination was made and why a revision to the previous Major Variance permit was not required at that time, the current Zoning Manager has agreed to honor the 2016 email and allow the conversion of the driveway aisle to self-storage as shown on the 2017 building permit plan should the applicant wish to proceed.

¹ The Project site is located in the Black Arts Movement and Business District (BAMBD), the City’s first formally adopted (January 2016) cultural district. The goal of this Cultural District designation is to “highlight, celebrate, preserve and support the contributions of Oakland’s Black artists and business owners and the corridor as a place central historically and currently to Oakland’s black artists and black owned businesses.” The designation is intended to help support a critical mass of arts and entertainment establishments in the area, and to help promote and celebrate the significant current and historical black leaders, arts, political movements, enterprises and culture in the area. When development applications are submitted to the Planning Bureau for review that are in the BAMBD, the review should take into consideration the goals of the BAMBD. Especially those projects including Conditional Use Permits and Variances.

CONCLUSION

The Applicant argues that without approval of the Major Variance to allow self-storage, “the ground floor retail spaces will continue to sit dark, detracting from an active pedestrian experience, and the vacant upper floor office spaces will generate no business tax revenue,” and this is a hardship. The argument that self-storage is an active use; some use of the space, even an inappropriate use, is better than nothing; or the short-term gain of revenue, both for the applicant and City, over visions established in our long-term planning documents is short sighted.

The General Plan and Specific Plans are the guiding intentions of the City, but some policies might conflict with each other or provide a menu of uses or a range of allowable development, and it is the purpose of the Planning Code to implement these documents in more specific, and detailed requirements. The Planning Code allows a Major Variance process to address these specifics knowing that the General Plan policies can be general or generally applied. However, the Major Variance Findings are meant to address very specific and very unique situations, not general ones such as economic factors or the lack of amenities to lure tenants. In other words, a Major Variance is not meant to completely stand in the place of a legislative General Plan Amendment or Rezoning, which requires City Council approval to actually change the General Plan or Zoning requirements.

Fundamentally, what is at issue is the interpretation of the General Plan and Specific Plan visions and policies regarding the vision for the City’s Downtown districts and streets. In this instance, the Project conflicts and is inappropriate to the expected vibrancy and activity expected of a Downtown site as discussed in the staff report and Findings. Therefore, the Project should be denied.

RECOMMENDATIONS:

1. Affirm staff’s environmental determination, and
2. Deny the Project based on the attached Findings.

Prepared by:



HEATHER KLEIN
Planner IV

Reviewed by:



ROBERT MERKAMP
Zoning Manager

Approved for forwarding to the

Case File Number PLN22069

City Planning Commission:



EDWARD MANASSE

Deputy Director

Bureau of Planning

ATTACHMENTS:

- A. Findings
- B. Project Plans and Findings for Support
- C. VM04060 Planning Commission Staff Report
- D. 2004 Approved Building Permit Plans
- E. 2016, Zoning Manager's Email
- F. 2017 Building Permit Plan

ATTACHMENT A: FINDINGS

This proposal fails to meet all the required findings under Section 17.148.050A (Variance Findings) of the Oakland Planning Code (OMC Title 17) as set forth below and which are required to approve your application. Required findings are shown in **bold** type; reasons the proposal fails to satisfy them are shown in normal type.

17.148.050A Variance Findings

- 1. That strict compliance with the specified regulation would result in practical difficulty or unnecessary hardship inconsistent with the purposes of the zoning regulations, due to unique physical or topographic circumstances or conditions of design; or, as an alternative in the case of a minor variance, that such strict compliance would preclude an effective design solution improving livability, operational efficiency, or appearance.**

The applicant is requesting a Major Variance for a Self- or Mini-Storage Industrial Activity on the ground floor retail spaces and offices at 406 12th Street. The Finding for a Major Variance is that the strict compliance with the specified regulation would result in a practical difficulty or unnecessary hardship inconsistent with the purposes of the zoning regulations, due to unique physical or topographic circumstances or conditions of design.

There is no practical difficulty or unique hardship here due to topographical or physical circumstance. The site is flat and covered by an existing building. The building includes two spaces that are smaller than those proposed for conversion, don't have kitchens or in-suite bathrooms but are occupied, and the rest of the building is used for self-storage. Furthermore, previous businesses did occupy these ground-floor commercial and upper floor office spaces, implying that they are viable spaces and could be occupied again in the future. A Major Variance was approved in 2004 for the conversion of the inner core of the building to storage with perimeter retail and office uses. This decision was not appealed, and the use of the existing retail and office spaces for a non-storage use was not claimed to be a "hardship" till now. A determination that market and economic conditions meet the threshold of a hardship inconsistent with the purposes of the zoning regulations would set a dangerous precedent for all the City's vacant commercial spaces.

The building is a PDHP, a contributor to the Downtown Historic Area of Primary Importance (API) and a contributor to the National Register Downtown Historic District. However, there is no unique physical circumstance or condition of design along the perimeter building spaces. The 2004 application noted that "The original design program for a theater, a large voluminous open space set back from the street frontage offered flexible space when the building was remodeled to a newspaper printing plant. It appears that this industrial use took advantage of the core's open space by inserting floors that met the functional height requirements for machinery used by the Tribune press, and its operations, rather than aligning with the floor heights of the three-story commercial street frontage of the building. Currently, the interior core five floors do not (in most cases) align with the original three floors of the three-story commercial street frontage perimeter space."

In sum, requiring the floors to "line-up" for a larger tenant would have been costly, might have affected the building's historic character, and/or resulted in the building staying vacant and further deteriorating. As such, the conversion of the "inner core" was seen as acceptable due to a unique condition of design. However, this condition does not apply to the smaller perimeter spaces in the building. Again, these have been viable commercial spaces over the years, and other smaller spaces are currently occupied. Therefore, market conditions should not be considered a hardship.

2. **That strict compliance with the regulations would deprive the applicant of privileges enjoyed by owners of similarly zoned property; or, as an alternative in the case of a minor variance, that such strict compliance would preclude an effective design solution fulfilling the basic intent of the applicable regulation.**

The owners of similarly zoned Downtown properties intended for active/pedestrian-friendly uses have not been granted Major Variances for a Self- or Mini-Storage Industrial Activity based on a staff permitting analysis.

The previous 2004 Variance was only granted because the activity was located in the core of the building (former theater area), in a portion of the building that wasn't viable for other uses due to the changes in floor levels. The previous 20004 Findings stated "The Tribune Press building has remained vacant for twelve years and the current owner/applicant has wrestled with the reuse constraints over the past several years, exploring options for reuse with permitted uses. The currently proposed creative solution of storage, which requires the Major Variance, is not dependent on continuous, aligned floor heights and therefore permits the economic reuse of the building as designed. In addition, this proposal benefits the City by retaining an existing abandoned historic resource that would be reused, rather than demolished."

However, this condition does not apply to the smaller perimeter building spaces and allowing their conversion to an unpermitted use would be a dangerous precedent for other Downtown vacant commercial spaces.

3. **That the variance, if granted, will not adversely affect the character, livability, or appropriate development of abutting properties or the surrounding area, and will not be detrimental to the public welfare or contrary to adopted plans or development policy.**

The Variance if granted will adversely affect the character, livability, and appropriate development of the building, the abutting properties and the surrounding area.

Again, the building contains two occupied ground-floor spaces for personal services. Furthermore, the adjacent buildings could be negatively affected if the other perimeter spaces in the subject building are converted to storage. One of the most important components of successful commercial spaces, especially retail and personal services, are the proximity to other active uses which draw people and foot traffic to the area. Without this foot traffic and with lots of linear footage devoted to ground-floor space, the area becomes unlively, uninteresting, and uninviting to customers. A case in point, is located right across the street where the almost whole city block-sized office building for the UC Office of the President contains no active street frontages. As a result, this is currently a less inviting street than say portions of 17th Street, which is more active and pedestrian friendly. If the conversion to storage is granted, this portion of 12th street will likely be become more empty, devoid of foot traffic and urban life. The rest of the retail and commercial spaces in the area will become less viable. This inevitable decline can be halted with the requirement that the subject building's ground-floor commercial and upper floor office spaces stay active with retail, consumer service and office use.

The applicant noted in their Findings submittal that the project would be complementary to the many housing units approved and anticipated Downtown. However, these new downtown residents will not be visiting the proposed storage spaces often. The whole point of a self-storage activity is to store items that you do not need frequently, so it is unlikely that these storage units would be visited more than once a month.

Furthermore, as noted throughout this staff report, including Finding 6 below, the proposed storage use would be contrary to adopted plans (LUTE and LMSAP), proposed plans (Downtown Oakland

Specific Plan), and development policies (BAMBD) which are intending this street to change and become more animated with retail, community organizations, small businesses, pop-ups, etc. which will draw persons to this key Downtown arterial.

4. **That the variance will not constitute a grant of special privilege inconsistent with limitations imposed on similarly zoned properties or inconsistent with the purposes of the zoning regulations.**

The Variance would constitute a grant of special privilege inconsistent with the purpose of the Zoning regulations. While the current CBD-P Zone allows for a range of wide range of commercial and residential activities, the proposal is not for either of these but rather an industrial activity. The CBD-P Zone is intended for active uses, hence the “pedestrian” designation and prohibits self-storage. The same applied for the proposed D-DTP Zone that is expected to be adopted as part of the Downtown Oakland Specific Plan (DOSP).

The previous 2004 Variance was only granted because the activity was located in the core of the building, in an area that wasn’t viable for other uses due to the changes in floor levels; and the storage would provide the economic feasibility to ensure the rehabilitation of the historic “abandoned” building. These conditions do not apply to the current, fully rehabilitated building; and the exterior spaces, which underwent their own individual tenant improvements over the years. Furthermore, industrial spaces both permitted and conditionally permitted are located less than two miles away from the Downtown and can support the anticipated storage needs of new Downtown residential units.

5. **That the elements of the proposal requiring the variance (e.g., elements such as buildings, walls, fences, driveways, garages and carports, etc.) conform with the regular design review criteria set forth in the design review procedure at Section 17.136.050**

This Finding is not applicable. The proposal is to convert the ground floor to a Self- or Mini-Storage Industrial Activity and does not involve changes to the exterior of the building which would require Regular Design Review.

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

As noted throughout this report, the project doesn’t conform in all significant respects to the General Plan, Specific Plans, both existing and proposed, and the (“BAMBD”).

Again, the General Plan is envisioning the Downtown to be vibrant, and pedestrian-oriented with increased activities that the proposal is inconsistent with such as *Objective D3, Policy D3.1, Policy D5.1 and Policy D9.1*.

The DOSP anticipates the area to be filled with vibrant, pedestrian-oriented and affordable spaces for all ages, cultures, and incomes to meet, work, and live; and includes a variety of cultural and art space for performances spaces, galleries and pop-ups and workplaces for community organizations and neighborhood-serving commercial uses, all in order to create a thriving, walkable urban area, with an intense mix of uses. The proposal is inconsistent with *Economic Opportunity Outcome E-2, Culture Keeping Outcome C-3, Culture Keeping -1.6, and Land Use Outcome LU-1*.

The proposal is also inconsistent with the rest of the intention for 12th Street as outlined in the LMSAP including *LU-3, LU-5, and LU-18*.

Furthermore, the proposal is also inconsistent with the BAMBD as it would take away small, likely more affordable building spaces, for an inactive and non-pedestrian friendly use. These types of small tenant spaces are a necessary component of realizing the vision of the BAMBD while allowing larger spaces for restaurants, nightlife, office and residential uses.

Finally, the previous 2004 Variance approval noted that the “Tribune Press building has remained vacant for twelve years, and therefore, currently detracts from the surrounding area. Placing the Tribune Press Building back into service will not only benefit the Tribune Tower’s historic tie to the City’s past, fulfill the intention of the C-55 zone to preserve and enhance a very high-intensity regional center of employment, shopping, and culture by providing retail and office space along the street frontage perimeter of the building, and meet numerous General Plan policies as outlined below:

- Reuses an abandoned building;
- Prevents demolition of a historic resource;
- Strengthens vitality of downtown with pedestrian oriented retail and office development;
- Builds on the current office node near the 12th Street BART station;
- Enhances pedestrian use by replacing the sidewalk;
- Promotes mixed-use development;
- Creates compatible but diverse uses;
- Preserves a sense of history;
- Eliminates blight;
- Meets business needs and supports residential uses downtown, with document and self-storage availability.”

However, many of the policy consistency citations noted above either are no longer applicable or would not be implemented with the current proposal. Most of the building (45,000 square-feet out of 56,000 square-feet) is in productive use, no longer abandoned, has a preserved sense of history, is no longer blighted, and is not in danger of demolition. The sidewalk has also already been replaced. The current proposal would not promote mixed-use development, create compatible but diverse uses, or strengthen pedestrian-oriented retail and office development. The other policies regarding supporting business and residential uses Downtown would apply, but there are other policies that, in this instance, are more applicable as noted above.

Finally, the applicant cited numerous policies in their Findings submittal, including those related to providing amenities to supporting the office and residential uses Downtown. However, Policy I/C1.8 and Policy I/C1.9, Objective I/C3, Objective I/C4, Policy I/C4.1, Objective D9, and Policy N1 are not applicable as Downtown is not an industrial area, is not in a Housing and Business Mix Zone, and Self- or Mini-Storage is not classified as a commercial use but rather as an industrial land use activity. There are other more appropriate industrial spaces located less than two miles away from the Downtown for this use. Objective T2 would not be implemented as the project would not be mixed-use; furthermore, self-storage is generally not a transit-oriented activity. Objective D5 would not be implemented as self-storage is not an active use as the whole point of the self-storage use is to store items not typically used. Another, more active use, like retail or office would better implement this policy. Again, the building is largely in productive use and is not abandoned. It is not appropriate to apply Policy D6.2 regarding reuse of abandoned buildings to this current Major Variance request especially after a vacancy of only three- to five years.

While the project would expand private business and provide a service, again, this is not necessary within the Downtown Core as part of the granting of a Major Variance, as these services are available less than two miles away.

7. For proposals involving one (1) or two (2) residential dwelling units on a lot: That, if the variance would relax a regulation governing maximum height, minimum yards, maximum lot coverage or maximum floor area ratio, the proposal also conforms with at least one of the following additional criteria:
- a. The proposal when viewed in its entirety will not adversely impact abutting residences to the side, rear, or directly across the street with respect to solar access, view blockage and privacy to a degree greater than that which would be possible if the residence were built according to the applicable regulation and, for height variances, the proposal provides detailing, articulation or other design treatments that mitigate any bulk created by the additional height; or
 - b. Over sixty percent (60%) of the lots in the immediate vicinity are already developed and the proposal does not exceed the corresponding as-built condition on these lots and, for height variances, the proposal provides detailing, articulation or other design treatments that mitigate any bulk created by the additional height. The immediate context shall consist of the five (5) closest lots on each side of the project site plus the ten (10) closest lots on the opposite side of the street (see illustration I-4b); however, the Director of City Planning may make an alternative determination of immediate context based on specific site conditions. Such determination shall be in writing and included as part of any decision on any variance.

This Finding is not applicable. The Project does not involve one or two residential dwelling units on a lot, but the conversion of the ground floor to a Self- or Mini-Storage Industrial Activity which is prohibited in the CBD-P Zone.

CITY OF OAKLAND



DALZIEL BUILDING • 250 FRANK H. OGAWA PLAZA • SUITE 3315 • OAKLAND, CALIFORNIA 94612

Planning and Building Department
Bureau of Planning

(510) 238-3941
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TDD (510) 238-3254

Sent Via Email

October 5, 2023

Justin A. Zucker
Reuben, Junius & Rose, LLP
1 Bush Street, Suite 600
San Francisco, CA 94104
jzucker@reubenlaw.com

RE: Case File No. PLN22069; 406 12th Street & 1205 Franklin Street; APN: 002 005100400

Dear Justin Zucker:

Your application as noted above was **DENIED** at the City Planning Commission meeting of **October 4, 2023**. The Commission's action is indicated below.

(X) Denied (Vote: 7 Ayes, 0 Noes)

If you, or any interested party, seeks to challenge this decision before City Council, an appeal **must** be filed by no later than ten (10) calendar days from the date of this letter, by **4:00 pm on October 16, 2023**. An appeal shall be on a form provided by the Bureau of Planning of the Planning and Building Department, and submitted via email to: (1) **Heather Klein, Planner IV**, at hklein@oaklandca.gov, (2) **Robert Merkamp, Zoning Manager**, at Rmerkamp@oaklandca.gov, and (3) Catherine Payne, Development Planning Manager, at Cpayne@oaklandca.gov. The appeal form is available online at <https://www.oaklandca.gov/documents/appeal-application-form>. The appeal shall state specifically wherein it is claimed there was error or abuse of discretion by the Zoning Manager or decision-making body or wherein the decision is not supported by substantial evidence. Applicable appeal fees in the amount of **\$2,902.03** in accordance with the City of Oakland Master Fee Schedule must be paid within five (5) calendar days (**October 23, 2023**) of filing the appeal. If the fifth (5th) calendar day falls on a weekend or City holiday, appellant will have until the end of the following City business day to pay the appeal fee. Failure to timely appeal (or to timely pay all appeal fees) will preclude you, or any interested party, from challenging the City's decision in court. The appeal itself must raise each and every issue that is contested, along with all the arguments and evidence in the record which supports the basis of the appeal; failure to do so may preclude you, or any interested party, from raising such issues during the appeal and/or in court. However, the appeal will be limited to issues and/or evidence presented to the Zoning Manager prior to the close of the previously noticed public comment period on the matter. For further information, see the attached Interim City Administrator Emergency Order No. 3 and Interim Procedures for Appeals of City Planning Commission Decisions for Development Projects.

If you have any questions, please contact the case planner, **Heather Klein, Planner IV**, at (510) **238-3659** or hklein@oaklandca.gov.

Very Truly Yours,

A handwritten signature in black ink, appearing to read 'Robert D. Merkamp', with a stylized flourish at the end.

ROBERT D. MERKAMP
Zoning Manager

cc: Garret G garret@gigspeed.us
Michael Colbruno michael.colbruno@gmail.com
TC I 1205 Franklin, LLC alexandersollykaplan@gmail.com

Brian Mulry BMulry@oaklandcityattorney.org
Danny Thai DThai@oaklandca.gov

Attachments: Findings for Denial

ATTACHMENT A: FINDINGS

This proposal fails to meet all the required findings under Section 17.148.050A (Variance Findings) of the Oakland Planning Code (OMC Title 17) as set forth below and which are required to approve your application. Required findings are shown in **bold** type; reasons the proposal fails to satisfy them are shown in normal type.

17.148.050A Variance Findings

- 1. That strict compliance with the specified regulation would result in practical difficulty or unnecessary hardship inconsistent with the purposes of the zoning regulations, due to unique physical or topographic circumstances or conditions of design; or, as an alternative in the case of a minor variance, that such strict compliance would preclude an effective design solution improving livability, operational efficiency, or appearance.**

The applicant is requesting a Major Variance for a Self- or Mini-Storage Industrial Activity on the ground floor retail spaces and offices at 406 12th Street. The Finding for a Major Variance is that the strict compliance with the specified regulation would result in a practical difficulty or unnecessary hardship inconsistent with the purposes of the zoning regulations, due to unique physical or topographic circumstances or conditions of design.

There is no practical difficulty or unique hardship here due to topographical or physical circumstance. The site is flat and covered by an existing building. The building includes two spaces that are smaller than those proposed for conversion, don't have kitchens or in-suite bathrooms but are occupied, and the rest of the building is used for self-storage. Furthermore, previous businesses did occupy these ground-floor commercial and upper floor office spaces, implying that they are viable spaces and could be occupied again in the future. A Major Variance was approved in 2004 for the conversion of the inner core of the building to storage with perimeter retail and office uses. This decision was not appealed, and the use of the existing retail and office spaces for a non-storage use was not claimed to be a "hardship" till now. A determination that market and economic conditions meet the threshold of a hardship inconsistent with the purposes of the zoning regulations would set a dangerous precedent for all the City's vacant commercial spaces.

The building is a PDHP, a contributor to the Downtown Historic Area of Primary Importance (API) and a contributor to the National Register Downtown Historic District. However, there is no unique physical circumstance or condition of design along the perimeter building spaces. The 2004 application noted that "The original design program for a theater, a large voluminous open space set back from the street frontage offered flexible space when the building was remodeled to a newspaper printing plant. It appears that this industrial use took advantage of the core's open space by inserting floors that met the functional height requirements for machinery used by the Tribune press, and its operations, rather than aligning with the floor heights of the three-story commercial street frontage of the building. Currently, the interior core five floors do not (in most cases) align with the original three floors of the three-story commercial street frontage perimeter space."

In sum, requiring the floors to "line-up" for a larger tenant would have been costly, might have affected the building's historic character, and/or resulted in the building staying vacant and further deteriorating. As such, the conversion of the "inner core" was seen as acceptable due to a unique condition of design. However, this condition does not apply to the smaller perimeter spaces in the building. Again, these have been viable commercial spaces over the years, and other smaller spaces are currently occupied. Therefore, market conditions should not be considered a hardship.

2. **That strict compliance with the regulations would deprive the applicant of privileges enjoyed by owners of similarly zoned property; or, as an alternative in the case of a minor variance, that such strict compliance would preclude an effective design solution fulfilling the basic intent of the applicable regulation.**

The owners of similarly zoned Downtown properties intended for active/pedestrian-friendly uses have not been granted Major Variances for a Self- or Mini-Storage Industrial Activity based on a staff permitting analysis.

The previous 2004 Variance was only granted because the activity was located in the core of the building (former theater area), in a portion of the building that wasn't viable for other uses due to the changes in floor levels. The previous 20004 Findings stated "The Tribune Press building has remained vacant for twelve years and the current owner/applicant has wrestled with the reuse constraints over the past several years, exploring options for reuse with permitted uses. The currently proposed creative solution of storage, which requires the Major Variance, is not dependent on continuous, aligned floor heights and therefore permits the economic reuse of the building as designed. In addition, this proposal benefits the City by retaining an existing abandoned historic resource that would be reused, rather than demolished."

However, this condition does not apply to the smaller perimeter building spaces and allowing their conversion to an unpermitted use would be a dangerous precedent for other Downtown vacant commercial spaces.

3. **That the variance, if granted, will not adversely affect the character, livability, or appropriate development of abutting properties or the surrounding area, and will not be detrimental to the public welfare or contrary to adopted plans or development policy.**

The Variance if granted will adversely affect the character, livability, and appropriate development of the building, the abutting properties and the surrounding area.

Again, the building contains two occupied ground-floor spaces for personal services. Furthermore, the adjacent buildings could be negatively affected if the other perimeter spaces in the subject building are converted to storage. One of the most important components of successful commercial spaces, especially retail and personal services, are the proximity to other active uses which draw people and foot traffic to the area. Without this foot traffic and with lots of linear footage devoted to ground-floor space, the area becomes unlively, uninteresting, and uninviting to customers. A case in point, is located right across the street where the almost whole city block-sized office building for the UC Office of the President contains no active street frontages. As a result, this is currently a less inviting street than say portions of 17th Street, which is more active and pedestrian friendly. If the conversion to storage is granted, this portion of 12th street will likely be become more empty, devoid of foot traffic and urban life. The rest of the retail and commercial spaces in the area will become less viable. This inevitable decline can be halted with the requirement that the subject building's ground-floor commercial and upper floor office spaces stay active with retail, consumer service and office use.

The applicant noted in their Findings submittal that the project would be complementary to the many housing units approved and anticipated Downtown. However, these new downtown residents will not be visiting the proposed storage spaces often. The whole point of a self-storage activity is to store items that you do not need frequently, so it is unlikely that these storage units would be visited more than once a month.

Furthermore, as noted throughout this staff report, including Finding 6 below, the proposed storage use would be contrary to adopted plans (LUTE and LMSAP), proposed plans (Downtown Oakland

Specific Plan), and development policies (BAMBD) which are intending this street to change and become more animated with retail, community organizations, small businesses, pop-ups, etc. which will draw persons to this key Downtown arterial.

4. **That the variance will not constitute a grant of special privilege inconsistent with limitations imposed on similarly zoned properties or inconsistent with the purposes of the zoning regulations.**

The Variance would constitute a grant of special privilege inconsistent with the purpose of the Zoning regulations. While the current CBD-P Zone allows for a range of wide range of commercial and residential activities, the proposal is not for either of these but rather an industrial activity. The CBD-P Zone is intended for active uses, hence the “pedestrian” designation and prohibits self-storage. The same applied for the proposed D-DTP Zone that is expected to be adopted as part of the Downtown Oakland Specific Plan (DOSP).

The previous 2004 Variance was only granted because the activity was located in the core of the building, in an area that wasn’t viable for other uses due to the changes in floor levels; and the storage would provide the economic feasibility to ensure the rehabilitation of the historic “abandoned” building. These conditions do not apply to the current, fully rehabilitated building; and the exterior spaces, which underwent their own individual tenant improvements over the years. Furthermore, industrial spaces both permitted and conditionally permitted are located less than two miles away from the Downtown and can support the anticipated storage needs of new Downtown residential units.

5. **That the elements of the proposal requiring the variance (e.g., elements such as buildings, walls, fences, driveways, garages and carports, etc.) conform with the regular design review criteria set forth in the design review procedure at Section 17.136.050**

This Finding is not applicable. The proposal is to convert the ground floor to a Self- or Mini-Storage Industrial Activity and does not involve changes to the exterior of the building which would require Regular Design Review.

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As noted throughout this report, the project doesn’t conform in all significant respects to the General Plan, Specific Plans, both existing and proposed, and the (“BAMBD”).

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The proposal is also inconsistent with the rest of the intention for 12th Street as outlined in the LMSAP including *LU-3, LU-5, and LU-18*.

Furthermore, the proposal is also inconsistent with the BAMBD as it would take away small, likely more affordable building spaces, for an inactive and non-pedestrian friendly use. These types of small tenant spaces are a necessary component of realizing the vision of the BAMBD while allowing larger spaces for restaurants, nightlife, office and residential uses.

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- Reuses an abandoned building;
- Prevents demolition of a historic resource;
- Strengthens vitality of downtown with pedestrian oriented retail and office development;
- Builds on the current office node near the 12th Street BART station;
- Enhances pedestrian use by replacing the sidewalk;
- Promotes mixed-use development;
- Creates compatible but diverse uses;
- Preserves a sense of history;
- Eliminates blight;
- Meets business needs and supports residential uses downtown, with document and self-storage availability.”

However, many of the policy consistency citations noted above either are no longer applicable or would not be implemented with the current proposal. Most of the building (45,000 square-feet out of 56,000 square-feet) is in productive use, no longer abandoned, has a preserved sense of history, is no longer blighted, and is not in danger of demolition. The sidewalk has also already been replaced. The current proposal would not promote mixed-use development, create compatible but diverse uses, or strengthen pedestrian-oriented retail and office development. The other policies regarding supporting business and residential uses Downtown would apply, but there are other policies that, in this instance, are more applicable as noted above.

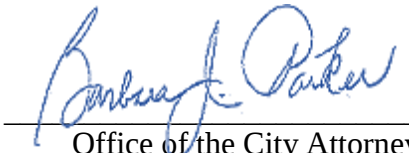
Finally, the applicant cited numerous policies in their Findings submittal, including those related to providing amenities to supporting the office and residential uses Downtown. However, Policy I/C1.8 and Policy I/C1.9, Objective I/C3, Objective I/C4, Policy I/C4.1, Objective D9, and Policy N1 are not applicable as Downtown is not an industrial area, is not in a Housing and Business Mix Zone, and Self- or Mini-Storage is not classified as a commercial use but rather as an industrial land use activity. There are other more appropriate industrial spaces located less than two miles away from the Downtown for this use. Objective T2 would not be implemented as the project would not be mixed-use; furthermore, self-storage is generally not a transit-oriented activity. Objective D5 would not be implemented as self-storage is not an active use as the whole point of the self-storage use is to store items not typically used. Another, more active use, like retail or office would better implement this policy. Again, the building is largely in productive use and is not abandoned. It is not appropriate to apply Policy D6.2 regarding reuse of abandoned buildings to this current Major Variance request especially after a vacancy of only three- to five years.

While the project would expand private business and provide a service, again, this is not necessary within the Downtown Core as part of the granting of a Major Variance, as these services are available less than two miles away.

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- a. The proposal when viewed in its entirety will not adversely impact abutting residences to the side, rear, or directly across the street with respect to solar access, view blockage and privacy to a degree greater than that which would be possible if the residence were built according to the applicable regulation and, for height variances, the proposal provides detailing, articulation or other design treatments that mitigate any bulk created by the additional height; or
 - b. Over sixty percent (60%) of the lots in the immediate vicinity are already developed and the proposal does not exceed the corresponding as-built condition on these lots and, for height variances, the proposal provides detailing, articulation or other design treatments that mitigate any bulk created by the additional height. The immediate context shall consist of the five (5) closest lots on each side of the project site plus the ten (10) closest lots on the opposite side of the street (see illustration I-4b); however, the Director of City Planning may make an alternative determination of immediate context based on specific site conditions. Such determination shall be in writing and included as part of any decision on any variance.

This Finding is not applicable. The Project does not involve one or two residential dwelling units on a lot, but the conversion of the ground floor to a Self- or Mini-Storage Industrial Activity which is prohibited in the CBD-P Zone.

Approved as to Form and Legality


Office of the City Attorney

Emergency Order No. 3 of the City of Oakland
Interim City Administrator/Director of the Emergency Operations Center

Whereas, due to the spread of COVID-19 (coronavirus) within the state, on March 1, 2020 the Alameda County Public Health Department, and on March 4, 2020, Governor Gavin Newsom, declared local and state public health emergencies due to the spread of COVID-19 locally and within the state, pursuant to Health & Safety Code section 101080 and Government Code section 8625, respectively, and

Whereas, on March 9, 2020, the City Administrator in her capacity as the Director of the Emergency Operations Center (EOC), issued a proclamation of local emergency due to the spread of COVID-19 in Oakland, and on March 12, the City Council passed Resolution No. 88075 C.M.S. confirming the existence of the local emergency proclaimed by the City Administrator pursuant to her power under Oakland Municipal Code section 8.50.050(C) to proclaim a local emergency provided that the local emergency proclamation shall remain in effect only if the City Council confirms the existence of the emergency within seven days; and

Whereas, on March 19, 2020, Governor Newsom issued Executive Order N-33-20, ordering “all individuals living in the State of California to stay home or at their place of residence except as needed to maintain continuity of operations of the federal critical infrastructure sectors”, and further acknowledged that the “supply chain must continue, and Californians must have access to such necessities as food, prescriptions, and health care”; and

Whereas, the Order N-33-20 provides that, to mitigate/control the spread of COVID-19, when people need to leave their homes or places of residence to carry out specified essential functions or to facilitate necessary activities, they should at all times practice “social distancing”, which means remaining a distance of six (6) feet from other persons when in public places; and

Whereas, the City Administrator in his capacity as the Director of the EOC has authority “to promulgate orders, rules, and regulations on matters reasonably related to the protection of life and property and the preservation of public peace and order, in accordance with Article 14 of the California Emergency Services Act, [and such] rules and regulations must be confirmed at the earliest practicable time by the governing body as required by law;” and

Whereas, on March 23, 2020, the Interim City Administrator in his capacity as the Director of the EOC issued an emergency COVID-19 order (Emergency Order of the City Of Oakland), which, among other things, cancelled meetings of all City commissions, committees and boards related to the processing of planning and building applications, including the Planning Commission, Design Review Committee and Landmarks Advisory Board until further notice; and

Whereas, on April 29, 2020, the County Health Officer issued County Order No. 20-10, which defines the scope of construction activities deemed “Essential Businesses” to include “. . . construction, but only as permitted under the State Shelter Order [Order N-33-20] and only pursuant to the Construction Safety Protocols listed in Appendix B and incorporated into [the County Order] by reference”; and

Whereas, under Order N-33-20 Critical Infrastructure is allowed to continue, if remote working is not possible. Critical infrastructure includes: “Construction Workers who support the construction, operation, inspection, and maintenance of construction sites and construction projects (including housing, commercial, and mixed-use construction); and workers who support the supply chain of building materials from production through application/installation, including cabinetry, fixtures, doors, cement, hardware, plumbing, electrical, heating/cooling, refrigeration, appliances, paint/coatings, and employees who provide services that enable repair materials and equipment for essential functions”; and

Whereas, the City Administrator in his capacity as the Director of the EOC has determined that it is now necessary to amend his March 23, 2020 Order to allow City commissions, committees and boards related to the processing of planning and building applications, including the Planning Commission, Design Review Committee and Landmarks Advisory Board, to commence meetings in order to provide the reviews, hearings, approvals and/or other actions necessary for construction activities specified in Alameda County Order no. 20-10 as “Essential Businesses” to proceed; and

Whereas, on May 4, 2010, City Council passed Resolution No. 82727 C.M.S., urging City departments to refrain from, among other things, entering into any new or amended contracts for services or supplies with companies headquartered in Arizona until Arizona rescinds SB 1070 (“Arizona Boycott Policy”) when doing so will not result in significant additional costs to the City or conflict with law; and

Whereas, Oakland Municipal Code (“OMC”) section 2.22.010 directs the City Administrator to refrain from entering into any new or amended contracts for services or supplies with businesses that have entered into a contract to provide services, goods, materials or supplies to build the U.S.-Mexico border wall (“Border Wall Policy”) when doing so will not result in significant additional costs to the City or conflict with law; and

Whereas, O.M.C. section 2.22.050 authorizes the City Administrator to waive the Border Wall Policy for contracts within his/her authority when the policy conflicts with the law; and

Whereas, the City will be entering into contracts for the provision of emergency services and supplies to respond to the COVID-19 crisis; and

Whereas, the City intends to seek reimbursement, to the greatest extent practicable, from the Federal Emergency Management Agency or other federal agencies for its expenses related to providing COVID-19 emergency services and supplies; and

Whereas, the California Governor’s Office of Emergency Services has informed City staff that the City’s Arizona Boycott Policy and Border Wall Policy may conflict with federal regulations governing the award of federal financial assistance and may therefore jeopardize the City’s ability to secure federal funds and reimbursements; and

Whereas, the City Administrator has determined that it is necessary to waive application of the City’s Arizona Boycott Policy and Border Wall Policy to emergency contracts the City needs to execute to address the impacts of COVID-19 to avoid any potential conflict with federal law and to maximize the City’s ability to obtain reimbursement from the Federal Emergency Management Agency and/or other federal agencies for its COVID-19 emergency expenditures.

Now, Therefore, I, Steven Falk, Interim City Administrator/Director of the Emergency Operations Center of the City of Oakland, in accordance with the authority vested in me pursuant to Oakland’s Emergency Services Act, Oakland Municipal Code Chapter 8.50, specifically section 8.50.050.C.5.(a), hereby order the following:

1. Section 3 of the Interim City Administrator’s Emergency COVID-19 Order dated March 23, 2020, is deleted (see language with strike-throughs below) and new Building and Planning Department procedures are promulgated as follows:

~~“All time limits, shotclocks, and other deadlines associated with Planning Department and Building Department notices, application reviews, appeals, enforcement activities and other matters set forth in Titles 15 and 17 of the OMC and related administrative instructions, regulations and policies are suspended for the duration of the local emergency or until such time as this order is rescinded or the City Council terminates the emergency, whichever is earlier.”~~

All time-limits and deadlines associated with Planning and Building Department notices and appeals are hereby replaced by the notice and appeal procedures set forth in **Attachment A** and **Attachment B** respectively, which are attached hereto and incorporated as if fully set forth herein. The attached notice and appeal procedures shall remain in effect for the duration of this Order. Upon termination of this Order, all former procedures under the Oakland Municipal Code (O.M.C.) shall be reinstated, unless otherwise amended by subsequent orders.

2. Section 4 of the Interim City Administrator’s Emergency COVID-19 Order dated March 23, 2020, is deleted (see language with strikethroughs below):

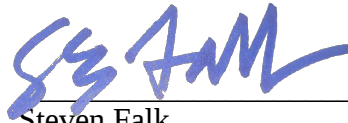
~~Meetings of all City commissions, committees and boards related to the processing of planning and building applications, including the Planning Commission, the Design Review Committee and Landmarks Advisory Board, are cancelled until further notice~~

3. Application of the City’s Arizona Boycott Policy is hereby waived for emergency contracts the City executes to address the impacts of COVID-19 that may be eligible for reimbursement from the Federal Emergency Management Agency and/or other federal agencies.

4. Application of the City's Border Wall Policy is hereby waived for emergency contracts the City executes to address the impacts of COVID-19 that may be eligible for reimbursement from the Federal Emergency Management Agency and/or other federal agencies.

I FURTHER DIRECT that as soon hereafter as possible, this Order shall be filed in the Office of the City Clerk, posted on the City of Oakland website, and that widespread publicity and notice of this Order shall be provided to the public.

IN WITNESS WHEREOF I have hereunto set my hand this 13th day of May, 2020



Steven Falk
Interim City Administrator/Director of Emergency
Operations Center, City of Oakland, California

Attest:

LaTonda Simmons
City Clerk and Clerk of the City Council
City of Oakland, California

2930450v8
May 2020

Attachment A
Interim Procedures for Posting and Mailing Public Notice of Development Projects for the
Duration of the Order

Pursuant to the shelter-in-place orders issued by both the Governor of California and the Alameda County Health Officer for the COVID-19 pandemic (“Emergency Orders”), the City of Oakland offices are closed to the public and non-essential personnel are required to work remotely. These requirements extend to the Planning Bureau, resulting in much of the Bureau’s personnel working remotely.

Without the ability for requisite staff to be present in the office, the City does not have the capacity to post and mail public notices for development projects on behalf of applicants, in accordance with its currently established procedures. As a result, it is necessary for development project applicants to demonstrate compliance with these established procedures, by posting and mailing requisite notices as outlined below and as may be further clarified by the Director of Planning and Building or his designee.

The following procedures set forth how development projects will be noticed by applicants for the duration of this Order, or until the previous procedure is restored or further amended:

1. The City hereby replaces the City’s 17-day notice period required under Title 17 of the Oakland Municipal Code (O.M.C.) with the 10-day notice period as set forth under Government Code sections 65905, 65090, 65091, 65092, and 65094.
2. For a development project ready for public notice, the staff planner for the project will prepare the public notice, using the City’s template.
3. The staff planner will verify that the entire file, including the most recent submitted plan set and any correspondence that would constitute public record, is available on the City’s Accela website in a publicly viewable format prior to the posting and mailing of the public notice.
4. The staff planner will send the completed public notice form and address labels to the applicant, with instructions on posting and mailing the public notice for interested parties.
5. The applicant will then be required to post and mail the public notice according to staff planner instruction. Thereafter, the applicant will e-mail the staff planner with proof of project site posting, PDFs of the mailing receipts, and a certificate of mailing evidencing that the public notice was posted and mailed on the date agreed upon with the staff planner. The staff planner must receive proof of posting, the mailing receipts and certificate of mailing on the date of posting and mailing, which the staff planner will place in the development file and upload to Accela.
6. Failure of the applicant to provide proof of posting and mailing of the public notice will result in the development project not moving forward until termination of the City Administrator’s Order and/or resumption of the normal public noticing procedures.
7. Interested parties who desire to comment on the development project will be encouraged to e-mail any questions or comments to the staff planner during the 10-day public notice period. Those members of the public who choose to send written comments must call the staff planner no later than the date of mailing but before the public comment period has ended, to inform the staff planner written comments are being mailed. The staff planner will work with on-site City staff to receive a copy of the written comments.
8. If an applicant or member of the public has any questions regarding the above public notice procedures, they shall direct the questions first to the staff planner, who may consult with the Director of Planning and Building or his designee for further direction.

Attachment B
Interim Procedures for Appeals of City Planning Bureau Decisions for Development Projects for the Duration of the Order

Pursuant to the shelter-in-place orders issued by both the Governor of California and the Alameda County Health Officer for the COVID-19 pandemic (“Emergency Orders”), the City of Oakland offices are closed to the public and non-essential personnel are required to work remotely. These requirements extend to the Planning Bureau, resulting in much of the Bureau’s personnel working remotely.

Without the ability for requisite staff to be present in the office, the City does not have the capacity to receive in-person appeals of Planning Bureau decisions. Under the City’s past practice, the City receives appeals by way of appellant’s physical submittal of the appeal form and documents at the Permit Center, followed by in-person payment to the City’s cashier.

Since Permit Center is not open to the public at this time, the City is altering its appeal submittal requirements to respond to the lack of onsite staff for the duration that this Order remains in effect.

The below appeal submittal requirements shall apply to all development projects processed under Titles 16 or 17 of the Oakland Municipal Code (O.M.C.) or O.M.C. Chapter 17.132 Planning Director determinations:

1. Planning Staff will accept written appeals by e-mail only, unless an alternative submittal process is arranged pursuant to Section 5 below and is accomplished before the appeal deadline.
2. To initiate an appeal, the appellant **must** email: a) the case planner, b) the Development Planning Manager (cpayne@oaklandca.gov) and c) the Zoning Manager (rmerkamp@oaklandca.gov) a signed copy of the Planning Bureau’s appeal application form, as well as all supporting documents, no later than 4:00 p.m. on the final appeal date stated in the City’s decision letter. Failure to submit the appeal form and supporting documents in a timely manner will result in the rejection of the appeal. Additional material may **not** be submitted at a later date. Within one (1) business day of the appeal submittal, the project’s staff planner will create the appeal record in Accela and email the appellant with the record ID and invoice numbers. Appellant will then have five (5) calendar days from the date of appeal submittal to pay the appeal fee to the City’s cashier. If the fifth (5th) calendar day falls on a weekend or City holiday, appellant will have until the end of the following City business day to pay the appeal fee.
3. Failure to pay the appeal fee in full within the timeframe identified in Section 2 above will result in the rejection of appellant’s appeal and, if the appeal period has closed, will not allow for resubmittal of the appeal.
4. Once the appeal documents are uploaded onto Accela and payment of the appeal fee is verified, the staff planner will notify the original applicant of the appeal (assuming the applicant is not also the appellant).
5. **No Appellant E-mail Access:** If the appellant does not have internet access so that appellant is effectively prevented from e-mailing the appeal, the appellant shall contact the staff planner as soon as possible following the decision date to arrange an alternative appeal submittal process. Upon approval by the staff planner, it may be acceptable to submit the appeal, all related documents, and the appeal fee via U.S. Mail, provided the postmark date is no later than the last date of appeal and the appellant has alerted the staff planner of the appeal in a timely manner.
6. Appellant is solely responsible for adherence to the above timelines. If an applicant or member of the public has any questions regarding the above public notice procedures, they shall direct the questions first to the staff planner, who may consult with the Director of Planning and Building or his designee for further direction.

MADISON PARK FINANCIAL CORPORATION

Mailing Address: P. O. Box 687, Oakland, CA 94604 -0687

Business Address: Tribune Tower, 409 Thirteenth Street,
8th Floor, Oakland, CA 94612

Phone: 510.452.2944 ~ Fax: 510.452.2973

January 30, 2004

Ms. Joann Pavlinek

Planner III

Historic Preservation

City of Oakland

Community & Economic Development Agency

250 Frank H. Ogawa Plaza, Suite 3330

Oakland, CA 94612

RE: Tribune Press Building Redevelopment Project

Dear Joann,

As you know, Madison Park Financial Corporation ("MPF") is in the pre-development phase of the complete renovation and façade restoration for the historical Tribune Press Building located at the intersection of 12th Street and Franklin in downtown Oakland. We are excited about this project and look forward to continuing our commitment to restore vibrancy to the historically significant structures in the downtown of our City.

I am writing to provide you, the City of Oakland Community & Economic Development Agency and

the Department of Planning and Zoning additional information on our project.

Specifically, I'd like

to discuss our plans for the restoration and future use of the building as it relates to existing zoning ordinances.

Building Background

Originally the Pantages-Hippodrome Theatre, a three-story, rectangular plan with a flat roof building,

the Tribune Press Building is located immediately adjacent to the Tribune Tower, which Madison

Park REIT successfully renovated and restored in 1999. The Tribune Press Building is representative

of an early 20th century theatre and store building. It was built in 1912 and was remodeled in 1946

from a theatre to a newspaper printing plant. The building served as the Oakland Tribune's printing

press facility until it was vacated in 1992. It has remained vacant and abandoned since this time.

Ms. Joann Pavlinek

January 30, 2004

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Redevelopment Plans

MPF is redeveloping the building into a lively mixed-use building with street-level

retail, two floors of perimeter office space and approximately 40,000 square feet of document and self storage. The site will be cleaned-up of necessary environmental contamination and the exterior will be rehabilitated to reflect the building's historical significance. The strategic objectives of the redevelopment project are to restore the historical building that has served as a centerpiece to the Oakland downtown, to extend the commercial opportunities available in downtown Oakland across Broadway and to efficiently utilize the interior core building structure to fill an existing demand for storage in the downtown Oakland area. By restoration we refer to façade improvements as well as bringing life and social interaction back to this block of 12th Street. Just one block off of Broadway, the restoration of the Tribune Press Building will combine with the renewed vibrancy of the recently restored Tribune Tower to create a social marketplace and safe pedestrian area. A likely extension of Chinatown, this intersection will provide this community with a vital, adjacent link to the central downtown district.

Current Zoning

The site is zoned C-55, Central Core Commercial, and S-17, Downtown Residential Open Space Combining Zone. The C-55 Zone is intended to preserve and enhance a very high-intensity regional center of employment, shopping, culture, and recreation, appropriate to the core of the central district. The S-17 Zone is intended to provide open space standards for residential development that are appropriate to the unique density, urban character and historic character of the central business district. The S-17 Zone is not applicable to the proposed uses for this building. The General Plan designation for Oakland's downtown is Central Business District, the majority of which is zoned C-55. The classification is intended to encourage, support, and enhance the downtown area as a high density mixed use urban center of regional importance and a primary hub for business, communications, office, government, high technology, retail, entertainment, and transportation in Northern California. The majority of the surrounding buildings are abandoned industrial, office and retail space.

Storage Use

MPF envisions a lively street-oriented retail hub encasing the corner of 12th Street and Franklin.

Above which perimeter office will nestle behind the rehabilitated historical

structure including replaced pilasters, capitals and cornices, as well as recreated original transom windows with etched glass. The interior core will be restored and designed to support document and self storage.

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We anticipate constructing approximately 40,000 square feet of storage space in the interior core of the Tribune Press Building. The storage component of the project will focus on commercial storage uses, mainly document storage for businesses located in Oakland's downtown area. MPF

commenced discussions with potential commercial storage tenants and is confident there will be sufficient demand for this space to be utilized as document storage. However, we are designing the space to be as flexible as possible to utilize available space to also accommodate self storage.

The storage component will be accessed from a dedicated entryway on Franklin Street. Tenants will have the option to enter this entryway from the existing garage or from the sidewalk via a newly constructed entrance. This entrance will provide immediate access to both a newly constructed elevator and a storage management office and will provide access to all levels of the storage facility.

This entry will not be utilized by the retail or office tenants. The retail units will be directly accessed from the street and the office suites will be accessed from the historic entrance on 12th Street.

The ownership entity, which will be comprised of MPF and its equity partners for this project, will actively manage the storage operation. The entity will hire a full-time, trained storage specialist who will negotiate leases with prospective tenants and will manage on-site operations under the oversight of MPF's internal property management team. This salaried storage professional will work out of the office located immediately adjacent to the Franklin entryway. MPF will install state-of-the-art security, surveillance, and computer systems to assist the manager in operating and managing the facility.

MPF recently completed construction on 190 storage units in the basement of Telegraph Lofts, the recently renovated Sears Roebuck & Co building on Telegraph and 27th Street. We will

apply our
first-hand experience constructing, leasing and managing storage operations in the
immediate area to
ensure that the Tribune Press Building storage component is successful from a
financial and use
perspective.

Project Logistics

Demolition and construction are scheduled to commence on April 1, 2004. The current
construction
schedule anticipates a twelve (12) month construction period, including the
complete build-out of the
individual storage units. Total construction costs are estimated to be in the range
of \$3.2M, with a
total project budget of nearly \$6.1M. Financing has been secured and MPF is in the
final contract
negotiations with an Oakland-based general contractor.

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Joann, I look forward to working with you and the City of Oakland to secure
appropriate permitting
to ensure this restoration project becomes a reality. Based on the positive feedback
we received from
the Landmark Board and other City officials, I am confident that we all agree this
project will
positively impact downtown Oakland. We are excited to move forward and are available
to answer
any questions you may have or to provide you with more information.

Sincerely,

John Protopappas

President & CEO

cc: Claudia Cappio, City of Oakland Department of Planning and Zoning

Kathleen O'Connell, Madison Park Financial Corporation

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